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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 pm  
June 28, 2016

On this date the City Council of the City of Conway, Arkansas met in regular session. The following members being a quorum were present and acting: Alderman Hawkins, Alderman Grimes, Alderwoman Mehl, Alderman Ledbetter, Alderwoman Smith, Alderman Jones, and Alderwoman Isby. Also, present and acting: City Clerk Michael Garrett and Attorney Chuck Clawson. Mayor Townsell and Alderman Pruitt were not in attendance.

**Call to Order: Mayor Tab Townsell**

**Roll Call: Michael O. Garrett**

**Minutes: June 14, 2016 City Council Meeting**

Alderwoman Isby motioned to approve the June 14, 2016 minutes as submitted. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

**Employee Service Awards:**

**5 Years**

Brandon Huff - Police Dept.  
Andrew McKendree - Police Dept.  
Bruce Alexander - Parks & Recreation  
Debbie Smith - CEOC

**15 Years**

Jimmy Weser - Police Dept.

**20 Years**

Jonathan Burnett - Police Dept.

**Approval of Monthly Financial Report ending May 2016:**

Tyler Winningham, CFO, began with General Fund revenues reflects the first large payment in Ad Valorem taxes from the county, sales tax was up approximately 5.25% over the same month last year, which puts us up approximately 3% for the year. Mr. Winningham moved forward with the Street Fund and stated this fund also received the first large Ad Valorem tax payment of the year, which catches us up, and explained the severance tax revenues are almost not existent and we have trimmed this line item back and have only collected approximately 20% of the budget year to date; we should be around 40% and there are no indications that the gas drilling and production will pick back up. Mr. Winningham stated we still show a net expense, due to the money we paid to the Arkansas Highway & Transportation Dept. earlier in the year. Mr. Winningham stated all revenues and expenses are within budget and we have a net revenue of \$540,852.00. Mr. Winningham stated in the Airport Fund the fuel sales are slightly behind where we expect them to be and expenditures are within budget; we have a net revenue of \$94,000.00. Mr. Winningham gave the status of the Major Projects Funds they are as follows: Parks & Recreation A&P Tax - \$1,980,993.00, Pay as you go sales tax - \$2,035,760.00, Street Impact Fees:

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\$468,934.00, and Parks Impact Fees: \$281.193.00. Alderwoman Smith motioned to approve the May 2016 financial reports. Alderwoman Isby seconded the motion. There was no discussion. The motion passed 7-0.

**1. Report of Standing Committees:**

**A. Community Development Committee (Planning, Zoning, Permits, Community Development, Historic District, Streets, & Conway Housing Authority)**

- 1. Resolution setting a public hearing to discuss the naming of a new road that would connect Mill Pond Road to Old Military Road to Empey Trail.**

**R-16-19**

Alderwoman Isby motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0. The public hearing is scheduled for Tuesday July 12, 2016 at 6:30 pm.

- 2. Resolution setting a public hearing to discuss the renaming of Sand Gap Road to JW and Pat Brown Blvd.**

**R-16-20**

Alderwoman Smith motioned to adopt the resolution. Alderwoman Isby seconded the motion. There was no discussion. The motion passed 7-0. The public hearing is scheduled for Tuesday July 12, 2016 at 6:30 pm.

- 3. Resolution requesting the Faulkner County Tax Collector to place a certified lien on property located at 66 Briarwood Circle as a result of incurred expenses by the City.**

**R-16-21**

Alderman Hawkins stated the cost of cleanup was \$173.25 (\$130.23 + Penalty \$13.02 + filing fee \$30.00). Alderman Jones motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no one present to speak to this issue. There was no discussion. The motion passed 7-0.

- 4. Consideration to approve the nomination of Tom Mikel to the Conway Housing Authority Board.**

Alderman Hawkins motioned to approve the nomination of Tom Mikel to the Conway Housing Authority Board. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

- 5. Ordinance to rezone property located at 2522 College Avenue from R-1 to O-2.**

**O-16-69**

Alderwoman Isby motioned to waive the readings of the ordinance. Alderwoman Isby seconded the motion. The motion passed 7-0. Alderwoman Isby motioned to adopt the

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ordinance. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderwoman Mehl, Alderman Ledbetter, Alderwoman Smith, Alderman Jones, and Alderwoman Isby. The motion passed 7-0.

Alderman Grimes stated he received word that Chuck Clawson, City Attorney, is in route to the meeting, and stated he would be abstaining from the vote on Item A-6, which is next on the agenda.

**6. Ordinance to rezone property identified as the 400 Block of Ingram Street including properties located at 420 2<sup>nd</sup> Street and 401 Monroe Street from R-2A to PUD.**

**O-16-70**

Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Jones seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Isby seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderwoman Mehl, Alderman Ledbetter, Alderwoman Smith, Alderman Jones, and Alderwoman Isby. The motion passed 6-0-1. Alderman Grimes abstained. The following are the conditions placed on this PUD:

- 1) PUD shall be generally developed as shown on site plan sketch. Variations from the submitted plan shall be followed.
- 2) Platting shall be required. Any additional right of way, sidewalks, etc. as required by the Subdivision Ordinance shall be dedicated and constructed. An additional 5 feet of right of way shall be dedicated along Ingram Street in anticipation of Ingram being upgraded to a collector street classification.
- 3) Setbacks, Lot Coverages, Parking Areas and Building Form. As a small lot development, reduced setbacks, increased lot coverages shall be allowed. Defined setbacks, lot coverages, parking areas, and desired building forms shall be defined in the final development plan, plat, and PUD documents.
- 4) Planning Director approval of structure designs and materials is required. Planning Staff shall use the Old Conway Design Overlay guidelines as the basis for review. Planning staff decisions may be appealed to the Conway Historic District Commission.

**7. Consideration to approve Conditional Use Permit No. 1288 to include properties located at 2195 Dave Ward Drive and 815 South Donaghey Avenue.**

Alderwoman Smith motioned to approve the conditional use permit request. Alderman Ledbetter seconded the motion. Alderman Grimes asked Planning Director Bryan Patrick what the decent was at the Planning Commission meeting. Mr. Patrick stated he does not recall. There was no further discussion. The motion passed 7-0.

**8. Consideration to approve a conditional use permit to allow religious activates at 701 Garland Street.**

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Alderman Hawkins motioned to approve the conditional use permit request with no conditions. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 7-0.

**9. Consideration to amend Conditional Use Permit No. 1323 (which allowed for a public stable) to change the name of the person tied to the permit due to change in property ownership.**

Alderman Hawkins stated condition #10 will be amended to read "This conditional use permit is tied to the applicants, Darren Wagoner and Joan White-Wagoner, only." The permit does not run with the land. Alderwoman Smith stated she has received complaints from neighbors across the street that they are not abiding by the time rules for bands to play; the police have been called, which also was an issue with the previous owner and stated she is not going to vote for this as she would not want to live across the street from a business that plays loud music until midnight. Alderman Hawkins asked what the time restriction on music. Bryan Patrick, Planning & Development Director, stated he believes it is 11:00 pm. Alderwoman Mehl stated she thought it was earlier during the week. Alderwoman Grimes stated the new owner appears to be quite aggressive with advertising the business which is good, but there are certain rules attached to the property that need to be adhered to, and stated he does not get those complaints, but he knows we have had issues before and is concerned that the applicants are not present tonight. Alderwoman Isby stated they did attend a Planning Commission meeting. Alderman Jones stated he has also received complaints via email. Alderman Grimes stated he would like to see the applicants in person to make sure they understand how serious we are about the guidelines, because they have previously been ignored. Alderman Ledbetter asked if we can table the issue and require the applicants to attend a city council meeting. Alderman Grimes asked how do we handle them currently operating without a valid conditional use permit. Alderwoman Isby stated they have been operating since April. Alderman Jones stated the permit was issued to the previous owner and they should not have been operating. Alderwoman Isby stated they were notified by Code Enforcement and it was then placed on the Planning Commissions agenda, which she has an issue with because this basically allows someone to continue to operate illegally, until a Planning Commission meeting, and then a City Council meeting; this property changed ownership in April. Alderwoman Isby stated she notified the Mayor's office when she was told by an employee they could not honor something because they had changed owners. Bryan Patrick, Planning & Development Director, stated Jason Lyon, Assistant Planning Director, just informed him that it had shown up in the assessor's records approximately 3 weeks ago and he does not know if they were in the process of changing it, but administratively whenever we find an infraction of the zoning ordinance we allow people to work toward a solution by getting on the Planning Commission agenda, and as long as they are working toward a solution, they have been allowed to continue operations. Alderwoman Smith asked Mr. Patrick if they can make them aware that there are rules/conditions that they must abide by. Mr. Patrick stated yes. Alderman Hawkins stated they need to attend the City Council meeting. Alderwoman Isby asked if they have applied for an A&P permit. Michael Garret, City Clerk, stated yes. Alderwoman Mehl recommended also asking for a review after a certain period of time for a status update. Mr. Patrick stated that was required by the previous owner. Alderwoman Smith stated she cannot believe the previous owner did not disclose any conditions etc. Alderman Grimes stated most times this would not be an issue, but we need to make sure they attend the next meeting. Alderwoman Mehl stated if they do not show up at the next meeting we could

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rescind the permit. Alderman Ledbetter motioned to table the item until the next City Council meeting. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 7-0.

### **10. Review of special permit that allowed a temporary water park located in the 2200 Block of East Oak Street.**

Will Atkins, Arkansas Inflatable Waterpark LLC, stated there have been some changes in the business and explained he is open 5 days a week instead of 7, to allow time for drying and we are closed Tuesday and Wednesdays, pricing has changed and we now charge \$5.00 Monday and Thursday and \$10.00 on the weekend, and stated he has several events booked. Alderman Grimes stated he has not heard of any issues. Alderwoman Isby stated she did receive 1 phone call from an individual that stated that a liability release is being signed, but not clearly explained to customers. Mr. Atkins stated he was asking people to "please sign the release of liability" and a particular customer suggested that he say "please read over the entire release of liability, and then sign" and feels this has been rectified. Alderwoman Smith motioned to approve the special permit. Alderwoman Isby seconded the motion. There was no discussion. The motion passed 7-0. The conditions for operation are:

- This Special Permit is limited to William Atkins, Arkansas Inflatable Waterpark, LLC only.
- The temporary water park is approved for operation between June 6, 2016 until September 3, 2016 and possibly open on weekends in September.
- Hours of operation shall be from 11 am to 7 pm, Monday through Saturday and 1 pm on Sunday.
- The temporary water park shall be arranged as shown on the attached site sketch.
- 15 employees total. 5 employees are required at all times for pay and play operations.
- Proof of insurance shall be provided and on file with the Mayor's Office.
- Due to the temporary nature of the water park, the parking surface may be grass.
- An adequate number of toilets shall be provided. A hand wash sink shall also be provided.
- Food and drink vending is allowed. A prepared food license shall be obtained from and on file with the City Clerk's office.
- A temporary building permit shall be required to inspect power hookups and other general safety requirements. The permit shall be obtained from and on file with the Permits and Inspections Department.
- A City Council review of the operation will be required. Mr. Atkins or a representative shall appear before the City Council on June 28, 2016 to give an update of the water park status.
- This special permit is subject to periodic reviews and inspections for reasonable public safety compliance.

### **B. Public Services Committee (Sanitation, Parks, & Recreation & Physical Plant)**

#### **1. Ordinance appropriating insurance proceeds funds received from the Municipal Vehicle program for the Conway Sanitation Department.**

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**O-16-71**

Aldерwoman Isby motioned to waive the readings of the ordinance. Aldерwoman Smith seconded the motion. The motion passed 7-0. Aldерwoman Isby motioned to adopt the ordinance. Aldерwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Aldерman Hawkins, Aldерman Grimes, Aldерwoman Mehl, Aldерman Ledbetter, Aldерwoman Smith, Aldерman Jones, and Aldерwoman Isby. The motion passed 7-0. The funds in the amount of \$174,000.00 will be used to repair a 2002 Morbark 7600 Woodhog that was involved in a fire, and the \$7,078.20 will be used to repair a 2014 Ford F250 truck.

- 2. Ordinance accepting the bid and appropriating funds for the replacement of the slide gates at Lake Beaverfork for the Parks & Recreation Department.**

**O-16-72**

Steve Ibbotson, Parks & Recreation Director, stated the outflow tower is a large concrete structure that has sliding gates that are used to lower the level of the lake, which is typically done every 5 years. Mr. Ibbotson stated this year we had issues with the gates and they are inoperable, and stated the gates are about 60 years old and need replaced. Mr. Ibbotson stated we received one bid and recommended Environmental Process Systems, Inc. in the amount of \$67,900.00. Aldерwoman Isby motioned to waive the readings of the ordinance. Aldерwoman Smith seconded the motion. The motion passed 7-0. Aldерman Jones motioned to adopt the ordinance. Aldерwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Aldерman Hawkins, Aldерman Grimes, Aldерwoman Mehl, Aldерman Ledbetter, Aldерwoman Smith, Aldерman Jones, and Aldерwoman Isby. The motion passed 7-0.

- C. Public Safety Committee (Police, Fire, District Court, CEOC, Information Technology, City Attorney, and Animal Welfare)**

- 1. Ordinance appropriating reimbursement funds from various entities for the Conway Police Department.**

**O-16-73**

Aldерwoman Smith motioned to waive the readings of the ordinance. Aldерwoman Isby seconded the motion. The motion passed 7-0. Aldерman Jones motioned to adopt the ordinance. Aldерwoman Smith seconded the motion. Larry Hearn, Police Dept., stated CFO Tyler Winningham asked that a correction be made in Section 1 and Section 4; Section 1 should have the expense account number of 304-121-5910 and Section 4 should have the expense account number of 250-121-5799. Aldерman Jones motioned to adopt the ordinance with these changes. Aldерwoman Smith seconded the motion. The clerk called the roll with the following voting "Aye": Aldерman Hawkins, Aldерman Grimes, Aldерwoman Mehl, Aldерman Ledbetter, Aldерwoman Smith, Aldерman Jones, and Aldерwoman Isby. The motion passed 7-0.

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|----------------------------------|-------------|----------------------|
| • Arkansas State Police          | \$10,239.15 | STEP Grant/DUI Grant |
| • Faulkner County District Court | \$ 90.00    | Restitution          |

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• Municipal Vehicle Program	\$ 2,621.16	Insurance Proceeds
• 20 <sup>th</sup> District Law Enforcement	\$ 6,733.30	Asset Forfeiture
• Various Companies	\$13,779.13	Extra Duty Proceeds
• Various Companies	\$ 250.00	Child Safety Fair

**D. New Business**

- 1. Ordinance/Discussion waiving bids for restoration of Springfield/Des Arc Bridge and entering into an agreement for services with Workin' Bridges.**

**O-16-74**

Jack Bell, Chief of Staff, explained Workin' Bridges has given us a bid totaling \$334,760.00 which is a slightly more than the grant funds we have. Mr. Bell stated they added a safety railing which is required and is something we could do locally, but it will be more true to the era of the bridge; this added \$35,000.00. Mr. Bell stated they also gave us options of using Pine or White Oak on the decking and we chose White Oak because it will last much longer and stated we have an ordinance prepared. Chuck Clawson, City Attorney, stated the ordinance will waive bidding to go with Workin' Bridges who will provide the professional services and authorize the Mayor to enter into the necessary agreements; they will not only provide restoration but also transportation of the bridge in various pieces to the facility to restore and to the site. Alderwoman Mehl asked if the ordinance should talk about the amount approved in the contract, or will that come separately. Mr. Clawson stated he was initially going to include the amount, but we were going to wait for the final amount of the grant before we appropriated money for the project. Mr. Bell stated this will not be appropriating money. Alderwoman Smith asked if the grant is for \$300,000.00. Mr. Bell stated the grant is \$300,000.00 and it is an 80/20 split which would be approximately \$240,000.00 from the Metroplan and the city would need to contribute 20% of what is left. Mr. Bell stated their work will cover dismantling the bridge, restoration, reassembling it at the new site, decking, and also engineering for the abutments and the ramp up which will go out to bid. Mr. Bell stated we are assuming that there is lead base paint on the bridge, but it has not been tested yet, but if it is not lead base paint, it will lower the price. After some discussion Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Isby seconded the motion. The motion passed 7-0. Alderwoman Isby motioned to adopt the ordinance. Alderwoman Smith seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderwoman Mehl, Alderman Ledbetter, Alderwoman Smith, Alderman Jones, and Alderwoman Isby. The motion passed 7-0.

- 2. Discussion regarding a waterline relocation by the City of Mayflower for the project associated with the Conway Western Loop (Baker/Wills Parkway).**

Alderman Hawkins stated this waterline was in place and our bypass is scheduled to go over the top of it and he is not in favor of leaving someone else's waterline underneath our road, but there is a question as to how much it will cost to relocate the waterline. Chuck Clawson, City Attorney, stated its his understanding we have engineered a sleeve that would trench out from the water line that would cost a certain amount and the City of Mayflower could come back with an alternate engineering plan that had an increased cost

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and required us to bore a new route for the waterline. Mr. Clawson stated we have since asked for clarification and engineering justification as to why their plan would be better and he does not believe we have gotten any information back yet and does not feel this is ready for action tonight. Alderwoman Smith motioned to hold this item in committee. Alderwoman Isby seconded the motion. There was no further discussion. The motion passed 7-0.

**Adjournment**

**PASSED this 28th day of June 2016**

**APPROVED:**

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*Mayor Tab Townsell*

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*City Clerk Michael O. Garrett*