

Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith Lau

Ward 2 – Andre' Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA
Fort Smith Board of Directors
Regular Meeting
January 3, 2013 ~ 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

Oath of office ceremony for incoming directors

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 DECEMBER 18, 2012 REGULAR MEETING AND DECEMBER 21 & 27, 2012 SPECIAL MEETINGS

ITEMS OF BUSINESS:

1. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan - from Not Classified to General Commercial; Rezoning – from Not Zoned to Commercial Moderate (C-3) by classification located at 8000 Zero Street*)
2. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*Appendix A – Sexually Oriented Businesses*)

3. Consent

- A. Ordinance authorizing the Mayor to execute an agreement with the U.S. Marshals Museum, Inc. for certain services for inhabitants of the City of Fort Smith
- B. Resolution to accept bid and authorize contract for the construction of Flagstone Road Extension, Phase II, Project No. 12-00-C upon concurrence of the Fort Chaffee Redevelopment Authority and receipt from Old Dominion Freight Line, Inc. of agreement to reimburse portion of project cost (\$633,501.00 / *Engineering Department / Budgeted – Sales Tax Program Fund*)
- C. Resolution of approval for the General William O. Darby Monument to be located at Cisterna Park
- D. Resolution accepting bids for the purchase of aggregates, sand, concrete, and asphalt concrete products for 2013 (annual bid)
- E. Resolution accepting bid for the purchase of police package utility vehicles (\$295,655.60 / *Police Department / Budgeted – Program 4704-301*)
- F. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Hawkins-Weir Engineering, Inc. for the Design of the Mill Creek Interceptor Improvements – Phase II (\$178,000.00 / *Utility Department / Budgeted – 2012 Sales Tax Bonds*)
- G. Resolution authorizing acquisition of easements in connection with the Pump Station No. 19 Force Main Replacement Project (\$30,806.24 / *Utility Department / Budgeted – 2012 Sales Tax Bonds*)
- H. Resolution accepting the project as complete and authorizing final payment to Diamond Construction Company for the 24-Inch Water Transmission Line – Edwards Street (\$45,857.11 / *Utility Department / Budgeted - 2008 Revenue Bonds*)

OFFICIALS FORUM ~ presentation of information requiring no official action

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

- Mayor
- Directors
- City Administrator

EXECUTIVE SESSION

- Appointment: Vice-Mayor (1), Advertising and Promotion Commission (1) & Audit Committee (1)

ADJOURN



OFFICE OF THE CITY CLERK
Sherri Gard, CMC, City Clerk
Heather James, Assistant City Clerk

MEDIA RELEASE
December 28, 2012

Newly-elected Ward 1 Director Keith Lau and Ward 3 Director Mike Lorenz, and re-elected Ward 2 Director Andre' Good and Ward 4 Director George Catsavis will take the oath of office at 6:00 p.m., Thursday, January 3, 2013 at the regular meeting of the directors. Fort Smith District Court Judge David Saxon will administer the oath of office.

The oath of office ceremony is the first item of business on the regular meeting agenda; therefore, such will be televised live on the Government Access Channel, Cox Cable Channel 6.

The regular meetings of the directors are held at the Fort Smith Public Schools Service Center, 3205 Jenny Lind, Building B.

A handwritten signature in blue ink that reads "Sherri Gard". The signature is written in a cursive style and is positioned above a horizontal line.

Sherri Gard, City Clerk

623 Garrison Avenue
P.O. Box 1908
Fort Smith, Arkansas 72902
(479) 784-2208
FAX (479) 784-2256
E-mail: cityclerk@fortsmithar.gov

Printed on 100% Recycled Paper

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MASTER LAND USE PLAN MAP AND
REZONING IDENTIFIED PROPERTY AND AMENDING THE ZONING MAP**

WHEREAS, the City Planning Commission has held a public hearing to consider a request to amend the Master Land Use Plan Map relative to property described in Section 1 of this ordinance, and, having considered the request, recommended on December 11, 2012, that said change be made; and,

WHEREAS, the Planning Commission determined the change to the Master Land Use Plan Map does conform to the goals and objectives of the Comprehensive Plan.

WHEREAS, the City Planning Commission has heretofore held a public hearing to consider request No. 29-12-12 to rezone certain properties hereinafter described, and, having considered said request, recommended on December 11, 2012, that said change be made;

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

SECTION 1: The hereinafter described property is hereby reclassified on the Master Land Use Plan Map from Not Classified to General Commercial and the Master Land Use Plan Map is hereby amended to reflect said amendment, to-wit:

Part of Government Lots 1 and 2 of the Northwest Quarter of Section 6, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Southeast Corner of said Government Lot 1, said point being marked by an existing 1-1/2" iron pipe; Thence along the South Line of said Government Lot 1, N87°24'09"W, 60.25 feet to the southeast corner of Lot 1, Huntington Chase, Lots 1 thru 117, Fort Smith, Sebastian County, Arkansas, being filed for record January 18, 2008 as plat 1790d; Thence along the south line of said Huntington Chase, N87°24'09"W, 2289.79 feet to an angle change in said south line; Thence continuing along said south line, N49°48'59"W, 232.77 feet to the southwest corner of said Huntington Chase; Thence along the westerly line of said Huntington Chase the following bearings and distances: N51°37'19"E, 400.02 feet; N51°11'53"E, 400.24 feet; N52°59'02"E, 400.00 feet; N02°41'58"E, 375.95 feet to an existing 1/2" iron pin; N05°12'47"E, 53.52 feet to the northwest corner of said Huntington Chase, said point being marked with an existing 1/2" iron pin with cap stamped PLS 1272; Thence along the eastern boundary of Ben Geren Park the following bearings and distances: N05°12'47"E, 370.52 feet

to a existing 1/2" rebar with cap stamped MWC 1369; N24°38'39"E, 296.93 feet to the Point of Beginning and an existing 1/2" rebar with cap stamped MWC 1369; Thence continuing along said eastern boundary, N24°38'39"E, 100.00 feet to an existing 1/2" rebar with cap stamped MWC 1369; Thence continuing along said eastern boundary, N38°09'10"E, 438.25 feet to the southerly right-of-way line of Arkansas Highway 255 (Zero Street) and an existing 1/2" rebar with cap stamped MWC 1369; Thence along said right-of-way line, S77°43'20"E, 408.04 feet to the northwest corner of Lot 1, Massard Creek Addition, Sebastian County, Arkansas, being filed for record November 21, 1989 as plat 947 and an existing 1/2" rebar with cap stamped MWC 1369; Thence along the westerly line of said Lot 1 the following bearings and distances: S05°06'08"W, 487.60 feet to an existing 1/2" rebar with cap stamped MWC 1369; N87°24'09"W, 444.91 feet to an existing 1/2" rebar with cap stamped MWC 1369; Thence leaving said west line, N62°23'53"W, 252.00 feet to the Point of Beginning, containing 6.76 acres, more or less;

more commonly known as 8000 Zero Street.

SECTION 2: The real property described in Section 1 above is hereby rezoned from Not Zoned to Commercial Moderate (C-3) by Classification, subject to approval of a development plan by the Planning Commission prior to the issuance of any building permits or use of the land.

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

PASSED AND APPROVED THIS _____ DAY OF _____, 2013.

APPROVED:

Mayor

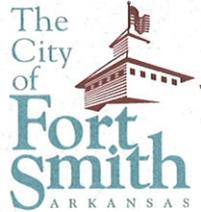
ATTEST:

City Clerk

Approved as to form:



Publish One Time



December 27, 2012

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

Re: A request by Pat Mickle, agent, for a Master Land Use Plan Amendment from Not Classified to General Commercial, a zone change from Not Zoned to Commercial Moderate (C-3) by Classification and a request to defer the requirement for a development plan located at 8000 Zero Street.

On December 11, 2012, the City Planning Commission held a public hearing to consider the above requests.

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to facilitate future commercial development. This property currently has no zoning or master land use classification. The development is shown on the preliminary layout and plat known as Huntington Chase Commercial.

Ms. Andrews noted that the applicant does not have a specific development plan at this time because this is a subdivision and with no specific tenants or owners. The applicant has submitted a request for a deferral of a development plan. Ms. Andrews also noted that planning staff is recommending approval of the zoning designation of C-3 and the development plan deferral subject to approval of a development plan by the planning commission prior to the issuance of any building permits or use of the land.

Commissioner Maurras expressed his concerns relative to approving the deferral of a development plan.

Mr. Pat Mickle was present to speak on behalf of these requests. Mr. Mickle stated they felt their requests were reasonable for this location and by asking for a C-3 zoning classification, it would eliminate a great deal of undesirable land uses. Mr. Mickle also noted that this zoning change was needed in order to be able to market the property.

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

Chairman Griffin called for the vote on the Master Land Use Plan Amendment. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

Chairman Griffin then called for the vote on the deferral of the development plan. Motion was made by Commissioner Howard, seconded by Commissioner Lorenz and carried unanimously to approve the development plan deferral request subject to approval of a development plan by the planning commission prior to the issuance of a building permit or use of the land. The vote on

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FORT SMITH, ARKANSAS 72902
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FAX (479) 784-2462

this request as amended was 8 in favor, 0 opposed and 1 abstention (Griffin).

Chairman Griffin then called for the vote on the rezoning request. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

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

Respectfully Submitted,

CITY PLANNING COMMISSION

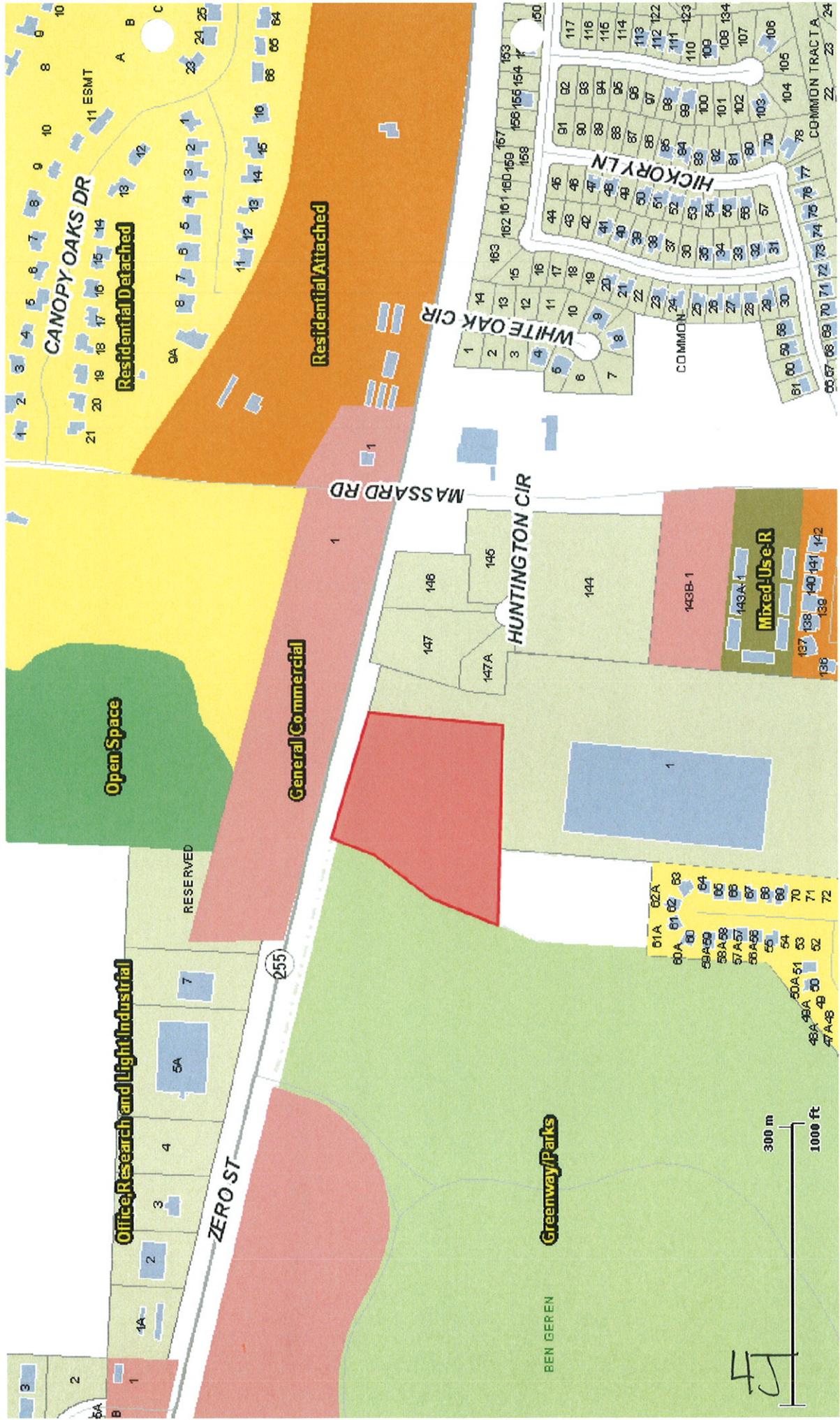
Steve Griffin, Chairman

SG/lp

cc: File
City Administrator

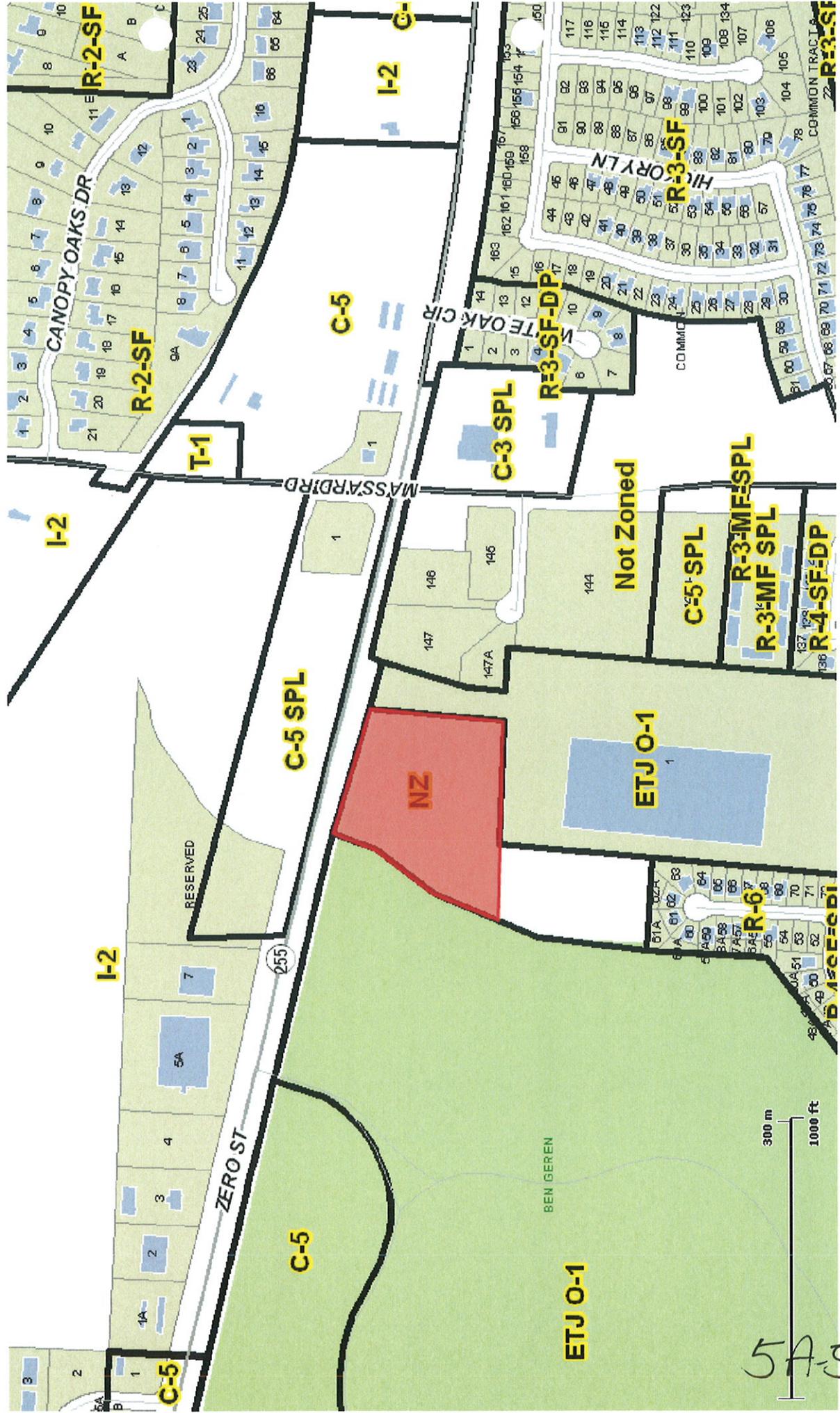
Master Land Use: From Not Classified to General Commercial

8000 South Zero Street



Rezoning #29-12-12: From Not Zoned to Commercial Moderate (C-3)

8000 South Zero Street



MEMO

To: City Planning Commission

From: Planning Staff

Date: November 20, 2012

Subject: Proposed Master Land Use Plan Amendment at 8000 Zero Street from Not Classified to General Commercial

The Planning Department is in receipt of an application from Pat Mickle with Mickle-Wagner-Coleman, agent for ERC Land Development Group, LLC, to amend the *Master Land Use Plan* to facilitate commercial uses at 8000 Zero Street. The applicant requests a General Commercial classification for property that is currently not classified. The subject property is located on the south side of Zero Street (AR Highway 255) and approximately 775 feet west of Massard Road. The tract contains an area of 6.76 acres with approximately 408 feet of road frontage on Zero Street.

The property is currently not zoned. A companion application (item #4A) proposes a Commercial Moderate (C-3) zoning by classification. The *Master Land Use Plan* is a guide to zoning and development and must be considered with the companion applications.

ADJACENT LAND USE CLASSIFICATIONS AND USES

Land use classification and uses contiguous to the subject lot are as follows:

The area to the north is classified as General Commercial. This area is primarily undeveloped with the exception of an area located northeast of the subject site that is developed as a bank.

The area to the south is not classified and undeveloped.

The area to the east is not classified and is developed as a warehouse and distribution facility. Further east and adjacent to Massard Road, the property is not classified and undeveloped.

The area to the west is classified as ETJ Low Density Residential and developed as Ben Geren Regional Park.

The proposed land use classification of General Commercial is described as follows:

4A

Purpose: To provide opportunities for business transactions and activities and meet the consumer needs of the community.

Characteristics and Use: Retail sales of all product types requiring transportation of goods and professional, technical, and financial services.

Criteria for Designation:

Compliance Noted

- | | |
|--|-----|
| • Compatible with, and complimentary to surrounding uses | Yes |
| • Located on high-volume arterials and collectors | Yes |
| • Located as a cluster of like services | Yes |
| • Accessible by most modes of transportation | Yes |
| • Appropriately located for minimum impact to adjacent uses and by volume of activity and trips generated by use | Yes |

MASTER STREET PLAN CLASSIFICATIONS

The Fort Smith Master Street Plan classifies Zero Street (AR Highway 255) as a Major Arterial Street.

STAFF COMMENTS

The applicant held a neighborhood meeting on Friday, November 30, 2012, 10 a.m. at the offices of Mickle-Wagner-Coleman located 3434 Country Club Avenue. The meeting was attended by a one property owner's representative. No issues or concerns were cited regarding the requested General Commercial land use plan classification or the proposed C-3 zoning. The meeting summary and attendance record are attached.

Staff finds that the request meets the criteria for designation as General Commercial and recommends approval of the proposed Master Land Use Plan amendment.

Staff further finds that the proposed General Commercial land use is compatible with the surrounding land uses and classifications and recommends approval of the application.

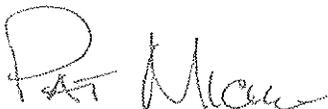
4B

Neighborhood Meeting Minutes
Huntington Chase Commercial Development
November 30, 2012 10:00 AM
Mickle Wagner Coleman Offices
3434 Country Club Avenue, Fort Smith, Arkansas

A neighborhood meeting to discuss the Huntington Chase Commercial development project was held Friday, November 30, 2012 at 10:00 a.m. at the offices of Mickle Wagner Coleman, Inc., 3434 Country Club Avenue, Fort Smith, Arkansas. In attendance were Pat Mickle, Brenda Andrews, and Channon Toland, Director of the Sebastian County Parks. The attendance list is attached. Mr. Mickle conducted the meeting.

Mr. Mickle explained the scope of the project. He stated that the southern five acres of the property are not to be zoned at this time; the use has not yet been determined. The balance of the property is to be developed into commercial type services. Mr. Toland noted that the City's bikeway plan had a bikeway designated along Zero Street. Mr. Mickle pointed out that a 20 foot bikeway easement was shown on the preliminary layout. Brenda Andrews mentioned that since there is also a sidewalk designated in this area possibly the two uses could be consolidated into a shared-use path. Mr. Mickle stated that he would look into this possibility; sounds like it has significant merit. Mr. Mickle noted that there may be a fair amount of grading on this property and that the grading permit and SWPPP/NOI requirements had been met.

There being no further questions, the meeting adjourned at 10:20 a.m.


Patrick J. Mickle

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40

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

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

Meeting Location 3434 Country Club Avenue, Fort Smith, Arkansas 72903

Meeting Time & Date Friday, November 30, 2012, 10:00 a.m.

Meeting Purpose Huntington Chase Commercial development

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	<i>Channon Toland</i>	<i>7200 Zero St Fort Smith,</i>	<i>646-2444</i>
2.	<i>Brendon Anderson</i>	<i>Fort Smith Planning Dept</i>	<i>784-2214</i>
3.	<i>Pat Mease</i>	<i>MWE</i>	<i>649-3484</i>
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			

f:\doc\forms\cfs forms-applications\2011 Rezoning Application – ERC – Huntington Chase Commercial rev11-20-12.doc

R

Application Type

Minor Amendment Standard Amendment Major Amendment
(See Section 27-328-5 C. (Criteria))

Request to Amend Map Request to Amend Text

Applicant Name: Rob Coleman

Firm Name: ERC Land Development Group, LLC

Address: 813 Fort Street, Barling, Arkansas 72923

Phone # (day): 479-452-9950 Phone # (cell): Fax #: 479-452-7252

Owner Name: ERC Land Development Group, LLC

Owner Address: 813 Fort Street, Barling, Arkansas 72923

Phone # (day): 479-452-9950 Phone # (cell): Fax #: 479-452-7252

Property Address (subject property): 8000 Zero Street

Subject Property

Current Land Use: Vacant, undeveloped

Existing MLUP Classification: None

Proposed MLUP Classification: General Commercial

Existing Zoning Classification: None

Proposed Zoning Classification: Commercial-3

Surrounding Property

Current Land Use: north- mostly vacant; commercial (bank)
south- Single-Family Residential
east- Warehousing & vacant
west- Ben Geren Park

Existing MLUP Classification: north: General Commercial
south: Residential Detached
east: None (in ETJ)
west: ETJ Low Density Residential

Existing Zoning Classification: north: C-5 Special
south: R-4-SF Special
east: ETJ 0-1 & Not Zoned
west: ETJ 0-1

Pre-Application Meeting Date: November 14, 2012, 3 p.m.

4E

For a Minor, Standard or Major Master Land Use Plan Amendment, please attach the following information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

1. A legal description of the subject property that is to be amended (reclassified).
Attachment #1
2. A map of the property which includes the scaled distance, legal description, and general vicinity map inset showing the property's location.
Attachment #2 – Property/Topo Survey
3. The area dimensions of the property in square feet or acres.
6.76 acres
4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:

Property is served by Zero Street (AR Hwy 255) which varies from 4 lanes to 3 lanes in this area. The Development will be served by a single 37' street with a cul-de-sac, which is to extend from Zero Street.

5. Describe the existing public utility services and infrastructure (such as water, sewer, fire/police) which are available to the property and the source/method of providing additional utilities and infrastructure to the property if necessary:

There is an existing 12" water line on the north side of Zero. A 10" water line will be extended under Zero to the property. A 24" sanitary sewer runs along the western boundary of the property and an 8" sanitary sewer runs along the Zero Street frontage. An 8" line will be extended as needed for future lots. Police and fire protection services are furnished by the City of Fort Smith.

6. Provide a statement of the proposed build-out density and maximum potential build-out density (units per acre) permitted by the proposed land use classification:

Proposed build-out of Commercial property is one principal structure on each lot. Maximum allowable lot density is 3 lots per acre.

7. Identify any known or anticipated environmental concerns:

An environmental survey has confirmed that the American Burying Beetle (endangered species) is not present on the site.

4F

For a Standard or Major Master Land Use Plan Amendment only, please attach the following additional information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

8. An analysis of the impact of the amendment on surrounding properties and plans in terms of:

a. Describe potential changes to development patterns in terms of local and regional impacts:

No change. The land use proposed follows existing development in the area.

b. Describe the consistency in zoning between existing and planned uses:

The proposed land use designation and zone fits well with existing uses along Zero Street. The property to the north is zoned C-5; the platted but not zoned property to the east is anticipated to be commercial. Although the property to the south is detached residential the proposed development only has access from the north at Zero Street; there will be no comingling of the uses.

c. Provide explanation of the need for and demand in the proposed uses:

The southeast area of Fort Smith, including the Chaffee Crossing area, is growing both residentially and business wise. These uses provide a demand for both commercial services and housing.

9. Provide an analysis of the long term development plan for the area (10-20 years) which incorporates a review of the land use, transportation, and infrastructure impact to both the City of Fort Smith and the property owner:

This southeastern area of Fort Smith will be the growth center of Fort Smith over the next 10-20 years. The arterial street network will handle the growth with the widening of Zero Street to five lanes into Barling & Hwy 22, the timing of which is dictated by the AHTD. Water and sewer, either in place or planned, will be adequate to serve this growth.

4G

For a Comprehensive Plan-Text Amendment only, please attach the following information. Provide answers on a separate sheet and attach it to this application:

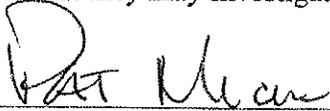
1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as “track changes”) format. N/A
2. A description of the reasons supporting the amendment and the special circumstances requiring the change: N/A

44

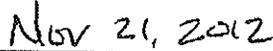
Certification

Once an application has been deemed complete, the applicant shall not modify it unless requested or agreed upon by the Planning Department. Should the applicant request a modification to the application after it has been advertised for public hearing, it shall be at the discretion of the Planning Commission to review or continue the application. A re-advertising fee may be required.

I, the undersigned applicant, hereby certify that the information contained in this application is true and correct to the best of my knowledge and belief. I grant the appropriate City personnel permission to enter the subject property during reasonable hours so that they may investigate and review this application.



Signature (Agent/Owner)



Date

The City of Fort Smith requires complete applications. If your application does not include all of the information required for submission, it will not be processed.



Memo

To: City Planning Commission

From: Planning Staff

Date: November 21, 2012

Subject: Rezoning #29-12-12; A request by Pat Mickle with Mickle-Wagner-Coleman, agent for ERC Land Development Group, LLC, for Planning Commission consideration of a zone change from Not Zoned to Commercial Moderate (C-3) by classification at 8000 Zero Street

LOT LOCATION AND SIZE

The subject property is located on the south side of Zero Street (AR Highway 255) and approximately 775 feet west of Massard Road. The tract contains an area of 6.76 acres with approximately 408 feet of road frontage on Zero Street.

EXISTING ZONING

The property is not zoned.

REQUESTED ZONING

The requested zoning on this tract is Commercial Moderate (C-3). Characteristics of this zone are as follows:

Purpose:

To provide for general commercial activities, offices, and services for the community. The C-3 zoning district promotes a broad range of commercial activities, operations, and services that are dispersed throughout the City and designed at a smaller scale than a regional center. The C-3 zoning district is appropriate in the General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

Examples of permitted uses include a wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-3 zones also allow professional offices, multi-family apartments, community residential facilities, and neighborhood group homes.

5A-1

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, parking garage, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

- Minimum Lot Size – 12,000 square feet
- Maximum Building Size – 60,000 square feet
- Minimum Parcel/Lot Size for Rezoning – 2 acres
- Minimum Lot Width – 75 feet
- Front Yard Setback - 25 feet
- Side Yard on Street Side of Corner Lot - 15 feet
- Side Yard Setback – 20 feet
- Rear Yard Setback - 20 feet
- Minimum building separation – to be determined by current City building and fire code.
- Required street access – Major Collector or higher
- Maximum Height - 35 feet (1+1)
- Maximum Lot Coverage - 60%

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Heavy (C-5) and is primarily undeveloped with the exception of an area located northeast of the subject site that is developed as a bank.

The area to the south is not zoned and is undeveloped.

The area to the east is zoned ETJ Open-1 and developed as a warehouse and distribution facility. Further east and adjacent to Massard Road, the property is not zoned and undeveloped.

The area to the west is zoned ETJ Open-1 and developed as Ben Geren Regional Park.

PROPOSED REZONING

The proposed zoning will facilitate future commercial development. The applicant does not have a proposed development at this time and has submitted a request for a deferral of a development plan.

LAND USE PLAN COMPLIANCE

The property is currently unclassified. A companion Master Land Use Plan Amendment application requests a classification of General Commercial.

MASTER STREET PLAN CLASSIFICATION

The Fort Smith Master Street Plan classifies Zero Street (U.S. Highway 255) as a Major Arterial Street.

5A-2

STAFF COMMENTS AND RECOMMENDATIONS

Staff finds that the C-3 zone is appropriate for this location and recommends approval of the zoning contingent on the approval of the master land use plan amendment and deferral of the development plan.

5A-3

R

PETITION FOR CHANGE IN ZONING MAP

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

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

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

See Attached

- 2. Address of property: 8000 Zero Street

- 3. The above described property is now zoned: Not Zoned

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

- 5. Why is the zoning change requested?

To allow development of the property for general commercial activities,
offices, and services for the community.

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

*THE APPLICANT HEREBY REQUESTS A DEFERRAL ON THE REQUIREMENT FOR A DEVELOPMENT PLAN UNTIL A SPECIFIC USE AND PLAN HAS BEEN IDENTIFIED.

Signed:

Mickle Wagner Coleman, Inc.
~~Owner~~ or Agent Name
 (please print)

Owner

3434 Country Club Ave. Fort Smith, AR 72903
~~Owner~~ or Agent Mailing Address

or
Pat Mean
 Agent

479-649-8484
~~Owner~~ or Agent Phone Number

5A-4

General Commercial & the C-3

Part of Government Lots 1 and 2 of the Northwest Quarter of Section 6, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Southeast Corner of said Government Lot 1, said point being marked by an existing 1-1/2" iron pipe; Thence along the South Line of said Government Lot 1, N87°24'09"W, 60.25 feet to the southeast corner of Lot 1, Huntington Chase, Lots 1 thru 117, Fort Smith, Sebastian County, Arkansas, being filed for record January 18, 2008 as plat 1790d; Thence along the south line of said Huntington Chase, N87°24'09"W, 2289.79 feet to an angle change in said south line; Thence continuing along said south line, N49°48'59"W, 232.77 feet to the southwest corner of said Huntington Chase; Thence along the westerly line of said Huntington Chase the following bearings and distances: N51°37'19"E, 400.02 feet; N51°11'53"E, 400.24 feet; N52°59'02"E, 400.00 feet; N02°41'58"E, 375.95 feet to an existing 1/2" iron pin; N05°12'47"E, 53.52 feet to the northwest corner of said Huntington Chase, said point being marked with an existing 1/2" iron pin with cap stamped PLS 1272; Thence along the eastern boundary of Ben Geren Park the following bearings and distances: N05°12'47"E, 370.52 feet to a existing 1/2" rebar with cap stamped MWC 1369; N24°38'39"E, 296.93 feet to the Point of Beginning and an existing 1/2" rebar with cap stamped MWC 1369; Thence continuing along said eastern boundary, N24°38'39"E, 100.00 feet to an existing 1/2" rebar with cap stamped MWC 1369; Thence continuing along said eastern boundary, N38°09'10"E, 438.25 feet to the southerly right-of-way line of Arkansas Highway 255 (Zero Street) and an existing 1/2" rebar with cap stamped MWC 1369; Thence along said right-of-way line, S77°43'20"E, 408.04 feet to the northwest corner of Lot 1, Massard Creek Addition, Sebastian County, Arkansas, being filed for record November 21, 1989 as plat 947 and an existing 1/2" rebar with cap stamped MWC 1369; Thence along the westerly line of said Lot 1 the following bearings and distances: S05°06'08"W, 487.60 feet to an existing 1/2" rebar with cap stamped MWC 1369; N87°24'09"W, 444.91 feet to an existing 1/2" rebar with cap stamped MWC 1369; Thence leaving said west line, N62°23'53"W, 252.00 feet to the Point of Beginning, containing 6.76 acres, more or less.

Memo

To: City Planning Commission
From: Planning Staff
Date: November 21, 2012
Subject: Request for Development Plan Deferral – 8000 Zero Street

The planning department has received a request from Pat Mickle with Mickle-Wagner-Coleman, agent for ERC Land Development Group, LLC, for Planning Commission consideration of a deferral of a development plan for 8000 Zero Street. A General Commercial master land use plan classification and Commercial Moderate (C-3) zoning district have been requested. At this time, the developer does not have a defined plan for this area. A list of the uses permitted by right and with an approved conditional use is attached.

The planning staff recommends approval of the request on the condition that a development plan is submitted for Planning Commission approval prior to the issuance of any building permits.

5B-1

Commercial-3 Land Uses

Permitted by Right:

- Accessory residential dwelling unit
- Multi-Family (apartments/condominiums)
- Community residential facility
- Group home, neighborhood
- Assisted living
- Retirement housing
- Bed and breakfast inn
- Auto detailing service
- Auto parts and accessories sales
- Auto quick lube
- Car wash self-service
- Appliance repair (small)
- Clothing and personal items (repair)
- Electronics and appliances (new)
- Floor, paint, wall coverings, window treatments
- Furniture or home furnishings (new)
- Hardware store
- Lawn and garden supplies
- Locksmith
- Swimming pool sales and supply store (w/o storage yard)
- Bait and tackle shop
- Bicycle sales and service
- Bookstore
- Bridal shop
- Cameras, photographic supplies and services
- Clothing, jewelry, luggage, shoes, accessories
- Computer and software shop
- Gift shop
- Sewing machine store (sales & service)
- Sporting goods, toys & musical instruments
- Thrift Store
- Antique Shop
- Art dealers, art studio, galleries, supplies
- Arts and craft shop
- Florist shop
- Hobby shop
- Office supply store
- Pawnshop (no outside storage)
- Tobacco shop
- Bakery or confectionery shop

5B-2

- Restaurant (with drive-through services)
- Barber shop/salon/spa/massage services
- Laundry and cleaning facilities (self-service)
- Laundry, cleaner
- Laundry, cleaner (drop-off station)
- Photocopy shop
- Photography studio
- Print shop
- Shoe repair shop
- Tailor shop
- Tanning salons
- Tattoo/body piercing parlor
- Weight loss centers
- Animal and pet services (indoor)
- Pet shop
- Pet supply store
- Veterinary clinic (no outdoor kennels)
- Parking lot (off-site)
- Courier and messenger services
- Commercial communication towers
- Data processing facility
- Motion pictures and sound recording studios
- Amateur radio transmitting towers
- Radio, television and microwave transmitting towers
- Carnival or circus (temporary with permit)
- Amusement center (indoor)
- Bowling alley
- Miniature golf course
- Sexually oriented business (see Ft. Smith Muni. Code Sec. 14-141)
- Government office
- Emergency response station
- Fire and rescue station
- Police substation (no incarceration)
- Doctor office and clinic
- Hospice residential care facility
- Hospital
- Child and youth services (office)
- Emergency and relief services
- Rectory, convent, monastery (Accessory Use)
- Wedding chapel
- Monument (sales)
- Contractor's office

5B-3

- Beer, wine and liquor store (with drive-through)
- Beer, wine and liquor store (without drive-through)
- Convenience store (with gasoline sales)
- Farmer's market
- Fruit and vegetable store
- Grocery store or supermarket
- Neighborhood store
- Cosmetics, beauty supplies and perfume stores
- Medical appliance services
- Optical shop
- Pharmacy or drug store
- Auto insurance claims office
- Automatic teller machine
- Bank, credit union or savings institution
- Credit and finance establishment
- Fund, trust or other financial establishment
- Insurance office
- Investment banking, securities and brokerages
- Consumer rental center
- Video, music, software
- Abstract services
- Accounting, tax, bookkeeping, payroll
- Advertising and media services
- Architectural, engineering
- Carpet and upholstery cleaning
- Consulting services
- Graphic, industrial, interior design
- Investigation and security services
- Janitorial services
- Legal services
- Offices, corporate
- Offices, general
- Property management services (office only)
- Real estate agency
- Travel arrangement and reservation services
- Business support services
- Collection agency
- Employment agency
- Facilities support services
- Office and administrative services
- Telemarketer/call center
- Catering service
- Restaurant
- Restaurant (with drive-in services)

5B-4

Permitted with Conditional Use Approval:

- Orphanage
- Dormitory, sorority, fraternity
- Auto glass, muffler and seatcover shop
- Medical laboratory (no animal research/testing)
- Bar or tavern
- Beer garden
- Pet cemetery
- Parking garage
- Recycling collection station
- Utility substation
- Museum
- Country club
- Community recreation center
- Golf course
- Health club
- Pool hall
- Swimming pool
- Park or playground (public and nonpublic)
- College, university or seminary
- Fine art and performance education
- Library or public arts complex
- Nursery school
- Preschool
- Primary and secondary school
- School, business professional
- Convention center
- Police station
- Community health and welfare clinic
- Diagnostic laboratory testing facility
- Mental health hospital
- Nursing home
- Substance abuse treatment facility
- Day care center
- Senior citizen center
- Church, synagogue, temple, mosque
- Cemetery, mausoleum, crematorium, funeral home & mortuary
- Lodge or fraternal organization

5B-5

**Planning Commission Meeting Minutes
December 11, 2012**

No one was present to speak in opposition to the plat.

Chairman Griffin then called for the vote on the preliminary plat. Motion was made by Commissioner Parks, seconded by Commissioner Lorenz and carried unanimously to amend this request to make approval subject to the developer agreeing to meet all franchise and City utility easement requirements and compliance with the City's Subdivision Design and Improvement Standards and the Standard Specifications for Public Works Construction. Chairman Griffin then called for the vote on the preliminary plat as amended. The vote was 9 in favor and 0 opposed.

- 3. Preliminary Plat – Huntington Chase Commercial – Mickle-Wagner-Coleman (companion item to items #4, #5A & #5B)**
- 4. Master Land Use Plan Amendment from Not Classified to General Commercial located at 8000 Zero Street. (companion item to items #3, #5A & #5B)**
- 5. A. Rezoning #29-12-12; A request by Pat Mickle, agent for ERC Land Development Group, LLC, for a zone change from Not Zoned to Commercial Moderate (C-3) by Classification located at 8000 Zero Street. (companion item to items #3, #4 & #5B)**
B. A request to defer the requirement for a development plan located at 8000 Zero Street. (companion item to items #3, #4 & #5A)

Ms. Brenda Andrews read the staff reports indicating that the purpose of these requests is to facilitate future commercial development. Ms. Andrews noted that the applicant does not have a proposed development at this time and because of this has submitted a request for a deferral of a development plan at this time. Ms. Andrews also noted that planning staff is recommending approval of the development plan deferral subject to approval prior to the issuance of any building permit or change in land use.

Commissioner Maurras expressed his concerns relative to approving the deferral of a development plan.

Mr. Pat Mickle was present to speak on behalf of these requests. Mr. Mickle stated they felt their requests were reasonable for this location and by asking for a C-3 zoning classification it will eliminate a great deal of undesirable land uses. Mr. Mickle also noted that this zoning change was needed in order to be able to market the property.

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

- 3. Preliminary Plat – Huntington Chase Commercial – Mickle-Wagner-Coleman**

Chairman Griffin called for the vote on the preliminary plat. Motion was made by Commissioner Parks, seconded by Commissioner Lorenz and carried unanimously to approve the preliminary plat subject to the developer agreeing to meet all franchise and City utility easement requirements and compliance with the City’s Subdivision Design and Improvement Standards and the Standard Specifications for Public Works Construction. Chairman Griffin then called for the vote on the preliminary plat as amended. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

4. Master Land Use Plan Amendment from Not Classified to General Commercial located at 8000 Zero Street. (companion item to items #3, #5A & #5B)

Chairman Griffin called for the vote on the Master Land Use Plan Amendment. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

5B. A request to defer the requirement for a development plan located at 8000 Zero Street. (companion item to items #3, #4 & #5A)

Chairman Griffin called for the vote on this request. Motion was made by Commissioner Howard, seconded by Commissioner Lorenz and carried unanimously to approve the development plan deferral request subject to approval of a development plan prior to the issuance of a building permit or change in land use.

Chairman Griffin then called for the vote on this request as amended. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

5A. Rezoning #29-12-12; A request by Pat Mickle, agent for ERC Land Development Group LLC, for a zone change from Not Zoned to Commercial Moderate (C-3) by Classification located at 8000 Zero Street. (companion item to items #3, #4 & #5B)

Chairman Griffin called for the vote on the rezoning request. The vote was 8 in favor, 0 opposed and 1 abstention (Griffin).

6. A request by Thomas McGuire for a conditional use time extension for a church located at 2201 Fianna Oaks Drive.

Ms. Maggie Rice read the staff report indicating that the purpose of this request is to allow a time extension for the previously approved conditional use permit for the construction of the Kingdom Hall of Jehovah’s Witnesses Church. Ms. Rice stated that the Planning Commission approved a conditional use request on December 13, 2011 and on November 9, 2012, Mr. McGuire received an administratively approved ninety (90) day time extension until March 13, 2013. Ms. Rice noted that in order to continue raising funds for the project, the church is requesting an additional time extension until March 13, 2015.

Mr. Thomas McGuire was present to speak on behalf of this request.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE 2009 UNIFIED DEVELOPMENT
ORDINANCE OF THE CITY OF FORT SMITH**

WHEREAS, the Board of Directors passed and approved Ordinance No. 36-09 which adopted the Unified Development Ordinance on May 19, 2009; and,

WHEREAS, it is necessary to amend certain sections of the Unified Development Ordinance to provide clarity and remove conflicts with other provisions of the municipal code; and,

WHEREAS, the Planning Commission held a public hearing regarding these amendments and recommended on December 11, 2012, that said changes be made; and,

WHEREAS, three (3) copies of January 2013 Amendments to the Unified Development Ordinance have been on file in the Office of the City Clerk of the City of Fort Smith for inspection and review by the public prior to the passage of this Ordinance; and,

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

SECTION 1: The January 2013 Amendments to the Unified Development Ordinance Appendix A is hereby adopted.

SECTION 2: The codifier shall codify the new sections and amend the existing sections of the Unified Development Ordinance.

SECTION 3: It is hereby found and determined that the adoption of these amendments to the Unified Development Ordinance is necessary to alleviate an emergency created by the lack

of regulation of uses of property within the City of Fort Smith so that the protection of the health, safety and welfare of the inhabitants of the City requires that the amendments be effective, and the amendment is hereby made effective, as of the date of approval of this Ordinance.

PASSED AND APPROVED THIS _____ DAY OF _____, 2013.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



Publish One Time

JANUARY 2013
AMENDMENTS TO THE UNIFIED
DEVELOPMENT ORDINANCE

Appendix A

Use	Districts																										
	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1.2	I-3	I-4		
P = Permitted Use, C = Conditional Use, A = Accessory Use																											
Museum																											
Zoos, botanical gardens, arboreta																											
Amusement, Sports, or Recreation Establishment																											
Amusement center (indoor)																											
Amusement center (outdoor)																											
Convention/Event center																											
Bingo parlor																											
Casino gaming business																											
Country club																											
Dance hall/night club																											
Private club																											
Race track																											
Fitness, Recreational Sports, Athletic Club																											
Bowling alley																											
Community recreation center																											
Driving range (outdoor)																											
Golf course																											
Pistol Range (indoor)																											
Health club																											
Fitness studio																											
Indoor Games Facility																											
Miniature golf course																											
Pool hall																											
Sexually oriented business (see Ft. Smith Muni. Code Sec. 14-141)																											
Skating rink																											
Sports complex/athletic field																											
Swimming pool																											
Water park																											
Camps, Camping, and Related Establishments																											
Camps, camping, and related establishments																											
Natural and Other Recreational Parks																											
Park or playground (public and nonpublic)																											
Education, Public Administration, Health Care and Other Institutions																											
Educational Services																											
College, university, or seminary																											
Fine art and performance education																											
Library or public arts complex																											
Nursery school																											
Preschool																											
Primary and secondary school																											
School, business professional																											
School, technical or trade																											
Public Administration - Government																											

Fort Smith

MEMORANDUM

To: Ray Gosack, City Administrator
From: Wally Bailey, Director of Development Services
Date: December 28, 2012
Subject: UDO Amendment - Sexually Oriented Businesses

The Board of Directors approved an amendment to the Sexually Oriented Business Ordinance on November 20, 2012. *(A copy of Ordinance No. 85-12 is enclosed).*

This amendment changed the zoning districts wherein a sexually oriented business can be located. The buffers from other land uses as described in section 14-155 of the Fort Smith Municipal Code remained in effect.

Appendix A (land use matrix) of the Unified Development Ordinance (UDO) requires an amendment so that it is correlated with the sexually oriented business ordinance. We presented the amendment to the Planning Commission at the December 11, 2012 meeting. No one has indicated any opposition to the amendment.

The Planning Commission voted 9 in favor and 0 opposed to recommend the amendment to the Board of Directors which would allow for the proper correlation of the two ordinances.

The attached land use matrix shows a strikethrough ~~P~~ to indicate the removal of the permitted uses in the C-2, C-3, C-4 and C-6 zoning districts. The underlined P in the I-2 and I-3 reflect the land uses are now permitted in those respective zoning districts.

An ordinance is being presented to the Board to accept the Planning Commissions recommendation.

Please contact me if you have any questions.

Memo

To: City Planning Commission
From: Planning Staff
Date: December 6, 2012
Subject: Zoning Ordinance Amendments – Unified Development Ordinance –
Appendix A

On November 20, 2012, the Fort Smith Board of Directors passed an ordinance amending the allowed zoning classifications for sexually oriented businesses. The ordinance removed sexually oriented businesses from the Commercial Light (C-2), Commercial Moderate (C-3), Commercial Regional (C-4), and Commercial Downtown (C-6) zoning districts and added them to the Industrial Moderate (I-2) and Industrial Heavy (I-3) zoning districts. The proposed amendment will amend the UDO Appendix “A” to correspond with the Board’s recently approved ordinance.

All changes are highlighted on the attached page.

Staff recommends approval of the request.

IA

3.

Ordinance No. 85-12

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 20th DAY OF NOVEMBER 2012.

APPROVED:

MAYOR

ATTEST:


City Clerk

*Approved as to form
W. J. [unclear]
Publish 1 Time*

[REDACTED]

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
DECEMBER 11, 2012**

On roll call, the following Commissioners were present: Vicki Newton, Rett Howard, Marshall Sharpe, Jennifer Parks, Brandon Cox, Steve Griffin, Walton Maurras, Richard Spearman and Mike Lorenz.

Chairman Griffin and Wally Bailey both stated that this would be Commissioner Lorenz's last meeting and thanked him for his years of service on the Planning Commission.

Chairman Griffin called for the vote on the minutes from the November 13, 2012, Planning Commission meeting. Motion was made by Commissioner Sharpe, seconded by Commissioner Howard and carried unanimously to approve the minutes as written.

1. Unified Development Ordinance Amendments

Mr. Wally Bailey read the staff report indicating that the purpose of this request is to amend the UDO Appendix "A" relative to sexually oriented businesses. Mr. Bailey stated that on November 20, 2012, the Fort Smith Board of Directors passed an ordinance amending the allowed zoning classifications for sexually oriented businesses. He noted that the ordinance removed sexually oriented businesses from the Commercial Light (C-2), Commercial Moderate (C-3), Commercial Regional (C-4) and Commercial Downtown (C-6) zoning districts and added them to the Industrial Moderate (I-2) and Industrial Heavy (I-3) zoning districts. Mr. Bailey indicated that approval of this proposed amendment would amend the UDO Appendix "A" to correspond with the Board's recently approved ordinance.

No one was present to speak either in favor or in opposition to this amendment.

Following a discussion by the Commission, Chairman Griffin called for the vote on the UDO Amendment. The vote was 9 in favor and 0 opposed.

2. Preliminary Plat – Middleton Farms Phase I – Mickle-Wagner-Coleman

Ms. Brenda Andrews read the staff report indicating that this plat is for a single family residential development. Ms. Andrews stated that a development plan for the entire Middleton Farms subdivision was approved by the Planning Commission at their January 11, 2011, meeting.

Mr. Pat Mickle was present to speak on behalf of this plat.

ORDINANCE NO. _____

AN ORDINANCE
AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT
WITH THE U. S. MARSHALS MUSEUM, INC. FOR
CERTAIN SERVICES FOR INHABITANTS OF THE CITY OF FORT SMITH

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

SECTION 1: The Mayor is hereby authorized to execute, his signature being attested by the City Clerk, that certain agreement with the U. S. Marshals Museum, Inc. providing for the payment by the City to the U. S. Marshals Museum, Inc. up to a maximum of **\$50,000** during calendar year 2013 for services provided to the City that shall consist of maintaining the national fundraising campaign which facilitates the continued planning, design, and construction of the U. S. Marshals Museum on the Arkansas riverfront in downtown Fort Smith.

SECTION 2: It is hereby declared and determined by the Board of Directors that the agreement authorized by Section 1 above deals with providing services in an exceptional situation where competitive bidding procedures are not feasible so that such competitive bidding procedures are hereby waived with reference to such agreement.

Passed and approved this _____ day of January, 2013.

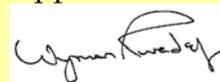
APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to form:



NPR



MEMORANDUM

December 28, 2012

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: U.S. Marshals Museum - Services Agreement

The 2013 budget includes funding of \$50,000 for a services agreement with the U.S. Marshals Museum, Inc. The agreement is attached for the board's consideration. It requires the museum to maintain its national fundraising campaign for planning, design and construction of the museum on the riverfront in downtown Fort Smith. Payments will be made quarterly in equal amounts of \$12,500 each.

Attached is an ordinance which approves the agreement with the U.S. Marshals Museum, Inc. The museum will support one of the board's strategic priorities and a priority of the city's comprehensive plan: riverfront development. The staff recommends approval.

A handwritten signature in black ink that reads "Ray".

Attachment

cc: Jim Dunn, U.S. Marshals Museum, Inc.

AGREEMENT

THIS AGREEMENT made and entered into this _____ day of January, 2013, by and between the City of Fort Smith, Arkansas (“City”), and the U. S. Marshals Museum, Inc. a national, non-sectarian, incorporated, organization with the local social, cultural, and economic development benefits to the city, state, region, and nation.

WITNESSETH:

WHEREAS, the U.S. Marshals Museum, Inc. has possession and control of physical facilities suitable for providing to the City’s residents certain services, as enumerated in paragraph one (1) below, which services fulfill a governmental function to provide for the health, safety, and welfare of the City’s inhabitants; and

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

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

1. The U. S. Marshals Museum, Inc. will provide to the City and its inhabitants, for the year 2013, services which will enhance the health and welfare of the City and its inhabitants. The service shall consist of maintaining the national fundraising campaign which facilitates the continued planning, design, and construction of the United States Marshals Museum on the Arkansas riverfront in downtown Fort Smith.

2. In consideration for the providing of the services described in the preceding paragraph, the City agrees to pay the U.S. Marshals Museum, Inc. the total sum of \$50,000 in equal quarterly installments of \$12,500 each on or before February 15, May 15, August 15 and November 15, 2013.

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

4. Furthermore, the City shall have the right to cancel this Agreement and not make any further payment upon the happening of any of the following:

- a. Any substantial damage to or destruction of the U.S. Marshals Museum, Inc. facilities within the City by fire, wind, or other casualty; or
- b. A determination by the Board of Directors that the services provided hereunder are no longer needed as a governmental function, or, otherwise, a

determination by the Board of Directors that the City, for whatever reason, no longer desires to have such services provided by the U.S. Marshals Museum, Inc.; or

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

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

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

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

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

8. Because the U.S. Marshals Museum, Inc. will be receiving monies from the City under this Agreement, the U.S. Marshals Museum, Inc. understands that its records and meetings may become subject to the provisions of the Arkansas Freedom of Information Act.

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

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

11. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement

shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.

12. This Agreement is executed on the City's behalf by its officials as set forth below pursuant to Ordinance No. _____ adopted on January 3, 2013.

13. This Agreement is executed on behalf of the U.S. Marshals Museum, Inc. by its authorized representative set forth below who represents that he has full legal authority to bind the U.S. Marshals Museum, Inc.

IN WITNESS WHEREOF, the parties have set their hands and seals this ____ day of January, 2013.

City of Fort Smith

By: _____
Mayor

Attest:

City Clerk

U. S. Marshals Museum, Inc.

By: _____
President and CEO

Attest: _____
Secretary

RESOLUTION _____

**A RESOLUTION TO ACCEPT BID AND AUTHORIZE
CONTRACT FOR THE CONSTRUCTION OF FLAGSTONE ROAD EXTENSION,
PHASE II, PROJECT NO. 12-00-C UPON CONCURRENCE OF THE
FORT CHAFFEE REDEVELOPMENT AUTHORITY AND RECEIPT FROM
OLD DOMINION FREIGHT LINE, INC. OF AGREEMENT TO REIMBURSE PORTION
OF PROJECT COST**

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

SECTION 1: Subject to concurrence of the Fort Chaffee Redevelopment Authority (“FCRA”) and receipt from Old Dominion Freight Line, Inc. (“Old Dominion”) of agreement to reimburse the City for \$10,100 of project cost, the bid of Goodwin & Goodwin, Inc. (“Contractor”) received December 18, 2012, for the construction of Flagstone Road Extension, Phase II, Project No. 12-00-C, in the amount of \$633,501.00 is hereby accepted.

SECTION 2: The Mayor is authorized to execute a contract with Goodwin & Goodwin, Inc. subject to the terms set forth in Section 1 above. Following execution by the Mayor, the City Clerk and City Administrator are authorized to deliver the executed contract documents to the Contractor upon receipt of written verification that the governing body of the FCRA also approves the Contract and receipt of agreement to reimburse from Old Dominion.

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

This resolution adopted this _____ day of January, 2013.

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: December 27, 2012

SUBJECT: Flagstone Road Extension, Phase II
Project No. 12-00-C

This project will extend Flagstone Road approximately 600 feet to the south to serve the new Old Dominion freight line terminal. The project also includes the extension of a water line parallel to the road. The extension of Flagstone Road is being cost shared equally between the Fort Chaffee Redevelopment Authority and the City. An exhibit is attached which shows the location of the proposed improvements.

Construction plans and specifications were prepared by Mickle, Wagner, Coleman Inc. of Fort Smith. An advertisement was published and bids were received on December 18, 2012. Ten contractors requested plans and specifications and four bids were received which are summarized as follows:

Contractor	Base Bid Amount	Base Bid Amount Minus Deductive Alt. No. 1	Base Bid Amount Minus Deductive Alt. No. 1 & 2
1. Goodwin & Goodwin, Inc. Fort Smith, AR	\$633,501.00	\$623,501.00	\$623,401.00
2. Forsgren, Inc. Fort Smith, AR	\$679,320.20	\$674,320.00	\$664,320.20
3. TNT, Inc. Van Buren, AR	\$718,570.00	\$713,570.00	\$703,570.00
4. Steve Beam Construction Fort Smith, AR	\$853,802.00	\$823,802.00	\$793,802.00
Engineer's Estimate \$675,000			

The base bid amount includes an accelerated construction schedule as requested by Old Dominion. This request is due to an earlier than expected completion date for the truck terminal potentially allowing for an earlier opening of the truck terminal. The deductive alternates do not have an accelerated construction schedule. Old Dominion has verbally agreed to reimburse the City for the additional cost for the accelerated work. A copy of the letter agreement sent to them is attached.

Ray Gosack
December 27, 2012
Page 2

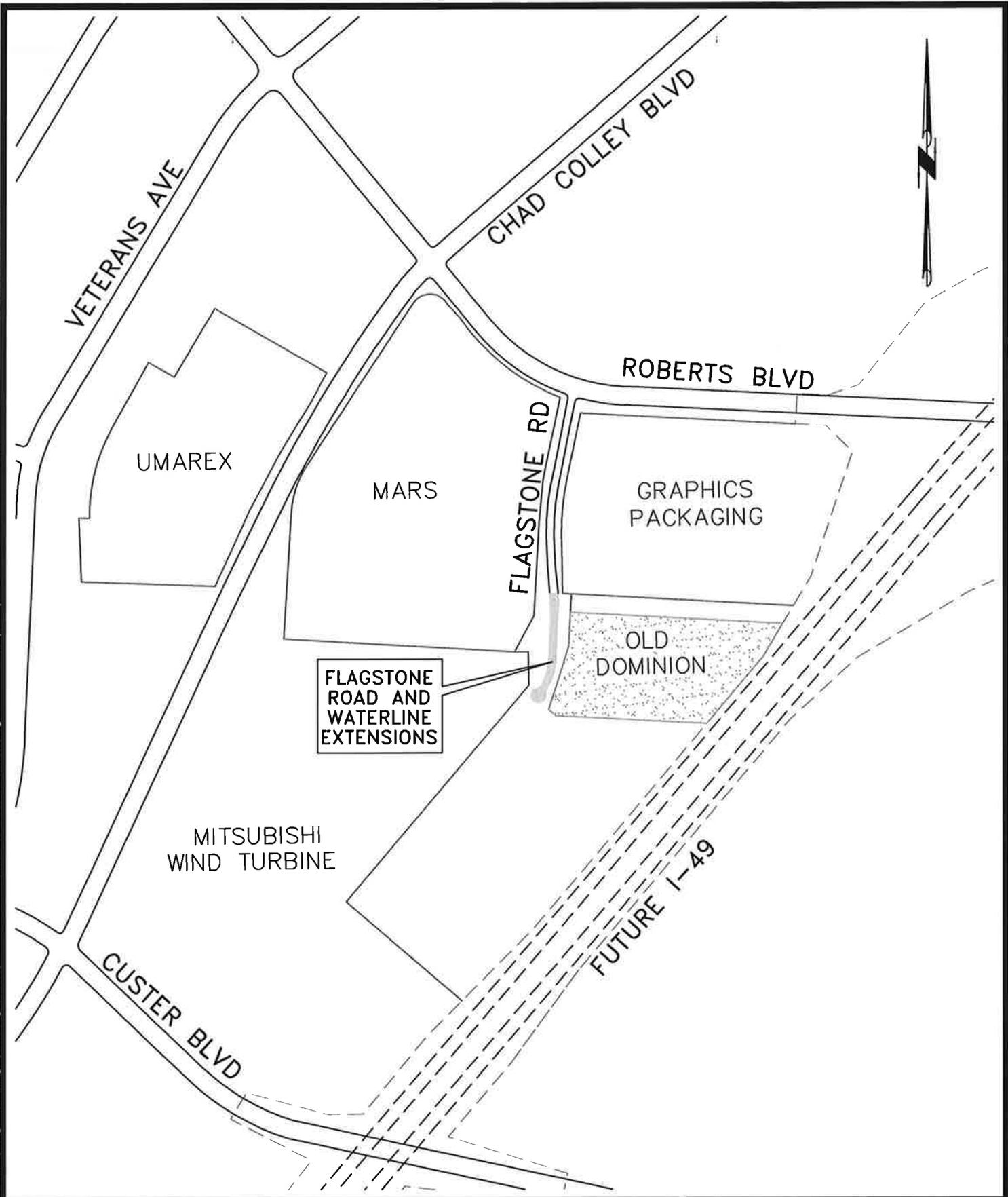
To date the signed agreement letter has not been returned from Old Dominion but we expect to receive their written concurrence after the New Year's holiday. The resolution awarding the contract is conditioned upon their written concurrence to pay the additional \$10,100.00 for the accelerated work schedule which they requested.

The estimated notice to proceed date for this contract is January 28, 2013. Based on the contract duration of 120 days, the estimated completion date would be May 27, 2013.

I recommend that the lowest bid be accepted and that the construction contract be awarded to Goodwin & Goodwin, Inc. Attached is a Resolution to accomplish this recommendation. Funds are available in the Sales Tax Program (1105) for the construction.

Enclosures

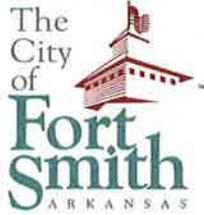
C:\City of Ft. Smith\Engineering\Incd\Snodgrass\ OLD DOMINION1.dwg 12/20/12-10:00 RBR OLD DOMINION



**FLAGSTONE ROAD EXTENSION
PHASE II
FORT SMITH, ARKANSAS**



Project:	12-00-C
Date:	DEC. 2012
Scale:	NONE
Drawn By:	RBR



December 20, 2012

Mr. Terry Hutchins
Vice President
Old Dominion Freight Line, Inc.
500 Old Dominion Way
Thomasville, NC 27360

RE: Flagstone Road Extension, Phase II

Dear Mr. Hutchins:

On July 19, 2012, a Memorandum of Understanding (MOU) was entered into between Old Dominion Freight Line (OD), the Fort Chaffee Redevelopment Authority (FCRA) and the City. The MOU was associated with the new OD truck terminal to be constructed at Chaffee Crossing just south of the current end of Flagstone Road. The location is shown on Exhibit A.

One of the City's obligations of the MOU (Section V.B.2) is the design and construction of an extension of Flagstone Road to serve the terminal by July 1, 2013. The Flagstone Road Extension construction contract was advertised for bids beginning December 2 with the bid opening scheduled on December 18. The original plans/specifications had a contract time of 120 days with an anticipated start of construction the first week of February.

On December 4, City staff met with representatives of OD and their contractor D.F. Chase. They requested alternative bids to accelerate some of the Flagstone Road work which was currently advertised for bids. The acceleration of some of the work being requested by OD was due to an earlier than expected completion of the truck terminal potentially allowing for an earlier opening. OD agreed to review the additional cost to accelerate the work and if that alternate was chosen, OD would pay the extra cost.

Addendum #1 to the bid documents for alternate bids was then prepared and issued on December 7. This alternate bid required construction of the finished concrete street to the northern driveway of the truck terminal to allow truck traffic to serve the facility no later than April 5, 2013. This bid alternate also required extension and full operation of the entire water line extension along Flagstone Road. Addendum #2 was also issued which required removal of the excess fill material from the east side of the work site by the contractor.

Bids were opened December 18 and the low bid was Goodwin and Goodwin, Inc. of Fort Smith. The bid amount to construct the project within 120 days is \$623,401.00. The alternate bid to complete the street work and water line as previously discussed is \$633,501.00 which is an increase of \$10,100.00.

In order to proceed with the accelerated alternate bid, we are requesting your concurrence that OD

Engineering Department
623 Garrison Avenue, P.O. Box 1908
Fort Smith, AR 72902
(479) 784-2225 • FAX (479) 784-2245

Mr. Terry Hutchins
December 20, 2012
Page 2

will reimburse the City the additional \$10,100.00 for this work. The reimbursement for this work is to occur once this work is completed. OD is to pay the City within thirty (30) days of receiving an invoice from the City. Please sign the approval blank below and return this letter to Stan Snodgrass, Director of Engineering for the City by December 27 via email at snodgrass@fortsmithar.gov. The construction contract for this work is scheduled for approval by the City Board of Directors at the January 3, 2013 meeting.

Should you have further questions feel free to contact me.

Sincerely,



Ray Gosack
City Administrator

Approved by
Terry Hutchins
Vice President
Old Dominion Freight Line

Enclosure

cc: Ivy Owen, FCRA
Stan Snodgrass

Exhibit "B"^A

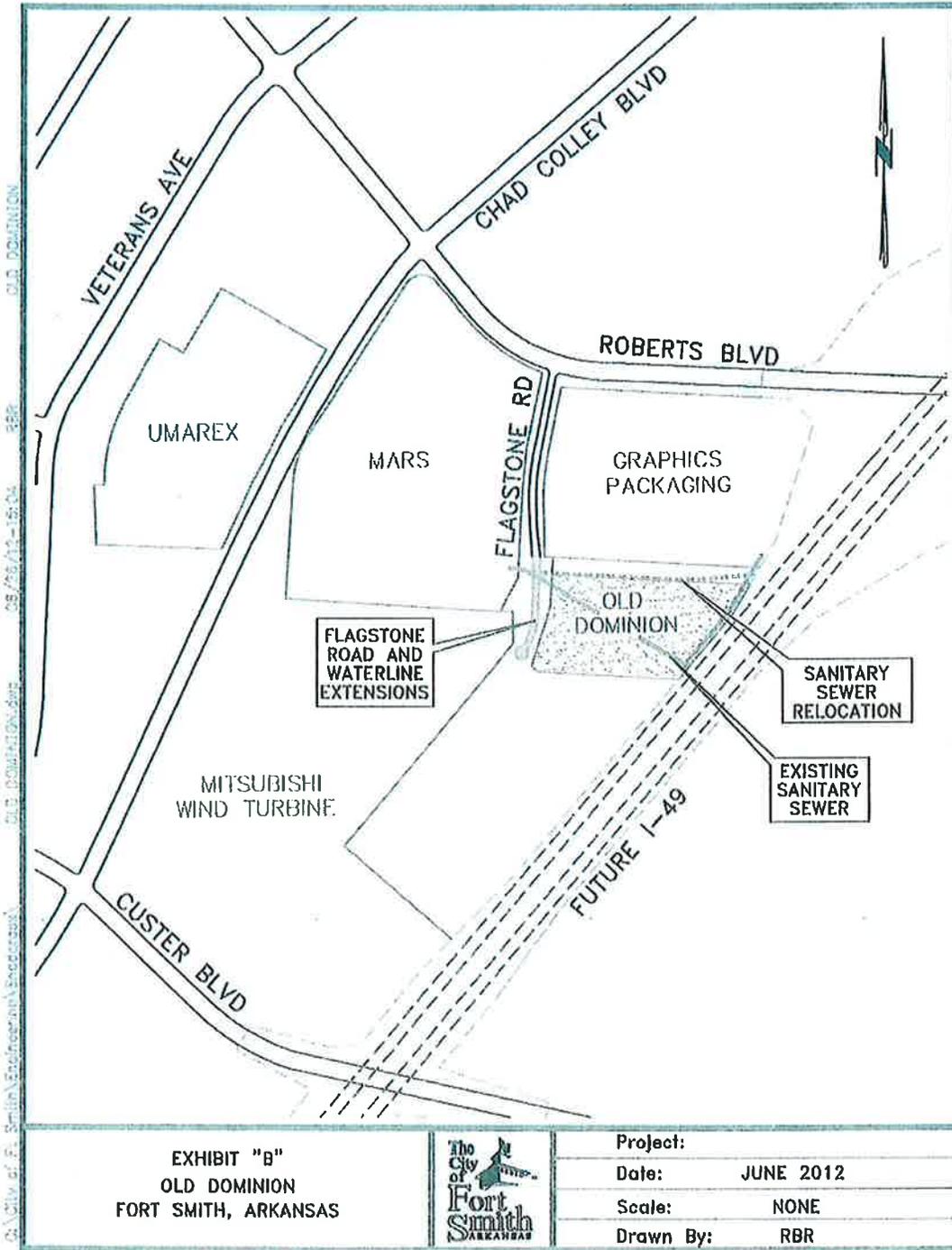


EXHIBIT "B"
 OLD DOMINION
 FORT SMITH, ARKANSAS



RESOLUTION NO. _____

RESOLUTION OF APPROVAL FOR THE GENERAL WILLIAM O. DARBY
MONUMENT TO BE LOCATED AT CISTERNA PARK

WHEREAS, citizens are pursuing the casting and erection of a 1-1/4 life size monument of General William O. Darby at Cisterna Park in Fort Smith; and the Parks and Recreation Commission recommends approval of the casting and erection of said monument at Cisterna Park and will approve final design; and

WHEREAS, the erection of a monument to General William O. Darby is a fitting tribute to the extraordinary story of this hometown hero. He is best known for his organization of the First Ranger Battalion during World War II. He was an exemplary leader in combat, and always led his men into battle including the battle in Cisterna, Italy. He attended Bell Grove School through the sixth grade and then went to Fort Smith Senior High School, which is now named for him as Darby Junior High. He received many awards, including two Distinguished Service Crosses, a Silver Star for "Gallantry in Action," a Purple Heart, and a Combat Infantry Badge, as well as the British Distinguished Service Order.

WHEREAS, the citizens are in the midst of forming a committee and a funding raising campaign to provide resources for the design, casting and erection of the General William O. Darby monument at Cisterna Park;

NOW, THEREFORE, BE IT RESOLVED by the board of directors of the City of Fort Smith, Arkansas that:

The City of Fort Smith hereby approves the erection of a monument for General William O. Darby at Cisterna Park, funded with private donations, and with approval of the final design by the Parks Commission.

The Resolution passed this _____ day of January, 2013.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM



npr



Memo:

December 21, 2012

To: Ray Gosack, City Administrator
From: Mike Alsup, Director of Parks and Recreation
Re: Proposal to place a monument in honor of William O. Darby at Cisterna Park

The Parks and Recreation Commission recommends to the Board of Directors that a resolution be approved in support of placing a monument in Cisterna Park in honor of William O. Darby. Liz Armstrong presented a plan at the December Commission meeting for a citizens lead group to raise funds and hire an artist to design and cast a bronze statue of Darby. At this time the proposal is that a monument of Darby on a motorcycle as seen in a photo of him in Italy during World War II would be cast and placed at the southeast corner of the park.

Cisterna Park is named for our sister city Cisterna, Italy. The City of Fort Smith, Arkansas and Cisterna, Italy formed a bond as sister cities. It was said that the importance of the union between our cities was "...an affirmation of real peace for all mankind...." Cisterna was the site of a battle in World War II between German forces and the United States Army. "Cisterna selected Fort Smith for a "sister city" because it was the birthplace of General William O. Darby, leader of the Rangers who fought so valiantly to free their city." In 1984 a delegation from Cisterna visited Fort Smith to formalize the plan. In 1985 the Fort Smith Board of Directors approved a resolution declaring Fort Smith sister city to Cisterna. In 1987 a delegation of about twenty-five from Fort Smith visited Cisterna to seal the bond with a personal visit. Cisterna is located thirty-two miles southeast of Rome with a population of about 20,000.

The citizens lead group is pursuing tax exempt status and plans to begin fund raising for the project soon. An artist will be chosen and rendering of the statue presented to the Parks Commission prior to casting for approval. The statue would have more prominence in the southeast corner of the park at the downtown corridor at the corner of Garrison Avenue and Towson Avenue.

Easy Rider, 1942!



Easy Rider, 1942! Shown is Lieutenant Colonel William Darby, Commander, 1st Ranger Infantry Battalion, and former member of the 34th Infantry Division. He often used a motorcycle as a mode of transportation.

"We must never forget the incredibly high price of freedom. We will never forget our fallen comrades. They will never be considered dead. They will always live with us in spirit."

~Colonel William O. Darby

RESOLUTION NO. _____

**RESOLUTION ACCEPTING BIDS FOR THE PURCHASE OF
AGGREGATES, SAND, CONCRETE, AND ASPHALT CONCRETE
PRODUCTS FOR 2013**

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

The Bids, as indicated by enclosure on the attached Bid Tabulation
12-21-12BA for the purchase of concrete, asphalt, and other materials for 2013, are
accepted.

This Resolution adopted this _____ day of January, 2013.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



No Publication Required

3D

Interoffice Memorandum

TO: Ray Gosack, City Administrator

FROM: Alie Bahsoon, Purchasing Manager 

SUBJECT: 2013 Sand, Concrete & Asphalt Bid Tabulation

DATE: December 27, 2012

BID TAB: 12-21-12BA



Attached you will find the 2013 bid tabulations for Aggregates, Sand, Concrete, and Asphalt Concrete Materials. These items will be used by various City departments and will remain in effect for all of 2013.

Please note that there was an average of 6.5% increase in the price of concrete from last year. This was anticipated and budgeted for accordingly in the 2013 budget. For your convenience, I have attached a copy of the 2012 bid tabulation for comparison purposes.

I recommend that the bids noted by enclosure on the attached tabulation be accepted. Please let me know if you should have any questions.

Tabulation of Bids for Concrete and Sand for **2013**

Bid Tab: 12-21-12BA

Description	APAC-Central, Inc. (Arkholia)			
	Ft. Smith, AR			
	At Plant *	At Plant **	At Plant	Delivered
Crushed Stone (Aggregate Base)	✓ \$9.55	✓	N/A	N/A
3/4" to 1 1/2" Concrete Rock	✓ \$13.50	✓	N/A	N/A
Rip Rap	✓ \$15.00	✓	N/A	N/A
Gabion Stone	✓ \$15.00	✓	N/A	N/A
Concrete Class AAA/4000 PSI	N/A	N/A	\$77.00	✓ \$88.50
Concrete Class AAA (AE)/4000 PSI	N/A	N/A	\$77.00	✓ \$88.50
Concrete Class AAA (AE)(HES)/4000 PSI	N/A	N/A	\$90.00	✓ \$104.00
Concrete Class AA/3500 PSI	N/A	N/A	\$72.50	✓ \$86.00
Concrete Class AA AE/3500 PSI	N/A	N/A	\$72.50	✓ \$86.00
Concrete Class AA AE HES/3500 PSI	N/A	N/A	\$88.00	✓ \$102.00
Concrete Class A/3000 PSI	N/A	N/A	\$70.50	✓ \$84.00
Concrete Class A (AE)/3000 PSI	N/A	N/A	\$70.50	✓ \$84.00
Concrete Class A (AE)(HES)/3000 PSI	N/A	N/A	\$86.50	✓ \$102.00
Concrete Class B/2500 PSI	N/A	N/A	\$69.00	✓ \$82.00
Concrete Class B (HES)/2500 PSI	N/A	N/A	\$85.00	✓ \$100.00
Utility Backfill (Slurry)	N/A	N/A	\$52.00	✓ \$62.00
Sand	N/A	N/A	\$7.25	✓ N/A
Stone Chips	N/A	N/A	\$16.00	✓ N/A

All Prices Firm for 2013

- ✓ Awarded Bid
- * Preston Plant
- ** Jenny Lind Plant

APAC Requirements

1. All concrete except HES will be Class "C" Fly Ash mixes
2. Add \$3.00 per cyd. For all cement mixes
3. Fiber Reinforcement (P4200) add \$6.00 per cyd
4. Delivered concrete will have a 4 yd. minimum
5. Picked up concrete will have a 1 yd. minimum
6. Other concrete mixes and admixtures quoted on request
7. Washout area must be provided for delivered concrete

Tabulation of Bids for Concrete and Sand for **2013**

Bid Tab: 12-21-12BA

<u>Description</u>	Arkholo Sand & Gravel Ft. Smith, AR		JOB Construction Poteau, OK	
	At Plant	✓	At Plant	Bid Item #
Asphalt Concrete Hot Mix Surface Course (II)	\$69.00	✓	N/A	9
Asphalt Concrete Cold Plant Mix	\$95.00	✓	N/A	10
Asphalt Concrete High Performance Cold Mix	N/A		\$105.00	11
Asphaltic Concrete Hot Mix Binder Course	\$65.00	✓	N/A	13
Asphaltic Concrete Hot Mix Surface Course	\$69.00	✓	N/A	14
Asphaltic Concrete Hot Mix Surface Course-AHTD 12.5 mm	\$75.00	✓	N/A	15
Asphaltic Concrete Hot Mix Surface Course-AHTD 9.5 mm	\$77.00	✓	N/A	16

All Prices Firm for 2013

✓ Awarded Bid

* F.O.B. Poteau Yard-subject to escalation/de-escalation prices

Tabulation of Bids for Concrete and Sand for **2012**

Bid Tab: 01-06-12BA

Description	APAC-Central, Inc. (Arkholia)				Mid-Continent		Bid Item #
	Ft. Smith, AR				Ft. Smith, AR		
	At Plant *	At Plant **	At Plant	Delivered	At Plant	Delivered	
Crushed Stone (Aggregate Base)	\$9.55	✓ \$9.55	N/A	N/A	N/A	N/A	2
3/4" to 1 1/2" Concrete Rock	\$13.50	✓ \$13.50	N/A	N/A	N/A	N/A	3
Rip Rap	\$12.50	✓ \$12.50	N/A	N/A	N/A	N/A	4
Gabion Stone	\$12.50	✓ \$12.50	N/A	N/A	N/A	N/A	5
Concrete Class AAA/4000 PSI	N/A	N/A	\$70.00	✓ \$86.00	\$77.00	\$85.00	6a
Concrete Class AAA (AE)/4000 PSI	N/A	N/A	\$70.00	✓ \$86.00	\$77.00	\$85.00	6b
Concrete Class AAA (AE)(HES)/4000 PSI	N/A	N/A	\$86.00	✓ \$101.00	\$89.00	\$101.00	6c
Concrete Class A/3000 PSI	N/A	N/A	\$67.50	✓ \$82.50	\$69.00	\$80.00	6d
Concrete Class A (AE)/3000 PSI	N/A	N/A	\$67.50	✓ \$82.50	\$69.00	\$80.00	6e
Concrete Class A (AE)(HES)/3000 PSI	N/A	N/A	\$84.00	✓ \$99.00	\$85.00	\$97.00	6f
Concrete Class B/2500 PSI	N/A	N/A	\$67.00	✓ \$82.00	\$67.00	\$75.00	6g
Concrete Class B (HES)/2500 PSI	N/A	N/A	\$83.00	✓ \$98.00	\$85.00	\$97.00	6h
Utility Backfill (Slurry)	N/A	N/A	\$50.00	✓ \$60.00	\$51.00	\$59.00	7
Sand	N/A	N/A	\$7.25	✓ N/A	N/A	N/A	8
Stone Chips	N/A	N/A	\$16.00	✓ N/A	N/A	N/A	12

All Prices Firm for 2012

✓ Awarded Bid

* Preston Plant

** Jenny Lind Plant

APAC Requirements

1. All concrete except HES will be Class "C" Fly Ash mixes
2. Add \$3.00 per cyd. For all cement mixes
3. Fiber Reinforcement (P4200) add \$6.00 per cyd
4. Delivered concrete will have a 4 yd. minimum
5. Picked up concrete will have a 1 yd. minimum
6. Other concrete mixes and admixtures quoted on request
7. Washout area must be provided for delivered concrete

2012 Bid Tabulation

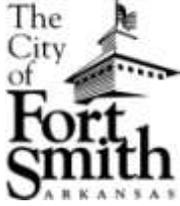
Tabulation of Bids for Concrete and Sand for 2012

Bid Tab: 01-06-12BA

<u>Description</u>	Arkhola Sand & Gravel Ft. Smith, AR	JOB Construction Poteau, OK	Bid Item #
Asphalt Concrete Hot Mix Surface Course (II)	At Plant ✓ \$69.00	N/A	9
Asphalt Concrete Cold Plant Mix	✓ \$90.00	N/A	10
Asphalt Concrete High Performance Cold Mix	N/A	\$105.00 ✓	11
Asphaltic Concrete Hot Mix Binder Course	✓ \$65.00	N/A	13
Asphaltic Concrete Hot Mix Surface Course	✓ \$69.00	N/A	14
Asphaltic Concrete Hot Mix Surface Course-AHTD 12.5 mm	✓ \$75.00	N/A	15
Asphaltic Concrete Hot Mix Surface Course-AHTD 9.5 mm	✓ \$77.00	N/A	16

✓ Awarded Bid

* F.O.B. Poteau Yard-subject to escalation/de-escalation prices



CITY OF FORT SMITH
 Invitation For Bid
 Purchasing Department
 623 Garrison Avenue #522
 P.O. Box 1908
 Fort Smith, AR 72902-1908

<u>BID NO:</u> BA 12-21-12	<u>BIDS FOR:</u> AGGREGATES, SAND, CONCRETE, AND ASPHALT CONCRETE PRODUCTS	<u>Closing Date:</u> FRIDAY, DECEMBER 21, 2012 @ 11:00 AM
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**ALL BIDS SUBMITTED SHALL HAVE AN ORIGINAL SIGNATURE. SEALED BIDS
 MAY BE RETURNED TO THE ABOVE ADDRESS**

<i>Company</i>	Name: (Print or Type)
<i>Federal Tax I.D. No.</i>	Signature* a
<i>Mailing Address</i>	Title
<i>City</i>	Date
<i>State</i> <i>Zip Code</i>	* <i>Authorized Signature:</i> The signer declares under penalty of perjury that she/he is authorized to sign this document and bind the company or organization to the terms of this agreement.
<i>Tel. No.</i> <i>Fax No.</i>	
<i>E-Mail</i>	

Aggregates, Sand, Concrete, and Asphalt Concrete Products

- 1) Reference to standards and specifications shall refer to the following:
 “Standard Specifications” shall mean the City of Fort Smith Standard Specifications for Public Works Construction, Latest Edition, and all Supplemental Specifications through the date of advertisement.

“AHTD Specification” shall mean the Arkansas State Highway and Transportation Department Standard Specifications for Highway Construction, Latest Edition.

“ASTM Specification” shall mean the American Society for Testing and Materials, Latest Edition.

2) Aggregate Base Course Material

Shall conform to Standard Specifications, Section 305.

At plant \$ _____ TON

3) Concrete Rock

Shall be coarse aggregate conforming to Standard Specifications, Section 401.02(c) 3/4" to 1 1/2" Nominal Size

At plant \$ _____ TON

4) Riprap

Shall be quarry sandstone conforming to Standard Specifications, Section 904.02(A) for Type II.

At plant \$ _____ TON

5) Gabion Stone

Shall conform to AHTD Specification Section 629.02.

At plant \$ _____ TON

6) Concrete

Shall conform to Section 401 of the Standard Specifications, except as otherwise specified herein.

<u>Concrete Class</u>	<u>Minimum Compressive Strength, PSI</u>	<u>At Plant</u>	<u>Delivered</u>
AAA	4000	\$ _____ YD.	\$ _____ YD.
AAA AE	4000	\$ _____ YD.	\$ _____ YD.
AAA AE HES	4000	\$ _____ YD.	\$ _____ YD.
AA	3500	\$ _____ YD.	\$ _____ YD.
AA AE	3500	\$ _____ YD.	\$ _____ YD.
AA AE HES	3500	\$ _____ YD.	\$ _____ YD.
A	3000	\$ _____ YD.	\$ _____ YD.
A AE	3000	\$ _____ YD.	\$ _____ YD.
A AE HES	3000	\$ _____ YD.	\$ _____ YD.
B	2500	\$ _____ YD.	\$ _____ YD.
B HES	2500	\$ _____ YD.	\$ _____ YD.

NOTES:

- A) AE Air Entrained
- HES High Early Strength

Minimum 70 percent of compressive strength (28 Day) at 24 hours.

High early strength shall be obtained by increased cement content and/or the addition of accelerating admixtures.

Accelerating admixtures shall conform to AASHTO M 194 (ASTM C 494) Type C or Type E.

Flyash shall be omitted from high early strength mixtures.

- B) Slump Range 1" to 4"
- C) Concrete mixtures utilizing flyash shall conform to Standard Specifications, Sections 401.02(F) and 401.06, and shall be approved by the City's representative.

- 7) Utility (Slurry) Backfill
Shall conform to Standard Specifications, Section 206.

At plant \$ _____ YARD

Delivered \$ _____ YARD

- 8) Sand
Shall conform to Standard Specification Section 401.02(B).

At plant \$ _____ TON

- 9) Asphalt Concrete Hot Mix Surface Course (Type 2)
Shall conform to Standard Specifications, Section 330, Type 2.

At plant \$ _____ TON

- 10) Asphalt Concrete Cold Plant Mix
Shall conform to Standard Specifications, Section 335.

At plant \$ _____ TON

- 11) Asphalt Concrete Cold Plant Mix (High Performance)
Shall conform to AHTD Special Provision "Type HT Cold Mix", or shall be a high performance patching mix, UPM, or equal.

At plant \$ _____ TON

- 12) Stone Chips
Shall conform to current AHTD Specifications Section 403 for Class I Mineral aggregate.

At plant ½" \$ _____ TON

- 13) Asphaltic Concrete Hot Mix Binder Course
Shall conform to Standard Specifications, Section 330.

At plant \$ _____ TON

- 14) Asphaltic Concrete Hot Mix Surface Course (Type 3)
Shall conform to Standard Specifications, Section 330, Type 3.

At plant \$ _____ TON

- 15) Asphaltic Concrete Hot Mix Surface Course (AHTD 12.5 mm Surface Course)
Shall conform to AHTD Specifications Section 407 with a nominal mixture size of 12.5 mm (1/2").

At plant \$ _____ TON

- 16) Asphaltic Concrete Hot Mix Surface Course (AHTD 9.5 mm Surface Course)
Shall conform to AHTD Specifications Section 407 with a nominal mixture size of 9.5 mm (3/8").

At plant \$ _____ TON

SPECIAL CONDITIONS

- 1) Any materials furnished under this bid not conforming to the specifications of the City of Fort Smith shall be rejected and shall be replaced at the vendor's expense.
- 2) Reasonable stock must be maintained on all items awarded to successful bidder.
- 3) When requested by the City of Fort Smith, vendor shall provide certifications of compliance with referenced specifications for all materials.
- 4) **All prices quoted to be effective January through December of 2013.** If price is subject to escalation or de-escalation it shall be stated on bid.
- 5) Do not include Arkansas sales tax in bid price. Sales tax should be shown as a separate item on each invoice.

Conditions for Bidding

1. Submit bid on this bid form in compliance with all conditions listed.
2. Address bids to: City of Ft. Smith Purchasing, PO Box 1908, 623 Garrison Ave # 522, Ft. Smith, AR 72902.
3. Do not include Federal Excise Tax in bid.
4. State Manufacturer, Brand Name, Model, etc. for each item where applicable.
5. Guarantees and warranties should be attached as a part of the bid as they may be a consideration in awarding a contract.
6. Delivery and contract completion dates are to be shown as these dates may, where time is of the essence, determine the contract award. The City may nullify a contract award for non-compliance.
7. ORIGINAL SIGNATURE REQUIRED. This bid MUST be signed with the firm name and by an authorized officer, employee, or agent.
8. Deviations from specifications and alternate bids must be clearly shown with complete information. They may or may not be considered.
9. Freight and other delivery charges to destination at designated City facility must be included in bid. Charges may not be added after the bid is opened.
10. DISCOUNTS. Show rate, total amount, and latest day any discount will be allowed after receipt of article and invoice; otherwise City will deduct allowed discount when payment is made.
11. If unit prices and extensions thereof do not coincide, the City will accept the unit price.
12. All prices quoted will remain firm for at least 90 days after date of the bid opening, unless otherwise specified by the City or bidder.
13. In the event of two or more identical low bids, the contract may be awarded arbitrarily or for any reason to any of such bidders or split in any proportion between said two or more bidders at discretion of City.
14. Any ambiguity in any bid as the result of omission, error, lack of clarity or non-compliance by the bidder with specifications, instructions, and all conditions of bidding shall be construed in the light most favorable to the City.
15. **“All or None”** bid must be considered only when bidder states on bid form. **“All or None”** bidding is considered an **“alternate”**.
16. All contracts shall produce NEW commodities, fresh stock, latest model and design. Re-conditioned or re-manufactured items will not be accepted.
17. Latest specifications, drawings, sketches or other descriptive literature containing detailed information as to design, construction and operation shall be included.
18. All necessary parts, accessories and tools for satisfactory operations of the units shall be furnished whether or not they specifically mentioned in these specifications. Bidder shall submit a list of tools and equipment they propose to furnish.
19. Any protest of specifications or bidding process must be received in writing by the Purchasing Department at least five (5) days prior to the specified bid opening date.
20. Any protest of bid award must be in writing and received by the Purchasing Department no later than three (3) days after notice of intent to award has been made. If said item requires Board of Directors approval, written protest must be received by the Purchasing Department no later than five (5) days prior to the next Board of Directors meeting at which the recommended bid award will be considered.

THE CITY RESERVES THE RIGHT TO ACCEPT PART OR ALL OF ANY SPECIFIC BID OR BIDS AND TO ACCEPT ANY BID OR BIDS WITH OR WITHOUT TRADE-IN. THE CITY FURTHER RESERVES THE RIGHT TO REJECT ALL BIDS, OR PART OR ALL OF ANY SPECIFIC BID OR BIDS.

RESOLUTION NO. _____

**RESOLUTION ACCEPTING BID FOR THE PURCHASE OF
POLICE PACKAGE UTILITY VEHICLES**

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

The Bid, as indicated by enclosure for the purchase of 10 (ten) police
package utility vehicles for \$295,655.60 from Bales Chevrolet, is accepted.

This Resolution adopted this _____ day of January, 2013.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to form:



No Publication Required

3E

Interoffice Memorandum

TO: Ray Gosack, City Administrator
FROM: Alie Bahsoon, Purchasing Manager 
SUBJECT: Police Package Sport Utility Vehicles
DATE: December 28, 2012



In December of 2005, the Board of Directors approved Ordinance 93-05, thereby authorizing the city to participate in the State Cooperative Purchasing Program. This process has enabled us to take advantage of many negotiated contracts that the State of Arkansas currently participates in. One of these contracts is the 2013 State Vehicle Contract (No. 4600022797).

The Police Department is in need of replacing 10 of its patrol vehicles and have therefore budgeted \$258,490 in their capital outlay program 4704-301 for the purchase of 10 Tahoes. Additionally, over \$50,000 has been budgeted for out of the Radio Communications program 4705-202 (small equipment) for the optional items needed to outfit the vehicles.

Funding for this purchase has been appropriated for accordingly in the 2013 City Budget. Because of the cooperative purchasing program, bids were not solicited and we are therefore acquiring these vehicles from Bale Chevrolet of Little Rock in the amount of \$295,655.60. You will find attached a memorandum from the Police Department with additional information.

Please be advised that this purchase fulfils all of the purchasing obligations as mandated by both state and local purchasing requirements; I am therefore recommending that the enclosed resolution is approved.

Please let me know if should require any additional information.



Fort Smith Police Department

Kevin Lindsey, Chief of Police

INTERDEPARTMENTAL MEMORANDUM

To: Ray Gosack, City Administrator

From: Kevin Lindsey, Chief of Police

Subject: Replacement Patrol Vehicle Purchase

Date: December 28, 2012

At the December 3, 2012 regular meeting, the Board of Directors adopted the 2013 city budget. Included in the budget was capital outlay funds in the amount of \$258,490 for purchase of ten (10) Chevrolet Tahoes for use in the patrol division. The ten new vehicles will replace ten 2005 – 2008 model Chevrolet Impalas, which will be placed in the next city auction.

The City's Purchasing Manager, Alie Bahsoon, is coordinating this purchase and will be placing the order for the replacement vehicles following approval by the Board of Directors.

City of Fort Smith
2013 Sport Utility Vehicle-2WD (CC10706)
Patrol Division

ALL VEHICLES MUST MEET OR EXCEED THESE SPECIFICATIONS

STANDARD EQUIPMENT FEATURES

Police Package Option PPV (Includes all Standard Options)

GM AVAILABLE OPTIONS:

6J7 Flasher System Headlamp and Tail Lamp
PPV Police Package
G80 Locking Differential-Heavy Duty
6N6 Locks-Rear Door Inoperative
6B2 Rear Door Handles Inoperative
6N5 Rear Window Switches Inoperative
7X6 Spotlamp-Left Hand (with Whelen LED Lamp)
6J3 Wiring-Grille Lamps and Speaker
41U Exterior Color-**BLACK**

Kerr Industries Options

KPDIST Power Distribution Centers-Front and Rear
KSPEAK Siren Speaker
KTLGHT Inner Tailgate Dome Lights (LED)
KNVL55 Nitevision Dome Lamp(LED_Red & White)
KPHEX Prisoner Partition_Pro-Gard P/N P5702T10
Lower Extension Panel_Pro-Gard P/N SP57FWT07
KPRIS Plastic Rear Prisoner Seat_Pro-Gard P/N S5705T07*
* Includes Pro-Gard Rear Cargo Barrier

Chevy Tahoe (Police Package)

Base Price \$ 25,093.00

Item #

6J7	\$ 480.00
PPV-Standard in base price	\$ -
G80-Inc in base price	\$ -
6N6	\$ 66.00
6B2	\$ 66.00
6N5	\$ 56.00
7X6	\$ 213.80
6J3	\$ 102.00
41U-Black Std Color No Charge	\$ -

Kerr Options:

KPDIST	\$ 432.00
KSPEAK	\$ 239.40
KTLGHT	\$ 239.96
KNVL55	\$ 119.40
KPHEX	\$ 889.20
KPRIS	\$ 1,348.80

Delivery Charge per unit to FS \$ 220.00

Total cost per unit \$ 29,565.56



RESOLUTION NO. _____

3 F

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND AUTHORIZATION NUMBER ONE WITH HAWKINS-WEIR ENGINEERING, INC., FOR THE DESIGN OF THE MILL CREEK INTERCEPTOR IMPROVEMENTS - PHASE II

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

SECTION 1: An Agreement with Hawkins-Weir Engineering, Inc., for engineering services associated with Mill Creek Interceptor Improvements - Phase II, is hereby approved.

SECTION 2: Authorization Number One, Project Number 12-12-ED1, providing design services, is hereby approved.

SECTION 3: The Mayor is hereby authorized to execute an Agreement, and Authorization Number One, in the amount of \$178,000.00, for performing said services.

This Resolution adopted this _____ day of January 2013.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



-----npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: December 28, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: Mill Creek Interceptor Improvements - Phase II
Project Number 12-12-ED1

The Mill Creek Interceptor Improvements - Phase II is to provide increased wet weather flow capacity by replacing and up-sizing approximately 67,400 feet of sewer. This portion of sewer main has recurring problems with lack of capacity which causes sewer overflows. An exhibit showing the location of this new interceptor line is attached.

The attached Resolution authorizes the Mayor to sign an Agreement for engineering services with Hawkins-Weir Engineers, Inc., and to execute Authorization Number One for design phase services in the amount of \$178,000.00. The funds are available from the 2012 sales and use tax bonds issued for continuation of wet weather sewer improvements.

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

attachment

pc: Jeff Dingman

RESOLUTION NO. _____

3 G

RESOLUTION AUTHORIZING ACQUISITION OF EASEMENTS IN CONNECTION WITH
THE PUMP STATION NUMBER 19 FORCE MAIN REPLACEMENT PROJECT

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

SECTION 1: The following values for the acquisition of sewer line and access easements for the Pump Station Number 19 Force Main Replacement, Project Number 11-07-P, are approved, and acquisition of the easements for the amounts listed are hereby authorized:

<u>Tract Number</u>	<u>Owner</u>	<u>Appraised Value</u>
E10	Bobby Van Goodwin and Shelva J. Goodwin	\$ 6,509.00
E17	Hildred Duane Mendenhall	\$ 371.24
E20	David L. Hanson and Lula J. Hanson	\$ 9,753.00
E21	Whirlpool Corporation	\$ 14,173.00

SECTION 2: The City Administrator, or his designated agent, and the City Attorney are hereby authorized to acquire the easements for the above listed appraisal amounts.

SECTION 3: In the event the easements described herein cannot be acquired by negotiation, the City Administrator and the City Attorney are hereby authorized to commence eminent domain proceedings to obtain the necessary easements herein described and make deposits of just compensation of the values of the easements listed herein. All such actions previously taken for this project are hereby confirmed.

This Resolution adopted this _____ day of January 2013.

Approved:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: December 28, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: Pump Station Number 19 Force Main Replacement
Project Number 11-07-P

The City of Fort Smith is planning to replace the existing sanitary sewer force main beginning at sewer Pump Station Number 19 on Candlestick Lane to a point on Jenny Lind Road. The force main replacement is necessary to provide increased pumping capacity of wet weather flows within this portion of the collection system. An exhibit showing the location of the sewer force main replacement is attached.

The project requires the acquisition of sewer line and/or access easements from 22 landowners. To date, 18 of the needed easements have been acquired for the appraised value as authorized by the city's property acquisition policy. Staff has presented the appraised value of the easements to the four owners shown on the attached Resolution but to date they have been nonresponsive. Exhibits showing the 4 easement areas are attached.

Because of the project's scheduling, staff recommends that this Resolution, which includes authorizing the city administrator and city attorney to proceed with eminent domain actions to acquire the needed easements if the land owner declines to accept the city's offer, be submitted to the Board of Directors for their approval at its next scheduled meeting. As always, representatives of the city will continue to negotiate with the property owners in an effort to reach a mutually agreeable settlement. Funding for this project is established as part of the 2012 Sales Tax Bonds issued for the continuation of wet weather sewer improvements.

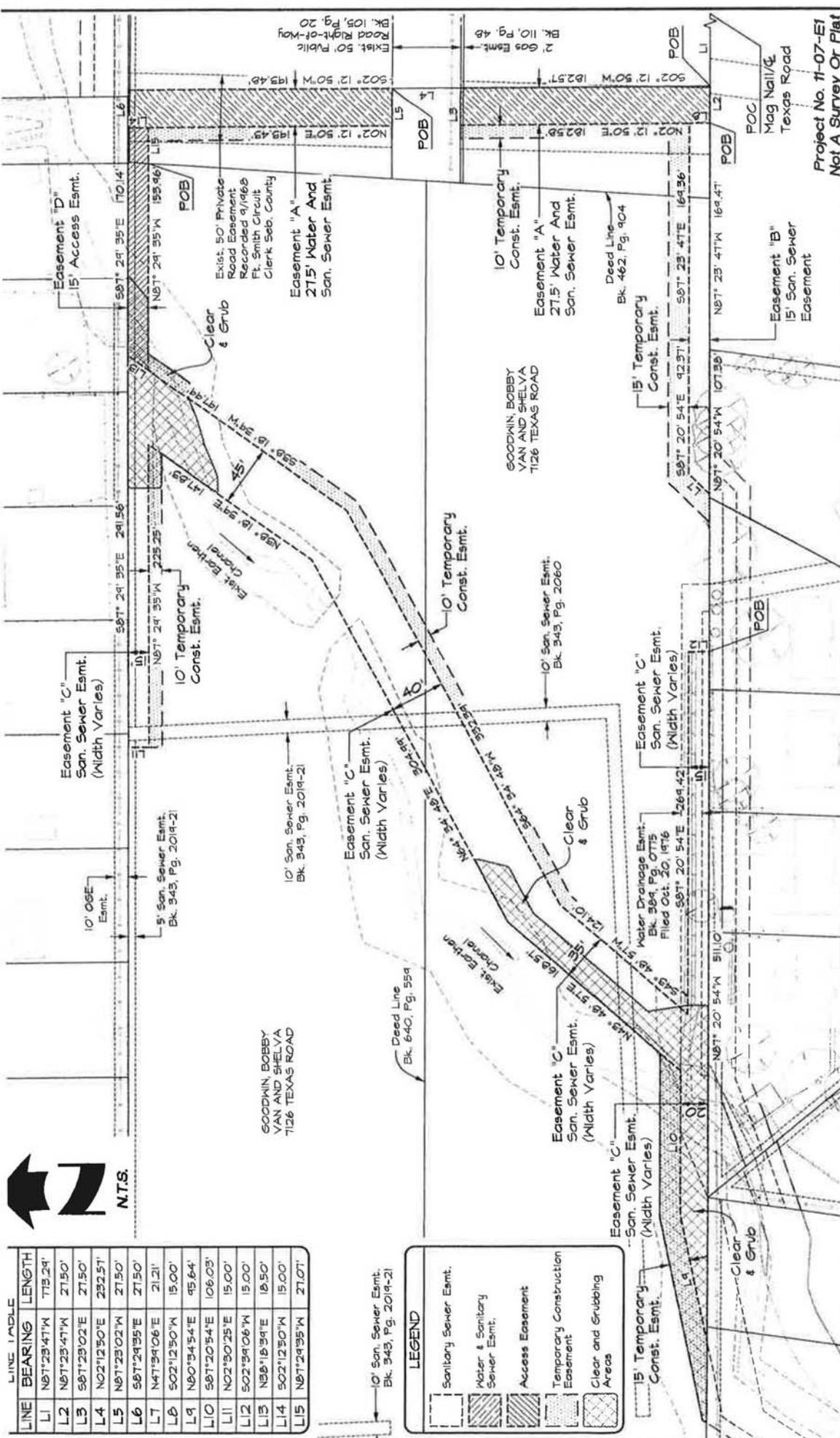
If you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Jeff Dingman

LINE	BEARING	LENGTH
L1	N87°29'47"W	719.29'
L2	N87°29'47"W	27.50'
L3	S87°29'02"E	27.50'
L4	N02°12'50"E	232.57'
L5	N87°29'35"E	27.50'
L6	S87°29'35"E	27.50'
L7	N47°39'06"E	21.21'
L8	S02°12'50"W	15.00'
L9	N80°34'54"E	45.64'
L10	S87°20'54"E	106.03'
L11	N02°30'25"E	15.00'
L12	S02°39'06"W	15.00'
L13	N88°18'39"E	18.50'
L14	S02°12'50"W	15.00'
L15	N87°29'35"W	27.07'

N.T.S.



LEGEND

[Symbol]	Sanitary Sewer Esmt.
[Symbol]	Water & Sanitary Sewer Esmt.
[Symbol]	Access Easement
[Symbol]	Temporary Construction Easement
[Symbol]	Clear and Grubbing Areas

MORRISON SHIPLEY
ENGINEERS & SURVEYORS

8704 Baker Lane, Suite 200 • Fort Smith, AR 72203 • 479-682-1033 • morrisonshipley.com

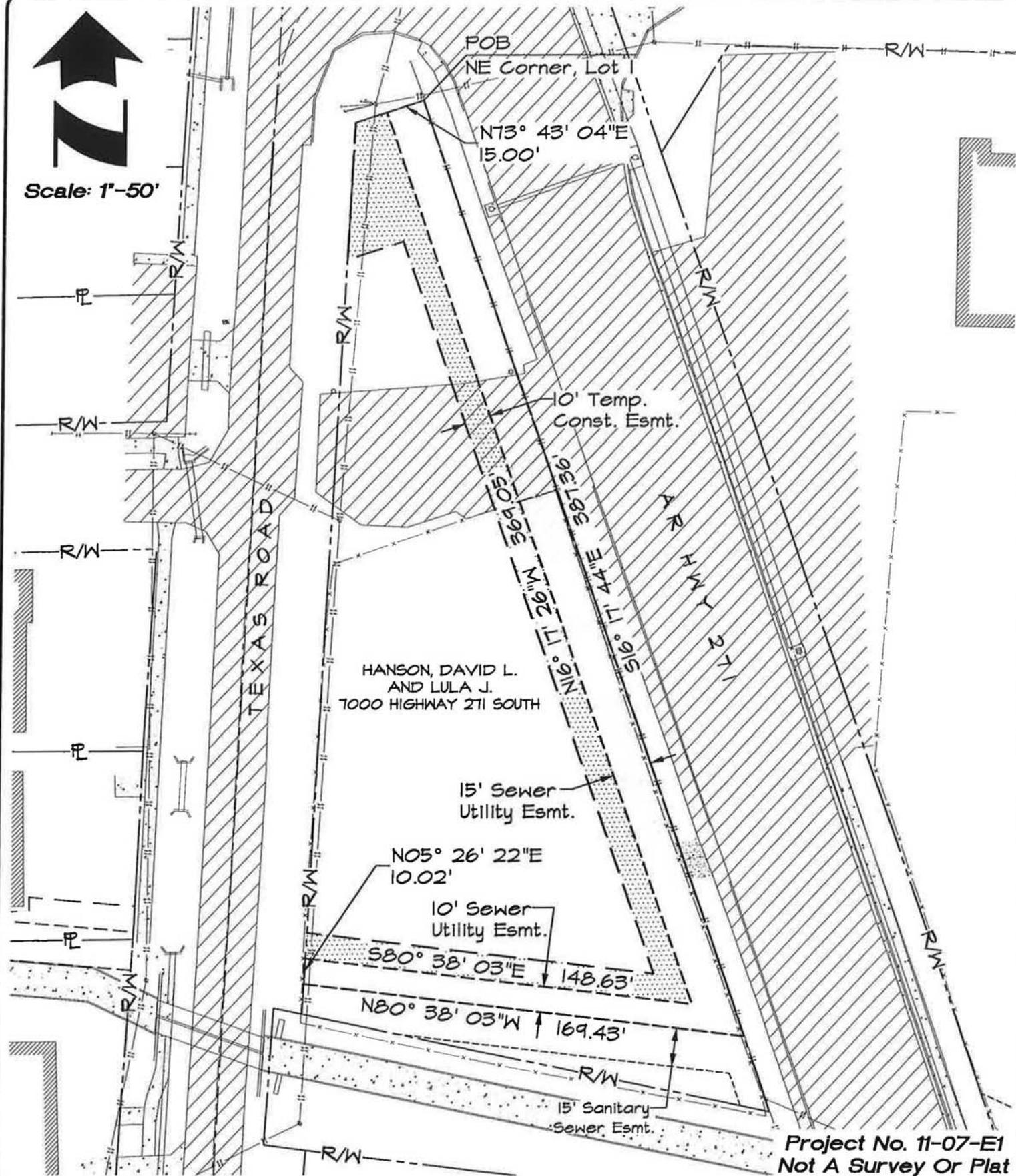
PUMP STATION No. 19
FORCE MAIN REPLACEMENT
(Project No. 11-07-C1)
City of Fort Smith, Arkansas

EXHIBIT 'A'
(TRACT NO. E10)
ACCESS, WATER and/or SEWER UTILITY EASEMENT
N/2 OF SE/4 OF SEC. 5, T-5-N, R-32-W
Fort Smith, Arkansas

Project No. 11-07-E1
Not A Survey Or Plat



Scale: 1"=50'



Project No. 11-07-E1
Not A Survey Or Plat

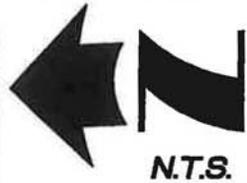
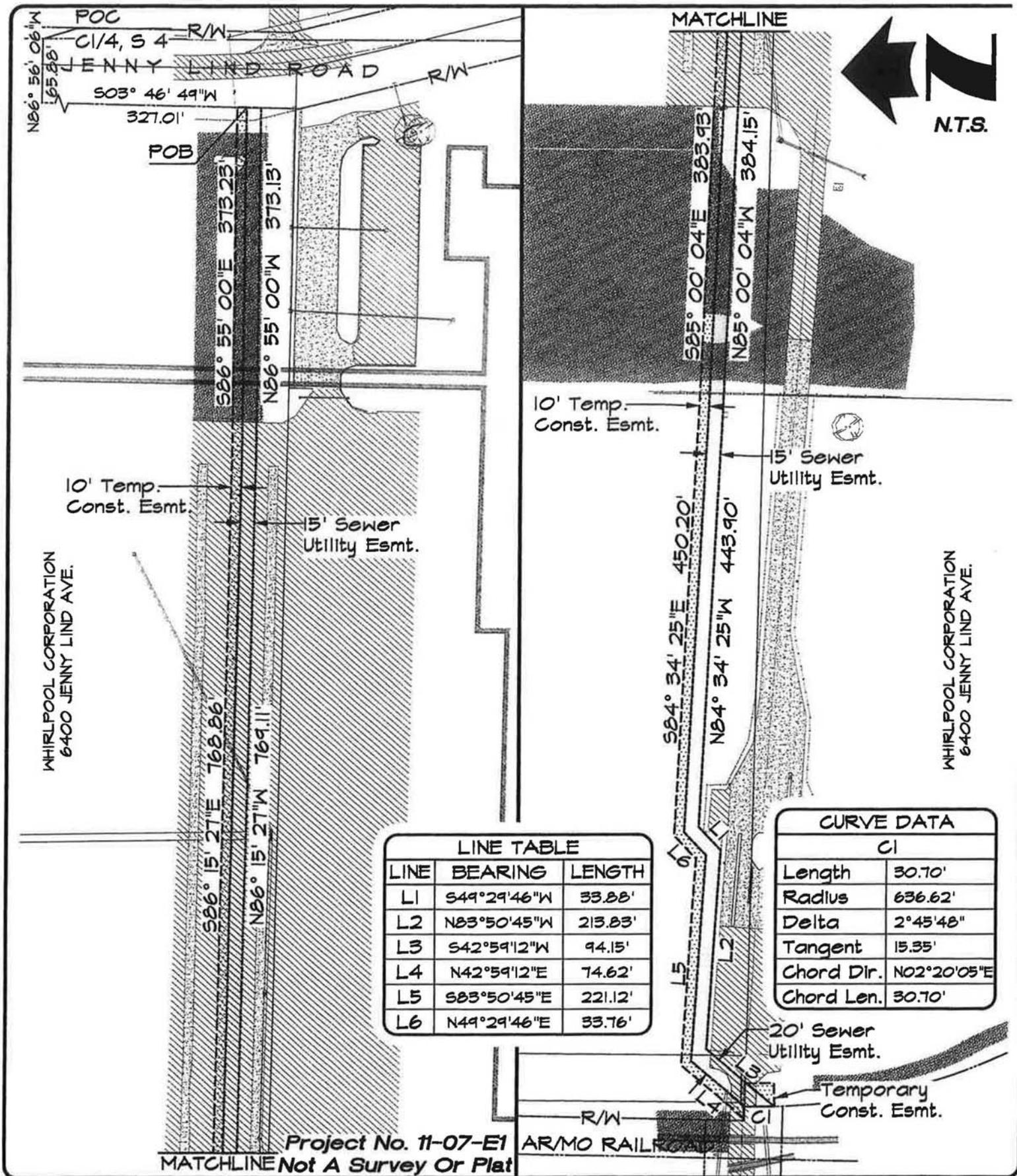
MORRISON SHIPLEY

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5704 Euper Lane, Suite 200 • Fort Smith, AR 72903 • 479.452.1933 • morrisonshipley.com

EXHIBIT "A"
(TRACT NO. E20)
SEWER UTILITY EASEMENT
LOT 1, HANSON ADDITION II
Fort Smith, Arkansas

Drawn By	DRC
Date	7.2.12
Project No.	FSU-13
Drawing Name	ESMT EX1



LINE TABLE		
LINE	BEARING	LENGTH
L1	S49°29'46"W	33.88'
L2	N83°50'45"W	213.83'
L3	S42°59'12"W	94.15'
L4	N42°59'12"E	74.62'
L5	S83°50'45"E	221.12'
L6	N49°29'46"E	33.76'

CURVE DATA	
C1	
Length	30.70'
Radius	636.62'
Delta	2°45'48"
Tangent	15.35'
Chord Dir.	N02°20'05"E
Chord Len.	30.70'

MORRISON SHIPLEY
ENGINEERS ■ SURVEYORS
5704 Euper Lane, Suite 200 ■ Fort Smith, AR 72903 ■ 479.452.1933 ■ morrisonshingley.com

EXHIBIT "A"
(TRACT NO. E21)
SEWER UTILITY EASEMENT
W/2 OF SEC. 4, T-7-N, R-32-W
Fort Smith, Arkansas

Drawn By	DRC
Date	7.20.12
Project No.	FSU-13
Drawing Name	ESMT EXH



Scale: 1"-20'

RANDOM ACRES

MENDENHALL, HILDRED DUANE
1008 HILLSIDE DRIVE

10' Temporary
Const. Esmt.

LOT 16

S87° 19' 27"E
3.59'

24.35'

S01° 43' 47"W

POB

LOT 19

PL

N02° 00' 53"E
28.04'

N47° 30' 25"E 113.18'

S47° 30' 25"W 118.39'

10' OGE
ESMT.

LOT 1

LOT 18

20' Sewer Utility Esmt.

N01° 43' 47"E 109.01'

GOODWIN
PLACE

10' Utility
Esmt.

5' Sanitary
Sewer Esmt.



5' Sanitary
Sewer Esmt.

POC

Project No. 11-07-E1
Not A Survey Or Plat

MORRISON SHIPLEY

ENGINEERS ■ SURVEYORS

6704 Euper Lane, Suite 200 ■ Fort Smith, AR 72903 ■ 479.452.1933 ■ morrisonshiple.com

EXHIBIT "A"
(TRACT NO. E17)
20' SEWER UTILITY EASEMENT
LOT 18, RANDOM ACRES
Fort Smith, Arkansas

Drawn By	DRC
Date	6.01.12
Project No.	FSU-13
Drawing Name	ESMT EXH

RESOLUTION NO. _____

3 H

RESOLUTION ACCEPTING THE PROJECT AS COMPLETE AND AUTHORIZING
FINAL PAYMENT TO DIAMOND CONSTRUCTION COMPANY FOR THE
24-INCH WATER TRANSMISSION LINE - EDWARDS STREET

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

SECTION 1: The construction of 24-Inch Water Transmission Line - Edwards Street,
Project Number 12-03-C1, is accepted as complete.

SECTION 2: Final payment to Diamond Construction Company in the amount of
\$45,857.11, is hereby approved.

This Resolution adopted this _____ day of January 2013.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

DATE: December 28, 2012

FROM: Steve Parke, Director of Utilities

SUBJECT: 24-Inch Water Transmission Line - Edwards Street
Project Number 12-03-C1

This project provided 5,680 feet of new 24-inch water line from the intersection of Midland Boulevard and Kelley Highway, then following along Edwards Street to North "L" Street. It strengthens the water delivery to the Haven Hill reservoir and service to the downtown area. An exhibit showing the service area locations for these improvements and a project summary sheet for your review is attached.

Diamond Construction Company has completed the project, and attached is a Resolution accepting the project as complete and authorizing final payment in the amount of \$45,857.11. It is my recommendation that the project be accepted as complete.

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

attachment

pc: Jeff Dingman

Project Summary

Project status: Complete	Project name: 24-Inch Water Transmission Line - Edwards Street
Today's date: December 19, 2012	Project number: 12-03-C1
Staff contact name: Steve Parke	Project engineer: Atkins Engineering
Staff contact phone: 784-2231	Project contractor: Diamond Construction Company
Notice to proceed issued: May 16, 2012	
Completion date: December 2, 2012	

	Dollar Amount	Contract Time (Days)
Original contract	\$1,586,646.00	200
Change orders:	\$0.00	0
 Total change orders	 \$87,460.00	 <u>20</u>
Adjusted contract	<u>\$1,674,106.00</u>	<u>220</u>
Payments to date (as negative):	\$-1,318,264.69	78.7%
Amount of this payment (as negative)	\$-45,857.11	2.7%
Retainage held	\$0.00	
Contract balance remaining (underrun)	\$309,984.20	18.5%
Amount under as a percentage	-14.0%	

Final comments:



EXECUTIVE SESSION

MEMORANDUM

December 27, 2012

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: Appointments of Board Members

The January 3, 2013 board meeting agenda includes three appointments. These appointments are for positions which can be filled by only members of the board of directors.

Vice Mayor. Every two years, the board elects a vice mayor. The vice mayor serves as mayor in the mayor's absence. Any director is eligible to be elected vice mayor. The term will expire on December 31, 2014.

Advertising and Promotion Commission. State law requires that two members of the A & P Commission be from the board of directors. The A & P Commission oversees tourism marketing and operates the convention center and the visitors center.

Mayor Sanders currently serves on the A & P Commission. Don Hutchings was serving in the other position. The term is indefinite.

Audit Committee. Three of the positions on the audit committee are filled by members of the board of directors. The audit committee works with the city's internal and external auditors to review the city's financial reports and practices.

Directors Settle and Weber serve on the audit committee. Don Hutchings was serving in the third position. The needed appointment will be for a term expiring November 30, 2013.

Please let me know if you need any more information about these appointments.

A handwritten signature in black ink that reads "Ray".



December 17, 2012

TO: Members of the Board of Directors
Members of the Sebastian County Regional Solid Waste Management Board

RE: Appointments:

The terms of Mr. Carl Davis and Director Kevin Settle of the Sebastian County Regional Solid Waste Management Board will expire effective January 21, 2013. In accordance with Ordinance No. 2926 applications for these prospective vacancies 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 January 9, 2013. 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

Sebastian County Regional Solid Waste Management Board

The purpose of the District is the protection of the public health and the state's environmental quality through the development and maintenance of a solid waste district for Sebastian County and the municipalities of Barling, Bonanza, Central City, Fort Smith, Greenwood, Hackett, Hartford, Huntington, Mansfield, Midland, and Lavaca. Further, the District shall serve to address local agencies, needs and other requirements as are more clearly defined in Act 752 of 1991.

City appointments are by the Mayor subject to confirmation by the Board of Directors, for three-year terms. One city appointment shall consist of a representative of Fort Chaffee. County appointments are by the County Judge subject to confirmation of the Quorum Court. Meetings are quarterly on call.

	<u>Date Appointed</u>	<u>Term Expires</u>
<u>CITY APPOINTMENTS:</u>		
Carl Davis Davis Iron & Metal P.O. Box 2796 (13-2796) 783-8931 (w) Fax: 783-0097	02/04/97	01/21/13
Director Kevin Settle 10904 Cork Court (08) 648-2872 (h)	01/16/07	01/21/13
Bruce D. King 1712 Houston Street (01) 806-5386 (h) (479) 573-2809 (w)	03/16/10	01/21/14
Sandy Sanders, Mayor P.O. Box 1908 (02) 784-2437	01/04/11	01/21/15
Andrew Galbach 9901 Butterfield Landing (03) 414-4988 (h) 649-0894 (w) andy@apfab.net	02/21/12	01/21/15

Date
Appointed

Term
Expires

COUNTY APPOINTMENTS:

Rick Altes (Vacant)
Businessman
P.O. Box 10
Greenwood, AR 72936
996-4455

06/15/99

01/21/11

Judge David Hudson
Sebastian County Courthouse (1)
783-6139

01/21/98

01/21/13

Glen Hurt, Mayor
P. O. Box 476
Mansfield, AR 72944
479-928-5552
479-928-4572 (f)

08/20/02

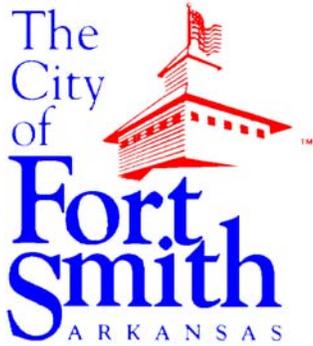
01/21/14

FORT CHAFFEE REPRESENTATIVE:

Major Ron Gibby
US Army Garrison ATZR-ZF
Fort Chaffee, AR 72905-5000
484-3165

01/17/06

01/21/14



Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Keith Lau

Ward 2 – Andre' Good

Ward 3 – Mike Lorenz

Ward 4 – George Catsavis

At Large Position 5 – Pam Weber

At Large Position 6 – Kevin Settle

At Large Position 7 – Philip H. Merry Jr.

AGENDA ~ Summary
Fort Smith Board of Directors
Regular Meeting
January 3, 2013 ~ 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

Oath of office ceremony for incoming directors

Ward Directors Keith Lau, Andre' Good, Mike Lorenz and George Catsavis sworn into office by Fort Smith District Judge David Saxon / 4 year term 1/1/2013 – 12/31/2016

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 DECEMBER 18, 2012 REGULAR MEETING AND DECEMBER 21 & 27, 2012 SPECIAL MEETINGS

Unanimously approved as written

ITEMS OF BUSINESS:

1. Ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan - from Not Classified to General Commercial; Rezoning – from Not Zoned to Commercial Moderate (C-3) by classification located at 8000 Zero Street*)

Approved 7 in favor, 0 opposed / Ordinance No. 1-13

2. Ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*Appendix A – Sexually Oriented Businesses*)
Approved 7 in favor, 0 opposed / Ordinance No. 2-13

3. Consent
 - A. Ordinance authorizing the Mayor to execute an agreement with the U.S. Marshals Museum, Inc. for certain services for inhabitants of the City of Fort Smith
Approved 7 in favor, 0 opposed / Ordinance No. 3-13

 - B. Resolution to accept bid and authorize contract for the construction of Flagstone Road Extension, Phase II, Project No. 12-00-C upon concurrence of the Fort Chaffee Redevelopment Authority and receipt from Old Dominion Freight Line, Inc. of agreement to reimburse portion of project cost (\$633,501.00 / *Engineering Department / Budgeted – Sales Tax Program Fund*)
Approved 7 in favor, 0 opposed / Resolution No. R-1-13

 - C. Resolution of approval for the General William O. Darby Monument to be located at Cisterna Park
Approved 7 in favor, 0 opposed / Resolution No. R-2-13

 - D. Resolution accepting bids for the purchase of aggregates, sand, concrete, and asphalt concrete products for 2013 (annual bid)
Approved 7 in favor, 0 opposed / Resolution No. R-3-13

 - E. Resolution accepting bid for the purchase of police package utility vehicles (\$295,655.60 / *Police Department / Budgeted – Program 4704-301*)
Approved 7 in favor, 0 opposed / Resolution No. R-4-13

 - F. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Hawkins-Weir Engineering, Inc. for the Design of the Mill Creek Interceptor Improvements – Phase II (\$178,000.00 / *Utility Department / Budgeted – 2012 Sales Tax Bonds*)
Approved 7 in favor, 0 opposed / Resolution No. R-5-13

 - G. Resolution authorizing acquisition of easements in connection with the Pump Station No. 19 Force Main Replacement Project (\$30,806.24 / *Utility Department / Budgeted – 2012 Sales Tax Bonds*)
Approved 7 in favor, 0 opposed / Resolution No. R-6-13

 - H. Resolution accepting the project as complete and authorizing final payment to Diamond Construction Company for the 24-Inch Water Transmission Line – Edwards Street (\$45,857.11 / *Utility Department / Budgeted - 2008 Revenue Bonds*)
Approved 7 in favor, 0 opposed / Resolution No. R-7-13

OFFICIALS FORUM ~ presentation of information requiring no official action

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

- Mayor
- Directors
- City Administrator

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

EXECUTIVE SESSION

Appointment:

Vice-Mayor

Director Kevin Settle (reappointment)

Term expires 12/31/2014

Advertising and Promotion Commission

Director Andre' Good

(to fill the position held by Don Hutchings, who did not run for re-election)

Term is indefinite

Audit Committee

Mike Lorenz

(to fill the position held by Don Hutchings, who did not run for re-election)

Term expires 11/30/2013

ADJOURN

6:35 p.m.

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JANUARY 3, 2013 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Fort Smith District Judge David Saxon administered the Oaths of Office to incoming ward directors Keith Lau, Andre' Good, Mike Lorenz and George Catsavis for the term of January 1, 2013 - December 31, 2016.

Invocation was given by Pastor Joe Taylor of Heritage Baptist Church, who also presented bibles to the Mayor, each member of the Board and City Administrator Ray Gosack, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, Mike Lorenz, George Catsavis, Pam Weber, Kevin Settle and Phillip H. Merry, Jr. The Mayor declared a quorum present.

Mayor Sanders 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 December 18, 2012 regular meeting and December 21 and 27, 2012 special meetings were presented for approval. Settle, seconded by Lorenz, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, the Mayor communicated that five (5) minutes per side would be granted for controversial items with three (3) minutes for rebuttal per side, and two (2) minutes for comments only.

Item No. 1 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan - from*

January 3, 2013 Regular Meeting

Not Classified to General Commercial; Rezoning - from Not Zoned to Commercial Moderate (C-3) by classification located at 8000 Zero Street)

Director of Development Wally Bailey briefed the Board on the item advising such is per the request of Pat Mickle, agent for ERC Land Development Group, LLC. The purpose of the requests is to facilitate future commercial development; however, no specific development plan has been determined to date. The Planning Commission held a public hearing on December 11, 2012 with no individual present to speak in opposition to the requests. The Planning Commission approved the Master Land Use Plan amendment and rezoning, subject to development plan approval by the Planning Commission prior to issuance of a building permit, by a vote of eight (8) in favor, zero (0) opposed and one (1) abstention (Griffin).

Weber, seconded by Catsavis, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 1-13.

Item No. 2 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*Appendix A - Sexually Oriented Businesses*)

Administrator Gosack briefed the Board on the item advising Ordinance No. 85-12, adopted at the November 20, 2012 regular meeting, amended the zoning districts wherein sexually oriented businesses can be located. The proposed ordinance authorizes an amendment to Appendix A (land use matrix) of the Unified Development Ordinance so that

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such correlates with the amendments approved in November 2012. The Planning Commission reviewed the proposed amendment to the land use matrix at their December 11, 2012 meeting with no individual present to speak in opposition. The Planning Commission approved such by a vote of nine (9) in favor and zero (0) opposed.

Settle, seconded by Good, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried.

Catsavis, seconded by Settle, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 2-13.

The Consent Agenda (Item No. 3) was introduced for consideration, the items being as follows:

- A. Ordinance authorizing the Mayor to execute an agreement with the U.S. Marshals Museum, Inc. for certain services for inhabitants of the City of Fort Smith
- B. Resolution to accept bid and authorize contract for the construction of Flagstone Road Extension, Phase II, Project No. 12-00-C upon concurrence of the Fort Chaffee Redevelopment Authority and receipt from Old Dominion Freight Line, Inc. of agreement to reimburse portion of project cost (\$633,501.00 / Engineering Department / Budgeted - Sales Tax Program Fund)
- C. Resolution of approval for the General William O. Darby Monument to be located at Cisterna Park
- D. Resolution accepting bids for the purchase of aggregates, sand, concrete, and asphalt concrete products for 2013 (annual bid / Various Departments)

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- E. Resolution accepting bid for the purchase of police package utility vehicles (\$295,655.60 / Police Department / Budgeted - Program 4704-301)
- F. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Hawkins-Weir Engineering, Inc. for the Design of the Mill Creek Interceptor Improvements - Phase II (\$178,000.00 / Utility Department / Budgeted - 2012 Sales Tax Bonds)
- G. Resolution authorizing acquisition of easements in connection with the Pump Station No. 19 Force Main Replacement Project (\$30,806.24 / Utility Department / Budgeted - 2012 Sales Tax Bonds)
- H. Resolution accepting the project as complete and authorizing final payment to Diamond Construction Company for the 24-Inch Water Transmission Line - Edwards Street (\$45,857.11 / Utility Department / Budgeted - 2008 Revenue Bonds)

Regarding Item No. 3C, Director Weber expressed appreciation to Joe and Liz Armstrong, who were in attendance, for the project to place a William O. Darby memorial at Cisterna Park. She further conveyed much hope the project will be brought to fruition in the near future.

Director Settle also conveyed much gratitude to Mr. & Mrs. Armstrong for the project and requested they bring the replica of the William O. Darby monument to the podium so the Board and those watching the meeting on the Access Channel may see the proposed statue.

Mrs. Armstrong advised the replica was not exact, but is a good indication of what the monument will look like. The actual monument is anticipated to be of similar size as the Bass Reeves statue at Pendergraft Park.

Settle, seconded by Lorenz, moved adoption of all consent agenda items. The

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members all voting affirmatively, the Mayor declared the motion carried and the ordinance and resolutions were adopted with the ordinance given No. 3-13 and the resolutions numbered R-1-13 through R-7-13 respectively.

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

▶ Mayor Sanders

- Re: 1. Announced the monthly town hall meeting will take place immediately following adjournment; therefore, he requested those wishing to address the Board in the town hall meeting to sign in at the City Clerk's desk.
2. Extended much appreciation to the convention center staff for efforts in making the New Year's Eve celebration a success.

▶ Director Weber

Re: Moved to place an item on the January 22, 2013 study session, and direct staff to invite Dr. Jerry Stewart, Chairman of the 188th/Fort Chaffee Community Council, to update the Board on the progress being made regarding the 188th Fighter Wing. The motion was seconded by Director Merry.

Because such requires only two (2) directors for placement, Mayor Sanders announced the item will be added to the January 22, 2013 study session agenda.

▶ Administrator Gosack

Re: Representatives from Girls, Inc. recently contacted the City of Fort Smith with an offer to purchase their property located on North 7th Street. The Parks Department is interested in acquiring the property with the intent of creating a public recreation center; therefore, he requested a special meeting be called immediately preceding the regularly scheduled study session at 12:00 Noon, Tuesday, January 8, 2013 to consider the matter.

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Settle, seconded by Good, moved to call said special meeting as aforementioned. The members all voting affirmatively, the Mayor declared the motion carried.

The Board convened into executive session and after reconvening, Mayor Sanders announced the following appointment nominations:

VICE-MAYOR

Director Kevin Settle *(reappointment)*
Term expires 12/31/2014

ADVERTISING AND PROMOTION COMMISSION

Director Andre' Good
(to fill the position held by Don Hutchings, who did not run for re-election)
Term is indefinite

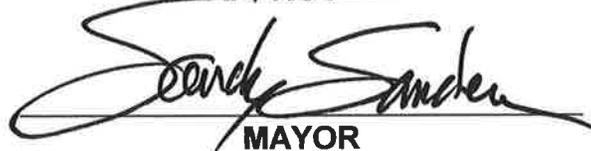
AUDIT COMMITTEE

Mike Lorenz
(to fill the position held by Don Hutchings, who did not run for re-election)
Term expires 11/30/2013

Lau, seconded by Lorenz, moved to accept all appointment nominations. The members all voting aye, the Mayor declared the motion carried.

There being no further business to come before the Board, Merry moved that the meeting adjourn. The motion was seconded by Lau, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:35 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK