AGENDA

FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING

November 15, 2011 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS
SERVICE CENTER
3205 JENNY LIND ROAD

THIS MEETING IS BEING TELECAST LIVE ON THE CITY CABLE ACCESS CHANNEL 6

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING
(Section 2-37 of Ordinance No. 24-10)

APPROVE MINUTES OF THE NOVEMBER 1, 2011 REGULAR MEETING

ITEMS OF BUSINESS:

1. Public hearing and ordinance certifying to the Sebastian County Tax Collector delinquent property cleanup liens

2. Ordinance amending Ordinance No.60-10 and setting the location and time for regular meetings of the Board of Directors for the year 2012

3. Ordinance ordering the owners of certain dilapidated and substandard structures to demolish same, authorizing the City Administrator to cause the demolition of such structures to occur, and for other purposes *(1906 South "N" Street and 2405 North 31st Street and rear storage)*

4. Ordinance amending Chapter 18, Article III of the Fort Smith Municipal Code to add Sections 18-81 through 18-85 regarding park rules

5. Consent Agenda

A. Ordinance declaring exceptional circumstance and authorizing continuation of agreement with Data-Tronics Corporation

B. Resolution authorizing the offering of water and sewer revenue bonds to refund outstanding Water and Sewer Refunding Revenue Bonds, Series 2005A; and prescribing other matters relating thereto

C. Resolution authorizing an agreement between the City of Fort Smith, Arkansas and the Fort Chaffee Redevelopment Authority to jointly design, construct and fund the McClure Amphitheater Road, Project 12-00-A

D. Resolution authorizing a change order for the construction of Chad Colley Boulevard Extension, Project No. 10-00-A ($10,205.83 / Engineering Department / Budgeted - Sales Tax Fund)

E. Resolution accepting completion of and authorizing final payment for the construction of Chad Colley Boulevard Extension, Project No. 10-00-A ($69,094.46 / Engineering Department / Budgeted – Sales Tax Fund)

F. Resolution authorizing the Mayor to enter into an amended lease agreement with Produce Row Development, LLC for operating a portion of the Park at West End

G. See Item No. 4

H. Resolution authorizing Contract Amendment No. 1 with Crawford Construction Company for the renovation and additions to the transit facilities located at 6812 Jenny Lind Road Project No. 10-02 ($37,182.66 / Transit Department / Budgeted – Encumbered from 2010 Budget - 100% funded by the American Recovery Reinvestment Act of 2009)

I. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 ($821,432.17 / Utility Department / Budgeted - 2008 Revenue Bonds)

J. Resolution authorizing the City Administrator to accept offer made by property owner for the acquisition of real property interests for the Lake Fort Smith Water Supply Project ($126,000.00 / Utility Department / Budgeted - Capital Improvement Program Fund)

K. Resolution accepting the project as complete and authorizing final payment to Silco Construction, Inc. for construction of the site restoration for the Sunnymede Wet Weather and Walking Trail Improvements ($51,030.38 / Utility Department / Budgeted - 2009 Sales Tax Bonds)

L. Resolution accepting the project as complete and authorizing final payment to M. Phillips Construction, Inc. for the 27-Inch Transmission Line Replacement – Lancaster Place ($169,572.86 / Utility Department / Budgeted – 2008 Revenue Bonds)

OFFICIALS FORUM ~ presentation of information requiring no official action
(Section 2-36 of Ordinance No. 24-10)

A. Mayor

B. Directors

C. City Administrator

EXECUTIVE SESSION

- Performance Evaluation – City Administrator
- Appointment: Airport Commission (1), Building Board of Adjustments and Appeals (1) and Oak Cemetery Commission (1)

CITIZENS FORUM ~ presentation of information by citizens ~ an opportunity for citizens to present matters to the Mayor and Board of Directors which involve the city government and are not directly related to items considered on the agenda for this meeting. Presentations are limited to 2 minutes for each citizen
(Section 2-44(b) of Ordinance No. 24-10)

ADJOURN

ORDINANCE NO. _____

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

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

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

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
616 North 19th LLC	616 North 19	$275.82	$328.58
616 North 19th LLC	616 North 19	$240.82	$264.90
616 North 19th LLC	616 North 19	$314.82	$346.30
616 North 19th LLC	616 North 19	$227.32	$250.05
Al Hakeem, Abdullah	2144 North 13	$244.82	$269.30
Al Hakeem, Abdullah	2144 North 13	$232.82	$256.10
Al Hakeem, Abdullah	2144 North 13	$236.82	$260.50
Al Hakeem, Abdullah	2144 North 13	$237.57	$261.33
Ameriquest Mortage Co.	604 North 18	$264.56	$291.02
Ameriquest Mortage Co.	604 North 18	$256.56	$282.22
Ames, Thomas Dewayne	3400 Johnson	$269.82	$296.80
Ames, Thomas Dewayne	3400 Johnson	$226.82	$249.50
Ames, Thomas Dewayne	3400 Johnson	$226.82	$249.50
Ames, Thomas Dewayne	3400 Johnson	$230.82	$253.90
Argomaniz, Pedro R. & Juana	4520 Spradling Avenue	$46.10	$50.71
Arkansas Valley Habitat For Humanity	3001 Russell	$177.72	$195.49
Austin, Mike	706 South 22	$386.35	$424.99
Austin, Mike	706 South 22	$251.02	$276.12
Austin, Mike	706 South 22	$243.02	$267.32
Avanya, Eric	1604 South "W"	$285.16	$313.68
Avanya, Eric	1604 South "W"	$242.16	$266.38
Avanya, Eric	1604 South "W"	$273.16	$300.48
AVS Properties	1417 Lyman Street	$268.02	$294.82
AVS Properties	1418 South 12	$295.02	$324.52
AVS Properties	2023 North 12	$304.82	$335.30
AVS Properties	2023 North 12	$230.82	$253.90

Approved as to form
JPC
Publish 1 time

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
AVS Properties	2109 Wirsing Avenue	$309.02	$339.92
AVS Properties	2109 Wirsing Avenue	$225.52	$248.07
AVS Properties	2109 Wirsing Avenue	$221.52	$243.67
AVS Properties	2201 North 28	$271.82	$299.00
AVS Properties	2201 North 28	$384.82	$423.30
AVS Properties	2201 North 28	$314.82	$346.30
AVS Properties	2201 North 28	$271.82	$299.00
AVS Properties	3101 Russell	$325.08	$357.59
AVS Properties	3101 Russell	$247.02	$271.72
AVS Properties	3101 Russell	$247.02	$271.72
AVS Properties	Lot North of 3401 Eller	$266.02	$292.62
AVS Properties	Lot North of 3401 Eller	$235.02	$258.52
Bailey, Clifford & Alice	608 North 4	$258.75	$284.63
Bailey, Clifford & Alice	608 North 4	$250.82	$275.90
Bailey, Clifford & Alice	608 North 4	$254.82	$280.30
Bailey, Clifford & Alice	Lot North of 608 North 4	$283.82	$312.20
Bailey, Clifford & Alice	Lot North of 608 North 4	$244.82	$269.30
Bailey, Clifford & Alice	Lot North of 608 North 4	$252.82	$278.10
Bandy, Hilde	922 North 6	$226.82	$249.50
Bandy, Hilde	922 North 6	$230.82	$253.90
Bandy, Hilde	922 North 6	$230.82	$253.90
Bandy, Hilde	922 North 6	$234.82	$258.30
Bandy, Hilde	922 North 6	$226.82	$249.50
Barker, Oliver & Alma	1921 North 8	$254.82	$280.30
Barker, Oliver & Alma	1921 North 8	$277.82	$305.60
Barker, Oliver & Alma	1921 North 8	$242.82	$267.10
Beckwith, Richard	1121 North 9	$238.82	$262.70
Beckwith, Richard	1121 North 9	$230.82	$253.90
Beckwith, Richard	1121 North 9	$230.82	$253.90
Beckwith, Richard	1800 North "M"	$236.82	$260.50
Beckwith, Richard	1800 North "M"	$271.82	$299.00
Beckwith, Richard	1800 North "M"	$236.82	$260.50
Beckwith, Richard	1800 North "M"	$232.82	$256.10
Beckwith, Richard	1800 North "M"	$215.32	$236.85
Beckwith, Richard	1121 North 9	$230.82	$253.90
Berry, James	3709 Reed Lane	$593.51	$652.86
Berry, James	3709 Reed Lane	$370.52	$407.57
Blazier, Ray & Nenita	3720 Victory Circle	$244.82	$269.30
Bonilla, Dilbert & Maria	2223 Wirsing	$329.24	$362.16
Botello, Erika	1121 - 1123 North 11	$219.93	$241.92
Bozeman, Josie	1215 North 7	$260.82	$286.90
Bozeman, Josie	1215 North 7	$273.82	$301.20
Bozeman, Josie	1215 North 7	$281.82	$310.00
Bozeman, Josie	1215 North 7	$224.57	$247.03
Brannon, Floyd K. & Mildred L.	1410 North 5	$352.13	$387.34
Brannon, Floyd K. & Mildred L.	1410 North 5	$277.16	$304.88
Brannon, Floyd K. & Mildred L.	1410 North 5	$277.16	$304.88
Brannon, Floyd K. & Mildred L.	1410 North 5	$255.66	$281.23
Bridges, Richard C.	600 North 13	$255.02	$280.52
Burdett, Robert & Laurie	918 South 20	$411.37	$452.81

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
Burdett, Robert & Laurie	918 South 20	$293.54	$322.89
Buxton, Nathan & Barbara Ann	1001 Harvard Avenue	$317.02	$348.72
Buxton, Nathan & Barbara Ann	1001 Harvard Avenue	$317.02	$348.72
Cardin, Myria Jane	1306 Lexington Avenue	$235.00	$258.50
Cardin, Myria Jane	1306 Lexington Avenue	$278.00	$305.80
Carney, Cecil	3212 Emrich	$465.00	$511.50
Carney, Cecil	3212 Emrich	$286.00	$314.60
Carney, Cecil	3212 Emrich	$286.00	$314.60
Carter, Oleta	2405 North 30	$243.02	$267.32
Casrreal, Isabel	3209 Birnie Avenue	$218.56	$240.42
Castaneda, Marc A. & Jennifer A.	3621 Coventry Lane	$299.16	$296.08
Castaneda, Marc A. & Jennifer A.	3621 Coventry Lane	$291.16	$320.27
Christiana Bank & Trust TTE	2116 North 30	$281.82	$310.00
Christiana Bank & Trust TTE	2116 North 30	$277.82	$305.60
Christiana Bank & Trust TTE	2116 North 30	$277.82	$305.60
Christiana Bank & Trust TTE	2116 North 30	$277.82	$305.60
Christiana Bank & Trust TTE	2116 North 30	$238.82	$262.70
Citifinancial Mortage Co.	8312 Colony Lane	$284.79	$313.27
Cluck, Allen # 104484	1719 North "I"	$350.27	$385.30
Cluck, Coy & Sandra	2100 North "L"	$266.10	$292.71
Cole, Michael Lee	5024 South 29	$275.82	$303.40
Cole, Michael Lee	5024 South 29	$276.79	$304.47
Cole, Michael Lee	5024 South 29	$283.82	$312.20
Cole, Michael Lee	2nd lot north of 5100 South 29	$234.82	$258.30
Cole, Michael Lee	2nd lot south of 5100 South 29,	$238.82	$262.70
Coleman, Denise	1217 North 9	$340.56	$374.62
Coleman, Denise	1217 North 9	$254.56	$280.02
Connor, Carolyn	1735 North 13	$239.75	$263.71
Connor, Carolyn	1735 North 13	$187.78	$206.56
Connor, Carolyn	1735 North 13	$226.78	$249.46
Connor, Carolyn	1735 North 13	$222.78	$245.06
Connor, Carolyn	1735 North 13	$244.82	$269.30
Connor, Carolyn	1735 North 13	$232.82	$256.10
Coons , Richard K.	Lot behind 2125 North 29	$245.33	$269.86
Cozart, Don B. & Mila Riggio	1500 Phoenix	$382.56	$420.82
Cozart, Don B. & Mila Riggio	1500 Phoenix	$256.06	$281.67
Davidsson, Shon	1st lot east of North Short "Q" & North 6	$228.82	$251.70
Davidsson, Shon	1st lot east of North Short "Q" & North 6	$228.82	$251.70
Davidsson, Shon	1st lot east of North Short "Q" & North 6	$217.32	$239.05
Davidsson, Shon	1st lot east of North Short "Q" & North 6	$213.32	$234.65
Davidsson, Shon	2nd lot east of North Short "Q" & North 6	$228.82	$251.70
Davidsson, Shon	2nd lot east of North Short "Q" & North 6	$228.82	$251.70
Davidsson, Shon	2nd lot east of North Short "Q" & North 6	$215.32	$236.85
Davidsson, Shon	2nd lot east of North Short "Q" & North 6	$228.82	$251.70
Davis, Kristy	10 Old Greenwood Lane	$545.74	$600.31
Doan, Bao	1822 South 12	$265.82	$292.40
Doan, Bao	1822 South 12	$230.82	$253.90
Doan, Bao	1822 South 12	$195.82	$214.40
Elliot, Darrell & Marcie	619 North 35	$222.49	$244.74
Emercor Inv. Group LLC	303 North 43	$283.44	$311.78

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
Evans Revocable Trust, Diane	4334 Grand Avenue	$264.02	$290.42
Evans, Elmo M. & Diane B.	4322 - 4328 Grand Avenue	$272.02	$299.22
Farrow, Thomas M. & Romona	2205 Wirsing Avenue	$245.02	$269.52
Fatemal Order of Eagles #4416	1416 North 5	$270.02	$297.02
Fatemal Order of Eagles #4416	1416 North 5	$243.02	$267.32
Ferguson, Christopher	1001 South 19	$274.53	$301.98
Ferguson, Christopher	1001 South 19	$309.08	$399.99
Fernandez, Gabriel	2315 North 33	$232.95	$256.25
Fernandez, Gabriel	523 North 12	$254.32	$279.75
Fernandez, Gabriel	523 North 12	$275.82	$303.40
Fernandez, Gabriel	523 North 12	$217.57	$239.33
Fraley, Fredrick W. et al	3434 Wilma Avenue	$252.56	$277.82
Fry, Michael O.	101 Fordham Circle	$238.10	$261.91
Gafeney, John A.	1735 North 13	$231.02	$254.12
Gallagher, Charles & Nancy	2405 North 31	$823.01	$905.31
Gary, Brian K.	720 North 36	$237.54	$261.29
Glosenger, Mark	800 Belle Avenue	$227.52	$250.27
Glover, H. J.	Lot behind 2110 North 14	$344.00	$378.40
Glover, H. J.	Lot behind 2110 North 14	$274.22	$301.64
Glover, H. J.	Lot behind 2110 North 14	$235.00	$258.50
Golsenger, Mark	800 Belle Avenue	$249.02	$273.92
Gourley, Arlen B. & Erin	1423 South 17	$337.18	$370.90
Griffin, Francis	2901 South 12	$230.82	$253.90
Griffin, Francis	2901 South 12	$265.82	$292.40
Griffin, Francis	2901 South 12	$230.82	$253.90
Griffin, Francis	2901 South 12	$213.32	$234.65
Guzman, Juana	1916 South "O"	$330.35	$363.39
Guzman, Juana	1916 South "O"	$268.00	$294.80
Guzman, Juana	1916 South "O"	$262.50	$288.75
Hamel, Timothy	1820 South 12	$646.15	$710.77
Hamilton, Terry	604 North 39	$289.32	$318.25
Hamilton, Terry	604 North 39	$232.82	$256.10
Hands of Love Inc.	5128 Henderson	$289.16	$318.08
Harwood, Ashley James	1906 North 6	$228.56	$251.42
Harwood, Ashley James	1906 North 6	$272.02	$299.22
Harwood, Ashley James	1906 North 6	$219.52	$241.47
Hasco Dev. Co.	2212 North 31	$238.82	$262.70
Hasco Dev. Co.	2212 North 31	$230.82	$253.90
Hasco Dev. Co.	2212 North 31	$230.82	$253.90
Hasco Dev. Co.	2212 North 31	$213.32	$234.65
Hasco Dev. Co.	Lot north of 2212 North 31	$238.82	$262.70
Hasco Dev. Co.	Lot north of 2212 North 31	$230.82	$253.90
Hasco Dev. Co.	Lot north of 2212 North 31	$234.82	$258.30
Hasco Dev. Co.	Lot north of 2212 North 31	$213.32	$234.65
Hawkins, Rosa Etta	1316 North 8	$349.16	$384.07
Heffner, Billy & Rebecca	3606 Roosevelt Road	$306.67	$337.34
Herring, Alan	1437 North 36	$287.16	$315.88
Herring, Alan	1437 North 36	$236.05	$259.66
Hickey, Dorothy	3228 Neis	$354.16	$389.58
Hickey, Dorothy	3228 Neis	$233.00	$256.30

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
Hickey, Dorothy	3228 Neis	$229.00	$251.90
Hodgens , Janet L. & Kellie R.	1615 South "U"	$826.68	$909.35
Hodgens , Janet L. & Kellie R.	1615 South "U"	$322.16	$354.38
Hodgens , Janet L. & Kellie R.	1615 South "U"	$265.66	$292.23
Hollingsworth, John E & Ann	6408 South Atlanta	$3,900.00	$4,290.00
Hopkins II, Doyle A.	2908 North "L"	$379.92	$417.91
Hopkins II, Doyle A.	2908 North "L"	$242.74	$267.01
Hudson, Barney	717 North 34	$6,663.70	$7,330.07
Huydo, Van	4721 Berkley	$333.95	$367.35
Huyen, July Bui & Tran Thi	1923 South "T"	$284.02	$312.42
James, Karen	2002 North 14	$230.82	$253.90
James, Karen	2002 North 14	$238.82	$262.70
James, Karen	2002 North 14	$234.82	$258.30
Jones, Harry & Annie Mae	5020 Wirsing Avenue	$200.00	$220.00
Jones, Jess K. & Kimberly Ann	1304 South Zero	$510.56	$561.62
Jones, William	705 North 35	$275.22	$302.74
Kamal-U Properties	1311 North 14	$271.82	$299.00
Kamal-U Properties	1311 North 14	$236.82	$260.50
Kamal-U Properties	1311 North 14	$236.82	$260.50
Kamal-U Properties	1809 North 14	$329.65	$362.62
Kamal-U Properties	1935 North 12	$232.82	$256.10
Kamal-U Properties	2213 North "R"	$268.02	$294.82
Kamal-U Properties	2321 North 29	$277.82	$305.60
Kamal-U Properties	2321 North 29	$238.82	$262.70
Kamal-U Properties	2321 North 29	$242.82	$267.10
Kamal-U Properties	2321 North 29	$207.82	$228.60
Kay, Stephan	2815 North "J"	$228.82	$251.70
Kay, Stephan	2815 North "J"	$224.82	$247.30
Kay, Stephan	2815 North "J"	$284.67	$313.14
Kay, Stephan	2815 North "J"	$189.82	$208.80
Kaykhossrokiani, Afshean	2016 South "P"	$272.06	$299.27
Keeling, Amy	2101 - 2103 South "M"	$283.82	$312.20
Keeling, Amy	2101 - 2103 South "M"	$279.82	$307.80
Keeling, Amy	2101 - 2103 South "M"	$279.82	$307.80
Keeling, Amy	2101 - 2103 South "M"	$249.57	$274.53
Kelley, Steven M.	523 North 18	$251.02	$276.12
Keomany, Philaphone	3609 North 48	$317.17	$348.89
Keomany, Roung	1722 North 8	$309.00	$339.90
Keomany, Roung	1722 North 8	$235.00	$258.50
Keomany, Roung	1722 North 8	$235.00	$258.50
Kinnard, Mark D.	1019 North 7	$235.99	$259.59
Kirkham, Rose	3308 Irving	$369.52	$406.47
Kleinschmidt, Jimmy	512 Belle Avenue	$257.02	$282.72
Kolb, Guy E.	2101 North 52	$365.44	$401.98
Lam Family Trust,	703 South 19	$285.16	$313.68
Laudan, Peter & Carissa	4304 Spradling Avenue	$497.72	$547.49
Laudan, Peter & Carissa	4304 Spradling Avenue	$230.16	$253.18
Lauderdale, Alice M.	1013 North 6	$273.82	$301.20
Lauderdale, Alice M.	1013 North 6	$238.82	$262.70
Lauderdale, Alice M.	1013 North 6	$246.82	$271.56

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
Lauderdale, Alice M.	1013 North 6	$242.82	$267.10
Lee, Joyce	2126 North 13	$248.82	$273.70
Lonsway & Alicia Ann Freeman, Cindy	1101 North 15	$7,696.94	$8,466.63
Lowrey, Claudye	3008 Russell	$289.50	$318.45
Lowrey, Claudye	3008 Russell	$241.00	$265.10
Lowrey, Claudye	3008 Russell	$228.25	$251.08
Lowrey, Jimmie N.	1023 South 22	$283.32	$311.65
Lowrey, Jimmie N.	1023 South 22	$226.82	$249.50
Lowrey, Jimmie N.	1023 South 22	$265.82	$292.40
Lowrey, Jimmie N.	1023 South 22	$230.82	$253.90
Lowrey, Jimmie N.	1023 South 22	$262.46	$288.71
Lowrey, Jimmie N.	11 Northwood Drive	$271.82	$299.00
Lowrey, Jimmie N.	11 Northwood Drive	$271.82	$299.00
Lowrey, Jimmie N.	11 Northwood Drive	$236.82	$260.50
Lowrey, Jimmie N.	11 Northwood Drive	$236.82	$260.50
Lowrey, Jimmie N.	1215 North 47	$259.82	$285.80
Lowrey, Jimmie N.	1215 North 47	$259.82	$285.80
Lowrey, Jimmie N.	1215 North 47	$220.82	$242.90
Lowrey, Jimmie N.	1215 North 47	$224.82	$247.30
Lowrey, Jimmie N.	2204 Dodson Avenue	$285.82	$314.40
Lowrey, Jimmie N.	2204 Dodson Avenue	$230.82	$253.90
Lowrey, Jimmie N.	3226 Neis	$344.00	$378.40
Lowrey, Jimmie N.	3226 Neis	$235.00	$258.50
Lowrey, Jimmie N.	3226 Neis	$231.00	$254.10
Lowrey, Jimmie N.	3811 Morris Drive	$293.70	$323.07
Lowrey, Jimmie N.	3811 Morris Drive	$240.82	$264.90
Lowrey, Jimmie N.	3811 Morris Drive	$232.82	$256.10
Lowrey, Jimmie N.	3811 Morris Drive	$240.82	$264.90
Lowrey, Jimmie N.	3811 Morris Drive	$249.57	$274.53
Lowrey, Jimmie N.	4001 Wirsing	$320.82	$352.90
Lowrey, Jimmie N.	4001 Wirsing	$320.82	$352.90
Lowrey, Jimmie N.	Rear Building at 619 North 36	$2,944.78	$3,239.26
Lowrey, Jimmie N.	2204 Dodson Avenue	$238.82	$262.70
Lowrey, Jimmie N.	619 North 36	$246.50	$271.15
Lowrey, Jimmie N.	619 North 36	$233.00	$256.30
Lowrey, Jimmie N.	619 North 36	$229.00	$251.90
Mallon, Richard W.	711 South 20	$252.99	$278.29
Mallon, Richard W.	711 South 20	$218.56	$240.42
Marsalis, Frances A.	615 North 18	$274.00	$301.40
Martin, Wesley Jr. or Nikki	1918 South "P"	$245.02	$269.52
Martland, Marjorie	1923 North "J"	$451.04	$496.10
Mcbride, Armond & Tressa	516 Lecta	$248.74	$273.61
McLuckie, Donald A.	508 - 512 North 5	$235.72	$259.29
McLuckie, Donald A.	508 - 512 North 5	$269.82	$296.80
McLuckie, Donald A.	508 - 512 North 5	$269.75	$296.73
McLuckie, Donald A.	508 - 512 North 5	$234.82	$258.30
Mechling, Laura K.	1100 South 19	$291.87	$321.06
Mechling, Laura K.	1100 South 19	$283.82	$312.20
Mechling, Laura K.	1100 South 19	$240.07	$264.07
Mendenhall, Cearl L. & wife	1809 Osage	$335.65	$369.22

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
Mikus, Marylee H.	3021 North Albert Pike	$232.82	$256.10
Mikus, Marylee H.	3021 North Albert Pike	$240.82	$264.90
Mikus, Marylee H.	3021 North Albert Pike	$228.07	$250.88
Mikus, Marylee H.	Lot west of 3021 North Albert Pike	$230.82	$253.90
Mikus, Marylee H.	Lot west of 3021 North Albert Pike	$238.82	$262.70
Mikus, Marylee H.	Lot west of 3021 North Albert Pike	$226.07	$248.68
Millers Creek Inc.	Lot west of 3916 Brockman Avenue	$353.16	$388.48
Millers Creek Inc.	Lot west of 3916 Brockman Avenue	$318.16	$349.98
Millers Creek Inc.	Lot west of 3916 Brockman Avenue	$318.16	$349.98
Millers Creek Inc.	Lot west of 3916 Brockman Avenue	$261.66	$287.83
Millers Creek Inc.	5420 Plum	$411.82	$453.00
Millers Creek Inc.	5420 Plum	$411.82	$453.00
Millers Creek Inc.	5420 Plum	$411.82	$453.00
Millers Creek Inc.	5420 Plum	$403.82	$444.20
Moore, Cynthia	2921 North Albert Pike	$378.15	$415.97
Moore, Jim & Delores Ann	2601 Waco	$221.41	$243.55
Moore, Jim & Delores Ann	2601 Waco	$196.52	$216.17
Moore, John A.	4820 South 32	$277.82	$305.60
MRW Inc.	Lot south of 1422 North 12	$240.16	$264.18
MRW Inc.	Lot south of 1422 North 12	$240.16	$264.18
MRW Inc.	Lot south of 1422 North 12	$236.54	$260.19
MRW Inc.	Lot south of 1422 North 12	$240.54	$264.59
MRW Inc.	Lot south of 1422 North 12	$236.54	$260.19
Muldrow, Lelia G.	701 North "N"	$246.82	$271.50
Muldrow, Lelia G.	701 North "N"	$238.82	$262.70
Muldrow, Lelia G.	701 North "N"	$199.82	$219.80
Muldrow, Lelia G.	701 North "N"	$199.82	$219.80
Muldrow, Lelia G.	701 North "N"	$242.82	$267.10
Mumey, John Frasier	405 - 407 South 14	$282.32	$310.55
Mumey, John Frasier	405 South 14	$252.82	$278.10
Mumey, John Frasier	405 South 14	$204.01	$224.41
Nelson, Dara	1023 North 15	$212.32	$233.55
Nelson, Robert D.	Lot east of 2205 North "Q"	$224.82	$247.30
Nelson, Robert D.	Lot east of 2205 North "Q"	$228.82	$251.70
Nelson, Robert D.	Lot east of 2205 North "Q"	$228.82	$251.70
Nelson, Robert D.	Lot east of 2205 North "Q"	$224.82	$247.30
Newman, Donnie & Deberia	1425 Greenwood Avenue	$48.22	$53.04
Newman, Donnie & Deberia	6820 Texas Road	$282.02	$310.22
Newman, Donnie & Deberia	6820 Texas Road	$277.91	$305.70
Nolan, Dennis & Kimberly	3019 Russell	$858.56	$944.42
Nunn, Charles	1005 North 6	$800.50	$880.55
ODOG-WU Ozara Inv.	Lot south of 2015 North Short 15	$265.82	$292.40
ODOG-WU Ozara Inv.	Lot south of 2015 North Short 15	$230.82	$253.90
ODOG-WU Ozara Inv.	Lot south of 2015 North Short 15	$230.82	$253.90
ODOG-WU Ozara Inv.	Lot south of 2015 North Short 15	$213.32	$234.65
ODOG-WU Ozara Inv.	2909 North "I"	$473.61	$520.97
ODOG-WU Ozara Inv.	4710 Mussett Road	$268.02	$294.82
ODOG-WU Ozara Inv.	4710 Mussett Road	$249.02	$273.92
ODOG-WU Ozara Inv.	920 North 5	$308.82	$339.70
ODOG-WU Ozara Inv.	920 North 5	$308.82	$339.70

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
ODOG-WU Ozara Inv.	920 North 5	$281.82	$310.00
ODOG-WU Ozara Inv.	920 North 5	$277.82	$305.60
Ozark Funding Group LLC	3708 Morris Drive	$282.00	$310.20
Pamco Enterprizes	916 North 11	$225.00	$247.50
Patterson, Nedra L.	1810 South "T"	$348.70	$383.57
Patterson, Nedra L.	1810 South "T"	$244.82	$269.30
Patterson, Nedra L.	1810 South "T"	$275.82	$303.40
Patterson, Nedra L.	1810 South "T"	$240.82	$264.90
Payton, Cecil R.	Lot west of 1924 Birnie	$282.02	$310.22
Pedersen, Christian	1236 South 12	$1,580.08	$1,738.08
Phillips, Joyce C.	3722 Noth 57	$326.10	$358.71
Prescott, James C.	405 May Avenue	$273.16	$300.48
Prescott, James C.	405 May Avenue	$242.16	$266.38
Price, Larry	3600 Willow	$365.47	$402.02
Price, Larry	3600 Willow	$266.04	$292.64
Quach, Thai	1507 North 12	$230.82	$253.90
Quach, Thai	1507 North 12	$230.82	$253.90
Quach, Thai	1507 North 12	$230.82	$253.90
Quach, Thai	1507 North 12	$234.82	$258.30
Quach, Thai	913 North 7	$277.31	$305.04
Ramerez, Rene H.	1310 North 46	$312.56	$343.82
Ramerez, Rene H.	1310 North 46	$285.56	$314.12
Rankin, Bill	1616 South 11	$80.92	$89.01
Rankin, Bill	1616 South 11	$241.82	$266.00
Rankin, C. David, Mark & Cantrell	4209 North "N"	$584.56	$643.02
Rankin, C. David, Mark & Cantrell	4209 North "N"	$273.16	$300.48
Rankin, C. David, Mark & Cantrell	4209 North "N"	$390.47	$429.52
Rankin, Justin & Allexcia	2132 North 30	$291.84	$321.02
Reese, Darrell L. & Yvonne K.	Lot behind 400 North "M"	$271.82	$299.00
Reese, Darrell L. & Yvonne K.	Lot behind 400 North "M"	$232.82	$256.10
Reese, Darrell L. & Yvonne K.	Lot behind 400 North "M"	$236.82	$260.50
Reeves, Lanita R	1805 North 14	$46.00	$50.60
Reinschmiedt, Phillip	1020 North 46	$224.82	$247.30
Reinschmiedt, Phillip	1020 North 46	$224.82	$247.30
Reinschmiedt, Phillip	1020 North 46	$232.82	$256.10
Reinschmiedt, Phillip	1020 North 46	$207.32	$228.05
River Valley Properties LLC	4222 North	$254.52	$279.97
Roberts, J. A. Barsh & Mike	Lot south of 918 North 8	$231.02	$254.12
Roberts, Roy C. & Altha L.	1401 North 11	$211.26	$232.39
Roberts, Roy C. & Altha L.	North east corner of North "G" & North 9	$232.82	$256.10
Roberts, Roy C. & Altha L.	North east corner of North "G" & North 9	$275.82	$303.40
Roberts, Roy C. & Altha L.	North east corner of North "G" & North 9	$259.71	$285.68
Rodriquez, Lucy	2917 North "L"	$264.02	$290.42
Rodriquez, Lucy	2917 North "L"	$229.02	$251.92
Rowe, Jonathan S.	812 North 21	$198.02	$217.82
Rowe, Jonathan S.	812 North 21	$1,250.56	$1,375.62
Ruualcaba, Maria	723 North 13	$228.82	$251.70
Ruualcaba, Maria	723 North 13	$305.41	$335.95
Ruualcaba, Maria	723 North 13	$288.02	$316.82
Sanders, Darlene	1901 North 7	$336.40	$370.04

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
Sanders, Darlene	1901 North 7	$71.32	$78.45
Schuman-R. Kay Co., F.	Lot south of 2030 North 14	$200.00	$220.00
Secretary of Housing & Urban Dev.	709 Chateau Drive	$284.02	$312.42
Secretary of Housing & Urban Dev.	809 Belle Avenue	$243.02	$267.32
Sirotka, Linda S.	2016 North 12	$246.54	$271.19
Skulman, Robert & Shirley Wade	920 North 6	$226.82	$249.50
Skulman, Robert & Shirley Wade	920 North 6	$230.82	$253.90
Skulman, Shirley Wade	1301 North 5	$241.06	$265.17
Smith, Joel M. & Thesis I.	7424 Martin Drive	$249.02	$273.92
Smith, Steve	3112 North 27	$268.02	$294.82
Southivongnorath, Bounyong & Khamph	3317 Wirsing Avenue	$299.46	$329.41
Starks, R. D. & Gloria D.	3711 MacArthur Drive	$248.56	$273.42
Starling, Geneva M.	Lot north of 3020 Blair Avenue	$416.25	$457.88
Starling, Geneva M.	Lot north of 3020 Blair Avenue	$289.82	$318.80
Starling, Geneva M.	Lot north of 3020 Blair Avenue	$234.82	$258.30
Steward , Patsy, & Rose Mary Clark	1204 North 7	$248.82	$273.70
Stewart, Phillip A. & Janice	3222 Blair Avenue	$311.38	$342.52
Stewart, Phillip A. & Janice	3222 Blair Avenue	$279.82	$307.80
Stewart, Phillip A. & Janice	3222 Blair Avenue	$236.82	$260.50
Stewart, Phillip A. & Janice	3222 Blair Avenue	$240.82	$264.90
Stewart, Phillip A. & Janice	3222 Blair Avenue	$223.32	$245.65
Stiles, Gordon & Opal	1601 South Dallas	$282.02	$310.22
Stiles, Gordon & Opal	1601 South Dallas	$278.02	$305.82
Stites, Shane	501 North 10	$233.52	$256.87
Stites, Shane Patton	503 North 10	$241.02	$265.12
Straughter, William E.	3316 Irving	$227.02	$249.72
Sturgeon, Stephanie	1451 North 40	$268.02	$294.82
Suttles, Dustin	1305 North 46	$241.83	$266.01
Swearingen, Patricia	600 North 17	$280.02	$308.02
SYB Inc.	2622 Jenny Lind	$277.41	$305.15
Tanner, Minnie	2145 North 30	$244.82	$269.30
Tanner, Minnie	2145 North 30	$240.82	$264.90
Tanner, Minnie	2145 North 30	$236.82	$260.50
Tanner, Minnie	2145 North 30	$223.32	$245.65
Taylor, Robert	2310 North 31	$313.99	$345.39
Taylor, Robert	2310 North 31	$278.99	$306.89
The Bank of New York Mellon Trust	4700 Oak Hollow	$434.52	$477.97
Thompson, David & Rebecca	2311 North 9	$309.06	$339.97
Tobin, Frances Denise	1701 South Jackson	$402.84	$443.12
Trent, Tamara G.	709 North 35	$275.82	$303.40
Trent, Tamara G.	709 North 35	$349.82	$384.80
Trent, Tamara G.	709 North 35	$354.79	$390.27
Trent, Tamara G.	711 North 35	$267.82	$294.60
Trent, Tamara G.	711 North 35	$271.82	$299.00
Trent, Tamara G.	711 North 35	$267.82	$294.60
Turner, Adolphus	Lot south of 1911 North 14	$238.82	$262.70
Turner, Adolphus	Lot south of 1911 North 14	$234.82	$258.30
Turner, Adolphus	Lot south of 1911 North 14	$230.82	$253.90
Turner, Adolphus	Lot south of 1911 North 14	$234.82	$258.30
Ulrich, Robert - Trustee	800 North 13	$223.02	$245.32

NAME	ADDRESS OF PROPERTY CLEANED	AMOUNT OF LIEN	LIEN + 10% PENALTY
Underwood, Robert M. & Debra S.	3018 Independence	$677.60	$745.36
Underwood, Robert M. & Debra S.	3018 Independence	$288.50	$317.35
Villalba, Rene & Elizabeth	4115 Bradley Drive	$286.18	$314.80
Wallace , Thomas S. & Doris L.	431 May Avenue	$334.44	$367.88
Weindel, John L. (deceased)	423 North 7	$77.25	$84.98
Weindel, John L. (deceased)	423 North 7	$229.11	$252.02
Weindel, John L. (deceased)	423 North 7	$84.00	$92.40
Weindel, John L. (deceased)	423 North 7	$64.50	$70.95
Wells Fargo Bank	1604 South "S"	$248.32	$273.15
Wells, Gilroy Sr. & Loretta R.	2101 North "L"	$525.00	$577.50
Wells, Gilroy Sr. & Loretta R.	2101 North "L"	$225.32	$247.85
West, Linda J.	3925 High	$985.55	$1,084.11
West, Linda J.	3925 High	$257.02	$282.72
West, Linda J.	3925 High	$329.02	$361.92
Wieser, Melva I.	1610 Lexington	$275.82	$303.40
Wieser, Melva I.	1610 Lexington	$271.82	$299.00
Wieser, Melva I.	1610 Lexington	$275.82	$303.40
Williamsburg Holding Corp.	3400 Kinkead	$329.66	$362.63
Williamsburg Holding Corp.	3400 Kinkead	$285.56	$314.12
Williamsburg Holding Corp.	3400 Kinkead	$282.53	$310.78
Wood, Felton & Carolyn	4401 Virginia Avenue	$294.53	$323.98
Woodruff, Sarah	8625 Southridge Drive	$356.22	$391.84
Woodruff, Sarah	8625 Southridge Drive	$291.56	$320.72
		$145,180.38	$159,749.58

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

PASSED AND APPROVED this 15th day of November, 2011.

APPROVED:

_____

MAYOR

ATTEST:

_____

CITY CLERK

MEMORANDUM

November 11, 2011

TO: Ray Gosack, City Administrator

FROM: Sherri Gard, City Clerk

RE: Certification of Delinquent Property Cleanup Liens

The attached ordinance certifies to the Sebastian County tax collector a total of $159,749.58 in delinquent property cleanup liens associated with those properties abated or structures demolished by the City of Fort Smith. Each lien includes a 10% penalty. There are 449 delinquent liens included within the ordinance involving 215 property owners and 252 properties. There were 389 delinquent liens certified to the county in 2010 totaling $166,743.07.

PROPERTY OWNERS APPEAL BOARD HEARINGS

Hearings before the appeal board were held on September 26th and 28th in the Bartlett Community Room at the Fort Smith Police Department. Notification of the hearings was by certified mail and publication in the Times Record. Eight (8) property owners attended the hearings and the minutes are attached.

NOVEMBER 15th BOARD OF DIRECTORS MEETING

As required by law, notice of the meeting was provided to the property owners by certified mail and publication in the Times Record four (4) consecutive weeks prior to the meeting. As of this date, two (2) property owners have indicated they will attend the meeting. Neighborhood Services staff and several members of the Property Owners Appeal Board will also be present to answer any questions.

Upon approval of the ordinance, a copy will be forwarded to the tax collector, and the liens will be placed on the tax records for the year 2011 (for collection in 2012).

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

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

MINUTES OF PROPERTY OWNERS APPEAL BOARD HEARINGS

SEPTEMBER 26, 2011 AND SEPTEMBER 28, 2011 ~ 6:00 P.M.

FORT SMITH POLICE DEPARTMENT ~ BARTLETT COMMUNITY ROOM

The hearings were held to allow delinquent property owners an opportunity to be heard regarding charges by the City for abatement costs and who feel they have been wrongly charged. Notice of the hearings was published in the Times Record on Friday, August 26, 2011, and an addendum containing seven (7) additional properties was also published on September 9, 2011. Certified letters dated August 15, 2011 were also mailed to each property owner.

MONDAY ~ SEPTEMBER 26, 2011

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

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

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

- **Donna Davidson**
  1810 Bluff Avenue, Fort Smith

  Property: 1805 South "Q" Street
  Owner: Michael Ray & Donna Davidson and Jerry England

Cleaned: **June 16, 2010 ~ $291.82**
July 25, 2010 ~ $287.82
September 29, 2010 ~ $283.82

Inspector Dean Polk reviewed the property file and provided pictures of each cleaning. (Due to technical difficulty, video of the cleanings were not available.) At the time of each inspection, the property was vacant and maintained no water service. County records identified all the above noted owners and a title search determined the property was being purchased by Mr. Jerry England from the Davidson's via contract of sale. Notice was posted on the property and a certified letter mailed to Mr. Jerry England, whereby such was returned unclaimed.

Ms. Davidson advised the property was sold to Mr. England in 1995; however, it was recently brought to her attention that Mr. England never filed the final documentation to formally transfer sole ownership of the property. Ms. Davidson investigated the matter and learned that Mr. England moved to Oklahoma and is now deceased. She contacted the heirs of Mr. England, who have advised they are not interested in obtaining ownership of the property. Since the property remains in her name, she conceded that by law, she is the legal owner and responsible for the maintenance of the property. Ms. Davidson has properly maintained the property since revelation of the ownership issue.

Appeal Board Action ~ 1805 South "Q" Street

The Appeal Board expressed appreciation to Ms. Davidson for her efforts to now maintain the property; however, such does not negate the fact that the City cleaned the property on multiple occasions.

Chitwood, seconded by Raynor, moved that the three (3) liens remain in full (totaling $863.46) and same be forwarded to the Sebastian County tax collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

Ms. Davidson requested she be allowed to make payments on the total amount due; therefore, Chairperson Lewis confirmed that such may be accomplished by executing a payment contract with the City Clerk.

City Clerk Sherri Gard advised a payment contract will be prepared and forwarded to Ms. Davidson at the mailing address provided on the sign-in sheet. She advised the importance of executing and

returning the executed contract to the City Clerk's Office. If such is not accomplished, the liens will remain on the list for certification to the Sebastian County tax collector for placing on the tax records.

- **Jay Poppe, Executive Director**
  Arkansas Valley Habitat for Humanity
  P.O. Box 754, Fort Smith

  Property 1: 3001 Russell
  Owner: Arkansas Valley Habitat for Humanity
  Cleaned: July 12, 2010 ~ $332.72

  Property 2: 1615 South "U" Street
  Owner: Janet L. And Kellie R. Hodgens
  Cleaned: June 8, 2010 ~ $826.68
  August 18, 2010 ~ $322.16
  October 26, 2010 ~ $265.66

Property 1 - 3001 Russell

Inspector Randal Hicks reviewed the property file and provided pictures of each cleaning. (Due to technical difficulty, video of the cleanings were not available.) The vacant lot was initially inspected and posted on June 23, 2010 for overgrowth and tree limbs. A certified letter was mailed to the legal owner of record and such was signed by an employee of the Arkansas Valley Habitat for Humanity. The subject lot was again inspected on July 6 and July 8, 2010 whereby the violations remained. The property was assigned to the City contractor and violations abated on July 12, 2010.

Mr. Poppe advised the Arkansas Valley Habitat for Humanity has owned the property since 1998 and has the lot mowed every two (2) weeks. He alleged the company's contractor mowed the site on July 10, 2010; therefore, he feels the charges are not valid and requested such be waived. Mr. Poppe admitted he received the notice and conceded he receives multiple notices for other properties throughout the year; however, he adamantly conveyed much assurance that all Habitat properties are properly maintained.

Appeal Board Action ~ 3001 Russell

The Appeal Board discussed the matter and determined the City's contractor cleared brush along the tree line and removed the tree limbs. Due to careful review of the pictures, the Appeal Board further determined that it looked as if the tree limbs had been previously stacked together for removal, but not yet accomplished. They felt certain the Habitat's contractor stacked the tree limbs, but had not

yet returned to gather and remove such before the City's contractor completed the task.

Chitwood, seconded by McKinney, moved to reduce the lien to $177.72, which is the actual cost expended by the City to bring the property into compliance, and same be forwarded to the Sebastian County tax collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

Property 2 - 1615 South "U" Street

Prior to presentation by Inspector Dean Polk, Mr. Poppe advised the legal owners have indicated their intent to donate the property to the Arkansas Valley Habitat for Humanity. Due to such, he did not wish to appeal the cleanings, but merely advise the liens will be paid in full at the time of closing.

Appeal Board Action ~ 1615 South "U" Street

Chitwood, seconded by McKinney, moved that the three (3) liens remain in full (totaling $1,414.50) and same be forwarded to the Sebastian County tax collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

Note: At this point in the hearing, the Appeal Board took a two (2) minute recess.

- **Dilbert Bonilla**
  1912 South "Y" Street, Fort Smith

Property: **2223 Wirsing**
Owner: **Dilbert & Maria Bonilla**
Cleaned: **March 4, 2011 ~ $329.24**

Inspector Dean Polk reviewed the property file, provided pictures and presented video of the cleaning. Initial inspection was due to an "unsecured structure" complaint by the Police Department in January 2011, whereby environmental issues must also be addressed. The first inspection for environmental violations took place on January 25, 2011 whereby the property was posted for trash and debris. A certified letter was forwarded to Mr. Bonilla; however, the letter was returned unclaimed. Mr. Polk further noted that although this year's appeal process contains only one (1) cleaning, the City has cleaned the property a total of four (4) times in 2011.

Mr. Bonilla simply advised the trash and debris were left from the previous owner and alleged he is being wrongly charged for multiple cleanings.

Appeal Board Action ~ 2223 Wirsing

The Appeal Board discussed the matter with Mr. Bonilla and advised since he is the legal owner, he is responsible for the upkeep of the property.

McKinney, seconded by Chitwood, moved that the lien remain in full ($329.24) and same be forwarded to the Sebastian County tax collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

Mr. Bonilla advised of the impending sale of the property and noted all liens will be paid in full when the property is sold.

- **Cherie Anderson**
  1405 North 37th Street, Fort Smith

Property:	**1405 North 37th Street**
Owner:	**Cherie L. Anderson**
Cleaned:	**May 12, 2010 ~ $265.66**
	June 22, 2010 ~ $266.47

Inspector Kelly Arnold reviewed the property file, provided pictures and presented video of the cleanings. The initial inspection occurred on March 23, 2010 and the property was posted for dead limbs and overgrowth. Such is a rental property and the tenants maintained multiple dogs (Great Dane) in the back yard, which created a very bad odor in the area. Certified letters were forwarded to both the tenant and owner of record. The certified letter mailed to the owner of record was received.

Ms. Anderson alleged she did not receive notice of the violation as the certified letter was forwarded to her ex-husband's residence. The return receipt was shown to Ms. Anderson whereby she could not identify the signature of the person who signed for the certified letter. Ms. Anderson advised she was living with her mother at the time of the cleanings and was unaware of the violations.

Appeal Board Action ~ 1405 North 37th Street

The Appeal Board expressed much appreciation to Ms. Anderson for her attendance; however, the City contacted the owner of record and

utilized the address provided by the county real estate records. They highly encouraged Ms. Anderson to contact the Assessor's Office and provide her correct mailing address.

McKinney, seconded by Chitwood, moved that the two (2) liens remain in full (totaling $532.13) and same be forwarded to the Sebastian County tax collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

Ms. Anderson requested she be allowed to make payments on the total amount due; therefore, Chairperson Lewis confirmed that such may be accomplished by executing a payment contract with the City Clerk.

- **Chris Ferguson**
  1001 South 19th Street, Fort Smith

Property: **1001 South 19th Street**
Owner: **Quy Van Tran and Lan Minh Nguyen**
Cleaned: **August 26, 2010 ~ $274.53**
September 29, 2010 ~ $309.08

Inspector Dean Polk reviewed the property file, provided pictures and inspection videos of the cleanings. The property was posted for indoor furniture and overgrowth. A certified letter was forwarded to Mr. Ferguson and the title search identified he was purchasing the property from the owners of record; however, such was returned unclaimed. Inspection was not initiated due to a specific complaint; however, such was posted while performing a neighborhood canvas in association with a specific complaint in close proximity to the subject property.

Mr. Ferguson requested the cleanings be waived citing he performed the cleanings, not the City. He alleged he and "his crew" were present when the City contractor arrived to clean the property whereby the City contractor advised him exactly what they were there to do. Mr. Ferguson advised the City contractor then left to allow him and his crew to perform the cleanup. He further alleged that they "done everything the contractor said he was going to do."

At the inquiry of Ms. Chitwood, Mr. Ferguson admitted that although the certified letter was not obtained, he "may have seen" the notice posted on the property. Regardless, he insisted 'he and his crew' performed all the work the City contractor advised was required.

Mr. Polk conceded Mr. Ferguson abated the violations under the porch and removed the indoor furniture; however, they did not clean the easement area, which is the cost associated with the subject cleaning performed by the City contractor.

Appeal Board Action ~ 1001 South 19th Street

Chitwood, seconded by Monroe, moved that the two (2) liens remain in full (totaling $583.61) and same be forwarded to the Sebastian County tax collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

There being no further business to come before the Appeal Board, Raynor moved that the hearing adjourn. The motion was seconded by Chitwood and the members all voting aye, Chairperson Lewis declared the motion carried and the hearing adjourned at 7:32 p.m.

WEDNESDAY ~ SEPTEMBER 28, 2011

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

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

The following property owners were present:

- **Thomas Mikus**
  209 Rivercrest Drive, Fort Smith

Property 1: 3021 North Albert Pike
Owner: Marylee H. Mikus
Cleaned: June 16, 2010 / $232.82
August 20, 2010 / $240.82
September 27, 2010 / $228.07

Property 2: Lot west of 3021 North Albert Pike
Owner: Marylee H. Mikus
Cleaned: June 16, 2010 / $230.82
August 20, 2010 / $238.82
September 27, 2010 / $226.07

Inspector Randal Hicks collectively presented information from both property files and presented the inspection videos for each lot. The initial inspections occurred on May 20, 2010 whereby both lots were posted for overgrowth. Certified letters were forwarded to the owner of record; however, all were returned unclaimed. The file indicates that Mr. Mikus phoned the Neighborhood Services Division with multiple inquiries regarding the cleanings; however, staff advised the files must be reviewed and they would call him back. Upon the return phone call, staff received no answer or return phone call from Mr. Mikus.

Mr. Mikus addressed the Appeal Board and alleged no notice was received for any of the violations. He advised knowledge of the cleanings only upon receiving statements for reimbursement of City costs. Mr. Mikus noted his mother has owned the property since 1968; however, he conceded that every time he checked the property, such had already been mowed and he thought the neighbor was mowing it.

Appeal Board Action ~ 3021 North Albert Pike and lot west of 3021 North Albert Pike (Properties 1 and 2)

The Appeal Board urged the importance of property maintenance and the owners responsibility for such whereby Mr. Mikus noted agreement.

Chitwood, seconded by Monroe, moved the six (6) liens remain in full (totaling $1,397.42) and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

- **Larry Smithson**
  P.O. Box 4671, Fort Smith

  Property: 815 North 15th Street
  Owner: Larry G. Smithson
  Cleaned: July 7, 2010 ~ $350.00

  Inspector Randal Hicks reviewed the property file, provided pictures and presented the video for the cleaning. The property was first inspected on May 28, 2010 for overgrowth and trash and debris in the front and back of the subject property. The property is a rental property and the tenant assisted the City contractor with removing multiple items of trash and debris. The City estimated cleaning time at five (5) hours; however, with the assistance of the tenant, the cleaning only took three (3) hours.

  Mr. Smithson extended much appreciation to the Appeal Board for their service and noted the Neighborhood Services Division is doing a "good job". He expressed much concern, however, that tenants maintain no responsibility for the cost of cleanup and urged legislative changes be made so property owners are not left with the financial burden for such. Mr. Smithson was then introduced to Director Andre' Good, who was in attendance.

  Appeal Board Action ~ 815 North 7th Street

  The Appeal Board reviewed the file information and discovered that although the contractor reported the cleanup took three (3) hours, the property owner was actually billed for five (5) hours, which was the 'estimated' time for abatement.

  McKinney, seconded by Raynor, moved that the lien amount be reduced from $350.00 to $280.00 in order to correct the billing error, and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

- **Deberia Newman**
  1323 Hilltop, Alma

  Property 1: 1425 Greenwood Avenue
  Owner: Donnie & Deberia Newman
  Cleaned: December 22, 2010 ~ $199.24

Property 2: 6820 Texas Road
Owner: Donnie & Deberia Newman
Cleaned: August 7, 2010 ~ $282.02
September 15, 2010 ~ $277.91

Property 1 - 1425 Greenwood Avenue
Inspector Randal Hicks reviewed the property file, provided pictures and presented video of the cleaning. The property was first inspected on December 3, 2010 and posted for indoor furniture. A certified letter was forwarded to the owner of record, which was signed by Ms. Deberia Newman. The property was reinspected on December 14 and December 20, 2010 with the indoor furniture remaining. Due to such, the matter was assigned to the City's contractor, who abated the violation on December 22, 2010.

Property 2 - 6820 Texas Road
Inspector Dean Polk reviewed the property file, provided pictures and presented video of the cleanings. The property was first inspected on July 7, 2010 and posted for overgrowth, trash and debris, and an inoperable vehicle. A certified letter was forwarded to the owner as per county records; however, such was returned unclaimed. The property was reinspected on July 29 and August 4, 2010. The trash and debris in the easement and the inoperable vehicle had been removed, but overgrowth remained; therefore, such was assigned to the City contractor and the violation abated.

Ms. Newman addressed the Appeal Board citing both properties are rental property and at the time of the notices, eviction processes were ongoing. Due to such, she alleged she is legally prohibited from going onto the property. Ms. Newman advised of instances whereby tenants have locked her out of her property and even called the police when she attempted to bring the property into compliance. She further conveyed much discontent that the City places the responsibility for cleanup on the property owner and not the tenant.

The Appeal Board sympathized with the situation; however, such does not negate the fact that the property owner is responsible for property maintenance. Ms. Chitwood questioned if Ms. Newman advised Neighborhood Services of any ongoing eviction whereby Ms. Newman responded "sometimes", but conceded she did not regarding these particular instances.

Ms. Chitwood conveyed much assurance that the Neighborhood Services Division will work with property owners in such situations and grant additional time to bring the property into compliance; however, they must be made aware of the going eviction.

Appeal Board Action ~ 1425 Greenwood Avenue

McKinney, seconded by Raynor, moved to reduce the lien from $199.24 to $48.22, which is the actual cost to the City to remove the indoor furniture and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

Ms. Newman conveyed much dissatisfaction with such.

Appeal Board Action ~ 6820 Texas Road

Raynor, seconded by Monroe, moved the two (2) liens remain in full (totaling $559.93) and that same be forwarded to the Sebastian County Tax Collector for placing on the tax records. The members all voting aye, Chairperson Lewis declared the motion carried.

Ms. Newman again conveyed much dissatisfaction with the action taken stating such is "ridiculous" and abruptly left the room.

There being no further business to come before the Appeal Board, Raynor moved that the hearing adjourn. The motion was seconded by McKinney and the members all voting aye, Chairperson Lewis declared the motion carried and the hearing adjourned at 7:06 p.m.

_____

Sherri Gard, City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 60-10 AND SETTING THE LOCATION AND TIME FOR REGULAR MEETINGS OF THE BOARD OF DIRECTORS FOR THE YEAR 2012

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

Section 1 of Ordinance No. 60-10 is hereby amended to read as follows:

Regular Meetings of the Board of Directors

Beginning January 1, 2012 and continuing through December 31, 2012, the regular meetings of the Fort Smith Board of Directors shall be held at 6:00 p.m. in the board room at the Fort Smith Public Schools Service Center, 3205 Jenny Lind, on the first and third Tuesday evenings, unless such date is a legal holiday, in which case such meeting shall be held on the following evening at the same time and place.

THIS ORDINANCE ADOPTED this 15th day of November, 2011.

APPROVED:

_____

MAYOR

ATTEST:

_____

CITY CLERK

Approved as to form
RJC
Publish 1 time

ORDINANCE NO._____

AN ORDINANCE ORDERING THE OWNERS OF CERTAIN DILAPIDATED AND SUBSTANDARD STRUCTURES TO DEMOLISH SAME, AUTHORIZING THE CITY ADMINISTRATOR TO CAUSE THE DEMOLITION OF SUCH STRUCTURES TO OCCUR, AND FOR OTHER PURPOSES.

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

WHEREAS, certain owners of real property have caused or allowed certain tracts of real property to deteriorate to the condition that such tracts of real property and the improvements thereon are now, and for several months prior hereto have been dilapidated, unsightly, unsafe, unsanitary, noxious and detrimental to the public welfare, and

WHEREAS, the condition of such tracts of property and the improvements located thereon are in violation of the City Ordinances and the statutes of the State of Arkansas.

NOW, THEREFORE,

SECTION 1: It is the opinion of the Board of Directors that the hereinafter described tracts of real property, and the improvements located there, are dilapidated, unsafe and otherwise detrimental to the public health and constitute structural, fire and health hazards:

STREET ADDRESS:

1906 South "N" Street - Lots 2, Block 15; Mason Addition

2495 North 31st Street and Rear Storage - Lots 14&16, Block 1; Fitzgerald Addition

SECTION 2: The owners of the tracts of real property described in Section 1 are hereby ordered to remove or raze the improvements located on the said tracts of property and to remedy the unsightly and unsanitary conditions otherwise located on said tracts of real property within thirty (30) days from the date of this ordinance.

Approval as to form
DLC
Publish 1 time

SECTION 3: With reference to said tracts of real property and improvements located there for which the order contained in Section 2 of this ordinance has not been complied with within thirty (30) calendar days from the date of passage of this ordinance, the City Administrator is hereby authorized to execute a contract, based on the bid(s) accepted on the date of this action or at a later date, for the removal or razing of the described improvements on the tracts of real property in order to remedy the unsightly and unsanitary conditions located on said tracts of property.

SECTION 4: The provisions of this ordinance are hereby declared to be severable to the extent that a decision by any court of competent jurisdiction determining that any portion of this ordinance or any application thereof is unconstitutional, invalid or otherwise illegal shall not affect the constitutionality, validity or legality of the other provisions and/or applications of the ordinance.

SECTION 5: Emergency Clause. It is hereby found and declared by the Board of Directors that the dilapidated, unsanitary condition of the tracts of real property and improvements described herein constitute an immediate menace to the health, welfare and safety of the citizens of the City so that an emergency is hereby declared and that this ordinance shall be effective from and after the date of its passage.

PASSED AND APPROVED this _____day of_____2011.

APPROVED:

_____

Mayor

ATTEST:

_____

City Clerk

MEMORANDUM

Building Safety Division

TO: Ray Gosack, City Administrator

FROM: Jimmie Deer, Building Official

DATE: November 7, 2011

SUBJECT: Unsafe Structures

The following structures have been damaged and/or deteriorated to a condition that has caused the Building Department to condemn them. The property and the improvements, thereon are now, and for several months prior hereto, have been dilapidated, unsafe, unsightly, unsanitary, obnoxious and detrimental to the public welfare and are found to be in violation of the Ordinances of the City of Fort Smith.

The property descriptions and owners are:

1906 South N Street - Lot 2, Block 15;Mason Addition

Owners:

James Jr. & Angela Dowdy
4008 MacArthur Dr.
Fort Smith, AR 72904-5532

Mers
P.O.2026
Flint, MI 48501-2026

2405 North 31st Street and Rear Storage - Lots 15-16, Block 1; Fitzgerald Addition

Owners:

Charles & Nancy Gallagher
C/O Frances McClure
2400 Edwards
Fort Smith, AR 72904

Nation Star Mortgage LLC
350 Highland Drive
Lewisville, TX 75067

The owners of these properties have been notified according to the procedures outlined in Section 16-88 of the Fort Smith Municipal Code. The property owners were notified by certified mail and posting the same letters on the buildings. The letter or notice contains information concerning the appeal procedure outlined in Section 16-91 of the Municipal Code. The Code specifies that they must file any appeals within fifteen (15) days from the date of service. The owner(s) of the subject properties did not file an appeal within the fifteen (15) day period nor have they requested an appeal hearing since that deadline has passed.

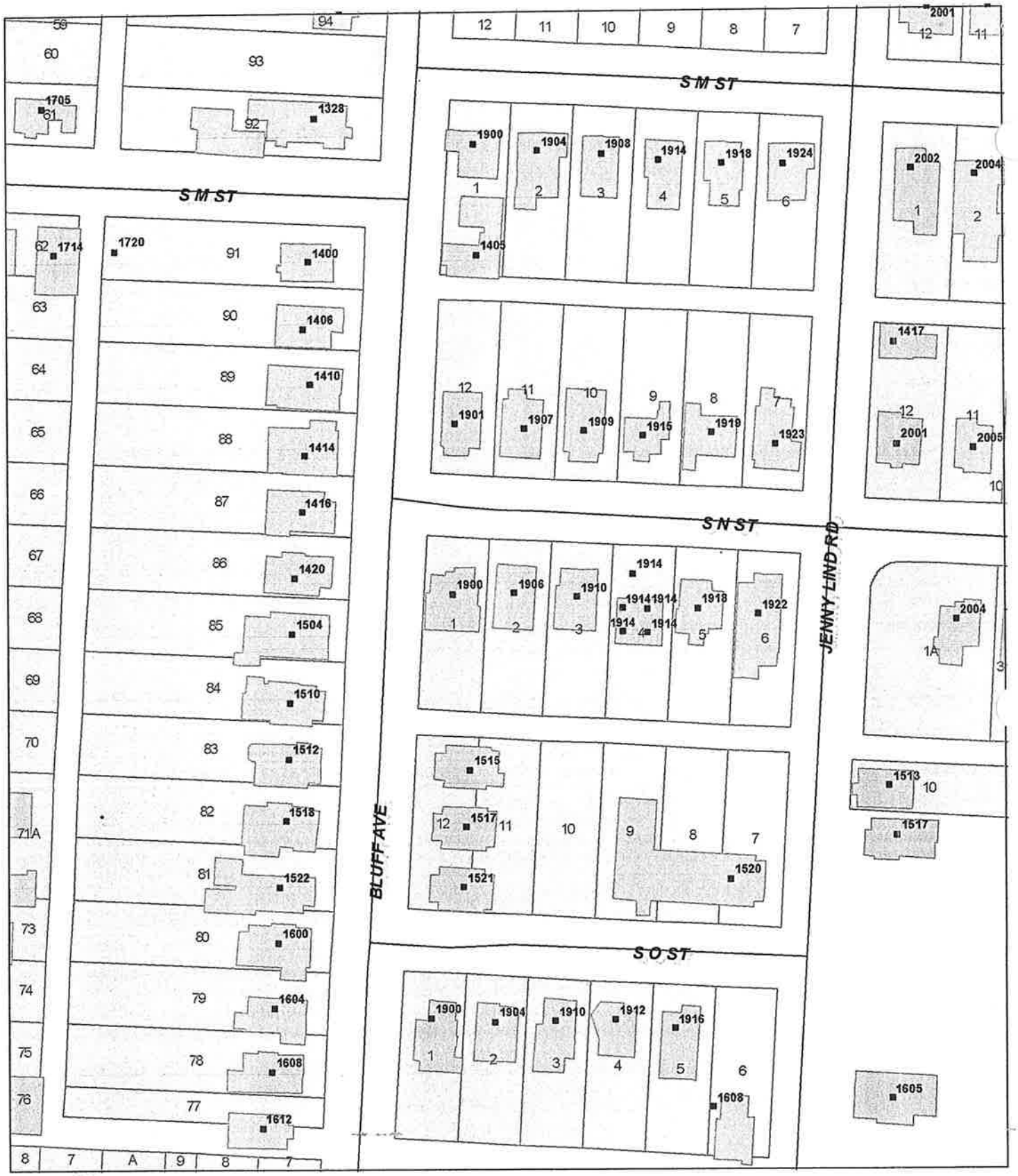
1906 South N Street- The structure burnt on April 11, 2011 and has been without water service since then. The structure was posted and unsafe notices were sent out to the owners on September 29, 2011 and the notices were signed for. The owners have moved out of Sate and I have left messages with the son about condition. The next door neighbors have also expressed concern over the condition of the structure. As of today the owners have taken no action to repair or demolish the structure.

2405 North 31st Street and Rear Storage - The structure has been abandoned and without water service since July 2008. The structure was posted and unsafe notices were sent out to the owners on September 29, 2011 and the notices were signed for. As of today the owners have taken no action to repair or demolish the structures.

Therefore, I am recommending this matter be referred to the Board of Directors for their review. An Ordinance will be prepared that will order the property owners to demolish or repair the buildings within thirty (30) calendar days and if such work has not occurred, the staff will be authorized to have the structures removed.

Please contact me if you have any questions or if we need to discuss this matter in more detail.

CC: Wally Bailey



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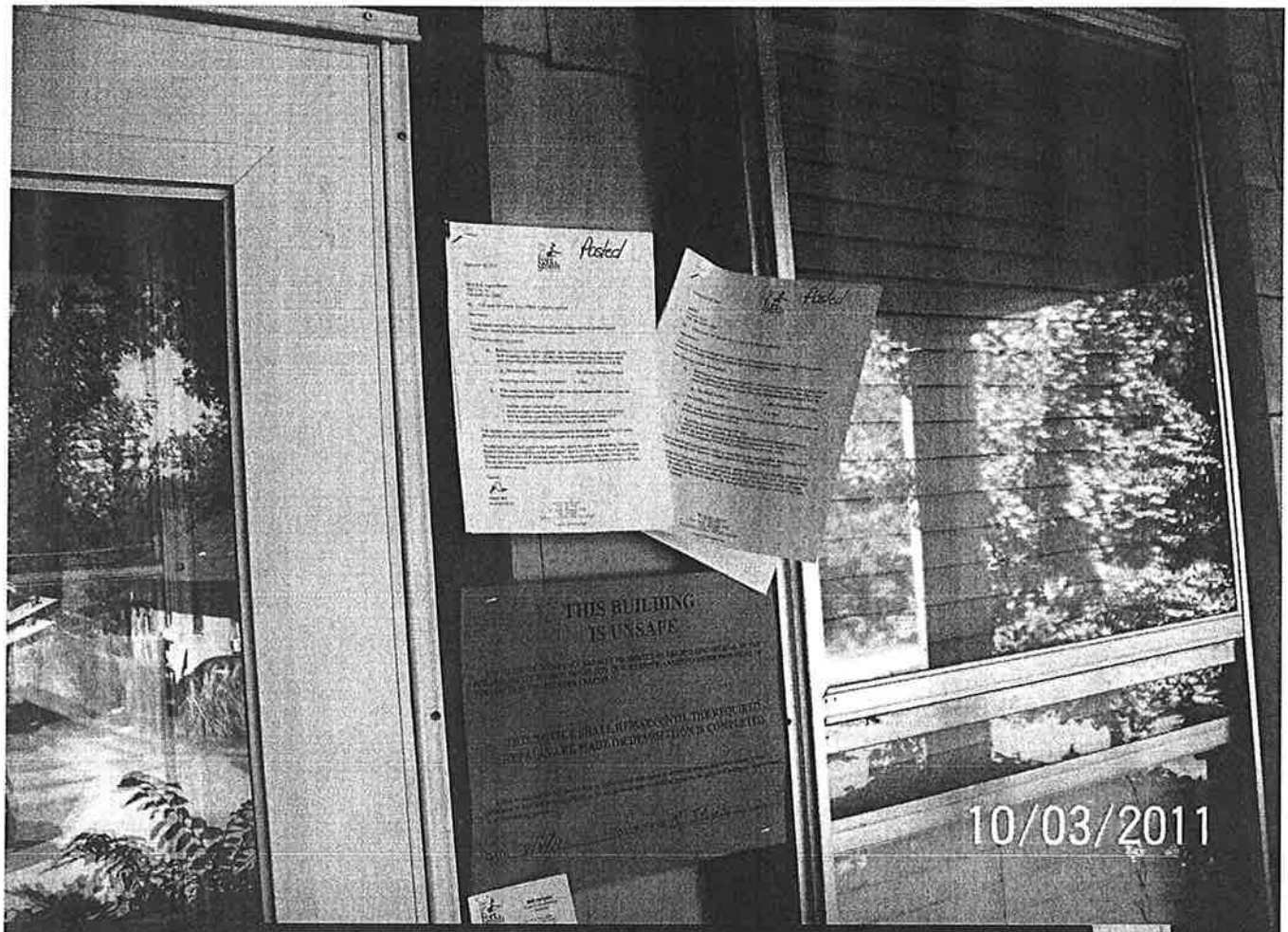

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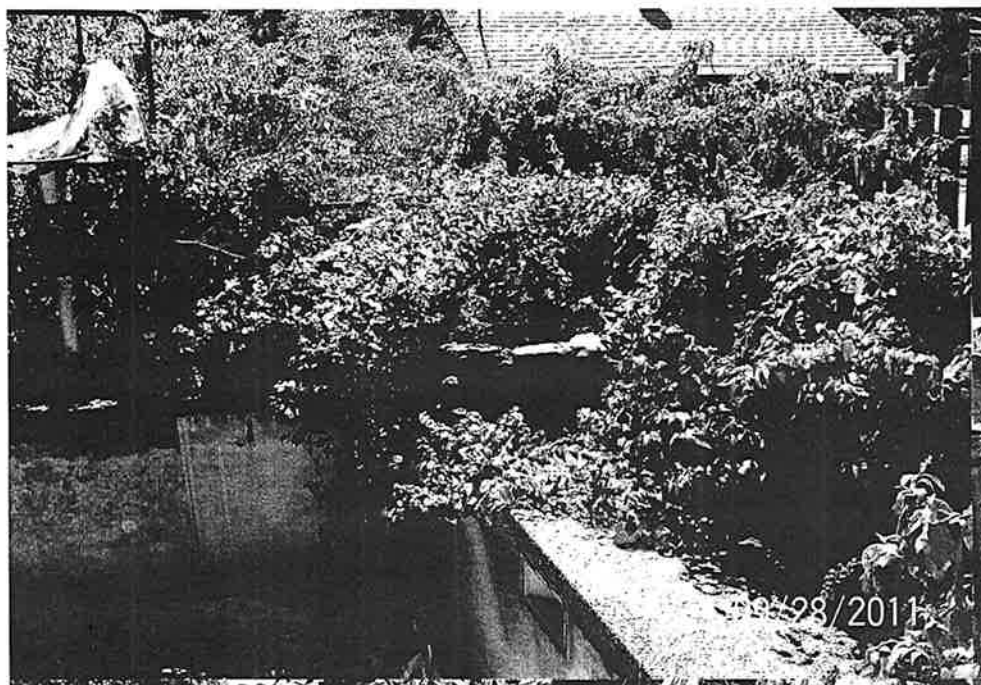
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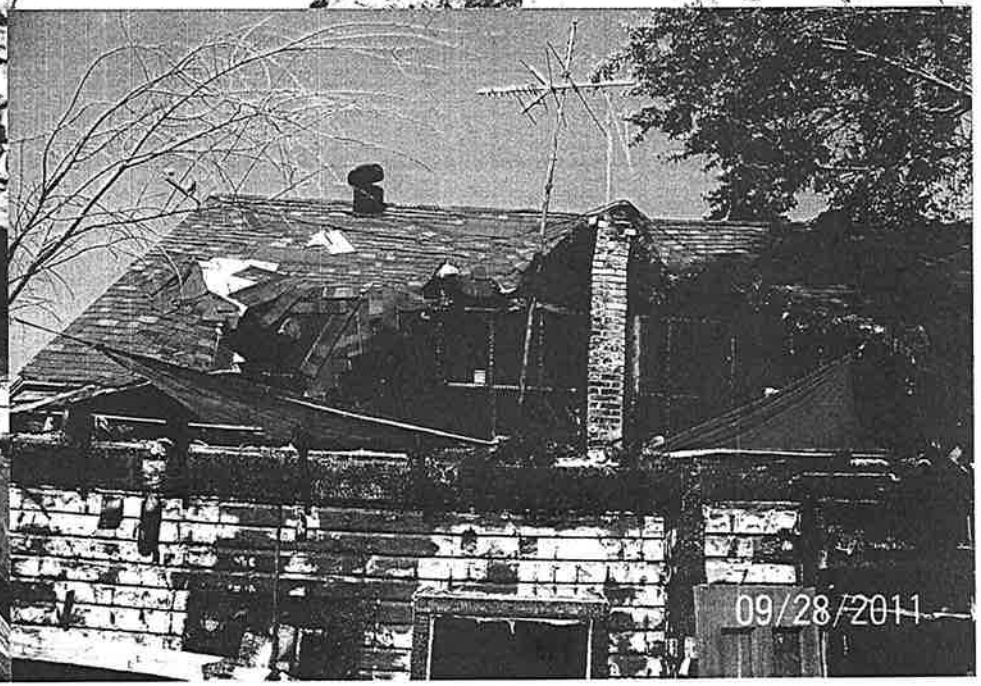
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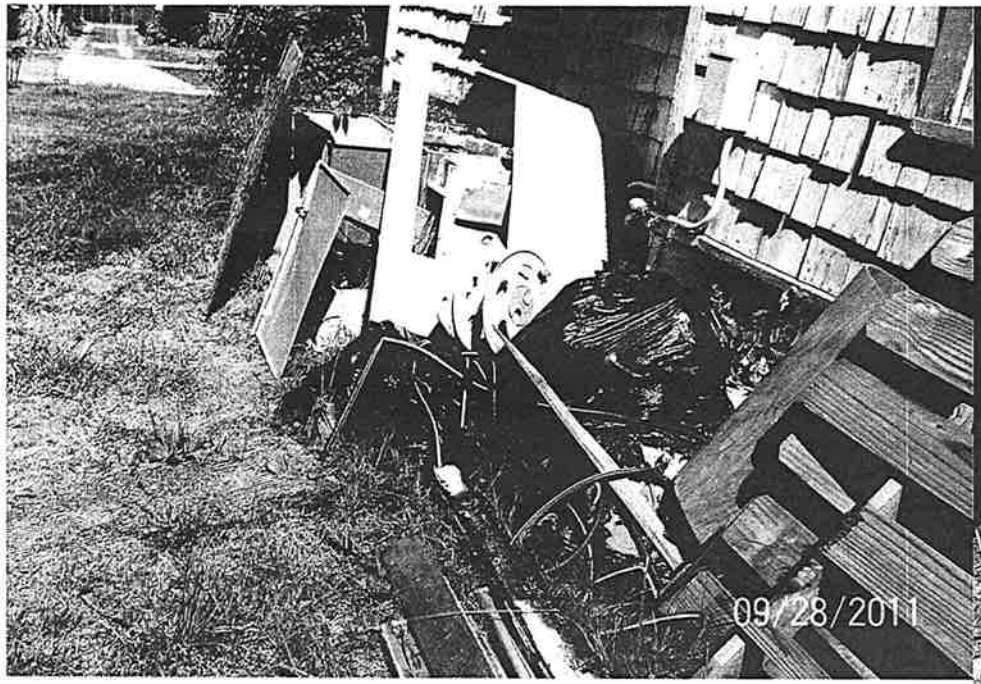
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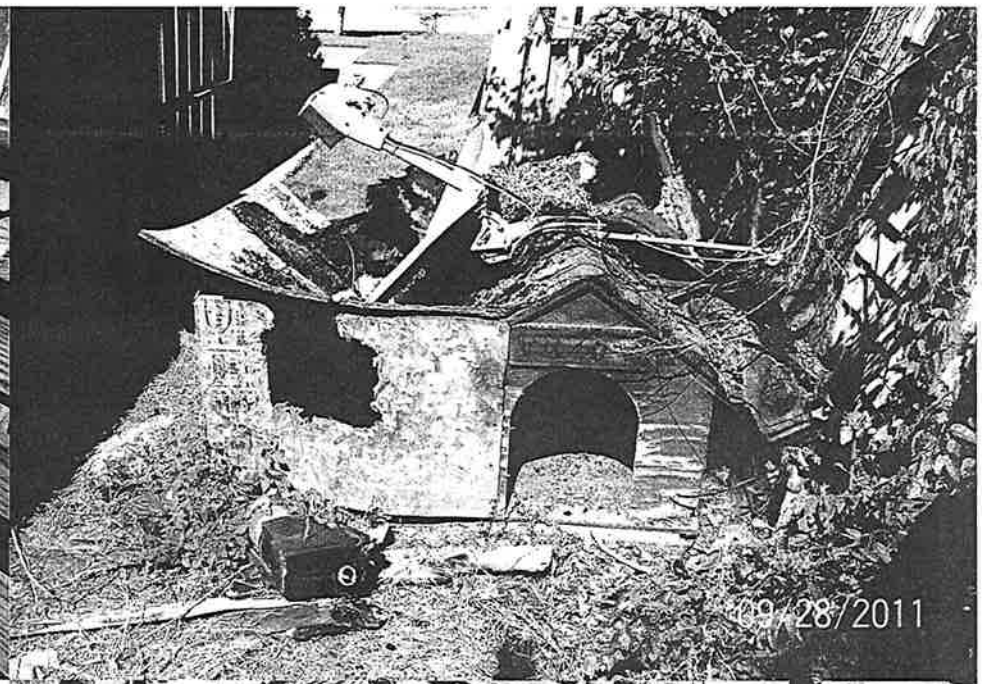
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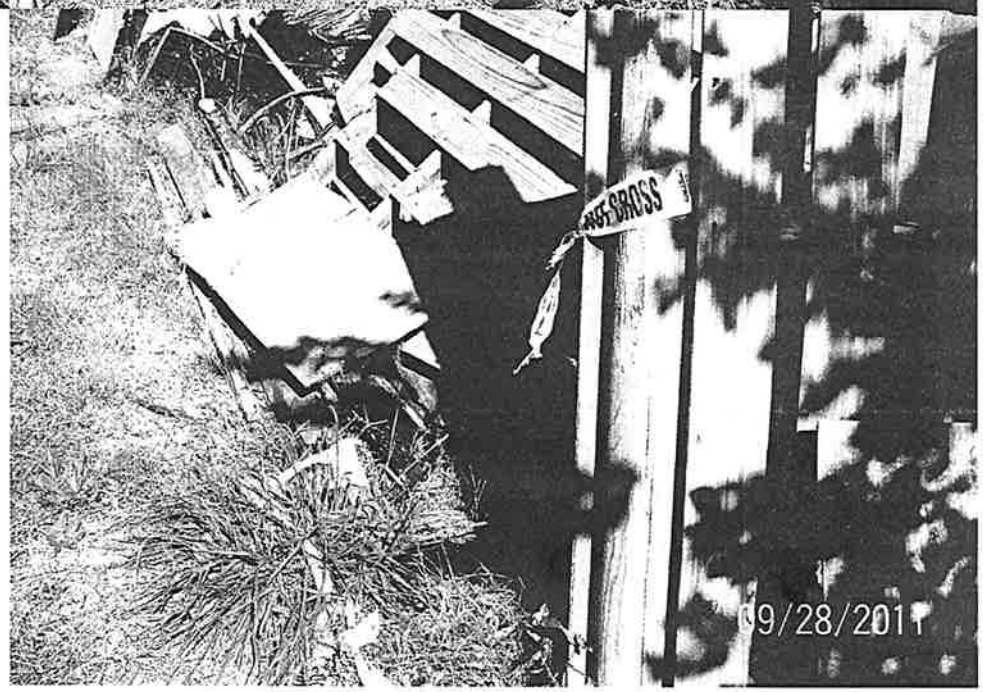
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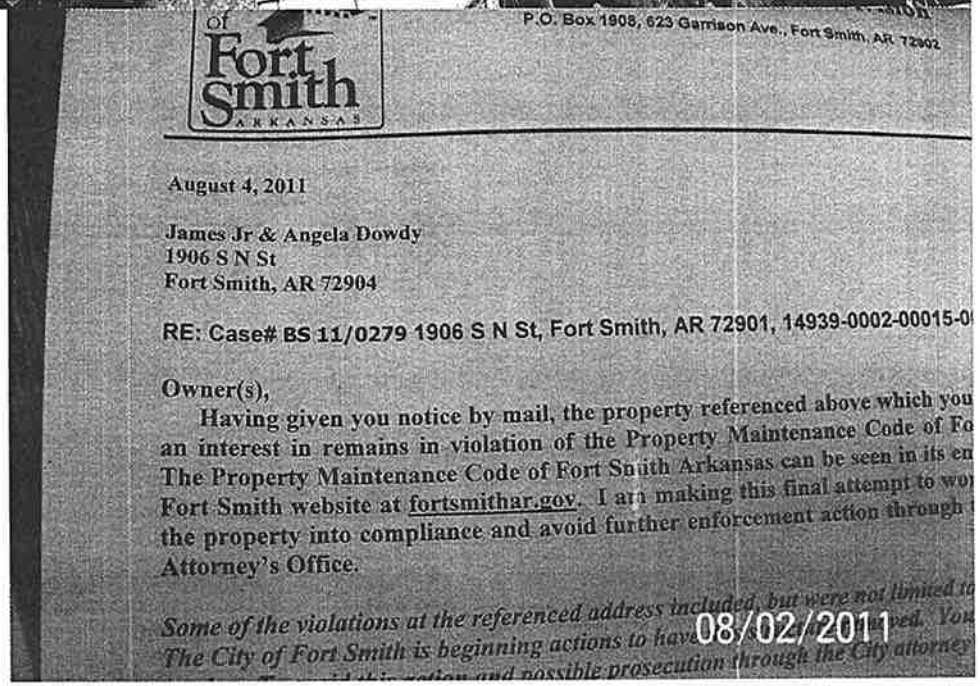


of Fort Smith ARKANSAS

P.O. Box 1908, 623 Garrison Ave., Fort Smith, AR 72902

August 4, 2011

James Jr & Angela Dowdy
1906 S N St
Fort Smith, AR 72904

RE: Case# BS 11/0279 1906 S N St, Fort Smith, AR 72901, 14939-0002-00015-0

Owner(s),

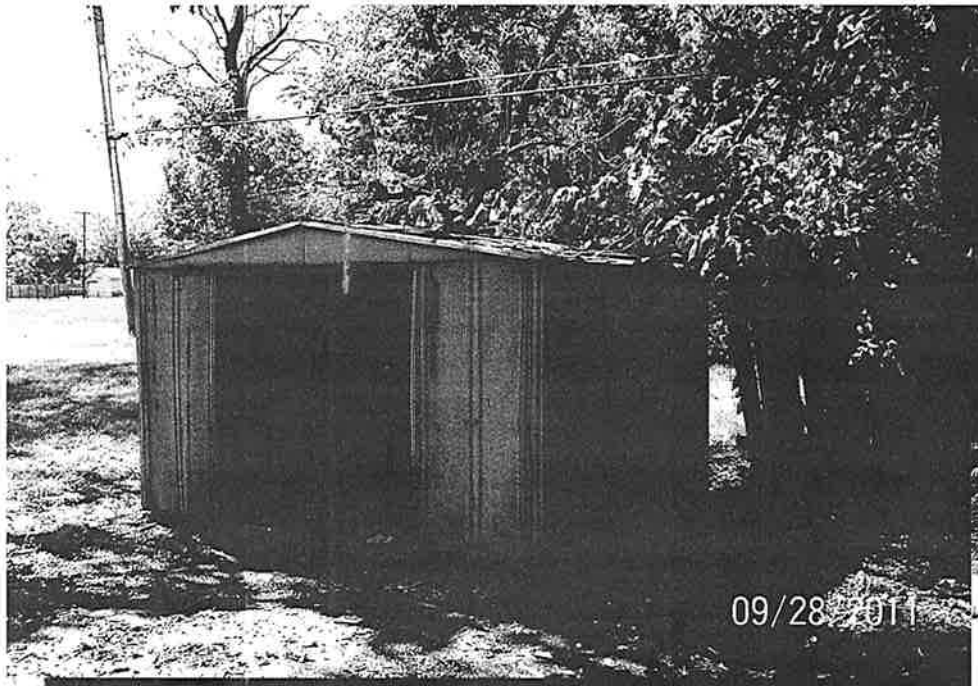
Having given you notice by mail, the property referenced above which you an interest in remains in violation of the Property Maintenance Code of Fo The Property Maintenance Code of Fort Smith Arkansas can be seen in its en Fort Smith website at fortsmithar.gov. I am making this final attempt to wo the property into compliance and avoid further enforcement action through Attorney's Office.

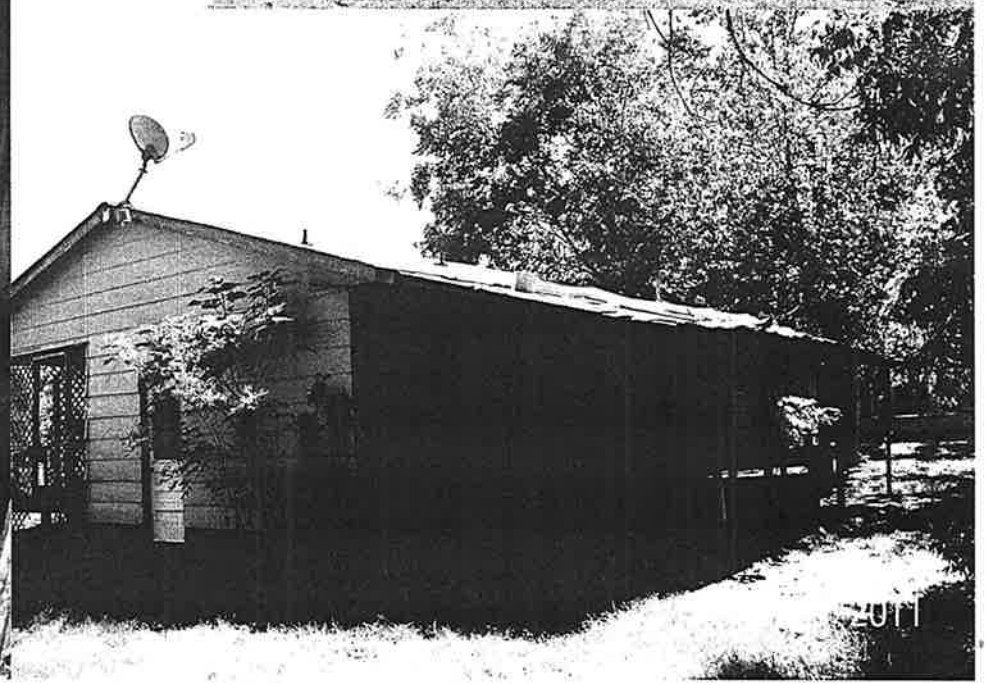
Some of the violations at the referenced address included, but were not limited to ed. You The City of Fort Smith is beginning actions to have and possible prosecution through the City attorney

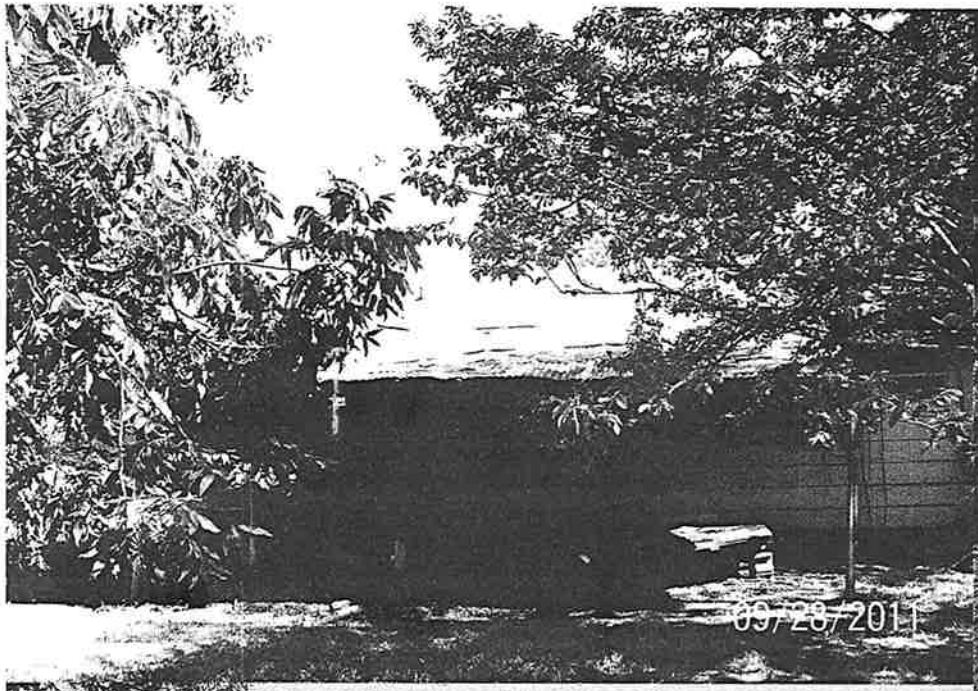
08/02/2011

2405 North 31st Street

2405 N 31st St



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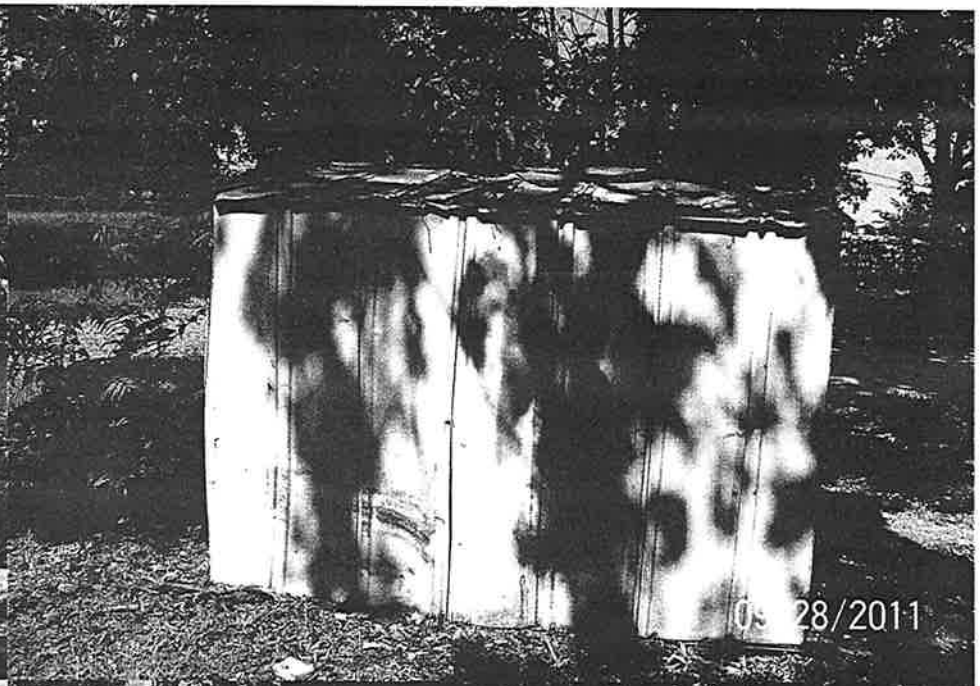
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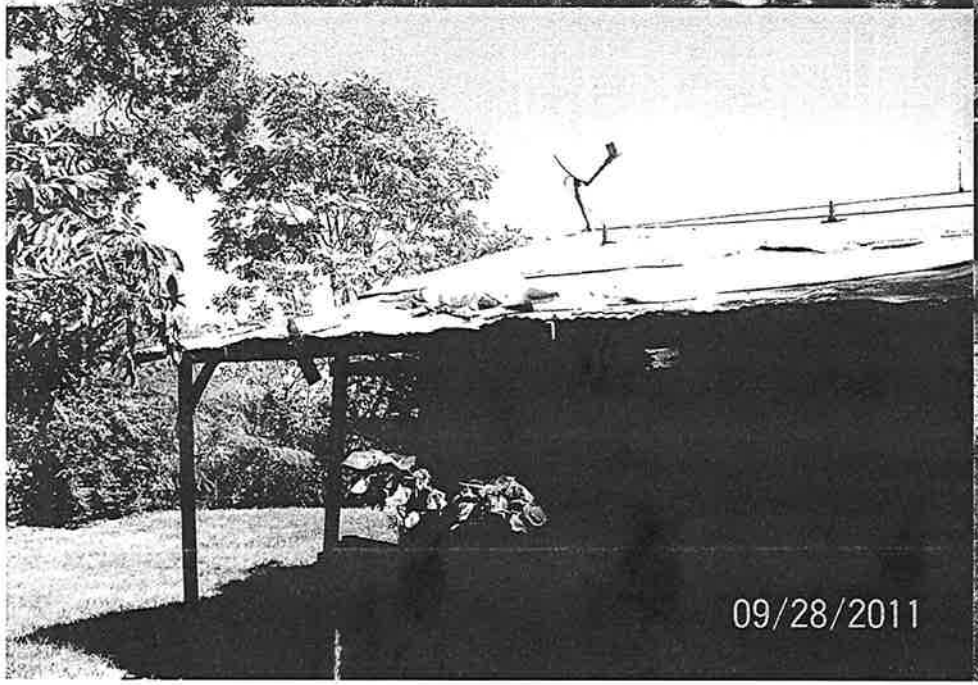
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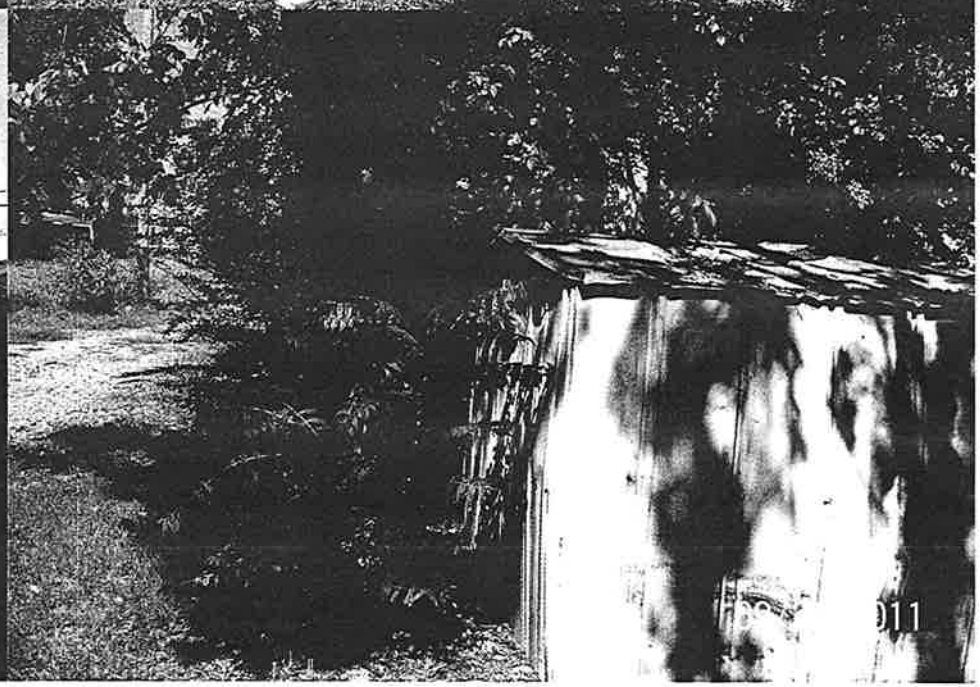
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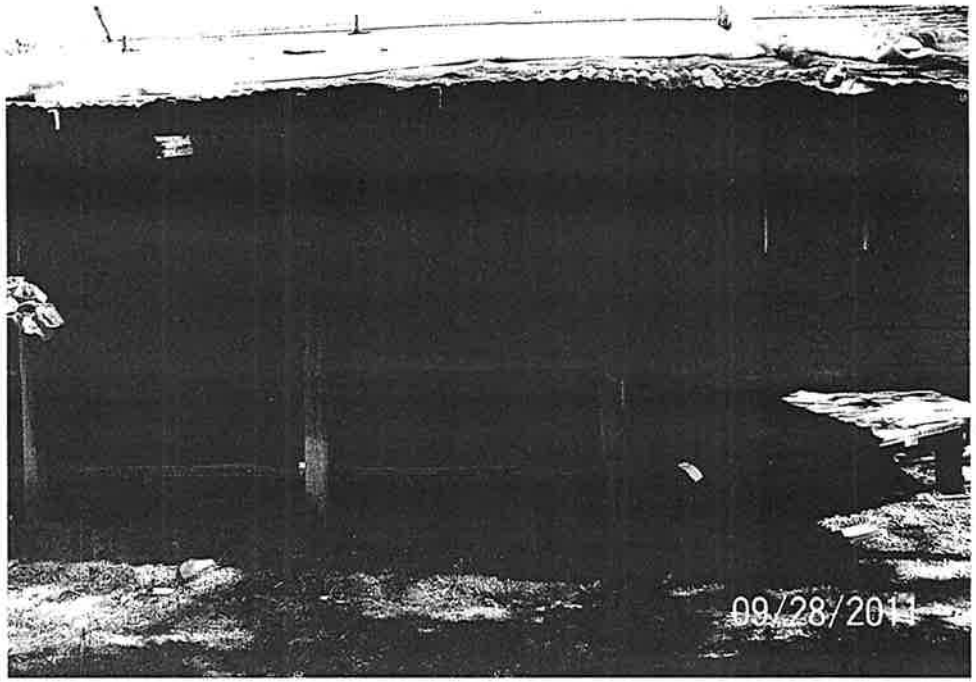
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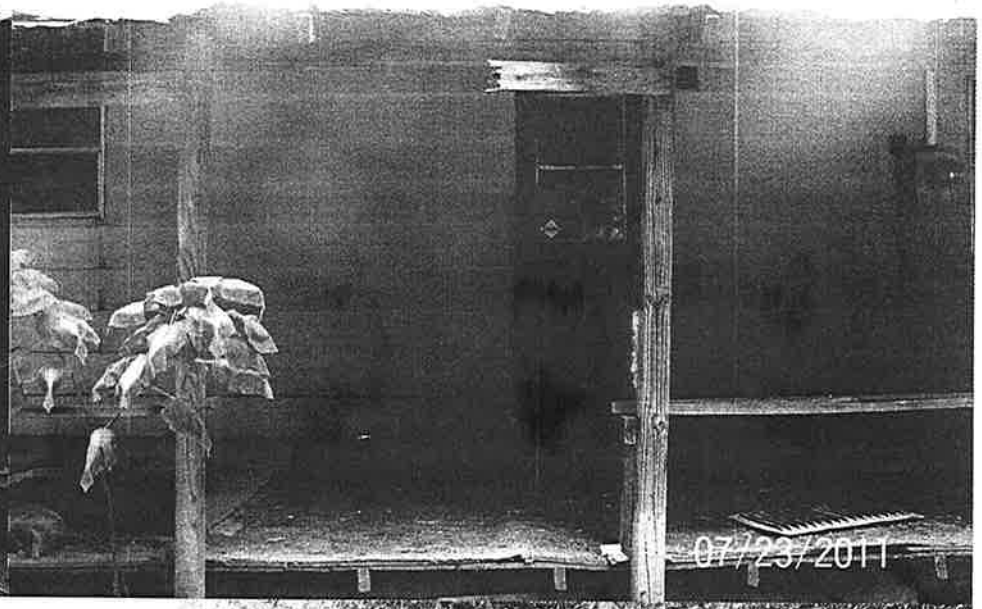
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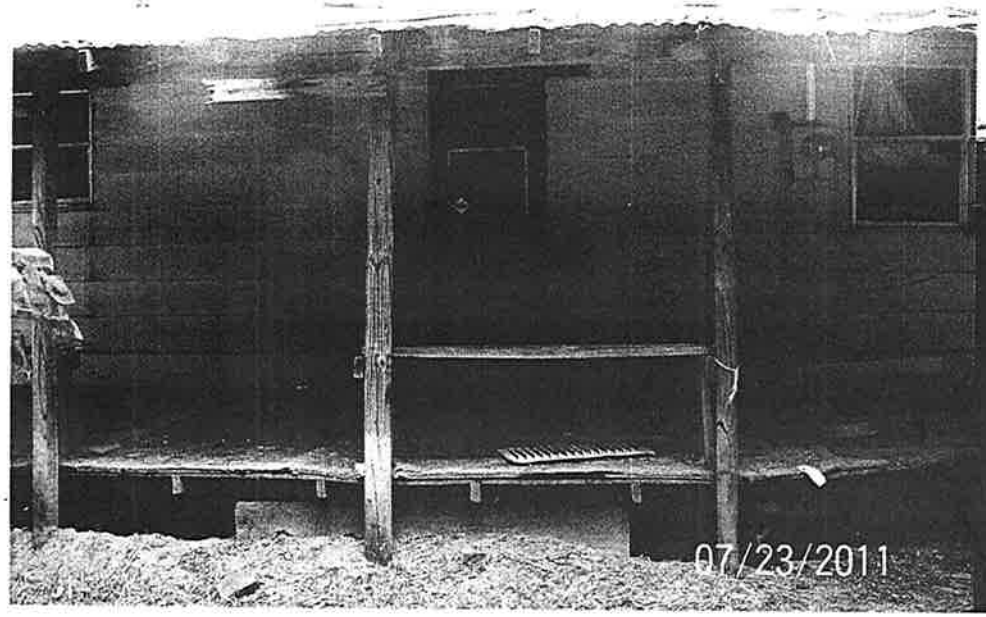
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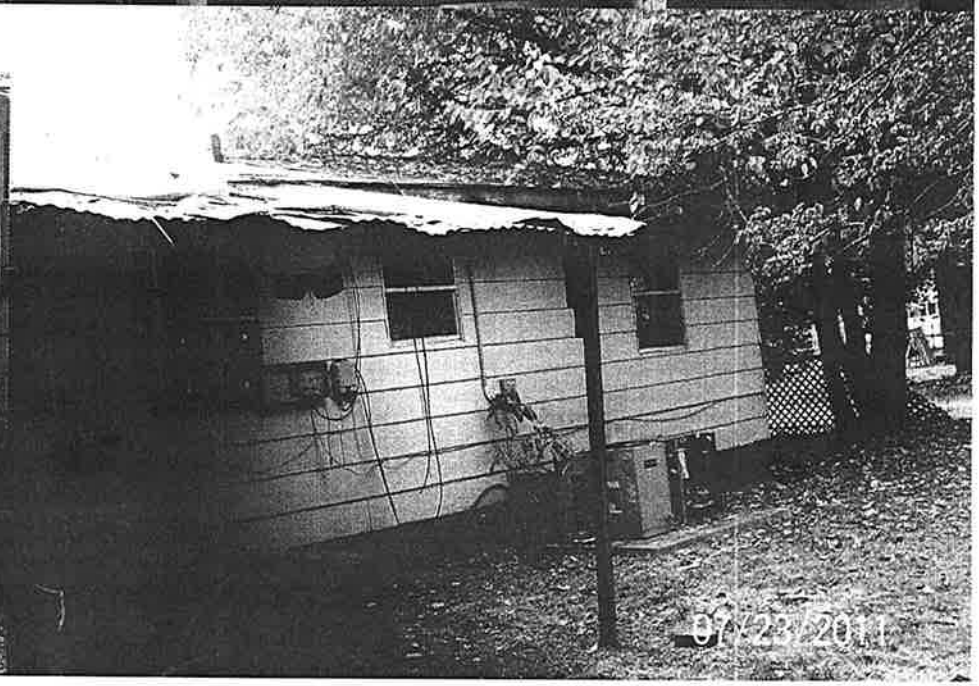
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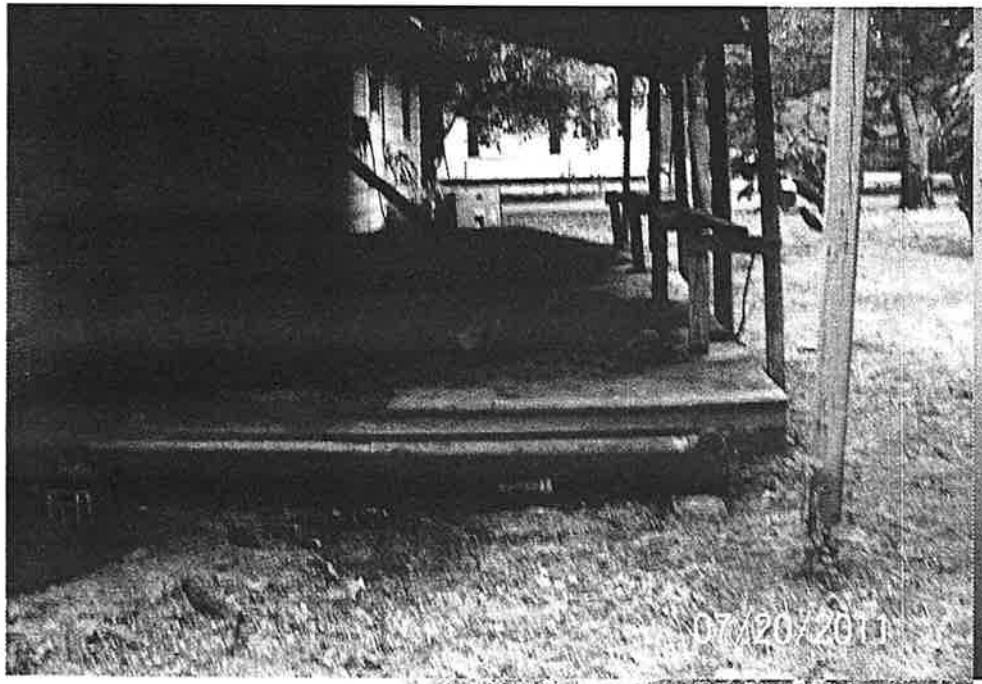
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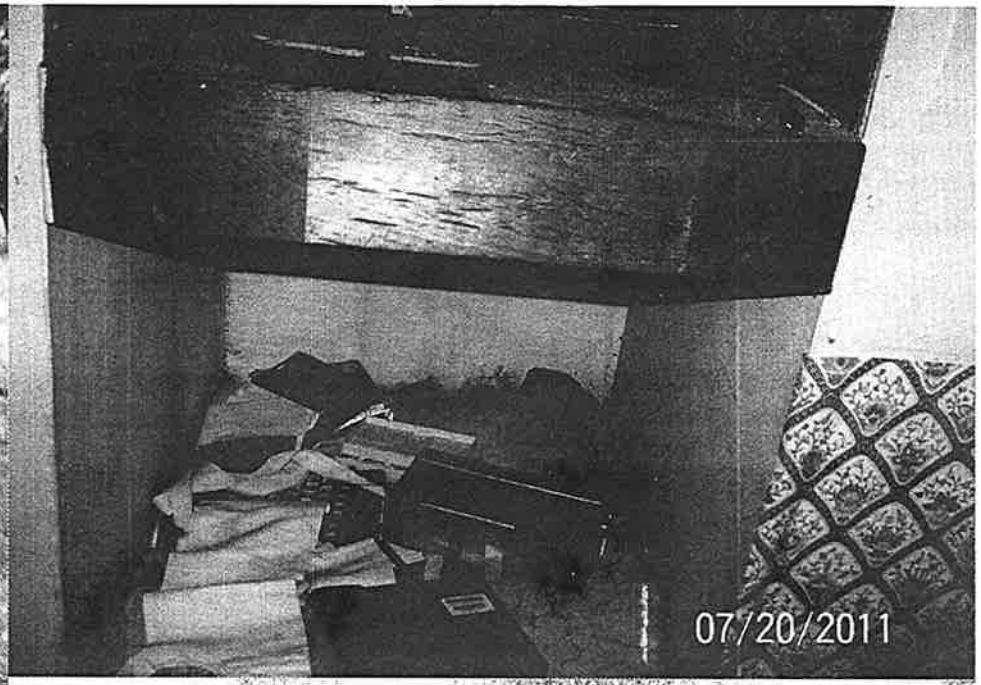
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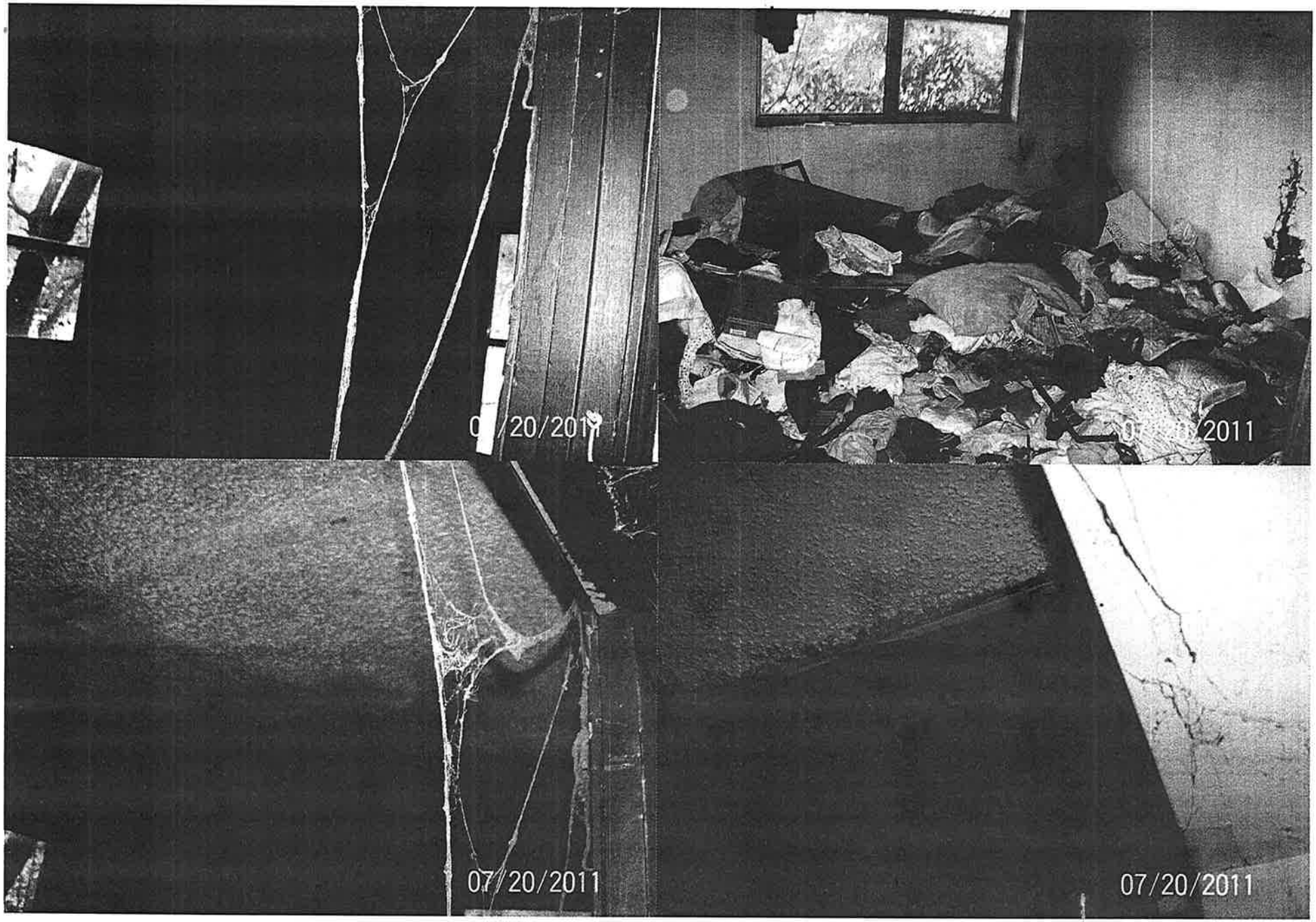
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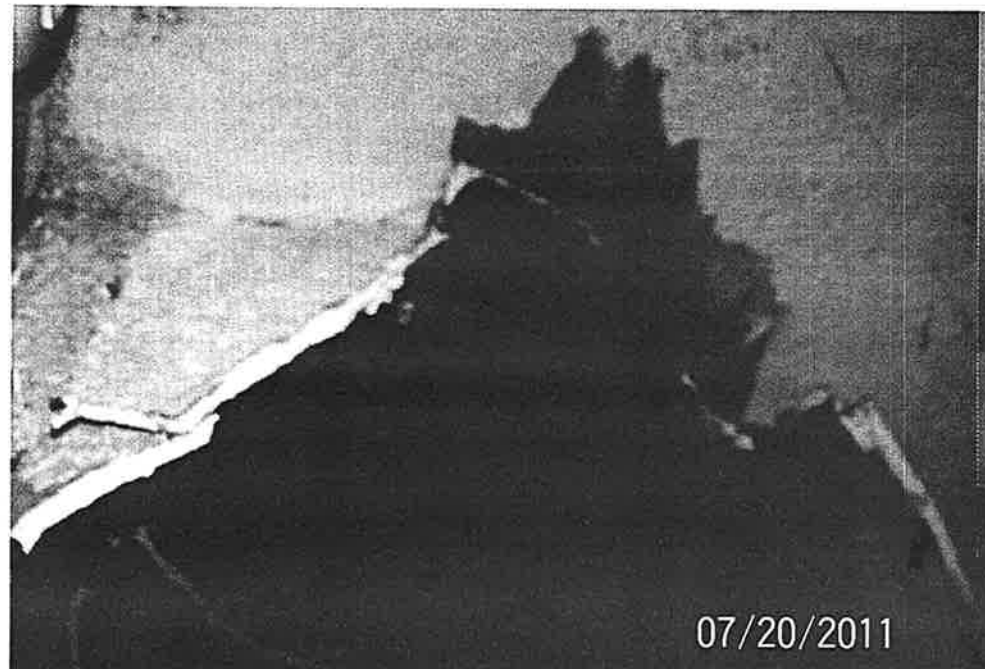
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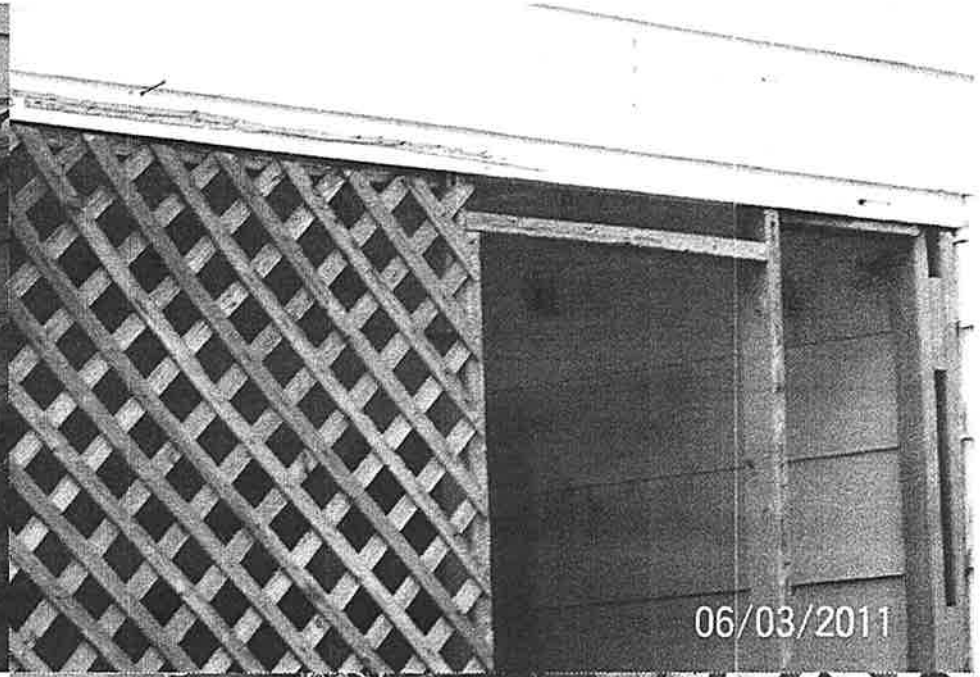
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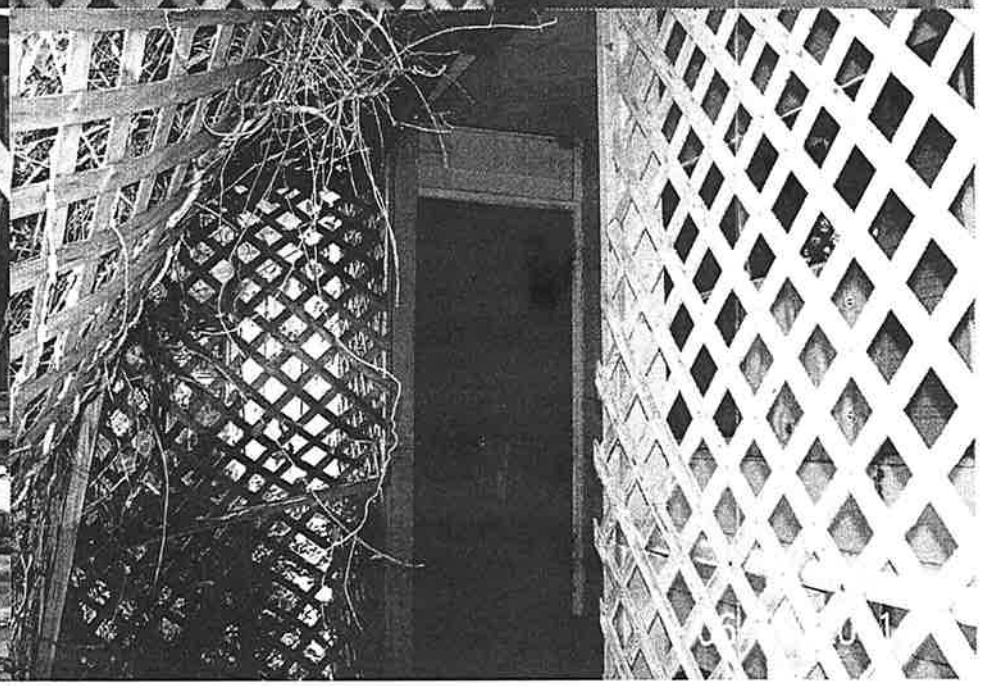

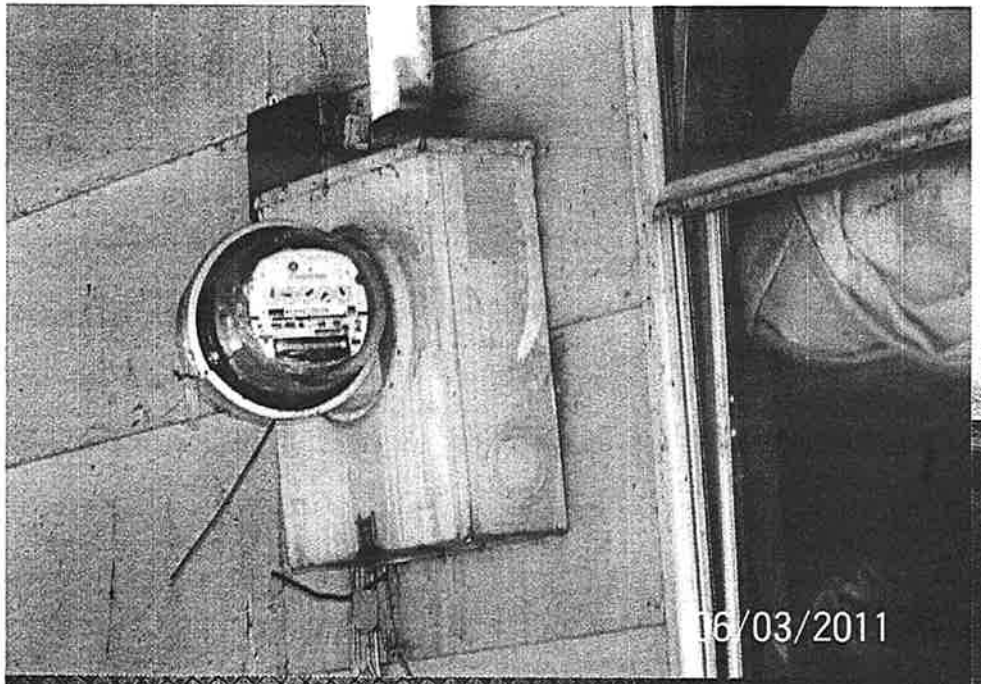
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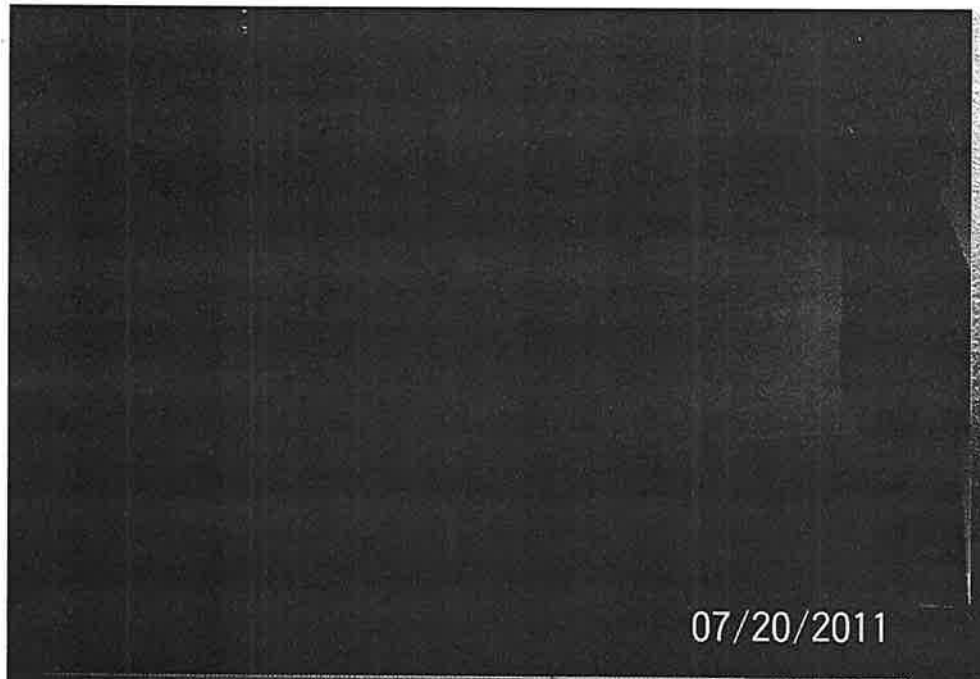
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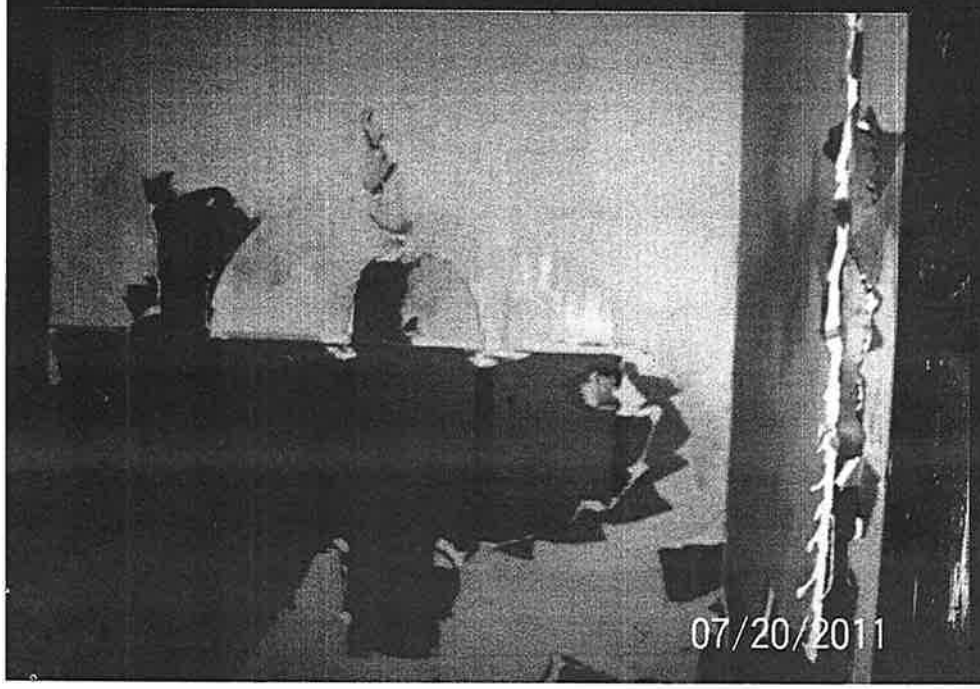
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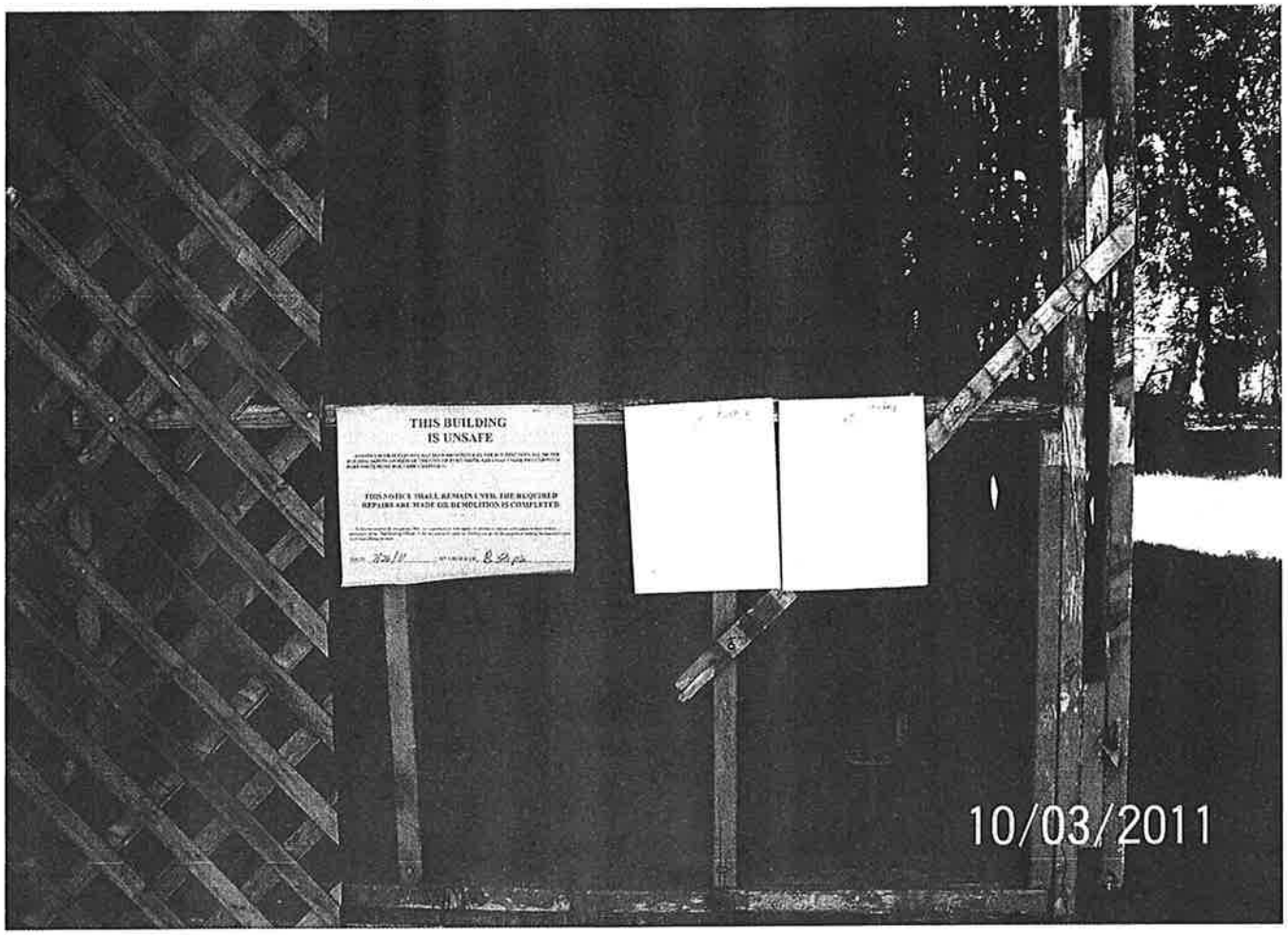
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ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 18, ARTICLE III,
OF THE FORT SMITH MUNICIPAL CODE TO ADD
SECTIONS 18-81 THROUGH 18-85 REGARDING PARK RULES

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

SECTION 1: The Fort Smith Municipal Code is hereby amended as follows to add Sections 18-81 through 18-85 to Chapter 18, Article III (Park Rules):

Sec. 18-81. Authorization of Public Assemblies.

The Fort Smith Parks and Recreation Department will authorize the use of City park land for public assemblies, meetings, demonstrations, religious activities, and other public expressions or views. To ensure public safety and the protection of park resources, and to avoid assigning the same location and time to two or more activities, the Department will manage these activities by issuing a permit to regulate the time, location, number of participants, use of the facilities, and type of equipment used, but not the content of the message presented.

Sec. 18-82. Sale of Food or Merchandise.

The sale of food and merchandise in the parks may be allowed by the Director of Parks and Recreation or his or her designee when managed under a commercial use authorization permit and does not conflict with other concession contracts or special events. The sale of food must comply with applicable public health codes and City business regulations.

Sec. 18-83. Noncommercial Soliciting.

The solicitation of goods and services, gifts, money, or of signatures for petitions for any purpose is prohibited in any City park except within the terms and conditions of a permit issued by the Director of Parks and Recreation or his or her designee.

Sec. 18-84. Public Assemblies, Meetings.

(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views are allowed within park areas, provided a permit has been issued by the Director of Parks and Recreation or his or her designee. The Application for Permit to Use City Facilities must be completed and submitted to the Department at least forty-five (45) days before the activity.

(b) If food concessions and/or entertainment are included in the public assembly, the activity is considered a special event. The rules and regulations regarding special events must be followed.

(c) An application for such a permit shall set forth the name of the applicant; the date, time, duration, nature and place of the proposed event; an estimate of the number of persons expected to attend; a statement of equipment and facilities to be used and any other information required by the permit application form.

(d) The Director of Parks and Recreation or his or her designee shall issue a permit unless:

(1) A prior application for a permit for the same time and place has been made that has been or will be granted; or

(2) It reasonably appears that the event will present a clear and present danger to the public health or safety; or

(3) The assembly is of such nature or duration that it cannot reasonably be accommodated in the particular location applied for, considering such things as damage to park resources or facilities, interference with program activities, or impairment of public use facilities.

(e) Prior to issuance of a permit, a deposit in the amount of $100 shall be required to cover costs of any damage to the facility such as restoration, rehabilitation, and cleanup of the area used, as well as other costs resulting from the assembly or gathering. It is the permit holder's responsibility to return the park to the condition it was in prior to the event. The permit holder agrees to reimburse the City for clean up and restoration that exceeds $100.

(f) It is prohibited for persons engaged in activities covered under this section to obstruct or impede pedestrians or vehicles or harass park visitors.

(g) A permit may be revoked under any of the conditions, as listed in paragraph (d) of this section, that constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, by the Director of Parks and Recreation or his or her designee with the reason(s) for revocation clearly set forth, except under emergency circumstances, at which time an immediate verbal revocation or suspension may be made to be followed by written confirmation.

(h) Violation of the terms and conditions of a permit issued in accordance with this section may result in the suspension or revocation of the permit.

(i) Organizers of public assemblies or meetings that have been permitted through the Parks and Recreation Department have the authority to select food and merchandise vendors that comply with applicable public health codes and City business regulations to provide goods and services at their event. The organizers also have the authority to prohibit food and merchandise vendors at their discretion within the permitted area.

(j) Organizers of public assemblies or meetings that have been permitted through the Parks and Recreation Department have the authority during the permitted activity to allow or prohibit the solicitation of signatures for petitions, gifts, money, or for goods or services within the permitted area.

(k) All applicable fees, charges, deposits, rules, and regulations concerning the use of park facilities are applicable for public assemblies.

Sec. 18-85. Special Events.

(a) Public spectator events or attractions, concerts, sports events, pageants, entertainments, ceremonies, and similar events are allowed in City parks with a permit. The Application for Permit to Use City Facilities must be completed and submitted to the Department at least forty-five (45) days before the event.

(b) A permit will be issued by the Parks and Recreation Director or his or her designee when all requirements of the application have been met. A permit shall be denied if such activities would:

(1) Reasonably cause injury or damage to park resources; or
(2) Present a clear and present danger to the public health and safety; or
(3) Result in significant conflict with other existing uses.

(c) An application for such a permit shall set forth the name of the applicant, the date, time, duration, nature and place of the proposed event, an estimate of the number of persons expected to attend, a statement of equipment and facilities to be used, and any other information required by the Director of Parks and Recreation or his or her designee.

(1) The applicant must submit to the Director a certificate of liability insurance, naming the City of Fort Smith as an additional insured, with a minimum coverage of $300,000.

(2) Prior to issuance of a permit, a deposit in the amount of $500 is required to cover costs of any damage to the facility such as restoration, rehabilitation, and cleanup of the area used, as well as other costs resulting from the special event.

(d) The permit may contain such conditions as are reasonably consistent with protection and use of the park area for the purposes for which it is established. It may also contain reasonable limitations on the equipment used and the time and area within which the event is allowed.

(e) Violation of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of the permit.

(f) Organizers of special events that have been permitted through the Parks and Recreation Department have the authority to select food and merchandise vendors that

comply with applicable public health codes and City business regulations to provide goods and services at their event. The organizers also have the authority to prohibit food and merchandise vendors at their discretion within the permitted area.

(g) Organizers of special events that have been permitted through the Parks and Recreation Department have the authority during the special event to allow or prohibit the solicitation of signatures for petitions, gifts, money, or for goods or services within the permitted area.

(h) All applicable fees, charges, deposits, rules, and regulations concerning the use of park facilities are applicable for special events.

Passed and approved this _____day of November, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to form:
[illegible]
Ass't City Attorney
Publish 1 Time

3301 South M Street / Fort Smith, Arkansas 72903 / 479.784.2368 / FAX 479.784.2480 / www.fsark.com/Parks

PARKS RECREATION
FORT SMITH

Memo:

November 9, 2011

To: Ray Gosack, City Administrator
From: Mike Alsup, Director of Parks and Recreation Mike Alsup
Re: Public Assembly, Sale of Food or Merchandise, and Soliciting in City owned parks

The Parks and Recreation Commission and staff recommend the approval of an ordinance establishing rules regarding the authorization and permitting of public assemblies, the sale of food or merchandise, and noncommercial solicitation on City property. This recommendation will establish a permit system for these areas to improve the management and scheduling of the parks, and clarify the rules. As it is proposed in ordinance form, the provisions would be enforced by and subject to the penalty provisions in the Municipal Code.

Public assembly is allowed on City owned park property. The proposed policy will provide for the management of public assembly without inhibiting the right to assemble and express one's views. The proposed permit system will provide a management tool that will help staff avoid over booking a park facility. The permit system will help staff and the interested party select the best venue in terms of size and facilities to meet the group's needs.

Currently there is a food vendor authorization procedure in place. The proposed policy formalizes this procedure and adds this provision into the parks rules and regulations. This provision has also been included in the public assembly and special events policies allowing the organizers of these activities to select the food vendors and other solicitors that may participate in their event.

Historically the authority to choose food vendors has been given to the organizers of the particular event. The authority to approve vendors was challenged this year at more than one event. Event organizers spend thousands, even hundreds of thousands, of dollars promoting and bringing large events to Fort Smith. These parties should have the authority to approve which food vendors and other solicitors are permitted within the area designated for their event.

The noncommercial solicitation recommendation covers other things not covered in the sale of food or merchandise recommendation. This provision was also challenged this year during large special events. This provision is also included in the public assembly and special event policies allowing event organizers to select or reject solicitors.

Please contact me if you have any questions.

5A.

ORDINANCE NO. _____

AN ORDINANCE DECLARING EXCEPTIONAL CIRCUMSTANCE

AND AUTHORIZING CONTINUATION OF AGREEMENT WITH

DATA-TRONICS CORP.

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

SECTION 1: The City Administrator is hereby authorized to continue the agreement between the City of Fort Smith and Data-Tronics Corp. for the period January 1, 2012 through December 31, 2012 which agreement authorizes Data-Tronics Corp. to provide data processing services to the City at the rates indicated in the Data Processing Service Schedule attached hereto.

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

THIS ORDINANCE ADOPTED THIS 15 DAY OF NOVEMBER 2011.

APPROVED:

_____

MAYOR

ATTEST:

_____

CITY CLERK

Approved as to form
JYC
No publication required

The City of Fort Smith ARKANSAS

MEMORANDUM

November 3, 2011

TO: Ray Gosack, City Administrator

FROM : Kara Bushkuhl, Director of Finance

SUBJECT: Data Processing Agreement with Data-Tronics

Attached is correspondence from Ms. Cindy House of Data-Tronics regarding the renewal of the contract between the City and Data-Tronics for providing data processing services. DTC is very cognizant of the present state of the economy, and as such, has not recommended any increase in rates for 2012.

I recommend the continuation of the contract with Data-Tronics and respectfully request that the attached ordinance be placed for Board consideration at its November 15, 2011 meeting. If you have any questions, please let me know.

November 7, 2011

Data-Tronics Corp.
data-tronics.com

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

Dear Kara:

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

Each year at this time we review our contract with the City of Fort Smith. This year Data-Tronics will not be taking a rate increase. Under the Network section, the Annual P-Synch License Maintenance Fee of $416.34 appears. As a reminder this charge applies to the City of Fort Smith's use of the password-reset tool for maintaining Data-Tronics issued network and mainframe passwords. This fee covers the annual maintenance cost for 162 City of Fort Smith people at $2.57 each. In addition the monthly Service Provider License Agreement fee has been reduced to $400.

I have enclosed two copies of the 2012 Data Processing Service Schedule for your review which reflects the charges and rates for 2012. Please sign both copies and return them to me for Data-Tronics to sign, after which I will return a signed copy of the schedule for your files.

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

Sincerely,

Cindy House

Cindy House
Manager, Information Services

encl

3801 Old Greenwood Road P.O. Box 10048 Fort Smith, Arkansas 72917-0048 479-784-8400

Data Processing Service Schedule

This Schedule constitutes part of the Agreement between Data-Tronics Corp. and the City of Fort Smith, dated September 8, 1980, and replaces the Data Processing Service Schedule with the effective date of January 1, 2011, and Contract Supplements thereto. These rates become effective January 1, 2012.

			2012 Rates	
I.	APPLICATION PROCESSING			
A.	Municipal Utility Billing			
	1.	Normal Processing		
		A. Base Processing Charge	$14,290.03	Per Month
		B. Active Service Agreements	$0.1282	Per Account
		C. Service Points with Meter	$0.0855	Per Meter
		D. Account Transactions	$0.0342	Per Trans
B.	General Ledger			
	1.	Normal Processing		
		A. Online Processing	$1,350.78	Per Month
		B. Online Transactions	$0.0431	Per Trans
		C. Standard Reporting	$1,138.21	Per Month
C.	Accounts Payable			
	1.	Normal Processing		
		A. Online Base Charge	$703.33	Per Month
		B. Regular Batch Processing	$298.41	Per Month
		C. Online Transactions	$0.1688	Per Trans
		D. Checks	$0.6207	Per Check
D.	Payroll			
	1.	Normal Processing		
		A. Online Base Charge	$795.57	Per Month
		B. Standard Monthly Reporting	$1,229.51	Per Month
		C. Payroll Checks	$0.6236	Per Check
		D. Quarterly Reporting	$144.64	Per Quarter
		E. Annual Reporting	$867.88	Per Year
E.	Miscellaneous Accounts Receivable			
	1.	Normal Processing		
		A. Online Base Charge	$472.81	Per Month
		B. Online Transactions	$0.0486	Per Trans
		C. Statements	$0.4608	Per Stmt
		D. A/R Online Landfill Transactions	$0.0467	Per Trans
F.	Miscellaneous Receipts and Privilege License (Collections) System			
	1.	Normal Processing		
		A. Online Base Charge	$482.12	Per Month
		B. Online Transactions	$0.0515	Per Trans
		C. Standard Batch Reporting	$820.68	Per Month
		D. Statements	$0.4882	Per Stmt
	2.	On Request		
		A. Business Registration Forms	$0.0429	Per Form

G.	Sanitation Accounts Receivable			
	1.	Normal Processing		
		A. Online Base Charge	$417.13	Per Month
		B. Regular Batch Processing	$333.68	Per Month
		C. Online Transactions	$0.0484	Per Trans
	2.	Annual Processing		
		A. Annual Origin Location Report	$123.28	Per Run
	3.	On Request		
		A. List of Sanitation Customers by Route	$38.80	Per Run
II.	MAILING LABELS			
	A.	Mailing Labels	$0.0472	Per Label
III.	NETWORK			
	A.	Internet System Support	$500.00	Per Month
	B.	Service Provider License Agreement	$400.00	Per Month
	C.	Annual P-Synch License Maintenance Fee	$416.34	Per Year

ATTEST: _____ By: _____

Title: _____

Date: _____

ATTEST: _____ By: _____

Title: _____

Date: _____

5B

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE OFFERING OF WATER AND SEWER REVENUE BONDS TO REFUND OUTSTANDING WATER AND SEWER REFUNDING REVENUE BONDS, SERIES 2005A; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Fort Smith, Arkansas (the "City") owns and operates a water and sewer system (the "System") and has outstanding its Water and Sewer Refunding and Construction Revenue Bonds, Series 2005A (the "2005A Bonds") that are payable from and secured by revenues of the System; and

WHEREAS, in order to achieve debt service savings, it is in the best interest of the City to refund the 2005A Bonds (the "Refunding"); and

WHEREAS, the Refunding can be accomplished by the issuance of the City's Water and Sewer Refunding Revenue Bonds, Series 2012 (the "Bonds"); and

WHEREAS, the City has determined to sell the Bonds on a negotiated basis to Stephens Inc. and Morgan Keegan & Company, Inc. as underwriters (the "Underwriters"), with Stephens Inc. serving as book running manager;

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

Section 1. The offering of the Bonds by the Underwriters is hereby authorized in order to achieve an acceptable level of savings for the City.

Section 2. The Bonds shall be allocated to the Underwriters as follows: Stephens Inc. - 80%; and Morgan Keegan & Company, Inc. - 20%.

Section 3. The officials of the City are authorized to cooperate with the Underwriters, and Friday, Eldredge & Clark, LLP, as Bond Counsel, in the preparation of a preliminary official statement and bond ordinance and are further authorized to execute such writings and take such actions as may be appropriate to the offering of the Bonds.

Section 4. As the issuance of the Bonds is, under Arkansas law, subject to the approval of the Board of Directors, by ordinance, any sale of the Bonds will be subject to the approval of the Board of Directors.

Approved as to form
JSC
No publication required

This Resolution passed this _____ day of _____, 2011.

APPROVED:

ATTEST:

By:_____
Mayor

_____
City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Fort Smith, Arkansas (the "City"), hereby certifies that the foregoing is a true and compared copy of a resolution passed at a _____ session of the Board of Directors of the City, held at the regular meeting place of the Board at _____ o'clock p.m. on the _____ day of _____, 2011.

_____
City Clerk

(SEAL)

Memo

To: Ray Gosack, City Administrator

From: Jeff Dingman, Deputy City Administrator

Date: 11/8/2011

Re: Resolution Authorizing Series 2012 Water & Sewer Refunding Bonds

---

Presented for the Board's consideration at its November 15, 2011 regular meeting is a Resolution authorizing the offering of Water and Sewer Revenue Bonds to refund outstanding bonds. The City's bond underwriters have identified an opportunity to realize approximately $647,000 in debt service savings.

The Resolution authorizes the refunding of outstanding Water and Sewer Revenue Refunding Bonds, Series 2005A. These bonds were issued to advance refund Series 1999 bonds which were used to for improvements at the Lee Creek treatment plant; engineering & improvements to water transmission, storage, & distribution; and engineering & improvement costs associated with the Lake Fort Smith water supply expansion project, including relocating the Lake Fort Smith State Park. The 2005A Series bonds represent $17.2 million in outstanding debt.

This current refunding will be accomplished by the issuance of Water and Sewer Refunding Revenue Bonds, Series 2012 to replace the outstanding bonds at a significant economic savings. The current market conditions and available interest rates will allow refunding the $17.2 million in outstanding bonds with new debt service in the amount of approximately $16.55 million, a savings of approximately $647,000.

Stephens, Inc. will be underwriting 80% of the bonds. Morgan Keegan & Company, Inc. will be underwriting 20% of the bonds. As this is a refunding of existing debt at a better interest rate and keeping the original timeline, this action should only have a positive impact to the City's overall bond rating.

Approval of the proposed Resolution authorizes City officials to proceed in working with the bond counsel and underwriters to prepare the Preliminary Official Statement and a bond ordinance for consideration by the Board at the January 17, 2012 regular meeting.

Please contact me at your convenience if you have questions regarding this agenda item.

5C

RESOLUTION NO. _____

RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF FORT SMITH, ARKANSAS AND THE FORT CHAFFEE REDEVELOPMENT AUTHORITY TO JOINTLY DESIGN, CONSTRUCT AND FUND THE MCCLURE AMPHITHEATER ROAD, PROJECT 12-00-A

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

Section 1: The Mayor is hereby authorized to execute an Agreement with the Fort Chaffee Redevelopment Authority providing for the sharing of costs for the design and construction of the McClure Amphitheater Road.

Section 2 The Agreement authorized in Section 1 above stipulates that the cost of the McClure Amphitheater Road will be shared equally by both parties as set forth in the Briefing Report dated November 9, 2011, a copy of which is attached hereto.

This Resolution Adopted this _____ day of November, 2011.

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Approved as to Form

_____

☑ No Publication Required
☐ Publish ____ Times

MEMORANDUM

To: Ray Gosack, City Administrator

From: Stan Snodgrass, P.E., Director of Engineering SS

Subject: McClure Amphitheater Road
Cost Share Agreement with the Fort Chaffee Redevelopment Authority
2012 Sales Tax Program, Project 12-00-A

Date: November 9, 2011

The above referenced project includes the design and construction of a new street to serve the McClure Amphitheater. This street will also encourage development of the area east of the amphitheater extending towards Wells Lake Road. This approximately 1500 foot street will intersect with Massard Road as shown on the attached Exhibit "A". The estimated total cost for the project is $900,000. The cost will be split equally between the Fort Chaffee Redevelopment Authority (FCRA) and the City. Additionally, the right of way required for the construction of the street will be donated by the FCRA to the City at no cost to the City.

Attached hereto is a Resolution with authorizes the Mayor to execute the cost sharing agreement for this project. I recommend that the Resolution be adopted by the Board of Directors at the next regular meeting.

Enclosure

The City of Fort Smith Arkansas
Engineering Department
623 Garrison Avenue • P.O. Box 1908
Fort Smith, Arkansas 72902
Phone: 479-784-2225 • Fax: 479-784-2245

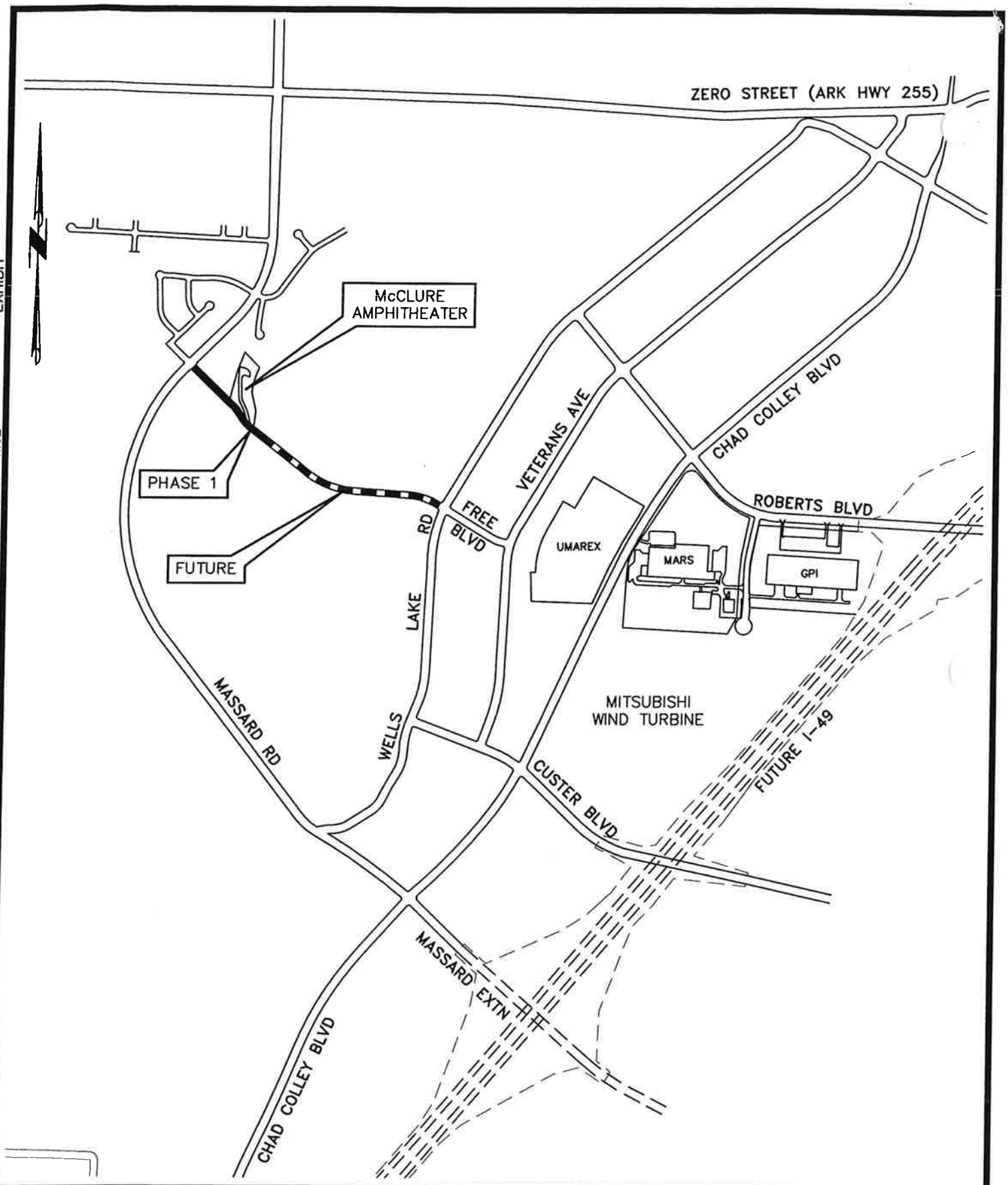


EXHIBIT "A"
FCRA DEVELOPMENT
McClure Amphitheater Road
FORT SMITH, ARKANSAS

The City of Fort Smith ARKANSAS

Project:	12-00-A
Date:	SEPT 2011
Scale:	NONE
Drawn By:	RBR

G:\DRAWINGS\CIP\00-00 CIPALL\2012\ McClure Rd.dwg 11/03/11-09:52 MJL EXHIBIT

5D

RESOLUTION _____

A RESOLUTION AUTHORIZING A CHANGE ORDER FOR THE CONSTRUCTION OF CHAD COLLEY BOULEVARD EXTENSION
PROJECT NO. 10-00-A

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

SECTION 1: Change Order No. 1 with Forsgren, Inc., for the Chad Colley Boulevard Extension, Project No. 10-00-A, which increases the contract amount by $10,205.83 to an adjusted contract amount of $3,163,785.48, is hereby approved.

This resolution adopted this _____ day of November, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

JSC
_____
☑ No Publication Required
☐ Publish ____ Times

5E

RESOLUTION _____

A RESOLUTION ACCEPTING COMPLETION OF AND AUTHORIZING FINAL PAYMENT FOR THE CONSTRUCTION OF CHAD COLLEY BOULEVARD EXTENSION PROJECT NO. 10-00-A

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

SECTION 1: The City of Fort Smith hereby accepts the construction of Chad Colley Extension, Project No. 10-00-A, as complete.

SECTION 2: Final payment is hereby authorized in the amount of $69,094.46 to the contractor, Forsgren, Inc., for the Chad Colley Extension, Project No. 10-00-A.

This resolution adopted this _____ day of November, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

Approved as to Form

_____

☑ No Publication Required
☐ Publish ____ Times

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator

FROM: Stan Snodgrass, Director of Engineering SS

DATE: November 9, 2011

SUBJECT: Chad Colley Boulevard Extension
Project No. 10-00-A

This project included a 2000 foot extension of Chad Colley Boulevard from its current terminus adjacent to Umarex extending to Custer Boulevard along with radius improvements at Frontier Road committed as part of the memorandum of agreement for the Mitsubishi Wind Turbine plant. Also included was another 2000 foot extension of Chad Colley Boulevard between Custer Boulevard and Massard Road. This final extension provides a direct route along Chad Colley Boulevard extending over 3 ½ miles from its intersection with Rye Hill Road to Zero Street. The project location is shown on the attached map. A project summary sheet is attached.

Change Order No.1 increases the contact amount by $10,205.83 (0.3%) to a total contact amount of $3,163,785.48. The increase in the contract amount is due to extra grading to accommodate the northern end of the Mitsubishi Wind Turbine site.

I recommend approval of the Resolutions to increase the contact amount and to accept the project as complete and authorize final payment to the contractor.

SUMMARY SHEET

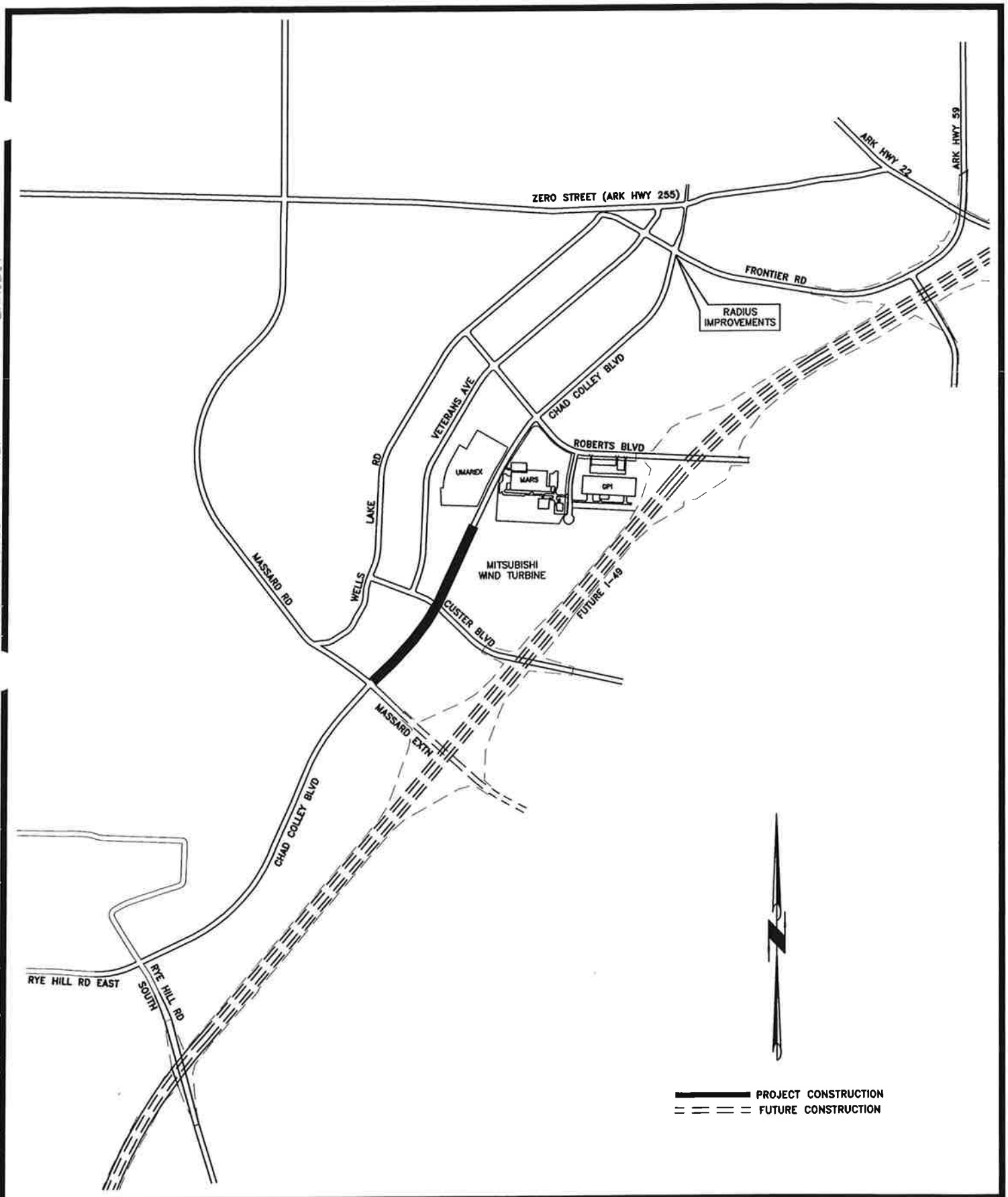
City of Fort Smith

Project name:	Chad Colley Blvd. Extension	Project number:	10-00-A
Project Status:	Complete	Project engineer:	Hawkins-Weir Engineers, Inc.
Today's Date:	11/09/11	Project contractor:	Forsgren, Inc.
Staff contact name:	Stan Snodgrass		
Staff contact phone:	784-2225		
Contract time (no of days):	210		
Notice to proceed issued:	2/14/2011		

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	$3,153,579.65	12/28/2010	9/12/2011
Contract Revisions:			
1 Change Order No. 1	$10,205.83		
2			
3			
Adjusted contract amount	$3,163,785.48		
Payments to date (as negative):	$3,094,691.02		
Amount of this payment	$69,094.46		
Contract balance remaining	$0.00		
Retainage held	0%		
Final payment	$69,094.46		
Amount over original as a percentage	0.3%		

Final Comments:

Change Order No. 1 increases the contract amount by $10,205.83 (0.3%) to an adjusted total contract amount of $3,163,785.48. The increase in the contract amount is due to extra grading to accommodate the northern end of the Mitsubishi Wind Turbine site.



FCRA DEVELOPMENT
CHAD COLLEY EXTENSION
FORT SMITH, ARKANSAS

The City of Fort Smith ARKANSAS

Project:	10-00-A
Date:	SEPT 2010
Scale:	NONE
Drawn By:	RBR

C:\City of Fort Smith\Engineering\Snodgrass\Chad Colley EXT\ CC-I49-REV6.2 2/23/10-09:39 RBR EXHIBIT

5F

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDED LEASE AGREEMENT WITH PRODUCE ROW DEVELOPMENT, LLC, FOR OPERATING A PORTION OF THE PARK AT WEST END

WHEREAS, Produce Row Development, LLC, has previously leased to the City of Fort Smith a portion of the Park at West End; and,

WHEREAS, the City of Fort Smith and Produce Row Development, LLC, now desire to amend the existing lease agreement to enlarge the term of the lease, to amend the lease rental amount, and to establish a maintenance allowance; and,

WHEREAS, the City of Fort Smith Parks and Recreation Commission recommends the approval of the amended agreement with Produce Row Development, LLC, for a portion of the Park at West End;

NOW, THEREFORE, 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, an Amended Lease Agreement substantially in the form attached hereto with Produce Row Development, LLC. The amended lease shall become effective on the date of passage of this Resolution. The amended lease will be for the continued operation of the Ferris wheel and carousel and for the maintenance of same as well as the landscaping at the Park at West End.

This Resolution passed this _____ day of _____, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM

_____ npr

3301 South M Street / Fort Smith, Arkansas 72903 / 479.784.2368 / FAX 479.784.2480 / www.fsark.com/Parks

PARKS
RECREATION
FORT SMITH

Memo:

November 9, 2011

To: Ray Gosack, City Administrator
From: Mike Alsup, Director of Parks and Recreation Mike Alsup
Re: The Park at West End Lease Agreement

The Parks and Recreation Commission recommends that the City approve the lease agreement with Produce Row Development LLC for the operation of the rides at the Park at West End in 2012. The Advertising and Promotions Commission and Central Business Improvement District endorse this recommendation.

There are two amendments to the lease agreement. The first is a recommendation that the lease be amended to a five (5) year term that may be terminated by either party with a thirty (30) day notice. This will remove the annual approval required now with the option to give a notice by either party to end the agreement. The second amendment establishes $1.00 per year as the rental rate with a maintenance provision of $2,500.00 per year. The City provides daily maintenance for the rides. Produce Row Development provides other larger maintenance including painting, rebuilding the clutch and brakes on the Ferris wheel, and replacing the cable on the Ferris wheel. With this amendment, the Parks and Recreation Director will approve maintenance prior to work being done that will be reimbursed to the owner up to but not exceeding $2,500 per year.

The revenues for the Ferris wheel and carousel are currently within $1,000.00 of break even. Last year the rides ended the year with a deficit over $4,000. Over 21,000 rides were given this year and over a dozen parties enjoyed the park including one wedding reception. Any time temperatures exceed ninety-nine degrees (99), attendance drops. The record breaking summer with over forty-five (45) days of 100 plus degrees reduced attendance and ridership. With a normal summer, we would have most likely hit the breakeven point or ended the year in the black.

The operation of the rides and working relationship with Produce Row Development is positive for both parties. The introduction of the Boom A Rang restaurant improved attendance this year. Many citizens and tourists enjoyed the park.

If you have any questions regarding the Park at West End and the recommended amendments to the lease, please call me.

Livin' it up!
Downtown
Fort Smith
Live • Work • Play
www.GoDowntownFS.com

DATE: **September 29, 2011**

TO: Mike Alsup, Director of Parks

FROM: Jayne Hughes, Downtown Development Coordinator

RE: Park at West End

The Central Business Improvement District met last Thursday, September 22, and discussed the Park at West End. The commissioners discussed the progress of the park with the figures through September 15, 2011. Those numbers indicated that the park has a net loss of $604.68. Everyone agreed that this has been a very successful year especially with the outrageous heat and weather conditions. Again, the consistency and professionalism with which the Parks Department operates the facility has greatly improved this amenity to Downtown over the past several years. This partnership has helped Downtown provide many hours of family enjoyment for citizens and tourists.

The commissioners voted unanimously to continue the pledge to support the park financially for the year 2012. The amount in the reserve fund will be $8000.00.

If you have any further questions please give me a call.

Fort Smith
ARKANSAS

TO: Mike Alsup, Director
Department of Parks & Recreation

FROM: Claude Legris, Executive Director
Fort Smith Advertising and Promotion (A & P)
Commission

COPY: Advertising and Promotion Commissioners
Ray Gosack, City Administrator
Parks and Recreation Commissioners

SEP 2011
Fort Smith
Parks & Recreation

DATE: September 28, 2011

REGARDING: The Park at West End

The members of the Fort Smith Advertising and Promotion Commission are fully aware of the value of the operation of the Park at West End to the community and to the tourism industry and wholeheartedly support the recommendation of the Fort Smith Parks and Recreation Commission to extend the operating lease agreement.

The Commissioners voted at their September 26, 2011 meeting to enthusiastically endorse the continued operation of the Park. They also offer their congratulations to the City of Fort Smith and the Parks and Recreation Commission for the success of the Park and the enhancements during the 2011 year including the addition of the Boom a Rang restaurant.

We will continue to recommend the facility to customers planning events in our community as well as featuring Park images in all of our marketing materials as the Fort Smith's destination marketing organization.

The Fort Smith A & P Commission is proud to play a role in this successful partnership between the City, the Parks Department and the Central Business Improvement District.

Fort Smith Convention & Visitors Bureau
2 North B Street • Fort Smith, Arkansas 72901
479-783-8888 • 1-800-637-1477 • Fax 479-784-2421
E-Mail: tourism@fortsmith.org • URL: http://www.fortsmith.org

AMENDED LEASE AGREEMENT

Between

PRODUCE ROW DEVELOPMENT, LLC

as Landlord

and

CITY OF FORT SMITH, ARKANSAS

as Tenant

Dated as of

_____

AMENDED LEASE AGREEMENT

THIS AMENDED LEASE is made the _____ day of _____, 2011, between Produce Row Development, LLC, an Arkansas limited liability company ("Landlord"), and City of Fort Smith, Arkansas ("Tenant").

WITNESSETH:

IN CONSIDERATION of the mutual terms, covenants and conditions set forth in this Amended Lease ("Amended Lease"), the Landlord and Tenant hereby agree to the amendments to the Lease Agreement originally approved by the Fort Smith Board of Directors on December 15, 2009, by Resolution No. 292-09. With the exception of the amendments set forth below, the terms and conditions of said original Lease Agreement are hereby readopted by Landlord and Tenant as if set forth herein verbatim.

ARTICLE II

TERM OF LEASE AND CONTINUATION OF LEASE

Section 2.1 Term. Effective with the approval of this Amended Lease, the term of this Amended Lease shall be for a period of five (5) years, commencing on the date of approval by the Fort Smith Board of Directors.

Section 2.2 Extended Term. At the conclusion of the five (5) year term described in Section 2.1 above, this Amended Lease shall automatically continue until modified by the parties or until such time as one of the parties gives the other a thirty (30) day written notice that the agreement is terminated.

ARTICLE III

RENT

Section 3.1 Rent. Tenant shall pay to Landlord rent in the amount of One and no/100 Dollar ($1.00) per year during each year that this agreement is in effect, without deduction or offset and without prior notice or demand.

ARTICLE VI

MAINTENANCE OF LEASED PREMISES

Section 6.1 Landlord's Obligations. Landlord shall, at its own expense, maintain the concrete pad of the Leased Premises except for (a) any damage caused by an act or omission of (i) Tenant, its employees, agents, licensees, or contractors, or (ii) by any other party, invitee, or customer not an employee or agent of the Landlord; or (b) any structural changes necessary, in whole or in part, as a result of (i) any alteration made by Tenant, or (ii) any use made of the leased Premises by Tenant which is different from or more hazardous than the Tenant's use of the Leased Premise as authorized in Section 1.1. So long as the Tenant provides the daily maintenance (e.g., see Exhibits "B" and "C" attached hereto), the Landlord shall make all necessary repairs to the (a) Ferris wheel and carousel, including but not limited to the electric motors, gears and brakes and (b) plumbing of the restrooms. In making all necessary repairs, the Landlord shall notify the Tenant, through its Parks and Recreation Director, of the nature of the needed repairs and the estimated cost of same. If the Parks and Recreation Director, in his or her sole discretion, then pre-approves the repair and cost, such cost of repair(s) shall, at the end of each year (a full twelve month period) of this Amended Lease Agreement, be reimbursed to Landlord by Tenant up to a maximum of Two Thousand Five Hundred Dollars ($2,500.00) per

each year of this Amended Lease Agreement. The Landlord shall also be required to maintain the restrooms in a clean and sanitary condition. This Section does not create any obligation upon Landlord to repair damage by fire or other casualties.

Section 6.2 Tenant's Obligation. Failure of Tenant to provide the daily maintenance referred to in Section 6.1 above shall be considered a default in the terms of this Amended Lease pursuant to Section 15.1. Tenant shall further, at its own cost, keep the Leased Premises in a clean, sanitary and safe condition in accordance with the directives, rules and regulations of any health officers, fire marshals, building inspectors, OSHA, environmental and other governmental officials. Failure of Tenant to comply with such directives, rules and regulations shall be a default under this Lease in accordance with Section 15.1.

IN WITNESS WHEREOF, Landlord and Tenant have each caused this Amended Lease to be duly executed and delivered, as of the ___ day of _____, 2011.

LANDLORD:

PRODUCE ROW DEVELOPMENT, LLC

By: Phillip Joe White Revocable Living Trust
Its: Member

By: _____
Phillip Joe White, Trustee

ATTEST:

_____

TENANT:

CITY OF FORT SMITH, ARKANSAS

_____

By: Sandy Sanders
Title: Mayor

ATTEST:

_____

City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)SS
County of SEBASTIAN)

On this _____ day of _____, 2011, before me, a Notary Public, duly commissioned, qualified and acting, within and for the County of Sebastian, Arkansas, appeared in person the within named Phillip J. White, to me personally well known, who stated that he is the Trustee of the Phillip Joe White Revocable Living Trust, which is a Member of Produce Row Development, LLC, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2011.

_____
Notary Public

My Commission Expires:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)SS
County of SEBASTIAN)

On this _____ day of _____, 2011, before me, a Notary Public, duly qualified, commissioned and acting, within and for the County of Sebastian, Arkansas, appeared in person the within named Sandy Sanders and Sherri Gard to me personally well known, who stated that they were, respectively, the Mayor and Clerk of the City of Fort Smith, Arkansas, a municipal corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said city, 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 _____ day of _____, 2011.

_____
Notary Public

My Commission Expires:

5H

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING CONTRACT AMENDMENT NO. 1 WITH CRAWFORD CONSTRUCTION COMPANY FOR THE RENOVATION AND ADDITIONS TO THE TRANSIT FACILITIES LOCATED AT 6821 JENNY LIND ROAD

PROJECT NO. 10-02

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

SECTION 1: The contract amendment of Crawford Construction received November 8, 2011, for the renovation and additions to transit facilities, Project No. 10-02, in the amount of $40,982.66 be accepted amending the contract from $1,106,935 to $1,147,917.66 .

SECTION 2: The Mayor is hereby authorized to execute a contract amendment with Crawford Construction, subject to the terms set forth in Section 1 above.

This resolution adopted this ____ day of November, 2011.

APPROVED:

_____

Mayor

ATTEST:

_____

City Clerk

Approved as to form
JSC
No publication required

FortSmith TRANSIT

MEMORANDUM
November 8, 2011

To: Ray Gosack, City Administrator

From: Ken Savage, Transit Director

Subject: Transit Facility Renovation Contract Amendment No. 1

Attached is a resolution authorizing a contract amendment for supplementary improvements to the transit renovation project. The amendment includes an additional $40,982.66 and adjusts the contract amount by 3.7% from $1,106,935 to $1,147,917.66. Funding for the amendment is included in the budget and will come from the American Recovery and Reinvestment Act grant at 100%.

There are eighteen adjustments listed. The most notable expenses involve a contract addition to install a fuel tank monitoring system, infrastructure expenses related to an alternative location for the bus awning and remediation of asbestos discovered during the demolition of wall panels.

The fuel tank monitoring system, at a cost of $12,976, was recommended by the City's internal auditor during a previous audit of the transit fuel system. Precise measuring of fuel levels is difficult using a manual system, whereas, an electronic system can accurately measure tank levels and provide leak detection. The monitoring system can also provide an alarm or email message if a fault is detected. Installing the monitoring system at the present time while both fuel tanks are exposed will save a considerable amount of money in future construction cost.

The contract amendment also includes $9,521 to reposition the bus awning to an alternate location than was originally planned. The new location is necessary to provide a more flexible and safe traffic flow of buses on the premises. The original planned placement became problematic because of the length of the awning and associated terrain features. The additional costs are primarily related to infrastructure.

Asbestos was discovered while removing exterior wall panels for replacement, therefore the contract amendment reflects a cost of $5,839 for remediation. The remaining items are miscellaneous needs discovered during the renovation process.

Please feel free to contact me for further information.

SUMMARY SHEET

City of Fort Smith Project Status	39% Complete	Project name:	Renovations and Additions to the Transit Facility
Today's Date:	11/8/2011	Project number:	10-02
Staff contact name:	Ken Savage	Consultant engineer:	MAHG
Staff Contact Phone:	784-2320	Project contractor:	Crawford Construction
Contract time (no of days):	240		
Notice to proceed issued:	7/18/2011		

	Dollar Amount	Bid Date	Contract Completion Date
Original bid award	$1,106,935	2/26/2011	3/14/2012
Contract Revisions:			
1.	$40,982.66		
2.			
3.			
Adjusted contract amount	$1,147,917.66		
Payments to date (as negative)	$391,489.83		
Retainage held	10%		
Amount of this payment			

Final Comments:

The project is progressing on schedule and is approximately 39% complete.

Percent over original contract amount: 3.7%

mahg ARCHITECTURE
6400 Riley Park Drive
Fort Smith, Arkansas 72916
p: 479.782.1051
f: 479.782.1051
e. info@mahgarch.com

CHANGE ORDER

Project:	Renovation and Addition To Transit Department City of Fort Smith	**Change Order No.:**	01
		Date:	November 8, 2011
		Architect Project No.:	# 10-02
To Contractor:	Crawford Construction Co. 1103 S. 28th Street Van Buren, AR 72756	**Contract Date:**	May 19, 2011
		Contract For:	General Construction

The Contract is changed as follows:

See attachment

Not valid until signed by the Owner, Architect, and Contractor.

The original (Contract Sum)(~~Guaranteed Maximum Price~~) was	$1,106,935.00
Net change by previously authorized Change Orders	.00
The (Contract Sum)(~~Guaranteed Maximum Price~~) prior to this Change Order was	$1,106,935.00
The Contract Sum will be (increased)(~~decreased~~) (~~unchanged~~) by this Change Order in the amount of	40,982.66
The new (Contract Sum)(~~Guaranteed Maximum Price~~) including this Change Order will be	$1,147,917.66

The Contract Time will be (increased) (~~decreased~~) (~~unchanged~~) by 11 days.

The date of Substantial Completion as of the date of this Change Order therefore is March 26, 2012.

Note: This summary does not reflect changes in the Contract Sum, contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive.

Architect:	*Contractor:*	*Owner:*
MAHG Architecture, Inc.	Crawford Construction Co.	City of Fort Smith
6400 Riley Park Drive	1103 S 28th Street	P O Box 1908
Fort Smith, AR 72916	Van Buren, AR 72956	Fort Smith, AR 72956
Signature	*Signature*	*Signature*
Date 11-8-11	*Date* 11-8-11	*Date*

CHANGE ORDER No. 1 - FORT SMITH TRANSIT DEPARTMENT

DATE	ITEM		INITIATED BY	AMOUNT	
8/11/2011	COR-01	Add WWF Fabric to Bus Wash	MAHG	475.00	ADD
9/23/2011	COR-02	Relocate Bus Shelter	Owner	9,521.00	ADD
9/15/2011	COR-03	Deduct for Galvalume Finish	MAHG	(6,888.21)	DEDUCT
9/29/2011	COR-04	Remove Lights and Install New Boxes	Owner	1,527.00	ADD
9/29/2011	COR-05	Remove Molded Paneling/Sheetrock/Insulation	Owner	661.00	ADD
10/4/2011	COR-06	Remove Exterior Asbestos Panels	Owner/MAHG	5,839.00	ADD
10/4/2011	COR-07	Demo Door in 206 and add power to M-4	Owner	1,027.00	ADD
10/6/2011	COR-08	Remove Alt.#2 and Add Alt. #3	Owner	(2,262.13)	DEDUCT
10/10/2011	COR-09	Additional Undercut at Pump Room	Crawford	739.00	ADD
10/21/2011	COR-10	Replace Countertop In Rooms 102 & 214	Owner	1,875.00	ADD
10/21/2011	COR-11	Relocate Lights and Swtiches in Corridor	MAHG	1,497.00	ADD
10/21/2011	COR-12r	Add Door Operator in Bus Wash	Owner	1,391.00	ADD
10/24/2011	COR-13	Add Fuel Tank Monitoring System	Owner	12,976.00	ADD
10/26/2011	COR-14	Modify Existing Sidewalk for Drainage	Owner	942.00	ADD
11/2/2011	COR-15	Undercut Bus Shelter at Slab	Crawford	5,631.00	ADD
11/2/2011	COR-16	Undercut Bus Shelter at Footings	Crawford	2,232.00	ADD
11/3/2011		Heat Shields/Lowering Heaters	Owner	800.00	ADD
11/3/2011		Relocate Exhaust Reels	Owner	3,000.00	ADD
			TOTAL	**40,982.66**	ADD

Days added to Contract Time = 11

RESOLUTION NO. _____ 5 I

RESOLUTION AUTHORIZING PARTIAL PAYMENT TO CROSSLAND HEAVY CONTRACTORS, INC., FOR CONSTRUCTION OF THE LAKE FORT SMITH WATER TREATMENT PLANT - CONTRACT 3

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

Partial payment number twenty-six to Crossland Heavy Contractors, Inc., in the amount of $821,432.17, for construction of the Lake Fort Smith Water Treatment Plant - Contract 3, Project Number 07-09-C3, is hereby approved.

This Resolution adopted this _____ day of November 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** October 31, 2011

FROM: Steve Parke, Director of Utilities

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

Crossland Heavy Contractors, Inc., has submitted partial pay request number twenty-six in the amount of $821,432.17 for work completed on the Lake Fort Smith Water Treatment Plant Improvements - Contract 3. A project summary sheet covering work completed to date is attached for your information. Major items of work completed during the time period covered by this pay request and overall progress status for those items of work are as follows:

- Site Electrical (85% complete)
- Site Concrete (68% complete)
- West Filter Building (92% complete)
- East Filter Building (99% complete)

The attached Resolution authorizes payment to Crossland. Should you or members of the Board have any questions or desire additional information, please let me know.

attachment

pc: Jeff Dingman

Project Summary

Project status: Underway

Project name: Lake Fort Smith Water Treatment Plant Improvements - Contract 3

Today's date: October 31, 2011

Project number: **07-09-C3**

Staff contact name: Steve Parke

Project engineer: Burns & McDonnell, Inc.

Staff contact phone: 784-2231

Project contractor: Crossland Heavy Contractors, Inc.

Notice to proceed issued: August 31, 2009

Final completion Date: April 4, 2012

	Dollar Amount	Contract Time (Days)
Original contract	$31,641,000.00	785
Change orders:		
Change Order No. 1	$22,902.00	14
Change Order No. 2	$89,078.00	49
Change Order No. 3	$-19,174.00	
Change Order No. 4	$70,237.00	
Change Order No. 5	$62,859.00	9
Change Order No. 6	$155,516.00	45
Total change orders	$381,418.00	117
Adjusted contract	$32,022,418.00	902
Payments to date (as negative):	$-27,374,358.52	
Amount of this payment (as negative)	$-821,432.17	
Retainage held	$1,601,120.90	
Contract balance remaining	$2,225,506.41	
Amount Over as a percentage	1.01%	

Final comments:

Substantial completion of Phase 2 construction will be reached in November. With completion of the new West Filter Building, Crossland will begin demolition of the 1936 filters for construction of the new carbon contact basin under Phase 3 of the project.

5 J

RESOLUTION NO._____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT OFFER MADE BY PROPERTY OWNER FOR THE ACQUISITION OF REAL PROPERTY INTERESTS FOR THE LAKE FORT SMITH WATER SUPPLY PROJECT

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

The City Administrator is hereby authorized to execute an offer and acceptance made by the following property owners:

Tract 12-9B	Randy T. Hill & Lanelle Hill	$ 36,000.00
Tract 12-14	Smith Ross Properties, LLC	$ 90,000.00

and make payment for same, and any applicable closing costs, in connection with the acquisition of the real property for the Lake Fort Smith Water Supply, Project 99-01, said properties being located on North Highway 71 and Winfrey Valley Cutoff Road, Mountainburg, Arkansas in Section 12, Township 12 North, Range 30 West.

This Resolution adopted this _____ day of November 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** November 3, 2011

FROM: Steve Parke, Director of Utilities

SUBJECT: Watershed Protection Acquisitions
Lake Fort Smith Water Supply

Over the past several weeks staff has been discussing with Mr. and Mrs. Randy Hill and Smith Ross Properties, LLC the need to acquire watershed protection for their property. Both properties are included in the watershed boundary area around the lake that the city proposes to acquire for watershed protection, either by a watershed protection easement or by fee title acquisition. An exhibit showing the two property locations is attached.

Mr. and Mrs. Hill purchased this 5.19 acre tract of vacant land on Highway 71 North, Mountainburg, Arkansas in 2003 for a future retirement home with a view of the lake. The property is located along the east side of Highway 71, approximately 5 miles north of Mountainburg, with just in excess of 240 feet of highway frontage. The property drops off sharply from the highway toward the shoreline of the lake. Surface water drains directly into the lake. Although steep, the property could be subdivided into two smaller building sites. Earlier this year, Mr. and Mrs. Hill decided to forego their building plans and now desires to sale the property.

Smith Ross Properties, LLC purchased this 40 acre wooded tract of property in 2006 for recreational purposes and a weekend retreat. The property is located approximately 6 miles north of Mountainburg, and 2 miles East from the intersection of Highway 71 and Winfrey Valley Cutoff Road. The property is very steep and rugged but because of its excellent access, could be developed into possibly as many as three spacious building sites. Surface water from this property drains directly into a major artery that flows into the lake. Recently the owners decided not to construct any improvements on the property, and listed the property for sale.

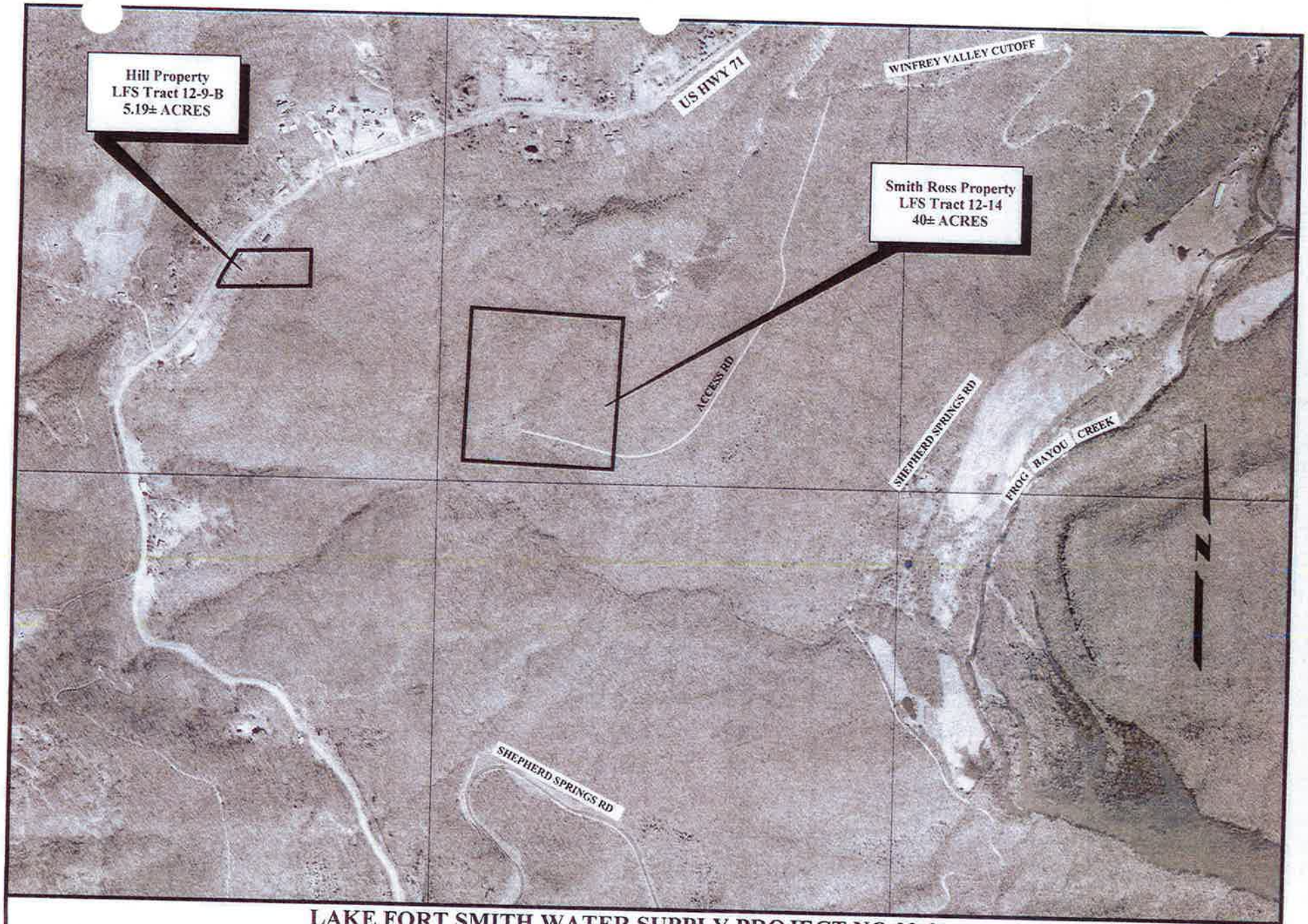
The city's appraiser, Matthews and Associates, has appraised the Hill Property for $36,000.00 and the Smith Ross Property for $90,000.00. These appraisal valuations are similar to previous appraisals of watershed protection properties purchased by the city in the area. Currently both properties are advertised for sale at a price above the city's appraised value. After several discussions with both owners, they have offered to sell their property to the city for the appraised value.

Staff believes that the owner's offer to sell the properties in fee title to the city for $36,000.00 and $90.000.00 is reasonable and that the administrative costs associated with acquiring the properties through other means is not the best alternative. Therefore, staff recommends that the Board approve the attached Resolution and accept the owner's offer at its next scheduled meeting.

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

attachment

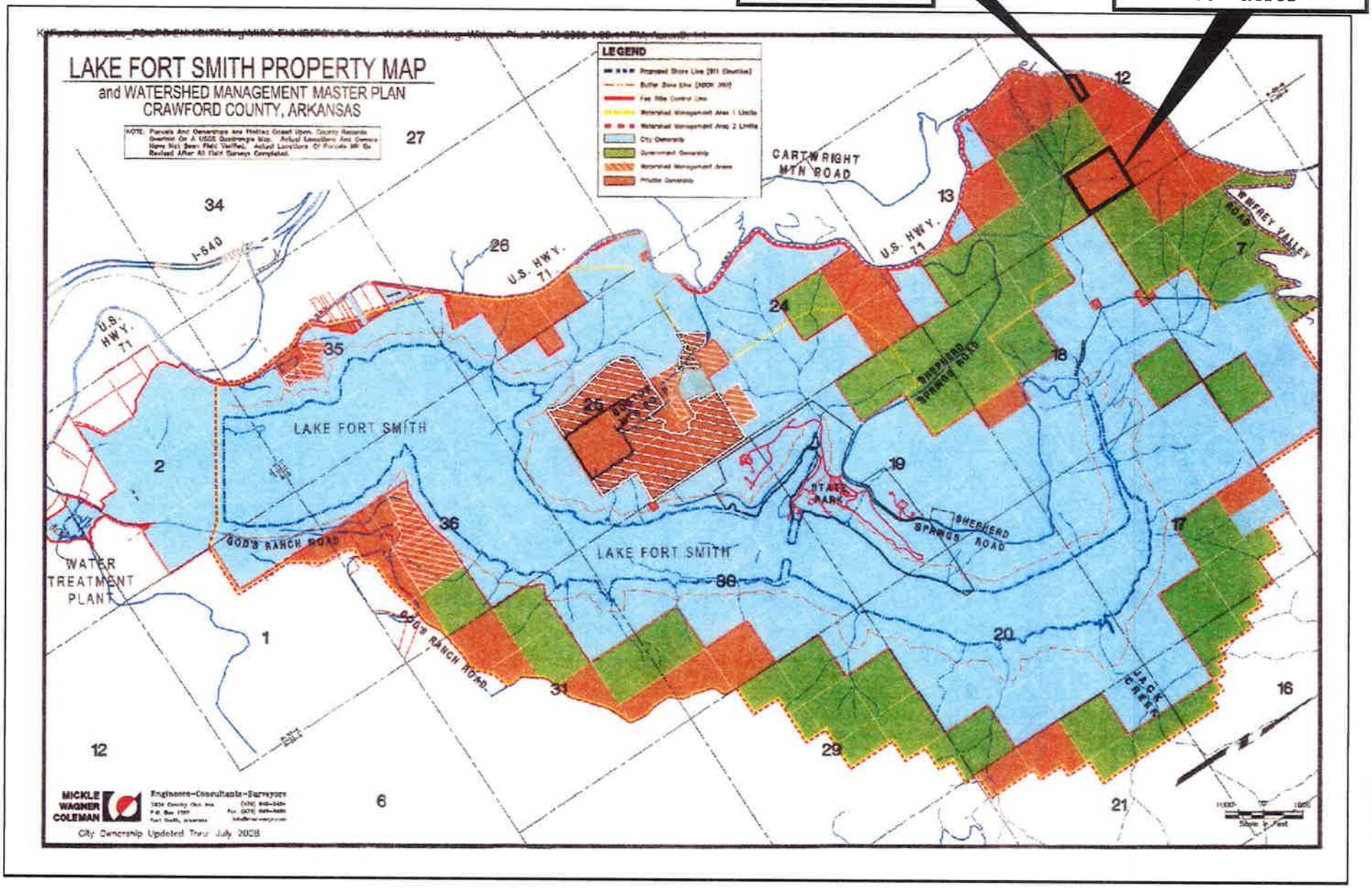
pc: Jeff Dingman



LAKE FORT SMITH WATER SUPPLY PROJECT NO 99-01
PROPOSED PURCHASE OF THE RANDY T. HILL, LANELLE HILL AND SMITH ROSS PROPERTIES IN WATERSHED BUFFER ZONE
November, 2011

Hill Tract
5.19± acres

Smith Ross Tract
40± acres



5 K

RESOLUTION NO. _____

RESOLUTION ACCEPTING THE PROJECT AS COMPLETE AND AUTHORIZING FINAL PAYMENT TO SILCO CONSTRUCTION, INC., FOR CONSTRUCTION OF THE SITE RESTORATION FOR THE SUNNYMEDE WET WEATHER AND WALKING TRAIL IMPROVEMENTS

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

SECTION 1: The construction of the Site Restoration for the Sunnymede Wet Weather and Walking Trail Improvements, Project 06-04-C2, is accepted as complete.

Section 2: Final payment to Silco Construction, Inc., in the amount of $51,030.38, is hereby approved.

This Resolution adopted this _____ day of November 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** November 4, 2011

FROM: Steve Parke, Director of Utilities

SUBJECT: Site Restoration for the Sunnymede Wet Weather and Walking Trail Improvements
Project Number 06-04-C2

This project finished the site restoration that was incomplete at the time the city terminated Branco's involvement with the Sunnymede Wet Weather project. It also included some additional concrete work around the walking trail benches and drainage improvements for erosion control.

Silco Contractors, Inc., has satisfactorily completed the work and is now ready for final payment in the amount of $51,030.38. The project was completed at $8,221.75 under the contract amount. A project summary sheet is attached for your information. A Resolution is attached accepting the project as complete and authorizing the final payment to Silco Contractors, Inc. It is my recommendation that the Resolution be approved.

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

attachment

pc: Jeff Dingman

Project Summary

Project status: Complete

Project name: Site Restoration for the Sunnymede Wet Weather and Walking Trail Improvements

Today's date: November 4, 2011

Project number: **06-04-C2**

Staff contact name: Steve Parke

Project engineer: Hawkins-Weir Engineers, Inc.

Staff contact phone: 784-2231

Project contractor: Silco Construction, Inc.

Notice to proceed issued: August 8, 2011

Contract completion date: October 17, 2011

	Dollar Amount	Contract Time (Days)
Original contract:	104,755.00	60
Change orders:		
1		
2		
Subtotal	104,755.00	
Final contract amount:	96,533.25	
Total work completed:	-45,502.87	
Payments to date (as negative)	51,030.38	
Final payment:	0.00	
Retainage held:	0.00	
Contract balance remaining:	-7.85%	
Amount over (under) original as a percentage:		

Comments: Final

5 L

RESOLUTION NO. _____

RESOLUTION ACCEPTING THE PROJECT AS COMPLETE AND AUTHORIZING FINAL PAYMENT TO M. PHILLIPS CONSTRUCTION, INC., FOR THE 27-INCH TRANSMISSION LINE REPLACEMENT - LANCASTER PLACE

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

SECTION 1: The construction of the 27-Inch Transmission Line Replacement - Lancaster Place, Project Number 11-05-C1, is accepted as complete.

SECTION 2: Final payment to M. Phillips Construction, Inc., in the amount of $169,572.86, is hereby approved.

This Resolution adopted this _____ day of November 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____ npr

INTER-OFFICE MEMO

TO: Ray Gosack, City Administrator **DATE:** November 4, 2011

FROM: Steve Parke, Director of Utilities

SUBJECT: 27-Inch Transmission Line Replacement - Lancaster Place
Project Number 11-05-C1

The 27-inch water transmission line from the Lake Fort Smith treatment plant was constructed in 1936. The recent spring flooding in Frog Bayou has changed the course of the stream and exposed a portion of the transmission line. This project consists of replacing 396 feet of the line with a 30-inch ductile iron pipe at a lower elevation to avoid damage or failure of the line during future flood events.

M. Phillips Construction, Inc., has now completed all the work on the project and submitted their final pay request. The project was completed at $19,764.89 under the contract amount. I have attached a Resolution accepting the project as complete and authorizing final payment in the amount of $169,572.86. A project summary sheet is attached for your information. It is my recommendation that the project be accepted as complete.

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

attachment

pc: Jeff Dingman

Project Summary

Project status: Complete

Project name: 27-Inch Transmission Line Replacement - Lancaster Place

Today's date: November 4, 2011

Project number: **11-05-C1**

Staff contact name: Steve Parke

Project engineer: Jimmie Johnson

Staff contact phone: 784-2231

Project contractor: M. Phillips Construction, Inc.

Notice to proceed issued: August 15, 2011

Completion date: October 17, 2011

	Dollar Amount		Contract Time (Days)
Original contract	$189,420.00		40
Change orders:			
Total change orders	$0.00		0
Adjusted contract	$189,420.00		40
Payments to date (as negative):	$0.00	0.0%	
Amount of this payment (as negative)	$-169,655.11	89.6%	
Retainage held	$0.00		
Contract balance remaining	$19,764.89	10.4%	
Amount ~~Over~~ (under) as a percentage	10.4%		

Final Comments:

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: November 9, 2011

SUBJECT: Airport Commission

Mr. Ryan Carter of the Airport Commission has resigned effective October 4, 2011. His term will need to be filled.

The applicants available at this time are:

Joshua T. Carson	109 North 3 Street #516
Larry Schiffner	2313 Camelot Drive
Jerry Orsbun	3715 Reed Lane
Rusty Henderson	8812 Royal Ridge Drive
Thomas Gage	1115 South Waldron; Suite 101
Dr. Gary Edwards	3327 Crow Hill Circle
Dr. James E. Kelly III	5500 Painter Lane

Appointments are **by the Mayor and confirmed by a three-fourths vote of the Board of Directors.** One appointment is needed; the term will expire June 30, 2016.

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

Printed on 100% Recycled Paper

The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: November 9, 2011

SUBJECT: Building Board of Adjustments and Appeals.

The term of Chip Johnson will expire November 30, 2011 on the Building Board of Adjustments and Appeals. Mr. Johnson is interested in being reappointed to this board.

There are no other applicants available at this time.

Appointments are **by the Board of Directors.** One appointment is needed; the term will expire November 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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The City of Fort Smith ARKANSAS

MEMORANDUM

TO: Mayor and Board of Directors

FROM: Wendy Beshears, Administrative Assistant

DATE: November 7, 2011

SUBJECT: Oak Cemetery Commission

The term of Gary Petersen of the Oak Cemetery Commission will expire November 30, 2011. Mr. Petersen is not interested at this time to be reappointed.

The applicant available at this time is:

Mrs. Randall Ross Viguet 3603 Free Ferry Road

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

FORT SMITH BOARD OF DIRECTORS
REGULAR MEETING

November 15, 2011 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS
SERVICE CENTER
3205 JENNY LIND ROAD

THIS MEETING IS BEING TELECAST LIVE ON THE CITY CABLE ACCESS CHANNEL 6

INVOCATION & PLEDGE OF ALLEGIANCE

ROLL CALL
All present

PRESENTATION BY MEMBERS OF THE BOARD OF DIRECTORS OF ANY ITEMS OF BUSINESS NOT ALREADY ON THE AGENDA FOR THIS MEETING
(Section 2-37 of Ordinance No. 24-10)
Information available by viewing rebroadcast of the meeting on the City Access Channel 6 or City website

APPROVE MINUTES OF THE NOVEMBER 1, 2011 REGULAR MEETING
Unanimously approved as written

ITEMS OF BUSINESS:

1. Public hearing and ordinance certifying to the Sebastian County Tax Collector delinquent property cleanup liens
   Approved 7 in favor, 0 opposed / Ordinance No. 91-11

2. Ordinance amending Ordinance No.60-10 and setting the location and time for regular meetings of the Board of Directors for the year 2012
   Approved 7 in favor, 0 opposed / Ordinance No. 92-11

3. Ordinance ordering the owners of certain dilapidated and substandard structures to demolish same, authorizing the City Administrator to cause the demolition of such structures to occur, and for other purposes *(1906 South "N" Street and 2405 North 31st Street and rear storage)*

Approved 7 in favor, 0 opposed / Ordinance No. 93-11

4. Ordinance amending Chapter 18, Article III of the Fort Smith Municipal Code to add Sections 18-81 through 18-85 regarding park rules
Tabled for 6 months to obtain an opinion from the Attorney General.

5. Consent Agenda

A. Ordinance declaring exceptional circumstance and authorizing continuation of agreement with Data-Tronics Corporation
Approved 7 in favor, 0 opposed / Ordinance No. 94-11

B. Resolution authorizing the offering of water and sewer revenue bonds to refund outstanding Water and Sewer Refunding Revenue Bonds, Series 2005A; and prescribing other matters relating thereto
Approved 7 in favor, 0 opposed / Resolution No.R-204-11

C. Resolution authorizing an agreement between the City of Fort Smith, Arkansas and the Fort Chaffee Redevelopment Authority to jointly design, construct and fund the McClure Amphitheater Road, Project 12-00-A
Approved 6 in favor, 1 opposed (Catsavis) / Resolution No.R-205-11

D. Resolution authorizing a change order for the construction of Chad Colley Boulevard Extension, Project No. 10-00-A ($10,205.83 / Engineering Department / Budgeted - Sales Tax Fund)
Approved 7 in favor, 0 opposed / Resolution No.R-206-11

E. Resolution accepting completion of and authorizing final payment for the construction of Chad Colley Boulevard Extension, Project No. 10-00-A ($69,094.46 / Engineering Department / Budgeted – Sales Tax Fund)
Approved 7 in favor, 0 opposed / Resolution No.R-207-11

F. Resolution authorizing the Mayor to enter into an amended lease agreement with Produce Row Development, LLC for operating a portion of the Park at West End
Approved 6 in favor, 1 opposed (Catsavis) / Resolution No.R-208-11

G. See Item No. 4

H. Resolution authorizing Contract Amendment No. 1 with Crawford Construction Company for the renovation and additions to the transit facilities located at 6812 Jenny Lind Road Project No. 10-02 ($37,182.66 / Transit Department / Budgeted – Encumbered from 2010 Budget - 100% funded by the American Recovery Reinvestment Act of 2009)
Approved 7 in favor, 0 opposed / Resolution No.R-209-11

I. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant – Contract 3 ($821,432.17 / Utility Department / Budgeted - 2008 Revenue Bonds)
Approved 7 in favor, 0 opposed / Resolution No.R-210-11

J. Resolution authorizing the City Administrator to accept offer made by property owner for the acquisition of real property interests for the Lake Fort Smith Water Supply Project ($126,000.00 / Utility Department / Budgeted - Capital Improvement Program Fund)
Approved 7 in favor, 0 opposed / Resolution No.R-211-11

K. Resolution accepting the project as complete and authorizing final payment to Silco Construction, Inc. for construction of the site restoration for the Sunnymede Wet Weather and Walking Trail Improvements ($51,030.38 / Utility Department / Budgeted - 2009 Sales Tax Bonds)
Approved 7 in favor, 0 opposed / Resolution No.R-212-11

L. Resolution accepting the project as complete and authorizing final payment to M. Phillips Construction, Inc. for the 27-Inch Transmission Line Replacement – Lancaster Place ($169,572.86 / Utility Department / Budgeted – 2008 Revenue Bonds)
Approved 7 in favor, 0 opposed / Resolution No.R-213-11

NOTE: The below item was placed on the agenda as Item No.6 by unanimous vote of the board

6. Discussion regarding Van Buren water true up
The Board concurred to forward an invoice to Van Buren for the year 2009 and requested a joint meeting with the Van Buren Water Commission and the Van Buren elected officials be scheduled in the near future.

OFFICIALS FORUM ~ presentation of information requiring no official action
(Section 2-36 of Ordinance No. 24-10)

A. Mayor

B. Directors

C. City Administrator

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

EXECUTIVE SESSION

- Performance Evaluation – City Administrator
  The Mayor announced satisfaction with the City Administrator's performance and noted another performance evaluation will be conducted in 6 months.

- Appointment:

  AIRPORT COMMISSION
  Larry Schiffner
  Term expires June 30, 2016

  BUILDING BOARD OF ADJUSTMENTS AND APPEALS
  Chip Johnson (reappointed)
  Term expires November 30, 2015

  OAK CEMETERY COMMISSION
  Mrs. Randall Ross Viguet
  Term expires November 30, 2014

CITIZENS FORUM ~ presentation of information by citizens ~ an opportunity for citizens to present matters to the Mayor and Board of Directors which involve the city government and are not directly related to items considered on the agenda for this meeting. Presentations are limited to 2 minutes for each citizen (Section 2-44(b) of Ordinance No. 24-10)

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ADJOURN

8:48 P. M.

MINUTES OF BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ NOVEMBER 15, 2011 ~ 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 Director Don Hutchings, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, Don Hutchings, George Catsavis, Pam Weber, Kevin Settle and Philip H. Merry, Jr. The Mayor declared a quorum present.

The Mayor inquired if any Board member had any item of business to present that was not already on the agenda. The following requests were offered:

1. Merry, seconded by Hutchings, moved an item be placed on the agenda to discuss the Van Buren water true-up. The members all voting affirmatively, the Mayor declared the motion carried and item would be added to the agenda as Item No. 6.

2. Director Weber advised of a citizen request to move the citizens forum to immediately prior to the executive session.

   City Administrator Ray Gosack advised the procedure for placement of the citizens forum is established by the Fort Smith Municipal Code; therefore, such cannot be accomplished without approval of an amendment to the Code of Ordinances.

The minutes of the November 1, 2011 regular meeting were presented for approval. Hutchings, seconded by Settle, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

With regard to the time limit policy for persons wishing to address the Board, the Mayor communicated that five (5) minutes per side would be granted for controversial

items with three (3) minutes for rebuttal per side. Two (2) minutes will be allotted for consent agenda items and for those participating in the citizens forum.

Mayor Sanders announced that this was the time and place set for a public hearing to certify to the Sebastian County Tax Collector delinquent property cleanup liens. Notice of the public hearing had been duly published as required by law. Following the public hearing, consideration of an ordinance authorizing same would be given (Item No. 1).

The Mayor announced that if any individual was present to address the Board without first having presented their appeal to the Property Owners Appeal Board (POAB), he encouraged the liens be removed from the proposed ordinance and allow the property owners to go before the POAB.

The following individuals were present to address the Board:

- Trinh Nguyen
  Fort Smith, Arkansas

  Re: Regarding cleanup liens on 703 South 19th Street, owner - Lam Family Trust, Ms. Nguyen advised no notice of the impending cleanup was received.

- Maria Ruvalcaba
  Van Buren, Arkansas

  Re: Regarding cleanup liens on 723 North 13th Street, she requested the opportunity to go before the Property Owners Appeal Board.

- William Jones

  Re: Regarding cleanup liens on 705 North 35th Street, he to requested the opportunity to go before the Property Owners Appeal Board.

Building Official Jimmie Deer addressed the Board on each of the above noted

properties, whereby each of the property owners did not take advantage of their opportunity for appeal before the Property Owners Appeal Board hearings held on September 26 and 28. He reiterated the Mayor's previous comments and recommended each of the subject liens be removed from the ordinance and referred back to the Property Owners Appeal Board at their next regular meeting, Monday, December 12, 2011.

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

Tyler, seconded by Weber, moved adoption of the ordinance including suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The motion further included the removal of liens for properties located at 703 South 19th Street, 723 North 13th Street and 705 North 35th Street to allow the property owners to go before the Property Owners Appeal Board. The motion also included a provision to allow the removal of liens that have been paid since preparation of the ordinance. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 91-11.

Item No. 2 was an ordinance amending Ordinance No. 60-10 and setting the location and time for regular meetings of the Board of Directors for the year 2012.

The following individual was present to address the Board:

- Elizabeth Mayo
  Fort Smith, Arkansas

  Re: Expressed appreciation to several members of the Board for their recent efforts to ensure citizens comments are heard.

Hutchings, seconded by Merry, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) three full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 92-11.

Item No. 3 was an ordinance ordering the owners of certain dilapidated and substandard structures to demolish same, authorizing the City Administrator to cause the demolition of such structures to occur, and for other purposes *(1906 South "N" Street and 2405 North 31st Street and rear storage)*.

Administrator Gosack advised the structures have been determined to be unsafe and detrimental to the public welfare; therefore, he recommended approval.

The following individual was present to address the Board:

- Genia Peerson
  Fort Smith, Arkansas

  Re: Advised she resides next to the structure at 1906 South "N" Street. The structure is now home to multiple feral cats and causes a very bad smell in the neighborhood; therefore, she recommended approval of the ordinance.

Settle, seconded by Tyler, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) three full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Tyler, moved adoption of Section 5 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the

ordinance and emergency clause were adopted and given No. 93-11.

Item No. 4 was an ordinance amending Chapter 18, Article III of the Fort Smith Municipal Code to add Section 18-81 through 18-85 regarding park rules.

Director of Parks and Recreation Mike Alsup briefed the Board on the item advising the proposed ordinance establishes rules regarding the authorization and permitting of public assemblies, the sale of food or merchandise, and non-commercial solicitation on City property. Upon approval, such will establish a permit system for these areas to improve the management and scheduling of the parks and clarify the park rules.

The following individual was present to address the Board:

- Frank Glidewell
  Fort Smith, Arkansas

  Re: Regarding Section 18-83 of the proposed ordinance, he questioned the constitutionality citing the matter violates "free speech". He recommended consideration of the ordinance be tabled pending receipt of a legal opinion from the State of Arkansas Attorney General. If the City does not wish to request said opinion, he alleged Senator Denny Altes has conveyed his agreement to submit the request on behalf of the City. If the Board adopts the proposed ordinance as presented, he asserted the ordinance will be challenged. If the Attorney General determines Section 18-83 is constitutional, such will be accepted with no further opposition.

- Joel Culberson
  Fort Smith, Arkansas

  Re: Reiterated Mr. Glidewell's concern, but also expressed concern that an "Application for Permit" must be submitted at least forty-five (45) days in advance.

Director Catsavis questioned the estimated time anticipated to receive an opinion

from the Attorney General and requested confirmation that the proposed language would withstand a legal challenge.

City Attorney Jerry Canfield conveyed no time-frame to receive the aforementioned opinion. With regard to constitutionality, the language within the proposed ordinance is "content neutral"; however, the issue could be challenged as an improper or too restrictive regulation as it relates to "free speech".

At the request of Administrator Gosack, Mr. Canfield clarified the City maintains no authority to submit a request for an opinion from the Attorney General. Said opinions may only be requested by the Governor's Office, Prosecutor Offices, members of the General Assembly, or members of election commissions.

There was brief discussion regarding the application for permit and the required forty-five (45) day advance submission whereby much concern was expressed. Such would prohibit obtaining a permit to assemble and obtain signatures on a petition, such as the recent petition drive whereby said signatures had to be obtained within thirty (30) days.

Catsavis, seconded by Settle, moved to table the ordinance for six (6) months with the caveat that the City contact a member of the General Assembly to request the aforementioned Attorney General opinion. The members all voting affirmatively, the Mayor declared the motion carried.

The Consent Agenda (Item No. 5) was introduced for consideration, the items being as follows:

A. Ordinance declaring exceptional circumstance and authorizing continuation of agreement with Data-Tronics Corporation

B. Resolution authorizing the offering of water and sewer revenue bonds to refund outstanding Water and Sewer Refunding Revenue Bonds, Series 2005A; and prescribing other matters relating thereto

C. Resolution authorizing an agreement between the City of Fort Smith, Arkansas and the Fort Chaffee Redevelopment Authority to jointly design, construct and fund the McClure Amphitheater Road, Project 12-00-A

D. Resolution authorizing a change order for the construction of Chad Colley Boulevard Extension, Project No. 10-00-A ($10,205.83 / Engineering Department / Budgeted - Sales Tax Fund)

E. Resolution accepting completion of and authorizing final payment for the construction of Chad Colley Boulevard Extension, Project No. 10-00-A ($69,094.46 / Engineering Department / Budgeted - Sales Tax Fund)

F. Resolution authorizing the Mayor to enter into an amended lease agreement with Produce Row Development, LLC for operating a portion of the Park at West End

G. See Item No. 4

H. Resolution authorizing Contract Amendment No. 1 with Crawford Construction Company for the renovation and additions to the transit facilities located at 6812 Jenny Lind Road Project No. 10-02 ($37,182.66 / Transit Department / Budgeted - Encumbered from 2010 Budget - 100% funded by the American Recovery Reinvestment Act of 2009)

I. Resolution authorizing partial payment to Crossland Heavy Contractors, Inc. for construction of the Lake Fort Smith Water Treatment Plant - Contract 3 ($821,432.17 / Utility Department / Budgeted - 2008 Revenue Bonds)

J. Resolution authorizing the City Administrator to accept offer made by property owner for the acquisition of real property interests for the Lake Fort Smith Water Supply Project ($126,000.00 / Utility Department / Budgeted - Capital Improvement Program Fund)

K. Resolution accepting the project as complete and authorizing final payment to Silco Construction, Inc. for construction of the site restoration for the Sunnymede Wet Weather and Walking Trail Improvements ($51,030.38 / Utility Department / Budgeted - 2009 Sales Tax Bonds)

L. Resolution accepting the project as complete and authorizing final payment to M. Phillips Construction, Inc. for the 27-Inch Transmission Line Replacement - Lancaster Place ($169,572.86 / Utility Department / Budgeted - 2008 Revenue Bonds)

Regarding Item No. 5C, Director Catsavis questioned the funding for the project, as well as the operating costs for the McClure Amphitheater.

Director of Engineering Stan Snodgrass advised one-half (½) of the street project will be funded by the City of Fort Smith Street Sales Tax Fund and the remaining half will be covered by the Fort Chaffee Redevelopment Authority.

Regarding operating costs for the amphitheater, Mr. Alsup noted the City will be responsible for the electric bill, which is estimated to cost $6,000 annually. The Board has already approved the agreement and the estimated cost is included in the proposed 2012 Budget.

Hutchings, seconded by Good, moved adoption of all consent agenda items. The members all voting affirmatively, with the exception of Director Catsavis voting "no" on Items No. 5C and 5F. The Mayor declared the motion carried and the ordinance and resolutions were adopted with the ordinance given No. 94-11 and the resolutions numbered R-204-11 through R-213-11 respectively.

Item No. 6 was discussion of the Van Buren true-up, which was added to the agenda by unanimous vote of the Board at the beginning of the meeting.

November 15, 2011 Regular Meeting

Director Merry provided a briefing of action taken by the City to address the Van Buren water true-up and conveyed great concern with how such was handled by the City. Due to the City's failure to follow the agreement and provide information to Van Buren for the 2009 true-up in the time required, he expressed much discontent with the determination that Van Buren should not be billed for 2009 for fear of legal challenge. He recommended an invoice be forwarded to Van Buren for the 2009 true-up.

Mr. Canfield advised the true-up provision is part of a settlement agreement between the City of Fort Smith and the City of Van Buren. The true-up calculation is very complex and was determined by arbitration. The agreement states the City "shall" provide information of water usage to the City of Van Buren within sixty (60) days of the annual CAFR. The City did not provide said information within the required time-frame for 2009 as per the agreement; therefore, Van Buren could assert the City did not follow the contractual requirements thereby making the 2009 true-up uncollectible.

There was very lengthy discussion regarding the matter whereby much appreciation was expressed to Administrator Gosack for his handling of the matter. The Board ultimately concurred to request a joint meeting with the Van Buren Municipal Utilities and the City of Van Buren officials to discuss the matter, and that the City forward an invoice to Van Buren for the 2009 true-up amount.

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

- Mayor Sanders

  Re: Expressed much appreciation to all who voted in the November 8, 2011 special election.

- Director Settle

  Re: 1. Reminded all that the Christmas lights and Holiday Express will be running at Creekmore Park the weekend after Thanksgiving; therefore, he encouraged all to attend.

  2. Advised the first Ward 1 meeting will be held at 6:00 p.m., Thursday, December 1 at Creekmore Park Community Center and encouraged all to attend.

- Director Tyler

  Re: Advised of a conversation with a new resident, who recently moved to Fort Smith from Orlando Florida. The woman conveyed how much she loves living in Fort Smith.

- Pam Weber

  Re: Expressed much appreciation for the invitation from the Citizens Academy Alumni for her to participate in a recent tour of the Chaffee Crossing area. She further extended gratitude to Ivy Owen, Director of the Fort Chaffee Redevelopment Authority, and Matt Pitsch, Director of the Regional Intermodal Transportation Authority, for the valuable information they provided during the tour.

- Director Good

  Re: Conveyed gratitude to all Transit Department staff for their attendance at the recent funeral of Transit driver Boyce Brant, citing it was "very encouraging" to see their attendance.

The executive session was held and after reconvening, the Mayor announced the following appointment nominations:

AIRPORT COMMISSION
Larry Schiffner
(fill the unexpired term of Ryan Carter who resigned)
Term expires June 30, 2016

BUILDING BOARD OF ADJUSTMENT AND APPEALS
Chip Johnson (reappointment)
Term expires November 30, 2015

OAK CEMETERY COMMISSION
Mrs. Randall Ross Viguet
Term expires November 30, 2014

Settle, seconded by Catsavis, moved acceptance of all appointment nominations. The members all voting aye, the Mayor declared the motion carried.

Mayor Sanders announced satisfaction with the job performance Administrator Gosack and another performance evaluation will be scheduled in six (6) months.

With regard to the time limit policy for persons wishing to address the Board in the Citizens Forum, Mayor Sanders communicated that two (2) minutes will be allotted to each person wishing to speak.

Mayor Sanders opened the Citizens Forum with the following individuals present to address the Board:

- Elizabeth Mayo
  Fort Smith, Arkansas

  Re: Regarding defeat of the 1% prepared food tax at the November 8, 2011 special election, she expressed discontent with the minimal media coverage regarding the issue.

- Louis Vincent
  Fort Smith, Arkansas

  Re: Expressed discontent the City of Fort Smith did not receive the grant for assistance to fluoridate the water supply and alleged such was denied because the City applied for too much funding.

Director Settle clarified the amount requested was because the City of Fort Smith is a regional water supplier and equipment would be needed for two (2) water treatment locations.

Administrator Gosack advised the City may reapply for the grant funds in the future.

There being no further business to come before the Board, Good moved that the meeting adjourn. The motion was seconded by Tyler and the members all voting aye, the Mayor declared the motion carried, and the meeting stood adjourned at 8:46 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK