

RESOLUTION NO. 2008-08

A RESOLUTION FOR A SPHERE OF INFLUENCE PERMITTED BY ORDINANCE 99-1 FOR APPROVING AN ADOPTION OF THE LAND USE PLAN IN ACCORDANCE WITH THE ARKANSAS STATE LAW WITHIN CHEROKEE VILLAGE, FULTON AND SHARP COUNTIES, ARKANSAS.

WHEREAS, it is the desire of the CHEROKEE VILLAGE CITY COUNCIL to adopt, in all respects, a SPHERE OF INFLUENCE for two (2) areas designated on the "Land Use Map" and filed with FULTON AND SHARP COUNTIES, ARKANSAS.

WHEREAS, this is in accordance with Arkansas Code Annotated 14-56-401, the legislative body of the City of Cherokee Village does hereby exert its authority over the territorial jurisdiction allowed.

NOW, THEREFORE, BE IT RESOLVED that the City Council with concurrence of the Mayor of Cherokee Village is in full support of this resolution.

PASSED AND APPROVED BY THE CHEROKEE VILLAGE CITY COUNCIL.

DATE August 21, 2008

APPROVED: Lloyd Herley
Lloyd Herley, Mayor

ATTEST: Phyllis Endriks
Phyllis Endriks, Clerk/Treasurer

FILED
COUNTY OF FULTON
STATE OF ARKANSAS
DOC. # 2008 3439
PAGES 1 OF 7
DATE 8/25 2008 TIME 1:48 AM/PM
VICKIE BISHOP
CIRCUIT & COUNTY CLERK

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Lloyd Heffley, Mayor

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Phyllis Endrihs, Clerk/Treasurer

FILED

AUG 25 2008
CBK 1, PG 84
TOMMY ESTES, CLERK
BY 8/25/08 D.C.

THE FOLLOWING DESCRIPTIONS OF THE TWO TRACTS OF LAND ARE PROVIDED TO THE CITY OF CHEROKEE VILLAGE, ARKANSAS FOR THE PURPOSE OF INCLUDING SAID LANDS IN THEIR "SPHERE OF INFLUENCE". THESE LANDS LIE OUTSIDE THE ESTABLISHED BOUNDARIES OF SAID CITY.

NORTH TRACT (ROARING SPRINGS AREA)

THE FOLLOWING DESCRIBED LANDS ARE ALL IN TOWNSHIP 19 NORTH, RANGE 05 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, SHARP COUNTY, ARKANSAS

SECTION 06:

THE SW $\frac{1}{4}$ -SW $\frac{1}{4}$

ALL THAT PART OF THE SE $\frac{1}{4}$ -SW $\frac{1}{4}$ LYING SOUTH OF VEGAS FIRST ADDITION, WEST OF DRIFTWOOD PARK, AN UNDEVELOPED AREA, AND WEST OF KERE ADDITION TO CHEROKEE VILLAGE AS RECORDED IN THE OFFICE OF THE COUNTY CLERK, SHARP COUNTY, ARKANSAS.

SECTION 07:

ALL OF LOTS 1 & 2 OF THE NW FRACTIONAL AND ALL OF LOTS 3 & 4 OF THE SW FRACTIONAL AS SHOWN ON THE ORIGINAL GOVERNMENT SURVEY OF 1821.

THE SE $\frac{1}{4}$ -NW $\frac{1}{4}$

THE SE $\frac{1}{4}$ - SW $\frac{1}{4}$.

ALL THAT PART OF THE NE $\frac{1}{4}$ -NW $\frac{1}{4}$ LYING WEST OF KERE ADDITION TO CHEROKEE VILLAGE AS RECORDED IN THE OFFICE OF THE COUNTY CLERK, SHARP COUNTY, ARKANSAS

AND ALSO THE FOLLOWING DESCRIBED LANDS LYING IN TOWNSHIP 19 NORTH, RANGE 6 WEST OF THE FIFTH PRINCIPAL MERIDIAN, FULTON COUNTY, ARKANSAS.

SECTION 01:

THE SOUTH $\frac{1}{2}$ OF THE SE $\frac{1}{4}$.

THE SOUTH $\frac{1}{2}$ OF THE SW $\frac{1}{4}$.

SECTION 2:

THE SOUTH $\frac{1}{2}$ OF THE SW $\frac{1}{4}$.

THE SOUTH $\frac{1}{2}$ OF THE SE $\frac{1}{4}$.

SECTION 03:

THE SE $\frac{1}{4}$ -SE $\frac{1}{4}$.

SECTION 10:

THE NE $\frac{1}{4}$ -NE $\frac{1}{4}$.

SECTION 11:

THE NORTH $\frac{1}{2}$ OF THE NW $\frac{1}{4}$.

THE EAST $\frac{1}{2}$ OF SECTION.

SECTION 12:

ALL

SECTION 13:

THE NW $\frac{1}{4}$ -NE $\frac{1}{4}$.

THE NORTH $\frac{1}{2}$ OF THE NW $\frac{1}{4}$.

SECTION 14:

THE NE $\frac{1}{4}$ -NE $\frac{1}{4}$.

SOUTH TRACT (SOUTH GOLF COURSE AREA)

ALL OF THE FOLLOWING DESCRIBED LANDS ARE
LOCATED IN TOWNSHIP 19 NORTH, RANGE 06
WEST (T19N-R06W), OF THE FIFTH (5TH) P.M.,
FULTON COUNTY, ARKANSAS:

SECTION 22:

THE SW1/4 OF THE SE1/4

SECTION 25:

THE SOUTH 1/2 OF THE NW1/4

THE NORTH 1/2 OF THE SW1/4

THE SW1/4 OF THE SW1/4

SECTION 26:

ALL

SECTION 27:

THE NE1/4

THE SE1/4

THE SW1/4

THE SOUTH 1/2 OF THE NW1/4

THE NE1/4 OF THE NW1/4

SECTION 28:

THE SE1/4 OF THE SE1/4

THE FOLLOWING DESCRIPTIONS OF THE TWO TRACTS OF LAND ARE PROVIDED TO THE CITY OF CHEROKEE VILLAGE, ARKANSAS FOR THE PURPOSE OF INCLUDING SAID LANDS IN THEIR "SPHERE OF INFLUENCE". THESE LANDS LIE OUTSIDE THE ESTABLISHED BOUNDARIES OF SAID CITY.

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THE SW $\frac{1}{4}$ -SW $\frac{1}{4}$

ALL THAT PART OF THE SE $\frac{1}{4}$ -SW $\frac{1}{4}$ LYING SOUTH OF VEGAS FIRST ADDITION, WEST OF DRIFTWOOD PARK, AN UNDEVELOPED AREA, AND WEST OF KERE ADDITION TO CHEROKEE VILLAGE AS RECORDED IN THE OFFICE OF THE COUNTY CLERK, SHARP COUNTY, ARKANSAS.

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THE SE $\frac{1}{4}$ - SW $\frac{1}{4}$.

ALL THAT PART OF THE NE $\frac{1}{4}$ -NW $\frac{1}{4}$ LYING WEST OF KERE ADDITION TO CHEROKEE VILLAGE AS RECORDED IN THE OFFICE OF THE COUNTY CLERK, SHARP COUNTY, ARKANSAS

AND ALSO THE FOLLOWING DESCRIBED LANDS LYING IN TOWNSHIP 19 NORTH, RANGE 6 WEST OF THE FIFTH PRINCIPAL MERIDIAN, FULTON COUNTY, ARKANSAS.

SECTION 01:

THE SOUTH $\frac{1}{2}$ OF THE SE $\frac{1}{4}$.

THE SOUTH $\frac{1}{2}$ OF THE SW $\frac{1}{4}$.

SECTION 2:

THE SOUTH $\frac{1}{2}$ OF THE SW $\frac{1}{4}$.

THE SOUTH $\frac{1}{2}$ OF THE SE $\frac{1}{4}$.

SECTION 03:

THE SE $\frac{1}{4}$ -SE $\frac{1}{4}$.

SECTION 10:

THE NE $\frac{1}{4}$ -NE $\frac{1}{4}$.

SECTION 11:

THE NORTH $\frac{1}{2}$ OF THE NW $\frac{1}{4}$.

THE EAST $\frac{1}{2}$ OF SECTION.

SECTION 12:

ALL

SECTION 13:

THE NW $\frac{1}{4}$ -NE $\frac{1}{4}$.

THE NORTH $\frac{1}{2}$ OF THE NW $\frac{1}{4}$.

SECTION 14:

THE NE $\frac{1}{4}$ -NE $\frac{1}{4}$.

SOUTH TRACT (SOUTH GOLF COURSE AREA)

ALL OF THE FOLLOWING DESCRIBED LANDS ARE LOCATED IN TOWNSHIP 19 NORTH, RANGE 06 WEST (T19N-R06W), OF THE FIFTH (5TH) P.M., FULTON COUNTY, ARKANSAS:

SECTION 22:

THE SW $\frac{1}{4}$ OF THE SE $\frac{1}{4}$

SECTION 25:

THE SOUTH $\frac{1}{2}$ OF THE NW $\frac{1}{4}$

THE NORTH $\frac{1}{2}$ OF THE SW $\frac{1}{4}$

THE SW $\frac{1}{4}$ OF THE SW $\frac{1}{4}$

SECTION 26:

ALL

SECTION 27:

THE NE $\frac{1}{4}$

THE SE $\frac{1}{4}$

THE SW $\frac{1}{4}$

THE SOUTH $\frac{1}{2}$ OF THE NW $\frac{1}{4}$

THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$

SECTION 28:

THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$

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SECTION 06:

THE SW¹/₄-SW¹/₄

ALL THAT PART OF THE SE¹/₄-SW¹/₄ LYING SOUTH OF VEGAS FIRST ADDITION, WEST OF DRIFTWOOD PARK, AN UNDEVELOPED AREA, AND WEST OF KERE ADDITION TO CHEROKEE VILLAGE AS RECORDED IN THE OFFICE OF THE COUNTY CLERK, SHARP COUNTY, ARKANSAS.

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THE SE¹/₄-NW¹/₄

THE SE¹/₄- SW¹/₄.

ALL THAT PART OF THE NE¹/₄-NW¹/₄ LYING WEST OF KERE ADDITION TO CHEROKEE VILLAGE AS RECORDED IN THE OFFICE OF THE COUNTY CLERK, SHARP COUNTY, ARKANSAS

AND ALSO THE FOLLOWING DESCRIBED LANDS LYING IN TOWNSHIP 19 NORTH, RANGE 6 WEST OF THE FIFTH PRINCIPAL MERIDIAN, FULTON COUNTY, ARKANSAS.

SECTION 01:

THE SOUTH 1/2 OF THE SE 1/4.

THE SOUTH 1/2 OF THE SW 1/4.

SECTION 2:

THE SOUTH 1/2 OF THE SW¹/₄.

THE SOUTH 1/2 OF THE SE¹/₄.

SECTION 03:

THE SE¹/₄-SE¹/₄.

SECTION 10:

THE NE¹/₄-NE¹/₄.

SECTION 11:

THE NORTH 1/2 OF THE NW 1/4.

THE EAST 1/2 OF SECTION.

SECTION 12:

ALL

SECTION 13:

THE NW¹/₄-NE¹/₄.

THE NORTH 1/2 OF THE NW 1/4.

SECTION 14:

THE NE¹/₄-NE¹/₄.

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ALL OF THE FOLLOWING DESCRIBED LANDS ARE LOCATED IN TOWNSHIP 19 NORTH, RANGE 06 WEST (T19N-R06W), OF THE FIFTH (5TH) P.M., FULTON COUNTY, ARKANSAS:

SECTION 22:

THE SW¹/₄ OF THE SE¹/₄

SECTION 25:

THE SOUTH 1/2 OF THE NW¹/₄

THE NORTH 1/2 OF THE SW¹/₄

THE SW¹/₄ OF THE SW¹/₄

SECTION 26:

ALL

SECTION 27:

THE NE¹/₄

THE SE¹/₄

THE SW¹/₄

THE SOUTH 1/2 OF THE NW¹/₄

THE NE¹/₄ OF THE NW¹/₄

SECTION 28:

THE SE¹/₄ OF THE SE¹/₄

14-56-412. Powers and duties of commission.

(a) **GENERALLY.** The planning commission shall have the duty and function of promoting public interest in, and understanding of, the long-term coordinated municipal planning.

(b) **COMPREHENSIVE STUDIES.** The commission shall prepare a work program and make comprehensive studies of the present conditions and the probable future growth of the municipality and its neighboring territory.

(c) **PLANNING AREA MAP.** The commission shall prepare and maintain a map showing the general location of streets, public ways, and public property and the boundaries of the area within the territorial jurisdiction for which it will prepare plans, ordinances, and regulations. The map shall be known as the planning area map.

(d) **PLANS OF AREA.** Following preparation of the planning area map, the planning commission may prepare plans for all, or any portion of, the area encompassed by the map, which may consist of maps, plats, charts, diagrams, and necessary documents and descriptive matter. The plans may include, but shall not be limited to:

- (1) A master street plan;
- (2) A land use plan; and
- (3) A community facilities plan.

(e) **IMPLEMENTATION OF PLANS.** In order to promote, regulate, and control development, and to protect the various elements of the plans, the commission, after adoption of appropriate plans as provided, may prepare and transmit to the legislative body such ordinances and regulations as are deemed necessary to carry out the intent of the plans, or of parts thereof.

(f)(1) **REFERRAL TO PLANNING COMMISSION.** After adoption and filing as provided of a plan, no public way, ground, or open space; public building or structure; publicly or privately owned public utility line or terminal or transportation line or terminal; or public development or redevelopment or renewal project shall be acquired, constructed, or authorized unless such a project, proposal, or development has been submitted to the commission for review, recommendation, and approval as to its conformity with the plan.

(2) The commission's disapproval of a proposal submitted to it may be overruled only by a recorded vote of two-thirds (2/3) of the full membership of the submitting or authorizing body.

(3) Failure of the commission to act within sixty (60) days of the submission of the proposal shall be deemed approval unless further time is allowed by the submitting public board, commission, or body.

(g) **REFERRAL TO BODIES RESPONSIBLE FOR LAND ACQUISITION.** After adoption and filing as provided of a community facilities plan or a master street plan, no parcel of land indicated by the plan which lies within the bounds of a proposed public use facility or mapped street shall be privately developed until the public board, commission, or body having jurisdiction or financial responsibility for the reserved area shall have refused to execute a written option or to file suit for condemnation to acquire the area. This refusal shall be given by the

public board, commission, or body within one (1) year of the date the action is requested by the property owner. This procedure may be enforced for the specified one (1) year period by the refusal to issue building permits or by other methods. However, it may be enforced only in cases where regulations governing the development and subdivision of land do not apply.

(h) **PUBLIC IMPROVEMENT PROGRAM.** The commission may prepare, annually, a program for an appropriate period, recommending a coordinated program of capital expenditures for public improvements. For the purpose of preparing this program, the commission may request and receive information concerning public improvements from all public officials and public bodies.

(i) **RECOMMENDATIONS AND REPORTS.** The commission may make recommendations and reports to the public and to public and private agencies.

(j) **SURVEYS.** The commission may enter upon land to make examinations and surveys and to maintain necessary monuments and markers thereon.

(k) **FUNDS AND PERSONNEL.** The commission may receive and spend funds from federal, state, county, municipal, and other public and private sources, may contract with respect thereto, and may hire a staff and contract for consultant services.

History. Acts 1957, No. 186, § 3; A.S.A. 1947, § 19-2827.

CASE NOTES**Compensation.**

This section contemplates purchase or condemnation of land by the city, and in either case, the owner is to be compensated by money rather than waiver of some safety regulation, such as a fire wall requirement, completely irrelevant to the acquisition of land to widen a street. *City of Jonesboro v. Vuncannon*, 310 Ark. 366, 837 S.W.2d 286 (1992).

Cited: *City of Fayetteville v. IBI, Inc.*, 280 Ark. 484, 659 S.W.2d 505 (1983).

14-56-413. Territorial jurisdiction.

(a)(1)(A) The territorial jurisdiction of the legislative body of the city having a planning commission, for the purpose of this subchapter, shall be exclusive and shall include all land lying within five (5) miles of the corporate limits.

(B) If the corporate limits of two (2) or more municipalities of the first or second class are less than ten (10) miles apart, the limits of their respective territorial jurisdictions shall be a line equidistant between them, or as agreed on by the respective municipalities.

(2)(A) Cities now having eight thousand (8,000) population or more and situated on navigable streams shall have the authority to administer and enforce planning and zoning ordinances outside their corporate limits as follows:

(i) For cities of eight thousand (8,000) to fifty thousand (50,000) population, the jurisdictional area will be one (1) mile beyond the corporate limits;

(ii) For cities of fifty thousand (50,000) to one hundred fifty thousand (150,000) population, the jurisdictional area will be two (2) miles beyond the corporate limits;

(iii)(a) For cities of one hundred fifty thousand (150,000) population and over, the jurisdictional area will be three (3) miles beyond the corporate limits.

(b) Upon July 3, 1989, no city with a population in excess of one hundred fifty thousand (150,000) persons and which is situated on a navigable stream shall exercise any zoning authority outside the boundaries of the county wherein it is located without the approval of the quorum court of the county wherein the city is not located and the approval of the governing bodies of all other cities having zoning authority over the area.

(B) The city populations will be based on the latest available United States census data.

(C) The provisions of subdivision (a)(2) of this section shall not restrict the powers of any city currently exercising the authority authorized under this subdivision.

(b)(1) The planning commission shall designate the area within the territorial jurisdiction for which it will prepare plans, ordinances, and regulations.

(2) A description of the boundaries of the area shall be filed with the city clerk and with the county recorder.

History. Acts 1957, No. 186, §§ 3, 5; 1965, No. 134, § 1; 1965, No. 138, § 1; A.S.A. 1947, §§ 19-2827, 19-2829; Acts 1987, No. 56, §§ 1, 4; 1989, No. 94, § 1.

CASE NOTES

In General.

Because the Arkansas Soil and Water Conservation Commission acted within its statutory authority under § 15-22-503(e) in approving a water project submitted by a municipality that included a portion of a neighboring city's five-mile extraterritorial planning area, which was not preempted under this section by the neighboring municipality's planning authority in the five-mile area surrounding its city limits, and because the Commission's decision was supported by substantial evidence, the appellate court affirmed the Commission's order approving the municipality's water development project, as amended, for water plan compliance certification. Ark. Soil & Water Conservation Comm'n v. City of Bentonville, 351 Ark. 289, 92 S.W.3d 47 (2002).

Cited: National Lumber Co. v. Advance Dev. Corp., 293 Ark. 1, 732 S.W.2d 840 (1987).

14-56-414. Preparation of plans.

(a) **STUDIES.** The planning commission shall undertake suitable studies related to the plans to be prepared. The studies shall be conducted after the completion of the planning area map and prior to the preparation of the plans.

(b)(1) **LAND USE PLAN.** The commission may prepare and adopt a land use plan which may include, but shall not be limited to:

(A) The reservation of open spaces;

(B) The preservation of natural and historical features, sites, and monuments;

(C) The existing uses to be retained without change;

(D) The existing uses proposed for change; and

(E) The areas proposed for new development.

(2) The plan may include areas proposed for redevelopment, rehabilitation, renewal, and similar programs.

(c)(1) **COMMUNITY FACILITIES PLAN.** The commission may prepare and adopt a community facilities plan

indicating the general location and extent of the service areas of, and the future requirements of:

(A) Community facilities such as schools, playgrounds, recreational areas, hospitals, special education facilities, and cultural facilities;

(B) Governmental buildings and areas;

(C) Public and private utility terminals and lines; and

(D) Transportation terminals and lines.

(2) The plan may indicate areas to be reserved for future public acquisition as provided in this subchapter.

(d)(1) **MASTER STREET PLAN.** The commission may prepare and adopt a master street plan which shall designate the general location, characteristics, and functions of streets and highways.

(2)(A) The plan shall include the general locations of streets and highways to be reserved for future public acquisition.

(B) The plan may provide for the removal, relocation, widening, narrowing, vacating, abandonment, and change of use or extension of any public ways.

(e) **OTHER PLANS.** The commission may prepare and adopt such other plans as are significant to the health, safety, and general welfare of the municipality and its environs.

History. Acts 1957, No. 186, § 4; A.S.A. 1947, § 19-2828.

CASE NOTES

ANALYSIS

Community facilities plans.
Land use plans.

Community Facilities Plans.

Where a city's comprehensive land use and public facilities plan was nothing more than a statement of broad possibilities for the future, the city was not justified in exacting cash contributions from private developers for future establishment of park areas when no location for any future park had been determined, and there was apparently no way of determining when, if ever, the contributed money would be spent, or where, other than in the district, or for what, except as the planning commission might eventually decide. City of Fayetteville v. IBI, Inc., 280 Ark. 484, 659 S.W.2d 505 (1983).

Land Use Plans.

The land use plan is plainly not a zoning ordinance. It is merely a broad declaration of policy, specifying in a general way the uses to which the land in and near the city is now being put and to which it may be put in the future. The plan does not contain exact descriptions so that the property owner may ascertain what restrictions are being placed upon his land. The land use plan contains none of the details that are essential to a zoning ordinance. Economy Whsle. Co. v. Rodgers, 232 Ark. 835, 340 S.W.2d 583 (1960).

Where a plan was accepted by the city as a "land use" guide and the plan included a "land use plan" which included policy statements, general design considerations, proposed land uses, and projections as to future land use needs, this sufficed for compliance with this section. Taylor v. City of Little Rock, 266 Ark. 384, 583 S.W.2d 72 (1979).

Cited: City of Little Rock v. Linn, 245 Ark. 260, 432 S.W.2d 455 (1968); Rickman v. Mobbs, 253 Ark. 969, 490 S.W.2d 129 (1973); City of Fayetteville v. IBI, Inc., 280 Ark. 484, 659 S.W.2d 505 (1983).

14-56-415. Plan recommendations.

Following the adoption and filing of any plan, the planning commission may transmit to the legislative body, for enactment, recommended ordinances and reg-

AREAWIDE MEDIA

HIGHWAY 62 EAST

P.O. BOX 248

SALEM, ARKANSAS 72576

870-895-3207

FAX: 870-895-4277

TO: City of Cherokee Village

DATE : August 27, 2008

I, Janie Flynn, do solemnly swear that I am General Manager of The Villager Journal and that the advertisement charged for in the attached invoice was published in said publication as follows:

1st insertion 27th day of Aug. 2008

2nd insertion _____ day of _____

3rd insertion _____ day of _____

4th insertion _____ day of _____

5th insertion _____ day of _____

The cost of this publication is computed according to established rates and/or state law, whichever is applicable.

TOTAL PRICE \$ 21.90

Janie Flynn
General Manager

Subscribed and sworn before me this

27th day of August, 2008

Mickey Sue Southard
Notary Public

Notary Public
State of Arkansas
County of Fulton

Mickey Sue Southard

My appointment expires September 13, 2017

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ARKANSAS STATE LAW
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WHEREAS, this is in accor-
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Annotated 14-56-401, the leg-
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Cherokee Village does hereby
exert its authority over the
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allowed.

NOW, THEREFORE, BE IT
RESOLVED that the City
Council with concurrence of
the Mayor of Cherokee Village
is in full support of this resolu-
tion.

PASSED AND APPROVED
BY THE CHEROKEE VIL-
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DATE: August 21, 2008

APPROVED: Lloyd Hefley,
Mayor

ATTEST: Phyllis J. Endrihs,
Clerk/Treasurer