

ORDINANCE NO. 206

AN ORDINANCE APPROVING THE PARTICIPATION BY THE CITY OF BETHEL HEIGHTS IN THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE FOURTH AMENDED AGREEMENT BETWEEN THE MEMBER CITIES OF THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE POWERS THEREIN CREATED; AND AUTHORIZING THE MAYOR AND RECORDER TO EXECUTE AND DELIVER SAID AGREEMENT AND RELATED DOCUMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, Title 14, Chapter 233 of the Arkansas Code as amended, permits any two or more Arkansas municipalities, any two or more counties, or anyone or more Arkansas municipalities together with anyone or more Arkansas counties to create, establish, and become a member of a solid waste disposal authority for the purpose of controlling, collecting, storing, removing, handling, reducing, disposing of, treating, and otherwise dealing in and concerning solid waste as that term is defined in the Joint County and Municipal Solid Waste Disposal Act, Ark. Code Ann. § 14-233-101 et seq. (hereinafter the "Act") and for the purposes stated in the Act; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Rogers and Springdale, Arkansas, did enter into an agreement and thereby created and established the Northwest Arkansas Conservation Authority (herein referred to as the "Authority") pursuant to the Act and for the purposes stated in the Agreement and permitted by the Act, both as currently stated and as may from time to time be amended or supplemented; and,

WHEREAS, the Cities of Rogers, Springdale and Bentonville entered into an Amended Agreement whereby Bentonville was then considered a member of the Authority; and,

WHEREAS, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers and Springdale entered into a Second Amended Agreement whereby Bethel Heights, Cave Springs, Elm Springs and Lowell were then considered members of the Authority; and,

WHEREAS, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers, Springdale and Tontitown entered into a Third Amended Agreement whereby Tontitown was then considered a member of the Authority; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Bentonville, Bethel Heights, Cave Springs, Centerton, Elm Springs, Highfill, Lowell, Rogers, Springdale and Tontitown, Arkansas, (herein referred to as the "Members") desire to amend the Agreement and hereby expand the membership of the Authority pursuant to the Act, so as to include the Cities of Centerton and Highfill; and,

WHEREAS, the Northwest Arkansas Conservation Authority Fourth Amended Agreement

(Herein referred to as the "Fourth Amended Agreement") in the form attached hereto as Exhibit A is submitted to the City Council; and,

WHEREAS, pursuant to Article X of the Agreement, the obligations of the Authority, including revenue bonds issued by the Authority, shall be payable from and secured by the revenues and property of the Authority, and shall not constitute a general or limited obligation of any Member; and,

WHEREAS, pursuant to Article XI of the Agreement, all amendments or modification to the Fourth Amended Agreement must be in writing; and,

WHEREAS, agreeing to participate does not bind the City to any particular service and that, pursuant to the Act and the Fourth Amended Agreement, a Member may withdraw from participation.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BETHEL HEIGHTS, ARKANSAS;

Section 1. The City of Bethel Heights has determined that it is in its best interest to continue to be a member of the Northwest Arkansas Conservation Authority. The cities of Bentonville, Bethel Heights, Cave Springs, Centerton, Elm Springs, Highfill, Lowell, Rogers, Springdale and Tontitown are proposed to be members of the Authority under the Fourth Amended Agreement. The powers granted to the Authority are those contained in the Act and the Fourth Amended Agreement. There are no limitations on the exercise of the powers granted, except those limitations contained in the constitutions of the United States and the State of Arkansas, and the statutes of Arkansas. The Board of Directors of the Authority shall be constituted as provided in the Fourth Amended Agreement. Each participating city shall appoint the person(s) to the Board of Directors as enumerated in the Fourth Amended Agreement, which appointment shall become effective upon approval by the City Council. The City of Bethel Heights has already appointed its members to that Board and no further action need be taken.

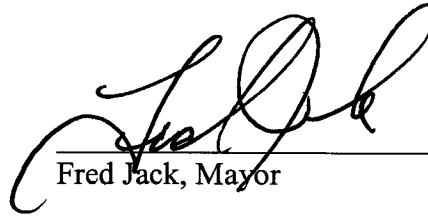
Section 2. The Fourth Amended Agreement and the terms and conditions thereof are hereby approved.

Section 3. The Mayor and Recorder are authorized to approve and sign an amended application, to be filed with the Secretary of State, to reflect the current membership of the Authority.

Section 4. The Mayor and Recorder are hereby authorized to execute and deliver the Fourth Amended Agreement.

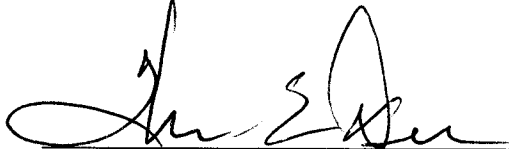
Section 5. Emergency Clause. It is hereby declared that an emergency exists, and this Ordinance being necessary for the preservation of the health, safety, and welfare of the citizens of Bethel Heights, Arkansas shall be effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 20th day of September, 2005.



Fred Jack, Mayor

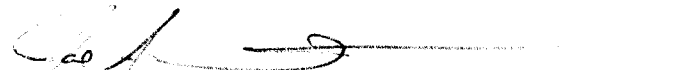
ATTEST:



Tom Dee, City Recorder



APPROVED AS TO FORM:



Joe A. Summerford, City Attorney