Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith D. Lau
Ward 2 – Andre' Good
Ward 3 – Mike Lorenz
Ward 4 – George Catsavis
At Large Position 5 – Pam Weber
At Large Position 6 – Kevin Settle
At Large Position 7 – Philip H. Merry Jr.

AGENDA

Fort Smith Board of Directors
STUDY SESSION
August 12, 2014 ~ 12:00 Noon
Fort Smith Public Library Community Room
3201 Rogers Avenue

CALL TO ORDER

1. Review workforce participation data ~ *Lau/Lorenz requested at the May 27, 2014 brainstorming meeting ~*

2. Discuss proposed creation of a Sustainable Arkansas Program and PACE Energy Improvement Districts ~ *Good/Lau placed on agenda at the May 27, 2014 study session / Resolution of support tabled at the June 3, 2014 regular meeting pending further discussion at future study session ~*

3. Discuss establishing specific location for food vendor trucks in the downtown area

4. Review preliminary agenda for the August 19, 2014 regular meeting

ADJOURN

1

MEMORANDUM

August 8, 2014

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: Workforce Participation

At the May 27th brainstorming meeting, directors Lau and Lorenz asked for a study session discussion about workforce participation data. The request stemmed from a 2013 report issued by the UA Fort Smith College of Business. The report is attached.

Table 2 on page 17 of the report compares data about sources of household income in the Fort Smith region with the United States, Arkansas, Oklahoma, and the northwest Arkansas region. The sources of household income are:

- Earnings (wages, salaries, etc.)
- Social Security
- Retirement/Pension
- Supplemental Security (stipends to low income elderly, blind or disabled persons)
- Cash Public Assistance
- Food Stamp/SNAP Benefits

The Fort Smith region has the lowest percentage of households relying on earnings. And, the Fort Smith region is among the highest (or the highest) in the comparison group relying on welfare-type assistance such as supplemental security, cash public assistance, and food stamps/SNAP. The concern is that a smaller percentage of the Fort Smith population in the comparison group is participating in the workforce.

The board may find it useful to compare sources of household income data with other census data such as age, wealth, and education. A table with this additional data is attached.

Dr. Kermit Kuehn of the UA Fort Smith College of Business, who prepared the report, will be present at the August 12th study session. He'll be available to discuss with the board the data and its significance. If there's any questions or a need for more information in the meantime, please let me know.

- Ray

Attachments

cc: Dr. Kermit Kuehn, UA Fort Smith College of Business

COMPARISON OF OTHER CENSUS DATA

MEASURE	*U.S.*	*ARKANSAS*	*OKLAHOMA*	*FAYETTEVILLE*	*ROGERS*	*FORT SMITH*
AGE						
Persons Under 18	23.3%	24.4%	24.6%	18.5%	30.6%	25.5%
Persons 65 and Older	14.1%	14.4%	14.3%	7.8%	9.3%	12.7%
WEALTH						
Median Household Income	$53,046	$40,531	$44,891	$36,447	$51,535	$37,232
Persons Below Poverty Level	14.9%	18.7%	16.6%	23.6%	13.7%	24.2%
Home Ownership Rate	65.5%	67.2%	67.5%	42.1%	60.5%	56.1%
EDUCATION						
Bachelor’s Degree or Higher	28.5%	19.8%	23.2%	43.8%	27.0%	20.0%
Without High School Diploma	14.3%	16.7%	13.8%	8.7%	26.9%	19.7%

Source: U.S. Census Bureau. Age data is from 2010. Wealth and education data is from 2012.

CENTER FOR BUSINESS RESEARCH AND ECONOMIC DEVELOPMENT

College of Business

UAFS | University of Arkansas Fort Smith

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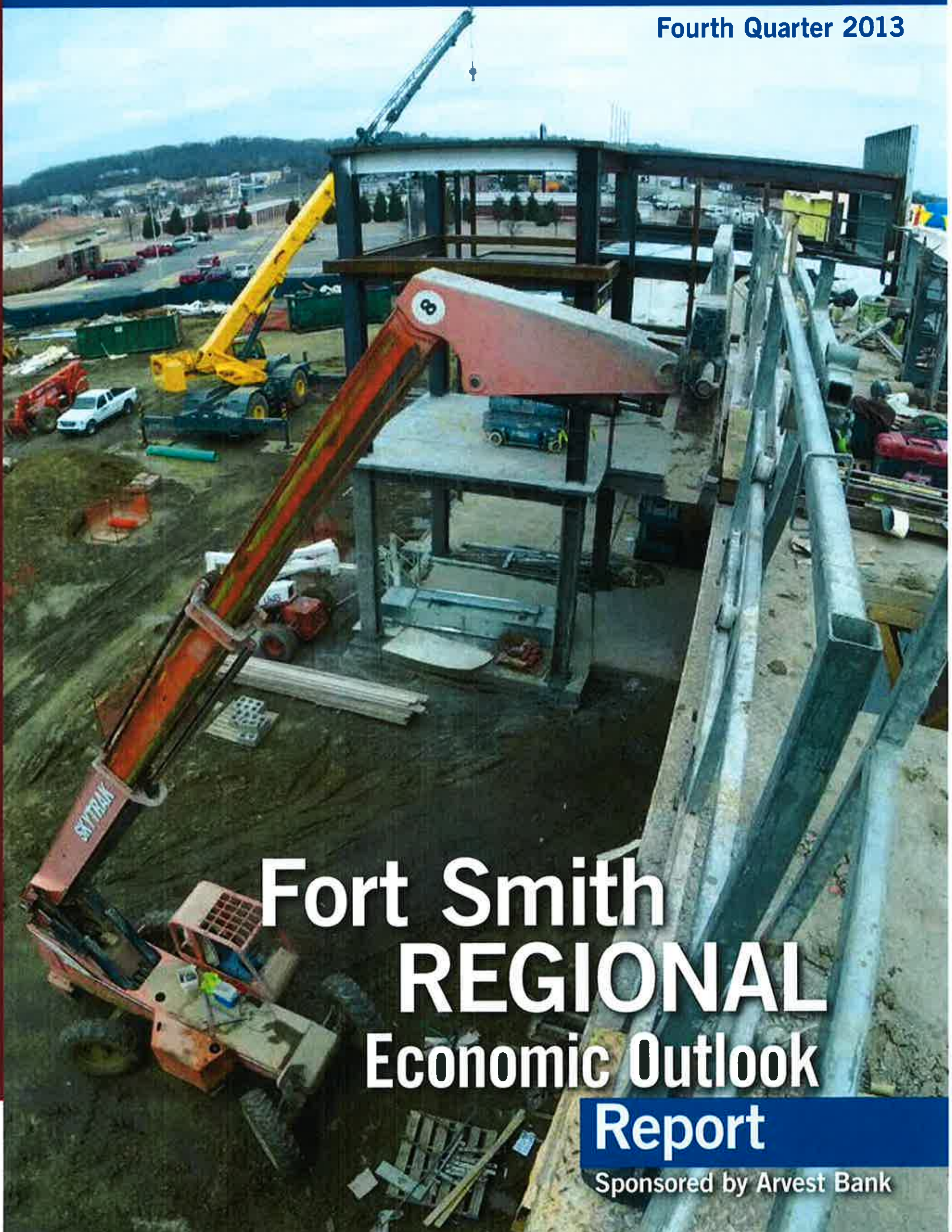
Vol. 4, No. 4

Fourth Quarter 2013



Fort Smith REGIONAL Economic Outlook Report

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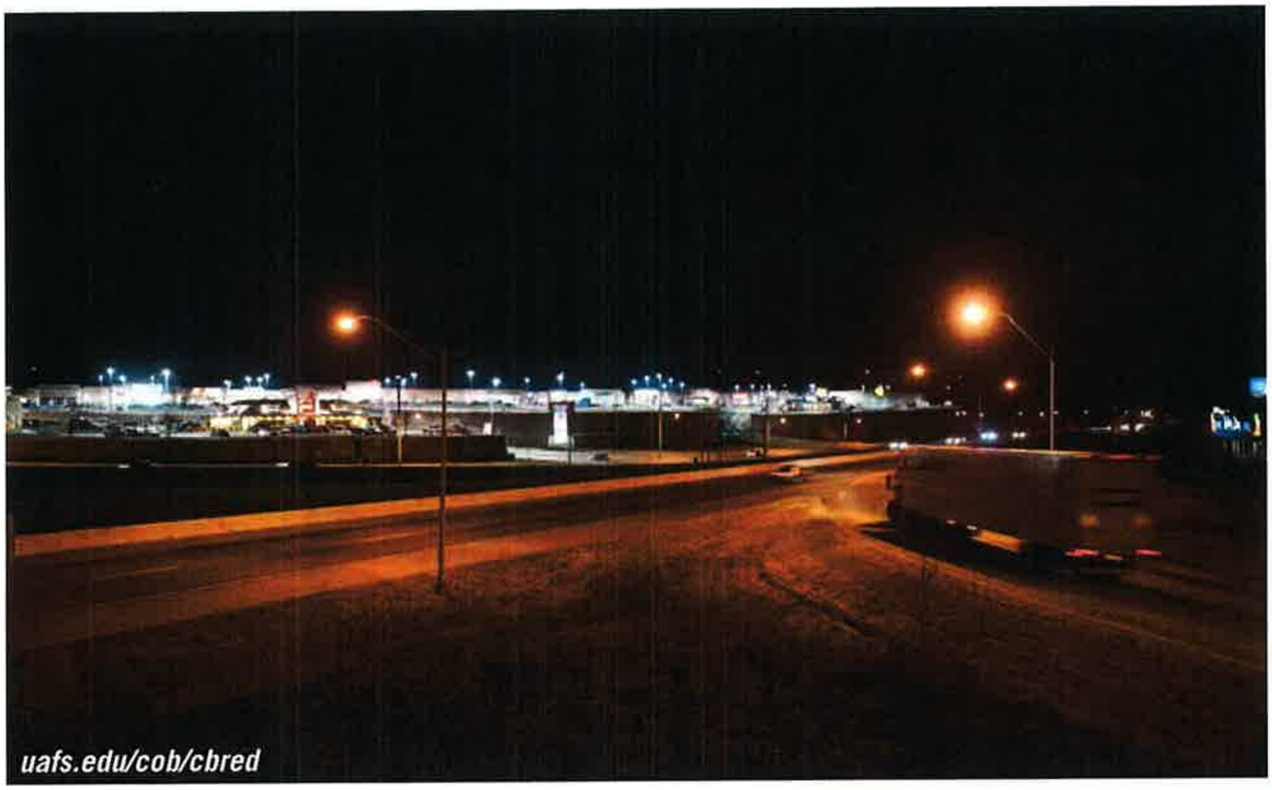

Vol. 4, No. 4 Fourth Quarter 2013

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The Center for Business Research and Economic Development seeks to be the primary source of Fort Smith regional economic information; a catalyst for bold, innovative ideas and strategies for economic development in the area; and an active partner in the execution of sound, integrative solutions for regional prosperity and health.

On the cover: Construction is underway on Mercy Orthopedic Hospital at South 79th Street and Phoenix Avenue in Fort Smith. The two-story, 69,000-square-foot facility is targeted for completion in October.

From the Director

Kermit W. Kuehn, Ph.D.
Director, Center for Business Research and Economic Development

As I write this note, market indexes are nearing record levels again, even with constant fear of a sell-off in the air. The same psychology that drove 2013 results, which were amazing, seems to have persisted into 2014.

The performance of the U.S. economy in the past couple of quarters can be characterized as "better." The housing sector has enjoyed a rebound in many larger markets, consumers have continued to buy, gross domestic product has been growing modestly, and the squishy jobs market has continued to add jobs. What's not to like, under the circumstances?

Actually, there's a lot not to like but we can't be too choosy at this stage of the recovery. In fact, in this issue we take a look at the national and regional economy in terms of the growth potential over the next five to 10 years. Yes, I can hear it now. Who knows what will happen next week, much less five or 10 years from now? We'll give it a shot anyhow.

First, we look at the dynamics of the U.S. as a whole – job growth and quality of jobs, household income, residential real estate, consumer credit and more – in order to gauge prospects for improvement going forward. We then move on to review regional factors that will largely determine the medium-term growth prospects for our economy.

The assessment won't win any "happy face" award, I'm afraid.

However, regional leaders have to keep doing what they can to set the stage for future growth, even in this more difficult environment. And I think they are doing that. The recent announcement of the planned medical college at Chaffee Crossing is a wonderful "catch" for the region and fits nicely with our view of the potential of the health services sector in growing the regional economy. A big congratulations to those involved in making that happen. It is hard to overstate how important this medical college is for the development of the regional health care cluster. Wow!

As usual, in this issue we also review the performance of the Fort Smith area economy for the 2013 fourth quarter. Overall, I think we can say things continued to improve this quarter over a year ago at this time. Retail sales were up for the period, as were auto and home sales. Job numbers also continued to improve. Our survey of Fort Smith consumer sentiment for December rebounded from the decline observed in the third-quarter reading. And, as we've already discussed, the final section takes a look at the medium-term prospects for the regional economy.

This is the final issue of the Fort Smith Regional Economic Outlook Report. It is a good time to recognize the support of our sponsors and advertisers in making our work possible over these past years.

In the first year, First National Bank of Fort Smith and the Southwest Times Record stepped up to help us launch our monthly report, the Monthly Economic Indicators Index, with the support of Kathy Deck and her crew with the Center for Business and Economic Research at the University of Arkansas in Fayetteville. Further support came early on from our sponsor Arvest Bank, along with our advertisers, which allowed us to launch this quarterly publication you hold in your hand.

Your commitment to what we were trying to do has made our success not only possible, but a pleasure as well. We have been partners in a common cause of making the Fort Smith region the best it can possibly be.

To our future.

Fourth Quarter Summary of the Regional Economy

Data on the performance of the Fort Smith regional economy continued to show improvement in the fourth quarter relative to a year ago. Key indicators were all positive for the quarter, with the exception of residential building permits and airport traffic numbers.

The most recent economic activity index was for November and was estimated at 97.4, which was only slightly higher than the 2012 reading of 97.3.

Regional retail sales posted a year-over-year improvement for the three months ending November 2013, up 2.1 percent in this report. This follows a similar increase recorded for the third quarter. According to the Jan. 14 release by the Census Bureau, U.S. retail sales activity for the October-December period of 2013 was expected to come in 1 percent higher than a year ago.

Regionally, year-to-date sales (through November) have managed to come in slightly higher than 2012 as well, registering less than a 1 percent gain over a year ago at this time.

Area auto sales continued to be the shining light in 2013, with sales up nearly 11 percent for the quarter. Total unit sales were up 6.6 percent over last year, with 7,462 new and used autos sold in the quarter. Recall that data is only available for Sebastian, Crawford and Franklin counties of Arkansas.

Overall, regional consumer spending improved for the period in terms of general consumption. Consumer sentiment supported this result with regional sentiment up 3.5 percent in the fourth quarter. All this suggests that retail sales should be able to close out 2013 on the positive side of the ledger, albeit a small positive. See our full discussion of consumer sentiment in the next section.

Auto sales, on the other hand, turned in another solid performance for the quarter. For all of 2013, auto sales were up 15 percent.

According to the Bureau of Labor Statistics, total nonfarm employment rose 2.6 percent for the quarter. The monthly

Table 1. Summary of Fourth Quarter Performance

Fourth Quarter 2013	Base Year - Q4 2005	Last Year - Q4 2012	This Year - Q4 2013*	% Change 2012-2013
Sales (Qtr. Total)				
Retail Sales (MSA, Sept., Oct., Nov., 000's)	$815,240	$878,793	$897,403	2.1
Auto Sales (Seb., Craw., Frank. Counties, AR, 000's)	$65,827	$69,751	$77,268	10.8
Residential Construction (MSA, Qtr. Total)				
Residential Permits	209	174	90	-48.3
Value of Permits (000's)	$23,094	$24,311	$15,147	-37.7
New and Existing Home Sales (MSA, Qtr. Total)				
Number Sold	718	463	496	7.1
Value of Homes Sold (000's)	$80,579	$57,692	$59,514	3.2
Average Price of Homes Sold (Qtr. Monthly Avg.)	$112,227	$124,605	$119,987	-3.7
Employment (MSA unless noted, Qtr. Monthly Avg.)				
Wage and Salary Employment (Total Non-Farm)	121,133	117,233	120,267	2.6
Manufacturing	29,100	18,867	18,400	-2.5
Trade, Transportation, and Utilities	24,267	24,967	26,067	4.4
Government	17,500	19,667	19,733	0.3
Education and Health Services	14,200	17,267	18,067	4.6
Professional and Business Services	11,133	10,900	11,600	6.4
Leisure and Hospitality	8,400	8,867	9,133	3.0
Natural Resources, Mining, and Construction	7,000	6,567	7,000	6.6
Financial Activities	4,200	4,300	4,400	2.3
Information Services	1,600	1,400	1,400	0.0
MSA Unemployment Rate (Qtr. Monthly Avg., not seasonally adjusted)	4.1%	7.5%	7.3%	-0.2
AR Unemployment Rate (Qtr. Monthly Avg., not seasonally adjusted)	4.5%	6.7%	7.0%	0.3
U.S. Unemployment Rate (Qtr. Monthly Avg., not seasonally adjusted)	4.7%	7.5%	6.7%	-0.8
Airport Traffic (Fort Smith)				
Total Passenger Traffic (Qtr. Monthly Avg.)	16,799	14,114	13,735	-2.7

*Data as of December, except retail sales, which includes September-November. Dollars are not inflation adjusted. Data not seasonally adjusted. Auto sales Arkansas only.
Prepared by the Center for Business Research and Economic Development, UAFS College of Business

average of total employment in the Fort Smith Metropolitan Statistical Area for the fourth quarter of 120,267 indicates that there were 3,034 more jobs in the region than there were a year ago. This suggests that the area economy is making steady progress toward restoring jobs.

Taking a closer look at specific sectors, we find that the only sector to lose headcount over the period was manufacturing, recording a decline of 467 jobs relative to a year ago this time. The biggest gainers this quarter were trade, transportation and utilities (1,100); education and health services (800); and professional and business services (700).

The unemployment rate averaged 7.3 percent for the MSA in the fourth quarter, two-tenths lower than a year ago. These are non-seasonally adjusted results.

According to the bureau, on average there were about 225 more people in the Fort Smith MSA labor force during the period than there were in 2012. There were also over 950 more people working in the MSA during the period.

As is always the case, data are preliminary estimates and are likely to change month by month.

The residential real estate sector continued its split personality this quarter, with construction permits showing a decline year over year, while home sales came in positive relative to the fourth quarter a year ago. Residential construction data revealed a 48 percent drop in new permits for the quarter relative to last year. The 90 permits issued for the quarter were below the 174 permits issued in 2012 and well below the 2005 number of 209 permits for the same period.

For the Fort Smith regional economy, this quarter's results suggest the recovery continues.

Home sales, on the other hand, were positive for the quarter. Based on Multiple Listing Service data, 496 units were sold during the fourth quarter, up 7.1 percent from a year ago. While unit sales were still below the 718 units sold during the 2005 base year for the fourth quarter, this was another solid quarter for home sales in the region.

Although interest rates have generally moved higher this year, they have begun to decline again in recent weeks. Lenders are rumored to have relaxed credit standards some in recent weeks as well.

As has been the case for some time now, conditions remain quite good for residential real estate. Interest rates remain low relative to historical levels and inventory levels appear to be adequate across most price ranges. Weather over the past couple of months has not been helpful, but to those able and willing to buy, conditions remain generally positive.

Finally, average monthly airport traffic counts for the quarter went backward year over year. This aspect of our economy has struggled in 2013, closing out 2.5 percent below 2012.

SUMMARY AND ANALYSIS

At the writing of this report (second week of February), stock markets have begun to show some weakness. While indexes have remained near record highs, the tone is now much more cautious.

The new Federal Reserve chair, Janet Yellen, assured the markets that she will keep a steady hand on the controls and not do anything drastic with monetary policy in the foreseeable future. That made markets happy for a day, but the vibes in the market are looking decidedly more downward than upward at this point.

A generous monetary policy continues to support markets, though corporate performance again came in mixed for the fourth quarter. The first half of 2014 should be really interesting, which means volatile and uncertain.

According to CoreLogic, the rise in home prices nationally appears to be slowing after double-digit gains over the past year or so. November numbers were actually flat over the previous month. Homebuilder stocks have recovered much of their losses since the summer declines, which suggests that expectations for the sector have turned more positive in recent months.

Job creation is a different story, even a confusing one. The past two monthly reports on employment and new job creation have been disappointing to say the least. While other indicators such as the ADP Research Institute's private-sector report for January suggest continued improvement in hiring, Bureau of Labor Statistics reports have been, uh, dismal. Hopefully, some semblance of the truth will emerge over the next couple of months.

Looking in on some other indicators, national manufacturing and nonmanufacturing numbers for January - the most recent data reported by the Institute for Supply Management - came in lower relative to the October readings reported last quarter. The PMI (for manufacturers) recorded a 51.3 for January, well below the 56.4 for October we reported in our last issue. This indicates the manufacturing sector continued to expand since the last report, but at a slower clip.

The NMI for January, which includes such sectors as professional services, information, wholesale and retail trade, came in at 54. This compares with the October reading of 55.4, which we reported last time. Index scores that trend above 50 are interpreted as a growth mode for the sector.

The December results from the *Manpower Employment Outlook Survey* found that Arkansas employers' overall hiring intentions for the first quarter of 2014 declined from fourth-quarter readings. Ten percent of employers indicated they intended to hire more people in the first quarter, down from 12 percent in the previous survey. Six percent indicated they planned to *decrease* payrolls in the first quarter, up from the 5 percent in the previous report. This results in a net positive of 4 percent for the quarter and reflects a moderately weaker view of hiring prospects for the first quarter in the state. The report goes on to note that the Arkansas report was the third-weakest in the U.S. for this reporting period, hardly a positive indicator going forward. No report specific to the Fort Smith MSA was available.

For the Fort Smith regional economy, this quarter's results suggest the recovery continues. Home, auto and retail sales, along with recent jobs data, posted positive numbers, while building permits were down for the quarter – the same basic result as in our last report. Steady as she goes seems to be the guiding mantra heading into 2014. There is no shortage of storm clouds on the horizon, which makes for an interesting year for the Fort Smith area.

Consumer Sentiment in the Fort Smith Region

INTRODUCTION

The Index of Consumer Sentiment for the Fort Smith region rose in the fourth quarter after falling in the September report. The index for December, which measures consumer confidence for the Fort Smith Metropolitan Statistical Area, was 61.5, up 3.5 percent from the third quarter reading of 59.4, and noticeably higher than the 52.2 reported for the fourth quarter a year ago. The rise in sentiment was consistent with national results of 82.5 reported by the University of Michigan for December, which rose 6.5 percent from the previous quarter.

The two subindexes for Fort Smith were higher as well for the quarter. The Index of Current Conditions for the Fort Smith region, a measure of consumer attitudes toward their current economic situations, rose a meager 0.4 percent to 67.4, while the national ICC rose by 6.5 percent. At the close of the fourth quarter, regional consumers' views of their current financial situations were largely unchanged from last quarter but still well above the 58.1 recorded a year ago at this time.

The Index for Consumer Expectations, which measures consumer feelings about future economic conditions, was up 19.3 percent from last quarter, recording a 64.9 for the Fort Smith regional consumer. This result was well above the 48.5 observed a year ago at this time and reflected considerable improvement in the regional consumer's view of the economy going forward.

National and Fort Smith consumers' sentiment rebounded relative to last quarter, both in terms of current conditions and expectations going forward.* Overall, the more positive sentiment reported by area consumers, particularly as it pertained to future expectations regarding personal finances and the economy, reflected the more upbeat tone of recent economic news, suggesting the economy is on the mend.

TAKING A CLOSER LOOK

As can be seen from Table 1, area consumer-sentiment scores registered general improvement over results reported in the third-quarter report. The observed improvement in overall sentiment was broadly supported across all subindexes, both for national and regional respondents.

Two items make up the ICC subindex: people's ratings of their current personal finances and whether the time is right to make major purchases (referring to durable goods). Area consumers did report more-positive attitudes this quarter regarding their current personal finances, rising 5.6 percent from last quarter. National numbers were up a more modest 4.2 percent from the previous quarter on this item.

The second item in the ICC, which asks whether this was a good time to purchase durable goods, dropped again this quarter, down 3.3 percent from last quarter. National numbers were higher from last quarter on this item.

* Possible reasons for the relatively lower scores compared to the national results are discussed in detail in the first quarter 2010 report, which is available online under our Publications link: http://uafs.edu/cob/cbred.

Table 1. December 2013 Indexes and Components

INDEXES	Q4/2012		Q3/2013		Q4/2013		% Change Q3-Q4	
	UM*	FS	UM*	FS	UM*	FS	UM*	FS
Index of Consumer Sentiment (ICS)	72.9	52.2	77.5	59.4	82.5	61.5	6.5	3.5
Index of Current Conditions (ICC)	87.0	58.1	92.6	67.1	98.6	67.4	6.5	0.4
Index of Consumer Expectations (ICE)	63.8	48.5	67.8	54.4	72.1	64.9	6.3	19.3
INDEX COMPONENTS								
Personal Finances – Current (ICC)	91	66	96	71	100	75	4.2	5.6
Personal Finances – Expected (ICE)	102	66	109	77	108	80	-0.9	4.0
Economic Outlook – 12 Months (ICE)	74	58	86	67	94	76	9.3	14.2
Economic Outlook – 5 Years (ICE)	77	67	76	72	86	74	13.2	2.8
Buying Conditions – Durables (ICC)	134	83	143	101	156	98	9.1	-3.3

*UM = University of Michigan Survey; FS = Fort Smith Survey

The ICE subindex consists of three items and seeks to measure consumer expectations going forward in areas of personal finances and national economic prospects. As to personal finances over the next 12 months, there was more optimism reported, with scores 4 percent higher than last quarter (from 77 to 80). National results were largely unchanged for this item. In percentage terms, 14 percent of respondents in the Fort Smith area felt their personal finances would be better off a year from now versus 34 percent who expected them to be worse.

When asked about prospects for the general economy over the next 12 months and over the next five years, Fort Smith area respondents reported more optimism for both short- and medium-term prospects of the U.S. economy. Area consumer scores registered a solid 14.2 percent increase relative to last quarter when respondents were asked about prospects for the economy over the next 12 months (from 67 to 76). National scores were up by more than 9 percent from the September survey.

When looking at the five-year range, area respondents again reported more optimism than last quarter with scores up a more modest 2.8 percent (from 72 to 74) relative to last quarter. National scores rose 13.2 percent from last quarter on this item.

To summarize the results to this point, regional consumer sentiment moved higher in the fourth quarter, supported by the generally more positive economic news on the U.S. economy.

Table 2. December 2013 Index Scores of Fort Smith Region

Fort Smith Scores	UM ICS Survey (Q4 2013)	FS ICS Survey (Q4 2012)	FS ICS Survey (Q3 2013)	FS ICS Survey (Q4 2013)	% Change Q2-Q3
FS ICS	61.5	55.5	62.6	65.9	**5.3**
FS ICC*	67.4	58.1	67.1	67.4	**0.4**
FS ICE	64.9	53.8	59.6	64.9	**8.9**

*Items included in the FS ICC are identical to the ICC; thus, no change.

RESULTS SPECIFIC TO THE FORT SMITH ECONOMY

For each quarterly survey, we modify two items in the University of Michigan scale to focus participants on the Fort Smith regional economy versus the national economy. These two items ask respondents to rate their expectations about business conditions in the Fort Smith economy over the next year and also five years from now. The overall FS ICS index and FS ICE subindex are affected by the change. Because these items focus on future expectations as opposed to current conditions, the FS ICC scale is not affected (thus, is the same as ICC results in Table 1 for Fort Smith).

As can be seen from Table 2, Fort Smith respondents' overall sentiment (FS ICS) and ratings of future prospects (FS ICE) for the regional economy rose from last quarter. Ratings of the region continue to run higher than ratings of the U.S. economy on the same dimensions (UM ICS).

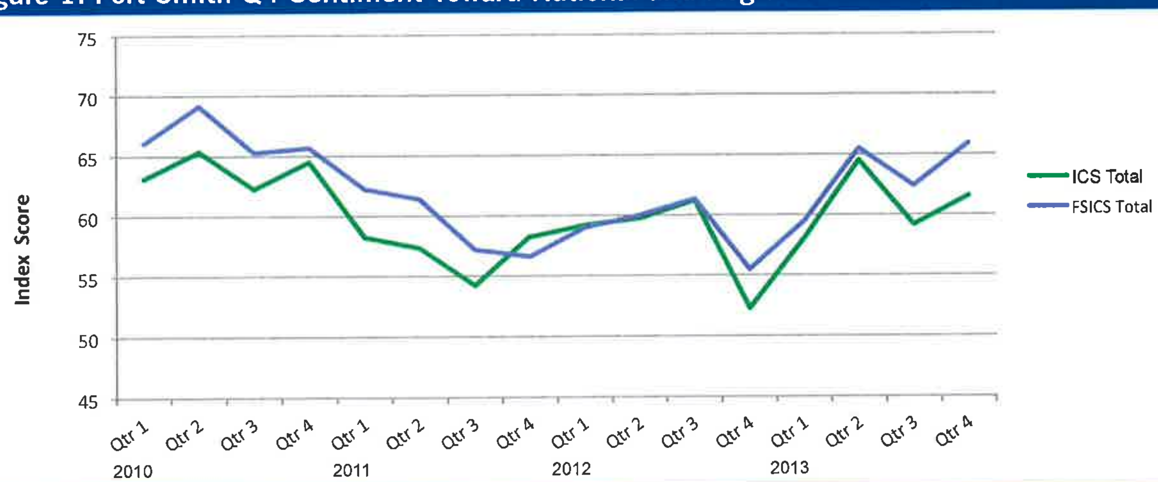
Results for the fourth quarter revealed a 5.3 percent increase in the overall index score (FS ICS) and an 8.9 percent increase in the FS ICE relative to last quarter. The rise in optimism was consistent in direction with the ratings Fort Smith consumers gave the national economy. The FS ICS score of 65.9 was noticeably better than the national score of 61.5.

As can be seen in Figure 1, Fort Smith consumer sentiment moved higher in the fourth quarter.

BEYOND THE CORE MEASURES

Consumers were asked 10 additional questions – seven focused on their views and expectations about inflation, personal spending, jobs and income; and three relating to consumers' sense of personal economic security as well as holiday shopping intentions going into the

Figure 1. Fort Smith Q4 Sentiment Toward National and Regional Economies



final weeks of 2013. Where applicable, the specific questions, comparative scores and percentage breakdown of positive-negative responses for each are contained in Table 3.

GENERAL ECONOMY AND CONSUMPTION INDICATORS

Perceptions of the current business conditions in the U.S. economy (Q8) declined from September ratings, with 18 percent of the respondents indicating they thought the economy was better now than it was a year ago. This was up from 14 percent who felt this way in the third quarter. However, 54 percent (versus 45 percent in September) indicated the economy was worse.

More consumers continue to think higher inflation will be the rule over the next 12 months (Q9), with 79 percent indicating this view. This was down from the 88 percent who felt that way in the previous quarter and lower than the 85 percent who felt that way a year ago. The dominant expectation among area consumers continues to be biased toward inflation. This view persists even though inflation has remained largely benign up to this point, based upon data on national producer and consumer metrics of price movement.

When asked about overall consumption expectations over the next three months (Q10), the percentage of respondents in this survey who indicated they intended to spend more in the first quarter of 2014 was lower than the last reading, while the number indicating they would spend less rose. This resulted in a slight decline in the index score from 112 to 106 for the quarter. The fourth-quarter reading remained higher than the 2012 reading for the quarter.

When it came to specific purchasing activity over the next quarter (Q11), 12 percent expected to increase spending on such activities as dining out, up slightly from the 10 percent who responded this way last quarter. Thirty-eight percent indicated they would spend less during the 2014 first quarter, an increase from the 35 percent recorded last quarter. There has been some weakening in

Table 3. Additional Consumer Sentiment Scores and Current Quarter Percentages

SURVEY QUESTIONS	Index Scores 2012	Index Scores 2013		Qtr. 4 Percentages	
	Q3	Q2	Q3	% pos	% neg
8) Are current business conditions in the country better, about the same, or worse than they were a year ago?	51	70	64	18	54[1]
9) During the next 12 months, do you think that prices overall will go up, go down, or stay the same?	17	13	26[2]	4	79
10) Compared to the last three months, how much do you expect to spend overall as a household in the next three months?	93	112	106	28	22
11) Do you expect to spend more, about the same, or less per week in the next three months on dining out?	67	76	74	12	38
12) In the next three months, do you expect to purchase a major household item, such as furniture, appliances, or a TV?	30	36	36	8	72
13) Thinking about the Fort Smith area, how would you describe the availability of jobs today?	48	55	57	7	50
14) A year from now, will there be more or fewer jobs available in the Fort Smith area than there are today?	62	73	80	18	38
15) Overall, do you feel more secure in your current economic situation than you did last year at this time?	NA	NA	60	11	51
16) For the upcoming Christmas season, do you expect to spend more, about the same, or less than you did a year ago?	58	NA	53	6	52
17) For purchases this Christmas season, do you plan to use more, about the same, or less CREDIT than you did a year ago?	NA	NA	42	4	62

[1] Neutral scores are not included in calculating index scores.

[2] Positive responses to item Q9 are reflective of negative sentiment regarding pricing; thus, scores are reversed to reflect sentiment-score consistency. That is, a pessimistic tone regarding inflation should score lower relative to a more optimistic tone, consistent with the other items in the table.

consumer consumption-intentions to dine out relative to last quarter.

Ratings regarding intentions toward buying large-ticket items (Q12) in the fourth quarter remained largely unchanged for the third quarter in a row. Eight percent of respondents indicated they definitely expected to make such purchases in the 2014 first quarter, while 72 percent indicated they would not make such purchases. Overall, the index score of 36 was modest improvement over the 30 recorded in December 2012 on this item, suggesting modest improvement in consumer intentions toward larger purchases.

Overall, these data suggest that consumers reported generally less-positive views toward consumption relative to last quarter, and this was largely true across the board – general spending, dining and durables. While the changes were generally modest, they reflected a similar weakening reported in the previous quarter's results. These results suggest that consumer spending may remain sluggish as we move through the first quarter of 2014.

EMPLOYMENT

Fort Smith respondents recorded slight improvement in the fourth quarter in sentiment toward the regional job market. Ratings of current perceptions of job availability in the Fort Smith area (Q13) indicated that 50 percent of the respondents felt jobs were hard to get now, up from the 48 percent who felt that way last quarter (which was up from 44 percent who felt that way in the second quarter report). Seven percent stated that jobs were plentiful (up from 3 percent last quarter).

When asked about availability of jobs a year from now (Q14), regional consumers were more optimistic, with 18 percent of respondents indicating they expected more jobs to be available a year from now. This was up from the 15 percent who felt that way last quarter. Thirty-eight percent of respondents felt there would be fewer jobs available in the coming year, which was an improvement over the 42 percent reported in the last survey.

Survey participants had shown steadily improving views of the regional employment picture in the first and second quarter surveys of 2013, but this changed in the third quarter. Views revealed in the fourth-quarter report were mixed at best. Jobs sentiment remains quite negative, even in the improved jobs environment we've seen in recent regional jobs reports.

PERSONAL FINANCES

Three questions concerned respondents' personal sense of security at this stage of the economy and their holiday shopping intentions in the closing weeks of 2013. Items Q15-Q17 in Table 3 relate to these themes.

Respondents were asked whether they felt more secure in their current economic situations relative to last year (Q15). Fifty-one percent indicated they felt less secure than they did a year ago, while 11 percent indicated they felt more secure. Thirty-eight percent indicated they felt about the same as a year ago.

This result was somewhat surprising as the regional job market appears to have improved this year relative to a year ago and the general tone nationally has been more positive. Yet, a significant proportion of respondents felt more vulnerable now than a year ago – a result revealing a lingering anxiety about finances in many regional households.

Consumers were asked (Q16) their expectations regarding holiday spending compared to last year. A modest decline in spending intentions was noted from a similar item used in the 2012 fourth-quarter survey. Six percent (versus 7 percent a year ago) indicated they expected to spend more this year relative to last year, while 52 percent (versus 49 percent a year ago) thought they would spend less.

Finally, consumers were asked (Q17) how they expected to use credit during the holiday season relative to a year ago. Four percent indicated they intended to use more credit during the Christmas shopping season, while 62 percent indicated they planned to use less. While we lack a comparison as to intentions for last year, it is revealing that more than half of the respondents expected to use less credit in their shopping plans this past December relative to 2012.

These results reveal a generally more cautious consumer heading into the end of the year. This tentativeness seems magnified by a high percentage of respondents expressing less economic security than they had a year ago.

Overall, fourth-quarter results reflected a mixed bag of sentiment. First, the overall sentiment measures improved relative to last quarter and were considerably better than a year ago at this time.

However, when moving into the details of consumption and job expectations within the regional economy, the picture was noticeably less positive. The regional consumer revealed considerable cautiousness in terms of future spending and lingering pessimism about job prospects going forward. Further, a higher proportion of respondents indicated a decreased sense of personal economic security now than a year ago.

Economic headlines have generally been positive again in the fourth quarter. Yet, respondents in this survey reflected less optimism than might be expected at this stage of the recovery. Based on this survey, one should not expect any boom in consumer activity any time soon as far as the regional economy is concerned.

ABOUT THE SURVEY

Of the 3,350 surveys mailed to the five-county MSA, 369 were returned undeliverable, and 253 usable surveys were returned, providing a return rate of 8.5 percent. As a result, the confidence level exceeds 85 percent for this survey.

The University of Michigan's Index of Consumer Sentiment survey is used to measure consumer attitudes on several economic themes. Collectively, these represent consumer optimism or confidence levels for any given period and can be used to compare any one period with other periods.

The overall ICS score includes five core questions and constitutes a general measure of consumer sentiment for the period. These questions cover three general areas of consumer sentiment: personal finances, business conditions, and buying conditions. Two subindexes within the ICS make up the Index of Consumer Expectations and the Index of Current Economic Conditions, or more simply, Index of Current Conditions. The UM says the ICE "focuses on three areas: how consumers view prospects for their own financial situation, how they view prospects for the general economy over the near term, and their view of prospects for the economy over the long term." The ICC focuses on consumers' views of their current financial condition and whether they feel secure enough about their financial situations to engage in major consumption activity.

For more information on the Consumer Sentiment Survey, methodology used and discussion regarding results, a more extensive narrative is provided in the first quarter 2010 report that is available online under our Publications link at http://uafs.edu/cob/cbred.

Regional Economy Through 2020: Prospects and Challenges

by Kermit Kuehn

We're bombarded with economic data on a daily basis, all for the purpose of informing us on various aspects of our national and regional economy. One month an indicator is up, the next down – it's hard to know where we stand in the broader scheme of things. Then there is the multitude of analysts dissecting each piece of news in order to discern the future direction and health of the economy – often drawing opposite conclusions in the process. In the end, we walk away with some vague sense as to whether we're doing well or not so well.

In this article, our aim is to step back from the short-term data and examine the longer-term factors that will influence the economy over the next five to 10 years. By necessity, this type of analysis will involve a fair degree of speculation and opinion. Attempting to see into the future, even a short distance, is by definition a "fool's game" to some degree, but the hope in such an exercise is that it will provide a perspective generally lost in the daily barrage of analyst opinions.

This analysis will proceed as follows. First, we will look at U.S. data to assess progress of the recovery. This will be followed by a look at regional data in the hopes of connecting the dots into a reasonable assessment of the regional economy over the next decade.

One challenge we have to acknowledge at the outset is the reality that U.S. data is not only more readily available, but it is typically more current than is the case for regional data. Second, we will be selective in what we consider here as our space is limited.

One further note before we begin. In most cases, the purpose in providing charts has to do with the shape of the trend lines contained in them and not in any particular detail within the chart. Finally, by necessity, this analysis will avoid attempts to speculate on scenarios where the next "Whirlpool" decides to come to Fort Smith with 1,000 or 5,000 jobs in their pocket.

THE U.S. ECONOMY

If we were asked how well the recovery is going in the U.S., we would probably get an answer somewhat along the lines of "improving" or "not bad." The financial media have generally been reporting positive news of stock market highs, double-digit increases in housing prices, auto sales rising and unemployment rates falling. Corporate reports on profits have come in solid in recent quarters and consumer confidence has significantly improved in the past year or so. So, we might conclude that we're on the road to the good old days in terms of recovery and will soon be clicking along even better than we were in 2007. Let's look at what the longer-term trends look like and see if that is a reasonable scenario.

A key assumption in this analysis is that economic growth is ultimately dependent on increasing numbers of paychecks and that those paychecks are getting bigger. We don't care if the paychecks come from wages, social security or food stamps – more of them and bigger ones are key. If that doesn't happen, then we need to see consumers having access to, and being willing to use, more credit. In either of these cases, the consumer has to have increasing buying capacity.

It is estimated that nearly 70 percent of our economy is dependent on the consumer. That means that as the consumer goes, so goes our economy. As such we are interested in looking at evidence that tells us how well the consumer is doing, particularly how well he or she will be doing in the future. While there are many other factors that could be looked at, we'll be looking at employment and income data, housing and consumption data, to identify trends that will help us project what is going to happen in the intermediate term.

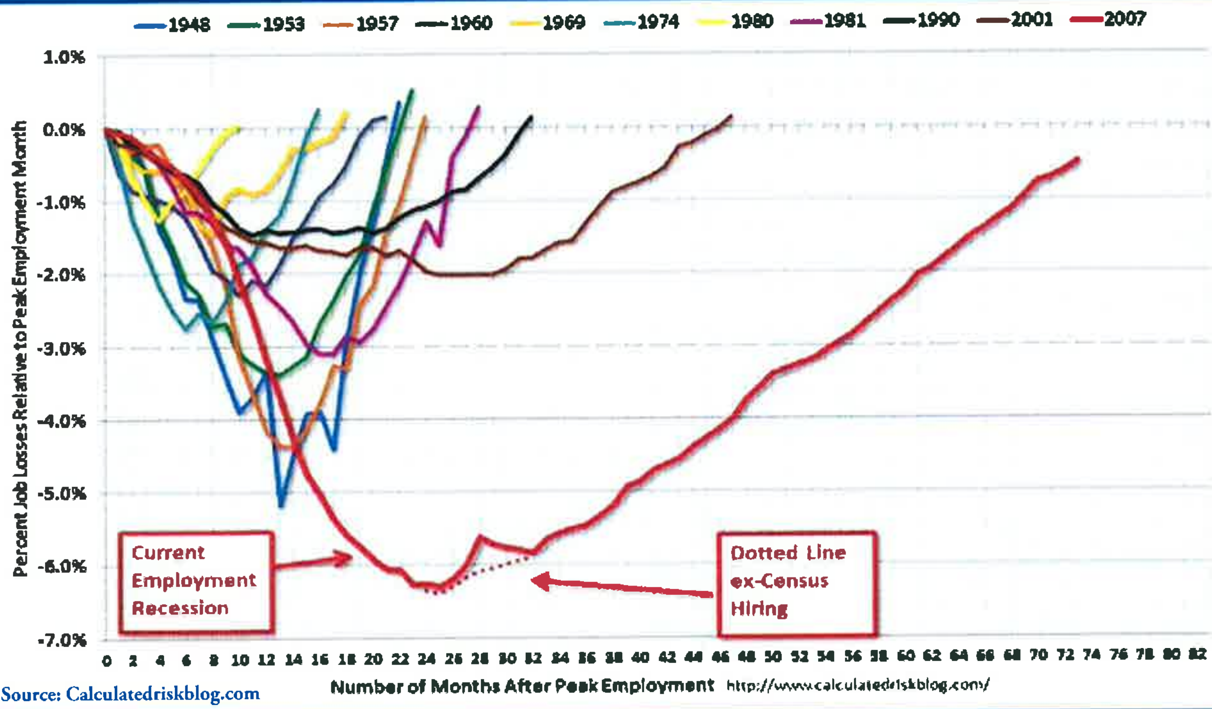
Employment

The U.S. employment picture has shown generally modest but steady improvement since the recession. This is perhaps best reflected in the decline in the unemployment rate, which has declined from a high of 10 percent in 2009 to the current 6.6 percent in January 2014. This statistic is really the highlight of employment good news, and not a particularly informative statistic at that, in my view.

The employment rate is calculated by dividing the number of people unemployed by the number of people in the labor force. The labor force is defined as a qualified adult (16 years or older, not in the military or institutionalized) who currently has a job or is actively looking for a job. If an adult is not looking for a job, then he or she is not in the labor force. Participation in the labor force has been declining for several decades, but has been most pronounced in the past five years.

In all fairness, except for the December and January job creation numbers, which were a disaster, the jobs picture has averaged around 180,000-plus new jobs a month for 2013. That's not great, but certainly not horrible. However, we have approximately 200,000 new job hunters entering the market each month. This means the rate of job growth has struggled to keep up with natural workforce expansion, much less absorb those who quit looking for work, those with work but underemployed, or part-time employees who wish to be full-time.

Figure 1. Percent Recession Job Losses and Time to Recover Jobs (as of February 2014)



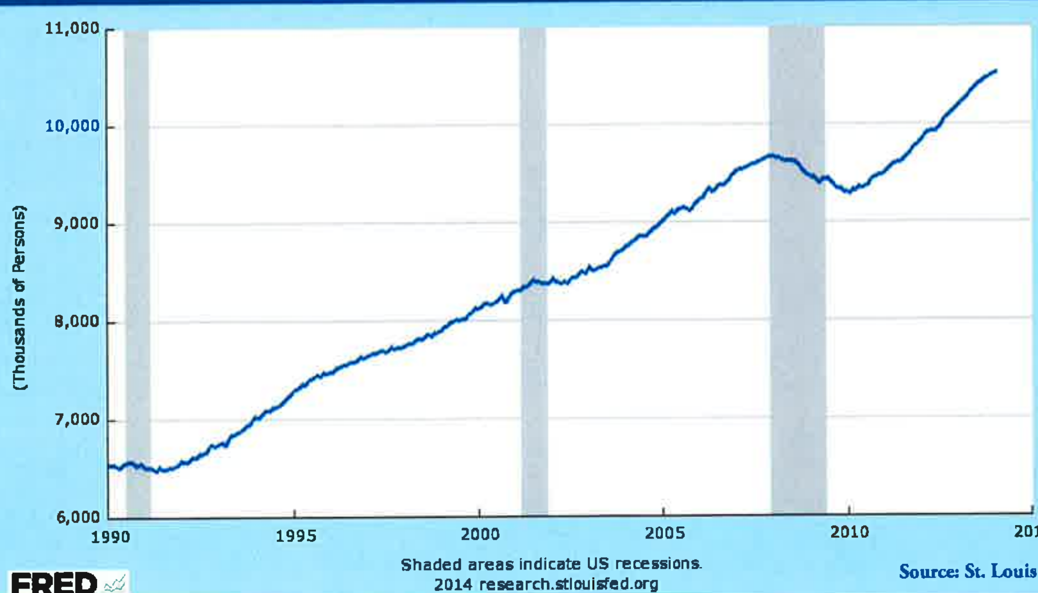
Source: Calculatedriskblog.com

From Figure 1, we see that the recovery of jobs lost from the recession has been slow going. Including recessions since World War II, Figure 1 charts (in percentage terms) the time it takes for the peak employment before the recession to be recovered after the recession.

The low and long red line depicts the current recession recovery period through February 2014. It is sobering.

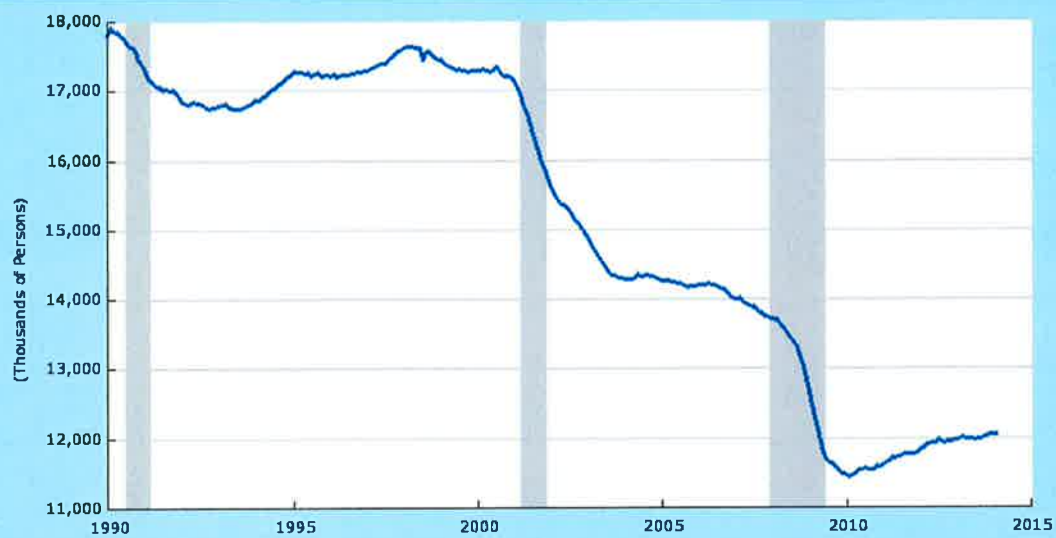
Aside from the painfully slow recovery reflected in Figure 1, the quality of the jobs created during the recovery has been relatively poor as well. Figure 2 reveals the strong growth in jobs in the leisure and hospitality sector. This is in contrast with the strong downward trend and weak recovery in manufacturing jobs reflected in Figure 3.

Figure 2. Leisure and Hospitality Employment Growth (Through Jan. 1, 2014)



Source: St. Louis Federal Reserve

Figure 3. Manufacturing Employment Growth (through Jan. 1, 2014)



FRED
Shaded areas indicate US recessions.
2014 research.stlouisfed.org

Source: St. Louis Federal Reserve

Figures 2 and 3 don't tell the whole story, of course. Around 20 percent of the jobs lost from the recession were in low-wage sectors, while well over 50 percent of the job recovery has come from these jobs. We're talking jobs in retail, hospitality, leisure and such lower-skilled jobs. The recession hit middle-wage jobs the hardest, contributing around 60 percent of the job losses. Yet the job recovery has included only around 20 percent of those jobs.

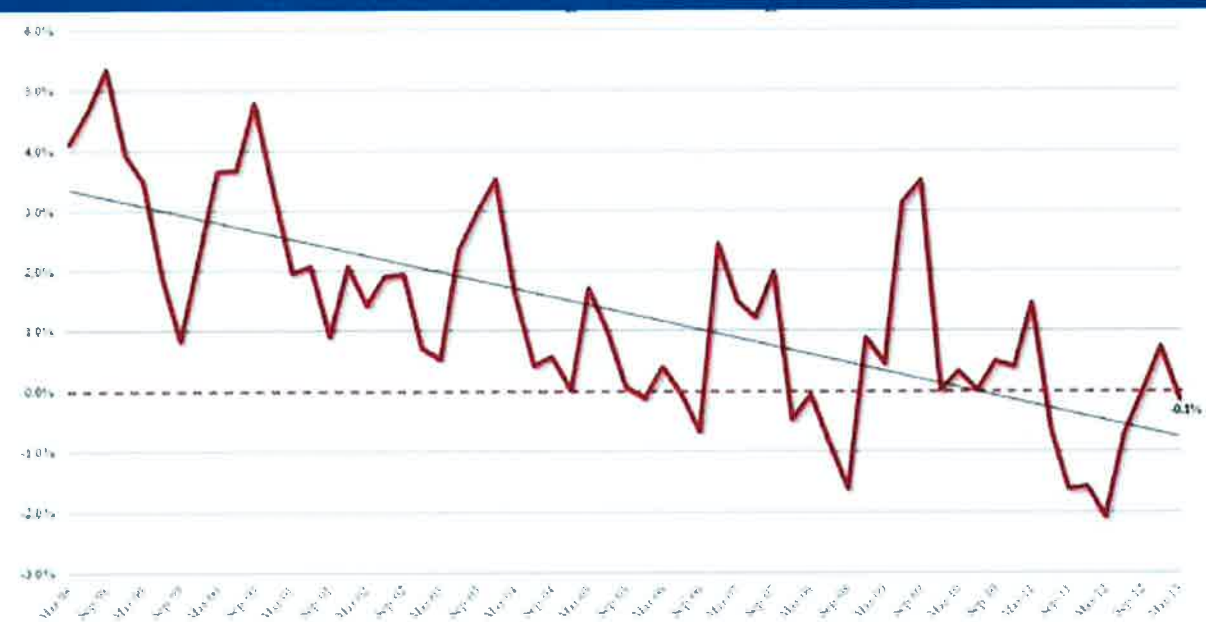
Finally, U.S. median household incomes have declined more than 6 percent between 2000 and 2012. While not surprising given the discussion above related to employment, it does suggest that households remain under pressure, and will remain under pressure for some time to come. Yet that is only part of the story. Real wage growth (Figure 4) is not helping boost economic potential of the economy.

To summarize the wage story over the past decade, I'll let a quote from a 2013 report* by the Economic Policy Institute sum it up:

"Between 2002 and 2012, wages were stagnant or declined for the entire bottom

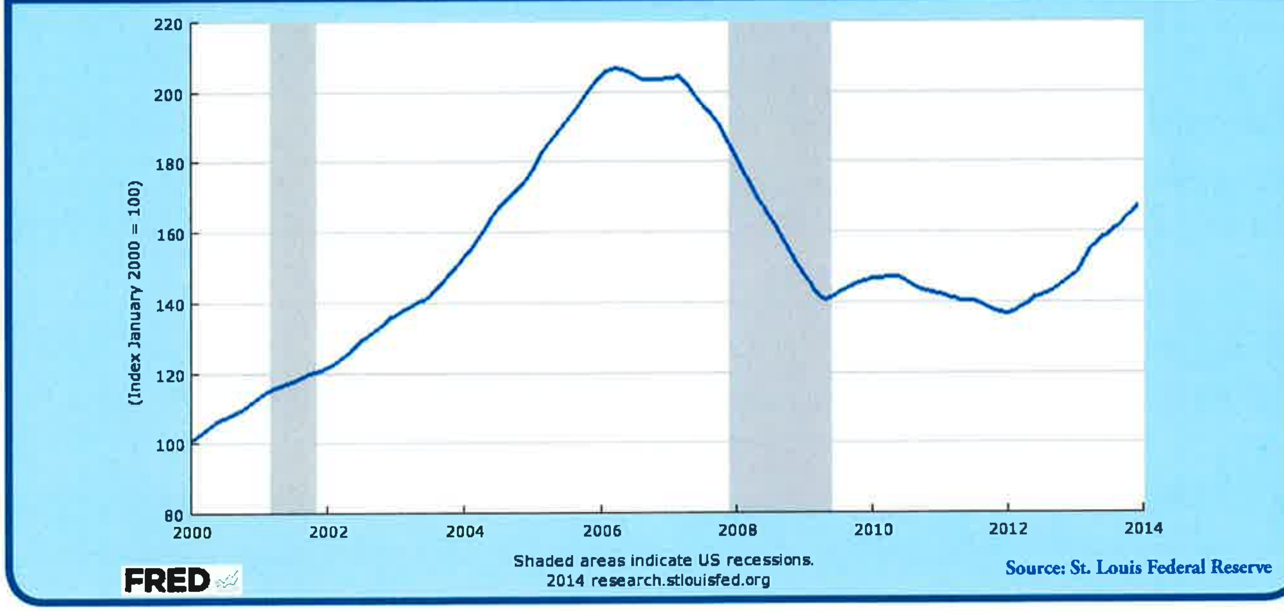
* *A Decade of Flat Wages: The Key Barrier to Shared Prosperity and a Rising Middle Class.* By Lawrence Mishel and Heidi Shierholz. Aug. 21, 2013. Economic Policy Institute.

Figure 4. U.S. Real Wage Growth (1998-2013)



Source: BLS/Zero Hedge

Figure 5. U.S. Housing Prices (2000 - Jan. 2014)



Source: St. Louis Federal Reserve

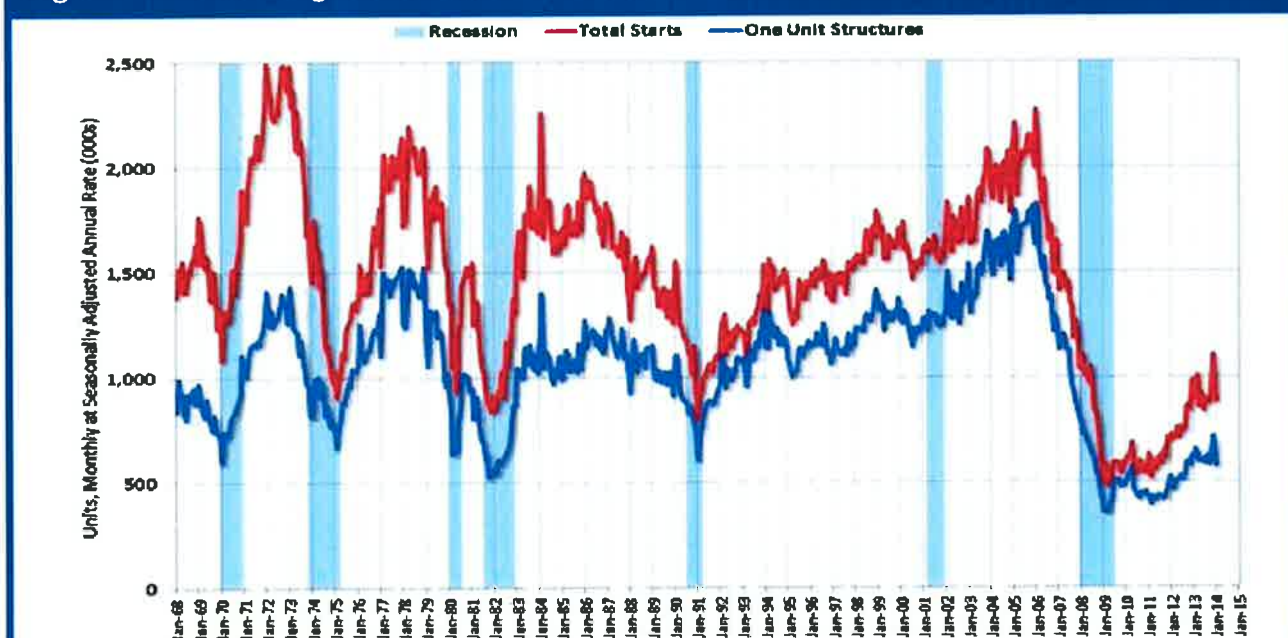
70 percent of the wage distribution. In other words, the vast majority of wage earners have already experienced a lost decade, one where real wages were either flat or in decline."

Residential Real Estate

The residential real estate market has been seen as a reasonably reliable indicator as to how well the economy is doing and will do in the following months. Home prices have rebounded nearly 20 percent since bottoming in late 2012, according to the Case-Shiller index of 20 U.S. cities (Figure 5). Foreclosure rates have declined, and new and existing home sales have generally improved in the past 12 to 18 months. Figure 6 depicts housing starts and completions. All this has been relatively good news.

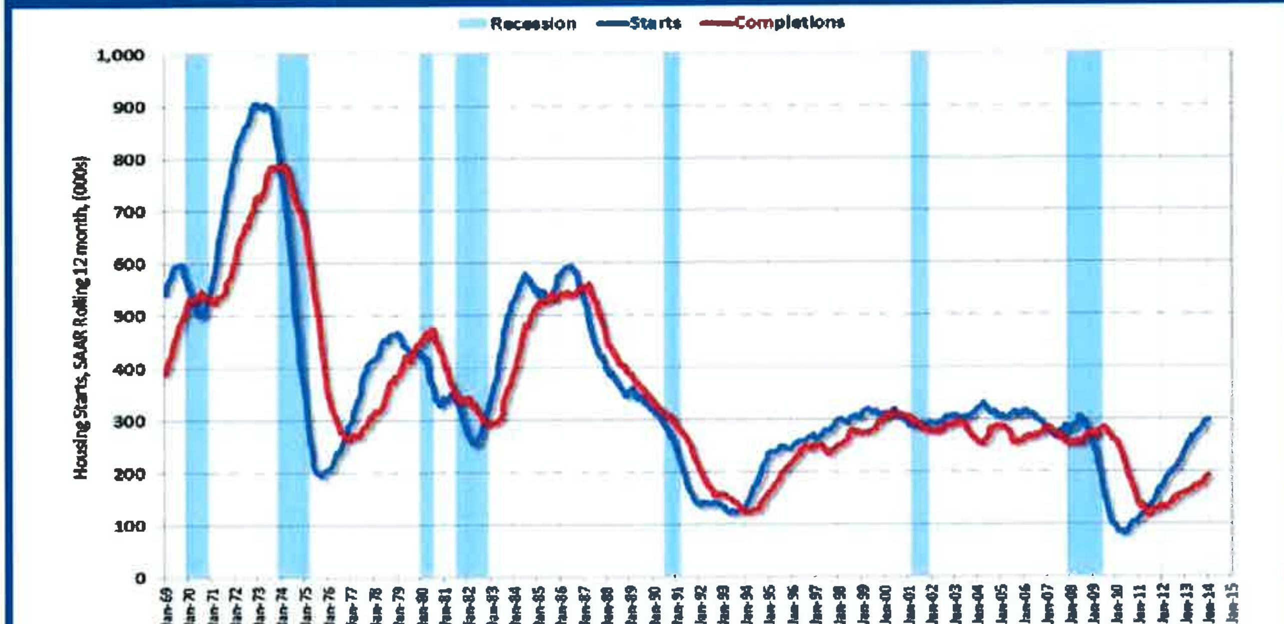
Let's take a quick look at the charts in Figures 6 and 7. In Figure 6 we see that the total number of housing starts (in red) and single-family only starts (in blue) have improved since the 2009 lows. Since we're looking for perspective here, let's note how devastating the recession actually was. Note how far the housing recovery has yet to go to reach levels reported in the mid-1990s, particularly in single-family construction.

Figure 6. U.S. Housing Starts (Jan. 1968 - Jan. 2014)



Source: Calculatedriskblog.com

Figure 7. U.S. Five-Plus Unit Housing Starts (Jan. 1969 - Jan. 2014)



Source: Calculatedriskblog.com

Taking a closer look at larger multi-family starts depicted in Figure 7, we see an interesting pattern. The blue line reflects new starts, and the red represents completions. These larger projects take longer to complete and provide us an interesting look at what could happen next. When a change in direction is about to take place, the gap between starts and completions increases. Further, these transitions tend to match up with recession and recovery periods. The current gap has grown significantly and suggests a direction change is in the making.

Being optimistic going forward about residential real estate is further complicated when examining who is buying homes. Unlike in previous recoveries, a key driver of home sales appears to be investor-driven, evidenced by the high level of cash buyers. The typical first-time home buyer has not been as dominant as in previous recoveries. David Stevens, chief executive of the Mortgage Bankers Association, in a Feb. 21 interview on Yahoo Finance's *The Daily Ticker*, indicated that first-time home buyers would typically constitute 40-45 percent of home sales. They're only about 30-35 percent of current mortgage applications. He thinks we're already seeing the student loan effect in loan applications.

I believe the growing student loan debt will be a huge drag on the housing sector and the economy overall going forward. Stevens stated in the same interview that he felt student loan debt was already partially to blame for the current decline in first-time home buyers. I would argue that it may very well be THE single biggest drag on first-time home buyers *over the next decade and beyond*

– assuming current policy remains in place, which seems unlikely to me.

Consumer Spending and Credit Use

Space does not permit a detailed discussion of consumer buying patterns and credit use, so a brief summary will have to suffice here. Retail sales have shown modest growth year over year, and even more modest in inflation-adjusted terms. Auto sales have been a relatively strong component of consumer spending. As consumption has grown, it has come at the expense of savings and the increased use of debt.

After contracting nearly 10 percent from the pre-recession high, consumer debt has been steadily expanding in the past two years, particularly as it relates to auto and student loan debt. Credit card debt growth has really only begun to expand again in recent quarters.

Policymakers seem to want two mutually exclusive things at the same time – increased consumer spending by any means possible, and increased consumer saving rates.

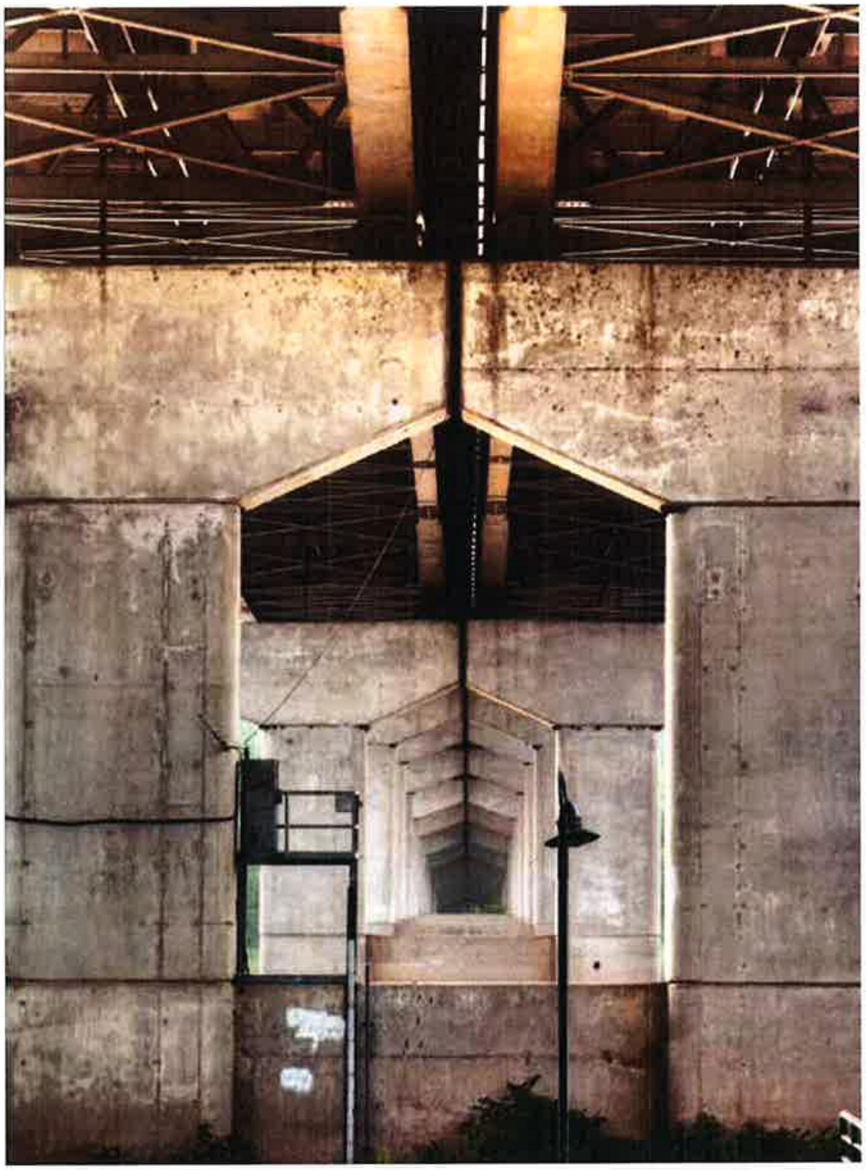
Assessment of Current U.S. Economy

While there is much more we could look at in terms of economic data, positive and negative, the real question is still how are we doing – economically speaking? With stock market indexes at record highs, home prices rising, inflation low, and gross domestic product rising, what's not to like? And it should only get better, right? I have my doubts – serious doubts.

In a very informative book published in 2013 called *The Age of Oversupply*, Daniel Alpert makes the case that the overriding challenge to be faced by governments over the next few years, in the U.S. and globally, is the fact that there is too much capital and labor chasing too little demand for the things capital and labor produce. This has been exacerbated, according to Alpert, by the fact that governments around the world, mainly through monetary policy, have focused on increasing supply instead of addressing the lack of demand.

Demand is determined by the buyers of goods and services being capable and willing to buy more – call them consumers or governments or companies. For the U.S., the key is the consumer. As we've looked at the U.S. consumer's reality in this report, we've seen stagnating wages, damaged credit ratings and a weak jobs market. We're seeing reductions of benefits to those on government support and reductions in public sector budgets (employment). There's no magic here.

I think Alpert makes a solid argument for the need to change our approach – first, by correctly diagnosing the problem. However, I think the issue of weak demand will continue to be center stage for some time to come. Developed economies in particular are facing a long-term trend of reduced demand due to the aging of their populations. This includes Europe, Japan and the U.S. These will be followed a decade or two later by China



and other Asian economies. In the U.S., this large aging "boomer" population will be followed by a smaller "X" generation with lower purchasing power capacity.

The income and consumption pattern of generations is pretty well understood. Incomes start to peak when people reach their 50s and begin to decline along with consumption during this period. As they approach retirement age, consumption declines, debt is reduced and savings increase – all bad things for an economy's demand-side of the equation.*

So, from this assessment of the broader perspective, I conclude that the fundamental pressure on the U.S. economy is likely more toward stagnation, and is more deflationary than inflationary in the near term. I think the increased debt of the "millennial" generation due to student loans and a weaker employment and wage picture will only magnify this problem over the five- to 10-year window we're looking at here.

As Alpert points out, you can't have sustained inflation without wage inflation and the pressure to raise wages seems unlikely any time soon.

Let's now take a brief look at the regional economy to remind ourselves of the somewhat unique aspects that make Fort Smith, Fort Smith.

* Harry S. Dent Jr. is a vocal proponent of the demographic impacts on economic lifecycles. An example of his views can be found in his recent book, *The Demographic Cliff: How to Survive and Prosper During the Great Deflation of 2014-2019*, published by Penguin/Random House in 2014.

The Fort Smith Regional Economy

Over the past four years, we've examined various aspects of the regional economy and have sought to assess the prospects for the region over time. We've reported on many of these results in writing and in public forums. To follow is a brief summary of some of the data, updated where possible.

Table 1. Labor Force Changes (January 2007-January 2013)

REGION	Jan-07	Jan-13	% Chg
United States	151,924,000	154,794,000	1.89%
Arkansas	1,364,722	1,344,470	-1.48%
Oklahoma	1,736,294	1,818,737	4.75%
Northwest Arkansas MSA	223,370	233,300	4.45%
Fort Smith MSA	136,750	131,316	-3.97%

Source: BLS

Employment and Income

While labor force participation numbers have declined significantly nationally and regionally, the actual size of the labor force has generally grown above pre-recession levels. In Table 1, we see that there are exceptions to growth in the labor force. Arkansas, and in particular Fort Smith, has yet to achieve pre-recession levels (January 2014 levels are very similar). This is mirrored in nonfarm labor employment as it still lags pre-recession levels.

The percentage of our population that is working is lower than state and national averages. Medium household income has declined in the region relative to pre-recession levels, as it has in the state and nationally. Further, our unemployment rate of 7.6 percent has remained higher than the national or state averages. This is all old news, of course.

Looking closer at our household earning profile, we see that the region has a lower proportion of households that make a living from employment earnings. As can be seen from Census Bureau data contained in Table 2, around 72 percent of households earn employment income. This is noticeably lower than Northwest Arkansas and U.S. averages.

What we do see in the data is that the region's population is much more dependent on government programs as a source of income. As noted in earlier research on this subject, this is a good-news, bad-news story for the region. Government checks flowing into the region are a boost to our economy. However, growth in checks is likely to be limited, and this is already in the works as federal and state entities seek to reign in the growth of these programs.

When you add it all up, the employment-income component of our economy remains weak and quite vulnerable over the medium term.

Residential Real Estate

Figure 8 contains both the home sales and construction permit numbers in units for the 2005-13 period. As you can see from Figure 8, the trend lines have been generally downward sloping. There's been some stabilizing, even signs of an upturn, in the past year or so.

With the unexciting data on jobs and income for the region, one almost wants to stop writing. Yet, we round out the story by saying that retail sales have struggled in the past 12 months as well. In inflation-adjusted dollars, sales will likely have dropped year over year for 2013, all this in an environment where the job market has been improving.

Auto sales in dollar terms have grown around 30 percent from their 2009 low. Yet, the actual number of autos sold has been pretty flat, growing around 5 percent over the same period. Used car sales have lagged in the recovery, partially explaining why dollar-sale numbers have risen steadily over the period.

When it's all said and done, the regional economy is on the mend but it remains wounded and in fragile health.

DISCUSSION

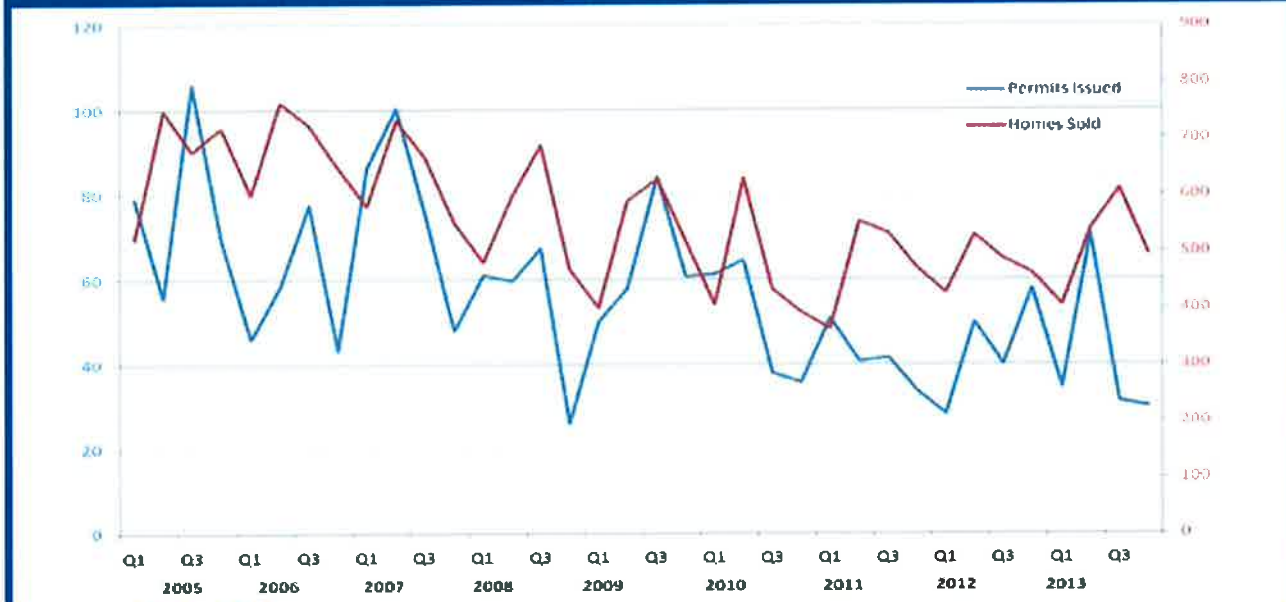
If you've read this far, you probably have drawn your own conclusions. I've listened for years now to the cries of the inflation crowd who have argued that this level of "money printing" will cause hyperinflation and quickly consume our

Table 2. Sources of Household Income in Fort Smith Region (2012)

HOUSEHOLD SOURCES OF INCOME*	U.S.	Arkansas	Oklahoma	NWA-MSA	FS-MSA
Earnings (Wages, salary, etc.) (%)	77.7	73.5	76.5	80.3	72.2
Social Security (%)	29.3	34.3	31.0	26.9	35.2
Retirement/pension (%)	18.0	17.2	17.3	12.7	16.3
Supplemental Security (%)	5.4	7.2	5.6	4.2	7.0
Cash public assistance (%)	2.9	2.7	3.4	2.3	3.0
Food Stamp/SNAP benefits (%)	13.6	15.5	14.2	10.5	17.4

*1-yr est. (2012) from ACS; SNAP=supplemental nutrition assistance program

Figure 8. Residential Construction Permits and Home Sales in Units (Q1 2005 - Q4 2013)



Source: Calculatedriskblog.com

economy. I've heard the smaller but quite vocal voices who say deflation is the reality you cannot overcome, no matter how much money you print. Life-cycle behavior rules in the end, is their cry.

I think both sides are correct, though not at the same time. The deflationary pressure that has been building since the recession began has been offset somewhat by the extreme amounts of liquidity in the system. But as the central banks begin to withdraw the medication from the economy, the cracks in the system will likely reveal themselves and do so relatively quickly. I think we see that already happening with the emerging market turmoil caused by a mere $10 billion reduction in one policy mechanism. If the Federal Reserve persists in its policy to stop these unusual policy experiments, which I have some doubt about, then global economies will have to stand increasingly on their own. That will not be pretty, I'm afraid.

While we complain loudly about public sector debt, it is private sector debt that is likely the real drag on the economy going forward. Further, the recovery we've been in over the past four years is relatively old in historical business-cycle terms. It is unlikely that we will get another four years without a significant downturn.

In sum, I think markets could go higher, even much higher, in the coming months. So too, jobs and housing have more room to recover, just on pent-up demand alone. In the five- to 10-year timeframe, however, key economic drivers suggest slow going is the best we can expect – and worse scenarios are quite possible.

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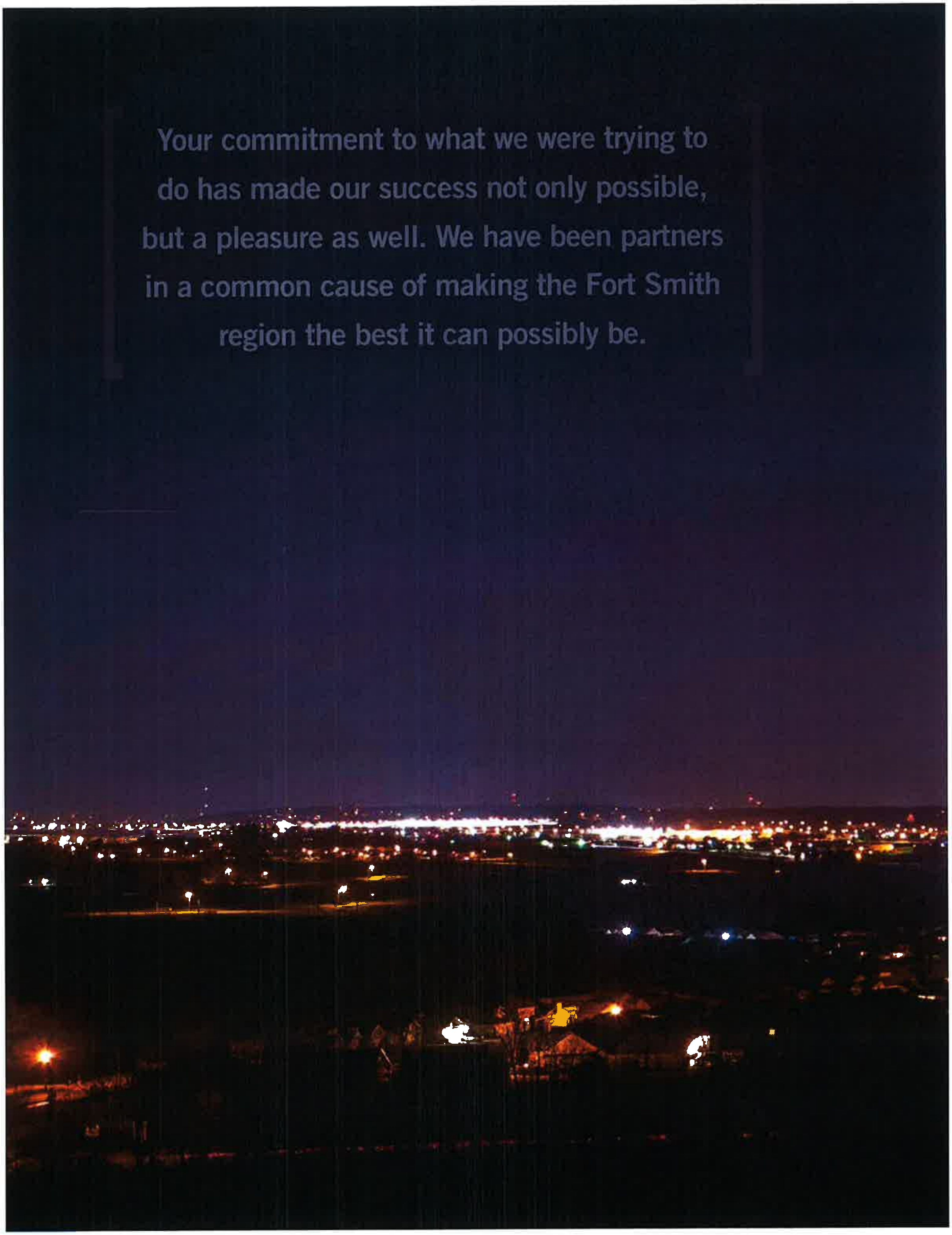
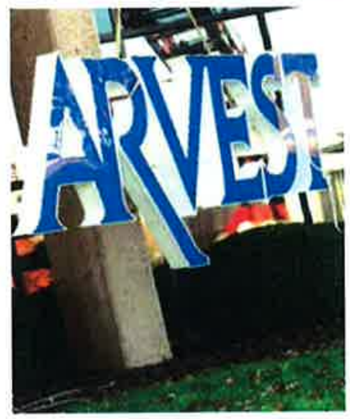

Your commitment to what we were trying to do has made our success not only possible, but a pleasure as well. We have been partners in a common cause of making the Fort Smith region the best it can possibly be.



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2

MEMORANDUM

August 8, 2014

TO: Mayor and Board of Directors

FROM : Ray Gosack, City Administrator

SUBJECT: Sustainable Arkansas and PACE Programs

SUSTAINABLE ARKANSAS PROGRAM

At the May 27th study session and the June 3rd regular meeting, the board considered supporting the creation of the Sustainable Arkansas program. The board meeting packet is attached.

At the June 3rd meeting, the matter was tabled pending further board discussion at a future study session. Discussion of support for the Sustainable Arkansas program is planned for the August 12th study session. If there’s any additional information needed for the next discussion, please let me know.

PACE PROGRAM

The City of Fayetteville has invited us to join them in the creation of a PACE program. PACE (Property Assessed Clean Energy) programs are authorized by Act 1074 (copy attached) of the 2013 Arkansas General Assembly. Thirty states permit PACE programs.

The new law authorizes cities to voluntarily form energy improvement districts. The districts have the power to issue tax-exempt bonds to fund low-interest, long-term loans to interested property owners. (Financing can also be accomplished with more conventional means such as bank loans.) The loans are made for energy efficiency improvements, water conservation improvements and renewable energy projects. Interested property owners who own businesses or reside in an energy improvement district can finance projects for up to 20 years. The loan is repaid through an assessment collected with the owner's property tax bill. The loan becomes a lien on the property. If the property is sold, the new owner is responsible for the remaining loan payments.

PACE improvements make an owner's building more energy efficient, and the bond financing helps increase the participant's cash flow. OG&E and Arkansas Oklahoma Gas Corp. support the creation of PACE districts. A PACE program may be more advantageous than conventional financing for at least three reasons:

- The PACE program financing is done with tax-exempt interest rates, which are usually lower than conventional financing interest rates. The lower interest rate can enhance the project economics.

- The PACE program loan can be repaid over 20 years, which is likely longer than conventional financing would allow. This lowers the amount of each annual loan payment, which may make the energy improvement more affordable for the property owner.

- The loan is transferable to subsequent property owners, which may make it easier for the current owner to commit to the investment. Subsequent owners benefit from the long-term energy cost savings produced by the investment.

Two or more cities may jointly form an energy improvement district. Fayetteville has already created its entire city as an energy improvement district. It is in the process of establishing the administration of the program. Fayetteville has asked if Fort Smith would like to join its district. The advantage of a multi-jurisdiction district is that the administrative responsibilities can be shared. Annual administrative costs are covered by loan fees, so there's no expense to the municipality.

The board should first determine if it’s interested in developing a PACE program. If the board is interested, we can proceed in one of 3 ways:

1) Join with Fayetteville’s program to create a combined Fayetteville/Fort Smith energy improvement district.
2) Create a district for Fort Smith only.
3) Work with other interested cities in our region to create a multi-jurisdictional PACE district.

Please let me know if there’s any questions or a need for more information.

- Ray

Attachments

cc: Michele Halsell, Applied Sustainability Center
Peter Nierengarten, City of Fayetteville

4A

RESOLUTION NO. ____________________

A RESOLUTION STATING THE CITY OF FORT SMITH'S SUPPORT FOR THE SUSTAINABLE ARKANSAS PROGRAM

WHEREAS, the Applied Sustainability Center at the University of Arkansas is proposing the creation of a Sustainable Arkansas program; and

WHEREAS, said program would be a voluntary certification program for Arkansas cities to demonstrate their commitment to sustainable development practices; and

WHEREAS, said program can further economic development goals by communicating a community's support for sustainable development; and

WHEREAS, said program encourages the adoption of best practices that enhance quality of life and stewardship of resources;

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

The City of Fort Smith hereby supports the creation of the Sustainable Arkansas program. Formal recognition of sustainable development policies and practices is essential to promoting progressive economic development in all Arkansas cities.

This Resolution passed this ________ day of June, 2014.

____
Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:

____
No Publication Required

The City of Fort Smith ARKANSAS

1

MEMORANDUM

May 23, 2014

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

- Ray

SUBJECT: Sustainable Arkansas Cities

The Applied Sustainability Center at the University of Arkansas is working to create a Sustainable Arkansas program. The program would be a certification for cities. It would demonstrate a city's commitment and support for sustainable development practices. Such practices might include construction of trails and sidewalks, building codes that promote energy efficiency, waste minimization and recycling, and a stream side protection ordinance. The attached synopsis provides greater detail.

The program organizers are seeking to identify cities who might be interested in this program. The organizers are pursuing grant and foundation funding to get the program up and running, and they need to demonstrate that there's interest from cities.

This program has the potential to produce economic and development benefits as described in the synopsis. However, implementation of the measures could be viewed by some as being burdensome, unnecessary regulation, and development unfriendly.

Michele Halsell, managing director of the Applied Sustainability Center, and Peter Nierengarten, sustainability and resilience department director for the City of Fayetteville, will be present at the May 27th study session to discuss the Sustainable Arkansas program.

Attachment

cc: Michele Halsell, Applied Sustainability Center
Peter Nierengarten, City of Fayetteville

Sustainable Arkansas: Where the Natural State meets the Land of Opportunity

Executive Summary

Sustainability offers a strategy for harnessing Arkansas' natural assets to generate economic opportunity. A 2012 report prepared by Boyette Strategic Advisors for the Arkansas Economic Developers highlighted the importance of sustainability as an economic development strategy for the state. The report makes the case that Arkansas has sustainability assets that can be leveraged to promote economic growth and development and that cities play a key role in capitalizing on these assets.

The report recommends establishing a Sustainable Arkansas program to help cities be more competitive in attracting investment. The program would provide a process for cities to become certified as Sustainable Arkansas cities, and would provide training, access to grant funding, and access to student interns. The program would be ***free to cities***, strictly ***voluntary***, and flexible enough to accommodate ***local priorities***.

By modeling the program after an existing program, Arkansas could quickly gain traction, accelerate progress and gain momentum in leveraging sustainability as a pathway to economic prosperity. A program could be in development by July 2014 with cities joining the program in 2015.

This proposal outlines the economic benefits of sustainability for Arkansas cities, program components, a funding strategy, a process for launching the program, and a time line for action.

Introduction: Sustainability as Pathway to Prosperity

The Applied Sustainability Center at the University of Arkansas proposes to coordinate a certification program for Arkansas cities to help them leverage sustainability to enhance prosperity and promote economic growth. The program would be modeled after Sustainable Jersey, a highly successful program that promotes the adoption of best practices, policies and programs among municipalities in New Jersey.

A 2012 report by Boyette Strategic Advisors titled *Arkansas Sustainable Agenda for Economic Development* highlighted Arkansas' strengths in sustainability and pointed out that these strengths could be leveraged to promote job growth and enhance economic prosperity for the state. Many Arkansas cities and regions are poised to take advantage of various sustainability attributes to attract new investment and new residents. The report cites a CoreNet study that revealed that 92 percent of corporate real estate executives consider sustainability criteria in their location decisions.

The Boyette report recommends establishing a Sustainable Arkansas Program modeled after Sustainable Jersey. Sustainable Arkansas would provide a framework that cities can use to guide their sustainability efforts as well as a certification program that helps cities communicate their sustainability attributes to citizens and other stakeholders.

The Sustainable Arkansas program would be ***free*** to cities. The program would be strictly ***voluntary*** and would provide flexibility for cities to emphasize ***local priorities***. Sustainable Arkansas would be a grass-roots, community-centric approach to expanding the adoption of policies and programs that would help Arkansas cities expand prosperity and promote economic development. The program would provide the following services to cities:

- Certification as a Sustainable Arkansas City
- Training for local leaders in a variety of topics related to sustainability
- Access to grant funding to support local sustainability initiatives
- Access to interns to assist with local sustainability projects
- Recognition for leadership

Economic Development, Sustainability, and Cities

Arkansas cities stand to reap economic benefits from participating in Sustainable Arkansas.

1. Increased competitiveness in attracting new investment: Corporations increasingly factor sustainability into their location decisions. A CoreNet study showed that 92% of corporate real estate executives include sustainability criteria in their location decisions. They are looking for locations that help them meet their sustainability goals which are often mandated by their customers. Arkansas cities and regions that are not actively addressing sustainability issues will be at a disadvantage relative to cities that help employers meet their sustainability goals. Topeka, Kansas, is an example of proactively addressing employer sustainability needs at the Kanza Fire Commerce Park. Employers who build in the park achieve 60% of the points needed to achieve LEED Gold certification. Sustainable Arkansas can assist cities by providing a framework that helps them develop sustainability assets and communicate these effectively to prospective employers.

2. Increased competitiveness in attracting talent: In a global economy, investment follows talent. Arkansas cities must position themselves to attract talent in order to attract investment. Millennials choose where they want to live and then find work in their chosen city. Employers know this and are looking to locate in cities that allow Millennials to live a lifestyle that emphasizes active transportation, cultural amenities, and authenticity. Cities that develop sustainability assets that attract Millennials will be more competitive in attracting new investment from corporations seeking to hire talent in this generation.

3. Affordability – Save Money, Live Better: This is the Walmart principle played out on a community scale. Local elected officials are not in a position to mandate pay raises by employers, however they have an opportunity to build cities that address affordability factors, thus stretching incomes and enhancing the health of the local economy. Arkansans use 25% more energy than the national average, and the ACEEE estimates that the average Arkansas household could reduce their energy consumption by 37%. Cities play a role in tapping these savings and diverting them to local businesses. For example, adopting and enforcing stricter building codes could save Arkansas households as much as $1,000 in utility bills annually, dollars that could be spent in the local economy. Cities can also help residents save money on transportation. A study by the Center for Neighborhood Technology reported that residents in Northwest Arkansas spend 29% of their disposable income on commuting-related expenses compared to a national average of 19%. Additionally, the study revealed that only three cents of every dollar spent on gasoline stays in the local economy. Cities that invest in building sidewalks and trails that connect residential areas to jobs, education, and shopping can help residents reduce their commuting-related expenses, dollars which could also be spent locally. Combining energy savings with a "Shop Local" campaign can help to insure the sustainability of local businesses and keep dollars circulating in the local economy. Sustainable Arkansas would provide a framework for sharing policy tools and promoting best practices among Arkansas cities.

4. Distributed Jobs through Mining Arkansas' Clean Energy Potential: Arkansas has abundant potential to create jobs in the emerging clean energy sector. Arkansas has a relatively energy intensive economy with the 11th highest energy consumption per real dollar of gross state product (US Energy Information Administration, http://www.eia.doe.gov/emeu/states/_seds.html.) Mining energy efficiency in Arkansas could create thousands of jobs distributed across the state. Cities that adopt stricter building codes or that create energy improvement districts would help to foster demand for the services of companies such as Viridian or Harrison Energy Partners, allowing them to add new employees. Similarly, Arkansas can mine clean energy resources including solar, wind, geothermal, and biomass. Arkansas ranks 11th among US states for solar energy potential and 6th among US states for biomass potential. Developing these assets not only creates jobs for individuals working in these fields, but also helps to attract new investment among employers who are looking for greener energy supplies. Cities that develop their renewable energy assets and make them available to employers will be more competitive in attracting new investment.

5. Regional Collaboration for Economic Benefit: Sustainable Arkansas could help to foster regional collaboration on sustainability projects that no city could accomplish singly and that would have economic benefit for multiple communities. The Razorback Greenway in Northwest Arkansas is an example of a sustainability project that has a positive impact on the regional economy and requires collaboration among the cities in the region. Collaboration among cities could help them to achieve their sustainability goals faster whether it involves expanding public transportation or developing a regional renewable energy network. Regional efforts focused on tourism or local food specialties could also be fostered under the Sustainable Arkansas umbrella.

Sustainable Arkansas Program Components

The Sustainable Arkansas program would provide the following program components to cities:

1. Certification as a Sustainable Arkansas City
2. Training for local leaders in a variety of topics related to sustainability
3. Access to grant funding to support local sustainability initiatives
4. Access to interns to assist with local sustainability projects
5. Recognition for leadership

Certification

Sustainable Arkansas would be modeled after Sustainable Jersey as recommended in the 2012 report by Boyette Strategic Advisors. Cities would achieve certification based on the accumulation of ***points*** awarded for ***actions*** taken in different ***categories*** such as energy efficiency, transportation, renewable energy, water stewardship and waste minimization and recycling. Points are awarded for the adoption of specific policies or the implementation of a specific program. Some of the actions are listed as "priority actions" and cities choose at least two priority actions. Cities take additional actions which are spread out across the categories to earn the remaining points needed to be certified. The chart below illustrates the bronze and silver certification levels for Sustainable Jersey, which can be modified for Arkansas. Certification categories, actions and points awarded would be developed by convening Arkansas subject matter experts and stakeholders (see Program Development Activities on p. 6).

Bronze Certification	Silver Certification
Green Team	Green Team
150 points	350 points
2 out of 11 priority actions	3 out of 11 priority actions
Actions in 6 out of 17 categories	Actions in 8 out of 17 categories

Certification Dimensions

Cities would earn points toward certification by adopting policies, programs, and best practices in a number of areas related to sustainability such as energy efficiency, water stewardship, waste minimization, land use, or health. The criteria would be established by working groups comprised of subject matter experts from academia, state agencies, business and industry, and non-profit groups. The chart below provides examples of actions that might be included in the certification process.

Examples of Sustainable Arkansas Categories & Actions					
Energy Efficiency	Adopt 2009 or 2012 IECC bldg. codes	Energy labeling for homes	New bldgs. 5000+sq.ft. LEED or Green Globes certified	Green MLS	
Transportation	Adopt no-idling ordinance	Purchase fuel-efficient fleet vehicles	Adopt a complete streets ordinance	Allocate some turn-back funds to sidewalks, trails, safe routes to school	
Renewable Energy and Alternative Fuels	Reduce restrictive covenants for residential renewables	Fast-track permitting process for residential renewables	Pursue landfill gas to energy	Install CNG fueling station & Electric Vehicle (EV) recharging stations	Convert city fleet to biodiesel and CNG
Water	Adopt streamside protection ordinance	Adopt Low-Impact Development ordinance	Water conservation outreach program	Encourage installation of rain gardens	Repair leaking water infrastructure
Waste	Implement waste reduction and recycling programs	Expand recycling, incl. e-waste recycling	Implement a city or county composting program	Collect restaurant waste oil to convert to biodiesel	
General Criteria	Internal Green Team	External Green Team	Sustainability Office	Sustainability Coordinator or Director	Sustainability Plan with targets and goals

Training

Training can be delivered in an online format such as a webinar or in a classroom setting face-to-face. Training may be delivered by University of Arkansas faculty and staff or may be outsourced by contracting with experts from other organizations such as the Urban Land Institute, the Center for Neighborhood Technology, of the Sustainable Cities Institute. Training may be offered on a wide array of topics to assist cities in leveraging sustainability for local benefit. Training topics may include:

- How to start a sustainability office/program
- Communication – how to tell your city's sustainability story without "greenwashing"
- Power of the purse – green purchasing
- Community engagement and outreach for sustainability
- How to engage the business community – Greenway Business Certification Program (S. Bristow)
- LEAN Manufacturing – E3 (AIEC/Nutter and Harding)
- Greening your tourism, hotels, and hospitality (R. Harrison)
- Land use, transportation, & health – getting the most benefit from city investments
- Drive Smart Training for city staff (David Baxter at AML)

Access to Grant Funding

Similar to Sustainable Jersey, a pool of funds could be established that cities can use to implement various sustainability initiatives. Cities would need to meet minimum criteria of establishing a Green Team in order to apply for a grant. A committee would review applications and award funding based upon criteria established by the grant funder.

Internships

Students in the University of Arkansas' sustainability minor and urban planning minor must complete capstone projects. Cities could specify projects or specific needs related to sustainability and then interview interns. Internships could be paid or unpaid. This would give students hands-on real-world experience to build their resumes while giving cities an opportunity to advance sustainability priorities or projects. For example, a student might complete a tree canopy inventory for a city or assist with mapping food deserts. These completed projects could be used to inform city decisions regarding tree planting priorities and where to focus efforts to expand access to healthy food.

Recognition

Annual Awards: Currently, Arkansas Business recognizes several Arkansas cities each year for their efforts in various categories. The categories include Workforce Development, Green/Energy Conservation Initiatives, Main Street Preservation, Tourism Development, Quality of Life, and Technology Advancements. Sustainable Arkansas can work with Arkansas Business to establish objective criteria for awards in various categories based on points earned or actions taken.

Program Development Activities

In order to launch a Sustainable Arkansas program, the following activities would need to be undertaken:

- Convene stakeholder groups comprised of subject matter experts to establish certification criteria in key areas such as energy, water, waste, land use, health, local food systems, etc.
- Build the website portal to publish certification guidelines, accept city applications for certification, provide educational materials, etc. (Note: Sustainable Jersey has offered to share their website code with Arkansas in order to reduce development costs and accelerate progress.)
- Establish a process for city applications and supporting documents to be reviewed and certification to be awarded.
- Host an annual recognition event, perhaps in conjunction with the Arkansas Municipal League's annual conference to recognize cities that achieve certification as well as cities that exhibit leadership in different dimensions of the certification.
- Provide training to municipal leaders on a variety of topics including local sustainability planning, communicating with stakeholders without green-washing, establishing a green business certification program, and developing effective community outreach campaigns.
- Secure grant funding from various sources to support municipal sustainability efforts and administer a process for awarding grant funds to cities.
- Develop a program for matching municipal project needs and student intern skills and learning needs.

Timeline

Pre-work: February 2014 – July 2014

- February: write proposals
- March-June: secure funding

Year 1: Develop certification criteria, build website, recruit cities: July 2014-June 2015

- July – September: convene working groups to discuss action areas and establish criteria for bronze, silver, gold certification
- July – November: Website development
- October: Convene all working groups together and announce launch
- November – December: recruit cities
- December: Applications available
- January 2015: Orientation for cities at AML Winter Conference
- February 1: Applications due; first review
- March: Cities make revisions as needed
- April: Revised applications due
- June: 1st cities certified, Announce at AML Annual Conference

Year 2: Launch training programs, small grant programs, and internship programs.

Funding Goals

In the first year, the required level of funding is projected at $300,000. This includes funding for convening stakeholder groups to develop the certification criteria, developing the website, technical support from the staff at Sustainable Jersey, recruiting cities into the program, and hosting the first annual recognition event.

In the second year, less funding is needed for developing certification criteria, website development, and technical support. Instead funding shifts to providing training programs and the certification process. With the addition of free training programs for city leaders and launching an internship program, the funding needed would grow to $400,000 in the second year. Similar to Sustainable Jersey, we would like to develop a small grant program with $200,000 to $300,000 available to award to cities to support their sustainability initiatives starting in the second year of operations.

Diversified Funding Strategy

Funding for Sustainable Arkansas would come from three main sources: one-third from state agencies, one-third from philanthropic organizations, and one-third from corporate underwriters. Sustainable Jersey receives funding from Walmart Stores, a natural gas company, and other entities each year to support small grants to cities in New Jersey. Potential funding sources for Sustainable Arkansas are summarized in the table below.

Charitable Foundations	State Agencies	Corporate Underwriters
• Surdna Foundation	• Arkansas Economic Development Commission	• Walmart Stores
• Winthrop Rockefeller Foundation	• Arkansas Energy Office	• Tyson Foods
• Arkansas Community Foundation	• Arkansas Dept. of Environmental Quality	• Entergy, SourceGas, other Arkansas utilities
• Blue & You Foundation	• Arkansas Dept. of Health and Human Services	• Siemens, Viridian, et. al.

Arkansas Cities Demonstrate Readiness

There is increasing evidence that Arkansas cities are already engaged around sustainability and would like to be more engaged. Some cities have a longer history and more comprehensive initiatives underway. Cities are moving beyond recycling to address energy efficiency, community gardens and alternative transportation. Other cities are just beginning their sustainability journey.

- Fayetteville was the first city to adopt the 2009 IECC building codes and require energy labeling for new homes, the first city to establish an Energy Improvement District, and the first city to adopt a streamside protection ordinance and a low-impact development ordinance.

- North Little Rock has leveraged its hydro-electric dam to attract new investment (Caterpillar) and retain business (L'Oreal). The city is the first to implement smart meters and has adopted a complete streets ordinance.
- Searcy established the "Searcy Energy Smart" program in 2013 which included outreach to residents and the business community and resulted in savings of $466,473 in one-time cash incentives and $352,598 in ongoing annual energy savings.
- Arkadelphia is working toward becoming a zero net waste city, has purchased the first hybrid police car fleet, and uses geothermal energy at city hall.
- Harrison implemented a "road diet" on Main Street that has resulted in new businesses opening and increased tax revenues and is the first city to have an energy plan for municipal operations.
- Eureka Springs is the first city in Arkansas to conduct a greenhouse gas inventory and publish a climate action plan (CAP).
- Jonesboro is building a multi-modal transportation facility that connects rural and urban transportation services and there is an active green team at the Chamber of Commerce.
- DeWitt is the first city to have a mini-biofuels refinery and a purchasing policy to purchase biofuels for city vehicles.

These efforts should be encouraged and expanded. This can happen in an organic, ad hoc fashion, but such an approach would result in wasted time and energy as each city attempts to reinvent the wheel. An ad hoc approach would also result in a missed opportunity to capitalize on municipal sustainability efforts as a key element in attracting residents and new business investment.

By providing a structure around which cities can organize their sustainability initiatives, along with training for city staff and other stakeholders, Sustainable Arkansas can help to accelerate city efforts and reduce the up- front investment of time and energy that is usually required in determining what to do and how to go about it. Sustainability is so broad and so all-encompassing that city leaders may be reluctant to move forward, overwhelmed by the breadth of choices and actions involved. A Sustainable Arkansas program could assist cities by providing structure and guidance to help them move from wherever they are on the path toward greater and greater levels of sustainability. Sustainable Arkansas can facilitate the sharing of municipal policies and best practices among cities and be flexible enough to allow cities to focus on local priorities.

Sustainable Arkansas would also provide third party, independent certification for municipal sustainability efforts. Participation in the program would be free of charge and strictly voluntary, but flexible enough so cities can customize their efforts to focus on local priorities.

University of Arkansas as Host

Arkansas Sustainable Agenda for Economic Development highlighted the University of Arkansas as an asset that could be leveraged as a valuable resource in pursuing sustainability as a strategy for economic development. The following paragraphs describe the University's strengths particularly as they relate to cities, sustainability and economic development.

Leading by Example: The University of Arkansas is the ideal institution to host Sustainable Arkansas. In 2007, the university was among the first 100 colleges and universities to sign the American College and University Presidents' Climate Commitment pledging to achieve carbon neutrality by mid-century. Since 2008, the university has reduced its energy consumption by 43 million kilowatt hours avoiding 18,800 metric tons of CO_2 emissions, and realized energy savings of $4.55 million in 2013.

Academic Program - Educating Students: Beyond reducing its own environmental footprint, the University is committed to educating students about sustainability. The university is the first institution of higher education in Arkansas to establish a minor in sustainability. The 18 credit-hour interdisciplinary minor is open to students in any major, from accounting to zoology. The Sustainability Minor provides foundational knowledge and skills related to the discipline of sustainability and prepares students to become innovators within their diverse fields.

In addition to the sustainability minor, the university has proposed a major in sustainability. If approved by the Arkansas Department of Higher Education, the new program would prepare students for careers in sustainability. Graduates of the program would have an understanding of the interdisciplinary nature of sustainability issues and would be able to use data, metrics and statistical analyses to make recommendations to advance sustainability of organizations and institutions. The university also offers a Graduate Certificate in sustainability.

The University launched a minor in Urban Planning in fall 2013. The program offers two areas of emphasis – urban infrastructure design and public policy – and three concentrations: Policy, Spatial, and Environmental. Students learn to solve problems related to complex issues in the built and natural environment, transportation, health, economic development, and others. It also gives students the knowledge of how to participate with government and community organizations in building better communities and cities.

Business & Industry Partnerships: Students at the Sam M. Walton College of Business have worked with the Fayetteville Chamber of Commerce to develop and administer a green business certification program called Greenway. Students conduct a site visit and collect information about the businesses sustainability practices and policies. Businesses that meet minimum criteria are certified as a Greenway business and may display the Greenway logo.

On a much larger scale, the University is co-founder of The Sustainability Consortium, an organization of diverse global participants working collaboratively to deliver science-based tools to improve consumer product sustainability. Working with universities, leading retailers, consumer products companies and non-governmental organizations, the TSC's vision is to drive a new generation of innovative products that address environmental, social and economic imperatives.

Research & Outreach Centers: The University houses a number of centers that bring expertise and key assets to bear on sustainability in cities.

- ***Applied Sustainability Center***: Housed in the Sam M. Walton College of Business, the Applied Sustainability Center is an interdisciplinary research and outreach center whose mission is to accelerate learning about sustainability and expand the commitment to sustainable practices in the public and private sectors. The Center has hosted an annual conference, The Sustainable Communities Leadership Summit, to bring together sustainability leaders across the state. The

ASC has offered training programs such as Energy, Jobs and the Economy for candidates for the Arkansas Legislature, and has brought nationally renowned presenters such as Chuck Marohn of Strong Towns to the state to conduct workshops for municipal leaders. The ASC has worked with utility companies to develop energy scorecards for 14 Arkansas cities in order to help municipal leaders understand energy consumption in the city and options for promoting energy efficiency and renewable energy. The center is also assisting the city of Fayetteville in collecting and reporting data to the STAR Community Rating Index as the first city in the state to achieve a STAR rating.

- ***Center for Advanced Spatial Technology***: Established in 1991, CAST is a unit of the J. William Fulbright College of Arts and Sciences. The Center for Advanced Spatial Technologies (CAST) focuses on application of geospatial technologies in research, teaching, and service. These technologies include geomatics, GIS, GPS, remote sensing, photogrammetry, geospatial software and systems design, interoperability, and large (multi-terabyte) geospatial databases. CAST's capabilities are directly relevant to enhancing sustainability in cities from addressing issues related to watershed protection and storm water runoff to siting for photovoltaics or mapping community gardens. CAST provided technical support and analysis for the ASC's municipal energy scorecard program.

- ***Community Design Center***: The mission of the University of Arkansas Community Design Center is to advance creative development in Arkansas through education, research and design solutions that enhance the physical environment. As an outreach center of the School of Architecture, UACDC is developing a repertoire of new design methodologies applicable to community development issues in Arkansas with currency at the national level. The Community Design Center has worked with a number of Arkansas cities including Lake Village and Monticello. The CDC published the Low Impact Development Design Guide and has published visual guides for a Fayetteville trolley system, light rail for NWA, and neighborhood design for Habitat for Humanity emphasizing affordable housing that is energy efficient, low impact, and high design.

- ***Center for Business and Economic Research***: The Center for Business and Economic Research (CBER) is a public service/outreach center and a student-faculty research center. An integral part of the Sam M. Walton College of Business, CBER conducts externally sponsored research for local and state government, as well as the state business community. The staff responds daily to requests for state and local economic and demographic data. The Center partnered with CAST and the ASC on the municipal energy scorecard program.

Appendices

Letters of Support

Faculty Bios

City Letterhead

To: Whom It May Concern

From:

Date:

Re: Sustainable Arkansas

As the mayor of Fayetteville, Arkansas, I am writing to express my support for Sustainable Arkansas. In Fayetteville, we are proud of our city's efforts to be more sustainable. Fayetteville was the first city to adopt the 2009 IECC building codes and implement energy labelling for new homes. Fayetteville was the first city to adopt a stream side ordinance to protect surface water. Fayetteville has one of the most extensive trail systems in the state and one that has been designed intentionally to serve as an alternative to the car and not merely as a recreational amenity.

In short, we recognize the importance of sustainability as a strategy that helps Fayetteville address affordability and cost of living issues by helping our residents save money on utility bills and commuting-related expenses. We recognize that sustainability helps promote public health by fostering active transportation and healthy lifestyles. And we recognize that sustainability helps to protect our natural resources. All of these things make Fayetteville an attractive place to live, work and raise a family and we believe that this in turn helps Fayetteville to attract investment and jobs.

We are proud of our accomplishments, but we also know that there is more that we could do. Sustainable Arkansas will help Fayetteville by providing recognition for the work we have already done with regard to sustainability. The program will also help to guide our efforts going forward and help us to remain competitive with cities in other states. For example, accelerating the expansion of renewable energy resources and expanding public transit will help Fayetteville and NWA compete to attract new investment and jobs. Finally, the program will help to build a community of cities and municipal leaders across the state who can share best practices and policies.

Sustainable Arkansas, as described in the proposal, will provide training, access to interns, and potentially access to grant funding to expand sustainability efforts, not just in Fayetteville, but in other cities across the state. As more and more cities adopt sustainable practices and policies, Arkansas as a whole will prosper. Fayetteville would welcome an opportunity to be certified as a Sustainable Arkansas city. We are happy to share what we have learned with other cities.

State of Arkansas *As Engrossed: S3/5/13 S3/14/13 S3/20/13*
89th General Assembly
A Bill
Regular Session, 2013 SENATE BILL 640

By: Senators D. Johnson, J. Woods
By: Representatives Leding, Barnett, C. Armstrong, Hawthorne, McGill, B. Overbey, T. Thompson, Sabin, D. Whitaker

For An Act To Be Entitled

AN ACT TO CREATE JOBS, RETAIN WEALTH, AND GROW ARKANSAS'S ECONOMY BY ENABLING PROPERTY ASSESSED CLEAN ENERGY FINANCING; TO AUTHORIZE THE ESTABLISHMENT OF ENERGY IMPROVEMENT DISTRICTS TO FUND LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS, RENEWABLE ENERGY PROJECTS, AND WATER CONSERVATION IMPROVEMENTS; AND FOR OTHER PURPOSES.

Subtitle

TO AUTHORIZE THE ESTABLISHMENT OF ENERGY IMPROVEMENT DISTRICTS TO FUND LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS, RENEWABLE ENERGY PROJECTS, AND WATER CONSERVATION IMPROVEMENTS.

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

SECTION 1. Arkansas Title 8 is amended to add a new chapter to read as follows:

<u>Chapter 15 – Energy Efficient Facilities</u>

<u>8-15-101. Title.</u>

<u>This chapter shall be known and may be cited as the "Property Assessed Clean Energy Act".</u>

8-15-102. Definitions.

As used in this chapter:

(1)(A) "Bond" means a revenue bond or note issued under this chapter.

(B) "Bond" includes any other financial obligation authorized by this chapter, the laws of this state, or the Arkansas Constitution;

(2) "District" means a property assessed energy improvement district established in this state by law for the express purpose of managing the PACE program;

(3) "Governmental entity" means a municipality, county, combination of cities or counties or both, or statewide district;

(4) "Owner" means an individual, partnership, association, corporation, or other legal entity that is recognized by law and has title or interest in any real property;

(5) "PACE program" means a property assessed clean energy program under which a real property owner can finance an energy efficiency improvement, a renewable energy project, and a water conservation improvement on the real property; and

(6) "Person" means an individual, partnership, association, corporation, or other legal entity recognized by law as having the power to contract.

8-15-103. Legislative findings.

The General Assembly finds that:

(1) It is in the best interests of the state to authorize districts that make available to citizens one (1) or more financing programs, including without limitation a PACE program, to fund energy efficiency improvements, renewable energy projects, and water conservation improvements on residential, commercial, industrial, and other real properties at the request of the owner;

(2) The programs described in subdivision (1) of this section will benefit the citizens of this state by:

(A) Decreasing the cost of providing funds to participating citizens and lowering the aggregate issuance and servicing costs of loans; and

(B) Making funds available to rural communities throughout the state that might not otherwise create and finance the programs described in subdivision (1) of this section; and

(3) The programs described in subdivision (1) of this section will further the public purpose of:

(A) Creating jobs and stimulating the state's economy;

(B) Generating significant economic development through the investment of the proceeds of loans in local communities, including increased sales tax revenue;

(C) Protecting participating citizens from the financial impact of the rising cost of electricity produced from nonrenewable fuels;

(D) Providing positive cash flow in which the costs of the improvements are lower than the energy savings on an average monthly basis;

(E) Providing the citizens of this state with informed choices and additional options for financing improvements that may not otherwise be available;

(F) Increasing the value of the improved real property for participating citizens;

(G) Improving the state's air quality and conserving natural resources, including water;

(H) Attracting manufacturing facilities and related jobs to the state; and

(I) Promoting energy independence and security for the state and the nation.

8-15-104. Immunity.

(a) The powers and duties of a district conferred by this chapter are public and governmental functions exercised for a public purpose and for matters of public necessity.

(b) The district and its personnel are immune from suit in tort for the performance of its duties under this chapter unless immunity from tort is expressly waived in writing.

8-15-105. Authority to create.

(a) A governmental entity legally authorized to issue general revenue bonds may create a district by adoption of an ordinance.

(b) A combination of governmental entities may create a district by each governmental entity:

(1) Adopting an ordinance that provides for the governmental entity's participation in the district; and

(2) Entering into a joint agreement with one (1) or more other participating governmental entities.

(c) This section shall not limit additional governmental entities from becoming members of the district under § 8-15-106.

8-15-106. Membership in an existing district.

(a) To become a member of an existing district, the governing body of a governmental entity shall:

(1) Adopt an ordinance that provides for the participation of the governmental entity in the district; and

(2) Enter into an agreement with the other participating members of the district.

(b) The agreement between members of a district shall establish the terms and conditions of the operation of the district with the limitations provided in this chapter.

8-15-107. Board of directors.

(a) A district created under this chapter shall be operated and controlled by a board of directors.

(b) The board of directors shall manage and control each district, including without limitation the operations, business, and affairs of the district.

(c) The board of directors shall be solely responsible for selecting the chair of the board of directors and establishing the procedures by which the board of directors shall operate.

(d) A director shall not receive compensation in any form for his or her services as a director.

(e) Each director shall be entitled to reimbursement by the district for any necessary expenditures incurred in connection with the performance of his or her general duties as a director.

8-15-108. Membership on the board of directors.

(a) The board of directors of a district shall consist of at least seven (7) directors.

(b) The board of directors shall include:

(1) For a statewide district, the members specified in the agreement establishing the district;

(2) For a district composed of a combination of one (1) or more counties and one (1) or more cities:

(A) The county judge or his or her designated representative of each county that is a member of the district;

(B) The mayor or his or her designated representative of each city that is a member of the district; and

(C) If the number of directors is fewer than seven (7) after fulfilling the requirements of subdivisions (b)(2)(A) and (B) of this section, additional members shall be appointed as specified in the agreement establishing the district until a total of seven (7) directors has been appointed;

(3) For a district composed of one (1) or more counties:

(A) The county judge or his or her designated representative of each county that is a member of the district; and

(B) If the number of directors is fewer than seven (7) after fulfilling the requirements of subdivision (b)(3)(A) of this section, additional members shall be appointed as specified in the agreement establishing the district until a total of seven (7) directors has been appointed; and

(4) For a district composed of one (1) or more cities:

(A) The mayor or his or her designated representative of each city that is a member of the district; and

(B) If the number of directors is fewer than seven (7) after fulfilling the requirements of subdivision (b)(4)(A) of this section, additional members shall be appointed as specified in the agreement establishing the district until a total of seven (7) directors has been appointed.

(c) The designated representative of a county judge or mayor under subsection (b) of this section shall be a qualified elector of the jurisdiction that the designated representative is appointed to represent.

8-15-109. Terms of directors.

(a) A director who is a public official may serve on the board of directors of a district during his or her term of office as the county judge or mayor of a member of a district.

(b) A director who is the designated representative of the mayor or county judge of a member of the district serves at the pleasure of the mayor of the city or the county judge of the county that is a member of the district.

8-15-110. District boards of directors — Meetings.

(a) The board of directors of a district shall hold quarterly meetings and special meetings, as needed, in the courthouse or other location within the district.

(b) The time and place of the quarterly meetings shall be on file in the office of the district board of directors.

8-15-111. District boards of directors — Powers and duties.

(a) The board of directors of a district may:

(1) Issue revenue bonds on behalf of the district;

(2) Make and adopt all necessary bylaws for its organization and operation;

(3) Elect officers and employ personnel necessary for its operation;

(4) Operate, maintain, expand, and fund a PACE project;

(5) Apply for, receive, and spend grants for any purpose under this chapter;

(6) Enter into agreements and contracts on behalf of the district;

(7) Receive property or funds by gift or donation for the finance and support of the district;

(8) Reimburse a governmental entity for expenses incurred in performing a service for the district;

(9) Assign assessments to a private lending institution; and

(10) Do all things necessary or appropriate to carry out the powers expressly granted or duties expressly imposed under this chapter.

(b) The board of directors shall:

(1) *Allow* a commission of:

(A) One and five-tenths percent (1.5%) for the extension of district assessments by the county assessor or county clerk;

(B) One and five-tenths percent (1.5%) for the collection of district assessments by the county collector; and

(C) One-eighth percent (0.125%) for services of a county treasurer in disbursing the moneys collected for district assessments; and

(2) Adopt rules consistent with this chapter or with other legislation that in its judgment may be necessary for the property enforcement of this chapter.

8-15-112. Reporting requirement — Collection of assessments.

(a)(1)(A) By March 1 of each year or upon the creation of a district that uses or intends to use the county collector for collection of district assessments shall file an annual report with the county clerk in any county in which a portion of the district is located.

(B) The annual report required under this section shall be available for inspection and copying by assessed landowners in the district.

(C) The county clerk shall not charge any costs or fees for filing the annual report required under this section.

(D) The district shall deliver a filed copy of the annual report required under this section to the county collector within five (5) days of filing.

(2) The annual report required under this section shall contain the following information as of December 31 of the current calendar year:

(A) A list of contracts, identity of the parties to the contracts, and obligations of the district;

(B) Any indebtedness, including bonded indebtedness, and the reason for the indebtedness, including the following:

(i) The stated payout or maturity date of the indebtedness, if any; and

(ii) The total existing delinquent assessments and the party responsible for the collection;

(C) Identification of each member of the board of directors of the district and each member's contact information;

(D) The date, time, and location for any scheduled meeting of the district for the following year;

(E) The contact information for the district assessor;

(F) Information concerning to whom the county treasurer is to pay district assessments;

(G) An explanation of the applicable statutory penalties, interest, and costs;

(H) The method used to compute district assessments; and

(I) A statement itemizing the income and expenditures of the district, including a statement of fund and account activity for the district.

(b)(1) A district that does not comply with subsection (a) of this section commits a violation punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(2) A fine recovered under subdivision (b)(1) of this section shall be deposited into the county clerk's cost fund.

(c)(1) On or before December 31, the district shall file its list of special assessments for the following calendar year with the county clerk.

(2)(A) After filing the list of special assessments under subdivision (c)(1) of this section, the district shall deliver a copy of the filed list of special assessments to the preparer of the tax books.

(B) If the county collector is not the designated preparer of the tax books, the district shall deliver a copy of the filed list of special assessments to the county collector.

(3) The list of special assessments required under subdivision (c)(1) of this section shall contain:

(A) A list of each parcel with an assessment levied against it within the district; and

(B) The contact information for the district assessor.

(4) The list of special assessments required under subdivision (c)(1) of this section shall not include assessments on parcels that otherwise would not appear on the tax books for the following year.

(5) After the December 31 deadline to file the list of special assessments required under subdivision (c)(1) of this section, the county collector may reject an assessment submitted by the district for inclusion in the list of special assessments.

(d)(1) After the district files the list of special assessments required under subsection (c), the county collector shall collect the assessments at the same time the county collector collects the other taxes on the property.

(2) The county collector shall pay the funds collected under subdivision (d)(1) of this section to the *county treasurer* at the same time that the *county collector pays all other taxes to the county treasurer.*

(3) The county treasurer shall distribute the funds received under subdivision (d)(2) of this section to the district in the same manner as he or she distributes funds to other tax entities.

8-15-113. Financing projects.

(a) A district may establish a PACE program to provide loans for the initial acquisition and installation of energy efficiency improvements, renewable energy projects, and water conservation improvements with consenting real property owners of existing real property and new construction.

(b)(1) The district may authorize by resolution the issuance of bonds or the execution of a contract with a governmental entity or a private entity to provide the loans under subsection (a) of this section.

(2) The resolution shall include without limitation the following:

(A) The type of renewable energy project, water conservation improvement, or energy efficiency improvement for which the loan may be offered;

(B) The proposed arrangement for the loan program, including without limitation:

(i) A statement concerning the source of funding that will be used to pay for work performed under the loan contract;

(ii) The interest rate and time period during which contracting real property owners would repay the loan; and

(iii) The method of apportioning all or any portion of the costs incidental to the financing, administration, and collection of the arrangement among the consenting real property owners and the governmental entity;

(C) A minimum and maximum aggregate dollar amount that may be financed per property;

(D)(i) A method for prioritizing requests from real property owners for financing if the requests appear likely to exceed the authorization amount of the loan program.

(ii) Priority shall be given to those requests from real property owners that meet the eligibility requirements on a first come, first served basis.

(E) Identification of a local official authorized to enter into loan contracts on behalf of the district; and

(F) A draft contract specifying the terms and conditions proposed by the district.

(c)(1) The district may combine the loan payment required by the loan contract with the billing for the real property tax assessment for the real property where the renewable energy project, water conservation improvement, or the energy efficiency improvement is installed.

(2) The district may establish the order in which a loan payment will be applied to the different charges.

(3) The district may not combine the billing for a loan payment required by a contract authorized under this section with a billing of another county or political subdivision unless the county or political subdivision has given its consent by a resolution or ordinance.

(d) The district shall offer private lending institutions the opportunity to participate in local loan programs established under this section.

(e)(1)(A) In order to secure a loan authorized under this section, the district may place a lien equal in value to the loan against any real property where the renewable energy project, water conservation improvement, or the energy efficiency improvement is installed.

(B) The lien shall attach to the real property when it is filed in the county recorder's office for record.

(2)(A)(i) The priority of the lien created under this chapter is determined based on the date of filing of the lien.

(ii) Except as provided in subdivision (e)(2)(A)(iii) of this section, the priority of the lien shall be determined in the same manner as the priority for other real property tax and assessment liens.

(iii) A lien created under this chapter shall be subordinate to any real or personal property tax liens.

(iv) A district shall discharge the lien created under this chapter upon full payment of the lien.

(B) If the real property is sold, the lien shall stay attached to the real property, and the loan created under this chapter will be owed by the new real property owner.

(C) If the real property enters into default or *foreclosure:*

(i) Payment of the assessment shall not be sought from a member of the district who does not own the real property that entered into default or foreclosure;

(ii) Repayment of the assessment shall not be accelerated automatically; and

(iii) The balance of the assessment shall be repaid according to the terms of the agreed-upon schedule.

(3) The district may bundle or package the loans for transfer to private lenders in a manner that would allow the liens to remain in full force to secure the loans.

(f)(1) Before the enactment of an ordinance under this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars.

(2) The public hearing shall be advertised one (1) time per week for two (2) consecutive weeks in a newspaper of general circulation in the district.

8-15-114. Program guidelines.

The board of directors, together with any third-party administrator it may select, shall determine:

(1) The guidelines of the PACE program, including without limitation that:

(A) The base energy performance evaluation shall be completed by a certified and qualified energy evaluation professional to determine existing energy use and options for improved energy efficiency;

(B) The approved improvements create a positive cash flow;

(C) Work shall be performed by qualified and certified contractors in the field of energy efficiency and methods of renewable energy installation;

(D) Performance testing and verification shall be performed by a qualified professional after the work is completed;

(E) Adequate consumer protections are in place; and

(F) The applicable underwriting standards for the participants in the program are established;

(2) The qualifications of the vendors performing installations under this chapter;

(3) The mechanisms by which the district will remit the received special assessment payments and any cost reimbursement; and

(4) Any other matters necessary to implement and administer the PACE program.

8-15-115. Payment by special assessments.

The credit and taxing power of the State of Arkansas will not be pledged for the debt evidenced by the bonds, which will be payable solely from the revenues received from the special assessments on the participants' real property under this chapter.

8-15-116. Bonds.

(a) A district may:

(1) Issue bonds to provide the PACE program loans authorized by this chapter; and

(2) Create a debt reserve fund of legally available moneys from nonstate sources as partial security for the bonds.

(b) Bonds issued under this chapter and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

(c) Bonds issued under this chapter shall:

(1)(A) Be authorized by a resolution of the board of directors.

(B) The authorizing bond resolution may contain any terms, covenants, and conditions that the board of directors deems to be reasonable and desirable; and

(2) Have all of the qualities of and shall be deemed to be negotiable instruments under the laws of the State of Arkansas.

8-15-117. Sale.

The bonds may be sold in such a manner, either at public or private sale, and upon such terms as the board of directors of a district shall determine to be reasonable and expedient for effectuating the purposes of this chapter.

8-15-118. Revolving fund.

(a) A district may maintain a revolving fund to be held in trust by a banking institution chosen by the board of directors separate from any other funds and administered by the board of directors.

(b) A district may transfer into its revolving fund money from any permissible source, including:

(1) Bond revenues;

(2) Contributions; and

(3) Loans.

8-15-119. Notice to mortgage lender.

At least thirty (30) days before the execution of an agreement with a district, an owner shall provide written notice to each mortgage lender holding a lien on the owner's property of the owner's application to participate in a PACE program.

/s/D. Johnson

APPROVED: 04/11/2013

Memo

To: Ray Gosack, City Administrator

From: Jeff Dingman, Deputy City Administrator

Date: 8/6/2014

Re: Mobile Food Trucks

The topic of mobile food trucks has been raised, in terms of possibly creating a mobile truck food court or some other scenario that might allow the mobile food trucks, particularly in the downtown area. This item is included on the August 12 Study Session agenda for review and study.

Currently, in terms of providing means for businesses to sell food or other items from a mobile truck or cart, the municipal code contains provisions for Sidewalk Vending in the central business district (Section 22-36 *et seq.)* and provisions for Transient Merchants (Section 12-311 *et seq.*). In both instances, the merchant/vendor required to adhere to specific guidelines and secure the respective permit or license as provided in the code. Currently, a Transient Merchant license requires a fee of $250 and is good for up to six months. A permit for sidewalk vending in the central business district is good for one year and does not have a fee. In both instances, it the vendor could sell food or some other variety of goods, such as merchandise or arts & crafts.

For background purposes, I've attached a memo from Wally Bailey indicating how this subject was dealt with in 1993. At that time, there was opposition from the Downtown Merchants Association based on the fact that such mobile food trucks would compete for business with brick-and-mortar restaurants downtown, supposedly without the same level of investment or commitment. This discussion resulted in a restriction of mobile food trucks in the downtown or Commerical-6 zoned properties.

At this time, depending on the desired outcome, there are a number of ways we could go. The first would be to continue with the current arrangement. Mobile food vendors can (and do) secure the Transient Merchant license and operate in many parts of town, but not in the downtown area. Sidewalk vendors are permitted downtown, but not in other areas of town.

A second option would be to provide a "food court" of sorts on private property (meaning: not on public street right-of-way) for mobile food trucks to co-locate. It could be organized and structured with a set of rules for operation, and if needed also provide for a means of selection and/or a maximum number of permits available, depending on whether there is sufficient interest to warrant such provisions.

A third option would be to provide for mobile food trucks to operate in the public street right-of-way by a specific set of rules for how they might occupy public parking spaces, or even metered spaces such as in the downtown district.

The City of Fayetteville has a good set of ordinances covering "Outdoor Vendors", which provides for sidewalk vendors and food trucks/mobile merchants on both private and public property. I've attached Chapter 178 of Fayetteville's Code of Ordinances for your review.

These items are provided for your review so that the discussion on August 12 might result in direction to staff as to if or how to proceed with drafting policy that meets the Board's expectation on this issue.

MEMORANDUM

To: Jeff Dingman, Deputy City Administrator
From: Wally Bailey, Director of Development Services
Date: August 1, 2014
Subject: Mobile Food Trucks

The purpose of this memorandum is to provide you with some background regarding mobile food trucks downtown.

This subject is a topic of some significance in 1993 when the Downtown Merchants Association and others approached the City about mobile food trucks downtown. The meetings with the Planning Commission and the Board of Directors resulted in an Ordinance amendment that does not allow mobile food trucks in the downtown or Commercial-6 zoned properties. This restriction is still in effect and included in the current Unified Development Ordinance (UDO).

I have attached some information from the 1993 file for your review.

Let me know if you want additional information on this subject.

The City of Fort Smith ARKANSAS
Sesquicentennial
1842 - 1992

May 26, 1993

Honorable Mayor and Board of Directors
City of Fort Smith, Arkansas

Re: Temporary Use Special Permits (Retail and Non-Retail)

On Tuesday, May 11, 1993, the City Planning Commission held a public hearing to consider the above referenced matter.

Mr. Bill Harding discussed the issue with the Commission indicating that the purpose of the public hearing was to review with the Commission and public various proposed changed to the Zoning Ordinance dealing with the issuance of temporary permits to mobile facilities for the purpose of food sales or other retail purposes.

The review of this issue at the public hearing represented the last of several discussions between the Commission and staff and a group of downtown merchants that had been opposed to allowing trailers to do business on a long-term temporary or permanent basis in the downtown area.

Following Mr. Harding's presentation of the issue to the Commission, Mr. Dryden Pence, representing some of the membership of the Downtown Merchants Association, indicated that they had no opposition to Section 27-43 A, B.1. and B.2. of the proposed Ordinance, but he recommended that Section C be modified to reduce the non-conforming time frame from thirty (30) calendar days to fourteen (14) calendar days. He also asked that the Commission require that the facility be required to remain operational and not be allowed to sit idly during that time frame.

Several other individuals addressed the Commission concerning the proposed Ordinance.

Following a brief discussion, the Planning Commission voted to recommend approval of the proposed Ordinance as submitted by the staff with a vote of 5 in favor and 2 opposed.

Respectfully Submitted,

CITY PLANNING COMMISSION

Gary Campbell

Gary Campbell, Chairman

GC/BH/lp

cc: File
City Administrator

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(501) 785-2801
Administrative Offices FAX (501) 784-2407

2. The Director of Planning of the City may grant a temporary use special retail permit (mobile structures) to utilize a trailer for the preparation and sale of food, beverage and/or merchandise on a seasonal basis for a period not to exceed one hundred twenty (120) days in Commercial-2, Commercial-3-P, Commercial-4-P, Commercial-5, as well as Industrial-1 and Industrial-2 Zoning Districts. Such permits are subject to a $50.00 non-refundable fee and may not be renewed or extended beyond a one hundred twenty (120) day period. Permit requests to relocate the same facilities on the same site or within five hundred (500) feet of the same site shall not be considered by the Director of Planning for at least ninety (90) days from the expiration of the original permit.

C. <u>NonConforming Retail Trailers</u>

Any mobile (retail) structure (trailer) existing at the time of this provision may continue to operate provided that this provision shall not be construed to approve continuation of an activity constituting a nuisance or an activity prohibited by statute or ordinance applicable to the use and that the structure has a valid temporary use special retail permit and/or a valid business license for the specific site on which it is located. However, should the mobile retail structure be removed from the site for thirty (30) consecutive calendar days, it shall be considered a nonconforming mobile retail structure and shall not operate at that location.

TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 178: OUTDOOR VENDORS

CHAPTER 178: OUTDOOR VENDORS

178.01 Purpose

It is the purpose of this chapter to promote and encourage open air retail environments, while preserving and protecting the health, safety and welfare of citizens by promoting opportunities and regulations for the creation of said exceptions within the City.

(Ord. 5185, 10-7-08)

178.02 Sidewalk Cafes

(A) Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain developed and developing areas in a traditional town form are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to encourage pedestrian activity and make the urban environment more attractive.

(B) Sidewalk Café Authorization. The Planning Commission may issue a conditional use permit allowing a sidewalk café on part of a specified sidewalk after the applicant has notified adjoining property owners. In addition to the general conditional use requirements, the Planning Commission shall ensure that no conditional use permit is granted, unless:

(1) The proposed sidewalk café will not unduly impact or impede the public's ability to travel upon or use the sidewalk and any other affected public right-of-way, including public utility easements.

(2) Any necessary costs to relocate a utility or widen the existing sidewalk to accommodate the proposed sidewalk café must be paid by the sidewalk café applicant.

(3) The sidewalk café applicant may be required to post a surety bond or letter of credit sufficient to cover the cost of removing the sidewalk café if necessary for the city or utility company to access pipes, lines, or other facilities.

(4) The sidewalk café applicant must consent that the city or utility company may remove, without liability or compensation, part or all of the sidewalk café, if necessary, to get access to a utility facility or improvement.

(C) Requirements: Sidewalk cafés shall meet the following requirements in order to be approved:

(1) Applicants requesting a license must provide a detailed site plan and written description illustrating the type, location and dimensions of all furniture to be placed in the public right-of-way. Sidewalk cafes may not be enclosed by fixed walls or other permanent structures.

(2) Sidewalk cafes must be open to the air, except that an awning or canopy conforming to requirements established by the Unified Development Code and Building Code may be constructed over the sidewalk café. In order to provide sufficient pedestrian clearance, umbrellas must have 7 feet of free and clear space from the sidewalk surface to the lower edge of the umbrella.

(3) Property shall be kept clean and free of refuse with no permanent trash containers placed on the premises.

(4) All furnishings and fixtures must be of a temporary nature and shall be removed from the public right-of-way and stored inside during non-operational times.

(5) For sidewalk cafes using City right-of-way for operation, there shall be a minimum of five feet or 50% of the total sidewalk width for clearance, whichever is greater, to provide adequate and unobstructed pedestrian movement.

(6) If at any time the sidewalk café is determined to impede travel or interfere with the public safety, as determined by the Planning Division, the sidewalk cafe shall be removed.

(7) One A-frame sandwich/menu board is permitted within the sidewalk cafes' border during hours of operation, subject to the applicable regulations in Ch. 174: Signs for the same.

(Ord. 5185, 10-7-08)

178.03 Sidewalk Vendors

(A) *Purpose*. Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain development patterns with wide sidewalks are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety.

This ordinance is designed to regulate open air vending of goods on public rights-of-way.

(B) *Sidewalk Vendor Authorization*. The Zoning and Development Administrator may issue a permit for a sidewalk vendor to use a specific sidewalk or plaza location for specified hours to sell specified goods for up to a one year period. In addition to the general use requirements, the Zoning and Development Administrator shall ensure that no permit is granted unless:

(1) The applicant has obtained all necessary permits from State or County authorities, including any Transient Merchant permit requirements.

(2) The applicant has submitted a sales and use tax number, sales tax remittance forms and an affidavit that the applicant has fully paid all sales and use taxes during the previous twelve months, if applicable.

(3) The applicant has filed a HMR tax remittance form with the City of Fayetteville, when applicable.

(4) The applicant has notified all adjacent property owners, by certified mail, of the application.

(C) *Permit Application.* Each application for a permit to conduct business on a sidewalk shall be accompanied by a $100 application and permit fee. Permits issued after July 1st shall be accompanied by a $50 application and permit fee. Each permit will expire at 3 a.m. on January 1st following the year issued. The permit fee shall be collected prior to issuance of the permit

(1) Application for a sidewalk vendor permit 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.

(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 container or device to be used for transport or to display approved items or services.

(f) A site plan indicating the location and dimensions of the proposed use and device or pushcart.

(g) A detailed scale drawing, picture or diagram and material specifications of the device or pushcart to be used.

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

(3) The permit is valid for one sidewalk vending location only.

(D) *Permitted Vending Products and Goods*.

(1) The City of Fayetteville permits the following types of goods for street vending in approved locations:

(a) Cut Flowers

(b) Food and Beverage

(c) Arts and Crafts: Only objects of art or craft produced and sold by a local artist or craft person may be sold by street vendors.

(2) All goods being sold from sidewalk vendors shall:

(a) Be located within the permitted area and be attended at all times. Sidewalk vendors shall not conduct transactions with vehicular traffic located in the right-of-way.

(b) Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk.

(c) Involve a short transaction period to complete the sale or render the service.

(d) Not cause undue noise or offensive odors.

(e) Be easily carried by pedestrians.

(E) *Location Requirements*. Sidewalk vendors are permitted in specific locations in Fayetteville as a use by right. These locations have been determined by the City Council to have adequate sidewalk width, pedestrian traffic flow, and they minimize potential conflicts with existing businesses. Sidewalk vendors are not permitted to operate on days / times associated with special events, unless they have been approved and granted a Special Events Permit from the organization coordinating the special event. Maps of approved locations are available in the

Planning Division. The locations where street vending is allowed as a permitted use are:

(1) North and West sidewalks in front of the Walton Arts Center. Sidewalk vendors may locate along West Avenue and Dickson St. in front of the Walton Arts Center

(2) Inside of the Fayetteville Square. Sidewalk vendors may locate along sidewalks on all sides of the interior of the downtown Fayetteville Square. On days / times that the Farmers' Market or other special events operate, sidewalk vendors shall only be permitted if approved through the Farmers' Market or Special Event Permit process.

(F) *Conditional Use Permit.* If an applicant wishes to operate as a sidewalk vendor in a location other than those specifically approved by the City Council, a conditional use permit must be obtained. Upon receipt of a conditional use permit application, the Planning Commission shall review the proposed permit operating area to determine if the said area is suitable for street vending in accordance with this chapter. In making this determination, the Planning Commission shall consider the following criteria:

(1) The application meets all other criteria established herein for a sidewalk vendor, with the exception that the applicant may request that the cart, and/or operating area, may be larger than the dimension required in this chapter. An increase in cart size or operating area may be considered by the Planning Commission as a variance and does not require conditional use permit review. The determination of a larger cart size and/or operation area shall be subject to the variance criteria in Chapter 156.03(C).

(2) The number of permits issued for the street vending location shall not exceed the capacity of the area in terms of maintaining the use of the sidewalk as a public right-of-way. The Planning Commission shall consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to: signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands to determine whether the proposed use would result in pedestrian or street congestion.

(G) *Requirements*. Sidewalk vendors conducting business on the sidewalks of the City of Fayetteville with a valid permit issued under this Chapter may transport and/or display approved goods upon the approved mobile device or pushcart, under or subject to the following conditions:

(1) The operating area shall not exceed 40 square feet of sidewalk, which shall include the area of the mobile device, operator and trash receptacle. The Planning Division will provide a map of approved vendor locations.

(2) The length of the mobile device or cart shall not exceed 7 feet, including the cart's trailer tongue or hitch that is not removed or collapsible, and any propane tanks or other attachments to the mobile device. The width shall not exceed 4 feet, including the carts wheel wells or tires, and any accessory components of the cart such as retractable or collapsible sinks or shelves.

(3) The height of the mobile device or pushcart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.

(4) No permanent hardware shall be affixed to the sidewalk or adjacent buildings.

(5) Mobile generators are prohibited.

(6) No sidewalk vendor may conduct business on a sidewalk in any of the following places:

(a) Within 10 feet of the intersection of the sidewalk with any other sidewalk. Sidewalk intersections shall be kept clear for pedestrian safety.

(b) Within 10 feet of any handicapped parking space, or access ramp.

(c) Within 15 feet of a fire hydrant.

(d) Within 15 ft. of an entrance to a building.

(7) Street vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 5 a.m. and 3 a.m. All carts shall be removed from the public right-of-way during non-operational hours.

(8) Prior to final approval, Planning Staff shall inspect the sidewalk vendor set up in the proposed location. The applicant shall make an appointment between the hours of 8 a.m. to 5 p.m. in which Planning Staff will inspect the cart and all proposed accessories such as coolers, trash receptacle, chairs, etc. that the applicant is proposing for the site. Upon approval, sidewalk vendors shall display in a

prominent and visible manner the permit issued by the Planning Division.

(9) The Fire Marshal shall inspect and approve any food and beverage pushcart to assure the conformance of all cooking or heating apparatus with the provisions of the City Fire Code.

(10) Sidewalk vendors who sell food and beverage are required to be permitted, and receive approval, through the Arkansas Department of Health and Human Services for food related establishments. A copy of the permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied to the Planning Division prior to Planning Division approval.

(11) Sidewalk vendors are required to provide a trash receptacle for public use located within their permitted operating space. All sidewalk vendors must pick up and properly dispose of all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within thirty minutes of the end of daily operations. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval.

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

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

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

(Ord. 5185, 10-7-08; Ord. 5321, 5-18-10; Ord. 5459, 11-15-11)

178.04 Outdoor Mobile Vendors Located On Private Property

(A) *Purpose*. The purpose of this section is to facilitate and control the ability of mobile vendors and mobile vendor courts to operate on private property while ensuring such use is compatible with nearby properties, fosters an aesthetically appealing streetscape and does not create a dangerous traffic condition.

(B) *Mobile Vendor Six Month Permit.* Mobile vendors are allowed to operate on a temporary basis for a maximum of six months in one location during a calendar year with administrative approval of the Planning Division. Mobile vendors utilizing a six month permit may request to relocate to a different site at least one quarter mile (1,320 feet) from the original location after this–six month period has expired. However, a new mobile vendor application shall be reviewed and approved by the Planning Division for every new location. This permit will expire six months from the date issued and the mobile vending unit shall be removed from the property. The mobile vendor owner also has the option of requesting an annual permit from the Planning Commission at or before the end of their initial six month permit time period.

(1) A six month permit for a mobile vendor business shall be approved and issued administratively by the Planning Division after making the following determinations:

(a) All of the requirements of 178.04(D) have been met.

(b) The applicant has established that the operation of the mobile vendor will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

(c) The mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed mobile vendor, unless the mobile vendor predates the aforementioned permanent businesses.

(C) *Mobile Vendor Annual Permit.* Mobile vendors are allowed to locate for one year in the same location with approval of the Planning Commission as an administrative item. After the one year period has expired the mobile vendor may move to another location or may request a one year renewal from the Planning Commission.

(1) An annual mobile vendor permit may be issued by the Planning Commission after making the following determinations:

(a) All of the requirements of 178.04(D) have been met.

(b) The applicant has established that the operation of the mobile vendor will foster an aesthetically appealing streetscape and will not create a dangerous traffic condition.

(c) The mobile vendor business shall not match or duplicate the primary food or beverage offerings sold by permanent businesses located upon property immediately adjacent to and on the same side of the street as the proposed mobile vendor, unless the mobile vendor predates the aforementioned permanent businesses.

(D) *Mobile Vendor Permit Requirements*. All mobile vendors located on private property with Six Month or Annual Mobile Vendor Permits shall meet the following requirements and submittals prior to approval:

(1) Each application for a permit to conduct a mobile vendor business on private property shall be accompanied by a $100 permit review and processing fee. Mobile vendor permits shall be issued to the owner of the mobile vendor vehicle.

(2) Application for a permit to conduct a mobile vendor business shall include the following items in a format acceptable to the Planning Division:

(a) Name, address, contact information and signature of both the property owner and the mobile vendor requesting to locate on private property.

(b) A valid copy of all necessary permits required by State and County health authorities which shall be conspicuously displayed at all times during the operation of the business.

(c) Proof of application for remittance of HMR tax to the City of Fayetteville, when applicable.

(d) A detailed site plan roughly drawn to scale showing the location of the property lines, each mobile vendor location, building setback lines, vehicle parking spaces, the sidewalk location and any proposed dining or sitting areas.

(e) Written authorization, signed by the property owner or legal representative of record, stating that the mobile vendor is permitted to operate on the subject property for a specified period of time.

(3) The mobile vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile vendors are not permitted to dispose of their trash in public trash receptacles.

(4) The mobile vendor permit issued shall not be transferable in any manner.

(5) The mobile vendor permit issued shall be conspicuously displayed at all times during the operation of the mobile vending business.

(6) The proposed use must be a permitted use-by-right within the underlying zoning district.

(7) Mobile vendors shall maintain compliance with parking lot requirements for the existing business and the proposed mobile vendor business. The number of required parking spaces is determined by the use and size of the proposed mobile vendor business and by the use and size of the existing business. The use of parking for a mobile vendor may not reduce the number of spaces below the minimum required for other uses occurring on the property. The location of the mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

(8) Mobile vendors shall comply with the Federal Americans with Disabilities Act (ADA) requirements if the public has access to the interior of any mobile vending unit.

(E) *Mobile Vendor Courts*. Mobile vendor courts may be permitted through a Conditional Use Permit process in appropriate zoning districts. A property owner may request a Conditional Use Permit from the Planning Commission to develop a mobile vendor court subject to the following standards:

(1) The property owner has provided the Planning Division with a detailed site plan of the mobile vendor court showing the location and dimensional relationships of the property lines, all proposed mobile vendors locations, building setbacks,

vehicle parking, sidewalk location and proposed dining or sitting areas.

(2) The property owner proposing a mobile vendor court may be required to make any of the following improvements to the property in order to meet City development codes and be approved for this semi-permanent use. Required improvements may include:

(a) Improvements necessary to provide permanent utility connections for each mobile vending unit location in the mobile vendor court. This may include permanent water, sanitary sewer and electricity connections.

(b) Improvements necessary to ensure safe pedestrian and vehicular access to the site.

(c) Providing adequate restroom facilities on site or through the provision of a shared use agreement with a neighboring business for access to restroom facilities.

(3) Mobile vendors operating in a mobile vendor court are not required to obtain an individual permit but shall provide the Planning Division with the following information:

(a) Name, address, contact information and signature of both the property owner and the mobile vendor operator locating in the mobile vendor court.

(b) A valid copy of all necessary permits required by State and County health authorities which shall be conspicuously displayed at all times during the operation of the vending business.

(c) Proof of application for remittance of HMR tax to the City of Fayetteville, when applicable.

(d) Written description of any additional structures to be used in conducting business, including but not limited to stairs, decks, tents or enclosures.

(e) A detailed site plan of the mobile vendor court showing the location of the applicant's proposed mobile vendor unit location within the mobile vendor court.

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

(F) *Exemptions.* The provisions of the Mobile Vendor ordinance do not apply to:

(1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.

(2) The distribution of free samples of goods, wares and merchandise by any individual from his person.

(3) Special events authorized by a Special Event Permit from the City of Fayetteville Parking Management Division.

(4) Fireworks sales.

(5) Children's lemonade stands.

(6) Temporary tent sales that operate for less than 3 days. A tent permit from the Planning Division and Fire Marshal inspection is required.

(7) Temporary sales for non-profit entities that operate for less than 5 consecutive days.

(8) Non-profit organizations that prepare and donate or give away food for free.

(G) *Prohibited Conduct*. The following conduct is prohibited for mobile vendors:

(1) Obstruct pedestrian or vehicular traffic flow.

(2) Obstruct traffic signals or regulatory signs.

(3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.

(4) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

(5) Use or display any signage that is not in compliance with the Unified Development Code Chapter 174: Signs.

(H) *Suspension and Revocation of Permit*. Any permit issued under these regulations may be suspended or revoked by the Development

Services Director for any of the following reasons:

(1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Commission.

(2) Conducting the business of mobile vending in a manner contrary to the conditions of the permit.

(3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or interfere with the rights of abutting property owners.

(4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations, or;

(I) *Notification of Suspension or Revocation*. The Development Services Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation and notifying the vendor or the property owner of his/her right to appeal to the Planning Commission. Such notice shall be personally delivered, posted upon the mobile vendors' premises or mailed to both the address of the property owner and the address of the mobile vendor shown on the permit holder's application by certified mail, return receipt requested.

(Ord. 5185, 10-7-08; Ord. 5425, 8-2-11; Ord. 5498 05-01-12; Ord. 5666, 3-18-14)

178.05 Food Truck Limited Time Permit

(A) *Purpose*. This section's purpose is to create a process that allows food trucks to locate for a limited time on public and private property. Food trucks are defined as a motorized and operationally self-contained single vehicle equipped with facilities for cooking and selling food.

(B) *Food Truck Limited Time Permit on Public Property.* Food trucks may apply for a permit determined through a lottery drawing by the Planning Division to locate for a limited time in a marked or delineated parallel public parking space. Food Trucks may also vend in City Parks with approval by the Parks and Recreation Director.

(1) The Planning Division will conduct a lottery in November each year for a total of three (3) Food Truck Limited Time Permits for locating on public property. If more than nine (9) lottery applications are made Planning Staff may increase the number of permits issued not to exceed one third (1/3) of the total number of applications. Instances in which 1/3 the total number of applications results in a fraction of 0.5 or higher, the number of permits available shall be rounded up to the next whole number. These permits shall be issued on January 1st and will extend until December 31st. Food trucks may apply and participate in this lottery every year.

(2) A Food Truck Limited Time Permit on Public Property may be approved administratively by the Planning Division after making the following determinations:

(a) The applicant has paid an annual $100 permit fee. Food trucks shall pay the appropriate fee for the time they are located in public parking spaces. The food truck shall fit entirely within one marked parallel on-street parking space or within one marked parking space in a City Park.

(b) The applicant has provided a valid copy of the County Health Department permit and proof of remittance of HMR tax to the City of Fayetteville.

(c) The applicant has the responsibility to dispose of all wastes in accordance with all applicable laws. Food trucks are not permitted to dispose of their trash in public trash receptacles.

(d) The applicant agrees to move to a different location after a four (4) hour time period. This time period includes onsite set-up and break-down time. The applicant agrees to move at least 325 feet away or out of sight/view of their previous location once their initial 4 hour time period has expired.

(e) The applicant agrees to not locate on the same side of the street directly in front of an existing restaurant.

(f) The applicant agrees to only vend towards the sidewalk side of the street and to keep the sidewalk unobstructed to allow for free flow pedestrian movement along the street.

(g) The applicant agrees to locate on public property such that they will not cause an unsafe traffic or pedestrian situation.

(h) The applicant agrees not to set up in a parking space adjacent to a parking pay station kiosk.

(i) Food trucks are prohibited from parking or vending from angled on-street parking spaces and from public parking lots in the Entertainment District or the Downtown Business District. Food trucks are prohibited from parking in marked parallel parking spaces that are posted reserved for residential use.

(j) The City reserves the right to limit food trucks from utilizing public parking spaces during special events such as; parades, Bikes, Blues and BBQ, etc. Special event permits may be available to food trucks for certain events. Contact the City's Parking Division for special event permits.

(C) *Food Truck Limited Time Permit on Private Property.* Food trucks may be approved administratively by the Planning Division for a Food Truck Limited Time Permit to locate on private property after meeting the following conditions:

(1) The applicant has paid an annual $100 permit fee, unless they are also the holder of a public property lottery permit and they have already paid a $100 permit fee. Permits expire December 31st.

(2) The applicant has provided a valid copy of the County Health Department permit and proof of remittance of HMR tax to the City of Fayetteville.

(3) The applicant has the responsibility to dispose of all wastes in accordance with all applicable laws. Food trucks are not permitted to dispose of their trash in public trash receptacles.

(4) The applicant has agreed to move to a different property after a four (4) hour time period. This time period includes any onsite set-up or break-down time.

(5) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck operator permission to operate on the property. A site plan shall be provided by the applicant or property owner for each proposed site upon which the food truck would like to temporarily locate. The food truck vendor shall keep these records up to date with the Planning Division.

(6) The applicant agrees to locate on private property such that they will not cause an unsafe traffic or pedestrian situation.

(Ord. 5666, 3-18-14)

178.06 Transient Merchants

All transient merchants are subject to regulations and registration under Arkansas state statutes. Any criteria established herein shall not relieve the applicant from meeting applicable criteria relative to transient merchants. "Transient merchant" means any person, firm, corporation, partnership, or other entity that engages in, does, or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise, or services.

(Ord. 5185, 10-7-08; Ord. 5666, 3-18-14)

178.07-178.99 Reserved

(Ord. 5185, 10-7-08; Ord. 5666, 3-18-14)