

**AGENDA REQUEST FORM**

**FOR: Council Meeting of December 1, 2020**

**FROM: Council Member Kyle Smith**

**ORDINANCE OR RESOLUTION TITLE AND SUBJECT:**

AN ORDINANCE TO ENACT ARTICLE XXXI COMMUNITY DEVELOPMENT AND ASSISTANCE PROGRAMS ADVISORY BOARD IN CHAPTER 33 DEPARTMENTS, BOARDS, COMMISSIONS AND AUTHORITIES OF THE FAYETTEVILLE CODE

**APPROVED FOR AGENDA:**



11/19/2020

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**Council Member Kyle Smith**

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Date



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**Asst. City Attorney Blake Pennington**  
Approved as to form

11/19/2020  
Date

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO ENACT ARTICLE XXXI COMMUNITY DEVELOPMENT AND ASSISTANCE PROGRAMS ADVISORY BOARD IN CHAPTER 33 DEPARTMENTS, BOARDS, COMMISSIONS AND AUTHORITIES OF THE FAYETTEVILLE CODE**

**WHEREAS**, the City has had increased public interest in supporting low- and moderate-income residents with the challenges of housing affordability and low wages; and

**WHEREAS**, the Northwest Arkansas Continuum of Care, of which the City of Fayetteville is a member, has made a commitment to ending homelessness in Fayetteville by 2025; and

**WHEREAS**, Fayetteville has been supporting low- and moderate-income residents as a Community Development Block Grant (“CDGB”) entitlement city for more than 40 years; and

**WHEREAS**, 24 C.F.R. § 91.105 was amended in 2015 to encourage greater citizen participation in the development of CDBG plans and reports and expanding the committee to include diverse representatives of the community will be of great benefit to the residents of Fayetteville, particularly the low- to moderate-income residents who benefit the most from CDBG funds.

**WHEREAS**, the City of Fayetteville’s CDBG grant ranking committee is currently comprised of only City staff members; and

**WHEREAS**, the City of Fayetteville has a longstanding tradition of transparency and community involvement via resident advisory boards;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts Article XXXI **Community Development and Assistance Programs Advisory Board** in Chapter 33, **Departments, Boards, Commissions and Authorities** as shown below:

**“33.430 Purpose**

The purpose of the Community Development and Assistance Programs Advisory Board is to:

- (A) Promote community involvement in the prioritization of community development initiatives;
- (B) Improve community awareness of the community development and public assistance programs provided by the City of Fayetteville.

- (C) Advise the Community Resources Division and the City Council on the proposed use of Community Development Block Grant and other grant funds.

### **33.431 Composition; Membership**

- (A) The Community Development and Assistance Programs Advisory Board shall consist of seven voting members as follows:
  - (1) Six voting members appointed by the City Council as follows:
    - (a) One member involved in housing services.
    - (b) One member involved in homelessness services.
    - (c) One member involved with community food systems
    - (d) One member representing local small business.
    - (e) Two members shall be residents at large.
  - (2) One voting member shall be a staff member appointed by the Mayor.
- (B) Appointments should be made with consideration of appropriate demographic representation of the residents of Fayetteville, and to encourage the participation of low- to moderate- income residents served by the relevant programs.
- (C) The members appointed by the City Council shall serve for a term of three years ending on December 31. Appointments shall be staggered.
- (D) Additional non-voting staff members or organizational advisors may be designated by the Mayor or invited by the committee to assist the board in the conduct of its business.

### **33.432 Officers**

At the first regularly scheduled meeting of each calendar year the board shall elect from among its members a chairperson and vice-chairperson, who shall each serve until the end of that calendar year. The board may elect such additional officers as it deems necessary for the proper performance of its duties.

### **33.433 Powers and Duties**

- (A) The Community Development and Assistance Programs Advisory Board shall:
  - (1) Make recommendations to the Mayor and City Council regarding the priorities of the city's efforts to serve low- and moderate-income residents;
  - (2) Participate in the development of the Community Development Block Grant 5-year Plans, or intermediate amendments, for adoption by the City Council;
  - (3) Provide a venue for Housing and Urban Development-mandated public hearings and to review comments received during HUD-mandated public comment periods;
  - (4) Receive Consolidated Annual Performance and Evaluation Reports;
  - (5) Analyze requests for funds in relation to the needs of the community and the amount of funds available and make recommendations to the Mayor and City Council as to which programs should be funded and at which levels in any given year;

- (6) Promote public awareness of funding opportunities and processes through proactive community outreach efforts;
  - (7) Identify additional revenue sources including, but not limited to state and federal grants, non-profit grants, or community partnerships.
- (B) The Board may adopt such rules of order and procedure as are necessary to carry out its duties.
- (C) Board members with a direct or indirect financial interest in any eligible agency shall recuse themselves from discussion and voting on subgrant awards for which their agency has applied.

**33.434 Meetings**

- (A) Meetings shall be held at least monthly. Additional meetings shall be held as needed to review and make recommendations on applications, to meet U.S. Department of Housing and Urban Development regulations regarding required schedules for timely distribution of funds, and to comply with mandatory timelines for public review and comment on proposed plans.
- (B) The Board shall review its meeting schedule and public comment rules at the first meeting each calendar year to minimize barriers for participation by low-income residents.
- (C) Meetings shall be open to the public and records shall be kept in accordance with state and federal law.
- (D) Inability or failure of the Board to meet shall not prevent the Mayor or staff from taking action in response to emergency funding opportunities available from the U.S. Department of Housing and Urban Development or other sources.”

**PASSED and APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**KARA PAXTON, City Clerk/Treasurer**



OFFICE OF THE  
CITY ATTORNEY

## DEPARTMENTAL CORRESPONDENCE



Kit Williams  
City Attorney

Blake Pennington  
Assistant City Attorney

Jodi Batker  
Paralegal

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

FROM: **Blake Pennington**, Assistant City Attorney

DATE: **November 20, 2020**

RE: **Community Development and Assistance Programs Advisory Board**

Community Resources Director Yolanda Fields provided a copy of Councilmember Smith's proposed ordinance to her U.S. Department of Housing and Urban Development contact in Arkansas. HUD has advised that such a change will require an amendment to the City's Citizen Participation Plan, a copy of which is attached for your reference. The Citizen Participation Plan is required by 24 CFR § 91.105 for the City to accept and disburse CDBG money.

Page 1 provides that "the City will provide citizens with an opportunity to comment on any substantial amendments to the Citizen Participation Plan." The specific provisions for making amendments to plans begin on page 3 of the attachment. I have suggested, and Councilmember Smith has agreed, that a delayed effective date for this ordinance, if approved, will allow staff to follow the steps required to make the necessary amendment to the Citizen Participation Plan. Those additional steps are as follows:

1. The Community Resources Division will draft the necessary amendment to the Plan providing for the Board's involvement in the CDBG processes.
2. The City must publish the amendment in the newspaper and make it available for review on the City website.
3. The public will have 30 days in which to provide any comments to the amendments. This may include a public hearing.
4. The amended Plan will be submitted to HUD for final approval along with a summary of any comments that were submitted and the City's response to those comments.

It is important to have a final version of the City Council's policy direction on this so the City can draft and publish the proposed amendment to the Citizen Participation Plan.

Therefore, attached is a revised ordinance with a new Section 2 as follows:

"Section 2: That the City Council of the City of Fayetteville, Arkansas determines that this ordinance shall take effect on February 28, 2021, to allow City staff time to amend the Community Development Block Grant Citizen Participation Plan and receive approval from the US Department of Housing and Urban Development; and requests the City Clerk Treasurer, and the Nominating Committee take appropriate steps to advertise open positions, interview applicants and make appointments for Community Development and Assistance Programs Advisory Board terms beginning on April 1, 2021."



## **CITIZEN PARTICIPATION PLAN**

### **24 CFR 91 (SEC. 91.105)**

#### **APPLICABILITY**

The legislation which created the Community Development Block Grant (CDBG) Program and regulation implementing it encourages citizen participation in planning, carrying out and evaluating local CDBG activities.

As the regulation gives maximum feasible priority to activities which benefit low- to moderate-income persons, this Citizen Participation Plan especially provides for and encourages participation of low- to moderate- income families and individuals living in low- to moderate-income areas of the City of Fayetteville.

#### **CITIZEN PARTICIPATION**

The City will take whatever actions are appropriate to encourage its citizens including

- (a) Minorities and non-English speaking persons
- (b) Persons with disabilities
- (c) Residents of public and assisted housing developments
- (d) Extremely low, very low, low and moderate-income individuals and families
- (e) Residents living in slum and blighted areas
- (f) Areas where CDBG funds are proposed to be used
- (g) Residents in predominantly low- to moderate-income neighborhoods, along with other low-income residents of the City
- (h) Particularly residents in Southeast Fayetteville which is the targeted revitalization area

The City encourages the participation of its residents in the process of developing the

- (a) Consolidated Plan and Annual Action Plans
- (b) Substantial Amendments to the Plan
- (c) Consolidated Annual Performance and Evaluation Report
- (d) Citizen Participation Plan and any amendments to the plan

The City will provide citizens with an opportunity to comment on any substantial amendments to the Citizen Participation Plan.



## **ACCESS TO INFORMATION**

The City will make available to citizens, public agencies and other interested parties the amount of assistance the City expects to receive from CDBG grants and program income.

The City will provide an estimated amount that will benefit persons whose income levels range from low- to moderate-income levels.

Citizens, public agencies and other interested parties, especially those most affected, will have the opportunity to receive information, review and submit comments on any submission concerning the proposed activities.

## **COMMENT PERIODS**

The City encourages its citizens to comment during the development of the Consolidated Plan and Annual Action Plans prior to submission.

A summary of all comments and views shall be attached to the final Consolidated Plan and Annual Action Plans.

The comment period from citizens and groups will be 30 days, unless waived by HUD, with the dates listed in the Public Comment and Hearing advertisement for the Consolidated Plan and Annual Action Plans that is published in the Northwest Arkansas Democrat Gazette, La Prensa Libre and on the City website.

The City will consider any comments or views of citizens, received in writing or orally during the public comment period and at the public hearing, in preparing the final Consolidated Plan and Annual Action Plans. A summary of all comments and views shall be attached to the Consolidated Plan and Annual Action Plans. The City will provide timely written replies to complaints and grievances; within 15 days when practical.

## **PUBLISHING**

A summary of the proposed Consolidated Plan and Annual Action Plans will be published in the Northwest Arkansas Democrat Gazette, La Prensa Libre and on the City website. The summary shall describe the contents and the purpose of the Consolidated Plan and Annual Action Plans and identify the locations where the entire proposed Consolidated Plan and Annual Action Plans may be examined. Copies of the Consolidated Plan and Annual Action Plans will be made available at the Community Resources Office, the City Clerk's Office and on the City website. A digital copy of the plan will be made available to citizens or groups that request it.

## **AMENDMENTS**

The City shall amend its approved plan whenever it makes one of the following decisions

- (a) A change in its allocation priorities
- (b) A change in its method of distribution of funds
- (c) To carry out a new activity using funds, from any program covered by the Consolidated Plan and Annual Action Plans not previously described in the approved plan
- (d) To change the purpose, scope, location or beneficiaries of an activity





## **AMENDMENTS** continued

The City encourages its citizens to comment on substantial amendments to the plan.

A substantial amendment is a change in the allocation of \$100,000.00 or greater and a change in the use of CDBG funds.

The City shall make the amendment available to the public.

The comment period from citizens and groups will be 30 days, unless waived by HUD, with the dates listed in the Public Comment advertisement published in the Northwest Arkansas Democrat Gazette and the City website.

The amendment will not be implemented until the comment period has elapsed.

The City shall consider all comments and views of citizens on the amendment submitted in writing or orally.

A summary of all comments and views, as well as, a summary of any comments and views not accepted and the reasons therefore, shall be attached to the substantial amendment of the Consolidated Plan and Annual Action Plans.

The City shall notify the Department of Housing & Urban Development (HUD) that an amendment has been made.

## **PERFORMANCE REPORTS**

The City encourages its citizens to comment on performance reports.

The Consolidated Annual Performance and Evaluation Report (CAPER) will be made available to the public.

A notice will be published in the Northwest Arkansas Democrat Gazette & La Prensa Libre that the performance report is available for comment. Copies of the CAPER will be made available at the Community Resources Office, the City Clerk's Office and on the City website. The Community Development Office will accept comments for 30 days, with the dates specified in the notices published in the Northwest Arkansas Democrat Gazette, La Prensa Libre and the City website.

The City shall consider all comments and views of citizens submitted in writing or orally during the comment period.

A summary of all comments and views shall be attached to the Consolidated Annual Performance and Evaluation Report.



## **PUBLIC HEARINGS**

The City will provide a minimum of two public hearings during each program year, with one held before the proposed Consolidated Plan or Annual Action Plan are submitted to HUD.

These hearings will be conveniently timed and located for people who might or will benefit from program funds.

The hearings will be held in an area that is accessible to people with disabilities.

The hearings will be adequately publicized.

The hearings will be held to obtain views of citizens, public agencies and other interested parties that will or may be affected by program funds.

In the case of a public hearing where a significant number of non-English speaking persons are expected a bilingual (English/Spanish) speaking person shall be present.

## **DISPLACEMENT**

The City plans to minimize displacement of persons and will assist any persons displaced. The City expects no displacements to occur.

## **TECHNICAL ASSISTANCE**

Technical assistance will be provided to groups that request assistance in developing a proposal under the Consolidated Plan or Annual Action Plan submission. The assistance shall be provided by Community Development Program staff. A bilingual (English/Spanish) speaking person shall be made available to non-English speaking persons.

## **ADDRESS**

All comments and complaints may be made in writing, via email, or by phone:

City of Fayetteville  
Community Resources Division  
Attn: Yolanda Fields, Community Resources Director  
113 W Mountain Street  
Fayetteville, Arkansas 72701

[yfields@fayetteville-ar.gov](mailto:yfields@fayetteville-ar.gov)

(479) 575-8260

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**PASSED** and **APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**KARA PAXTON, City Clerk/Treasurer**