



BELLA VISTA
A place to call home

MEETING: CITY COUNCIL WORK SESSION

DATE AND TIME: Monday, May 16, 2016 – 5:30 P.M.

Location: City Hall Conference Room
101 Town Center, Bella Vista, Arkansas

- I. **CALL TO ORDER:** This meeting has been given public notice in accordance with the Section 25-19-106 of the Freedom of Information Act, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.
- II. **ROLL CALL:** Mayor Peter Christie, Aldermen Frank Anderson, John Flynn, Allen King, Becky Morgan, James Wozniak and Larry Wilson
- III. **NEW BUSINESS:**
 - A. **ORDINANCE NO-** AN ORDINANCE AMENDING SECTION 18-20(b) OF THE MUNICIPAL CODE REGULATING THE DUMPING OF TREE CUTTINGS AND OTHER MATERIALS, AND FOR OTHER PURPOSES. (**Third Reading**)
 - B. **ORDINANCE NO-** AMENDING SECTION 2-106 OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO LIMIT THE SUBJECTS OF CALLED SPECIAL MEETINGS OF THE CITY COUNCIL. (**Third Reading**)
 - C. **ORDINANCE NO-** AMENDING SECTION 103-48(c) OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA CONCERNING KEY BOX REQUIREMENTS. (**Third Reading**)
 - D. **ORDINANCE NO-** AMENDING SECTION 109-3 DEFINITIONS OF TERMS AND USES IN CHAPTER 109 ZONING OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO EXCLUDE CAPTIVE-BRED MEMBERS OF THE FAMILY COLUMBIDAE (DOVES AND PIGEONS) FROM THE DEFINITION OF LIVESTOCK (**Second Reading**)
 - E. **ORDINANCE NO-** AMENDING THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO ADD RULES AND REGULATIONS FOR THE USAGE OF CITY PUBLIC-USE TRAILS, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES. (**Second Reading**)

- F. ORDINANCE NO- ACCEPTING AND CONFIRMING EASEMENTS DEDICATED TO THE PUBLIC ON PARCELS 15-09383-000 AND 15-09380-000, AND FOR OTHER PURPOSES.**
- G. R2016- RESOLUTION-AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH LUTTRELL CONSTRUCTION IN THE AMOUNT OF \$88,164.00 FOR CONSTRUCTION OF A ROADS MATERIAL BUNKER FOR THE STREET DEPARTMENT.**
- H. R2016- RESOLUTION- EXPRESSING THE WILLINGNESS OF THE CITY OF BELLA VISTA TO UTILIZE FEDERAL-AID TRANSPORTATION ALTERNATIVES PROGRAM FUNDS.**
- I. R2016-RESOLUTION- INCREASING SALARY LIMITATIONS FOR CERTAIN POSITIONS IN THE COMMUNITY DEVELOPMENT SERVICES DEPARTMENT BUDGET, AND FOR OTHER PURPOSES.**
- J. R2016- RESOLUTION- EXPRESSING THE WILLINGNESS OF THE CITY OF BELLA VISTA TO SUPPORT A RECREATIONAL TRAILS PROGRAM GRANT APPLICATION BY THE NORTHWEST ARKANSAS TRAILBLAZERS, AND FOR OTHER PURPOSES.**

DISCUSSION-

K- Elected Officials Base Salary Review.

L- We will have a resolution on the regular meeting agenda to authorize auction of some old vehicles and other equipment. The exact list has not been finalized yet. Chief Farmer will discuss this item at the Work Session.

M- Draft Fence Regulations. Chris will discuss this item at the work session.

ADJOURNMENT

*** Please note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, please contact the City Clerk at 479-876-1255.

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: March 28, 2016 – Regular Meeting

AGENDA ITEM:

ITEM TITLE: An Ordinance Amending Section 18-20(b) of the Municipal Code Regulating the Dumping of Tree Cuttings and Other Materials, and For Other Purposes

SUBMITTED BY: Christopher Suneson, PLA

SUMMARY EXPLANATION: Under Ordinance 2008-03, the City adopted several provisions regulating nuisances including allowing the dumping of tree cuttings, tree trunks, fill dirt, and other materials to reclaim gullies and ravines. This ordinance was later codified in section 18-20(b) of the municipal code. The current language of this section reads:

“The dumping of tree cuttings, tree trunks, fill dirt and other appropriate fill material may be permitted to reclaim gullies and ravines upon application to, and approval by, the city planning commission under the following conditions:

- (1) Written certification by the applicant that he is the legal owner of the property or that he has the written permission of the property owner.*
- (2) Access must be completely restricted to the applicant only.*
- (3) All material must be covered by fill dirt and smoothed over at intervals not to exceed two weeks.*
- (4) Compliance with any drainage ordinance passed by the city.*

Failure to comply with the above conditions will be grounds for revocation of the permit and may result in the issuance of a citation pursuant to subsection (a) of this section. Any area currently used as a location for the dumping of stumps, vegetation waste or dirt at the time of the adoption of the ordinance from which this article is derived shall be exempt from the requirements of this subsection.”

The City later adopted Ordinance 2011-14, which regulated land alteration activities including the filling activities that would allow the reclamation of ravines and gullies upon permit issuance from the Department.

The legislation that follows would strike most portions of this section of code to eliminate potential confusion of 1) whether the planning commission or staff issues permits for these activities and 2) methods to obtain a permit to perform these activities.

ATTACHMENT: ORDINANCE RESOLUTION OTHER

RECOMMENDATION: Staff recommends approval of this ordinance.

ACTION REQUESTED:
Motion to adopt

ORDINANCE NO. 2016- __

City of Bella Vista, Arkansas

AN ORDINANCE AMENDING SECTION 18-20(b) OF THE MUNICIPAL CODE REGULATING THE DUMPING OF TREE CUTTINGS AND OTHER MATERIALS, AND FOR OTHER PURPOSES

WHEREAS, the City Council adopted Ordinance 2008-03, regulating the dumping of tree cuttings, trunks, dirt, and other materials, which was latter codified to Section 18-20(b) of the municipal code; and

WHEREAS, the section provides for residents to apply for a permit to reclaim gullies and ravines upon approval by the Planning Commission; and

WHEREAS, the City Council subsequently adopted legislation under Ordinance 2011-14, which similarly and more completely regulates filling activities, which was later codified to Sections 107-373 through 107-388; and

WHEREAS, there is a conflict between the two referenced sections with regard to permitting authority regulating land alteration activities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

Section 1: That Section 18-20(b) of the municipal code shall be amended to read as follows:

“(b) The dumping of tree cuttings, tree trunks, fill dirt and other appropriate fill material may be allowed to reclaim gullies and ravines upon obtaining a permit pursuant Sections 107-373 through 107-388 of the municipal code. Failure to comply with the above conditions will be grounds for revocation of the permit and may result in the issuance of a citation pursuant to subsection (a) of this section. Any area currently used as a location for the dumping of stumps, vegetation waste or dirt at the time of the adoption of the ordinance from which this article is derived shall be exempt from the requirements of this subsection.”

PASSED THIS ___ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

Mayor Peter Christie

ATTEST:

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Prepared by: Christopher Suneson, PLA, Director of Community Development Services

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

AMENDING SECTION 2-106 OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO LIMIT THE SUBJECTS OF CALLED SPECIAL MEETINGS OF THE CITY COUNCIL

WHEREAS, it is important for both the Mayor and Aldermen to have the ability to call special meetings of the City Council to conduct business that cannot be timely handled by waiting until a regularly scheduled meeting without risk to the public or additional financial expense to the City; and

WHEREAS, Ark. Code Ann. § 14-43-502 provides that the Mayor or any three (3) aldermen of any city may call special meetings of the City Council in a manner as may be provided by ordinance; and

WHEREAS, a special meeting of the City Council should not be used to conduct business of the City Council which may wait until the next regularly scheduled meeting without placing the public at risk or causing additional financial expense to the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: Section 2-106 of the Code of Ordinances of the City of Bella Vista, Arkansas is hereby amended so that after amendment, the Section shall read as follows:

“Sec. 2-106. Special meetings.

- (a) *Call.* When in the best interests of the City, the Mayor may call a special meeting of the City Council. In addition, any three (3) aldermen may call a special meeting of the City Council by signing and providing a notice to the City Clerk announcing a special meeting, and stating in the notice the agenda, date, time and location of the meeting. Notification of special meetings, including the agenda, shall be made at least two (2) hours prior to the meeting. Such notification shall be made by personal service or by telephone to each member specifying the time, place and agenda of the meeting.
- (b) *Purpose.* No special meeting shall be called for agenda items which may be considered at the next regularly scheduled meeting of the City Council without placing risk to the public or additional financial expense to the City. At any special meeting, no business other than that stated in the agenda for the special meeting shall be considered.
- (c) *Cancellation.* Only the Mayor, or the three (3) alderman calling a special meeting, may cancel a special meeting.

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

Requested by: Alderman Anderson
Prepared by: Jason Kelley, Staff Attorney

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: March 28, 2016

AGENDA ITEM: Resolution-2016-_____

ITEM TITLE: Revising Municipal Code §103-48(c): Key Box Required

SUBMITTED BY: Jennifer Bonner, Senior Planner

SUMMARY: To replace and codify language in order to standardize references to the type of key box required in the supplemental provisions of the fire code located in Municipal Code §103-48(c)

ATTACHMENT: Ordinance Resolution Other

RECOMMENDATION: Staff recommends approval of this resolution.

ACTION REQUESTED: Motion to adopt

PART II - LAND DEVELOPMENT ORDINANCES
Chapter 103 - BUILDINGS AND BUILDING REGULATIONS
ARTICLE II. - CONSTRUCTION STANDARDS
DIVISION 2. - FIRE PREVENTION CODE

Sec. 103-48. - Supplemental provisions of the fire code.

- (a) *Fire protection sprinkler systems.* In addition to the requirements of Volume I and Volume II of the Arkansas Fire Prevention Code, 2012 edition, the following shall regulate the installation of fire protection sprinkler systems in the city: Any existing building which has an automatic sprinkler system installed shall have a water flow detection device on the riser of a wet pipe system or a low air detection device installed on the riser of a dry pipe system. These devices shall be electronically supervised and be monitored at all times by an approved fire alarm monitoring agency regardless of the number of sprinkler heads served.
- (b) *Remote fire department connections (FDCs).*
- (1) In all new construction where an automatic sprinkler system is required, the fire department connection shall be freestanding and remote from the building, equal to 150 percent of the height of the exterior wall as approved by the fire chief or his duly authorized designee.
 - (2) All FDCs shall be equipped with a five-inch thread-less Storz brand connection and shall have a 30- to 45-degree downward deflection.
 - (3) Underground piping serving an FDC shall be equipped with a ball drip valve to ensure there is no standing water in the connection and that the piping does not freeze.
 - (4) When, in the opinion of the fire chief or his duly authorized designee, an FDC is subject to vehicular damage, the FDC shall be protected as required by the Arkansas Fire Prevention Code.
 - (5) All FDCs shall be marked by signage approved by the fire chief or his duly authorized designee.
- (c) *Key box required.*
- (1) *Purpose.* The purpose of this ~~key box~~ requirement is to provide access to or within a structure or an area where it is unduly difficult because of secured openings, or where immediate access is necessary for lifesaving or firefighting purposes, or when hazardous materials data are required to be provided to the fire department by occupants of the structure.
 - (2) *Type of system.* The Knox Box vault system is hereby adopted for use in the city.
 - (3) *Where required.* A Knox Box shall be installed in all existing buildings which have an automatic alarm system which is monitored or has an automatic sprinkler system. The ~~key box~~ **Knox Box** shall contain those keys ~~found~~ necessary to provide emergency access and any other information as required by the fire chief, or ~~a his~~ duly authorized designee.
 - (4) *Location.* The Knox Box shall be compatible with other key boxes located within the city so that the fire department shall have access to all key boxes through the use of only one key.
 - (5) *Responsibilities of property owner.* The property owner is responsible to ensure that keys maintained within a ~~key box~~ **Knox Box** are those of the current type. When a change of locks within the building is necessary, the fire department shall be notified for appropriate placement of new keys in the ~~key box~~ **Knox Box**.
 - (6) *Expense.* The Knox Box shall be installed at the owner's or occupant's expense.

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

AMENDING SECTION 103-48(c) OF THE CODE OF ORDINANCES OF
THE CITY OF BELLA VISTA CONCERNING KEY BOX
REQUIREMENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA,
ARKANSAS:

SECTION 1: Subsection (c) of Section 103-48 of the Code of Ordinances of the City of Bella Vista, Arkansas is hereby amended so that after amendment, the subsection shall read as follows:

“(c) *Key box required.*

- (1) *Purpose.* The purpose of this requirement is to provide access to or within a structure or an area where it is unduly difficult because of secured openings, or where immediate access is necessary for lifesaving or firefighting purposes, or when hazardous materials data are required to be provided to the fire department by occupants of the structure.
- (2) *Type of system.* The Knox Box vault system is hereby adopted for use in the city.
- (3) *Where required.* A Knox Box shall be installed in all existing buildings which have an automatic alarm system which is monitored or has an automatic sprinkler system. The Knox Box shall contain those keys necessary to provide emergency access and any other information as required by the fire chief, or a duly authorized designee.
- (4) *Location.* The Knox Box shall be compatible with other key boxes located within the city so that the fire department shall have access to all key boxes through the use of only one key.
- (5) *Responsibilities of property owner.* The property owner is responsible to ensure that keys maintained within a Knox Box are those of the current type. When a change of locks within the building is necessary, the fire department shall be notified for appropriate placement of new keys in the Knox Box.
- (6) *Expense.* The Knox Box shall be installed at the owner’s or occupant’s expense.”

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

Requested by: Mayor
Prepared by: Jason Kelley, Staff Attorney

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

**AMENDING SECTION 109-3 DEFINITIONS OF TERMS AND USES IN
CHAPTER 109 ZONING OF THE CODE OF ORDINANCES OF THE CITY
OF BELLA VISTA TO EXCLUDE CAPTIVE-BRED MEMBERS OF THE
FAMILY COLUMBIDAE (DOVES AND PIGEONS) FROM THE
DEFINITION OF LIVESTOCK**

WHEREAS, it is desired to modify existing Code to permit the keeping of captive-bred members of the family Columbidae (doves and pigeons) in certain residential zones; and

WHEREAS, the current definition of livestock includes members of the family Columbidae (doves and pigeons); and

WHEREAS, removing members of the family Columbidae (doves and pigeons) from the definition of livestock will permit such animals to be kept in the R-1 zone as a domestic animal (bird);

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: Section 109-3 Definitions of Terms and Uses in Chapter 109 Zoning of the Code of Ordinances of the City of Bella Vista, Arkansas is hereby amended by amending the subpart (9) of the definition of Livestock so that after amendment, the subpart shall read as follows:

(9) All captive-bred members of the family Anatidae (ducks).

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

Requested by: Alderman King
Prepared by: Jason Kelley, Staff Attorney

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

AMENDING THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO ADD RULES AND REGULATIONS FOR THE USAGE OF CITY PUBLIC-USE TRAILS, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES

WHEREAS, a new trail system is being constructed in the City which, when complete, shall constitute approximately forty (40) miles of City public-use trails; and

WHEREAS, certain rules and regulations regarding usage of City public-use trails are necessary to provide for public safety;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: The Code of Ordinances of the City of Bella Vista, Arkansas is hereby amended by adding a Chapter 27, Trails, which shall read as follows:

“Chapter 27 Trails.

ARTICLE I. IN GENERAL

Sec. 27-1. Applicability.

The provisions of this Chapter shall apply only to public-use City trails.

Sec. 27-2. Vehicle Restrictions.

No gas or electrically powered vehicles (except maintenance vehicles or emergency vehicles) shall be driven or operated on any trail, with the exception that powered wheelchairs or other devices designed for and used by persons with disabilities shall be permitted.

Sec. 27-3. Usage Rules.

Users of trails shall follow the requirements of any signage posted on the trail, including, but not limited to, stop signs, yield signs, or other traffic/pedestrian control measures.

Sec. 27-4. Hours of Trail Operation. Prohibition on Usage While Closed.

(a) Trails shall open at 5:00 a.m. and close at 10:00 p.m. each day.

- (b) The Mayor, or the Mayor's designee, may cause trails to be closed at any time for purposes of public safety, repair, or the issuance of a special event permit as provided for in Section 24-46, et seq. The public shall be advised of any such special closure by available and reasonable means, including, but not limited to, appropriate signage.
- (c) No person may use or be present on any trail when it is closed, unless such presence or usage is pursuant to a special event permit issued by the City. This prohibition shall not apply to persons crossing a trail while on a city street or other public right-of-way.

Sec. 27-5. Special Events.

During any permitted special event, the vehicle restrictions provided in Section 27-2 and the usage rules provided in Section 27-3 shall not apply to any segment of trail for which a special event permit has been issued.”

SECTION 2: EMERGENCY CLAUSE. It is hereby determined that the need to provide public safety rules for the new public-use City trail system is immediate and necessary for the preservation of the public peace, health and safety. Therefore, an emergency is hereby declared to exist, and this Ordinance shall take full force and effect from and after passage and approval as provided by law.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

APPROVED AS TO FORM:

JASON KELLEY
STAFF ATTORNEY

Requested by: Mayor
Prepared by: Jason Kelley, Staff Attorney

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: May 23, 2016 – Regular Meeting

AGENDA ITEM:

ITEM TITLE: An Ordinance Accepting and Confirming Easements Dedicated to the Public on parcels 15-09383-000 and 15-09380-000, and for Other Purposes

SUBMITTED BY: Christopher Suneson, PLA

SUMMARY EXPLANATION: The Planning Commission reviewed PLA-2016-23174 on May 9, 2016, where it received a unanimous vote to accept the required easement dedications depicted.

The survey instrument incorporated into the ordinance adjusts a property line between the two subject parcels. The original subdivision did not include any utility and drainage easements to the public, and the City's subdivision regulations requires the dedication of easements when subdividing land.

ATTACHMENT: ORDINANCE RESOLUTION OTHER

RECOMMENDATION: Staff recommends approval of this ordinance, and is requesting that the City Council waive the its normal three readings to expedite the dedication to the public as well as to accommodate a closing that is scheduled to occur just after the regular meeting.

ACTION REQUESTED:
Motion to adopt

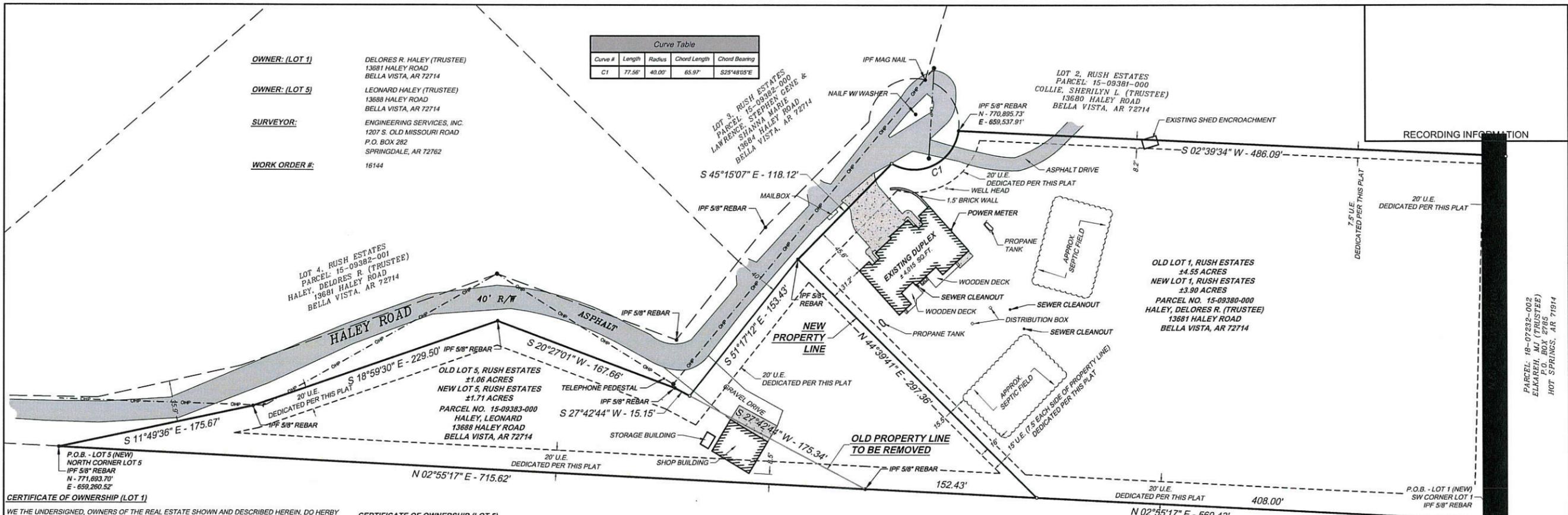
OWNER: (LOT 1) DELORES R. HALEY (TRUSTEE)
13681 HALEY ROAD
BELLA VISTA, AR 72714

OWNER: (LOT 5) LEONARD HALEY (TRUSTEE)
13688 HALEY ROAD
BELLA VISTA, AR 72714

SURVEYOR: ENGINEERING SERVICES, INC.
1207 S. OLD MISSOURI ROAD
P.O. BOX 282
SPRINGDALE, AR 72762

WORK ORDER #: 16144

Curve #	Length	Radius	Chord Length	Chord Bearing
C1	77.56'	40.00'	65.97'	S25°48'05"E



CERTIFICATE OF OWNERSHIP (LOT 1)

WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEY, DRIVES, AND EASEMENTS AS SHOWN ON SAID PLAT.

SIGNED: _____ DATE OF EXECUTION: _____

NAME & ADDRESS: _____ SOURCE OF TITLE: _____
DEED RECORD _____ PAGE _____
ACKNOWLEDGEMENT

STATE OF ARKANSAS)
COUNTY OF _____)

ON THIS DAY BEFORE THE UNDERSIGNED, A NOTARY PUBLIC DULY QUALIFIED AND ACTING IN AND FOR THE COUNTY AND STATE

AFORESAID, PERSONALLY APPEARED _____, SATISFACTORILY PROVEN TO BE THE PERSON(S) WHOSE NAME(S) APPEAR(S) AS THE OWNER(S) IN THE FOREGOING INSTRUMENT, AND STATED THAT HE / SHE / THEY HAS / HAVE EXECUTED THE SAME FOR THE CONSIDERATION, USES AND PURPOSES THEREIN STATED.

IN WITNESS WHEREOF, I HEREBY SET MY HAND ON THIS _____ DAY OF _____, 20____.

SIGNED: _____ MY COMMISSION EXPIRES: _____
NOTARY PUBLIC

LOT 1 SURVEY DESCRIPTION: (OLD)

LOT 1, RUSH ESTATES, A SUBDIVISION TO BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD K AT PAGE 85.

LOT 1 SURVEY DESCRIPTION: (NEW)

A PART OF LOT 1, RUSH ESTATES, A SUBDIVISION TO BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD K AT PAGE 85, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, RUSH ESTATES; THENCE N02°55'17"E A DISTANCE OF 560.43 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE N44°39'41"E A DISTANCE OF 297.36 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE S45°15'07"E A DISTANCE OF 118.12 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE 77.56 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 40.00 FEET SUBTENDED BY A CHORD BEARING OF S25°48'05"E AND A CHORD DISTANCE OF 65.97 FEET TO A FOUND 5/8" REBAR; THENCE S02°39'34"W A DISTANCE OF 486.09 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE N88°21'46"W A DISTANCE OF 320.00 FEET TO THE POINT OF BEGINNING. CONTAINING 3.90 ACRES (168,874 SQ. FT.), MORE OR LESS. SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY AND RESTRICTIVE COVENANTS OF RECORD OR FACT.

LOT 5 SURVEY DESCRIPTION: (OLD)

LOT 5, RUSH ESTATES, A SUBDIVISION TO BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD K AT PAGE 85.

LOT 5 SURVEY DESCRIPTION: (NEW)

A PART OF LOTS 1 AND 5, RUSH ESTATES, A SUBDIVISION TO BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD K AT PAGE 85, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH CORNER OF LOT 5, RUSH ESTATES; THENCE S11°49'36"E A DISTANCE OF 175.67 FEET TO A FOUND 5/8" REBAR; THENCE S18°59'30"E A DISTANCE OF 229.50 FEET TO A FOUND 5/8" REBAR; THENCE S20°27'01"W A DISTANCE OF 167.66 FEET TO A FOUND 5/8" REBAR; THENCE S27°42'44"W A DISTANCE OF 15.15 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE S51°17'12"E A DISTANCE OF 153.43 FEET TO A FOUND 5/8" REBAR; THENCE S44°39'41"W A DISTANCE OF 297.36 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE N02°55'17"E A DISTANCE OF 152.43 FEET TO A FOUND 5/8" REBAR; THENCE N02°55'17"E A DISTANCE OF 715.62 FEET TO THE POINT OF BEGINNING. CONTAINING 1.71 ACRES (74,449 SQ. FT.), MORE OR LESS. SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY AND RESTRICTIVE COVENANTS OF RECORD OR FACT.

CERTIFICATE OF OWNERSHIP (LOT 5)

WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEY, DRIVES, AND EASEMENTS AS SHOWN ON SAID PLAT.

SIGNED: _____ DATE OF EXECUTION: _____

NAME & ADDRESS: _____ SOURCE OF TITLE: _____
DEED RECORD _____ PAGE _____
ACKNOWLEDGEMENT

STATE OF ARKANSAS)
COUNTY OF _____)

ON THIS DAY BEFORE THE UNDERSIGNED, A NOTARY PUBLIC DULY QUALIFIED AND ACTING IN AND FOR THE COUNTY AND STATE

AFORESAID, PERSONALLY APPEARED _____, SATISFACTORILY PROVEN TO BE THE PERSON(S) WHOSE NAME(S) APPEAR(S) AS THE OWNER(S) IN THE FOREGOING INSTRUMENT, AND STATED THAT HE / SHE / THEY HAS / HAVE EXECUTED THE SAME FOR THE CONSIDERATION, USES AND PURPOSES THEREIN STATED.

IN WITNESS WHEREOF, I HEREBY SET MY HAND ON THIS _____ DAY OF _____, 20____.

SIGNED: _____ MY COMMISSION EXPIRES: _____
NOTARY PUBLIC

SURVEYOR'S NOTES:

THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDES THE ORIGINAL SEAL AND SIGNATURE OF THE SURVEYOR. THE ORIGINAL SIGNATURE, IF NOT BLUE IN COLOR, IS NOT VALID.

FEMA FLOOD PLAIN ZONE:

THIS PROPERTY IS WITHIN THE FLOOD PLAIN ZONE 'X'; (NO SHADING) DESIGNATED AS AN AREA DETERMINED TO BE OUTSIDE OF 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN ON THE F.I.R.M. MAP # 0507C0090 J, PANEL 90 OF 580, BENTON COUNTY, ARKANSAS & INCORPORATED AREAS. EFFECTIVE DATE: SEPTEMBER 28, 2007.

UTILITIES:

THE UTILITY INFORMATION, IF ANY SHOWN HEREON, IS BASED ON ABOVE GROUND FEATURES ONLY.

REFERENCES:

EVERY DOCUMENT OF RECORD REVIEWED AND CONSIDERED AS A PART OF THIS SURVEY IS NOTED BELOW. THE SURVEYOR RESEARCHED OR WAS PROVIDED NECESSARY DEEDS, RIGHT-OF-WAY MAPS, AND OTHER PERTINENT INFORMATION AS SHOWN BELOW. THE SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR COURT CASE DECREES, ADVERSE POSSESSION CLAIMS, SUBSURFACE RIGHTS OR OWNERSHIP, ENCUMBRANCES, OR RESTRICTIVE COVENANTS.

ALL RECORDS LISTED BELOW ARE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF BENTON COUNTY, ARKANSAS UNLESS OTHERWISE NOTED.

- QUITCLAIM DEED (LOT 1): DELORES R. HUBBARD (TRUSTEE), RECORDED SEPTEMBER 17, 2003, DOCUMENT FILE NO. 2003-26732
- WARRANTY DEED (LOT 5): LEONARD A. HALEY, RECORDED OCTOBER 9, 1987, BOOK 677 PAGE 741.
- FINAL PLAT: OF RUSH ESTATES, DATED JUNE 14, 1971, RECORDED JUNE 21, 1971, PLAT BOOK K, PAGE 85.

PARCEL: 16-40236-000
COOPER COMMUNITIES, INC.
903 N 47TH STREET
ROGERS, AR 72756

KILBURN MOBILE HOME SUBDIVISION

CERTIFICATE OF APPROVAL

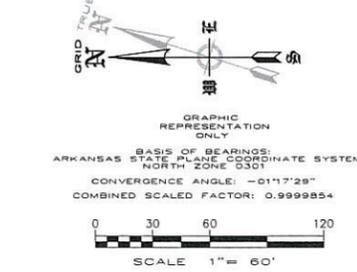
PURSUANT TO THE CITY OF BELLA VISTA SUBDIVISION REGULATIONS AND ALL OTHER CONDITIONS AND APPROVALS HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED. THIS CERTIFICATE IS HEREBY EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND REGULATIONS.

SIGNED: _____ DATE OF EXECUTION: _____
MAYOR

SURVEYOR'S DECLARATION:

I HEREBY DECLARE THAT I HAVE THIS DAY COMPLETED A SURVEY OF THE HEREON DESCRIBED PROPERTY. TO THE BEST OF MY KNOWLEDGE AND ABILITY, THE PROPERTY LINES AND CORNER MONUMENTS ARE CORRECTLY ESTABLISHED AND THERE ARE NO ENCUMBRANCES EXCEPT AS SHOWN HEREON.

S. CRAIG DAVIS, PLS - AR 1156



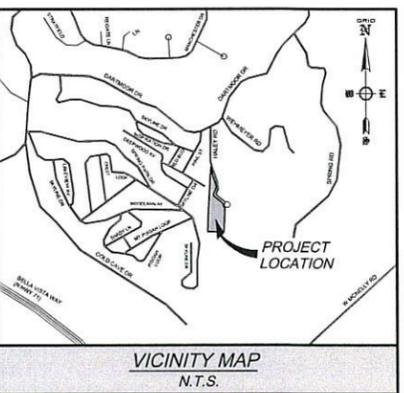
LEGEND

—	PROPERTY LINE
- - -	ADJACENT OWNER
- - - - -	EXISTING OVERHEAD POWER
●	IPF - IRON PIN FOUND (AS NOTED)
○	IPS - IRON PIN SET W/ CAP "PLS 1156"

UTILITY COMPANY CERTIFICATE OF ACCEPTANCE:

THE UNDERSIGNED HEREBY CERTIFY THAT THIS PLAT MEETS CURRENT REGULATIONS OF THE CITY OF JOHNSON AS EACH PERTAINS TO THIS PLAT AND TO THE OFFICES OF RESPONSIBILITY SHOWN BELOW.

	DATE	SIGNATURE
COX COMMUNICATIONS	_____	_____
AT&T	_____	_____
CARROLL ELECTRIC	_____	_____
PEA RIDGE WATER	_____	_____



PROPERTY LINE ADJUSTMENT

HALEY FAMILY REVOCABLE TRUST
BELLA VISTA, BENTON COUNTY, ARKANSAS

SCALE: 1"=60' DATE: May 9, 2016 DRAWN BY: RKW

ENGINEERING SERVICES, INCORPORATED
SPRINGDALE, ARKANSAS

W.O.# 16144 SHEET 1

RECORDING INFORMATION

PARCEL: 18-07232-002
ELAMER, JAY (TRUSTEE)
13685 HALEY ROAD
HOT SPRINGS, AR 71914

ORDINANCE NO. 2016-_____

**ACCEPTING AND CONFIRMING EASEMENTS DEDICATED TO THE PUBLIC ON
PARCELS 15-09383-000 AND 15-09380-000, AND FOR OTHER PURPOSES.**

WHEREAS, A.C.A. 14-301-102 requires that publicly dedicated easements within the City be accepted and confirmed by an ordinance specifically passed for that purpose; and

WHEREAS, the Planning Commission reviewed PLA-2016-23714 on May 9, 2016, and unanimously recommended acceptance of the easements to the City Council.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Bella Vista, Arkansas:

Section 1: The public rights-of-way shown in the attached Exhibits 'A', which is made a part hereof, are hereby accepted and confirmed for public use.

PASSED THIS ___ DAY OF _____, 2015.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

Mayor Peter Christie

ATTEST:

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Memorandum

May 11, 2016

To: Mayor Peter Christie and Bella Vista City Council

From: Mike Button, City of Bella Vista Street Superintendent

RE: Request for Bid, New Street Department Facility Road Materials Bunker

Requests for Bid were sent out to five different companies for the purpose of constructing a proposed new Road Materials Bunker for the New Street Department Facility. My estimate for this project was in the amount of \$67,000.00, being part of the 2016 Street Fund account 52800. A total of 4 vendors bid the project with Luttrell Construction coming in as low bidder in the amount of \$99,134.00 with other bids coming in at \$104,636.00, \$104,674.00 and \$126,211.05.

One reason the project ended up higher than my original estimate was the fact that I originally calculated a thinner stem wall thickness than what the actual "engineered" drawings actually called for, which ended up thicker. In order to stay closer on track to my original estimate, I negotiated with Luttrell Construction by two means; one by asking them to bring the project cost down in general, and the other by actually shrinking the size of the Road Materials Bunker by a small percentage. Luttrell Construction has come back with a re-negotiated amount of \$88,164.00. The additional funding of this project above and beyond my initial estimate of \$67,000.00 can be achieved by savings incurred on other items in my 52800 account as well as account 100, being that of the 2.4-million-dollar loan from Arvest where I have also incurred savings from my original estimates on projects already in the works.

With that, I recommend that Bella Vista City Council award bid to Luttrell Construction in the amount of \$88,164.00 for construction of a new Roads Material Bunker for the new Street Department Facility.

Respectfully Submitted,

Mike Button

City of Bella Vista Street Superintendent,

City of Bella Vista

STATE OF ARKANSAS

INVITATION TO BID

The City of Bella Vista, Arkansas will accept sealed bids on a:

Road Materials Bunker (Concrete Stem Wall Design)

Specifications may be obtained at the office of the Bella Vista City Hall, 101 Town Center, Bella Vista, AR 72714 or call 479-876-1204 and a copy will be sent to you. Sealed bids must be submitted to the of City of Bella Vista, c/o Mike Button, at 101 Town Center, Bella Vista, AR 72714 prior to the bid opening at 9:00am CST on Tuesday, May 10, 2016. Envelope must be marked as follows: **Road Materials Bunker.**

Bella Vista reserves the right to reject any or all bids or any part thereof and to accept the bid that is in the best interest of the City.

Bid price must include all cost, freight and any applicable taxes.

Michael Button
Street Superintendent

Published: April 25, 2016 and May 2, 2016

RESOLUTION NO. _____

CITY OF BELLA VISTA, ARKANSAS

AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH LUTTRELL CONSTRUCTION IN THE AMOUNT OF \$88,164.00 FOR CONSTRUCTION OF A ROADS MATERIAL BUNKER FOR THE STREET DEPARTMENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: The City Council of the City of Bella Vista, Arkansas hereby authorizes the Mayor and City Clerk to enter into a contract with Luttrell Construction in the amount of \$88,164.00 for construction of a roads material bunker for the Street Department.

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

Mayor Peter Christie

Attest:

City Clerk Wayne Jertson

Approved as to Form:

Jason B. Kelley
Staff Attorney

Requested by Mayor Christie
Prepared by Jason Kelley, Staff Attorney

RESOLUTION NO. 2016-____

**EXPRESSING THE WILLINGNESS OF THE CITY OF BELLA VISTA TO UTILIZE
FEDERAL-AID TRANSPORTATION ALTERNATIVES PROGRAM FUNDS**

WHEREAS, the City of Bella Vista City Council understand Federal-aid Transportation Alternatives Program Funds are available at 80% federal participation and 20% local match to develop or improve the Riordan Road Trail project; and

WHEREAS, the City of Bella Vista City Council understands that Federal-aid Funds are available for this project on a reimbursable basis, requiring work to be accomplished and proof of payment prior to actual monetary reimbursement; and

WHEREAS, this project, using federal funding, will be open and available for use by the general public and maintained for the life of the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of Bella Vista:

Section 1: The City of Bella Vista will participate in accordance with it designated responsibility, including maintenance of this project.

Section 2: The Mayor of Bella Vista is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of the above stated project.

Section 3: The City of Bella Vista City Council pledges its support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

PASSED THIS ____ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

ATTEST:

Mayor Peter Christie

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Requested by: Mayor Christie

Prepared by: Christopher Suneson, PLA, Director of Community Development Services

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: May 23, 2016 – Regular Meeting

AGENDA ITEM:

ITEM TITLE: A Resolution Increasing Salary Limitations for Certain Positions in the Community Development Services Department Budget, and For Other Purposes

SUBMITTED BY: Christopher Suneson, PLA

SUMMARY EXPLANATION: The Community Development Services Department has experienced a greater inspection load than anticipated through the first part of 2016. For reference, the Department performed 1,550 inspections for all of 2014, and 1,886 inspection for all of 2015. Through April, the Department has performed 1,154 inspection year to date – in comparison to 527 for the same period in 2015. Needless to say, the Department has roughly doubled in amount inspection performed. Anticipating this increase in workload, the Department budgeted for an additional inspector for 2016 to be hired at midyear.

In addition, the Department budgeted for a trails coordinator to be hired at midyear. With the rapid construction of the soft surface trail system on the east side of town and the need to adequate maintain it, the Department is facing the need to hire a trail coordinator earlier than anticipated.

With the earlier hiring of these two positions and the inability to retain a building inspector at current wage rate, the Department seeks to increase salary caps established in the 2016 budget. These increases in payroll and wages would be offset by budget savings in other line items within the Department's budget.

ATTACHMENT: ORDINANCE RESOLUTION OTHER

RECOMMENDATION: Staff recommends approval on the resolution.

ACTION REQUESTED:
Motion to adopt

RESOLUTION NO. 2016-____

**INCREASING SALARY LIMITATIONS FOR CERTAIN POSITIONS IN THE
COMMUNITY DEVELOPMENT SERVICES DEPARTMENT BUDGET, AND FOR
OTHER PURPOSES**

WHEREAS, the adopted Community Development Service Department budget provided for two building inspectors and a trails coordinator; and

WHEREAS, the inspection workload has exceeded projections, requiring the need to hire an additional building inspector earlier than anticipated; and

WHEREAS, the construction of soft surface trails and their need for maintenance earlier than anticipated requires the hiring of the trails coordinator position earlier than anticipated.

NOW THEREFORE, BE IT RESOLVED by the City Council of Bella Vista:

Section 1: The following salary caps, adopted in the 2016 Community Development Services budget, are hereby amended as follows:

- a. Chief Inspector \$45,000
- b. Building Inspector \$40,000
- c. Trails Coordinator \$42,000.

Section 2: The adjustments for the increased costs in payroll and benefits line items shall be achieved through budgetary savings in other line items in the Community Development Services budget.

PASSED THIS ____ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

ATTEST:

Mayor Peter Christie

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Requested by: Mayor Christie

Prepared by: Christopher Suneson, PLA, Director of Community Development Services

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: May 23, 2016 – Regular Meeting

AGENDA ITEM:

ITEM TITLE: A Resolution Expressing the Willingness of the City of Bella Vista Support a Recreational Trails Program Grant Application by the Northwest Arkansas Trailblazers, and for Other Purposes

SUBMITTED BY: Christopher Suneson, PLA

SUMMARY EXPLANATION: In late April, the administration was approached by representatives of the Northwest Arkansas Trailblazers to support the organization’s application to the Arkansas Highway and Transportation Department (AHTD) for grant funding from the Recreational Trails Program (RTP) to construct a hard surface extension of the Razorback Regional Greenway through Bella Vista.

As planned, the trail alignment would begin at the north end of Lake Bella Vista near the Veterans Wall of Honor. The trail would then run northward along the east side of Little Sugar Creek, crossing the creek flowing formerly known as the trout farm and running under the Mercy Way bridge. The trail would then cross westward over Little Sugar Creek, just north of the building in Sugar Creek Center containing Allen’s Grocery Store. The trail would terminate at the Bank of the Ozarks parking lot.

If funded, the trail facility would be constructed at no cost to the City. However, the RTP funding comes with the two requirements: 1) to provide public access throughout the life of the facility; and 2) to provide ongoing maintenance.

The Northwest Arkansas Trailblazers do not have the capacity to provide ongoing maintenance, and intend to turn over the proposed trail to the City to meet these requirements. Similar projects in the City of Fayetteville have demonstrated costs of approximately \$3500 - \$4000 per mile per year. Based on these costs and the portion of the project in Bella Vista, the City may incur approximately \$1,000 per year in maintenance costs.

ATTACHMENT: ORDINANCE RESOLUTION OTHER

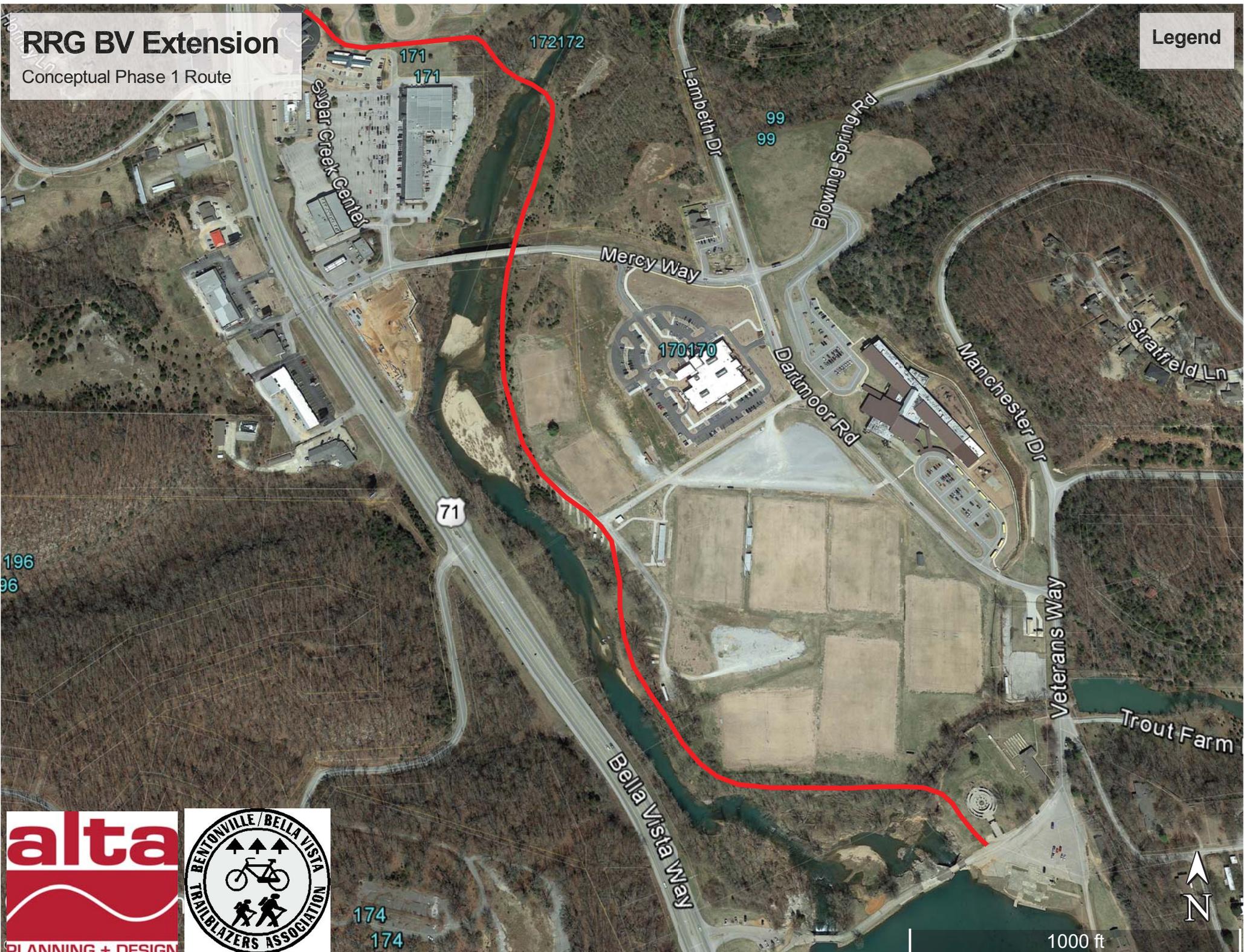
RECOMMENDATION: Staff recommends approval on the resolution.

ACTION REQUESTED:
Motion to adopt

RRG BV Extension

Conceptual Phase 1 Route

Legend



196
96

172172

171

171

99

99

170170

71

174

174



1000 ft

RESOLUTION NO. 2016-____

EXPRESSING THE WILLINGNESS OF THE CITY OF BELLA VISTA TO SUPPORT A RECREATIONAL TRAILS PROGRAM GRANT APPLICATION BY THE NORTHWEST ARKANSAS TRAILBLAZERS, AND FOR OTHER PURPOSES

WHEREAS, the Arkansas Highway and Transportation Department (AHTD) administers the Recreational Trails Program (RTP) to which governmental entities and non-profit organizations can apply to fund a variety of purposes related to alternative transportation; and

WHEREAS, the Northwest Arkansas Trailblazers intends to file a grant application for construction funding of an extension of the Razorback Regional Greenway northward into Bella Vista from the Veterans Wall of Honor to Bank of the Ozarks in Sugar Creek Center; and

WHEREAS, the Northwest Arkansas Trailblazers intends to donate that section of the trail in Bella Vista and either rights-of-way or easements dedicated for access to the trail after construction to the City; and

WHEREAS, the Recreational Trail Program requires that maintenance be provided after construction.

NOW THEREFORE, BE IT RESOLVED by the City Council of Bella Vista:

Section 1: The City of Bella Vista hereby pledges its support of the Northwest Arkansas Trailblazers to apply for RTP funding from AHTD to expand the Razorback Regional Greenway in Bella Vista.

Section 2: The City of Bella Vista further agrees to maintain that portion of the facility within the municipal limits if constructed and awarded.

Section 3: The Mayor is hereby authorized and directed to draft and execute such agreements that are necessary with the Northwest Arkansas Trailblazers to support its grant application and affect the maintenance of the trail facility if funded under the grant program.

PASSED THIS ____ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

ATTEST:

Mayor Peter Christie

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Requested by: Mayor Christie

Prepared by: Christopher Suneson, PLA, Director of Community Development Services

City of Bella Vista, Arkansas
 Elected Officials Base Salary Review
 May, 2016

NWA Cities

Position/Statistics	Bella Vista	Bentonville	Fayetteville	Rogers	Siloam Springs	Springdale	Avg. of all Cities	Minimum Salary Range (80%)	Maximum Salary Range (120%)	Dollar Variance of Avg. to BV	Percent Variance of Avg. to BV
Alderman	\$5,640	\$8,995	\$13,928	\$9,280	\$5,280	\$10,200	\$8,887	\$7,110	\$10,665	-\$3,247	-37%
City Clerk	\$8,200	\$12,387	\$72,904	\$69,291	\$46,172	\$81,070	\$67,359	\$53,887	\$80,831	N/A	N/A
Mayor	\$73,600	\$129,064	\$119,246	\$136,928	\$119,600	\$115,721	\$115,693	\$92,555	\$138,832	-\$42,093	-36%
FTEs -Employees	130	450	778	450	280						
Population	26,652	43,000	73,580	60,112	15,038	69,797					

Notes:

City Clerk pay average is full-time salaries only.

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: May 16, 2016 – Work Session

AGENDA ITEM:

ITEM TITLE: Discussion Item: Fence regulations

SUBMITTED BY: Christopher Suneson, PLA

SUMMARY EXPLANATION: During the past few months, proposed fence regulations to the municipal code have been a contested issue amongst the Planning Commission and City Council. During the last regular meeting of the City Council, proposed fence regulations and accessory structures were tabled until the June regular meeting. Staff was also directed to investigate and draft compromise legislation.

There were two points of concern highlighted during the discussions: 1) placement of fences in front yards at all and 2) the height of fences in front yards.

The following draft addresses these concern in the following manner:

- 1) Fences would be allowed to be erected in front yards. The legislation defines front yards and delineates one front yard in the instance of corner lots.
- 2) Residential lots less than 1 acre in size would be allowed to erect front yard fences no taller than 4 feet.
- 3) Residential lots of 1 acre or more in size would be allowed to exceed 4 feet in height, given certain provisions. These would not be allowed to exceed 8 feet in height.
- 4) Other zoning districts (commercial, industrial, agricultural) would be allowed to erect fences in the front yard not exceeding 8 feet in height.

The legislation further restricts fence heights by eliminating the ability to seek an administrative variance for fence height by 25%. Any such variances, if filed, would have to seek a variance through the Board of Zoning Adjustments.

ATTACHMENT: ORDINANCE RESOLUTION OTHER

RECOMMENDATION: Staff makes no particular recommendation at this time, but rather seeks the Council's guidance on changing the proposed language that follows.

ACTION REQUESTED:
Motion to adopt

Sec. 109-42. Variances.

- (b) *Administrative review of minor variance.*
 - (1) *Applicability.* The director of community development services may grant minor modifications of these regulation in compliance with the following standards:
 - b. ~~Height of a wall or fence may be increased up to 25 percent, but in no case shall a minor modification allow a fence height greater than eight feet in height.~~

Sec. 109-248. Fence location.

- (a) *Generally.* No fence shall be erected on any property without the consent of all owners of the property. Fences shall not encroach onto adjoining property not owned by the owner of the fence, nor shall any fence encroach upon any right-of-way. Fences may be located directly adjacent to existing fencing or attached to such fencing with the consent of the fence owner.
- (b) *Front yard.*
 - (1) For purposes of this subsection, the term 'front yard' shall be defined as any portion of a lot forward of the footprint of the primary structure on the lot. In the case of corner lots, the 'front yard' shall be delineated by the orientation of the primary pedestrian entry to the structure.
 - (2) For residentially zoned lots less than one (1) acre in area, fences shall be limited to four (4) feet in height in the front yard.
 - (3) For residentially zoned lots one (1) acre or more in area, fences taller than four (4) feet in height may be erected in the front yard, if the fence is located to delineate a property boundary and does not provide seclusion or privacy from public view. Such fences shall not exceed eight (8) feet in height.
 - (4) For all other zoning districts, fences erected in the front yard shall not exceed eight (8) feet in height.
- (c) *Rear and side yards.*
 - (1) A fence that does not cross any portion of the front yard may begin on a rear or side property line at the full height of the fence, but shall not exceed eight feet (8') in height from the ground below the fence.
 - (2) When placed along a side property line, a fence shall not be placed any closer to a street right-of-way than the front building setback of the parcel on which it is located or the adjacent parcel, whichever is less restrictive.
 - (3) A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this section.
- (d) *Sight triangle.* Fences constructed near driveways and street intersections shall stay clear of all sight triangles in order to provide a reasonable degree of traffic visibility. See Section §109-3 for the definition and reference dimensions of a sight triangle.
- (e) *Easements.*
 - (1) *Utility easements.* Construction of fences in utility easements is permitted, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement shall have a gate installed to permit access to the easement.
 - (2) *Drainage easements.* Fences shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved on a case by case basis.

- (3) *Access easement.* Fences shall not be constructed over a public access easement. Fences proposed over private emergency access easements must be approved by the fire department to ensure adequate access for emergency vehicles and equipment at all times.

DRAFT