



Bella Vista City Council Work Session Meeting Agenda

Date/Time: Monday, July 15, 2024
5:30 PM

Location: Police Training Room
2483 Forest Hills Boulevard

City Council and Planning Commission regular meetings are live streamed and archived for your convenience. View the meeting at its scheduled time or after at <https://bit.ly/bvmeetingslive>.

Mayor:

John D. Flynn

City Clerk:

Wanda Lepillez Krug

Council Members:

Ward 1, Position 1 - Jerry Snow

Ward 1, Position 2 - Wendy Hughes

Ward 2, Position 1 - Jim Wozniak

Ward 2, Position 2 - Larry Wilms

Ward 3, Position 1 - Doug Fowler

Ward 3, Position 2 - Craig Honchell

I. Call to Order

This meeting has been given public notice in accordance with Section 25-19-106 of the Arkansas Freedom of Information Act in such form that will apprise the public and news media of subject matter presented for consideration and action.

II. Review of Minutes

A. June 2024 - Regular Meeting

III. Unfinished Business

A. Ordinance

REQUIRING CANDIDATES FOR ELECTION TO ANY MUNICIPAL OFFICE OF THE CITY OF BELLA VISTA, IN ADDITION TO ANY OTHER REQUIREMENT OF STATE LAW, TO FILE CAMPAIGN CONTRIBUTION AND EXPENDITURE REPORTS WITH THE BELLA VISTA CITY CLERK IN SUFFICIENT TIME FOR VOTERS TO MAKE USE OF SUCH INFORMATION PRIOR TO THE BEGINNING OF EARLY VOTING, AND FOR OTHER PURPOSES *3rd reading*,

tabled from May 2024 Regular Meeting

B. Resolution

EXPRESSING THE OPINION OF THE CITY COUNCIL, A NON-PARTISAN BODY, THAT CITIZENS SHOULD BE HIGHLY VIGILANT REGARDING THE INFLUENCE OF PARTISAN AND SPECIAL INTEREST GROUP CAMPAIGN CONTRIBUTIONS DURING BELLA VISTA NON-PARTISAN MUNICIPAL ELECTIONS *Tabled from May 2024 Regular Meeting*

IV. New Business

See meeting packet for complete ordinances and resolutions.

A. Resolution

AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH LEO M ELLEBRACHT COMPANY OF WENTZVILLE, MISSOURI, PURSUANT TO A SOURCEWELL COOPERATIVE PURCHASING AGREEMENT, IN THE AMOUNT OF \$63,999.34 FOR THE PURCHASE OF TURN-OUT GEAR FOR THE FIRE DEPARTMENT

V. Discussion Items

Presentation of the new Bella Vista logo design - Communications Director Cassi Lapp
Purchase of sculptures - Council Member Snow
Cooper Chapel sidewalk - Council Member Snow

VI. Adjournment

SPECIAL NOTICES TO THE PUBLIC: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. To request this service, contact City Clerk prior to each meeting at 479-876-1255.

BELLA VISTA CITY COUNCIL REGULAR MEETING

JUNE 24, 2024 6:00 P.M.

Bella Vista District Court, 2483 Forest Hills Boulevard, Bella Vista, AR 72715

MINUTES

Call to Order by Mayor John Flynn at **6:00 PM**

Roll of Council called by Clerk Lepillez Krug. Council Members Snow, Hughes, Wozniak, Wilms, and Honchell present. Council Member Fowler absent. Mayor Flynn present.

Pledge of Allegiance recited

Public Comment:

Clinton Tucker, 4 Hawnby Ln. He came to speak about Code Enforcement. He wants to see attention given to citing specific violated ordinances, and a report on action taken. Unsightly property in a neighborhood can lower the value of homes nearby, according to realtors, and this concerns neighbors. Yet, when a Code Enforcement officer came out to inspect unsightly property, the officer said he didn't see anything wrong with the unsightly property in question. Mr. Tucker would like to see improved, clear code enforcement protocol.

Council Reply:

Council Member Hughes requested copies of Mr. Tucker's email to Mayor Flynn be made available to Council Members. Mayor Flynn agreed the email could be shared. Mayor Flynn said Mr. Tucker came to speak with him and he suggested Mr. Tucker address the Council.

Action on the Minutes:

May 28, 2024 – Regular Meeting. Motion made by Council Member Snow to approve as prepared by Clerk Krug, second by Council Member Wilms. **Roll Call Vote unanimous to approve. (Ayes: 5/Nays: 0)**

Reports:

April 2024 Financial Report. (Reports are posted on the Bella Vista City website at bellavistaar.gov and provided to Council Members under separate cover.)

The Mayor summarized the April 2024 Financial Report. Compared to last year, City sales tax is up 6.6% and County sales tax is up 4.7%. Usually the County sales tax is up more than the City, so April is a deviation. Total revenue is up 5.9%. Expenses are up 6.7%, but below budget by

almost \$1 million dollars. So far this year, the City is doing a good job of controlling expenditures. The City's financials are good and consistent with last year's sales tax being up.

The Mayor asked for a motion to suspend the rules and read all ordinances and resolutions on the agenda by title only. Council Member Snow made a Motion to approve, second by Council Member Wozniak. **Roll Call Vote was unanimous to approve. (Ayes: 5/Nays: 0)**

New Business: See meeting packet for complete ordinances and resolutions.

Public Hearing related to Item B: No citizens came forward to speak

ORDINANCE 2024-15: VACATING A PUBLIC UTILITY EASEMENT, AND FOR OTHER PURPOSES *Mayor Flynn read the ordinance by title only. He noted on the signature page, the date should be changed from 2023 to 2024. Motion to suspend the rules and go to third and final reading made by Council Member Honchell, seconded by Council Member Wilms. Roll Call Vote unanimous to approve: (Ayes: 5/Nays: 0) Mayor Flynn read the ordinance by title only for the third time. Motion to approve by Council Member Wilms, seconded by Council Member Honchell. Roll Call Vote unanimous to approve: (Ayes: 5/Nays: 0)*

RESOLUTION R2024-44: AMENDING THE 2024 CITY BUDGET IN THE TOTAL AMOUNT OF \$95,000.00 AND APPROVING THE ADDITION OF ONE (1) FULL-TIME PLANNING STAFF AND ONE (1) FULL-TIME CIVIL ENGINEERING INTERN STAFF FOR THE COMMUNITY DEVELOPMENT SERVICES DEPARTMENT *Mayor Flynn read the resolution by title only. Planning Manager Robertson gave a brief overview of this request, stating the work load increase related to permitting requires additional staff. Motion to approve by Council Member Honchell, seconded by Council Member Wozniak. Roll Call Vote unanimous to approve. (Ayes: 5/Nays: 0)*

RESOLUTION R2024-45: EXPRESSING OFFICIAL INTENT REGARDING CERTAIN CAPITAL IMPROVEMENTS *Mayor Flynn read the resolution. He explained this type of resolution sets the eligibility date for financing back 60 days, which in this case would be April 25, 2024. The project under consideration is the renovation of the old Police Station into Fire Station #1 living quarters and offices, and City Hall offices. Since the City is considering financing part of the expenses, this resolution expands the timeline. It solidifies the date of April 25, 2024 as the initial date for financing any expenditures. Later discussion for any expenditures will follow, if approval is needed. Council Member Wilms added it is common practice in most states to require this formality. It allows for the eligibility of costs that may incur reaching backward, not just forward. It enables the opportunity to include things in the financing of projects and benefits the community, and he approves the resolution. Motion to approve by Council Member Wilms, seconded by Council Member Honchell. Roll Call Vote unanimous to approve: (Ayes: 5/Nays: 0)*

RESOLUTION R2024-46: ACCEPTING THE FINANCIAL AUDIT REPORT PRESENTED BY FORVIS MAZARS, LLP FOR THE YEAR ENDING DECEMBER 31, 2023 *Mayor Flynn read the resolution. He said the 2023 Audit is on our website for the public to view. He noted there were no problems or irregularities. Council Member Wozniak made a motion to approve, seconded by Council Member Wilms. **Roll Call Vote unanimous to approve: (Ayes: 5/Nays: 0)***

RESOLUTION R2024-47: GRANTING THE APPEAL FILED BY HAPPY EGG REGARDING LARGE-SCALE DEVELOPMENT LSD 2024-54139 *Mayor Flynn read the resolution. Council Member Honchell made a motion to approve, seconded by Council Member Wozniak. **Roll Call Vote unanimous to approve: (Ayes: 5/Nays: 0)***

RESOLUTION R2024-48: AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A THREE-YEAR LEASE CONTRACT WITH STRONGHOLD DATA, LLC, IN AN AMOUNT NOT TO EXCEED \$28,584.75, FOR THE LEASE OF DELL COMPUTERS AND ASSOCIATED EQUIPMENT *Mayor Flynn read the resolution. He noted that IT Director John Moeckel spoke at the Work Session last week about this. Motion to approve made by Council Member Snow, seconded by Council Member Wozniak. **Roll Call Vote unanimous to approve: (Ayes: 5/Nays: 0)***

Mayor Flynn introduced Cheryl Schluterman from Raymond James. She apologized for being late, and asked if anyone had questions for her regarding the Official Intent or anything related. She added that 60 days backdated from today, and then 18 months forward is the time allocated for the City to borrow.

ANNOUNCEMENTS: *Mayor Flynn read through the upcoming meeting schedule.*

- Next City Council Work Session: 5:30 pm Monday, July 15, 2024 at Bella Vista Police Training Room
- Next City Council Regular Meeting: 6:00 pm Monday, July 22, 2024 at Bella Vista District Court
- Planning Commission Work Session: 4:30 pm Thursday, June 27, 2024 at Bella Vista District Court
- Planning Commission Regular Meeting: 4:30 pm Monday, July 8, 2024 at Bella Vista District Court
- Board of Construction Appeals: 3 pm Tuesday, July 9, 2024 if necessary, at Fire Station #4 Conference Rm, 1639 Forest Hills Blvd.

Mayor Flynn adjourned the meeting at 6:23 p.m.

City Clerk Wanda Lepillez Krug

Mayor John D. Flynn

DRAFT

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

REQUIRING CANDIDATES FOR ELECTION TO ANY MUNICIPAL OFFICE OF THE CITY OF BELLA VISTA, IN ADDITION TO ANY OTHER REQUIREMENT OF STATE LAW, TO FILE CAMPAIGN CONTRIBUTION AND EXPENDITURE REPORTS WITH THE BELLA VISTA CITY CLERK IN SUFFICIENT TIME FOR VOTERS TO MAKE USE OF SUCH INFORMATION PRIOR TO THE BEGINNING OF EARLY VOTING, AND FOR OTHER PURPOSES

WHEREAS, Ark. Code Ann. § 7-6-208 requires campaign contribution and expenditure reports be filed by candidates for municipal office in such form and at such times as designated therein, with the county clerk; and

WHEREAS, as part of these requirements, the Section provides that “[n]o later than seven (7) days prior to any . . . runoff election [or] general election . . . in which the candidate’s name appears on the ballot”, the candidate must “file a preelection report of all contributions received and expenditures made between the period covered by the previous report, if any, and the period ten (10) days before the election.” Further, “[i]n the case of a runoff election, the report shall cover all contributions received and expenditures made during that period of time that begins after the date of the election from which the runoff arose and ends ten (10) days before the runoff election;” and

WHEREAS, early voting in municipal elections begins at such a time that most, if not all, reports are not available to the electorate of Bella Vista, as the deadline for filing the reports with the county clerk is after the start of early voting; and

WHEREAS, citizens of Bella Vista have expressed a desire to obtain and review municipal candidate campaign contribution and expenditure information, particularly related to out-of-city sources of contributions, prior to early voting; and

WHEREAS, cities have authority, pursuant to Ark. Code Ann. § 7-6-224, to establish reasonable limitations regarding the timing of contribution solicitation, to provide lower limits on contributions to local candidates than those otherwise provided in state law, and to provide voluntary campaign expenditure limits for local candidates seeking election to the respective governing body; and

WHEREAS, cities have authority to legislate on any matter concerning municipal affairs except for those matters specifically enumerated as affairs limited to the authority of the state; and

WHEREAS, matters concerning local elections do not fall under the category of state affairs such that cities are prohibited from legislating in the field; and

WHEREAS, a fully-informed electorate is essential to the conducting of free and fair elections, which is a compelling interest to the City of Bella Vista; and

WHEREAS, the least restrictive burden is placed on Bella Vista municipal candidates as the timing requirement varies from state law by only a few days, and the only way to obtain campaign contribution and expense report information prior to the commencement of early voting is for the City to adopt a narrowly tailored earlier filing period for such reports with the City Clerk;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: No later than seven (7) days prior to any early voting in a runoff or general election for a Bella Vista municipal office candidate, the candidate must cause to be filed a preelection report of all contributions received and expenditures made between the period covered by any previous report filed as required by state law with the county clerk and ten (10) days before commencement of early voting for the election. In the case of a runoff election, the report shall cover all contributions received and expenditures made between the period covered by the previous report filed with the City Clerk and ten (10) days before early voting in the runoff election.

SECTION 2: The filing required by Section 1 of this Ordinance shall be on a form similar to that provided by the State of Arkansas for filing of campaign contribution and expense reports with the county clerk as required by Ark. Code Ann. § 7-6-226, and shall be made to the Bella Vista City Clerk. The report shall contain the information referenced in Ark. Code Ann. § 7-6-208(b). Notwithstanding the requirements stated in this Ordinance, no report filing with the City Clerk shall be required if a candidate for Bella Vista municipal office meets the exception referenced in Ark. Code Ann. 7-6-208(d).

SECTION 3: Nothing in this Ordinance shall be deemed to supersede or abrogate any requirement of state law regarding the timing or filing of campaign contribution and expenditure reports by Bella Vista municipal office candidates with the county clerk.

ADOPTED THIS _____ DAY OF _____, 2024.

APPROVED:

Mayor John D. Flynn

Attest:

City Clerk Wanda Krug

Requested by Council Member Fowler
Prepared by Jason Kelley, Staff Attorney



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2024-040

July 3, 2024

The Honorable Mindy McAlindon
State Representative
Post Office Box 324
Centerton, Arkansas 72719

Dear Representative McAlindon:

I am writing in response to your request for my opinion about the City of Bella Vista's authority to pass a proposed ordinance.

You indicate that the City wishes to pass an ordinance to require municipal candidates to file a Campaign Contribution and Expense report ("CC&E"), in addition to the one already required by state law. The City's proposed ordinance would require municipal candidates to file this CC&E report at least seven days before early voting begins.¹ It requires this *before* early voting because "the deadline for filing the [State-mandated] reports with the county clerk is *after* the start of early voting," so many citizens are unable to view the reports before voting.² The proposed ordinance cites A.C.A. § 7-6-224 and declares that "matters concerning local elections do not fall under the category of state affairs such that cities are prohibited from legislating."

You ask the following two questions:

1. Does the proposed Bella Vista ordinance conflict with or violate any current Arkansas laws relating to or concerning campaign finance or disclosure?
2. Does the proposed Bella Vista ordinance conflict with or violate any Arkansas ethics laws or requirements?

¹ You have provided me with a copy of the proposed ordinance. Although "[t]his office has a long-standing policy prohibiting it from construing or interpreting the provisions of local ordinances," this office has consistently reviewed local ordinances "to determine their consistency with state law." Ark. Att'y Gen. Op. 2009-203; *see also* Ark. Att'y Gen. Ops. 2004-173, 2001-258, 1999-287, 1997-038. Therefore, I will assess whether the ordinance conflicts with state law.

² Emphasis added.

RESPONSE

For the reasons discussed in the opinion, the proposed Bella Vista ordinance does not conflict with or violate current Arkansas law concerning campaign finance or ethics.

DISCUSSION

1. General municipal authority. Cities, towns, and other municipalities “are creatures of the legislature” and only have powers as delegated to them by the General Assembly.³ This expressly delegated authority includes both the broad “police power” and statutory “Home Rule,” which is the general power to act concerning “municipal affairs.”⁴

1.1. Police power. The police power is the power inherent in state sovereignty and is not a grant derived from any constitution.⁵ Although municipalities do not inherently have this power,⁶ the General Assembly has expressly delegated it to them. The “police power” is the power to “make and publish bylaws and ordinances, not inconsistent with the laws of this state, which, as to them, shall seem necessary to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such corporations and the inhabitants thereof.”⁷ An exercise of police power “is always justified when it can be said to be in the interest of the public health, public safety, and

³ Ark. Const. art. 12, § 4; *Phillips v. Town of Oak Grove*, 333 Ark. 183, 189, 968 S.W.2d 600, 603 (1998).

⁴ A.C.A. § 14-43-602 (allowing municipalities to “perform any function and exercise full legislative power in any and all matters of whatsoever nature pertaining to its municipal affairs”); *see also* Ark. Att’y Gen. Op. 2012-051 (surveying the applicable statutes and case law).

⁵ *Geurin v. City of Little Rock*, 203 Ark. 103, 155 S.W.2d 719, 721 (1941); *see also* Thomas M. Cooley, A TREATISE ON THE CONSTITUTIONAL LIMITATIONS WHICH REST UPON THE LEGISLATIVE POWER OF THE STATE OF THE AMERICAN UNION 831–32 (7th ed. 1903) (“In the American constitutional system, the power to establish the ordinary regulation of police has been left with the individual States, and it cannot be taken from them, either wholly or in part, and exercised under legislation of Congress,” and the “national government” cannot assume any supervision of the police regulations of the States.”); U.S. Const. amend. X (“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”).

⁶ Eugene McQuillin, THE LAW OF MUNICIPAL CORPORATIONS § 24:6 (3d ed. 2024).

⁷ *See* A.C.A. § 14-55-102.

public comfort, and when it is, private rights must yield to their security,”⁸ subject to federal and state constitutional limitations.⁹

Thus, a city has discretion to determine what is necessary for the public welfare, health, safety, order, comfort, and convenience of its inhabitants.¹⁰ An ordinance enacted under a city’s police power is presumed valid unless a court concludes that there is no “rational basis” for the ordinance—that the ordinance is “arbitrary, capricious, and unreasonable.”¹¹

Although this particular issue appears to be one of first impression, it is my opinion that a court would likely find that the City has authority to pass the proposed ordinance under the City’s “police power” because the proposed ordinance, at a minimum, could be categorized as improving the order of the city and its residents.¹² Although the earliest cases typically concern health and safety,¹³ since then courts have routinely upheld ordinances regulating

⁸ *Beaty v. Humphrey*, 195 Ark. 1008, 115 S.W.2d 559, 561 (1938); *see also Phillips*, 333 Ark. at 189, 968 S.W.2d at 603 (noting that the police power is “founded in public necessity and this necessity must exist in order to justify its exercise,” which is “always justified when it can be said to be in the interest of the public health, public safety, public comfort”); Ark. Att’y Gen. Op. 95-079 (opining that “[w]hile the constitutional right of property is thus subject to the legitimate exercise of the police power, police power enactments must be reasonable”).

⁹ Although broad, the police power is not unlimited; legislation cannot be unreasonable, arbitrary, or capricious. *Phillips*, 333 Ark. at 189, 968 S.W.2d at 603.

¹⁰ *See* McQuillin, *supra* note 6, at § 24:2 (commenting that the “police power” is “difficult to limit, as it includes all matters of public welfare”); *id.* § 24:3 (noting how difficult it is “[t]o define the police power or to prescribe its extent” largely because this power “is dynamic in character...not to be defined with inexorable and mathematical certainty” but cop[ing] with the new as it has with the old and justif[ying] measures in the present that it has not justified in the past”).

¹¹ *Phillips*, 333 Ark. at 195, 968 S.W.2d at 606; Ark. Att’y Gen. Ops. 2009-203, 2009-073. I cannot definitely conclude whether the proposed ordinance is unreasonable, arbitrary, or capricious because this is largely a question of fact outside of the scope of an Attorney General Opinion. *See, e.g., City of Fayetteville v. S & H, Inc.*, 261 Ark. 148, 165, 547 S.W.2d 94, 103 (1977) (“The question of unreasonableness or arbitrariness is plainly one of fact.”).

¹² *See also* Ark. Att’y Gen. Op. 2009-203 (citing Arkansas law to illustrate that the “Arkansas Supreme Court has generally adhered to the view that cities have broad discretion to determine what is necessary for the public welfare, comfort, and convenience”); Cooley, *supra* note 5, at 830 (noting that “[i]t is much easier to perceive and realize the existence and source of this [police] power than to mark its boundaries, or prescribe limits to its exercise”).

¹³ *See, e.g.,* McQuillin, *supra* note 6, at § 24:13; Justin Craig, *Municipal Law—Municipal Police Power & Its Adverse Effects on Small Businesses in Arkansas: A Proposal for Reform*, 36 U. ARK. LITTLE ROCK L. REV. 177, 181–82 (2014) (compiling some of the early Arkansas “police power” cases).

many areas outside of health and safety—such as fraud prevention,¹⁴ aesthetics,¹⁵ business pricing,¹⁶ and general prosperity of a community¹⁷—as being reasonably related to the general welfare, order, comfort, or convenience of a city’s inhabitants.

1.2. “Municipal affairs” vs. “state affairs.” Under A.C.A. § 14-43-602(a), cities, towns, and other municipalities are also “authorized to perform any function and exercise full legislative power in any and all matters of whatsoever nature pertaining to its municipal affairs,” if the legislation is not “contrary to the general laws of the state.”¹⁸ “[M]unicipal affairs” includes “all matters and affairs of government germane to, affecting, or concerning the municipality or its government except” for “state affairs...[which are] subject to the general laws of the State of Arkansas.”¹⁹

Arkansas Code § 14-43-601(a) lists as “state affairs” 15 subjects—none of which expressly include elections or campaign finance.²⁰ But even if a subject matter is designated as a “state affair,” local legislation is permissible if it is “not in conflict with state law.”²¹

Regardless of whether an ordinance regulates a “state affair” or a “municipal affair,” state law preempts local legislation if it is “in conflict with” or “contrary to” state law.²²

2. State election law. Having determined that such an ordinance is within a city’s power, the next question is whether it would conflict with any state law. Under A.C.A. § 7-6-208(a), municipal candidates are required to file multiple campaign-contribution reports, including annual, preelection, postelection, supplemental, and campaign-ending reports. A preelection report must be filed at least seven days before a “primary election, runoff election, general election, school election, or special election in which the candidate’s name appears on the ballot” and include “all contributions received and

¹⁴ *E.g.*, *U. S. ex rel. Shott v. Tehan*, 365 F.2d 191, 194 (6th Cir. 1966).

¹⁵ *E.g.*, *City of Fayetteville v. McIlroy Bank & Tr. Co.*, 278 Ark. 500, 502–03, 647 S.W.2d 439, 440–41 (1983).

¹⁶ *E.g.*, *Hand v. H & R Block, Inc.*, 258 Ark. 774, 783–84, 528 S.W.2d 916, 921–22 (1975).

¹⁷ *E.g.*, *Williams v. State*, 85 Ark. 464, 108 S.W. 838, 839–40 (1908), *aff’d sub nom. Williams v. State of Ark.*, 217 U.S. 79 (1910); *see also State v. Mitchell*, 32 Ohio App. 2d 16, 30, 288 N.E.2d 216, 226 (Ohio Ct. App. 1972).

¹⁸ Ark. Const. art. 12, § 4.

¹⁹ A.C.A. § 14-43-601(a)(1).

²⁰ *Id.* § 14-43-601(a)(1).

²¹ *Id.*

²² *See* Ark. Att’y Gen. Op. 2013-138.

expenditures made between [certain] periods.”²³ But candidates who have “not received contributions or made expenditures in excess of five hundred dollars” or are running unopposed are not required to file a preelection report.²⁴

State law expressly authorizes “[m]unicipalities, counties, and townships” to “establish reasonable limitations on: (1) Time periods that candidates for local office shall be allowed to solicit contributions; (2) Limits on contributions to local candidates at amounts lower than those set by state law; and (3) Voluntary campaign expenditure limits for candidates seeking election to their respective governing bodies.”²⁵

3. State preemption. State statutes can preempt municipal ordinances in three ways:²⁶ (1) express preemption;²⁷ (2) field preemption;²⁸ and (3) conflict preemption.²⁹

Express preemption occurs when the text of a statute expressly forecloses local legislation on the topic.

Field preemption occurs when a state statute preempts local legislation when the breadth of State regulation indicates that the General Assembly intends to “hold the field” of a particular area of law, or regulate “an area completely so as to not leave reasonable room for local regulation.”³⁰ But the mere existence of a statute governing the same or similar area of an ordinance does not mean that the statute preempts the ordinance.³¹ “The General Assembly should be clear when it intends to pre-empt a field that otherwise could be validly

²³ A.C.A. § 7-6-208(a)(2).

²⁴ *Id.* § 7-6-208(d)(1).

²⁵ A.C.A. § 7-6-224(a).

²⁶ Preemption for state laws largely mirrors the doctrine of federal preemption. *See, e.g., Kollmeyer v. Greer*, 267 Ark. 632, 636, 593 S.W.2d 29, 31 (1980) (noting that a situation concerning a state statute and a local ordinance was “comparable to the federal doctrine of pre-emption that is utilized in reconciling federal law with any state law that seeks to regulate the same subject matter”).

²⁷ *See, e.g., McNeill*, 120 S.W.3d at 608–09; *Kollmeyer*, 267 Ark. at 636–37, 593 S.W.2d at 30–32; Ark. Att’y Gen. Op. 2015-088.

²⁸ *See, e.g., Ark. Att’y Gen. Ops. 2015-088* (reviewing a state statute that “prohibits localities from regulating in th[e] field of “antidiscrimination law”), 2005-129 (“The State may preempt any local legislative authority by regulating an area completely so as not to leave reasonable room for local regulation.”).

²⁹ *Kollmeyer*, 267 Ark. at 637, 593 S.W.2d at 31 (holding that certain local ordinances were “inconsistent [with] and in conflict with” certain state statutes).

³⁰ *E.g., Ark. Att’y Gen. Ops. 2015-088, 2005-129.*

³¹ Ark. Att’y Gen. Op. 94-402.

regulated by...ordinance.”³² This clarity is necessary because Arkansas’s Home Rule Act grants municipalities broad authority to regulate unless the regulation is “in conflict with state law.”³³

Conflict preemption occurs when an ordinance is contrary to or irreconcilable with state statutes,³⁴ or when it less restrictive than state statutes.³⁵

4. Application of state preemption analysis.³⁶

4.1. Express. The applicable state statutes concerning certain local elections do not expressly preempt municipal ordinances concerning municipal elections or municipal campaign contribution because nothing in those statutes states that they “preempt” local ordinances.

4.2. Field. The applicable state statutes concerning certain local elections do not pervasively regulate municipal elections or municipal campaign-contribution reports in a way that renders cities, towns, or other municipalities completely preempted from the field.³⁷ This is so for three reasons. First, the General Assembly has not clearly indicated that it intended to preempt the field of local-election reports that otherwise could be validly regulated by local ordinance.³⁸ Second, while statutes do govern certain local-election reports and expressly authorize local governments to “establish reasonable limitations” concerning campaign finance, state law leaves room for cities and other municipalities to regulate in the field or area of local campaign-finance reports. Third, under A.C.A. § 14-43-601(a), neither municipal elections nor campaign finance are listed as “state affairs” subject to the general laws of the State, so municipalities may presumptively legislate broadly on the subject.

³² *Id.* at 637, 593 S.W.2d at 31.

³³ A.C.A. § 14-43-601(a)(2)(B).

³⁴ *E.g.*, *Tompos v. City of Fayetteville*, 280 Ark. 435, 437–38, 658 S.W.2d 404, 406 (1983).

³⁵ *E.g.*, Ark. Att’y Gen. Op. 86-086.

³⁶ I reiterate that this analysis is based on the facts presented. To the extent additional facts exist, I have provided the analysis a court will likely use to determine whether an ordinance in question is lawful.

³⁷ *See, e.g.*, A.C.A. §§ 7-6-208 (concerning campaign-contribution reports), 14-42-203 (concerning special elections of city mayors), 14-42-206 (concerning nominating petitions in municipal elections), 14-43-202 (prohibiting write-in votes in general elections held in cities of the first or second class), 14-43-301 (concerning general elections held by cities of the first class).

³⁸ Only one case since Arkansas’s Home Rule Act has found that local legislation was field preempted, and in that case, the General Assembly expressly required uniform regulation among the municipalities. *See Kollmeyer*, 267 Ark. at 635, 593 S.W.2d at 30.

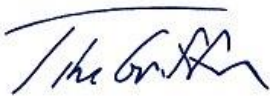
4.3. Conflict. An ordinance that requires municipal-office candidates to, “in addition to any other requirement of state law,” “file campaign contribution and expenditure reports” with a city clerk “no later than seven days prior to early voting” does not itself contradict or conflict with A.C.A. § 7-6-208(a). Although the ordinance obligates candidates to file an additional report, the provided ordinance is harmonious with state law and not less restrictive than state law. In this type of situation, it is not then impossible to comply with both the ordinance and with the state statute.

* * *

In sum, the proposed Bella Vista ordinance likely fits under a broad use of “police power” and does not conflict with or violate current Arkansas laws concerning campaign finance or disclosure, or ethics laws or requirements.

Assistant Attorney General William R. Olson prepared this opinion, which I hereby approve.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Griffin", with a horizontal line drawn above it.

TIM GRIFFIN
Attorney General

RESOLUTION NO. _____

CITY OF BELLA VISTA, ARKANSAS

EXPRESSING THE OPINION OF THE CITY COUNCIL, A NON-PARTISAN BODY, THAT CITIZENS SHOULD BE HIGHLY VIGILANT REGARDING THE INFLUENCE OF PARTISAN AND SPECIAL INTEREST GROUP CAMPAIGN CONTRIBUTIONS DURING BELLA VISTA NON-PARTISAN MUNICIPAL ELECTIONS

WHEREAS, during the 2022 municipal election cycle, various candidates for Bella Vista municipal office received significant and numerous campaign contributions from persons and entities not located in Bella Vista; and

WHEREAS, the existence of these campaign contributions was not known to many Bella Vista citizens until after the early voting period for the general election had begun; and

WHEREAS, partisan and special interest groups seeking to influence the policies of the government of the City for financial, business, or other purposes, should not override the needs and desires of the citizens of Bella Vista; and

WHEREAS, some non-residents have enlisted the assistance of state elected officials from districts not representing Bella Vista to politically intervene in the policy decisions of Bella Vista city government in a manner contrary to the desires of a large number of citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: The City Council of the City of Bella Vista, Arkansas hereby expresses the opinion that citizens should be highly vigilant regarding the influence of partisan and special interest group campaign contributions during non-partisan Bella Vista municipal elections.

ADOPTED this _____ day of _____, 2024.

APPROVED:

Mayor John D. Flynn

ATTEST:

Wanda Krug, City Clerk

Requested by: Council Member Doug Fowler
Prepared by: Jason Kelley, Staff Attorney

MEETING DATE	PREPARED BY	LEGISLATIVE TITLE
July 15, 2024	Steve Sims, Fire Chief	AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH LEO M ELLEBRACHT COMPANY OF WENTZVILLE, MISSOURI, PURSUANT TO A SOURCEWELL COOPERATIVE PURCHASING AGREEMENT, IN THE AMOUNT OF \$63,999.34 FOR THE PURCHASE OF TURN-OUT GEAR FOR THE FIRE DEPARTMENT

AGENDA ITEM

AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH LEO M ELLEBRACHT COMPANY OF WENTZVILLE, MISSOURI, PURSUANT TO A SOURCEWELL COOPERATIVE PURCHASING AGREEMENT, IN THE AMOUNT OF \$63,999.34 FOR THE PURCHASE OF TURN-OUT GEAR FOR THE FIRE DEPARTMENT

BACKGROUND

Turnout gear for use by the Fire Department and other purposes.

RECOMMENDATION

The staff on the FD recommend approval of this resolution.

FISCAL IMPACT

The amount is not to exceed \$64,000.00. This is spread out between 2024 Operation and Capital budget in the amount of \$66,000.00

ATTACHMENTS

1. Resolution Ellebnracht Turn Out Fire Gear
2. 7.15.24 FD Work Session Docs-Turnout Gear

RESOLUTION NO. _____

CITY OF BELLA VISTA, ARKANSAS

AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH LEO M ELLEBRACHT COMPANY OF WENTZVILLE, MISSOURI, PURSUANT TO A SOURCEWELL COOPERATIVE PURCHASING AGREEMENT, IN THE AMOUNT OF \$63,999.34 FOR THE PURCHASE OF TURN-OUT GEAR FOR THE FIRE DEPARTMENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: The City Council of the City of Bella Vista, Arkansas hereby authorizes the Mayor and City Clerk to enter into a contract with Leo M Ellebracht Company of Wentzville, Missouri, pursuant to a Sourcewell Cooperative purchasing agreement, in the amount of \$63,999.34, for the purchase of turn-out gear for the Fire Department

ADOPTED THIS _____ DAY OF _____, 2024.

APPROVED:

Mayor John D. Flynn

Attest:

City Clerk Wanda Krug

Requested by Mayor
Prepared by Jason Kelley, Staff Attorney

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: 7/22/2024

AGENDA ITEM: Turnout gear for the Fire Department

ITEM TITLE: Turn out gear for use by the Fire Department and other purposes

SUBMITTED BY: Chief Stephen R Sims

SUMMARY EXPLANATION: This resolution is to enter into a contract with Leo M Ellebracht Company through a competitive bid Source Well contract #010424-MNP. This is to purchase 17 (Coat/Pant) set of turn out gear to be used for job related duties as a firefighter. The amount is not to exceed \$64,000.00. This is spread out between 2024 Operation and Capital budget in the amount of \$66,000.00

ATTACHMENT: ORDINANCE ☐ RESOLUTION ☒ OTHER ☐

RECOMMENDATION: The staff on the FD recommend approval of this resolution

ACTION REQUESTED:
Motion to adopt ☒

NOTE: Invoices paid by Credit Card will have a 3% processing fee.

Honeywell First Responder Products

Clothing Specification Quote

2024 Price

Expires	12/31/2024	Fire Dept.	Bella Vista Fire Dept
Freight	Will be your responsibility		ARBELL
Delivery	On Partner Port	Dealer	Leo M Ellebracht Company
			LEO200

Specid ARBELL00095 **Spec Date** 05/15/2024 **Sourcewell ID #** SW24495ARBELL

To assure you receive this special pricing, the above quote number must appear on all orders referenced to same.
Any additions or deviations from original quote must be on order and are subject to additional cost.

LTO 75TG Tails Black

REFRESH	**REENGINEERED**
REV2	*** Revision 2 ***
LTOTOS75B	LTO-Tails Outer Shell -6.6 oz Pioneer W/FREEFAS Black
LTOTTLT	LTO Tail Thermal Liner-7.7osy Titanium SL2 Blue
LTOTMBG	LTO Tail Moisture Barrier -5.5 osy Stedair 4000
IPLC	(020) Std -Inspection Port Liner
LNDC	Std-Liner detachable
LNSETTE	Std -SET Thermal Enhancement
PKTLSTD	Std -Liner Label Pocket
RS-RRSAC	(ROI) Std-Articulating Rapid Rescue Strap
SATUPST-75B	(001) Std -Take Up Straps - 2 Postman
TLWH	(W50) Std-Wristlets- Long Hybrid with tabs - Nomex
TR-DSS	Std -Trim Double-Stitched
TRC301M-TL	Trim-(1) NFPA-lime 2-tone Scotchlite (3")
LTHEMV-75B	Hem Patch wN elcro - Pioneer W/FREEFAS -Black FF LAST NAME (1st INITIAL when specified) - avg. 7 letters - OK to use 2" letters to fit
LT3S07-SL	7 -3" sewn letters -lime Scotchlite
CLZV2-75B	(EIO) 2" Velcro/Zipper Coat Closure
CCLTO-75B	(Q02) LTO Comfort Chinstrap
CCWHIT	White Knit Material on Comfort Chinstrap
LNDAPC	(050) Dead Air Panels
CFCC-ARB	Coat Cuffs - Arashield - Black

This quote, which received special pricing in consideration for services you as a dealer provided, cannot be used to offer pricing to any Federal Agency US Military branch, the National Guard or the Coast Guard. If you receive inquiries from such agencies, please contact your inside customer service representative. Additionally, these prices cannot be used to bid on specs developed by other dealers. Finally, since this special pricing was developed in response to services provided by you for your direct customer, it cannot be used to provide prices to other companies whose purpose would be to re-sell the products.

Honeywell First Responder Products Clothing Specification Quote

2024 Price

Expires	12/31/2024	Fire Dept.	Bella Vista Fire Dept
Freight	Will be your responsibility		ARBELL
Delivery	On Partner Port	Dealer	Leo M Ellebracht Company
			LEO200
Specid	ARBELL00095	Spec Date	05/15/2024
		Sourcewell ID #	SW24495ARBELL

To assure you receive this special pricing, the above quote number must **appear** on all orders referenced to same.
Any additions or deviations from original quote must be on order and are subject to additional cost.

LTO 75TG Tails Black

PKHBLN-75B	Half Hi Bellows Pockets -- 7 x 9 x 1.5
PKRCFF-KV	Full Kevlar Lined
PKBLCHW-FLC	Handwarmers behind Bellows Pockets - Fleece
PKMT-75B	Mic Tab -- left chest -- 0.5 x 2.5
PKRCPTVS-75B	Large Hook on a Patch w/ elcro Strap -Pioneer W/FREEFAS 6.6 oz -- right chest
PKRD-75B	Radio Pocket Pioneer w/FREEFAS - Black left chest -- 8x3x2

End of Spec

Sourcewell Contract

****25 FRONT LENGTH & LONGER**

Spec Limitation:

****Half Hi Bellows Pockets - 7" x 9" x 1.5" with radio pocket in chest position - will not fit on 24 front length & shorter - A SPEC MUST BE CREATED **PRIOR** TO SUBMITTING AN ORDER**

(00093)

Optional Items:

These prices are in addition to the discounted total above

Bella Vista Fire Dept

103 Town Center

Bella Vista, AR 72714

SAP ACCT# 1957237

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Honeywell First Responder Products

Clothing Specification Quote

2024 Price

Expires	12/31/2024	Fire Dept.	Bella Vista Fire Dept
Freight	Will be your responsibility		ARBELL
Delivery	On Partner Port	Dealer	Leo M Ellebracht Company LEO200

Specid ARBELL00096 **Spec Date** 05/15/2024 **Sourcewell ID #** SW24495ARBELL

To assure you receive this special pricing, the above quote number must appear on all orders referenced to same.
Any additions or deviations from original quote must be on order and are subject to additional cost.

LTO 75TG Pants Black

REFRESH	**REENGINEERED**
REV2	*** Revision 2 ***
LTOPOS75B	LTO-Pants Outer Shell-6.6 oz Pioneer W/FREEFAS -Black
LTOPTLT	LTO Pant Thermal Liner-7.7osy Titanium SL2 Blue
LTOPMBG	LTO Pant Moisture Barrier -5.5osy Stedair 4000
IPLP	(021) Std -Inspection Port Liner
LNDP	Std -Liner Detachable
TR-DSSP	Std -Trim Double-Stitched
TRP307M-TL	Trim-(7) NFPA-lime 2-tone Scotchlite (3")
CLWV2-75B	(J04) Wide Fly- 2" Velcro w/Hook & Dee
CFAN-ARB	(003) Angled Cuffs - Arashield - Black
CFPC-ARB	(M27) Pant Cuffs -Arashield - Black
KNBF-75B	(K05) BiFlex Heat Channel Knees -Pioneer W/FREEFAS 6.6 oz
KNBFH-ARB	(K54) Horizontal Strips in BiFlex knees to be Arashield - Black
SATUP2-75B	(001) Take Up Straps - 2 Postman- Pioneer W/FREEFAS 6.6 oz - Bl
PKBLP-75B	Bellows Pockets -Pants -Pioneer W/FREEFAS Black -- 9x9x2
PKRPFF-KEV	Full Kevlar Lined
OPSSA	Snap Style Suspender Attachment
SPDFSQI	Dyna-Fit Suspenders w/ Snap Attach & Quick Adjust Installed
SPP	(X30) Suspender Padding
WWPTPS-G	(W05) Telescoping Particulate Shield -MBG

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Honeywell First Responder Products

Clothing Specification Quote

2024 Price

Expires	12/31/2024	Fire Dept.	Bella Vista Fire Dept
Freight	Will be your responsibility		ARBELL
Delivery	On Partner Port	Dealer	Leo M Ellebracht Company
			LEO200
Specid	ARBELL00096	Spec Date	05/15/2024
		Sourcewell ID #	SW24495ARBELL

To assure you receive this special pricing, the above quote number must appear on all orders referenced to same.
Any additions or deviations from original quote must be on order and are subject to additional cost.

LTO 75TG Pants Black

End of Spec

Sourcewell Contract

Optional Items:

These prices are in addition to the discounted total above

Bella Vista Fire Dept
103 Town Center
Bella Vista, AR 72714
SAP ACCT# 1957237

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