

AFFIDAVIT OF C. TAD BOHANNON

I, C. Tad Bohannon, first being duly sworn, upon oath state of personal knowledge:

1. I am C. Tad Bohannon, Interim Chief Executive Officer and Chief Legal Counsel at Central Arkansas Water ("CAW"). I am authorized by CAW to submit this affidavit, which I understand will be used to support CAW's Supplemental Objections to the Petition for Incorporation of the Town of Little Italy.

2. I reviewed and signed the attached letter dated January 13, 2016.

5. The facts alleged in this affidavit are true and accurate to the best of my knowledge, information, and belief.

FURTHER, AFFIANT SAYETH NOT.



C. Tad Bohannon, Interim Chief Executive Officer & Chief Legal Counsel

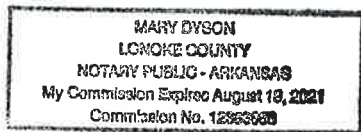
ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF LONOKE

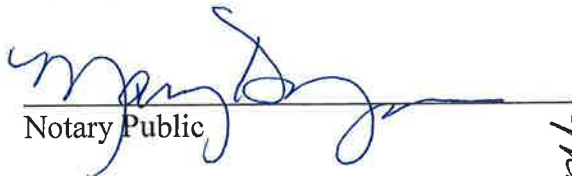
On this the 13th day of January, 2016, before me, a Notary Public, personally appeared C. Tad Bohannon, an individual, who executed the foregoing instrument for the purposes therein contained, by signing his name thereto.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



My Commission Expires:

8/18/2021



Notary Public

FILED 01/13/16 11:22:20
LEROY ORRINE POLASKI Circuit Clerk
MAM/DC

January 13, 2016

Pulaski County Court
c/o County Records
Attn: Marriage License Section
401 West Markham
Little Rock, AR 72201

Re: Supplemental comments to proposed incorporation of the Town of Little Italy,
Instrument No. 2015033208

Judge Hyde,

Central Arkansas Water (CAW) by and through C. Tad Bohannon, Interim Chief Executive Officer and Chief Legal Counsel for CAW, submits these supplemental comments to the County Court for consideration in the above referenced matter. These supplemental comments address the new information submitted by the Petitioners for the incorporation of Little Italy (“the Petitioners”) at the December 16, 2015, hearing. Therefore, these supplemental comments reference and correct information contained in the comments submitted by CAW on December 16, 2015 (“the initial comments”).

CAW continues to oppose the incorporation of the proposed Town of Little Italy (“the proposed Town”). The Petitioners have not sufficiently addressed CAW’s concerns regarding the water quality implications of the proposed incorporation. Furthermore, the Petitioners have failed to present a reliable or realistic plan for funding the proposed Town and have failed to demonstrate how the incorporation will provide new or enhanced municipal services to the residents of the proposed Town. Therefore, comments raised by CAW regarding the unreasonable size (item 1 in the initial comments) and lack of municipal benefits (item 3 in the initial comments) remain applicable despite the new information presented on December 16.

For the reasons set forth below and in the initial comments, CAW respectfully requests the County Court deny the petition for incorporation.

1. Failure to present a reliable or realistic funding plan for the proposed Town.

In their December 16 presentation, the Petitioners submitted a modified budget for the proposed Town. However, the estimated expenses forecast in the budget are both unrealistic and unreliable.

Law Enforcement: The “on-call” police arrangement is based on flawed and unclear assumptions. According to the supporting documentation, Perry County has only committed to “negotiate” the terms with Little Italy and the Perry County Sheriff’s Office

only committed to “preserve the scene until a Pulaski County Sheriff’s Deputy could arrive.” Any forecast of expenses is strictly conjecture. Furthermore, few of the legal details and costs of having a neighboring county provide police protection in Pulaski County have been worked out and explored with Pulaski County government.

Based on data provided to CAW by the Pulaski County Sheriff’s Office (PCSO), the PCSO responded to approximately 60 incidents in Wrightsville in 2015. When divided by the \$90,000 annual payment to Pulaski County, the cost per call to Wrightsville is approximately \$1,500. Therefore, the annual cost to maintain the current level of law enforcement service and for PCSO to respond to the 101 calls in Little Italy would be \$151,500.

The limited funding and \$15 per hour wage for a Town Marshal is unrealistic. For comparison purposes, the Petitioners propose to contract with an individual to mow street rights-of-way at \$45 per hour, or three times (3x) what they propose to pay the Town Marshal. It is unlikely that the proposed Town would be able to hire and maintain a Marshal at this rate.

The proposed budget for law enforcement is therefore unrealistic and fails to demonstrate how the proposed Town will provide this service (if at all) to its residents. Therefore, the petition for incorporation should be denied.

City Hall: The City Hall rental of \$1 is unreliable and short-term. The commitment is only for a two-year term. There is no discussion of funding for this need after this time frame, which could amount to a significant expense that is not accounted for. The lack of inclusion of a long-term expense indicates the inadequacy of the proposed budget and the failure to present a realistic funding plan.

Road Maintenance: The street fund expenses set forth by the Petitioners ignore the recommendation of the Pulaski County Road & Bridge Department of budgeting \$12,888 per mile for road maintenance annually (note that this recommendation was not appropriately credited as the professional recommendation of the Road & Bridge Department in the Petitioners submission). The Petitioners budget only \$3,078 per mile for the 5.36 miles of road in the proposed Town. In comparison, Cammack Village budgeted \$16,779 per mile for its 3.4 miles of roads and spent \$22,855 per mile in 2014. The 2016 budget for Cammack Village includes budgeted expenses of \$20,044 per mile. These disparities show the inadequacy of the proposed budget for road and street needs for the proposed Town.

Furthermore, the Petitioners do not account for similar costs to the two itemized project expenses for work on Bringle Creek Road and Sample Road. These two projects cost \$23,453 and \$61,719, respectively. The cost of these projects illustrate the necessary budgeted expenses for proper road maintenance, yet the Petitioners chose to only include mowing costs in their budget.

The inadequate and unrealistic street budget further illustrates the Petitioner's inability to provide a realistic funding plan or if the proposed Town as well as the proposed Town's inability to sufficiently maintain its street infrastructure.

Code and Ordinance Enforcement: The Petitioners presented a letter where a resident committed to "assist Little Italy in upholding their ordinances" for only \$10 per year. While this letter may be well intentioned, relying on an unpaid volunteer to enforce ordinances of the town provides opportunities for inconsistent and unequal enforcement of the ordinances of the proposed Town, if at all. Furthermore, there is no way to ensure that this volunteer position continues in the form presented or that the services rendered will be sufficient for the needs of the proposed Town. This estimated expense is unreliable and further illustrates the inadequacy of the proposed budget and also highlights the uncertain nature of the promised services.

Code and Ordinance Development: The Petitioners presented a letter from IBTS that expressed an "intent to partner with Little Italy...to assist them with the challenges of city startup." The Petitioners did not account for the services of IBTS in the budget, however. In a review of IBTS's most recent IRS 990 form, the \$20 million per year organization obtains approximately 80% of its funding through contractual services. There is no commitment that the work for the proposed Town will be free or at a reduced rate nor is there discussion that IBTS could obtain grant funding to support such work. Assuming \$0 for this expense is unrealistic and further illustrates that the budget is based on unreliable assumptions.

2. Failure to demonstrate how the incorporation will provide new or enhanced municipal services.

In CAW's initial comments, we noted that that the courts have stated that incorporation is not available simply to avoid municipal regulation – it must be to obtain the benefits of becoming a municipality. CAW cited statements within the proposed Town's Business Plan and other documents that indicate that the Petitioners clearly desire to incorporate in order to avoid or prevent annexation by another city government and prevent application of the County ordinances.

Much of the information presented by the Petitioners simply confirms that the proposed Town will simply maintain the current level of services received by its residents. There is little discussion about increasing services. Items presented by the Petitioners that articulate that their efforts would either maintain current service levels or decrease the current level of services include:

Business Plan: The revised Business Plan continues to state that "current services such as police, fire, emergency, and all utilities will continue as they are now."

The revised Business Plan also states that "it is expected the town council will adopt an ordinance that exactly mirrors the language (germane to the proposed area of incorporated

Little Italy) of Pulaski County's current Lake Maumelle Watershed Zoning Code." This clearly demonstrates that the Petitioners do not expect to provide any level of services beyond what currently exists, if at all. The organizers cannot make any binding commitment on behalf of the proposed Town and, therefore, comments such as this are misleading. Given the vocal opposition by the Petitioners and Little Italy residents against the watershed zoning code, CAW believes it unlikely that such an ordinance will be adopted.

If, in fact, the Petitioners desired to protect the rural and historic character of the community as they claim in their documents and on their website, CAW would expect them to propose to reduce the allowable density restrictions and establish regulations to protect historic facades and properties. The Petitioners, however, have made no such commitment despite the fact that CAW has raised this issue and proposed partnering with Little Italy to approach the County about modifying the zoning code to achieve these rural and historic protections. In fact, the Petitioners have only stated that they desire to have a zoning code that mirrors what is currently in place, thereby providing the exact same service that is already being provided by the County government.

Law Enforcement: The Petitioners failed to present sufficient information that the proposed Town will provide enhanced law enforcement services to its resident. Various information presented suggests that the proposed Town may have a Town Marshal for 5 hours per week and work with Perry County as needed. Other information suggests that the proposed Town would still rely on Pulaski County law enforcement, while Perry County officers simply "preserve the scene" for a limited amount of time. Less than 45 minutes of law enforcement staffing per day does not rise to a level sufficient to claim an added or enhanced municipal benefit; one could argue that this constitutes a decrease in municipal service (if, in fact, the Town is able to hire a Marshal for \$15 per hour or one-third the cost of what the proposed Town will pay it's lawnmower for the street rights-of-way). Nor does a Perry County officer preserving a scene while waiting on a Pulaski County officer to arrive constitute an increase in services.

Fire Protection: The letters from the West Pulaski Fire Protection District #23 and Williams Junction Volunteer Fire Department simply commit to maintain the current level of fire protection for the proposed Town. The Petitioners briefly mention providing \$5,000 for service enhancements; however, it is not clear what, if any, services this will provide. It is clear that the Petitioners simply desire to maintain the current level of fire protection services, instead of greatly enhancing this critical community function for their residents.

Waste Collection: The email from Waste Management highlights only maintaining the current level of services that residents within the proposed Town currently receive. This further demonstrates that the residents of the proposed Town will not receive any services beyond those currently provided by the County.

Town Streets: As discussed previously, the proposed street budget ignores the best professional opinion from Pulaski County regarding budgeted expenses. Instead, the Petitioners base their budget solely on mowing the road rights-of-way. The refusal to budget an appropriate amount for road maintenance is an implicit admission that the

Petitioners only plan to maintain the rights-of-way and not expand or enhance any necessary roadway infrastructure. The Petitioners and supporters have stated that they desire to assume maintenance of private roads within the proposed Town as an improved service. As discussed above, the proposed budget for maintaining the existing infrastructure is not adequate; adding additional infrastructure to maintain would exacerbate the funding shortfall in the street budget. Therefore, it is not likely that any new street-related services will be provided by the proposed Town under the proposed budget.

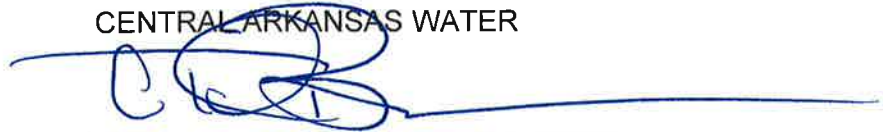
Court Services: The documents submitted also indicate that all court services within the proposed Town will be in the City of Maumelle. Though no agreement or supporting documentation has been presented to support this arrangement, its mere suggestion indicates that the proposed Town is unwilling to take the necessary steps to provide municipal services to the community in the form of a court within its own jurisdiction or, at best, within a reasonable distance to the community. In addition to reducing law enforcement services by providing less than 45 mins per week of law enforcement staffing, the proposed Marshal arrangement also does nothing to improve the accessibility of court services for the community. Again, this arrangement clearly indicates that the residents of the proposed Town will receive little to no increased municipal benefits from incorporation and the petition should therefore be denied.

CONCLUSION

From the flaws and issues identified above, it is clear that the Petitioners have failed to present a reliable or realistic plan for funding the proposed Town and have failed to demonstrate how the incorporation will provide new or enhanced municipal services to the residents of the proposed Town. For these reasons and the reasons raised in the initial comments, the petition is directly contrary to everything that the Arkansas Constitution and General Assembly intend for cities and towns to be and, therefore, should be denied.

Respectfully,

CENTRAL ARKANSAS WATER



By: C. Tad Bohannon,
Interim Chief Executive Officer and Chief Legal Counsel

Attachments:
Affidavit of John Tynan

AFFIDAVIT OF JOHN TYNAN

I, John Tynan, first being duly sworn, upon oath state of personal knowledge:

1. I am John Tynan, Director of Customer Relations & Public Affairs at Central Arkansas Water ("CAW"). I am authorized by CAW to submit this affidavit, which I understand will be used to support CAW's Objections to the Petition for Incorporation of the Town of Little Italy.

2. I am familiar with the above referenced Petition and CAW's supplemental comments to be filed by CAW.

3. CAW's supplemental comments state that there were 60 law enforcement calls to Wrightsville in 2015 and that these average a cost of \$1,500 per call.

4. CAW's supplemental comments also state that the Pulaski County Road & Bridge Department recommended that Little Italy budget \$12,888 per mile annually for road maintenance and that Cammack Village budgeted \$16,779 per mile in 2014, spent \$22,855 per mile in 2014, and budgeted \$20,044 per mile in 2016 for the 3.4 miles of roads maintained by Cammack Village.

5. CAW's supplemental comments also state that the most recent IRS 990 form for IBTS show a \$20 million budget for IBTS of which 80% is obtained through contractual services.

6. I obtained the number of incidents in Wrightsville that the Pulaski County Sheriff's Office responded to in 2015 on January 12, 2016, from Sgt. Doug Cunningham. I calculated the \$1,500 average cost per call using the \$90,000 figure provided in the Little Italy documents submitted to the County Court.

7. I personally spoke with Chad Truby at the Pulaski County Road & Bridge Department on January 11, 2016. I requested and received an email providing the analysis completed by the Road & Bridge Director regarding annual maintenance costs for roads within the proposed Town of Little Italy that provided the recommended annual cost per mile. I also obtained the mileage of city streets in Cammack Village from the CAW GIS Department and

used the values in the 2014 Cammack Village budget submitted by the Little Italy Petitioners to calculate the budgeted and actual expenses for 2014. I obtained the 2016 budget from the Cammack Village website and used the 3.4 miles of roads to calculate the budgeted amount for road maintenance for 2016.

8. On or about January 8, 2016, I obtained the IBTS 990 form from <http://foundationcenter.org/>. I personally reviewed and calculated the amount of revenue obtained from contractual services by the organization and calculated this as a percentage of their total budget.

9. The facts alleged in this affidavit are true and accurate to the best of my knowledge, information, and belief.

FURTHER, AFFIANT SAYETH NOT.



John Tynan, Director of Customer Relations & Public Affairs at Central Arkansas Water

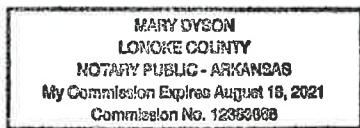
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STATE OF ARKANSAS

COUNTY OF LONOKE

On this the 13th day of January, 2016, before me, a Notary Public, personally appeared John Tynan, an individual, who executed the foregoing instrument for the purposes therein contained, by signing his name thereto.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My Commission Expires:

8/18/2021