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October 5, 2015

Kit Williams  
City Attorney  
City Administration Building  
113 W. Mountain  
Fayetteville, AR 72701

VIA HAND DELIVERY

Re: Public Facilities Board Resolution Nominating Stephen Cosby  
for Appointment by Mayor as Successor Member, Subject to  
Confirmation by City Council

Dear Kit:

The term of Stephen Cosby on the Fayetteville Public Facilities Board (the "PFB") expires December 31, 2015. Ark. Code Ann. §14-137-108(a)(3)(B)(i)(a) states that successor members shall be nominated by a majority of the board and appointed by the mayor, subject to confirmation by the governing body of the municipality (for a term of 5 years). Enclosed is a Resolution passed by the PFB nominating Stephen Cosby to Mayor Lioneld Jordan for appointment as a successor member, subject to confirmation by the City Council. A PFB member is eligible to succeed himself. Ark. Code Ann. §14-137-108(a)(3)(D).

Please present the enclosed Resolution to Mayor Jordan. Assuming the Mayor appoints Stephen Cosby as a successor member of the PFB, please have confirmation of the appointment placed on the next City Council agenda as an item for consideration by the Council.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "James N. McCord".

James N. McCord  
PFB Counsel

pc: Hon. Lioneld Jordan (via hand delivery)  
Sondra Smith, City Clerk (via hand delivery)  
PFB Members (via e-mail)

FAYETTEVILLE PUBLIC FACILITIES BOARD

A RESOLUTION TO NOMINATE STEPHEN COSBY AS A SUCCESSOR MEMBER  
OF THE FAYETTEVILLE PUBLIC FACILITIES BOARD

WHEREAS, the term of Stephen Cosby on the Fayetteville Public Facilities Board will expire on December 31, 2015; and

WHEREAS, the City of Fayetteville recently advertised for applicants to serve on the Public Facilities Board; and,

WHEREAS, no applications to serve on the Public Facilities Board were received by the Fayetteville City Clerk's office; and,

WHEREAS, by statute Public Facilities Board members are eligible to succeed themselves; and,

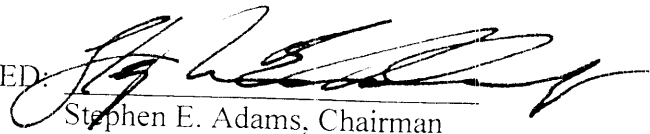
WHEREAS, Stephen Cosby has agreed to serve as a successor member of the Public Facilities Board.

NOW, THEREFORE, BE IT RESOLVED by the Fayetteville Public Facilities Board:


Section 1. Stephen Cosby is hereby nominated to Mayor Lioneld Jordan for appointment by the Mayor as a successor member of the Public Facilities Board, subject to confirmation by the Fayetteville City Council.

PASSED by majority vote with a quorum present on the 10th day of September, 2015.

APPROVED:

  
Stephen E. Adams, Chairman

ATTEST:

  
Stephen Cosby, Secretary

**Fayetteville Public Facilities Board**  
**September 10, 2015**

The Fayetteville Public Facilities Board (the "PFB") met on September 10, 2015, at 4:00 p.m. in the Conference Room of Suite 102 in The Fulbright Building where the law office of Board Counsel James N. McCord is located. Present: Board members Stephen Adams, Phil Taylor, Tommy Deweese and Hugh Earnest and Board Counsel James N. McCord; absent: Stephen Cosby.

Chairman Stephen Adams called the meeting to order and stated that a quorum was present. He then called on Board Counsel James N. McCord who advised the PFB that the first item of business was the nomination to Mayor Lioneld Jordan for appointment of a successor member to the PFB, subject to confirmation by the City Council. McCord advised the Board members that (1) he has been informed by the Fayetteville City Clerk's office that no applications to serve on the PFB were received after the City recently advertised for applicants, and (2) Steve Cosby has agreed to serve as a successor member of the PFB. Then, McCord presented to the PFB a Resolution to Nominate Stephen Cosby as a Successor Member of the Public Facilities Board. Phil Taylor moved that the Resolution be approved; the motion was seconded by Hugh Earnest and passed unanimously. A copy of the Resolution approved by the PFB is attached to these minutes.

Tommy Deweese moved that the meeting be adjourned; the motion was seconded by Hugh Earnest and passed unanimously. Chairman Adams adjourned the meeting.

(Minutes prepared by Board Counsel James N. McCord and submitted to PFB members for corrections before approval and signature of Secretary.)

Respectfully submitted,

  
Stephen Cosby, Secretary



OFFICE OF THE  
CITY ATTORNEY

## DEPARTMENTAL CORRESPONDENCE



Kit Williams  
*City Attorney*

Blake Pennington  
*Assistant City Attorney*

Patti Mulford  
*Paralegal*

TO: **Mayor Jordan**  
**City Council**

FROM: **Kit Williams**, City Attorney

DATE: **October 6, 2015**

RE: **Appointment of successor members to Public Facilities Board**

The current state law concerning the appointment of successor members to the Fayetteville Public Facilities Board is as follows:

“(ii) Members are not required to be residents of the municipality or county that has created the public facilities board.

**(B) (i) (a)** Successor members shall be nominated by a majority of the board and appointed by the mayor or the county judge, subject to confirmation by the governing body of the municipality or county . . . .” A.C.A. § 14-137-108 (a)(3).

Confirmation of the Mayor’s appointment may be by normal motion by the Nominating Committee Chair.

187 (1997).

**14-137-106. Creation — Purposes.****CASE NOTES****Illustrative Cases.**

City of Searcy, Arkansas, did not violate the First Amendment to the U.S. Constitution, Ark. Const., Amend. 65, or Ark. Const., Art. 12, § 5 when it created a housing facilities board under the Arkansas Public Facilities Board Act (PFBA), § 14-137-101 et seq., and issued bonds so a university that was associated with the Churches of Christ could fund building projects. The PFBA allowed the housing

facilities board to issue bonds to finance projects that had a public purpose, education was a public purpose, and neither the city nor the board acted with the purpose of advancing or inhibiting religion. *Gillam v. Harding Univ.*, No. 4:08-CV-00363-BSM, 2009 U.S. Dist. LEXIS 53609 (E.D. Ark. June 24, 2009).

**Cited:** *Sanders v. Bradley County Human Servs. Pub. Facilities Bd.*, 330 Ark. 675, 956 S.W.2d 187 (1997).

**14-137-107. Creating ordinance — Authority.****CASE NOTES**

**Cited:** *Sanders v. Bradley County Human Servs. Pub. Facilities Bd.*, 330 Ark. 675, 956 S.W.2d 187 (1997).

**14-137-108. Board members.**

(a)(1) Each public facilities board shall consist of five (5) members unless there is an expansion of the board to provide services outside the boundaries of the governmental unit from which it obtains power.

(2) The provisions of this subsection are applicable only to:

(A) Boards in counties having a population of less than one hundred fifty thousand (150,000) according to the most recent federal decennial census; and

(B) All boards established by municipalities having a population of less than one hundred thousand (100,000) according to the most recent federal decennial census, regardless of where located.

(3)(A)(i) The initial members shall be appointed by the mayor of the creating municipality or the county judge of the creating county for terms, respectively, of:

- (a) One (1) year;
- (b) Two (2) years;
- (c) Three (3) years;
- (d) Four (4) years; and
- (e) Five (5) years.

(ii) Members are not required to be residents of the municipality or county that has created the public facilities board.

(B)(i)(a) Successor members shall be nominated by a majority of the board and appointed by the mayor or the county judge, subject to confirmation by the governing body of the municipality or county for

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