



AGENDA

**FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING**

OCTOBER 19, 2010 ~ 6:00 P.M.

**FORT SMITH PUBLIC SCHOOLS
SERVICE CENTER
3205 JENNY LIND ROAD**

THIS MEETING IS BEING TELECAST LIVE ON THE CITY CABLE ACCESS CHANNEL 6

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

**PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF
BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING**
(Section 2-37 of Ordinance No. 24-10)

APPROVE MINUTES OF THE OCTOBER 5, 2010 REGULAR MEETING

ITEMS OF BUSINESS:

1. Resolution authorizing the City of Fort Smith's participation in First Lady Michelle Obama's "*LET'S MOVE!*" campaign to solve the problem of childhood obesity
2. Consent Agenda
 - A. Resolution authorizing Change Order No. 1 to the contract for the construction of a parking lot at 115 North 2nd Street (\$6,195.00 decrease)
 - B. Resolution accepting completion of and authorizing final payment for the construction of a parking lot at 115 North 2nd Street (\$115,230.00)
 - C. Resolution to accept the bids and authorize a contract for the construction of Drainage Improvements, Phase I, Project No. 10-06-B (\$678,400.25)
 - D. Resolution opposing proposed legislative changes which would affect the City of Fort Smith's ability to self-insure for workers' compensation coverage

- E. Resolution authorizing the extension of the lease agreement with Produce Row Development, LLC at an agreed amended rental
- F. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$903,748.68)
- G. Resolution authorizing the Mayor to execute an amendment to the agreement with Burns & McDonnell Engineering, Inc. for the water and sewer rate and development impact fee study (\$25,000.00)
- H. Resolution authorizing the City Administrator to accept an offer made by property owner for the acquisition of real property interests for the Lake Fort Smith Water Supply Project (\$12,500.00)
- I. Resolution accepting the project as complete and authorizing final payment to Mid-America Environmental for the Lee Creek Water Treatment Plant Residuals Lagoon Cleaning (\$177,121.59)
- J. Resolution authorizing the Mayor to execute an agreement with Hawkins-Weir Engineers, Inc. for engineering services associated with the Highway 45 and Zero Water & Sewer Relocation (\$99,000.00)

**OFFICIALS FORUM ~ presentation of information requiring no official action
(Section 2-36 of Ordinance No. 24-10)**

- A. Mayor
- B. Directors
- C. City Administrator

EXECUTIVE SESSION

Appointments: Advertising and Promotion Commission (1)
Audit Advisory Committee (4)
Building Board of Adjustments and Appeals (1)

**CITIZENS FORUM ~ presentation of information by citizens ~ an opportunity for citizens to present matters to the Mayor and Board of Directors which involve the city government and are not directly related to items considered on the agenda for this meeting. *Presentations are limited to 2 minutes for each citizen*
(Section 2-44(b) of Ordinance No. 24-10)**

ADJOURN

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY OF FORT SMITH'S PARTICIPATION
IN FIRST LADY MICHELLE OBAMA'S LET'S MOVE! CAMPAIGN
TO SOLVE THE PROBLEM OF CHILDHOOD OBESITY**

WHEREAS, childhood obesity is an increasing problem in the United States which affects the health and welfare of the nation's children; and

WHEREAS, First Lady Michelle Obama is calling on mayors and elected officials across the country to join her *Let's Move!* campaign to solve the problem of childhood obesity;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas that:

The City of Fort Smith hereby joins First Lady Michelle Obama's *Let's Move!* campaign to solve the problem of childhood obesity. City Director _____ is hereby designated as Fort Smith's elected official leading the effort. The City Administrator and his staff are hereby authorized to submit plans and updates for participation in the *Let's Move!* campaign and to collaborate with other stakeholders who may support Fort Smith's participation in the campaign.

This Resolution passed this _____ day of October, 2010.

Mayor

ATTEST:

APPROVED AS TO FORM

City Clerk



No Publication Required



MEMORANDUM

October 15, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: *Let's Move!* Campaign

At the October 5th board of directors meeting, the board requested a resolution authorizing Fort Smith's participation in First Lady Michelle Obama's *Let's Move!* campaign. The campaign seeks to solve the problem of childhood obesity. Information about the campaign is attached.

Attached for the board's consideration is a resolution authorizing participation in the *Let's Move!* campaign. The application to participate in the campaign requires the designation of an elected official who's leading the effort. The resolution has a blank for the board to name this official. Following passage of the resolution, the staff will prepare the plan and updates necessary for participation in the campaign.

Ray

Attachment



LET'S MOVE *Cities & Towns*

WWW.LETSMOVE.GOV

Become a Let's Move City or Town

The First Lady is calling on mayors and elected officials across the country to join her *Let's Move!* campaign. *Let's Move Cities and Towns* engages mayors and other municipal leaders in the campaign to solve the problem of childhood obesity within a generation. *Let's Move Cities and Towns* emphasizes the unique ability of communities to solve the challenge locally, and the critical leadership mayors and elected officials can provide to bring communities together and spur action.

Let's Move! for cities and towns is designed to encourage mayors and elected officials to adopt a long-term, sustainable, and holistic approach to fight childhood obesity. This initiative recognizes that every city is different, and every town will require a distinct approach to the issue. Once an elected official signs up as a prospective *Let's Move City* or a *Let's Move Town*, he or she will choose at least one significant action to take over the following twelve months in each of the four pillar areas:

1. Help Parents Make Healthy Family Choices
2. Create Healthy Schools
3. Provide Access to Healthy and Affordable Food
4. Promote Physical Activity

Requirements:

Let's Move Cities and Towns must submit a first quarter and end-of-year update, describing the city's or town's plan, timeline, and actions. These reports will be posted online. Then, a city or town may become a *Let's Move City* or *Let's Move Town*.

Let's Move Cities and Towns for a given year may be recognized in the following ways:

- *Let's Move!* Intergovernmental Affairs representatives will seek out cities and towns to highlight and celebrate initiatives
- Accomplishments and ideas for future action may be highlighted on the *Let's Move!* website
- Mayors from *Let's Move Cities and Towns* will be invited to participate in conference calls with White House and federal agency staff to share ideas, discuss barriers, celebrate progress
- *Let's Move Cities and Towns* will receive a certificate of acknowledgement confirming qualification as a *Let's Move City* or *Let's Move Town*
- Mayors from *Let's Move Cities and Towns* may be invited to attend events to celebrate collective success in combating childhood obesity

A Call to Action

Over the past three decades, childhood obesity rates in America have tripled, and today, nearly one in three children in America are overweight or obese. One-third of all children born in 2000 or later will suffer from diabetes at some point in their lives; many others will face chronic obesity-related health problems like heart disease, high blood pressure, cancer, and asthma. A recent study put the health care costs of obesity-related diseases at \$147 billion per year. This epidemic also impacts the nation's security, as obesity is now one of the most common disqualifiers for military service.

In an address to mayors in January, 2010, First Lady Michelle Obama called them to take a leadership role in the *Let's Move!* campaign to solve the epidemic of childhood obesity within a generation. "The idea here is very simple: to put in place common sense, innovative solutions that empower families and communities to make healthy decisions for their kids," stated Mrs. Obama.

Steps for Mayors and Elected Officials

To become a prospective *Let's Move City* or *Let's Move Town*, mayors and elected officials can make an impact by:

1. **Helping Parents Make Healthy Family Choices:** Offer parents tools, support, and information to make healthier choices for their families.
2. **Improving the Health of Schools:** Promote healthier food in schools
3. **Increasing Physical Activity Opportunities:** Promote physical activity in your schools, city, or town
4. **Making Healthy Food Affordable and Accessible:** Eliminate food deserts in your community and improve the affordability of healthy food

Mayors and elected officials are encouraged to take action in each of the four areas. The following pages outline ideas for strategies and programs to take a leadership role. These are some ideas to get started—this program should be tailored to the characteristics and needs of the particular city or town. *Let's Move Cities and Towns* welcomes your ideas, input, and feedback on efforts that are really working and those that aren't. Mayors and elected officials can be the leaders on this effort across the country and with all of us working together, this problem can be solved.

1. Help Parents Make Healthy Family Choices

Parents play a key role in making healthy choices for their children and teaching their children to make healthy choices for themselves. In today's busy world, this isn't always easy.

Mayors and elected officials can offer parents the tools, support, and information they need to make healthier choices for their families in the following ways:

- Launch a city website with information for parents on healthy living.
- Create a healthy food promotional campaign, and offer a "healthy eating" designation to restaurants who offer healthier food and beverages and reasonably-sized portions.

- Form a community coalition tasked with identifying local barriers to healthy living.
- Promote local community organizations that provide access to healthy activities.
- Through public service announcements and community events:
 - Serve as a role model in your own community by adopting a healthy lifestyle.
 - Encourage parents to become healthy role models for their children.
 - Encourage parents to help children get off to a good start by promoting breastfeeding.

2. Improve the Health of Schools

More than 31 million children participate in the National School Lunch Program, more than 11 million participate in the National School Breakfast Program, and many children are consuming up to half of their daily calories at school. As families work to ensure that kids eat right and have active play at home, mayors and elected officials can take steps to ensure kids have access to healthy meals in schools.

The Healthier US Schools Challenge establishes rigorous criteria for schools' food quality, participation in meal programs, physical activity, physical education, and nutrition education—the key components that make for healthy and active kids—and provides recognition for schools that meet these criteria.

Over the next school year, the U.S. Department of Agriculture, working with partners in schools and the private sector, is committed to doubling the number of schools that meet the Healthier US Schools Challenge and adding 1,000 schools per year for two years after that.

Mayors and local officials can promote healthier food in schools in the following ways:

- Encourage local school districts to participate in the Healthier US School Challenge.
- Encourage all schools to provide a school breakfast program.
- Support the development of a summer food service program.
- Support upgrades or exchanges of school cafeteria equipment. For example, swap out a deep fryer for a salad bar.
- Promote the expansion or improvement of nutrition education in schools.
- Work to ensure that school cafeterias are designed to encourage children to choose healthier snacks and meals, including a free or reduced price lunch or breakfast.
- Promote school gardens.
- Promote farm to school programs and the incorporation of fresh food into school meals.
- Encourage participation in school lunch and breakfast programs to address the needs of low-income children.
- Encourage schools to implement the nutritional standards recommended by the Institute of Medicine for foods sold outside of school meals and in vending machines.
- Promote healthy food in other facilities where young people are being educated, including juvenile correction.



3. Increase Physical Activity Opportunities

Children need 60 minutes of active play each day. Yet only a third of high school students get the recommended levels of physical activity, and the average American child spends more than 7.5 hours a day watching TV and movies, using cell phones and computers, and playing video games. Through public-private partnerships, and reforms of existing programs, Mayors and community leaders can help address this imbalance.

Mayors and community leaders can promote increased physical activity in the following ways:

- Participate, and encourage other groups and organizations to participate, in the Presidential Active Lifestyle Award program.
- Establish a local fitness challenge that sets goals for physical activity.
- Encourage daily, high-quality physical education for students in kindergarten through grade 12 (150 minutes per week for elementary schools and 225 minutes per week for secondary schools)
- Encourage schools to incorporate daily recess, in addition to physical education classes.
- Work with school officials to develop joint-use agreements so that community residents can use school facilities for physical activity, and school officials and students can use community facilities for physical activity.
- Build physical activity into classroom lessons.
- Encourage schools to offer physical activity opportunities before or after school hours.
- Promote safe routes to school.
- Incorporate physical activity into the planning and design of every physical improvement to the city—from municipal buildings and new parks to streets and sidewalks.
- Incorporate pedestrian and bicycle lanes into street development.
- Promote spaces for community members to be active—including parks and green space, outdoor sports fields and facilities, walking and biking trails, public pools, and community playgrounds—and prioritize the development of these spaces in underserved areas.
- Enhance public safety near parks and other public spaces.
- Develop a “park deserts map” that indicates the distance from population centers to parks and green spaces.
- Offer physically active intramural sports for students of all skill levels and make sure that it is free and affordable for all children.
- Foster partnerships within the community among schools, business, and nonprofit organizations to encourage physical activity.
- Join with amateur and professional sports teams to promote physical activity.

4. Make Healthy Food Affordable and Accessible

More than 23 million Americans, including 6.5 million children, live in low-income urban and rural neighborhoods that are more than a mile from a supermarket. These communities, where access to affordable, quality, nutritious food is lacking are also known as food deserts. Lack of access is one reason why many children are not eating recommended levels of fruits, vegetables, and whole grains. Food insecurity and hunger among children is widespread. A recent USDA report showed that in 2008, an estimated 49 million people, including 17 million children, lived in households that experienced hunger multiple times throughout the year.

Mayors and municipal officials can expand the availability of affordable, healthy food in their communities by taking the following steps:

- Offer incentives to new and/or existing food retailers to offer healthier food and beverage choices in underserved areas.
- Pass food policies that require food and beverages purchased with government funds to meet certain nutrition standards.
- Support the sale of local foods across the community by offering incentives and encouraging the establishment of farmers' markets.
 - Encourage local food retailers and farmers markets to accept SNAP (food stamps) and WIC Program benefits.
 - Encourage local foundations to sponsor Electronic Benefit Transfer matching programs at farmers markets.
- Establish a policy to apply nutrition standards to all food sold (e.g., meal menus and vending machines) within local government facilities.
- Require access to free and safe drinking water in public places.
- Ensure that residents can access healthy and affordable food through public transportation—by realigning bus routes, providing free shuttles, or other means.
- Promote policies that support and protect community gardens. For example, mayors can work with local neighborhoods to convert blighted areas into green spaces that can be used for community gardens.
- Connect families with nutrition programs like SNAP and the emergency food system.
- Form a local food policy council or participate in an existing one.

Resources

For more ideas, strategies and guides, take advantage of these recommended resources:

1. Action Strategies for Healthy Communities
The Robert Wood Johnson Foundation Leadership for Healthy Communities
<http://www.leadershipforhealthycommunities.org/content/view/352/154>
2. "Combating Childhood Obesity" Action Plan for Municipal Leaders
The National League of Cities
http://www.nlc.org/ASSETS/FC9AD61015584D1789198583E6C888E8/YEF_Action_Kit_Childhood_Obesity.pdf
3. Local Government Actions to Prevent Childhood Obesity
National Academies, Institute of Medicine
<http://www.iom.edu/Reports/2009/ChildhoodObesityPreventionLocalGovernments.asp>
4. Mayors Guide to Fighting Childhood Obesity
The U.S. Conference of Mayors
<http://usmayors.org/chhs/healthycities/documents/guide-200908.pdf>
5. Recommended Community Strategies and Measurements to Prevent Obesity in the United States
Centers for Disease Control and Prevention
<http://www.cdc.gov/mmwr/pdf/rr/rr5807.pdf>



LET'S MOVE *Cities & Towns*

WWW.LETSMOVE.GOV

Sign Up to be a Let's Move City or Town

City/Town:

State:

Elected Official Leading Effort:

Point of Contact Name:

Telephone Number:

Email Address (please use official government email address if applicable):

Office Mailing Address:

To sign up online please visit: www.hhs.gov/intergovernmental/letsmove/index.html



2A.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 TO THE CONTRACT FOR THE CONSTRUCTION OF A PARKING LOT AT 115 NORTH 2ND STREET

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS THAT:

SECTION 1: The Board of Directors authorized a contract with Wilson Brothers Construction Company, Inc. for the above captioned project in the amount of \$208,500.00.

SECTION 2: The Mayor is authorized to execute Change Order No. 1 with Wilson Brothers Construction Company, Inc., decreasing the contract amount by \$6,195.00 to an adjusted contract amount of \$202,305.00.

PASSED AND APPROVED THIS _____ DAY OF OCTOBER 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

*Approved as to form
JL
No publication required*

2B.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING COMPLETION OF AND AUTHORIZING FINAL PAYMENT FOR THE CONSTRUCTION OF A PARKING LOT AT 115 NORTH 2ND STREET

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: The City of Fort Smith hereby accepts the construction of the above captioned project as complete.

SECTION 2: Final payment is hereby authorized in the amount of \$115,230.00 to the contractor, Wilson Brothers Construction Company, Inc., for the captioned project.

THIS RESOLUTION ADOPTED THIS _____ DAY OF OCTOBER 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

*Approved as to form
JBC
No publication required*

MEMORANDUM

To: Dennis Kelly, City Administrator
From: Wally Bailey, Director of Development Services
Date: October 11, 2010
Subject: Pavilion Parking Lot at 115 North 2nd Street

The subject project consisted of the construction of a parking lot at 115 North 2nd Street. The project is located on property that was generously donated from the Griffin Charitable Organization and Second Street Live, Inc.

The project includes a 46-space parking lot with landscaping and new sidewalks. The parking lot will be used for many downtown and riverfront activities including events at the Riverfront Pavilion Building and at Second Street Live.

The project was approved in the 2010 budget and is funded by the city's share of the county sales tax that is allocated for downtown improvements.

Wilson Brothers Construction Company, Inc., was awarded the contract for the project in the amount of \$208,500.00 and a notice to proceed was issued on June 1, 2010. The project is now complete and has been certified complete by the project architect MAHG Architecture, Inc. of Fort Smith.

During the course of the work, it was determined that not all of the specified dirt work was required. A change order has been prepared decreasing the contract amount by \$6,195.00 which amends the contract amount to \$202,305.00.

Previous periodic payments of \$87,075.00 were made to the contractor. The final payment for the project is \$115,230.00.

The project architect and city staff agree that the work is complete and recommend to the Board of Directors that the project be accepted as complete, the change order be authorized and the final payment be made. Resolutions have been prepared for the Board to authorize the change order and to accept the project as complete and authorizing the final payment.

Please contact me if you have any questions.

PROJECT SUMMARY

City of Fort Smith
Project status: Complete

Project name: Pavilion Parking Lot - 115 North 2nd Street

Staff contact name: Wally Bailey

Project engineer: MAHG Architecture
Project contractor: Wilson Brothers Construction Company, Inc.

Notice to proceed issued: 6/1/2010

Original bid award

Dollar
Amount
\$208,500.00

Change orders:

1 Change Order No. 1

(\$6,195.00)

Adjusted contract amount

\$202,305.00

Payments to date (as negative):

\$87,075.00

Amount of this payment

\$115,230.00

Contract balance remaining

\$0

Retainage held

0%

Final payment

\$115,230.00

RESOLUTION _____

**A RESOLUTION TO ACCEPT THE BIDS AND AUTHORIZE
CONTRACT FOR THE CONSTRUCTION OF
DRAINAGE IMPROVEMENTS, PHASE I
PROJECT NO. 10-06-B**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: The bid of Brothers Construction, Inc., received October 12, 2010, for the construction of Drainage Improvements, Phase I, Project No. 10-06-B, in the amount of \$678,400.25 be accepted.

SECTION 2: The Mayor is authorized to execute a contract with Brothers Construction, Inc., subject to the terms set forth in Section 1 above.

SECTION 3: Payment for construction authorized by Section 1 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this _____ day of October, 2010.

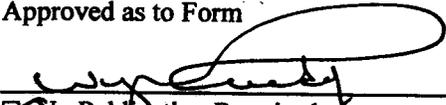
APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to Form



 No Publication Required

Publish _____ Times

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

FROM: Stan Snodgrass, P.E., Director of Engineering *SS*

DATE: October 12, 2010

SUBJECT: Drainage Improvements, Phase I
Project No. 10-06-B

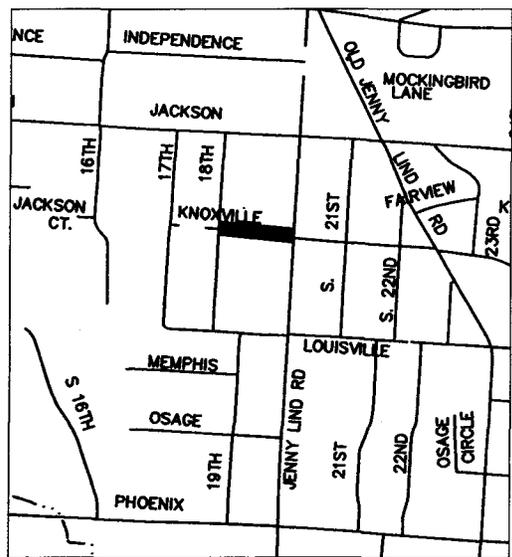
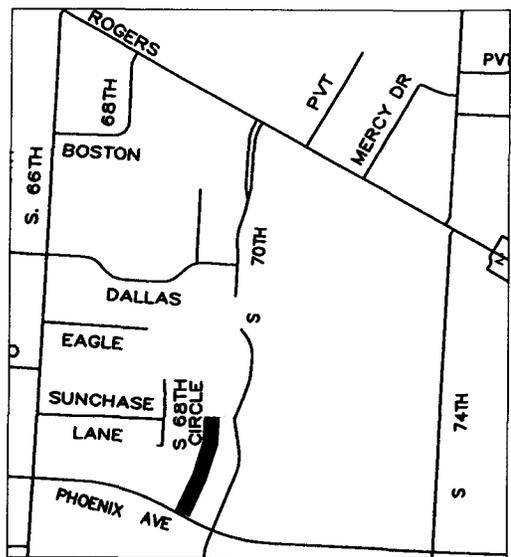
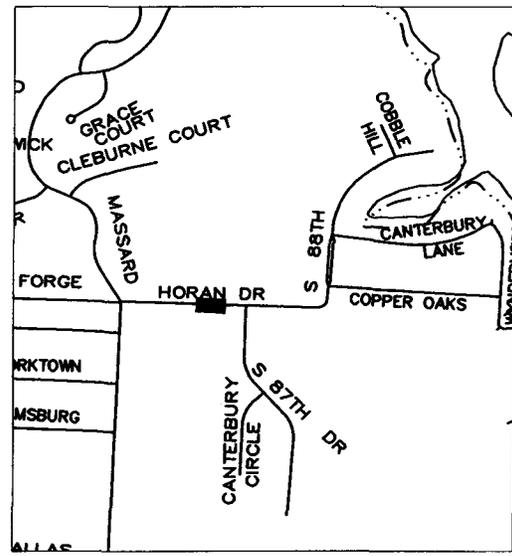
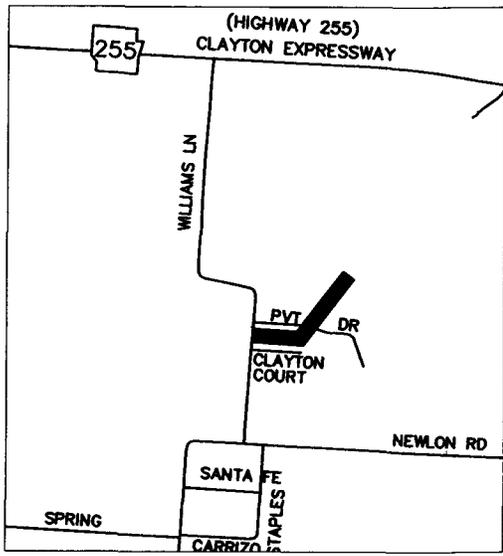
This project consists of drainage improvements in four locations to alleviate flooding concerns and correct some severe maintenance issues. The project was approved by the Board of Directors as part of the 2010 Capital Improvements Program. The locations of the proposed improvements are shown on the attached exhibit.

Construction plans and specifications were prepared by Philip Leraris, P.E., LS, of Fort Smith, Arkansas. An advertisement was published and bids were received on October 12, 2010. Thirteen contractors requested plans and specifications and nine bids were received which are summarized as follows:

CONTRACTOR	AMOUNT	CONTRACTOR	AMOUNT
1. Brothers Construction, Inc. Fort Smith, AR	\$678,400.25	6. A.J. Greenwood Van Buren, AR	\$874,298.97
2. Forsgren, Inc. Fort Smith, AR	\$742,329.95	7. Township Builders, Inc. Little Rock, AR	\$972,493.00
3. T-N-T, Inc. Van Buren, AR	\$757,454.00	8. Steve Beam Construction Barling, AR	\$976,016.00
4. Wilson Brothers Alma, AR	\$757,722.00	9. Crowder Construction Bentonville, AR	\$1,395,005.80
5. Silco Construction Waldron, AR	\$864,689.73	Engineer's Estimate	\$770,000.00

I recommend that the lowest bid be accepted and that the construction contract be awarded to Brothers Construction, Inc. The estimated notice to proceed date for this contract is November 8, 2010. Based on the contract duration of 210 days, the estimated completion date would be June 6, 2011.

Attached is a Resolution to accomplish the above recommendation. Funds are available in the Sales Tax Program (1105).



2010 CAPITAL IMPROVEMENTS PROGRAM
DRAINAGE IMPROVEMENTS
PHASE 1



Project:	10-06-B
Date:	OCT. 2010
Scale:	NONE
Drawn By:	RBR

RESOLUTION NO. _____

A RESOLUTION OPPOSING PROPOSED LEGISLATIVE CHANGES WHICH WOULD AFFECT THE CITY OF FORT SMITH'S ABILITY TO SELF-INSURE FOR WORKERS' COMPENSATION COVERAGE

WHEREAS, the City of Fort Smith has self-insured for workers' compensation coverage since 1989; and

WHEREAS, the City of Fort Smith's benchmark comparisons for workers' compensation coverage are expected to ultimately incur \$222,100 less total direct losses than the composite benchmark for the historical period evaluated; and

WHEREAS, the City of Fort Smith saves an estimated \$200,000 annually in public funds by self-insuring for workers' compensation coverage when compared to other methods of procuring workers' compensation coverage; and

WHEREAS, the Arkansas Municipal League has proposed legislation for the 2011 session of the Arkansas General Assembly which would prohibit the City of Fort Smith from self-insuring for workers' compensation coverage;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas that:

The City of Fort Smith opposes any legislative changes which would limit or otherwise affect the City's ability to self-insure for workers' compensation coverage. The City Administrator and his staff are authorized to undertake any measures necessary to support this policy.

This Resolution passed this _____ day of October, 2010.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM



No Publication Required



3

MEMORANDUM

October 6, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: Workers' Compensation Coverage

Fort Smith has provided its workers' compensation coverage through *self-funding* for more than 20 years. The self-funded approach gives the city greater incentive to manage workplace risks. This has saved the city's taxpayers and rate payers hundreds of thousands of dollars when compared to other methods of procuring workers' comp coverage.

Current state law prohibits cities with populations of less than 70,000 from self-insuring for workers' comp coverage. All but two cities in the state must either procure commercial workers' comp coverage or participate in an intergovernmental risk pool. The only such pool is operated by the Arkansas Municipal League. The two Arkansas cities which are eligible to self-insure, and do self-insure, are Fort Smith and Little Rock.

Several weeks ago, the staff learned that one of the Arkansas Municipal League's 2011 legislative priorities is to have legislation passed which would prohibit all cities from self-funding for workers' comp coverage. It's conservatively estimated this legislation would cost Fort Smith somewhere in the range of \$100,000 - \$200,000 annually in increased workers' comp coverage costs.

If at some time in the future it becomes advantageous for Fort Smith to join the Arkansas Municipal League's program, a legislative change isn't necessary. The existing legislation allows Fort Smith to make that determination at any time.

Attached for the board of directors' consideration is a draft resolution which opposes this legislative change and directs the staff to take any measures necessary to support this policy decision. The staff recommends this be placed on the board's October 19th agenda so that the city's position may be communicated before the legislative process begins.

-Ray

DRAFT

RESOLUTION NO. _____

**A RESOLUTION OPPOSING PROPOSED LEGISLATIVE CHANGES
WHICH WOULD AFFECT THE CITY OF FORT SMITH'S ABILITY
TO SELF-INSURE FOR WORKERS' COMPENSATION COVERAGE**

WHEREAS, the City of Fort Smith has self-insured for workers' compensation coverage since 1989; and

WHEREAS, the City of Fort Smith's benchmark comparisons for workers' compensation coverage are expected to ultimately incur \$222,100 less total direct losses than the composite benchmark for the historical period evaluated; and

WHEREAS, the City of Fort Smith saves an estimated \$200,000 annually in public funds by self-insuring for workers' compensation coverage when compared to other methods of procuring workers' compensation coverage; and

WHEREAS, the Arkansas Municipal League has proposed legislation for the 2011 session of the Arkansas General Assembly which would prohibit the City of Fort Smith from self-insuring for workers' compensation coverage;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas that:

The City of Fort Smith opposes any legislative changes which would limit or otherwise affect the City's ability to self-insure for workers' compensation coverage. The City Administrator and his staff are authorized to undertake any measures necessary to support this policy.

This Resolution passed this _____ day of October, 2010.

Mayor

ATTEST:

City Clerk

**Excerpt from Policies and Goals
Adopted by the Arkansas Municipal League
June 18, 2010**

A RESOLUTION TO REPEAL BOTH A.C.A. § 14-60-105 AND 14-60-106 AS THEY ARE INCONSISTENT WITH EACH OTHER, AND TO ENSURE THAT ALL CITIES AND TOWNS IN ARKANSAS HAVE THE SAME OPPORTUNITIES REGARDING THE PROVISION OF WORKERS' COMPENSATION COVERAGE FOR MUNICIPAL EMPLOYEES.

WHEREAS, A.C.A. § 14-60-105 applies only to cities with populations over seventy thousand (70,000) while A.C.A. § 14-60-106 applies to cities with populations over one hundred fifty thousand (150,000); and,

WHEREAS, both statutes purport to allow the relevant city, or sewer committees in cities of over one hundred and fifty thousand, to "self" fund for purposes of workers' compensation coverage; and,

WHEREAS, by not allowing those cities and committees to self fund they will be a part of a larger group(s) thereby benefiting both the city specifically and the taxpayers of this state generally.

NOW, THEREFORE BE IT RESOLVED BY THE ARKANSAS MUNICIPAL LEAGUE, IN 76th ANNUAL CONVENTION ASSEMBLED:

That we do hereby support the repealing of A.C.A. § 14-60-105 and 106 to ensure a more consistent and economically strong workers' compensation system for municipal government in Arkansas.

Stricken language will be deleted and underlined language will be added.

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

DRAFT KLL/YTC
HOUSE BILL

5 By: Representative <NA>
6
7

For An Act To Be Entitled

9 AN ACT TO REPEAL CERTAIN WORKERS' COMPENSATION
10 STATUTES FOR MUNICIPAL EMPLOYEES; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13 TO REPEAL CERTAIN WORKERS' COMPENSATION
14 STATUTES FOR MUNICIPAL EMPLOYEES.
15
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 14-60-105 is repealed.

21 ~~14-60-105. Municipalities over 70,000.~~

22 ~~Municipalities with populations over seventy thousand (70,000) citizens~~
23 ~~are specifically authorized to provide workers' compensation coverage for~~
24 ~~their officials and employees through either private carriers or by self-~~
25 ~~funding on either a statewide or an individual basis.~~
26

27 SECTION 2. Arkansas Code § 14-60-106 is repealed.

28 ~~14-60-106. Municipalities over 150,000.~~

29 ~~Municipalities with populations over one hundred fifty thousand~~
30 ~~(150,000) citizens or their sewer committees are specifically authorized to~~
31 ~~provide workers' compensation coverage for their officials and employees~~
32 ~~through either private carriers or by self-funding on either a statewide or~~
33 ~~individual basis.~~
34
35
36

DRAFT

08-05-2010 15:42 KLL313

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE EXTENSION OF THE LEASE AGREEMENT WITH
PRODUCE ROW DEVELOPMENT, LLC AT AN AGREED AMENDED RENTAL

WHEREAS, the City of Fort Smith Parks and Recreation Commission recommends extending the lease with Produce Row Development, LLC for calendar year 2011;

WHEREAS, Phil White with Produce Row Development, LLC has agreed to amend the lease rental amount for 2011 to \$1.00.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Fort Smith, Arkansas that:

The lease agreement with Produce Row Development, LLC. for the operation of the Ferris wheel, carousel and to maintain the landscaping at the Park at West End is hereby extended for the period beginning January 2, 2011 and ending on January 1, 2012, at an agreed rental of \$1.00for the period.

This Resolution passed this _____ day of October, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM

J&L

npr



Memo:

October 15, 2010

To: Mr. Dennis Kelly, City Administrator
From: Mr. Mike Alsup, Director of Parks and Recreation *Mike Alsup*
Re: The Park at West End lease agreement, extended term 2011

The lease agreement with Produce Row Development provides for an option to renew the lease for two extended terms. The City is required to give the landlord a written notice at least thirty days prior to the expiration of the initial term, January 1, 2011. A resolution authoring the extension of this agreement for the term January 2, 2011 to January 1, 2012 has been prepared for the Board of Directors consideration.

The Parks and Recreation Commission, at their September meeting, made a recommendation to the Board of Directors that the lease be extended through the 2011 season. The Central Business Improvement District (CBID) and the Advertising and Promotions Commission (A & P) support this recommendation. Earlier this year, the CBID established a fund of \$12,000, which includes a donation from a private donor, to offset a deficit in the event the operation of the rides did not break even. At their August meeting, the CBID voted to carry over the balance of this fund to 2011 and added an additional \$6,000 to the fund. As an example, if expenses exceed revenues by \$4,000 this year, the balance of \$8,000 will be carried over and \$6,000 added to the balance giving a new fund of \$14,000. Also, the A & P and Downtown Development have committed to continue marketing the Park at West End.

Since June 30, the difference in expenditures and revenues has improved from a \$7,467 deficit to \$4,100 at the end of September. These numbers continue to improve as expenses are primarily for staff and electricity. It is anticipated that the final deficit number for 2010 will be under \$4,000. All of the funding required to cover the direct expenses of operating the rides will be provided by revenues and the CBID's fund. The General Fund is not affected.

Produce Row Development has offered to extend the lease under the same terms and rent of \$1.00 for 2011. The lease agreement states that the rent for the extended terms is \$500 per month or \$6,000 per year. The city attorney stated that a letter from the landlord will serve as the amendment to the lease. The City's insurance agent does not anticipate an increase in the fee for liability coverage for the park. The hours of operation and staffing levels have been adjusted to provide for demand and efficiency. I believe that next year the rides can be

operated closer to break even with the experience gained this year, continued marketing efforts, public confidence in the consistency of operation, and the fun and enjoyment people of all ages have at the park.

The City of Fort Smith is privileged to have this truly unique park with its Ferris wheel, carousel, double decker bus, dining car, and Chicago cow. The train at Creekmore Park and other points of interest in the City make Fort Smith a destination for tourists and a fun place to live for its citizens.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING PARTIAL PAYMENT TO CROSSLAND
HEAVY CONTRACTORS, INC., FOR CONSTRUCTION OF THE LAKE
FORT SMITH WATER TREATMENT PLANT - CONTRACT 3**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT
SMITH, ARKANSAS, that:

Partial payment number thirteen to Crossland Heavy Contractors, Inc., in the amount of
\$903,748.68, for construction of the Lake Fort Smith Water Treatment Plant - Contract 3,
Project Number 07-09-C3, is hereby approved.

This Resolution adopted this _____ day of October 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

FROM: Steve Parke, Director of Utilities

DATE: October 7, 2010

SUBJECT: Lake Fort Smith Water Treatment Plant Improvements - Contract 3
Project Number 07-09-C3

Crossland Heavy Contractors, Inc., has submitted partial pay request number thirteen in the amount of \$903,748.68 for work completed on the Lake Fort Smith Water Treatment Plant Improvements - Contract 3. A project summary sheet is attached for your information. Major items of work completed during the time period covered by this pay request are as follows:

- Sitework
- Site Piping
- Site Electrical
- Main Electrical Building
- Clarification Facility
- Backwash and Plant Service Water Pump Stations
- Ferric Sulfate Containment Structure
- Chlorine Building/Gas Scrubber
- Lime and Soda Ash Silos
- Chemical Building
- East and West Filter Buildings

The attached Resolution authorizes payment to Crossland. Should you or members of the Board have any questions or desire additional information, please call.

attachment

Project Summary

Project status: In process

Project name: Lake Fort Smith Water Treatment Plant
Improvements - Contract 3

Today's date: October 7, 2010

Project number: **07-09-C3**

Staff contact name: Steve Parke

Project engineer: Burns & McDonnell, Inc.

Staff contact phone: 784-2231

Project contractor: Crossland Heavy Contractors, Inc.

Notice to proceed issued: August 31, 2009

Final completion date: December 27, 2011

	Dollar Amount	Contract Time (Days)
Original contract	\$31,641,000.00	785
Change orders:		
Change Order No. 1	\$22,902.00	14
Change Order No. 2	\$89,078.00	49
Change Order No. 3	\$-19,174.00	
Total change orders	\$92,806.00	<u>63</u>
Adjusted contract	<u>\$31,733,806.00</u>	<u>848</u>
Payments to date (as negative):	\$-16,210,319.73	
Amount of this payment (as negative)	\$-903,748.68	
Retainage held	\$1,586,690.30	
Contract balance remaining	\$14,619,737.59	
Amount Over as a percentage	1.00%	

Final comments:

To date contractor has completed 56% of the work (does not include payment for materials stored) and utilized 47% of the contract time (to substantial completion).

RESOLUTION NO. _____

2 G

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN
AMENDMENT TO THE AGREEMENT WITH BURNS & MCDONNELL FOR
THE WATER AND SEWER RATE AND DEVELOPMENT IMPACT FEE STUDY

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT
SMITH, ARKANSAS, that:

SECTION 1: Amendment number one to the agreement with Burns & McDonnell for the
Water and Sewer Rate and Development Impact Fee Study, Project Number 09-10, is hereby
approved.

SECTION 2: The Mayor is hereby authorized to execute amendment number one, for an
amount not-to-exceed \$25,000.00, for performance of said services.

This Resolution adopted this _____ day of October 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: October 14, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Water and Sewer Rate and
Development Impact Fee Study

Burns & McDonnell is performing the work required to establish water and sewer rates for the years 2011 through 2013 and to set development impact fees in accordance with the Arkansas State Legislature Senate Bill 298. The water and sewer rate work will also provide a new rate model that will allow staff to make 5-year rate forecasts. This work was approved in late 2009.

It was intended that the city's rate and financial analyst position would provide assistance to Burns & McDonnell with this project. However, shortly after the work was begun, the individual in that position resigned to explore other job opportunities. Due to budgetary concerns, a hiring restriction had been put in place and that position has remained vacant. This in turn required Burns & McDonnell to assume the work anticipated to be provided by city staff.

Also, since the time of entering into the agreement for the rate work, the appointment for a financial review committee as described in the Settlement and Release Agreement of March 2005 between the city and South Sebastian Water Users Association (now James Fork Regional Water District) for the acquisition of a portion of its service area is required. The three-member committee will consist of one representative each selected by Fort Smith and South Sebastian Water with the third member selected by the Arkansas Director of Rural Development for the USDA. Mr. Ted Kelly with Burns & McDonnell will serve as the Fort Smith representative on the financial review committee. The work of the financial review committee will determine if any additional payments are owed to South Sebastian after Fort Smith's initial five-year fixed payments end in 2010. Their determination will be based upon the review of the following:

- The continued economic capability of James Fork to meet debt service obligations.
- Equitable rates for the water customers
- Whether Fort Smith shall be entitled to a credit against the payments determined for the initial five-year period.
- Proper, good faith management of the James Fork.
- The reasonableness of operations and maintenance expenses of James Fork.
- The reasonableness of rates charged for water and services by James Fork.

An amendment to adjust the scope-of-work with Burns & McDonnell to account for the vacancy in the rate and financial analyst position and to add the work for the South Sebastian Settlement and Release Agreement has been negotiated in an amount of \$25,000. The amendment adjusts the overall amount of the agreement to \$110,000. The additional funding

required is available from the utility department's operating budget and unused salary for the rate and financial analyst position.

The attached Resolution authorizes the Mayor to execute amendment number one to the agreement with Burns & McDonnell. It is staff's recommendation that the amendment be presented to the Board for their approval at their next regularly scheduled meeting.

If you or members of the Board have any questions or desire additional information, please let me know.

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

FROM: Steve Parke, Director of Utilities

DATE: October 07, 2010

SUBJECT: Lake Fort Smith Water Supply Project
Project Number 99-01

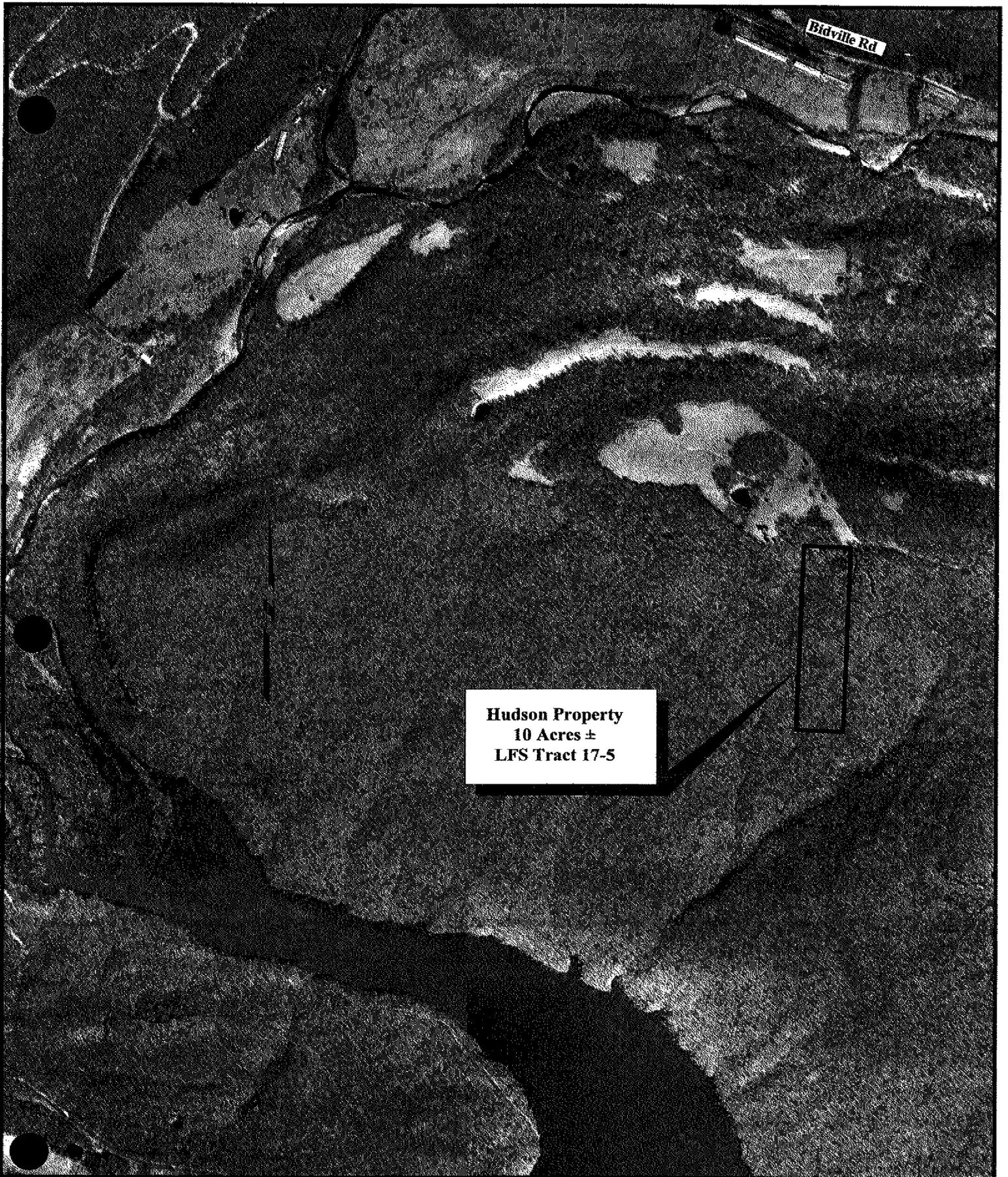
Henry Hudson III, who currently resides in Bull Shoals, Arkansas purchased this 10 acre parcel of property in 1984. The property is vacant and heavily wooded, and is located on the north and east side Lake Fort Smith. The topography is suitable for a building site, but the remainder of the property is generally very steep and drains directly into the lake. All of the property is within the watershed area around the lake that the city proposes to acquire for watershed protection, either by a watershed protection easement or by fee title acquisition. A location map of the property is attached for your review.

Staff has been corresponding with Mr. Morgan in an effort to purchase watershed restrictions on the property since August of 2008. Recently Mr. Morgan cancelled his future building plans due to age and health reasons and offered to sell the property outright for \$20,000.00, rather than selling the city a watershed protection easement. The city's appraiser, Matthews and Associates, appraised the property in April of 2008 for \$10,000.00, or \$1,000.00 per acre. After further review and consideration, Mr. Morgan reduced his asking price from \$20,000.00 to \$12,500.00, or \$2,500.00 above the city's appraised value.

Staff believes that the owner's offer to sell the property in fee title to the city for \$12,500.00 is reasonable compared to other properties purchased by the city, and that the administrative costs associated with acquiring a watershed easement through other means is not the best alternative. Therefore, staff recommends that the Board of Directors approve this resolution and accept the owner's offer at its next regular scheduled meeting.

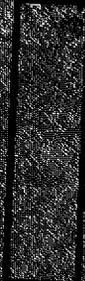
Should you or members of the Board have any questions or desire additional information, please let me know.

attachment



Bidville Rd

Hudson Property
10 Acres ±
LFS Tract 17-5



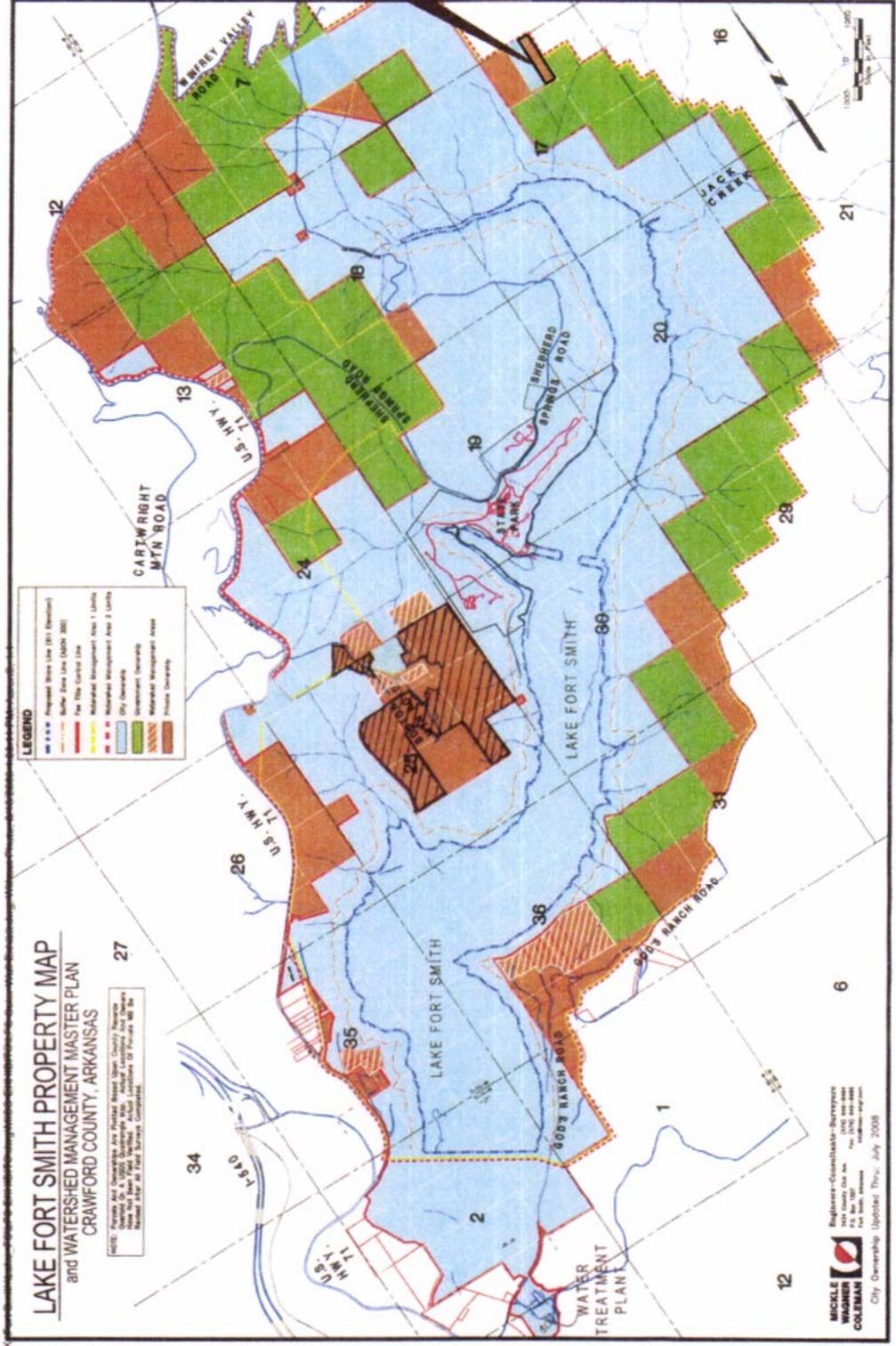
**LAKE FORT SMITH WATER SUPPLY PROJECT NO 99-01
PROPOSED WATERSHED PROTECTION PURCHASE OF HUDSON PROPERTY**

LAKE FORT SMITH PROPERTY MAP
and WATERSHED MANAGEMENT MASTER PLAN
CRAWFORD COUNTY, ARKANSAS

NOTES: Parcels not shown are Parcel Based Other County Parcels
 Shaded in a 100% Unimproved Area - Parcel Based Other County Parcels
 Numbered after all Field Surveys Completed.

LEGEND

- Proposed Shore Line (311 Element)
- Shore Zone Line (300R 302)
- Line (The Control Line)
- Waterfront Management Area 1 Limits
- Waterfront Management Area 2 Limits
- City Ownership
- Unimproved Ownership
- Waterfront Management Area
- Other Ownership



**HUDSON
PROPERTY**

**MICKLE
WALKER
COLEMAN**
 Engineers-Counselors-Surveyors
 1000 South Oak Ave. Ste. 1000
 Fort Smith, Arkansas 72301
 City Ownership Updated Thru July 2008

RESOLUTION NO. _____

RESOLUTION ACCEPTING THE PROJECT AS COMPLETE AND AUTHORIZING FINAL PAYMENT TO MID AMERICA ENVIRONMENTAL FOR THE LEE CREEK WATER TREATMENT PLANT RESIDUALS LAGOON CLEANING

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

SECTION 1: The construction of the Lee Creek Water Treatment Plant Residuals Lagoon Cleaning, Project Number 10-12-C1, is accepted as complete.

SECTION 2: Final payment to the contractor, Mid-America Environmental, in the amount of \$177,121.59, is hereby approved.

This Resolution adopted this _____ day of October 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

JSL

npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: October 11, 2010

FROM: Steve Parke,  Director of Utilities

SUBJECT: Lee Creek Water Treatment Plant Residuals Lagoon
Cleaning Project Number 10-12-C1

This project consisted of removing and disposing of water treatment plant residuals from lagoon number 1 at the Lee Creek water treatment plant. This work was required for normal operations.

A resolution is attached to accept the project as complete and authorizing final payment to Mid-America Environmental in the amount of \$177,121.59. It is my recommendation that the project be accepted as complete, and the final payment be approved.

Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

Project Summary

Today's date: October 11, 2010

Project name: Lee Creek Water Treatment
Plant Residuals Lagoon Cleaning

Staff contact name: Steve Parke

Project number: **10-12-C1**

Staff contact phone: 784-2231

Project engineer: Jimmie B. Johnson, P.E.

Notice to proceed issued: August 23, 2010

Project contractor: Mid America Environmental

	Dollar Amount	Contract Time (Days)
Original contract:	\$189,000.00	70
Change orders: Contract Field Change Order 1	\$-11,878.41	
Total change orders:	\$-11,878.41	<u>0</u>
Adjusted contract:	\$177,121.59	<u><u>70</u></u>
Payments to date (as negative):	\$ 0.00	0.0%
Amount of this payment (as negative):	\$ 0.00	100.0%
Retainage held:	\$0.00	
Contract balance remaining:	\$11,878.41	6.7%
Amount Over (under) as a percentage:	-6.3%	

Final Comments:

RESOLUTION NO. _____

2 J

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH
HAWKINS-WEIR ENGINEERS, INC., FOR ENGINEERING SERVICES ASSOCIATED
WITH THE HIGHWAY 45 AND ZERO WATER & SEWER RELOCATION

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT
SMITH, ARKANSAS, that:

SECTION 1: An Agreement with Hawkins-Weir Engineers, Inc., for engineering
services associated with the Highway 45 and Zero Street Water and Sewer Relocation, Project
Number 09-13-E2, is hereby accepted.

SECTION 2: The Mayor is hereby authorized to execute an Agreement, in the amount of
\$99,000.00, for performance of said services.

This Resolution adopted this _____ day of October 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: October 11, 2010

FROM: Steve Parke,  Director of Utilities

SUBJECT: Highway 45 and Zero Water & Sewer Relocation,
Project Number 09-13-E2

The Arkansas Highway and Transportation Department (AHTD) is improving Highway 45 from Phoenix Avenue to Zero Street. This project requires the relocating of approximately 1,400 feet of a 20-inch water transmission line and some smaller water and sewer lines. See the attached exhibit for the project location.

On October 5, 2010, the Board awarded construction of the project to Forsgren, Inc. Hawkins-Weir designed the project and this agreement is for their firm to provide the needed construction phase services. The cost for the engineering services is in the amount of \$99,000.00. AHTD will reimburse the city for approximately 65% of the project cost with the remainder paid for from the city's sales tax program.

Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

Sewer Relocation

PHOENIX AVE

HWY 45

FS MUNICIPAL AIRPORT

I-540

Water and Sewer Relocation

ZERO ST

**HIGHWAY 45 & ZERO STREET
WATER & SEWER RELOCATION
PROJECT 09-13-E2**





MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: October 15, 2010

SUBJECT: Advertising & Promotion Commission

The Board of Directors will make a decision to replace Mr. Bill Maddox on the Advertising and Promotion Commission for an indefinite term.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 785-2801
Administrative Offices FAX (479) 784-2430



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: October 15, 2010
SUBJECT: Audit Committee

The terms of Director Don Hutchings, Director Kevin Settle, Mr. Lavon Morton and Mr. Ken Pyle of the Audit Committee will expire November 30, 2010. Mr. Pyle and Mr. Morton would like to be reappointed.

The applicants available at this time are:

Matthew Garner	12100 Supling Drive
Gary Campbell	2711 Reeder
Brent Alexander	11707 Southcrest Drive
Salvatore Salamone	10701 Castleton Street

Appointments are by the Board of Directors. Four appointments are needed; the terms will expire November 30, 2013.

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 785-2801
Administrative Offices FAX (479) 784-2430



MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: October 14, 2010

SUBJECT: Building Board of Adjustments and Appeals

The terms of Mr. David Edwards and Mr. Evan Fleming of the Building Board of Adjustments and Appeals will expire November 30, 2010. Mr. Edwards would like to be reappointed to this board. There has been no reply from Mr. Fleming at this time.

There are no other applicants available at this time.

Appointments are by the Board of Directors. One appointment is needed; the term will expire November 30, 2014.