

FAYETTEVILLE CITY COUNCIL
AGENDA
WORK SESSION MEETING
Human Resources Development (HRD)
Training Room
MARCH 1, 2010
5:00 P.M.

VISION STATEMENT

The City of Fayetteville
is a GREAT PLACE TO LIVE with
a choice of DESIRABLE NEIGHBORHOODS,
LEISURE OPPORTUNITIES FOR ALL,
and BEAUTY BY DESIGN.

Our City has a VIBRANT DOWNTOWN,
the CAPE FEAR RIVER to ENJOY, and
a STRONG LOCAL ECONOMY.

Our City is a PARTNERSHIP of CITIZENS
with a DIVERSE CULTURE and RICH HERITAGE,
creating a SUSTAINABLE COMMUNITY.



FAYETTEVILLE CITY COUNCIL
WORK SESSION AGENDA
MARCH 1, 2010
5:00 P.M.
HUMAN RESOURCES DEVELOPMENT (HRD)
TRAINING ROOM

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 APPROVAL OF AGENDA

4.0 OTHER ITEMS OF BUSINESS

- 4.1 Police – Presentation of proposed ordinance revisions to Article VII, Wrecker & Tow Ordinance

Presenter: Matthew Dow, Sergeant

- 4.2 Information Technology - Update on the Fiber-to-the-Home (FTTH) Concept Exploration

Presenter: Stanley Victrum, Chief Information Officer
James Rose, PWC Chief Administrative Officer

- 4.3 Community Development - Update on the Murchison Road Redevelopment Plan

Presenter: Victor Sharpe, Community Development Director

- 4.4 City Attorney - Update on Ethics Commission

Presenter: Karen McDonald, City Attorney

- 4.5 City Manager's Office – Annexation Policy Follow-Up: Donut Holes

Presenter: Kristoff Bauer, Assistant City Manager

- 4.6 City Manager's Office – Economic Development Program

Presenter: Kristoff Bauer, Assistant City Manager

- 4.7 City Manager's Office - Residential Rental Property Program Update

Presenter: Doug Hewett, Assistant City Manager

4.8 Council Member Request (Council Member Mohn) - City Council
Resolution Requesting Additional County Jail Capacity

Presenter: Council Member Theodore Mohn

5.0 ADJOURNMENT

CLOSING REMARKS

POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours. Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 p.m. and 7:00 p.m.

**POLICY REGARDING CITY COUNCIL MEETING PROCEDURES
SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM**

Individuals who have not made a written request to speak on a nonpublic hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

Notice Under the Americans with Disabilities Act (ADA): The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Any person who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in any City program, service, or activity, should contact the office of Ron McElrath, ADA Coordinator, at rmcelrath@ci.fay.nc.us, 910 -433-1696, or the office of Rita Perry, City Clerk at cityclerk@ci.fay.nc.us, 910-4331989, as soon as possible but no later than 72 hours before the scheduled event.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Tom Bergamine, Chief of Police
DATE: March 1, 2010
RE: **Police - Consideration of proposed ordinance revisions to Article VII, Wrecker & Tow Ordinance**

THE QUESTION:

Whether to approve the proposed ordinance revisions to Article VII, Wrecker & Tow Service of the Fayetteville City Code?

RELATIONSHIP TO STRATEGIC PLAN:

This action is requested based on Principle H of the Council's Strategic Plan, Partnership and Citizens, specifically, working together with citizens to solve problems. Additionally, this is also an initiative under the guiding principle of Operational Efficiency within the Police Department's Community Wellness Plan (Target for Action: Crime Reduction Strategy and Report).

BACKGROUND:

At the November 9, 2009 City Council meeting, Sergeant Matthew Dow, Police Department, presented information regarding a new management system that will aid citizens in the recovery of towed vehicles and the management of the City's wrecker rotation list. Proposed ordinance revisions necessary for the successful implementation of the new management system were presented to Council. Members of the Cumberland County Wrecker's Association expressed concerns regarding the revisions. Council directed Staff to meet with the Wrecker Review Board to address the issues raised by the wrecker industry, including, but not limited to the following items: increased insurance requirements, updated language, City Code compliance, predatory towing, requirements for all tows-not just rotation (C:Logic). A meeting was conducted with the Wrecker Review Board on December 15, 2009 and from that meeting recommendations were incorporated into the revised ordinance.

At the January 25, 2010 City Council meeting, Council requested Staff to address additional issues and present the findings at a future meeting.

ISSUES:

Status of revised Wrecker Ordinance.

OPTIONS:

Approve all ordinance revisions or approve some ordinance revisions or decline to approve ordinance revisions

RECOMMENDED ACTION:

Staff recommends approval of all proposed ordinance revisions

ATTACHMENTS:

Wrecker Ordinance Revision - Draft
Rotation List Location Map
Wrecker Locations

ARTICLE VII. WRECKER AND TOW SERVICE

Sec. 24-221. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person, firm, or corporation engaged in the business of, or offering the services of, a vehicle wrecker or towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle manufactured and designed for the primary purpose of removing and towing disabled motor vehicles that desires to participate in the rotation list by making application to the same.

Chief of police means the executive head of the police department of the city or anyone designated by him.

Consensual tow means a tow where the vehicle owner, operator or his agent or designee is present at the scene and the individual owner, operator or his agent or designee expressly requests that a specific towing or wrecker company to remove his vehicle and enters into a private contract with the towing or wrecker company for towing services.

Driver means any person driving a wrecker upon the streets, roads and public thoroughfares of the City of Fayetteville.

Licensee means a person, firm or corporation, or employee, agent or contract agent of any person, firm or corporation issued a license under the terms of this article.

Non-consent tow means a tow occurs without prior consent or authorization of the owner or operator of the motor vehicle that is to be towed. For purposes of this provision, a “non-consent tow” includes:

(i) a repossession ;

(ii) a city (county) initiated tow from public or private property;

(iii) a law enforcement initiated tow from public property;

or

(iv) a tow of a vehicle initiated by a private party.

Rollback means a truck chassis having a minimum gross vehicle weight rating of 14,000 pounds, a minimum deck length of 16 feet, and being constructed of steel or aluminum. The deck must have a minimum load capacity of 7,000 pounds, a deck winch with a minimum capacity of 6,000 pounds, and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet.

Rotation calls means calls for towing services made by the City using licensees from the City’s rotation list.

Rotation list means a list maintained by the police department containing the names of those wreckers licensed by the city to respond to requests made by the police department for the towing of vehicles.

Rotation wrecker services means the towing, lifting, righting, winching, removal or storage of a city-owned vehicle, illegally parked vehicle, wrecked vehicle, damaged vehicle, inoperable vehicle, seized vehicle, abandoned vehicle, disabled vehicle or other designated vehicle in accordance with the city rotation list.

Tow or towing means the act of moving damaged or disabled vehicles, illegally parked vehicles, and vehicles that must be moved for safekeeping and evidentiary purposes, and abandoned, wrecked, dismantled or inoperative vehicles constituting a nuisance.

Towing Operator means any person, firm corporation or other entity, whether licensed or not, who owns or operates a business which engages, in whole or in part, in the business of towing, removal or storage of motor vehicles in the City of Fayetteville.

~~Wrecker means a truck chassis having a minimum gross vehicle weight rating of 141914,000 pounds with a wheelbase of 84 inches from the rear of the cab to the rear axle, a hydraulic boom assembly having a minimum lifting power of 16,000~~16,000~~ pounds~~12 tons~~, a hydraulic wheel lift having a minimum lifting power of 334,000 pounds retracted, as rated by the manufacturer. A wrecker must also have two 12,000 pound winches and any additional safety equipment as specified by the chief of police and incorporated herein by reference as set forth in this article. ~~Any licensee that is currently on the rotation list as of September 1, 2000, may meet the requirements set forth in section 24-223 by using the size requirement set forth in section 24-224 until such equipment is replaced.~~~~

Wrecker inspector means the person designated within the City's police department to fulfill his duties as outlined in this article.

(Code 1961, § 20-164; Ord. No. S2001-004, §§ 1, 2, 2-5-2001)

Cross references: Definitions generally, § 1-2.

Sec. 24-222. Policy.

In order to protect persons who operate motor vehicles inside the city, it is desirable and necessary to adopt this article to ensure licensing, storage, availability, and other controls over persons and firms ~~licensed to provide wrecker service~~providing towing and vehicle storage services.

(Code 1961, § 20-165)

Sec. 24-223. Duties and requirements of licensees under this article.

(a) The licensee shall provide a wrecker vehicle of sufficient size and weight as defined in section 24-221. The operator of such wrecker shall follow the manufacturer's operation manual in the operation of such wrecker. The wrecker operator shall not attempt to tow any vehicle that would reduce the weight of the front axles of the wrecker by 50 percent or more.

(b) All wreckers shall be equipped with warning lights required under state law. Wreckers and rollbacks shall operate all warning devices while stopped in or near a street, highway, public vehicular area, or any other area where vehicles may travel. Wreckers and rollbacks are not required to operate warning lights while in tow unless the vehicle is oversized or a condition exists that requires towing the vehicle substantially below the speed limit. A wrecker or rollback with a vehicle in tow must have auxiliary tow lights attached to the towed vehicle in a manner that allows following traffic to observe whether the towing unit is turning or braking. If a rollback is transporting a vehicle on the bed and the turn and brake lights are visible to the rear, no auxiliary tow lights are necessary. on-scene and while vehicle is in tow. Pursuant to North Carolina state law, all wreckers shall also have the name of the owner printed on both the sides of the vehicle in letters not less than three inches in height. Wreckers and rollbacks shall be marked in accordance with N.C. Gen. Stat. § 20-101, as it may be modified from time to time.

(c) The licensee shall provide continuous 24-hour-a-day service each day of the year, and there shall be an attendant on duty at the storage lot, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday except for emergencies and ~~wrecker service calls~~ State and Federal holidays. This attendant shall be clothed with the authority to release any vehicle upon the legal conditions of release being fulfilled. The attendant should also be authorized to provide assistance to the driver and any relevant information regarding the towing of their vehicle, including, but not limited to, billing inquiries and property damage. The daytime calls at the daytime rate will be for calls received from 8:00 a.m. until 5:00 p.m. Monday through Friday. The nighttime call rate will be for calls received from 5:01 p.m. until 7:59 a.m. Monday through Friday. The night rate will be charged for all calls received on weekends and holidays. The licensee shall also post instructions in an area that is visible to the public regarding how to retrieve the driver's vehicle when attendants aren't present.

~~(d) The licensee shall assume all liability and shall indemnify and save the city harmless from such liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the firm's employees or other persons and shall maintain the required insurance policies.~~

~~(ed)~~ The licensee shall not release any vehicle directly impounded by the city without authorization by the police department.

~~(f) The licensee shall charge for services such rates as may be fixed by the city council.~~

~~(ge)~~ Wrecker services Licensees shall perform towing service for the city on a rotation basis.

(h) No licensee or agent of the licensee shall intercept police calls by any means for the purpose of soliciting business.

(i) No licensee or agent of the licensee shall engage in unfair and deceptive trade practices in the course and operation of its business in violation of N.C. Gen. Stat. § 75-1, et. seq.

~~(h)~~

(i) Only drivers holding valid North Carolina driver's licenses may respond to City rotation calls. The licensee shall provide North Carolina licensed wrecker drivers for the purpose of responding to city rotation calls. Drivers must adhere to the North Carolina Driver's License Act, N.C. Gen. Stat. § 20-5, et seq. Out of state drivers will not be permitted to respond to rotations calls. When the applicant submits his application, he shall provide Aa current copy of all driver's licenses for his wrecker drivers who will be responding to city rotation calls shall be provided by the applicant upon application to the city rotation lists. Drivers with felony offenses or misdemeanors related to North Carolina's Controlled Substances and Vapors Act, as it may be modified from time to time, offenses involving moral turpitude or the offense of driving under the influence of an intoxicating liquor or drug, or who isare an habitual offenders of traffic laws, will not be authorized to respond to city rotation calls.

(k) Drivers employed by licensees are required to attend and successfully complete eight hours of hands-on training and pass a written test pertaining to the towing and recovery of vehicles. This training shall be conducted by a recognized training facility or by a trained and certified licensee.

~~(j)~~ (k) The licensee shall provide:

(1) ~~Available space~~An outdoor space measuring 8,600 square feet for properly accommodating and protecting ~~a minimum of 15 disabled~~ motor vehicles to be towed or otherwise removed from the place where they are disabled. Such storage space for vehicles shall be enclosed by a minimum six-foot chain link fence or a fence of similar strength and shall have all entrances and exits secure from public access and be compliant with all applicable articles of the Fayetteville City Code;

~~(2) (2)~~ A storage vault or storage room on the storage lot or premises which is adequate to secure and protect personal property which may be left in vehicles towed to a private wrecker. An office space with proper signage identifying the business and telephone number

(3) The storage lot shall be located within the corporate limits of the City Fayetteville. If a licensee and/or applicant is a family member of another licensee and/or applicant, or has a monetary interest, or is otherwise employed by another licensee and/or applicant, the respective businesses must be at least one mile apart.

(4) Licensees are prohibited from sharing any office space, employees or equipment that is subject to inspection with other licensees. However, licensees may request assistance from another licensee to

assist in a particular tow or vehicle recovery, provided that the assisting licensee supervises and operates its own equipment at the scene of that tow or vehicle recovery.

(l) Licensees shall be held responsible for the actions of their employees. Failure to correct or prevent conduct that is in violation of this article that the Licensee had knowledge of, or should have had knowledge of by the exercise of due diligence, will result in action being taken against the Licensee, up to, and including, removal from the city rotation list.

(m) Upon request or demand, and proof of ownership or right of possession, a licensee shall return personal property stored in a vehicle, provided that all authorized charges for towing of the vehicle have been paid. A licensee may not require payment of any storage fees as a prerequisite to release personal property. Any items attached to the vehicle such that a tool of any type is required for removal is not considered personal property under this provision.

(n) All wrecker and rollbacks utilized by the Licensee shall be registered to the Licensee at the address indicated on the Licensee's application as its storage lot or principal place of business within the City of Fayetteville.

(o) Licensees must release vehicles from storage after regular business hours upon request of the Fayetteville Police Department or the owner of the vehicle. Licensees may charge a release fee in accordance with the fee schedule approved by City Council referred to in Section 24-237 for such service as it may be modified from time to time. The Licensee may also require payment of the release fee at the time of the release.

(p) Licensees must tow vehicles to their designated storage facility or to another location designated by the vehicle owner or the Fayetteville Police Department. Charges for tows to a police facility, where the vehicle is not relocated to the licensee's storage facility within fourteen 14 days, shall be paid by the City.

(Code 1961, § 20-166)

Sec. 24-224. Additional equipment authorized.

(a) After having met the requirement of subsection 24-223(a), an ~~operator~~ Licensee may have an additional wrecker meeting the requirements of subsection 24-223(a). of not less than 1014,000 pounds GVWR (one ton) with dual rear wheels. This wrecker must have at least a single cable with no smaller than a 5/16 inch in diameter 6,000-pound winch and boom structure and a minimum of 3,000-pound wheel lift a boom rated at 8 tons with two 8,000 pound winches with 100 foot cables no smaller than 3/8 of an inch in diameter and a wheel lift having a minimum lifting power of 3,000 pounds retracted as rated by

~~the manufacturer.~~ All auxiliary equipment must be duplicated on this additional wrecker as required by the wrecker inspector for large wreckers.

(b) After having met the requirement of subsection 24-223(a), ~~an operator Licensee~~ may have a rollback for the purpose of initial response to rotation calls. This rollback must have a minimum gross vehicle weight of 14,000 pounds, a minimum deck length of 16 feet and be constructed of steel or aluminum. The deck winch must have a minimum capacity of 6,000 pounds and a winch cable with a minimum diameter of three-eighths of an inch and a minimum length of 25 feet. All auxiliary equipment must be duplicated on the rollback as required by the wrecker inspector for the primary rotation wrecker, except dollies.

(c) It is not the intent of this section to allow the wrecker defined in subsection (a) of this section to be used as a substitute for that required in subsection 24-223(a), in order to be eligible to be on the rotation list.

(Code 1961, § 20-167; Ord. No. S2001-004, § 3, 2-5-2001)

Sec. 24-225. Application for license.

~~Any person desiring to perform towing work at police request~~ applicants shall submit an "application for wrecker service license" in duplicate to the wrecker inspector. Applications ~~forms~~ shall be obtained from the office of the wrecker inspector. This ~~form application~~ shall ~~state~~ include:

(1) The name, ~~home and business address and telephone number~~ of the applicant/owner, and name of the business if different from name of owner; ~~home and business address and telephone;~~

(2) That the storage lot on which towed vehicles will be stored is located within the city limits and additional information concerning the size and security features of the lot;

(3) The towing equipment available, its size and capacity;

(4) A complete listing of the insurance policies, complying with section 24-229 and the carriers and agents the wrecker applicant would place into effect upon license approval;

~~(5) A copy of a current city privilege license;~~

~~(6) Copies of all valid North Carolina drivers' licenses for its drivers.~~

~~(7)~~ Such other information as the wrecker inspector may find reasonably necessary to determine whether or not the requirements of this article will be complied with and that it is in the best interest of the public health, safety and welfare to issue a license to the applicant.;

~~(6) The applicant shall also provide a current city privilege license.~~

~~(7) The applicant shall also provide a current copy of all North Carolina driver's licenses for its wrecker drivers.~~

(Code 1961, § 20-168)

Sec. 24-226. Licensing.

(a) ~~Within 30 days (strike 30 days) a~~Within a reasonable period, but no later than ninety (90) days after receiving an "application for wrecker service license," the wrecker inspector shall conduct an investigation to determine if the applicant has complied with the necessary standards and criteria of this article, and that it is in the best interest of the public health, safety and welfare that a license shall be issued to the applicant after having complied with the provisions of section 24-223. If approved, the applicant's name shall be placed at the end of rotation list; provided, that if an applicant is refused a license by the wrecker inspector, the applicant shall have the right to appeal the denial to the wrecker review board for a determination concerning the issuance of license to such applicant. The appeal shall be in accordance with section 24-243.

(b) ~~(b)~~—After the initial approval of the licensing, the wrecker inspector shall conduct an annual inspection to ensure that the licensee maintains the necessary equipment and is otherwise in compliance with the requirements of this article.

(c) The rotation list shall be limited to no more than twenty wrecker companies. Prospective applications will be placed on a waiting list and considered for selection to the City wrecker rotation list in the order that the applications were received. Applicants from the waiting list will be for considered for selection to the City rotation list ion upon the next available vacancy.

(Code 1961, § 20-169)

Sec. 24-227. Mandatory refusal of application.

If an applicant has been convicted, entered a plea of nolo contendere, or received a prayer continued for judgment within the last ~~three-five~~ years for ~~of a any criminal offense as defined by Chapters 14 or 90 of the North Carolina General Statutes~~felony offenses or misdemeanors related to North Carolina's Controlled Substances and Vapors Act as it may be modified from time to time ~~felony or misdemeanor involving moral turpitude~~ or the offense of driving under the influence of an intoxicating liquor or drug, or is an habitual offender of traffic laws, it is the finding of the city council that it is not in the best interest of the public health, safety or welfare to issue a license under this article to such applicant and therefore any such application shall be denied.

(Code 1961, § 20-170)

Sec. 24-228. Conditions precedent to issuance of license.

When an application is approved, a license will be issued when:

(1) ~~(1)~~—Insurance policies required by this article have been procured and a copy of each policy has been given to the wrecker inspector.

Each policy shall be written by a company licensed to do business in ~~the state~~North Carolina, and issued in the name of the licensee.

(2) Each licensee must have its own insurance policies to insure its business, including, but not limited to, equipment, employees, real property and other personal property. Licensees are prohibited from including multiple licensees on one policy, or having licensees as additional insureds on their respective policies. shall be issued to each business, identified by a separate policy number.

(23) The requirements of this article and all other governing laws and ordinances have been met, including that each licensee maintains a business with a business telephone listing within the city limits. This business will be at the same location as the storage lot.

(Code 1961, § 20-171)

Sec. 24-229. Insurance.

The following are the minimum insurance requirements to be kept and maintained by any licensee under this article at all times such license is in effect:

(1) *Garage/auto liability policy.* A garage liability policy covering the operation of the licensee's business equipment, or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of \$1,000,000.00, ~~for any one person injured or killed and a minimum of \$300,000.00 for more than one person killed or injured in any accident and an additional \$50,000.00 for property damage.~~

(2) *Garage keeper's/On-Hook Coverage policy.* A garage keeper's ~~legal~~ liability policy for each storage premises covering fire, theft, windstorm, vandalism and explosion in the amount of \$100,000.00 (\$20,000.00 per claim per vehicle). This shall not be a requirements for open storage areas. Similarly, each licensee must have its own "on hook" insurance policy in the minimum amount of \$100,000.00.

(3) *Notice of change.* Each policy required under this section must contain an endorsement by carriers providing ten days' notice to both the city and the insured in the event of any change in coverage under the policy.

(4) Each licensee must have a separate liability insurance policy issued in the name of the licensee. Licensees are prohibited from including multiple licensees on one policy, or having licensees as additional insured on their respective policies.

(Code 1961, § 20-172)

Sec. 24-230. Hold harmless provision.

Any licensee shall indemnify, save and hold harmless the city, its officers, agents, and employees, from any and all claims, actions, defenses, suits, and proceedings arising out of any negligent-~~act~~, grossly negligent or intentional, willful or wanton misconduct on the part of a licensee, employee, or part-time employee of the licensee, which such ~~negligent act~~misconduct is the proximate cause of damage to any vehicle towed or stored in a lot authorized under the terms of this article, including, but not limited to, liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the firm's employees or other persons.

(Code 1961, § 20-173)

Sec. 24-231. Wrecker inspector; office created.

There is hereby created the office of wrecker inspector, who shall be appointed by the city manager.

(Code 1961, § 20-174)

Sec. 24-232. Duties generally.

The wrecker inspector shall be responsible for:

(1) The practical administration of the wrecker ordinances and regulations and the safety and welfare of the public in connection with the operation and use of rotation wreckers;

(2) The inspection of wreckers;

(3) Advising the chief of police, the city manager, and the wrecker review board with respect to matters governed or incidentally involved in the operation or administration of the wreckers and the rotation wrecker ordinance, after having conferred with members of the wrecker industry.

(4) Making recommendations for submission to the city manager, wrecker review board, and to the city council, after having conferred with members of the wrecker industry. with respect to the adequacy of wrecker service in the city to serve the public convenience and necessity;

(5) Making such studies and recommendations as he may deem advisable looking towards more efficient operation of wreckers and rotation wreckers to the end that the public safety and welfare will be served and proper as adequate wrecker service to the general public will be promoted;

(6) May collect data and statistics related to non-consent tow and release of vehicles.

(7) The wrecker inspector may prescribe procedures for the reporting of information relating to the impound and recovery of non-consent tows

and, consistent with law, operate a centralized data system for the tracking of this information.

(68) All other duties as required by this article.

(Code 1961, § 20-175)

Sec. 24-233. Cost and inspections.

(a) Except as provided in section 24-234, all costs incident to towing and storage shall be paid by the owner, or person in charge or possession of the towed and stored vehicle, to the licenseetowing operator, and a receipt for payment shall be issued to such person. With regard to rotation calls, The the city shall assume no liability or responsibility for any vehicle removed from any place without the authority of the police department. Each licensee shall maintain approved records and claim check system to assure release of vehicles to the rightful owner or authorized person. Such records shall be open to the police department and/or the wrecker inspector for investigation of specific complaints, in writing, and for compiling surveys under this article. Any licensee shall permit any person appointed by the wrecker inspector to inspect his records, vault, security room, or storage area at such reasonable times as the wrecker inspector shall deem appropriate.-

(b) Any administrative costs due to the city -and imposed by this article, to include any service fee due for the operation and maintenance of a centralized electronic data reporting system, -shall be collected by the licensee towing operator at the same time the cost incident to towing and storage are collected in subsection (a) of this section, and immediately paid to the City's Finance Department or designeeoffice of the wrecker inspector by the licensee.

(Code 1961, § 20-176)

Sec. 24-234. Wreckers called by the police.

The police department shall ensure that wreckers are called to the scene of an accident or to impound vehicles on a rotation basis, distributing the calls from the rotation list. The chief of police shall not call or cause to be called any wrecker not on the rotation list unless all such wreckers are unavailable, or unless the owner of the vehicle to be towed requests that a specific wrecker be called; any wrecker called by the police department not on the rotation list shall comply with statutory insurance requirements. In accordance with North Carolina's Incident Management policy, as may be periodically modified, it is specifically permitted for the police department to call a wrecker out of sequence where, due to the public's health, safety and welfare, -or in an emergency or life-threateninglife-threatening situation, proximity to the wreck and estimated response

time make it more necessary to do so. Out of sequence calls shall count as rotation calls.

(Code 1961, § 20-177)

Sec. 24-235. Storage of vehicles.

(a) It shall be the responsibility of any licensee to secure in a safe manner any vehicle or personal property contained in such vehicle that is placed in the custody of the licensee as a result of being called by the city police department to perform a tow. The area within which such vehicle and/or personal property shall be stored shall meet the minimum requirements of subsection 16-223(i). If at the time the vehicle was towed the storage area provided by the licensee is full, then the licensee shall secure the vehicle and/or personal property elsewhere as permitted by the police department. In the event that the vehicle or personal property placed in his custody is the subject of a police investigation for evidentiary purposes, and the storage area is full, then the licensee shall immediately contact the wrecker inspector or the desk sergeant on duty and make arrangements to secure the vehicle and/or personal property in a safe manner.

(b) Whenever a vehicle is impounded and held for evidentiary purposes as the result of a criminal arrest, the owner of the vehicle shall be reimbursed by the city for any towing and storage fees incurred during the period of time that the car is held for evidentiary purposes only upon one of the following conditions being met:

- (1) ~~If~~The owner is not arrested with any crime arising out of the alleged criminal activity resulting in the impoundment; or
- (2) ~~If~~The vehicle is returned pursuant to the provisions of G.S. 90-112.1; or
- (3) If the owner is arrested, ~~only if~~ the charge is ~~dismissal~~dismissed or there is a finding of no probable cause in district court.

In the case where none of the above conditions have been satisfied, the city shall reimburse the towing operator for any towing and storage fees and/or assist the towing operator in obtaining restitution as allowed by law.

(Code 1961, § 20-178)

Sec. 24-236 Electronic Reporting of Tow Information

(a) The eCity shall, consistent with state and local law, prescribe a form or other method for the electronic reporting of all ~~non-consent tow~~stowing services provided within the City of Fayetteville in order to facilitate and expedite the recovery of a vehicle from a vehicle storage facility, as defined in this ordinance.

(b) The towing operators, as defined by this ordinance, shall report by electronic means to the police department all necessary information required to

assist the City in notifying the registered owner regarding the towing and/or release of their vehicle. The reporting shall be completed within sixty (60) minutes from the time the vehicle is delivered to the storage lot, provided that the tow occurred during normal business hours, or by 9:00 a.m. the following business day if the vehicle was towed during non-business hours. The necessary information related to the towing of the vehicle information to be reported should include, but is not limited to, the following:

- (1) the name and address of the registered owner of the vehicle.
- (2) the location of the stored vehicle;
- (3) a description of the stored vehicle, including the color, —make, and model of the vehicle;
- (4) -vehicle license plate number and state; and a license number, if there is one;
- (5) vehicle identification number (VIN); motor vehicle registration information.; and
- (6)—the date and time that the vehicle was towed; and
- (7) the location from where the vehicle was towed. the date the vehicle was released from custody. —

If applicable, the wrecker operator shall also provide the following information within sixty (60) minutes of releasing the vehicle:

- (1) the owner's driver's license/identification number;
- (2) the date and time the vehicle was released from custody; and
- (3) the identity of the individual to whom the vehicle was released, to include the name, address and driver's license/identification number if different from that of the registered owner. —

Sec. 24 ———. Facilitating Recovery of Non-Consent Towed vehicles; Reporting of Data.

(a) The wrecker inspector shall collect data and statistics related to the impoundment and release of the following vehicles that are towed as non-consent tows in accordance with state law and with this ordinance. Data should include information relating to:

- (1) Vehicles that are towed by law enforcement; and
- (2) Vehicles that are towed as private property impounds, repossession, and emergency tows.

(b) The wrecker inspector may prescribe procedures for the reporting of information relating to the impound and recovery of non-consent tows and, consistent with law, operate a centralized data system for the tracking of this information.

Sec. 24-236237. Fees.

The city council, from time to time, upon the recommendation of the wrecker inspector, after having consulted with the licensees, shall establish a table of maximum fees and costs that may be charged by licensees under the provisions of this article, and establish any administrative fees due to the city to be charged per tow for the costs incurred in

administering the provisions of this article-, including the assessment of an administrative fee for all non-consent tows initiated under this ordinance.

(Code 1961, § 20-179)

Sec. 24-~~237~~238. Other regulations.

The wrecker inspector, subject to approval by the city manager, shall establish and cause the enforcement of reasonable rules and regulations for licensees as from time to time he deems appropriate for the safety, well-being, and protection of citizens within his jurisdiction and their property. These rules and regulations, as approved by the city manager from time to time, shall be incorporated in this section by reference. A copy of these rules and regulations shall be available for inspection in the office of the wrecker inspector at all times.

(Code 1961, § 20-180; Ord. No. S2001-004, § 4, 2-5-2001)

Sec. 24-~~238~~239. Solicitation of business.

(a) It shall be unlawful for ~~the operator of any wrecker towing operator~~ or person acting on behalf of any ~~wrecker or towing service operator, whether that vehicle or towing service is licensed under the provisions of this article or not,~~ to stop or approach within 1,500 feet of a scene of an accident or disabled vehicle either for the purpose of soliciting an engagement for towing service, either directly or indirectly, or to contact the owner/operator or legal possessor of a disabled or wrecked vehicle, either directly or ~~indirectly, or indirectly, or~~ to solicit by phone, for the purpose of soliciting business or to furnish any towing service, unless the ~~wrecker towing~~ operator has been summoned to such scene by the owner/operator or legal possessor of a disabled or wrecked vehicle or has been requested to perform such service at the request of a law enforcement officer or agency pursuant to that agency's procedures. For purposes of this section, unlawful solicitation shall include, but is not limited to, the distributing of business cards, tokens or items of any kind bearing ~~the name~~ the name of a ~~wrecker or towing firm~~ towing operator within 1,500 feet of a scene of an accident or disabled vehicle by a licensee not summoned to such scene as provided in this section.

(b) It shall be unlawful for a city, county or state employee to solicit for any towing ~~or wrecker service operator~~. For purposes of this section, unlawful solicitation shall include the distributing of business cards, tokens or items of any kind bearing the name of a ~~wrecker or towing firm~~ operator at anytime.

(Code 1961, § 20-181; Ord. No. S2001-004, § 5, 2-5-2001)

Sec. 24-~~239~~240. Suspension or revocation of license.

(a) The following shall be grounds for suspension or revocation of a license issued under this article:

(1) The license was secured by fraud or by the concealment of a material fact by the licensee and such fact, if known, would have caused a refusal to issue a license;

(2) The licensee, or any employee, representative or agent of the licensee, is charged with any criminal offense as defined by Chapters 14felony or any violations of 90 of the North Carolina's Controlled Substances and Vapors Act, as it may be modified from time to time, General Statutes, or the offense of driving under the influence of an intoxicating liquor or drug.

(3) The licensee failed to procure insurance as provided in Sections 24-228 and 24-229.

(24) The licensee has violated any of the requirements of the regulations established by the wrecker inspector under this article;

(35) Past services rendered by any licensee are shown to be detrimental to the public health, safety, and welfare, including overcharging of wrecker fees or false charging of items done by the wrecker business;

(46) The licensee paid in the form of a gratuity any third person for information as to the location of the accident;

(57) The licensee has violated the fee schedule by overcharge or false charges;

(68) Failure to operate the wreckers specified in such a manner as to serve the public adequately and efficiently;

(79) Failure to maintain wrecker and recovery equipment, to include all vehicles used in towing, vehicle in good condition;

(810) Failure to pay the city privilege license fee imposed upon wreckerslicensees;

(911) Failure to report accidents while towing city rotation call vehicles or to furnish such other records and reports as may be required by this chapter and/or the wrecker inspector;

(12) Failure to pay civil penalties issued pursuant to this ordinance;

(1013) The intentional, willful or wanton Failure-failure to comply with any of the provisions of this chapter, ordinance or state laws relating to the operation of wreckers; and-

(14) The intentional, willful or wanton failure to comply with the reporting requirements of this ordinance, as may be periodically modified.

(b) If the wrecker inspector determines that any of the above violations have occurred, he shall have the authority to revoke or suspend a license as follows:

(1) For violation of subsection (a)(1) through (3) of this section, revocation;

(2) For a first time violation of subsections (a)(24) through (10134) of this section, suspension up to 30 days;

(3) For a second violation of subsections (a)(~~24~~) through (~~10134~~) of this section, within a period of two years from the date of the first suspension, suspension up to 60 days; and

(4) For a third violation of subsections (a)(~~24~~) through (~~10143~~) of this section, within a period of two years from the date of the first violation, revocation.

(c) Any licensee who has his license revoked shall be eligible to apply for a new license one year from the date of the revocation. For purposes of this section, the date of suspension or date of revocation shall be the date of the notification by the wrecker inspector pursuant to section 24-240, or if an appeal is made, the date of the final action by the wrecker review board.

(Code 1961, § 20-182)

Sec. 24-~~240~~241. Notification of suspension or revocation by wrecker inspector.

Such revocation or suspension shall be in writing and notify the licensee of the following:

- (1) The nature of the violation;
- (2) The wrecker inspector's recommendation as to whether the licensee should remain on the rotation wrecker list, should be suspended, or its license revoked;
- (3) That the licensee has a right to appeal such action to the wrecker review board.

(Code 1961, § 20-183)

Sec. 24-~~241~~242. Wrecker review board.

There is hereby established a wrecker review board whose function is to hear appeals from any decision of the wrecker inspector pursuant to this article. The board shall be composed of a chairman, two individuals selected by the licensees, and two individuals appointed by the chief of police. The chairman shall be selected by the city council, and shall be a disinterested person who is not a licensee, wrecker owner or operator, or a city employee. Two members of the wrecker review board shall be selected by the licensees by means of a vote of the licensees. The chief of police shall appoint two members of the police department who hold the rank of sergeant or higher to the wrecker review board. All members shall serve for a term of two years, and no member shall serve more than two consecutive terms. The wrecker inspector shall serve as a nonvoting advisor and to bring complaints to the wrecker review board.

The wrecker review board will meet on a quarterly basis irrespective of whether they receive any notices of appeals. All meetings, to include appeal hearings, will be governed by North Carolina's open meeting laws.

(Code 1961, § 20-184)

Cross references: Administration, ch. 2.

Sec. 24-~~242~~243. Appeal to the wrecker review board.

Whenever any provision of this article shall provide for an appeal of a decision of the wrecker inspector to the wrecker review board, the following procedure shall be followed:

- (1) The appellant shall give written notice of appeal to the city clerk within ten days of receiving the notice of the action he is appealing;
- (2) The wrecker review board shall hold a hearing on the appeal within 30 days of receipt of the written notice of appeal;
- (3) The written notice of appeal shall state whether or not the appellant wants an open or closed hearing before the wrecker review board. In the event of the failure to make such a request, such hearing shall be open.

(Code 1961, § 20-185)

Sec. 24-~~243~~244. Action pending appeal; lapse of time; waiver.

(a) Whenever a provision of this article states a specific time within which an appeal must be taken, and regardless of the level of authority from which the appeal may be taken, if the appeal is not taken within the time prescribed, then the action of the wrecker inspector from which the appeal may have been taken is deemed to be final.

(b) The action of the wrecker inspector suspending or revoking the rights granted under the authority of this article shall be effective upon receipt of notice by the licensee; provided, that if the licensee files a timely appeal, then any right under this article heretofore existing shall continue in effect during the pendency of any appeal or 30 days, whichever is sooner.

(c) Any hearing may be continued upon 48 hours' written notice prior to the date of the hearing; provided, that if the new date for the hearing is more than 30 days from the date of the original notice of appeal, then the rights of the appellant pursuant to subsection (b) of this section may only be extended upon a showing of good cause.

(Code 1961, § 20-186)

Sec. 24-~~244~~245. Hearing; action of wrecker review board.

(a) The purpose of the hearing before the wrecker review board shall be to determine whether or not the action of the wrecker inspector in suspending or revoking the rights and privileges of the appellant was in the best interests of the public health, safety, and welfare of the city. The appellant shall be permitted to present any evidence relevant to the subject matter of the appeal. The hearing

shall be administrative in nature, and the action of the wrecker review board shall be final.

(b) If the action of the wrecker review board is to affirm the action of the wrecker inspector, then the effective date of the action shall be the date of the hearing. Any period of actual suspension as the result of a continuance prior to the hearing shall be counted toward any period of suspension approved by the wrecker review board.

(Code 1961, § 20-187)

Sec. 24-~~245~~246. Hearing procedures.

Any hearing before the wrecker review board shall use the following procedures:

- (1) The hearing shall be open, unless specifically requested by the appellant prior to the hearing;
- (2) The appellant shall be entitled to make any statements either by an attorney or someone of his own choosing;
- (3) The appellant shall be entitled to make any statements or present any witnesses on his behalf that he desires;
- (4) The hearing shall be administrative in nature, there shall be a right of cross examination;
- (5) The appellant shall be entitled to transcribe the proceedings at his own cost.

(Code 1961, § 20-188)

Sec. 24-~~246~~247. Applicability to previous licensees; noncompliance.

Whenever this article is amended from time to time by the city council and such amendments shall render any current approved licensee in noncompliance with this article as amended, such ~~noncomplying-noncompliant~~ licensee shall have a period of one year from the effective date of the amendment of the article within which to comply.

(Code 1961, § 20-189)

Sec. 24-~~247~~248. Persons prohibited from holding a license.

No ~~city council member~~ ~~council member,~~ or employee directly involved with the administration of this article shall be permitted to hold a license under the terms of this article.

(Code 1961, § 20-190)

Sec. 24-249. Improper towing

(a) It is a misdemeanor offense to tow a motor vehicle from a lot that is subject to the provisions of N.C.G.S. 20-219.2, as it may be modified from time to time, unless the lot and individual parking spaces are properly designated as mandated by that statute.

(b) Any towing operator shall not charge the owner or operator of the towed vehicle in excess of one hundred dollars (\$100.00) for the non-consensual tow of the motor vehicle or in excess of twenty-five dollars (\$25.00) per day for storage fees; however, no storage fees shall be charged for the first twenty-four (24) hour time period from the time the vehicle is towed from the property. The fee of one hundred dollars (\$100.00) shall be all inclusive. The fees referred to in this section shall be payable by cash, debit card or major national credit card at no extra cost. Failure to accept credit or debit cards for payment or to charge an additional fee for payment with a credit or debit card is a violation of this section and is punishable as a misdemeanor. No additional fees may be charged for using dollies, trailers, lifts, Slim jims or any other equipment or service. However, the maximum fees in this section shall not apply to the non-consensual towing of vehicles weighing in excess of two (2) tons. Non-consensual towing fees and storage rates shall be established by the City Council in accordance with their fee schedule, as it may be modified from time to time.

(c) Any towing operator removing a private vehicle at the request of any person, other than a police officer on duty, shall report to the Fayetteville Police Department the fact that the vehicle was towed and its present storage space in accordance with Sec. 24-236 of this article.

(d) Any towing operator summoned to tow any vehicle in a non-consensual towing shall not tow the vehicle and shall release the vehicle for a charge not to exceed fifty (50) percent of the non-consensual towing rate set out in paragraph (b) herein if the operator of the vehicle returns prior to the tow truck having left the location to which he was summoned and moves the vehicle immediately and prior to the tow truck having left the location to which it was summoned. The towing operator shall permit the owner of a vehicle towed non-consensually to remove personal property from a vehicle in the custody of the towing operator without any charge or fees. If the towing operator has removed personal property from the vehicle, it shall be returned to the owner of the property at no charge upon request made to the towing operator.

Sec. 24-~~248~~250. Enforcement.

(a) A violation of section 24-238, solicitation of business, by a licensee, shall submit the violator to a civil penalty in the nature of a debt in the sum of \$3,000.00 for each large rotation size tow and \$500.00 for each automobile rotation size tow. The civil penalty shall be imposed by a citation served personally or by registered mail to the violator by the wrecker inspector.

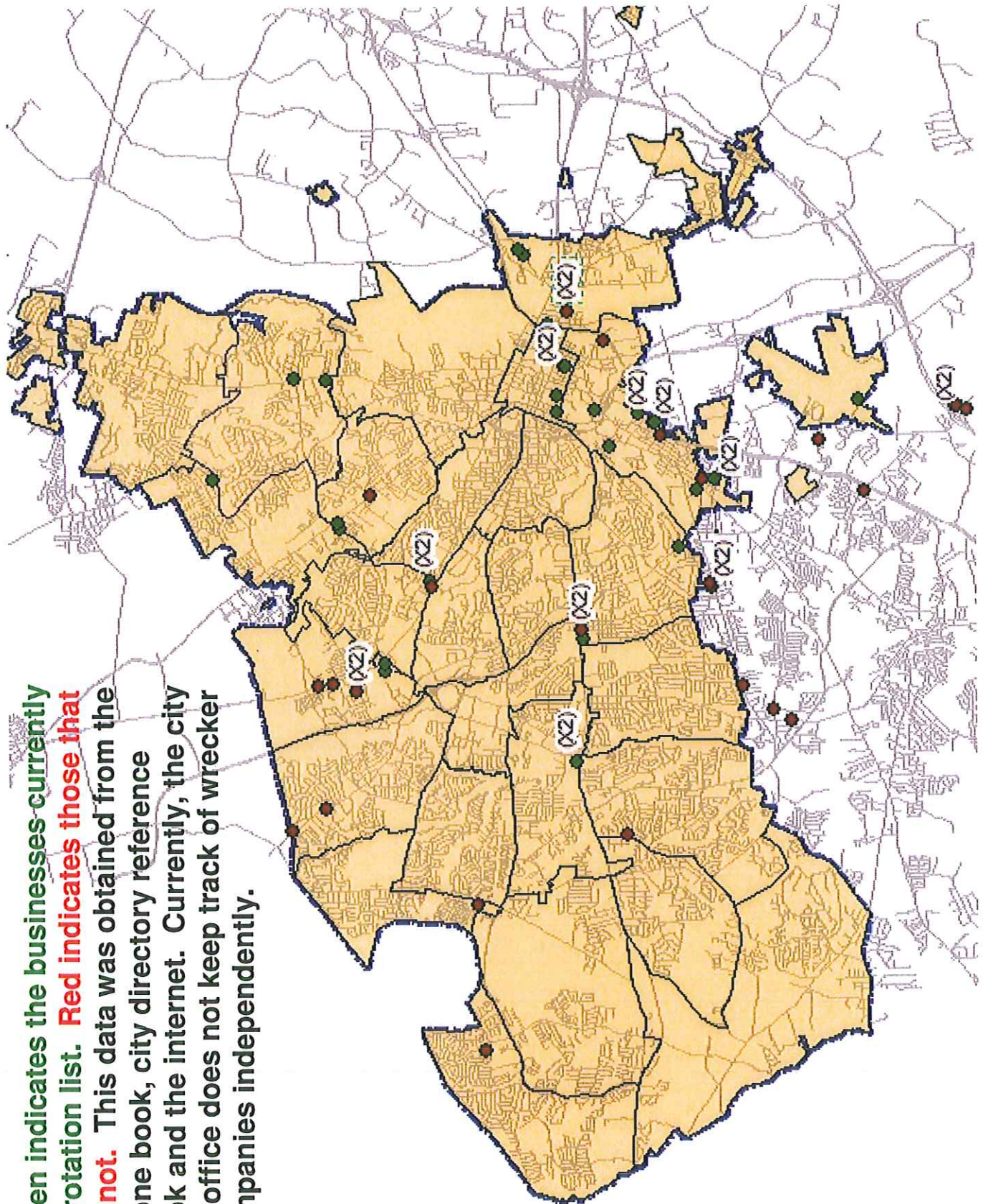
(b) Any violation of this article, other than sections 24-238 or 24-249, by a licensee, shall submit the violator to a civil penalty of \$100.00—\$250.00 in an amount in accordance with the fee schedule as adopted by the city council, as may be periodically modified. In addition, if-if a wrecker or towing service licensee is in violation under this article more than three times in one year for a violation of this article, the wrecker or towing service licensee shall also be subject to removed-removal from the rotation list for a period of one year. For purposes of removal and/or revocation, the -The violations can arise from the same incident, occur simultaneously and during the same incident.

(c) If a civil penalty issued under this section is not paid as set forth in the citation within thirty (30) days of receipt thereof, failure to pay shall result in the institution -City instituting collection procedures of an action in the nature of a debt in a court of competent jurisdiction to collect the civil penalty as pursuant to G.S. 160A-175(c) to collect the debt. The licensee will be suspended from all City rotation lists until the civil penalty is satisfied.

(Code 1961, § 20-191; Ord. No. S2001-004, § 6, 2-5-2001)

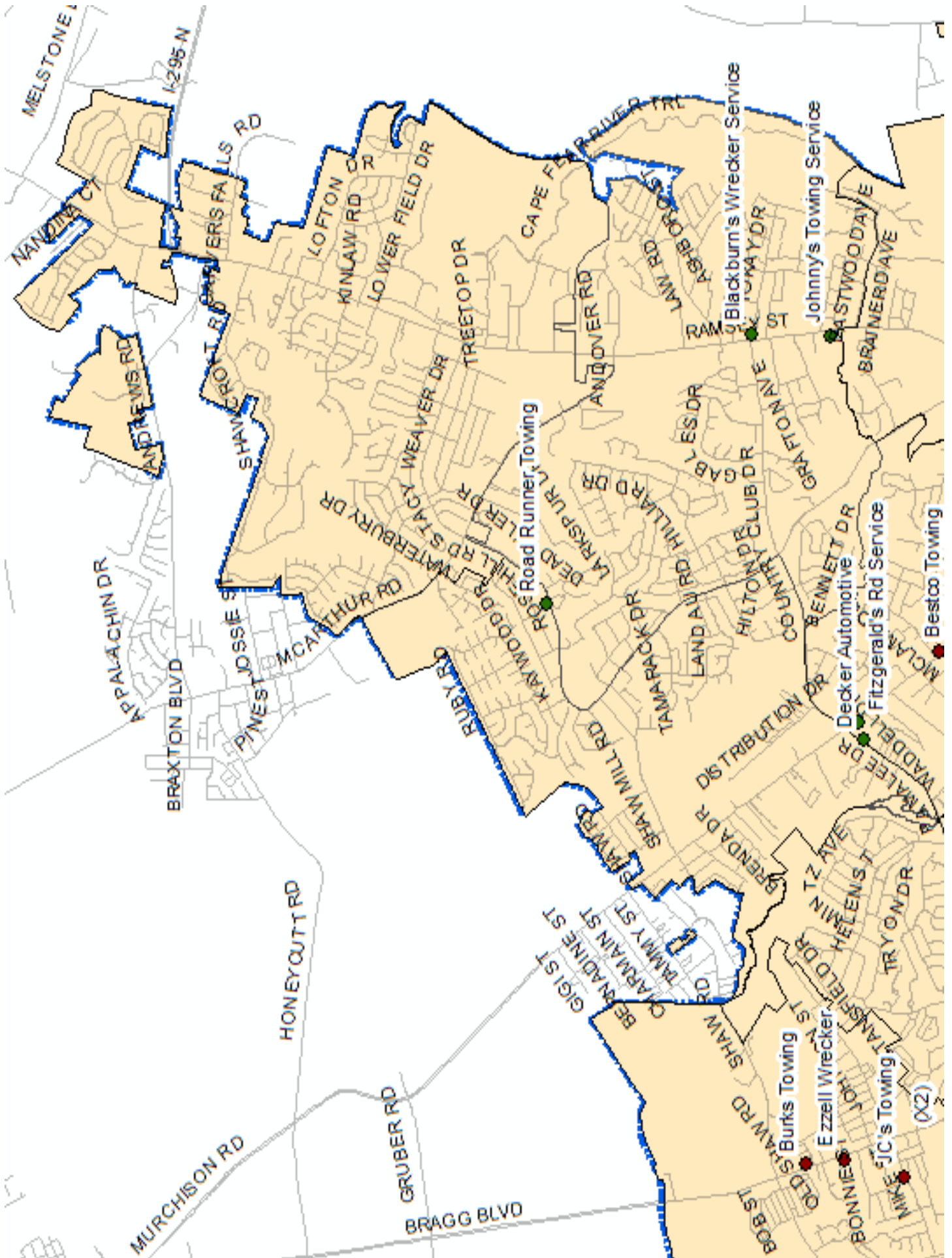
Secs. 24-249--24-270. Reserved.

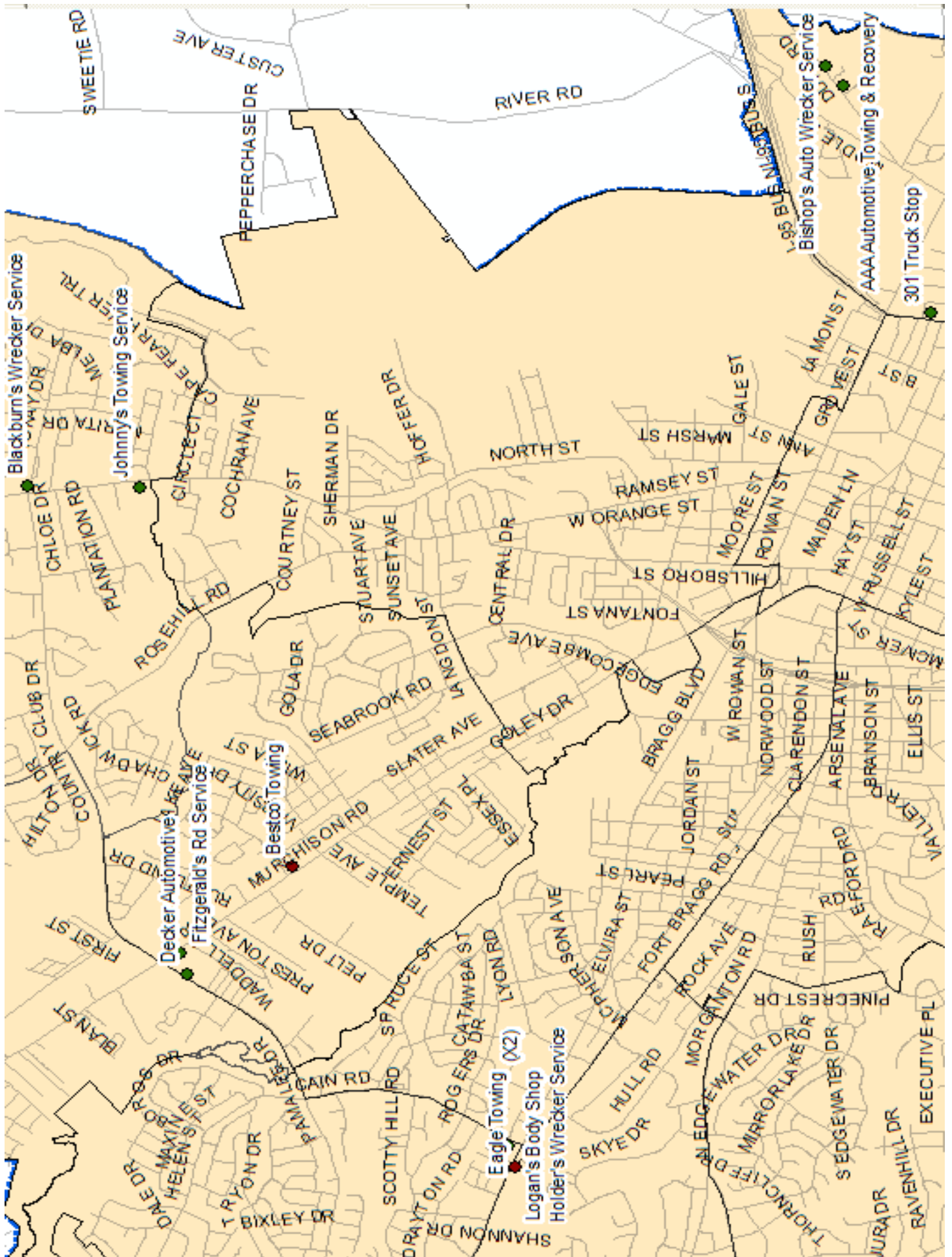
Green indicates the businesses currently on rotation list. Red indicates those that are not. This data was obtained from the phone book, city directory reference book and the internet. Currently, the city tax office does not keep track of wrecker companies independently.

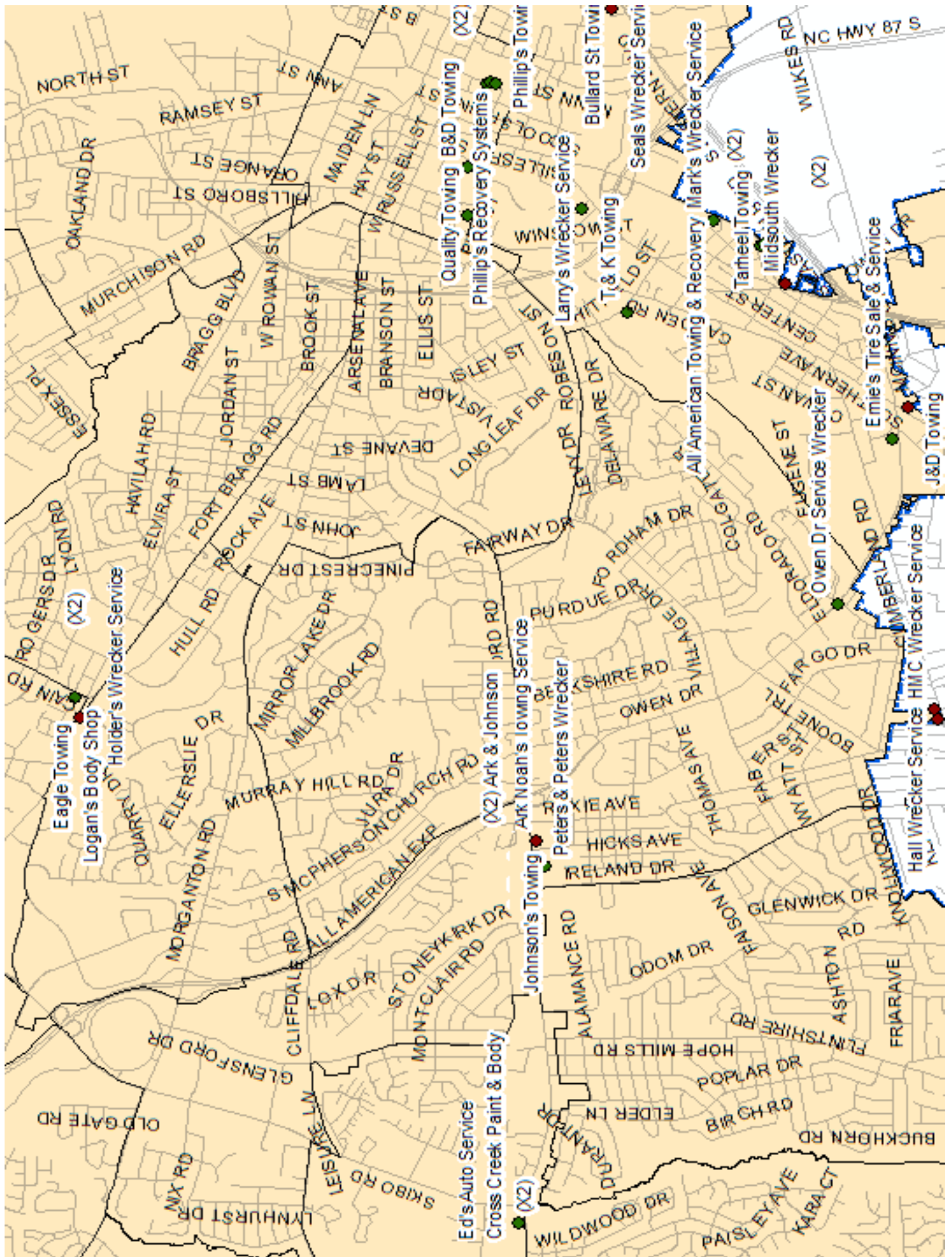


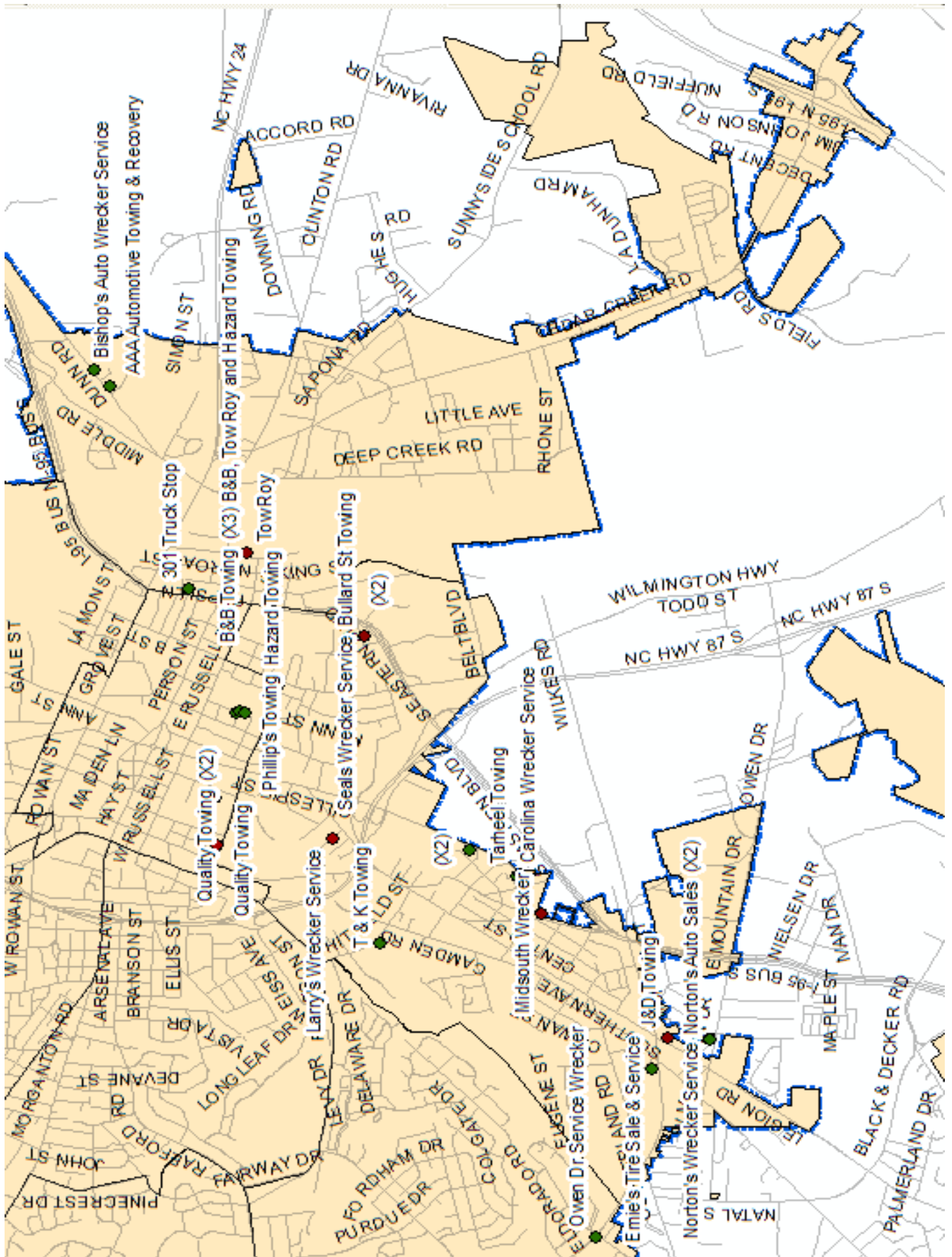
COMPANY	OWNER	ADDRESS	CITY	St	ZIP	TELEPHONE
H&H Towing		10298 Fayetteville Rd				630-5122
Brownies		10298 Fayetteville Rd			28304	868-3264
Safe Tow		1095 Strathdon Ave			28304	223-1050
Blackburn's Wrecker Service	Jackie R. Blackburn	117 Tokay Dr	Fayetteville	NC	28301	488-2440
Horne's Recovery & Towing	Roland N. Horne, Jr.	127 Joseph St	Fayetteville	NC	28303	484-1088
B&B Towing	Gary Blackwell	127 S Broad St	Fayetteville	NC	28301	764-3488
Tow Roy		127 S Broad St				485-7473
Hazard Towing	Franklin Blackwell	127 S Broad St	Fayetteville	NC	28301	485-7919
All American Towing & Recovery	Brian Seals	1318 Gillespie St	Fayetteville	NC	28306	484-6659
Mark's Wrecker Service	Mark Seals	1318 Gillespie St	Fayetteville	NC	28306	483-7374
Ken's Muffler & Auto Repair	Kenneth Charles Ritter	140 Swain St	Fayetteville	NC	28303	868-2284
Tarheel Towing	Janine Cashwell Seals	1615 Gillespie St	Fayetteville	NC	28301	322-6492
Carolina Wrecker Service	Janine Cashwell Seals	1615 Gillespie St	Fayetteville	NC	28306	322-6491
Midsouth Wrecker		1801 Gillespie St				223-9009
Decker Automotive	Kenneth Decker	1924 Pamalee Dr	Fayetteville	NC	28301	822-1050
Owen Dr Service Wrecker	Maylon Peters	2046 Owen Dr	Fayetteville	NC	28306	678-2020
301 Truck Stop	Wade McDonald	210 N. Eastern Blvd	Fayetteville	NC	28301	483-0105
Larry's Wrecker Service	Larry R. Sessoms	219 Tolar St	Fayetteville	NC	28303	425-1050
Bestco Towing		2502 Murchison Rd			28301	482-8889
J&D Towing		2507 Southern Ave			28304	426-3155
Halls Motor Co & Wrecker		2511 John Smith Rd			28306	488-6900
Bob's Wrecker		2617 Hope Mills Rd			28306	425-9266
Ernie's Tire Sale & Service	Ernest M. Norton, Jr.	2691 Owen Dr	Fayetteville	NC	28306	323-4144
Johnny's Towing Service	Johnny Beard	2909-B Ramsey St	Fayetteville	NC	28301	630-1715
Fitzgerald's Rd Service	Steven Fitzgerald	3109-C Murchison Rd	Fayetteville	NC	28301	822-6323
J C Towing		316 Mike St			28303	864-8208
Diamond's Body Shop	Jay Howard Rivers	316 Mike St	Fayetteville	NC	28306	624-7999
JC's Towing	John Helton	316 Mike St	Fayetteville	NC	28306	322-1365
Phillip's Transportation Systems	Phillip McCorquodale	321 Alexander St	Fayetteville	NC	28301	323-9601
Phillip's Recovery Systems	Phillip McCorquodale	325 Alexander St	Fayetteville	NC	28301	323-9601

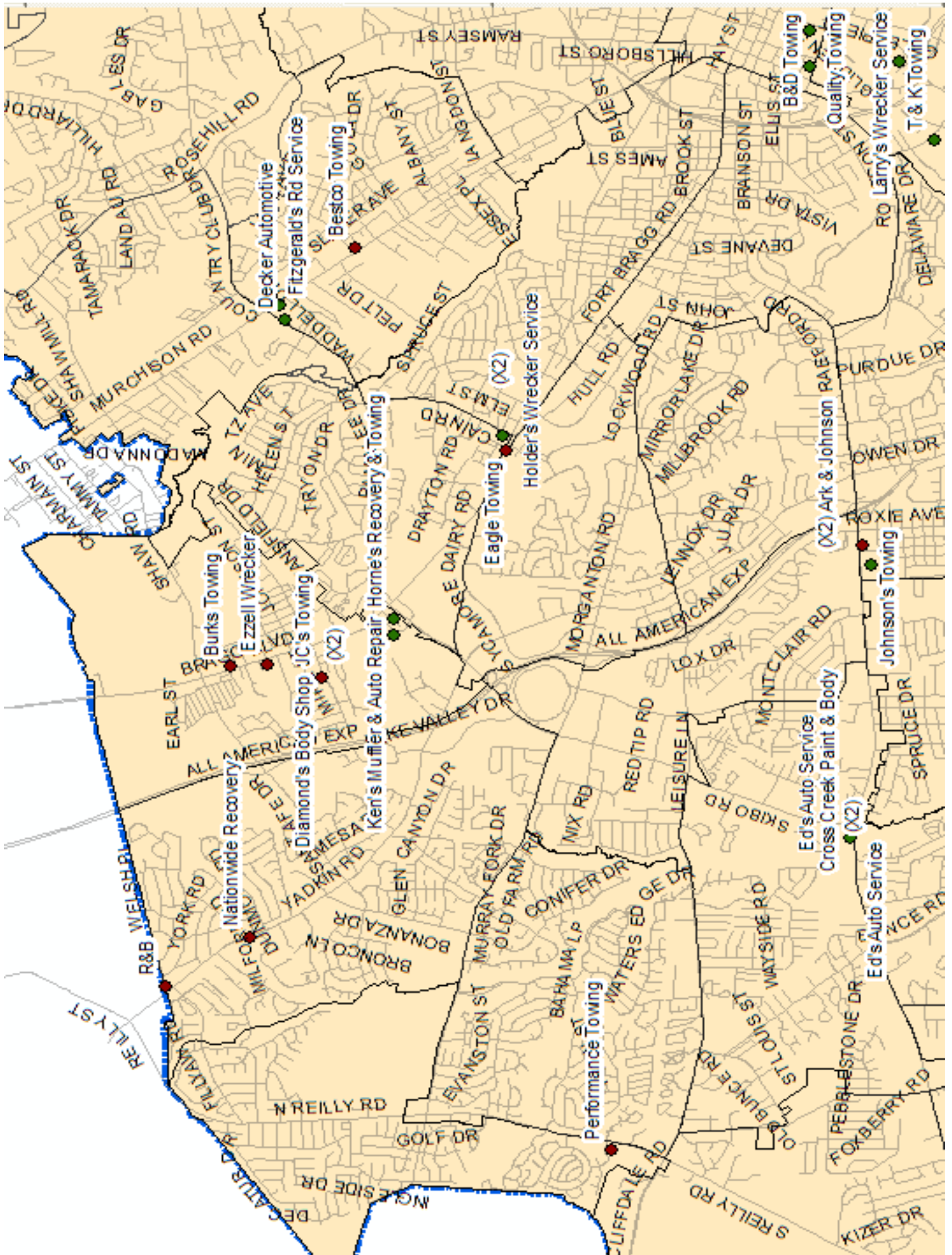
Phillip's Towing	Phillip McCorquodale	327 Alexander St	Fayetteville	NC	28301	323-9600
Hall Wrecker Service	Jerry Hall	3424 Cumberland Rd	Fayetteville	NC	28306	624-0025
HMC Wrecker Service		3424 Cumberland Rd			28306	424-3680
ASAP Towing & Recovery		3448 Cumberland Rd			28304	423-2573
Leroy's Wrecker Service	Leroy Young	3525 Doc Bennett Rd	Fayetteville	NC	28306	987-3168
Ralph's Towing		3580 Gillespie St			28306	425-0049
Ark Noah's Towing Service		3805 Raeford Rd			28303	484-0858
Johnson's Towing		3805 Raeford Rd				483-1302
C&J Towing		3830 Rocoso Pl			28306	426-3399
J & H Towing		3830 Rocoso Pl			28306	678-0213
Peters & Peters Wrecker	Maylon Peters	4003 Raeford Rd	Fayetteville	NC	28304	484-2101
Larry's Towing		401 Delbert			28306	425-1050
R&B		402 Brunswick Dr				920-1406
Norton's Auto Sales	Mark S. Norton	412 West Mountain Dr	Fayetteville	NC	28306	484-0000
Norton's Wrecker Service	Mark S. Norton	412 West Mountain Dr	Fayetteville	NC	28306	485-6487
B&D Towing	Billy Davis	420 Worth St	Fayetteville	NC	28301	229-1934
Quality Towing	Terry Easom	422 Blount St	Fayetteville	NC	28305	860-0062
C&J Towing		4412 Claude Lee Rd				
A-1 Towing		4459 Cumberland Rd	Fayetteville	NC	28306	423-0101
Centennial Towing		446 Landsdowne Rd				864-0111
Road Runner Towing	John Legette	4811 Rosehill Rd	Fayetteville	NC	28311	630-3043
Ezell Wrecker		5321 Bragg Blvd			28303	487-0404
Burks Towing		5522 Bragg Blvd			28303	826-0694
Performance Towing		594 S Reilly Rd			28314	487-5964
Cross Creek Paint & Body	Raymond Schantz	6006 Raeford Rd	Fayetteville	NC	28304	391-8700
Ed's Auto Service	Edward Schantz, Jr.	6006 Raeford Rd	Fayetteville	NC	28304	988-8620
Nationwide Recovery		6115 Yadkin Rd			28306	424-1234
AAA Automotive Towing & Recovery	Jill B. Soles	628 Dunn Rd	Fayetteville	NC	28312	483-8818
Bullard St Towing	Martha Seals	702 Bullard St	Fayetteville	NC	28301	323-1114
Seals Wrecker Service		702 Bullard St			28301	323-0681
T & K Towing	Theodore P. Melvin	703 Whitfield St	Fayetteville	NC	28306	425-7419
Bishop's Auto Wrecker Service	Gerald Bishop	714 Dunn Rd	Fayetteville	NC	28301	483-5156
T&L Roadside Service		7217 Reedy Creek Rd				484-9111
Holders Wrecker Service	Gary A. Holder, Jr.	805 Cain Rd	Fayetteville	NC	28303	488-6968
Logan's Body Shop	Gary M. Logan	805 Cain Rd	Fayetteville	NC	28303	822-6255
Eagle Towing		Fort Bragg Rd			28303	864-1811
Tow-Rite		NC Hwy 87 N				436-3988
AA Best Towing & Recovery						476-0319
ACE Wrecker Service						829-0000
Brothers Towing						273-0826
Free Towing & Recovery						424-4869
Red Rider Towing						822-9457
Tow Jam						
Faith Towing					28301	635-3088
J Rod Car Towing						546-2327
Fam Trans Towing					28301	824-9304
Flores Towing					28314	354-8977

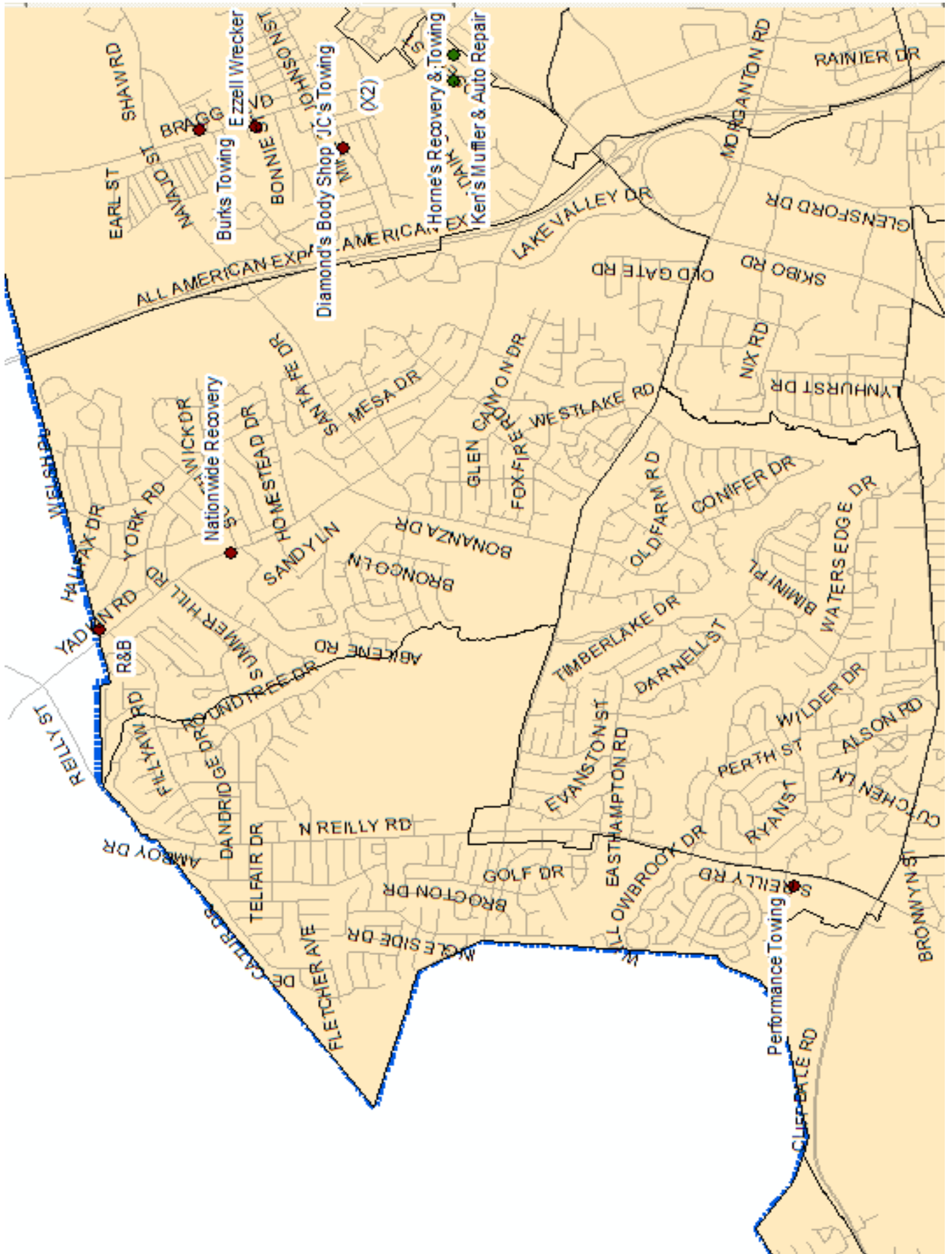


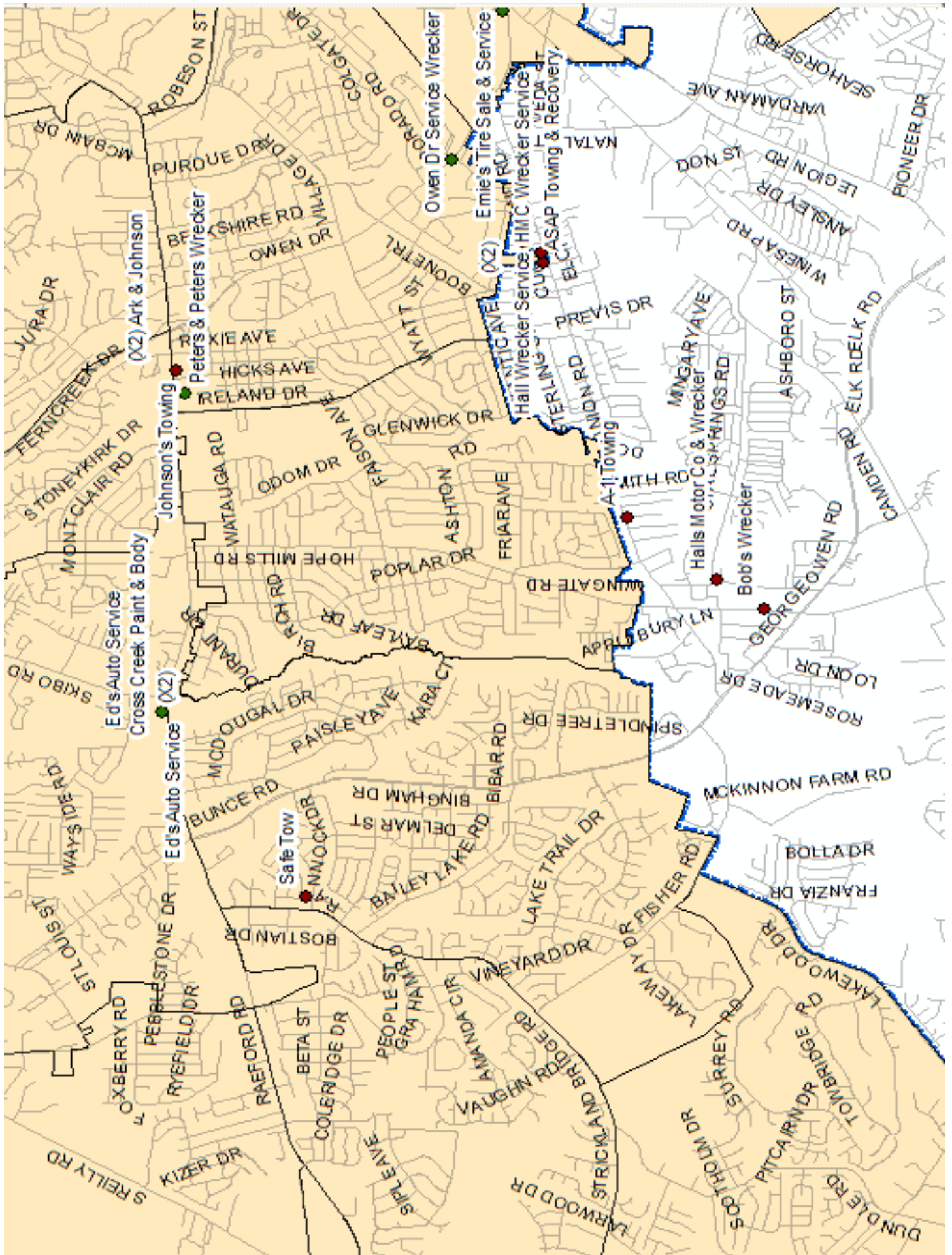


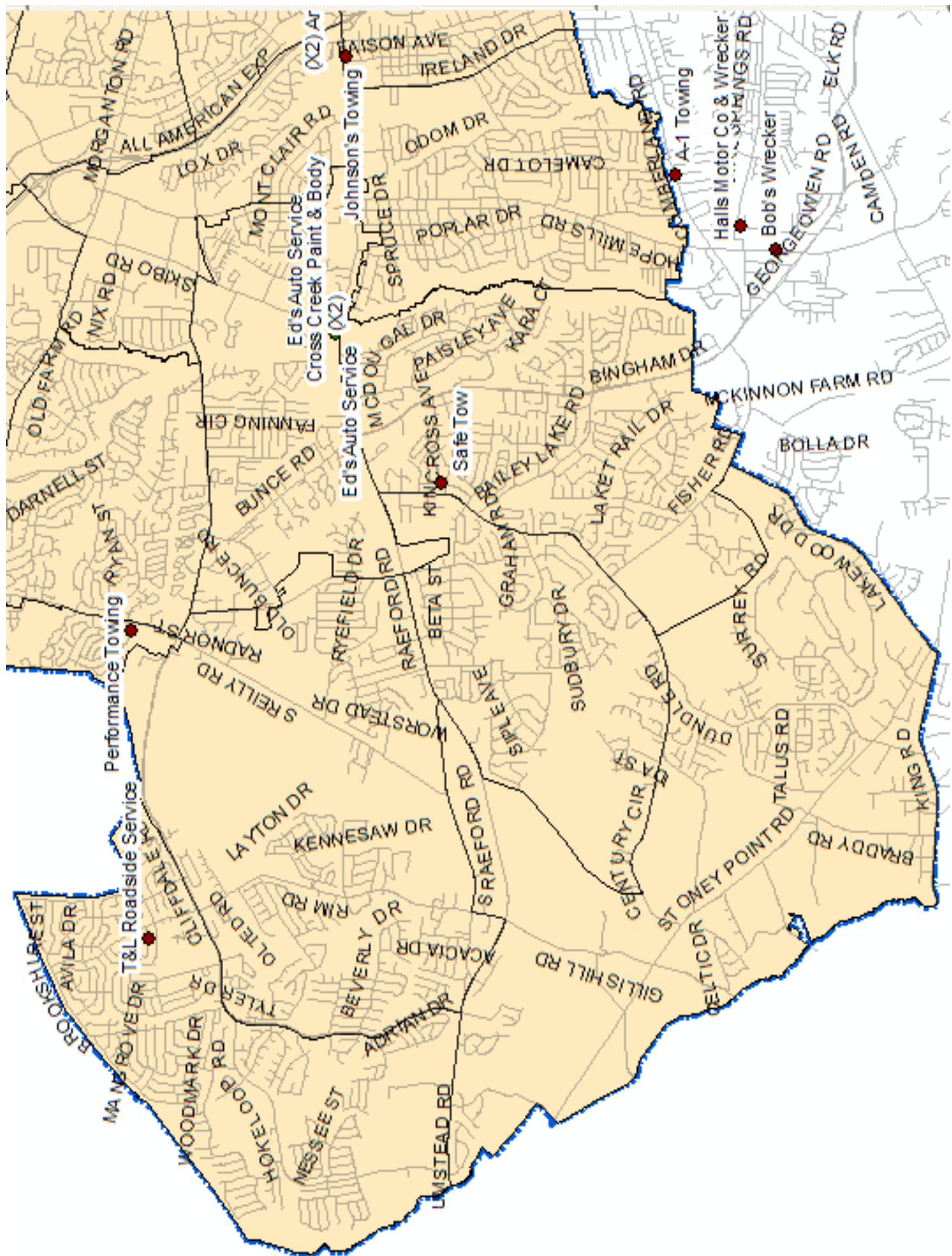












CITY COUNCIL ACTION MEMO

TO: Mayor and Members of Council
FROM: Stanley Victrum, City Chief Information Officer & James Rose, PWC Chief Administrative Officer
DATE: March 1, 2010
RE: **IT - Update on the Fiber-to-the-Home (FTTH) Concept Exploration**

THE QUESTION:

Should the City continue to pursue expansions in the Community's broadband access using a FTTH strategy?

RELATIONSHIP TO STRATEGIC PLAN:

1. This concept exploration relates to City Vision 2023 Guiding Principles A.2, A.4, G.1, G.5, G.6, G.7 and to the City 2014 Goals 2.1, 2.3, 4.1 and 5.5.

BACKGROUND:

The City Council, as part of efforts to study the FTTH concept for the Fayetteville Community, directed the City Staff in August 2009 (please reference Agenda Item #4 from the Council Work Session on 8/3/2009) to survey constituent interest in high-speed broadband access. In response to this, the City Staff worked with PWC staff to develop a survey questionnaire and commissioned Hodges Associates, Inc. to conduct the survey of residents and businesses in the Fayetteville Community. Hodges Associates conducted the survey in January 2010 and the survey results are contained in enclosure (1).

The City Staff also met with representatives from CenturyLink and from Time Warner Cable (TWC), two of the largest private providers of residential and commercial broadband service in the Fayetteville Community, to ascertain their related plans and timetables for expanding or increasing their broadband services. Due to conditions of non-disclosure of their companies' proprietary information and plans, the City Staff can not reveal the specifics of their stated expansion plans, however, both companies did note plans to increase the broadband speeds available to their residential and commercial customers in the Fayetteville market.

Although the City Staff is only at the concept investigation stage of this research, the City Staff did investigate the possibility of applying for grant funding from the Federal Broadband Technology Opportunities Program (BTOP), especially in light of the recently released Notice of Funds Availability - Round 2 (NOFA-2) announcement (please see enclosure [2]). NOFA-2 grant applications have to be submitted by March 15, 2010. In light of the grant submission requirements, per a review of the grant focus (please see enclosure [3]) and in light of the nature of the projects recently receiving NOFA-1 grant awards (please see enclosure [4]), the City Staff is not recommending Fayetteville submit a NOFA-2 grant application.

ISSUES:

1. There are no pending issues as far as the concept exploration is concerned.

OPTIONS:

1. Proceed with the efforts to expand the Community's broadband access by updating the legal assessment to confirm the City's/PWC's statutory ability to provide these types of broadband services, by determining the feasibility of using the FTTH strategy, by identifying any viable funding sources for this effort, by identifying any viable public-private partnerships for this effort and by providing the City Council with another update at the Council Work

Session in September 2010.

2. Discontinue pursuing the FTTH Concept for expanding broadband access in the Fayetteville Community and provide guidance to the City Staff on how the Council would like to proceed.

RECOMMENDED ACTION:

This Work Session item is for discussion purposes only.

ATTACHMENTS:

Enclosure (1) - Broadband Survey Results from January 2010

Enclosure (2) - BTOP NOFA-2 Fact Sheet dated 20100129

Enclosure (3) - Recovery Act Investments in Broadband from December 2009

Enclosure (4) - Press release on Broadband Grant Awards

Narrative Summary

Narrative Summary



Fayetteville PWC
Fiber to the Home Research Study

Charles Welsh, Senior Analyst
January 2010

Presented by:



Introduction and methodology

Fayetteville Public Works Commission (PWC) supplies electricity, water and sewer services to residential and commercial customers in Fayetteville North Carolina area. PWC anticipates installing fiber to the home to support new metering capabilities such as consumer energy management programs, outage management, and other customer service programs sometime in the future. In addition, PWC would like to gauge the level of customer interest in providing other services through the fiber optic network such as high speed broadband internet, telephony and cable/entertainment services.

Using the survey instruments and random samples provided, CCI, Inc. conducted telephone interviews with distinct samples of residential and commercial customers of PWC. A total of 401 residential customers were surveyed with an average interview length of 8 minutes during January 6-10, 2010. A total of 377 business customers were surveyed with an average interview length of 8 minutes during January 7-12, 2010.

Executive Summary

- PWC enjoys a solidly positive image with both its residential and commercial customers. Among the residential group, four out of five (82%) rate the utility positively with 33.7% who consider its image excellent and 48.4% who consider it good. Just 12.2% rate PWC's image as fair and few think of it as poor (3.7%). Business customers are also highly positive toward PWC; 38.7% rate its image as excellent and 52% as good while 7.7% evaluate it as fair and just 1.1% as poor.
- Volunteered reasons for these perceptions of PWC are similar for both types of customers. Most frequently they cite the lack of problems with the provision of services from PWC and a general sense that the utility is doing its job well. Residential customers in particular mention the long term relationship they have had with PWC. More specifically they feel the utility has good customer service and is responsive to their needs. Most of the negative comments regarding PWC are related to issues with billing or complaints about high rates. It is notable that very few mention problems with outages or restorations of service, major concerns for many electric utilities.
- Opinions are divided over whether PWC should offer telephone, long distance, cable television and internet service to its existing utility customers. A plurality of residential customers (41.9%) answer yes, but 30.7% say no and 27.4% do not express an opinion. Support is slightly stronger with

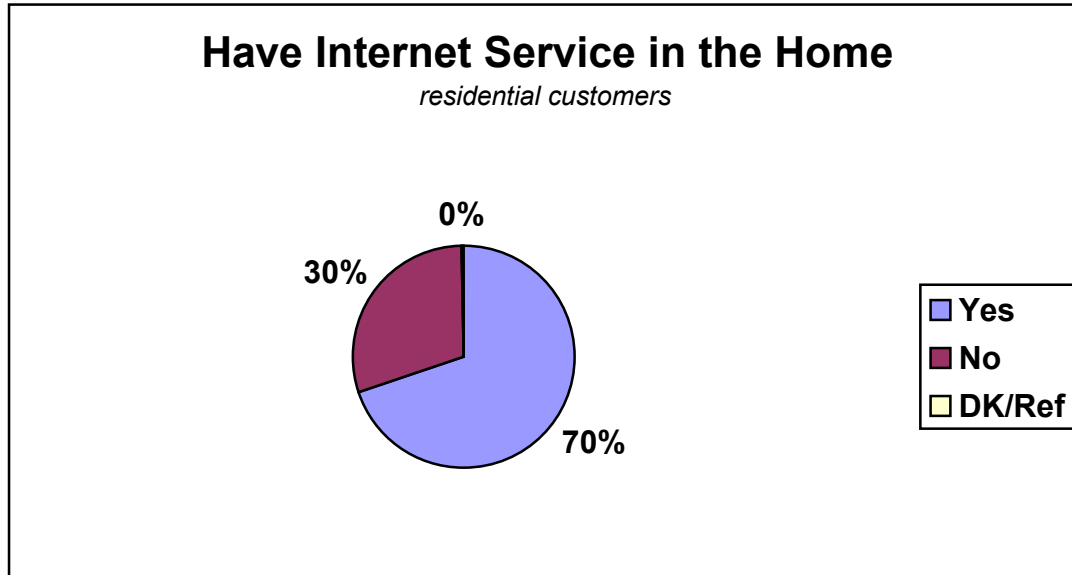
business customers; a majority (53.6%) say yes, 24.7% say no and 21.8% have no opinion. Business customers who are opposed to the concept were asked the reason for their sentiment. By far the most frequent reservation is that PWC's expertise lies outside of those areas and the company should stick to what it knows best. Others are concerned regarding the existing monopolies PWC already has in the area and some complain about high rates or poor service.

- Should PWC offer these services at a competitive rate then some of the reservations over its entrance into the telecommunications business would be overcome. When asked if they would switch to PWC for telecommunication services at a lower rate than competitors, 64.3% of residential customers said yes, 18.7% no and 17% had no opinion. Residential customers who would not switch are likely to be satisfied with their existing service. Business customers, with an eye on the bottom line, are even more likely to switch for a lower rate: 72.9% yes, 17.8% no and 9.3% with no opinion. Business customers saying no are also satisfied with their existing service or contractually obligated to stay with the provider.
- Respondents were asked about specific telecommunications and data services they might contract for from PWC if they were offered at the same or lower rates as competitors. Both residential customers (60.8%) and business customers (73.2%) are most receptive to local telephone service. Majorities of the residential customers are also interested in expanded basic cable (59.9%), digital cable TV (56.1%), and high speed internet (55.4%). Business customers find high speed internet (69%), long distance phone service (68.7%) and phone features such as voice mail and caller ID (63.1%) attractive.
- The telecommunications profile of residential customers finds most households have cable television (73.3%) and 69.2% have cable internet service. Consequently, the majority are currently receiving these services from a cable company and the competition for these services does not appear strong, although there appears to be some penetration by both satellite TV and DSL internet access.

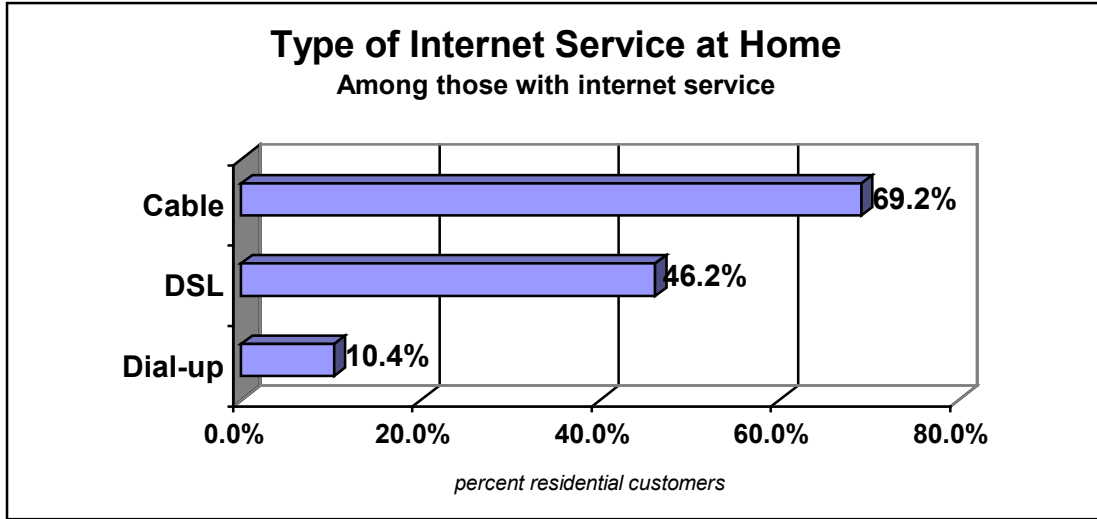
- Business customers have a considerable range of spending on telecommunications services; a majority spend less than \$500 a month, but 19.1% spend \$500-1,000 and 18.6% spend more than \$1,000. A majority do not have cable or satellite television. DSL internet access is more prevalent than cable internet by 52% to 40.8%.
- Generally, both types of customers are quite satisfied with their existing telecommunications services. Among residential customers majorities are very satisfied with telephone and cell phone service and close to a majority with internet and cable or satellite TV. Among business customers close to a majority are very satisfied with the specific services examined and two out of five somewhat satisfied. Consequently it may be difficult to market by taking advantage of dissatisfaction with existing providers and the competitive price offer would be all the more important.

Residential customer survey

Data and telephony services profile

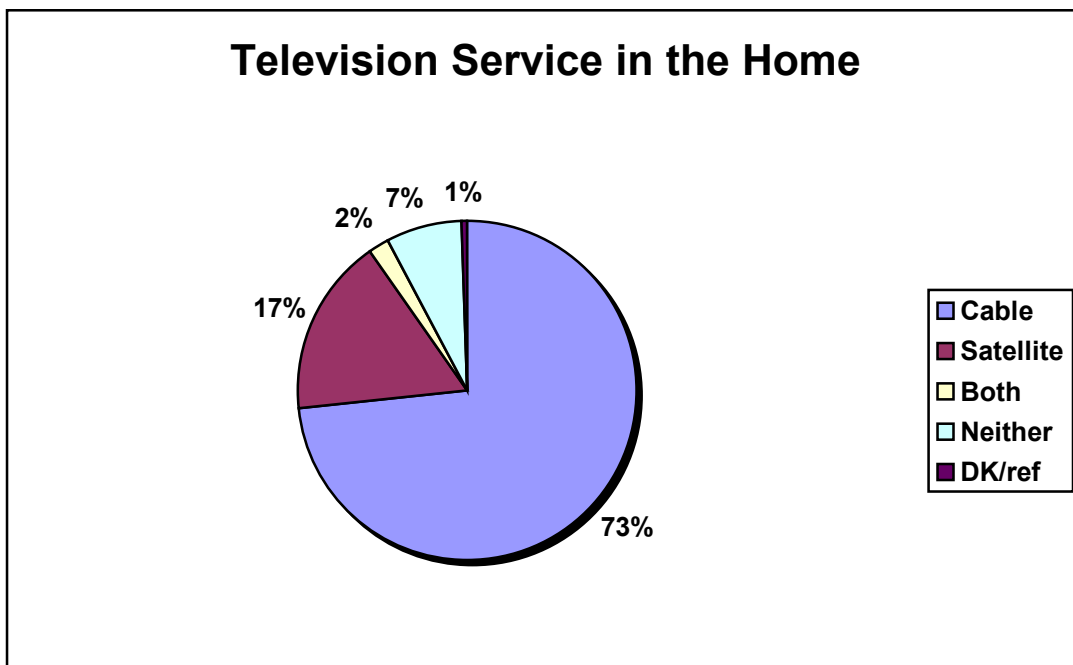


The incidence of home internet access is fairly widespread; seven out of ten (69.6%) report having home internet service. Several demographic factors influence the likelihood of home internet service. Older respondents, those 65 years or more of age, are much less likely to have the service (57.6%). Respondents with less than a college education are less likely to have internet service compared to those with a college or graduate degree. For example 46.8% of respondents with a high school degree report having home internet compared to 80.5% of those with a college degree.



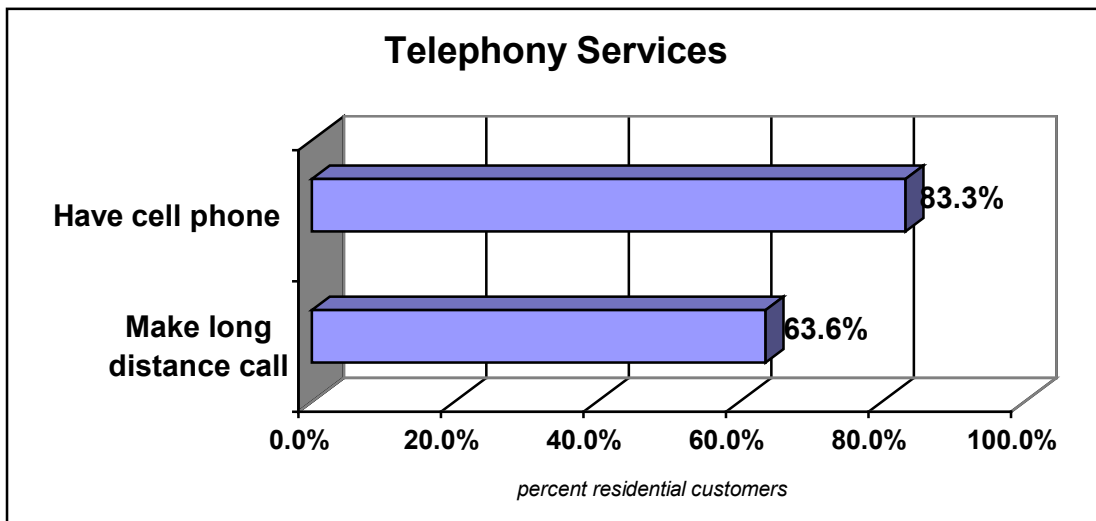
Residential respondents who reported having home internet service were asked whether or not they have specific types of internet service. Cable is most frequently reported form on internet service. Among those with internet service, 69.2% (or 48% of all respondents) say the service comes via cable. Also prevalent is DSL at 46.2% of all those with internet service or 32% overall.

Few report relying on the slower dial-up service (10.4% of those with service or 7% of all respondents). Older respondents are more likely than other age groups to mention having dial-up, 16.7% of those with service, but cable is also the most frequent method of access for this group, 65.3% of those 65 or older with service.



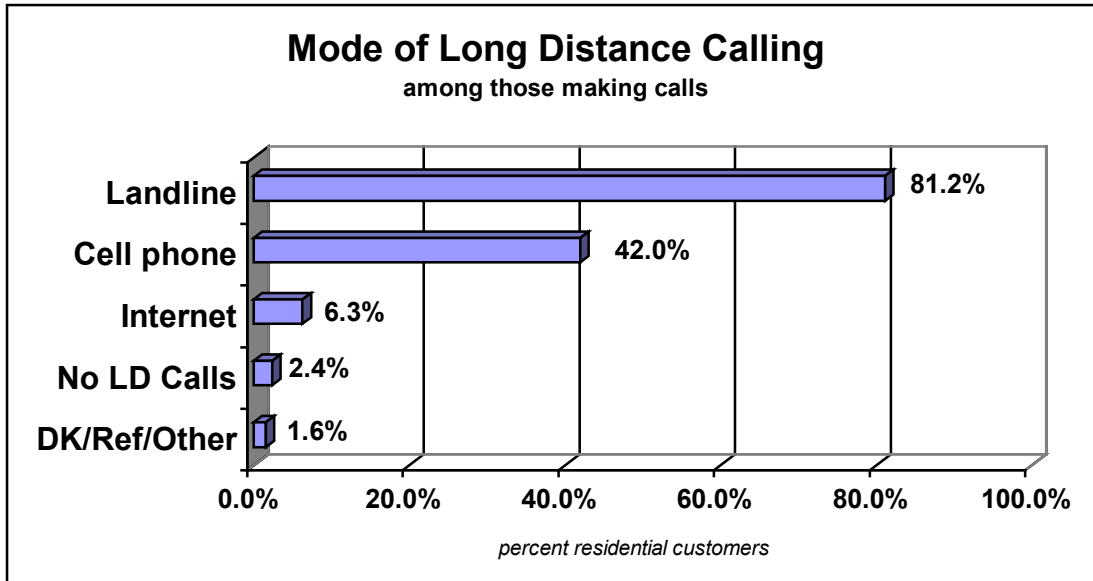
As is the case with internet access, cable dominates home television in the PWC territory. Three out of four households (73%) have cable television service, including 2% who enjoy both cable and satellite TV. One in six (17%) have solely satellite service while only 7% have neither.

Interestingly 80% of those reporting cable television also say they have cable internet access consequently more than half of all the households in the study have cable packages with multiple services.



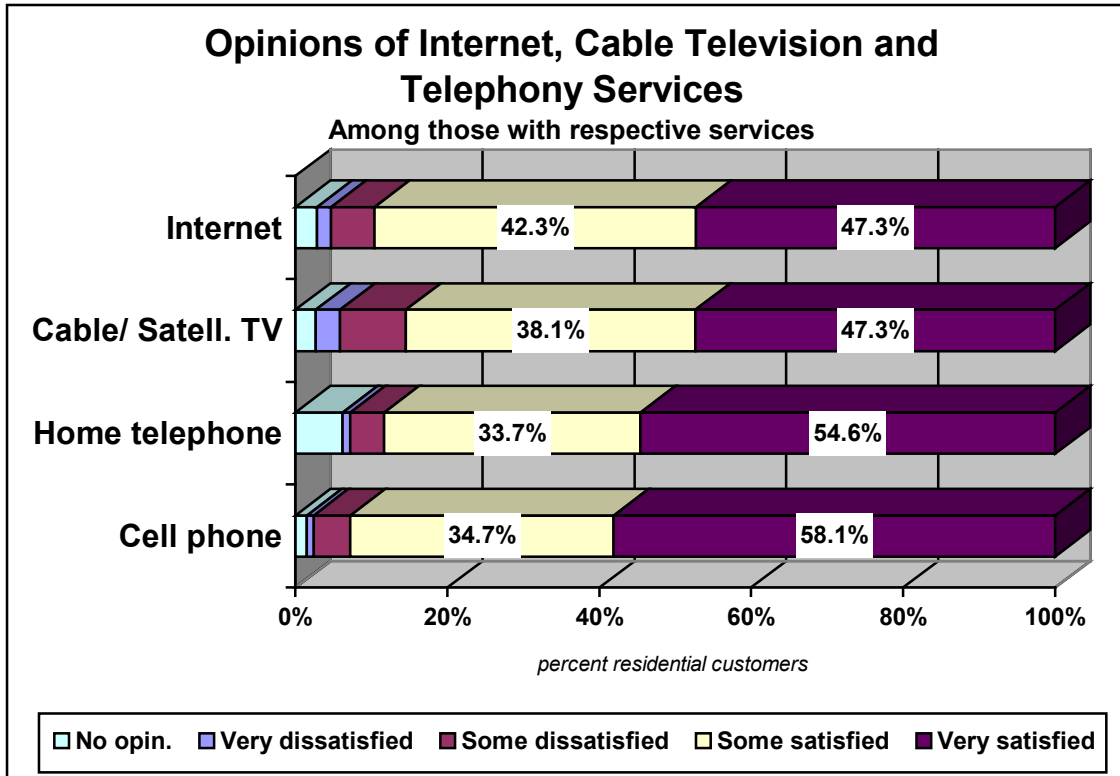
Cellular telephone service has become ubiquitous across the country and the PWC territory is no exception; 83.3% report having a cell phone. Older respondents at 77.6% are slightly less likely to have a cell phone.

Respondents were also asked how many separate telephone lines they have in their home, independent of cellular phones. About seven out of ten (68.8%) report having one phone line; 15.7% said two and 13.1% said three or more lines. Some of the latter may have confused physical telephone sets with distinct lines.



Long distance calling is not as prevalent as might be supposed among residential customers. Slightly less than two out of three respondents report making long distance calls from the home phone. The respondent's educational level affects the incidence of long distance calling, for example only 50.6% those with a high school degree say they make long distance calls compared to more than 70% of both those with college degrees and graduate degrees.

Among those making long distance calls use of the home landline is by far the most frequent at 81.2%. Cell phone use is also substantial (42% of those making calls), but only 6.3 % use the internet.

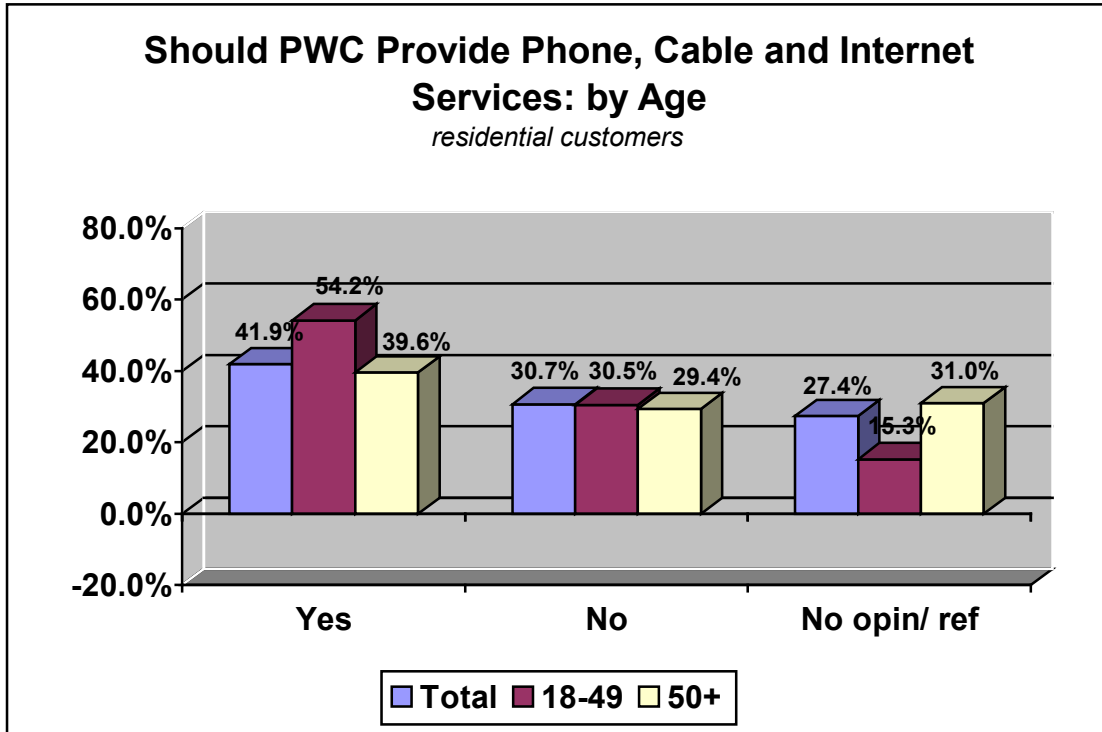


Generally speaking, residential consumers express high levels of satisfaction with their data and broadcast services. Majorities are very satisfied with both their cell phone (58.1%) and local phone service (54.6%) and more than a third are somewhat satisfied respectively. Older and high school educated respondents tend to show slightly higher levels of satisfaction than their younger and more educated counterparts, but satisfaction is high with all groups. Dissatisfaction is negligible running at 6% for both services.

Satisfaction is also strong for internet services, although not quite as intense as that for cell and home phone service; 47.3% are very satisfied; 42.3% are somewhat satisfied and just 8% are dissatisfied.

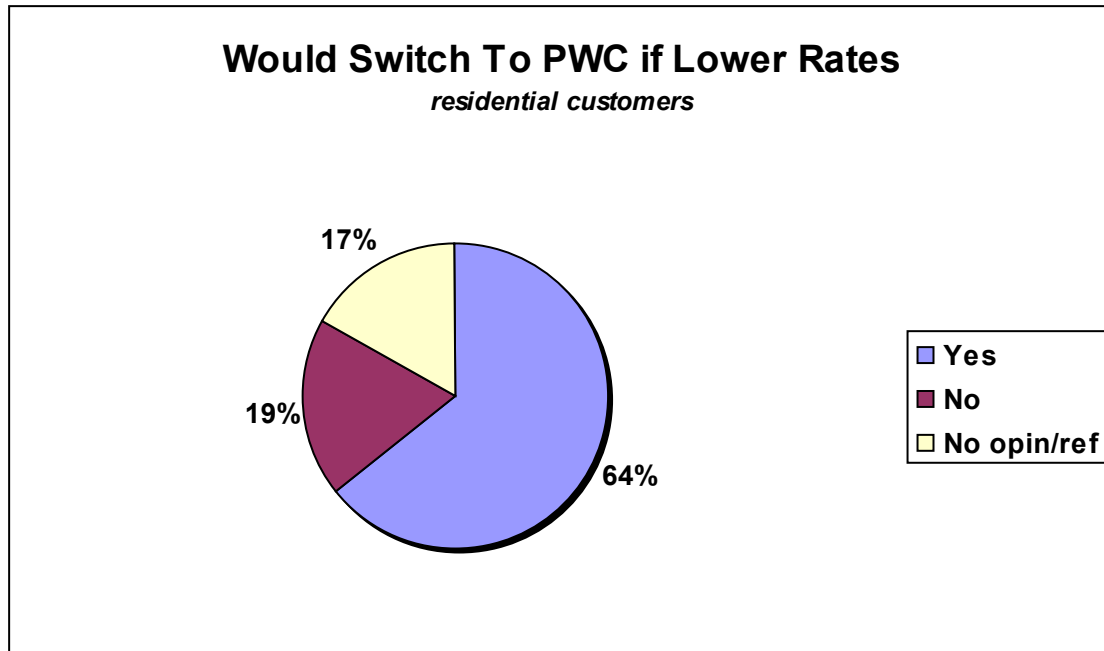
Dissatisfaction levels are relatively highest with cable service, but still remarkably low at 12% in absolute terms. In contrast 47.3% are very satisfied and 38.1% are somewhat satisfied.

Interest in telecommunications offerings from PWC



Conceptually, opinions are mixed among residential customers over whether PWC should provide phone, cable and internet services in Fayetteville. Slightly more than two out of five (41.9%) favor the idea with 30.7% opposed and a high 27.4% not sure enough to express an opinion.

The latter sentiment is particularly pronounced among those 50 years of age and older as illustrated in the chart. A majority of those under 50 (54.2%) favor PWC offering these services while only 39.6% of those 50 and older do so. Opposition levels are similar; however, the difference in support is that 31% of those 50 and older are reluctant to express an opinion contrasted with 15.3% of those under 50.



Although, in the abstract there is not a clear consensus over whether PWC should offer telecommunications services, when asked if they would switch to a PWC offer of such services at a lower rate, majority clearly find the prospect attractive. Close to two out of three (64.3%) say they would switch, 18.7% say they would not and 17% aren't sure. The offer has appeal across the demographic groups examined.

Not surprisingly, those who feel that PWC utilities should offer the services are highly likely to say they would switch (88.1%), but so do 58.2% of those who don't express an opinion on the issue and even 37.4% of those who are opposed to PWC offering the services.

Among those who would not switch, more than a third (36%) say that they are currently satisfied with their existing service and/or don't want the hassle of switching. Other notable reasons offered include concerns about PWC's existing monopoly or power over utility service (14.7%), complaints about PWC's rates and its lack of expertise in the telecommunications arena. Some representative quotes are:

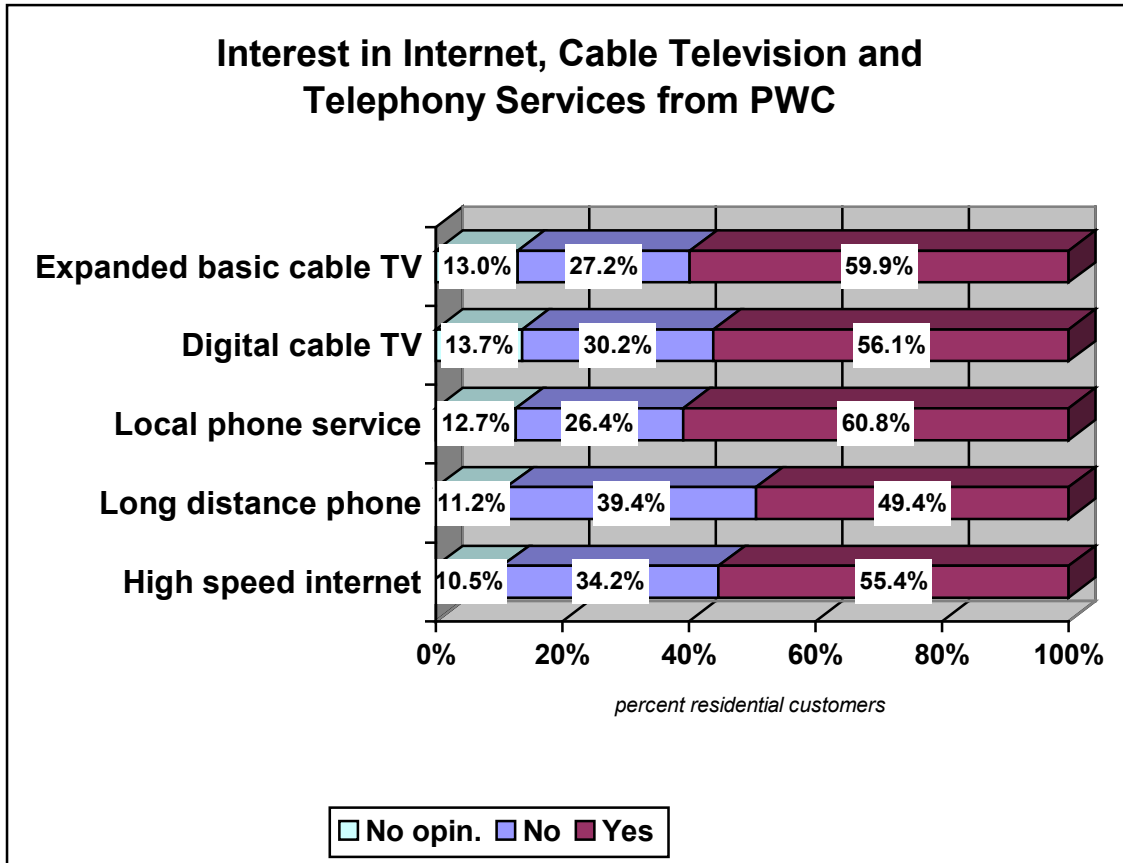
Because I don't want to switch. I like what I have already.

Well most of the time when they do that it is just a short period of time and then they raise the rates.

Well when you have an old hat, that's comfortable. I am content with what we have and it is such a hassle.

Because they have a monopoly on the electricity.

They are an electric company, not a telecom or digital provider.



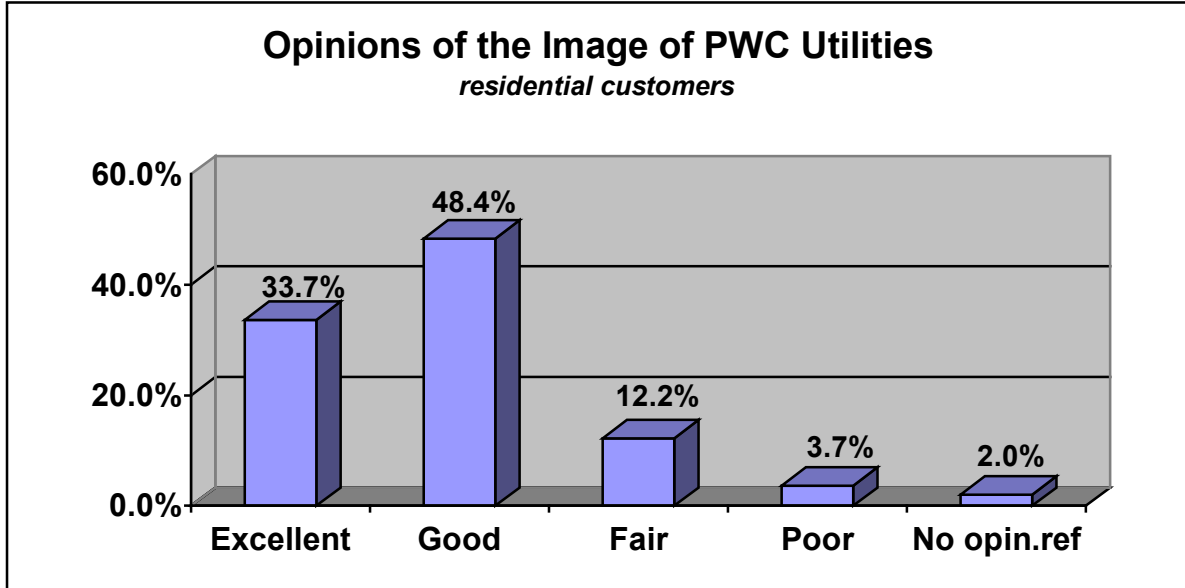
Among the potential telecommunications services that PWC might offer, local phone service (60.8%) and expanded basic cable (59.9%) are the most popular in the sense that residential customers say they think they would buy them if they were offered at the same or lower rates than competitors. Slightly more than a fourth of customers say they would not buy in each instance: 26.4% for local phone service and 27.2% for expanded basic cable.

Also of interest to majorities are digital cable TV (56.1% yes) and high speed internet (55.4%). More than a third (34.2%) would not opt for high speed internet nor would 30.2% for digital cable TV. Least attractive is long distance telephone service with 49.4% saying yes and 39.4% declining.

Interest in the specific service offerings do vary somewhat by age of the respondent. Although those 65 years of age and older show about equal interest in switching for local phone service as other groups, they tend to be less interested in high speed internet (40%) and digital cable TV (44.8%). Both services hold considerable appeal for the age groups under 50.

Also attractive for residential customers is the option of being able to consolidate billing. About half (50.9%) would find it very valuable to have phone, cable and internet services on one bill and another 25.9% would find it somewhat valuable.

Just 15.2% say it would be not too or not at all valuable. The option is of greatest interest to younger customers and interest drops with age, for example 62.4% of those 35-49 would find it very valuable compared to 38.4% of those 65 or older.



PWC enjoys a positive image among its residential customers. When asked toward the end of the study, 33.7% characterized their opinion of its image as excellent and 48.4% said good. Less than positive opinions were infrequent with 12.2% saying fair and only 3.7% poor. There does not appear to be any “pockets” of negative opinions among the demographic groups examined. As would be expected, interest in obtaining additional services from PWC is greatest among those who say their opinion of its image is excellent and far lower with those who are less than positive.

Four out of five residential customers volunteer a positive reason for their rating of PWC’s image. Frequently cited are the lack of problems with PWC’s services (36.2%) and the general perception that it provides good services (20.2%). Other remarks include that the company is quick to respond to issues (12.2%) and that it has a solid reputation and is easy to work with (12.2%). Other simply state that they have been with the utility a long time (11%).

Positive comments on PWC's communication (6.7%), rates (6.5%), and competency (4.5%) also contribute to PWC's image. Representative quotes are:

Because we never have had any problem with it what so ever and their product is good.

I have no problems and haven't heard of anyone with problems. That's my feeling with them.

I've dealt with them for so many years. They work with me whatever the situation. I appreciate them.

We have had good service for over forty years.

Well every time we have power outages they come within the hour to fix it. I know that.

Well if I call them they take action right away. Real top service.

Because of the prices and services they offer.

I called and a nice young lady helped us quickly and nicely.

The customer service is key with me. I call PWC and they work with their customers.

One in six (16.5%) residential customers commented negatively on PWC's image, most frequently regarding rates and billing (9.0%). Other unfavorable remarks included being a city owned monopoly (4.0%) and inefficiency (2.0%).

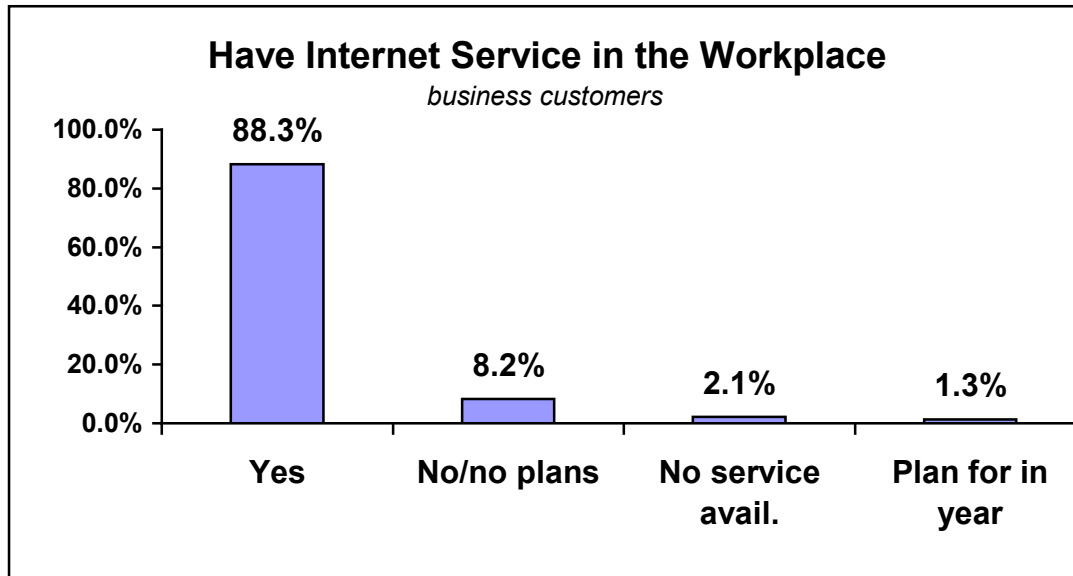
I think they are real expensive and we've had problems with them before.

Sometimes they can be hard to handle meaning customer service.

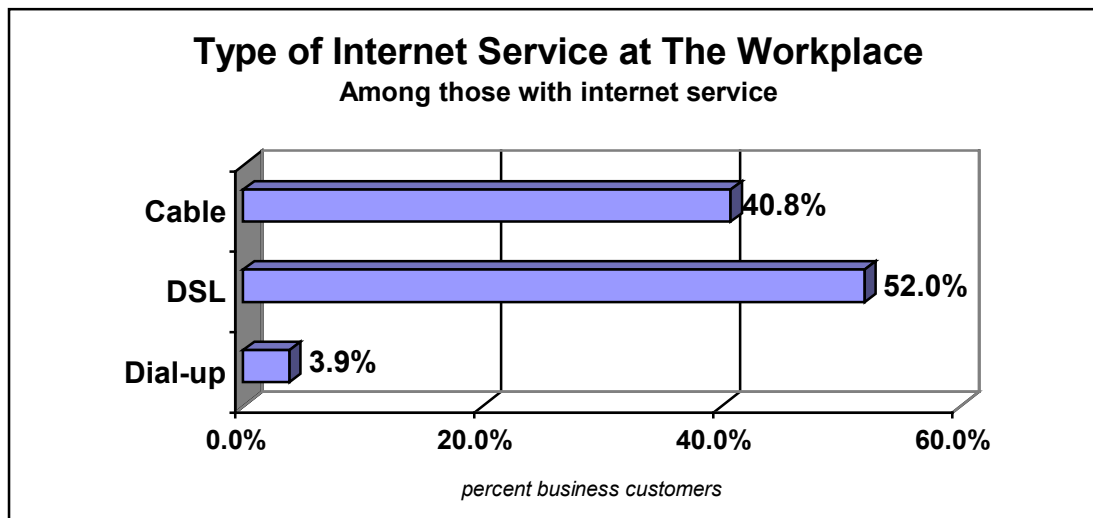
Because they don't have anybody to compete with. If they had someone to compete with the rates wouldn't go up every time you turn around.

Business customer survey

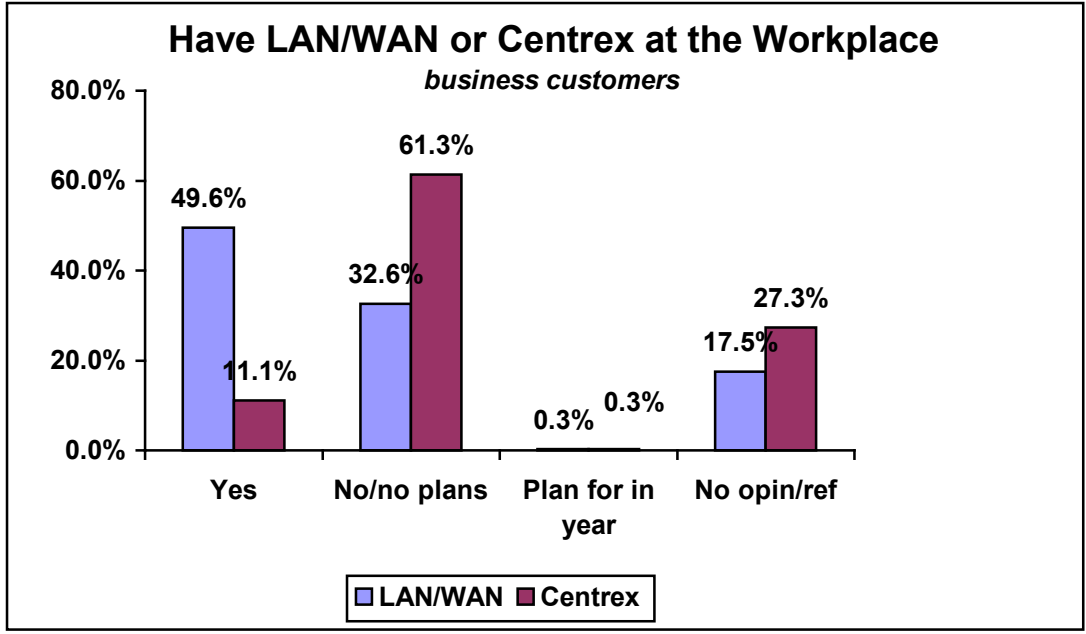
Data and telephony services profile



Close to nine out of ten (88.3%) of the business customers surveyed report that they have internet service at their place of work. Among those spending a significant amount of money monthly (more than \$500) on telecommunications services, internet service is effectively universal. About a fourth (24%) of businesses spending less than \$250 per month do not have service and have no plans to acquire it.



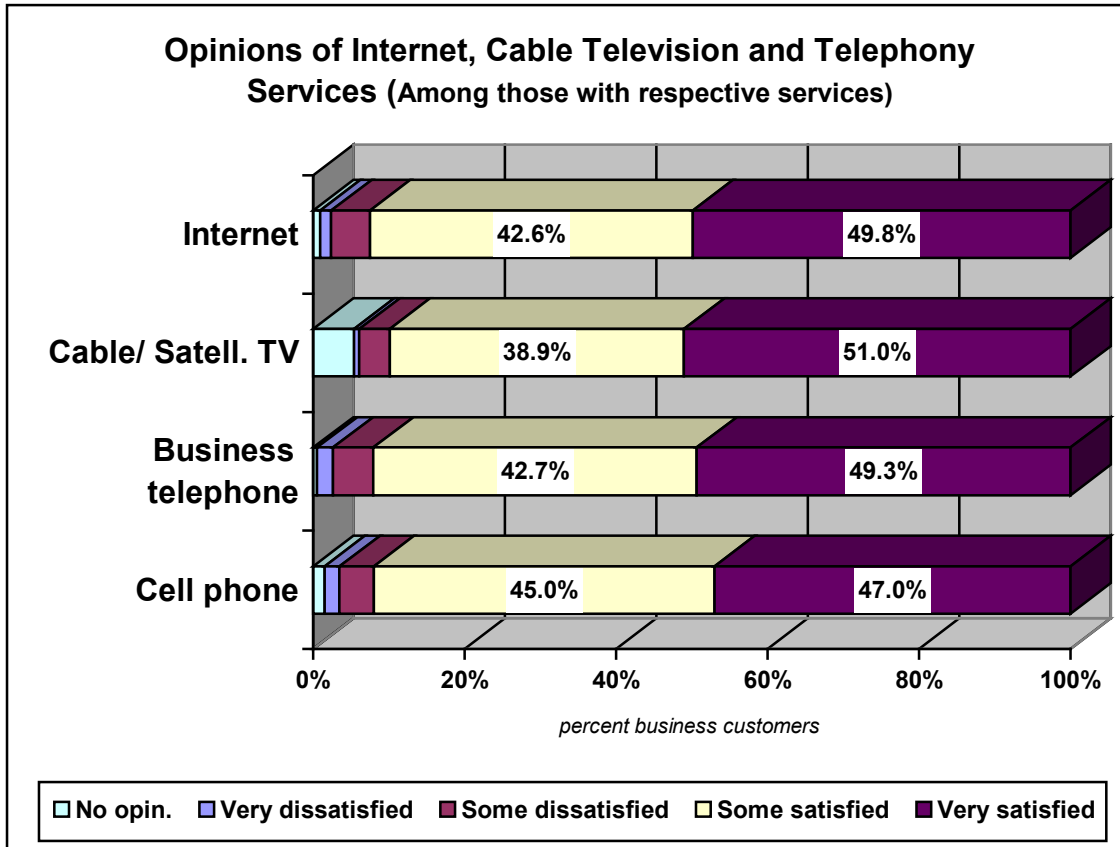
DSL is the most prevalent form of internet service among the business customers (52%). About two out of five (40.8%) have cable internet and only 3.9% have dial-up. (note: unlike the residential study, the business survey did not offer multiple mentions of internet service).



About half (49.6%) of the business in Fayetteville say they have either a Local Area Network (LAN) or Wide Area Network (WAN). The networks are found in smaller firms, 34.4% of those spending less than \$250 a month, and of course the largest, 68.6% of those sending more than \$1,000 a month on telecommunications services.

Centrex systems are present in 11.1% of the business respondents, also distributed across expenditure level, but most frequently found in business spending more than \$1,000 per month at 20%. Only a couple of the respondents who do not have a Centrex or data network at the worksite have any plans to install one in the next year.

Slightly more than half of the businesses (53.6%) have company provided cell phones. Most of the business spending more than \$1,000 per month provide cell phones to employees (85.7%) as do a majority of those in the \$500-999 category (63.9%).



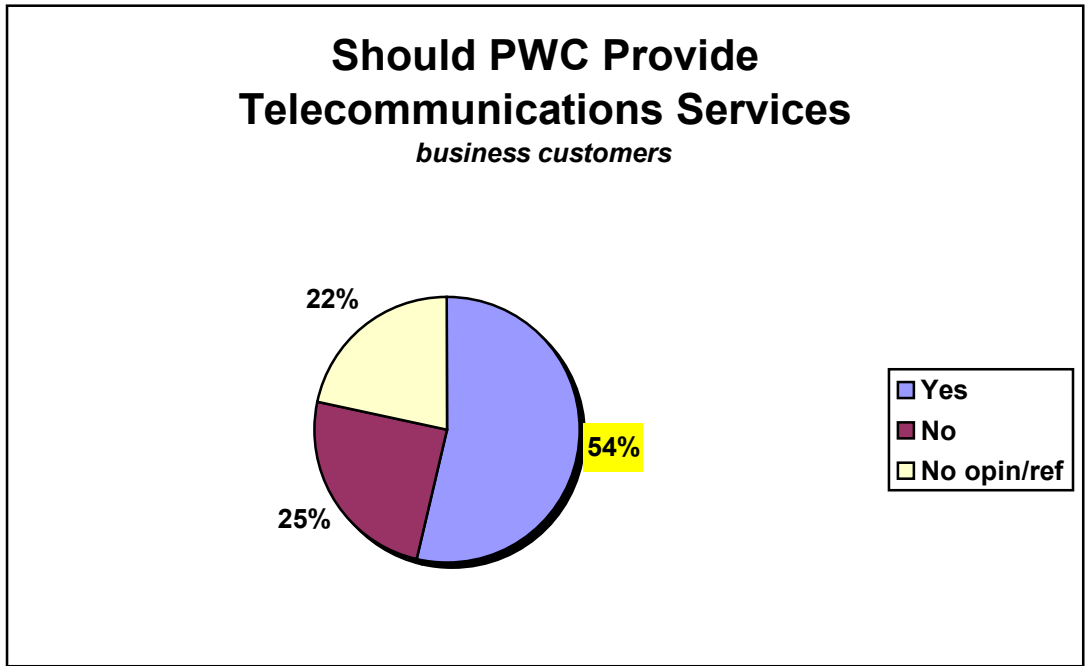
In general business respondents are satisfied with their telecommunications services. By a slight margin those with cable television service show the highest level of satisfaction, unlike their residential counterparts. A slight majority (51%) are very satisfied, 38.9% are somewhat satisfied and just 5% are dissatisfied.

About half (49.8%) are very satisfied with their internet service, 42.6% are somewhat satisfied and 7% are dissatisfied. Those with either cable or DSL internet connections are about equally satisfied. Not surprisingly the few businesses with dial-up are less like to be fully satisfied at 38.5% very satisfied.

Satisfaction levels are also strong for both landline and cellular phones. For the former, 49.3% are very satisfied, 42.7% are somewhat satisfied and 7% are dissatisfied. Majorities of those spending \$500-999 and more than \$1,000 are very satisfied at 54.2% and 52.9% respectively.

For those with cellular phone service, 47% are very satisfied, 45% are somewhat satisfied and 7% are dissatisfied. With the caveat of a small sample, those spending \$500-999 tend to be less than fully satisfied compared to other expenditure categories with 37% very satisfied, 46% somewhat satisfied and 15% dissatisfied.

Interest in telecommunications offerings from PWC



Slightly more than half (53.6%) of the business customers think PWC should provide business phone, long distance, cable and internet services while 24.7% think PWC should not and 21.8% do not express an opinion. Opinions on this issue do not vary much regardless of the amount the businesses spend monthly on telecommunications services.

When those who feel PWC should not offer telecommunications were asked to volunteer their reason for that sentiment, the primary rationale, voiced by 49.5% of those opposed is telecommunications is not PWC’s core competency and that the utility should stick to what it knows best. The following are representative:

That is not their mandate. They are a public utility.

Just to stay out of that area. They know utilities much better I think.

They should stick with what they know, electricity. Let cable handle the others.

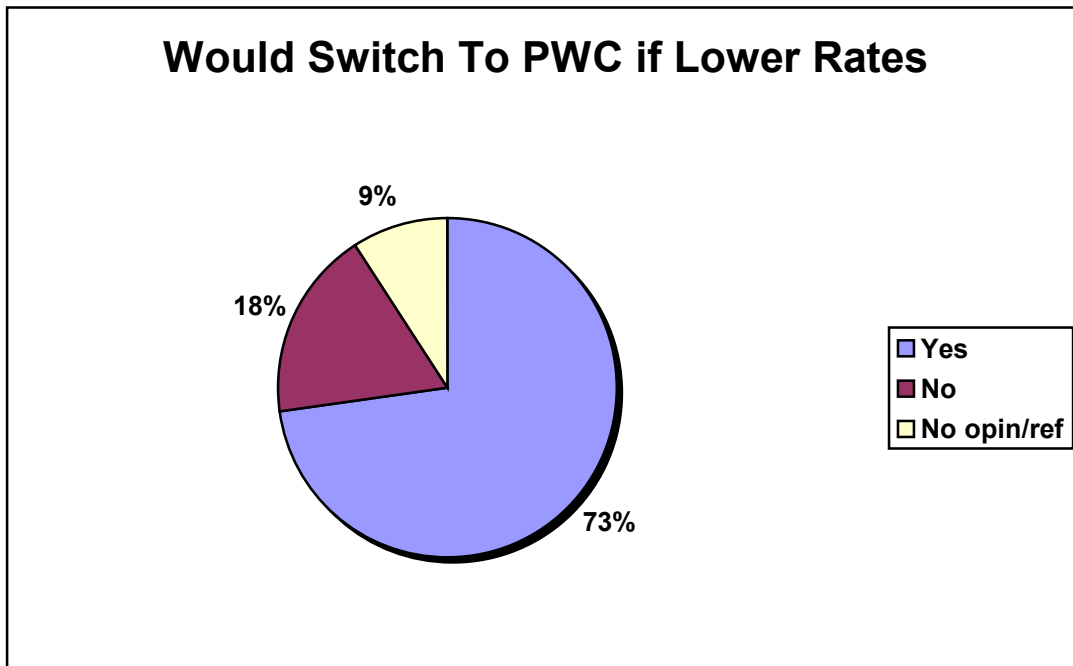
Other reasons mentioned by modest numbers of business respondents include concern over PWC’s existing status as a monopoly of utility services, sufficient existing competition and dissatisfaction over PWC’s rates or service as illustrated by the following:

Because they don’t do a good job at providing electricity. There are too many spikes in their grid.

We have enough of those types of companies already, really no need for any more just now.

It might mess up our service. They are soo big already. They don’t need anything else.

Because well if they charge as much as the electric we will be in a mess.



Although a sizable number of business are ambivalent or conceptually opposed to PWC offering the services, they are responsive to a favorable offer for these services from PWC. Overall almost three out of four (72.9%) say they would switch their services to PWC if they offered lower rates than other area providers. One in five (18%) would not and 9% do not have an opinion. Among those who think PWC should offer the services 87.6% say they would switch as do 64.6% of those without an opinion and even 46.4% of those opposed to PWC providing the services. **Clearly an attractive offer would counteract some opposition.**

Reluctance to switch is driven primarily by satisfaction with their existing service provider and simple inertia (35.8% of those saying they would not switch) and few who similarly mention their existing contractual obligations.

It is working now, just no need. We go by what's good for us.

Because I am happy with my company and the service I get there.

It's through big vendors. We are under contract for all locations. We only handle electric, all else is corporate.

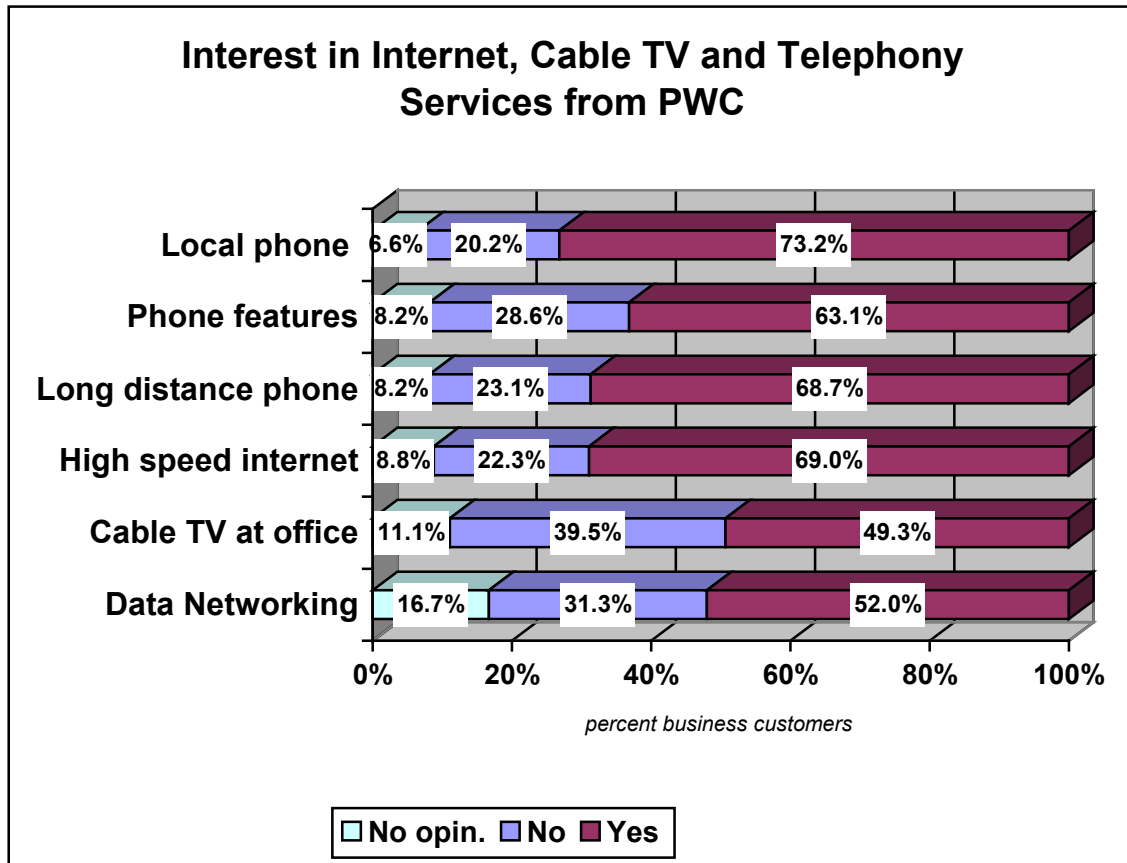
Because it's a huge pain to switch everything over.

Other reasons for not switching mirror those given for why PWC should not enter the telecommunications field: concern over existing service or rates, their size or monopoly status and lack of expertise in the arena.

Inexperience in technology.

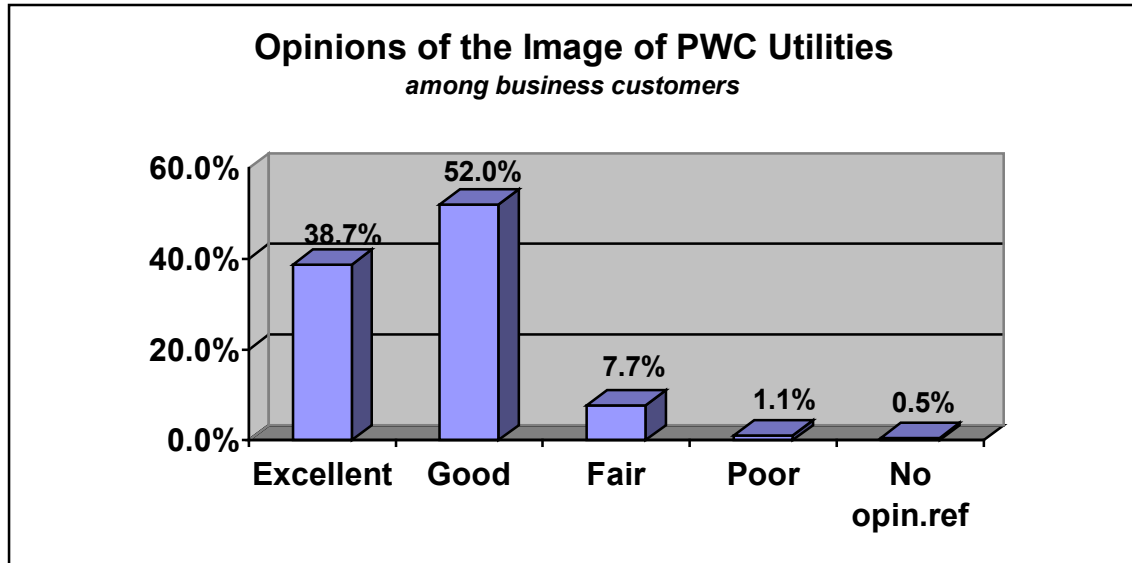
For the same reason as before. I don't trust their level of service.

Because they would need to show a proven track record in these areas.



There is considerable variability in the attractiveness of various specific offers of data and telecommunications service to the business customers. Local phone is well received, as is the case with residential customers; 73.2% say they think they would buy it from PWC if it was offered at the same or lower rates as other providers offer. Almost equally well received are high speed internet (69%, 72% among those who already have internet) and long distance phone service (68.7%). Phone features such as voice mail or caller ID are of interest to 63.1%.

Two other services are less attractive, but still half the customers are receptive to data networking (52%) and cable TV at the office (49.3%). Regarding cable service, it is particularly attractive to those who currently have it (65.3%) or satellite service (59.1%) as well as 40.3% who do not currently have either cable or satellite TV.



PWC enjoys a solidly positive image with its business customers with a very limited number of real detractors. Almost two out of five (38.7%) hold an excellent opinion of its image and a majority (52%) hold a good one. Just 7.7% give the somewhat less than full approval of fair and just a handful of the business respondents said they consider it poor (1.1%).

Reasons given for holding a positive image of PWC include primarily the general perception that they provide good customer service and essential utilities (28.6%) and, typical for a utility company, that the customer is not experiencing any problems with the delivery of these services (36.6%). The following are representative:

Just really good for us. The lights are on and working, occasionally we have a surge problem, but not too often.

They have decent service and we have not had any interruptions to speak of. Overall good.

They provide all the electricity and good service.

The service is fine. I do not have PWC at home. It works well here at the church.

More specifically, business customers comment on good communications (9.8%), responsiveness to problems (9.3%), and doing their job competently (7.2%).

Anytime I had a problem, they worked it out. The customer service is excellent.

They keep us informed on related info. They do call us.

Seeing PWC through the business use, they are very nice to talk to and the service to our rentals is excellent.

PWC always provides good customer service. If I have a problem or issue they are there to fix it.

On the less positive side, PWC comes into criticism most frequently for billing issues and complaints over their rates (6.1%). Overall only about one in seven (13.5%) comment negatively on PWC and the remaining issues relate to perceptions of their efficiency and responsiveness, and role as a municipally owned utility

I think the rates are too high.

The only one we have to deal with. It's not like we get to pick and choose.

Friday I lost my water and they didn't call to tell me they were turning it off. I have all sorts of problems.

They are very wasteful in many different areas, personnel use, servicing methods and meeting service needs.



Broadband Technology Opportunities Program

Notice of Funds Availability for Second Round—Fact Sheet

January 2010

Overview

NTIA announced a Notice of Funds Availability (NOFA) and solicitation of applications on January 15, 2010, describing the availability of funds and application requirements for the second round of funding for the Broadband Technology Opportunities Program (BTOP). This program was established pursuant to the American Recovery and Reinvestment Act of 2009.¹ Funded at \$4.7 billion, BTOP provides grants to support the deployment of broadband infrastructure, to enhance broadband capacity at public computer centers, and to encourage sustainable adoption of broadband service. With these grants, BTOP advances the Recovery Act's objectives to spur job creation and stimulate long-term economic growth and opportunity.

Changes from the First NOFA

NTIA has made a number of changes to BTOP for the second round of funding to increase efficiency, sharpen BTOP's funding focus, and improve the applicant experience:

- First and foremost, NTIA will focus on Comprehensive Community Infrastructure projects.
- The joint NTIA-RUS application process from Round One has been eliminated. Instead, each agency issued its own NOFA and will use its own separate applications and apply its own separate funding priorities (i.e., for NTIA, Comprehensive Community Infrastructure projects; and for RUS, Last Mile Rural Infrastructure projects).
- NTIA has improved the online application to streamline the intake of information and make the process more user-friendly. Improvements include reducing the number of attachments to be uploaded with the application, eliminating the proposed funded service area mapping tool, and modifying the service area delineations from Census blocks to Census tracts and block groups.
- NTIA no longer will require that an infrastructure project serve an unserved or underserved area; however, we will give priority to projects that are located in such areas and we do intend to carefully evaluate the extent to which proposed projects overbuild existing broadband infrastructure.

Project Categories and Funding

Approximately \$2.6 billion in BTOP funds is available to be awarded under this NOFA and is allocated as follows.

- The **Comprehensive Community Infrastructure (CCI)** category (approximately \$2.35 billion) will focus on Middle Mile broadband infrastructure projects that:
 1. offer new or substantially upgraded service to community anchor institutions;
 2. incorporate a public-private partnership among government, non-profit and for-profit entities, and other key community stakeholders;
 3. bolster growth in economically distressed areas;
 4. commit to serve community colleges;
 5. commit to serve public safety entities;
 6. include a Last Mile infrastructure component in unserved or underserved areas or, alternatively, commitment letters from one or more Last Mile broadband service providers;
 7. propose to contribute a non-federal cost match that equals or exceeds 30 percent of the total eligible costs of the project
- The **Public Computer Center (PCC)** category (at least \$150 million) will fund projects that help expand public access to broadband service and enhance broadband capacity at entities that permit the public to use these computer centers, such as community colleges and public libraries.
- The **Sustainable Broadband Adoption (SBA)** category (at least \$100 million) will fund innovative projects that promote broadband demand, such as projects focused on broadband education, awareness, training, access, equipment, or support, particularly among vulnerable populations.

¹ Pub. L. No. 111-5, 123 Stat. 115 (2009). The Department of Agriculture's Rural Utilities Service (RUS) also announced a NOFA on January 15, 2010 regarding its Broadband Initiatives Program (BIP). This Fact Sheet summarizes elements of the NTIA NOFA only. For additional information regarding both BTOP and BIP, please visit www.broadbandusa.gov.

Application Review Process

Applications will be reviewed according to the following process:

- (1) *Eligibility Factors* – Applications will be reviewed for eligibility (applicant must be an eligible entity, application must be fully complete, applicant must provide at least 20 percent of the total eligible costs of the project in matching contributions or request a waiver);
- (2) *Scoring* – Applications will be compared to the evaluation criteria contained in the NOFA by at least two objective expert reviewers. The evaluation criteria include Projects Purpose, Project Benefits, Project Viability, and Project Budget and Sustainability; and
- (3) *Due Diligence* – BTOP staff will consider “highly qualified” applications to confirm eligibility and evaluate applications with respect to general BTOP requirements and priorities.

As in Round One, States and tribes will be provided an opportunity to make recommendations concerning the allocation of funds for qualifying projects in or affecting their individual states or tribal lands. Existing broadband service providers will also be given an opportunity to provide information regarding current broadband availability in applicants’ proposed service areas.

Other Key Information

- **Matching:** Applicants are required to provide matching funds of at least 20% or request a waiver, but will give additional consideration to projects that propose to contribute a non-federal cost share/match that equals or exceeds 30 percent of the total eligible costs of the project.
- **“But for” Test:** Applicants must demonstrate that the project could not have been implemented during the grant period without federal assistance.
- **Nondiscrimination and Interconnection:** All CCI applicants must adhere to the nondiscrimination and interconnection obligations specified in the NOFA, including adhering to the FCC’s Internet Policy Statement and any subsequent applicable ruling or statement.
- **Timely Completion:** Applicants are encouraged to complete their projects within two years and must complete them within three years.
- **Searchable Database:** NTIA will post at www.broadbandusa.gov information regarding applications including the name of the applicant, summary of the project, federal grant request, cost match and application status.
- **Workshops:** NTIA will conduct 10 workshops regarding this NOFA and will make related information available to prospective applicants online. For more information or to register for workshops, please visit www.broadbandusa.gov/workshop.htm.
- **BroadbandMatch Tool:** Parties interested in exploring application partnership opportunities are invited to visit <http://match.broadbandusa.gov>.
- **Application Submission and Deadline:** Application packages for electronic submissions will be available at: www.broadbandusa.gov. The electronic portal for submitting Round Two applications will open on February 16, 2010 and close on March 15, 2010.
- **Award Announcements:** Awards will be announced on a rolling basis beginning in June 2010 and all awards must be made September 30, 2010.

**EXECUTIVE OFFICE OF THE PRESIDENT
NATIONAL ECONOMIC COUNCIL**

**RECOVERY ACT INVESTMENTS IN BROADBAND:
LEVERAGING FEDERAL DOLLARS TO CREATE JOBS AND CONNECT AMERICA**

“One key to strengthening education, entrepreneurship, and innovation in communities...is to harness the full power of the Internet, and that means faster and more widely available broadband.”

- President Barack Obama, September 21, 2009



DECEMBER 2009

EXECUTIVE SUMMARY

Broadband touches nearly every aspect of the U.S. economy, providing Americans with unprecedented opportunities in employment, education, health care, entrepreneurship, and civic participation. For millions of Americans without adequate access to broadband, however, the possibility of falling behind in the knowledge-based economy is real. Recognizing this concern, the American Recovery and Reinvestment Act provided \$7.2 billion to stimulate economic growth and create jobs by expanding the deployment and adoption of broadband services. The Administration is now announcing the first of the Recovery Act broadband awards.

By leveraging federal dollars, the Administration's Recovery Act investments will expand broadband access throughout the nation and provide more Americans—in both urban and rural areas—with the opportunity to succeed in the digital age. Among the awards are investments in “middle-mile” networks, which connect unserved or underserved communities to the Internet backbone. These investments will maximize the impact of federal dollars by encouraging private service providers to build connections to homes and businesses using the publicly funded infrastructure. In rural areas and areas with low population density that are difficult to reach, Recovery Act awards will fund investments in the “last mile” of service, which will help provide connections to homes and businesses that would otherwise go without high-speed Internet access.

Recovery Act investments will also leverage federal dollars by targeting community institutions that provide critical services in urban and rural areas, including schools, libraries, and hospitals. Middle-mile projects will connect these institutions directly to broadband services, helping to improve the quality of their services and exposing new users to broadband opportunities at work, school, and other venues. Funding for public computer centers, including those in urban and suburban areas, will promote digital literacy among the new generation of workers through one-time investments in equipment, hardware and software, and basic training.

These critical broadband investments will create tens of thousands of jobs and stimulate the economy in the near term. By providing broadband-enabled opportunities to previously underserved communities, these investments will also lay the foundation for long-term regional economic development and foster a digitally literate workforce that can compete in the new knowledge-based economy.

“Here, in the country that invented the Internet, every child should have the chance to get online...that’s how we’ll strengthen America’s competitiveness in the world.”

- President Barack Obama, December 6, 2008

RECOVERY ACT INVESTMENTS IN BROADBAND: LEVERAGING FEDERAL DOLLARS TO CREATE JOBS AND CONNECT AMERICA

Introduction

President Obama is committed to bringing the transformative power of broadband Internet access to all Americans. He believes that broadband investment will help stimulate economic growth and create jobs while connecting more Americans to high-speed Internet and helping to address our health care, education, and energy challenges. The President's broadband initiatives will help ensure that all Americans have access to affordable broadband services and the opportunity to develop digital skills so they can compete and succeed in the world's expanding knowledge-based economy. In order to close the broadband gap in America and realize President Obama's vision, the Administration is announcing the first grant and loan awards for Recovery Act projects that expand the deployment and adoption of broadband services throughout America.

The American Recovery and Reinvestment Act provides \$7.2 billion to expand broadband services, create jobs, and stimulate economic growth. The projects receiving the first Recovery Act broadband awards will leverage federal dollars by stimulating private sector investment and connecting critical community institutions to broadband. Targeted federal investments will expand broadband access throughout the United States and provide more Americans with the opportunity to succeed in the digital age.

Recovery Act broadband investments will support the deployment of infrastructure for "middle-mile" connections that link unserved and underserved areas of the country to the Internet backbone. The new infrastructure will make it cost-effective for private service providers to enter these areas and build "last-mile" local connections to homes and businesses. In the most rural parts of America, strategic Recovery Act investments in last-mile connections will foster new economic opportunities, much as rural electrification did 70 years ago. These connections will allow small businesses to reach national and international markets, enhance the quality of life in rural communities, and provide rural residents with the types of education and health care resources available to their counterparts in the rest of the country.

Recovery Act awards will also help to establish or enhance broadband access at community "anchor institutions"—schools, libraries, hospitals, and other institutions that provide important public services. Funding to connect and upgrade these community hubs, including public computer centers in urban and suburban areas, will maximize the reach of federal dollars by allowing thousands of workers, students, and job seekers to experience the benefits of broadband. These investments will help build the new generation of digitally skilled workers and increase broadband adoption in homes and businesses.

Of the Recovery Act funds, \$4.7 billion is allocated for the Broadband Technology Opportunities Program (BTOP). BTOP grants will support projects that expand the deployment of broadband infrastructure into unserved and underserved areas, enhance the capacity of public

computer centers, and support the sustainable adoption of broadband service by users. The grants for this program, administered by the U.S. Department of Commerce, will also support projects that provide access, equipment, and training at anchor institutions, which offer outreach and assistance to vulnerable populations.

Because of the importance of broadband to rural communities and rural economic development, the Recovery Act also allocates \$2.5 billion for the Broadband Initiatives Program (BIP). Administered by the U.S. Department of Agriculture, BIP will award grants, loans, and grant/loan combinations to support projects that deploy broadband infrastructure into rural areas, helping to ensure that rural businesses, communities, and citizens have the same opportunities afforded by broadband as all other Americans. These grants and loans will provide enhanced connectivity to critical rural facilities such as hospitals, schools, and community colleges.

Box 1. Broadband Basics

Consumers obtain broadband service from “last-mile” providers that offer broadband connections through one of several technologies: cable modem service provided by a cable television company; digital-subscriber-line (DSL) service provided by a telephone company; wireless access provided by a satellite company; or other forms of wireless service that enable Internet access on mobile devices and laptop computers, such as commercial mobile service, Wi-Fi, or Wi-MAX service. For a growing number of Americans, high-speed broadband is also available from providers of fiber-to-the-home.

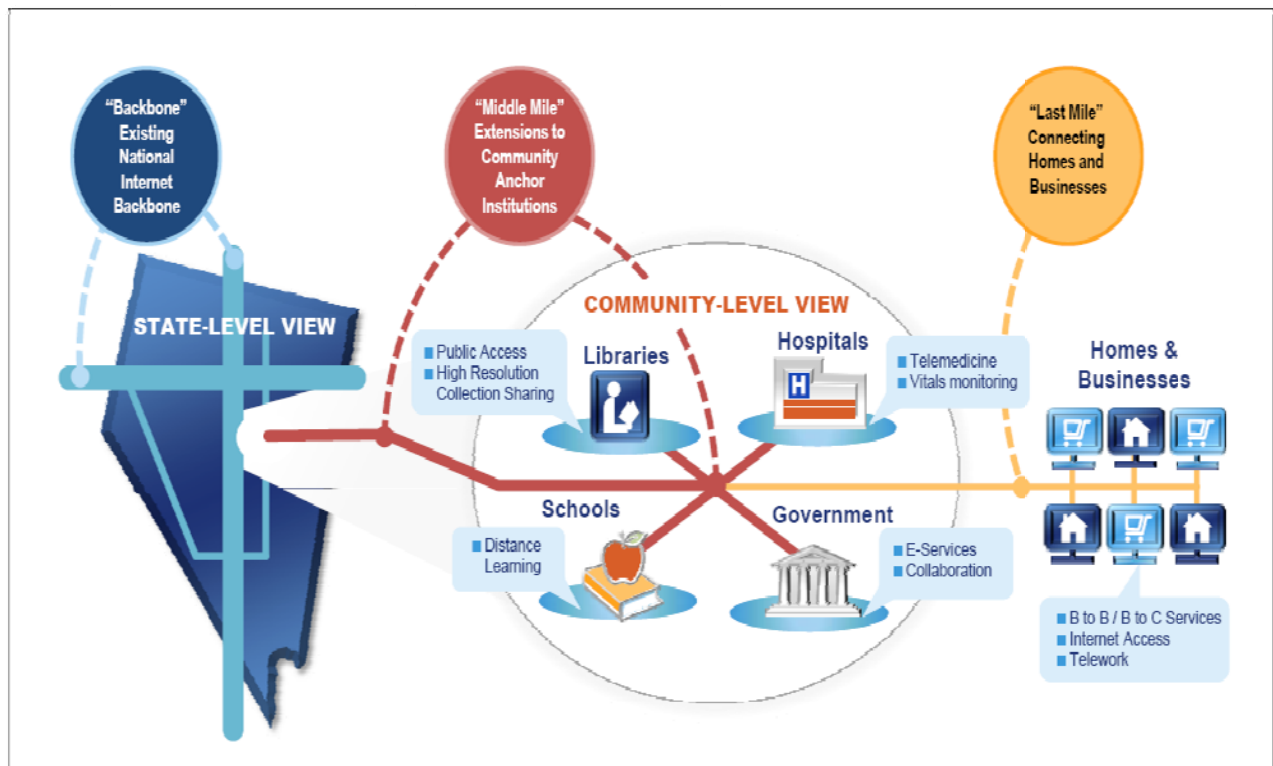
Less than a decade ago, most consumers connected to the Internet via a narrowband “dial-up” connection over a telephone line. Today, broadband provides transformative benefits to users in all sectors of the economy. It allows for the transmission of voice, data, and media services into homes and businesses at much faster speeds than dial-up. Multiple applications can run simultaneously, so that a consumer can, for example, talk on the phone and browse the Web at the same time. Software, music, and video downloads occur in seconds rather than hours, and businesses can take advantage of real-time two-way teleconferencing. Broadband in schools, universities, and libraries supports distance learning, research, and real-time video instruction. In hospitals, doctors’ offices, and community clinics, broadband can facilitate remote medical consultations, patient care, and resource sharing, reducing the need for patients to travel long distances to receive medical care. Federal, state, and local governments use broadband to provide e-government services to citizens.

Investments in the “Middle Mile”:
Catalyzing Private Sector Investment to Maximize the Impact of Federal Dollars

President Obama believes that government spending should catalyze, rather than supplant, private sector investment and innovation. In unserved and underserved areas, targeted public investment can spur commercial providers to offer affordable high-speed Internet access to homes and businesses. The Administration’s Recovery Act investments in broadband are designed to create jobs quickly and to leverage federal dollars to spur broadband access to all parts of the country without adequate service.

Investments in the “middle mile” extend the reach of the Internet into communities that would otherwise lack adequate access to broadband and its many opportunities. Moreover, Recovery Act middle-mile projects are specifically designed to improve connections to community institutions such as schools, hospitals, and libraries in order to enhance the quality of their critical services and reach large numbers of people. By focusing on these institutions, federal investment will connect more workers to broadband at their jobs, empower more children with digital skills through schools and libraries, and lead to increased broadband adoption in homes and businesses.

**Figure 1. Recovery Act Investments in the Middle Mile Will
 Connect Key Institutions and Enable Service to Homes and Businesses**



Source: National Telecommunications and Information Administration, U.S. Department of Commerce.

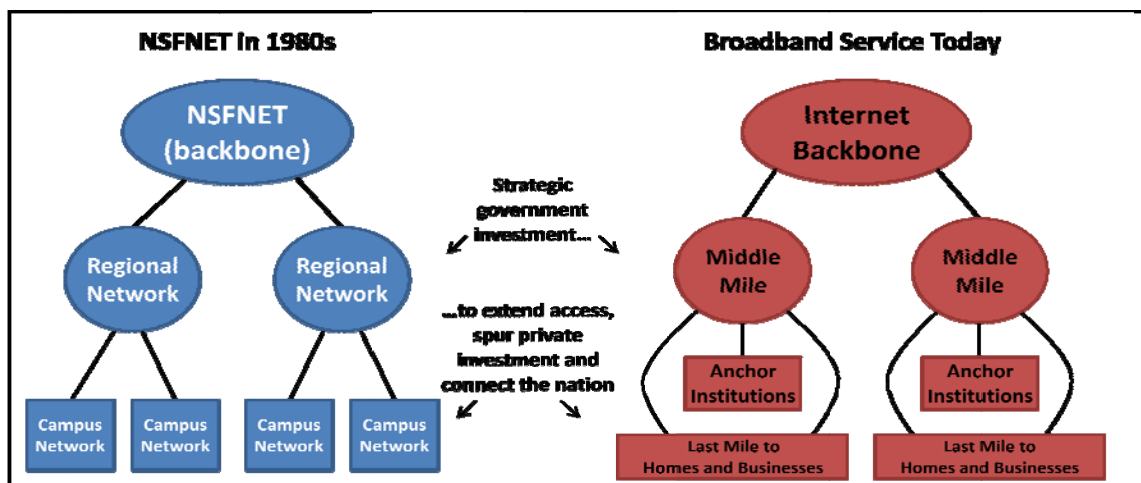
What is the “Middle Mile”?

The “middle mile” provides the critical link between the Internet backbone and the local networks that connect homes, businesses, and community institutions. The foundation of the nation’s broadband connectivity is the “Internet backbone,” a network of large, high-bandwidth fiber optic cables that span the country and the globe. To get broadband service into homes and businesses, Internet service providers such as telephone, cable, and wireless companies must connect their local networks—known as the “last mile”—to the Internet backbone. The “middle mile” is the critical connection between the Internet backbone and the last-mile local networks. When residents initiate a connection from their home, school, or work, the information flows from the last-mile network segment to the middle-mile infrastructure, which then directs the flow of traffic to the backbone network through an interconnection point. An Internet backbone provider then continues the transmission to a distant endpoint.

Middle-mile infrastructure is essential for bringing broadband to communities that were previously isolated or had only rudimentary connections. By lowering the cost of last-mile connections, investments in the middle mile allow Internet service providers to enter the market and build connections to homes and businesses. In addition, Recovery Act middle-mile projects are designed to connect directly to community anchor institutions, providing them with immediate Internet access and improving the critical services they provide.

The importance of middle-mile connectivity today has historical precedent in the embryonic stages of the development of the Internet more than two decades ago. In the mid-1980s, the National Science Foundation (NSF) funded the creation of NSFNET, a backbone network designed to connect university researchers across the country to each other and to six national supercomputer centers. To maximize the benefits of NSFNET, NSF provided seed funding for regional or mid-level networks that would connect many more university researchers.

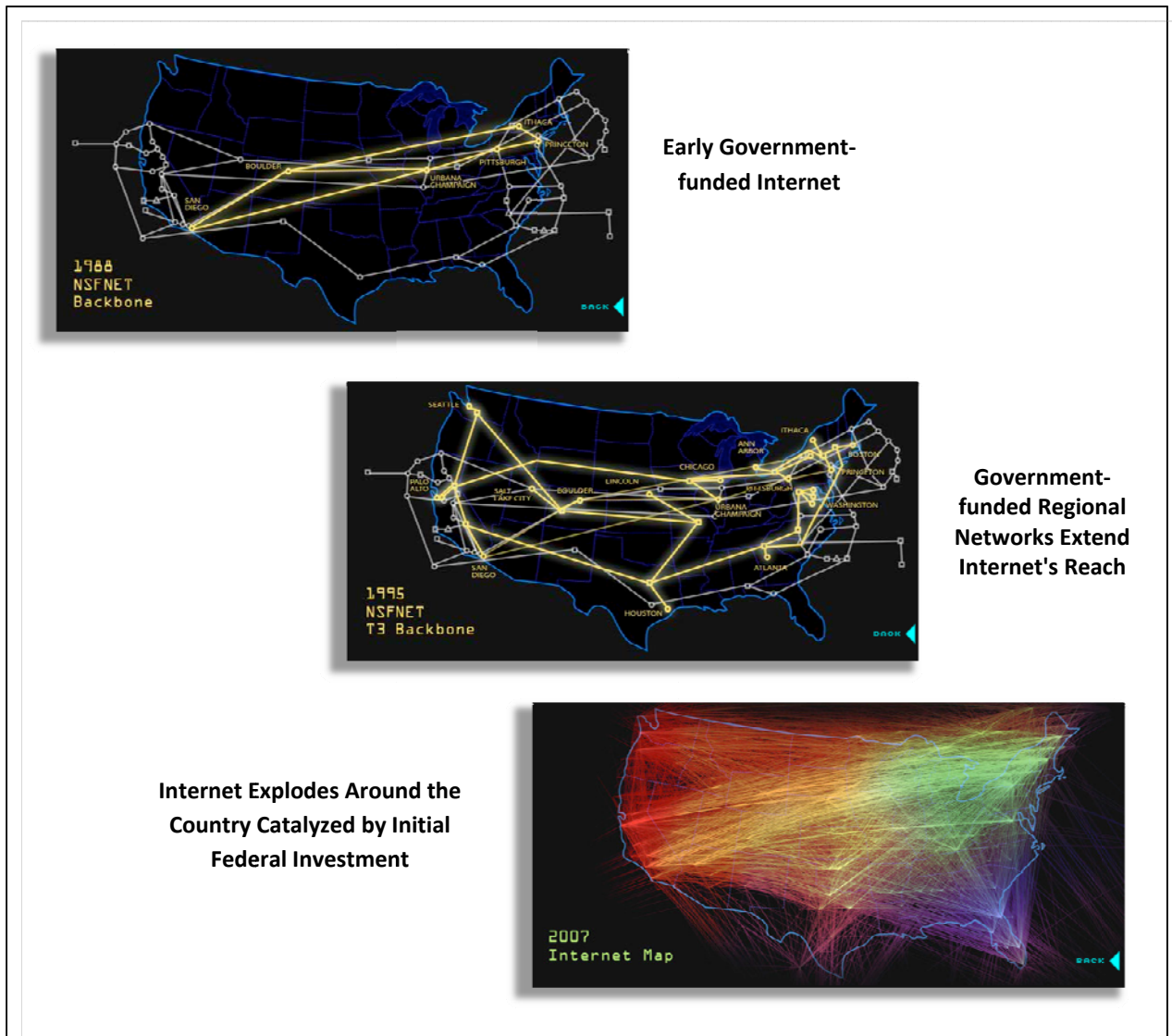
Figure 2. Historical Precedent for Middle Mile Investment



Source: Merit’s History: The NSFNET Backbone Project 1987-1995 (<http://www.livinginternet.com/doc/merit.edu/government.html>).

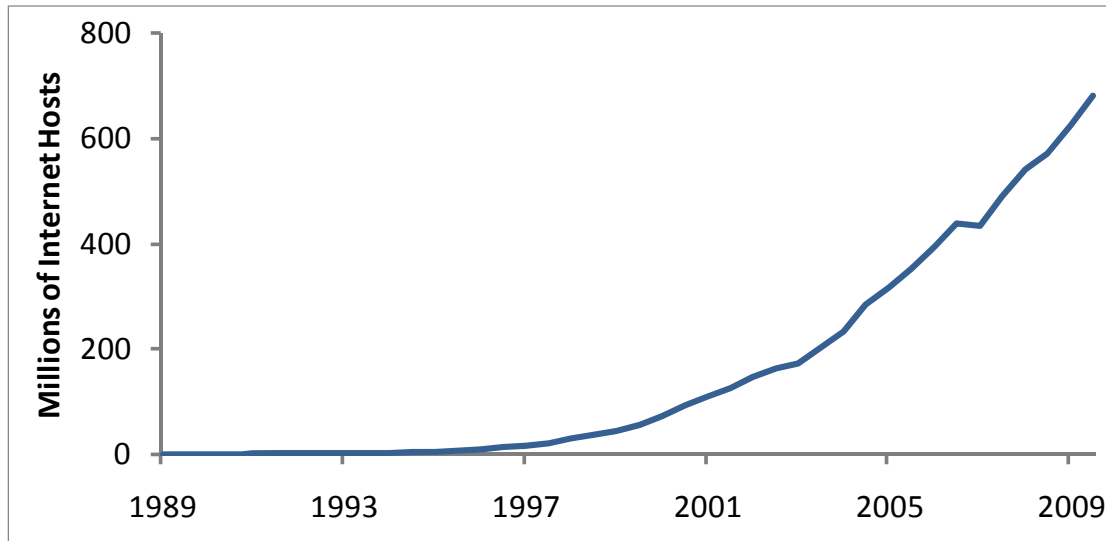
Regional networks provided the middle-mile glue that enabled universities around the country to become part of a single research community. This small amount of government investment also unleashed the phenomenal growth of the Internet service provider industry that we know today. Like the regional networks that connected the university research community two decades ago, middle-mile service today is essential to connecting consumers and community institutions in all corners of the United States to the national broadband infrastructure.

Figure 3. Growth in Internet Connections Spurred by Early Targeted Federal Investments



Source: National Science Foundation, *NSF and the Birth of the Internet* (http://www.nsf.gov/news/special_reports/nsf-net).

Figure 4. Increase in Internet Hosts, 1989-2009



Source: Internet Systems Consortium (<https://www.isc.org/solutions/survey/history>).

Recovery Act Investments in the Middle Mile Will Spur Private Investment

Economic analysis shows that the private sector may under-invest in the middle mile, leaving many communities without adequate access to broadband services and opportunities. Underinvestment is not a problem in communities where the facilities of the last-mile provider are a short distance from the Internet backbone, since private providers can build the middle mile at low cost. In other cases, however, the distance from the community to the Internet backbone may be so large that the cost of upgrading middle-mile facilities to these communities is too high for a private provider to make a profit. This is especially true in rural communities, where consumers and businesses are often unable to obtain broadband services because of absent or inadequate middle-mile infrastructure. Although these communities may have limited Internet access at low speeds, without high-speed connections they cannot stream audio and video, run businesses online, take advantage of telemedicine, or enroll in distance learning courses. With more and more applications being created for broadband connections, those without high-speed Internet are losing online opportunities rapidly.

Strategic investments in the middle mile, including the Recovery Act awards announced today, leverage federal dollars to bring broadband services to communities that would otherwise be left behind. The Recovery Act investments in middle-mile infrastructure will lower the cost of providing last-mile services to these communities, attracting private service providers and sparking new broadband connections throughout the community. Importantly, the awards come with requirements for “open interconnection,” meaning that grantees must make any infrastructure funded with taxpayer dollars available for interconnection with other networks. This specification enables Internet service providers to enter the market and connect homes and businesses by building out last-mile connections from the publicly funded middle-mile network.

Project Spotlight: Under the first wave of Recovery Act awards, the North Georgia Network Cooperative will receive a \$33.5 million grant to **deploy middle-mile infrastructure** to eight counties in the impoverished Appalachian region of northern Georgia and North Carolina. The 260-mile fiber-optic ring is expected to deliver broadband speeds and reliability never previously available in the area. The fiber ring will directly connect 245 community institutions, including public schools, colleges and universities, hospitals, and government facilities. The proposed fiber ring also includes 2,600 **interconnection points** that will allow Internet service providers to build out **last-mile connections** to

end users. The middle-mile ring will provide broadband services with greater speeds and reliability to the struggling Appalachian communities of northern Georgia, creating jobs and introducing unprecedented opportunities for economic development. This project will also deliver last-mile service to approximately 24,000 households in previously inaccessible and unaffordable areas.

Figure 5. North Georgia Network Cooperative Proposed Middle-Mile Network



The Recovery Act broadband awards also stretch federal dollars by encouraging private investment in the middle-mile infrastructure itself. Most of the broadband awards require either matching grants or a loan component to ensure financial sustainability and to maximize the leverage of federal spending. In addition, many applicants are public-private partnerships that pool resources and expertise from businesses, local governments, and non-profits in the community.

Project Spotlight: Two of the middle-mile infrastructure awards announced today will go to **public-private partnerships**. One of these awards is a \$39.7 million grant to build middle-mile infrastructure in rural upstate New York. The grantee is a partnership between ION, a for-profit company based in the capital of Albany, and the Development Authority of the North Country (DANC), a public benefit corporation. These entities have pooled their resources and knowledge of upstate rural markets to develop a regional broadband plan that will immediately connect more than 100 community institutions, including libraries, state and community colleges, and health clinics. The project will also enable last-mile connections to 250,000 households and 38,000 businesses. In combination with ION and DANC's existing broadband

networks, this new middle-mile network will help facilitate service to a majority of rural areas in New York, as well as parts of Pennsylvania and Vermont.

Box 2. Middle Mile That Works: A Historical Example from Southern Virginia

In January 2004, the Commonwealth of Virginia formed the Mid-Atlantic Broadband Cooperative (MBC) to help address the lack of affordable telecommunications infrastructure and create jobs in rural southern Virginia. With \$6 million in seed money from the U.S. Department of Commerce and a matching state grant of \$6 million, MBC built a 700-mile “middle-mile” fiber-optic network in two years. With the help of additional state grant money, the network is now more than 800 miles long and continues to grow, running throughout Southern Virginia and stretching across 60 business and technology parks.

MBC is an open-access, non-discriminatory wholesaler whose members provide last-mile end-user services to homes and businesses in rural southern Virginia. The Cooperative’s 60-plus members include both small and large telecom and Internet service providers. These providers pay fees for access to MBC’s middle-mile network, which transports data between the end users and a large Internet interconnection point in northern Virginia. Open interconnection requirements have facilitated last-mile connections to homes and businesses at affordable rates.

Development of the middle-mile network has promoted regional economic development in southern Virginia and surrounding areas. Of the \$10.5 million spent by MBC last year, 79 percent of this money was spent on companies headquartered in Virginia; 32 percent was spent with Virginia companies with operational headquarters in southern Virginia; and 25 percent was spent with certified small, women, and minority firms registered in the Commonwealth. Over the past three years, MBC’s middle-mile broadband network has contributed to bringing thousands of jobs and hundreds of millions of dollars in private sector investment to southern Virginia.

Source: Mid-Atlantic Broadband Cooperative 2009 Annual Report and www.mbc-va.com/about_mbc/index.html.

Targeting Community Anchor Institutions in Urban and Rural Areas

Community “anchor institutions” are facilities such as schools, libraries, hospitals, and public safety agencies that provide critical services and reach large portions of the community each day. Providing broadband services at these institutions can maximize federal impact by improving the delivery of services, reaching thousands of new users, and encouraging broadband adoption in both urban and rural areas.

As part of middle-mile comprehensive community projects, Recovery Act investments will help connect community anchor institutions, improving the delivery of critical services and immediately connecting thousands of people to broadband. One of the goals of the Recovery Act middle-mile investments is to connect the anchor institutions within a given community directly to the backbone, with an eye toward improving the performance and effectiveness of these institutions and reaching large numbers of people. For example, health care providers will be able to monitor patient health remotely, consult with other medical professionals, and share medical records in real-time. Broadband connections in libraries will enable students to conduct research and locate information and allow workers to identify and apply for jobs. Schools and colleges will be able to stream audio and video content from other institutions, provide and receive instruction through online distance-learning programs, and facilitate training and skill development for adult learners.

Connection of anchor institutions can also help spur broadband adoption. Workers in hospitals, libraries, and government facilities will experience the benefits of broadband at work, and students will use broadband for homework, research, and communication at school. These experiences with broadband and improvements in digital skills can spur broadband demand at home and attract last-mile providers to the area.

Project Spotlight: The Biddeford Internet Corporation, a public-private partnership between service providers and the University of Maine, will receive a \$25.4 million Recovery Act grant to construct middle-mile infrastructure across rural Maine. The project, known as the “Three Ring Binder,” will include three fiber-optic rings extending from the most rural and disadvantaged areas of the state, to the coast, and through the mountainous regions of western Maine. The 1,100-mile network will pass more than 100 communities with 110,000 households, **600 anchor institutions**, and a number of last-mile providers. The project will connect 10 University of Maine campuses and outreach centers, three community colleges, and 38 government facilities. Broadband access will help these anchor institutions better serve students, workers, clients, and citizens. According to Biddeford, the New England TeleHealth Consortium and the Franklin County Healthcare Network will use this middle-mile infrastructure to implement advanced health care networks as part of an effort to **improve delivery of rural health care services.**

For urban and suburban areas in particular, Recovery Act investments in public computer centers and sustainable adoption will leverage federal dollars by facilitating digital literacy among a new generation of users. Many underserved communities are located in urban and suburban areas where broadband is available but adoption rates are low because of

insufficient exposure to the benefits of broadband or lack of affordability. The Recovery Act includes funding for computers, equipment, networking, hardware and software, and basic digital training at public computer centers such as libraries and community colleges. Through these one-time investments, federal funding will make broadband more accessible and affordable to more Americans, expose a new generation of workers and consumers to the benefits of broadband, help to improve American competitiveness in the world, and bolster digital skills in low-income and disadvantaged communities. Exposure to broadband benefits will motivate more Americans to use broadband as a tool to improve career and education decisions and enhance their quality of life. It will also encourage more users to adopt broadband in their homes. The Administration is also planning ways to measure the effects of investments in public computer centers.

Project Spotlight: Through a Recovery Act **Public Computer Center** grant, the Arizona State Library Archives and Public Records will help 84 public libraries in the state enhance service to their communities with additional public-access computers in their institutions. Located in areas where citizens have very limited access to computers or the Internet, the expanded capacity at these libraries will provide residents with access to a **wide range of online resources**, including government, business, and health information, while also facilitating training for job searches and skill development. The libraries will partner with a variety of government, not-for-profit, and tribal organizations in serving residents. The Arizona State Library expects the computer centers to serve more than 75,000 users per week and more than 450,000 residents in total.

“[Investing in broadband] is a first step toward realizing President Obama’s vision of a nationwide 21st-century communications infrastructure – one that encourages economic growth, enhances America’s global competitiveness, and helps address many of America’s most pressing challenges.”

- Vice President Joseph Biden, July 1, 2009

Creating Jobs and Enhancing Economic Development

Recovery Act investments in broadband deployment and adoption are designed to create jobs immediately. These investments can also facilitate long-term, sustainable economic development by bringing communities into the digital age. Broadband access service can provide small and large businesses alike with the ability to reach new and distant markets, introduce new business models to market and sell their goods and services, and drive innovation in business processes. For individuals, broadband can facilitate access to distance education, job opportunities, and skills training.

Recovery Act broadband investments will create tens of thousands of jobs in construction and other sectors, helping to put struggling communities back to work quickly. Recovery Act broadband projects must be substantially completed within two years of obligation. In this short period of time, they will create tens of thousands jobs and produce an immediate impact on local economies. Broadband investments will create many types of jobs throughout the nation. The most prevalent are construction jobs: the broadband service provider hires dozens or hundreds of workers to lay fiber in the ground or build towers for aerial connections. Before and during construction, workers are also needed for the engineering, design, and planning aspects of middle-mile and last-mile infrastructure. During construction and after completion, employees in the field manage installation, repair towers and lines, and interact with customers. Broadband service providers also create jobs indirectly through the purchase of equipment for broadband connections, such as networking equipment and construction machinery.

Evidence indicates a strong impact of broadband on economic development. A 2006 study by the Economic Development Administration in the U.S. Department of Commerce concluded that broadband access “does enhance economic growth and performance, and the assumed economic impacts of broadband are real and measurable.”¹ A more recent academic study finds that federal broadband investments will generate significant employment effects through regional economic development and induced innovation, also known as “network externalities.”² Consistent with prior research, the study finds that federal Recovery Act broadband investments could create hundreds of thousands of jobs over a four-year period by stimulating new businesses, market transactions, and innovative industries in previously underserved areas.

Recovery Act programs are targeted to maximize economic development opportunities. The Administration is directing Recovery Act investments to middle-mile connections and community anchor institutions in order to bring broadband to thousands of workers and consumers immediately and spark the spread of broadband services to homes and businesses throughout those communities. Open interconnection requirements make it easier for last-mile providers to interconnect their networks with the newly upgraded middle-mile infrastructure.

Project Spotlight: Through Recovery Act funding, the Consolidated Electric Cooperative (CEC) will receive a grant/loan combination of \$2.4 million to construct a 166-mile middle-mile network in North Central Ohio. The project will bring major-city connectivity into underserved areas and connect anchor institutions and the facilities of wireless Internet service providers. Lack of available fiber has been a barrier to **economic development** in the North Central Ohio area, but through this project CEC will be able to sell fiber to customers and to providers planning to offer last-mile service to the area. In addition, the CEC network will connect all 16 of its electric substations to support its **Smart Grid technology initiative**, facilitating the

¹ *Measuring Broadband's Economic Impact.* U.S. Department of Commerce, Economic Development Administration. National Technical Assistance, Training, Research and Evaluation Project #99-07-13829. February 2006.

² “Estimating the Economic Impact of the Broadband Stimulus Plan.” Raul Katz, Columbia Business School, and Stephan Suter, Polynomics AG. February 2009.

implementation of cutting-edge green technology and supporting economic development in the region.

Box 3. Broadband Economics 101

Many of the benefits of federal broadband investment can be explained using basic economic principles. One important benefit is what economists call “consumer surplus,” the difference between the price a consumer is willing to pay for a service and the price the consumer actually pays. Without federal investment in middle-mile infrastructure, certain areas of the country may be unserved or underserved because lack of good middle-mile infrastructure makes the cost of providing last-mile broadband service prohibitively high. Federal investment in the middle mile lowers the cost of providing last-mile service, encouraging private Internet service providers to enter these areas and offer broadband services to homes and businesses. If an end user in a newly served community would have been willing to pay \$120 per month for broadband service but only has to pay \$70 per month, then the end user gets a “consumer surplus” of \$50. Furthermore, the last-mile provider makes a profit, which is called “producer surplus.” The sum of consumer and producer surplus is the economic value created by the project.

Recovery Act broadband programs have been designed to maximize economic surplus. The programs target unserved and underserved communities because installing or upgrading the middle mile will have the greatest impact on last-mile prices (and thus on consumer surplus) in these areas. In addition, open access and interconnection rules facilitate last-mile networks via interconnection points with the middle-mile infrastructure, helping to ensure that every potential client in the community that wants to subscribe can do so at a price that corresponds to the cost of providing broadband service.

Investment in unserved and underserved areas, including public computer centers in urban areas, also creates economic value over the longer-term. These investments expose first-time broadband users to the benefits and uses of broadband, such as job search and training, distance learning, telemedicine, and audio and video streaming. Exposure to these opportunities can produce a more digitally literate workforce and promote broadband adoption at home.

The job-creation effects of middle-mile investment also extend beyond the initial construction of the middle mile. To build last-mile networks in newly connected areas, local Internet service providers must hire employees and invest in plant and equipment. In this way, Recovery Act spending spurs additional economic activity that would not have occurred in the absence of federal investment. The aim of Recovery Act projects is to maximize the economic value of each dollar of federal spending.

Access for All: Bringing the Last Mile to Rural America

President Obama believes that all communities, whether urban or rural, should have access to the many opportunities afforded by broadband Internet service. In many parts of the country, strategic investment in the middle mile is the best use of federal dollars. Middle-mile investment can bring down the cost of last-mile service enough that private service providers can provide broadband services to homes and businesses at a reasonable price.

In highly rural areas of the country, however, low population density may mean that middle-mile investment is not enough to make last-mile service cost effective for private providers. For these communities, the government has an important role to play in bringing broadband service to homes, businesses, and rural anchor institutions. Just as President Franklin Roosevelt made a commitment seven decades ago to bring electrification to all communities in America, the Obama Administration is taking steps to ensure that rural areas are not left out of economic opportunity.

Recovery Act investments in rural last-mile connections will have significant economic development benefits for those areas. Broadband access can contribute to the economic development of rural areas, providing new connections to education and health care resources and access to new markets and business practices. Rural businesses can use broadband service to find new markets, make online retail sales, and engage in business-to-business transactions. Broadband can increase teleworking opportunities for rural residents, make government services more accessible and convenient, and reduce travel and out-of-work time for patients through telemedicine. A recent study by the U.S. Department of Agriculture's Economic Research Service found that broadband Internet availability in rural areas had positive effects on job creation, the formation of new businesses, and the retention and growth of existing small businesses.³

For rural areas that have been heavily dependent on one industry, changes or environmental factors in that industry—such as a drought or a drop in the price of a commodity—can affect a large proportion of the economic production in the community. Broadband-enabled employment is valuable in these areas because it allows for jobs that are flexible and untethered to local economic conditions. This buffer provides a safety net for rural areas when local conditions are unfavorable. At the jobs forum convened by President Obama this month, Angie Selden, CEO of Arise Virtual Solutions, emphasized the importance of rural broadband, noting that 23 percent of Arise's U.S.-based "home agents" reside in communities with populations smaller than 15,000 people.

Urban areas also benefit when rural citizens have access to broadband. Bringing broadband to rural areas can open up previously inaccessible markets to businesses in urban and suburban areas. Governments can engage more effectively with rural citizens who have broadband and improve service provision to these areas. Rural broadband access will also allow friends and relatives of people in rural areas to communicate more easily with their rural contacts.

³ *Broadband Internet's Value for Rural America.* U.S. Department of Agriculture, Economic Research Report Number 78. August 2009.

Project Spotlight: The Administration will award a last-mile grant to Rivada Sea Lion, an Alaska Native Corporation, to provide **4G wireless** high-speed broadband Internet service to approximately 30,000 residents in 53 **unserved, subsistence level communities** in southwestern Native Alaska. Rivada will design, engineer, and construct a multi-mode 4G last-mile remote network that spans 90,000 square miles and connects homes and businesses as well as anchor institutions such as health clinics, schools, and tribal government facilities. By using wireless and satellite technology rather than copper or fiber, the project will provide the **first broadband services to these Native Alaskan communities** at relatively low cost.

Project Spotlight: The Administration will also award a last-mile grant to the Bretton Woods Telephone Company in New Hampshire for a “fiber-to-the-home” project. This project will provide broadband to end users in the Bretton Woods community, a remote area in northern New Hampshire with a **tourism-based economy**. It will pass 386 households, 19 businesses, and six community anchor institutions, allowing all potential customers to receive two-way broadband service of up to 20 Mbps. The improved network is expected to **encourage tourism and promote development** of the local Bretton Woods economy.

Conclusion

President Obama believes that all Americans should have access to broadband and the transformative opportunities it affords. Broadband services allow individuals to access new career and educational opportunities. They help businesses reach new markets and improve efficiency. They support struggling communities that seek to attract new industries. And they enhance the government’s capacity to deliver critical services. For all these reasons, the Administration has targeted its Recovery Act investments in broadband to spur private investment throughout the nation, connect critical community institutions to broadband services, and encourage digital literacy and adoption in urban and rural areas.

Federal investments in the middle mile—which connects the Internet backbone to local networks—will encourage private investment in last-mile connections to homes and businesses, facilitating regional economic development in previously underserved areas and opening unprecedented opportunities in employment, education, health care, and entrepreneurship. Recovery Act investments will also connect and equip community anchor institutions, including public computer centers that provide broadband access and training to disadvantaged communities in urban and suburban areas. And targeted last-mile investments in rural areas will facilitate connections to homes and businesses that would otherwise be left behind in the digital economy.

These critical investments will create tens of thousands of jobs, stimulate the economy in the near term, and help to lay a foundation for the renewal of the American economy. They will advance President Obama’s vision of bringing the opportunities of broadband to all Americans and securing U.S. leadership in the new knowledge-based economy.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

You are here: > [NTIA Home](#) > [Press](#) > 2010 | [Contact NTIA](#)

About NTIA

Issues

NTIA Offices

- [Asst. Secretary](#)
- [Domestic Policy](#)
- [International](#)
- [Spectrum](#)
- [Telecom Research](#)
- [Grants](#)

Public Notices

Publications & Reports

Media & Press

Speeches/Testimony

NTIA Jobs

Dept. of Commerce

More Information

- [FY2010 Budget Request](#)
- [Additional Links](#)
- [Privacy Policy](#)
- [FOIA Information and Points of Contact](#)
- [Information Quality Guidelines](#)
- [Accessibility Information](#)
- [Adobe Acrobat Reader](#)



COMMERCE AWARDS RECOVERY ACT BROADBAND EXPANSION GRANTS TOTALING \$63 MILLION

Funds Will Expand Broadband Infrastructure and Access in Massachusetts, Michigan and North Carolina

For Immediate Release: January 20, 2010

Contact: [Jessica Schafer, 202-482-5670 or press@ntia.doc.gov](mailto:Jessica.Schafer@ntia.doc.gov).

WASHINGTON – The Department of Commerce's National Telecommunications and Information Administration (NTIA) today announced grants totaling \$63 million to expand broadband access and adoption in Massachusetts, Michigan and North Carolina. Funded by the American Recovery and Reinvestment Act, NTIA's Broadband Technology Opportunities Program (BTOP) provides grants to support the deployment of broadband infrastructure in unserved and underserved areas, enhance and expand public computer centers, and encourage sustainable adoption of broadband service. These investments will help bridge the technological divide, boost economic growth and create jobs.

"High-speed Internet access is the lifeblood of today's economy," Commerce Secretary Gary Locke said. "Having access to the Internet's economic, health and educational benefits should be as much of a fundamental American right as attending a quality school. Our best minds should be able to talk to one another, create and innovate regardless of where they come from. These grants are an important step toward expanding high-speed Internet access into the unserved and underserved areas of the country."

NTIA received nearly 1,800 applications during the first BTOP funding round and is currently awarding grants on a rolling basis. Including today's announcement, NTIA has now awarded 15 grants totaling approximately \$200 million under the program.

"The level of interest in this program has been extraordinary, and is yet another indicator of the critical role broadband plays in achieving durable, sustainable economic growth," said Assistant Secretary for Communications and Information and NTIA Administrator Lawrence E. Strickling. "Like the grants announced today, the strongest proposals are the ones that have taken a truly comprehensive view of the communities to be served and have engaged as many key members of the communities as possible in developing the projects."

BTOP grants fall into one of three categories. Infrastructure grants build and improve connections to communities lacking sufficient broadband access. Public computer center grants expand computer center capacity for public use in libraries, community colleges and other public venues. Sustainable broadband adoption grants fund innovative projects to increase broadband subscription levels in areas or among population groups where the technology has traditionally been underutilized.

The following grants were announced today:

Massachusetts, University of Massachusetts-Lowell: \$780,000 broadband adoption grant with an additional \$196,000 in applicant-provided matching funds to promote broadband awareness and computer literacy among

SEARCH:

American Recovery and Reinvestment Act



For NTIA's efforts, visit [NTIA: Recovery Act](#).



Commerce Spectrum Management Advisory Committee



RSS News Feed
[What is RSS?](#)

vulnerable populations, including the nation's second largest Cambodian population, low-income and at-risk youth, the unemployed, residents without college degrees, and seniors in Lowell and Merrimack Valley. As part of the program, University of Massachusetts-Lowell students will work in local computer centers with at-risk youth and seniors to develop appropriate training and outreach materials.

Michigan, Merit Network, Inc.: \$33.3 million infrastructure grant with an additional \$8.3 million in matching funds to build a 955-mile advanced fiber-optic network through 32 counties in Michigan's Lower Peninsula. The project also intends to directly connect 44 community anchor institutions and will serve an area covering 886,000 households, 45,800 businesses, and an additional 378 anchor institutions.

Michigan, Michigan State University: \$895,000 public computer center grant with an additional \$235,000 in matching funds to expand 84 existing library computer centers and establish four new computer centers. Computer center sites were selected by targeting underserved and high-unemployment population areas and then focusing on those libraries with the greatest need for additional computing capacity. The project will add 500 new workstations at these targeted public computer centers throughout the state and serve nearly 13,000 additional users per week.

North Carolina, MCNC: \$28.2 million infrastructure grant with an additional \$11.7 million in matching funds and in-kind contributions to build a 494-mile middle-mile broadband network passing almost half the population of North Carolina in 37 counties. The network will build new rings in the western and eastern regions of the state, which will connect to 685 miles of existing infrastructure in the urbanized central region, expanding the reach of the North Carolina Research and Education Network (NCREN), an established broadband service for community anchor institutions in the state.

NTIA recently announced that a second round of BTOP applications will be accepted through March 15, 2010. The rules for applying to this funding round have been modified to make the application process more user-friendly and better target program resources.

"I encourage prospective round two BTOP applicants to study the grant announcements we are currently rolling out for guidance as they put together their own project proposals," added Strickling.

NTIA and the Department of Agriculture's Rural Utilities Service (RUS), which is administering a companion broadband expansion grant and loan program, will hold a series of public workshops to review the new application process and answer questions from prospective applicants. The workshops will be held starting on January 26th through February 12th in Portland, Ore.; Reno, Nev.; Denver, Colo.; San Antonio, Tex.; Eureka, Mo.; Sioux Falls, S.D.; Detroit, Mich.; Blacksburg, Va.; Fayetteville, N.C.; and Atlanta, Ga. Interested parties can register for the workshops and find more information on rules for the second round of funding at <http://www.broadbandusa.gov>. NTIA and RUS have also provided a new online tool, BroadbandMatch (at <http://match.broadbandusa.gov>) to facilitate partnerships among prospective applicants to the agencies' broadband grant and loan programs.

The American Recovery and Reinvestment Act provided a total of \$7.2 billion to NTIA and RUS to fund projects that will expand access to and adoption of broadband services. Of that funding, NTIA will utilize \$4.7 billion for grants to deploy broadband infrastructure in unserved and underserved areas in the United States, expand public computer center capacity, and encourage sustainable adoption of broadband service. RUS will use \$2.5 billion in budget authority to support grants and loans to facilitate broadband deployment in primarily rural communities. NTIA plans to announce all grant awards by September 30, 2010.

- BTOP project information

- # # # -

U.S. Department of Commerce's NTIA serves as the executive branch agency principally responsible for advising the President on communications and information policy. For further information about NTIA's BTOP grants, please visit <http://www.ntia.doc.gov/broadbandgrants/>.

[Home](#) | [Publications](#) | [Newsroom](#) | [Policy](#) | [International](#) | [Spectrum](#) | [Grants](#) | [Research](#)
National Telecommunications and Information Administration, U.S. Department of Commerce
1401 Constitution Ave., NW Washington, DC 20230

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Victor D. Sharpe, Community Development Director
DATE: March 1, 2010
RE: **Community Development - Update on the Murchison Road Redevelopment Plan**

THE QUESTION:

What progress has been made on the implementation of the Murchison Road Corridor Plan?

RELATIONSHIP TO STRATEGIC PLAN:

Greater Tax Diversity - Strong Local Economy and More Attractive City - Clean and Beautiful.

BACKGROUND:

- On September 28, 2009, City Council approved the Murchison Road Redevelopment Plan funding concept.
- The next step identified was to move forward with the implementation of the Murchison Road Corridor Plan for catalyst sites 1 and 3.
- Since that time the City has continued to work with consultant Marshall Isler on the preparation of a Redevelopment Plan for the Murchison Road Corridor project areas and an application for funding for a HUD Section 108 Loan Guarantee for the projects. A draft of both have been completed.
- The first project in the plan is the Rowan Plaza which will be located on a vacant site at the southern end of Murchison Road at Rowan Street. It contains a shopping center, housing development and community park.
- The second project is Jasper Plaza which is located on a site at the corner of Jasper Street and Murchison Road. It contains a mixed-use shopping center, which will include retail and office space and a daycare center and an affordable housing development.
- The HUD Section 108 Guarantee Loan is proposed for \$2,750,000 which will be used for acquisition, demolition, clearance, relocation, and economic development (developer gap financing) for the Rowan Plaza and Jasper Plaza retail centers along the Murchison Road Corridor.
- Once a final draft has been prepared, public hearings will be held by the Fayetteville Redevelopment Commission (FRC). Upon approval by the FRC, the plan shall be forwarded to the Planning Commission for review and certification. Upon approval and certification by the Planning Commission, the plan shall be forwarded to City Council for a public hearing and consideration.
- The HUD Section 108 Loan Guarantee will be proposed in the upcoming Consolidated Plan and 2010-2011 Annual Action Plan.

ISSUES:

- The success of the proposed plan is contingent upon receiving the approval of the HUD Section 108 Loan Guarantee.
- The funding plan concept approved on September 28, 2009, recommends funding from the City's general fund beginning in the year of 2013 through 2023. The total amount needed from the general fund is \$2,591,067. This amount will need to be included in the City's Capital Improvement Plan, but no funding has been currently identified.
- Other City funds include the HUD Section 108 Loan Guarantee funds in the amount of \$2,750,000, which will be repaid from future Community Development Block Grant

allocations and \$2,256,000 of HOME funds received in future years. The City's total investment will be \$7,957,067.

OPTIONS:

Receive update as information.

RECOMMENDED ACTION:

This item is for informational purposes.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Karen M. McDonald, City Attorney
DATE: March 1, 2010
RE: **City Attorney - Update on Ethics Commission**

THE QUESTION:

Whether to continue the implementation of the Ethics Commission.

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government and consistent with the City's Core Values which are designed to safeguard and enhance the public trust in City Government.

BACKGROUND:

As part of the Fayetteville Forward Plan and consistent with the City's strategic plan, the City Council made a commitment to implement an Ethics Commission along with requisite appointments and training for commission members. At the August 3, 2009, work session, City Council directed staff to move forward with the creation of an Ethics Commission. On September 28, 2009, City Council adopted an ordinance creating the Ethics Commission. Since that time, staff has been working toward implementation of this ordinance. The following persons have been appointed:

Appointment	Appointment Category
Renny W. Deese	Cumberland County Bar Association
Kelly D. Puryear	Sandhills Chapter of Certified Public Accountants
Del Crisp	College and University
Stephon A. Ferguson	General Citizenry
Gwen J. Holloman	General Citizenry

Former City Attorney Bob Cogswell has agreed to serve as the attorney for the Commission.

ISSUES:

The City has had a conflict of interest ordinance for many years. As a result, the ordinance may need to be updated to ensure it is consistent with state law regarding conflicts of interest and the new ethics law.

OPTIONS:

RECOMMENDED ACTION:

Receive the update.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Kristoff Bauer, Assistant City Manager
DATE: March 1, 2010
RE: **City Manager's Office - Annexation Policy Follow-Up: Donut Holes**

THE QUESTION:

What is the status of unannexed properties completely surrounded by existing Fayetteville corporate limits?

RELATIONSHIP TO STRATEGIC PLAN:

Council's Goal 1 "Growing City, Livable Neighborhoods - A Great Place To Live" specifically identifies the development of an "Annexation and Policy: Report, Resolution of Consideration and Actions." This item responds to this action item seeking further guidance from Council to assist in successfully completing this task.

BACKGROUND:

At the Council's February 1st Work Session, staff gave a presentation regarding annexation policy and a proposed resolution of consideration. The Council asked to revisit information previously provided, in brief, during Council's February 2009 strategic planning session; that is options for and impacts of annexing wholly surrounded areas within current City limits.

ISSUES:

Staff will review all 16 unincorporated holes within the City (summary table attached). Not all are subject to involuntary annexation. In fact, only about a third of the properties are eligible. Despite being completely surrounded, these parcels must still meet all other statutory requirements for involuntary annexation, the most problematic of which is percentage developed. The NC League of Municipalities included addressing this issue in its proposal to the Joint Senate and House Study Commission on Municipal Annexation (see attached last page).

Staff has not analyzed the financial impact of annexing everyone of these properties. Most, being vacant or close to, would not have a dramatic impact, positive or negative, on City operations. The one exception is the largest and most diverse area; Shaw Heights (#9 on the list of properties and the subject of the financial analysis attached). While we have completed a preliminary and fairly simple financial analysis regarding the potential impact of annexing Shaw Heights, we have not completed the full staff analysis and service planning necessary to complete involuntary annexation. Further, the financial analysis, which currently shows a negative cash flow, is based upon current development patterns and a number of assumptions regarding service delivery that may change.

OPTIONS:

In response to the presentation regarding annexation policy provided on February 1st, Council asked for this information. Also, based upon Council discussion at that meeting, staff has initiated discussions with Hope Mills regarding an annexation agreement. As these discussions near completion, staff will bring a revised Resolution of Consideration notice map back to Council for consideration along with that annexation agreement.

RECOMMENDED ACTION:

This item is for discussion purposes only.

ATTACHMENTS:

Donut table summary
Shaw Heights Financial Analysis
NCLM Municipal Annexation Proposal

Possible Annexation Areas-(9/08)								
Updated as of 2/11/10								
Area #	Location	Number of Acres	Number of Whole Tax Parcels	Existing Land Use	Total # of Housing Units	Would the Area Possibly Meet One of the 5 Standards if a Subsection (d) Subarea Were Designated?	Does Area Qualify for City-Initiated Annexation?	Comments/Recommendations
1	South of McArthur Rd, West of Lakeside Dr (Behind Old Wal-Mart)	66.925	4	2 Vacant parcels and 2 Residential parcels	2	Probably not	No	City could consider asking owners of 2 residential parcels to submit an annexation petition. When vacant parcels are developed, request for PWC utilities should trigger annex petition.
2	North of McArthur Rd, South of Deer Lakes Rd (Behind New Ramsey Street Wal-Mart)	30.928	1	1 Vacant parcel	0	No	No	Parcel is located behind new Ramsey Street Wal-Mart. When future development occurs, request for PWC utilities should trigger annex petition.
3	North of Riverdell Drive, South of Treetop Drive	27.766	1	1 Vacant parcel	0	No	No	Parcel is owned by Methodist University. City should consider asking owner to submit an annexation petition.
4	East of Ramsey St, South of Andover Rd (Across from Old Wal-Mart)	44.013	1	1 Vacant parcel	0	No	No	Parcel is located along eastern side of Ramsey Street. When future development occurs, request for PWC utilities should trigger annex petition.
5	North of College Lakes and South of Kings Grant	34.457	1	Vacant	0	No	No	City owns two parts of one split parcel. City could easily annex these two parts.
6	East of Ramsey Street, North of Heather Ridge Apts, Behind Walker Worth Insurance	0.994	2	Vacant?	0	No	No	Parcel is located behind recently-constructed insurance building. When future development occurs, request for PWC utilities should trigger annex petition.
7	East Side of Ramsey Street, Across from Hardee's Restaurant	0.934	1	Cemetery	0	Not necessary	Yes	City should be able to initiate annexation of this area. However, City might first consider asking owner to submit an annexation petition.
8	West Side of Ramsey Street, South of Entrance to Fairfield Farm Subdivision	7.888	3	1 Residential parcel and 2 Vacant parcels	1	No	No	City might consider asking owners to submit an annexation petition.
9	Shaw Heights and Land East of Murchison Road	629.602	0	Mixture	598	Yes	Yes	This population estimate for Shaw Heights is based on a more specific persons per total # units factor, which takes into account the high vacancy rates and low persons per unit as shown in Census 2000. Part of area (west of Murchison Road) appears to meet 3 standards [(c)(1), (c)2, & (c)(3)]. If subsection (d) subareas are designated, entire area appears to meet (c)(3) standard.
10	Southern Side of Morganton Road, Between Grande Oaks Drive on the East and Tollhouse Drive on the West	1.945	1	Residential	1	Not necessary	Yes	City should be able to initiate annexation of this area. However, City could first consider asking owner to submit an annexation petition.
11	Western Side of Glensford Drive, North of Campground Church Road	1.649	1	Vacant	0	No	No	There is an agreement that says owner will develop to City standards at time of development and also submit an annex petition.
12	Eastern side of Glensford Drive, North of Clifffdale Road, West of Newcastle Subdivision	19.158	1	Vacant	0	No	No	There is an agreement that says owner will develop to City standards at time of development and also submit an annex petition.
13	Western Side of Glensford Drive, North of Clifffdale Road, South of Red Tip Road	5.432	1	Vacant	0	No	No	There is an agreement that says owner will develop to City standards at time of development and also submit an annex petition.
14	Eastern Side of Gillespie Street, Between Edgewood Street on the North, Rosewood Street on the East, and Francis Street on the South	3.347	7	2 Vacant parcels, 4 Residential parcels, and 1 Mixed parcel	6	Not necessary	Yes	City should be able to initiate annexation of this area.
15	West of Gillespie Street, At the End of Puritan Street and Homewood Street	10.054	0	Governmental (on northern part of area), Vacant (on southern part of area)	0	No	Yes-if Governmental use is assumed	City should be able to initiate annexation of this area, if Governmental use is assumed. The land in this area is owned by Cumberland County Schools. City should first try asking owner to submit an annexation petition.
16	North of Doc Bennett Road, Southeast of Main Runway of Airport	1.219	3	2 Vacant parcels and 1 Residential parcel	1	No	Yes	City should be able to initiate annexation of this area. However, 1 of 3 parcels is owned by the City. City can annex this City-owned parcel easily. City could then ask owner to submit annexation petition. If owner not willing, City could initiate annexation of other two parcels.

**Shaw Heights Annexation
Estimate of Revenues and Expenditures**

GENERAL FUND	<u>One-Time</u>	<u>Annual</u>
Estimated Revenues		
Real/Personal Ad Valorem Taxes		88,898
Motor Vehicle Ad Valorem Taxes		4,981
		93,879
Sales Tax Distributions		150,920
Powell Bill		24,558
Utility Franchise Taxes		9,388
Beer & Wine Taxes		4,592
Vehicle License Taxes		674
Lost Westarea Contract Revenues		(20,588)
Total Estimated Annual Revenues		263,423
Estimated Expenditures		
Dev Svcs Demolition Funding	0	20,000
Eng & Inf Street Resurf after Sewer Install	371,000	0
Eng & Inf Powell Bill Restricted Expenditures	0	24,558
Env Svcs Carts & Delivery	15,368	0
Env Svcs Economic Loss Payments	85,020	0
Env Svcs Solid Waste Collection	0	5,426
Env Svcs Bulky Item Pick Up, Cart Maint.	0	1,705
Finance Tax Collection	0	1,065
Fire 19 Hydrants	85,500	0
Other App Sales Tax Reimbursements	0	75,460
Other App City Share of Sewer Debt Svc*	0	102,647
Police 2 Officers, 2 Detectives	307,061	229,850
Total Expenditures	863,949	460,711
 RECYCLING FUND		
Estimated Revenues		9,880
Estimated Expenditures		
Env Svcs Roll-out Carts & Contract Collection	9,647	8,267
Total Expenditures	9,647	8,267
 STORMWATER FUNDS		
Estimated Revenues		11,736
Estimated Expenditures		
Eng & Inf Upgrade drainage inf and analyze needs	200,000	
Total Expenditures	200,000	0
 UTILITY FUND		
Estimated Revenues - Not projected for this exercise		
Estimated Expenditures		
PWC Share of Sewer Debt Svc*		102,647
Total Expenditures	0	102,647

* Cost estimates for sewer debt service assume assessments of \$5,000 per parcel, 25 year financing and equal City/PWC participation in costs

Shaw Heights Annexation Cost Estimates

One-Time Costs (Equipment/Staff Training Time)	Engineering & Infrastructure	Police	Fire	Environmental Services	General Fund Total	Recycling Fund	
Brief Description-----> <i>Attach additional supporting documentation for City Manager review</i>	Street Resurfacing after Sewer Installation	2 POs, 2 Detectives 7 month training Period	19 Hydrants	Roll out carts with delivery costs, Economic Loss Payout to Solid Waste Contractors		Roll out carts with delivery costs	
Expenses:	Object Code						
Regular Salaries	.8111	0	81,697	0	0	81,697	0
Temporary Ee Pay	.8115	0	0	0	0	0	0
FICA/Retire	.8121	0	17,769	0	0	17,769	0
Insurance (Health, Life, Dental)	.8131	0	14,019	0	0	14,019	0
Workers Comp	.8137	0	2,124	0	0	2,124	0
Temporary Services	.8140		0	0	140	140	140
Total Personnel Svc		0	115,609	0	140	115,749	140
Utilities	.8205	0	0	0	0	0	0
Supplies	.8211	0	24,188	0	15,080	39,268	9,360
Uniforms	.8212	0	17,264	0	0	17,264	0
General Maintenance	.8233	0	0	0	0	0	0
Vehicle Maintenance	.8241	0	0	0	0	0	0
Vehicle Fuel	.8245	0	0	0	50	50	50
Telephone	.8251	0	0	0	0	0	0
Postage	.8252	0	0	0	0	0	0
Printing	.8253	0	0	0	98	98	98
Advertising	.8254	0	0	0	0	0	0
Local Mileage	.8261	0	0	0	0	0	0
Travel & Training	.8263	0	0	0	0	0	0
Dues & Memberships	.8270	0	0	0	0	0	0
Insurance	.8285	0	0	0	0	0	0
Rents	.8291	0	0	0	0	0	0
Other		0	0	0	85,020	85,020	0
Total Operating Svc		0	41,452	0	100,248	141,700	9,508
Accounting/Audit/Legal	.8410	0	0			0	0
Medical Svc	.8430	0	0			0	0
Other Contract Svc	.8490	0	0	85,500	0	85,500	0
Total Prof/Contract Svc		0	0	85,500	0	85,500	0
Land	.8510	0	0	0	0	0	0
Buildings	.8520	0	0	0	0	0	0
Improvements	.8530	0	0	0	0	0	0
Office Equipment	.8540	0	0	0	0	0	0
Other Equipment	.8550	0	0	0	0	0	0
Vehicles	.8560	0	150,000	0	0	150,000	0
Other Assets		371,000	0	0	0	371,000	0
Total Capital Outlay		371,000	150,000	0	0	521,000	0
Interfund Transfers		0	0	0	0	0	0
Non-Profit/Gov't Agencies	.8620	0	0	0	0	0	0
Cost Allocation	.8615	0	0	0	0	0	0
Cost Redistribution	.8891	0	0	0	0	0	0
Other Charges	.8610	0	0	0	0	0	0
Inventory	.8810	0	0	0	0	0	0
Debt Service	.8710	0	0	0	0	0	0
Total Other Charges		0	0	0	0	0	0
Department Total		371,000	307,061	85,500	100,388	863,949	9,647
Sources:							
Program revenues		0	0	0	0	0	0
Additional taxes		0	0	0	0	0	0
Total Sources		0	0	0	0	0	0

Shaw Heights Annexation Cost Estimates

One-Time Costs (Equipment/Staff Training Time)	Stormwater Fund	Total - All Funds
	Minimum estimate to upgrade existing drainage infrastructure and analyze drainage needs	
Brief Description----->		
<i>Attach additional supporting documentation for City Manager review</i>		
Expenses:	Object Code	
Regular Salaries	.8111	0
Temporary Ee Pay	.8115	0
FICA/Retire	.8121	0
Insurance (Health, Life, Dental)	.8131	0
Workers Comp	.8137	0
Temporary Services	.8140	0
Total Personnel Svc	0	81,697
Utilities	.8205	0
Supplies	.8211	0
Uniforms	.8212	0
General Maintenance	.8233	0
Vehicle Maintenance	.8241	0
Vehicle Fuel	.8245	0
Telephone	.8251	0
Postage	.8252	0
Printing	.8253	0
Advertising	.8254	0
Local Mileage	.8261	0
Travel & Training	.8263	0
Dues & Memberships	.8270	0
Insurance	.8285	0
Rents	.8291	0
Other	0	0
Total Operating Svc	0	115,889
Accounting/Audit/Legal	.8410	0
Medical Svc	.8430	0
Other Contract Svc	.8490	0
Total Prof/Contract Svc	0	85,500
Land	.8510	0
Buildings	.8520	0
Improvements	.8530	0
Office Equipment	.8540	0
Other Equipment	.8550	0
Vehicles	.8560	0
Other Assets	200,000	0
Total Capital Outlay	200,000	150,000
Interfund Transfers	0	0
Non-Profit/Gov't Agencies	.8620	0
Cost Allocation	.8615	0
Cost Redistribution	.8891	0
Other Charges	.8610	0
Inventory	.8810	0
Debt Service	.8710	0
Total Other Charges	0	0
Department Total	200,000	721,000
Sources:		0
Program revenues	0	0
Additional taxes	0	0
Total Sources	0	0

Shaw Heights Annexation Cost Estimates

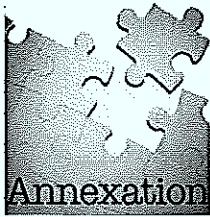
Ongoing Annual Costs	Police	Fire	Environmental Services	Environmental Services	Development Services
Brief Description-----> <i>Attach additional supporting documentation for City Manager review</i>	2 Police Officers and 2 Detectives	Lost Revenue (Services already provided under Westarea Contract)	Household Solid Waste Collection (Using Excess Route Capacity)	Cart Maintenance and Bulky Item Pickup	Demolition Funding
Expenses:	Object Code				
Regular Salaries	.8111	140,052	0	0	0
Temporary Ee Pay	.8115	0	0	0	0
FICA/Retire	.8121	30,461	0	0	0
Insurance (Health, Life, Dental)	.8131	24,032	0	0	0
Workers Comp	.8137	3,641	0	0	0
Temporary Services	.8140	0	0	0	0
Total Personnel Svc		198,186	0	0	0
Utilities	.8205	0	0	0	0
Supplies	.8211	2,000	0	0	0
Uniforms	.8212	0	0	0	0
General Maintenance	.8233	0	0	0	0
Vehicle Maintenance	.8241	1,600	0	3,484	929
Vehicle Fuel	.8245	24,000	0	1,926	496
Telephone	.8251	2,064	0	0	0
Postage	.8252	0	0	0	0
Printing	.8253	0	0	16	0
Advertising	.8254	0	0	0	0
Local Mileage	.8261	0	0	0	0
Travel & Training	.8263	2,000	0	0	0
Dues & Memberships	.8270	0	0	0	0
Insurance	.8285	0	0	0	0
Rents	.8291	0	0	0	0
Other		0	0	0	0
Total Operating Svc		31,664	0	5,426	1,425
Accounting/Audit/Legal	.8410	0	0	0	0
Medical Svc	.8430	0	0	0	0
Other Contract Svc	.8490	0	0	280	20,000
Total Prof/Contract Svc		0	0	280	20,000
Land	.8510	0	0	0	0
Buildings	.8520	0	0	0	0
Improvements	.8530	0	0	0	0
Office Equipment	.8540	0	0	0	0
Other Equipment	.8550	0	0	0	0
Vehicles	.8560	0	0	0	0
Other Assets		0	0	0	0
Total Capital Outlay		0	0	0	0
Interfund Transfers		0	0	0	0
Non-Profit/Gov't Agencies	.8620	0	0	0	0
Cost Allocation	.8615	0	0	0	0
Cost Redistribution	.8891	0	0	0	0
Other Charges	.8610	0	0	0	0
Inventory	.8810	0	0	0	0
Debt Service	.8710	0	0	0	0
Total Other Charges		0	0	0	0
Department Total		229,850	0	5,426	1,705
Sources:					
Program revenues		0	(20,588)	0	0
Additional taxes		0	0	0	0
Total Sources		0	(20,588)	0	0

Shaw Heights Annexation Cost Estimates

Ongoing Annual Costs		Finance	Other Appropriations	Other Appropriations	Engineering & Infrastructure	General Fund TOTAL
Brief Description----->	Object Code	Tax Collection	Sales Tax Reimbursements	City Share of Sewer Costs (1/2 of debt service)	Expenditures restricted to Powell Bill Activities	
<i>Attach additional supporting documentation for City Manager review</i>						
Expenses:						
Regular Salaries	.8111	0	0	0	0	140,052
Temporary Ee Pay	.8115	0	0	0	0	0
FICA/Retire	.8121	0	0	0	0	30,461
Insurance (Health, Life, Dental)	.8131	0	0	0	0	24,032
Workers Comp	.8137	0	0	0	0	3,641
Temporary Services	.8140	0	0	0	0	0
Total Personnel Svc		0	0	0	0	198,186
Utilities	.8205	0	0	0	0	0
Supplies	.8211	0	0	0	0	2,000
Uniforms	.8212	0	0	0	0	0
General Maintenance	.8233	0	0	0	0	0
Vehicle Maintenance	.8241	0	0	0	0	6,013
Vehicle Fuel	.8245	0	0	0	0	26,422
Telephone	.8251	0	0	0	0	2,064
Postage	.8252	0	0	0	0	0
Printing	.8253	0	0	0	0	16
Advertising	.8254	0	0	0	0	0
Local Mileage	.8261	0	0	0	0	0
Travel & Training	.8263	0	0	0	0	2,000
Dues & Memberships	.8270	0	0	0	0	0
Insurance	.8285	0	0	0	0	0
Rents	.8291	0	0	0	0	0
Other		0	0	0	0	0
Total Operating Svc		0	0	0	0	38,515
Accounting/Audit/Legal	.8410	0	0	0	0	0
Medical Svc	.8430	0	0	0	0	0
Other Contract Svc	.8490	1,065	75,460	0	24,558	121,363
Total Prof/Contract Svc		1,065	75,460	0	24,558	121,363
Land	.8510	0	0	0	0	0
Buildings	.8520	0	0	0	0	0
Improvements	.8530	0	0	0	0	0
Office Equipment	.8540	0	0	0	0	0
Other Equipment	.8550	0	0	0	0	0
Vehicles	.8560	0	0	0	0	0
Other Assets		0	0	0	0	0
Total Capital Outlay		0	0	0	0	0
Interfund Transfers		0	0	0	0	0
Non-Profit/Gov't Agencies	.8620	0	0	0	0	0
Cost Allocation	.8615	0	0	0	0	0
Cost Redistribution	.8891	0	0	0	0	0
Other Charges	.8610	0	0	0	0	0
Inventory	.8810	0	0	0	0	0
Debt Service	.8710	0	0	102,647	0	102,647
Total Other Charges		0	0	102,647	0	102,647
Department Total		1,065	75,460	102,647	24,558	460,711
Sources:						
Program revenues		0	0	0	0	(20,588)
Additional taxes		0	0	0	0	0
Total Sources		0	0	0	0	(20,588)

Shaw Heights Annexation Cost Estimates

Ongoing Annual Costs	Recycling Fund	Storm Water Fund	Utility Fund	Total All Funds
Brief Description-----> <i>Attach additional supporting documentation for City Manager review</i>				
	Contract Services and Misc. Costs	No anticipated project costs	PWC Share of Sewer Costs (1/2 of debt service)	
Expenses:	Object Code			
Regular Salaries	.8111	0	0	140,052
Temporary Ee Pay	.8115	0	0	0
FICA/Retire	.8121	0	0	30,461
Insurance (Health, Life, Dental)	.8131	0	0	24,032
Workers Comp	.8137	0	0	3,641
Temporary Services	.8140	0	0	0
Total Personnel Svc		0	0	198,186
Utilities	.8205	0	0	0
Supplies	.8211	0	0	2,000
Uniforms	.8212	0	0	0
General Maintenance	.8233	0	0	0
Vehicle Maintenance	.8241	0	0	6,013
Vehicle Fuel	.8245	0	0	26,422
Telephone	.8251	0	0	2,064
Postage	.8252	0	0	0
Printing	.8253	16	0	32
Advertising	.8254	0	0	0
Local Mileage	.8261	0	0	0
Travel & Training	.8263	0	0	2,000
Dues & Memberships	.8270	0	0	0
Insurance	.8285	0	0	0
Rents	.8291	0	0	0
Other		0	0	0
Total Operating Svc		16	0	38,531
Accounting/Audit/Legal	.8410	0	0	0
Medical Svc	.8430	0	0	0
Other Contract Svc	.8490	8,251	0	129,614
Total Prof/Contract Svc		8,251	0	129,614
Land	.8510	0	0	0
Buildings	.8520	0	0	0
Improvements	.8530	0	0	0
Office Equipment	.8540	0	0	0
Other Equipment	.8550	0	0	0
Vehicles	.8560	0	0	0
Other Assets		0	0	0
Total Capital Outlay		0	0	0
Interfund Transfers		0	0	0
Non-Profit/Gov't Agencies	.8620	0	0	0
Cost Allocation	.8615	0	0	0
Cost Redistribution	.8891	0	0	0
Other Charges	.8610	0	0	0
Inventory	.8810	0	0	0
Debt Service	.8710	0	0	102,647
Total Other Charges		0	0	102,647
Department Total		8,267	0	102,647
Sources:				
Program revenues		9,880	11,736	0
Additional taxes		0	0	0
Total Sources		9,880	11,736	0
				1,028



A Proposal to the Joint Senate and House Study Commission on Municipal Annexation

DECEMBER 17, 2008

KELLI H. KUKURA, DIRECTOR OF GOVERNMENTAL AFFAIRS

KIM S. HIBBARD, ASSOCIATE GENERAL COUNSEL

PROCEDURE

- **Concern:** Due to the growth of the state, the over and under 5,000 population threshold for the city-initiated annexation process is no longer appropriate.

Existing law: Cities of 5,000 or more (based on federal decennial census) have some differences in the process related to the standards for urban development and the delivery of water and sewer services.

Proposal 1: Increase the threshold to cities of 10,000 or more.

- **Concern:** Residents of the area to be annexed do not have sufficient information about the annexation process.

Existing law: City must mail and publish notice, make an annexation report available, hold a public informational meeting to explain the report and answer questions, and hold a public hearing to receive comments.

Proposal 2: Require the city to provide more written information to citizens in the annexation area, to be sent with the mailed notice and distributed at the informational meeting and public hearing. This would include a summary of the annexation process and timelines, a summary of available statutory remedies for contesting the annexation and the provision of services, and in cities of 10,000 or more the form for requesting the extension of water and sewer lines to individual properties.

- **Concern:** Cities may begin the process without having an official time period up front to study the area and to make residents aware that their area is under consideration.

Existing law: City has an option. It may start with a resolution of consideration, studying the area for at least one year, then adopting a resolution of intent (which triggers the timeline for public meetings and adoption of ordinance). Or it may begin with the resolution of intent and delay the effective date of the ordinance by one year.

Proposal 3: Remove the option to begin the process with the resolution of intent, to provide the community with more advance knowledge and time before the process begins.

- **Concern:** The prorating of property taxes is confusing and the billing cycle is burdensome.

Existing law: Unless the annexation is effective in June (last month of the fiscal year), taxes are prorated based on the number of full calendar months remaining in the fiscal year after the effective date. In addition, if the effective date is during the period of September 2 to May 31, the prorated taxes will not be billed until the following fiscal year, so that the first property tax bill residents receive is larger than anticipated.

Proposal 4: Require city-initiated annexations to become effective on June 30, eliminating the need to prorate taxes for a partial fiscal year. [In the event of litigation, allow cities the ability to defer the effective date to a later time than the first full month after a court opinion.]

- **Concern:** Residents do not have sufficient time to engage legal representation and prepare a challenge to an annexation.

Existing law: Currently residents have 60 days to file a challenge to the annexation itself in court. They have 90 days to petition the Local Government Commission if the city fails to provide within 60 days of the annexation any of the four major municipal services that are generally tax rather than rate-supported (police, fire, solid waste, street maintenance).

Proposal 5: Extend the time period to challenge an annexation in court to 75 days.

Proposal 6: Extend the time to seek tax abatement from the LGC if the city doesn't provide police, fire, solid waste or street maintenance services to 120 days.

- **Concern:** Property owners do not have a clear trigger for their right to challenge a failure to provide services.

Existing law: No report is required indicating whether deadlines were met for providing services.

Proposal 7: Require a report on the delivery of services to be made to LGC after the appropriate deadlines for providing the various services.

WATER AND SEWER

- **Concern:** The statutory requirements for requesting individual water and sewer extensions are confusing and do not allow sufficient time and information for residents to make a decision regarding the request. Residents that do not make the request may not be aware that a future request for extension falls under the city's general extension policies and is not subject to the same 2-year deadline for completion.

Existing law: In cities of 5,000 or more, property owners must make the request for extension of water and sewer lines to their individual properties within 5 days of the public hearing.

Proposal 8: Require cities of 10,000 or more to provide conspicuous advance information about the right to request individual water and sewer extensions and the consequences of failing to make the request. Information must clarify that signing up for extension does not waive the right to contest the annexation, state the municipality's policy for financial participation in the cost of the extension, and the statutory timeline for completion. It must further state the policy, with estimated timeline, for extension of water and sewer lines to properties that do not request an individual extension.

Proposal 9: Substantially increase the time for property owners to make requests for individual extensions of water and sewer in cities of 10,000 or more, to 30 days following public hearing.

- **Concern:** The financial impact statement is not detailed enough to be useful in making multi-year projections and in determining whether water and sewer infrastructure is financially feasible.

Existing law: Requires a statement in the report showing how the annexation will affect the city's finances and services, including revenue change estimates.

Proposal 10: Require the financial impact statement to include 5-year projections (beginning with the first year expenditures are to be made for provision of services), with accounting by revenue source and category of expenditure.

Proposal 11: Require financial estimates to be based on the assumption that the entire annexed area will request water and sewer extensions.

- **Concern:** Assessments for water and sewer infrastructure are financially burdensome for property owners.

Existing law: Property owners may pay special assessments in up to 10 annual installments.

Proposal 12: Require cities to allow property owners in the annexation area up to 20 years to pay any special assessments for water and sewer.

- **Concern:** Some property owners outside of city limits request extension of water and sewer service and sign an agreement with the city to be annexed in the future. When the property is sold the new owner may be unaware of the agreement.

Existing law: Not addressed in the statutes.

Proposal 13: Clarify that such agreements are to be recorded with the register of deeds and will run with the land.

QUALIFICATION OF THE ANNEXATION AREA/ ANNEXING MUNICIPALITY

- **Concern:** Towns that provide no municipal services are seeking to annex.

Existing law: Statutes do not set a minimum level of services; town must provide same services to annexed area that are provided to the rest of the municipality. Case law prohibits annexation by a town with "no meaningful services."

Proposal 14: Provide that to be eligible to annex, towns must provide at least two of the four major municipal services listed in the statute that are generally tax rather than rate-supported (police, fire, solid waste, street maintenance). Clarify that towns providing a service by contracting for it must be contracting for a higher level of service, e.g. dedicated sheriff's deputy or increased patrols.

- **Concern:** The use of long highway corridors or other relatively narrow spokes of land to connect the annexation area to the city violates the meaning of contiguity.

Existing law: For city-initiated annexations, at least one-eighth (12.5%) of the boundary of the annexation area must be contiguous to the city. Case law prohibits the use of "shoestrings" to create contiguity. For voluntary annexations, an area is contiguous if it is separated from the municipal boundary by a street, creek, river, railroad right of way, or city, county or state-owned land.

Proposal 15: Prohibit the use of a street or street right of way as a connecting corridor to establish contiguity to an outlying noncontiguous area.

Proposal 16: Define contiguity more precisely for purposes of voluntary annexations (e.g. it is acceptable to be separated by the width of a street but not by a shoestring-type length of street).

- **Concern:** The use + subdivision test is complex and difficult for smaller towns to apply, leading to frequent litigation.

Existing law: Cities under 5,000 have available one main test for determining whether the area is developed to urban standards – the use + subdivision test. Those of 5,000 or more have available 3 main tests – population density, use + subdivision, and population + subdivision.

Proposal 17: Allow towns under 10,000 to use the population density test.

DISTRESSED AREAS

- **Concern:** Some low-income/distressed areas that need city services are skipped over when extending city boundaries because of the expense of providing water and sewer infrastructure.

Existing law: Priority points are given for state infrastructure funds for a number of things, such as having a comprehensive land use plan, having a capital improvement plan, or having a floodplain ordinance.

Proposal 18: Create incentives to include low-income/distressed areas that need water and sewer in annexation areas by giving priority points for state grants/funds, e.g. CDBG, state water and sewer revolving funds.

- **Concern:** Some low-income/distressed areas that need city services are skipped over when extending city boundaries because they do not meet the standards for either voluntary or city-initiated annexation.

Existing law: In order to annex a contiguous area, it must either have a petition from 100% of the property owners or it must meet the contiguity and density standards under the city-initiated process.

Proposal 19: Create a category of voluntary annexation applicable to contiguous low-income areas, allowing a 75% petition to qualify for annexation.

Proposal 20: Create a simple process for city-initiated annexation of "doughnut holes," by allowing areas to qualify under the standards if every part of it is completely surrounded by the municipality's primary corporate limits.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Kristoff Bauer, Asst. City Manager
DATE: March 1, 2010
RE: **City Manager's Office - Economic Development Program**

THE QUESTION:

What kind of incentives and processes should make up the City's economic development program?

RELATIONSHIP TO STRATEGIC PLAN:

Under City Council Goal #2: Greather Tax Base Diversity - Strong Local Economy, the Council has identified the development of an economic development program as a top priority in its Management Agenda.

BACKGROUND:

- On March 17, 2008, the City Council voted to approve development incentives for the core of the City.
- In order to provide economic stimulation to areas outside the originally approved incentive zone, on April 13, 2009, the City Council approved a revised Economic Development Zone Map along with a revised Property Tax Grantback Program.
- The Council has approved two projects to date under the existing program; the Bellagio Project (August 24, 2009) and the Towers at Wood Valley (September 28, 2009). Two other applications have been submitted under the existing program and will be coming to Council for consideration shortly.

ISSUES:

The "Economic Development Zone" program adopted by the Council in March of 2008 has successfully supported a couple key infill projects. It has also, however, been problematic in four key ways. First, the program provides the impression of entitlement, that is if a project is located in the right area and proposes to result in an increase of \$500,000 or more in taxable value, and then it gets a tax grant back. The program does not require the service of a public purpose or evidence that the project could not move forward without the support of the tax grant back. One of the foundational tenants of local government is that public resources can only be spent for the public good. As applied to economic development incentives this rule states that an incentive should only be provided when necessary to achieve the desired public benefit, that is "but for" the incentive, the project would not occur or would not provide the desired public benefit. The existing program does not require any showing of necessity.

Second, Council has evidenced a discomfort with the geographic limitations of the current program. Council took action last April to expand the area to reach a project that it desired to support. Further, the Council directed staff to work on a Hospitality Facility Incentive Program in part to provide an opportunity to support projects that are outside the geographic scope of the current program.

Third, operational responsibility for the current program and other opportunities has been unclear. The City has contracted with the Fayetteville Cumberland County Chamber of Commerce to provide economic development activities. It has not been clear, however, that the current program was part of FCCCC's responsibilities. The City does not have staff focused on economic development. As a result, implementation of this program has not been as successful as desired.

Finally, the program has received some criticism for not providing sufficient assistance to

overcome the significant up front infrastructure costs needed to support some projects, e.g. road construction. The City's property tax rate simply doesn't provide much revenue. On the Bellagio project, for example, the existing program was estimated to provide about \$250,000 in benefit over 5 years to assist with a project requiring \$20,000,000 in private investment. The current program also does little to assist with what can be the significant up front financing needed to support major projects.

The proposed program (attached) attempts to resolve these issues as follows:

- It does not include a geographic limitation, but instead focuses on public purposes that must be served by all projects in order to qualify. This gives each project a chance to make its case and provides the Council the ability to judge its success. The focus should be on the unique public benefit of each project and the factors that result in the necessity of public financial participation.
- The program works to clarify the responsibility of FCCCC staff and City staff for each program. Part of this is the clear expectation that FCCCC staff will ensure that "but for" analysis is completed for each project.
- The program includes an informal Tax Increment Financing (TIF) mechanism to allow public financing and support for required public infrastructure improvements.

OPTIONS:

RECOMMENDED ACTION:

This program is for discussion purposes only.

ATTACHMENTS:

Economic Development Program



Economic Development Program

v. 2/24/10

The City of Fayetteville has determined that it is in the best interests of its residents and constituents to implement an economic development program to attract and support private investment to:

- Expand the tax base;
- Redevelop economically challenged areas of the community;
- Increase employment opportunities, wages, and personal incomes;
- Improve the quality of life available to Fayetteville residents; and
- Increase wealth in the community.

The ultimate objective of this work is to develop a healthy and diverse tax base able to provide the resources necessary for Fayetteville to provide high quality public services consistent with its mission at a reasonable cost to its residents.

The City has chosen to pursue this program via a regional partnership with Cumberland County coordinated and lead by the Fayetteville-Cumberland County Chamber of Commerce (FCCCC). The purpose of this program document is to establish the composition and boundaries of that program.

Organization:

While under contract for economic development services with the City, FCCCC will serve as the primary point of contact for candidates under consideration for this program throughout the process of Application, Review, and Evaluation (except as otherwise noted below). The FCCCC will manage and coordinate the receipt of application materials and when appropriate make a written recommendation and/or oral presentations to the City Council as to the eligibility and suitability of each proposal. The FCCCC will not only serve as the initial point of contact for those interested in accessing this incentive program, but will also promote the program.

The FCCCC will pre-screen applicants for preliminary eligibility and provide early notification to the City Manager's Office at the point it appears a potentially viable candidate has begun their due diligence process for sites in Fayetteville. All proprietary information is to be retained by the FCCCC until such point the developer authorizes public dissemination of the subject information.

The final decision as to eligibility and suitability leading to a decision to apply any of the development incentives herein to any particular project rests with the City Council of the City of

City of Fayetteville

Economic Development Program

Fayetteville. The City is required by state statute to hold a minimum of one public hearing prior to rendering a decision for economic incentive activities involving public funds and/or facilities.

While the FCCCC will have primary responsibility for project review and incentive plan development, they will do so in coordination with the City Manager's office and with technical support from relevant City subject matter experts as directed by the City Manager.

Projects eligible for assistance may receive a combination of the incentives described herein dependent on the project's documented need for assistance, and the projected benefit to the community's economy and quality of life.

The FCCCC may also provide development assistance for eligible projects, including, but not limited to:

- Providing meeting space during planning, negotiation and construction process; and
- Providing project management personnel for local resource guidance, workforce development, facility assistance and government/community interface

The purpose of this document is to define the City's participation in economic development activities which shall be accomplished predominantly through the activities of the FCCCC. The FCCCC is also expected to seek support for economic development projects through federal, state, and other local agencies not inconsistent herewith.

Public Purpose:

All projects supported by economic development incentives recommended by FCCCC must serve a Public Purpose. The Public Purposes to be served through the application of this program will include:

- Expanding the City's tax base by increasing the value of taxable property;
- Increasing employment opportunities, wages, and personal incomes;
- Diversifying the economic base of the City improving economic stability;
- Redeveloping economically challenged areas of the community and removing blight in key corridors identified by the City;
- Supporting the development of facilities necessary to fill the needs identified by the BRAC RTF Comprehensive Regional Growth Plan for the Fort Bragg Region (September 2008); and
- Improving the quality of life available to Fayetteville residents.

Economic Justification

The FCCCC will review all requests for incentives to evaluate eligibility of the type and amount of assistance requested. This will include identification of the public purpose(s) to be served by the project and must be supported by evidence that without the assistance requested the project could not be developed with the attributes and benefits desired by the City.

This will include scrutiny of the gap analysis provided by the applicant's independent financial analysis. The economic impact analysis will forecast the projected outcomes from a particular

City of Fayetteville

Economic Development Program

project, including, but not limited to job generation, and direct and indirect economic impacts in the community for ongoing operation of the facility. The analysis will be used in consideration of approval of the project as well as in drafting potential terms of the Economic Development Incentive Agreement if approved for the program. The FCCCC will provide a written recommendation to the City regarding project eligibility and level and type of assistance.

General Eligibility Criteria:

Projects must be:

- located within the City limits of Fayetteville;
- permitted under existing zoning and land-use regulations applicable to the subject property without subsequent action by the City Council; and
- subject to property tax.

Programs:

Without precluding exploration of unique or evolving economic development projects, economic development activities will focus on meeting the needs of potential projects through the following programs:

Property Tax Grantback Program

The Property Tax Grantback program provides a successful applicant a series of grants based upon ad valorem taxes actually paid and is subject to the following:

Under no circumstances shall the Grantback amount exceed fifty percent (50%) of the ad valorem taxes in any benefit year even if eligible under separate incentive programs.

Furthermore, no Property Tax Grantback benefit period shall exceed 5 years. Project elements eligible for a Property Tax Grantback grant must have an assessed valuation that exceeds the pre-project assessed valuation by a minimum of \$500,000.

Property Tax Grantback benefits will only be paid for completed, operational projects meeting the terms of the Economic Development Incentive Agreement (“EDIA”) and that remain in compliance with all applicable codes, regulations, and requirements including but not limited to those associated with environmental, building, zoning, property maintenance, and specific terms or standards established in the EDIA.

The Property Tax Grantback benefits will be determined by the City through the negotiation process associated with the developer documentation of financial need and the drafting of the EDIA. The Grantback benefit will be a function of the increased property value over the initial land value as determined by the County Tax Administrator for each year of eligibility. In order for projects to remain eligible, all property taxes must be paid on time in accordance with standard City and County requirements. Eligible projects will receive a Property Tax Grantback payment in accordance with the terms set out in the EDIA.

Tax Increment Funded Public Infrastructure Program

Public infrastructure required to support a privately financed project may be funded through the dedication of future ad valorem tax revenue. The funding provided shall not exceed the amount that can be retired by a dedication of fifty percent (50%) of the projected increase in ad valorem revenue of the property supported by the public infrastructure project over a period of twenty

City of Fayetteville

Economic Development Program

(20) years. Any funding for the public infrastructure project not covered by this program must be secured to the City's satisfaction prior to commitment of City resources.

Examples of eligible public infrastructure projects include transportation, stormwater, recreation, and parking improvements. In all cases, the resulting improvement must be dedicated to the City for public benefit, use and operation. The City must approve of the design of the public improvement project and estimated cost of that project must exceed four (4) million dollars. Any ongoing operational or maintenance requirement for developed improvements must be addressed in the EDIA. Required conditions precedent and other guarantees that the City may require to ensure the anticipated tax revenue is generated will also be set out in the EDIA. The project applicant must not seek any incentive from the City or other taxing jurisdictions that could result in reducing the tax revenue available to support repayment of the debt incurred to support the construction of the public infrastructure project.

Support Programs:

The FCCCC will promote the following programs, but will refer applications to the Community Development Department of the City of Fayetteville for processing.

Downtown Loan Program

This program is designed to recruit small businesses to the downtown Fayetteville Renaissance Plan area. Loans are available for existing or expanding small businesses to purchase, renovate or construct a downtown commercial property. The minimum loan is \$50,000 and the maximum is \$300,000. The City partners with six banks to fund this loan pool. The City puts in 40% of each loan and offers an attractive fixed interest rate of 4% and the banks share the other 60% at variable prime.

Business Assistance Loan Program

This program is available to small businesses investing anywhere within the City limits. It offers assistance with gap financing or down payment assistance. The business owner would first make application to a bank for a primary loan and after being approved and identifying a gap in financing, can then make application to this program. The City's loan can be up to \$125,000 or up to 25% of the total loan funds needed. The City offers a low fixed interest rate of 5% and an even lower rate of 3% if the business is located within one of the City's redevelopment plan areas.

Façade Improvement Grant Program

This program encourages downtown businesses as well as those located within any of the City's redevelopment plan areas to improve the exteriors of their commercial property. The City will provide a 50% matching reimbursement grant up to a maximum of \$5,000 for each project.

Urban Progress Zones

This incentive program provides economic incentives to stimulate new investment and job creation in economically distressed areas. The designation of these zones offers an enhancement to the Article 3J state tax credits that are available to eligible taxpayers. The City of Fayetteville has two Urban Progress Zones that are effective beginning January 1, 2010 through December 31, 2011.

Development Eligibility & Review/Evaluation Criteria

To be eligible for this program, the proposed project must identify:

- the financial and technical capacity of the development team as demonstrated by past participation/responsibility for projects of the type proposed;
- the location, site characteristics and preliminary sketch site design;
- the proposed LEED elements to be incorporated into the development, construction and operation of the facility;
- number and type of FTE jobs to be created;
- the preliminary project budget;
- the physical and operational/service elements that will result in the project being eligible for this program;
- the type(s) and fiscal impact estimates of the proposed incentives;
- unique benefits or public contributions to be provided by the project in excess of regulatory requirements;
- a professional independent financial analysis that will determine whether financial gaps exist justifying participation in the incentive program. The entity chosen for the financial analysis must be pre-approved by the Fayetteville City Manager; and
- any other information that may be requested by the City.

Economic Development Incentive Agreement

In the event the City provides preliminary approval of a project for this program, an Economic Development Incentive Agreement (“EDIA”) will be drafted providing further detail of the physical and operational attributes of the entire scope of development. In addition, the responsibilities of the Developer and City will be clearly defined along with appropriate timelines for performance and remedies for breach of contract. Public funds will not be expended for any project specific improvements until a current and favorable market feasibility analysis is completed by an independent, nationally recognized third party expert demonstrating the viability of the proposed project and the developer demonstrates the irrevocable financial commitments necessary to carry out the project as agreed upon.

Additionally, once an incentive package has been approved, construction on a project must commence within one year and begin operations within three years. Extensions may be granted only upon approval of the City and County.

The EDIA will also include specific provisions to recapture the value of incentives provided should the project fail to provide the negotiated for public benefit as defined in the EDIA and as demonstrated by specific performance objectives established in the EDIA.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Doug Hewett, Assistant City Manager
DATE: March 1, 2010
RE: **City Manager's Office - Update on Residential Property Program Development**

THE QUESTION:

Staff has worked to develop a rental registration and probationary rental occupancy permit (PROP) ordinances over the last several months. Consistent with the City Council's 100-day goals, staff is providing an update on these programs.

RELATIONSHIP TO STRATEGIC PLAN:

Growing City, Livable Neighborhoods - A Great Place to Live

BACKGROUND:

On August 6, 2007, the City Council directed staff to research the feasibility of creating a program to inspect rental housing units to ensure that these units met the standards of the city's minimum housing code.

On December 3, 2007, the City Council adopted the Fayetteville Forward Pledge that included the following reference to *consider a proposed rental inspection ordinance that focuses on compliance with the Minimum Housing Code to ensure dwelling units meet certain standards related to the basic life safety needs of residents of the city of Fayetteville (light, ventilation, occupancy limitation, plumbing, mechanical, electrical and fire safety requirements.)*

Additionally, on March 3, 2008 the City Council directed staff to further refine the program for potential funding in the FY 2008-09 budget.

Staff presented a comprehensive action plan for the rental inspection program to the City Council on April 7, 2008. At which time, the Council voted to not pursue the program further.

Subsequently, Council Member Charles Evans placed this issue for discussion at the City Council's October 3, 2008 Work Session. Following discussion, the City Council directed staff to provide an update on the feasibility of such a program.

On November 3, 2008, staff presented a Rental Inspections program action plan to the City Council. The consensus of City Council was for staff to report back on various models for rental inspections programs.

Staff presented the various models to the City Council on September 8, 2009. Staff provided descriptions and cost analysis of the following programs: (1) Rental Registration Program; (2) Rental Inspection Program; and (3) Probationary Rental Occupancy Permit (PROP) program.

Following questions, the City Council provided the following direction to staff:

OPTION 1: City staff to implement a Rental Registration Program

VOTE: PASSED by a vote of 7 in favor to 3 in opposition (Council Members

Applewhite, Bates and Haire)

OPTION 2: City staff to implement a Rental Inspection Program

VOTE: FAILED by a vote of 4 in favor (Council Members Crisp, Evans, Massey and Mohn) to 6 in opposition

OPTION 3: City staff to implement a PROP Program

VOTE: UNANIMOUS (10-0)

Consistent with City Council's direction, staff has continued to work on the development of a rental registration ordinance and PROP ordinance for City Council's review. Additionally, the City Council reaffirmed their interest in these programs by including them as part of their 100-Day Goals/Fayetteville Forward Pledge.

ISSUES:

- Staff is developing these programs to be fully funded through the imposition of fees on residential rental property owners.
- Staff has initiated conversations with residential rental property owners and their agents to present these programs.
- Staff hasn't finalized the actual costs for the programs, but will once we have identified a possible technology solution to allow for automated registration of residential rental properties and any staffing/resource needs to implement the programs.
- Staff has had meetings with community watch leaders and rental property owners/managers to solicit their feedback.

OPTIONS:

As this is an update, no action is needed from City Council at this time.

RECOMMENDED ACTION:

N/A

ATTACHMENTS:

Residential Rental Property Program Update

Residential Rental Property Programs

March 1, 2010

	Rental Registration	Probationary Rental Occupancy Permit (PROP)
Program Purpose	Designed to identify all rental properties throughout the city. Enables staff and the public to see where rentals are located and provides avenues for quick distribution of information to owners.	Designed to address residential rental properties that repeatedly break city codes or state law.
Responsible Party	All residential property owners required to register residential rental property annually.	Only residential property owners who have rental units that repeatedly violate city codes would be included.
Key Components	<ul style="list-style-type: none"> Rental residential property is a business All such business property must be registered annually 30 days after acquiring property or placing the property up for lease, the owner must register the property or change the registration Owners must designate a local agent within 25 miles to be able to respond in place of owner in case of violations Utility service shall not be provided to vacant residential rental properties that aren't registered Violations or failure to register can result in civil penalties Appeals will likely be handled through Inspections, Board of Appeals on Dwellings and Buildings, and Superior Court Program will be paid for by the imposition of fees to all residential rental property owners Envision that it would be a fee per unit for 1-10 units, with owners of 10 or contiguous units being charged lesser rate per unit. 	<ul style="list-style-type: none"> Rental residential property is a business Entry into PROP follows repeated violations of city codes or serious criminal activity leading to convictions at residential rental property within a 2-year period Once a property is in the PROP program, it must remain so for a minimum of 2 years PROP follows the property and not the property ownership PROP requires inspection of unit for livability PROP requires owners to develop a management plan for the rental operation of their property and to take a property management course PROP requires the owners to notify tenants and neighbors of their property's PROP status Violations or failure to register can result in civil penalties and the revocation of Rental Registration Certificate for 2 years, during which time the property couldn't be used as a residential rental unit Envision that the program will be paid for entirely by annual fees.

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Council Member Theodore Mohn - District 8
DATE: March 1, 2010
RE: **Council Member Request - Theodore Mohn: City Council Resolution Requesting Additional County Jail Capacity**

THE QUESTION:

Should Council send a formal request, by Council Resolution, to the Cumberland County Commissioners to expand the County's jail capacity to reduce crime in the City of Fayetteville and entire County as well as help city and county law enforcement agencies keep criminals off the street while awaiting trial and attempt to reduce criminal recidivism.

RELATIONSHIP TO STRATEGIC PLAN:

- Support the City's Police and Crime Reduction Strategy.
- Great Place to Live-Low crime rate and reputation as a safe community.
- Quality of Life (Focusing on what is "Best" for the "Entire" Community).
- People feeling safe and secure (Reduction in personal and property crimes).
- Keeping repeat offenders and criminals off the street.

BACKGROUND:

Last year Chief Bergamine and Sheriff Butler spoke before council. It was my impression after their presentation that increased jail capacity would help in their combined efforts to reduce crime in the city and county.

If need be, I request council again receive Chief Bergamine's professional recommendation/opinion concerning the current jail capacity and if increased jail capacity will help his department's efforts to reduce crime by keeping known repeat offenders off the street while awaiting trial.

ISSUES:

Inadequate jail capacity

OPTIONS:

- Approve request to send a formal request, by Council Resolution, to the Cumberland County Commissioners to expand the County's jail capacity
- Take no action

RECOMMENDED ACTION:

Approve request to send a formal request, by Council Resolution, to the Cumberland County Commissioners to expand the County's jail capacity