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TO: City of Fayetteville Citizens

FROM: Kit Williams, City Attorney

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RE: Powers of the Mayor and City Council

Article 4 § 2 **Separation of departments** of the Arkansas Constitution establishes the Separation of Powers Doctrine in Arkansas as it has long been established on the Federal level. A.C.A. § 14-42-102 distinguishes between the Mayor as the "principal officer" and the "board of aldermen, to be called the city council"

The Mayor has the power to appoint, supervise and discipline city employees (except uniformed fire and police officers and the employees in the other elected officials' departments: Court, Legal, City Clerk). Uniformed officers are hired, promoted and disciplined by the Police or Fire Chief (with Civil Service input for hiring and promotion) and may appeal the Chief's discipline decision to the Civil Service Commission. The elected City Clerk, City Attorney and District Judge have the power to hire, supervise and fire their employees. Except for the power to authorize and fund employee positions, the City Council has no authority over the hiring, supervision or discipline of any employee.

Although the Mayor is the City's "chief of executive officer," (A.C.A. § 14-43-504) he also has legislative power as "ex officio president of the city council (who) shall preside at its meetings." A.C.A. § 14-43-501 (b)(1)(A).

“(B) The mayor shall have a vote to establish a quorum of the city council at any regular meeting of the city council and when his or her vote is needed to pass any ordinance, bylaw, resolution, order, or motion.” A.C.A. § 14-43-501 (b)(1)(B).

The Mayor “may veto within five (5) days, Sundays excepted, after the action of the city council thereon, any ordinance, resolution, or order adopted or made by the city council, or any part thereof....” A.C.A. § 14-43-504 (d)(1)(A). The City Council may override such veto by the vote of six Aldermen.

The City Council not only has its primary “power of the purse” (to approve and appropriate the annual budget and any budget amendments pursuant to A.C.A. § 14-58-202), it is also the “owner” of all city property. A.C.A. § 14-54-302. “The Council shall have the management and control of finances and thus must approve sales or leases of city property and of all the real and personal property belonging to the corporation.” A.C.A. § 14-43-502. The City Council also approves contracts in excess of \$20,000.00 which normally must be bid out publicly pursuant to state law. A.C.A. § 14-58-303.

The City Council may pass 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 corporation and the inhabitants (of the City).” A.C.A. § 14-55-102.

Only the Mayor may actually sign contracts for the City. A.C.A. § 14-58-303. The Mayor “shall be its chief executive officer” and “shall: Supervise the conduct of all officers of the city” A.C.A. § 14-43-504. Therefore, the Mayor controls and directs city employees to administer the City to accomplish broad goals and policies enacted by the City Council. Our city government functions best when the legislative (City Council) and executive (Mayor’s administration) exercise the powers within their authorized areas and are careful not to intrude upon the other branch of government’s domain.