

CITY OF SPRINGDALE
Committee Agendas
Monday, May 18th, 2015
Multipurpose Room #236
City Administration Building
Meetings begin at 5:30 p.m.

Ordinance Committee by Chairman Mike Overton:

1. **An Ordinance** amending article 5 of the zoning ordinance of the City of Springdale, Arkansas; declaring an emergency; and for other purposes. (Use Unit 51 Hangar with living quarters). Presented by: Patsy Christie, Director of Planning. (2-3)
2. **A Discussion** regarding box trucks. Presented by: Chairman Mike Overton. (4-5)
3. **An Ordinance** amending Section 26-30 of the Springdale Code of Ordinances. (Pertaining to business licenses.) Presented by: Presented by: Chairman Mike Overton. (6-9)

Street & CIP Committee by Chairman Rick Evans:

4. **A Discussion** of a proposed settlement of a condemnation case in the Don Tyson Parkway Widening Project. Presented by: Ernest Cate, City Attorney (10-11)
5. **A Discussion** pertaining to Paradise Lane. Presented by: Ernest Cate, City Attorney (12-14)
6. **A Resolution** appropriating capital improvement funds for the engineering and design of the future development of the NW Park. Presented by: Wyman Morgan, Director of Administration and Finance. (15)

Police & Fire Committee by Chairman Rick Culver

7. **A Discussion** regulating towing companies. Presented by: Ernest Cate, City Attorney
8. **A Discussion** of the selection/removal process for Police Chief and Fire Chief. Presented by: Ernest Cate, City Attorney (16-17)

Health, Sanitation & Property Maintenance Committee by Chairman Jim Reed:

9. Fourth Amendment to Sanitation Service contract. Presented by: Wyman Morgan, Director of Administration and Finance. (18-19)

That which is underlined is added.

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 5 OF THE ZONING ORDINANCE OF THE CITY OF SPRINGDALE, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Article 5 of the Zoning Ordinance of the City of Springdale, Arkansas, contains the various use units which are allowed in the various zoning districts in Springdale, Arkansas;

WHEREAS, there currently is no use unit for airport hangar with living quarters;

WHEREAS, it is in the best interest of the City of Springdale, Arkansas, for the City Council of the City of Springdale, Arkansas, to amend Article 5, of the Zoning Ordinance of the City of Springdale, Arkansas, to create a use unit for Airport Hangar with Living Quarters; and

WHEREAS, a public hearing was held before the Springdale Planning Commission on May 5, 2015, after notice was given of said hearing as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS:

Section 1: Article 5 of the Zoning Ordinance of the City of Springdale, Arkansas, is hereby amended to add a new Use Unit, Use Unit 51, to read as follows:

Sec. 54. – Unit 51: Airport Hanger with Living Quarters

A building designed and used for aeronautical purposes which provides space for aircraft storage and service activities. Living quarters provided in the facility shall be for non-permanent or short-term use only. All living quarters will be required to obtain a separate certificate of occupancy upon inspection by building and fire officials and a determination that all adopted building and fire code requirements have been addressed. Sexually oriented businesses (as defined in Chapter 26, Article V), shall not be allowed in any zoning district except C-2, where they may be allowed as a conditional use (subject to the restrictions of Chapter 26, Article V).

Section 2: All other provisions of Article 5 of the Zoning Ordinance of the City of Springdale, Arkansas, not specifically amended herein shall remain in full force and effect.

Section 3: Emergency Clause. It is hereby declared that an emergency exists and this ordinance, being necessary for the preservation of the health, safety and welfare of the citizens of Springdale, Arkansas, shall be in effect immediately upon its passage and approval.

PASSED AND APPROVED this ____ day of _____, 2015.

Doug Sprouse, Mayor

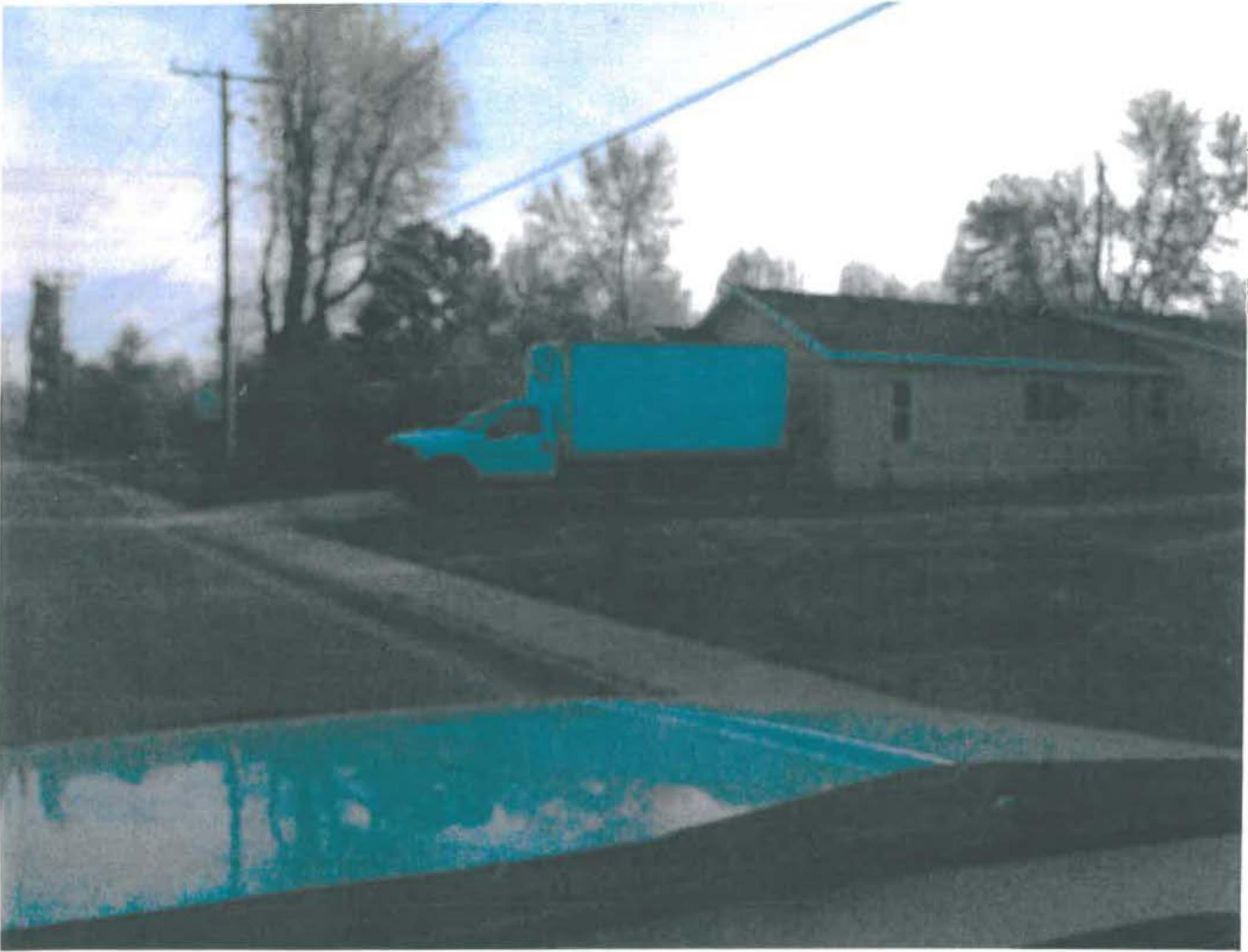
ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney





That which is underlined is added.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 26-30 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Section 26-30 of the Code of Ordinances of the City of Springdale, Arkansas, currently requires a separate business license for each business location;

WHEREAS, many licensed businesses within the City of Springdale, Arkansas, have auxiliary locations associated with the principal place of business, but at which no business is actually being conducted;

WHEREAS, it is in the best interest of the City of Springdale, Arkansas, to amend Section 26-30 of the Code of Ordinances of the City of Springdale, Arkansas, to remove the requirement that an auxiliary location obtain a separate business license, and to allow these auxiliary locations to be noted and included upon the business license for the principal business location;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS:

Section 1: Section 26-30 of the Code of Ordinances of the City of Springdale, Arkansas, is hereby amended to read as follows:

Sec. 26-30. - License required for each place of business.

Any person having more than one place of business within the city shall obtain a license for each principal business location. Any auxiliary locations used in connection with the activities of the principal business location shall not require a separate business license, and shall be noted and included upon the business license issued for the principal business location.

Section 2: All other provisions of Chapter 26 of the Code of Ordinances of the City of Springdale, Arkansas, not specifically amended by this ordinance shall remain in full force and effect.

Section 3: Emergency Clause: It is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of the health, safety and welfare of the citizens of Springdale, Arkansas, become effective immediately upon its passage and approval.

PASSED AND APPROVED this _____ day of _____,
2015.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

CHAPTER 118: BUSINESS REGISTRY AND LICENSES

118.01 Applicability

(A) General businesses.

- * (1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates a legally permitted home occupation within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.
- (2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.
- (3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

(B) Religious entities. Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The City Business License shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

(C) Minors exempt. No individual under eighteen years of age shall be required to register or obtain a business license.

(D) Individual landlords renting less than three dwelling units exempt. An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter.

118.02 Entry upon Business Registry and Issuance of Business License

(A) Annual application required. Every applicable business or other entity identified in §118.01 shall annually complete the Application For Business Registry And License (substantially as shown on Exhibit A and which can be administratively amended by the Mayor) and pay the appropriate fee as required by this chapter.

(B) Time for Application submittal. Applications and annual renewals for existing business license holders shall be completed between September 1 and October 31 each year. Business licenses shall be issued for a fiscal year of November 1 to October 31. New businesses, businesses locating to Fayetteville or entities to which these provisions become applicable in the future shall register and obtain their business license within two months of their move into Fayetteville or commencement of activities.

(C) Fees.

- (1) Home based business. A resident conducting a non-traffic generating occupation, profession or business within the resident's dwelling unit who is registering for the first time shall pay an annual fee to submit an Application For Business Registry and License of \$22.00 if submitted by October 31, except if the home based business owner registers electronically, the owner shall receive a \$2.00 credit against the annual fee and pay only \$20.00.

Applications submitted after the October 31 deadline shall incur a fee of \$24.00 if submitted by November 30; \$26.00 if submitted by December 31; and \$30.00 if submitted thereafter. After an initial registration and receipt of a business license, the next year's renewal fee shall be \$15.00 if timely paid. Otherwise, late payment fees shall be as assessed above.

- (2) All other (non-home based) businesses. Annual fees to submit the business's first Application For Business Registry and License shall be \$35.00 if submitted by October 31, except that if a business registers electronically it shall receive a \$3.00 credit against its annual fee and only be assessed \$32.00. Applications submitted after the October 31 deadline shall incur a fee of \$38.00

Sec. 48-20. - Annual tax imposed on businesses, occupations, professions.

The carrying on of any business, profession or occupation of whatever kind or nature within the city is hereby declared to be a special right, and any person engaged in any business, occupation or profession of whatsoever kind or nature within the city shall pay an annual tax for the carrying on of such business, occupation or profession within the city.

(Code 1982, § 7-16; Code 1997, § 22-26)

State law reference— Authority to tax business, etc., A.C.A. § 26-77-102.

Sec. 48-21. - Single tax on same business.

No person shall be subject to taxation under this article more than one time during any year for the conduct of the same trade, calling, vocation, business or profession despite the conduct of such occupation in more than one location within the city unless the occupation is conducted in multiple locations at the same time.

(Code 1982, § 7-17; Code 1997, § 22-27)

Sec. 48-58. - Required generally.

It shall be unlawful for any person, whether as principal or agent, to commence, engage in or carry on any of the businesses, occupations or professions described in section 48-24 within the city without having first paid the occupation tax and procured a license therefor.

(Code 1982, § 7-31; Code 1997, § 22-51)

Sec. 48-61. - Issuance.

It shall be the duty of the city clerk upon receipt of the amount of the tax provided in this article to issue a license for every person liable to pay such tax, and to state in each license issued the amount thereof, the period of time covered thereby, the name of the person to whom issued, and the business, occupation or profession to be carried on. In no case shall any mistake in stating or computing the amount due of a license prevent or prejudice the collection by the city of what actually is due under this article.

(Code 1982, § 7-34; Code 1997, § 22-54)

Office Of The City Attorney

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Writer's Email:

MEMORANDUM

Ernest B. Cate
City Attorney

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Senior Deputy
City Attorney

Sarah Sparkman
Deputy City Attorney

David D. Phillips
Deputy City Attorney

Lynda Belvedresi
Case Coordinator/
Victim Advocate

Steve Helms
Investigator

Cindy Horlick
Administrative Legal
Assistant/Paralegal

TO: City Council – Mayor Sprouse
FROM: Ernest Cate, City Attorney 
RE: *City of Springdale v. Ken Nguyen and Bichtram Nguyen,*
Husband and Wife
DATE: May 18, 2015

If you will recall, the City Council approved the condemnation of land in connection with the Don Tyson Parkway Widening (South 40th Street to Carley Road) – Project #12BPS3. One of these tracts of land is owned by Ken Nguyen and Bichtram Nguyen, Husband and Wife. The file was turned over to the City Attorney's office for the purpose of acquiring the needed property by eminent domain. The City Attorney's office filed the eminent domain action and obtained an Order of Possession. At the time the City filed this case, the amount of \$8,400.00 was deposited with the court as the City's estimate of just compensation to be paid to the Nguyens. This amount represented the value of the property to be taken and was determined from an appraisal conducted by Reed & Associates, Inc. This case is currently scheduled for trial on June 8, 2015, in Washington County Circuit Court.

The property owners have now submitted an appraisal which was performed by Glen Carlson of Carlson Agency, LLC, and which sets the amount of just compensation for the property taken by the City at \$72,113.00. The primary difference between the City's appraisal and the Nguyens' appraisal is the valuation of the "highest and best use" of the property. The City's appraiser valued the property at \$0.95 per square foot based on a residential highest and best use. The Nguyens' appraisal valued the property at \$6.50 per square foot based on a commercial highest and best use of the property. In addition, the

ErnestCa/2015misc/memoNguyen

City's appraiser valued the utility easement at 25% of fee value, while the Nguyen's appraiser valued the utility easement at full fee value.

The attorney for the Nguyens has stated that the Nguyens would be willing to settle this case for the total amount of \$44,000. In other words, the Nguyens are asking for an additional \$35,600.00 to settle this case. It is my opinion that adequate justification exists for this additional amount.

The additional amount of \$35,600.00 is, in essence, "splitting the difference" between the City's appraisal and the Nguyens' appraisal. Should this case proceed to trial, it is likely that a jury would award the Nguyens at least this amount in damages. Should this case proceed to trial, the Nguyens would certainly argue that the property taken by the City is worth at least the \$72,113.00 indicated in their appraisal.

In all, I believe that adequate justification exists for paying the Nguyens the additional requested amount of \$35,600.00. As such, I am requesting that the City Council approve this settlement.

I appreciate your consideration of this request.

From: Sam Goade <sgoade@springdalear.gov>
Sent: Tuesday, May 05, 2015 8:45 AM
To: Doug Sprouse
Cc: Ernest Cate; Terry Anderson; James Carr; 'Eric Ford'; Jeffrey H. Watson; 'Jim Reed'; 'Kathy Jaycox'; 'Mike Lawson'; 'Mike Overton'; Rick Culver; 'Rick Evans'
Subject: Paradise Lane - Cost to Pave Private Drive on north end
Attachments: DOC050515-05052015084143.pdf

Mayor Sprouse,

As directed by the Street & CIP Committee members at last night's committee meeting I have completed the cost estimate to extend Paradise Lane north 340 feet from the end of the existing pavement to the end of the shared private drive. There are two options for consideration as follows:

1. Pave the existing private drive which is currently 12-foot wide. This would require 150 tons of Class 7 base stone and 50 tons of Type 2 hot mix asphalt. Cost for the base is \$1,283 and the cost of the HMA is \$2,892. Total Cost \$4,175.
2. Extend the existing 20-foot wide roadway. This would require removal of the existing tree line shown in the attached aerial photo. Cost to remove the trees including the root balls would be approximately \$5,000. Extending the roadway at a width of 20-feet would require 251 tons of Class 7 base stone and 83 tons of HMA for a total cost including removal of the trees of \$11,950.

Since there are only four (4) homes to be served by paving the private drive the cost per resident would be as follows:

Option 1	\$1,043.75 per home.
Option 2	\$2,987.50 per home.



Google earth





Google earth



RESOLUTION NO: _____

**A RESOLUTION APPROPRIATING CAPITAL
IMPROVEMENT FUNDS FOR THE ENGINEERING
AND DESIGN OF THE FUTURE DEVELOPMENT OF
THE NW PARK**

WHEREAS, the City of Springdale expended funds for the engineering and design of the NW Park from the Park Bond Construction Fund, and;

WHEREAS, after a review of the bids and contracts related to the development of the SE Park, the City administration has determined it will be necessary to delay the development of the NW park and allow citizens to utilize it as a nature park until developed in the future, and;

WHEREAS, since the development of the NW park has been delayed, the funds spent from the Park Bond Construction Fund need to be reimbursed;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that \$363,760.00 of capital improvement funds is hereby appropriated for reimbursement to the Park Bond Construction Fund for expenditures on engineering and design of improvements to the NW park.

PASSED AND APPROVED this 26th day of May, 2015.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest Cate, City Attorney

ORDINANCE NO. 2775

**AN ORDINANCE FOR THE CITY COUNCIL OF
THE CITY OF SPRINGDALE, ARKANSAS,
GRANTING AUTHORITY TO THE SPRINGDALE
CIVIL SERVICE COMMISSION TO APPOINT
AND REMOVE THE POLICE CHIEF AND FIRE
CHIEF; AND FOR OTHER PURPOSES.**

WHEREAS, under A.C.A. §14-42-110(2), a City of the first class is authorized to delegate the authority to appoint and remove the heads of the Police and Fire Departments to the City's Civil Service Commission;

WHEREAS, the City Council for the City of Springdale, Arkansas, finds that it is in the City's best interest to have the authority to appoint and remove the Police Chief and Fire Chief with the Springdale Civil Service Commission, but for the Springdale City Council to have all authority allowed by law consistent with A.C.A. §14-42-110(2);

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL
FOR THE CITY OF SPRINGDALE, ARKANSAS:**

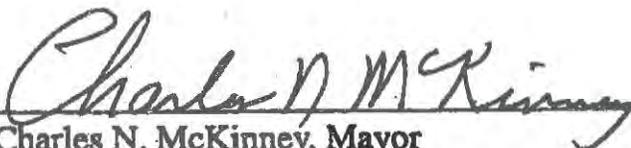
Section 1: The City of Springdale delegates the authority to appoint the Police Chief and Fire Chief of the City of Springdale, Arkansas, to the Springdale Civil Service Commission. When appointing the Police Chief or Fire Chief, the Springdale Civil Service Commission shall appoint the person standing the highest on the civil service examination for the appointment to the position of Chief, subject to the Council's approval of the Chief's salary (City Council approval is necessary for all matters relating to finance).

Section 2: After the appointment is complete, the Mayor may still suspend the Chief without pay for a period not to exceed 30 days, or take any other disciplinary action except for termination, as allowed by the City's Personnel and

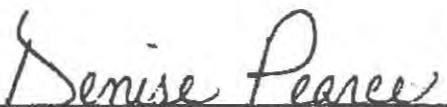
Procedures Manual. If the Mayor believes that the Chief should be discharged, he shall address the reasons he believes the Chief should be discharged or reduced in rank to the Springdale Civil Service Commission. However, no Police Chief or Fire Chief who has not previously held a position within the same department may be reduced in rank to another civil service position.

Section 3: Ordinance No. 2453 setting out a different procedure for hiring and firing the Police Chief and Fire Chief is hereby repealed.

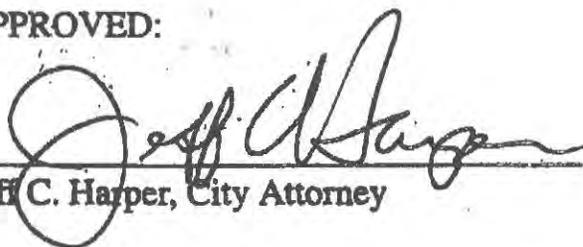
PASSED AND APPROVED this 14th day of October,
1997.


Charles N. McKinney, Mayor

ATTEST:


Denise Pearce, City Clerk

APPROVED:


Jeff C. Harper, City Attorney

FOURTH AMENDMENT TO SANITATION SERVICE CONTRACT

This Fourth Amendment to Sanitation Service Contract (hereafter "Amendment") is entered into and takes effect on this 1st day of July, 2015, by and between the City of Springdale, Arkansas (the "City") and Waste Management of Arkansas, Inc. (the "Contractor").

RECITALS

WHEREAS, pursuant to Ordinance No. 2442 and Ordinance No. 2811, the City is a party to a Sanitation Services Contract dated December 12, 1995 with Sunray Services, Inc. for the purposes of collection, recycling, transfer and disposal of primarily residential solid waste for the City, as amended on March 13, 2007, March 26, 2010 and December 1, 2014 (the "Contract");

WHEREAS, as a matter of Arkansas law due to a statutory merger in 1998, Waste Management of Arkansas, Inc., the Contractor, is the successor-in-interest to Sunray Services, Inc.;

WHEREAS, the City is interested in adding commercial hand-collect trash and recycle service to be available to small commercial businesses that need one or two, but no more than three rubber wheeled polycarts with an approximate capacity of 96 gallons ("Hand-Collect Cart") to accommodate their trash service needs;

WHEREAS, the Contractor is willing to invest the capital needed to purchase and deliver these Hand Collect Carts where applicable;

WHEREAS, the Contractor will set up and bill these customers on an individual basis. Rates will be \$16.00 per month for one cart, \$30.00 per month for two carts and \$44.00 per month for three carts. One Recycle Cart is included in these rates. Service is one time per week for trash and one time every other week for recycling.

WHEREAS, the parties desire to make certain other amendments to the Contract contained herein, and

NOW, THEREFORE, in consideration of the above Recitals and Terms and Conditions below, all of which constitute good and valuable consideration, the said Contract is amended as follows:

TERMS AND CONDITIONS

1. At the time this Amendment is fully executed, Contractor agrees to deliver offer the above mentioned commercial hand-collect service within the City.
2. The City and Contractor agree to add Paragraph 3(q) as follows:

3(q). Contractor shall charge a commercial hand-collect trash and recycle service to be available to small commercial businesses that need one or two, but no more than three rubber wheeled polycarts with an approximate capacity of 96 gallons ("Hand-Collect Cart") to accommodate their trash service needs. Rates will be \$16.00 per month for one cart, \$30.00 per month for two carts and \$44.00 per month for three carts. One Recycle Cart is included in these rates. Service is one time per week for trash and one time every other week for recycling. Billing and collection of these accounts will be the responsibility of Waste Management. Ownership of the carts remains with Waste Management.

3. The City and Contractor agree to extend the term of the Contract for two (2) years through November 30, 2021.
4. Nothing contained herein shall be deemed to amend or modify the Contract or the prior Amendments dated March 13, 2007, March 26, 2010 and December 1, 2014, except as expressly set forth herein. In the event of a conflict between the terms of the Contract and this Amendment, the terms of this Amendment shall control.

IN WITNESS WHEREOF, this Amendment has been executed as of the date first set forth above.

CITY:

CONTRACTOR:

CITY OF SPRINGDALE, ARKANSAS

WASTE MANAGEMENT OF ARKANSAS, INC.

By: _____

By: _____

Its: Mayor

Its: Market Area Vice-President

Date: _____

Date: _____