

# ***AGENDA***

**FORT SMITH BOARD OF DIRECTORS  
STUDY SESSION**

***JULY 27, 2010 ~ 12:00 NOON***

**FORT SMITH PUBLIC LIBRARY  
COMMUNITY ROOM  
3201 ROGERS AVENUE**

1. Discuss city-wide goals for 2011 budget
2. Discuss 2011 outside agency funding
3. Review proposed redevelopment plan for the use of New Market Tax Credits
4. Discuss nepotism policy relating to elected officials ~ *Tabled from the July 20, 2010 regular meeting* ~
5. Review preliminary agenda for August 3, 2010 regular meeting



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## *MEMORANDUM*

July 22, 2010

**TO:** Dennis Kelly, City Administrator

**FROM:** Ray Gosack, Deputy City Administrator

**SUBJECT:** 2011 Budget

Preparation of Fort Smith's 2011 budget has just begun. At the July 27<sup>th</sup> study session, we'd like to receive the Board of Directors' priorities for next year's spending plan. This helps the staff prepare departmental service objectives and a budget which meets the board's expectations for resource allocations.

Attached are:

- ✓ A list of the 2010 budget goals. Some of these have multi-year horizons. It may be desirable for some of these goals to continue in 2011.
- ✓ Suggestions from the staff about possible 2011 budget goals. Some of these suggestions were identified by the board at retreats earlier this year and late last year.
- ✓ Guidelines for developing goals.
- ✓ The schedule for preparing the 2011 budget.

### *2010 BUDGET*

Preparation of the 2010 budget was extremely difficult, particularly for the General Fund. We undertook drastic steps such as withholding merit and step pay increases for most employees and deferring most capital projects and fleet replacements in the General Fund programs. In recent months we

have left some vacant positions unfilled to reduce expenses. General Fund revenues for 2010 aren't meeting budget projections. Expenditures have been trimmed by \$817,000 to offset the revenue reduction.

The 2010 budget was prepared with a General Fund balance of 7.1%, which is 26 days of operating expenses and less than half of the board's goal of 15%. At this time, we don't believe the final balance at the end of the year will be better.

### **LOOKING AHEAD**

As budget decisions are made for 2011, we need to be certain those decisions are sustainable into 2012 and beyond. Our budget preparation this year will include revenue and expenditure estimates for 2011 and for 2012, and these will be presented in the budget. When the budget is ready for adoption, we will ask the board to approve only the 2011 expenditures. However, a 2-year look will help with our longer-range planning.

Here are some key observations to consider for upcoming budgets.

- ▶ The economic recovery from the national *Great Recession* has been slow. Retail sales are typically one of the last parts of the economy to recover. This is significant because a considerable portion of the city's revenues are sales taxes.
- ▶ Franchise fees, the second largest revenue source in the General Fund, continue to decline despite residential and business growth. This trend is likely to continue as residents and businesses abandon their telephone land lines and find ways to use less electricity and natural gas.
- ▶ The reserve in the employee wellness fund (health coverage) exceeds prudent reserve requirements. The reserve can be gradually drawn down by slowing the rate of contribution to the employee wellness fund. This action will help reduce operating budget costs over a 2-3 year period while judiciously lowering the reserve to a more reasonable level.
- ▶ Despite declining revenues, the demand for city services isn't declining. In some cases, the public's use of municipal services is increasing.
- ▶ The unrestricted reserves (fund balance) in the Water &

Sewer Fund have dropped to a dangerously low level. They were 5.5% at the end of 2009 and are projected to be 6.7% at the end of 2010. The city's debt service coverage for 2009 was 1.04, which is below the required minimum of 1.10. Also, many fleet replacements have been deferred for the last 5 years in an effort to preserve operating capital. Although water consumption is higher in 2010, the city must still address the long-term financial condition of the Water & Sewer Fund.

- ▶ The costs of state-mandated police and fire pension programs continue to be a concern. The city's contribution for police pensions is 27.75% of payroll and for fire pensions is 36.97% of payroll. (NOTE: Police and fire pension employees aren't part of social security, so the city avoids the 6.2% employer social security contribution for these employees. For comparison, the city's contribution rate for non-uniformed employees for pension and social security is 16.2%.) The city must also budget for other post employment benefits (OPEB) as identified in our annual audit report. The OPEB liability grew by more than \$1.15 million in 2009 for all operating funds. This rate of growth is expected to continue for the foreseeable future.

### **BUDGET CHOICES**

Preparing a governmental budget involves deciding how to allocate available resources. In the past, much of this decision-making has been performed at the staff level. This leads to a lack of understanding and buy-in from employees and other stakeholders. Allocations of resources should be strategic policy decisions which are in harmony with the city's comprehensive plan and other goals.

For the 2011 budget, we will prepare for the board's consideration a recommended budget which balances revenues and expenditures. Inevitably, many worthwhile budget proposals can't be funded. We will present additional service priorities that the board may determine worthy of budget funding. We'll also identify revenue enhancement possibilities and adjustments to existing services which would save money. Either of these could provide resources for budget proposals which may be of higher priority to the board. With this information, we can "right size" our budget to meet the board's highest budget priorities and eliminate services which are of lesser value.

**CONCLUSION**

The board's priorities for the 2011 budget will guide preparation of the city's spending and work plan for the coming year. We look forward to the board's discussion about what's most important in 2011.

*Ray*

Attachments

## 2010 BUDGET GOALS

1. Adopt a financing option for the Convention Center expenditure gap due to the loss of the state tourism turnback funds and adopt a new business model for operating the Convention Center.
2. Initiate and develop economic growth strategies to increase the job market with higher paying jobs as well as support the construction of the regional intermodal freight facilities and Interstate 49.
3. Continue the "green initiative" by developing strategies to reduce energy consumption and other costs in city facilities.
4. Identify a new revenue source and/or identifying savings in the General Fund to provide funds for construction, staffing, and equipping Fire Station 11 in Chaffee Crossing; future downtown development; and parks projects.
5. Review an alternative method for water service rates to provide a more stable revenue base for the Water and Sewer Fund.
6. Approve a balanced budget that provides for reserve balances in accordance with the city's financial policies.
7. Adopt user fees that recover the full cost of service, where appropriate.
8. Review employee benefit levels for comparability with the private sector and freeze employee insurance contributions at the 2009 level.
9. Examine service levels so that resources and service priorities are strategically aligned.

## SUGGESTIONS FOR 2011 BUDGET GOALS

- ▶ Present voters with a solution for ongoing convention center funding.
- ▶ Select preferred approach for funding wet weather sanitary sewer work after 2011.
- ▶ Improve the provision of services to the homeless by providing a full-time staff position for the Old Fort Homeless Coalition.
- ▶ Enhance recreational opportunities by partnering with Sebastian County to develop a water park and additional softball fields.

In addition to these, the board may wish to continue some of the 2010 budget goals.

## GUIDELINES FOR PREPARING BUDGET GOALS

- Goals should be stated in desired **outcomes** and **results**. The budget should focus the organization on outcomes people care about at a price they're willing to pay. Resources can then be aligned with desired results. Whenever possible, methods and processes should be left to the discretion of those responsible for implementing the goals.
- Goals should be **clear, concrete, and measurable**. Lengthy or abstract goal statements can be subject to differing interpretations and misunderstood. They should be specific enough to help define the services to be emphasized. Goals should have service measures if at all possible so that it's known whether or not the goal is achieved.
- Goals should be **realistic, attainable, and challenging**. They should be within the control of the organization, not set too low that they're easily attainable, and not set so high that the organization will fail.
- Goals should be **few in number**. Too many goals dilute the organization's resources. Focus on what's most important.

July 7, 2010

**City of Fort Smith, Arkansas  
Budget 2011 Calendar**

Note: Presentation dates with the Mayor and Board are presented in bold face type.

July 12, 2010	Distribution of 2011 Budget package to all departments.
July 13, 2010 through August 17 or 24, 2010	Departments prepare budget worksheets/disks and summaries for 2011 requests as well as estimates for 2012. Finance refines 2011 revenue estimates and prepares 2012 revenue projections.
July 13, 2010	<b>Receive Board of Directors input for city-wide goals for 2011 at study session.</b>
July 27, 2010	<b>Outside agency funding (OAF) task force review at Board study session.</b>
August 2, 2010	Local service agency application notification for OAF from 2011 Budget.
August 12, 2010	Departments submit service objectives and outcome/performance measures for 2011 and submits status report on 2010 service objectives and outcome/performance measures to the Finance Department.
August 12, 2010	OAF workshop for service agencies.
August 17, 2010	The following departments submit completed budget packages to Finance: Administration; Economic Development; District Court; City Prosecutor; Finance; City Clerk; Human Resources; Engineering; Planning, CDBG, Building Safety, and Neighborhood Services; Information & Technology Services; Convention Center; Health; Streets & Traffic Control; and Transit.
August 24, 2010	The following departments submit completed budget packages to Finance: Police; Fire; Parks; Water and Sewer; Sanitation; and Convention and Visitor's Bureau (A.&P).
<b>August 24, 2010</b>	<b>Review departmental service objectives for 2011 and their correlation with city-wide goals for 2011 during the Board study session.</b>

July 7, 2010

**City of Fort Smith, Arkansas  
Budget 2011 Calendar  
(Continued)**

August 18, 2010 through September 10, 2010	Finance verifies accuracy of amounts submitted by the departments and prepares a preliminary budget supplement.
September 2, 2010	Deadline for submittal of application packets by local service agencies for OAF.
September 13, 2010 through September 30, 2010	City Administrator, Deputy City Administrators and Director of Finance review budget requests and meet with department directors to discuss the 2011 requests.
September 28, 2010	Proposed five year streets and drainage CIP is presented at Board study session. Also, 2011 Budget progress report.
October 1, 2010 through October 29, 2010	Preparation of draft budget by Finance.
November 2, 2010	Present proposed budget to Mayor and Board of Directors.
November 8, November 9, and November 10, 2010	Review proposed budget with Mayor and Board of Directors; discussion with department directors.
December 7, 2010	Conduct 2011 Budget hearing and present 2011 Budget to the Board of Directors for adoption.



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## MEMORANDUM

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**TO:** Dennis Kelly, City Administrator  
**FROM:** Tracy Winchell, Office of Economic Development  
**SUBJECT:** Discuss 2011 Outside Agency Funding  
*07/27/2010 Board of Directors Study Session*  
**DATE:** 7/22/2010  
**CC:** Kara Bushkuhl, Finance Director  
OAF Review Panel

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### DISCUSSION OF 2011 OUTSIDE AGENCY FUNDING

#### **Citizen Recommendations for 2011 Funding Cycle**

Attached is a report summarizing formal recommendations for implementing 2010 "lessons learned" into the upcoming 2011 OAF cycle.

The report details discussions from a meeting between original task force members and members of the review panel regarding several topics.

In summary, the citizen group recommends:

1. No changes to the application itself, which would require board approval
2. The funding allocation among all 3 categories be tied to the number of applications in each category instead of being predetermined by the board
3. All potential applicants participate in a mandatory workshop scheduled for August 12

If the mayor and board are satisfied with the recommendations following the July 27 study session, the enclosed timeline for the upcoming cycle of funding will be implemented.

Please contact me if you have questions.

*2011 Recommendations:*  
to the  
Mayor & Board of Directors of the City  
of Fort Smith, Arkansas

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**Submitted July 27, 2010**

**Review Panel Members:**

**Barbara Peterson** – Core Panel  
**Madeline Martinez** – Core Panel  
**Peggy Weidman** – Core Panel  
**Elizabeth Momand** – Arts & Humanities  
**Jeromy Price** – Arts & Humanities  
**Derrick Joe** - Recreation  
**Steve Rinke** - Recreation  
**Jonathan Fry** – Social/Community Services  
**Sherry Savage** – Social/Community Services

**Original Task Force Members**

**Alvin Bradley**  
**Tabitha Embree**  
**Rick Foti**  
**Monica McKinney**  
**Robert Morgan**  
**Genia Smith**

**City of Fort Smith staff:**  
**Christy Deuster**  
**Tracy Winchell**

## Introduction

Earlier this year, the board of directors approved the first round of funding in a new process designed to allocate funds to outside agencies that provide important services to the citizens of Fort Smith.

The criteria for reviewing each application is grounded in a three-page analysis comparing the 2005 TIP strategies report commissioned by the Fort Smith Regional Chamber of Commerce to services provided by local service agencies. The original document is attached to this report.

Much progress has been made, and many individuals have been involved in decision-making and implementation of the new process, which is about to embark on its second round of allocating public funds.

On the afternoon of July 13, 2010, members of the outside agency panel met with members of the task force that helped implement the goals and objectives passed by the board of directors late last year.

This report is a summary of that meeting and is designed to help guide a discussion of how to refine the 2011 allocation process based on lessons learned from the initial funding cycle.

The outline follows the agenda from the July 13 meeting.

### I. *City of Fort Smith General Fund Shortfalls*

1. Panel members and representatives of the original task force understand the gravity of current City of Fort Smith general fund revenue shortfalls. Each agreed that reducing – or even eliminating – this program might temporarily ease the stress on the general fund. However, panelists argue that even short-term cuts greatly harm current and future opportunities for recruiting new industries, retaining young professionals, and caring for children and other citizens who have no other place to turn than one of the organizations benefitting from this program. The consensus was that “to eliminate this program – especially all at once – is too harsh an impact to the ecosystem of the community.”
2. The group understands that with the current process the same amount of time is required to award fewer dollars. Even so, if the board determines that this program should be funded in 2011 at a lesser amount than in 2010, the panel believes this review process is important enough continue.

### II. *2011 Funding Process*

- a. *Review of 3 categories – should a 4th event category be added to the mix? - No*
- b. *Discuss potential solutions for allocating funds among the categories*

	2010 Requests/Allocations			
	# Accepted Applications	Requests	Available Funds	Difference
Arts & Humanities	8	\$ 95,000	\$ 68,310	\$ (26,690)
Recreation	4	\$ 91,500	\$ 84,249	\$ (7,251)
Social/Community Services	16	\$ 266,885	\$ 75,141	\$(191,744)
<b>TOTALS</b>	<b>28</b>	<b>\$ 453,385</b>	<b>\$ 227,700</b>	<b>\$(225,685)</b>

Funding percentages between the 3 categories was predetermined in 2010, with panel members understanding they had a set amount to distribute among applicants within each category. The percentages were calculated according to a five-year history of outside agency awards.

However, predetermining funding allocations created a great deal of stress on the social/community services category, which received more applications than recreation and arts & humanities combined. Recreation and Arts & Humanities panels simply added the dollar amounts requested versus the amount of funding available, came up with a percentage, and decreased each request across the board, thus reconciling the difference between requests and funds available.

Social/community services panelists, on the other hand, were forced to establish multiple metrics for funding. While these metrics were logical, they were complex and difficult to communicate. During the Tuesday, July 13 discussion, panelists agreed that for 2011, the number of applications in each category should be the determining allocation factor. For instance, when the panel meets on September 16 to open, log, and check the allocations, if 30% of the eligible applications (total number of eligible APPLICATIONS, not the total dollar amount requested in each category) are represented by recreation, then that category gets 30% of the total dollar amount.

The panel and task force members believe this may also alleviate some questions about how – or whether – to cap the dollar amount any one organization may receive.

- c. *Review options for limiting request dollar amounts*
  - i. *Percentage of agency's operational budget*
  - ii. *Percentage of OAF category allocation amount*
  - iii. *Other*

A lengthy discussion about whether creating a minimum or maximum request amount was inconclusive and may be an important issue to discuss at the July 27 study session.

- d. *Assessing the scoring system integrated into the application*

Task force members expressed surprise that the scoring system they established didn't substantially alter the need for review panelists to heavily weigh the narratives in each application. However, at this time, the group has no recommendation for altering the scoring system or changing questions on the application.

### III. *August Workshop Preparation*

**August 12 – 9am to 2pm**

**Elm Grove Community Center**

**Luncheon Speaker – Rex Nelson (former director of the Delta Regional Authority)**

**Lunch sponsored by Genia Smith (limited seating available)**

Panel members, task force members, and staff have more recommendations for change here than any other process area.

Specific recommendations are, as follows:

1. Attendance at this workshop is a mandatory prerequisite for submitting an application for 2011
2. Explaining the application with those who may be applying
  - a. Yes/no questions (points)
  - b. Narrative questions (be specific)
  - c. Cost/benefit ratio – cost per person may be higher or lower than other organizations, depending on each entity's service. Report the information accurately, and explain.
  - d. Specific protocols for assembling the packet so that review is efficient and cost-effective
3. A basic discussion of financial statements – audits and 990s that are consistent with the application narrative
4. Establishing – and adhering to – a specific schedule of review meetings and deadlines
5. Asking that applicants refrain from engaging in private discussions with panelists or staff regarding the application or organization under review, *unless* a panelist is asking specific questions about the application or an applicant seeks to provide clarity to *all* review panelists in an open meeting

# Outside agency funding

## *Possible Categories/Public Benefits Analysis*

### **Outside Agency Funding as an Economic Development Tool**

**The purpose of this review is to assist the city's nonprofit organizations and the citizens they serve.**

The *Fort Smith Symphony's* John Jeter addressed community and business leaders during a recent Chamber of Commerce *First Friday Breakfast* sponsored by Chaffee Crossing. Jeter's presentation was based on the findings of a national study measuring the economic impact of the arts. Attached are summaries of the report, including data gathered from Benton and Washington Counties in Arkansas.

*Arts & Economic Prosperity III: The Economic Impact of Nonprofit Arts and Culture Organizations and Their Audiences* documents the key role played by the nonprofit arts and culture industry in strengthening our nation's economy. This study demonstrates that the nonprofit arts and culture industry is an economic driver in communities—a growth industry that supports jobs, generates government revenue, and is the cornerstone of tourism.

While this study is confined to arts & culture organizations, *THE RIVER VALLEY: At the Tipping Point* outlines a quality of place agenda that closely correlates with the missions of area nonprofit organizations.

### **Aligning Goals & Objectives**

During a comprehensive study of 72 comparably-sized cities, Fort Smith consultant Virginia Lang discovered that most municipalities fund nonprofit organizations. The difference is in the application and awards process, and the policies for granting funds.

One perceived flaw in the current process is an inability for the city to award outside agency funding according to budgetary and community goals and objectives.

By categorizing services offered and expectations of public benefit with Quality of Place recommendations as defined by *THE RIVER VALLEY: At the Tipping Point*, perhaps we can begin to establish funding priorities, policies, and processes based on the city's and the community's existing goals and objectives.

## Public Benefits (Quality of Place Agenda)

### Service Category

<p><b>Arts &amp; Humanities</b></p>	<p><i>Strategy Two: Quality of Place (p. 9)</i> "Quality housing, good restaurants and good schools are not luxuries for an educated workforce – they are necessities."</p>
<p><b>Recruitment</b> (health care, professional, corporate)</p>	<p>1.2.1 " ...professional services can provide a source of high-wage jobs. In addition, a strong professional services base can be an important resource in the attraction &amp; retention of companies in other industries."</p>
<p><b>Tourism</b></p>	<p><i>Target: Tourism (p. 38)</i> "...should be an essential component for any economic development plan for an area with the River Valley's transportation access &amp; existing attractions..."</p>
<p><b>Revenue source</b></p>	<p><i>Target: Tourism (p. 38)</i> "...The Arkansas Department of Parks &amp; Tourism estimates that tourists spent roughly \$4.3 billion in the state in 2004..."</p>
<p><b>Identity – national/international branding</b></p>	<p><i>Target: Tourism (p. 38)</i> "...In addition to the opportunity it provides to capture and expand consumer spending, tourism can also attract new residents..."</p>
<p><b>Creative outlet for citizens</b></p>	<p><i>TARGET: Tourism (p. 38)</i> "...and cement the area's reputation as a region with a strong sense of place."</p>
<p><b>Educational opportunity for children</b></p>	<p>2.4 "increase recreation &amp; entertainment options for all demographic groups."</p> <p><i>Implementation Schedule: TALENT (p. 70)</i></p> <p>Improve high school dropout rate</p> <p>Engage parents in education</p>
<p><b>Diversity of entertainment options</b></p>	<p>See next</p>
<p><b>Recreation</b></p>	<p>2.4 (p. 27) "While young, educated citizens are an appropriate economic development target, recreation and entertainment venues should be available for all ages and all ethnicities..."</p>
<p><b>Youth</b></p>	<p>2.4. (p. 27) "...From softball to soccer, from salsa to swing, Fort Smith must embrace and encourage community activities for its citizens."</p>
<p><b>Tourism/economic development</b></p>	<p>2.2.5 (p. 26) "...The region has a number of assets in this regard – significant festivals and events, a variety of outdoor recreational opportunities, and a modern convention center..."</p>
<p><b>Recruitment</b></p>	<p>4. Target Marketing Plan: Tourism &amp; Recreation (p. 38) "...TIP Strategies recommends a focus on outdoor recreation. This includes promoting the region as a base for hunting &amp; fishing, bird-watching, cycling, and rock climbing...a study of bicycle tourism conducted by the State of Maine estimated that experienced cyclists spent between \$55/day (for self-guided bike tours) to \$115/day (for guided tours) in 1999."</p>
<p><b>Recreational outlet</b></p>	<p>4. Target Marketing Plan: Tourism &amp; Recreation (p. 38) "...For cyclists and rock climbers, access to evening entertainment and specialty equipment stores can make the area more attractive."</p>

<p><i>Leadership opportunities</i></p>	<p>TIP does not specifically address youth recreation as part of its plan to develop talent in the region. However, TIP does recommend that the region improve high school dropout rates, engage parents in education and other youth-related initiatives. Strong correlations can be made between successful professionals and their involvement in youth recreation and organized athletics programs.</p>
<p><b>Seniors</b></p>	<p>2.4. (p. 27) "...From softball to soccer, from salsa to swing, Fort Smith must embrace and encourage community activities for its citizens."</p>
<p><i>Community obligation</i></p>	<p>See above</p>
<p><i>Enhancing health, longevity, and contributing citizenry</i></p>	<p>See above</p>
<p><i>Recreational/entertainment outlet</i></p>	<p>See above</p>
<p><i>Recruitment</i></p>	<p>TIP does not specifically address senior activities as an incentive for professionals to relocate to the region. However, retired parents may choose to relocate with adult children – and working professionals are cognizant of a community's ability to provide recreational and entertainment opportunities – and healthcare – for their aging parents.</p>
<p><b>Social Services</b></p>	<p>7. Performance Indicators (p. 77) "...this concept assumes that all citizens should have the opportunity to live in an environment that enables them to realize their full potential. Opportunity, which is closely linked with the idea of social equity, is often thought of in terms of providing equal access for all residents to public services..."</p>

**Timing**

The most important ingredient for a successful transition to a process that tracks with budgetary and community goals and objectives is *time*. Staff is prepared to recommend three to four options for the board to consider.

Once a decision is made, however, nonprofits need at least an annual budget cycle to prepare. If a comprehensive grant cycle is ultimately selected, it will take time to develop policies, submission requirements, applications, and timelines.

EXHIBIT A

**OUTSIDE AGENCY SERVICES CONTRACT APPLICATION  
CITY OF FORT SMITH 2010 BUDGET**

For service providers seeking City of Fort Smith General Fund dollars in exchange for services, the following form and required attachments must be completed and submitted to the City Finance Department no later than **4:30p.m. on Monday, November 23, 2009**. **Requests received after this date and time will not be reviewed nor submitted for consideration by the Awards Committee.**

**ORGANIZATION:** \_\_\_\_\_

**CONTACT PERSON: (ALL QUESTIONS AND NOTICES WILL BE DIRECTED TO THIS PERSON AT THE ADDRESS LISTED BELOW DURING THE APPLICATION PROCESS AND REVIEW) :**

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

**PHONE:** \_\_\_\_\_

**\*E-MAIL ADDRESS:** \_\_\_\_\_

**\*Please use an address where e-mail is checked frequently**

**NUMBER OF YEARS SERVICE TO COMMUNITY:** \_\_\_\_\_

**AWARD CATEGORY: (Refer to Overall Program Purpose & Goals for Description of Category Parameters)**

\_\_\_\_\_ **ARTS AND HUMANITIES**

\_\_\_\_\_ **RECREATION**

\_\_\_\_\_ **SOCIAL & COMMUNITY SERVICES**

## SECTION 1 – STOP HERE!

APPLICANT MUST MEET ALL OF THE FOLLOWING REQUIREMENTS FOR PARTICIPATION IN THE SERVICE PROGRAM! (Yes or No Y/N)

- Located in the city limits of the City of Fort Smith, Arkansas
- Registered with the State of Arkansas Secretary of State's office
- Registered through the City of Fort Smith as a business and/or non-profit
- Received an independent audit in the past 12 months
- Filed IRS form 990 in the past 12 months
- Have regular board meetings  
(monthly, quarterly, semi-annually, or annually)

Exclusion from awarding public funds: faith-based organizations when the program will only benefit the organization and its members.

*If the applicant meets all of these minimum requirements, the organization may be eligible to participate in the City of Fort Smith's partnership with local service agencies that provide specialized services to citizens.*

*NOTICE: By applying for funds within the scope of this program, applicant may be subject to an unannounced site visit by citizen review panelists during normal business hours.*

### PURPOSE OF THIS PROGRAM

The purpose of partnering with local service agencies is to enable and assist non-profit organizations providing specialized services to citizens.

These services are deemed by the City of Fort Smith Board of Directors to be either necessary or beneficial to the economic, social or cultural well-being of Fort Smith, its citizens and guests of the community.

**Contracts** should allow the agency to accomplish at least one of these objectives:

- 1. Improving, expanding, or enhancing citizen services**
- 2. Achieving an important step in the organization's business model**
- 3. Meeting an unexpected demand for services or facilities construction or repair**

## SECTION 2

Section 2 is divided into three sections. Please complete *ONLY* the section corresponding with the category in which your organization is applying. These questions must be answered "yes" or "no" as designated by a "Y" or an "N." The section is worth a maximum of 70 points. A minimum of 55 points is required to proceed to Section 3. The questions are designed so that it is difficult, if not impossible, for any one organization to achieve a perfect score on this section. You will have an opportunity to address exceptions and other qualities unique to your organization in Section 3.

### Arts & Humanities

#### ARTS & HUMANITIES PURPOSE AND GOALS

Contracts should encompass at least one of the following objectives:

1. Recruitment and retention of knowledge-based workers
2. Recruitment and retention of health care professionals
3. Increasing accessibility of arts & humanities programs to the entire community, including non-traditional populations

If applicant seeks a partnership contract as an arts & humanities organization, answer these questions as Yes or No Y/N:

- Charges a fixed admission fee?
- Offers free admission and/or accepts donations for admission?
- Discounted or free admission to senior citizens or students?
- Belongs to or participates in a state, regional or national professional association?
- Accepts private donations?
- Applies for outside grants (this funding not included)?
- Engages in at least one annual fund raising campaign activity – for capital or operating expenses?
- Will the requested funds through the City of Fort Smith be depleted before the end of the year or project for which they are requested?
- Is one person responsible for continuity in decision-making and/or fiduciary responsibilities?
- Does this organization use volunteers?
- Does this organization have facilities for corporate and community meetings?  
**Circle best response: 50 or fewer – 50 or more**
- Does this organization offer any programs designed for school presentations?
- Does this organization offer an attraction to entice companies or industry to our area?
- Is your facility – or are your services - available more than 5 days per week or evenings, either regular hours or by special request?

(5 points each)

## SECTION 2 *continued*

Section 2 is divided into three sections. Please complete *ONLY* the section corresponding with the category in which your organization is applying. These questions must be answered "yes" or "no" as designated by a "Y" or an "N." The section is worth a maximum of 70 points. A minimum of 55 points is required to proceed to Section 3. The questions are designed so that it is difficult, if not impossible, for any one organization to achieve a perfect score on this section. You will have an opportunity to address exceptions and other qualities unique to your organization in Section 3.

### Recreation

#### RECREATION PURPOSE AND GOALS

Contracts should encompass at least one of the following objectives:

1. Enhancing an organization's ability to serve youth recreation leagues for current and future generations
2. Expanding a facility to accommodate larger regional events
3. Providing permanent facilities enhancements for recreational programs for all ages

If applicant seeks a partnership contract as a recreation organization, answer these questions as Yes or No Y/N:

- Offers free admission and/or accepts donations for admission?
- Does this organization have permanent facilities for recreational programs for all ages?
- Does this organization provide recreational activities to youth, senior citizens and/or special needs clients?
- Accepts private donations?
- Applies for outside grants (this funding not included)?
- Engages in at least one annual fund raising campaign activity – for capital or operating expenses?
- Will the requested funds through the City of Fort Smith be depleted before the end of the year or project for which they are requested?
- Is one person responsible for continuity in decision-making and/or fiduciary responsibilities?
- Does this organization use volunteers?
- Does this organization have facilities for corporate and community meetings?  
**Circle best response: 50 or fewer – 50 or more**
- Does this organization offer any programs designed for presentations to schools?
- Does this organization offer recreation events that entice companies or industry to our area?
- Is your facility – or are your services - available more than 5 days per week or evenings, either regular hours or by special request?
- Are you expanding a facility or facilities to accommodate larger regional events?

(5 points each)

## SECTION 2 *continued*

Section 2 is divided into three sections. Please complete *ONLY* the section corresponding with the category in which your organization is applying. These questions must be answered "yes" or "no" as designated by a "Y" or an "N." The section is worth a maximum of 70 points. A minimum of 55 points is required to proceed to Section 3. The questions are designed so that it is difficult, if not impossible, for any one organization to achieve a perfect score on this section. You will have an opportunity to address exceptions and other qualities unique to your organization in Section 3.

## Social & Community Services

### SOCIAL & COMMUNITY SERVICES PURPOSE AND GOALS

Contracts should encompass at least one of the following objectives:

1. Improving an organization's ability to provide niche services for citizens with special needs
2. Expanding an organization's ability to train local service agency employees, volunteers, and board members to better fulfill service and self-sustainability objectives

If applicant seeks a partnership contract as a social & community services organization, answer these questions as Yes or No Y/N:

- Accepts private donations?
- Applies for outside grants (this funding not included)?
- Engages in at least one annual fund raising campaign activity – for capital or operating expenses?
- Is one person responsible for continuity in decision-making and/or fiduciary responsibilities?
- Does this organization use volunteers?
- Serves, specifically, the senior or frail population?
- Serves, specifically, persons with special needs?
- Is your facility accessible to persons with disabilities?
- Will the requested funds through the City of Fort Smith be depleted before the end of the year or project for which they are requested?
- Is the program being applied for unique in Fort Smith?
- Does the program have a measurable impact on children and families with special needs?
- Does the program make a significant and sustainable change?
- Does the agency work in partnership with communities, governments, businesses and other non-profits?
- Does the organization train its board members, volunteers, advisory council and/or auxiliary?

(5 points each)



**OUTSIDE AGENCY CONTRACT PROPOSAL**

Page 7 of 8

- 3. Number of persons served by your organization – RECREATION OR SOCIAL/COMMUNITY SERVICES APPLICANTS, THIS NUMBER MUST REPRESENT FORT SMITH RESIDENTS ONLY. ARTS AND HUMANITIES APPLICANTS PLEASE PROVIDE TOTAL NUMBER OF PERSONS SERVED:**

**Cost/Benefit Ratio:** *Divide the money requested by number of persons served annually*

**TOTAL REQUEST FROM 2010 BUDGET:**

\$ \_\_\_\_\_ *money requested divided by*  
\_\_\_\_\_ *persons served annually =*  
\_\_\_\_\_ *cost/benefit ratio*

(PLEASE INCLUDE EXPLANATION IF NECESSARY)

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\_\_\_\_\_ **0 to 10 POINTS**

**\* Purpose of request must directly relate to the overall purpose and goals and at least one objective in the selected funding category**

**PURPOSE OF REQUEST:**

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\_\_\_\_\_ **0 to 10 POINTS**

**OUTSIDE AGENCY CONTRACT PROPOSAL**

Page 8 of 8

Please list all funding your agency receives in addition to funding from the City and the % with respect to your agency's annual budget (If you receive United Way funding, you may attach that funding sheet)

**RECEIVED FROM:**

**AMOUNT OF AWARD:**

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\* If your agency received funds from the 2009 City of Fort Smith budget and this request exceeds the 2009 allocation, please explain the reason for the increase below:

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I, \_\_\_\_\_ (print name), hereby certify that to the best of my knowledge the above information is correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## OVERALL PROGRAM PURPOSE AND GOALS

The purpose of partnering with local service agencies is to enable and assist non-profit organizations providing specialized services to citizens. These services are deemed by the City of Fort Smith Board of Directors to be either necessary or beneficial to the economic, social or cultural well-being of Fort Smith, its citizens and guests of the community.

**Contracts** should allow the agency to accomplish at least one of these objectives:

1. **Improving, expanding, or enhancing citizen services**
2. **Achieving an important step in the organization's business model**
3. **Meeting an unexpected demand for services or facilities construction or repair**

*Beyond these overarching goals for the entire program, it is recommended that the board of directors adopt a set of similar criteria for each category, providing more specific parameters by which each committee recommends award of contracts to applicants.*

### ***Arts & Humanities Purpose and Goals***

**Contracts** should encompass at least one of the following objectives:

1. Recruitment and retention of knowledge-based workers
2. Recruitment and retention of health care professionals
3. Increasing accessibility of arts & humanities programs to the entire community, including non-traditional populations

### ***Recreation Purpose and Goals***

**Contracts** should encompass at least one of the following objectives:

1. Enhancing an organization's ability to serve youth recreation leagues for current and future generations
2. Expanding a facility to accommodate larger regional events
3. Providing permanent facilities enhancements for recreational programs for all ages

### ***Social & Community Services Purpose and Goals***

**Contracts** should encompass at least one of the following objectives:

1. Improving an organization's ability to provide niche services for citizens with special needs
2. Expanding an organization's ability to train local service agency employees, volunteers, and board members to better fulfill service and self-sustainably objectives

## Outside Agency Review Panel 2011 Funding Cycle

### Preliminary Timeline – Revised

July 22, 2010

Early July	<ul style="list-style-type: none"> <li>Meeting between original task force and OAF panel to finalize workshop agenda and determine recommendations for board of directors <i>completed</i></li> </ul>	Staff/Task Force/Panel
Early July	<ul style="list-style-type: none"> <li>Set workshop time &amp; location <i>completed</i></li> <li>Send out notifications of OAF app schedule &amp; workshop dates</li> </ul>	Staff
Mid July	<ul style="list-style-type: none"> <li>Set workshop program, agenda, presenters</li> </ul>	Staff
July 27	<ul style="list-style-type: none"> <li>Board of Directors set to review 2011 city wide goals</li> <li>Request board to determine percentage allocations for categories</li> </ul>	Staff/Board
August 2	<ul style="list-style-type: none"> <li>OAF applications for 2011 released</li> </ul>	Staff/Applicants
August 12	<ul style="list-style-type: none"> <li>OAF workshop</li> </ul>	Staff/Applicants/Panelists if desired
September 15	<ul style="list-style-type: none"> <li>OAF application deadline – return to finance dept</li> </ul>	Applicants
September 16	<ul style="list-style-type: none"> <li>OAF full panel meets to review apps</li> </ul>	Full Panel/Staff
September 17	<ul style="list-style-type: none"> <li>Staff notifies applicants of any discrepancies or missing documents – provides time to correct</li> </ul>	Staff/Applicants
September 20	<ul style="list-style-type: none"> <li>Report to Board of Directors the number of applications submitted in each category and compute dollar allocations as predetermined by simple formula</li> </ul>	Staff
September 23	<ul style="list-style-type: none"> <li>OAF Recreation Review I</li> </ul>	Recreation Panel/Staff
September 30	<ul style="list-style-type: none"> <li>OAF Recreation Review II (if necessary)</li> </ul>	Recreation Panel/Staff
October 7	<ul style="list-style-type: none"> <li>OAF Arts &amp; Humanities Review</li> </ul>	A&H Panel/Staff
October 14	<ul style="list-style-type: none"> <li>OAF Arts &amp; Humanities Review II (if necessary)</li> </ul>	A&H Panel/Staff
October 21	<ul style="list-style-type: none"> <li>OAF Social/Community Services Review I</li> </ul>	SCS Panel/Staff
October 28	<ul style="list-style-type: none"> <li>OAF Social/Community Services Review II (if necessary)</li> </ul>	SCS Panel/Staff
November 4	<ul style="list-style-type: none"> <li>OAF full panel final review</li> </ul>	Full Panel/Staff
November 9	<ul style="list-style-type: none"> <li>Board Study Session to Review Final Recommendations</li> </ul>	Full Panel/Staff/Board
November 16	<ul style="list-style-type: none"> <li>Board of Directors Vote on 2011 Panel Recommendations</li> </ul>	Full Panel/Staff/Board



# MEMORANDUM

July 22, 2010

**TO:** Dennis Kelly, City Administrator

**FROM:** Ray Gosack, Deputy City Administrator

**SUBJECT:** Support for Agencies and Events

In addition to the \$227,700 provided for outside agency service contracts, the city also provides support for events and other organizations. Below is a summary of that support.

<b>EVENT/ORGANIZATION</b>	<b>IN-KIND SUPPORT</b>	<b>CASH PAYMENT</b>	<b>TOTAL</b>
Fort Smith Classic golf tournament	\$16,410	\$33,590	\$50,000
Riverfront Blues Festival (funded from countywide sales tax allocation for downtown)	\$4,136	\$30,000	\$34,136
Juneteenth Festival	\$5,200	\$9,800 (paid directly to vendors)	\$15,000
Fort Smith Museum of History - utilities (required by contract)	-0-	\$20,000	\$20,000
Donated Sanitation Services (2009, excluding services to city departments, detail attached)	\$71,473	-0-	\$71,473
Darby Foundation (for house repairs)	-0-	\$20,000	\$20,000
<b><u>Sales Tax Revenue Allocated for Senior Services</u></b>			
SRCA	-0-	\$175,156	\$175,156
Area Agency on Aging Project	-0-	\$50,000	\$50,000
Compassion	-0-	\$7,500	\$7,500

The U.S. Marshals Museum is making a request for \$100,000 in cash support for 2011. Its request is attached. In 2007, the city provided \$100,000 and Sebastian County provided \$115,071. The county has recently approved providing an additional \$115,071 for the U.S. Marshals Museum. The city has secured a \$250,000 federal earmark for the museum. Those funds may not be used for operating costs, and will likely be used to develop one or more exhibits for the museum. There's also been discussion about providing up to \$250,000 in annual museum support from the proceeds of a prepared food tax, should that tax be enacted.

Please contact me if there's any questions or a need for more information.

-Ray

Attachments

cc: Jim Dunn, U.S. Marshals Museum

Donated Sanitation Services						
Organization	2007*	2008*	2009*	2010* (as of July 21)	Container/Service Provided	Additional Information
Habitat for Humanity	\$ 3,987.62	\$ 3,463.40	\$ 4,137.65	\$ 1,314.91	20yd roll-off	Provides housing for low income families.
Salvation Army	14,998.15	22,879.71	26,977.63	12,107.52	30yd roll-off	Helps low income and homeless individuals.
Air National Guard	3,340.80	6,107.90	5,276.12	1,805.71	30yd roll-off	Pays for front load service at \$20,192.04 per year.
Riverfront Blues Festival	774.88	774.88	774.88	774.88	2 - 30yd roll-off	City sponsored event.
Fort Smith Classic	3,892.61	2,792.65	2,566.38	1,468.94	2 - 30yd, 1 - 40yd roll-off	City sponsored event.
Fort Smith Air Show	-	3,874.40	-	-	5 - 30yd roll-off	City sponsored event.
Merry Celebrity Classic	306.74	306.74	306.74	-	20yd roll-off	BBQ cook-off / donates to non-profit cancer organizations.
LC Carnival	306.74	306.74	306.74	306.74	20yd roll-off	Fundraiser for the church.
Boys and Girls Scouts	124.10	124.10	124.10	306.74	8yd - weekend for Boy Scout retreat	Pays for front load service \$1,436.04 per year.
Boys and Girls Club	124.10	124.10	124.10	-	8yd - 2 weeks at haunted house	Pays for front load service \$11,679.12 per year for all four locations.
Abilities Unlimited	16,136.40	16,136.40	16,136.40	8,068.20	2 - 8yd, 1 - 6 yd - daily	Provide jobs and training to mentally challenged individuals.
Lead-A-Hand, Inc.	-	7,633.78	1,404.06	-	40yd roll-off	Provide low income housing to citizens.
Kay Rodgers Park	8,140.41	9,343.80	9,343.80	4,671.90	2yd call in boxes	Currently pay full price for roll-off containers.
Fort Smith BBQ Society	613.48	613.48	613.48	613.48	2 - 20yd roll-off	Benefits the Fort Smith Boys Shelter
B.E.L.C.H. Chili Cookoff	306.74	306.74	306.74	306.74	20yd roll-off	Benefits the Fort Smith Boys Shelter
Port of Fort Smith	-	-	3,074.11	-	Various sizes	Front load and roll-off disposal services to City departments.
City of Fort Smith Depts.	76,183.74	81,132.30	86,670.58	42,420.89		
<b>Subtotal</b>	<b>\$ 129,236.51</b>	<b>\$ 155,921.13</b>	<b>\$ 158,143.71</b>	<b>\$ 74,166.65</b>		

\*Pricing varies based on the size of the container and frequency of collection.

**Approved Landfill Fee Reductions 2007 - 2009**

Organization	Actual Cost	Negotiated Cost	Approved Landfill Fee Reductions	Savings to Organization	Additional Information
R.H. Glenn	\$ 130,450.76	\$ 75,000.00	\$ 55,450.76	\$ 55,450.76	Bookstone Manor Demolition (2007)
Arvest Bank	33,230.40	7,953.40	25,277.00	25,277.00	Garrison Manor Branch (2008)
Fort Smith Housing Authority	181,129.26	13,365.50	167,763.76	167,763.76	Ragon Homes Demolition (2009)
Fort Smith Redevelopment*	83,283.82	45,905.79	37,378.03	37,378.03	Phoenix Village Mall (2009 - 2010)
<b>Subtotal</b>	<b>\$ 428,094.18</b>	<b>\$ 142,224.69</b>	<b>\$ 285,869.49</b>	<b>\$ 285,869.49</b>	

\*\*Project is ongoing. Savings based on a tonnage tier structure.

**Total Cost of Donated Services and Landfill Fee Reductions (2007-2010) \$ 571,027.13**



July 21, 2010

Mr. Dennis Kelly  
City Administrator  
P.O. Box 1908  
Fort Smith, AR 72902

Re: U. S. Marshals Museum appropriation request

Dear Mr. Kelly:

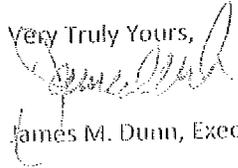
On behalf of the Board of Directors, thank you for your past support of the U. S. Marshals Museum. We are asking the City of Fort Smith to consider an appropriation of \$100,000 from the 2011 city budget. The City generously provided an appropriation of \$100,000 in October, 2007. In April, 2010, the USMM asked the Quorum Court to duplicate its 2007 gift of \$115,071, and such an appropriation was approved in May. These funds will support ongoing operations as the staff of 5, including a full time volunteer, supports a \$50,000,000 capital campaign to build a 50,000 sq. ft. national museum honoring the United States Marshals. The City's support is crucial to the success of this project.

The U. S. Marshal Museum will provide a great economic boost to this region. Please consider:

- The Museum's business plan projects a direct payroll of over \$930,000; as with almost all businesses in Fort Smith, it will provide jobs for those living in Fort Smith and surrounding areas.
- Visitors to the Museum in the first year of operation are estimated to be 115,000; the economic impact on Sebastian County and surrounding areas is expected to exceed \$5 million with the creation of 60 new jobs.
- Construction of the 50,000 sq. ft., \$50,000,000 museum will create substantial economic activity in the region.
- Increased tourism will spur downtown and riverfront development, increasing sales tax and rising property values, resulting in increased tax revenue to the city and county.
- The U.S. Marshals Museum project enjoys wide popular support and is deeply intertwined with the history of Sebastian County and Western Arkansas.
- The U. S. Marshals were first appointed by President George Washington in 1789, making them the oldest law enforcement agency in the country; the Museum will seek to honor President's Washington's vision of the U. S. Marshals.

We look forward to the continuing partnership with Fort Smith in making this Museum a reality.

Very Truly Yours,

  
James M. Dunn, Executive Director

cc: Barbara Harvel

Attachments:  
Budget, 2010-2011  
Frequently Asked Questions  
Description of Services

U.S. Marshals Museum, Inc.  
Annual Operating Budget FY2010-11

Revenue and Support

43400	Direct Public Support		
43600	Governmental	\$	-
43610	County	\$	115,000.00
43620	City	\$	-
43630	State	\$	-
43640	Federal	\$	-
	<b>Total</b>	\$	<u>115,000.00</u>

43500	In Kind Donations		
43510	Donated Accounting Fees	\$	4,000.00
	<b>Total</b>	\$	<u>4,000.00</u>

44400	Grants and Sponsorships		
44410	Grants	\$	-
44440	Sponsorships Educational Programs	\$	-
	<b>Total</b>	\$	<u>-</u>

45000	Investment Income		
45030	Interest Income	\$	14,000.00
45040	Gain (loss) on investments	\$	-
	<b>Total</b>	\$	<u>14,000.00</u>

46400	Special Fundraisers		
46425	Calendar Income	\$	7,500.00
46426	Calendar Expense	\$	(8,000.00)
46440	Watch Income	\$	39,800.00
46441	Watch Expense	\$	(25,750.00)
	<b>Total</b>	\$	<u>13,550.00</u>

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<b>Total Revenue and Support</b>	<b>\$ 146,550.00</b>
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Expenses

60600	Regular Board		
60610	Meeting Expenses	\$	500.00
60615	Orientation and Meals	\$	1,000.00
60620	D&O Insurance	\$	900.00
	<b>Total</b>	\$	<u>2,400.00</u>

60900	Business Expenses		
60920	Business Registration Fees	\$	-
60925	Commercial General Liability Pkg.	\$	900.00
60928	Worker's Comp	\$	675.00
	<b>Total</b>	\$	<u>1,575.00</u>

U.S. Marshals Museum, Inc.  
Annual Operating Budget FY2010-11

62100 Contract-Profess. Services		
62110 Donated Accounting Fees	\$	4,000.00
62142 Accounting Fees	\$	9,000.00
62155 Technology Expenses	\$	3,000.00
62160 Edu. Visitor Services Consultant	\$	-
62170 Website Expense	\$	35,000.00
62140 Legal Fees	\$	5,000.00
Total	\$	56,000.00
62200 Fundraising Expenses		
62210 Donor Cultivation	\$	2,000.00
62215 Campaign Consultant expenses	\$	20,000.00
62219 Campaign Consultant	\$	120,000.00
62220 Printing	\$	6,500.00
62230 Special Events	\$	-
62231 Event Catering	\$	14,000.00
62232 Decorations	\$	900.00
62233 Photography	\$	400.00
62234 Postage/Shipping	\$	350.00
62235 Invitations/Programs	\$	3,000.00
62240 Recognition	\$	1,650.00
62250 Graphic Production	\$	3,000.00
62280 Travel	\$	-
62281 Lodging	\$	11,500.00
62282 Registration fees	\$	500.00
62283 Meals	\$	4,000.00
62284 Airfare	\$	21,000.00
62285 Other	\$	1,000.00
62286 Mileage	\$	6,250.00
62290 Foundation Board Expenses	\$	-
62291 Meeting Meals	\$	750.00
62295 Supplies	\$	1,000.00
62297 Software	\$	500.00
62298 Miscellaneous	\$	2,000.00
Total	\$	220,300.00
62600 Continuing Education		
62610 Books & Materials	\$	500.00
62620 Professional Dues	\$	500.00
62630 Memberships	\$	-
Total Continuing Education	\$	1,000.00
62800 Facilities and Equipment		
62810 Depreciation and Amortization	\$	-
62840 Equipment/Purchases	\$	3,500.00
62845 Furnishings	\$	-
62850 Janitorial	\$	1,850.00
62890 Rent	\$	16,608.00
62895 Renovation	\$	-
Total	\$	21,958.00
62900 Marketing and Advertising		
62910 Printed Materials	\$	1,000.00
62920 Advertising	\$	500.00
62950 Public Relations	\$	500.00
Total	\$	2,000.00

U.S. Marshals Museum, Inc.  
Annual Operating Budget FY2010-11

63100	Educational Programming		
63110	Safe Kids Program		
	Sponsorship	\$	(9,500.00)
	Expense	\$	14,000.00
63140	AHC Toolkits Income	\$	(9,890.00)
	AHC Toolkits Expense	\$	9,890.00
needs #	Civil Rights Program-Spring 2011 Income	\$	(25,000.00)
	Civil Rights Program-Spring 2011 Expense	\$	25,000.00
	<b>Total</b>	\$	<b>4,500.00</b>
65000	Office Expenses		
65020	Postage, Mailing Service	\$	1,000.00
65030	Printing & Copying	\$	1,500.00
65045	Office Supplies	\$	4,500.00
65050	Telephone-Telecommunications	\$	5,000.00
65060	Software	\$	7,000.00
	<b>Total</b>	\$	<b>19,000.00</b>
65100	Other		
65150	Memberships and Dues	\$	600.00
65160	Other Costs	\$	500.00
	<b>Total</b>	\$	<b>1,100.00</b>
65200	Staff Expenses		
65225	Payroll Taxes	\$	20,000.00
65230	Salaries	\$	207,500.00
65270	Staff Development	\$	-
65280	Travel		
65281	Lodging	\$	4,000.00
65282	Registration fees	\$	500.00
65283	Meals	\$	1,500.00
65284	Airfare	\$	5,000.00
65285	Other	\$	1,000.00
65286	Mileage	\$	3,500.00
	<b>Total</b>	\$	<b>243,000.00</b>

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<b>TOTAL EXPENSES</b>	\$	<b>572,833.00</b>
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Excess, Operation Expenses Over Income \$ (426,283.00)

**U.S. MARSHALS MUSEUM, INC.**

**FINANCIAL STATEMENTS**

**FOR THE YEARS ENDED JUNE 30, 2009 AND 2008**

**LAWRENCE, SCHLUTERMAN & SCHWARTZ, LTD.**  
Certified Public Accountants

**U.S. MARSHALS MUSEUM, INC.**

**JUNE 30, 2009 AND 2008**

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# LAWRENCE, SCHLUTERMAN & SCHWARTZ, LTD.

Certified Public Accountants

2411 South Waldron Road  
Fort Smith, Arkansas 72903  
Telephone (479) 484-7211  
Fax (479) 484-7802

W. Sid Lawrence, CPA  
Michael L. Schluterman, CPA  
Larry J. Schwartz, CPA

## Independent Auditors' Report

**To the Board of Directors**  
U.S. Marshals Museum, Inc.  
Fort Smith, Arkansas

We have audited the accompanying statements of financial position of the U.S. Marshals Museum, Inc. (the Organization) (a nonprofit organization) as of June 30, 2009 and 2008 and the related statements of activities and cash flows for the years then ended. These financial statements are the responsibility of the Organization's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Marshals Museum, Inc. as of June 30, 2009 and 2008, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

*Lawrence, Schluterman & Schwartz, Ltd.*

Lawrence, Schluterman & Schwartz, Ltd.  
Certified Public Accountants

Fort Smith, Arkansas  
May 24, 2010

**U.S. MARSHALS MUSEUM, INC.**  
**STATEMENTS OF FINANCIAL POSITION**  
**JUNE 30, 2009 AND 2008**

	2009	2008
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents (restricted cash of \$608 and \$2,228, respectively)	\$ 1,497,510	\$ 2,288,458
Pledges receivable (restricted)	119,357	-
Total Current Assets	<u>1,616,867</u>	<u>2,288,458</u>
<b>PROPERTY AND EQUIPMENT</b>		
Construction in progress	492,303	28,092
Furniture and equipment	6,564	4,944
	<u>498,867</u>	<u>33,036</u>
Less accumulated depreciation	1,370	533
	<u>497,497</u>	<u>32,503</u>
Land (restricted)	1,018,000	1,018,000
	<u>1,515,497</u>	<u>1,050,503</u>
<b>OTHER ASSETS</b>		
Pledges receivable (restricted)	62,257	-
<b>TOTAL ASSETS</b>	<u><u>\$ 3,194,621</u></u>	<u><u>\$ 3,338,961</u></u>
<b>LIABILITIES AND NET ASSETS</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable	\$ -	\$ 4,492
Payroll taxes withheld and payable	104	3,171
Total Current Liabilities	<u>104</u>	<u>7,663</u>
<b>NET ASSETS</b>		
Unrestricted	1,994,295	2,311,070
Temporarily restricted	1,200,222	1,020,228
<b>TOTAL NET ASSETS</b>	<u>3,194,517</u>	<u>3,331,298</u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<u><u>\$ 3,194,621</u></u>	<u><u>\$ 3,338,961</u></u>

See Independent Auditors' Report and Notes to Financial Statements.

**U.S. MARSHALS MUSEUM, INC.**  
**STATEMENTS OF ACTIVITIES**  
**YEARS ENDED JUNE 30, 2009 AND 2008**

	<b>2009</b>	<b>2008</b>
<b>UNRESTRICTED REVENUE AND SUPPORT</b>		
State government grants	\$ -	\$ 2,200,000
Local government grants	-	215,071
Contributions		
Corporate and individual	45,266	13,525
Affiliated organizations	5,000	1,860
In-kind	3,724	56,012
Special events	23,000	-
Program service fees	105	-
Interest income	25,213	12,738
Loss on investments	(1,527)	-
	100,781	2,499,206
<b>NET ASSETS RELEASED FROM RESTRICTIONS</b>		
Satisfaction of donor restrictions	1,620	4,197
	102,401	2,503,403
<b>TOTAL UNRESTRICTED REVENUE, SUPPORT AND RECLASSIFICATIONS</b>		
<b>EXPENSES</b>		
Board expenses	2,590	3,869
Business registration fees	750	850
Education	24,477	1,164
Facilities and equipment	12,894	8,497
Marketing and advertising	33,983	1,029
Miscellaneous	1,191	394
Office expenses	8,771	6,768
Payroll expenses	179,172	119,252
Professional services	145,094	62,942
Travel and meetings	10,254	4,346
	419,176	209,111
<b>TOTAL EXPENSES</b>		
	(316,775)	2,294,292
<b>CHANGE IN UNRESTRICTED NET ASSETS</b>		

See Independent Auditors' Report and Notes to Financial Statements.

**U.S. MARSHALS MUSEUM, INC.**  
**STATEMENTS OF ACTIVITIES**  
**YEARS ENDED JUNE 30, 2009 AND 2008**

	2009	2008
<b>TEMPORARILY RESTRICTED NET ASSETS</b>		
<b>REVENUE AND SUPPORT</b>		
Contributions	181,614	-
Pledges receivable	-	1,018,000
Land donation	-	6,425
Local foundation	<u>-</u>	<u>6,425</u>
 Total temporarily restricted revenue and support	 181,614	 1,024,425
 <b>NET ASSETS RELEASED FROM RESTRICTIONS</b>		
Satisfaction of donor restrictions	<u>(1,620)</u>	<u>(4,197)</u>
 <b>CHANGE IN TEMPORARILY RESTRICTED NET ASSETS</b>	 <u>179,994</u>	 <u>1,020,228</u>
 <b>CHANGE IN NET ASSETS</b>	 (136,781)	 3,314,520
 <b>NET ASSETS, BEGINNING OF YEAR</b>	 <u>3,331,298</u>	 <u>16,778</u>
 <b>NET ASSETS, END OF YEAR</b>	 <u><u>\$ 3,194,517</u></u>	 <u><u>\$ 3,331,298</u></u>

See Independent Auditors' Report and Notes to Financial Statements.

**U.S. MARSHALS MUSEUM, INC.**  
**STATEMENTS OF CASH FLOWS**  
**YEAR ENDED JUNE 30, 2009 AND 2008**

	<b>2009</b>	<b>2008</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Change in net assets	<u>\$ (136,781)</u>	<u>\$ 3,314,520</u>
Adjustments to reconcile change in net assets to net cash from (used for) operating activities:		
Depreciation	837	533
Loss on investments	1,527	
Noncash contributions and awards	(8,812)	(1,018,000)
Change in:		
Pledges receivable	(181,614)	-
Accounts payable	(4,492)	-
Payroll taxes withheld and payable	<u>(3,067)</u>	<u>3,171</u>
Total adjustments	<u>(195,621)</u>	<u>(1,014,296)</u>
Net Cash From (Used For) Operating Activities	<u>(332,402)</u>	<u>2,300,224</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Capital expenditures	(465,831)	(25,583)
Proceeds from sale of investments	<u>7,285</u>	<u>-</u>
Net Cash (Used For) Investing Activities	<u>(458,546)</u>	<u>(25,583)</u>
<b>NET CHANGE IN CASH AND CASH EQUIVALENTS</b>	(790,948)	2,274,641
<b>CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR</b>	<u>2,288,458</u>	<u>13,817</u>
<b>CASH AND CASH EQUIVALENTS, END OF YEAR</b>	<u><u>\$ 1,497,510</u></u>	<u><u>\$ 2,288,458</u></u>

See Independent Auditors' Report and Notes to Financial Statements.

**U.S. MARSHALS MUSEUM, INC.**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2009 AND 2008**

**NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Nature of Business***

The U.S. Marshals Museum, Inc. (the Organization) is a nonprofit organization incorporated under the laws of the State of Arkansas. In January 2007, the City of Fort Smith, Arkansas was selected as the host city for the new museum of the U.S. Marshals Service (the Service). The Organization was formed to construct and operate the national museum (the Museum) with exhibits, technology, and interactives that tell the stories of the Services' 220 plus year history. Additionally, the Organization provides community education and training programs.

***Basis of Accounting***

The Organization's policy is to prepare its financial statements on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America. Revenues, net of any sales taxes, are recognized in the period in which they are earned. Expenses are recognized in the period in which they are incurred.

***Use of Estimates***

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

***Recent Accounting Pronouncements***

In June 2009, the Financial Accounting Standards Board (FASB) issued the Accounting Standards Codification (Codification). Effective July 1, 2009, the Codification is the single source of authoritative accounting principles recognized by the FASB to be applied by nongovernmental entities in the preparation of financial statements in conformity with accounting principles generally accepted in the United States of America. The Codification is intended to reorganize, rather than change, existing accounting principles generally accepted in the United States of America. Accordingly, all references to currently existing accounting principles generally accepted in the United States of America have been removed and replaced with references to the applicable FASB Codification Topic. The adoption of the Codification as of July 1, 2009 is not expected to have any impact on the Organization's financial position or results of operations.

***Cash Equivalents***

For purposes of the Statements of Cash Flows, the Organization considers all highly liquid investments that are both readily convertible to known amounts of cash and present insignificant risk of changes in value because of changes in interest rates to be cash equivalents.

**U.S. MARSHALS MUSEUM, INC.**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2009 AND 2008**

**NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - CONTINUED**

***Contributions***

Gifts of cash and other assets are recorded as unrestricted, temporarily restricted, or permanently restricted net assets, depending on the absence or existence and nature of any donor restrictions. Contributions are presented as restricted support if they are received with donor stipulations that limit the use of the donated assets. Permanently restricted net assets are those where the donor specifies that the principal amount of the donation may not be spent. Temporarily restricted donations are those where there is a time or purpose restriction that must be met before the net asset may be utilized. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified to unrestricted net assets and reported in the Statements of Activities as net assets released from restrictions. Contributions that are restricted by the donor are reported as increases in unrestricted net assets if the restrictions expire in the fiscal year in which the contributions are recognized.

Gifts of land, buildings, and equipment are presented as unrestricted support unless explicit donor stipulations specify how the donated assets must be used. Gifts of long-lived assets with explicit restrictions that specify how the assets are to be used and gifts of cash or other assets that must be used to acquire long-lived assets are reported as restricted support. Absent explicit donor stipulations about how long those long-lived assets must be maintained, the Organization reports expirations of donor restrictions when the donated or acquired long-lived assets are placed in service.

Contributed services which increase non-financial assets such as property or inventory, as well as services contributed by individuals with specialized skills which would have otherwise been purchased, are reported as unrestricted support. Other contributed services that enhance the Organization's programs, but are not so essential that they would otherwise be purchased, are not recorded as support.

***Property and Equipment***

With the exception of donated assets, property and equipment is stated at cost. Depreciation of property and equipment is computed on the straight-line method over the estimated useful lives of the assets, which range from five to seven years. Donated assets are recorded at fair market value on the date of donation.

***Income Taxes***

The Internal Revenue Service has ruled that the Organization qualifies under Section 501(c)(3) of the Internal Revenue Code and is, therefore, not subject to tax under present Federal income tax laws and a similar section of State income tax law. Consequently, no provision for income taxes is reflected in the accompanying financial statements.

***Advertising and Promotions***

The Organization follows the policy of charging advertising and promotions to expense as incurred.

**U.S. MARSHALS MUSEUM, INC.**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2009 AND 2008**

**NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - CONTINUED**

***Functional Allocation of Expenses***

The Organization allocates its expenses on a functional basis among its various programs and support services. Expenses that can be identified with a specific program and support service are allocated directly according to their natural expenditure classification. Other expenses that are common to several functions are allocated based on the salaries and wages expensed for the program during the year.

***Long-lived Assets***

FASB Codification Topic *Property, Plant and Equipment*, Section *Subsequent Measurements* requires that long-lived assets and certain identifiable intangibles held and used by an entity be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The application of this Codification Topic has not materially affected the Organization's change in net assets, financial condition or cash flows.

***Uncertain Tax Positions***

The Organization qualifies as an organization exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code and a similar state statute and is not subject to tax at the entity level for Federal and State income tax purposes. The Organization accounts for uncertain tax positions in accordance with the provisions of FASB Codification Topic *Income Taxes*. FASB Codification Topic *Income Taxes* clarifies the accounting for uncertainty in income taxes and requires the Organization to recognize in their financial statements the impact of a tax position taken or expected to be taken in a tax return, if that position is more likely than not to be sustained under audit, based on the technical merits of the position. Management has assessed the tax positions of the Organization and determined that no positions exist that require adjustment or disclosure under the provisions of FASB Codification Topic *Income Taxes*.

The Organization files informational "*Return of Organization Exempt from Income Tax*" (Form 990) in the U.S. Federal jurisdiction. With few exceptions, the Organization is not subject to U.S. Federal, State or local informational return examinations by tax authorities for the years before 2008 as that is the first year an informational return was required to be filed.

***Subsequent Events***

Subsequent events are evaluated through the end of the audit period, which is the date of the Independent Auditors' Report.

***Pledges Receivable***

Pledges receivable and unconditional promises to give that are to be received in less than one year are recorded at face value because of their short maturity. The value of pledges receivable and unconditional promises to give to be received in more than one year are estimated based on future cash flows discounted at approximately 4.32% for pledges receivable during the year ended June 30, 2009. There were no pledges receivable at June 30, 2008.

**U.S. MARSHALS MUSEUM, INC.  
NOTES TO FINANCIAL STATEMENTS  
JUNE 30, 2009 AND 2008**

**NOTE 2: TEMPORARILY RESTRICTED NET ASSETS**

At June 30, 2009 and 2008, temporarily restricted net assets are restricted for the following purposes:

	2009	2008
Land held for construction of the Museum	\$ 1,018,000	\$ 1,018,000
Pledges receivable - time and purpose	181,614	-
Purchase of software	608	2,228
	<u>\$ 1,200,222</u>	<u>\$ 1,020,228</u>

**NOTE 3: CONCENTRATIONS**

The majority of the Organization's support for the year ended June 30, 2009 was obtained from donations and pledges received from donors. For the year ended June 30, 2009, this support represented approximately 50% of the Organization's total unrestricted and temporarily restricted revenue and support.

The majority of the Organization's support for the year ended June 30, 2008 was derived from the State of Arkansas and local government awards. For the year ended June 30, 2008, this support represented approximately 96% of the Organization's total unrestricted revenue and support.

Additionally, for the year ended June 30, 2008, the Organization received a donation of land valued at \$1,018,000. This support represented virtually all of the Organization's total temporarily restricted revenue and support. As described in Note 2, this land is held for the construction of the Museum.

**NOTE 4: NONCASH INVESTING AND FINANCING ACTIVITIES**

During the year ended June 30, 2009, the Organization received a noncash contribution in the form of stock. The asset was recorded at its fair market value at the date of donation, which amounted to \$8,812.

During the year ended June 30, 2008, the Organization received a noncash contribution in the form of land. The asset was recorded at its fair market value at the date of donation, which amounted to \$1,018,000.

**U.S. MARSHALS MUSEUM, INC.**  
**NOTES TO FINANCIAL STATEMENTS**  
**JUNE 30, 2009 AND 2008**

**NOTE 5: FINANCIAL INSTRUMENTS WITH RISK OF ACCOUNTING LOSS**

The Organization uses financial institutions in which it maintains cash balances, which at times may exceed federally insured limits. The Organization has not experienced any losses in such accounts and management believes it is not exposed to any significant credit risk on cash. The Organization had no uninsured cash balances at June 30, 2009.

**NOTE 6: DESIGNATED NET ASSETS**

As of June 30, 2008, the Organization's Board of Directors approved the hiring of several firms for future contract service and professional fees, including fundraising counsel for the capital campaign, architects for a building schematic design, and exhibit designer for planning the museum exhibits. Approximately \$317,000 and \$900,000, respectively, of unrestricted assets for these services had been designated by the Board at June 30, 2009 and 2008.

**NOTE 7: PLEDGES RECEIVABLE**

Pledges receivable represent contributions pledged and unconditional promises to give that have not been collected. The pledges are from various individuals and business entities, the majority of whom are located in the Fort Smith, Arkansas area, and by their nature represent an intent to contribute at a later date. An allowance for uncollectible pledges was not deemed necessary at June 30, 2009.

	<b>2009</b>
Restricted	\$ 181,614
Unrestricted	-
Total pledges receivable	<u>\$ 181,614</u>

At June 30, 2009, pledges were receivable as follows:

Less than one year	\$ 119,357
One to five years	<u>62,257</u>
	<u>\$ 181,614</u>

During the year ended June 30, 2009, the Organization received notice of an intention to give of \$500,000 which is to be received in five annual installments of \$100,000, subject to annual approval by the donor's Board of Directors, beginning during the year ending June 30, 2011. The income on the intention to give will not be recorded until received.

The Organization has received indications of intentions to give in the form of bequests which are revocable during the donors' lifetime. Due to their uncertain nature, the Organization has not recognized an asset or contribution revenue for these intentions to give.

**U.S. MARSHALS MUSEUM, INC.  
NOTES TO FINANCIAL STATEMENTS  
JUNE 30, 2009 AND 2008**

**NOTE 8: FUNCTIONAL EXPENSES**

During the year ended June 30, 2009 and 2008, functional expenses were incurred for:

	<b>2009</b>	<b>2008</b>
Program Services	\$ 47,719	\$ 20,453
General and Administrative	133,340	117,986
Fundraising	<u>238,117</u>	<u>70,672</u>
	<u>\$ 419,176</u>	<u>\$ 209,111</u>

**NOTE 9: COMPENSATED ABSENCES**

Employees of the Organization are entitled to paid vacation, paid sick days, and personal days off, depending on the length of services and other factors. It is impractical to estimate the amount of compensation for future absences, and accordingly, no liability has been recorded in the accompanying financial statements. The Organization's policy is to recognize the costs of compensated absences when actually paid to employees.

**NOTE 10: AGREEMENTS**

During the year ended June 30, 2009, the Organization entered into an agreement with Christopher Chadbourne and Associates, Inc. to complete the exhibit design. The initial phase to create a master plan with a cost of approximately \$272,000 is to be completed during 2009. The complete work plan includes six phases culminating in the exhibit fabrication. The total amount of the contract, which can be terminated with 30 days notice, to be completed over a four to ten year period is \$2,042,504. Approximately \$272,000 in design fees were paid under this agreement during the year ended June 30, 2009 and were included in "construction in progress" on the Statements of Financial Position.

The Organization paid approximately \$91,000 during the year ended June 30, 2009 and \$47,000 during the year ended June 30, 2008 under agreements with campaign consultants. They also paid approximately \$191,000 for the year ended June 30, 2009 under agreements with architects (no amounts were paid for the year ended June 30, 2008).

**NOTE 11: SUBSEQUENT EVENTS**

In January 2010, 2.36 acres of land that adjoins the existing site for the future Museum was donated to the Organization. The value of this land at the date of donation was approximately \$850,000.

In March 2010, the Organization's Board of Directors approved a "Collections Management Policy" which covers the policies and procedures the Organization will follow when deciding to accept an artifact or object and the protocol for handling the item once accepted into the collection.

## FREQUENTLY ASKED QUESTIONS

1. How will the funds from an appropriation be used?

Answer: To help sustain operations of the Museum during the \$50 million capital campaign.

2. When completed, what will the economic impact of the Museum mean for the region?

Answer: Based upon two studies, the economic impact is estimated to be as follows:

- The Museum's business plan projects a direct payroll of over \$930,000; as with almost all businesses in Fort Smith, it will provide jobs for those living in Fort Smith, and surrounding areas.
- Visitors to the Museum in the first year of operation are estimated to exceed 115,000; the economic impact on Sebastian County and surrounding areas is expected to exceed \$5 million with the creation of 60 new jobs.
- Construction of the 50,000 sq. ft., \$50,000,000 museum will create substantial economic activity in the region.
- Increased tourism will spur downtown and riverfront development, increasing sales tax and rising property values, resulting in increased tax revenue to the city and county.

3. How many employees does the museum presently have and what are their salaries?

Answer: There are five full time employees and one part time employee. The salaries are as follows:

Executive Director:	\$42,500
Director of Development:	\$45,000
Director of Museum Operations:	\$52,500
Administrative Assistant:	\$28,000
Museum Assistant	volunteer
Part time employee	\$7.25 per hour

The Executive Director and the Director of Development reside in Fort Smith; the Director of Museum Operations resides in Bonanza; the Administrative Assistant and Museum Assistant reside in Oklahoma.

4. What benefits do the employees presently receive?

Answer: None, other than standard annual and sick leave.

5. Are other levels of government providing financial support?

Answer: Yes, all levels of government have provided financial assistance:

**Federal Government:** Has provided \$250,000 grant to City of Fort Smith for the benefit of the Museum. In addition, there is pending in Congress legislation which approved, would approve the minting of a United States Marshals Commemorative Coin which could provide \$5 million in support for the Museum.

**State Government:** The State of Arkansas has provided \$2 million dollars.

**Sebastian County:** Sebastian County appropriated \$115,071 for the Museum in September, 2007, and appropriated the same amount in May, 2010.

**City of Fort Smith:** Fort Smith provided substantial staff support and campaign materials for the successful "Bring it Home" Campaign. It also has provided in-kind office equipment that continues in use. It has further provided the staff support and expertise in funding requests from the federal government that has resulted in a \$250,000 to benefit the Museum. In addition, it appropriated \$100,000.00 for the museum in October 2007.

6. Will other levels of government provide additional support?

Answer: Predicting future governmental action is problematic. Museum staff remains in constant contact with local, state and federal governmental officials to explore future funding opportunities.

7. What is the status of fundraising?

Answer: The capital campaign announced reaching \$5 million last November. Since then, an additional gift of land valued at \$850,000.00 has been made. Significant additional gifts and pledges have been secured. The Museum makes periodic announcements and hopes to make additional announcements soon.

9. Are funds being raised nationally?

Answer: Yes. Efforts are underway now to raise money nationally. Pledges and gifts have been secured. National fundraising is time consuming and will continue for some period into the future.

10. When will construction begin?

Answer: We are proceeding at our donors pace. Construction will not begin until a substantial portion of the goal has been met by pledges or completed gifts.

11. Is the Museum staff available to answer questions?

Answer: Yes. The staff will be happy to answer questions by phone, 709-3766. In addition, you should feel free to come by the offices at 100 Garrison Avenue to discuss any matters of interest to you.

## Description of Services, U. S. Marshals Museum

The U.S. Marshals Museum's purpose is to build, maintain and operate a national museum honoring the service of the U. S. Marshals to the United States. President George Washington created the U. S. Marshals when he signed Senate Bill 1 into law less than 5 months into his presidency.

The Museum is currently in its capital campaign attempting to raise \$50 million to fund the construction of a 50,000 sq. ft. museum, featuring an iconic design. It will house three galleries, A Changing Nation; Frontier Marshals; and Marshals Today. It will also feature a Hall of Honor commemorating the service of over 250 Marshals and deputies who have lost their lives in the line of duty.

The Museum currently has five full time employees (one is a full time volunteer) with an annual payroll of \$163,500. Two employees reside in Fort Smith, one in Bonanza, and two in Oklahoma. When complete, the Museum is projected to have a direct payroll of over \$930,000. It is expected that its employees will be drawn from Fort Smith and surrounding areas, as is the case for virtually all businesses located in Fort Smith.

Two studies have been completed for the U.S. Marshals Museum. One, a "Feasibility Study for the U. S. Marshals Service Museum" was completed in November, 2006, and paid for by the City of Fort Smith. The other was completed in April, 2009. The latter study estimates that 115,000 people will visit the museum the first full year of operation.

Based upon the two studies conducted thus far, it is estimated that 60 new jobs will be created with an economic impact exceeding \$5 million. In addition, construction of the 50,000 sq. ft. building at a total project cost of \$50 million will have a positive economic impact on the region.

When complete, the U.S. Marshals Museum will be a museum of national importance and significance, a project that residents of this region can justly take pride. It will be a learning center for the history of the nation, the contributions made by the Marshals to the preservation of the Rule of Law, and will offer school children the opportunity to learn the values of "Justice, Integrity, and Service"

Continuing local support of the project, public and private, is key to securing additional support from both governmental and private sources. The past support by City of Fort Smith has been a major factor in the success of the U. S. Marshals Museum to date.



**MEMORANDUM**

July 22, 2010

**TO:** Dennis Kelly, City Administrator

**FROM:** Ray Gosack, Deputy City Administrator

**SUBJECT:** New Markets Tax Credits

Last month, the Board of Directors passed a resolution supporting the Fort Smith Housing Authority's proposal to use new markets tax credits. The federal tax credits can stimulate development in low-to-moderate income areas of Fort Smith.

The housing authority has prepared a redevelopment plan for the board's consideration. Arkansas law allows housing authorities to prepare and undertake such plans with approval of the municipality. The planning commission has conducted a public hearing and reviewed the plan. The commission voted unanimously (6 in favor, none opposed) to endorse the redevelopment plan.

During previous discussion, the board stated concern about the use of eminent domain. The use of eminent domain is outlined on page 19 of the redevelopment plan. In summary, eminent domain may be used only with the approval of the city Board of Directors.

Approval of the redevelopment plan will enhance the housing authority's likelihood of receiving an allocation of new markets tax credits. The redevelopment plan supports several goals of the city's comprehensive plan as outlined on pages 15 and 16. A draft resolution approving the plan is attached. The staff recommends approval of the resolution and redevelopment plan at the August 3<sup>rd</sup> board meeting.

Attachments

cc: Ken Pyle, Fort Smith Housing Authority

A handwritten signature in cursive script that reads "Ray".

**DRAFT**

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

**A RESOLUTION ADOPTING THE FORT SMITH REDEVELOPMENT PLAN 2010  
PROPOSED BY THE FORT SMITH HOUSING AUTHORITY**

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**WHEREAS**, the City of Fort Smith, Arkansas (“City”), is a body corporate and a political subdivision of the State of Arkansas, duly created, organized and existing under and by virtue of the laws of the State of Arkansas; and,

**WHEREAS**, pursuant to Resolution No. 106-10, the Board of Directors of the City endorsed and supported the proposal by the Fort Smith Housing Authority (“Housing Authority”) to prepare a redevelopment plan and to become a certified community development entity (“CDE”) in order to pursue the use of new markets tax credits to stimulate development and redevelopment projects in low-to-moderate income areas of Fort Smith; and,

**WHEREAS**, the Housing Authority will soon become a certified community development entity and has drafted the “Fort Smith Redevelopment Plan 2010” (“Redevelopment Plan 2010”); and,

**WHEREAS**, on July 13, 2010, after all proper notice was given, the Fort Smith Planning Commission held a public hearing and received comments from all interested persons affected by the proposed Redevelopment Plan 2010 and subsequently endorsed the Redevelopment Plan; and,

**WHEREAS**, the Redevelopment Plan 2010 proposes to redevelop the Redevelopment Area by the acquisition of the property within the Redevelopment Area, the preparation of the site and the development of new commercial, retail, industrial or housing uses, as set forth in the Redevelopment Plan 2010; and,

**WHEREAS**, the Board of Directors of the City of Fort Smith has determined that the proposed Redevelopment Plan 2010 is of economic significance to the City, will serve to benefit

**DRAFT**

the general welfare, that the proposed Redevelopment Plan 2010 involves an area where one or more slum, blighted, deteriorated, or deteriorating areas exist in the municipality and that the rehabilitation, conservation, redevelopment, or a combination thereof, of such areas is necessary in the interest of the public health, safety, morals or welfare of the residents of the municipality; and,

**WHEREAS**, it is necessary and desirable and in the best interest of the City to approve the Redevelopment Plan 2010 which will provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan which redevelopment includes, but is not limited to, assistance in the physical, economic, and social development of the City, providing for a plan for the optimal growth of the City, encouragement of a sense of community identity, safety and civic pride and the elimination of impediments to development in the City; and,

**WHEREAS**, the Board of Directors of the City of Fort Smith hereby determines that the Redevelopment Plan 2010, attached as Exhibit A hereto and incorporated herein by reference, is acceptable and that the proposed Redevelopment Plan 2010 is in the best interest of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specific in A.C.A. § 14-169-709.

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

**SECTION ONE:** The Board of Directors hereby ratifies and confirms its approval of the Fort Smith Redevelopment Plan 2010 and approves the plan in accordance with A.C.A. § 14-169-606. The Board of Directors specifically gives the Housing Authority the powers set forth in A.C.A. §§ 14-169-604, 14-169-705, 14-169-707 as well as the powers contained in A.C. A. § 14-

**DRAFT**

169-601, et. seq. and A.C.A. § 14-169-701, et. seq. and A.C.A. § 14-169-801, et. seq. subject to the restrictions set forth in the Redevelopment Plan 2010.

**SECTION TWO:** The Board of Directors finds and determines that the assistance of new markets tax credits is necessary and desirable in order to implement the Redevelopment Plan 2010 and to enable the Fort Smith Housing Authority to carry out the proposed Redevelopment Plan 2010.

**SECTION THREE: Severability.** It is hereby declared to be the intention of the Board of Directors that each and every part, section and subsection of this Resolution shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Directors intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Resolution shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Passed and approved this \_\_\_\_\_ day of August, 2010.

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney  
Publish \_\_ Time

## *Fort Smith Housing Authority*

2100 North 31<sup>st</sup> Street  
Fort Smith, Arkansas 72904  
(479) 782-4991 FAX (479) 782-0120

July 23, 2010

Honorable Ray Baker and  
Board of Directors  
623 Garrison Avenue  
Fort Smith, AR 72901

Dear Mr. Mayor and Directors:

The Fort Smith Housing Authority is asking the City to approve the Fort Smith Redevelopment Plan 2010. If the plan is approved, we will be able to undertake development and redevelopment projects as the Redevelopment Agency for the City under the Arkansas Housing Authority Act. The purpose of the Redevelopment Agency is to bring jobs and economic development to Fort Smith, especially in the low- to moderate-income areas. The Housing Authority believes it can assist the community to achieve that purpose.

Our status as a Redevelopment Agency will strengthen our standing as a U.S. Treasury Department certified Community Development Entity (CDE) when we apply for an allocation of New Markets Tax Credits in early 2011. The NMTCs can provide up to 25% of a development project's financing if the project is located in a low- to moderate-income census tract. This could mean significant improvements for a large portion of central and north Fort Smith. The tax credits will encourage qualified business and industry to locate in a low-income census tract and revitalize the area. Commercial, retail, industrial and housing development are potential business clients of the CDE.

There have been three public hearings held to answer questions, provide information and engage support:

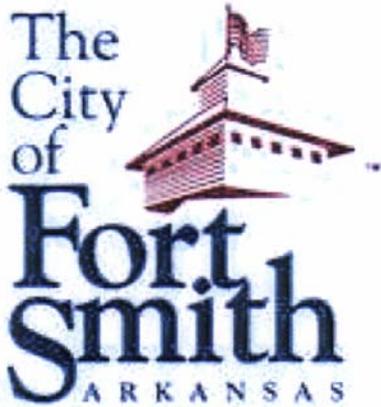
1. June 17 at United Methodist Church on North 10<sup>th</sup> Street sponsored by the Northside Town Branch Group. Approximately 40 persons attended.
2. July 8 at Elm Grove Community Center sponsored by the Housing Authority. Approximately 20 persons attended.
3. July 13 at Planning Commission voting meeting at Creekmore Park, Rose Room. Approximately 20 people plus the Planning Commission members were present.

We look forward to presenting the Plan to you at the Study Session on July 27, 2010.

Sincerely,



Kenneth L. Pyle  
Executive Director



# *Fort Smith*

REDEVELOPMENT PLAN

2010<sup>0</sup>

FORT  
SMITH  
HOUSING  
AUTHORITY



The Housing Authority of the City of Fort Smith

# Fort Smith

## Redevelopment Plan

**Mayor:** C. Ray Baker Jr.

**Directors:**

Steve Tyler  
André Good  
Rev. Don Hutchings  
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## Introduction

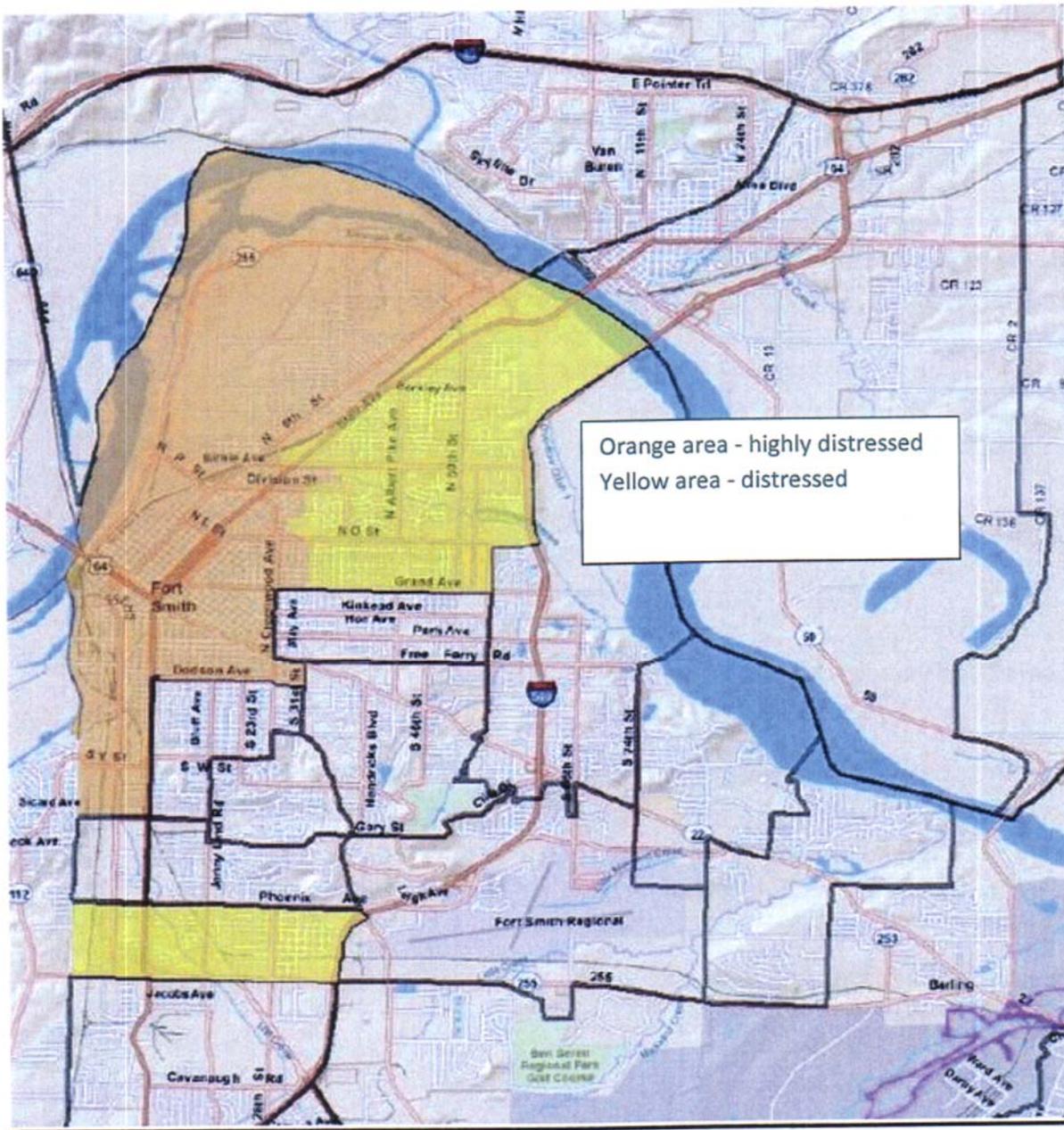
This is the Redevelopment Plan (the "Plan") for the City Redevelopment Project (the "Project") in the City of Fort Smith (the "City"), County of Sebastian, State of Arkansas, and consists of the census tracts 5131000100/200/ 300/ 400/501/800/, and 05131001202. The Project Area Map (Page 5), and the Redevelopment Area Zoning Map (page 16) describe the physical condition and existing zoning. This Plan was prepared by the Redevelopment Agency of the City of Fort Smith (the "Agency") pursuant to the Community Redevelopment Law of the State of Arkansas and Ark. Code Ann. SEC. 14-169-601, et seq. (the "Community Redevelopment Law"), the Arkansas Constitution and all applicable local laws and ordinances. The proposed redevelopment of the Project Area as described in this Plan conforms to the current Master Land Use Plan, Unified Development Ordinance (UDO) and Comprehensive Plan for the City of Fort Smith. All projects will comply with the City of Fort Smith construction standards for infrastructure and buildings. On June 1, 2010 the City adopted Resolution No. R-106-10 supporting the Fort Smith Housing Authority and its efforts to use New Markets Tax Credits to stimulate development and redevelopment of Fort Smith, Arkansas.

The Plan was adopted by the Board of Directors of the City of Fort Smith (the "Board of Directors") on August\_\_\_\_, 2010. The Plan is based upon a preliminary Plan reviewed and endorsed by the Planning Commission of the City of Fort Smith (the "Planning Commission") on July 13, 2010 as accepted by the Agency by Resolution No. \_\_\_\_\_, adopted on July \_\_\_\_\_, 2010. The Plan describes the powers, duties and obligations of the Agency to implement and further the redevelopment, rehabilitation and revitalization of the area within the boundaries of the Project (the "Project Area").

Because of the long-term nature of this Plan and the need to retain Agency flexibility to respond to market and economic conditions, property owner and developer interests and opportunities from time to time presented for redevelopment, this Plan does not present a precise schedule of specific projects for the redevelopment, rehabilitation and revitalization within the Project Area. Additionally, the Plan does not present specific proposals to solve or alleviate the concerns and problems of the community relating to the Project Area. Instead, the Agency will work with property owners and developers who wish to advance projects in the eligible areas for which they have identified potential funding sources, but lack full funding. As funding opportunities are identified and projects become ready to proceed, the Agency will assist in putting the final agreements in place to begin redevelopment.

In the accomplishment of these purposes and activities and in the implementation and furtherance of this Plan, the Agency is authorized to use all the powers provided in this Plan and all the powers now or hereafter permitted by law.

## II. Map of Redevelopment Area



Courtesy of Novogradac & Company LLP

## I. Census Tract Data in Redevelopment Area 2000 Fort Smith

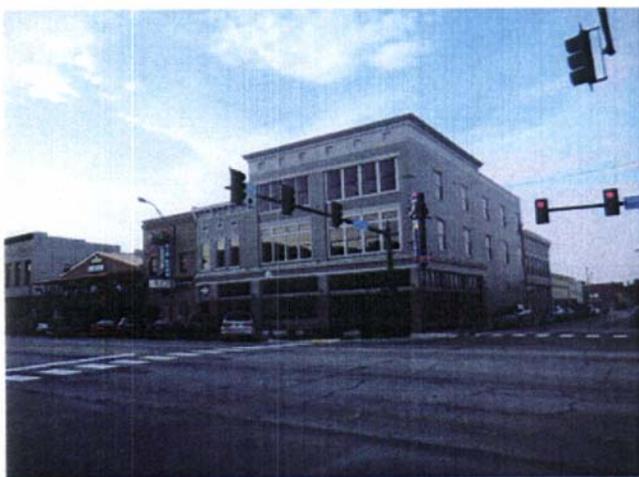
Census Tract:	5131000100	/200	/300	/400	/501	/502	/800	/1202
Status:	Distressed	Very Distressed	Very Distressed	Very Distressed	Distressed	Distressed	Very Distressed	Distressed
Distressed - Poverty Rate:	27.69%	26.50%	33.70%	27.90%	24%	21.2%	25.90%	16.3%
Distressed - Median Family Income Ratio:	80.1%	61.80%	60.30%	68.80%	82.37%	103.7%	84.20%	74%
Distressed - Unemployment Rate:	5.7%	9.60%	11.80%	9.90%	7.6%	3.1%	8.70%	5.1%
2000 Population:	5600	4,409	2,572	3,714	4,756	2,813	4,898	2,969
MSA Median Family Income(\$):	37,051	37,051	37,051	37,051	37,051	37,051	37,051	37,051
State Median Family Income (\$):	38,637	38,637	38,637	38,637	38,637	38,637	38,637	38,637

Courtesy of Novogradac & Company LLP

## IV. Major Goals:

- A. Implement the policies identified in the comprehensive plan regarding redevelopment activities to be carried out in distressed areas.
- B. Stimulate in-fill development and land assembly opportunities on blighted, abandoned, underutilized and vacant properties in the Project Area.
- C. Stimulate opportunities for adaptive re-use and preservation of existing building stock in the Project Area.
- D. Attract new businesses and retain existing businesses in the Project Area, providing job training and employment opportunities for Project Area residents.
- E. Improve transportation, open space, parking, and other public facilities and infrastructure throughout the Project Area.
- F. Stimulate home ownership opportunities in the Project Area.
- G. Improve the quality of the residential environment by assisting in new construction, rehabilitation and conservation of living units in the Project Area, including units affordable to low and moderate income households.
- H. Revitalize neighborhood commercial areas and strengthen retail in the Project Area.
- I. Where economically feasible apply green/sustainable principles to redevelopment projects.

These goals conform to the purposes of redevelopment as stated in the Community Redevelopment Law. These purposes include the elimination of blight, the planning, development, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of a project area, and the provision of residential, commercial, industrial, public, or other structures or spaces (including recreational and open space) as may be appropriate or necessary in the interest of the general welfare.



## V. Redevelopment Strategies

1. Assembling adequate sites for the development and construction of residential, commercial, industrial, or public facilities;
2. Demolishing or removing buildings and improvements, when necessary;
3. Conveying sites to redevelopers for the development and construction of residential, commercial, industrial, or public facilities\*;
4. Promoting redevelopment by private redevelopers or other public agencies for uses in accordance with this Plan;
5. Supporting the rehabilitation of residential, commercial, industrial, or public structures and improvements by present owners, redevelopers, and the Agency;
6. Providing for participation by current owners and tenants and the extension of preferences to current business occupants and other tenants;
7. Providing relocation assistance to occupants displaced by the Project, as required by law;
8. Managing property under the ownership and control of the Agency;
9. Supporting the installation, construction, reconstruction, or enhancement of streets, utilities, parks and open space, and other public improvements; and
10. Supporting the new construction, rehabilitation, preservation, and increased availability of housing affordable to low and moderate income households.

As part of its efforts to pursue such redevelopment in the Project Area, and pursuant to the recommendations of the citizenry and private enterprise, the Agency intends to establish new redevelopment programs, or expand existing programs, including but not limited to programs in the following areas: façade improvement; infrastructure improvements; retail and commercial recruitment; historic preservation; major employer incentives; land assembly and relocation; community facilities; public/private development; and housing.

In the accomplishment of these purposes and activities and in the implementation and furtherance of this Plan, the Agency is authorized to use all the powers provided in this Plan and all the powers now or hereafter permitted by law, except as may be otherwise limited or provided for herein.

*\*14-169-701 (3)* ...A municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this subchapter, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of areas by private enterprise.

## VI. Potential Projects

- U.S. Marshals Museum
- Sparks Hospital Expansion
- New Theater Preservation and Renovation
- Mixed Use / Commercial Redevelopment in the CBID
- City Hall Construction in CBID
- Farmers Market Expansion
- Parking Structure Development
- Ballpark/ Recreation Facilities
- Arkansas River Waterfront Development / Marina / Mixed Use
- Housing
- Neighborhood Commercial, Retail, and Mixed Use
- Homeless Campus
- Head Start Center
- Mallelieu Church Preservation and Renovation



Conceptual representation of the proposed U.S. Marshal's Museum on Riverfront

## VII. Financing, Taxes and Incentives

The Redevelopment Plan as conceived intends to take advantage of new tools devised by the U.S. Treasury, Community Development Financial Institutions Fund, specifically the New Markets Tax Credit Program. This program, in addition to others mentioned later, assist the redevelopment of eligible areas possessing a strategy for renewal and an opportunity for catalytic change. The program provides incentives for private investment in commercial development that creates new jobs. Mixed use projects which include a housing component are allowed, but the program is not specifically designed to provide housing. It is ideal however for facilities such as the U.S. Marshal's Museum, the New Theater on 10<sup>th</sup> Avenue, and the Sparks Hospital Doctors Office Expansion and other CBID development.

The Treasury recently announced another new program, the Capital Magnet Fund (CMF), intended to attract private capital for housing development or rehabilitation. The CMF program is meant to leverage other funding to produce the maximum number of units over a five-year period.

The Treasury's Build America Bonds program (BABs) offers governmental purpose bonds meant only to finance projects owned by local government. A City Hall would be a good example. This program gives local government issuers greater access to the debt markets, and although the bonds are taxable the treasury sends a check that pays 35% of the interest cost that effectively causes a net reduction to the cost of borrowing.

Disaster Recovery Capital Facilities Bonds are another new source of financing that can be used to develop private sector opportunities.

### Taxes and Incentives

Overall, the state of Arkansas is found to have one of the more prohibitive tax environments in the country. Corporate income taxes are relatively high (39th in the country), but unemployment insurance taxes are relatively favorable (17th) to business. However, the tax environment in Arkansas is not as favorable as that of all neighboring states. In bordering states of Missouri and Oklahoma, corporate income and unemployment insurance taxes are among the lowest in the nation. In addition to extremely low electricity rates, companies placing a strong emphasis on the tax environment during the site selection process may consider locations in neighboring counties if tax savings are significant enough to counterbalance other favorable reasons to locate in more populous and developed counties in Arkansas.

A variety of state and local incentives are available in the state; depending on the project, such incentives may significantly reduce the tax burden facing an existing or prospective new employer. Such incentives include:

- The Advantage Arkansas Income Tax Credit provides a credit on state income tax between one percent and four percent of new payroll for five years, depending on the location of the project within the state.

- The Tax Back Refund Program provides sales and use tax refunds for building materials and taxable equipment connected with an eligible project. The state has limited the scope of the refund program but a variety of targeted, non-retail sectors are eligible for the refund.
- The InvestArk Sales and Use Tax Credit is available to businesses established in Arkansas for at least two years that invest at least \$5 million or more in the construction, expansion, or modernization of plant or equipment.
- The Create Rebate Program provides businesses a rebate from 3.9 percent to 5.0 percent of annual payroll of new, full-time employees, depending on the location of the project in the state. Eligibility is limited to the same non-retail sectors that are eligible for the Tax Back Refund Program.
- The ArkPlus Tax Credit is an income tax credit for new or expanding companies in the state that cannot exceed 50 percent of the eligible company's income tax liability resulting from the project. Eligibility is limited to the same non-retail sectors that are eligible for the Tax Back Refund Program and the Create Rebate Program.
- The state offers a number of other Targeted Business Incentives to new knowledge-based companies in their early years, including a variety of income, payroll, and sales and use tax credits.
- The Research and Development Tax Credit offers eligible businesses that contract with one or more Arkansas colleges or universities to perform research receive a 33 percent income tax credit. Companies performing in-house research may receive a 20 percent income tax credit.
- AEDC and ADFA Bond Guarantee Programs can guarantee up to \$5 million of the bond issue, allowing bonds to be sold at a higher credit rating and therefore lowering the effective interest rate for businesses.
- The Seed Capital Investment Program (SCIP) provides working capital up to \$500,000 to help support the initial capitalization or expansion of technology-based companies in the state.
- The Arkansas Capital Corporation also provides direct financing assistance to meet more long-term needs of the state's businesses by providing fixed-rate loans.
- The Venture Capital Investment Fund, administered by the Arkansas Development Finance Authority, is intended to raise significant amounts of venture capital for investments within the state.
- The Disadvantaged Business Enterprise Program provides capital to minority contractors who cannot otherwise finance their capital needs
- Industrial Revenue bonds can lower property taxes on new building construction and equipment purchase by 50% for the qualifying entities.

### **An Array of Tools for Historic Preservation**

A number of financial incentives exist to aid and encourage business and property owners who wish to improve their downtown Fort Smith properties. These include tax advantages as well as low-interest loan programs and other forms of financial assistance. These incentives are excellent tools that allow property owners to enhance their investments in downtown and add to the overall revitalization of the downtown area.

Eligibility for these different incentives depends upon property type and other requirements. Listed below are some of the most available programs in Fort Smith.

### **Federal Historic Preservation Tax Incentive Programs**

For properties listed on or eligible for the National Register, the most important financial incentives are Federal and State income tax credits. A Federal tax credit of 20% is available for the certified rehabilitation of historic structures that are income-producing. Properties must be rehabilitated according to standards set by the Secretary of the Interior, which ensure that the property retains its historic architectural character and appearance. A 10% tax credit is available for the rehabilitation of non-historic commercial buildings that were constructed prior to 1937. Presently, the 10% tax credit does not apply for rental-residential developments.

The federal historic tax credit (HTC) has been used fairly extensively in Arkansas to support the renovation of historic housing, office, and retail space in the state. Between 2000 and 2006, the federal historic tax credit program has supported 57 projects totaling more than \$54 million in renovation (in 2006 dollars). The size of projects supported by the HTC has varied from approximately \$10,000 to \$10 million in 2006 dollars.

Rental housing has comprised the majority of federal HTC projects in Arkansas with the renovations for 43 projects costing more than \$42 million. Commercial projects were the next most common usage with renovation costs for the eight projects totaling more than \$2 million, although this figure was less than a third of the approximately \$7 million cumulatively spent on the four hotel projects. Projects have covered a variety of uses, including office buildings, retail, farming, and inns. While the majority of projects are located in Pulaski County, the federal HTC in Arkansas has also been used in nine other counties: Benton, Bradley, Clark, Conway, Garland, Quachita, Searcy, Union, and Washington.

**Arkansas Historic Rehabilitation Tax Credit** In 2009, the Arkansas legislature passed a bill to create a historic tax credit program. The purpose of the program is to encourage economic development within existing infrastructure and to promote the rehabilitation of historic structures. It is designed to work in conjunction with the federal tax credits. As the federal historic tax credit has supported a fair amount of rehabilitation in Arkansas, the addition of the state credit is expected to greatly expand the types of projects that are allowed. The state tax credit will provide another avenue for individuals owning homes in historic districts to maintain the quality and historic character of their properties. The key elements of the state tax credit include:

- Allows for a credit on state income taxes equal to twenty-five percent (25%) of the total qualified rehabilitation expenses that are:
  - incurred by the property owner to complete a certified rehabilitation of buildings that are listed or are considered eligible by national, state, or local designation
  - in excess of \$25,000 annually
  - up to \$500,000 for a commercial property
  - up to the first \$100,000 for a residential property

The tax credit can be transferred, sold or assigned and any unused tax credit may be carried forward for five consecutive taxable years. The Arkansas Historic Rehabilitation Tax Credit provides another valuable financial incentive for restoring historic properties. Private property owners rehabilitating their own properties can take up to a \$25,000 tax credit towards their state taxes if they exceed \$100,000 in qualified expenditures while owners of income producing properties can take up to \$100,000 in credits.

Fort Smith Citywide Historic Preservation Plan is administered by the Arkansas Historic Preservation Program and follows the application process currently used for the federal rehabilitation tax credit. Property owners must submit photographs showing the current condition of the property and an application that details their rehabilitation plans. Once the application is approved, property owners complete their work and submit photographs of the finished work. Once the state certifies the rehabilitation, property owners claim the tax credit. In states that have passed similar tax credits, rehabilitation expenditures on historic buildings has often doubled. This holds tremendous potential for historic preservation efforts in Fort Smith and across the state.

#### **ARKANSAS HISTORIC PRESERVATION GRANT PROGRAMS**

**I. Arkansas Natural and Cultural Resources Council (ANCRC).** These funds are used only for state-owned property and are funded by Real Estate Transfer Tax (RETT).

**II. Courthouse grants, Model Business Grants, and Historic Preservation Restoration Grants.** (These 3 programs are all funded by Real Estate Transfer Tax (RETT).

**a. Courthouse (CH) grants** are used for county courthouses only. No match is required.

**b. Historic Preservation Restoration Grants (HPRG)** go to the rehab/restoration of a variety of non-profit & public (city, county, school district) owned structures. A select few HPRGs have also been used for restoration work on private property. All HPRGs require a 1:2 cash match. (Grantees must provide \$1 for every \$2 of grant funds.)

**c. Model Business (MB) grants** are passed through local Main Street organizations for rehab/restoration of downtown commercial structures. All MBs require a 1:1 match. At least 50% of the required match must be cash.

**III. Downtown Revitalization Grants & Slipcover grants.** Like Model Business, these are passed through local Main Street organizations for downtown commercial restoration projects.

**a. Downtown Revitalization (DTR) grants** are funded by RETT. They require a 1:2 match, up to 50% of which may be in-kind. DTR is used for a variety of other downtown activities; only those dealing with brick & mortar projects are included here.

Fort Smith Citywide Historic Preservation Plan, Fort Smith, Arkansas

**b. Slipcover (SC) grants** are used exclusively for the removal of slipcovers on downtown commercial properties. These are funded by the state's General Improvement Fund (GIF). They require a 1:4 match, up to 50% of which may be in-kind.

**IV. Certified Local Government (CLG)** are grants used for brick-and-mortar projects. Fort Smith is one of a number of communities across Arkansas that is a Certified Local Government (CLG). The CLG program is part of a local, state, and federal partnership that promotes historic preservation at the grassroots level. An incentive for participating in this program is the pool of matching grant funds available annually for CLG communities. These grants may be used for surveys of historic buildings, the preparation of National Register nominations, the development of design review guidelines, and structural assessments of properties. Though usually funded by the federal Historic Preservation Fund (HPF), the state of Arkansas has supplemented this program with allocation from RETT as well as the state's 1/8 cent conservation tax. Of course, all CLG projects pass through local governments. CLG grants range with regard to match, though are commonly a 1:1 match.

With capital markets still in disarray and regulatory reform now being considered, a combination of incentives must be considered to accomplish any new development. Traditional federal funding from the Dept. of Transportation, Small Business Administration, Economic Development Administration, Housing and Urban Development, Treasury and Commerce will all be accessed to assist in carrying out the plan.

## VIII. Conformance with Planning and Zoning

### Comprehensive Plan

The Redevelopment plan supports the Comprehensive Plan and Master Land Use Plan, while building upon the work of the city with local citizens in recognizing the needs of the eligible areas.

The Fort Smith Comprehensive Plan vision statement is: "Fort Smith is a diversified regional community, serving a growing population, while promoting a high quality of life." Policy G3 states the need to "Develop a coordinated, City economic development strategy." These two statements form the basis for the Redevelopment Agency activity proposed, the formation of a Community Development Entity (CDE) to access New Markets Tax Credits, and the need to seek other new funding opportunities from the U.S. Treasury and elsewhere. The Policy G3 approach is to "initiate proactive steps in cooperation with area Chambers of Commerce, Eastern Oklahoma, Northwest Arkansas, University of Arkansas—Fort Smith, and other institutions for targeted economic development". The Redevelopment Agency plans to partner in that effort and bring new resources to the table.

Meetings have been held with City Staff, Chambers of Commerce, University of Arkansas- Fort Smith, Western Arkansas Planning and Development District (WAPDD), Regional Intermodal Transit Authority (RITA), and private business and financial sector members, including the Arkansas Capital Corporation's Heartland Renaissance Fund. Discussions were held regarding the need and rationale for establishing a Redevelopment Agency for pursuing New Market Tax Credits. Public education and input is ongoing and essential to the success of the process of organizing and coordinating the creation of an effective plan.

The Redevelopment Agency will assist in implementation of Policy G3.1: "Grow the employment base by retaining existing jobs, assisting business expansion and start-ups, and attracting new and diverse businesses." The Downtown Vision is to "focus on diverse entertainment , creating stimulating things to see and do, additional retail : coffee shop, grocery, and more specialty shops, additional housing- loft residential targeted to singles and couples of all ages and strong neighborhood links." These projects might all be financed and incentivized with the assistance of the Redevelopment Agency.

Policy G4.1 states: "Improve and encourage maintenance of structures, prevent vagrancy , structural damage, theft, and fire hazards, by providing education, incentives and programs for structural maintenance particularly in areas designated Neighborhood Revitalization".

Policy G4.3 states: "Maintain housing opportunities in urban areas by renovating and revitalizing existing housing and promoting infill development of vacant land within the corporate limits." This effort is a prime candidate for Capital Magnet funding from the U.S. Treasury for special non-profits like the CDE.

Policy G4.9 states: "encourage revitalization of the Belle Grove historic district and Downtown historic buildings". Here again, New Markets Tax Credits may be combined with state and federal Historic Tax Credits to provide a larger incentive that may spur redevelopment.

The Comprehensive Plan is clear in regard to redevelopment of eligible areas:

- G8.1 Increase the number and type of residential opportunities in and around downtown.
- G8.3 Retain and expand the existing job base in and around downtown by developing strategies that support existing businesses and by directing specific economic development actions to downtown.
- G8.4 Concentrate available resources to encourage job creation and population growth in the downtown and riverfront.
- G8.5 Develop and promote niche markets that distinguishes downtown from other retail and entertainment options and reinforces downtown's position as a destination.
- G8.6 Locate cultural activities, entertainment options, service-oriented businesses and public, private, or institutional programs in downtown.
- G9.1 Integrate the Arkansas River frontage with new and existing development.

All of these policies reinforce the need to have a Redevelopment Agency to bring new funding and incentives to spur redevelopment.

## Consolidated Plan

The Consolidated Plan for Fort Smith followed a detailed citizen participation plan that involved a wide spectrum of the community. In addition to providing demographic analyses, market conditions, and needs assessment of community development issues, the plan also identifies strategies to address these needs. Several programs using existing Community Development Block Grant and HOME funds, as well as a \$1.3 million Neighborhood Stabilization grant are in-place providing new community facilities, housing development, and job growth in low-income neighborhoods.

Below are excerpts from the City of Fort Smith Consolidated Plan that relate to the proposed Redevelopment Plan:

- New funding opportunities and financial partnerships that would be utilized to leverage the federal funds to address affordable housing needs
- Efforts to attract corporate relocations/expansions into Fort Smith to increase the total number of available jobs.

In addition the City embraced several redevelopment efforts in very distressed neighborhoods to spur inner-city revitalization. The section on anti-poverty strategy goals lists the following objectives:

Objective 1 states:

- Work with local entrepreneurs to stimulate business development in inner city neighborhoods.
- Work to attract corporate relocations/expansions into Fort Smith to increase available jobs.
- Work with local business leaders to assess the needs that businesses are experiencing.

Objective 2 states:

- Continue to work with developers to identify opportunities for the use of low-income housing tax credits to build affordable housing.
- Work with the Fort Smith Housing Authority to identify homeownership opportunities through subsidized funds.

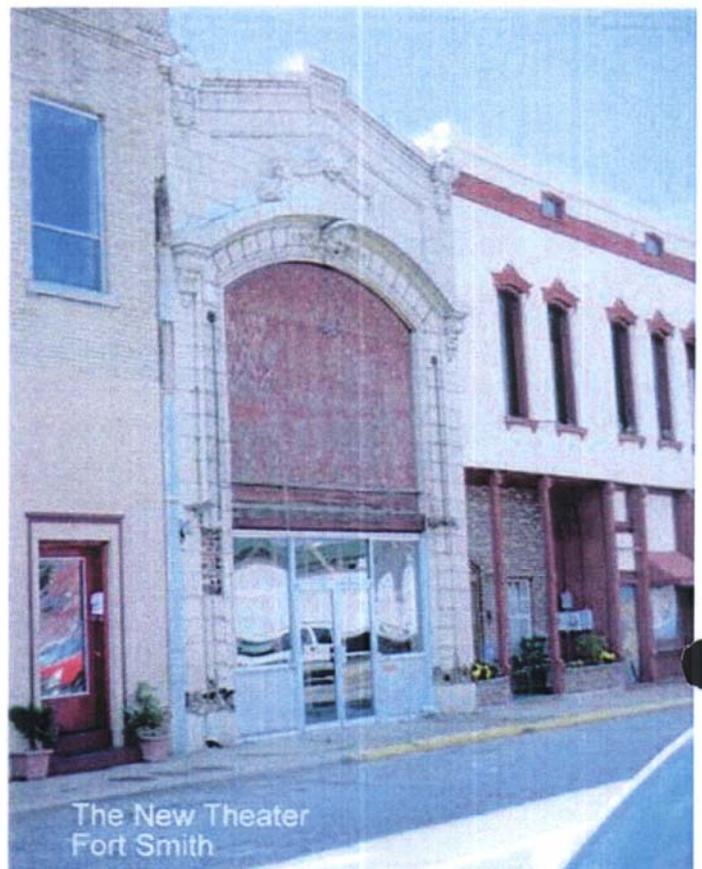
Institutional Structure: Goals and Strategies

- Work with nonprofit organizations to address community needs and provide support to federal and non-federal funding initiatives.
- Continue to identify opportunities to create private /public partnerships for project finance and development to leverage federal funds.

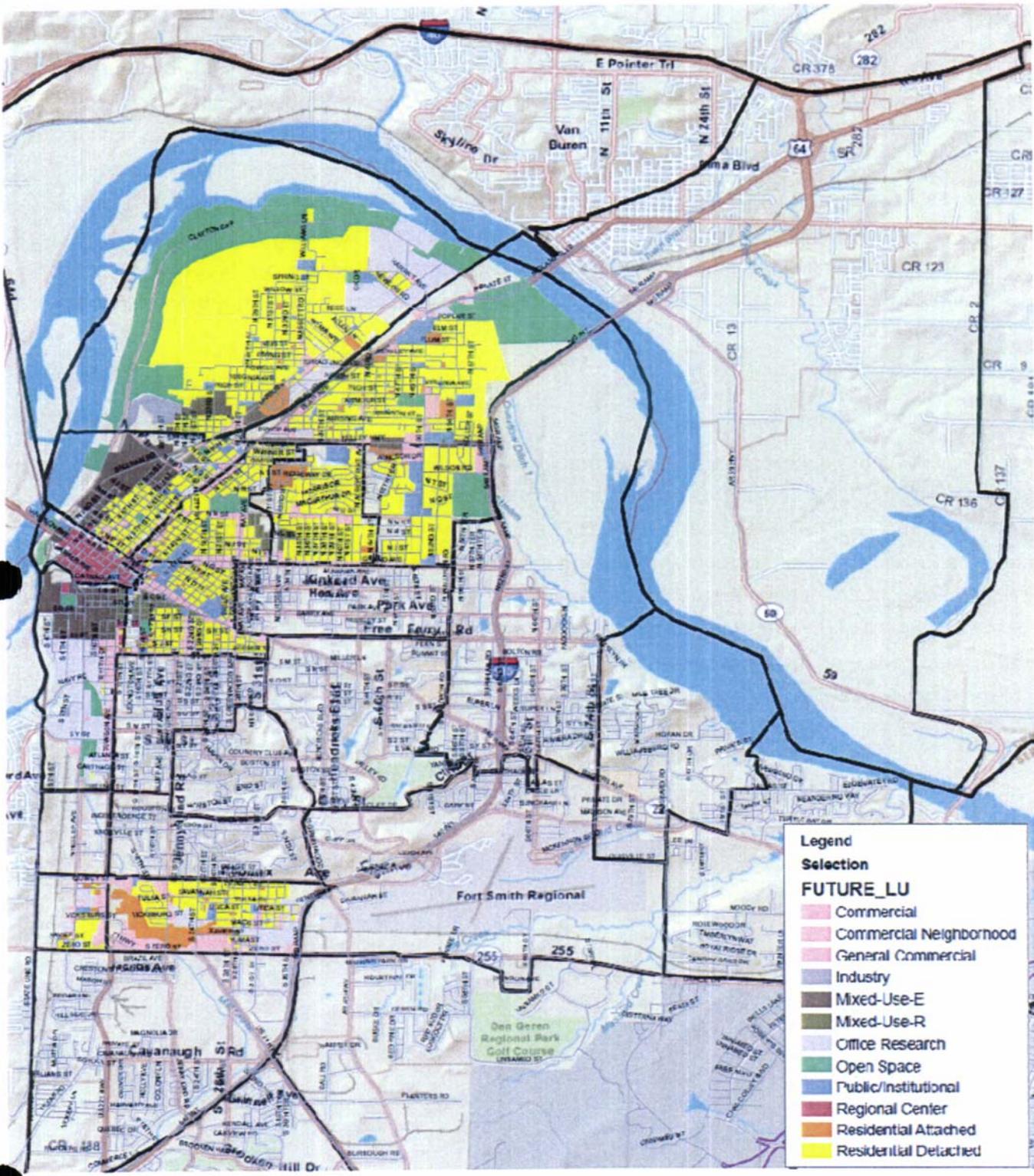
All of these goals and strategies support the Redevelopment Plan proposed herein.

## Historic Preservation Plan

The Fort Smith Historic Preservation Plan adopted in 2009 recognizes the economic benefits of historic preservation by the creation of jobs, stabilization of neighborhoods, increase of property values, encouragement of tourism, and downtown revitalization. The Redevelopment Plan supports all the goals and strategies of the Historic Preservation Plan and the financing of the improvement of historic buildings would be enhanced as Historic tax Credits can be used with New Market Tax Credits to create a larger subsidy, making more improvements feasible.



# Existing Land Use



## **IX. Relocation and Acquisition**

### **Relocation**

The Redevelopment Agency intends to the extent possible to focus redevelopment efforts on abandoned and vacant structures to minimize the need for relocation of businesses, families or individuals. If relocation is necessary, the Agency shall assist all persons (including individuals and families), business concerns and others displaced by the Project to find other locations or facilities that are decent, safe, and sanitary, within their respective financial means, as required by law. The Agency may also provide access to housing inside or outside the Project Area for displaced persons. The Agency shall make relocation payments to persons (including individuals and families), business concerns and others displaced by the Project for moving expenses and direct losses of personal property and additional relocation payments as may be required by law.

### **Acquisition**

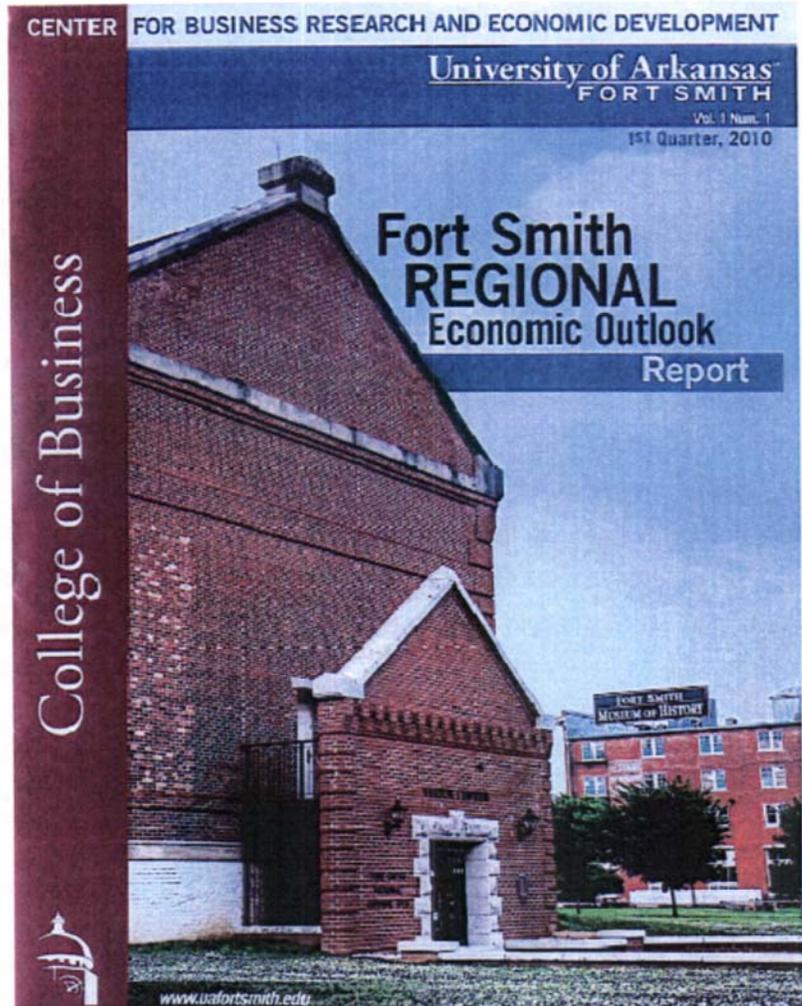
The Redevelopment Agency may acquire, but is not required to acquire, any real property located in the Project Area. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is authorized to acquire either the entire fee or any other interest in real property less than a fee. If it is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment, the power of eminent domain may be employed by the Agency only with the consent of the City Board of Directors via Resolution to acquire real property in the Project Area which cannot be acquired by gift, devise, exchange, purchase or any other lawful method. The Agency will seek the approval of the City prior to using the Agency's power of eminent domain.

## X. Existing Conditions

### Baseline Data

The data that follow are meant to be examples of data to be collected to measure progress of redevelopment.

Kermit W. Kuehn, Ph.D., at the University of Arkansas Fort Smith the Director Center for Business Research & Economic Development has begun collecting and publishing the data shown below and is also preparing Quarterly reports that will become the baseline for measuring progress. Other recommendations on measurements that might be included are welcome.



**FORT SMITH—UNIVERSITY OF ARKANSAS  
CENTER FOR BUSINESS RESEARCH AND ECONOMIC DEVELOPMENT**

**From the Director:**

I am very pleased to release this first issue of the Fort Smith Regional Economic Outlook Report. My hope is that it is the first of many that will provide the best quality and most useful information and analysis available on our regional economy.

The Center for Business Research and Economic Development (CBRED), consistent with the mission of the University of Arkansas **Director, Center for Business Research and Economic Development--Fort Smith**, seeks to demonstrate practical ways our intent to be a valued partner in our region's development, the kind of development that not only provides citizens abundant opportunities to make a good living but also to live a great life.

We live in challenging times, and living a "good life" in an economic sense is increasingly difficult, and not simply because we are currently grinding through one of the most challenging recessions of recent memory. The issues we face as a community, state, and nation are many and complex, often originating from sources outside of our immediate control. While globalism or technology or politics are blamed by many as the reasons for this or that trouble, the reality is that these forces will likely continue to test the status quo of every industry, market, region, and community. It will bring both trouble and unimaginable opportunity. As a region, we want to partake of the right opportunities and face head-on our challenges - and do so every day. In this inaugural issue, we report all three areas of the Fort Smith regional economy:

- 1) review economic activity for the 1st quarter,
- 2) report on the results of the first Fort Smith consumer confidence survey, and
- 3) provide an overview of regional employment trends and prospects going forward

From our review of the first quarter results for 2010, it is evident that we've just concluded a challenging period. There are notable signs of improvement, particularly with March data. Improvements were evident in the housing sector, with home sales and new construction both showing improvement over last year. The unemployment rate eased over last month, though it is still higher than a year ago.

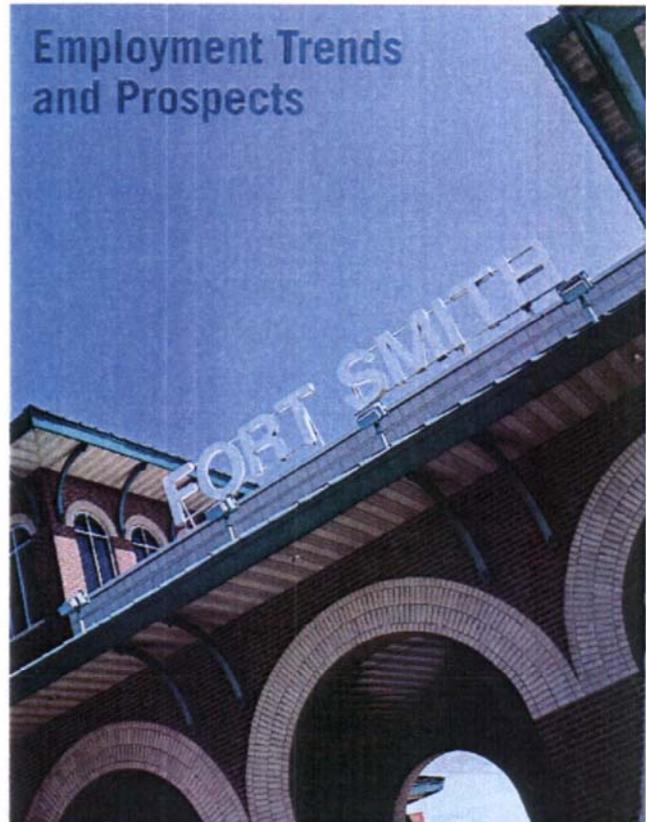
Our first survey of consumer confidence of Fort Smith consumers was conducted in March. We used the well-respected University of Michigan Survey of Consumers to measure consumer sentiment, which will allow us to benchmark local responses to the national survey. As we've often heard, approximately two-thirds of our economy depends on consumer spending. Consumer confidence has been demonstrated to relate to consumer behavior. We believe this information will be a valuable contribution to our understanding of the local economy.

In the third section of this issue, we focus on employment trends over the past 20 years, noting which industry sectors have gained and which have lost, and then summarizing our prospects going forward. We conclude this analysis with a discussion of the implications on our community of an emerging trend toward longer recessionary cycles.

Finally, I want to thank Chancellor Beran for his strong commitment to regional economic development and the role CBRED can play in this, Dean Williams for his enthusiastic support of our work, and those organizations that have supported the production of this publication through their sponsorship and advertising dollars. Collectively, their vision of what we're attempting to do here, and what it can mean to our regional economy, makes future research possible.

To our future.

Kermit Kuehn, PhD



**University of Arkansas—Fort Smith College of Business**  
**First Quarter Summary of Regional Economy**

First quarter economic data for the Fort Smith regional economy revealed a mixed but strengthening economy when compared to the same period a year ago (See Table I). A lackluster employment picture continues to keep expectations of strong recovery more subdued than what we would like. The area economy generated 3,500 fewer jobs than the same quarter a year ago. The economic activity index for January ended the quarter at 95.3, down 2%, from the previous month and 3.9% below 2009 levels for the same period. There were notable areas of good news as well, suggesting the factors important for a recovery are moving in the right direction.

Retail sales appear to be lagging behind 2009 levels, but sales tax and use tax receipts data are 60 days old, making it difficult to get a pulse on current consumer behavior. Retail sales were off 9.9% from the same three-month period of November through January 2008-09.

Auto sales have shown some strength relative to a year ago, up 3.6% over the first quarter in 2009. This was also true for residential real estate activity, where first-quarter existing home sales were up 1.2%, over last year, as were total new construction permits, up 24.8% over 2009. Fort Smith area consumers are anything but optimistic when looking toward the next 3 to 6 months.

Employment activity has been really been the tough nut to crack since turning negative in the first half of 2008. While national reporting has turned decidedly more positive about the economy for 2010, the prognosis is for slow growth in terms of net new jobs. Manufacturing numbers nationally have been up over recent months, pointing toward positive implications for our local economy going forward.

The 8.6% unemployment rate average for the quarter is 1.1 % higher than this time last year, but March results dropped .5% from the previous month. This bouncing up and down may continue for a time as the turnaround brings people back into the job market who had previously checked out due to lack of employment opportunities earlier in the recession cycle.

Taking a closer look at the employment data, most of the 3,500 jobs lost between the end of the first quarter 2009 and 2010 can be attributed to mainly three sectors: manufacturing (1,000); natural resources, mining, and construction (1,000); and trade, transportation, and utilities (1,100). Health services and government sectors grew approximately 450 jobs during the same period.

Looking at employment over the next few months, a Manpower Inc. March survey of Fort Smith regional employers found that there was a notable increase in the number of employers who intended to increase

ring during the second quarter. According to the report released March 9, 16% of the employers surveyed indicated they thought they would increase their hiring during the second quarter, up from 3% who said they would during the first quarter, and up from 4%, who indicated they would a year ago. All this suggests that we can continue to expect mixed signals during the short term, baring and significant and unexpected news that jolts the economic landscape. The regional economy shows some signs of improvement as evidenced by real estate and auto sales, but the tone is still negative on the jobs front. Until the economy solidifies expansion, and employment prospects improve, we can expect short term performance of our economy to be unstable.

**Table 1. Summary of First Quarter Performance**

1st Quarter 2010	Base Year - Q1 2005	Last Year - Q1 2009	This Year - Q1 2010*	% Change 2009-2010
<b>Sales</b>				
Retail Sales (MSA, Nov, Dec, Jan, 000's)	\$ 988,972	\$ 972,627	\$ 876,230	-9.9%
Auto Sales (Seb., Crow., Frank. Counties, AR)	\$ 86,835	\$ 65,975	\$ 68,317	3.5%
<b>Residential Construction (MSA)</b>				
Residential Permits	237	149	186	24.8%
Value of Permits (000's)	\$ 22,122	\$ 14,174	\$ 22,307	57.4%
<b>New and Existing Home Sales (MSA)</b>				
Number Sold	522	401	406	1.2%
Value of Homes Sold (000's)	\$ 55,507	\$ 46,583	\$ 47,255	1.4%
Average Price of Homes Sold (Q1 Monthly Avg.)	\$ 106,335	\$ 116,167	\$ 116,392	0.2%
<b>Employment (MSA unless noted, Q1 Monthly Avg.)</b>				
Wage & Salary Employment (Total Nonfarm)	117,167	118,700	115,200	-2.9%
Manufacturing	28,500	22,433	21,433	-4.5%
Trade, Transportation, Utilities	23,267	24,267	23,100	-4.8%
Government	16,800	18,633	18,967	1.8%
Education and Health Services	13,900	15,800	15,967	1.1%
Professional and Business Services	10,633	10,700	10,600	-0.9%
Leisure and Hospitality	8,267	9,133	8,700	-4.7%
Natural Resources, Mining, and Construction	6,467	8,333	7,333	-12.0%
Financial Activities	4,000	4,200	4,100	-2.4%
Information Services	1,600	1,300	1,200	-7.7%
MSA Unemployment Rate (Q1 Monthly Avg., NSA)	5.2%	7.6%	8.7%	1.1%
AR Unemployment Rate (Q1 Monthly Avg., NSA)	5.8%	7.4%	8.4%	1.0%
U.S. Unemployment Rate (Q1 Monthly Avg., NSA)	5.6%	8.8%	10.4%	1.6%
<b>Airport Traffic (Fort Smith)</b>				
Total Passenger Traffic	45,196	35,782	34,446	-3.7%

Fort  
Smith  
Sector

\*Data as of March 31 except retail sales which includes November - January. Dollars are not inflation adjusted. Data not seasonally adjusted (NSA).  
Prepared by the Center of Business Research and Economic Development, UA Fort Smith College of Business

**Employment:  
1990-2010**

Total non-farm employment in the Fort Smith MSA has grown by nearly 32'X, from 1990-2010, from 87,900 jobs in January 1990 to 115,400 in February 2010. Employment had reached a high of just over 127,000 workers in November 2007 before recessionary forces kicked in. Nearly 12,000 jobs in the five-county area have been lost since the 2007 high.

Taking a look at key sectors underlying these broader numbers reveals significant shifts in how people make a living in the Fort Smith region (See Figure I). Manufacturing employment, once comprising nearly one-third of all jobs in the region, has declined to under 18% of total MSA non-farm employment today. By comparison, overall U.S. manufacturing employment has declined from 17.5% in 1990 to less than nine percent today. As can be seen from this, manufacturing not only has been an important component of the regional economy, but still is, with twice as many workers still employed in manufacturing organizations relative to national participation. Nonetheless, during this recession, manufacturing has dropped below Trade, Transportation, and Utilities as a sector percentage of total non-farm employment.

The rise of the Trade, Transportation, and Utilities sector is due less from significant growth in the sector as it is from the decline of manufacturing. In fact, this sector comprises 19.9% of MSA non-farm employment in February

2010, the same percentage it was in January 1990. Of the 23,000 workers in this sector in February 2010, 56% of the workers are employed in retail, 17% in wholesale, and the remaining 27% in transportation and utilities.

Two sectors that have grown significantly over the period as a percentage of non-farm employment, including during the current recession, are Government and Education and Health Services. Government employment includes not only federal, state and local government but also public education such as K-12 and colleges and universities. In viewing Figure J, a noticeable upward trend can be detected, going from 13.7% in 1990 to 16.5% in February 2010. This trend was particularly evident during the most recent decade. The sawtooth pattern observed in this trend line reflects the influence of teachers not on contract during the summer each year.

Figure 1. MSA Job Sectors as a Percentage of Total Non-Farm Employment

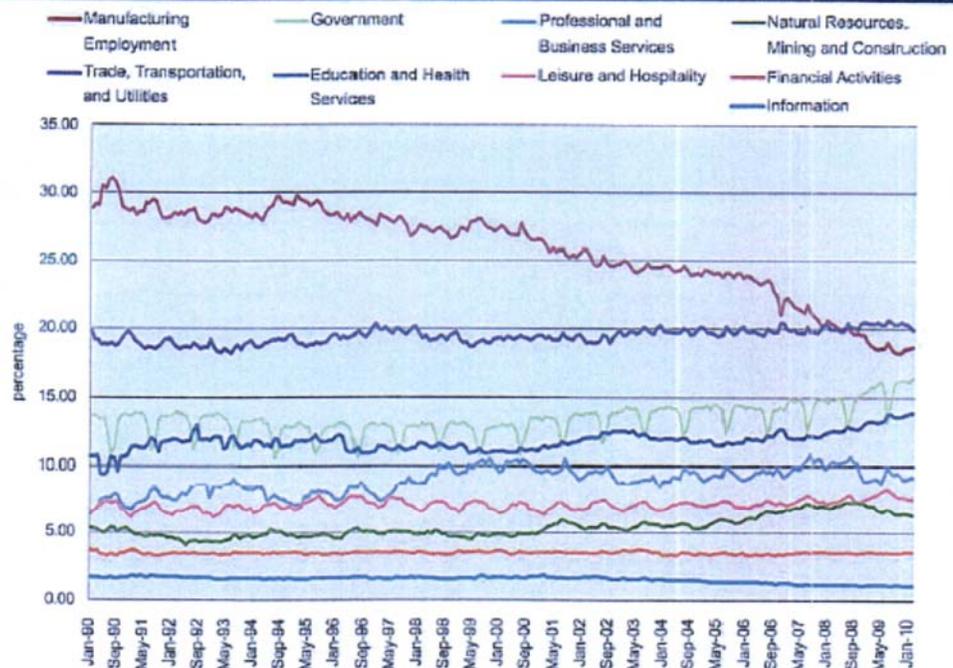


Table 1. U.S. Employment by Industry Sector, 1998, 2008, and 2018 (Projected)

	Percent Distribution			Average Annual Rate of Change	
	1998	2008	2018	1998-2008	2008-2018
<b>Total Employment</b>	100%	100%	100%	0.70%	1%
<b>Non-Farm Employment</b>	90.1	91.3	91.7	0.9	1
<b>Goods-producing, excl agriculture</b>	17.3	14.2	12.9	-1.3	0
Mining	0.4	0.5	0.4	2.4	-1.6
Construction	4.4	4.8	5.1	1.6	1.7
Manufacturing	12.5	8.9	7.4	-2.6	-9
<b>Services-providing</b>	72.8	77.2	78.8	1.3	1.2
Utilities	0.4	0.4	0.3	-9	-1.1
Wholesale Trade	4.1	4	3.7	-3	0.4
Retail Trade	10.4	10.2	9.6	0.5	0.4
Transportation/Warehouse	3	3	3	0.8	0.9
Information	2.3	2	1.9	-7	0.4
Financial Activities	5.3	5.4	5.2	0.9	0.7
Professional/Business Svcs	10.8	11.8	13.2	1.6	2.1
Educational (private)	1.6	2	2.3	3.1	2.4
Health/Social Assistance	8.7	10.5	11.9	2.6	2.3
Leisure/Hospitality	8	8.9	8.8	1.8	0.8
<b>Federal Government</b>	2	1.8	1.7	0	0.3
<b>State/Local Government</b>	12.2	13.1	12.8	1.4	0.8

The "education" in Education and Health Services reflects private' educational employment and is a considerably smaller portion of this sector relative to health related employment. It is of little surprise to see health services increasing with the aging of the population and the general expansion of health services to this population. The sector has grown from 10.7% of non-farm employment in 1990 to nearly 14% today.

One other sector that has exhibited consistent and reasonably strong growth over the 20 year period is Business and Professional Services, which is comprised of legal, accounting, and other consulting services. This sector grew from 6.4% of the non-farm workforce to 9.21% in the latest data, reaching a high of 11 % in August 2007. Part of this growth can be attributed to continued outsourcing of white-collar jobs and the tasks in which they were involved. Services in areas of accounting, legal, human resources, and various consulting services have grown as a result.

Of the remaining sectors, Financial Services and Information (largely print, broadcast, and digital media-related) have remained largely flat for the period, while Leisure and Hospitality and Natural Resources, Mining, and Construction have experienced modest growth. There was noticeable growth in the latter sector due to a burst in oil and gas exploration activity, as well as construction in the latter half of the 2000-2010 period leading up to the recession.

### **Sector Growth Prospects Going Forward**

Employment forecasts for the U.S. and for the State of Arkansas suggest that the trend lines taking shape in Figure I will continue. Nationally, for the period between 2008 and 2018, the BLS predicts a continued decline in overall manufacturing employment (See Table I). While the Arkansas Department of Workforce Services (DWS) concurs with the overall projection for the state, it estimates there will be some growth in areas of alternative energy production (including manufacturing).

Within the services sector nationally, the most notable growth is expected in Business and Professional Services as more firms outsource tasks. This sector is expected to grow to 13.2% of nonfarm employment from 11.8% in 2008. Health-related employment is expected to continue growing as well, going from 10.4% to 11.9% of total non-farm employment over the 10 year period. Within the state and region, employment growth is expected in K-12 education and health care sectors. The gas and oil sector is projected to add jobs in the Fort Smith region as well, per the DWS estimates. The report also suggests that employment will grow in transportation and local government.

In Sum, employment opportunities in the intermediate term are projected to be in the service sector, with job growth strongest in healthcare, K-12 education, business and professional services, and state and local government sectors. In general, Fort Smith continues to have a considerable manufacturing base from which nearly one in five workers directly derives a living, and many more who do so indirectly. Recent recruitment successes bring some confidence that this fact will continue into the intermediate future.

### **Prospects for Improved Employment**

While employment trends and projections provide a general framework for estimating local economic prospects, there are broader questions emerging that suggest more perplexing challenges loom going forward. Only one of these will be discussed here.

Recessions are a recurring fact of life in a free market economy. While the economic turmoil caused by such cycles is painful, the adjustments made by organizations during these times amounts to a recalibration of the system, making it ready to grow vigorously again. Until recent recessions, these cycles were times when a community hunkered down and waited for the good times to return - which historically was relatively a short wait. However, recent recessions have begun to reflect longer and longer reloading periods where not only are the downturns lengthy, but recoveries are taking longer as well, especially when it comes to rehiring workers.

Figure 2 illustrates this point all too graphically. The chart plots the last 11 recessions according to the length of time between the pre-recession employment high until post-recession employment once again reaches that

level of the last 11 recessions. The trend is unmistakable; recent recessions have taken longer to unwind and re-grow employment to previous levels, much less exceed those levels. The long brown line reflects the 2001 recession, where the job market took nearly four years to recover to the same employment levels it reached before the recession.

Many have referred to the 2000-2009 period as the jobless decade, where we ended the decade more or less where we started it - with about 130 million people employed. During that time, the population had grown by 30 million. The current recession (red line) is over two years in the making and appears to have recently reached the bottom. This too fails to consider that the current definition of unemployed significantly underestimates how many are actually not working who wish to be, or are involuntarily underemployed.

### **A Different Kind of Challenge**

The impact of high and prolonged unemployment on a community has not been examined well, particularly as it pertains to long-term competitiveness. Each employer after each cycle is returning fewer workers to the employment roles relative to the dollars generated. Why is this? For the organization, recalibration of the system means the organization learned to live without the people they thought they needed, retooled processes to gain efficiencies, and outsourced tasks in order to ensure lower fixed costs going forward. Even with rehiring, the preference of more and more employers is to use temporary workers, which results in reduced employer commitment to them and lower costs to the employer while they keep them.

For communities, hunkering down until the storm passes may seem a reasonable response for 12 to 18 months, but this is a very different matter if it lasts five to ten years. One implication is that reduced tax receipts (and investment capital in general) over a prolonged period risks the essential investments needed to maintain existing capabilities, much less propel growth into new areas. A second implication, arguably even more important, is the degeneration of human capital.

Former Labor Secretary under President Clinton, Robert Reich, in a March 8 blog, summarized it like this: "Financial capital moves instantly around the globe to wherever it can earn the best return. Human capital - the skills and insights of our people - is the one resource that's uniquely American, on which our future living standards uniquely depend." The market value of any region's human capital is relative, and fleeting, but it is increasingly the key to a region's competitive advantage. Infrastructure is a given to compete; human capital is the advantage. The market value of our human capital is diminishing each day an employee is not acquiring and refining his or her skills. It is probably even more significant for the long-term unemployed or underemployed.

Maintaining relative economic growth while enduring lengthening recessionary periods may be one more feature of the economic environment that may need to be addressed going forward .

Figure 2. Length of Recession Recovery Periods since World War II

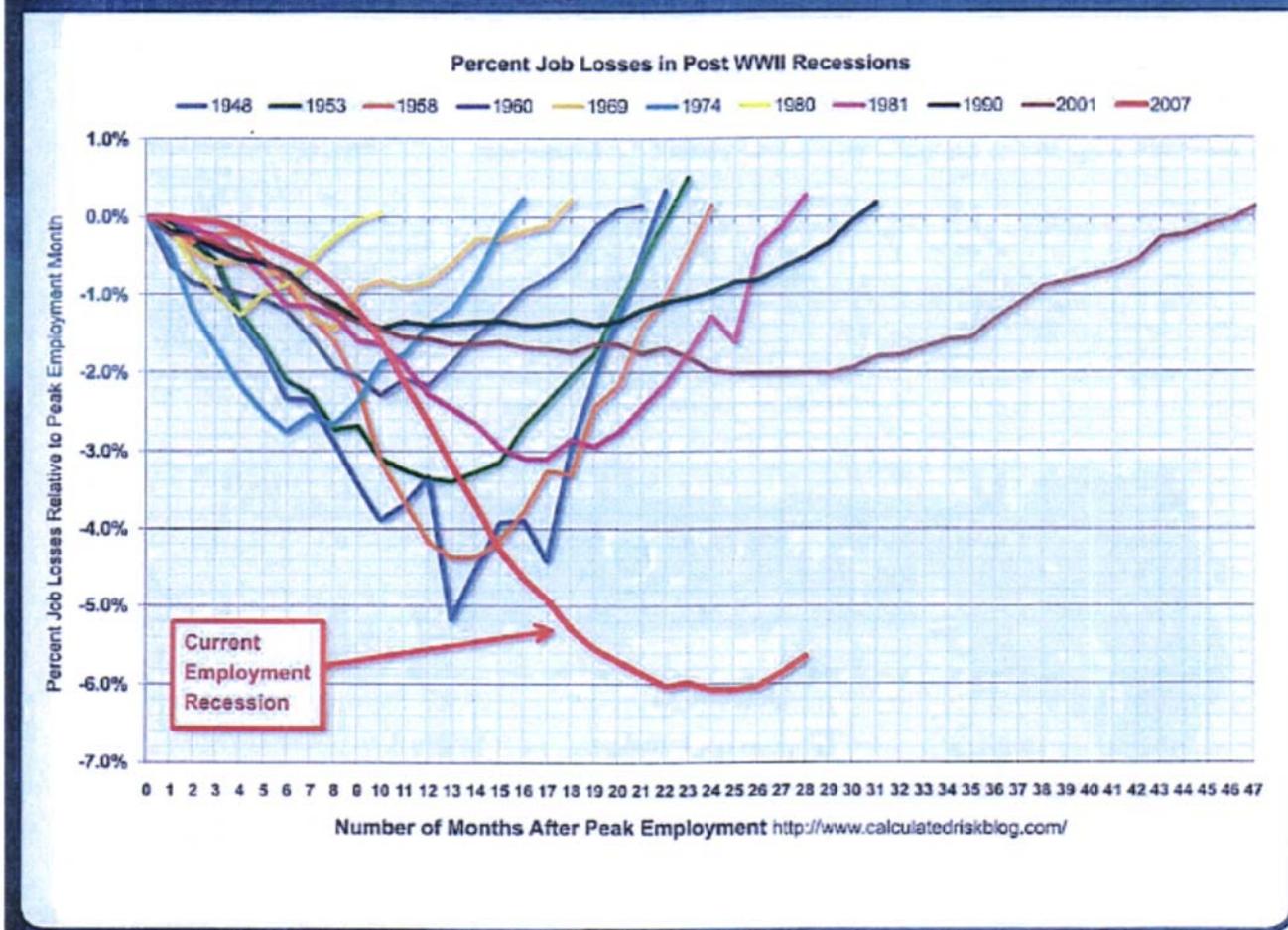


Image used with permission: [www.calculatedriskblog.com](http://www.calculatedriskblog.com)

The Fort Smith Economy  
**Fort Smith Economic Activity Indicators**  
 January 2010

	Base Year 2005	Last Year 2009	This Year 2010**	% Change 2009-2010
<b>Sales</b>				
Retail Sales (Month, MSA, 000s, Nov)*	\$ 266,906	\$ 325,193	\$ 274,192	-15.7%
Retail Sales (YTD, MSA, 000s, Nov)	\$ 2,762,715	\$ 3,638,821	\$ 3,229,509	-11.2%
Auto Sales (Month, AR, 000s, Jan)	\$ 28,977	\$ 21,111	\$ 17,600	-16.6%
Auto Sales (YTD, AR, 000s, Jan)	\$ 28,977	\$ 21,111	\$ 17,600	-16.6%
<b>Residential Construction (MSA, Dec)</b>				
Residential Permits (Month)*	56	20	53	165.0%
Residential Permits (YTD)	794	630	757	20.2%
Permit Value (Month, 000s)*	\$ 7,953	\$ 2,192	\$ 5,195	137.0%
Value of Permits (YTD, 000s)	\$ 83,704	\$ 65,907	\$ 69,425	5.3%
<b>New and Existing Home Sales (MSA, Jan)</b>				
Number Sold (Month)	141	113	105	-7.1%
Value of Homes Sold (Month, 000s)*	\$ 15,551	\$ 12,901	\$ 12,048	-6.6%
Number Sold (YTD)	141	113	105	-7.1%
Value of Homes Sold (YTD, 000s)	\$ 15,551	\$ 12,901	\$ 12,048	-6.6%
Average Price of Homes Sold	\$ 110,291	\$ 114,168	\$ 114,743	0.5%
<b>Employment (MSA unless noted, Dec.)</b>				
Wage & Salary Employment (Month, Nonfarm)*	118,300	124,700	123,400	-1.0%
Wage & Salary Employment (YTD Avg, Nonfarm)	116,858	125,250	123,542	-1.4%
Education and Health Services (Month)	14,000	16,100	16,400	1.9%
Education and Health Services (YTD Avg.)	13,925	15,842	16,250	2.6%
Manufacturing Employment (Month)	28,400	23,700	22,600	-4.6%
Manufacturing Employment (YTD Avg.)	28,500	24,950	22,808	-8.6%
Unemployment Rate (Month)	4.70%	6.10%	7.90%	-29.5%
Unemployment Rate (YTD Avg.)*	5.20%	4.90%	7.50%	-53.1%
AR Unemployment Rate (Month)	5.40%	6.00%	7.60%	-26.7%
U.S. Unemployment Rate (Month)	5.10%	7.10%	9.70%	-36.6%
<b>Airport Traffic (Fort Smith, Jan)</b>				
Total Passenger Traffic (Month)	14,313	10,861	10,796	-0.6%
Total Passenger Traffic (YTD)	14,313	10,861	10,796	-0.6%
<b>Economic Activity Index (as of Nov)</b>	<b>100.0</b>	<b>104.0</b>	<b>100.4</b>	<b>-3.5%</b>

\*Economic Activity Index includes monthly MSA retail & home sales, residential permits & value, wage & salary employment, and unemployment rate

\*\*Data available at the time of this report includes data from November, December and January. Dollars are not inflation adjusted.

Prepared by the Center of Business Research and Economic Development, UA Fort Smith College of Business

### Commentary

The activity index reveals that we closed 2009 at about the same level as we did 2004.

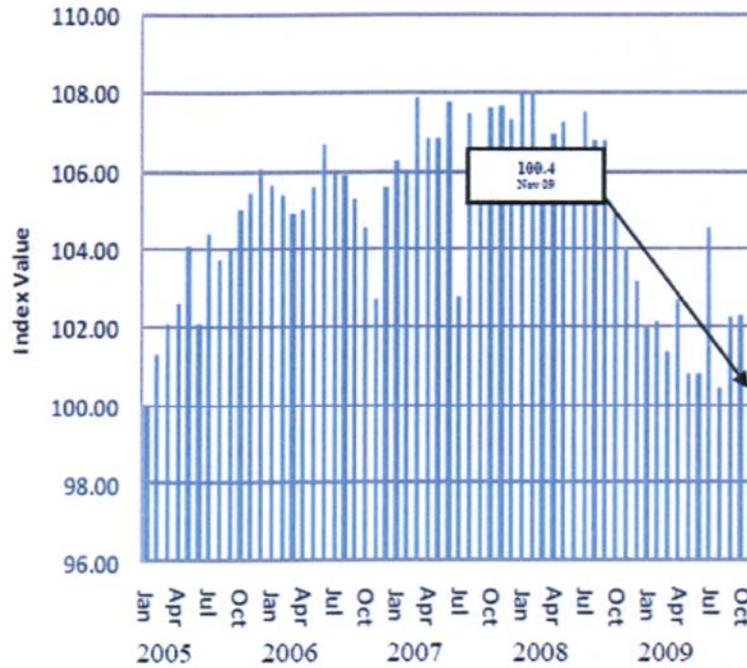
There are some areas for encouragement over last year. Employment numbers through Dec 2009 improved for Education and Health Services, as did residential construction activity. Average home prices seem to have remained stable over the period.

On the downside, Jan 2010 data on auto and residential sales continue to reveal weak activity.

In sum, the results are at best mixed, but there are signs the local economy is stabilizing. This snapshot suggests that the recovery is still more a rumor than a substantive reality.

Note: Monthly data is quite volatile and should be interpreted cautiously.

### Fort Smith MSA Economic Activity Index



## Change in Employment by Metropolitan Area

	Total Nonfarm Employment (Dec 2007)	Total Nonfarm Employment (Dec. 2009)	Net Change (Current Recession)	Percentage Change (Current Recession)
Jonesboro, AR	49,096	49,278	182	0.37%
Texarkana, AR	57,533	57,215	-318	-0.55%
Hot Springs, AR	39,012	38,279	-734	-1.88%
Fayetteville-Springdale-Rogers, AR-MO	208,822	204,769	-4,053	-1.94%
Fort Smith, AR-OK	126,052	123,266	-2,787	-2.21%
Little Rock-North Little Rock- Conway, AR	348,401	340,277	-8,123	-2.33%
Pine Bluff, AR	38,424	37,081	-1,343	-0.04%
Arkansas	1,207,600	1,172,100	-35,500	-2.94%
United States	137,951,000	129,588,000	-8,363,000	-6.06%

Source: Bureau of Labor Statistics, seasonally adjusted

## **XI. Acknowledgements**

Wally Bailey, Director of Development Services, City of Fort Smith

Gary W. Campbell, City Director-Position 5, Vice Mayor, City of Fort Smith

Steven Clark, S.E. Clark and Associates, Inc

Jim Dunn, Project Director, U.S. Marshal's Museum

Cheryl Garner, VP for Economic Development Fort Smith Chamber of Commerce

Russell Gibson, Director of ITS/GIS, City of Fort Smith

Ray Gosack, Deputy City Administrator, City of Fort Smith

Jane Hughes, Downtown Development Coordinator, City of Fort Smith

Dennis W. Kelly, City Administrator, City of Fort Smith

Kermit W. Kuehn, PH.D., University of Arkansas Fort Smith

Les Lane, Arkansas Capital Corporation, Heartland Renaissance Fund

Norman McLoughlin, Principal, McLoughlin & Associates

Rusty Myers, Vice President, Western Arkansas Planning and Development District

Mitch Minnick, Housing Development Officer, Fort Smith Housing Authority

Mathew Pitsch, Intermodal Project Manager, Western Arkansas Planning & Development District Inc.

Maggie Rice, Senior Planner, City of Fort Smith

Samuel T. Sicard, VP First National Bank of Fort Smith

Kathryn A. Stocks, attorney, Warner Smith Harris plc

Sam Walls III, Senior Vice President, Arkansas Capital Corporation, Heartland Renaissance Fund

**XII. Appendix: Resolution R-106-10 Veto**

RESOLUTION NO. R-106-10

**A RESOLUTION SUPPORTING THE FORT SMITH HOUSING AUTHORITY  
AND ITS EFFORTS TO USE NEW MARKET TAX CREDITS  
TO STIMULATE DEVELOPMENT AND REDEVELOPMENT  
IN LOW-TO-MODERATE INCOME AREAS OF FORT SMITH**

WHEREAS, the use of new market tax credits offered by the U.S. Treasury Department can stimulate development and redevelopment projects in low-to-moderate income areas which might not otherwise benefit from such projects; and

WHEREAS, the revitalization of residential and commercial neighborhoods are goals of the City of Fort Smith's Comprehensive Plan adopted in 2002; and

WHEREAS, the use of new market tax credits would support those goals of the comprehensive plan, particularly in areas of Fort Smith which might not otherwise prosper from development and redevelopment projects; and

WHEREAS, the Fort Smith Housing Authority has proposed that it prepare a redevelopment plan and seek to become a certified community development entity eligible to apply for new market tax credits; and

WHEREAS, Arkansas Code 14-169-604 provides housing authorities with the authority to undertake development projects to reduce slum and blighted conditions subject to municipal approval of a redevelopment plan as required by Arkansas Code 14-169-606;

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

The City of Fort Smith endorses and supports the proposal by the Fort Smith Housing Authority to prepare a redevelopment plan and to become a certified community development entity in order to pursue the use of new market tax credits to stimulate development and redevelopment projects in low-to-moderate income areas of Fort Smith,

This Resolution passed this 1<sup>st</sup> day of June, 2010.  
Mayor's veto overridden by the Board of Directors with a vote of 6 in favor 0 opposed (Director Campbell absent) at the June 15, 2010 regular meeting.

Gary Campbell  
Gary Campbell, Vice Mayor  
Attest: Cindy Rember  
City Clerk

Vetoed!  
Mayor R. Bal  
Mayor  
6-4-10

APPROVED AS TO FORM:  
[Signature]  
No publication required

**MEMORANDUM**  
**July 23, 2010**

**TO:** Dennis Kelly, City Administrator

**FROM:** Cindy Remler, City Clerk 

**RE:** Nepotism Policy for Elected Officials

The attached ordinance was tabled by the board at the July 20<sup>th</sup> regular meeting and placed on the agenda for the July 27<sup>th</sup> study session for further discussion. It was also requested that the issue of fraternization be included as well, and Richard Jones, HR Director, has prepared information for the board to review.

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

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV,  
OF THE FORT SMITH CODE OF ORDINANCES TO CREATE A  
NEPOTISM POLICY RELATING TO ELECTED OFFICIALS**

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

SECTION 1: Chapter 2, Article IV, of the Fort Smith Code of Ordinances is hereby amended to add thereto Sections 2-96, 2-97 and 2-98 as follows:

Section 2-96. Prohibited Elected Official/Employee Relationships.

- a. No person who is a relative or family member of any elected official of the City shall be an employee of the City. This applies to full-time, part-time, and seasonal employment.
- b. For the purposes of this section, "Family Member" or "Relative" shall refer to: spouse; child; parent; sibling; grandparent; grandchild; father-in-law; mother-in-law; brother-in-law; sister-in-law; stepfather; stepmother; stepsibling; half-brother; half-sister; nephew; niece; first cousin; aunt; uncle; or foster child.

Section 2-97. Prohibited Former Elected Official/Contract for Services Relationships.

For a period of two (2) years following termination of the term of office of an elected official of the City, the former elected official may not be appointed as an employee of the City nor may the former elected official have an interest in any contract or job for work or services to be furnished or performed for the City.

SECTION 2: Severability.

If any portion of this Ordinance is declared to be invalid by a court of competent jurisdiction, it shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect.

This Ordinance adopted this \_\_\_\_ day of \_\_\_\_\_, 2010.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

*Approved as to form  
JFL  
Pulldish (trial)*

## MEMORANDUM

**TO:** Mayor, Board of Directors and City Administrator  
**FROM:** Richard B. Jones, Director of Human Resources   
**DATE:** July 22, 2010  
**SUBJECT:** Fraternalization Definition and Information for Discussion

Items attached are as follows:

- A. Definition and Applications
- B. Legal Issues
- C. Army Policy
- D. Air Force Policy
- E. News Stories
- F. City of Ypsilant, MI Policy
- G. City of Slidell, LA Policy
- H. Fire Department Rules
- I. Military Department of Arkansas Policy from 188<sup>th</sup>

Currently there are no Federal or State laws that govern fraternization.

If a fraternization policy is developed I would recommend that it be narrowly defined so it does not inadvertently conflict with any federal or state laws.

Answers.com

# Fraternization

Dictionary: Fra-ter-ni-za-tion

# A

*n.*

The act of fraternizing or uniting as brothers.

I hope that no French *fraternization* . . . could so change the hearts of Englishmen.

*Burke.*

Answers.com ReferenceAnswers

English ▼

Related Videos:

## Fraternization

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WordNet:

## fraternization

Note: click on a word meaning below to see its connections and related words.

The *noun* has one meaning:

**Meaning #1:** associating with others in a brotherly or friendly way; especially with an enemy

Synonym: [fraternisation](#)

Wikipedia:

## Fraternization



This article **has been nominated to be checked for its neutrality**. Discussion of this nomination can be found on the [talk page](#). (December 2007)



This article **does not cite any references or sources**.

Please help [improve this article](#) by adding citations to [reliable sources](#). Unsourced material may be [challenged](#) and [removed](#). (December 2006)



This article is **in need of attention from an expert on the subject**. [WikiProject Military history](#) or the [Military history Portal](#) may be able to help recruit one. (February 2009)

**Fraternization** is "turning people into brothers" - conducting social relations with people who are actually unrelated and/or of a different class (especially those with whom one works) as though they were siblings, family members, personal friends or lovers.

In many institutional contexts (such as militaries, diplomatic corps, parliaments, prisons, schools, sports teams, and corporations) this kind of relation transgresses legal, moral or professional norms forbidding certain categories of social contact across socially or legally-defined classes. The term often therefore tends to connote impropriety, unprofessionalism or

unethical behavior.

For example, "fraternization with the enemy" refers to associations with members of enemy groups and suggests a serious conflict of interest, if not the possibility of treason; while "fraternization with civilians" typically suggests transgression of norms forbidding non-civilians and civilians to form close nonprofessional relationships (e.g., romantically), and "fraternization of officers with enlisted personnel" or "seniors with their juniors" (the usual referent of 'fraternization' in a military context) describes associations which are implied to be irregular, unprofessional, improper or imprudent in ways that negatively affect the members and goals of the organization.

A vast number of institutions worldwide implement policies forbidding forms of fraternization for many specific reasons. Fraternization may be forbidden to maintain image and morale, to protect and ensure fair and uniform treatment of subordinates, to maintain organizational integrity and the ability to achieve operational goals, and to prevent unauthorized transfers of information. Relations and activities forbidden under these anti-fraternization policies range from romantic and sexual liaisons, through gambling and ongoing business relationships, through insubordination, to excessive familiarity and disrespect of rank.

Views on fraternization are mixed and may depend on the relations and classes under discussion. Organizations may relax, change, or reinforce restrictions to reflect changes in the prevailing organizational view or doctrine regarding fraternization.

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## Fraternization in militaries



<sup>57</sup>  
An officer and an enlisted soldier of the US Army converse while on patrol in

### Iraq.

Within militaries, officers and members of enlisted ranks are typically prohibited from personally associating outside of their professional duties and orders. Excessively familiar relationships between officers of different ranks may also be considered fraternization, especially when between officers in the same chain of command. The reasons for anti-fraternization policies within modern militaries often include the maintenance of discipline and chain of command and the prevention of the spreading of military secrets to enemies, which may amount to treason or sedition under military law. (For an example of the former, consider a fighting force in which officers are unwilling to put certain enlisted men at risk; for an example of the latter, consider a situation in which a senior officer passes secrets to a junior officer, who allows them to be compromised by a romantic interest and consequently to end up in the hands of the enemy).

### **Fraternization in schools**

Many schools prohibit certain relationships between teachers and students to avoid favoritism, coercion, sexual harassment and/or sex crimes enabled by the teacher's position of authority. These prohibitions are controversial, however, as they may come into conflict with rules on tenure (e.g., because unethical conduct is suspected but has not led to a conviction).

### **Fraternization in the workplace**

Court decisions in some U.S. states have allowed employers a limited legal right to enforce non-fraternization policies among employees (i.e., policies forbidding employees to maintain certain kinds of relationships with each other). Since the 1990s, such corporate policies have been increasingly adopted in the U.S. in the pursuit of objectives such as protecting professionalism and workplace productivity, promoting gender equality and women's rights, or avoiding and mitigating the impact of sexual harassment lawsuits. These decisions and the policies they protect have, however, been criticized on various grounds: as illegitimate constraints on individual freedom of association, as tools for companies to punish participation in labor unions, and as expressions of overzealous political correctness.

### **Fraternization in sports**

Professional and college-level sports teams in the U.S. have enacted anti-fraternization policies between athletes and cheerleaders. Only one professional American Football team, the Oakland Raiders of the NFL, allows casual contacts between players and cheerleaders. Reasons for this policy include interference with concentration, potential fallout for the images of teams, and the possibility of sex crimes or sexual harassment (and attendant legal liability).

### **Military non-fraternization**

**U.S. occupation of Germany and Austria**



General Eisenhower had ordered that there was to be "No Fraternization" between U.S. troops and Germans. Over a period of many months this policy was loosened, first by permitting US GIs to talk to German children, then also allowing them to talk to adults in certain circumstances.

(see [Allied Occupation Zones in Germany](#))

In order to impress the German people with the Allied opinion of them, a strict non-fraternization policy was adhered to by General [Dwight D. Eisenhower](#) and the War department. However, thanks to pressure from the State Department and individual US congressmen this policy was eventually lifted in stages. In June 1945 the prohibition against speaking with German children was made less strict. In July it became possible to speak to German adults in certain circumstances. In September the no contact policy was abandoned in Austria and Germany.<sup>[1]</sup> In the earliest stages of the occupation, U.S. soldiers were not allowed to pay maintenance for a child they admitted having fathered, since to do so was considered as "aiding the enemy". Marriages between white U.S. soldiers and Austrian women were not permitted until January 1946, and with German women until December 1946.<sup>[1]</sup> (see [War children](#))

### See also

- [Adoption](#)
- [Blood brother](#)

### References

1. ^ [Dangerous Liaisons: The Anti-Fraternization Movement In The U.S. Occupation Zones Of Germany And Austria, 1945-1948](#) by Perry Biddiscombe, *Journal of Social History* 34.3 (2001) 611-647

## External links

- [US military policies on fraternization](#)
- [US armed services fraternization policies](#)
- [New York Assembly policy prohibiting fraternization with student interns](#)
- [The Church of Greece on Adelphopoiia](#)
- [Fraternization and the Uncensored Occupation](#) book chapter by Ann Elizabeth Pfau

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## March 2004: No-Fraternization Policies Under the Judicial Microscope

*Last reviewed December 2006*

**3/1/2004**

Lawrence Peikes and Meghan Burns

In response to the ever-increasing threat of employee lawsuits, a number of companies have instituted no-fraternization policies—sometimes known as no-dating policies—sometimes incorporating them into their employee conflict-of-interest policies. Typically, such policies limit or prohibit consensual, intimate relationships—for example, dating—between employees.

Because many employees find their social lives limited to or dominated by people they meet at work, policing relationships among colleagues is a difficult, and quite sensitive, undertaking. Ironically, though, it is not uncommon for an employer who does enforce a no-fraternization policy through disciplinary action—in the hope of nipping a potential lawsuit in the bud—to end up getting sued anyway. Fortunately, more often than not these suits fail.

To help you evaluate whether or not it makes sense for your organization to have such a policy, this article will briefly review some types of no-fraternization policies and the reasons some employers choose to maintain them. The article then will examine various kinds of legal challenges to no-fraternization policies and offer some tips to guide your decision-making about whether to adopt such a policy in your organization.

### **Nature of Policies**

No-fraternization policies take a variety of forms. For instance, a policy might prohibit dating between supervisory employees and all nonmanagement employees. Some are more limited and prohibit such relationships only between supervisory employees and subordinates within the chain of command. Others go so far as to prohibit fraternization among all employees, regardless of supervisory status.

Another variation on the theme is the so-called “love contract” or “consensual relationship agreement.” Employers that have adopted a “love contract” policy require employees to disclose relationships with co-workers and sign form agreements governing their conduct in the workplace. For example, a “love contract” might require the signatories to confirm that their relationship is consensual, acknowledge they are bound to honor the employer’s discrimination and harassment policies and agree to act professionally and not engage in conduct that might prove offensive to other employees.

“Love contracts” would seem to have little or no benefit and are likely to cause resentment and backlash. Their prohibitions tend to duplicate existing employer policies governing workplace conduct generally, making them redundant, and employees may well take offense at the notion of being compelled to divulge a personal relationship with a colleague.

### **Why Have a Policy?**

Employers promulgate no-fraternization policies for a number of reasons. As alluded to above, such policies usually are instituted in an effort to reduce employer exposure to liability for sexual harassment claims. These may arise if what appeared to be a consensual intimate relationship in fact was not, or when one employee pursues another employee while at work even after the target of his or her interest has rebuffed advances.

# B

Other goals of these policies are to reduce favoritism, or the appearance of favoritism, and to avoid potential conflicts of interest. Morale may suffer when employees perceive, rightly or wrongly, that particular employees enjoy better job assignments, overtime opportunities, promotions or favoritism in general because they have engaged in intimate relationships with their managers.

Seventy-five percent of HR professionals responding to the Society for Human Resource Management's 2002 *Workplace Romance Survey* reported that their organizations had no workplace romance policies in place. But among the 20 percent who reported having either a written or a verbal policy, 95 percent said the potential for sexual harassment claims was a reason to ban or discourage workplace romances. Fewer than half of HR professionals in organizations with no-fraternization policies cited concerns about reduced productivity of employees involved in a workplace relationship (46 percent) or the effect on co-worker morale (44 percent).

## **Challenges to Policies**

### ***Privacy claims***

A recent example of the privacy genre is *Barbee v. Household Automotive Finance Corp (HAFC)*, a 2003 case arising under California law. In that case, a former HAFC employee brought a common law wrongful discharge claim alleging that his termination for violating HAFC's "conflict of interest" policy impermissibly infringed on his right to privacy guaranteed by the California State Constitution. HAFC's policy provided that:

Situations of relationships between employees may ... cause a conflict of interest. If a consensual intimate relationship between a supervisor and any employee within that supervisor's direct or indirect area of responsibility is desired, it is the supervisor's responsibility to bring this to management's attention for appropriate action (i.e., possible reassignment to avoid a conflict of interest).

The plaintiff, Robert Barbee, was the national sales manager for HAFC. As such, he was responsible for, and had authority over, HAFC's entire sales force. Barbee and Melanie Tomita, an HAFC salesperson, began dating in October 2000, but Barbee did not inform HAFC's management of the relationship.

Shortly after Barbee and Tomita began their relationship, HAFC's chief executive officer became aware of rumors that Barbee was dating someone on the sales staff and informed Barbee that HAFC disapproved of intra-company dating. In March 2001, Barbee met with the CEO and the national director of human resources to discuss the nature of his relationship with Tomita. Barbee admitted he had a "special relationship" with Tomita, characterizing her as a "very good friend." The HR director told Barbee that his relationship with Tomita created a conflict of interest and requested that he end the affair. Or, if he chose not to end the relationship, either he or Tomita could resign.

On the Monday following that meeting, Barbee informed the CEO and the HR director that both he and Tomita desired to remain employed by HAFC. Based on this conversation, management assumed Barbee was ending his relationship with Tomita. They were mistaken, however, and discovered as much when Barbee accepted basketball tickets from a customer and attended the game with Tomita. A short time later, HAFC fired Barbee.

Barbee sued HAFC, alleging two separate claims: invasion of privacy, on the theory that he had a constitutionally protected privacy interest in pursuing a sexual relationship with Tomita, and wrongful discharge in violation of public policy. A California appeals court upheld the trial court's grant of summary judgment in favor of HAFC on both counts.

In urging reversal, Barbee had relied on the U.S. Supreme Court's 2003 decision in *Lawrence v. Texas*, which struck down as unconstitutional a Texas statute making it a crime for two persons of the same sex to engage in certain intimate sexual conduct. The appellate court assumed that, under *Lawrence*, Barbee might have a legally protected privacy interest in engaging in a sexual relationship guaranteed by the California Constitution but found it unnecessary to resolve that issue because the court determined that Barbee had no reasonable expectation of privacy under the facts of his case.

As stated by the court, a "reasonable expectation of privacy is an objective entitlement founded on broadly based and widely accepted community norms." Numerous courts have recognized that employers have legitimate interests in reducing favoritism, avoiding conflicts of interest between work obligations and personal or family obligations, and preventing sexual harassment, all of which weigh against finding that supervisors have a reasonable expectation of privacy in pursuing intimate relationships with subordinates.

Further detracting from the notion that Barbee had a reasonable expectation of privacy was the fact he had notice through HAFC's written conflict-of-interest policy that relationships between supervisor and subordinate might be subject to monitoring. The notice provided by HAFC's policy diminished any privacy right Barbee otherwise may have possessed to engage in an intimate relationship with Tomita.

Thus, the court held that Barbee did not have a reasonable expectation of privacy in pursuing his relationship with Tomita and, therefore, he could not establish a necessary element of his invasion of privacy claim.

Barbee also claimed that his discharge violated public policy, as established by a provision of the California Labor Code that authorizes the labor commissioner to sue on behalf of employees alleging that an employer took adverse action against them for engaging in lawful conduct during nonworking hours and away from the employer's premises. The court determined, however, that for Barbee to prevail on a public policy claim under that provision, he had to establish that he was terminated for exercising a constitutionally protected civil right. Since the court had already held that HAFC had not infringed Barbee's constitutionally protected right to privacy, it was compelled to reject the claim that HAFC violated the public policy embodied in that Labor Code provision.

#### ***Title VII discrimination claims***

In addition to state common law, aggrieved employees challenging a discharge for violating a no-fraternization policy also have invoked federal statutes, ordinarily by filing a sex discrimination claim pursuant to Title VII. In a 1997 case, *Shumway v. United Parcel Service*, a female supervisory employee was discharged after her employer discovered that she had been dating an hourly employee in violation of its no-fraternization policy. When confronted, the supervisor lied about the extent of the relationship.

After her discharge, she sued her employer under Title VII, claiming that the employer had discriminated against her based on her sex because it had not terminated male supervisory employees who also had violated the no-fraternization policy. On appeal from the trial court's grant of summary judgment in favor of the employer, the 2nd U.S. Circuit Court of Appeals found that the plaintiff was not similarly situated to the males she compared herself with because none of those supervisors had dated a subordinate for the length of time she had, had been warned that their conduct violated company policy as she had, had harassed the subordinate employee after the relationship soured as she had, or had lied about the relationship when confronted by management as she had.

In addition, the employer showed that it had in fact terminated male supervisors who had violated the no-fraternization policy. The evidence was, therefore, deemed insufficient to prove that the plaintiff had been discriminated against in violation of Title VII.

The leading case on the subject of Title VII liability for sex discrimination in such a situation is the 1986 case of *DeCintio v. Westchester County Medical Center*. In *DeCintio*, the 2nd Circuit found that the term "sex" as used in Title VII referred not to sexual activity but to gender. The court then held that any preferential treatment given to the "paramour," to the detriment of other co-workers, was not discrimination based on the co-workers' gender but on the special relationship that existed between the supervisor and the "paramour." Consequently, those other co-workers had not been discriminated against on the basis of their sex in violation of Title VII.

### ***Sexual harassment claims***

Co-workers affected by favoritism shown another employee also have brought Title VII claims on a sexual harassment theory. These plaintiffs typically cast themselves as victims of *quid pro quo* sexual harassment, alleging that their co-worker succumbed to a supervisor's advances to gain preferential treatment. Courts addressing the issue have held that such a situation does not result in illegal sexual harassment because the favoritism shown to an employee engaged in a consensual relationship with a supervisor is not gender-based.

As the 7th U.S. Circuit Court of Appeals explained in *Schobert v. Illinois Dep't of Transportation*, a 2003 decision:

Title VII does not ... prevent employers from favoring employees because of personal relationships. Whether the employer grants employment perks to an employee because she is a protégé, an old friend, a close relative or a love interest, that special treatment is permissible as long as it is not based on an impermissible classification. From a practical standpoint, there is every reason for an employer to discourage this kind of intra-office romance, as it is often bad for morale, but that is different from saying it violates Title VII.... [T]his is not really a sex discrimination problem.

### ***State law discrimination claims***

In the 1984 case of *Sears v. Ryder Truck Rental, Inc.*, for example, a discharged employee alleged that she was the victim of marital status discrimination in contravention of the Michigan equivalent of Title VII, known as the Elliott-Larsen Act, when she was fired for violating the employer's policy prohibiting employees from dating one another. When the employer told the couple to end their relationship or one of them would be terminated, the plaintiff resigned and brought suit, alleging that her former employer's no-dating policy was akin to a "no spouse" rule, which Michigan courts have held discriminates on the basis of marital status. The court determined, however, that there was no basis in Michigan law to support such an expansion of the Elliott-Larsen Act and dismissed the complaint.

In *Russell v. United Parcel Service*, a female plaintiff alleged sex discrimination in violation of Ohio state law after she was terminated for violating her employer's no-fraternization policy even though her male subordinate paramour had resigned. The plaintiff provided evidence that male employees who had violated the policy were allowed to remain in their jobs when the subordinate with whom they were romantically involved resigned. The Ohio appellate court reversed the trial court's grant of summary judgment, determining that the plaintiff had raised an issue of material fact as to whether the employer might have used the no-fraternization policy as a pretext for gender-based discrimination.

### ***Lawful off-duty conduct***

Yet another avenue some employees have taken to challenging their dismissal for violating their employers' no-fraternization policies has been to claim that romantic relationships are protected under a state statute prohibiting discrimination against employees for engaging in legal recreational activities.

A provision of New York labor law, for example, defines recreational activities as "any lawful, leisure-time activity, for which the employee receives no compensation and which is generally engaged in for recreational purposes, including but not limited to sports, games, hobbies, exercise, reading and the viewing of television, movies and similar material..."

New York courts have found that dating is not a recreational activity within the meaning of that provision, reasoning that it is dissimilar to the other activities listed in the statute and, therefore, falls outside the scope of the conduct the legislature intended to protect. (See, for example the following cases: *State v. Wal-Mart Stores, Inc.*, 621 N.Y.S.2d 158 (1<sup>st</sup> Dep't. 1995); *McCavitt v. Swiss Reinsurance Am. Corp.*, 237 F.3d 166 (2d Cir. 2001); *Hudson v. Goldman Sachs & Co., Inc.*, 725 N.Y.S.2d 318 (1<sup>st</sup> Dep't. 2001)).

Because no-fraternization policies are to some extent intrusive, and may not only create a risk of lawsuits but also serve as a source of employee disaffection, they are not right for every workplace. Remember: Seventy-five percent of HR professionals responding to the *2002 Workplace Romance Survey* reported having no organizational policy addressing workplace romance, and only 15 percent indicated that a written policy was in place.

Employers would be well advised to consider carefully the pros and cons of implementing, or maintaining, a no-fraternization policy before doing so. Some factors to look at are:

- The nature of the particular work environment.
- The makeup of the workforce.
- Whether there is a history of intimate relationships among employees.
- Whether such relationships have, in the past, given rise to claims of discrimination, harassment or favoritism.
- How the employer would monitor compliance with the policy.
- Whether the employer is prepared to use discipline as a means of enforcing the policy, or even to enforce the policy at all.
- Whether pre-existing relationships would be exempt from or subject to a new or revised policy.

Employers that do utilize no-fraternization policies and enforce them in an evenhanded manner typically are protected from liability for claims of wrongful discharge and discrimination, though it is important to be cognizant of the rules and practices of individual states.

It appears safe to say that employers without no-fraternization policies may find themselves more vulnerable to Title VII lawsuits than those who have adopted such policies and enforce them uniformly. Though even those without policies may be successful in defending "paramour" sex discrimination and sexual harassment actions, they put themselves at risk of incurring substantial legal expenses to do so. Whereas, if employers have no-fraternization policies in place and apply them without discrimination, they are much less likely to find themselves being dragged into court on wrongful discharge or Title VII actions.

The most important aspect of a no-fraternization policy is enforcement. It is far worse to have such a policy and enforce it selectively in a manner evidencing discriminatory intent than not to prohibit relationships among co-workers at all.

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*This article is intended as general information, and is not a substitute for legal or other professional advice.*

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# About.com US Military



## Army Fraternalization Policy

When Does Friendship Become a Crime in the Army?

By Rod Powers, About.com Guide

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Army fraternalization policies are contained in Army Regulation 600-20, Army Command Policy. (Note: The term "officer" as used below includes both commissioned and warrant officers).

The below provisions to both relationships between Army personnel and between Army personnel and personnel of other military services. This policy applies to different-gender relationships and same-gender relationships.

### Prohibited Relationships

Relationships between soldiers of different rank are prohibited if they:

- (1) Compromise, or appear to compromise, the integrity of supervisory authority or the chain of command.
- (2) Cause actual or perceived partiality or unfairness.
- (3) Involve, or appear to involve, the improper use of rank or position for personal gain.
- (4) Are, or are perceived to be, exploitative or coercive in nature.
- (5) Create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission.

### Relationships Between Officers and Enlisted

Certain types of personal relationships between officers and enlisted personnel are prohibited, even if they don't meet the above criteria. Prohibited relationships include:

- (1) Ongoing business relationships between officers and enlisted personnel. This prohibition does not apply to landlord/tenant relationships or to one-time transactions such as the sale of an automobile or house, but does apply to borrowing or lending money, commercial solicitation, and any other type of ongoing financial or business relationship. In the case of Army National Guard or United States Army Reserve personnel, this prohibition

does not apply to relationships that exist due to their civilian occupation or employment.

(2) Dating, shared living accommodations other than those directed by operational requirements, and intimate or sexual relationships between officers and enlisted personnel. This prohibition does not apply to

(a) Marriages that predate the effective date of this policy (March 1, 2000)

(b) Situations in which a relationship which complies with this policy would move into noncompliance due to a change in status of one of the members (for instance, a case where two enlisted members are married and one is subsequently commissioned or selected as a warrant officer).

(c) Personal relationships outside of marriage between members of the National Guard or Army Reserve, when the relationship primarily exists due to civilian acquaintanceships, unless the individuals are on active duty (other than annual training) or Full-time National Guard duty (other than annual training).

(d) Personal relationships outside of marriage between members of the Regular Army and members of the National Guard or Army Reserve when the relationships primarily exists due to civilian association and the Reserve component member is not on active duty (other than annual training) or Full-time National Guard duty (other than annual training).

(f) Soldiers and leaders share responsibility, however, for ensuring that these relationships do not interfere with good order and discipline. Commanders will ensure that personal relationships which exist between soldiers of different ranks emanating from their civilian careers will not influence training, readiness, or personnel actions.

(3) Gambling between officers and enlisted personnel.

These prohibitions are not intended to preclude normal team building associations which occur in the context of activities such as community organizations, religious activities, family gatherings, unit-based social functions, or athletic teams or events.

All military personnel share the responsibility for maintaining professional relationships. However, in any relationship between soldiers of different grade or rank the senior member is generally in the best position to terminate or limit the extent of the relationship. Nevertheless, all members may be held accountable for relationships that violate this policy.

Commanders should seek to prevent inappropriate or unprofessional relationships through proper training and leadership by example. Should inappropriate relationships occur, commanders have available a wide range of responses. These responses may

include counseling, reprimand, order to cease, reassignment, or adverse action. Potential adverse action may include official reprimand, adverse evaluation report(s), nonjudicial punishment, separation, bar to reenlistment, promotion denial, demotion; and courts martial. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is warranted, appropriate, and fair.

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**FRATERNIZATION**

The military prohibits certain kinds of relationships, which means that military members are not entirely free to associate with anyone they choose.

The military primarily uses two articles of the UCMJ to define what military relationships are proper and which are not. Those two articles are Article 92 and Article 134. Article 92 covers "unprofessional" relationships and Article 134 covers fraternization.

Unprofessional relationships are those that compromise military authority or create an appearance of impropriety. The definition of unprofessional relationship is a bit fluid, but it essentially covers relationships that adversely affect or have the reasonable *potential* to adversely affect the military by eroding morale, good order, discipline, respect for authority, unit cohesion, or by compromising the military mission itself.

Relationships between supervisors and subordinates have a high risk of becoming unprofessional. The military watches out for favoritism, misuse of position, and using a position to further one's own goals. Actions that create just the *appearance* of impropriety can also be punished by the UCMJ.

Particular areas of concern include:

- Shared living accommodations
- Shared vacations
- Shared transportation
- Off-duty activities such as playing sports or drinking alcohol together
- Flirtation
- Sexual or romantic relations
- Sexual or romantic communications (text, email, etc.)

Unprofessional relationships can develop either on or off duty, and they can exist between officers, between enlisted personnel, or between officers and enlisted personnel, or between military personnel and civilian employees.

Article 92 also covers relationships between recruiter-recruit, faculty-student, and trainer-trainee. In fact, these are some of the most common cases we get.





**If you are facing military charges:**

You don't have to make a statement to anyone, not even your commander.

You have a right to talk to an attorney, whether or not you committed a crime.

You have a right to have an attorney by your side if you're being questioned by anyone.

You don't have to consent to any search of your home, car, computer, or bodily fluids.

You don't have to submit to a polygraph examination.

Before giving up any of these rights, speak with an experienced military attorney - even if you're innocent.

Unlike **Article 92**, which covers everyone, **Article 134** can only be used against officers. Specifically, Article 134 prohibits an unprofessional relationship between an officer and enlisted member. From the military's perspective, fraternization is about boundaries: an inappropriate relationship between an officer and an enlisted member can compromise good order and discipline, discredit the military, or have the effect of dishonoring the officer corps. Officers have a heightened responsibility to avoid any relationship that puts the mission or the integrity of the officer corps in jeopardy.

Examples of conduct that might get officers in trouble if they engage in it with enlisted personnel:

- Gambling
- Lending money or borrow money
- Sexual or romantic relations
- Sharing living quarters
- Engaging in business or sales

Whether brought under Article 92 or Article 134, allegations of unprofessional relationships are some of the most common cases we handle. The military is very aggressive about these issues and it's common for cases like this to be taken to a court-martial. Investigations often include a full review of email, text, and telephone communication, in addition to more traditional methods of investigation like interrogation and witness interviews. Any allegation of unprofessional relationship can destroy a career and result in jail time, loss of pay and allowances and all military benefits. At a minimum, it can destroy a reputation and compromise future promotions.

If you are faced with allegations of having engaged in an inappropriate relationship, you have a right to remain silent and you have a right to speak with an attorney. Our firm deals with cases like this all the time, and we often find that people are their own worst enemy: not just because of what they did in the relationship or what evidence they left behind, but because they willingly talk to authorities without first getting advice from an experienced criminal defense attorney. Please call us for a free consultation before you say anything or make any decisions.

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**When you're looking for a civilian military attorney, we recommend that you ask the following questions:**

-Have your attorneys all served as JAGs in the military? If not, will any of the attorneys who do not have military experience be handling my case?

-Have all of the attorneys who will be handling my case actually litigated a contested Court-Martial before a military panel, or "jury"?

-Will my file be referred to another firm or attorney who does

# About.com US Military

D

## Air Force Fraternalization Policies

When Does Friendship Become a Crime in the Air Force?

By Rod Powers, About.com Guide

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Air Force fraternization policy is contained in Air Force Instruction [36-2909](#), *Professional and Unprofessional Relationships*.

**General.** Professional relationships are essential to the effective operation of all organizations, both military and civilian, but the nature of the military mission requires absolute confidence in command and an unhesitating adherence to orders that may result in inconvenience, hardships or, at times, injury or death. This distinction makes the maintenance of professional relationships in the military more critical than in civilian organizations. While personal relationships between Air Force members are normally matters of individual choice and judgment, they become matters of official concern when they adversely affect or have the reasonable potential to adversely affect the Air Force by eroding morale, good order, discipline, respect for authority, unit cohesion or mission accomplishment. Professional relationships are those interpersonal relationships consistent with Air Force core values: integrity first, service before self, and excellence in all we do. Military members understand that the needs of the institution will sometimes outweigh personal desires. This guidance focuses on the impact of personal relationships on the interests of the Air Force as an institution. The guidance set forth in this instruction is based, in part, on the custom against fraternization that has been a part of and enforced within the American military for over 200 years.

**Professional Relationships.** Professional relationships are those that contribute to the effective operation of the Air Force. The Air Force encourages personnel to communicate freely with their superiors regarding their careers, performance, duties and missions. This type of communication enhances morale and discipline and improves the operational environment while, at the same time, preserving proper respect for authority and focus on the mission. Participation by members of all grades in organizational activities, unit-sponsored events, intramural sports, chapel activities, community welfare projects, youth programs and the like can enhance morale and contribute to unit cohesion.

**Unprofessional Relationships.** Relationships are unprofessional, whether pursued on or off-duty, when they detract from the authority of superiors or result in, or reasonably create the appearance of, favoritism, misuse of office or position, or the abandonment of organizational goals for personal interests. Unprofessional relationships can exist between officers, between enlisted members, between officers and enlisted members, and between military personnel and civilian employees or contractor personnel. Fraternization is one form of unprofessional relationship and is a recognized offense under Article 134 of the Uniform Code of Military Justice (UCMJ).

**Fraternalization.** Fraternalization, as defined by the Manual for Courts-martial, is a personal relationship between an officer and an enlisted member that violates the customary bounds of acceptable behavior in the Air Force and prejudices good order and discipline, discredits the armed services, or operates to the personal disgrace or dishonor of the officer involved. The custom recognizes that officers will not form personal relationships with enlisted members on terms of military equality, whether on or off-duty. Although the custom originated in an all male military, it is gender neutral. Fraternalization can occur between males, between females and between males and females. Because of the potential damage fraternization can do to morale, good order, discipline, and unit cohesion, the President specifically provided for the offense of fraternization in the Manual for Courts-martial

**General Guidelines**

Military experience has shown that certain kinds of personal relationships present a high risk of becoming unprofessional. Personal relationships that are not initially unprofessional may become unprofessional when facts or circumstances change. For example, a close personal relationship between officers or between enlisted members can easily become unprofessional if one member becomes the commander, supervisor or rater of the other. Air Force members, both officer and enlisted, must be sensitive to the formation of these personal relationships, as well as the possibility that relationships that are not initially unprofessional may become so due to changed circumstances.

**Explore US Military****See More About:**

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- association
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## Fraternalization

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## FEATURED ARTICLES

## SPORTS

## Isn't There an NFL Rule Against Fraternalization?

September 20, 1986

It is disturbing to read in Morning Briefing (Sept. 16) that rival quarterbacks Boomer Esiason of the Bengals and Jim Kelly of the Bills dined together the night before their game. Is there any rule in the NFL against fraternalization during the season? It just does not seem proper for opposing players to socialize with one another--and if the tablecloth shows pencil marks, I'd like my money back. BILL RETCHIN La Quinta

## BUSINESS

## Anti-fraternalization policy is ruled unlawful

February 3, 2007 | From Reuters

Employers may stop their workers from fraternizing if it's for fun but not if it's to discuss working conditions, a U.S. appeals court ruled Friday. A three-judge panel found that an anti-fraternalization policy of the security-services firm Guardsmark intruded into federal labor law that gives workers the right to organize and to "engage in other concerted activities."

## NEWS

## Navy Officer in Fraternalization Case Cleared of All Charges

May 26, 1988 | CAROL MCGRAW, Times Staff Writer

Lt. Kathleen Mazure, a Navy dentist who was threatened with court-martial for fraternizing with an enlisted Marine who later became her husband, has been cleared of all charges, officials said Wednesday. Maj. Gen. Gene A. Deegan, commander of the Marine Corps Air Ground Combat Center at Twentynine Palms, made the decision a day after an administrative hearing.

## SPORTS

## BASEBALL / DAILY REPORT : AROUND THE MAJOR LEAGUES : Cardinals' Torre Bans Fraternalization

April 20, 1992 | Associated Press

Joe Torre, manager of the St. Louis Cardinals, banned opposing players from the clubhouse one day after two of his players fought over the subject. On Saturday, relief pitcher Todd Worrell and first baseman Pedro Guerrero each threw punches after Guerrero brought the Sammy Sosa of the Chicago Cubs into the clubhouse after Chicago's 5-4 victory. Torre held a team meeting before Sunday's game to announce that fraternalization would not be tolerated.

## NEWS

## Pentagon Toughens Army Fraternalization Rules

## ARTICLES BY DATE

## SPORTS

## Oregon's Jeremiah Masoli faces burglary charge

March 10, 2010

Oregon quarterback Jeremiah Masoli faces a burglary charge in connection with a theft at a campus fraternity house in late January in Eugene. The Lane Country district attorney's office says Masoli and former Oregon receiver Garrett Embry have each been charged with one count of burglary in the second degree. Masoli and Embry are to be arraigned in Lane County Circuit Court on Friday. A fraternity member reported that Masoli and Embry stole two computers and a guitar from the Sigma Alpha Epsilon house Jan. 25. Masoli passed for 2,147 yards and 15 touchdowns last season as a junior.

Advertisement

## SPORTS

## The Dodgers pitchers who live in infamy

October 21, 2009 | By Dylan Hernandez

Jonathan Broxton descended to a place on Monday night visited by only a select group of players in Dodgers history. Ralph Branca was there in 1951 when he gave up a pennant-winning three-run home run to Bobby Thomson in a series-deciding playoff game against the Giants that came to be known as "The Shot Heard 'Round the World." Terry Forster was there on the final day of the 1982 regular season when he served up a home run to Joe Morgan that cost the Dodgers the National League West title.

## NEWS

## Navy weighs policy to allow women to serve on subs

October 18, 2009 | By Russ Bynum and Pauline Jelinek, Bynum and Jelinek write for the Associated Press.

Submariners sleep nine to a bunk room. There are four showers and seven toilets for the roughly 140 enlisted men. The passageways aboard the vessel are so narrow that crew members can barely squeeze by each other

July 30, 1998 | PAUL RICHTER, TIMES STAFF WRITER

The Pentagon on Wednesday issued new rules on personal relationships that will outlaw many Army romances and end some friendships, while upholding controversial sanctions against adultery throughout the services. After 13 months of contentious deliberations, Defense Secretary William S. Cohen ordered the Army to adopt the tougher line of the other services on "fraternization"—improper relationships between officers and enlisted personnel.

NEWS

## The State

May 25, 1988

A decision in the fraternization case involving Navy Lt. Kathleen Mazure and her husband Scott Price, a former Marine, may be reached today, Marine Corps officials said. Commanding General Gene Deegan took the case under advisement after an administrative hearing at the Marine Corps facility at Twentynine Palms. Mazure was to go on trial earlier this week, but the general court-martial charges were dropped by the Marines' judge advocate's office.

NEWS

## Sailors' Warning: It's the Navy, Not the 'Love Boat'

April 5, 2003 | Carol J. Williams, Times Staff Writer

In the race-car vernacular favored by the captain, the infraction is called "swapping paint." Inappropriate contact between men and women of the 5,500-member mixed crew is rare because of the severe penalties imposed on violators of the Navy's ban on fraternization and intimacy aboard its vessels. But the laws of the heart sometimes overwhelm the instinct for self-preservation.

NEWS

## Miramar Base Commander Reassigned : Navy: Sources say highly decorated officer was having an affair with woman in legal department at the Naval

April 27, 1991 | NORA ZAMICHOW, TIMES STAFF WRITER

Capt. Larry (Hoss) Pearson, the highly decorated commanding officer of Miramar Naval Air Station—the home of the Navy's Top Gun pilot school—was reprimanded and relieved of his command Friday on charges of fraternization, Navy officials said. Navy officials would not elaborate on the exact nature of the fraternization but sources said Pearson was having an affair with a woman who was in charge of the legal department at Miramar.

NEWS

## Navy Officer and Marine Mechanic : She Marries a Corporal—Now Faces Court-Martial

May 13, 1988 | KIM MURPHY, Times Staff Writer

Their courtship began in a Jacksonville, Fla., bar a little over a year ago, one of those nights, they recall, when two people caught each other's eye and wound up "dancing the night away." It was a night when Kathleen Mazure was wearing her dancing dress, not her Navy lieutenant's bars, and the last thing on her mind was what Scott Price did for a living. It wasn't until after she had taken Price home with her, in fact, that she found out he was a Marine Corps lance corporal.

NEWS

## Court-Martial Charges Against Bride Dropped

May 24, 1988

General court-martial charges have been withdrawn against Navy Lt. Kathleen Mazure, who had been accused of fraternizing with a junior enlisted man whom she later married. The case was to have gone to trial today at the Marine Corps facility at Twentynine Palms, but on Monday the Marines' staff judge advocate's office announced that the charges had been withdrawn and that negotiations are under way to resolve the case, according to a Marine spokesman.

without touching. And that's on the roomiest submarines. The Navy is considering allowing women to serve aboard submarines for the first time, 16 years after bringing female sailors onto surface combat ships. Some sailors and wives warn that putting men and women together in extremely close quarters underwater for weeks at a time could lead to sexual harassment cases and wrecked marriages.

CALIFORNIA | LOCAL

## Fraternity pays a price for a party that got out of hand

October 12, 2009 | By My-Thuan Tran

The brothers of Lambda Phi Epsilon at UCLA were excited to find the gray-and-teal apartment complex several blocks from campus. They had no house on Fraternity Row, but the complex could serve as their home base. About a dozen members of the Asian American fraternity moved into eight units in the 600 block of Midvale Avenue before the fall quarter started. In late September, they hosted a housewarming mixer to recruit new members. "Let us show you how Lambdas throw the sickest house parties in town and experience the social life that you can't experience any where else!"

CALIFORNIA | LOCAL

## Masonic Hall is a thing of fairy tales, not conspiracy theories

October 11, 2009 | By Steve Harvey

"The Lost Symbol," author Dan Brown's new, violent thriller, involves some strange findings at a Masonic temple near the White House (wine-filled skull and severed hand, anyone?). Brown capitalizes on the Masons' reputation as a secretive fraternal and charitable movement that has been accused by conspiracy theorists of just about everything, including plotting with extraterrestrials to take over the world. Standing in quiet contrast to such drama is Los Angeles' 151-year-old Masonic Hall.

WORLD

## Italy's highest court strips Berlusconi of immunity protection

October 8, 2009 | By Maria De Cristofaro and Henry Chu

Italy's highest court today overturned a law granting Prime Minister Silvio Berlusconi immunity from prosecution while in office, a major blow for a seemingly Teflon leader whose business dealings and personal peccadilloes have come under increasing fire. The highly anticipated ruling threw a question mark over Italy's political scene and the future of its longest-serving premier since World War II. Berlusconi, a billionaire businessman-turned-politician, is now likely to come under pressure to resign or to call a snap election as a bribery trial against him reopens after being put on hold with passage last year of the immunity law. At the least, analysts say, it will further distract his government as it grapples with the global recession and as Berlusconi continues to dodge embarrassing allegations that he allowed prostitutes to attend parties at his home.

CALIFORNIA | LOCAL

## Three UCLA students arrested after fight last month at fraternity party

October 3, 2009 | By Ann M. Simmons and My-Thuan Tran

Three UCLA students and four other people have been arrested in connection with a melee at an off-campus fraternity party that left three students injured last month, university officials said Friday. The fight broke the morning of Sept. 22 at a party hosted by Lambda Phi Epsilon, a fraternity that was on probation at the time after an incident last fall that involved an altercation with members of another fraternity over "male and female relations," said Phil Hampton, a university spokesman. Isaiah Hee Cho, 19, of Westminster and Chris Yi, 19, of Huntington Beach were arrested Thursday on suspicion of attempted murder, Hampton said.

CALIFORNIA | LOCAL

## Nine Cal Poly Pomona students suspended in hazing incident

September 29, 2009 | By Raja Abdulrahim

Nine Cal Poly Pomona students have been suspended after an

member suffered second-degree burns on a third of his body. Another 45 Sigma Phi Epsilon members received probation, a university spokesman said last week. During a fraternity bonfire ceremony in the high desert, a member splashed gas onto the fire for "dramatic effect," injuring the new member, said university spokeswoman Esther Chou. The student, who has not been identified, asked for medical treatment but did not receive it until hours later, she said.

**CALIFORNIA | LOCAL****Duvall incident spotlights politicians' perks in capital**

September 11, 2009 | By Eric Bailey and Michael Rothfeld

For many who join the select club of 120 known as the California Legislature, everything changes. Once inside, they find an army of lobbyists and corporate executives at their disposal, more than eager to shower them with food, drink, travel and — in some cases — sex. The case of Michael Duvall, the 54-year-old Yorba Linda assemblyman who resigned Wednesday after the disclosure that he bragged over an open microphone of apparent sexual trysts,...

**NATIONAL****Police officer who arrested Gates to address FOP**

August 17, 2009 | By Peter Wallsten

Sgt. James Crowley, the white Massachusetts police officer whose arrest of a black Harvard professor led to a political firestorm for President Obama, is scheduled to step back into the fray today in Long Beach -- thanking a national police union that defended him when Obama said he acted "stupidly." Crowley was last seen in public sipping beer with Obama and the professor, Henry Louis Gates Jr., in a White House summit staged to smooth over the controversy from the president's comments at a July 22 news conference and to help return focus to his top priority, overhauling healthcare.

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**City of Ypsilanti**  
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Ypsilanti, MI 48197

F

### **Personal Relationships in the Workplace**

The employment of relatives or individuals involved in a dating relationship in the same area of an organization may cause serious conflicts and problems with favoritism and employee morale. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried over into day-to-day working relationships. For purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage. A dating relationship is defined as a relationship that may be reasonably expected to lead to the formation of a consensual "romantic" or sexual relationship. This policy applies to all employees without regard to the gender or sexual orientation of the individuals involved. Relatives of current employees may not occupy a position that will be working directly for or supervising their relative. Individuals involved in a dating relationship with a current employee may also not occupy a position that will be working directly for or supervising the employee with whom they are involved in a dating relationship. The City also reserves the right to take prompt action if an actual or potential conflict of interest arises involving relatives or individuals involved in a dating relationship who occupy positions at any level (higher or lower) in the same line of authority that may affect the review of employment decisions. If a relative relationship or dating relationship is established after employment between employees who are in a reporting situation described above, it is the responsibility and obligation of the supervisor involved in the relationship to disclose the existence of the relationship to management. The individuals concerned will be given the opportunity to decide who is to be transferred to another available position. If that decision is not made within 30 calendar days, management will decide who is to be transferred or, if necessary, terminated from employment. In other cases where a conflict or the potential for conflict arises because of the relationship between employees, even if there is no line of authority or reporting involved, the employees may be separated by reassignment or terminated from employment. Employees in a close personal relationship should refrain from public workplace displays of affection or excessive personal conversation.

# G

## **CITY OF SLIDELL**

Policy No. 201

OFFICE OF CHIEF OF STAFF

Addendum II

SUBJECT: FRATERNIZATION

### **Policy:**

It is the policy of the City to promote a productive work environment. While the city encourages employees to develop good working relationships and friendships with fellow employees certain types of fraternization are prohibited. The city does not wish to intrude into the private lives of their employees, however, when personal or business relationships between employees adversely impact or have the reasonable potential to adversely impact the City of Slidell by eroding morale, good order, discipline, respect for authority or departmental cohesion they become a matter of official concern. In order to avoid situations involving unlawful sexual harassment, stalking, conflicts of interest, misunderstandings or the appearance of favoritism and impropriety any relationship that impedes the City's ability to conduct business, that would create a conflict of interest or that would prevent employees from performing their duties in an effective manner and would therefore be detrimental to a productive work environment is prohibited.

### **Comment:**

- (1) Relationships are considered unprofessional whether pursued on or off-duty when they detract from management authority or result in, or reasonably create the appearance of, favoritism, misuse of office or position, or the abandonment of organizational goals for personal interests. Unprofessional relationships can exist between supervisors, managers and directors and individuals in higher positions, between supervisory personnel and employees, between employees and other employees within their own department, and between elected officials and employees.
- (2) Personal Relationships are defined as dating, cohabitation, and any type of intimate or sexual relationship.
- (3) Business relationships are defined as borrowing or lending money, commercial solicitation or entering into any type of on-going financial or business relationship.
- (4) Individuals in a supervisory position are prohibited from entering into any type of personal (emotional or physical) or on-going business relationship with any employee, in a lower grade or job title than they are, in the city.
- (5) Employees are prohibited from entering into any type of personal (emotional or physical) or on-going business relationship with another employee within their department or division.

(6) Employees who are in relationships which comply with this policy but move to noncompliance due to a change in status of one or both members through promotion or transfer would be expected to notify their Department Directors and each case would be reviewed on a case by case basis to determine resolution. Such decisions will take into consideration the business needs of the City. Resolution may include reassignment, restriction of duties and responsibilities, or transfer of the least senior employee.

(7) Employees who are in a relationship which are in non-compliance due to the institution of this policy will be expected to notify their Department Director(s) and each case will be reviewed on a case-by-case basis to determine appropriate resolution.

(8) Employees who do not bring to the city's attention the fact of a personal (emotional or physical) or on-going business relationship will be subject to remedial action up to and including, reassignment of duties and responsibilities, transfer, demotion, limiting of job functions and/or access to certain information, possible disciplinary action, up to and including termination.

(9) Employees who are in a consensual relationship which complies with this policy but allow the relationship to interfere in any way with the effective performance of their duties or the duties of their co-workers will be subject to disciplinary action up to and including termination.

It is the goal of the Fort Smith Fire Department to fulfill the elements of the "Mission Statement" in a manner consistent with the "Statement of Organizational Values."

**FORT SMITH FIRE DEPARTMENT MISSION STATEMENT**

**"THE MISSION OF THE FORT SMITH FIRE DEPARTMENT IS TO SERVE THE COMMUNITY BY PROTECTING LIVES, PROPERTY AND THE ENVIRONMENT IN A SAFE, EFFICIENT AND PROFESSIONAL MANNER."**

**STATEMENT OF ORGANIZATIONAL VALUES**

**Accountability**

We will recognize at all times our collective and individual accountability and responsibility to our community, our profession, our organization and members.

**Service**

We will deliver high quality service to our community based on timeliness, effectiveness and customer needs.

**Performance**

We will base our standard performance on effectiveness, efficiency and competence, with emphasis on maintaining state of the art skill levels through ongoing continuing education, training and personal development.

**Behavior**

We will demonstrate, through our behavior, collectively and individually, respect and dignity toward each other and the citizens we serve.

**Values**

We will strive to individually reflect a feeling of positive, open and honest interaction with each other, based on flexible, progressive and team-focused style.

**Communications**

We will seek to improve communication in an effort to achieve cooperation, respect and understanding while maintaining that participation and partnership must guide our interaction with each other and the citizens we serve.

**Organizational Process**

We will strive to make policies and decisions prioritized by placing the citizens first, the organization second and ourselves third. Organizational and individual goal setting must place emphasis on measurement of outcomes and results and conservation of resources.

**APPROVED BY:** \_\_\_\_\_  
**Jerry C. Tomlin, Fire Chief**

## **REVOKING PREVIOUS RULES**

**FROM THE ADOPTION OF THE RULES AND REGULATIONS CONTAINED HEREIN, ALL RULES, REGULATIONS OR ORDERS ISSUED OR PROMULGATED HERETOFORE, IN ANY MANNER CONFLICTING WITH THE RULES AND REGULATIONS HEREIN CONTAINED, ARE HEREBY REVOKED, REPEALED AND RENDERED INOPERATIVE AND OF NO FORCE.**

**VIOLATION OF ANY OF THE RULES AND REGULATIONS OR NEGLECT OR OMISSION OF ANY OF THE DUTIES PRESCRIBED HEREIN ARE CONSIDERED OFFENSES AND ANY MEMBER FOUND GUILTY SHALL, IN THE DISCRETION OF THE FIRE CHIEF OR CITY ADMINISTRATOR AND THE CIVIL SERVICE COMMISSION, BE SUBJECT TO REPRIMAND, SUSPENSION, DEMOTION OR DISMISSAL FROM THE SERVICE, OR SUCH OTHER PENALTIES AS MAY BE DETERMINED.**

**RULES AND REGULATIONS THAT WILL GOVERN EVERY CASE CANNOT BE MADE IN ADVANCE, AND FROM TIME TO TIME NECESSARY GENERAL AND SPECIAL ORDERS WILL BE ISSUED.**

**ALL GENERAL OR SPECIAL ORDERS THAT MAY BE ISSUED HEREAFTER RELATING TO DISCIPLINE OR DUTIES OF THE MEMBERS, SHALL BE RECOGNIZED AND CONSIDERED AS PART OF THESE RULES AND REGULATIONS.**

**RULES AND REGULATIONS  
FOR THE  
FORT SMITH FIRE DEPARTMENT**

**SECTION 100**

**AUTHORITY AND PURPOSE**

**100.00 AUTHORITY AND PURPOSE**

100.01: The Rules and Regulations of the Fort Smith Fire Department are promulgated by the Chief of the Fire Department and approved by the legislative body of the City of Fort Smith. Section 14-51-302, Arkansas Statutes Annotated.

101.00 The Rules and Regulations of the Fort Smith Fire Department are designated to promote efficiency, discipline and good public relations by setting forth rules governing the conduct of every uniform member of the Fort Smith Fire Department, both on and off duty.

101.01: Where reference is made to the "office of the Fire Chief," the term shall mean the Chief, Assistant Chief, and/or any staff officer designated by the Fire Chief.

102.00 The provisions of these Rules and Regulations, the Civil Service Commission's Rules and Regulations, departmental policies and procedures and written directives shall apply to all uniform members of the Fire Department.

103.00 Fire Department policies, procedures and written directives can only be amended, added or deleted by the Chief of the Department.

104.00 The conduct of non-uniform personnel shall be governed by the City of Fort Smith Personnel Policy Handbook and departmental rules, regulations and directives governing non-uniform personnel.

**SECTION 200**

**SCOPE**

200.00           The provisions of these Rules and Regulations shall be observed by all uniform members of the Fire Department in order to maintain the confidence, respect and support of the community.

201.00           Violation of these Rules and Regulations, the Civil Service Commission's Rules and Regulations, the ordinances of the City of Fort Smith, laws of the State of Arkansas or the United States, departmental orders, policies and directives shall subject the offender to disciplinary action which may take the form of a verbal or written reprimand, reduction in rank, suspension without pay, suspension with pay or discharge from employment. Action taken will depend upon the severity of the offense, the record of the offender and the seriousness of the consequences of the violation.

202.00           Disciplinary action under these Rules and Regulations shall be in accordance with the Civil Service Commission's Rules and Regulations.

203.00           It shall be the duty of all members to take corrective action and submit in written report to an immediate supervisor whenever they learn through personal observation or a report of any violation of these Rules and Regulations, the Ordinances of the City of Fort Smith, and/or the laws of the State of Arkansas or the United States by any uniform member of the Department.

203.01: Should the violation involve an incident of serious nature, the Chief or the on duty Chief Officer detecting the violation shall relieve the offender from duty. Should the observing uniform member be of lesser rank than the offender, he/she shall notify their supervisor immediately. The offender shall be instructed to keep himself/herself available to the Office of the Fire Chief.

204.00           When a violation does not involve gross misconduct, but could cause discredit to the Department or any member thereof, an initial investigation and report shall be made in writing setting out the known facts of the case by the department member that has knowledge of the incident and that report shall follow the chain of command to the Office of the Fire Chief. An investigation then will be initiated to determine the nature and degree of the violation.

205.00           Minor violations, which do not involve gross misconduct and which will not reflect discredit upon the Department, but which indicate a need for some form of discipline and/or training, may be handled by the offender's Chief Officer or Superior.

206.00           Pursuant to the authority granted by the legislative body of the City of Fort

Smith, the Fire Chief shall have the right to suspend, give a verbal and/or written reprimand, reduction in rank or discharge of any employee who may be under his/her jurisdiction and control for failure or refusal to obey lawful order given by proper authority or the orders, rules and regulations and directives promulgated by the Fire Chief.

207.00 A Probationary Firefighter shall serve a period of not to exceed twelve (12) months before any appointment is complete, during this period, the probationer may be discharged by the Fire chief. A probationary firefighter has no right of appeal under Civil Service Commission's Rules and Regulations. The decision of the Fire Chief shall be final in these cases.

208.00 No member of the Department shall procure appointment in the Department by means of willful misrepresentation or omission any material fact concerning his/her personal history, qualifications for employment, or physical condition. Any willful misrepresentation or omission of material fact, whenever discovered, shall be basis for termination from employment with the Department.

209.00 As prescribed by the Civil Service Commission's Rules and Regulations, promotion of any member shall not be deemed complete until a period of six (6) months shall have elapsed following said promotion. At any time during this six (6) month probationary period, the Chief of the Fire Department may rescind the promotion.

210.00 Should any member of the Fire Department who has successfully completed the entire probationary period be discharged, suspended, or reprimanded because he/she has violated any of these Rules and Regulations, the Civil Service Commission's Rules and Regulations, any Ordinance of the City of Fort Smith, and/or the laws of the State of Arkansas or the United States, he/she shall receive a letter of discharge, suspension or reprimand, which shall set forth the rule (s) violated and details of the said violation (s).

210.01: Upon receipt of written notification from the Chief of the Fire Department of a dismissal and/or demotion, a regular member of the Fire Department shall have ten (10) calendar days to exercise his/her right of appeal to the Civil Service Commission.

## SECTION 300

## **PROFESSIONAL CONDUCT AND PERSONAL BEARING**

**300.00** Dereliction of duty on the part of any uniform member of this Department that is detrimental to the proper performance of the functions of the Department is cause for disciplinary Action. The offender shall be punished according to the severity of the violation, the results brought by the dereliction, and the effect it has upon the discipline, good order and the best interest of the Department. Although not on an exhaustive list, the following described sections constitute dereliction of duty.

- 300.01** Failure of a supervisor or a chief officer to take immediate action when a violation of these Rules and Regulations come to his/her attention, regardless of the supervisor's or violator's assignment or rank within the Department.
- 300.02** Failure to observe and adhere to the Rules and Regulations, policies and directives of the Department.
- 300.03** Failure to give name, rank or duty assignment to any person upon request.
- 300.04** To be under the influence of a controlled substance or to be a user of a controlled substance when such has not prescribed by a physician or dentist or to take drugs in a manner not prescribed by a physician or dentist.
- 300.05** To be under the influence of any prescription drug not previously reported to the Department.
- 300.06** Unnecessary violence toward any person.
- 300.07** Disrespect shown toward any supervisory officer, any civilian supervisor or subordinate or any other member equal in rank.
- 300.08** Use of unnecessarily loud, indecent, profane, or rude language in the performance of official duties or in the presence of the public or during the presence of any other member of the Department.
- 300.09** To accept, agree to accept, or solicit a bribe. [A bribe shall be defined as a gift, money, thing of value, testimonial, appointment or personal advantage, or the promise or solicitation of same for the purpose of obtaining special privileges or personal gain by the donor or the person.]
- 300.10** Cowardice or failure to perform fire fighting duties because of

danger.

- 301.00 No member of this Fire Department shall engage in any conduct which constitutes conduct unbecoming a uniform member of this department or neglect of duty.
- 302.00 No member of this Fire Department shall engage in any personal act or conduct which, if brought to the attention of the public, could result in justified criticism of that member of the Department.
- 303.00 All members of this Fire Department shall treat supervisors, subordinates and associates with respect. Employees shall be courteous and civil at all times in their relationships with one another. When on duty, in the presence of the public or other employees, members shall be referred to by rank and proper surname.
- 304.00 Members shall not publicly criticize or ridicule the Department, its policies or other employees by speaking, writing or expressing any manner which:
- 304.01 Is defamatory
  - 304.02 Is obscene
  - 304.03 Is unlawful
  - 304.04 Tends to impair the operation of the Department by interfering with its efficiency, with the ability of supervisors to maintain discipline or by a reckless disregard for the truth.
- 305.00 Members shall not ridicule, mock, taunt or belittle any person at any time. Neither shall he/she willfully embarrass, humiliate, nor shame any person, nor do anything that might incite any person to violence.
- 306.00 Members shall not conduct themselves in the offices and buildings of the Department in a manner which would discredit any member of the Department.
- 307.00 Members shall not engage in any form of gambling while on duty.
- 308.00 Members shall not engage in "horseplay" or the playing of pranks while on duty.
- 309.00 Members shall not solicit any funds for the purpose of buying a gift for any member of the Department without permission of the Office of the Fire Chief.
- 310.00 Members shall not receive any money or gift from any type of solicitation for special circumstances not previously approved by the Fire Chief.
- 311.00 Members shall not accept, either directly or indirectly, any gift, gratuity, reward, loan, fee, discount, rebate or special consideration arising from or offered that might reasonably tend to influence him/her in the discharge of his/her duties

## **SECTION 400**

### **RESPONSIBILITIES AND GENERAL CONDUCT ON DUTY**

- 400.00 For the purpose of protecting life and property all off-duty members are subject to being called back to duty in times of an emergency or circumstances that indicate their services are required.
- 401.00 Members shall respond without delay to any emergency to which they are sent. Off-duty members shall report to the on duty Battalion Chief upon arrival at an emergency scene.
- 402.00 If an off-duty member cannot report to duty when called, he/she must answer to the Office of the Fire Chief in writing as to the reason for not reporting for duty. The Fire Chief will make the determination if the reason is excusable.
- 403.00 The ranking on-duty supervisor at the scene of any Fire Department incident shall be in charge and responsible for the conclusion of the incident.
- 404.00 Members shall at all time respond to the lawful orders of supervisors and other in lawful authority as well as requests for assistance from the public.
- 405.00 All members shall perform their duties as required or directed by law, departmental rule, and policy, directive or by order from a supervisory officer.
- 406.00 Members are required to take appropriate action to aid any member or citizen exposed to danger or in a situation of impending danger.
- 407.00 The hours of all Fire Department employees shall be regulated by the Fire Chief, who has the authority to call any employee back to duty, regardless of the hours assigned that employee.
- 408.00 The Fire Chief shall have the authority to assign any member to any duty assignment as long as the Rules and Regulations of the Civil Service Commission and Arkansas State Laws are followed.
- 409.00 Members shall not be absent without leave. [Absent without leave shall mean either a failure to report for duty at the time and place of duty or the leaving of a place of duty of the leaving of a place of duty or assignment without the prior authorization of a supervisor.]
- 410.00 Unless otherwise directed, members shall report for duty and daily roll call at the time and place specified. Members shall be in proper and complete uniform

and have all necessary equipment in place at the beginning of their tour of duty.

- 411.00 All members shall give careful attention to orders and instructions and follow those orders and instructions.
- 412.00 It shall be the responsibility of any member who cannot report for duty due to illness [personal or family] to notify the on-duty Battalion Chief. At least one (1) hour prior to their scheduled reporting time. It will be that supervisor's responsibility, who receives the sick leave call, to relay the information to the relieving supervisor.
- 413.00 When an employee becomes sick while on duty to the extent that he/she must leave their assigned duties, the employee shall notify their supervisor immediately, prior to leaving their assigned duties.
- 414.00 Any employee of the Department who is absent from duty and reports sickness or injury as the reason for such absence, shall at the discretion of the Fire Chief, submit to an examination by a physician selected by the City of Fort Smith.
- 415.00 Supervisory officers shall make diligent inquiries into every case of tardiness and shall document such tardiness with a view toward possible disciplinary action.
- 416.00 In cases of extended illness or injuries, reports and statements from the attending physician shall be immediately furnished as to the member's illness, condition and expected time to return to duty. It shall be the responsibility of the member concerned to ensure that this documentation is prepared and presented to the Office of the Fire Chief.
- 417.00 All members shall furnish the Office of the Fire chief an address and telephone number at which they may be reached in the event of an emergency.
- 418.00 Employees shall report changes in home address, telephone number, emergency phone number and name changes within seventy-two (72) hours of such change to the Office of the Fire Chief.
- 419.00 Members shall not work at any outside or extra employment, including self-employment, within forty-eight (48) hours from the end of a shift that they failed to report for duty due to illness, injury or sickness in the family.

- 420.00 Members are prohibited from engaging in the following activities while on duty:
- 420.01 Reading of any pornographic material.
  - 420.02 Watching of any pornography on television, video, film or computer.
  - 420.03 Possession/or showing any material that could be offensive to anyone.
  - 420.04 Conducting personal business.
  - 420.05 Drinking intoxicating beverages, use of any illegal drugs or gambling while on duty.
  - 420.06 Any sexual conduct or act.
  - 420.07 Conducting any outside gainful employment business.
- 421.00 Members are prohibited from participating in any other vocation or business activity which might conflict or interfere with their responsibilities of this Department.
- 422.00 Members shall promptly submit reports which are required by the performance of their duties, departmental policies and directives or by a competent authority.
- 423.00 Members shall not consume intoxicants while off-duty to the extent that evidence of such consumption is apparent when he/she reports for duty or to the extent his/her job performance is impaired.
- 424.00 Members in uniform shall not drink intoxicants or buy intoxicants while on or off-duty.
- 425.00 Members shall not be intoxicated while on duty. The City's Drug Free Policy shall be followed at all times.
- 426.00 Members shall not bring or keep intoxicating liquor on departmental premises.
- 427.00 Members on duty or in uniform shall not enter taverns, bars, lounges or other similar public places except to perform a fire department service.
- 428.00 Members shall not smoke or chew or use any form of tobacco product while making personal contacts with the public in the performance of his/her duties in homes, offices, places of business, public places or on public streets.
- 429.00 All members shall adhere to the "Smoke Free Workplace Policy" of the City of Fort Smith. No member of the Fire Department shall smoke, chew or use any tobacco product in a Fire Department vehicle.

430.00

No expenditure of money shall be made or liability incurred in the name of the City or the Department unless authorized by the Office of the Fire Chief.

431.00

Members shall not permit any person to enter any Fire Department facility whose purpose it is to sell goods, offer them for sale, canvas or solicit for any purpose without permission from the Office of the Fire Chief.

432.00

Members shall not knowingly falsify or alter any report, document or record or cause to be entered any inaccurate, false or improper information on records, documents or reports of the Department.

433.00

All members shall follow Chain of Command.

434.00

Shirking duties or responsibilities at emergency scenes or at the fire station shall subject the offender to strict disciplinary action.

435.00

City of Fort Smith's Policy on "Workplace Violence and Possession of Weapons" shall be strictly adhered too.

## **SECTION 500**

### **PUBLIC ACTIVITIES**

500.00 No member of the Department or person seeking admission thereto, shall be appointed, refused appointment, reduced, removed or in any way favored or discriminated against because of political or religious opinions or affiliations.

501.00 (A) ***PERMITTED POLITICAL ACTIVITIES***

Members of the Fort Smith Fire Department may engage in the following political activities:

- (a) Contribute to and campaign for candidates for elected office during non-duty time;
- (b) Solicit campaign contributions during non-duty time, but not from subordinates;
- (c) Run for political office;
- (d) Publicly support candidates for elected office;
- (e) Contribute to and campaign for ballot issues during non-duty time ("ballot issues" include constitutional amendments, bond issues, and other such issue elections); and,
- (f) Participate, voluntarily, off-duty, in uniform, in campaigns for municipal ballot issues that have been officially endorsed by a majority vote of the Board of Directors of the City of Fort Smith.

(B) ***PROHIBITED POLITICAL ACTIVITIES***

Members of the Fort Smith Fire Department shall not engage in the following political activities:

- (a) Campaign at any time for elected political office, either on behalf of themselves or for others, when on duty, or in uniform, or when acting in an official capacity as a firefighter;
- (b) Campaign for elected political office, either on behalf of themselves or for others, at anytime, anywhere, in any manner which implies endorsement by the City of Fort Smith or its Fire Department of any candidate.
- (c) Solicit campaign contributions while in uniform or by identifying

themselves as a member of the Fire Department, or by any other manner which implies endorsement by the City of Fort Smith or its Fire Department of any candidate or position;

(d) Compel or otherwise place pressure of any kind upon a subordinate to contribute to, or campaign for, any ballot issue or candidate for public office; or

(e) Place campaign material relating to anyone running for political office on any City of Fort Smith property, including Fort Smith Fire Department uniforms.

(C)

If the member covered by these rules and regulations is elected to an office, or is appointed to complete the unexpired term of an elective office, which causes a conflict or negatively impacts the member's performance with his or her City position, as determined by the Fire Chief, the member will be required either to resign his or her position with the City or the office to which he or she was elected or appointed. Additionally, such member shall not serve or perform in the elected or appointed position while in uniform or in any other way by identifying themselves as a member of the Fire Department or by any other manner which implies endorsement by the City of Fort Smith or its Fire Department.

502.00 Members shall not seek the influence or intervention of any person outside the Department for purposes of personal preferment, advantage, transfer or advancement.

503.00 Members shall not become a member of any organization, association, movement or group that commits or advocates acts of force or violence to deny others their rights under the Constitution of the United States or which seeks to alter the form of Government of the United States by unconstitutional means.

504.00 Members shall not participate in any type of disruptive protest demonstration, nor shall any member act as a spokesman, representative or agent for any group active in a planning to engage in any type of disruptive protest demonstration against the government, City of Fort Smith or this department.

505.00 Members shall not participate, cause or solicit others to disrupt normal operating procedures or the normal function of this Department.

506.00 Members shall not permit their name or photograph to be used to endorse any product or service which is in any way connected with this Department without permission from the Office of the Fire Chief.

507.00 Debts - Incurring and Payment

507.01

Members shall not solicit subordinate members to co-sign or endorse any promissory note or other loan.

507.02

Members shall pay all just debts and legal liabilities incurred by them.

## **SECTION 600**

### **UNIFORMS, EQUIPMENT AND APPEARANCE**

- 600.00           Members of the Fort Smith Fire Department shall present a “neutral image” to effectively relate to all segments of the community. Citizens of this community demand and deserve highly trained and motivated firefighters who demonstrate disciplined conduct, regimentation and strict adherence to Rules and Regulations and departmental directives. Therefore, members of the Department shall be subject to and shall comply with the uniform and appearance standards prescribed by the Fire Chief.
- 601.00           Uniforms shall be kept, neat, clean and in good repair at all times. The uniform shall be worn at specified times as established by department orders.
- 602.00           Normally, members shall wear the duty uniform on their tour of duty.
- 603.00           No member, while in uniform shall wear on the uniform any item not specifically authorized by the Fire Chief.
- 604.00           Other clothing items, such as, T-shirts, sweat shirts and hats shall only be worn as directed by the Office of the Fire Chief while on duty.
- 605.00           Color and type of all clothing apparel, shoes or boots shall be as directed by the Office of the Fire Chief.
- 606.00           All safety equipment shall be used or worn as directed by the Office of the Fire Chief.
- 607.00           Members shall not wear the uniform while suspended or relieved of duty.
- 608.00           Improper or negligent handling of or negligent damage to City property is a violation of these Rules and Regulations. Reckless handling of or reckless damage to City property is a serious violation of these Rules and Regulations and shall subject the offender to severe disciplinary action.
- 609.00           Members who have lost, damaged, or destroyed any equipment issued to them by the Department shall immediately report such to their immediate supervisor. The member may be required to make restitution if the loss or damage is the result of negligence on the member’s part.
- 610.00           Members shall promptly report the need for repairs of any City owned property issued, used, possessed by them, to their immediate supervisor.
- 611.00           Members shall report repair needed or damage to any City facility, vehicle or equipment to their immediate supervisor.
- 612.00           Members shall not alter, repair, or in any way change, add to, or remove

any parts or accessories of any City owned property without permission from the Fire Chief. This includes buildings, office, equipment, machines, communications equipment, motor vehicles or other City owned property.

## **SECTION 700**

### **CIVIL, CRIMINAL, JUDICIAL AND INVESTIGATIVE ACTION**

- 700.00           Members shall be truthful at all times, whether under oath or not, when conducting official Fire Department business.
- 701.00           Members shall answer questions, render material, and relevant statements to a competent authority in a departmental personnel investigation, when directed.
- 702.00           Members shall not willfully misrepresent any matter, sign any false statement or report, commit perjury or give false testimony before any court, commission, official hearing or department hearing or investigation.
- 703.00           Members shall not knowingly falsify or alter any report, document or record or cause to be entered any inaccurate, false or improper information on records, documents or reports of the Department or of any court. No member shall remove or destroy or cause the removal or destruction of any report, document or record without prior written authorization from the Fire Chief.
- 704.00           Members must be present and available to testify in any court when officially notified to appear.
- 705.00           Any members who, for a valid reason, are unable to answer an official summons must be excused by the court prior to the time they are scheduled to appear.
- 706.00           Any member who is subpoenaed or volunteers to testify for the defense in any criminal or civil trial or hearing or any case against the City or Department shall notify the Fire Chief in writing upon receipt of the subpoena of his/her intention to testify or appearance as a witness.
- 707.00           Members shall not reveal any confidential information to anyone unless properly authorized by the Office of the Fire Chief to do so and then only to a person or persons authorized to receive such confidential information.

**SECTION 800**

**EFFECTIVE DATE**

800.00            These Rules and Regulations shall become effective on     April 20, 1999 at which time the previous Rules and Regulations and their amendments shall be suspended except as provided in 801.00 of this code. Note revisions adopted by Resolution No. R-59-04 dated April 6, 2004 to the following Sections:

                  Section 200 **Scope**

                                  Section 210.01

                  Section 300 **Professional Conduct and Personal Bearing**

                                  Section 300.05

                  Section 500 **Public Activities**

                                  Section 501.00

801.00            The previous Rules and Regulations and their amendments shall remain in full force and effect for any violations which occur prior to the effective date of this code.

802.00            If any section, sentence, clause or phrase of these Rules and Regulations is for any reason held invalid, such decision shall not affect the validity of the remaining portions.



MILITARY DEPARTMENT OF ARKANSAS  
OFFICE OF THE ADJUTANT GENERAL  
CAMP JOSEPH T. ROBINSON  
NORTH LITTLE ROCK, ARKANSAS 72199-9600

MIKE BEEBE  
GOVERNOR

WILLIAM D. WOFFORD  
MAJOR GENERAL  
THE ADJUTANT GENERAL

CS-C

21 May 2009

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Policy Memorandum 2009-04, Relationships between Soldiers / Airmen of Different Ranks (Fraternization) and Professional Relationships

1. References:

- a. Army Regulation 600-20, Army Command Policy, dated 18 March 2008.
- b. Air Force Instruction 36-2909, Professional and Unprofessional Relationships, dated 1 May 1999.

2. This policy memorandum supersedes Policy Memorandum #99-10, Relationships between Soldiers of Different Ranks (Fraternization) and Professional Relationships.

3. Our unique military profession requires absolute confidence in the command. Professional relationships contribute to high morale and good discipline, while unprofessional personal relationships create the perception of favoritism or impropriety that erodes morale, discipline and has the potential to lead to unit ineffectiveness. Commanders and supervisors of the Arkansas National Guard must adhere to the rules and regulations outlined in the applicable service directives listed above. Commanders and supervisors have the authority and responsibility to maintain good order, discipline and morale. As such, they are held accountable for failing to act in appropriate cases. Commanders and supervisors are expected to enforce principles to address unique situations arising from our traditional Guardsmen. Additionally, commanders and supervisors are responsible to ensure all Soldiers / Airmen within their organization are made aware and abide by the policies set forth in the above mentioned regulations and instructions. Unprofessional relationships will not be tolerated in the Arkansas National Guard.

4. Certain types of personal relations between service members are prohibited. Specific unprofessional relationships are to be reviewed in the applicable directives:

a. Army Regulation 600-20:

- (1) Paragraph 4-14, Relationships between Soldiers of different rank;
- (2) Paragraph 4-15, other prohibited relationships;

CS-C

SUBJECT: Policy Memorandum 2009-04, Relationships between Soldiers / Airmen of Different Ranks (Fraternization) and Professional Relationships

(3) Paragraph 4-16, Fraternalization;

(4) Paragraph 4-17, Standards of Conduct.

b. Air Force Instruction 36-2909:

(1) Paragraph 2.2.1, Fraternalization;

(2) Paragraph 3, General guidelines for All Military Personnel for Avoiding Unprofessional Relationships, Including Fraternalization;

(3) Paragraph 5, Specific Prohibitions Relating to Officers (Fraternalization).

c. Recruiter and recruit relationships to include Recruit Sustainment Program Cadre and recruits are prohibited.

5. Should inappropriate relationships occur, commanders have available a wide range of responses, which may include counseling, reprimand, order to cease, reassignment, or adverse action. Potential adverse action may include official reprimand, adverse evaluation reports, nonjudicial punishment, separation, bar to reenlistment, promotion denial, demotion, and courts martial.

6. All personnel share the responsibility for maintaining professional relationships and ensuring that relationships do not interfere with good order and discipline; however, in any relationship between Soldiers / Airmen of different grades or ranks, the senior member is generally in the best position to terminate or limit the extent of the relationship.

7. This policy is based on the custom of prohibiting fraternization that has been a part of, and enforced within the American military for more than 200 years. This purpose of this policy is to supplement but not replace AR 600-20 or AFI 36-2909. All members of the Arkansas National Guard are expected to respect authority and maintain military customs and courtesies, including official and personal relationships.

  
WILLIAM D. WOFFORD  
Major General  
The Adjutant General

DISTRIBUTION:  
A, C, F

# ***AGENDA*** ~ Summary

## **FORT SMITH BOARD OF DIRECTORS STUDY SESSION**

***JULY 27, 2010 ~ 12:00 NOON***

**FORT SMITH PUBLIC LIBRARY  
COMMUNITY ROOM  
3201 ROGERS AVENUE**

1. Discuss city-wide goals for 2011 budget  
Discussion only. There was concurrence with the 2011 goals that were included in the packet.
2. Discuss 2011 outside agency funding  
Presentation by Tracy Winchell, Economic Development Coordinator. She reviewed recommendations of the Citizens' Review Panel for Year 2011 funding.
3. Review proposed redevelopment plan for the use of New Market Tax Credits  
Presentation by Ken Pyle, Executive Director of the Fort Smith Housing Authority. There was considerable discussion about the use of eminent domain which Mr. Pyle advised such would only be used with the approval of the Board of Directors. The Board requested that such wording be included in the resolution. Resolution approving the redevelopment plan placed on the agenda of the August 3, 2010 regular meeting.
4. Discuss nepotism policy relating to elected officials ~ *Tabled from the July 20, 2010 regular meeting* ~  
This item was continued to the August 10, 2010 study session.
5. Review preliminary agenda for August 3, 2010 regular meeting