Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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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
September 04, 2012

A meeting of the Fayetteville City Council will be held on September 04, 2012 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 August 21, 2012 City Council meeting minutes. **APPROVED**

2. **Lifesource International Lease Agreement:** A resolution approving a lease agreement with Lifesource International for premises located at 1932 S. Garland Avenue in exchange for services to the citizens of Fayetteville.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 174-12**

3. **Fayetteville Police Department Policies:** A resolution approving Fayetteville Police Department policies 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 41.1.1 Patrol, 41.2.8 Vehicular Pursuit, 41.3.5 Grooming and Uniform Requirements, 54.1.1 Public Information Policy, and 46.1.1 Critical Incidents.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 175-12**

4. **Allied Waste Services of Bella Vista:** A resolution approving one (1) year extension agreement with Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling in the City.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 176-12**

5. **Bid #12-65 Benchmark Construction of NWA, Inc.:** A resolution awarding Bid #12-65 and authorizing a contract with Benchmark Construction of NWA, Inc. in the amount of $335,230.42 for installation of a concrete pad and associated work at the City solid waste and recycling facility, approving a project contingency of $33,523.04, and approving a budget adjustment.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 177-12**

6. **Solid Waste Hauling and Disposal Fees:** A resolution approving a budget adjustment in the amount of $303,598.00 to provide funding for solid waste hauling and disposal fees.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 178-12**

7. **Keep Fayetteville Beautiful Committee:** A resolution authorizing the Mayor to appoint up to seven (7) persons to serve at the pleasure of the Mayor as a Keep Fayetteville Beautiful Committee to facilitate creation of a Keep Fayetteville Beautiful affiliate to work in coordination with Keep Arkansas Beautiful and Keep America Beautiful, and sunsetting the authorization for this committee upon incorporation of a private non-profit organization.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 179-12**

8. **SWEPCO Energy Block Grant Rebate:** A resolution approving a budget adjustment in the amount of $14,561.00 recognizing revenue from the SWEPCO Energy Block Grant Rebate and allocating the revenue to the LED Trail Lighting Program.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 180-12**

B. Unfinished Business:

1. **ADM 12-4144 3078 N. College Ave. Siebert Appeal:** A resolution to reverse the Planning Commission's decision to grant and thereby to deny the variance to Eric Siebert to operate his Shave the Planet business longer than 90 days as an outdoor mobile vendor. ***This resolution was Tabled at the July 03, 2012 City Council meeting to the September 04, 2012 City Council meeting.***

   THIS ITEM WAS TABLED INDEFINITELY.

2. **Amerlux Exterior, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving an agreement with for the purchase of seventeen (17) streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. in the total amount of $28,415.93 for installation on downtown improvement projects along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street. ***This ordinance was left on the First reading at the August 21, 2012 City Council meeting.***

   P**ASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5520**

3. **Amend §154.03 Private Parties/Zoning Amendment:** An ordinance to amend §154.03 Private Parties/Zoning Amendment to clarify the powers of the Planning Commission and City Council when a property owner seeks rezoning. ***This ordinance was left on the First reading at the July 17, 2012 City Council meeting. This ordinance was left on the Second reading at the August 7, 2012 City Council meeting. This ordinance was left on the Second reading and Tabled until an Attorney General opinion is received.***

   P**ASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5521**

C. Public Hearing:

1. **Fayetteville Taxi LC, Public Convenience Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Fayetteville Taxi LC for the operation of one (1) to four (4) taxicabs in the City of Fayetteville.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 181-12**

D. New Business:

1. **2012 Arkansas Department of Environmental Quality E-Waste Grant:** A resolution approving application for a 2012 Arkansas Department of Environmental Quality E-Waste Grant of $25,000.00 for an E-Waste coupon redemption program.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 182-12**

2. **Enact Article XXIV Audit Committee and Internal Auditor:** An ordinance to enact Article XXIV Audit Committee and Internal Auditor into Chapter 33 Departments, Boards, Commission and Authorities of the Code of Fayetteville.

   P**ASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5522**

3. **Amend Chapter 166.04 Required Infrastructure Improvements – Development in City Limits:** An ordinance amending subsection 166.04(l)(ii)(g) of Chapter 166 Development of the Unified Development Code to change the fee-in-lieu formulas related to parkland dedications.

   P**ASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5523**

4. **Hughmount Village Development Sewer Extension:** A resolution to approve the extension of the City's sewerage system beyond the city limits to the proposed Hughmount Village Development.

   P**ASSED AND SHALL BE RECORDED AS RESOLUTION NO. 183-12**

City Council Tour:

Announcements:

Adjournment: 8:25 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

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> **Consent Agenda.** Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If an Alderman wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.
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> **Courtesy and respect.** All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

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City Council Meeting: **September 4, 2012** **Adjourn:** 8:25 p.m.

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

9-0

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

City Council Meeting: **September 4, 2012**

Subject:	**Consent**				
Motion To:		Approve			
Motion By:		Boudreaux			
Seconded:		Tennant			
Minutes Approved	**Boudreaux**	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
Approved	**Ferrell**	✓			
	Adams	✓			
	Lewis	✓			
174-12 thru 180-12	**Gray**	✓			
	Mayor Jordan				

8-0

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

City Council Meeting: **September 4, 2012**

Subject:	**ADM 12-4144 3078 N. College Ave. Siebert Appeal**				
Motion To:		Table Indef.			
Motion By:		Boudreaux			
Seconded:		Ferrell			
B. 1 Unfinished Business	**Boudreaux**	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
Tabled Indef.	**Ferrell**	✓			
	Adams	✓			
	Lewis	✓			
	Gray	✓			
	Mayor Jordan				
		8-0			

Subject:	**Amerlux Exterior, LLC**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Adams	Tennant		
Seconded:		Ferrell	Ferrell		
B. 2 Unfinished Business	**Boudreaux**	✓	✓	✓	
	Kinion	✓	✓	N	
	Petty	✓	N	N	
	Tennant	✓	✓	✓	
Passed	**Ferrell**	✓	✓	✓	
	Adams	✓	✓	✓	
	Lewis	✓	✓	N	
	Gray	✓	✓	✓	
5520	**Mayor Jordan**				
		8-0	7-1	5-3	

City Council Meeting: **September 4, 2012**

Subject:	**Amend §154.03 Private Parties/Zoning Amendment**				
Motion To:		3rd Read	Pass		
Motion By:		Ferrell			
Seconded:		Adams			
B. 3 Unfinished Business	**Boudreaux**	✓	✓		
	Kinion	✓	✓		
	Petty	✓	✓		
	Tennant	✓	✓		
	Ferrell	✓	✓		
Passed	**Adams**	✓	✓		
	Lewis	✓	✓		
	Gray	✓	✓		
5521	**Mayor Jordan**				
		8-0	8-0		

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

City Council Meeting: **September 4, 2012**

Subject:	**Fayetteville Taxi LC, Public Convenience Necessity**				
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Gray			
C. 1 Public Hearing	**Boudreaux**	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Ferrell	✓			
passed	**Adams**	✓			
	Lewis	✓			
	Gray	✓			
181-12	**Mayor Jordan**				

8-0

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

City Council Meeting: **September 4, 2012**

Subject:	**2012 Arkansas Department of Environmental Quality E-Waste Grant**				
Motion To:		Approve			
Motion By:		Lewis			
Seconded:		Adams			
D. 1	**Boudreaux**	✓			
New	**Kinion**	✓			
Business	**Petty**	✓			
	Tennant	✓			
	Ferrell	✓			
	Adams	✓			
passed	**Lewis**	✓			
	Gray	✓			
182-12	**Mayor Jordan**				
		8-0			

Subject:	**Enact Article XXIV Audit Committee and Internal Auditor**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Boudreaux	Boudreaux		
Seconded:		Ferrell	Kinion		
D. 2	**Boudreaux**	✓	✓	✓	
New	**Kinion**	✓	✓	✓	
Business	**Petty**	✓	✓	✓	
Typing error	**Tennant**	✓	✓	✓	
Need new	**Ferrell**	✓	✓	✓	
Ordinance	**Adams**	✓	✓	✓	
from Kit	**Lewis**	✓	✓	✓	
Passed	**Gray**	✓	✓	✓	
5522	**Mayor Jordan**				
		8-0	8-0	8-0	

City Council Meeting: **September 4, 2012**

Subject:	**Amend Chapter 166.04 Required Infrastructure Improvements – Development in City Limits**				
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Boudreaux		
Seconded:		Adams	Kinion		
D. 3 New Business	**Boudreaux**	✓	✓	✓	
	Kinion	✓	✓	✓	
	Petty	✓	✓	✓	
	Tennant	✓	✓	✓	
	Ferrell	✓	✓	✓	
Passed	**Adams**	✓	✓	✓	
	Lewis	✓	✓	✓	
	Gray	✓	✓	✓	
5523	**Mayor Jordan**				
		8-0	8-0	8-0	

Subject:	**Hughmount Village Development Sewer Extension**				
Motion To:		Amend resolution to the one handed out at Agenda Session		Approve	
Motion By:		Kinion		Ferrell	
Seconded:		Ferrell		Gray	
D. 4 New Business	**Boudreaux**	✓		✓	
	Kinion	✓		✓	
	Petty	✓		N	
	Tennant	✓		✓	
	Ferrell	✓		✓	
Passed	**Adams**	✓		✓	
	Lewis	✓		✓	
	Gray	✓		✓	
183-12	**Mayor Jordan**				
		8-0		7-1	

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **September 5, 2012**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of September 4, 2012**

1. **Lifesource International Lease Agreement:** A resolution approving a Lease Agreement with Lifesource International for premises located at 1932 S. Garland Avenue in exchange for services to the citizens of Fayetteville.

2. **Fayetteville Police Department Policies:** A resolution approving Fayetteville Police Department Policies 12.2.1, Policies, Procedures and Rules Development and Review Procedures, 41.1.1. Patrol, 41.2.8 Vehicular Pursuit, 41.3.5 Grooming and Uniform Requirements, 54.1.1. Public Information Policy and 46.1.1 Critical Incidents.

3. **Allied Waste Services of Bella Vista:** A resolution approving one year extension agreement with Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling in the City.

4. **Bid #12-65 Benchmark Construction of NWA, Inc.:** A resolution awarding Bid #12-65 and authorizing a contract with Benchmark Construction of NWA, Inc. in the amount of $335,230.42 for installation of a concrete pad and associated work at the City Solid Waste and Recycling Facility, approving a project contingency of $33,523.04 and approving a budget adjustment.

5. **Solid Waste Hauling and Disposal Fees:** A resolution approving a budget adjustment in the amount of $303,598.00 to provide funding for solid waste hauling and disposal fees.

6. **Keep Fayetteville Beautiful:** A resolution authorizing the Mayor to appoint up to seven persons to serve at the pleasure of the Mayor as a Keep Fayetteville Beautiful Committee to facilitate creation of a Keep Fayetteville Beautiful affiliate to work in coordination with Keep Arkansas Beautiful and Keep America Beautiful, and sunsetting the authorization for this committee upon incorporation of a private non-profit organization.

7. **SWEPCO Energy Clock Grant Rebate:** A resolution approving a budget adjustment in the amount of $14,561.00 recognizing revenue from the SWEPCO Energy Block Grant Rebate and allocating the revenue to the LED Trail Lighting Program.

8. **Amerlux Exterior, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving an agreement with Amerlux Exterior, LLC for the purchase of seventeen streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. in the total amount of $28,415.93 for installation on Downtown Improvement Projects along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street.

9. **§154.03 Private Parties/Zoning Amendment:** A ordinance to amend §154.03 **Private Parties/Zoning Amendment** to clarify the powers of the Planning Commission and City Council when a property owner seeks rezoning.

10. **Fayetteville Taxi LC:** A resolution granting a Certificate of Public Convenience and Necessity to Fayetteville Taxi LC for the operation of one to four taxicabs in the City of Fayetteville.

11. **2012 ADEQ E-Waste Grant:** A resolution approving application for a 2012 ADEQ E-Waste Grant of $25,000.00 for an E-Waste Coupon Redemption Program.

12. **Enact Article XXIV Audit Committee and Internal Auditor:** An ordinance to enact Article XXIV **Audit Committee and Internal Auditor** into Chapter 33 **Departments, Boards, Commissions and Authorities** of the Code of Fayetteville.

13. Amend Chapter 166.04: An ordinance amending Subsection 166.04(1)(ii)(g) of Chapter 166 **Development** of the Unified Development Code to change the Fee-in-lieu formulas related to parkland dedication.

14. Hughmount Village Development: A resolution to approve the contract with Hughmount Village developers to allow the extension of the City's sewerage system beyond the city limits to the proposed Hughmount Village Development.

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A.7
Solid Waste Hauling
and Disposal Fees

Handed out at Agenda Session 8/28/12

Transfer Station Customer List

						2009 tons	2010 tons	2011 tons	2012 tons	Projected 2012 tons	Projected 2012 Revenues
2009											
0	Cash Customer	Cash	10 2009			$13,275.51	$59,481.58	$54,940.52	$58,886.82	-	$94,218.91
0	Cash Customer - tons					213.08	913.46	850.41	892.90	1,428.64	
999	Weight Ticket Only Customers ($0-$5.46 PER TICKET)	Cash	10 2009			-	$25.00	$207.48	$10.92	-	$17.47
999	Weight Ticket Only Customers - # tickets						5.00	38.00	2.00	-	-
515	Madison County	Charge	10 2009			314.56	1,345.26	1,377.52	919.17	1,470.67	
501	Allied Waste	Charge	10 2009			621.52	173.85	28.37	-	-	
500	Cornerstone	Charge	10 2009			3.60	17.10	15.78	9.64	15.42	
505	Fayetteville Housing Authority	Charge	10 2009			0.38	2.10	-	-	-	
507	Haul Away	Cash	10 2009			24.45	140.46	87.79	67.65	108.24	
512	Trash A Way	Cash	10 2009			496.75	2,610.72	3,151.11	1,960.51	3,136.82	
509	Four Seasons Trash	Cash	12 2009			1.87	35.55	16.98	10.32	16.51	
2010											
508	Courtesy Sanitation	Cash	01 2010			-	170.39	290.17	220.11	352.18	
511	Southern Disposal	Cash	01 2010			-	202.78	-	-	-	
516	Packaging Specialties	Cash	03 2010	Recycling		-	-	-	-	-	
504	Murrays	Cash	03 2010			-	1.10	-	-	-	
550	Arkhoma Solutions	Charge	05 2010			-	45.06	-	174.25	278.80	
513	Contractors Waste - 3D Services	Cash	05 2010			-	14.93	1.16	-	-	
555	Habitat for Humanity	Charge	06 2010			-	12.34	4.57	-	-	
502	Marck Industries	Cash	06 2010	Recycling		-	-	-	-	-	
520	Perme Construction	Charge	08 2010			-	17.56	8.25	1.67	2.67	
530	SunCoast Mgmt, llc.	Charge	09 2010			-	3.16	-	-	-	
506	Phillips Trash Service	Cash	n/a			-	-	-	-	-	
525	Vaughn Recycling	Cash		Recycling		-	-	-	-	-	
2011											
517	4D Services	Charge	03 2011			-	-	1,037.29	1,650.21	2,640.34	
540	Ed Wells	Charge	03 2011	BAD DEBT	-54.62	-	-	0.32	-	-	
535	Your Choice Services	Charge	03 2011	BAD DEBT	-591.9	-	-	11.52		-	
545	Trinity Multi Family	Charge	04 2011			-	-	46.65	51.81	82.90	
560	Let it Shine, mobile detailing	Charge	05 2011	BAD DEBT	-3713.64	-	-	84.05	-	-	
565	Potter House Thrift Store	Charge	08 2011			-	-	2.79	8.76	14.02	
570	Handyman Matters	Charge	09 2011			-	-	1.06	1.47	2.35	
575	Paradigm Development	Charge	09 2011			-	-	13.68	21.09	33.74	
2012											

518	Hanna's Candle Co	Charge	03 2012	-	-	-	18.69	29.90
580	Quality Custom Homes	Cash	05 2012	-	-	-	-	-
519	Mid America Management Assoc.	Cash	05 2012	-	-	-	-	-
585	Milestone Construction	Charge	07 2012	-	-	-		-
510	Boston Mountain SW District	Charge	08 2012	-	-	-	-	-
521	Richland Construction	Charge	08 2012	-	-	-	-	-
590	Hiland Dairy	Cash	08 2012	-	-	-	-	-
				1,676.21	5,705.82	7,029.47	6,008.25	9,613.20
				558.74	475.49	585.79	801.10	

Yearly Tons

Average tons per month

Added at Agenda Session 8/28/12 – Add to Consent

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

9/4/2012
City Council Meeting Date
Agenda Items Only

Paul Becker	Driector of Finance	Administration
Submitted By	**Division**	**Department**

Action Required:

A resolution to recognize rebate revenue for The Energy Block Grant and to allocate that revenue to the LED light program for trails

($14,561.00) $ 14,561.00	$ 774,900.00	Energy Block Grant
Cost of this request	Category / Project Budget	Program Category / Project Name
2240.0924.4311.00 2240.9240.5210.00	$ 757,180.00	LED lights
Account Number	Funds Used to Date	Program / Project Category Name
09011.0010 09011.0030	$ 17,720.00	Energy Block Grant
Project Number	Remaining Balance	Fund Name

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

Paul A. Becker — 8-27-2012
Department Director — Date

Previous Ordinance or Resolution # RES 201-09

Original Contract Date:

Original Contract Number:

J B Kelly — 8-28-12
City Attorney — Date

Paul A. Becker — 8-28-2012
Finance and Internal Services Director — Date

Received in City Clerk's Office 08-27-12 P03:47 RCVD
Kim G.

Chief of Staff — 8-28-12
Date

Received in Mayor's Office ENTERED 8/28/12

Mayor — Date

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: Paul Becker
Director of Finance

Date: August 27, 2012

Subject: Energy Block Grant

RECOMMENDATION

City Administration recommends recognizing SWEPCO energy rebate revenue related to the solar panel on the District Court Building. This revenue should be recognized as revenue to the Energy Block Grant (EECBG) which made the solar purchase. And to combine this revenue with the funds remaining in the grant for the LED light program, which will purchase LED lights for the trails.

BACKGROUND

The Energy Block Grant purchased solar panels for the roof of the District Court Building. There have been rebates from the State of Arkansas regarding these panels (totalling $14,560.50). The revenue should be recognized to the Block Grant project, so the remaing grant funds and the rebates can be used to purchase LED trail lights.

DISCUSSION

The revenues that should be recognized:

Date	Amount
2/22/2011	$3265.50
4/19/2011	$2262.00
7/24/2011	$4365.00
11/14/2011	$4668.00
TOTAL	$14,560.50

BUDGET IMPACT

The remaining grant funds – combined with the revenues of the rebates ($14,560.50) would give the Energy Grant LED program $32,280.46 that would be used to purchase LED lights for the Trails program. The BA would true up the accounts and complete the grant drawing of funds by the deadline of September 13, 2012.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $14,561.00 RECOGNIZING REVENUE FROM THE SWEPCO ENERGY BLOCK GRANT REBATE AND ALLOCATING THE REVENUE TO THE LED TRAIL LIGHTING PROGRAM

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 $14,561.00 recognizing revenue from the SWEPCO energy block grant rebate and allocating the revenue to the LED trail lighting program.

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Division: Finance Director Department: Finance Director	Request Date	Adjustment Number
2012		8/27/2012	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Recognize rebate revenue - all funds will be used for LED lighting for the trails.

Paul A. Becker	8-27-2012	Prepared By:	kspringer
Division Head	Date	Reference:	
	8-27-2012		
Budget Director	Date	Budget & Research Use Only	
		Type: A B C D E P	
Department Director	Date		
Paul A. Becker	8-28-2012	General Ledger Date	
Finance Director	Date		
	8-28-12	Posted to General Ledger	
Chief of Staff	Date	Initial	Date
	8/28/12	Checked / Verified	
Mayor	Date	Initial	Date

		Increase / (Decrease)		
	TOTAL BUDGET ADJUSTMENT	14,561	14,561	
Account Name	Account Number	Expense	Revenue	Project.Sub Number
State Rebates	2240.0924.4311.00		14,561	09011 . 0010
Minor equipment	2240.9240.5210.00	14,561		09011 . 0030

EXHIBIT
A

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

7/17/2012
City Council Meeting Date
Agenda Items Only

Andrew Garner	Planning	Development Services
Submitted By	**Division**	**Department**

Action Required:

ADM 12-4170: Administrative Item (UDC SECTION 154.03(C)(2)): Submitted by the CITY PLANNING DIVISION to repeal UDC section 154.03(C)(2).

	$ -	
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 — 06-21-2012 Date

A large rewrite was needed.

City Attorney — June 25, 2012 Date

Finance and Internal Services Director — 6/25/12 Date

Chief of Staff — 6/26/12 Date

Mayor — 6/26/12 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — 06-22-12 A09:29 RCVD — Kim J.

Received in Mayor's Office — ENTERED 6/25/12

Comments:

Tabled until Attorney General Opinion at the 8/21/12 CC mtg.
Left on the Second Reading at the 8/7/12 CC mtg.
Left on First Reading at the 7/17/12 CC mtg.

Fayetteville ARKANSAS
www.accessfayetteville.org
THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Development Services Director

Date: June 20, 2012

Subject: ADM 12-4170 Repeal UDC Section 154.03(C)(2) Petition opposed to rezoning

BACKGROUND:

Chapter 154.03(C)(2) states that if a certain number of property owners have signed a petition opposed to a rezoning, then the rezoning cannot become effective except by a three-fourths vote of the City Council. This code section appears to have been enacted with all other zoning and development code sections for the City during a Special Meeting of the City Board of Directors on June 29, 1970. The City Attorney does not believe this section of the code has ever been used in an attempt to require a super majority vote. Further, the City Attorney believes that this code section is illegal because it is beyond our statutory power. A memo from the City Attorney is attached.

RECOMMENDATION:

Staff recommends approval of an ordinance to amend the Unified Development Code to repeal Section 154.03(C)(2).

BUDGET IMPACT:

None.

CHAPTER 154: AMENDMENTS

154.03 Private Parties/Zoning Amendment

(A) *Petition.* Any private party or parties desiring an amendment to Chapter 160, upon payment of the appropriate fee, shall submit to the Planning Commission a petition giving the following information:

(1) Legal description of the property involved;

(2) Zoning classification request for the property; and,

(3) Statement explaining why the proposed changes will not conflict with the surrounding land uses.

(B) *Action by Planning Commission.* The Planning Commission may take one of the following actions:

(1) *Approval.* The proposed amendment may be approved as presented.

(2) *Approval in modified form.* Approved in modified form by a majority of the Planning Commission and recommended for adoption by the City Council with the reasons for such recommendations stated in writing.

(3) *Disapproval.* If the Planning Commission disapproves a proposed amendment, the reason for such disapproval shall be given in writing to the petitioner.

(4) *Neither approves nor disapproves.* If the Planning Commission neither approves nor disapproves a proposed amendment within 45 days after the public hearing the action on such amendment by said Planning Commission shall be deemed favorable; this period may be further extended by vote of the Planning Commission if all the parties involved agree in writing to an extension.

(C) *Action by the City Council.*

(1) *Action.* The City Council, may take one of the following actions:

(a) *Approval.* The City Council, by majority vote, may by ordinance adopt the recommended amendment submitted by the Planning Commission.

(b) *Modify and adopt.* By ordinance, may modify and adopt the proposed amendment.

(c) *Return to Planning Commission.* By resolution, may return the proposed amendment to the Planning Commission for further study and recommendation.

~~(2) *Vote.* When a proposed amendment affects the zoning classification of property, and in case a protest against such change is signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 300 feet from the street frontage of such opposite lots, then such amendments shall not become effective except by the favorable vote of three-fourths of the City Council.~~

(D) *Re-petitions for amendment.* No application for zoning amendments will be considered by the Planning Commission within 12 months from the date of final disapproval of a proposed amendment unless there is evidence submitted to the Planning Commission which justifies reconsideration.

(E) *Withdrawal.*

(1) *Before publication.* A petition for amendment may be withdrawn at any time before publication of the notice and posting signs for the public hearing.

(2) *After publication and posting of notice.* After the publication and posting of notice, the petition may be withdrawn at the discretion of the Planning Commission. If the petition is permitted to be withdrawn after the public hearing, it shall be in the Planning Commission's discretion whether or not a petition affecting part or all of the same property may be refiled sooner than one year from the date of withdrawal.

(Code 1965, App. A., Art. 12(1); Ord. No. 1747, 6-29-70; Ord. No. 2538, 7-3-79; Code 1991, §160.156; Ord. No. 2716, §1, 6-15-93; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)--Notification and Public Hearings, Ch. 157.

154.04-154.99 Reserved

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

CC: **Andrew Garner**, Senior Planner – Current Planning
Sondra Smith, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **June 18, 2012**

RE: **Update on §154.03 (C)(2) Petition opposed to rezoning**

HISTORY

My research reveals that this code section was enacted along with all other zoning and development code sections for the City during a Special Meeting of the City Board of Directors on June 29, 1970. The Board of Directors suspended the rules to get to the third and final reading at this Special Meeting. The minutes do not reflect any discussion or questions before Ordinance No. 1747 was passed unanimously. Current Code §154.03 (C) was on pages 85 and 86 of Ordinance No. 1747. During my six plus years as an Alderman and eleven plus years as City Attorney, I do not believe this section has ever been used in an attempt to require a super majority vote. I do not believe the City Board of Directors then nor the City Council now could require such a three-fourths vote to rezone property because it is probably beyond our statutory power to do so. Therefore I recommend the repeal of this probably illegal subsection of the UDC.

A.C.A. §14-55-203 **Voting requirements for passage -- Effective dates** is the general state statute detailing how many votes are needed to pass an Ordinance or resolution: "To pass any bylaw, ordinance, resolution, or order, a concurrence of a majority of a whole number of members elected to the council shall be required." There are a few specific exemptions to this rule (for example a two-thirds vote is required to pass a business license **tax**).

The state statutes are clear that an amendment to the zoning of a district shall be "by a majority vote of the city council." A.C.A. §14-56-423. Can the Board of Directors or City Council place more strenuous requirements for passage of a zoning amendment than specified in state law? I do not think so.

> "**[4-6]** Cities have no inherent authority to enact legislation. That authority is dependent upon the Constitution and the General Assembly. Municipal zoning authority is conferred solely by state enabling legislation. **Failure to comply with mandatory procedural requirements of the enabling statute renders a zoning ordinance invalid.**" *Brooks v. City of Benton*, 308 Ark. 571, 826 S.W. 2d 259, 261 (1992) (Citations omitted). (emphasis added)

Arkansas Attorney General David Pryor opined in Opinion NO. 2002-132: "**a municipality may not, by the adoption of procedural rules, deviate from the requirement of state law**. The procedure for the passage of municipal ordinances is a state, rather than a municipal affair." (emphasis added).

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §154.03 **PRIVATE PARTIES/ZONING AMENDMENT** TO CLARIFY THE POWERS OF THE PLANNING COMMISSION AND CITY COUNCIL WHEN A PROPERTY OWNER SEEKS REZONING

WHEREAS, the provision of §154.03 **Private Parties/Zoning Amendment** relating to the Planning Commission should clarify that it cannot approve a rezoning request, but only recommend approval to the City Council; and

WHEREAS, subsection (C) should be repealed as it does not comply with statutorily required procedures for approving a rezoning request.

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 §154.03 (B) of the Unified Development Code and enacts a replacement §154.03 (B) as shown below:

"§154.03 (B) *Action by Planning Commission.*

(1) The Planning Commission may forward the rezoning request as submitted or amended by the Planning Commission to the City Council with a recommendation of approval.

(2) The Planning Commission may disapprove the rezoning request so that the rezoning request will not be considered by the City Council unless the applicant properly appeals."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals §154.03 (C) and enacts a new (C) as shown below:

"(C) *Action by the City Council.*

(1) The City Council may by majority vote approve and enact the rezoning ordinance as recommended by the Planning Commission or as requested by the applicant who has properly appealed the Planning Commission's denial of the requested rezoning.

(2) The City Council may amend the proposed rezoning request and approve such amended rezoning ordinance by majority vote.

(3) The City Council may refuse to approve the rezoning request which is thereby denied.

(4) The City Council can by motion return the proposed rezoning to the Planning Commission for further study and recommendation.

PASSED and **APPROVED** this 17th day of July, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

Handed out at the City Council Meeting 7-17-12

City Clerk - Fwd: PZD ordinance change

From: Alan Long
To: , City Clerk
Date: 7/17/2012 4:01 PM
Subject: Fwd: PZD ordinance change
CC: mayor , , , , Justin Tennant , Bob Ferrell , Rhonda Adams , Sarah Lewis , Sarah Lewis , Matthew Petty

---

Kit, please see below. I believe that there may be some confusion regarding the ammendment that you have brought forward. In your memo to the city council and the mayor it states, "...I do not believe this section has ever been used in an attempt to require a super majority vote."
If you read the email below, you will recall that we specificially asked if this section could prevent a PZD. This was during the time when the 5 person ordinance was being considered and the Marinoni property development was being discussed along with project Cleveland.
Our neigborhood specifically intends to use this section of the UDC. I ask that the council not change this section of the code. It would be inproper to change the code during a time when residents have asked if this code can be applied to protect their property.
Best Regards,

Alan Long
Ward 4 resident
Waterman Woods.

> **From:** "Kit Williams" <kwilliams@ci.fayetteville.ar.us>
> **Date:** April 18, 2012 4:41:52 PM CDT
> **To:** "kay steven@rockhouselaw.com" <kay steven@rockhouselaw.com>
> **Cc:** Andrew Garner <agarner@ci.fayetteville.ar.us>, Jeremy Pate <jpate@ci.fayetteville.ar.us>, steven kay <steven@rockhouselaw.com>
> **Subject: Re: PZD ordinance change**
>
> Steve,
> As Alan has informed me that you represent him, I must direct my answer to you. The Unified Development Code speaks for itself. However, it appears to me that this section (which I have never seen used before) would apply to all zoning actions which should include a Planned Zoning District which does have an explicit zoning component.
> Please keep in mind that zoning regulations are always construed in favor of the Property owner and against the City. Language in this section "those immediately adjacent in the rear thereof" seem to limit those who may object rather strangely. It will be difficult to construe the intended meaning of this language.
> Kit
>
> Kit Williams, Fayetteville City Attorney
> (479) 575-8313
> FAX (479) 575-8315
> 113 West Mountain
> Fayetteville, AR 72701

Alan Long <alanthomaslong@gmail.com> 4/18/2012

11:38 AM >>>

Does the following (154.03)(c)(2) apply to the PZD process for each approved PZD that comes before the city council?

(2)

*Vote. *When a proposed amendment affects the zoning classification of property, and in case a protest against such change is signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 300 feet from the street frontage of such opposite lots, then such amendments shall not become effective except by the favorable vote of three-fourths of the City Council.

--
Alan
479.466.8219

--
Alan Long
Ward 4 resident
Waterman Woods.

Amend 154.03 Private Zoning Amendment

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

FROM: **Kit Williams**, City Attorney

DATE: **July 12, 2012**

RE: **State Statutory Procedural Rules To Adopt Ordinances Must Be Obeyed**

I understand there is still some question about the legal need to repeal §154.03 (C)(2) of the Unified Development Code. This section reads as follows:

> "*Vote.* When a proposed amendment affects the zoning classification of property, and in case a protest against such change is signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 300 feet from the street frontage of such opposite lots, then such amendments shall not become effective except by the favorable vote of three-fourths of the City Council." §154.03 (C)(2)

By requiring a 75% super majority to pass a rezoning ordinance if a proper opposition petition has been presented, this U.D.C. Code section directly conflicts with at least three State statutes. State law provides that a rezoning amendment shall be "made in conformance with the procedure prescribed in §14-56-422, or by **majority vote** of the City Council." A.C.A. §14-56-423 **Change in plans, etc.** (emphasis added).

A.C.A. §14-56-422 **Adoption of plans, ordinances and regulations** states that the ordinances recommended by the Planning Commission to the City Council may be adopted by the City Council "by a **majority vote of the entire**

membership" and that "nothing in this subchapter shall be construed to limit the city council's authority to recall the ordinances … by **a vote of majority of the council**. (emphasis added).

Therefore both of the statutes that prescribe the procedure for the adoption of the zoning code (§14-56-422) and amendment of that code and all rezoning (§14-56-423) clearly specify that the permissible procedure for passage will be "by a **majority** vote of the city council."

The general State statute which prescribes the procedure for passing all ordinances by city councils also requires a simply majority.

"To pass any … ordinance …, a concurrence of a **majority** of a whole number of members elected to the council shall be required." A.C.A. §14-55-203 **Voting requirements for passage – Effective dates** (emphasis added).

With these State statutes requiring a majority vote to pass an ordinance, can the city council require 75% rather than a simple majority? The answer is "No".

In my initial memo to you, I quoted the Arkansas Supreme Court in *Brooks v. City of Benton*, 308 Ark. 571, 826 S.W. 2d 259, 261 (1992) holding that the earlier quoted statutory procedural requirements are **MANDATORY** and must be complied with. Adopting a conflicting procedural rule that a 75% super majority is needed for passage rather than a simple majority is not legally allowed.

> "Cities have no inherent authority to enact legislation. That authority is dependent upon the Constitution and the General Assembly. Municipal zoning authority is conferred solely by state enabling legislation. **Failure to comply with mandatory procedural requirements of the enabling statute renders a zoning ordinance invalid**." *Id.* (emphasis added).

This has been a consistent holding by the Arkansas Supreme Court. For example in *Osborne v. City of Camden*, 301 Ark. 420, 784 S.W. 2d 596, 597 (1990), the Arkansas Supreme Court stated: "Municipal zoning authority is conferred solely by State enabling legislation (such as A.C.A. §§14-56-422 and 423). **Failure to comply with a mandatory procedural requirement of the enabling statute renders a zoning ordinance invalid**." (citations omitted). (emphasis added).

In an issue of how a rezoning ordinance must be adopted to be valid, the Arkansas Supreme Court stated:

> "As we read the statutes, §14-56-423 is controlling, and it permits a change in the zoning plan, or **rezoning, by 'majority vote** of the city council' …." *Russellville v. Banner Real Estate*, 326 Ark. 673, 933 S.W. 2d 803, 805 (1996) (emphasis added).

Thus, we must follow state law and state law prescribes votes by a majority (not 75%) of the City Council to pass a rezoning ordinance.

ARKANSAS ATTORNEY GENERAL OPINIONS

Arkansas Attorney Generals have interpreted the clear holdings of the Arkansas Supreme Court on the requirement to follow State statutory procedure not only for passage of ordinances, but in other similar contexts. I quoted Arkansas Attorney General Pryor's Opinion No. 2002-132 in my earlier memo to you: **"a municipality may not, by adoption of procedural rules, deviate from the requirements of state law."** (page 2, emphasis added). Let me provide you with a longer explanation from that same Arkansas Attorney General Opinion:

> "State law sets the requisite majority requirement for passage of such matters. A municipality may not adopt local procedural rules that conflict with the requirements of state law. I will also point out that the procedure for the passage of ordinances by a municipality is not a 'municipal affair' under A.C.A. §14-43-601 (a)(0), but is rather a 'state affair' subject to the general laws of the state. A municipality may not, therefore, deviate from state law on this issue." *Id.* at page 3

Arkansas Attorney General Mark Pryor's Opinion is in agreement with both earlier and more recent Arkansas Attorney General Opinions. For example when the City of Conway sought to make the civil service promotion process "more strict" than the statutory process, the Arkansas Attorney General opined such an effort would not be allowed.

> "Cities are prohibited by state law from enacting any ordinance that is inconsistent with or contrary to state law." Arkansas Attorney General Opinion No. 99-055, page 1

> "(I)t is clear under state law that city ordinances – whether more stringent or less stringent than state law – must be consistent with and not contrary to state law." *Id.* at page 2

Since §154.03 (C)(2) conflicts with state law by requiring a much greater super majority to pass a rezoning ordinance than the simple majority required by state law, this code section must be repealed and is not enforceable.

> "Because Conway City Ordinance 2.28.06, No. 6 directly conflicts with this requirement of state law, I must conclude that it is impermissible under Article 12, §4 of the Arkansas Constitution, and under the various statutes limiting cities' authority to the requirements and parameters of state law." *Id* at pages 2-3

A very recent Arkansas Attorney General Opinion (No. 2011-064) agrees with these earlier opinions. This opinion deals with state mandated procedure for a mayor to employ when issuing a veto of a ordinance or resolution. The Pine Bluff City Council had enacted a procedural requirement which would have required an earlier presentation to the City Council of the Mayor's written reasons for vetoing an ordinance than is required by statute. Arkansas Attorney General Dustin McDaniel responded that "the ordinance conflicts with state law and is consequently unenforceable." (page 1). The Attorney General explains his response later in his Opinion.

> "In my opinion, given that the legislature has clearly delineated the mayor's procedural obligations following a veto, it is equally clear that the city council cannot burden the major beyond these statutory obligations. Simply stated, a mayor is obliged to observe only the statutory procedural formalities, which cannot be enhanced by city ordinance.
>
> > 'Municipalities are creatures of the legislature and as such have only the powers bestowed upon them by statute or the constitution. ... **The validity of a city**

> **ordinance thus depends upon the authority granted by the legislature or constitution.'** (citations omitted, emphasis in original).
>
> "In the present case, the legislature has unambiguously stated what a mayor is obliged to do following a veto. A city council cannot by ordinance enhance that obligation." *Id.* at page 4

CONCLUSION

As I stated in my memo of June 18, 2012 to you, §154.03 (C)(2) clearly conflicts with at least three State statutes that mandate only a **majority** of the City Council is needed to pass a rezoning amendment. Because §154.03 (C)(2) would sometimes require a 75% super majority in conflict with these State statutes, §154.03 (C)(2) is unenforceable and should be repealed. All of the decisions of the Arkansas Supreme Court and all of the Arkansas Attorney General Opinions that I could find relevant to this issue agree that "**a municipality may not, by adoption of procedural rules, deviate from the requirement of State law.**" Arkansas Attorney General Opinion No. 2002-132.

I do not believe that the issue of trying to apply or enforce §154.03 (C)(2) had come up during either my Alderman years (1992-1998) or my service as City Attorney (2001 to date) prior to the Cleveland Street Project. When it was brought to my attention that someone might attempt to use §154.03 (C)(2) to require a 75% super majority, I analyzed and researched this old (and unused) code section and determined it was unenforceable because it conflicts with State law. That is why I have presented the City Council with a revised §154 to remove this invalid subsection as well as to clarify and simplify the procedural options for the Planning Commission and City Council when dealing with proposed rezoning amendments.

Handed out at Agenda Session 8/28/12

Fayetteville ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

CC: **City Clerk Sondra Smith**
Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

FROM: **Kit Williams**, City Attorney

DATE: **August 24, 2012**

RE: **Attorney General Opinion No. 2012-106 affirms opinion on UDC rezoning ordinance approval requirement**

Senator Sue Madison requested an Attorney General's Opinion concerning my opinion that Section 154.03(C)(2)'s requirement for a ¾ supermajority City Council vote to rezone land was not authorized by state law and thus invalid. Yesterday, Arkansas Dustin McDaniel issued Opinion No. 2012-106 (attached) which concurred with my analysis. He stated: "a city council cannot enact a supermajority vote requirement."

As we have now received the Attorney General's Opinion on this subject, I believe that this item is automatically taken off the table to be considered at your next meeting,

Opinion No. 2012-106

August 23, 2012

The Honorable Sue Madison
State Senator
573 Rock Cliff Road
Fayetteville, Arkansas 72701-3809

Dear Senator Madison:

This is my opinion on your questions about municipal voting requirements:

1. May a city council enact an ordinance requiring a supermajority vote to enact certain other ordinances?

2. Does a statute that requires an ordinance to be approved by a "majority of the entire membership" of a city council state "a minimum standard or a maximum standard?"

RESPONSE

In my opinion, a city council may not enact an ordinance requiring a supermajority vote to enact ordinances, and a statute using the language you recite would state both minimum and maximum standards.

Question 1 - May a city council enact an ordinance requiring a supermajority vote to enact certain other ordinances?

A predecessor in this office considered a substantially identical question and concluded that a city council cannot enact a supermajority vote requirement:

> Municipal corporations are not authorized to pass any law contrary to the general laws of the state. Ark. Const. art. 12, § 4. Arkansas Code of 1987 Annotated § 14-43-601(a)(1)(O) excepts from municipal affairs the

> "[p]rocedure for the passage of ordinances by the governing body." This procedure is a state affair and is subject to the general laws of the state. Under A.C.A. § 14-55-203(b), "a concurrence of a majority of a whole number of members elected to the council" is required to pass any ordinance.

Op. Att'y Gen. 91-362.

I agree with my predecessor's reasoning and conclusion.

Question 2 – Does a statute that requires an ordinance to be approved by a "majority vote of the entire membership" of a city council state "a minimum standard or a maximum standard?"

As implied by the answer to your first question, it is my view that such a statute states both minimum and maximum standards. It states a minimum standard in that an ordinance is not enacted unless approved by a majority of the entire membership – not just a majority of those present or of a quorum. It states a maximum standard in that the General Assembly has dictated to cities that a majority of the entire membership will prevail, that a minority of the council may not prevent an ordinance's passage.

My predecessor explained one aspect of the maximum standard:

> [Any] requirement of a three-quarter majority vote may be construed by implication to curtail the power of a legislative body to undo by majority vote what it has been empowered to do by majority vote. The requirement of a three-quarter majority vote might be construed, depending on the circumstances, as an amendment to or modification of a previously enacted tax or law. It is a settled rule of law that whatever a municipal government may do by a majority vote, it may undo by a majority vote, absent constitutional or statutory restrictions.

Id.

Assistant Attorney General J. M. Barker prepared this opinion, which I approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:JMB/cyh

Agenda Session 8/28/12 - Fayetteville Taxi, LC, Public Convenience Necessity

Permitted Taxi Companies (Oldest to Newest)	# 2012 of Driver Permits Issued	# 2012 Driver Permits Denied	# of 2012 Taxis Inspected
Dynasty Cab-Brice Curry, Approved 6-1-05	41	2	19
NWA Cab-Joe Washington, Approved 7-3-07	20	4	6
Down Under Cab-Jason Campbell, Approved 2-3-09	15	2	4
Green Cab-Brad Audrain, Approved, 12-6-11	18	1	4
A to Z Cab- Jason Johnson, Approved 5-15-12	3	0	2
Totals	97	9	35

Fayetteville
ARKANSAS

www.accessfayetteville.org

Office of the City Clerk Treasurer
113 West Mountain
Fayetteville, AR 72701
Phone: (479) 575-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

August 24, 2012

Mr. Stewart Larrabee
2566 W. Mount Comfort Road #10
Fayetteville, AR 72704

RE: Certificate of Public Convenience and Necessity
Fayetteville Taxi LC

Dear Mr. Larrabee,

Notice is hereby given that a Public Hearing will be held on September 4, 2012 regarding your application for a Certificate of Public Convenience and Necessity. The Public Hearing will be at the City Council meeting on **September 4, 2012**. The meeting will begin at 6:00 p.m. in Room 219 of the City Administration Building, 113 West Mountain, Fayetteville, AR. A copy of the September 4, 2012 City Council agenda is enclosed.

Sincerely yours,

Sondra E. Smith

Sondra E. Smith
City Clerk Treasurer

City Clerk - Explanation of the two previous emails from Fayetteville Taxi LC

From: Fayetteville Taxi <fayettevilletaxi@gmail.com>
To: <city_clerk@ci.fayetteville.ar.us>, <jharter@ci.fayetteville.ar.us>
Date: 8/24/2012 12:27 AM
Subject: Explanation of the two previous emails from Fayetteville Taxi LC
CC: <fayettevilletaxi@gmail.com>

To: Office of the City Clerk & Sgt. J Harter

From: **Fayetteville Taxi LC**, Stewart Larrabee
Date: August 24, 2012, 12:08a.m.
Re: Two sets of emails; hardcopy's mailed yesterday
This is a brief explanation of why there are 2 different emails with attachments in your inboxes around the 11p.m. timeframe for yesterday August 23, 2012.
I had set-up a bulk email to all of the needed Taxi and Pedicab operators with the required Notice and supporting documentation, however, I made an error on at least one email address that was immediately returned as defective. That email was to Fayetteville Pedicab Company. That first email was CC'd to the City Clerks Office and Sgt. J. Harter.
A correct email address was located and the required Notice and supporting documentation was transmitted in a second email only to that principal, and it was also CC'd to the City Clerks Office and Sgt. J. Harter.
Additionally, yesterday August 23, 2012, paper hard copy's were mailed to all of the Taxi and Pedicab company's. All were sent Certified with Return Receipt.
Sorry for the oops.
Sincerely,
Stewart Larrabee
Fayetteville Taxi LC
954-829-7961

==========
Email Batch #1
to: toddgilmor@yahoo.com, downundertrucking@hotmail.com, currysinc@gmail.com, joew@nwataxi.com, monty@nwataxi.com, brad@ridegreencab.com, kallen@firstnationaltitle.net, daniel337017@yahoo.com
cc: city_clerk@ci.fayetteville.ar.us, jharter@ci.fayetteville.ar.us, fayettevilletaxi@gmail.com

==========
Email Batch #2
to: ridefpc@yahoo.com
cc: city_clerk@ci.fayetteville.ar.us, jharter@ci.fayetteville.ar.us, fayettevilletaxi@gmail.com

END.

City Clerk - Public Hearing, Certificate of Public Convenience and Necessity...Correction 1

From: Fayetteville Taxi <fayettevilletaxi@gmail.com>
To: <ridefpc@yahoo.com>
Date: 8/23/2012 11:39 PM
Subject: Public Hearing, Certificate of Public Convenience and Necessity...Correction 1
CC: <city_clerk@ci.fayetteville.ar.us>, <jharter@ci.fayetteville.ar.us>, <fayettevilletaxi@gmail.com>
Attachments: Chapter 117.pdf; Fayetteville Taxi LC Agenda Item.xps; City Council Tentaive Agenda for September 04 2012.xps

---

FayettevIlleTaxiLC
Stewart Larrabee
2556 W. Mt Comfort Rd., #10
Fayetteville, AR 72704

August 23, 2012 – ***Correction #1***
TO: Fayetteville Arkansas Taxi & Pedicab License/Permit Holders:
RE: Public Hearing
Certificate of Public Convenience and Necessity
Fayetteville Taxi LC
Dear Fayetteville Pedicab Company:
An email was returned with a defective email address.
The incorrect email address was toddgilmor@yahoo.com, which was intended for Fayetteville Pedicab Company. The correct email address is ridefpc@yahoo.com.
Please find the orginal notice and attachments below.
Please excuse any inconvenience.
Sincerely,
Stewart Larrabee
Stewart Larrabee
Fayetteville Taxi LC
BCC
Current Contact Information as of August 23, 2012 – **Correction #1**
Main Street Pedal Cab No Email No Drivers Listed
James & Nina Mason **Possibly Not Operating**
PO Box 7646
Springdale, AR 72766
Fayetteville Pedicab Company ridefpc@yahoo.com No Drivers Listed
Jason R Sexton **Possibly Not Operating**
303 S. Gregg
Fayetteville, AR 72701
Downunder Taxi downundertrucking@hotmail.com
Jason Campbell
808 Almoo St
Lowell, AR 72745
Dynasty Cab Company currysinc@gmail.com

Brice Curry
1428 N. College
Fayetteville, AR 72703
NWA Taxi joew@nwataxi.com
Joe Washington monty@nwataxi.com
997 Happy Trails Dr., Suite D14
Rogers, AR 72756
Green Cab Co brad@ridegreencab.com
Brad Audrain
609 W. Dickson Suite 112
Fayetteville, AR 72701
A to Z Taxi kallen@firstnationaltitle.net
Jason Johnson
2650 S. School
Fayetteville, AR 72701
A to Z Taxi daniel337017@yahoo.com
Jason Johnson
11792 Donnie Jackson Pit Rd.
Summers, AR 72769
City Council city_clerk@ci.fayetteville.ar.us
City of Fayetteville
c/o Office of the City Clerk Treasure
Sondra E. Smith
113 West Mountain
Fayetteville, AR 72701

---------- Forwarded message ----------
From: **Fayetteville Taxi** <fayettevilletaxi@gmail.com>
Date: Thu, Aug 23, 2012 at 11:01 PM
Subject: Public Hearing, Certificate of Public Convenience and Necessity...
To: toddgilmor@yahoo.com, downundertrucking@hotmail.com, currysinc@gmail.com, joew@nwataxi.com, monty@nwataxi.com, brad@ridegreencab.com, kallen@firstnationaltitle.net, daniel337017@yahoo.com
Cc: city_clerk@ci.fayetteville.ar.us, jharter@ci.fayetteville.ar.us, fayettevilletaxi@gmail.com

FayettevlleTaxiLC
Stewart Larrabee
2556 W. Mt Comfort Rd., #10
Fayetteville, AR 72704

August 23, 2012
TO: Fayetteville Arkansas Taxi & Pedicab License/Permit Holders:
RE: Public Hearing
Certificate of Public Convenience and Necessity
Fayetteville Taxi LC
Dear Taxi or Pedicab Owner:

Notice is hereby given that a Public Hearing will be held on September 04, 2012 regarding an application for a Certificate of Public Convenience and Necessity for the following proposed Fayetteville Taxi Cab Company:

Fayetteville Taxi LC

The Public Hearing will be on the City Council Agenda for the September 04, 2012 City Council meeting. The meeting will begin at 6:00p.m. in Room 219 of the City Administration Building, 113 West Mountain, Fayetteville, AR.

Attached are the following documents:

Website linked Documents in italics:

Current Contact Information as of August 23, 2012

No web link

City Code Chapter 117

http://www.accessfayetteville.org/government/city_clerk/documents/code_book/chapter%20117.pdf

Fayetteville Taxi LC Agenda Item

http://accessfayetteville.granicus.com/MetaViewer.php?view_id=2&event_id=72&meta_id=47992

City Council Tentative Agenda for September 04, 2012

http://accessfayetteville.granicus.com/GeneratedAgendaViewer.php?view_id=2&event_id=72

Sincerely,

Stewart Larrabee

Stewart Larrabee
Fayetteville Taxi LC
BCC

Current Contact Information as of August 23, 2012

Main Street Pedal Cab No Email No Drivers Listed
James & Nina Mason **Possibly Not Operating**
PO Box 7646
Springdale, AR 72766

Fayetteville Pedicab Company toddgilmor@yahoo.com No Drivers Listed
Jason R Sexton **Possibly Not Operating**
303 S. Gregg
Fayetteville, AR 72701

Downunder Taxi downundertrucking@hotmail.com
Jason Campbell
808 Almoo St
Lowell, AR 72745

Dynasty Cab Company currysinc@gmail.com
Brice Curry
1428 N. College
Fayetteville, AR 72703

NWA Taxi joew@nwataxi.com
Joe Washington monty@nwataxi.com
997 Happy Trails Dr., Suite D14
Rogers, AR 72756

Green Cab Co brad@ridegreencab.com
Brad Audrain
609 W. Dickson Suite 112

Fayetteville, AR 72701
A to Z Taxi kallen@firstnationaltitle.net
Jason Johnson
2650 S. School
Fayetteville, AR 72701
A to Z Taxi daniel337017@yahoo.com
Jason Johnson
11792 Donnie Jackson Pit Rd.
Summers, AR 72769
City Council city_clerk@ci.fayetteville.ar.us
City of Fayetteville
c/o Office of the City Clerk Treasure
Sondra E. Smith
113 West Mountain
Fayetteville, AR 72701

City Clerk - Public Hearing, Certificate of Public Convenience and Necessity...

From: Fayetteville Taxi <fayettevilletaxi@gmail.com>
To: <toddgilmor@yahoo.com>, <downundertrucking@hotmail.com>, <currysinc@gmail.com>, <joew@nwataxi.com>, <monty@nwataxi.com>, <brad@ridegreencab.com>, <kallen@firstnationaltitle.net>, <daniel337017@yahoo.com>
Date: 8/23/2012 11:02 PM
Subject: Public Hearing, Certificate of Public Convenience and Necessity...
CC: <city_clerk@ci.fayetteville.ar.us>, <jharter@ci.fayetteville.ar.us>, <fayettevilletaxi@gmail.com>
Attachments: Chapter 117.pdf; Fayetteville Taxi LC Agenda Item.xps; City Council Tentaive Agenda for September 04 2012.xps

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FayettevlIleTaxiLC
Stewart Larrabee
2556 W. Mt Comfort Rd., #10
Fayetteville, AR 72704

August 23, 2012
TO: Fayetteville Arkansas Taxi & Pedicab License/Permit Holders:
RE: Public Hearing
Certificate of Public Convenience and Necessity
Fayetteville Taxi LC
Dear Taxi or Pedicab Owner:
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Fayetteville Taxi LC
The Public Hearing will be on the City Council Agenda for the September 04, 2012 City Council meeting. The meeting will begin at 6:00p.m. in Room 219 of the City Administration Building, 113 West Mountain, Fayetteville, AR.
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Fayetteville Taxi LC Agenda Item
http://accessfayetteville.granicus.com/MetaViewer.php?view_id=2&event_id=72&meta_id=47992
City Council Tentative Agenda for September 04, 2012
http://accessfayetteville.granicus.com/GeneratedAgendaViewer.php?view_id=2&event_id=72
Sincerely,
Stewart Larrabee
Stewart Larrabee
Fayetteville Taxi LC
BCC

Current Contact Information as of August 23, 2012
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Fayetteville Pedicab Company toddgilmor@yahoo.com No Drivers Listed
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Downunder Taxi downundertrucking@hotmail.com
Jason Campbell
808 Almoo St
Lowell, AR 72745
Dynasty Cab Company currysinc@gmail.com
Brice Curry
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Fayetteville, AR 72703
NWA Taxi joew@nwataxi.com
Joe Washington monty@nwataxi.com
997 Happy Trails Dr., Suite D14
Rogers, AR 72756
Green Cab Co brad@ridegreencab.com
Brad Audrain
609 W. Dickson Suite 112
Fayetteville, AR 72701
A to Z Taxi kallen@firstnationaltitle.net
Jason Johnson
2650 S. School
Fayetteville, AR 72701
A to Z Taxi daniel337017@yahoo.com
Jason Johnson
11792 Donnie Jackson Pit Rd.
Summers, AR 72769
City Council city_clerk@ci.fayetteville.ar.us
City of Fayetteville
c/o Office of the City Clerk Treasure
Sondra E. Smith
113 West Mountain
Fayetteville, AR 72701

Handed out at Agenda Session 8/28/12
Hughmount Village Development
Sewer Extension

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

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

CC: **David Jurgens**, Utilities Director
Jeremy Pate, Development Services Director

FROM: **Kit Williams**, City Attorney

DATE: **August 28, 2012**

RE: **Allowing access to sewerage system to a developer of property near, but outside the city limits**

After I drafted the initial "bare bones" Resolution to permit the extension of our sewerage system to Hughmount Village Development for Alderman Gray, I researched the few previous times the City Council has allowed such extension of the sewerage system to out-of-town developers. It appears that the recent extension of service required the developers to pay all fees and develop their property as if they were developing within the City to ensure that we would not actually be favoring out-of-town developers over developers/owners of property within Fayetteville. If out-of-town developers could avoid all of the development requirements like tree preservation, drainage controls, impact fees, the preliminary plat process, building permit fees, etc. while still accessing the City's sewerage system, we would be giving such developers a financial incentive to build their subdivision out-of-town on the borders of our city.

Not only would this encourage sprawl, it would put our in-town property owners at a large financial disadvantage. Thus, I redrafted the proposed Resolution and drafted a proposed Contract To Allow Access To The City Of Fayetteville Sewerage System that would "level the playing field" for in-town and out-of-town developers. I recommend you replace my first "bare bones" Resolution with this detailed Resolution that only allows the developers to receive access to our sewerage system if they agree to be treated like in-town developers.

I have attached Resolution No. 76-06 of April 18, 2006, and its agreement for your reference as to how we have extended sewerage services in the past for an agreement to have the out-of-town development treated as if it were being developed within the City.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE CONTRACT WITH HUGHMOUNT VILLAGE DEVELOPERS TO ALLOW THE EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO THE PROPOSED HUGHMOUNT VILLAGE DEVELOPMENT

WHEREAS, §51.113 **Sewer Service and Extension Policy** states that "the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council," and;

WHEREAS, the City Council does not wish to grant the owners/developers of Hughmount Village which is slightly outside the city limits any advantage over owners/developers who will build and develop property within the City of Fayetteville; and

WHEREAS, only if the owners/developers of Hughmount Village will contractually agree to develop its property pursuant to all development criteria required of persons who develop within the City of Fayetteville {including preliminary and final plat process, approval and payment of appropriate fees, building permit fees, all impact fees (fire, police, water, sewer, parkland), tree preservation requirements, drainage requirements, infrastructure improvement and dedication to the City of Fayetteville, etc.} will the City permit the owners/developers of Hughmount Village to utilize the City of Fayetteville sewerage system and its wastewater collection and treatment facilities; and

WHEREAS, because by signing the contract (attached as Exhibit A) the owners/developers of Hughmount Village have agreed to all such terms stated above, the City Council approves the extension of city sewerage system to Hughmount Village by allowing its developers to construct the necessary sewer mains from the appropriate city sewer main to its property and approves the Contract.

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 Contract to Allow Access to the City of Fayetteville Sewerage System, authorizes Mayor Jordan to sign such contract, and agrees to allow the developers of Hughmount Village access to the City's sewerage system and wastewater treatment facilities pursuant to the Contract. Attached as Exhibit B is the legal description for Hughmount Village Development for which access to the City's wastewater treatment facilities is being granted.

PASSED and **APPROVED** this 21st day of August, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

EXHIBIT "A"

CONTRACT TO ALLOW ACCESS TO CITY OF FAYETTEVILLE SEWERAGE SYSTEM

WHEREAS, the developers/owners of Hughmount Village, whose project is close to, but outside the Fayetteville city limits, desire to be allowed to connect to and use the City of Fayetteville sewerage system's wastewater facilities for their proposed residential development; and

WHEREAS, the City of Fayetteville does not wish to grant owners/developers of Hughmount Village (or any similarly situated development) any advantage over owners/developers who will build and develop property within the City of Fayetteville; and

WHEREAS, the City of Fayetteville is willing to allow developers/owners of Hughmount Village to connect to and utilize the City's wastewater treatment facilities only upon the developers/owners' express agreement to develop their residential project pursuant to all City of Fayetteville requirements for inside the city residential projects including:

(1) All street frontage, density, lot area requirements, etc. as if their property was zoned Residential Single Family, four units per acre.

(2) Apply for and successfully complete the full preliminary plat/final plat process including payment of all appropriate fees.

(3) Comply with all grading, stormwater, tree preservation and other development requirements as if this development was occurring within the City of Fayetteville.

(4) Pay for all normal permits and application fees at the normal time including preliminary/final plat, building fees for each structure, impact fees (water, sewer, police, fire, parkland).

(5) Construct all infrastructure; streets, sidewalks, water and sewer mains to City of Fayetteville standards and dedicate to the City of Fayetteville (streets may be jointly dedicated to City and County).

HUGHMOUNT VILLAGE OWNERS/DEVELOPERS in consideration of being allowed to utilize the City of Fayetteville sewerage system and wastewater facilities for their proposed development do hereby agree to all terms and conditions stated above and promise to develop their property in full compliance with all requirements of the Unified Development Code as if their development was inside the city limits and zoned RSF-4.

Further developers/owners of Hughmount Village pledge and promise to seek immediate annexation into the City of Fayetteville as soon as it becomes legally possible and to place this requirement within the covenants and deeds for each property within its development.

In agreement with all the terms, conditions, pledges and promises above, the City of Fayetteville and the owners/developers of Hughmount Village sign below.

HUGHMOUNT VILLAGE DEVELOPERS/OWNERS

By: _____
Phil Phillips

Title: _____

Witness: _____

Name: _____

Date Signed: _____

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

Attest:

By: _____
Sondra E. Smith, City Clerk

Date Signed: _____

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: **Mayor Dan Coody**
Fayetteville City Council

THROUGH: **Gary Dumas, Operations Director**

FROM: **Tim Conklin, Planning and Development Management Director**

DATE: **March 31, 2006**

SUBJECT: **A Resolution To Allow Extension Of Sewer Service Outside The City's Corporate Limits On A 23-Acre Parcel On Lierly Lane Adjacent To The City Limits**

RECOMMENDATION

Staff recommends approval of the request to allow extension of sewer service outside the City's corporate limits on a 23-acre parcel known as Lierly Lane Subdivision located on Lierly Lane, adjacent to the city limits subject to the annexation agreement marked as Exhibit "B". The Fayetteville Sewer Committee recommended this extension by a vote of 3-1.

BACKGROUND

The Fayetteville Planning Commission approved a preliminary plat for Lierly Lane Subdivision (59 lots) on July 11, 2005 within the Fayetteville Planning Area and adjacent to the City limits. At the time of plat approval, the applicant had proposed and designed a decentralized sewer system to serve the 59-lot development. At the time of platting, the staff report indicated single family homes to be built within the development.

The applicant has agreed to annex, pay impact fees, and develop in accordance with all City Unified Development ordinance requirements based on the development being in the City. The development is at a construction stage that requires the applicant to move forward with a decentralized sewer system or sewer prior to annexation.

The applicant is requesting zoning and conditional use approval, if annexed by City Council, to allow 16 lots be developed with duplexes and 43 lots be developed with single family homes.

§51.113 (c) of the Fayetteville Code of Ordinances states sewer connections shall not be extended outside the city's corporate limits except on express approval of the City Council.

The applicant, Blind Squirrel, LLC, has requested City Council grant its express approval to allow extension of sewer outside the City at the applicant's expense to access its development prior to annexation.

The agreement requires the owner to file for annexation within five days if the resolution is passed by City Council. In the event the annexation fails, this resolution will still allow the right for this development to connect to City sewer.

BUDGET IMPACT

The applicant has agreed to pay for all associated infrastructure cost, impact fees, and meet all city development requirements. This project will provide additional park fees and police, fire, and sewer impact fees.

RESOLUTION NO. 76-06

A RESOLUTION TO ALLOW EXTENSION OF SEWER SERVICE OUTSIDE THE CITY'S CORPORATE LIMITS ON A 23 ACRE PARCEL ON LIERLY LANE ADJACENT TO THE CITY LIMITS

WHEREAS, § 51.113 (c) Sewer connections outside the city states that "the city's sewerage system shall not be extended outside the city's corporate limits except on express approval of the City Council"; and

WHEREAS, applicant Blind Squirrel, LLC has requested that the City Council grant its express approval to allow extension of City Sewer mains at the applicant's expense to access its 23 acre parcel south of Lierly Lane and adjacent to the City's corporate limits the legal description to such property being attached hereto as Exhibit A (the "Property"); and

WHEREAS, applicant has agreed that as a condition of granting this extension of sewer service, the 23 acre parcel will be developed in accordance with the terms and condition of that certain Annexation Agreement for Sewer on Lierly Lane for the City of Fayetteville, Arkansas, a copy which is attached hereto as Exhibit B (the "Contract"); and

WHEREAS, the City's sewer service to the Property shall be allowed regardless of whether annexation of the Property into the City is approved or denied by the City Council; and

WHEREAS, the applicant has agreed to petition for annexation into the City of Fayetteville in the manner described in the Contract; and

WHEREAS, the applicant agrees that any impact fees (now including water, sewer, fire, police, and parks land) including future enacted impact fees if in existence when development occurs shall be paid as if the parcel was within the city limits, and other fees will be paid at the time of final plat approval. The parks fee shall be set at the preliminary plat rate.

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 a resolution to allow extension of sewer service outside the City's corporate limits on a 23-acre parcel owned by the applicant Blind Squirrel, LLC south of Lierly Lane, adjacent to the City's corporate limits the legal description to such property being attached hereto as Exhibit A (the

"Property"), conditional upon the applicant or any successor in interest fully complying with and completing all offered conditions as shown in the Whereas clauses of this Resolution.

PASSED and **APPROVED** this 18th day of April, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER
CITY OF
FAYETTEVILLE
ARKANSAS
WASHINGTON COUNTY

EXHIBIT "A"

SURVEY DESCRIPTION OF PROPOSED LIERLY LANE SUBDIVISION:

PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND IRON PIN AT THE NORTHWEST CORNER OF SAID SW1/4 OF THE NE1/4; THENCE S02°22'20"W 31.51 FEET TO A FOUND IRON PIN AND THE POINT OF BEGINNING; THENCE S87°33'23"E 85.02 FEET; THENCE N02°33'29"E 31.70 FEET; THENCE S87°40'49"E 258.04 FEET; THENCE S87°38'53"E 308.06 FEET; THENCE S02°23'57"W 1538.07 FEET; THENCE N87°36'49"W 653.30 FEET; THENCE N03°05'59"E 220.99 FEET; THENCE N02°22'20"E 1285.00 FEET TO THE POINT OF BEGINNING, CONTAINING 22.92 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

EXHIBIT "B"

ANNEXATION AGREEMENT FOR SEWER ON LIERLY LANE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

For the purpose of attempting to obtain approval of a request for a Variance to the City of Fayetteville City Sewer Ordinance (the "Ordinance"), Blind Squirrel, LLC, an Arkansas limited liability company (the "Petitioner") being the current owner and developer of that certain real property and improvements thereon located in Washington County, Arkansas and more particularly described on Exhibit A attached hereto (the "Property"), hereby voluntarily enters into, executes and delivers to the City of Fayetteville, Arkansas ("Fayetteville") this Annexation Agreement for Sewer on Lierly Lane for the City of Fayetteville, Arkansas (the "Agreement") for the purpose of being legally bound hereto in accordance with its terms and conditions.

In exchange for Fayetteville irrevocably granting and conveying to Petitioner, its successors and assigns (collectively, the Owner") a Variance to the Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto, the Petitioner expressly grants to Fayetteville the right to enforce any and all of the terms of this Agreement in the Circuit Court of Washington County, Arkansas and agrees that if Owner or Owner's successors or assigns violate any term of this Agreement, substantial irreparable damage justifying injunctive relief will have been done to Fayetteville and its citizens. The Petitioner acknowledges that the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Agreement in considering whether to approve Petitioner's request for a Variance to the City Sewer Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto.

Subject to the terms and conditions of this Agreement and specifically provided that no later than April 30, 2006 the Fayetteville City Council approves Petitioner's Variance to the Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto, Petitioner hereby covenants and assures Fayetteville that the Owner shall be responsible for the following items and the Property shall be restricted in the following manner:

1. All fees and charges will be paid in full as if the subdivision developed within the Property were within Fayetteville, Arkansas. With respect to each separate lot within the subdivision located within the Property all of such fees and charges will be paid in accordance with the following current fee schedules:

Impact Fees	As water meters are set
Fire & Police Fees	At issuance of Certificate of Occupancy
Parks Fees	At Time of Annexation
Building Permits	As Construction progresses in the regular manner required by Fayetteville.

2. The Property shall be zoned as a modified RSF-4 with de-facto conditional uses allowing 16 duplexes on the lots shown on Exhibit B attached hereto. The development on the Property will consist of 16 duplexes and 43 single-family units. Lot Lines will be adjusted from the current plan to meet City minimums.

3. Owner will file for annexation within five days of the passage of the resolution.

4. Immediately upon passage of the resolution approving this Agreement and the Fayetteville City Council approving Petitioner's Variance to the Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto, and Owner completing its site work on the Property, Owner shall have all rights and privileges to, and shall be fully authorized to, commence any and all building and residential construction within the subdivision on the Property. All such construction will be to the regular and customary standards of Fayetteville and shall be subject to fair and customary inspection if such is determined, in good faith by Fayetteville, to be necessary and appropriate.

5. Notwithstanding anything contained in this Agreement to the contrary, the issuance and approval of the final plat of the development of the Property shall not be adversely affected, in any manner by, or withheld, delayed or conditioned in any manner whatsoever, as a result of the annexation of the Property into Fayetteville.

6. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Agreement shall be filed for record in the Washington County Circuit Clerk's office after Petitioner's Variance is approved and effective in the manner described in this Agreement and, provided such approval and effectiveness is obtained, shall be noted on any Final Plat or Large Scale Development which includes some or all of the Property.

7. This Agreement, and all of its terms and conditions, shall terminate automatically and without any act or deed, if prior to May 1, 2006, the Fayetteville City Council does not approve Petitioner's Variance to the Ordinance in such order as permits and provides that the Property shall be consistently tied on to, connected to and have the irrevocable right to use, the Fayetteville sewer system and related services thereto.

[Remainder of Page Intentionally Blank; Signatures on Following Page]

In Witness Whereof and in agreement with all the terms and conditions stated in this Agreement, Blind Squirrel, LLC, as the owner and developer of the Property voluntarily offer all such assurances and signs its name below.

BLIND SQUIRREL, LLC

By: _____

_____

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

And now on this the 30th day of March, 2006, appeared before me, Robert N. Schmitt and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the Annexation Agreement for Sewer on Lierly Lane for the City of Fayetteville, Arkansas and signed hi/her name above.

_____
Notary Public

My Commission Expires:

7-17-2008

"OFFICIAL SEAL"
CHRISTY L. KITCHEN
Notary Public, State of Arkansas
County of Washington
My Commission Exp. 07/17/2008

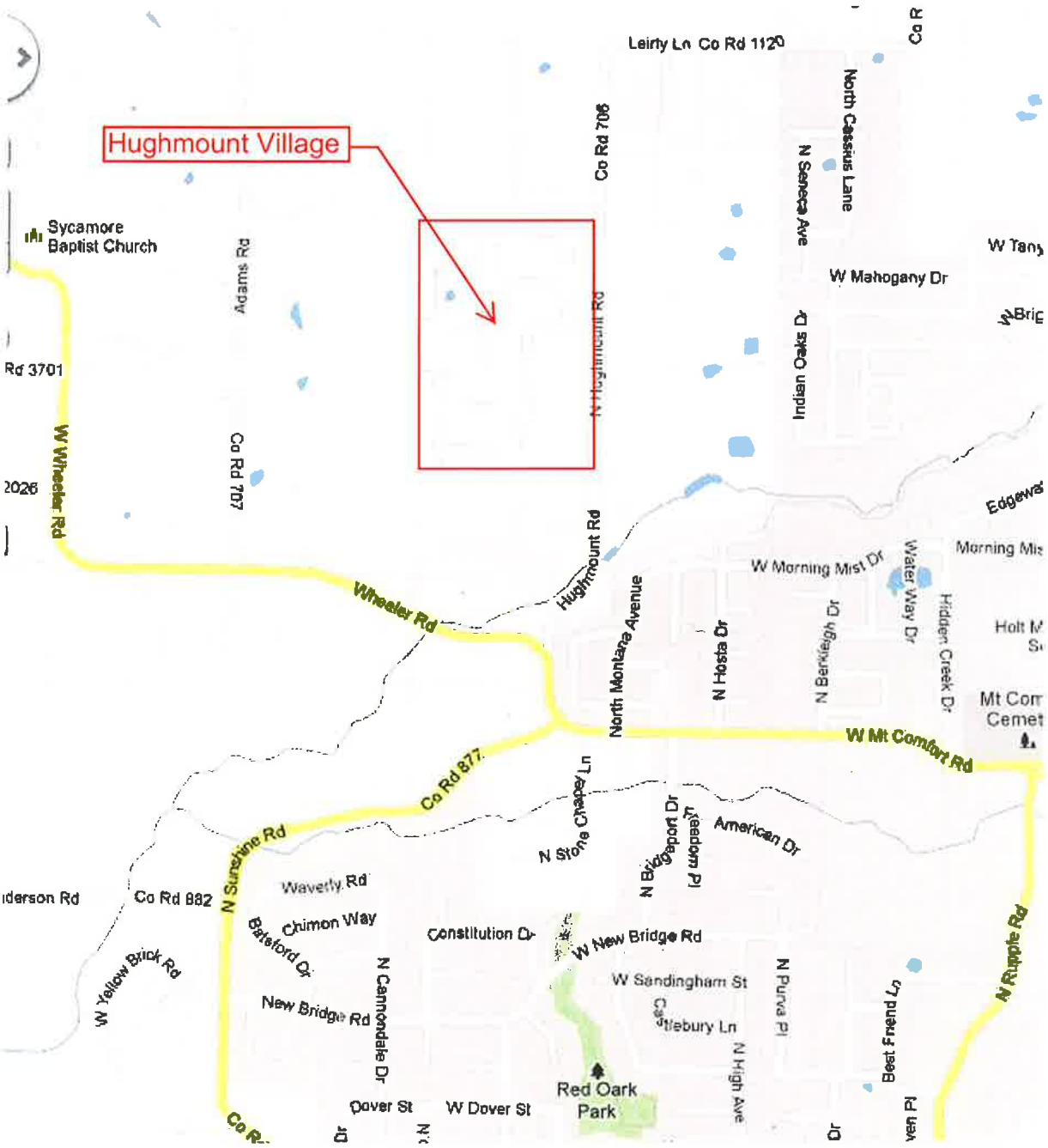
Sondra Smith - Hughmount Village

From: "Kim Hesse"
To:
Date: 8/29/2012 3:19 PM
Subject: Hughmount Village
CC:
Attachments:

Sondra – Attached is a vicinity map for Hughmount Village and a copy of the plat approved by Washington County's Planning Board in relation to a Conditional Use Permit. I also attached a packet I provided to the Sewer Committee when we first requested the committee consider allowing Hughmount Village to connect to the City's sewer system. If you need anything in addition to these documents, let me know and I will get you whatever you need.

Thanks

Kim J. Hesse, RLA
Engineering Design Associates, PA
479-756-1266 office
479-790-9705 mobile
www.eda-pa.com


Hughmount Village
Leirty Ln Co Rd 1120
Co Rd 706
North Cassius Lane
N Seneca Ave
W Mahogany Dr
Indian Oaks Dr
Sycamore Baptist Church
Adams Rd
Co Rd 707
Rd 3701
W Wheeler Rd
Wheeler Rd
Hughmount Rd
North Montana Avenue
N Hosta Dr
N Berkleigh Dr
W Morning Mist Dr
Water Way Dr
Hidden Creek Dr
W Mt Comfort Rd
Co Rd 877
N Sunshine Rd
N Stone Chapel Ln
N Bridgeport Dr
Pumpkin Pl
American Dr
Wavertly Rd
Co Rd 882
Chimon Way
Batsford Dr
Constitution Dr
W New Bridge Rd
N Yellow Brick Rd
New Bridge Rd
N Cannondale Dr
W Sandingham St
Castlebury Ln
N Purva Pl
N High Ave
Best Friend Ln
N Ruppole Rd
Red Oark Park
Dover St
W Dover St

Legend

PROJECT SUMMARY

TOTAL ACRES 58.29 ACRES
TOTAL LOTS 132 LOTS
DENSITY PER ACRE - 2.34 LOTS PER ACRE

TOTAL GREENSPACE 17.16 ACRES
COMMON PROPERTIES - 4.92 ACRES
To be maintained by Property Owners Association
CREEK/TREATMENT AREA 12.24 ACRES
Sewer to be Maintained by Class 2 Wastewater Operator
System to be Managed by Hughmount Village LLC

BUILDING SETBACKS - (Measured at the roof overhang)
LOTS 1-7, 44-57, 76-132
Front - 25'
Side - 10'
Side at ROW - 25'
Rear - 20'
ALLEY LOTS 8-43 (By Variance Request)
Front - 15'
Side - 10'
Side at ROW - 15'
Rear - 20
COTTAGE LOTS 58 - 75 (By Variance Request)
Front - 25'
Side - 5'
Side at ROW - 25'
Rear - 10'

UTILITY EASEMENTS
All Front and Rear Setbacks to be Utility Easements
Additional Easements per Franchise Co. requests

DRAINAGE OVERVIEW
All stormwater to be carried within the streets and in underground pipes. Lots to be graded to drain to street. Drainage pipes flow to existing creek, erosion control improvements to the creek will be proposed during plat review

VICINITY MAP

OWNER: HUGHMOUNT VILLAGE LLC

ENGINEER/SURVEYOR: ENGINEERING DESIGN ASSOCIATES, P.A.

HUGHMOUNT VILLAGE

WASHINGTON COUNTY, AR

EDA
Engineering Design Associates, P.A.
Springdale, Arkansas

ENGINEERING DESIGN ASSOCIATES, P.A.
134 WEST EMMA AVENUE
SPRINGDALE, ARKANSAS 72764
479-756-1266
FAX: 479-756-2129

June 7, 2012

Dr. Sarah Lewis, Ward 4
Fayetteville City Council
Fayetteville Sewer Committee
113 West Mountain
Fayetteville, AR 72701

RE: Public Sewer Connection Request
Hughmount Village Subdivision

Dr. Lewis:

Mr. Phil Phillips, managing partner for Hughmount Village LLC, respectfully requests approval to connect to Fayetteville's public sewer system. The affected development, Hughmount Village, is a 132 lot residential subdivision located on Hughmount Road approximately 650 linear feet from the city limit line near Mount Comfort Road. The subdivision, which was originally approved for construction in 2005, was designed with a self-contained sewer treatment system; a Submerged Fixed-Film Moving Bed Biological Reactor (MBBR) with drip dispersal. Due to the project's close proximity to the city's system, the maintenance required for a self-contained system, and the realization that the city limits will eventually expand to encompass this development and consequently tie the development onto the city sewer system in the future, Hughmount Village LLC is submitting this request.

We understand that the city administration and council are fundamentally opposed to allowing developments outside of the jurisdictional boundary from utilizing city facilities. Reducing impact to city funded facilities and curtailing dense development beyond city limits are among valid reasons for such opposition. We do feel, however, that Hughmount Village is an exception to most developments requesting similar access to facilities. The majority of this development has been constructed including the water system which will be dedicated to the City of Fayetteville, the sanitary sewer collection system, the subsurface drainage system, and all of the interior curbed streets. Due to the large investment that has already been expended into the development, there is great potential that this development will be completed regardless of how sanitary sewer will be treated.

Concern by residents and city officials that home owners outside of the city should not consume the capacity of the city's sewer system is reasonable. The southern boundary of Hughmount Village is approximately 580 linear feet from an existing 48" gravity line located just north of Mount Comfort Road. Based on the location of this development in relation to limits of the city, the design of the West Side Treatment Facility encompassed this development in the overall capacity of the system. The 132 residential lots designed within Hughmount Village will add approximately 39,600 gallons of average flow per 24 hour period in relation to the 10 million gallon per day the plant was designed to treat.

As developer of the subdivision, Mr. Phillips will be responsible for the operations and maintenance of the on-site treatment system and is prepared to fund such maintenance. Mr. Phillips is aware that these

types of systems are not cost effective until a certain number of households are connected. A substantial amount of funding is needed to install the treatment and dispersal system. Based on Washington County's ordinance concerning these systems, once a development is annexed into the City of Fayetteville, the city can require connection to the public sewer resulting in an inevitable loss in investment of the self-contained system.

The previous partners that developed this subdivision originally requested annexation which was denied due to lack of support by neighbors. Although many neighboring property owners have expressed their desire to remain in the County, Mr. Phillips is willing to annex into the city as soon as possible. Hughmount Village LLC is currently preparing to begin the preliminary plat process since their original approvals have expired. All current development codes will be followed and Mr. Phillips is more than willing to pay all fees related to hooking onto the city's sewer system. All construction to date has met City of Fayetteville specifications and the sewer collection system that already exists in the development has been inspected and tested per City requirements.

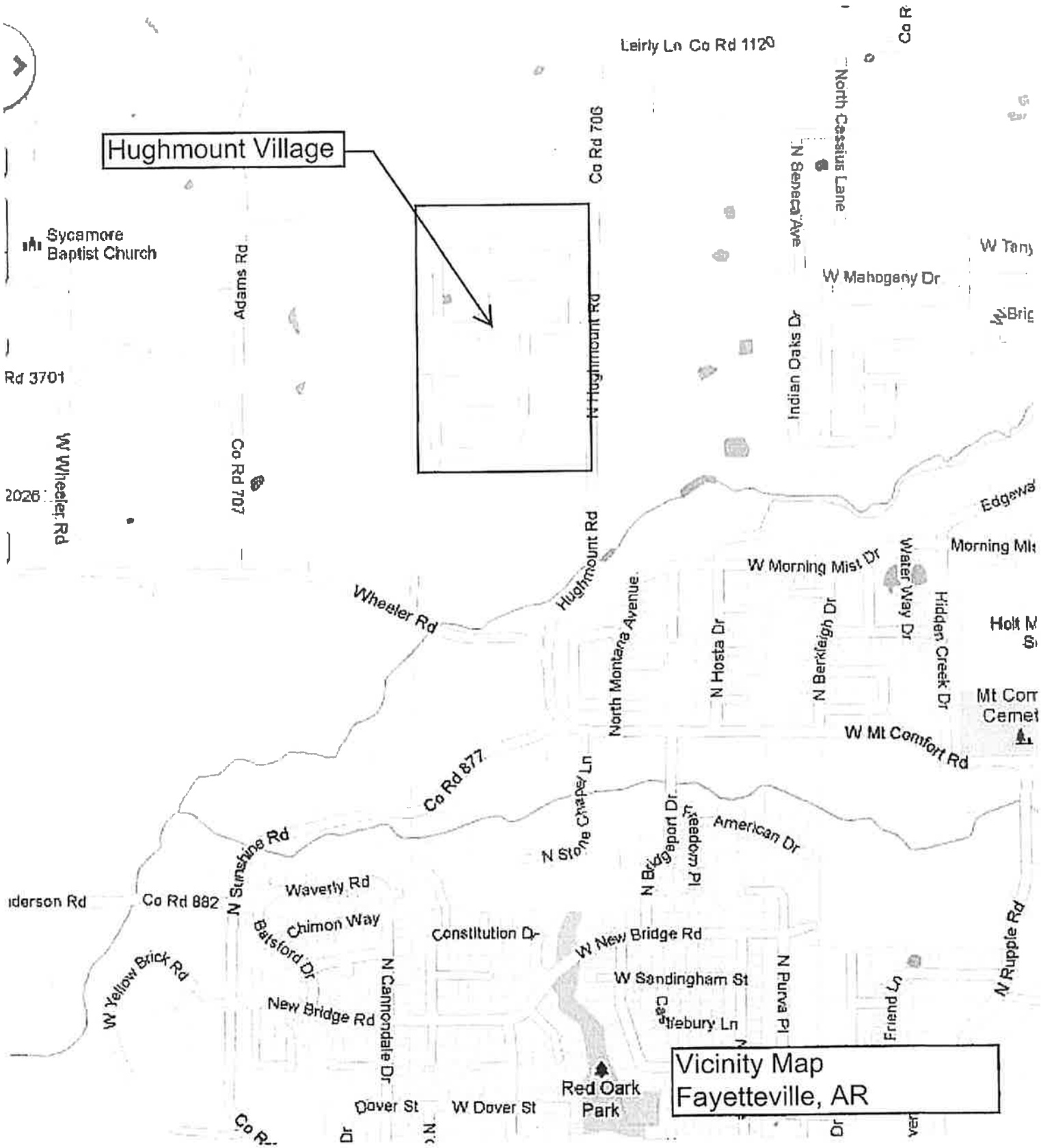
In conclusion, we hope to gain the support of the Sewer Committee to connect to the City's system and wish to be placed on the City Council's agenda to make such a request. Please feel free to contact us if you need additional information.

Respectfully,

Kim J. Hesse

Kim J. Hesse, RLA
Project Manager

Attachments: Vicinity Map
Hughmount Village Plat
Proximity Map to City Limits and Existing 48" line.
Summary of flow rate calculations


Hughmount Village
Leirly Ln Co Rd 1120
Co Rd 706
North Cassius Lane
N Seneca Ave
W Mahogany Dr
Indian Oaks Dr
Sycamore Baptist Church
Adams Rd
Rd 3701
W Wheeler Rd
Co Rd 707
N Hughmount Rd
Hughmount Rd
Wheeler Rd
W Morning Mist Dr
Water Way Dr
Hidden Creek Dr
North Montana Avenue
N Hosta Dr
N Berkleigh Dr
W Mt Comfort Rd
Co Rd 877
N Stone Chapel Ln
N Bridgeport Dr
Freedom Pl
American Dr
N Sunshine Rd
Co Rd 882
Waverly Rd
Chimon Way
Batsford Dr
Constitution Dr
W New Bridge Rd
W Yellow Brick Rd
New Bridge Rd
N Cannondale Dr
W Sandingham St
Castlebury Ln
N Purva Pl
Friend Ln
N Rupple Rd
Red Oak Park
Dover St
W Dover St
Vicinity Map
Fayetteville, AR

OWNER: HUGHMOUNT VILLAGE, LLC.

PROJECT SUMMARY

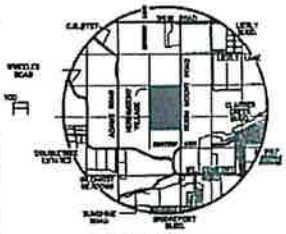
TOTAL ACRES 56.23 ACRES
TOTAL LOTS 132 LOTS
DENSITY PER ACRE – 2.34 LOTS PER ACRE

TOTAL GREENSPACE 17.16 ACRES
COMMON PROPERTIES – 4.92 ACRES
To be maintained by Property Owners Association
CREEK/TREATMENT AREA 12.24 ACRES
Sewer to be Maintained by Class 2 Wastewater Operator
System to be Managed by Hughmount Village LLC

DRAINAGE OVERVIEW
All stormwater to be carried within the streets and in underground pipes. Lots to be graded to drain to street. Drainage pipes flow to existing creek, erosion control improvements to the creek will be proposed during plat review.

Legend

- Subdivision Boundary
- Lot Line
- Alley Access Lot Cottage Lots
- Street Access Lot
- Green Space Lot
- Sidewalks Trails

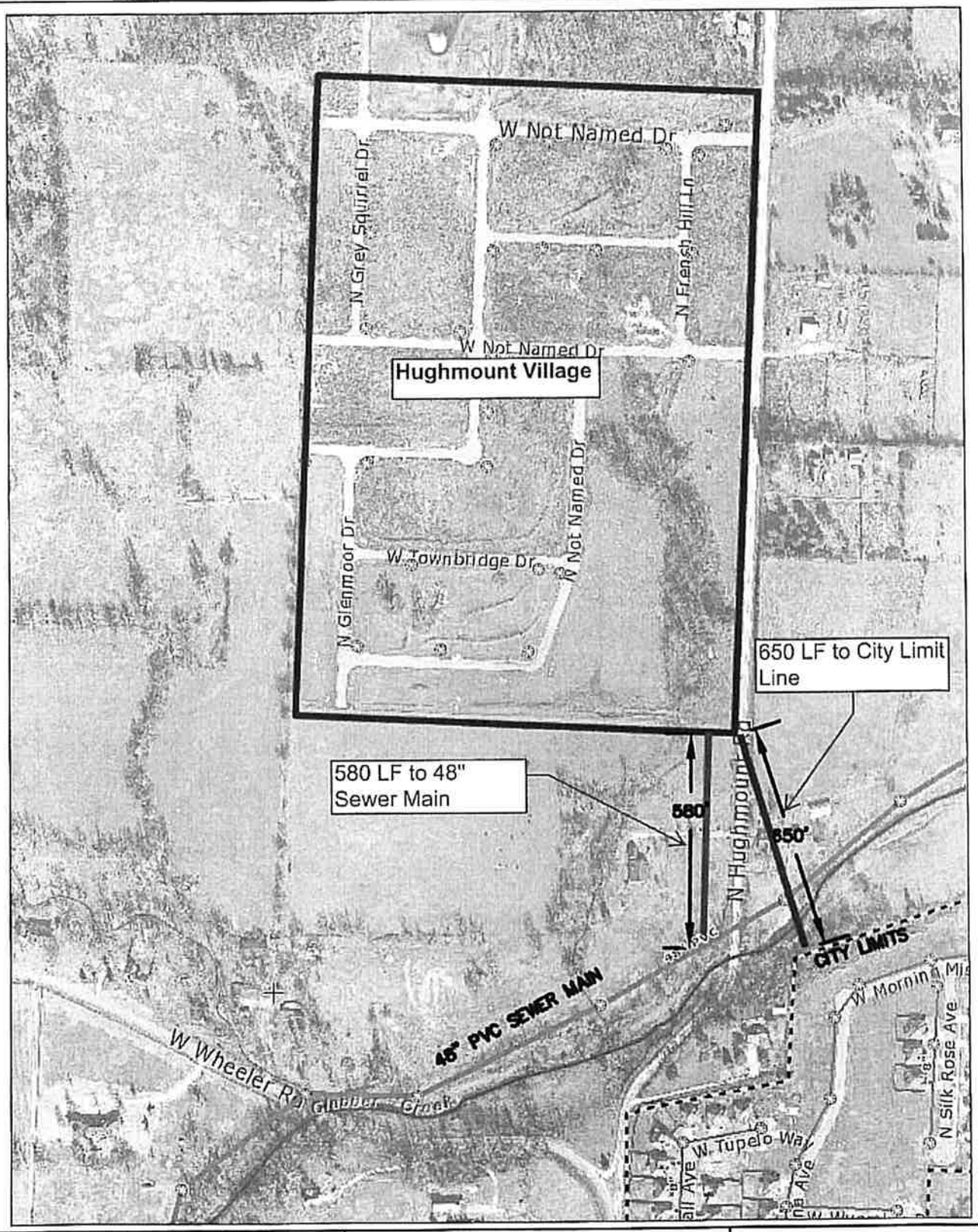


VICINITY MAP

HUGHMOUNT VILLAGE

WASHINGTON COUNTY, AR

EDA



SHEET 1 OF 1	NORTH	DRAWN BY: KJH CHECKED BY: DATE: 06-07-2012 SCALE: NTS JOB NUMBER: 1576+ FILE NAME: PROXIMITY.DWG	PROXIMITY MAP HUGHMOUNT VILLAGE FAYETTEVILLE, AR

EDA
Consulting Engineering
Landscape Architecture
Land Surveying
Engineering Design Associates, P.A.
134 W. DIANA
Springdale, Arkansas 72764
(501) 756-1366
Fax: (501) 756-2139

HUGHMOUNT VILLAGE SEWER CALCULATIONS:
Fayetteville, Arkansas

DESIGN CALCULATIONS
June 6, 2012

FLOW RATE CALCULATIONS:

Subdivision Name	Lots (#)	Persons per Lot (#)	Per Capita Flow (gpm)	Average Flow (gpm)	Qmax/ Qavg	Peak Flow (gpm)
Hughmount Village	132					
TOTAL LOTS	132	3.00	100.00	27.50	4.02	110.67
TOTAL PROJECTED FLOW RATE				27.50	4.02	110.67

Hughmount Village Sewer Connection Request
Benefits

- **City gains control of how sewer is treated.**
- **Land adjacent to Clabber Creek tributary will be left natural vs. being utilized for drip dispersal.**
- **City will gain impact fees with sewer connection.**
- **Saved costs from connecting development's collection system to public system in the future.**

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 21, 2012

A meeting of the Fayetteville City Council was held on August 21, 2012 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, Petty, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the August 7, 2012 City Council meeting minutes.

Approved

UNOFFICIAL

2012-2013 Edward Byrne Memorial Justice Assistance Grants: A resolution authorizing acceptance of the 2012-2013 Edward Byrne Memorial Justice Assistance Grants in the total amount of $197,333.59.

Resolution 163-12 as recorded in the office of the City Clerk.

2012 Justice Assistance Grant Local Solicitation Award: A resolution authorizing acceptance of a 2012 Justice Assistance Grant Local Solicitation Award in the amount of $72,707.00 for the Police Department, and approving a budget adjustment.

Resolution 164-12 as recorded in the office of the City Clerk.

Bid #12-57 Williams Tractor: A resolution awarding Bid #12-57 and authorizing the purchase of one (1) round baler from Williams Tractor of Fayetteville in the total amount of $27,203.00 for use by Wastewater Treatment.

Resolution 165-12 as recorded in the office of the City Clerk.

Bid #12-59 Williams Tractor: A resolution awarding Bid #12-59 and authorizing the purchase of two (2) Polaris Rangers with Kimtek transport units from Williams Tractor of Fayetteville in the total amount of $45,276.00 for use by the Fire Department, and approving a budget adjustment.

Resolution 166-12 as recorded in the office of the City Clerk.

Bid #12-63 Hilbilt Sales Corporation-Arkansas: A resolution awarding Bid #12-63 and authorizing the purchase of one (1) end dump trailer from Hilbilt Sales Corporation-Arkansas in the total amount of $43,361.00 for use by Wastewater Treatment, and approving a budget adjustment.

Resolution 167-12 as recorded in the office of the City Clerk.

Bid #12-64 Warrior of Arkansas: A resolution awarding Bid #12-64 and authorizing the purchase of one (1) articulated wheel loader from Warrior of Arkansas, Inc. in the total amount of $119,950.00 for use by Wastewater Treatment, and approving a budget adjustment.

Resolution 168-12 as recorded in the office of the City Clerk.

Solid Waste Agreement Extensions: A resolution approving one (1) year extension agreements with Deffenbaugh Industries, Hog Box and Waste Management of Northwest Arkansas to haul and dispose of solid waste and recycling in the city.

Resolution 169-12 as recorded in the office of the City Clerk.

UNOFFICIAL

Animal Services Donation Revenue: A resolution approving a budget adjustment in the amount of $14,655.00 representing donation revenue to Animal Services for the second quarter of 2012.

Resolution 170-12 as recorded in the office of the City Clerk.

Alderman Lewis moved to approve the Consent Agenda as read. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent during the vote.

Unfinished Business:

Amend §154.03 Private Parties/Zoning Amendment: An ordinance to amend §154.03 Private Parties/Zoning Amendment to clarify the powers of the Planning Commission and City Council when a property owner seeks rezoning. ***This ordinance was left on the First reading at the July 17, 2012 City Council meeting. This ordinance was left on the Second reading at the August 7, 2012 City Council meeting.***

Alderman Lewis moved to table the ordinance until an Attorney General opinion is received. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent during the vote.

Left on the Second Reading and Tabled until an Attorney General opinion is received.

New Business:

Mayor Jordan: I have had a request to move New Business item #7 RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins) to the first of New Business.

RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins): An ordinance rezoning that property described in rezoning petition RZN 12-4166, for approximately 20.99 acres, located to the south of Skillern Road from R-A, Residential Agricultural to RSF-0.5, One Half Single-Family Units Per Acre.

Alderman Kinion moved to move this ordinance to New Business #1. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent during the vote.

City Attorney Kit Williams: I would suggest that I not read this at this point in time. It's going to come back and there is going to be a request for a different sort of ordinance. You will have to amend it at that point in time but I would just suggest that you table it right now.

Jeremy Pate: The request I believe was to table it to September 18th.

UNOFFICIAL

Alderman Ferrell moved to table the ordinance to the September 18, 2012 City Council meeting. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent during the vote.

This ordinance was left on the First Reading and Tabled to the September 18, 2012.

Amerlux Exterior, LLC: An ordinance waiving the requirements of formal competitive bidding and approving an agreement with for the purchase of seventeen (17) streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. in the total amount of $28,415.93 for installation on downtown improvement projects along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street.

City Attorney Kit Williams read the ordinance.

Terry Gulley, Transportation Services Director gave a brief description of the ordinance.

Alderman Petty: These are metal halide right?

Terry Gulley: It is a continuation of what we already have on that street so it will match. I think those are metal halide.

Alderman Petty: I noticed there was an option for a 38 watt compact fluorescent fixture. That is an energy savings of more than 66%. I wonder, if there is any added expense if it's worth it, because those funds to power these lights come out of the Street fund. I am wondering if there is an added cost can we work out some creative financial solution to pay for the extra out of the Street fund to get that energy savings.

Terry Gulley: We will be happy to look at that. We chose those so there would not be a change in the output of the light as you went down the street. If we can get close to the same lumens down the street then I don't see that being a problem.

Alderman Ferrell: Would there be much difference in the amount of light put out for security reasons between the proposed one and the alternate one?

Terry Gulley: I don't know. I will check on it and report back.

Alderman Petty: I did want to use this item as an opportunity to talk about future lighting decisions. He spoke about a study he had reviewed on lighting options. There may be a potential energy savings with going with another fixture.

Terry Gulley: We do look at that. This is a project that we did a part of it back in 2008. So we are matching these because we are half way down the street. We are looking at LED lights for future projects.

UNOFFICIAL

Alderman Petty: I think it is okay to waive the competitive bidding this time. Maybe in the future we can talk about using street funds to have a revolving fund to replace old street lamps with new technology that saves us money.

Alderman Lewis: I appreciate you bringing that up.

Left on the First Reading

Seven Valley's Construction Co.: A resolution awarding Bid #12-58 and authorizing a contract with Seven Valleys Construction Co., Inc. in the amount of $1,368,379.00 for construction of water and sewer improvements along State Highway 265 between Joyce Boulevard and Albright Road, approving a project contingency of $75,000.00 and approving a budget adjustment.

Shannon Jones, Utilities Engineer gave a brief description of the resolution. He stated there was an error in the purchase order request that has since been corrected.

Mayor Jordan: Is the number here correct that I just read?

Shannon Jones: Yes.

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

Resolution 171-12 as recorded in the office of the City Clerk.

Sunbridge Villas Subdivision Private Street Acceptance: A resolution accepting dedication of street right-of-way and maintenance responsibility for streets in the Sunbridge Villas Subdivision from the Sunbridge Villas Property Owners Association, Inc. upon completion of the current private milling and overlay project to City standards as approved by the City Engineer.

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

Alderman Lewis: So the detention ponds on another property can manage the quantity of the runoff?

Chris Brown: Because this was a pre-developed site, the impervious area was the same so there was no increase in flow due to the development that has occurred here.

Alderman Ferrell: We have thru streets in most of that subdivision. We really like that connectivity.

City Attorney Kit Williams: The Mayor read the title of the new resolution. The dedication is subject to the approval of the City Engineer. Until the milling and overlay has been approved by

UNOFFICIAL

the City Engineer the dedication will not be effective. That is the resolution you will be voting on.

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

Resolution 172-12 as recorded in the office of the City Clerk.

Proposed Employee Benefits Renewal: A resolution approving a 2013 employee benefits package.

Missy Leflar, HR Director gave a brief description of the resolution.

Alderman Petty stated I don't like it but I recognize a necessity when we have one. Page 7 & 8 show the monthly cost for city employee's coverage versus other plans, there is a big discrepancy there. I understand we are not proposing to change those and I support that for current employees. I wonder if we are trying to get a handle on our rising healthcare costs why we aren't doing something about changing that percentage for new hires.

Missy Leflar: My understanding is that actually the percentages have altered a little bit.

Alderman Petty: Are we changing them for new hires to be more aligned with our market average?

Missy Leflar: No, new hires are going to be treated the same as all other employees under this proposal.

Alderman Petty: Do you think that is going to get us a handle on rising costs?

Missy Leflar stated I think what is going to help us get a handle on rising costs are the three tiers of premiums that have been proposed. She described the wellness benefits and credits that will be offered to the employees.

Alderman Petty: I love all that but my concern is that they will not be adequate for getting a handle on long term cost increases. I am wondering if we should get that portion of what employees pay closer to the industry average. It seems like a good way to do that would be with new hires.

Missy Leflar: I think every point you made is valid and that was one of the many alternatives that were looked at and discussed with a benefits broker. The reason the decision was made to make these changes was the administration weighed out how much change can be tolerated at once. She pointed out the increase in rates for 2013.

Alderman Petty: That's why I am only asking these questions in the context of hires that we haven't made yet.

UNOFFICIAL

Missy Leflar: I know that got looked at. Did the administration consult with the City Attorney on that as well?

Mayor Jordan: We did look at that.

Don Marr, Chief of Staff: If the Council wants to amend the recommendation to go with new hires it can be done. Our key thing was looking at the cost impact for existing employee base. We are heading in that direction even with our current employees cost sharing those particular increases. He explained other options that had been discussed.

Mayor Jordan: We weighed everything but at the end of the day you have so much going out and coming in. He compared our rates to other businesses rates.

Alderman Petty: What I heard was that it would be neutral for new employees and it wouldn't impact recruitment. If we don't think it's going to impact hiring I think we should at least examine that to be sure of that statement.

Mayor Jordan: I don't disagree with you at all.

Alderman Petty: Can staff have another two weeks to look at that aspect of this and come back with a recommendation for a percentage?

Don Marr: We are timed in terms of renewing our current contract. What we would be coming back with would be the two numbers that you looked at as the average. So if you want to say all new hires effective January 1, 2013 for employees only would have an 18% cost share with the City and family would be 24%, those would be the numbers we would go to for new hires instead of 12% and 18%.

Alderman Petty: How often do we renegotiate this contract?

Mayor Jordan: Every year.

Alderman Petty: So next time we renegotiate the contract that would have an affect.

Missy Leflar: I think the percentage that employees contribute is a city decision because the overall amount is what's going to be negotiated with the carriers. They probably don't care what percentage the employer pays. That is going to be a function of the Council and the administration.

Don Marr: The point I would make are how are your rates in comparison when people have multiple choices for purchasing insurance. If our cost is significantly lower than peer organizations, we will get the insured individuals. Our pricing is attractive for people wanting a family plan. Lower people means less risk which could mean lower cost.

UNOFFICIAL

Missy Leflar: I would like to suggest that the Council consider that we are going to start our annual enrollment process next month and there are many hours of preparation to make benefits enrollment happen. So we need a certain amount of lead time to keep everything on track. If it were possible to maintain this proposal that is in front of you for the current employees that are hired through the end of this year, then if you would care to amend it to say but those hired as of January 1, 2013 are going to pay more for their share which will be higher to save the City money.

A discussion followed.

Alderman Kinion: Is the utilization review done on a calendar basis and then you get the usage back at the end of the following twelve months?

Missy Leflar explained the utilization data that is provided by the benefits broker. They should provide the utilization data to us quarterly.

Don Marr: We did get a utilization rate from Blue Cross Blue Shield through the cost of the month that which we were quoting business. We received it only once per year. There is a huge advantage in the new program that we are able to look at it quarterly and see our progress. One of the reasons for this increase was the run out of exchange when you leave one insurance carrier and go to the next. So we are hoping that that is part of the overage that we have.

Alderman Ferrell: A number of years ago, when we did the wage survey, it was argued that in municipal government at that time, one of the biggest attractors to employment were benefits and that salaries were not compensable with the private sector. That has changed and we are at least on par with the private industry today. I think this is a wise step and the way to implement it is also a good idea.

Alderman Kinion: So basically what we are looking at is not an adverse selection of future enrollees so we would get a more even utilization.

Missy Leflar replied yes. What is now being proposed is to approve the proposed health insurance changes for current employees and employees that are hired through December 31, 2012 and add an amendment that those hired January 1, 2013 or later their employee contribution on the individual PPO coverage would be 18% and PPO group coverage would be 24%. We also offer a high deducible option that we will need to address also. I think it's highly likely to be competitive with other employers and I don't think it's going to hurt us on recruiting.

City Attorney Kit Williams: That should be an amendment.

Alderman Petty moved to amend the exhibit to the resolution to state: ***New employees hired January 1, 2013 and after will have a higher rate for insurance. Individual coverage will be 18% and Group coverage will be 24%. These rates will also apply to the high deductible insurance plan.*** **Alderman Ferrell seconded the motion.**

UNOFFICIAL

Alderman Lewis: Within the amendment do we need those numbers or is that a second amendment?

City Attorney Kit Williams: The amendment will be as spoken by Missy Leflar who gave you the numbers. It won't take effect until next year anyway.

Alderman Kinion: So we are looking at the deductible as well as the percentage of contribution, is that the way I understand this?

Missy Leflar: I don't think we were looking at the deductible. She confirmed the amendment. I think you will want to specify that is for the PPO and the high deducible plan.

Upon roll call the motion passed unanimously.

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

Resolution 173-12 as recorded in the office of the City Clerk.

RZN 12-4146 (4054 W. Starry Night View/Oakbrooke III PZD): An ordinance rezoning that property described in rezoning petition RZN 12-4146, for approximately 1.80 acres, located at 4054 and 4076 West Starry Night View and 1907 North Best Friend Lane from R-PZD 09-3439 Oakbrooke III to RSF-8, Residential Single Family, 8 Units Per Acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Petty: Has the Council ever renewed a PZD?

Jeremy Pate: Yes, certainly.

Alderman Lewis: Are you saying that RSF-8 is appropriate but not possible?

Jeremy Pate briefly explained the requirements for zoning areas.

Alderman Lewis: What about the new cottage zoning, would that not work here?

Jeremy Pate: It could perhaps if they chose to look at that and it could also happen under RSF-8 too though. In this area I think the market is more suited for the single family detached home on a smaller lot.

Tracy Hoskins, the developer gave a brief description of the project.

UNOFFICIAL

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis: I have not heard anything from Ward 4 residents on this topic.

Alderman Adams: I haven't either. I have been out there and I applaud you for doing a really nice job with these narrow lot single family homes.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5517 as Recorded in the office of the City Clerk

RZN 12-4164 (1420 N. Garland Ave./Bonds): An ordinance rezoning that property described in rezoning petition RZN 12-4164, for approximately 0.28 acres, located at 1420 North Garland Avenue from RMF-24, Residential Multi-Family, 24 units Per Acre to NS, Neighborhood Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5518 as Recorded in the office of the City Clerk

UNOFFICIAL

ADM 12-4171 (Amend UDC Ch. 166: Development): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville §166.24 to amend the applicability of non-residential design standards.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Lewis: I agree and I think it's a good idea. Can you speak to the incentives associated with this?

Jeremy Pate listed the incentives.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5519 as Recorded in the office of the City Clerk

Announcements:

Adjournment: 7:15 p.m.

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

UNOFFICIAL

Handed out at the City Council meeting 09-04-12

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Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

FROM: **Kit Williams**, City Attorney

DATE: **September 4, 2012**

RE: **Contract to allow access to City of Fayetteville Sewerage System**

Attached please find a copy of the signed Contract. This contract would require the developer/owner of the proposed Hughmount Village to develop and pay the appropriate fees as any developer would if building within Fayetteville.

The developer desires to dedicate his proposed linear park (with a trail) to meet his parkland dedication requirement. Pursuant to the U.D.C. as long as the proffered land "is suitable for park purposes, the proposed dedication shall be accepted." §166.04 (B) (3) (1) (ii) d. The developer will be required to plant trees and build a trail to city standards running through his dedicated lots and provide easement access if a trail is extended from the Clabber Creek trail. All maintenance of the parkland shall be the property owners association's responsibility until and unless Hughmount Village is annexed into Fayetteville.

EXHIBIT "A"

CONTRACT TO ALLOW ACCESS TO CITY OF FAYETTEVILLE SEWERAGE SYSTEM

WHEREAS, the developers/owners of Hughmount Village, whose project is close to, but outside the Fayetteville city limits, desire to be allowed to connect to and use the City of Fayetteville sewerage system's wastewater facilities for their proposed residential development; and

WHEREAS, the City of Fayetteville does not wish to grant owners/developers of Hughmount Village (or any similarly situated development) any advantage over owners/developers who will build and develop property within the City of Fayetteville; and

WHEREAS, the City of Fayetteville is willing to allow developers/owners of Hughmount Village to connect to and utilize the City's wastewater treatment facilities only upon the developers/owners' express agreement to develop their residential project pursuant to all City of Fayetteville requirements for inside the city residential projects including:

(1) All street frontage, density, lot area requirements, etc. as if their property was zoned Residential Single Family, four units per acre.

(2) Apply for and successfully complete the full preliminary plat/final plat process including payment of all appropriate fees.

(3) Comply with all grading, stormwater, tree preservation and other development requirements as if this development was occurring within the City of Fayetteville.

(4) Pay for all normal permits and application fees at the normal time including preliminary/final plat, building fees for each structure, and water, sewer, police, and fire impact fees.

(5) To satisfy normal parkland dedication requirements, dedicate to the City of Fayetteville upon plat approval Common Property Lots 4, 5, 6, 7 & 8 (3.86 acres) as parkland; and upon or prior to the sale of 30% of the building lots, plant trees basically as shown the plat and construct trails over such lots to City of Fayetteville standards basically as shown on Exhibit 1 (proposed plat of Hughmount Village). Dedicate a trail easement sufficient to connect from the trail at the crosswalk of Cottonwillow Drive to the southern border of the property to meet a possible trail extension from the south from the Clabber Creek Trail. This trail and parkland shall remain the developer's or Property Owners

Association's duty to maintain in good condition (which duty shall be in an irrevocable restrictive covenant in each property's deed until and unless this entire parcel has been annexed into the City of Fayetteville).

(6) Construct all infrastructure; streets, sidewalks, water and sewer mains to City of Fayetteville standards and dedicate to the City of Fayetteville (streets may be jointly dedicated to City and County). HUGHMOUNT VILLAGE OWNERS/DEVELOPERS in consideration of being allowed to utilize the City of Fayetteville sewerage system and wastewater facilities for their proposed development do hereby agree to all terms and conditions stated above and promise to develop their property in full compliance with all requirements of the Unified Development Code as if their development was inside the city limits and zoned RSF-4.

Further developers/owners of Hughmount Village pledge and promise to seek immediate annexation into the City of Fayetteville as soon as it becomes legally possible and to place this requirement within the covenants and deeds for each property within its development.

In agreement with all the terms, conditions, pledges and promises above, the City of Fayetteville and the owners/developers of Hughmount Village sign below.

HUGHMOUNT VILLAGE DEVELOPERS/OWNERS

By: _____
Phil Phillips

Title: Owner

Witness: _____

Name: Kim J. Hesse

Date Signed: September 4, 2012

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

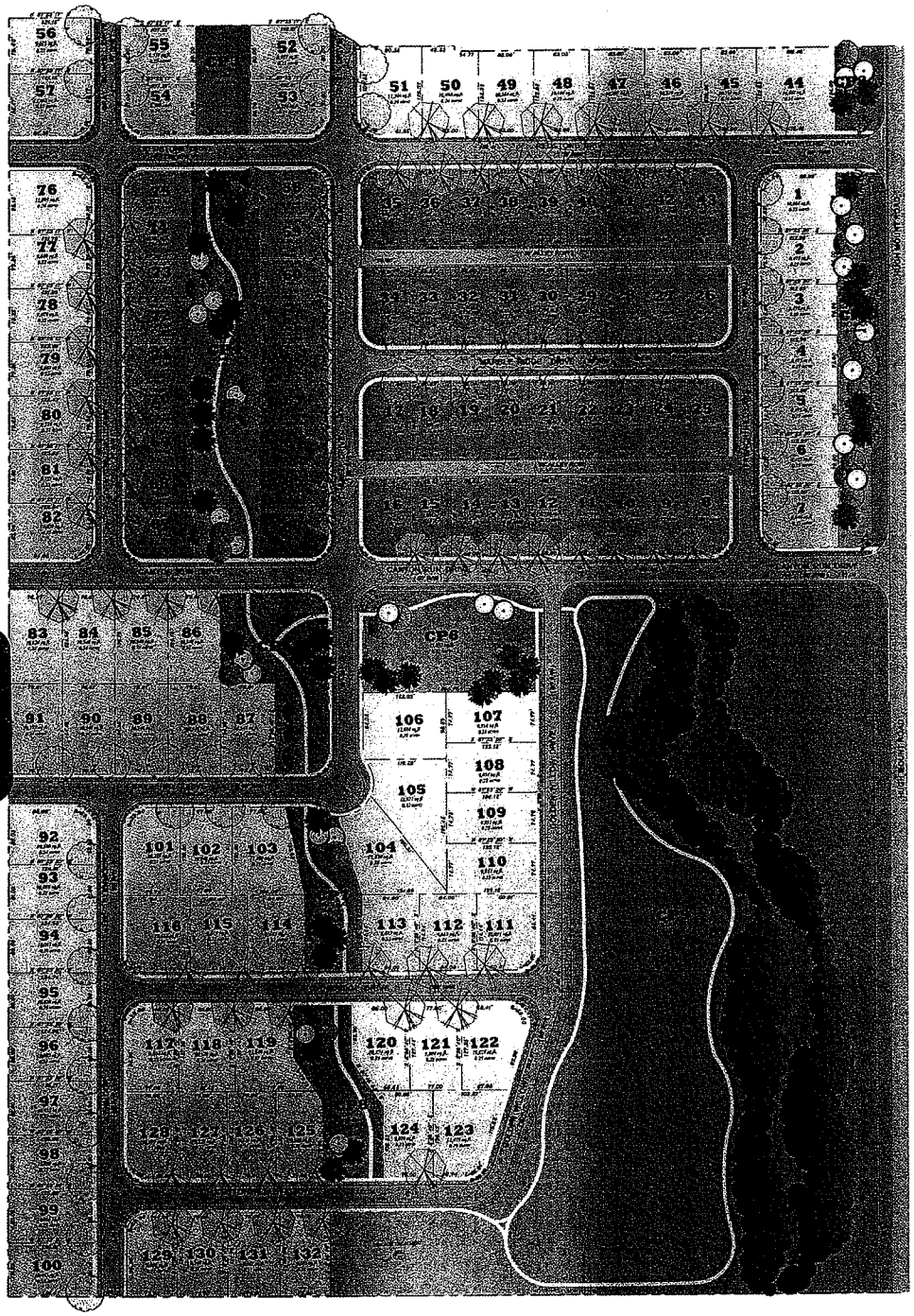
Attest:

By: _____
Sondra E. Smith, City Clerk

Date Signed: _____

EXHIBIT

1



Legend

- Subdivision Boundary
- Lot Line
- 96 Lot Number
- Alley Access Lot / Cottage Lots
- Street Access Lot
- Green Space Lot (POA held park areas)
- Sidewalks
- Trails

PROJECT SUMMARY

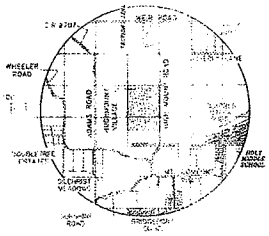
TOTAL ACRES 56.23 ACRES
TOTAL LOTS 132 LOTS
DENSITY PER ACRE - 2.34 LOTS PER ACRE

TOTAL GREENSPACE 17.16 ACRES
COMMON PROPERTIES 4.92 ACRES
To be maintained by Property Owners Association
CRSER/TREATMENT AREA 12.24 ACRES
Sewer to be Maintained by Class 2 Wastewater Operator
System to be Managed by Hughmount Village LLC

BUILDING SETBACKS (Measured at the roof overhang)
LOTS 1-7, 44-57, 76-132
Front - 25'
Side - 10'
Side at ROW - 25
Rear - 20'
ALLEY LOTS 8-43 (By Variance Request)
Front - 15'
Side - 10'
Side at ROW 15
Rear - 20
COTTAGE LOTS 58 - 75 (By Variance Request)
Front - 25'
Side - 5'
Side at ROW 25
Rear - 10'

UTILITY EASEMENTS
All Front and Rear Setbacks to be Utility Easements
Additional Easements per Franchise Co. requests

DRAINAGE OVERVIEW
All stormwater to be carried within the streets and in underground pipes. Lots to be graded to drain to street. Drainage pipes flow to existing creek, erosion control improvements to the creek will be proposed during plat review



VICINITY MAP

OWNER: HUGHMOUNT VILLAGE LLC

ENGINEER/SURVEYOR: ENGINEERING DESIGN ASSOCIATES, PA.

-100 0 100 200
GRAPHIC SCALE IN FEET

HUGHMOUNT VILLAGE

WASHINGTON COUNTY, AR

EDA
Engineering Design Associates, P.A.
Civil Engineering
Landscape Architecture
Land Surveying
134 West Sonia Avenue (479) 756-1266
Springdale, Arkansas 72764 Fax (479) 756-3129

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
September 04, 2012

A meeting of the Fayetteville City Council will be held on September 04, 2012 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 August 21, 2012 City Council meeting minutes.

2. **Lifesource International Lease Agreement:** A resolution approving a lease agreement with Lifesource International for premises located at 1932 S. Garland Avenue in exchange for services to the citizens of Fayetteville.

3. **Fayetteville Police Department Policies:** A resolution approving Fayetteville Police Department policies 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 41.1.1 Patrol, 41.2.8 Vehicular Pursuit, 41.3.5 Grooming and Uniform Requirements, 54.1.1 Public Information Policy, and 46.1.1 Critical Incidents.

4. **2012 Arkansas Department of Environmental Quality E-Waste Grant:** A resolution approving application for a 2012 Arkansas Department of Environmental Quality E-Waste Grant of $25,000.00 for an E-Waste coupon redemption program.

5. **Allied Waste Services of Bella Vista:** A resolution approving one (1) year extension agreement with Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling in the City.

6. **Bid #12-65 Benchmark Construction of NWA, Inc.:** A resolution awarding Bid #12-65 and authorizing a contract with Benchmark Construction of NWA, Inc. in the amount of $335,230.42 for installation of a concrete pad and associated work at the City solid waste and recycling facility, approving a project contingency of $33,523.04, and approving a budget adjustment.

7. **Solid Waste Hauling and Disposal Fees:** A resolution approving a budget adjustment in the amount of $303,598.00 to provide funding for solid waste hauling and disposal fees.

8. **Keep Fayetteville Beautiful Committee:** A resolution authorizing the Mayor to appoint up to seven (7) persons to serve at the pleasure of the Mayor as a Keep Fayetteville Beautiful Committee to facilitate creation of a Keep Fayetteville Beautiful affiliate to work in coordination with Keep Arkansas Beautiful and Keep America Beautiful, and sunsetting the authorization for this committee upon incorporation of a private non-profit organization.

B. Unfinished Business:

1. **ADM 12-4144 3078 N. College Ave. Siebert Appeal:** A resolution to reverse the Planning Commission's decision to grant and thereby to deny the variance to Eric Siebert to operate his Shave the Planet business longer than 90 days as an outdoor mobile vendor. ***This resolution was Tabled at the July 03, 2012 City Council meeting to the September 04, 2012 City Council meeting.***

2. **Amerlux Exterior, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving an agreement with for the purchase of seventeen (17) streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. in the total amount of $28,415.93 for installation on downtown improvement projects along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street. ***This ordinance was left on the First reading at the August 21, 2012 City Council meeting.***

   Left on the First Reading.

C. Public Hearing:

1. **Fayetteville Taxi LC:** A resolution granting a Certificate of Public Convenience and Necessity to Fayetteville Taxi LC for the operation of one (1) to four (4) taxicabs in the City of Fayetteville.

D. New Business:

1. **Enact Article XXIV Audit Committee and Internal Auditor:** An ordinance to enact Article XXIV Audit Committee and Internal Auditor into Chapter 33 Departments, Boards, Commission and Authorities of the Code of Fayetteville.

2. **Amend Chapter 166.04 Required Infrastructure Improvements – Development in City Limits:** An ordinance amending subsection 166.04(l)(ii)(g) of Chapter 166 Development of the Unified Development Code to change the fee-in-lieu formulas related to parkland dedications.

3. **Hughmount Village Development Sewer Extension:** A resolution to approve the extension of the City's sewerage system beyond the city limits to the proposed Hughmount Village Development.

E. City Council Agenda Session Presentations:

City Council Tour:

Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

All cell phones must be silenced and may not be used within the City Council Chambers.

Below is a portion of the **Rules of Order and Procedure of the Fayetteville City Council** pertaining to City Council meetings:

> **Agenda additions.** A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.
>
> **Consent Agenda.** Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If an Alderman wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.
>
> **Old business and new business.**
>
> > **Presentations by staff and applicants.** Agenda items shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by an alderman later to answer questions. Staff and applicants may use electronic visual aides in a City Council meeting as part of their presentation.
> >
> > **Public comments.** Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.
>
> **Courtesy and respect.** All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

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.

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

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

9/4/2012
City Council Meeting Date
Agenda Items Only

Yolanda Fields	Community Services	Development Services
Submitted By	**Division**	**Department**

Action Required:

Approval of lease for 1932 S Garland.

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

Budgeted Item X **Budget Adjustment Attached** ☐

Department Director	08-14-2012 Date	Previous Ordinance or Resolution #
City Attorney	8-16-12 Date	Original Contract Date:
		Original Contract Number:
Finance and Internal Services Director	8-16-2012 Date	Received in City Clerk's Office 08-16-12 A09:20 RCVD King
Chief of Staff	8-20-12 Date	
Mayor	8/21/12 Date	Received in Mayor's Office ENTERED 8/16/12

Staff recommends approval of lease.

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: City Council and Mayor

Thru: Jeremy Pate, Director Development Services

From: Yolanda Fields, Director Community Services

Date: August 13, 2012

Subject: Public Facility Lease Program – Approval of Lease for 1932 S Garland

PROPOSAL:

The property located at 1932 S Garland was acquired with Community Development Block Grant (CDBG) funds. This property is a part of the CDBG Public Facility Lease Program. Properties acquired with CDBG funds are made available through an application process to non-profits that provide services to low and moderate income residents in the City of Fayetteville. LifeSource International submitted an application for the property located at 1932 S Garland. LifeSource International was the only applicant and met all the requirements for the program.

LifeSource International has been in operation since 2001. They provide services for underprivileged and socially at-risk familes and children of Northwest Arkasnas. Their programs include food assistance, clothing pantry, professional counseling, Kid's Life afterschool and summer programs, adult education and Senior Life program. LifeSource International's mission is "Strengthening Families and Building Communities".

RECOMMENDATION:

Staff recommends the approval of the lease with LifeSource International for the property located at 1932 S Garland.

BUDGET IMPACT:

None.

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE AGREEMENT WITH LIFESOURCE INTERNATIONAL FOR PREMISES LOCATED AT 1932 S. GARLAND AVENUE IN EXCHANGE FOR SERVICES TO THE CITIZENS OF FAYETTEVILLE

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 lease agreement with Lifesource International for premises located at 1932 S. Garland Avenue in exchange for services to the citizens of Fayetteville. A copy of the lease agreement is attached to this Resolution as Exhibit "A".

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

LEASE AGREEMENT

1932 S Garland Avenue

THIS LEASE AGREMENT executed this 4th day of September 2012, by and between the City of Fayetteville, Arkansas and LifeSource International, a nonprofit Arkansas corporation, hereinafter referred to as "LifeSource".

In consideration of the promises, covenants and commitments contained herein, the City of Fayetteville and LifeSource hereby agree as follows:

1. **PREMISES.** The City of Fayetteville hereby leases to LifeSource and LifeSource hereby leases from The City of Fayetteville, the building, parking lot and premises of 1932 S Garland Avenue, Fayetteville, AR 72701.

2. **TERM.** The original term of this Lease shall commence on September 4, 2012 and shall terminate on September 4, 2013 at 5:00 p.m. This Lease shall be automatically extended each subsequent year on September 4th unless written notice of termination is given by the City of Fayetteville or LifeSource to the other party at least thirty (30) days prior to expiration of the original term of this lease. This notice shall be effective if mailed or delivered to:

City of Fayetteville	LifeSource
Mayor's Office	Executive Director
113 W Mountain	602 S School Ave
Fayetteville AR 72701	Fayetteville AR 72701

3. **CONSIDERATION.** In consideration for the use of leased premises LifeSource agrees to provide its services to the citizens of Fayetteville and Northwest Arkansas with emphasis on low and moderate income clientele in Fayetteville. LifeSource agrees to provide professional counseling services and adult education classes for low and moderate income clientele. LifeSource agrees to begin utilizing the property for these services within 6 months of signing this lease agreement. LifeSource shall maintain at all times a current and complete record of all activities conducted on the leased premises in a form specified by the City of Fayetteville. LifeSource shall submit a quarterly activity report to the City of Fayetteville Community Services Division on or before the 15th of the month following the end of the quarter. The City of Fayetteville and the United States Department of Housing and Urban Development shall have complete access to all of LifeSource's records during all reasonable hours and shall have the right to inspect and copy said records.

EXHIBIT
A

4. **UTILITIES.** LifeSource shall be responsible for prompt and complete payment of all utilities including electric bills, natural gas bills, water and sewer bills, sanitation service bills and telephone bills.

5. **IMPROVEMENTS TO PREMISES.** If previously approved in writing by the Community Services Division of the City of Fayetteville, LifeSource may make improvements that are necessary to carry out the services they provide. LifeSource agrees that it will keep and maintain the leased premises and all improvements thereon in good condition and repair at all times. LifeSource agrees to be responsible for yard maintenance and for the maintenance and replacement of all heating, electrical and air conditioning equipment and plumbing on the premises. LifeSource, at its own cost and expense, shall maintain and keep premises in as good repair as when the premises were received or in their highest state of repair during the lease term, ordinary wear and tear and casualties beyond LifeSource's control alone excepted. LifeSource shall return the leased premise at the expiration or termination of the Lease in good order and condition excepting only ordinary wear and tear and casualties beyond LifeSource control. Design for any such improvements shall be approved by the City of Fayetteville Community Services Division. Upon termination of this lease all improvements shall become the property of the City of Fayetteville.

6. **MAINTENANCE AND REPAIR FUND.** LifeSource will maintain a Maintenance and Repair Account specific to this property. LifeSource shall be able to show in their operating budget that a maintenance and repair line item with a total of **$30,000.00** is allocated; and supplies, maintenance crew and other maintenance items for the maintenance and repair of the facility will be charged against this line item for the duration of the lease. LifeSource will provide documentation as requested. At the end of this Lease Agreement charges against this account for that property will end and the property will be in as good or better condition as it was found.

7. **FACILITY DEPOSIT.** LifeSource will provide a **$5,000.00 Facility Deposit** to the City of Fayetteville prior to move in unless a letter of understanding is attached to this lease agreement. The entire amount will be held by the city for the duration of the lease. Upon notification of intent to vacate the lease the City will inspect the location to determine condition. If repairs are needed to return the premises to good condition the Facility Deposit amount will be used to make the repairs. Any remaining balance will be refunded to LifeSource.

8. **INSURANCE.** LifeSource agrees to carry liability insurance on the leased premises. LifeSource agrees to maintain said policy in force throughout the term of the Lease and extension thereof. LifeSource shall file a copy of said policy and all renewals with the City Clerk of the City of Fayetteville. LifeSource agrees to notify the City of Fayetteville in writing of any amendments to or cancellation of said policy or renewals. The City of Fayetteville carries property insurance on all City owned buildings. LifeSource will receive an annual bill from the City for the property insurance on 1932 S Garland Avenue.

9. **MONTHLY FINANCIAL STATEMENTS.** LifeSource shall maintain complete and accurate monthly financial statements for all activities conducted on the leased premises. LifeSource shall file a copy of each month's financial statement with the City of Fayetteville's Community Services Division on or before the 15th day of the following month.

10. **BENEFIT TO LOW INCOME FAMILIES.** The Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low and moderate income families or aid in the prevention or elimination of slums or blight. LifeSource commits that the leased premises will be used to benefit low and moderate income families.

11. **COMPLIANCE WITH FEDERAL RULES AND REGULATIONS.** LifeSource agrees to comply with all rules and regulations as established by the Department of Housing and Urban Development for programs financed by the Housing and Community Development Act of 1974; and

    a. Lessee will comply with the regulations, policies, guidelines and requirements of OMB Circular No. A-102, Revised, acceptance and use of Federal funds under 24 CFR 570; and
    b. Lessee will comply with all requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements, approved in accordance with OMB Circular No. A-102, Revised.
    c. Lessee will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be other wise subjected to discrimination under any of LifeSource's programs or activities.

participation in, be denied the benefits of, or be other wise subjected to discrimination under any of LifeSource's programs or activities.

d. LifeSource will comply with Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds proved under 24 CFR 570.

e. LifeSource will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, requiring that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.

12. **PERSONAL GAIN.** LifeSource will establish safeguards to prohibit employees from using position for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

13. **HATCH ACT.** LifeSource will comply with applicable provisions of the Hatch Act.

14. **RIGHT TO INSPECT RECORDS.** LifeSource will give HUD and the Comptroller General through any authorized representatives access to and the right to examine all records, books, papers, or documents related to the program.

15. **ENVIRONMENTAL PROTECTION.** LifeSource will ensure that the facilities under its lease or supervision which shall be utilized in the accomplishment of the program are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify HUD of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

16. **FLOOD DISASTER PROTECTION ACT.** LifeSource shall comply with the Flood Disaster Protection Act of 1973, P.L. 93-234, 87stat. 975, approved

December 31, 1973. Section 103(a) required, on and after march 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area, that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phase "Federal financial assistance" shall be included in any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

17. **CURE OR TERMINATION.** If the City of Fayetteville determines that LifeSource has violated a duty, term or condition of this Lease Agreement, it shall so notify LifeSource in writing at the address listed above in paragraph 2. LifeSource shall have thirty (30) days after notification to cure the breach. If LifeSource fails to cure the breach to satisfaction of the City of Fayetteville within the allotted period of time, the City of Fayetteville, acting through its Mayor, may declare this Lease Agreement terminated and so notify LifeSource which shall immediately vacate the premises.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the date first above written.

LifeSource International

Ernie Conduff

Ernie Conduff
Executive Director

City of Fayetteville, Arkansas

_____

Lioneld Jordan
Mayor

ATTEST:

_____

Sondra E. Smith
City Clerk/Treasurer

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

9/4/2012
City Council Meeting Date
Agenda Items Only

Mike Reynolds	Police	Police
Submitted By	**Division**	**Department**

Action Required:

Staff seeks council approval of a resolution to adopt Fayetteville Police Department Policies: 12.2.1, Policies, Procedures and Rules Development and Review Procedures; 41.1.1, Patrol; 41.2.8, Vehicular Pursuit; 41.3.5, Grooming & Uniform Requirements: 54.1.1 Public Information Policy; and 46.1.1 Critical Incidents.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Mike Reynolds — Department Director — 08/17/2012 Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[signature] — City Attorney — 8-17-12 Date

Marsha Hartwell — Finance and Internal Services Director — 8/20/12 Date

Received in City Clerk's Office — 08-17-12P01:47 RCVD — Kim J.

[signature] — Chief of Staff — 8/20/12 Date

Received in Mayor's Office — ENTERED 8/20/12

Lionell Jordan — Mayor — 8/21/12 Date

Comments:

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
POLICE DEPARTMENT
100-A West Rock Street
Fayetteville, AR 72701
P (479) 587-3555 F (479) 587-3522

To: Mayor Lioneld Jordan and City Council

From: Mike Reynolds, Deputy Chief of Police

Date: Friday, August 17, 2012

Re: Police Department Policies

Recommendation:
Council approves a resolution adopting Fayetteville Police Department Policies: 12.2.1, Policies, Procedures and Rules Development and Review Procedures; 41.1.1, Patrol; 41.2.8, Vehicular Pursuit; 41.3.5, Grooming & Uniform Requirements; 54.1.1 Public Information Policy; and 46.1.1 Critical Incidents.

Background and Discussion:
The Fayetteville Police Department is currently in the process of reviewing all policies and updating as necessary to conform to current practices and to comply with accreditation standards. 54.1.1, Public Information Policy, and 46.1.1, Critical Incidents, are new policies. The remaining four policies have revisions that are needed for accreditation compliance. Those areas are highlighted.

Budget Impact:
None

RESOLUTION NO. _____

A RESOLUTION APPROVING FAYETTEVILLE POLICE DEPARTMENT POLICIES 12.2.1 POLICIES, PROCEDURES AND RULES DEVELOPMENT AND REVIEW PROCEDURES, 41.1.1 PATROL, 41.2.8 VEHICULAR PURSUIT, 41.3.5 GROOMING AND UNIFORM REQUIREMENTS, 54.1.1 PUBLIC INFORMATION POLICY, AND 46.1.1 CRITICAL INCIDENTS

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 Fayetteville Police Department policies 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 41.1.1 Patrol, 41.2.8 Vehicular Pursuit, 41.3.5 Grooming and Uniform Requirements, 54.1.1 Public Information Policy, and 46.1.1 Critical Incidents.

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 12.2.1 Policies, Procedures, & Rules Development & Review Procedures	**Effective Date:** May 1, 2012
Reference:	Version: 1
CALEA: 12.2.1, 12.2.2	No. Pages: 2

I. PURPOSE

The purpose of this directive is to establish procedures for development of new or revised department policies, procedures, and rules. Departmental General Orders and Memorandums will also be covered in this policy. [CALEA 12.2.1 d.]

II. POLICY

A. It shall be the policy of the Fayetteville Police Department that its members receive written communications in an orderly manner so that accurate information flows smoothly throughout the organization. For the purpose of clarification: [CALEA 12.2.1 d.]

1. A "Policy, Procedure, & Rule" is a written directive concerning policies, procedures, and rules for department personnel which must be approved by the governing body of the municipality (Arkansas Code Annotated 14-51-302). [CALEA 12.2.1 f., g.]

2. A "General Order" is a written statement defining in more specific terms the procedures for day-to-day operation of the department. General Orders are approved and issued by the Chief of Police as necessary for maintaining an efficient operation. General Orders are intended to greatly benefit an officer by giving more specific details for a particular subject but maintain the spirit of the more formal Policies, Procedures, & Rules which require approval of City Council. [CALEA 12.2.1 h]

3. "Memorandums" are written directives issued by the Chief of Police or other supervisors of the police department providing instruction and direction for department personnel.[CALEA 12.2.1 c., h.]

4. Officers identifying the necessity for changes or additions to policy and general orders shall forward such recommendations through the chain of command to the Administrative Division.

5. The Chief of Police has the authority to issue, modify, or approve policies in order to seek approval by resolution of the City Council and has the authority to issue, modify, or approve general orders. [CALEA 12.2.1 b.]

B. The following method will be used for review of newly proposed or revised policies, procedures and rules:

1. The Chief of Police will assign ranking members of the department to policy review that will include the identification of policy needs, writing new policy, updates, indexing, purging, and revisions. [CALEA 12.2.1 e.]

2. The ranking members assigned to policy review will analyze and research policy needs to ensure policies meet all governing standards, suit the operations of this department, and do not contradict other agency directives or law. [CALEA 12.2.1 i.]

3. The following shall have the opportunity to review new or updated policies, procedures, and rules and provide feedback prior to approval by the City Council:

a. Mayor

b. City Legal Staff

c. All employees of the department

C. Dissemination and Storage of Policies and General Orders [CALEA 12.2.2]

1. The department's written policies and general orders will be stored in the agency's policy management software system [CALEA 12.2.2 b.]:

    a. The agency's policy management software system will be accessible to all personnel.
    b. Hard copies of the entire computer manual will be placed in Administration and in the officers' squad room.
    c. The manual will be kept up to date regarding any changes that are made in policies or general orders by the Administrative Captain or his/her designee.
    d. The dissemination of existing, new, and newly revised directives to all personnel will be accomplished through the agency's policy management software system. [CALEA 12.2.2 a.]
    e. The policy management software system will log receipt and review of disseminated directives.[CALEA 12.2.2 c]

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 41.1.1 Patrol	**Effective Date:** May 1, 2012
Reference: 41.2.17, 41.3.5, 1.2.2, G.O. #24	Version: 1
CALEA: 41, 81	No. Pages: 6

I. PURPOSE

The purpose of this directive is to state policies relating to the organization, administration, and operations of the patrol component of the Fayetteville Police Department.

II. POLICY

The patrol function is a primary law enforcement responsibility and embraces much more than the act of patrolling. It is a generalized service in which officers engage in a wide variety of activities to include, but not limited to, enforcing traffic/criminal laws, apprehending criminals, responding to calls for service, crime prevention, accident investigation, conducting preliminary and follow-up investigations, community relations, maintenance of public order, etc. It is the policy that the Fayetteville Police Department shall be available for public service and emergency calls 24 hours a day, each day of the week. [CALEA 41.1.1a]

A. ORGANIZATION AND ADMINISTRATION

1. Patrol Performance

   a. The Chief of Police shall be responsible for reviewing annual patrol performance measures.
   b. These performance measures must be attainable, quantifiable, and measurable.

2. The Chief of Police will be responsible for establishing procedures to ensure positive communication between patrol and other divisions and programs within the department.

3. Officer Assignment

   a. The Chief of Police will be responsible for assigning officers to a shift [CALEA_41.1.1 b].
   b. The assignment will be based on a uniform procedure to ensure impartiality in the decision making process. Supervisors assigned to patrol will make decisions pertaining to any shift scheduling amongst personnel and shall

consider this based on department needs and personnel requests [CALEA 41.1.1 c].

c. Patrol shift supervisors scheduling responsibilities include:

1) Beat assignment and beat rotation schedules [CALEA 41.1.1 d,e].
2) Ensuring sufficient personnel are available for daily assignment to meet prescribed minimum staffing levels.
3) Anticipating pre-planned major events and ensuring availability of personnel required.
4) Monitoring and minimizing overtime expenditures.
5) Coordinating officers' attendance at training, meetings, court, etc.

d. The shift supervisor(s) will be responsible for field operations.
e. When determining scheduling for patrol officers and first line supervisors, daily workload requirements, maximum coverage and departmental needs take priority over personal preference. [CALEA 41.1.1 f].

4. Roll Call and Briefing

a. Officers shall attend roll call and briefing at the beginning of each shift until released by the shift supervisor. Shift roll call/briefing shall include [CALEA 41.1.2]:

1) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations;
2) Notifying officers of potential and actual police hazards in the area;
3) Notifying officers of changes in schedules and assignments;
4) Notifying officers of new or revised policies, procedures, rules and general orders; and
5) Evaluating officer readiness to assume patrol (uniform, equipment, vehicle, etc).

5. Response to some calls may require additional officers in order to deal effectively with the incident. The Chief of Police and/or his designee will determine these call types. Examples include, but are not limited to [CALEA 81.2.4 e.]:

a. An assault/battery on an officer;
b. On-scene arrest for a felony or violent misdemeanor;
c. Resistance to arrest;
d. Use of force;
e. A crime in progress; or
f. A fleeing suspect.

Central Dispatch Center shall ensure the dispatch of two officers to these call types and patrol supervisors have the authority to increase/decrease the number of officers responding to any incident. When necessary, officers should request back-up assistance, and when possible, responding officers should coordinate their simultaneous arrival.

6. Certain responses may require the presence of a patrol supervisor at the scene for the purpose of assuming command. Examples include, but are not limited to [CALEA 81.2.4 f.]:

a. Critical incident requiring scene organization;
b. Confirmed robbery with ensuing investigation;
c. Major events or multi-faceted special event;
d. Officer involved death or serious injury investigation.

7. The Chief of Police shall determine what calls do not require the dispatch of an officer and can be effectively handled by receiving information through an alternative method (telephone, on-line, etc).

8. The Chief of Police shall be notified through the chain of command as soon as possible of the following types of incidents:

a. Serious injury to police officer.
b. Accident involving police vehicle where an officer or citizen is injured or major property damage is involved.
c. Major crimes to include murder, bank/store robbery, prisoner escape, or any heinous crime.
d. Barricaded/hostage situation.
e. Disasters or catastrophes.
f. Serious complaint or incident involving an officer.
g. Fatality accidents.
h. Any incident where there may be a question of the department's liability or which may result in a heightened community interest [CALEA 11.4.5].

9. Incidents of a less serious nature shall be reported through the chain of command as directed.

B. OPERATIONS

1. Preliminary and Follow-up Investigations.

Preliminary investigation is a matter of routine for patrol officers. Follow-up investigations may be done at the officer's initiation or supervisor direction. Follow-up investigations on certain crimes may be coordinated and/or conducted by investigative personnel as determined by a supervisor.

2. An emergency mode of operation with emergency lights and siren activated may be used when responding to the following listed emergencies. Officers may exceed the speed limit, proceed with caution through stop signs and red lights, and may disregard other traffic laws when done safely in response to the following listed emergencies [CALEA 41.2.1]:

a. Authorized pursuits
b. Aggravated assault in progress
c. Rape in progress
d. Armed robbery in progress
e. Kidnapping in progress

f. Injury accident
g. Officer in need of assistance
h. Any other serious incident or with supervisor authorization

This exemption shall not relieve any officer of an authorized emergency vehicle from the lawful responsibility to drive with due regard for the safety of all persons, nor shall it protect the officer from the consequence of a reckless disregard for the safety of others. If an officer is driving in emergency mode, lights and siren must be used in accordance with state law.

3. In the course of routine patrol and in response to non-emergency calls, officers will operate their vehicles without the use of emergency lights or siren.

4. Officers assigned to patrol must understand, as first responders, they may find themselves on many occasions at scenes where they need to make additional notifications to personnel or agencies with specific expertise and/or authority [CALEA 41.2.4]:

a. Officers of the Fayetteville Police Department are expected to make logical decisions in this area and fully consider various types of notifications that may need to be made for safety as well as case or investigation preservation and purposes.
b. In cases of death response/investigation, officers with the assistance of dispatch should notify the shift supervisor, detective supervisory personnel, and the coroner's office.
c. In incidents where medical treatment is warranted, officers should ensure Emergency Medical Services personnel are notified.
d. When encountering uncontrolled fires, officers should immediately ensure Fayetteville Fire Department is notified for response.
e. In cases where public utilities have been disturbed, officers should request dispatch assist them in making the proper notifications to public utilities personnel.
f. Officers must communicate with their supervisors during incidents in which information should be provided to the news media, to include incidents requiring major road closings, large area evacuations, and for providing suspect information that is advantageous or required for an investigation. Such media disclosures should be channeled through the Public Information Officer (PIO) as directed in Policy 54.1.1. Policy 54.1.1 also governs routine news media inquiries that may be handled by shift supervisors.
g. In cases involving crimes in other jurisdictions, officers shall be responsible for making prompt notification to the appropriate law enforcement agency. Officers shall also be responsible for applicable reports or documentation.

5. Officers responding to an investigation of missing persons will apply the following protocol:[CALEA 41.2.5] [CALEA 41.2.6 e]:

a. If the missing person is determined to be a child, elderly (age 65 or older or an Alzheimer's patient) or disabled, the officer shall notify the supervisor and follow the guidelines set forth in appropriate FPD General Orders [CALEA 41.2.5] [CALEA 41.2.6 b].

b. In cases of missing persons where foul play is suspected, the officer shall report this information to his supervisor who shall make notification to a supervisor of CID [CALEA 41.2.5 f].
c. In other types of missing person reports, officers will investigate without delay. The responding officer shall gather investigative information and a detailed description of the missing person and initiate the notification process through NCIC/ACIC. Upon locating the missing person, officers will ensure the missing person's status is updated in NCIC/ACIC [CALEA 41.2.5 a, b, c].
d. Follow up investigation will be conducted by patrol and/or investigative personnel when necessary [CALEA 41.2.5 d, e].
e. In each missing person report situation, officers and their supervisors will make a determination as to what type of field search effort will be undertaken. Requests for additional resources or coordination with other agencies may be necessary. Factors to be considered in this determination include:

1) Length of time that has passed since the disappearance;
2) Age and mobility of the missing person;
3) Infirmity and/or need for medication;
4) Suspicious circumstances to include foul play suspected.

f. Types of searches that may be used include, but are not limited to [CALEA 41.2.5e]:

1) At the time of report, officers should always begin with a search of the missing person's residence and surrounding area. Children in particular may be hiding or have gone unnoticed inside the residence;
2) Door to door (foot search making contacts with residents/passer-bys);
3) Neighborhood canvas (larger scale foot and vehicle search);
4) Use of canine.

g. The supervisor will ensure the following information, if known, is broadcasted:

1) Name, race, sex, and date of birth;
2) Physical description;
3) Clothing description;
4) Physical/Mental disabilities;
5) Unusual circumstances;
6) Vehicle information.

6. Field Interviews/Intelligence Reports - Patrol personnel will document all field interviews/intelligence reports to provide other officers and detectives with information concerning suspicious persons (See FPD 1.2.2).

7. Officer Access to Radio Communications

a. When possible, all patrol officers shall be equipped with a portable radio and/or a mobile radio unit.
b. Patrol officers shall give their badge number as their unit number in radio communications.

c. Patrol officers shall utilize the appropriate 10-code, signals and dispositions in keeping each other, supervisors, and dispatchers informed of locations, the nature or status of a call, and developments in an investigation.

8. Uniforms – Refer to 41.3.5 Grooming and Uniform Requirements.

9. Specialized Assignments - Fayetteville Police Department recognizes the need to staff specialized units which provide a supportive function to the patrol division [CALEA 16.2.3].

a. An announcement shall be made and posted to all personnel when an opening occurs to a specialized unit.
b. The announcement will contain requirements and criteria for personnel to be appointed to the specialized unit.
c. The announcement will describe the selection process to be used for appointment to the specialized unit.
d. The following are specialized units within the department:

1) Detective
2) Emergency Response Team
3) Crisis Negotiation Team
4) Canine Officer
5) Bicycle Patrol
6) Motorcycle Patrol
7) School Resource Officer
8) Field Training Officer

9. Canine, motorcycle and bicycle units - The canine, motorcycle and bicycle units provide a specialized, supportive function to patrol units.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 41.2.8 Vehicular Pursuit	**Effective Date:** November 7, 2008
Reference:	Version: 1
CALEA: 41.2.2	No. Pages: 6

I. PURPOSE

The purpose of this policy is to state the guidelines to be followed during vehicular pursuit. (Note: In instances where there is no Field Supervisor on-duty, the wording "Shift Supervisor" applies throughout this policy.)

II. POLICY

Vehicular pursuit of fleeing suspects presents a danger to the lives of the public, officers, and suspects involved in the pursuit. It is the policy of this department to protect all persons' lives to the extent possible when enforcing the law. In addition, it is the responsibility of the department to assist officers in the safe performance of their duties. To effect these obligations, it shall be the policy of the department to narrowly regulate the manner in which vehicular pursuit is undertaken and performed.

The professional, well-trained, and well-disciplined officer is aware that the decision to terminate a pursuit is determined under those circumstances in which the most intelligent and professional course of action would probably result in saving the life of a citizen or fellow officer. Any officer's or supervisor's decision not to pursue or to terminate a pursuit will not be subject to review or discipline.

III. DEFINITIONS

A. Vehicular Pursuit: For the purposes of this policy, pursuit is defined as an active attempt by an officer operating an emergency vehicle and simultaneously utilizing all emergency equipment to apprehend the occupant(s) of another moving vehicle, when the driver of a fleeing vehicle is aware of the attempt and is resisting apprehension by increasing his speed or disobeying traffic laws. Following a vehicle that is being operated legally, but ignoring the law enforcement officer's attempt to stop them, does not constitute a pursuit.

B. Supervisor/Field Supervisor: For the purposes of this policy, Supervisor/Field Supervisor excludes the rank of Corporal.

IV. PROCEDURES

A. Initiation of Pursuit [CALEA 41.2.2 a.]

1. Any law enforcement officer in an authorized emergency vehicle may initiate a vehicular pursuit only when **ALL** of the following criteria are met:

a. The decision to initiate pursuit must be based on the pursuing officer's conclusion that the immediate danger to the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large;
b. When an officer reasonably believes that the suspect exhibiting the intention to avoid arrest by using a vehicle to flee apprehension has committed a serious felony or is suspected of DWI. For the purposes of this policy, a serious felony shall be restricted to the following offenses: Murder, Robbery, Burglary, Kidnapping, Rape, Aggravated Assault, Battery 1st Degree, Battery 2nd Degree, Felony Domestic Cases, and any other felony offense which involves the use or threat of physical force or violence against another person. Facts gathered after initiation of a pursuit will not be considered part of the justification to initiate a pursuit;
c. The suspect operating the vehicle refused to stop at the direction of the officer;
d. The officer's unit is not occupied by a prisoner, suspect, complainant, witness, civilian observer, or any person not a law enforcement officer; and
e. The officer intending to pursue is equipped with a marked patrol unit. Exceptions to this will only occur with supervisory approval and should be limited to special circumstances.

2. The pursuing officer shall have considered and come to the conclusion that the following factors would not increase the danger to the lives of the public, officers, or suspects involved in or affected by the pursuit:

a. The performance capabilities of the pursuit vehicle;
b. The condition of the road surface upon which the pursuit is being conducted;
c. The amount of vehicular and pedestrian traffic in the area;
d. Weather conditions; and
e. The officer's own driving skills and knowledge of the roadway. (The officer should know his or her driving abilities and limitations and should not exceed them.)

B. Pursuit Officer Responsibilities [CALEA 41.2.2 b.]

1. The pursuing officer shall immediately notify communications center personnel that a pursuit is underway. The officer shall provide communications personnel with the following information:

a. Unit identification;
b. Location, approximate speed and direction of travel of the fleeing vehicle;
c. Description and license plate number, if known, of the fleeing vehicle;
d. Number of occupants in the fleeing vehicle and descriptions, where possible; and
e. Reasons supporting the decision to pursue.

2. Failure to provide this information to communications personnel may result in an immediate decision by a field supervisor assigned to monitor the pursuit to order its termination.

3. The primary pursuit unit shall reduce the level of pursuit to that of support, backup, or other assignments as directed by a supervisor when another vehicle has been assigned primary pursuit responsibility.

4. Any primary or backup unit sustaining damage or failure of essential vehicular equipment during pursuit shall not be permitted to continue in the pursuit. The unit shall notify communications so that another unit may be assigned to the pursuit. A unit shall terminate pursuit at any time it appears that a defect has developed in the police vehicle, which would in any way affect the safe operation of that vehicle, including loss of any emergency equipment.

C. Communications Center Responsibilities [CALEA 41.2.2 e.]

1. Upon notification that a pursuit is in progress, communications personnel shall immediately advise a field supervisor of essential information regarding the pursuit.

2. Communications personnel shall carry out the following activities and responsibilities during the pursuit:

a. Receive and record all incoming information on the pursuit and the pursued vehicle;
b. Control all radio communications and clear the radio channels of all non-emergency calls;
c. Obtain criminal record and vehicle checks of the suspects;
d. Coordinate and dispatch backup assistance under the direction of the field supervisor; and
e. Notify neighboring jurisdictions, where practical, when pursuit may extend into their locality.

D. Field Supervisor Responsibilities during Vehicular Pursuit [CALEA 41.2.2 f.]

1. Upon notification that a vehicular pursuit incident is in progress, the field supervisor shall assume responsibility for the monitoring and control of the pursuit as it progresses.

2. The field supervisor shall continuously review the incoming data to determine whether the pursuit should be continued or terminated. The field supervisor shall permit a pursuit to continue only if all criteria required to initiate the pursuit continues to be met.

3. The field supervisor shall order the termination of a pursuit for any of the following circumstances:

a. Anytime the supervisor concludes that the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension of the suspect;
b. When the suspect's identity is established to the point where later apprehension may be accomplished and when there is no immediate threat to public safety;
c. When officers lose all radio communications with: Fayetteville Dispatch, Washington County Dispatch or the Field Supervisor;
d. When a vehicular pursuit becomes prolonged in recognition of the increased risk associated with the overall population density and volume of vehicular traffic in Fayetteville, unless the supervisor determines that further pursuit is justified to respond to an immediate threat to public safety;
e. Weather or traffic conditions substantially increase the danger of pursuit beyond the worth of apprehending the suspect;

f. The distance between the pursuit and fleeing vehicles is so great that further pursuit is futile;
g. The fleeing vehicle travels the wrong direction on any freeway, freeway frontage road, or divided highway; or
h. For any other reason a supervisor deems necessary.

4. In controlling the pursuit incident, the field supervisor shall be responsible for coordination of the pursuit as follows [CALEA 41.2.2 c.]:
a. Directing pursuit vehicles into or out of the pursuit;
b. Re-designation of primary, support, or other backup vehicle responsibilities;
c. Approval or disapproval, and coordination of pursuit tactics; and
d. Approval or disapproval to leave jurisdiction to continue pursuit.

5. The field supervisor may approve and assign additional backup vehicles to assist the primary and backup pursuit vehicles based on an analysis of [CALEA 41.2.2 c.]:
a. The nature of the offense for which pursuit was initiated;
b. The number of suspects and any known propensity for violence;
c. The number of officers in the pursuit vehicles;
d. Any damage or injuries to the assigned primary or backup vehicles or officers;
e. The number of officers necessary to make an arrest at the conclusion of the pursuit; and
f. Any other clear and articulated facts that would warrant the increased hazards caused by numerous pursuit vehicles.

E. Traffic Regulations during Pursuit

1. Each unit authorized to engage in vehicular pursuit shall be required to activate headlights and all emergency vehicle equipment prior to beginning pursuit [CALEA 41.2.2 d.].

2. Officers engaged in pursuit shall at all time drive in a manner exercising reasonable care for the safety of themselves and all other persons and property within the pursuit area.

3. Officers are permitted to suspend conformance with normal traffic regulations during pursuit as long as reasonable care is used when driving in a manner not otherwise permitted, and the maneuver is reasonably necessary to gain control of the suspect.

F. Pursuit Tactics

1. Unless expressly authorized by a field supervisor, a pursuit will involve no more than three units to include the primary unit, a back-up unit, and a supervisor [CALEA 41.2.2 c.]. Officers are not otherwise permitted to join the pursuit team or follow the pursuit on parallel streets. However, officers are permitted to attempt to terminate the pursuit with deployment of Stop Sticks [CALEA 41.2.3 a.].

2. Officers may not intentionally use their vehicle to bump or ram the suspect's vehicle, unless "Deadly Force" is justified [CALEA 41.2.3 a.].

3. Departmental policy pertaining to use of deadly force shall be adhered to during the pursuit.

4. Boxing in a suspect's vehicle or heading off a suspect's moving vehicle is unauthorized [CALEA 41.2.3 a.].

5. Roadblocks are unauthorized [CALEA 41.2.3 a.].

6. K-9 units and motorcycles are prohibited from initiating, engaging in and/or following vehicle pursuits unless authorized by a supervisor [CALEA 41.2.2 d.].

G. Termination of Pursuit [CALEA 41.2.2 g.]

1. A decision to terminate pursuit may be the most rational means of preserving the lives and property of both the public and the officers and suspects engaged in pursuit. The pursuing officer, the field supervisor, or any higher-ranking supervisor to the field supervisor may terminate the pursuit.

2. The pursuit shall be immediately terminated in any of the following circumstances:
   a. When the officer concludes that the danger to the pursuing officer(s) or the public outweighs the necessity for immediate apprehension of the suspect;
   b. If the suspect's identity or probable identity is established to the point where later apprehension may be accomplished and where there is no immediate threat to the safety of the public or police officers;
   c. When officers lose all communications with: Fayetteville Dispatch, Washington County Dispatch or the Field Supervisor;
   d. When a vehicular pursuit becomes prolonged in recognition of the increased risk associated with the overall population density and volume of vehicular traffic in Fayetteville, unless the supervisor determines that further pursuit is justified to respond to an immediate threat to public safety;
   e. Weather or traffic conditions substantially increase the danger of pursuit beyond the worth of apprehending the suspect;
   f. The distance between the pursuit and fleeing vehicles is so great that further pursuit is futile;
   g. The fleeing vehicle travels the wrong direction on any freeway, freeway frontage road, or divided highway; or
   h. For any other reason a supervisor deems necessary.

3. The pursuing officer shall relay suspect information to communications personnel along with any further information acquired which may assist in an arrest at a later date.

H. Inter-jurisdictional Pursuits [CALEA 41.2.2 h.]

1. Pursuits Originated by Fayetteville Police Department
   a. The pursuing officer shall notify communications when it is likely that a pursuit will continue into a neighboring jurisdiction or across the state line.
   b. Regarding our pursuits entering other jurisdictions, our units will maintain their pursuit positions in their efforts to bring the pursuit to conclusion.
   c. Pursuit into a bordering state shall conform to the department's inter-jurisdictional pursuit agreement, if existent, and state law.

2. Pursuits Originated by Other Agencies

a. Since it is almost impossible to know all circumstances surrounding another agency's decision to pursue, or the charges pending against the pursued driver in the short period of time we are notified of the pursuit, Fayetteville Police units will assume a backup role in pursuits conducted through our jurisdiction by other law enforcement agencies.
b. Pursuits by other agencies through our jurisdiction terminate for Fayetteville Police Officers at the city limits, unless specifically authorized by a supervisor to proceed outside of our jurisdiction.
c. If another agency specifically requests our assistance in their pursuit, the dispatcher will attempt to get all of the known information and charges pending against the driver.
d. Once the field supervisor is informed of the specific charges by communications, an immediate decision shall be made by the field supervisor on the continuation of the pursuit by Fayetteville Police units outside our jurisdiction. In any event, as other jurisdictions join the pursuit to assist the originating agency, Fayetteville Police units shall cease their participation.

I. Reporting Procedures

1. The field supervisor shall prepare a comprehensive review of the pursuit and forward through the Patrol Captain to the Deputy Chief for review. [CALEA 41.2.2 i.] [CALEA 41.2.3 e.]

2. The Administrative Lieutenant will be responsible for maintaining pursuit records, completing the annual Pursuit Analysis Report and for retaining records according to the retention schedule. [CALEA 41.2.2 j.]

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 41.3.5 Grooming & Uniform Requirements	**Effective Date:** April 5, 2011
Reference:	Version: 1
CALEA: 1.3.9 a,b; 22.2.5; 41.3.4,5,6	No. Pages: 6

I. PURPOSE

The individual officer and the department are often judged by the public depending upon the personal appearance of the uniformed officers in particular and all employees in general. Maintaining a professional appearance is critically important to fostering public trust and confidence in law enforcement. The purpose of this policy is to provide grooming and uniform standard guidelines for employees of this department, which will reflect a high standard of professionalism to the public.

II. POLICY

Members of the Fayetteville Police Department shall be neat and clean at all times while on duty. All sworn personnel shall comply with the following grooming and uniform standards unless excluded by the Police Chief due to special assignments. No member of the department shall wear his or her uniform or any part of his or her uniform while he or she is on medical light duty, administrative leave or under suspension. **For current uniform specifications refer to the Uniform Regulations Book maintained on the computer network, the squad room and in the Quartermaster's office.**

III. PROCEDURES

All sworn personnel of the Fayetteville Police Department are subject to uniform inspections on a daily basis by any supervisor. Uniformed personnel are to keep their uniform neat, clean and free from defects. All authorized uniform items referred to in this policy and in the Uniform Regulations Book are supplied and issued by the Fayetteville Police Department Quartermaster except for the Extreme Cold Weather Cap. [CALEA 22.2.5, and CALEA 41.3.4] If specified as a department replacement, defective items shall be replaced through the quartermaster. Non-uniformed personnel are subject to the same standards and inspections as uniformed personnel. Officers replacing items through the quartermaster must submit a "Uniform and Equipment replacement form" signed by their supervisor. Failure to maintain appearance standards will be noted on your annual evaluation. Repeated failure to maintain proper appearance standards could lead to disciplinary action.

IV. GROOMING

1. Hair: The Chief of Police retains the right to approve or disapprove of any hairstyle, which may cause an unfavorable reflection(s) upon the department.

a. Male - Hair shall be neat, clean, trimmed, and shall present a groomed appearance. Hair will not cover any part of the ears or the collar except the closely cut hair on the back of the neck. Hair in front will be groomed so that it does not fall below the band of properly worn headgear. In no case will the bulk or length of the hair interfere with the proper wear of any authorized headgear.
b. Female - Hair shall be worn in a fashion not to create the risk of injury to them. Hair must not hang loose on the collar and must be able to wear authorized headgear properly.

2. Sideburns: If a member chooses to wear sideburns, they will be neatly trimmed and tapered in the same manner as his haircut. Sideburns will not extend below the lowest part of the ear, will be of even width (not flared), and will end with a clean-shaven horizontal line.

3. Mustaches: A short and neatly trimmed mustache may be worn, but shall not extend over the top of the upper lip or beyond the corners of the mouth, and shall not protrude more than one-half inch from the skin surface of the face.

4. Beards and Goatees: The face will be clean-shaven other than the wearing of the acceptable mustache or sideburns. Beards and goatees are prohibited. Only the Chief of Police may approve the wearing of beards or goatees.

5. Wigs: Wigs or hairpieces will not be worn on duty except for cosmetic reasons to cover natural baldness or physical disfiguration. If a wig or hairpiece is worn, it will conform to department grooming standards.

6. Jewelry:

a. Male - Uniformed officers may wear watches and wedding bands. Medical alert bracelets may be worn with the approval of the Chief of Police. At no time while on duty will officers be permitted to wear earrings or other ornaments attached to body.
b. Female - Uniformed officers may wear watches, wedding bands and post earrings which do not protrude from the ear lobe more than 1/4 inch. If the earrings are worn, the employee will wear one earring in each ear lobe.

7. Tattoos: Tattoos and brands above the collarbone and below the wrists are prohibited. Officers in uniform and non-uniform assignments are prohibited from displaying any tattoo, brand or intentional scarring while on-duty or while representing the Department in any other manner.

a. Any current officer in a uniformed assignment with an existing tattoo or brand that is visible while wearing the alternate summer uniform or a short-sleeved shirt shall have the following options:
    (1) Wear the standard uniform with a long-sleeved shirt,
    (2) Cover the tattoo or brand with a skin-tone patch. A skin-tone patch shall not be an option to cover a tattoo or brand on the officer's leg(s).

(3) Have the tattoo or brand removed at the officer's expense.

c. Officers in non-uniformed assignment shall have the following options to cover any visible tattoo or brand:
   (1) Cover with appropriate clothing,
   (2) Cover the tattoo or brand with a skin-tone patch. A skin-tone patch shall not be an option to cover a tattoo or brand on the officer's leg(s).
   (3) Have the tattoo or brand removed at the officer's expense.

d. When deemed operationally necessary, officers in undercover assignments may display tattoos or brands with the approval of the Chief of Police.

8. Body Piercing: Body piercing of the face, head, and mouth not only detracts from a professional appearance, but also poses a serious risk and potential for injury in a confrontational situation, and shall not be worn by any officer of the Department when representing the Department.

a. With the exception of pierced ears, body piercing of the face, head, and mouth detracts from a professional appearance and is not authorized for wear by any personnel when representing the department.

b. Any body piercing, which is not concealed by the authorized uniform or plainclothes, is prohibited for wear by any personnel when representing the department.

c. When deemed operationally necessary, officers in undercover assignments may display body piercing with the approval of the Chief of Police.

9. Dental Ornamentation: Officers shall not have dental ornamentation. The use of gold, platinum, silver or other veneer caps for the purposes of ornamentation is prohibited. Teeth whether natural, capped or veneered shall not be ornamented with designs, jewels, initials, etc.

V. UNIFORMS

Officers will be required to wear a uniform as authorized by the Chief of Police. Uniform specifications will be listed in a Uniform Regulations Book maintained on the computer network, the squad room as well as the Quartermaster's office.

Class "A" uniforms will be the department issued dark navy color long sleeve shirt and pants without cargo pockets. Class "A" uniforms will be worn with department issued badge, name tag, collar brass, whistle chain, two pens/pencils, tie, leather gear, duty boots or shoes and duty hat when directed by the Chief of Police. The whistle chain will be attached to the right shoulder epaulet button with the whistle (optional) stored inside the right shirt pocket. Class "A" uniforms are authorized for day to day patrol activities and special occasions such as ceremonies, funeral, special events or any other event authorized by the Chief of Police.

Class "B" uniforms will be the department issued dark navy color long, or short, sleeve shirt and pants with, or without, cargo pockets. Class "B" uniforms will be worn with department issued badge, name tag, collar brass, whistle chain (optional), two pens/pencils, leather or web-gear duty belt, duty boots or shoes and duty hat or stocking cap (optional). Collar brass is not worn for the rank of sergeant, corporal, or patrolman first class with Class "B" uniforms. A black crew neck type t-shirt will be worn underneath all short sleeve uniforms. A black crew neck t-

shirt or mock neck type shirt will be worn underneath all long sleeve uniforms. Class "B" uniforms are authorized for day to day patrol activities or any other event authorized by the Chief of Police.

Class "C" uniforms will be the department issued navy color BDU pant and approved Fayetteville Police Department shirt. Class "C" uniforms will be worn with department issued web gear, duty boots and baseball cap (optional). Class "C" uniforms are authorized for man hunts, K-9 call-outs, training involving physical activity or during any other event authorized by the Chief of Police.

The Chief of Police will authorize special uniforms as necessary (i.e. Administrative Personnel, Emergency Response Team, Honor Guard, etc.).

1. Duty Belt: Officers will be issued a leather and web-gear duty belt with matching accessories. Items to be worn on the duty belt consist of holster with gun, double magazine pouch with magazines, flashlight and flashlight holder, portable radio holder with radio, handcuff case with handcuffs, keepers, pepper spray holder with pepper spray, the CEW and holster. The department supplied baton holder and baton is optional. No sunglasses, keys, knives, or any other items will be worn on the belt unless approved by the Chief of Police.

If authorized to wear the uniform on a "second" job, the COMPLETE prescribed uniform for the time of year will be worn.

2. Authorized Hat:

a. Duty Hat: To be worn with the Class "A" uniform. Refer to the uniform regulations book.
b. Baseball Cap: The baseball cap may be worn with the Class "C" uniform, at the firing range, manhunts or when otherwise authorized by the Chief of Police. Refer to the uniform regulations book.
c. Stocking Cap: To be worn in cold weather. Refer to the uniform regulations book.
d. Extreme Cold Weather Cap: This item is optional, not furnished by the department. This cap may be worn during extreme cold weather. Refer to the uniform regulations book.
e. Hat Badge: To be worn with the Duty Hat. Refer to the uniform regulations book.

3. Patches: The Fayetteville Police Department patch, as designed by the department, will be worn on the left and right shoulder of all shirts one inch from the shoulder seam and centered on the sleeve. Patches on coats will be one inch from the shoulder seam and centered. No other patch, insignia, or pin will be allowed except those authorized by the Chief of Police.

4. Collar Emblems: The rank insignia shall be worn on both collars of Class "A". The rank insignia shall be worn on both collars of Class "B" uniforms for all ranks except sergeant, corporal, or patrolman first class. The insignia for the rank of lieutenants and above will be worn on shirt collars perpendicular to the shoulder. The insignia for the rank of sergeant and below will be worn with the centerline of the insignia bisecting the points of the collar. All non-ranking officers shall wear the F.P.D. emblem on the Class "A" and Class "B" uniforms in a horizontal, centered position between the tip of the collar and the neck opening. Refer to the uniform regulations book.

5. Name Plate: The nameplate will be furnished by the quartermaster. It will be worn over the right pocket approximately .25 inches above the pocket flap and centered with the button. The nameplate will be worn at all times while in uniform unless otherwise authorized. See illustrations in the Uniform Regulations Book.

6. Pen and Pencil: To coincide with other metal parts of the uniform, all officers will carry pen or pencils, of which that part is exposed, will be predominately gold in color. No more than two pens or pencils will be exposed in the left pocket at one time. The pens will have black ink and the pencil will be carried due to the inability of a pen to write on a damp or wet piece of paper.

7. Tie: The tie will be worn with the Class "A" uniform. When ties are in use, they will be worn on the outside of the shirt, not tucked in. Refer to the Uniform Regulations Book.

8. Shirts and Trousers: Refer to Uniform Regulations Book.

9. T-Shirts: A black crew neck type t-shirt will be worn underneath the short sleeve Class "B" uniform. A black mock neck type or crew neck t-shirt will be worn underneath the long sleeve Class "B" uniform. The F.P.D. long, or short sleeve t-shirt will be worn with the Class "C" uniform. Refer to the Uniform Regulations Book.

10. Coat/sweater: Refer to Uniform Regulations Book.

11. Raingear: Refer to Uniform Regulations Book.

12. Footwear: The Chief of Police has authorized the following footwear for patrol:

a. A plain toe Oxford, black.
b. A utility boot, black.

Authorized footwear will be kept clean and shined at all times while on duty. Black or dark Blue socks are the required uniform item. Footwear for specialized units such as Bike Patrol, E.R.T., and K-9 officers must be approved by the Chief of Police and will not be worn during normal patrol duties. Refer to the uniform regulations book.

13. Bullet Resistant Vests: Uniformed officers shall wear a bullet resistant vest at all times unless specifically exempted by the Chief of Police. The vest will be supplied by the department and replaced as necessary. Refer to the uniform regulations book. [CALEA 41.3.5] Officers involved in high-risk tactical details shall also be required to wear a bullet resistant vest. [CALEA 41.3.6]

14. Weapons and Ammunition: The Chief of Police will designate the ammunition and weapons carried. No other ammunition or weapon will be carried except when approved by a supervisor for special circumstances and ONLY for that particular situation.[CALEA 1.3.9 a. and b.]

A. Department-issued Weapons and Ammunition:

1. Uniformed officers will carry the department-issued weapon **only**. The authorized weapons utilized by the department include:
(a) Glock model 35 .40 caliber semi automatic pistol
(b) Glock model 23-C .40 caliber semi automatic pistol

(c) Remington model 1187 12 gauge shotgun
(d) AR-15 .223 caliber semi automatic rifle
(e) Remington model 700 LTR .308 caliber rifle
(f) AR-10 308 caliber semi-automatic rifle
(g) Smith and Wesson model 342 .38 caliber revolver

2. Detectives will carry only the department-issued weapon while on duty. Personal weapons must have the written approval of the Chief of Police prior to being carried as a duty weapon or as a supplemental duty weapon.

3. Ammunition will be department-issued as approved by the Chief of Police. Authorized ammunition utilized by this department will be governed by the department's Approved Weapons and Ammunition List as maintained by the Administrative Lieutenant. A copy of this list will be maintained on the computer network [CALEA 1.3.9 b.].

4. Uniformed officers and detectives of this department will carry only department-issued shotguns and rifles.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 54.1.1 Public Information Policy	**Effective Date:**
Reference:	Version: 1
CALEA: 54.1.1, 54.1.3	No. Pages: 4

I. Purpose:

The purpose of this policy is to establish guidelines to provide accurate, timely information to the public through the news media about incidents and departmental events affecting the community. The function of the public information office is to build trust, cooperation and respect with the community while protecting the privacy rights of individuals and the integrity of criminal investigations.

II. Definitions:

Public Information: Information that may be of interest to the general public regarding policies, procedures or events involving the department or otherwise newsworthy information that is not legally protected and does not unduly interfere with the mission of the Fayetteville Police Department. This excludes information that infringes upon the rights of a defendant or compromises the legitimate safety and privacy of employees, victims, witnesses or others.

News Media Representatives: Those individuals who are directly employed by the agencies of electronic or print media such as radio, television and newspaper. Freelance workers in this field are to be regarded as other members of the general public unless otherwise specified by the Chief of Police.

Public Information Officer (PIO): A designated officer of the Fayetteville Police Department who serves as a central source of information for the department and responds to requests for information by the news media and the community.

III. Policy:

All employees are directed to cooperate fully and impartially with news media representatives in their efforts to gather factual, public information pertaining to the activities of the department, as long as these activities do not contradict the provisions of the Arkansas Freedom of Information Act (F.O.I.A.) Examples include major incidents, statistical data, records, complaints, statements of departmental policy and publicity for departmental events.

A. The Public Information Function - The Fayetteville Police Department shall establish a public information function that will be responsible for the following [CALEA 54.1.1]:

1. Assisting news personnel in covering routine news stories;
2. Being available for on-call responses to the news media;
3. Preparing and distributing news releases;
4. Arranging for, and assisting at news conferences.

B. Public Information

1. Control

   a. The Chief of Police or his designee shall be the point of control for the dissemination of information to the community, the media, and to other law enforcement agencies. The Chief of Police or his designee may authorize interviews relating to departmental matters.
   b. The public information officer may request employees with firsthand knowledge of a particular departmental activity to provide that information to the media.
   c. Any employee desiring to publicize or promote a particular program or item of interest will coordinate such release through the public information office.

2. Public Information Officer

   a. The Chief of Police shall appoint a department public information officer.
   b. Activities shall be performed on an as-needed basis as directed by the Chief of Police.
   c. Police department employees should advise the public information officer as soon as possible of new programs, outstanding achievements, current or investigative developments likely to prompt media attention or inquiries, and any other newsworthy information.
   d. The public information officer shall maintain a file on all news releases.

3. Accident and Incident/ Case Reports

   a. A computer designated for news media use is located in the front lobby of the Fayetteville Police Department. This computer is accessible to authorized members of the media at all times [CALEA 54.1.3].
   b. Photo copies of arrest, accident, incident and case reports may be provided upon request. The usual fees established by the police Records Division pursuant to state law will be charged.

4. Criminal and Traffic Record Information - The department records clerks, public information officer and the Criminal Investigation Division (CID) supervisors are authorized to release criminal and traffic record information from police files on offenders under the following conditions:

   a. Release to a Law Enforcement Agency:
      1. A written request in any format should be submitted by the requestor to verify identity; and

2. The disposition of the offense has not been sealed by a court order. Records requested for employment purposes may be released even when the records have been sealed by a court order.

b. Release to Non Law Enforcement:
   1. The subject of the information request was not a juvenile at the time of offense; and
   2. The disposition of the offense has not been sealed by a court order.

5. Criminal Investigations - Inquiries referring to matters under "open/active" criminal investigations will be directed to the public information officer or a CID supervisor.

6. Routine Inquiries - The shift supervisor is authorized to handle routine inquiries into the following:
   a. Crime and accident scenes;
   b. Unusual occurrences;
   c. Disasters;
   d. Hazardous weather or roadway conditions;
   e. Special events.

7. Scene Access - At no time shall news media representatives, photographers or the public be allowed to interfere with law enforcement operations at the scene of an incident. Media personnel seeking information at incident scenes where the department public information officer is not present should be referred to the scene supervisor [CALEA 54.1.3].

   a. Perimeters at incident scenes shall be accomplished through the use of a physical barrier such as crime scene tape. If this is not practical, officers will be posted to prevent unauthorized persons from entering.
   b. Members of the news media will not be allowed to enter the perimeter until the incident scene has been processed. It may still be necessary to prevent their access if:
      (1) The incident is on private property and the owner or custodian denies access.
      (2) Their presence will impede the work of public safety personnel.
      (3) Their presence will impede the preservation of evidence.
   c. As long as there is no interference in police efforts, scene security or safety, the media will be afforded the best vantage point possible from which to cover the situation.
   d. Suspects or persons in custody shall not be deliberately posed for photographs, telecasts or interviews.
   e. Suspects or persons in custody shall not be subjected to on-scene news media interviews.
   f. Members of media organizations shall be afforded an opportunity to participate in the ride-along program as authorized by the Chief of Police or his designee.

8. F.O.I.A. Requests - The Arkansas Freedom of Information Act requires a timely response to F.O.I.A. requests.

a. If a written F.O.I.A. request is received, the employee shall note the date and time it is received and immediately forward the request to the public information officer for processing.
b. If an F.O.I.A. request is made and there is some uncertainty about whether the information is immediately available for release, the request shall be forwarded to the office of the Chief of Police for a determination.
c. F.O.I.A. requests are not required to be written. Employees receiving requests by other means (orally, email, fax, etc…) shall complete the F.O.I.A. request form, fulfill the request to the best of their ability, and forward the request and the released information to the public information officer.

d. Official F.O.I.A. requests should not be confused with normal questions asked by news reporters on a daily basis. Questions concerning crime, accidents and other normal police operations will continue to be handled by a supervisor.

e. The public information officer will keep a record of all F.O.I.A. requests.

FAYETTEVILLE POLICE DEPARTMENT
FAYETTEVILLE, ARKANSAS

POLICIES, PROCEDURES, AND RULES

Subject: 46.1.1 Critical Incidents	**Effective Date:**
Reference:	Version: 1
CALEA: 46	No. Pages: 6

I. PURPOSE

The Fayetteville Police Department must have guidelines for response to critical incidents. Critical incidents are situations, sometimes of an emergency nature, that result from disasters, both natural and man-made, and civil disturbances. Critical incidents also include special events requiring Fayetteville Police Department personnel assignments. The Fayetteville Police Department will follow the standard Incident Command System (ICS) protocols within the structure of the National Incident Management System (NIMS) [CALEA 46.1.2]. Not every incident will require the activation of the entire ICS protocol.

II. POLICY

A. Critical Incidents

1. The Patrol Captain is responsible for coordinating the planning functions for response to an unusual occurrence. The first officers to arrive on the scene will be responsible for the initial response, assessment, and required notifications [CALEA 46.1.1].

2. The Chief of Police or his designee will appoint personnel to fill the command function when it is necessary to utilize the ICS. The command function will address the following at a minimum: [CALEA 46.1.3]

    a. Activating the incident command system;
    b. Establishing a command post;
    c. Initiating the notification and mobilization of additional agency personnel;
    d. Obtaining support from other agencies;
    e. Establishing a staging area, if necessary;
    f. Providing public information and maintaining media relations;
    g. Maintaining the safety of all affected personnel; and
    h. Preparing an after action report.

3. The Chief of Police or his designee will appoint personnel to fill the operations function when it is necessary to utilize the ICS. The operations function will be responsible for coordinating the following: [CALEA 46.1.4]

a. Establishing perimeters;
b. Conducting evacuations;
c. Maintaining command post and scene security;
d. Providing for detainee transportation, processing, and confinement;
e. Directing and controlling traffic; and
f. Conducting post-incident investigation.

4. The Chief of Police or his designee will appoint personnel to fill the planning function when it is necessary to utilize the ICS. The planning function will address the following at a minimum: [CALEA 46.1.5]

   a. Preparing a documented incident action plan;
   b. Gathering and disseminating information and intelligence; and
   c. Planning post-incident demobilization.

5. The Chief of Police or his designee will appoint personnel to the logistics function when it is necessary to utilize the ICS. The logistics function will be responsible for coordinating the needs of the following: [CALEA 46.1.6]

   a. Communications;
   b. Transportation;
   c. Medical support;
   d. Supplies; and
   e. Specialized team and equipment.

6. The Chief of Police or his designee will appoint personnel to fill the finance/administration function when it is necessary to utilize the ICS. The finance/administration function will address the following at a minimum: [CALEA 46.1.7]

   a. Recording personnel time;
   b. Procuring additional resources;
   c. Recording expenses; and
   d. Documenting injuries and liability issues.

7. All sworn personnel will receive training in Critical Incident Response. The Training Division will establish and schedule annual refresher training for all sworn officers and affected non-sworn personnel in emergency procedures that will specifically target the understanding and practical application of the Incident Command System and the department's role in the Emergency Plan for the City of Fayetteville. The department will strive to conduct or participate in one training exercise per year. Personnel will be assigned to participate in the exercise, while maintaining patrol and investigative staffing. Participation will be documented [CALEA 46.1.9].

B. Special Operations

1. Sworn personnel will usually be the first to encounter a situation involving a critical incident and will initiate procedures in an attempt to resolve the situation by implementing the following measures: [CALEA 46.2.1]

    a. Dispatch enough personnel to the scene to effectively contain and isolate the situation;
    b. Attempt to prevent escalation of the situation;
    c. Take any action deemed necessary to preserve life;
    d. Should the on-scene incident commander determine that an event requires specialized units to supplement patrol functions, the scene will be secured and an appropriate perimeter established. The Communications Division will contact the requested specialized units for response.
    e. The on-scene incident commander will coordinate the various specialized units with other personnel. Cooperation is an expectation for all involved personnel and providing for the safety of officers is a paramount goal.

2. Deployment of specialized units:

    a. Emergency Response Team (ERT) – deployed upon authorization of a captain or higher ranking officer; refer to policy [46.2.1]
    b. Crisis Negotiation Team (CNT) – deployed upon authorization of a captain or higher ranking officer
    c. Criminal Investigation Division (CID)– deployed upon the request of supervisory personnel
    d. Tactical Dispatch Team – deployed upon authorization of a captain or higher ranking officer
    e. Bomb Squad – supervisory personnel may request assistance from an authorized bomb squad
    f. Public Information Officer- deployed upon the request of supervisory personnel
    g. K9 Division- deployed upon the request of supervisory personnel
    h. Any other unit- deployed upon the request of supervisory personnel

3. All VIP security requests will be made to the department's special events supervisor who will coordinate the security detail and all employees assigned. A VIP is defined as a very important person, dignitary, famous personality, notorious person, or any other person in need of special security. The following guidelines in VIP security detail will be addressed: [CALEA 46.2.6]

    a. The special events supervisor will have access to all department equipment and vehicles for the purposes of VIP security.
    b. Travel routes and alternate routes will be planned in consideration to safety and time. Potential problems will be specifically detailed.
    c. An inspection of the area for the security detail will be conducted prior to the arrival of VIP when necessary. Gathering intelligence will be a key component during inspections.
    d. The special events supervisor will ensure coordination with other city departments and outside agencies.

e. Emergency first aid, ambulance services, and medical facilities will be identified in planning meetings that take place prior to VIP security details. These entities will be given advanced notice and may be used as part of planning the detail.
f. The special events supervisor will assign a radio channel for the department's communication radio system that will preclude interference from normal operations.
g. Personnel assigned to VIP security detail may have specific identification designations such as lapel pins or armbands. The chosen designations should facilitate identification of authorized security personnel.

4. The Fayetteville Police Department will ensure that at least one supervisor is assigned to special events, and that supervisor will be responsible for event planning and coordinating. Fayetteville Police Department supervisors will adhere to the following special events guidelines: [CALEA 46.2.7]

    a. Under the direction of the special events supervisor, estimates for traffic, parking, crowd-control, and criminal problems will be assessed for special events. This supervisor or delegate will meet or confer with representatives of participating organizations, planning committees, and other departments to coordinate plans and exchange information as necessary.
    b. The department will establish contingency plans for traffic direction and control prior to major special events.
    c. Personnel assigned to any division within the department may be used to ensure this department meets and performs its obligations and duties at any event. The special events supervisor will ensure that appropriate relief of assigned personnel occurs with the assistance of other supervisory levels of the event and supervisors working in normal operations.
    d. Logistical requirements will be addressed to ensure the safety of those in attendance. Requirements that must be considered are fixed post assignments, roving post assignments, barricades and their positioning, traffic direction and control, and emergency personnel and vehicle access. When necessary, the special events supervisor will coordinate with the ERT supervisor for required tactical and special needs.
    e. The special events supervisor shall ensure coordination occurs in respect to Fayetteville Police Department personnel and outside agencies.
    f. The special events supervisor will coordinate with the department's PIO to address the news media.

5. The supervisor assigned to the critical incident and/or special event will ensure that an after-action report is completed using an after-action report template. An after-action report template will be readily accessible to all sworn personnel. Completed after-action reports will be filed on the agency's computer network with the event title as a reference [CALEA 46.1.3 h.].

C. Homeland Security

1. The Fayetteville Police Department maintains liaison with other organizations for the exchange of information relating to terrorism: [CALEA 46.3.1]

    a. Information gathered through hotlines such as Crime Stoppers, emergency (911), or non-emergency telephone lines shall be evaluated and forwarded to the Criminal Investigation Division and if necessary, to the Patrol Division and appropriate state, federal, or private agencies.

2. It is the policy of Fayetteville Police Department that each officer take part in gathering and reporting information related to terrorism: [CALEA 46.3.2]

    a. Any officer receiving information concerning possible terrorism activities will immediately notify the supervisor on duty and complete a written report.
    b. The supervisor will determine the validity of the information and the appropriate response from the department, which may include notification of the patrol captain, CID, other local law enforcement agencies, or the appropriate state, federal, or private agencies.

3. The Fayetteville Police Department will provide terrorism awareness information within its service area: [CALEA 46.3.3]

    a. Information pertinent to Fayetteville and the surrounding area shall be disseminated throughout the various task forces, boards, departments, and community awareness methods whenever information is found to be credible.
    b. The information shall be shared with persons and/or organizations holding proper security clearance and on a need to know basis, depending on the information gathered so as not to provoke a panic or misinformation from the information being disseminated.
    c. Secure information shall only be disseminated to appropriate personnel.

4. As part of training provided for all sworn personnel in critical incident response, awareness level training for events involving hazardous materials will be provided. Officers should be provided with basic knowledge to recognize a hazardous situation for which they can implement basic procedures to have authorities with the required technical abilities assess the situation [CALEA 46.3.4].

5. The Fayetteville Police Department shall make every attempt to comply with state and federal law and guidelines established by the Department of Homeland Security when responding to and reporting chemical, biological, radiological, and nuclear (CBRN) events.

6. The Fayetteville Police Department quartermaster will be responsible with continuously maintaining and storing an adequate amount of communicable disease control supplies for use by first responders. These supplies will be made available for each patrol unit and shall be part of the department's vehicle inspection process governed in FPD Policy 41.1.1 that is overseen by assigned primary and secondary supervisors. The following supplies will be issued including, but not limited to:

    a. Latex gloves

b. Face shields
c. Appropriate protective clothing
d. Shoe covers
e. Dust masks
f. Hand sanitizer
g. Container for supplies

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

September 4th, 2012
City Council Meeting Date
Agenda Items Only

Brian Pugh	Solid Waste and Recycling	Operations
Submitted By	**Division**	**Department**

Action Required:

Resolution Authorizing Application for a 2012 ADEQ E-waste grant for $25,000 for an E-waste Coupon Redemption Program.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director	8-17-12 Date	Previous Ordinance or Resolution #
		Original Contract Date:
City Attorney	8-17-12 Date	Original Contract Number:
Finance and Internal Services Director	8/20/12 Date	Received in City Clerk's Office 08-17-12 P02:04 RCVD
Chief of Staff	8/20/12 Date	
Mayor	8/21/12 Date	Received in Mayor's Office ENTERED 8/17/12

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff
Terry Gulley, Transportation Director

From: Brian Pugh, Solid Waste and Recycling

Date: August 18, 2012

Subject: Resolution Authorizing Application for a 2012 ADEQ E-Waste Grant for $25,000 for an E-Waste Coupon Redemption Program.

RECOMMENDATION

Fayetteville City Administration recommends authorizing application for a 2012 Arkansas Department of Environmental Quality (ADEQ) E-waste grant for $25,000 for an E-waste coupon redemption program.

BACKGROUND

The Arkansas Department of Environmental Quality sells state owned computers and related equipment at auctions each year. The money earned from the sale of this liquated equipment is then used to fund e-waste programs across the state. Municipalities are eligible and encouraged to apply for grants with this program. Applications are accepted Aug. 1st through Sept. 1st and funds will be eligible to awarded recipients in December 2012. This is the first time the City has applied for funds from this particular grant program.

DISCUSSION

The program would partner with the Washington County Office of Environmental Affairs and print e-waste recycling coupons which can be redeemed at the Washington County HHW site in south Fayetteville where the e-waste is collected for recycling. The current charge for e-waste collected at this site is $5 per unit. The coupons would be printed showing the $5 value for recycling of e-waste at the site. Distribution would begin in December 2012 to entice the recycling of e-waste generated around the holiday season and then into 2013 until the coupons are exhausted. The coupons could be handed out at promotional events, given out in appreciation for volunteer service with the recycling program, the Mayor's booth at the Farmers Market on the square, school recycling events and many other City and County related events.

BUDGET IMPACT

The recycling grant awards are not matching grants, so no City funds are obligated with this request. Upon approval and award of the grant a budget adjustment will be requested to recognize the grant revenue and a capital project will be created.

RESOLUTION NO. _____

A RESOLUTION APPROVING APPLICATION FOR A 2012 ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY E-WASTE GRANT OF $25,000.00 FOR AN E-WASTE COUPON REDEMPTION PROGRAM

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 applying for a 2012 Arkansas Department of Environmental Quality E-Waste Grant of $25,000.00 for an E-Waste coupon redemption program.

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

ADEQ
ARKANSAS
Department of Environmental Quality

SOLID WASTE MANAGEMENT DIVISION

Effective Date
August 1, 2012

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

E-WASTE GRANTS PROGRAM

GUIDELINES and APPLICATION

PURSUANT TO

THE ARKANSAS COMPUTER AND ELECTRONIC SOLID WASTE MANAGEMENT ACT

Annual Grant Application
Submittal Dates
August 1 - September 1

E-Waste Grants Program
Arkansas Department of
Environmental Quality
Solid Waste Mgmt Division
5301 Northshore Drive
North Little Rock, AR 72118-5317
Phone: (501) 682-0609
www.adeq.state.ar.us

E-WASTE GRANTS PROGRAM

GUIDELINES and APPLICATION

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Attachment: E-Waste Grant Application Form

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

E-WASTE GRANTS PROGRAM

GUIDELINES

Pursuant to
▪THE ARKANSAS COMPUTER AND ELECTRONIC SOLID WASTE MANAGEMENT ACT•

FUND AUTHORITY

Pursuant to Act 1410 of 2001 and Act 970 of 2005, codified as Arkansas Code Annotated (A.C.A) § 25-34-101 et al, there is established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State, a fund known as the Computer and Electronic Recycling Fund. The Computer and Electronic Recycling Grants Program shall be administered by the Arkansas Department of Environmental Quality's Solid Waste Management Division.

GRANTS PROGRAM IMPLEMENTATION

Computer and Electronic Recycling Grants will be awarded on the basis of written grant request proposals approved by the Arkansas Department of Environmental Quality and upon available funding.

SHORT TITLE

The grants program will be known by its short title: ▪E-Waste Grants Program.•

INTENT

The intent of A.C.A § 25-34-101 et al, and this grants program, is to achieve maximum benefit from the sale of surplus Arkansas State Agency assets; and to protect the public health, safety, and the environment by mandating steps be taken to address the solid waste management of computers and other electronic solid waste statewide.

DEFINITIONS

For purposes of this grant program only, the following definitions apply:

COMPUTER – a programmable electronic machine that performs high-speed mathematical or logical operations or that assembles, stores, correlates, or otherwise processes information.

DEMANUFACTURING – end of life disposition of electronic devices and computers; includes recovery of hard drives and chips with resale value, the removal of commodities, such as copper, aluminum, and gold for sale to scrap consumers, the removal and hazardous waste disposal of toxins and heavy metals, and the shredding or melting of

materials that can be sold and manufactured into new products.

DEPARTMENT – the Arkansas Department of Environmental Quality

DIRECTOR – the Director of the Arkansas Department of Environmental Quality, or his designee.

DISPOSAL – the discharge, deposit, injection, spilling, leakage, placing or dumping of any computer or electronic waste into or on any land or water in whatever manner so that the waste or any constituent thereof might enter the environment or be emitted into the air or be discharged into the waters of the state, including groundwaters.

ELECTRONICS – devices utilizing electrons and electric circuits including household appliances, televisions, recording and playing devices for music or video tapes, compact discs and digital technology.

E-WASTE – computer or electronic equipment that is either no longer needed for or capable of serving it's intended purpose, is considered scrap and is destined for disposal.

GRANTEE – the grant applicant awarded funding for a grant proposal or application.

RECYCLE – the use of previously manufactured materials, including metals, glass, and plastics, in the manufacture of new products.

STATEMENT OF AGREEMENT – upon final project approval and prior to any release of funds, the agreement that will be entered into by the grantee with the Department.

FUNDING CYCLE FOR GRANT AWARDS

Grants shall be awarded on an annual basis, following the end of each fiscal year. Award amounts shall be based upon funds available from the previous fiscal year and any funds remaining from previous fiscal years, as authorization allows.

APPLICANT ELIGIBILITY

The following entities or types of entities in **Arkansas** are eligible to apply for funding under this program:

1. Regional Solid Waste Management Boards
2. Cities or Counties
3. Other State or Local Government Entities
4. Schools, Colleges or Universities
5. Non-profit Organizations or Associations
6. Private Industry
7. Arkansas Department of Environmental Quality

ELIGIBLE PROJECTS

Category One: Collection, Transportation, or Processing
Market research, development, and implementation of the most efficient means of collecting, transporting, and processing scrap electronic equipment.

Category Two: Local or Statewide Recycling and Demanufacturing
Establish statewide, regional or local contracts for computer and electronics recycling and demanufacturing businesses.

Category Three: Innovative Recycling, Donation, Demanufacturing, or Disposal
Other **innovative measures**, subject to approval of the Department, that implement and promote the recycling, donation, demanufacturing or disposal options for computers and electronic equipment.

NOT ELIGIBLE FOR FUNDING

Only reasonable costs are allowable. In order to maximize limited funding, the following restrictions will be applied:

Routine Activities
Funding assistance shall not be provided to perform routine maintenance and monitoring activities nor other services or actions which are provided or should be provided, in the normal course of a solid waste management system, plan or effort, by a grantee.

Equipment or Facilities
Funding assistance shall not be provided for the purpose of purchasing or leasing equipment or facilities, unless such equipment or facility is indispensable to an otherwise eligible project. Facilities and equipment purchased with grant funds must be used exclusively as specified in the grant application.

Indirect Costs
Funding assistance shall not be used for costs that do not directly relate to a specific project and have not received written approval from the Department as specifically attributable to an approved project. Grantees are allowed up to ten percent (10%) of the total grant award for administrative, operating, and oversight costs, such as salaries. Unless indispensable to an otherwise eligible project, the following are considered ineligible administrative expenditures: taxes; fees; licenses or permits; vehicle registrations; utilities; phone service; land acquisition; medical; uniforms and contingency funds.

Retroactive Costs
Funding assistance shall not be provided to reimburse for costs incurred by a grantee prior to the date that a project is approved for funding by the Department.

APPLICATION PROCESS AND APPROVAL

Application Forms

The form to be used in the application process is included in this document. An application shall not be considered without required attachments.

Application Submittal Dates

Applications shall be accepted between August 1 and September 1 of each year.

Award Funds Date

Funds shall be awarded on or before December 31 of the year following the application submittal date.

Application Evaluation and Approval

Applications shall be evaluated and approved based upon the type of project, the implementation process, the scope of project and the anticipated results listed on the grant application, with equitable distribution through the state, if possible.

APPLICATION EVALUATION CRITERIA

Projects will be considered for funding based upon the content of the submitted documents, which shall be examined utilizing criteria determined by the Department based upon the following evaluation criteria:

Development and Implementation

The development and implementation of sustained processes of e-waste (scrap computers and electronics).

- Recovery
- Recycling
- Demanufacturing

Anticipated Project Results

- Minimization and elimination of substantial volumes of this material as waste
- Creation of Arkansas jobs
- Return of investment analysis or cost recovery

FUNDING APPROVAL STATEMENT OF AGREEMENT

Each applicant approved for funding will enter into a Statement of Agreement with the Department. Each project is subject to inspection and approval by the Department. Failure to comply with the agreement conditions of grant award may require, at a minimum, that the grant funds be returned and the Agreement annulled.

DISBURSEMENT OF FUNDS

The Department will award grant funds annually, on or before December 31, upon proper execution of the Statement of Agreement, provided all requirements from previous grant awards have been completed. All disbursements shall be based upon available funds. Grants funds must be expended within one year of the execution date of the Statement of Agreement.

REPORTING AND OVERSIGHT REQUIREMENTS

Summary Report
Grantees shall provide the Department with a report summarizing the following items, if applicable:

1. Project activities
2. Expenditures from the grant award
3. Earned interest
4. Numbers, volumes or tonnage of materials recycled from the project
5. Number of Arkansas jobs created
6. Return or cost recovery analysis

Grantees shall file the Summary Report, electronically where possible, no later than one year following the execution date of the Statement of Agreement. The report shall cover all activities for the year. Grants funds must be expended within one year of the execution date of the Statement of Agreement.

Record Keeping
Grantees are required to maintain an orderly accounting system to document that grant expenditures are made in accordance with the project budget. Records shall be retained by the Grantee for no less than three years following the execution date of the Statement of Agreement.

Record Submittal
The Department may, at its discretion, require copies of bids, paid invoices for equipment or services, and canceled checks pertinent to the project.

Right of Entry and Access
Department personnel shall have the right of entry to the premises of a grant-funded project and the right of access to all records pertaining to a grant-funded project or activity.

Modifications
After the Department has approved a grant, modifications may be made to the grant project if the grantee submits adequate documentation of the proposed changes and receives written approval by the Department.

Notice of Irregularities
It shall be the responsibility of the Grantee to immediately notify the Department in the event that the grantee has not met conditions of the approved grant application. A grant may be terminated by the Department if determined that the grantee is unable or unwilling to complete or meet the conditions of the grant set forth herein and in the Statement of Agreement. If a grant is terminated, grant funds shall be reimbursed. Funds returned shall become a part of the total fund available in the next grant year.

CONDITIONS OF GRANT

Funds Forfeited

Funds for any grant project not started by the date agreed upon in the Statement of Agreement with the Department will be forfeited and become a part of the total funds available in the next grant year, unless the project delay receives written approval by the Department.

If, within a one-year period beginning on the date of a Statement of Agreement, the Grantee does not meet the grant conditions, the Department may order the Grantee to reimburse the grant award, plus interest monies earned from the holding of the grant. Grantees will be ineligible for future grant awards until reimbursement is made. Reimbursed monies will become a part of the total fund available in the next grant year.

Earned Interest on Grant Awards

Interest monies earned from the holding of grant funds by grant recipients shall be used exclusively for projects consistent with the Statement of Agreement. It shall be the responsibility of grantees to monitor the collection of earned interest and direct interest monies to the project supported by the grant award. Earned interest used on the grant project shall be reported in the Summary Report.

Project Deadlines

Grantees shall develop projects, as outlined in the grant application, and expend all grant funds within one year following the execution date of the Statement of Agreement.

APPEALS OF GRANT DECISIONS

Appeals

The following persons shall have the right to appeal any grant decisions as defined herein made by the Department:

1. A grant applicant;
2. A grantee; or
3. Any other person entitled by law to contest the Director's decision.

Review

Any such person may appeal a grant decision by requesting an adjudicatory hearing and Arkansas Pollution Control and Ecology Commission review in accordance with Regulation 8: Administrative Procedures, a copy of which can be obtained at http://www.adeq.state.ar.us/regs/files/reg08_final_000612.pdf.

SEVERABILITY

If any provision of the Arkansas Department of Environmental Quality Department's E-Waste Grant Program or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications herein which can be given effect without the invalid provision or application, and to this end provisions of this policy and plan and grant program are declared to be severable.

Arkansas Department of Environmental Quality

E-WASTE GRANT APPLICATION

APPLICANT'S NAME City of Fayetteville **Fed Tax ID#** 71-6018462

TYPE OF BUSINESS Municipality
SEE GUIDELINES FOR ELIGIBLE APPLICANTS

MAILING ADDRESS

CITY Fayetteville **ZIP** 72701

PHONE 479-718-7685 **FAX** 479-444-3478

PROJECT CONTACT PERSON Brian Pugh **E-MAIL** bpugh@ci.fayetteville.ar.us

PROJECT LOCATION: **City** Fayetteville **County** Washington

PROJECT DESCRIPTION OR SHORT TITLE E-waste coupon redemption program

PROJECT CATEGORY

	SEE GUIDELINES FOR ELIGIBLE PROJECTS	Yes or No
1	Collection, Transportation, or Processing	No
2	Local or Statewide Recycling or Demanufacturing	No
3	Innovative Recycling, Demanufacturing or Disposal	Yes

TOTAL PROJECT COST $25,000
IN-KIND CONTRIBUTION n/a
STATE FUND REQUEST $25,000

PROJECT TO BE COMPLETED: **In-House** ☒ **Contractor** ☐ **Both** ☐

Authorized Signature _____ **Date Submitted** _____

ATTACHMENTS REQUIRED	SUBMIT TO
Brief Scope of Work Narrative **Bid Specifications or Cost Quotes** **APPLICATION WILL NOT BE CONSIDERED WITHOUT ATTACHMENTS.**	**E-Waste Grants Program** **Arkansas Department of Environmental Quality** **Solid Waste Management Division** **5301 Northshore Drive** **North Little Rock, AR 72118-5317**

THE CITY OF FAYETTEVILLE, ARKANSAS
SOLID WASTE AND RECYCLING
1560 S. Happy Hollow Road
Fayetteville, AR 72701
P (479) 575-8398 F (479) 444-3478
www.accessfayetteville.org

August 17th, 2012

Robert Hunter
ADEQ Solid Waste Management Division
5301 Northshore Drive
North Little Rock, AR. 72118

RE: E-waste Grants Program

Dear Mr. Hunter,

Please review the following scope of work for an application for the 2012 e-waste grants program:

The City is embarking on a community based social marketing campaign for the promotion of the solid waste and recycling programs in Fayetteville. The City of Fayetteville will be engaging the citizens in an effort to improve citizen participation in the recycling program resulting in an increase in diversion and reducing waste going to the landfill. This new effort will promote educational awareness and create a market brand for the recycling program which has not been done previously. Many new recycling initiatives have recently been started which require personal interaction with residents and businesses to promote and establish long lasting behavioral change leading to sustained waste reduction and recycling.

The City of Fayetteville is interested in applying for a $25,000 grant to provide free recycling options for residents in regards to e-waste. The City is interested in partnering with the Washington County Office of Environmental Affairs and using their e-waste recycling program for the collection, transportation and recycling of unwanted or obsolete materials.

The program would partner with the Washington County Office of Environmental Affairs and print e-waste recycling coupons which can be redeemed at the Washington County HHW site in south Fayetteville where the e-waste is collected for recycling. The current charge for e-waste collected at this site is $5 per unit. The coupons would be printed showing the $5 value for recycling of e-waste at the site. Distribution would begin in December 2012 to entice the recycling of e-waste generated around the holiday season and then into 2013 until the coupons are exhausted. They would be handed out at promotional events, given out in appreciation for volunteer service with the recycling program, the Mayor's booth at the Farmers Market on the square, school recycling events and many other City and County related events.

When a resident brings an e-waste item for redemption to the Washington County HHW site the County would accept the coupon and invoice the City monthly for the amount of coupons received during the month. The invoice would be sent to ADEQ for distribution of funds from the grant. ADEQ would send the invoiced amount to the City and it would be placed in a CIP project within the city's accounting system and a check would be generated and distributed to Washington County for payment of the invoice.

The main benefit is the reduction of e-waste going to the landfill which is currently banned at the Eco Vista landfill in Tontitown. Another benefit would result in the promotion of the Washington County HHW site as a means to dispose properly of HHW from homes in the city and county.

Related Costs:	$900	printing for 4" x 6" cardstock e-waste recycling coupons with City and County logos
	$24,100	for 4,820 coupons for distribution t o public for redemption
	$25,000	

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

4-Sep-12
City Council Meeting Date
Agenda Items Only

David Jurgens	Utilities	Utilities
Submitted By	**Division**	**Department**

Action Required:

Approval of one year extension agreements with Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling within the City of Fayetteville.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director	17 Aug 12 Date	Previous Ordinance or Resolution # 198-08, 11/6/08
City Attorney	8-17-12 Date	Original Contract Date:
Finance and Internal Services Director	8/20/12 Date	Original Contract Number:
Chief of Staff	8/20/12 Date	Received in City Clerk's Office 08-17-12 P12:39 RCVD
Mayor	8/21/12 Date	Received in Mayor's Office ENTERED 8/17/12

Comments:

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director

Date: August 17, 2012

Subject: Approval of one year extension agreement with Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling

RECOMMENDATION

Staff recommends approval a one year extension agreement with Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling within the City of Fayetteville.

BACKGROUND

The City allows private haulers to collect solid waste when there is an approved franchise agreement in place. The agreement allows the hauler to collect and haul solid waste in roll off style open top or roll off style compactor containers of at least 20 cubic yards or greater within the City of Fayetteville for a monthly fee of 10% of the gross revenue of services. The first agreement to haul and dispose of solid waste in the City of Fayetteville was executed with an outside vendor in 2004 for a term of 3 years. As of December 31, 2011, all franchise agreements have expired, but have been operating under informal letter extensions while the City evaluates the franchise hauling program.

DISCUSSION

A one year extension was requested by haulers while the City evaluates the franchise hauling program. Both City staff and haulers have had the opportunity to review and provide comments. Primary changes include:

- To cover a one year term
- Added recycling requirements and fee
- Eliminated restriction on recyclable containers
- Increased accountability on monthly/annual reporting
- Paragraph 9 (FOIA and other legal liability issues)

City staff also recommends that the "Recycling Fee" of 5% of gross revenue received for providing the hauling of recyclables shall not go into effect until the Solid Waste Ordinances are updated to add recycling under the franchise hauling program. This is expected to occur later this year.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION APPROVING ONE (1) YEAR EXTENSION AGREEMENT WITH ALLIED WASTE SERVICES OF BELLA VISTA TO HAUL AND DISPOSE OF SOLID WASTE AND RECYCLING IN THE CITY

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 one (1) year extension agreement with Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling in the City. A copy of the agreement is attached to this Resolution as Exhibit "A" and incorporated herein.

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

EXHIBIT
A

AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE & RECYCLING IN THE CITY OF FAYETTEVILLE

This Agreement (the "Agreement"), is entered into on this 1st day of August 2012, between the **City of Fayetteville, Arkansas,** a municipal corporation (the "City"), and Allied Waste Services of Bella Vista (the "Hauler"), and shall be in full force and effect on the date first written above, City and Hauler agree as follows:

1. The term of this Agreement shall be for one (1) year, with the option to renew for one (1) additional year, unless otherwise terminated pursuant to the terms hereof.

2. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City, excluding residential areas, entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than one (1) year and any subsequent extensions shall be for terms of no more than one (1) year. No customer service Agreement shall extend the terms of this Agreement.

3. Hauler agrees and understands that it may only collect and haul solid waste using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal as set forth in ADEQ Reg. No. 22. Hauler shall not collect any Class 1 or Class 4 material in other containers.

   Hauler agrees and understands that it may only collect and haul recyclables outside the residential recycling program. Unseparated recyclables shall not be allowed unless Hauler has been given authority by the City to do so on a program specific basis, approval to be determined by the appropriate department director. As of the signing of this agreement, there are two unseparated recycling programs that are approved:
   a) construction and demolition waste; and
   b) University of Arkansas event comingled containers.

4. In consideration of the right to provide the hauling of solid waste and/or recyclables described in Item #3 above, Hauler agrees and understands that it shall be required to pay a monthly fee of:
   a) ten (10%) percent (the "Solid Waste Fee") of the gross revenue received for providing solid waste hauling services
   b) five (5%) percent (the "Recycling Fee") of the gross revenue received for providing the hauling of the recyclables.

5. Hauler agrees and understands that it may utilize the City's transfer station for all Class 1 waste collected pursuant to this Agreement and shall deliver all Class 4 waste to a properly licensed landfill facility. Hauler shall pay all transfer station fees to the transfer station operator and all landfill fees to the landfill operator, as they may be established and amended, from time to time.

6. Hauler shall pay all fees due hereunder, along with submitting "Attachment A: Solid Waste Documentation", or page 1 of Attachment A in conjunction with an agreed upon vendor

generated report, on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (including those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

7. Hauler shall pay all fees due hereunder, along with submitting "Attachment B: Recycling Documentation", on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 10% penalty per month. If Hauler fails to pay the fees within forty-five (45) days of the due date, the City may terminate this Agreement upon delivery of one (1) written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) volumes of recycling collected, in tons, by commodity, with disposition by destination market, for all source separated recycling; (ii) for any approved non-source separated program, the Hauler shall submit to the City by June 30th on annual basis, copies of contracts with processing mills; (iii) for any approved non-source separated program, the amounts, in tons, of recycling collected within Fayetteville, with disposition by destination market. With payment remittance, the City will review and obtain certain trade secret information, including rates, frequency of service, customer lists, other customer information, and contracts with recyclers and processing mills ("Confidential Information"). The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff. Any Hauler found providing services for non-source separated recyclables without prior approval by the City shall be subject to a fee of $500.00.

8. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the Hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review and obtain certain trade secret information, including rates, frequency of service, customer lists, and other customer information ("Confidential Information"). This information shall not be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler, or as otherwise required by law. The City asserts this information is exempt from disclosure under the Arkansas Freedom of Information

Act as the information meets the exemption for records that "if disclosed would give advantage to competitors." This information will only be reviewed by City financial staff, and will not be made available to City solid waste staff.

9. The City will advise Hauler of any request for information which the City, at the City's sole discretion, determines to be non-disclosable or otherwise subject to an exemption from disclosure under the Arkansas Freedom of Information Act. If a court of competent jurisdiction determines that said requested information is disclosable or otherwise is not exempt from disclosure under the Arkansas Freedom of Information Act, the City will comply with said finding and notify Hauler. Discovery requests made to the City during the course of any litigation, or any other subpoena or court order issued to the City for information or records related to Hauler and this Agreement, shall be promptly made known to Hauler.

10. Hauler agrees and understands that it shall submit to the City by June 30th on an annual basis: (i) a list of all commercial vehicles used to provide services in the City; (ii) proof of appropriate vehicle registration; (iii) and proof of the insurance required under Section 16.

11. Hauler agrees and understands that it shall provide by June 30th on an annual basis: (i) a list of vehicle operators collecting and hauling waste in the City of Fayetteville; (ii) proof of their valid and appropriate commercial drivers' licenses; (iii) and the provision, maintenance, and implementation of a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.

12. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.

13. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.

14. If Hauler utilizes the City's transfer station, Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.

15. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable City ordinances. This is a contractual Agreement and is not intended to be part of or relate in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.

16. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third part or affiliate.

17. For the purpose of this contract, the Point of Contact for the City of Fayetteville shall be the City's Utilities Director. The Point of Contact for the Hauler shall be

_____. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.

18. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.

19. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:

    a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.
    b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.
    c) City will be added as an additional insured on General Liability and Auto Liability policies.
    d) The types of coverage and limits of liability of all insurance required herein shall be a follows:

COVERAGE	LIMITS OF LIABILITY
Workmen's Compensation	Statutory
Employer's Liability	$500,000
Bodily Injury Liability except Automobile	$1,000,000 each occurrence
Property Damage Liability Except Automobile	$1,000,000 each aggregate
Automobile Bodily Injury	$1,000,000 each person
Comprehensive General Liability	$1,000,000 each occurrence
Automobile Property Damage Liability	$1,000,000 each occurrence
Excess Umbrella Liability	$1,000,000 each occurrence

20. Termination:

    a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirement or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this

Agreement no sooner than thirty (30) days after the date of written notice of such breach or default; (ii) cure the breach or default at the expense of the Hauler; and/or (iii) exercise any right or remedy to which it may be entitled by law.

b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted and such proceeding is not dismissed within sixty (60) days.

c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.

21. All notices required or permitted under this contract shall be submitted in writing to the other party of this contract, by U.S. Mail, which notice shall be effective three (3) days after deposit therein addressed to the following:

City of Fayetteville
Utilities Director
113 West Mountain Street
Fayetteville, AR 72701

_____
Attn:_____
_____
_____

22. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such non-exempt documents, such non-exempt documents shall be provided in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (Ark. Code Ann. § 25-19-101 et seq.). Only legally authorized photocopying costs may be assessed for this compliance.

23. This Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.

24. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.

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

26. This contract constitutes the entire understanding of the parties and no Notification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and the Hauler.

27. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.

28. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.

29. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

By: _____
LIONELD JORDAN, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Allied Waste Services of Bella Vista

By: _____

~~President~~ General Manager

By: _____
Municipal Mgr

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

September 4th, 2012
City Council Meeting Date
Agenda Items Only

Brian Pugh	Solid Waste and Recycling	Operations
Submitted By	**Division**	**Department**

Action Required:

A resolution awarding a construction contract to Benchmark Const. for $ 335,230.42 for installation of a concrete pad and associated work at the City of Fayetteville Solid Waste and Recycling Facility, per Bid #12-65, approving a project contingency of $ 33,523.04 (approximately 10%), and approving a budget adjustment in the amount of $ 368,754.

$ 335,230.42	$ 487,289.00	Solid Waste Compost Site Slab Expansion
Cost of this request	Category / Project Budget	Program Category / Project Name
5500.5080.5816.00	$ 411,152.29	Solid Waste Improvements
Account Number	Funds Used to Date	Program / Project Category Name
10002 / 1	$ 76,136.71	Solid Waste
Project Number	Remaining Balance	Fund Name

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

Department Director	8-17-12 Date	Previous Ordinance or Resolution #
City Attorney	8-17-12 Date	Original Contract Date:
Finance and Internal Services Director	8/20/12 Date	Original Contract Number:
Chief of Staff	8/21/12 Date	Received in City Clerk's Office 08-17-12 P03:26 RCVD
Mayor	8/22/12 Date	Received in Mayor's Office ENTERED 8/20/12

Comments:

CITY COUNCIL AGENDA MEMO
MEETING DATE OF SEPTEMBER 4th, 2012
THE CITY OF FAYETTEVILLE, ARKANSAS

File: Bid #12-65 Benchmark Construction of NWA, Inc.
File: 2 1890

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff
Terry Gulley, Transportation Director

From: Brian Pugh, Waste Reduction Coordinator

Date: August 17th, 2012

Subject: A resolution awarding a construction contract with Benchmark Construction of NWA, Inc.for $335,230.42 for installation of a concrete pad and associated work at the City of Fayetteville Solid Waste and Recycling Facility, per Bid #12-65, approving a project contingency of $33,523.04 (approximately 10%), and approving a budget adjustment.

RECOMMENDATION

A resolution awarding a construction contract to Benchmark Construction of NWA, Inc.for $335,230.42 for installation of a concrete pad and associated work at the City of Fayetteville Solid Waste and Recycling Facility, per Bid #12-65, approving a project contingency of $33,523.04 (approximately 10%), and approving a budget adjustment.

BACKGROUND

The City's compost facility has an EPA/ADEQ stormwater management permit which requires that stormwater be contained and controlled so as to prevent the stormwater from running off into the White River, roughly 85 feet away. To better control the stormwater while continuing operations, we have embarked on a three phased project to construct concrete slabs where we actually process the compost and to line the site detention pond. In addition, the new concrete pad will improve operating efficiency by allowing the compost rows to be turned when needed and not be limited to only turning during dry weather conditions. The ponding of water at the site limits the ability to turn the rows due to equipment getting stuck and can also result in violations during inspections by ADEQ for having standing water on site. The second phase is to be completed in September 2012.

DISCUSSION

This contract is to construct phase 3 of the project which consists of the south pad of the operating face of the compost facility and to finish the existing detention pond. To keep costs to a minimum, all engineering, design and inspection is being conducted internally by the Engineering and Utilities Staff. This project has been approved to be funded in the 2013 CIP package and is moving forward early to reduce anticipated costs with mobilization on the south pad. The City received 5 bids on August 17, 2012. Staff recommends authorization of contract to Benchmark Construction of NWA, Inc. Construction will continue upon City Council approval.

Contractor	Bid
Benchmark Construction of NWA, Inc.	$335,230.42
Broadway Contracting, LLC.	$386,025.18
Crossland Heavy Contractors	$393,115.10
Oelke Construction Company	$348,000.00
SSI Design & Build Contractors	$352,794.31
Engineer's Estimate	**$ 444,520.00**

BUDGET IMPACT

Funds have been appropriated in the Solid Waste capital budget, project 10002 for 2013. The 2013 capital project budget will be reduced by the amount requested from 2012 reserves.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #12-65 AND AUTHORIZING A CONTRACT WITH BENCHMARK CONSTRUCTION OF NWA, INC. IN THE AMOUNT OF $335,230.42 FOR INSTALLATION OF A CONCRETE PAD AND ASSOCIATED WORK AT THE CITY SOLID WASTE AND RECYCLING FACILITY, APPROVING A PROJECT CONTINGENCY OF $33,523.04, AND APPROVING A BUDGET ADJUSTMENT

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-65 and authorizes a contract with Benchmark Construction of NWA, Inc. in the amount of $335,230.42 for installation of a concrete pad and associated work at the City solid waste and recycling facility, and further approves a project contingency of $33,523.04.

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

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Division: Solid Waste & Recycling Department: Transportation Services	Request Date	Adjustment Number
2012		9/4/2012	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

Funding is requested in the Solid Waste Compost Site Slab Expansion project in order to award Bid 12-65 and proceed with Phase 2 of the Concrete Pad Construction and Installation.

Division Head	8-17-12 Date	Prepared By:	Brian Pugh
Budget Director	8-20-2012 Date	Reference:	ggundlach
Department Director	8-17-12 Date	Budget & Research Use Only Type: A B C D E P	
Finance Director	8/20/12 Date	General Ledger Date	
Chief of Staff	8/21/12 Date	Posted to General Ledger	Initial / Date
Mayor	8/22/12 Date	Checked / Verified	Initial / Date

TOTAL BUDGET ADJUSTMENT - -

Account Name	Account Number		Increase / (Decrease) Expense	Increase / (Decrease) Revenue	Project.Sub Number
Solid Waste improvements	5500.5080.5816.00	EX	368,754	-	10002 . 1
Use of fund balance	5500.0950.4999.99	RE		368,754	

EXHIBIT A

Fayetteville
ARKANSAS

BID: 12-65
DATE: 08/17/12
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 12-65, Construction - Installation of Solid Waste Concrete Pad, Phase 2

	BIDDER	TOTAL COST
1	Benchmark Construction of NWA, Inc.	$335,230.42
2	Broadway Contracting, LLC.	$386,025.18
3	Crossland Heavy Contractors, Inc.	$393,115.10
4	Oelke Construction Company, Inc.	$348,000.00
5	SSI, Incorporated of N. W. Arkansas	$352,794.31

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

CERTIFIED: P Vice — P. VICE, PURCH MGR

Julie Paladino — WITNESS

08/17/12 — DATE

City of Fayetteville
Bid 12-65, Construction – Installation of Concrete Pad, Phase 2
Contract – Between City and Contractor

This contract executed this ____ day of _____, 2012, between the City of Fayetteville, Arkansas, and Benchmark Construction of NWA, Inc. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Benchmark Construction of NWA, Inc. at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per Bid 12-65 as stated in Benchmark Construction of NWA, Inc. bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 12-65, all included herein as if spelled out word for word.

2. The City of Fayetteville shall pay Benchmark Construction of NWA, Inc. based on their bid proposal in an amount not to exceed $335,230.42. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.

3. The Contract documents which comprise the contract between the City of Fayetteville and Benchmark Construction of NWA, Inc. consist of this Contract and the following documents attached hereto, and made a part hereof:

   A. Bid form identified as Invitation to Bid 12-65 with the specifications and conditions typed thereon.

   B. Benchmark Construction of NWA, Inc. bid proposal.

   C. The Notice to Prospective Bidders and the Bid Tabulation.

4. These Contract documents constitute the entire agreement between the City of Fayetteville and Benchmark Construction of NWA, Inc. and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Benchmark Construction of NWA, Inc.

5. Benchmark Construction of NWA, Inc. shall not assign its duties under the terms of this agreement.

6. Benchmark Construction of NWA, Inc. agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Benchmark Construction of NWA, Inc. performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.

7. Benchmark Construction of NWA, Inc. shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Benchmark Construction of NWA, Inc. shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

   Workmen's Compensation — Statutory Amount

   Comprehensive General & Automobile Insurance

Bodily Injury Liability	$500,000 for each person injured. $1,000,000 for each accident.
Property Damage Liability	$1,000,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Benchmark Construction of NWA, Inc..

8. Benchmark Construction of NWA, Inc. to furnish proof of licensure as required by all local and state agencies.

9. This contract may be terminated by the City of Fayetteville or Benchmark Construction of NWA, Inc. with 10 days written notice.

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

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

WITNESS OUR HANDS THIS_____DAY OF _____, 2012.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

_____
LIONELD JORDAN, Mayor

Attest:

_____
Sondra Smith, City Clerk

BENCHMARK CONSTRUCTION OF NWA, INC

Stephen Smith
CONTRACTOR REPRESENTATIVE

BY STEPHEN SMITH, CEO
NAME AND TITLE

ATTEST:
Bern Ref

113 W. Mountain
BUSINESS ADDRESS

CITY OF FAYETTEVILLE
INVITATION TO BID
BID 12-65, Construction – Installation of Concrete Pad, Phase 2

The City of Fayetteville is accepting bids from properly licensed firms for the construction of large concrete pad and other associated work at the City of Fayetteville Solid Waste and Recycling Facility, 1560 S. Happy Hollow Rd. in Fayetteville, Arkansas. Questions should be addressed to Andrea Foren, Purchasing Agent at aforen@ci.fayetteville.ar.us or by calling (479) 575-8220.

All bids shall be submitted in a sealed envelope or package labeled "Bid 12-65, Construction – Installation of Concrete Pad, Phase 2". All bids shall be received before **Friday, August 17, 2012 before 2:00 PM, local time** at the City of Fayetteville, Purchasing Division address listed below. No late bids shall be accepted. The City of Fayetteville shall not be responsible for lost or misdirected bids.

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

PRE-BID MEETING: A non-mandatory pre-bid conference will be held on **Friday, August 10, 2012, 10:00 AM** at the jobsite, located at 1560 S. Happy Hollow Rd. All interested parties are strongly encouraged to attend the meeting.

Bidding documents and plans shall be obtained by the City of Fayetteville Purchasing Division electronically. No partial sets shall be issued. Plans may also be reviewed only at the Fayetteville Purchasing Division.

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

Each bid shall be accompanied by a certified check from a bank doing business in the State of Arkansas or a corporate bid bond in an amount not less than five (5) percent of the amount bid. A one hundred percent (100%) performance and payment bond is required with the contract awarded and shall be file marked by the Washington County Circuit Clerk's Office upon receipt to the City. A State of Arkansas Contractor's License is required for all bids.

Attention is called to the fact that the minimum prevailing wage rates for each craft or type of worker and the prevailing wage rate for overtime work as determined by the Arkansas Department of Labor shall be paid with a contract awarded amount of $75,000.00 or more.

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

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

CITY OF FAYETTEVILLE, ARKANSAS

By: Andrea Foren, CPPB, CPPO
City Purchasing Agent
Ad dates: 08/03/12 and 08/10/12

City of Fayetteville
Bid 12-65, Construction – Installation of Concrete Pad, Phase 2
Bid Form

Contract Name: Installation of Concrete Pad at Solid Waste – Phase 2

Bid Number 12-65

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder: BENCHMARK CONST OF NWA, INC.
333 W. POPLAR, STE A
FAYETTEVILLE, AR 72703

Section 1 – Intent:

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

Section 2 – Terms & Conditions:

Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 180 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

Section 3 – Bidder's Representations:

In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

A.) Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

Number	Date
#1	8/13/12

B.) Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.

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

D.) Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.

E.) Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.

F.) Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.

G.) Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.

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

I.) Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Bidder.

J.) The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.

K.) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over Owner.

L.) Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.

M.) No Bid shall be based upon aggregate of Subcontractors performing more than 60 percent of the total Work.

N.) The experience, past performance, and ability of each proposed Subcontractor will be considered in the evaluation of Bids. Any Subcontractor so requested shall be required to furnish experience statements prior to the Notice of Awards.

Section 4 – Bid Price:

Item #	Description	Unit of Measure	Estimated Quantity		Unit Price		Total
1	Mobilization - shall not exceed 5% of total bid	Lump Sum	1	x	$ 2,660.00	=	$ 2,660.00
2	Insurance & Bonds	Lump Sum	1	x	$ 5,670.00	=	$ 5,670.00
3	8" Concrete Pavement	SY	6,964	x	$ 28.90	=	$ 201,259.60
4	6" Concrete Pavement	SY	420	x	$ 26.50	=	$ 11,130.00
5	Curb & Gutter	LF	658	x	$ 11.43	=	$ 7,520.94
6	4" Class 7Base	SY	7,510	x	$ 3.62	=	$ 27,186.20
7	Hillside Embankment	CY ~~SY~~	4,727	x	$ 9.84	=	$ 46,513.68
8	Excavation and Grading	Lump Sum	1	x	$ 29,590.00	=	$ 29,590.00
9	Erosion Control Measures	Lump Sum	1	x	$ 3,700	=	$ 3,700.00
						TOTAL BASE BID	$ 335,230.42

Name of Contractor: BENCHMARK

Section 5 – Contract Times:

A.) Bidder agrees that the Work will be substantially completed and ready for final payment within the number of calendar days indicated in the Agreement.

B.) Bidder accepts the provisions of the Agreement referring to liquidated damages in the event of failure to complete the Work with the times specified in the Agreement.

Section 6 – Communications:

A.) Communications concerning this Bid shall be addressed to the Bidder as follows:

STEVE SMITH

Phone No. 251-1316

FAX No. 251-1319

Section 7 – SIGNATURE:

A.) This bid is being submitted in good faith, according to the entire bid package presented:

SUBMITTED on this 17 Date of AUGUST, 20 12.

Arkansas State Contractor License No. 0033500413.

If Bidder is:

OPTION 1: An Individual

Name (type or printed): _____

By: _____(SEAL)
(Individual's Signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

OPTION 2: A Partnership

Partnership Name: _____(SEAL)

By: _____
(Signature of general partner – attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

OPTION 3: A Corporation BENCHMARK CONST OF NWA, INC.

Corporation Name: _____(SEAL)

Date of Incorporation: 1976, JUNE

Type (General Business, Professional, Service, Limited Liability): GENERAL CONTRACTOR

By: Stephen Smith, CEO
(Signature – attach evidence of authority to sign)

Name (type or printed): STEPHEN SMITH

Title: CEO

(CORPORATE SEAL)

Business address: 333 W. POPLAR ST, STE A

Phone No.: 251-1316 FAX No.: 251-1319

B·H·C
Brown • Hiller • Clark & Associates
5500 Euper Lane
PO Box 3529
Ft. Smith, AR 72913 (479) 452-4000
www.bhca.com

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we
(Here insert full name and address or legal title of Contractor)

Benchmark Construction of NWA, Inc.
333 West Poplar, Ste A
Fayetteville, AR 72703

as Principal, hereinafter called the Principal, and
(Here insert full name and address or legal title of Surety)

Westfield Insurance Company
P. O. Box 5001
Westfield Center, OH 44251-5001

a corporation duly organized under the laws of the State of **Ohio**
as Surety, hereinafter called the Surety, are held and firmly bound unto
(Here insert full name and address or legal title of Owner)

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

as Obligee, hereinafter called the Obligee, in the sum of **FIVE PERCENT OF THE TOTAL AMOUNT BID** Dollars ($ **5%**), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for **City Of Fayetteville Concrete Pad Installation-Phase 2**
(Here insert full name, address and description of project)

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this **17th** day of **August** **2012**

Barbara J. Smith
(Witness)

Benchmark Construction of NWA, Inc.
(Principal) (Seal)

Stephen Smith, CEO
(Title)

Elizabeth Solomon
(Witness)

Westfield Insurance Company
(Surety)

(Title) *(Seal)*
Scott R. Clark , Attorney-in-Fact

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THIS POWER OF ATTORNEY SUPERCEDES ANY PREVIOUS POWER BEARING THIS SAME POWER # AND ISSUED PRIOR TO 07/23/12, FOR ANY PERSON OR PERSONS NAMED BELOW.

POWER NO. **0320052 04**

General Power of Attorney

CERTIFIED COPY

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.

Westfield Center, Ohio

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint
SAM B. HILLER, LARRY R. CLARK, JANICE A. BUTLER, SCOTT R. CLARK, MARTY C. CLARK, VICCI L. HILLER, SHANNON C. SCHMIDLY, ELIZABETH A. SOLOMON, JOINTLY OR SEVERALLY

of **FORT SMITH** and State of **AR** its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship**- .

<u>LIMITATION:</u> THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.
and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"*Be It Resolved,* that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact. may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"*Be it Further Resolved,* that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their **National Surety Leader and Senior Executive** and their corporate seals to be hereto affixed this **23rd** day of **JULY** A.D., **2012** .

Corporate Seals Affixed

WESTFIELD INSURANCE COMPANY
WESTFIELD NATIONAL INSURANCE COMPANY
OHIO FARMERS INSURANCE COMPANY

By: **Dennis P. Baus**, *National Surety Leader and Senior Executive*

State of Ohio
County of Medina ss.:

On this **23rd** day of **JULY** A.D., **2012** , before me personally came **Dennis P. Baus** to me known, who, being by me duly sworn, did depose and say, that he resides in **Wooster, Ohio;** that he is **National Surety Leader and Senior Executive** of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial Seal Affixed

William J. Kahelin, Attorney at Law, *Notary Public*
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio
County of Medina ss.:

I, **Frank A. Carrino**, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this **17th** day of **August** A.D., **2012**

Secretary
Frank A. Carrino, *Secretary*

Fayetteville
ARKANSAS

Project Check List

Bid 12-65, Construction – Installation of Concrete Pad, Phase 2

This checklist is for the Bidder's use in preparing & submitting a bid. It is not intended to include all details necessary to prepare a bid and shall not be used as a substitute for the requirements of the bid documents. Information is shown below only as a matter of convenience. Use of this checklist does not relieve the Bidder from the responsibility of meeting all requirements of the Specifications concerning the preparation of an acceptable bid. Bidders are welcome to use this form as a coversheet for a sealed envelope; however, using this form itself is NOT a requirement.

- [x] 5% Bid Bond of the amount bid accompanied by required documentation (Power of Attorney, etc.)
  - In lieu of a bid bond, the bidder may submit a cashier's check for at least five percent (5%) of the amount bid (inclusive of any deductive alternates) from a bank located in the State of Arkansas. Cashiers checks shall be made payable to the City of Fayetteville, AR.
- [x] All addenda shall be signed, acknowledged, and submitted on the appropriate forms (submitting the actual addendums or marking acknowledgement on other bid pages).
- [x] All line items shall be appropriately filled out and extended to reveal the line item price as well as the total bid price. Total base bid should be calculated in the provided space.
- [x] All bidders shall submit the following forms with each bid: Bid Form, any Addenda, Vendor References, Debarment Certification Form, & Statement of Disclosure.
- [x] All pages provided with signature lines shall be appropriately signed, dated accordingly, and included with submitted bid documents
- [x] All bid documents shall be delivered in a sealed envelope to the address listed below before the stated deadline on the coversheet of the bid. All bids should be delivered with the name of the bidder (contractor) on the sealed envelope as well as the bidders Arkansas Contractors License Number.

City of Fayetteville, AR
Purchasing Division – Suite 306
113 W. Mountain
Fayetteville, AR 72702

CONTRACTOR NAME: BENCHMARK CONST

ARKANSAS CONTRACTORS LICENSE NUMBER: 0033500413

Bid 12-65, Addendum 1

Fayetteville ARKANSAS

Date: Monday, August 13, 2012

To: All Prospective Vendors

From: Andrea Foren, CPPB, CPPO, 479.575.8220, aforen@ci.fayetteville.ar.us

RE: Bid 12-65, Construction – Installation of Concrete Pad, Phase 2

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

1.) All references to hillside embankment shall have a quantity of 4,727 with the corrected quantity measurement of **cubic yards**.

   a. **Bid form, line item 7 quantity measurement shall be cubic yards.**
   b. The bid form will not be re-issued; however, bidders are welcome to note the change on the bid form in writing.

2.) The curb and gutter can be placed integral with the concrete slab with no dowel bar reinforcement.

3.) Constructing a 2' tall by 3' wide mulch berm will be a sufficient substitution for the silt fence. If this option is used contractors shall purchase all mulch material from the City of Fayetteville Solid Waste & Recycling Division.

4.) Pre-Bid meeting sign in sheet is attached and made part of this addendum for reference.

5.) The City anticipates issuing a Notice to Proceed the second or third week of September.

Jack
Bench Mark

Telecommunications Device for the Deaf TDD (479) 521-1316 113 West Mountain - Fayetteville, AR 72701

City of Fayetteville
Bid 12-65, Construction – Installation of Concrete Pad, Phase 2
Vendor References

The following information is required from all Bidders so all bids may be reviewed and properly evaluated.

COMPANY NAME: BENCHMARK CONST OF NWA, INC.

BUSINESS ADDRESS: 333 W. POPLAR ST, STE A

NUMBER OF YEARS IN BUSINESS: 37 HOW LONG IN PRESENT LOCATION: 7

TOTAL NUMBER OF CURRENT EMPLOYEES: 15 FULL TIME 1 PART TIME

NUMBER OF EMPLOYEES YOU PLAN TO USE TO SERVICE THIS CONTRACT: 5 FULL TIME ____ PART TIME

PLEASE LIST FOUR (4) LOCAL COMMERCIAL AND/OR GOVERNMENTAL REFERENCES THAT YOU HAVE PREVIOUSLY PERFORMED SIMILAR CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS (All fields must be completed). Contractors shall have valid experience.

1. CITY OF FAYETTEVILLE
COMPANY NAME
113 W. MOUNTAIN
FAYETTEVILLE, AR
CITY, STATE, ZIP
ANDREA FOREN
CONTACT PERSON
575-8220
TELEPHONE
CURRENT
DATE COMPLETED
AFOREN@CI.FAYETTEVILLE.AR.US
E-MAIL ADDRESS

2. HIGHLANDS ONCOLOGY
COMPANY NAME
FAYETTEVILLE, AR 72701
CITY, STATE, ZIP
KATHY PARKER
CONTACT PERSON
587-1700
TELEPHONE
JULY 2009
DATE COMPLETED
KPARKER@HOGONC.COM
E-MAIL ADDRESS

3. UNIVERSITY OF ARKANSAS
COMPANY NAME
FAYETTEVILLE, AR 72703
CITY, STATE, ZIP
BOB BEELER
CONTACT PERSON
575-5050
TELEPHONE
JUNE 2011
DATE COMPLETED
RWBEELE@UARK.EDU
E-MAIL ADDRESS

4. CITY OF SPRINGDALE
COMPANY NAME
SPRINGDALE, AR 72764
CITY, STATE, ZIP
WYMAN MORGAN
CONTACT PERSON
750-8559
TELEPHONE
JULY 2012
DATE COMPLETED
WMORGAN@SPRINGDALE.GOV
E-MAIL ADDRESS

City of Fayetteville
Bid 12-65, Construction – Installation of Concrete Pad, Phase 2
Debarment Certification Form – **THIS FORM SHOULD BE SUBITTED WITH ALL BIDS**

As A BIDDER on this project, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Debarment:
Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Your signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

NAME: BENCHMARK CONST OF NWA, INC

COMPANY: STEPHEN SMITH

PHYSICAL ADDRESS: 333 W. POPLAR ST, STE A

MAILING ADDRESS: "

PHONE: 251-1316 FAX: 251-1319

EMAIL: BENCHMARKCONST@ATT.NET

SIGNATURE:

DATE: 8/17/12

NOTICE:

***CAUSE:** Debarment by an agency pursuant to FAR 9.406-2, GPO Instructions 110.11A, or PS Publication 41, for one or more of the following causes (a) conviction of or civil judgment for fraud violation of antitrust laws, embezzlement, theft, forgery, bribery, false statements, or other offenses indicating a lack of business integrity; (b) violation of the terms of a Government contract, such as a willful failure to perform in accordance with its terms or a history of failure to perform; or (c) any other cause of a serious and compelling nature affecting responsibility. (See Code N- Debarment pursuant to FAR 9.406 2(b)(2) Drug Free Workplace Act of 1988.)*

***TREATMENT:** Contractors are excluded from receiving contracts, and agencies shall not solicit offers from, award contracts to renew or otherwise extend the duration of current contracts, or consent to subcontracts with these contractors, unless the City determines that there is a compelling reason for such action. Government prime contractors, when required by the terms of their contract, shall not enter into any subcontract equal to or in excess of $25,000 with a contractor that is debarred, suspended, or proposed for debarment, unless there is a compelling reason to do so. Debarments are for a specified term as determined by the debarring agency and as indicated in the listing.*

City of Fayetteville
Bid 12-65, Construction – Installation of Concrete Pad, Phase 2
Statement of Disclosure – To Be Submitted With ALL Bids

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

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

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

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

___X___ 1.) NO KNOWN RELATIONSHIP EXISTS

_____ 2.) RELATIONSHIP EXISTS (Please explain)

_____

_____

_____

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

1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and

2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

STEPHEN SMITH
Printed Name

Signature

8/17/12
Date

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

9/4/2012
City Council Meeting Date
Agenda Items Only

John Nelson	Solid Waste & Recycling	Transportation Services
Submitted By	**Division**	**Department**

Action Required:

Approval of a budget adjustment in the amount of $303,598 to provide funding for solid waste hauling and disposal fees.

$ 238,403.00	1,250,274.00	Services and Charges
$ 65,195.00	$ 409,604.00	Services and Charges
Cost of this request	Category / Project Budget	Program Category / Project Name
5500.xxx.5316.00	694,282.00	Various
5500.5040.5315.00	$ 217,281.00	Transfer Station
Account Number	Funds Used to Date	Program / Project Category Name
N/A	$ 748,315.00	Solid Waste
Project Number	Remaining Balance	Fund Name

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

Department Director — Date: 8-17-12

City Attorney — Date: 8-17-12

Finance and Internal Services Director — Date: 8/20/12

Chief of Staff — Date: 8/20/12

Mayor — Date: 8/21/12

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office: 08-17-12 P03:01 RCVD

Received in Mayor's Office: ENTERED 8/20/12

Comments:

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

TO: Mayor Jordan and City Council

THRU: Don Marr, Chief of Staff
Terry Gulley, Transportation Services Director

FROM: John Nelson, Management Accounting Coordinator

DATE: August 16, 2012

SUBJECT: Solid Waste Hauling and Disposal Fees

PROPOSAL:

The Solid Waste & Recycling Division assumed operating the transfer station floor in October 2009. A contract was awarded to Waste Management of Arkansas for hauling and disposing of municipal solid waste with a provision allowing rate adjustments by using the difference in the United States Department of Labor Index For Goods and Services annually each December which is currently near 2%.

Since the last quarter of 2009, continued steady growth in tonnage processed by the transfer station has occurred. There was 5,320 tons of waste processed in 2010 which compared to the 7,701 tons processed in 2011 equates to a 45% increase. When comparing the 2,932 tons processed the first six months of 2011 to the 5,709 tons handled the first six months of 2012, the increase is even larger at 95%.

The overall percentage of increased materials handling since Solid Waste resumed operations of the transfer station is 115%. This has resulted in a large increase in the hauling and disposal fees for the division.

RECOMMENDATION:

Staff recommends approval of a budget adjustment in the amount of $303,598 to provide funding for solid waste hauling and disposal fees for the remainder of 2012.

These funds will be offset by the increased revenue collected for disposal fees from outside customers that deliver directly to the transfer station.

BUDGET IMPACT:

The increase in expenditures will be directly offset by revenues.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $303,598.00 TO PROVIDE FUNDING FOR SOLID WASTE HAULING AND DISPOSAL FEES

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 $303,598.00 to provide funding for solid waste hauling and disposal fees.

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

City of Fayetteville, Arkansas
Budget Adjustment Form

V12.0724

A. 7
~~Solid Waste Hauling and Disposal~~ Fees
Fayetteville

Budget Year	Division: Solid Waste & Recycling Department: Transportation Services	Request Date	Adjustment Number
2012		9/4/2012	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

$303,598 is requested in the solid waste disposal and contract services accounts.

Due to increased volumes of solid waste handled at the transfer station, additional funding is needed for hauling and disposal. The contracted rates for hauling and disposal will be offset by increased revenue collected.

Division Head	8-17-12 Date	Prepared By: John Nelson
Budget Director	8-22-12 Date	Reference: jnelson
Department Director	8-17-12 Date	Budget & Research Use Only
Finance Director	8/20/12 Date	Type: A B C D E P
Chief of Staff	8/21/12 Date	General Ledger Date
Mayor	8/22/12 Date	Posted to General Ledger — Initial — Date
		Checked / Verified — Initial — Date

TOTAL BUDGET ADJUSTMENT 303,598 303,598

Account Name	Account Number		Increase / (Decrease) Expense	Increase / (Decrease) Revenue	Project.Sub Number
Solid waste disposal	5500.5010.5316.00	EX	20,842	-	.
Solid waste disposal	5500.5020.5316.00	EX	11,550		.
Solid waste disposal	5500.5030.5316.00	EX	42,394		.
Solid waste disposal	5500.5040.5316.00	EX	163,617		.
Contract services	5500.5040.5315.00	EX	65,195		.
Use of fund balance	5500.0950.4999.99	RI		303,598	.
					.
					.

EXHIBIT
A

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

September 4th, 2012
City Council Meeting Date
Agenda Items Only

Brian Pugh	Solid Waste and Recycling	Transportation
Submitted By	**Division**	**Department**

Action Required:

A resolution supporting and approving the creation of a Keep Fayetteville Beautiful Committee

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director	8/13/12 Date	Previous Ordinance or Resolution #
City Attorney	8-14-12 Date	Original Contract Date: / Original Contract Number:
Paul A. Becker Finance and Internal Services Director	8-14-2012 Date	Received in City Clerk's Office 08-13-12 P04:39 RCVD Kim
Chief of Staff	8/15/12 Date	Received in Mayor's Office ENTERED 8/14/12
Mayor	8/15/12 Date	

Comments:

Fayetteville ARKANSAS
www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO
MEETING DATE OF SEPTEMBER 4th, 2012
THE CITY OF FAYETTEVILLE, ARKANSAS

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff
Terry Gulley, Transportation Director

From: Brian Pugh, Waste Reduction Coordinator

Date: August 13th, 2012

Subject: A resolution supporting and approving the creation of a Keep Fayetteville Beautiful Committee

RECOMMENDATION
The staff and administration recommends a resolution supporting and approving the creation of a Keep Fayetteville Beautiful Committee.

BACKGROUND
Keep Arkansas Beautiful is a state certified affiliate of Keep America Beautiful Inc., the nation's largest community-improvement organization. Nine communities in Arkansas are local certified affiliates of Keep America Beautiful: Hot Springs/Garland County Beautification Commission, Keep Faulkner County Beautiful, Keep Jacksonville Beautiful Keep Little Rock Beautiful, Keep Newport Beautiful, Keep North Little Rock Beautiful, Keep Ozark Beautiful, Keep Sherwood Beautiful, Keep Van Buren Beautiful, and Pine Bluff/Jefferson County Clean and Beautiful. Across the country, nearly 600 cities, towns, counties and states are implementing a community-improvement model as certified affiliates of Keep America Beautiful.

Beginning in April a committee made up of volunteers and City staff embarked on 4 month process to become a certified affiliated of Keep Arkansas Beautiful and Keep America Beautiful. During this period the committee worked in sub groups to develop a final report that is part of the certification process. The report includes information on the organizational structure, litter index that was conducted and focus areas researching local ordinances and waste collection and recycling programs.

Keep America Beautiful has three main focus areas: 1.Litter Prevention, 2.Beautification and Community Greening, and 3.Waste Reduction and Recycling. The guiding principles of the organization are individual responsibility, education, partnerships, and volunteer action. The Keep Fayetteville Beautiful mission statement is: Helping create pride and responsibility in our community environments.

DISCUSSION
The resolution will create a City committee with an appointed Board made up of volunteers to conduct the activities of the affiliate along with a coordinator position to be filled by the City's Waste Reduction Coordinator position. The goal is to have the Board develop into a 501 C 3 non profit which can contract with the City for services relating to litter prevention, waste reduction and recycling programs and services.

BUDGET IMPACT
Funding will include fundraising and sponsorship along with donations and grants during the fiscal year 2013.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO APPOINT UP TO SEVEN (7) PERSONS TO SERVE AT THE PLEASURE OF THE MAYOR AS A KEEP FAYETTEVILLE BEAUTIFUL COMMITTEE TO FACILITATE CREATION OF A KEEP FAYETTEVILLE BEAUTIFUL AFFILLIATE TO WORK IN COORDINATION WITH KEEP ARKANSAS BEAUTIFUL AND KEEP AMERICA BEAUTIFUL, AND SUNSETTING THE AUTHORIZATION FOR THIS COMMITTEE UPON INCORPORATION OF A PRIVATE NON-PROFIT ORGANIZATION

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to appoint up to seven (7) persons to serve at the pleasure of the Mayor as a Keep Fayetteville Beautiful Committee to facilitate creation of a Keep Fayetteville Beautiful affiliate to work in coordination with Keep Arkansas Beautiful and Keep America Beautiful.

Section 2: That upon incorporation of a private non-profit organization by Keep Fayetteville Beautiful, the authorization for a City committee shall cease.

Section 3: That, pursuant to the requirements of the Arkansas Constitution, no City funds shall be appropriated or expended nor City labor used for the benefit of any private non-profit purpose associated with Keep Fayetteville Beautiful, other than as consideration in a contract for public services.

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED: ATTEST:

By: _____ By: _____

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

ALDERMAN APPEAL REQUEST FORM

July 3, 2012 City Council Meeting

PLANNING COMMISSION MEETING OF: June 11, 2012

FROM: **Alderman Bobby Ferrell**
Ward 3

APPEAL TITLE AND SUBJECT:

ADM 12-4144: Administrative Item (3078 N. COLLEGE AVE./SIEBERT, 252): Submitted by ERIC SIEBERT for property located at 3078 NORTH COLLEGE AVENUE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.88 acre. The request is a variance to allow for an outdoor mobile vendor (**Shave the Planet** snow cones) for longer than 90 days.

Robert (Bobby) Ferrell — 6-13-12
Alderman — **Date**

ENTERED 6-13-12 KG

Approved as to form — 6-18-12

ENTERED 6/18/12

Paul A. Berk — 6-18-2012
Finance + Internal Serv. Dir.

Chief of Staff — 6-18-12

Mayor — 6/18/12

Tabled to the Sept. 4, 2012 CC mtg.

June 12, 2012

Sondra,

Please consider this an official Alderman appeal, of the June 11, 2012 Planning Commission's decision to grant a variance for the following:

ADM 12-4144: Administrative Item (3078 N. COLLEGE AVE./SIEBERT, 252): Submitted by ERIC SIEBERT for property located at 3078 NORTH COLLEGE AVENUE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.88 acre. The request is a variance to allow for an outdoor mobile vendor (**Shave the Planet** snow cones) for longer than 90 days.

Bobby Ferrell
Alderman Ward 3

RESOLUTION NO. _____

A RESOLUTION TO REVERSE THE PLANNING COMMISSION'S DECISION TO GRANT AND THEREBY TO DENY THE VARIANCE TO ERIC SIEBERT TO OPERATE HIS SHAVE THE PLANET BUSINESS LONGER THAN 90 DAYS AS AN OUTDOOR MOBILE VENDOR

WHEREAS, the Planning Commission by a 6 yes, 1 no and one abstain granted the variance to Eric Siebert to continue operating his Shave the Planet business as an outdoor mobile vendor at 3078 North College for a longer period than 90 days.

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 reverses the Planning Commission's decision to grant and thereby denies the variance to Eric Siebert to operate his Shave the Planet business longer than 90 days as an outdoor mobile vendor.

PASSED and **APPROVED** this 3rd day of July, 2012.

APPROVED: ATTEST:

By: _____ By: _____

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

CHAPTER 155 APPEALS

155.01 Circuit Court

Unless set forth otherwise below, all appeals from final actions taken by the City Council, Planning Commission, Board of Adjustment, Construction Board of Adjustment and Appeals, and the Zoning and Development Administrator shall be taken to the Circuit Court of Washington County.

(Code 1965, App. A., Art. 9(6); Ord. No. 1747, 6-29-70; Ord. No. 2323, 4-5-77; Ord. No. 2538, 7-3-79; Code 1991, §160.175; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04))

State law reference(s)--Appeals to circuit court, A.C.A. §14-56-425.

155.02 Form/Time/Place

Unless an appeal is filed with the court, the following requirements shall be met:

(A) *Form.* All appeals shall be submitted in writing referencing the applicable UDC section(s) and setting out the reasons the applicant contends the decision was in error.

(B) *Time.*

(1) *Appeals.* Appeals shall be submitted within 10 working days from the date of the final action taken.

(2) *Hearings.* The entity hearing the appeal shall fix a reasonable time for hearing an appeal.

(C) *Place.* Appeals shall be filed with the following:

(1) *City Clerk.* Appeals made to the City Council shall be filed with the City Clerk.

(2) *Zoning and Development Administrator.* Appeals made to the Planning Commission or Board of Adjustment shall be filed with the Zoning and Development Administrator.

(3) *Building Safety Division Director.* Appeals made to the Board of Adjustment, [for inspecting purposes] shall be filed with the Building Safety Division Director.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4652, 12-07-04)

155.03 Stay

An appeal shall stay all proceedings in furtherance of the action appealed from unless the person in charge of administration of the chapter certified that a stay would, in their opinion cause imminent peril to life or property.

(Code 1965, App. A., Art. 13(3); Ord. No. 1747, 6-29-70; Code 1991, §160.173; Ord. No. 4100, §2 (Ex. A), 6-16-98)

155.04 Alderman Appeal On Behalf Of Resident

An alderman may bring an appeal on behalf of any resident of the city a decision by the Planning Commission to approve or deny the requests as set forth below.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 5296, 12-15-09)

155.05 Appeals From Planning Commission Decisions

(A) *Appeals to City Council.*

(1) Owners of record of the property being considered may appeal a decision by the Planning Commission to deny the following requests, in accordance with the procedures set forth in §155.02.

(a) Annexation
(b) Rezoning
(c) Planned Zoning District
(d) Subdivision (Preliminary Plat, Final Plat, Concurrent Plat, Lot split)
(e) Large Scale Development
(f) Vacation of utility easement, access easement, public right-of-way

(g) Commercial Design Standards
(h) Tree Preservation Plan
(i) Variances and waivers of the UDC

(2) *Conditions of Approval.* An owner of record may appeal the conditions of approval determined by the Planning Commission for any of the requests listed in (A)(1).

(3) *Conditional Use Request.* Three aldermen, two of whom must reside in the effected ward, may in unison appeal a decision by the Planning Commission approving or denying a conditional use request.

(B) All other decisions by the Planning Commission must be appealed to Circuit Court.

(Code 1965, §13A-40, App. C., Art. II, Art. V., §B; Ord. No. 1509, 8-8-66; Ord. No. 1750, 7-6-70; Code 1991, §§156.017, 159.12, 159.54(F)(1), (2), 159.66; Ord. No. 3781, §1, 4-19-94; Ord. No. 3925, §6, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4334, 9-4-01; Ord. No. 4340, 10-2-01)

Sondra Smith - Re: Fwd: appeal

From: Andrew Garner
To: Smith, Sondra
Date: 6/14/2012 8:25 AM
Subject: Re: Fwd: appeal
CC: Pate, Jeremy

Sondra,

I will be putting together a packet to go along with this appeal and will hopefully route it over to you tomorrow. This item would then be placed on the July 3rd CC meeting.

Thanks,
Andrew

Andrew M. Garner, AICP
Senior Planner
City of Fayetteville
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Fayetteville, Arkansas 72701
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agarner@ci.fayetteville.ar.us
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Telecommunications Device for the Deaf: (479) 521-1316

>>> Sondra Smith 6/13/2012 12:53 PM >>>
Hi Andrew

What is the next step?

Sondra Smith CAMC, CMC
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113 West Mountain
Fayetteville, AR 72701

(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> Bobby Ferrell 6/12/2012 8:47 PM >>>
Sondra- Please consider this an official appeal, of the planning Commission's granting a variance to shaved Ice business at last night's Planning Commission, meeting, by an Alderman.

From: Sondra Smith
To: Garner, Andrew
Date: 6/14/2012 12:03 PM
Subject: Re: Fwd: appeal
Attachments: Sondra Smith.vcf

Thanks Andrew

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Fayetteville
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THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Andrew Garner, Senior Planner

Date: ADM 12-4144 (Shave the Planet Appeal)

RECOMMENDATION

On June 11, 2012 the Planning Commission recommended approval of a variance to allow Shave the Planet snowcone stand to be in operation at 3078 N. College Avenue for a total of 180 days.

BACKGROUND

The subject property is located at 3078 North College Avenue, near Hobby Lobby and Fiesta Square north of the intersection of College Avenue and Rolling Hills Drive. The snowcone stand is across College Avenue (approximately 400 feet away) from an existing ice cream shop, Maggie Moo's at 3155 College Avenue.

On March 14, 2011 the Planning Commission approved CUP 11-3765 (Shave the Planet) which permitted a snowcone stand on the property for a period of 175 days. In late spring 2012 the applicant applied for another conditional use permit to allow for their snowcone stand to remain on the property for longer than 90 days during 2012. The City Attorney advised the Planning Commission that a more appropriate approval process for these types of requests would be a variance, not a conditional use permit. The applicable ordinance has been recently changed to allow these types of requests as a variance and the applicant is again requesting permission to continue operation of their snowcone stand at this property for longer than 90 days.

The applicant requests a variance of Fayetteville Unified Development Code Section 178.04(C) to allow for their Outdoor Mobile Vendor Permit to be granted for a total of 180 days, when the maximum by ordinance is 90 days. The snowcone stand is proposed in the same location as approved last year, as indicated on the attached site plan.

DISCUSSION

At the June 11, 2012 Planning Commission meeting nine members of the public spoke (including several employees of Shave the Planet and the owner of Maggie Moo's ice cream). Their comments are summarized in the draft meeting minutes (attached). The Planning Commission approved the variance. The approval passed with a 6-1-1 vote (Commissioner Honchell voted 'no' and Commissioner Hoskins recused). Alderman Bobby Ferrell has appealed the decision.

BUDGET IMPACT

None.

New Business:

ADM 12-4144: Administrative Item (3078 N. COLLEGE AVE./SIEBERT, 252): Submitted by ERIC SIEBERT for property located at 3078 NORTH COLLEGE AVENUE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.88 acre. The request is a variance to allow for an outdoor mobile vendor (Shave the Planet snow cones) for longer than 90 days.

Andrew Garner, Senior Planner, gave the staff report.

Jason Kelley, Assistant City Attorney, asked Commissioner Hoskins if he would be recusing from the item.

Commissioner Hoskins indicated that he would be recusing.

Commissioner Winston indicated that if Commissioner Hoskins was recusing he would need to leave the room.

Commissioners Hoskins indicated he did not think he would need to leave the room as he was not directly involved in the application.

Garner discussed that it was a general practice for commissioners to leave the room when recusing.

Kelley confirmed that it was a general practice but not a legal requirement.

Commissioner Hoskins left the room.

Eric Siebert, applicant, discussed that ice cream and shaved are different. He discussed that Andy's Frozen Custard closed this year and they did not see an increase in business. They are not getting the same customers.

Katie Siebert, applicant, discussed that people come for the experience and product. She discussed different customers that come to their business from long distances for their product (Bentonville, West Fork, Siloam Springs and further as far as Stillwell, Oklahoma). They come for our experience and our produce. It is a destination.

Eric Siebert, applicant, discussed that they would be willing to plant a tree or anything we could do to make it a little more permanent.

Katie Siebert, applicant, discussed that they are willing to work with the City.

Public Comment:

Andrea Lister, discussed that the prices at Maggie Moo's are exorbitant. Shave the Planet is a place in town where I can take all my kids to get something for $2. Ice cream and shave ice are totally different markets and two different experiences. Shave the Planet is a homegrown business.

Sarah McNeil, I work at Shave the Planet. She discussed that shaved ice and ice cream are very

different products. This site has always been used for an ice cream stand and is not a transient vendor. I was offended by that. I have lived in Fayetteville all my life and there has always been shaved ice in this location. We have people coming all the way from Centerton three times a week to get this product. Shutting down a homegrown business might be frowned upon. Shave the Planet is a locally owned business.

Jacqueline Buntin, is thankful for the existing 90-day permit. I trust the City will make a fair decision. I have known Eric and Katie for eight years. They are really interested in obeying the guidelines and doing this right. Shave the Planet has 25 total employees. Fifteen of them work at this College Avenue location. This keeps people with a job during the summer months. When I decide I want ice cream I have 10 locations in Fayetteville, that is not counting the fast food restaurants. There is plenty of competition for ice cream in Fayetteville. Their business is successful and they should be rewarded.

Cody Buntin, a resident of Fayetteville my entire life, commercial realtor. This business creates another reason to drive and spend money in this area of Fayetteville. Fiesta Square is not what it used to be. It seems out of place to deny extending this permit to a successful busness. They are just bringing more traffic to this side of town.

Ben Israel, I own the property that Shave the Planet is on. I don't pay any less tax because they are only there for six months. They pay sales tax. I'm a little confused why a brick-and-mortar is preferred over this kind of business. I would encourage you to give them this variance.

Justin Leflar, school teacher at Holt Middle School. He spoke about a donation from Shave the Planet to their school to reward kids for their hard work. If this is denied where will the kids use their voucher.

Cody Yancey, discussed that it is an unfair advantage that he has to go through all this to be in business. He has to apply for a different variance every year. He has to carry the same insurance for his employees. Snow cones and ice cream are two separate things. There is no proof that it is detrimental to their sales.

Mena Shombod (sp?), Shave the Planet employee. We really rely on this job. There are not a lot of places where you can find a summer job so you can focus on academics during the other time of the year. This is a great opportunity for high school and college students to gain experience and grow their character. This stand on College has established itself as a great environment for customers. There have not been issues with traffic or any other detrimental effects. I hope that you guys consider that.

Celeste Hoskins, Maggie Moo's. I like Shave the Planet and eat there with my kids. What I was asking for is that they take into consideration that there are ordinances. We have no issue with the 90-day permit. What I am asking for is that when they are asking for that extension that an ordinance be established so that we are all on the same playing field. I think it's great to support the community. I like the couple and Shave the Planet. It is just the ordinance. I think we need to establish some playing rules here. I think this is a great business model. What stops someone like me or other businesses from doing it. I don't think this is about competition or a customer base. I'm just wanting to see some guidelines on where we're going with mobile or transient vendors. If this is something you want to set precedence for that's great.

No more public comment was presented.

Commissioner Chesser asked about the mobile vendor ordinance.

Garner discussed that this ordinance was under examination at the request of council members.

Commissioner Chesser discussed that this body doesn't write ordinance we just interpret the ordinance. There is a very specific part of the ordinance we are considering regarding whether this is a similar business. You said you had proof this was not a similar business?

Katie Siebert, applicant, discussed the HMR tax records for March, April, May, and June of last year for Shake's, Andy's, Maggie Moo's, and us. Last year Andy's was the highest grossing and they are now out of business. Last year we saw a 113% increase in our sales and most of that was due to the weather. This year you would expect since an ice cream shop went out of business we would see an increase. However, we only saw a 101% increase in our sales, this is 12% less than last year. It kind of shows that an ice cream business going out of business didn't help us.

Commissioner Chesser asked staff how an extension would hurt when the first three months of the busy season have been utilized. That seems like something we should take into consideration. The bulk of the problem is already occurring.

Garner discussed that the commission is just looking at the variance findings and he read the variance findings.

Commissioner Chesser asked staff why staff felt it was a similar business.

Garner discussed that we did not do a market study. In our drafting the findings and for the commission to consider, the rationale was what would a reasonable person think. I thought yes they are similar because it is a desert, you eat it mainly during the summer, and it is similar. Would it create an unfair advantage? I thought it could because you could have some of the same types of customers.

Commissioner Chesser asked if it would be worth it for them to only be there for 90 days.

Katie Siebert indicated that they would open in this location even if it is only for 90 days.

Commissioner Chesser asked about property tax on a brick-and-mortar versus a mobile vendor.

Jason Kelley, Assistant City Attorney, discussed that more improvements create more value and more property tax.

Commissioner Chesser discussed that lower property taxes could potentially be an unfair advantage.

Commissioner Cook agreed with Commissioner Chesser that it is not our responsibility to legislate. In this case the City Council has established the factors and it is up to our judgment. I think it is compatible and it does not create an unfair advantage.

Commissioner Cook made a motion to approve **CUP 12-4144 Commissioner Cabe** seconded the

motion.

Garner requested Commissioner Cook clarify condition of approval #3.

Commissioner Cook clarified that condition #3 be modified to require the Urban Forester to approval the type and size of tree that is planted. Commissioner Cabe agreed with this modification to the motion.

Commissioner Cabe asked when this applicant's previous application came before the commission.

Katie Siebert confirmed that it was March 26th.

Commissioner Cabe discussed that the new ordinance was revised and came through May 1 of this year. He also asked about the City Attorney's memo that was in their packet and direction for the commission on several of the terms in the ordinance such as 'similar', 'compatible'. 'not detrimental.

Jason Kelley, Assistant City Attorney, stated that it is completely up to your judgment based on the facts that have been presented. The best thing I can equate it to is if you are on a jury and you hear all this testimony and you have to decide. That is the job.

Commissioner Cabe stated that the ordinance did change and it requires judgment. The ordinance was first written and first became an opportunity for businesses to get their legs under them and do something that is atypical. I fully feel like a seasonal business is exactly that sort of opportunity. Like the applicant said there are very few brick-and-mortar businesses of this type around the country and as a seasonal business model like pool cleaning or window washing. I will be able to support this without a problem.

Commissioner Winston discussed that he has become convinced that there is a substantial amount of different between shaved ice and ice cream and I will support this.

Upon roll call the motion passed with a vote of 6-1-1. Commissioner Honchell voted 'no' and **Commissioner Hoskins** recused.

Fayetteville
ARKANSAS

PC Meeting of June 11, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Andrew Garner, Senior Planner
THRU:	Jeremy Pate, Development Services Director
DATE:	~~June 6, 2012~~ *Updated June 12, 2012*

ADM 12-4144: Administrative Item (3078 N. COLLEGE AVE./SIEBERT, 252): Submitted by ERIC SIEBERT for property located at 3078 NORTH COLLEGE AVENUE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.88 acre. The request is a variance to allow for an outdoor mobile vendor (Shave the Planet snowcones) for longer than 90 days. Planner: Andrew Garner

Findings:

Property Description and Background: The subject property is located at 3078 North College Avenue, near Hobby Lobby and Fiesta Square north of the intersection of College Avenue and Rolling Hills Drive. The snowcone stand is across College Avenue (approximately 400 feet away) from an existing ice cream shop, Maggie Moo's at 3155 College Avenue. Surrounding zoning and land use is listed in *Table 1*.

Table 1
Surrounding Zoning and Land Use

Direction from Site	Land Use	Zoning
North	Hobby Lobby shopping center	C-2, Thoroughfare Commercial
South	Mixed commercial	C-2, Thoroughfare Commercial
East	Mixed commercial/office	C-2, Thoroughfare Commercial
West	Fiesta Square shopping center	C-2, Thoroughfare Commercial

On March 14, 2011 the Planning Commission approved CUP 11-3765 (Shave the Planet) which permitted a snowcone stand on the property for a period of 175 days. In late spring 2012 the applicant applied for another conditional use permit to allow for their snowcone stand to remain on the property for longer than 90 days. The City Attorney advised the Planning Commission that a more appropriate approval process for these types of requests would be a variance, not a conditional use permit. The applicable ordnance has been recently changed to address the potential legal concerns and the applicant is again requesting permission to continue operation of their snowcone stand at this property for longer than 90 days.

Proposal: The applicant requests a variance of Fayetteville Unified Development Code Section 178.04(C) to allow for their Outdoor Mobile Vendor Permit to be granted for a total of 180 days, when the maximum by ordinance is 90 days. The snowcone stand is proposed in the same location as

approved last year, as indicated on the attached site plan.

Public Comment: At the previous Planning Commission meeting when this applicant was requesting a conditional use permit to operate their snowcone stand for longer than 90 days, the owner of the Maggie Moo's ice cream shop across College Avenue discussed objections to this proposal citing several concerns including an unfair advantage to this applicant compared to their brick-and-mortar business. The applicant notified all adjacent property owners and posted a public notice sign advertising for this meeting and staff has not received any public comment.

RECOMMENDATION: There is the potential for this snowcone business to adversely affect the Maggie Moo's ice cream shop across College Avenue as both businesses sell similar products and are in close proximity. Both businesses are very seasonal with a majority of their products sold during the summer months. As a snowcone stand is not subject to many of the same requirements as a permanent business, staff finds that the variance would create an unfair advantage that could adversely impact the ice cream shop. For these reasons staff recommends denial of the variance. These findings are discussed in more detail in the report.

Should the Planning Commission choose to approve this conditional use permit staff would recommend the following conditions of approval:

Conditions of Approval:

1. **The snowcone stand shall be permitted for total of 180 days in 2012. The current Outdoor Mobile Vendor ordinance was issued on March 29, 2012, so this variance grants approval for operation until September 25, 2012.**

2. **The temporary vending structure shall be removed from the property by September 25, 2012.**

3. **Because this property has been utilized for a snowcone stand on a semi-permanent basis for a several consecutive years, the applicant or property owner shall install one ~~two-inch caliper large species shade~~ tree in the greenspace adjacent to the stand, the species and size to be determined by the urban forester prior to installation, to start bringing the property into compliance with the parking lot landscape codes.**

PLANNING COMMISSION MODIFIED AND APPROVED THIS CONDITION AS NOTED **(06/11/2012).**

Additional Conditions/Comments:

PLANNING COMMISSION ACTION: __yes__Required

X Approved _____Denied _____Tabled

Motion: Cook
Second: Cabe
Vote: 6-1-1 (Honchell voted 'no' and Hoskins recused.)
Date: June 11, 2012

FINDINGS:
City of Fayetteville Unified Development Code 178.04

(C) *Variances*. Outdoor Vendors may request a variance from the Planning Commission to operate for an extended period of time, not to exceed twelve consecutive months, in the same location subject to the following standards:

(1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.

Finding: **The applicant is requesting a variance to operate for a total of 180 days, or six months, well below the maximum.**

(2) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

Finding: **The applicant has notified all adjacent property owners and posted a public notice sign in compliance with section 157.05 of the UDC.**

(3) A variance may be granted by the Planning Commission when the following findings have been met:

(a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

Finding: **The snowcone stand does not create or worsen a dangerous traffic condition as it has operated safely in this parking lot for several years. This snowcone stand does not improve the aesthetics of the streetscape, in staff's opinion.**

There is a permanent ice cream shop across College Avenue from the proposed snowcone stand. This shop is addressed at 3155 College Avenue and is approximately 410 feet north of the snowcone stand. In staff's opinion, granting the requested variance to operate the snowcone stand for six months from March 29-September 25 may adversely affect the ice cream shop which is a permanent brick-and-mortar business. The development of the building at 3155 College Avenue was required to meet many development regulations of the City including greenspace, landscaping, architectural design standards, building code, and permanent utilities. A temporary business such as the snowcone stand would directly compete with the ice cream shop and is not required to meet permanent development standards and is therefore theoretically able to offer a substantially lower price for their products than a similar brick-and-mortar business. Both the ice cream shop and snow cone stand are primarily seasonal.

According to the International Dairy Foods Association June is the highest production month of the year for ice cream. Production for ice cream remains strong through August to satisfy summer demand and production declines through the end of the year (1). The snowcone stand can operate under a temporary permit for a period of up to 90 days by right. However, to operate for six months for two years in a row establishes this as a semi-permanent business, without having to meet the standard development requirements. This results in an unequal playing field and could adversely affect a nearby business. It should be noted that this applicant has been in this location for several years in a row, including almost six months during 2011.

(b) That the outdoor mobile vendors' presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.

Finding: **See Finding 3.a. above. The presence of this outdoor mobile vendor for an extended period of time in this one location will create an unfair advantage over similar and nearby permanent businesses, including an ice cream shop approximately 410 feet away from this location.**

1 International Dairy Foods Association Website. www.idfa.org Ice Cream Sales & Trends

Fayetteville Unified Development Code
178.04 Outdoor Mobile Vendors Located On Private Property

(A) *Purpose*. This section's purpose is to facilitate and control the ability of outdoor vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape, and does not create or worsen a dangerous traffic condition.

(B) *Requirements*. Outdoor Mobile Vendors located on private property shall meet the following requirements and submittals prior to approval:

(1) Permit Application. Each application for a permit to conduct an Outdoor Mobile Vendor business shall be accompanied by a $50 permit review and processing fee.

(2) Application for a permit to conduct an Outdoor Mobile Vendor 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 must be a permitted use-by-right within the underlying zoning district in order to be permitted.

(6) An Outdoor Mobile Vendor business may be approved by the Planning Division after making the following determinations:

(a) All of the requirements of 178.04(B)(2) have been met.

(b) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(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 at least one half mile from the original 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 proposed transient merchant business, and by the use and size of the existing business. Parking spaces on the property where the outdoor mobile vendor is located shall be paved and striped in order to be utilized. The use of parking for an out door mobile vendor may not reduce the number of spaces necessary for other uses occurring on the property. An adequate number of parking spaces for the existing businesses and the outdoor mobile vendor must be provided onsite. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

(C) *Variances.* Outdoor Vendors may request a variance from the Planning Commission to operate for an extended period of time, not to exceed twelve consecutive months, in the same location subject to the following standards:

(1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.

(2) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

(3) A variance may be granted by the Planning Commission when the following findings have been met:

(a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(b) That the outdoor mobile vendors' presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.

(4) In granting the variance, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance.

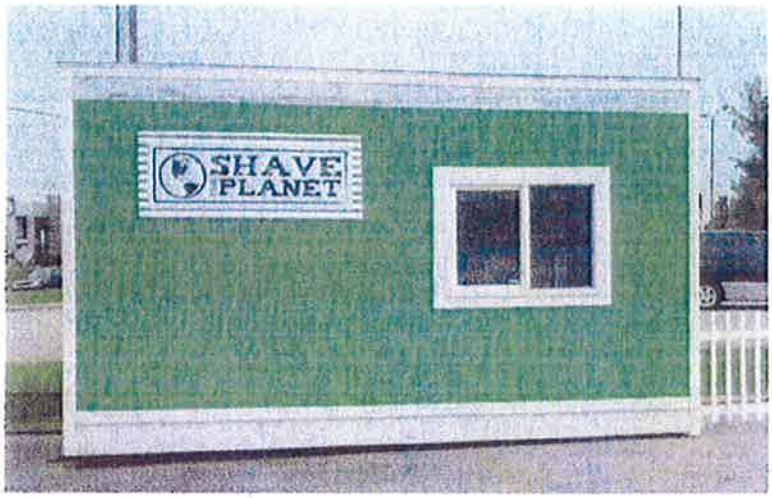
(Ord. 5185, 10-7-08; Ord. 5425, 8-2-11; Ord. No. 5498 05-01-12)

We are requesting a variance for an Outdoor Mobile Vending permit to extend for longer than 90 days. The request would grant us an additional 90 days in our current location of 3078 N College.

We are submitting this request because the shaved ice season in Fayetteville lasts anywhere from 5-7 months, depending upon the weather that year. We have a loyal following of repeat customers that are pushing for us to stay longer than 90 days.

Just as stated in our Outdoor Mobile Permit:

This mobile vending unit is a portable building on skids to be used for selling shaved ice. We will use 2 parking spaces; one to place the building and another for order/seating. The area of the parking lot we will be located in is relatively unused. The setback from College Ave is 100 feet and we will be at least that distance away from the centerline of the road. The building measures 8 feet in width and 16 feet in length. We will place 1-2 tables/chairs for seating in front of the building.



Hours of Operation: 12pm-10pm
Number of Employees: 8-12
Anticipated customer flow: 20/hour during peak season

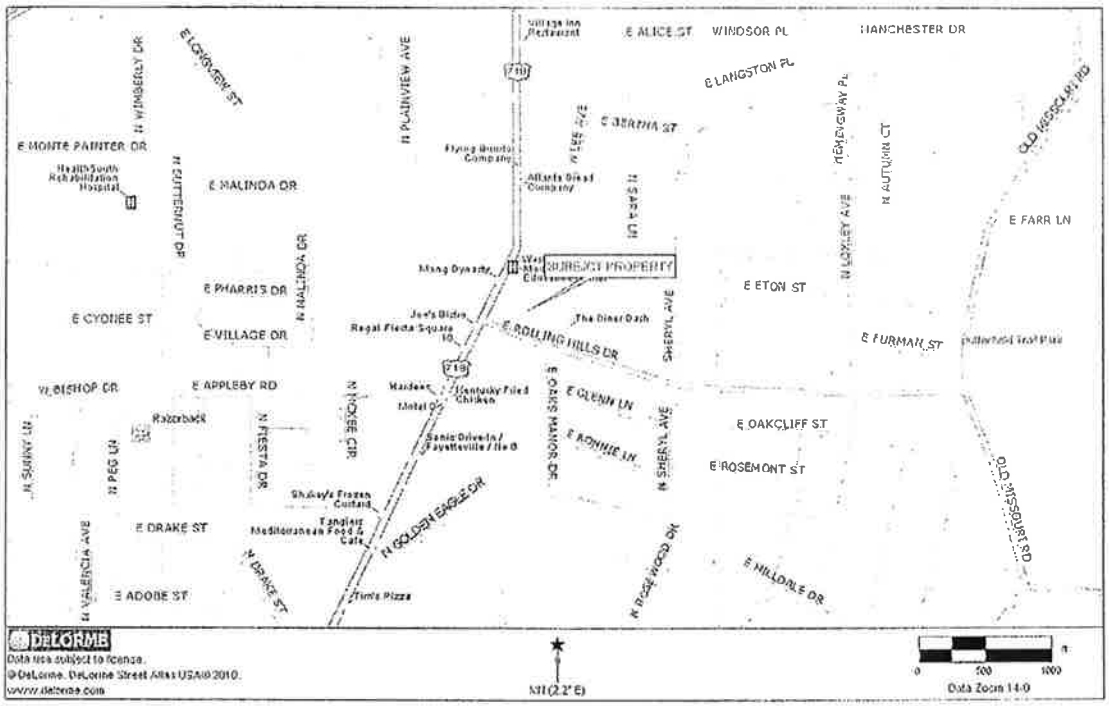
We have outside lights on our building, as well as parking lot lights. Noise will be kept to a minimum. Light music will be played for the customers. Trash is collected in a well-kept and clean trashcan and is taken out to a dumpster provided by Lessor. Traffic will not be disturbed.

Our shaved ice stand fits in well with the surrounding neighborhood and community and provides a safe, wholesome environment for kids, teens, and families to mingle.

INTRODUCTION

Location:

The subject property is located on the east side of N. College Avenue just north of the intersection of N. College Avenue and Rolling Hills Drive. The subject property extends eastward to Market Avenue and South to Rolling Hills Drive.



102 feet
16'
8'
College Ave
Scale
50 ft

Fayetteville
ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Planning Commissioners**

CC: **Planning Staff**

FROM: **Kit Williams**, City Attorney

DATE: **June 1, 2012**

RE: **New amended and enacted §178.04 Outdoor Mobile Vendors Located on Private Property: Variance request**

The City Attorney's Office and Planning Division worked together to draft and recommend amendments to the former Outdoor Mobile Vendors section. The City Council agreed with our proposed amendment and formally enacted the amended §178.04 **Outdoor Mobile Vendors Located on Private Property** by Ordinance No. 5498 (attached) passed on May 1 and effective now.

The "Purpose" section was revised to reflect the City Council's intent "to facilitate and control the ability of outdoor vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely effect nearby businesses; fosters an aesthetically appealing streetscape and does not create or worsen a dangerous traffic condition." Thus, the City Council wants to encourage outdoor mobile vendors under the right circumstances and with any necessary safeguards for nearby businesses and the public.

A 90-day Outdoor Mobile Vendor permit can be issued by Planning Staff. Lengthening this permit requires a variance approval by the Planning Commission. Variances from development requirements usually require a finding of undue hardship and unique circumstances. Planning Staff and the City Attorney's Office did not believe that was the appropriate test for merely lengthening the permit period. The City Council agreed and enacted a specific test for the Planning Commission to administer for lengthening a permit.

The City Council spelled out the specific factors that the Planning Commission should consider when determining whether or not it should grant a requested variance to extend the permit period. The last section gives the Planning Commission the power to require "appropriate conditions and safeguards" for the variance.

> "(3) A variance may be granted by the Planning Commission when the following findings have been met:
>
> (a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
>
> (b) That the outdoor mobile vendors/ presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.
>
> (4) In granting the variance, the Planning Commission may require appropriate conditions and safeguards including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance."

Please consider everything the City Council has determined important for your decision about whether or not to approve the requested

ORDINANCE NO. 5498

AN ORDINANCE REPEALING AND REPLACING § 178.04 **OUTDOOR MOBILE VENDORS LOCATED ON PRIVATE PROPERTY** OF THE CODE OF FAYETTEVILLE TO PROVIDE FOR A VARIANCE PROCEDURE

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 §178.04 Outdoor Mobile Vendors Located on Private Property of the Code of Fayetteville, and enacts a replacement §178.04 Outdoor Mobile Vendors Located on Private Property, as presented in the attached Exhibit "A", which is incorporated herein as if set out word for word.

PASSED and **APPROVED** this 1st day of May, 2012.

APPROVED:

By: Lionell Jordan
LIONELD JORDAN, Mayor

ATTEST:

By: Sondra E. Smith
SONDRA E. SMITH, City Clerk/Treasurer

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

178.04 Outdoor Mobile Vendors Located On Private Property

(A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape, and does not create or worsen a dangerous traffic condition.

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EXHIBIT A

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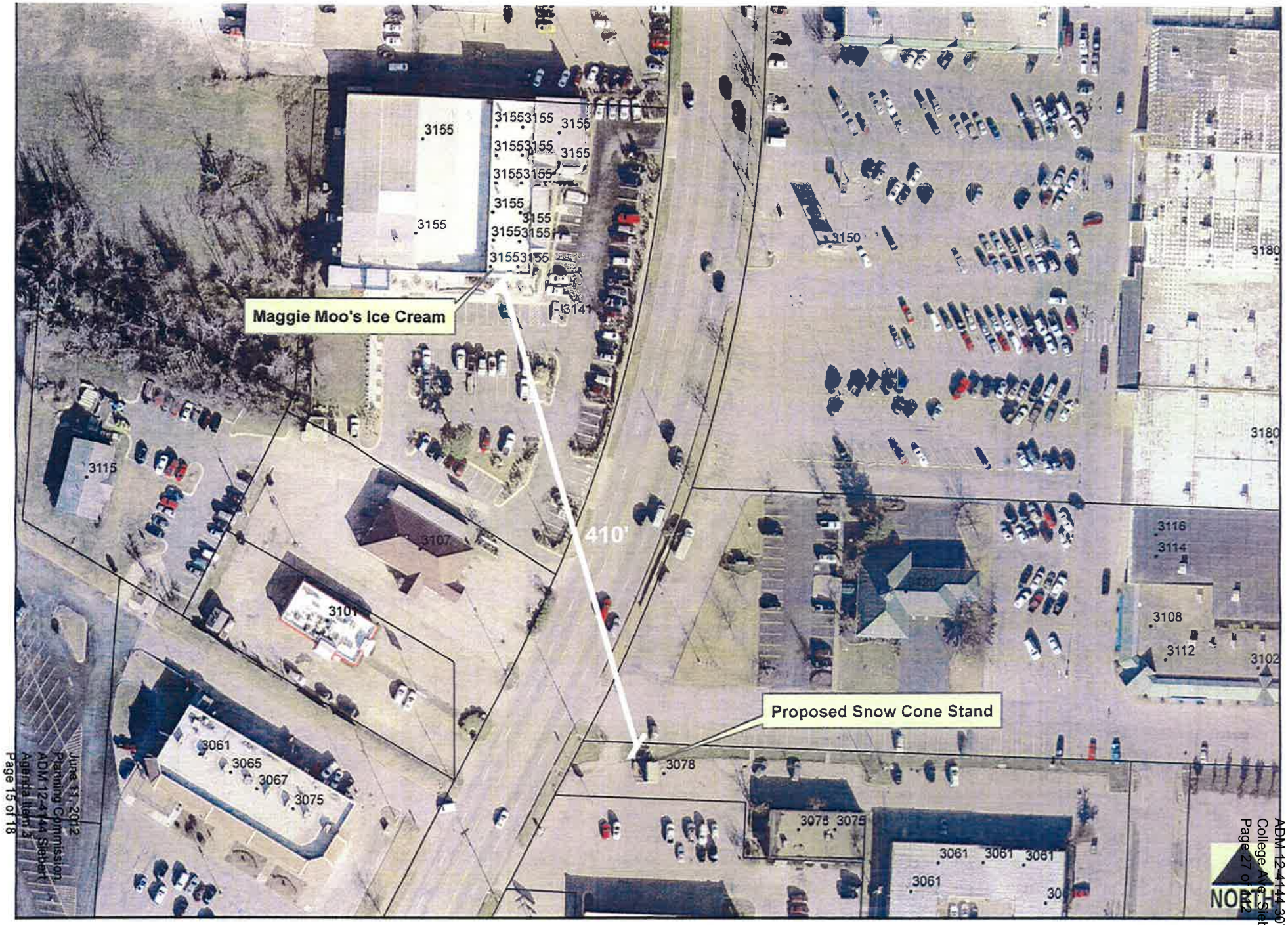
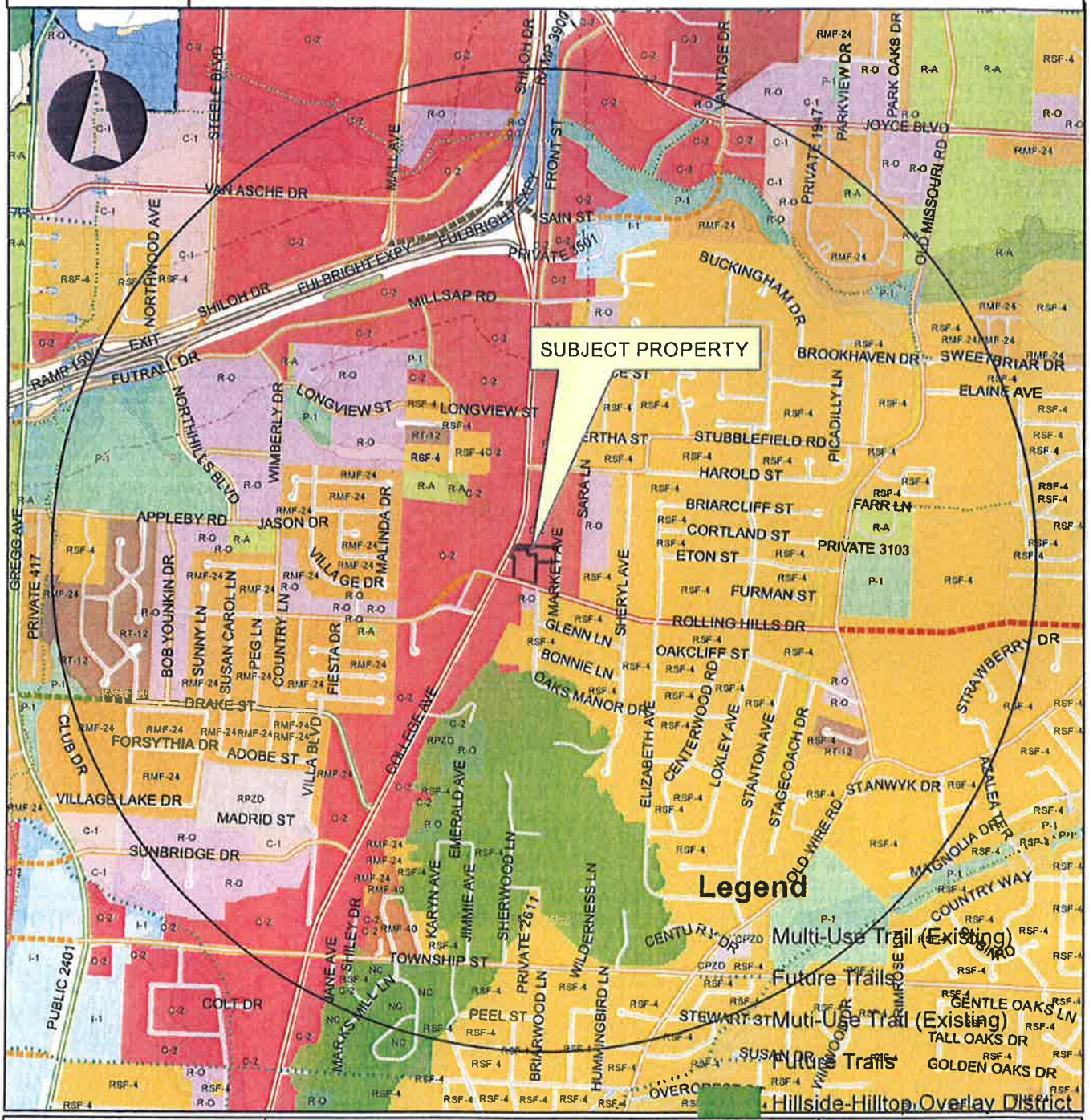

Maggie Moo's Ice Cream
Proposed Snow Cone Stand
410'
3155
3141
3150
3180
3115
3107
3101
3116
3114
3108
3112
3102
3061
3065
3067
3075
3078
NORTH
1 inch = 100 feet
0 12.5 25 50 75 100
Feet

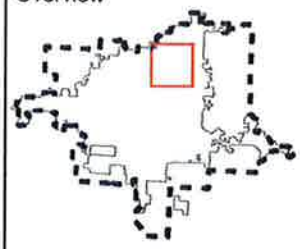
ADM12-4144

One Mile View

SIEBERT



Overview



Legend

Subject Property

ADM12-4144

Boundary

ADM12-4144

Design Overlay District

Planning Area

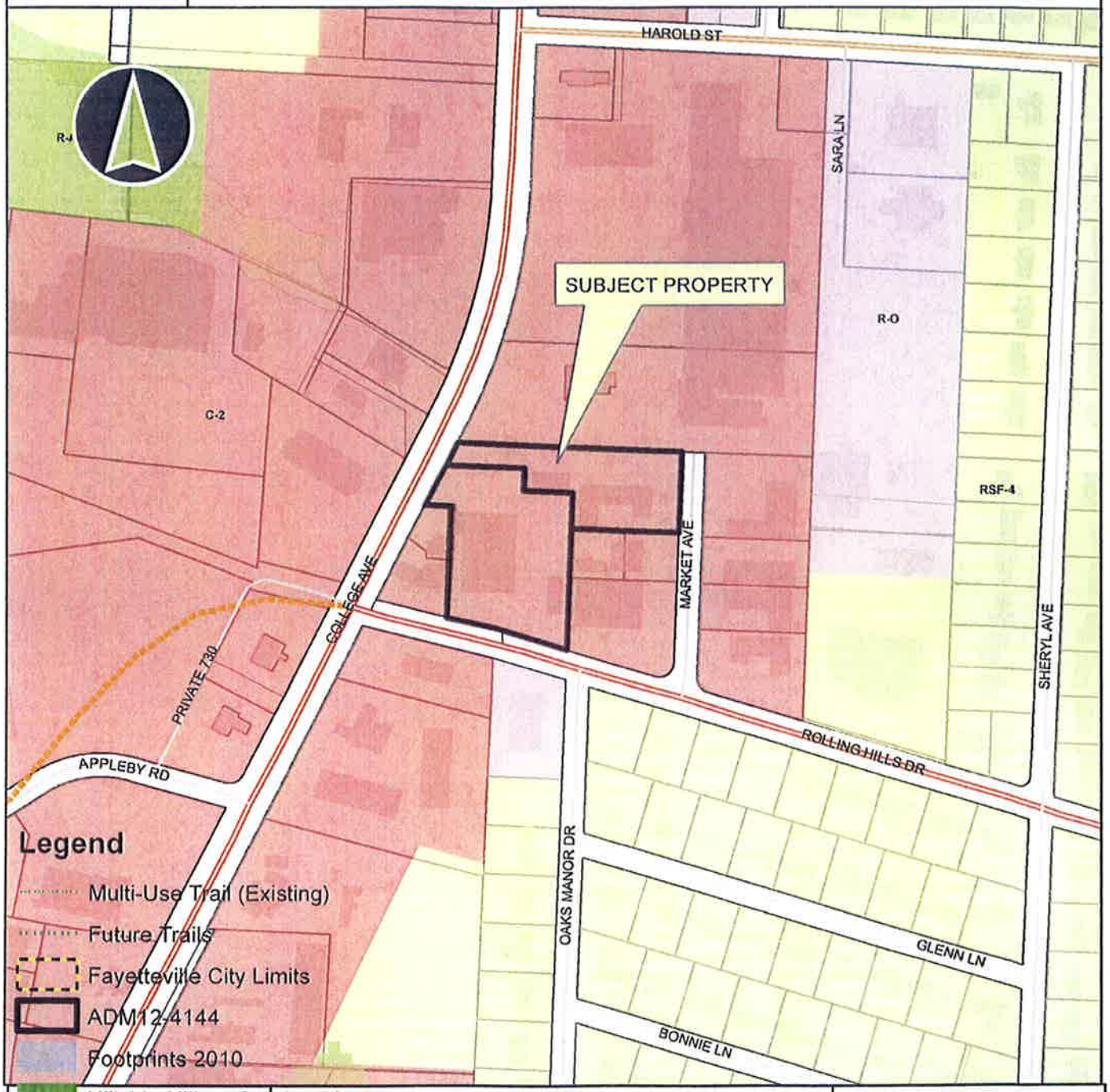
Fayetteville

0 0.25 0.5 1 Miles

ADM12-4144

Close Up View

SIEBERT



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits
- ADM12-4144
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area
- Parcel Lines
- County Parcels

0 125 250 500 750 1,000 Feet

June 11, 2012
Planning Commission
ADM 12-4144 Siebert
Agenda Item 3

Handed out at the City Council Meeting 7-13-12

06/29/2012

City of Fayetteville
Mayor Lionel Jordan
City Council Members

RE: Appeal – ADM 12-4144 Siebert

Dear Council Members –

Please find the attached information we intend to present at the upcoming City Council meeting on the Appeal of ADM 12-4144 Siebert (Shave the Planet). As you are aware, we are requesting the Council to reverse the decision made by the City of Fayetteville Planning Commission on June 11th, 2012 to allow Shave the Planet to remain in their current location for longer than 90 days as is provided by the UDC.

I had originally intended to distribute an abbreviated list of the topics we intended to cover at the meeting. After further consideration, I decided to include a more comprehensive package of information so that I may do my best to keep my presentation at the meeting as brief as possible. I respectfully request that you please review the attached information contained herein as it is the information we intend to offer at the public meeting.

Thank you,
Tracy K Hoskins

Presentation -

Per 178.04(c)(3)(b) of the UDC -
"...the mobile vendors' presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses."

The question to be answered is whether or not Shave the Planet (STP) is a similar (not "identical") business to MaggieMoos Ice Cream and Treatery.

First, STP is not a "**snow cone stand**" as the business has been labeled on several occasions and within Staff's reports. STP is a **shaved ice shop**. **There is a difference in the two products**. Snow Cones are more of a gritty, icy product typically served in a paper cone. Shaved ice is a snow-like, smoother (much like ice cream or sorbet) product served in cups and offered in various sizes; much like a fountain beverage, smoothie, shake, etc.

Shaved Ice and those products sold and MaggieMoos are both categorized as "frozen desserts" which are seasonal products for the most part.

MaggieMoos sells -

> Ice Cream, Sherbet, Sorbet (very similar to shaved ice) and Milk Shakes, offered with mix-ins and/or toppings; along with Smoothies and Novelty Items.

In addition to Shaved Ice Desserts, STP advertises –

> Ice Cream, Sherbet, and Milk Shakes as both primary menu items and as mix-ins and/or toppings.

With the above, one could easily determine (notwithstanding the facilities from which each does business), that STP is not only "similar" to MaggieMoos but in many way IDENTICAL to MaggieMoos. In Staff's report, you will find that Staff agrees the two businesses are very "similar" as defined by the code. There will be images provided later in this document which illustrate the products and the nature of the STP business.

Per 178.04(b)(2)(b) of the UDC, when applying for Outdoor Mobile Vendor on Private Property Permit, the Applicant IS REQUIRED TO DISCLOSE the "type of items sold or services rendered." Had the Applicant properly disclosed their menu items included Ice Cream, Sherbet, and Milk Shakes on their original permit as required, it is likely the Planning Commission would have had this information to consider prior to granting a variance. Further, the omitted information is very pertinent for the Commission to determine if the two businesses are "similar".

Had the Applicant properly disclosed their menu items included Ice Cream, Sherbet, and Milk Shakes on their original permit as required per 178.04(b)(6)(b) of the UDC which states, "...the outdoor mobile vendor...will not adversely affect nearby businesses..."; one could determine the original 90 day permit may not should have been granted to begin with.

4863

Fayetteville
ARKANSAS

CITY OF FAYETTEVILLE, ARKANSAS

OUTDOOR MOBILE VENDOR

FOR STAFF USE ONLY	FEE: $50.00
Date Application Submitted:	
Date accepted as Complete:	S-T-R:
Case/ Appeal Number:	PPB:
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 considered complete for review until all necessary information is furnished.

Application:

Indicate one contact person for this request: ✓ Applicant _____ Representative

Applicant (person making request):

Name: Eric Siebert

E-mail: wheelpowercycle sports@yahoo.com

Address: 2146 Clover dr
Fayetteville, AR. 72701

Phone: (479) 871-8204

Fax:

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

Name:

Address:

Phone:

Fax:

Page 1 or STP's Outdoor Mobile Vendor Permit Application.

STP does not disclose they also sell Ice Cream, Sherbet, Milk Shakes, etc. as required.

Vending Location/Address: 3078 N College, 72703

Product for Sale or Service Offered (Describe):

☑ 1. Food/ Beverage: Shaved Ice

☐ 2. Product:

☐ 3. Service:

Business/Vendor Name: Slave the Planet Square Feet of Building/Structure 128

Number of Parking Spaces Required for Use: 1 Zoning District: C-2

Arkansas Sales and Use Tax ID Number: 0032 4966 Use Unit: 13

Description of Mobile Device or other Structure to be utilized for conducting business: Shaved Ice Stand (portable)

SHAVE THE PLANET

Small (12 oz) $2.00

Medium (16 oz) $2.50

Really Big (24 Oz) $3.50

SHAVE THE PLANET

Bahama Mama
Banana
Black Cherry
Blueberry
Blue Bubblegum
Blue Coconut
Blue Eagle
Blue Raspberry
Butterscotch
Cake Batter
Cherry
Chocolate
Cinnamon
Coconut

Coffee
Cookie Dough
Cotton Candy
Cream Cheese
Cream Soda
Daiquiri
Dill Pickle
Golden Apple
Grape
Grapefruit
Green Apple
Guava
Hawaiian

Hurricane
Invisible Bubblegum
Invisible Cherry
Invisible Raspberry
Invisible Strawberry
Kiwi
Lemon
Lime
Mai tai
Mango
Margarita
Mojito
Orange
Passion Fruit

Peach
Pina Colada
Pineapple
Pink Bubblegum
Pink Lemonade
Polar Punch
Red Raspberry
Root Beer
Silver Fox
Spearmint
Strawberry
Tamarind
Tidal Wave
Tiger's Blood

Tiramisu
Tutti Fruiti
Vanilla
Vanilla Malt
Watermelon
Wedding Cake
Wild Strawberry

SUGAR-FREE:
*Coconut
*Peach
*Strawberry
*Tiger's Blood
(Add 50¢)

*Sherbet Ice Cream (75¢ Extra)

*Hershey's Chocolate Syrup

TOPPINGS: (50¢ Extra)

*Hershey's Caramel Syrup

*Sour
*Cream Topping

The Ultimate Addition: Vanilla Ice Cream (75¢ Extra)

Specialty Mixes

Afternoon Delight
Orange, strawberry, and blue raspberry

Andes™ Mint Chocolate
Chocolate and a hint of spearmint

Cheesecake
Any flavor and creme cheese

Cherry Bomb
Vanilla outside, cherry inside

Colada
Any fruit flavor and coconut

Dr. Sno
Root beer, and cherry

Funky Monkey
Banana and chocolate

Shirley Temple
Lime and cherry

Homemade Ice Cream, Sherbet Ice Cream, Milkshakes

Fabulous Concoctions!

Made with additional toppings (Extra charge)

Acid Rain
Wild strawberry, pink lemonade & sherbet

Banana Cream Pie
Banana, coconut & cream

Banana Split
Strawberry, banana & ice cream

Bio-fuel
Cookie dough and cream

Caramel Apple
Apple, sprinkled cinnamon, and caramel topping

Creamsicle
Orange, vanilla & cream

Coconut Cream Pie
Coconut, vanilla & cream

Earth Day
Butterscotch & caramel topping

Green House
Lemon lime, blueberry & sour

Homemade Ice Cream
Vanilla malt with ice cream

Milkshake
Chocolate, vanilla malt & Hershey's chocolate

Ozone Layer
Cream lime, cherry, sherbet

Strawberry Shortcake
Cake batter, strawberry, cream

Below, you will find evidence that the public and STP themselves see STP as a permanent perennial business. Through the Siebert's own admissions, they want to be permanent (but only during the high season) at the same location year after year. Further, if we were discussing ONLY shaved ice and ice cream, then one might feel there is enough difference in the two products. However, you will find proof that STP not only sells shaved ice frozen desserts, but markets and equally sells and regularly advertises other frozen dessert products IDENTICAL to MaggieMoos.

6/27/2012 – NWA Online (Online NWA Times)
Katy Siebert (STP Co-Owner) -

> "Shaved ice and ice cream are completely different products and completely different customer bases," Siebert said Tuesday.

Here are some photographs of STP's products alongside MaggieMoos products –

The following entries are taken from comments made by the STP Owners and the Public at the Planning Commission Meeting of June 11th, 2012. A Copy of the Minutes from the meeting is attached.

Eric Siebert –

STP has seen less of an increase in sales this year after Andy's closing. When Andy's closed – it didn't benefit them.
STP and MaggieMoos are very different
Willing to do whatever to make it **more permanent.**

Eric Siebert obviously would like have a bricks and mortar business, but is unwilling to set up a permanent shop and expend the costs associated with a "more permanent" business.

Katy Siebert -

Customers drive from Bentonville, West Fork Decatur, Stillwell, Siloam Springs...

If this is the case, if their product and customer following is as the Sieberts and their employees describe, their customers won't mind driving to find them a half mile up or down the road.

Commissioner Chesser asked Katy Siebert –

Chesser - "If you were not in business for more than 90 days, would you have to close up shop?"

Katy Siebert – "We'd have some very unhappy customers."

Chesser – "If we said no, would you be open?"

Katy Siebert – "We would have to find a new place to move and therefore we would lose a lot of our customer base because, I mean, they know where the spot is."

Chesser – "They know where the location is."

Eric Siebert – "There's going to be a shaved ice vendor there regardless whether it's us or somebody else."

Chesser – "It sounds like you'd be there either way, right... if it's for 90 days or 120 days, you want to be there during that time (summer), because it's a good location."

Katy Siebert - "Yes year after year. We'd like to be there as many years as possible."

Katy Siebert obviously would like have a bricks and mortar business, but is unwilling to set up a permanent shop and expend the costs associated with a "more permanent" business. Katy has established STP's customers also view STP as a business expected to be in that particular location year after year.

Andrea Lister - customer

Can't afford it (MaggieMoos)

The mobile/semi-permanent businesses are not required to suffer the initial and ongoing expenses and overhead as required for the bricks and mortar businesses. These expenses include but aren't limited to water, sewer, sanitation, provision and maintenance of ADA facilities, public restrooms, property taxes, landscape installation and maintenance, payroll taxes, etc. A business with minimal overhead which operates only during the season when sales are high and close up shop the remainder of the year can easily cut prices below their competition while maintaining a very acceptable profit margin.

Sarah McNeil – employee

Totally different product vs a dairy product.
It's (STP) not a transient vendor. I was offended by that.
The site has always been used for an **ice cream stand** and is not a transient vendor.
Woman coming from Centerton three of four times a week.
And I need the job.

Even STP employees consider STP to be a semi-permanent business and even refer to it as an "ice cream stand" and "it's not a transient vendor". We are not suggesting STP should close up shop. Per 178.04 of the UDC, we are asserting that the two businesses are without doubt "similar". Therefore, STP should be required to relocate ½ away. Katie Siebert stated, "We would have to find a new place to move…" So, moving might not be what STP WANTS do, but it is something STP CAN do; and Sarah and others can all keep her jobs.

Jaqueline Buntin – friend

Known the Siebert for 8 years.
STP is committed to following city guidelines, obeying city law

Bricks and Mortar businesses have strict regulations which must be adhered to. Of those regulations, the sign ordinances are very deliberate. MaggieMoos recently appropriately permitted and invested over $15,000 on an internally lit monument sign which is the City's preferred commercial sign. Staff was diligent in making sure the proper setbacks, height, square footage of display, etc was strictly adhered to. Below are picture of two signs posted by STP AFTER the Planning Commission meeting where their variance was granted. Staff will confirm that neither of these signs meet the regulations of the city's sign ordinances, are illegal signs which were never properly permitted by the City.

Unpermitted Signs located The right-of-way of N. College Avenue.

Of course, policing mobile vendors is much more difficult than policing bricks and mortar businesses. However, if STP is** "Willing to do whatever to make it more permanent", **and** "STP is committed to following city guidelines, obeying city law", **they should be willing to abide by the law as opposed to posting illegal signage.

STP has 25 employees, 15 at college location.
People need to keep their jobs during summer months.

Again, no one is suggesting STP close up shop. Like Sarah (above,) no one loses their job.

Cody Buntin – Friend/Realtor

The best to place to open a restaurant is between two other restaurants.

To Mr. Buntin's argument, If STP decides to open up a permanent business within the very building where the parking lot is they inhabit year after year and be subject to the regulations other bricks and mortar businesses are subject to, then the city will never hear a single complaint out of MaggieMoos. We have no problem if STP decides to "open a restaurant" right across the street from MaggieMoos restaurant. This is not a case of one restaurant opening up across the street from another.

Ben Israel – Relative and property owner

I don't pay any less taxes whether or not STP is there or not.
**Commissioner Chesser addressed Property Taxes, questioning if property taxes would be the same.*

Mr. Israel refers to Real Estate taxes and has referred to the same on previous occasions. When we have made reference that mobile vendors often do not expend "property taxes" as bricks and mortar businesses are subject to, we are referring to "property taxes", not "real estate taxes". Property taxes are those ad valorem taxes assessed on business's personal property such as furniture, fixtures and equipment. It is very difficult for authorities to monitor a transient vendor to ensure they have properly assessed business property, while it is very easy for them to monitor permanent businesses. The following document was provided by a local title and abstract company whose profession is to research governmental records and provides accurate information pertaining to those records. Though STP has several locations throughout Washington County and its Principles resides in Washington County, they were unable to find records of any business property (portable buildings, shaved ice machines, freezers, etc.), having ever been assessed by Siebert, his LLC, any DBAs, or Shave the Planet. The only assessment found was for personal vehicles, a 10ft box trailer and a 6ft flat bed trailer. See below.

BRONSON ABSTRACT COMPANY, INC.

Closings Title Insurance Abstracts

3810 Front Street
Suite 5
Fayetteville, AR 72703
479 442-2700
Telecopier
479 442-8475

June 14, 2012

Tracy K. Hoskins
3155 N. College Ave.
Fayetteville, AR 72703

Re: search

As requested we researched the Washington County, Arkansas Assessor's personal property rolls for the following names:

Eric J. Siebert
Shave the Planet
Wheel Power Cycle Sports, LLC

We found no assessments for Shave the Planet and Wheel Power Cycle Sports, LLC. However, we found assessments for Eric J. Siebert which is attached.

Sincerely,

Scott Bronson

Scott Bronson

Record 8 of 39 Last Updated 06/13/12

[Print Page]

Assessment Number: 8102453 Assessment Year: 2012
Assessment Date: 4/20/2012 Last Modified: 4/20/2012
Name: SIEBERT, ERIC J
Mailing Address: 2146 S CLOVER DR FAYETTEVILLE AR 72701

Tax District	Total Assessed Value	Total Late Value
011	6,560	0

Assessed Personal Property	Assessed Value
2012 CARGO 10' PUR 03/14/2012 $3507 NBW	670
2009 CHEV 1500 15 CREW 4X4 1LT 8G 4.8 143.5 PUR 03/23/2012 $21000 NBW	4,890
2002 HYUN SANTA FE 4DR GLS 6G 2.7 103.1 GIFTED 8/30/2011 CAZ	930
HMDE UTILITY FLATBED, LIGHT DUTY 6' STD PUR 4/2010 $369 CAZ	70

Next Item | Previous Item | Return to Search Results | Modify Search | New Search

178.04(c)(3)(b) of the UDC does not include support, how well people like the product, or how many friends or employees speak on a mobile vendor's behalf - as a consideration for granting a variance to allow said vendor an extended stay. However, those speaking on behalf of STP, including the STP owners themselves, clearly assert that it is their opinions that STP and MaggieMoos are NOT "similar" businesses. We have asserted the two businesses are not only "similar", but in many ways identical. The following illustrations should prove beyond doubt that the products sold by both businesses are well beyond "similar".

Most of the following images are taken from STP's own FaceBook pages and posts.

Liked

Shave the Planet
June 10

Dear Shave the Planet Customers,

In 2011, we applied to stay for 6 months at our College Ave location and were approved with an 8-1 vote. This year, we applied to stay the same amount and were only approved for 3 months. This basis for this decision was because Maggie Moo's ice cream shop across the street complained that we were taking their customers.

We have repealed this action stating that shaved ice and ice cream are very different products, and that our customers come to us specifically because they want shaved ice. If we are not approved, our permit will expire at the end of June.

We would love for our customers who share our opinion and love shaved ice to be at the city meeting to help us prove that we should be able to stay the entire summer! Let's fill the courthouse!

The meeting is schedule for this Monday, June 11th at 5:30PM at City Hall
(113 Mountain St, just off the square). Just go up the grand staircase and it's the big room at the top!

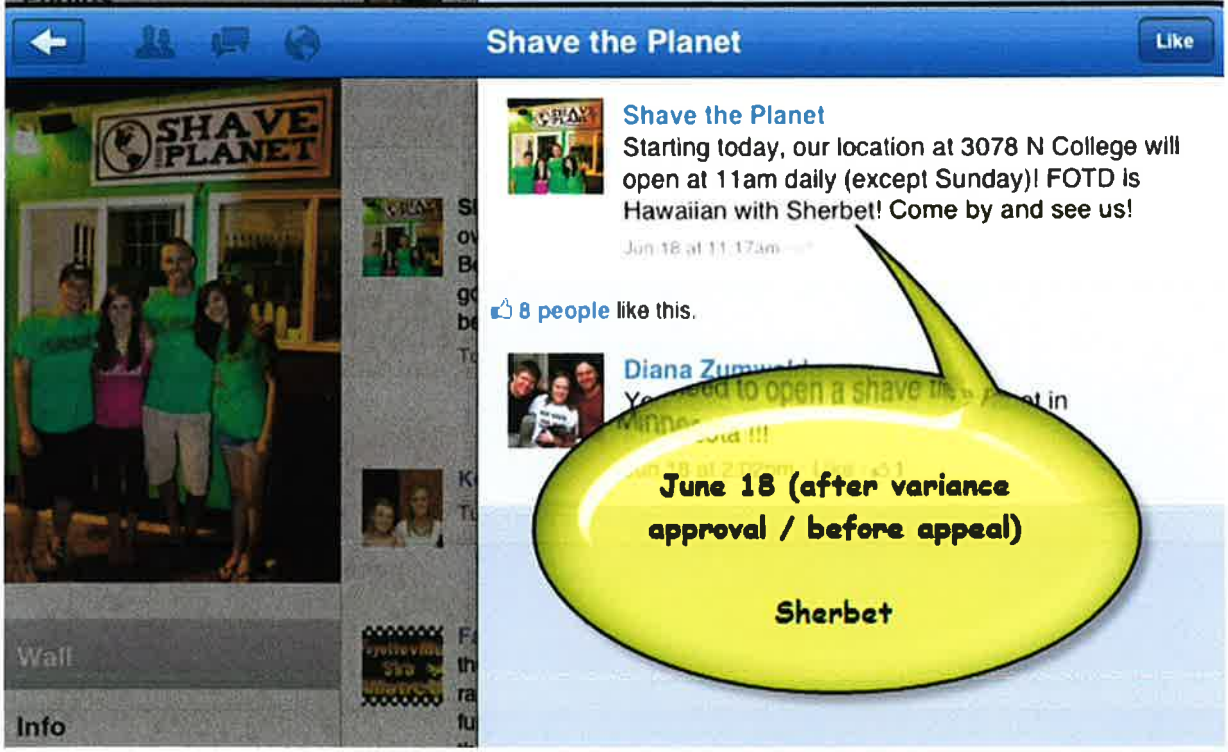
We want to continue serving you some STP goodness as long as we can! You can speak if you'd like, but even your presence would help!

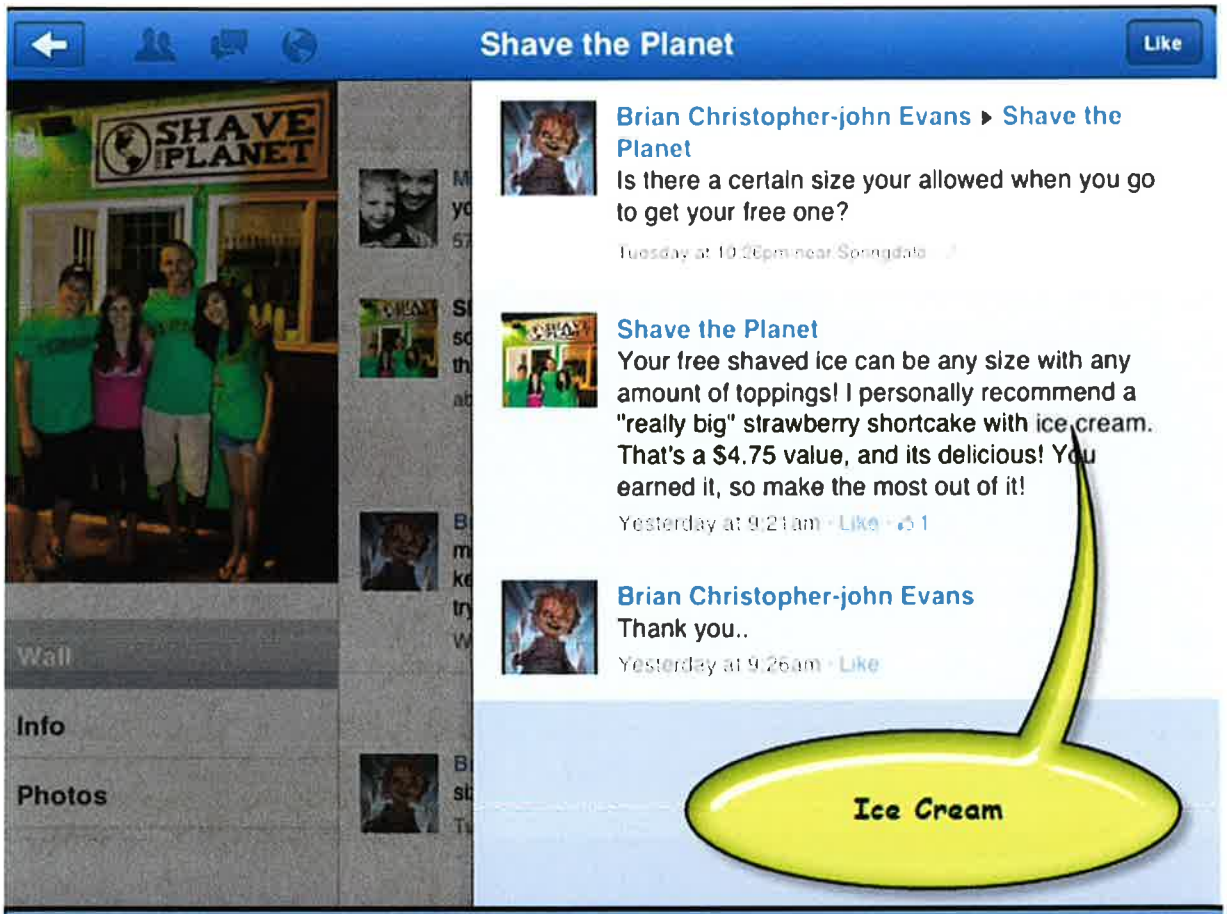
Thanks,
Eric and Katy Siebert

Like · Comment · Share 13

STP Menu Board -

Shave the Planet
Like
SHAVE PLANET
Twice Born Design ▸ Shave the Planet
I've been craving some Saved Ice! -What are some popular flavors that are not your typical flavors??
Shave the Planet
Acid Rain is great! It's got wild strawberry, pink lemonade, and sherbet in the middle! Another great one is California Dream (peach, pineapple, mango)! Thanks for asking!
Jun 13 · Like · 1
Wall
Info
Photos
June 12
Sherbet


Shave the Planet
Like
SHAVE PLANET
Shave the Planet
Starting today, our location at 3078 N College will open at 11am daily (except Sunday)! FOTD is Hawaiian with Sherbet! Come by and see us!
8 people like this.
Wall
Info
June 18 (after variance approval / before appeal)
Sherbet


Shave the Planet
Like
SHAVE PLANET
Wall
Info
Photos
Brian Christopher-john Evans ▸ Shave the Planet
Is there a certain size your allowed when you go to get your free one?
Shave the Planet
Your free shaved ice can be any size with any amount of toppings! I personally recommend a "really big" strawberry shortcake with ice cream. That's a $4.75 value, and its delicious! You earned it, so make the most out of it!
Yesterday at 9:21am · Like · 1
Brian Christopher-john Evans
Thank you..
Yesterday at 9:26am · Like
Ice Cream

Shave the Planet
Like
SHAVE PLANET
Wall
Jeremy Jackson ▸ Shave the Planet
Flavor of the day is.....?
Shave the Planet
banana split!...strawberry, banana, and ice cream :)
"Banana Split"
A famous Ice Cream Dish
Ice Cream

Posted on 6-29-2012 -

14 hours ago via mobile · Like

Write a comment...

Beth Dyar Emmanuel

I read in the newspaper yesterday that Maggie Moo's is appealing the city council's decision.....Here's [illegible] llege closed, if your traffic hasn't i[illegible] ur product!!!! Sorry that Shave [illegible] ention a different product! Get over i[illegible]

"...snow cones u sell with ice cream in them..."

Like · Comment · 22 hours ago

Alyssa Vivlemore likes this.

Shave the Planet Amen to that haha! [illegible] make some awesome points that will definitely be brought up at [illegible] meeting!
15 hours ago via mobile · Like

Jamie Vivlemore and no one wants ice [illegible]am when it's 100 degrees outside!
15 hours ago · Like

Zala Wala I love the snow cones u sell with ice cream in them no matter how hot it is?! U get the ice and the ice cream best of both! I love u guys !
10 hours ago via mobile · Like

Write a comment...

Summary -

Per 178.04(c)(3)(b) of the UDC, STP should not be granted a variance to remain at their current location. The business is very similar to the nearby permanent business, MaggieMoos and in many respects identical. As STP has become a perennial business at their current location, they have become a semi-permanent business model which has figured out how to avoid the ongoing overhead, costs and regulations which bricks-and-mortar businesses are subject to for the entire year. By allowing mobile vendors to set up year after year, in the same location, and now add to that for extended periods; the mobile vendor is metamorphosized into a seasonal, semi-permanent business - a business which can avoid the aforementioned expenses thereby allowing them to easily lower prices below their neighboring competition while maintaining viable profit margins. They are allowed to move in long enough to pick the low-hanging fruit and when that fruit is gone – so are they. While this might be a great business model, was this really the intent of the Council when crafting the Mobile Vendor ordinances?

Several cities are struggling with this same issue. See the attached article next page. How do we fairly regulate Mobile Vendors while being equally fair to permanent businesses? We support the idea of mobile vendors, assuming those vendors are truly "mobile vendors". A taco truck pulls up to a particular site (often construction sites, factories, etc.), does business, and then moves on to the next site. The taco truck is truly a "mobile vendor". We hear the ice cream truck driving through the west side of town with *Turkey in the Straw* blaring through its bullhorn speakers every single day. We enjoy hearing him as he drives his route and we often purchase treats for our girls when he rolls through the neighborhood. We believe that portable buildings/vendor stands that are permitted to remain in a single location are not an example of a "mobile vendor". They are "mobile on two occasions – when they move in and when they move out. The current code provides for these vendors to stay in one location for 90 days by right. As a bricks and mortar business, we may not agree with or like the ordinance, but we live with it without complaint. But when the vendor requests a variance to stay longer than the provided 90 days - and now year after year - we feel the ordinance is being manipulated and consideration should be given to those nearby similar bricks and mortar businesses.

178.04(c)(3)(a) and 178.04(c)(3)(b) are the only two questions to be considered when granting a variance which would permit a mobile vendor an extension beyond 90 days at the same location. We will not offer opinion on 178.04(c)(3)(a) as we concur with Staff on their findings. We also concur with Staff on their findings relative to 178.04(c)(3)(b); that the two businesses are very "similar" as demonstrated throughout this submittal. By permitting any mobile vendor to perennially locate in the same precise location, across the street from a "similar and nearby permanent business", for extended periods, year after year, and only during the season when sales are high, thereby allowing the business to avoid the ongoing costs, overhead, regulations and requirements born by permanent bricks and mortar businesses year-round does indeed "...create an unfair advantage over similar and nearby permanent businesses". And per 178.04(c)(3)(b) of the UDC, we respectfully request the City Council to grant our Appeal by reversing the variance granted to Shave the Planet by the Planning Commission.

Respectfully,
Tracy K Hoskins

Food Truck Friday takes bite out of business: UPDATE

Posted by Leslie Newell Peacock on Thu, Apr 19, 2012 at 5:53 PM

-
- Last Friday's food truck service winds down.

At least two restaurant owners downtown are ticked off at the **Downtown Little Rock Partnership** for its sponsorship of **Food Truck Fridays,** which they say will hurt their business on what are normally their busiest days.

Eric Tinner, who owns **Sufficient Grounds** locations along Capitol Avenue, and **Matt Lile,** owner of **Lulav,** are blaming the partnership for a big dip in business last Friday, the first Food Truck Friday at Capitol and Main. Lile said his business was down 31 percent from the previous Friday, and "I really believe [the food trucks] are directly responsible." Tinner said his business declined from the previous Friday at both his Sufficient Grounds locations (one at Union Plaza, close by the food trucks, and the other in the Metropolitan Bank building at 5th and Broadway) and that a survey he made of nearby restaurants showed a big drop in customers — U.S. Pizza by 30 percent and a Subway three blocks away down 23 percent.

"It's disappointing to see a group like the partnership ... support direct competition," Tinner said. "It's hard for me to stomach the fact that my dues are going to this [project] that hurts my business."

Tinner said the food trucks "come in, cherry pick our business at the peak time of day and week and they leave ... what do they leave besides trash?" Unlike the mobile trucks, Lulav's Lile noted that he'd invested time and money in fixing up a dilapidated building on Sixth Street for his business, a move that has helped downtown.

Both business owners were irked that food trucks aren't regulated as strictly as restaurants, whose kitchens must submit to several inspections yearly by the state Health Department.

DLRP head Sharon Priest believes things will even out in the next two months as overflow customers, people who do not regularly dine out downtown, head to the brick and mortar restaurants. She said the DLRP has offered to print for restaurants fliers that tout discounts at the restaurants for distribution at the food truck site. But Lile said offering discounts to lure business away from the food trucks "frankly hurts us too."

Priest noted that there are "roughly" 10,000 people who work within a few blocks of the food truck area "who are looking for lunch at the same time." She said she considers the food truck project — which she said was designed to bring new people to Main Street — a trial. The DLRP has contracted with the Metropolitan Housing Alliance (Little Rock's Housing Authority) Fridays through June for use of the block where the three food trucks set up. Tomorrow's trucks include **Royal Kabob, The Food Truck** and an as-yet-undetermined third vendor; hours are 11:30 a.m. to 1:30 p.m.

Tinner, who met with the DLRP before the first Food Truck Friday to express his opposition to the idea, has suggested that the food truck site move around to lessen the impact on any one area downtown, an idea Priest said she'd take into consideration after June. "I can't help but think things will level out, myself. People were in line for an hour" last Friday, she said. One restaurant owner, whom she declined to name, told a volunteer the food truck overflow had helped business.

Priest said she's also told restaurants they can sell prepared food from carts if they like, an idea that Tinner scoffed at. "I don't mind a little competition but in the end result, what is the message?" Tinner asked, that downtown restaurants aren't interesting?

UPDATE: Tinner has provided a list of the restaurants he queried and their sales:

Lulav -31 percent
Subway on Main -30 percent
Subway in Metropolitan Tower -25 percent
Sufficient Grounds Express -23 percent
Subway on 2nd -20 percent
Slicks -12 percent
Sufficient Grounds Cafe -12 percent
Cotija's -10 percent
Sports Page +25 percent (which Tinner attributes to the fact that the previous Friday was Good Friday, a non-meat-eating day)
U.S. Pizza closed early

He also included a note he has sent to the Downtown Partnership:

As you can see, the effects of the additional competition were far reaching. All restaurants reported that business was dead until 12:30 when back-ups occurred at the food trucks. There was spillover from the trucks due to their inability to keep up with demand, so the numbers could have been much worse. Also, to my surprise, Metro store experienced a 28% decrease in sales over the day before, and this is not even a restaurant!

All owners are eager to speak with you and find a compromise to the situation which has driven a wedge between the small business owners in downtown and the Partnership. Please don't assume they have been appeased though. In fact, they have now had their fears proven true in Friday's losses and are more determined that ever to stop this clear threat to their business. Mr. Patel who owns the Subway on Main St. told me that he was going to speak to the mayor and wanted to circulate a petition to end the practice completely. I find this interesting because the theory of the Main Street Revitalization is to help Main Street business grow, but he has suffered the greatest loss at 30%. There was also discussion from one owner that with the Partnership financially supporting this, that they felt powerless to compete and they are now considering a move away from downtown. Are we now not causing more harm than good?

There needs to be a change before this has catastrophic effects on the local restaurants.

Sincerely,
Eric Tinner

Minutes - June 11, 2012 Planning Commission

New Business:

ADM 12-4144: Administrative Item (3078 N. COLLEGE AVE./SIEBERT, 252): Submitted by ERIC SIEBERT for property located at 3078 NORTH COLLEGE AVENUE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.88 acre. The request is a variance to allow for an outdoor mobile vendor (Shave the Planet snow cones) for longer than 90 days.

Andrew Garner, Senior Planner, gave the staff report.

Jason Kelley, Assistant City Attorney, asked Commissioner Hoskins if he would be recusing from the item.

Commissioner Hoskins indicated that he would be recusing.

Commissioner Winston indicated that if Commissioner Hoskins was recusing he would need to leave the room.

Commissioners Hoskins indicated he did not think he would need to leave the room as he was not directly involved in the application.

Garner discussed that it was a general practice for commissioners to leave the room when recusing.

Kelley confirmed that it was a general practice but not a legal requirement.

Commissioner Hoskins left the room.

Eric Siebert, applicant, discussed that ice cream and shaved are different. He discussed that Andy's Frozen Custard closed this year and they did not see an increase in business. They are not getting the same customers.

Katie Siebert, applicant, discussed that people come for the experience and product. She discussed different [illegible] business from long distances for their product (Bentonville, West Fork, Siloam Springs and further as far as Stilwell, Oklahoma). They come for our experience and our produce. It is a destination.

Eric Siebert, applicant, discussed that they would be willing to plant a tree or anything we could do to make it a little more permanent.

Katie Siebert, applicant, discussed that they are willing to work with the City.

Public Comment:

Andrea Lister, discussed that the prices at Maggie Moo's are exorbitant. Shave the Planet is a place in town where I can take all my kids to get something for $2. Ice cream and shave ice are totally different markets and two different experiences. Shave the Planet is a homegrown business.

Sarah McNeil, I work at Shave the Planet. She discussed that shaved ice and ice cream are very

different products. This site has always been used for an ice cream stand and is not a transient vendor. I was offended by that. I have lived in Fayetteville all my life and there has always been shaved ice in this location. We have people coming all the way from Centerton three times a week to get this product. Shutting down a homegrown business might be frowned upon. Shave the Planet is a locally owned business.

Jacqueline Buntin, is thankful for the existing 90-day permit. I trust the City will make a fair decision. I have known Eric and Katie for eight years. They are really interested in obeying the guidelines and doing this right. Shave the Planet has 25 total employees. Fifteen of them work at this College Avenue location. This keeps people with a job during the summer months. When I decide I want ice cream I have 10 locations in Fayetteville, that is not counting the fast food restaurants. There is plenty of competition for ice cream in Fayetteville. Their business is successful and they should be rewarded.

Cody Buntin, a resident of Fayetteville my entire life, commercial realtor. This business creates another reason to drive and spend money in this area of Fayetteville. Fiesta Square is not what it used to be. It seems out of place to deny extending this permit to a successful business. They are just bringing more traffic to this side of town.

Ben Israel, I own the property that Shave the Planet is on. I don't pay any less tax because they are only there for six months. They pay sales tax. I'm a little confused why a brick-and-mortar is preferred over this kind of business. I would encourage you to give them this variance.

Justin Leflar, school teacher at Holt Middle School. He spoke about a donation from Shave the Planet to their school to reward kids for their hard work. If this is denied where will the kids use their voucher.

Cody Yancey, discussed that it is an unfair advantage that he has to go through all this to be in business. He has to apply for a different variance every year. He has to carry the same insurance for his employees. Snow cones and ice cream are two separate things. There is no proof that it is detrimental to their sales.

Mena Shombod (sp?), Shave the Planet employee. We really rely on this job. There are not a lot of places where you can find a summer job so you can focus on academics during the other time of the year. This is a great opportunity for high school and college students to gain experience and grow their character. This stand on College has established itself as a great environment for customers. There have not been issues with traffic or any other detrimental effects. I hope that you guys consider that.

Celeste Hoskins, Maggie Moo's. I like Shave the Planet and eat there with my kids. What I was asking for is that they take into consideration that there are ordinances. We have no issue with the 90-day permit. What I am asking for is that when they are asking for that extension that an ordinance be established so that we are all on the same playing field. I think it's great to support the community. I like the couple and Shave the Planet. It is just the ordinance. I think we need to establish some playing rules here. I think this is a great business model. What stops someone like me or other businesses from doing it. I don't think this is about competition or a customer base. I'm just wanting to see some guidelines on where we're going with mobile or transient vendors. If this is something you want to set precedence for that's great.

No more public comment was presented.

Commissioner Chesser asked about the mobile vendor ordinance.

Garner discussed that this ordinance was under examination at the request of council members.

Commissioner Chesser discussed that this body doesn't write ordinance we just interpret the ordinance. There is a very specific part of the ordinance we are considering regarding whether this is a similar business. You said you had proof this was not a similar business?

Katie Siebert, applicant, discussed the HMR tax records for March, April, May, and June of last year for Shake's, Andy's, Maggie Moo's, and us. Last year Andy's was the highest grossing and they are now out of business. Last year we saw a 113% increase in our sales and most of that was due to the weather. This year you would expect since an ice cream shop went out of business we would see an increase. However, we only saw a 101% increase in our sales, this is 12% less than last year. It kind of shows that an ice cream business going out of business didn't help us.

Commissioner Chesser asked staff how an extension would hurt when the first three months of the busy season have been utilized. That seems like something we should take into consideration. The bulk of the problem is already occurring.

Garner discussed that the commission is just looking at the variance findings and he read the variance findings.

Commissioner Chesser asked staff why staff felt it was a similar business.

Garner discussed that we did not do a market study. In our drafting the findings and for the commission to consider, the rationale was what would a reasonable person think. I thought yes they are similar because it is a desert, you eat it mainly during the summer, and it is similar. Would it create an unfair advantage? I thought it could because you could have some of the same types of customers.

Commissioner Chesser asked if it would be worth it for them to only be there for 90 days.

Katie Siebert indicated that they would open in this location even if it is only for 90 days.

Commissioner Chesser asked about property tax on a brick-and-mortar versus a mobile vendor.

Jason Kelley, Assistant City Attorney, discussed that more improvements create more value and more property tax.

Commissioner Chesser discussed that lower property taxes could potentially be an unfair advantage.

Commissioner Cook agreed with Commissioner Chesser that it is not our responsibility to legislate. In this case the City Council has established the factors and it is up to our judgment. I think it is compatible and it does not create an unfair advantage.

Commissioner Cook made a motion to approve **CUP 12-4144 Commissioner Cabe** seconded the

motion.

Garner requested Commissioner Cook clarify condition of approval #3.

Commissioner Cook clarified that condition #3 be modified to require the Urban Forester to approval the type and size of tree that is planted. Commissioner Cabe agreed with this modification to the motion.

Commissioner Cabe asked when this applicant's previous application came before the commission.

Katie Siebert confirmed that it was March 26th.

Commissioner Cabe discussed that the new ordinance was revised and came through May 1 of this year. He also asked about the City Attorney's memo that was in their packet and direction for the commission on several of the terms in the ordinance such as 'similar', 'compatible', 'not detrimental.

Jason Kelley, Assistant City Attorney, stated that it is completely up to your judgment based on the facts that have been presented. The best thing I can equate it to is if you are on a jury and you hear all this testimony and you have to decide. That is the job.

Commissioner Cabe stated that the ordinance did change and it requires judgment. The ordinance was first written and first became an opportunity for businesses to get their legs under them and do something that is atypical. I fully feel like a seasonal business is exactly that sort of opportunity. Like the applicant said there are very few brick-and-mortar businesses of this type around the country and as a seasonal business model like pool cleaning or window washing. I will be able to support this without a problem.

Commissioner Winston discussed that he has become convinced that there is a substantial amount of different between shaved ice and ice cream and I will support this.

Upon roll call the motion passed with a vote of 6-1-1. Commissioner Honchell voted 'no' and **Commissioner Hoskins** recused.

Handed out at the City Council Meeting 7-3-12

Departmental Correspondence

www.accessfayetteville.org

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council

FROM: **Kit Williams**, City Attorney

DATE: **July 3, 2012**

RE: **Variance Test for Outdoor Mobile Vendors**

§178.04(C) *Variances* of the Fayetteville Code

"(3) A variance may be granted … when the following findings have been met:

"(a) The applicant has established that the operation of the outdoor mobile vendor will be

(I) **compatible with and not detrimental to nearby properties,**

(II) **will not adversely affect nearby businesses** …."

"(b) That the outdoor mobile vendor's presence for an extended period of time at one location

(III) **will not create an unfair advantage over similar and nearby businesses."**

178.04 Outdoor Mobile Vendors Located On Private Property

(A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape, and does not create or worsen a dangerous traffic condition.

(B) *Requirements.* Outdoor Mobile Vendors located on private property shall meet the following requirements and submittals prior to approval:

(1) Permit Application. Each application for a permit to conduct an Outdoor Mobile Vendor business shall be accompanied by a $50 permit review and processing fee.

(2) Application for a permit to conduct an Outdoor Mobile Vendor 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 must be a permitted use-by-right within the underlying zoning district in order to be permitted.

(6) An Outdoor Mobile Vendor business may be approved by the Planning Division after making the following determinations:

(a) All of the requirements of 178.04(B)(2) have been met.

(b) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(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 at least one half mile from the original 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 proposed transient merchant business, and by the use and size of the existing business. Parking spaces on the property where the outdoor mobile vendor is located shall be paved and striped in order to be utilized. The use of parking for an out door mobile vendor may not reduce the number of spaces necessary for other uses occurring on the property. An adequate number of parking spaces for the existing businesses and the outdoor

EXHIBIT
A

mobile vendor must be provided onsite. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

(C) *Variances*. Outdoor Vendors may request a variance from the Planning Commission to operate for an extended period of time, not to exceed twelve consecutive months, in the same location subject to the following standards:

(1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.

(2) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

(3) A variance may be granted by the Planning Commission when the following findings have been met:

(a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(b) That the outdoor mobile vendors' presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.

(4) In granting the variance, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance.

Test

(Ord. 5185, 10-7-08; Ord. 5425, 8-2-11)

825

Shave the planet
ADM 12-4144 3078 N. College Ave.
Siebert Appeal.

Petition to keep this location open through the end of summer!

Petition summary and background	The Planning Commission's decision on June 11th, 2012 to allow Shave the Planet to remain open for the duration of summer has been appealed. If the City Council overrides the Planning Commission's decision, we will have to leave on July 4th, 2012.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to vote to allow Shave the Planet to stay on their extended permit they were granted on June 11th, 2012.

Printed Name	Signature	Address	Comment	Date
Nisha Pruitt	Nisha Pruitt	1841 W. Sycamore Fayetteville	Save Shave the Planet!	6/25/12
Matt Garnett	[illegible]	1503 N. [illegible] Ave FAY, AR 72704	Save the Shave"	6/25/12
Hannah Cavell	[illegible]	2234 E Idlewood 72703	It's competition, other business put up or shut up	6/25/12
Nancy Stanberry	[illegible]	2350 S. Edwards Rd. Fayetteville AR 72701	" "	6/25/12
Leslie Bailey	[illegible]	3601 N. Salem Fay 72704	please stay!! our favorite	6/25/12
Rebekah Moss	Rebekah Moss	820 N Garland, Fay	BEST SNOWCONES!!!	6-25-12
Phil Peterson	[illegible]	901. W. Grace Wood Dr.	-11-	-11-
Aaron Wright	[illegible]	1540 W. Nettleship St #8 Fayetteville AR	Aldermen's wives shouldn't be able to close other businesses	6/25/12
Kent Sowiyasak	[illegible]	328 Hunter Allen Dr Bethel Heights, AR 72764		6/25/12
JOHN SCRUGGINS	[illegible]	3138 WEST JOWETT 6 FAYETTEVILLE AR	DONT PUNISH HONEST SUCCESSFUL PEOPLE	6/25/12
Becki Tomlinson	[illegible]	2011 Sugar Pine Springdale, AR 72764	Shave the planet ROCKS!! No one can touch this!	6/25/12
Kathleen Petty	[illegible]	828 E Peel St Fayetteville	Free: leave them alone, not even same products.	6/25/12
Rob Tomlinson	[illegible]	11 Tuscany Ave Springdale	[illegible] love it	6/25/12

Printed Name	Signature	Address	Comment	Date
Diana Moru	[illegible]	1419 N. Addyston 72703	Let them Stay	7/1/12
Lisa Ezell	L Ezell	2538 Country WAY	Please let them stay!	7-1-12
Danny Ezell	Danny Ezell	" " "	" " " "	7-1-12
Crissy Williamson	[illegible]	128 Rosemeade Dr 72730	Love this Place	7-1-12
Tina Nadne	[illegible]	4792 N. Maple Grove Dr		7/1/12
Sarah Ruff	Sarah Ruff	4770 Maple Grove Dr		7/1/12
Carrie Nichols	Carrie Nichols	4567 Caddo Lane		7/1/12
Joshua Nowell	[illegible]	2310 South School Ave 72701	Sno cones rule, Maggie Moos drools	7/1/12
Hannah Weber	Hannah Weber	2049 Tallgrass Dr. 72701		7/1/12
Dillon Yielding	Dillon Yielding	1885 Salem Dr 72703		7-1-12
Carol Rushing	[illegible]	1852 Harold st 72703		7-1-12
DAVID [illegible]	[illegible]	ZION CONDITIONS	SLAVES IGNIS DA BOMB	7/1/12
THOMAS COLE	[illegible]	5916 DANCING ROCK	MORE LIKE MAGGIE BOO'S!	
Meagan Byrd	[illegible]	2730 N. Arroyo Ave Fayetteville AR	Love this place	7/1/12
Kori Wheatley	[illegible]	4359 W New Bridge Fay 72704	Best place :)	7/1/12
Debbie Power	[illegible]	3212 N. Old Wire Rd. Fay. 72703	Let them stay!	7-1-12

Sam Borgstadt	3102 Sommershade dr.	7-1-12
Kellen Summers	1876 Buckley Dr	7-1-12
Phillip Price	2759 Westminster Dr	7-1-12
Eduardo Chow	1629 Shetland Pl	7-1-12

Printed Name	Signature	Address	Comment	Date
Camille Wheeler	Camille Wheeler	573 Fox Meadows Ln. Fy	♡ STP!	7/3/12
Stephanie Stutee	Stephanie Stutee	426 Italies N Fay	Absolutely the best	7/3/12
Tyler Rainwater	Tyler Rainwater	311 N Center St. Elkins	God Stuff!!	7/3
Emily Lenny	Emily Lenny	1771 Rosewood St. Elkins	Don't Leave!	7/3
Joseph Armendariz	Joseph Armendariz	255 E. Cleburn St.	Keep Sharing!	7/3
Sadie Prosser	Sadie Prosser	5132 Weaington	I LOVE Y'ALL!	7/3/12
Jamie Brown	Jamie Brown	2070 N. Valencia	Y'all!	7/3/12
Mel	Mel	2620 N. Valencia	meow	7.3.12
Valarie Shepherd	Valarie Shepherd	10811 Hwy. 170	YUM!	7.3.12
Ashley Molesso	Ashley Molesso	1400 Clear Creek Dr.	Maggie Moo's Sucks.	7/3/12
Derek Benner	Derek Benner	1001 east oaks Manor		7/3/12
Brey Cook	Brey Cook			7/3/12

Printed Name	Signature	Address	Comment	Date
Carolyn Tounsend	Carolyn Tounsend	748 Porter St	Yummy	7/1
Jessica Bryan	Jessica Bryan	1863 Brookhaven		7/1
Laura Chambers	Laura Chambers	2750 Purple Martin Lane		7/1
Heather Toombs	[illegible]	554 S. Buchanan Ave		7/01
Jacques [illegible]	[illegible]	2259 N Mockingbird Ln		7/1
Esther Wheatley	[illegible]	4359 W New Bridge Rd		7/1
Miriam Ortega	[illegible]	3166 W. Wednesday Dr.		7/1
Jennifer Lopez	[illegible]	885 W Piedmont Fayetteville		7/1
Nate Lopez	[illegible]	885 W Piedmont 8 Fay AR 72703		7/1
Caitlyn [illegible]	[illegible]	54 Sweetwater Way		7/1
Lisa Orsain	Lisa Orsain	3015 Summer shade		
Marin Ivis	[illegible]	1500 Leverett Ave		7/1
Natalie Becknell	[illegible]	1453 Windsor Pl.	CAN'T EAT DAIRY	7-1
Lisa Beasley	Lisa Beasley	2910 Centerwood		7-1
Taryn Blocker	Taryn Blocker	1626 W. Lion Oak Dr.		
Hannah Jones	Hannah Jones	3447 Nottingham Pl. Fayetteville, AR 72703		7-1

Rachel Jones	Rachel Jones	3447 Nottingham Pl.	7/1
Susan Blevins	Susan R Blevins	2516 W. Sycamore St	7/1
Oriana Pivett		1560 N. Heritage Ave.	7/1
Cameron Doughty		115 west Doughs street	7/1
Krisma Smart		2009 Kamington Rd	7/1
Ashley Xaysanasy	Ashley Xaysanasy	Park Place Apartments on Joyce	7/1
Jessica Pouvirirya	Jessica Pouvirirya	3041 W. Marigold Dr.	7/1
Jeff Rackers	Jeff Rackers	4210 W. Milikan Blvd	7/1
Tom Romero	Tomas Romero	2233 N Cleveland	7/1
Christina Serrett	Christina Serrett	1250 E Shepherd. Apt. 206 72703	7/1
Amelia Prather		4109 sunflower cir Fay AR. 72701	7/1
Billy Luce		1343 N. Leverett #14 Fay, AR 72703	
Ashleigh Starkey		" " (roomies)	
Erika Kicklak		2156 N. Tull Ave #7 Fay, AR 72704	7/1
Phoebe Chaffin-Busby		1546 Burrow #3 Fay AR 72704	7/1
Ian E. Sullere			

Printed Name	Signature	Address	Comment	Date
Kevin Beaumont	K Beaumont	3073 E. Fossil Dr	Love it; Keep it!	7/2/12
Christina Bracke	Christina Bracke	1586 Evening Shade	I Love Shaved Ice	7/2/12
Katie Braboy	Katie E. Braboy	2955 Hay Meadows Ave.	Shave the Planet	7/2/12
Paul Nguyen	[illegible]	619 W Adams	NOT the Same	7/2/12
Sonia Cable	[illegible]	1220 W. Cleveland St.	see above!	7/2/12
Keira Peak	[illegible]	3005 dorthy Joanne st	Shaved Ice tastes magnificent, especially you guys	7/2/12
Jordan Ramsey	[illegible]	15074 E Black oak Rd.	Shaved ice is my Jam!	7/2/12
Jordan Eddleman	[illegible]	1808 Creek Ct. Fay. AR	Shave the planet	7/2/12
Brock Harvey	[illegible]	2465 E windsor Pl Fay	it's the Bomb!	7/2/12
Grant Lewis	[illegible]	3116 Highland Ave		7/2/12
Sydney Foster	Sydney Foster	3148 N. Chassy Ave.	Keep it ☺	7/2/12
Sydney Francis	[illegible]	2498 E Chatsworth	BEST EVA!	7/2/12
Harrison Martin	[illegible]	3991 Acacia Circle	Yum	7/2/12
Pam Jones	[illegible]	114 Madison 8767	Love it	7/2/12
Emma Huggins	[illegible]	2800 N. Loxley Ave.	Goooooooo good	7/2/12
Anna Oxford	[illegible]	43 W August Dr. Fayetteville #8	AMAZING	7/3/12

Printed Name	Signature	Address	Comment	Date
DAVID BURTON	David Burton	1899 N. LATON DR		7/2
Greg Lunn	[illegible]	3398 E. Canterbury CR		7/2
Hilary Bell	Hillary Bell	5809A Sara St		7/2
Taylor Stroud	[illegible]	2355 Berry Street		7/2
Chris Reinlein	[illegible]	920 W gracewood Dr.	Best frozen water ever ♡	7/2
Tank Shorter	[illegible]	300 Evergreen Dr		7/2
Rachel Huff	Rachel Huff	4944 W Patrick		7/2
Margaret Reese	[illegible]	521 W. Spruce		7/2
Shelby Culver	Shelby Culver	302 Willow Ave		7/2
SUSAN GARDNER	Susan L Gardner	909 N Hall Ave		7/2
Ken Gardner	Kenneth Gardner	909 N HALL		7/2
SARAH ARNOLD	SARAH ARNOLD	900 N. LOVERETT		7/2
Luke Laird	Luke Laird	900 N. Loverett		7/2
Weston Abernathy	[illegible]	2412 W. Moorhead		7/2
Jessica McCoy	Jessica McCoy	9916 SE Miami Loop		7/2
Michele Crowell	[illegible]	2816 N Raintree Dr		7/2

Printed Name	Signature	Address	Comment	Date
Stuart Sheppard	[illegible]	2011 NW Desoto Dr	I love this place ♡	7-2-12
Ben Canada	[illegible]	1840 N. Leverette		7-2-12
REBECCA LARA	[illegible]	1840 N. Leverette #loc.	♡ it. & the staff best place ever	7/2/12
Jay Bowman	[illegible]	543 Prospect St		7/2/12
Jeevae Franklin	[illegible]	2510 N. Prairie Ter.	its da best.	7/2
Samantha Finch	[illegible]	3049 N Elizabeth Ave	Love it	7/2
John Finch	[illegible]	3049 N Elizabeth Ave		7/2
Stacey Park	[illegible]	1636 W. Maple St.		7.2
Bret Park	[illegible]	1636 W MAPLE ST.		7.2
[illegible]				
Whitney Beeson	[illegible]	3173 Boonslick Terr.		
Lauren DeClue	[illegible]	1500 N. Leverett		7-2
Emily Crabtree	[illegible]	1500 N. Leverett		7-2
Shani Miller-Vaughn	[illegible]	1510 N. Leverett		7-2
Michelle Roger	[illegible]	3015 N Elizabeth		7/2
Joel Nagler	[illegible]	3015 N. Elizabeth		7/2

Printed Name	Signature	Address	Comment	Date
Crystal Bednarski	Crystal Bednarski	828 E. Pell St Fayetteville	This place makes my day always! There's no one like them. Don't shut them down	6/25/12
US Mayor	US Mayor	321 E Douglas F.C		6-25-12
LAQUANTA	LaQuanta McNeal	881 Moan St. Fayetteville	Love this place!!	6-25-12
Justin Mossingill	[illegible]	195 N. McElroy Ave	Yum!	6-25-12
Briana Montgomery	Briana Montgomery	1166 W Maple Street	This place should stay!	6-25-12
Robin Mossingill	Dale Mossingill	318 Steelin Dr.	Its Hot I need something Chill	6-25-12
Elsa Hernandez	Elsa Hernandez	2402 N. College	Yum	6/25/12
NORMA [illegible]	Norma [illegible]	2217 Sweetbriar	GYSOMP	6/25/12
Steven Shelton	[illegible]	2416 Candlewood Dr		6/25/12
Angelas Glover	Angelasea Lofton	2217 Sweetbriar Dr	I like it	6/25/2012
Bob Estes	Bob Estes	663 N. Mulligan Fayetteville	Good Product!	6-25-12
PETER Stafford	[illegible]	1041 Hy 170 N	GREAT PLACE	6-25-12
Isabelle Teale	[illegible]	1824 Green Valley Ave		6-25
[illegible]	Cody Nielsen	1250 Columbus Blvd	I come here after I play shows sometimes. Love it!	6-25
Sydney Norwood	Sydney Norwood	2720 E Kantz Dr #2		6-25-12
Jonathan Carter	Jonathan Carter	3878 Park Oaks	Best Snowcones Ever	

Printed Name	Signature	Address	Comment	Date
Irene Treje	Irene Treje	3878 parkcorsdrive #1	Great Customer Service / snow cones!	6-25-12
Jackson Williams	[illegible]	2811 N. Stanton Ave	Love it	6/25
Joe DiMaggio	[illegible]	1718 Cortland		6/25/12
Sarah Compton	Sarah Compton	3901 Allison Ln	Best place around!	6.25.12
Kelly Kate T.	Kelly Kate Tatad	817 Herron St.	LOVE IT!	6.25.12
[illegible]	[illegible]	3901 Allison Ln	Best place ever	6/25/12
Nate Fortin	Nate Fortin	1602 Par lane	Awesome	6-25
Amber Shackelford	Amber S	2105 Kingsi St	Good Staff	6-25
Honey Luttrell	Honey Luttrell	161 Lapis Ln #7 Fay	Great	6-25
Shannon Luttrell	Shannon Luttrell	161 Lapis Ln #7 Fay	Love it	6-25
Tony Henry	[illegible]	2307 Sw 10th St Bent	Great	6-25
Leah Henry	Leah Henry	" "	awesome!	6-25
Bonnie Scott	Bonnie Scott	1731 Olympic Blvd #25 Springdale, AR 72764		
Joel Scott		"	yummmmm	6/25
Nicole LaBelle	[illegible]	2024 Stoneridge Cir #105 Springdale	Amazing!!	6/25
Eric Fortin	Eric Fortin	22268 Butterfield Rd Springdale	amazing	6/25

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Printed Name	Signature	Address	Comment	Date
Isto navarro				6/25
Jody Bolain	Jody Bolain	Fayetteville		6/25
Bronwyn Davis	Bronwyn Davis	1759 Tallgrass Dr. Fay, AR		6/25
Devin Krueger	Devin Krueger	Fayetteville		6/25
LaTasha Gray	LaTasha Gray	2550 W. Arthur Ln		6/25
Michelle Dallas	M Dallas	3203 Piperglen	ARE U SERIOUS! grow up Maggie Moss	6/25
Jordan Carlisle	Jordan J. Carlisle	Fayetteville		6/25
John Carlisle	[illegible]	Fayetteville		6/25
Heather Overfa	Heather Overfa	Fayetteville		6/25
Ethan Latimer	[illegible]	Fayetteville		6/25
Paige Evans	[illegible]	Fayetteville		6/25
Denise Cartwright	Denise Cartwright	Fayetteville		6/25
Jon McCard	[illegible]	"		"
Misty McCard	Misty McCard	Fayetteville		6/25
Rachel Gilbert	[illegible]	Fayetteville		6/25
Francisco Dabdab	[illegible]	Fayetteville		6/25

Printed Name	Signature	Address	Comment	Date
Augusto Larrain	[illegible]	733 W. Cleveland st #1		JUN 25/12
Travis Anderson	[illegible]	1063 S. Emerson	Keep Emerson Open	6/25/12
Matthew King	[illegible]	4822 PASCO ~~4308~~ S SPRINGDALE		6/25/12
Erica Leeman	Erica Leeman	1764 N. Leverett Ave.		6/25/12
Susan Edrington	Susan Edrington	2506 E. Sweetbriar	Keep Opened!	6/25/12
Michelle Gates	[illegible]	1235 W Mount Comfort Rd		6-27-12
Jon LaMare	[illegible]	1235 W. Mt. Comfort		6-27-12
James Pooter	James Pooter	1764 N. Leverett Ave.		6-27-12
Jessica Sturgis	Jessica Sturgis	1764 N. Leverett Ave		6-27-12
Corey Thompson	Corey Thompson	1631 S. Brooks Ave	keep it Open!!	6-27-12
Bethany Bryant	[illegible]	108 W Thurman St P.G 72753	PLEASE Keep OPEN!	6/25/12
Skyler Hammers	[illegible]			
Ruth Jones	[illegible]	4114 Sunflower Cir	72703 Please keep open	6/25/12
Denise Reynolds	[illegible]	1540 Cooper Cove	72201 Need to stay open!	062512
Trudy Ozment	Trudy Ozment	1961 Overcrest St	72703	6/25/12
Mick Jordan	[illegible]	4754 Clear Creek	72704	6/25/12

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ADM 12-4144 3078 N. College Ave. Siebert Appeal
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Printed Name	Signature	Address	Comment	Date
Dani Dingman	[illegible]	3250 N. Loxley Ave	My family eats @ STP every Sunday. We ♡ it!	6/25/12
Karen Shields	K Shields	2473 Fernchurch		6/25/12
Todd Shields	T. Shields	2473 Fernchurch		6-25-12
Audrey Romero	Audrey Romero.	2017 Peach Blossom Ave.	Our family comes here at least twice a week. We ♡ STP! LIKED on Facebook.	6/25/12
Devin Cruz	Devin Cruz	11038 Wedington Bldg		
Alfonso Cruz				
Jessica Wilson	[illegible]	1500 n Laverne		6/25/12
Jacob Parry	[illegible]	Fayetteville AR 72703		6/25/12
Linda Massanelli	Linda Massanelli	1735 Charlee Ave		6/25/12
Julie Lance	Julie Lance	530 Gaseway Ave	THE. BEST.	6/25/12
Alison Hendricks	[illegible]	2736 Mission Dr.		6/25/12
Jamie Frala	[illegible]	717 W Van Gogh	Let the free market work	6/25/12
Chris Frala	[illegible]	717 W Van Gogh		6/25/12
B.J. Beach	[illegible]	2652 E. Randal Pl.		6/25/12
Lara Beach	Lara Beach	2652 E. Randal Pl.		6/25/12
Oriana May	Oriana May	1330 Masonic Dr		6/25/12

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Printed Name	Signature	Address	Comment	Date
Kristi Jackson	Kristi Jackson	5930 Blake Lane 72762	STAY OPEN LONGER	6/25/12
Angelica Byrd	[illegible]	1103 Dodson rd		
Ashley Harrington	Ashley Harrington	6026 Stoney Brook Rd		
Grant Gash	[illegible]	248 N. Platinum Dr. Apt. 10		
Dalton Denz	Dalton Denz	33 East 29th Cir		
Dylan Hattaway	Dylan Hattaway	2 of Str 170 Apt H		
Erin Schaffer	Erin Schaffer	1101 E. Elm St. Fayetteville, AR		6/25/12
Russell Ferris	[illegible]	4267 Lerly Ln 72704		6/25/12
Sara Knapp	[illegible]	1723 Noelle Ave		
[illegible]	[illegible]	2756 N SHADY BROOK	We love you	6/25/12
Hope Wetherington	Hope Wetherington	450 N. Starr Dr.		6/25/12
Luci Brooks	Luci Brooks	Fayetteville		6/25/12
Emily Kitzmiller		Newport Beach, CA		6/25/12
Brooke	Garrett	300 evergreen Avenue		6/25/12
[illegible]	[illegible]	Salt Lake Utah		
Teresa Jordan	T. Jordan	3480 Haywood		6/25/12

Printed Name	Signature	Address	Comment	Date
FORREST ACUFF	[illegible]	2368 CREEKWOOD FAYETTEVILLE	SHOCK THE WORLD!!! KEEP THEM OPEN	6/25
Jack Harris	Jack Harris	2711 W. Lilac St.	Soaked! I love STP	6/25
Derick Wolfe	[illegible]	4754 Clear Creek BLVD	DRENCHED	6/25
Chris Marshall	[illegible]	2 N S Cambridge	"	6/25
Rebecca McCrary	Rebecca McCrary	3146 N. Old Wire Rd		6/25
Kristen Wardlaw	[illegible]	1735 Tally Ho Dr	love Share the Planet	6/25
Allen Wardlaw	[illegible]	" "		6/25
Lisa Kierlak	Lisa Kierlak	1658 Live Oak Dr. Apt 2	Keep it!	6/25
Kendra Center	[illegible]	878 N Richard Fay.	KEEP IT!!	6/25
Brianna Center	Brianna Center	" "		6/25
Michaela Larabee	Michaela Larabee	254 Pine Meadow Dr.		6/25
Megan Scarborough	Megan Scarborough	3191 High Meadows	Keep	6/25
Connor Cockell	[illegible]			6/25
Megan Denman	Megan Denman	2470 N. Southwick Dr.		6/25
Brian Denman	[illegible]	" "		6/25
CODY BUNTON	[illegible]	2086 N. BRIDGETON 72701		6/25

Printed Name	Signature	Address	Comment	Date
Alisha Marshall	Alisha L Marshall	2665 Golden Oaks Dr		6-25-12
Lauren Scarborough	Lauren R Scarborough	3191 High Meadows Dr.		6-25-12
Andrew Whitemore	Andrew Whitemore	1235. W. Mt Comfort		6-25-12
Kailey Miller	Kailey Miller	389 Oxford Bend Rd		6/25/12
Lindsey Shuttle	Lindsey Shuttle	4080 Shiell Drive		6/25/12
Katie Michalk	Katie Michalk	Fayetteville		6/25/12
Elise Martin	Elise Martin	Fayetteville		6/25/12
Adrienne Scott	Adrienne Scott	1400 Eastwood		6/25/12
Erin Mangum	Erin Mangum	1648 E Mission		6/25/12
Eric Gillian	Eric Gillian	1691 Red Tip Dr		6-25-12
MAKenzie Simms	MKenzie Simms	2936 Sonny Ln		6/25/12
Evan Ocker	Evan Ocker			6/25/12
Lawrence King	Lawrence King	Fayetteville		6/25
Caroline McIntyre	Caroline McIntyre	445 N 2nd		6/25
Kaitlyn Graves	Kaitlyn Graves	445 N 2nd		6/25
Kathryn Davis	Kathryn Davis	105 S. Church St.		"

Printed Name	Signature	Address	Comment	Date
Kelsey Ray				6/25/12
Lindsey Grace Adams	Lindsey Grace Adams	135 E Madrid St. Fayetteville, AR 72703	We NEED Shave the Planet!!!	6-25-12
RONNIE SMITH	Ronnie Smith	2517 GOLDEN OAKS	SNOWCONES > ICE CREAM	
Josh Williamson		4044 Old Missouri Rd		6/25/12
Taylor Roberts		420 North St.		6-25-12
Kara Kaiser	Kara Kaiser	2455 W Orlando Dr.		6-25-12
Carolina Quiroga		2455 W Orlando Dr.		6-25-12
Valeria Quiroga		2455 W Orlando Dr		6-25-12
MERIDETH RICHARDS		2235 E Stanmyk Dr	Its my husbands, & I's fav date spot!	6-25-12
Cody Yancey		3050 Magnolia Pl Springdale AR		6-25-12
Katelyn Yancey	Katelyn Yancey	" "		6-25-12
Paul Koscheski		1571 N. Leverett #4 Fayetteville		6/25/12
Lyssie Koscheski	Lyssie Koscheski	1571 N Leverett #4 FAYETTEVILLE		6/25/12
Alex Hoffman	Alex Hoffman	2978 Scott St. Fayetteville		6-25-12
Emily Goff	Emily Goff	1678 Magnolia Fayetteville		6-25-12
Ryan Todd	Ryan Todd	600 W. North St.		6-26-12

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Printed Name	Signature	Address	Comment	Date
Stefanie Bow	[illegible]	12785 Curlee Rd Elkins, AR 72727	Stay Open	6/26/12
Amy Bates	Amy Bates	4857 Lavendon Pl	open	6/26/12
Wendy Lewis	[illegible]	1811 N. Destrec Cir	STAY OPEN!	6/26/12
Casey Morgan	[illegible]	2273 N ASPEN	STAY OPEN! WE CHOOSE STP OVER ICE CREAM ANY DAY!	6/26/12
Anne Minton	Anne Minton	2933 N Mayberry	Stay Open	6/26/12
Heather Freeman	[illegible]	294 N Platinum Dr Fayetteville	Stay Open	6-26-12
Aaron Crouch	[illegible]	3115 N. Old Missouri Road 72703	Stay open	6/26/12
Josh Malcolm	[illegible]	820 N Leverett	Stay open	6/26/12
Fred Beasley	Fred Beasley	922 W Hughes	Stay open	6/26/12
Don Moore	Don Moore	3191 Katherine Ave.	" "	6/26/12
Courtney Johnson	Courtney Johnson	2999 S. City Lake Rd.	Stay open	6/26/12
Rochelle Cantrell	Rochelle Cantrell	524 Moan Place	Stay open	6/26/12
Rebecca Hippely	Rebecca Hippely	4288 E. Fast Ln.	The Longer the better!	6/26/12
Travis DeFriest	[illegible]	293 Madison 6765	Stay open	6/26/12
Tom Bevis	[illegible]	21231 N. Hwy 71	Stay open	6/26/12

Printed Name	Signature	Address	Comment	Date
Carl Kauer III		2222 S Smokehouse Tr Fay, AR 72701	Free Market Economy	6.26.12
Sharon Jenkins	Sharon Jenkins	1010 E Terry Dr. Fay AR 72703		6/26/12
Sarah Pettan	Sarah Pettan	2374 E Kantz North Fay AR 72703	Stay!	6/26/12
Katie Gibbs		108 E Granada Fay, AR 72703		6/26/12
Colston Beard		"		6/26/12
Takesha Lyons	Takesha Lyons	10394 W. Joyce Fayetteville 72701	Stay!	6/26/12
Lynne Freeman	Lynne Freeman	2670 Candlewood Dr	Love it!	6/26/12
Sheila Carter	Sheila Carter	16089 Hazel Valley Rd.	Love it!	6/26/12
Karen Cox	Karen Cox	" "	LOVE it!	6/26/12
[illegible]	Susan Mackie	458 N. Lancelot Ave	good	6/26/12
~~Fabian Mar~~				
Johnny Lovett		1297 Deerfield Way 72701	Keep it here! Love it	6-26-12
Judy Harris	Judy Harris	1940 Pratt 01	Keep it open	6-26
Leslie Zeagler	Leslie Zeagler	3456 Township Fay	Good for Community	6-26
Georgia Trimble	Georgia Trimble	1527 Meridian Dr.	Got it!	6-26
Stacey White	[illegible]	1815 Candleshoe Dr		6/26/12

Printed Name	Signature	Address	Comment	Date
Joe Rulli	Joseph Rulli	Fayetteville, AR	Good stuff!	6/26
Lindsey Manley	Lindsey Manley	Fayetteville, AR	Yummy Stuff :)	6/26
E. Lee Shoaltz	E. Lee Shoaltz	Fayetteville, AR	Awsome :)	6/26
Megan Bolivar	3013 N. College	Fayetteville Ar		6/26
Linsey Baxter	[illegible]	FAYETTEVILLE, AR	Yumm!	6/24
Alexander Hall	Alexander Hall	Fayetteville, AR	Good!!	6/26
Karen Miller	Karen Miller	Springdale AR		
Susan Streety	Susan Streety	Fayetteville AR	We love this place!	6/26
Taylor Williams	Taylor Williams	Fay. AR	Delishious!	6/26
Kristy Ray	Kristy Ray	Fay, AR		6-26
Sandra Ware	Sandra W. Ware	2320 N. Hidden Creek, Fay. AR		6.26
Hilary Bouton	Hilary Bouton	Fayetteville, AR	amazing!	6/26
Laura Enzor	Laura Enzor	Fayetteville, AR	Good Stuff	6/26/12
Andra Oglesby	[illegible]	Fayetteville, AR	LOVE ECO Planet!	6.26.12
Jessica Sabatini	Jessica Sabatini	Fay, AR	Love this place!	6/26/12
Caitlin Murphy	Caitlin Murphy	1723 Rolling Hills Dr.	best place ever!! ♡	6/26/12

Printed Name	Signature	Address	Comment	Date
Miguel Solis		1728 Rolling Hills DR	Just when we make ends meet, they move the ends. - Herbert Hoover	6/25/12
Monique Harris		6675 Banfield AVE Springdale AR 72764		6/25/2012
Patricia Chamberlain	Patricia Chamberlain	3004 N. Dorchester		6/25/2012
Rick Fino		400 Weybridge		6/26/12
Karla Hernandez	Karla Hernandez	2003 Sycamore pl.		6/26/12
Aaron Jasso	Aaron Jasso	2003B Sycamore pl.		6/26/12
Jesse R. Cox	Jesse R Cox	3221 N Croxton		6/26/12
Phyllis McNeel	Phyllis McNeel	1807 N Porter Ln		6/26/12
Kayla Mayes		758 W. Wyatt Dr.		6/26/12
Sarah Estes	Sarah Estes	1602 n merion way	We're the best crowd	6/26/12
Scott Bull		11466 Mountain Spring		6/26/12
Mary Tucker		3741 N Whippoorwill Ct.		6/26/12
Emily Poole	Emily Poole	10 w Prospect		6/26/12
Tyler Fuller	Tyler Fuller	10 W. Prospect	SUPPORT LOCAL	6/26/12
Allison Pyle	Allison Pyle	1721 E. Palisade Cliff St.		6/26/12
Amy Smith	Amy Smith	292 Harvey Dowell Rd	Great Business!	6/26/12

Printed Name	Signature	Address	Comment	Date
Skyler Smith	Skyler Smith	285 N. Broyles St Farmington AR 72730		6/26/12
Jan Clark	Jan Clark	1205 Reed Valley Fay AR 72704		6/26/12
Sara Gramling	S. Gramling	34181 Raleigh Cira Fay AR 72703		6/26/12
Alex Miles	"	"		"
Jennifer Underwood	J Underwood	3331 Piccadilly Ln. Fay. AR. 72703		6/26/12
Ebony Porter	[illegible]	1650 North Sang Apt 109 72703	LOVE PLANET	6/26/12
DaVone Crawford	DaVone Crawford	1630 Carlsbad Trace	This place is awesome	6/26/12
Jessica Freeman	[illegible]	7026 Union Dr		6/26/12
Oscar Mendoza	[illegible]	3582 E. Township St. Fayetteville AR 72703	Best Place In the Planet !!	6-26-12
Rachel Morell	Rachel Morell	Fayetteville, Ar	Awesome	6-26-12
Juanita Elery	Juanita Elery	Fay. AR	freakin Awesome	6-26-12
Ryan Stephen	Ryan Stephen	Springdale, AR	SSS Quality	6-26-12
Meagan York	Meagan York	3209 Essex Dr Fayetteville AR		6-26-12
Kyle Billingsley	[illegible]	3209 Essex Dr Fayetteville		6-26-12
Jen Reed	[illegible]	4577 Clear Creek Blvd.		6-26-12
Misty Morin	Misty Morin	3100 N. College Fay AR 72703	everyone loves this place!	6/26/12

Printed Name	Signature	Address	Comment	Date
Luke Hill	Luke Hill	827 W. Clevelands St		6-26
Larra Beardley	[illegible]	Fayetteville, AR		6-26
Kim Shuller	K Shuler	1460 Windsor Pl.		6/26/12
Heather Hanes	Heather Hanes	2499 Fennchurch Way		6/26/12
Kathleen Parker	Kathleen Parker	2236 Brickwood Ln		6/26/12
Maggie Bates	[illegible]	Fayetteville, AR		6/26/12
John Blew	John Blew	Farmington		6/26/12
Mark Johnson	Mark Johnson	31 S. Greenwood Fayetteville		6/26/12
Patti Scott	Patti Scott	155A Leverett		6.26.12
Alysha James	Alysha James	155A Lev.		6.26.12
Melanie Rose	M Rose	930 S. Hoddle		6/26/12
Scott Davis	Scott Davis			6/26/12
ERIK DELANEY	[illegible]	2134 CAMELOT PL		6/26/12
Elizabeth Vollmer	Elizabeth Vollmer	1659 N. Arthurs Ct.		6/26/12
Max Sanderson	Max Sanderson	Fayetteville		6/26/
Crystal Lewis	Crystal Lewis	2168 N. Sierra Ave Fay AR 72703		6.26.

Printed Name	Signature	Address	Comment	Date
Jeannie Moore	Jeannie Moore	2172 Kantz Lane Fay 72703	Please Stay!	6/26/12
Sjah Short	Sjah Short	3300 E CHEROKEE DR	I love this place!	6/26/12
Caleb Snowden	[illegible]	1872 N Choctaw Ct	Please stay!	6/26/12
Lindsay Summers	[illegible]	1381 S. Highbush Fay. AR 72701		6/26/12
[illegible]	[illegible]	Fayetteville	Stay!	6/26/12
Quanita Hollins	[illegible]	2234 Honeysuckle LAN	Stay!	6/26
Nathaniel Rhodes	Nathaniel Rhodes	1984 East Oaks Apt 4		
Douglas Boyd	[illegible]	581 Vinson Ave 72701		6/26/12
[illegible]	[illegible]	1527 Tollgate Dr	Stay Stay	6/26/12
William Dugan-Jones	[illegible]	1527 Tollgate Dr Fay AR 72701	Stay	6/26/12
Levi Stell	[illegible]	1035 N Betty Jo #5	Don't Go!!!	6/26/12
Aaron Stell	Aaron Stell	1035 N Betty Jo #5		
Caleb Bryant	[illegible]	889 Daisy LN		6/26/12
Adam Peters	[illegible]			6/26/12
Jeevan Utham	[illegible]	P.O. Box 3372	Please Stay	6-26-12
Sashrie Utham	[illegible]	349 E Baxter Fay.	Please Stay	6/26/12

Printed Name	Signature	Address	Comment	Date
Anna Fagan	Anna Fagan	3163 montrail Pl.		6/26
Temprance Alexander	Temprance Alexander	337 Joy Carol S'dale		6/26
Semhel Adams		1325 LaGo Lane		6/26
Elaine Lee	Elaine Lee	550 Longfellow Ln.		6/26
Jodi Nu	Jodi Nu	757 S EASTERN AVE		6/26
Tiffany Chiu	Tiffany Chiu	914 Biltmore Dr.		6/26
Heather Sedosky	Heather Sedosky	8600 main Dine	me love above the plant	6/26
Cody Bennett	Cody Bennett	981 W. Clinton	I love this place!	6/26
Glenn James	Glenn James	9653 Nations Dr	This Place Rocks!	6/26
Kayla Palmer	Kayla Palmer	607 Razorback Rd		6/26
Clay Morris	Clay Morris	845 N. Greg		6/26
Michael B. Tate	Michael B. Tate	1648 Sunshine Rd		6/26
Mary Bassett	Mary Bassett	589 Rockcliff		6/26
Kayla Loper	Kayla Loper	1270 N. Futrall Apt. 5		6/26
D.J. Walch	DJ Walch	140 S. Hill Ave.		6/26
Aramis Douglas		650 W. Poplar St Apt B-13		6/26

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Printed Name	Signature	Address	Comment	Date
Charlotte Bannister	Charlotte Bannister	4844 Rustic Lane 72703	-	6/26/12
Karen Baker	Karen Baker	3475 Hearthstone 72764		6/26/12
Savannah Clay	Savannah Clay	1556 E Clark St.		6/26/12
Alex Hightower	[illegible]	1645 Charlee Ave 72703		6/26/12
Michelle Hightower	Michelle Hightower	1645 Charlee Ave 72703		6/26/12
Andy Hightower	[illegible]	1645 Charlee Ave 72703		6/26/12
Jesse Smith	JP Smith III	2725 N. Wakefield 72703		6/26/12
Tony Posey	Tony Posey	2917 Quail Creek 72703		6/26/12
[illegible]	[illegible]	634 Clinton Circle	[redacted]	6/26/12
Hyde [illegible]	Hyde [illegible]	6411 Tall Oaks	[redacted]	6/26/12
Payne Phillips	[illegible]	4120 N Bentwood Ln	[redacted]	7-1-12
Matt Heffron	Matt Heffron	2005 Kerrington		6/26/12
Mandi Beesler	Mandi Beesler	2660 Lovley Ave	Do not shut down	6/26/12
Jeffrey Powell	Jeffrey Powell	501 E. 15th St		6/27/12
Mercedes Powell	Mercedes Powell	115 E. Conway		6/27/12
Dustin Murton	[illegible]	529 S. Black Ave. 72701		6-27-12

Printed Name	Signature	Address	Comment	Date
Shawna Moore	S Moore	Francian Trail Fay		6-27-12
Robin Hagner	Robin Hagner	1330 Fieldstone, Fayetteville	Its closest to work	6-27-12
Ashley Usenbee	[illegible]	Boxley Fayetteville, AR	Its closest to work (I can't have ice cream)	6-27-12
Cadita Hicks	[illegible]	1215 W Drake Springdale	Kids love it	6-27-12
Cindy Newton	[illegible]	286 6 N. Rupert Rd. Fay	Great location Great product, kids love it	6/27/12
MARK PATT	[illegible]	1410 N TURNER [illegible]	MY KIDS LIVE FOR SUMMER BECAUSE OF THIS.	6/27/2012
Dillon Yielding	[illegible]	385 Gregg		6-27-12
Brad Parker	[illegible]	2105 Azalea	[illegible]	6-27-12
Alicia Hall	[illegible]	1109 Red Tip	love it!!	6/27/12
Judith Cate	Judith Cate	2876 Ron Orchard, Fay	love it	6/27/12
Shari Mains	Shari Mains	3818 Leawood WAY Fay	"	6-27-12
JOE MAINS	Joe Mains	3818 Leawood WAY Fay	"	6-27-12
Boss Ratcliff	[illegible]	1591 winfield Drive	love it!!	6-27-12
Anthony Byrd	[illegible]	2955 N Oak Pabell Rd		6-27-12
Laura Trontano	[illegible]	2122 E Twin Oaks	please stay!	6/27/12
Isaac Henderson	Isaac Henderson	195 Craig St West Fork AR		6-27-12

Printed Name	Signature	Address	Comment	Date
Larry Yandle	Larry Yandle	508 E School St Lincoln	Love it.	6-27-12
Travis Brancas	[illegible]	14985 Kelly Mtn	Keep it open later	6-27-12
Chesley Gray	Chesley Gray	1746 N. Leverett Av.	☺ STAY!	6-27-12
Erin Murphy	Erin Murphy	1308 Shadowridge dr		6-27-12
Jerry James	Jerry James	3028 Oak Bailey	Please stay	6-27-12
Anna Stone	Anna Stone	2823 Stanton Ave	STAY ***	6-27-12
Shannon Treat	[illegible]	310 melmar Fay, Ar 72703	Stay!	6-27-12
Ellie Cothran	Ellie Cothran	4745 Constitution Dr.	STAY. what she said	6-27-12
Gunnar Rathbun	[illegible]	21844 Leatford Rd Elkins AR 72727		6-27-12
Buddy Allbritto	Buddy Allbritto	1926 Buckley Fay		6-27-12
Judy Allbritton	Judy Allbritton	1926 Berkley Fay Ar	If I wanted ice cream I would go to it	6-27-12
Cinda Motes	Cinda Mt	626 E Ash	Let it stay	6-27-12
Kristen Roughton	KRoughton	1642 Berkley Ave Fayetteville	Stay	6-27-12
Ashlee Cross	Ashlee Cross	4334 Shady Hollow FAY	stay!	6-27-12
Keith Brand	[illegible]	4850 Mission Blvd	Stay happy!	6-27-12
Stacy Parks	Stacy Parks	523 W. Wilson St 72701	Stay here!!	6-27-12

Printed Name	Signature	Address	Comment	Date
Kathy Wetzell	Kathy Wetzell	284 Polo Dr. Fay.		6/27
Rebecca Cantu	Rebecca Cantu	3777 E Caston Drive		6/27
Lauren Clemons	Lauren C	1655 E Cypress		6/27
Lydia Fitzgerald	Lydia F	1753 Zion #85		6/27
Helen Oetken	[illegible]	1900 Garland		06/27
Islaya Osiris	Islaya Osiris	1390 W. Wedington Dr.		
Collin Woody	Collin Woody	2055 N. Turnway Ter.	YOU GUYS ROCK	6/27
Caleb Kinsey	C Kinsey	3504 N. Northwood Ave	Best shaved ice ever!	6-27
Robyn Spencer	R Spencer	1911 N. East Oaks DR FAY, AR		6/27
Ruby Kenph	R Kenph	3013 N Sherry DR		6/27
Swati Sharma	S Sharma	3388 Chatsworth		6/27
Darrel Drennan	[illegible]	2157 N Lisa Ln		6/27
Michael Dallas	[illegible]	1096 E. Broadview		6/27
Tracie Wallace	[illegible]	15210 Draper Rd. Fayetteville AR 72704		6/27
Jaree Solomon	Jaree Solomon	514 Sonoma Cir. Fayetteville	please stay open longer!	6/27
Delaney Schadrekamer	[illegible]	1106 Ranch dr Springdale		6/27

Printed Name	Signature	Address	Comment	Date
Katie Murphree	[illegible]	1672 Boxley Fayetteville 72704		6-27
Dirk thibodaux	[illegible]	1303 Genea Ave.		6-27
Madalyn Sodah	[illegible]	710 S. Hill Ave		
Rachel Story	[illegible]	Mt. Comfort Rd		6-27
Lin Sanders	[illegible]	1404 Buick DR		6-27
Carol Koenig	[illegible]	1591 S. Cortland St.		6-27
Callie Breden	[illegible]	523 N. Crest Dr.		6-27
Jon Simmons	[illegible]	2590 Sane CIR		6-27
Tim Brents	[illegible]	51 Fletcher Ave		6-27
Melissa Brunton	[illegible]	4703 Garden Grove Ct		6-27
Cary Deck	[illegible]	1689 N. Cambridge Rd		6-27
Brianna Turner	[illegible]	701 W Sycamore St		6-27
John Cardenas	[illegible]	P.O. box 9565		6-27
Simi Shah	[illegible]	PO Box 9565		6-27
[illegible]	[illegible]	1627 Cambridge		6-27
[illegible]	[illegible]	1600 E Rossie field		

Printed Name	Signature	Address	Comment	Date
Jaime Whittmore	Jaime Whittmore	672 Lake Sequoyah Dr. 72707		6/27/12
TYLER PRIEST	Tyler Priest	177 N. Garland Ave.		6/27/12
Rachel Conley	Rachel Conley	1101 Curtis ave apt. D52		6/27/12
Andrew Lea	Andrew Lea	2135 N Jonesboro Terrace		6/27/12
Jonathan Mainhart	[illegible]	900 N Leverett Apt 420		6/27/12
Dennis Williams	[illegible]	11000 Rose St Farmington AR 72730		10/27/12
Jessica Champ	[illegible]	OldWired		6/27/12
Maha Sherif	[illegible]	900 N. Leverett		6/27/12
Cassie Lothed	[illegible]	1584 Javello Road		10/27/12
Jeff Lothes	[illegible]	1584 Javello Rd.		6/27/12
Cassie Pierson	[illegible]	3505 Susan Place		6/27
Jennifer Wood	Jennifer Wood	14755 Fisher Rd Fay 72701		6-27-12
Amanda Flores	[illegible]	17239 Shavano Ranch Apt 6304		6/27/2012
Hunter Newman	Hunter Newman	1828 Hendrix Dr Fay 72701		6/27/12
Ashley Garcia	Ashley Garcia	1013 Appleby Dr. Fay, 01		6/27/12
Karen Laman	Karen Laman	2879 Setter Fay 72701		6/27/12

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Printed Name	Signature	Address	Comment	Date
Sarah Burrell	Sarah Burrell	86 W Village Creek Dr.		6/27/12
Jessica Winberry	Jessica	411 W. North St.		6/27/12
Thomas Smith	Thomas	562 N Shreesbury		6/27/12
Kirit Mittal		118 N Duncan Ave.		6/27/12
Jimmy Ryan		1627 S. Spring Lake		6/27/12
Jeb Huckeba		3464 Bayham Pl.		6/27/12
Ami Huckeba		3464 Bayham Pl		6/27/12
Julie Ramsey	Julie Ramsey	2042 E. Stanwyck Dr		6/27/12
Marie Snider		3852 Park Oaks Dr #2		6/27/12
Scott Ramsey	Scott Ramsey	2042 E Stanwyck Dr		6/27/12
Rob Keys	Rob Keys	2792 N. Raintree Dr.		6/27/12
[illegible]	Andrew Bandy	400 E Maple St		6/27
Melanie Chambers	Melanie Chambers	806 Calvin, Apt		6/27
Hunn Devereux		2555 S College Dr		6/27
Micah Schutte		1297 E. Ash		6/27
Greg Burakowski	Greg Burakowski	2464 N Brophy Ave		6/27/12

Printed Name	Signature	Address	Comment	Date
Jessica Hukoski	Jessica Hukoski	2940 Scottswood Pl.		6/27/12
Christine Clark	Christine Clark			
TJ Williams	TJ Williams	187 E. Cydnee		6/27
christina williams	Christina Williams	187 E. Cydnee St.		6/27
Mandi Hayes	Mandi Hayes	2321 N. Dorothy Jean St		6/27
Alex Baldwin	[illegible]	688 Sells Ave		6/27
Deanna Rudasill	Deanna Rudasill	1780 N. Woolsey Ave.		6/27/12
DREW RUDASILL	Drew Rudasill	1780 N. Woolsey Ave.		6/27/12
Beverly Morgan	Beverly Morgan	2731 Charleston Cisg. Fay AR 72703		6/27/12
Eric Kern	[illegible]	474 Poplar St.		6-28-12
Kirby Henderson	Kirby Henderson	3513 Acorn Falls		6-27-12
Sarah McNeal	Sarah McNeal	1998 East Oaks Drive #10 Fayetteville, AR	Established, NOT transient. :)	6/28
Becky Cook	Becky Cook	2308 Golden Oaks		6/28
John Jeffrey	John Jeffrey	2191 W. Jewell Rd	WOOOO SNOW CONES	6/28
Austin Hill	[illegible]	3215 W. Jewell		6/28
Cathy Cooper	Cathy Cooper	1537 Sandy Drive	+	6/28

Printed Name	Signature	Address	Comment	Date
Gustavo Reyes	[illegible]	Fayetteville, AR 72701 617 N Scottsdale Dr #9	You need to stay open	6-28-12
Ashley Tittle	[illegible]	1115 N. Leverett Ave Apt. 203 Fay. Ar 72701	YOU GUYS ROCK!	6-28-12
Deven Phillips	[illegible]	1416 Mt Comfort RD Fayetteville AR 72703		6-28-12
Devin Spangler	[illegible]	2505 Ravenswood Dr Johnson 72703		6-28-12
Slayter Deeringwater	[illegible]	2805 Ravenswood D Johnson AR 72703		6-28-12
[illegible]	[illegible]	The Reeves		6-28-12
Jasmine Pfingsten	[illegible]	2100 N Leverett Ave #49 Fay AR 72703	Stay open! Ice cream & shaved ice are diff't things.	6/28/12
[illegible]	[illegible]	3440 N Hunt Expwy Fayetteville, AR 72703	Stay open!	6/28/12
Bryanforette Cunningham	[illegible]	863 S. Erica Ave	Excellent Place	6/28/12
LBA Bryson	[illegible]	898 Cias Ave Fayetteville AR 72701	Nice Place	6/28/12
Tyrekia Appleby	[illegible]	5562 E Huntsville Rd	Friendly Staff	6/28/12
Matt Pegram	[illegible]	378 Pittannis Fay, AR		6/28/12
Alan [illegible]	[illegible]	Fayetteville AR	Don't Go	6/28/12
Melissa Reid	Melissa Reid	3263 N Katherine Fayetteville, AR	Love Love Love!	6/28/12
Chelsea Anderson	[illegible]	2803 W. Riverridge Drive Fay, AR		6/28/12
Jimmy Anderson	[illegible]	2803 W. Riverridge Dr. Fayetteville, AR	Stay!	6/28/12

Printed Name	Signature	Address	Comment	Date
Eleanor Townsley	Eleanor Townsley	2187 Wolf Creek Fayetteville	keep Shumer Planet in current location	6/28/12
Rebecca Thompson	Rebecca Thompson	635 W. Taylor Fayetteville AR	BEST SNOCONES	6/28/12
Polly Garton	[illegible]	959 Crest 72701	Stay open	6/28/12
Travis Garton	[illegible]	959 Crest 72701	Stay open	6/28/12
Elizabeth Moody	[illegible]	1650 E Cardyn Dr	stay open	6/28/2012
Kyle Davis	[illegible]	1872 N. Pine Valley Dr.	Better than Maggie Mae's	6/28/12
Melissa Frisard	Melissa Frisard	1872 N. Pine Valley Dr.	Stay open!	6/28/12
GANNALYN MORRIS	Gannalyn Morris	875 E. Elm		6/28/12
Kevin Geng	Kevin Geng	1801 N. Woodland Ave.	Stay open!	6/28/2012
Robin Rues	[illegible]	1717 Wheeler		6/28/12
Amy Wunder	Amy Wunder	1001 Greenwood	Stay open	6/28/12
Brent Simpkins	[illegible]	2925 Letha St. Fayetteville	Stay open! I don't like mayonnaise	6/28/12
Lonnie O'Boyle	Lonnie O'Boyle	~~4058 N. College~~ 4324 W. Chaparral	stay open	6/28/12
Rick Blough	[illegible]	432 E. Dickson	stay open	6-28-12
Travis Hulshizer	[illegible]	3247 Warwick Dr.	stay open!	6-28-12
Katie Goodwin	[illegible]	1617 N Maxwell Dr.	Ice Cream is totally different Loved Shumer Ice	6-28-12

Printed Name	Signature	Address	Comment	Date
Chris Williams	[illegible]	1125 S. Liberty Dr. Fayetteville	SSTP	6/28
Carolyn Dix	[illegible]	219 W. Adams St. Fayetteville, AR		6/28
Kell Sisco	[illegible]	2402 N Stanton Fayetteville AR		6/28/12
Amber Griffin	[illegible]	2458 N Gregg Fayetteville 72703		6/28
Lindsey Eskes	[illegible]	2777 Meadowline Ln Fayetteville 72701		6/28
Justin LeClair	[illegible]	11229 Campbell Comm Bldg West Fork AR 72774		6/28
Aaron Hughes	[illegible]	1338 W Cleveland St 72701		
Michelle Sale	[illegible]	3285 E Township Fayetteville 72703		6/28
Mike Carfagno	[illegible]	~~463 N. Canvas Rd~~		~~6/28~~
~~Melody Carfagno~~				
Melody Carfagno	Melody Carfagno	463 N. Canvas Rd. Fay		6/28
Richard Earles	[illegible]	930 S. Washington Fayetteville AR		6/28
David McDonald	[illegible]	3949 N. Parkside #3		6/28
Monica	Monica Kotchen	2951 N. Stanton Fayetteville 72703		6/28
Autumn Tolbert	[illegible]	219 S. Happy Hollow Fay AR 72701		6/28
Inari Jordan	[illegible]	519 W Skelton Fayetteville		6/28

Printed Name	Signature	Address	Comment	Date
Tasha Sykes		2384 Noah Carey DR Fayetteville AR 72704	LOVE Y'all! :)	6/28/12
Sean Smith		1660 N. Stardust Fayetteville, AR 72701	City council, fair market capitalism ???	6/29/12
Ethan Robinso		1114 N. Futral	love this	6/29/12
LAUREN NELSON		1723 Noelle Ave	Snow Cones!	6/29/12
Shelby Jantz		43. W Augusta Drive #8		6/29/12
Phaedra Caldwell		18233 Runaway RD Fay, AR. 72701	love this place	6/28/12
Aaron Adams		3075 N Market Ave Ste 1	Keep open! Great!	6-28-12
TJ BARNES		3041 N. Dorchester	GROW UP, OFFER Better product	6/28/12
Kirby Vitale		2952 N. Cassius	Stay Open	6/28/12
Janae Vitale	Janae Vitale	2952 N. Cassius	Love it!	6/28/12
Leigh Parette		1729 E. Bonardiff St.	Good Luck!	6/28/12
Ronnie Brewer		2518 Candlewood St	Best Snow Cones	6/28/12
Jon Bensley		5931 Drexel Cove	Love the Cones	6/28/12
Marquiceta Hollis		1320 N. Garland Ave	I love this place!.!.! Best Snow Cones Ever!	6/28/2012
Kristine Clive		2411 Charleston Ln Springdale AR	:)	6/28/12
Calli Berna		2301 E Meandering Way	We love, Share the planet!	6/28/12

Printed Name	Signature	Address	Comment	Date
Joey Bailey	Joey Bailey	670 Sycamore St		6/28/12
Cass Runnels	Cass Runnels	17803 Campbell Ln		6/28/12
Mary Jo Henry	Mary Jo Henry	28865 E. Township		6/28/12
Brittany Hobart	Brittany Hobart	1917 E Overcrest		6/28/12
Jenny Holten	Jenny Holten	1350 Sunny Hill Dr.		6/28/12
Josh Reece	[illegible]	2131 N Crossover #102		6/28/12
Heather Nunn	Heather Nunn	2793 Timberlen Ln.		6/28/12
Kelly Stewart	Kelly Stewart	3306 S. Zion Rd		6/28/12
Shawn Wilkins	Shawn Wilkins	3165 N. Old Missouri		6/28/12
Moises Mayorga	Moises Mayorga	474 N Coral Canyon Loop Fayetteville AR 72704		6/28/12
Jake Rankin	Jake Rankin	159 South Hill Ave.		6/28/12
Susan Kilpatrick	Susan Kilpatrick	1861 N. Trillium Ln.		6/28/12
Nick Harris	Nick Harris	540 E Huntsville		6/28/12
Robert [illegible]	Robert [illegible]	716 Rockcliff		6/28/12
Kelly Gangluff	Kelly Gangluff	2071 N. Austin 72703		6/28/12
Gene Gangluff	Gene Gangluff	2071 N Austin 72703		6/28/12

Printed Name	Signature	Address	Comment	Date
Deanna H	Deanna Howard	19153 Howard Rd.	Save the Planet ROCKS!!	6/28/12
Jessica G.	[illegible]	5047 Arkanshire	don't be ridiculous!	6/28/12
Janie J.	Janie Jordan	4754 Clear Creek	Keep it here!!!	6.28.12
Misty Simpson	Misty Simpson	2425 E Sharon St.	Let the little man be. Keep it here!	6.28.12
Kristy Harter	[illegible]	1543 W. Crowne Pr. Apt. 20	DONT GO	6-28-12
Kimmy Beasley	Kimmy Beasley	445 SW Mini Lane 6		6-28-12
Susan Young	Susan M Young	2086 N. Buckley Dr.		6-28-12
CJ Tyson	[illegible]	11434 cheyenne dr		6-28-12
Amanda	Lauren Sapone	498 E. Mimosa Fay	Yum!	6/28/12
TADD Sapone	Todd Sapone	498 E. MIMOSA Fay.		6/28/12
Amanda Barker	Amanda Barker	2422 Pierre Xing Fay		6/28/12
Stephanie Fox	Stephanie Fox	2753 N Ida Lindsay	DON'T	6/28/12
Lindsay Stotts	Linda Stotts	"	GO!	6/28/12
Matt Luttrell	[illegible]	5283 W Wheeler Rd	—	6/28/12
Katie	[illegible]	5002 N Leverett	♡	
James Johnson	[illegible]	2140 E Stearns St		

Printed Name	Signature	Address	Comment	Date
Marye Scanlon	Marye E Scanlon	1688 Ramsey Ave.		6/28/12
Michael C Scott	Michael C. Scott	1688 Ramsey Ave -72703	Leave Snocones Alone!	6/28/12.
Kelsey Osborne	Kelsey Osborne	3165 N. Rockford Dr 72701		6/29/12
Audrey thorn	Audrey Thorn	2519 N. Litchfield Lane		6/28/12
Garland Thorn	[illegible]	2523 E. Huntsville Rd	I want my snowcones!	6/28/12
Michael McLeod	[illegible]	2714 Valencia Ave	Don't trend on me!	6/28/12
Bobby Yates	[illegible]	2047 Eastoak S	Don't trealon me!	6-28-12
Emily Kate Davis	Emily Kate Davis	7343 W. Gun Club Rd	Snowcones forever!	6.28.
Debbie Harp	Debbie J Harp	484 E. Melinda Dr.	Love it	6.28.12
Jimmy Jester	[illegible]	3755 Lee Mason St.	Love it!	6-28-12
Jasmine Frazier	Jasmine Frazier	2808 Dove Dr	best in town	6/28
Jenni Howard	[illegible]	2808 Dove	i love it	6/28
Sandra Carson	[illegible]	3934 Spyglass Hill Dr.	Private enterprise	6/28
John Griesse	[illegible]	3751 Edgewater		6/28
Lindsey Griesse	[illegible]	3751 Edgewater		6/28
Jamal Lancaster	[illegible]	363 N. Rockford		6/28

Printed Name	Signature	Address	Comment	Date
Kelli Howell	Kelli Howell	1855 Candleshoe Dr.	I ♡ Snowcones	
Duane Howell	Duane Howell	1855 Candleshoe Dr.	Yum!	
Alex Howell	Alex Howell	1855 Candleshoe Dr.	Yum!	
Dina Howell	Dina Howell	1855 Candleshoe Dr.	Yum!	
Caryl Culbertson	Caryl Culbertson	1855 Candleshoe Dr.		
T. Shakumani	T. Shakumani	920 Gracewood Dr	DONT CLOSE	6/28
Lindsey Skinner	Lindsey Skinner	920 Gracewood Dr.		6/28
Desirae Burks	Desirae Burks	201 W. Thurman Apt. 4	Best Snowcones Ever!	6/28
Bethany Foster	Bethany Foster	PO BOX 735 PG, AR	Heaven in a cup ♡	6/28
DAVID FLYNN	[illegible]	3053 N. QUANTON CT, FA		6/28/12
LIZ FLYNN	[illegible]	3053 Quanton Ct. Fay		" "
Ben Flynn	[illegible]	" " " "		" "
Sara Henson	[illegible]	3133 Butternut Dr.	SNOW CONES!	6-28
Jill Carroll	[illegible]	517 Hawthorn St.	Best Snowcones!	6/28
Trudy Smith	[illegible]	5 Polo Dr	Best of the Best	6/29
S CREECH	[illegible]	Fay Ct,		6/29

Printed Name	Signature	Address	Comment	Date
Brandy Braswell	Brandy Braswell	3255 Leo Ammons Rd. Fay. AR 72201		6-29-2012
David Marshall	[illegible]	14887 Cedar Trace Dr		6/29/2012
David Long	[illegible]	[illegible] N. Ashbrook Dr.		6/29/2012
Angie Scheidweiler	[illegible]	1897 Caton Dr		6/29
Scott Davis	[illegible]	2355 N W [illegible] Dr		6/29/2012
Stella Green	Stella Green	905 S Wood Ave. Fay. AR		6/29/2012
Pat Buck	[illegible]	1312 Kings Dr		6-29-12
MADISON JONES	[illegible]	2065 N. Rivergate Drive		6/29/12
LORA Kelley	[illegible]	28 S. College Ave		6/29/12
DERIC YOAKLEY	[illegible]	1045 OAKS MANOR		6/29/12
Lori Yoakley	[illegible]	2039 E Magnolia Dr.		6/29/12
Amy Gothrie	[illegible]	3344 N. Southridge Dr		6/29/12
Jay Gothrie	[illegible]	3344 N. Southridge Dr		6/29/12
Erin Colon	Erin Colon	2215 Winwood Dr		6-29-12
Bryan Strickland	[illegible]	2746 N. Ashbrook Dr		6-29
Jennifer Strickland	[illegible]	2746 N. Ashbrook Dr.		6-29

Printed Name	Signature	Address	Comment	Date
Dawn Reed	Dawn Reed	1415 W. Mt. Comfort Rd Fay 72703	nope! Maggie Moos is ice cream + high$	6/29/12
Alisa Corke	Alisa Corke	1685 Fairlane Fay	Shaved ice NOT ice cream go both places	6/29/12
Kevin Smith	[illegible]	515 N. Skyline Dr	Please keep it here!	6/29
John Cooper	[illegible]	825 N. Rock Drive	Please Keep it open	6/29
Dakota Scrivener	[illegible]	3001 Wedington Dr	Keep it here!	6/29
Holly Crook	[illegible]	3559 Crow U	Keep her open it	6/29
Shannon Greenberry	[illegible]	6262 Abilene Rd Fay 72704	Keep it	6/29
Landon Summers	[illegible]	1676 Buckley Dr.	STAY	6/29
Ellery Ryston	[illegible]	104 Watson	Stay	6/29
Josh Johns	[illegible]	1990 E Zerelot #10	Shut down Maggie Moos	6/29
Jill Hassell	Jill Hassell	230 Timber Lane West Fork AR 72774	Stay	6/29
Sarah C. Penick	Caroline Penick	87 W. Forsythia Dr. #12 Fayetteville 72703	Stay!	6/29
Kristal Williams	Kristal Williams	3061 Market St	Stay!!!	6-29-12
Tim Dahms	[illegible]	1223 Viewpoint DR		6-29-12
Brenna Collins	Brenna Collins	1625 N. Giles Rd	Fayetteville C.C < Snow Cones	6-29-12
Laura May	[illegible]	2971 E. Sellers St	Should stay open!	6-29-12

Printed Name	Signature	Address	Comment	Date
Mark Bewley	Mark Bewley	2604 Rifle Circle Rogers		6/29/12
Danielle Fincher	Danielle Fincher	1433 N. Crestwood Dr.		6-29-12
Brooke Shimer	Brooke Shimer	2380 Berkleigh Dr.		6-29-12
Alexandrea Kim	[illegible]	4128 W Mossy Rock Dr.		6/29/12
Beth McFever	[illegible]	3218 Idlewood Way		6/29/12
Greg Gammel	[illegible]	1900 E. Overcrest Sh		6/29/12
[illegible]	[illegible]	5907 E. Estates View		6/29/12
Rhonda Keys	Rhonda Keys	Farmington, Ar 72730		6/29/12
Adam Dowdell	Adam Dowdell	1764 N. Leverett #160 Fayetteville, ARK		6/29/12
Sharon Dyke	Sharon Dyke	3079 N. Hughmont Fay. AR.		6-29-12
LEANNE JOHNSON	L Johnson	5TH GASCONY Ave		6-29-12
Emily Colford	Emily Colford	900 N. Leverett #113		6/29/12
Carrie Ball	Carrie Ball	2703 B Dividend Drive		6/29/12
Kati Street	Kati Street	105 S. Duncan	Apt 1	6/29
Judy Jurs	Judy Jurs	201 W Village Lake Dr	APT # 11	6/29
Trey Varner	[illegible]	2649 N Valencia		6-29

Printed Name	Signature	Address	Comment	Date
Katie Mills	Katie Mills	107 E. Madrid		6/29/12
Christie Hanak	[illegible]	4661 Copper Creek		6/29/12
Ben Patrick	[illegible]	1620 N. Whistling Stars	I love it!	6/29/12
Joy Keeling	[illegible]	402 Ash St, Lowell	"	6/29/12
Megan McWethy	Megan McWethy	432 E. Dickson, Fay AR	delicious & cheap!	6/29/12
Chris Haas	[illegible]	1350 E. Amber Dr.	VOTE - YES!	[illegible]
Tiffany Haas	Tiffany Haas	1850 E. Amber	yes! love STP!	[illegible]
Sherrell Moss	Sherrell Moss	1753 E. 210 N RD 25-D	Vote - yes	6-29-12
Emanuel Pena	[illegible]	2336 E. Dickson	Sure.	6-29-12
Annie Gutierrez	[illegible]	13600 Sq. Mtn.	YES!	6-29-12
Kristina Smith	[illegible]	308 E Sutton St	yes	6/29/12
Joey W Smith	[illegible]	308 E Sutton St	yes too!	6/29/2012
Collins Andrews	[illegible]	2880 E. Birdie Dr.	Yes!	6/29/12
Melissa Littleton	[illegible]	2362 Kantz Ln.	SO DELICIOUS!	6/29/12
Grant Fitzgerald	[illegible]	2362 Kantz Ln.	It should ICE! Not room	6/29/12
Nichole Warren	[illegible]	231 E. REBECCA ST		6/29/12

Printed Name	Signature	Address	Comment	Date
Melissa Guthrie	Melissa Guthrie	520 Rebecca St Fay		6/29/12
Vincent Guthrie	Vincent Guthrie	520 Rebecca st Fay		6/29/12
Courleigh Phillips	Courleigh Phillips	2537 Vanice Dr Fay		6/29/12
Jonathan Phillips	[illegible]	[illegible]		6/29/12
Heather Sewell	[illegible]	3094 N Sanestanta		6/29/12
Paige Hutchins	[illegible]	4100 Riverlyn DR		6/29/12
Sarah Smith	[illegible]	1159 St. Andrews		6/29/12
Jordan Rose	[illegible]	930 S. Hoddle		6/29/12
Vicki Franklin	Vicki Franklin	PO Box 616 Kelley Place West Fork		6/29/12
Lauren Martin	Lauren Martin	1627 Cambridge Rd		6/29/12
Jeff Mullins	[illegible]	1557 N. Forest Hts.		6/29/12
Brittany Hasson	[illegible]	1791 Ed Edwards		6/29/12
Ali Gantner	[illegible]	2212 Karrington		
JAN HARR	[illegible]	1653 N SHETLAND		6/29/12
Eli Harr	[illegible]	1653 N. Shetland		6/29/12
Danny Peacock	[illegible]	2254 E. Cinnamon Way		6/29/12

Printed Name	Signature	Address	Comment	Date
ANJI SKIPTON	Anji Skipton	2507 Everest Ave Rogers, 72758		6/29/12
Amy Morrow	Amy Morrow	1233 S. Paradise Ln Fayetteville 72701		6-29-12
Kara Richardson	Kara Richardson	20321 Sherry Rd. 72764		6-29-12
Emily McWilliams	Emily McWilliams	4171 Sunflower Cir Fay 72703		6/29/12
Sarah Langham	Sarah Langham	2494 Robin Rd Fayetteville 72703		6/29/12
JOHN LANGHAM	[illegible]	2494 ROBIN RD FAYETTEVILLE	72703	6/29/12
TAYLOR ADAMS	Taylor Adams	11806 Greasy Valley Rd 72753 Prairie Grove AR		6/29/12
Jeremy Forstenberg	[illegible]	1610 Cannondale Fayetteville 72704		6-29-12
Emily Morrison	[illegible]	930 E. Lakeside		414-2501
Megan Fursenberg	Megan Fursenberg	1058 S Melbourne, Fay AR	72701	6-29-12
Kikko Hayden	[illegible]	1631 Stewart St. 72703		6/29/12
Taylor Cowan	[illegible] #24	2273 Berkleigh Dr. 72704		6/29/12
Jeff Mitchey	[illegible]	3448 Breckenridge 72703	Yes!	6/29/12
Kate Oxford	[illegible]	1487 N. Heritage Ave. 72704	Stay Open!	6/29/12
Peter Oxford	[illegible]	1487 N. Heritage ave 72704		6-29-12
Tyler McCartney	Tyler McCartney	13476 Bill Sellers Rd 72704	Please Stay open!	6-29-12

Printed Name	Signature	Address	Comment	Date
Carli Waters	Carli Wat	13476 Bill Sellers Rd 72704	Yall are the best!	6-29-12
Korben Acuff	Korben Acuff	7848 John Garrison 72704	Yall are Great!!!	6-29-12
Tanisha Thompson	Tanisha Thompson	3113 Warwick dr.	Awesome	6-29-12
Zoe Naylor	Zoe	1540 W. Nettleship St 72701	Don't leave!	6-29-12
Aaron Nugent	Aaron Nugent	1540 W. Nettleship St 72201	Ice cream is NOT Snocone	6-29-12
Melanie Dees	Melanie	4425 W. Flagstick Dr. 72704		6-29-12
Tripp Cashion	[illegible]	189 E Madrid St 72703	I love shaved ice!! ~~Maggie Moo's SUCKS!!~~	6-29-12
Kara Cornett	Kara Cornett	534 Malinda Dr 72703		6/29/12
Veronica Chaun	Veronica Chaun	2476 Sierra Ct 72701	Dont Leave Please	6/29/12
Martha Swearingen	Martha Swear	2484 W. Orlando Dr., apt. 1	Don't leave!	6/29
Desiree Martin	[illegible]	P.O. Box 1004 Farmington, AR 72730	SNO Cones > ice cream	6/29
Morgan Seitz	Morgan Seitz	430 Monterey Pl. Farmington	So good!	6/29
Elizabeth Gorman	Elizabeth Gorman	2515 N Toy Dr.	favorite!	6/29/12
Chris Tomphins	Chris Tomphins	8711 N. Charlee Ave	Best in town	6/29/12
Lia Purkayastha	[illegible]	PO Box 1210 72702	—	6/29
Amy Francis	Amy Francis	125 E. Elm St. 72703	We love you	6/29

Petition for Shave the Planet!

Petition summary and background	The Planning Commission's decision on June 11th, 2012 to allow Shave the Planet to remain open for the duration of summer has been appealed. If the City Council overrides the Planning Commission's decision, we will have to leave on July 4th, 2012.
Action petitioned for	We, the undersigned, are concerned ~~business owners and managers~~ who urge our leaders to vote to allow Shave the Planet to stay on their extended permit they were granted on June 11th, 2012.

Printed Name	Signature	Address	Comment	Date
Breanna Solomino	Breanna Solomino	3523 E. Natchez Trace		6/25/12
Julia Allen	Julia Allen	16631N Cambridge Rd		6/25/12
Loredi Barkerz	[illegible]	1515 coopers cove	favorite place to get snow cones been here for years	6/25/12
Julia Pickett	Julia Pickett	382 Tanner DR Fayetteville AR 7270	Best Place ever!	6/25/12
Ashley Hipps	Ashley Hipps	580 Beca Ln Prairie Grove		6/25/12
Gina Broyles	G. Broyles	3524 West Thames Fay, 72704	Awesome!	6-25-12
Austin Elwell	[illegible]	3331 S. Barrington	Awsome!	6-25-12
Nancy Bockart	[illegible]	16901 Lake Sequyah Rd.	Great!	6-25-12
Chris Bockart	[illegible]	16901 Lake Sequoyah Rd		6-25-12
Erika Kiekhak	Erika Kiekhak	1343 N. Leverett	please stay open!	6-25-12
Katherine Anne Gibson	Katherine Gibson	1764 N Leverett Ave	I ♡ this place	6-25-1
Nicole Johnston	[illegible]	1385 N. Menon Way	Save lactose intolerant people	6-25-1

Printed Name	Signature	Address	Comment	Date
KRISTINE GAFFNEY	Kristine Gaffney	4666 N GREGG AVE	KEEP SHAVE THE PLANET ON COLLEGE	6/29/12
CODY ERICKSON	[illegible]	4666 N. GREGG AVE	"	"
Marita Paschall	[illegible]	382 Sonoma Cir	"	6/29/12
Matt Holiman	Matt Holiman	1893 N. Porter Rd	"	6/29/12
June Ekensear	June Ekensear	4771 E. Bridgewater Lane	Please Keep Shave the Planet on College	6-29-12
Keith Ekensear	[illegible]	4771 E Bridgewater	" " " "	6-29-12
Chris Smith	Chris Smith	579 Polo Drive		6-30-12
Elizabeth Fox	Elizabeth Fox	706 E Jackson Fay 72701	" "	6/30/12
Anna Webb	Anna Webb	1901 E Overcrest St 72703	Same as above	6/30/12
Brooklyn Willey	Brooklyn Willey	680 W. Cherrywood	" "	6/30/12
[illegible]	[illegible]	7430 Highland Springs Rd	"	"
Kaci Burgess	Kaci Burgess	1862 N. Scull Creek Dr. Fayetteville 72703	YUM! Keep it!	6/30/12
Evan Burgess	Evan Burgess	1862 N Scull Creek DR Fay 72703	yep	6-30-12
Jane Urquiza	[illegible]	2512 N Middleton way		6-30-12
Josh Trotter	[illegible]	2675 N Club Drive	[illegible]	6-30-12
LARRY WALKER	Larry Walker	2809 N CROSSOVER		6/30/12

Printed Name	Signature	Address	Comment	Date
ANDREA WALKER	Andrea Walker	2809 N Crossover 72703	cyp & competition!!	6/30/12
Angie Baker	Angie Baker	2131 Loren Circle 72701	Keep Shave the Planet Open!	6/30/12
Anna Nottmeier	Anna Nottmeier	PO Box 66 72702		6/30/12
TAMARA Burnett	TA Burnett	3747 Caeton 72701		6/30/12
Monica Campbell	MONICA CAMPBELL	1338 Masonic Dr 72703	Keep open - Golf stuff	6/30/12
Anna Kruger	AKruger	2834 E. Birdie Dr. 72703	Keep Open!!	6/30/12
Kevin Cyr	[illegible]	1964 Bell 72703		6/30/12
Debra Lyon	Debra Lyon	1964 Ballard 72703		6/30/12
Kelli Strachan	[illegible]	316 W North St 72703		6/30/12
Faiba Farzan	[illegible]	1250 East Ash St.	Only showed ice I buy	6/30/12
Amber Adair	[illegible]	401 W. 24th St apt 21	Stay Open!	6/30/12
Emily Money	Emily Money	1450 N. Log Hill Dr #205		6/30/12
Shelley Steele	Shelley Steele	946 Lakeside	We ♡ Shave the Planet	6/30/12
Dixie Dalrymple	Dixie Dalrymple	3962 N. Hwy 112		6/30/12
Carissa Porter	Carissa Porter	902 S Woodlawn	don't leave!!	6/30/12
Trisha Smith	Trisha Smith	2116 Clover Dr 72701		6/30/12

Printed Name	Signature	Address	Comment	Date
Casey Bailey	[illegible]	1875 N. Colony Way		6/30/12
Michael Carey	[illegible]	4187 Zion Valley		6/30/12
STEPHEN MORGAN	[illegible]	4498 W SERVICE BERRY DR		6/30/12
Timothy Graham	[illegible]	5047 Arkanshire		6/30/12
Peggy Logan	[illegible]	2310 Eiffel Xing		6/30/12
Rachel Smith	[illegible]	~~[illegible]~~ N Barcelona Ave Fayetteville AR		6/30/12
Dana Williams	Dana Williams	11000 Rose Creek Farmington 72730		6/30/12
CHRIS BOYD	CHRIS BOYD	93 W. Village Lake #9 72703		6-30-12
Justin Williams	[illegible]	4021 Catlic Ave		6-30-12
Bethany Williams	Bethany Williams	" "		6-30-12
Mark Smith	[illegible]	10800 Thunder Rd Fayetteville AR		
Vivian Poulette	Vivian Poulette	" "		
Meleah Brack	Meleah Brack	201 W. Village Lake		6-30-12
Kate Beebe	[illegible]	1607 E Terry Dr		6-30
Clayton Salazar	[illegible]	1607 E Terry Dr		6-30
Noah [illegible]	[illegible]	1279 E W [illegible]		6-30

RESOLUTION NO. _____

A RESOLUTION TO REVERSE THE PLANNING COMMISSION'S DECISION TO GRANT AND THEREBY TO DENY THE VARIANCE TO ERIC SIEBERT TO OPERATE HIS SHAVE THE PLANET SNOW CONE BUSINESS LONGER THAN 90 DAYS AS AN OUTDOOR MOBILE VENDOR

WHEREAS, the Planning Commission by a 6 yes, 1 no and one abstain granted the variance to Eric Siebert to continue operating his Shave the Planet snow cone business as an outdoor mobile vendor at 3078 North College for a longer period than 90 days.

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 reverses the Planning Commission's decision to grant and thereby denies the variance to Eric Siebert to operate his Shave The Planet snow cone business longer than 90 days as an outdoor mobile vendor.

PASSED and **APPROVED** this 3rd day of July, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

August 21, 2012
City Council Meeting Date
Agenda Items Only

Terry Gulley	Transportation	Transportation Services
Submitted By	**Division**	**Department**

Action Required:

An ordinance waiving the requirements of formal competitive bidding for the purchase of seventeen (17) Dynamic Lighting, Inc. light poles and fixtures and approving a purchase from Amerlux Exterior, LLC for the amount of $26,010.00 plus sales tax.

$ 28,415.93	$ 1,491,380.00	Sidewalk Improvements
Cost of this request	Category / Project Budget	Program Category / Project Name
4470.9470.5418.00 4470.9470.5814.00	$ 323,417.15	Transportation Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02053 / 1	$ 1,167,962.85	Sales Tax Capital Improvements
Project Number	Remaining Balance	Fund Name

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

Department Director — Date: 7-24-12

City Attorney — Date: 7-25-12

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Finance and Internal Services Director — Date: 7-25-2012

Received in City Clerk's Office: 07-25-12 P01:40 RCVD

Chief of Staff — Date: 7-26-12

Received in Mayor's Office: ENTER 7/25/12

Mayor — Date: 7/27/12

Comments:

Left on the First Reading at the 8/21/12 CC mtg.

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff

From: Terry Gulley, Transportation Services Department Director

Date: August 21, 2012

Subject: Bid Waiver for Light Poles & Fixtures

PROPOSAL:

Staff proposes an ordinance waiving the requirements of formal competitive bidding for the purchase of light poles and fixtures needed to complete the improvements project currently under construction in downtown Fayetteville, including Mountain Street, College Avenue, Center Street, East Avenue, and Meadow Street.

RECOMMENDATION:

In order to remain consistent with the existing light poles and fixtures in the downtown area, the purchase of materials manufactured by Dynamic Lighting, Inc. and distributed by Amerlux Exterior, LLC will be necessary.

Staff recommends waiving the requirements of formal competitive bidding and approving the purchase of 17 Dynamic Lighting, Inc. poles and fixtures from Amerlux Exterior, LLC for a unit price of $1,530.00 and a total purchase amount of $26,010.00, plus sales tax.

BUDGET IMPACT:

Funds for the acquisition of light poles and fixtures are budgeted in the Sidewalk Improvements capital project.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING AN AGREEMENT WITH AMERLUX EXTERIOR, LLC FOR THE PURCHASE OF SEVENTEEN (17) STREETLIGHT POLES AND FIXTURES MANUFACTURED BY DYNAMIC LIGHTING, INC. IN THE TOTAL AMOUNT OF $28,415.93 FOR INSTALLATION ON DOWNTOWN IMPROVEMENT PROJECTS ALONG MOUNTAIN STREET, COLLEGE AVENUE, CENTER STREET, EAST AVENUE AND MEADOW STREET

WHEREAS, the City desires to complete an improvements project currently under construction in downtown Fayetteville, including along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street; and

WHEREAS, in order to remain consistent with existing, previously installed streetlight poles and fixtures in the downtown area, the purchase of additional matching streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. and distributed by Amerlux Exterior, LLC is necessary;

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

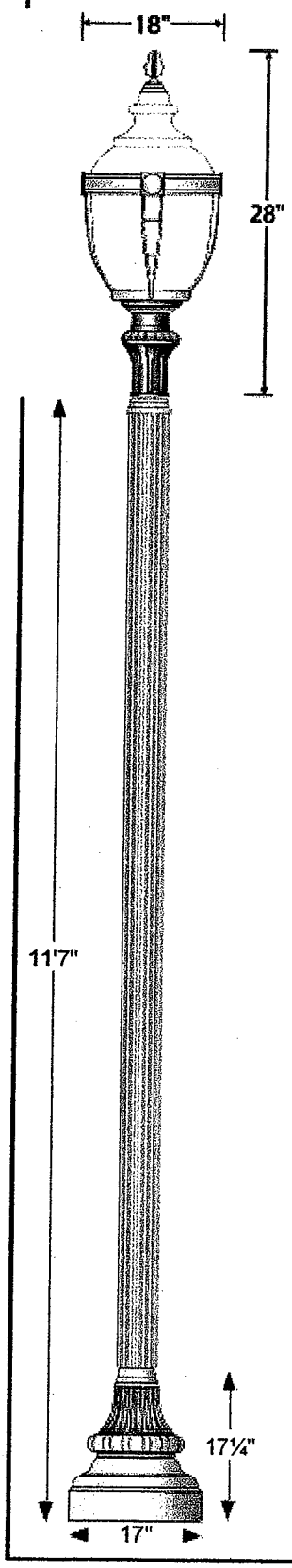
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is deemed not feasible or practical, and therefore waives the requirements of formal competitive bidding and authorizes an agreement with Amerlux Exterior, LLC for the purchase of seventeen (17) streetlights and poles manufactured by Dynamic Lighting, Inc. in total amount of $28,415.93.

PASSED and **APPROVED** this 21st day of August, 2012.

APPROVED: ATTEST:

By: _____
LIONELD JORDAN, Mayor

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



Luminaire: D733AO
-Cast aluminum fixture
-Refractive Acrylic Lens
-Clear Textured Top
-Type III or V Light Distribution
-ETL listed for Wet Location
-Max. 250w HPS or MH

Pole: D1305-12
-5" OD Fluted Extruded Shaft
(.155" wall thickness)
-Cast aluminum base
(A319 alloy)

DYNAMIC LIGHTING INC.
5220 Shank Road
Pearland, Texas 77581
(800) 364-0098
(281) 997-5400
(281) 997-5441 Fax
www.dynamiclighting.com

Luminaire
D733AO
Light Source
175 MH
Voltage
☐ 120 ☐ 208 ☐ 240
☐ 277 ☐ 480 ☐ Other

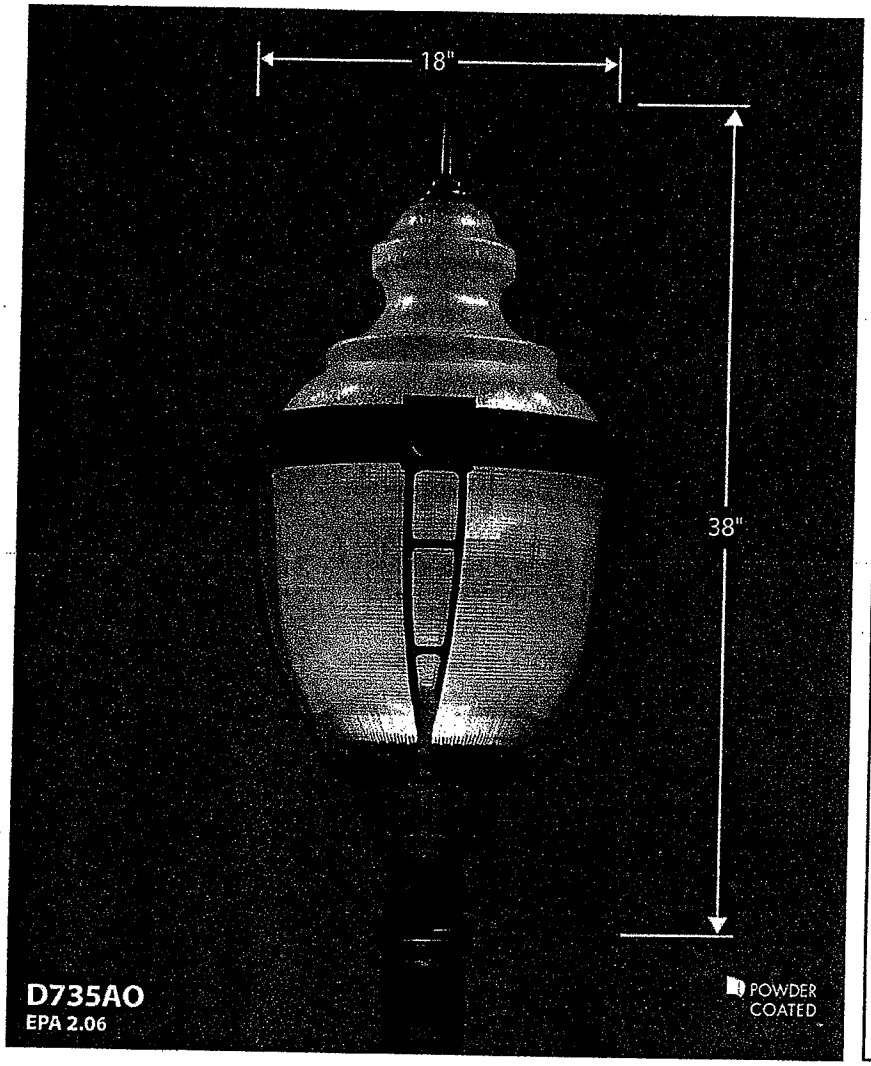
Bracket

Pole
D1305-12

Finish
Undecided
No selection made

Accessories

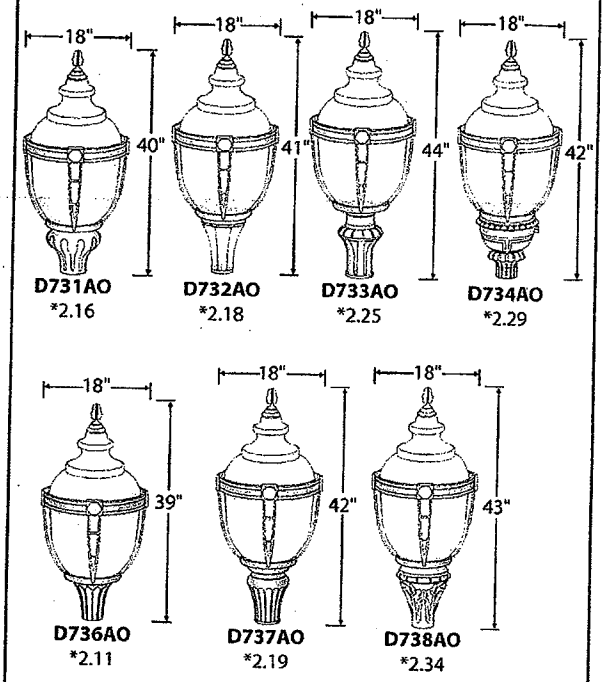
Please Note
Due to the nature of the selection process and limitations of our web based system the information contained on this sheet must be confirmed with the factory before being used as a formal specification sheet.



D735AO
EPA 2.06

DESCRIPTION

The **D730AO** Series consists of a refractive Acrylic or optional Polycarbonate acorn surrounded by a decorative cage with a choice of cast aluminum fitters. An available perforated light reflector can help minimize light to the upper hemisphere. It offers state-of-the-art optical technology and nostalgic styling.



SPECIFICATIONS

MATERIALS

The fixture base, cage assembly and finial are cast aluminum. All hardware is stainless steel, and exterior hardware is tamper resistant. The highly efficient refractive lens will be molded in Acrylic (standard) or Polycarbonate (optional).

FINISH

The fixture will be finished with a premium quality thermoset polyester powdercoat for a durable finish.

Standard solid colors are:

GRN - Green
WHT- White
CLB - Classic Bronze
TBK- Textured Black
BLK- Satin Black

Premium finishes are:

GTG - Granite Green
ATC - Antique Copper

INSTALLATION

The luminaire will mount to a 3" OD post or tenon with 5/16" cone point stainless steel set screws to ensure a solid connection. The diffuser will be held to the fitter by (4) 5/16" stainless steel socket set screws.

ELECTRICAL

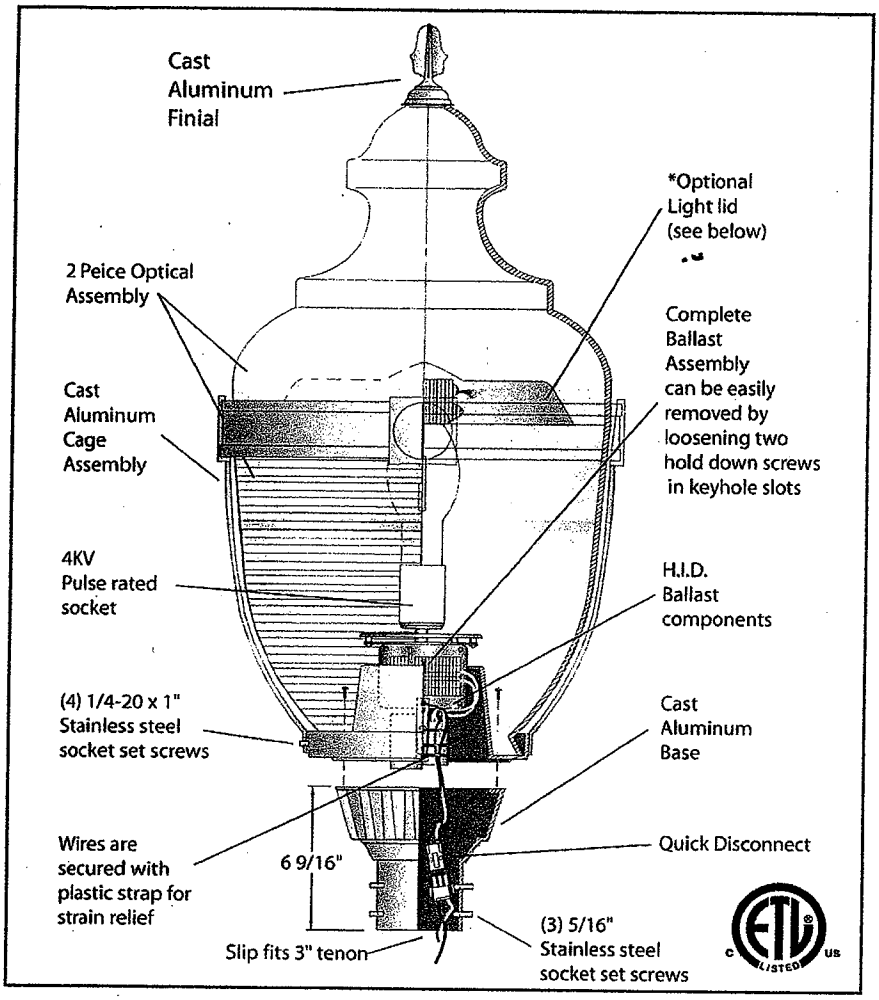
The easily accessible ballast will be High Power Factor (HPF), core and coil type, pre-wired and tested. The ballast can be removed by loosening two set screws and releasing the quick disconnect wiring harness. The glazed white porcelain socket will be medium or mogul base, 4KV pulse rated with a copper alloy nickel plated screw shell and center contact. All components are UL recognized and will be an integral part of the luminaire. The luminaire will carry an ETL label "Suitable for wet location".

DIFFUSER

The fixture will have a high performance refractive lens molded in (standard) Acrylic or (optional) Polycarbonate. Type III or V distribution is available in either material. Specify material and distribution type as shown below.

Standard
AC - T3 (Acrylic Type III)
AC - T5 (Acrylic Type V)

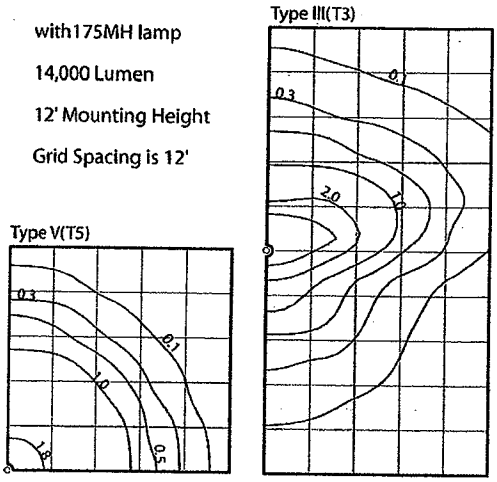
Optional
PC - T3 (Polycarbonate Type III)
PC - T5 (Polycarbonate Type V)



***OPTIONAL REFLECTOR** (specify part # **LL** or **SLL** after fixture)
The **SLL** is a solid light lid that minimizes uplight. The **LL** is a perforated reflector that minimizes uplight while providing an aesthetically pleasing glow to the top of the diffuser.

Standard Photometrics

D735AO
with175MH lamp
14,000 Lumen
12' Mounting Height
Grid Spacing is 12'



Ordering Guide (see "Accessories" for option details)

Diffuser Material | Light Source | Finish | Options

D735AO / AC-T3 / 100HPS - 120v / BLK / TR

LL
SLL
PCL
HSS

Luminaire | Distribution **T5** | Voltage

LIGHT SOURCES

Order Code	Description	Voltage	Ballast Circuit Type	Min. Starting Temperature	Standard Socket
50MH	50 watt Metal Halide	**120, 277**	R / HX*	-20°F	Medium
70MH	70 watt Metal Halide	**120, 208, 240, 277**	HX	-20°F	Medium
100MH	100 watt Metal Halide	**120, 208, 240, 277**	HX	-20°F	Medium
150MH	150 watt Metal Halide	**120, 208, 240, 277**	HX	-20°F	Medium
175MH	175 watt Metal Halide	**120, 208, 240, 277**	CWA	-20°F	Mogul
250MH ✳	250 watt Metal Halide	**120, 208, 240, 277**	CWA	-20°F	Mogul
50HPS	50 watt High Pressure Sodium	**120, 277**	R	-40°F	Medium
70HPS	70 watt High Pressure Sodium	**120, 208, 240, 277**	R	-40°F	Medium
100HPS	100 watt High Pressure Sodium	**120, 208, 240, 277**	R / HX*	-40°F	Medium
150HPS	150 watt High Pressure Sodium	**120, 208, 240, 277**	R / HX*	-40°F	Mogul
250HPS ✳	250 watt High Pressure Sodium	**120, 208, 240, 277**	CWA	-40°F	Mogul
PL-13 or (2)PL-13	13 watt Compact Fluorescent	**120, 277**	MAGNETIC	20°F	2 - pin
Q28	28 watt Compact Fluorescent	**120, 277**	MAGNETIC	-20°F	2 - pin
CFL 26, 32, or 42	Compact Fluorescent	**120, 208, 240, 277**	ELECTRONIC	0°F	4 - pin

Ballast Circuit Type Codes: **R** - Reactor **HX** - High Reactance Autotransformer **CWA** - Constant Wattage Autotransformer (**R / HX*** depends on voltage selected)
480v is available on some light sources. Contact factory for details.
✳ Not Available In D735AO

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

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

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

Requisition No.:

Date: **8/21/2012**

P.O Number:

Expected Delivery Date:

Vendor #: **20058**

Vendor Name: **Amerlux Exterior LLC**

Mail Yes:__ No:_ x__

Address: **5220 Shank Rd.**

Fob Point:

Taxable Yes:_x No:____

Quotes Attached Yes:_____ No:__x___

City: **Pearland**

State: **Texas**

Zip Code: **77581**

Ship to code: **104**

Divison Head Approval: Tony Z Gulley

Requester: **Carolyn Smith**

Requester's Employee #: **2644**

Extension: **348**

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	**Poles & Fixtures for Downtown Improvements**	**6**	**Ea**	**1,530.00**	**$9,180.00**	**4470.9470.5418.00**	**02053 / 1**		
2	**Poles & Fixtures for Downtown Improvements**	**11**	**Ea**	**1,530.00**	**$16,830.00**	**4470.9470.5814.00**	**02053 / 1**		
3					**$0.00**				
4					**$0.00**				
5					**$0.00**				
6					**$0.00**				
7					**$0.00**				
8					**$0.00**				
9					**$0.00**				
10					**$0.00**				
*	Shipping/Handling		Lot		**$0.00**				

Special Instructions:
Sole Source Justification Attached
Mountain St. (Alley to College Ave.) (3) College Ave. (Center St. to Mountain St.) (3)
Center St. (Alley to College Ave.) (7) East Ave. (Meadow St. to Center St.) (2) Meadow St. (East Ave. to College Ave.) (2)

Subtotal: **$26,010.00**

Tax: **$2,405.93**

Total: **$28,415.93**

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

Revised 1/2/2008

Date: Jul 18, 2012

Quote: PLGSPR12-5286-1

Quote

Premier Lighting Group
8040 B Counts Massie RD
North Little Rock AR 72113
Phone: (501) 753-6599
Fax: (501) 753-6567
From: Justin Long
Quoter Ph: [(501) 753-6599x201]
email: justinlong@premier-ltg.com

Project **CITY OF FAYETTEVILLE / DOWNTOWN IMPROVEMENTS**
Location
Quote PLGSPR12-5286-1

To: Carolyn Smith
CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE AR 72701

For
Bid Date Jul 18, 2012
Expires Aug 17, 2012

Remarks:
NOTE: NO CUSTOM COLOR FEE IF ORDERED AT THE SAME TIME AS QUOTE#PLGSPR12-5272 AS DISCUSSED

QTY	Type	MFG	Part	Price	UQ	ExtPrice
17		AMERLUX EXT	D1305-12/CST/D733AO/AC-T3/175MH-MT-240/ SLLFDR/CST CUSTOM COLOR - OFG BROWN GRAY-IFS PRSS 71503	$1,530.00		$26,010.00
			Total:			**$26,010.00**

Terms and conditions of sale:
PLEASE INCLUDE QUOTE # WITH ALL REMITTANCE.

SOLE SOURCE JUSTIFICATION

PURPOSE:

This form, with one or more categories completed, must accompany purchase requisitions for the sole source procurement of equipment, services or supplies exceeding $1000 (purchased from State Contract venders excepted). The purpose of sole source justification is to show that competitive bidding is impractical because only one product or service provider can meet a specific need. Therefore, an equitable evaluation of comparable products or services must be made and documented by the requester who shows that rejection of other products or services is based solely on their failure to meet that need. In cases where no other comparable source can be identified, a technical description of the product requested and a listing of those companies which were considered as alternative sources must be provided. Quality can be a subjective evaluation based upon opinion. Municipal (public) procurement law requires price considerations be evaluated via competitive quoting or bidding.

While all sole source justifications are subject to review, sole source justified purchases of $20,000.00 or more must be publicly bid or a bid waiver approved by Council. Justifications must contain clear, in-depth, and accurate information in order to avoid protests and the possibility of delaying the procurement.

INSTRUCTIONS:

1. Please type or print legible in ink.
2. Complete all categories and sections that apply.
3. Provide full explanation, complete descriptions, and/or list all relevant reasons where space has been provided. Sole Source Justification forms lacking sufficient detail cannot be approved.
4. Sign and date the form in the space provided for "signature".
5. Improperly completed, and/or unsigned forms will be returned to the sender.

TO: Purchasing Division Date: 8-8-11
FROM: Brad Anderson Dept: Transportation
Names of Requisitioner and Dept. Head
SUBJECT: Sole Source Justification
Purchase Requisition _____ (attached)
Proposed Vendor Premier Lighting Group Distributor for Amerlux Exterior
Product Description D733A0/AC-TS/175MH-240V/CC/FDR fixture with D1305-14-5" OD Fluted-3" tenon custom color pole. (College Ave Decorative lighting)
(Square District Decorative lighting)

STATEMENT

I am aware that Fayetteville Code of Ordinances, Title III Administration, Chapter 34, Article II mandates that the procurement of services, materials, equipment and supplies be via competitive quotes whenever the amount is over $1,000.00. However, I am requesting sole source procurement based on the following criteria. (Attach additional sheets as necessary):

1. The requested product is an integral repair part or accessory compatible with existing equipment. (please state the manufacturer and model number of existing equipment):
   Dynamic Lighting parts - D73JA0/AC-TJ/175MH-240V/CC/FDR
   " " " - D1J05-14-5"OD Fluted-3" tenon-CC
   To match existing poles + fixtures

2. The requested product has special design/performance features which are essential to my needs.
   Both A and B portions of this category must be completed.
   A. These features are:

   B. In addition to the product requested, I have contacted other suppliers and considered their product of similar capabilities. I find their product unacceptable for the following reasons (identify companies contacted, individuals contacted, model number and specific technical deficiency).

3. **I have standardized the requested product/service; the use of another would require considerable time and money to evaluate.**

   Explain: Manufacturer specific design.

4. **The requested product is one which I (or my staff) have specialized training and/or extensive experience. Retraining would incur substantial cost in money and/or time.**

   Explain: NA

5. **Please consider sole source approval for this reason(s) (e.g. trade-in allowance; availability of services, parts and maintenance; product is a prototype; inventory of parts are maintained, etc.):**

   NA

Authorization:

Full Name and Title of Requisitioner Brad Anderson Traffic Control Sup.
(typed or printed in ink)

Signature _____ **Date** 8-8-11

Full Name of Division Head Terry L. Gulley
(typed or printed in ink)

Signature _____ **Date** 8-8-11

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

9/4/2012
City Council Meeting Date
Agenda Items Only

Mike Reynolds	Police	Police
Submitted By	**Division**	**Department**

Action Required:

Request for public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Fayetteville Taxi LC.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Mike Reynolds — Department Director — 08/17/2012 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

* — City Attorney — 8-20-12 Date

Marsha Hutsell — Finance and Internal Services Director — 8/21/12 Date

Received in City Clerk's Office 08-17-12 P01:15 RCVD — Kim J.

Chief of Staff — 8/21/12 Date

Received in Mayor's Office — ENTERED 8/20/12 PH

Mayor — 8/22/12 Date

Comments:
* ~~See attached email to PD.~~ JK
* Supplemental docs received. Ready for Council JK

Fayetteville
ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
POLICE DEPARTMENT
100-A West Rock Street
Fayetteville, AR 72701
P (479) 587-3555 F (479) 587-3522

TO: Mayor Lioneld Jordan and Members of the City Council

FROM: Mike Reynolds, Deputy Chief of Police

DATE: August 17, 2012

RE: Request for Public Hearing on a Certificate of Public Convenience and Necessity for Fayetteville Taxi LC

Recommendation:

The council should schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Fayetteville Taxi LC.

Background:

City Ordinance 117 article IV governs taxicabs and requires a public hearing to determine if there exists the further need for taxicab service.

Discussion:

Attached are copies of Mr. Larrabee's application for his certificate, proof of insurance and financial statement.

Budget Impact:

None.

RESOLUTION NO. _____

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO FAYETTEVILLE TAXI LC FOR THE OPERATION OF ONE (1) TO FOUR (4) TAXICABS IN THE CITY OF FAYETTEVILLE

WHEREAS, the City Council of the City of Fayetteville, Arkansas finds that further taxicab service in the City is required by the public convenience and necessity; and

WHEREAS, the City Council of the City of Fayetteville, Arkansas, taking into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions and the character, experience, and responsibility of the applicant, finds the applicant, Fayetteville Taxi LC is fit, willing, and able to perform such public transportation and to conform to the provisions of Article IV of Chapter 117 of the Fayetteville Code of Ordinances;

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 grants a Certificate of Public Convenience and Necessity to Fayetteville Taxi LC for the operation of one (1) to four (4) taxicabs in the City of Fayetteville, in accordance with Article IV of Chapter 117 of the Fayetteville Code of Ordinances.

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

From: Jason Kelley
To: Harter, James; Reynolds, Mike
Date: 8/20/2012 12:01 PM
Subject: Fayetteville Taxi LC

CC: Smith, Sondra; Williams, Kit

I have reviewed the agenda item sent through on the Certificate of Public Convenience and Necessity for Fayetteville Taxi LC filed by Stewart Larrabee.

There are some deficiencies in the application. First, by ordinance, the application is to be verified under oath before a Notary (Fayetteville Code § 117.32(B)). This application form does not have that. Harter signed it, but that is unnecessary, and I recommend against us doing that. (It very well might be that our form is out of date and needs a revision, but I am looking at our current ordinance requirements and the application form as submitted.)

Second, the applicant says the minimum number of vehicles to be permitted is "1" with a maximum number of vehicles being "4+". I do not believe this is responsive in that "4+" could be anywhere from 4 to any number higher than that (really no limit). That will be an issue for the Council to decide.

Third, proof of current insurance will have to be shown before the City Clerk can issue the certificate, even if approved by the Council The insurance must contain a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. The application contains an insurance quote and a finance agreement for the premiums, but proof of actual coverage will still be required before a certificate can be issued.

I will go ahead and prepare a resolution for the Council to consider, but it is my opinion that Fayetteville Taxi LC needs to have their application notarized before it can be considered.

If you have any questions, let me know.

Jason K.

Jason B. Kelley
Assistant City Attorney
City of Fayetteville, Arkansas
113 W. Mountain St., Suite 302
Fayetteville, Arkansas 72701
Telephone (479) 575-8313
Facsimile (479) 575-8315
Email: jkelley@ci.fayetteville.ar.us
Website: www.accessfayetteville.org (http://www.accessfayetteville.org/)

Certificate of Public Convenience & Necessity Application/Renewal

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

STEWART LARRABEE — 2556 W. MT. COMFORT RD #10 FAYETTEVILLE AR 72704 — 954-829-7961

Applicant Name — **Address** — **Phone Number**

FAYETTEVILLE TAXI LC — DISPATCH NUMBER PENDING

Name of Business — **Phone Number**

PROPOSED DOWNTOWN OFFICE LOCATION PENDING - IF NEEDED

Business Location

2556 W. MT. COMFORT RD., #10, FAYETTEVILLE, AR 72704

Mailing Address

LC (SAME AS LLC)

Type of Business (Sole Proprietor, Corporation, LLC)

Name and address of all owners, officers and stockholders:

STEWART LARRABEE

Name of person to whom complaints should be directed:

STEWART LARRABEE

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

ATTACHED

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

NO KNOWN JUDGEMENTS - FAYETTEVILLE TAXI LC NEW COMPANY.

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

DRIVER AT DYNASTY TAXI LAST YEAR DURRING PEAK GAME SEASON, DRIVER AT GREEN CAB CO. PREVIOUS TO THAT, PERFORMED HEAVY DRIVING AS CONSTRUCTION PROJECT MANAGER, GOVERNMENT WORK.

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

INFORMATION WILL BE PROVIDED TO CITY COUNCIL IN PERSON, BASED ON; WAIT TIMES, CUSTOMER SERVICE, ADHERENCE, DUI FREQUENCY, AND OTHER INFORMATION. SOME WRITTEN SUPPORT ATTACHED. ⊛ (LETTERS OF TIM FARRELL & CHRIS VARGA)

List the number of vehicles that will be under your operation or control: STARTING WITH 1

Minimum and Maximum number of vehicles to be permitted: 1 (Minimum) — 4+ AS PER C.C. (Maximum)

List the location of proposed depots and terminals:

VARIOUS LOCATIONS AS NEEDED IN THE ENTERTAINMENT DISTRICT - INCLUDING DICKSON & WEST STREETS, DOWNTOWN, AND THE LIKE.

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

IN HONOR OF THE RAZORBACKS, RED & WHITE MARKINGS

List your days and hours of operation:

TO START - PEAK P.M. TIMES AS NEEDED, 6PM TO 4AM ANTICIPATED, AND GROWING TO 24 HRS; COVERAGE OF SPECIAL EVENTS

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

TBD - CHRISTMAS? HOWEVER, WILL BE "ON-CALL".

List your proposed passenger rate schedule:

PER CITY REQ. - CITY STANDARDS.

Sgt. Jan W. Harth #152
Police Department Representative

8-16-12
Date

August 13, 2012

To the City of Fayetteville,

Mr. Tim Farrell of Farrell's Lounge supports the need for additional Taxicab Operators in Fayetteville, as the current wait-times during the off-peak season are excessive.

Mr. Larrabee has been a driver at another Taxi Company and has personally provided myself quality service and should be given the opportunity operate his own company.

Sincerely,

Mr. Tim Farrell

August 13, 2012

To the City of Fayetteville,

Mr. Chris Varga of Sideways supports the need for additional Taxicab Operators in Fayetteville, as the current wait-times during the off-peak season are excessive along with poor customer service by some of the current providers.

Mr. Larrabee has been a driver at another Taxi Company and has personally provided myself quality service and should be given the opportunity operate his own company.

Sincerely,

Mr. Chris Varga

Fayetteville Taxi LC
Stewart Larrabee
2556 W Mt Comfort Rd, #10
Fayetteville, AR 72704

August 16, 2012

City of Fayetteville
Attn: Sgt. Harter
100 W Rock St
Fayetteville, AR 72701

Please accept this letter as a financial statement on behalf of Fayetteville Taxi LC with the pending taxi operators permit application(s).

Fayetteville Taxi LC is a brand new entity and is an Arkansas limited liability company (copy attached).

Fayetteville Taxi LC and/or Stewart Larrabee have no known judgment(s).

Sincerely,

Stewart Larrabee
Fayetteville Taxi LC

COPY

STATE OF ARKANSAS

SECRETARY OF STATE

Mark Martin

ARKANSAS SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

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

Articles of Organization

of

FAYETTEVILLE TAXI LC

filed in this office
August 14, 2012.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 14th day of August, 2012.

Mark Martin

Arkansas Secretary of State

Fayetteville Taxi LC
August 16, 2012

Note regarding insurance coverage:

The current attached quote is showing 300/300/300 for base coverage, which exceeds the required coverage of 25/50/25.

The attached quote shows that the entity is insurable. Current proof of coverage is already required to be submitted to the City before any taxi company starts providing services, along with vehicle inspections and verification of appropriate approved drivers and the like.

Other insurance quotes are pending as this quote is a bit overpriced. If a different underwriter is ever chosen by Fayetteville Taxi LC, proper timely submission will occur to the City of Fayetteville and will always meet any minimum requirements including the required 30 day cancelation notice.

Sincerely,

Stewart Larrabee
Fayetteville Taxi LC

INSURANCE QUOTATION

THE TERMS AND CONDITIONS OF THIS QUOTATION MAY NOT COMPLY WITH THE SPECIFICATIONS SUBMITTED FOR CONSIDERATION. PLEASE READ THIS QUOTE CAREFULLY AND COMPARE IT AGAINST YOUR SPECIFICATIONS.

IN ACCORDANCE WITH THE INSTRUCTIONS OF THE BELOW-MENTIONED INSURER, WHICH HAS ACTED IN RELIANCE UPON THE STATEMENTS MADE IN THE RETAIL BROKER'S SUBMISSION FOR THE INSURED, THE INSURER HAS OFFERED THE FOLLOWING QUOTATION.

DATE ISSUED: August 15, 2012

PRODUCER: AARON ADAMS, INC #901425
3075 NORTH MARKET AVENUE SUITE 1
Fayetteville, AR 72703

INSURED: **Stewart Larrabee dba: Fayetteville Taxi LC**
256 W. Mt. Confort Road #10
Fayetteville, AR 72704

COVERED LOCATION: **256 W. Mt. Confort Road #10, Fayetteville, AR 72704**

INSURER: National Liability & Fire

COVERAGE: Business Auto

POLICY PERIOD: 8/15/2012 TO 8/15/2013
TERM: 365

12:01 A.M. STANDARD TIME AT THE LOCATION ADDRESS OF THE NAMED INSURED. THIS INSURANCE QUOTATION WILL BE TERMINATED AND SUPERSEDED UPON DELIVERY OF THE FORMAL POLICY(IES) ISSUED TO REPLACE IT.

LIMITS:

300,000 csl	Liability
300,000 csl	UM/UIM bi only
300,000 csl	UMPD
$5,000 s/v	2001 Ford Windstar - 7 passangers

100 Mile - Taxi Service - based on 1 driver 48 Clean driving record
Subject to: fully completed signed company application, Company acceptable MVR on each driver and NO losses prior to binding

DEDUCTIBLE: 500/500 Comp/Coll
each & every claim and unit

PREMIUM: $4,989.00

FEES: $200.00 **Fully-Earned**

TOTAL: $5,189.00

Subject to a REQUIRED 32 day cancellation from receipt date of request on ANY policies with DOT Filings or State Certificates Issued.

NOTE: Policies are bound by receiving either a fax or email of completed application, or postmark of application and bind request. This premium quoted reflects underwriting information received and is valid subject to company approved MVR's, Inspection and completed signed application. The quoted premium is based on the information currently in the file; the premium may change upon receipt of any new or additional information.

TERMS / CONDITIONS:

(a) **25% OR $250.00 (WHICHEVER IS GREATER) MINIMUM EARNED PREMIUM AT INCEPTION. NO FLAT CANCELLATIONS**

(b)**ENDORSEMENTS / NOTABLE EXCLUSIONS**:

(c) **ATTACHMENTS / SUBJECT TO**:

Strict Radius

*In order to bind coverage we must receive a request in writing. No agent has the authority to bind coverage. Notice to your agency is NOT notice to M J Kelly.

*Subject to a complete signed , and dated application upon binding

*It is expressly understood and agreed by the insured by accepting this instrument that M J Kelly is not an insurer and shall not be liable in any way nor to any extent for any loss or claim.

*ANY EMPLOYEES HIRED DURING THE TERM OF THIS POLICY MUST BE REPORTED TO MJ KELLY. THIS INCLUDEDS BOTH DRIVING AND NON DRIVING EMPLOYEES.

*Subject to no undisclosed losses

*Renewal is Subject to No Changes in Exposure for this Risk. It is your responsibility to confirm with the insured if there have been any changes and advise us of any changes in the risk.

*Subject to acceptable Company ordered Inspection

*Unreported drivers may jeopardize coverage

*The underwriter reserves the right to amend or withdraw terms upon review of information.

*In order to bind coverage we must receive a request in writing. No agent has the authority to bind coverage.

* Any Driver under the age of 21 must be excluded. Any Driver under the age of 25 must be approved by the company, prior to adding to policies.

$ Coverage will be bound effective the date of you agency check or ACH p.ayment is received in our office, subject to funds clearing.

(d) ALL OTHER TERMS AND CONDITIONS APPLY PER FORM

COMMISSION: 9%

THIS QUOTE IS ISSUED BASED UPON THE INSURER'S AGREEMENT TO QUOTE AND IS ISSUED BY THE UNDERSIGNED WITHOUT ANY LIABILITY WHATSOEVER AS AN INSURER. THIS QUOTE MAYBE WITH-DRAWN BY THE INSURER AT ANY TIME PRIOR TO BINDING. NO AGENT HAS BINDING AUTHORITY. THIS QUOTE IS VALID FOR THIRTY DAYS FROM THE DATE OF ISSUE.

AUTHORIZED REPRESENTATIVE
Rhonda Branum X 115

This quotation shall confer upon the Producer no authority, expressed or implied, to bind or obligate MJ Kelly Company in either respect.

It is understood that according to the producer agreement, that no insurance submitted for consideration is effective until acceptance is indicated in writing or a policy or binder is issued by MJ Kelly Company.

TOTAL NUMBER OF PAGES: 2
INSURED: Stewart Larrabee
DATE ISSUED: August 15, 2012

Reference #:0314653

Finance Agreement

M. J. KELLY COMPANY

PO Box 231
Turners, MO 65765

Phone: 417-883-2688 **Fax:** 417-883-7103

QUOTE # 0314653A.1

INSURED:	**AGENT:**
Stewart Larrabee 111 Fayetteville, AR 72704 0000000000	Aaron Adams, Inc 3075 NORTH MARKET AVENUE SUITE 1 Fayetteville, AR 72703 479-443-5050

POLICY NUMBER	INSURANCE COMPANY OR GENERAL AGENT	EFFECTIVE DATE	TERM	COVERAGE TYPE	PREMIUM
TBD	National Liability & Fire	8/15/2012	12	Automobile	$5,189.00

In consideration of the payment by M. J. KELLY COMPANY of the AMOUNT FINANCED of the premium described above for my account and on my behalf, I hereby accept the following terms and conditions. (Continued on Page 2)

A TOTAL PREM, TAXES, FEES	B CASH DOWN PAYMENT (TOTAL DOWN PAYMENT)	C AMOUNT FINANCED Amount of credit provided to you or on your behalf.	D FINANCE CHARGE The dollar amount the credit will cost you	E TOTAL OF PAYMENTS The amount you will have paid after you have made all payments	F INTEREST RATE
$5,189.00	$1,597.00	$3,592.00	$281.87	$3,873.87	17.5%

The finance charge includes a setup fee of $15.00

CREDITOR M.J. KELLY COMPANY

SECURITY: You are giving a security interest in the unearned premium funds due under the policy being purchased

LATE CHARGE: If a payment is late, you will be assessed a late charge. For additional information about late charges, see item 19 on page 2 of this agreement

PREPAYMENT, NON-PAYMENT AND DEFAULT: If you pay off early, you may be entitled to a refund of part of the finance charge, although you may have to pay a pre-payment penalty. See page 2 of this document for any additional information about non-payment, default and prepayment refunds and penalties.

YOUR PAYMENT SCHEDULE WILL BE:

G NUMBER OF MONTHLY PAYMENTS	H AMOUNT OF EACH PAYMENT	I PAYMENTS ARE DUE	J FIRST PAYMENT DUE
9	$430.43	Monthlyon 15th	9/15/2012

ITEMIZATION OF AMOUNT FINANCED: IN THIS AGREEMENT, THE AMOUNT PAID ON YOUR BEHALF IS:

THE UNDERSIGNED AGREES TO THE PROVISIONS ABOVE AND ON PAGE 2

NOTICE: A. DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES
B. YOU ARE REQUIRED TO RECEIVE A COMPLETELY FILLED IN COPY OF THE AGREEMENT.
C. YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND UNDER CERTAIN CIRCUMSTANCES TO OBTAIN A PARTIAL REFUND ON THE FINANCE CHARGE.

THE UNDERSIGNED EXECUTED THIS AGREEMENT AND RECEIVED A COPY THEREOF

SIGNATURE OF WITNESS/AGENT DATE SIGNATURE OF INSURED/APPLICANT

AGENT / BROKER WARRANTY

The undersigned hereby warrants that (1) the policies are in full force and effect (2) the insured has received a copy of this agreement (3) the above note is valid and correct and represents a bona fide transaction (4) the undersigned appoints M. J. KELLY COMPANY or its agent its Attorney-in-Fact to do every act or thing necessary to collect and discharge the same, and to demand and collect any premiums on account of cancellation of the said policy(ies) (5) no policy(ies) are non-cancellable, subject to retrospective rating or subject to special cancellation provisions other than indicated in this agreement (6) all unearned commissions, premiums and dividends will be returned to M. J. KELLY COMPANY.

As collateral security for the payment of this obligation the party executing this Agreement agrees as follows:

1. Assigns to hold (and otherwise grants a lien to holder) all rights to return premiums which may in any manner become payable to or under the policies listed on the Agreement. (subject, however to any prior perfected mortgages or loss payee interest). The holder hereof shall first apply any such payments to satisfy the amount due under this Agreement interest or late charges as may be provided herein and/or as are allowed by law and, except as to Illinois insureds, attorneys' fees and court costs as may be allowed by law, and remit any surplus then remaining to the party executing this Agreement at the address given hereon or to the agent-broker, in which said event holder shall have no further responsibility for the application of funds between the agent-broker and the buyer-insured, only such responsibility or dispute to be solely between the agent-broker and the buyer-insured and if be any deficiency, buyer-insured to responsible to holder for same. The obligation of any insurance company shall be fully satisfied by it making such payment to the holder, and it shall have no responsibility to see to the proper application of any such surplus, said duty remaining solely that of holder.
2. The party executing this Agreement shall not assign or otherwise encumber (except as may be provided herein) the poloicies listed herein, during the term hereof, and agrees that holder may correct typographical and computational errors without notice, provided that such corrections are in accordance with standard rates of holder.
3. In the event of any default in the payment of any installment due hereunder or in the event of an assignment without the consent of the holder hereof, or if the property insured is sold, or if the party executing this Agreement becomes insolvent or be declared bankrupt, or in the event of the death of the party executing this Agreement, such happening, default or breach shall be deemed an election on the part of the party executing this Agreement and/or his estates to cancel the policy/policies, and the holder, at his or its election, after giving the buyer-insured notice that said policy/policies will be cancelled, is neither authorized to notify the insurance company/companies shall make such payment direct to said agent-broker provided that such notice is accompanied by such organization of assignee.
4. In the event of the cancellation of the policy/policies by the insurance company/companies or any of then the return premium/premiums shall be paid direct to the holder hereof. If holder receives any payments from buyer-insured after cancellation procedures have been initiated or effected, holder at this option 1) may collect all past unpaid delinquincy charges, and attempt to stop such cancellation or attempt to reinstate such policy (but shall have no responsibility for accomplishing such result), and if cancellation is stopped or the policy is reinstate shall so notify buyer-insured, or 2) may, without further notice apply said payment to any balance owing buyer-insured's account with FINANCE COMPANY without attempting to stop such cancellation or without attempting to reinstate said policy.
5. In the event the policy/policies are cancelled, the insurance company/companies are authorized and instructed to issue checks solely to holder of this Agreement, except as provided in Paragraph 3 hereof.
6. In the event a loss or losses are suffered under the policy/policies before all installments have been paid, then proceeds payable under the policy/policies shall be applied to the payment of the balance hereon and any check issued therefore by the insurance company/companies are authorized to so issue such checks without obligations as to application of proceeds.
7. If any of the insurance company/companies listed herein are declared insolvent of subject to receivership proceedings or placed in receivership or if holder shall in good faith feel insecure as to the financial or other legal status of one or more of the listed insurance companies, then the full amount payable hereunder shall as holder's option become forthwith due and payable without notice and the holder shall have the right to cancel said policies and persue any and all of its other rights under this Agreement and particularly Paragraphs 3 and 6 hereof.
8. Buyer-insured and all endorsers hereof waive presentment for payment, demand, protest, and notice of protest.
9. Buyer-insured releases and discharges and agrees to hold harmless the holder hereof, and his or its agents, officers, employess, and assignees from liability or cause of action by reason of any cancellation made or notified or pursuant to provisions hereof.
10. No waiver by any holder shall be construed as a waiver of any other or subsequent default nor affect any rights incident thereto. No assignee of original holder shall be under any liability hereunder as an insurer or as an agent or employee of an insurer. The entire agreement between parties hereto is contained herein and there are no other conditions, provisions, understanding, or undertakings. This Agreement has been executed in the state of residence of FINANCE COMPANY, as indicated in the address section of this Agreement, and shall be construed under the laws of that State.
11. Buyer-insured agrees that the surrender of the policies shall not be necessary to entitle the holder to receive any return premiums or proceeds of loss and hereby authorizes each of the insurance companies to pay to holder all such return premiums and proceeds of loss proceeds of loss otherwise payable hereunder without requiring the surrender of any policy or certificate. But buyer-insured expressly agrees upon of holder at any time during the hereof to immediately forward such policies to holder, and failure to so forward after request of holder shall be a default subject to all of the rights provided for in Paragraph 3 hereof.
12. Buyer-insured agrees that no agent or broker soliciting and/or writing any of said policies was or is agent of any assignee hereof, all such agents or brokers having acted solely as agents of buyer-insured or of the insurance companies. No acts, representations, promisies, or warranties of any such agents or brokers with respect to this contract or any of said policies shall be binding upon any assignee hereof.
13. Any notice mailed by holder to buyer-insured at the address given hereon shall be suffecient notice, but this provision shall in no way be deemed or construed to require the giving of any notice not specifically provided for herein, and all rights and notices shall be of equal effect and notice to other persons who may be insured on any such policy in addition to the insured.
14. The term holder when used herein shall include within it meaning any assignee of the original holder.
15. If any of the terms hereof are against the public policy of the law of the applicable state, then such forms should be of no force or effect, provided however, the remainder of this Agreement shall continue to be of full force and effect.
16. Interest accrues from the earliest date policy financed hereunder. A change shall be made in addition to all other charges for processing cancellation of the insurance policies financed hereunder.
17. A check returned to holder by the insured's bank for any reason, shall be deemed a default by the insured and the holder shall have the right to cancel all policies financed hereunder, and persue any all of its rights under this Agreement, particularly Paragraph 3 hereof. The holder may charge the insured a special service fee for the handling of returned checks.
18. The buyer-insured hereby irrevocably appoints FINANCE COMPANY ATTORNEY IN FACT and grants to FINANCE COMPANY full authority to effect cancellation of said policies and to receive and receipt for all sums assigned to FINANCE COMPANY until such time that the entire amount due is paid. Any such sums shall be credited to said amount due and surplus shall be paid to the buyer-insured. In the event of deficiency, the buyer-insured agree to pay the same, with interest.
19. When installments are not paid when due, late charges shall be made on all installments at the rate of 5% of the delinquent installment with a minimum late charge of $10.00 on each delinquent installment.

NOTICE: SEE FIRST PAGE FOR IMPORTANT INFORMATION

If your account goes into cancellation status, we will charge a $15.00 fee.

Schedule H

AUTHORIZATION AGREEMENT
DIRECT PAYMENTS (ACH DEBITS)

I (we) hereby authorize _____, hereinafter called COMPANY, to debit entries to my (our) account indicated below and the Financial Institution named below, hereinafter call FINANCIAL INSTITUTION, to debit same to such account. I (we) acknowledge the origination of ACH transactions to my (our) account must comply with the provisions of U S. law I understand that my signature authorizes a one time non-refundable $20.00 setup fee

_____ _____
(Financial Institution Name) (Branch)

_____
(Address) (City-State) (Zip)

_____ _____ Type of Acct: ___Checking ___ Savings
(Routing/Transit Number) (Account Number)

This authority is to remain in full force and effect until COMPANY has received written notification from me (or either of us) of its termination in such time and manner as to afford COMPANY and FINANCIAL INSTITUTION a reasonable opportunity to act on it.

_____ _____
(print individual name) (print individual name)

_____ _____
(print individual ID number) (print individual ID number)

_____
(Signature)

_____
(Signature)

_____
(Date)

PLEASE ATTACH COPY OF VOIDED CHECK TO THIS FORM
(Customer retains second copy)

National Indemnity
group of insurance companies

Columbia Insurance Company
National Fire & Marine Insurance Company
National Liability & Fire Insurance Company

National Indemnity Company
National Indemnity Company of the South
National Indemnity Company of Mid-America

Public & Special Types Application

Review the application for accuracy. * denotes information that needs to be completed.

1. Policy Term 08/15/2012 - 08/15/2013
2. Named Insured Stewart Larrabee
* 3. DBA _____
4. Entity Type [X] Individual [ ] Partnership [ ] Corporation [ ] Other _____
* 5. Business Phone Number _____ Email Address _____
* 6. Mailing Address _____ Website _____
7. City Fayetteville State AR Zip 72704
* 8. Premises Address _____
* 9. City _____ State _____ Zip _____
* 10. [ ] Yes [ ] No Have you ever had insurance with one of the companies listed above?

Coverages	
Liability	$300,000 Combined Single Limit
Uninsured & Underinsured Motorist	$300,000 Combined Single Limit
Medical Payments	Not Purchased

Operations

11. Business Description Taxi Service
* 12. Vehicle Usage _____
* 13. [ ] Yes [ ] No New Venture? Years experience _____
* 14. [ ] Yes [ ] No Is this your primary business? If no, explain _____
15. [X] Yes [ ] No Is your business for hire/for profit?
* 16. Gross receipts last year _____ Estimate for coming year _____
17. [X] Yes [ ] No Do you operate in more than one state? If yes, list states _____
* 18. What is the largest city entered? _____
* 19. [ ] Yes [ ] No Is the transportation of people your primary business?
* 20. [ ] Yes [ ] No Are vehicles leased to drivers?
* 21. [ ] Yes [ ] No Do you transport physically disabled individuals? If yes, what percentage of the time? _____
* 22. [ ] Yes [ ] No Are vehicles equipped with a fare box or meter? If yes, which vehicles? _____
* 23. [ ] Yes [ ] No Do you have a scheduled route?
* 24. [ ] Yes [ ] No Do you ever transport unscheduled passengers?

Ambulance and Medical Transportation

25. [ ] Yes [ ] No Do autos without lights and sirens have lifts, ramps or wheelchair tie downs? If yes, which autos? _____
26. [ ] Yes [ ] No Are any autos operated 24 hours per day? If yes, which autos? _____
27. [ ] Yes [ ] No Are you the primary response unit for emergency (911) calls?
28. What percent of your ambulance dispatches are Emergency (Code 3 or 4)? _____
29. What percent of your ambulance dispatches are Non-Emergency (Code 1 or 2)? _____

Driver Training

30. [ ] Yes [ ] No Is operation part of a school curriculum?
31. [ ] Yes [ ] No Is class room instruction given?
32. [ ] Yes [ ] No Are autos equipped with dual controls? If no, which autos do not have dual controls? _____

Loss Experience

* 33. [ ] Yes [ ] No Have you ever been declined, canceled or non-renewed for this kind of insurance?
If yes, explain _____
* 34. [ ] Yes [ ] No Have you previously had commercial auto insurance?
If yes, name of prior insurance company _____
* Number of accidents in the past 3 years _____
* Include loss runs or provide details of losses _____

Drivers

			License			Experience	
	Name	Date of Birth	State	Number	Type	Type of Unit	# of Years
*	1 Stewart Larrabee	[redacted]	AR				
	2						
	3						
	4						
	5						
	6						
	7						
	8						

		Accidents and Minor Moving Traffic Violations in Past 3 Years				Major convictions (DWI/DUI, hit & run, reckless, driving while suspended/revoked)	
	Name	# of Accidents	Date(s)	# of Violations	Date(s)	Describe conviction	Date(s)
*	1 Stewart Larrabee						
	2						
	3						
	4						
	5						
	6						
	7						
	8						

* 35. ☐ Yes ☐ No Are drivers covered by workers compensation?

Vehicles

	Year, Make, Model VIN	Body Style (Taxi, Ambulance, Hearse, etc.)	Original Mfg Seating Capacity	Garaging Address	Radius	Annual Mileage	Length of Stretch (Limo)	Emergency Lights & Sirens (S), Wheelchair Equip. (W)
*	1 2001 FORD WINDSTAR	Other - Taxi	7		100			
	2							
	3							
	4							
	5							
	6							

	Physical Damage				
Veh. #	Stated Amount**	Comp (C) Spec (S)	C/S Ded.	Collision Ded.	Loss Payee (L) or Additional Insured-Lessor (A)
1	5,000	C	500	500	
2					
3					
4					
5					
6					

**Include the value of A/V equipment permanently installed in the vehicle

Filings (complete if filings are being requested)

36. ☐ Yes ☐ No Is an FHWA filing required? If yes, MC number _____
What authority do you have? ☐ Broker ☐ Common ☐ Contract

37. If you hold a broker's license, identify name filed with FHWA, FHWA docket number, and receipts from brokerage operations _____

38. If you are an interstate regulated carrier, identify your registration or base state _____

39. ☐ Yes ☐ No Is an intrastate filing needed? If yes, show state and permit number _____

40. ☐ Yes ☐ No Is MCS 90 endorsement needed?

41. ☐ Yes ☐ No Is our policy to cover all vehicles owned, operated or under lease to applicant?
If no, explain _____

42. ☐ Yes ☐ No Do you enter Canada? If yes, where? _____

43. ☐ Yes ☐ No Do you enter Mexico? If yes, where? _____

44. ☐ Yes ☐ No Have you ever changed your operating name? If yes, explain _____

45. ☐ Yes ☐ No Do you operate under any other name? If yes, explain _____

46. ☐ Yes ☐ No Do you operate as a subsidiary of another company? If yes, explain _____

47. ☐ Yes ☐ No Do you own or manage any other transportation operations that are not covered?
If yes, explain _____

48. ☐ Yes ☐ No Do you lease your authority? If yes, explain _____

49. ☐ Yes ☐ No Do you appoint agents or hire independent contractors to operate on your behalf?
If yes, explain _____

50. ☐ Yes ☐ No Do you have agreements with other carriers for the interchange of vehicles or transportation of passengers?
If yes, attach a copy of the current agreement and complete the following:
With whom has such agreement(s) been made? _____

51. ☐ Yes ☐ No Do the parties named above carry automobile liability insurance?
If yes, name of insurance company and limits of liability _____
Under whose permit does each of the parties to the agreement(s) operate? _____

52. ☐ Yes ☐ No Is there a Hold Harmless in the agreement?

53. ☐ Yes ☐ No Do you barter, hire or lease any vehicles? If yes, explain _____

Additional Comments: _____

Quote #:

REJECTION OF UNINSURED AND UNDERINSURED MOTORISTS COVERAGES, AND OFFER OF INCREASED UNINSURED LIMITS (ARKANSAS)

I. UNINSURED MOTORISTS COVERAGE

Under Arkansas Insurance Laws (Section 23-89-403 of the Arkansas Code), Uninsured Motorists Coverage provides insurance for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of **bodily injury**, sickness or disease, including death, resulting therefrom.

Uninsured Motorists Coverage (Section 23-89-404) also provides insurance for the protection of persons insured thereunder for **property damage** to the insured for losses in excess of two hundred dollars ($200). "Property damage" means damage to the insured's vehicle.

Under the law (Section 27-19-605), the minimum limits for Uninsured Motorists Coverage are:

- at least $25,000 of coverage of bodily injury/death for each insured person who may be injured in any single accident, and
- at least $50,000 of coverage of bodily injury/death for two or more insured people who may be injured in any single accident, and
- at least $25,000 of coverage for property damage in any single accident.

A. Offer of Increased Limits or Selection of Minimum Limits

Under Arkansas Insurance Laws (Section 23-89-403 of the Arkansas Code), if you choose **not** to reject Uninsured Motorists Coverage, you, the insured named in the policy, have the right to purchase uninsured motorists coverage in limits up to the limits of third-party liability coverage you will carry under your automobile insurance policy. Alternatively, the law also permits you to reject any offered increased limits.

Offer of Increased Limits of Coverage	**Amount of Increased Premium (if any)**
$25,000 / $50,000 / $25,000 or $75,000 Single Limit	Contact your agent for amount of
_____/ _____/ _____ or _____ Single Limit	increased premium.

Choose one of the following ("X" indicates your choice) and complete the limits desired where indicated, if applicable.

☐ I wish to purchase increased limits of Uninsured Motorists Coverage.

If you marked this box, then you must specify the limits which you desire. These limits cannot exceed your third-party liability coverage.

I select: _____/ _____/ _____ or _____ Single Limit

☐ I wish to **REJECT** the offer of any and all increased limits of Uninsured Motorists Coverage.

B. Rejection

The law permits you, the insured named in the policy, to reject the Uninsured Motorists Coverage in its entirety or to reject the property damage only portion of the Uninsured Motorists Coverage. The law requires that if you **do not** reject Uninsured Motorists Coverage for **bodily injury**, the insurer will **automatically** provide you with the coverage in the minimum limits prescribed by law.

You may **not** reject Uninsured Motorists Coverage if increased limits of Uninsured Motorists Coverage is selected in Section A above.

Choose one of the following, if applicable ("X" indicates your choice).

☐ I hereby **REJECT** Uninsured Motorists Coverage. The Uninsured Motorists Coverage offered is completely removed and deleted from the policy.

☐ I hereby **REJECT** the property damage only portion of the Uninsured Motorists Coverage. The property damage only portion of the Uninsured Motorists Coverage offered is completely removed and deleted from the policy.

II. REJECTION OF UNDERINSURED MOTORISTS COVERAGE

Under Arkansas Insurance Laws (Section 23-89-209), Underinsured Motorists Coverage enables the insured or his/her legal representative to recover from the insurer the amount of damages for bodily injury or death to which the insured is legally entitled from the owner or operator of another vehicle whenever the liability insurance limits of such other owner/operator are less than the amount of the damages incurred by the insured. Coverage shall not be reduced by the other party's insurance coverage except to the extent the injured party would receive compensation in excess of his/her damages.

Underinsured Motorists Coverage is available **only if** Uninsured Motorists Coverage is **not** rejected above.

The law permits you, the insured named in the policy, to reject Underinsured Motorists Coverage.

Mark the following, if applicable ("X" indicates your choice).

☐ I hereby **REJECT** Underinsured Motorists Coverage. The Underinsured Motorists Coverage offered is completely removed and deleted from the policy. This coverage MUST be deleted if Uninsured Motorists Coverage is deleted.

_____
Signature of Named Insured (Representing all insureds)

_____
Type or Print Name

_____
Date

_____
Policy Number (if known)

MUST BE SIGNED BY THE APPLICANT PERSONALLY

No coverage is bound until the Company advises the Applicant or its representative that a policy will be issued and then only as of the policy effective date and in accordance with all policy terms. The Applicant acknowledges that the **Applicant's Representative named below is acting as Applicant's agent and not on behalf of the Company. The Applicant's Representative has no authority to bind coverage, may not accept any funds for the Company, and may not modify or interpret the terms of the policy.**

The Applicant agrees that the foregoing statements and answers are true and correct. The Applicant requests the Company to rely on its statements and answers in issuing any policy or subsequent renewal. The Applicant agrees that if its statements and answers are materially false, the Company may rescind any policy or subsequent renewal it may issue.

If any jurisdiction in which the Applicant intends to operate or the Federal Highway Administration requires a special endorsement to be attached to the policy which increases the Company's liability, the Applicant agrees to reimburse the Company in accordance with the terms of that endorsement.

The Applicant agrees that any inspection of autos, vehicles, equipment, premises, operations, or inspection of any other matter relating to insurance that may be provided by the Company, is made for the use and benefit of the Company only, and is not to be relied upon by the Applicant or any other party in any respect.

The Applicant understands that an inquiry may be made into the character, finances, driving records, and other personal and business background information the Company deems necessary in determining whether to bind or maintain coverage. Upon written request, additional information will be provided to the Applicant regarding any investigation.

The Applicant represents that she/he has completed all relevant sections of this Application prior to execution and that the Applicant has personally signed below (or if Applicant is a Corporation, a corporate officer has signed below).

☐ Yes ☐ No Will premium be financed? If yes, with whom _____

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

Witness _____ Applicant's Signature _____ Date _____

Insured Contact Information

Name Stewart Larrabee
Phone Number _____
Email Address _____
Relationship Owner

Name _____
Phone Number _____
Email Address _____
Relationship _____

TO BE COMPLETED BY APPLICANT'S REPRESENTATIVE

☐ Yes ☐ No Is this direct business to your office? If not, explain _____

☐ Yes ☐ No Is this new business to your office? If not, how long have you had the account? _____

How long have you known applicant? _____

REQUEST TO COMPANY GENERAL AGENT:

☐ Please quote ☐ Please bind at earliest possible date and issue policy

☐ Please issue policy effective _____ (Time and Date Bound by General Agent) Coverage was bound by _____ (Name of Person in Company General Agency's Office Binding Coverage)

Applicant's Representative's Name and Address _____ Phone No. _____

Acknowledgment by an Individual

State of Arkansas

County of Washington

On this 20TH day of AUGUST, 2012, before me, Ted A. Bigbee the undersigned officer, personally appeared STEWARD LARRABEE known to me (or satisfactorily proven) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary's Signature
Ted A. Bigbee - Notary Public
My commission expires June 28, 2020
Commission No. 12376834

TED A. BIGBEE
WASHINGTON COUNTY
NOTARY PUBLIC - ARKANSAS
My Commission Expires June 28, 2020
Commission No. 12376834

Seal

Document Description: CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY APP.

Certificate of Public Convenience & Necessity Application/Renewal

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

STEWART LARRABEE — 2556 W. MT. COMFORT RD #10 FAYETTEVILLE AR 72704 — 954-829-7961
Applicant Name — Address — Phone Number

FAYETTEVILLE TAXI LC — DISPATCH NUMBER PENDING
Name of Business — Phone Number

PROPOSED DOWNTOWN OFFICE LOCATION PENDING - IF NEEDED
Business Location

2556 W. MT. COMFORT RD., #10, FAYETTEVILLE, AR 72704
Mailing Address

LC (SAME AS LLC)
Type of Business (Sole Proprietor, Corporation, LLC)

Name and address of all owners, officers and stockholders:

STEWART LARRABEE

Name of person to whom complaints should be directed:

STEWART LARRABEE

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

ATTACHED

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

NO KNOWN JUDGEMENTS - FAYETTEVILLE TAXI LC NEW COMPANY.

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

DRIVER AT DYNASTY TAXI LAST YEAR DURRING PEAK GAME SEASON, DRIVER AT GREEN CAB CO. PREVIOUS TO THAT, PERFORMED HEAVY DRIVING AS CONSTRUCTION PROJECT MANAGER, GOVERNMENT WORK.

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

INFORMATION WILL BE PROVIDED TO CITY COUNCIL IN PERSON, BASED ON; WAIT TIMES, CUSTOMER SERVICE, ADHERENCE, DUI FREQUENCY, AND OTHER INFORMATION. SOME WRITTEN SUPPORT ATTACHED. ⊛ (LETTERS OF TIM FARRELL & CHRIS VARGA)

List the number of vehicles that will be under your operation or control: STARTING WITH 1

Minimum and Maximum number of vehicles to be permitted: 1 (Minimum) 4 (Maximum)

List the location of proposed depots and terminals:

VARIOUS LOCATIONS AS NEEDED IN THE ENTERTAINMENT DISTRICT - INCLUDING DICKSON & WEST STREETS, DOWNTOWN, AND THE LIKE.

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

IN HONOR OF THE RAZORBACKS, RED & WHITE MARKINGS

List your days and hours of operation:

TO START - PEAK P.M. TIMES AS NEEDED, 6PM TO 4AM ANTICIPATED, AND GROWING TO 24 HRS; COVERAGE OF SPECIAL EVENTS

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

TBD - CHRISTMAS? HOWEVER, WILL BE "ON-CALL".

List your proposed passenger rate schedule:

PER CITY REQ. - CITY STANDARDS.

Police Department Representative **Date**

From: James Harter
To: Kelley, Jason
Date: 8/20/2012 3:32 PM
Subject: Re: Fayetteville Taxi LC

Mr. Kelley, Applicant Larrabee has already provided said notary and a more definitive description of his number of cabs. I have his paperwork in my office. How do you suggest I resubmit this paperwork?

>>> Jason Kelley 8/20/2012 12:01 PM >>>
I have reviewed the agenda item sent through on the Certificate of Public Convenience and Necessity for Fayetteville Taxi LC filed by Stewart Larrabee.

There are some deficiencies in the application. First, by ordinance, the application is to be verified under oath before a Notary (Fayetteville Code § 117.32(B)). This application form does not have that. Harter signed it, but that is unnecessary, and I recommend against us doing that. (It very well might be that our form is out of date and needs a revision, but I am looking at our current ordinance requirements and the application form as submitted.)

Second, the applicant says the minimum number of vehicles to be permitted is "1" with a maximum number of vehicles being "4+". I do not believe this is responsive in that "4+" could be anywhere from 4 to any number higher than that (really no limit). That will be an issue for the Council to decide.

Third, proof of current insurance will have to be shown before the City Clerk can issue the certificate, even if approved by the Council The insurance must contain a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before cancelling, failing to renew, or making a material change to the insurance policy. The application contains an insurance quote and a finance agreement for the premiums, but proof of actual coverage will still be required before a certificate can be issued.

I will go ahead and prepare a resolution for the Council to consider, but it is my opinion that Fayetteville Taxi LC needs to have their application notarized before it can be considered.

If you have any questions, let me know.

Jason K.

Jason B. Kelley
Assistant City Attorney
City of Fayetteville, Arkansas
113 W. Mountain St., Suite 302
Fayetteville, Arkansas 72701
Telephone (479) 575-8313
Facsimile (479) 575-8315
Email: jkelley@ci.fayetteville.ar.us
Website: www.accessfayetteville.org (http://www.accessfayetteville.org/)

From: James Harter
To: Kelley, Jason
Date: 8/20/2012 3:48 PM
Subject: Fwd: Re: Fayetteville Taxi LC

CC: Smith, Sondra
Yes sir. Thank you. I will forward the original onto the City Clerk's Office.

>>> Jason Kelley 8/20/2012 3:33 PM >>>
I would take it to the clerk's office and we can put it with the other packet.

JK

Jason B. Kelley
Assistant City Attorney
City of Fayetteville, Arkansas
113 W. Mountain St., Suite 302
Fayetteville, Arkansas 72701
Telephone (479) 575-8313
Facsimile (479) 575-8315
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City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

9/4/2012
City Council Meeting Date
Agenda Items Only

Vicki D. Deaton	Internal Audit	Internal Audit/General Government
Submitted By	**Division**	**Department**

Action Required:

Staff recommends approving the proposed ordinance, Article XXIV Audit Committee and Internal Auditor, into Chapter 33 Departments, Boards, Commissions and Authorities of the Code of Fayetteville.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Vicki D. Deaton — Department Director — 8/14/12 Date

Previous Ordinance or Resolution # Res 134-00

Original Contract Date:

Original Contract Number:

City Attorney — 8/14/12 Date

Paul A. Becker — Finance and Internal Services Director — 8-17-2012 Date

Received in City Clerk's Office 08-14-12P01:54 RCVD

Chief of Staff — 8-20-12 Date

Received in Mayor's Office ENTERED 8/14/12

Mayor — 8/21/12 Date

Comments:

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THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and the City Council

From: Vicki D. Deaton, Internal Auditor VD

Date: 8/7/12

Subject: Proposed Ordinance to enact Article XXIV Audit Committee and Internal Auditor into Chapter 33 Department, Boards, Commissions and Authorities of the Code of Fayetteville

PROPOSAL: Chapter 33 of the Code of Fayetteville details the establishment, administration, duties and responsibilities of various City boards, commissions, and committees. The Audit Committee was established in 2000 by Resolution No. 134-00. The resolution detailed the purpose, composition, meetings, and responsibilities and duties of the Audit Committee. This important committee and its work should be enacted into the Fayetteville Code to continue the City's efforts for transparency and accountability.

Alderman Ferrell requested that steps be taken to document the organizational structure of the Internal Audit Division and to empower the division to report directly to the City Council if audit, financial or accounting problems are not being timely and properly addressed. The proposed ordinance includes a section which approves and adopts the City of Fayetteville Internal Audit Division Charter. The Charter details the purpose, scope, authorities, organization and independence of the division. This is intended as another layer of security to ensure accountability and transparency in the City.

RECOMMENDATION: Staff recommends approving the proposed Ordinance to enact Article XXIV Audit Committee and Internal Auditor into Chapter 33 Department, Boards, Commissions and Authorities of the Code of Fayetteville.

BUDGET IMPACT: The ordinance will have no impact on the City budget.

ORDINANCE NO. _____

AN ORDINANCE TO ENACT ARTICLE XXIV **AUDIT COMMITTEE AND INTERNAL AUDITOR** INTO CHAPTER 33 **DEPARTMENTS, BOARDS, COMMISSIONS AND AUTHORITIES** OF THE CODE OF FAYETTEVILLE

WHEREAS, on October 3, 2000, the City Council passed and Mayor Hanna signed Resolution No. 134-00 to establish the Audit Committee and prescribed its duties and responsibilities; and

WHEREAS, the Audit Committee has admirably accomplished its vital purpose to advise the City Council and ensure all necessary audit functions, internal controls and compliance with governmental financial requirements continue to be fully achieved; and

WHEREAS, this important committee and its work with the City's Internal Auditor should be enacted into the Fayetteville Code to continue the City's efforts for transparency and accountability.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts Article XXIV **Audit Committee and Internal Auditor** into Chapter 33 **Departments, Boards, Commissions and Authorities** into the Code of Fayetteville as shown below:

"XXIV **Audit Committee and Internal Auditor**

"§33.360 **Establishment and Purpose**

The Audit Committee which was established by Resolution No. 134-00 remains established pursuant to this Article. Its purpose remains to serve in an advisory capacity between the City Council, the independent auditor, the Internal Auditor and City Administration concerning financial accounting and reporting, audit functions, internal

controls and compliance with governmental regulations. The Audit Committee shall ensure the independence of the independent auditor, the ability and responsibility of the Internal Auditor to report any concerns about finances or accounting to the Audit Committee, Administration and City Council, the integrity of the Administration and the adequacy of public disclosures. The Audit Committee shall, in conjunction with the external auditors, review the City's financial reports and information, the City's system of internal financial and accounting controls, and the City's compliance with governmental laws and regulations regarding financial matters.

§33.361 **Composition and Term**

The Audit Committee shall include one City Council member appointed by the Mayor and three citizens of Fayetteville, at least one of which shall be a Certified Public Accountant. The three citizens shall serve three year terms of office.

§33.362 **Meetings**

The Audit Committee shall meet at least three times annually, one of which must be with the independent auditor, Internal Auditor, and Administration to discuss the independent auditor's report and findings following its audit of the City.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby enacts §33.363 **Responsibilities and Duties** as previously required in Resolution No. 134-00 and shown in Exhibit A attached.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby enacts §33.364 **Internal Auditor** as shown below:

"§33.364 **Internal Auditor**.

The City of Fayetteville Internal Audit Division Charter (attached) is approved and adopted. Any amendments to such Charter must be approved by the Audit Committee with the revised Charter provided to the City Clerk. The desire and intent of the City Council is that the Internal Auditor shall report directly to the City Council if the Internal Auditor believes any audit, financial or accounting issue is not being properly and timely addressed by the Audit Committee, independent auditor or administrator."

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby revokes all previous ordinances and resolutions concerning the formation and duties of the Audit Committee to the extent that they conflict with this ordinance.

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

By: _____
LIONELD JORDAN, Mayor

ATTEST:

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

EXHIBIT "A"

§33.363. **Responsibilities and Duties.**

To fulfill its responsibilities and duties the Audit Committee shall:

(A) Review the Charter periodically and update as conditions dictate;

(B) Serve on the review committee to select the independent auditors. On an annual basis, the committee should review and discuss with the auditors all significant relationships the auditors have with the City to determine the auditor's independence. The annual independence review should include a review of all non-audit related consulting fees for nature of services and effect on independence; a review of any and all relationships between members of the audit firm and employees of the City; the obtaining of a formal written statement from the auditors as to their compliance with professional guidelines relating to independence; and discussion with the auditors regarding the firm's own internal controls over monitoring independence;

(C) Review the City's annual financial statements and related financial information, including any certification, report, opinion, or review rendered by the independent auditors and any changes in accounting principles or the application thereof;

(D) Review the performance of the independent auditors. Annually, clarify with the independent auditors that the auditors are ultimately accountable to the City Council and that the City Council has ultimate power in the appointment or removal of the independent auditors;

(E) Periodically consult with the independent auditors, outside the presence of management, regarding internal controls and the completeness and accuracy of the organization's financial statements and related disclosures;

(F) In conjunction with the external auditors, review with financial and accounting personnel and the Internal Auditor the adequacy and effectiveness of the accounting and financial controls of the City, including controls over data processing activities and functions. Approve recommendations for the improvement of such internal control procedures;

(G) Establish regular reporting to the Audit Committee by management, the Internal Auditor and the independent auditors regarding any significant judgments made in financial management's preparation of the financial statements and the view of each to the appropriateness of such judgments; and

(H). Following completion of the annual audit, review with management and the independent auditors financial statements and supplemental disclosures required by generally accepted accounting principles;

1. The City's Comprehensive Annual Financial Report, including the financial statements and supplemental disclosures required by generally accepted accounting principles;

2. Significant transactions not a normal part of the City's operations;

3. Selection of, and changes, if any, during the year in the City's accounting principles or their application;

4. Significant adjustments proposed by the independent auditor's conclusions regarding the reasonableness of those estimates;

5. Any disagreements between the independent auditor and management about matters that could be significant to the City's financial statements or the auditor's report;

6. Difficulties encountered in performances of the audit;

7. Evaluate the cooperation received by the independent auditor during its audit including its access to all requested records, data and information. Also, elicit the comments of management regarding the responsiveness of the independent auditor to the City's needs. Inquire as to whether there have been any disagreements with management that, if not satisfactorily resolved, would have caused the independent auditor to issue a nonstandard report on the City's financial statements.

(I) Advise the City Council on any issues reported by the Internal Auditor and recommendations to improve or correct any situations brought to the Committee's attention by the Internal Auditor;

(J) Perform any other activities consistent with the City's governing law, as the City Council deems necessary or appropriate.

City of Fayetteville Internal Audit Division Charter

Introduction:

Internal Auditing is an independent and objective assurance and consulting activity that is guided by a philosophy of adding value to improve the operations of the City of Fayetteville. It assists the City in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of the City's risk management, control, and governance processes.

Role:

The City of Fayetteville Internal Audit Division is established by the City Council, and its responsibilities are defined by the Audit Committee of the City of Fayetteville and the City Council as part of their oversight function.

Policies and Procedures:

The Internal Audit Division will adhere to City of Fayetteville policies and procedures, and specifically Policy and Procedure IC-01, Internal Auditing Procedure, and the City of Fayetteville Internal Audit Standard Operating Procedures. The Internal Audit Division will apply the *International Standards for the Professional Practice of Internal Auditing* as possible in a single staff Internal Audit Division.

Authority:

Authority is granted for full, free, and unrestricted access by the Internal Audit Division to any and all City of Fayetteville records, physical properties, and personnel relevant to any function under review. All City of Fayetteville employees are requested to assist the Internal Audit Division in fulfilling it's role. The Internal Audit Division shall also have free and unrestricted access to the City Council and the Audit Committee.

Documents and information given to the Internal Audit Division during a periodic review will be handled in the same prudent and confidential manner as by those employees normally accountable for them.

Organization:

The Internal Audit Division shall report administratively to the Mayor for assistance in establishing direction, support, and administrative interface; and functionally through the Audit Committee to the City Council for strategic direction, reinforcement, and accountability. The Internal Audit Division shall meet with the Audit Committee at least four times annually.

Independence:

All Internal Audit Division activities shall remain free of influence by any element in the organization, including matters of audit selection, scope, procedures, frequency, timing,

or report content to permit maintenance of an independent and objective mental attitude necessary in rendering reports.

The Internal Audit Division shall have no direct operational responsibility or authority over any of the activities reviewed. Accordingly, the Division shall not develop nor install systems or procedures, prepare records, or engage in any other activity which would normally be audited.

Audit Scope:

The scope of the Internal Audit Division encompasses the examination and evaluation of the adequacy and effectiveness of the City's governance, risk management process, system of internal control structure, and the quality of performance in carrying out assigned responsibilities to achieve the City's stated goals and objectives. It includes:

- Reviewing the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- Reviewing the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations which could have a significant impact on operations and reports and whether the City is in compliance.
- Reviewing the means of safeguarding assets and, as appropriate, verifying the existence of such assets.
- Reviewing and appraising the economy and efficiency with which resources are employed.
- Reviewing operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.
- Reviewing specific operations at the request of the Audit Committee, the City Council, or management, as appropriate.
- Monitoring and evaluating the effectiveness of the City's risk management system.
- Reviewing the quality of performance of external auditors and the degree of coordination with the Internal Audit Division.
- Reviewing the internal control statement by senior management, contained in the Letter of Transmittal of the Comprehensive Annual Financial Report, and the related opinion and comments by the attest auditor for audit planning.

Audit Planning:

Annually, the Internal Audit Division shall submit to senior management, the Audit Committee, and the City Council, a summary of the audit work plan and budget for the following fiscal year. The audit work plan is to be developed based on a prioritization of audit tasks using a risk-based methodology. Any significant deviation from the formally approved work plan shall be communicated to senior management, the Audit Committee, and the City Council through periodic activity reports.

Reporting:

A written report will be prepared by the Internal Audit Division and issued through the Mayor and/or his designee following the conclusion of each audit. All reports will be distributed to the Audit Committee, and as appropriate or as instructed by the Audit Committee, to the City Council. Other than these groups, reports will be distributed to City management and staff as determined by the Internal Audit Division.

The Internal Audit Division may include in the audit report the auditee's response and corrective action taken or to be taken in regard to specific findings and recommendations. Management's response should include a timetable for anticipated completion of action to be taken and an explanation for any recommendations not addressed.

Periodic Assessment:

The Internal Audit Division should periodically assess whether the purpose, authority, and responsibility, as defined in this charter, continue to be adequate to enable the Internal Audit Division to accomplish its objectives. The result of this periodic assessment should be communicated to senior management, the Audit Committee, and the City Council.

Approved this _____ day of _____, _____.

Finance and Internal Services Director

Mayor

Chief of Staff

City Council Representative to the Audit Committee

Chairman of the Audit Committee

Internal Audit Division Director

City of Fayetteville Staff Review Form

City Council Agenda Items and Contracts, Leases or Agreements

9/4/2012
City Council Meeting Date
Agenda Items Only

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

Action Required:

Approval of an ordinance amending Chapter 166.04 (I)(ii)(g) Fee-in-lieu formulas.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director	8-15-12 Date	Previous Ordinance or Resolution #
City Attorney	8-14-12 Date	Original Contract Date: / Original Contract Number:
Finance and Internal Services Director	8-15-2012 Date	Received in City Clerk's Office 08-14-12 P01:49 RCVD Kim G.
Chief of Staff	8-15-12 Date	Received in Mayor's Office ENTERED 8/14/12
Mayor	8/15/12 Date	

Comments:

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan, City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director C.E.

From: Alison Jumper, Park Planning Superintendent AJ

Date: August 13, 2012

Subject: Park Land Dedication Ordinance Update

PROPOSAL:
Chapter 166.04 (I)(ii)(g) of the Unified Development Code (UDC) requires the Parks Department to review the park land dedication contribution formula every two years and make recommendations to the City Council. The last major change to the formula occurred in 2006 when the cost per acre of land was increased from $23,125 to $40,000 per acre.

Current Park Land Dedication Formula
Updated 2006

Housing Type	Persons/unit	Acres/1,000 Pop.	Acres/unit	Cost/acre	Fee in lieu/unit
Single Family	2.39	10	.024	$40,000	$960
Multi-Family	1.7	10	.017	$40,000	$680

In February, Park Staff analyzed data received from the Washington County Assessor's office and Northwest Arkansas Regional Planning Commission and recommended the following updates to Parks and Recreation Advisory Board (PRAB),

1) Update the cost per acre of land from $40,000 to $42,800.
2) Update the persons per unit to 2.3 for single family units and 1.4 for multi-family units.

PRAB forwarded their recommendation of approval of the above changes to the Planning Commission. Planning Commission also recommended approving the changes to the City Council (7-1-0). However, questions were raised at the Planning Commission meeting that warranted further research. Chief of Staff and Park Staff met with the County Assessor, discussed options for determining the most accurate cost of land per acre and ultimately decided for the Assessor to directly submit his calculation since he is more familiar with determining land values than Park Staff. The Assessor's official value was $37,481/ acre of non-subdivided land. Since the cost was so close to the current fee of $40,000/acre, staff reconsidered updating the formula at this point and reviewed the findings with PRAB again in June. Additionally, Kit Williams recommended in his memo dated July 31 (see attached) for the persons per unit to be updated to accurately affect the current population distribution between single and multi-family housing units.

RECOMMENDATION:
Staff recommends keeping the cost per acre at $40,000 and updating the persons per unit figure as provided by Northwest Arkansas Planning Commission from 2.39 for Single Family and 1.7 for Multi-family to 2.32 for Single Family and 1.39 for Multi-family. See current and proposed charts below.

Proposed Park Land Dedication Formula

Housing Type	Persons/unit	Acres/1,000 Pop.	Acres/unit	Cost/acre	Fee in lieu/unit
Single Family	2.32	10	.023	$40,000	$920
Multi-Family	1.39	10	.014	$40,000	$560

This would decrease the single family cost by $40 per unit and the multi-family cost by $120. Park Staff will review the cost of land again next year as the Parks and Recreation Advisory Board recommended.

BUDGET IMPACT:
This will decrease the per unit requirements of the Park Land Dedication Fund for both the fee-in-lieu and the acres of land. The exact impact can not be determined since it is unknown when the developments are coming into the system.

Attachments:
Staff Review Form
Memo from Kit Williams 7-31-12

ORDINANCE NO. _____

AN ORDINANCE AMENDING SUBSECTION 166.04(l)(ii)(g) OF CHAPTER 166 DEVELOPMENT OF THE UNIFIED DEVELOPMENT CODE TO CHANGE THE FEE-IN-LIEU FORMULAS RELATED TO PARKLAND DEDICATIONS

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 Subsection 166.04(l)(ii)(g) of Chapter 166 Development of the Unified Development Code so that, after amendment, the subsection shall read as follows:

"g. *Fee-in-lieu formulas*. A contribution in lieu of land dedication shall be made according to the following formula:

$920.00 for each single-family unit

$560.00 for each multi-family unit based upon actual density.

The Parks Department shall review the contribution formula every two (2) years and make recommendations to the City Council following such review."

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED: ATTEST:

By: _____ By: _____

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

Fayetteville ARKANSAS
www.accessfayetteville.org

Departmental Correspondence

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
City Council
Don Marr, Chief of Staff
Connie Edmonston, Parks & Recreation Director
Alison Jumper, Park Planning Superintendent

FROM: **Kit Williams**, City Attorney

DATE: **July 31, 2012**

RE: **Parkland Dedication Ordinance**

Our Parkland Dedication Ordinance is an impact fee ordinance that was specifically grandfathered in the Impact Fee Statute. We need to ensure it remains consistent with the statutory and constitutional requirements for such impact fees. The most important of these factors is that it does not charge more than what the City Council long ago decided was a fair and reasonable amount needed to offset new residential demands for parkland.

The City can safely undercharge for the Parkland Dedication, but it cannot overcharge without risking the impact fee becoming a tax which cannot be imposed by the City Council, but must be approved by a public vote. *Harris v. Little Rock*, 344 Ark. 95, 40 S.W. 3d 214, 221 (2001).

It is clear from Alison Jumper's excellent memo that all of our analysis shows that the multifamily rate is currently higher than it should be. Using the City's original analysis of raw land values, the apartment rate is $81 too high (12% too much). Using the County Assessor's analysis of land values of $37,481 per acre, the apartment rate would be $525. This is $155 per unit too high (23% too much). I do not believe this is legally acceptable.

If the City is unsure whether to use its increased figure for land values ($42,800) or the County Assessor's valuation ($37,481), it is probably okay to keep the $40,000 land value figure (which basically splits the difference between these two figures) and review it next year as the Parks and Recreation Advisory Board recommended.

However, unless we doubt the per person rate for single family homes and apartments supplied by the Northwest Arkansas Regional Planning Commission, these new persons per unit rates should be applied which will result in slightly smaller money in lieu of parkland dedication rates: $920 per unit for single family housing and $560 per unit for multifamily housing.

I recommend these figures be used to ensure the City of Fayetteville does not charge more than is fair, reasonable and legally supportable in Court.

AGENDA REQUEST

FOR: COUNCIL MEETING OF AUGUST 21, 2012

FROM:

ALDERMAN ADELLA GRAY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve The Extension Of The City's Sewerage System Beyond The City Limits To The Proposed Hughmount Village Development

APPROVED FOR AGENDA:

Adella Gray, Alderman — 8-2-12 Date

City Attorney (as to form) — 8-2-2012 Date

08-02-12P04:52 RCVD
Kim G.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO THE PROPOSED HUGHMOUNT VILLAGE DEVELOPMENT

WHEREAS, §51.113 **Sewer Service and Extension Policy** states that "the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council," and;

WHEREAS, the City Council does approve of extending city sewer service to Hughmount Village.

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 extension of the City's sewerage system beyond the city limits to the proposed Hughmount Village Development.

PASSED and **APPROVED** this 21st day of August, 2012.

APPROVED: ATTEST:

By: _____ By: _____

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

$70.00 per living unit for other water service point.

(6) In the event a property owner requests that water service not be provided after a water connection is made and the extension fee and tap fee prescribed by subsection (E)(5) above are paid, said property owner shall pay a dry-tap charge of $6.00 per month for each month after October 1, 1976 until such time as water service is activated.

(7) A house number must be permanently displayed in a manner clearly visible from a street before service calls will be made by the city. In the event a service call is made and the house number is not displayed in the above manner, the property owner shall be assessed a fee of $5.00.

(Code 1965, §21-16; Ord. No. 1761, 9-9-70; Ord. No. 1964, 12-4-73; Ord. No. 2233, 6-1-76; Ord. No. 2896, 2-15-83; Code 1991, §51.112)

51.113 Sewer Service And Extension Policy

The policies of the city concerning and regarding the sewer system, shall be as follows:

(A) (1) It shall be the policy of the city to maintain and operate a municipal sewer system capable of collecting waste water from the city's sewer customers and treating such water for disposal into natural water courses.

(2) To sustain and expand the municipal sewer system the city shall assume the expense of treating the waste water together with the operation and maintenance of the collection lines and appurtenances.

(3) Construction of major collection lines shall be made in accordance with sewer system improvement and expansion programs and plans adopted by the City Council to better serve existing customers and to make the sewer system available to new customers and land development. Priorities for such improvement and extension shall be established by the City Council on the basis of need and the city's financial ability.

(B) *Extensions to and within subdivisions.* The cost of extending sewer lines from existing mains to subdivisions and other land developments and the cost of constructing sewerage facilities within subdivisions as prescribed in subdivision regulations and according to specifications and location prescribed by the water and wastewater director shall be the financial responsibility of the developer; however, the city shall pay the excess material cost of facilities of a size larger than required to serve subdivisions when such excess size is specified and required by the water and wastewater director for the general benefit of the sewerage system. All sewer facilities financed by the developer shall become the property of the city after inspection and acceptance by the water and wastewater director.

(C) *Sewer extensions outside the city.* Except for facilities needed to serve property within the city's limits, such as major transmission lines and pump stations to deliver sewage to disposal sites, and except through contractual arrangements with other municipal corporations, the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council.

(Code 1965, §21-17; Ord. No. 1762, 9-9-70; Ord. No. 2896, 2-15-83; Code 1991, §51.113)

51.114 Water, Sewer Tap Connection Fees

(A) All service connections made on city owned water and sewer mains shall be made by the Water and Sewer Division. Such connections shall be made upon payment to the city of the following fees:

Fee Description	INSIDE CITY	OUTSIDE CITY
5/8" Water	$ 425.00	$ 475.00
5/8" Double Water	475.00	525.00
1" Water	525.00	575.00
2" Water	1200.00	1250.00
4" Sewer	425.00	----------
6" Sewer	625.00	----------
City Street Cut	575.00	575.00
City Street Bore	225.00	225.00
State Hwy Permit	125.00	125.00
State Hwy Bore	425.00	425.00
State Hwy Cut	1225.00	1225.00

From: "Adella Gray" <adellag@cox.net>
To: "'Kit Williams'" <kwilliams@ci.fayetteville.ar.us>
Date: 7/29/2012 6:45 PM
Subject: FW: Hughmount Village

Kit,
I'd like to bring this to the Council. Could you please draw up the ordinance for me?
Thanks,
Adella

From: Phil Phillips [mailto:phil@aadvan.com]
Sent: Monday, July 23, 2012 9:35 AM
To: adellag@cox.net
Subject: Hughmount Village

Mrs. Adela Gray

Alderman Ward 1, Position 1

City of Fayetteville, AR

Dear Mrs. Gray,

I wanted to thank you for giving of your time to go look first hand at the possibilities at Hughmount Village.

I understand that decisions like this are hard on everyone and I trust that whatever you and the other members of the

Council decide will be the right decision for Fayetteville and the future of the West side of town.

I would like to ask that you please recommend our request to be placed on the City Council Agenda for August 21, 2012,

So that we can present our request for connection to the city sewer for Hughmount Village Sub-division to the full Council.

Respectfully,

Phil Phillips Jr

479-717-2912 office

479-957-5420 cell

phil@aadvan.com

Agenda Session 8/28/12

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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
September 04, 2012

A meeting of the Fayetteville City Council will be held on September 04, 2012 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 August 21, 2012 City Council meeting minutes.

2. **Lifesource International Lease Agreement:** A resolution approving a lease agreement with Lifesource International for premises located at 1932 S. Garland Avenue in exchange for services to the citizens of Fayetteville.

3. **Fayetteville Police Department Policies:** A resolution approving Fayetteville Police Department policies 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 41.1.1 Patrol, 41.2.8 Vehicular Pursuit, 41.3.5 Grooming and Uniform Requirements, 54.1.1 Public Information Policy, and 46.1.1 Critical Incidents.

Move to NB #1

4. **2012 Arkansas Department of Environmental Quality E-Waste Grant:** A resolution approving application for a 2012 Arkansas Department of Environmental Quality E-Waste Grant of $25,000.00 for an E-Waste coupon redemption program.

5. **Allied Waste Services of Bella Vista:** A resolution approving one (1) year extension agreement with Allied Waste Services of Bella Vista to haul and dispose of solid waste and recycling in the City.

6. **Bid #12-65 Benchmark Construction of NWA, Inc.:** A resolution awarding Bid #12-65 and authorizing a contract with Benchmark Construction of NWA, Inc. in the amount of $335,230.42 for installation of a concrete pad and associated work at the City solid waste and recycling facility, approving a project contingency of $33,523.04, and approving a budget adjustment.

7. **Solid Waste Hauling and Disposal Fees:** A resolution approving a budget adjustment in the amount of $303,598.00 to provide funding for solid waste hauling and disposal fees.

8. **Keep Fayetteville Beautiful Committee:** A resolution authorizing the Mayor to appoint up to seven (7) persons to serve at the pleasure of the Mayor as a Keep Fayetteville Beautiful Committee to facilitate creation of a Keep Fayetteville Beautiful affiliate to work in coordination with Keep Arkansas Beautiful and Keep America Beautiful, and sunsetting the authorization for this committee upon incorporation of a private non-profit organization.

B. Unfinished Business:

1. **ADM 12-4144 3078 N. College Ave. Siebert Appeal:** A resolution to reverse the Planning Commission's decision to grant and thereby to deny the variance to Eric Siebert to operate his Shave the Planet business longer than 90 days as an outdoor mobile vendor. ***This resolution was Tabled at the July 03, 2012 City Council meeting to the September 04, 2012 City Council meeting.***

2. **Amerlux Exterior, LLC:** An ordinance waiving the requirements of formal competitive bidding and approving an agreement with for the purchase of seventeen (17) streetlight poles and fixtures manufactured by Dynamic Lighting, Inc. in the total amount of $28,415.93 for installation on downtown improvement projects along Mountain Street, College Avenue, Center Street, East Avenue and Meadow Street. ***This ordinance was left on the First reading at the August 21, 2012 City Council meeting.***

Left on the First Reading.

Add: Amend 154.03 Private Parties / Zoning Amendment - rec'd (Attorney General Opinion.)

C. Public Hearing:

1. **Fayetteville Taxi LC, Public Convenience Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Fayetteville Taxi LC for the operation of one (1) to four (4) taxicabs in the City of Fayetteville.

D. New Business:

1. **Enact Article XXIV Audit Committee and Internal Auditor:** An ordinance to enact Article XXIV Audit Committee and Internal Auditor into Chapter 33 Departments, Boards, Commission and Authorities of the Code of Fayetteville.

2. **Amend Chapter 166.04 Required Infrastructure Improvements – Development in City Limits:** An ordinance amending subsection 166.04(l)(ii)(g) of Chapter 166 Development of the Unified Development Code to change the fee-in-lieu formulas related to parkland dedications.

Need map of Project & Location – Kim Hesse

3. **Hughmount Village Development Sewer Extension:** A resolution to approve the extension of the City's sewerage system beyond the city limits to the proposed Hughmount Village Development.

Note: Resoultion may be amended at the City Council meeting.

E. City Council Agenda Session Presentations:

City Council Tour:

Announcements:

Adjournment:

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> **Old business and new business.**
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Pre Agenda Meeting 8/22/12

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City Clerk Sondra Smith

Aldermen

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move to consent #8

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and restricting the appropriation and expenditure of City Funds and usage of city labor toward any non-profit purpose associated with Keep Fayetteville Beautiful other than as consideration in a contract for public services.

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Remove from Agenda

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