REGULAR MEETING
BOARD OF MAYOR AND ALDERMEN
APRIL 12, 2011

REFERENCE VIDEO DATED APRIL 12, 2011

The Board of Mayor and Aldermen of the City of Fayetteville, Lincoln County, Tennessee, met in open, public session at the regular meeting place of said Board in the Municipal Building of said City at 5:00 p.m. on April 12, 2011. Mayor John Ed Underwood, Jr., was present and presiding. The following named Aldermen were present:

Danny Bryant, Pat Fraley, Marty Pepper, Dorothy Small, Michael Stewart, and Thomas Young, Sr.

Also present were James S. Hereford, Jr., City Attorney, and James H. Lee, City Administrator.

The prayer was lead by Alderman Bryant and the pledge was lead by the Lincoln County Girl Scouts.

Approval of Minutes:

1. Motion was made by Pat Fraley, seconded by Michael Stewart, to approve the minutes of the March 2011, Public Hearing. Upon roll call, the following voted:

   Aye
   Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, and Marty Pepper

   Nay
   None

   Mayor Underwood declared the Public Hearing approved.

2. Motion was made by Dorothy Small, seconded by Pat Fraley, to approve the minutes of the March 2011, Meeting. Upon roll call, the following voted:

   Aye
   Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, and Danny Bryant

   Nay
   None

   Mayor Underwood declared the Minutes approved.

3. Motion was made by Marty Pepper, seconded by Pat Fraley, to approve the minutes of the March 2011, Adjourned Meeting. Upon roll call, the following voted:

   Aye
   Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, and Thomas Young, Sr.

   Nay
   None

Mayor Underwood declared the Adjourned Minutes approved.

Approval of Bills and Additional Bills:

Motion was made by Pat Fraley, seconded by Marty Pepper, to approve the bills and additional bills for payment. Upon roll call, the following voted:

Aye
Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., and Dorothy Small

Nay
None

Mayor Underwood declared the bills and additional bills approved.

Reports:

Quarterly Report from IDB:
Gwen Shelton, Industrial Development Board (IDB) Executive Director, discussed that the IDB had received twenty-three (23) leads from the State of Tennessee. However, no company would look at the Douglas-Posey Industrial Park because of the lack of a sewer system, spec building and railroad spur. Ms. Shelton stated that is why the IDB is focused on the infrastructure of the park, starting with the sewer system. Ms. Shelton reported that at the next IDB meeting, the IDB Board will review two (2) proposals on the Posey House and the twenty (20) acres surrounding the house.

IDB Chairman's Report:
Doug Schoenrock, Industrial Development Board (IDB) Chairman, discussed the various changes to the IDB since 2009: a new IDB Executive Director and Board members, the creation of the Tax Increment Financing Program, working on the industrial park infrastructure, a new website design (to be released in June) and grant writing classes. Mr. Schoenrock stated that the IDB would investigate the twenty-three (23) leads discussed by Ms. Shelton.

FPU Report:
Britt Dye, CEO of Fayetteville Public Utilities, stated that the sewer system has been installed for the Elk Way project, and they have started installing the water lines. Two hundred forty-three (243) bad electrical poles, of the four hundred one (401) labeled bad, have been replaced. The tree trimmers are currently working in the Vanntown area.

Fire Report:
Fire Chief Danny Travis reported that the Fire Department had 64 calls for service with 49 medical calls. Mr. Travis stated that the department will finish inspecting local businesses by the end of April and will begin flow testing in May.

Police Report:
Police Chief Doug Carver reported that there were 135 incidents with 55 arrests, 35 crashes, and 69 citations for a total of 2,041 events.

Public Works:
There was no update due to Eddie Plunkett's absence.

Recreation Report:

Rickey Honey, Recreation Director, stated that the Easter Extravaganza will be this Thursday, April 14, 2011, at 5:30 p.m. at Don Davidson Park. Mr. Honey discussed that the baseball/softball season will begin later in April, with Babe Ruth soon to follow. Mr. Honey stated that he will be attending a Greenway Conference this Thursday and Friday, April 14th-15th.

Planning and Zoning Report:

Ryan Tyhuis, City Planner, reported that for the month of January there were 16 building permits for a total of $3,145.99 in fees for a value of $247,106.00. The Board of Zoning and Appeals listened to a variance request to resurface and expand the parking lot located at 918 Huntsville Highway, which was granted. The Planning Commission reviewed a site-development plan for East Haven Apartments located on Winchester Highway, which was granted. In addition, the Planning Commission reviewed a request from Donaldson Skill Care for additional fifty-four (54) parking spaces, and a rezoning request for a property located at 124 Shelbyville Highway to rezone the property from R-2 to C-3; both requests were approved. There was an additional request to amend the permitted uses for a C-3 zoned property, which was denied.

Administrator's Report:

Mr. Lee stated that the HVAC work started this week with the project to be completed by June 1, 2011. Mr. Lee reported that there will be a Budget Work Session with the Board of Mayor and Alderman Monday, April 18, 2011. Mr. Lee stated that the School System's air conditioning unit would be up and running by Friday.

Currahee Motorcycle Club - Lease:

Motion was made by Michael Stewart, seconded by Marty Pepper, to give the Currahee Motorcycle Club a notice to vacate their building by June 1, 2011. Upon roll call, the following voted:

Aye
Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, and Pat Fraley

Nay
None

Mayor Underwood declared the motion approved.

Motion was made by Michael Stewart, seconded by Marty Pepper, to amend the above approved motion by adding "with the County's approval". Upon roll call, the following voted:

Aye
Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, and Michael Stewart

Nay
None

Mayor Underwood declared the motion approved.

Referendum Election Costs:

Motion was made by Danny Bryant, seconded by Pat Fraley, to approve the spending of up to Fifteen Thousand Dollars ($15,000.00) for the Referendum Election being held on May 5th. Upon roll call, the following voted:

Aye
Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, and Marty Pepper

Nay
None

Mayor Underwood declared the motion approved.

Recreation Board's Recommendation on Refund from FPU:

Motion was made by Danny Bryant, seconded by Pat Fraley, to postpone this matter until the next regularly scheduled Board Meeting, due to insufficient time to consider the basis of the recommendation. Upon roll call, the following voted:

Aye
Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, and Danny Bryant

Nay
None

Mayor Underwood declared the motion approved.

Ordinance 2011-07 – OSHA Rules and Regulations:

Ordinance 2011-07, an ordinance entitled "An Ordinance To Establish An Occupational Safety And Health Programs, Devise Rules And Regulations, And To Provide For A Director And The Implementation Of Such Program", was considered. Said Ordinance is as follows:

ORDINANCE NUMBER 2011-07

ORDINANCE TO ESTABLISH AN OCCUPATIONAL SAFETY AND HEALTH PROGRAM, DEVISE RULES AND REGULATIONS, AND TO PROVIDE FOR A DIRECTOR AND THE IMPLEMENTATION OF SUCH PROGRAM

WHEREAS, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of Fayetteville hereby establishes the "Occupational Safety and Health Program for the employees of the City of Fayetteville."

NOW THEREFORE

SECTION 1. BE IT ORDAINED BY THE City of Fayetteville that there be and is hereby created an occupational safety and health program for the employees of the City of Fayetteville as follows:

TITLE:

This section shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the City of Fayetteville.

PURPOSE:

The City of Fayetteville Board of Mayor and Aldermen, in electing to establish and maintain an effective occupational safety and health program for its employees, shall:

(1) Provide a safe and healthful place and condition of employment.

(2) Make, keep, preserve, and make available to the Commissioner of Labor of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(3) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards and provide for education and notification of all employees of the existence of this program.

COVERAGE:

The provisions of the Occupational Safety and Health Program for the employees of the City of Fayetteville shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Fayetteville whether part-time or full-time, seasonal or permanent.

STANDARADS AUTHORIZED:

The occupational safety and health standards adopted by the City of Fayetteville are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which

may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 5).

VARIANCES FROM STANDARDS AUTHORIZED:

The City Administrator may, upon written application to the Commissioner of Labor of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with "Rules of Tennessee Department of Labor, Occupational Safety, Chapter 0800-1-2, as authorized by T.C.A., Title 5. Prior to requesting such temporary variance, the City Administrator shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the City Administrator shall be deemed sufficient notice to employees.

ADMINISTRATION:

For the purpose of this ordinance, the City Administrator is designated as the Director of Occupational Safety and Health to perform duties and to exercise powers assigned so as to plan, develop, and administer the City of Fayetteville Program. The Director shall develop a plan of operation for the program and said plan shall become a part of this ordinance when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan.

FUNDING THE PROGRAM:

Sufficient funds for administering and staffing the program pursuant to this ordinance shall be made available as authorized by the Board of Mayor and Aldermen.

SEVERABILITY:

SECTION 2. BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

AMENDMENTS, ETC:

SECTION 3. BE IT FURTHER ORDAINED that this ordinance shall take effect from and after its passage by the Board of Mayor and Aldermen, the general welfare of the City of Fayetteville requiring it.

Mayor

Attest: City Administrator

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR THE EMPLOYEES OF the City of Fayetteville.

SECTION		PAGE
I.	PURPOSE AND COVERAGE	1
II.	DEFINITIONS	2
III.	EMPLOYER'S RIGHTS AND DUTIES	4
IV.	EMPLOYEE'S RIGHTS AND DUTIES	5
V.	ADMINISTRATION	6
VI.	STANDARDS AUTHORIZED	8
VII.	VARIANCE PROCEDURE	8
VIII.	RECORDKEEPING AND REPORTING	10
IX.	EMPLOYEE COMPLAINT PROCEDURE	10
X.	EDUCATION AND TRAINING	12
XI.	GENERAL INSPECTION PROCEDURES	13
XII.	IMMINENT DANGER PROCEDURES	15
XIII.	ABATEMENT ORDERS AND HEARINGS	16
XIV.	PENALTIES	17
XV.	CONFIDENTIALITY OF PRIVILEGED INFORMATION	18
XVI.	COMPLIANCE WITH OTHER LAWS NOT EXCUSED	18

APPENDICES

I.	ORGANIZATIONAL CHART	19
II.	SAFETY AND HEALTH ORGANIZATIONAL CHART	19
III.	EMPLOYEE NOTIFICATION	20
IV.	PROGRAM BUDGET	22
V.	ACCIDENT REPORTING PROCEDURES	22

I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Fayetteville.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Board of Mayor and Aldermen in electing to establish and maintain an effective occupational safety and health program for its employees,

a. Provide a safe and healthful place and condition of employment.

b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.

c. Make, keep, preserve, and make available to the Commissioner of Labor, his designated representatives, or persons within the Department of Labor to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

d. Consult with the Commissioner of Labor or his designated representative with regard to the adequacy of the form and content of such records.

e. Consult with the Commissioner of Labor regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.

f. Assist the Commissioner of Labor or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.

g. Make a report to the Commissioner of Labor annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational and health program.

h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the

objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this program, the following definitions apply:

a. "COMMISSIONER OF LABOR" means the chief executive officer of the Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor.

b. "EMPLOYER" means the City of Fayetteville and includes each administrative department, board, commission, division, or other agency of the City of Fayetteville.

c. "DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH" or "DIRECTOR" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of the City of Fayetteville.

d. "INSPECTOR(S)" means the individual(s) appointed or designated by the Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Director of Occupational Safety and Health.

e. "APPOINTING AUTHORITY" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.

f. "EMPLOYEE" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

g. "PERSON" means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.

h. "STANDARD" means an occupational safety and health standard promulgated by the Commissioner of Labor in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

i. "IMMINENT DANGER" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

j. "ESTABLISHMENT" or "WORKSITE" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

k. "SERIOUS INJURY or HARM" means that type of harm that would cause permanent or prolonged impairment of the body in that:

1. a part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
2. a part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

l. "ACT" or TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.

m. "GOVERNING BODY" means the Board of Mayor and Aldermen, government agency, or utility to which this plan applies.

n. "CHIEF EXECUTIVE OFFICER" means the chief administrative

official.

III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.

c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor to inspect the employer's place(s) of business. Employer shall assist the Commissioner of Labor in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.

f. Employer is entitled to protection of its legally privileged communication.

g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.

h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.

i. Employer shall notify all employees of their rights

g. Any employee may bring to the attention of the Director any violation or suspected violations of the standards or any other health or safety hazards.

h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.

i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor alleging such discrimination.

j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.

k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

a. The Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program.

1. The Director may designate person or persons as he deems necessary to carry out his powers, duties, responsibilities under this program.

2. The Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Director.

3. The Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.

4. The Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.

5. The Director shall prepare the report to the Commissioner of Labor required by subsection (g) of Section 1 of this plan.

6. The Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.

7. The Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

8. The Director shall maintain or cause to be maintained records required under Section VIII of this plan.

9. The Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees, insure that the Commissioner of Labor receives notification of the occurrence within eight (8) hours.

b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.

1. The administrative or operational head shall follow the directions of the Director on all issues involving occupational safety and health of employees as set forth in this plan.

2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Director

within the abatement period.

3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Director along with his findings and/or recommendations in accordance with APPENDIX V of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this program are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees.

VII. VARIANCE PROCEDURE

The Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

a. The application for a variance shall be prepared in writing and shall contain:

   1. A specification of the standard or portion thereof from which the variance is sought.

   2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts

represented.

3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.

4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.

5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor for a hearing.

b. The application for a variance should be sent to the Commissioner of Labor by registered or certified mail.

c. The Commissioner of Labor will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

1. The employer

i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.

ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.

iii. Has as effective program for coming into compliance with the standard as quickly as possible.

2. The employee is engaged in an experimental program

as described in subsection (b), section 13 of the Act.

d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.

f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, RECORDKEEPING REQUIREMENTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (Revised 1978) or as may be prescribed by the Tennessee Department of Labor.

b. The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix V to this plan.

c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix V to this plan.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Director of Occupational Safety and Health.

a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety,

or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).

b. Upon receipt of the complaint letter, the Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.

e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor. Any complaint filed with the Commissioner of Labor in such cases shall include copies of all related correspondence with the Director and the Chief Executive Officer or the representative of the governing body.

f. Copies of all complaint and answers thereto will be filed by the Director who shall make them available to the Commissioner of Labor or his designated

representative upon request.

X. EDUCATION AND TRAINING

a. Director and/or Compliance Inspector(s):

1. Arrangements will be made for the Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.

2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established

their safe handling and use and make employees aware of specific requirements contained in Subparts H and M and other applicable subparts of TOSHAct standards (1910 and/or 1926).

5. Instruct employees on hazards and dangers of confined or enclosed spaces.

   i. "Confined or enclosed space" means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.

   ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

   iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not

to exceed thirty (30) calendar days.

a. In order to carry out the purposes of this program, the Director and/or Compliance Inspector(s), if appointed, is authorized:

   1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;

   2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

g. Advance Notice of Inspections.

   1. Generally, advance notice of inspections will not

be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.

2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.

h. The Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:

1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Director.

2. Records are made of the inspections and of any discrepancies found and are forwarded to the Director.

i. The Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

1. The Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.

2. If the alleged imminent danger situation is determined to have merit by the Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.

3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

4. The administrative or operational head of the workplace in which the imminent danger exists,or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Director or Compliance Inspector and to the mutual satisfaction of all parties involved.

5. The imminent danger shall be deemed abated if:

   i. The imminence of the danger has been eliminated by removal of employees from the area of danger.

   ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an <u>unsafe</u> condition or practice no longer exists.

6. A written report shall be made by or to the Director describing in detail the imminent danger and its abatement. This report will be maintained by the Director in accordance with subsection (i) of Section XI of this plan.

b. Refusal to Abate.

1. Any refusal to abate an imminent danger situation shall be reported to the Director and Chief Executive Officer immediately.

2. The Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. <u>ABATEMENT ORDERS AND HEARINGS</u>

a. Whenever, as a result of an inspection or investigation, the Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan

and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Director shall:

1. Issue an abatement order to the head of the worksite.

2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

b. Abatement orders shall contain the following information:

1. The standard, rule, or regulation which was found to violated.

2. A description of the nature and location of the violation.

3. A description of what is required to abate or correct the violation.

4. A reasonable period of time during which the violation must be abated or corrected.

c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.

b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary

action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:

1. Oral reprimand.

2. Written reprimand.

3. Suspension for three (3) or more working days.

4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

a. Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with and law, statue, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

Edd Pluckett

Director, Occupational Safety and Health

OCCUPATIONAL SAFETY AND
HEALTH PROGRAM PLAN

APPENDIX I

ORGANIZATIONAL CHART

MUNICIPAL GOVERNMENT

Dept, Agency, Office, Board, Etc.	Number of Employees
City Administration	7
City Court	1
Emergency Communications	11
Police Department	26
Fire Department	19
Sanitation Department	3
Recreation Department	6
Street Department	22
School Board	171
FPU (Water, Sewer, Gas, Electric)	114
Total No. Employees	380

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN -- APPENDIX III

NOTICE TO ALL EMPLOYEES OF THE CITY OF FAYETTEVILLE.

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee's workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the Director.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the City Administrator for assistance in obtaining relief or to file a complaint with the Commissioner of Labor alleging such

discrimination.

A copy of the Occupational Safety and Health Program for the Employees of the City of Fayetteville available for inspection by any employee at the Municipal Building during regular office hours.

Mayor

OCCUPATIONAL SAFETY AND HEALTH PLAN

APPENDIX IV

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the City of Fayetteville has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program and to comply with standards.

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN

ACCIDENT REPORTING PROCEDURES

(1-15) Employees shall report all accidents, injuries, or illnesses directly to the Director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.

(16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.

(51-250) Employees shall report all accidents, injuries,

or illnesses to their supervisor as soon as possible, but not later than two (2) hours, after their occurrence. The supervisor will provide the Director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.

(51-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since a Workers' Compensation Form 6A or OSHA NO. 101 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.

2. Name, social security number, home address, age,sex, and occupation (regular job title) of injured or ill employee.

3. Title of the department or division in which the injured or ill employee is normally employed.

4. Specific description of what the employee was doing when injured.

5. Specific description of how the accident occurred.

6. A description of the injury or illness in detail and the part of the body affected.

7. Name of the object or substance which directly injured the employee.

8. Date and time of injury or diagnosis of illness.

9. Name and address of physician, if applicable.

10. If employee was hospitalized, name and address of hospital.

11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 6 listed under **PROGRAM PLAN** in Chapter IV, Part IV of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the **one** procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that

the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

ps/95

Motion was made by Dorothy Small, seconded by Pat Fraley, to approve Ordinance 2011-07. Upon roll call, the following voted:

Aye
Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, and Thomas Young, Sr.

Nay
None

Mayor Underwood declared the Ordinance approved.

Robert E. Lee Agreement Change:

Motion was made by Pat Fraley, seconded Michael Stewart, to approve the revisions of the Robert E. Lee Agreement to eliminate the "break away" fire gate on Bellview Street. Upon roll call, the following voted:

Aye
Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., and Dorothy Small

Nay
None

Mayor Underwood declared the motion approved.

Resolution R-11-07:

Resolution R-11-07, a resolution entitled "A Resolution To Notify Lincoln County, Tennessee, Of The City Of Fayetteville's Determination To Review The Overall Management Of The Economic Development Program And To Determine Whether Or Not To Increase, Reduce or Decrease Its Funding Of The Joint Industrial Development Corporation", was considered. Said Resolution is as follows:

CITY OF FAYETTEVILLE
Resolution No. R-11-07

RESOLUTION TO NOTIFY LINCOLN COUNTY, TENNESSEE, OF THE CITY OF FAYETTEVILLE'S DETERMINATION TO REVIEW THE OVERALL MANAGEMENT OF THE ECONOMIC DEVELOPMENT PROGRAM AND TO DETERMINE WHETHER OR NOT TO INCREASE, REDUCE OR CEASE ITS FUNDING OF THE JOINT INDUSTRIAL DEVELOPMENT CORPORATION

WHEREAS, the Mayor and Board of Aldermen desire to follow the Plan of Organization of Joint Industrial Development Corporation, as amended (the "Plan"); and

WHEREAS, the Plan provides in paragraph 9 thereof that "The term of this Plan is determined by the funding provided by both governmental bodies. Because contractual obligations may exist between the joint Industrial Development Board and the Industrial Recruiter, each governing body must give the other one (1) one year notice if funding is to be reduced."; and

WHEREAS, the City of Fayetteville has contributed annually to the joint Industrial Development Board and the City is presently bound to include NINETY THOUSAND AND NO/100 ($90,000.00) DOLLARS in its 2011-2012 annual budget to fund its share of the funding; and

WHEREAS, it has been the City's desire to cooperate with Lincoln County in promoting economic development in Fayetteville and the County; and

WHEREAS, the City has concerns with respect to whether or not the City is getting value for its contribution and questions the overall management of the economic development program of the City and County; and

WHEREAS, considering the current state of the economy, both locally and nationally, it is more imperative than ever that the City provide a viable economic development program to better serve the people of the City of Fayetteville and to help maintain and promote additional jobs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Fayetteville, Tennessee, as evidenced by the signatures of the Mayor and the members of the Board of Aldermen, that Lincoln County, Tennessee, be notified of the City of Fayetteville's determination to review the overall management of the economic development program in order to

Motion was made by Pat Fraley, seconded by Marty Pepper, to adopt Resolution R-11-07. Upon roll call, the following voted:

Aye
Marty Pepper, Danny Bryant, Thomas Young, Sr., and Pat Fraley

Nay
Michael Stewart and Dorothy Small

Mayor Underwood declared the Resolution adopted.

Call for Public Hearings to Repeal the Southern Building Code:

1. Motion was made by Pat Fraley, seconded by Michael Stewart, to call for a public hearing to repeal the 1997 Standard Swimming Pools Code. Upon roll call, the following voted:

   Aye
   Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, and Michael Stewart

   Nay
   None

   Mayor Underwood declared the motion approved.

2. Motion was made by Pat Fraley, seconded by Dorothy Small, to call for a public hearing to repeal the 1997 Standard Amusement Device Code. Upon roll call, the following voted:

   Aye
   Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, and Marty Pepper

   Nay
   None

   Mayor Underwood declared the motion approved.

3. Motion was made by Pat Fraley, seconded by Marty Pepper, to call for a public hearing to repeal the 1985 Standard Unsafe Building Abatement Code. Upon roll call, the following voted:

   Aye
   Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, and Danny Bryant

   Nay
   None

   Mayor Underwood declared the motion approved.

4. Motion was made by Pat Fraley, seconded by Michael Stewart, to call for a public hearing to repeal the 1997 Standard Housing Code. Upon roll call, the following voted:

Aye
Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, and Thomas Young, Sr.

Nay
None

Mayor Underwood declared the motion approved.

Call for a Public Hearing on the rezoning for Terry Cowley property:

Motion was made Pat Fraley, seconded Marty Pepper, to call for a Public Hearing on the rezoning of property, owned by Terry Cowley, on Shelbyville Highway from R-2 to C-3. Upon roll call, the following voted:

Aye
Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., and Dorothy Small

Nay
None

Mayor Underwood declared the motion approved.

Motion was made, seconded, and unanimously adopted to adjourn.

_____
Mayor

_____
Clerk