



WATERSHED NEWS

F O U N D A T I O N

JULY 10, 2006

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UPCOMING EVENTS

Volunteers Needed Friday, July 28, 2006 8:30AM to 12:00PM. Shoreline Clean-up on Fassnight Creek. Meet at Fassnight Creek Farms, 1366 S. Fort Street, Springfield, MO. To help, please contact: Melissa Bettes, Project Asst., James River Basin Partnership (417) 836-4847 melissabettes@missouristate.edu

The date for Secchi Day on Beaver Lake has been rescheduled to Saturday, August 26, 2006. For additional details, contact Suzanne Langley or Fran Free at slangley@audubon.org or ffree@audubon.org or call the Fayetteville Audubon office at 479-527-0700. Event co-sponsored by Beaver Water District and Audubon Arkansas.

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TOGETHER TO
MAKE BEAVER,
TABLE ROCK,
TANEYCOMO AND
BULL SHOALS
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OKLAHOMA OPPOSES ANIMAL WASTE CLAUSE

BY ROBERT J. SMITH Arkansas Democrat Gazette
Posted on July 9, 2006
URL: <http://www.nwanews.com/adg/News/159974/>

Oklahoma Attorney General Drew Edmondson is fighting a Texas congressman's proposal to exempt animal waste from the federal Superfund act.

Edmondson believes that the proposal by Rep. Ralph Hall, R-Texas, is an attempt by the National Chicken Council, National Cattlemen's Beef Association and other agricultural interests to tinker with the federal lawsuit he's filed against eight poultry companies with operations in Arkansas and lawsuits like it.

"I'm not up there in Washington fighting that battle," Edmondson said. "There are powerful lobbyists working to pass it, and I'm against it."

Edmondson filed suit in U. S. District Court last year, accusing poultry companies of polluting the Illinois River watershed with poultry litter, which is a combination of wood chips, rice hulls and bird manure.

Defendants are Cargill Inc. of Minneapolis; Cobb-Vantress Inc. of Siloam Springs; George's Inc. of Springdale; Peterson Farms Inc. of Decatur; Simmons Foods of Siloam Springs; Tyson Foods of Springdale; Willow Brook Foods of Springfield, Mo.; and Cal-Maine Foods Inc. of Jackson, Miss.

Edmondson's suit said phosphorus, arsenic, zinc, copper and other substances in poultry litter are hazardous substances polluting the watershed and regulated by the federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, also known as the Superfund act.

The act created a federal program to clean up hazardous waste sites. No site on a national priorities list is there because of pollution from animal waste, said Roxanne Smith, an Environmental Protection Agency spokesman.

Proponents of Hall's proposal say other state and federal laws adequately address animal waste, the application of poultry litter on pasture land, and manure's impact on streams such as the westward-flowing Illinois River, said Rebeckah Adcock, director of congressional relations for the American Farm Bureau Federation. Hall's proposal says manure is not a "hazardous substance, pollutant or contaminant."

"If you have a problem with water quality in Oklahoma, there are tons of laws out there," Adcock said. "We understand manure can cause an environmental concern, but it's not a Superfund concern."

Scott McDaniel, a Tulsa attorney who represents Peterson Farms, one of the companies being sued by Edmondson, said the Oklahoma attorney general has wrongly conveyed that he needs the Superfund act to take legal action against the poultry companies and blame them for polluting streams.

"The only reasons he's pursuing CERCLA is to increase pressure on companies to roll over and settle these lawsuits," McDaniel said. "It's a reminder to me that the lawsuit is really about the

money and not about the water.”

Hall has 170 co-sponsors, including Reps. John Boozman, RArk., Marion Berry, D-Ark., and Mike Ross, D-Ark.

Rep. Vic Snyder, D-Ark., said he is “still studying” Hall’s proposal, said his spokesman Jennifer Oglesby Holman.

“We think it’s important to absolutely clarify that when Congress passed the Superfund legislation, agricultural operations weren’t intended to be part of it,” said Morrill Harriman, executive vice president of The Poultry Federation, an organization that represents poultry companies in Arkansas, Missouri and Oklahoma.

Attorneys general from six other states — California, Connecticut, Kentucky, New Jersey, New Mexico and Wisconsin — signed a letter written by Edmondson to congressmen that opposes Hall’s exemption. New York Attorney General Eliot Spitzer sent a separate letter, also opposing it.

In his letter to congressmen, Edmondson mentions several of the pollutants found in animal manure. They include copper, ammonia, pesticides, lead, and arsenic.

“Congress saying arsenic is not hazardous doesn’t make it so,” Edmondson said. “This federal initiative is designed to stop lawsuits like ours. Whether it would have any direct impact on the lawsuit is up to a judge to decide.

“Congress can say poultry waste isn’t hazardous, but saying it doesn’t make it true.”

There would be an impact on future lawsuits discussed by Edmondson.

He’s acknowledged he’ll file more lawsuits against the companies regarding other watersheds depending on the result of the Illinois River suit.

Todd Leatherman, a spokesman for Kentucky Attorney General Gregory Stumbo, said the damage caused by farming should be subject to the Superfund act. That’s why Stumbo signed the letter sent by Edmondson to congressmen.

“We don’t believe you should be lowering environmental protections for what are essentially industrial operations,” Leatherman said. “These facilities generate pollution. It’s manure, but it’s pollution.

“We don’t believe there should be an exemption for it. It could be devastating to the environment.”

Arkansas government officials support Hall’s proposed exemption for animal manure.

Arkansas Attorney General Mike Beebe, a Democrat now running for governor, said the Superfund law wasn’t intended to deal with animal-waste issues.

Marcus Devine, director of the Arkansas Department of Environmental Quality, said in an e-mail that his agency supports “common-sense reasoning” that animal waste isn’t hazardous.

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ROGERS COUNCIL TO CONSIDER WATERSHED SUPPORT

By [Lori Harrison-Stone](#) The Morning News

Posted on July 10, 2006

URL: <http://www.nwaonline.net/articles/2006/07/10/news/04rogerscouncil.txt>

ROGERS -- A vote of support for preserving the city's water supply should be an easy decision for Rogers City Council members Tuesday, says the head of the city's Waterworks & Sewer Commission.

"I don't see a reason why not," said Donnie Moore, chairman of the commission.

The resolution simply states that the city will support the efforts of Beaver Water District to protect Beaver Lake and its watershed. Moore, who encouraged his commission to recommend the resolution for council support, said that Beaver Water District board members need to know their customers support them in their efforts.

Alderman Jim Clark said Friday that he hasn't had a chance to study Beaver Water District's stance on watershed protection, but the resolution itself is one that everyone can support.

Clark chairs the council's Public Works Committee that will consider the resolution in a committee meeting at 7 p.m. prior to Tuesday's full council session at 7:30.

In a letter sent to Rogers council members and other community leaders last week, Beaver Water District CEO Alan D. Fortenberry encouraged support for the district's effort to protect Beaver Lake and its watershed.

The lake provides water to about 355,000 people and industries in Northwest Arkansas.

"Right now, Beaver Lake is an outstanding resource, but it won't stay that way unless we are proactive," Fortenberry wrote. "It's our responsibility as citizens and leaders to protect the lake and its watershed. After all, Beaver Lake is in many ways responsible for raising our standard of living and improving countless lives, making possible a sustained economic prosperity in Northwest Arkansas with few rivals in the United States."

Moore said the main thing Beaver Water District is calling for is a long education process that provides information about what affects the lake and what can be done to lessen the impact. The cities served by Beaver Water District should "help out" with its efforts to protect the valuable resource of the lake, he added.

"Hell, this is it. If something happens to Beaver Lake, we're sunk," Moore said.

MEETING INFORMATION

Rogers City Council

When: 7:30 p.m. Tuesday

Where: City Administration Building, 300 W. Poplar St.

On the agenda:

* Condemnation of a house at 120 S. Eighth St. The owner informed city officials of plans to tear down the house after a letter was issued stating the city planned to condemn it. James Willett, the director of code management and inspection, said he asked that the condemnation be on Tuesday's

agenda just in case the owner doesn't move forward.

* Reconsideration of the council's previous denial of a rezoning for 9.8 acres on the west side of 24th Street across from Turtle Creek Apartments. If approved, the rezoning will change property within a previously approved planned-unit development to allow multifamily housing rather than commercial development.

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ELKINS AGREES TO PARTICIPATE IN UTILITIES IMPACT FEE STUDY

BY SUSANNAH PATTON Northwest Arkansas Times

Posted on July 10, 20

<http://www.nwarktimes.com/nwat/news/42652/>

The Elkins City Council will enter into a contract with the city of Fayetteville to participate in an impact fee study for water and sewer utilities.

The city of Fayetteville has negotiated a contract with Duncan Associates to provide the impact fee study for Fayetteville, Elkins, Greenland and Farmington. Elkins will reimburse the city of Fayetteville for its portion of the study — a \$ 25, 000 fee.

The impact fees, which are applied to new construction, are intended to cover costs associated with transmission lines and lift stations as part of the Wastewater System Improvement Project.

According to the scope of services, water impact fees in Elkins will include local transmission and storage and distribution facilities and parts of facilities attributable specifically to demand within Elkins. The wastewater fee will include local transmission and collection facilities. The fees will be dedicated to infrastructure within Elkins that connects to the Fayetteville system.

According to Elkins Mayor Jack Ladyman, the city is saving money by participating

Water sewer improvement projects

1. Hamstring sewer lift station

- Construct a 36 million gallon per day (mgd) capacity sewer pump station; \$ 6, 130, 000 cost

2. 48 ” gravity sewer line — Gregg to Hamestring

- Construct 24, 751 ’ of 48 ” gravity sewer pipe line and 3, 876 ’ of 30 ” sewer pressure pipe line; \$10, 441, 319 cost

3. Force mains — Hamestring to West Plant

- Construct 21, 740 ’ of 24 and 30 ” sewer force pipe lines; \$ 4, 582, 537 cost

4. Broyles Road water line

- Construct 3, 100 ’ of 12 ” water line; cost included with West Side Water Treatment Plant — No. 5

5. West Side Waste Water Treatment Plant

- Construct a new 10 mgd (average daily flow) wastewater treatment plant; \$ 59, 994, 710 cost

6. Wetlands mitigation

- Construct and plant 25. 5 acres of wetlands; \$ 287, 040 estimated cost — not yet bid

7. Owl Creek lift station force main

- Upgrade the existing sewer pump station and install 11, 600 ' of (estimated) 15 '' sewer pressure pipe line; \$ 1, 200, 000 estimated cost — not yet bid

8. Porter Road to Hamestring sewer line

- Construct 14, 100 ' of 21-24 '' gravity sewer pipe line; \$ 7, 014, 948 cost

9. North Street to Poplar to Van Asche Road sewer line

- Construct 15, 500 ' of mostly 24-33 '' gravity sewer pipe line; \$ 4, 154, 667 estimated cost — not yet bid

10. Gregg Avenue sewer lift station

- Construct a 19 mgd capacity sewer pump station; \$ 1, 557, 000 estimated cost — not yet bid

11. Old Wire Road to Gregg Avenue sewer line

- Construct 15, 770 ' of 21-36 '' gravity sewer pipe line; cost included with Porter to Hamestring — No. 8

12. East Side Waste Water Treatment Plant renovation

- Upgrade odor control, solids handling, headworks at the Noland wastewater treatment plant; \$ 14, 644, 000 cost

13. Mally Wagnon sewer lift station and force main

- Upgrade sewer pump stations, install 4, 968 ' of 16 '' sewer force pipe line; \$ 2, 043, 000 estimated cost — not yet bid

14. Happy Hollow to Noland Waste Water Treatment Plant sewer line

- Construct 26, 458 ' of 42 '' gravity sewer pipe line; \$ 14, 225, 000 estimated cost — not yet bid

15. Razorback Road to Happy Hollow sewer line

- Construct 13, 489 ' of 21-30 '' gravity sewer pipe line; \$ 6, 015, 000 estimated cost — not yet bid

16. South Mountain to Industrial Park sewer line

- Construct 4, 084 ' of 10 '' gravity sewer pipe line, \$ 572, 000 estimated cost — not yet bid Other major capital

improvements 17. U. S. 62 west water line • Relocating the water line along U. S. 62 due to

widening from North Hunter to County Road 647; \$ 1, 180, 177 cost 18. Sanitary sewer rehab •

Construct 13, 067 ' of 8-15 '' gravity sewer pipe line at various locations city-wide; \$ 2, 223, 022

cost 19. North College water line replacement — Maple to North • Replacing old water lines along

College Avenue from Maple Street to North Street; \$ 1, 377, 141 cost 20. Happy Hollow-Huntsville Road intersection construction • Installation of new traffic signals, as well as intersection and drainage improvements; \$ 1, 235, 213 cost 21. Razorback Road water line relocation • Relocating water line along Razorback Road due to widening from 6 th Street to 15 th street; \$ 722, 891 cost

22. Arkansas 16 water line relocation — Ruppel Road to Double Springs Road

• Relocating the water line along Arkansas 16 due to widen Ruppel Road to Double Springs Road; \$ 1, 591, 426 cost

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FARMINGTON COUNCIL FACES DECISION ON ANNEXATION OF SURROUNDED AREAS

BY SUSANNAH PATTON Northwest Arkansas Times
Posted on July 10, 2006
URL: <http://www.nwanews.com/nwat/News/42650/>

While Farmington citizens and county residents will have a chance to voice their concerns regarding island annexation at a public hearing of the Farmington City Council Thursday, it is ultimately up to the council whether residents living within the island of land will be annexed into the city limits.

According to Jeff Hawkins, executive director of Northwest Arkansas Regional Planning Commission, the process to annex areas of land surrounded by a city begins when that city introduces an ordinance announcing its intent to annex the area. The city council sets a date for a public hearing, notifies property owners living within the island to be annexed and then must vote on the ordinance at its next regular council meeting.

“ Residents can make their views known to the city council, ” Jeff Hawkins said. “ But then the council at its next regular meeting can vote on the ordinance and pass it or not pass it. It’s strictly up to the governing body. ”

The city of Farmington introduced an ordinance in June to annex certain unincorporated islands that are surrounded by Farmington and Fayetteville.

According to Hawkins, offer. ”

Farmington residents pay a higher fee for water and sewer services, Rankin said. They also pay higher taxes, he said. When it comes to street improvements, Rankin said Farmington’s budget is much smaller than Fayetteville’s.

Rankin said he realizes annexation is inevitable, but would like to have a choice in which city his property is annexed.

“ We have absolutely no say, ” he said. “ In an election, at least you have a chance to vote. ”

Hawkins said there are three methods of annexation: voluntary annexation, annexation by election, and island annexation. This may be a case where all three methods are in play, he said.

Hawkins said a group of residents within the island filed a petition to be voluntarily annexed into Fayetteville just days before the island annexation ordinance was introduced. Depending on how a

judge rules on the validity of the petition and whether it met all the requirements or not, it could change the boundary of the island and Fayetteville would then have the most frontage, allowing it to decide on annexing the island.

“ The question then comes up: Who is entitled to annex the island now, ” he said.

Fayetteville has already scheduled an election for Oct. 10 to annex land to the west of its city limits. If Farmington plans to annex parts of the same area and schedules an election within 30 days of that date, both cities will hold elections. If both initiatives pass, a third election will be held for the contested area and the people within the area will decide which way they want to go.

These types of situations may become more and more common as cities compete for land and taxpayers.

“As cities are growing closer together, we’re seeing more and more of this, ” Hawkins said. when the incorporated limits of two or more cities have completely surrounded an unincorporated area, the city with the greater boundary adjoining the island’s perimeter may annex the area.

That leaves Farmington with the option of annexing two islands, one of which includes a 476. 25 acre area surrounded by Fayetteville on the north and Farmington to the south and east. The Fayetteville boundary along the island is about 2. 7 miles long, while Farmington’s boundary stretches approximately 2. 9 miles.

Given a choice, one resident of the area said he would rather be annexed into Fayetteville.

“I don’t object to being annexed, ” Wilbur Rankin said. “ But when you compare Fayetteville and Farmington as far as city services go, Fayetteville has a lot more to

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HERITAGE GROUP NEEDS MORE TIME TO STUDY POTENTIAL CONSERVATION AREAS

BY DREW TERRY Northwest Arkansas Times
Posted on July 9, 2006
URL: <http://www.nwanews.com/nwat/News/42603/>

Additional time has been granted to the Fayetteville Natural Heritage Association for its study of potential conservation areas in and around the city.

Association members have teamed with The Nature Conservancy Ozark Highlands Office and the Landscape Architecture Department at the University of Arkansas in seeking input from residents to identify and rank the type of greenspace community members most would like to see preserved.

The project initially was to conclude in the spring, but mapping specific properties has taken longer than expected and an extension to September has been granted, said Karen Rollet-Crocker, who is leading the association project.

“ We have reached the point where we have the maps out, and what we’re doing now is ground proofing the different parts of Fayetteville that show up on our maps as well as property in the planning area and along the watersheds, ” Rollet-Crocker said.

The study has involved questionnaires since November to ascertain what land features most appeal

to residents when considering a tract for conservation. The top two answers were the potential for walking trails and potential links to existing or planned walking trails. Some organizers think those answers reveal people's desire to have access to natural areas.

Other high-ranking issues were the high number of animals that might live in the habitat, corridors that connect larger habitat areas, a high number of native plant species, riparian areas in the parcel, and dense forest cover.

The information gathered will be incorporated into the report, which will include maps and accompanying forms listing individual sites, their locations and their contents that might be make them worth preserving.

A final report will be written once maps and lists are completed. The association then may give presentations to groups interested in learning about the study, which also will be available to people who might want to preserve some of the identified properties.

“ We sometimes find that we've got a high-ranking property and then someone will say, ‘ Oh, that's already been sold for development, ’” Rollet-Crocker said. “ That's been a rising problem because of all the construction taking place in the area these days. ”

The Arkansas Forestry Commission earmarked \$ 20,000 from the Urban and Community Forestry Assistance Grant Funds toward the project, which incorporates Geographic Information System mapping analysis developed by the Nature Conservatory under the direction of a broad-based Science Advisory Council.

Guidelines used to set preliminary borders incorporated Fayetteville's current city limits and planning area, in addition to watershed boundaries and all subwatersheds that intersect the city's planning area.

The result was a preliminary boundary that at its largest could encompass the Wedington community and part of Prairie Grove to the west, Elkins and part of Goshen to the east, parts of Springdale and Tontitown to the north, and Greenland and most of West Fork to the south.

Among the considerations are the parcels' potential for human use, inclusion of ecological properties, and likelihood for development.

Excluded from the study are parcels smaller than 5 acres or that are more than 50 percent developed.

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DEVELOPMENT CODE CHANGE WOULD MAKE LANDSCAPING REQUIREMENTS EASIER TO FOLLOW

BY MARSHA L. MELNICHAK Northwest Arkansas Times
Posted on July 8, 2006
URL: <http://www.nwanews.com/nwat/News/42572/>

“Where do the street trees go ? ”

The answer to that question, which was asked in a Fayetteville meeting about downtown planning last month, can be found in a proposal to consolidate and update the city's landscape requirements.

Under the proposal, landscape and tree planting requirements for developing in the city should be easier to locate and easier to use, as well as a little less frustrating.

A draft of the proposal could be ready next week, said Jeremy Pate, director of current planning.

Currently, landscape requirements are found in five separate chapters of the city's Unified Development Code. They would be consolidated into one new chapter under the proposal.

"That's 85 percent of what we've done here, pulled things out of these chapters and put them into a new chapter," said Pate.

The idea, he said, is to make the code more user friendly.

"We're trying to come up with better alternatives for developers so they can understand what the requirements are when they walk through the door without having to search through six chapters of the code," Pate said.

The proposal will likely go before the Fayetteville Planning Commission on July 24. Once accepted there, it would be considered by the city's Ordinance Review Committee and then by the City Council.

Under the proposal, sections 151, 152, 156, 166 and 172 of the development code would be amended, with some sections entirely stricken.

The intent is to have the "same essence" of those chapters in new chapter 177.

The proposal has some new requirements and removed some requirements that, Pate said, "just don't work in actual practice."

For example, the proposal would remove the option of planting trees in parking lots with tree pits.

"They don't work; the trees don't grow," he explained.

Landscaping requirements for subdivisions would be added.

At present, "You don't have to plant trees; you don't have to do anything," Pate said.

One 2-inch caliper tree planted for every subdivision lot is the proposal.

Pate said the covenants of most subdivisions require that anyway.

"So we felt it was important, if they're going to plant tree anyway, to get the right species in there so we're not looking at trees that will potentially become hazards in the future and to plant them in a place that they can thrive and realize their full potential," he said.

Another change would allow the urban forester to exempt the planting of trees in some specific areas or change the species that is allowed based on existing conditions.

"If the terrain is such, if it's hilly or there's overhead power lines, they could plant smaller tree species, for instance," Pate said.

Current regulations are frustrating for both the city and the developer because the trees have to be planted even though it's unlikely they will thrive, he said.

The new proposal also gives developers the option of when to plant trees, early or late in the

development process.

Another aspect of the proposal would require that planting plans for largescale developments and subdivisions be sealed by a landscape architect.

Pate said it is a “pretty common” practice in area towns. Fayetteville verified that firms in town have registered landscape architects, he said.

The proposal also provides an urban streetscape planting option, which is useful, for example, when buildings are next to the sidewalk with no setback, as in the downtown zoning about to be considered by the Fayetteville City Council.

“We’re seeing urban development like we haven’t seen it in a long time,” Pate said.

The proposal addresses what size of tree, how it has to be planted, tree wells, structural soil, and that it must be covered with a tree grate.

Two other items in the landscape ordinance dovetail with stormwater facilities and erosion control ordinances that are also being proposed.

Stormwater facilities require a certain amount of planting for detention ponds, Pate explained.

The public outcry is that the ponds, which are designed to temporarily hold water while slowly draining to another location, are just big holes in the ground.

The new proposal would require planting the detention ponds with trees, like willows, and grasses that are “consistent with the environment,” Pate said.

The pond behind Charleston Place is an example of a planted detention pond, he said.

The ordinance would allow stormwater facility planting to count for tree mitigation requirements instead of being in addition to tree mitigation requirements. “We think it’s a win-win situation,” said Pate. The new proposal also dovetails with seeding and vegetating slopes within a time frame so a site doesn’t get denuded by rainfall erosion. At the same time that planning staff have been working on an updated landscape ordinance, the landscape manual is also being updated. “What’s appropriate downtown is not necessarily the preferred tree species in another area,” Pate said.

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