

Added at Agenda Session 5/18/12
Added to Consent
on the May 15, 2012
City Council Agenda.

City of Fayetteville Staff Review Form

Received information
Fayetteville Municipal Property
Owners Improvement District No.
19 - Oakbrooke Appointed
Page 1 of 8
5/4/12 Jim Segmented
this to be on the
5/15/2012 agenda

City Council Agenda Items
and
Contracts, Leases or Agreements

5/15/2012
City Council Meeting Date
Agenda Items Only

Sondra Smith
Submitted By

City Clerk
Division

City Clerk
Department

Action Required:

Appoint Jason Taylor and Alan Harrison as successor commissioners to fill two vacancies on the Board of Commissions for Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke Phase 1 Subdivision Infrastructure Project.

Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
Account Number	\$ -	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Remaining Balance	Fund Name

Budgeted Item

Budget Adjustment Attached

Sondra E. Smith 5/4/12
Department Director Date

Previous Ordinance or Resolution # _____

K. [Signature] 5/7/12
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul a. Buh 5-7-2012
Finance and Internal Services Director Date

Received in City 05-04-12 P02:37 RCVD
Clerk's Office

Don [Signature] 5-7-12
Chief of Staff Date

Received in Mayor's Office
ENTERED 5/7/12

Lionel Jordan 5-7-12
Mayor Date

Comments:

JAMES N. McCORD
Attorney at Law
The Fulbright Building
217 E. DICKSON STREET
SUITE #102
FAYETTEVILLE, ARKANSAS 72701

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

TELEPHONE (479) 695-1134
FACSIMILE (479) 442-1490
jimmccordlaw@windstream.net

May 4, 2012

Hon. Lioneld Jordan, Mayor
City Administration Building
113 West Mountain Street
Fayetteville, AR 72701

VIA HAND DELIVERY

Re: Fayetteville City Council Resolution to appoint
two successor commissioners for Fayetteville
Municipal Property Owners' Improvement
District No. 19- Oakbrooke, Phase I Subdivision
Infrastructure Project

Dear Mayor Jordan:

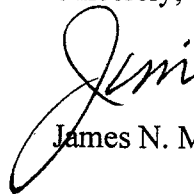
Enclosed is a draft Resolution for consideration by the Fayetteville City Council which would appoint Jason Taylor and Alan Harrison as successor commissioners to fill two vacancies on the Board of Commissioners for Fayetteville Municipal Property Owner's Improvement District No. 19- Oakbrooke Subdivision Infrastructure Project (the "District"). I am District Counsel. Also enclosed are e-mails which establish that Jason Taylor and Alan Harrison meet the statutory requirements for appointment as commissioners.

I am e-mailing the enclosed Resolution to City Attorney Kit Williams for his review and any modifications he deems necessary. This Resolution appears to be a "routine" matter which might be appropriate for the Consent Agenda of the City Council.

Please place the enclosed Resolution on the agenda for the May 15, 2012, meeting of the Fayetteville City Council. A purchaser for two lots owned by the District has executed a Real Estate Contract at a sale price approved by the District's bondholders, but the District cannot execute the contract and close the sale until two successor commissioners are appointed. All the lots in Oakbrooke, Phase I subdivision were conveyed to the District by a Commissioners' Deed executed after a foreclosure sale for delinquent improvement district taxes held pursuant to judgment entered by the Washington County Circuit Court.

Should there be any questions, please contact me. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim", written in a cursive style.

James N. McCord

pc: Kit Williams, City Attorney (via hand delivery)
Sondra Smith, City Clerk (via hand delivery)

RESOLUTION NO. _____

**A RESOLUTION TO APPOINT JASON TAYLOR AND ALAN HARRISON
AS SUCCESSOR COMMISSIONERS FOR FAYETTEVILLE MUNICIPAL
PROPERTY OWNERS' IMPROVEMENT DISTRICT NO. 19 – OAKBROOKE,
PHASE 1 SUBDIVISION INFRASTRUCTURE PROJECT**

WHEREAS, Fayetteville Municipal Property Owners' Improvement District No. 19 – Oakbrooke, Phase I Subdivision Infrastructure Project (the "District") was established upon petition of all the property owners in the District by Ordinance No. 5032 passed and approved by the Fayetteville City Council on July 3, 2007; and

WHEREAS, pursuant to statute, said Ordinance appointed as commissioners of the District the three individuals named in the petition to establish the District; and

WHEREAS, two commissioners have resigned; and

WHEREAS, Ark. Code Ann. Sec. 14-94-107(a)(2)(A) provides that in case of a vacancy on the board of commissioners after all improvements in the district have been completed, the governing body of the municipality shall select the successor who shall be a creditor of the district or a property owner in the district; and

WHEREAS, all the improvements in the District have been completed; and

WHEREAS, Ark. Code Ann. Sec. 14-94-105(a)(2)(B) provides that in the event a property owner or creditor is a corporation or other legal entity, any officer, director, employee, or other designated representative of the entity may be named and appointed as a commissioner; and

WHEREAS, First Community Bank is a creditor of the District and has designated its Chief Financial Officer Jason Taylor to be appointed as a commissioner; and

WHEREAS, Capital Bank is a creditor of the District and has designated its Vice President Alan Harrison to be appointed as a commissioner; and

WHEREAS, Jason Taylor and Alan Harrison have agreed to serve as successor commissioners for the District.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby appoints Jason Taylor and Alan Harrison commissioners for Fayetteville Municipal Property Owners' Improvement District No. 19 – Oakbrooke, Phase I Subdivision Infrastructure Project.

PASSED and **APPROVED** this 5th day of June, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Jim McCord

From: Jim McCord [jimmccordlaw@windstream.net]
Sent: Thursday, May 03, 2012 4:51 PM
To: 'Alan Harrison'; 'jtaylor@firstcommunity.net'
Cc: 'Nate Watson'
Subject: Successor commissioners for Fayetteville MPOID No. 19- Oakbrooke, Phase I Subdivision
Alan and Jason,

Nate Watson at Merchants and Planters Bank, Trustee for owners of Bonds sold by Fayetteville MPOID No. 19- Oakbrooke, Phase I Subdivision (the "District") has advised me that each of you has agreed to be appointed as a successor commissioner to fill vacancies on the Board of Commissioners of the District. Please send me an e-mail confirming that (1) you have agreed to serve as a commissioner for the District, (2) your bank owns Bonds sold by the District and (3) you have been designated by your bank (the bondholder) to serve as a commissioner. These are all statutory requirements for you to be appointed as a successor commissioner for the District. Also, please advise of your position (title) with your bank.

Upon receipt of your e-mails, I will prepare a Resolution for the Fayetteville City Council to approve which will appoint you as successor commissioners for the District; and, I will have the Resolution placed on the agenda for the earliest available City Council meeting.

The MPOID law states at Ark. Code Ann. Sec. 14-94-108(d): "No member of the board shall be liable for any damages unless he or she shall have acted with a corrupt intent."

Thank you for your cooperation. I look forward to working with you. Your obligations as a commissioner should require only a very small amount of your time.

Jim

James N. McCord
Attorney at Law
The Fulbright Building
217 E. Dickson Street, Ste. #102
Fayetteville, AR 72701
(479) 695-1134 Phone
(479) 283-6700 Cell
(479) 442-1490 Fax

District Counsel

5/4/2012

Jim McCord

From: Jason Taylor [JTaylor@firstcommunity.net]
Sent: Thursday, May 03, 2012 4:59 PM
To: Jim McCord
Cc: Dale Cole; nwatson@mandpbank.com
Subject: RE: Successor commissioners for Fayetteville MPOID No. 19- Oakbrooke, Phase I Subdivision
Jim,

I agree to serve as stated below, First Community Bank does own bonds sold by the district and I have been appointed by the bank to serve as a commissioner. My title is Chief Financial Officer.

Thanks,
Jason

From: Jim McCord [mailto:jimmccordlaw@windstream.net]
Sent: Thursday, May 03, 2012 4:51 PM
To: 'Alan Harrison'; Jason Taylor
Cc: 'Nate Watson'
Subject: Successor commissioners for Fayetteville MPOID No. 19- Oakbrooke, Phase I Subdivision

Alan and Jason,

Nate Watson at Merchants and Planters Bank, Trustee for owners of Bonds sold by Fayetteville MPOID No. 19- Oakbrooke, Phase I Subdivision (the "District") has advised me that each of you has agreed to be appointed as a successor commissioner to fill vacancies on the Board of Commissioners of the District. Please send me an e-mail confirming that (1) you have agreed to serve as a commissioner for the District, (2) your bank owns Bonds sold by the District and (3) you have been designated by your bank (the bondholder) to serve as a commissioner. These are all statutory requirements for you to be appointed as a successor commissioner for the District. Also, please advise of your position (title) with your bank.

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Fayetteville, AR 72701
(479) 695-1134 Phone
(479) 283-6700 Cell
(479) 442-1490 Fax

District Counsel

5/4/2012

Jim McCord

From: Alan Harrison [Alan.Harrison@thecapitalbank.com]
Sent: Friday, May 04, 2012 8:06 AM
To: Jim McCord
Cc: Kyle Patton
Subject: RE: Successor commissioners for Fayetteville MPOID No. 19- Oakbrooke, Phase I Subdivision

1. Yes.
2. Yes.
3. Yes. (Included our Bank President for verification)

Alan Harrison
Vice President
The Capital Bank
12224 Chenal Parkway
Little Rock, AR 72211
Phone (501) 228-6000
Fax (501) 228-6006
NMLS ID: 796639

From: Jim McCord [mailto:jimmccordlaw@windstream.net]
Sent: Thursday, May 03, 2012 4:51 PM
To: Alan Harrison; jtaylor@firstcommunity.net
Cc: 'Nate Watson'
Subject: Successor commissioners for Fayetteville MPOID No. 19- Oakbrooke, Phase I Subdivision

Alan and Jason,

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James N. McCord
Attorney at Law
The Fulbright Building

5/4/2012