

Position Paper on the City and Community Foundation Relationship

Council Member Danny Montez III | September 22, 2026 | Draft for Council discussion

I support a Council resolution that clarifies the Tontitown Community Foundation's use of City Hall, requests a complete accounting of City-related funds, and gives the Foundation a fair opportunity to explain its work. The City Attorney's opinion calls for a formal Council decision about any continuing use of City property or personnel. We should make that decision with the relevant documents and transactions in front of us.

Why I am asking for action

At the September 15 City Council meeting, some comments treated the City's inquiry as a personal attack. I disagree with that characterization. Questions about organizational authority, public property, and the handling of funds are ordinary Council responsibilities. I respect the time volunteers have given to the community. They deserve a clear statement of what information the City seeks and why.

The most important financial question is a two-way accounting: what funds, if any, passed from the City to the Foundation, what funds passed from the Foundation to the City, and what funds the Foundation held or spent for City-related purposes. We should identify the source, amount, date, purpose, approvals, donor restrictions, and supporting records for each transaction. I am asking for this review to establish facts, not asserting that funds were misused.

The general fund payment for formation counsel

I have also been informed that the City used its general fund to pay for the Foundation's incorporation papers and related formation work. The attorney who performed the work was reportedly another lawyer in the firm of the then-serving City Attorney, not the City Attorney personally. That distinction should be stated accurately, but it does not answer why the City paid for a separate entity's formation. The Council should obtain the firm's engagement and scope of work, assigned attorney, invoices, payment records, budget coding, work product available to the City, and the approvals identifying who requested the work, why the City paid for it, and what public benefit the City received. We should confirm the amount and circumstances from those records before drawing a conclusion.

Arkansas law describes the mayor as the City's chief executive officer. I expect the Mayor to account for the administrative decisions and records behind a general-fund expenditure, including a payment made under her administration if that is what the records show. That executive responsibility alone does not establish that she approved a particular invoice, acted unlawfully, or bears personal liability. Our current City Attorney has identified illegal exaction as a potential legal concern when public money or resources are used without proper authority. I want his assessment of whether this particular expenditure had authorization and a lawful municipal purpose, and what remedy, if any, the facts support.

City Hall and the Foundation address

The City Attorney advises that an independent organization should not continue to identify City Hall as its principal, registered, or organizational office or receive ongoing City resources without Council authorization. The opinion distinguishes occasional mail received "care of" an organization from an official address that implies an established presence at City Hall. That distinction matters to residents, donors, and public agencies.

I favor a resolution directing the Mayor to provide written notice, check whether the Council already granted any authorization, and request corrections to official filings if none exists. A resolution puts the Council's direction and the transition steps on the public record. The attorney also cites Arkansas Code Annotated § 14-54-302 for the written resolution needed to authorize municipal contracts and leases; whether a specific address use is itself a lease depends on the facts and should remain a question for our City Attorney.

A fair and useful review

I propose that the Council request the Foundation's formation and governing documents, any written agreement with the City, a description of City personnel and resources used, and records sufficient to reconcile City-related money. The City should produce its own corresponding records. If unrelated private donor information appears in those materials, the City Attorney can advise on appropriate handling. The Foundation should be invited to present its explanation at a public meeting before the Council chooses a longer-term arrangement.

During the review, I support holding new discretionary City payments and resource commitments, while honoring any existing legal obligations after counsel reviews them. If the records leave material gaps, the Council can then consider a defined independent audit. A preliminary reconciliation is the sensible first step because we do not yet know the full scope of any audit.

My proposed Council action

Adopt the accompanying resolution; provide the Foundation the City Attorney's opinion and a clear records request; correct unauthorized official-address use through an orderly transition; reconcile funds moving in either direction and funds held for City-related purposes; and set a public meeting for the Council to decide whether a documented relationship should continue. The Foundation's charitable aims and the Council's duty to account for public resources can both be respected.

Basis: City Attorney Tyler R. Farrar's opinion supplied to the Council; Arkansas Code Annotated §§ 14-43-502(b)(1), 14-43-504(a), and 14-54-302; Arkansas Constitution Article 16, § 13. This paper states my policy position and does not replace advice from the City Attorney.