

Election of City Officials—November 4,

There are four positions for City Council up for election in 2014: Ward, 1, Position 1, Ward 2, Position 1, Ward 3, Position 1, and Ward 4, Position 1. Incumbent Jim Reed will face opposition by Bob Caudle for Ward 1, Position 1. Incumbent Brad Bruns will face opposition by Rick Culver in Ward 3, Position 1. Mike Overton (Ward 2, Position 1) and Mike Lawson (Ward 4, Position 1) are unopposed.

Ernest Cate is running unopposed for City Attorney. It is a 4 year term. He currently holds

Springdale Precincts

1 & 9	First United Methodist Church
2	John Powell Senior Center
3, 13, 23, 24, & 25	Rodeo Community Center
4	Cross Church
5 & 16	Youth Center
6 & 18	Elmdale Baptist Church
7 & 14	Calvary Church
8 & 12	First Church of the Nazarene
10 & 19	Temple Baptist Church
11, 20, 21, 22, 26 & 27	Oak Grove Baptist Church
17	Turner St. Baptist Church

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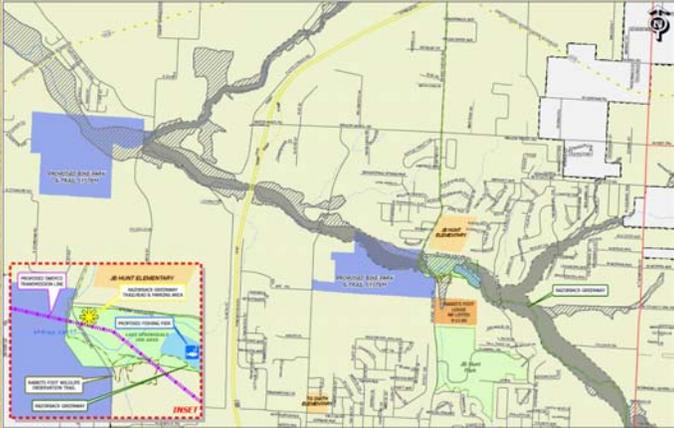
The M.A.P.

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this position after being appointed by City Council to complete the term of Jeff Harper, who was elected as District Court Judge in 2012. Ernest began working in the City Attorney's Office in July, 1998. He was appointed as Senior Deputy City Attorney in January, 2007, and in 2010 was appointed to complete the term of Judge Stanley Ludwig upon his retirement.

This article presented by Cindy Horlick,
Administrative Legal Assistant

Springdale Trails Program



Rabbits Foot Lodge Wildlife Observations Trail

This article presented by Patsy Christie, Director of Planning

Children of all ages enjoy fishing and being outdoors, especially in wooded areas. Watching wildlife in their natural habitat is a very exciting proposition for most children. Combining both of these activities in the same general area is very appealing and can also be a destination for teachers and their students to further explore the outdoors and link those items discussed in the classroom with actual application.

In northwest Springdale, such an area is open to the public. Rabbits Foot Lodge Wildlife Observation Trail is a newly completed trail routed through wooded property that was donated to the City of Springdale by the landowner. The 2.5 acre site is surrounded by City property on all sides with the recent

acquisition of Rabbits Foot Lodge. The site has a small stream flowing through its center and is connected to the Razorback Greenway and Lake Springdale. There is an abundance of wildlife in the area which includes deer, fowl, small mammals as well as small fish species and invertebrates in the creek itself.

The construction of the trail was funded through a grant from the Arkansas Game and Fish Commission, matched with funds from the Capital Improvement Program, materials donated by AEP-SWEPCO and volunteer help from the Springdale Rotary Club. The trail consists of approximately 1400 feet of new trail, a combination of soft surface trail and board walk, along with a wooden pedestrian bridge over the creek and an observation deck.



The project allowed the City to clean the area of downed trees and tree limbs that lingered from the ice storm in 2009. The low

Springdale Trails Program



impact trail, built with a geotextile grid and gravel was compacted to allow those with disabilities access to the trail. Boardwalk sections of the trail were installed in areas that were known to hold water on a more regular basis. The combination of the two trail sections allowed the environmental impact to be kept to a minimum.

An observation shelter was built on the eastern side of the trail to provide visual



buffering from adjacent wildlife habitats while ensuring a safe environment for pedestrians. The pedestrian bridge allows for children and adults to view the small fish species and invertebrates that live in the creek.

Currently the trail can be accessed from a small parking lot located on the east side of Silent Grove Road adjacent to the trail entrance. A trailhead at the corner of Silent Grove Road and Pump Station Road will be under construction by the end of 2014 to add additional parking. The trailhead will serve the Razorback Greenway, the Wildlife



Observation Trail, Lake Springdale Fishing Pier and a single track/mountain bike trail under construction to the west of Silent Grove Road.

Engineering News/Projects

Alan Pugh Leaves His Position – New City Engineer to be Hired

On August 21, 2014, Alan Pugh left his position as City Engineer. Alan began his employment with the City of Springdale in 2010, during the construction project of the Wagon Wheel Road Project, Phase II. During his employment with the City of Springdale, he was involved in three large street projects, Elm Springs Road, Phase II, Johnson Road, Don Tyson Parkway Interchange. The Elm Springs Road, Phase II and Don Tyson Parkway Interchange projects are complete, and the Johnson Road project is nearing completion. A few other projects Alan was involved with are the Lake Springdale Fishing Pier and the 56th Street Bridge. Alan was also involved in getting the Energy Grant approved and completed, as well as the Wildlife

Observation Trail Grant. He also helped Sam Goade, Director of Public Works, with the Hylton Road project.

When a new City Engineer is hired, that person will take over several large bond funded projects that are not completed. Two of these projects are new fire stations being built (one located on Don Tyson Parkway and the other located behind White Oak Station on North Thompson). Other projects are the SE Park Improvements, 56th Street Improvements and the Don Tyson Parkway Hylton Road to Habberton Road extension. Right-of-way acquisitions have also begun on the Don Tyson Parkway 40th Street to Carley Road widening project.

The City Attorney's Office has worked directly with Alan during his employment with the City as City Engineer with much success. We wish Alan much success in his future endeavors and look forward to working with the new City Engineer.

This Article presented by
Cindy Horlick,
Administrative
Legal Assistant



Current Engineering Projects in Springdale

In this edition of *The M.A.P.*, we will be highlighting new projects that have either been completed or underway within the City of Springdale. The projects included in this article are listed to the left of this article.

First, the Don Tyson Parkway/I-49 interchange has been completed. The process of acquiring the property began in 2013. This project was funded partially by the 2012 Street Bond Fund with assistance from Federal funds. It was constructed by Emory Sapp & Sons, Inc. and opened to the public on July 7, 2014.

- Don Tyson Parkway/I-49 Interchange
- Don Tyson Parkway—Hylton Rd. to Habberton Rd.
- Don Tyson Parkway—40th St. to Carley Road
- 56th Street Widening Project
- Johnson Road
- Elm Springs Road, Phase II
- Fire Station #2
- Fire Station #3
- SE Park (name to be announced at later date)



West side of Don Tyson Parkway Interchange



East Side of Don Tyson Parkway Interchange

Don Tyson Parkway widening project from 40th Street to Carley Street is underway, with acquisition of property currently taking place and will be funded by the 2012 Street Bond Fund. The target date of completion is November, 2015. The light at 40th Street has

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been installed.

The 56th Street widening project from Don Tyson Parkway to Bleaux Avenue is currently underway. Acquisition of property began in February, 2014 and is funded by the 2012 Street Bond Fund. Construction has begun and by Sweetser Construction, Inc. and the target date of completion is Fall, 2015.



Traveling north along 56th Street



Construction beginning at Don Tyson Parkway



Intersection of Don Tyson Parkway & 56th Street

Project (south of Chapman Avenue) is currently under construction with the expected completion date to be Fall, 2014.



Johnson Rd. approaching Intersection at Chapman Rd. from North

The acquisition of property for the Don Tyson Parkway (Hylton Rd. to Habberton Rd.) Project began in January, 2014. This project is being funded by the 2012 Street Bond Fund, and is being constructed by APAC—Central, Inc. The expected date of completion is Fall, 2015.

Phase I, Johnson Road Widening



The design of Phase II, Johnson Road Widening Project (Chapman Avenue to Highway 412 (Sunset Ave.)), is complete and is awaiting the approval of the Arkansas Highway Transportation Department. Once the design is approved, acquisition will begin. This project is a Federal Earmark, with 80% federal funding and 20% matched by the City through the CIP Fund.

The Elm Springs Road, Phase II, project began in July, 2011 with the acquisition of property. It was funded by the CIP Fund and Sweetser Construction, Inc. was

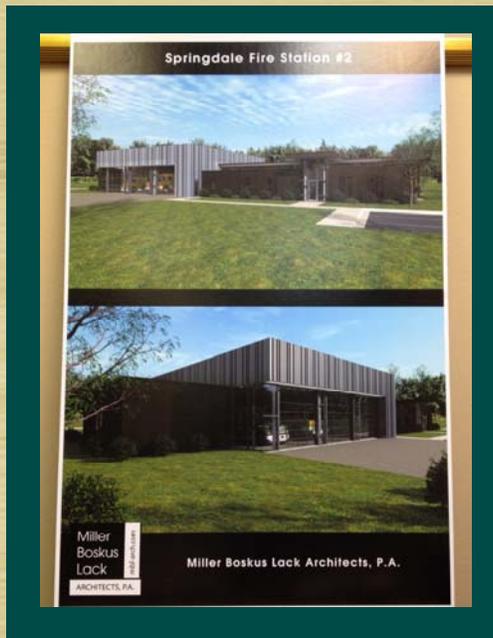
awarded the contract to construct the road. This project was completed on November 2, 2012. The construction of this road allowed for new development on



Elm Springs Road, which included a new Wal-Mart store and McDonald's Restaurant. Wal-Mart opened for business on August 17, 2014. McDonald's is expected to open in October, 2014.

Engineering News/Projects

Fire Station #2 will be located on Don Tyson Parkway between South Thompson (71B) and Cambridge Road. Fire Station #3 will be located on Glass Drive, which is east of North Thompson behind Kings Express. The design of both Fire Stations



was prepared by Miller, Boskus, Lack Architects. Both stations are funded by the 2012 Bond Fund; however, Tyson Foods, Inc. donated \$400,000 for assistance with the site work. Commerce Construction Co., Inc. will construct the Fire Stations. The expected date of completion of both stations is Fall, 2015.

The ground breaking ceremony took place on August 27, 2014 for a new park on the southeast side of Springdale (intersection of Don Tyson Parkway and Hylton Road). The park was named the "CL (Charlie) and Willie George Park. The

Engineering News/Projects

park will consist of 74.81 acres and was purchased from Legacy National Bank. Construction of the park is being done by Milestone Construction Company, LLC and the expected date of completion is Fall, 2015. The design of the park was done by Engineering Services Incorporated (ESI).

In addition to the SE Park (Charlie and Willie George Park), mountain bike trails are currently being constructed in conjunction with the Razorback Greenway Trail. Springdale Water & Sewer have agreed to donate the land and part of the funding will come from the Wal-Mart Family Foundation. Progressive Trail Design will build the mountain bike trails.



New Businesses Coming to Springdale!

For many years, Sunrise Inn has been a dilapidated motel and restaurant. Recently, the Building Inspection Division red tagged the property as unsafe. Sunrise Inn is currently being razed and removed, and in its place a new CVS pharmacy will be built.

In addition to the CVS pharmacy being built, a new Sam's Club will be built at the corner of 56th Street and Highway 412 (Sunset Ave.). With these two new businesses, as well as the new Wal-Mart store and McDonald's Restaurant on Elm Springs Road, Springdale should see a growth in the job market for its citizens, as well as an increase in its tax revenue, which can only mean good things for Springdale.

This Article presented by Cindy Horlick,
Administrative Legal Assistant



Case Law

Court Will Not Consider an Employer's Timekeeping Documents Alone if There is Evidence that Records are Inaccurate or Inadequate

Terry v. Yell County, Arkansas, 2014 WL 4055985 (E.D. Arkansas).

The Plaintiffs in this case were two sheriff's deputies who worked in the K-9 unit of the Yell County Sheriff's office. The Plaintiffs filed suit against Yell County, Arkansas, in Federal Court, alleging that Defendant Yell County, Arkansas willfully did not pay them their overtime wages for hours that they worked but that were not recorded. The Plaintiffs filed a motion for summary judgment, alleging they were no genuine issues of material fact, the primary issue being that the Plaintiffs were owed overtime wages as a matter of law.

Defendant alleged in response that the Plaintiffs weren't entitled to additional compensation, as none of the timekeeping records reflected that Plaintiffs worked time that they were not compensated for.

Allegations:

Plaintiffs alleged Defendant did not keep accurate records of the time they worked overtime, had knowledge of the facts and circumstances, and imposed policies that

caused Plaintiffs to work undocumented hours. Plaintiffs also alleged they were "explicitly directed to under-report their hours worked for defendant" so that defendant would pay less in overtime.

Specifically, Plaintiff alleged:

[I]n the times they went over the number of hours that had been budgeted by defendant, they were questioned about it and essentially told, "You have X amount of hours you can be paid, and this is what we've got to do." They state their supervisor responded to their complaints about the hours they had to work without pay by telling them that defendant had a policy that they did not want much overtime on paperwork and that plaintiffs had to "do the work that you have to do in order to get the job done." Plaintiffs state that a supervisor named "Kevin" gave them a similar response, stating, "we don't have overtime ... overtime just does not exist." They state that supervisors visited the locations where they worked and knew of the hours they were working.

Case Law

In response, Sheriff Bill Gilkey, who supervised the Plaintiffs, submitted an affidavit stating that Plaintiffs were compensated for everything that was submitted in Plaintiffs' time cards. He further stated "he personally asked both plaintiffs on a monthly basis if their timecards were correct and if there were any extra hours associated with the care and operation of the canine unit for which they needed to be compensated and that the answer he received from the plaintiffs was 'no.'"

Analysis:

Summary judgment is appropriate if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to a judgment as a matter of law. Defendant contested that the Plaintiffs are owed overtime wages. An employee who brings suit for unpaid overtime wages under the Fair Labor Standards Act has the burden of proving that he performed work for which he was not properly compensated.

The Court did find that there was a genuine issue of material fact as to whether Plaintiffs were entitled to additional overtime compensation. The fact that Plaintiffs did not initially seek overtime pay did not preclude them from recovering overtime pay if they can actually prove that they worked longer. In making its analysis, the Court had to determine "whether the circumstances were such that the employer either had knowledge of overtime hours being worked or else had the opportunity through reasonable diligence

to acquire knowledge." *Woodman v. City of Hazen, Arkansas*, 2009 WL 2579266, *3 (quoting *Kautsch v. Premier Communications*, No. 06-CV-04035-NKL, 2007 WL 3376711, *2 (W.D.MO. Nov. 7, 2007)).

The Court noted "[I]t is the employer's duty to keep employment records, and as long as the employer has kept proper and accurate records, the employee may easily discharge his burden by securing the production of those records." However, the Court also noted that when the employer's records are inaccurate or inadequate and the employee cannot offer convincing substitutes, "a more difficult problem arises."

The Court opined that it would be wrong to penalize the employee in situations where there is flawed timekeeping, as it would encourage employers to not keep proper time records. If an employee can prove that he has performed work for which he was improperly compensated, and if he produces sufficient evidence to show the amount and extent of that work "as a matter of just and reasonable inference," then the burden shifts to the employer to come forward with evidence "with evidence to negative the reasonableness of the inference to be drawn from the employee's evidence."

However, in this case, the Court found that there is a "clear factual dispute" between Plaintiffs' and Defendant's assertions of how Defendant handled overtime hours. The Court denied the motion for summary judgment.

Case Law

Despite the fact that the Court denied the Plaintiffs' motion for summary judgment on the issue of whether they were entitled to additional compensation, please note that in its analysis, the Court made it clear that it will not consider an employer's timekeeping documents alone if there is evidence that records are inaccurate or inadequate.

This Article presented by
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