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
March 27, 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

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 MARCH 5, 2013 REGULAR MEETING AND MARCH 11, 2013 SPECIAL MEETING

ITEMS OF BUSINESS:

1. Ordinance to regulate the use of groundwater beneath certain identified lands within the city of Fort Smith, Arkansas; declaring and emergency; and for other purposes *~ Good/Lorenz placed on agenda at the February 12, 2013 study session / Rescheduled to the March 27, 2013 regular meeting by unanimous consent of the Board of Directors on March 1, 2013 ~*

2. Ordinance amending the provisions of Fort Smith Unified Development Ordinance and Fort Smith Municipal Code regarding outdoor advertising signs

3. Consent Agenda

   A. Ordinance to abandon a portion of a public utility easement located in Jeffrey Way, an addition to the City of Fort Smith, Sebastian County, Arkansas

B. Resolution authorizing an amendment to the engineering services agreement for the design of 2013 Street Overlay/Reconstruction Project, Phase A, Project No. 13-03-A *($14,400.00 / Engineering Department / Budgeted – Sales Tax Program Fund)*

C. Resolution authorizing execution of a contract with Matlock Electric Co. Inc. for the replacement of emergency generators at Fire Stations 1 through 10 *($408,730.00 / Fire Department / Budgeted – 2012 Sales Tax Bonds)*

D. Resolution authorizing an amendment to the agreement with Harris Company of Fort Smith for Storm Drainage Improvements along Massard Road *($4,500.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)*

E. Resolution authorizing the Mayor to execute an easement with the Department of the Army at the Massard Wastewater Treatment Plant *($1,115.00 / Utility Department / Budgeted – 5603-219 Operating Fund)*

F. Resolution authorizing the City Administrator to execute an agreement with a property owner for acquisition and release of easements in connection with the Pump Station No. 19 Force Main Replacement Project *($6,509.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)*

G. Resolution authorizing the City Administrator to accept an offer made by property owner for acquisition of easements in connection with the Lake Fort Smith 48-Inch Water Transmission Line *($9,500.00 / Utility Department / Budgeted - 2008 Revenue Bonds)*

H. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Mickle Wagner Coleman, Inc. for providing engineering services associated with Chaffee Crossing Pump Station and Force Main Project *($344,714.00 / 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

Appointments: Advertising & Promotion Commission (1), Animal Services Advisory Board (2), Electric Code Board of Appeals (2), Housing Assistance Board (3), Outside Agency Review Panel (2) and Planning Commission (3)

ADJOURN

ORDINANCE NO. _____

AN ORDINANCE TO
PROHIBIT THE INSTALLATION OF GROUNDWATER WELLS
BENEATH CERTAIN IDENTIFIED LANDS WITHIN THE CITY OF FORT SMITH,
ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, Ark. Code Ann. § 14-55-102 authorizes the City of Fort Smith, Arkansas to adopt ordinances in order to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the City and the inhabitants thereof; and,

WHEREAS, the Board of Directors has determined that a ban on the installation of new groundwater wells on certain identified lands within Fort Smith will further the police power objectives stated above and will not interfere with any separate, private rights and obligations between Whirlpool and involved property owners.

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

Section 1: **Identification of Lands Subject to the Regulations of this Ordinance**. The lands affected by this ordinance are located within the area identified on the map attached as Exhibit B hereto and are more specifically described as all tracts of real property located in the Fort Smith District of the County of Sebastian, State of Arkansas, which are located:

> South of Ingersoll Avenue, west of Jenny Lind Road, east of Ferguson Street and north of Brazil Avenue and the property formerly occupied by Whirlpool Corporation, as referenced in the legal description attached hereto as Exhibit A (collectively, the "Identified Area"). The Identified Area is depicted on the figure attached hereto as Exhibit B.

Section 2: **A. Prohibition of Installation of New Groundwater Wells Within the Identified Area**. The drilling, installation, or other construction of a new groundwater well within the Identified Area is expressly prohibited for any purpose other than those exceptions listed in Section 2B.

B. Exceptions for Monitoring, Remediation, Oil and Natural Gas Wells. This Ordinance shall not apply to monitoring wells constructed for groundwater quality monitoring, to wells constructed for the purpose of investigation, removal and/or remediation of any subsurface contaminate or suspected subsurface contaminate, nor to oil, natural gas exploration and production wells.

Section 3: **Penalties**. Any person determined to be guilty of a violation of Sections 2 or 3 of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to the penalties and fines set forth in Section 1-9 of the Fort Smith Municipal Code.

Section 4: **Codification**. The codifier of the Fort Smith Municipal Code shall codify the provisions of this Ordinance within Chapter 25 of the Code.

Section 5: **Emergency Clause**. The ability to assure the compliance of all landowners and other persons with these regulations of the use of groundwater beneath certain lands in the City is essential to the health, safety, and welfare of the City and its inhabitants; THERFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

This Ordinance adopted this ___ day of _____, 2012.

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:

_____
Publish One Time

EXHIBIT "A"

A part of the West Half of Section 4, Township 7 North, Range 32 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows: Beginning at a point on the quarter section line which is 280.2 feet East of the Southwest corner of the Northwest Quarter of said Section 4 and running thence North, 1598.60 feet; thence North 89 degrees 54 minutes East, 2323.39 feet; thence South, 1949.85 feet; thence South 89 degrees 54 minutes West, 2323.39 feet; thence North, 351.25 feet to the point of beginning. Less and except the following: Beginning at a point 1514.10 feet North and 1001.34 feet East of the Southwest corner of the Northwest Quarter of Section 4, Township 7 North, Range 32 West and running thence South, 211 feet; thence South 89 degrees 54 minutes West a distance of 220 feet; thence North a distance of 211 feet; thence North 89 degrees 54 minutes East a distance of 220 feet to the point of beginning.

AND

Part of the Northwest Quarter of the Southwest Quarter of Section 4, Township 7 North, Range 32 West, Fort Smith, Sebastian County, Arkansas, more particularly described as follows: Commencing at the Northwest corner of said Northwest Quarter of the Southwest Quarter; thence North 89 degrees 54 minutes East, 260.08 feet; thence South, 110.84 feet; thence East, 34.90 feet;thence due South a distance of 240.08 feet to the point of beginning on the center line of Geren Street; thence North 89 degrees 54 minutes 34 seconds East a distance of 713.10 feet along said right of way line; thence South 00 degrees 02 minutes 03 seconds East a distance of 903.70 feet; thence North 89 degrees 43 minutes 17 seconds West a distance of 20.00 feet; thence North 00 degrees 02 minutes 03 seconds West a distance of 15.00 feet; thence North 89 degrees 43 minutes 17 seconds West a distance of 87.90 feet to a point of a curve; thence along a curve to the right having a radius of 420.95 feet, a central angle of 59 degrees 31 minutes 37 seconds, an arc length of 437.34 feet and a chord which bears North 59 degrees 57 minutes 29 seconds West to its point of tangency; thence North 30 degrees 11 minutes 40 seconds West a distance of 412.70 feet to a point of a curve; thence along a curve to the right having a radius of 636.62 feet, a central angle of 30 degrees 11 minutes 40 seconds, an arc length of 335.49 feet and a chord which bears North 15 degrees 05 minutes 50 seconds West to its point of tangency, being the point of beginning. Subject to public road rights of way and any easements of record. Less and except minerals and mineral rights.

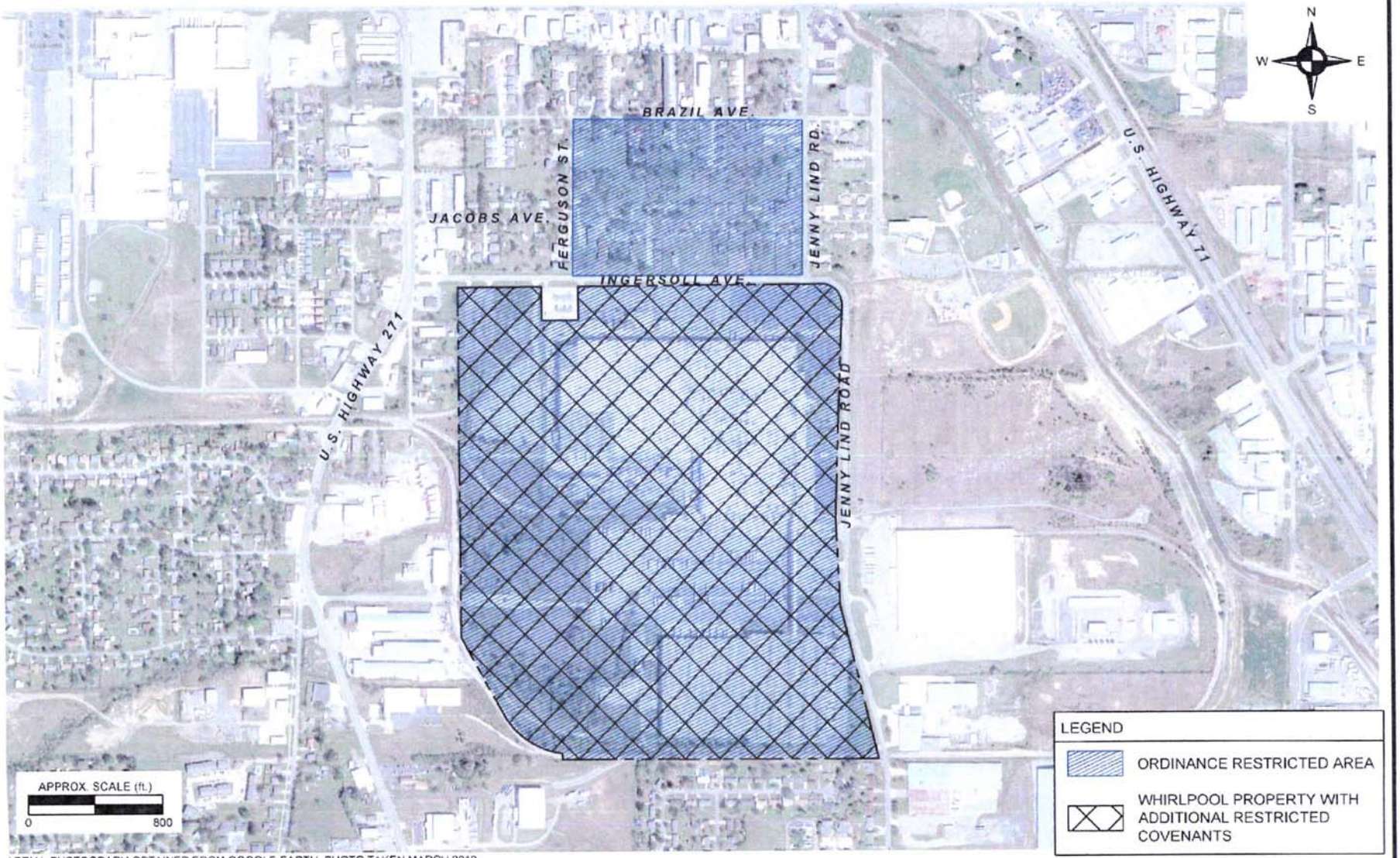
AND

Part of the Northwest Quarter of the Southwest Quarter of Section 4, Township 7 North, Range 32 West, Fort Smith, Sebastian County, Arkansas, more particularly described as follows: Commencing at the Northwest corner of said Northwest Quarter of the Southwest Quarter; thence North 89 degrees 54 minutes East, 260.08 feet; thence South, 110.34 feet; thence East, 34.90 feet to the point of beginning; thence due East a distance of 50.00 feet; thence due South a distance of 240.00 feet to the center line of Geren Street; thence South 89 degrees 54 minutes 34 seconds West a distance of 50.00 feet along said center line; thence North, 240.00 feet to the point of beginning. Subject to public road rights of way and any easements of record. Less and except minerals and mineral rights.

AND

Part of the Southwest Quarter and part of the Northwest Quarter of the Southeast Quarter of Section 4, Township 7 North, Range 32 West, Fort Smith, Sebastian County, Arkansas, more particularly described as follows: Commencing at the Northwest corner of the Southeast Quarter; thence North 89 degrees 54 minutes East, 279.91 feet to an iron pin; thence South, 351.25 feet to the center line of Geren Street, said point also being the Southwest corner of the Whirlpool tract as recorded in Deed Book 145 Page 69; thence North 89 degrees 51 minutes 40 seconds East, 778.10 feet along the center line of Geren Street to the point of beginning of this description; thence North 89 degrees 51 minutes 40 seconds East, 1545.29 feet along the center line of Geren Street which is also the South line of the property described in Deed Book 145 page 69 to the tangent center line of Jenny Lind Road; thence South 15 degrees 01 minutes East, 977.81 feet along the tangent center line of Jenny Lind Road to the South line of the Northwest Quarter of the Southeast Quarter; thence South 89 degrees 14 minutes 40 seconds West, 1798.66 feet along the South line of the Northwest Quarter of the Southeast Quarter, the Northeast Quarter of the Southwest and the Northwest Quarter of the Southwest Quarter; thence North, 964.36 feet to the point of beginning.

Exhibit B



AERIAL PHOTOGRAPH OBTAINED FROM GOOGLE EARTH. PHOTO TAKEN MARCH 2012.

ENVIRON

RESTRICTED AREA
WHIRLPOOL CORPORATION
6400 JENNY LIND ROAD
FORT SMITH, ARKANSAS

Figure 2

Drafter:	ELS	Date:	10/9/12	Contract Number:	21-29753B	Approved:	Revised:

L:\Loop Project Files\00_CAD FILES\21\Whirlpool City Wtr Organ Development 21-29753B\02_Restricted Area.dwg

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 3/21/2013

Re: Proposed Groundwater Well Prohibition Ordinance

The proposed ordinance which was discussed at the February12, 2013, study session is being presented to the Board of Directors at the March 27, 2013 Board meeting. I have enclosed a packet of information that includes information provided to the Board at the February 12, 2013 study session, and correspondence since that meeting that addresses several questions regarding this matter.

Representatives from the Arkansas Department of Environmental Quality will be present at the Board meeting. Those scheduled to be in attendance are as follows:

Ryan Benefield, Deputy Director
Jay Rich, Technical Branch Manager, Hazardous Waste Division
Katherine Benenati, Public Outreach and Assistance division Chief
Tammie Hynum, Chief, Hazardous Waste Division

Please let me know if any additional information is needed.

Bailey, Wally

From: Greg Gillespie [ggillespie@environcorp.com]
Sent: Monday, February 18, 2013 7:40 PM
To: Gosack, Ray; Bailey, Wally; jcanfield@dailywoods.com
Cc: 'Robert L. Jones III'; Bob Karwowski - Whirlpool; 'Amber Prince (APrince@cwlaw.com)'; Tamara House-Knight
Subject: Whirlpool Ft Smith Offsite TCE Data - Requested During Study Session February 12, 2013
Attachments: 2013-02-15 Whirlpool Ft Smith Offsite TCE Analytical Data.pdf

Thank you for the time you made available to us Tuesday last week to present our basis for the well ban ordinance request. As you requested during the Study Session, ENVIRON prepared the attached compilation of the offsite TCE analytical data for your review and use.

As is typical with a systematic investigation and delineation of impact, the installation and sampling of wells continues over time building on previous findings and trends. As wells are completed they are integrated into the overall site sampling program. Whirlpool completes a round of sampling in the Spring and Fall of each year in accordance with the sampling plan approved by ADEQ.

If you have any questions or would like to discuss in more detail please do not hesitate to call Tamara House-Knight (501-907-9437)or Greg Gillespie (616-822-1591) with ENVIRON .

Thank You,

Greg Gillespie

ENVIRON

Gregory Gillespie | Principal Consultant
ENVIRON International Corporation
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250 Monroe Avenue NW | Suite 400 | Grand Rapids, MI 49503
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ggillespie@environcorp.com

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Whirlpool Fort Smith
Off-Site Well Data

Off-Site TCE Analytical Results

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
IW-72	1/16/2009	0.027	0.005	mg/L	
IW-72	4/23/2009	0.04	0.005	mg/L	
IW-72	5/8/2009	0.04	0.005	mg/L	
IW-72	10/24/2011	ND	0.005	mg/L	
IW-72	4/17/2012	0.0038	0.005	mg/L	
IW-73	4/23/2009	0.4	0.05	mg/L	
IW-73	10/25/2011	0.25	0.025	mg/L	
IW-73	4/17/2012	0.18	0.025	mg/L	
IW-74	4/23/2009	0.26	0.025	mg/L	
IW-74	10/25/2011	0.15	0.005	mg/L	
IW-74	4/17/2012	0.13	0.005	mg/L	
IW-75	1/16/2009	0.14	0.005	mg/L	
IW-75	10/25/2011	ND	0.005	mg/L	
IW-75	4/17/2012	0.0029	0.005	mg/L	Calculated value - less than analytical method reporting limit
IW-76	4/23/2009	0.73	0.1	mg/L	
IW-76	5/7/2009	0.46	0.05	mg/L	
IW-76	10/25/2011	0.13	0.005	mg/L	
IW-76	4/17/2012	0.4	0.05	mg/L	
IW-77	4/23/2009	0.57	0.1	mg/L	
IW-77	5/7/2009	0.3	0.05	mg/L	
IW-77	5/27/2009	0.25	0.025	mg/L	
IW-77	5/13/2010	0.26	0.05	mg/L	
IW-77	11/5/2010	1.4	0.1	mg/L	
IW-77	10/25/2011	1.4	0.25	mg/L	
IW-77	4/17/2012	0.51	0.1	mg/L	
IW-78	10/25/2011	0.35	0.05	mg/L	
IW-78	4/18/2012	0.12	0.005	mg/L	
IW-79	10/25/2011	0.57	0.1	mg/L	
IW-79	4/17/2012	0.43	0.025	mg/L	
IW-80	4/23/2009	0.17	0.005	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
IW-80	5/7/2009	0.069	0.005	mg/L	
IW-80	10/25/2011	0.0097	0.005	mg/L	
IW-80	4/17/2012	0.055	0.005	mg/L	
MW-34	3/28/2001	0.083	0.005	mg/L	
MW-34	9/13/2001	0.061	0.005	mg/L	
MW-34	9/9/2002	0.084	0.005	mg/L	
MW-34	9/25/2003	0.0284	0.005	mg/L	
MW-34	11/14/2003	0.121	0.005	mg/L	
MW-34	4/15/2004	0.119	0.005	mg/L	
MW-34	9/23/2004	0.0811	0.005	mg/L	
MW-34	12/9/2004	0.0933	0.005	mg/L	
MW-34	4/5/2005	0.0658	0.005	mg/L	
MW-34	9/30/2005	0.0837	0.005	mg/L	
MW-34	3/14/2006	0.0771	0.005	mg/L	
MW-34	10/11/2006	0.063	0.005	mg/L	
MW-34	4/18/2007	0.041	0.005	mg/L	
MW-34	9/19/2007	0.061	0.005	mg/L	
MW-34	4/30/2008	0.032	0.005	mg/L	
MW-34	12/10/2008	0.053	0.005	mg/L	
MW-34	4/24/2009	0.043	0.005	mg/L	
MW-34	5/27/2009	0.012	0.005	mg/L	
MW-34	10/28/2009	0.034	0.005	mg/L	
MW-34	5/12/2010	0.038	0.005	mg/L	
MW-34	11/7/2010	0.073	0.005	mg/L	
MW-34	3/24/2011	0.042	0.005	mg/L	
MW-34	10/26/2011	0.056	0.005	mg/L	
MW-35R	3/28/2001	0.91	0.05	mg/L	
MW-35R	3/28/2001	0.96	0.05	mg/L	
MW-35R	9/13/2001	1.03	0.05	mg/L	
MW-35R	9/9/2002	0.9	0.1	mg/L	
MW-35R	9/25/2003	0.297	0.05	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-35R	11/14/2003	0.99	0.1	mg/L	
MW-35R	4/15/2004	1.15	0.1	mg/L	
MW-35R	9/23/2004	0.685	0.05	mg/L	
MW-35R	12/9/2004	0.88	0.05	mg/L	
MW-35R	4/6/2005	0.886	0.1	mg/L	
MW-35R	9/30/2005	0.804	0.05	mg/L	
MW-35R	3/14/2006	0.858	0.05	mg/L	
MW-35R	4/6/2006	1.54	0.2	mg/L	
MW-35R	10/11/2006	0.910	0.1	mg/L	
MW-35R	4/18/2007	0.9	0.2	mg/L	
MW-35R	9/19/2007	1.1	0.1	mg/L	
MW-35R	4/30/2008	1.1	0.1	mg/L	
MW-35R	12/11/2008	0.79	0.1	mg/L	
MW-35R	4/24/2009	1.1	0.25	mg/L	
MW-35R	5/7/2009	ND	0.005	mg/L	
MW-35R	5/27/2009	ND	0.005	mg/L	
MW-35R	11/5/2010	0.24	0.025	mg/L	
MW-35R	10/25/2011	0.28	0.025	mg/L	
MW-36	3/28/2001	ND	0.005	mg/L	
MW-36	9/13/2001	ND	0.005	mg/L	
MW-36	9/9/2002	ND	0.005	mg/L	
MW-36	9/25/2003	ND	0.005	mg/L	
MW-36	11/14/2003	ND	0.005	mg/L	
MW-36	4/15/2004	ND	0.005	mg/L	
MW-36	9/23/2004	ND	0.005	mg/L	
MW-36	4/6/2005	ND	0.005	mg/L	
MW-36	9/30/2005	ND	0.005	mg/L	
MW-36	3/17/2006	ND	0.005	mg/L	
MW-36	10/11/2006	ND	0.005	mg/L	
MW-36	4/18/2007	ND	0.005	mg/L	
MW-36	9/20/2007	ND	0.005	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-36	4/30/2008	ND	0.005	mg/L	
MW-36	12/11/2008	ND	0.005	mg/L	
MW-36	4/24/2009	ND	0.005	mg/L	
MW-36	5/7/2009	ND	0.005	mg/L	
MW-36	5/8/2009	ND	0.005	mg/L	
MW-36	5/28/2009	ND	0.005	mg/L	
MW-36	10/28/2009	ND	0.005	mg/L	
MW-36	5/12/2010	ND	0.005	mg/L	
MW-36	11/7/2010	0.0099	0.005	mg/L	
MW-36	3/24/2011	ND	0.005	mg/L	
MW-36	10/26/2011	ND	0.005	mg/L	
MW-39	7/18/2003	ND	0.005	mg/L	
MW-39	9/25/2003	ND	0.005	mg/L	
MW-39	11/14/2003	ND	0.005	mg/L	
MW-39	4/15/2004	ND	0.005	mg/L	
MW-39	9/23/2004	ND	0.005	mg/L	
MW-39	4/8/2005	ND	0.005	mg/L	
MW-39	9/30/2005	ND	0.005	mg/L	
MW-39	3/17/2006	ND	0.005	mg/L	
MW-39	10/11/2006	ND	0.005	mg/L	
MW-39	4/18/2007	ND	0.005	mg/L	
MW-39	9/19/2007	ND	0.005	mg/L	
MW-39	4/30/2008	ND	0.005	mg/L	
MW-39	12/9/2008	ND	0.005	mg/L	
MW-39	4/24/2009	ND	0.005	mg/L	
MW-39	10/27/2009	ND	0.005	mg/L	
MW-39	5/11/2010	ND	0.005	mg/L	
MW-39	11/7/2010	0.02	0.005	mg/L	
MW-39	3/24/2011	ND	0.005	mg/L	
MW-39	10/26/2011	ND	0.005	mg/L	
MW-40	7/18/2003	ND	0.005	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-40	9/25/2003	ND	0.005	mg/L	
MW-40	11/14/2003	ND	0.005	mg/L	
MW-40	4/15/2004	ND	0.005	mg/L	
MW-40	9/23/2004	ND	0.005	mg/L	
MW-40	4/7/2005	ND	0.005	mg/L	
MW-40	9/29/2005	ND	0.005	mg/L	
MW-40	3/14/2006	ND	0.005	mg/L	
MW-40	10/10/2006	ND	0.005	mg/L	
MW-40	4/18/2007	ND	0.005	mg/L	
MW-40	9/18/2007	ND	0.005	mg/L	
MW-40	4/28/2008	ND	0.005	mg/L	
MW-40	12/11/2008	ND	0.005	mg/L	
MW-40	4/24/2009	ND	0.005	mg/L	
MW-40	5/27/2009	ND	0.005	mg/L	
MW-40	10/29/2009	ND	0.005	mg/L	
MW-40	5/12/2010	ND	0.005	mg/L	
MW-40	11/4/2010	ND	0.005	mg/L	
MW-40	3/23/2011	ND	0.005	mg/L	
MW-40	10/26/2011	ND	0.005	mg/L	
MW-40	4/18/2012	0.0039	0.005	mg/L	Calculated value - less than analytical method reporting limit
MW-41	7/18/2003	0.972	0.05	mg/L	
MW-41	9/25/2003	0.722	0.05	mg/L	
MW-41	11/14/2003	0.331	0.05	mg/L	
MW-41	4/15/2004	0.76	0.1	mg/L	
MW-41	9/23/2004	1.06	0.1	mg/L	
MW-41	4/7/2005	1.17	0.2	mg/L	
MW-41	9/30/2005	1.12	0.1	mg/L	
MW-41	3/17/2006	0.917	0.1	mg/L	
MW-41	10/13/2006	0.970	0.05	mg/L	
MW-41	4/18/2007	0.9	0.2	mg/L	
MW-41	9/20/2007	0.85	0.1	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-41	4/30/2008	0.73	0.1	mg/L	
MW-41	12/11/2008	0.82	0.1	mg/L	
MW-41	4/24/2009	0.66	0.1	mg/L	
MW-41	5/7/2009	0.18	0.005	mg/L	
MW-41	5/8/2009	0.19	0.05	mg/L	
MW-41	5/27/2009	0.23	0.025	mg/L	
MW-41	10/28/2009	0.18	0.005	mg/L	
MW-41	5/13/2010	0.61	0.1	mg/L	
MW-41	11/5/2010	0.93	0.25	mg/L	
MW-41	10/25/2011	0.42	0.05	mg/L	
MW-42B	11/14/2003	0.481	0.05	mg/L	
MW-42B	4/15/2004	0.856	0.05	mg/L	
MW-42B	9/23/2004	0.4	0.05	mg/L	
MW-42B	4/5/2005	1.31	0.2	mg/L	
MW-42B	9/27/2005	1.47	0.2	mg/L	
MW-42B	3/15/2006	2.27	0.2	mg/L	
MW-42B	10/10/2006	2.00	0.25	mg/L	
MW-42B	4/17/2007	1.6	0.2	mg/L	
MW-42B	9/18/2007	2.1	0.25	mg/L	
MW-42B	4/29/2008	1.6	0.25	mg/L	
MW-42B	12/9/2008	1.1	0.12	mg/L	
MW-42B	4/25/2009	1.5	0.5	mg/L	
MW-43	11/14/2003	0.223	0.02	mg/L	
MW-43	4/15/2004	0.51	0.02	mg/L	
MW-43	9/23/2004	0.0647	0.005	mg/L	
MW-43	4/5/2005	0.304	0.05	mg/L	
MW-43	9/27/2005	0.518	0.05	mg/L	
MW-43	3/15/2006	1.3	0.05	mg/L	
MW-43	10/11/2006	0.92	0.1	mg/L	
MW-43	4/17/2007	0.22	0.02	mg/L	
MW-43	9/18/2007	0.35	0.05	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-43	4/28/2008	0.12	0.005	mg/L	
MW-43	12/9/2008	0.15	0.005	mg/L	
MW-43	4/25/2009	0.12	0.005	mg/L	
MW-43	5/7/2009	0.16	0.05	mg/L	
MW-43	5/8/2009	0.18	0.05	mg/L	
MW-46R	11/14/2003	0.0399	0.005	mg/L	
MW-46R	4/15/2004	0.0771	0.005	mg/L	
MW-46R	9/23/2004	0.142	0.005	mg/L	
MW-46R	4/6/2005	0.21	0.02	mg/L	
MW-46R	9/28/2005	0.222	0.02	mg/L	
MW-46R	3/16/2006	0.111	0.005	mg/L	
MW-46R	4/6/2006	0.30	0.05	mg/L	
MW-46R	10/11/2006	0.45	0.05	mg/L	
MW-46R	4/17/2007	0.44	0.05	mg/L	
MW-46R	9/18/2007	0.42	0.05	mg/L	
MW-46R	4/29/2008	0.43	0.05	mg/L	
MW-46R	12/9/2008	0.31	0.05	mg/L	
MW-46R	4/25/2009	0.46	0.1	mg/L	
MW-46R	5/27/2009	ND	0.005	mg/L	
MW-46R	10/27/2009	0.39	0.05	mg/L	
MW-46R	5/11/2010	0.61	0.1	mg/L	
MW-46R	11/5/2010	0.65	0.1	mg/L	
MW-46R	3/22/2011	0.68	0.1	mg/L	
MW-46R	10/26/2011	0.46	0.05	mg/L	
MW-46R	4/18/2012	0.68	0.1	mg/L	
MW-50	4/15/2004	0.00651	0.005	mg/L	
MW-50	12/10/2004	ND	0.005	mg/L	
MW-50	4/6/2005	ND	0.005	mg/L	
MW-50	9/28/2005	ND	0.005	mg/L	
MW-50	3/17/2006	ND	0.005	mg/L	
MW-50	10/12/2006	ND	0.005	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-50	4/19/2007	ND	0.005	mg/L	
MW-50	9/19/2007	ND	0.005	mg/L	
MW-50	4/29/2008	ND	0.005	mg/L	
MW-50	12/10/2008	ND	0.005	mg/L	
MW-50	4/24/2009	ND	0.005	mg/L	
MW-50	10/27/2009	ND	0.005	mg/L	
MW-50	5/11/2010	ND	0.005	mg/L	
MW-50	11/5/2010	ND	0.005	mg/L	
MW-50	3/23/2011	ND	0.005	mg/L	
MW-50	10/25/2011	ND	0.005	mg/L	
MW-55	12/9/2004	ND	0.005	mg/L	
MW-55	4/8/2005	ND	0.005	mg/L	
MW-55	9/28/2005	ND	0.005	mg/L	
MW-55	3/16/2006	ND	0.005	mg/L	
MW-55	10/13/2006	0.002	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-55	4/19/2007	0.0026	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-55	9/19/2007	0.005	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-55	4/29/2008	ND	0.005	mg/L	
MW-55	12/10/2008	ND	0.005	mg/L	
MW-55	4/24/2009	ND	0.005	mg/L	
MW-55	10/27/2009	0.0036	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-55	5/12/2010	0.0042	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-55	11/6/2010	0.014	0.005	mg/L	
MW-55	3/23/2011	0.0055	0.005	mg/L	
MW-55	10/25/2011	0.007	0.005	mg/L	
MW-56	12/10/2004	0.0902	0.005	mg/L	
MW-56	4/8/2005	0.0882	0.005	mg/L	
MW-56	9/28/2005	0.207	0.02	mg/L	
MW-56	3/16/2006	0.0087	0.005	mg/L	
MW-56	10/14/2006	0.11	0.005	mg/L	
MW-56	4/19/2007	ND	0.005	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-56	9/19/2007	0.038	0.005	mg/L	
MW-56	4/29/2008	0.004	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-56	12/10/2008	0.093	0.05	mg/L	
MW-56	4/24/2009	0.014	0.005	mg/L	
MW-56	10/27/2009	0.0087	0.005	mg/L	
MW-56	5/12/2010	0.23	0.1	mg/L	
MW-56	3/23/2011	0.071	0.005	mg/L	
MW-56	10/25/2011	0.15	0.025	mg/L	
MW-57	12/10/2004	0.207	0.02	mg/L	
MW-57	4/8/2005	0.282	0.02	mg/L	
MW-57	9/28/2005	0.096	0.005	mg/L	
MW-57	3/16/2006	0.254	0.02	mg/L	
MW-57	10/13/2006	0.064	0.005	mg/L	
MW-57	4/19/2007	0.201	0.1	mg/L	
MW-57	9/20/2007	0.25	0.025	mg/L	
MW-57	4/30/2008	0.014	0.005	mg/L	
MW-57	12/10/2008	0.13	0.05	mg/L	
MW-57	4/24/2009	0.096	0.005	mg/L	
MW-57	10/27/2009	0.1	0.005	mg/L	
MW-57	5/12/2010	0.21	0.05	mg/L	
MW-57	3/23/2011	0.11	0.005	mg/L	
MW-57	10/25/2011	0.059	0.005	mg/L	
MW-58	12/9/2004	0.526	0.05	mg/L	
MW-58	4/7/2005	0.809	0.1	mg/L	
MW-58	9/28/2005	0.486	0.05	mg/L	
MW-58	3/16/2006	0.421	0.02	mg/L	
MW-58	10/13/2006	0.620	0.05	mg/L	
MW-58	4/19/2007	0.784	0.1	mg/L	
MW-58	9/19/2007	0.65	0.05	mg/L	
MW-58	4/30/2008	0.63	0.1	mg/L	
MW-58	12/11/2008	0.53	0.05	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-58	4/25/2009	0.59	0.1	mg/L	
MW-58	10/28/2009	0.48	0.05	mg/L	
MW-58	5/12/2010	0.66	0.1	mg/L	
MW-58	11/6/2010	0.58	0.1	mg/L	
MW-58	3/24/2011	0.71	0.05	mg/L	
MW-60	4/1/2005	ND	0.005	mg/L	
MW-60	9/30/2005	ND	0.005	mg/L	
MW-60	3/17/2006	ND	0.005	mg/L	
MW-60	10/12/2006	ND	0.005	mg/L	
MW-60	4/19/2007	ND	0.005	mg/L	
MW-60	9/19/2007	ND	0.005	mg/L	
MW-60	4/29/2008	ND	0.005	mg/L	
MW-60	12/10/2008	ND	0.005	mg/L	
MW-60	4/24/2009	ND	0.005	mg/L	
MW-60	10/27/2009	ND	0.005	mg/L	
MW-60	5/11/2010	ND	0.005	mg/L	
MW-60	11/4/2010	ND	0.005	mg/L	
MW-60	3/23/2011	ND	0.005	mg/L	
MW-60	10/25/2011	ND	0.005	mg/L	
MW-61	4/1/2005	ND	0.005	mg/L	
MW-61	9/30/2005	ND	0.005	mg/L	
MW-61	3/17/2006	ND	0.005	mg/L	
MW-61	10/12/2006	ND	0.005	mg/L	
MW-61	4/19/2007	ND	0.005	mg/L	
MW-61	9/19/2007	ND	0.005	mg/L	
MW-61	4/29/2008	ND	0.005	mg/L	
MW-61	12/10/2008	ND	0.005	mg/L	
MW-61	4/24/2009	0.004	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-61	10/27/2009	ND	0.005	mg/L	
MW-61	5/11/2010	ND	0.005	mg/L	
MW-61	11/4/2010	ND	0.005	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-61	3/23/2011	0.0018	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-61	10/25/2011	ND	0.005	mg/L	
MW-62	4/1/2005	ND	0.005	mg/L	
MW-62	9/30/2005	ND	0.005	mg/L	
MW-62	3/16/2006	ND	0.005	mg/L	
MW-62	10/12/2006	ND	0.005	mg/L	
MW-62	4/19/2007	ND	0.005	mg/L	
MW-62	9/19/2007	ND	0.005	mg/L	
MW-62	4/29/2008	ND	0.005	mg/L	
MW-62	12/10/2008	ND	0.005	mg/L	
MW-62	4/24/2009	ND	0.005	mg/L	
MW-62	10/27/2009	ND	0.005	mg/L	
MW-62	5/11/2010	ND	0.005	mg/L	
MW-62	3/23/2011	ND	0.005	mg/L	
MW-62	10/25/2011	0.0019	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-63	4/1/2005	0.00814	0.005	mg/L	
MW-63	9/30/2005	ND	0.005	mg/L	
MW-63	3/16/2006	0.00976	0.005	mg/L	
MW-63	4/6/2006	0.0116	0.005	mg/L	
MW-63	10/12/2006	0.004	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-63	4/19/2007	0.00408	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-63	9/19/2007	0.008	0.005	mg/L	
MW-63	4/30/2008	0.003	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-63	12/10/2008	ND	0.005	mg/L	
MW-63	4/24/2009	0.0043	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-63	10/27/2009	0.0077	0.005	mg/L	
MW-63	5/11/2010	0.0076	0.005	mg/L	
MW-63	11/6/2010	0.011	0.005	mg/L	
MW-63	3/23/2011	0.012	0.005	mg/L	
MW-63	10/25/2011	0.0098	0.005	mg/L	
MW-65	10/11/2006	0.470	0.05	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-65	4/19/2007	1.35	0.2	mg/L	
MW-65	9/20/2007	0.58	0.05	mg/L	
MW-65	4/30/2008	0.57	0.05	mg/L	
MW-65	12/11/2008	0.46	0.05	mg/L	
MW-65	4/24/2009	0.62	0.1	mg/L	
MW-65	4/24/2009	0.823	0.005	mg/L	
MW-65	4/24/2009	0.817	0.005	mg/L	
MW-65	11/7/2010	0.4	0.05	mg/L	
MW-65	11/7/2010	0.525	0.005	mg/L	
MW-65	11/7/2010	0.519	0.005	mg/L	
MW-65	10/25/2011	0.31	0.05	mg/L	
MW-66	4/6/2006	ND	0.005	mg/L	
MW-66	10/12/2006	0.002	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-66	4/18/2007	ND	0.005	mg/L	
MW-66	9/19/2007	0.004	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-66	4/29/2008	ND	0.005	mg/L	
MW-66	12/10/2008	ND	0.005	mg/L	
MW-66	4/25/2009	ND	0.005	mg/L	
MW-66	10/28/2009	ND	0.005	mg/L	
MW-66	5/11/2010	ND	0.005	mg/L	
MW-66	11/3/2010	ND	0.005	mg/L	
MW-66	3/24/2011	0.0016	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-66	10/26/2011	0.0018	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-67	4/6/2006	ND	0.005	mg/L	
MW-67	10/12/2006	0.001	0.005	mg/L	Calculated value - result less than analytical method reporting limit
MW-67	4/19/2007	ND	0.005	mg/L	
MW-67	9/18/2007	ND	0.005	mg/L	
MW-67	4/29/2008	ND	0.005	mg/L	
MW-67	12/10/2008	ND	0.005	mg/L	
MW-67	4/25/2009	ND	0.005	mg/L	
MW-67	10/28/2009	ND	0.005	mg/L	

Whirlpool Fort Smith
Off-Site Well Data

Well ID #	Sample Date	Reported Result	Method Reporting Limit	Unit	Comment
MW-67	5/11/2010	ND	0.005	mg/L	
MW-67	11/3/2010	ND	0.005	mg/L	
MW-67	3/24/2011	ND	0.005	mg/L	
MW-67	10/26/2011	ND	0.005	mg/L	
MW-68	1/15/2009	ND	0.005	mg/L	
MW-68	4/24/2009	ND	0.005	mg/L	
MW-68	10/28/2009	ND	0.005	mg/L	
MW-68	5/13/2010	ND	0.005	mg/L	
MW-68	11/6/2010	0.0095	0.005	mg/L	
MW-68	10/26/2011	ND	0.005	mg/L	
MW-70	11/4/2010	0.54	0.05	mg/L	
MW-70	3/22/2011	0.17	0.05	mg/L	
MW-70	10/26/2011	0.32	0.05	mg/L	
MW-70	4/18/2012	0.33	0.05	mg/L	
MW-71	10/28/2009	0.19	0.005	mg/L	
MW-71	5/13/2010	0.16	0.025	mg/L	
MW-71	11/4/2010	0.25	0.025	mg/L	
MW-71	3/22/2011	0.076	0.005	mg/L	
MW-71	10/26/2011	0.13	0.005	mg/L	
MW-71	4/18/2012	0.16	0.025	mg/L	
RW-69	1/15/2009	0.17	0.005	mg/L	
RW-69	4/24/2009	0.062	0.005	mg/L	
RW-69	5/27/2009	0.29	0.025	mg/L	
RW-69	5/13/2010	0.17	0.025	mg/L	
RW-69	11/4/2010	0.32	0.025	mg/L	
RW-69	10/26/2011	0.21	0.025	mg/L	
RW-69	4/18/2012	0.15	0.005	mg/L	

ENVIRON

February 28, 2013

Delivery Via E Mail

Mr. Wally Bailey
Director of Development Services
City of Fort Smith
P.O. Box 1908 (02)
623 Garrison Avenue (01)
Fort Smith, AR 72901

Re: Response to Questions Dated February 20, 2013
Whirlpool Request for City Ordinance
City Directors Meeting – March 5th, 2013

Dear Mr. Bailey,

On behalf of Whirlpool Corporation, ENVIRON International has prepared the following responses to the questions you submitted to Robert L. Jones III on February 20, 2013. We trust our responses will assist the City Directors to understand the Whirlpool site impacts and how the requested ordinance will be protective.

The questions you posed are numbered and highlighted in blue text. Our response follows each question in black text.

1. How did the substance get into the ground water?

The use of TCE was discontinued in 1981 and the degreaser building is not currently used for any cleaning operations. There are no historical records that document any spills or other release incidents from the degreaser building. It is possible that historical leaks from the tank or surface spills in the vicinity of the degreaser building may have occurred, resulting in releases to the soil and groundwater.

2. Since Whirlpool stopped using it around 1980 and was notified by ADEQ in 2011, what happened between these years?

The use of TCE was discontinued in 1981. Sampling in conjunction with removal and closure of a underground storage tank (UST), not associated with the degreaser system, in 1989 indicated the presence of TCE. Whirlpool began voluntary site investigation activities in 1989 based on the impacts discovered during the UST closure. The initial investigation started with a series of soil borings and groundwater monitoring wells in 1989. Additional soil borings and groundwater monitoring wells were completed over time as new data was integrated into the site understanding.

Groundwater flow direction data showed groundwater moving from the impact area to the southeast and all impacted groundwater limited to the Whirlpool property. However in 2001, data confirmed a groundwater divide exists and groundwater is also flowing to the north-northeast offsite to the residential areas to the north. Whirlpool notified ADEQ of a potential offsite impact to groundwater north of facility in 2001. Whirlpool and ADEQ entered into a Letter of Agreement (LOA) in 2002 based on the 2001 notification and the data collected since 1989. The LOA is the binding Consent

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Administrative Order executed between Whirlpool and ADEQ imposing formal corrective action requirements for the site.

Presented below is a summary of site actions and activities since 1981:

Activity / Report	Date
TCE Use Discontinued	June 1981
UST Closure Confirmation Sampling Indicates TCE In Soils	May 1989
Whirlpool Begins Voluntary Onsite Investigation	August 1989
Site Investigation and Routine Well Sampling Begins	October 1989
Additional Upgradient Monitoring Wells Installed	January 1990
Onsite Aquifer Characterization Test Completed	March 1990
Additional Monitoring Wells Installed And Sampled	November 1990
All Groundwater Wells Sampled	February 1991
Pilot Groundwater Recovery Test Completed	April 1991
Additional Wells Installed to North and South / All Wells Sampled	November 1993
Electric Offset Logging (EOL) Survey Conducted	September 1996
All Groundwater Wells Sampled	December 1996
Geoprobe Sampling Completed	December 1996
Additional Wells Installed On North Side Of Tank Area	January 1997
Supplemental Site Investigation Report Prepared	January 1997
Onsite Source Area Bench Scale Treatment Study Completed	January 2000
Annual Groundwater Monitoring Report	May 2000
Supplemental Site Investigation Report Prepared	December 2000
Whirlpool Notifies ADEQ of Offsite Impact To Groundwater	January 2001
Meeting With ADEQ To Review All Data And Remedial Action Plan To Address Potential Offsite Impacts	February 2001
City Of Fort Smith Mayor's Office, City Administrator, LEPC, County Health Department and ADEQ Ft Smith Office Notified In Writing Of The Presence Of TCE And Whirlpool's Intent To Install Wells Along Ingersoll	February 2001
Annual Groundwater Monitoring Report	May 2001
Notice of Intent (NOI) To Enter Corrective Action Strategy Program Submitted To ADEQ	August 2001
Annual Groundwater Monitoring Report	April 2002
Letter Of Agreement (LOA) With ADEQ Signed	July 2002
Conceptual Site Model Report Submitted To ADEQ	August 2002
Onsite Scoping Meeting With ADEQ	August 2002
Risk Management Strategy Work Plan Submitted To ADEQ	August 2002
Conceptual Site Model Report Addendum Submitted To ADEQ	August 2002
On-Site Scoping Meeting With ADEQ	August 2002
On-Site ChemOx Pilot Study Report	August 2002
Corrective Action Strategy (CAS) Work Plan Submitted To ADEQ	November 2002
ADEQ Approves Offsite Work Plan	February 2003

Activity / Report	Date
Residents Contacted in Writing Requesting Access To Property For Installation of Wells Including a Question / Answer Trifold Brochure	April 2003
Annual Groundwater Monitoring Report	May 2003
Off-site Delineation Phase A	July 2003
Annual Groundwater Monitoring Report	May 2004
Revised Corrective Action Strategy (CAS) Submitted To ADEQ	June 2004
Off-site Delineation Phase B	June 2004
Interim Status Report To ADEQ	June 2004
CAS Work Plan Revision Submitted To ADEQ	June 2004
Off-site Delineation Phase C	November 2004
Interim Status Report for Off-Site Investigations	March 2005
Annual Groundwater Monitoring Report	March 2005
Off-site Delineation Phase D	April 2005
Interim Status Report for Off-Site Investigations Submitted To ADEQ	June 2005
Annual Groundwater Monitoring Report	March 2006
Off-site Delineation Phase E	April 2006
USEPA Ecological Exclusion Criteria Worksheet Submitted To ADEQ	June 2006
ADEQ / Whirlpool Meeting To Review Project Status	June 2006
CAS Work Plan Addendum Submitted To ADEQ	August 2006
Facility Activities Report Submitted To ADEQ	September 2006
Annual Groundwater Monitoring Report	March 2007
Risk Evaluation Report Submitted To ADEQ	June 2007
Risk Management Plan Submitted To ADEQ	March 2008
Interim Measure Work Plan Submitted To ADEQ	March 2008
Annual Groundwater Monitoring Report	March-08
Interim Measure Status Report / Annual Groundwater Monitoring Report	March 2009
ADEQ Issues UIC Authorization Letter Approving Expanded Interim Measures	April 2009
Interim Measure Status Report / Annual Groundwater Monitoring Report	March 2010
Public Meeting To Present Interim Measures And Need For Temporary Use Permit - All Property Owners / Residents Notified By Letter	March 2010
Interim Measure Status Report / Annual Groundwater Monitoring Report Submitted To ADEQ	June 2010
City of Ft Smith Authorizes Discharge of Treated Groundwater - Industrial Users Permit Issued	August 2010
Interim Measure Status Report / Annual Groundwater Monitoring Report Submitted To ADEQ	March 2011
Interim Measure Status Report / Annual Groundwater Monitoring Report Submitted To ADEQ	June 2012
Meeting With ADEQ To Discuss Path Forward Based On Interim Action Results	October 2012
Revised Risk Management Plan Submitted To ADEQ	November 2012

3. **Why didn't the city know about this from ADEQ in 2001?**

While Whirlpool cannot provide insights to communication between the City and ADEQ, ADEQ only became aware of the potential for an offsite impact to groundwater in February 2001. At the time of the 2001 notification to ADEQ no investigation activities had started offsite. Offsite investigation plans were developed and implemented after the LOA was executed. Offsite access agreements were negotiated with the City of Ft Smith and property owners prior to field work starting in 2003.

4. When was the city notified about the issue from ADEQ?

Whirlpool cannot provide insights to communication between the City and ADEQ.

5. What is ADEQ thoughts on this? Could they put together a timeline of their events?

While Whirlpool cannot provide insights to ADEQ thoughts or timeline for this site, USEPA and ADEQ have approved similar groundwater use restrictions at other sites in Arkansas.

Whirlpool and ADEQ have been addressing the offsite impacts for 12 years since ADEQ was notified in 2001. Since 2001 the site has been managed within the ADEQ Corrective Action Strategy Program.

6. Has Whirlpool looked at trying to clean up the issue?

As defined by the 2002 LOA Whirlpool prepared and submitted a Risk Management Plan (RMP) for review and approval by ADEQ in 2006 which outlined interim measures Whirlpool then executed. The interim measures did not produce the results required to be successful in meeting the remedial action criteria for the site established with ADEQ.

Based on the outcomes of the multiple interim actions, Whirlpool prepared and submitted a Revised Risk Management Plan (RRMP) to ADEQ on November 29, 2012. The RRMP is currently under review by ADEQ. The RRMP assimilated over 14 years of data, with an emphasis on data from the interim measures, to identify, screen and rank corrective measures that will be protective of human health and the environment. The RRMP requests the incorporation of this ordinance, as an additional safety precaution, to further protect current and future property owners and residents.

With approval from ADEQ, Whirlpool will implement the activities defined by the approved RRMP. The RRMP has many activities incorporated into it, including a public involvement process, which is separate from the City ordinance process, to actively solicit public input into the final remedy with direct communication and feedback to ADEQ and Whirlpool. The RRMP public involvement process has not started.

7. Why now? – is there a major reason for it?

Whirlpool Corporation is requesting this ordinance, as an additional safety precaution, to further protect current and future property owners and residents. All ingestion pathways (drinking, bathing and inhalation) are currently incomplete because all impacted properties receive water from the City of Ft Smith water utility and there are no groundwater wells in the surrounding neighborhoods. Whirlpool is making this request now based on the RRMP submitted to ADEQ on November 29, 2012 to ensure the ingestion pathway remains incomplete in the future. The RRMP requests the incorporation of this ordinance as an additional protective measure for the onsite and offsite impacts.

With ADEQ knowledge, Whirlpool is asking the City to consider the groundwater well ban ordinance to be an additional protection of human health.

8. What is the State of Arkansas acceptable level of Trichloroethylene?

The State of Arkansas limit for TCE in groundwater is 0.005 mg/l, which is the same as USEPA's maximum contaminant level (MCL) for drinking water.

9. Does Whirlpool know what the concentrations levels of the Trichloroethylene was prior to 2001?

Whirlpool only has offsite data from 2001 forward.

10. Submit information concerning the concentration levels of each of the drill sites by year and location (with map) from Whirlpool.

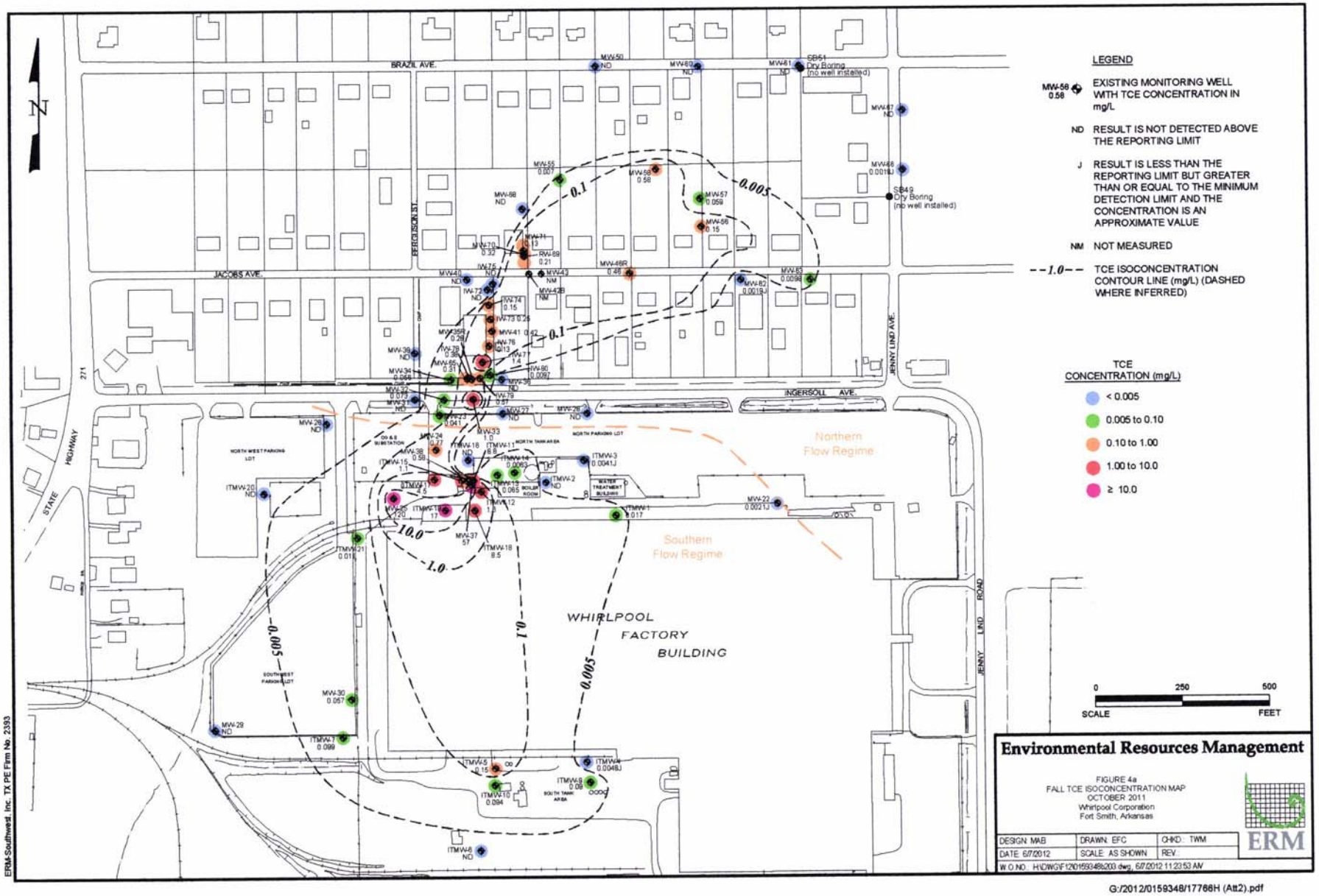
See the attached map which best illustrates the levels of TCE in groundwater, and all monitoring well locations.

Please contact me if you have any questions or need any additional information.

Sincerely,

Gregory R. Gillespie
Principal Consultant

GRG:grg
2013-02-28 ENVIRON Response To City Questions Dated 2-20-2013



G:/2012/0159348/17766H (Att2).pdf

Bailey, Wally

From: Heather Sanford [HSanford@cwlaw.com] on behalf of Robert L. Jones III [BJones@cwlaw.com]
Sent: Friday, March 01, 2013 11:13 AM
To: Bailey, Wally
Cc: Gosack, Ray; jcanfield@dailywoods.com; Amber Prince
Subject: Response to city re plume
Attachments: 2013-02-12 ENVIRON Response to ADEQ Letter.pdf

Wally-

I received your email at 10:11 on February 28, 2013, forwarding ADEQ's letter of January 22, 2013 and requesting a response.

Attached is ENVIRON's response to ADEQ dated February 12, 2013.

The historical data, including the most recent 2012 data collected by ENVIRON, which ADEQ did not have for their response dated January 22, 2013, supports that the plume is stable and has been for at least 7 years.

This discussion concerning the plume does not change our opinion that the ordinance is needed to be protective of human health for both current and future property owners. This ordinance provides a level of protection that is not in place today.

Robert L. Jones III
Attorney at Law

CONNER & WINTERS

CONNER & WINTERS, LLP
Attorneys & Counselors at Law
4375 N. Vantage Drive, Suite 405
Fayetteville, AR 72703
P 479.582.5711
F 479.587.1426
bjones@cwlaw.com
www.cwlaw.com

IRS Circular 230 Notice: To ensure compliance with requirements imposed by the IRS, we inform you that, unless specifically indicated otherwise, any tax advice contained in this communication (including any attachment) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter addressed herein.

This message and any attachments may contain information that is highly confidential, privileged, and exempt from disclosure. Any recipient other than the intended recipient is advised that any dissemination, distribution, copying, or other use of this message is strictly prohibited.

If you have received this message in error, please notify the sender immediately.

ENVIRON

February 12, 2013

Via E Mail and Federal Express

Mostafa Mehran
Arkansas Department of Environmental Quality
Hazardous Waste Division
5301 Northshore Drive
North Little Rock, Arkansas 72118

Re: Whirlpool Corporation, Fort Smith, Arkansas
January 22, 2013 ADEQ Review of Revised Risk Management Plan
EPA No. ARD042755389 AFIN No. 66-00048

Dear Mr. Mehran:

This follow-up letter is in response to the January 22, 2013 letter discussing ADEQ's review of the Revised Risk Management Plan (RRMP) for the Whirlpool Fort Smith, AR project site. While we understand that trichloroethylene (TCE) concentrations exist off-site in concentrations above maximum contaminant levels (MCL) which will be addressed with institutional controls, we would like to discuss the second sentence of the response letter which states "*the contamination plume appears to still be moving*".

ENVIRON reviewed groundwater data collected for the site over time and developed the attached groundwater trends figure (Figure 1). This figure depicts four different fall groundwater data collection events from the time period of 2005 through 2012. Data collected between the years of 2005 and 2012 were chosen to represent the most complete data sets, as prior to 2005 many wells had either not yet been installed and/or full rounds of data sets were not available. As shown on Figure 1, the only modification of the original on-site and off-site plume delineation of impacted groundwater is the inclusion of MW-63 in the 2007 and 2011 events.

Groundwater data near the northern flow regime was also reviewed. As discussed within historical documents at the site, a groundwater divide is present just north of the Whirlpool factory building. To address concerns about contamination moving off-site into the residential area, data from wells closest to the northern groundwater divide was reviewed to evaluate potential TCE migration off-site. The data from these monitoring wells are included below in Table 1:

300 S Spring Street Suite 703 · Little Rock, Arkansas 72201 · Tel: (501) 907-9436 · Fax: (866) 570-1102
www.environcorp.com

Table 1: Concentration of TCE Near Northern Groundwater Divide

	Sep-05	Oct-06	Sep-07	Oct-09	Oct-11	Oct-12
Sample ID	TCE (ug/L)	TCE (ug/L)	TCE (ug/L)	TCE (ug/L)	TCE (ug/L)	TCE (ug/L)
MW-23	65.8	59	47	45	41	43
MW-27	ND	2	ND	---	ND	ND
MW-28	ND	ND	ND	ND	ND	ND
MW-31	ND	3	ND	---	ND	ND
MW-32	97.6	85	78	105	73	61
MW-33	1030	1300	1700	1200	1000	1300

--- Not Sampled

It is important to note that TCE concentrations at each of the monitoring wells closest to the on-site source, are either stable or decreasing in concentration with time.

Lastly, data from 2005 through 2012 was reviewed for the wells which define the boundaries of the off-site TCE plume. This data is shown below in Table 2. With the exception of MW-63, TCE in the off-site plume boundary wells has consistently been non-detected or below the TCE MCL of 5 ug/L. At MW-63, TCE has either been non-detected, detected below the MCL, or detected slightly above the MCL.

Table 2: Concentration of TCE in Off-Site Monitoring Wells

	Sep-05	Oct-06	Sep-07	Oct-09	Oct-11	Oct-12
Sample ID	**TCE (ug/L)**	**TCE (ug/L)**	**TCE (ug/L)**	**TCE (ug/L)**	**TCE (ug/L)**	**TCE (ug/L)**
Northern Boundary Wells						
MW-50	ND	ND	ND	ND	ND	ND
MW-60	ND	ND	ND	ND	ND	ND
MW-61	ND	ND	ND	ND	ND	2.4 J
Eastern Boundary Wells						
MW-36	ND	ND	ND	ND	ND	ND
MW-62	ND	ND	ND	ND	2	ND
MW-63	ND	4	8	7.7	9.8	ND
MW-66	---	2	4	ND	2	ND
MW-67	---	1	ND	ND	ND	ND
Western Boundary Wells						
MW-39	ND	ND	ND	ND	ND	ND
MW-40	ND	ND	ND	ND	ND	ND
MW-68	---	---	---	ND	ND	ND
Southern Boundary Wells						
MW-26	ND	ND	ND	ND	ND	ND
MW-27	ND	2	ND	---	ND	ND
MW-28	ND	ND	ND	ND	ND	ND
MW-31	ND	3	ND	---	ND	ND

--- Not Sampled

ND Detection Limits Ranged from 1.6 to 2.5 ug/L

Based upon 7 years of data, TCE concentrations appear to be stable to decreasing at the northern flow regime boundary and stable at off-site boundary wells. These data indicate that the TCE plume has a defined delineation and there is no continued migration of TCE further off-site.

The January 22, 2013 ADEQ letter requested that Whirlpool evaluate the potential benefit of additional intrusive on-site controls. As discussed within the RRMP, a containment based approach (i.e. recovery trench or vertical barrier) would not remove impacts from the site but would only reduce migration and/or exposure to constituents of concern in groundwater. As discussed above, TCE concentrations at the northern flow boundary and off-site appear to be defined and are stable to decreasing. Therefore, the benefit to further groundwater control is marginal at best. Also, the January letter requested a review of a vertical barrier for an on-site soil remedy. The impacted soil discussed in the RRMP is located within the southern flow regime and therefore does not pose risk to off-site properties. Our planned use of institutional controls for the on-site impacts will address the current risks on-site. Whirlpool plans to record deed restrictions prohibiting subsurface work within the impact area. This will be done in addition to the City of Ft Smith Groundwater Well Ban that will cover on-site Whirlpool property.

ENVIRON proposes that we have a meeting with ADEQ to address the issues raised above and together develop a path forward. ENVIRON submitted a work plan to begin implementing elements of the final remedy identified in the RRMP and would like to keep the project moving forward.

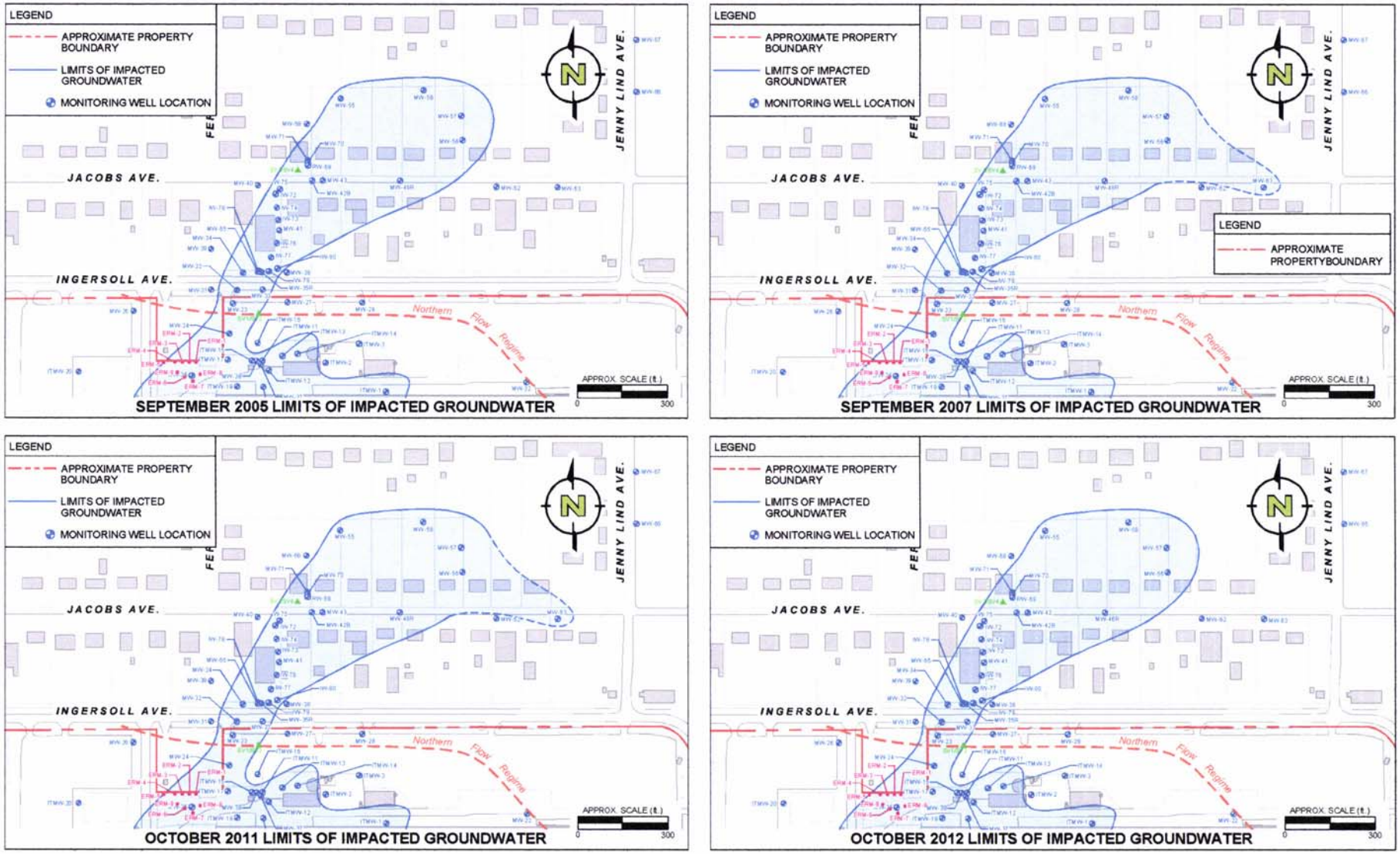
We welcome the opportunity to discuss this letter and associated concerns with you at your earliest convenience.

Sincerely,

Tamara R. House-Knight

Tamara R. House-Knight, Ph.D.
Senior Associate / Toxicologist
(501) 907-9437
THouseKnight@environcorp.com

Cc: Robert Karwowski – Whirlpool Corporation



ENVIRON

DRAFTED BY: ELS | DATE: 2/11/13

GROUNDWATER TRENDS
WHIRLPOOL CORPORATION
6400 JUNNY LIND ROAD
FORT SMITH, ARKANSAS

FIGURE 7

21-31344A

L:\Loop Project Files\00_CAD FILES\21\Whirlpool Risk Mgmt Plan & Remedy 21-31344A\07_GW Trends.dwg

ADEQ

A R K A N S A S
Department of Environmental Quality

CERTIFIED MAIL 91 7199 9991 7030 4901 5379

January 22, 2013

Whirlpool Corporation
Attn: Mr. Robert Karwowski
Director, Environmental, Health & Safety
2000 North M-63
Benton Harbor, MI 49022

RE: Whirlpool Corporation, Forth Smith, Arkansas
Revised Risk Management Plan – November 30, 2013
EPA No. ARD042755389 AFIN No. 66-00048

Dear Mr. Karwowski:

The Arkansas Department of Environmental Quality – Hazardous Waste Division (ADEQ) has completed the review of the Revised Risk Management Plan (RRMP) submitted on December 5, 2012. The information provided in the RRMP and previously submitted progress reports indicate that the concentration of TCE in the off-site monitoring wells exceeds the Maximum Contaminant Levels as well as the Regional Screening Levels and the contamination plume appears to still be moving. Therefore, efforts toward determining and implementing effective remediation should continue in lieu of relying solely on institutional controls. The off-site institutional control may not be used to eliminate remedial options. ADEQ requires the facility to evaluate the following options in order to remediate the contaminants at the site:

- Please evaluate utilizing a recovery trench on-site as a groundwater control.
- Please evaluate utilizing a vertical barrier as a remedy for on-site soil.

Please respond to the aforementioned comments within thirty (30) days from the receipt of this letter. If you have any questions concerning this correspondence, please contact me at (501) 682-0837 or e-mail me at mehran@adeq.state.ar.us.

Sincerely,

mostafa mehran

Mostafa Mehran
Engineer II
Technical Branch

cc: Tamara R. House-Knight, Ph. D., Environ

ADEQ

A R K A N S A S
Department of Environmental Quality

HAZARDOUS WASTE DIVISION ROUTING SLIP

01/08/2013

Subject: Whirlpool Corporation

From: Mostafa Mehran MM

Route in turn to:	Action Needed		Initials	Date
J. Rigg	☑ Concurrence	☑ Review	[illegible]	1/17/13
M. Lawler	☑ Concurrence	☑ Review	JML	1/18/13
A. Cusher	☑ Concurrence	☑ Review	AC	1/18/13
R. Healey	☑ Concurrence	☑ Review	[illegible]	1/18/13
T. Almand	☑ Concurrence	☑ Review	JA	1-22-13
J. Rich	☑ Concurrence	☑ Review	JR	1-18-13
T. Hynum	☑ Concurrence	☑ Review	[illegible]	1/22/13

Note: Marking the Concurrence box indicates the individual agrees with the applicable text as it relates to their individual discipline and Work Section (e.g., Engineer; Risk Assessor; Geology; Compliance; Policy/Management), as applicable. Marking the Review box indicates the individual has read the document.

DISPOSITION:

Return to Mostafa Mehran

COMMENTS: [Insert a brief description of the contents being routed]

The letter pertains to the following:

Revised Risk management Plan – November 30, 2012

1.

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 2/8/2013

Re: Proposed Groundwater Well Prohibition Ordinance

Mr. Robert L. Jones, III, agent for Whirlpool Corporation contacted us concerning a proposal to restrict groundwater wells on the Whirlpool property and residential property north of the Whirlpool property.

Mr. Jones contacted the City asking that such an ordinance be considered as a measure to address the contamination of the soil and groundwater by a chemical known as trichloroethylene (TCE). The presence of TCE is a public health issue that needs to be addressed. Whirlpool has been working with the Arkansas Department of Environmental Quality (ADEQ) for several years on this issue. ADEQ has acknowledged the proposed ordinance is an acceptable method for Whirlpool to address the problem. Other Arkansas cities have passed and approved similar ordinances for contamination problems in their communities.

Mr. Jones has discussed this issue with several city staff persons and Jerry Canfield, city attorney. The staff has also reviewed this matter with ADEQ personnel. In addition to the proposed ordinance, Jerry Canfield has prepared an indemnity agreement for Whirlpool to sign that would indemnify the city from claims and expenses related to this issue.

Whirlpool representatives held a public meeting for the residents so they could discuss the issues and the current proposal. The neighborhood meeting was held on January 10, 2013. We received a letter from Jerome Flusche, a property owner within the area affected by the proposed ordinance, stating his opposition to the proposed ordinance.

Documents related to this matter have been placed at the Fort Smith public library and are available for inspection by anyone wanting detailed and technical information from ADEQ and other information. This information consists of about 1500 pages of information.

Attached to this memo are the following exhibits:

1. The proposed ordinance
2. The proposed indemnity agreement.
3. Information from Mr. Jones providing background and purpose for the request.
4. A summary of the neighborhood meeting.
5. Letter from Jerome Flusche indicating opposition to the proposed ordinance.

Mr. Jones , Robert Karwowski, Director of Environmental Health and Safety at Whirlpool, Greg Gillespie and Tamara House-Knight of ENVIRON, an environmental consulting firm will be in attendance at the February 12, 2013, study session to present and discuss information related to this request.

Please contact me if you have any questions.

Exhibit 1

ORDINANCE NO. _____

AN ORDINANCE TO
PROHIBIT THE INSTALLATION OF GROUNDWATER WELLS
BENEATH CERTAIN IDENTIFIED LANDS WITHIN THE CITY OF FORT SMITH,
ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, Ark. Code Ann. § 14-55-102 authorizes the City of Fort Smith, Arkansas to adopt ordinances in order to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the City and the inhabitants thereof; and,

WHEREAS, the Board of Directors has determined that a ban on the installation of new groundwater wells on certain identified lands within Fort Smith is in the best interests of the citizens of the City of Fort Smith, Arkansas and will further the objectives listed above.

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

Section 1: **Identification of Lands Subject to the Regulations of this Ordinance**. The lands affected by this ordinance are located within the area identified on the map attached as Exhibit B hereto and are more specifically described as all tracts of real property located in the Fort Smith District of the County of Sebastian, State of Arkansas, which are located:

> North of Ingersoll Avenue, west of Jenny Lind Road, east of Ferguson Street and south of Brazil Avenue and the property formerly occupied by Whirlpool Corporation, as referenced in the legal description attached hereto as Exhibit A (collectively, the "Identified Area"). The Identified Area is depicted on the figure attached hereto as Exhibit B.

Section 2: **A. Prohibition of Installation of New Groundwater Wells Within the Identified Area**. The drilling, installation, or other construction of a new groundwater well within the Identified Area is expressly prohibited for any purpose other than those exceptions listed in Section 2B.

B. Exceptions for Monitoring, Remediation, Oil and Natural Gas Wells. This Ordinance shall not apply to monitoring wells constructed for groundwater quality monitoring, to wells constructed for the purpose of investigation, removal and/or remediation of any subsurface contaminate or suspected subsurface contaminate, nor to oil, natural gas exploration and production wells.

Section 3: **Penalties**. Any person determined to be guilty of a violation of Sections 2 or 3 of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to the penalties and fines set forth in Section 1-9 of the Fort Smith Municipal Code.

Section 4: **Codification**. The codifier of the Fort Smith Municipal Code shall codify the provisions of this Ordinance within Chapter 25 of the Code.

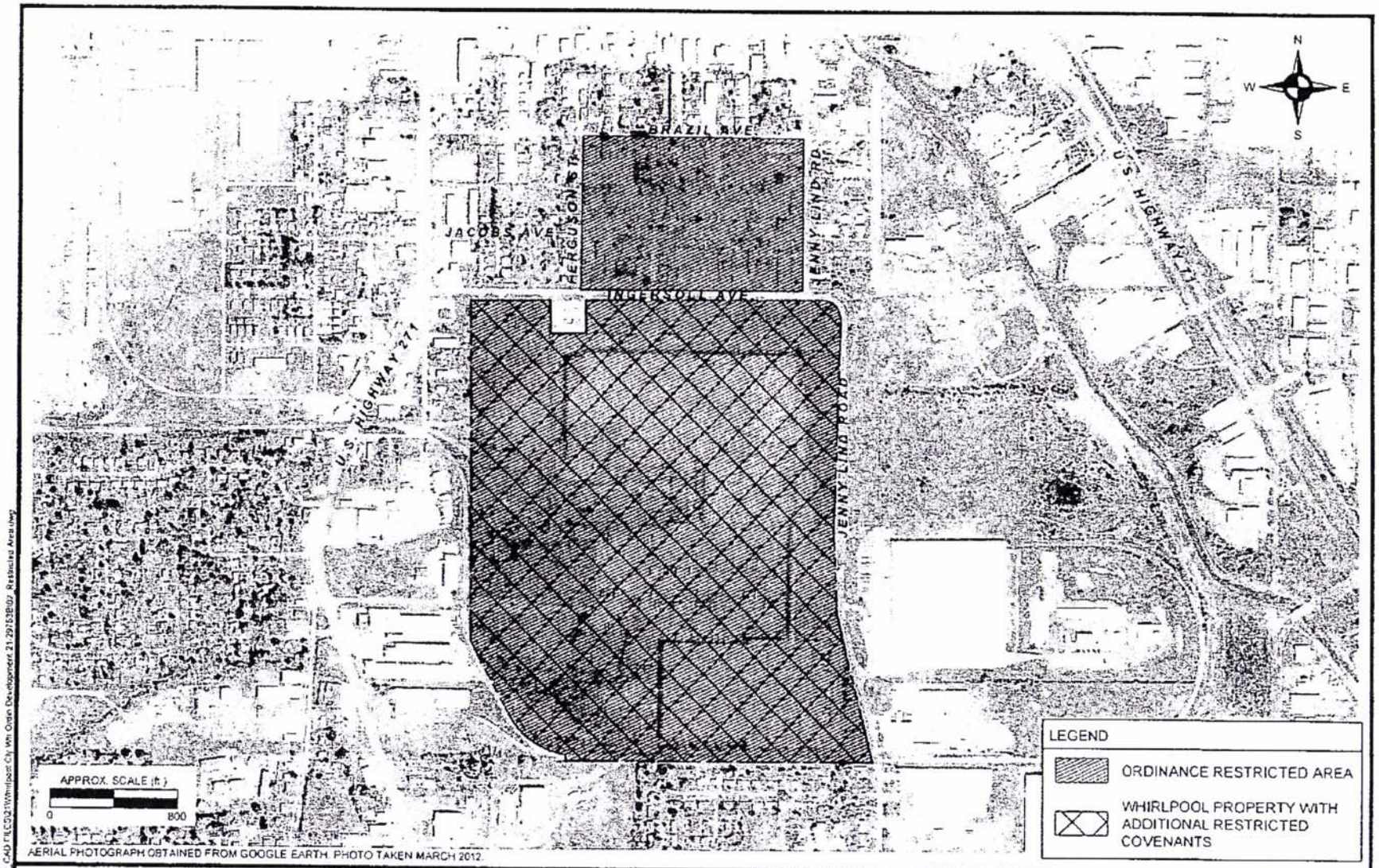
Section 5: **Emergency Clause**. The ability to assure the compliance of all landowners and other persons with these regulations of the use of groundwater beneath certain lands in the City is essential to the health, safety, and welfare of the City and its inhabitants; THERFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

This Ordinance adopted this ___ day of _____, 2013.

_____
Mayor

ATTEST:

_____
City Clerk



AERIAL PHOTOGRAPH OBTAINED FROM GOOGLE EARTH. PHOTO TAKEN MARCH 2012.

ENVIRON

RESTRICTED AREA
WHIRLPOOL CORPORATION
6400 JENNY LIND ROAD
FORT SMITH, ARKANSAS

Figure
2

Drafter: ELS | Date: 10/9/12 | Contract Number: 21-29753B | Approved: | Revised:

Exhibit 2

INDEMNITY AGREEMENT

This Agreement made and entered into this ___ day of _____, 2013, by and between the City of Fort Smith, Arkansas, hereinafter identified as the "City," and Whirlpool Corporation, hereinafter identified as "Whirlpool."

WHEREAS, Whirlpool has for decades operated a Whirlpool Fort Smith manufacturing facility at 6400 Jenny Lind Avenue in Fort Smith; and

WHEREAS, a historical release of trichloroethylene (TCE) ("TCE Release") has been investigated and is regulated under the oversight of the Arkansas Department of Environmental Quality (ADEQ). The TCE Release may impact soil and groundwater on a portion of real properties within the Fort Smith District of the County of Sebastian, State of Arkansas:

> North of Ingersoll Avenue, west of Jenny Lind Road, east of Ferguson Street and south of Brazil Avenue and the property formerly occupied by Whirlpool Corporation, as referenced in the legal description attached hereto as Exhibit A (collectively, the "Identified Area"). The Identified Area is depicted on the figure attached hereto as Exhibit B.

WHEREAS, as a part of its continued management of the TCE Release under supervision of ADEQ, Whirlpool has requested the City to adopt regulations that prohibit the installation of groundwater wells in the Identified Area;

WHEREAS, Ark. Code Ann. § 14-55-102 authorizes the City of Fort Smith, Arkansas to adopt ordinances in order to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the City and the inhabitants thereof; and,

WHEREAS, the Board of Directors has determined that a ban on the installation of new

groundwater wells is in the best interests of the citizens of the City of Fort Smith, Arkansas; and

WHEREAS, Whirlpool receives a benefit to its program of monitoring the TCE release and desires to affirm to the City that Whirlpool will be responsible for all legal and other reasonable costs incurred by the City with reference to the adoption of an ordinance to ban the installation of groundwater wells beneath the Identified Area ("City Ordinance"); and,

WHEREAS, Whirlpool desires to affirm to the City that Whirlpool will be responsible for costs reasonably associated with the handling of groundwater or soils in the Identified Area;

NOW, THEREFORE, in consideration of the mutual benefits received by the parties, which Whirlpool acknowledges to be good, valuable and sufficient consideration to support its undertakings in this Agreement, it is agreed as follows.

1. Groundwater Accumulating in Excavations in the Identified Area.

A. Notification of Ordinance. Upon execution of the Indemnity Agreement, Whirlpool shall notify the Ft. Smith Utility Department, Ft. Smith Transportation Department, all electric, gas, cable, water, and other utility companies operating within the Identified Area of the new groundwater well installation ban. A copy of the City Ordinance shall be provided to each entity notified.

B. Notification of Planned Excavation. The City shall notify Whirlpool prior to the commencement of any planned excavation to be performed by it or its contractors in the Identified Area at least three (3) business days prior to the commencement of excavation. The City shall notify Whirlpool as early as practicable of any emergency, unplanned excavation performed by the City or its contractors.

C. Groundwater Resulting from De-Watering of Excavations. In the event

the City or its contractors performing an excavation in the Identified Area needs to de-water an excavation for any reason, the City shall notify Whirlpool. Whirlpool within a reasonable time shall then advise the City as to the necessary reasonable steps for performing the de-watering and the proper collection and handling of the groundwater produced in the de-watering operation. The City shall then be responsible for performing the de-watering and shall collect and handle all groundwater produced in the de-watering operation substantially in accordance with Whirlpool's advice. Whirlpool shall reimburse the City for the reasonable costs associated with the de-watering operation. In the event the de-watering operation is not substantially performed in accordance with the standards reasonably set by Whirlpool, Whirlpool shall not be responsible for the associated costs or any resulting liabilities arising from the non-conforming performance.

D. Soil Excavation. In the event the City needs to relocate (not placed back into same excavation from which removed) and/or dispose of soils addressed with groundwater from 1.C above or otherwise affected by an excavation by the City or its contractors, the City shall notify Whirlpool. Within a reasonable time, Whirlpool shall then advise the City as to the recommended handling of the soil. The City shall then be responsible for performing the relocation and/or disposal of the soil substantially in accordance with Whirlpool's advice. Whirlpool shall reimburse the City for the reasonable costs associated with the soil operation. In the event the soil operation is not substantially performed in accordance with the standards reasonably set by Whirlpool, Whirlpool shall not be responsible for the associated costs or any resulting liabilities arising from the non-conforming performance.

E. De-Watering and Soil Excavation. The City shall perform soil excavations and de-watering of excavations as required by Section 1(B) by authorized employees or its

contractors. Whirlpool Corporation shall be responsible for notifications to ADEQ with reference to groundwater and soil collected and handled.

2. Indemnity – Third Party Claims. Whirlpool agrees that it shall defend, indemnify and hold harmless the City, its directors, administrators, employees and agents, from and against any and all claims, suits, liabilities, and judgments, including reimbursement for reasonable costs and attorney's fees incurred by the City, in which any person or entity contends the City inappropriately has adopted the City Ordinance banning the installation of groundwater wells in the Identified Area specifically including, without limitation, any claim or judgment that the City's action has constituted, in whole or in part, a taking of real property without just compensation or that the City is responsible for any expense incurred by an affected landowner or other person because of the groundwater use regulations of the City Ordinance.

3. Indemnity – Expenses Incurred by the City. If, during the term of the City Ordinance, the City incurs any reasonable expense arising from the required de-watering of an excavation or relocation of soils evacuated by the City or its contractor with reference to any City owned property or public project being performed by the City, Whirlpool agrees to be responsible for the payment of that expense or, if the expense has previously been paid by the City, to reimburse the City for such expense upon presentation of reasonable documentation of the incurred expense to Whirlpool.

4. Procedures for Indemnification – Third Party Claims. As promptly as reasonably practicable upon receipt of notification of a claim or litigation for which the City seeks defense and indemnity pursuant to Section 2, the City shall provide written notification of the claim or litigation to Whirlpool. The City may take reasonable actions to protect itself from any such

claim or litigation until such time as Whirlpool Corporation has notified the City of receipt of notification and its intention to be responsible for the defense and payment of the claim or litigation. Upon written notification that the claim or litigation has been accepted for defense and payment by Whirlpool, Whirlpool shall reimburse the City for defense costs incurred to that date and shall have the right to handle legal representation with reference to any such claim or litigation. The City, at its own expense, may retain its own legal counsel to assist in the handling of any claim or litigation accepted by Whirlpool for handling.

5. Procedures for Indemnification – Expenses Incurred by the City. Any claim for payment of expense or reimbursement of payment of expense presented by the City pursuant to Section 3 shall be made in writing to Whirlpool. Whirlpool shall notify the City in writing within fifteen (15) days of receipt of any such claim whether the claim will be paid by Whirlpool or disputed by Whirlpool. Whirlpool shall cause undisputed claims to be paid within thirty (30) days of notification by the City, and Whirlpool shall cause disputed claims to be paid within ten (10) days of final resolution in favor of the City, together with interest at six percent (6%) per annum and reasonable attorney's fees.

6. No Assumption of Liability. Whirlpool does not assume liability for claims made alleging negligence of the City or its employees, contractors, or agents or for claims made regarding the performance of the City or its employees, contractors, or agents in carrying out their duties or services under this Agreement. Whirlpool shall not be responsible for claims made by the City's employees, contractors or agents for injuries incurred while performing services under this Agreement.

7. Notification. Any notice required to be given by this Agreement by the City or

Whirlpool to the other shall be considered effectively delivered if delivered by mail, facsimile, or personal courier, and shall also be delivered by electronic mail, to the following addresses:

Fort Smith City Administrator
625 Garrison Avenue
Fort Smith, AR 72901
Gosack@FortSmithAR.com
(479)784-2430

Whirlpool - North American Region
Director of Environment , Health & Safety
600 W. Main St
Benton Harbor, MI 49022
Attn: R. Karwowski
Robert_J_Karwowski@whirlpool.com
(269) 923-3614
Fax: (269) 923-3929

8. Dispute Resolution. In the event Whirlpool disputes its obligation to provide defense and indemnity with reference to any claim or litigation or in the event that Whirlpool disputes its obligation to pay or reimburse any expense claim by the City pursuant to Section 3, Whirlpool shall give notice of its dispute within fifteen (15) days of receipt of notification of the claim, lawsuit or expense. Upon receipt of the dispute notification by Whirlpool, the City Administrator of the City shall arrange a telephone or in person conference to discuss the matter with Whirlpool within thirty (30) days of the dispute notification. If the conference has not been held within thirty (30) days or, if held, the conference does not resolve the dispute, either party may commence litigation in the Circuit Court of the Fort Smith District of Sebastian County.

9. Arkansas Law. This Agreement shall be governed, performed and interpreted under the laws of the State of Arkansas.

10. Severability. If any portion of this Agreement is ultimately determined not to be enforceable, that portion will be severed from the Agreement and the severability shall not affect the enforceability of the remaining terms of the Agreement.

11. Parties Bound. This Agreement applies to and is binding, jointly and severally, upon each party and its receivers, trustees, successors, and assigns. No change in the ownership

or corporate or business status of the Whirlpool Fort Smith manufacturing facility shall alter the responsibilities of Whirlpool, its receivers, trustees, successors and assigns, under this Agreement.

12. Representative Authority. Each undersigned representative of the parties to this Agreement certifies that she or he is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the parties to this Agreement.

13. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

Executed as of the date set forth above.

City of Fort Smith

Approved: _____
Mayor

Attest: _____
City Clerk

Whirlpool Corporation

By: _____

Exhibit 3

Bailey, Wally

From: Heather Sanford [HSanford@cwlaw.com] on behalf of Robert L. Jones III [BJones@cwlaw.com]
Sent: Wednesday, January 16, 2013 10:36 AM
To: Gosack, Ray
Cc: Bailey, Wally; jcanfield@dailywoods.com
Subject: Whirlpool ordinance
Attachments: 1-15-13 Detailed Overview.pdf; Ex-B_Restricted Area-D24x36 pdf.pdf; 2012-11-30 Whirlpool RRMP Limits Of GW Impact.pdf; 1-15-13 Ordinance.pdf; Neighborhood Meeting Notice.pdf

The City of Fort Smith Board of Directors will soon be requested to pass an ordinance, which will prohibit the installation of groundwater wells on the Whirlpool property and residential property to the north of the plant. Discussions concerning this proposed ordinance have been ongoing with employees of the City of Fort Smith and City Attorney Jerry Canfield for several months.

Here is information to give you some history and background concerning the need for this proposed ordinance:

1. Before 1980, Whirlpool was using a solvent (this was common practice at the time for most manufacturing operations) to degrease/clean parts prior to assembly. The solvent contained trichloroethylene (TCE).
2. In about 2001, Whirlpool learned that groundwater impacted by the solvent used prior to 1980 had migrated off the Whirlpool property to the North. Whirlpool notified the Arkansas Department of Environmental Quality (ADEQ)
3. Whirlpool and ADEQ have been investigating and monitoring this migration for over ten years. Monitoring wells have been established.
4. Whirlpool has tried to remove groundwater but due to the physical characteristics of the aquifer and the tightness of the soil, this was impossible.
5. Whirlpool then tried to chemically treat the groundwater but this was also unsuccessful.
6. The concentration of TCE has been steadily decreasing over the years.
7. The groundwater is over 7 feet underground. At this depth, it poses no threat to human health or environment.
8. The plume has not been moving and is stable.
9. Whirlpool has agreed to execute an indemnity agreement in favor of the City of Fort Smith. This agreement was drafted by me and City Attorney Jerry Canfield.

Accordingly, Whirlpool has determined that the best way to ensure the health and safety of Fort Smith residences that are in the impacted area is to pass an ordinance preventing the installation of groundwater wells. There are currently no documented groundwater wells in the impacted area and we would like to insure that none are installed. This proposed ordinance adds a level of protection that is not in place today.

For your consideration, I enclose the following:

1. A more detailed overview.
2. A map showing the area of the ordinance.
3. A map showing the plume.
4. A copy of the proposed ordinance.
5. A notice of a neighborhood meeting that was conducted at the Fort Smith senior center on January 10, 2013. Five citizens attended and asked questions.

We request that this information be distributed to the board of directors so they will have some background. I understand a study session has been set for February 12, 2013 at noon at the Fort Smith City Library where this proposed ordinance will be discussed.

At the study session, I will attend along with Amber Prince as attorneys for Whirlpool. Robert Karwowski, who is the director of environmental health and safety at Whirlpool will be attending. Tamara House-Knight and Greg Gillespie are consultants with ENVIRON, who will also be in attendance. This independent consulting firm specializes in environmental health and safety issues.

If there is any additional information you need before this study session, please let us know. We look forward to meeting with the board.

Robert L. Jones III
Attorney at Law

CONNER & WINTERS

CONNER & WINTERS, LLP
Attorneys & Counselors at Law
4375 N. Vantage Drive, Suite 405
Fayetteville, AR 72703
P 479.582.5711
F 479.587.1426
bjones@cwlaw.com
www.cwlaw.com

IRS Circular 230 Notice: To ensure compliance with requirements imposed by the IRS, we inform you that, unless specifically indicated otherwise, any tax advice contained in this communication (including any attachment) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter addressed herein.

This message and any attachments may contain information that is highly confidential, privileged, and exempt from disclosure. Any recipient other than the intended recipient is advised that any dissemination, distribution, copying, or other use of this message is strictly prohibited.

If you have received this message in error, please notify the sender immediately.

Overview

The Whirlpool Fort Smith facility is located at 6400 Jenny Lind Road on the south side of Fort Smith, Arkansas. The facility manufactured side-by-side household refrigerators and trash compactors. The facility had been operated by Whirlpool for over 45 years and ceased production in June 2012.

The manufacturing processes at the Whirlpool-Fort Smith facility involved metal fabrication, plastic thermoforming and assembly operations. Dating back to approximately 1967, equipment degreasing operations utilizing trichloroethylene (TCE) were performed in the former degreaser building located near the northwestern corner of the main manufacturing building, west of the boiler house. The use of TCE was discontinued in 1981 and the degreaser building is not currently used for any cleaning operations.

TCE impacts where not known until well after the degreasing operations ceased. During unrelated construction activities in 1990 soil data indicated TCE impacts to soil and shallow groundwater. Additional soil and groundwater investigations were performed onsite. The data collected suggested soil and groundwater was impacted on site only. During additional investigations focused on the onsite issues, offsite TCE groundwater impacts where discovered in 2001 and immediately reported to ADEQ.

To address the impacts from historical releases both on and off site, Whirlpool entered into a Letter of Agreement (LOA) with the Arkansas Department of Environmental Quality (ADEQ), dated July 19, 2002. Under the LOA, Whirlpool is following the United States Environmental Protection Agency's (USEPA's) Corrective Action Strategy (CAS). To date Whirlpool has completed the following activities and submitted documents as required by the LOA:

ADEQ Document Overview

The documents listed below have been submitted and approved, or are currently under review by ADEQ.

Date	Document	Description
August 2002	Notice of Intent (NOI)	Notification to ADEQ that Whirlpool will conduct corrective action using a Risk Management Strategy (RMS) to address the impacted area that will be protective of human health and environment.
August 2002	Scoping Meeting	Meeting between Whirlpool and ADEQ at the Ft. Smith facility to develop a conceptual site model (CSM) that defines site conditions based on the site investigation activities, potential extent of affected media, and exposure scenarios.
August 2002	Risk Management Strategy (RMS) Work Plan	The RMS work plan in accordance with the LOA, presented the CSM, planned soil and groundwater data collection methods and schedule, and detail of how Whirlpool will implement the RMS.
June 2004	Corrective Action Strategy (CAS) Work Plan	The report in accordance with the LOA, presented Whirlpool's plan to address on-site soil and

		groundwater impacts and off-site groundwater impacts to ADEQ.
August 2006	CAS Work Plan Addendum	The addendum to the CAS Work Plan addressed ADEQ's comments regarding the CAS Work Plan that included identification of impacted areas and data collection and evaluation.
September 2006	Facility Activities	Activities included measures identified by Whirlpool and agreed to by ADEQ in the CAS Work Plan and Addendum.
June 2007	Risk Evaluation Report	The report, in accordance with the LOA, summarized the Whirlpool site conditions, defined the extent of soil and groundwater contamination, and identified potential exposure routes for on-site soil and groundwater and off-site groundwater.
March 2008	Remedy Selection	This process as required by the LOA, identified and screened remedial technologies for potential use at the Whirlpool facility and selected the final remedy to address impacted soil and groundwater.
March 2008	Risk Management Plan	The report as required by the LOA, presented the selected remedy and schedule for implementation, established performance monitoring criteria, described contingency plans for additional corrective measures, and described the approach and schedule for project performance reviews.
March 2008	Interim Measure Work Plan	Outlined measures to be taken if Whirlpool or ADEQ determined that during the remediation, a release or potential release posed a short-term threat to human health or the environment
February 2010	Interim Measure Status Report	The report discussed the selection of chemically treating (permanganate) the TCE plume in groundwater as a remedial alternative.
July 2010	Interim Measure Status Report	The report presented results of the continued groundwater monitoring and discussed observations that pilot groundwater extraction operations were not effective in recovering contaminated groundwater from the aquifer and was not a practical clean-up remedy.
June 2012	Annual Groundwater Monitoring Report	The report provided ADEQ with results of the 2011/2012 sampling program that was implemented in 2002 to monitor the concentrations and distribution of affected groundwater associated with the historical TCE release at the Whirlpool facility.
November 2012	Revised Risk Management Plan (RRMP)	**Under review by ADEQ** – The report presents a summary of 15 years of investigative activities and data collection in order to identify, screen and select a final remedy that is protective of human health and the environment.

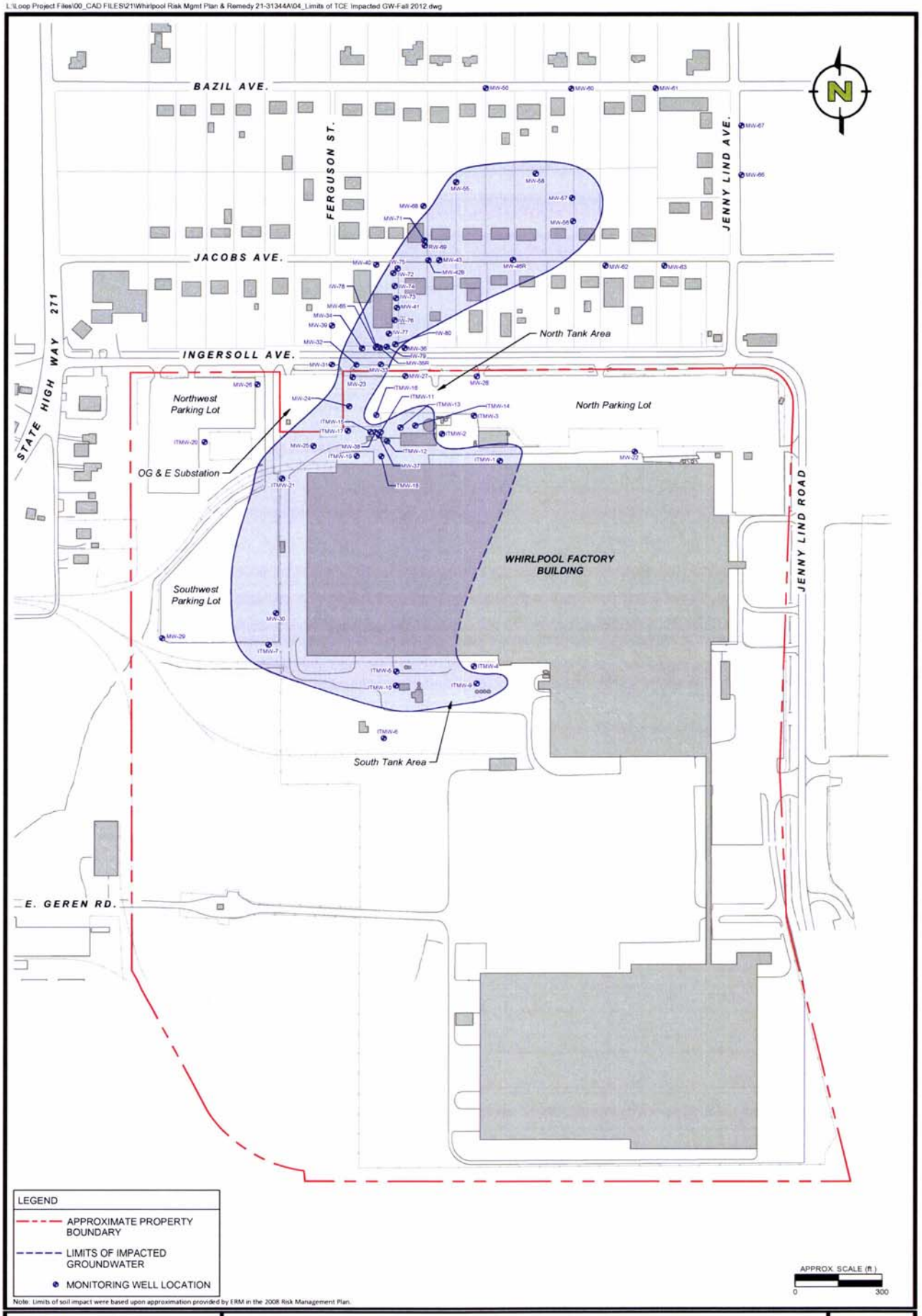
A public involvement plan will be implemented as part of the Risk Management Plan Whirlpool submitted to ADEQ in November 2012. The public involvement plan developed by Whirlpool includes a document repository that will be available at the Ft Smith Public Library. The repository will include all ADEQ Administrative Record documents since the beginning of the project. With ADEQ approval the repository will be accessible by the end of this month (January 2013) The public plan includes a 30 day comment period to ADEQ and a public meeting. The public meeting is in addition to the January 10, 2013 meeting for the well ordinance.

Summary

Upon discovery of subsurface impacts to soil and groundwater, Whirlpool voluntarily contacted ADEQ and began discussions with ADEQ and implemented actions as required under Arkansas Environmental Regulations. Whirlpool, with ADEQ review and oversight, has been addressing the impacts ever since.

Since the only potential exposure to the impacted groundwater is ingestion (drinking water from well), Whirlpool immediately completed a survey of the impacted area to determine if there were any existing or historical groundwater wells in the area. Based on the thorough review of the State of Arkansas Department of Health well data archives, interviews with Arkansas Department of Health, local well drillers / installers and the City of Ft Smith Water Utility department it was confirmed that no groundwater wells had or are currently in place within a one mile radius of the Whirlpool site. Since the only human health risk from the impacted groundwater is ingestion and there are no groundwater wells in the area, there is currently no human health exposure risk. Knowing there is no human health exposure risk Whirlpool is proceeding to move forward to address the impacts. The studies completed to date have shown that clean-up of the impacted groundwater will take time. In order to prevent future ingestion of groundwater in the impacted area, Whirlpool requested the City of Ft Smith codify an ordinance to ban the installation of groundwater wells in this area. The ordinance would provide the highest degree of protection to all impacted properties today and in the future

L:\Loop Project Files\00_CAD FILES\21\Whirlpool Risk Mgmt Plan & Remedy 21-31344A\04_Limits of TCE Impacted GW-Fall 2012.dwg



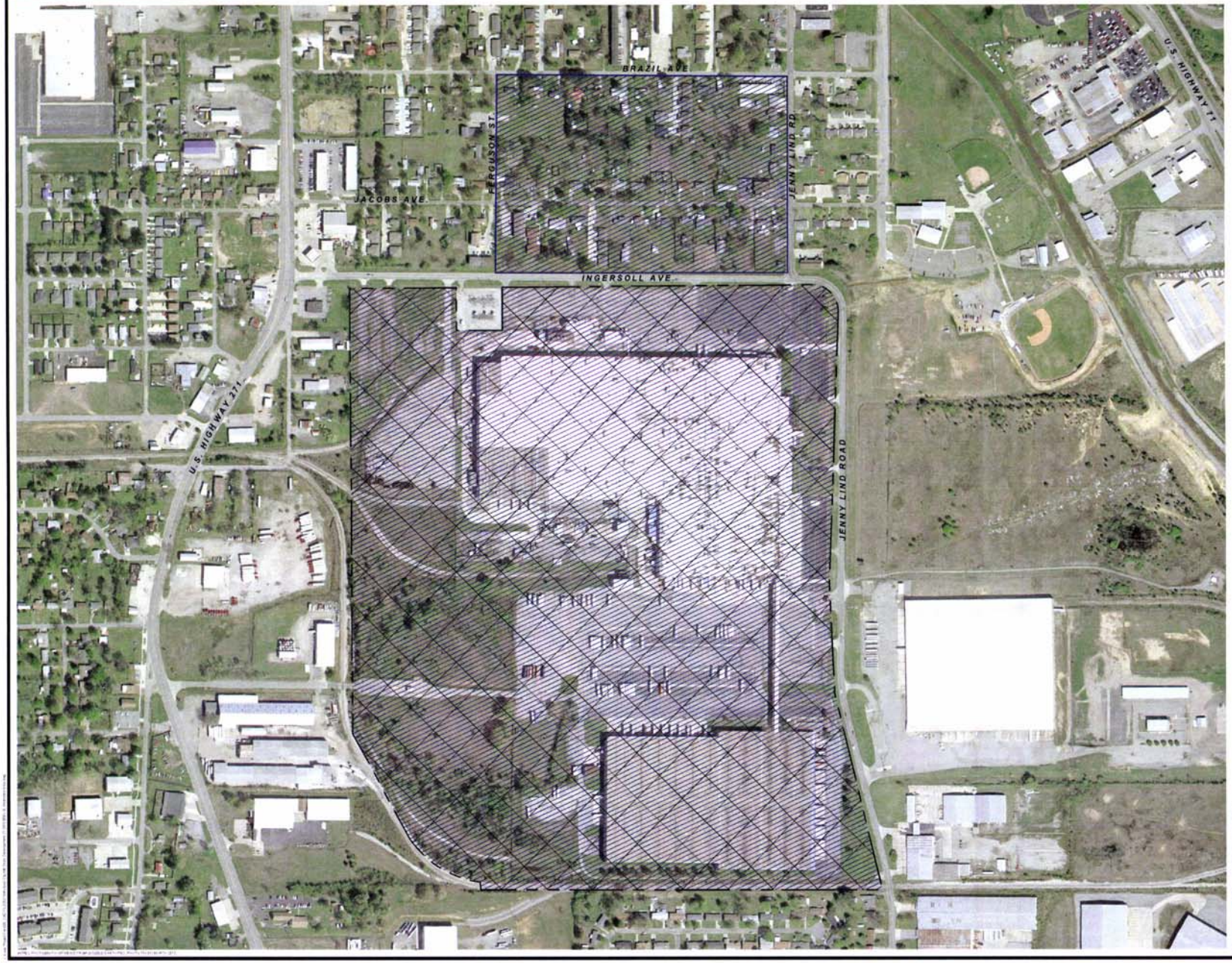
Note: Limits of soil impact were based upon approximation provided by ERM in the 2008 Risk Management Plan.

ENVIRON

DRAFTED BY: ELS | DATE: 11/16/12

LIMITS OF IMPACTED GROUNDWATER - FALL 2012
WHIRLPOOL CORPORATION
6400 JENNY LIND ROAD
FORT SMITH, ARKANSAS

FIGURE
4
21-31344A



LEGEND

- ORDINANCE RESTRICTED AREA
- WHIRLPOOL PROPERTY WITH ADDITIONAL RESTRICTED COVENANTS

0 100 200 400 600
APPROXIMATE SCALE (FT)

RESTRICTED AREA
WHIRLPOOL CORPORATION
6400 JENNY LIND ROAD
FORT SMITH, ARKANSAS

ENVIRON

EXHIBIT
B

DRAFTED BY: ELS | DATE: 1/7/13 | 21-267538

CONNER & WINTERS
Attorneys and Counselors at Law

Robert L. Jones III | Attorney at Law
bjones@cwlaw.com

Conner & Winters, LLP
4375 N. Vantage Drive, Suite 405 | Fayetteville, AR 72703-4985
p (479) 582-5711 | f (479) 587-1426 | cwlaw.com

December 27, 2012

Property Owners

Re: Neighborhood Meeting for Proposed Ordinance

Dear Property Owners,

Whirlpool is planning to present the City of Fort Smith Board of Directors the enclosed ordinance which will prohibit the installation of groundwater wells in the Identified Area. We will hold a neighborhood meeting at the below time and location to discuss the proposed ordinance. We invite you to attend.

Neighborhood Meeting
Thursday, January 10, 2013
6:00 p.m. CST
Fort Smith Senior Activity Center
2700 Cavanaugh Road
Fort Smith, AR 72908

I look forward to visiting with you on this issue.

Yours very truly,

Robert L. Jones, III/hjs

Enclosure

cc: Wally Bailey (Fort Smith Director of Development Services)
Jerry Canfield (Fort Smith City Attorney)

Exhibit 4

Summary of Neighborhood Meeting on January 10, 2013

On January 10, 2013, Robert L. Jones, III and Amber Prince of Conner & Winters, Robert Karwowski of Whirlpool and Tamara House-Knight of Environ International conducted a neighborhood meeting to discuss the proposed ordinance to prohibit the installation of groundwater wells within an identified area with the property owners affected by the ordinance. The meeting was conducted at the Fort Smith Senior Activity Center located at 2700 Cavanaugh. Notice of the neighborhood meeting was mailed on December 27, 2012. A list of the property owners who were mailed a notice is attached hereto.

Five property owners attended the meeting. Specifically:

1. Debbie Keith, 1804 Jacobs Ave.
2. Ethel Fowler, 1504 Jacobs Ave.
3. Jerome Flusche, 2300 S 57th St.
4. Neal Morrison, 1409 Jacobs Ave.
5. James Travis Westpfahl, 1400 Brazil Ave.

Robert L. Jones, III opened the meeting at 6:02 p.m. He outlined the need for the ordinance due to groundwater impacts associated with the former Whirlpool facility. A commonly used solvent which contained trichloroethylene ("TCE") was used in the 1970s to "degrease" or clean equipment at the Whirlpool manufacturing facility. The solvent was commonly used during this time period by many manufacturing operations. In the mid-1980s, Whirlpool discovered the solvent had impacted groundwater below the Whirlpool property. Through additional site investigation it was discovered that groundwater offsite also contained levels of the same solvent. Whirlpool voluntarily notified the Arkansas Department of Environmental Quality ("ADEQ") and has been working under ADEQ guidance to address the problem since. Whirlpool retained environmental professionals to monitor and address the contamination. As a result of the extensive site investigation and monitoring, it has been determined the "plume" or area of contamination is contained and is no longer moving. However, soil characteristics in this general area are very dense. Multiple efforts to remediate the contaminate proved ineffective and we are now requesting the City pass an ordinance to prohibit the installation of a water well within the designated area to prevent the contaminated groundwater from being ingested. The groundwater is at least seven feet below the surface. Whirlpool will also notify all utility companies of the ordinance.

A question was asked regarding the well pump house that is located on one of the pieces of property. It was explained that this shed will be removed by Whirlpool. The structure enclosed equipment previously used in an attempt to remediate the problem. At one point, with ADEQ's concurrence, Whirlpool attempted to treat contaminates in the groundwater by injecting a counteracting chemical into the plume. At least one resident present at the meeting stated they saw steam and smelled an odor which was likely caused by the chemical being used to attempt

treatment of the contaminate. This effort proved ineffective due to the density of the soil. Additional efforts to enhance the treatment by pumping groundwater also proved ineffective due to the physical characteristics of the groundwater zone and tightness of the soil.

Several questions were asked regarding whether this would decrease the value of the resident's property and their ability to sell. One resident pointed out that on the residential disclosure form required as part of a property transaction, at least six questions would have to be answered "yes" due to the contamination. It was explained that the ordinance should not decrease their property value because there are no known groundwater wells in the area currently and the groundwater yield is so low due to the dense soil that a groundwater well would produce very little water. One resident mentioned that although there may be no harmful health effects, the perception associated with the impact may decrease their property values. Additionally, they do not believe Whirlpool should be telling them what they can or can't do with their own land. One resident mentioned that she is already prevented from building a driveway onto Ingersoll Avenue because of an agreement between Whirlpool and the City.

One resident stated she did not want her grandkids to play in her backyard and that she had four dogs die in the last several years that were otherwise healthy dogs. She also mentioned she had a swimming pool and they had considered installing a groundwater well to save on water utility costs.

The residents requested documentation of the monitoring efforts. Whirlpool has complied with this request by providing copies of multiple documents between ADEQ and Whirlpool to the Fort Smith Public Library for public review.

Residents asked about the effects of TCE. The common symptoms of TCE exposure were explained. Typical symptoms include dizziness, drowsiness and rash. These symptoms are only seen at very high levels, well above the levels at this site. It was also explained that TCE has been shown to be carcinogenic in animals at much higher levels than what is currently present. It has not been shown to be carcinogenic in humans. The most recent measures of the TCE showed 20mg/l to be the highest measure of concentration anywhere within the off-site plume. The concentration has come down dramatically over the years. The concentration may get to zero at some point but we do not know when that will be.

It was explained to the residences that surface water that may appear after precipitation is not contaminated. One resident mentioned that when it rains, her yard is damp for a while afterwards and was concerned that the surface water may pull up the groundwater. The impacts of precipitation and surface water where discussed, emphasizing that there is no likelihood of TCE impact to the visible surface water after rain events.

A question was asked whether Whirlpool was negligent in containing the contamination. While we do not know exactly when the contaminate migrated off-site, once Whirlpool was aware of

the problem it contacted ADEQ and began to investigate the problem under ADEQ guidance and approval.

Another question was asked why the residents were just now finding out about the problem. One resident stated they did give permission to drill a monitoring well eleven years ago but she claimed she did not know why they were drilling. Whirlpool has been attempting to understand and remedy the situation and did not want to speak before fully knowing what they were dealing with and how they were going to deal with the problem.

The property owners asked for the name of the project manager at ADEQ who has been working with Whirlpool and Environ on this problem and this information was given to the residents.

The source of the contamination was shown on a large map of the Whirlpool building, along with the area of impact.

A resident asked whether trees were affected. Trees are sometimes used to clean up the problem because they can vaporize the contaminate and release it cleanly into the air through leaves.

One resident in attendance will be working on the planned Jenny Lind Road expansion. He asked what protective measures were going to be in place for the road project. We explained that based on a written agreement with the city if groundwater is exposed, the first step is to notify Whirlpool. Whirlpool will send a consultant to look at the area. Based on that assessment if needed, Whirlpool will have the groundwater removed from the excavation and disposed offsite at its expense.

The property owners questioned whether Whirlpool was sure there was not another solution. It was explained that due to the subsurface soils and groundwater zone, the groundwater cannot be treated in place nor can it be pumped out and treated or disposed of.

If the ordinance does not pass, the ingestion risk will remain. Independent of the ordinance Whirlpool continues to work with ADEQ to address the impacts.

It was asked whether Whirlpool had to pay a fine for impact. Whirlpool has not been assessed or paid any fines.

The meeting concluded at approximately 7:00 p.m.

Exhibit 5

Kralicek & Flusche, LLC
2300 South 57th Street, Suite 4
Fort Smith, AR 72903
Phone: 479.452.0000
Fax: 479-.452-0028

City Clerk
FILED 1-11-13
HIames

January 10, 2013

City Administrator
The Board of Directors
City of Fort Smith
623 Garrison Avenue
Fort Smith, AR 72901

Re: Proposed Ordinance

Ladies and Gentlemen;

We are in receipt of a notice from Robert L. Jones III, attorney for Whirlpool Corporation. This letter states that Whirlpool is planning to ask the City of Fort Smith Board of Directors to pass an ordinance which prohibits groundwater wells in a specified area. The specified property is located north of the Whirlpool plant.

We own property within the proposed ban area and were unaware of any change/contamination of the ground water in this area. We believe that passing this ordinance rather than correcting the problem would adversely affect the value of our property. We are requesting full disclosure from Whirlpool regarding the tests that have been done on the sample wells along with the health concerns there may be.

Please review the attached Seller Property Disclosure (used when property is sold). There is a minimum of six questions that the seller would be required to answer negatively if this ordinance is passed.

Please consider the consequences of passing this ordinance. All property owners in this area would be adversely affected by this proposed ordinance if the contamination is not corrected.

If according to Ark. Code Ann. S 14-55-102 ....to provide for safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the City and the inhabitants thereof... then how can the proposed ordinance be passed. It only covers up existing safety and health issues will not prosper property values and provides no convenience for the inhabitants i.e. property owners.

We respectfully request that this ordinance not be passed.

Sincerely,

Kralicek & Flusche, LLC

Jerome Flusche

Jerome Flusche
Partner

Seller Property Disclosure

Copyright 2013 Arkansas REALTORS® Association

Form Serial Number: *015879-000135-7677500*

TO BE COMPLETED BY SELLER: (Please Print) Date: _____

Seller(s): _____

Seller ☐ is ☐ is not occupying the Property. (If Seller is occupying or has occupied the Property, give length of occupancy in years: _____)

Property Address: _____

Approximate finished, heated & cooled square footage (if applicable): _____

Approximate Date of Construction: _____

Please check the following boxes as they apply to the Property:

☐ Water, and is provided by
- ☐ A rural water district or other non-municipal water system: _____
- ☐ A municipality or county: _____
- ☐ Well ☐ Other: _____

☐ Natural gas, and is provided by: _____

☐ Propane tank: ☐ Owned ☐ Rented from: _____

☐ Electricity, and is provided by: _____

☐ Sewer, and is provided by
- ☐ A non-municipal sewer system: _____
- ☐ A municipality or county: _____
- ☐ Septic system (See questions #4 & 5, following page). Type, if known: _____
- ☐ Other: _____

☐ Mandatory Property Owner's Association Dues: Amount $ _____ Frequency: _____

POA Contact Name _____ Phone Number _____

☐ POA has 1st Right of Refusal Option

Covered by association fee (check all that apply):

☐ Swimming pool ☐ Hot tub ☐ Playground ☐ Clubhouse ☐ Tennis courts
☐ Exterior maintenance ☐ Termite contract ☐ Grounds maintenance ☐ Fitness center
☐ Water ☐ Gas ☐ Garbage pickup ☐ Other: _____

☐ Boat Slips ☐ Not applicable Number to be conveyed, if applicable:
- ☐ Covered boat slips (No. _____) ☐ Uncovered boat slips (No. _____)
- ☐ Lifts (No. _____) ☐ Other docks (No. _____)

☐ Pool ☐ Aboveground ☐ Inground ☐ Gunite/Concrete ☐ Liner ☐ Other _____
☐ Salt ☐ Chlorine ☐ Other _____

Condominium/Town Home, total number of parking spaces:
☐ Open (No. _____) ☐ Assigned (No. _____) ☐ Owned (No. _____)
These spaces are: Uncovered (No. _____) ☐ Covered (No. _____) ☐ Garage (No. _____)

☐ Special Property Assessment: Amount $_____ Frequency: _____

☐ Cable/satellite television, and is provided by: _____

☐ Telephone, and is provided by: _____

☐ Garbage pickup, and is provided by: _____

☐ Fire protection, and is provided by: _____

☐ Termite policy (current), and is provided by (Name of Company): _____

☐ Homestead Tax Credit has been claimed for the tax year of _____

☐ A Tax Benefit (tax assessment frozen) for over 65 or handicapped status has been claimed by Seller.

Seller Property Disclosure

REALTOR® EQUAL HOUSING OPPORTUNITY

Copyright 2013 Arkansas REALTORS® Association

Form Serial Number: *015879-000135-7677500*

Purpose Of Statement: This is a statement of conditions and information concerning the Property. Unless otherwise advised, Seller does not possess any expertise in construction, architecture, engineering or any other specific areas related to the construction or condition of improvements on the Property or the Property itself, other than occupying or having ownership of the Property. Seller possesses no greater knowledge than that which could be obtained by inspection of the Property by potential buyers, lessees, tenants or their representatives. This statement is not a warranty of any kind by Seller, Listing Firm or any subagent of Listing Firm. **THIS DISCLOSURE IS NOT A SUBSTITUTE FOR INSPECTIONS. ANY POTENTIAL BUYER OF THE PROPERTY IS ENCOURAGED TO OBTAIN A PROFESSIONAL, PERSONAL OR OTHER INSPECTION PRIOR TO PURCHASING, LEASING, EXCHANGING, RENTING OR OFFERING TO PURCHASE THE PROPERTY.**

Instructions to Seller: (1) Complete this form yourself. (2) Report known conditions affecting the Property. (3) Attach additional pages with your signature if additional space is required. (4) Answer ALL questions. (5) If some items do not apply to Property, check "Not Applicable." (6) If you do not know the answer to a question or do not understand a question, check the answer "Unknown."

Seller's Statement: Even though this is not a warranty, Seller hereby specifically makes the following representations based on Seller's knowledge as of the above date. **Seller agrees to immediately notify Listing Firm in writing and to modify this Seller Property Disclosure if any answer set forth below changes prior to Closing.** Unless a potential buyer desires not to obtain a copy of this statement (as expressly set forth in a Real Estate Contract), Seller authorizes Listing Firm to provide a copy of this statement to any person or entity in connection with any possible, actual or anticipated sale, exchange, lease or rental of the Property.

ALL STATEMENTS MADE IN THIS DISCLOSURE ARE MADE BY SELLER AND ARE NOT REPRESENTATIONS OF ANY AGENT(S) AND/OR SUBAGENT(S) OF SELLER. THE STATEMENTS MADE BY SELLER ARE BASED SOLELY UPON SELLER'S KNOWLEDGE AND INFORMATION AND DO NOT CONSTITUTE ANY REPRESENTATION OR WARRANTY BY SELLER AGAINST ANY CONDITIONS THAT MAY EXIST THAT ARE UNKNOWN TO SELLER. THE BUYER IS AGAIN STRONGLY ENCOURAGED TO CONDUCT AND OBTAIN INSPECTIONS OF THE PROPERTY.

Concerning the Property referenced above:

1.	To your knowledge, are there any features of the Property shared in common with adjoining landowners, such as walls, fences, driveways, septic systems, water wells, satellite dishes, or shared meters or shared utilities?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
2.	To your knowledge, is there a Homeowners Association, historical preservation district, or architectural committee or board that has any authority over the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
3.	To your knowledge, are there any common areas such as pools, tennis courts, driveways, roads or walkways co-owned with or used by others.	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
4.	To your knowledge, is there now or has there ever been a waste disposal maintenance and monitoring contract with maintenance personnel certified by the Arkansas Department of Health?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
5.	To your knowledge, have there been any problems with any private sewer or water system, septic system, water well, or other system or utility servicing the Property?	☒ Yes	☐ No	☐ Unknown	☐ Not Applicable
6.	To your knowledge, are there any encroachments, easements, leases, liens, mortgages or deeds of trust, contracts for sale or installment land sales contracts, adverse possession claims or similar matters that affect the Property that a title search would not reveal?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
7.	To your knowledge, have there been any room additions, structural modifications or other alterations or repairs made to the Property since the Property was originally constructed?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
	If the answer to Question 7 was "Yes," to you knowledge were such structural changes done following issuance of a permit and in compliance with building codes?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable

Seller Property Disclosure

REALTOR® EQUAL HOUSING OPPORTUNITY

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Form Serial Number: *015879-000135-7677500*

9.	To your knowledge, are there any underground storage tanks of any kind located on the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
10.	To your knowledge, has there been any settling from any cause, or slippage, sliding or other poor soil conditions at the Property or at adjacent properties?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
11.	To your knowledge, has there been any flooding, drainage, grading problems, or has water ever stood on the Property or under any improvement constructed thereon?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
12.	To your knowledge, has there been any damage to the Property or any of the structures from fire, earthquake, storms, floods or landslides prior to or during your ownership?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
13.	To your knowledge, are there any Bills of Assurance, deed restrictions, other obligations, or other use restrictions for the Property that a title search would not reveal?	☒ Yes	☐ No	☐ Unknown	☐ Not Applicable
14.	To your knowledge, are there any violations or nonconforming uses of the Property regarding zoning, land use restrictions or "setback" requirements or matters not disclosed in Questions 12 and 13?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
15.	To your knowledge, are there any notices of abatement or citations against the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
16.	To your knowledge, are there any lawsuits affecting this Property or judgments against Seller that would affect the title or sale of the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
17.	To your knowledge, are there any neighborhood noise problems or other nuisances that would not be normal for this type of Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
18.	To your knowledge, are there any defects in the appliances or the mechanical, electrical, plumbing, heating and air conditioning, water, sewer or septic systems of the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
19.	To your knowledge, are there any defects in the structure(s) or sub-structure(s) of any improvements located on the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
20.	To your knowledge, is any of the Property in the floodplain or floodway?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
21.	To your knowledge, has any lender required you to purchase flood insurance on the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
22.	To your knowledge, has there ever been a problem with the roof or any of the improvements on the Property, such as defective shingles, damaged shingles, leaking or otherwise?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
23.	To your knowledge, is there any infestation by termites or other wood-destroying insects?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
24.	To your knowledge, is there any damage from a previous infestation of this type on the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
	Do you have knowledge or have you ever received notice from a termite company or other person or entity concerning possible problems or potential problems with the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable

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Form Serial Number: *015879-000135-7677500*

26.	Have you ever filed or made an insurance claim, warranty claim, or other claim concerning the Property? ***Seller is aware that insurance claims against this Property may affect the availability/affordability of a Buyer to obtain homeowner's insurance and/or mortgage.***	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
27.	Have you ever received a settlement of a claim and not made repairs to improvements on the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
28.	To your knowledge, has any person or entity ever refused to complete the purchase of the Property because of an actual or alleged problem with the condition of the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
29.	To your knowledge, are there any leases or rental Agreements (or parties other than Seller in possession) currently in effect on the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
30.	To your knowledge, has any part of the Property been designated as Wetlands?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
31.	To your knowledge, are there any persons or entities, other than those listed above as "Sellers," who claim or have ownership or leasehold interest or 1st right of refusal option on the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
32.	To your knowledge, are there any existing pipelines carrying oil, gas or chemicals underneath or adjacent to the Property or are there any pipeline rights-of-way or easements over or adjacent to the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
33.	To your knowledge, has there been an unsatisfactory percolation, groundwater, or soil test concerning the Property?	☒ Yes	☐ No	☐ Unknown	☐ Not Applicable
34.	To your knowledge, has any boundary discrepancy or unsatisfactory condition concerning the Property been disclosed to you, including information obtained from a boundary survey, environmental report or property inspection of the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
35.	To your knowledge, are there any facts, circumstances or events on or around the Property which, if known to a potential buyer, could adversely affect in a material manner the value or desirability of the Property?	☒ Yes	☐ No	☐ Unknown	☐ Not Applicable
36.	To your knowledge, have any of the improvements on the Property been constructed at another site then moved onto the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
37.	To your knowledge, does the Property contain any exterior insulation finish system (EIFS) or synthetic stucco or similar components?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
38.	To your knowledge, is there any surface or sub-surface mining or extraction for coal, gravel, rock, oil, gas, or other minerals on the Property or on adjacent properties?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
39.	To your knowledge, is there any person or entity claiming or possibly having the right to claim the right to extract any minerals, oil, natural gas, coal or other minerals from the surface or sub-surface of the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable

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Form Serial Number: *015879-000135-7677500*

40.	To your knowledge, does any person or entity, other than Seller, claim any rights to any natural resource or minerals located on the surface of the Property, sub-surface of the Property, or otherwise affecting or impacting the ownership or use of such natural resources or mineral rights?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
41.	To your knowledge, is the Property specially constructed or modified to permit access and use by a person with a physical disability?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
42.	Does Seller hold a real estate license?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
43.	To your knowledge, does any person owning an interest in the Property (if Seller is a corporation or other entity) hold a real estate license?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
44.	To your knowledge, are there any other defects in the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
45.	To your knowledge, are there landfills, hazardous waste, asbestos, radon gas, urea-formaldehyde, electromagnetic fields, or other substances that may affect the Property or the occupants of the Property?	☒ Yes	☐ No	☐ Unknown	☐ Not Applicable
46.	Is Seller aware of any unlawful chemical or drug substances or their manufacture within the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
[illegible]	To your knowledge, are there any notifications of environmental conditions about the Property from the EPA, governmental agencies, or some other source?	☒ Yes	☐ No	☐ Unknown	☐ Not Applicable

48. To your knowledge, in what school district is the Property located?

Elementary: _____

Middle/Junior High: _____

Senior High: _____

If the answer to any of the previous questions is yes, explain. Attach additional sheets if necessary.

_____

_____

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Form Serial Number: *015879-000135-7677500*

49.	To your knowledge, were any improvements on this Property constructed prior to 1978?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
50.	To your knowledge, are there lead-based paint or lead-based paint hazards on any improvements to the Property including, without limitation, garages, tool sheds, other outbuildings, fences, signs and mechanical equipment on the Property?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable

NOTICE: If either questions 49 or 50 are answered with "Yes" or "Unknown," the Lead-Based Paint Disclosure must be completed and acknowledged by all parties to the real estate transaction and attached to ANY Real Estate Contracts associated with this Property.

MOLD ENVIRONMENTAL CONDITIONS: *Mold, mildew, spores and other microscopic organisms and/or allergens (collectively referred to as "mold") are environmental conditions that are common in residential properties and may affect the Property. Mold, in some forms, has been reported to be toxic and may cause serious illnesses, including, but not limited to, allergic and/or respiratory reactions or other problems, particularly in persons with immune system problems, young children and/or the elderly. Mold has also been reported to cause extensive damage to personal and real property.*

Selling Firm or Listing Firm cannot suggest, refer, recommend, or infer that you should or should not use a Mold Inspector. Should you desire an inspection by a Certified Mold Inspector, you should contact an Inspector who has been authorized to capture mold samples and/or air samples for laboratory testing.

No warranty, representation or recommendation can be made by any agent or representative of Selling Firm or Listing Firm concerning any Mold Inspector. The person(s) signing this Seller Property Disclosure is STRONGLY URGED to independently determine the competency of any Mold Inspector to be used in connection with the purchase, sale or rental of real estate.

51.	To your knowledge, is there or has there ever been any past or present water intrusion?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable
52.	To your knowledge, is there or has there ever been any presence of mold?	☐ Yes	☐ No	☐ Unknown	☐ Not Applicable

If the answer to any of the above four questions is yes, explain. Attach additional sheets if necessary.

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If the presence of a registered sex offender is a matter of concern to Buyer, Buyer understands that Buyer must contact local law enforcement officials or access the State of Arkansas registered sexual offender website at http://www.acic.org regarding such information.

Buyer is strongly urged, as part of any pre-closing investigation desired by Buyer concerning the Property to:

(i) conduct testing for possible existence of chemical or drug substances in, on or about the Property, as desired by Buyer, and (ii) visit with applicable law enforcement authorities about possible prior illegal activity on or about the Property.

If the location of the Property being in a Flood or Flood Prone area is of concern to Buyer, Buyer may access FEMA (Federal Emergency Management Authority) at www.msa.fema.gov regarding such information.

THIS FORM IS PRODUCED AND COPYRIGHTED BY THE ARKANSAS REALTORS® ASSOCIATION. THE SERIAL NUMBER BELOW IS A UNQUE NUMBER NOT USED ON ANY OTHER FORM. THE SERIAL NUMBER BELOW SHOULD BE AN ORIGINAL PRINTING, NOT MACHINE COPIED, OTHERWISE THE FORM MAY HAVE BEEN ALTERED. DO NOT SIGN THIS FORM IF IT WAS PREPARED AFTER DECEMBER 31, 2013

FORM SERIAL NUMBER: *015879-000135-7677500*

SELLER HEREBY AUTHORIZES (UNLESS A POTENTIAL BUYER DESIRES NOT TO OBTAIN A COPY OF THE STATEMENT AS EXPRESSLY SET FORTH IN A REAL ESTATE CONTRACT) ALL AGENTS INVOLVED IN THE SALE, EXCHANGE, LEASE OR RENTAL OF THE PROPERTY TO DISTRIBUTE THIS SELLER PROPERTY DISCLOSURE TO PROSPECTIVE BUYERS, LESSEES OR TENANTS OF THE PROPERTY. THIS SELLER PROPERTY DISCLOSURE IS INCORPORATED INTO THE LISTING AGREEMENT EXECUTED BY SELLER AND LISTING FIRM. SELLER FURTHER CERTIFIES THAT THE INFORMATION HEREIN IS TRUE AND CORRECT TO THE BEST OF SELLER'S KNOWLEDGE AS OF THE ABOVE DATE. SELLER FURTHER AGREES TO NOTIFY IN WRITING BUYERS, LESSEES, TENANTS AND LISTING FIRM OF ANY CHANGES IN THIS DISCLOSURE THAT MAY BECOME KNOWN TO SELLER AFTER THE DATE SIGNED BY SELLER.

COUNTERPARTS: This Seller Property Disclosure may be executed in multiple counterparts each of which shall be regarded as an original hereof but all of which together shall constitute one in the same.

Submitted by:

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____
Seller **Seller**

(month) _____ (day) _____, (year) _____, at _____ ☐ (a.m.) ☐ (p.m.)

WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS SELLER PROPERTY DISCLOSURE. WE UNDERSTAND THAT THE ABOVE STATEMENTS ABOUT THE PROPERTY ARE TRUE AND CORRECT TO THE BEST OF SELLER'S KNOWLEDGE AS OF THE ABOVE DATE. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENT AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS BUYER, LESSEE OR TENANT MAY WISH TO OBTAIN.

BUYER'S LEAD-BASED PAINT DISCLOSURE ACKNOWLEDGEMENT:

1.	Buyer has received copies of all records and reports pertaining to lead-based paint or lead-based paint hazards in or about the Property available to Seller.	☐ **Yes**	☐ **No**	☐ **Unknown**	☐ **Not Applicable**
2.	Buyer has received a copy of the pamphlet, "Protect Your Family From Lead In Your Home".	☐ **Yes**	☐ **No**	☐ **Unknown**	☐ **Not Applicable**

Received by:

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____
Buyer **Buyer**

(month) _____ (day) _____, (year) _____, at _____ ☐ (a.m.) ☐ (p.m.)

Serial#: 015879-000135-7677500
Prepared by: Jerome Flusche | KRALICEK REALTY | jjpf@cox.net |
formsimplicity

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PROVISIONS OF FORT SMITH UNIFIED DEVELOPMENT ORDINANCE AND FORT SMITH MUNICIPAL CODE REGARDING OUTDOOR ADVERTISING SIGNS

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

SECTION 1: That portion of the Fort Smith Unified Development Ordinance codified as Section 27-704-4 of the Fort Smith Municipal Code is hereby amended to read as follows:

27-704-4 Outdoor advertising signs

(a) Outdoor advertising signs are to be considered as a specific use, rather than an incidental use to an existing land use, in that outdoor advertising signs produce a revenue to the property owner as a land use while the advertising message carried by business signs does not produce a revenue but is incidental to a revenue-producing land use. Because of the special characteristics of outdoor advertising signs as compared with other types of land uses and structures, certain qualifications and requirements are set forth below in connection with outdoor advertising signs as a permitted use.

(b) Outdoor advertising signs are permitted in all Industrial zones, Commercial-4 zones, Commercial-5 zones, ETJ Industrial Light zones, and ETJ Industrial Moderate zones. They may be permitted in ETJ Open-1 zones by the planning commission's approval of a Conditional Use request.

(c) No outdoor advertising sign structure of any size shall be permitted to be erected closer than one thousand (1,000) feet from an existing outdoor advertising sign structure which is larger than thirty-five (35) square feet in sign area. No more than four (4) outdoor advertising sign structures (over thirty-five (35) feet in area) per statute mile are permitted. All distances between two sign structures or between any four (4) outdoor advertising sign structures, irrespective of which side of the street one (1) or more of the four (4) structures may be located, shall be measured along a line parallel to the street and from the centers of the closest support poles.

(d) No outdoor advertising sign shall be permitted to be erected closer than two hundred fifty (250) feet from any residentially zoned or developed property. The distance shall be measured from the property line of the residentially zoned or developed property closest to the subject sign to the center of the nearest support pole of the sign.

(e) Within six hundred sixty (660) feet of the right-of-way of an interstate highway, no outdoor advertising sign structure designed to be primarily viewed from the roadway of such interstate highway shall be permitted to be erected closer than five hundred (500) feet to any other such sign structure on the same side of the right-of-way, as measured along a line parallel to such highway, and from the centers of the closest support poles.

(f) No outdoor advertising sign (whether static or digital) shall be permitted to be erected with a sign area in excess of three hundred (300) square feet along non-interstate streets nor to be erected with a sign area in excess of three hundred seventy-eight (378) square feet on interstates. Sign area in excess of three hundred seventy-eight (378) square feet but not to exceed six hundred seventy two (672) square feet along interstates may be allowed by the planning commission's approval of a Conditional Use request so long as an equivalent or greater amount of sign square footage is deleted by the loss of one or more of the applicant's sign credits in the sign bank.

(g) Outdoor advertising signs may be erected with a static face or with a digital face, provided the sign complies with all provisions applicable to outdoor advertising signs and the following.

(1) For permitted structures containing a digital face, only one digital face shall be allowed per facing, and the digital face shall be the only sign allowed on that facing;

(2) Electronic message changes must be accomplished within a time interval of two (2) seconds or less;

(3) The message or image on a digital face must remain static for a minimum of eight (8) seconds;

(4) Digital faces shall contain a default design that will freeze the message in one position if a malfunction occurs;

(5) Signs that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, including animated parts or scrolling messages or images, are prohibited, with the exception of those giving public service information such as time, date, temperature, and weather and/or similar information approved in writing in advance by the City Administrator or the Administrator's designated agent;

(6) There shall be no appearance of a visual dissolve or fading in which any part of one electronic message/display appears simultaneously with any part of a following electronic message/display;

(7) A sign owner may modify existing, legal, conforming structures to a digital face only after filing an application and receiving a permit to do so;

(8) Signs containing a digital face shall not be located closer than 1,500 linear feet along interstate highways and 1,000 linear feet along non-interstate state streets to another digital faced sign when measured along the same direction of the traveled way;

(9) Digital faces shall comply with all other requirements of federal and state outdoor advertising regulations;

(10) Digital faces shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter. Documentation shall be provided to the City at time of permit issuance certifying the digital billboard has been set to be incapable of exceeding .3 foot candles above ambient light;

(11) Each display on a digital face must have a light sensing device that will adjust the brightness as ambient light conditions change;

(12) The city planning department shall be provided with an on-call contact person and telephone number for every permitted digital face. In the event of malfunction, the contact person must have the ability and authority to make modifications to the displays and lighting levels. If modifications cannot be made to correct the malfunction within a timely manner, then the digital face must be disabled until the modifications are made. It shall be the responsibility of the permittee to maintain with the planning department accurate and current contact information; and,

(13) Failure to adhere to any of these provisions may result in the revocation of the digital face authorization of the permit (following due process including notice to comply).

(h) V-type outdoor advertising signs are permitted provided the angle of separation of the two sides of the sign is not greater than thirty (30) degrees.

(i) No outdoor advertising sign shall be permitted to be erected unless it has a minimum height at the lowest portion of the face surface of the sign of at least thirteen (13) feet and has a maximum height at the tallest point on the face surface of forty-five (45) feet, which minimum and maximum heights are to be measured from the elevation of a perpendicular line from the center/crown of the roadway to which the sign is adjacent.

(j) No portion of an outdoor advertising sign shall be erected in a public right-of-way.

(k)(1) Subsequent to the adoption of this Ordinance, no new outdoor advertising sign shall be permitted to be erected within the city limits nor within Fort Smith's extra-territorial planning jurisdiction area except as provided herein. This prohibition against new outdoor advertising signs shall apply even in those areas regulated by the Federal Highway Beautification Act (23 U.S.C. 131) or the Arkansas Highway Beautification Act (Ark. Code Ann. § 27-74-101 et seq.).

(2) Sign Bank. There is hereby created an outdoor advertising sign credit bank ("Sign Bank") whereby the city planning department shall maintain a credit on file for the replacement of outdoor advertising signs as allowed under subsection (1) above or for the expansion in size of outdoor advertising signs as allowed by (f) above. The purposes of the Sign Bank permitting process are to ensure that the quantity and size of outdoor advertising signs in the City of Fort Smith and its extra-territorial jurisdiction area do not increase and to ensure proper placement of replaced or relocated outdoor advertising signs.

A. The owners of each outdoor advertising sign existing as of the effective date of these regulations shall be given a credit for the sign and the size of its face(s) within the Sign Bank.

B. If an existing outdoor advertising sign is removed it is incumbent on the sign owner to inform the city planning department of the removal of the sign in writing within thirty (30) days of the removal in order to avoid action by the city planning department to delete or cancel the subject sign credit.

C. Prior to the issuance of a building permit for the construction of a new outdoor advertising sign or the relocation of an outdoor advertising sign, the applicant shall submit evidence that an existing sign bank credit belonging to the owner/applicant is assigned to the new or relocated sign.

D. Prior to the issuance of a building permit for an outdoor advertising sign with expanded size pursuant to (f) above, the applicant shall submit evidence that an existing sign bank credit (or credits if the square footage of an existing sign with a credit is insufficient to provide the expanded size applied for) belonging to the owner/applicant is assigned to the sign to be constructed pursuant to (f).

E. The owner of an existing outdoor advertising sign credit may transfer and assign the credit to another person or entity by delivering to the city planning department an acknowledged document identifying the transferred sign credit. Partial assignments of a sign credit for the purpose of meeting square footage requirements pursuant to (f) above are not

allowed.

(l) Nonconforming Outdoor Advertising Signs.

(1) Repairs to a nonconforming outdoor advertising sign that do not exceed 50% of the replacement cost of the sign are permitted.

(2) All repairs to a nonconforming outdoor advertising sign that exceed 50% of the replacement cost are permitted only if the sign is converted to a monopole structure and only if there is no increase in the size and height of the sign and the sign is located in the proper zoning district for outdoor advertising signs. If the existing sign exceeds the maximum size and height requirements for the sign's location, repairs may be permitted pursuant to this subsection (l)(2) only if the sign is reconstructed to comply with the maximum size and height requirements for the location and the sign is located in the proper zoning district for outdoor advertising signs.

(3) Converting a nonconforming outdoor advertising sign to digital is permitted only when the converted sign will not increase in size or height, complies with the maximum size and height requirements for the specific location, the sign is in a proper zoning district for outdoor advertising signs, the sign is a proper distance from residentially zoned or developed property and the sign complies with all specific requirements for digital signs.

(4) In the event of a storm, fire or other loss to a nonconforming outdoor advertising sign, reconstruction or digital conversion of the nonconforming sign which cannot comply with all of the provisions of those regulations shall not be permitted unless a Conditional Use request is approved by the planning commission and reconstruction or digital conversion is completed within one (1) year from the date of the loss.

(m) All outdoor advertising signs shall comply with subsections (a), (b), (i) and (j) of the general regulations set forth in Fort Smith Code Section 27-704-5.

SECTION 2: The moratorium imposed by Ordinance No. 98-12 shall expire on the effective date of this Ordinance.

SECTION 3: The provisions of this ordinance are hereby declared to be severable and if any section, phrase, provision, or application shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases, provisions or applications.

SECTION 4: Emergency Clause. It is determined by the board of directors that an emergency exists by reason of the necessity of regulations of outdoor advertising signs supplemental to the city's regulations which existed prior to this date. Therefore, the provisions of this ordinance being necessary to preserve the health, safety and welfare of the inhabitants of the city and the city's extra-territorial planning jurisdiction area, this ordinance shall be in full force and effect from its adoption.

This Ordinance adopted this ___ day of _____, 2013.

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney
Publish One Time

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 3/21/2013

Re: Outdoor Advertising Ordinance

The proposed amendments to the Fort Smith Municipal Code addressing the outdoor advertising signs will be presented to the Board of Directors at the March 27, 2013 regular meeting. The amendments were presented to the Board of Directors at the March 12, 2013 study session. I have attached the background information explaining the amendments and the work plan that led to the development of the amendments. This is the same information presented at the study session.

Section 2 of the proposed ordinance includes a section that will end the moratorium imposed by Ordinance No. 98-12 upon the effective date of the ordinance.

Please contact me if you have any questions.

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 3/8/2013

Re: Outdoor advertising regulations

The purpose of this memorandum is to provide an update and background concerning revised regulations for Outdoor Advertising Signs. The Board of Directors approved Ordinance 98-12, which declared a moratorium on the receipt and consideration of applications for new or modified outdoor advertising signs. Since the moratorium, the staff has been working with the planning commission to develop the new regulations. A summary of the timeline is as follows:

December 18, 2012	Ordinance 98-12 (moratorium) was passed and approved by the Board of Directors
January 22, 2013	Board of Directors Study Session – Joint meeting with the Planning Commission
February 11, 2013	Planning Commission special meeting
February 20, 2013	Planning Commission special meeting

As a result of these meetings and discussions, we have prepared a draft ordinance that establishes the new regulations. The draft ordinance uses information obtained from the Arkansas Highway and Transportation Department, comparison of other community ordinances, and a report by Lighting Sciences, Inc. The draft ordinance was prepared by the staff and Jerry Canfield, City Attorney.

<u>The key subjects in the ordinance include the following:</u>

►The inclusion of the extraterritorial jurisdiction zoning districts.

►No outdoor advertising sign can be erected closer than 250 feet from any residentially zoned or developed property.

►Sign size is limited to 300 square feet on non-interstate streets; 378 square feet on in the interstate.

►Signs can be larger than 378 but not to exceed 672 square feet with special approval of the Planning Commission and the removal of an equivalent sign square footage/credits from the sign bank.

►Establish specific criteria for digital signs.

►V type outdoor signs are permitted

►Establish minimum and maximum heights.

►Establish a sign bank which establishes a "cap and replace" program. No sign can be installed unless a sign is removed.

►Establish regulations for nonconforming signs. Allows for conversion of static to digital and repairs of some nonconforming signs.

The Planning Commission recommended approval of the proposed regulations at their February 20, 2013, meeting. In accordance with the Unified Development Ordinance, any amendments are placed on the second regularly scheduled board meeting following the planning commission action. The ordinance will be placed on the March 27, 2013, board agenda.

Before the March 27th meeting we want to explain the ordinance and discussions that occurred at the Board's March 12th study session. I have included a copy of the draft ordinance and background information for review.

Please contact me if you have any questions.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PROVISIONS OF FORT SMITH UNIFIED DEVELOPMENT ORDINANCE AND FORT SMITH MUNICIPAL CODE REGARDING OUTDOOR ADVERTISING SIGNS

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

SECTION 1: That portion of the Fort Smith Unified Development Ordinance codified as Section 27-704-4 of the Fort Smith Municipal Code is hereby amended to read as follows:

27-704-4 Outdoor advertising signs

(a) Outdoor advertising signs are to be considered as a specific use, rather than an incidental use to an existing land use, in that outdoor advertising signs produce a revenue to the property owner as a land use while the advertising message carried by business signs does not produce a revenue but is incidental to a revenue-producing land use. Because of the special characteristics of outdoor advertising signs as compared with other types of land uses and structures, certain qualifications and requirements are set forth below in connection with outdoor advertising signs as a permitted use.

(b) Outdoor advertising signs are permitted in all Industrial zones, Commercial-4 zones, Commercial-5 zones, ETJ Industrial Light zones, and ETJ Industrial Moderate zones. They may be permitted in ETJ Open-1 zones by the planning commission's approval of a Conditional Use request.

(c) No outdoor advertising sign structure of any size shall be permitted to be erected closer than one thousand (1,000) feet from an existing outdoor advertising sign structure which is larger than thirty-five (35) square feet in sign area. No more than four (4) outdoor advertising sign structures (over thirty-five (35) feet in area) per statute mile are permitted. All distances between two sign structures or between any four (4) outdoor advertising sign structures, irrespective of which side of the street one (1) or more of the four (4) structures may be located, shall be measured along a line parallel to the street and from the centers of the closest support poles.

(d) No outdoor advertising sign shall be permitted to be erected closer than two hundred fifty (250) feet from any residentially zoned or developed property. The distance shall be measured from the property line of the residentially zoned or developed property closest to the subject sign to the center of the nearest support pole of the sign.

(e) Within six hundred sixty (660) feet of the right-of-way of an interstate highway, no outdoor advertising sign structure designed to be primarily viewed from the roadway of such interstate highway shall be permitted to be erected closer than five hundred (500) feet to any other such sign structure on the same side of the right-of-way, as measured along a line parallel to such highway, and from the centers of the closest support poles.

(f) No outdoor advertising sign (whether static or digital) shall be permitted to be erected with a sign area in excess of three hundred (300) square feet along non-interstate streets nor to be erected with a sign area in excess of three hundred seventy-eight (378) square feet on interstates. Sign area in excess of three hundred seventy-eight (378) square feet but not to exceed six hundred seventy two (672) square feet along interstates may be allowed by the planning commission's approval of a Conditional Use request so long as an equivalent or greater amount of sign square footage is deleted by the loss of one or more of the applicant's sign credits in the sign bank.

(g) Outdoor advertising signs may be erected with a static face or with a digital face, provided the sign complies with all provisions applicable to outdoor advertising signs and the following.

(1) For permitted structures containing a digital face, only one digital face shall be allowed per facing, and the digital face shall be the only sign allowed on that facing;

(2) Electronic message changes must be accomplished within a time interval of two (2) seconds or less;

(3) The message or image on a digital face must remain static for a minimum of eight (8) seconds;

(4) Digital faces shall contain a default design that will freeze the message in one position if a malfunction occurs;

(5) Signs that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, including animated parts or scrolling messages or images, are prohibited, with the exception of those giving public service information such as time, date, temperature, and weather and/or similar information approved in writing in advance by the City Administrator or the Administrator's designated agent;

(6) There shall be no appearance of a visual dissolve or fading in which any part of one electronic message/display appears simultaneously with any part of a following electronic message/display;

(7) A sign owner may modify existing, legal, conforming structures to a digital face only after filing an application and receiving a permit to do so;

(8) Signs containing a digital face shall not be located closer than 1,500 linear feet along interstate highways and 1,000 linear feet along non-interstate state streets to another digital faced sign when measured along the same direction of the traveled way;

(9) Digital faces shall comply with all other requirements of federal and state outdoor advertising regulations;

(10) Digital faces shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter. Documentation shall be provided to the City at time of permit issuance certifying the digital billboard has been set to be incapable of exceeding .3 foot candles above ambient light;

(11) Each display on a digital face must have a light sensing device that will adjust the brightness as ambient light conditions change;

(12) The city planning department shall be provided with an on-call contact person and telephone number for every permitted digital face. In the event of malfunction, the contact person must have the ability and authority to make modifications to the displays and lighting levels. If modifications cannot be made to correct the malfunction within a timely manner, then the digital face must be disabled until the modifications are made. It shall be the responsibility of the permittee to maintain with the planning department accurate and current contact information; and,

(13) Failure to adhere to any of these provisions may result in the revocation of the digital face authorization of the permit (following due process including notice to comply).

(h) V-type outdoor advertising signs are permitted provided the angle of separation of the two sides of the sign is not greater than thirty (30) degrees.

(i) No outdoor advertising sign shall be permitted to be erected unless it has a minimum height at the lowest portion of the face surface of the sign of at least thirteen (13) feet and has a maximum height at the tallest point on the face surface of forty-five (45) feet, which minimum and maximum heights are to be measured from the elevation of a perpendicular line from the center/crown of the roadway to which the sign is adjacent.

(j) No portion of an outdoor advertising sign shall be erected in a public right-of-way.

(k)(1) Subsequent to the adoption of this Ordinance, no new outdoor advertising sign shall be permitted to be erected within the city limits nor within Fort Smith's extra-territorial planning jurisdiction area except as provided herein. This prohibition against new outdoor advertising signs shall apply even in those areas regulated by the Federal Highway Beautification Act (23 U.S.C. 131) or the Arkansas Highway Beautification Act (Ark. Code Ann. § 27-74-101 et seq.).

(2) Sign Bank. There is hereby created an outdoor advertising sign credit bank ("Sign Bank") whereby the city planning department shall maintain a credit on file for the replacement of outdoor advertising signs as allowed under subsection (1) above or for the expansion in size of outdoor advertising signs as allowed by (f) above. The purposes of the Sign Bank permitting process are to ensure that the quantity and size of outdoor advertising signs in the City of Fort Smith and its extra-territorial jurisdiction area do not increase and to ensure proper placement of replaced or relocated outdoor advertising signs.

A. The owners of each outdoor advertising sign existing as of the effective date of these regulations shall be given a credit for the sign and the size of its face(s) within the Sign Bank.

B. If an existing outdoor advertising sign is removed it is incumbent on the sign owner to inform the city planning department of the removal of the sign in writing within thirty (30) days of the removal in order to avoid action by the city planning department to delete or cancel the subject sign credit.

C. Prior to the issuance of a building permit for the construction of a new outdoor advertising sign or the relocation of an outdoor advertising sign, the applicant shall submit evidence that an existing sign bank credit belonging to the owner/applicant is assigned to the new or relocated sign.

D. Prior to the issuance of a building permit for an outdoor advertising sign with expanded size pursuant to (f) above, the applicant shall submit evidence that an existing sign bank credit (or credits if the square footage of an existing sign with a credit is insufficient to provide the expanded size applied for) belonging to the owner/applicant is assigned to the sign to be constructed pursuant to (f).

E. The owner of an existing outdoor advertising sign credit may transfer and assign the credit to another person or entity by delivering to the city planning department an acknowledged document identifying the transferred sign credit. Partial assignments of a sign credit for the purpose of meeting square footage requirements pursuant to (f) above are not allowed.

(l) Nonconforming Outdoor Advertising Signs.

(1) Repairs to a nonconforming outdoor advertising sign that do not exceed 50% of the replacement cost of the sign are permitted.

(2) All repairs to a nonconforming outdoor advertising sign that exceed 50% of the replacement cost are permitted only if the sign is converted to a monopole structure and only if there is no increase in the size and height of the sign and the sign is located in the proper zoning district for outdoor advertising signs. If the existing sign exceeds the maximum size and height requirements for the sign's location, repairs may be permitted pursuant to this subsection (l)(2) only if the sign is reconstructed to comply with the maximum size and height requirements for the location and the sign is located in the proper zoning district for outdoor advertising signs.

(3) Converting a nonconforming outdoor advertising sign to digital is permitted only when the converted sign will not increase in size or height, complies with the maximum size and height requirements for the specific location, the sign is in a proper zoning district for outdoor advertising signs, the sign is a proper distance from residentially zoned or developed property and the sign complies with all specific requirements for digital signs.

(4) In the event of a storm, fire or other loss to a nonconforming outdoor advertising sign, reconstruction or digital conversion of the nonconforming sign which cannot comply with all of the provisions of those regulations shall not be permitted unless a Conditional Use request is approved by the planning commission and reconstruction or digital conversion is completed within one (1) year from the date of the loss.

(m) All outdoor advertising signs shall comply with subsections (a), (b), (i) and (j) of the general regulations set forth in Fort Smith Code Section 27-704-5.

SECTION 2: The provisions of this ordinance are hereby declared to be severable and if any section, phrase, provision, or application shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases, provisions or applications.

SECTION 3: Emergency Clause. It is determined by the board of directors that an emergency exists by reason of the necessity of regulations of outdoor advertising signs supplemental to the city's regulations which existed prior to this date. Therefore, the provisions of this ordinance being necessary to preserve the health, safety and welfare of the inhabitants of the city and the city's extra-territorial planning jurisdiction area, this ordinance shall be in full force and effect from its adoption.

This Ordinance adopted this ___ day of _____, 2013.

_____
Mayor

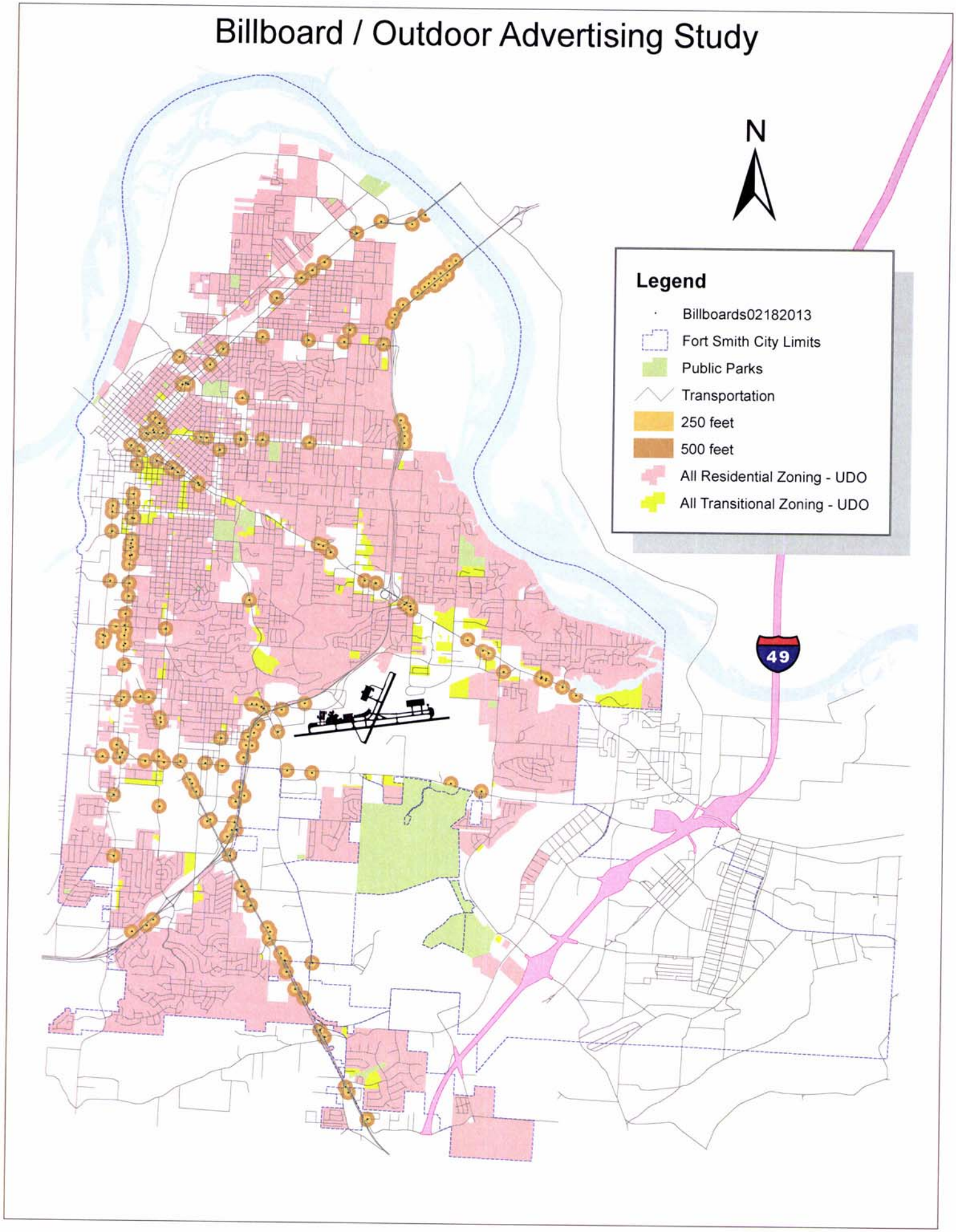
ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney
Publish One Time

Billboard / Outdoor Advertising Study



CITY PLANNING COMMISSION SPECIAL MEETING
MINUTES
CREEKMORE PARK COMMUNITY CENTER
ROSE ROOM
11:30 A.M.
FEBRUARY 11, 2013

The following Planning Commissioners were present: Brandon Cox, Jennifer Parks, Vicki Newton, John Huffman, Steve Griffin, Richard Spearman, Marshall Sharpe and Rhet Howard. Comissioner Walton Maurras was absent.

Mr. Wally Bailey indicated that in addition to the topics identified at the joint meeting of the Planning Commission and Board of Directors held on January 22, 2013 relative to outdoor advertising signs which includes the height of proposed outdoor advertising signs, the maximum size of outdoor advertising signs, the distance of signs from residential, v-type outdoor advertising signs, digital signage, number of signs allowed within the city and the Extraterritorial Jurisdiction, the following topics have also been identified for discussion:

- Expanding the proposed separation from residentially zoned or developed property from 250 feet to 500 feet.

- How new signs on the I-49 corridor will be addressed. (Note the current proposal is to address that through the cap and replace program/sign bank.)

- What can be done to a non-conforming sign? The basic question is can a non-conforming sign be converted to digital and if so in what circumstances. It was noted that staff is working to determine all existing non-conforming signs and signs that could become non-conforming with the proposed ordinance.

Mr. Bailey stated that staff is currently trying to identify the exact number of signs in the City, their locations, what zones and how far they are from other signs, etc. Mr. Bailey stated that in researching other surrounding cities, they use a cap/replace or sign bank program. Mr. Bailey noted that the City is looking at including all signs within the corporate limits of Fort Smith as well as the Extraterritorial Jurisdiction and use only one cap/replace or sign bank program rather than separate these two areas. Mr. Bailey stated that essentially the cap/replace program states that no more billboards can be installed except those that existed on a certain date in history. He further stated that a new billboard may be installed but an existing billboard must be removed.

Mr. Bailey noted that language relative to sign banking is still being worked on; however, the whole concept behind banking is that for example if 100 signs were in a sign bank and 5 signs were no longer viable for whatever reason, those 5 signs could be removed and 5 new signs could be installed at different approved locations.

Mr. Ryan Zaloudik with Clear Channel Outdoor, addressed the Commission. Mr. Zaloudik stated that he is not in favor of a 500 foot minimum distance between billboards and residential areas as suggested last month by some members of the Fort Smith Board of Directors. He noted

that he felt the 250 feet requirement they could live with but the 500 feet is pretty drastic and basically turns the Ordinance into a prohibitive Ordinance.

Mr. Craig Roberts with RAM Outdoor Advertising, agreed with Mr. Zaloudik. Mr. Roberts stated that if anyone has measured 500 feet lately, that is a football field and a third and that is a long way.

Mr. Bailey stated that the recommendation from planning staff remains at 250 feet for the 181-189 billboards in town. Mr. Bailey noted that based on what they have been able to determine, with the 250 foot buffer, there would be approximately 65 signs that would become non-conforming and if it was expanded to 500 feet, it would be 112 signs. Mr. Bailey also stated that the current limit between billboards and residential areas is 45 feet which is not very far when you are looking at a sign of significant height. Other changes include adding a minimum billboard height requirement of 13 feet and setting the maximum at 45 feet. Another proposal increases the maximum 300 square foot limit on billboards to 378 on interstates.

Mr. Roberts contended that current regulations in Fort Smith are fine. Mr. Roberts stated that the rules are pretty restrictive on them now but he understands that people don't like billboards. He also noted that he did not understand why digital signs are being questioned. Mr. Roberts stated that digital signs are less obtrusive and advertisers and customers are very happy with them.

Ms. Lorie Robertson with Rightmind Advertising urged the Commission not to be too restrictive. Ms. Robertson stated that they utilize billboards for their clients and use them to communicate messages to mass groups of people which is an age-old tradition.

Commissioner Howard stated that he did not want to discourage anyone from doing business but he also wants to look at the residents and their concerns. Commissioner Howard noted that all they are trying to do is protect the individuals who don't get a say in this.

Mr. Ron Green, 1720 Lovelady Lane, Van Buren, Arkansas, asked the Commission to remember how this will affect the people would use this for their advertising.

Mr. Bailey stated that due to the tight time crunch with only a four month moratorium, a recommendation must be completed by the end of March.

Mr. Bailey noted that another special meeting of the Planning Commission to discuss these items further would be held on Wednesday, February 20, 2013, at 11:30 a.m. in the Rose Room of the Creekmore Park Community Center.

CITY PLANNING COMMISSION SPECIAL MEETING
MINUTES
CREEKMORE PARK COMMUNITY CENTER
ROSE ROOM
11:30 A.M.
FEBRUARY 20, 2013

The following Planning Commissioners were present: Brandon Cox, Steve Griffin, John Huffman, Vicki Newton, Rett Howard, Marshall Sharpe and Richard Spearman. Commissioners Walton Maurras and Jennifer Parks were absent.

Motion was made by Commissioner Howard, seconded by Commissioner Sharpe and carried unanimously to approve the minutes of the special meeting on February 11, 2013 as written.

Mr. Wally Bailey stated that at the last special meeting several items were identified that needed to be addressed in the Ordinance regulating outdoor advertising signs. Mr. Bailey noted the following items:

- Do we want to continue with the current provisions for non-conforming signs or apply something similar to what is applied to structures in Section 27-118-3?

- Do we want to allow some changes to a non-conforming sign and/or structure which would primarily relate to converting an existing static sign to a digital sign but could also relate to other structural improvements. Mr. Bailey stated that a sign may be nonconforming because of its size, zoning district where it is located, height, distance from other signs, number of signs per mile, or distance from residential property. Mr. Bailey also stated that for digital signs the size, zoning district, where it is located and distance from residential property is the most significant of these issues.

Mr. Bailey noted that since the last special meeting of the Planning Commission, a meeting was held with members of the stakeholder committee and these issues were discussed. Mr. Bailey stated that during that meeting some basic agreement on a proposal for new code language to address nonconforming signs were developed.

Ms. Lori Robertson, 3301 South 96th Street, representing the stakeholder committee addressed the Commission. Ms. Robertson thanked the Commission for working with them as stakeholders. Ms. Robertson stated that they agree and support the Ordinance as it has been presented to the Commission today and feels it is fair to not only advertising companies but citizens as well and feels it is a reasonable compromise on several different levels. Ms. Robertson stated that outdoor advertising has been around for years and is a productive revenue generating business for the City.

Ms. Robertson requested the Commission take this Ordinance that is being proposed and recommend to the City Board of Directors for approval.

Mr. Bailey noted the following language in the proposed Ordinance that has been prepared since the last planning commission meeting and following their meeting with the stakeholders.

Paragraph (f) of the proposed Ordinance shall read as follows:

> No outdoor advertising sign (whether static or digital) shall be permitted to be erected with a sign area in excess of three hundred (300) square feet along non-interstate streets nor to be erected with a sign area in excess of three hundred seventy-eight (378) square feet on interstates. Sign area in excess of three hundred seventy-eight (378) square feet but not to exceed six hundred seventy-two (672) square feet along interstates may be allowed with special permission through the Conditional Use process as long as an equivalent or greater amount of square footage is deleted from the sign bank.

Mr. Bailey stated that in Paragraph (g) of the proposed Ordinance items 1-10 are Arkansas Highway Department regulations. Paragraph (g) of the proposed Ordinance shall read as follows:

> Outdoor advertising signs may be erected with a static face or with a digital face, provided the sign complies with all provisions applicable to outdoor advertising signs.
>
> (1)For permitted structures containing a digital face, only one digital face shall be allowed per facing and the digital face shall be the only sign allowed on that facint.
>
> (2)Electronic message changes must be accomplished within an interval of two (2) seconds or less.
>
> (3)The message or image on a digital face must remain static for a minimum of eight (8) seconds.
>
> (4)Digital faces shall contain a default design that will freeze the sign in one position if a malfunction occurs. The Planning Department shall be provided with an on-call contact person and telephone number for every permitted digital face. In the event of malfunction, the contact person must have the ability and authority to make modifications to the displays and lighting levels should the need arise. If modifications cannot be made to correct the malfunction within a timely manner, then the digital face should be disabled until the modifications are made. It shall be the responsibility of the permittee to maintain accurate and current contact information.
>
> (5)Signs that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, including animated parts or scrolling messages or images, are prohibited, with the exception of those giving public service information such as time, date, temperature and weather and/or similar information as approved by the Department.
>
> (6)There shall be no appearance of a visual dissolve or fading in which any part of one electronic message/display appears simultaneously with any part of a following electronic message/display.

(7)A sign owner may modify existing, legal, conforming structures to a digital face only after filing an application and receiving approval by the Department.

(8)Signs containing a digital face shall not be located closer than 1,500 linear feet along Interstate highways and 1,000 linear feet along non-interstate state highways of another digital face when viewed from the same direction of the traveled way.

(9)Digital faces shall comply with all other requirements of Federal and State Outdoor Advertising Regulations.

(10)Failure to adhere to any of these provisions may result in the revocation of the digital face portion of the permit (following due process including notice to comply).

(11)Digital faces shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter. Documentation shall be provided to the City at time of permit issuance certifying the digital billboard has been set to be incapable of exceeding .3 foot candles above ambient light.

(12)Each display must have a light sensing device that will adjust the brightness as ambient light conditions change.

Paragraph (h) of the proposed Ordinance shall read as follows:

V-type outdoor advertising signs are permitted provided the angle of separation of the two sides of the sign is not greater than thirty (30) degrees.

Paragraph (2) relative to sign banks in the proposed Ordinance shall read as follows:

(2) Sign Bank. There is hereby created an outdoor advertising sign permit bank ("Sign Bank") whereby the city planning department shall maintain a permit on file for the replacement of outdoor advertising signs as allowed under subsection (1) above. The purposes of the Sign Bank and the Sign Bank permitting process are to ensure that the quantity of outdoor advertising signs in the City of Fort Smith and its extraterritorial jurisdiction area does not increase, to ensure proper placement of replaced or relocated outdoor advertising signs, and to prioritize replacement of outdoor advertising signs over relocation.

A. Existing outdoor advertising signs shall be given a credit within the sign bank.

1. If an existing outdoor advertising sign is removed it is incumbent on the sign owner to inform the City Planning Department of the removal of the sign so the credit within the sign bank is not deleted.
2. The owner of an existing outdoor advertising sign may transfer a credit as long as the number of signs does not increase within the sign bank. The transfer requires a notarized statement from the owner/owners representative that the credit has transferred to another entity.

3. Prior to the issuance of a building permit for a new sign the applicant shall submit evidence that an existing sign has been removed from the sign bank.

Paragraph (l) relative to Nonconforming Outdoor Advertising Signs in the proposed Ordinance shall read as follows:

1. Repairs to a nonconforming sign that do not exceed 50% of the replacement cost of the sign are permitted.
2. All repairs to a nonconforming sign that exceed 50% of the replacement cost are permitted when a sign is converted to a monopole structure but only when the sign's size and height are not changed. An existing sign that exceeds the size and height requirements permitted by this code shall be reconstructed to comply with the maximum size and height requirements for the specific location.
3. Reconstruction of a nonconforming sign that cannot comply with this section shall not be rebuilt unless a conditional use is approved by the Planning Commission and construction is completed within one (1) year from the date of the loss.
4. Converting a nonconforming sign to digital is permitted only when the sign: 1) will not increase in size or height; 2) the sign is in the proper zoning district for outdoor advertising signs; 3) the sign is the proper distance from residential zoning districts; and 4) the sign complies with all specific requirements for digital signs.

Mr. Craig Roberts of Garland, Texas addressed the Commission with a question relative to the conditional use process and also with his concerns with one location of a nonconforming digital sign he currently has on Rogers Avenue and his ability to replace the sign if it was destroyed more than 50%.

Mr. Bailey stated that with the Ordinance as it is written he would have the ability to come before the Planning Commission with a conditional use application to replace the destroyed sign. Mr. Bailey stated that the conditional use application is decided by the City Planning Commission and their decision can be appealed either by a concerned citizen or the applicant.

Mr. Bailey noted that the first draft of the Ordinance was written by the City Attorney and he has not had a chance to review this Ordinance and if there are any language changes to the Ordinance after the City Attorney reviews it staff will advise the Commission but the Commission's vote today is a vote on the basic ideas and intent of the Ordinance.

Chairman Griffin then called for the vote to recommend this Ordinance to the City Board of Directors for approval. The vote was 7 in favor and 0 opposed.

Mr. Bailey stated that this Ordinance would be scheduled to be voted on by the Board of Directors at their March 27, 2013, meeting and probably would be taken to the Board to review at a study session prior to their voting meeting.

Meeting Adjourned!

Cust:
Ad: 100624825
CITY OF FORT

NOTICE OF SPECIAL PUBLIC HEARING

The City Planning Commission will hold a special public hearing on Wednesday, February 20, 2013, at 11:30 a.m. in the Rose Room of the Creekmore Park Community Center located at 3301 South "M" Street to consider amendments to the Unified Development Ordinance relative to billboards.

All interested parties are invited to attend and are entitled to be heard.

Wally Bailey
Director of Development Services

PROOF OF PUBLICATION

STATE OF ARKANSAS
COUNTY OF SEBASTIAN

I, Radonna Taylor , do solemnly swear that I am the Inside Sales Manager of the Times Record, a daily newspaper having a second class mailing privilege, and being not less than four pages of five columns each, published at a fixed place of business and at fixed daily intervals continuously in the City of Fort Smith, Sebastian County, Arkansas, for more than a period of twelve months, circulated and distributed from an established place of business to subscribers and readers generally of all classes, in the city and county aforesaid, for a definite price for each copy, or a fixed price per annum, which was fixed at what is considered the value of the publication based upon the news service value it contains, that at least fifty percent of the subscribers thereto have paid cash for their subscription to the newspaper or its agents or through recognized news dealers, over a period of at least six months and that said newspaper published an average of more than forty percent news matter. The newspaper is circulated in the counties of Crawford, Franklin, Johnson, Logan, Polk, Scott and Sebastian in Arkansas.

I further certify that the legal notice hereto attached in the matter of:

#4106 PCSPECMTGPUB2FEB2013

Was published in the regular daily issue of said newspaper for consecutive insertions commencing on Sunday the 3rd day of February 2013 , and concluding on Sunday the 3rd day of February 2013 for the following dates:

02/03/13

for a total cost of: **$ 64.74**

Radonna Taylor

Radonna Taylor

Sworn before me on the 5 day of February, 20 13

Johnnie L Swaim

Notary Public

My commision expires:,

JOHNNIE L SWAIM
Sebastian County
Commission Number 12391360
Notary Public - Arkansas
My Commission Expires January 11, 2023

Cust:
Ad: 100623995
CITY OF FORT

PROOF OF PUBLICATION

STATE OF ARKANSAS
COUNTY OF SEBASTIAN

NOTICE OF SPECIAL PUBLIC HEARING

The City Planning Commission will hold a special public hearing on Monday, February 11, 2013, at 11:30 a.m. in the Rose Room of the Creekmore Park Community Center located at 3301 South "M" Street to consider amendments to the Unified Development Ordinance relative to billboards.

All interested parties are invited to attend and are entitled to be heard.

Wally Bailey
Director of Development Services

I, Radonna Taylor , do solemnly swear that I am the Inside Sales Manager of the Times Record, a daily newspaper having a second class mailing privilege, and being not less than four pages of five columns each, published at a fixed place of business and at fixed daily intervals continuously in the City of Fort Smith, Sebastian County, Arkansas, for more than a period of twelve months, circulated and distributed from an established place of business to subscribers and readers generally of all classes, in the city and county aforesaid, for a definite price for each copy, or a fixed price per annum, which was fixed at what is considered the value of the publication based upon the news service value it contains, that at least fifty percent of the subscribers thereto have paid cash for their subscription to the newspaper or its agents or through recognized news dealers, over a period of at least six months and that said newspaper published an average of more than forty percent news matter. The newspaper is circulated in the counties of Crawford, Franklin, Johnson, Logan, Polk, Scott and Sebastian in Arkansas.

I further certify that the legal notice hereto attached in the matter of:

#4106 PCSPECMTGPUBFEB2013

Was published in the regular daily issue of said newspaper for consecutive insertions commencing on Sunday the 27th day of January 2013 , and concluding on Sunday the 27th day of January 2013 for the following dates:

01/27/13

for a total cost of: **$ 64.74**

Radonna Taylor

Radonna Taylor

Sworn before me on the 29 day of January, 2013

Johnnie L Swaim

Notary Public

My commision expires:

JOHNNIE L SWAIM
Sebastian County
Commission Number 12391360
Notary Public - Arkansas
My Commission Expires January 11, 2023

Lighting Sciences Inc.
7826 East Evans Road
Scottsdale, Arizona 85260 U.S.A.
Tel: 480-991-9260 Fax: 480-991-0375
www.lightingsciences.com

October 1, 2008

Report to: Outdoor Advertising Association of America

Subject: Digital Billboard Recommendations and Comparisons to Conventional Billboards

Abstract

This report summarizes several research projects undertaken by Lighting Sciences, Inc. (LSI) related to billboard lighting. The topics that have been addressed are:

- Development of digital billboard luminance recommendations
- A comparison of luminances of conventional billboards and digital billboards
- "Sky Glow" lumens entering the night sky from conventional and digital billboards.

i. Digital Billboard Luminance Recommendations

Lighting Sciences, Inc., has undertaken research to develop a method for specification of luminance (brightness) limits for digital billboards based on accepted practice by the Illuminating Engineering Society of North America (IESNA). The recommendation is extremely simple to implement and requires only a footcandle (fc) meter to be used.

The research establishes criteria for billboard luminance limits based on billboard-to-viewer distances for standardized billboard categories. For example, a standard billboard-to-viewer distance of 250 feet is used to establish the billboard luminance limits for a 14' x 48' foot (672 sq.ft.) bulletin.

The recommended technique is based on accepted IESNA practice for "light trespass." Previous outdoor lighting research has documented an established limit on the amount of light arriving at a person's eyes to ensure that the source of the light is not offensive, or worse, potentially dangerous. The technique is simple: the light level at the eye is measured in footcandles and has an upper limit. The limit is low for areas that are generally quite dark, but considerably higher in well lit urban areas.

A recommended specification for digital billboards is to use a limit of 0.3 fc over ambient light conditions. To check if the level is acceptable, a footcandle meter would be held at a height of 5 ft. (which is approximately eye height) and faced towards the billboard at the desired billboard-to-viewer distance. A reading of 0.3 fc or less above ambient light conditions would indicate compliance. It should be noted that the footcandle level produced by the billboard is characteristic of the billboard only; because the value of 0.3 fc is *above ambient*, it is not affected by whatever the ambient level may be.

The standards set forth in the report are based on the worst-case scenario of a driver or pedestrian viewing the display head-on (directly at a 90-degree angle), while in practice most displays are viewed at an angle. Since displays are generally viewed at an angle, the luminance (glare) is substantially reduced.

Furthermore, the report provides values for billboard luminance of different color images and notes that luminance levels are based on a worst-case scenario of an all-white display, which is unlikely to happen, save for a malfunction. Knowing these values, and having established a billboard luminance limit for a particular billboard, the allowable percentage of dimming setting is also easily calculated .

The investigations and this report do not cover factors related to changing images and billboard message movement. Issues that may be related to motorist attention are beyond the scope of the work and use of the proposals in this study should be based on that understanding.

ii. Comparison of Conventional and Digital Billboard Luminances

A study by Rensselaer Polytechnic Institute Lighting Research Center has measured the luminance of typical conventional billboards and has developed the maximum value of luminance that can be expected. LSI has compared the recommendations developed in this report to the Rensselaer measured values. The digital billboards will be brighter, but only slightly brighter, than the maximum luminance of conventional billboards.

iii. Sky Glow

Sky glow is caused by lighting at night entering the atmosphere and being scattered by airborne particulates. Sky glow may result from the use of lighting fixtures that emit light above a horizontal plane so that it enters the atmosphere directly. The effect also is caused by light reflecting from lighted objects, such as a road surface, a building or a billboard.

The study has evaluated the amount of light entering the atmosphere from a variety of lighting installations. Measured in "sky lumens," the results allow a comparison to be made of different lighting systems relative to sky glow. Specifically calculations have been made to compare the sky lumens produced by conventional billboard lighting systems, both three and four luminaire bottom mounted systems lighting a standard 14 x 48ft. billboard, to the sky lumens caused by roadway and parking lot lighting.

Various scenarios have been used for the roadway lighting, combining residential and major highway lighting in a typical neighborhood. Areas have been considered that consist only of roadway lighting, as well as areas that contain both roadway and parking lot lighting.

The results of the study support a conclusion that the vast majority of sky glow is a product of urban development. Even where full cut-off fixtures are used on all roadway and parking lot lighting fixtures, and if there is an average of one billboard per square mile, over 96% of the sky glow produced per urban square mile is from those sources and not billboard lighting, for the conditions examined. For the examples considered, a single three fixture billboard lighting system produces approximately 2 to 3% of the sky lumens caused by roadway/parking area lighting in the example one square mile area. For a four fixture billboard lighting system, the range becomes roughly 2.5 to 4%. These figures can be prorated. For example, if there are two such billboards per square mile, the percentages are doubled; if there is one such billboard per two square miles, the percentages will be halved.

The exact percentages of sky glow are affected by the density of roadways/parking areas, the type of lighting fixtures used and the lighting level provided, among other factors. It is emphasized that the comparisons herein between billboards, roadway and parking lot lighting do not and cannot provide an estimate of the actual percentage of sky glow attributable to billboards. Significant sky glow is produced by multiple other sources such as ball fields, car headlights, floodlighted monuments and buildings, and other outdoor lighting sources. However, it is apparent that for the scenarios considered, the contribution of billboard lighting to sky glow is small in comparison to that from roadways and parking areas. Excluding these other sources, roadways and parking areas produce 96 to 98% of sky lumens, compared to the 2 to 4% produced per billboard in the example urban square mile.

Digital billboards operating at the luminance levels recommended in this report produce much fewer lumens into the night sky than conventional bottom mounted lighting systems. This is primarily due to the elimination of the external luminaires, but also is a result of the characteristics of the billboard pixel design whereby light in upward directions is reduced in comparison to light sent below the horizontal in the direction of viewers.

Definitions

Luminance. Also known as photometric brightness, this is the "brightness" of the billboard as seen from a particular angle of view. It is measured in candelas per sq. meter, also termed "nits."

Illuminance. This is the amount of light from the billboard landing on a distant surface. It is measured in footcandles (fc) or lux.

Intensity. This is the candlepower, or concentration, of light emitted in a given direction from the entire billboard.

Reflectance. This is a measure of the proportion, or percentage, of light falling on a surface that is reflected by the surface.

SECTION A – DIGITAL BILLBOARD LUMINANCE RECOMMENDATIONS

A1. Introduction

This report has been prepared for OAAA under the contract issued to Lighting Sciences Inc. for the development of luminance (brightness) recommendations for digital billboards under nighttime conditions. Extensive investigations have been conducted into methodologies that could be used to develop such recommendations, specifically addressing environmental impact and possible visibility effects on drivers.

The following approaches can be used:

1. Develop billboard recommendations based on the control of possible glare to which drivers may be subjected.

or 2. Produce recommendations founded on environmental impact, addressing the subject known as light trespass.

Either of these methods can be used as a viable approach to providing an acceptable practice for the control of digital billboard appearance, though the first method has disadvantages. In analyzing these methods, strict attention has been paid to satisfying the following:

1. The needs of the general public, including drivers.

2. The requirements of local government personnel, who may wish to incorporate language into ordinances related to the use of digital billboards. For this, the procedures must be straight forward and enforceable.

3. The needs of OAAA members, who require effective use of digital billboards, which in turn requires adequate brightness for clear visibility.

The two approaches are addressed below.

A2. Method 1, Specifications Based on Driver Glare

Drivers on roadways at night where virtually any form of lighting is provided are inevitably subjected to glare. Glare may be, for example, from oncoming headlights, street lights, or commercial lighting, including billboards. There are recommended limits to the amount of glare that can be produced by vehicle headlights (from the U.S. Department of Transportation) and by roadway lighting (from the American National Standards Institute and the Illuminating Engineering Society of North America –IESNA.) In particular, the extensive procedures that have been developed by IESNA can, in theory, be used to produce limitations on digital billboard luminance that will ensure that

any glare problems created for drivers will be relatively minor, in the order of glare often produced by a street lighting installation.

Lighting Sciences has conducted detailed investigations into this approach, based upon publication ANSI IESNA RP-8-00, "American National Standard Practice for Roadway Lighting." The basic procedures for such a method would be to specify an allowable average billboard luminance level that would ensure that the glare it produces does not exceed certain limits. These limits would be based on the level of highway lighting that is present. For example, higher billboard luminances would be allowed where a high level of street lighting is provided. Publication RP-8-00 classifies highways into many different types, and there is a set of recommendations for the lighting of each type. Thus using these principles for digital billboard specifications, there would be many different recommended billboard luminance limits, dependent upon the form of roadway lighting provided in the area.

After much consideration, Lighting Sciences does not recommend this approach for establishing digital billboard luminance limits. The reasons include the following:

1. Publication RP-8-00 describes 14 different roadway classifications. These are based on different roadway types (for example, freeways, major roadways, local roadways). There is a further breakdown based on the level of pedestrian activity, which may be high, medium or low. Basing billboard luminances on this wide range would produce a complex system of specifications that would lack the simplicity and clarity that is our goal.

2. Digital billboards are frequently visible from numerous vantage points. This creates an issue of deciding which of the 14 different categories would be applicable if different levels of roadway lighting exist in a general area.

3. There is further complexity in determining the amount of glare produced by a digital billboard using the methodology of publication RP-8-00. The amount of glare is affected not only by the luminance of a digital billboard, but by its distance from the driver. What distance would be selected to perform the necessary calculations when the driver might view the billboard from a wide range of distances?

4. The amount of glare is affected also by the location of the billboard with respect to the driver's line of sight. This changes as the driver looks in different directions and as his location changes. What billboard position would be used?

5. The extent of any glare produced is dependent upon the billboard size. Recommended limits of luminance, if based on glare control, would be different for each billboard size.

Thus it can be seen that, because of all the variables involved, the establishing of realistic billboard luminance limits based on the RP-8-00 methodology would be exceedingly complex. Even if simplifications were introduced, there would be problems in deciding

which luminance limit would be applicable to a given billboard. Checking and enforcement similarly would be highly problematic. For these reasons, Lighting Sciences Inc. has not developed and is not recommending a billboard luminance specification system based upon glare limitations. However, in conducting the detailed study of this method and the second method that follows below, it has been determined that if the method provided below is adopted, billboard luminances will be such that producing a significant amount of glare to drivers from a single digital billboard is unlikely.Situations where a multiplicity of such billboards appear in the driver's field of view simultaneously require further research. More evaluation of this topic is suggested using documents produced by other organizations.

A3. Method 2, Specification Based on Light Trespass

A3.1 Method Overview

"Light trespass" is a term used in the outdoor lighting industry to describe light that falls outside of the area that is primarily intended to be lighted. For example, if the lighting system for a shopping center parking lot causes light to spill over into an adjacent residential neighborhood, this would be considered to be light trespass. High levels of light trespass, as well as being wasteful of energy, may have an appearance that is objectionable. Publication TM-11-00 of the IESNA provides a table of limits of light trespass for various "lighting zones." These zones range from "no ambient electric light" (dark rural areas) to "high ambient electric light" (typically high use urban areas.) The limits are expressed in terms of the illuminance in footcandles that the light source in question can produce at a person's eyes, measured above the ambient lighting that is produced by all other sources of light. The limitation values were determined from an extensive human factors research project into the levels of light trespass that may or may not be considered objectionable in the various zones. Application of the limits keep light trespass to a low level that is unlikely to be considered objectionable to most persons.

Digital billboards are not the form of lighting that TM-11-00 was developed to limit. In fact, digital billboards are specifically intended to be seen over a wide area, much of which may be remote from the billboard itself. Nevertheless, the principles of TM-11-00, in terms of the calculation method and the limits it provides, can be examined to determine whether the methodology can form a useful method of specifying billboard luminance limits.
Numerous calculations have been performed to evaluate billboard luminance in terms of the TM-11-00 procedures. The calculations involved are simpler than those discussed above for RP-8-00 procedures, as they simply involve determining the illuminance in footcandles (fc) at the location of the eyes of a viewer. (Referred to as "eye illuminance.") TM-11-00 provides four different eye illuminance limits depending on the lighting zone, E1 to E4, ranging from very low ambient electric light to high ambient electric light. See table 1. (A description of each type of ambient electric light zone is included in Appendix B.)

Table 1 Eye Illuminance Limits (Light Produced by Billboard, above Ambient)		
Zone		Eye Illuminance Limit (fc)
E1	Very low ambient electric light	0.1
E2	**Low ambient electric light**	**0.3**
E3	Medium ambient electric light	0.8
E4	High ambient electric light	1.5

To simplify billboard luminance specifications, it is proposed that all billboard luminance limits, no matter where a billboard is located, are governed by the values given in the above table for zone E2. This will then produce a uniform method that does not require the lighting zone to be known. The logic for choosing zone E2 is based on two considerations. Firstly, it is highly unlikely that digital billboards will ever be used in areas described as zone E1. E1 applies to inherently very dark rural areas where there is almost no electric lighting, such as national parks. Digital billboards are likely to be used in zones E2 through E4. By using the limitations specified by IESNA for zone E2, the specifications are very stringent; any billboard meeting the E2 limits will be satisfactory for the higher ambient light conditions of zones E3 and E4. On this basis, while any eye illuminance value could be used, this report recommends using only that provided for zone E2.

Providing that a method is available to calculate the billboard luminance that will generate a certain illuminance at the eye of a viewer, the illuminance limits of TM-11-00 can be converted to billboard luminance limits. The conversion formula is provided below. It must be noted, however, that this method is not totally straightforward, for there are variables that must be considered for any given billboard, also discussed below.

A3.2 Determining the Maximum Allowable Billboard Average Luminance

The system for relating billboard luminance to the illuminance produced at the eye is briefly summarized in this section. A more detailed coverage of this topic, and lighting units and terms in general, is provided in Appendix A.

Billboard luminance (which refers to the *average* luminance or brightness of billboard) is expressed in candelas per square meter, cd/sq.m., sometimes termed "nits." The illuminance produced at the eye, considered as landing on a vertical plane at the eye, is designated E_v and is measured in footcandles.

To determine the maximum billboard average luminance, L, that can be allowed so as to meet a given illuminance limit at the viewer's eye, E_v in footcandles, the following must be know:

- Area of billboard = S sq. ft.

- Distance from billboard center to observation point = D feet (as measured from a plan view. Differences in height of the billboard and viewer normally can be disregarded, as can lateral angle effects from the billboard face.)

Allowable maximum billboard average luminance, $L = \frac{10.76\, D^2\, E_v}{S}$

cd./sq.m. (nits)

_____ 1

For example, to determine whether a billboard meets a particular limit for the IESNA publication TM-11-00, the following steps are taken:

1. Select the applicable lighting zone. It is proposed that E2, an area with a low level of electric lighting, be selected as a standard.

2. Find the applicable eye illuminance limit from table 1. If zone E2 is assumed, this will be 0.3 fc.

3. Determine the billboard size. Assume for example a billboard measuring 10 ft. 6 ins. x 36 ft., giving an area of 378 sq. ft.

4. Assume a distance to the viewer. Use 200 ft. (See discussion below).

These values are entered into formula 1 above.

$$\text{Allowable maximum billboard average luminance} = \frac{10.76 \cdot 200^2 \cdot 0.3}{378}$$

$$= 342 \text{ cd/sq.m. (nits)}$$

It should be noted that the footcandle level produced at viewer's eyes by a billboard is independent of the ambient lighting in the area. Footcandles are strictly additive. If a billboard produces 0.3 fc at the eye and the ambient illuminance is 1.0 fc, the total illuminance at the eye is 1.3 fc. If the ambient level is 2.0 fc, the total illuminance is 2.3 fc. The above methodology establishes the illuminance at the eye produced only by the billboard, independent of the ambient level. The actual measured illuminance is always the sum of that produced by the billboard plus the ambient level.

A3.2.1 Viewer Distance

The distance from the billboard to the viewer, D in the above formula, has a significant effect on the calculated allowable maximum billboard luminance. Billboards are typically viewed over a range of distances, and so the choice of the value of D will be somewhat arbitrary. A short distance such as 100 ft. is probably too small for normal situations, and can produce a very low luminance limit. On the other hand, a very large

distance such as 1000 ft. will rarely be applicable because viewers will normally be closer when reading the billboard.

It may be questioned whether a short distance should be used as a standard to guard against possible glare effects produced at the eyes of a person driving past a digital billboard. Considering this, as a driver moves closer to a billboard that is positioned to the side of the roadway and the driver is viewing the road ahead, the lateral angle from the driver's line of sight to the billboard increases. This angular effect causes any glare that the billboard may produce to reduce significantly. (Reference: American National Standard for Roadway Lighting, publication ANSI/IESNA RP-8-00, section A7. Glare reduces as the square of the angle from the line of sight.) Further, as this angle increases, the light intensity (candelas) directed toward the driver's eye decreases, as shown by photometric testing of a sample billboard. (Lighting Sciences Inc. test report no. LSI 21628). This effect also contributes to the reduction in glare as the driver approaches and then passes the billboard. These two effects more than offset other factors in determining the glare produced at the driver's changing location: that is, glare actually reduces as the driver's distance to a billboard that is off the side of the road becomes smaller, assuming attention is on the road ahead.

In discussions with members of the advertising industry, it is apparent that billboard size and viewing distance are related. Larger billboards are used to attract viewers at a greater distance, while small billboards are provided where the observer is fairly close. On this basis, the viewing distances, D, provided below are suggested for use with the formula, based on four prevalent standard billboard sizes:

Table 2
Proposed Viewer Distance Values, D

Billboard Size	Billboard Dimensions (ft)	D ft.
Small	11 x 22	150
Medium	10.5 x 36	200
Large	14 x 48	250
Very large	20 x 60	350

If there is a specific reason why a value of D other than as given above should be applied for a particular billboard installation, this different value may be substituted accordingly in the formula. It should be noted, however, that use of the above distances for the various billboard sizes, and the billboard luminance values so produced, have been field evaluated and appear to be reasonable.

A3.2.2 Allowable Average Luminance and Billboard Size

For any given billboard size, formula 1 can be used to compute the allowable average luminance by incorporating the suggested distance value from table 2. The results for the standard dimension billboards are provided in table 3.

Table 3

Maximum Level of Digital Billboard Average Luminance
Candelas per Sq.M. (Nits)

Proposed Standard
(Based on IESNA Lighting Zone E2)

Billboard Dimensions (ft.)	D** ft.	Luminance (Cd./sq.m.)
11 x 22	150	300
10.5 x 36	200	342
14 x 48	250	300
20 x 60	350	330

*Based on an illuminance produced at the viewer's eye of 0.3 footcandles.

** Distance measured at ground level to observer facing the billboard perpendicularly

A3.3 Digital Billboard Photometric Testing

A small sample digital billboard was supplied to Lighting Sciences' laboratories in Scottsdale, Arizona for photometric evaluation. This was a Prism electronic display with a 20mm pixel spacing as commercially produced in November 2006 by Young Electric Sign Company. This was tested using a model 6440 goniophotometer in accordance with the approved methods of the Illuminating Engineering Society of North America. Tests were run for the device displaying entirely white, red, green and blue colors respectively. The white color is not formed by illuminating white LED's but rather by a combination of red, green and blue LED's. The white setting that was used was 6800K.

The digital billboard was programmable for different levels of dimming. Tests were conducted to measure the luminance at 10% dimming steps from 100% down to 10%.

It was determined that the actual luminance reduction achieved using the various dimming steps accurately corresponded to within a few percent of the dimming settings indicated on the controller.

Data from the series of tests allow the calculation of the luminance of any digital billboard color for full intensity or any level of dimming. Of specific interest were the luminances of a white display because this is the maximum luminance color, as it is generated by the combination of the red, blue and green LED's.

A3.4 Determining the Allowable Dimmer Setting

If a billboard luminance limit has been established by the methodology described above, the photometric data can also provide the dimming setting to be used.

Results of the testing indicated that the digital billboard produced a maximum average luminance of approximately 7000 cd/sq.m. when displaying a completely white (6800k) image at full power. In the above example, to limit the luminance to 342 cd/sq.m. the dimmer setting can be computed as follows:

$$\%\,\text{dimmer setting} = \frac{\text{Allowable luminance}}{\text{Luminance at 100\% Setting}} \times 100 \qquad \text{-----2.}$$

$$= \frac{342}{7000} \times 100$$

$$= 4.9\%$$

This example is for a medium billboard size measuring 10.5 x 36′. The dimmer setting will be different for other billboard sizes because the allowable luminance changes per table 3. Table 4 presents the dimming settings calculated in an equivalent manner for the standard billboard sizes.

Table 4

Suggested Dimming Settings
Example for the Digital Billboard as Tested

Proposed Standard
(Based on IESNA Lighting Zone E2)

Billboard Dimensions (ft.)	Dimming Setting
11 x 22	4.3%
10.5 x 36	4.9%
14 x 48	4.3%
20 x 60	4.7%

It should be noted that table 4 is applicable only to the digital billboard that was tested. Different types of billboards will produce different results, and therefore require separate photometric testing. Dimming settings will change from one model to another because each may produce a different maximum luminance.

A3.5 Non-white Billboards

If the digital image will never be totally white, higher % dimming settings can be used while still meeting the luminance limit. The actual measured luminances for the sample billboard measured in 2006 for a 100% luminance setting for different colors are:

White (6800k)	7000 cd/sq.m.
Red	1500 cd/sq.m.
Green	5100 cd/sq.m.
Blue	700 cd/sq.m.

For a normal image that includes multiple colors, the average luminance for a 100% setting will depend on the proportion of colors in the mix. Software and instrumentation is available to analyze billboard luminance when the billboard is being programmed.

A3.6 Monochrome Displays

The same methodology applies to monochrome displays as to the color displays described above. For such displays, Equation 1 is used to calculate the allowable maximum billboard average luminance. To calculate the dimming setting using equation 2, the luminance at the 100% setting for the monochrome display is entered. This value will typically be less than for the white display of a colored billboard, and therefore a monochrome billboard can be run at a higher percentage dimming setting, all other factors being equal.

A3.7 Adoption of the Method

This method uses the established and recommended procedures of IESNA to develop billboard luminance limits. The procedure can be adopted by referring to the limits of IESNA publication TM-11-00 as provided in table 1 above, with the suggestion that lighting zone E2 values be used as a standard. Billboard-to-viewer distances are proposed to be as provided in table 2 above.

Table 3 summarizes the recommended maximum billboard luminance values based on tables 1 and 2. These can be adopted directly into an ordinance or set of guidelines.

The limitations of TM-11-00 were established through research conducted by Lighting Sciences Inc. under a contract from the Lighting Research Office of EPRI (Electrical Producers' Research Institute). The basis of TM-11-00 was subsequently provided to IESNA to form the publication. Field use of the values for various forms of outdoor lighting confirm that the values are realistic and prevent undue annoyance to a majority of viewers, and thus appear to have formed a satisfactory basis for specifying such lighting limits.

The procedures outlined in this section of this report, method 2, specifications based on light trespass, are recommended by Lighting Sciences Inc. for evaluation and possible subsequent adoption by OAAA.

A3.8 Enforcement

After a billboard is installed, there will be cases where it is desired to evaluate the billboard luminance to ensure that it does not exceed the specified value. This procedure is extremely simple and requires only a footcandle meter.

The billboard luminance specification is based on ensuring that a certain footcandle level (above ambient) created by the billboard is not exceeded at a chosen distance. Thus all that is needed to check compliance is the measurement of the footcandles level at that distance with the billboard on and off. The footcandle meter would be held at a height of 5 ft. (which is approximately eye height) and aimed towards the billboard, from a distance as selected from table 2. If the difference in illuminance between the billboard-on and billboard-off conditions is 0.3 fc, then the billboard luminance is in compliance. When conducting this check, the meter should be at a location perpendicular to the billboard center (as seen in plan view) as this angle has the highest luminance.

This check should include the measurement of an all white image displayed by the billboard to evaluate the worst case condition.

A4. Summary of Proposed Method

Specification based on the light trespass limits adopted by IESNA in publication TM-11-00 appears to provide a manageable and technically viable technique.

It is proposed to use the IESNA recommended limits for environmental lighting zone E2, low level electric lighting, as a standard. This limits the maximum illuminance produced by the billboard and measured at the eye of a viewer to 0.3 footcandles over ambient. It is further proposed that the viewer be positioned from the billboard at ground level and facing in a direction perpendicular to the billboard. The distance will be dependent upon the billboard size.

Under these conditions, to meet the 0.3 fc limitations, the maximum allowable billboard average luminance will be as given in table 3 for various standard billboard sizes. The percentage dimmer setting, expressed as a percentage of the billboard maximum luminance, can be calculated from the table 3 luminance value, based on the maximum luminance of a billboard being 7000 cd/sq.m. or some other known value.

Because these values have been derived from IESNA publication TM-11-00, which in turn is based on an extensive human factors research project, adoption of such values should satisfy the requirement that most persons will not find these billboard luminances to be objectionable.

SECTION B – BILLBOARD LUMINANCE : DIGITAL VERSUS CONVENTIONAL

The foregoing has provided recommendations for the average luminance limits for digital billboards. It is of interest to compare these to the luminance levels found with conventional billboards. Such billboards are most commonly lighted using luminaires designed for this specific purpose, manufactured by the Holophane Company. Most installations consist of a series of fixtures that use 400 watt Metal Halide lamps. Typically a 14 x 48 ft. large billboard is lighted by four such fixtures mounted along the bottom edge of the billboard. Some billboards, employ a lighting system using only three bottom mounted luminaires. Other designs may use top mounted lighting in various configurations. An optical refractor or lens is used on each luminaire to direct light onto the billboard, which increases the billboard luminance.
The luminance of conventional billboards has been addressed in a study by the Lighting Research Center of Rensselaer Polytechnic Institute that was sponsored by the New York State Department of Transportation. A technical memorandum has been developed titled "Evaluation of Billboard Luminances" dated March 31, 2008. This memorandum states the following:

"... it is probably reasonable to expect that the luminance of a conventional billboard would not be likely to exceed about ***280 cd/sq.m.*** during the nighttime (assuming typical lighting practice as represented by the IESNA and industry recommendations, and by the lighting systems used on the billboards that were measured in the field)..."

The report indicates that the value of 280 cd/sq.m. (nits) is consistent with clean billboard lighting systems using new lamps. This is also the condition used for testing the digital billboard at Lighting Sciences' laboratories as referenced above.

It is thus anticipated that digital billboards operated in accordance with the recommendations developed above, (300 to 342 nits, depending on size), will be brighter, but only slightly brighter, than the maximum luminance of conventional billboards.

SECTION C – SKY GLOW

C1 Introduction

A further factor, "sky glow," has been addressed in relation to both conventional and digital billboards.

Sky glow is caused by light at night entering the atmosphere and being scattered by airborne particulates. Sky glow may result from the use of lighting fixtures that emit light above a horizontal plane so that it enters the atmosphere directly. The effect also is caused by light reflecting from lighted objects, such as a road surface, a building or a billboard.

It is highly desirable to reduce sky glow in order to preserve dark skies. This is an environmental concern, as well as a significant factor influencing the ability of astronomers to study the night sky.

The amount of light entering the atmosphere from a variety of lighting installations has been evaluated. Measured in "sky lumens," the results allow a comparison to be made of different lighting systems relative to sky glow. Specifically calculations have been made to compare the sky lumens produced by a typical billboard lighting system to the sky lumens caused by roadway and parking lot lighting. Extensive work was conducted for conventional billboards, then later work compared newer digital billboards to the conventional billboards.

Various scenarios were used for the roadway lighting, combining residential and major highway lighting in a typical neighborhood. Areas were considered that consist only of roadway lighting, as well as areas that contain both roadway and parking lot lighting.

It is emphasized that the comparisons herein between billboards, roadway and parking lot lighting do not and cannot provide an estimate of the actual percentage of sky glow attributable to billboards. Significant sky glow is produced by multiple other sources such as ballfields, car headlights, floodlighted monuments and buildings, and other outdoor lighting sources. These have not been included in the analysis as quantitative measures of the sky glow that these produce are not available.

C2.1 Conventional Billboards

A 14 x 48 ft. billboard was evaluated using both three and four bottom mounted Holophane "Panel Vue" fixtures. Each was equipped with a 400 watt metal halide lamp rated at 40,000 lumens. Photometric test data were obtained from the manufacturer and computerized calculations were performed.

All calculations were based on a 0.70 Light Loss Factor, or Maintenance Factor, to account for the reduction of light output as the lamp ages and as the fixture collects dirt.

For both the three and four fixture lighting systems, the following quantities were calculated:

Total uplight lumens emitted by the group of fixtures
Total lumens intercepted by the billboard
Total lumens intercepted by the billboard underboard
Total lumens emitted upwards by fixture that do not strike the billboard or underboard. (Direct sky lumens)
Total lumens reflected upwards by the billboard
Total lumens reflected upwards by the underboard
Total lumens reflected upwards. (Indirect sky lumens)

The manufacturer's data were used directly; no additional shielding was assumed for the lighting fixtures.

Results obtained for the three and four fixture systems in terms of total sky lumens are as follows:

3 fixture system: 23,415 lms
4 fixture system: 31,535 lms

These values will be affected by the reflectance of the billboard face material, which is dependent on the lightness/darkness of the material. An average value of 25% was used, derived from laboratory measurements of sample billboard face materials. A reflectance value of 2.5% was used for the underboard.

No account is taken in these calculations of the angular direction of the uplight lumens as they enter the atmosphere, which is likely to have some influence on the degree of sky glow that is produced.

C2.2 Roadway Lighting

For this study, billboard lighting was compared to roadway lighting. While it is recognized that there are many sources of nighttime light other than roadway lighting, this form of lighting usually constitutes a major source of uplight lumens.

LSI has produced roadway lighting designs for three different roadway types and has computed resultant uplight lumens, as follows:

Local roadway. Illuminating Engineering Society of North America (IESNA) specification is 0.7 footcandles average maintained lighting level, with a 6:1 average to minimum uniformity. (i.e. The minimum footcandles at any point will not be less than one sixth of the average.)

Collector roadway. IESNA specification is 0.9 fc maintained, 4:1 uniformity.

Major roadway. IESNA specification is 1.3 fc maintained, 3:1 uniformity.

In all three cases, "medium pedestrian conflict" per IESNA was assumed.

A Light Loss Factor or Maintenance Factor of 0.70 was used, so as to be equivalent to the same factor used for the billboard calculations.

For each roadway, lighting system design has been conduced using a flat glass "full cut off" fixture, and the older style "cobra-head semicutoff" fixture with glass bowl lens. The full cut off fixture allows no light to escape above the horizontal, while the semicutoff fixture emits a few percent of its total lumens above the horizontal.

Most existing roadways, particularly where the lighting was installed 15 or more years ago, will use the glass bowl lens. Because of a desire to control sky glow, many agencies have now switched to full cut-off optics. In any urban area, both types of fixtures are

likely to be present. By analyzing roadway lighting with each of these fixture types, a realistic range of possibilities is examined.

For all designs, various pole heights were investigated. Each design was optimized to acquire the maximum pole spacing that can be used while meeting the IESNA lighting specifications. Thus the design procedures were similar to those used by typical roadway lighting designers.

For each lighting system, the following were calculated, all on the basis of a single mile of roadway:

Total lumens falling on the roadway
Total lumens falling on the ground outside of the roadway
Total lumens reflected upwards from the roadway
Total lumens reflected upwards from the ground outside the roadway
Total lumens emitted upwards directly from the fixtures. (This quantity is zero for the cutoff fixture.)

Typical known reflectance values were used for the road surface and areas outside the roadway.

Results of the computation, given in sky lumens per mile are as follows:

Local roadway, full cutoff fixture:	25,837 sky lumens per mile
Local roadway, semicutoff fixture:	38,079 sky lumens per mile
Collector roadway, full cutoff fixture:	47,652 sky lumens per mile
Collector roadway, semicutoff fixture:	64,071 sky lumens per mile
Major roadway, full cutoff fixture:	153,355 sky lumens per mile
Major roadway, semicutoff fixture:	259,910 sky lumens per mile

C2.3 Comparison of Conventional Billboards and Roadway Lighting

Based on the above values, the sky lumens produced by one billboard using a three fixture lighting system are approximately equal to the sky lumens produced by:

	0.91 miles of local roadway with full cutoff fixtures
or	0.49 miles of collector roadway with full cutoff fixtures
or	0.15 miles of major roadway with full cutoff fixtures
or	0.61 miles of local roadway with semicutoff fixtures
or	0.37 miles of collector roadway with semicutoff fixtures.
or	0.09 miles of major roadway with semicutoff fixtures

The sky lumens produced by a four fixture billboard lighting system are roughly equal to the sky lumens produced by:

1.22 miles of local roadway with full cutoff fixtures

or 0.66 miles of collector roadway with full cutoff fixtures
or 0.21 miles of major roadway with full cutoff fixtures
or 0.83 miles of local roadway with semicutoff fixtures
or 0.49 miles of collector roadway with semicutoff fixtures.
or 0.12 miles of major roadway with semicutoff fixtures

As another way of comparing the data, the total roadway lighting per square mile of an urban area can be computed and compared to billboard lighting. An example city square mile has been checked (in Denver, CO). For a typical urban built-up area, the following roadway lengths were present in the selected 1 sq. mile:

Total length of local roadways: 21 miles
Total length of collector roadways: 1 mile
Total length of major roadways: 1 mile

The total sky lumens assuming all roadways are lighted for this square mile have been calculated and are:

For all roadways lighted by full cutoff fixtures: 743,584 lumens
For all roadways lighted by semicutoff fixtures: 1,123,640 lumens

If a single billboard is situated in this example square mile, the percentage of total sky lumens created by the billboard lighting is as follows:

Billboard sky lumens as % of total, for 3 fixture system, when roadways are lighted with full cutoff fixtures: 3.1%
Billboard sky lumens as % of total, for 4 fixture system, when roadways are lighted with full cutoff fixtures: 4.2%
Billboard sky lumens as % of total, for 3 fixture system, when roadways are lighting with semicutoff fixtures: 2.1%
Billboard sky lumens as % of total, for 4 fixture system, when roadways are lighting with semicutoff fixtures: 2.8%

Other assumptions for the density of roadway lighting and number of billboards can be similarly determined. For example, if the roadway lighting is as above, but the density of billboards is halved, the percentage sky glow from the billboards with be halved.

In certain urban areas, the roadway lighting usage may be greater than in the selected example area. There will likely be other sources of sky glow such as vehicle headlights, floodlighting for buildings and sports facilities. In such conditions, the percentage contribution of a given amount of billboard lighting to the overall sky glow will be reduced. In yet other areas, roadway lighting may be less than that illustrated above, and the proportion of sky glow produced by the billboard will be higher. Further efforts under an extended research program could analyze large urban areas and survey lighting usage by types.

C2.4 Parking and Roadway Lighting

As another example scenario, calculations have been made for a 1 square mile area consisting of both roadway lighting and parking lot lighting. In this example, a parking lot size of one quarter mile square has been included. The total length of local roadways has been reduced to 16 miles. The parking lot is assumed to be lighted to an average level of 1.5 footcandles.

Because the parking lot is lighted to a higher level than the roadway it replaces, and because a larger area is being lighting, the total sky lumens are increased versus the earlier example that assumes the presence of roadways only.

The modified values of total sky lumens are:

> For all roadways and parking areas lighted by full cutoff fixtures: 836,687 lumens
> For all roadways and parking area lighted by semicutoff fixtures: 1,273,028 lumens

If a single billboard situated in this example square mile, the percentage of total sky lumens created by the billboard lighting is as follows:

Billboard sky lumens as % of total, for 3 fixture system, when roadways and parking areas are lighted with full cutoff fixtures: 2.8%
Billboard sky lumens as % of total, for 4 fixture system, when roadways and parking areas are lighted with full cutoff fixtures: 3.8%
Billboard sky lumens as % of total, for 3 fixture system, when roadways and parking areas are lighting with semicutoff fixtures: 1.8%
Billboard sky lumens as % of total, for 4 fixture system, when roadways and parking areas are lighting with semicutoff fixtures: 2.5%

It should be noted that in this analysis, all lumens reflected from surfaces or emitted upwards directly from the fixtures are assumed to enter the sky. This is probably true for most billboard lighting systems. For roadway and parking lot lighting, however, reflected light may be blocked by objects such as buildings or trees. If this blockage is 50%, for example, the above percentage contribution of billboard lighting to sky lumens will be doubled. Nonetheless, even assuming a scenario where all roadway and parking lot lighting sources are fully-shielded fixtures, the sky glow caused by billboards is a small percentage of the overall sky glow, under the conditions evaluated.

C2.5 Evaluation Methodology

The above provides an evaluation methodology based upon certain assumptions; One billboard is situated in a one square mile area, and various scenarios for roadway and parking lot lighting are considered. For analysis of sky glow effects for an actual city, however, it is important to extend the analysis to cover the entire city, taking into account

the actual billboards present and other lighting systems throughout the area. Preferably such an analysis will also include sources of sky glow such as ballfields, vehicle headlights, floodlighting installations and other forms of nighttime lighting.

It should further be noted that the percentage sky glow contribution from multiple billboards is not additive. For example, if one billboard in a one square mile area produces 2.5% of the sky glow, 40 billboards in the same area will not produce 40 x 2.5 = 100% of the sky glow. The net percentage actually will be lower.

C2.6 Billboard Lighting Trends

The foregoing analysis is based on the lighting of 14 x 48 billboards using systems of 3 or 4 400 watt metal halide fixtures per billboard. Trends in lighting systems are towards lowering the number of fixtures used, and to the use of lower wattage lamps. Effective lighting systems are available using 3 or even 2 fixtures per billboard, and in some cases, 320 watt lamps are used. Sky glow will be reduced very approximately in proportion to the total lumens used.

C3 Digital Billboards and Sky Glow

The scenario to be evaluated for digital billboards in relation to sky lumens is completely different from conventional billboards: There is no reflecting billboard surface and no exterior luminaires, as the digital pixels themselves are the light sources. Some light from the pixels is emitted in directions below the horizontal where it provides the advertising message to viewers and some light is emitted above the horizontal where it enters the atmosphere (unless blocked by trees and structures).

The photometric test data for the digital billboard sample tested at Lighting Sciences' laboratories has been examined, and calculations have been performed to determine the sky lumens that will be generated for a typical 14 x 48 ft. digital billboard.

It is significant to note that the digital billboard as tested is designed to direct the majority of its light below the horizontal, in the direction of the viewer location. This is achieved by the use of horizonal louver blades that are angled downwards and that run between adjacent rows of pixels. This is illustrated in figure 1; in this figure, the lengths of the arrows represent the actual intensities of the light rays in the various directions as documented in the laboratory photometric test report. For example, light intensity emitted 20 degrees below the horizontal is more than double the intensity emitted 20 degrees above the horizontal. This has the obvious effect of reducing sky lumens versus that which would be produced if light above and below the horizontal were equal.

Elimination of bottom mounted exterior luminaires commonly used for conventional billboards play a very significant role in the reduction of sky glow. For the example scenario detailed earlier in this report, where a four luminaire bottom mounted system produces 31,535 sky lumens, roughly 90% of those lumens are emitted into the sky directly from the fixtures.

For the digital billboard calculations, it was assumed that no dimming of the light output occurs due to age, as the computerized controls can be set to overcome any LED light output degradation with time. A Light Loss Factor of 0.90 was assumed to account for a possible 10% loss due to the accumulation of dust and dirt.

For the conventional billboard discussed above, a 25% average reflectance was used in the given example. A similar "message" was assumed for the digital billboard calculations, i.e., a billboard luminance was assumed that would be created by an array of colors equivalent to that used for the conventional billboard analysis, rather than an all white display. It was further assumed that a 14 x 48 ft. billboard would be operated at 4.3% of full output at night, as recommended in table 4 above. For these example conditions, the amount of light directly emitted into the atmosphere by the digital billboard is 2260 lumens. This compares to the value of 31,535 sky lumens for the example conventional billboard lighted by four bottom mounted luminaires, and is 8% of that amount.

Digital billboards can be seen to offer a major opportunity to reduce sky glow if they are replacing conventional billboards that employ a bottom mounted lighting system. This is a result of the elimination of the external luminaires and the direct sky lumens they produce, and also because of the design of digital billboards whereby less light from the billboard face is directed upward versus downward.

Ian Lewin Ph.D., FIES, L.C.
November 26, 2008

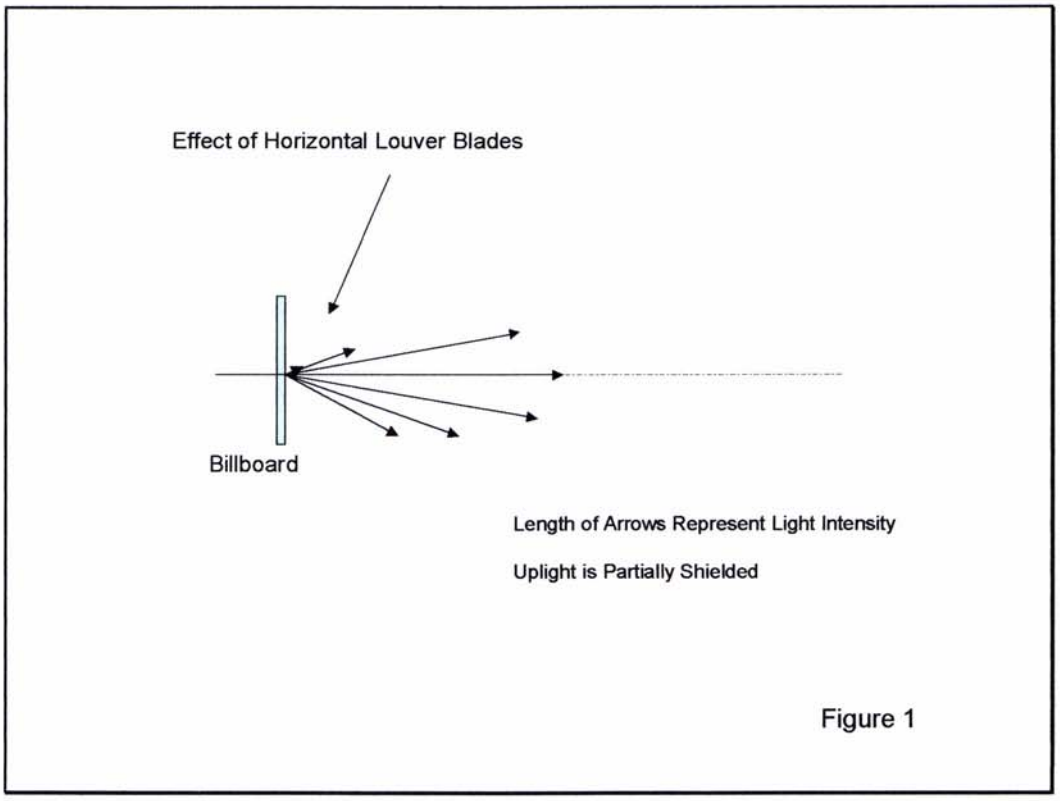


Figure 1

Appendix A

Lighting Units and Terms

Several terms are useful in describing the light characteristics of digital billboards. See figure A1.

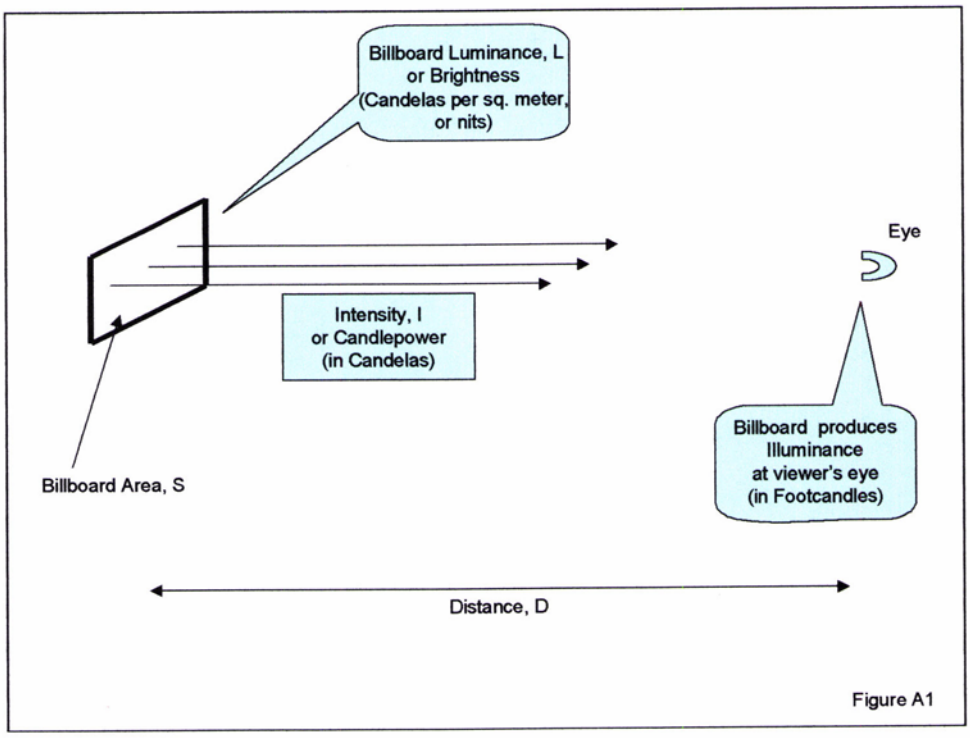


Figure A1

Candlepower. This is the intensity, I, of light produced by the billboard in a particular direction, and it is measured in "candelas." For example, a billboard of a certain size will emit a certain intensity of light in a direction perpendicular to its face. The intensities emitted in other directions will be less than that in the perpendicular direction. If the billboard displays a white image, this intensity will be higher than if the billboard face is any other color.

Candlepower does not change significantly with distance, providing the atmosphere is clear; the intensity continues as the light rays move in a straight line until they strike a surface.

Luminance, L, often called "brightness," relates to the overall appearance of the billboard. It is the candlepower emitted per unit area, and is expressed in units of "candelas per square meter," or cd/sq.m. Say a billboard that has an area of 2 square meters produces 400 candelas when viewed from a direction perpendicular to its face, then its luminance is 400/2, equal to 200 cd/sq.m. The term "nit" is also used. Such a billboards is said to have a brightness of 200 nits.

The formula relating the billboard size, luminance (or brightness) and the candlepower it projects is:

Candlepower (in candelas) = Luminance (in candelas/sq.m. or nits) x billboard area (in square meters)

or

$$I = L \times S \qquad \text{A1.}$$

(L is in nits, S is in sq.m.)

Illuminance, E. This is a measure of the amount of light that is intercepted by an object that is illuminated by the billboard. Illuminance is measured in "footcandles," and is dependent on the distance from the billboard, as well as the candlepower the billboard produces. If a viewer is looking at the billboards, the illuminance at the viewer's eye, E_v, can be found using the "Inverse Square Law," which states

$$\text{Illuminance (in footcandles)} = \frac{\text{Candlepower (in candelas)}}{\text{Distance}^2 \text{ (in feet)}}$$

or

$$E_v = \frac{I}{D^2} \qquad \text{A2.}$$

The value of I from equation 1 can be substituted into equation 2 to give

$$E_v = \frac{L \times S}{D^2} \qquad \text{A3.}$$

Equation 3 is very useful because it relates billboard size (S), billboard luminance (or brightness) (L), and gives the footcandles (E_v) that will be produced by the billboards at a distance, D feet. It can be rewritten:

$$L = \frac{D^2 E_v}{S} \qquad \text{A4.}$$

L is in nits, E_v is in footcandles,

D is in feet, S is in sq. meters

Otherwise, if the area of the billboard, S, is in square feet, the equation becomes

$$L = \frac{10.76\, D^2\, E_v}{S} \qquad \text{A5.}$$

L is in nits, E_v is in footcandles,

D is in feet, S is in sq. feet

The illuminance, E, can be measured easily with a relatively inexpensive footcandle meter at a measured distance D feet from the billboard. Figure A2. The area of the billboard, S, presumably is known. Inserting these values of E, D and S into equation 5 allows the luminance, L in nits, to be calculated.

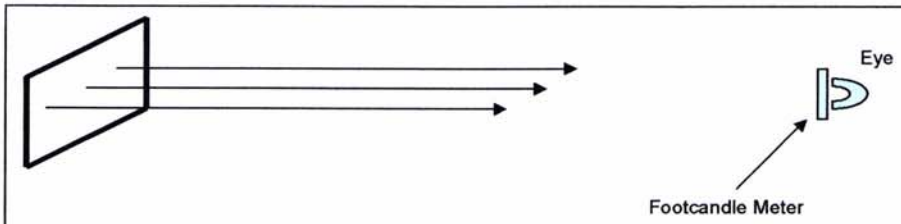


Figure A2. Measuring Illuminance (in Footcandles) at the Viewer's Eye Location

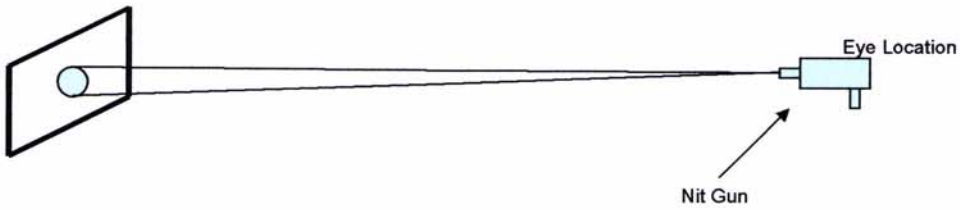


Figure A3. Measuring Billboard Luminance (in Nits) Using a Nit Gun Aimed at Billboard

L, the billboard luminance, can also be measured with a "nit gun", which is a luminance meter that can be pointed at the billboard. Figure A3. However such devices are more expensive and less readily available than a footcandle meter.

Because of the simple relationship as given in equation A5, billboard luminance specifications can be written in terms of footcandle limitations at a certain distance. For compliance checking, if the footcandle value produced by the billboard and measured at a

prescribed distance is at or below a specified level, then it will be known that the billboard luminance meets the desired limitation.

Appendix B

Description of the Lighting Environmental Zone (from IESNA publication TM-11-00)

E1. Areas with intrinsically dark landscapes. Examples are national parks, areas of outstanding natural beauty, or residential areas where inhabitants have expressed a strong desire for strict limitation of light trespass.

E2. Areas of low ambient brightness. These may be suburban and rural residential areas. Roadways may be lighted to typical residential standards.

E3. Areas of medium ambient brightness. These will generally be urban residential areas. Roadway lighting will normally be to traffic route standards.

E4. Areas of high ambient brightness. Normally this category will include dense urban areas with mixed residential and commercial use with a high level of nighttime activity.

Note: The above descriptions are being considered for revision by IESNA at the time of writing this report. The categories are not changed, but the descriptions are more extensive for clarity.

ORDINANCE NO. 98-12

AN ORDINANCE DIRECTING A STUDY OF REGULATIONS OF OUTDOOR ADVERTISING SIGNS IN THE CITY OF FORT SMITH AND ITS EXTRATERRITORIAL JURISDICTION AND DECLARING A MORATORIUM ON THE RECEIPT AND CONSIDERATION OF APPLICATIONS FOR NEW OR MODIFIED OUTDOOR ADVERTISING SIGNS

WHEREAS, the administrative staff and the Planning Commission of the City of Fort Smith are engaged in a study of appropriate regulations concerning outdoor advertising signs, including the conversion of existing signs into digital signs, in the City and in its extraterritorial jurisdictional area; and,

WHEREAS, it is determined that the protection of the health, safety and welfare of the inhabitants of the City requires a temporary moratorium on the conversion of existing signs into digital signs and on the receipt and consideration of applications for the construction of new outdoor advertising signs during the period of study of the City's existing regulations and potential amendments thereto; NOW, THEREFORE;

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

SECTION 1: The administrative staff of the City in conjunction with the Planning Commission of the City of Fort Smith shall continue and complete the study of existing and potential regulations concerning outdoor advertising signs in the City of Fort Smith and its extraterritorial jurisdiction area.

SECTION 2: There is hereby declared and established a moratorium from the date of adoption of this Ordinance for a period of approximately four months extending through the date of April 19, 2013, during which moratorium no application or permit for the construction or location of a new outdoor advertising sign shall be considered or acted upon by the administrative staff or the Planning Commission of the City of Fort Smith and, further, during which time no conversion of an existing advertising sign to a digital billboard shall be permitted or allowed in the City of Fort Smith or in its extraterritorial jurisdiction.

SECTION 3: The City Administrator and City Attorney are hereby authorized to take any and all necessary action to enforce the moratorium declared by Section 2 of this Ordinance.

SECTION 4: Emergency Clause. It is hereby determined that the provisions of this Ordinance should be immediately effective in order to allow time for the consideration of appropriate regulations of outdoor advertising signs and conversions of existing signs to a digital format. Therefore, an emergency is declared to exist, and this Ordinance, being necessary for the

protection of the health, safety and welfare of the inhabitants of the City, shall be of full force and effect from the date of its adoption.

This Ordinance adopted this 18th day of December, 2012.

Mayor

ATTEST:

City Clerk

Approved as to form:

City Attorney
Publish One Time

ORDINANCE NO. _____

AN ORDINANCE TO ABANDON A PORTION OF A PUBLIC UTILITY EASEMENT LOCATED IN JEFFREY WAY, AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS

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

SECTION 1: The City of Fort Smith, Arkansas hereby releases, vacates and abandons all its rights together with the rights of the public generally to the public utility easement located in the hereinafter described real property:

The 10' wide utility easement lying along the common property line between Lots 20 and 21, Jeffrey Way Corrected Plat to the City of Fort Smith (filed for record September 18, 2007) Sebastian County, Arkansas, more particularly described as follows:

Commencing at the SW corner of said Lot 21 on the centerline of Jeffrey Way; thence S89 degrees 59' 27" E along said common property line of Lots 20 and 21, 30.34' to the Point of Beginning; thence North 08 degrees 31' 50" W 5.06'; thence South 89 degrees 59' 27" E 77.94'; thence South 02 degrees 59' 05" E 10.01'; thence N 89 degrees 59' 27" W 76.96'; thence N 08 degrees 31' 50" W 5.06' to the Point of Beginning, containing 774 square feet more or less.

The portion of the public utility easement being released, vacated and abandoned is no longer required for municipal corporate purposes.

SECTION 2: A copy of the Ordinance duly certified by the City Clerk shall be filed with the Office of the Recorder of the County and recorded in the deed records of the County.

PASSED AND APPROVED THIS _____ DAY OF MARCH 2013.

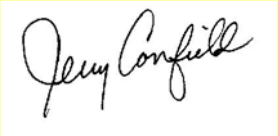
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:



_____
No Publication Required

Memo

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 3/22/2013

Re: Request for Abandonment of a Public Utility Easement
Jeffrey Way, Lots 20 & 21

We received a request from Pat McGowan to abandon a 10' public utility easement between lots 20 & 21 of the Jeffrey Way Subdivision. The abandonment will facilitate the replatting of lots 20 & 21 and the expansion of the existing residence at 61 Jeffrey Way. A vicinity map, drawing highlighting the easement to be abandoned, and Mr. McGowan's application are enclosed for review.

The request to abandon the easement was reviewed by the franchise utility companies and applicable city departments. No objections were received.

Enclosed for the Board's consideration is an ordinance authorizing the abandonment of the easement.

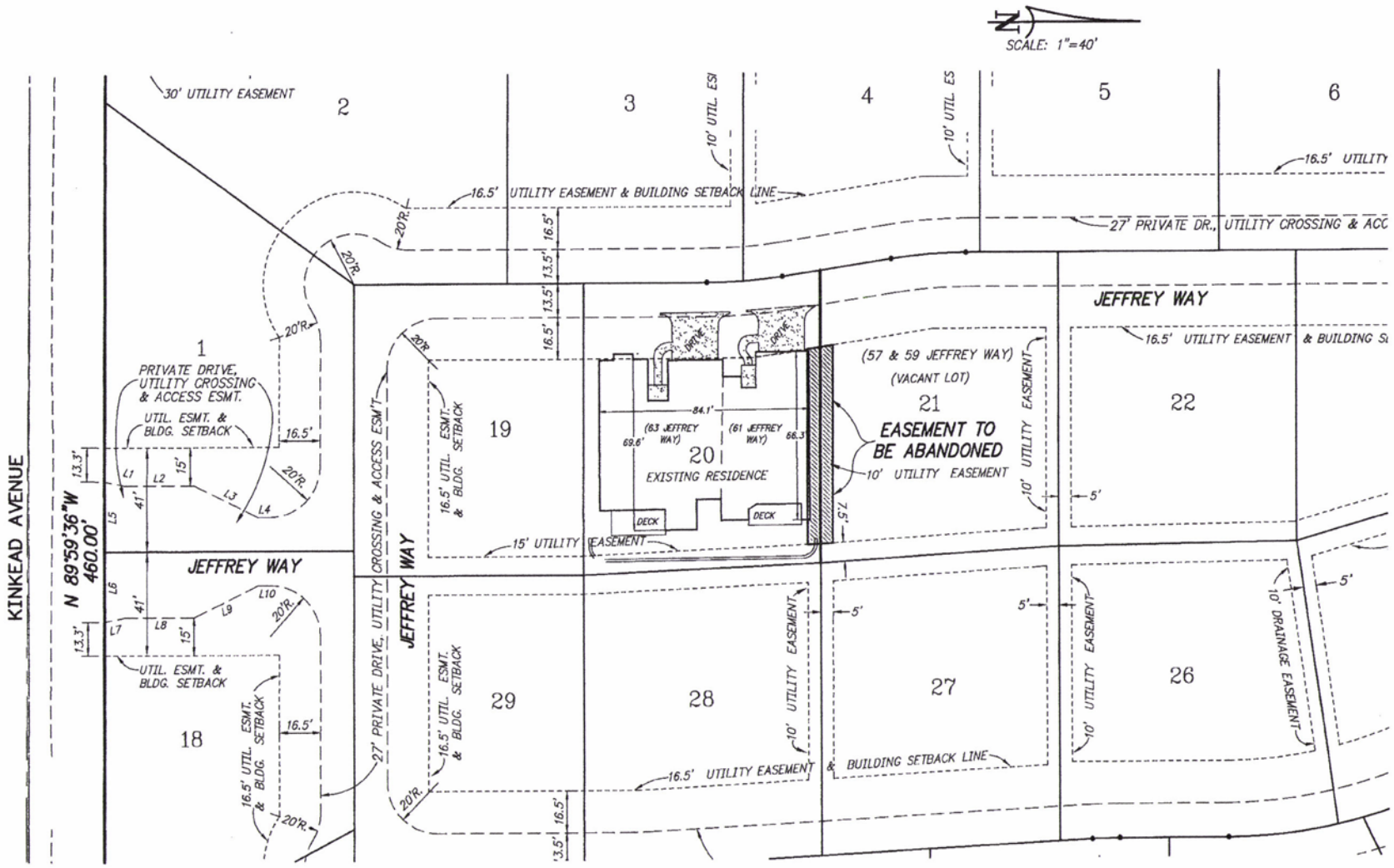
Please contact me if you have any questions regarding this item.

Enc.

Vicinity Map

Jeffrey Way, Lots 20 & 21

2009 City of Fort Smith, AR. Printed on Wed Mar 20 2013 05:37:33 PM.



FORT SMITH, ARKANSAS
EASEMENT ABANDONMENT EXHIBIT
LOTS 20 & 21, JEFFREY WAY
FOR: PAT McGOWAN

DATE: 01/14/13	SCALE: 1"= 40'	JOB NO. 2012129

HAWKINS & WEIR ENGINEERS, INC.
110 South 7th Street • Van Buren, Arkansas 72956 • (479) 474-1227
211 Natural Resources Drive • Little Rock, Arkansas 72205 • (501) 374-4846
www.hawkins-weir.com

U:\DRAWINGS\PROJECTS\2012\2012129 JEFFREY WAY 20-21\ESMT-EXHIBIT.DWG, 1/28/2013 8:41 AM, STEVE HENDRIX, LAYOUT1

CITY OF FORT SMITH, ARKANSAS
REQUEST FOR ABANDONMENT OF PUBLIC RIGHT-OF-WAY, ALLEY OR PUBLIC EASEMENT

APPLICATION:

Indicate one contact person for application: __X____Applicant _____Representative

Applicant (owner)

Name: Pat McGowan
(Jeffrey Way, LLC)
Address: 1901 St. Andrews Way
C-51
Fort Smith, Arkansas 72903
Telephone Number: 479-462-4257
E-Mail: PatMcG6813@aol.com

Representative (engineer, attorney, realtor, etc)

Name: Steve Hendrix
Address: P. O Box 648
Van Buren, Arkansas 72957
Telephone Number: 479-474-1227
E-Mail: steve.hendrix@hawkins-weir.com

Site Address/Location: 59 and 61 Jeffrey Way

Legal Description of area to be vacated (attach separate sheet if necessary): 10' wide utility easment adjoining the common line between Lots 20 and 21, Jeffrey Way Subdivision.

Assessor's Parcel Number for Subject Property: 14130-0020-00000-00 & 14130-0021-0000-00

Reason for Request: Replat common property line for proposed building expansion.

Current Status of Right-of-Way Development: Current utility easement not being utilzed by franchise utility companies.

APPLICANT/REPRESENTATIVE: I certify under penalty of perjury that the foregoing statements and answers herein made, all data, information, and evidence herewith submitted are in all respects, to the best of my knowledge and belief, true and correct. I understand that submittal of incorrect or false information is grounds for invalidation of application completeness, determination, or approval.

I understand that if it is determined following review of the application by city staff that ongoing utility interests must be protected through easement dedications, the applicant or his authorized agent shall be required to develop and submit a fully executed easement. No action will be taken by the Board of Directors on an abandonment request until said easement is on file with the city or until staff and/or franchisees have determined that no utility easement is necessary.

I understand that I shall bear the expense of publication of notice given by the City in addition to the expense of publication of the ordinance after adoption by the Board of Directors.

Name: (printed) JEFFREY WAY LLC

Signature: _____ Date: 2/21/13

Property Owner(s)/Authorized Agent: *I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is subject of this application and that I/we have read this application and consent to its filing.*

Note: If application is signed by authorized agent, all owners must sign and submit "Authorization of Agent" form.

Application Checklist:

- ☒ Metes and Bounds legal description of the area to be vacated (Provide hard copy and CD containing legal description in MS Word)
- ☒ Hard copy and PDF of survey of the site depicting the perimeter property lines and area within the property to be vacated
- ☒ Application Fee of $150.00. This fee is non-refundable.

3B

RESOLUTION _____

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE ENGINEERING SERVICES AGREEMENT FOR THE DESIGN OF 2013 STREET OVERLAY/RECONSTRUCTION PROJECT, PHASE A
PROJECT NO. 13-03-A

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

SECTION 1: Amendment No. 1 to the engineering services agreement with McGuire Engineering, Inc. for the design of the 2013 Street Overlay/Reconstruction Project, Phase A, Project No. 13-03-A which increases the contract amount by $14,400.00 to an adjusted contract amount of $89,600.00, is hereby approved.

SECTION 2: Payment for engineering services authorized by Section 1 is hereby authorized from the Sales Tax Fund (1105).

This resolution adopted this _____ day of April, 2013.

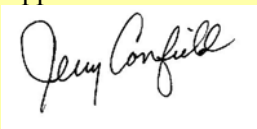
APPROVED:

_____
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

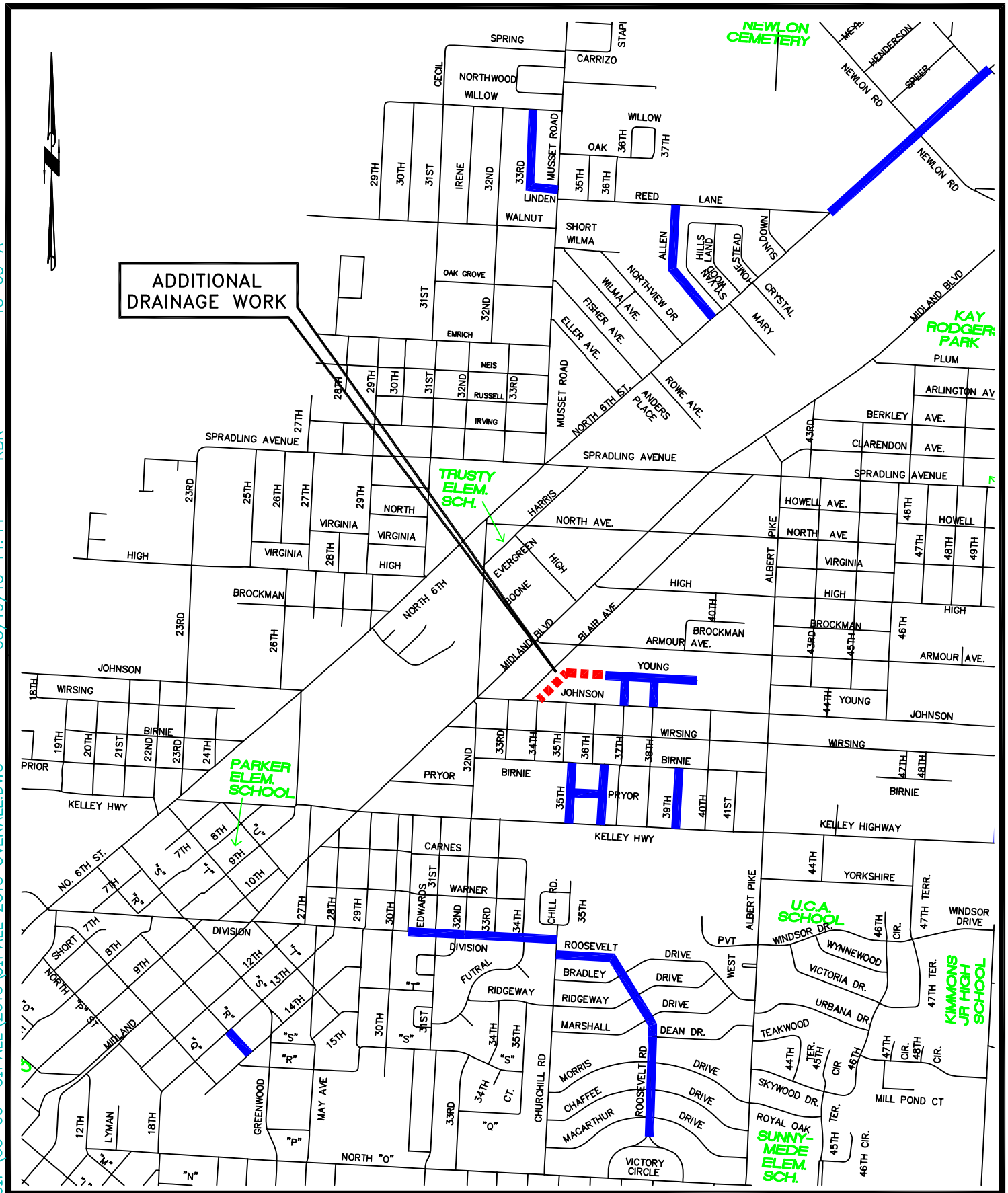
DATE: March 20, 2013

SUBJECT: 2013 Street Overlay/Reconstruction Project, Phase A
Engineering Services Contract Amendment
Project No. 13-03-A

The 2013 Street Overlay/Reconstruction Project, Phase A, includes the streets shown on the attached map. The total length of streets to be improved on this project is 2.9 miles. The original scope of work is being expanded to include needed additional drainage improvements which were discovered during the preliminary design/review phase. The 800 foot long earthen ditch that Young Street outfalls to is in poor condition. Due to its flat grade, the ditch does not discharge properly, and it holds water in several locations. In order for the drainage improvements associated with the Young Street overlay to function properly, this outfall ditch needs to be improved.

As a result of the increase in the scope of work, the engineering services contract is being increased by $14,400.00 to a total amount of $89,600.00. I recommend approval of the amendment to the engineering services. Attached is a Resolution to accomplish this recommendation. Funds are available in the Sales Tax Program (1105) for this work.

Attachment



2013 CAPITAL IMPROVEMENTS PROGRAM

STREET OVERLAYS/RECONSTRUCTION

The City of Fort Smith ARKANSAS

Project:	13-03-A
Date:	MARCH 2013
Scale:	NONE
Drawn By:	RBR

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3C

RESOLUTION NO. ____

A RESOLUTION AUTHORIZING EXECUTION OF CONTRACT WITH MATLOCK ELECTRIC CO., INC. FOR THE REPLACEMENT OF EMERGENCY GENERATORS AT FIRE STATIONS 1 THROUGH 10

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

The Mayor is hereby authorized to execute, his signature being attested by the City Clerk, the Contract with Matlock Electric Co., Inc. for replacement of emergency generators at fire stations 1 through 10.

This Resolution adopted this ____ day of March, 2013.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney
No Publication Required

The City of Fort Smith ARKANSAS

FORT SMITH FIRE DEPARTMENT
200 NORTH FIFTH STREET
FORT SMITH, ARKANSAS 72901
479-783-4052 • FAX: 479-783-5338

Mike Richards
Fire Chief

Memo

To: Ray Gosack, City Administrator
From: Mike Richards, Fire Chief
Date: March 15, 2013
RE: Emergency Generators for Fire Stations 1 – 10

One of the components of the Fire Station Improvement plan was to replace our obsolete emergency generators at Fire Stations 1 through 10. The emergency generators are necessary to provide electricity during periods of power outages in order to operate our emergency communications systems, fire apparatus bay doors, lighting, climate control systems, and other critical equipment for as long as necessary.

MAHG Architects of Fort Smith, AR, was selected to be the architect for the project. MAHG developed the specifications for the generators at each fire station. The bid packages were advertised and sealed bids were opened on March 12, 2013. We received two bids as shown on the Bid Tabulations marked as Attachment 1.

We are recommending the lowest bid of $408,730.00 from Matlock Electric of Fort Smith, AR, be accepted. The bid includes the purchase of the generators and necessary electrical equipment, removal of the obsolete generators, site work, installation of the generators, and any other associated work as outlined in the bid specifications. Matlock Electric has quoted, and will install, Baldor Electric of Fort Smith, AR, natural gas powered emergency generators. The $408,730.00 is below our budget estimates for the project.

The funding for the emergency generators will come from the revenue bonds financed with the ¾ cent sales tax approved by the citizens of Fort Smith in March, 2012.

Attachments (1)

BID TABULATION

MAHG PROJECT NO. 12-14A
GENERATOR REPLACEMENT FOR FIRE STATION UPGRADES
FORT SMITH FIRE DEPARTMENT
FORT SMITH, ARKANSAS
March 12, 2013

CONTRACTORS:	AUTOMATIC POWER SOLUTIONS	MATLOCK ELECTRIC
CONTRACTOR LICENSE NO.	0062280413	0009141213
BID SECURITY:	SureTec 5%	Westfield 5%
ADDENDA REC'D:	No. 1	No. 1
TOTAL BID AMOUNT:	$ 415,451.55	$ 408,730.00
Bid for: Fire Station #1	$ 84,509.23	$ 86,520.00
Bid for: Fire Station #2	$ 36,328.35	$ 35,140.00
Bid for: Fire Station #3	$ 36,688.88	$ 35,850.00
Bid for: Fire Station #4	$ 34,913.56	$ 33,745.00
Bid for: Fire Station #5	$ 35,864.04	$ 34,690.00
Bid for: Fire Station #6	$ 36,437.60	$ 35,470.00
Bid for: Fire Station #7	$ 42,040.17	$ 41,550.00
Bid for: Fire Station #8	$ 34,858.94	$ 33,735.00
Bid for: Fire Station #9	$ 34,651.36	$ 33,540.00
Bid for: Fire Station #10	$ 39,159.42	$ 38,490.00
SUBCONTRACTORS:		
PLUMBING/MECHANICAL:	Blaylock Plumbing	Blaylock Plumbing
License No.:	0007900413	0007900413
ELECTRICAL:	Matlock Electric	Matlock Electric
License No.:	0009141213	0009141213

CERTIFIED TO BE A TRUE COPY

BY: _____
Galen D. Hunter, AIA

RESOLUTION NO. _____ 3 D

RESOLUTION AUTHORIZING AN AMENDMENT TO THE
AGREEMENT WITH HARRIS COMPANY OF FORT SMITH FOR
STORM DRAINAGE IMPROVEMENTS ALONG MASSARD ROAD

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

The Agreement with Harris Company of Fort Smith for adjustment of the 48-inch diameter storm drain along Massard Road as part of its work to construct Stonebrook at Chaffee Crossing for the benefit of the City and subdivision development as approved by Ordinance 12-13 is hereby amended to include payment for rock excavation in the amount of $4,500.00, amending the total amount of the Agreement with Harris Company to $19,545.00 and payment of the adjusted amount authorized upon satisfactory completion of the work.

This Resolution adopted this _____ day of March 2013.

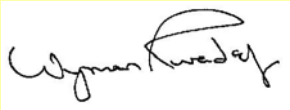
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:



_____npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** March 15, 2013

FROM: Steve Parker, Director of Utilities

SUBJECT: Chaffee Crossing Water Supply Improvements - Geren Road and Massard Road Water Lines

At its February 19, 2013, the Board approved an ordinance waiving competitive bidding and accepting a proposal from Harris Company to lower a 48-inch diameter storm drain along Massard Road. This work was needed to advance the lowering of the storm drain which was anticipated to be done as part of a city project but would not be performed in time to prevent a delay to the adjacent Stonebrook at Chaffee Crossing subdivision development. In order to avoid delaying the construction of Stonebrook's entrance roadway the city authorized Harris Company, contractor for the Stonebrook development, to proceed with the work for an amount of $15,045.00.

During construction the contractor encountered rock which had to be removed in order to lower the storm drain to the required elevation. Rock was not anticipated, so the rental of the additional equipment which was capable of digging through the rock, along with additional time to perform the rock excavation by the contractor's workforce were not part of the original proposal. Harris Company performed the 50 cubic yards of rock excavation for a cost of $4,500, amending the original amount to $19,545.00. Funding for the Amendment is available from the 2012 sales tax bonds issued for the Chaffee Crossing water system improvements.

A Resolution amending the Agreement with Harris Company of Fort Smith to $19,545.00 is attached. Should you or members of the Board have questions or need any additional information, please let me know.

attachment

pc: Jeff Dingman

RESOLUTION NO._____ 3 E

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT WITH THE DEPARTMENT OF THE ARMY AT THE MASSARD SEWER TREATMENT PLANT

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

The Mayor is hereby authorized to execute a sewer outfall line easement with the Department of the Army for the city's existing 36-inch sewer outfall line from the Massard Sewer Treatment Plant to the Arkansas River, and make payment to the Department of the Army, in the amount of $1,115.00.

This Resolution adopted this _____ day of March 2013.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** March 15, 2013

FROM: Steve Parke, Director of Utilities

SUBJECT: Massard Sewer Outfall Line -
Department of the Army Easement

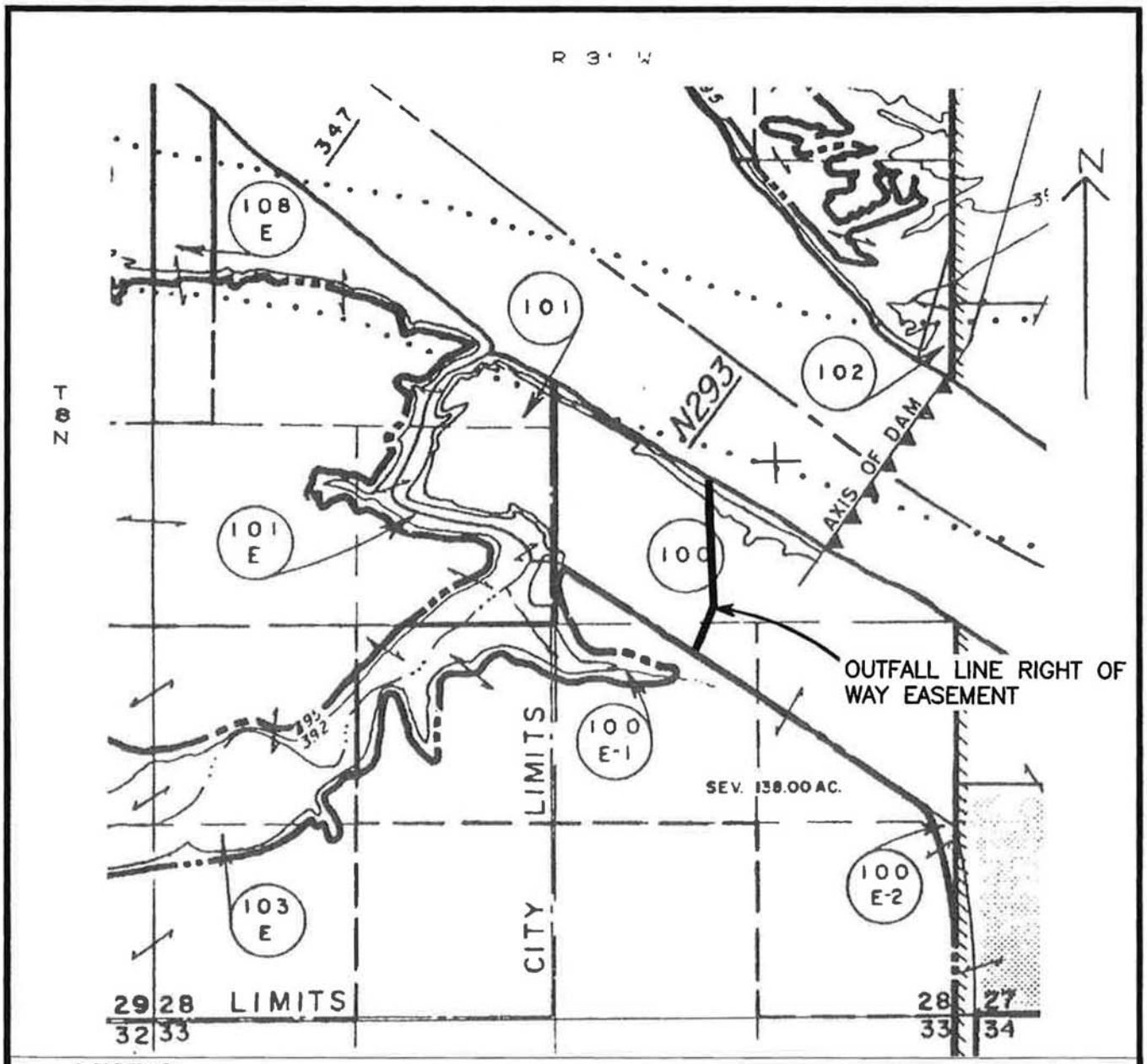
The 36-inch sewer outfall line from the Massard sewer treatment plant crosses property owned by the United States of America (USA) on its route to the Arkansas River near Lock and Dam No. 13. The Department of the Army, in association with the Little Rock Branch of the Corps of Engineers, is the legal representative for the USA. The right-of-way for the outfall sewer line is shown on the attached exhibit.

The city's original 25 year term easement with the Department of the Army for the sewer outfall line has expired. The Department of the Army has submitted a new 25 year term easement for the city's execution. Their one-time fee for granting the easement is $1,115.00. The city attorney and staff have approved the content of the new easement. Staff is recommending that the attached Resolution authorizing the execution of the easement and payment of the $1,115.00 fee be submitted to the Board for approval at its next regular scheduled meeting.

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

attachment

pc: Jeff Dingman



LEGEND

OUTFALL LINE RIGHT OF WAY EASEMENT

FEE ACQUISITION LINE

LOCK & DAM NO. 13
ARKANSAS RIVER
RIGHT-OF-WAY
FOR OUTFALL PIPE
TRACT NO. 100

COUNTY: SEBASTIAN
STATE: ARKANSAS

CORPS OF ENGINEERS
SCALE: 1"=1,000'

LITTLE ROCK DISTRICT
AUGUST 1986
EXHIBIT "A"

RESOLUTION NO._____ 3 F

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AGREEMENT WITH A PROPERTY OWNER FOR THE ACQUISITION AND RELEASE 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 City Administrator is hereby authorized to execute an Agreement accepting an offer made by the following property owner:

Tract E10	Bobby Van Goodwin & Shelva J. Goodwin	$6,509.00

and to make payment for same in connection with the acquisition of a water, sewer and access easement for the Pump Station Number 19 Force Main Replacement, Project Number 11-07-P, said property being located at 7032 Texas Road, Fort Smith, Arkansas.

Section 2: The City Administrator is hereby authorized to execute a release of three easements and rights of ways upon the completion of the project, said three easements are being replaced by the easement set forth in Section 1 and shown on the Agreement as Exhibit 2.

This Resolution adopted this _____ day of March 2013.

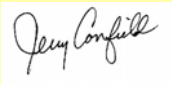
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:



_____npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** March 15, 2013

FROM: Steve Parke, Director of Utilities

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

The city 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 east of the property owned by Whirlpool Corporation. The force main replacement is a component of the city's wet weather sewer improvements program.

The project requires the acquisition of easements from 22 landowners. To date, 20 of the needed easements have been acquired for the appraised value as authorized by the city's property acquisition policy.

After negotiations with Bobby and Shelva Goodwin, they have offered to sell the easement to city for the appraised value of $6,509.00 in exchange for the city's release of three existing easements that will no longer be needed after the completion of the project. The city attorney prepared an Agreement to release the three easements. A copy is attached for your review. Easement acquisition costs are part of the project budget being funded from the 2012 sales tax bonds issued for the continuation of wet weather sewer improvements.

Staff believes that the owners offer is reasonable and recommends that the Board approve the attached Resolution at its next regular scheduled meeting. If you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Jeff Dingman

ORIGINAL

AGREEMENT

This Agreement is entered into on the ____ day of _____, 2013, by and between the City of Fort Smith, Arkansas ("Fort Smith"), Bobby Van Goodwin and Shelva J. Goodwin (collectively the "Goodwins").

RECITALS

WHEREAS, Bobby Van Goodwin and Shelva J. Goodwin, husband and wife are the current owners of real property situated in the Fort Smith District of Sebastian County, Arkansas, currently encumbered by the Easements and Right of Ways described in the succeeding three paragraphs.

WHEREAS, Bertha T. Ledbetter and Vernon E. Ledbetter executed a certain Easement and Right of Way in favor of Sewer Improvement District No. 19 of the City of Fort Smith, Arkansas, recorded in Book 343, Page 2022 on November 7, 1973 in the real property records of the Fort Smith District of Sebastian County, Arkansas.

WHEREAS, Dale Brown and Katherine Brown executed a certain Easement and Right of Way in favor of Sewer Improvement District No. 19 of the City of Fort Smith, Arkansas, recorded in Book 343, Page 2019 on November 7, 1973 in the real property records of the Fort Smith District of Sebastian County, Arkansas.

WHEREAS, James E. Waldrop and Anna Martin Waldrop executed a certain Easement and Right of Way in favor of Sewer Improvement District No. 19 of the City of Fort Smith, Arkansas, recorded in Book 343, Page 2060 on November 7, 1973 in the real property records of

the Fort Smith District of Sebastian County, Arkansas.

WHEREAS, Bobby Van Goodwin and Shelva J. Goodwin have agreed to execute a certain Water, Sewer, and Access Easement in favor of the City of Fort Smith, Arkansas, in connection with a project known as Pump Station No. 19 Force Main Replacement Project #11-07-E1, in consideration for Fort Smith's release of the Easements and Right of Ways described herein and payment to the Goodwins the sum of Six Thousand Five Hundred Nine and 00/100 Dollars ($6,509.00).

WHEREAS, the City of Fort Smith, Arkansas, in consideration of the execution of said Water, Sewer, and Access Easement by Bobby Van Goodwin and Shelva J. Goodwin have agreed to release the three Easements and Right of Ways and tender the payment described herein.

WHEREAS, the parties agree that this Agreement is conditioned upon verification of the Goodwins' title and conditioned upon final approval by the Fort Smith Board of Directors.

NOW, THEREFORE, in consideration of the mutual promises and other good and valuable consideration, the sufficiency of which is acknowledged, the parties agree as follows:

1. Upon the execution of this Agreement by the Goodwins, Fort Smith will seek final approval of this Agreement from the Fort Smith Board of Directors at its next regularly scheduled meeting. If approved by the Fort Smith Board of Directors, Fort Smith will execute this Agreement and furnish a copy to the Goodwins;

2. Fort Smith will obtain verification of marketable title of the Goodwins' property at its expense. In the event that the Goodwins' property is subject to a mortgage or other encumbrance, such lien holder must subordinate their interest to the Water, Sewer and Access

Easement described in paragraph 3;

3. Within ten (10) business days of the date of the Fort Smith Board of Directors' approval of the Agreement, the Goodwins will execute the Water, Sewer and Access Easement in the form attached hereto and incorporated herein as Exhibit "1";

4. Fort Smith will pay the Goodwins the sum of Six Thousand Five Hundred and Nine Dollars and 00/100 ($6,509.00) within twenty (20) business days of the Goodwins' provision of the executed and notarized Water, Sewer and Access Easement in the form attached hereto as Exhibit "1";

5. Upon the completion of the project known as Pump Station No. 19 Force Main Replacement Project No. 11-07-E1, Fort Smith will execute and cause to be recorded the Release of Easements and Right of Ways in the form attached hereto and incorporated herein as Exhibit "2";

6. The time limits described in paragraph 4 herein shall automatically be extended to allow sufficient time to cure any title defect or obtain the subordination of a lien holder's interest in the Goodwins' property to the Water, Sewer and Access Easement described in paragraph 3 herein.

7. This Settlement Agreement is specifically conditioned upon verification of marketable title and final approval from the Fort Smith Board of Directors.

City of Fort Smith, Arkansas

By:_____

Ray Gosack
City Administrator

Bobby Van Goodwin

Bobby Van Goodwin

Shelva Goodwin

Shelva J. Goodwin

Pump Station No. 19
Force Main Replacement
Project #11-07-E1

Tract #E10

WATER, SEWER AND ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That **Bobby Van Goodwin and Shelva J. Goodwin,** their heirs, successors, and assigns, hereinafter called GRANTORS, for and in consideration of the sum of one dollar ($1.00) and other good and valuable considerations, receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to the **CITY OF FORT SMITH, ARKANSAS**, a municipal corporation, its agents, successors, and assigns, GRANTEES, permanent easements for the construction, operation, and maintenance of public (GRANTEES owned) utilities with all appurtenances thereto, together with the right to remove trees, brushes, undergrowth or other obstructions interfering with construction, operation and maintenance of said utilities over, under and upon the following lands and an access easement situated in Fort Smith, Sebastian County, Arkansas, to wit:

Part of N1/2 of the SE/4 of Section 5, Township 7 North, Range 32 West, being more particularly described as follows:

EASEMENT "A": Water and Sanitary Sewer Easement
Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, Thence North 87°23'47" West a distance of 745.79 feet along the South property line, also being the North line of Cavanaugh Meadows, to the Point Of Beginning; Thence continuing along said South line, North 87°23'47" West a distance of 27.50 feet; Thence leaving said South line, North 02°12'50" East a distance of 182.58 feet to the South line of an Existing 50' Public Road Right-of-Way; Thence along said South line, South 87°23'02" East a distance of 27.50 feet; Thence South 02°12'50" West a distance of 182.57 feet to the Point Of Beginning and Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, Thence North 87°23'47" West a distance of 745.79 feet along the South property line, also being the North line of Cavanaugh Meadows, Thence North 02°12'50" East a distance of 232.57 feet to the North line of an Existing 50'

RETURN ORIGINAL FILED DOCUMENT TO: *Larry Guthrie, City of Fort Smith*
3900 Kelley Hwy., Fort Smith, AR 72904

EXHIBIT # 1

Public Road Right-of-Way and the Point Of Beginning, Thence North 87°23'02" West a distance of 27.50 feet along said North line, Thence Leaving said North line, North 02°12'50" East a distance of 193.43 feet to the North property line, Thence South 87°29'35" East a distance of 27.50 feet along said North line, Thence leaving said North line, South 02°12'50" West a distance of 193.48 feet to said North line of an Existing 50' Public Road Right-of-Way and the Point-Of Beginning, containing a cumulative 10,341 square feet or 0.237 acres, more or less, of which, 10,319 square feet or 0.237 acres is within an existing 50' Road Easement.

<u>EASEMENT "B": Sanitary Sewer Easement</u>
Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, Thence North 87°23'47" West a distance of 773.29 feet along the South property line, also being the North line of Cavanaugh Meadows, to the Point Of Beginning; Thence continuing along said South line, North 87°23'47" West a distance of 169.47 feet; Thence North 87°20'54" West a distance of 107.38 feet; Thence leaving said South line, North 47°39'06" East a distance of 21.21 feet; Thence South 87°20'54" East a distance of 92.37 feet; Thence South 87°23'47" East a distance of 169.36 feet to the West line of Easement "A"; Thence along said West line, South 02°12'50" West a distance of 15.00 feet to the Point Of beginning, containing 4,039 square feet or 0.093 acres, more or less, of which, 352 square feet or 0.008 acres is within an existing 50' Road Easement.

<u>EASEMENT "C": Sanitary Sewer Easement</u>
Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, Thence North 87°23'47" West a distance of 942.76 feet along the South property line, also being the North line of Cavanaugh Meadows, Thence continuing along said South line, North 87°20'54" West a distance of 224.89 feet to the Point Of Beginning; Thence continuing along said North line, North 87°20'54" West a distance of 558.33 feet; Thence leaving said South line, North 35°58'20" East a distance of 23.93 feet; Thence South 87°20'54" East a distance of 233.64 feet; Thence North 43°48'57" East a distance of 168.57 feet; Thence North 64°34'48" East a distance of 304.99 feet; Thence North 38°18'39" East a distance of 147.83 feet; Thence North 87°29'35" West a distance of 225.25 feet; Thence North 02°30'25" East a distance of 15.00 feet to the North property line; Thence South 87°29'35" East a distance of 291.56 feet along said North line; Thence leaving said North line, South 38°18'39" West a distance of 197.99 feet; Thence South 64°34'48" West a distance of 332.39 feet; Thence South 43°48'57" West a distance of 124.10 feet; Thence South 87°20'54" East a distance of 269.42 feet; Thence South 02°39'06" West a distance of 15.00 feet to said South line and the Point Of Beginning, containing 39,109 square feet or 0.898 acres, more or less, of which, 7,184 square feet or 0.165 acres are within various existing easements, including an existing drainage easement, Book 487, Page 1924 & 1936; an existing 10 foot sanitary sewer

easement, Book 343, Page 2060; an existing sanitary sewer easement, Book 343, Page 2019-2021; and a platted 10 foot utility easement.

<u>EASEMENT "D": Access Easement</u>
Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, Thence North 87°23'47" West a distance of 830.00 feet along the South property line, also being the North line of Cavanaugh Meadows, to the Deed line found in Book 462, Page 904, Thence leaving said South line, North 06°20'27" East a distance of 411.83 feet along said Deed line to the Point Of Beginning; Thence North 87°29'35" West a distance of 153.96 feet to the East line of Easement "C"; Thence North 38°18'39" East a distance of 18.50 feet along said East line to the North property line; Thence leaving said East line, South 87°29'35" East a distance of 170.14 feet along said North line to the West line of Easement "A"; Thence leaving said North line, South 02°12'50" West a distance of 15.00 feet along said West line; Thence leaving said West line, North 87°29'35" West a distance of 27.07 feet to the Point Of Beginning, containing 2,634 square feet or 0.060 acres, more or less, of which, 965 square feet or 0.022 acres are within various existing easements, including an existing five foot sanitary sewer easement, Book 343, Page 2019-2021, easement and an existing 50' Road Easement.

A sketch of this grant is attached (Exhibit A) and is to be considered as a part of this easement document. It is understood that this sketch is descriptive only of the approximate size, shape and location of the easement and does not constitute a plat or survey of the Grantors' property.

With rights of ingress and egress to and from the same.

To have and to hold said easement unto GRANTEES forever.

GRANTORS shall have the right to use the surface of the property above described as long as GRANTORS wish, provided, that GRANTORS shall not interfere with the use thereof by GRANTEES, and further, GRANTORS shall not erect a permanent building or other structure within said easement, and further, GRANTORS shall not change the finish grade of the easement areas herein described, nor shall Grantors deposit soil, rock, debris, or other natural or man-made materials, and shall not remove soil or rock within the easements herein described and further, GRANTORS shall provide gates acceptable to GRANTEES if said easement is fenced. After completion of construction, Grantees shall restore the land in this right of way to a mutually acceptable condition, subject to both parties acting in a reasonable manner.

GRANTEES shall have the temporary right for <u>six (6) months or until the project is complete</u>, and until completion and acceptance by GRANTEES of the construction work, to enter upon and use additional <u>easements</u>,

Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, North 87°23'47" West a distance of

942.76 feet along the South line of said property; Thence continuing along said South line, North 87°20'54" West a distance of 107.38 feet to the Point Of Beginning; Thence continuing along said South line, North 87°20'54" West a distance of 21.21 feet; Thence leaving said South line, North 47°39'06" East a distance of 42.43 feet; Thence South 87°20'54" East a distance of 98.58 feet; Thence South 87°23'47" East a distance of 159.25 feet; Thence North 02°12"50" East a distance of 152.58 feet to the South Right-of-Way of a 50' Public Road Right-of-Way, Book 105, Page 20; Thence South 87°23'02" East a distance of 10.00 feet along said South Right-of-Way to the West line of Easement "A"; Thence leaving said South Right-of-Way, South 02°12'50" West a distance of 167.58 feet along said West line to the North line of Easement "B"; Thence leaving said West line, North 87°23'47" West a distance of 169.36 feet along said North line; Thence continuing along said North line, North 87°20'54" West a distance of 92.37 feet; Thence South 47°39'06" West a distance of 21.21 feet to the Point Of Beginning; Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, North 87°23'47" West a distance of 773.29 feet along the South line of said property to the West line of Easement "A"; Thence leaving said South line, North 02°12'50" East a distance of 232.58 feet to the North Right-of-Way of said 50' Public Road and the Point Of Beginning; Thence North 87°23'02" West a distance of 10.00 feet along said North Right-of-Way; Thence leaving said North Right-of-Way, North 02°12'50" East a distance of 178.41 feet to the South line of Easement "D"; Thence South 87°29'35" East a distance of 10.00 feet along said South line to the West line of Easement "A"; Thence leaving said South line, South 02°12'50" West a distance of 178.43 feet along said West line to the Point Of Beginning; Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, North 87°23'47" West a distance of 830.00 feet along the South line of said property to the Deed line; Thence leaving said South line, North 06°20'27" East a distance of 426.86 feet along said Deed line to the North line of said property; Thence leaving said Deed line, North 87°29'35" West a distance of 435.70 feet along said North line to the West line of Easement "C"; Thence leaving said North line, South 02°30'25" West a distance of 15.00 feet along said West line to the South line of Easement "C"; Thence South 87°29'35" East a distance of 225.25 feet along said South line to the West line of Easement "C"; Thence leaving said South line, South 38°18'39" West a distance of 12.33 feet along said West line, Thence leaving said West line, North 87°29'35" West a distance of 218.04 feet; Thence North 02°30'25" East a distance of 10.00 feet to the Point Of Beginning; Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, North 87°23'47" West a distance of 942.76 feet along the South line of said property; Thence continuing along said South line, North 87°20'54" West a distance of 224.89 feet to the East line of Easement "C"; Thence leaving said South line, North 02°39'06" East a distance of 15.00 feet along said East line to the North line of Easement "C"; Thence leaving said East line, North 87°20'54" West a distance of 256.14 feet along said North line to the Point Of Beginning; Thence continuing along said North line, North 87°20'54" West a distance of 13.28 feet to the East line of Easement "C"; Thence leaving said North line, North 43°48'57" East a distance of 124.10 feet along said East line; Thence continuing along said East line, North 64°34'48" East a distance of 332.39 feet; Thence North 38°18'39" East a distance

of 179.49 feet to the South line of Easement "D"; Thence leaving said East line, South 87°29'35" East a distance of 12.33 feet along said South line; Thence leaving said South line, South 38°18'39" West a distance of 189.04 feet; Thence South 64°34'48" West a distance of 332.89 feet; Thence South 43°48'57" West a distance of 113.52 feet to the Point Of Beginning; Commencing at a found Mag Nail in the center of Texas road being 1,386 feet North and 714.78 feet West of the SE corner of Section 5, North 87°23'47" West a distance of 942.76 feet along the South line of said property; Thence continuing along said South line, North 87°20'54" West a distance of 795.19 feet to the Point Of Beginning; Thence North 35°58'20" East a distance of 41.88 feet; Thence South 87°20'54" East a distance of 248.86 feet to the West line of Easement "C"; Thence South 43°48'57" West a distance of 19.93; Thence North 87°20'54" West a distance of 233.64 feet along the North line of Easement "C"; Thence South 35°58'20" West a distance of 23.93 feet along said West line to the Point of Beginning, containing 20,280.676 square feet or 0.466 acres, more or less, of which, 4,071 square feet or 0.093 acres are within various existing easements, including an existing road easement, recorded in September of 1968 with the Fort Smith Circuit Clerk Sebastian County; an existing five foot sanitary sewer easement, Book 343, Page 2019-2021; an existing 10 foot sanitary sewer easement, Book 343, Page 2060; and an existing drainage easement, Book 487, Page 1924 & 1936.

The consideration paid by GRANTEES is received and accepted by GRANTORS in full satisfaction of every right hereby conveyed.

GRANTORS do hereby covenant with GRANTEES that GRANTORS are lawfully seized and possessed of the real estate above described and that GRANTORS have a good and lawful right to convey the same or any part thereof.

It is hereby understood that party securing this grant in behalf of GRANTEES is without authority to make any covenant or agreement not herein expressed.

Witness our hands and seals on this ____ day of _____, 2013.

Grantor or Agent: _____

_____

_____

RETURN ORIGINAL FILED DOCUMENT TO: *Larry Guthrie, City of Fort Smith*
3900 Kelley Hwy., Fort Smith, AR 72904

ACKNOWLEDGMENT:

STATE OF ARKANSAS)
) **SS**
County of Sebastian)

On this 7 day of March, 2013, before me, a Notary Public, duly commissioned, qualified and acting, within and for the County of Sebastian Arkansas, appeared in person, Bobby Van & Shelva J. Goodwin, to me personally well known as the persons whose names appear upon the within and foregoing instrument, and further stated and acknowledged that they had executed the same for the consideration, uses and purposes therein mentioned and set forth, and I do hereby so certify.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 7 day of March, 2013.

Notary Public

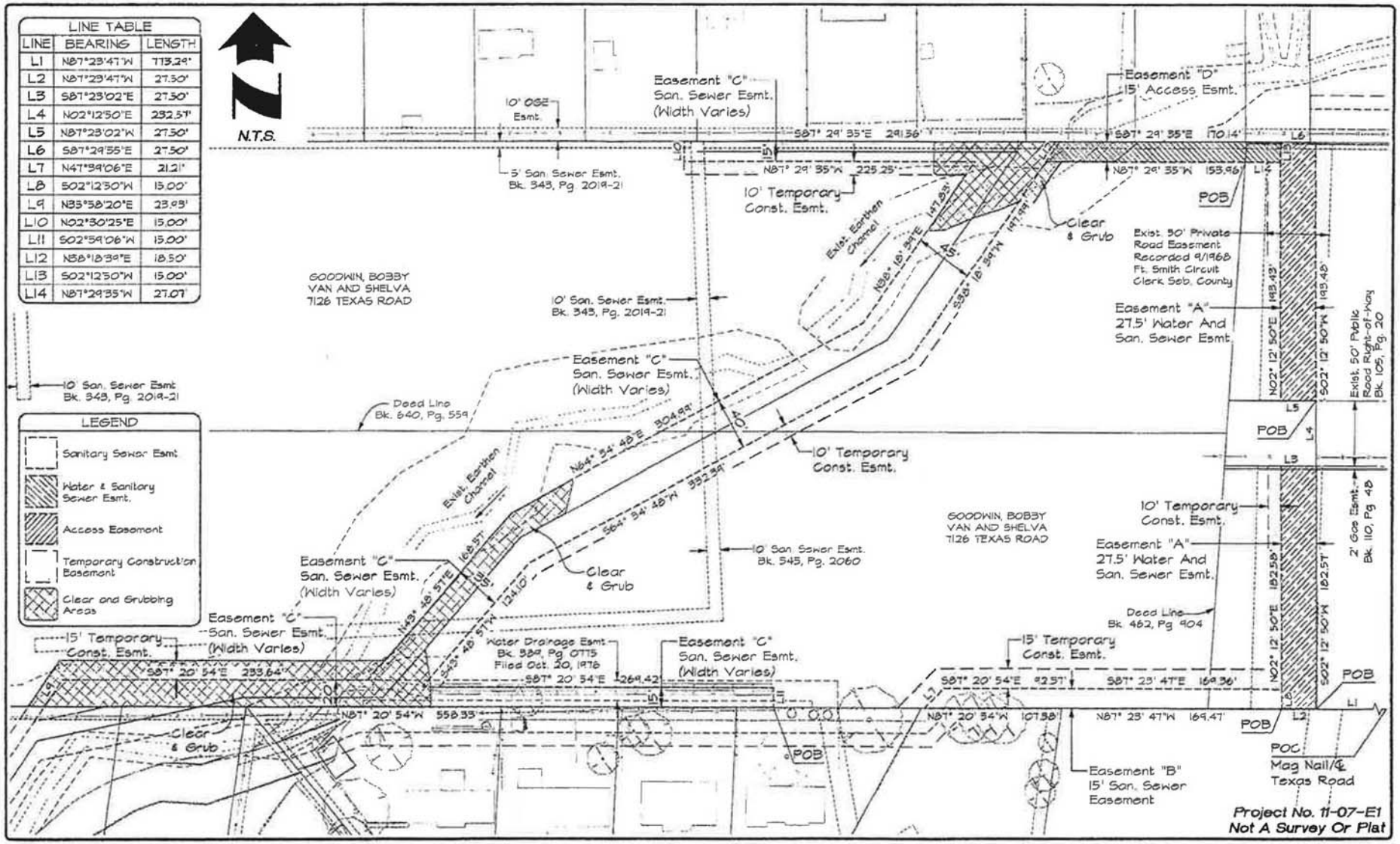
My Commission Expires:

Dec. 8, 2020

ANDREA WILSON
MY COMMISSION # 12379765
EXPIRES December 8, 2020

RETURN ORIGINAL FILED DOCUMENT TO: *Larry Guthrie, City of Fort Smith*
3900 Kelley Hwy., Fort Smith, AR 72904

LINE TABLE		
LINE	BEARING	LENGTH
L1	N87°23'47"W	713.29'
L2	N87°23'47"W	27.50'
L3	S87°23'02"E	27.50'
L4	N02°12'50"E	232.57'
L5	N87°23'02"W	27.50'
L6	S87°29'55"E	27.50'
L7	N47°39'06"E	21.21'
L8	S02°12'50"W	15.00'
L9	N35°58'20"E	23.98'
L10	N02°30'25"E	15.00'
L11	S02°59'06"W	15.00'
L12	N38°18'39"E	18.50'
L13	S02°12'50"W	15.00'
L14	N87°29'55"W	27.07'



MORRISON SHIPLEY
ENGINEERS • SURVEYORS

Drawn By	Vertical Scale
DRC	—
Approved By	Horizontal Scale
WMP	N.T.S.
Date	Plotting Scale
2.13.13	1
Project No.	Drawing Name
F50-13	004 ESMT

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

RELEASE OF EASEMENTS AND RIGHT OF WAYS

KNOW ALL BY THESE PRESENTS:

This Release of Easements and Right of Ways is executed by the City of Fort Smith, Arkansas, an Arkansas municipal corporation, in consideration for the mutual promises and other good and valuable consideration, received from Bobby Van Goodwin and Shelva J. Goodwin, the receipt of which is hereby acknowledged.

RECITALS

WHEREAS, Bobby Van Goodwin and Shelva J. Goodwin, the current owners of real property situated in the Fort Smith District of Sebastian County, Arkansas, currently encumbered by the Easements and Right of Ways described in the succeeding three paragraphs.

WHEREAS, Bertha T. Ledbetter and Vernon E. Ledbetter executed a certain Easement and Right of Way in favor of Sewer Improvement District No. 19 of the City of Fort Smith, Arkansas, recorded in Book 343, Page 2022 on November 7, 1973 in the real property records of the Fort Smith District of Sebastian County, Arkansas.

WHEREAS, Dale Brown and Katherine Brown executed a certain Easement and Right of Way in favor of Sewer Improvement District No. 19 of the City of Fort Smith, Arkansas, recorded in Book 343, Page 2019 on November 7, 1973 in the real property records of the Fort Smith District of Sebastian County, Arkansas.

WHEREAS, James E. Waldrop and Anna Martin Waldrop executed a certain Easement and Right of Way in favor of Sewer Improvement District No. 19 of the City of Fort Smith, Arkansas, recorded in Book 343, Page 2060 on November 7, 1973 in the real property records of the Fort Smith District of Sebastian County, Arkansas.

WHEREAS, Bobby Van Goodwin and Shelva J. Goodwin have agreed to execute a certain Water, Sewer, and Access Easement in favor of the City of Fort Smith, Arkansas, in connection with a project known as Pump Station No. 19 Force Main Replacement Project #11-07-E1, in consideration, in part, for the release of the Easements and Right of Ways described herein.

WHEREAS, the City of Fort Smith, Arkansas, in agreement for the execution of said Water, Sewer, and Access Easement by Bobby Van Goodwin and Shelva J. Goodwin have

EXHIBIT "2"

agreed to release the three Easements and Right of Ways described herein.

NOW, THEREFORE, for the consideration described herein, the City of Fort Smith, Arkansas, hereby releases and discharges of record the following Easements and Right of Ways:

1. Easement and Right of Way executed by Bertha T. Ledbetter and Vernon E. Ledbetter in favor of Sewer Improvement District No. 19 of the City of Fort Smith, Arkansas, recorded in Book 343, Page 2022 on November 7, 1973 in the real property records of the Fort Smith District of Sebastian County, Arkansas;

2. Easement and Right of Way executed by Dale Brown and Katherine Brown in favor of Sewer Improvement District No. 19 of the City of Fort Smith, Arkansas, recorded in Book 343, Page 2019 on November 7, 1973 in the real property records of the Fort Smith District of Sebastian County, Arkansas; and,

3. Easement and Right of Way executed by James E. Waldrop and Anna Martin Waldrop in favor of Sewer Improvement District No. 19 of the City of Fort Smith, Arkansas, recorded in Book 343, Page 2060 on November 7, 1973 in the real property records of the Fort Smith District of Sebastian County, Arkansas.

IN WITNESS WHEREOF, the City of Fort Smith, Arkansas, by its Mayor and attested by its City Clerk, duly authorized by Resolution of its Board of Directors has hereunto signed its corporate name on this _____ day of _____, 2013.

CITY OF FORT SMITH, ARKANSAS

By:_____

Ray Gosack, City Administrator

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF _____)

On this the _____ day of _____, 2013, before me, _____, the undersigned officer, personally appeared Ray Gosack, who acknowledged himself to be the City Administrator of the City of Fort Smith, Arkansas, a municipal corporation, and that he, as such City Administrator, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as City Administrator.

In witness whereof I hereunto set my hand and official seal.

_____

My commission expires:

RESOLUTION NO._____ 3 G

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

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

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

Tract 11-30-28-01	Giles France, Sr., Bennie Sue France, Jeffrey France & Anna Jeannie France	$ 9,500.00

and to make payment for same in connection with the acquisition of a water transmission line easement for the Lake Fort Smith 48-Inch Water Transmission Line, Project Number 08-07-P, said property being located at 11739 Highway 282, Mountainburg, Crawford County, Arkansas.

This Resolution adopted this _____ day of March 2013.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** March 22, 2013

FROM: Steve Parke, Director of Utilities

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

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

The property owners shown on the Resolution have made a counter offer to sell the needed easement to city for $9,500.00. The offer made by Giles France, Sr., Bennie Sue France, Jeffrey France and Anna Jeannie France for the execution of the easement provides for loss of hay production at current market prices and top soil replacement costs.

Staff believes that the owner's counter offer is reasonable compared to other easements purchased by the city and that the administrative costs associated with acquiring the needed easement through other means is not the best alternative. Therefore, staff recommends that the Board approve the attached Resolution accepting the owners counter offer at its next scheduled meeting.

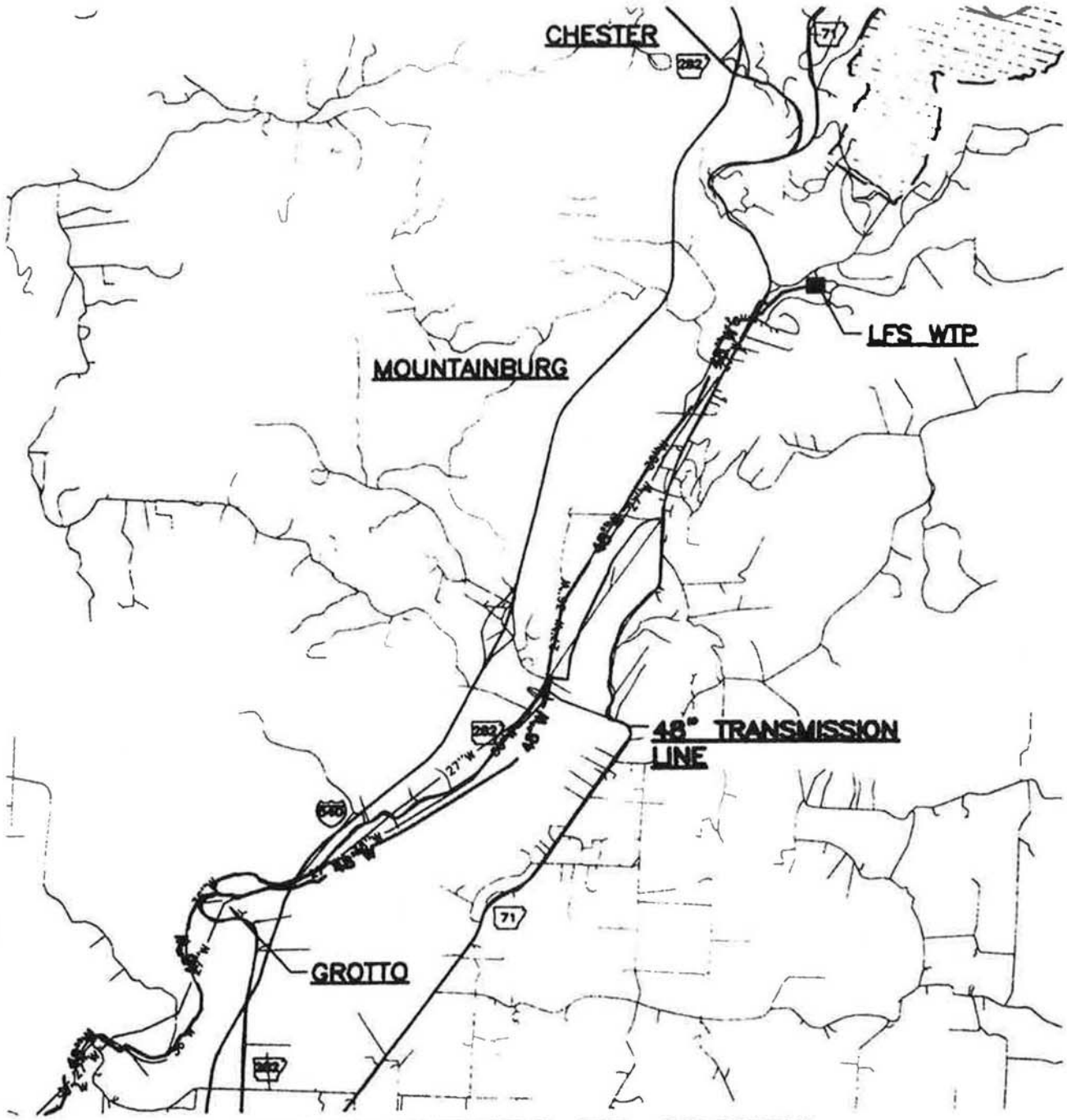
If you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Jeff Dingman

MICKLE–WAGNER–COLEMAN, INC.
Engineers Consultants Surveyors

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



MOUNTAINBURG TO GROTTO

N.T.S.

PROJECT NO. 08–07–E2

LAKE FORT SMITH WATER TRANSMISSION LINE

RESOLUTION NO. _____ 3 H

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AND AUTHORIZATION NUMBER ONE WITH MICKLE WAGNER COLEMAN, INC., FOR PROVIDING ENGINEERING SERVICES ASSOCIATED WITH CHAFFEE CROSSING PUMP STATION AND FORCE MAIN

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

SECTION 1: An Agreement and Authorization Number One with Mickle Wagner Coleman, Inc, for engineering design services for the Chaffee Crossing Pump Station and Force Main, Project Number 13-04-ED1, is hereby approved.

SECTION 2: The Mayor is hereby authorized to execute an Agreement and Authorization Number One in the amount of $344,714.00, for performance of said services.

This Resolution adopted this _____ day of March 2013.

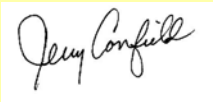
APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:



_____npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** March 15, 2013

FROM: Steve Parker, Director of Utilities

SUBJECT: Chaffee Crossing Sewer Pump Station and Force Main
Project Number 13-04-ED1

Staff has negotiated an engineering design services Agreement with Mickle Wagner Coleman, Inc., for the design of a sewer pump station to be constructed in Chaffee Crossing and its force main to the city's Massard wastewater treatment plant. Preliminary engineering services for this project were completed by Mickle Wagner Coleman in March of 2012. The pump station and force main are key components in our master plan to serve the Chaffee Crossing and southern growth areas. The four phases of the Rye Hill sewer outfall completed by the city will discharge to this pump station. The project will also include design of a smaller sewer pump station and force main within Chaffee Crossing just north of Roberts Boulevard to allow abandonment of a sewer interceptor which currently conveys wastewater flows through the City of Barling. An exhibit showing the location of these proposed improvements is attached.

The attached Resolution authorizes the Agreement and Authorization Number One with Mickle Wagner Coleman, Inc., for the design of Chaffee Crossing Sewer Pump Station and Force Main in the amount of $344,714.00. The funding for this project is from the 2008 Revenue Bonds.

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

attachment

pc: Jeff Dingman

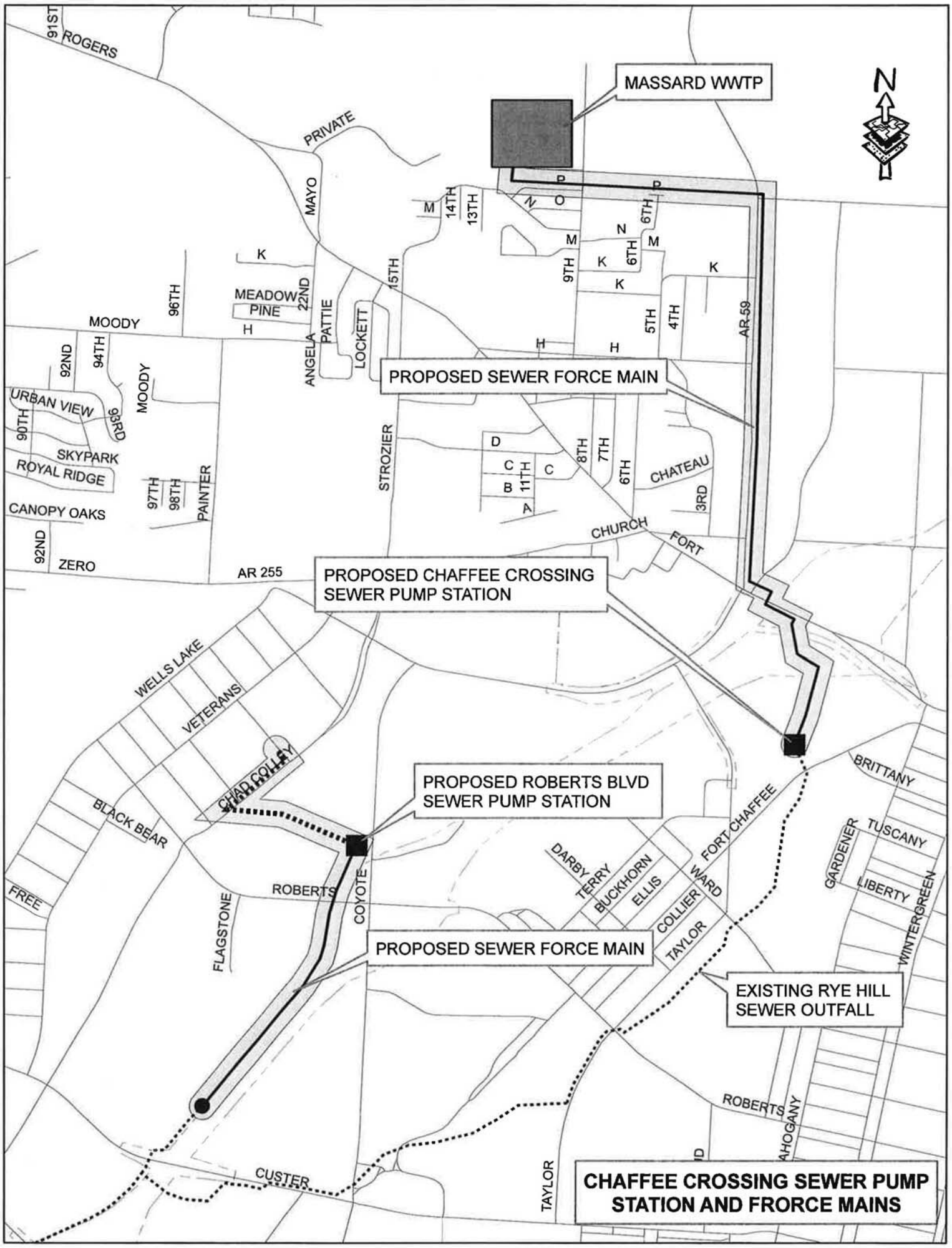

MASSARD WWTP
N
PROPOSED SEWER FORCE MAIN
PROPOSED CHAFFEE CROSSING SEWER PUMP STATION
PROPOSED ROBERTS BLVD SEWER PUMP STATION
PROPOSED SEWER FORCE MAIN
EXISTING RYE HILL SEWER OUTFALL
ROGERS
91ST
PRIVATE
MAYO
MEADOW
PINE
MOODY
96TH
22ND
PATTIE
ANGELA
LOCKETT
15TH
14TH
13TH
9TH
6TH
5TH
4TH
AR 59
92ND
94TH
URBAN VIEW
93RD
90TH
SKYPARK
ROYAL RIDGE
CANOPY OAKS
97TH
98TH
PAINTER
STROZIER
8TH
7TH
11TH
CHATEAU
3RD
CHURCH
FORT
ZERO
AR 255
WELLS LAKE
VETERANS
CHAD COLLEY
BLACK BEAR
FREE
FLAGSTONE
ROBERTS
COYOTE
DARBY
TERRY
BUCKHORN
ELLIS
COLLIER
WARD
FORT CHAFFEE
TAYLOR
BRITTANY
GARDENER
TUSCANY
LIBERTY
WINTERGREEN
MAHOGANY
CUSTER
CHAFFEE CROSSING SEWER PUMP STATION AND FRORCE MAINS

EXHIBIT 1

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: March 12, 2013

SUBJECT: Advertising & Promotion Commission Appointment

The Advertising & Promotion Commission appointed Calvin Remy to fill the unexpired term for the position previous occupied by Ronnie Townsend.

Appointments are **by the Advertising and Promotion Commission confirmed by the Board of Directors.** One appointment is needed; the term will expire December 31, 2014.

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

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ADVERTISING & PROMOTION COMMISSION

The Advertising and Promotion Commission is authorized to administer and oversee funds received from the three percent Fort Smith lodging tax and is comprised of seven (7) members as follows according to Ark. Code Ann 26-75-605:

Four members of the commission shall be owners or managers of businesses in the tourism industry and shall reside in either Fort Smith or within Sebastian County. At least three (3) of these four (4) members shall be owners or managers of hotels, motels or restaurants and all of them shall staggered terms of four (4) years. Two (2) members of the commission shall be members of the governing body of the City of Fort Smith and selected by the governing body and shall serve at the will of the governing body. One (1) member of the Commission shall be from the public at large who shall reside within Fort Smith or Sebastian County and shall serve for a term of four (4) years. Any vacancy in the four (4) tourism industry positions or the one (1) at large position shall be filled by appointment made by the remaining members of the commission, with the approval of the **Fort Smith Board of Directors**. Meetings are monthly as called and are held at the Fort Smith Visitor Center, 2 North B Street, unless otherwise stated in meeting announcements.

	DATE APPOINTED	TERM EXPIRES
Nora Bowman General Manager, Courtyard By Marriott 900 Rogers Avenue (01) 841-9358 nora.bowman@jqh.com	12/20/11	12/31/13
Tom J. Caldarera, Jr. Taliano's Italian Restaurant 211 North 14 Street (01) 785-2292 (w) www.linguinet@aol.com	8/15/95	12/31/14
Ronnie Townsend Manager, MovieLounge (Resigned) 7601 Rogers Ave. (03) (479) 226-3595 (w)	06/19/12	12/31/14

Robert McCaslin G. M. Candlewood Suites 7501 Madison Avenue (04) 424-3800 (w) Remccaslin.cws@gmail.com	02/03/09	12/31/15
Debra Presson Golden Corral 2422 South N Street 484-1040 debo-goldencorral@sbcglobal.net	09/15/09	12/31/16
Andre Good, City Director 4716 Pond Court (04) 782-9448	01/03/13	Indefinite
Mayor Sandy Sanders 1800 Queensbury Way (03) 784-2437 (w)	01/04/11	Indefinite

Minutes
Fort Smith A & P Commission Meeting
February 26, 2013

The February 26, 2013, A & P Commission meeting was called to order by Mayor Sandy Sanders. Commissioners present: Robert McCaslin, Andre' Good, Nora Bowman, and Debra Presson. Commissioners absent: Tom Caldarera

A & P Staff Present: Claude Legris, Debra Cossey, Sherry Scorby and Kellie Gutierrez and Carolyn Joyce. Absent: None

Fort Smith Convention Center Staff Present: Tim Seeberg, Karin Hobbs and Pat Geels. Absent: None

Nora Bowman made a motion to accept the minutes of the January 22, 2013, Commission Meeting with a second from Debra Presson. The Commission passed the motion unanimously.

Financial Report

- The monthly revenue for December, 2012, was $45,367.00 with a decrease of $2,491.00 compared to the same month in 2011. The total was over monthly budget by $1,421.00 at 103.2%. The YTD revenue for December, 2012, was $746,182.00 over budget by $13,852.00 at 101.9%. A 3% increase for the year.

- The monthly expense for December, 2012, was $52,186.00 over budget by $3,175.00 at 106.5%. YTD expenses through December, 2012, were $733,271.00, under budget by $8,732.00 at 98.8%.

- The A & P Fund Balance as of December 31, 2012, was $165,470.00. Variance items for December, 2012, were AR Tour Guide, American Bus Assn. budgeted for Oct. and Nov. and timing of payments for Event Subsidy and Ad Production.

- Convention Center monthly invoiced revenue for December, 2012, was $31,404.00, an increase of $3,707.00, compared to same month in 2011 or 13.3%. YTD invoiced revenue for December, 2012 was $583,509.00 an increase of $129,233.00 over the same 2011 period, or 28.4%.

- Convention Center monthly expenses for December, 2012, were $115,594.00 which is a decrease of $8,439.00, or -6.8%. YTD expenses through December, 2012 were $1,286,070.00 which is over budget by $83,818.00 at 93%.

- Convention Center Fund balance through December, 2012, is $453,802.00.

Debra Presson made a motion to accept the financial report with a second from Andre' Good. The Commission passed the motion unanimously.

Director's Report

Claude Legris reported on the following:

Destination Development

- Completed gathering of 4th quarter Convention Center data and input events to the Event Impact Calculator. Results will be discussed later in the Convention Center reports.

Destination Development

- Produced and began to place "#1 True Western Town" plaques at businesses and attractions throughout community.

New Business – Financial Disclosure Act - FOI – If passed all board members will have to file a Financial Disclosure starting January, 2014.

Old Business
None

Community Comment
None

Executive Session – Went into session at 4:45pm reconvened at 5:10pm.

A. Robert McCaslin made a motion to appoint Calvin Remey to the vacant A & P Position with a second from Andre' Good. The Commission passed the vote unanimously.
B. Debra Presson mad a motion to award a pay increase to the Executive Director, Claude Legris with a second by Nora Bowman. The Commission passed the motion unanimously.

Robert McCaslin made a motion with a second from Nora Bowman to adjourn at 5:14pm. The Commission passed the motion unanimously.

The next Commission Meeting will be March 26, 2013, at 4:00pm.

Respectfully Submitted

Debra I. Cossey

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

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

Date: 1-22-13

Name: Calvin Remy

Home Telephone: 479-806-4565

Home Address: 1401 Oak Knolls Cir

Work Telephone: 479-452-7500

Zip: 72903

Email: td remy@sbc global.net

Occupation: Hotel owner HI Ex. F.S.
(If retired, please indicate former occupation or profession)

Education: Bachelor Music Ed.

Professional and/or Community Activities: Rotary of F.S. member and deacon FBC F.S. member Choir

Additional Pertinent Information/References: member of Tulsa Rotary Men of Note Mens Singing ensemble

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

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

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

Drivers License [redacted] Date of Birth [redacted] is information will be [redacted] ground check of all applicants) [redacted]

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

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

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: March 18, 2013

SUBJECT: Animal Services Advisory Board

The terms of Amanda Heim and Joan Bryant of the Animal Services Advisory Board will expire April 3, 2013. Ms. Heim and Ms. Bryant wish to be reappointed.

There are no other applicants available at this time.

Appointments are **by the Board of Directors.** Two appointments are needed; the terms will expire April 4, 2014.

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

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ANIMAL SERVICES ADVISORY BOARD

The animal services advisory board shall work in an advisory capacity to the Mayor and the Board of Directors in regards to topics that concern the care and safety of animals within the corporate limits of the city, and shall endeavor to stimulate and encourage communication with all members of the community to ensure that the programs, goals and objectives of the city relative to the care and safety of animals are consistent with community needs and desires. However, the animal services advisory board will not be responsible for the day to day operations of the Animal Control Division of the Fort Smith Police Department.

The animal services advisory board shall be composed of nine (9) members appointed by the Board of Directors.

	Date Appointed	Term Expired
Veterinarian:		
Mike Thames Veterinarian 4100 Kelley Hwy (04) 883-1243 (h) 782-1234 (w) petdocmdt@labahnvet.com	04/03/12	04/03/14
Jon Remer Veterinarian 2715 Independence (01) 646-6023 (h) 785-1792 (w) drremer@swbell.net	04/03/12	04/03/14
One owner, operator or employee of a business related to the production, sale distribution or care of animals of livestock:		
Amanda Heim 4901 E. Valley Road (03) 785-4456 (h) 479-629-6068 (w) buffaloblue@aol.com	04/03/12	04/03/13

Two board members of separate non-profit animal interest groups whose membership is for a comprised primarily of residents of the city, and whose primary interest is the health and welfare of animals, shall be appointed for a term.

Joan Bryant 1005 South 46 Street (03) 479-926-1266 (h) 434-4740 (w) No email	04/03/12	04/03/13
Brook Borengasser 7324 South Q Street (03) 883-6111 (h) 242-1186 (w) brook@ultimuttdogcare.com	02/20/13	04/03/14

Two citizens shall be appointed for a term of two years:

Tammy Trouillon Community Outreach Director 8000 Holly Avenue (08) 226-3374 (h) 242-3609 (W) bookturner3@att.net	04/03/12	04/03/14
Sherilyn Walton 8818 Meandering Way (03) 452-0146 kittylitter04@yahoo.com	04/03/12	04/03/14

Two citizens shall be appointed for a term of three years:

Nicole Morgan 2908 Marion Court (8) 831-7033 dutchpk@gmail.com	04/03/12	04/03/15
Carole Hutton P.O. Box 10018 (17) 462-4965 carolehhutton@aol.com	04/03/12	04/03/15

Animal Services

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

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

Date: 2-10-13

Name: Amanda Heim

Home Telephone: 479-785-4456

[redacted]

Work Telephone: 479-629-6068

Email: Buffalablue@aol.com

Occupation: self-employed Rancher
(If retired, please indicate former occupation or profession)

Education: High School

Professional and/or Community Activities: Current member of the Animal Advisory Board

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes ✓ No ___
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes ___ NO ✓
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration. [redacted]
Drivers License AR [redacted] Date of Birth [redacted] This information will be use to c[redacted]check of all applicants).

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

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

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

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

Date: 2-8-2013

Name: JOAN BRYANT

Home Telephone: cell # 479 926-1266

Home Address: 1005 S. 46 FT. SM. AR

Work Telephone:

Zip: 72903

Email:

Occupation: NURSE - SOCIAL WORKER - RIVER VALLEY ANIMAL WELFARE COALITION BOARD MEMBER
(If retired, please indicate former occupation or profession)

KITTIES/KANINES VOLUNTEER BOARD MEMBER

Education: BS SOCIOLOGY, NSG. LICENSE AAS, AAA. COMMUNITY VOLUNTEER /

Professional and/or Community Activities: LIASON HOMELESS ANIMALS VETERINARY SERVICES - HOMELESS INDIVIDUALS AND MEDICAL CARE OPTIONS - ASSISTING HOMELESS

Additional Pertinent Information/References: 'c SOCIAL SERVICES AVAILABILITY, DISABILITY APPL.

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

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?

Yes____ NO ✓

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

Drivers License A[redacted] Date of Birt[redacted] (This information will be us[redacted]d check of all applicants[redacted]

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

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

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: March 12, 2013

SUBJECT: Electric Code Appeals Board

The terms of Thomas McAllister and Jerald Walrod of the Electric Code Appeals Board will expire March 31, 2013. Mr. McAllister and Mr. Walrod would like to be reappointed to this board.

There are no other applicants available at this time.

Appointments are **by the Board of Directors.** Two appointments are needed; the terms will expire March 31, 2018.

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

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Electric Code Appeals Board

The Electric Code Appeals Board has the authority to hear appeals from anyone who wishes to appeal the decision of the City official enforcing the City's Electrical Code. Upon hearing the appeal, the Board of Appeals may modify or reverse the interpretation of the electrical inspector.

The Board consists of five members who are qualified by experience and training to pass on matters pertaining to electrical installation and materials and who are actively engaged in a business related to the building industry, and two members who are citizens at large.

The members are appointed by the Board of Directors and serve five year terms. The Board meets on call.

	Date Appointed	Term Expires
Thomas F. McAllister Thomas Electric, Inc. 5505 Gordon Lane (03) 783-1019 (w)	03/16/93	03/31/13
Marvin Matlock Electrical Contractor 3211 South 32 Street (03) 646-5858 (h) 646-6083 (w)	04/20/04	03/31/14
Frank Glidewell Glidewell Electric 10409 Castleton (03) 452-2971(w) frankglidewell@yahoo.com	03/18/86	03/31/16
Tommy Hill Matlock Electric Company 3324 Vicksburg (03) 646-6083 (w) tommy@matlock-electric.com	03/15/11	03/31/16
Charles A. Uerling E D M Consulting Engineers P.O. Box 3290 (13-3290) 782-2127 (h)	03/18/97	03/31/17

Citizens at Large:

Jerald W. Walrod 2105 Garner Ln (01) 782-8600 (w)	03/15/05	03/31/13
Bill Kirk, P. E. 1514 North 57 Terrace (04) 452-0022 (h)	04/20/04	03/31/14

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

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

Date: 3-8-13

Name: Tom McAllister

Home Telephone: 479 452-1790

Home Address: 5505 Gordon Ln

Work Telephone: 479 651 5965

Zip: 72903

Email: Austin@ThomasElectric.us

Occupation: Electrical Contractor
(If retired, please indicate former occupation or profession)

Education: _____

Professional and/or Community Activities: _____

_____

Additional Pertinent Information/References: _____

_____

Are you a registered voter in the City of Fort Smith? Yes ✓ No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO ✓
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.
Drivers License Date of Birt
information will b ack ground check of all applicant

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

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

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

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

Date: 3/8/2013

Name: JERALD W. WALROD

Home Telephone: 479-783-4348

Home Address: 2105 GARNER LANE
FORT SMITH, AR

Work Telephone: 479-782-8600

Zip: 72901

Email: jjwalrod@cox.net

Occupation: WALROD'S HARDWARE
(If retired, please indicate former occupation or profession)

Education: 16 YEARS

Professional and/or Community Activities: _____

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes X No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO X
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from
consideration
Drivers Lice Date of Birth This
information w ground check of all applicants).

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

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

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: March 18, 2013

SUBJECT: Housing Assistance Board

The terms of Jim Rose, Gary Campbell, Allene Stafford and John Ross of the Housing Assistance Board will expire April 30, 2013. Mr. Rose and Mr. Ross wish to be reappointed and Mr. Campbell and Ms. Stafford do not.

The applicants available at this time are:

Hazel Brown	6711 Riviera Drive
Pat Gooch	1516 South 17 Street

Appointments are **by the Board of Directors.** Four appointments are needed; the terms will expire April 30, 2015.

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

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Housing Assistance Board

The Housing Assistance Board was established by the Board of Directors April 6, 1976 to review applications and approve grants to owners of housing units in the City to repair and rehabilitate private residential structures. Grants are available through the Community Development Program.

The Board consists of seven persons serving two-year terms. The Board of Directors make the appointments from names submitted to them by various citizens, community groups, etc. The Board meets on call monthly.

	DATE APPOINTED	TERM EXPIRE
Jim Rose Retired 2204 Carleton Place (08) 648-9120 jands5@cox.net	05/20/03	04/30/13
Gary Campbell 2711 Reeder (01) 783-0030 (h) GWC@GaryCampbell.com	12/22/10	04/30/13
Allene Stafford Retired 1420 N. 55 Terrace (04) 452-5742 (h) 783-6830 (w) allenestaf@att.net	03/15/05	04/30/13
John P. Ross Real Estate Agent 10109 Seven Oaks Road (08) 646-7272 (h) (479) 973-2759 (w) jprn62vw@sbcglobal.net	04/17/12	04/30/13

Karen V. Wuthrich Vice-President 4115 Gascony Way (03) 452-1952 (h) 478-4425 (w) karen.wuthrich@bxs.com	05/18/10	04/30/14
Jim Harris Retired 525 North 39 Street (03) 783-4530 (h) jharris39@sbcglobal.net	05/18/10	04/30/14
Sara Edmiston Retired 8404 Hannah Court (03) 452-3334 wedmiston@sbcglobal.net	03/20/12	04/30/14

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

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

Date: 3/7/2013

Name: JIM ROSE

Home Telephone: 479-648-9120

Home Address: 2204 CARLETON PL.

Work Telephone: _____

Zip: 72908

Email: jands5@cox.net

Occupation: RETIRED WHIRLPOOL MANAGEMENT
(If retired, please indicate former occupation or profession)

Education: B.S, IOWA STATE UNIVERSITY (BUSINESS)

Professional and/or Community Activities: HOUSING ASST. BOARD
1997 LEADERSHIP FORT SMITH

Additional Pertinent Information/References: HABITAT FOR HUMANITY VOLUNTEER

Are you a registered voter in the City of Fort Smith? Yes X No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO X
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration._____
Drivers License_____ Date of Birth_____ (This information will be use to conduct a criminal back ground check of all applicants).

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

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

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

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Date: 3-7-2013

Name: John P. Ross

Home Telephone: 479-646-7272

Home Address: 10109 Seven Oaks Rd.

Work Telephone: 479-

Zip: 72908-9333

Email: jprn62vw@sbcglobal.net

Occupation: Aviation / Real Estate Agent
(If retired, please indicate former occupation or profession)

Education: High School / Some College UAFS

Professional and/or Community Activities: member Ft. Smith Board of Realtors, Member of National association of Realtors, Arkansas Realtors association, Fianna Hills Property Owners association Board of Directors, Chairman of ACC Committee Fianna Hills POA

Additional Pertinent Information/References:

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

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

If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you [redacted]
consideration [redacted]
Drivers Licen[redacted] Date of Birth [redacted]
information wi[redacted]k ground check of all applicants). [redacted]

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

( ) Audit Committee
( ) Advertising & Promoting Commission
( ) Airport Commission
( ) Arkansas Fair & Exhibition Facilities Bd
( ) Benevolent Fund Board
( ) Bldg. Bd. Of Adjustment and Appeals
( ) Central Business Improvement District
( ) Convention Center Commission
( ) Civil Service Commission
( ) Community Development Advisory Com.
( ) County Equalization Board
( ) Electric Code Board of Appeals & Appeals
( ) Fire Code Board of Appeals & Adjustments
( ) Historic District Commission
(✓) Housing Assistance Board
( ) Housing Authority
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( ) Mechanical Bd of Adjustments and Appeals
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( ) Parking Authority
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( ) Planning Commission
( ) Plumbing Advisory Board
( ) Port Authority
( ) Property Owners Appeals Board
( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
( ) Comprehensive Plan Steering Committee

Housing Asst. Bd

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

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

Date: January 11, 2013

Name: Hazel Brown

Home Telephone: 479-461-4165

Home Address: 6711 Rivera Dr.

Work Telephone: 479-648-8000

Zip: 72903

Email: hbrown1409@aol.com

Occupation: Realtor at Ramona Roberts Realty
(If retired, please indicate former occupation or profession)

Education: High School, Westark Community College

Professional and/or Community Activities: Former Housing Assistance Board ~~Meeting~~ Member, Former PTA SHS President, Beautify Fort Smith

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes X No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes X NO ____
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration. _____
Drivers Licens _____ Date of Bi _____ This information will _____ ck ground check of all applican _____

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

( ) Audit Committee
( ) Advertising & Promoting Commission
( ) Airport Commission
( ) Arkansas Fair & Exhibition Facilities Bd
( ) Benevolent Fund Board
( ) Bldg. Bd. Of Adjustment and Appeals
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( ) Port Authority
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( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board

Housing asst. Bd.

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

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

Date: 2-15-13

Name: Pat Gooch

Home Telephone: 479-459-9941

Home Address: 1516 S. 17TH # 2

Work Telephone: —

Zip: 72901

Email: patgooch@att.net

Occupation: Nursing
(If retired, please indicate former occupation or profession)

Education: U of A (Westark)

Professional and/or Community Activities: RVL, Humane Society

Additional Pertinent Information/References: Have small (13 unit) Apt. complex

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

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

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

Drivers Licen[redacted] Date of Birt[redacted]Z___(This information wi[redacted]ground check of all applicants[redacted]

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

( ) Audit Committee
( ) Advertising & Promoting Commission
( ) Airport Commission
( ) Arkansas Fair & Exhibition Facilities Bd
( ) Benevolent Fund Board
( ) Bldg. Bd. Of Adjustment and Appeals
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( ) Parking Authority
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( ) Planning Commission
( ) Plumbing Advisory Board
( ) Port Authority
(✓) Property Owners Appeals Board
( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
(✓) Residential Housing Facilities Board
( ) Comprehensive Plan Steering Committee

Please return this form to Wendy Beshears, P.O. Box 1908, FSM, AR 72902

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: March 11, 2013

SUBJECT: Outside Agency Review Panel

The term of William Tyler Lamon has resigned his position on the Outside Agency Review Panel (Recreation) position effective 03/31/13 to serve on the Outside Agency Review Panel (Core) position.

Ms. Elizabeth Momand has resigned her position effective February 5, 2013. This term will need to be filled and it will expire March 31, 2014.

The applicants available at this time are:

Jeannie Cole	7410 Oxford Place
Charolette Tidwell	1728 North 46 Circle

Appointments are **by the Board of Directors.** Two appointments are needed; the terms will expire March 31, 2016 and July 17, 2013.

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

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Outside Agency Review Panel

This review panel will review applications for outside agency services and recommending award amounts for approval by the Board of Directors. Members of this panel will be appointed by the Board of Directors.

Core Committee shall be comprised of three citizens who are knowledgeable of the city's nonprofit organizations and services they provide, and are not directly related to any agencies that are applying for funds available through this program, nor board of directors of the City of Fort Smith. (3 year terms)

Arts & Humanities comprised of two citizens who are knowledgeable of arts and humanities and are not directly related to any agencies that are applying for funds under this line item nor the Board of Directors of the City of Fort Smith. (1 year term and 1 two-year term initially, and two year terms thereafter).

Recreation Panel comprised of two citizens who are knowledgeable of recreation and are not directly related to any agencies that are applying for funds under this line item nor the Board of Directors of the City of Fort Smith. (1 one year term and 1 two-year term initially and two-year terms thereafter). The panel meets on call.

Note: at the first full meeting of the 9-member panel, each appointee will draw a number, which will determine the length of service. Terms will expire on March 31st of each year.

	Date Appointed	Term Expires
Core:		
Barbara Peterson Bancorp South 7912 Valley Forge Rd (03) 484-0101 (h) 649-1015 (w) WK-BARBARA.PETERSON@BXS.COM	01/19/10	03/31/13
Kathy Davis Western Arkansas Counseling 3700 Heather Ridge Court (03) 650-6039 (h) 452-6650 (w) Davis6418@sbcglobal.net	04/19/11	03/31/14

Sharon Barr Clinical Laboratory Director 1426 North 52 Street (04) 782-1185 (h) 441-5218 (w) sbarr@sparks.org	07/17/12	07/17/15

Arts and Humanities:

Amy Manley Kimmons Band Director 114 North 25 Street (01) 785-2626 (w) 478-6196 (h) amanley@fortsmithschools.org	05/17/11	03/31/14
Elizabeth Momand UAFS 3208 Village Rd (03) 452-2169 (h) 788-7540 (w) emomand@gmail.com	01/19/10	03/31/14

Recreation:

William Tyler Lamon First National Bank 1123 North 14 Street (01) 739-7142 (h) tylerlamon@gmail.com	07/17/12	07/17/13
Monica McKinney Independent Distributor 3009 Carthage Street (01) mmckinney63@gmail.com	07/17/12	07/17/13

Social/Community Services:

Melissa Curry Client Services Director 3911 South U Street (03) 479-414-2093 (h) 479-262-6466 (w) Curryland0712@aol.com	08/23/12	08/23/14
Susan Krafft Director of Finance/Special Events 8700 Harvard Drive (08) 459-6819 (h) susan.krafft@gmail.com	04/19/11	03/31/14

Outside Agency
Arts + Humanities

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

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

Date: 2/10/13 (Rcd)

Name: Jeannie Cole

Home Telephone: 479-452-4478

Home Address: 7410 Oxford Place

Work Telephone: _____

Zip: 72903

Email: jeannie@theColeFamily.com

Occupation: _____
(If retired, please indicate former occupation or profession)

Education: B.A. Music Education, Harding University 1976

Professional and/or Community Activities: Pres. League of Women Voters of FS
Board of Education - Fort Smith Public Schools, Since 1997

Additional Pertinent Information/References: Past Pres of AR PTA
Active member of West-Ark Church of Christ

Are you a registered voter in the City of Fort Smith? Yes ✓ No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO ✓
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.
Drivers License AR [redacted] Date of B[redacted] This information will be use to conduct a criminal back ground check of all applicants.

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

( ) Audit Committee
( ) Advertising & Promoting Commission
( ) Airport Commission
( ) Arkansas Fair & Exhibition Facilities Bd
( ) Benevolent Fund Board
( ) Bldg. Bd. Of Adjustment and Appeals
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( ) Housing Assistance Board
( ) Housing Authority
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( ) Parking Authority
( ) Parks & Recreation Commission
( ) Planning Commission
( ) Plumbing Advisory Board
( ) Port Authority
( ) Property Owners Appeals Board
( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
(✓) Comprehensive Plan Steering Committee

To: Wendy Beshears

Outside Agency
Recreation

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

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

Date: 2-18-2013

Name: Charolette Tidwell

Home Telephone: 479.459.0669

Home Address: 1728 No. 46th Cr.

Work Telephone: 479.459.0669

Zip: 72904

Email: cftidwell9993@att.net

Occupation: Retired - Healthcare Administration
(If retired, please indicate former occupation or profession)

Education: MEd; BSE; BSN; RN

Professional and/or Community Activities: Executive Director of Outreach Ministry

Additional Pertinent Information/References: Robert Muler; Michael Helms

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

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

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

Drivers License_____ Date of Birth [redacted]
information will be use to conduct a criminal back ground check of all applicants).

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

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( ) Central Business Improvement District
( ) Convention Center Commission
( ) Civil Service Commission
(✓) Community Development Advisory Com.
( ) County Equalization Board
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( ) Port Authority
( ) Property Owners Appeals Board
( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
(✓) Comprehensive Plan Steering Committee

FAX TO: 479.784.2430

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: March 19, 2013

SUBJECT: Planning Commission

The terms of Steve Griffin, S. Walton Maurras and Marshall Sharpe of the Planning Commission will expire April 30, 2013. Mr. Sharpe wishes to be reappointed and Mr. Griffin and Ms. Maurras do not.

The applicants available at this time are:

Robert Cooper Jr.	4800 Chestnut Way
Robbie Davis	2901 Ionia
Kyle DeJaeger	8513 Rosewood Drive
Cody Friddle	1012 South 26 Street
Matthew Garner	12100 Sapling Drive
Stuart Ghan	4700 South U Street
Allen Harris	3117 Heather Oaks Way
Barbara Hathcock	3833 South W Street
Michelle Hood	10906 Edgewater Road
Mike Ichniowski	3205 Canongate Way
Thomas James	2807 South 58 Street
Don Keesee	6607 Highland Park
Valerie Lewis	2111 South T Street
Casey Millspough	2511 Oakview Road
Storm Nolan	2511 Greenridge Drive

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

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Ken O'Donnell	55 Hiland Drive
Leo Patterson	4300 South 89 Street
Vannetta Posey	3801 Young Street
Elizabeth Quinn	2211 South R Street
Jeff Riggs	910 South 25 Street
David Roberts	1007 Adelaide Avenue
Tim Schale	3618 South O Street
Marshall Sharpe	7014 Riviera Drive
Greg Shipley	9204 Canopy Oaks Drive
Randell D. Swaim	3213 South 41 Street
Kerri Taake	2932 Cliff Drive
Charolette Tidwell	1728 North 46 Circle
Caleb Yerton	N/A

Appointments are **by the Board of Directors.** Three appointments are needed; the terms will expire April 30, 2016.

PLANNING COMMISSION

The purpose of the Planning Commission is to prepare a development plan for the City, to receive and make recommendations on public and private proposals for the development and to prepare and administer planning regulations. The Planning Commission is authorized to prepare and adopt a land use plan, a community facilities plan, a master street plan, and such other plans affecting the general welfare of the City.

The Planning Commission, acting as Board of Zoning Adjustment, hears appeals from the decision of the administrative officers regarding enforcement and application of the zoning ordinances and hears requests for variances from the provisions of the zoning ordinance.

The Planning Commission consists of nine members, appointed by the Board of Directors for a three-year term. Members of the Planning Commission must be owners of or tenants in real property in the City of Fort Smith and be qualified electors of the City. The Planning Commission meets the second Tuesday of each month at 5:30 p.m. in the Rose Room of the Creekmore Community Center.

	DATE APPOINT	TERM EXPIRES
Steve Griffin Arvest Bank P.O. Box 11110 (17) 709-8811 sgriffin@arvest.com	12/16/03	04/30/13
S. Walton Maurras 2801 Charlotte Ln (01) 646-1073 (h) wmaurras@mac.com	03/16/10	04/30/13
Marshall L. Sharpe 2912 South 34 Street (03) 649-7459 (h) 494-6305 (w) Msharpe@okfoods.com	08/17/10	04/30/13
John Huffman Retired 8301 Clover Drive (08) 646-4271 (h) Jackethelhuf@sbcglobal.net	12/18/12	04/30/14

Vicki Newton 2725 Reeder Street (01) 709-9946 (h) 782-4001 (213) Vicki@dixiecupfcu.com	03/15/11	04/30/14
Thomas E. Howard Jr. 3121 Jackson (03) 648-9226 (h) 452-2636 (w) rhoward@risley-associates.com	03/15/11	04/30/14
Jennifer Parks Insurance Agent 3412 Coventry Ln (08) 649-8036 (h) 651-6503 (c) jenniferparks@healthpointinsurancesercices.com	04/18/06	04/30/15
Richard Spearman 10716 Hunters Point Road (03) 785-6204 (w) 452-0029 (h) rspearman@arkbest.com	06/19/12	04/30/15
Brandon Cox 7305 Ellsworth Road (03) 649-8142 (h) 478-7864 (w) bcox@propak.com	03/20/12	04/30/15

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

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

Date: March 6, 2013

Name: Robert P. Cooper Jr.

Home Telephone: (479) 629-2115

Home Address: 4800 Chestnut Way
Fort Smith, Arkansas

Work Telephone: (479) 478-6161

Zip: 72903

Email: bob@rhghan.com

Occupation: Commercial Real Estate Broker, R.H. Ghan Commercial Properties
(If retired, please indicate former occupation or profession)

Education: Bachelor Degree, University of Tulsa, Tulsa Oklahoma

Professional and/or Community Activities: Fort Smith Public School Foundation Board Member, Reserve Police Officer, (City of Fort Smith), Leadership Fort Smith 2012

Additional Pertinent Information/References: Rodney Ghan (479) 478-6161
Howard Vernon (918) 671-9702 Grant Edwards (479) 461-0463

Are you a registered voter in the City of Fort Smith? Yes X No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO X
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.____
Drivers License AR[redacted] Date of Birt[redacted] is information will be u[redacted]ground check of all applicants[redacted]

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

( ) Audit Committee
( ) Advertising & Promoting Commission
( ) Airport Commission
( ) Arkansas Fair & Exhibition Facilities Bd
( ) Benevolent Fund Board
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( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board

Planning

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

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

Date: 1/30/2013

Name: Robbie Dean Davis

Home Telephone: 479-646-7650

Home Address: 2901 Tonia

Work Telephone: 479-648-9535

Zip: 72901

Email: _____

Occupation: Aries House of Beauty Tanning & Massage (Owner) 25 yr.
(If retired, please indicate former occupation or profession)

Education: High School + 1 yr Beauty College

(None) Professional and/or Community Activities: I would like to see Ft Smith grow + prosper.

Additional Pertinent Information/References: I would like to help make Ft Smith worthy of being the second largest town in Arkansas.

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

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?

Yes ✓ NO ____

If yes, please identify the [redacted] A "yes" answer will not automatically preclude you from consideration. [redacted]

Drivers License [redacted] Date of Birth [redacted] (This information will be use to conduct a criminal back ground check of all applicants).

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

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( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
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Planning

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

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

Date: 1/25/13

Name: Kyle L. DeJaeger

Home Telephone: 479-452-1154

Home Address: 8513 Rosewood Drive

Work Telephone: 479 719 0549

Zip: 72903

Email: KXZDEJAEGER@HOTMAIL.com

Occupation: Retired Executive Vice President, Jarden Plastic Solutions
(If retired, please indicate former occupation or profession)

Education: B.S. Mechanical Engineering, Univ. of Colorado

Professional and/or Community Activities: See Attached

Additional Pertinent Information/References: Mayor Sandy Sanders

Are you a registered voter in the City of Fort Smith? Yes X No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO X
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.____
Drivers License____ Date of Birth [redacted] (This information will be [redacted] ound check of all applicants

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

( ) Audit Committee
( ) Advertising & Promoting Commission
( ) Airport Commission
( ) Arkansas Fair & Exhibition Facilities Bd
( ) Benevolent Fund Board
( ) Bldg. Bd. Of Adjustment and Appeals
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( ) Fire Code Board of Appeals & Adjustments
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( ) Parking Authority
( ) Parks & Recreation Commission
(X) Planning Commission
( ) Plumbing Advisory Board
( ) Port Authority
( ) Property Owners Appeals Board
( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
(X) Comprehensive Plan Steering Committee

Kyle L. DeJaeger

8513 Rosewood Drive Fort Smith, Arkansas 72903 479.452.1154 home 479.719.0549 cell
kx2dejaeger@hotmail.com

Qualifications Summary

Accomplished executive with multiple years experience leading diverse professionals in exceeding objectives with complete overall operation responsibilities. Excellent interpersonal and mentoring skills. Proficient in Lean Manufacturing techniques (Six-sigma Champion) and Continuous Improvement programs. Achieved outstanding performance from line, staff, and executive positions. Experience spans companies of various sizes, multiple plant responsibilities, as well as different industries. Active in local, regional and national networking.

Selected Accomplishments

- Developed and coordinated Continuous Improvement programs (Six-Sigma lean manufacturing techniques) throughout the manufacturing segments of Jarden Corporation resulting in substantial savings in respective divisions (Average annual savings from formal programs $3-$5 million)
- Significantly increased business unit revenue and profitability through internal growth, acquisitions, and new product introductions; over a five year period division revenue grew from $20-$35 million while profit margins increased
- Negotiated and secured profitable long term agreements with major customers and suppliers
- Conducted in-depth market analysis for proposed new products and acquisitions
- Incorporated ISO quality systems and programs
- Established team operations in a 24/7 manufacturing environment
- Led staff in post-acquisition integration programs
- Established system of value drivers for use in measuring the business
- Successfully coordinated and integrated the efforts of staff professionals in manufacturing, finance and administration, marketing, sales, engineering and human resources to ensure continuing effective operations through operational and strategic planning
- Established effective cost analysis systems and competitive buying practices for raw material purchases
- Managed multiple locations and remote staff

Employer History

7/07 - Present — Management Consultant and Financial Advisor / Semi-Retired

Responsible for consulting and advising entities in lean manufacturing, continuous improvement and other manufacturing and financial techniques in operations and administration.

1/05 - 7/07 — Executive Vice President (Continuous Improvement), Jarden Plastic Solutions, Jarden Corporation*

Responsible for Continuous Improvement Programs with in Jarden Plastic Solutions and selected divisions of Jarden Corporation. Evaluate operations and facilitate Lean Manufacturing Techniques to improve performance and increase profitability. Evaluate all manufacturing operations within Jarden Corporation and developed plans for various stages of Continuous Improvements year to year. Targeted $3-8 million in savings.

1/02 – 12/04 President, Alltrista Industrial Plastics, Jarden Corporation – Fort Smith, AR

Reinstated as President after corporate reorganization (Board President, CEO and CFO changes) and the divestiture of Alltrista Thermoformed Products Division operations. Industrial Plastics Company is a "World Class" industrial thermoformer and plastic sheet extruder primarily working with Acrylontrile-butadiene-styrene (ABS) and High-Impact-polystyrene (HIPS) materials. Unit revenue is approximately $35 million with approximately 80% appliance related. Primary appliance customers are Whirlpool Corporation and Diversified Refrigeration Incorporated. The remaining business are proprietary lines of plastic folding banquet tables serving the furniture, hospitality, education, church, recreational, rental and institutional markets while providing sheet products to the open market. Total responsibility of the division including financial, sales, marketing, administration, and engineering.

11/00 – 12/01 Senior Vice President Manufacturing, Alltrista Thermoformed Products Division

Responsible for manufacturing operations of multiple facilities (five) of Alltrista Thermoformed Products Division (TPD). TPD is the largest industrial thermoformer in North America, using twin sheet, single sheet, vacuum, and pressure forming techniques. Also responsible for sheet extrusion operations that vertically integrate sheet into our facilities. Responsible for operational performance in all areas, including customer service and new product prototyping. Responsible for initiating and completing process and product improvement programs, budgets, strategic and operational planning, training and succession planing for the manufacturing area.

1992 – 11/00 President, Alltrista Industrial Plastics Company, Fort Smith, AR (Formerly Ball Plastics Company)

Responsibilities include growth of the extrusion and thermoforming business, identification and development of new business opportunities, and financial performance of the division. In 1997 sought, evaluated and integrated a new company with our existing business. Directed staff in achieving productivity improvements for all key resources and, with management team, established comprehensive performance measures and goals to enhance overall division performance. Continuously monitored and improved strategic and operating plans and objectives.

1986 – 1992 Plant Manager and General Manager, Ball Plastics Company, Fort Smith, AR

Directed the plant quality, production, manufacturing, engineering, and administrative functions. Prepared, justified and administered the plant operating budgets.

Other Positions

Manager, Closure Engineering, Ball Metal Container Group, Broomfield, CO

Lead Production Engineer, Ball Metal Container Group, Broomfield, CO

Department Manager, Ball Metal Container Group, Fairfield, CA

Engineer and General Supervisor, Ball Metal Container Group, Lakewood, CO

Senior Project Engineer, Sunbeam Mile High Equipment Company, Denver, CO

United States Army National Guard, 140th Signal Battalion, in Denver, CO.

Selected Professional Activities and Organizations

- Manufacturing Executives Association, Board of Directors
- Society of Plastics Engineers, Senior Member
- Society of Manufacturing Engineers
- Westark College (University of Arkansas, Fort Smith) NSF Advisory Committee
- Sparks Regional Medical Center, Board of Advisory Trustees
- Fort Smith Public Schools, Strategic Plan Committee
- United Way, Captain / Chairman of the Manufacturing Division
- Leadership Fort Smith, Board of Advisors

Selected Professional Development

- Six Sigma Quality Workshop – Champion Status
- Principle Centered Leadership – Stephen Covey
- Seven Basic Habits of Highly Effective People - Stephen Covey
- Fundamentals of Finance and Accounting
- Lessons in Leadership

Education

Bachelor of Science, Mechanical Engineering, University of Colorado

* Jarden Corporation formerly known as Alltrista Corporation officially changed names in May 2002.
New York Stock Exchange: JAH
1-25-13

Planning

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

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

Date: 2-5-2013

Name: Cody Fridlle

Home Telephone: 479-285-1589

Home Address: 1012 South 26th St.

Work Telephone: 479-452-8800

Zip: 72901

Email: codyfridlle@hotmail.com

Occupation: Dentist
(If retired, please indicate former occupation or profession)

Education: DDS Baylor College of Dentistry

Professional and/or Community Activities: FS Express soccer coach, Active in Newlife Church, Member State & local dental associations, Former First Tee boardmember

Additional Pertinent Information/References:

Are you a registered voter in the City of Fort Smith? Yes ☒ No ___
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes___ NO ☒
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.___
Drivers License_ Date of Bi_(This information will b und check of all applicar

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Date: 2/13/13

Name: Matthew Garner

Home Telephone: (479) 431-8618

Home Address: 12100 Sapling Drive

Work Telephone: -7 SAME

Zip: 72916

Email: M garner @ Baldor.com

Occupation: Auditor - Baldor Electric

(If retired, please indicate former occupation or profession)

Education: B.S. Accounting, B.S. Business Administration

Professional and/or Community Activities: United Way, Boy Scouts, Water Commission

Additional Pertinent Information/References: _____

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

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?

Yes____ NO X

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

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Date: 2/19/13

Name: Stuart Ghan

Home Telephone: 479·226·2626

Home Address: 4700 S. U Street

Work Telephone: 479·478·6161

Zip: 72903

Email: stuart@rhghan.com

Occupation: Real Estate Development and Property Management
(If retired, please indicate former occupation or profession)

Education: Bachelor of Science in Business Admin, University of Tulsa

Professional and/or Community Activities: Involved day to day in development of commercial property in Fort Smith.

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes ✓ No ___
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes___ NO ✓
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from
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Drivers License___ Date of Birth [redacted] his
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Planning Com/

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Application for City Boards/Commissions/Committees

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Date: 02/05/13

Name: ALLEN HARRIS

Home Telephone: 479-883-0357

Home Address: 3117 HEATHER DAISY WAY

Work Telephone: 479-649-7070

Zip: 72908

Email: allen.harris67@gmail.com

Occupation: President & Owner A. HARRIS MOVING & STORAGE, Inc
(If retired, please indicate former occupation or profession)

Education: Southside High School & Westark.

Professional and/or Community Activities: MEMBER First Baptist Church,

Additional Pertinent Information/References: DAVID GEAN Attorney 479-414-0202
JOE EDWARDS (Benefit Bank) 479-806-7307

Are you a registered voter in the City of Fort Smith? Yes ✓ No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO ✓
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.
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Planning

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Date: 1-26-13

Name: Barbara J. Hathcock

Home Telephone: 4797825440

Home Address: 3833 So W ST

Work Telephone: _____

Zip: 72903

Email: bjhathcock@cox.net

Occupation: volunteer
(If retired, please indicate former occupation or profession)

Education: BA-BS, MA

Professional and/or Community Activities: Ft. Smith School Bd (14 yrs), Pres. 2x, Ft. Smith Symphony (Pres 2x) F.S. Public School Foundation Bd Ft. Smith Museum of History, Girl Scout Bd., Boy Scout Bd., Arts Guild (Pres)

Additional Pertinent Information/References: Mayors Comm. of the Arts, Leadership Ft. Smith (1996) - Pres of Bd & Alumni Assoc

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

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

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

Drivers License _____ Date of Birth _____ (This information will [redacted] round check of all applicants)

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Planning

CITY OF FORT SMITH
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Date: January 25, 2013

Name: Michelle Steckman-Hood

Home Telephone: 479-719-1297

Home Address: 10906 Edgewater Rd

Work Telephone: 479-314-1186

Zip: 72903

Email: mstockman08@gmail.com

Occupation: Nonprofit management
(If retired, please indicate former occupation or profession)

Education: Bachelors at Loyola Univ - Chicago, Masters in business at Western Carolina

Professional and/or Community Activities: Small business coach, entrepreneur, Rotary, volunteer & fundraiser for a non-profit: the Arkansas Dream Center, volunteer for the CALL, Women's ministry leader for New Life Church

Additional Pertinent Information/References: Previous Parks & Recreation board member and planning commision in Garner, NC also former Hospice and community volunter in Chicago and North Carolina.

Are you a registered voter in the City of Fort Smith? Yes X No ____
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Yes____ NO X
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( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
(X) Comprehensive Plan Steering Committee

References: Matt Pitsch, Gary Campbell, Jim Spears, Sheri Neely, Dr. Paul Beran, John McIntosh

Planning

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

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Date: 2-18-13

Name: MIKE ICHNIOWSKI

Home Telephone: 434-6246

Home Address: 3205 CANONGATE WAY, FORT SMITH, ARK.

X Work Telephone: 226-2020 CELL

Zip: 72908

Email: MICHNIOW@LIVE.COM

Occupation: ACCT. MANAGER FOR REXEL ELECTRICAL CORP.
(If retired, please indicate former occupation or profession)

Education: B.BA. DEGREE IN MARKETING FROM UCA IN CONWAY.

Professional and/or Community Activities: HAVE BEEN INVOLVED IN MANY ACTIVITIES SUCH AS YOUTH COACHING, RIVERFEST, U of A FT. SMITH ALUMNI, 1ST METHODIST COMMITTEES ETC.

Additional Pertinent Information/References: WORKED IN MEDIA, MANUFACTURING & GOVT.
★ FULL BACKGROUND, AND PERSONAL & PROFESSIONAL REFERENCES ATTACHED.

Are you a registered voter in the City of Fort Smith? Yes X No ____
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Yes____ NO X
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Drivers License____ Date of Birth____ This information will be [redacted] ound check of all applicants.

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( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
✓ (X) Comprehensive Plan Steering Committee

2-18-2013

I would be very interested in being part of Fort Smith's Comprehensive Plan Steering Committee.

As a 35 year resident of Ft. Smith, I have a love for the city, the people, and the culture, and I feel that Fort Smith has great potential for future growth and prosperity. I would like to 'give back' to the community that helped raise me by contributing my ideas and experience to a team of thoughtful people who have the future well-being of Ft. Smith in mind.

My diverse work background includes many successful years in sales, management and strategic planning in both the Media and the Manufacturing fields.

EDUCATION:

My academic background includes 2 years at the University of Arkansas Ft. Smith (in the Westark days) as well as several years at UCA in Conway, where I earned a BBA Degree in Marketing. I am a member of the UAFS Alumni Association.

I have also received extensive professional training of various kinds from Rockwell Corp – Milwaukee Campus, and 3-M Corp-Minneapolis Campus.

I worked for the United States Census Bureau during the 2010 Census , covering the Ft. Smith area, and going through 32 hours of training, and passing extensive US Govt. tests and background checks.

RELEVANT PROFESSIONAL EXPERIENCE:

Positions of leadership and planning that I have held include 3 + years as General Sales Manager for KWHN News-talk Radio from 1997 to 1999 where I supervised sales and creation of new programing, as well as taking part in many, many Ft. Smith community events, political activities, civic events, et.

Since I had grown up around Manufacturing, (my father was the Plant Manager at Rheem Mfg.) , I went into the Industrial Products Distribution and Manufacturing area. I served from 2000 to 2007 as the District Sales & Business Manager for Briggs Weaver-Hagemeyer Industrial, supervising 25 direct reports in Arkansas & Oklahoma and taking part in Long-term strategic planning for the integrated needs of major corporations like Falcon Jet, Cloyes Gear, Baldor, Kimberly Clark and many others.

I am currently an Account Manager for Rexel Electrical, the industry's largest electrical products and services company. I serve the Western Arkansas / Eastern Oklahoma area.

My current position allows me to set my own schedule, which makes it easy for me to attend any meetings, events, etc. related to being on this committee, and allows me to perform any additional duties that may arise.

2.

CONTACT INFORMATION :

I can be contacted by cell phone at 226-2020 or Ft. Smith phone at 434-6246 and can also be contacted by e-mail at michniow@live.com

REFERENCES:

These relevant personal and professional references can attest to my character, abilities, work ethic, and successful background working in a team environment:

Julie Moncrief, Executive Director, Clayton House, Ft. Smith 479-783-3000

Mike & Donna Stec, Chairman and President, Alpha Packaging Corp. 479-651-3134

Larry Robertson, former HR Director, Planters Peanuts, Ft. Smith, 479-646-8534

Fred Goebel , Area Supervisor, US Census Bureau, 479-783-1615

Don Foster, former Division President, Rheem Mfg. Co. 479-452-4427

James Graham, Lairmoor Broom, and Ft. Smith Rodeo Committee, 479-719-3833

*Additional personal and professional references available upon request.

Thanks for your time and consideration

Mike Ichniowski, Ft. Smith 479-226-2020

Planning Com.

CITY OF FORT SMITHApplication for City Boards/Commissions/Committees

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Name: _Thomas James_____ Home Address: __2807 South 58th Street_____

Zip: __72903_____

Date: _02/15/2013_____ Home Telephone: _479-226-0988_____

Work Telephone: _479-782-5756_____ Email: __TJamesLLC@aol.com_____

Occupation: __Assistant Pastor_____ (If retired, please indicate former occupation or profession)

Education: _Northside High School (1999), University of Arkansas (B.S. Public Relations, 2004) University of Arkansas (MBA Business Management, 2006) United Theological Seminary (M.Div. 2013) Professional and/or Community Activities: _Community Services Clearinghouse Board of Directors (2005-Present), Bost Board of Directors (2008-2012), MLK Holiday Planning Committee (2000-present)

Additional Pertinent Information/References: _____

Are you a registered voter in the City of Fort Smith? Yes_X__ No ____ Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense? Y es____ NO__X__ If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from conside[redacted]_____ Drivers License[redacted]_____ Date of Birth[redacted]_____(This information will be use to conduct a criminal back ground check of all applicants). I am interested in serving on the (please check):

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ıease return this form to Wendy Beshears, P.O. Box 1908, FSM, AR 72902

Planning

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Date: 11-1-2012

Name: Don Keesee

Home Telephone: 479-719-8522

Home Address: 6609 Highland Park

Work Telephone: 479-452-0709

Zip: 72916

Email: keesebanker@yahoo.com

Occupation: Banker / Regional President Summit Bank
(If retired, please indicate former occupation or profession)

Education: Graduate School

Professional and/or Community Activities: Girls Inc, Chamber, UAFS

Additional Pertinent Information/References:

Are you a registered voter in the City of Fort Smith? Yes ✓ No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO ✓
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.
Drivers License AR [redacted] Date of Birth [redacted] This information will be use to co[redacted] of all applicants)

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

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

Planning

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

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

Date: 1-25-13

Name: Valerie Lewis

Home Telephone (479) 783-0687

Home Address: 2111 S. T ST. ; F.S.

Work Telephone: "

Zip: 72901

Email: VAL1@att.com

Occupation: OWNER: HOMES OFFERED BY OWNERS
(If retired, please indicate former occupation or profession)

Education: B.A. Hendrix

Professional and/or Community Activities:

Additional Pertinent Information/References:

Are you a registered voter in the City of Fort Smith? Yes ✓ No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO ✓
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.
Drivers Licen[redacted] Date of Birth [redacted] This information wil[redacted]round check of all applicants).

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

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( ) Bldg. Bd. Of Adjustment and Appeals
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( ) Civil Service Commission
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( ) Parking Authority
( ) Parks & Recreation Commission
(✓) Planning Commission
( ) Plumbing Advisory Board
( ) Port Authority
( ) Property Owners Appeals Board
( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
(✓) Comprehensive Plan Steering Committee

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

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Date: 2/4/13

Name: Cresy Millspaugh

Home Telephone: 817-676-4124

Home Address: 2511 Oakview Rd Apt 10 Fort Smith, AR

Work Telephone: 479-459-4013

Zip: 72908

Email: cmillspaugh@ups.com

Occupation: Account Manager UPS

(If retired, please indicate former occupation or profession)

Education: Bachelor of Science Business Administration

Professional and/or Community Activities: Will discuss

Additional Pertinent Information/References: Will discuss

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

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?

Yes___ NO ✓

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

Drivers License [redacted] Date of Birth [redacted] (This information will [redacted] ground check of all applicants).

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

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

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Date: 2013-03-10

Name: Storm Nolan

Home Telephone: 479-414-2825

Home Address: 2511 Greenridge Drive

Work Telephone: 479-649-6909

Zip: 72903

Email: snolan@CSKhotels.com

Occupation: Hotel Developer/Owner/Operator
(If retired, please indicate former occupation or profession)

Education: Southside High School, B.S. from Cornell University, M.B.A. from Columbia University

Professional and/or Community Activities: Serve on the Leadership Fort Smith Alumni Association Board of Directors. Served on the Fort Smith Planning Commission.

Additional Pertinent Information/References: My step-father, Chris Whitt, has been a significant contributor to UAFS. Our family is a member and active participant of the Family Enterprise Center at UAFS.

Are you a registered voter in the City of Fort Smith? Yes X No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO X
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.
Drivers License [redacted] Date of Birth [redacted] (This information will be use[redacted]ound check of all applicants)

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

( ) Audit Committee
( ) Advertising & Promoting Commission
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( ) Benevolent Fund Board
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( ) Parks & Recreation Commission
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( ) Plumbing Advisory Board
( ) Port Authority
( ) Property Owners Appeals Board
( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
( ) Comprehensive Plan Steering Committee

Storm Nolan

2511 Greenridge Drive
Fort Smith, AR 72903
snolan@CSKhotels.com
m 479.414.2825

Education

Columbia University, Columbia Business School, New York, NY
MBA, 2008 Concentration: **Real Estate**
Cornell University, School of Hotel Administration, Ithaca, NY
BS, 2002 Concentration: **Real Estate Finance and Development**
Cumulative GPA: 3.85, Dean's List (Graduated with Distinction), Ranked 5 of 201

Experience

2002 - Present **CSK hotels,** Fort Smith, AR
Partner/Co-Founder

- Responsible for development of fifteen hotels (200+ employees in our company)
  - One-third partner with step-father and brother
  - Most hotels outperform their competitive set
  - Our hotels have won many awards including Inn of the Year and Platinum Awards
  - Guest satisfaction scores among the best in their respective states
- Responsible for management and operations at all of the hotels
- Implemented scorecard approach for revenue, labor, guest satisfaction, and profit targets
- Responsible for myCSK.com development - our internal operations and accounting portal
- Transitioned hotel-level sales staff from salary to incentive compensation system
- Assembled ten financing packages for bank approval; hotels and self storages
- Personally manage 72,000 sf retail shopping center; half-owner with brother

2010 - Present **CanvasHQ.com - Create canvas art with your photos.**, Fort Smith, AR
Founder

- Hotel spinoff company, created a company that ships custom canvases all over the U.S.
- Designed and executed the creation of our custom e-commerce fulfillment platform
- Continue to rapidly grow the company - 2012 revenues increased by 120% over 2011

1999 - 2000 **PromotionShop.com, Inc.**, Fort Smith, AR
Founder

- Created a company to allow for online design and ordering of promotional business products
- Supervised, hired, and trained a group of seven technical workers
- Created a comprehensive investor prospectus for the company
- Coordinated our efforts with a hired programming group
- Generated pro-formas, feasibility studies, and financial statements for prospective investors

Activities

- Past Chairman, Value Place Hotels Franchisee Advisory Council
- Executive Committee, **Libertarian Party** of Arkansas
- Past Board of Directors, Arkansas Self Storage Association
- Board of Directors, **Leadership** Fort Smith Alumni Association
- Participant in Inaugural Class, **Leadership** Arkansas
- Past Executive Board Member, **Cornell Entrepreneur Organization** (CEO) - 2000
- Licensed Instrument **Pilot**
- Certified Rescue Diver

Planning

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

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Date: 1/29/13

Name: Ken O'Donnell

Home Telephone: 782-6663

Home Address: 55 Hiland Dr.

Work Telephone: same

Zip: 72901

Email: kenod49@gmail.com

Occupation: Retired; Director of Planning; Bi-State MPO Director WAPDD
(If retired, please indicate former occupation or profession)

Education: Bachelor of Arts Education, Masters Urban + Regional Planning; Ole Miss

Professional and/or Community Activities: Volunteer Miss Lucas + ~~National~~ ~~Historic Site~~ National Historic Site/Special Projects

Additional Pertinent Information/References: Director of the Regional Transportation Planning Agency for 32 years re Regional goals

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

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?

Yes____ NO ✓

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

Drivers License[redacted] Date of Bi[redacted] (This information will b[redacted]ground check of all applicar[redacted]

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

( ) Audit Committee
( ) Advertising & Promoting Commission
( ) Airport Commission
() Animal Services Advisory Board
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( ) Benevolent Fund Board
( ) Bldg. Bd. Of Adjustment and Appeals
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( ) Parks & Recreation Commission
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Planning

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

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Date: 2-1-13

Name: LEO PATTERSON

Home Telephone: 479-883-9923

Home Address: 4300 So. 89th St.

Work Telephone: -

Zip: 72903

Email: caliban@cox.net

Occupation: Retired high school adminstrator
(If retired, please indicate former occupation or profession)

Education: Masters degree (educ. adm.)

Professional and/or Community Activities: American Legion (post 31)
volunteer at F.S. Visitor's Center.

Additional Pertinent Information/References: Carolyn Joyce

Are you a registered voter in the City of Fort Smith? Yes X No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO X
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.____
Drivers License_____ Date of Birth_____ This information will be use to conduct a criminal background check of all applicants).

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

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( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
(X) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
(X) Comprehensive Plan Steering Committee

Planning

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

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Date: Feb 8 2013

Name: Vannetta Posey

Home Telephone: 479-651-7303

Home Address: 3801 Young St

Work Telephone: 479-651-7303

Zip: 72904

Email: _____

Occupation: Self

(If retired, please indicate former occupation or profession)

Education: 12th grade

Professional and/or Community Activities: _____

Mentoring Program Girls & Boys Club

Additional Pertinent Information/References: _____

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

Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?

Yes____ NO X

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

Drivers License [illegible] Date of Birth [illegible] This information will [illegible] ack ground check of all applicants) [illegible]

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

( ) Audit Committee
( ) Advertising & Promoting Commission
( ) Airport Commission
() Animal Services Advisory Board
( ) Arkansas Fair & Exhibition Facilities Bd
(X) Benevolent Fund Board
( ) Bldg. Bd. Of Adjustment and Appeals
( ) Central Business Improvement District
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Planning

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

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Date: __01/29/13_____

Name: __Elizabeth Quinn_____ Home Telephone: __479.420.3280_____

Home Address: __2211 S. R St_____ Work Telephone: __479.484.7182_____

Zip: __72901_____ Email: __elizabethjayne@gmail.com_____

Occupation: General Manager, Sweet Bay Coffee Co.

Education: University of Central Arkansas, Conway Arkansas. B.A. Political Science, May 2008.
Honors College 2003-2005. Courses in Administrative and Business Law, Planning.

Community Activities: Citizens' Academy Fall 2012. Positive People of Fort Smith; led in the efforts to establish a monthly "cash mob" to support our local businesses. Fort Smith Trolley Museum social media coordinator and research library volunteer. Fort Smith Regional Art Museum exhibit volunteer "Women to Watch" 2012.

References: Please contact Tracy Winchell, Fort Smith Communications Director, for reference.

Are you a registered voter in the City of Fort Smith? Yes_X_ No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense? Yes____ NO__X__
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.
_____
Drivers Lice
Date of Birt
(This inform background check of all applicants).

I am interested in serving on the (please check):
( ) Audit Committee ( ) Advertising & Promoting Commission
( ) Airport Commission ( ) Animal Services Advisory Board
( ) Arkansas Fair & Exhibition Facilities Bd ( ) Benevolent Fund Board
( ) Bldg. Bd. Of Adjustment and Appeals ( ) Central Business Improvement District
(X) Comprehensive Plan Steering Committee ( ) Convention Center Commission
( ) Civil Service Commission ( ) Community Development Advisory Com.

( ) County Equalization Board
( ) Electric Code Board of Appeals & Appeals
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CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

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Date: 2-27-13

Name: JEFF RIGGS

Home Telephone: (479)-883-0157

Home Address: 910 S 25th St.

Work Telephone: (479) 242-4581

Zip: 72901

Email: JRiggs@LJBConstructionInc.com

Occupation: VICE PRESIDENT - LJB CONSTRUCTION INC - GC.
(If retired, please indicate former occupation or profession)

Education: BS of ENGINEERING TECH.

Professional and/or Community Activities: PRESIDENT of Junior Chamber of Commerce

Additional Pertinent Information/References:

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

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

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

Drivers License [redacted] Date of Birt[redacted] (This information will b[redacted]d check of all applicants[redacted]

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

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Planning

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

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Date: January 30, 2013

Name: David Roberts

Home Telephone: 479.926.9467

Home Address: 1007 Adelaide Avenue

Work Telephone: N/A

Zip: 72901

Email: fsaroberts@yahoo.com

Occupation: Retired (formally Director of Meals on Wheels for Greater Houston; Houston, TX)
(If retired, please indicate former occupation or profession)

Education: Southside High School 1969; University of Arkansas, Fayetteville, BA in History, 1980

Professional and/or Community Activities: Volunteer at Ruth Armstrong Nature Center; Project Compassion Board member; Fort Smith Museum of History Board member; Second Street Live Board member

Additional Pertinent Information/References: References – Sister Judith Marie Keith, Mike Alsup, Pam Weber, Mike Smets

Are you a registered voter in the City of Fort Smith? Yes XX No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO XX
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.

Drivers License Arkar[redacted] Date of Birth [redacted]tion will be used to conduct a criminal back ground check of all applican[redacted]

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

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Planning

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

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Date: 11 FEB. 2013

Name: TIM SCHALE

Home Telephone: 479-783-5366

Home Address: 3618 S. 0 ST.

Work Telephone: 479-461-9726

Zip: 72903

Email: tschale@aol.com

Occupation: Landscape Architect Ar. Lic. #141.4963
(If retired, please indicate former occupation or profession)

Education: B.S. Landscape Architecture Okla St.

Professional and/or Community Activities: Past President Ft. Smith Pride, Charter Member N.W. Ar Urban Forestry Comm. River Valley Community Band Member

Additional Pertinent Information/References: Attended U.D.O. input meetings Recommended to serve by Pam Weber, City Dir.

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

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

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

Drivers License ____ Date of Birth ____ (this information will be [redacted] and check of all applicants).

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

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( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
(✓) Comprehensive Plan Steering Committee

Planning Com.

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

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Date: 2-13-13

Name: Marshall Sharpe

Home Telephone: 479-434-5831

Home Address: 7014 Riviera Dr.

Work Telephone: 479-494-6305/cell 461-0761

Zip: 72903

Email: msharpe@okFoods.com

Occupation: Manager of Audit/Export Programs for OK Industries
(If retired, please indicate former occupation or profession)

Education: B.S. Wildlife Conv. & Management / Louisiana Tech 1973, Northside 1969

Professional and/or Community Activities: Currently a Commissioner Since 2010. Past President of Old Fort Homeless Coalition, 2009 Homeless Task Force member, Sec/Treas of Fort Smith Neighborhood Assoc., Graduate of Citizens Police Academy 2006, Beautify FS member, organized Lakewood Neighborhood Assoc.

Additional Pertinent Information/References:

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

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

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

Drivers License [redacted] Date of Birth [redacted] his information will b[redacted]ground check of all applicants).

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

( ) Audit Committee
( ) Advertising & Promoting Commission
( ) Airport Commission
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CITY OF FORT SMITH
Application for City Boards/Commissions/Committees

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Date: 2/11/13

Name: GREG SHIPLEY Home Telephone: 883-4185

Home Address: 9204 CANOPY OAKS DR. Work Telephone: 452-1933

Zip: 72903 Email: gshipley@morrisonshipley.com

Occupation: CIVIL ENGINEER / PRESIDENT OF MORRISON SHIPLEY ENGINEERS, INC.
(If retired, please indicate former occupation or profession)

Education: BS in Civil Engineering - U of A 1988

Professional and/or Community Activities: UAFS STEM College Advisory Board, other local community service

Additional Pertinent Information/References: Ray Gosack, Keith Lau, Andre' Good, Wally Bailey, Brenda Andrews, Stan Snodgrass

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

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

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

Drivers License C[redacted]R Date of Birth [redacted] is information will be u[redacted]nd check of all applicants).

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

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

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

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

Date: 3/12/2013

Name: Randall D. Swaim

Home Telephone: 479-883-2349

Home Address: 3213 So. 41st St.

Work Telephone: 479-201-2358

Zip: 72903

Email: randallswaim@yahoo.com

Occupation: Private Collections - Golden Living
(If retired, please indicate former occupation or profession)

Education: B.S. Business Admin

Professional and/or Community Activities: Reserve Deputy Sebastion County Sheriff Dept. Chairman + Founder of FSP Officer Martinez Memorial Scholarship at UAFS.

Additional Pertinent Information/References: Mike Lorenz, Kevin Settle, Alie Bahsoon

Are you a registered voter in the City of Fort Smith? Yes X No ____
Have you ever been convicted of a felony, misdemeanor, DWI/DUI or other serious traffic offense?
Yes____ NO X
If yes, please identify the offense and the approximate date. A "yes" answer will not automatically preclude you from consideration.____
Drivers License [redacted] Date of Birt[redacted] (This information will be [redacted] check of all applicants [redacted]

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

( ) Audit Committee
( ) Advertising & Promoting Commission
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( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
( ) Comprehensive Plan Steering Committee

Attn. Wendy Beshears

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

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

Date: 3-2-13

Name: Kerri Taake Home Telephone: 479-646-2718

Home Address: 2932 Cliff Drive Work Telephone: 479-806-9064

Zip: 72901 Email: Kerri.bt@sbcglobal.net

Occupation: self employed - owner of Cheers previously taught school in Van Buren
(If retired, please indicate former occupation or profession)

Education: Arkansas Tech University - El Ed

Professional and/or Community Activities: served in Junior League of Fort Smith, School Board of First Lutheran 8 years - Chaired last 2 years on board

Additional Pertinent Information/References:

I have owned two businesses in Fort Smith. I have owned a home in Fort Smith for 28 years.

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

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

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

Drivers License [redacted] Date of Bir[redacted] (This information will [redacted]d check of all applicant[redacted]

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

( ) Audit Committee
( ) Advertising & Promoting Commission
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( ) Arkansas Fair & Exhibition Facilities Bd
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( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
( ) Comprehensive Plan Steering Committee

To: Wendy Beshears

Planning

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

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

Date: 2-18-2013

Name: Charolette Tidwell

Home Telephone: 479.459.0669

Home Address: 1728 No. 46th Cr.

Work Telephone: 479.459.0669

Zip: 72904

Email: cftidwell9993@att.net

Occupation: Retired - Healthcare Administration
(If retired, please indicate former occupation or profession)

Education: MEd; BSE; BSN; RN

Professional and/or Community Activities: Executive Director of Outreach Ministry

Additional Pertinent Information/References: Robert Muler; Michael Helms

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

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

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

Drivers License ___ Date of Birth c[redacted]
information will be use to conduct a criminal back ground check of all applicants).

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

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

FAX TO: 479.784.2430

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

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

Date: 3/4/13

Name: Caleb Yerton

Home Telephone: _____

Home Address: _____

Work Telephone: 788-4293

Zip: _____

Email: Caleb yerton@FNBFS.com

Occupation: Commercial Banker / First National Bank of Fort Smith
(If retired, please indicate former occupation or profession)

Education: UofA Fayetteville BSBA - Finance

Professional and/or Community Activities: United Way Allocation Panel, Fort Smith Regional Chamber of Commerce Diamond Club

Additional Pertinent Information/References: Reference - Sam T. Sicard

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

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

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

Drivers License [redacted] Date of Birth [redacted] his information will b[redacted] ground check of all applicants) [redacted]

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

( ) Audit Committee
( ) Advertising & Promoting Commission
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( ) Sebastian County Reg. Solid Waste Mgmt. Bd.
( ) Sister Cities Committee
( ) Transit Advisory Commission
( ) Residential Housing Facilities Board
( ) Comprehensive Plan Steering Committee

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
March 27, 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

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL
All present, except Director Mike Lorenz (he arrived during presentation of Item No. 1)

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 MARCH 5, 2013 REGULAR MEETING AND MARCH 11, 2013 SPECIAL MEETING
Unanimously approved as written

ITEMS OF BUSINESS:

1. Ordinance to regulate the use of groundwater beneath certain identified lands within the city of Fort Smith, Arkansas; declaring and emergency; and for other purposes *~ Good/Lorenz placed on agenda at the February 12, 2013 study session / Rescheduled to the March 27, 2013 regular meeting by unanimous consent of the Board of Directors on March 1, 2013 ~*
   Defeated 1 in favor (Good), 6 opposed

2. Ordinance amending the provisions of Fort Smith Unified Development Ordinance and Fort Smith Municipal Code regarding outdoor advertising signs
   Approved 6 in favor, 1 opposed (Catsavis) / Ordinance No. 15-13

3. Consent Agenda

A. Ordinance to abandon a portion of a public utility easement located in Jeffrey Way, an addition to the City of Fort Smith, Sebastian County, Arkansas
Approved 7 in favor, 0 opposed / Ordinance No. 16-13

B. Resolution authorizing an amendment to the engineering services agreement for the design of 2013 Street Overlay/Reconstruction Project, Phase A, Project No. 13-03-A *($14,400.00 / Engineering Department / Budgeted – Sales Tax Program Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-45-13

C. Resolution authorizing execution of a contract with Matlock Electric Co. Inc. for the replacement of emergency generators at Fire Stations 1 through 10 *($408,730.00 / Fire Department / Budgeted – 2012 Sales Tax Bonds)*
Approved 7 in favor, 0 opposed / Resolution No. R-46-13

D. Resolution authorizing an amendment to the agreement with Harris Company of Fort Smith for Storm Drainage Improvements along Massard Road *($4,500.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)*
Approved 7 in favor, 0 opposed / Resolution No. R-47-13

E. Resolution authorizing the Mayor to execute an easement with the Department of the Army at the Massard Wastewater Treatment Plant *($1,115.00 / Utility Department / Budgeted – 5603-219 Operating Fund)*
Approved 7 in favor, 0 opposed / Resolution No. R-48-13

F. Resolution authorizing the City Administrator to execute an agreement with a property owner for acquisition and release of easements in connection with the Pump Station No. 19 Force Main Replacement Project *($6,509.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)*
Approved 7 in favor, 0 opposed / Resolution No. R-49-13

G. Resolution authorizing the City Administrator to accept an offer made by property owner for acquisition of easements in connection with the Lake Fort Smith 48-Inch Water Transmission Line *($9,500.00 / Utility Department / Budgeted - 2008 Revenue Bonds)*
Approved 7 in favor, 0 opposed / Resolution No. R-50-13

H. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Mickle Wagner Coleman, Inc. for providing engineering services associated with Chaffee Crossing Pump Station and Force Main Project *($344,714.00 / Utility Department / Budgeted – 2008 Revenue Bonds)*
Approved 7 in favor, 0 opposed / Resolution No. R-51-13

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

Appointments:

ADVERTISING & PROMOTION COMMISSION

Calvin Remy *(to fill the unexpired term of Ronnie Townsend)*
Term expires December 31, 2014

ANIMAL SERVICES ADVISORY BOARD

Amanda Heim (reappointment)
Joan Bryant (reappointment)
Terms expire April 4, 2014

ELECTRIC CODE BOARD OF APPEALS

Thomas McAllister (reappointment)
Jerald Walrod (reappointment)
Terms expire March 31, 2018

HOUSING ASSISTANCE BOARD

Jim Rose (reappointment)
John Ross (reappointment)
Hazel Brown
Pat Gooch
Terms expire April 30, 2015

OUTSIDE AGENCY REVIEW PANEL

RECREATION

Charolette Tidwell *(to fill the unexpired term of William Tyler Lamon, who resigned)*
Term expires July 17, 2013

ARTS AND HUMANITIES

Jeannie Cole *(to fill the unexpired term of Elizabeth Momand, who resigned)*

Term expires March 31, 2014

PLANNING COMMISSION

Marshall Sharpe (reappointment)

Thomas James

Don Keesee

Terms expire April 30, 2016

ADJOURN

8:29 p.m.

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

WEDNESDAY ~ MARCH 27, 2013 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Reverend Odell Curtis of God's House of Prayer, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, George Catsavis, Pam Weber, Kevin Settle and Phillip H. Merry, Jr. Director Mike Lorenz arrived during presentation of Item No. 1. The Mayor declared a quorum present.

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

The minutes of the March 5, 2013 regular meeting and March 11, 2013 special meeting were presented for approval. Weber, seconded by Good, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, the Vice-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 to regulate the use of groundwater beneath certain identified lands within the city of Fort Smith, Arkansas; declaring and emergency; and for other purposes *~ Good/Lorenz placed on agenda at the February 12, 2013 study session / Rescheduled to the March 27, 2013 regular meeting by unanimous consent of the Board of Directors on March 1, 2013 ~*

March 27, 2013 Regular Meeting

Mr. Jeff Noel, Vice-President of Communications and Public Affairs for Whirlpool Corporation, addressed the Board and conveyed much assurance that Whirlpool takes full responsibility for the trichloroethylene (TCE) leak at the site, will remain until the matter is resolved and will do the right thing. Much public concern has been expressed; therefore, Whirlpool has contacted the affected residents, has set up an 800 number and e-mail address dedicated for Fort Smith residents and is currently in the process of creating a dedicated website, which is anticipated to be available in a couple of days. All aforementioned information will be made available to the public and media. Whirlpool is committed to share all information regarding the matter; therefore, once the aforementioned website is up and running, all related documents will be posted. The website will also maintain the ability for residents review and comment.

Since the TCE leak was first detected in 2001, Whirlpool has been working with the Arkansas Department of Environmental Quality (ADEQ) to address the matter whereby he also noted that Whirlpool has and will comply with all policies and procedures set forth by ADEQ. Remediation is a defined process whereby Whirlpool must file its final intended action with ADEQ and said filing is anticipated to be accomplished by April 8, 2013. The defined process requires a thirty (30) day public comment period; therefore, he conveyed much assurance that all interested individuals may provide input.

Mr. Noel further noted that Whirlpool is working closely with Environ, a consulting firm that assists in managing environmental, health and safety issues, and provided a brief biography of the Environ team and noted each biography was presented to the Board. The Environ team have concluded that the TCE located at the site poses "no public health risk"

due to "no exposure or pathway" to residents because they "can't drink it, inhale or touch it." After years of study, it's also been concluded that the boundaries have not changed. The proposed ordinance is presented merely as a precautionary measure and is standard practice throughout the United States for other TCE polluted sites. It was clarified that the proposed ordinance will not resolve the issue and reiterated resolution will be accomplished in multiple phases of plan review, public comment and ultimate completion of the remediation. Due to much public concern, he recommended the item either be withdrawn or tabled pending acceptance of the remediation plan by all parties whereby the proposed ordinance may again be presented for consideration. He reiterated and stated, *"we are here, we take responsibility, we're not side-stepping that responsibility, and we look forward to continuing this process so that all the information is made available. And I very much look forward to the final plan being submitted by the ADEQ and the public comment period and public discussion that will take place with that plan, but most importantly begin implementing that plan going forward."*

The following individuals were present to address the Board:

- Debra Keith
  Fort Smith, Arkansas

  Re: Alleged Whirlpool did not notify residents of the TCE contamination until December 2012 and expressed discontent with such. She contacted the Erin Brockovich firm, who advises that several areas in the community were utilized as dumping sites; therefore, noted a federal subpoena is being sought to address the issue. She did not either speak for or against the proposed ordinance, but urged the Board to ensure Whirlpool is held responsible.

March 27, 2013 Regular Meeting

- Neal Morrison
  Rudy, Arkansas

  Re: Advised he owns property on Jacob's Street and alleged the ordinance is unwarranted. He urged the Board to not table the item, but to vote and defeat the proposed ordinance.

Director Good clarified the proposed ordinance is an additional safety measure, but such does not relinquish any responsibility from Whirlpool to clean the contaminated site. After remediation completed, he conveyed much assurance that drilling of the area should not be prohibited in the affected area; therefore, he conveyed no objection to either voting on the ordinance or tabling the measure as requested. He further recommended a resolution be presented for consideration to convey the City's concern and encourage the Whirlpool Corporation and ADEQ to work diligently and expeditiously to address the issue.

There was very lengthy discussion whereby several members of the Board submitted multiple questions to Mr. Ryan Benefield, Deputy Director of ADEQ. Much discontent and concern was expressed that the matter has been allowed to continue since 2001 with no requirement for immediate resolution.

Mr. Benefield addressed each question and noted that because it was determined that no human pathway existed and there was no immediate health concern to residents, ADEQ monitors the site biannually. Whirlpool contacted ADEQ in 2001 when the contamination was discovered and an agreement between ADEQ and Whirlpool Corporation was executed in 2002 to address the issue. Whirlpool has complied with all requirements of the aforementioned agreement. If the plume expands or the level of contamination increases that requires immediate action, if Whirlpool does not initiate

immediate remediation, ADEQ will proceed to address the contamination and seek financial reimbursement from Whirlpool. The proposed ordinance is merely an *"extra precaution....to control exposure"* while the appropriate remedy is determined, which is anticipated *"this year."*

There was also discussion relating to devaluation of property values whereby Director Weber urged Whirlpool to purchase the affected properties and after the contamination is properly addressed, she recommended the properties then be donated to the City for use as a city park.

Director Settle read a prepared statement conveying much concern with the matter, passionately urged Whirlpool to get the matter addressed immediately and urged the Board to vote against the proposed ordinance.

Lau, seconded by Lorenz, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members voted as follows: ayes - Good; nays - Lau, Lorenz, Catsavis, Weber, Settle and Merry. The Mayor declared the ordinance defeated.

Weber, seconded by Good, moved to place a resolution on the April 2, 2013 regular meeting agenda encouraging Whirlpool Corporation and the Arkansas Department of Environmental Quality to pursue expeditious remediation of the site. Placement requires concurrence of only two (2) directors; therefore, Mayor Sanders announced the aforementioned resolution will be presented for consideration at the April 2, 2013 regular meeting.

March 27, 2013 Regular Meeting

Director Merry urged the aforementioned resolution contain language that such is an emergency so encourage an expeditious resolution.

Item No. 2 was an ordinance amending the provisions of Fort Smith Unified Development Ordinance and Fort Smith Municipal Code regarding outdoor advertising signs.

Director of Development Services Wally Bailey briefed the Board on the item as discussed at the March 12, 2013 study session. Ordinance 98-12, adopted December 18, 2012, approved a moratorium on additional outdoor advertising signs and such expires on April 29, 2013. Approximately six (6) public meetings have been held with involvement by multiple stakeholders. The proposed ordinance will repeal the aforementioned moratorium and provides several new regulatory requirements for all outdoor advertising signs. The Planning Commission reviewed the proposed regulations and recommended approval for Board consideration at their February 20, 2013 meeting.

The following individuals were present to address the Board:

- Lorie Robertson, member of the stakeholder group
  Fort Smith, Arkansas

  Re: Provided several positive benefits of outdoor advertising and merely urged adoption of the proposed ordinance.

- Ron Green
  Fort Smith, Arkansas

  Re: Merely extended much appreciation to City staff, the Planning Commission and Board of Directors for the proposed ordinance and encouraged the Board to vote in favor of the item.

Good, seconded by Settle, moved adoption of the ordinance. The motion included

suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members voted as follows: ayes - Lau, Good, Lorenz, Weber, Settle and Merry; nay - Catsavis. The Mayor declared the motion carried. Settle, seconded by Lorenz, moved adoption of Section 4 the emergency clause. The members voted as follows: ayes - Lau, Good, Lorenz, Weber, Settle and Merry; nay - Catsavis. The Mayor declared the motion carried and the ordinance and emergency clause were adopted and the ordinance given No. 15-13.

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

A. Ordinance to abandon a portion of a public utility easement located in Jeffrey Way, an addition to the City of Fort Smith, Sebastian County, Arkansas

B. Resolution authorizing an amendment to the engineering services agreement for the design of 2013 Street Overlay/Reconstruction Project, Phase A, Project No. 13-03-A *($14,400.00 / Engineering Department / Budgeted - Sales Tax Program Fund)*

C. Resolution authorizing execution of a contract with Matlock Electric Co. Inc. for the replacement of emergency generators at Fire Stations 1 through 10 *($408,730.00 / Fire Department / Budgeted - 2012 Sales Tax Bonds)*

D. Resolution authorizing an amendment to the agreement with Harris Company of Fort Smith for Storm Drainage Improvements along Massard Road *($4,500.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)*

E. Resolution authorizing the Mayor to execute an easement with the Department of the Army at the Massard Wastewater Treatment Plant *($1,115.00 / Utility Department / Budgeted - 5603-219 Operating Fund)*

F. Resolution authorizing the City Administrator to execute an agreement with a property owner for acquisition and release of easements in connection with the Pump Station No. 19 Force Main Replacement Project *($6,509.00 / Utility Department / Budgeted - 2012 Sales and Use Tax Bonds)*

G. Resolution authorizing the City Administrator to accept an offer made by property owner for acquisition of easements in connection with the Lake Fort Smith 48-Inch Water Transmission Line *($9,500.00 / Utility Department / Budgeted - 2008 Revenue Bonds)*

H. Resolution authorizing the Mayor to execute an agreement and Authorization No. 1 with Mickle Wagner Coleman, Inc. for providing engineering services associated with Chaffee Crossing Pump Station and Force Main Project *($344,714.00 / Utility Department / Budgeted - 2008 Revenue Bonds)*

Catsavis, seconded by Weber, moved adoption of all consent agenda items. The members all voting affirmatively, the Mayor declared the motion carried and ordinance and resolutions were adopted with the ordinance given No. 16-13 and the resolutions numbered R-45-13 through R-51-13 respectively.

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

- Mayor Sanders

  Re: 1. Extended appreciation for condolences extended during the recent loss of his mother.

  2. Announced the Mayor's Easter Egg Hunt will be held at 10:00 a.m., Saturday, March 30 at Tilles Park; therefore, encouraged attendance.

- Director Merry

  Re: Extended appreciation to Immaculate Conception School students, who recently interviewed him and Directors Good and Lorenz as a project for the Gifted and Talented Education (GATE) Program.

- Director Weber

  Re: 1. Announced Beautify Fort Smith will host a spring cleanup event on Saturday, April 20. Volunteers are requested to meet at Martin Luther King, Jr. Park at 8:00 a.m. to register and obtain supplies for the event.

  2. Extended appreciation to the Hardscrabble Garden Club and Frank Sharum for their efforts regarding recent landscaping near the Farmers Market at North 2nd Street and Garrison Avenue.

- Administrator Gosack

  Re: Announced the special election regarding continuation of the county-wide sales tax is set for Tuesday, May 14. Several civic presentations have been planned with the "kickoff" event scheduled 11:00 a.m., April 2 at the Courts Building.

The Board convened into executive session at approximately 7:42 p.m. and after reconvening, Mayor Sanders announced the following appointment nominations:

ADVERTISING & PROMOTION COMMISSION
Calvin Remy
(to fill the unexpired term of Ronnie Townsend)
Term expires December 31, 2014

ANIMAL SERVICES ADVISORY BOARD
Amanda Heim (reappointment)
Joan Bryant (reappointment)
Terms expire April 4, 2014

ELECTRIC CODE BOARD OF APPEALS
Thomas McAllister (reappointment)
Jerald Walrod (reappointment)
Terms expire March 31, 2018

HOUSING ASSISTANCE BOARD
Jim Rose (reappointment)
John Ross (reappointment)
Hazel Brown
Pat Gooch
Terms expire April 30, 2015

OUTSIDE AGENCY REVIEW PANEL

RECREATION

Charolette Tidwell

(to fill the unexpired term of William Tyler Lamon, who resigned)

Term expires July 17, 2013

ARTS AND HUMANITIES

Jeannie Cole

(to fill the unexpired term of Elizabeth Momand, who resigned)

Term expires March 31, 2014

PLANNING COMMISSION

Marshall Sharpe (reappointment)

Thomas James

Don Keesee

Terms expire April 30, 2016

Good, seconded by Lorenz, moved acceptance of 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 Lorenz and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 8:29 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK