



AGENDA

FORT SMITH BOARD OF DIRECTORS REGULAR MEETING

MARCH 2, 2010 ~ 6:00 P.M.

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

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

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

MAYOR'S ANNOUNCEMENTS AND RECOGNITIONS

APPROVE MINUTES OF THE FEBRUARY 16, 2010 REGULAR MEETING

CITIZENS FORUM ~ Opportunity to present to the Board of Directors any item of business or other matter which is not already scheduled on the agenda

ITEMS OF BUSINESS:

1. Ordinance rezoning identified property and amending the zoning map from Not Zoned to Residential-Single-Family-Medium/High Density by classification (7300 Massard Road)
2. Ordinance authorizing the Mayor to execute agreements for certain services for inhabitants of the city of Fort Smith
3. Resolution of the City of Fort Smith certifying local government endorsement of business to participate in the Tax Back Program (as authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003) (*Metal Sales Manufacturing Corporation ~ 7510 Ball Road*)
4. Resolution encouraging Cox Communications to restore programming to channel tiers accessible to subscribers without digital service

5. Consent Agenda

- A. Resolution authorizing the purchase of a tactical vehicle for use by the Fort Smith Police Department (\$79,994.00)
- B. Resolution authorizing the Mayor to enter into an agreement with the Western Arkansas Tennis Association for operation of the tennis center at Creekmore Park
- C. Resolution authorizing Change Order Number Two with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$89,078.00)
- D. Resolution authorizing an amendment to the engineering services agreement with Mickle Wagner Coleman, Inc. for Howard Hill Elevated Water System Improvements (\$16,689.00)

DIRECTORS FORUM

CITY ADMINISTRATOR'S REPORT

ADJOURN

ORDINANCE NO. _____

**AN ORDINANCE REZONING IDENTIFIED PROPERTY
AND AMENDING THE ZONING MAP**

WHEREAS, the City Planning Commission has heretofore held a public hearing upon request No. 2-2-10 to rezone certain properties hereinafter described, and, having considered said request, recommended on February 9, 2010, that said change be made;

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF
DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS:**

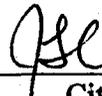
SECTION 1: That the following property to-wit:

Part of Government Lots 1 and 2 of the SW $\frac{1}{4}$ of Fractional Section 6, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the NE corner of said Lot 1 of the SW $\frac{1}{4}$, thence along the north line of said SW $\frac{1}{4}$ N 87°23'54"W 2018.18 feet; thence along the east boundary line of the Sebastian County parcel S 02°15'25"E, 104.52 feet; thence parallel to said north line of the SW $\frac{1}{4}$ S 87°23'54"E, 660.58 feet to the NW corner of the replat of Cisterna Villa at Chaffee Crossing Subdivision as shown on said plat filed for record July 25, 2008, as plat 1799C; thence along the west line of said subdivision S 02°15'53"E, 759.37 feet to the SW corner of said subdivision; thence along the south line of said subdivision S 46°40'48"E, 515.33 feet to the SE corner of said subdivision, being a point on the west right of way for Massard Road; thence along said West right of way S 44°29'08"W, 19.97 feet; thence continuing along said right of way 634.28 feet along a curve to the left having a radius of 2546.40 feet and a long chord of S 37°23'25"W, 632.64 feet; thence leaving said right of way N 55°29'13"W 201.04 feet; thence N 46°41'43"W, 628.12 feet to the east boundary line of said Sebastian County parcel; thence along said east line N 02°15'25"W, 1115.35 feet to the point of beginning, containing 24.38 acres, more or less, subject to all easements and rights of way of record or fact.

More commonly known as 7300 Massard Road, should be, and is hereby rezoned from

Approved As to Form:



City Attorney

Published time

Not Zoned to Residential Single Family Medium/High Density (RS-3) by Classification.

The zoning map of the City of Fort Smith is hereby amended to reflect said rezoning.

PASSED AND APPROVED THIS _____ DAY OF MARCH, 2010.

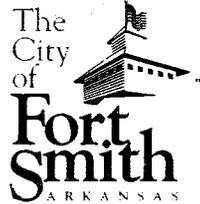
APPROVED:

Mayor

ATTEST:

City Clerk

February 25, 2010



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

Re: Rezoning #2-2-10; A request by Ivey Owen, Executive Director of the Fort Chaffee Redevelopment Authority, for Planning Commission consideration of a zone change from Unzoned to Residential Single Family Medium/High Density (RS-3) by Classification located at 7300 Massard Road.

On February 9, 2010, the City Planning Commission held a public hearing to consider the above rezoning request.

Ms. Andrews stated that the purpose of this request is to facilitate an 80 lot single-family development with lot sizes ranging from approximately 7,333 square feet to 11,160 square feet and lot widths at building line from 60 feet to 80 feet. She also stated that there are five streets located within the subdivision with two entrances on Massard Road into the development, one being located at Cedar Court and the other entrance to connect with the entrance to Cisterna Villa at Chaffee Crossing. She also noted that the development plan is showing a 20 foot landscaping area along the entire perimeter of the subdivision that fronts Massard Road with a 5 foot wide sidewalk on both sides of all internal streets and one development sign being shown at the entrance at Cedar Court.

Ms. Andrews noted that a neighborhood meeting was held on February 1, 2010, at 6:00 p.m. at the Fort Chaffee Redevelopment Authority offices at Chaffee Crossing. She stated that the meeting was attended by two property owners, representatives of the proposed Stonebrook at Chaffee Crossing development, Cisterna Villa at Chaffee Crossing, Rausch-Coleman, Fort Chaffee Redevelopment Authority and the Fort Smith Planning Department. Ms. Andrews stated to the Commission that the requested zoning is compatible with the existing land use classification and surrounding areas and planning staff is recommending approval of these requests.

Mr. Steven Beam, representing Crafton Tull Sparks, 901 North 47th Street, Rogers, AR, was present to speak on behalf of these requests.

Commissioner Lau questioned Mr. Beam as to whether he foresaw any issues with the 7.5 feet side yard setbacks for this development due to the fact that the Commission has seen several variance requests in the past from developers requesting a reduction in this setback.

Mr. Steven Beam noted that he did not see any problems with the 7.5 feet side yard setback requirement relative to this development.

No one was present to speak in opposition to this request.

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

Following a discussion by the Commission, Chairman Griffin called for the vote on this request. The vote on the rezoning request was 7 in favor and 0 opposed.

A copy of the draft minutes and staff report to the Planning Commission is enclosed for your review.

The Planning Commission hereby certifies this zoning map amendment to the Board of Directors in accordance with A.C.A. 14-56-422.

Respectfully Submitted,

CITY PLANNING COMMISSION

St. C. Griffin, Chairman

SG/lp

cc: File
City Administrator

Memo

To: City Planning Commission

From: Planning Staff

Date: February 1, 2010

Re: Rezoning #2-2-10; A request from Ivey Owen, Executive Director, Fort Chaffee Redevelopment Authority to the Fort Smith Planning Commission for consideration of a zone change from unzoned to Residential Single-Family Medium/High Density (RS-3) by classification at 7300 Massard Road. (companion item to items #2 and #4)

LOT LOCATION AND SIZE

The proposed zoning site is located on the south side of Massard Road east of Cisterna Way. The tract contains 24.38 acres and has approximately 640 feet of street frontage on Massard Road.

EXISTING ZONING

The property is currently not zoned.

REQUESTED ZONING

The requested zoning on this tract is Residential Single-Family Medium/High Density (RS-3). Characteristics of RS-3 are as follows:

Characteristics of the Residential Single-Family Medium/High Density (RS-3) are as follows:

Purpose: To provide for medium/high density, compact single family detached development on new sites or as infill construction. Adequate public services and facilities shall be available with sufficient capacity to serve the proposed development. This zoning district is intended to serve as a transition between the lower density single-family districts and the multi-family or commercial districts. RS-3 zoning is appropriate in urban and suburban areas and primarily applies to the Residential Detached classification of the Master Land Use Plan.

Permitted Uses: Detached dwelling units and family group homes.

Conditional Uses: Schools, churches, utility substations, commercial communication towers, country club, golf course, parks and playgrounds (public and non-public) police stations and police substations, daycare home (12 or less), and home occupations.

Area Regulations

Lot Area - 6,500 square feet
Minimum Lot Width at Building Line – 60 feet
Maximum Lot Coverage – 60%
Minimum Street Frontage – 20 feet
Maximum Height – 35 feet (1+1)
Front Yard Setback - 25 feet
Side Yard Setback - 7.5 feet
Side Yard on Street Side of Corner Lot - 25 feet
Rear Yard Setback - 10 feet
Separation of Buildings - 10 feet

Density Requirements:

6.7 dwelling units per acre

SURROUNDING ZONING AND LAND USE

The area to the north of the proposed zoning is zoned Residential Single-Family High Density (RS-4) and is developed as single-family dwellings in the Huntington Chase Subdivision.

The area to the east of the proposed zoning site is zoned Residential-6 and is developed as single-family dwellings in the Cisterna Village Chaffee Crossing Subdivision.

The area to the south of the proposed zoning site is in the Chaffee Crossing Planning area. This area is not zoned and is currently undeveloped.

The area to the west of the proposed zoning site is zoned ETJ Open and is developed as Ben Geren Regional Park.

PROPOSED ZONE CHANGE

The applicant has requested the Residential Single-Family Medium/High Density (RS-3) to facilitate a single-family development.

LAND USE COMPLIANCE

The site is classified as residential by the Chaffee Crossing Land Use Map.

STAFF COMMENTS AND RECOMMENDATIONS

A neighborhood meeting was held on February 1, 6:00 p.m., at the FCRA offices at Chaffee Crossing. The meeting was attended by two properties owners, representatives of the proposed Stonebrook at Chaffee Crossing development, Cisterna Villa at Chaffee Crossing, Rausch-Coleman, FCRA, and the Fort Smith Planning Department. The attendance record and meeting summary are attached.

The requested zoning is compatible with the existing land use classification and surrounding areas. Attached is an endorsement letter from Ivy Owen, Executive Director of the Fort Chaffee Redevelopment Authority.

Staff recommends approval of the zoning request.

Carrington Creek – Stonebrook Subdivision
Neighborhood Meeting – February 1, 2010
FCRA Offices, 6:00 p.m.
Meeting Summary

The neighborhood meeting was held on February 1, 2010 at the FCRA offices in Chaffee Crossing and those attendance are listed on the attached attendance sheet.

Two homeowners, the Hubbards within Huntington Chase and Ms. Donaubauer of Cisterna Villas, attended along with Mr. Ron Rouse with GRW Properties, the developer of Cisterna in addition to the project team, a representative of the City of Fort Smith, and Mr. Ivy Owen of FCRA. Mike Bauman with Rausch-Coleman homes also attended.

Steven Beam welcomed everyone and informed those attending that the neighborhood meeting was a part of Fort Smith's new process established in its UDO. He then shared that the requests before the City were for the rezone and approval of a preliminary plat and development plan for a single family subdivision. Wally Bailey added comments for clarifications at times throughout the presentation as the requests were being detailed and the process was being presented.

Plats, representative floor plans, and photos of similar homes in the Ridgewood subdivision built by the developers were presented to give the attendees a picture of what to expect in this proposed subdivision.

The Hubbards lived adjacent to the proposed connection to Huntington Court and were generally interested in the overall proposal. They were familiar with a Carrington Creek project in Greenwood and asked if these homes would be similar. The developers answered that these homes would be a little larger and in a higher price point than those in Greenwood.

Ms. Donaubauer stated her concern, as a single female, was primarily for her security when a project was going in next door to her. She asked about the quality of the homes, price range, and types of people who would be buying these homes. The developer stated that for homes in this price range, the typical buyer is not a first-time homebuyer but rather a second home so they understand the maintenance requirements as they relate to upkeep and maintaining an attractive neighborhood.

Mr. Rouse stated his main concern was whether the covenants for the project would allow outbuildings since his project at Cisterna does not have a perimeter fence. The developers answered that they planned to require dog-ear wood privacy fence with the slats facing outward to be constructed around the rear yards of each home and that the outbuildings would be required to be constructed on permanent foundations with a brick wainscot. These measures tend to ensure a quality structure is placed if one at all.

Ivy Owen stated his pleasure in seeing that this meeting was being held and looked forward to this project and many more at Chaffee Crossing. Steven closed by distributing his contact information so if any other questions arose or at any point from now through construction, the residents had any concerns, they could feel free to contact him.

NEIGHBORHOOD MEETING

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>EMAIL</u>
Roy + Jodi Hubbard	7900 Huntington Way F Smith, AR 72916	870-891-8123	Jhubbard@a mylibertybank.com
ANNE BAUMANN		479-200-2608	
Tammie Donaubauer	7114 Milan Way FS.	479-452-5650	tammiedon@ yahoo.com
Ronald Rouse GRW Properties, Inc.	8405 So. Zero 22916	479-434-6941	Tinemeadowinc @cox-internet.com
IVY OWEN			
KALLY BAILEY			
TOOD BASHAM			
CARY SMALLWOOD			
MONT SAGELY			



FORT CHAFFEE
REDEVELOPMENT
AUTHORITY

February 4, 2010

MS. Brenda Andrews, Senior Planner
City of Fort Smith
Fort Smith, AR 72901

Dear Brenda:

Re: Stonebrook at Chaffee Crossing

This letter is to notify you that Chaffee Crossing endorses the development of Stonebrook at Chaffee Crossing. Stonebrook demonstrates the type of development that we are encouraging and compliments the development already occurring along Massard Road.

Best Regards,

A handwritten signature in cursive script, appearing to read 'Ivy Owen'.

Ivy Owen
Executive Director

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

- 1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

See attached

- 2. Address of property: 7300 Massard Rd
25 acres located south of Cisterna Villas along the west side of Massard Road

- 3. The above described property is now zoned: Not zoned (within Chaffee Crossing)

- 4. Application is hereby made to change the zoning classification of the above described property to RS-3 by classification
(Extension or classification)

- 5. Why is the zoning change requested?

To facilitate the sale of the property by FCRA and development of a single family subdivision by a private entity

- 6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

F.T. Chaffee Realty, Inc.
Owner or Agent Name
(please print)

C. [Signature]
Owner

7020 Taylor Ave
Fort Smith, AR 72916
Owner or Agent Mailing Address

or

Agent

479-452-4554
Owner or Agent Phone Number

PRELIMINARY DESCRIPTION: (CARRINGTON CREEK HOMES ADDITION)

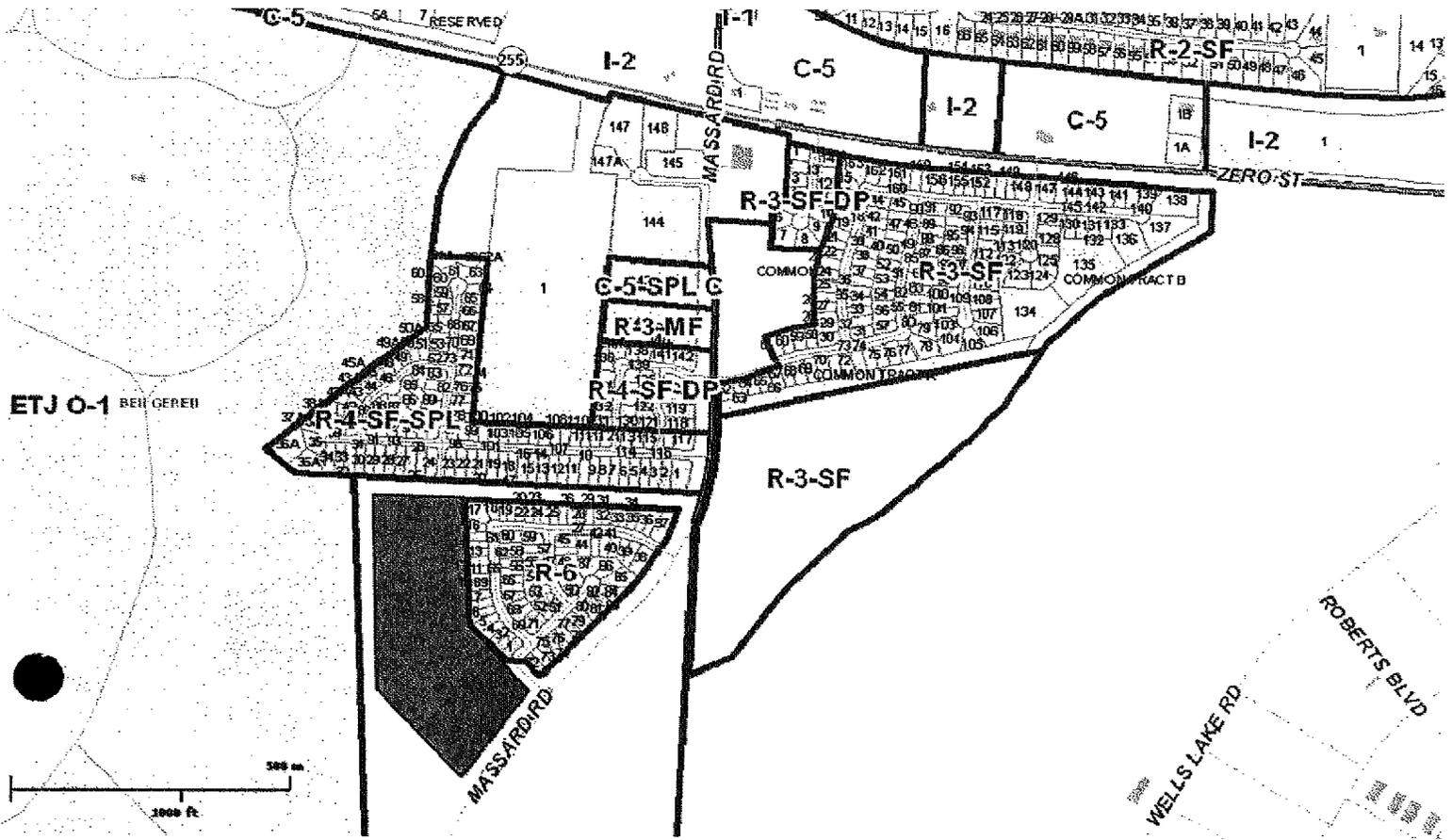
PART OF GOVERNMENT LOTS 1 AND 2 OF THE SW1/4 OF FRACTIONAL SECTION 6,
TOWNSHIP 7 NORTH, RANGE 31 WEST, FORT SMITH, SEBASTIAN COUNTY, ARKANSAS,
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE N.E. CORNER OF SAID LOT 1 OF THE SW1/4, THENCE ALONG
THE NORTH LINE OF SAID SW1/4 N87°23'54"W 2018.18 FEET;
THENCE ALONG THE EAST BOUNDARY LINE OF THE SEBASTIAN COUNTY PARCEL
S02°15'25"E 104.52 FEET;
THENCE PARALLEL TO SAID NORTH LINE OF THE SW1/4 S87°23'54"E
660.58 FEET TO THE N.W. CORNER OF THE REPLAT OF CISTERNA VILLA AT CHAFFEE
CROSSING SUBDIVISION AS SHOWN ON SAID PLAT FILED FOR RECORD JULY 25, 2008
AS PLAT 1799C;
THENCE ALONG THE WEST LINE OF SAID SUBDIVISION S02°15'53"E 759.37 FEET TO
THE S.W. CORNER OF SAID SUBDIVISION;
THENCE ALONG THE SOUTH LINE OF SAID SUBDIVISION S46°40'48"E 515.33 FEET TO
THE S.E. CORNER OF SAID SUBDIVISION, BEING A POINT ON THE WEST RIGHT OF
WAY FOR MASSARD ROAD;
THENCE ALONG SAID WEST RIGHT OF WAY S44°29'08"W 19.97 FEET;
THENCE CONTINUING ALONG SAID RIGHT OF WAY 634.28 FEET ALONG A CURVE TO
THE LEFT HAVING A RADIUS OF 2546.40 FEET AND A LONG CHORD OF S37°23'25"W
632.64 FEET;
THENCE LEAVING SAID RIGHT OF WAY N55°29'13"W 201.04 FEET;
THENCE N46°41'43"W 628.12 FEET TO THE EAST BOUNDARY LINE OF SAID SEBASTIAN
COUNTY PARCEL;
THENCE ALONG SAID EAST LINE N02°15'25"W 1115.35 FEET TO THE POINT OF
BEGINNING, CONTAINING 24.38 ACRES, MORE OR LESS.
SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY OF RECORD OR FACT.

Prepared by: Crafton Tull Sparks
Job Number: 101002-00
Date: January 15, 2010
By: AH

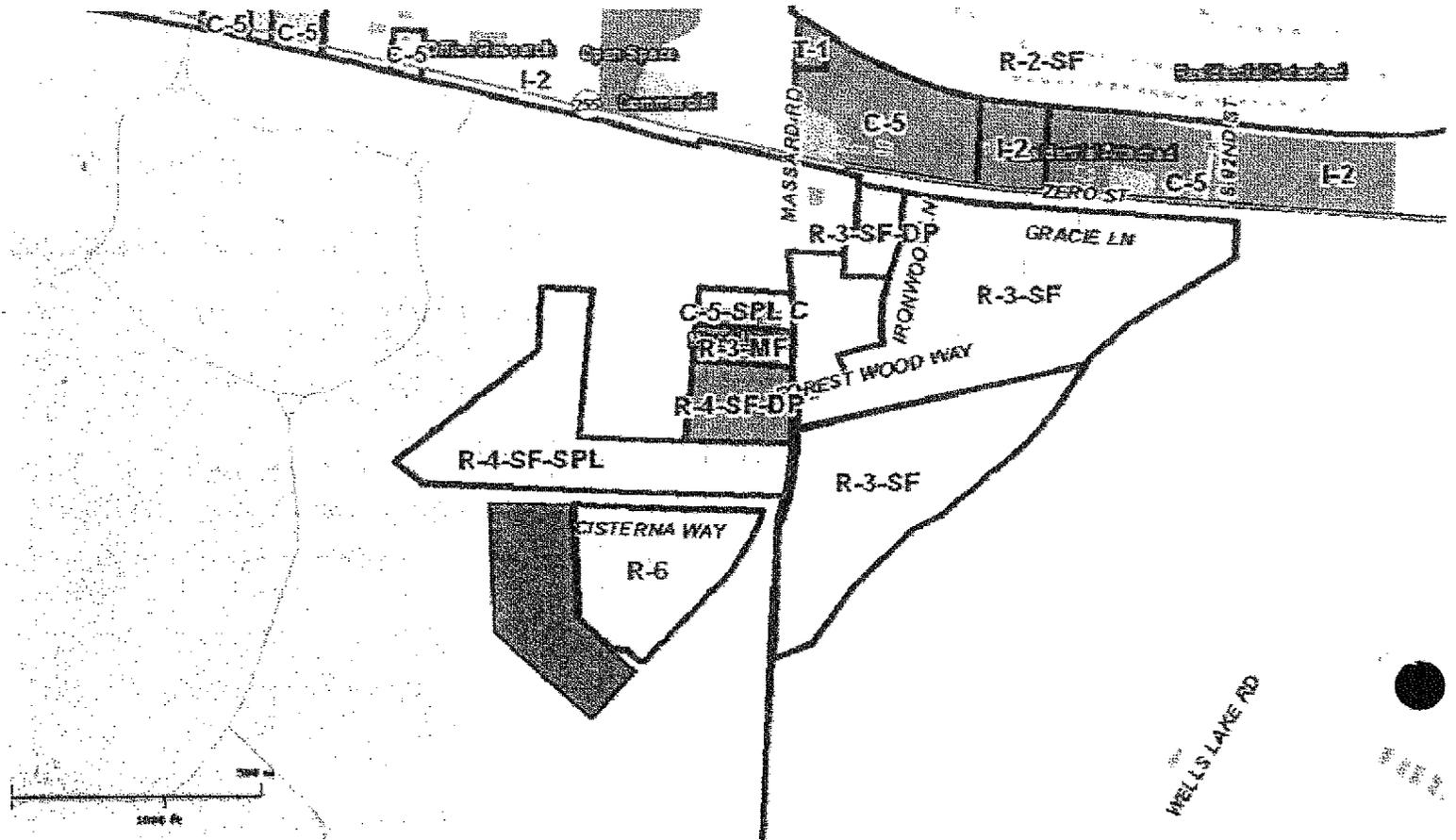
Rezoning #2-2-10: From Not Zoned to RS-3

7300 Massard Road



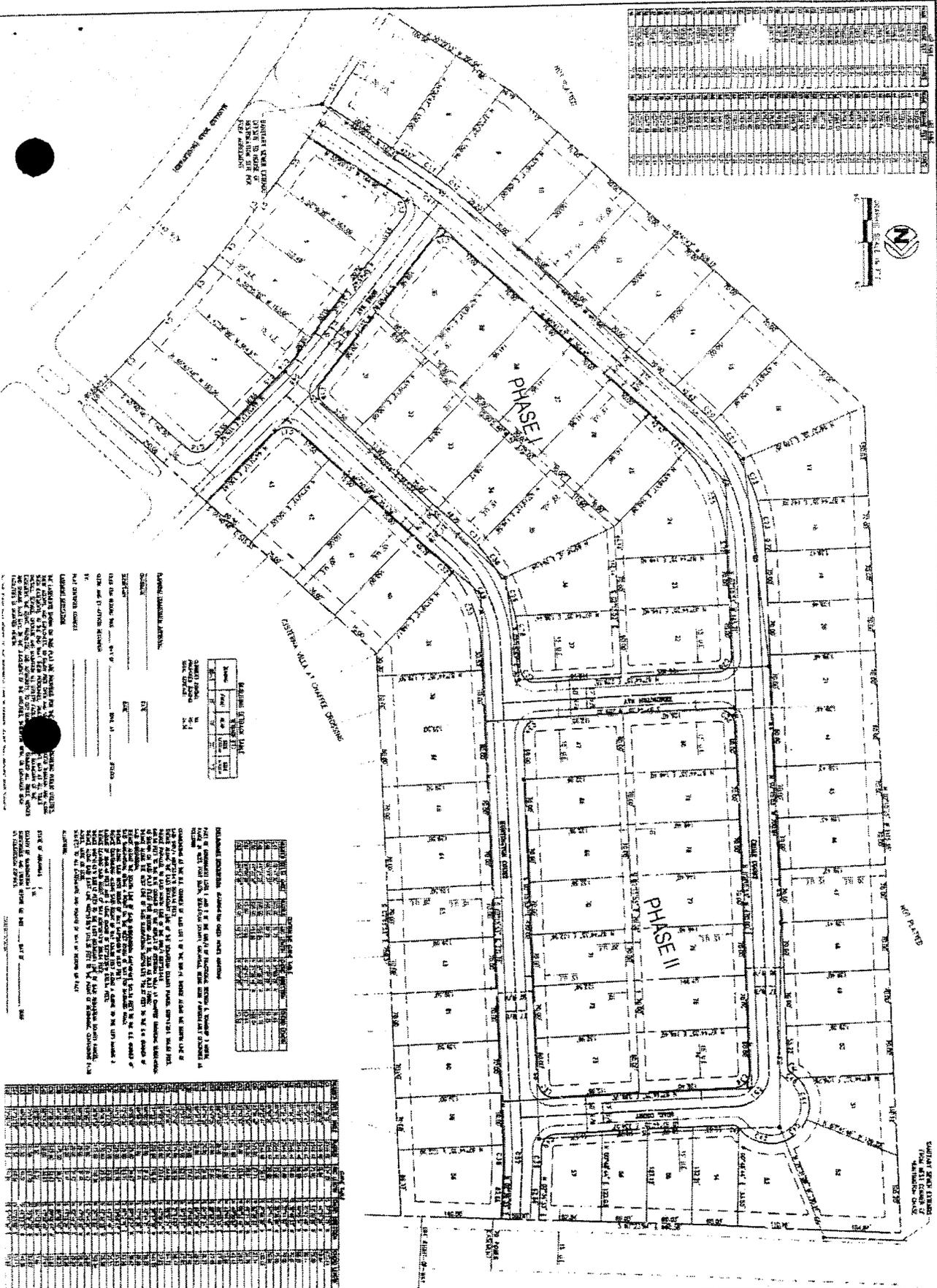
Master Land Use Map for Rezoning #2-2-10

7300 Massard Road



2009 City of Fort Smith, AR. Printed on Thu Jan 21 2010 08:10:03 AM

35



GENERAL NOTES:

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL LOT DIMENSIONS ARE TO BE VERIFIED BY THE BUYER.
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LEGEND:

PHASE I LOT

PHASE II LOT

PROPOSED STREET

PROPOSED UTILITY

PROPOSED SIDEWALK

PROPOSED DRIVEWAY

PROPOSED FENCE

PROPOSED WALL

PROPOSED GATE

PROPOSED GATE POST

PROPOSED GATE HARDWARE

PROPOSED GATE FINISH

PROPOSED GATE POST CAP

PROPOSED GATE POST BASE

PROPOSED GATE POST BRACKET

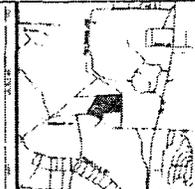
DISCLAIMER:

THIS PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION. THE BUYER SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND CONDITIONS OF THE PROPERTY. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE AND FINANCING. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY TITLE AND EASEMENTS. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY UTILITIES. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY SERVICES. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY SUPPLIES. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY LABOR. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY MATERIALS. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY EQUIPMENT. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY TOOLS. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY SAFETY. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PROTECTION. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY CLEANUP. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY DISPOSAL. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REPAIRS. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY MAINTENANCE. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSPECTIONS. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY TESTS. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY RECORDS. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY DOCUMENTS. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY ADVICE. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY ASSISTANCE. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY SUPPORT. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY HELP. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY GUIDANCE. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY COUNSEL. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY SUPPORT. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY HELP. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY GUIDANCE. THE BUYER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY COUNSEL.

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STONEBROOK AT CHANTREL CROSSING

PHASE I & II

OWNER:

STONEBROOK AT CHANTREL CROSSING, LLC

1000 BUCKINGHAM AVENUE

LYNNWOOD, VA 22095

(703) 491-1111



Crafton Tull Sparks

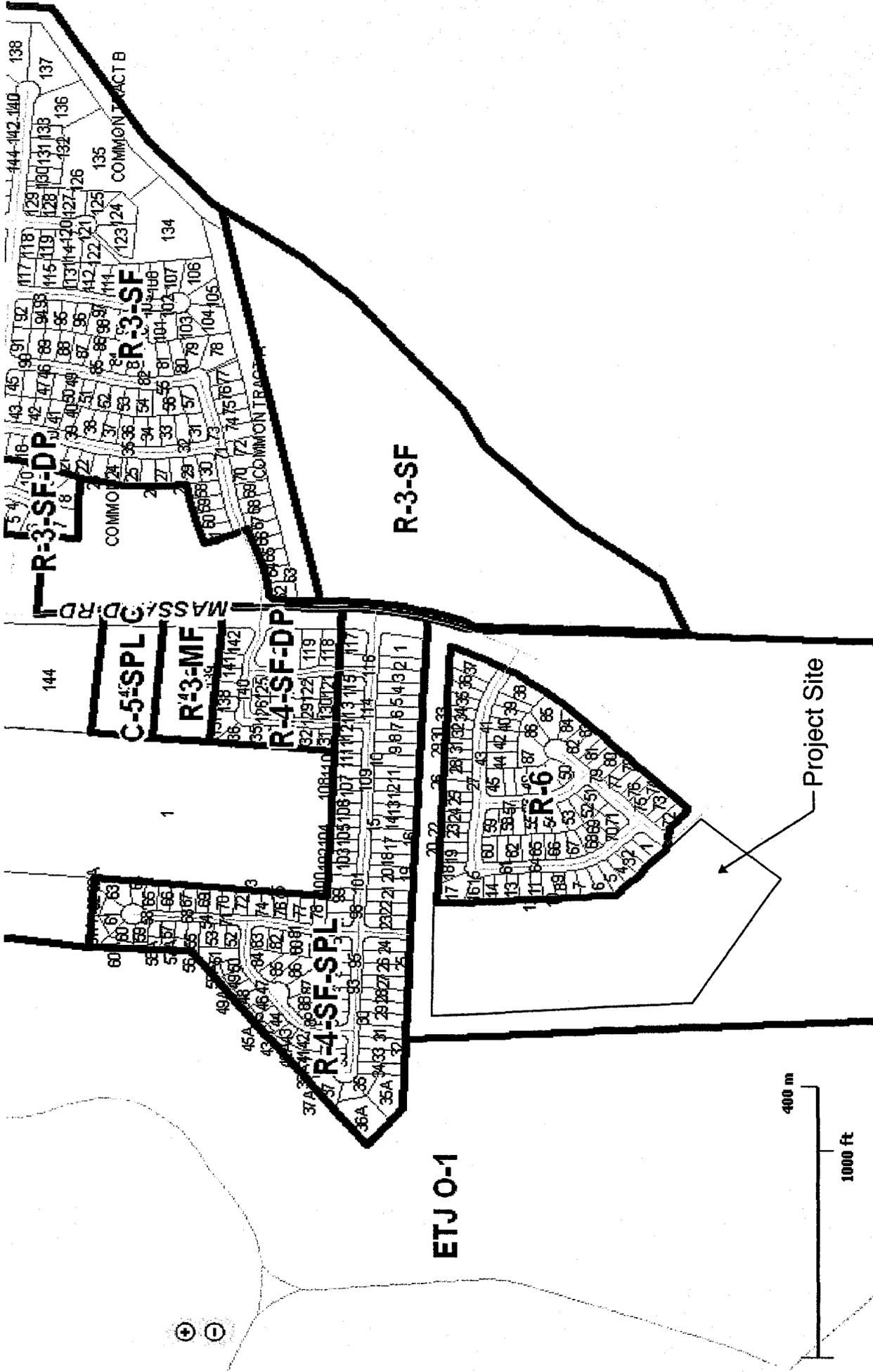
ARCHITECTS

1000 BUCKINGHAM AVENUE

LYNNWOOD, VA 22095

(703) 491-1111

3K



Chaffee Crossing

Online GIS Map

36

Karmaleah & Jordan Simon
7118 Milan Way
Fort Smith, AR 72916

Tammie M. Donaubaer
7114 Milan Way
Fort Smith, AR 72916

GRW Properties, Inc.
P. O. Box 180547
Fort Smith, AR 72916

Steven & Karen Long
Route 1, Box 377
Wilburton, OK 74578

Huntington Chase, LLC
4119 Massard Road
Fort Smith, AR 72903

Mario & Emilia Juarez
7906 Huntington Way
Fort Smith, AR 72916

Oscar & Seguanda Hernandez
7902 Huntington Way
Fort Smith, AR 72916

Roy & Jodi Hubbard
7900 Huntington Way
Fort Smith, AR 72916

Heriberto Gonzalez
7826 Huntington Way
Fort Smith, AR 72916

Joshua & Megan Carroll
7800 Huntington Way
Fort Smith, AR 72916

Linda Dewitt
7712 Huntington Way
Fort Smith, AR 72916

Berta Jo Steinmetz
7708 Huntington Way
Fort Smith, AR 72916

James Ladd
7704 Huntington Way
Fort Smith, AR 72916

Rausch Coleman Clements, LLC
P. O. Box 10178
Fort Smith, AR 72917

Justin Pelon
7608 Huntington Way
Fort Smith, AR 72916

Fort Chaffee Redevelopment
7020 Taylor Avenue
Fort Smith, AR 72916

Sebastian County
35 South 6th Street
Room 106
Fort Smith, AR 72901

DRAFT

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
AGENDA
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
FEBRUARY 9, 2010**

On roll call, the following Commissioners were present: Keith Lau, Joe Davis, Mike Lorenz, Pam Weber, Jennifer Parks, Steve Griffin and Brandon Woodrome. Commissioner Travis Stephens was absent.

Chairman Griffin then called for the vote on the minutes from the January 12, 2010, Planning Commission meeting. Motion was made by Commissioner Weber, seconded by Commissioner Lorenz and carried unanimously to approve the minutes as written.

Mr. Wally Bailey spoke on the procedures.

1. Final Plat – Spradling Manor, Lots 1-6 – Hawkins-Weir

Ms. Brenda Andrews read the staff report noting that this plat is for single family dwellings and that staff is recommending approval of the plat subject to all required approvals and the affixing of all required signatures on the original tracing and other copies and associated documents prior to the plat being filed with the county recorder.

Mr. Ronnie Hawkins with Hawkins-Weir Engineers was present to answer any questions the Commission might have relative to this plat.

No one was present to speak in opposition.

Chairman Griffin then called for the vote on this final plat. The plat was approved by a vote of 7 in favor and 0 opposed subject to staff comments and recommendations.

2. Preliminary Plat – Stonebrook at Chaffee Crossing – Lots 1-80 – Crafton Tull Sparks (companion item to items #3 & #4)

3. Rezoning #2-2-10; A request by Ivey Owen for a zone change from Not Zoned to RS-3 by Classification located at 7300 Massard Road. (companion item to items #2 & #4)

4. Development Plan – Stonebrook at Chaffee Crossing – Lots 1-80 – Crafton Tull Sparks (companion item to items #2 & #3)

Due to the fact that these requests are all companion items, Ms. Brenda Andrews read the staff reports and noted that although these items could be discussed together, they would need to be voted on separately.

Ms. Andrews stated that the purpose of these requests is to facilitate an 80 lot single-family development with lot sizes ranging from approximately 7,333 square feet to 11,160 square feet and lot widths at building line from 60 feet to 80 feet. She also stated that there are five streets located within the subdivision with two entrances on Massard Road into the development, one being located at Cedar Court and the other entrance to connect with the entrance to Cisterna Villa at Chaffee Crossing. She also noted that the development plan is showing a 20 foot landscaping area along the entire perimeter of the subdivision that fronts Massard Road with a 5 foot wide sidewalk on both sides of all internal streets and one development sign being shown at the entrance at Cedar Court.

Ms. Andrews noted that a neighborhood meeting was held on February 1, 2010, at 6:00 p.m. at the Fort Chaffee Redevelopment Authority offices at Chaffee Crossing. She stated that the meeting was attended by two property owners, representatives of the proposed Stonebrook at Chaffee Crossing development, Cisterna Villa at Chaffee Crossing, Rausch-Coleman, Fort Chaffee Redevelopment Authority and the Fort Smith Planning Department. Ms. Andrews stated to the Commission that the requested zoning is compatible with the existing land use classification and surrounding areas and planning staff is recommending approval of these requests.

Mr. Steven Beam, representing Crafton Tull Sparks, 901 North 47th Street, Rogers, AR, was present to speak on behalf of these requests.

Commissioner Lau questioned Mr. Beam as to whether he foresaw any issues with the 7.5 feet side yard setbacks for this development due to the fact that the Commission has seen several variance requests in the past from developers requesting a reduction in this setback.

Mr. Steven Beam noted that he did not see any problems with the 7.5 feet side yard setback requirement relative to this development.

No one was present to speak in opposition to these requests.

Chairman Griffin then called for the vote on these requests.

2. Preliminary Plat – Stonebrook at Chaffee Crossing – Lots 1-80 – Crafton Tull Sparks

Motion was made by Commissioner Parks, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the following:

- Zoning approval by the Fort Smith City Board of Directors

- DRAFT
- Developer agreeing to meet all franchise and City utility easement requirements and compliance with the City's Subdivision Design and Improvement Standards and the Standard Specifications for Public Works Construction.

Chairman Griffin then called for the vote on this preliminary plat as amended. The vote was 7 in favor and 0 opposed.

- 3. Rezoning #2-2-10; A request by Ivey Owen for a zone change from Not Zoned to RS-3 by Classification located at 7300 Massard Road. (companion item to items #2 & #4)**

Chairman Griffin called for the vote on this rezoning request. The vote was 7 in favor and 0 opposed.

- 4. Development Plan – Stonebrook at Chaffee Crossing – Lots 1-80 – Crafton Tull Sparks**

Chairman Griffin called for the vote on the development plan. The vote was 7 in favor and 0 opposed.

- 5. Conditional Use #4-2-10; A request by Michael Pate for a conditional use for an auto impoundment or holding yard located at 3731 Towson Avenue.**

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to allow an existing lot to be utilized as an auto impoundment or holding yard. Ms. Rice also noted that a neighborhood meeting was held on January 15, 2010, with only city staff and the applicant attending the meeting.

Mr. Michael Pate was present to speak on behalf of this request.

Director Don Hutchings, 1300 Towson, addressed the Commission for clarification as to whether this would be considered a salvage yard and visible from the street.

Mr. Bailey noted that this would only be a holding yard with the vehicles being taken to this location for a holding period of no longer than sixty (60) days and that there would be a fencing/screening requirement.

Following a discussion by the Commission, motion was made by Commissioner Lau, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the following:

- Screening with a minimum of six (6) to eight (8) foot tall, opaque, wood or masonry fence shall be required.

AN ORDINANCE AUTHORIZING THE MAYOR TO
EXECUTE AGREEMENTS FOR CERTAIN SERVICES FOR
INHABITANTS OF THE CITY OF FORT SMITH

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF
THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: The Mayor is hereby authorized to execute that certain agreement with the **Fort Smith Museum of History** providing for the payment by the City to the Fort Smith Museum of History in the amount of the actual utility expenses (water, sewer, sanitation, gas and electric expense) incurred in the operation of the Fort Smith Museum of History up to a maximum of **\$20,000** during calendar year 2010 for services provided to the City and its inhabitants, which services include the providing of facilities and programs for cultural and educational purposes to enhance and provide for the health and welfare of the inhabitants of the City during the year 2010.

SECTION 2: The Mayor is hereby authorized to execute that certain agreement with **SRCA, Inc. Social Services** providing for the direct payment by the City to SRCA, Inc. Social Services of **\$170,553** during calendar year 2010 for services provided the City and its inhabitants, which services include the providing of facilities and programs for nutritional purposes to enhance and provide for the health and welfare of the inhabitants of the City during the year 2010.

SECTION 3: The Mayor is hereby authorized to execute that certain agreement with the **Area Agency on Aging** providing for the payment by the City to the Area Agency on Aging of **\$48,650** during calendar year 2010 for services provided the City and its inhabitants, which services include the providing of facilities and programs for health and human service purposes to enhance and provide for the health and welfare of the inhabitants of the City during the year 2010.

SECTION 4: The Mayor is hereby authorized to execute that certain agreement with the **Project Compassion** providing for the payment of **\$7,297** during calendar year 2010 for services provided the City and its inhabitants, which services include the providing of facilities and programs for rehabilitation and educational purposes to enhance and provide for the health and welfare of the inhabitants of the City during the year 2010.

SECTION 5: The Mayor is hereby authorized to execute that certain agreement with the **The William O. Darby Ranger Memorial Foundation Inc. (Darby House)** providing for the payment of **\$20,000** during calendar year 2010 for building improvements to provide services to the City and its inhabitants, which services include the providing of services, including facilities and programs for cultural and educational purposes to enhance and provide for the health and welfare of the inhabitants of the City during the year 2010.

SECTION 6: It is hereby declared and determined by the Board of Directors that the subject matters of the agreements authorized by Sections 1, 2, 3, 4, 5 above deal with providing services in an exceptional situation where competitive bidding procedures are not feasible so that such competitive bidding procedures are hereby waived with reference to such agreements.

SECTION 7: The authorizations set forth in Sections 1-5 above are deemed and declared to be severable. Any invalidity of one or more of the separate sections shall not affect the validity of the other sections of this Ordinance.

PASSED AND APPROVED this 2nd day of March, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved - to sign
[Signature]
NPR



MEMORANDUM

February 19, 2010

TO: Dennis Kelly, City Administrator
FROM: Christy Deuster, Finance Department
SUBJECT: Outside Agency Funding Agreements

The adopted 2010 Budget includes appropriations for certain community organizations as follows:

Fort Smith Museum of History-Utilities	\$ 20,000
SRCA, Inc. Social Services	\$170,553
Project Compassion	\$ 7,297
Area Agency on Aging	\$ 48,650
Darby House	\$ 20,000

The amount allocated from the County Sales Tax is \$226,500. The agencies funded with county sales tax include SRCA, Inc. Social Services, Project Compassion and Area Agency on Aging. Fort Smith Museum of History and Darby House allocations are funded by the General Fund.

Prior to disbursing to these organizations, the City attorney has advised that an agreement be executed with each organization which states the services to be provided in 2010. These agreements require each organization's books and records to be open to the public and allow review of financial statements and records by the City as necessary during the year.

Attached for the Board of Directors consideration is an ordinance authorizing the Mayor to execute agreements with each of the organizations. A copy of a blank agreement is also attached. Upon execution by the Mayor, on the City's behalf, each organization will execute their agreement.

If you have any questions or require further information, please let me know.

Attachments

pc: Kara Bushkuhl

AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between the City of Fort Smith, Arkansas ("City"), and _____, a city wide, non-sectarian, incorporated, community organization ("The Community Organization"),

WITNESSETH:

WHEREAS, The Community Organization has possession and control of physical facilities suitable for providing to the City's residents certain services, as enumerated in paragraph one (1) below, which services fulfill a governmental function to provide for the health, safety, and welfare of the City's inhabitants; and

WHEREAS, the parties desire to provide a program of such services and facilities for the City's inhabitants;

NOW, THEREFORE, it is agreed by the parties that in exchange for the mutual covenants and agreements set forth below;

1. The Community Organization will provide to the City and its inhabitants, for the year 2010, a service which will provide facilities and programs as identified in its 2010 Budget application package on file in the City Clerk's office.

2. In consideration for the providing of the services described in the preceding paragraph, the City agrees to pay The Community Organization the sum of _____ in installments as follows:

3. It is agreed by The Community Organization that the City shall have the right, at all reasonable times, to inspect the facilities and programs being provided by The Community Organization under this Agreement, and shall have the right, at all reasonable times, to inspect the financial and other records of The Community Organization. After inspection or investigation, the City shall have the right to notify The Community Organization, in writing, of any deficiencies in the program and/or facilities provided under this Agreement, and, if such deficiencies are not cured within thirty (30) calendar days from the date of such written notice, the City shall have the absolute right to terminate this Agreement. To assist the City in monitoring its activities, The Community Organization shall, on a quarterly or more frequent basis, provide to the City Administrator, or his/her designated agent, a report of The Community Organization's financial and service activities during the period preceding such report.

4. Furthermore, the City shall have the right to cancel this Agreement upon the happening of any of the following:

a. Any substantial damage to or destruction of The Community Organization's facilities within the City by fire, wind, or other casualty; or

b. A determination by the Board of Directors that the services provided hereunder are no longer needed as a governmental function, or, otherwise, a determination by the Board of Directors that the City, for whatever reason, no longer desires to have such services provided by The Community Organization;
or

c. A determination by the Board of Directors that The Community Organization, its employees, or agents, in the providing of the services hereunder, have violated the City's policy against discrimination on the basis of age, sex, religion, race, national origin, political affiliation, handicap, veteran status, or have violated the City's policy in favor of a drug-free work place.

In addition to any of the other rights of cancellation stated herein, either party shall have the right to cancel this Agreement because of the breach by the other party of that party's obligations hereunder, such cancellation to be effective as of the date of the breach. Failure by either party immediately to declare the contract canceled by reason of a particular breach shall not preclude a party from raising that breach subsequently as a reason for cancellation. Should the Agreement be canceled, for any reason, The Community Organization understands and agrees that the City shall immediately cease paying any further monies under this Agreement, and agrees additionally The Community Organization will refund to the City, on a pro-rated basis, monies paid by the City for services not rendered by The Community Organization.

5. The Community Organization shall indemnify and hold harmless the City, its officers, boards, commissions, employees, and agents, against and from any and all claims (including, but not limited to, any based on 42 U.S.C. subsection 1983), demands, causes of action, actions, suits, proceedings, damages (including, but not limited to, damages to City property), cost of liabilities (including the City's cost with respect to its employees and cost of defending any and all such actions and proceedings described herein), arising out of or pertaining to the providing of services hereunder by The Community Organization.

6. It is agreed by the parties that there will be no assignment or transfer of this Agreement, nor of any interest in this Agreement.

7. The parties to this Agreement agree that it is not a contract of employment, but is, instead, a contract to fulfill a specific governmental purpose. Accordingly, in the performance of this Agreement, The Community Organization shall be considered an independent agent, and neither it nor its employees or agents shall be considered employees or agents of the City.

8. Because The Community Organization will be receiving monies from the City under this Agreement, The Community Organization understands that its records and meetings may become subject to the provisions of the Arkansas Freedom of Information Act.

9. It is understood and agreed by the parties that, if any part, term, or provision of this Agreement is held by The courts to be illegal or in conflict with any law of Arkansas, the entire Agreement shall be null and void.

10. This Agreement shall not be specifically enforceable in equity, by either party; nor shall any injunction be applied for or issued at the instigation of either party in case of dispute or alleged breach of this Agreement.

11. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.

12. This Agreement is executed on the City's behalf by its officials as set forth below pursuant to Ordinance No. _____ adopted on _____.

13. This Agreement is executed on behalf of The Community Organization by its authorized representatives set forth below pursuant to authorization contained in a resolution of the board of directors of The Community Organization, dated the _____ day of _____, 2010.

IN WITNESS WHEREOF, the parties have set their hands and seals this 2nd day of March, 2010.

City of Fort Smith

By: _____
Mayor

Attest:

City Clerk

Name of Community Organization

By: _____
President

Attest: _____
Secretary

Tax Back

Resolution



RESOLUTION NO. _____

RESOLUTION OF THE CITY OF FORT SMITH CERTIFYING LOCAL GOVERNMENT ENDORSEMENT OF BUSINESS TO PARTICIPATE IN THE TAX BACK PROGRAM (AS AUTHORIZED BY SECTION 15-4-2706(d) OF THE CONSOLIDATED INCENTIVE ACT OF 2003).

WHEREAS, in order to be considered for participation in the Tax Back Program, the local government must endorse a business to participate in the Tax Back Program; and

WHEREAS, the local government must authorize the refund of local sales and use taxes as provided in the Consolidated Incentive Act of 2003; and

WHEREAS, said endorsement must be made on specific form available from the Arkansas Department of Economic Development; and

WHEREAS, Metal Sales Manufacturing Corporation located at 7510 Ball Rd. has sought to participate in the program and more specifically has requested benefits accruing from construction, modification and modernization of the specific facility; and

WHEREAS, Metal Sales Manufacturing Corporation has agreed to furnish the local government all necessary information for compliance.

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

1. Metal Sales Manufacturing Corporation be endorsed by the City of Fort Smith for benefits from the sales & use tax refunds as provided by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003.
2. **The Department of Finance and Administration is authorized to refund local sales and use taxes to Metal Sales Manufacturing Corporation.**
3. This resolution shall take effect immediately.

Mayor

Date Passed: March 2, 2010

Attest: _____
Acting City Clerk

*Approved as to form
JSC
no publication required*



MEMORANDUM

February 26, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: Sales Tax Refund for New Business

We've received a request from the Arkansas Economic Development Commission and the Fort Smith Regional Chamber of Commerce for a new business' participation in the state *tax back* program. This program allows a new or expanding industry to request refunds of sales taxes paid on manufacturing equipment and building materials.

The current request is for Metal Sales Manufacturing Corporation, who plans to locate at 7510 Ball Road (the former Indiana Tube Company). Metal Sales Manufacturing Corporation anticipates an investment of \$4.1 million and hiring up to 15 employees. The company will manufacture metal roof, wall, fascia and soffit panel systems at its Fort Smith location.

The sales tax refund is a state and local incentive to attract new manufacturers to Arkansas. The incentive will apply to only initial capital purchases, not to ongoing purchases once the company begins operations. The majority of the incentive will be derived from the state sales tax rate. However, in order to participate in the program, the local governments must also agree to the sales tax refund.

Attached is a resolution supporting the participation of Metal Sales Manufacturing Corporation in the *tax back* program. The staff recommends approval. This action will support one of the board's top goals: economic development and jobs creation.

Attachment

cc: Cheryl Garner, Fort Smith Regional Chamber of Commerce

Ray

RESOLUTION NO. _____

**A RESOLUTION ENCOURAGING COX COMMUNICATIONS
TO RESTORE PROGRAMMING TO CHANNEL TIERS
ACCESSIBLE TO SUBSCRIBERS WITHOUT DIGITAL SERVICE**

WHEREAS, Cox Communications operates a cable television system in Fort Smith pursuant to a franchise granted by the City of Fort Smith; and

WHEREAS, Cox Communications has recently realigned programming to digital service tiers so that said programming isn't as accessible to subscribers as it once was; and

WHEREAS, the Office of the Mayor has received subscriber complaints about said programming realignments;

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

Cox Communications is hereby requested and encouraged to restore programming which has been moved to higher tiers and is no longer accessible to subscribers without digital service.

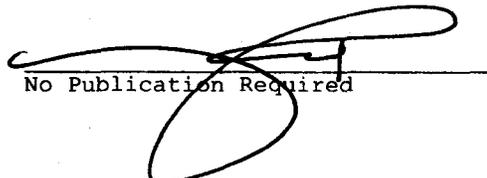
This Resolution passed this _____ day of March, 2010.

Mayor

ATTEST:

Acting City Clerk

Approved as to form



No Publication Required



MEMORANDUM

February 25, 2010

TO: Dennis Kelly, City Administrator

FROM: Ray Gosack, Deputy City Administrator

SUBJECT: Cable TV Channel Alignments

Attached for the board of directors' consideration is the resolution that Mayor Baker requested at the February 16th board meeting. The resolution encourages Cox Communications to restore programming to its non-digital tiers. After the resolution is approved, we'll forward a copy to Cox Communications.

Ray

Attachment

cc: Len Pitcock, Cox Communications

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE PURCHASE OF A TACTICAL VEHICLE
FOR USE BY THE FORT SMITH POLICE DEPARTMENT**

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

The expenditure of funds from the 2009 Jag Recovery Act Grant Fund, totaling \$79,994.00, is hereby authorized, with the understanding that this expenditure is used to purchase one FSVLE160 "Tactical Deployment Vehicle" from Farber Specialty Vehicles for use by the Fort Smith Police Department.

THIS RESOLUTION ADOPTED this _____ day of _____, 2010.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form: 
NPR



Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: Dennis Kelly, City Administrator

From: Kevin Lindsey, Chief of Police

Subject: Tactical Deployment Vehicle Purchase

Date: February 24, 2010

When applying for the BJA FY09 Recovery Act: Edward Byrne Justice Assistance Grant Program, the Fort Smith Police Department identified several equipment and training program needs, which were within the guidelines of said grant. One of the needs discussed and evaluated was the purchase of a Tactical Deployment Vehicle to be utilized by the FSPD SWAT team. This Tactical Deployment Vehicle will meet the growing needs of the FSPD SWAT team.

The Fort Smith Police Department, after evaluating many options, has elected to partner with Farber Specialty Vehicles to purchase a Tactical Deployment Vehicle that will meet the needs of the SWAT team for the performance of their duties. It is also advantageous to partner with Farber Specialty Vehicles since the Tactical Deployment Vehicle can be purchased through a State of Arkansas contract (#PC62000). The State of Arkansas has already conducted an extensive bid process and elected to partner with Farber Specialty Vehicles. This eliminated the necessity of the Fort Smith Police Department to solicit bids for this project.

The purchase price of the Tactical Deployment Vehicle will be \$79,994.00, which is within the amount requested in the 09 JAG Recovery Act Grant. The FSPD SWAT team is committed to the highest level of service, to include high risk search/arrest warrants and tactical response to Hostage/Barricade incidents, in addition to monthly/quarterly training. The specifications of this vehicle meet the current and future needs of the SWAT team, allowing for a more efficient and safer deployment. The Tactical Deployment Vehicle will replace one of the existing vans, which will be sold at auction later this year.



FARBER SPECIALTY VEHICLES

7052 Americana Parkway
Columbus, OH 43068
Toll Free: (800) 331-3188
Fax: (614) 739-2088

QUOTATION

Name: Fort Smith Police Dept. (AR)
Contact: Cpl. Chris Boyd (SWAT Commander)
Address: 100 South 10 Street
City, ST, Zip: Fort Smith, AR 72901
Telephone: 479-709-5138
Email: cboyd2@fortsmithpd.org

2/2/2010

Arkansas State Contract #

PC62000

CONTACT	DELIVERY	SHIPPED VIA	F.O.B.	TERMS	GSA Contract Number
David Chapman	45 Days	Farber	Pick-Up	Net 30	GS-30F-0008N

Quantity		Unit Price	Total Price
1	BASE PRICE FSVLE160 FOB CONTINENTAL U.S.	\$62,680.00	\$62,680.00
	FSVLE160 - "TACTICAL DEPLOYMENT VEHICLE"		
0	Chassis Power Windows / Locks	\$465.00	\$0.00
0	Chassis AMFM CD Player	\$295.00	\$0.00
0	Chassis cruise control / Tilt Wheel	\$240.00	\$0.00
0	Chassis OEM Motor Upgrade - Diesel	\$7,660.00	\$0.00
0	Warn model M12000, or equal, electric winch assembly, mounted to front of chassis	\$2,478.00	\$0.00
0	Chassis Upgrade; Chevrolet G4500 / C4500	\$3,500.00	\$0.00
0	Power Mirrors	\$230.00	\$0.00
	INTERIOR OPTIONS		
0	Side sliding windows w/ aluminum mini blind	\$457.00	\$0.00
1	Aluminum overhead cabinets in lieu of laminated, 063 aluminum	\$3,800.00	\$3,800.00
0	Aluminum interior cabinets in lieu of laminated, 063 aluminum	\$1,900.00	\$0.00
1	24" x 48" FRP Trimmed Out Negotiation Table, pole mounted (1) Standard	Std	Std
0	Lockable Cable Pass Through Box	\$750.00	\$0.00
8	Shield Tie Downs, located by front TEAM Doors	\$16.00	\$128.00
0	Cabinet Roll-Up doors	\$1,800.00	\$0.00
1	Commander Seats (2); located by front bulkhead (Standard)	Std	Inc.
0	Lockable Weapons Cabinet	\$879.00	\$0.00
0	Team Door Delete	\$234.00	\$0.00
1	44" Ram Door, bench seat fronts (1) Standard	Std	Std
0	Cargo Netting for Front Of Cabinets	\$229.00	\$0.00
0	Bench Seat Cooler	\$698.00	\$0.00
0	Ballistic Vest Hooks	\$83.00	\$0.00
1	Full Length Compartment Bench Seat w/ Padded Back Rest C/S & S/S (Standard)	Std	Std
0	Compartment Bench Seat Increase Height	\$589.00	\$0.00
0	Compartment Bench Seat Lighting (White LED Lighting Strips) ea.	\$419.00	\$0.00
0	Oversized Floor Drains	\$389.00	\$0.00
0	Bulkhead Slider Door Delete, w/ 24" x 24" Talkthrough	\$305.00	\$0.00
	EXTERIOR OPTIONS		
0	Roll up exterior awning, 16', white w/aluminum cover	\$1,246.00	\$0.00
0	Weatherguard electric roll up exterior awning, 16', Sunbrella color selection	\$2,252.00	\$0.00
0	Hydraulic leveling and stabilizing jacks	\$4,807.00	\$0.00
0	Roof rail, additional, for mounting antennas, eight foot section	\$442.00	\$0.00
0	Exterior shell, aluminum, powder coated white, with fold down sides and detachable white board	\$866.00	\$0.00
1	Trailer hitch and wiring, class III	\$1,443.00	\$1,443.00
1	Windows in all TEAM doors & Side Walls, 12" x 17" (6) Standard	Std	Std
0	Exterior Storage Compartments, per each	\$520.00	\$0.00
0	Exterior Access / Rear to Underseat Storage Challenger (15"x 15")	\$404.00	\$0.00
0	Will-Burt D-Tec II mast sensor system	\$3,845.00	\$0.00
0	Weather Station, Capricorn 2000 by Columbia Weather Systems w/ software & LCD monitor	\$4,023.00	\$0.00
0	Orion All-In One Weather Station w/display	\$5,770.00	\$0.00
0	Remote Control "Go Light" Spot Light	\$905.00	\$0.00
0	RAE Aeraae Gamma Detector with remote control and display screen	\$0.00	\$0.00
0	Thermal Imaging Camera (FLIR) PT-4000	\$0.00	\$0.00
0	Thermal Imaging Camera (FLIR) M1	\$0.00	\$0.00
4	External Grab Handles 36" long	\$89.00	\$356.00
4	Slide Out Side Deployment Plates w/Grip Strut	\$469.00	\$1,876.00
0	Non-Standard Rear Door Configuration	\$330.00	\$0.00
1	Bumper - Rear 18" Deep Step bumper w/Grip Strut (Standard)	Std	Std
0	Bumper - Rear 20" Deep Chrome Step Bumper w/ Grip Strut	\$893.00	\$0.00
1	Push Bumper - Front PB400 (Standard)	Std	Std
1	Recessed Aluminum Roof Access Ladder & Ladder Racks	\$823.00	\$823.00
1	LED Stop, Turn, & Tail Lights (Standard)	Std	Std
0	Attic - 3 foot	\$440.00	\$0.00
0	Attic - 4 foot	\$490.00	\$0.00
0	Chrome wheel Cover / Liner Package	\$849.00	\$0.00
0	Chassis Chrome Appearance Package	\$205.00	\$0.00
	AUDIO/VIDEO OPTIONS		
0	13" LCD monitor w/ TV tuner	\$625.00	\$0.00
0	14" TV/DVR w/ remote control feature	\$404.00	\$0.00
1	19" LCD monitor w/ TV tuner, VGA with flip up storage	\$673.00	\$673.00
0	19" LCD monitor, TV tuner, VGA exterior view w/ weather-proof door	\$2,739.00	\$0.00
0	40" LCD monitor, NEC 4010, wall mounted	\$5,673.00	\$0.00
0	40" LCD monitor, NEC 4010, with exterior view w/ weather-proof door	\$6,251.00	\$0.00
0	TV antenna, roof mounted w/ booster	\$144.00	\$0.00
0	KVH TracVision L3, stationary, satellite television system, monthly service fee required	\$2,069.00	\$0.00
1	Sony SLVD380P, VCR/DVD combo player, cabinet mounted	\$433.00	\$433.00
0	VCR S-VHS 4 head w/ remote control, JVC HR-S5912U	\$433.00	\$0.00
1	Back-up camera system, 7" LCD color monitor	\$1,403.00	\$1,403.00
1	Rear speakers from cab AMFM/CD, one pair	\$360.00	\$360.00
0	UHF wireless microphone system, w/12 hour battery life, 100 meter range	\$654.00	\$0.00
0	Pelco digital processing camera, IOP, pan/tilt, controller, environmental enclosure	\$5,245.00	\$0.00
0	DSP color day/night camera, NEMA TS-2 approved, 35x lens, pan/tilt controller, environmental enclosure	\$6,304.00	\$0.00

Quantity		Unit Price	Total Price
	2-WAY RADIO & PHONE COMMUNICATIONS		
0	JPS headset, each	\$770.00	\$0.00
0	David Clark headsets, w/ belt station push to talk switch, single muff headset, each	\$476.00	\$0.00
0	Radio Prep Package	\$465.00	\$0.00
0	Mast antenna plate, aluminum triangular	\$524.00	\$0.00
0	Panasonic KX-TA824 3 line phone system w/three (3) KX-T7730 phones	\$1,876.00	\$0.00
0	Panasonic KX-TA824 6 line phone system w/ six (6) KX-T7730 phones	\$3,224.00	\$0.00
0	Tollular cellular interface w/ hard line phone system, each	\$861.00	\$0.00
0	Satellite phone, Iridium model 9520, each	\$2,839.00	\$0.00
	COMPUTER AND SATELLITE		
0	24-port switch & CAT 6 patch panel	\$625.00	\$0.00
0	Wireless G broadband router, Linksys WRT54G	\$625.00	\$0.00
0	Monitor mount, swivel base	\$178.00	\$0.00
0	Dell computer w/ 17" Dell flat screen, counter or wall mounted, service contract, each	\$1,823.00	\$0.00
0	Panasonic Toughbook CF30, 1.66GHz Duo Processor, 1GB RAM, 80GB hard drive	\$4,764.00	\$0.00
	H.V.A.C.		
0	13,000 BTU/hr direct discharge, diesel fired furnace, 12V DC powered	\$3,080.00	\$0.00
0	LP tank and furnace in lieu of electric forced air heat	\$2,406.00	\$0.00
1	Chassis Driven HVAC System 32,000 BTU Cool & 30,000 BTU Heat (Standard)	Std	Std
0	Powered reversible roof vent w/ max air cover	\$433.00	\$0.00
0	Roof mounted air conditioner	\$938.00	\$0.00
	LOW VOLTAGE OPTIONS		
0	Accelle security alarm system, w/ motion sensors	\$625.00	\$0.00
0	Digital clock, master-slave, 2.5" super bright red LED digits, each	\$409.00	\$0.00
0	Entrance door lock, electro-magnetic w/ exterior keypad	\$991.00	\$0.00
0	Franklin Instruments clocks, 2.5" LED display, 12 or 24 hour modes	\$240.00	\$0.00
	120-240 VOLT OPTIONS		
1	4.0 ONAN Quiet Run Generator, compartment with remote start, stop	\$4,845.00	\$4,845.00
0	Honda EU1000L Super Quiet Generator	\$786.00	\$0.00
0	UPS, 2000 watts, 3000VA, dual output distribution switches w/bypass	\$4,331.00	\$0.00
0	7KW air cooled gasoline generator, quiet, compartment installed, remote start-stop	\$6,160.00	\$0.00
0	600 Watt Inverter	\$800.00	\$0.00
0	800 Watt Inverter	\$1,169.00	\$0.00
0	1200 Watt Inverter	\$1,489.00	\$0.00
0	1800 Watt Inverter	\$1,759.00	\$0.00
0	Auxiliary Battery System To Support Inverter	\$883.00	\$0.00
0	110 volt outlets	\$158.00	\$0.00
1	Shore power, 36' shoreline w/ waterproof inlet	\$620.00	\$620.00
0	Kussmaul Auto Charge 4000 Kit w/ 15 Amp Plug	\$1,946.00	\$0.00
	120-240 VOLT LIGHTING		
0	Kwik-Raze model 1100 series telescoping pole, quartz halogen light, each	\$1,203.00	\$0.00
0	Kwik-Raze model 800 telescoping tripod, quartz halogen lights, each	\$1,443.00	\$0.00
	LOW VOLTAGE LIGHTING		
0	Federal red/white, 18" flexible mini lights, each	\$192.00	\$0.00
1	Replace white ceiling lights with surface mount combination red / white LED lights, each (6 Standard)	Std	Std
	EMERGENCY LIGHTING		
0	LED light package, 72" Freedom light bar and eight 900 series lights	\$5,534.00	\$0.00
1	Whelen Series 5 LED Discrete Lighting Package (Grill, 3-Sides of Body) Qty of Lights (10)	\$2,488.00	\$2,488.00
0	Light bar, Whelen Edge, strobe, 72"	\$2,117.00	\$0.00
0	Whelen M9 LED Series w/Chrome flange 8-32 Degree optics, ea.	\$374.00	\$0.00
0	Siren, Whelen model 29SHF w/ amplifier control center	\$938.00	\$0.00
0	Whelen model 810/508 red/blue strobes, each w/ power control	\$288.00	\$0.00
0	Whelen model 800CH green command strobe, mounted on roof rail	\$336.00	\$0.00
0	Whelen model 800DHGP green strobe, mounted on Havis Shields Kwik-Raze pole	\$721.00	\$0.00
0	Headlight Flashers / Wig-Wags	\$248.00	\$0.00
	Misc.		
0	Exterior graphics package Non-Reflective, (3) color w/ (2) Department Logos.	\$4,812.00	\$0.00
0	Install customer supplied radios and equipment	\$500.00	\$0.00
1	Full Length Ceiling Mounted Troughs C/S & S/S; Rack-n-Break / Boom Pole Storage (Standard)	Std	Std
0	Exterior Paint Package	\$4,113.00	\$0.00
0	U.S. Government / Mutions and Weapons Cabinet in bench seats, each	\$514.00	\$0.00
0	Flip Down Step-Well Bench Seat, each	\$465.00	\$0.00
1	GSA / State Contract Sole Source Discount	\$1,934.00	-\$1,934.00
			\$79,994.00

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A
AGREEMENT WITH THE WESTERN ARKANSAS TENNIS ASSOCIATION
FOR OPERATION OF THE TENNIS CENTER AT CREEKMORE PARK

WHEREAS, Western Arkansas Tennis Association (WATA), Fort Smith, Arkansas has requested to operate the tennis center at Creekmore Park, and;

WHEREAS, the City of Fort Smith Parks and Recreation Commission recommends the approval of the agreement with WATA for the operation of the tennis center at Creekmore Park;

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

Section 1: The Mayor is hereby authorized to execute an agreement with WATA for a period of three (3) years beginning March 2, 2010 and expiring March 1, 2013.

This Resolution passed this _____ day of March, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM



npr



Memo:

February 26, 2010

To: Dennis Kelly, City Administrator
From: Mike Alsup, Director of Parks and Recreation *Mike Alsup*
Re: Resolution to enter an agreement with Western Arkansas Tennis Association to operate the Creekmore Park Tennis Center

The Parks and Recreation Commission recommends that the City enter into an agreement with Western Arkansas Tennis Association (WATA), a local not for profit organization, to operate the Creekmore Park Tennis Center. WATA has operated the Center for the last three years under this agreement. Under their management, the courts are used extensively by individuals, leagues, and the local schools including the University of Arkansas Fort Smith. This agreement establishes guidelines that govern the operation of the facility and the relationship between WATA and the City.

The City pays the utility bills for the Center, oversees capital improvements, and provides for larger maintenance items. WATA oversees the day to day operation of the Center including routine maintenance, programming, scheduling, and staffing during the busier hours. WATA uses fees from court usage, tournaments, and leagues, revenues from concessions, and fund raisers to cover their expenses in operating the facility. WATA does not pay the City a percentage of the revenues nor does the City pay WATA. This is a cost effective arrangement for the City.

WATA secured funding for the construction of the Center's building that was constructed in 2003. WATA was recently selected as the Tennis Organization of the Year for 2009 from the Arkansas Tennis Association.

Please contact me if you have any questions regarding this matter.

attachment

AGREEMENT

THIS AGREEMENT MADE AND ENTERED INTO this ____ day of _____, 2010, by and between the City of Fort Smith, Arkansas, hereinafter "CITY" and Western Arkansas Tennis Association pursuant to resolution of its Board of Directors, hereinafter "Contractor" or "WATA," for the provision of tennis services at the Creekmore Tennis Center at Creekmore Park, hereinafter "Tennis Center."

WITNESSETH

WHEREAS, the CITY is the owner of the real property described as the Creekmore Tennis Center (located on the City owned real property identified on the plat attached as Exhibit A attached hereto) used for the benefit of its citizens as a "public park"; and,

WHEREAS, the parties desire that the subject property continue to be used, in part, for organized public athletic activities supervised by Contractor; and,

WHEREAS, the parties desire to place in writing the terms of their mutual agreement regarding the responsibilities of the parties with regard to the use of the described real and personal properties owned by Contractor;

NOW, THEREFORE, in exchange of the mutual terms and conditions set forth herein, which are acknowledged by the parties to be sufficient to support the obligations set forth herein, the parties agree as follows:

1. **PURPOSES:** Contractor shall provide tennis services at the Creekmore Tennis Center at Creekmore Park. Contractor shall supervise activities at the Tennis Center as an independent contractor as identified in paragraph 16. Contractor shall use the facility for conducting scheduled tennis activity programs for the public park benefit of the citizens of the City of Fort Smith.

2. **SCHEDULING & HOURS:** Except as noted in this paragraph, Contractor shall have the right to schedule the use of the courts on the subject property. All of the property shall be available for public park uses by the citizens of the CITY of Fort Smith at all times not scheduled for Contractor activities. The CITY reserves the right to schedule and use the property, including structures and other facilities, at all times not scheduled by Contractor. At least one tennis court will be open for public use at all times not scheduled for WATA activities. WATA activities, tournaments and special events, lasting longer than four consecutive days or more must be approved in writing by the City prior to scheduling by WATA.

2.01 **Hours of Operation:** Contractor shall establish daily operational hours, subject to CITY review and approval. Daily operational hours shall be publicly posted on-site at the Tennis Center.

3. ACTIVITIES & SERVICES: Contractor is authorized and required to provide organization, administration, and supervision of tennis competition, including scheduling of courts, leagues, and tournament play during hours of operation, and shall provide concession services to the public.

3.01 Lessons and Clinics: Paid tennis lessons and clinics shall be taught only by qualified instructors as certified by USPTR or USPTA. Contractor shall have the exclusive right to provide paid tennis instruction.

3.02 Tournaments: Contractor shall make reasonable efforts to develop and facilitate/host special events and tournaments such as City, County, State, Regional, and National tournaments.

3.03 Leagues: Contractor shall make available facilities for youth and adult play in organized leagues, ensuring equal access to all CITY residents without regard to race, religion, color, national origin, sex, age, or handicap.

3.04 Special Events: Contractor may offer special activities such as corporate outings, charity benefits, and exhibitions. Contractor shall also cooperate with the CITY in providing tennis services at other, selected CITY sponsored special events and activities at the Tennis Center on mutually agreed upon terms.

3.05 Concession and Stringing: Concession and racquet stringing rights are awarded to Contractor and may be self-operated or contracted to a third party.

3.06 Food and Beverages: Contractor is hereby authorized to sell food and beverages at the Tennis Center. Contractor shall ensure that all local and state regulations are adhered to. All food and beverage products kept on hand by Contractor shall be stored and handled with due regard to sanitation. In the event that Contractor's food and beverage products are deemed by the CITY to be less than first class in quality, the CITY shall have the right to order the improvements of the quality of any such product kept or offered for sale.

3.07 Pro Shop: Contractor shall provide and maintain such inventory of tennis merchandise as is deemed necessary by the joint agreement of Contractor and CITY to adequately meet the public demand. The CITY shall have the right to prohibit the sale or rental of any item of merchandise on finding that the item is of such inferior quality as to not be in the public interest to be offered for sale, or that such item is not necessary for proper service to the public.

3.08 Quality of Goods and Service: Service to the public, with goods and merchandise of the best quality and at reasonable charges, is of prime concern to the CITY and is considered a part of the consideration for this Agreement. Therefore, Contractor agrees to operate and manage the Tennis Center facilities and services offered in a first-class manner, and comparable to other similar facilities and services during the entire term of this

Agreement. Contractor, following receipt of written notification issued under sub-paragraph 19.01, shall immediately withdraw or remove from sale any goods or services which may be found objectionable to the CITY based on findings that the provision of such goods or services are harmful to the public welfare.

3.09 Signs: Contractor shall not post additional, permanent signs at the Tennis Center or improvements thereon, unless prior approval is obtained from the CITY. Contractor may post temporary signs, banners, and the like to promote special activities and to allow publicity for sponsors of the various activities at the Tennis Center.

3.10 Nondiscrimination: Contractor shall conduct activities on a non-discriminatory basis with regard to race, national origin, religion, disability or gender. The provisions of this sub-paragraph shall not prevent Contractor from establishing recreational activities according to the ages and skill level of the participants in the activities.

4. MAINTENANCE: The property shall be maintained according to the following sub-paragraphs.

4.01 Grounds: The CITY, at its own expense, shall maintain to a standard within its discretion, the structural parts of the Tennis Center and courts, which shall include court surfaces, fences, gates, lights and light poles on the tennis courts, side walks, paved areas, trees and landscape, foundations, exterior walls, sub-flooring, and roof. The CITY will replace burned-out light bulbs over the tennis courts, empty large trash receptacles on courts and replace HVAC filters.

4.02 Premises: WATA shall, as its own expense, be responsible for routine janitorial services of the office areas, storage rooms, and tennis courts at the Tennis Center, in particular cleaning and replacement of consumables (toilet paper, soap, etc.). Routine janitorial services shall include: court sweeping, litter control, pro shop cleaning (including toilet areas), replacing interior light bulbs, etc. These examples are not an all-inclusive list but are merely provided to guide both parties in defining areas of responsibility. Specifically, it shall be the obligation of WATA to insure conformance with all relevant codes and ordinances of the CITY and applicable Health Codes in connection with the Tennis Center.

5. UTILITIES: The CITY shall provide public utilities (sewer, water, and electricity) for uses of the park by Contractor and by the public generally. All telephone numbers that identify Creekmore Tennis Center to the public shall be placed in the name of Contractor and shall not be transferable to any other location. The City shall provide the main phone line and internet connection for the Center. WATA shall reimburse the City for any long distance charges on the main phone line.

6. IMPROVEMENTS: Contractor shall have no right to construct additional improvements or to remodel or to modify or alter the facilities in any way without prior written permission from the CITY.

6.01 Appliances & Personal Property: WATA, at its own expense, shall provide furniture and office and tennis equipment required for the Tennis Center building operation. WATA shall have the right to control personal property and equipment owned by WATA and stored in the structures at the Tennis Center. In the event of an involuntary cancellation or termination of this Agreement, WATA shall accomplish the removal of personal property within seven (7) days of such cancellation or termination. Should WATA fail to remove said appliances, furniture, and equipment within the applicable time period, WATA shall forfeit all right, title and interest therein and the CITY may elect to keep same upon the premises or to sell, remove or demolish same without recourse.

7. INSPECTIONS: Regularly scheduled joint inspections of the Tennis Center and review of Contractor's operations shall be made by the CITY with a representative of Contractor. The written report of such inspections shall be recorded, ranked, retained for reference, and forwarded to Contractor and the CITY as confirmation of the inspection.

8. SAFETY: Contractor shall immediately correct any unsafe practices or conditions which come to its attention or if notified of such by the CITY.

8.01 Identification: Contractor shall establish an identification system for personnel assigned to the Tennis Center which clearly indicates to Tennis Center patrons and other members of the general public the name of the person(s) on duty.

8.02 Injuries: Contractor shall notify emergency medical services (911) in the event of illness or injury occurring at the Tennis Center. Contractor shall notify the City of an incident through email or a written report.

8.03 Security Devices: Contractor may provide any lawful devices, installation, or equipment designed for the purpose of protecting the Tennis Center from theft, burglary or vandalism, provided written approval for installation is first obtained from the CITY.

9. COMPLIANCE WITH LAW: Contractor shall conform to and abide by all CITY and county ordinances, and all state and federal laws and regulations, insofar as the same or any of them are applicable; and where permits and/or licenses are required for the Tennis Center operation(s) and/or any construction required or authorized, the same must be first obtained from the regulatory agency having present jurisdiction. Contractor shall also conform to and abide by all rules, regulations, procedures and policies of the CITY Board of Directors and the CITY Administrator insofar as the same or any of them are applicable.

10. **EMERGENCY CONTACT:** Contractor shall provide the CITY with the names and telephone numbers of the Executive Director and President should an emergency situation occur during hours when Contractor's normal work force is not present.

11. **CLOSURE:** If the governing body of the CITY does not appropriate sufficient funds to operate the Tennis Center as a park facility, this contract is subject to the absolute right of the CITY to discontinue use of the Tennis Center upon three months notice. In such event, Contractor shall have no legal rights pursuant to this. Contractor acknowledges that the CITY has the authority to temporarily or permanently close the Tennis Center if the CITY determines that the conditions require closure or the remediation of such conditions is too costly.

12. **TERM & RENEWAL:** The term of this Agreement shall be for a period of (3) years, subject to the other provisions of the Agreement.

13. **REVENUES:** all revenues derived from the operation of the Tennis Center shall be the property of Contractor.

13.01 **Registers:** All sales shall be recorded by means of cash registers that publicly display the amount of each sale. Said cash registers shall in all cases have locked-in sales totals and transaction counters which are constantly accumulating and which cannot, in either case, be reset, and in addition thereto, a tape located within the register on which transaction numbers and sales details are imprinted. In the event of a technical or electrical failure of the cash register, Contractor shall record by hand all collections, and issue a sequentially, pre-numbered customer's receipt in a like manner.

14. **ACCOUNTING:** Contractor shall be required to maintain a method of accounting to the satisfaction of the CITY, which correctly and accurately reflects the gross receipts and disbursements of Contractor in connection with the Tennis Center operation. The method of accounting, including bank accounts established for the Tennis Center operation, shall be separate from the accounting system used for any other business operated by contractor and shall be separate from the accounting system used for recording Contractor's personal financial affairs.

14.01 **Records:** Contractor's method of accounting shall include the keeping of the following documents:

- a. Regular books of accounting such as general ledgers.
- b. Journals including any supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.
- c. State and federal income tax returns and sales tax returns and checks and other documents providing payment of sums shown.

- d. Cash register tape
- e. Any other reporting records that the CITY's Department of Finance deems necessary for proper reporting of receipts.

14.02 **Open Inspection:** All documents and accounting records required to be kept pursuant to the Agreement shall be maintained and open for inspection and re-inspection during normal business hours upon forty-eight (48) hours advance notice during the term of this Agreement and for three (3) years thereafter. In addition, during the term of this Agreement, the CITY may observe the operation of the business and may from time to time conduct an audit and re-audit of the books and business conducted by Contractor and for three (3) years after end of this Agreement so that accuracy of the above records can be confirmed. All information obtained in connection with the CITY's inspection of records or audit shall be treated as public information pursuant to the Arkansas Freedom of Information Act. If Contractor deems any such information to be of a confidential nature, (i.e., not intended for disclosure to third persons) Contractor should so indicate. The CITY will then exercise its best efforts to protect this information, but only to the extent that the law permits. The CITY shall not be liable, nor assume any responsibility, for any loss or damage that may result directly or indirectly from any breach of confidentiality.

14.03 **Reporting:** WATA shall furnish an annual report to include court usage and an income statement. The court usage report shall include usage by individuals, leagues, tournaments, schools and others. The income statement shall include a listing of types of revenues received such as court fees, tournament fees and sponsorships, concessions, and fees or percentages charged to instructors and the amount collected. The statement shall also include expenditures by category in the operation of the Center and amounts. The annual report shall be submitted within thirty (30) days of the end of June.

14.04 **Annual Report:** Contractor shall employ a certified public accountant to furnish an annual written report with appropriate schedule(s) to the CITY. The annual report and certification shall be submitted within one hundred and twenty (120) days of the close of each calendar year.

15. **INDEMNITY:** Contractor shall indemnify and hold the CITY harmless from all claims, liens, actions, and judgments, including reasonable legal fees and costs incurred with reference thereto, caused by the fault, negligence, breach of contract or violation of law by the Contractor under this Agreement.

15.01 **Liability Insurance:** Contractor shall provide and maintain at its own expense during the term of this Agreement liability insurance in the minimum amount of \$100,000.00 per person, \$300,000.00 per occurrence, and \$50,000.00 property damage for the purposes of providing liability protection to Contractor with reference to the premises and activities on the property.

15.02 Casualty Insurance: The CITY shall maintain fire, storm and other casualty insurance on the improvements located on the Tennis Center in amounts determined by the CITY. Any such insurance policy shall designate the CITY as the insured under the policy. All insurance proceeds shall be utilized to repair or replace damaged structures and/or improvements, unless a different use for the proceeds is designated, in the CITY's sole discretion. To the extent they desire insurance, Contractor will insure its own personal property.

16. INDEPENDENT CONTRACTOR: It is acknowledged and agreed that Contractor is acting as an independent contractor and that no employee, agent or volunteer of Contractor shall be considered an employee or agent of the CITY nor may this Agreement be so construed. Contractor shall comply with the requirements of Arkansas Workers' Compensation law.

17. PARK RULES: The property and its use shall be subject to the park rules of the CITY of Fort Smith codified in Article II of Chapter 18 of the Fort Smith Code. The CITY reserves the right to adopt and implement additional park rules and regulations at any time during the term of this Agreement. WATA will be provided notice of any additional park rules and regulations prior to implementation of said rules and/or regulations.

17.01 WATA RULES: WATA shall have the right to impose reasonable rules on participation in connection with tennis activities and programs and use of facilities, provided that such rules do not conflict with any requirement under this Agreement or rules adopted by the CITY.

18. ADDRESSES: Any notice required or permitted to be given pursuant to this Agreement shall be provided to the other party at the addresses indicated:

City of Fort Smith
Parks & Recreation Director
3301 South M Street
Fort Smith, Arkansas 72903

WATA
Executive Director
3303 South M Street
Fort Smith, Arkansas 72903

19. DISAGREEMENT OR BREACH: Either party to this Agreement may provide notice to the other party at the address indicated in the preceding paragraph 18 of any disagreement or breach.

19.01 Notice & Response: The notice shall specify the nature of the alleged violation and its corresponding provision in this Agreement. Within seven (7) days, the other party shall respond in writing regarding the alleged violation of the Agreement. If the alleged violation has been cured, the response shall so note. If, after the exchange of notice of violation and response, either party considers the issue to be unresolved, that party shall notify the other of the date, time and place of a meeting (to be held within the City of Fort Smith no sooner than seven (7) days nor later than fourteen (14) days from the date of said

notice of meeting) at which representatives of the parties shall discuss the alleged violation and the response thereto.

19.02 Termination: In the event the meeting of the parties pursuant to the procedures in sub-paragraph 19.01 above does not resolve the alleged violation, the CITY reserves the right to terminate this Agreement after seven (7) days written notice to the Contractor. Either party may pursue any available judicial remedy.

19.03 Hazards: Irrespective of the Notice & Response provision, in the event the CITY determines that any condition on the Tennis Center constitutes an imminent health hazard to any member of the public, the CITY shall have the right to take immediate action to correct such condition. In such event, the CITY shall notify a representative of Contractor by telephone, facsimile or other method deemed to provide expedient notice to the Contractor. Expenses associated with curative action shall be borne by the party responsible for maintenance that would have prevented such condition under this Agreement. If Contractor does not subsequently agree to pay the expense of any curative action so charged, the CITY has the right under this Agreement to petition a court of competent jurisdiction to declare the rights of the parties and, if it is declared that the expense was the obligation of Contractor under this Agreement, Contractor shall immediately pay the expense to the CITY after exhausting judicial remedies regarding that issue. Any failure of Contractor to comply with the provisions of this sub-paragraph shall be a basis for the CITY, in its sole discretion, to terminate this Agreement on seven (7) days written notice.

19.04 Right of Entry: Should Contractor fail, after thirty (30) days notice from the CITY of the need to perform its required routine maintenance obligations, the CITY in addition to all other available remedies may, but shall not be obligated to, exercise its Right of Entry and perform Contractor's failed obligations, using any equipment or materials on the premises suitable for such purposes. Contractor shall reimburse the CITY on demand for its costs in performing Contractor's obligations. In addition, the CITY shall have the right to step in and perform Contractor's obligations under this contract while any litigation is pending.

20. DEFINITIONS: References to actions or notices to or from the CITY in this agreement shall be construed to refer to the City Administrator or his authorized representative. Any authorization or permission required or authorized under this Agreement shall be valid only if issued by the City Administrator or his authorized representative.

THIS AGREEMENT EXECUTED as of the date first set forth above by the Mayor and the City Clerk of the City of Fort Smith pursuant to Resolution No. _____ of the Fort Smith Board of Directors and by the authorized representative of Western Arkansas Tennis Association, a non-profit corporation organized under the laws of the State of Arkansas, pursuant to resolution of the WATA Board of Directors adopted on February _____, 2010.

CITY OF FORT SMITH, ARKANSAS

By: _____
Mayor

ATTESTED:

City Clerk

WESTERN ARKANSAS TENNIS ASSOCIATION:

By: _____
WATA Representative

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF SEBASTIAN)

On this _____ day of _____, 2010, before me personally appeared Ray Baker, personally known to me to be the individual who executed the within and foregoing instrument, and he acknowledged that he signed the same as the duly authorized agent of the City of Fort Smith, and that the same is the free and voluntary act and deed of the City of Fort Smith, for the uses and purposes therein mentioned.

Given under my hand and official seal this _____ day of _____, 2010.

Notary Public

My Commission Expires:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF SEBASTIAN)

On this _____ day of _____, 2010, before me personally appeared _____, personally known to me, and acknowledged said instrument to be his free and voluntary act and deed, for the uses purposes therein mentioned.

Given under my hand and official seal this _____ day of _____, 2010.

Notary Public

My Commission Expires:

RESOLUTION NO. _____

5 C

RESOLUTION AUTHORIZING CHANGE ORDER NUMBER TWO WITH
CROSSLAND HEAVY CONTRACTORS, INC., FOR CONSTRUCTION OF THE
LAKE FORT SMITH WATER TREATMENT PLANT - CONTRACT 3

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

Change Order Number Two, Project No. 07-09-C3, with Crossland Heavy Contractors,
Inc., in the amount of \$89,078.00, adjusting the contract amount to \$31,752,980.00 and adding
49 calendar days to the contract time, is hereby approved.

This Resolution adopted this _____ day of March 2010.

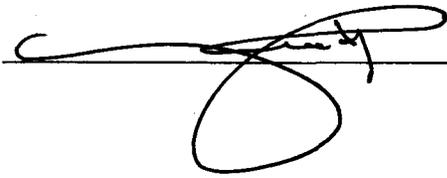
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: February 22, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Lake Fort Smith Water Treatment Plant Improvements - Contract 3
Project Number 07-09-C3
Change Order No. 2

I have attached a Resolution authorizing Change Order Number Two in the amount of \$89,078.00 and adding 49 days to the contract with Crossland Heavy Contractors, Inc., for additional work on the Lake Fort Smith Water Treatment Plant Improvements - Contract 3. I have also attached a project summary sheet for your information.

As outlined to the Board on February 19, this change order consists of a number of items addressing changed conditions and/or constructability issues. As detailed in the earlier memo, the single largest item is for rock excavation within the footprint of the new clarification structure. A second item involved a design revision to address saturated soil conditions encountered during demolition and removal of the existing one million gallon clearwell (1936 construction). Soft, unsuitable soils were removed and replaced with onsite materials, including a drainage system, to insure a stable platform for construction of a new building foundation. These two items of additional work represent 78% of the total change order amount and 35% of the additional 49 days requested. Several of the remaining items of work deal with piping adjustments necessitated by inaccuracies in the record drawings for the 1935 and 1960 plant construction and their subsequent modifications. Realignment of fencing and piping was also required to accommodate the city's relocation of the bulk water sales station. Funding for the change order is available from the 2007 and 2008 Series Water & Sewer Revenue Bonds.

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

attachments

pc: Ray Gosack

Project Summary

City of Fort Smith
Utility Department

Project Status: underway

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

Today's Date: February 22, 2010

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

Staff contact name: Steve Parke

Project engineer: Burns & McDonnell, Inc.

Staff contact phone: 784-2231

Project contractor: Crossland Heavy Contractors, Inc.

Notice to proceed issued: August 31, 2009

Completion date: December 27, 2011

	Dollar Amount	Contract Time (Days)
Original contract	\$31,641,000.00	785
Change orders:		
Change Order No. 1	\$22,902.00	14
Pending Change Order No. 2	\$89,078.00	49
Total change orders	\$111,980.00	<u>63</u>
Adjusted contract	<u>\$31,752,980.00</u>	<u>848</u>
Payments to date (as negative):	\$-2,448,364.39	7.7% complete
Amount of this payment (as negative)	N/A	
Retainage held	\$272,040.49	
Contract balance remaining	\$30,830,828.25	
Amount Over as a percentage	1.00%	

Final Comments:







RESOLUTION NO. _____

RESOLUTION AUTHORIZING AN AMENDMENT TO THE ENGINEERING SERVICES AGREEMENT WITH MICKLE WAGNER COLEMAN, INC., FOR THE HOWARD HILL ELEVATED WATER SYSTEM IMPROVEMENTS

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

SECTION 1: Amendment Number Two to the Agreement with Mickle Wagner Coleman Inc., for engineering services associated with the Howard Hill Elevated Water System Improvements, Project Number 06-06-E1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute Amendment Number Two to the Agreement, for an amount of \$16,689.00 and adjusting the Agreement to \$282,753.00, for performance of said services.

This Resolution adopted this _____ day of March 2010.

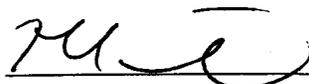
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

_____
npr

INTER-OFFICE MEMO

TO: Dennis Kelly, City Administrator

DATE: February 24, 2010

FROM: Steve Parke, Director of Utilities

SUBJECT: Howard Hill Elevated Water System Improvements
Engineering Services Agreement Number 06-06-E1

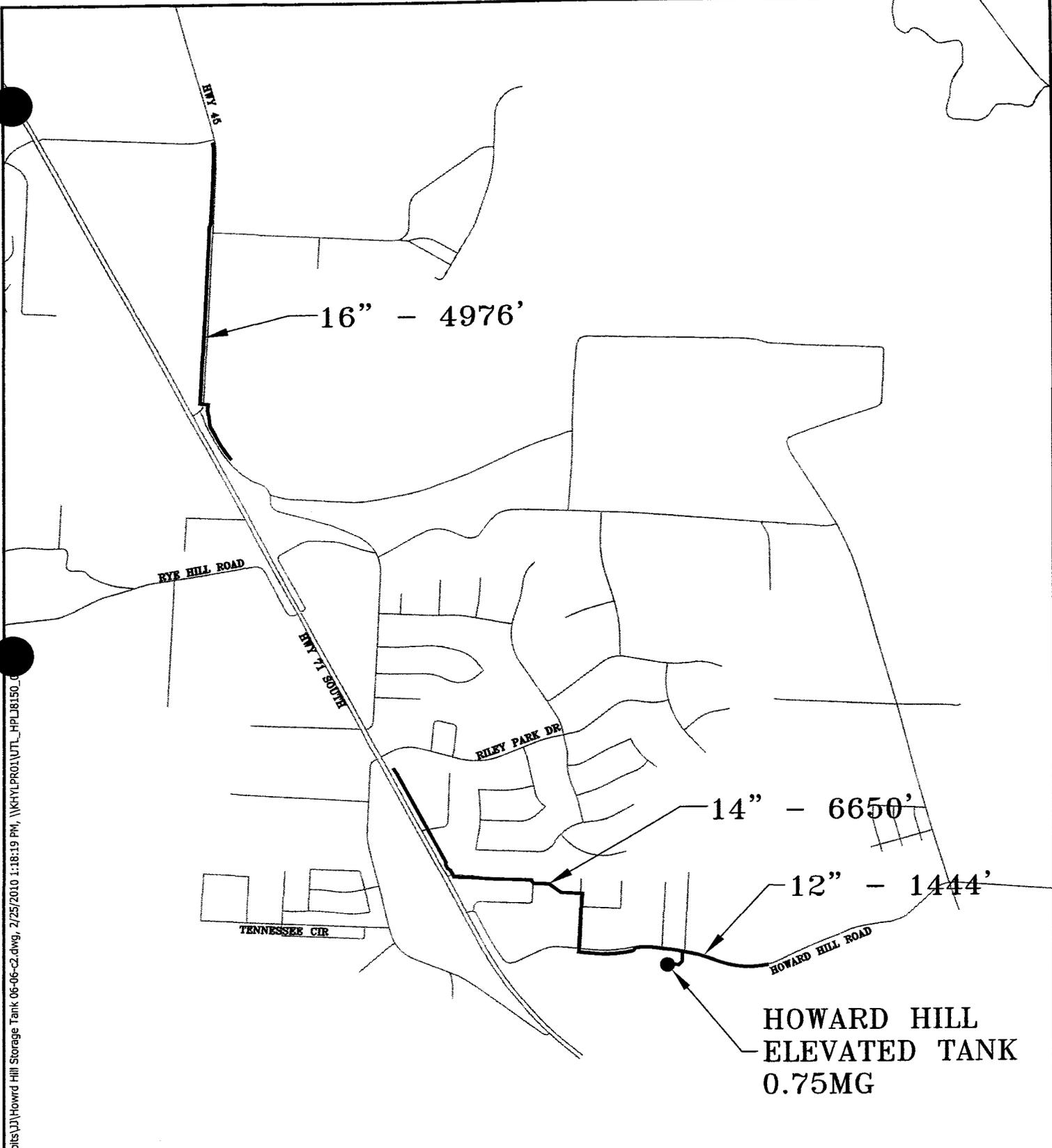
This contract with Mickle Wagner Coleman provided inspection services during the construction of the Howard Hill elevated storage tank and the Howard Hill water line improvements. An exhibit showing the location of these projects is attached. The Board approved a final payment to CB&I for the construction of the elevated storage tank as part of their February 16, 2010 meeting. That action included an assessment of \$38,900 in liquidated damages against CB&I for completing the construction of the tank 64 days beyond the contract time. Mickle Wagner Coleman has requested \$16,689.00 to cover their additional expenses related to CB&I's delayed contract completion. These additional expenses are covered by the liquidated damages assessment.

A Resolution authorizing Amendment Number Two to the engineering services agreement with Mickle Wagner Coleman in an amount of \$16,689.00, adjusting the amount of the Agreement to \$282,753.00, is attached. It is my recommendation that the Resolution be approved.

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

attachment

pc: Ray Gosack



O:\Utility\Dept\General\TA\Exhibits\Howard Hill Storage Tank 06-06-c2.dwg, 2/25/2010 1:18:19 PM, \\KH\PROJ\UTL_HPL\8150_0

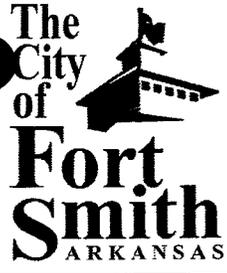


EXHIBIT
 Howard Hill Storage Tank and
 Water Line Improvements



AGENDA ~ Summary

FORT SMITH BOARD OF DIRECTORS REGULAR MEETING

MARCH 2, 2010 ~ 6:00 P.M.

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

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

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

All present

MAYOR'S ANNOUNCEMENTS AND RECOGNITIONS

APPROVE MINUTES OF THE FEBRUARY 16, 2010 REGULAR MEETING

Unanimously approved as written

CITIZENS FORUM ~ Opportunity to present to the Board of Directors any item of business or other matter which is not already scheduled on the agenda

Information available by viewing rebroadcast of the meeting on City Access Channel 6 or City website

ITEMS OF BUSINESS:

1. Ordinance rezoning identified property and amending the zoning map from Not Zoned to Residential-Single-Family-Medium/High Density by classification (7300 Massard Road)
Approved 7 in favor, 0 opposed / Ordinance No. 6-10
2. Ordinance authorizing the Mayor to execute agreements for certain services for inhabitants of the city of Fort Smith
Approved 7 in favor, 0 opposed / Ordinance No. 7-10

3. Resolution of the City of Fort Smith certifying local government endorsement of business to participate in the Tax Back Program (as authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003) (*Metal Sales Manufacturing Corporation ~ 7510 Ball Road*)
Approved 7 in favor, 0 opposed / Resolution No. R-38-10
4. Resolution encouraging Cox Communications to restore programming to channel tiers accessible to subscribers without digital service
Approved 4 in favor, 2 opposed (Tyler & Good) and 1 abstention (Settle) / Resolution No. R-39-10
5. Consent Agenda
 - A. Resolution authorizing the purchase of a tactical vehicle for use by the Fort Smith Police Department (\$79,994.00)
Approved 7 in favor, 0 opposed / Resolution No. R-40-10
 - B. Resolution authorizing the Mayor to enter into an agreement with the Western Arkansas Tennis Association for operation of the tennis center at Creekmore Park
Approved 7 in favor, 0 opposed / Resolution No. R-41-10
 - C. Resolution authorizing Change Order Number Two with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$89,078.00)
Approved 7 in favor, 0 opposed / Resolution No. R-42-10
 - D. Resolution authorizing an amendment to the engineering services agreement with Mickle Wagner Coleman, Inc. for Howard Hill Elevated Water System Improvements (\$16,689.00)
Approved 6 in favor, 1 opposed (Settle) / Resolution No. R-43-10

DIRECTORS FORUM

Information available by viewing rebroadcast of the meeting on City Access Channel 6 or City website

CITY ADMINISTRATOR'S REPORT

Information available by viewing rebroadcast of the meeting on City Access Channel 6 or City website

ADJOURN

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ MARCH 2, 2010 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Ray Baker, presiding. Invocation was given by Director Cole Goodman, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, Bill Maddox, Gary Campbell, Kevin Settle and Cole Goodman. A quorum was declared present.

Mayor Baker expressed great concern with the quality of life in Fort Smith due to the influx of illegal drugs and drug dealers into the city. He alleged both are coming from "countries to the south"; therefore, he declared an emergency and urged the following:

1. The City to provide all necessary means to the Police Department to better allow them to fight the war on drugs.
2. Immigration officials to enforce immigration laws.
3. Fort Smith residents to be watchful and report all suspicious activities.
4. Schools officials, both public and private, to educate students of the many dangers of drug and substance abuse.
5. Parents to constantly remind their children of the affects of drug use.
6. Businesses to be aware of dealings at the workplace and not employ undocumented workers.
7. All individuals to help with this serious matter to preserve our community.
8. Citizens to contact their congressional delegation to ensure national legislation is enacted to adequately address the issue.

March 2, 2010 Regular Meeting

The Mayor announced that he *“officially declares war on drug dealers and the lifestyle they bring”* and demanded they *“get out”* of Fort Smith.

Director Maddox noted much concurrence with Mayor Baker’s comments and further encouraged residents to thoroughly consider all congressional candidates views on immigration matters prior to casting their vote in this election year.

The minutes of the February 16, 2010 regular meeting were presented for approval. Settle, seconded by Campbell, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, Mayor Baker communicated that five (5) minutes per side would be extended on controversial items with three (3) minutes for rebuttal per side. Two (2) minutes will be allotted for consent agenda items and for those participating in the Citizens Forum.

Mayor Baker opened the Citizens Forum with the following individuals present to address the Board:

- David Harris
2025 South “V” Street

Re: Due to budget concerns, he recommended the auto allowance for the Mayor and Board be temporarily suspended.

Director Maddox spoke in favor of the recommendation and noted that he provided a motion for such on two past occasions; however, each motion failed due to lack of a second.

- Tammy Trouillon
8000 Holly Avenue

March 2, 2010 Regular Meeting

Re: Read a prepared statement expressing concern with the existing policy whereby vicious dogs are deemed so only after an incident occurs. She recommended a more pro-active ordinance be adopted which requires 6 foot fencing for the keeping of large dogs or dog breeds pre-determined to be dangerous or vicious.

- Eric Arthur
811 North "B" Street

Re: Encouraged the City to recruit small businesses to come to Fort Smith.

- Jerry Hamel
4618 Wheeler Avenue

Re: Alleged the City of Fort Smith is \$274 million in debt and conveyed much discontent with the matter.

- Louis Vincent
28 Courtland Street

Re: Regarding employers within the city who hire illegal immigrants, he recommended the City impose a fine for the first offense. Upon the second offense, he recommended the City revoke their business license.

Item No. 1 was an ordinance rezoning identified property and amending the zoning map from Not Zoned to Residential-Single-Family-Medium/High Density by classification (7300 Massard Road)

Senior Planner Brenda Andrews briefed the Board on the item advising such is per the request of Ivey Owen, Executive Director of the Fort Chaffee Redevelopment Authority. The purpose of the proposed rezoning is to facilitate an 80 lot single-family development with lot sizes ranging from approximately 7,333 square feet to 11,160 square feet and lot widths at building line from 60 feet to 80 feet. A neighborhood meeting was held on

March 2, 2010 Regular Meeting

February 1, 2010 with two property owners, representatives of the proposed Stonebrook at Chaffee Crossing development, Cisterna Villa at Chaffee Crossing, Rausch-Coleman, Fort Smith Redevelopment Authority and the Fort Smith Planning Department in attendance. No objections to the proposed development were conveyed. The Planning Commission held a public hearing on February 9, 2010 with no individual present to speak in opposition. The Planning Commission approved the rezoning request by a vote of seven (7) in favor and zero (0) opposed.

Director Settle questioned the average square footage of the homes in the proposed development.

Mr. Steve Beam, engineer with Crafton Tull Sparks, advised the homes will range from 1,600 to 1,800 square feet, which is compatible with surrounding development.

Director Hutchings spoke in favor of the proposed item and commented the City is "very blessed" to have this type of residential development proceed.

Settle, seconded by Hutchings, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 6-10.

Mayor Baker recognized Tariq Salem from Boy Scout Troop 4 who was in attendance to earn his citizenship badge.

Item No. 2 was an ordinance authorizing the Mayor to execute agreements for certain services for inhabitants of the city of Fort Smith

March 2, 2010 Regular Meeting

Director of Finance Kara Bushkuhl briefed the Board on the item advising such authorizes agreements for funding to certain community organizations as approved in the 2010 Budget. The proposed funding is separate from the annual outside agency funding, which the Outside Agency Task Force is currently reviewing and their recommendations will be presented for consideration in the near future.

Due to the comments of Mr. Hamel in the citizens forum, Mayor Baker requested confirmation that the total indebtedness quoted is a summation of all City bonds.

Ms. Kushkuhl confirmed and advised the amount includes the total due for sales tax bonds, water and sewer bonds, one solid waste revenue bond, and one Parking Authority bond. The financing of said bonds, in some cases, extends for twenty to twenty-five years. The City has consistently paid its debt and due to such, the City currently maintains an excellent or very high bond rating.

Campbell, seconded by Maddox, moved adoption of the ordinance. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 7-10.

Item No. 3 was a resolution of the City of Fort Smith certifying local government endorsement of business to participate in the Tax Back Program (as authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003) (*Metal Sales Manufacturing Corporation ~ 7510 Ball Road*)

Deputy Administrator Ray Gosack briefed the Board on the item advising Metal Sales Manufacturing is a new business which anticipates an investment of \$4.1 million and the hiring of up to 15 employees. The company will manufacture metal roof, wall, and

March 2, 2010 Regular Meeting

fascia and soffit panel systems at its Fort Smith location. The proposed resolution is required in order for the company to participate in the sales tax rebate program; therefore, he recommended approval.

Campbell, seconded by Hutchings, moved adoption of the resolution. The members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Good, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. R-38-10.

Item No. 4 was a resolution encouraging Cox Communications to restore programming to channel tiers accessible to subscribers without digital service.

Mr. Gosack briefed the Board on the item advising such is per the request of Mayor Baker at the February 16, 2010 regular meeting. Upon approval, he advised a copy of the resolution will be forwarded to Cox Communications.

Hutchings, seconded by Maddox, moved adoption of the resolution. The members voted as follows: ayes - Hutchings, Maddox, Campbell and Goodman; nays - Tyler and Good; abstention - Settle. The Mayor declared the motion carried and the resolution was adopted and given No. R-39-10.

The Consent Agenda (Item No. 5) was introduced for consideration, the items being as follows:

- A. Resolution authorizing the purchase of a tactical vehicle for use by the Fort Smith Police Department (\$79,994.00)

March 2, 2010 Regular Meeting

- B. Resolution authorizing the Mayor to enter into an agreement with the Western Arkansas Tennis Association for operation of the tennis center at Creekmore Park
- C. Resolution authorizing Change Order Number Two with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 (\$89,078.00)
- D. Resolution authorizing an amendment to the engineering services agreement with Mickle Wagner Coleman, Inc. for Howard Hill Elevated Water System Improvements (\$16,689.00)

Regarding Item No. 5D, Director Settle advised a final payment, which included the assessment of \$38,000 in liquidated damages, was recently approved for the project; therefore, he questioned why the proposed amendment is now being presented for consideration.

Director of Utilities Steve Parke advised that such is due to an accounting error. Due to the assessment of liquidated damages in which the project was not completed on time, such required additional engineering work that was not included within the original engineering services agreement. The funds to provide for the proposed amendment are available via the funds recovered from the liquidated damages assessment.

Maddox, seconded by Campbell, moved adoption of all consent agenda items. The members all voting affirmatively, with the exception of Director Settle voting "no" on Item No. 5D, the Mayor declared the motion carried and the resolutions were adopted and numbered R-40-10 through R-43-10 respectively.

Mayor Baker opened the Directors Forum with no director wishing to comment.

The Mayor offered the floor to Administrator Kelly for the City Administrator's Report; however, Mr. Kelly had no announcements.

March 2, 2010 Regular Meeting

Mayor Baker reiterated and urged all necessary action be taken to ensure all contractors doing work for the City employ only documented workers.

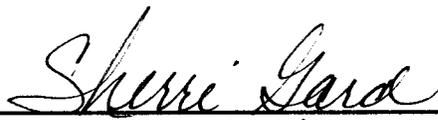
There being no further business to come before the Board, Maddox moved that the meeting adjourn. The motion was seconded by Good and the members all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned.

APPROVED:



MAYOR

ATTEST:



CITY CLERK *acting*