

*refer to minutes
4/7/05*

Ordinance # 02-2006

Ordinance to accept by volunteer annexation certain lands described in the property descriptions attached.

Whereas the petitioners are seeking voluntary annexation into the town of Fountain lake, and

Whereas the petition has been legally brought before the county court and approved on the 28th day of June, 2006, and

Whereas, 30 days have passed with no complaint filed to prevent this annexation,

Therefore, be it ordained that Tracts 1-11 and Tract 50 be annexed to the town of Fountain Lake on this 3rd day of August 2006.

Rick Qualls

Rick Qualls
Mayor

Margaret Bushong

Margaret Bushong
Clerk/Treasurer

JUDY HUGHES
GARLAND CO. CLERK
BY *J. Hughes*

ORDER

On the 28th day of June, 2006, came before the court Don Nobles, (hereinafter "Petitioners") agent named by petitioners for their petition to annex unto the Town of Fountain Lake certain lands more particularly described in the petition and plat pursuant to A.C.A. § 14-40-601.

The Court after hearing all of the evidence, the arguments of petitioner, and other interested parties in support of the petition, and being well and sufficiently advised of the facts and the law does FIND and ORDER as follows:

1. The Court finds notice has been provided as required by A.C.A. § 14-40-602. The subject petition invokes the procedure for annexation afforded under A.C.A. § 14-40-601 which explicitly provides: "(a) Whenever a majority of the real estate owners of any part of the county contiguous to and adjoining any city or incorporated town shall desire to be annexed to the city or town, they may apply, by petition in writing, to the county court of the county in which the city or town is situated and shall name the persons authorized to act on behalf of the petitioners. (b) The "majority of real estate owners" referred to in this section shall mean a majority of the total number of real estate owners in the area affected, if the majority of the total number of owners shall own more than one-half (1/2) of the acreage affected." The Court finds that this assertion of the subject petition is true and correct for Tracts One through Eleven (1-11) and Tract 50.
2. The remaining issue to be decided is whether the lands described in the petition are "contiguous to and adjoining" the Town of Fountain Lake. Attached to the petition is a plat demonstrating the subject area and the boundaries for the Town of Fountain Lake both of which are well-known by the Court.
3. The first two tracts (1-11 & 50) are contiguous and adjoining to the incorporated Town of Fountain Lake. Petitioners asserted at the hearing that the rest of the tracts were contiguous by the right of way for U.S. Highways 5 and 7. Ten separate tracts at different locations along these highways were identified in petitioners' plat as areas for annexation. Some real estate owners signed petitions for voluntary annexation and others did not, according to the agent for petitioners. The Court did not attempt to determine majorities for this areas because these tracts are not contiguous and adjoining to the Town of Fountain Lake.


At the Court's request, David Harmon, Right of Way Coordinator for the Arkansas Highway and Transportation Department, furnished a letter to the Court concerning the right of way to be used for annexation. Mr. Harmon noted that the right of way for the section of Highway 7 between Hot Springs and Fountain Lake had not been secured by fee title. All the right of way claimed by the Arkansas Highway and Transportation Department was secured by easements or prescriptive rights.

4. The case of *Clark v. Holt*, 218 Ark 504, 237 S.W. 2d 483 (1951) held that contiguous lands are those lands not separated by outside land. Also, in *Clark* the Supreme Court of Arkansas explained as follows:

In 37 Am.Jur., Municipal Corporation, 27, it is said: "The legal as well as the popular idea of a municipal corporation in this country, both by name and use, is that of oneness, community, locality, vicinity; a collective body, not several bodies; a collective body of inhabitants – that is, a body of people collected or gathered together in one mass, not separated into distinct masses, and having a community of interest because residents of the same place, not different places. So, as to territorial extent, the idea of a city is one of unity, not of plurality; of compactness or contiguity, not separation or segregation." See, also, 62 C.J.S., Municipal Corporations, 9b.

5. The subject petition and the Court's familiarity with the limits of the Town of Fountain Lake and the area proposed for annexation other than Tracks 1-11 & 50 is not "contiguous to and adjoining" the Town of Fountain Lake as required by A.C.A. § 14-40-601(a). Many of the subject lands are joined only by a "shoe string" which consists of Highway 5 and 7 to the Town of Fountain Lake. Furthermore, the Courts do not allow use of a device or subterfuge to reach a finding of unity. The petition to annex Tracts 1-11 and Tract 50 is hereby approved. The rest of the petition is denied.

It is so ORDERED.


Larry Williams, County Judge
Garland County, Arkansas

6/30/06
Date

Fountain Lake Annexation
Names with map numbers

Beningson-#1

Part of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and part of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34 and part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33 Township 1 South Range 18 West, Garland County, Arkansas. Described as follows: Begin at the SE corner of said SW $\frac{1}{4}$ NW $\frac{1}{4}$; Thence N 89 degrees 52' 50" W along the South line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$, 1,288.49 feet to the SW corner of said SW $\frac{1}{4}$ NW $\frac{1}{4}$, thence S 00 degrees 31' 43" W along the East line of said NE $\frac{1}{4}$ SE $\frac{1}{4}$, 1310.43 feet to the SE corner of said NE $\frac{1}{4}$ SE $\frac{1}{4}$; Thence N 89 degrees 13' 10"W along the South line of said NE $\frac{1}{4}$ SE $\frac{1}{4}$, 1,172.60 feet; Thence N 00 degrees 31' 43" East, 2,285.02 feet to the Southerly R/W of Highway #5; Thence N 60 degrees 59' 52" E along said R/W, 1,514.30 Feet; Thence South 31 degrees 00' 00" E 1,513.41 feet; Thence N 61 degrees 14' 54" E, 411.02 feet to the East line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$; Thence S 01 degrees 06' 56" W along said East line, 628.04 feet to the point of Beginning. Containing 97.09 Acres

Benoit- #2

A part of the NW $\frac{1}{4}$ SE $\frac{1}{4}$, the E $\frac{1}{2}$ of SE $\frac{1}{4}$ SW $\frac{1}{4}$, part of the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Part of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, part of the SE $\frac{1}{4}$ NE $\frac{1}{4}$, and part of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, All in section 33, Township 1 South, Range 18 West, Garland County, Arkansas, described as follows: Beginning at the NE corner, of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 33, and run thence South 02° 01 minutes 39 seconds West, along East line thereof, 1070.00 feet to the SE corner of said SE $\frac{1}{4}$ SW $\frac{1}{4}$; thence North 87° 49 minutes, 10 seconds West, along the South line thereof, 668.61 feet; thence North 02° 33 minutes 53 seconds East, 1046.79 feet to the NW corner of East $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$; thence North 89° 50 minutes 22 seconds West, 166.00 feet; thence North 00° 01 minutes 13 seconds West, 476.11 feet, to a fence line; next 3 calls are along said fence line, then North 53° 49 minutes 26 seconds East, 125.07 feet; thence North 70° 09 minutes 24 seconds East, 96.49 feet; thence North 74° 47 minutes 11 seconds East 249.71 feet; thence North 00° 01 minutes 13 seconds West, 358.07 feet; thence South 89° 37 minutes 47 seconds East, 528.73 feet; thence North 00° 01 minutes 13 seconds West, 605.31 feet to the South line of Ark State Hwy. No. 5; next 4 calls along South line of said Hwy 5, thence North 79° 27 minutes 00 seconds East, 399.51 feet; thence North 67° 27 minutes 24 seconds East, 142.29 feet; thence North 54° 07 minutes 10 seconds East, 532.09 feet; thence North 59° 22 minutes 59 seconds East, 443.80 feet to a fence line; thence South 00° 31 minutes 43 seconds West, along said fence line, 2285.55 feet, to the South line of Ne $\frac{1}{4}$ SE $\frac{1}{4}$; thence North 89° 37 minutes 47 seconds West, along South line of NE $\frac{1}{4}$ SE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ for 1,451.93 feet to the POINT OF BEGINNING. Containing 111.12 Acres

Tuma-#3

"Part of the E $\frac{1}{2}$ NE $\frac{1}{4}$ of section 33, Township 1 South, Range 18 West, described as follows: To find by survey, commence at the common corner of Sections 27, 28, 33 and 34, Township 1 South, Range 18 West, thence South between Sections 33 and 34; 993 feet to the North line to the Little Rock Hot Springs Highway; thence West 36 degrees and 15 minutes south 200 feet on the North side of said road, to the place of beginning, and a stake, thence North 30 degrees and 30 Minutes west 1,229 feet to the Section line between Sections 33 and 28 Township 1 South, Range 18 West, to a point 684 feet West from the common corner of Sections 27, 28, 33 and 34, Township 1 South, Range 18 West, thence West on the section line between Sections 28 and 33, 200 feet to a stake; Thence South 19 degrees East 1,391 feet to a North boundary of the Little Rock Hot Springs Highway to a point 465 feet from the place of beginning; thence East 36 degrees and 15 minutes North on the North line of the Little Rock Hot Springs Highway 465 feet to the place of beginning." (containing 8.4 acres, more or less.)

Moreland-#4 and #5

A part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, Township 1 South, Range 18 West, Garland County, Arkansas: Begin at the NW corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, thence South 84 degrees, 42' 54" East, a distance of 411.90 feet; thence South 10 degrees, 05' 56" East a distance of 1,393.35 feet to the Northerly R/W of Arkansas Highway #5; thence South 61 degrees, 53' 06" West a distance of 469.10 feet to Easterly side of 20 foot easement thence North 21 degrees, 57' 12" West, a distance of 308.09; thence North 15 degrees, 19' 24" West a distance of 236.43

feet; Thence North 86 degrees, 34' 04" West a distance of 123.44 feet; Thence, north 03 degrees, 06' 12" East a distance of 1111.23 feet to the point of beginning.

A part of the NW ¼ NE ¼ of Section 33, Township 1 South, Range 18 West, of Garland County, Arkansas. Begin at the NE corner of the NW ¼ NE ¼; thence North 84 degrees 50 minutes 48 seconds West a distance of 653.96 feet; thence South 02 degrees 52 minutes 44 seconds West a distance of 1120.91 feet; thence South 85 degrees 41 minutes 10 seconds East a distance of 649.30 feet; thence North 03 degrees 06 minutes 12 seconds East a distance of 1111.23 feet to the point of beginning.

A non-exclusive driveway easement: Begin at the NW corner of the NE¼NE¼ Section 33, Township 1 South, Range 18 West. Thence, South 84 degrees, 42' 54" East, a distance of 411.90 feet; Thence, South 10 degrees, 05' 56" East a distance of 1,393.35 feet to the Northerly R/W of Arkansas Hwy. #5; Thence, South 61 degrees, 53' 06" West a distance of 469.10 feet to the point of beginning of the Driveway easement herein described. Thence, North 21 degrees, 57' 12" West a distance of 308.09 feet; Thence, North 15 degrees, 19' 24" West a distance of 236.43 feet; Thence, North 86 degrees, 34' 04" West a distance of 123.44 feet; Thence South 03 degrees, 06' 12" West a distance of 20 feet; Thence, South 86 degrees, 34' 04" East 103.44 feet; Thence, South 15 degrees, 19' 24" East 236.43 feet; Thence, South 21 degrees, 57' 12" East 308.09 feet to Highway #5; Thence, Northeasterly 20 feet along said highway to point of beginning. 34.98 Acres in both tracts.

McWilliams-#6

A Part of the NE ¼, NE ¼, and a Pt. of the SE ¼, NE ¼, Sec. 33, Township 1 South, Range 18 West, Described as Follows: Beginning at a point at the Southwest Corner of the NE¼, NE¼, Sec. 33, Township 1 South, Range 18 West, the Point of Beginning, Thence Southerly along the East Line of the NE¼, NE¼, a distance of 440 feet To a point along the Northerly Highway Right of Way of Arkansas HWY 5, Thence, Easterly 390.10 feet along said HWY Right of Way to a point of the HWY Right of Way on the Easterly side of a 20-foot Right of Way Easement for a Drive, Thence North 21' 57" 12" West 308.09 feet; (East side of Easement) Thence North 15' 19' 24" West 236.43 feet; (East side of Easement) Thence North 86' 34' 04" West following 20 foot Right of Way Easement a distance of 123.44 feet; (Surveyed 6/11/1975 by W.S. Survey Company) Driveway Easement continued Thence South 86' 34" 04" East 103.44 feet, Thence South 15' 19" 24" East 216.43 feet, Thence South 21' 57" 12" East 308.09 feet To HWY 5, Thence Northeasterly 20 feet along said HWY to Point of beginning of Driveway Easement. Thence Southerly along East Line of NE¼, NE¼, a distance of 202.37 feet to Point of Beginning, containing a nonexclusive Road Easement Across Subject Lands. Containing 4 .82 acres more or less.

Williams-#7

"Part of the E½ NW¼ NE¼ of section 33, Township 1 South, Range 18 West, described as follows: Begin at the Southeast corner of the said E½ NW¼ NE¼ and run West on the South line of said E½ NW¼ NE¼ 646 feet to the West line of said E½ NW¼ NE¼; thence North on said West line 203 feet; thence East 646 feet to the East line of said E½ NW¼ NE¼; thence South on said East line 203 feet to the point of beginning. 3.02 Acres more or less.

Culpepper- # 8

A part of the Southwest Quarter of the Northeast Quarter of Section 33, Township 1 South, Range 18 West. Beginning At the Northeast corner of said Southwest Quarter of Northeast Quarter of said Section 33, Township 1 South, Range 18 West, and runs South 440 feet to Little Rock Hot Springs Highway; thence along said highway South 54 degrees West, 323 feet; thence North 710 feet; thence East 323 feet to Place of Beginning. Containing 4.3 acres.

Tuma # 9

Part of the W½ of the NE¼ of Section 33, Township 1 South Range 18 West. Commencing at the Northeast corner of the SW¼ NE¼ of Section 33, Township 1 South, Range 18 West; thence runs South on the line of the SW¼ NE¼ of said Section 33, Township 1 South, Range 18 West, 440 feet to the North line of Highway No. 70; thence in a southwesterly direction on the North line of said Highway 565 feet to a stake and pile of rocks and the place of beginning; thence North 20 degrees, West 163 feet to a fence post; thence

North 19 degrees with the fence 258 feet to the end of the fence; thence North 15 ½ degrees West 415 feet to a post and pile of rocks to center of North boundary of the SW¼ NE¼ of Section 33 Township 1 South, Range 18 West; thence East along the North line for 323 feet; thence South along the North side of Highway No. 70 to the point of beginning. Containing 4 Acres

Hassell-#10

The West Half of the Northwest Quarter of the Northeast Quarter of Section 33, Township 1 South, Range 18 West. Also: part of the West Half of the Northeast Quarter of Section 33, Township 1 South Range 18 West, more particularly described as follows: Commence at the NE corner of the SW ¼ NE ¼ of Section 33, Twp. 1S, R18W, thence South on the East line of the SW ¼ NE ¼ of said Section, 440 feet to the North line of State Highway No. 5 (formerly Hwy No. 70); thence Southwest on the North line of said Highway, 562 feet to a stake and pile of rocks and the place of beginning; thence North 29 degrees West 163 feet to a fence post, thence North 19 degrees West with the fence 258 feet to the end of fence; thence North 15 ½ degrees West 415 feet to a post and pile of rocks, to the center of the North boundary of the SW ¼ NE ¼ of Section 33, Twp. 1S; R18W; thence West along the North line of the SW ¼ NE ¼ to the Northwest corner thereof; thence South along the West line to highway No. 5, a distance of 1,151 feet, more or less, to said highway; thence northeasterly along the North boundary of said highway, 907 feet, more or less, to the PLACE OF BEGINNING. Less and except the property described as follows: Commence at the Southwesterly corner of the property described above, thence Northerly on West line of the property for 1,100 feet; thence Easterly 200 feet; thence Southerly 1,000 feet; more or less to the Northerly R.O.W. of Highway NO. 5; thence Southwesterly to the POINT OF BEGINNING. Containing 12.18 Acres

Cox-#11

A tract of land lying in the SW¼NE¼ of Section 33, Township 1 South, Range 18 West, Garland County, Arkansas, more particularly described as follows: commence at the Northwest corner of said SW¼NE¼; thence South 00 degrees 07 minutes 27 seconds West, along the West line of said SW¼ NE¼, 51.00 feet to a ½" Rebar with cap and the POINT OF BEGINNING; thence south 73 degrees 50 minutes 17 seconds East, 200.00 feet to a ½" Rebar with cap; thence South 00 degrees 06 minutes 13 seconds East, 991.58 feet to a ½" Rebar with Cap and a Point on the Northerly R/W of Arkansas Highway No. 5; thence South 78 Degrees 52 minutes 33 seconds West, along said R/W 100.00 feet to a ¾" Rebar and a Point on the West line of said SW¼NE¼; then North 00 degrees 07 minutes 27 seconds East, along the West line of said SW¼NE¼, 1085.84 feet to the POINT OF BEGINNING. Containing 4.82 acres.

Vaughn-# 50

A tract of land in the SW1/4 NW1/4 and the SE1/4 NW1/4, Section 20, Township 1 South, Range 18 W, Garland County, Arkansas. More particularly described as follows: Beginning at a capped 7/8" rebar at the Northwest corner of said SE1/4 NW1/4; thence S88 degrees 10' 06"E 376.20 feet along the North line of said SE ¼ NW1/4 to a capped 7/8" rebar; thence S 1 degree 07' 28" W 522.32 feet to a capped 7/8" rebar; thence N 88 degrees 10' 54" W 452.10 feet to a capped rebar; thence S 1 degree 07' 29" W 495.00 feet to a capped 7/8" rebar; thence N 88 degrees 10' 54" W 689.55 feet to a 7/8" rebar in the center of Vaughn Road; thence Northerly along the center of Vaughn Road the following described courses and distances: N 24 degrees 21' 01" E 21.72 feet; N 18 degrees 17' 20" E 29.54 feet; Around a curve to the left with a central angle of 42 degrees 42' 05" a radius of 195.19 feet for an arc length of 145.47 feet; N 24 degrees 24' 45" W 127.68 feet; Around a curve to the right with a central angle of 45 degrees 10' 25" a radius of 265.68 feet for an arc length of 209.47 feet; N 20 degrees 45' 41" E 120.54 feet; Around a curve to the right with a central angle of 60 degrees 40' 46" a radius of 172.02 feet for an arc length of 182.18 feet; N 81 degrees 26' 26" E 102.16 feet and N 83 degrees 01' 12" E 555.28 feet to a capped 7/8" rebar on the E line of said SW ¼ NW1/4; thence N 1 degree 07' 29" E 178.43 feet along the E line of said SW1/4 NW1/4 to the Point of Beginning. Containing 17.69 acres more or less.

AN ORDINANCE ESTABLISHING A 2006 BUDGET.

WHEREAS, OPERATION OF THE TOWN REQUIRES THOUGHTFUL PLANNING AND EFFICIENT SPENDING OF OUR RESOURCES; AND

WHEREAS, A.C.A 14-58-202 REQUIRES AN ANNUAL BUDGET TO BE ADOPTED BY THE TOWN COUNCIL.

BE IT THEREFORE ORDAINED, THAT THE TOWN COUNCIL OF FOUNTAIN LAKE, ARKANSAS ADOPT THE FOLLOWING 2006 BUDGET IN THE AMOUNT OF \$93,700.

\$ 85,000.00	ROAD REPAIR AND MAINTENANCE
\$ 1,700.00	OFFICE SUPPLIES AND POSTAGE
<u>\$ 7,000.00</u>	EMERGENCY FUND
\$ 93,700.00	TOTAL BUDGETED

IT IS FOUND AND IS HEREBY DECLARED THAT A BUDGET IS NECESSARY FOR THE HEALTH AND SAFETY OF THE TOWN AND IS MANDATED BY THE ARKANSAS CONSTITUTION. THEREFORE, AN EMERGENCY IS DECLARED TO EXIST, AND THIS ORDINANCE BEING NECESSARY, SHALL TAKE EFFECT AND BE IN FULL FORCE FROM AND AFTER IT'S PASSAGE.

PASSED AND ADOPTED THIS 12TH DAY OF JANUARY, 2006.

APPROVED:

Eric A. Smith

MAYOR

ATTEST:

Margaret Burbony

TOWN CLERK