

TIMES RECORD

TODAY IN SPORTS

CARDINALS FORCE GAME 5 PAGE 1C



TODAY IN LIVING

Go Up, Up AND AWAY IN POTEAU

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50¢

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LAWSUIT DISMISSED

Attorney To Appeal FOI Ruling

JUDGE DEEMED CRIMINAL PENALTY UNCONSTITUTIONAL

By John Lyon
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LITTLE ROCK — A Fort Smith lawyer said Wednesday he plans to appeal a Sebastian County circuit judge's ruling that declared portions of the Arkansas Freedom of Information Act unconstitutional.

Joey McCutchen said he wants Attorney General Dustin McDaniel to participate in the appeal. McDaniel said through a spokesman that he did not immediately know whether his office would get involved.

Sebastian County Circuit Judge James Cox on Tuesday dismissed a lawsuit by McCutchen alleging that the city of Fort Smith violated the FOIA when former City Administrator Dennis Kelly discussed city business with five of the seven members of the Fort Smith Board of Directors in a series of private, one-on-one conversations in May 2009.

The FOIA requires that meetings of government bodies be open to the public. A violation can be punished with a fine of up to \$200 and up to 30 days in jail.

In a 47-page decision, Cox said the criminal sanctions provided in the law violate the Arkansas and U.S. constitutions because "less restrictive means are available to advance the goal of open government and access to information."

Cox also granted in part a counterclaim by Kelly and past and present board mem-

"We're going to pursue this until the final bell rings."

JOEY McCUTCHEN
Fort Smith attorney

bers asking that Kelly declare it is up to the General Assembly to define the word "meeting" as used in the law, not the executive or judicial branch.

Cox agreed, saying that "meeting" is not defined in the FOIA or in case law and recommending that legislators revisit the law.

The judge said that under the ordinary definition of "meeting," at least two board members would have to be present for a meeting to occur, so the meetings between board members and Kelly did not violate the FOIA.

McCutchen said Wednesday he will appeal the dismissal of his lawsuit and the partial granting of the counterclaim.

"We're going to pursue this until the final bell rings," he said.

McCutchen also said he will ask the attorney general's office to intervene. The attorney general can intervene in a case in which the constitutionality of a state law is challenged.

McDaniel spokesman Aaron Sadler said Wednesday, "The attorney general's office just learned of the ruling today, and we are reviewing it. We are considering whether to intervene in the matter."

SEE RULING PAGE 8A

BIG SHOES TO FILL

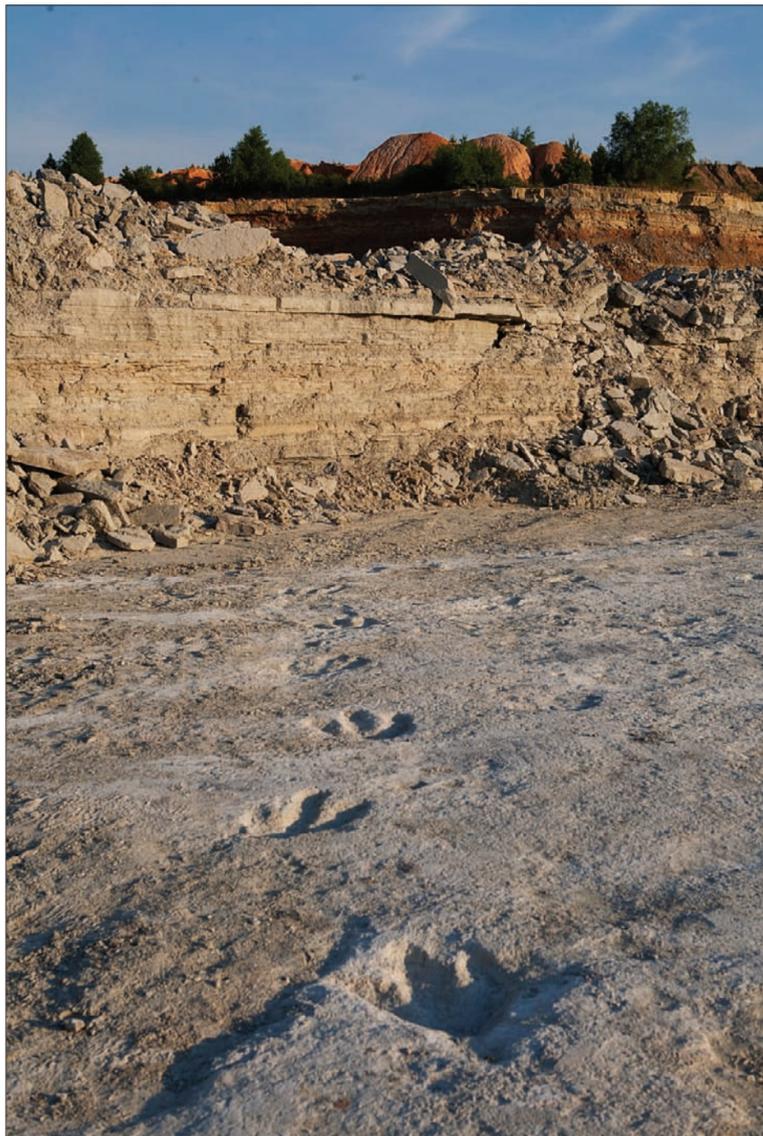


PHOTO COURTESY OF THE UNIVERSITY OF ARKANSAS

Fossilized tracks from a three-toed dinosaur that researchers are studying in southwest Arkansas are seen July 12.

Researchers Study Dinosaur Tracks

FOSSILIZED ARKANSAS PRINTS 120-150 MILLION YEARS OLD

By John Lyon
ARKANSAS NEWS BUREAU
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LITTLE ROCK — University of Arkansas researchers are studying a newly discovered field of dinosaur tracks in southwestern Arkansas believed to

be 120-150 million years old.

The tracks are believed to include prints of one of the largest predators that ever walked the earth, signs of which have never before been found in the state.

After the site was dis-

covered and reported to UA in June, a research team from the university spent about two weeks during the summer uncovering and studying an area roughly the size of two football fields, said UA geosciences professor

SEE TRACKS PAGE 4A

Chaffee Crossing Complex Coming

DEVELOPER PLANS APARTMENT UNIT

By Ben Boulden
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Developers plan to start building in early 2012 a 484-unit, \$30 million apartment complex at 9505 Chad Colley Blvd. in Chaffee Crossing.

"It's the biggest multifamily development here so far," said

Ivy Owen, Fort Chaffee Redevelopment Authority executive director. "Not only is it the biggest, it's going to be one of the most unique. The site plan is such that when you drive in it won't feel like you're driving into an apartment complex."

Terry Burruss, a Little Rock architect, and Pat Mickle, Mickle Wagner Coleman Engineers, have worked on the project and discussed it Wednesday during a study session of the Fort Smith Planning Commission.

To be called The Reserve at Chaffee Crossing, the multifamily residential site covers about 40 acres near the Interstate 49 right of way and is next to and south of a 20-acre lot designated for commercial development.

Burruss said construction will take place in four phases, with the first phase of building calling for the completion of 120 units, the second 136 units, the third 136 and the fourth phase 108.

The work will be done in each phase to facilitate fire-fighting access to the site if needed, he said.

Graveled temporary parking will be built behind the buildings in each phase to allow for temporary parking of boats, jet skis and other vehicles that eventually will be permanently housed in a tenant storage facility at The Reserve.

SEE APARTMENTS PAGE 8A

Senators: Give Voice To Guard

By Peter Urban
STEPHENS WASHINGTON BUREAU
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WASHINGTON — The Joint Chiefs of Staff should be expanded to include the National Guard, say Arkansas Sens. Mark Pryor and John Boozman.

The two lawmakers are co-sponsoring legislation that would provide the National Guard a greater voice at the Pentagon to reflect its more active role in military operations.

"Given the demands and requirements

SEE GUARD PAGE 4A



Pryor



Boozman

GETTING STARTED

IN THE NEWS

Apple Co-Founder Jobs Dead At 56

LOS ANGELES — Steven P. Jobs, the charismatic technology pioneer who co-founded Apple Inc. and transformed one industry after another, from computers and smartphones to music and movies, has died. He was 56.

FULL STORY, 1D

Fort Chaffee District Added To Register

The Camp Chaffee Tank Destroyer Battalion District has been added to the National Register of Historic Places, the Fort Chaffee Redevelopment Authority announced in a news release Wednesday.

FULL STORY, 2A

AHTD Director Pushes Road Bonds

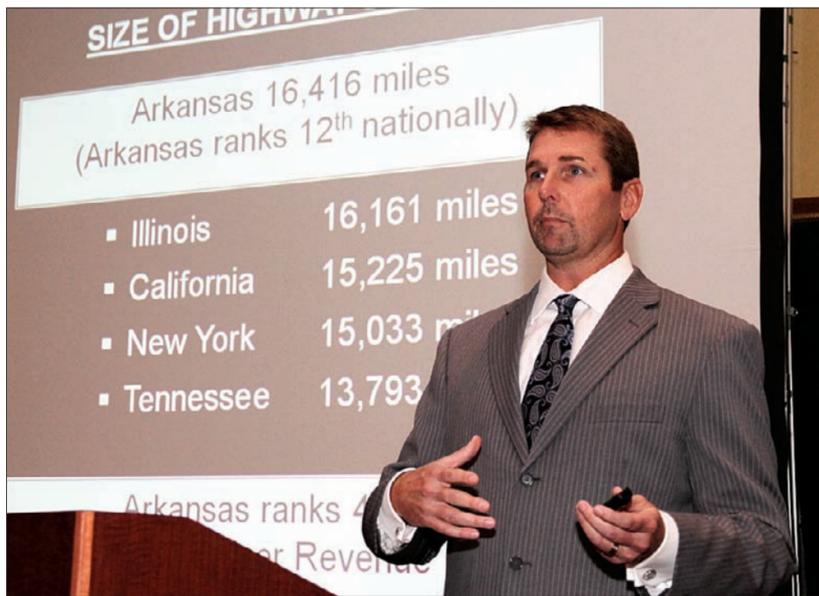
By Wanda Freeman
TIMES RECORD • WFREEMAN@SWTIMES.COM

If Arkansas voters approve the extension of the state's authority to issue GARVEE bonds for interstate rehabilitation on Nov. 8, up to \$575 million in bonds could be issued for much-needed highway improvements, some 50-plus transportation leaders heard Wednesday.

Scott Bennett, recently named director of the Arkansas Highway and Transportation Department, visited the Holiday Inn City Center in Fort Smith for a meeting that drew at least 15 people from northwest Arkansas, which shares an interest in the development of the future Interstate 49 among other transportation improvements.

GARVEE bonds, or Grant Anticipation Revenue Vehicle bonds, were approved by a 4-1 margin in 1999 and covered rehabilitation projects on more than half of the

SEE BONDS PAGE 8A



JAMIE MITCHELL • SPECIAL TO THE TIMES RECORD

Arkansas Highway and Transportation Department Director Scott Bennett begins his Wednesday afternoon presentation about the proposed GARVEE bond program for interstate rehabilitation during a joint meeting of the Regional Intermodal Transportation Authority and the Frontier Metropolitan Planning Organization on Wednesday at the Holiday Inn City Center.



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