

ORDINANCE NO. 1773

AN ORDINANCE AUTHORIZING THE CONSTRUCTION
OF THE FORREST CITY HUMANE SOCIETY ANIMAL SHELTER
ON A PARCEL OF REAL PROPERTY LOCATED IN
THE SOUTH EAST ¼, SECTION 31, TOWNSHIP 5N-RANGE 3EAST,
ST. FRANCIS COUNTY, ARKANSAS, WHICH IS CURRENTLY OUTSIDE OF
THE CITY LIMITS OF FORREST CITY AND PERMITTING ENTRY INTO A
LEASE AGREEMENT BETWEEN THE CITY OF FORREST CITY AND
THE FORREST CITY HUMANE SOCIETY OF THE ABOVE-REFERENCED
PROPERTY FOR A PERIOD OF TWENTY (20) YEARS AT THE RATE OF
\$1.00 PER YEAR AND AUTHORIZING EXPENDITURE OF CITY FUNDS FOR
THE CONSTRUCTION OF THE FORREST CITY AREA HUMANE SOCIETY
ANIMAL SHELTER, WHICH SHALL BE OWNED BY THE CITY OF
FORREST CITY

WHEREAS, the General Assembly of the State of Arkansas finds and declares that Humane Societies for the prevention of cruelty to animals are public organizations necessary to protect the health, safety and general welfare of the citizenry of the State and are discharging a government function and further finds and declares that the appropriation of public funds for the use of Humane Societies and the maintenance and operation of the shelters for stray, diseased, neglected or other animals and in the protection of the public from disease among such animals is a public use of the funds and a discharge of a governmental function, under Arkansas Code Annotated, Section 20-19-101;

WHEREAS, pursuant to State law, cities are explicitly granted the authority to enter into contracts and to acquire and hold real estate, tenements, hereditaments, and other such real and personal property as is necessary and proper for the administration of the affairs of municipal corporations, pursuant to Arkansas Code Annotated, Section 14-54-301;

WHEREAS, this grant of authority for cities to hold real property is not restricted to property located within the city limits, pursuant to Attorney General Opinion No. 2003-047, issued by Attorney General Mike Beebe on March 7, 2003;

WHEREAS, this grant of authority for cities to hold real property is not restricted to property located within the city limits, pursuant to Attorney General Opinion No. 2003-047, issued by Attorney General Mike Beebe on March 7, 2003;

WHEREAS, a city may agree to pay a rate for a lease that is below market value, assuming that the lease agreement is an arms' length, non-fraudulent transaction, the fact that a city is receiving the benefit of a below market lease rate is not contrary to any principal of law, pursuant to Attorney General Opinion No. 2003-047, citing further Attorney General Opinion No. 96-351;

WHEREAS, the Attorney General for the State of Arkansas has issued an Opinion (No. 2003-047) stating that if a city will own the edifice, construction, or structure on property outside of the city of limits, the contribution made by the city would not give rise to legal concerns as a general matter, providing the city cannot make such a contribution for construction using proceeds of taxes that were levied for another purpose (see, Ark. Const., Art. 16, Section 11); and,

WHEREAS, a parcel of property located outside the city limits of the City of Forrest City, more specifically described as property located in the Southeast $\frac{1}{4}$, Section 31, Township 5 North-Range 3 East, St. Francis County, Arkansas, has been acquired by the Forrest City area Humane Society for purposes of construction of the Forrest City area Humane Society Animal Shelter; and,

WHEREAS, the City of Forrest City City Council has authorized funds for expenditure to construct an animal shelter for the Forrest City area Humane Society, which will serve the public function of prevention of cruelty to animals and protection of the health, safety and general welfare of the citizenry of the City of Forrest City.

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

Section 1. That the City of Forrest City hereby adopts and authorizes the expenditure of city funds, previously allocated for the construction of the Forrest City area Human Society Animal Shelter, pursuant to plan previously submitted to the Mayor of Forrest City and the City Council.

Section 2. That the City Council deems and determines that the appropriation and expenditure of public funds for the use of human societies in the maintenance and operation of shelters for stray, diseased, neglected, and other animals and in the protection of the public for purposes of health, safety and general welfare of the citizenry of the City of Forrest City is an appropriate governmental function.

Section 3. That the City of Forrest City deems and determines that, pursuant to Arkansas Statutory Law and Attorney General Opinion, the City of Forrest City is acting legally and may enter into a contract to acquire and hold real estate and other such real and personal property as is necessary and proper for the administration of affairs of municipal corporation. This real property is not restricted property located within the city limits of the City of Forrest City.


Section 4. That the City of Forrest City determines that it is appropriate and hereby adopts a lease agreement with the Forrest City area Humane Society to lease a parcel of property located in the Southeast ¼, Section 31, Township 5 North-Range 3 East, St. Francis County, Arkansas, for a period of twenty (20) years at the rate of \$1.00

per year, on which the Forrest City area Humane Society Animal Shelter shall be constructed and maintained and operated.

Section 5. That the City of Forrest City City Council hereby further authorizes and adopts the lease agreement attached hereto and incorporated herein by reference and authorizes the Mayor of the City of Forrest City to execute and enter into such lease agreement with the Forrest City area Humane Society.


Section 6. That the City Council hereby further adopts and authorizes an extension of this lease period, given that construction of the Forrest City area Humane Society Animal Shelter will result in expenditure of funds by the City of Forrest City, subject only to outright gift of the property of the real property, known as a parcel of property located in the Southeast ¼, Section 31, Township 5 North-Range 3 East, St. Francis County, Arkansas, by the Forrest City area Humane Society to the City of Forrest City, should the property be annexed within the city limits of the City of Forrest City prior to the expiration of the original twenty (20) year lease period.

PASSED AND ADOPTED: MAY 4, 2004.



Larry Bryant
Mayor of Forrest City

Attest:



Marie Todd
City Clerk/Treasurer

4