

AGENDA

FORT SMITH BOARD OF DIRECTORS STUDY SESSION

AUGUST 10, 2010 ~ 12:00 NOON

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

1. Discuss nepotism policy relating to elected officials ~ *tabled from the July 20th regular meeting / rescheduled from the July 27th study session ~*
2. Discuss mandatory spay/neuter program
3. Review proposed annexation ~ Middleton Farms
4. Discuss operational reporting realignment by and among department heads and City Administrator
5. Review preliminary agenda for August 17, 2010 regular meeting

1.

MEMORANDUM
August 5, 2010

TO: Dennis Kelly, City Administrator

FROM: Cindy Remler, City Clerk

RE: Nepotism Policy for Elected Officials

The attached ordinance, originally requested by Director Settle, was tabled by the board at the July 20th regular meeting, and subsequently rescheduled from the July 27th study session to the August 10th study session. The ordinance was prepared by city attorney Jerry Canfield.

It was also requested that the issue of fraternization be included for discussion as well. Richard Jones, HR Director, has assembled the enclosed information for the board's 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
Publish 1 time*

MEMORANDUM

TO: Mayor, Board of Directors and City Administrator

FROM: Richard B. Jones, Director of Human Resources

DATE: August 5, 2010

SUBJECT: Fraternalization Definition and Information for Discussion

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

If a fraternization policy is developed I would recommend that it be narrowly defined so it does not inadvertently undue the positive associations and relationships that employees have developed working for the city.

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 Ypsilanti, MI Policy
- G. City of Slidell, LA Policy
- H. Fire Department Rules
- I. Military Department of Arkansas Policy from 188th



Answers.com

Fraternization

Dictionary: Fra-ter-ni-za-tion

n.

The act of fraternizing or uniting as brothers.

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

Burke.

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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

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

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 Adelphopoia](#)
- [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.

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.

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 (1st 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 (1st 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.

About.com US Military



Army Fraternization Policy

When Does Friendship Become a Crime in the Army?

By Rod Powers, About.com Guide

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Army fraternization 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

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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Must Reads

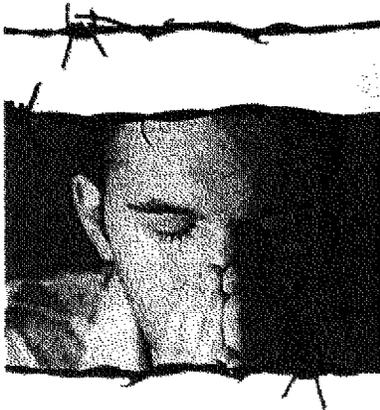
- Military Pay Charts
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Chicago Tribune

ArmyTimes



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.

 **DOWNLOAD YOUR BRIEF GUIDE TO MILITARY JUSTICE**
(THIS SMALL PDF CONTAINS USEFUL INFORMATION AT NO CHARGE.)

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

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

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Los Angeles Times

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IN THE NEWS

Fraternization

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FEATURED ARTICLES

SPORTS

Isn't There an NFL Rule Against Fraternization?

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 fraternization 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-fraternization 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-fraternization 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 Fraternization 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 Fraternization

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 fraternization would not be tolerated.

NEWS

Pentagon Toughens Army Fraternization 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 County 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

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
1 South Huron Street
Ypsilanti, MI 48197

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.

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

**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

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

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

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.

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 to.

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

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

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.



**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;



2

Fort Smith Police Department
Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: Dennis Kelly, City Administrator
From: Kevin Lindsey, Chief of Police
Subject: Spay / Neuter Presentation
Date: August 6, 2010

At the July 20, 2010 Board Meeting, a request was made by Director Good to arrange for a presentation of a mandatory spay/neuter program for the City of Fort Smith. Ramona Roberts, representing the River Valley Animal Welfare Coalition will be making a presentation to Board members at the August 10, 2010 Study Session. JoAnn Barton, Executive Director of the Sebastian County Humane Society, will also be present for questions from Board Members.

MEMORANDUM

To: Dennis Kelly, City Administrator
From: Wally Bailey, Director of Development Services
Date: August 5, 2010
Subject: Middleton Farms Annexation

We are in receipt of an annexation request for 325 acres, more or less, generally located at the current southeast city limits. The Order for Annexation has been approved by Sebastian County Court Judge David Hudson and was filed on April 6, 2010. Enclosed is a map showing the proposed annexation area.

The current development plan is predominantly single family residential but does include a neighborhood commercial and a multi-family component. The master land use plan and the zoning plan have not been reviewed by the planning commission. Enclosed is the proposed development plan for the property.

We feel it is important to brief the Board of Directors on this significant annexation and development plan at a study session to familiarize everyone with the issues before the regular business meetings of the Planning Commission and Board of Directors. In addition to the City staff, Mr. Pat Mickle and Mr. Bobby Aldridge of Mickle-Wagner-Coleman, Engineers will be at the study session to explain the development plans.

The City staff has been reviewing the proposed plan with Messrs. Mickle and Aldridge. Some of the more noteworthy issues that have been discussed are as follows:

Utility Department: The costs for the water and sewer improvements will be the developer's responsibility. The City has adequate water and sewer trunk systems available near the property. Each development will ultimately share in the cost of the trunk systems.

Parks Department: A proposal has been made for the City to accept the lake and land around the lake as a City park. The Parks Department will continue to analyze the proposal and its impacts.

Fire Department: This subdivision further extends the response time from fire station 10 on Burrough Road. The extended response time will not only be an issue for responses to any incidents but will also impact future ISO reviews. The proposed development should not affect the current ISO review but would be an issue with the next review which could be done in about 3 - 4 years.

Engineering Department: The perimeter roads, Howard Hill Road and Rye Hill Road South, are existing County roads. These roads will be impacted by the new development and will need some improvements. The improvements include turn lanes, some widening and an intersection improvement. An attached memorandum from Stan Snodgrass, Director of Engineering further explains the required improvements and participation plan for the road improvements.

Planning Department: The development will comply with the requirements of the Unified Development Ordinance which includes amenities such as perimeter landscaping along Howard Hill Road and Rye Hill Road, green space and the installation of sidewalks. The Master Land Use Plan and Zoning plan must be reviewed by the Planning Commission and their recommendations forwarded to the Board of Directors. A neighborhood meeting was held on Thursday, July 22, 2010. The meeting summary, which is enclosed, includes comments from some of the neighboring property owners and a description of the project.

Although there may be some municipal service challenges, annexation does provide benefits. It helps the city and region grow, provide new housing choices, increase the property tax base, and increase our population which increases economic activity.

We will be prepared to further discuss all issues and answer any questions. Please contact me if you have any questions.

C: Pat Mickle, MWC Engineers
Dr. Kay Johnson, Greenwood School District
David Hudson, Sebastian County Judge

INTER-OFFICE MEMO

TO: Wally Bailey, Director Development and Construction

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

DATE: August 5, 2010

SUBJECT: Middleton Farms Development
Pre-annexation Agreement
Street Participation Requirements

The development of Middleton Farms as a residential subdivision will result in traffic impacts to Howard Hill Road and Rye Hill Road both of which are existing county roads in the annexation area. Both roads are included in the City's Street Master Plan and will ultimately require widening and improvements for the designated classifications.

The proposed development consists of approximately 820 single family residential dwelling units which will be completed in the following four phases:

Phase 1	2012	(195 lots)
Phase 2	2015	(180 lots)
Phase 3	2019	(240 lots)
Phase 4	2023	(205 lots)

Staff's recommendation for street improvements based on the 10 plus year phasing consist of widening of all approaches to 3 lanes a minimum distance of 300 feet at the Howard Hill Road and Rye Hill Road intersection. The Howard Hill Road alignment would shift southward to eliminate the sharp curve and improve sight distance. Traffic signal control would be installed subject to warrants and City priorities but is not anticipated at this time. Widening of Rye Hill Road to 3 lanes south of Howard Hill Road through the limits of the development is also recommended. These street improvements would consist of all street, sidewalk, drainage, utility relocations and related construction to provide a major collector street (3 lane curb and gutter) section. The developer would dedicate to the City at no cost all necessary street rights of way and easements within the limits of their development.

Completion of these improvements would coincide with the finishing of Phase 3 of the development. Cost participation by the City would generally follow the "New Street Construction Participation Program" for collector streets. In this program the city pays one third

and the property owner on each side pay one third. The City would be responsible for selecting and contracting the design services and providing construction administration. Payment of the developer's share would be required upon receiving the construction bids and prior to awarding of the construction contract.

A summary of the estimated improvements and cost sharing are outlined in the table below.

	Street Segment	Length (ft)	Estimated Cost	Developer Share	City Share
1	Howard Hill Road west of Rye Hill Road	300	\$300,000	\$200,000	\$100,000
2	Howard Hill Road east of Rye Hill Road	300	\$300,000	\$100,000	\$200,000
3	Rye Hill Road north of Howard Hill Road	300	\$300,000	\$0	\$300,000
4	Rye Hill Road south of Howard Hill Road	3000	\$3,000,000	\$2,000,000	\$1,000,000
		Total	\$3,900,000	\$2,300,000	\$1,600,000

It should be noted that for segment 2, the Middleton Farm development is on one side and the other side is already developed. As such the developer would pay one third and the city would pay two thirds. Also for segment 3, this section is north of the development and the city would pay the entire cost.

Should you have questions please contact me.



Patrick J. Mickle, P.E.
Neal B. Wagner, PLS
Randell C. Coleman, P.E.
Andrew J. Dibble, P.E.

Summary of Middleton Farms Neighborhood Meeting

Meeting Time and Date: Thursday, July 22, 2010, 5:30 p.m.
Meeting Location: Rye Hill Baptist Church
Meeting Purpose: Middleton Farms Annexation, Master Land Use Plan Amendment, Zoning, and Preliminary Development Plan

See attached attendance list.

Meeting began at approximately 5:35 p.m. Bobby Aldridge of Mickle Wagner Coleman, Inc., agent for Middleton Farms, began the meeting with a presentation of the proposed development. Mr. Aldridge then discussed the owners desire to annex the property into the City of Fort Smith along with a description of the annexation process. The existing Land Use and Zoning of the subject properties and surrounding properties along with the proposed changes of the Land Use and Zoning designations were also discussed. Exhibit maps were utilized that showed the existing and proposed Land Use as well as the existing and planned Zoning Classifications. Each proposed Land Use and Zoning Classification was discussed. The proposed land uses for the property are Residential Detached, Residential Attached, and Commercial Neighborhood. The accompanying proposed zoning classifications include Residential Single Family (RS-3, 4, and 5); Residential Single Family Duplex (RSD-3); Residential Multi-family (RM-3); and light commercial (C-2). The proposed development would consist of approximately 825 residential lots and one neighborhood commercial lot.

Pat Mickle discussed the Development Plan. He indicated landscaping would be installed along the perimeter streets of the proposed subdivision as a result of the City's new Development Ordinance. Mr. Mickle further explained some of the other features of the proposed development such as internal sidewalks on each street, street layout and connectivity, and proposed designated green space corridors/buffer areas.

After the presentation of the proposed development, Mr. Aldridge asked if anyone had any questions or comments. Before, during and after the presentation several questions and/or comments were asked and/or discussed.

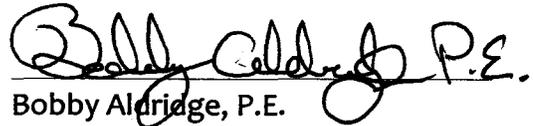
1. Prior to the meeting, Mr. Les Barker was concerned that his property was going to be annexed with this proposal action. Mr. Aldridge discussed this with him and explained that the Middleton Farm property was the only property being annexed with this action.

MICKLE WAGNER COLEMAN, INC.

2. In response to questions asked both before and during the meeting by Mr. Paul Post and Mr. Barker, Pat Mickle discussed the phasing of the subdivision, utilities serving the subdivision and those that would be constructed within the subdivision. Mr. Mickle explained that the development would be a long term 10 to 15 year development, the length of time being a function of the housing market, and discussed the existing utilities and corresponding phasing of the utilities during the development construction. The twelve acres in the northwest corner of the Howard Hill Road and Rye Hill Road intersection would likely be the first phase developed (38 lots).
3. Mr. Barker asked about access to and driveways along Howard Hill Road. Mr. Mickle explained that east of Rye Hill Road there would be no driveway access from the individual lots to Howard Hill Road and that the development plan only has one street access, opposite Mitchell Acres. The other internal streets would utilize two access points on Parnell Lane and two points on the eastside of Rye Hill Road with three streets proposed to Rye Hill Road from the western side of the development. During this discussion, the Master Street Plan classifications of Rye Hill Road and Howard Hill Road was discussed along with their current conditions and their future classified widths per the Master Street Plan.
4. Mr. Barker asked what the widening plan was for Howard Hill Road. Mr. Mickle again explained the Master Street Plan classification of Howard Hill Road being a Minor Arterial and requiring 100' of right-of-way. According to the traffic analysis performed, widening of Howard Hill Road was not required as the result of the proposed development. Mr. Mickle discussed his understanding of the City's ultimate desire to add a center turn lanes on both Howard Hill Road and Rye Hill Road, at their intersection.
5. Ms. Lisa Mundai commented that the traffic along Howard Hill Road is bad and seems to have progressively gotten worse.
6. Ms. Mundai was concerned that if the widening of Howard Hill Road was to occur, would the City acquire the additional right-of way. Mr. Mickle explained that Middleton Farms would dedicate 50' right-of-way from the existing centerline of Howard Hill Road to the south. If the City chose to widen the road that additional right-of-way to the north would be acquired by the City. Mr. Mickle explained that this may or may not happen and if so it would probably be some time before it would.

7. Ms. Jan Barker asked what the procedures of the annexation were and if they would be notified of future meetings. Mr. Mickle explained that it is anticipated that the annexation request be presented to the Board of Directors as an informational item at the August 10th study session, presented to the Planning Commission in a public hearing in September, and finally presented to the Board of Directors for consideration in October. Mr. Aldridge advised that all property owners within 300' of the development would again be notified, advertisements in the paper would be placed, and signs on the property would be placed notifying that a public hearing is to be held.
8. Mr. Paul Post inquired as to the timing of the project and housing prices for the RS-3 and RS-4 zoning areas. Mr. Mickle indicated that the first phase (38 lots) would likely begin construction in the spring of 2011 with the start of the subsequent phases being dependent upon the success of phase 1. The RS-3 areas would be similar in size and type to that of Ridgewood at Rye Hill and being \$175,000 to \$250,000. The RS-4 area would be of like construction to the RS-3 but would be smaller and estimated to be in the \$125,000 to \$225,000 range. All this, however, would be dependent upon market conditions, timing, and success of phase 1.
9. Mr. Post also asked about the type of structures anticipated for the Residential Single Family Duplex (RSD-3) zoning classification along Howard Hill Road. Mr. Mickle explained that the property sloped sharply away from the street and that the street classification of Howard Hill Road is minor arterial. This street classification limits the number of direct driveway access to the street and thus a common or shared driveway would be necessary. Shared driveway use is typically undesirable for single family detached residences as is fronting a house on a major street. In order to best utilize the limited building sites, duplexes are anticipated. These duplexes would be architecturally compatible with the single family residence in the neighborhood.
10. An inquiry was also made as to what type of development might occur on the commercial zone classification in the southwest quadrant of the Rye Hill Road and Howard Hill Road intersection. First, it was pointed out that because of the anticipated traffic at the intersection of a major collector and a minor arterial street this lot would not be conducive to single family residences. While the ultimate use of this site is uncertain it is anticipated that the lot may be utilized for a neighborhood convenience store. The property slopes sharply to the rear and any type use would be limited. The light commercial zoning of this lot would allow for a neighborhood store, a business office, or insurance office.

Mr. Aldridge then asked if there were any further comments or questions and offered his contact information to anyone if they had additional questions or comments at a later date. The meeting was then concluded at 6:20 p.m.

A handwritten signature in black ink that reads "Bobby Aldridge, P.E.". The signature is written in a cursive style with a large initial "B".

Bobby Aldridge, P.E.
Mickle Wagner Coleman, Inc.

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location Rye Hill Baptist Church

Meeting Time & Date Thursday, July 22, 2010, 5:30 p.m.

Meeting Purpose Middleton Farms Annexation, Master Land Use Amendment, and Rezoning

NAME	ADDRESS	PHONE #
1. <u>LES BARKER</u>	<u>8813 HOWARD HILLS RD.</u>	<u>646-6311</u>
2. <u>Jan Barker</u>	<u>8813 HOWARD HILL RD.</u>	<u>646-6311</u>
3. <u>Connie Post</u>	<u>9115 HOWARD HILL RD.</u>	<u>996-7897</u>
4. <u>James Roller</u>	<u>673 GARRISON AVE.</u>	<u>783-4191</u>
5. <u>Stephen C. Smith</u>	<u>P.O. Box 10205 FSM, ARZ</u>	<u>782-1001</u> 72917
6. <u>Lisa [unclear]</u>	<u>9407 HOWARD HILL FSA</u>	<u>629-0550</u>
7. <u>Richard Griffin</u>	<u>3008 Dallas Dr. FSA</u>	<u>783-5191</u>
8. <u>Brenda [unclear]</u>	<u>Fort Smith Planning Dept</u>	<u>784-2216</u>
9. <u>Wally Britey</u>	<u>CFS</u>	
10. <u>Paul Post</u>	<u>9115 HOWARD HILL RD.</u>	<u>452-5693</u>
11. <u>Deise [unclear]</u>	<u>Middleton Farms</u>	<u>646-4122</u>
12. <u>PAT Mear</u>	<u>3434 Country Club Ave FSA</u>	<u>649-8484</u>
13. <u>Bobby Aldridge</u>	<u>"</u>	<u>"</u>

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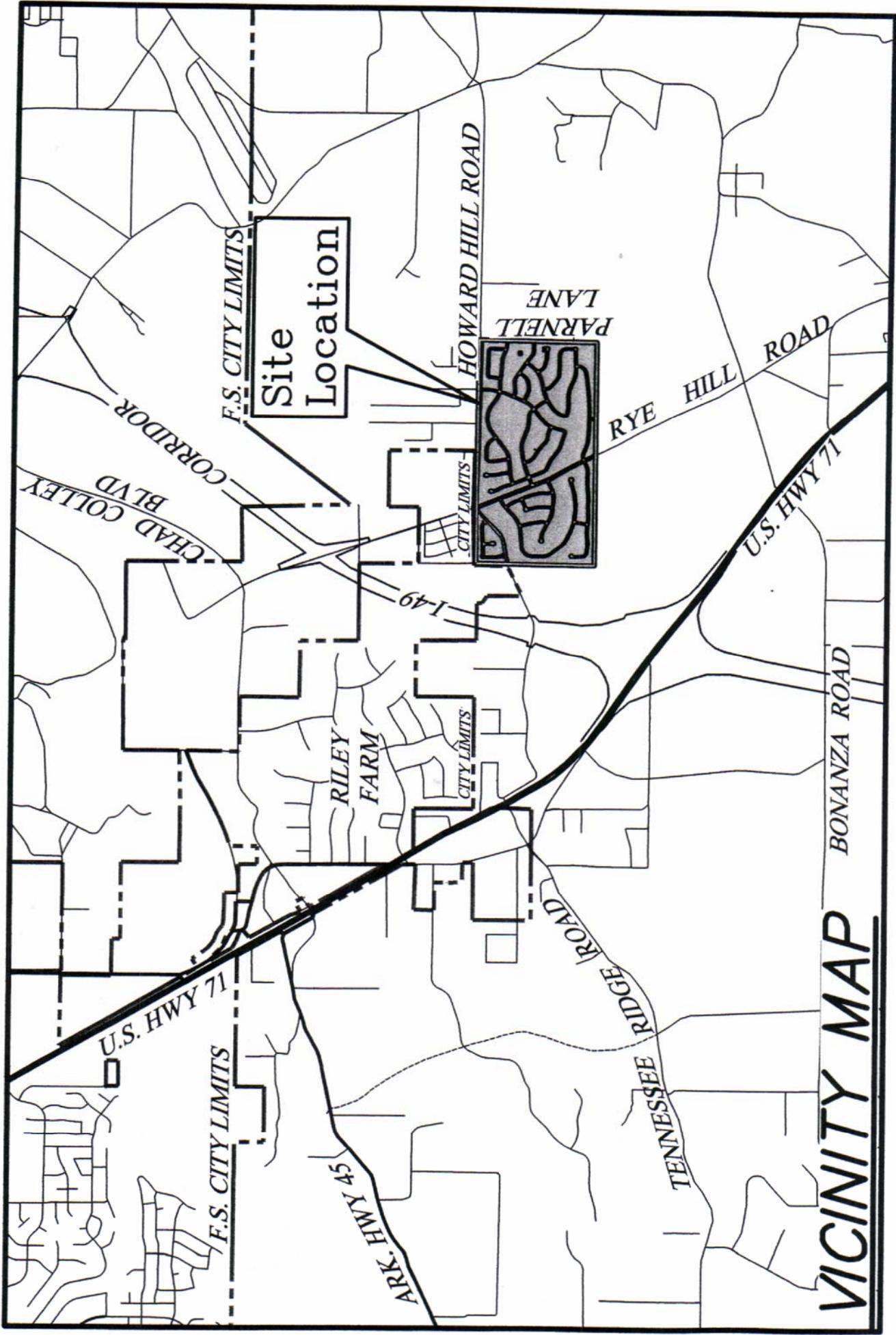
NAME	ADDRESS	PHONE #
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2. <u>Jan Barker</u>	<u>8813 Howard Hill Road</u>	<u>646-6311</u>
3. <u>Connie Post</u>	<u>9115 Howard Hill Road</u>	<u>996-7897</u>
4. <u>James Roller</u>	<u>623 Garrison Avenue</u>	<u>783-4191</u>
5. <u>Stephen C. Smith</u>	<u>P. O. Box 10205, Ft. Smith, AR 72917</u>	<u>782-1001</u>
6. <u>Lisa Mundai</u>	<u>9407 Howard Hill Road</u>	<u>629-0550</u>
7. <u>Richard Griffin</u>	<u>3008 Dallas Drive</u>	<u>783-5191</u>
8. <u>Brenda Andrews</u>	<u>Fort Smith Planning Dept.</u>	<u>784-2216</u>
9. <u>Wally Bailey</u>	<u>CFS</u>	<u>784-2216</u>
10. <u>Paul Post</u>	<u>9115 Howard Hill Road</u>	<u>452-5693</u>
11. <u>Denise Bailey</u>	<u>Mitchell Bend</u>	<u>646-4122</u>
12. <u>Pat Mickle</u>	<u>3434 Country Club Avenue</u>	<u>649-8484</u>
13. <u>Bobby Aldridge</u>	<u>3434 Country Club Avenue</u>	<u>649-8484</u>

Middleton Farms

<u>NAME</u>	<u>ADDRESS</u>
1. <u>OK Farms, Inc.</u>	<u>2720 Hemlock Ct, Ste. B, Broken Arrow, OK 74011</u>
2. <u>Junior L. & Betty L. Layne</u>	<u>8723 Howard Hill Rd, Ft. Smith, AR 72916-9795</u>
3. <u>Wally E. & Denise L. Bailey</u>	<u>12218 Mitchell Bend, Ft. Smith, AR 72916-9536</u>
4. <u>Benjamin D. Hewes</u>	<u>9101 Howard Hill Rd, Ft. Smith, AR 72916-9605</u>
5. <u>Loren Schmidt</u>	<u>P. O. Box 180115, Ft. Smith, AR 72908</u>
6. <u>Josh Sullivan</u>	<u>12303 Ivory Place, Ft. Smith, AR 72916</u>
7. <u>Melissa A. Mundai Sartin</u>	<u>9407 Howard Hill Rd, Ft. Smith, AR 72916</u>
8. <u>Randy G. & Mary J. Corbell</u>	<u>12725 Parnell Lane, Ft. Smith, AR 72916</u>
9. <u>Jerry W. & Carolyn Sue Parnell</u>	<u>13020 Parnell Lane, Ft. Smith, AR 72916</u>
10. <u>Wat Arkansas Buddahavanaram</u>	<u>20890 Blythe Rd., Mansfield, AR 72944</u>
11. <u>Bransen Harris Properties LLC</u>	<u>P. O. Box 113, Alma, AR 72921</u>
12. <u>Leslie W. & Janet L. Barker</u>	<u>8813 Howard Hill Rd, Ft. Smith, AR 72916-9797</u>
13. <u>Don L. Dodson & Emma Lavon Family</u>	<u>9009 Howard Hill Rd, Ft. Smith, AR 72916</u>
14. <u>Paul R. & Connie J. Post</u>	<u>9115 Howard Hill Rd, Ft. Smith, AR 72916-9605</u>
15. <u>Virgil W. & Christopher W. Wald</u>	<u>12306 Ivory Place, Ft. Smith, AR 72916</u>
16. <u>Rose Ann & Kerhilkar Vodisek</u>	<u>9305 Howard Hill Rd, Ft. Smith, AR 72916</u>
17. <u>Paul Cotta & Rosemary Haag</u>	<u>3523 Tree Line Drive, Alma, AR 72921</u>
18. <u>Bob Yeakley</u>	<u>12811 Parnell Lane, Ft. Smith, AR 72916-9237</u>
19. <u>Billy E. & Nancy M. Vaughn</u>	<u>12919 Parnell Lane, Ft. Smith, AR 72916</u>
20. <u>A W & Jackie M. Mitchael</u>	<u>8719 Howard Hill Rd, Ft. Smith, AR 72916-9795</u>
21. <u>Grady H. White, Jr.</u>	<u>8919 Howard Hill Rd, Ft. Smith, AR 72916-9601</u>
22. <u>Lonnie D. & Tammy M. Gobin</u>	<u>12308 Mitchell Bend, Ft. Smith, AR 72916-9538</u>

Middleton Farms

<u>NAME</u>	<u>ADDRESS</u>
23. <u>Richard A. Borengasser</u>	<u>12219 Mitchell Bend, Ft. Smith, AR 72916-9547</u>
24. <u>William David Hudgins</u>	<u>9211 Howard Hill Rd, Ft. Smith, AR 72916-9607</u>
25. <u>William Clark</u>	<u>9319 Howard Hill Rd, Ft. Smith, AR 72916-9609</u>
Haag Family Trust	
26. <u>c/o Regions Morgan Keegan Trust</u>	<u>723 Garrison Avenue, Ft. Smith, AR 72901</u>
27. <u>Charles B. & Melissa L. Yeakley</u>	<u>12901 Parnell Lane, Ft. Smith, AR 72916-9239</u>
28. <u>Stephens Production Company</u>	<u>P. O. Box 2407, Ft. Smith, AR 72902</u>



VICINITY MAP



4.

MEMORANDUM

TO: Honorable Mayor and Board of Directors

From: Dennis Kelly, City Administrator

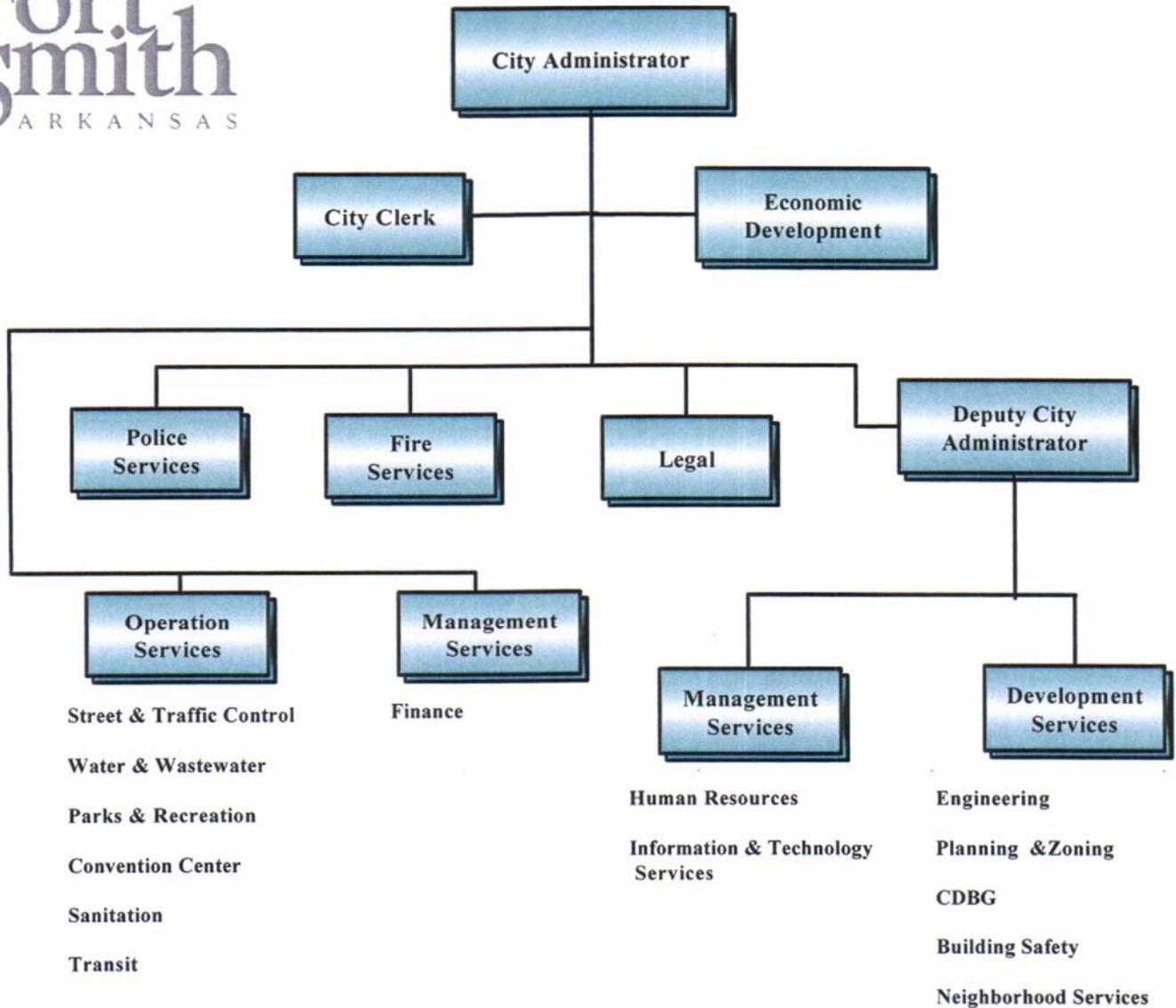
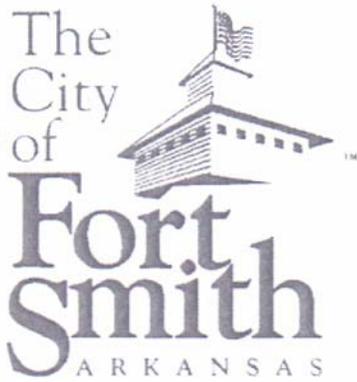
Date: August 5, 2010

Subject: Operational Reporting Realignment

In the course of setting up a performance evaluation process wherein the Department Directors report directly to the City Administrator (CA) for operational purposes it is necessary to "realign" the organization charts from the 2010 Budget to show Department Directors lined up as such. The current organization charts show most of the operational Department Directors aligned to answer directly to the Deputy City Administrator (DCA). Once approved by the Board the new charts will become effective and the Department Directors in the attached charts will begin reporting directly to the CA.

The CA and DCA have discussed and realigned responsibilities between themselves such that the DCA will take on more of the intergovernmental responsibilities such as State Legislation, supporting the city's federal lobbying effort, preparing earmark applications, responding to inquiries from congressional staff, Regional Group representation (i.e. RITA, WAPPD, Bi-State MPO, Fort Chaffee Redevelopment Authority, Sebastian County criminal justice coordinating committee), Citizen complaints and troubleshooting, assisting board members with information needs and constituent service requests, manage all bond financings, and handle media relations and publications including the Focus on Fort Smith newsletter. As to Economic Development, we will both continue our team approach and retain our respective responsibilities: the DCA will work the technical aspects of the IRB's, infrastructure assistance, and municipal approvals; and the CA will continue working with the other key entities (i.e. C of C, AEDC, FCRA and UAFS) in representing the City's negotiating position on current and future industrial prospects.

Staff recommends the attached organization chart be approved as an amendment to the 2010 Budget.



AGENDA ~ *Summary*

FORT SMITH BOARD OF DIRECTORS STUDY SESSION

AUGUST 10, 2010 ~ 12:00 NOON

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

1. Discuss nepotism policy relating to elected officials ~ *tabled from the July 20th regular meeting / rescheduled from the July 27th study session ~*
This item was originally requested by Director Settle. There was considerable discussion and the Board agreed that paragraph B of Section 2-96 should be amended to include only the immediate family when referring to “family member”. Ordinance placed on August 17, 2010 regular meeting agenda.
2. Discuss mandatory spay/neuter program
Presentation by Ramona Roberts, represent the River Valley Animal Coalition. JoAnn Barton, Executive Director of the Sebastian County Humane Society was also present. She requested that the City adopt a mandatory spay/neuter ordinance similar to what other cities have in place. The ultimate goal being to reduce pet overpopulation. The Board requested staff to prepare an ordinance for their review at a future study session.
3. Review proposed annexation ~ Middleton Farms
Wally Bailey, Director of Development Services, discussed issues relative to utility services, public safety, planning and development. There was consensus of the Board for staff to move forward with the annexation process.
4. Discuss operational reporting realignment by and among department heads and City Administrator
Administrator Kelly indicated that the realignment is necessary so that the organization chart reflects current procedure. Ordinance placed on the August 17, 2010 regular meeting agenda.
5. Review preliminary agenda for August 17, 2010 regular meeting