



Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Steve Tyler

Ward 2 – Andre’ Good

Ward 3 – Don Hutchings

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA
Fort Smith Board of Directors
Regular Meeting
November 20, 2012 ~ 6:00 P.M.
Fort Smith Public Schools Service Center
3205 Jenny Lind Road

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 6

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING

(Section 2-37 of Ordinance No. 24-10)

APPROVE MINUTES OF THE NOVEMBER 6, 2012 REGULAR MEETING

ITEMS OF BUSINESS:

1. Presentation: Tim Hearn, Fort Smith EMS - National EMS Executive of the Year
2. Public hearing and ordinance certifying to the Sebastian County Tax Collector delinquent property cleanup liens
3. Ordinance amending Section 14-155 of the Fort Smith Municipal Code for the purpose of amending the permitted zoning districts for sexually oriented business ~ *Weber/Catsavis placed on the agenda at the November 13, 2012 study session ~*
4. Resolution authorizing execution of a settlement agreement regarding HOME Program interest in Lots 10, 11 and 12 of Koller Place Subdivision to the City of Fort Smith and authorizing the city administrator and city attorney to approve and execute any document necessary to effectuate approved settlement agreement

5. Resolution accepting bid for uniform rental services (*3 year bid / Various City Departments / Budgeted - General, Street, Water & Sewer, and Sanitation Operating Funds*)
6. Ordinance amending Section 2-26 of the Fort Smith Municipal Code setting the time and location for the regular meeting of the Board of Directors for the year 2013
7. Consent
 - A. Resolution authorizing partial payment to Forsgren, Inc. for the construction of Garrison Avenue Streetscape, North 9th Street – North 13th Street, Project No. 09-90-B, Job 040545 (*\$638,867.03 / Engineering Department / Budgeted – Sales Tax Program Fund*)
 - B. Resolution to accept bids and authorize contract for 2012 Street Striping Replacement, Project No. 12-85-A. (*\$72,982.72 / Engineering Department / Budgeted – Sales Tax Program Fund*)
 - C. Ordinance declaring exceptional circumstance and authorizing continuation of agreement with Data-Tronics Corporation
 - D. Resolution authorizing Change Order No. 1 with Forsgren, Inc. for the River Front Development Water and Sewer Extensions (*\$73,600.00 / Utility Department / Budgeted - 2008 Revenue Bonds*)
 - E. Resolution authorizing the city administrator to accept an offer made by property owner for the acquisition of an easement in connection with the Lake Fort Smith 48-Inch Water Transmission Line Project (*\$12,000.00 / Utility Department / Budgeted - 2008 Revenue Bonds*)
 - F. Resolution authorizing Change Order No. 9 with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 (*\$1,500.00 reduction / Utility Department / Budgeted – 2008 Revenue Bonds*)
 - G. Resolution accepting the project as complete and authorizing final payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant Contract 3 (*\$1,507,391.40 / Utility Department / Budgeted -2008 Revenue Bonds*)

OFFICIALS FORUM ~ presentation of information requiring no official action

(Section 2-36 of Ordinance No. 24-10)

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

EXECUTIVE SESSION

- Appointments: Historic District Commission (1), Oak Cemetery Commission (1) and National League of Cities Conference voting delegates (November 28 - December 1, 2012 / Boston, MA)
- 8. Discuss downtown streetscape ~ *This item added to the agenda at the request of Directors Weber, Tyler, Catsavis and Merry on November 16, 2012 ~*

ADJOURN

ORDINANCE NO. _____

**AN ORDINANCE CERTIFYING TO THE SEBASTIAN COUNTY TAX
COLLECTOR DELINQUENT PROPERTY CLEANUP LIENS**

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

SECTION 1: It is hereby determined by the Board of Directors that the hereinafter described properties and the amount of lien filed against each, shall be certified to the Sebastian County Tax Collector and placed on the tax books as delinquent taxes and collected accordingly. The amount of lien shown for each property shall be increased by ten percent (10%) as a penalty for collection. The amount, less three percent (3%) thereof, when so collected, shall be paid to the City by the Sebastian County Tax Collector, all in accordance with Section 16-11 of the Fort Smith Code of Ordinances:

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
616 North 19th, LLC	616 North 19	294.30	323.73
616 North 19th, LLC	616 North 19	200.02	220.02
Adkins, Clinton L.	501 North 10, 2nd lot north of	227.02	249.72
Adkins, Clinton L..	501 North 10, 2nd lot north of	227.02	249.72
Adkins, Clinton L..	501 North 10, 2nd lot north of	209.52	230.47
Al Hakeem , Abdullah & Patricia Turner	2144 North 13	231.02	254.12
Al Hakeem , Abdullah & Patricia Turner	2144 North 13	227.02	249.72
Al Hakeem , Abdullah & Patricia Turner	2144 North 13	281.95	310.15
Al Sher, Inc.	1706 North 12	211.06	232.17
Al Sher, Inc.	1706 North 12	202.31	222.54
Al Sher, Inc.	1719 North 13	281.44	309.58
Al Sher, Inc.	1719 North 13	215.06	236.57
American Equity Funding, Inc.	2912 Irving, lot east of	231.02	254.12
Ames, Thomas Dewayne	3400 North Johnson	240.56	264.62
Ames, Thomas Dewayne	3400 North Johnson	211.06	232.17
Ames, Thomas Dewayne	3400 North Johnson	267.56	294.32
Ames, Thomas Dewayne	3400 North Johnson	215.06	236.57
Anderson, Cherie L.	1405 North 37	265.66	292.23
Anderson, Cherie L.	1405 North 37	266.47	293.12
Austin, Mike	706 South 22	243.49	267.84
Avanya, Eric	1604 South "W"	256.02	281.62
Avanya, Eric	1604 South "W"	221.02	243.12
Avanya, Eric	1604 South "W"	229.02	251.92
Avanya, Eric	1604 South "W"	240.45	264.50
AVS Properties	1417 Lyman	255.95	281.55
AVS Properties	1417 Lyman	233.02	256.32

AVS Properties	1417 Lyman	215.52	237.07
AVS Properties	1924 Birnie	229.02	251.92
AVS Properties	1924 Birnie	267.27	294.00
AVS Properties	2023 North 12	244.52	268.97
AVS Properties	2023 North 12	227.02	249.72
AVS Properties	2023 North 12	235.02	258.52
AVS Properties	2023 North 12	235.02	258.52
AVS Properties	2109 Wirsing	305.02	335.52
AVS Properties	2109 Wirsing	301.02	331.12
AVS Properties	2109 Wirsing	248.52	273.37
AVS Properties	2109 Wirsing	235.02	258.52
AVS Properties	2201 North 28	340.02	374.02
AVS Properties	2201 North 28	200.02	220.02
AVS Properties	2201 North 28	351.95	387.15
AVS Properties	3101 Russell	270.02	297.02
AVS Properties	3101 Russell	325.87	358.46
AVS Properties	3101 Russell	235.02	258.52
AVS Properties	3101 Russell	318.26	350.09
AVS Properties	3101 Russell	287.52	316.27
AVS Properties	3401 Eller, lot west of	329.73	362.70
AVS Properties	3401 Eller, lot west of	235.02	258.52
BAC Home Loan Servicing, LP	515 North 17	237.06	260.77
Baker, Oliver & Alma	1921 North 8	382.49	420.74
Baker, Oliver & Alma	1921 North 8	247.02	271.72
Bandy, Hilde F.	922 North 6	233.02	256.32
Bandy, Hilde F.	922 North 6	215.52	237.07
Bandy, Hilde F.	922 North 6	233.02	256.32
Bank of America	405 May	216.41	238.05
Bank of America	405 May	389.48	428.43
Beckham, Joe L.	2712 Irving Street & rear structure	4,347.08	4,781.79
Beckwith, Richard	3105 Russell, lot east of	391.12	430.23
Beckwith, Richard	1121 North 9	207.52	228.27
Beckwith, Richard	1121 North 9	216.27	237.90
Beckwith, Richard	1121 North 9	220.27	242.30
Beckwith, Richard	1806 North "M", lot west of	98.52	108.37
Beckwith, Richard	1806 North "M", lot west of	72.27	79.50
Beckwith, Richard	1806 North "M", lot west of	63.52	69.87
Bice, Trevor	415 North 23	248.21	273.03
Blankenship, Debra	1505 Belle	335.24	368.76
Blankenship, Debra	1505 Belle	249.02	273.92
Bonilla, Dilbert & Maria	2223 Wirsing	305.52	336.07
Bonilla, Dilbert & Maria	2223 Wirsing	309.52	340.47
Bonilla, Dilbert & Maria	2223 Wirsing	206.02	226.62
Bonilla, Dilbert & Maria	1909 North 7	317.66	349.43
Bozeman, Josie	1215 North 7	274.02	301.42
Bozeman, Josie	1215 North 7	217.52	239.27
Brannon, Floyd K. & Mildred L.	1410 North 5	240.10	264.11
Brannon, Floyd K. & Mildred L.	1410 North 5	285.10	313.61
Brannon, Floyd K. & Mildred L.	1410 North 5	287.10	315.81
Brannon, Floyd K. & Mildred L.	1410 North 5	248.10	272.91
Branson Harris Properties, LLC	South "W" & Jenny Lind, SE corner of	373.02	410.32
Branson Harris Properties, LLC	South "W" & Jenny Lind, SE corner of	381.02	419.12
Bray, Michael Steven	2124 North 30	1,125.56	1,238.12
Bridges, Richard C.	600 North 13	292.53	321.78

Bridges, Richard C.	600 North 13	268.96	295.86
Brown, Pauline	915 South 10	319.30	351.23
Brown, Pauline	915 South 10	233.02	256.32
Buxton, Nathan & Barbara Ann	1001 Harvard	273.56	300.92
Buxton, Nathan & Barbara Ann	1001 Harvard	277.56	305.32
Buxton, Nathan & Barbara Ann	1001 Harvard	238.56	262.42
Buxton, Nathan & Barbara Ann	1001 Harvard	256.06	281.67
Buxton, Nathan & Barbara Ann	1001 Harvard	237.02	260.72
Carney, Cecil	3212 Emrich	260.52	286.57
Carney, Cecil	3212 Emrich	325.02	357.52
Carney, Cecil	3212 Emrich	247.02	271.72
Carney, Cecil	3212 Emrich	282.02	310.22
Carter, Oleta	2405 North 30	227.02	249.72
Carter, Oleta	2405 North 30	213.52	234.87
Carter, Oleta	2405 North 30	213.52	234.87
Carter, Ruth Lenora	3101 Irving	412.59	453.85
Chandakham, Aire H.	2215 North 30	207.52	228.27
Christiana Bank & Trust	2116 North 30	274.02	301.42
Christiana Bank & Trust	2116 North 30	274.02	301.42
Christiana Bank & Trust	2116 North 30	217.52	239.27
Christiana Bank & Trust	2116 North 30	217.52	239.27
Christiana Bank & Trust	2116 North 30	235.02	258.52
Cluck, Alan #104484	1719 North "I"	308.13	338.94
Cole, Michael Lee	5018 - 5100 South 29, lots between	357.95	393.75
Cole, Michael Lee	5018 - 5100 South 29, lots between	246.52	271.17
Cole, Michael Lee	5018 - 5100 South 29, lots between	268.02	294.82
Cook, Keith C.	2318 North 29	284.49	312.94
Cook, Keith C.	2318 North 29	312.20	343.42
Coons, Richard K.	North 3 & North "H", 2nd lot from	303.02	333.32
Coons, Richard K.	North 3 & North "H", 2nd lot from	229.02	251.92
Coons, Richard K.	North 3 & North "H", 3rd lot NE corner	207.52	228.27
Coons, Richard K.	North 3 & North "H", 3rd lot NE corner	268.02	294.82
Coons, Richard K.	2125 North 14, lot east of	266.02	292.62
Coons, Richard K.	2125 North 14, lot east of	270.02	297.02
Cozart, Don B. & Mila Riggio	1500 Phoenix	594.19	653.61
Cozart, Don B. & Mila Riggio	1500 Phoenix	256.02	281.62
Cozart, Don B. & Mila Riggio	1500 Phoenix	207.52	228.27
Craft, Amy	414 North 36	434.37	477.81
Cunneen, Casey M.	2209 South "S"	315.34	346.87
Davidson, Donna	1805 South "Q"	283.82	312.20
Davidson, Donna	1805 South "Q"	291.82	321.00
Davidson, Donna	1805 South "Q"	287.82	316.60
Davidson, Donna & Michael Ray	1805 South "Q"	268.81	295.69
Davidson, Scott	1915 South "U"	225.02	247.52
Davidson, Scott	1915 South "U"	229.02	251.92
Davidson, Shon	North 6 & North "Q"	268.02	294.82
Davidson, Shon	North 6 & North "Q"	320.74	352.81
Davidson, Shon	North 6 & North "Q"	268.02	294.82
Davidson, Shon	North 6 & North "Q"	233.02	256.32
Dixon Rentals No. 2, LLC	4000 North Street	1,572.56	1,729.82
Dixon Rentals No. 2, LLC	614 Belle	280.87	308.96
Dixon Rentals No. 2, LLC	614 Belle	315.70	347.27
Drake, Harold S.	1000 North 11	192.02	211.22
Drake, Harold S.	1000 North 11	213.52	234.87

Drake, Harold S.	1000 North 11	204.77	225.25
Drake, Harold S.	1000 North 11	213.52	234.87
Dukes, James E. & Martha L.	1217 North 46	697.84	767.62
Ege, Dwayne M.	2134 North 30	251.45	276.60
Ehlen, Richard R. or Martha Y.	2501 South Independence	6,105.16	6,715.68
Emercore Investment Group, LLC	303 North 43	240.56	264.62
Endle, Karen	2401 South "Q"	358.34	394.17
Escobar, Raul	1725 North 13	478.49	526.34
Evans, Elmo & Diane B.	North Short 7 & North "Q", SE corner of	302.49	332.74
F. Schuman - R. Kaye Company	2030 North 14, lot south of	259.42	285.36
Farrow, Thomas M. & Ramona	2205 Wirsing	493.23	542.55
Farrow, Thomas M. & Ramona	2205 Wirsing	683.78	752.16
Federal National Mortgage Association	3712 Morris	239.02	262.92
Federal National Mortgage Association	3712 Morris	235.02	258.52
Federal National Mortgage Association	3712 Morris	235.02	258.52
Federal National Mortgage Association	3712 Morris	247.02	271.72
Federal National Mortgage Association	3712 Morris	243.02	267.32
Fernandez, Gabriel	523 North 12	233.02	256.32
Fernandez, Gabriel	523 North 12	254.52	279.97
Fernandez, Gabriel	523 North 12	317.92	349.71
Fernandez, Gabriel	523 North 12	505.48	556.03
Fields, Patricia	5927 Dallas	392.73	432.00
Floyd, Mary Ann	2217 North 7	438.52	482.37
Franco, Mario A.	4400 Clarendon	220.30	242.33
Fraternal Order of Eagles #4416	1416 North 5	269.56	296.52
Fraternal Order of Eagles #4416	1416 North 5	215.06	236.57
Fraternal Order of Eagles #4416	1416 North 5	254.06	279.47
Fry, Michael O.	101 Fordham Circle	229.02	251.92
Gafaney, John A.	1735 North 13	207.52	228.27
Gafaney, John A.	1735 North 13	207.52	228.27
Gafaney, John A.	1735 North 13	207.52	228.27
Gafaney, John A.	1735 North 13	207.52	228.27
Gafaney, John A.	1735 North 13	207.52	228.27
Gallagher, Charles & Nancy	2405 North 31	897.24	986.96
Gallagher, Charles & Nancy	2405 North 31	245.02	269.52
Gallagher, Charles & Nancy	2405 North 31	315.70	347.27
Gallagher, Charles & Nancy	2405 North 31	3,433.16	3,776.48
Garner, Jamie L. Fleming	2101 Atlanta	296.34	325.97
Gilbert, Johnnie V.	2101 North 8	276.02	303.62
Gilbert, Johnnie V.	2101 North 8	237.02	260.72
Gilbert, Johnnie V.	2101 North 8	223.52	245.87
Glosenger, Mark	800 Belle	238.56	262.42
Glosenger, Mark	800 Belle	353.71	389.08
Glosenger, Mark	800 Belle	242.56	266.82
Glosenger, Mark	800 Belle	246.56	271.22
Glover, H. J.	2033 North 29, lot west of	210.77	231.85
Glover, H. J.	2033 North 29, lot west of	224.27	246.70
Glover, H. J.	2033 North 29, lot west of	233.02	256.32
Graham, Jerry or Susan	908 North 34	230.27	253.30
Graham, Jerry or Susan	908 North 34	218.56	240.42
Graham, Jerry or Susan	908 North 34	260.52	286.57
Graham, Jerry or Susan	908 North 34	229.52	252.47
Greater Southwest Corporation	1300 North 40	239.02	262.92
Griffin, Francis	2901 South 12	264.02	290.42

Habalow, Kai Rippy	609 - 611 South 17	792.14	871.35
Hands of Love, Inc.	2307 North 29	233.02	256.32
Hands of Love, Inc.	2307 North 29	264.02	290.42
Hands of Love, Inc.	2307 North 29	215.52	237.07
Harwood, Ashley James	1906 North 6	229.02	251.92
Harwood, Ashley James	1906 North 6	229.02	251.92
Harwood, Ashley James	1906 North 6	229.02	251.92
HASCO Development Company, Inc.	2212 North 31	235.02	258.52
HASCO Development Company, Inc.	2212 North 31	227.02	249.72
HASCO Development Company, Inc.	2212 North 31	231.02	254.12
HASCO Development Company, Inc.	2212 North 31	244.52	268.97
Heuangwilai, Lyna	4025 Johnson	428.96	471.86
Heuangwilai, Lyna	4025 Johnson	311.02	342.12
Heuangwilai, Lyna	4025 Johnson	311.02	342.12
Heuangwilai, Lyna	4025 Johnson	219.52	241.47
Heuangwilai, Lyna	4025 Johnson	280.02	308.02
Heuangwilai, Lyna	4025 Johnson	280.02	308.02
Hickey, Dorothy	3228 Neis	262.02	288.22
Hickey, Dorothy	3228 Neis	223.02	245.32
Hickey, Dorothy	3228 Neis	231.02	254.12
Hodgens, Janet L. & Kellie R.	16 15 South "U"	268.02	294.82
Holcome Trust, Chan	1455 North 39	378.74	416.61
Holland, Trista	1301 North 39	314.14	345.55
Holland, Trista	1301 North 39	269.64	296.60
Holliman, Tony	4022 Chaffee Drive	352.01	387.21
Holliman, Tony	4022 Chaffee Drive	283.56	311.92
Holliman, Tony	4022 Chaffee Drive	248.56	273.42
Holloway, William F. & Elizabeth	2915 South 12	475.30	522.83
Holy Grounds Investment, LLC	2215 North 10	312.70	343.97
Honey, Terry F. & Nedra L. Patterson	1806 South "T"	309.23	340.15
Hudson, Barney B.	717 North 34	207.52	228.27
Hudson, Barney B.	717 North 34	229.02	251.92
Hudson, Barney B.	717 North 34	211.52	232.67
Hudson, Jim or Janet	2122 Pryor, lot west of	307.02	337.72
Hudson, Jim or Janet	2122 Pryor, lot west of	272.02	299.22
Hurshuajer, Nuchami	1718 & 1732 North 12, lot between	225.02	247.52
Hurston, Bobby O. & Sara	1515 South 12	325.41	357.95
Hurston, Bobby O. & Sara	1515 South 12	264.06	290.47
James, Ora R. & Edward	2002 North 14	242.52	266.77
Janisch, Jeff	2111 North "J"	340.03	374.03
Jones, Harry Jr. & Annie Mae	5020 Wirsing	245.02	269.52
Jones, Harry Jr. & Annie Mae	5020 Wirsing	241.02	265.12
Jones, Harry Jr. & Annie Mae	5020 Wirsing	241.02	265.12
Jones, Harry Jr. & Annie Mae	5020 Wirsing	275.27	302.80
KAMAL U Properties	2213 North "R"	392.95	432.25
KAMAL U Properties	1311 North 14	244.52	268.97
KAMAL U Properties	1311 North 14	227.02	249.72
KAMAL U Properties	1311 North 14	213.52	234.87
KAMAL U Properties	1809 North 14	268.02	294.82
KAMAL U Properties	1809 North 14	264.02	290.42
KAMAL U Properties	1809 North 14	233.02	256.32
KAMAL U Properties	2213 North "R"	224.27	246.70
KAMAL U Properties	2213 North "R"	418.85	460.74
KAMAL U Properties	2321 North 29	211.52	232.67

Keeling, Amy	2101 - 2103 South "M"	229.02	251.92
Keeling, Amy	2101 - 2103 South "M"	229.02	251.92
Keeling, Amy	4215 Brockman	239.92	263.91
Keeling, Amy	2101 -2103 South "M"	296.42	326.06
Keomany, Roung	1722 North 8	239.02	262.92
Knauls, Sheila Y. & Dannie Mae	1421 Belle	316.77	348.45
Leding, Edward M.	310 North 17	298.30	328.13
Lee, Matthew T.	2109 Birnie	217.02	238.72
Lee, Matthew T.	2109 Birnie	213.52	234.87
Lovell, Brian Todd	4314 North 54	322.03	354.23
Lovell, Brian Todd	4314 North 54	229.06	251.97
Lovell, Brian Todd	4314 North 54	254.56	280.02
Lovell, Brian Todd	4314 North 54	246.56	271.22
Lowery, Claudye	3008 Russell	235.02	258.52
Lowery, Claudye	3008 Russell	309.99	340.99
Lowery, Claudye	3008 Russell	231.02	254.12
Lowrey, Jimmie Neal	4001 Wirsing	309.56	340.52
Lowrey, Jimmie Neal	1023 South 22	295.02	324.52
Lowrey, Jimmie Neal	1023 South 22	225.02	247.52
Lowrey, Jimmie Neal	1023 South 22	233.02	256.32
Lowrey, Jimmie Neal	11 Northwood Drive	274.02	301.42
Lowrey, Jimmie Neal	11 Northwood Drive	287.74	316.51
Lowrey, Jimmie Neal	11 Northwood Drive	221.52	243.67
Lowrey, Jimmie Neal	11 Northwood Drive	243.77	268.15
Lowrey, Jimmie Neal	11 Northwood Drive	221.52	243.67
Lowrey, Jimmie Neal	3226 Neis	211.52	232.67
Lowrey, Jimmie Neal	3226 Neis	264.02	290.42
Lowrey, Jimmie Neal	3226 Neis	237.02	260.72
Lowrey, Jimmie Neal	3811 Morris Drive	231.02	254.12
Lowrey, Jimmie Neal	3811 Morris Drive	282.99	311.29
Lowrey, Jimmie Neal	619 North 36	270.02	297.02
Lowrey, Jimmie Neal	619 North 36	231.02	254.12
Lowrey, Jimmie Neal	619 North 36	231.02	254.12
Manjarrez, Victoria A.	4120 Bradley	250.56	275.62
Martin, Wesley Jr. or Nikki	1918 South "P"	353.95	389.35
Martin, Wesley Jr. or Nikki	1918 South "P"	233.02	256.32
Martin, Holly	1111 North 41	263.27	289.60
Martindale, Lenora	2044 North 30	242.95	267.25
Mays, Warner Jr.	1710 North "J"	255.99	281.59
McKinney, Nathan D.	1614 Lexington	391.83	431.01
Mikus, MaryLee H.	3021 North Albert Pike	248.52	273.37
Mikus, MaryLee H.	3021 North Albert Pike	264.02	290.42
Mikus, MaryLee H.	3021 North Albert Pike	291.02	320.12
Mikus, MaryLee H.	3021 North Albert Pike	597.02	656.72
Millers Creek, Inc.	3800 North Armour Avenue	268.50	295.35
Millers Creek, Inc.	4014 North 54	456.56	502.22
Millers Creek, Inc.	4014 North 54	316.56	348.22
Millers Creek, Inc.	3916 Brockman, lot west of	438.77	482.65
Minks, Jimmy LeRoy II	1217 North 44	327.34	360.07
Minks, Jimmy LeRoy II	1217 North 44	244.56	269.02
Minks, Jimmy LeRoy II	1217 North 44	231.81	254.99
Moore, Cynthia	2921 North Albert Pike	310.56	341.62
Moore, Cynthia	2921 North Albert Pike	274.06	301.47
Moore, Cynthia	2921 North Albert Pike	252.56	277.82

Moore, James E. & Irma	1114 South 9	437.90	481.69
MRW, Inc.	1410 North 12, lot north of	291.06	320.17
Mumey, John Frasier	405 South 14	264.02	290.42
Mumey, John Frasier	405 South 14	207.52	228.27
Mumey, John Frasier	405 South 14	359.52	395.47
Mumey, John Frasier	405 South 14	234.02	257.42
Native Land, LLC	1705 North "I"	205.39	225.93
Neel, Jerry W. Jr.	2203 North 10	271.34	298.47
Nguyen, Nga T. & Peter & Anna	1115 South 22	320.84	352.92
Noke, Duangmany & Khampane Moun	1505 Oak Knolls Circle	366.06	402.67
Nolan, Dennis & Kimberly	3019 Russell	309.91	340.90
ODOG-WU Ozara Investments	2909 North "I"	227.02	249.72
ODOG-WU Ozara Investments	920 North 5	241.02	265.12
ODOG-WU Ozara Investments	920 North 5	293.52	322.87
ODOG-WU Ozara Investments	920 North 5	250.52	275.57
ODOG-WU Ozara Investments	920 North 5	233.02	256.32
ODOG-WU Ozara Investments	2018 North Short 15, lot south of	207.52	228.27
ODOG-WU Ozara Investments	2018 North Short 15, lot south of	207.52	228.27
Olivares, Gustavo Paramo	2912 Howell	257.66	283.43
Oliver, Debbie Lynn	1804 North "N"	496.00	545.60
Patterson, Wesley & Charlotte	3712 Spradling	260.05	286.06
Patterson, Wesley & Charlotte	3712 Spradling	301.06	331.17
Payton, Cecil R.	North 20 & Birnie, 2nd lot SW of	229.02	251.92
Peck, Craig	1901 South 71	631.26	694.39
Phillips, Bleeker J.	701 North "N"	233.02	256.32
Phillips, Bleeker J.	701 North "N"	211.52	232.67
Phillips, Bleeker J.	701 North "N"	211.52	232.67
Phillips, Joyce C.	3722 North 57	253.77	279.15
Phillips, Joyce C.	3722 North 57	281.45	309.60
Plumlee, C. D. & W. F.	3919 Birnie	224.27	246.70
Plumlee, C. D. & W. F.	3919 Birnie	215.52	237.07
Plumlee, C. D. & W. F.	3919 Birnie	305.24	335.76
Plumlee, C. D. & W. F.	3919 Birnie	241.02	265.12
Price, Larry Eugene Sr.	3600 Willow	275.56	303.12
Price, Larry Eugene Sr.	3600 Willow	231.81	254.99
Price, Larry Eugene Sr.	3600 Willow	244.56	269.02
Quick, Carol M.	3424 Wirsing	487.87	536.66
Quick, Carol M.	3424 Wirsing	465.52	512.07
Quincy, David & Gwendolyn Reeder	5212 South 24	516.72	568.39
R & A Investments, LLC	2011 North 14	213.52	234.87
R & A Investments, LLC	2015 North 14	231.02	254.12
Rao, Nagraj & Elitsa	716 North "R"	276.02	303.62
Rao, Nagraj & Elitsa	716 North "R"	383.47	421.82
Regalado, Ramon L. & Antonia	1404 North 19	347.93	382.72
Regalado, Ramon L. & Antonia	1404 North 19	249.02	273.92
Rein, Debra & Sonika Tinker	601 North 36	255.68	281.25
Reinschmiedt, Phillip	1020 North 46	225.02	247.52
Reinschmiedt, Phillip	1020 North 46	216.27	237.90
Rice, Phillips Q. & Pamela S.	3900 Park	389.44	428.38
Roberts, Roy C. & Altha L.	1401 North 11	432.87	476.16
Roberts, Roy C. & Altha L.	1401 North 11	320.90	352.99
Roberts, Roy C. & Altha L.	North 9 & North "G", NE corner of	242.52	266.77
Roberts, Roy C. & Altha L.	North 9 & North "G", NE corner of	211.52	232.67
Roberts, Roy C. & Altha L.	North 9 & North "G", NE corner of	229.02	251.92

Robinson, John M. Jr.	3205 South 96	355.95	391.55
Rodrequez, Lucy	2917 North "L"	254.52	279.97
Rodrequez, Lucy	2917 North "L"	237.02	260.72
Sandoval, Elias & Raquel	1414 North 38	248.10	272.91
Shaff Living Trust, BettyLou	800 - 808 North 8	253.30	278.63
Sharp, Bill & wife	1418 Phoenix	2,100.00	2,310.00
Sharp, Branden	705 South 18	267.99	294.79
Skulman, Robert & Shirley Wade	606 North 12	262.06	288.27
Skulman, Robert & Shirley Wade	606 North 12	252.56	277.82
Skulman, Robert & Shirley Wade	606 North 12	252.56	277.82
Skulman, Robert & Shirley Wade	920 North 6	206.64	227.30
Skulman, Robert & Shirley Wade	920 North 6	228.14	250.95
Skulman, Shirley Wade	1101 North 12	341.99	376.19
Skulman, Shirley Wade	1101 North 12	276.06	303.67
Skulman, Shirley Wade	1101 North 12	204.45	224.90
Skulman, Shirley Wade	1208 North 7	358.01	393.81
Skulman, Shirley Wade	1208 North 7	256.06	281.67
Skulman, Shirley Wade	1208 North 7	269.56	296.52
Skulman, Shirley Wade	1208 North 7	242.56	266.82
Skulman, Shirley Wade	1208 North 7	234.56	258.02
Skulman, Shirley Wade	1208 North 7	225.81	248.39
Skulman, Shirley Wade	1301 North 5	332.16	365.38
Skulman, Shirley Wade	1301 North 5	239.02	262.92
Skulman, Shirley Wade	1301 North 5	299.52	329.47
Skulman, Shirley Wade	1301 North 5	272.02	299.22
Smith Family Trust, Fred E.	2121 North 30	348.54	383.39
Smith Family Trust, Fred E.	2121 North 30	284.02	312.42
Smith, Steve	3112 North 27	252.52	277.77
Smith, Steve	3112 North 27	270.02	297.02
Smith, Steve	3112 North 27	235.02	258.52
Springer, Geral	4808 South 27	201.52	221.67
Starks, R. D. Jr. & Gloria D.	3711 MacArthur	242.93	267.22
Starks, R. D. Jr. & Gloria D.	3711 MacArthur	229.06	251.97
Stewart, Phillip A. & Janice	3222 Blair	250.56	275.62
Stewart, Phillip A. & Janice	3222 Blair	233.06	256.37
Stewart, Phillip A. & Janice	3222 Blair	285.56	314.12
Stewart, Phillip A. & Janice	3222 Blair	285.56	314.12
Stites, Shane	501 North 10	294.01	323.41
Stone Investment, LLC	1708 North "I"	281.87	310.06
Straughter, William E.	3316 Irving	248.52	273.37
Sullivan, Nathan D. & Nell R.	3501 North 27	409.58	450.54
Sullivan, Nathan D. & Nell R.	3501 North 27	230.27	253.30
Sullivan, Nathan D. & Nell R.	3501 North 27	385.44	423.98
Swaffer, E. J.	2700 Irving, lot east of	573.78	631.16
Talton, E. M.	720 North "O"	324.08	356.49
Talton, E. M.	720 North "O"	459.55	505.51
Tanner, Minnie	2145 North 30	262.06	288.27
Tanner, Minnie	2145 North 30	3,207.13	3,527.84
Tanner, Minnie	2145 North 30	244.56	269.02
Taylor, Joe Darrell & Shirley L.	2320 North 30	322.24	354.46
Taylor, Roberta	2310 North 31	258.06	283.87
Taylor, Roberta	2310 North 31	218.31	240.14
Tellez, Alejandro Juarez	3019 Irving	239.02	262.92
Tellez, Alejandro Juarez	3019 Irving	320.97	353.07

Tellez, Alejandro Juarez	3019 Irving	316.95	348.65
Tellez, Alejandro Juarez	3019 Irving	200.02	220.02
Tellez, Alejandro Juarez	3019 Irving	239.02	262.92
Tellez, Alejandro Juarez	3019 Irving	225.52	248.07
Trent, Tamara G.	709 North 35	241.02	265.12
Trent, Tamara G.	709 North 35	241.02	265.12
Tucker, Darren D.	2106 North "K"	239.53	263.48
Ulrich Living Trust, Robert Alan	800 North 13	353.34	388.67
Ulrich Living Trust, Robert Alan	804 North 13	315.80	347.38
W.W.A.	501 North 10	215.52	237.07
W.W.A.	501 North 10, lot north of	235.02	258.52
Walters, Sandra A.	3330 North 49	284.87	313.36
Walters, Sandra A.	3330 North 49	262.52	288.77
Walters, Sandra A.	3330 North 49	241.02	265.12
Walton, Angela	1904 North 13	258.52	284.37
Walton, Pauline	1305 North "R"	235.02	258.52
West, Linda J.	3925 High	235.02	258.52
West, Linda J.	3925 High	3,829.24	4,212.16
Westbrook, Rena L.	103 North 16	268.02	294.82
Westbrook, Rena L.	103 North 16	237.02	260.72
Wieser, Melva I.	1610 Lexington	365.28	401.81
Williamsburg Holding Corporation	3400 Kinkead	274.02	301.42
Wilson, Charles I. & Edna B.	5201 Birnie	252.56	277.82
Woodruff, Sarah M.	8625 Southridge	546.26	600.89
Woodruff, Sarah M.	8625 Southridge	291.10	320.21
Woodruff, Sarah M.	8625 Southridge	252.10	277.31
Woodruff, Sarah M.	8625 Southridge	261.60	287.76
Wornkey, Sandra	1700 South 11	219.52	241.47
Young, Eric J. & Heather	713 Clifton Court	455.33	500.86
Young, Eric J. & Heather	713 Clifton Court	244.03	268.43
		\$151,009.02	\$166,109.92

SECTION 2: The provisions of this ordinance are hereby declared to be severable to the extent that a decision by any court of competent jurisdiction determining that any portion of this ordinance or any application thereof is unconstitutional, invalid or otherwise illegal shall not affect the constitutionality, validity or legality of the other provisions and/or applications of the ordinance.

PASSED AND APPROVED this 20th day of November, 2012.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



Publish one time

MEMORANDUM

November 16, 2012

TO: Ray Gosack, City Administrator
FROM: Sherri Gard, City Clerk
RE: Certification of Delinquent Property Cleanup Liens

The attached ordinance certifies to the Sebastian County tax collector a total of \$166,109.92 in delinquent property cleanup liens associated with those properties abated or structures demolished by the City of Fort Smith. Each lien includes a 10% penalty. There are 434 delinquent liens included within the ordinance involving 171 property owners and 204 properties. There were 449 delinquent liens certified to the county in 2011 totaling \$159,749.58.

PROPERTY OWNERS APPEAL BOARD HEARINGS

Hearings before the appeal board were held on September 17th and 20th in the Bartlett Community Room at the Fort Smith Police Department. Notification of the hearings was by certified mail and publication in the Times Record. Nine (9) property owners attended the hearings and the minutes which will be delivered on Monday, November 19th.

NOVEMBER 20th BOARD OF DIRECTORS MEETING

As required by law, notice of the meeting was provided to the property owners by certified mail and publication in the Times Record four (4) consecutive weeks prior to the meeting. As of this date, one (1) property owner has indicated he will attend the meeting. Neighborhood Services staff and several members of the Property Owners Appeal Board will also be present to answer any questions.

Upon approval of the ordinance, a copy will be forwarded to the tax collector, and the liens will be placed on the tax records for the year 2012 (for collection in 2013).

In the event any lien has been paid in full, the motion for approval should include a provision to allow the removal of said lien(s) from the ordinance prior to formal submission to the Sebastian County tax collector.

If you or members of the Board have any questions prior to the meeting, please let me know.

MINUTES OF PROPERTY OWNERS APPEAL BOARD HEARINGS

SEPTEMBER 17, 2012 AND SEPTEMBER 20, 2012 ~ 6:00 P.M.

FORT SMITH POLICE DEPARTMENT ~ BARTLETT COMMUNITY ROOM

The hearings were held to allow delinquent property owners an opportunity to be heard regarding charges by the City for abatement costs and who feel they have been wrongly charged. Notice of the hearings was published in the Times Record on Friday, August 15, 2012. Certified letters dated August 14, 2012 were also mailed to each property owner.

MONDAY ~ SEPTEMBER 17, 2012

The hearing was called to order by Karen Lewis, Chairperson, with the following members of the Appeal Board present: Karen Lewis, Scott Monroe, Dolores Chitwood, Sherry McKinney and Megan Raynor. A quorum was declared. Also present were members of the City staff: City Clerk Sherri Gard, Building Official Jimmie Deer, Neighborhood Services Supervisor Rick Ruth, and Inspectors Dean Polk and Kelly Arnold. Ward 2 City Director Andre' Good was also in attendance.

Chairperson Lewis stated the purpose of the hearings, and then each member of the Appeal Board introduced themselves, advising how long they have been property owners in Fort Smith.

The following property owners were present to address the Appeal Board:

- **Charles Tidwell**
Fort Smith, Arkansas

Property: 901 North 7th Street
Owner: Charles W. & Reba C. Tidwell Trust
Cleaned: September 13, 2011 ~ \$235.30

Inspector Dean Polk reviewed the property file, provided pictures and presented video of the cleaning. The property was first inspected on August 9, 2011 for dead limbs on the easement. A certified letter was forwarded to the property owner and signed for on August 20, 2011. Mr. Tidwell contacted Neighborhood Services advising he requested the

limbs be removed utilizing the City of Fort Smith Dial-a-Truck program; however, upon reinspection of the property on August 30, 2011, the violation remained. Due to such, the property was assigned to the contractor for abatement, which was accomplished on September 13, 2011.

Mr. Tidwell alleged the notice received was to merely mow the grass, which he insisted he accomplished, but reiterated that he requested the Dial-a-Truck to pick up the limbs, which he bundled in 4 ft. lengths as required for pick up. After being out of town for a couple of weeks, he noticed that a neighbor placed additional, unbundled limbs on top of his bundled limbs; therefore, he feels such is the reason the Dial-a-Truck did not pick them up.

Appeal Board Action ~ 901 North 7th Street

McKinney, seconded by Raynor, moved that the lien be abated in full since the Dial-a-Truck did not remove the limbs as requested. The members all voting aye, Chairperson Lewis declared the motion carried.

■ **Tran Minh Quoc
Port Arthur, Texas**

Property: 1704 South 11th Street
Owner: Tran Minh Quoc and Dang Lien Ngoc
Cleaned: March 12, 2012 ~ \$233.02

Inspector Kelly Arnold reviewed the property file, provided pictures and presented video of the cleaning. The property was first inspected on January 12, 2012 for overgrowth. A certified letter was forwarded to the property owner; however, such was returned unclaimed. The property was reinspected and assigned to the contractor on March 12, 2012 with the violation abated on the same day.

Mr. Quoc alleged he did not receive notice of the violation and insisted he paid an individual to maintain the property. He further noted that such is rental property and noted he was attempting to evict the tenant at the time of alleged violation.

There was discussion regarding proper notification whereby Mr. Quoc confirmed he did not notify the County Assessor of his new mailing address.

Appeal Board Action ~ 1704 South 11th Street

The Appeals Board advised Mr. Quoc that a notice is literally posted on a property in violation; therefore, conveyed the importance of landlords to physically visit their properties to ensure no violation exists. They also

advised it is the property owners responsibility to notify the County Assessor of a new mailing address citing such is the only avenue the City has to ensure proper notification.

Chitwood, seconded by Raynor, moved that the lien (\$233.02) remain in full, and same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

Mr. Quoc expressed much discontent with the Appeals Board determination; however, he immediately paid the account in full.

■ **Pamela Wacaster
Fort Smith, Arkansas**

Property: 1101 North 41st Street
Owner: P & J Property Rental, LLC
Cleaned: June 27, 2011 ~ \$242.56

Neighborhood Services Supervisor Rick Ruth reviewed the property file, provided pictures and presented video of the cleaning. The property was first inspected on May 27, 2011 for overgrowth, trash and debris. A certified letter was forwarded to the property owner and such was signed for on June 7, 2011. The property was reinspected whereby the violation remained; therefore, such was assigned to the contractor and abated on June 27, 2011.

Ms. Wacaster confirmed receipt of notification and advised she immediately instructed the tenant to "take care of it", and noted she personally picked up the trash herself. Ms. Wacaster alleged the yard was mowed on June 19, 2011; therefore, she insisted the grass should not have been overgrown on June 27, 2011.

There was brief discussion regarding a minor discrepancy on the video regarding dates of inspection and date of cleaning.

Appeal Board Action ~ 1101 North 41st Street

McKinney, seconded by Monroe, moved that the administrative fee be waived thereby reducing the amount due to \$78.00, and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

■ **Shirley A. Hughes
Fort Smith, Arkansas**

Property: 2221 North 30th Street
Owner: Shirley Hughes, et al
Cleaned: December 13, 2011 ~ \$399.05

Inspector Dean Polk reviewed the property file, provided pictures and presented video of the cleaning. The initial inspection occurred on August 11, 2011 and the property was posted for dead trees, tree limbs, and trash and debris. A certified letter was forwarded to 2221 North 30th Street on August 12, 2011 which was returned with a new address of 2500 South "Q" Street. The letter was then forwarded to the new address on August 18, 2011 whereby such was returned unclaimed. Discussions took place with Ms. Hughes resulting in three (3) extensions to allow the property to be brought into compliance. The property was reinspected on September 28, 2011 and bids received for tree removal in November 2011. The property was assigned to the contractor on December 6, 2011 with abatement on December 13, 2011.

Ms. Hughes advised the subject property was her father's, who was deceased at the time of violations. She conceded the property was in violation and insisted she done everything within her power to obtain to abate the violations.

Appeal Board Action ~ 2221 North 30th Street

The Appeal Board expressed much appreciation for her efforts to bring the property into compliance; however, such did not negate that fact that the City ultimately had to abate the violation.

Chitwood, seconded by Monroe, moved that the lien (\$399.05) remain in full and same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

A gentleman in attendance with Ms. Hughes immediately paid the account in full.

■ **B. Pat Barber Hammock
Fort Smith, Arkansas**

Property: 3210 Emrich
Owner: Beverly P. Barber Hammock
Cleaned: August 27, 2011 ~ \$456.24

Inspector Dean Polk reviewed the property file, provided pictures and inspection videos of the cleanings. The property was first inspected on July 26, 2011 and posted for miscellaneous debris and siding. A certified letter was forwarded to the owner July 27, 2011, but was returned unclaimed on August 8, 2011. The property was reinspected on August 22 whereby the violation remained; therefore, such was assigned to a contractor and abated on August 27, 2011. The removal of excessive debris required three (3) trips to the landfill.

Ms. Hammock insisted the debris was placed on her property by someone else citing she was in Little Rock and was unaware of such until after the property was cleaned. She conveyed much assurance that she new who placed the debris on her property and alleged the same individual stole a van, which she did not wish to report the theft.

Appeal Board Action ~ 3210 Emrich

Monroe, seconded by Monroe, moved that the lien (\$456.24) remain in full and same be forwarded to the Sebastian County tax collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

There being no further business to come before the Appeal Board, Chitwood moved that the hearing adjourn. The motion was seconded by Raynor and the members all voting aye, Chairperson Lewis declared the motion carried and the hearing adjourned.

THURSDAY ~ SEPTEMBER 20, 2012

The hearing was called to order by Karen Lewis, Chairperson, with the following members present: Karen Lewis, Scott Monroe, Dolores Chitwood and Megan Raynor; absent - Sherry McKinney. A quorum was declared. Also present were members of the City staff: City Clerk Sherri Gard, Neighborhood Services Supervisor Rick Ruth, and Inspectors Dean Polk and Kelly Arnold.

Chairperson Lewis stated the purpose of the hearings, and then each member of the Appeal Board introduced themselves, advising of how long they have been property owners in Fort Smith.

The following property owners were present:

- **Dan Robison
Fort Smith, Arkansas**

**Property: 1301 - 1311 Towson Avenue
Owner: Dan Lee Robison
Cleaned: April 7, 2011 ~ \$426.46**

Inspector Kelly Arnold reviewed the property file, provided pictures and inspection videos of the cleanings. The property was first inspected on February 25, 2011 and posted for overgrowth, limbs

and trash & debris. A certified letter was forwarded to the property owner, which was returned unclaimed. The property was reinspected on March 22, 2011 and assigned to a contractor with abatement occurring on April 7, 2011.

Mr. Robison advised he was unaware of the violation citing he didn't realize the grass was overgrown. He further alleged someone dumped the trash & debris onto his property.

Appeal Board Action ~ 1301 - 1311 Towson Avenue

Raynor, seconded by Chitwood, moved the lien remain in full (\$426.46) and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members present all voting aye, Chairperson Lewis declared the motion carried.

■ **Cedric Bausley
Fort Smith, Arkansas**

Property: 2520 North 22nd Street
Owner: Cedric & Sandra Bausley
Cleaned: October 31, 2011 ~ \$249.92

Inspector Dean Polk reviewed the property file, provided pictures and presented the video for the cleaning. The property was first inspected on October 3, 2011 and posted for overgrowth, dead limbs and limbs in the roadway. A certified letter was forwarded to the property owner whereby such was signed by Sandra Bausley on October 5, 2011. The property was reinspected on October 14, 2011 whereby the overgrowth and dead limbs in the roadway were abated; however, the dead limbs remained. Due to such, the property was assigned to a contractor for limb removal and abatement was accomplished on October 31, 2011.

Mr. Bausley confirmed receipt of the notice whereby he alleged such indicated overgrowth and limbs of the roadway only. He indicated his intent to remove the dead limbs at a later time, when the "leaves fell off".

Appeal Board Action ~ 2520 North 22nd Street

The Appeal Board expressed appreciation to Mr. Bausely for abating the multiple violations regarding overgrowth and limbs in the roadway.

Chitwood, seconded by Monroe, moved that the lien amount be reduced from \$249.92 to \$200.00 and that same be forwarded to

the Sebastian County Tax Collector for placing on the tax records. The members present all voting aye, Chairperson Lewis declared the motion carried.

Mr. Bausley expressed much discontent with the Appeal Board determination, but immediately paid the account in full.

■ **Morlin Dixon**
Fort Smith, Arkansas

Property 1: 4000 North Street
Owner: Dixon Rentals No. 2, LLC
Cleaned: September 19, 2011 ~ \$1,572.56

Property 2: 614 Belle Avenue
Owner: Dixon Rentals No. 2, LLC
Cleaned: August 2, 2011 ~ \$280.87
September 27, 2011 ~ \$315.70

Property 1 - 4000 North Street

Inspector Dean Polk reviewed the property file, provided pictures and presented video of the cleaning. The property was first inspected and posted for overgrowth and removal of a dead tree. A certified letter was forwarded to the property owner and the return receipt was received; however, the signature is illegible. The property was inspected and the overgrowth was abated; however, the dead tree remained. The City obtained three (3) bids for removal with \$1,400 being the lowest bid, which was accepted and the violation was abated on September 19, 2011.

After reviewing the pictures, video and file, Mr. Dixon opted not to appeal the cleanup lien.

Appeal Board Action ~ 4000 North Street

Monroe, seconded by Raynor, moved that the lien amount remain in full (\$1,572.56) and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members present all voting aye, Chairperson Lewis declared the motion carried.

Property 2 - 614 Belle Avenue

Neighborhood Services Supervisor Rick Ruth reviewed the property file, provided pictures and presented video of the cleanings. The property was first inspected on June 22, 2011 for overgrowth, dead limbs and trash & debris. A certified letter was

forwarded to the property owner and was signed for on July 1, 2011. The property was reinspected on July 12, 2011 whereby the violation remained; therefore, such was assigned to a contractor and cleared on August 2, 2012.

The property was also inspected on September 12, 2012 and was again posted for overgrowth, dead limbs and trash & debris. Such was assigned to contractor and was ultimately abated on September 27, 2011

After reviewing the pictures, video and file information, Mr. Dixon did not wish to appeal the cleanings.

Appeal Board Action ~ 614 Belle Avenue

Chitwood, seconded by Monroe, moved that the liens remain in full (totaling \$596.57) and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members present all voting aye, Chairperson Lewis declared the motion carried.

Mr. Dixon indicated he may wish to execute a payment contract for reimbursement citing if he wishes to do so, he will contact the City Clerk a later date.

Note: To date, Mr. Dixon has not contacted the City Clerk's Office to execute a payment contract.

■ **Denise Fagain
Asbury, Missouri**

Property: 4023 South 18th Street
Owner: Denise Fagain
Cleaned: July 19, 2011 ~ \$246.52

Inspector Kelly Arnold reviewed the property file, provided pictures and presented video of the cleanings. The property was first inspected on June 15, 2011 for overgrowth and dead limbs. A certified letter was forwarded to the property owner, but was returned unclaimed. The property was inspected on July 8, 2011 whereby the violation remained; therefore, such was assigned to a contractor with the violations abated on July 19, 2011.

Ms. Fagain advised she lost her job and ultimately lost the property due to foreclosure in 2010. Due to such, she assumed the mortgage company would be responsible for the maintenance. She moved to Missouri soon after the foreclosure and still maintains no income. The property has remained in her name until recently; however, Ms. Fagain alleged she never received notice of the violation.

Neighborhood Services Supervisor Rick Ruth confirmed that the Sebastian County Assessor's Office provided an old address in Van Buren in which Ms. Fagain has not lived in many years; therefore, such is where the certified letter was forwarded.

Appeal Board Action ~ 4023 South 18th Street

The Appeals Board conveyed sympathy with Ms. Fagain's circumstance, but urged the importance of property owners to contact the Assessor's Office to advise of new mailing addresses.

Chitwood, seconded by Raynor, moved that the lien remain in full (totaling \$246.52) and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members present all voting aye, Chairperson Lewis declared the motion carried.

There being no further business to come before the Appeal Board, Chitwood moved that the hearing adjourn. The motion was seconded by Monroe and the members present all voting aye, Chairperson Lewis declared the motion carried and the hearing stood adjourned.

Sherri Gard, City Clerk

3.

Ordinance No. _____

AN ORDINANCE AMENDING SECTION 14-155 OF THE FORT SMITH MUNICIPAL CODE FOR THE PURPOSE OF AMENDING THE PERMITTED ZONING DISTRICTS FOR SEXUALLY ORIENTED BUSINESSES

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

Section 1: The introductory paragraph of Section 14-155 of the Fort Smith Municipal Code is amended to read as follows:

Sexually oriented businesses not already lawfully operating on the effective date of this division shall be permitted only in zoning districts Commercial Heavy (C-5), Industrial Moderate (I-2), and Industrial Heavy (I-3), subject to the following:

Section 2: Subsections 1, 2, 3, and 4 of Section 14-155 shall remain as currently written in the Fort Smith Municipal Code.

PASSED AND APPROVED THIS _____ DAY OF NOVEMBER 2012.

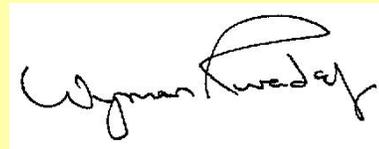
APPROVED:

MAYOR

ATTEST:

City Clerk

Approved as to form:



Publish 1 Time

Memorandum

To: Ray Gosack, City Administrator
From: Wally Bailey, Director of Development Services
Date: 11/8/2012
Re: Sexually Oriented Business Zoning

The Board of Directors reviewed the sexually oriented business ordinance and approved several amendments to the ordinance in May 2012. During that discussion there was much discussion about the zoning districts and buffering requirements to be included in the ordinance. Section 14-155 (*which is enclosed*) includes the allowed zoning districts and the many requirements for separating from other uses.

I asked Russell Gibson, IT Director, to map the requirements of section 14-155 to show the areas of the city that currently allow a sexually oriented business. The map is enclosed and reflects that about 1.4% land area of the City corporate limits would permit a sexually oriented business.

You will recall the staff and city attorney expressed concerns about having such a small area could present us with a future legal challenge for not having enough area available for these uses. I have provided a copy or Rick Wade's, assistant city attorney, as a refresher concerning that discussion.

Since the approval of the ordinance in May, we have continued to review several possible scenarios to get the Fort Smith ordinance closer to what the courts have said is an acceptable land area. I have enclosed a map that shows areas of the City zoned Commercial-5, Industrial-2 and Industrial-3. The C-5 areas are in red while the Industrial districts are purple. This map reflects a land area that is about 4% of the corporate limits of the city.

While we cannot say for sure how a court will rule with regard to the required land area, we do feel more comfortable that an amendment that would permit 4% versus 1.4% could put us in a better position should a legal challenge occur.

Please contact me if you have any questions.

SECTION 14-155. Location Restrictions.

Sexually oriented businesses not already lawfully operating on the effective date of this division shall be permitted only in zoning districts Commercial 2, Commercial 3-P, Commercial 4-P, Commercial 5, Commercial 5-SPL(S), and Commercial 6, subject to the following:

1. The sexually oriented business may not be operated within:
 - a. 1,000 feet of a church or other place of public worship;
 - b. 1,000 feet of a public or private elementary, secondary, or post-secondary school;
 - c. 1,000 feet of a public park;
 - d. 1,000 feet of a hospital;
 - e. 1,000 feet of a licensed day-care center;
 - f. 1,000 feet of an entertainment business that is oriented primarily towards children;
 - g. 1,000 feet of a residence;
 - h. 1,000 feet of another sexually oriented business;
 - i. 1,000 feet of a playground;
 - j. 1,000 feet of a public library;
 - k. 1,000 feet of a recreational area or facility;
 - l. 1,000 feet of a walking trail; or
 - m. 1,000 feet of a child care facility.

These provisions, 1(a) through 1(m), shall not apply to a sexually oriented business already lawfully operating on the effective date of this division if a church or other place of worship, or a public or private elementary, secondary, or post-secondary school, or any public park, or any hospital, or any licensed day-care center, or any entertainment business that is oriented primarily towards children, or any residence, or a playground, or a public library, or a recreational area or facility, or a walking trail, or a child care facility is subsequently established within 1,000 feet.

2. Any legally established sexually oriented business, which would otherwise become non-conforming because of a zone change or the establishment of another use, may continue to operate in the same location if such zone

another use, may continue to operate in the same location if such zone change or new use is not caused by or is not the fault of the sexually oriented business.

3. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business classified pursuant to Section 14-144.
4. For the purpose of this division, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property of the premises where a sexually oriented business is conducted, to the nearest property line of a church or other place of public worship; public or private elementary, secondary or post-secondary school; public park; hospital; licensed day care center; entertainment business that is oriented primarily towards children; boundary of any residential district; other sexually oriented business; playground; public library; recreational area or facility; and a walking trail or child care facility.

SECTION 14-156. Additional Regulations for Adult Motels.

A) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this division.

(B) A person in control of an adult motel must have a sexually oriented business license or be subject to penalties as set forth below.

(C) For purposes of subsection (B) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(D) Any person convicted of the violation of subsection (B) of this Section shall be subject to the general penalties as set out in Section 1-9 of the Fort Smith Municipal Code.

SECTION 14-157. Additional Regulations for Escort Agencies.

(A) An escort agency shall not employ any person under the age of eighteen (18) years.

DAILY & WOODS

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ATTORNEYS AT LAW

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L. MATTHEW DAVIS, P.A. †
COLBY T. ROE

† Also Licensed in Oklahoma
● Also Licensed in Wyoming & North Dakota

April 17, 2012

Mr. Wally Bailey
Director of Development Services
P.O. Box 1908
Fort Smith, AR 72902

Re: Sexually Oriented Businesses

Dear Mr. Bailey:

As the City of Fort Smith reviews its existing ordinances regulating sexually oriented businesses, a brief legal refresher might be in order. Perhaps, most important, is the fact that the U.S. Supreme Court has long held that city zoning ordinances which place limits on the location of adult uses are valid exercises of a city's police power. See Young v. American Mini Theatres, Inc., 427 U.S. 50, 62-63 (1976). Though such regulations treat adult uses differently from other uses based on their sexually explicit nature, they are "designed to prevent crime . . . maintain property values, . . . and preserve . . . the quality of urban life." City of Renton v. Playtime Theatres, Inc., 475 U.S. 41, 48, 106 S.Ct. 925 (1986).

Some of the litigation that has developed over cities' regulation of sexually oriented businesses has focused on whether the city has provided adequate space for such businesses to operate and as to whether such businesses could be located solely in specific zones, e.g., industrial zones. In Z.J. Gifts v. City of Aurora, the Tenth Circuit Court of Appeals found that the city's locating of sexually oriented businesses within the city's industrial zones, which comprised approximately 10.9% of the city's area (approximately 3,200 acres of this land – fully 3.6% of the city's total area – was located near existing water and sewer services) was reasonable. The Tenth Circuit noted that the 10.9% made even more land available than the amount that had previously been found to be adequate in Renton, supra. In Renton, the U.S. Supreme Court found adequate the fact that the City of Renton's ordinance left "some 520 acres, or more than 5% of the entire land area of Renton, open to use as adult theater sites." Renton, 106 S.Ct. at 932.

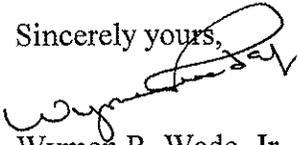
Also, in Ambassador Books & Video, Inc. v. City of Little Rock, 20 F.3d 858 (8th Cir. 1994), the Eighth Circuit Court of Appeals found that the City of Little Rock's allocation of 6.75% of the areas (small, scattered sections of the city) in which sexually oriented businesses could locate, i.e., 97 available sites, was a percentage comparable to the "more than 5%" in Renton, supra, and more than the 6.6% of the total acreage of commercial land approved in Alexander v. City of Minneapolis, 928

F.2d 278 (1991), (Minneapolis' ordinance required adults-only businesses to operate within certain specified areas of the city).

Applying First Amendment principles, the U.S. Supreme Court and several federal circuit courts of appeals have determined that sexually oriented businesses, while operating as legitimate businesses, may be regulated, including restrictions on where such businesses may be located. However, the courts have said that such businesses must be allowed "reasonable alternative avenues of communication," pursuant to the First Amendment. This means that municipalities, while having the ability to locate sexually oriented businesses in specific areas of town, and away from identified types of facilities, e.g., schools, churches, must allocate a reasonable percentage of the city's landmass for operation of these businesses. As to how low that percentage may go, the courts have indicated that approximately 5% of the entire land area of one city was sufficient and that 6.6% of the total acreage of land zoned for commercial properties in another city provided reasonable alternative avenues of communication.

Should you require additional input, please let us know.

Sincerely yours,

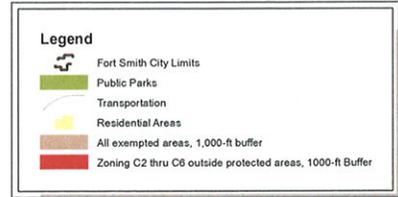


Wyman R. Wade, Jr.

WRW/cmm

Adult-Oriented Business Analysis

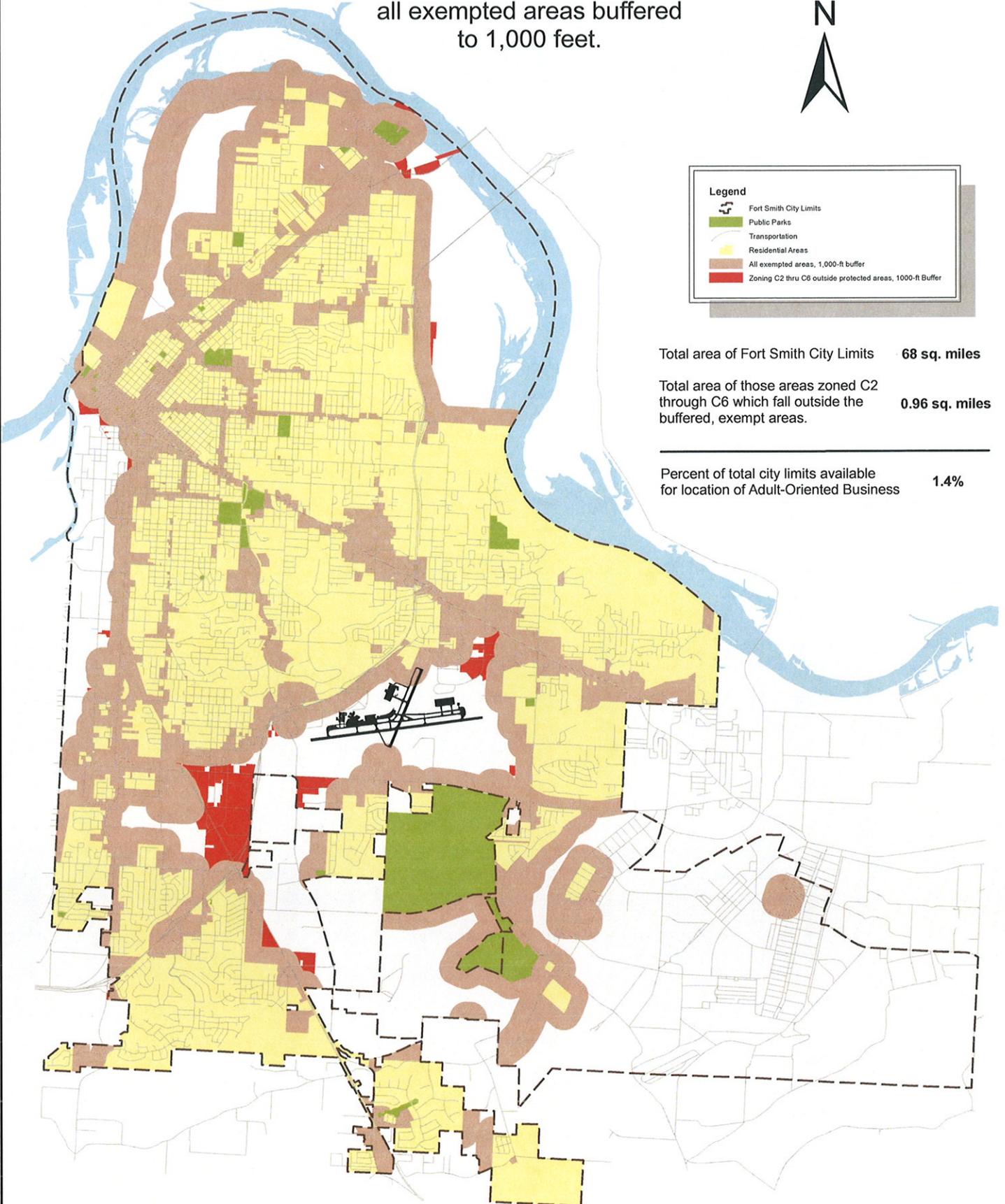
Areas available for location of Adult-Oriented Business
Proposed Ordinance Change,
all exempted areas buffered
to 1,000 feet.



Total area of Fort Smith City Limits **68 sq. miles**

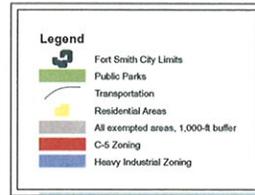
Total area of those areas zoned C2 through C6 which fall outside the buffered, exempt areas. **0.96 sq. miles**

Percent of total city limits available for location of Adult-Oriented Business **1.4%**



Adult-Oriented Business Analysis

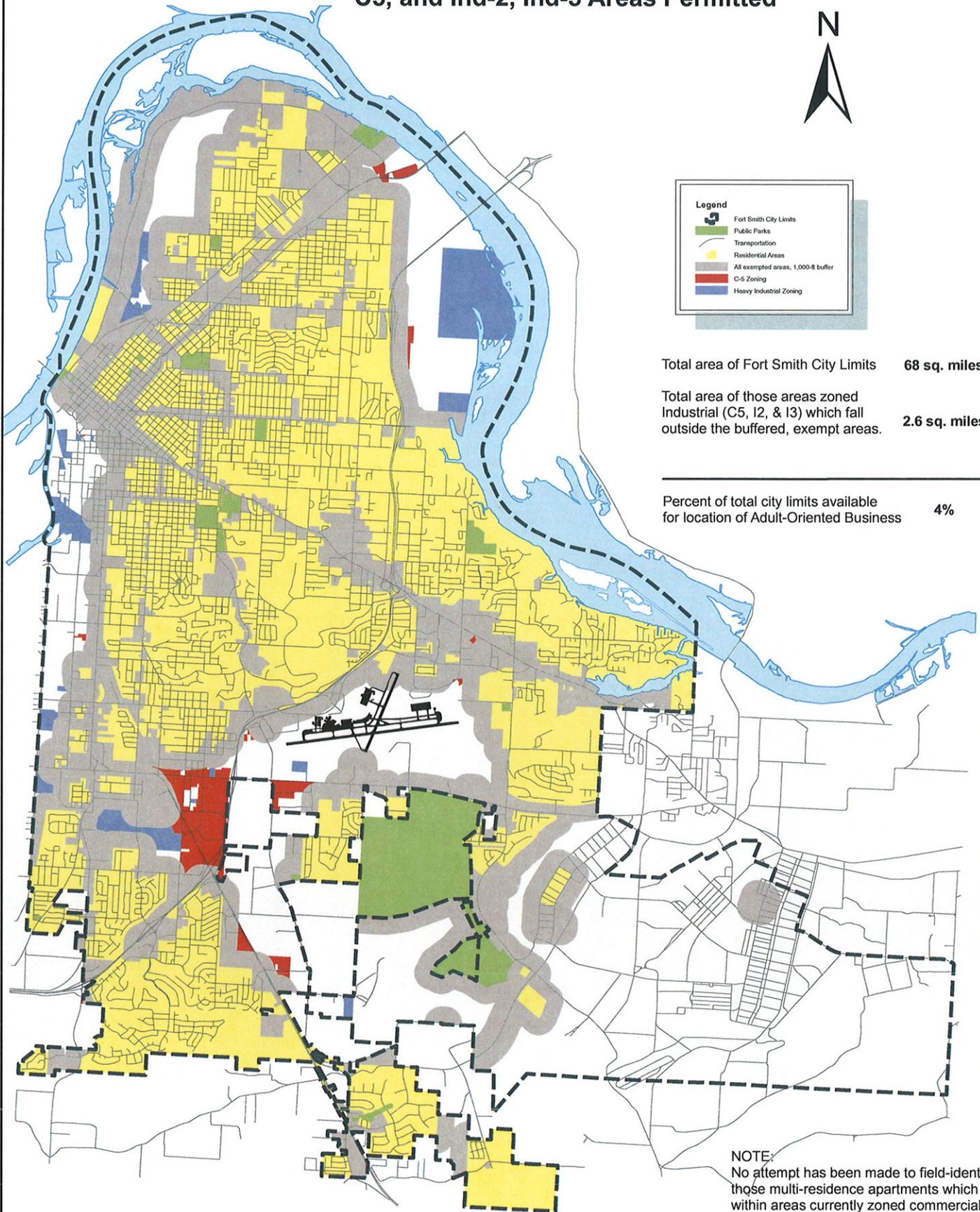
Areas available for location of Adult-Oriented Businesses C5, and Ind-2, Ind-3 Areas Permitted



Total area of Fort Smith City Limits **68 sq. miles**

Total area of those areas zoned Industrial (C5, I2, & I3) which fall outside the buffered, exempt areas. **2.6 sq. miles**

Percent of total city limits available for location of Adult-Oriented Business **4%**



NOTE:
No attempt has been made to field-identify all those multi-residence apartments which fall within areas currently zoned commercial or transitional.

4.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF SETTLEMENT AGREEMENT REGARDING HOME PROGRAM INTEREST IN LOTS 10, 11 AND 12 OF KOLLER PLACE SUBDIVISION TO THE CITY OF FORT SMITH AND AUTHORIZING CITY ADMINISTRATOR AND CITY ATTORNEY TO APPROVE AND EXECUTE ANY DOCUMENTS NECESSARY TO EFFECTUATE APPROVED SETTLEMENT AGREEMENT

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

SECTION 1: The Mayor is hereby authorized to execute, his signature being attested by the City Clerk, the attached Settlement Agreement providing for the compromise resolution of all issues related to the HOME program loan funds used for the construction of assisted housing on Lots 10, 11 and 12 of Koller Place Subdivision to the City of Fort Smith, Arkansas.

SECTION 2: The City Administrator and the City Attorney are hereby authorized to take any and all necessary action to effectuate the Settlement Agreement approved by Section 1 above. In particular, the City Administrator is hereby authorized to execute any final documents recognized by the Settlement Agreement to be necessary to effectuate the terms of the Settlement Agreement.

SECTION 3: All settlement funds received by the City shall be returned to and utilized for the purposes of the City's HOME program.

This Resolution adopted this ____ day of November, 2012.

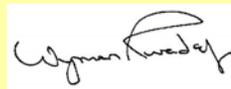
APPROVED:

Mayor

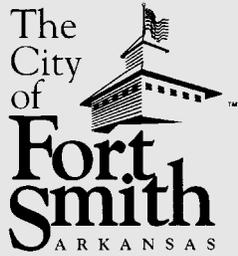
ATTEST:

City Clerk

Approved as to form:.



City Attorney
No Publication Required



MEMORANDUM

November 16, 2012

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: Lend-a-Hand

In September and October, the board discussed Lend-a-Hand's default on a loan repayment for a HOME project begun in 1998. Using federal HOME funds provided through the U.S. Department of Housing and Urban Development, the city loaned Lend-a-Hand \$150,000 for the construction of 3 homes. The homes were to be rented at below-market rates to persons of lower incomes. The loan was to be repaid in 2008.

Lend-a-Hand entered into a partnership with Aarons Inc. to construct the 3 homes. The partnership, Barlee Properties, owns the homes. Lend-a-Hand was unable to repay the loan in 2008, and it appears they have little or no assets to do so. The single largest exposure of this default for the city is the requirement to repay HUD the \$150,000 loan. The board has authorized litigation as an option if the matter can't be settled.

The city attorney has had discussions with legal counsel for Barlee Properties and Lend-a-Hand about resolving the potential litigation. A tentative settlement has been reached. The recommended settlement would accomplish the following:

- ▶ First and foremost, the settlement would end the possibility of having to repay HUD the \$150,000 loaned for the project. This would be accomplished by Barlee Properties agreeing to extend the period of the below-market rental rates from 15 years to 20 years. The value of this additional 5 years of below-market rental rates is estimated to save lower income tenants \$19,000. Over the entire 20 years, the rent savings is estimated to be \$78,000.
- ▶ Secondly, Barlee Properties would pay the city \$37,500

in cash. These funds would go back into the city's HOME program, which would increase the resources available for HOME-eligible projects.

If we proceed to litigation, there's a chance the city wouldn't prevail. Without an additional 5 years of below-market rents or repayment of the \$150,000 loan, HUD would require the city to repay the loan. Thus, the risk of the litigation alternative is having to repay \$150,000 to HUD and losing the \$37,500 payment offered by Barlee Properties. We would also lose the value of the additional 5 years of below-market rents for the 3 lower income households.

The recommended settlement is a compromise which doesn't fully satisfy the desires of all parties. However, it brings a known conclusion to the matter. Most important, the settlement avoids the possibility of having to repay HUD \$150,000. It also assures us of having an additional \$37,500 for Fort Smith's HOME program. The alternative, litigation, could result in the city losing both of these outcomes. For these reasons, the staff recommends approval of the settlement.

A handwritten signature in black ink, appearing to read "Ray", is written on a white rectangular background.

Attachments

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

JAMES E. WEST
PHILLIP E. NORVELL †

OF COUNSEL

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FAX (479) 782-6160

WRITER'S E-MAIL ADDRESS
JCanfield@DailyWoods.com

† Also Licensed in Oklahoma
● Also Licensed in Wyoming & North Dakota

Rec'd. Nov. 13, 2012

November 6, 2012

Mr. Ray Gosack
Fort Smith City Administrator
623 Garrison Avenue, 3rd Floor
Fort Smith, AR 72901

Re: Lend A Hand, Inc. ("Lend A Hand")/Aaron's, Inc. ("Aaron's")/Barlee
Properties II Limited Partnership ("Barlee II")

Dear Mr. Gosack:

By Resolution R-222-12, the Board authorized our continued investigation and possible commencement of litigation with reference to the captioned matter.

As you know, negotiations have been ongoing between representatives of LAH, Barlee II and the City. In addition, Mr. Jennings has been in contact with state and national representatives of HUD to assure, to the extent possible, that the negotiations and possible resolution of the issues will satisfy any requirements of the HOME program so that the City will not be subjected to future obligations or reductions of benefits in the HOME program.

Upon determination from HUD officials that an additional five year period of affordability with reference to the three subject residential units was essential to protecting the City's position with reference to no repayment or reduction, a tentative settlement has been negotiated to accomplish that purpose. In consideration of the City's expenses incurred with reference to this matter and to benefit future HOME programs, a cash consideration of \$37,500 to be paid to the City also has been negotiated.

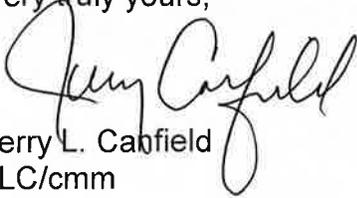
The enclosed draft has been prepared to state the principles of the tentative settlement. Also, I am enclosing a resolution form for the Board Meeting.

We strongly recommend the settlement to the Board. We understand that you concur. Regardless of the acknowledgment by LAH that the debt is owed, LAH has no substantial assets from which the debt can be paid. The Barlee II entities have not executed documents accepting responsibility for the loan and vigorously contest responsibility for the loan. Traditional legal theories such as implied contract and unjust enrichment are time barred. Other legal theories are problematic, subject to time bar

arguments, will be expensive to pursue, and are subject to substantial litigation risk. For these reasons, again, we recommend that the settlement be approved by the Board. If we proceed with litigation and do not prevail, the City potentially will owe HUD \$150,000, will not receive the \$37,500 payment for its HOME programs, and won't have the benefit of the additional 5 years of below-market rental rates (valued at nearly \$20,000) on the 3 properties. The recommended settlement assures us of avoiding the risk of the \$150,000 payment to HUD and of receiving the other benefits.

We understand that the proposed settlement will be submitted for review by the Board at the November 20, 2012, meeting. The delay of consideration to November 20 (as opposed to consideration on November 6) will not adversely affect the rights of the City with reference to the time issues involved in this matter.

Very truly yours,



Jerry L. Canfield
JLC/cmm

Enclosures

**SETTLEMENT AGREEMENT AND RELEASE OF THE
PARTIES' DISPUTES REGARDING LOTS 10, 11 AND 12 OF
KOLLER PLACE SUBDIVISION TO THE CITY OF FORT SMITH**

This Settlement Agreement(the "Agreement") is made and entered into this 6th day of November, 2012. The parties to this Agreement are Lend A Hand, Inc., hereinafter referred to as "LAH"; Rausch Coleman Development Group, Inc. f/k/a Aaron's, Inc., hereinafter referred to as "Aaron's"; Barlee Properties II Limited Partnership, acting through its duly appointed Managing General Partner, Aaron's, hereinafter referred to as "Barlee II"and the City of Fort Smith, Arkansas, hereinafter referred to as the "City". LAH, Aaron's, Barlee II and the City are sometimes referred to herein jointly as the "Parties" and individually as a "Party".

WHEREAS, on or about November 6, 1998, LAH entered into a Loan Agreement with the City(the "Loan Agreement") and borrowed from the City's HOME Investment Partnership Act("HOME") fund, the sum of \$150,000.00(the "Loan Proceeds")which said Loan Proceeds were utilized by Barlee II in the construction of three(3) residential structures on Lots 10, 11 and 12 of Koller Place subdivision to the City of Fort Smith, Arkansas, hereinafter identified as the "Subject Properties." The loan evidenced by the Loan Agreement is hereinafter referred to as the "Subject Loan";

WHEREAS, the Subject Properties have been utilized for the providing of assisted housing to qualified recipients subject to the affordability requirements contained in 24 CFR Part 92 and a Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits applicable to the Subject Properties and other properties located in Koller Place Addition and pursuant to a Restrictive Covenant/HOME Program applicable to the Subject Properties, both of which Covenants are recorded in the records of the Fort Smith District of Sebastian County,

Arkansas;

WHEREAS, the parties have pursued discussions regarding responsibilities with reference to the Subject Loan and the Subject Properties, and the Parties disagree regarding those legal responsibilities. Inter alia, the Parties disagree and contend as follows. The City contends its HOME program is entitled to repayment of the Loan Proceeds, with interest and associated costs, and that LAH, Barlee II and the Subject Properties are obligated to provide for the return of the Loan Proceeds and associated costs to the City's HOME program. LAH acknowledges the loan debt, concurs in the City's claim that return of the Loan Proceeds is a responsibility of LAH, Barlee II and the Subject Properties, and contends that the Loan Proceeds, provided by LAH to Barlee II, for the construction of improvements on the Subject Properties is a capital contribution under the Barlee II Partnership Agreement the return of which is a first obligation upon disposition of the Subject Properties by Barlee II. Aaron's, on behalf of itself and Barlee II, and Barlee II contest the assertions of the City and LAH and contends there is no claim of the City for payment or return of the Loan Proceeds from Aaron's or Barlee II regardless of how characterized, claims of the City and LAH are time barred and the reductions in market rent to provide subsidized rents and housing provided a significant benefit to LAH under the purposes of the organization as well as a significant benefit to the City by providing affordable housing under the HOME program and all funds were strictly used in accordance with the HOME program. The described transaction resulting in the Parties' contentions is hereinafter generally referred to as the "Disputed Transaction";

WHEREAS, the parties acknowledge the laudable goals of the City's HOME program

and, as part of this Agreement, are willing to make commitments to extend the affordability period of the Subject Properties for up to an additional five (5) years beyond the current affordability restrictions applicable to the Subject Property (from a fifteen(15) year to a twenty(20) year period of affordability but not related to any compliance obligation past fifteen(15) years for tax credit purposes under Section 42 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), subject to Aaron's and Barlee II's request for application of federal and state regulations regarding the release of those affordability restrictions as to the Subject Properties in a manner which does not invoke any obligation of the City to repay the Subject Loan, in whole or part, or be subject to further deduction, in whole or in part, of HOME funds the City would otherwise receive; and,

WHEREAS, in order to avoid the vexation, expense, and uncertainty of litigation, the Parties desire to compromise and settle any and all claims alleged, or which could have been alleged, with reference to the Disputed Transaction, together with all claims, of whatsoever kind or nature, that have arisen, or that might arise in the future, among them concerning the Disputed Transaction, the Subject Loan or the Subject Properties.

NOW, THEREFORE, in exchange of the mutual covenants and the considerations identified below, which the Parties acknowledge to be good, valuable and sufficient to support the undertakings of this Agreement, the parties agree as set forth herein.

1. Recitals. The Recitals set forth herein are accurate and are incorporated herein by reference.

2. Consideration Given by LAH. In exchange for the considerations flowing to it and pursuant to final documents reasonably expressing the terms of this Agreement, LAH (1)

acknowledges the Loan Agreement in the amount of \$150,000.00, plus interest, to the HOME program of the City, (2) agrees to continue as a general partner of Barlee II, subject to the terms hereof and the Barlee II Limited Partnership Agreement, (3) agrees to sell, without additional consideration(including any claim that the Subject Loan is capital of LAH to be returned to LAH at any time in the future), all of its interest in Barlee II to Aaron's and to close that sale transaction on December 31, 2013, (4) agrees to acknowledge there was no loan, contract or other loan agreement between LAH and either Aaron's or Barlee II regarding the Loan Proceeds, Subject Loan or the Subject Properties, and (5) that Aaron's and Barlee II provided the subsidized housing according to the purposes of the HOME program with the Loan Proceeds, borrowed by LAH from the City, which was a valuable consideration to LAH.

3. Consideration Given by Aaron's. In exchange for the considerations flowing to it and pursuant to final documents reasonably expressing the terms of this Agreement, Aaron's (1) agrees that the Subject Properties will be restricted by and be held and operated pursuant to a recordable restriction enforceable by the City against the then current owner as affordable housing subject to the affordability requirements contained in 24 CFR Part 92 for a five (5) year period additional to the period identified in the Declaration of Land Use Restrictive Covenants recorded as Document 7022891 in the records of the Fort Smith District of Sebastian County, Arkansas,(but not subject to any additional period of compliance for tax credit purposes under Section 42 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder), subject to any release provisions of the applicable federal regulations available to Barlee II which do not result, directly or indirectly, in an obligation of the City to repay to HUD or the HOME program the Subject Loan , in whole or in part, or cause the City to be subject to

future deduction, in whole or in part, of HOME funds the City would otherwise receive and (2), within ten (10) days of the date of this Agreement, Aaron's, on behalf of Barlee II, will pay to the City the cash sum of \$37,500.00 to be returned to the HOME program operated by the City.

4. Consideration Given by City. In exchange for the considerations flowing to it and pursuant to final documents reasonably expressing the terms of this Agreement, the City of Fort Smith agrees to release and discharge LAH, Aaron's, Inc., Barlee II and the Subject Properties from all claims arising from the Disputed Transaction, (2) acknowledges that the matters related to the Disputed Transaction will not be considered by the City adversely to the status of LAH as a community housing development organization (CHDO) with reference to the City's HOME program, (3) acknowledge that neither Aaron's nor Barlee II signed any loan agreement, note or other contract with the City relating to the Subject Loan or the Subject Properties, and (4) the Loan Proceeds received by LAH and used in the Subject Properties were used for the purposes intended under the HOME program.

5. Mutual Release of Parties. Subject to the covenants contained in this Agreement, the Parties, on behalf of themselves, their partners, parent corporations, subsidiaries, affiliates, and their past, present, and future partners, members, shareholders, agents, employees, officers, directors, successors, assigns, representatives, agents and attorneys, hereby release and forever discharge each other, their partners, parent corporations, subsidiaries, affiliates, and their past, present, and future partners, members, shareholders, employees, officers, directors, successors, assigns, representatives, agents and attorneys from all Released Claims. "Released Claims" shall mean all complaints, claims, obligations, costs, losses, damages, injuries, attorneys' fees, penalties, fines, and all other legal responsibilities of any form whatsoever, whether direct or

indirect, known or unknown, suspected or unsuspected, at law or in equity, under statute, contract, common law, or otherwise, which they ever had, now have, shall have or may have, for any matter, cause, or thing occurring before and up to and including the date of the execution of this Agreement arising out of, under, or in connection with, the claims alleged, or which could have been alleged, in the Disputed Transaction involving the Subject Loan or the Subject Properties.

6. As acknowledged above, the consummation of this Agreement will require the preparation and execution of additional documents to, inter alia, assign the interest of LAH in Barlee II to Aaron's and to impose an additional five (5) years of affordability to assure continued assisted housing status to the Subject Properties. The parties agree to cooperate with reference to the preparation and execution of any and all documents reasonably necessary to effectuate the provisions of this Agreement. The parties acknowledge that any dispute regarding the reasonableness of the documents presented by any party to another party for execution to reasonable effectuate the provisions of this Agreement is a dispute which shall be subject to the jurisdiction of the circuit court in the Fort Smith District of Sebastian County.

7. The considerations expressed in paragraphs 2(2), 2(3), 3(1) and 4(2) above shall survive the execution of this Agreement and the completion of the settlement provided herein.

8. Additionally, the representations and warranties provided in subsections 1 through 5 of this paragraph 8 shall survive the execution of this Agreement and the completion of the settlement provided herein.

8.1 Authority to Enter Into This Agreement. Each of the Parties represents and warrants that it has the power and authority to enter into this Agreement and that this Agreement

and all documents delivered pursuant to this Agreement are valid, binding and enforceable.

8.2 Entire Agreement. This Agreement sets forth the entire agreement between the Parties with regard to the Disputed Transaction, the Subject Loan and the Subject Properties.

8.3 Review by Counsel. The Parties have had the opportunity to review this Agreement and confer with counsel of their choosing in deciding whether to enter this Agreement.

8.4 Construction of Agreement. The Parties and their counsel have mutually contributed to the preparation of this Agreement. Accordingly, no provision of this Agreement shall be construed against any Party on the grounds that one of the Parties or its counsel drafted the provision.

8.5 No Admission of Fault or Liability. It is understood and agreed that neither the fact of this Agreement, nor the terms of this Agreement, shall ever be treated by any Party, person, or other entity at any time for any purpose as an admission or evidence of liability, responsibility, negligence, or fault of any kind on the part of any Party hereto.

9. Other Terms and Conditions.

9.1 Binding Effect. This Agreement is binding on and shall inure to the benefit of the Parties hereto, including Barlee II, and their respective partners, parent corporations, subsidiaries, affiliates, and their past, present, and future, partners, members, shareholders, agents, employees, officers, directors, successors, assigns, representatives, and attorneys.

9.2 No Recording. This Agreement shall not be recorded in the public recording records for real property in Sebastian County, Arkansas.

9.3 Amendments. This Agreement may be modified only by written agreement

of the Parties and may not be modified by any oral agreement.

9.4 Execution of Counterparts. This Agreement may be executed in counterparts, and when each party has signed and delivered to the other at least one such counterpart, each counterpart shall be deemed an original, and when taken together with other signed counterparts, shall constitute one agreement, which shall be binding upon and effective as to all parties. Facsimile or electronic signatures will suffice as originals.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE TO FOLLOW]

LEND A HAND, INC.

By: _____
President

Attest: _____
Secretary

RAUSCH COLEMAN DEVELOPMENT GROUP,
INC. f/k/a AARON'S, INC.

By: _____
President

Attest: _____
Secretary

BARLEE PROPERTIES II LIMITED
PARTNERSHIP

RAUSCH COLEMAN DEVELOPMENT GROUP,
INC. f/k/a AARON'S, INC. AS MANAGING
GENERAL PARTNER OF BARLEE
PROPERTIES II LIMITED PARTNERSHIP, AN
ARKANSAS LIMITED PARTNERSHIP

By: _____
President of Managing General Partner

Attest: _____
Secretary of Managing General Partner

CITY OF FORT SMITH, ARKANSAS

By: _____
Mayor

Attest: _____

Jennings, Matt

From: Sardone, Virginia [Virginia.Sardone@hud.gov]
Sent: Friday, September 28, 2012 7:28 AM
To: Johnson, Clinton E
Cc: Jennings, Matt; Spigner, Lisa M; Sowell, Michael L; Colon, Timothy C
Subject: RE: Koller Place and Lend A Hand

Repayment of HOME funds by the PJ to its HOME account is triggered when a project does not remain affordable (meet HOME rent, income targeting and property standard requirements) for the required period of affordability. If the project is still compliant and HOME restrictions are imposed by deed restriction, then nothing is triggering repayment.

From: Johnson, Clinton E
Sent: Thursday, September 20, 2012 5:35 PM
To: Sardone, Virginia
Cc: 'Jennings, Matt'; Spigner, Lisa M; Sowell, Michael L; Colon, Timothy C
Subject: FW: Koller Place and Lend A Hand

Good Afternoon Virginia:

Thank you for your informative response on this issue. If the City is unable to repay the \$150,000 to HUD, which was not paid back by the private developer, but ensures that the developer maintains affordability of the HOME units for the additional seven (7) years, would the PJ still be required to repay the \$150,000 in HOME funds to HUD? Note also, that the CHDO appears to not have been well represented legally several years ago at the time that the contract was signed, as the private developer holds title to, and control of the properties, and the CHDO has no access to either the revenue stream created by the project, nor the underlying assets that the HOME dollars were used to create.

Therefore, the CHDO cannot repay the \$150,000 in HOME funds borrowed from the PJ, as it does not control the assets or revenue stream created by the HOME loan --- even though it signed the contract --- and the private developer is not contractually obligated to repay the funds --- even though it owns the assets and revenue stream derived from use of the HOME funds. If you would like to discuss this via conference call with the City of Fort Smith, I would be happy to setup a conference call for that discussion next week.

Thanks,

Clint Johnson

Senior Financial Analyst
U.S. Department of Housing and Urban Development
Little Rock Office of Community Planning and Dev.
425 West Capitol Ave., Suite 1000
Little Rock, Arkansas 72201
(501) 918-5739; Fax: (501) 324-5954
E-Mail: Clinton.E.Johnson@HUD.GOV

From: Jennings, Matt [<mailto:mjennings@fortsmithar.gov>]
Sent: Friday, August 24, 2012 10:04 AM

To: Johnson, Clinton E
Subject: HOME Program
Importance: High

Clint,

I have an ongoing issue that I need to discuss with you. In 1998, one of our CHDO's (Lend A Hand) made a proposal with a private developer for a project to use \$150,000 for a 27 unit LIHTC subdivision. The staff had three units deed restricted for affordability with the HOME documents.

The CHDO & Developer made the application/proposal to be a loan of 1% interest and made 2 annual payments. At some point, the developer/partnership claimed that due to changes in the LIHTC and HOME rules they could no longer make the payments and stopped. The city only has the HOME agreement containing the loan terms. 1% with full repayment upon 10 years. At that time, the city had never operated a loan program (and with HOME never has loaned funds since) but there were no promissory note or mortgage documents attached to the 3 properties. I froze funding on the CHDO last year as I finally became in possession of the agreement that had been lost for several years. (We believe the files were lost when the basement flooded one year and boxes were thrown out wholesale). We have been working with our attorney and that of the CHDO/Developer. The CHDO is wanting the city to forgive the loan.

Because we are getting ready to appear before the City Board of Directors soon regarding this issue, we also have a board member that is wanting to forgive the loan. Can the city, with HUD's blessing, forgive the loan since it was a voluntary condition upon the CHDO/Developer's part and the board at that time merely accepted the proposal? The properties are single family and are still under affordability restrictions but the 15 years will soon expire.

Any guidance you can give me will be greatly appreciated. Thanks!
Matt

J. Matt Jennings, AICP
Director of Community Development
City of Fort Smith, Arkansas
P. O. Box 1908
Fort Smith, AR 72902
479.784.2209 - Office
479.784.2462 - Fax
www.fortsmithar.gov

Item 5

RESOLUTION NO. _____

RESOLUTION ACCEPTING BID FOR UNIFORM RENTAL SERVICES

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

The bids, as indicated by enclosure for the rental of uniform services from Cintas Corporation, are accepted.

This Resolution adopted this _____ day of November, 2012.

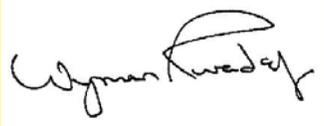
APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



No Publication Required

ITEM 5

Interoffice Memorandum

TO: Ray Gosack, City Administrator

FROM: Alie Bahsoon, Purchasing Manager 

SUBJECT: Uniform Rental Services Bid-UPDATE

DATE: November 15, 2012

BID TAB: 100512-BA



As you may recall, the enclosed information was brought before the board at the November 6th meeting for review and approval and due to a bid protest, the item (6C) was removed from the agenda until interviews were conducted with the vendors.

On Tuesday November 13th, interviews were conducted by the selection committee with Aramark, Cintas, and Unifirst (please note that Clean Uniform opted not to participate in the interview process). Each vendor was given the opportunity to expound on their bid proposal and respond to a series of questions (copy attached) presented to each vendor. At the conclusion of these interviews, the committee met and concluded by anonymously ranking the vendors by preference and voted for the preferred vendor. Of the 10 votes, eight members chose Cintas Corp. as their preferred vendor while Unifirst and Aramark each received 1 first place vote.

Although the committee agreed that all vendors are responsive and responsible bidders, they re-evaluated the bidders based on the minimum qualifications established in the bid document, the information provided from email questions and the interviews conducted and chose Cintas for the following:

- Despite the slight cost increase of \$.07 per uniform, the committee resolved that over the course of the contract term, this is an opportunity cost benefit
- For mending and repairs, garments are inspected for tears, holes, etc. and anything larger than a dime is replaced; Unifirst's criteria for replacement is up to a quarter size; staff noted that in prior contract with Unifirst, a major complaint was too many patches on the garments that would "rub" on the employees thus making the uniform uncomfortable and did not portray a positive image on the city employee
- Replacement costs are: \$15/shirt; \$17/pant; & \$25/jacket; Unifirst's replacement costs are: \$10/shirt; \$15/pant; \$27/jacket. Unifirst offers a Garment Protection Plan (GPP) and dependant on the garment, in addition to the rental cost, a standard uniform shirt will run \$.08 extra per garment and move up on the more expensive garments up to \$.18 per garment
- Employees project a positive and professional image to its citizens with a very high level of comfort satisfaction
- Very few complaints regarding the existing contract
- Excess inventory is kept at local plant for new employees

ITEM 5

- A proven reliable track record of good performance
- Excellent professional relationship with designated Cintas driver, Jeremy

On behalf of the committee, I am recommending that we move forward with the new uniform rental services contract by awarding the bid to Cintas Corporation. For your information, the uniform rental contract for the past 12 months (10-2011 to YTD 11-2012) is \$110,646 and \$119,018 for the prior 12 months of 11-2010 to 10-2011.

Please let me know if you should have any questions.

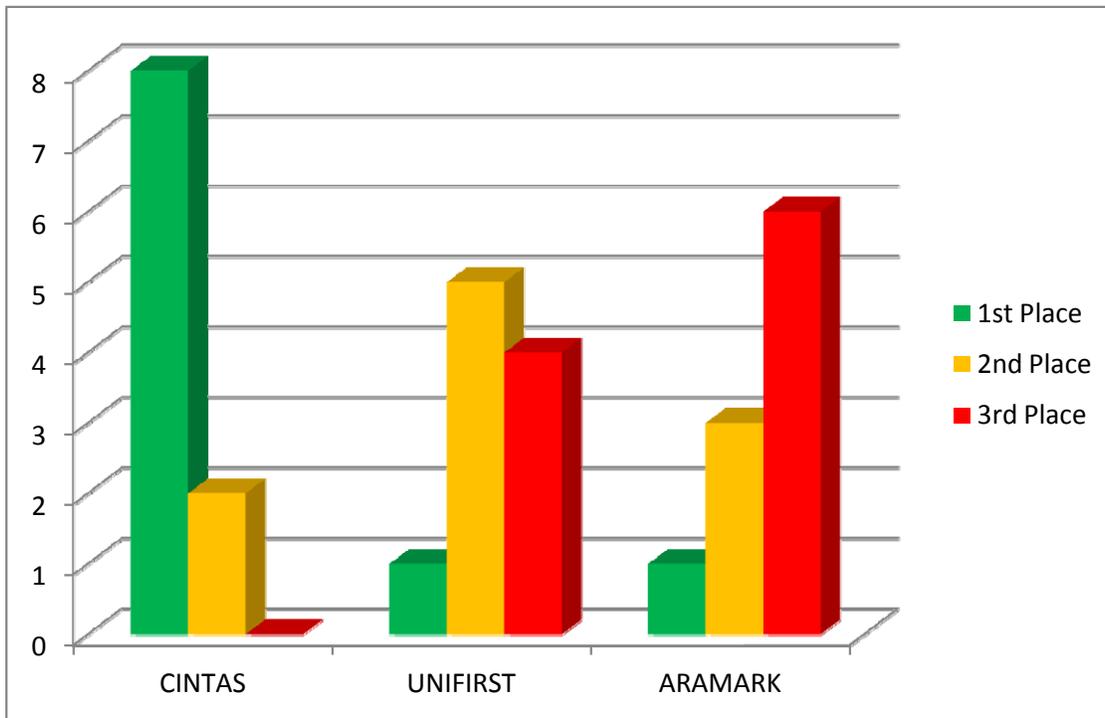
Item 5

UNIFORM RENTAL SERVICES BID TABULATION Bid #100512-BA

	Aramark	Cintas	Clean	Unifirst
LS Shirt	\$0.14	\$0.16	\$0.15	\$0.14
SS Shirt	\$0.14	\$0.16	\$0.15	\$0.12
Polo Shirt	\$0.20	\$0.22	\$0.25	\$0.21
Pants	\$0.16	\$0.20	\$0.20	\$0.21
Denim	\$0.24	\$0.24	\$0.24	\$0.23
Shorts	\$0.13	\$0.20	\$0.20	\$0.19
Jackets	\$0.50	\$0.37	\$0.40	\$0.38
TOTAL	\$1.51	\$1.55	\$1.59	\$1.48
Coverall	\$0.35	\$0.75	\$0.45	\$0.37
Mats 3 x 5	\$1.00*	\$1.75	\$0.75	\$2.50
Mats 4 x 6	\$2.75	\$2.75	\$1.20	\$3.00
Shop Towels	\$0.035	\$0.07	\$0.035	\$0.06
Mop Heads	\$0.25-\$0.55	\$0.50	\$0.45-\$0.75	\$0.45
Heavy jacket	\$0.50	\$1.50	Varies	Varies
Garment Tracking	GID	TruCount	RF Chip	UniTrack
Manufacture own garments	Yes (90%)	Yes (except jeans)	No	Yes
Lockers	Yes-free	No	Yes-free	\$0.05 per bank
Emblem name /logo/make-up	All inclusive	\$.50/\$1.50/\$1.50 *	All inclusive	\$.75/\$1.45
Delivery in	7 days	7 days	7-10 days	14 days
Fees	5% service charge	\$3.00 (per delivery location)	\$1.50 (after 90 days)	\$4.00 (DEFE) (per delivery location)
Size change & upgrade	All inclusive	\$3.00	Yes/\$?	\$2.20

* Only for those added to program after initial install of all new garments

COMMITTEE INTERVIEW RESULTS



	<u>1st Place</u>	<u>2nd Place</u>	<u>3rd Place</u>
CINTAS	8	2	0
UNIFIRST	1	5	4
ARAMARK	1	3	6

- How long has your company (local branch) been in business?
- How long has this route driver worked for this company?

- What has changed with the way Unifirst conducts business now from when it serviced the city before?
- What other contracts do you currently hold that are similar in size and how long have you had the contracts with them?

- What is the process or steps that take place once the uniforms are picked up here to be laundered?
-
- Do you currently have staffing in place for a contract this size or would you have to hire additional employees?

- At what point will you determine that a uniform needs repaired or replaced? Same w/mats?
- Do you manufacture your own uniforms?

- Please explain the difference between your lease program and rental/laundrying?
- If a uniform is missing, how long does it take for your company to realize it and what steps do you take to prevent it from happening again? How long does it typically take to get it replaced?

- If you are awarded the contract, please explain the process and anticipated time to get all employees in the new uniforms.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING SECTION 2-26 OF THE
FORT SMITH MUNICIPAL CODE SETTING THE TIME AND LOCATION
FOR REGULAR MEETINGS OF THE BOARD OF DIRECTORS
FOR THE YEAR 2013**

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

SECTION 1: Section 2-26 of the Fort Smith Municipal Code is hereby amended
to read as follows:

In 2013, all regular meetings of the Fort Smith Board of Directors shall be held at 6:00 p.m. at the Fort Smith Public Schools Service Center, Building B, 3205 Jenny Lind Road, on the first and third Tuesday evenings of each month. The only exceptions are in the months of January, March and July at which time the first meetings of the month in January and July (*first Tuesdays*) shall be held on Thursday, January 3rd and Tuesday, July 9th; and, the second meeting in March (*third Tuesday*) shall be held on _____, March ____.

THIS ORDINANCE ADOPTED this 20th day of November, 2012.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



Publish one time

MEMORANDUM

To: Ray Gosack, City Administrator
From: Sherri Gard, City Clerk
Date: November 16, 2012
Re: 2013 Regular Meetings of the Board of Directors

At the November 13, 2012 study session, the Board concurred to retain the first and third Tuesday of each month for regular meetings. Although the time and location will remain the same, the Board opted to reschedule regular meetings in January, March and July as noted below:

FIRST & THIRD TUESDAY

First Tuesday / January 1 (*New Years Day*)
Third Tuesday / March 19 (*week of spring break*)
First Tuesday / July 2 (*week of Independence Day*)
Third Tuesday / July 16

ALTERNATE DATES REQUESTED

Thursday, January 3
Tuesday, March 26 (*school unavailable*)
Tuesday, July 9
Tuesday, July 23 (*school unavailable*)

Unfortunately, the school facility is unavailable on Tuesday, March 26th and Tuesday, July 23rd to accommodate the requested alternate meeting dates.

With regard to the March 19 regular meeting, the school facility is available on Wednesday, March 27 and Thursday, March 28. Since the Board indicated its desire not to meet during the week of spring break, the Board should determine if March 27 or 28 is more suitable to accommodate their schedules.

Regarding the July 16 regular meeting, the school facility is unavailable the entire week of July 22 - 26. Because the July 16 regular meeting was rescheduled merely to take advantage of the five (5) Tuesday month, the original meeting date of July 16 has been retained in the proposed ordinance. If the Board desires to select another date, such can be included within the motion to adopt the ordinance.

No formal action is required with regard to study session dates; however, please note that the Board concurred at the November 13, 2012 study session to forego meeting the weeks of June 24, November 25 and December 23, 2013.

The attached ordinance accomplishes the Board's recommendations as much as possible due to availability of the school facility; however, an alternate date for the March 19 regular meeting must be determined, and if desired, the July 16 regular meeting. The 2013 Board Meeting Calendar has been updated and is also attached for review.

2013 BOARD MEETING CALENDAR

~ January 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1 REGULAR MEETING NEW YEAR'S DAY	2 REGULAR MEETING	3	4	5
6	7	8 STUDY SESSION	9	10	11	12
13	14	15 REGULAR MEETING	16	17	18	19
20	21 MLK JR. DAY	22 STUDY SESSION	23	24	25	26
27	28	29 STUDY SESSION "TENTATIVE"	30	31	Notes:	

~ February 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5 REGULAR MEETING	6	7	8	9
10	11	12 STUDY SESSION	13	14	15	16
17	18	19 REGULAR MEETING	20	21	22	23
24	25	26 STUDY SESSION	27	28	Notes:	

~ March 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5 REGULAR MEETING	6	7	8	9
10	11	12 STUDY SESSION	13	14	15	16
17	18	19 REGULAR MEETING	20	21	22	23
24	25	26 STUDY SESSION	27	28	29	30
31 Notes: * school not available						

~ April 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1 2 REGULAR MEETING	3	4	5	6
7	8	9 STUDY SESSION	10	11	12	13
14	15	16 REGULAR MEETING	17	18	19	20
21	22	23 STUDY SESSION	24	25	26	27
28	29	30 STUDY SESSION "TENTATIVE"	Notes:			

~ May 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7 REGULAR MEETING	8	9	10	11
12	13	14 STUDY SESSION	15	16	17	18
19	20	21 REGULAR MEETING	22	23	24	25
26	27 MEMORIAL DAY	28 STUDY SESSION	29	30	31	Notes:

~ June 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4 REGULAR MEETING	5	6	7	8
9	10	11 STUDY SESSION	12	13	14	15
16	17	18 REGULAR MEETING	19	20	21	22
23	24	25 STUDY SESSION	26	27	28	29
30 Notes: * school not available						

~ July 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1 2 REGULAR MEETING	3	4	5	6
7	8	9 STUDY SESSION	10	11	12	13
14	15	16 REGULAR MEETING	17	18	19	20
21	22	23 STUDY SESSION	24	25	26	27
28	29	30 STUDY SESSION "TENTATIVE"	31	Notes:		
* school not available						

~ August 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6 REGULAR MEETING	7	8	9	10
11	12	13 STUDY SESSION	14	15	16	17
18	19	20 REGULAR MEETING	21	22	23	24
25	26	27 STUDY SESSION	28	29	30	31

~ September 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2 LABOR DAY	3 REGULAR MEETING	4	5	6	7
8	9	10 STUDY SESSION	11	12	13	14
15	16	17 REGULAR MEETING	18	19	20	21
22	23	24 STUDY SESSION	25	26	27	28
29	30	Notes:				

~ October 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1 REGULAR MEETING	2	3	4	5
6	7	8 STUDY SESSION	9	10	11	12
13	14	15 REGULAR MEETING	16	17	18	19
20	21	22 STUDY SESSION	23	24	25	26
27	28	29 STUDY SESSION "TENTATIVE"	30	31	Notes:	

~ November 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5 REGULAR MEETING	6	7	8	9
10	11	12 STUDY SESSION	13	14	15	16
17	18 VETERANS' DAY	19 REGULAR MEETING	20	21	22	23
24	25	26 STUDY SESSION	27	28	29	30
THANKSGIVING THANKSGIVING						
* school not available						

~ December 2013 ~

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 REGULAR MEETING	4	5	6	7
8	9	10 STUDY SESSION	11	12	13	14
15	16	17 REGULAR MEETING	18	19	20	21
22	23	24 STUDY SESSION	25	26	27	28
29	30	31 STUDY SESSION "TENTATIVE"	Notes:			

Recommend at the November 13, 2012 study session

RESOLUTION _____

A RESOLUTION AUTHORIZING PARTIAL PAYMENT TO FORSGREN, INC., FOR THE CONSTRUCTION OF GARRISON AVENUE STREETScape 9TH ST. – 13TH ST. (GARRISON AVE.) (FT. SMITH) (S) F.A.P. STP – TCSP-9150 (23) PROJECT NO. 09-90-B, JOB 040545

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

Payment in the amount of \$638,867.03 for Periodic Pay Estimate No. 10 to Forsgren, Inc., is hereby approved for the construction of Garrison Avenue Streetscape, Project No. 09-90-B.

This resolution adopted this _____ day of November, 2012.

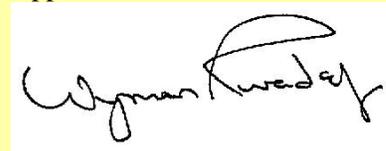
APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to Form



No Publication Required

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

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

DATE: November 15, 2012

SUBJECT: Garrison Avenue Streetscape
Project No. 09-90-B

This project is a continuation of streetscaping along both sides of Garrison Avenue from 9th Street to 13th Street. The project also includes the installation of streetscaping along North 9th Street between Garrison and North A Street which was added as Contract Revision Number 1. The work is approximately 95% completed with estimated project completion next month. A project location map and project summary sheet are attached.

A City Ordinance requires that all payments in excess of \$500,000.00 be approved by the Board of Directors. A Resolution authorizing partial payment is attached. I recommend that this payment be approved.

c:\DRAWINGS\CIP\00-00 CIPALL\2012\ STREETSAPES.dwg 11/14/12-16:05 RBR STREETScape 9th ST

-  PREVIOUSLY COMPLETED STREETScape
-  GARRISON STREETScape PROJECT
-  9TH STREET STREETScape PROJECT



GARRISON STREETSAPES
FORT SMITH, ARKANSAS



Project:	09-09-B
Date:	NOV. 2012
Scale:	N/A
Drawn By:	RBR

PROJECT SUMMARY

City of Fort Smith
 Project Status: 95% Complete
 Today's Date: 11/14/2012
 Staff Contact Name: Stan Snodgrass
 Staff Contact Phone: 784-2225
 Contract Time (no of days): 360
 Notice to Proceed Issued: 1/9/2012

Project Name: Garrison Ave. Streetscape
 Project Number: 09-90-B
 Project Engineer: MWC
 Project Contractor: Forsgren Inc.

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	\$2,439,405.50	9/20/2011	1/3/2013
Contract Revision:			
1 Continuation of Streetscaping along both sides of North 9th St. from Garrison Ave. to North A St. including a 40 day time extension	\$51,445.00		2/12/2013
Adjusted contract amount	<u>\$2,490,850.50</u>		
Payments to date (as negative):	\$1,338,089.45		
Amount of this payment	\$638,867.03		
Contract balance remaining	\$513,894.02		
Retainage held	\$40,146.62		
Final payment			
Amount over original contract as a percentage	0.0%		

Final Comments: The payment is over \$500,000.00 which requires approval by the Board of Directors.

RESOLUTION _____

**A RESOLUTION TO ACCEPT THE BIDS AND AUTHORIZE CONTRACT FOR
2012 STREET STRIPING REPLACEMENT
PROJECT NO. 12-85-A**

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

SECTION 1: The bid of Time Striping, Inc. received November 6, 2012, for the 2012 Street Striping Replacement, Project No. 12-85-A, in the amount of \$72,982.72 is accepted.

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

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

This resolution adopted this _____ day of November, 2012.

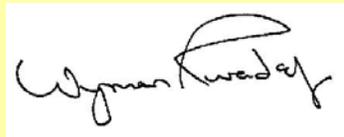
APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to Form



No Publication Required

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator
FROM: Stan Snodgrass, P.E., Director of Engineering
DATE: November 14, 2012
SUBJECT: 2012 Street Striping Replacement
Project No. 12-85-A

The above subject project includes the replacement of street striping at various locations as noted on the attached list. The total length of street striping is approximately 140,000 feet.

The list of striping was determined by the Street Operations Department. Contract bid documents were prepared by the Engineering Department. An advertisement was published and bids were received on November 6, 2012. Two contractors requested the bid documents and one bid was received which is summarized as follows:

CONTRACTOR	AMOUNT
Time Striping, Inc. Van Buren, AR	\$72,982.72
Engineers Estimate	\$80,500.00

I recommend that the lowest bid be accepted and that the contract be awarded to Time Striping, Inc. The estimated notice to proceed date for this contract is January 2, 2013. Based on the contract duration of 90 days, the estimated completion date would be April 1, 2013.

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

c: Greg Riley, Street Operations Dept.

2012 Street Striping Replacement Project No. 12-85-A

YELLOW PAINT

1,900'	ALBERT PIKE AV.	FROM	FREE FERRY RD.	TO	ROGERS AV.
640'	NEWLON RD.	FROM	MUSSETT RD.	TO	HARRIET LN.
320'	N. 12TH ST.	FROM	GARRISON AV.	TO	GRAND AV.
180'	NORTH S ST.	FROM	DIVISION ST.	TO	N. 6TH ST.
4,180'	STATE LINE RD.	FROM	CAVANAUGH RD.	TO	SOUTH Y ST
3,860'	SOUTH Y ST	FROM	STATE LINE RD.	TO	WHEELER AV.
5,714'	DALLAS ST.	FROM	S 74TH ST.	TO	MASSARD RD.
2,066'	ZERO ST.	FROM	HWY 71	TO	HWY 271
414'	S 10TH ST.	FROM	ROGERS AV.	TO	CARNALL AV.
872'	VICKSBURG & S 14TH ST.	FROM	TOWSON AV.	TO	HWY 71
5,552'	S 58TH ST.	FROM	GEREN RD	TO	OLD GREENWOOD RD.
740'	BRIARCLIFF AV.	FROM	HWY 71	TO	S. 28TH ST.
1,204'	COUNTRY CLUB AV.	FROM	OLD GREENWOOD RD.	TO	S. 23RD ST.
1,210'	S 23RD ST.	FROM	COUNTRY CLUB AV.	TO	DODSON AV.
1,104'	CAVANAUGH RD.	FROM	HWY 271	TO	JENNY LIND RD.
29,956'					

WHITE PAINT

197'	ALBERT PIKE AV.	FROM	FREE FERRY RD.	TO	ROGERS AV.
233'	DALLAS ST.	AT	S. 74TH ST.		
278'	DALLAS ST.	AT	MASSARD RD.		
100'	DALLAS ST.	AT	S. 80TH ST.		
287'	LEXINGTON AV.	FROM	SOUTH I ST.	TO	ROGERS AV.
88'	VICKSBURG ST.	AT	TOWSON AV.		
138'	COMMERCE RD.	AT	HWY 45		
92'	CAVANAUGH RD	AT	JENNY LIND RD.		
98'	ZERO ST.	AT	HWY 271		
1,511'					

2012 Street Striping Replacement Project No. 12-85-A

YELLOW THERMO

4,452'	HARRIET AV.	FROM	N. 6TH ST.	TO	NEWLON RD.
5,670'	GERBER RD.	FROM	RIVERFRONT DR.	TO	HARRIET AV.
4,296'	N. 50TH ST.	FROM	MIDLAND BLVD.	TO	NORTH O ST.
1,598'	SPRADLING AV.	FROM	N. 27TH ST.	TO	HARRIS AV.
2,002'	ALBERT PIKE AV.	FROM	MIDLAND BLVD.	TO	KELLEY HWY
6,920'	ALBERT PIKE AV.	FROM	ROGERS AV.	TO	HENDRICKS BLVD.
200'	NORTH I ST.	FROM	GREENWOOD AV.	TO	N. 30TH ST.
1,100'	NORTH E ST.	FROM	GREENWOOD AV.	TO	N. 15TH ST.
3,846'	GRAND AV.	FROM	N. 62ND ST.	TO	WALDRON RD.
12,080'	GRAND AV.	FROM	ALBERT PIKE AV.	TO	GREENWOOD AV.
1,510'	N. 12TH ST.	FROM	GRAND AV.	TO	NORTH O ST.
430'	PARK AV.	AT	ALBERT PIKE AV.		
4,501'	PARK AV.	FROM	N. 66TH ST.	TO	WALDRON RD.
3,000'	N.66TH ST.	FROM	PARK AV.	TO	FREE FERRY RD.
1,176'	HORAN DR.	FROM	S. 74TH ST.	TO	MASSARD RD.
1,510'	S. 91ST ST.	FROM	ROGERS AV.	TO	DALLAS ST.
4,862'	S. 74TH ST.	FROM	ROGERS AV.	TO	PHOENIX AV.
950'	SOUTH I ST.	FROM	LEXINGTON AV.	TO	GREENWOOD RD.
530'	SOUTH I ST.	FROM	S. 9TH ST.	TO	WHEELER AV.
1382'	SOUTH S ST.	FROM	OLD GREENWOOD RD.	TO	BALLPARK DR.
210'	S. 24TH ST.	FROM	QUINCY ST.	TO	TULSA ST.
14,924'	BROOKENHILL DR.	FROM	JENNY LIND RD.	TO	HWY 71
662'	PLANTERS RD.	FROM	HWY 45	TO	BALL RD.
646'	GREENWOOD AV	AT	ROGERS AV.		
1,800'	S 28TH ST.	FROM	I-540 BRIDGE	TO	GRINNELL AV.
3,246'	S 70TH ST.	FROM	ROGERS AV.	TO	PHOENIX AV.
420'	S 69TH ST.	FROM	PHOENIX AV.	TO	INDEPENDENCE ST.
268'	MADISON AV.	AT	S 74TH ST		
1,140'	CAMERON PARK DR.	FROM	S 74TH ST.	TO	END OF ROAD
3,838'	S. 66TH ST.	FROM	PHOENIX AV.	TO	MCKENNON BLVD.
1,752'	MCKENNON BLVD.	FROM	PHOENIX AV.	TO	S 66TH ST.
202'	JENNY LIND RD.	AT	DODSON AV.		
3,244'	WALDRON/COUNTRY CLUB	FROM	ROGERS AV.	TO	S. 58TH ST.
2,133'	CHAD COLLEY BLVD	FROM	FRONTIER BLVD	TO	SO. OF ROBERTS BLVD
96,500'					

2012 Street Striping Replacement Project No. 12-85-A

WHITE THERMO

344'	N. 50TH ST.	FROM	MIDLAND BLVD.	TO	NORTH O ST.
85'	SPRADLING AV.	FROM	N. 27TH ST.	TO	HARRIS AV.
737'	N. 6TH ST.	FROM	RIVERFRONT DR.	TO	NORTH P ST.
1,552'	ALBERT PIKE AV.	FROM	KELLEY HWY	TO	ROGERS AV.
384'	NORTH B ST.	FROM	ROGERS AV.	TO	N. 23RD ST.
130'	NORTH E ST.	AT	GREENWOOD AV.		
2,500	GRAND AV.	FROM	ALBERT PIKE AV.	TO	GREENWOOD AV.
2,100'	GRAND AV.	FROM	N. 62ND ST.	TO	WALDRON AV.
198'	PARK AV.	AT	ALBERT PIKE AV.		
223'	PARK AV.	AT	WALDRON RD.		
99'	HORAN DR.	AT	S. 74TH ST.		
743'	S. 74TH ST.	FROM	ROGERS AV.	TO	PHOENIX AV.
49'	BROOKENHILL DR.	FROM	JENNY LIND RD.	TO	HWY 71
47'	PLANTERS RD.	AT	HWY 71		
318'	S 70TH ST.	FROM	ROGERS AV,	TO	PHOENIX AV.
58'	S 69TH ST.	AT	PHOENIX AV.		
81'	MADDISON AV	AT	S 74TH ST.		
90'	CAMERON PARK DR.	AT	S 74TH ST.		
88'	S. 66TH ST.	AT	PHOENIX AV.		
409'	MCKENNON BLVD.	FROM	PHOENIX AV.	TO	AIRPORT TERMINAL
485'	GREENWOOD AV.	AT	ROGERS AV.		
101'	JENNY LIND RD.	AT	DODSON AV.		
153'	SOUTH I ST.	FROM	S. 9TH ST.	TO	WHEELER AV.
1,475'	CHAD COLLEY BLVD	FROM	FRONTIER BLVD	TO	SO. OF ROBERTS BLVD
330'	WALDRON RD.	AT	ROGERS AV.		
12,779'					

GRINDING (STRIPE REMOVAL)

1,920'	WALDRON/COUNTRY CLUB	FROM	ROGERS AV.	TO	S. 58TH ST.
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ORDINANCE NO. _____

AN ORDINANCE DECLARING EXCEPTIONAL CIRCUMSTANCE
AND AUTHORIZING CONTINUATION OF AGREEMENT WITH
DATA-TRONICS CORP.

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

SECTION 1: The City Administrator is hereby authorized to continue the agreement between the City of Fort Smith and Data-Tronics Corp. for the period January 1, 2013 through December 31, 2013 which agreement authorizes Data-Tronics Corp. to provide data processing services to the City at the rates indicated in the Data Processing Service Schedule attached hereto.

SECTION 2: It is determined that an exceptional circumstance exists with reference to the City's data processing services arrangement with Data-Tronics Corp. The exceptional circumstances relate to the continuous nature of the services provided, the confidentiality involved in the handling of the data being processed and the availability of sources for the services as indicated by former evaluations. By reason of said exceptional circumstances, it is determined that competitive bidding is not feasible and the contract should be continued.

THIS ORDINANCE ADOPTED THIS 20th DAY OF NOVEMBER 2012.

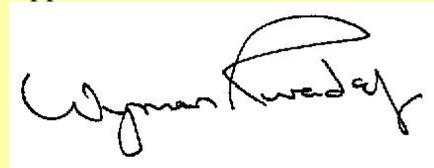
APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



No Publication Required

MEMORANDUM

November 15, 2012

TO: Ray Gosack, City Administrator

FROM : Kara Bushkuhl, Director of Finance *Kara*

SUBJECT: Data Processing Agreement with Data-Tronics

Attached is correspondence from Ms. Cindy House of Data-Tronics regarding the renewal of the contract between the City and Data-Tronics for providing data processing services. DTC has indicated that a 3% increase will be applied to the data processing service schedule for 2013. The past 2 years did not include increased fees. The estimated increase for 2013 is approx \$1,110 per month or \$13,320 for the year.

I recommend the continuation of the contract with Data-Tronics and respectfully request that the attached ordinance be placed for Board consideration at its November 20, 2012 meeting. If you have any questions, please let me know.

November 14, 2012



Data-Tronics Corp.
data-tronics.com

Ms. Kara Bushkuhl
Director of Finance
City of Fort Smith
P. O. Box 1908
Fort Smith, AR 72902

Dear Kara:

As specified under the Term of the contract between Data-Tronics Corp. and the City of Fort Smith, the Data Processing agreement will automatically renew each January 1 unless either party has previously provided the other with an eighteen-month advance notice in writing of canceling the agreement.

Each year at this time we review our contract with the City of Fort Smith. This year Data-Tronics will be taking a rate increase of 3%. I have enclosed two copies of the 2012 Data Processing Service Schedule for your review, which reflects the charges and rates for 2013. Please sign both copies and return them to me for Data-Tronics to sign, after which I will return a signed copy of the schedule for your files.

If you have any questions after reviewing the Data Processing Service Schedule, please feel free to give me a call. As always, we appreciate your business. The City of Fort Smith is a valued customer, and we are always willing to assist you in any way possible.

Sincerely,

A handwritten signature in black ink that reads 'Cindy House'. The signature is written in a cursive, flowing style.

Cindy House
Manager, Information Services

encl

Data Processing Service Schedule

This Schedule constitutes part of the Agreement between Data-Tronics Corp. and the City of Fort Smith, dated September 8, 1980, and replaces the Data Processing Service Schedule with the effective date of January 1, 2012, and Contract Supplements thereto. These rates become effective January 1, 2013.

I. APPLICATION PROCESSING			
A.	Municipal Utility Billing		2013
1.	Normal Processing		Rates
	A. Base Processing Charge	\$14,718.73	Per Month
	B. Active Service Agreements	\$0.1321	Per Account
	C. Service Points with Meter	\$0.0881	Per Meter
	D. Account Transactions	\$0.0352	Per Trans
B.	General Ledger		
1.	Normal Processing		
	A. Online Processing	\$1,391.31	Per Month
	B. Online Transactions	\$0.0444	Per Trans
	C. Standard Reporting	\$1,172.35	Per Month
C.	Accounts Payable		
1.	Normal Processing		
	A. Online Base Charge	\$724.43	Per Month
	B. Regular Batch Processing	\$307.36	Per Month
	C. Online Transactions	\$0.1738	Per Trans
	D. Checks	\$0.6393	Per Check
D.	Payroll		
1.	Normal Processing		
	A. Online Base Charge	\$819.43	Per Month
	B. Standard Monthly Reporting	\$1,266.39	Per Month
	C. Payroll Checks	\$0.6423	Per Check
	D. Quarterly Reporting	\$148.98	Per Quarter
	E. Annual Reporting	\$893.92	Per Year
E.	Miscellaneous Accounts Receivable		
1.	Normal Processing		
	A. Online Base Charge	\$487.00	Per Month
	B. Online Transactions	\$0.0500	Per Trans
	C. Statements	\$0.4746	Per Stmt
	D. A/R Online Landfill Transactions	\$0.0481	Per Trans
F.	Miscellaneous Receipts and Privilege License (Collections) System		
1.	Normal Processing		
	A. Online Base Charge	\$496.58	Per Month
	B. Online Transactions	\$0.0531	Per Trans
	C. Standard Batch Reporting	\$845.30	Per Month
	D. Statements	\$0.5028	Per Stmt
2.	On Request		

	A.	Business Registration Forms	\$0.0442	Per Form
G.		Sanitation Accounts Receivable		
	1.	Normal Processing		
		A. Online Base Charge	\$429.64	Per Month
		B. Regular Batch Processing	\$343.69	Per Month
		C. Online Transactions	\$0.0498	Per Trans
	2.	Annual Processing		
		A. Annual Origin Location Report	\$126.98	Per Run
	3.	On Request		
		A. List of Sanitation Customers by Route	\$39.96	Per Run
II.		MAILING LABELS		
	A.	Mailing Labels	\$0.0486	Per Label
III.		NETWORK		
	A.	Internet System Support	\$515.00	Per Month
	B.	Service Provider License Agreement	\$412.00	Per Month
	C.	Annual P-Synch License Maintenance Fee	\$262.50	Per Year

ATTEST: _____ By: _____
 Title: _____
 Date: _____

ATTEST: _____ By: _____
 Title: _____
 Date: _____

RESOLUTION NO. _____

7 D

RESOLUTION AUTHORIZING CHANGE ORDER NUMBER
ONE WITH FORSGREN, INC., FOR THE RIVER FRONT
DEVELOPMENT WATER AND SEWER EXTENSIONS

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

Change Order Number One in the amount of \$73,600.00 to the contract with
Forsgren, Inc., for the construction of the River Front Development Water and Sewer Extensions,
Project Number 11-08-C1, adjusting the contract amount to \$438,215.85 and adding 108 days to
the contract completion time, is hereby approved.

This Resolution adopted this _____ day of November 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: November 13, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: River Front Development Water
and Sewer Extensions Project No. 11-08-C1

During the construction of the 12-inch diameter gravity sewer extension along North "H" Street the contractor encountered a grade conflict with the existing 30-inch diameter sewer force main that runs along River Front Drive. During the design of the project the elevation of the force main was determined from two known points which were not too distant in either direction from the new, perpendicular gravity sewer crossing. The ground surface between the known points is uniform so it was reasonably thought that the force main was laid to follow the ground contours. This was also reinforced by comparing the field information to the force main's 1965 construction plans. When performing the excavations for the new gravity sewer, the force main was found at a much deeper depth. This has created a conflict preventing the extension of the gravity sewer across River Front Drive and reaching the Marshals Museum site. As the gravity sewer extension must be laid at a minimum grade to serve the museum site it cannot be adjusted to eliminate the conflict, so the force main must be raised to allow the gravity sewer to pass beneath it. If this grade conflict had been identified at the time of the project's design, the work for the force main adjustment would have been made part of the original work and resulted in higher bid prices from all contractors. Forsgren has submitted a change order price of \$73,600 to make the necessary adjustment to the force main.

A contract time extension of 108 additional days is also required due to the time delay imposed on our utility extension contractor having to wait for the levee improvement contractor to move out of the path for the water line extension. The levee improvement contractor was working to overcome problems in completing the bore under River Front Drive and levee to install new storm drain piping. If you attended the ground breaking ceremony for the utility extension project, you saw the deep bore pit that was excavated adjacent to the driveway into the River Front Park. Both the utility extension and levee improvement projects are city contracts.

The change order adds \$73,600, adjusting the overall contract amount to \$438,215.85, and includes 108 days to the project's schedule. A portion (\$250,000.00) of the funding for this project comes from a CDBG grant made through a congressional appropriation. The funding needed for this cost increase is available from the 2008 revenue bonds issued for water and wastewater system improvements.

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

attachment

pc: Jeff Dingman

Project Summary

Today's date: November 13, 2012

Project name: River Front Development
Water and Sewer Extensions

Staff contact name: Steve Parke

Project number: **11-08-C1**

Staff contact phone: 784-2231

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

Notice to proceed issued: June 18, 2012

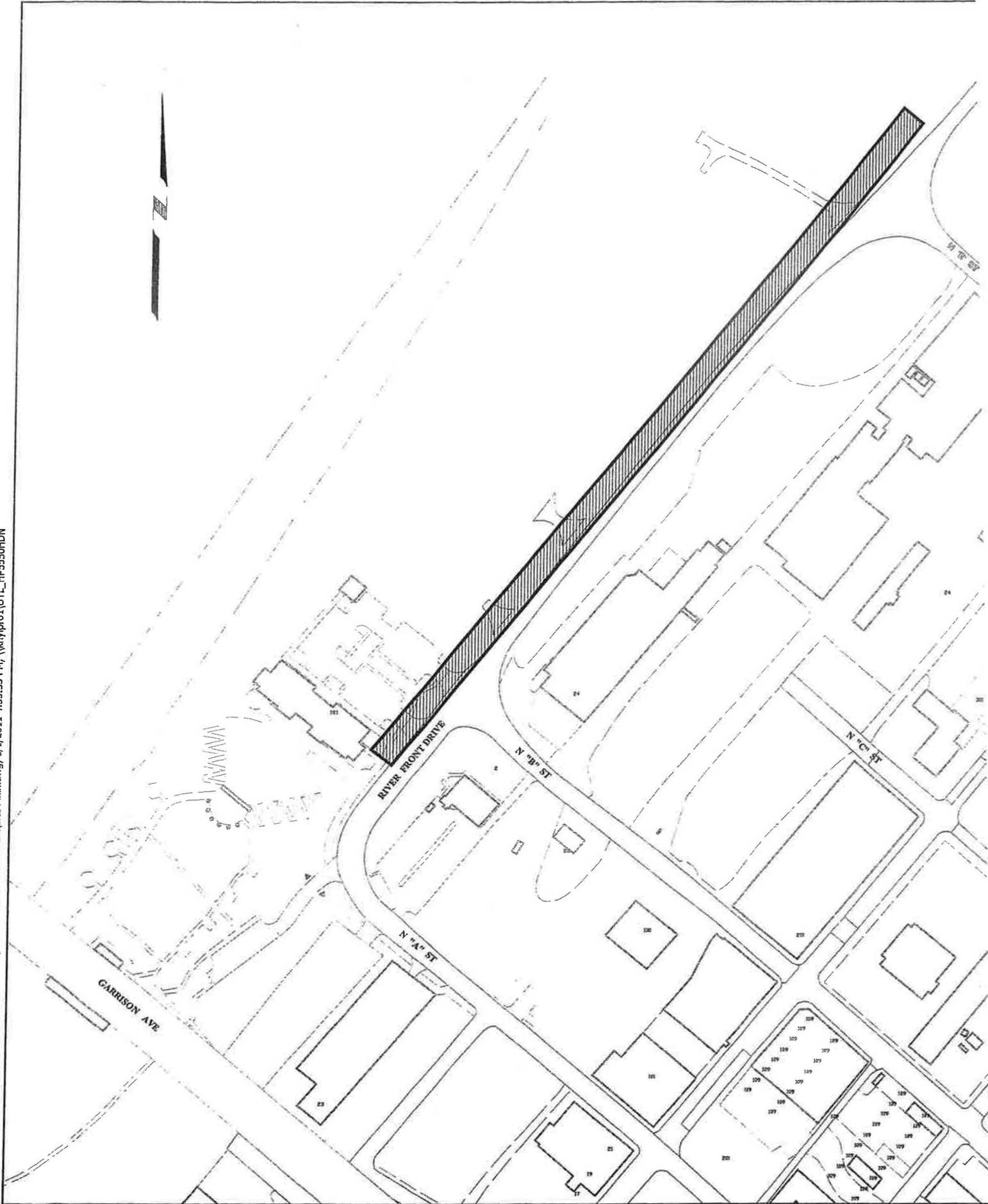
Project contractor: Forsgren, Inc.

Completion date: February 22, 2013

	Dollar Amount	Contract Time (Days)
Original contract	\$364,615.85	120
Change orders: #1	\$73,600.00	108
Total change orders	\$73,600.00	<u>0</u>
Adjusted contract	<u>\$438,215.85</u>	<u>228</u>
Payments to date (as negative):	\$87,384.15	0.0%
Amount of this payment (as negative)	\$0.00	
Retainage held	\$9,709.35	
Contract balance remaining	\$350,831.70	80.0%
Amount over (under)- as a percentage	20.2%	

Final comments:

O:\UtilityDept_General\DWG_DATA\Exhibits\11-08-E1 Riverfront Development Water and Sewer Ext\Site Plan.dwg, 6/1/2011 4:55:35 PM, \\khypr01\UTL_HP5550.HDN



**RIVER FRONT DEVELOPMENT
WATER AND SEWER EXTENSIONS**

11-08-C1

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AN OFFER MADE BY PROPERTY OWNER FOR THE ACQUISITION OF AN EASEMENT IN CONNECTION WITH THE LAKE FORT SMITH 48-INCH WATER TRANSMISSION LINE PROJECT

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

The City Administrator is hereby authorized to accept an offer made by the following property owner:

<u>Tract</u>	<u>Owner</u>	<u>Amount</u>
Tract 11-30-21-04	The Smith Trust	\$ 12,000.00

and to make payment for same in connection with the acquisition of a water line easement for the Lake Fort Smith 48-Inch Water Transmission Line, Project Number 08-07-P, said property being located in Mountainburg, Crawford County, Arkansas.

This Resolution adopted this _____ day of November 2012.

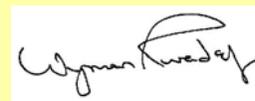
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: November 13, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: Lake Fort Smith 48-Inch Water Transmission Line
Project Number 08-07-P

The City of Fort Smith is planning to construct the first 6.5 miles of new 48-inch water transmission line from the Lake Fort Smith water treatment plant. This segment of the line will extend from the water treatment plant in Mountainburg to the Grotto community near Highway 282. A location map is attached.

To date, several of the needed easements have been acquired for the appraised value as authorized by the city's property acquisition policy. Staff and City Attorney are negotiating with the balance of property owners in an effort to reach a mutually agreed upon settlement. The property owner shown on the Resolution has made a counter offer to sell the needed easement to the city as follows:

The Smith Trust: The \$12,000.00 counter offer includes a full settlement of all loss of hay issues at their current prices contained within the proposed easement area. The city's appraiser valued the easement and loss of hay at \$11,400.00. A copy of the easement area is attached for your review.

Staff believes that the counter offer to sell the city a permanent water line easement is reasonable and that the administrative costs associated with acquiring the needed easement through other means is not the best alternative. Therefore, staff recommends that the Board of Directors approve the attached Resolution accepting the counter offer at its next scheduled meeting.

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

attachment

pc: Jeff Dingman

MICKLE-WAGNER-COLEMAN, INC.
 Engineers Consultants Surveyors

3434 Country Club Avenue
 P.O. Box 1507
 Fort Smith, Arkansas 72902

Point of Commencement

NW Corner
 NE1/4 SE1/4
 Section 21, T-11-N, R-30-W

Point of Beginning 1

N 473525.11
 E 663223.44
11-30-21-04
 The Smith Trust
 c/o Smith, Edward
 & Dama

LINE TABLE - 48"

LINE	LENGTH	BEARING
L1	75.83'	S88°00'48"E
L2	843.45'	S10°20'17"W
L3	914.94'	S11°51'43"W
L4	366.14'	S11°49'53"W
L5	53.50'	N78°11'17"W
L6	766.38'	N05°41'28"E
L7	46.39'	S88°14'31"E
L8	150.13'	N10°29'23"E
L9	70.00'	N31°24'53"E
L10	1125.47'	N10°29'23"E

Point of Beginning 2

N 471467.37
 E 662993.11

Point of Beginning 3

N 471066.77
 E 662908.93

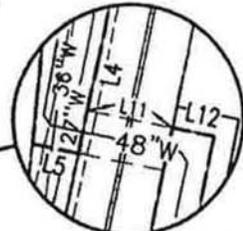
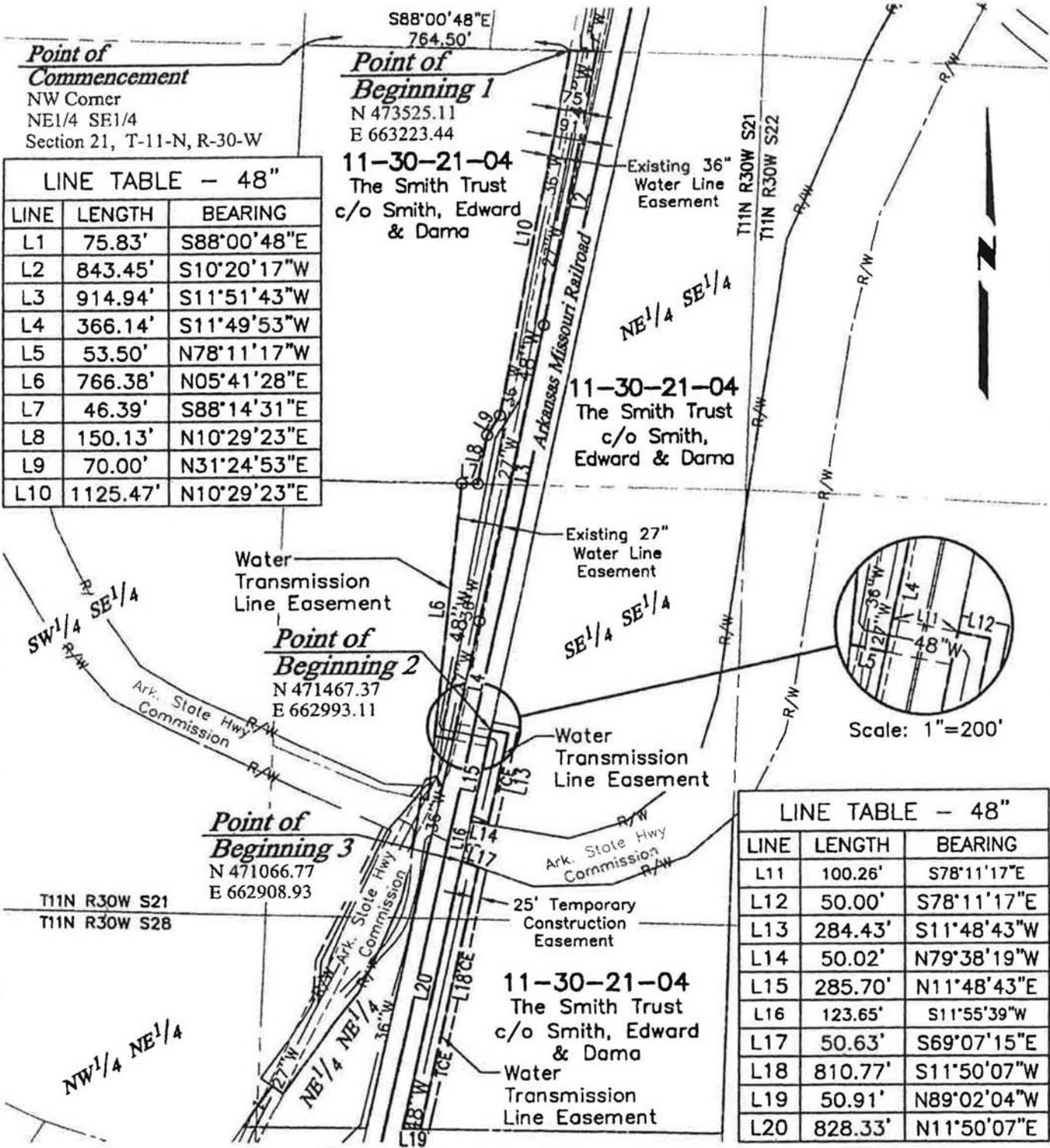
LINE TABLE - 48"

LINE	LENGTH	BEARING
L11	100.26'	S78°11'17"E
L12	50.00'	S78°11'17"E
L13	284.43'	S11°48'43"W
L14	50.02'	N79°38'19"W
L15	285.70'	N11°48'43"E
L16	123.65'	S11°55'39"W
L17	50.63'	S69°07'15"E
L18	810.77'	S11°50'07"W
L19	50.91'	N89°02'04"W
L20	828.33'	N11°50'07"E

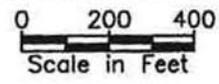
TRACT 11-30-21-04

Scale 1"=400'

LAKE FORT SMITH WATER TRANSMISSION LINE - EASEMENTS



Scale: 1"=200'



RESOLUTION NO. _____

7 F

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

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

Change Order Number Nine to the contract with Crossland Heavy Contractors, Inc., for
construction of the Lake Fort Smith Water Treatment Plant - Contract 3, Project Number
07-09-C3, reducing the contract amount by \$1,500.00, adjusting the contract amount to
\$32,036,328.00, and adding 80 days to the contract time for reaching substantial completion and
adding 49 days to the contract time for reaching final completion of the project, adjusting the
total contract time by 129 calendar days, is hereby approved.

This Resolution adopted this _____ day of November 2012.

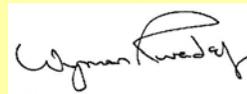
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

RESOLUTION NO. _____

7 G

RESOLUTION ACCEPTING THE PROJECT AS COMPLETE AND AUTHORIZING FINAL PAYMENT TO CROSSLAND HEAVY CONTRACTORS, INC., FOR CONSTRUCTION OF THE LAKE FORT SMITH WATER TREATMENT PLANT - CONTRACT 3

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

SECTION 1: The construction of the Lake Fort Smith Water Treatment Plant, Contract 3 - Water Production Improvements, Project Number 07-09-C3, is accepted as complete.

SECTION 2: Final payment number thirty-five to Crossland Heavy Contractors, Inc., in the amount of \$1,507,391.40, is hereby approved.

This Resolution adopted this _____ day of November 2012.

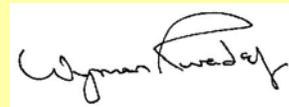
APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: November 14, 2012

FROM: Steve Parke, Director of Utilities

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

On July 21, 2009, the Board authorized a contract in the amount of \$31,641,000.00 with Crossland Heavy Contractors for construction of the Lake Fort Smith Water Treatment Plant Contract 3 - Water Production Improvements. Crossland has completed all construction on the project and has submitted a final payment request in the amount of \$1,507,391.40. I have attached a Resolution accepting the project as complete and authorizing final payment. I have also attached a project summary sheet for your review.

In addition, I have attached a Resolution authorizing Change Order Number 9 which reduces the contract amount by \$1,500.00 by eliminating a day of follow up instrumentation training that staff feels is unnecessary. The change order also adds 80 days to the contract substantial completion date and 49 additional days for reaching final completion of the project.

The contract, as originally awarded, established 785 days for reaching substantial completion of the project, or October 11, 2011. As documented on the attached project summary sheet, previously authorized change orders added a total of 131 days to the contract, extending the substantial completion date to May 23, 2012. By June 11, 2012, Crossland had substantially completed the project and utility personnel were fully operating the plant. By contract Crossland had 45 days from June 11, 2012, to fully complete the project. Full completion of the project did not occur until November 7, 2012.

On October 19, 2012, Crossland submitted a letter outlining circumstances they felt justified additional contract time. The first request was based upon a shortfall identified in the original construction schedule for which they requested 42 additional days be added to the contract substantial completion date. The second requests 38 additional days due to the additional time needed to complete some of the major, critical activity items that required more time to complete than originally scheduled. Staff agrees that these circumstances were beyond Crossland's control and negatively affected their schedule for reaching substantial completion.

The third request presented in Crossland's letter was for an additional 86 days for delays in completing the west filter building due to issues involving specification requirements for filter-to-waste valve actuators. While project records document that a number of weeks were needed to fully resolve this issue, it is also documented that completion of the West Filter Building was not on Crossland's critical path for reaching substantial completion of the project while this issue was being resolved. For that reason we cannot recommend that 86 additional days be added to the substantial completion date. However, from a review of the construction

manager's project diary for the weeks in question, it is apparent that overall progress in completing the electrical, instrumentation, controls, and other items of work within the West Filter Building, and thus the remainder of the project, resulted in delays in reaching final completion of the project. From our review of the project diary and related correspondence we find justification for recommending that an additional 49 days be added for final completion of the project.

While approval of these recommendations for additional contract time results in changes to the contract dates for completion of the project, these adjusted dates were not met and resulted in delays in completing the project. The net result of these delays is the recommendation for assessment of liquidated damages in the amount of \$38,000.00 for delay in reaching substantial completion and \$55,000.00 for delay in reaching final completion for a total liquidated damage amount of \$93,000.00. Crossland acknowledges these delays and has deducted \$93,000.00 from final payment owed.

Although final completion of this project occurred some eleven months beyond the original contract completion date, staff does not feel that this in any way reflects negatively upon the performance of Crossland Heavy Contractors. This was a very difficult project, performed in stages, involving demolition of multiple structures that had been constructed over an eighty year period, with the requirement that the operation of the plant not be interrupted for any extended period of time. With any project of this complexity problems were encountered and changes were necessary. Crossland always worked closely with staff and the Burns & McDonnell team in resolving problems and was fair in negotiating change order pricing and additional time. In the final analysis cost overruns on this project were only 1.25% of the original contract price. Staff would also like to acknowledge the role performed by the staff of Burns & McDonnell in designing and managing this complex project. The improvements made should serve the city for years to come.

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

attachment

pc: Jeff Dingman

Project Summary

Project status: Complete	Project name: Lake Fort Smith Water Treatment Plant Improvements - Contract 3
Today's date: November 9, 2012	Project number: 07-09-C3
Staff contact name: Steve Parke	Project engineer: Burns & McDonnell, Inc.
Staff contact phone: 784-2231	Project contractor: Crossland Heavy Contractors, Inc.
Notice to proceed issued: August 31, 2009	
Final completion date: July 7, 2012	

	Dollar Amount	Contract Time (Days)
Original contract	\$31,641,000.00	785
Change orders:		
Change Order No. 1	\$22,902.00	14
Change Order No. 2	\$89,078.00	49
Change Order No. 3	\$-19,174.00	
Change Order No. 4	\$70,237.00	
Change Order No. 5	\$62,859.00	9
Change Order No. 6	\$155,516.00	45
Change Order No. 7	\$47,029.00	14
Change Order No. 8	\$-31,619.00	
Change Order No. 9 (pending)	<u>\$-1,500.00</u>	<u>129</u>
Adjusted contract	<u><u>\$32,036,328.00</u></u>	<u><u>1,045</u></u>
Payments to date (as negative):	\$-30,435,936.60	
Retainage held	\$1,601,891.40	
Liquidated damages	\$-93,000.00	
Final payment Due	\$1,507,391.40	
Amount over as a percentage	1.25%	

Final comments:

Change Order No. 9 adds 80 days to contract substantial date and 49 days to final completion date.



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: November 14, 2012
SUBJECT: Historic District Commission

The Historic District Commission has a vacancy for a term that will expire on July 31, 2014.

The applicant available at this time is:

Charles Lane

1219 Elizabeth Lane

Appointments are **appointed by the Mayor**. One appointment is needed; the term will expire July 31, 2014.

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

Historic District Commission

The commission is authorized to make an investigation and report on the historic significance of the buildings, structures, features, sites or surroundings included in any proposed historic district. The commission is also authorized to recommend an area or areas to be included in a historic district or districts and from time to time recommend amendments to established districts or additional districts.

Fort Smith has been designated a Certified Local Government (CLG) by the United States Department of Interior. One of the benefits of being a CLG is to be eligible for various grant funds each year. CLG's are required to attempt to appoint preservation related professionals to their Historic District Commissions, to the extent available in the community.

The commission has five members, who are electors of the city, **appointed by the Mayor** subject to confirmation by the Board of Directors and each serves alternate three-year terms.

Members shall be electors of the City and hold no salaried or municipal office. Regular meetings are the first Thursday of each month at 6:00 p.m. at the Darby Community Center. The study sessions are held the last Thursday of each month at 5:30 p.m., at the Darby Community Center, 220 North 7 Street.

	<u>Date Appointed</u>	<u>Term Expires</u>
Joan E. Mawn Real Estate 1005 South 24 Street (01) 782-8759 (h) arkjem@sbcglobal.net	02/21/06	07/31/13
Graham Sharum Architect 715 North 21 St (01) 478-9368 (h) 783-2480 (w) graham@childersarchitect.com	08/20/02	07/31/14
Clara Jane Rubarth Professor 717 North E Street (01) 783-5750 (h) 783-8935 (w) cjrubarth@gmail.com	08/16/05	07/31/14

Joan Singleton
9300 Jenny Ld (08)
646-7298 (h)
mjasinga@msn.com

08/15/06

07/31/15

Scott Martin
Pricing Analyst
6318 Ironwood (16)
783-1522 (h)
471-6589 (w)
scottmartin4@att.net

7/19/12

07/31/15

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 11/02/2012

Name: Charles Lane

Home Telephone: 479-430-0711

Home Address: 1219 Elizabeth Ln

Work Telephone: 479-471-6680

Zip: 72903

Email: chad.lane@usa-truck.com

Occupation: Manager, Revenue Accounting - USA Truck, Inc.
(If retired, please indicate former occupation or profession)

Education: Bachelor of Science - Accounting

Professional and/or Community Activities: Bachelor of Science - Financial Management

National Association of Credit Managers (NACM)

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes No _____

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes _____ NO

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License information will _____ Date of Birth _____ and check of all applicants _____

I am interested in serving on the (please check):

- | | |
|---|--|
| <input type="checkbox"/> Audit Committee | <input checked="" type="checkbox"/> Library Bd of Trustees |
| <input type="checkbox"/> Advertising & Promoting Commission | <input type="checkbox"/> Mechanical Bd of Adjustments and Appeals |
| <input type="checkbox"/> Airport Commission | <input type="checkbox"/> Oak Cemetery Commission |
| <input type="checkbox"/> Arkansas Fair & Exhibition Facilities Bd | <input type="checkbox"/> Outside Agency Review Panel |
| <input type="checkbox"/> Benevolent Fund Board | <input type="checkbox"/> Parking Authority |
| <input type="checkbox"/> Bldg. Bd. Of Adjustment and Appeals | <input type="checkbox"/> Parks & Recreation Commission |
| <input type="checkbox"/> Central Business Improvement District | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Convention Center Commission | <input type="checkbox"/> Plumbing Advisory Board |
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Port Authority |
| <input type="checkbox"/> Community Development Advisory Com. | <input type="checkbox"/> Property Owners Appeals Board |
| <input type="checkbox"/> County Equalization Board | <input type="checkbox"/> Sebastian County Reg. Solid Waste Mgmt. Bd. |
| <input type="checkbox"/> Electric Code Board of Appeals & Appeals | <input type="checkbox"/> Sister Cities Committee |
| <input type="checkbox"/> Fire Code Board of Appeals & Adjustments | <input type="checkbox"/> Transit Advisory Commission |
| <input checked="" type="checkbox"/> Historic District Commission | <input type="checkbox"/> Residential Housing Facilities Board |
| <input type="checkbox"/> Housing Assistance Board | |
| <input type="checkbox"/> Housing Authority | |



MEMORANDUM

TO: Mayor and Board of Directors
FROM: Wendy Beshears, Administrative Assistant
DATE: November 14, 2012
SUBJECT: Oak Cemetery Commission

The term of Mr. Robert Burris of the Oak Cemetery Commission will expire November 30, 2012. There has been no reply from Mr. Burris regarding his reappointment.

The applicants available at this time are:

Chris Durkin	1240 North Albert Pike #A
Reginald Moore	2405 North 53 Street

Appointments are **by the Board of Directors**. One appointment is needed; the term will expire November 30, 2015.

Oak Cemetery Commission

The Oak Cemetery Commission acts in an advisory capacity to the Board of Directors and the City Administrator in the planning, maintenance, development and operation of the cemetery.

The Commission consists of nine members who shall initially serve one, two and three-year terms. Thereafter, members shall serve three-year terms. The Oak Cemetery Commission is appointed by the Board of Directors. The Commission meets on call.

	<u>Date Appointed</u>	<u>Term Expires</u>
Robert Burris Fleet HQ 36 Vista Blvd (01) 652-0096 (w & h) refburris@cox.net	10/20/09	11/30/12
Pam Weiler 2207 South 73 Street (3) 452-4952 (h) 788-6494 (w) pweiler@wingfootct.com	11/21/01	11/30/13
Joseph S. Irwin 2024 South 69 Street (03) 452-2768 (h) joeirwin@juno.com	08/17/04	11/30/13
Joel Scott Stubblefield 812 South 24 Street (01) 918-816-0128 (w) castle.camps@yahoo.com	11/20/07	11/30/13
Barbara Coleman 9101 Enid Street (03) 452-2820 (h) bkcole1@cox.net	10/21/08	11/30/14
Phanita Williams 23 Haven Drive (1) 783-3793 (h)	03/17/09	11/30/14

Randall Ross Viguet
3603 Free Ferry Rd (03)
783-4747

11/15/11

11/30/14

Carole Barger
3007 Independence (01)
646-9140 (h)
carlann34@cox.net

11/18/03

11/30/15

Charles Girard
First National Bank
7510 Westminister Place (03)
484-1500 (h)
788-4211 (w)
Chuck.Girard@sbcglobal.net

06/21/11

11/30/15

Oak Cemetery

CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

Note: As an applicant for a City Board, Commission or Committee, your name, address and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment.

Date: 10/27/2012
Name: Chris Durkin Home Telephone: (479) 420-6129
Home Address: 1240 No. Albert Pike Apt A Work Telephone: (479) 441-3536
Zip: 72904 Email: _____
Occupation: Environmental Services
(If retired, please indicate former occupation or profession)
Education: High school Education - Northside High '07
Professional and/or Community Activities: band "Earshot"

Additional Pertinent Information/References: Mack Simons, Clifford
Allan. (479) 441-3536 or 441-3537

Are you a registered voter in the City of Fort Smith? Yes No
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes NO
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from considering for the position.
Drivers License: _____ Date of Birth: _____
information will be used for a criminal background check of all applicants)

I am interested in serving on the (please check):

- Audit Committee
- Advertising & Promoting Commission
- Airport Commission
- Animal Services Advisory Board
- Arkansas Fair & Exhibition Facilities Bd
- Benevolent Fund Board
- Bldg. Bd. Of Adjustment and Appeals
- Central Business Improvement District
- Convention Center Commission
- Civil Service Commission
- Community Development Advisory Com.
- County Equalization Board
- Electric Code Board of Appeals & Appeals
- Fire Code Board of Appeals & Adjustments
- Historic District Commission
- Housing Assistance Board
- Housing Authority
- Library Bd of Trustees
- Mechanical Bd of Adjustments and Appeals
- Oak Cemetery Commission
- Outside Agency Review Panel
- Parking Authority
- Parks & Recreation Commission
- Planning Commission
- Plumbing Advisory Board
- Port Authority
- Property Owners Appeals Board
- Sebastian County Reg. Solid Waste Mgmt. Bd.
- Sister Cities Committee
- Transit Advisory Commission
- Residential Housing Facilities Board

MEMORANDUM

To: Mayor and Board of Directors

From: Sherri Gard, City Clerk

Date: November 16, 2012

Re: Voting Delegates to National League of Cities Conference
November 28 - December 1, 2012 / Boston, MA

Once delegates are chosen, I will complete the attached credentials form and provide to both the NLC and the designated delegates. Based on the city's population, Fort Smith has two (2) votes.

Please note that the credentials form indicates a submission deadline of October 30th; however, the NLC formally extended the deadline and advise the delegates may file the credentials form upon their arrival at the conference.



CREDENTIALS FORM

NATIONAL LEAGUE OF CITIES · 2012 CONGRESS OF CITIES AND EXPOSITION · BOSTON, MASSACHUSETTS

At the Annual Business Meeting on Saturday, December 1, 2012, from 2:30 p.m. to 4:30 p.m., each direct member city of the National League of Cities (NLC) is entitled to cast from one to 20 votes based upon the city's population per the 2010 census, through its designated voting delegate. Please indicate below your city and state, your voting delegate and alternate(s), and sign and date the form. The form should be faxed to NLC at 202-626-3109, by the October 30, 2012, deadline.

The official voting delegate and alternate(s) for the city/town/village of:

VOTING DELEGATE:

1. NAME: _____

TITLE: _____

ALTERNATE VOTING DELEGATE(S):

2. NAME: _____

TITLE: _____

3. NAME: _____

TITLE: _____

<p>FOR OFFICE USE ONLY (DO NOT WRITE IN THIS SPACE)</p> <p><i>Voting card issued to:</i></p> <p>_____</p> <p><i>(signature)</i></p> <p>Votes: (4) Pre-printed</p> <p>1 _____ 2 _____ 3 _____</p>
--

PLEASE SIGN AND FAX THIS FORM TO NLC BY OCTOBER 30, 2012
ATTENTION: MAE DAVIS, MEMBER RELATIONS REPRESENTATIVE
FAX: 202-626-3109

Signature (city representative): _____

Title: _____ Date: _____

James, Heather

From: Gard, Sherri
Sent: Friday, November 16, 2012 3:53 PM
To: Board Info Group; Keithlauward1@gmail.com; Mike Lorenz
Subject: Discussion Item Added to November 20, 2012 Regular Meeting

Mayor & Board,

Director Weber requested the following item be added to the November 20, 2012 regular meeting agenda:

- Discuss downtown streetscape

Per Section 2-31(3) of the Fort Smith Municipal Code, placement of such requires approval of 4 directors whereby Directors Tyler, Catsavis and Merry agreed to the addition.

The November 20 regular meeting agenda has already been finalized; therefore, the requested item will be placed on the agenda immediately after the executive session.

Sherri Gard, CMC, CAMC
City Clerk
City of Fort Smith
479-784-2208 (phone)
479-784-2256 (fax)



November 9, 2012

TO: Members of the Board of Directors
Members of the Planning Commission

RE: Appointments:

Mr. Mike Lorenz of the Planning Commission will be resigning his term in December, 2012. In accordance with Ordinance No. 2926 applications for this prospective vacancy are now being received. Applicants must be residents and registered voters in the City of Fort Smith.

Please submit applications to the city administrators office no later than the close of business on December 12, 2012. A list will be compiled for review by the Board of Directors. Applications are available on the City of Fort Smith website. Go to www.fortsmithar.gov and click on boards and commissions.

Sincerely,

A handwritten signature in blue ink that reads "Ray Gosack".

Ray Gosack
City Administrator

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



Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Steve Tyler

Ward 2 – Andre’ Good

Ward 3 – Don Hutchings

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA ~*Summary*
Fort Smith Board of Directors
Regular Meeting
November 20, 2012 ~ 6:00 P.M.
Fort Smith Public Schools Service Center
3205 Jenny Lind Road

THIS MEETING IS BEING TELECAST LIVE ON THE GOVERNMENT ACCESS CHANNEL 6

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL

All present

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING

(Section 2-37 of Ordinance No. 24-10)

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

APPROVE MINUTES OF THE NOVEMBER 6, 2012 REGULAR MEETING

Unanimously approved as written

ITEMS OF BUSINESS:

1. Presentation: Tim Hearn, Fort Smith EMS - National EMS Executive of the Year
Presentation only
2. Public hearing and ordinance certifying to the Sebastian County Tax Collector delinquent property cleanup liens
Approved 7 in favor, 0 opposed / Ordinance No. 84-12
3. Ordinance amending Section 14-155 of the Fort Smith Municipal Code for the purpose of amending the permitted zoning districts for sexually oriented business

~ Weber/Catsavis placed on the agenda at the November 13, 2012 study session ~

Approved 6 in favor, 1 opposed (Hutchings) / Ordinance No. 85-12

4. Resolution authorizing execution of a settlement agreement regarding HOME Program interest in Lots 10, 11 and 12 of Koller Place Subdivision to the City of Fort Smith and authorizing the city administrator and city attorney to approve and execute any document necessary to effectuate approved settlement agreement
Approved 5 in favor, 2 opposed (Catsavis & Weber) / Resolution No. R-244-12
5. Resolution accepting bid for uniform rental services (3 year bid / Various City Departments / Budgeted - General, Street, Water & Sewer, and Sanitation Operating Funds)
by 4 in favor, 3 opposed (Catsavis, Weber & Merry) / Tabled to the December 4, 2012 regular meeting
6. Ordinance amending Section 2-26 of the Fort Smith Municipal Code setting the time and location for the regular meeting of the Board of Directors for the year 2013
Approved 7 in favor, 0 opposed / Ordinance No. 86-12
7. Consent
 - A. Resolution authorizing partial payment to Forsgren, Inc. for the construction of Garrison Avenue Streetscape, 9th Street – 13th Street, Project No. 09-90-B, Job 040545 (\$638,867.03 / Engineering Department / Budgeted – Sales Tax Program Fund)
Approved 7 in favor, 0 opposed / Resolution No. R-245-12
 - B. Resolution to accept bids and authorize contract for 2012 Street Striping Replacement, Project No. 12-85-A. (\$72,982.72 / Engineering Department / Budgeted – Sales Tax Program Fund)
Approved 7 in favor, 0 opposed / Resolution No. R-246-12
 - C. Ordinance declaring exceptional circumstance and authorizing continuation of agreement with Data-Tronics Corporation
Approved 7 in favor, 0 opposed / Ordinance No. 87-12
 - D. Resolution authorizing Change Order No. 1 with Forsgren, Inc. for the River Front Development Water and Sewer Extensions (\$73,600.00 / Utility Department / Budgeted - 2008 Revenue Bonds)
Approved 7 in favor, 0 opposed / Resolution No. R-247-12
 - E. Resolution authorizing the city administrator to accept an offer made by property owner for the acquisition of an easement in connection with the Lake Fort Smith 48-Inch Water Transmission Line Project (\$12,000.00 / Utility Department / Budgeted - 2008 Revenue Bonds)
Approved 7 in favor, 0 opposed / Resolution No. R-248-12

- F. Resolution authorizing Change Order No. 9 with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 (\$1,500.00 reduction / Utility Department / Budgeted – 2008 Revenue Bonds)

Approved 7 in favor, 0 opposed / Resolution No. R-249-12

- G. Resolution accepting the project as complete and authorizing final payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant Contract 3 (\$1,507,391.40 / Utility Department / Budgeted -2008 Revenue Bonds)

Approved 7 in favor, 0 opposed / Resolution No. R-250-12

OFFICIALS FORUM ~ presentation of information requiring no official action

(Section 2-36 of Ordinance No. 24-10)

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

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

EXECUTIVE SESSION

- Appointments: **HISTORIC DISTRICT COMMISSION**

Charles Lane

Term expires July 31, 2014

OAK CEMETERY COMMISSION

Reginald Moore

Term expires November 30, 2015

NATIONAL LEAGUE OF CITIES CONFERENCE VOTING DELEGATES

(November 28 - December 1, 2012 / Boston, MA)

Jeff Dingman

Russell Gibson

8. Discuss downtown streetscape ~ *This item added to the agenda at the request of Directors Weber, Tyler, Catsavis and Merry on November 16, 2012 ~*

No action – discussion only

ADJOURN

7:20 P.M.

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ NOVEMBER 20, 2012 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Pastor Jerry Jennings of Mount Moriah Missionary Baptist Church, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Pam Weber, Kevin Settle and Phillip H. Merry, Jr. The Mayor declared a quorum present.

The Mayor inquired if any Board member had any item of business to present that was not already on the agenda. There was none presented.

The minutes of the November 6, 2012 regular meeting were presented for approval. Settle, seconded by Hutchings, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders presented a proclamation to Tim Hearn of Fort Smith EMS upon being named the 2012 National EMS Executive of the Year. The award was granted by the National Association of EMT's and the National EMS Management Association in recognition of multiple accomplishments made by Fort Smith EMS under Mr. Hearn's leadership.

Mayor Sanders announced this was the time and place set for a public hearing to certify to the Sebastian County Tax Collector delinquent property cleanup liens. Notice of the public hearing had been duly published as required by law. Following the public hearing, consideration of an ordinance authorizing same would be given (Item No.2).

City Clerk Sherri Gard briefed the board on the item advising the ordinance certifies to the Sebastian County Tax Collector a total of \$166,109.92 in delinquent

November 20, 2012 Regular Meeting

property cleanup liens associated with those properties abated or structures demolished by the City of Fort Smith and each lien includes a 10% penalty. Hearings before the Property Owners Appeal Board were held on September 17th and 20th in the Bartlett Community Room at the Fort Smith Police Department. Notification of the hearings was by certified mail and publication in the Times Record. Nine (9) property owners attended the hearings.

Director Hutchings recognized the Property Owners Appeal Board, who were in attendance, for their work on the appeal process.

The following individual was present to address the Board:

- Brian Lovell
Fort Smith, AR

Re: Regarding cleanup liens on 4314 North 54th Street, he alleged no notice of the impending cleanup was received.

Mayor Sanders inquired if Mr. Lovell attended the public hearings before the Property Owners Appeal Board.

Mr. Lovell responded "no" citing he was not aware of the public hearings.

Due to such, Director Hutchings recommended the Mr. Lovell be allowed to address the Property Owners Appeal Board prior to certification of the subject cleanup liens.

Mrs. Gard advised the Property Owners Appeal Board meets on a monthly basis as needed and the next meeting is scheduled for December 12th at 11 a.m. at Fort Smith city offices; therefore, a special hearing will be set for said date.

There being no further individuals present to address the Board, Mayor Sanders closed the public hearing.

Hutchings, seconded by Good, moved adoption of the ordinance including

November 20, 2012 Regular Meeting

suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The motion further included the removal of liens for the property located at 4314 North 54th Street to allow the property owner to go before the Property Owners Appeal Board. The motion also included a provision to allow the removal of liens that have been paid since preparation of the ordinance. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 84-12.

Mayor Sanders recognized Sherry McKinney, who currently serves on the Property Owners Appeal Board, works with the Citizen Academy and Citizens Academy Alumni and has volunteered for various organizations around the city. Ms. McKinney will soon be moving to Florida; therefore, he conveyed much appreciation for her time and service to the City of Fort Smith.

Item No. 3 was an ordinance amending Section 14-155 of the Fort Smith Municipal Code for the purpose of amending the permitted zoning districts for sexually oriented business.

Director of Development Services Wally Bailey briefed the Board on the item advising such is due to city staff and city attorney's concern of potential future legal challenges regarding the city's current ordinance not permitting enough land area for sexually oriented businesses. In an attempt to get the ordinance closer to what the courts have said is an acceptable land area, city staff reviewed several possible scenarios. The presented amendment would increase the land area allowing sexually oriented businesses to be located in 4% of the City's corporate limits versus the current 1.4%. Such provides a more desirable legal position should a legal challenge occur.

November 20, 2012 Regular Meeting

Good, seconded by Settle, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members voted as follows: ayes – Tyler, Good, Catsavis, Weber, Settle and Merry; nays – Hutchings. The Mayor declared the motion carried and the ordinance was adopted and given No. 85-12.

Item No. 4 was a resolution authorizing execution of a settlement agreement regarding HOME Program interest in Lots 10, 11 and 12 of Koller Place Subdivision to the City of Fort Smith and authorizing the city administrator and city attorney to approve and execute any document necessary to effectuate approved settlement agreement.

City Administrator Ray Gosack briefed the Board on the item. The Board authorized continued investigation and litigation regarding the subject HOME Funds loan per Resolution No. R-220-12, adopted October 16, 2012. The City Attorney had discussions with Barlee Properties and Lend-a-Hand's legal counsel about resolving the potential litigation whereby a tentative settlement has been reached. Barlee Properties agrees to extend the period of the below-market rental rates from 15 years to 20 years. The value of the additional 5 years of below-market rental rates is estimated to save lower income tenants \$19,000 and over the entire 20 years an estimated savings of \$78,000 and satisfy HUD requirements. Barlee Properties also agrees to pay the City \$37,500 that will go back into the City's HOME Program thus increasing the resources available for HOME-eligible projects. Upon approval, the City would avoid the possibility of having to repay the HUD \$150,000 and assures the additional \$37,500 for Fort Smith's HOME program. If further litigation is pursued and the City does not prevail, such would create the risk that the City would be required to repay the \$150,000 to HUD

November 20, 2012 Regular Meeting

and losing the \$37,500 payment offered by Barlee Properties.

At the request of Administrator Gosack, City Attorney Jerry Canfield addressed the Board whereby he spoke in favor the proposed settlement.

If the proposed settlement is not accepted, Director Settle questioned the anticipated length of litigation.

Mr. Canfield advised typical litigation is nine (9) months at the local trial level and eighteen (18) months if an appeal is filed; therefore and due to the complicated issues involved, the process could be timely as well as expensive.

Director Merry clarified if the proposed settlement is approved, the City would not have to pay the \$150,000 and would avoid any future ramifications due to this issue.

Director Weber spoke in opposition to the proposed resolution citing the HOME program would suffer due to not receiving full repayment.

Directors Settle and Good spoke in favor of the item citing the proposed settlement cost and benefits outweighs the anticipated length and cost of litigation.

Hutchings, seconded by Good, moved adoption of the resolution. The members voted as follows: ayes - Tyler, Good, Hutchings, Settle and Merry; nays – Catsavis and Weber. The Mayor declared the motion carried and the resolution was adopted and given No. R-244-12.

Item No. 5 was a resolution accepting bid for uniform rental services.

Director of Purchasing Alie Bahsoon briefed the Board on the item advising an employee selection committee conducted interviews on November 13th whereby each vendor (Aramark, Cintas and Unifirst) was given the opportunity to expound on their bid proposal and respond to a series of questions. At the conclusion of the interviews, the committee considered numerous factors and the members voted for the preferred

November 20, 2012 Regular Meeting

vendors by anonymously ranking the vendors by preference. Ten (10) votes were cast of which eight (8) members chose Cintas Corporation as their preferred vendor. Unifirst and Aramark each received one (1) first place vote. Cintas was chosen as the preferred bidder for several reasons some of which were: the opportunity cost benefit, mending and repairs of garments, replacement costs, comfort satisfaction, few complaints with existing contract, local excess inventory, proven reliable track record and excellent professional relationship with designated Cintas driver.

The following individual was present to address the Board:

- Shawn Hatcher, Unifirst representative
Fort Smith, AR

Re: Spoke in opposition of the proposed resolution alleging Unifirst was the low bidder and can offer the same excellent service while saving the city money.

Mr. Bahsoon reiterated after re-evaluation of all bidders the employee committee chose Cintas as preferred bidder due to several factors, one of which is the excellent relationship and service they have provided the City for the past seven (7) years.

There was brief discussion whereby several Directors conveyed multiple questions and expressed concern that the numbers presented were skewed because not every employee will wear every garment listed.

Mr. Bahsoon advised this was an open ended bid, with the only pre-requisite being the vendor's attend a mandatory pre-bid meeting.

Settle, seconded by Hutchings moved to table consideration of the proposed resolution to the December 4, 2012 regular meeting to allow staff to calculate the exact cost savings. The members voted as follows: ayes - Tyler, Good, Hutchings and Settle; nays – Catsavis, Weber and Merry. The Mayor declared the motion carried.

November 20, 2012 Regular Meeting

Item No. 6 was an ordinance amending Section 2-26 of the Fort Smith Municipal Code setting the time and location for the regular meeting of the Board of Directors for the year 2013.

Mrs. Gard briefed the Board on the item advising the governing body is required by law to set the dates, time and location for regular meetings for the upcoming year; therefore, such is the annual ordinance to accomplish such for the year 2013. As recommended at the November 13, 2012 study session, all regular meetings were scheduled for the first and third Tuesday of each month with the exception of the months of January, March and July whereby said meeting dates were recommended as follows:

First/Third Tuesday	Recommended Date
First Tuesday, January 1 (<i>New Years Day</i>)	Thursday, January 3
Third Tuesday, March 19 (<i>week of spring break</i>)	Tuesday, March 26
First Tuesday, July 2 (<i>week of Independence Day</i>)	Tuesday, July 16

The school has advised the meeting room is unavailable the evening of Tuesday, March 26; however, such is available either Wednesday, March 27 or Thursday, March 28. The Board should determine which date is most feasible and include such in the motion to adopt the ordinance.

Settle, seconded by Weber, moved adoption of the ordinance as proposed with inclusion of the second regular meeting in March to be held on Monday, March 25. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 86-12.

The Consent Agenda (Item No. 7) was introduced for consideration, the items

November 20, 2012 Regular Meeting

being as follows:

- A. Resolution authorizing partial payment to Forsgren, Inc. for the construction of Garrison Avenue Streetscape, 9th Street – 13th Street, Project No. 09-90-B, Job 040545 (*\$638,867.03 / Engineering Department / Budgeted – Sales Tax Program Fund*)
- B. Resolution to accept bids and authorize contract for 2012 Street Striping Replacement, Project No. 12-85-A. (*\$72,982.72 / Engineering Department / Budgeted – Sales Tax Program Fund*)
- C. Ordinance declaring exceptional circumstance and authorizing continuation of agreement with Data-Tronics Corporation
- D. Resolution authorizing Change Order No. 1 with Forsgren, Inc. for the River Front Development Water and Sewer Extensions (*\$73,600.00 / Utility Department / Budgeted - 2008 Revenue Bonds*)
- E. Resolution authorizing the city administrator to accept an offer made by property owner for the acquisition of an easement in connection with the Lake Fort Smith 48-Inch Water Transmission Line Project (*\$12,000.00 / Utility Department / Budgeted - 2008 Revenue Bonds*)
- F. Resolution authorizing Change Order No. 9 with Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 (*\$1,500.00 reduction / Utility Department / Budgeted – 2008 Revenue Bonds*)
- G. Resolution accepting the project as complete and authorizing final payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant Contract 3 (*\$1,507,391.40 / Utility Department / Budgeted -2008 Revenue Bonds*)

Hutchings, seconded by Catsavis, moved adoption of all consent agenda items.

The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and resolutions were adopted with the ordinance given No. 87-12 and the resolutions numbered R-245-12 through R-250-12 respectively.

Mayor Sanders opened the Officials Forum with the following comments offered:

- ♦ Mayor Sanders

Re: Announced the Christmas festivities at area parks will

November 20, 2012 Regular Meeting

officially begin December 3rd; however, the Creekmore Express train at Creekmore Park will be up and running on November 23rd and 24th.

♦ Director Settle

Re: Congratulated UAFS women's volleyball team and coaches for being undefeated in conference tournament, as well as making it to regional finals; therefore, he conveyed much support for their continued success.

The Board convened into executive session at approximately 6:58 p.m. and after reconvening, Mayor Sanders announced the following appointment nominations:

HISTORIC DISTRICT COMMISSION

Charles Lane
Term expires July 31, 2014

OAK CEMETERY COMMISSION

Reginald Moore
Term expires November 30, 2015

NATIONAL LEAGUE OF CITIES CONFERENCES

(November 28 – December 1, 2012 / Boston, MA)

Jeff Dingman, Deputy City Administrator
Russell Gibson, Director of Information Technology

Settle, seconded by Hutchings, moved adoption of all appointment nominations.

The members all voting aye, the Mayor declared the motion carried.

Item No. 8 was discussion regarding downtown streetscape ~ *Placed on the agenda by Directors Weber, Tyler, Catsavis and Merry on Friday, November 16, 2012 ~*

The following individual was present to address the Board:

- Frank Sharum
Frank Sharum Landscape Design Inc.
Fort Smith, AR

Re: Expressed discontent with comments made at the recent City of Fort Smith budget hearings directly related to his business and the Garrison Avenue Streetscape, 9th – 13th Street Project 09-90-B.

November 20, 2012 Regular Meeting

Director Weber commended Frank Sharum for the excellent job he does and expressed gratitude toward his willingness to invest in the beautification of Fort Smith with the streetscape project, as well as the beautification project city wide. She was disheartened to learn that the federal funding allocated to the Garrison Avenue Streetscape Project, that included streetscape improvement from 9th-13th Street, could be used only in said designated area. Much regret was conveyed for the issue and clarified that Mr. Sharum was unaware of her inquiry for additional funding. It was her effort to correct a perceived wrong and intent to improve the downtown area so Fort Smith could receive the full benefit of the completed design.

Director Merry also conveyed much appreciation to Mr. Sharum for his involvement in the project.

Director Tyler merely noted disappointment that an issue to complete the landscape design was not brought to the Board.

There being no further business to come before the Board, Settle moved that the meeting adjourn. The motion was seconded by Good, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:20 p.m.

APPROVED:



Mayor

ATTEST:



City Clerk