

Mayor Lioneld Jordan  
City Attorney Kit Williams  
City Clerk Sondra Smith



**Aldermen**

Ward 1 Position 1 – Adella Gray  
Ward 1 Position 2 – Brenda Boudreaux  
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  
August 2, 2011**

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

**Agenda Additions:**

**A. Consent:**

1. Approval of the July 19, 2011 City Council meeting minutes. **APPROVED**
2. **Bryce Davis Park Property Line Adjustment:** A resolution to approve an equal property exchange of about 1,300 square feet with James E. Lindsey along the border of Bryce Davis Park and the Links of Fayetteville, to authorize Mayor Jordan to execute the necessary deed and to approve a lot line adjustment.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 130-11**

3. **Federal-Aid Transportation Enhancement Program Grant:** A resolution authorizing acceptance of a Federal-Aid Transportation Enhancement Program Grant through the Arkansas State Highway and Transportation Department in the amount of \$270,000.00 for the construction of Town Branch Trail, and approving a budget adjustment.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 131-11**

4. **Walker Park Baseball Complex Improvements:** A resolution approving a budget adjustment in the amount of \$100,000.00 to fund Walker Park Baseball Complex Improvements.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 132-11**

5. **Maple Street and Lafayette Street Bridge Rehabilitation:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for the rehabilitation of the Maple Street and Lafayette Street bridges over the Arkansas and Missouri Railroad.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 133-11**

6. **Bid #10-44 Peterbilt of Fort Smith:** A resolution authorizing the purchase of two (2) replacement automated side-load solid waste trucks from Peterbilt of Fort Smith in the amount of \$497,318.00 pursuant to Bid #10-44.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 134-11**

7. **ADM 11-3893 (Master Street Plan Amendment – Shiloh Drive):** A resolution to amend the Master Street Plan right-of-way requirement for N. Shiloh Drive from N. Henbest Drive to approximately 640 feet south of the newly aligned Mount Comfort Road.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 135-11**

**B. Unfinished Business: None.**

**C. New Business:**

1. **RZN 11-3870 (2012 W. Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial.

**Left on the First Reading.**

2. **ADM 11-3894 (Zoning Compliance & Business License):** An ordinance amending the Unified Development Code of the City of Fayetteville to remove references to certificate of zoning compliance and amend Chapter 161 of the Unified Development Code to address existing nonconforming businesses for the purposes of issuing a business license.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5425**

3. **Replacing Article XV: Tree and Landscape Advisory Committee of Chapter 33:** An ordinance repealing Article XV: Tree and Landscape Advisory Committee of Chapter 33: Departments, Boards, Commissions, and Authorities of the Code of Fayetteville and enacting a new Article XV: Urban Forestry Advisory Board, defining its membership, and designating its authority.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5426**

4. **Amend Chapter 167 Tree Preservation and Protection:** An ordinance to amend Chapter 167: Tree Preservation and Protection of the Unified Development Code by replacing all references to “Landscape Administrator” with “Urban Forester”, allowing increased flexibility for off-site preservation and forestation and for other reasons.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5427**

5. **Sales and Use Tax Expiring Date:** An ordinance providing for the levy of a one percent Sales and Use Tax within the City of Fayetteville, Arkansas; to replace the expiring one percent Sales and Use Tax; providing for an expiration date for such Sales and Use Tax of June 30, 2023 and prescribing other matters pertaining thereto.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5428**

6. **Special Election One Cent Sales and Use Tax:** An ordinance calling a special election in the City of Fayetteville, Arkansas on the question of levying a one percent Sales and Use Tax within the City of Fayetteville, Arkansas to replace the one percent Sales and Use Tax expiring on June 30, 2013; providing for an expiration date for such Sales and Use Tax of June 30, 2023.

**PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5429**

7. **Special Election:** A resolution to approve a budget adjustment in the amount of \$20,000.00 to pay for a special election to seek renewal of the City’s one cent Sales and Use Tax used for operations and capital expenditures.

**PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 136-11**

**City Council Tour: Monday, August 1, 2011 at 4:30 p.m. The Council will tour the Parks, Fleet, and Transportation Complex.**

**Announcements:**

**Adjournment: 7:20 p.m.**

## ***NOTICE TO MEMBERS OF THE AUDIENCE***

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

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

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

***A copy of the City Council agenda is available at [accessfayetteville.org](http://accessfayetteville.org) or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.***



City Council Meeting:

August 2, 2011

Adjourn: 7:20 p.m.

| Subject:                           | Roll         |        |  |  |  |
|------------------------------------|--------------|--------|--|--|--|
| Alderman<br>Petty<br>was<br>absent | Lewis        | ✓      |  |  |  |
|                                    | Gray         | ✓      |  |  |  |
|                                    | Boudreaux    | ✓      |  |  |  |
|                                    | Kinion       | ✓      |  |  |  |
|                                    | Petty        | Absent |  |  |  |
|                                    | Tennant      | ✓      |  |  |  |
|                                    | Ferrell      | ✓      |  |  |  |
|                                    | Adams        | ✓      |  |  |  |
|                                    | Mayor Jordan | ✓      |  |  |  |

| Subject:   |              |  |  |  |  |
|------------|--------------|--|--|--|--|
| Motion To: |              |  |  |  |  |
| Motion By: |              |  |  |  |  |
| Seconded:  |              |  |  |  |  |
|            | Lewis        |  |  |  |  |
|            | Gray         |  |  |  |  |
|            | Boudreaux    |  |  |  |  |
|            | Kinion       |  |  |  |  |
|            | Petty        |  |  |  |  |
|            | Tennant      |  |  |  |  |
|            | Ferrell      |  |  |  |  |
|            | Adams        |  |  |  |  |
|            | Mayor Jordan |  |  |  |  |

|                                                                          |                     |         |  |  |  |
|--------------------------------------------------------------------------|---------------------|---------|--|--|--|
| <b>Subject:</b>                                                          | Consent             |         |  |  |  |
| <b>Motion To:</b>                                                        |                     | Approve |  |  |  |
| <b>Motion By:</b>                                                        |                     | Adams   |  |  |  |
| <b>Seconded:</b>                                                         |                     | Gray    |  |  |  |
| <u>Passed</u><br><br>Minutes<br>Approved<br><br>130-11<br>thru<br>135-11 | <b>Lewis</b>        | ✓       |  |  |  |
|                                                                          | <b>Gray</b>         | ✓       |  |  |  |
|                                                                          | <b>Boudreaux</b>    | ✓       |  |  |  |
|                                                                          | <b>Kinion</b>       | ✓       |  |  |  |
|                                                                          | <b>Petty</b>        | Absent  |  |  |  |
|                                                                          | <b>Tennant</b>      | ✓       |  |  |  |
|                                                                          | <b>Ferrell</b>      | ✓       |  |  |  |
|                                                                          | <b>Adams</b>        | ✓       |  |  |  |
|                                                                          | <b>Mayor Jordan</b> |         |  |  |  |

7-0

|                   |                     |  |  |  |  |
|-------------------|---------------------|--|--|--|--|
| <b>Subject:</b>   |                     |  |  |  |  |
| <b>Motion To:</b> |                     |  |  |  |  |
| <b>Motion By:</b> |                     |  |  |  |  |
| <b>Seconded:</b>  |                     |  |  |  |  |
|                   | <b>Lewis</b>        |  |  |  |  |
|                   | <b>Gray</b>         |  |  |  |  |
|                   | <b>Boudreaux</b>    |  |  |  |  |
|                   | <b>Kinion</b>       |  |  |  |  |
|                   | <b>Petty</b>        |  |  |  |  |
|                   | <b>Tennant</b>      |  |  |  |  |
|                   | <b>Ferrell</b>      |  |  |  |  |
|                   | <b>Adams</b>        |  |  |  |  |
|                   | <b>Mayor Jordan</b> |  |  |  |  |

|                                                                                                          |                                                                |  |  |  |  |
|----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|--|--|--|--|
| <b>Subject:</b>                                                                                          | <b>RZN 11-3870 (2012 W. Martin Luther King Blvd./USA Drug)</b> |  |  |  |  |
| <b>Motion To:</b>                                                                                        |                                                                |  |  |  |  |
| <b>Motion By:</b>                                                                                        |                                                                |  |  |  |  |
| <b>Seconded:</b>                                                                                         |                                                                |  |  |  |  |
| <b>C. 1</b><br><b>New</b><br><b>Business</b><br><br><i>Left on</i><br><i>the first</i><br><i>Reading</i> | <b>Lewis</b>                                                   |  |  |  |  |
|                                                                                                          | <b>Gray</b>                                                    |  |  |  |  |
|                                                                                                          | <b>Boudreaux</b>                                               |  |  |  |  |
|                                                                                                          | <b>Kinion</b>                                                  |  |  |  |  |
|                                                                                                          | <b>Petty</b>                                                   |  |  |  |  |
|                                                                                                          | <b>Tennant</b>                                                 |  |  |  |  |
|                                                                                                          | <b>Ferrell</b>                                                 |  |  |  |  |
|                                                                                                          | <b>Adams</b>                                                   |  |  |  |  |
|                                                                                                          | <b>Mayor Jordan</b>                                            |  |  |  |  |

|                                                                                  |                                                               |                  |                  |               |  |
|----------------------------------------------------------------------------------|---------------------------------------------------------------|------------------|------------------|---------------|--|
| <b>Subject:</b>                                                                  | <b>ADM 11-3894 (Zoning Compliance &amp; Business License)</b> |                  |                  |               |  |
| <b>Motion To:</b>                                                                |                                                               | <i>2nd Read</i>  | <i>3rd Read</i>  | <i>Pass</i>   |  |
| <b>Motion By:</b>                                                                |                                                               | <i>Boudreaux</i> | <i>Boudreaux</i> |               |  |
| <b>Seconded:</b>                                                                 |                                                               | <i>Lewis</i>     | <i>Kinion</i>    |               |  |
| <b>C. 2</b><br><b>New</b><br><b>Business</b><br><br><i>Passed</i><br><i>5425</i> | <b>Lewis</b>                                                  | <i>✓</i>         | <i>✓</i>         | <i>✓</i>      |  |
|                                                                                  | <b>Gray</b>                                                   | <i>✓</i>         | <i>✓</i>         | <i>✓</i>      |  |
|                                                                                  | <b>Boudreaux</b>                                              | <i>✓</i>         | <i>✓</i>         | <i>✓</i>      |  |
|                                                                                  | <b>Kinion</b>                                                 | <i>✓</i>         | <i>✓</i>         | <i>✓</i>      |  |
|                                                                                  | <b>Petty</b>                                                  | <i>absent</i>    | <i>absent</i>    | <i>absent</i> |  |
|                                                                                  | <b>Tennant</b>                                                | <i>✓</i>         | <i>✓</i>         | <i>✓</i>      |  |
|                                                                                  | <b>Ferrell</b>                                                | <i>✓</i>         | <i>✓</i>         | <i>N</i>      |  |
|                                                                                  | <b>Adams</b>                                                  | <i>✓</i>         | <i>✓</i>         | <i>✓</i>      |  |
|                                                                                  | <b>Mayor Jordan</b>                                           |                  |                  |               |  |

7-0

7-0

6-1

|                                                                           |                                                                                  |           |          |        |  |
|---------------------------------------------------------------------------|----------------------------------------------------------------------------------|-----------|----------|--------|--|
| <b>Subject:</b>                                                           | <b>Replacing Article XV: Tree and Landscape Advisory Committee of Chapter 33</b> |           |          |        |  |
| <b>Motion To:</b>                                                         |                                                                                  | 2nd Read  | 3rd Read | Pass   |  |
| <b>Motion By:</b>                                                         |                                                                                  | Boudreaux | Lewis    |        |  |
| <b>Seconded:</b>                                                          |                                                                                  | Lewis     | Gray     |        |  |
| <b>C. 3</b><br><b>New</b><br><b>Business</b><br><br><u>passed</u><br>5426 | <b>Lewis</b>                                                                     | ✓         | ✓        | ✓      |  |
|                                                                           | <b>Gray</b>                                                                      | ✓         | ✓        | ✓      |  |
|                                                                           | <b>Boudreaux</b>                                                                 | ✓         | ✓        | ✓      |  |
|                                                                           | <b>Kinion</b>                                                                    | ✓         | ✓        | ✓      |  |
|                                                                           | <b>Petty</b>                                                                     | absent    | absent   | absent |  |
|                                                                           | <b>Tennant</b>                                                                   | ✓         | ✓        | ✓      |  |
|                                                                           | <b>Ferrell</b>                                                                   | ✓         | ✓        | ✓      |  |
|                                                                           | <b>Adams</b>                                                                     | ✓         | ✓        | ✓      |  |
|                                                                           | <b>Mayor Jordan</b>                                                              |           |          |        |  |

7-0

7-0

7-0

|                                                                           |                                                           |          |          |                        |        |
|---------------------------------------------------------------------------|-----------------------------------------------------------|----------|----------|------------------------|--------|
| <b>Subject:</b>                                                           | <b>Amend Chapter 167 Tree Preservation and Protection</b> |          |          |                        |        |
| <b>Motion To:</b>                                                         |                                                           | 2nd Read | 3rd Read | Amend to New Exhibit B | Pass   |
| <b>Motion By:</b>                                                         |                                                           | Lewis    | Gray     | Gray                   |        |
| <b>Seconded:</b>                                                          |                                                           | Adams    | Adams    | Lewis                  |        |
| <b>C. 4</b><br><b>New</b><br><b>Business</b><br><br><u>passed</u><br>5427 | <b>Lewis</b>                                              | ✓        | ✓        | ✓                      | ✓      |
|                                                                           | <b>Gray</b>                                               | ✓        | ✓        | ✓                      | ✓      |
|                                                                           | <b>Boudreaux</b>                                          | ✓        | ✓        | ✓                      | ✓      |
|                                                                           | <b>Kinion</b>                                             | ✓        | ✓        | ✓                      | ✓      |
|                                                                           | <b>Petty</b>                                              | absent   | absent   | absent                 | absent |
|                                                                           | <b>Tennant</b>                                            | ✓        | ✓        | ✓                      | ✓      |
|                                                                           | <b>Ferrell</b>                                            | ✓        | ✓        | ✓                      | ✓      |
|                                                                           | <b>Adams</b>                                              | ✓        | ✓        | ✓                      | ✓      |
|                                                                           | <b>Mayor Jordan</b>                                       |          |          |                        |        |

7-0

7-0

7-0

7-0

| Subject:                                                 |              | Sales and Use Tax Expiring Date |          |        |  |
|----------------------------------------------------------|--------------|---------------------------------|----------|--------|--|
| Motion To:                                               |              | 2nd Read                        | 3rd Read | Pass   |  |
| Motion By:                                               |              | Gray                            | Gray     |        |  |
| Seconded:                                                |              | Boudreaux                       | Adams    |        |  |
| C. 5<br>New<br>Business<br><br><u>passed</u><br><br>5428 | Lewis        | ✓                               | ✓        | ✓      |  |
|                                                          | Gray         | ✓                               | ✓        | ✓      |  |
|                                                          | Boudreaux    | ✓                               | ✓        | ✓      |  |
|                                                          | Kinion       | ✓                               | ✓        | ✓      |  |
|                                                          | Petty        | Absent                          | Absent   | Absent |  |
|                                                          | Tennant      | ✓                               | ✓        | ✓      |  |
|                                                          | Ferrell      | ✓                               | ✓        | ✓      |  |
|                                                          | Adams        | ✓                               | ✓        | ✓      |  |
|                                                          | Mayor Jordan |                                 |          |        |  |
|                                                          |              | 7-0                             | 7-0      | 7-0    |  |

| Subject:                                                 |              | Special Election One Cent Sales and Use Tax |           |           |        |
|----------------------------------------------------------|--------------|---------------------------------------------|-----------|-----------|--------|
| Motion To:                                               |              | Amend date to August 2                      | 2nd Read  | 3rd Read  | Pass   |
| Motion By:                                               |              | Boudreaux                                   | Boudreaux | Boudreaux |        |
| Seconded:                                                |              | Tennant                                     | Lewis     | Gray      |        |
| C. 6<br>New<br>Business<br><br><u>passed</u><br><br>5429 | Lewis        | ✓                                           | ✓         | ✓         | ✓      |
|                                                          | Gray         | ✓                                           | ✓         | ✓         | ✓      |
|                                                          | Boudreaux    | ✓                                           | ✓         | ✓         | ✓      |
|                                                          | Kinion       | ✓                                           | ✓         | ✓         | ✓      |
|                                                          | Petty        | Absent                                      | Absent    | Absent    | Absent |
|                                                          | Tennant      | ✓                                           | ✓         | ✓         | ✓      |
|                                                          | Ferrell      | ✓                                           | ✓         | ✓         | ✓      |
|                                                          | Adams        | ✓                                           | ✓         | ✓         | ✓      |
|                                                          | Mayor Jordan |                                             |           |           |        |
|                                                          |              | 7-0                                         | 7-0       | 7-0       | 7-0    |

|                                                                                         |                         |                  |  |  |  |
|-----------------------------------------------------------------------------------------|-------------------------|------------------|--|--|--|
| <b>Subject:</b>                                                                         | <b>Special Election</b> |                  |  |  |  |
| <b>Motion To:</b>                                                                       |                         | <i>Approve</i>   |  |  |  |
| <b>Motion By:</b>                                                                       |                         | <i>Boudreaux</i> |  |  |  |
| <b>Seconded:</b>                                                                        |                         | <i>Lewis</i>     |  |  |  |
| <b>C. 7</b><br><b>New</b><br><b>Business</b><br><br><i>passed.</i><br><br><i>136-11</i> | <b>Lewis</b>            | ✓                |  |  |  |
|                                                                                         | <b>Gray</b>             | ✓                |  |  |  |
|                                                                                         | <b>Boudreaux</b>        | ✓                |  |  |  |
|                                                                                         | <b>Kinion</b>           | ✓                |  |  |  |
|                                                                                         | <b>Petty</b>            | <i>Absent</i>    |  |  |  |
|                                                                                         | <b>Tennant</b>          | ✓                |  |  |  |
|                                                                                         | <b>Ferrell</b>          | ✓                |  |  |  |
|                                                                                         | <b>Adams</b>            | ✓                |  |  |  |
|                                                                                         | <b>Mayor Jordan</b>     |                  |  |  |  |

7-0

|                   |                     |  |  |  |  |
|-------------------|---------------------|--|--|--|--|
| <b>Subject:</b>   |                     |  |  |  |  |
| <b>Motion To:</b> |                     |  |  |  |  |
| <b>Motion By:</b> |                     |  |  |  |  |
| <b>Seconded:</b>  |                     |  |  |  |  |
|                   | <b>Lewis</b>        |  |  |  |  |
|                   | <b>Gray</b>         |  |  |  |  |
|                   | <b>Boudreaux</b>    |  |  |  |  |
|                   | <b>Kinion</b>       |  |  |  |  |
|                   | <b>Petty</b>        |  |  |  |  |
|                   | <b>Tennant</b>      |  |  |  |  |
|                   | <b>Ferrell</b>      |  |  |  |  |
|                   | <b>Adams</b>        |  |  |  |  |
|                   | <b>Mayor Jordan</b> |  |  |  |  |



TO: Mayor Jordan

Kit Williams  
City Attorney

THRU: Sondra Smith, City Clerk

Jason B. Kelley  
Assistant City Attorney

FROM: Kit Williams, City Attorney

DATE: August 3, 2011

RE: Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of August 2, 2011

1. **Bryce Davis Park Property Line Adjustment:** A resolution to approve an equal property exchange of about 1,300 square feet with James E. Lindsey along the border of Bryce Davis Park and The Links of Fayetteville, to authorize Mayor Jordan to execute the necessary deed and to approve a lot line adjustment.
2. **Federal-Aid Transportation Enhancement Program Grant:** A resolution authorizing acceptance of a Federal-Aid Transportation Enhancement Program Grant through the Arkansas State Highway and Transportation Department in the amount of \$270,000.00 for the construction of Town Branch trail, and approving a budget adjustment.
3. **Walker Park Baseball Complex Improvements:** A resolution approving a budget adjustment in the amount of \$100,000.00 to fund Walker Park Baseball Complex improvements.
4. **Maple Street and Lafayette Street Bridge Rehabilitation:** A resolution expressing the willingness of the City of Fayetteville to utilize Federal-Aid funds for the rehabilitation of the Maple Street and Lafayette Street Bridges over the Arkansas and Missouri Railroad.
5. **Bid #10-44 Peterbilt of Fort Smith:** A resolution authorizing the purchase of two (2) replacement automated side-load solid waste trucks from Peterbilt of Fort Smith in the amount of \$497,318.00 pursuant to Bid #10-44.

6. **Replacing Article XV: Tree and Landscape Advisory Committee of Chapter 33:** An ordinance repealing Article XV: **Tree and Landscape Advisory Committee** of Chapter 33: **Departments, Boards, Commissions, and Authorities** of the Code of Fayetteville and enacting a new Article XV: **Urban Forestry Advisory Board**, defining its membership, and designating its authority.

7. **Amend Chapter 167 Tree Preservation and Protection:** An ordinance to amend Chapter 167: **Tree Preservation and Protection** of the Unified Development Code by replacing all references to "Landscape Administrator" with "Urban Forester", allowing increased flexibility for off-site preservation and forestation and for other reasons.

8. **Sales and Use Tax Expiring Date:** An ordinance providing for the levy of a one percent Sales and Use Tax within the City of Fayetteville, Arkansas to replace the expiring one percent Sales and Use Tax; providing for an expiration date for such Sales and Use Tax of June 30, 2023 and prescribing other matters pertaining thereto.

9. **Special Election One Center Sales and Use Tax:** An ordinance calling a Special Election in the City of Fayetteville, Arkansas on the question of levying a one percent Sales and Use Tax within the City of Fayetteville, Arkansas to replace the one percent Sales and Use Tax expiring on June 30, 2013; providing for an expiration date for such Sales and Use Tax of June 30, 2023.

10. **Special Election:** A resolution to approve a budget adjustment in the amount of \$20,000.00 to pay for a special election to seek renewal of the City's one cent Sales and Use Tax used for Operations and Capital expenditures.



Mayor Lioneld Jordan  
City Attorney Kit Williams  
City Clerk Sondra Smith



#### Aldermen

Ward 1 Position 1 – Adella Gray  
Ward 1 Position 2 – Brenda Boudreaux  
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 August 2, 2011**

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

### **Agenda Additions:**

#### **A. Consent:**

1. Approval of the July 19, 2011 City Council meeting minutes.
2. **Bryce Davis Park Property Line Adjustment:** A resolution to approve an equal property exchange of about 1,300 square feet with James E. Lindsey along the border of Bryce Davis Park and the Links of Fayetteville, to authorize Mayor Jordan to execute the necessary deed and to approve a lot line adjustment.
3. **Federal-Aid Transportation Enhancement Program Grant:** A resolution authorizing acceptance of a Federal-Aid Transportation Enhancement Program Grant through the Arkansas State Highway and Transportation Department in the amount of \$270,000.00 for the construction of Town Branch Trail, and approving a budget adjustment.

4. **Walker Park Baseball Complex Improvements:** A resolution approving a budget adjustment in the amount of \$100,000.00 to fund Walker Park Baseball Complex Improvements.
5. **Maple Street and Lafayette Street Bridge Rehabilitation:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for the rehabilitation of the Maple Street and Lafayette Street bridges over the Arkansas and Missouri Railroad.
6. **Bid #10-44 Peterbilt of Fort Smith:** A resolution authorizing the purchase of two (2) replacement automated side-load solid waste trucks from Peterbilt of Fort Smith in the amount of \$497,318.00 pursuant to Bid #10-44.
7. **ADM 11-3893 (Master Street Plan Amendment – Shiloh Drive):** A resolution to amend the Master Street Plan right-of-way requirement for N. Shiloh Drive from N. Henbest Drive to approximately 640 feet south of the newly aligned Mount Comfort Road.

**B. Unfinished Business: None.**

**C. New Business:**

1. **RZN 11-3870 (2012 W. Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial.
2. **ADM 11-3894 (Zoning Compliance & Business License):** An ordinance amending the Unified Development Code of the City of Fayetteville to remove references to certificate of zoning compliance and amend Chapter 161 of the Unified Development Code to address existing nonconforming businesses for the purposes of issuing a business license.
3. **Replacing Article XV: Tree and Landscape Advisory Committee of Chapter 33:** An ordinance repealing Article XV: Tree and Landscape Advisory Committee of Chapter 33: Departments, Boards, Commissions, and Authorities of the Code of Fayetteville and enacting a new Article XV: Urban Forestry Advisory Board, defining its membership, and designating its authority.
4. **Amend Chapter 167 Tree Preservation and Protection:** An ordinance to amend Chapter 167: Tree Preservation and Protection of the Unified Development Code by replacing all references to “Landscape Administrator” with “Urban Forester”, allowing increased flexibility for off-site preservation and forestation and for other reasons.
5. **Sales and Use Tax Expiring Date:** An ordinance providing for the levy of a one percent Sales and Use Tax within the City of Fayetteville, Arkansas; to replace the expiring one percent Sales and Use Tax; providing for an expiration date for such Sales and Use Tax of June 30, 2023 and prescribing other matters pertaining thereto.

6. **Special Election One Cent Sales and Use Tax:** An ordinance calling a special election in the City of Fayetteville, Arkansas on the question of levying a one percent Sales and Use Tax within the City of Fayetteville, Arkansas to replace the one percent Sales and Use Tax expiring on June 30, 2013; providing for an expiration date for such Sales and Use Tax of June 30, 2023.
7. **Special Election:** A resolution to approve a budget adjustment in the amount of \$20,000.00 to pay for a special election to seek renewal of the City's one cent Sales and Use Tax used for operations and capital expenditures.

**City Council Tour: Monday, August 1, 2011 at 4:30 p.m. The Council will tour the Parks, Fleet, and Transportation Complex.**

**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](http://accessfayetteville.org) or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.***



Added at  
Agenda Session  
7-26-11

City of Fayetteville Staff Review Form

C. 3  
Replace Article XV: Tree and Landscape  
Advisory Committee of Chapter 33  
Page 1 of 6

City Council Agenda Items  
and  
Contracts, Leases or Agreements

8/2/11 ~~8/16/2011~~  
~~8/2/2011~~

City Council Meeting Date  
Agenda Items Only

Greg Howe

Submitted By

Park Planning/Urban Forestry

Division

Parks and Recreation

Department

Action Required:

A resolution approving revisions to Chapter 33 Article XV.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Connie Edmonston  
Department Director

7-15-11  
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Jim Kelly  
City Attorney

7-20-11  
Date

Paul A. Beck  
Finance and Internal Services Director

7-21-2011  
Date

Received in City 7-15-11 P03:23 RCVD  
Clerk's Office

Don McCreary  
Chief of Staff

7-20-11  
Date

Received in  
Mayor's Office



Donald Jordan  
Mayor

7/22/11  
Date

Comments:

Ordinance draft not prepared by City Attorney's Office. (2)



THE CITY OF FAYETTEVILLE, ARKANSAS  
DEPARTMENT CORRESPONDENCE

www.accessfayetteville.org

## 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

**CC:** Jeremy Pate, Development Services Director

**From:** Greg Howe, Urban Forester

**Date:** July 26, 2010

**Subject:** Revisions to Chapter 33: Department Boards, Commissions and Authorities Ordinance  
Article XV: Tree and Landscape Advisory Committee  
Agenda Request for August 2, 2011 Meeting

### PROPOSAL:

Since establishment of the Tree and Landscape Advisory Committee the City's development codes have undergone substantial changes. The revisions recommended by staff update the committee to meet the current and near future needs concerning urban forestry and the Fire Department's Firewise Community designation requirements. Ordinance revisions include:

- Change the name of the committee from Tree and Landscape Advisory Committee to Urban Forestry Advisory Board
- Establish a Firewise Committee for the Fire Department
- Update the committee's purpose and intent
- Update the powers, duties and responsibilities of the committee
- Change the membership categories and reduce the committee from nine to seven members
- Establish additional officers and procedures

If the proposed ordinance amendments to Chapter 33 are passed prior to the proposed amendments to Chapter 167: Tree Preservation and Protection, additional minor changes to Chapter 167 will need to be made to update the new name of the board in all places referenced.

### RECOMMENDATION:

Staff recommends approval of the Chapter 33, Article XV revisions.

### BUDGET IMPACT:

This ordinance revision will have no impact on the City's budget.

### Attachments:

Staff Review Form  
Proposed Chapter 33 Article XV revisions

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REPEALING ARTICLE XV: TREE AND LANDSCAPE  
ADVISORY COMMITTEE OF CHAPTER 33: DEPARTMENTS, BOARDS,  
COMMISSIONS, AND AUTHORITIES OF THE CODE OF FAYETTEVILLE  
AND ENACTING A NEW ARTICLE XV: URBAN FORESTRY ADVISORY  
BOARD, DEFINING ITS MEMBERSHIP, AND DESIGNATING ITS  
AUTHORITY**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals Article XV: Tree and Landscape Advisory Committee of Chapter 33: Departments, Boards, Commissions, and Authorities of the Code of Fayetteville, and enacts a new Article XV: Urban Forestry Advisory Board of Chapter 33: Departments, Boards, Commissions, and Authorities of the Code of Fayetteville as shown in Exhibit "A", which is incorporated herein as if set out word for word.

**PASSED and APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**APPROVED:**

**ATTEST:**

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**

## ARTICLE XV URBAN FORESTRY ADVISORY BOARD

### 33.280 Purposes and Definitions

(A) It is the purpose and intent of the City Council of the City of Fayetteville to redefine the scope of the former Tree and Landscape Advisory Committee as the new Urban Forestry Advisory Board to advise the City Council on urban forestry and arboricultural related issues as an integral part of the City's green infrastructure.

(B) It is also the purpose and intent of the City Council of the City of Fayetteville to have the Urban Forestry Advisory Board sit as the Wildland-Urban Interface: Firewise Advisory Board to advise the City Council on wildland and urban development related issues as an integral part of the City's fire protection program and green infrastructure.

(C) For the purposes of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Arboriculture.* The art, science and technology of cultivating and maintaining trees, shrubs and other woody plants.

*Firewise.* The process of making a structure, developed parcel, subdivision or community within or on the edge of the wildland-urban interface less at risk for wildfire.

*Urban Forestry.* The art, science and technology of sustained planning and managing trees, greenspaces and forest resources in and around urban community ecosystems for the physiological, sociological, economic, and aesthetic benefits trees provide society.

*Wildland-Urban Interface.* The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuel.

### 33.281 Establishment

There is hereby created a board to be known as the Urban Forestry Advisory Board which shall also sit as the Wildland-Urban Interface: Firewise Advisory Board. Said board shall be a continuation and renaming of the previously existing Tree and Landscape Advisory Committee.

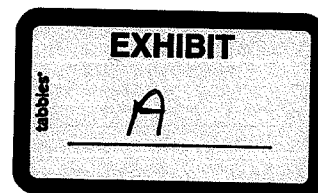
### 33.282 Powers and Duties

(A) The board shall:

- (1) Adopt rules to govern the conduct of its

business. Said rules shall be consistent with the provisions of the Arkansas Freedom of Information Act, A.C.A. §25-19-101 et seq.

- (2) Advise the Mayor, City Council, and the director(s) of the department(s) managing the urban forestry program on issues related to urban forestry and arboriculture.
  - (3) Organize and administer an ongoing program of public education designed to increase public awareness of urban forestry and arboriculture.
  - (4) Advise the Urban Forester on all city tree planting projects on city rights-of-way and/or medians.
  - (5) Review and recommend revisions to the Unified Development Code Chapter 167 Urban Forestry Technical Manual at least once every three (3) years to reflect changes in chapter 167, city policies or arboricultural and horticultural practices with a focus on improvements in plant science, arboricultural practices, technology, construction methods and long range planning.
  - (6) Plan and administer an annual Arbor Day celebration.
  - (7) Advise the Urban Forester on expenditures from the Tree Escrow Funds.
  - (8) Develop and administer a recognition program for individuals, businesses, institutions or non-profits who have demonstrated exceptional efforts in tree preservation, protection and/or tree planting.
  - (9) Have authority to create an action plan to accomplish the objectives of the board.
  - (10) Have authority to establish committees of the board which shall be chaired by a member of the board, but which may consist of non-board members who are citizens of the City or owners or managers of a business located in the City.
- (B) The board sitting as the Wildland-Urban Interface: Firewise Advisory Board shall:
- (1) Advise the Mayor, City Council, and the director(s) of the department(s) involved in managing the Firewise Community program on issues related to fire-safe building practices, wildland fire management, and urban development related issues.





- (2) Assist the Fire Department with an ongoing program of public education designed to increase public awareness of Firewise practices.
- (3) Plan and administer an annual Firewise Project.
- (4) Plan and administer an annual Firewise Day.

### **33.283 Composition and Terms**

(A) The board shall consist of seven (7) members who shall be appointed by the City Council.

- (1) One (1) position shall be filled by a representative from the land development community; one (1) position shall be filled by a representative of the tree service community; one (1) position shall be filled by a representative from the University of Arkansas with knowledge of urban forestry or arboriculture practices; and four (4) positions shall be filled by citizens of the City at large with an interest in urban forestry or arboriculture
- (2) In the event no application for a position as a representative from a specified discipline is received, the position may be filled by any citizen of the City.
- (3) Vacancies in an unexpired term shall be filled by the City Council for the remainder of the term at the next Council nominating process after the vacancy shall have occurred.
- (4) Members of the former Tree and Landscape Advisory Committee serving at the time of the adoption of this Article shall continue to serve their respective terms as members of the Urban Forestry Advisory Board. Terms of membership on the board shall be for a period of two (2) years with staggered terms carried over from the former Tree and Landscape Advisory Committee.
- (5) The Mayor may designate city staff to assist the board in the conduct of its business.

#### **(B) Attendance requirements.**

Any member of the Urban Forestry Advisory Board who fails to attend at least seventy percent (70%) of all meetings of the board in a twelve (12) month period, without having their absence excused by the board, shall have been deemed to have vacated their position. Said vacant position shall be filled pursuant to subsection (A)(3).

### **33.284 Officers**

At the first regularly scheduled meeting after the effective date of this Article, the board shall elect from among its members a chairperson and vice-chairperson, who shall each serve a term of one (1) year. Further, the board may elect such additional officers as it deems necessary for the proper performance of its duties.

### **33.285 Meetings**

The Urban Forestry Advisory Board shall meet at least once each month and may call special meetings if necessary to carry out its duties. The Urban Forestry Advisory Board sitting as the Wildland-Urban Interface: Firewise Advisory Board shall meet at least twice each year. Special meetings may be called as needed to carry out the board's duties. A majority of the voting membership of the board shall constitute a quorum.



**REVISED EXHIBIT "B"**

**167.04 Tree Preservation and Protection During Development**

**(J) Request for off-site alternatives**

(4) *Tree escrow account.* Tree preservation on-site is always the preferred option, with on-site mitigation, off-site preservation and off-site forestation to be considered in descending order only if the more preferred option cannot be fully achieved. If none of these options can completely fulfill a developer's obligation under this Tree Preservation and Protection Chapter, the developer shall pay into the City Tree Escrow Account \$250.00 for each tree required to meet the Base Density requirements. This amount fairly represents the costs of material and labor to plant and maintain a tree for three years. This figure should be adjusted at least every four years to ensure it remains the fair market costs for tree planting and maintenance for three years.

a) Residential Subdivisions which cannot achieve the Base Density tree requirements through preservation or mitigation shall contribute to the Tree Escrow Account. The City shall use the money paid into the Tree Escrow Account to plant trees within the subdivision along rights-of-ways, detention ponds, common areas or other areas where trees can be protected and have a high probability of survival to a mature tree. This shall be accomplished once the subdivision is built out or as approved by the urban forester.

...

(d) If it is not possible to plant trees within the subdivision, planting locations will be sought in appropriate sites within a one (1) mile radius of where the original project is located, but if this cannot be achieved, the moneys shall be used to plant the trees in the park

quadrant in which the development took place, or pursuant to J (2) and (3). Data extracted from the Urban Forest Analysis should be consulted when identifying appropriate locations to plant escrow funded trees.





## Sales Tax Referendum

**City of Fayetteville, Arkansas**  
**2011 General Fund (Sources/Uses of Funds)**

|                                 | Budgeted<br>2011  | % of<br>Total |
|---------------------------------|-------------------|---------------|
| <b>Revenues:</b>                |                   |               |
| Property Taxes                  | \$ 1,501,000      | 4.5%          |
| Sales Tax - County              | 10,300,000        | 30.8%         |
| Sales Tax - City                | 9,223,400         | 27.6%         |
| Alcoholic Beverage Taxes        | 467,600           | 1.4%          |
| Franchise Fees                  | 4,649,100         | 13.9%         |
| Licenses & Permits              | 652,100           | 2.0%          |
| Intergovernmental               | 2,120,000         | 6.3%          |
| Charges for Services            | 1,356,600         | 4.1%          |
| Fines & Forfeitures             | 1,679,700         | 5.0%          |
| Interest Earnings               | 120,000           | 0.4%          |
| Other                           | 367,000           | 1.1%          |
| Transfer from Sales Tax Capital | 1,000,000         | 3.0%          |
| <b>Total Revenues</b>           | <b>33,436,500</b> | <b>100.0%</b> |

## 2011 Adopted General Fund Budget: Budget by Category (% of Total)

| <i>Budget by Category</i> | <i>Adopted<br/>2007</i> | <i>Adopted<br/>2008</i> | <i>Adopted<br/>2009</i> | <i>Adopted<br/>2010</i> | <i>Adopted<br/>2011</i> |
|---------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| Personnel Services        | 82.5%                   | 83.0%                   | 82.6%                   | 84.4%                   | 82.2%                   |
| Materials and Supplies    | 3.1%                    | 2.9%                    | 3.4%                    | 3.0%                    | 3.2%                    |
| Services and Charges      | 8.0%                    | 8.3%                    | 7.7%                    | 7.6%                    | 7.6%                    |
| Motorpool Charges         | 2.7%                    | 2.3%                    | 2.5%                    | 1.1%                    | 2.5%                    |
| Cost allocation           | -6.4%                   | -6.4%                   | -6.4%                   | -6.7%                   | -6.8%                   |
| Maintenance               | 2.4%                    | 2.6%                    | 2.8%                    | 3.0%                    | 2.9%                    |
| Debt Service              | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    |
| Trans To Outside Entities | 7.0%                    | 6.6%                    | 6.7%                    | 6.9%                    | 7.6%                    |
| Capital                   | 0.1%                    | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    |
| Miscellaneous             | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    |
| Contingency/Savings       | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    | 0.1%                    |
| Operating Transfers       | 0.6%                    | 0.7%                    | 0.7%                    | 0.7%                    | 0.7%                    |
|                           | 100.0%                  | 100.0%                  | 100.0%                  | 100.0%                  | 100.0%                  |

## General Fund Budget

### Expense Reduction Required if Spread Equally Across Categories

| <i>Budget by Category</i> | <i>Adopted<br/>2011</i> | <i>Percentage<br/>Reduced</i> | <i>Amount<br/>Reduced</i> | <i>New<br/>Total</i> |
|---------------------------|-------------------------|-------------------------------|---------------------------|----------------------|
| Personnel Services        | \$27,858,210            | 27.20%                        | \$7,582,813               | \$20,275,397         |
| Materials and Supplies    | 1,086,745               | 27.20%                        | \$295,804                 | \$790,941            |
| Services and Charges      | 2,559,843               | 27.20%                        | \$696,772                 | \$1,863,071          |
| Motorpool Charges         | 844,729                 | 27.20%                        | \$229,929                 | \$614,800            |
| Cost allocation           | (2,310,990)             | 27.20%                        | (\$629,036)               | (\$1,681,954)        |
| Maintenance               | 985,167                 | 27.20%                        | \$268,156                 | \$717,011            |
| Debt Service              |                         |                               |                           |                      |
| Trans To Outside Entities | 2,565,696               | 27.20%                        | \$698,365                 | \$1,867,331          |
| Capital                   | 13,100                  | 27.20%                        | \$3,566                   | \$9,534              |
| Miscellaneous             |                         |                               |                           |                      |
| Contingency/Savings       | 50,000                  | 27.20%                        | \$13,610                  | \$36,390             |
| Operating Transfers       | 233,000                 | 27.20%                        | \$63,421                  | \$169,579            |
|                           | <u>\$33,885,500</u>     |                               | <u>\$9,223,399</u>        | <u>\$24,662,101</u>  |



## 2011 Adopted General Fund Budget: Budget by Activity and Associated FTE's

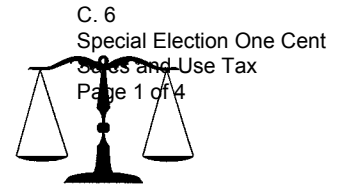
| <i>Budget by Activity</i>               | <i>Adopted<br/>2010</i> | <i>% Total</i> | <i>Adopted<br/>2011</i> | <i>% Total</i> | <i>FTE's</i>  |
|-----------------------------------------|-------------------------|----------------|-------------------------|----------------|---------------|
| Police                                  | \$12,166,960            | 35.4%          | \$ 12,169,707           | 36.0%          | 163.50        |
| Fire                                    | 8,511,370               | 24.8%          | 8,522,806               | 25.2%          | 111.50        |
| Finance & Internal Services             | 4,552,648               | 13.2%          | 4,409,956               | 13.0%          | 48.75         |
| Community Planning & Engineering        | 3,520,872               | 10.2%          | 3,501,403               | 10.3%          | 59.95         |
| General Government                      | 2,893,105               | 8.4%           | 2,845,241               | 8.4%           | 41.50         |
| Parks & Recreation                      | 1,924,450               | 5.6%           | 1,739,120               | 5.1%           | 28.00         |
| Fayetteville Public Library             | 1,608,829               | 4.7%           | 1,610,759               | 4.8%           | 0.00          |
| Utilities and Parking                   | 619,260                 | 1.8%           | 419,614                 | 1.2%           | 2.00          |
| Cost Reimbursement                      | (2,304,002)             | -6.7%          | (2,304,002)             | -6.8%          |               |
| Miscellaneous:                          |                         |                |                         |                |               |
| Turnover Allowance / Salary Contingency | (171,700)               | -0.5%          | (226,200)               | -0.7%          |               |
| Materials / Maintenance / Capital       | 50,400                  | 0.1%           | 50,400                  | 0.1%           |               |
| Services & Charges                      | 172,521                 | 0.5%           | 172,059                 | 0.5%           |               |
| Professional Services                   | 85,000                  | 0.2%           | -                       | 0.0%           |               |
| Outside Agencies                        | 489,950                 | 1.4%           | 667,700                 | 2.0%           |               |
| Transfer to CEMS                        | 270,000                 | 0.8%           | 270,000                 | 0.8%           |               |
| NWA Regional Planning                   | 36,937                  | 0.1%           | 36,937                  | 0.1%           |               |
|                                         | <u>933,108</u>          | <u>2.6%</u>    | <u>970,896</u>          | <u>2.8%</u>    |               |
| Total                                   | <u>\$34,426,600</u>     | <u>100.0%</u>  | <u>\$ 33,885,500</u>    | <u>100.0%</u>  | <u>455.20</u> |

\*Transferred between Parks Development and General Funds.





## Departmental Correspondence



[www.accessfayetteville.org](http://www.accessfayetteville.org)

**LEGAL  
DEPARTMENT**

TO: **Mayor Jordan**  
**City Council**

**Kit Williams**  
*City Attorney*

**Jason B. Kelley**  
*Assistant City Attorney*

CC: **Don Marr**, Chief of Staff  
**Paul Becker**, Finance Director

FROM: **Kit Williams**, City Attorney

DATE: **July 27, 2011**

RE: **Renewal of Penny Sales Tax**

If the City Council passes the renewal of the penny sales tax and refers it to the voters, office holders and city employees will need to know what they can and cannot do relative to this sales tax election. This is not the first time the City has proposed a sales tax and referred it to the vote of our citizens, nor the first time I have been asked to discuss the legal parameters for city officials and employees who might want to support (or oppose) the sales tax. Please see my attached memo of January 28, 2010.

### CONCLUSION

I believe the City of Fayetteville has the right, if not the duty, to provide nonpartisan, fair education about ballot issues: Parks HMR amendment, sales tax proposals, etc. I recommend that the City not stray into advocacy which will trigger reporting requirements at the least.

Elected officials such as the Mayor and all Aldermen may advocate personally on any ballot issue. They may also use educational exhibits or documents prepared by city employees during their advocacy activities. Advocacy activities should normally be done offsite or in a location where opposing views are traditionally allowed (City Council Chambers during a meeting, but not in the Mayor's Office). I do not recommend any campaign events be filmed or shown on the Government Channel. True news conferences and public meetings where opposition speakers are afforded an opportunity to speak could be okay.

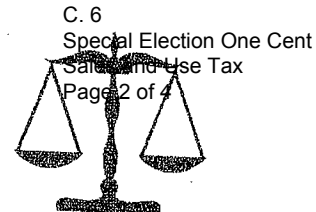
**City employees have the First Amendment right to advocate for or against the sales tax on their own time, but must refrain from any advocacy while on the job, in city uniform, or while claiming to represent the City.**

# FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Don Marr**, Chief of Staff

FROM: **Kit Williams**, City Attorney

DATE: **January 28, 2010**

RE: **Restrictions on political activity to support amendment to Parks HMR tax usage ordinance**

I could not find any previous memos I had prepared concerning what city officials could and could not do in support of a referendum on an initiative submitted to the voters. I know that I redrafted a water bill insert that had been drafted by Mayor Coody's administration concerning the reauthorization of the penny sales tax in 2002. My redraft was an attempt to make the insert more educational and nonpartisan rather than clear advocacy of the renewal of the penny tax.

A.C.A. §7-1-103(a)(2) clearly prohibits any public servant "to devote any time or labor during usual office hours toward the campaign of any other candidate for office ...." I could find no similar prohibition for a campaign for an initiated or referred question.

Indeed, Arkansas law expressly recognizes that state appropriated funds may be used by a state agency, board or commission "for the purpose of opposing or supporting any initiative, referendum ...." A.C.A. §7-9-412. This law requires all such use of appropriated funds to be reported to the Legislative Council.

If appropriated funds (even on the municipal level) are used in an attempt to oppose or support a referred ordinance's election, then the group or entity doing so would probably be characterized as a "ballot question committee" which would have to file financial reports with the State Ethics Committee if \$500 or more was spent. A.C.A. §7-9-406 (c) states:

“A public servant or governmental body expending public funds in excess of five hundred dollars (\$500.00) for the purpose of expressly advocating the ...passage or defeat of a ballot question ... shall file with the commission financial reports as required by §7-9-409.”

### **CONCLUSION**

I believe the City of Fayetteville has the right, if not the duty, to provide nonpartisan, fair education about ballot issues: Parks HMR amendment, sales tax proposals, etc. I recommend that the City not stray into advocacy which will trigger reporting requirements at the least.

Elected officials such as the Mayor and all Aldermen may advocate personally on any ballot issue. They may also use educational exhibits or documents prepared by city employees during their advocacy activities. Advocacy activities should normally be done offsite or in a location where opposing views are traditionally allowed (City Council Chambers during a meeting, but not in the Mayor's Office).

I would like to review any educational insert proposed for insertion into the water bills to try to ensure its objectivity and fairness (and lack of advocacy). I do not recommend any campaign events be filmed or shown on the Government Channel. True news conferences and public meetings where opposition speakers are afforded an opportunity to speak could be okay.



Mayor Lioneld Jordan  
City Attorney Kit Williams  
City Clerk Sondra Smith



**Aldermen**

Ward 1 Position 1 – Adella Gray  
Ward 1 Position 2 – Brenda Boudreaux  
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  
City Council Meeting Minutes  
August 2, 2011**

A meeting of the Fayetteville City Council was held on August 2, 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, Boudreaux, Kinion, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.**

**ABSENT: Alderman Petty**

**Pledge of Allegiance**

**Mayor's Announcements, Proclamations and Recognitions: None**

**City Council Meeting Presentations, Reports and Discussion Items: None**

**Agenda Additions: None**

**Consent:**

Approval of the July 19, 2011 City Council meeting minutes.

***Approved***

**Bryce Davis Park Property Line Adjustment:** A resolution to approve an equal property exchange of about 1,300 square feet with James E. Lindsey along the border of Bryce Davis Park and the Links of Fayetteville, to authorize Mayor Jordan to execute the necessary deed and to approve a lot line adjustment.

***Resolution 130-11 as recorded in the office of the City Clerk.***

**Federal-Aid Transportation Enhancement Program Grant:** A resolution authorizing acceptance of a Federal-Aid Transportation Enhancement Program Grant through the Arkansas State Highway and Transportation Department in the amount of \$270,000.00 for the construction of Town Branch Trail, and approving a budget adjustment.

***Resolution 131-11 as recorded in the office of the City Clerk.***

**Walker Park Baseball Complex Improvements:** A resolution approving a budget adjustment in the amount of \$100,000.00 to fund Walker Park Baseball Complex Improvements.

***Resolution 132-11 as recorded in the office of the City Clerk.***

**Maple Street and Lafayette Street Bridge Rehabilitation:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for the rehabilitation of the Maple Street and Lafayette Street bridges over the Arkansas and Missouri Railroad.

***Resolution 133-11 as recorded in the office of the City Clerk.***

**Bid #10-44 Peterbilt of Fort Smith:** A resolution authorizing the purchase of two (2) replacement automated side-load solid waste trucks from Peterbilt of Fort Smith in the amount of \$497,318.00 pursuant to Bid #10-44.

***Resolution 134-11 as recorded in the office of the City Clerk.***

**ADM 11-3893 (Master Street Plan Amendment – Shiloh Drive):** A resolution to amend the Master Street Plan right-of-way requirement for N. Shiloh Drive from N. Henbest Drive to approximately 640 feet south of the newly aligned Mount Comfort Road.

***Resolution 135-11 as recorded in the office of the City Clerk.***

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

**Unfinished Business: None.**

**New Business:**



**RZN 11-3870 (2012 W. Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial.

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate**, Development Services Director gave a brief description of the ordinance. He stated the Planning Commission voted 7-1 in favor and staff is recommending approval.

**Alderman Lewis:** I would like to leave it on this reading and share it with Ward 4 members in more detail if possible.

**This ordinance was left on the First Reading**

**ADM 11-3894 (Zoning Compliance & Business License):** An ordinance amending the Unified Development Code of the City of Fayetteville to remove references to certificate of zoning compliance and amend Chapter 161 of the Unified Development Code to address existing nonconforming businesses for the purposes of issuing a business license.

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate** gave a brief description of the ordinance and explained the business license process.

**Alderman Lewis:** What is the reasoning behind putting the non conforming use in Section 1 and 2 separate?

**Jeremy Pate** explained why the non conforming uses were separated.

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

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

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

***Ordinance 5425 as Recorded in the office of the City Clerk***

**Replacing Article XV: Tree and Landscape Advisory Committee of Chapter 33:** An ordinance repealing Article XV: Tree and Landscape Advisory Committee of Chapter 33: Departments, Boards, Commissions, and Authorities of the Code of Fayetteville and enacting a new Article XV: Urban Forestry Advisory Board, defining its membership, and designating its authority.

***City Attorney Kit Williams read the ordinance.***

**Greg Howe,** Urban Forester gave a brief description of the ordinance and explained the duties of the Tree and Landscape Advisory Committee.

**Alderman Lewis:** In relationship to the tree inventory, does that relate to this?

**Greg Howe:** That is in the Chapter 167 revision.

**Alderman Lewis:** I'm sorry. I am getting ahead of myself.

**Alderman Ferrell:** On page four number 10 says the board has the authority to establish committees of the board which shall be chaired by a member of the board, but which may consist of non board members who are citizens of the city or owners or managers of a business located in the city. I am more comfortable with citizens of the city being on the board however I am willing to listen to the rational or reasoning that you could have someone that worked for a business but wasn't from the City.

**Greg Howe:** What we were looking for is someone that owns a business in the City but might not live in the City. We assume if they own a business they have some interest in having a city that has quality of live, they will have landscaping ideas, and are concerned about what their street looks like or their development looks like. We were trying to be as inclusive of as many people as we could.

**Alderman Adams:** You are taking a nine member board to a seven member board. Will that occur through attrition or are you going to do something now to reduce the members?

**Greg Howe:** We currently have nine people on the advisory board. The way this is written it allows them to all stay on the board and then when their time is up we will just not renew two of those.

**Alderman Adams:** Okay good.

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

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

**Alderman Lewis** thanked the Board for working on this ordinance.

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

*Ordinance 5426 as Recorded in the office of the City Clerk*

**Amend Chapter 167 Tree Preservation and Protection:** An ordinance to amend Chapter 167: Tree Preservation and Protection of the Unified Development Code by replacing all references to “Landscape Administrator” with “Urban Forester”, allowing increased flexibility for off-site preservation and forestation and for other reasons.

*City Attorney Kit Williams read the ordinance.*

**Greg Howe** gave a brief description of the ordinance and listed the changes made to Chapter 167.

**Alderman Lewis:** There is a difference in cost on the budget adjustment regarding the inventory and the analysis. There is a potential cost savings.

**Greg Howe:** We will potentially have a cost savings. Greg explained the estimated cost for the tree survey and analysis.

**City Attorney Kit Williams:** I handed out a revised Exhibit “B” because the \$250.00 originally talked about the tree purchase, planning, and maintenance for three years. That \$250.00 really only covered the purchase of the tree and its planting. I broke that into two parts where the \$250.00 is clearly identified as the cost to purchase the tree and have it planted and then a reasonable cost for maintenance.

**Jeremy Pate:** The way to avoid paying into this account is for preservation or mitigation. This particular option is last on the list, paying into the escrow account. We are trying not to incentivise someone into paying into the account because it cost the city more to buy, plant, and maintain the trees for three years than it would me. We feel the \$250.00 figure adequately represents the cost of purchasing and planting them and we will come back with a number to look at maintenance as well.

**Don Marr** reminded the Council that when this was originally adopted there were a couple of key concerns and discussed why the three year period of maintenance was originally implemented. He also explained how the planting and purchasing cost was reached.

**Alderman Ferrell:** Greg, the recommendation to have the option to come to the City Council, for the quarter of a mile, did that come from the Tree and Landscape Advisory Committee?

**Greg Howe:** The City Council recommended that distance. He listed the reasons why it was recommended.

**Don Marr:** Greg said it came from the City Council but it was the City Attorney's office in coordination with the Urban Forester that made that recommendation. Don explained how that decision was reached.

**City Attorney Kit Williams:** It did not come from an Alderman. Kit gave a brief explanation of this section of the ordinance. I made sure it was in the ordinance that the City Council review an item anytime it would be outside the city. The City Council would have to authorize anything outside the city.

**Alderman Ferrell:** I think it would be a real anomaly if and when it did come that it weren't okay.

**Alderman Lewis 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 Petty was absent.**

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

**City Attorney Kit Williams** asked if someone would move to go to the newly replaced Exhibit "B" that was handed out.

**Alderman Gray moved to amend the ordinance to the new Exhibit B as proposed by the City Attorney. Alderman Lewis seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent.**

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

***Ordinance 5427 as Recorded in the office of the City Clerk***

**Sales and Use Tax Expiring Date:** An ordinance providing for the levy of a one percent Sales and Use Tax within the City of Fayetteville, Arkansas; to replace the expiring one percent Sales and Use Tax; providing for an expiration date for such Sales and Use Tax of June 30, 2023 and prescribing other matters pertaining thereto.

**City Attorney Kit Williams read the ordinance.**

**Paul Becker**, Finance Director gave a brief description of the ordinance. He stated I recommend very strongly that we take this to the voters this year. He also gave a slide presentation and pointed out the key issues and the ramifications if this doesn't pass.

**Mayor Jordan** expressed the importance of the passage of this ordinance.

**Alderman Ferrell:** In the first rededication did it pass by 67% to 70%?

**Mayor Jordan:** It was a large amount.

**Paul Becker:** In 2003 it was about 67%. The citizens in Fayetteville are conscientious voters and they know what they want.

**Alderman Ferrell:** What we are doing is enabling the citizens and we are well served in the fact that we are cognoscente of the environment and what is going on with other revenue measures by other government entities. We've got to put it to the people.

**Mayor Jordan** reminded the Council it is not a tax increase but rather an extension of what we already have.

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

**City Attorney Kit Williams read the ordinance.**

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

**City Attorney Kit Williams read the ordinance.**

**Alderman Lewis** It is really important for people to realize that this is a continuation and rededication of funds to maintain our programs and services that are provided by people and we have to pay them.

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

***Ordinance 5428 as Recorded in the office of the City Clerk***

**Special Election One Cent Sales and Use Tax:** An ordinance calling a special election in the City of Fayetteville, Arkansas on the question of levying a one percent Sales and Use Tax within the City of Fayetteville, Arkansas to replace the one percent Sales and Use Tax expiring on June 30, 2013; providing for an expiration date for such Sales and Use Tax of June 30, 2023.

***City Attorney Kit Williams read the ordinance.***

**City Attorney Kit Williams:** This was handed out with a date of the 5<sup>th</sup> day of July. I would like for you all to make a motion to amend the first whereas clause to say the 2<sup>nd</sup> day of August.

**Alderman Boudreaux moved to amend the date of the ordinance to August 2, 2011. Alderman Tennant seconded the motion. Upon roll call the motion passed**

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

***City Attorney Kit Williams read the ordinance.***

**Alderman Boudreaux:** Is this in conjunction with any other elections?

**City Attorney Kit Williams:** None that have been called to date.

**Alderman Boudreaux:** Is there a reason why other things could not be added with it?

**City Attorney Kit Williams** listed the rules on when an election can be held. He explained if we pass it tonight there are only two days that would be available, so the time is running. If another entity wanted to have an election at the same time they would have to go rather quickly to get there.

**Alderman Ferrell:** You don't see me voting for taxes very often but this is a rededication. We are charged with fiduciary duties in running this city and this money is critical to keeping it going. We try to safeguard the city and we are charged with having the funds to keep us going.

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

***City Attorney Kit Williams read the ordinance.***

**Alderman Lewis:** Is this the exact language that will be on the ballot?

**City Attorney Kit Williams:** Yes, this is the form that was suggested by the Municipal League in concert with the Department of Finance and Administration.

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

***Ordinance 5429 as Recorded in the office of the City Clerk***

**Special Election:** A resolution to approve a budget adjustment in the amount of \$20,000.00 to pay for a special election to seek renewal of the City's one cent Sales and Use Tax used for operations and capital expenditures.

**Paul Becker:** Now that you have approved the special election it comes time to pay for it. This is asking for appropriation to pay the estimated cost which is \$20,000.00.

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

***Resolution 136-11 as recorded in the office of the City Clerk.***

**Mayor Jordan** thanked the Council for their support.

**Meeting adjourned at 7:20 p.m.**

---

**Lioneld Jordan, Mayor**

---

**Sondra E. Smith, City Clerk/Treasurer**



**Kit Williams**  
City Attorney

**Jason B. Kelley**  
Assistant City Attorney

**TO: Mayor Jordan**  
**City Council**

**CC: Don Marr**, Chief of Staff  
**Jeremy Pate**, Development Services Director  
**Connie Edmonston**, Parks & Recreation Director  
**Greg Howe**, Urban Forester

**FROM: Kit Williams**, City Attorney

**DATE: August 2, 2011**

**RE: Revised Exhibit "B"**

City Staff was concerned that the \$250.00 figure in Revised Exhibit "B" was only sufficient to cover the cost to purchase and plant a tree. However, staff does not yet have sufficient data to determine a fair cost for three years' maintenance of such tree so I have revised Exhibit "B" to clarify the \$250.00 does not cover maintenance costs and have attached it to this memo.

This revision makes it clear that the \$250.00 figure is for tree purchasing and planting costs only. I believe that Jeremy Pate can provide adequate data to you to justify this \$250.00 average cost. The ordinance still needs to require three years of maintenance costs which it now does. However, no precise dollar figure is given (which is how the current law reads).

I hope that after further study and probably obtaining bids for such maintenance from the private sector, staff can provide an accurate cost estimate which the City Council can then accept and codify.

### **CONCLUSION**

I believe that Mayor Jordan, City Staff and (I know that) I recommend you amend the Exhibit B in your Agenda packet to the Revised Exhibit B attached to this memo.



## REVISED EXHIBIT "B"

### 167.04 Tree Preservation and Protection During Development

#### (J) Request for off-site alternatives

(4) *Tree escrow account.* Tree preservation on-site is always the preferred option, with on-site mitigation, off-site preservation and off-site forestation to be considered in descending order only if the more preferred option cannot be fully achieved. If none of these options can completely fulfill a developer's obligation under this Tree Preservation and Protection Chapter, the developer shall pay into the City Tree Escrow Account \$250.00 for each tree required to meet the Base Density requirements which fairly represents the costs of material and labor to plant a tree. The developer shall also pay into the Tree Escrow Fund the reasonable maintenance costs to ensure each tree survives at least three years. Tree planting and maintenance costs should be adjusted at least every four years to ensure it remains the fair market costs for tree planting and maintenance for three years.

a) Residential Subdivisions which cannot achieve the Base Density tree requirements through preservation or mitigation shall contribute to the Tree Escrow Account. The City shall use the money paid into the Tree Escrow Account to plant trees within the subdivision along rights-of-ways, detention ponds, common areas or other areas where trees can be protected and have a high probability of survival to a mature tree. This shall be accomplished once the subdivision is built out or as approved by the urban forester.

...

(d) If it is not possible to plant trees within the subdivision, planting locations will be sought in appropriate sites within a one (1)

mile radius of where the original project is located, but if this cannot be achieved, the moneys shall be used to plant the trees in the park quadrant in which the development took place, or pursuant to J (2) and (3). Data extracted from the Urban Forest Analysis should be consulted when identifying appropriate locations to plant escrow funded trees.

Mayor Lioneld Jordan  
City Attorney Kit Williams  
City Clerk Sondra Smith



#### **Aldermen**

Ward 1 Position 1 – Adella Gray  
Ward 1 Position 2 – Brenda Boudreaux  
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 August 2, 2011**

A meeting of the Fayetteville City Council will be held on August 2, 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. 2010 Comprehensive Annual Financial Report (CAFR)** – Tony Uth, Jr., Chair of the Audit Committee
- 2. 7th Quarter Update of the Economic Development Contract for Services** – Chung Tan, Curtis Northcutt, and Steve Clark

### **Mayor's Announcements, Proclamations and Recognitions:**

### **City Council Meeting Presentations, Reports and Discussion Items:**

### **Agenda Additions:**

#### **A. Consent:**

1. Approval of the July 19, 2011 City Council meeting minutes.

2. **Bryce Davis Park Property Line Adjustment:** A resolution to approve an equal property exchange of about 1,300 square feet with James E. Lindsey along the border of Bryce Davis Park and the Links of Fayetteville, to authorize Mayor Jordan to execute the necessary deed and to approve a lot line adjustment.
3. **Federal-Aid Transportation Enhancement Program Grant:** A resolution authorizing acceptance of a Federal-Aid Transportation Enhancement Program Grant through the Arkansas State Highway and Transportation Department in the amount of \$270,000.00 for the construction of Town Branch Trail, and approving a budget adjustment.
4. **Walker Park Baseball Complex Improvements:** A resolution approving a budget adjustment in the amount of \$100,000.00 to fund Walker Park Baseball Complex Improvements.
5. **Maple Street and Lafayette Street Bridge Rehabilitation:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for the rehabilitation of the Maple Street and Lafayette Street bridges over the Arkansas and Missouri Railroad.
6. **Bid #10-44 Peterbilt of Fort Smith:** A resolution authorizing the purchase of two (2) replacement automated side-load solid waste trucks from Peterbilt of Fort Smith in the amount of \$497,318.00 pursuant to Bid #10-44.
7. **ADM 11-3893 (Master Street Plan Amendment – Shiloh Drive):** A resolution to amend the Master Street Plan right-of-way requirement for N. Shiloh Drive from N. Henbest Drive to approximately 640 feet south of the newly aligned Mount Comfort Road.

**B. Unfinished Business: None.**

**C. New Business:**

1. **RZN 11-3870 (2012 W. Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial.
2. **ADM 11-3894 (Zoning Compliance & Business License):** An ordinance amending the Unified Development Code of the City of Fayetteville to remove references to certificate of zoning compliance and amend Chapter 161 of the Unified Development Code to address existing nonconforming businesses for the purposes of issuing a business license.
3. **Amend Chapter 167 Tree Preservation and Protection:** An ordinance to amend Chapter 167: Tree Preservation and Protection of the Unified Development Code by replacing all references to “Landscape Administrator” with “Urban Forester”, allowing increased flexibility for off-site preservation and forestation and for other reasons.

4. **Sales and Use Tax Expiring Date:** An ordinance providing for the levy of a one percent Sales and Use Tax within the City of Fayetteville, Arkansas; to replace the expiring one percent Sales and Use Tax; providing for an expiration date for such Sales and Use Tax of June 30, 2023 and prescribing other matters pertaining thereto.
5. **Special Election One Cent Sales and Use Tax:** An ordinance calling a special election in the City of Fayetteville, Arkansas on the question of levying a one percent Sales and Use Tax within the City of Fayetteville, Arkansas to replace the one percent Sales and Use Tax expiring on June 30, 2013; providing for an expiration date for such Sales and Use Tax of June 30, 2023.
6. **Special Election Budget Adjustment:** A resolution to approve a budget adjustment in the amount of \$20,000.00 to pay for a special election to seek renewal of the City's one cent Sales and Use Tax used for operations and capital expenditures.

**City Council Tour: Monday, August 1, 2011 at 4:30 p.m. The Council will tour the Parks, Fleet, and Transportation Complex.**

**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](http://accessfayetteville.org) or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.***



## City of Fayetteville Staff Review Form

A. 2  
Bryce Davis Park Property  
Line Adjustment  
Page 1 of 6

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

8/2/2011

City Council Meeting Date  
Agenda Items Only

Alison Jumper *(Signature)*  
Submitted By

Park Planning  
Division

Parks and Recreation  
Department

## Action Required:

Approval of a property line adjustment exchanging approximately 1,307 square feet of land for an equal amount of land with the adjacent land owner of The Links at Fayetteville.

N/A  
Cost of this request

N/A  
Category / Project Budget

N/A  
Program Category / Project Name

N/A  
Account Number

N/A  
Funds Used to Date

N/A  
Program / Project Category Name

N/A  
Project Number

N/A  
Remaining Balance

N/A  
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

*Connie Edmonston*  
(Department Director)

7-15-11  
Date

Previous Ordinance or Resolution # \_\_\_\_\_

*Kimberly* (Please prepare the deeds)  
City Attorney

7-14-2011  
Date

Original Contract Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

*Paul A. Behr*  
Finance and Internal Services Director

7-15-2011  
Date

Received in City Clerk's Office 07-14-11 P03:55 RCVD  
*King*

*Don Mann*  
Chief of Staff

7-17-11  
Date

Received in  
Mayor's Office



*Freddie Jordan*  
Mayor

7/18/11  
Date

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS  
PARKS AND RECREATION DEPARTMENT  
113 West Mountain  
Fayetteville, AR 72701  
P (479) 444-3471 F (479) 521-7714

A. 2  
Bryce Davis Park Property

## CITY COUNCIL AGENDA MEMO

**To:** Mayor Lioneld Jordan and City Council

**Thru:** Don Marr, Chief of Staff  
Connie Edmonston, Parks and Recreation Director *CE*

**From:** Alison Jumper, Park Planning Superintendent *AJ*

**Date:** July 14, 2011

**Subject:** Property Line Adjustment for Bryce Davis Park

### PROPOSAL:

Parks and Recreation is seeking approval of a property line adjustment for Bryce Davis Park. This park is located at 1595 N. Dartmouth Avenue west of I-540 and north of Wedington Drive.

A condition of approval at the time of parkland dedication of the 17 acre addition required the owner of the adjacent land, The Links at Fayetteville, to install a fence between the golf course and the park land. During construction of the fence a small portion of park land, approximately 1,307 square feet, was included on the adjacent land owner's side. Additionally, the current property line to the north traverses through the existing pond instead of providing access around it. The property line adjustment will exchange an equal amount of land (approximately 1,307 square feet) around the pond currently owned by The Links at Fayetteville for the land currently owned by the City of Fayetteville that has been fenced off and included in the Links development.

### RECOMMENDATION:

Approval of a property line adjustment exchanging approximately 1,307 square feet of land for an equal amount of land with the adjacent land owner of The Links at Fayetteville.

### BUDGET IMPACT:

There is no budget impact with this property line adjustment.

#### *Attachments:*

*Staff Review Form*

*Survey of Property Line Adjustment*

*Property Line Adjustment Application*

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO APPROVE AN EQUAL PROPERTY EXCHANGE OF ABOUT 1,300 SQUARE FEET WITH JAMES E. LINDSEY ALONG THE BORDER OF BRYCE DAVIS PARK AND THE LINKS OF FAYETTEVILLE, TO AUTHORIZE MAYOR JORDAN TO EXECUTE THE NECESSARY DEED AND TO APPROVE A LOT LINE ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an equal property exchange of about 1,300 square feet with James E. Lindsey along the border of Bryce Davis Park and The Links of Fayetteville, authorizes Mayor Jordan to execute the necessary deed, and approves a lot line adjustment.

**PASSED and APPROVED** this 2<sup>nd</sup> day of August, 2011.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer





CITY OF FAYETTEVILLE, ARKANSAS

# PROPERTY LINE ADJUSTMENT

|                             |                      |
|-----------------------------|----------------------|
| <b>FOR STAFF USE ONLY</b>   | <b>FEE: \$200.00</b> |
| Date Application Submitted: |                      |
| Date Accepted as Complete:  | S-T-R:               |
| Case / Appeal Number:       | PP#:                 |
| Public Hearing Date:        | Zone:                |

Please fill out this form completely, supplying all necessary information and documentation to support your request. *Your application will not be processed until this information is furnished.*

## Application:

Indicate one contact person for this request:

☒

Applicant

☐

Representative

*Applicant (person making request):*

*Representative (engineer, surveyor, realtor, etc.):*

Name Alison Jumper

E-mail ajumper@ci.fayetteville.ar.us

Address 113 W. Mountain St.

Phone 479-444-3469

Fax 479-521-7714

Name \_\_\_\_\_

E-mail \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

Site Address / Location  
 1595 N. Dartmouth Drive, Fayetteville, AR

|         | Zoning District | Assessor's Parcel Numbers for the Properties | Size of Parent Tract (acres) | Size of Resulting Tracts (acres) |
|---------|-----------------|----------------------------------------------|------------------------------|----------------------------------|
| Tract A | R-PZD           | 765-13724-014                                | 16.95                        | 16.95                            |
| Tract B | R-PZD           | 765-13652-001                                | 16.95                        | 16.95                            |
| Tract C |                 |                                              |                              |                                  |
| Tract D |                 |                                              |                              |                                  |

**FINANCIAL INTERESTS**

The following entities and/or people have financial interest in this project:  
City of Fayetteville, The Links at Fayetteville

**APPLICANT / REPRESENTATIVE:** I certify under penalty of perjury that the foregoing statements and answers herein made all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval. I understand that the City might not approve what I am applying for, or might set conditions on approval.

Name (printed) \_\_\_\_\_ Date \_\_\_\_\_  
Signature \_\_\_\_\_

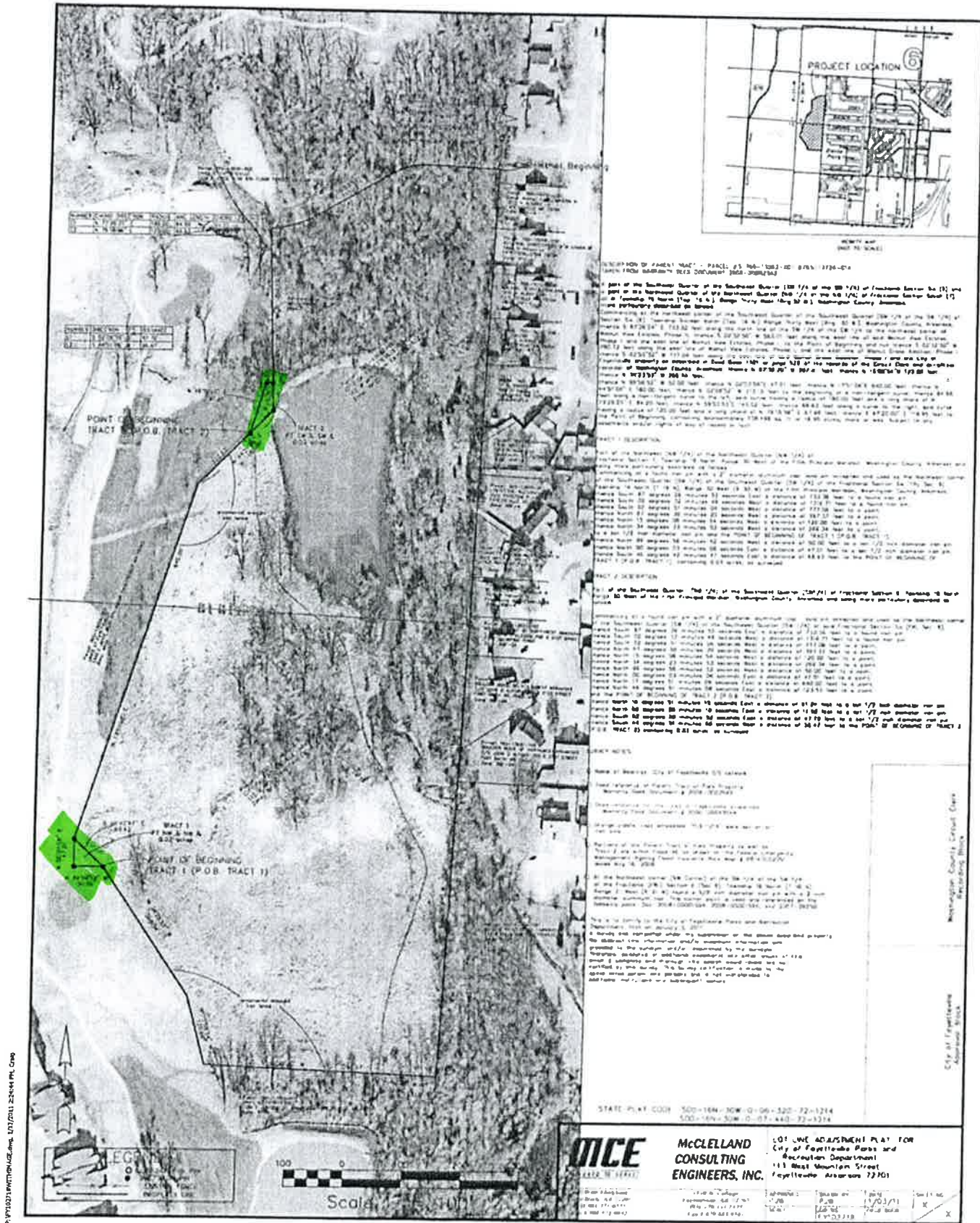
**PROPERTY OWNER(S) / AUTHORIZED AGENT:** I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have read this application and consent to its filing. (If signed by the authorized agent, a letter from each property owner must be provided indicating that the agent is authorized to act on his/her behalf.)

Owners of each parcel being adjusted must sign this application.

Owners (attach additional info if necessary):

Name (printed) JAMES E. LINDSEY Address \_\_\_\_\_  
Signature [Signature] \_\_\_\_\_  
Date \_\_\_\_\_ Phone \_\_\_\_\_

Name (printed) \_\_\_\_\_ Address \_\_\_\_\_  
Signature \_\_\_\_\_  
Date \_\_\_\_\_ Phone \_\_\_\_\_



## City of Fayetteville Staff Review Form

A. 3  
Federal-Aid Transportation  
Enhancement Program Grant  
Page 1 of 8

City Council Agenda Items  
and  
Contracts, Leases or Agreements

8/2/2011

City Council Meeting Date  
Agenda Items Only

Matt Mihalevich *MM*

Submitted By

Engineering

Division

Development Services

Department

## Action Required:

A resolution authorizing acceptance of a Federal-aid Transportation Enhancement Program grant through the Arkansas State Highway Commission in the amount of \$270,000 for construction of the Town Branch Trail; and approving a budget adjustment to recognize the grant revenue.

\$ 337,500.00

Cost of this request

\$ 1,010,727.00

Category / Project Budget

Trail Development

Program Category / Project Name

4470.9470.5814.05

Account Number

\$ 357,094.00

Funds Used to Date

Trail Improvements

Program / Project Category Name

02016.1102

Project Number

\$ 653,633.00

Remaining Balance

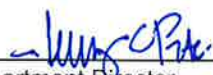
Sales Tax Construction

Fund Name

Budgeted Item

☐

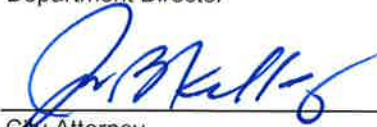
Budget Adjustment Attached

☒
  
Department Director

07-14-2011

Date

Previous Ordinance or Resolution # 140-10

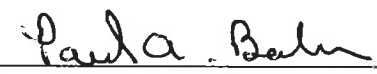
  
City Attorney

7-15-11

Date

Original Contract Date:

Original Contract Number:

  
Finance and Internal Services Director

7-18-2011

Date

Received in City

Clerk's Office 07-15-11A08:20 RCVD

  
Chief of Staff

7-18-11

Date

Received in  
Mayor's Office
  
Mayor

7/19/11

Date



Comments:





www.accessfayetteville.org

## CITY COUNCIL AGENDA MEMO

---

**To:** Mayor and City Council

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

**From:** Matt Mihalevich, Trails Coordinator *MM*

**Date:** July 15, 2010

**Subject:** Resolution to utilize federal-aid enhancement funds

---

### PROPOSAL:

Staff requests a resolution authorizing acceptance of a Federal-aid Transportation Enhancement Program grant through the Arkansas State Highway Commission in the amount of \$270,000 for construction of the Town Branch Trail; and approving a budget adjustment to recognize the grant revenue.

### RECOMMENDATION:

Town Branch Trail is shown on the Fayetteville Alternative Transportation and Trails Master plan as the primary east-west trail for the southern parts of Fayetteville. The proposed 2.8 mile trail will connect to existing trail at Razorback Road and extend east through Greathouse Park and the University of Arkansas Research and Technology Park with a connection to Walker Park and St. Paul Trail at City Lake Road. This project will provide a safe active transportation route for the numerous residents living in the area as well as the University of Arkansas Research and Technology Park. (See attached map) Town Branch Trail will become part of the 36 mile Razorback Regional Greenway.

In August of 2010, resolution number 140-10 was approved staff to apply for the 80/20 matching Transportation Enhancement funds in the amount up to \$500,000. On June 20, 2011, the City was awarded \$270,000 for the Town Branch Trail project through the Transportation Enhancement Program. The Arkansas State Highway Commission has requested approval of the attached resolution to express the willingness to utilize the funds. The estimated cost for the entire 2.8 mile Town Branch Trail is 1.8 million; therefore, the project will need to be phased for construction.

### BUDGET IMPACT:

The awarded funds of \$270,000 represent 80% of the total budget of \$337,500. The City will be responsible for 20% or \$67,500 to be funded from the Trail Development Capital Improvement Program.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION AUTHORIZING ACCEPTANCE OF A FEDERAL-AID TRANSPORTATION ENHANCEMENT PROGRAM GRANT THROUGH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT IN THE AMOUNT OF \$270,000.00 FOR THE CONSTRUCTION OF TOWN BRANCH TRAIL, AND APPROVING A BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville understands Federal-aid Surface Transportation Enhancement funds are available at eighty percent (80%) federal participation and twenty percent (20%) local cash match for the Town Branch Trail construction project;

**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 authorizes acceptance of a Federal-aid Transportation Enhancement Program Grant through the Arkansas State Highway and Transportation Department in the amount of \$270,000.00 for the construction of Town Branch Trail, and will participate in accordance with its designated responsibility, including maintenance of the project.

Section 2: That the City Council of the City of Fayetteville, Arkansas authorizes the Mayor and City Clerk to execute all appropriate agreements with the Arkansas State Highway and Transportation Department to expedite the construction of the above-stated improvement.

Section 3: That the City Council of the City of Fayetteville, Arkansas pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A".

**PASSED and APPROVED** this 2<sup>nd</sup> day of August, 2011.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

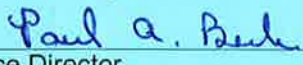
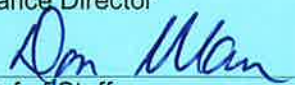
**City of Fayetteville, Arkansas  
Budget Adjustment Form**

A. 3  
Federal-Aid Transportation  
Enhancement Program Grant  
Page 4 of 8

|                            |                                                                                        |                                 |                          |
|----------------------------|----------------------------------------------------------------------------------------|---------------------------------|--------------------------|
| <b>Budget Year</b><br>2011 | <b>Division:</b> Transportation Services<br><b>Department:</b> Transportation Services | <b>Request Date</b><br>8/2/2011 | <b>Adjustment Number</b> |
|----------------------------|----------------------------------------------------------------------------------------|---------------------------------|--------------------------|

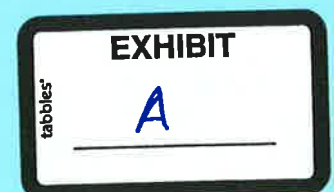
**BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION**

The Arkansas Highway Commission approved the City's application for Federal-aid Transportation Enhancement Program funding in the amount of \$270,000 for the Town Branch Trail project. This is an 80/20 matching reimbursement grant for a total project cost of \$337,500.

|                                                                                                          |                    |                            |         |   |         |            |   |   |
|----------------------------------------------------------------------------------------------------------|--------------------|----------------------------|---------|---|---------|------------|---|---|
| <br>Division Head       | Date               | Prepared By: John Nelson   |         |   |         |            |   |   |
| <br>Budget Director      | 7-18-2011<br>Date  | Reference:                 | jnelson |   |         |            |   |   |
| <br>Department Director | 07-14-2011<br>Date | Budget & Research Use Only |         |   |         |            |   |   |
| <br>Finance Director    | 7-19-2011<br>Date  | Type:                      | A       | B | C       | <u>(D)</u> | E | P |
| <br>Chief of Staff      | 7-18-11<br>Date    | General Ledger Date        |         |   |         |            |   |   |
| <br>Mayor               | 7/19/11<br>Date    | Posted to General Ledger   |         |   | Initial | Date       |   |   |
|                                                                                                          |                    | Checked / Verified         |         |   | Initial | Date       |   |   |

**TOTAL BUDGET ADJUSTMENT**

| <u>270,000</u>        | <u>270,000</u> |              |
|-----------------------|----------------|--------------|
| Increase / (Decrease) |                | Project.Sub  |
| Expense               | Revenue        | Number       |
| 33,750                |                | 02016 . 1102 |
| 20,000                |                | 02016 . 1102 |
| 283,750               |                | 02016 . 1102 |
| (67,500)              |                | 02016 . 1    |
|                       | 270,000        | 02016 . 1102 |







**TOWN BRANCH TRAIL**  
Total Length - 2.8 Miles

Arkansas Transportation Enhancement Program



# ARKANSAS STATE HIGHWAY COMMISSION



R. MADISON MURPHY  
CHAIRMAN  
EL DORADO

JOHN ED REGENOLD  
VICE CHAIRMAN  
ARMOREL

JOHN BURKHALTER, P.E.  
LITTLE ROCK

P.O. Box 2261

LITTLE ROCK, ARKANSAS 72203-2261

PHONE (501) 569-2000 • VOICE/TTY 711 • FAX (501) 569-2400

WWW.ARKANSASHIGHWAYS.COM

DICK TRAMMEL  
ROGERS

THOMAS B. SCHUECK  
LITTLE ROCK

DAN FLOWERS  
DIRECTOR OF  
HIGHWAYS AND TRANSPORTATION

June 20, 2011

RECEIVED

JUN 21 2011

CITY OF FAYETTEVILLE  
MAYOR'S OFFICE

The Honorable Lioneld Jordan  
Mayor of Fayetteville  
113 West Mountain  
Fayetteville, AR 72701

Dear Mayor Jordan:

I am pleased to inform you that the Arkansas Highway Commission has selected your application for Federal-aid Transportation Enhancement Program funding for the Fayetteville Town Branch Trail project. This project is approved for federal funding in the amount of \$270,000. Although your second priority, Fayetteville Lafayette and Maple Street Railroad Overpass Rehabilitation project, was eligible for funding, this project was not selected due to the limited amount of federal funding available. We regret that all eligible projects could not be funded; however, this project may be resubmitted during the next application cycle for consideration.

While your Fayetteville Town Branch Trail project is approved in concept, please be aware that there is a possibility that some items are not eligible for federal funding. In the near future, you will be contacted by our staff with additional information regarding the implementation of this project.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dick Trammel".  
Dick Trammel  
Commissioner

c: Director  
Deputy Director and Chief Engineer  
Assistant Chief Engineer-Planning  
Programs and Contracts  
District 4

ARKANSAS STATE HIGHWAY  
AND  
TRANSPORTATION DEPARTMENT

RECEIVED

JUL 5 2011

CITY OF FAYETTEVILLE  
MAYOR'S OFFICE

Dan Flowers  
Director  
Phone (501) 569-2000 Fax (501) 569-2400



P.O. Box 2261  
Little Rock, Arkansas 72203-2261  
WWW.ARKANSASHIGHWAYS.COM

July 1, 2011

The Honorable Lioneld Jordan  
Mayor of Fayetteville  
113 West Mountain  
Fayetteville, AR 72701

Dear Mayor Jordan:

Reference is made to Commissioner Trammel's recent letter approving your transportation enhancement project.

At this point, a resolution from your City Council is required. The resolution should indicate support for the project and give you the authority to enter into necessary agreements with the Department (sample enclosed). A signed and sealed copy of the approved resolution should be forwarded to:

Ms. Lorie Tudor  
Programs and Contracts Division  
Arkansas State Highway and Transportation Department  
P. O. Box 2261  
Little Rock, AR 72203

Once we have received your resolution, we will schedule a meeting with you or your representative to discuss the project and applicable requirements. **Please do not begin work on the project at this time. You will receive a formal notice to proceed after our meeting. No reimbursement will be made for any work done prior to the date of the notice to proceed.**

Sincerely,

Scott E. Bennett  
Assistant Chief Engineer-Planning

Enclosure

c: Commissioner Dick Trammel  
Director  
Deputy Director and Chief Engineer  
Programs and Contracts

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION EXPRESSING THE WILLINGNESS OF**

\_\_\_\_\_  
(Sponsor)

**TO UTILIZE FEDERAL-AID ENHANCEMENT FUNDS**

**WHEREAS,** \_\_\_\_\_ understands Federal-aid Surface  
(Sponsor's Governing Authority)

Transportation Enhancement funds are available at 80% federal participation and 20% local cash match for the following project:

\_\_\_\_\_  
**NOW, THEREFORE, BE IT RESOLVED BY THE**

\_\_\_\_\_, **THAT:**

**SECTION I:** \_\_\_\_\_ will participate in  
(Sponsor)

accordance with its designated responsibility, including maintenance of this project.

**SECTION II:** \_\_\_\_\_ or their designee is  
(Title of Sponsor's CEO/CAO)

hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of the above stated improvement.

**SECTION III:** \_\_\_\_\_ pledges its full  
(Sponsor's Governing Authority)

support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

**THIS RESOLUTION** adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
(Sponsor's CEO/CAO)

**ATTEST:** \_\_\_\_\_

(SEAL)

## City of Fayetteville Staff Review Form

A. 4  
Walker Park Baseball Improvements  
Page 1 of 6

City Council Agenda Items  
and  
Contracts, Leases or Agreements

8/2/2011

City Council Meeting Date  
Agenda Items Only

Connie Edmonston

Submitted By

Parks and Recreation

Division

Parks and Recreation

Department

## Action Required:

Approval of a budget adjustment to fund Walker Park Baseball Improvements in the amount of \$100,000.

\$ 100,000.00

Cost of this request

\$ 100,000.00

Category / Project Budget

Walker Park Baseball Improvements

Program Category / Project Name

2250.9255315.00

Account Number

\$ -

Funds Used to Date

Contract Services

Program / Project Category Name

11024

Project Number

\$ 100,000.00

Remaining Balance

Parks Development

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Connie Edmonston  
Department Director

7-14-11  
Date

Previous Ordinance or Resolution #

Jim Kelly  
City Attorney

7-15-11  
Date

Original Contract Date:

Original Contract Number:

Paul A. Buhner  
Finance and Internal Services Director

7-18-2011  
Date

Received in City 07-15-11 P03:23 RCVD  
Clerk's Office

Jim Man  
Chief of Staff

7-18-11  
Date

Received in  
Mayor's Office



Frederick Jay  
Mayor

7/19/11  
Date

Comments:

## CITY COUNCIL AGENDA MEMO

**To:** Mayor Lioneld Jordan and City Council

**Thru:** Don Marr, Chief of Staff

**From:** Connie Edmonston, Parks & Recreation Director *C. E.*

**Date:** July 14, 2011

**Subject:** Approval of a budget adjustment to fund Walker Park Baseball Improvements in the amount of \$100,000

### PROPOSAL:

The Fayetteville Youth Baseball Association Board of Directors has requested improvements to the Baseball Complex at Walker Park in the amount of \$100,000. The Baseball Complex was built by volunteers starting in 1960. It is an old facility that needs facility improvements to serve the baseball community until the Regional Park's Baseball Complex is built. Parks and Recreation Staff have been working with the Baseball Board to develop a list of priority projects including demolition of existing dugouts and replacement of new dugout areas with benches, addition of backstop/warm-up areas for pitchers, replacement/renovation of bleachers with safety/shade structures and other renovation projects as budget permits. The playing fields are in good condition; some of the best in NW Arkansas. These improvements will help Fayetteville to attract more tournaments, but more importantly to serve youth ages 5 to 12 who love to play the game of baseball. Currently there are 855 youth playing baseball at Walker Park. In addition, there are 11 competitive teams who utilize the fields. Improvements are planned to be completed for the April 2012 baseball season. The Baseball Board and Parks and Recreation Staff will be seeking local partnerships to assist with these improvement projects.

The City of Fayetteville is extremely excited to receive the 200 acre Regional Park from the Chambers Bank. Staff has been working on plans for the park which is located in the center of a future mixed use development. Building the park before the adjacent development has created some challenges in the planning and timing of road, utility and drainage construction. The first phase will include the great lawn entry area and soccer fields. Soccer is prioritized to be developed first since the lease agreement with the University of Arkansas ends June 30, 2018. The baseball complex will be developed as soon as funds are allocated and raised. Currently there is \$3,816,274 in the Capital Improvement Fund to develop the park. Transferring \$100,000 to improve the current Walker Park youth baseball complex will provide more quality years of positive experiences at Walker Park while waiting for the "fields of dreams" at the Regional Park. The Baseball Board is active in a campaign to raise funds for renovation/replacement of the current concession stand.

### RECOMMENDATION:

Approval of the budget adjustment to fund Walker Park Baseball Improvements in the amount of \$100,000.

### BUDGET IMPACT:

These improvements should have little to no impact on the annual operational budget.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE  
AMOUNT OF \$100,000.00 TO FUND WALKER PARK BASEBALL  
COMPLEX IMPROVEMENTS**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A", in the amount of \$100,000.00 to fund Walker Park Baseball Complex improvements.

**PASSED and APPROVED** this 2<sup>nd</sup> day of August, 2011.

**APPROVED:**

**ATTEST:**

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**

7/18/11

## General Ledger Inquiry

A. 4

Walker Park Baseball Improvements

Expense Account

1010.6600.5318.00

Election cost

Account Status . . . . . ACTIVE

Budgeted Account/Org. Level: Acct Class 2

Fiscal Start Month/Year End: 01 2011

| Month | Budget | Amendments | Expenses | Encumbrances | YTD Balance |
|-------|--------|------------|----------|--------------|-------------|
| Jan : | .00    | .00        | .00      | .00          | .00         |
| Feb : | .00    | .00        | .00      | .00          | .00         |
| Mar : | .00    | .00        | .00      | .00          | .00         |
| Apr : | .00    | .00        | .00      | .00          | .00         |
| May : | .00    | .00        | .00      | .00          | .00         |
| June: | .00    | .00        | .00      | .00          | .00         |
| July: | .00    | .00        | .00      | .00          | .00         |
| Aug : | .00    | .00        | .00      | .00          | .00         |
| Sept: | .00    | .00        | .00      | .00          | .00         |
| Oct : | .00    | .00        | .00      | .00          | .00         |
| Nov : | .00    | .00        | .00      | .00          | .00         |
| Dec : | .00    | .00        | .00      | .00          | .00         |
| Total | .00    | .00        | .00      | .00          | .00         |

F3=Exit F10=MTD Bal. F11=Transactions F12=Cancel F22=More Functions

A. 4 V11.0425  
Walker Park Baseball Improvements





## City of Fayetteville Staff Review Form

A. 5  
 Maple Street and Lafayette  
 Street Bridge Rehabilitation  
 Page 1 of 22

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

8/2/2011

City Council Meeting Date  
 Agenda Items Only

Chris Brown *CB*  
 Submitted By

Engineering  
 Division

Development Services  
 Department

**Action Required:**

Approval of a resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid funds to rehabilitate Bridge Numbers 01940 (Maple Street) and 01941 (Lafayette Street) over the Arkansas and Missouri Railroad.

\$ 1,000.00  
 Cost of this request

\$ 16,171  
 Category / Project Budget

Transportation Bond Street Improvements  
 Program Category / Project Name

. 4520.9520.5817.00  
 Account Number

\$ -  
 Funds Used to Date

Sales Tax Construction Bonds  
 Program / Project Category Name

6035.1101  
 Project Number

\$ 16,171  
 Remaining Balance

Sales Tax Construction Fund 2006  
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

*William C. Pate*  
 Department Director

*8-14-2011*  
 Date

Previous Ordinance or Resolution #

*John Ball-6*  
 City Attorney

*7-15-11*  
 Date

Original Contract Date:

Original Contract Number:

*Paul a. Buehn*  
 Finance and Internal Services Director

*7-15-2011*  
 Date

Received in City Clerk's Office *07-14-11 P03:55 RCVB*

*Don M. M...*  
 Chief of Staff

*7-18-11*  
 Date

*Kim G.*

*Freddie Jordan*  
 Mayor

*7/19/11*  
 Date

Received in Mayor's Office  


Comments:



www.accessfayetteville.org

## CITY COUNCIL AGENDA MEMO

Council Meeting of August 2, 2011

**To:** Mayor and City Council

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

**From:** Chris Brown, City Engineer *CB*

**Date:** July 13, 2011

**Subject:** **Approval of a resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid funds to rehabilitate Bridge Numbers 01940 (Maple Street) and 01941 (Lafayette Street) over the Arkansas and Missouri Railroad**

### PROPOSAL:

On February 16<sup>th</sup>, the City received a letter from the AHTD advising that the subject bridges qualify for funding from the Federal-aid Highway Bridge Replacement and Rehabilitation Program (HBRRP) to restore both bridges. The HBRRP utilizes 80% Federal-aid and 20% local matching funds with a limitation of \$1 million in Federal-aid available per project. In subsequent correspondence, the AHTD also confirmed that the two bridges may be combined into a single project for purposes of the program. The total estimate for rehabilitation of the two bridges (including deck replacement of the Maple Street bridge) is approximately \$1.4 million.

Staff also asked the AHTD about the possibility of the City handling the design of the project due to the historic nature of the bridges, and the public input and involvement expected during the project development. The AHTD will allow the City to be responsible for the design; however, they indicated that for the design to be eligible for federal funding, their procurement process must be used. While this would require the City to begin the consultant selection process again, and could take considerable time to hire a consultant, we recommend that the City follow the AHTD procurement procedures in order for the design to be eligible for federal funding. This will allow us to maximize the federal funding on the project.

### RECOMMENDATION:

Staff recommends approval of the attached resolution to rehabilitate the historic Maple Street and Lafayette Street bridges over the Arkansas and Missouri Railroad. The resolution provides for:

- The City will participate in accordance with its designated responsibilities in this project.
- The Mayor, or his designee, is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this city project.
- The City pledges its full support and hereby authorizes the AHTD to initiate action to implement this project.

If the resolution is approved, the Mayor may sign the attached agreement and work on the project may proceed.

**BUDGET IMPACT:**

Based on the consultant's cost estimate, this project could be completed with only \$400,000 of City funds. This amount of funding is available, either through the Transportation Bond Program or the CIP Program in an existing project set up for bridge cost sharing. The attached agreement commits the City to an initial payment of \$1,000 to AHTD for administrative costs associated with preliminary engineering and therefore this amount will be encumbered by executing the enclosed agreement.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF  
FAYETTEVILLE TO UTILIZE FEDERAL-AID FUNDS FOR THE  
REHABILITATION OF THE MAPLE STREET AND LAFAYETTE STREET  
BRIDGES OVER THE ARKANSAS AND MISSOURI RAILROAD**

WHEREAS, the City of Fayetteville understands that Federal-aid Bridge Replacement funds are available for certain city projects up to a maximum Federal-aid amount of \$1,000,000.00 using the following participating ratios:

|                                                     | <u>Work Phase</u>        | <u>Federal %</u> | <u>City %</u> |
|-----------------------------------------------------|--------------------------|------------------|---------------|
| Bridge & Approach<br>Construction of City Projects  | Preliminary Engineering  | 80%              | 20%           |
|                                                     | Right-of-Way             | 80%              | 20%           |
|                                                     | Utilities                | 80%              | 20%           |
|                                                     | Construction             | 80%              | 20%           |
|                                                     | Construction Engineering | 80%              | 20%           |
| City projects programmed but<br>not let to contract | All Phases               | 0%               | 100%          |

**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 expresses its willingness to participate in accordance with its designated responsibilities in this project.

Section 2: That the City Council of the City of Fayetteville, Arkansas authorizes the Mayor and City Clerk to execute all appropriate agreements with the Arkansas State Highway and Transportation Department to expedite the construction of the above-stated improvements.

Section 3: That the City Council of the City of Fayetteville, Arkansas pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

**PASSED and APPROVED** this 2<sup>nd</sup> day of August, 2011.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**

# ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Dan Flowers  
Director  
Phone (501) 569-2000 Fax (501) 569-2400



P.O. Box 2261  
Little Rock, Arkansas 72203-2261  
WWW.ARKANSASHIGHWAYS.COM

July 7, 2011

Mr. Chris Brown, P.E.  
Fayetteville City Engineer  
125 West Mountain Street  
Fayetteville, AR 72701

Dear Mr. Brown:

Reference is made to your recent letter stating that the City will handle design of the Maple and Lafayette Street Historic Bridge project, which will be financed with Federal-aid Highway Bridge Program funding that uses a pro-rata share of 80% Federal-aid and 20% local matching funds up to a maximum of \$1 million in Federal-aid. As you are aware, the City must use the Department's Consultant Selection Procedures to hire a consultant to design this project.

In order to proceed with this Federal-aid project, it will be necessary for the City Council to pass a resolution (sample enclosed) authorizing the Mayor to enter into necessary agreements with the Department for the project. Once the resolution is passed, please have Mayor Jordan sign the enclosed Agreement of Understanding. Once we receive these items, the Agreement of Understanding will be executed and a signed copy will be returned to the City.

If you have any additional questions, please contact Trey Foster in our Programs and Contracts Division at (501) 569-2261.

Sincerely,

Frank Vozel  
Deputy Director and  
Chief Engineer

Enclosures

c: Assistant Chief Engineer-Planning  
Programs and Contracts  
Consultant Coordinator  
Planning and Research  
District 4  
Lioneld Jordan, Mayor of Fayetteville

## FEDERAL-AID PROJECT RESOLUTION

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION EXPRESSING THE WILLINGNESS OF  
THE CITY OF FAYETTEVILLE  
TO UTILIZE FEDERAL-AID FUNDS  
FOR THE FOLLOWING CITY PROJECT:**

**Rehabilitation of Structure Numbers 01940 and 01941 over the Arkansas and  
Missouri Railroad on Maple Street and Lafayette Street in Fayetteville**

**WHEREAS**, the City Fayetteville understands that Federal-aid Bridge Replacement funds are available for certain city projects up to a maximum Federal-aid amount of \$1.0 million using the following participating ratios:

|                                                     | <u>Work Phase</u>       | <u>Federal %</u> | <u>City %</u> |
|-----------------------------------------------------|-------------------------|------------------|---------------|
| Bridge & Approach<br>Construction of City Projects  | Preliminary Engineering | 80%              | 20%           |
|                                                     | Right-of-Way            | 80%              | 20%           |
|                                                     | Utilities               | 80%              | 20%           |
|                                                     | Construction            | 80%              | 20%           |
|                                                     | Construction            | 80%              | 20%           |
|                                                     | Engineering             |                  |               |
| City projects programmed<br>but not let to contract | All Phases              | 100%             | 100%          |

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

**SECTION I:** The City will participate in accordance with its designated responsibilities in this project.

**SECTION II:** The Mayor, or his designee, is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this city project.

**SECTION III:** The City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

**THIS RESOLUTION** adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Lioneld Jordan  
Mayor

**ATTEST:** \_\_\_\_\_  
(SEAL)

**AGREEMENT OF UNDERSTANDING**

**BETWEEN**

**THE CITY OF FAYETTEVILLE**

**AND**

**THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT**

In Cooperation with the  
U.S. Department of Transportation, Federal Highway Administration

**RELATIVE TO**

The rehabilitation of **Bridge Numbers 01940 and 01941 over the Arkansas and Missouri Railroad on Maple Street and Lafayette Street in Fayetteville** (hereinafter called the "Project") using Federal-aid Highway Bridge Program funds.

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) provides 80% Federal-aid funds to be matched with 20% non-federal funds (cash match) for certain bridge replacement and rehabilitation projects; and

WHEREAS, the City of Fayetteville (hereinafter called the "City") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds; and

WHEREAS, each project phase will be funded as follows:

|                           | <u>Maximum<br/>Federal %</u> | <u>Minimum<br/>City %</u> |       |
|---------------------------|------------------------------|---------------------------|-------|
| Preliminary Engineering:  | 80                           | 20                        |       |
| Right-of-Way:             | 80                           | 20                        |       |
| Utilities:                | 80                           | 20                        |       |
| Construction:             | 80                           | 20                        |       |
| Construction Engineering: | 80                           | 20                        | ; and |

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions or any part of the agreement to make the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement; and

WHEREAS, the City understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-recipients Concerning Disadvantaged Business Enterprises as stated on Attachment A; and



IT IS HEREBY AGREED that the City and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation and will accept the responsibilities and assigned duties as described hereinafter.

THE CITY WILL:

1. Initially submit to the Department \$1,000 (20%) to be matched by \$4,000 (80%) Federal-aid funds for Department administrative costs associated with state preliminary engineering, which include but are not limited to, on site meetings, environmental review, and plan and specification review. The City's final cost for this phase will be determined by actual Department charges to preliminary engineering.
2. Be responsible for hiring a consultant engineering firm in accordance with the Local Agency Consultant Selection Procedures (Attachment B) to prepare environmental documentation, plans, specifications, and a cost estimate for construction of the Project and submit plans to the Department for review at the 30%, 60%, and 90% stages. **NOTE: FHWA authorization and Department approval must be given prior to issuing a work order to the consultant for federal funds to be allowed in this phase.**
3. Ensure that the plans and specifications are developed using the Department's standard drawings and Standard Specifications for Highway Construction (latest edition). A registered professional engineer must sign the plans and specifications for the Project.
4. Conduct the necessary public involvement meetings and public hearings.
5. Ensure that the plans and specifications comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.
6. Understand that **expenditures for preliminary or construction engineering performed by the City's forces are not eligible for reimbursement with federal funds.**
7. Make periodic payments to the consultant for environmental documentation and design of the Project and request reimbursement from the Department.
8. Submit a letter to the Right of Way Division of the Department that (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the City will assume or (2) requests that the Department handle some or all of these services. Acquisition of property must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the "Uniform Act"). **NOTE: Failure to notify the**

**Department prior to initiating this phase of work may result in any expenditures being declared non-participating in federal funds.**

9. Ensure the preparation of utility adjustment and right-of-way plans are in accordance with Arkansas State Highway Commission Policy.
10. Provide a copy of the registered deed or appropriate certification stating the City's clear and unencumbered title to any right-of-way to be used for the Project (Attachment C).
11. Be responsible for 20% of the cost of preliminary engineering, construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities. **NOTE: The Maximum amount of Federal funding available for this Project is \$1 million.**
12. Prior to the Department awarding the contract for construction, submit to the Department the City's 20% matching funds for construction and Department costs associated with construction engineering. The City's final share of cost for construction engineering will be determined by actual Department charges.
13. Be responsible for all costs not provided by the Federal Highway Administration.
14. Be responsible for 100% of all right-of-way and other costs incurred should the City not enter into the construction phase of the Project.
15. Submit a certification letter (Attachment D), including all items noted, to the Department when requesting that the Department advertise the project for construction bids.
16. Be responsible for 100% of any and all expenditures which may be declared non-participating in federal funds, including any such awards by the State Claims Commission.
17. Be responsible for satisfactory maintenance and operation of all improvements on the Project. Failure to adequately maintain and operate the facility in accordance with Federal-aid requirements will result in withholding future Federal-aid highway funds.
18. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
19. Maintain or adopt regulations and ordinances as necessary for proper operation of the improvements and be responsible for the necessary enforcement of operations as required by improvements to city streets.
20. Grant the right of access to the City's records pertinent to the Project and the right to audit by the Department and Federal Highway Administration officials.

21. Submit to the Department a Single Audit in accordance with the Office of Management and Budget (OMB) Circular A-133 each fiscal year that the City expends more than \$500,000 of Federal-aid from any federal source including, but not limited to, the U.S. Department of Transportation. The fiscal year used for the reporting is based on the City's fiscal year. The \$500,000 threshold is subject to change after OMB periodic reviews.
22. Sign and transmit to the Department the Certification for Grants, Loans, and Cooperative Agreements (Attachment E), which is necessary for Project participation.
23. Complete and transmit to the Department both pages of the Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements (Attachment F).
24. Indemnify and hold harmless the Arkansas State Highway Commission, the Department, its officers and employees from any and all claims, lawsuits, judgments, damages, costs, expenses, and losses, including those arising from claims before the Arkansas Claims Commission or lawsuits brought in any other legal forum, sustained on account of the operations or actions of the City, including any act of omission, neglect or misconduct of said City. Further, the City shall take no action to compromise the immunity from civil suits afforded the State of Arkansas, the State Highway Commission, Arkansas Code 19-10-305, or the 11th Amendment of the United States Constitution. This obligation of indemnification shall survive the termination or expiration of this Agreement.
25. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Title VI of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, Section 504 of the Rehabilitation Act, FHWA Highway Bridge Program Guidance, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, and any other Federal, State, and/or local laws, rules and/or regulations.
26. Promptly notify the Department if the Project is rendered unfit for continued use by natural disaster or other cause.

THE DEPARTMENT WILL:

1. Maintain an administrative file for the project and be responsible for administering Federal-aid funds.
2. Review environmental documentation prepared by the City's consultant.

3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments in accordance with the Uniform Act.
4. Review plans and specifications submitted by the City.
5. Reimburse the City 80% (Federal-aid share) for eligible preliminary engineering costs.
5. Be responsible for preparing bid proposals, advertising the Project, receiving bids, and assembling the contract documents.
6. Be responsible for construction supervision.
7. Be reimbursed for costs involved in performing all the services listed above.

IT IS FURTHER AGREED that should the City fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure will disqualify the City from receiving future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the City fail to pay to the Department any required funds due for project implementation or fail to complete the Project as specified in this Agreement, the Department may cause such funds as may be required to be withheld from the City's motor fuel tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ARKANSAS STATE HIGHWAY  
AND TRANSPORTATION  
DEPARTMENT

CITY OF FAYETTEVILLE

\_\_\_\_\_  
Dan Flowers  
Director of Highways and  
Transportation

\_\_\_\_\_  
Lioneld Jordan  
Mayor

ARKANSAS STATE HIGHWAY  
AND TRANSPORTATION DEPARTMENT

NOTICE OF NONDISCRIMINATION

The Arkansas State Highway and Transportation Department complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, the Department does not discriminate on the basis of race, sex, color, age, national origin, religion or disability, in the admission, access to and treatment in Department's programs and activities, as well as the Department's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Department's nondiscrimination policies may be directed to James B. Moore, Jr., Section Head - EEO/DBE (ADA/504/Title VI Coordinator), P.O. Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address: [james.moore@arkansashighways.com](mailto:james.moore@arkansashighways.com).

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

GENERAL REQUIREMENTS  
FOR  
RECIPIENTS AND SUB-RECIPIENTS  
CONCERNING DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the U. S. Department of Transportation that disadvantaged business enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.

The recipient or its contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a disadvantaged business enterprise affirmative action program, which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 26, Subpart F, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in 49 CFR Part 26, Subsections 26.101 and 26.107 shall substitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

## LOCAL AGENCY

### CONSULTANT SELECTION PROCEDURES

#### **Section I – Application**

These procedures apply to federally funded contracts for engineering and design services for projects subject to the provisions of 23 U.S.C. 112, i.e. for construction performed under the supervision of the Arkansas State Highway and Transportation Department (AHTD). In accordance with 23 CFR 172 the AHTD has approved these procedures for use by the Local Agency for the “competitive negotiation” method of procurement as defined in 23 CFR 172.5, Methods of Procurement.

The Local Agency will use these procedures for Federal-aid contracts and may elect to use them for non-Federal-aid contracts.

These procedures do not apply to design-build Contracts.

#### **Section II – Advertisement for Letters of Interest.**

The Local Agency may employ a consultant engineering firm when a need exists for engineering services and it is in the Local Agency’s best interest to employ an engineer or engineering firm.

As a minimum, the Local Agency will advertise in the “Arkansas Democrat-Gazette,” a statewide newspaper; the “Engineering-News Record”, a trade magazine; and the Local Agency’s website (if available), advising that consultant engineering services are being sought. Interested firms must furnish a Letter of Interest listing experience in similar work, the resumes of key personnel, a general description of the firm, and Standard Form SF 254, Architect-Engineer and Related Services Questionnaire. The advertisement will be for either a specific single job, a group of jobs, or for an indefinite delivery of jobs to be determined at a later date with specific task orders issued for each one.

When the Local Agency advertises a specific job, the advertisement will describe the work in general terms so that firms may evaluate their interest in performing the desired services.

When the Local Agency advertises a group of jobs, a general description of work will be furnished. Firms will be asked to specify the jobs they are interested in performing. When the Local Agency decides to proceed with a certain job, those firms having expressed interest in that job will be considered for selection.

When the Local Agency advertises for an indefinite delivery of jobs with later specified task orders, the advertisement will include a general description of work for the job tasks.

### **Section III – Evaluation of Letters of Interest.**

The Local Agency will designate a selection committee to evaluate and analyze the Letters of Interest that are received with regard to each consultant firm's:

1. Professional staff including the education, experience, number of personnel available, and any partnerships with sub-consultants
2. Experience with projects of a similar nature as those advertised
3. General and professional reputation, including responsiveness to civil rights and equal employment opportunity requirements and opportunities
4. Past work performance

Following their review, the selection committee will prepare a short list of engineering firms and recommend to the Local Agency that these firms submit detailed proposals for further evaluation.

### **Section IV – Request for Proposal.**

The Local Agency will prepare a scope of work statement and request proposals from the engineering firms on the short list. A Local Agency's scope of work will typically include the following:

1. A detailed description of the work
2. Services that will be furnished by the Local Agency
3. Services expected of the consultant
4. Project conditions of the work
5. Special conditions of the work
6. Assurance of participation of Disadvantaged Business Enterprises (DBE) in Federal-aid projects. The Local Agency may establish a DBE goal of a certain percentage of the work for DBE's to assure DBE's participation in Federal-aid projects. When a DBE goal is specified, the Local Agency will ensure that a certified DBE(s) performs the identified engineering work and that the payments to the DBE(s) verify that the goal was reached. The establishment of a DBE goal does not preclude a DBE from being the prime consultant for the job.

The short-listed firms should submit proposals that contain the following:

1. A description of the firm
2. A detailed work plan that identifies the major tasks of work
3. A list of major concerns associated with completing the work
4. A detailed work schedule for specific jobs as requested
5. An organization chart listing key personnel by name and title
6. Resumes of key personnel who will be assigned to the project
7. A manpower estimate for specific jobs as requested

The Local Agency will designate a selection committee to review the proposals with regard to the same items, among others, outlined in Section III. Particular attention will be directed to the following evaluation factors:

1. Obvious indication that the scope of work is clearly understood
2. Comprehensive, coherent, and detailed work plan
3. Realistic work schedule when applicable
4. Proposed working office location, need for a local office, and any local representative
5. Identification of sub-consultants and responsiveness to DBE goals and opportunities

Based on these various items, the selection committee will rank the firms in order of preference and submit the list to the Local Agency who will either: (1) select one firm to enter negotiations with, (2) select two or more firms to interview (a firm may present additional information concerning their proposal at the interview), or (3) select multiple firms for an indefinite delivery contract. If the Local Agency decides to conduct interviews, the selected firms will be advised and interviews will be scheduled. After the selection committee conducts the interviews, it will rank the firms based on the same items as noted previously and submit the list to the Local Agency. The Local Agency will review the ranking and make the final selection.

The contract file will contain records of the rankings and supporting data; however, the rankings will not be public information. Copies of the Letter of Interest advertisement, the rankings, and supporting data will be submitted to AHTD for the contract file.

## **Section V – Negotiation and Contract Preparation.**

Once a firm is selected for negotiation for a specific job or a group of jobs, it will prepare a draft contract including a cost estimate for the project. The other firms on the short list will be advised of the firm selected, subject to successful negotiations.

More than one firm may be selected for an indefinite delivery contract. The contract will establish a maximum cost for the contract as well as an expiration date. As individual task orders are issued, individual task order cost estimates will be negotiated.

The selected firm will prepare a draft contract based on a sample contract furnished by the AHTD. The draft contract must include overhead rates in accordance with the principles of 23 CFR 172. For contracts exceeding \$250,000 and for contracts less than \$250,000 when there is insufficient knowledge of the consultant's accounting system, when there is previous unfavorable experience regarding the reliability of the consultant's accounting system, or when the contract involves procurement of new equipment or supplies for which cost experience is lacking, the overhead rates will be verified by an audit by a certified public accountant on behalf of the consultant prior to execution of the contract.

The Local Agency will review the draft contract proposal and either approve it as submitted or enter into negotiations with the selected firm to establish a contract and contract amount that the Local Agency deems is fair and reasonable. If a satisfactory



contract cannot be negotiated with the selected firm, negotiations will be terminated. The Local Agency will then enter into negotiations with the second ranked firm. If negotiations with that firm fail, the Local Agency will formally terminate those negotiations and begin to negotiate with the third ranked firm, and so on. If the Local Agency cannot negotiate a satisfactory contract with any of the ranked firms, the Local Agency shall either (1) select additional firms in order of their competence and qualifications and continue the negotiation process, or (2) terminate all negotiations and begin the selection process again.

When the Local Agency and the consultant agree on a negotiated contract regarding the scope of the work, the professional services to be furnished by the consultant, the services to be furnished by the Local Agency, and the amount of compensation and method of payment, the consultant will prepare a final draft and submit it to the Local Agency and AHTD for review. After review and a determination that it is acceptable, the consultant will sign the contract and then the Local Agency will execute the contract. The contract will then be submitted to AHTD for final review and approval. When approved, copies of the signed contract will be distributed within the Local Agency and to the consultant.

After the Local Agency executes an indefinite delivery contract, it will assign specific jobs by task order for the duration of the contract period. The consultant will prepare each task order based on the scope of work furnished by the Local Agency. The task order will include a manpower estimate and cost. The Local Agency will review the task order and approve it as submitted or negotiate with the consultant to establish a task order and task order amount that the Local Agency deems is fair and reasonable. After review and a determination that the task order is acceptable, the consultant will sign the task order and then the Local Agency will execute the task order. The task order will then be submitted to AHTD for final review and approval. When approved, copies of the signed task order will be distributed within the Local Agency and to the consultant.

## **Section VI – Monitoring the Contract.**

The Local Agency may identify staff members as key liaisons for specific projects or for technical matters during the administration of the contract period.

The Local Agency will:

1. Maintain the contract files
2. Arrange and attend periodic progress meetings
3. Coordinate reviews and approval actions with other agencies when necessary
4. Review progress payments
5. Coordinate questions from the consultant.
6. Negotiate any change or amendment to the contract and submit to AHTD as detailed above.
7. Prepare an evaluation of the consultant's performance after completion of the contract. A copy of the evaluation will be submitted to the AHTD.

## **Section VII – Consultant Liability**

The Local Agency will include a contract requirement that the consultant will warrant that all services and work products provided as part of the contract are free from defects in workmanship at the time of acceptance and that the work conforms to the requirements of the contract. This warrant is effective regardless of the degree of inspection and acceptance by the Local Agency or others.

If the consultant is required to correct or re-perform any work or services, the work will be performed at no cost to the Local Agency, and any work or services corrected or re-performed by the consultant shall also be warranted that it is free from defects in workmanship. If the consultant fails or refuses to correct or re-perform, the Local Agency may, by contract or otherwise, correct or replace the deficient items or services with similar work or services, and charge the cost to the consultant or make an equitable adjustment in the consultant's reimbursement.

Acceptance is an act of an authorized representative of the Local Agency by which the Local Agency approves specific services, as partial or complete performance of the contract. Correction is the elimination of a defect.

## RIGHT-OF-WAY AND UTILITY CERTIFICATION LETTER

DATE

Mr. Frank Vozel  
Deputy Director and Chief Engineer  
Arkansas State Highway and Transportation Department  
P. O. Box 2261  
Little Rock, AR 72203

Re: Job #  
F.A.P. #  
Job Name  
County

Dear Mr. Vozel:

Regarding right-of-way for the referenced Federal-aid project, I certify that  
(*Choose one of the following*)

(1) title to right-of-way necessary for construction of the project is already in public ownership. No additional right-of-way is needed.

(2) title to a portion of the right-of-way necessary for construction of the project is already in public ownership. The additional right-of-way necessary for this project has been acquired in accordance with applicable Federal Highway Administration procedures as shown below.

# Tracts \_\_\_\_\_ # Paid \_\_\_\_\_ # Donations \_\_\_\_\_ # Condemnations \_\_\_\_\_

(3) title to right-of-way necessary for construction of the project has been acquired in accordance with applicable Federal Highway Administration procedures as shown below.

# Tracts \_\_\_\_\_ # Paid \_\_\_\_\_ # Donations \_\_\_\_\_ # Condemnations \_\_\_\_\_

Enclosed are preliminary plans showing the existing right-of-way limits. (*for No. 2 and 3 above, add the following*) and the boundary of additional right-of-way needed for construction of this project.

Additionally, I certify that arrangement for adjustment of existing conflicting utilities has been accomplished.

# Utilities \_\_\_\_\_ # Complete \_\_\_\_\_ % Remaining \_\_\_\_\_ Exp. Comp. Date \_\_\_\_\_

Sincerely,

\_\_\_\_\_  
Mayor

Enclosure(s)

## CERTIFICATION LETTER REQUESTING PERMISSION TO ADVERTISE

DATE

Mr. Frank Vozel  
Deputy Director and Chief Engineer  
Arkansas State Highway and Transportation Department  
P. O. Box 2261  
Little Rock, AR 72203

Re: Job #  
Job Name  
County

Dear Mr. Vozel:

The following documents are submitted concerning the referenced project:

1. One reproducible set of plans and specifications.
2. A copy of the engineer's estimate of cost.
3. Copies of any technical specifications or special provisions.

I certify that the plans, specifications and estimate were prepared by or under the direct supervision of a Professional Engineer licensed to practice in the State of Arkansas and that the plans and specifications were developed using with the Arkansas State Highway and Transportation Department's "Standard Specifications for Highway Construction (Edition of 2003)" and standard drawings, and comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including Airport Clearance when necessary, for the type of work involved. Additionally, I certify that all necessary right of way has been acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and arrangement for adjustment of existing conflicting utilities has been accomplished.

I understand that if any project items are declared non-participating in federal funds due to failure to comply with any State or federal requirements, the City will promptly repay such funds to the Arkansas State Highway and Transportation Department (AHTD). Further, I hereby authorize the Director of the Arkansas State Department of Finance and Administration to transfer such funds from the City's State Turnback Funds to the AHTD's RRA Fund upon notification by the Director of Highways and Transportation that such funds are due AHTD and have not been paid by the City.

Please proceed with advertisement of the project for bids.

Sincerely,

NAME  
OFFICE

Enclosures

## **CERTIFICATION FOR GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies to the best of his knowledge and belief that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, and contracts and subcontracts under grants, sub grants, loans and cooperative agreements) which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CITY OF  
FAYETTEVILLE

---

Lioneld Jordan  
Mayor

## Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements

*(For more information go to <https://www.fsrs.gov/>)*

FFATA was signed on September 26, 2006. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is [www.USASpending.gov](http://www.USASpending.gov).

A Prime Grant Recipient (hereinafter called AHTD (the Arkansas State Highway and Transportation Department)) awarded a new Federal grant greater than or equal to \$25,000 as of October 1, 2010 is subject to FFATA sub-award reporting requirements as outlined in the Office of Management and Budget guidance issued August 27, 2010. **AHTD is required to file a FFATA sub-award report for any sub-grant awarded to a sub-awardee greater than or equal to \$25,000.** As a sub-awardee, \_\_\_\_\_ shall provide the following information to AHTD in order to fulfill FFATA reporting requirements:

- ✓ A unique identifier (Dun & Bradstreet DUNS Number) of the sub-awardee receiving the award and the parent entity of the recipient, should the sub-awardee be owned by another entity;
- ✓ The names and total compensation of the five most highly compensated officers of the sub-awardee if the sub-awardee in the preceding Federal fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to information about the compensation of the senior executives of the sub-awardee through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1).

### Required Sub-Awardee Information

(A) Sub-Awardee – DUNS Number: \_\_\_\_\_

Parent (if applicable) – DUNS Number: \_\_\_\_\_

- (B) In the preceding completed Federal fiscal year, did your business or organization (the legal entity to which the DUNS number entered above belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

Yes / No (Circle one)

*If "Yes" is selected, answer (C).*

- (C) Does the public have access to information about the compensation of the executives in your business or organization (the legal entity to which the DUNS number entered above belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

Yes / No (Circle one)

*If "Yes" is selected, visit <http://www.sec.gov/edgar.shtml> for reference.*

*If "No" is selected, answer (D).*

- (D) **If "No" was selected in Question "C"**, complete the following information for the five (5) most highly compensated executives in your business or organization (the legal entity to which the DUNS number entered above belongs). Amount should reflect the Total Compensation Amount in the preceding completed Federal fiscal year in U.S. whole dollars.

#### Sub-Awardee Names and Compensation of Most Highly Compensated Officers

1. Name: \_\_\_\_\_ Amount: \$ \_\_\_\_\_
2. Name: \_\_\_\_\_ Amount: \$ \_\_\_\_\_
3. Name: \_\_\_\_\_ Amount: \$ \_\_\_\_\_
4. Name: \_\_\_\_\_ Amount: \$ \_\_\_\_\_
5. Name: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

**City of Fayetteville Staff Review Form**

A. 6  
 Bid #10-44 Peterbilt of Fort Smith  
 Page 1 of 4

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

8/2/2011

**City Council Meeting Date  
 Agenda Items Only**

**Dennis Pratt / Barbara Olsen**  
 Submitted By

**Fleet Operations**  
 Division

**Transportation**  
 Department

**Action Required:**

A resolution approving the purchase of two additional automated side load Solid Waste trucks from Peterbilt of Fort Smith from bid #10-44 in the amount of \$497,318. <sup>R</sup> REPLACEMENT

\$ 497,318.00  
 Cost of this request

\$ 1,543,500.00  
 Category / Project Budget

Solid Waste Vehicles / Equipment  
 Program Category / Project Name

9700.1920.5802.00  
 Account Number

\$ 619,587.00  
 Funds Used to Date

Vehicles and Equipment  
 Program / Project Category Name

02082.2011  
 Project Number

\$ 923,913.00  
 Remaining Balance

Shop Fund  
 Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

*[Signature]*  
 Department Director

7-15-11  
 Date

Previous Ordinance or Resolution # \_\_\_\_\_

*[Signature]*  
 City Attorney

7-15-11  
 Date

Original Contract Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

*Paul A. Butler*  
 Finance and Internal Services Director

7-19-2011  
 Date

Received in City 07-15-11P01:40 RCVD  
 Clerk's Office

*Don Man*  
 Chief of Staff

7-19-11  
 Date

Received in  
 Mayor's Office



*Frederick Jordan*  
 Mayor

7/20/11  
 Date

Comments:



## CITY COUNCIL AGENDA MEMO

---

**To:** Mayor/City Council

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

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

**Date:** July 13, 2011

**Subject:** Purchase of two Automated Side Load Solid Waste trucks

---

**PROPOSAL:** That City Council approve the purchase of two additional automated side load Solid Waste trucks from Peterbilt of Fort Smith from bid #10-44 in the amount of \$497,318.

**RECOMMENDATION:** In January Fleet received two Automated Side Loaders for Solid Waste. After 6 months of use, Fleet has found them to be more fuel efficient and very reliable.

In accordance with Purchasing rules and regulations, if the vendor honors their original price, we can purchase more units if they are exactly the same. Fleet has just received price assurance from the vendor.

These two trucks will replace units #464 and #465, two of the original side load trash trucks that are worn out and no longer dependable.

The award of this bid was initially approved unanimously by the Equipment Committee on June 28<sup>th</sup>, 2010.

**BUDGET IMPACT:** These replacements were budgeted for on both the capital and operating sides.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE PURCHASE OF TWO (2) REPLACEMENT AUTOMATED SIDE-LOAD SOLID WASTE TRUCKS FROM PETERBILT OF FORT SMITH IN THE AMOUNT OF \$497,318.00 PURSUANT TO BID #10-44**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of two (2) additional automated side-load solid waste trucks to replace existing vehicles from Peterbilt of Fort Smith in the amount of \$497,318.00 pursuant to Bid #10-44.

**PASSED and APPROVED** this 2<sup>nd</sup> day of August, 2011.

**APPROVED:**

**ATTEST:**

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

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](mailto:Purchasing@ci.fayetteville.ar.us)**

|                                                                                                                                                                                                                                                                                                                                                                                                              |                                               |                                      |               |            |                              |                                                                            |                                                                               |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------|---------------|------------|------------------------------|----------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------|---------------------------------------------------------------------------------------|--------------|----------------------------|---------------------------|---------------------------------------------|-----------------------|-------------------|-------------------------|--------------------------|--------------|
| <b>City Of Fayetteville - Purchase Order (PO) Request</b><br>(Not a Purchase Order)<br><b>All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)</b><br><b>All PO Request shall be scanned to the Purchasing e-mail: <a href="mailto:Purchasing@ci.fayetteville.ar.us">Purchasing@ci.fayetteville.ar.us</a></b>                             |                                               |                                      |               |            |                              | Requisition No.:                                                           | Date: A. 6<br>7/13/2011                                                       |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
|                                                                                                                                                                                                                                                                                                                                                                                                              |                                               |                                      |               |            |                              | P.O Number:                                                                | Expected Delivery Date: 7/13/2011                                             |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
| Vendor #: 19771                                                                                                                                                                                                                                                                                                                                                                                              |                                               | Vendor Name: PETERBILT OF FORT SMITH |               |            |                              | Mail Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/> |                                                                               | City #10-44 Peterbilt of Fort Smith |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
| Address:                                                                                                                                                                                                                                                                                                                                                                                                     |                                               |                                      |               |            | Fob Point:                   |                                                                            | Taxable Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/> |                                     | Quotes Attached Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/> |              |                            |                           |                                             |                       |                   |                         |                          |              |
| City:                                                                                                                                                                                                                                                                                                                                                                                                        |                                               |                                      | State:        |            | Zip Code:                    | Ship to code: 50                                                           | Division Head Approval: <i>Dem E. [Signature]</i>                             |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
| Requester: BARBARA OLSEN                                                                                                                                                                                                                                                                                                                                                                                     |                                               |                                      |               |            | Requester's Employee #: 1940 |                                                                            | Extension: 485                                                                |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
| Item                                                                                                                                                                                                                                                                                                                                                                                                         | Description                                   | Quantity                             | Unit of Issue | Unit Cost  | Extended Cost                | Account Numbers                                                            | Project/Subproject #                                                          | Inventory #                         | Fixed Asset #                                                                         |              |                            |                           |                                             |                       |                   |                         |                          |              |
| 1                                                                                                                                                                                                                                                                                                                                                                                                            | 2011 PETERBILT 320 CHASSIS WITH LABRIE        | 2                                    | EA            | 248,659.00 | \$497,318.00                 | 9700.192.5802.00                                                           | 02082.2011                                                                    |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
| 2                                                                                                                                                                                                                                                                                                                                                                                                            | AUTOMIZER RIGHT HAND TRASH BODY, PER BID      |                                      |               |            | \$0.00                       |                                                                            |                                                                               |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
| 3                                                                                                                                                                                                                                                                                                                                                                                                            | #10-44, TO BE UNIT 4010 (FIXED ASSET #704010) |                                      |               |            | \$0.00                       |                                                                            |                                                                               |                                     | 704010                                                                                |              |                            |                           |                                             |                       |                   |                         |                          |              |
| 4                                                                                                                                                                                                                                                                                                                                                                                                            | AND UNTI 4011 (FIXED ASSET #704011).          |                                      |               |            | \$0.00                       |                                                                            |                                                                               |                                     | 704011                                                                                |              |                            |                           |                                             |                       |                   |                         |                          |              |
| 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: \$497,318.00                                                        |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
|                                                                                                                                                                                                                                                                                                                                                                                                              |                                               |                                      |               |            |                              |                                                                            | Total: \$497,318.00                                                           |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
|                                                                                                                                                                                                                                                                                                                                                                                                              |                                               |                                      |               |            |                              |                                                                            | Total: <u>\$497,318.00</u>                                                    |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
| Approvals: <table style="width: 100%; margin-top: 20px;"> <tr> <td>Mayor: _____</td> <td>Department Director: _____</td> <td>Purchasing Manager: _____</td> </tr> <tr> <td>Finance &amp; Internal Services Director: _____</td> <td>Budget Manager: _____</td> <td>IT Manager: _____</td> </tr> <tr> <td>Dispatch Manager: _____</td> <td>Utilities Manager: _____</td> <td>Other: _____</td> </tr> </table> |                                               |                                      |               |            |                              |                                                                            |                                                                               |                                     |                                                                                       | Mayor: _____ | Department Director: _____ | Purchasing Manager: _____ | Finance & Internal Services Director: _____ | Budget Manager: _____ | IT Manager: _____ | Dispatch Manager: _____ | Utilities Manager: _____ | Other: _____ |
| Mayor: _____                                                                                                                                                                                                                                                                                                                                                                                                 | Department Director: _____                    | Purchasing Manager: _____            |               |            |                              |                                                                            |                                                                               |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
| Finance & Internal Services Director: _____                                                                                                                                                                                                                                                                                                                                                                  | Budget Manager: _____                         | IT Manager: _____                    |               |            |                              |                                                                            |                                                                               |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |
| Dispatch Manager: _____                                                                                                                                                                                                                                                                                                                                                                                      | Utilities Manager: _____                      | Other: _____                         |               |            |                              |                                                                            |                                                                               |                                     |                                                                                       |              |                            |                           |                                             |                       |                   |                         |                          |              |

## City of Fayetteville Staff Review Form

A. 7  
 ADM 11-3893 (Master Street Plan  
 Amendment – Shiloh Drive)  
 Page 1 of 6

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

8/2/2011

City Council Meeting Date  
 Agenda Items Only

Jesse Fulcher  
 Submitted By

Planning  
 Division

Development Services  
 Department

**Action Required:**

ADM 11-3893 (Master Street Plan Amendment - Shiloh Drive): Submitted by Planning Staff for approval of a resolution to amend the Master Street Plan right-of-way requirement for a newly realigned section of Shiloh Drive.

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

☐

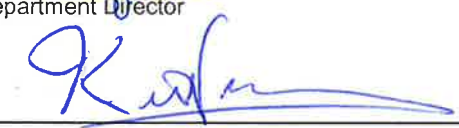
Budget Adjustment Attached

☐

  
 Department Director

07-15-2011  
 Date

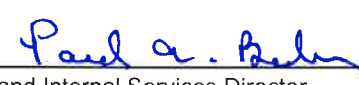
Previous Ordinance or Resolution #

  
 City Attorney

7-15-2011  
 Date

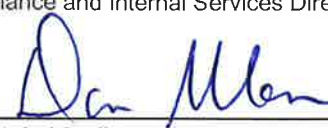
Original Contract Date:

Original Contract Number:

  
 Finance and Internal Services Director

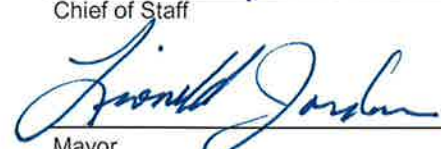
7-18-2011  
 Date

Received in City 15-11P12:06 RCVD  
 Clerk's Office

  
 Chief of Staff

7-17-11  
 Date

Received in  
 Mayor's Office

  
 Mayor

7/18/11  
 Date



Comments:

## **CITY COUNCIL AGENDA MEMO**

---

**To:** Mayor Jordan, City Council

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

**From:** Jesse Fulcher, Current Planner

**Date:** July 12, 2011

**Subject:** ADM 11-3893 Master Street Plan Amendment – Shiloh Drive

---

### **RECOMMENDATION**

Staff recommends approval of a resolution to amend the Master Street Plan right-of-way requirement for Shiloh Drive from the intersection of Henbest Drive to the point of realignment south of Mount Comfort Road (see Exhibit “A”).

### **BACKGROUND**

The recent Mount Comfort Road improvement project included widening from two lanes to four lanes between Ruppel Road and I-540, and complete realignment of streets and intersections at Mount Comfort and Porter Roads. The intersection realignment included extending Shiloh Drive to create a four-way intersection at Mount Comfort Road, and continuing Shiloh Drive northeasterly and reconnecting to the service road parallel to I-540. Consistent with the Master Street Plan, this segment of Shiloh Drive is a two-lane cross-section with three-lanes provided at intersections to allow for a dedicated left turn-lane. However, on-street bike lanes were not included in the design, since there is an off-street trail being constructed parallel to I-540. This design change resulted in a street right-of-way less than required by the Master Street Plan. However, property owners along this section of Shiloh are still required to dedicate right-of-way at the time of development based on the current Master Street Plan requirements.

Most recently, a 4.55 acre property along Shiloh Drive was approved by the Planning Commission for development. This approval included a recommendation to amend the right-of-way requirements for Shiloh Drive to be consistent with the street cross-section approved by the City’s Street Committee and recently completed. By ordinance, the property owner is required to dedicate additional right-of-way until the City Council amends the Master Street Plan right-of-way requirements for Shiloh Drive.

## **DISCUSSION**

On June 13, 2011 the Planning Commission recommended in favor of a request to amend the Master Street Plan along a 4.55 acre property at the intersection of Shiloh Drive and Henbest Drive. Realizing that this issue will occur as other properties along Shiloh develop, staff recommends that the entire section of Shiloh Drive constructed as part of the Mount Comfort street project be amended to match the right-of-way of the constructed street, as indicated on the attached exhibits.

## **BUDGET IMPACT**

None.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO AMEND THE MASTER STREET PLAN RIGHT-OF-WAY REQUIREMENT FOR N. SHILOH DRIVE FROM N. HENBEST DRIVE TO APPROXIMATELY 640 FEET SOUTH OF THE NEWLY ALIGNED MOUNT COMFORT ROAD.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a reduced right-of-way and revised street cross-section for a portion of N. Shiloh Drive., as depicted in Exhibit “A” and Exhibit “B” attached.

**PASSED** and **APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2011.

APPROVED:

ATTEST:

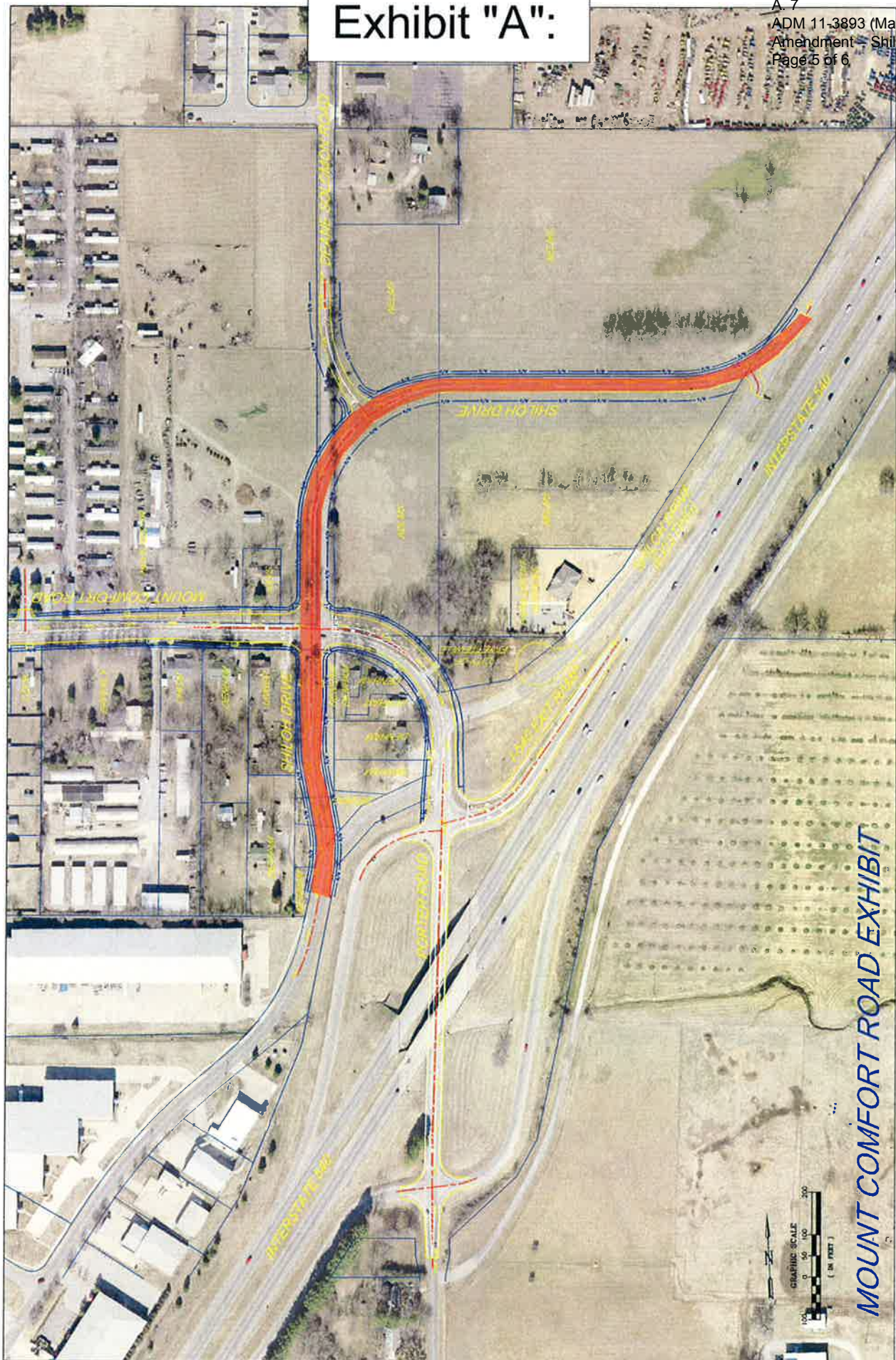
By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer



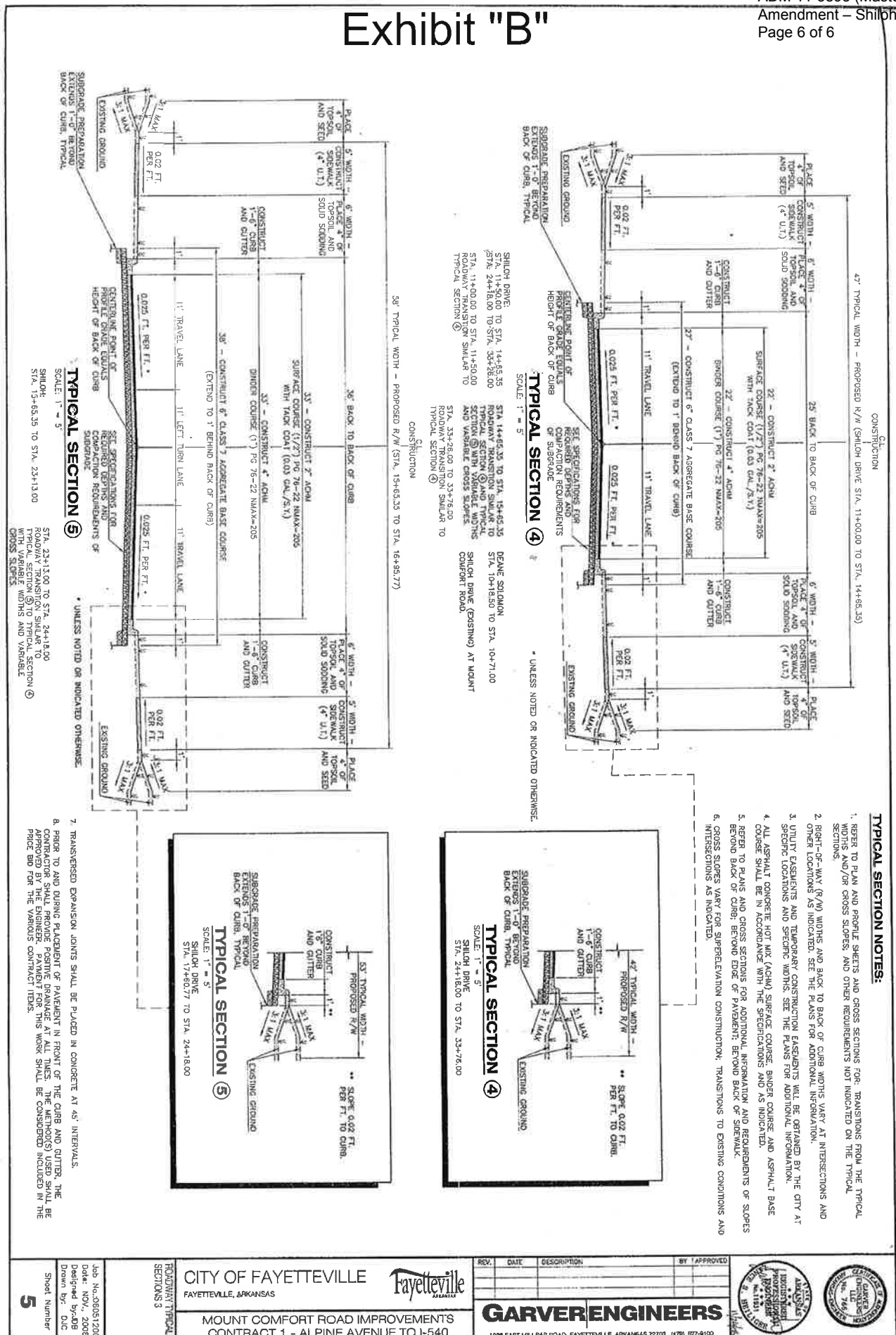
# Exhibit "A":

A.7  
ADM 11-3893 (Master Street Plan  
Amendment - Shiloh Drive)  
Page 5 of 6



Amended section





## City of Fayetteville Staff Review Form

C. 1  
RZN 11-3870 (2012 W. Martin  
Luther King Blvd./USA Drug)  
Page 1 of 20

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

8/2/2011

City Council Meeting Date  
Agenda Items Only

Jesse Fulcher  
Submitted By

Planning  
Division

Development Services  
Department

**Action Required:**

RZN 11-3870: Rezone (2012 W. MARTIN LUTHER KING BLVD./USA DRUG, 520): Submitted by H2 ENGINEERING INC. for property located at 2012 WEST MARTIN LUTHER KING BOULEVARD. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS/ACRE and contains approximately 0.97 acres. The request is to rezone 0.50 acres of the property to C-1, NEIGHBORHOOD COMMERCIAL.

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

07-15-2011  
Date

Previous Ordinance or Resolution #

  
City Attorney

7-15-2011  
Date

Original Contract Date:

Original Contract Number:

  
Finance and Internal Services Director

7-18-2011  
Date

Received in City Clerk's Office 07-15-11P12:06 RCVD  


  
Chief of Staff

7-17-11  
Date

Received in  
Mayor's Office

  
Mayor

7/18/11  
Date



Comments:



www.accessfayetteville.org

## CITY COUNCIL AGENDA MEMO

---

**To:** Mayor Jordan, City Council

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

**From:** Jesse Fulcher, Current Planner

**Date:** July 15, 2011

**Subject:** RZN 11-3870 (USA Drug)

---

### RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to rezone the subject property from RMF-24, Residential Multi-family, 24 units per acre to C-1, Neighborhood Commercial.

### BACKGROUND

The subject property is located at 2012 W. Martin Luther King Boulevard and contains approximately 0.97 acres. The south half of the property is zoned C-2, Thoroughfare Commercial, and the north half is zoned RMF-24, Residential multi-family. The existing gas station was constructed in 1982 and was permitted in the RMF-24 zoning district through an administrative extension of the zoning regulations. The zoning configuration has been in place since at least 1966.

The applicant has submitted an application to rezone the north portion of the property, containing approximately 21,973 sq. ft., from RMF-24, Residential Multi-family 24 units per acre to C-1, Neighborhood Commercial. The intent is to have the entire parcel in a commercial zoning district.

### DISCUSSION

On July 11, 2011, the Planning Commission forwarded this item to the City Council with a recommendation of approval for the C-1, Neighborhood Commercial zoning district with a vote of 7-1-0 (Commissioner Earnest voted "no").

### BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 11-3870, FOR APPROXIMATELY 0.50 ACRES, LOCATED AT 2012 WEST MARTIN LUTHER KING BOULEVARD FROM RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE TO C-1, NEIGHBORHOOD COMMERCIAL.

**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 changes the zone classification of the following described property from RMF-24, Residential Multi-Family to C-1, Neighborhood Commercial, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

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

APPROVED:

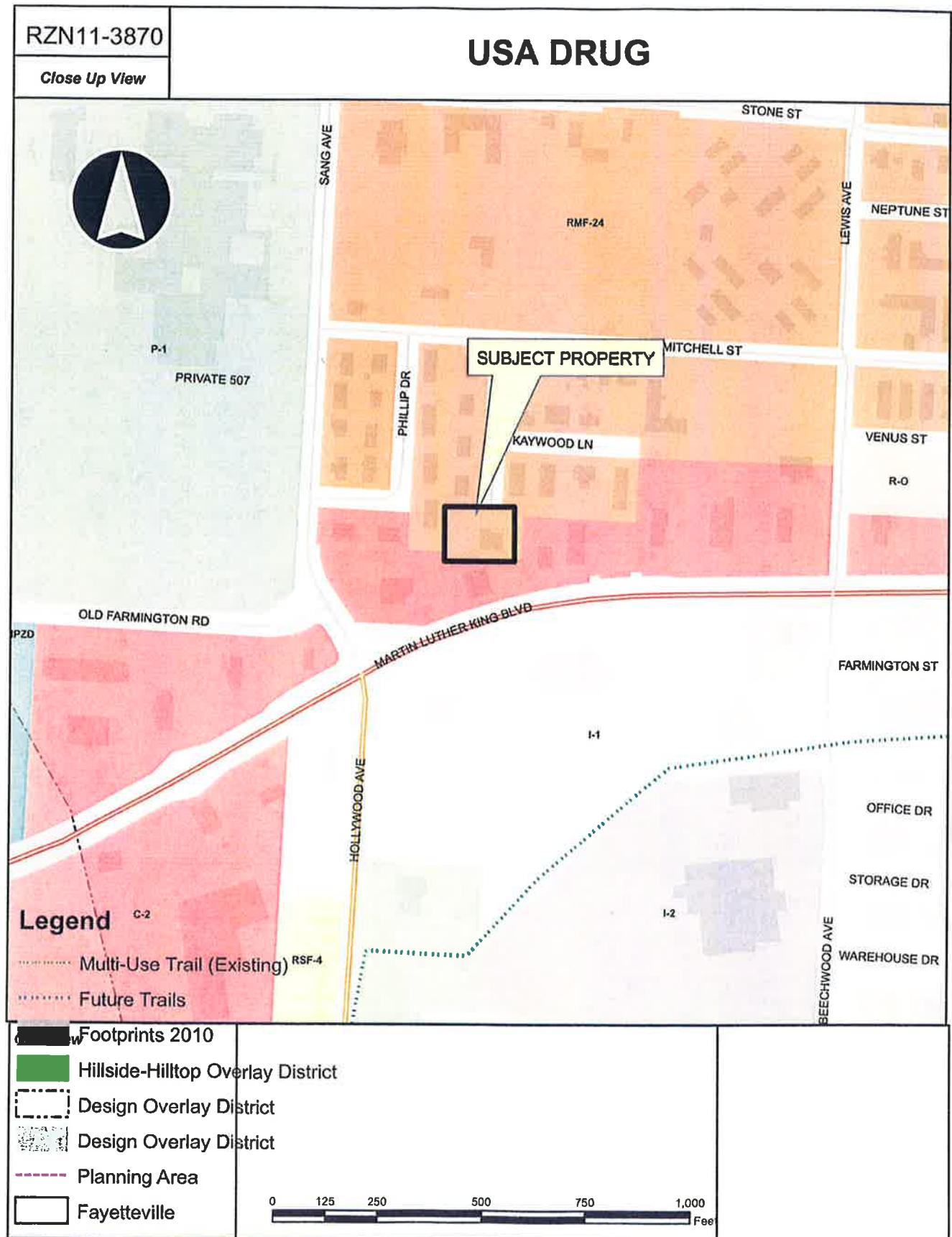
ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

# EXHIBIT "A"

C. 1  
RZN 11-3870 (2012 W. Martin  
Luther King Blvd./USA Drug)  
Page 4 of 20



**EXHIBIT "B"**  
**RZN 11-3870**

PART OF LOTS 6 & 7 OF LEWIS SUBDIVISION RECORDED IN PLAT BOOK 4 AT PAGE 146 BEING A PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET 5/8" REBAR W/CAP (PS 1496) AT THE SOUTHWEST CORNER OF LOT 4 OF BLOCK 2 OF VALLEY VISTA SUBDIVISION RECORDED IN PLAT BOOK 1 AT PAGE 153; THENCE S86°57'22"E, ALONG THE SOUTH LINE OF THE ABOVE SAID VALLEY VISTA SUBDIVISION, A DISTANCE OF 176.56 FEET TO A SET 5/8" REBAR W/CAP (PS 1496); THENCE S02°51'05"W, ALONG THE WEST LINE OF THE PROPERTIES RECORDED IN DEED BOOK 1321 AT PAGE 794 AND DEED BOOK 2003 AT PAGE 58030, A DISTANCE OF 124.15 FEET; THENCE N87°08'55"W A DISTANCE OF 176.56 FEET TO THE WEST LINE OF THE ABOVE SAID LOT 6 OF LEWIS SUBDIVISION; THENCE N02°51'05"E, ALONG THE ABOVE SAID WEST LINE OF LOT 6, A DISTANCE OF 124.74 FEET TO THE POINT OF BEGINNING AND CONTAINING 21,972.64 SQUARE FEET OR 0.504 ACRES, MORE OR LESS.



## PC Meeting of July 11, 2011

THE CITY OF FAYETTEVILLE, ARKANSAS

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

### PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission  
FROM: Jesse Fulcher, Current Planner  
THRU: Jeremy Pate, Development Services Director  
DATE: July 6, 2011 Updated July 15, 2011

**RZN 11-3870: Rezone (2012 W. MARTIN LUTHER KING BLVD./USA DRUG, 520):**  
Submitted by H2 ENGINEERING, INC. for property located at 2012 WEST MARTIN LUTHER KING BOULEVARD. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS/ACRE and C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.97 acres. The request is to rezone 0.50 acres of the property to C-1, NEIGHBORHOOD COMMERCIAL.  
Planner: Jesse Fulcher

### BACKGROUND:

The subject property is located at 2012 W. Martin Luther King Boulevard and contains approximately 0.97 acres. The south half of the property is zoned C-2, Thoroughfare Commercial, and the north half is zoned RMF-24, Residential multi-family. The existing gas station was constructed in 1982 and was permitted in the RMF-24 zoning district through an administrative extension of the zoning regulations. The zoning configuration has been in place since at least 1966. Surrounding land uses and zoning are shown in *Table 1*.

**Table 1: Surrounding Land Use and Zoning**

| Direction from Site | Land Use                | Zoning                                 |
|---------------------|-------------------------|----------------------------------------|
| North               | Two-family/Three-family | RMF-24, Residential Multi-family       |
| South               | Commercial              | I-1, Heavy Commercial-Light Industrial |
| East                | Commercial              | C-2, Thoroughfare Commercial           |
| West                | Commercial              | C-2, Thoroughfare Commercial           |

*Proposal:* The applicant has submitted an application to rezone the north portion of the property, containing approximately 21,973 sq. ft., from RMF-24, Residential Multi-family 24 units per acre to C-1, Neighborhood Commercial. The intent is to have the entire parcel in a commercial zoning district.

*Public Comment:* Staff received a call from an adjacent property owner who wanted information about how drainage would be addressed when the property was redeveloped.

## RECOMMENDATION:

Staff recommends approval of the request to rezone the northern portion of the property to C-1, Neighborhood Commercial.

|                                                        |                                   |                                                                               |
|--------------------------------------------------------|-----------------------------------|-------------------------------------------------------------------------------|
| <b>PLANNING COMMISSION ACTION: Required <u>YES</u></b> |                                   |                                                                               |
| <b>Date: <u>7-11-11</u></b>                            | <input type="checkbox"/> Tabled   | <input checked="" type="checkbox"/> Forwarded <input type="checkbox"/> Denied |
| <b>Motion: <u>Winston</u></b>                          | <b>Second: <u>Honchell</u></b>    | <b>Vote: 7-1-0 (Earnest voting 'no')</b>                                      |
| <b>CITY COUNCIL ACTION: Required <u>YES</u></b>        |                                   |                                                                               |
| <b>Date: <u>8-2-11</u></b>                             | <input type="checkbox"/> Approved | <input type="checkbox"/> Denied                                               |

## INFRASTRUCTURE:

**Streets:** The site has access to Martin Luther King Boulevard and Gabbard Drive. Martin Luther King Boulevard is an improved five-lane state highway in this location. Sidewalk and greenspace requirements are not currently installed at this location and may be required at time of development.

Gabbard Drive is an unimproved paved two lane city street that dead ends into the north property line with no current access utilized. Connectivity to this street will be evaluated at the time of development.

**Water:** Public water is available to the property. There is an 8" water main along Martin Luther King Boulevard. Public water main improvements may be necessary to provide adequate fire flow for a future development.

**Sewer:** Sanitary sewer is available to the site. There is a 6" public main located along Martin Luther King Boulevard and along Gabbard Drive to the northwest of this site. The existing gas station was served from a service from the manhole in the southwest corner. A capacity analysis of the existing sewer mains may be necessary at the time of development, if additional load is added.

**Drainage:** Standard improvements and requirements for drainage will be required for any development.

**Police:** The Fayetteville Police Department has not objected to this request.



**Fire:** The Fayetteville Fire Department has not objected to this request.

**CITY PLAN 2025 FUTURE LAND USE PLAN:** *City Plan 2025 Future Land Use Plan designates this site as **Urban Center Area**, contain taller buildings and have the most intense and dense development patterns within the City. **Urban Center Areas** recognize conventional strip development, but encourages the redevelopment of these existing properties for more efficient use of the land.*

## **FINDINGS OF THE STAFF**

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

**Finding:** **Mixed used development and traditional town form are high priorities of the cities adopted land use and zoning plans. Rezoning the subject property to C-1 will not likely accomplish either of these objectives. However, addressing the zoning line discrepancy will finally allow full utilization of a lot that has been used for commercial purposes for over 50 years. Additionally, not every property should be developed in a traditional form, or provide a mixture of uses. This particular property is approximately 1,700 feet from Interstate 540 and is bounded by C-2 and I-1 property developed for fast food restaurants, auto repair and hotels. These uses are being provided in this location to cater to a regional population and an auto-dominated transportation system.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

**Finding:** **The proposed zoning is justified, so that the property can be fully utilized for the historic use of the property, which is commercial. The existing residential zoning on the north half of the property limits redevelopment opportunities, because commercial parking facilities and buildings are prohibited in this area.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

**Finding:** **The property has supported commercial businesses for well over 40 years, so it is unlikely that rezoning the property will increase traffic danger or congestion.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

**Finding:** **It is unlikely that the proposed zoning would increase the population density over the existing density allowance of 24 units per acre. Public service providers have**

**reviewed this request and do not anticipate that this rezoning would undesirably increase the load on public services.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
  - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

**Finding: The split-zoning of the subject property restricts future redevelopment opportunities and places a unique hardship on the property owner. Staff has some flexibility to extend zoning rights over an arbitrary zoning line; however, a quarter of the property still could not be developed for commercial purposes. This lot and the surrounding properties are zoned C-2 and have for decades been used for highway commercial uses. Rezoning the north portion of this lot to C-1 and removing the development restrictions is the appropriate action at this time.**

# 161.14 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

|         |                         |
|---------|-------------------------|
| Unit 1  | City-wide uses by right |
| Unit 8  | Single-family dwellings |
| Unit 9  | Two-family dwellings    |
| Unit 10 | Three-family dwellings  |
| Unit 26 | Multi-family dwellings  |

(2) *Conditional uses.*

|         |                                          |
|---------|------------------------------------------|
| Unit 2  | City-wide uses by conditional use permit |
| Unit 3  | Public protection and utility facilities |
| Unit 4  | Cultural and recreational facilities     |
| Unit 5  | Government facilities                    |
| Unit 11 | Manufactured home park                   |
| Unit 12 | Limited business                         |
| Unit 25 | Professional offices                     |
| Unit 24 | Home occupations                         |
| Unit 36 | Wireless communications facilities       |

(C) *Density.*

|                |            |
|----------------|------------|
| Units per acre | 24 or less |
|----------------|------------|

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

|                                     |         |
|-------------------------------------|---------|
| Manufactured home park              | 100 ft. |
| Lot within a Manufactured home park | 50 ft.  |
| Single-family                       | 60 ft.  |
| Two-family                          | 60 ft.  |
| Three or more                       | 90 ft.  |
| Professional offices                | 100 ft. |

(2) *Lot area minimum.*

|                               |                |
|-------------------------------|----------------|
| Manufactured home park        | 3 acres        |
| Lot within a mobile home park | 4,200 sq. ft.  |
| Townhouses:                   |                |
| Development                   | 10,000 sq. ft. |
| Individual lot                | 2,500 sq. ft.  |
| Single-family                 | 6,000 sq. ft.  |
| Two-family                    | 7,000 sq. ft.  |
| Three or more                 | 9,000 sq. ft.  |
| Fraternity or Sorority        | 2 acres        |
| Professional offices          | 1 acres        |

(3) *Land area per dwelling unit.*

|                        |                            |
|------------------------|----------------------------|
| Manufactured home      | 3,000 sq. ft.              |
| Apartments:            |                            |
| No bedroom             | 1,700 sq. ft.              |
| One bedroom            | 1,700 sq. ft.              |
| Two bedroom            | 2,000 sq. ft.              |
| Fraternity or Sorority | 1,000 sq. ft. per resident |

(E) *Setback requirements.*

| Front                                                                                                                                                     | Side      | Rear      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|
| The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line. | 8 ft.     | 25 ft.    |
| HHOD Front                                                                                                                                                | HHOD Side | HHOD Rear |
| 15 ft.                                                                                                                                                    | 8 ft.     | 15 ft.    |

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

|                         |       |
|-------------------------|-------|
| Building Height Maximum | 60ft. |
|-------------------------|-------|

*Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of the lot width.

## 161.18 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

|         |                                                                  |
|---------|------------------------------------------------------------------|
| Unit 1  | City-wide uses by right                                          |
| Unit 5  | Government Facilities                                            |
| Unit 13 | Eating places                                                    |
| Unit 15 | Neighborhood shopping                                            |
| Unit 18 | Gasoline service stations and drive-in/drive through restaurants |
| Unit 25 | Offices, studios, and related services                           |

(2) *Conditional uses.*

|         |                                          |
|---------|------------------------------------------|
| Unit 2  | City-wide uses by conditional use permit |
| Unit 3  | Public protection and utility facilities |
| Unit 4  | Cultural and recreational facilities     |
| Unit 16 | Shopping goods                           |
| Unit 34 | Liquor stores                            |
| Unit 35 | Outdoor music establishments*            |
| Unit 36 | Wireless communications facilities*      |
| Unit 40 | Sidewalk Cafes                           |
| Unit 42 | Clean technologies                       |

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

|                                                 |        |
|-------------------------------------------------|--------|
| Front                                           | 50 ft. |
| Side                                            | None   |
| Side, when contiguous to a residential district | 10 ft. |
| Rear                                            | 20 ft. |

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.



# FAYETTEVILLE

C. 1  
RZN 11-3870 (2012 W. Martin  
Luther King Blvd./USA Drug)  
Page 13 of 20

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 24, 2011

Jeremy Pate, Zoning and Development Director  
City of Fayetteville  
113 W. Mountain  
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed RZN 11-3870: (2012 W. Martin Luther King Blvd./USA Drug, 520):Submitted by H2 Engineering, Inc for property located 2012 W. Martin Luther King Boulevard would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 0.97 acres.

It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This RZN will not create an appreciable increase in traffic danger and congestion.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Turberville".

Lt. Rob Turberville  
Fayetteville Police Department



July 14, 2011

City of Fayetteville  
Planning & Engineering Staff  
113 West Mountain St.  
Fayetteville, AR 72701

**RE: USA DRUG – REZONING APPLICATION**

To Whom It May Concern:

Please accept this letter as our official request for Rezoning a part of Parcel #765-07553-000 (2012 W MLK Blvd), which was most recently used as an EZ Mart Convenience Store. The subject parcel was recently purchased by Stephen L LaFrance Pharmacy, Inc. (dba USA Drug).

Prior to sale of the property, the use was non-compliant with current zoning regulations. The reason for non-compliance, and the most challenging obstacle with regard to redevelopment efforts, is the fact there is a commercial and residential zoning district reflected on the parcel. The frontage along MLK Blvd is Zoned C-2. An arbitrary distance into the parcel, the zoning changes to RMF-24. There is not sufficient depth of the C-2 zoning to fully develop a comprehensive commercial development without encroaching into the RMF-24 zoning with either a building or parking. Because of the adverse nature of a commercial and residential zoning district, there are significant barriers to the development potential of the overall site.

**The applicant is requesting to rezone the RMF-24 area, which encompasses approximately 21,973 sf, to a C-1 zoning district.** This will provide a transitional zone from the existing C-2 zoning district to the residential zone north of the property. The proposed zoning will allow this property to develop in a responsible manner as other new development along MLK Blvd.

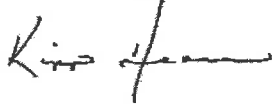
The proposed zoning district is consistent with the Future Land Use Plan, which reflects this area (and all surrounding properties) as Urban Center Area. This property is an integral part of one of the few designated intense commercial nodes in Fayetteville.

The proposed zoning will not create traffic danger or congestion. The zoning change will not have any undesirable increase on public services. This zoning request is needed for the redevelopment efforts of a current non-compliant dilapidated property.

This rezoning action will simply allow a responsible developer the opportunity to invest in Fayetteville without the undue hardship of waivers, conditional use permits, or special request for zoning extension uses.

Thank you for your consideration in this regard.

Respectfully,

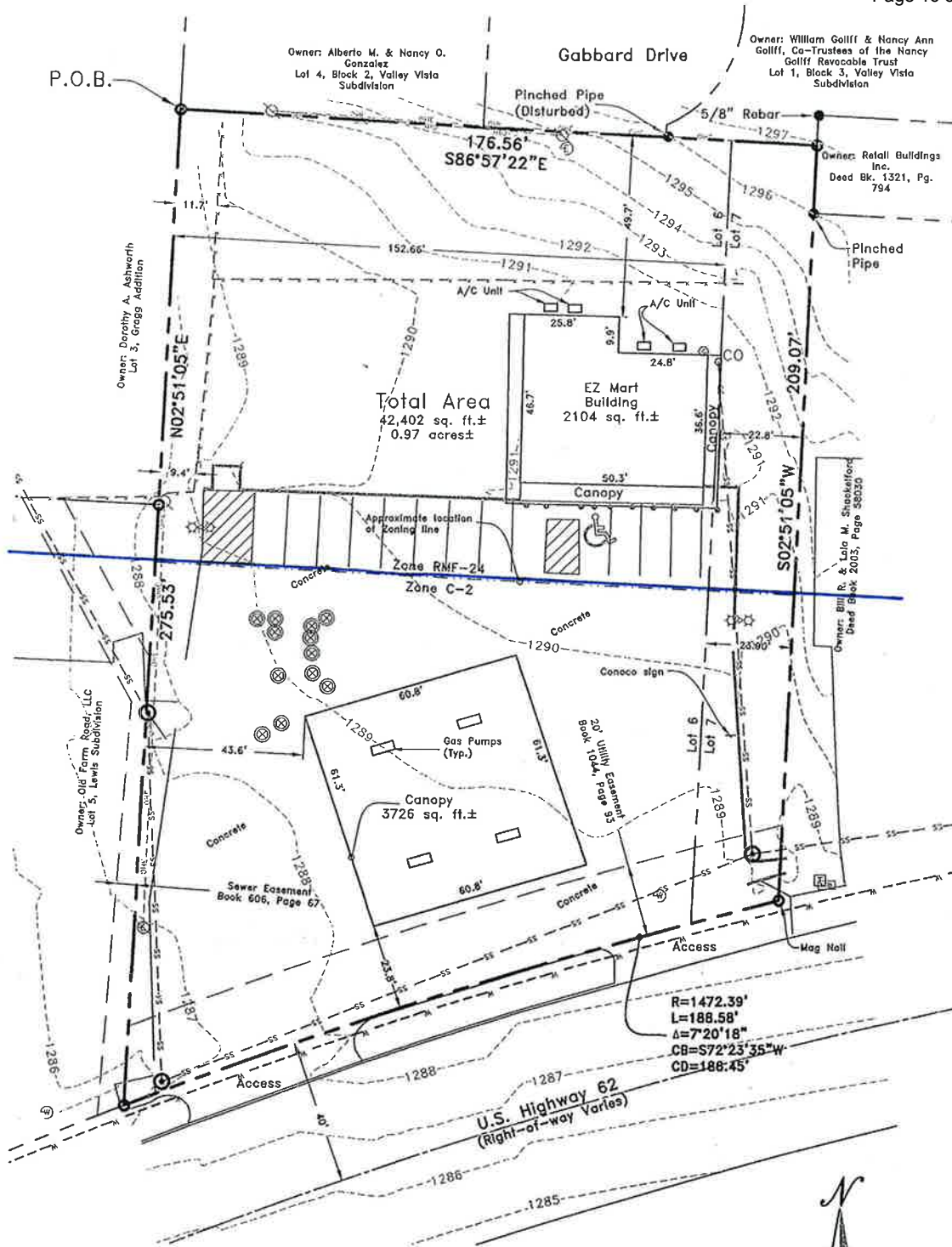
A handwritten signature in black ink, appearing to read "Kipp Hearne". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kipp Hearne, P.E.



Notes:

1. The boundary configuration of land as may be defined.
2. Every document of record noted herein were supplied.
3. This plat represents a boundary survey as required by the Clerk's Office of Washington.
4. Basis of Bearings: Plat of Arkansas.
5. Basis of Elevation: NGVD.
6. This survey is valid only if recorded.
7. This survey meets current requirements.
8. This survey is based on the Chicago Title Insurance.
9. Declaration is made to the satisfaction of the surveyor.
10. This property is zoned C-2.
11. **Building setbacks for zoning C-2:**  
Front: 25 feet  
Side: 8 feet  
Rear: 25 feet  
**Height Regulations for zoning C-2:**  
No building shall exceed 20 feet in height from any boundary line.  
**Building area regulations for zoning C-2:**  
Total area of such lot.  
**Building setbacks for zoning C-2:**  
Front: 25 feet  
Side: 8 feet  
Rear: 25 feet  
**Height Regulations for zoning C-2:**  
No building shall exceed 20 feet in height from any boundary line.  
**There are no building setbacks for zoning C-2.**
12. No attempt was made to locate the property.
13. Subsurface and environmental conditions may vary from the time of survey, and, utilities/structures may vary from the time of survey to locate underground.
14. The locations of underground utilities/structures may vary from the time of survey to locate underground.
15. Nearest Intersection is S. Highway 62.
16. Flood Hazard Certification is not within a special flood hazard zone determined to be outside of 05143C0215F, dated May 1, 2011, in relation to the property.



**Survey Description**

All of Lot 6 and the West 23.90 feet of Lot 7 of Lewis Subdivision to the City of Fayetteville being a part of the Southeast 1/4 of the Southwest 1/4 of Section 17, Township 16 North, Range 30 West of the Fifth Principal Meridian, City of Fayetteville, Washington County, Arkansas being more particularly described as follows:

Beginning at a set 5/8" rebar w/cap (PS 1496) at the Southwest corner of Lot 4 of Block 2 of Valley Vista Subdivision recorded in Plat Book 1 at Page 153; thence S86°57'22"E, along the South line of the above said Valley Vista Subdivision, a distance of 176.56 feet to a set 5/8" rebar w/cap (PS 1496); thence S02°51'05"W, along the West line of the properties recorded in Deed Book 1321 at Page 794 and Deed Book 2003 at Page 58030, a distance of 209.07 feet to a set Mag Nail on the North right-of-way line of U.S. Highway 62; thence in a Southwesterly direction along the arc of a curve to the left having a radius of 1472.39 feet, an arc length of 188.58 feet, a delta angle of 7°20'18", and a chord bearing and distance of S72°23'35"W 188.45 feet to a set 5/8" rebar w/cap (PS 1496) at the intersection of the above said North right-of-way line and the West line of the above said Lot 6 of Lewis Subdivision; thence N02°51'05"E, along the above said West line of Lot 6, a distance of 275.53 feet to the Point of Beginning and containing 42,402 square feet or 0.97 acres, more or less.

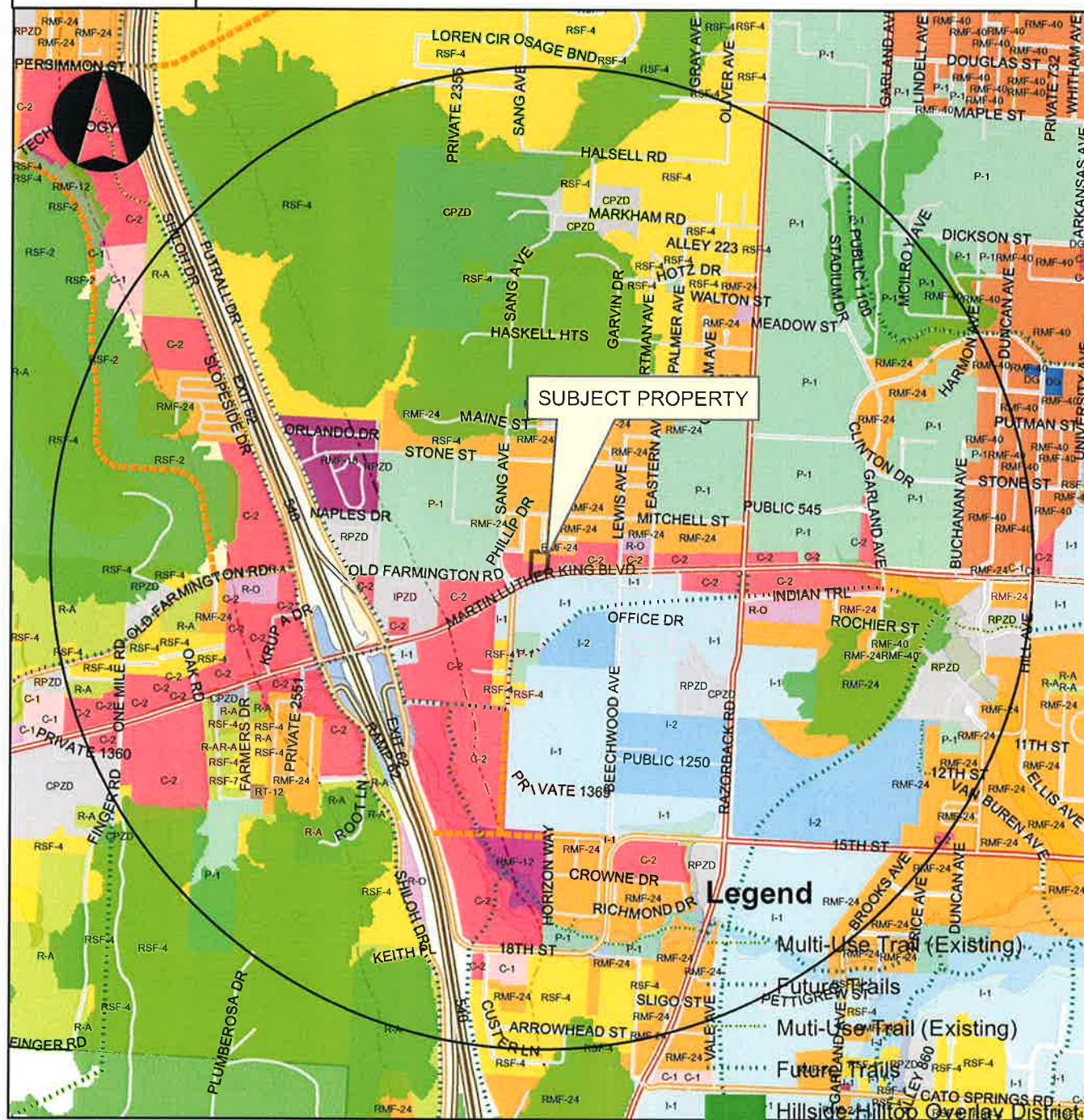
| Exceptions from Schedule "A" 2011, Prepared by Stanley |                                                                                                          |
|--------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| Item #                                                 | Description                                                                                              |
| 1                                                      | Defects, liens, or first appearing in date hereof, but not recorded, the actual                          |
| 2                                                      | Rights or claims                                                                                         |
| 3                                                      | Easements or claims                                                                                      |
| 4                                                      | Any encroachment affecting the title of the land.                                                        |
| 5                                                      | Any lien or right furnished, imposed                                                                     |
| 6                                                      | General Taxes for subsequent years District(s): None.                                                    |
| 7                                                      | Right-of-way or dated April 23, page 809, recorded                                                       |
| 8                                                      | Survey filed for of Washington C                                                                         |
| 9                                                      | There is express not insure title in on and under it does not insure property through right or privilege |



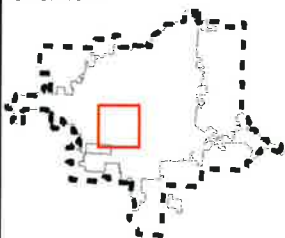
RZN11-3870

# USA DRUG

One Mile View



Overview



Legend

Subject Property

RZN11-3870

Boundary

0 0.25 0.5

RZN11-3870

Design Overlay District

Planning Area

Fayetteville

1 Miles

Legend

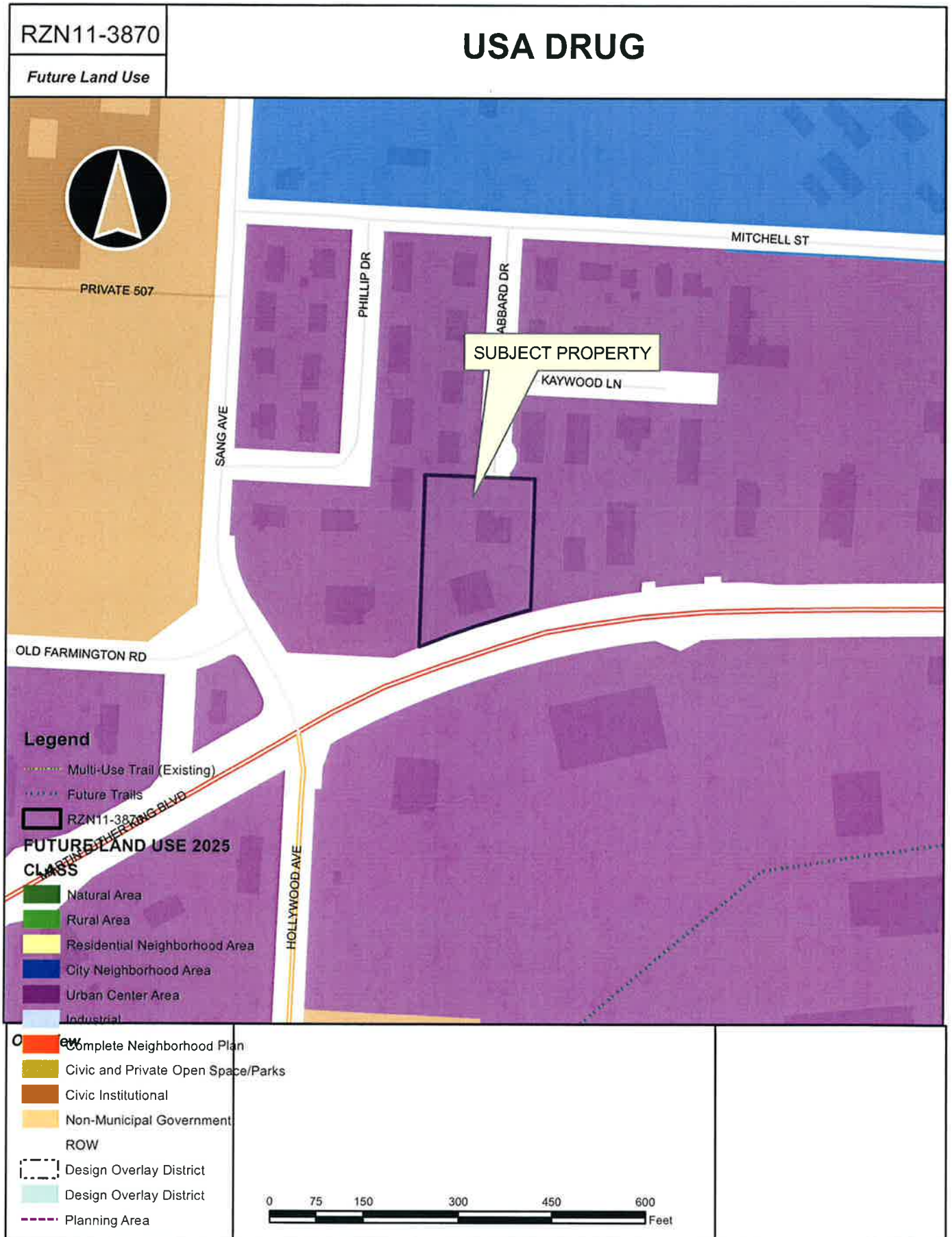
Multi-Use Trail (Existing)

Futures Trails

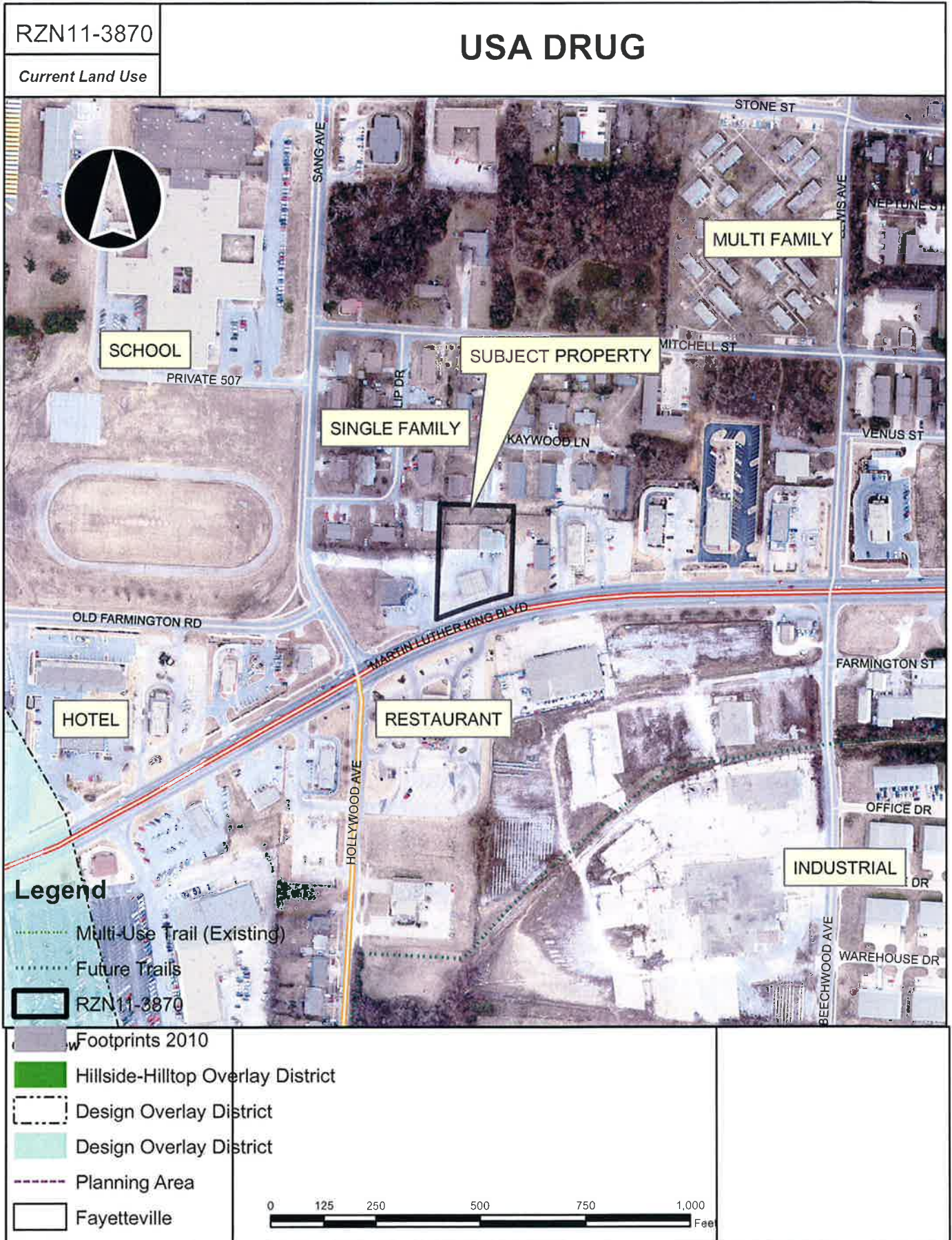
Multi-Use Trail (Existing)

Futures Trails

Hillside Hilltop Overlay District









City Council Agenda Items  
and  
Contracts, Leases or Agreements

8/2/2011

City Council Meeting Date  
Agenda Items OnlyJesse Fulcher  
Submitted ByPlanning  
DivisionDevelopment Services  
Department

## Action Required:

ADM 11-3894 (UDC Chapters 161 Zoning Regulations): An ordinance amending Chapter 161 of the Unified Development Code to remove references to "Certificates of Zoning Compliance" and to address potential existing noncompliant businesses.

|                      |                           |                                 |
|----------------------|---------------------------|---------------------------------|
| _____                | \$ _____                  | _____                           |
| 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 ☐

Jesse Fulcher 07-15-2011  
Department Director Date

Previous Ordinance or Resolution # \_\_\_\_\_

K. E. Fulcher 7-14-2011  
City Attorney Date

Original Contract Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Paul A. Babin 7-19-2011  
Finance and Internal Services Director Date

Received in City 07-15-11 P02:56 RCVD  
Clerk's Office

Jim Mann 7-19-11  
Chief of Staff Date

Received in  
Mayor's Office



Terrell Jordan 7/20/11  
Mayor Date

Comments:



www.accessfayetteville.org

## CITY COUNCIL AGENDA MEMO

---

**To:** Mayor Jordan, City Council

**Thru:** Don Marr, Chief of Staff

**From:** Jeremy Pate, Development Services Director 

**Date:** July 13, 2011

**Subject:** ADM 11-3894 UDC Chapter 161 Zoning Regulations – Proposed Amendments

---

### **BACKGROUND:**

Chapter 161.02 “Certificate of Zoning Compliance” of the Unified Development Code requires the Zoning and Development Administrator to issue a Certificate of Zoning Compliance once the use of a building, structure or land has been determined to be in compliance with the City’s zoning regulations. New businesses or other uses are supposed to obtain this certificate prior to occupying a property to ensure that the use is permitted in the underlying zoning district. The City does not currently have an active enforcement program for this ordinance; rather, the staff does not issue permits for construction, expansion or other development until a certificate is obtained.

The adoption of the Business License program has created a comprehensive review process for multiple city divisions, including a zoning compliance review by the Zoning and Development Administrator. However, until the current Zoning Compliance code section is amended, businesses will be required to obtain both permits. It is the intent of this amendment to reduce the need for both permits and combine them into one, resulting in increased efficiency for both our customers and staff.

In addition, it is recognized that with the new Business License program requiring all new and existing businesses located within the city to register, there is the potential that some established businesses may be located in an incorrect zone without knowing they are non-compliant. If this happens to be the case, a business license could not be issued because of non-compliance with the zoning code, and the business may have to cease. It was not the intent of the business license to cease operations of established businesses, nor to recognize those businesses that intentionally circumvent zoning ordinances. It is with this in mind that staff has drafted an amendment to the zoning ordinance to establish a new “grandfather” clause that will allow nonconforming businesses to obtain a Business License and continue to operate so long as they were established by a certain date. For certain relatively low-impact and common business types, staff recommends that the date of September 07, 2010, the date that the Business License ordinance was adopted, be used. These specific uses, if established before September 07, 2010 in a zone that does not permit their operation, will still be able to obtain a business license, and will be considered an “existing non-conforming use,” which does not allow their expansion. For other uses, as identified in the attached document, the date of July 15, 2003 is recommended;

this is the date that the modern zoning map for Fayetteville was adopted, after a comprehensive and exhaustive zoning research project by the Planning Division. Nonconforming businesses that can provide proof of their establishment prior to this date will also be eligible for a business license as a nonconforming use.

Businesses or uses outside of those listed within the ordinance to be grandfathered in and operating in a zone that does not permit their operation will not be able to obtain a business license until the zoning issue is resolved. Businesses that comply with the underlying zoning district are considered conforming uses and will be permitted in accordance with city ordinances.

**RECOMMENDATION:**

Staff recommends approval of an ordinance to amend Unified Development Code concerning Zoning Compliance and the Business License program (ADM 11-3894).

**BUDGET IMPACT:**

None.



## Zoning Compliance and Business License

Following is a complete listing of all established use units within the Unified Development Code, and their proposed classification related to this ordinance amendment. Uses that are already permitted within the zone in which they operate are not subject to these requirements. These are simply for nonconforming uses.

### Eligible if established prior to September 07, 2010

#### Use Units:

3. Public protection facilities
4. Cultural and recreational facilities
5. Government facilities
6. Agricultural
7. Animal husbandry
12. Limited business
13. Eating places
15. Neighborhood shopping goods
24. Home occupation
25. Offices, studios, and related services

### Eligible if established prior to July 15, 2003

#### Use Units:

2. City-wide uses by conditional use permit
14. Hotel, motel and amusement facilities
16. Shopping goods
17. Transportation trades and services
18. Gasoline service stations & drive in restaurants
19. Commercial recreation, small sites
20. Commercial recreation, large sites
21. Warehousing and wholesale
22. Manufacturing
23. Heavy industrial
27. Wholesale bulk petro. storage/underground tanks
28. Center for collecting recyclable materials
29. Dance halls
30. Extractive uses
31. Facilities emitting odors/handling explosives
32. Sexually oriented businesses
33. Adult live entertainment club or bar
34. Liquor stores
35. Outdoor music establishments
36. Wireless communications facilities
38. Mini-storage units
39. Auto salvage and junk yards
40. Sidewalk cafes
42. Clean technologies
43. Animal boarding and training

The following uses are residential or permitted in all zoning districts and are thus not applicable in this ordinance:

1. City-wide uses by right
8. Single-family dwellings
9. Two-family dwellings
10. Three-family dwellings
11. Manufactured home park
26. Multi-family dwellings
37. Manufactured homes
41. Accessory dwellings

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE OF THE CITY OF FAYETTEVILLE TO REMOVE REFERENCES TO CERTIFICATE OF ZONING COMPLIANCE AND AMEND CHAPTER 161 OF THE UNIFIED DEVELOPMENT CODE TO ADDRESS EXISTING NONCONFORMING BUSINESSES FOR THE PURPOSES OF ISSUING A BUSINESS LICENSE.

**WHEREAS**, the City of Fayetteville now requires a Business License for all business and nonprofits with locations in Fayetteville; and

**WHEREAS**, the information required by the Certificate of Zoning Compliance will now be provided with the Business License; and

**WHEREAS**, Section 161.01 requires any building, structure or land hereafter used or occupied to be in conformance with the zoning regulations of the district in which it is located; and

**WHEREAS**, the City of Fayetteville recognizes that a business may have at some point inadvertently opened in an inappropriate zoning district and the business may contribute positively to the community and surrounding properties or may have opened prior to new ordinances that regulate their use; and

**WHEREAS**, the City of Fayetteville also recognizes that not all business types are compatible with surrounding land uses, and if opened in violation of the zoning code, should not hereafter continue except in conformity with the regulations of the district in which it is located.

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

**Section 1.** That the City Council of the City of Fayetteville, Arkansas hereby repeals §161.02 in its entirety and enacts a replacement §161.02, as follows:

**“161.02 Zoning Compliance and Business License**

(A) *Required.* It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a business license has been issued by the Zoning and Development Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter.

(B) *Conforming uses.* Uses permitted within the underlying zoning district shall be eligible for a business license, subject to §118 of the Fayetteville Code.

(C) *Nonconforming uses.*

- (1) Uses within the following use unit categories established prior to September 7, 2010 and operating in a zoning district that does not currently allow the use, are for the purposes of zoning compliance determined to be an existing nonconforming use, may continue to operate and are eligible to obtain a city business license. The exemption shall not be construed as relieving the owner or operator of such business from the regulations of the business license ordinance, including grounds for suspension and revocation, or from any other applicable federal, state, or city regulations.

| Use Units |                                        |
|-----------|----------------------------------------|
| 3         | Public protection facilities           |
| 4         | Cultural and recreational facilities   |
| 5         | Government facilities                  |
| 6         | Agricultural                           |
| 7         | Animal husbandry                       |
| 12        | Limited business                       |
| 13        | Eating places                          |
| 15        | Neighborhood shopping goods            |
| 24        | Home occupation                        |
| 25        | Offices, studios, and related services |

- (2) Uses within the following use unit categories established prior to July 15, 2003 and operating in a zoning district that does not currently allow the use, are for the purposes of zoning compliance determined to be an existing nonconforming use, may continue to operate and are eligible to obtain a city business license. The exemption shall not be construed as relieving the owner or operator of such business from the regulations of the business license ordinance, including grounds for suspension and revocation, or from any other applicable federal, state, or city regulations.

| Use Units |                                                                    |
|-----------|--------------------------------------------------------------------|
| 2         | City-wide uses by conditional use permit                           |
| 14        | Hotel, motel and amusement facilities                              |
| 16        | Shopping goods                                                     |
| 17        | Transportation trades and services                                 |
| 18        | Gasoline service stations & drive in/drive through restaurants     |
| 19        | Commercial recreation, small sites                                 |
| 20        | Commercial recreation, large sites                                 |
| 21        | Warehousing and wholesale                                          |
| 22        | Manufacturing                                                      |
| 23        | Heavy industrial                                                   |
| 27        | Wholesale bulk petroleum storage facilities with underground tanks |
| 28        | Center for collecting recyclable materials                         |

|    |                                               |
|----|-----------------------------------------------|
| 29 | Dance halls                                   |
| 30 | Extractive uses                               |
| 31 | Facilities emitting odors/handling explosives |
| 32 | Sexually oriented businesses                  |
| 33 | Adult live entertainment club or bar          |
| 34 | Liquor stores                                 |
| 35 | Outdoor music establishments                  |
| 36 | Wireless communications facilities            |
| 38 | Mini-storage units                            |
| 39 | Auto salvage and junk yards                   |
| 40 | Sidewalk cafes                                |
| 42 | Clean technologies                            |
| 43 | Animal boarding and training                  |

- (3) Businesses operating in a zoning district that does not allow the use and that can not provide proof of their establishment in accordance with the criteria above are declared to be incompatible with permitted uses and shall not hereafter continue except in conformity with the regulations of the district in which it is located. These businesses shall not be eligible to obtain a city business license until or unless they are brought into compliance with the zoning district regulations.”

**Section 2.** That the City Council of the City of Fayetteville, Arkansas hereby adopts §161.01 (H) as follows:

“(H) *Authorized construction/use.* Permits issued on the basis of plans and applications approved by the Zoning and Development Administrator or Planning Commission authorize only the use, arrangements, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.”

**Section 3.** That the City Council of the City of Fayetteville, Arkansas hereby removes “Certificate of Zoning Compliance” from §159.01(B)(6);

**Section 4.** That the City Council of the City of Fayetteville, Arkansas hereby replaces the term “Certificate of Zoning Compliance” with “Business License” in the following sections of Title XV Unified Development Code.

§166.20(B)(1)(d), §174.02(A)(8), and §178.04(B)(6).

**PASSED and APPROVED** this \_\_\_\_ day of \_\_\_\_, 2011.

ATTEST:

APPROVED:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

## TITLE XV UNIFIED DEVELOPMENT CODE CHAPTER 161: ZONING REGULATIONS

|                                                                                                          |                                     |
|----------------------------------------------------------------------------------------------------------|-------------------------------------|
| <b>161.01 APPLICATION OF DISTRICT REGULATIONS .....</b>                                                  | <b>3</b>                            |
| <b>161.02 CERTIFICATE OF ZONING COMPLIANCE ZONING COMPLIANCE AND BUSINESS<br/>         LICENSE .....</b> | <b>3</b>                            |
| <b>161.03 DISTRICT R-A, RESIDENTIAL-AGRICULTURAL.....</b>                                                |                                     |
| <b>161.04DISTRICT RSF-.5, RESIDENTIAL SINGLE-FAMILY – ONE HALF UNIT PER ACRE.....</b>                    |                                     |
| <b>161.05 DISTRICT RSF-1, RESIDENTIAL SINGLE-FAMILY – ONE UNIT PER ACRE.....</b>                         | <b>Error! Bookmark not defined.</b> |
| <b>161.06 DISTRICT RSF-2, RESIDENTIAL SINGLE-FAMILY – TWO UNITS PER ACRE.....</b>                        | <b>Error! Bookmark not defined.</b> |
| <b>161.07 DISTRICT RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE.....</b>                       | <b>Error! Bookmark not defined.</b> |
| <b>161.08 DISTRICT RSF-7, RESIDENTIAL SINGLE-FAMILY – SEVEN UNITS PER ACRE .....</b>                     |                                     |
| <b>161.09 DISTRICT RSF-8, RESIDENTIAL SINGLE-FAMILY – 8 UNITS PER ACRE.....</b>                          |                                     |
| <b>161.10 DISTRICT RT-12, RESIDENTIAL TWO AND THREE FAMILY .....</b>                                     |                                     |
| <b>161.11 DISTRICT RMF-6, RESIDENTIAL MULTI-FAMILY – SIX UNITS PER ACRE</b>                              |                                     |
| <b>161.12 DISTRICT RMF-12, RESIDENTIAL MULTI-FAMILY – TWELVE UNITS PER ACRE .....</b>                    |                                     |
| <b>161.13 DISTRICT RMF-18, RESIDENTIAL MULTI-FAMILY – EIGHTEEN UNITS PER ACRE.....</b>                   |                                     |
| <b>161.14 DISTRICT RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY-FOUR UNITS PER<br/>         ACRE.....</b>   | <b>Error! Bookmark not defined.</b> |
| <b>161.15 DISTRICT RMF-40, RESIDENTIAL MULTI-FAMILY – FORTY UNITS PER ACRE .....</b>                     |                                     |
| <b>161.16 NEIGHBORHOOD SERVICES .....</b>                                                                | <b>Error! Bookmark not defined.</b> |
| <b>161.17 DISTRICT R-O, RESIDENTIAL OFFICE .....</b>                                                     |                                     |
| <b>161.18 DISTRICT C-1, NEIGHBORHOOD COMMERCIAL .....</b>                                                |                                     |
| <b>161.19 COMMUNITY SERVICES .....</b>                                                                   |                                     |
| <b>161.20 DISTRICT C-2, THOROUGHFARE COMMERCIAL .....</b>                                                |                                     |
| <b>161.21 URBAN THOROUGHFARE.....</b>                                                                    | <b>Error! Bookmark not defined.</b> |
| <b>161.22 DISTRICT C-3, CENTRAL COMMERCIAL .....</b>                                                     |                                     |
| <b>161.23 DOWNTOWN CORE.....</b>                                                                         | <b>Error! Bookmark not defined.</b> |
| <b>161.24 MAIN STREET/CENTER .....</b>                                                                   |                                     |
| <b>161.25 DOWNTOWN GENERAL.....</b>                                                                      |                                     |

|                                                                         |              |
|-------------------------------------------------------------------------|--------------|
| <b>161.26 NEIGHBORHOOD CONSERVATION .....</b>                           | <b>.....</b> |
| <b>161.27 DISTRICT I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL .....</b> | <b>.....</b> |
| <b>161.28 DISTRICT I-2, GENERAL INDUSTRIAL .....</b>                    | <b>.....</b> |
| <b>161.29 DISTRICT P-1, INSTITUTIONAL .....</b>                         | <b>.....</b> |
| <b>161.30 DISTRICT E-1, EXTRACTION .....</b>                            | <b>.....</b> |
| <b>161.31 DESIGN OVERLAY DISTRICT (I-540 HIGHWAY CORRIDOR .....</b>     | <b>.....</b> |
| <b>161.32 PLANNED ZONING DISTRICT.....</b>                              | <b>.....</b> |
| <b>161.33-161.99 RESERVED.....</b>                                      | <b>.....</b> |

## CHAPTER 161: ZONING REGULATIONS

### 161.01 Application of District Regulations

*Minimum regulations/exceptions.* The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly for each class or kind of structure or land, except as hereinafter provided:

- (A) *General.* No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it was located.
- (B) *Limitations.* No building or other structure shall hereafter be erected or altered:
  - (1) *Height/bulk.* To exceed the height or bulk;
  - (2) *Number of units.* To accommodate or house a greater number of units;
  - (3) *Lot area.* To occupy a greater percentage of lot area;
  - (4) *Setback/open spaces.* To have narrower or smaller rear setbacks, front setbacks, side setbacks, or other open spaces than herein required; or
  - (5) *Other.* In any other manner contrary to the provisions of this chapter.
- (C) *Independent compliance.* No part of a setback, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a setback, open space, or off-street parking or loading space similarly required for any other building.
- (D) *Effective date.* No setback or lot existing on June 29, 1970, shall be reduced in dimension or area below the minimum requirements set forth herein. Setbacks or lots created after June 29, 1970, shall meet at least the minimum requirements established by this chapter.
- (E) *Annexation.* All territory which may hereafter be annexed to the city shall be considered to be in District A-1 until the territory is rezoned as provided herein.
- (F) *Measuring setbacks.*
  - (1) *Front.* Measured from the street right-of-way, or street right-of-way setback as required by the Master Street Plan.
  - (2) *Side.* Measured from the side property line.
  - (3) *Rear.* Measured from the rear property line.
  - (4) *Corner.* A corner lot has two fronts and two sides.
- (G) *Conditional Uses.* These uses are permissible if approved by the Planning Commission. See Chapter 163, Use Conditions.
- (H) *Authorized construction/use.* Permits issued on the basis of plans and applications approved by the Zoning and Development Administrator or Planning Commission authorize only the use, arrangements, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.

(Code 1965, App. A., Art. 3; Ord. No. 1747, 6-29-70; Code 1991, §160.016; Ord. No. 4100, §2 (Ex. A), 6-16-98)

### 161.02 Certificate Of Zoning Compliance Zoning Compliance and Business License

- (A) *Required.* It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a certificate of zoning compliance business license shall have been issued therefore by the Zoning and Development Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter.
- (B) *Conforming uses.* Uses permitted within the underlying zoning district shall be eligible for a business license, subject to §118 of the Fayetteville Code.
- (B) ~~*Nonconforming use/structure.* No non-conforming structure or use shall be renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the Zoning and Development Administrator. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter. The Zoning and Development Administrator shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.~~

(C) ~~Authorized construction/use.~~ Certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning and Development Administrator authorize only the use, arrangements, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.

(C) *Nonconforming uses.*

- (1) Uses within the following use unit categories established prior to September 7, 2010 and operating in a zoning district that does not currently allow the use, are for the purposes of zoning compliance determined to be an existing nonconforming use, may continue to operate and are eligible to obtain a city business license. The exemption shall not be construed as relieving the owner or operator of such business from the regulations of the business license ordinance, including grounds for suspension and revocation, or from any other applicable federal, state, or city regulations.

| Use Units |                                        |
|-----------|----------------------------------------|
| 3         | Public protection facilities           |
| 4         | Cultural and recreational facilities   |
| 5         | Government facilities                  |
| 6         | Agricultural                           |
| 7         | Animal husbandry                       |
| 12        | Limited business                       |
| 13        | Eating places                          |
| 15        | Neighborhood shopping goods            |
| 24        | Home occupation                        |
| 25        | Offices, studios, and related services |

- (2) Uses within the following use unit categories established prior to July 15, 2003 and operating in a zoning district that does not currently allow the use, are for the purposes of zoning compliance determined to be an existing nonconforming use, may continue to operate and are eligible to obtain a city business license. The exemption shall not be construed as relieving the owner or operator of such business from the regulations of the business license ordinance, including grounds for suspension and revocation, or from any other applicable federal, state, or city regulations.

| Use Units |                                       |
|-----------|---------------------------------------|
| 2         | City-wide uses by right               |
| 14        | Hotel, motel and amusement facilities |
| 16        | Shopping goods                        |
| 17        | Transportation trades and services    |
| 18        | Gasoline service stations & drive in  |

|    |                                                                            |
|----|----------------------------------------------------------------------------|
|    | restaurants                                                                |
| 19 | Commercial recreation, small sites                                         |
| 20 | Commercial recreation, large sites                                         |
| 21 | Warehousing and wholesale                                                  |
| 22 | Manufacturing                                                              |
| 23 | Heavy industrial                                                           |
| 27 | Wholesale bulk petroleum storage facilities with underground storage tanks |
| 28 | Center for collecting recyclable materials                                 |
| 29 | Dance halls                                                                |
| 30 | Extractive uses                                                            |
| 31 | Facilities emitting odors/handling explosives                              |
| 32 | Sexually oriented businesses                                               |
| 33 | Adult live entertainment club or bar                                       |
| 34 | Liquor stores                                                              |
| 35 | Outdoor music establishments                                               |
| 36 | Wireless communications facilities                                         |
| 38 | Mini-storage units                                                         |
| 39 | Auto salvage and junk yards                                                |
| 40 | Sidewalk cafes                                                             |
| 42 | Clean technologies                                                         |
| 43 | Animal boarding and training                                               |

- (3) Businesses operating in a zoning district that does not allow the use and that can not provide proof of their establishment in accordance with the criteria above are declared to be incompatible with permitted uses and shall not hereafter continue except in conformity with the regulations of the district in which it is located. These businesses shall not be eligible to obtain a city business license until or unless they are brought into compliance with the zoning district regulations.



TITLE XV UNIFIED DEVELOPMENT CODE

**CHAPTER 159: FEES**

**159.01 Fees/Schedule**

(A) *Fees.* Fees shall be imposed, as set forth below, to cover the cost of public notices and such other expenses as may be incurred in connection with processing of applications, plan reviews, amendments, permits, variances and other matters pertaining to the UDC.

- (1) An alderman may present a resolution to the City Council to waive, or reduce development permit fees otherwise required by this chapter, elsewhere within the Unified Development Code. If the reduction, or waiver would serve the public interest, alleviate an unfair burden upon an applicant, or be beneficial to the city as a whole, the City Council may grant such reduction, or waiver of permit fee.

(B) *Fee schedule.*

- (1) *General.* Unless specific fees are set forth below, the City Council shall, by resolution, establish a schedule of fees and a collection procedure. The schedule of fees shall be posted in the Planning Division.

(2) *Signs.*

- (a) *Signs.* For each sign or other advertising structure regulated by Chapter 174; \$10.00 plus \$1.00 per square foot of sign face.

(b) *Windblown signs.* \$10.00.

(c) *Sign variance.* Filing fee: \$350.00

(3) *Development.*

**Concurrent Plat**

|                              |          |
|------------------------------|----------|
| Nonresidential               | \$800.00 |
| 10 or less residential units | \$200.00 |
| 25 or less residential units | \$400.00 |
| 26 or more residential units | \$800.00 |

**Preliminary Plat**

|                              |          |
|------------------------------|----------|
| Nonresidential               | \$800.00 |
| 10 or less residential units | \$200.00 |
| 25 or less residential units | \$400.00 |
| 26 or more residential units | \$800.00 |

**Final Plat**

|                              |          |
|------------------------------|----------|
| Nonresidential               | \$800.00 |
| 10 or less residential units | \$200.00 |
| 25 or less residential units | \$400.00 |
| 26 or more residential units | \$800.00 |

|              |         |
|--------------|---------|
| Concept Plat | \$50.00 |
|--------------|---------|

|           |          |
|-----------|----------|
| Lot split | \$200.00 |
|-----------|----------|

**Large Scale Development**

|                              |          |
|------------------------------|----------|
| Nonresidential               | \$800.00 |
| 10 or less residential units | \$200.00 |
| 25 or less residential units | \$400.00 |
| 26 or more residential units | \$800.00 |

**Planned Zoning District**

|                                   |            |
|-----------------------------------|------------|
| Nonresidential                    | \$1,125.00 |
| Residential:                      |            |
| 10 or less residential units/lots | \$525.00   |
| 25 or less residential units/lots | \$725.00   |
| 26 or more residential units/lots | \$1,125.00 |

(4) *Physical alteration of land.*

**Permit Fee**

|                  |          |
|------------------|----------|
| Less than ½ acre | \$75.00  |
| ½ to 1 acre      | \$100.00 |
| Over 1 acre      | \$200.00 |
| Appeals          | \$100.00 |

(Ord. No. 4113, 8-18-98)

(5) *Drainage.* Non-refundable permit application fee.

|                  |          |
|------------------|----------|
| Up to 0.5 acre   | \$75.00  |
| 0.51 to 1.0 acre | \$100.00 |
| Over 1.0 acre    | \$200.00 |
| Appeals          | \$100.00 |

(6) *Zoning.*

|                                                               |          |
|---------------------------------------------------------------|----------|
| Rezoning                                                      | \$325.00 |
| Accessory Dwelling                                            | \$100.00 |
| Conditional use                                               | \$100.00 |
| Manufactured home:                                            |          |
| Initial permit                                                | \$25.00  |
| Renewal                                                       | \$12.50  |
| Home occupation:                                              |          |
| Initial permit                                                | \$25.00  |
| Renewal                                                       | \$12.50  |
| Variance:                                                     |          |
| Before any violation has occurred                             | \$25.00  |
| After any violation has occurred                              | \$100.00 |
| Appeal of Zoning and Development Administrator interpretation | \$25.00  |
| Certificate of Zoning Compliance                              | \$25.00  |

(7) *Streets and sidewalks.*

|                       |         |
|-----------------------|---------|
| Driveway and curb cut | \$20.00 |
|-----------------------|---------|

## CHAPTER 166: DEVELOPMENT

### 166.20 Expiration Of Approved Plans And Permits

(A) Applicability. The provisions of this section apply to all of the following plans and permits:

- (1) Preliminary plats;
- (2) Planned zoning district developments;
- (3) Conditional uses;
- (4) Large-scale developments;
- (5) Lot splits;
- (6) Physical alteration of land permits;
- (7) Storm water, drainage, and erosion control permits;
- (8) Tree preservation plans; and
- (9) Floodplain development permits.

(B) Time limit.

- (1) Tasks to be completed. All of the above-enumerated plans and permits are conditioned upon the applicant accomplishing the following tasks within one (1) year from the date of approval:
  - (a) For any renovation or new construction, receive all building permits for the project; and/or,
  - (b) For a Planned Zoning District, comply with the approved phasing plan; and/or
  - (c) For a lot split, record a deed or survey at the Washington County Circuit Clerk's Office, stamped for recordation by the City Planning Division; and/or,
  - (d) Receive a ~~Business License Certificate of Zoning Compliance~~; and/or,
  - (e) Receive all permits and approvals required by City, County, State, and Federal regulations to complete construction of the development or project.
- (2) Administrative Extension Within One Year. Prior to the expiration of the one (1) year time limit, an applicant may request the

Zoning and Development Administrator to extend the period to accomplish the tasks by up to one (1) additional year. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit. Extensions that are not permitted administratively may be requested of the Planning Commission within ten days of the final administrative decision.

- (3) Planning Commission Extension Within 18 months. Should an applicant miss the deadline to request an administrative extension, within eighteen months of the date of approval the applicant may request the Planning Commission to extend the period up to one (1) additional year from the original date of approval, subject to the burden of showing good cause as described in this section.
- (4) Planning Commission Extension. Prior to the expiration of any allowed extension period (maximum of two years from the date of original approval), an applicant may request the Planning Commission to extend the period to accomplish the tasks by up to one (1) additional year, if the plans and permits are substantially the same as those originally approved. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit and the permitted extension period. Extensions beyond three (3) years from the original date of approval shall not be permitted.
- (5) Ordinance Amendments. To receive approval of an extension, the applicant shall comply with all applicable zoning and development requirements that have been adopted subsequent to the original project approval. Projects that must be substantially modified to meet new code requirements are subject to Ch. 166.05 (F) Modifications.
- (6) Variances. Variances from applicable zoning and development requirements that have been adopted subsequent to the original project approval shall be reviewed by the Planning Commission prior to approval of the extension.
- (7) Expiration. If the required task(s) are not completed within one (1) year from the date of approval or during an allowed extension

**CHAPTER 174: SIGNS****174.01 General Regulations**

- (A) *Permit required.* It shall be unlawful for any person to erect, repair, alter, relocate or keep within the city any sign or other advertising structure except as exempted herein without first obtaining a sign permit from the Zoning and Development Administrator or designee.
- (B) *Illuminated signs.* All illuminated signs shall, in addition, be subject to the provisions of the electrical code, and the permit fees required thereunder.
- (C) *Fees.* Every applicant, before being granted a permit hereunder, shall pay to the Zoning and Development Administrator's Office the permit fee set forth in Chapter 159.
- (D) *Maintenance of premises.* All freestanding signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

(Code 1965, §§17B-3(a), (c), (e), 4(b); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76; Ord. No. 2790, 1-18-82; Code 1991, §§158.05, 158.20, 158.22, 158.24, 158.38; Ord. No. 3925, §4, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4972, 1-16-07)

**174.02 Permit Application/Issuance**

- (A) *Application.* Applications for initial sign permits shall be made upon forms provided by the Zoning and Development Administrator and shall contain or have attached thereto the following information:
  - (1) *Applicant identification.* Name, address and telephone number of the applicant.
  - (2) *Location.* Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
  - (3) *Position.* Position of the sign or other advertising structure in relation to nearby buildings or structures.
  - (4) *Blueprints/drawings.* Two blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.
  - (5) *Person erecting structure.* Name of person, firm, corporation, or association erecting structure.

- (6) *Consent of owner.* Written consent of the owner of the building, structure, or land to which or on which the structure is to be erected.
- (7) *Electrical permit.* Any electrical permit required and issued for said sign. Application requesting electrical permit for proposed sign must accompany sign application.
- (8) *Full Compliance With Applicable Code Provisions.* If the proposed sign is subject to the provisions of the Commercial Design Standards (§166.14), Design Overlay District (§161.21), ~~Business License Certificate of Zoning Compliance~~ or other code provisions, the applicant must show full compliance with all applicable code provisions, including necessary approvals by responsible bodies such as the Planning Commission.

- (B) *Issuance of sign permit.* It shall be the duty of the Zoning and Development Administrator or designee, upon the filing of an application for an erection permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure and sign are in full compliance with all the requirements of this chapter and all other laws and ordinances of the city, he shall within five business days issue the sign permit. If the Zoning and Development Administrator or designee fails to reject a completed sign application (that purports to show full compliance with all code requirements) within ten business days of its submission by written explanation of why such application fails to meet all code requirements, the sign application shall be deemed approved and a sign permit shall be immediately issued to the applicant. If the work authorized under a sign permit has not been completed within six (6) months after date of issuance, the said permit shall become null and void.

- (C) *Appeals of Sign Permit Denials.* All decisions and interpretations of the Zoning and Development Administrator under this Chapter shall be considered final administrative actions for the purpose of the appeals set forth at § 155.01.

(Ord. No. 1965, §17B 3(b), (d); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76; Code 1991, §§158.21; 158.23; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4652, 12-07-04; Ord. 4972, 1-16-07)

**174.03 Exemptions**

Exemptions shall not be construed as relieving the owner of such signs from the responsibility of

**CHAPTER 178: OUTDOOR VENDORS**

(11) All sidewalk vendors must pick up and properly dispose of all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within thirty minutes of the end of daily operations. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval.

(12) No sidewalk vendor shall solicit, berate or make any noise of any kind by vocalization or otherwise, for the purpose of advertising or attracting attention to his wares. No audible amplified music shall be permitted.

(H) Signage. Sidewalk vendors shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these type of signs. The menu board shall list the products and prices for the items being vended. Only products or services available at the vending location shall be displayed.

(I) Revocation of the Sidewalk Vendor Permit. The Zoning and Development Administrator is authorized to revoke a sidewalk vendor's permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.

(Ord. 5185, 10-7-08; Ord. 5321, 5-18-10)

**178.04 Outdoor Mobile Vendors Located On Private Property**

(A) Purpose. To permit outdoor mobile vendors, also known as transient merchants, to operate on private property while preserving and protecting the health, safety and welfare of citizens.

(B) Requirements. Transient merchants located on private property shall meet the following requirements and submittals prior to approval:

(1) Permit Application. Each application for a permit to conduct a transient merchant business shall be accompanied by a \$50 permit review and processing fee.

(2) Application for a permit to conduct a transient merchant business shall include the following items in a format acceptable to the Zoning and Development Administrator:

(a) Name, address and contact information.

(b) Type of items sold or services rendered. A change in product or service will require a new permit to be issued.

(c) A valid copy of all necessary permits required by State and County health authorities.

(d) Proof of application for remittance of HMR tax to the City of Fayetteville.

(e) Means to be used in conducting business including but not limited to a description of any mobile device to be used for transport or to display approved items or services.

(f) A detailed site plan and written description illustrating the type, location, and dimensions of the mobile vendor business including parking.

(g) Written authorization, signed by the property owner or legal representative of record, stating that the transient merchant business is permitted to operate on the subject property.

(3) The permit issued shall not be transferable in any manner.

(4) The permit is valid for one mobile vendor location only.

(5) The proposed use shall be a permitted use-by-right within the underlying zoning district in order to be permitted.

(6) A Temporary ~~Business License Certificate of Zoning Compliance~~ (90 days) shall be approved by the Planning Division.

(7) Outdoor mobile vendors are allowed on a temporary basis (90 days), by nature of their temporary occupancy, in one location over a one-year (twelve month) timeframe. Outdoor mobile vendors may move to a different location after this 90-day period has expired. However, a new Outdoor Mobile Vendor Application will have to be reviewed and approved by the Planning Division for a new location.

(8) Outdoor mobile vendors shall be in compliance with parking lot requirements for any existing and the proposed business. The number of required parking spaces is determined by the use and size of the



## City of Fayetteville Staff Review Form

C. 3  
Amend Chapter 167 Tree  
Preservation and Protection  
Page 1 of 22

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

8/2/2011

City Council Meeting Date  
Agenda Items Only

Greg Howe

Submitted By

Park Planning/Urban Forestry

Division

Parks and Recreation

Department

## Action Required:

A resolution approving minor revisions to Chapter 167: Tree Preservation and Protection ordinance of the Unified Development Code (UDC).

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

*Connie Edmonston*  
Department Director

7-15-11  
Date

Previous Ordinance or Resolution #

*K. W. ...*  
City Attorney

7-18-2011  
Date

Original Contract Date:

Original Contract Number:

*Paul A. Beher*  
Finance and Internal Services Director

7-19-2011  
Date

Received in City 07-15-11 P04:20 RCVD  
Clerk's Office

*Jim Man*  
Chief of Staff

7-19-11  
Date

Received in  
Mayor's Office

*Donnell Jordan*  
Mayor

7/20/11  
Date



Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS  
DEPARTMENT CORRESPONDENCE

## CITY COUNCIL AGENDA MEMO

**To:** Mayor Lioneld Jordan and City Council

**Thru:** Don Marr, Chief of Staff  
Connie Edmonston, Parks and Recreation Director   
Alison Jumper, Park Planning Superintendent

**CC:** Jeremy Pate, Development Services Director

**From:** Greg Howe, Urban Forester 

**Date:** July 15, 2011

**Subject:** Revisions to Chapter 167: Tree Preservation and Protection Ordinance  
Agenda Request for August 2, 2011 Meeting

### PROPOSAL:

Prior to the hiring of the first Urban Forester in 2004 Chapter 167: *Tree Preservation and Protection* was interpreted by the Landscape Administrator position. The term *Landscape Administrator* is referred to throughout Chapter 167 and other Chapters of the Unified Development Code. In order to bring the City's ordinances in line with current responsibilities, the Parks and Recreation Department is requesting City Council to authorize the City Clerk's office to review all parts of the Unified Development Code and replace "Landscape Administrator" with "Urban Forester" where the context is referring to the urban forest, tree preservation, tree protection or in reference to Chapter 167. This change in term is incorporated with the proposed Chapter 167 revisions presented with this request.

In order to consolidate all powers and duties of the board into Chapter 33, section 286, section .02(B) of Chapter 167 needs to be deleted from the Tree Preservation and Protection ordinance to avoid duplication within the Unified Development Code.

If the City Council approves the committee name change in Chapter 33, Article XV, 33.280 Composition; Establishment then Chapter 167.03(A)(1) will need to be updated to reflect the name change.

Proposed revisions include amending the existing requirement to conduct a tree inventory every 7 to 10 years to conduct an Urban Forest Analysis with an Urban Forestry Effects Model (UFORE) Study every 10 years. These studies will assess the City's tree canopy cover, tree species distribution, tree age distribution, percentage of impervious surface, monetary value of the urban forest and to determine areas of absent, low, medium and high canopy concentrations to locate potential planting areas. The advantage to using the combination of the two types of studies over a tree inventory is that information can be gathered for the entire city instead of for individual trees located only on public property. The information gathered by the Urban Forest Analysis and UFORE study more directly relates to the Tree Preservation Ordinance as it pertains to development than a tree inventory which provides information valuable for maintenance of public trees.

Additional revisions include amending 167.04 (J)(4)(a) to include additional mitigation tree planting locations and changing 167.04(J)(d) that currently provides for using the Street Tree Inventory to locate individual tree planting locations. These revisions will allow the Urban Forest Analysis to be used in locating sparse tree canopy cover areas.

The proposed changes of Landscape Administrator to Urban Forester, Tree Inventory to Urban Forest Analysis, location for planting mitigation trees and use of Urban Forestry Analysis data were approved by consent at the July 11, 2011 Planning Commission Meeting and approved by unanimous vote of the Tree and Landscape Advisory Committee on July 13, 2011.

Since Planning Commission and Tree and Landscape Advisory Committee approval of Chapter 167 revisions, circumstances have occurred that required additional revisions. These are to add an option under 167.04(J)(2), Off-Site Preservation and 164.04(J)(3), Off-Site Forestation to allow, with City Council approval only, tree preservation and forestation up to ¼ mile outside the city boundary. Currently, preservation is only allowed within the city limits. As the City encourages infill projects and as projects close to the City limits are developed these revisions will provide a benefit to the city by providing an option to encourage tree preservation rather than mitigation or payment into the tree escrow fund.

**RECOMMENDATION:**

Staff recommends approving the proposed ordinance revisions to Chapter 167: Tree Preservation and Protection.

**BUDGET IMPACT:**

The ordinance requirement to conduct the tree inventory every 7-10 years has reached the 10 year limit in 2011. Under the current budgetary conditions, staff is requesting a one year extension and to conduct an Urban Forest Analysis and UFORE study in place of the tree inventory. This ordinance revision has a potential \$80,000 impact to the City's budget. A tree inventory may have a potential impact of \$120,000. Conducting the Urban Forest Analysis and UFORE study instead of a tree inventory will result in a savings to the City of approximately \$40,000. The study cost will be included in the proposed 2012 CIP.

**Attachments:**

Staff Review Form  
Proposed Chapter 167 Revisions



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 167: **TREE PRESERVATION AND PROTECTION** OF THE UNIFIED DEVELOPMENT CODE BY REPLACING ALL REFERENCES TO "LANDSCAPE ADMINISTRATOR" WITH "URBAN FORESTER", ALLOWING INCREASED FLEXIBILITY FOR OFF-SITE PRESERVATION AND FORESTATION AND FOR OTHER REASONS

**WHEREAS**, the City no longer has a "landscape administrator", but has incorporated all duties of that position into the City's "urban forester" so the Tree Preservation and Protection Chapter should be updated to refer to the "urban forester"; and

**WHEREAS**, the environmental and aesthetic value of trees can extend at least a quarter mile especially for trees in riparian areas; and

**WHEREAS**, the City Council should have the power to grant a landowner the right to use off-site preservation or forestation up to one-quarter mile from the city limits if the owner conveys a tree conservation easement to the City of Fayetteville.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 167: **Tree Preservation and Protection** of the Unified Development Code by replacing all references to "landscape administrator" with "urban forester" throughout this Chapter.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §167.04 **Tree Preservation and Protection During Development** by repealing subsections (J)(2) and (3) in their entirety and enacting replacement subsections (J)(2) and (3) as shown below:

"(J)(2) *Off-site preservation.* The applicant may seek approval of the urban forester to preserve an equal or greater amount of canopy cover at a site within the city limits or, with the express approval of the City Council by its resolution, within one-quarter mile of the Fayetteville city limits.

“(3) *Off-site forestation.* If off-site preservation cannot be achieved, the applicant may seek approval from the urban forester to plant the required number of trees on another site owned by the applicant and located within the city limits or, with the express approval of the City Council by its resolution, within one-quarter mile of the Fayetteville city limits. A tree conservation easement must be conveyed by the applicant to the city to protect any off-site preservation or forestation.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends §167.03 **Tree Registry** by repealing it in its entirety and enacting a replacement §167.03 **Tree Registry and Urban Forest Analysis** as shown in Exhibit A.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends §167.04(J)(4) *Tree escrow account* by repealing subsection (4)(a) and (4)(d) in their entirety and enacting replacement subsections (4)(a) and (4)(d) as shown on Exhibit B.

**PASSED and APPROVED** this 2<sup>nd</sup> day of August, 2011.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

## EXHIBIT "A"

### 167.03 Tree Registry and Urban Forest Analysis

(A) *Tree Registry.* Trees and groups of trees which are documented to be of historic merit, of an uncommon or endangered species, or are of extraordinary value due to their age, size, or type, may be registered in the City of Fayetteville's tree registry. It shall be the duty of the urban forester to maintain and keep this registry on file in the urban forester's office.

(B) *Voluntary registration.* Registration of trees shall be voluntary and may be done by the owner(s) of the property on which the tree is located. Registration shall not run with the land unless the property owner wishes to use an express trust to transfer a benefit in the tree or groups of trees to the city. Registered tree owners are entitled to consultation with the Tree and Landscape Advisory Committee and/or the urban forester concerning proper care and protection of the tree, as well as an evaluation of the tree's condition.

(C) *Urban Forest Analysis.* The city shall initiate a tree canopy analysis and an Urban Forestry Effects Model study or their current equivalent studies within the current geographical boundaries of the city by December 31, 2012. Thereafter, the city should conduct these studies every ten (10) years.

## EXHIBIT "B"

### 167.04 Tree Preservation and Protection During Development

#### (J) Request for off-site alternatives

##### (4) *Tree escrow account.*

(a) Residential Subdivisions requesting tree removal below the Percent Minimum Canopy requirement may choose to contribute to the Tree Escrow Account. The City shall use the money paid into the Tree Escrow Account to plant trees within the subdivision along rights-of-ways, detention ponds, common area or other areas where trees can be protected and have a high probability of survival to a mature tree. This shall be accomplished once the subdivision is built out or as approved by the urban forester.

...

(d) If it is not possible to plant trees within the subdivision, planting locations will be sought in appropriate sites within a one (1) mile radius of where the original project is located, but if this cannot be achieved, the moneys shall be used to plant the trees in the park quadrant in which the development took place, and if that cannot be achieved, anywhere in the City limits. Data extracted from the Urban Forest Analysis should be consulted when identifying appropriate locations to plant escrow funded trees.

|                                                                                                          |
|----------------------------------------------------------------------------------------------------------|
| <p><b>TITLE XV UNIFIED DEVELOPMENT CODE</b><br/><b>CHAPTER 167: TREE PRESERVATION AND PROTECTION</b></p> |
|----------------------------------------------------------------------------------------------------------|

|                                                                                                         |    |
|---------------------------------------------------------------------------------------------------------|----|
| 167.01 PURPOSE .....                                                                                    | 3  |
| 167.02 CITY OF FAYETTEVILLE TREE PRESERVATION, PROTECTION, AND LANDSCAPE<br>MANUAL .....                | 3  |
| 167.03 TREE REGISTRY <u>AND URBAN FOREST ANALYSIS</u> .....                                             | 3  |
| 167.04 TREE PRESERVATION AND PROTECTION DURING DEVELOPMENT .....                                        | 4  |
| 167.05 TREE PROTECTION MEASURES AND CONSTRUCTION .....                                                  | 13 |
| 167.06 TREE PLANTING, MAINTENANCE AND REMOVAL ON STREET RIGHTS-OF-WAY<br>AND OTHER PUBLIC GROUNDS ..... | 13 |
| 167.07 COMMERCIAL TREE PRUNER/SERVICE; CERTIFICATE AND INSURANCE<br>REQUIRED .....                      | 14 |
| 167.08 HAZARDOUS TREES .....                                                                            | 14 |
| 167.09 LOCAL DISASTER EMERGENCY .....                                                                   | 15 |
| 167.10-167.99 RESERVED .....                                                                            | 15 |

TITLE XV UNIFIED DEVELOPMENT CODE

## CHAPTER 167: TREE PRESERVATION AND PROTECTION

### 167.01 Purpose

It is the purpose of this chapter to preserve and protect the health, safety, and general welfare, and preserve and enhance the natural beauty of Fayetteville by providing for regulations of the preservation, planting, maintenance, and removal of trees within the city, in order to accomplish the following objectives:

#### (A) Objectives.

- (1) To preserve existing tree canopy;
- (2) To create a healthful environment for Fayetteville residents, businesses, and industries;
- (3) To moderate the harmful effects of sun, wind, and temperature changes;
- (4) To buffer noise, air and visual pollution;
- (5) To filter pollutants from the air that assist in the generation of oxygen;
- (6) To reduce storm water runoff and the potential damage it may create;
- (7) To stabilize soil and prevent erosion, with an emphasis on maintaining tree canopy on hillsides defined as canopied slopes in Chapter 151;
- (8) To provide habitat for birds and other wildlife;
- (9) To preserve riparian banks and beds, and prevent sedimentation;
- (10) To screen incompatible land;
- (11) To promote energy conservation; and
- (12) To protect and enhance property values.

#### (B) Principles. This chapter shall be enforced according to the following principles:

- (1) Preservation shall be the first, best, and standard approach.
- (2) If preservation cannot be achieved, on-site mitigation shall next be pursued.
- (3) If on-site mitigation cannot be achieved, off-site preservation shall be pursued.
- (4) If off-site preservation cannot be achieved, off-site forestation shall be pursued.

- (5) If none of the above approaches can be achieved, payment shall be made to the tree escrow account.

(Code 1991, §162.01; Ord. No. 3699, §1 4-20-93; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4340, 10-2-01)

### 167.02 City Of Fayetteville Tree Preservation, Protection, And Landscape Manual

The ~~landscape—administrator~~urban forester, in cooperation with other members of city staff, shall promulgate and periodically revise forms, procedures and regulations to implement this chapter and publish this information in the *City of Fayetteville, Tree Preservation, Protection, and Landscape Manual*.

#### (A) Copies of the *Tree Preservation, Protection, and Landscape Manual* are to be made readily available to the public and shall include, but need not be limited to:

- (1) Specific criteria for gaining city approval of tree preservation plans;
- (2) The format and content of reports and plans the applicant must submit to the city pursuant to this chapter;
- (3) Tree protection during construction;
- (4) A glossary of important terms used in this chapter;
- (5) Size and species requirements for trees planted for on-site mitigation or off-site forestation;
- (6) Maintenance of trees (including but not limited to pruning, irrigation, and protection from disease).

#### (B) The Tree and Landscape Advisory Committee shall review and may recommend revisions to the *Tree Preservation, Protection, and Landscape Manual* at least every three years to reflect changes in arboricultural and horticultural practices, lists of preferred tree species, city policies, or the content of this chapter.[gbh1]

(Ord. No. 4340, 10-2-01)

### 167.03 Tree Registry and Urban Forest Analysis

- #### (A) ~~Description~~Tree Registry
- Trees and groups of trees which are documented to be of historic merit, of an uncommon or endangered species, or are of extraordinary value due to their age,

Fayetteville Code of Ordinances

size, or type, may be registered in the City of Fayetteville's tree registry. It shall be the duty of the ~~landscape—administrator~~urban forester to maintain and keep this registry on file in the ~~administrator's~~urban forester's office.

(1) *Voluntary registration.* Registration of trees shall be voluntary and may be done by the owner(s) of the property on which the tree is located. Registration shall not run with the land unless the property owner wishes to use an express trust to transfer a benefit in the tree or groups of trees to the city. Registered tree owners are entitled to consultation with the [Tree and Landscape Advisory Committee] ~~and/or the landscape—administrator~~urban forester concerning proper care and protection of the tree, as well as an evaluation of the tree's condition.

(7)

(B) Urban Forest Analysis. The city shall initiate a tree canopy analysis and an Urban Forestry Effects Model study or their current equivalent studies within the current geographical boundaries of the City by December 31, 2012. Thereafter, the city should conduct these studies every ten (10) years.

(Ord. No. 4340, 10-02-01)

## 167.04 Tree Preservation And Protection During Development

(A) *Applicability.* The provisions of this section shall apply to proposed subdivisions, and large scale developments required by other chapters of the Unified Development Code to go through the city's permitting process. Persons seeking to build one single-family dwelling unit, or duplex, are specifically exempt from the provisions of this section except when the land is located within the Hillside/Hilltop Overlay District; then all the provisions of this ordinance shall apply. Planned Zoning Districts should meet the percent minimum tree canopy based upon their primary use, but may be allowed a lesser tree canopy requirement as part of the overall Master Plan approved by the City Council.

(1) *Subdivisions and large scale developments.* Applicants seeking approval of proposed subdivisions and large scale developments shall submit a site analysis plan, analysis report, and tree preservation plan with the preliminary plat or site plan. There shall be no land disturbance, grading, or tree removal until a tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

(2) *Grading permit.* An abbreviated tree preservation plan, as set forth in §167.04(H)(3), shall be submitted with the application for grading permits on projects that are not required to go through subdivision or large scale development process. There shall be no land disturbance, grading, or tree removal until an abbreviated tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

(3) *Building permits.* Tree preservation requirements apply to all permit applications for nonresidential construction, and the construction of multi-family residential buildings composed of three or more dwelling units. An abbreviated tree preservation plan, as set forth in § 167.04 (H)(3), shall be submitted with the application for building permits on projects that are not required to go through the subdivision or large scale development process. There shall be no land disturbance, grading, or tree removal until an abbreviated tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

(4) *Parking lots.* Tree preservation requirements apply to all permit applications for the construction of parking lots with five or more spaces. An abbreviated tree preservation plan, as set forth in §167.04 (H)(3), shall be submitted with the application for permits on projects that are required to go through the subdivision or large scale development process. There shall be no land disturbance, grading, or tree removal until an abbreviated tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

(5) *Hillside/Hilltop Overlay District.* Undeveloped land located within the Hillside/Hilltop Overlay District shall submit a site analysis plan, analysis report, and tree preservation plan with the preliminary plat or site plan. Single and two family residential development shall submit an abbreviated tree preservation and site plan at the time of obtaining a building permit. Structural changes to buildings located in the Hillside/Hilltop Overlay District that do not result in an enlargement of the building footprint or roof dripline shall not require an abbreviated tree preservation plan. There shall be no land disturbance, grading, or tree

TITLE XV UNIFIED DEVELOPMENT CODE

removal until a tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.

(B) *Tree preservation criteria.* The ~~landscape administrator~~urban forester shall consider the following factors, and any other relevant information, when evaluating tree preservation plans:

- (1) The desirability of preserving a tree or group of trees by reason of age, location, size, or species.
- (2) Whether the design incorporates the required tree preservation priorities.
- (3) The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
- (4) The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.
- (5) Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.
- (6) Whether the size or shape of the lot reduces the flexibility of the design.
- (7) The general health and condition of the tree or group of trees, or the presence of any disease, injury, or hazard.
- (8) The placement of the tree or group of trees in relation to utilities, structures, and the use of the property.
- (9) The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
- (10) Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.
- (11) Construction requirements of on-site and off-site drainage.
- (12) The effects of proposed on-site mitigation or off-site alternatives.
- (13) The effect other chapters of the UDC, or city policies have on the development design.

(14) The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations.

(15) The impact a substantial modification or rejection of the application would have on the applicant.

**\*Note**--The above items are not presented in any particular order of importance. The weight each is given will depend in large part on the individual characteristics of each project.

(C) *Canopy area.* In all new Subdivisions, Large Scale Developments, Industrial and Commercial Developments, and all other improvements listed above, trees shall be preserved as outlined in Table 1 under Percent Minimum Canopy, unless the Applicant has been approved for On-Site Mitigation or Off-Site Alternatives as set forth in subsections I. & J. below. The square foot percentage of canopy area required for preservation in new development is based on the total area of the property for which the Applicant is seeking approval, less the right-of-way and park land dedications. An Applicant shall not be required to plant trees in order to reach the Percent Minimum Canopy requirement on land where less than the minimum exists prior to development, unless trees have been removed.

**Table 1**  
**Minimum Canopy Requirements**

| ZONING DESIGNATIONS                                           | PERCENT MINIMUM CANOPY |
|---------------------------------------------------------------|------------------------|
| R-A, Residential - Agricultural (nonagricultural uses)        | 25%                    |
| RSF-.5, Single-family Residential – One Half Unit per Acre    | 25%                    |
| RSF-1, Single-family Residential – One Unit per Acre          | 25%                    |
| RSF-2, Single-family Residential – Two Units per Acre         | 20%                    |
| RSF-4, Single-family Residential – Four Units per Acre        | 25%                    |
| RSF-7, Single-family Residential – Seven Units per Acre       | 20%                    |
| RSF-8, Single-family Residential – Eight Units per Acre       | 20%                    |
| R-O, Residential –Office                                      | 20%                    |
| RT-12, Two and Three-family Residential                       | 20%                    |
| RMF-6, Multi-family Residential – Six Units per Acre          | 20%                    |
| RMF-12, Multi-family Residential – Twelve Units per Acre      | 20%                    |
| RMF-18, Multi-family Residential – Eighteen Units per Acre    | 20%                    |
| RMF-24, Multi-family Residential – Twenty-Four Units per Acre | 20%                    |
| RMF-40, Multi-family Residential – Forty Units per Acre       | 20%                    |



Fayetteville Code of Ordinances

|                                            |           |
|--------------------------------------------|-----------|
| NS, Neighborhood Services                  | 20%       |
| C-1, Neighborhood Commercial               | 20%       |
| CS, Community Services                     | 20%       |
| C-2, Thoroughfare Commercial               | 15%       |
| UT, Urban Thoroughfare                     | 15%       |
| C-3, Central Business Commercial           | 15%       |
| DC, Downtown Core                          | 10%       |
| MSC, Main Street Center                    | 10%       |
| DG, Downtown General                       | 10%       |
| NC, Neighborhood Conservation              | 20%       |
| I-1, Heavy Commercial and Light Industrial | 15%       |
| I-2, General Industrial                    | 15%       |
| P-1, Institutional                         | 25%       |
| PZD, Planned Zoning District (HHOD)        | 25% (30%) |

All residential zoning districts and C-1 districts within the Hillside/Hilltop Overlay District shall have their percent minimum canopy requirements increased by 5% to a total requirement of either 30% or 25%.

(D) *Prior tree removal.*

(1) If trees have been removed below the required minimum within the five (5) years preceding application for development approval, the site must be forested to meet the Percent Minimum Canopy requirements set forth in Table 1, plus an additional ten percent (10%) of the total area of the property for which the Applicant is seeking approval, less the right-of-way and park land dedications. The number of trees required to be planted shall be calculated using the Base Density for High Priority trees.

(2) *Waiver.* If an applicant is able to demonstrate to the Planning Commission's satisfaction that the trees were removed for a bona fide agricultural purpose, and not with the intent to thwart enforcement of this chapter, the additional 10% reforestation requirement shall be waived.

(E) *Tree preservation priorities.*

(1) *Percent minimum canopy.* Proposed designs must meet the percent minimum canopy requirements for the particular zoning designation, emphasizing the preservation and protection of high priority trees on the site. Trees in utility easements shall not be counted toward the percent minimum canopy requirement, and such utilities shall be routed, wherever possible, to avoid existing canopy.

(2) *Existing natural features.* Each design shall consider the existing natural features of the site, the preservation priorities for the trees,

and the impact their proposed removal may have both on and off-site.

(3) *Preservation priorities.* The list of preservation priorities (See: Table 2) shall guide the review of each development's design. The submittal of designs which do not incorporate preservation priorities for the trees on the site shall result in the denial of the tree preservation plan.

(4) *High priority trees.* The preservation and protection of high priority trees shall be enforced most stringently to meet the minimum percentage of canopy preservation. The preservation and protection of lower priority trees shall not be substituted for that of high priority trees, except:

(a) When the justification for such a substitution is set forth in the analysis report; and

(b) The substitution is approved by the landscape administrator/urban forester.

**Table 2**  
Preservation Priorities

| High Priority                  | Mid-level Priority   | Low Priority           |
|--------------------------------|----------------------|------------------------|
| Canopied slopes                | Contiguous woodlands | Invasive species       |
| Floodways and riparian buffers | Non-native woodlands | Relic orchards         |
| Native woodlands               | Use buffers          | Less desirable species |
| Significant trees              |                      |                        |

**\*Note--**Each of the above is listed alphabetically beneath its respective category. They are not presented in any particular order of importance within that category.

(F) *Tree Preservation Requirements for Proposed Residential and Non-Residential Subdivisions.*

(1) *Residential subdivisions.* The Percent Minimum Canopy in residential subdivisions shall be located in areas that have the least possibility of impact as utilities are installed and homes built. The intent is to leave undisturbed as many existing trees as possible for the use and enjoyment of prospective lot owners. Residential Subdivisions requesting tree removal below the Percent Minimum Canopy requirement may choose either Residential On-Site Mitigation, or to contribute to the Tree Escrow Account as set forth in §167.04 J.4.a. Trees in utility easements shall not be counted toward the Percent Minimum

TITLE XV UNIFIED DEVELOPMENT CODE

Canopy requirement, and such utilities shall be routed to avoid existing canopy.

- (2) *Nonresidential subdivisions.* Two options are available for establishing a tree preservation plan for the development of nonresidential subdivisions. The ~~landscape administrator~~urban forester shall recommend to the Planning Commission the option that will potentially preserve the largest amount of priority canopy based upon the tree preservation criteria set forth in § 167.04 (B) above.

- (a) *Preservation plan for entire subdivision.* The developer may choose to preserve the percent minimum canopy required for the entire development. With this option, the preserved canopy shall be located in areas that will not be impacted by future development of the individual lots. Canopy to be preserved shall be noted on the final plat, and shall be protected as set forth in §167.04 (L) below. Should the entire percent minimum canopy requirement for the site be so protected, the final plat shall include a statement that the individual lots, as represented thereon, shall not require separate tree preservation plans.

- (b) *Preservation plan for infrastructure only.* The developer, in consultation with city staff, shall delineate the area required for the construction of the infrastructure and improvements for the development. This area should include street rights-of-way, and utility and drainage easements. Lot lines, streets, and easements shall be located to avoid placing a disproportionate percentage of existing canopy in any one (1) proposed lot. This option shall not allow the removal of trees during the grading of individual lots, unless shown by the developer to be essential to the project's engineering design. The developer will be required to compensate for the canopy removed from this defined area by making the appropriate payment into the Tree Escrow Account. On all other areas of the development, the developer shall protect the existing canopy during the construction phase in accordance with §167.05 below. The final plat shall include a statement that the individual lots shall required separate Tree Preservation Plans.

- (3) *Hillside/Hilltop Overlay District.* Individual parcels or lots located within the

Hillside/Hilltop Overlay District boundary shall submit an abbreviated tree preservation plan as set forth in § 167.04 (H)(3) indicating the location of the structure and the preservation of the minimum tree canopy requirement.

- (a) Developers shall have the option of doing cluster development, such as a PZD, which would encourage more open space and tree preservation areas. In this pattern of development, the tree preservation zone on each lot can be transferred to a larger open space instead of being required on the individual lots. The open space set aside during cluster development shall be placed in a permanent easement or land trust with all future development rights removed from the property.

(G) *Initial review.*

- (1) *Meeting with the ~~landscape administrator~~urban forester.* It is strongly recommended that prospective applicants meet with the ~~landscape administrator~~urban forester for an initial review of the proposed tree preservation plan for the site prior to submitting a preliminary plat, large scale development, or site plan to the city. During the initial review, the ~~landscape administrator~~urban forester shall make recommendations to ensure the proposed subdivision or development complies with the requirements of this chapter. These recommendations shall be nonbinding. However, applicants proceed at the risk of higher costs due to changes required by a noncompliant submittal should they choose not to have the initial review or to disregard the recommendations of the ~~landscape administrator~~urban forester.

- (2) *Letter of confirmation.* The ~~landscape administrator~~urban forester shall document whether the applicant participated in the initial review meeting in a letter of confirmation to the applicant. If the applicant chose to attend an initial review meeting, the letter shall also document any recommendations made. The ~~landscape administrator~~urban forester shall ensure that a copy of the letter becomes part of the permanent file for the project.

- (H) *Submittal of plans.* Applicants should bear in mind that all plans will be evaluated according to the tree preservation criteria and percent minimum canopy requirements as set forth under §167.04 (B) and (C).

Fayetteville Code of Ordinances

- (1) *Site analysis plan.* On sites with existing tree canopy, the applicant shall conduct a site analysis to determine the approximate age, health, size and species distribution of the trees, noting each on a site analysis plan, and clearly showing the locations and types of all natural features on a site, including features 100 feet beyond the property lines. The site analysis plan shall also specifically depict the applicable preservation priority level for each tree or group of trees on the site. The plan should include, but not be limited to, delineation of the following features as they exist on the site:
- (a) The existing topography of the site highlighting slopes of 15% or greater, and indicating the natural drainage patterns;
  - (b) The property line boundaries of the site;
  - (c) Soils identified according to the Unified Soil Classification System;
  - (d) Any significant trees existing on the site, and the location of trunks, spread of the canopy, species, diameter at breast height (DBH), and the overall health of each significant tree;
  - (e) Groupings of trees, delineating the edges of the overall canopy, noting the predominate species, average height, diameter at breast height (DBH), and general health of the trees.
  - (f) All existing utilities and utility easements;
  - (g) All perennial and intermittent streams and creeks that exist on the site or within 100 feet of the site;
  - (h) Floodplains and floodways on the site;
  - (i) All existing rights-of-way within and surrounding the project site, including any designated trails or bike paths; and,
  - (j) Any other factors that may impact the design of the site.
- (2) *Tree preservation plan.* The applicant shall indicate all proposed site improvements, and delineate in the tree preservation plan the trees to be retained on-site, and the measures to be implemented for their protection. These measures shall include, but need not be limited to, fencing, limits of root pruning, as well as restrictions on traffic and material storage. The plan shall also clearly depict the limits of soil disturbance to include all areas to be graded both on and off-site, as well as the proposed location of utilities. The applicant should consult the *City of Fayetteville Tree Preservation, Protection and Landscape Manual* for details, examples and specific checklists.
- (3) *Abbreviated tree preservation plan.* Applicants requesting approval of development projects that require building, grading, or parking lot permits, but that do not fall under the requirements for large scale developments or subdivisions, shall prepare and submit an abbreviated tree preservation plan. The information for this plan may be combined with the site plan, plat drawing, or grading plan. The applicant is expected to show the general location of all existing groups of trees, individual significant trees, and to clearly depict the limits of soil disturbance to include all areas to be graded, both on and off-site, as well as the proposed location of utilities. Protective measures such as fencing, limits of root pruning, restriction on traffic and materials storage shall be depicted on the plan. A preliminary site visit with the landscape administrator/urban forester is highly recommended before applying for any of the above-mentioned permits. The applicant should consult the *City of Fayetteville Tree Preservation, Protection, and Landscape Manual* for details, examples and specific checklists. Applicants submitting abbreviated tree preservation plans shall not be required to submit either a site analysis plan or analysis report, nor shall they be required to hire architects, engineers, or landscape architects to prepare the abbreviated tree preservation plan.
- (4) *Analysis report.* The applicant shall submit an analysis report detailing the design approaches used to minimize damage to or removal of existing canopy that were considered in arriving at the proposed design. Written justification shall be presented as to why individual trees or canopy must be removed. The report shall also detail proposed on-site mitigation options or off-site alternatives, as detailed below.
- (5) *Grading and utility plans.* All subsequent grading and utility plans shall depict the tree preservation areas on the site, to include the preserved trees and the physical limits of all protective measures required during construction.

TITLE XV UNIFIED DEVELOPMENT CODE

- (6) *Submittal requirements.* The applicant shall submit two (2) copies of a site analysis plan and analysis report to the **landscape administratorurban forester**, concurrently with their tree preservation plan. Applicants submitting abbreviated tree preservation plans shall not be required to submit either a site analysis plan or analysis report.
- (7) *Conservation requirements.* The city shall encourage the use of conservation easements for the added protection of trees preserved or planted to meet percent minimum canopy requirements in those instances where such would be of mutual benefit to the applicant and the city.
- (I) *Request for on-site mitigation*
- (1) *Timing of request for on-site mitigation.* Requests to remove trees below the percent minimum canopy requirement must be incorporated with the applicant's tree preservation plan.
- (2) *Plan requirements.* The tree preservation plan must graphically represent the species and location for all trees to be planted on-site. It shall also include a chart clearly stating the following information:
- (a) The number of trees requested for removal;
- (b) The percentage below the percent minimum canopy requirement they represent; and,
- (c) Tree removal due to the grading work done to create tie backs for roads in the Hillside/Hilltop Overlay District shall be mitigated by reforesting a minimum of 25% of the tie backs pursuant to the landscape manual.
- (d) Planting trees in non-canopy areas in order to reach the minimum percent canopy requirements for the site is not allowed in the Hillside/Hilltop Overlay District.
- (e) The species and number of trees to be planted based on the forestation requirements below.
- (3) *Planting details and notes.* Planting details and notes shall be included on the tree preservation plan as set forth in the *City of Fayetteville Tree Preservation, Protection, and Landscape Manual*.
- (4) *Forestation requirements.* The number and species of trees required for forestation shall be based upon the quality of the canopy lost:
- (a) *High priority canopy.* When removing high priority canopy below the percent minimum canopy required, the canopy square footage removed shall be forested at a base density of 200, two inch (2") caliper trees per acre removed.
- (b) *Mid-level priority canopy.* When removing mid-level priority canopy required, the canopy square footage removed shall be forested at a base density of 150, two inch (2") caliper trees per acre removed.
- (c) *Low priority canopy.* When removing low priority canopy below the percent minimum required, the canopy square footage removed shall be forested at a base density of 100, two inch (2") caliper trees per acre removed.
- (5) *Base Density.* Compensating for the environmental damage caused by removing tree canopy shall be accomplished by forestation on a per acre basis. The base density formula used above is based on two inch caliper trees. However, the **landscape administratorurban forester** may approve the use of trees with less than two inch (2") caliper for the planting of smaller tree species required by spatial constraints on the site. In such cases, the number of trees to be planted may be adjusted in accordance with the species density table to be found in the *City of Fayetteville Tree Preservation, Protection, and Landscape Manual*, along with examples for using the base density formula.
- (6) *Preferred species.* All trees to be planted shall be species native to the region, when available, and selected from the list of preferred tree species set forth in the *City of Fayetteville Tree Preservation, Protection, and Landscape Manual*. Species selection shall be based upon the amount of space available for proper growth on the site, and must be approved by the **landscape administratorurban forester**.
- (7) *Placement of trees.* The applicant is expected to plant trees in locations on the site where the environmental benefits of canopy cover are most likely to offset the impact of development. Trees shall not be placed within utility easements, or in other locations where their future protection cannot be assured.

- (8) *On-site mitigation incentive.* If all the required trees can be located on-site, the ~~uLandscape Administrator~~urban forester may approve up to a twenty percent (20%) reduction in the number of trees to be planted. Any incentive reductions allowed shall be based upon the following factors:

- (a) The species of the mitigation trees; and,
- (b) The space needed for the healthy growth of trees.

- (9) *Residential On-Site Mitigation.* Applicants requesting On-Site Mitigation for Residential Subdivisions shall comply with all the provisions of §167.04 I. 1-7, as well as the following:

- (a) The Applicant's Mitigation Plan shall meet or exceed the required number of Mitigation Trees based on the Forestation Requirements as set forth at §167.04 I. 4.

- (b) All Plans requesting Residential On-Site Mitigation shall include a binding three (3) year maintenance and monitoring plan, which shall hold the Applicant responsible for the health of all planted trees.

- (i) Approval of a Plan requesting Residential On-Site Mitigation shall be contingent upon the Applicant depositing with the City an irrevocable Letter of Credit in an amount equal to the estimated cost of materials and labor for all trees at the time of planting. The irrevocable Letter of Credit must cover the entire three (3) year maintenance and monitoring period. Applicant shall submit cost estimates to the ~~uLandscape Administrator~~urban forester for approval.

- (ii) Upon completion of the three year landscape establishment period, the ~~uLandscape Administrator~~urban forester shall inspect the site and determine whether ninety percent (90%) of the trees are healthy and have a reasonable chance of surviving to maturity. Upon such a finding, the City shall release the Letter of Credit.

- (iii) In the absence of such a finding, the Applicant shall be notified to replace any unhealthy or dead trees, or take other appropriate action as approved by the ~~uLandscape Administrator~~urban forester.

forester. If the Applicant does not take remedial steps to bring the property into compliance, the City shall use the necessary moneys from the Landscape Establishment Guarantee to do so.

- (iv) In the event trees are injured or destroyed by natural disasters, including but not limited to, tornadoes, straight-line winds, ice storms, fire, floods, hail, or lightning strikes, or through the independent actions of third parties, the applicant shall be relieved of the responsibility of replanting the tree or trees so affected.

- (c) The Applicant shall establish a bona fide Property Owners Association with a Bill of Assurance and Protective Covenants sufficient to ensure the continued health and vitality of the mitigation trees within the subdivision. The Bill of Assurance and Protective Covenants shall be filed of record with the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and file-marked copies thereof shall be provided to the ~~uLandscape Administrator~~urban forester prior to Final Plat approval.

- (d) Developers requesting mitigation trees be planted along the street right of way of a Subdivision shall submit a street tree planting plan that complies with the standards outlined in the City of Fayetteville Tree Preservation, Protection, and Landscape Manual in order to ensure that new trees planted are of the highest quality, require low maintenance, and do not interfere with public safety. The species of trees to be planted shall be selected from the Approved Street Tree Species List, or be otherwise specifically approved by the ~~uLandscape Administrator~~urban forester.

- (i) The Applicant's Mitigation Plan for planting street trees shall describe in detail the method for tracking the development of the individual lots, which shall best ensure that required number and species of Mitigation Trees are planted.

- (ii) The applicant shall submit an annual schedule of the initial structural pruning for all Mitigation Trees planted along street right of ways with the name and contact



TITLE XV UNIFIED DEVELOPMENT CODE

information of the International Society of Arboriculture (ISA) Certified Arborist or pruning service performing the work.

(J) *Request for off-site alternatives.*

(1) *Timing of request for off-site alternatives.* Requests for off-site alternatives must be incorporated in, and submitted concurrently with the applicant's tree preservation plan.

(2) *Off-site preservation.* The applicant may seek approval from the ~~landscape administrator~~urban forester to preserve an equal or greater amount of canopy cover at a site within the city limits. ~~or, with the express approval of the City Council by its resolution, within one-quarter mile of the Fayetteville city limits. A tree conservation easement must be conveyed by the applicant to the city to protect any off-site preservation area~~

(3) *Off-site forestation.* If off-site preservation cannot be achieved, the applicant may seek approval from the ~~landscape administrator~~urban forester to plant the required number of trees on another site owned by the applicant and located within the city limits. ~~or, with the express approval of the City Council by its resolution, within one-quarter mile of the Fayetteville city limits. A tree conservation easement must be conveyed by the applicant to the city to protect any off-site forestation area.~~

(4) *Tree escrow account.* Large Scale Development Applicants requesting Off-Site Alternatives, and any other Applicant unable to achieve either On-Site Mitigation, Off-Site Preservation or Off-Site Forestation, shall make a payment to the City of Fayetteville Tree Escrow Account for each tree required to meet the Base Density requirements set forth above. The amount of money to be paid shall be based on the fair market value of materials and labor at the time of planting. The Applicant shall submit cost estimates to the ~~uLandscape Administrator~~urban forester for ~~review and~~ approval.

(a) Residential Subdivisions requesting tree removal below the Percent Minimum Canopy requirement may choose to contribute to the Tree Escrow Account. The City shall use the money paid into the Tree Escrow Account to plant ~~street~~ trees within the subdivision ~~along rights-of-ways, detention ponds, common areas or other areas where trees can be protected and have a high probability of survival to a mature tree, when~~

~~possible~~This shall be accomplished once the subdivision is built out or as approved by the urban forester.

(b) Money contributed in lieu of On-Site Mitigation or Off-Site Forestation shall be paid prior to Issuance of a Building Permit on all Commercial, Industrial, or Multi-Family Residential buildings and prior to Final Plat acceptance for all Residential and Non-Residential Subdivisions.

(c) Money contributed under this section:

(i) May be used for canopy mitigation, including planting site identification, tree acquisition, planting, and maintenance, utilizing either City Staff or contract labor;

(ii) Shall not revert to the general fund for ongoing operations.

(d) If it is not possible to plant ~~street~~ trees within the subdivision, planting locations will be sought in appropriate sites within a one (1) mile radius of where the original project is located, but if this cannot be achieved, the moneys shall be used to plant the trees in the park quadrant in which the development took place, and if that cannot be achieved, anywhere in the City limits. ~~The location of appropriate planting spaces is to be derived from the Fayetteville Tree Inventory to be updated every seven (7) to ten (10) years.~~

Data extracted from the Urban Forest Analysis should be consulted when identifying appropriate locations to plant escrow funded trees

(e) The City of Fayetteville shall refund the portion of the money contributed under this section, including the accrued interest that has not been expended seven (7) years from the date of the contribution. Interest shall be based on a four percent (4%) annual rate.

(f) Refunds shall be paid to the Applicant who made the original contribution.

(g) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the Applicant no later than thirty (30) days after the date which the refund becomes due. The sending by regular mail of the notices to the

Applicant shall be sufficient to satisfy the requirement of notice.

- (h) The refund shall be made on a pro rata basis, and shall be paid in full no later than ninety (90) days after the date certain upon which the refund becomes due.
  - (i) At the time of the contribution to the Tree Escrow Account, the ~~landscape administrator~~urban forester shall provide the Applicant with written notice of those circumstances under which refunds of such fees will be made. Failure to deliver such written notice shall not invalidate any contribution to the Tree Escrow Account under this Ordinance.
- (5) *Maintenance agreement and landscape establishment guarantee.* All plans requesting on-site mitigation or off-site forestation shall include a binding three year maintenance and monitoring plan, which shall hold the applicant responsible for the health of all planted trees.
- (a) Approval of a plan requesting on-site mitigation or off-site forestation shall be contingent upon the applicant depositing with the city either currency, bond irrevocable letter of credit or other surety, in an amount equal to the estimated cost of materials and labor of trees at the time of planting. The bond, irrevocable letter of credit, or other surety must cover the entire three year maintenance and monitoring period. The applicant shall submit cost estimates to the ~~landscape administrator~~urban forester.
  - (b) Upon completion of the three year landscape establishment period, the ~~landscape administrator~~urban forester shall inspect the site and determine whether 90% of the trees are healthy and have a reasonable chance of surviving to maturity. Upon such finding, the city shall release the currency, bond, or letter of credit.
  - (c) In the absence of such a finding, the applicant shall be notified to replace any unhealthy or dead trees, or take other appropriate action as approved by the ~~landscape administrator~~urban forester. If the applicant does not take remedial steps to bring the property into compliance, the city shall use the necessary monies from the landscape establishment guarantee to do so.
  - (d) In the event trees are injured or destroyed by natural disasters, including but not limited to, tornadoes, straight-line winds, ice storms, fire, floods, hail, or lightning strikes, or through the independent actions of third parties, the applicant shall be relieved of the responsibility of replanting the tree or trees so affected.
- (K) *Tree preservation plan review form.* The ~~landscape administrator~~urban forester shall use a standardized form for all recommendations or administrative determinations made regarding an applicant's tree preservation plan.
- (1) The form shall clearly indicate whether the ~~landscape administrator~~urban forester is making a final administrative determination, or a recommendation to the Planning Commission or City Council.
  - (2) The form shall also clearly indicate the applicant's plan is "APPROVED," "DISAPPROVED," or "CONDITIONALLY APPROVED," and explain the reasoning therefore.
  - (3) A statement shall appear on the form explaining the process by which a final administrative determination may be appealed in accordance with Chapter 155 of the Unified Development Code.
  - (4) The ~~landscape administrator~~urban forester shall sign and date the form, and ensure that a copy becomes part of the permanent file for the project.
- (L) *Continuing preservation and protection under approved tree preservation plans.*
- (1) In order to ensure that an applicant's heirs, successors, assigns, or any subsequent purchasers of the subject property are put on notice as to the existence and extent of an approved tree preservation plan, tree preservation areas shall be clearly depicted on the easement plats for large scale developments and the final plats for nonresidential subdivisions. This shall be accompanied by a narrative statement describing the nature of the protection afforded, and bearing the signature of the ~~landscape administrator~~urban forester. Lots in residential subdivisions are expressly exempt from these requirements. If it is impractical to include the actual depiction of the canopy to be preserved on the easement plat, or final plat itself, a note cross referencing an accompanying document shall suffice.

TITLE XV UNIFIED DEVELOPMENT CODE

- (2) The geographic extent and location of tree preservation areas, once recorded, may only be modified, or abolished with the express approval of the City Council. Applicants requesting such action shall bear the burden of proving to the City Council's satisfaction that such modification or abolition is in the best interest of the City of Fayetteville. Such requests shall be submitted to the ~~landscape administrator~~urban forester, who shall ask the city clerk to place it on the agenda of the next regularly scheduled City Council meeting.
- (3) Property owners wishing to remove diseased or dead trees from within a recorded tree preservation area shall seek prior approval from the ~~landscape administrator~~urban forester, who shall determine if such removal is consistent with sound arboricultural and horticultural practices, as well as the intent of this chapter. Any tree so removed shall be replaced with a tree of like or similar species, unless the ~~landscape administrator~~urban forester determines that natural replacements of sufficient health and vigor are already present in the tree preservation area.

(Code 1991, §162.10; Ord. No. 2699, §10, 4-20-93; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §6, 4-16-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4340, 10-2-01; Ord. No. 4539 02-03-04; Ord. 4855, 4-18-06; Ord. 4930, 10-03-06; Ord. 5308, 3-16-10; Ord. 5312, 4-20-10)

### 167.05 Tree Protection Measures And Construction

- (A) *Site inspection.* A preliminary site inspection followed by periodic inspections will be conducted by the ~~landscape administrator~~urban forester to ensure compliance with the tree preservation plan.
- (B) *Tree protection.* Tree preservation areas shall be protected from construction activity to prevent impingement by or the storage of construction vehicles, materials, debris, spoils or equipment in tree preservation areas. No filling, excavating or other land disturbance shall take place in tree preservation areas. Before commencing any construction activity, the applicant shall construct tree protection barriers on the site along the tree dripline or 10 feet from the trunk, whichever is greater. The applicant shall also post signs at each tree preservation area in accordance with the standards, specifications and guidelines provided in the *City of Fayetteville Tree Preservation, Protection, and Landscape Manual*. The ~~landscape administrator~~urban forester may require other protective measures based upon

the individual characteristics of the site and the proposed construction methods. Tree protection measures shall also protect any off-site trees the roots of which extend onto the site of the proposed construction. Any applicant damaging or destroying an off-site tree shall be required to mitigate such damage or destruction as prescribed by the ~~landscape administrator~~urban forester. If the required barriers surrounding the tree preservation areas are not adequately maintained during construction, the ~~landscape administrator~~urban forester shall prescribe remedial measures, and may issue a stop work order in accordance with § 153.07(C). 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.

(Code 1991, §162.11; Ord. No. 3699, §11, 4-20-93; Ord. No. 3925, §8, 10-3-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §7, 4-16-96; Ord. No. 4008, §1, 12-17-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4340, 10-2-01)

### 167.06 Tree Planting, Maintenance And Removal On Street Rights-Of-Way And Other Public Grounds

- (A) *Follow the Tree Preservation, Protection, and Landscape Manual.* All tree planting, maintenance or removal on public grounds shall follow the standards, specifications and guidelines provided in the *City of Fayetteville Tree Preservation, Protection, and Landscape Manual*.
- (B) *Tree planting.* Trees may be planted within street rights-of-way or on other public grounds only after notification to the ~~landscape administrator~~urban forester; and provided the selection and location of said trees are in accordance with the requirements.
- (C) *Tree removal.* Trees shall not be removed from a street right-of-way or other public grounds unless approval is received from the ~~landscape administrator~~urban forester, with the exception that city employees may remove trees when necessary to accomplish emergency repairs to sewer or water systems, or in order to alleviate flooding.
- (D) *Damage to trees.* It shall be a violation of this chapter to damage, destroy or mutilate any tree in a public right-of-way or on other public grounds, or attach or place any rope or wire (other than one to support a young or broken tree or limb), sign, poster, handbill or any other thing to any such tree.
- (E) *Top or cutback to stubs.* It shall be unlawful for any person to top or cutback to stubs the crown



of any tree in street rights-of-way or on other public grounds.

- (F) *Reserved rights.* The city reserves the right to plant, preserve, prune, maintain or remove any tree within the street rights-of-way, alleys, squares, and all public grounds when such interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign, or as may be necessary to preserve or enhance the symmetry and beauty of such public grounds.
- (G) *Line of sight.* Trees shall not be planted to conceal a fire hydrant from the street or impede the line of sight on any street.
- (H) *Storm damage.* Trees severely damaged by storms, or other accidental causes, where required pruning practices are impractical are exempt from this chapter.
- (I) *City employees.* Before cutting, pruning, removing or trimming any tree, city employees performing tree work on public grounds shall attend an educational workshop on basic tree pruning. A certificate will be issued when an individual has successfully completed the workshop.
- (J) *Public utilities.* Nothing in this section shall be construed to prohibit public utilities from pruning or removing trees that encroach upon electric, telephone, or cable television transmission lines, or gas, sewer or water pipes.

(Code No. 1991, §162.07; Ord. No. 3699, §6, 4-20-93; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §5, 4-16-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4340, 10-2-01).

### **167.07 Commercial Tree Pruner/Service; Certificate And Insurance Required**

- (A) *Certificate required.* Before cutting, pruning, removing, or trimming any tree within the City of Fayetteville, the owner and supervisory personnel of each business performing commercial tree work shall obtain a city issued commercial tree pruner/service certificate.
- (B) *Liability insurance.* Each business performing commercial tree work, to include tree surgery, within the City of Fayetteville, shall be required to carry liability insurance in the following minimum amounts:
  - (1) General aggregate: \$100,000.00
  - (2) Personal & advertising: \$100,000.00
  - (3) Each occurrence: \$100,000.00

Proof of coverage shall include the name of the insurance company issuing the policy, the name of the insured, the policy number, effective and expiration dates, and the signature of an authorized representative of the insurance company.

- (C) *Workshop.* Owners and supervisory personnel shall attend an educational workshop on basic tree science and the proper techniques of tree pruning; or shall demonstrate sufficient knowledge of basic tree science and the proper techniques of tree pruning by scoring 75% or higher on a test provided by the International Society of Arboriculture (I.S.A.).
- (D) *Certificate issuance.* A certificate shall be issued when an individual has successfully completed the workshop or scored adequately on the test.
- (E) *Job site.* It shall be the responsibility of the business owner to ensure that a copy of the certificate is maintained at each job site.
- (F) *Supervision.* All persons engaged in the business of trimming trees shall be under the supervision of a certified tree pruner/service.
- (G) *Worker's compensation.* Those individuals performing commercial tree work on public grounds shall comply with all worker's compensation requirements as set forth under Arkansas law and shall hold a city issued commercial tree pruner/service certificate.
- (H) *Licensure.* Those individuals performing tree surgery shall comply with licensure requirements as set forth under Arkansas law.

(Code 1991, §162.13; Ord. No. 3699, §14, 4-20-93; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4340, 10-2-01)

### **167.08 Hazardous Trees**

- (A) *Pruning.* Every owner of any tree overhanging a street or sidewalk within the city is responsible for pruning the branches so that such branches shall not obstruct vehicles or pedestrians.
- (B) *Order or removal.* The mayor, or his/her duly authorized representative, is hereby authorized to order the owner of any real property within the city to cause the removal of any dead or diseased trees on their property, and further, to order compliance, when such trees constitute a hazard of life and property, or harbor insects which constitute a potential threat to other trees. Whenever any such condition is found to exist, the mayor, or his/her duly authorized representative, shall send written notice via first class mail to the property owner ordering the performance of such acts within 20 days. If the

TITLE XV UNIFIED DEVELOPMENT CODE

property owner's identity or whereabouts are unknown, a copy of the written notice shall be posted upon the premises.

- (C) *Noncompliance.* It shall be unlawful for any person to fail or refuse to comply with any order and notice given pursuant to this section.
- (D) *Removal by city.* If the conditions described in a notice given, as set forth above, are not removed or corrected within 20 days after such notice given, the mayor, or his/her duly authorized representative, is hereby authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property and the city shall have a lien against such property for the costs. Enforcement of the lien shall be set forth in §95.03 of the *Fayetteville Code of Ordinances*. Such action shall not be taken if the owner has evidenced a willingness to comply by hiring a qualified tree service before the expiration of the 20 day period.

(Code 1991, §162.06; Ord. No. 3699, §6, 4-20-93; Ord. No. 3963, §4, 4-16-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4340, 10-2-01)

**167.09 Local Disaster Emergency**

If it becomes necessary for the mayor to declare a local disaster emergency pursuant to A.C.A. §12-75-108(b)(2), the provisions of this chapter may be suspended for up to 30 days, if strict compliance with its provisions would prevent, hinder, or delay actions necessary to cope with the disaster emergency.

(Ord. No. 4316, 6-5-01; Ord. No. 4340; 10-2-01)

**167.10-167.99 Reserved**



## City of Fayetteville Staff Review Form

C. 4  
Sales and Use Tax Expiring Date  
Page 1 of 6

City Council Agenda Items  
and  
Contracts, Leases or Agreements

August 2, 2011  
City Council Meeting Date  
Agenda Items Only

Paul A. Becker  
Submitted By

Finance and Internal services  
Division

Finance  
Department

## Action Required:

This is a request that the City Council approve a one percent Sales and Use Tax to replace the expiring Sales and Use Tax. The ordinance is providing for a continuation of that tax until June 30, 2023.

|                      |                           |                                 |
|----------------------|---------------------------|---------------------------------|
| 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

☐

Paul A. Becker 7-18-2011  
Department Director Date

Previous Ordinance or Resolution #

[Signature] 7-18-2011  
City Attorney Date

Original Contract Date:

Original Contract Number:

Paul A. Becker 7-19-2011  
Finance and Internal Services Director Date

Received in City 07-18-11 P03:02 RCVD  
Clerk's Office

[Signature] 7-19-11  
Chief of Staff Date

Received in  
Mayor's Office



[Signature] 7/20/11  
Mayor Date

Comments:

## **CITY COUNCIL AGENDA MEMO**

---

**To:** Mayor Jordan and Members of the Fayetteville City Council

**Thru:** Don Marr, Chief of Staff

**From:** Paul A Becker, Finance Director

**Date:** 7/15/25011

**Subject:** Request for an Ordinance continuing the one percent city sales and use tax and providing for a Special Election called for that purpose on October 11, 2011. A budget amendment is also requested to provide for costs of an election.

---

### **Background:**

As you are all aware, the Arkansas Statutes provide enabling legislation for a levy of a one percent City-Wide Sales and Use Tax if approved by the voters. In 2002 the citizens of Fayetteville elected to continue the one percent City-Wide Sales Tax which was then scheduled to expire in June, 2003. The Sales Tax will continue until June, 2013 pursuant to the authorizing ordinance voted on. As we approach 2013, it is extremely important that adequate lead time be provided for consideration of the request for continuation of this tax. It is also important that the citizens consider the continuation of this tax before they are presented with any request for new Sales Taxes proposed by other jurisdictions. The continuation of this Sales Tax must again be authorized by the voter and the administration is, therefore, requesting a special election for that purpose be held on October 11, 2011. There was no provision in the 2011 budget for the cost of this election so a budget amendment to cover the necessary costs is also being requested.

### **Issues:**

As your Chief Financial Officer it is my responsibility to identify issues and potential ramifications associated with the loss of the City-Sales Tax revenue if not continued via voter approval. I will try to do this as simply and clearly as possible.

The City collects approximately \$15,400,000 annually from the City-Wide Sales and Use Tax. That amount is split in a 60-40 ratio between General Fund Operations and General Capital Improvements respectively. In dollars this is \$9,240,000 for operations and \$6,160,000 for Capital. In percentage terms that is 27.6% of the General Fund Revenue and 100% of the General Fund Capital Improvement Program. A revenue loss of that magnitude could not be made by other sources. It is also important to note that other revenue sources are currently experiencing downward pressures in the short run. Therefore; we would have to cut expenses and related services dramatically. The General Capital Program would disappear.

A quick review of the General Fund Expenditure Budget will indicate that 82% of that budget is for personnel services. That is approximately \$27,500,000. If we cut each category in the budget in direct proportion to the revenue loss (27.6%) the personnel services category would have to be reduced by about \$7,600,000.

There are 455 authorized positions in the General Fund. Twenty-seven and one half percent of authorized positions is 125 but the loss of jobs in number would be larger than that and could be as many as 150. Since Public Safety is about 60% of the numerical total, that could mean 90 job reductions in that sector alone.

The General Capital Improvement Program funds many important programs such as:

- The Street Paving Program
- The Trail Program
- Drainage Programs
- Library Materials
- City Capital and Equipment Replacement Program
- IT Programs

Amounts currently provided from the Sales Tax Capital Fund for these programs would be eliminated. The current amount funded is \$6,160,000 per year.

**Summary :**

The above discussion should not be construed as a plan of action if the Sales and Use Taxes are not continued. However, I believe that the facts shown above indicate both the magnitude and potential service reductions that the loss of the City's largest single revenue producing tax would cause. The citizens of Fayetteville have shown themselves to be thoughtful and intelligent voters and I am confident that after being shown the facts they will overwhelmingly vote to continue this tax which provides funding for many vital programs.

**BUDGET IMPACT:**

The cost of the requested special election is estimated to be \$20,000 and a budget amendment for that amount is attached.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE PROVIDING FOR THE LEVY OF A ONE PERCENT SALES AND USE TAX WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS; TO REPLACE THE EXPIRING ONE PERCENT SALES AND USE TAX; PROVIDING FOR AN EXPIRATION DATE FOR SUCH SALES AND USE TAX OF JUNE 30, 2023 AND PRESCRIBING OTHER MATTERS PERTAINING THERETO

**WHEREAS**, the City Council of the City of Fayetteville, Arkansas has determined that there is a great need for the continuing operation and improvement of municipal services, for capital improvements and for a source of revenue to finance such services and improvements; and

**WHEREAS**, Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") provides for the levy of a one percent (1%) city-wide sales and use tax.

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

Section 1: Under the authority of the Authorizing Legislation, there is hereby levied a one percent (1%) tax on the gross receipts from the sale at retail within the City of Fayetteville of all items which are subject to the Arkansas Gross Receipts Tax Act of 1941, as amended (A.C.A. §26-52-101, *et seq.*) and the imposition of an excise (or use) tax on the storage, use, distribution or other consumption within the City of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §26-53-101, *et seq.*), at a rate of one percent (1%) of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax").

Section 2: All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: This Ordinance shall not take effect until an election is held on the question of levying the Sales and Use tax at which a majority of the electors voting on the question shall have approved the levy of the Sales and Use Tax and then only upon the expiration of the

currently authorized one percent (1%) Sales and Use Tax passed by the Fayetteville voters on July 23, 2002, and set to expire on June 30, 2013.

**PASSED and APPROVED** this 2<sup>nd</sup> day of August, 2011.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**





## City of Fayetteville Staff Review Form

C. 5  
Special Election One Cent  
Sales and Use Tax  
Page 1 of 8

City Council Agenda Items  
and  
Contracts, Leases or Agreements

August 2, 2011

City Council Meeting Date  
Agenda Items Only

Paul A. Becker

Submitted By

Finance and Internal services

Division

Finance

Department

## Action Required:

This is a recommendation to call a special election on October 11, 2011 to consider the City's request to continue the one cent Sales tax and Use Tax. The ballot will request the Sales Tax be continued for an additional 10 years from its current expiration date..

\$20,000

Cost of this request

\$

266,826.00

Category / Project Budget

Services and Charges

Program Category / Project Name

1010.6600.5318.00

Account Number

\$

126,402.00

Funds Used to Date

Miscellaneous

Program / Project Category Name

\$

140,424.00

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Paul A. Becker  
Department Director

7-18-2011  
Date

Previous Ordinance or Resolution #

Kim J. King  
City Attorney

7-18-2011  
Date

Original Contract Date:

Original Contract Number:

Paul A. Becker  
Finance and Internal Services Director

7-19-2011  
Date

Received in City  
Clerk's Office

07-18-11 P03:02 RCVD

Don Ma  
Chief of Staff

7-19-11  
Date

Received in  
Mayor's Office



Leonard Jordan  
Mayor

7/20/11  
Date

Comments:



www.accessfayetteville.org

## CITY COUNCIL AGENDA MEMO

---

**To:** Mayor Jordan and Members of the Fayetteville City Council

**Thru:** Don Marr, Chief of Staff

**From:** Paul A Becker, Finance Director

**Date:** 7/15/25011

**Subject:** Request for an Ordinance continuing the one percent city sales and use tax and providing for a Special Election called for that purpose on October 11, 2011. A budget amendment is also requested to provide for costs of an election.

---

### **Background:**

As you are all aware, the Arkansas Statutes provide enabling legislation for a levy of a one percent City-Wide Sales and Use Tax if approved by the voters. In 2002 the citizens of Fayetteville elected to continue the one percent City-Wide Sales Tax which was then scheduled to expire in June, 2003. The Sales Tax will continue until June, 2013 pursuant to the authorizing ordinance voted on. As we approach 2013, it is extremely important that adequate lead time be provided for consideration of the request for continuation of this tax. It is also important that the citizens consider the continuation of this tax before they are presented with any request for new Sales Taxes proposed by other jurisdictions. The continuation of this Sales Tax must again be authorized by the voter and the administration is, therefore, requesting a special election for that purpose be held on October 11, 2011. There was no provision in the 2011 budget for the cost of this election so a budget amendment to cover the necessary costs is also being requested.

### **Issues:**

As your Chief Financial Officer it is my responsibility to identify issues and potential ramifications associated with the loss of the City-Sales Tax revenue if not continued via voter approval. I will try to do this as simply and clearly as possible.

The City collects approximately \$15,400,000 annually from the City-Wide Sales and Use Tax. That amount is split in a 60-40 ratio between General Fund Operations and General Capital Improvements respectively. In dollars this is \$9,240,000 for operations and \$6,160,000 for Capital. In percentage terms that is 27.6% of the General Fund Revenue and 100% of the General Fund Capital Improvement Program. A revenue loss of that magnitude could not be made by other sources. It is also important to note that other revenue sources are currently experiencing downward pressures in the short run. Therefore; we would have to cut expenses and related services dramatically. The General Capital Program would disappear.

A quick review of the General Fund Expenditure Budget will indicate that 82% of that budget is for personnel services. That is approximately \$27,500,000. If we cut each category in the budget in direct proportion to the revenue loss (27.6%) the personnel services category would have to be reduced by about \$7,600,000.

There are 455 authorized positions in the General Fund. Twenty-seven and one half percent of authorized positions is 125 but the loss of jobs in number would be larger than that and could be as many as 150. Since Public Safety is about 60% of the numerical total, that could mean 90 job reductions in that sector alone.

The General Capital Improvement Program funds many important programs such as:

- The Street Paving Program
- The Trail Program
- Drainage Programs
- Library Materials
- City Capital and Equipment Replacement Program
- IT Programs

Amounts currently provided from the Sales Tax Capital Fund for these programs would be eliminated. The current amount funded is \$6,160,000 per year.

**Summary :**

The above discussion should not be construed as a plan of action if the Sales and Use Taxes are not continued. However, I believe that the facts shown above indicate both the magnitude and potential service reductions that the loss of the City's largest single revenue producing tax would cause. The citizens of Fayetteville have shown themselves to be thoughtful and intelligent voters and I am confident that after being shown the facts they will overwhelmingly vote to continue this tax which provides funding for many vital programs.

**BUDGET IMPACT:**

The cost of the requested special election is estimated to be \$20,000 and a budget amendment for that amount is attached.

Kit Williams  
City Attorney

Jason B. Kelley  
Assistant City Attorney

TO: **Mayor Jordan**  
**Don Marr**, Chief of Staff  
**Paul Becker**, Finance Director

FROM: **Kit Williams**, City Attorney

DATE: **July 12, 2011**

RE: **Sales Tax Election**

I wrote you on June 15 concerning your request for me to prepare sales tax renewal and election ordinances. You have now requested these ordinances to reflect an election for October 11<sup>th</sup>. That is within the 50-120 days after passage of the ordinances if such ordinances are passed by the City Council on August 2, 2011. November 8<sup>th</sup> would also be a legal date if the ordinances are passed on August 2<sup>nd</sup>.

If the ordinances were not passed until the August 16<sup>th</sup> City Council meeting, the possible election dates would be October 11, November 8<sup>th</sup> and December 13<sup>th</sup>.

I will send the attached ordinances to the Department of Finance and Administration pursuant to A.C.A. §26-25-107 for its review. The Department "shall approve or reject the ordinance and provide written notice to the city or county within fifteen (15) days of receipt of the ordinance." A.C.A. §25-25-107(b)(1).

KIT WILLIAMS  
FAYETTEVILLE CITY ATTORNEY

C. 5  
Special Election One Cent  
Sales and Use Tax  
Page 5 of 8

JASON B. KELLEY  
Assistant City Attorney

Judy Housley  
Office Manager

Phone (479) 575-8313  
FAX (479) 575-8315  
TDD (479) 521-1316



113 W. Mountain, Suite 302  
Fayetteville, AR 72701-6083

July 13, 2011

Department of Finance & Administration  
DFA Building  
1509 S. 7<sup>th</sup> Street, Room 401  
Little Rock, AR 72201

RE: Proposed Sales tax Ordinances Levying a 1% Sales and Use Tax and  
Calling a Special Election

Dear Department of Finance & Administration:

Pursuant to A.C.A. §26-25-107, I have enclosed herein two ordinances to levy a 1% sales and use tax to replace our current levy that automatically expires on June 30, 2013 and to call a Special Election on this replacement sales tax for October 11, 2011.

I expect that the Fayetteville City Council will pass these ordinances during its regular meetings on either August 2<sup>nd</sup> or August 16<sup>th</sup>.

Please review these ordinances which I drafted to be in substantial conformity with your proposed draft ordinances (supplied by the Arkansas Municipal League) and our currently effective sales tax ordinance. Thank you for your review of these ordinances.

With kindest regards,

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

KIT WILLIAMS  
Fayetteville City Attorney

KW/jh

cc: Mayor Jordan  
Don Marr, Chief of Staff  
Paul Becker, Financial Director

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF FAYETTEVILLE, ARKANSAS ON THE QUESTION OF LEVYING A ONE PERCENT SALES AND USE TAX WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS TO REPLACE THE ONE PERCENT SALES AND USE TAX EXPIRING ON JUNE 30, 2013; PROVIDING FOR AN EXPIRATION DATE FOR SUCH SALES AND USE TAX OF JUNE 30, 2023

**WHEREAS**, the City Council of the City of Fayetteville, Arkansas has passed on the 5<sup>th</sup> day of July, 2011, Ordinance No. \_\_\_\_\_ providing for the levy of a one percent (1%) Sales and Use Tax within the City to replace the current one percent (1%) Sales and Use Tax which expires on June 30, 2013; and

**WHEREAS**, the purpose of this Ordinance is to call a special election on the question of continuing the levy of this Sales and Use Tax.

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

Section 1: That there be, and there is hereby called, a special election to be held on the 11<sup>th</sup> day of October, 2011, at which election there shall be submitted to the electors of the City of Fayetteville the question of the levy of the Sales and Use Tax.

Section 2: That the question of levying the Sales and Use tax shall be placed on the ballot for the election in substantially the following form:

Vote on measure by placing an "X" in the square opposite the measure either for or against.

**FOR** adoption of a 1% local sales and use tax within the City of Fayetteville to begin July 1, 2013 to replace the current 1% local sales and use tax. This replacement tax shall expire on June 30, 2023 .....[ ]

**AGAINST** adoption of a 1% sales and use tax within the City of Fayetteville to begin on July 1, 2013, to replace the current 1% local sales and use tax. This replacement tax shall expire on June 30, 2023 .....[ ]

Section 3. That the election shall be held and conducted and the vote canvassed and the results declared under the law and in the manner now provided for municipal elections unless otherwise provided in Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") and only qualified voters of the City of Fayetteville shall have the right to vote at the election.

Section 4. That the results of the election shall be proclaimed by the Mayor, and his proclamation shall be published one time in a newspaper published in the City and having a general circulation therein, which Proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty days after the date of publication.

Section 5. That a copy of this Ordinance shall be given to the Washington County Board of Election Commissioners so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance shall also be provided to the Commissioner of Revenues of the State of Arkansas as soon as practical.

Section 6. That the Mayor and City Clerk, for and on behalf of the City, be, and they are hereby, authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the levy of the Sales and Use tax is approved by the electors, to cause the Sales and Use Tax to be collected in accordance with the Authorizing Legislation, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Section 7. That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

**PASSED and APPROVED** this 2<sup>nd</sup> day of August, 2011.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer





City of Fayetteville Staff Review Form

C. 6  
Special Election  
Budget Adjustment  
Page 1 of 6

City Council Agenda Items  
and  
Contracts, Leases or Agreements

August 2, 2011

City Council Meeting Date  
Agenda Items Only

Paul A. Becker

Submitted By

Finance and Internal services

Division

Finance

Department

Action Required:

The Administration has requested that the City Council call a special election on October 11, 2011 to consider the continuation of the City-Wide Sales and Use Tax. This request is to approve a budget ammendment for \$20,000 to pay for the estimated costs of that election.

N/A

Cost of this request

Category / Project Budget

Services and Charges

Program Category / Project Name

Account Number

Funds Used to Date

Miscellaneous

Program / Project Category Name

Project Number

\$

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

x

Paul A. Becker  
Department Director

7-18-2011  
Date

Previous Ordinance or Resolution #

City Attorney

7-19-2011  
Date

Original Contract Date:

Original Contract Number:

Paul A. Becker  
Finance and Internal Services Director

7-19-2011  
Date

Received in City Clerk's Office 07-19-11 P01:30 RCVD

Chief of Staff

7-19-11  
Date

Received in Mayor's Office

Mayor

7/20/11  
Date

Comments:

## CITY COUNCIL AGENDA MEMO

---

**To:** Mayor Jordan and Members of the Fayetteville City Council

**Thru:** Don Marr, Chief of Staff

**From:** Paul A Becker, Finance Director

**Date:** 7/15/25011

**Subject:** Request for an Ordinance continuing the one percent city sales and use tax and providing for a Special Election called for that purpose on October 11, 2011. A budget amendment is also requested to provide for costs of an election.

---

### **Background:**

As you are all aware, the Arkansas Statutes provide enabling legislation for a levy of a one percent City-Wide Sales and Use Tax if approved by the voters. In 2002 the citizens of Fayetteville elected to continue the one percent City-Wide Sales Tax which was then scheduled to expire in June, 2003. The Sales Tax will continue until June, 2013 pursuant to the authorizing ordinance voted on. As we approach 2013, it is extremely important that adequate lead time be provided for consideration of the request for continuation of this tax. It is also important that the citizens consider the continuation of this tax before they are presented with any request for new Sales Taxes proposed by other jurisdictions. The continuation of this Sales Tax must again be authorized by the voter and the administration is, therefore, requesting a special election for that purpose be held on October 11, 2011. There was no provision in the 2011 budget for the cost of this election so a budget amendment to cover the necessary costs is also being requested.

### **Issues:**

As your Chief Financial Officer it is my responsibility to identify issues and potential ramifications associated with the loss of the City-Sales Tax revenue if not continued via voter approval. I will try to do this as simply and clearly as possible.

The City collects approximately \$15,400,000 annually from the City-Wide Sales and Use Tax. That amount is split in a 60-40 ratio between General Fund Operations and General Capital Improvements respectively. In dollars this is \$9,240,000 for operations and \$6,160,000 for Capital. In percentage terms that is 27.6% of the General Fund Revenue and 100% of the General Fund Capital Improvement Program. A revenue loss of that magnitude could not be made by other sources. It is also important to note that other revenue sources are currently experiencing downward pressures in the short run. Therefore; we would have to cut expenses and related services dramatically. The General Capital Program would disappear.

A quick review of the General Fund Expenditure Budget will indicate that 82% of that budget is for personnel services. That is approximately \$27,500,000. If we cut each category in the budget in direct proportion to the revenue loss (27.6%) the personnel services category would have to be reduced by about \$7,600,000.

There are 455 authorized positions in the General Fund. Twenty-seven and one half percent of authorized positions is 125 but the loss of jobs in number would be larger than that and could be as many as 150. Since Public Safety is about 60% of the numerical total, that could mean 90 job reductions in that sector alone.

The General Capital Improvement Program funds many important programs such as:

- The Street Paving Program
- The Trail Program
- Drainage Programs
- Library Materials
- City Capital and Equipment Replacement Program
- IT Programs

Amounts currently provided from the Sales Tax Capital Fund for these programs would be eliminated. The current amount funded is \$6,160,000 per year.

**Summary :**

The above discussion should not be construed as a plan of action if the Sales and Use Taxes are not continued. However, I believe that the facts shown above indicate both the magnitude and potential service reductions that the loss of the City's largest single revenue producing tax would cause. The citizens of Fayetteville have shown themselves to be thoughtful and intelligent voters and I am confident that after being shown the facts they will overwhelmingly vote to continue this tax which provides funding for many vital programs.

**BUDGET IMPACT:**

The cost of the requested special election is estimated to be \$20,000 and a budget amendment for that amount is attached.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$20,000.00 TO PAY FOR A SPECIAL ELECTION TO SEEK RENEWAL OF THE CITY'S ONE CENT SALES AND USE TAX USED FOR OPERATIONS AND CAPITAL EXPENDITURES

**WHEREAS**, if the City Council passes an Ordinance calling for a Special Election on October 11, 2011, to submit to the Fayetteville electors the question of renewing the City's one cent sale and use tax, the City will incur an expense of approximately \$20,000.00 payable to the Washington County Election Commission.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached budget adjustment in the amount of \$20,000.00 to pay for a special election to seek renewal of the city's one cent sale and use tax used for operations and capital expenditures.

**PASSED and APPROVED** this 2<sup>nd</sup> day of August, 2011.

APPROVED:

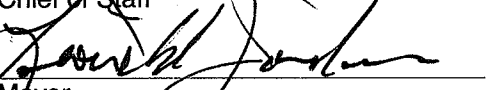
ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

V11.0425  
C. 6  
Special Election  
Budget Adjustment  
Page 5 of 6

| BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION |  |
|-----------------------------------------------|--|
| 1                                             |  |
| 2                                             |  |
| 3                                             |  |
| 4                                             |  |
| 5                                             |  |
| 6                                             |  |
| 7                                             |  |
| 8                                             |  |
| 9                                             |  |
| 10                                            |  |
| 11                                            |  |
| 12                                            |  |
| 13                                            |  |
| 14                                            |  |
| 15                                            |  |
| 16                                            |  |
| 17                                            |  |
| 18                                            |  |
| 19                                            |  |
| 20                                            |  |
| 21                                            |  |
| 22                                            |  |
| 23                                            |  |
| 24                                            |  |
| 25                                            |  |
| 26                                            |  |
| 27                                            |  |
| 28                                            |  |
| 29                                            |  |
| 30                                            |  |
| 31                                            |  |
| 32                                            |  |
| 33                                            |  |
| 34                                            |  |
| 35                                            |  |
| 36                                            |  |
| 37                                            |  |
| 38                                            |  |
| 39                                            |  |
| 40                                            |  |
| 41                                            |  |
| 42                                            |  |
| 43                                            |  |
| 44                                            |  |
| 45                                            |  |
| 46                                            |  |
| 47                                            |  |
| 48                                            |  |
| 49                                            |  |
| 50                                            |  |
| 51                                            |  |
| 52                                            |  |
| 53                                            |  |
| 54                                            |  |
| 55                                            |  |
| 56                                            |  |
| 57                                            |  |
| 58                                            |  |
| 59                                            |  |
| 60                                            |  |
| 61                                            |  |
| 62                                            |  |
| 63                                            |  |
| 64                                            |  |
| 65                                            |  |
| 66                                            |  |
| 67                                            |  |
| 68                                            |  |
| 69                                            |  |
| 70                                            |  |
| 71                                            |  |
| 72                                            |  |
| 73                                            |  |
| 74                                            |  |
| 75                                            |  |
| 76                                            |  |
| 77                                            |  |
| 78                                            |  |
| 79                                            |  |
| 80                                            |  |
| 81                                            |  |
| 82                                            |  |
| 83                                            |  |
| 84                                            |  |
| 85                                            |  |
| 86                                            |  |
| 87                                            |  |
| 88                                            |  |
| 89                                            |  |
| 90                                            |  |
| 91                                            |  |
| 92                                            |  |
| 93                                            |  |
| 94                                            |  |
| 95                                            |  |
| 96                                            |  |
| 97                                            |  |
| 98                                            |  |
| 99                                            |  |
| 100                                           |  |

|                     |                                                                                    |      |           |
|---------------------|------------------------------------------------------------------------------------|------|-----------|
| Division Head       |    | Date | 7-18-2011 |
| Budget Director     | Paul A. Berlin                                                                     | Date | 7-18-2011 |
| Department Director | Paul A. Berlin                                                                     | Date | 7-18-2011 |
| Finance Director    |    | Date | 7/20/11   |
| Chief of Staff      |   | Date | 7/20/11   |
| Mayor               |  | Date | 7/20/11   |

|                            |              |              |
|----------------------------|--------------|--------------|
| Prepared By:               | BARBARA FELL | BARBARA FELL |
| Reference:                 |              |              |
| Budget & Research Use Only |              |              |
| Type:                      | A            | B            |
|                            | C            | D            |
|                            | E            | P            |
| General Ledger Date        |              |              |
| Posted to General Ledger   | Initial      | Date         |
| Checked / Verified         | Initial      | Date         |

[illegible]



Agenda Session 7-26-11

Mayor Lioneld Jordan  
City Attorney Kit Williams  
City Clerk Sondra Smith



**Aldermen**

Ward 1 Position 1 – Adella Gray  
Ward 1 Position 2 – Brenda Boudreaux  
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  
August 2, 2011**

A meeting of the Fayetteville City Council will be held on August 2, 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. **2010 Comprehensive Annual Financial Report (CAFR)** – Tony Uth, Jr., Chair of the Audit Committee
2. **7th Quarter Update of the Economic Development Contract for Services** – Chung Tan, Curtis Northcutt, and Steve Clark

**Mayor's Announcements, Proclamations and Recognitions:**

**City Council Meeting Presentations, Reports and Discussion Items:**

**Agenda Additions:**

**A. Consent:**

1. **Approval of the July 19, 2011 City Council meeting minutes.**



2. **Bryce Davis Park Property Line Adjustment:** A resolution to approve an equal property exchange of about 1,300 square feet with James E. Lindsey along the border of Bryce Davis Park and the Links of Fayetteville, to authorize Mayor Jordan to execute the necessary deed and to approve a lot line adjustment.
3. **Federal-Aid Transportation Enhancement Program Grant:** A resolution authorizing acceptance of a Federal-Aid Transportation Enhancement Program Grant through the Arkansas State Highway and Transportation Department in the amount of \$270,000.00 for the construction of Town Branch Trail, and approving a budget adjustment.
4. **Walker Park Baseball Complex Improvements:** A resolution approving a budget adjustment in the amount of \$100,000.00 to fund Walker Park Baseball Complex Improvements.
5. **Maple Street and Lafayette Street Bridge Rehabilitation:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for the rehabilitation of the Maple Street and Lafayette Street bridges over the Arkansas and Missouri Railroad.
6. **Bid #10-44 Peterbilt of Fort Smith:** A resolution authorizing the purchase of two (2) replacement automated side-load solid waste trucks from Peterbilt of Fort Smith in the amount of \$497,318.00 pursuant to Bid #10-44.
- ✓ **ADM 11-3893 (Master Street Plan Amendment – Shiloh Drive):** A resolution to amend the Master Street Plan right-of-way requirement for N. Shiloh Drive from N. Henbest Drive to approximately 640 feet south of the newly aligned Mount Comfort Road.

**B. Unfinished Business: None.**

**C. New Business:**

- ✓ **RZN 11-3870 (2012 W. Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial.
- ✓ **ADM 11-3894 (Zoning Compliance & Business License):** An ordinance amending the Unified Development Code of the City of Fayetteville to remove references to certificate of zoning compliance and amend Chapter 161 of the Unified Development Code to address existing nonconforming businesses for the purposes of issuing a business license.
- ③ 3. **Amend Chapter 167 Tree Preservation and Protection:** An ordinance to amend Chapter 167: Tree Preservation and Protection of the Unified Development Code by replacing all references to "Landscape Administrator" with "Urban Forester", allowing increased flexibility for off-site preservation and forestation and for other reasons.

4. **Sales and Use Tax Expiring Date:** An ordinance providing for the levy of a one percent Sales and Use Tax within the City of Fayetteville, Arkansas; to replace the expiring one percent Sales and Use Tax; providing for an expiration date for such Sales and Use Tax of June 30, 2023 and prescribing other matters pertaining thereto.
5. **Special Election One Cent Sales and Use Tax:** An ordinance calling a special election in the City of Fayetteville, Arkansas on the question of levying a one percent Sales and Use Tax within the City of Fayetteville, Arkansas to replace the one percent Sales and Use Tax expiring on June 30, 2013; providing for an expiration date for such Sales and Use Tax of June 30, 2023.
6. **Special Election:** A resolution to approve a budget adjustment in the amount of \$20,000.00 to pay for a special election to seek renewal of the City's one cent Sales and Use Tax used for operations and capital expenditures.

**City Council Tour:** Monday, August 1, 2011 at 4:30 p.m. The Council will tour the Parks, Fleet, and Transportation Complex.

Add: — Repeal Article XV: Tree & Landscape Advisory  
NB #3 Announcements: Committee of Chapter 33.

**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](http://accessfayetteville.org) or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.*

Pre Agenda Meeting 7/20/11

Mayor Lioneld Jordan  
City Attorney Kit Williams  
City Clerk Sondra Smith



**Aldermen**

Ward 1 Position 1 – Adella Gray  
Ward 1 Position 2 – Brenda Boudreaux  
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  
August 2, 2011**

A meeting of the Fayetteville City Council will be held on August 2, 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. **2010 Comprehensive Annual Financial Report (CAFR)** – Tony Uth, Jr., Chair of the Audit Committee
- ✓ 2. **7th Quarter Update of the Economic Development Contract for Services** – Chung Tan, Curtis Northcutt, and Steve Clark

**Mayor's Announcements, Proclamations and Recognitions:**

**City Council Meeting Presentations, Reports and Discussion Items:**

**Agenda Additions:**

**A. Consent:**

- ✓ Approval of the July 19, 2011 City Council meeting minutes.

2. **Bryce Davis Park Property Line Adjustment:** A resolution to approve an equal property exchange of about 1,300 square feet with James E. Lindsey along the border of Bryce Davis Park and the Links of Fayetteville, to authorize Mayor Jordan to execute the necessary deed and to approve a lot line adjustment.
3. **Federal-Aid Transportation Enhancement Program Grant:** A resolution authorizing acceptance of a Federal-Aid Transportation Enhancement Program Grant through the Arkansas State Highway and Transportation Department in the amount of \$270,000.00 for the construction of Town Branch Trail, and approving a budget adjustment.
4. **Walker Park Baseball Complex Improvements:** A resolution approving a budget adjustment in the amount of \$100,000.00 to fund Walker Park Baseball Complex Improvements.
5. **Maple Street and Lafayette Street Bridge Rehabilitation:** A resolution expressing the willingness of the City of Fayetteville to utilize federal-aid funds for the rehabilitation of the Maple Street and Lafayette Street bridges over the Arkansas and Missouri Railroad.
6. **Bid #10-44 Peterbilt of Fort Smith:** A resolution authorizing the purchase of two (2) replacement automated side-load solid waste trucks from Peterbilt of Fort Smith in the amount of \$497,318.00 pursuant to Bid #10-44.
7. **ADM 11-3893 (Master Street Plan Amendment – Shiloh Drive):** A resolution to amend the Master Street Plan right-of-way requirement for N. Shiloh Drive from N. Henbest Drive to approximately 640 feet south of the newly aligned Mount Comfort Road.

**B. Unfinished Business: None**

**C. New Business:**

1. **RZN 11-3870 (2012 W. Martin Luther King Blvd./USA Drug):** An ordinance rezoning that property described in rezoning petition RZN 11-3870, for approximately 0.50 acres, located at 2012 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family 24 units per acre to C-1, Neighborhood Commercial.

2. **ADM 11-3894 (~~UDC Chapter 161 Zoning Regulations~~):** An ordinance amending Chapter 159: Fees, Chapter 161: Zoning Regulations, Chapter 166: Development, Chapter 174: Signs, and Chapter 178: Outdoor Vendors of the Unified Development Code of the City of Fayetteville, to remove references to certificate of zoning compliance and to address existing nonconforming businesses for the purposes of issuing a business license.

3. **Amend Chapter 33:** An ordinance *pull of this agenda per Kit*

4. **Amend Chapter 167 Tree Preservation and Protection:** An ordinance to amend Chapter 167: Tree Preservation and Protection of the Unified Development Code by

replacing all references to "Landscape Administrator" with "Urban Forester", allowing increased flexibility for off-site preservation and forestation and for other reasons.

- 5. **Sales and Use Tax Expiring Date:** An ordinance providing for the levy of a one percent Sales and Use Tax within the City of Fayetteville, Arkansas; to replace the expiring one percent Sales and Use Tax; providing for an expiration date for such Sales and Use Tax of June 30, 2023 and prescribing other matters pertaining thereto.
- 6. **Special Election One Cent Sales and Use Tax:** An ordinance calling a special election in the City of Fayetteville, Arkansas on the question of levying a one percent Sales and Use Tax within the City of Fayetteville, Arkansas to replace the one percent Sales and Use Tax expiring on June 30, 2013; providing for an expiration date for such Sales and Use Tax of June 30, 2023.
- 7. **Special Election:** A resolution to approve a budget adjustment in the amount of \$20,000.00 to pay for a special election to seek renewal of the City's one cent Sales and Use Tax used for operations and capital expenditures.

**City Council Tour: Monday, August 1, 2011 at 4:30 p.m. The Council will tour the Parks, Fleet, and Transportation Complex.**

**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](http://accessfayetteville.org) or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.*

## City Clerk - Re: Fwd: agenda session presentation

---

**From:** Don Marr  
**To:** City Clerk  
**Date:** 7/14/2011 7:37 AM  
**Subject:** Re: Fwd: agenda session presentation

---

Lisa - The agenda item I requested is for the 7th Quarter Update of the Economic Development Contract for Services. Presenters Chung Tan and Curtis Northcutt, and Steve Clark

Thanks,  
Don

Don Marr



**FIND IT  
IN  
FAYETTEVILLE**

Chief of Staff for Mayor Jordan  
113 W Mountain Street  
Fayetteville, AR 72701  
Office: 479-575-8330  
For TDD: (Telecommunications Device for the Deaf)  
Dial 479-521-1316  
Email: [dmarr@ci.fayetteville.ar.us](mailto:dmarr@ci.fayetteville.ar.us)  
Website: [www.accessfayetteville.org](http://www.accessfayetteville.org)

>>> City Clerk 7/14/2011 7:11 AM >>>  
Don,

Thanks, what about the presentation regarding Economic Development, Chung Tan? What is the title and I know you mention someone other than Chung.

Lisa

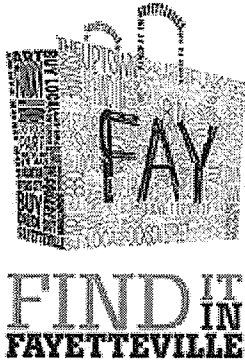
>>> Don Marr 7/13/2011 6:56 PM >>>

We would like to move the report on Properties for sale near the City Administration Building to the last agenda

session in August - That would be August 30th. We also approve the request that Vicki is asking for.

Thanks,  
Don

Don Marr



Chief of Staff for Mayor Jordan  
113 W Mountain Street  
Fayetteville, AR 72701  
Office: 479-575-8330  
For TDD: (Telecommunications Device for the Deaf)  
Dial 479-521-1316  
Email: [dmarr@ci.fayetteville.ar.us](mailto:dmarr@ci.fayetteville.ar.us)  
Website: [www.accessfayetteville.org](http://www.accessfayetteville.org)

>>> City Clerk 7/11/2011 1:41 PM >>>  
Don,

Will you please approve the agenda session presentation below? The only other item on the agenda is:

**Information regarding properties for sale near the City Administration Building. Mayor wanted added to first meeting in August. This item was on the May 17<sup>th</sup> Tentative Agenda.**

Thanks,  
Lisa

>>> Vicki Deaton 7/11/2011 1:38 PM >>>  
Lisa,

I spoke with Paul Becker and we would like to schedule the presentation of the 2010 Comprehensive Annual Financial Report (CAFR) for the agenda session on 7/26/11. The chair of the audit committee, Tony Uth, Jr., will make the presentation. It should be brief. Thank you. Vicki

Vicki D. Deaton, CFE, CISA  
City of Fayetteville Internal Auditor  
113 W. Mountain  
Fayetteville, AR 72701

**CITY COUNCIL CITY FACILITIES TOURS**  
**ALL TOURS ARE SCHEDULED FOR 4:30-6:00 p.m.**

|           |                                                                 |
|-----------|-----------------------------------------------------------------|
| April 18  | Animal Shelter and Ribbon-cutting of new Puppy Nursery          |
| May 2     | Fayetteville Executive Airport—Drake Field                      |
| May 16    | Noland Wastewater Treatment Plant and Biosolids Management Site |
| June 6    | Westside Wastewater Treatment Plant and Woolsey Prairie         |
| June 20   | Fayetteville Television Center                                  |
| July 18   | Solid Waste and Recycling                                       |
| August 1  | Parks, Fleet, Transportation Complex                            |
| August 15 | Water/Sewer Facility, Tanks, and Pump Stations                  |





## Sales Tax Referendum

**City of Fayetteville, Arkansas**  
**2011 General Fund (Sources/Uses of Funds)**

|                                 | Budgeted<br>2011  | % of<br>Total |
|---------------------------------|-------------------|---------------|
| <b>Revenues:</b>                |                   |               |
| Property Taxes                  | \$ 1,501,000      | 4.5%          |
| Sales Tax - County              | 10,300,000        | 30.8%         |
| Sales Tax - City                | 9,223,400         | 27.6%         |
| Alcoholic Beverage Taxes        | 467,600           | 1.4%          |
| Franchise Fees                  | 4,649,100         | 13.9%         |
| Licenses & Permits              | 652,100           | 2.0%          |
| Intergovernmental               | 2,120,000         | 6.3%          |
| Charges for Services            | 1,356,600         | 4.1%          |
| Fines & Forfeitures             | 1,679,700         | 5.0%          |
| Interest Earnings               | 120,000           | 0.4%          |
| Other                           | 367,000           | 1.1%          |
| Transfer from Sales Tax Capital | 1,000,000         | 3.0%          |
| <b>Total Revenues</b>           | <b>33,436,500</b> | <b>100.0%</b> |

## 2011 Adopted General Fund Budget:

### Budget by Category (% of Total)

| <i>Budget by Category</i> | <i>Adopted<br/>2007</i> | <i>Adopted<br/>2008</i> | <i>Adopted<br/>2009</i> | <i>Adopted<br/>2010</i> | <i>Adopted<br/>2011</i> |
|---------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| Personnel Services        | 82.5%                   | 83.0%                   | 82.6%                   | 84.4%                   | 82.2%                   |
| Materials and Supplies    | 3.1%                    | 2.9%                    | 3.4%                    | 3.0%                    | 3.2%                    |
| Services and Charges      | 8.0%                    | 8.3%                    | 7.7%                    | 7.6%                    | 7.6%                    |
| Motorpool Charges         | 2.7%                    | 2.3%                    | 2.5%                    | 1.1%                    | 2.5%                    |
| Cost allocation           | -6.4%                   | -6.4%                   | -6.4%                   | -6.7%                   | -6.8%                   |
| Maintenance               | 2.4%                    | 2.6%                    | 2.8%                    | 3.0%                    | 2.9%                    |
| Debt Service              | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    |
| Trans To Outside Entities | 7.0%                    | 6.6%                    | 6.7%                    | 6.9%                    | 7.6%                    |
| Capital                   | 0.1%                    | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    |
| Miscellaneous             | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    |
| Contingency/Savings       | 0.0%                    | 0.0%                    | 0.0%                    | 0.0%                    | 0.1%                    |
| Operating Transfers       | 0.6%                    | 0.7%                    | 0.7%                    | 0.7%                    | 0.7%                    |
|                           | 100.0%                  | 100.0%                  | 100.0%                  | 100.0%                  | 100.0%                  |

## General Fund Budget

Expense Reduction Required if Spread Equally Across Categories

| <i>Budget by Category</i> | <i>Adopted<br/>2011</i> | <i>Percentage<br/>Reduced</i> | <i>Amount<br/>Reduced</i> | <i>New<br/>Total</i> |
|---------------------------|-------------------------|-------------------------------|---------------------------|----------------------|
| Personnel Services        | \$27,858,210            | 27.20%                        | \$7,582,813               | \$20,275,397         |
| Materials and Supplies    | 1,086,745               | 27.20%                        | \$295,804                 | \$790,941            |
| Services and Charges      | 2,559,843               | 27.20%                        | \$696,772                 | \$1,863,071          |
| Motorpool Charges         | 844,729                 | 27.20%                        | \$229,929                 | \$614,800            |
| Cost allocation           | (2,310,990)             | 27.20%                        | (\$629,036)               | (\$1,681,954)        |
| Maintenance               | 985,167                 | 27.20%                        | \$268,156                 | \$717,011            |
| Debt Service              |                         |                               |                           |                      |
| Trans To Outside Entities | 2,565,696               | 27.20%                        | \$698,365                 | \$1,867,331          |
| Capital                   | 13,100                  | 27.20%                        | \$3,566                   | \$9,534              |
| Miscellaneous             |                         |                               |                           |                      |
| Contingency/Savings       | 50,000                  | 27.20%                        | \$13,610                  | \$36,390             |
| Operating Transfers       | 233,000                 | 27.20%                        | \$63,421                  | \$169,579            |
|                           | <u>\$33,885,500</u>     |                               | <u>\$9,223,399</u>        | <u>\$24,662,101</u>  |

## 2011 Adopted General Fund Budget: Budget by Activity and Associated FTE's

| <i>Budget by Activity</i>               | <i>Adopted<br/>2010</i> | <i>% Total</i> | <i>Adopted<br/>2011</i> | <i>% Total</i> | <i>FTE's</i>  |
|-----------------------------------------|-------------------------|----------------|-------------------------|----------------|---------------|
| Police                                  | \$12,166,960            | 35.4%          | \$ 12,169,707           | 36.0%          | 163.50        |
| Fire                                    | 8,511,370               | 24.8%          | 8,522,806               | 25.2%          | 111.50        |
| Finance & Internal Services             | 4,552,648               | 13.2%          | 4,409,956               | 13.0%          | 48.75         |
| Community Planning & Engineering        | 3,520,872               | 10.2%          | 3,501,403               | 10.3%          | 59.95         |
| General Government                      | 2,893,105               | 8.4%           | 2,845,241               | 8.4%           | 41.50         |
| Parks & Recreation                      | 1,924,450               | 5.6%           | 1,739,120               | 5.1%           | 28.00         |
| Fayetteville Public Library             | 1,608,829               | 4.7%           | 1,610,759               | 4.8%           | 0.00          |
| Utilities and Parking                   | 619,260                 | 1.8%           | 419,614                 | 1.2%           | 2.00          |
| Cost Reimbursement                      | (2,304,002)             | -6.7%          | (2,304,002)             | -6.8%          |               |
| Miscellaneous:                          |                         |                |                         |                |               |
| Turnover Allowance / Salary Contingency | (171,700)               | -0.5%          | (226,200)               | -0.7%          |               |
| Materials / Maintenance / Capital       | 50,400                  | 0.1%           | 50,400                  | 0.1%           |               |
| Services & Charges                      | 172,521                 | 0.5%           | 172,059                 | 0.5%           |               |
| Professional Services                   | 85,000                  | 0.2%           | -                       | 0.0%           |               |
| Outside Agencies                        | 489,950                 | 1.4%           | 667,700                 | 2.0%           |               |
| Transfer to CEMS                        | 270,000                 | 0.8%           | 270,000                 | 0.8%           |               |
| NWA Regional Planning                   | 36,937                  | 0.1%           | 36,937                  | 0.1%           |               |
|                                         | <u>933,108</u>          | <u>2.6%</u>    | <u>970,896</u>          | <u>2.8%</u>    |               |
| Total                                   | <u>\$34,426,600</u>     | <u>100.0%</u>  | <u>\$ 33,885,500</u>    | <u>100.0%</u>  | <u>455.20</u> |

\*Transferred between Parks Development and General Funds.