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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 p.m.  
January 23, 2007

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 Jones, Alderwoman Smith, Alderwoman Mehl, Alderman Vaught, Alderman Grimes, Alderwoman Whitmore and Alderman Bell. Also, present and acting: Mayor Tab Townsell, City Attorney Michael Murphy and City Clerk Michael Garrett.

1. **Call to Order**
2. **Roll Call**
3. **Minutes:** *January 8<sup>th</sup>, 2007*

Alderwoman Whitmore motioned to approve the Jan. 8, 2007 minutes as submitted. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

4. **Recognition of Guests:** *Employee Service Awards*

**Police Dept**

**5 years**

Officer Lloyd Smith

Officer Pam Hager

Lloyd Hartzell – CEOC / IT Director

**15 years**

Sgt. Laura Hodges

**30 years**

Interim Police Chief Mark Elsinger

**Parks Dept - 5 years**

Derek Cox - Grounds Supervisor

**Fire Dept – 10 yrs of service**

Driver Ricky Powell

Lt. Jerry Gipson

Driver Heath Merritt

Driver Fred Nutt

Lt. Kent Schreiber

**5. Public Hearings:**

**6. Report of Standing Committees:**

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

Alderman Hawkins motioned to suspend the rules to move items 8A and 8B to the beginning of the agenda. Alderman Bell seconded the motion. The motion passed 8-0.

Mayor Townsell stated the city is in the middle of a 5 yr wrecker franchise agreement with four wrecker services. Two of the wrecker companies had not paid the fee by Dec 1, 2006 and as required by the contract. Mayor Townsell stated he doesn't feel that it helps the city in any way to eliminate two possible wrecker services from our franchise and the city deals with all the issues involved with this franchise year after year and he is tired of the problems. Mayor Townsell recommended that the city terminate the entire wrecker franchise service by eliminating the bid process and the \$20,000 payment and if the wrecker companies want to tow for the city we demand that they meet the city's regulations, pay our fees, and the city "not" worry about getting paid a fee for it, but worry about weather they are doing a good job by the customers of the city of Conway. Alderman Hawkins asked City Attorney, Michael Murphy, if this is something the city can act on. Mr. Murphy stated yes the agreement can be eliminated with council approval and the council will need to determine a reason for doing so. Alderman Hawkins asked if the contract is terminated will the city have any administrative role of enforcing rules and regulations, towing, and charges that are levied. Mayor Townsell stated the city can operate under a situation where the wrecker companies accept our charges or we will not call them. Alderman Grimes stated he understands that two companies paid on time and two did not and that more money was paid after the deadline. Mayor Townsell stated that checks have been given to the city, but have not been cashed and the two companies that paid by the deadline have paid the remaining franchise fee. Alderman Grimes asked how much was paid by Dec 1<sup>st</sup>. Mr. Garrett stated \$10,000. Alderman Grimes asked if the contract can be voided since the total was not paid by Dec 1<sup>st</sup>. Mr. Murphy stated per the agreement that is a requirement. Alderman Hawkins asked if reminder letters were sent out prior to the deadline. Mr. Garrett stated yes. Alderman Jones asked if payments were paid on time in the past. Mr. Garrett stated no. Alderman Hawkins stressed that if this contract is eliminated that we make sure that fee hiking will not be a problem. Neal Ross, Pro Auto, stated he missed the payment deadline because he thought it was an annual contract due Dec. 30<sup>th</sup>. He asked to be dealt with fairly and stated that they all missed the deadline the first year and that was o.k., and feels that it is unfair to step in and selectively enforce

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the contract the second year. He is just asking for some leniency and if there is no objection from the other wrecker companies that the council allows the agreement to stand. Bill Helton, Helton's Wrecker Service apologized for being late and stated this has always been a fight no matter how it is done and there is plenty of business for everyone. Mike Sutterfield, Attorney at Law, representing Jim Smith Wrecker Service and Steve's Wrecker Service, stated some sections of the contract are not being covered and his clients are willing to allow the other wrecker services to come back on and the additional fees his clients have paid, be reimbursed. Mr. Sutterfield went on to say his clients have made expenditures by expanding their lots, purchased new trucks, and guaranteed employees more employment time because they anticipated their work load to double. Mr. Murphy stated he reads section three as being a provision that "if" someone is terminated under paragraph four; which has not happened. Mr. Murphy asked Mr. Sutterfield if he is saying everyone is satisfied and that either all four companies go back to what they were doing, or all four companies terminate the agreement, have fees reimbursed and the city then move to a rotation with everyone that qualifies. Mr. Sutterfield stated that is correct. Mr. Sutterfield went on to say that his clients issue is that they have earned services and do not want to lose the month they gained under the contract. Mr. Sutterfield stated the other wrecker companies could come back on, but that is for them to determine and work out between themselves, this contract was made so the city would not have to be involved with this anymore. Mayor Townsell stated it became our problem and it is not an easy problem to resolve because we tried to set up meetings and was denied the opportunity to meet with some of these individuals. Alderman Vaught motioned to accept the agreement as is with the following changes; that each wrecker service is required to pay their portion of the franchise fee on the 15<sup>th</sup> day of the month prior to their first rotation month in the year. Mayor Townsell stated we need to deny the termination of the whole contract for cause or any of the two for late payment. Alderman Jones motioned to deny the termination of the contract and deny the termination of the two companies that paid late. Alderman Vaught seconded the motion. There was no further discussion. The motion passed 6-2. Alderwoman Smith and Alderman Hawkins voted in opposition.

Alderman Grimes motioned to move item 6B3 "*Discussion for obtaining an appraisal of park land for property located on Morningside Drive*" up in the agenda. Alderman Bell seconded the motion. The motion passed 8-0. Frank Shaw, Attorney at Law, was present to answer questions. Mayor Townsell stated he would like approval from the council to move forward with our own appraisal of this land which is approximately 19.55 acres to possibly use this site as a park. The land is zoned R-1 and is in the Comprehensive Land Use Plan. The owners, Mr. Pompe and family, have appraisals based on other zoning; highest and best use which would put the price of the land between \$1.8 and \$2.3 million at the highest. The issue of highest and best use is a zoning discussion for the council. The owners want to sell the property and the city wants to buy it as the bike trail runs diagonally through it and could be the trail head for Tucker Creek Bike Trail. Mayor Townsell stated if we decide to buy the land, at any price, we go to court and we would no longer be the arbiter of

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highest and best use. The courts will probably look at our history of land use decisions. If an agreement cannot be made with Mr. Pompe, and we want to proceed, we can possibly move towards eminent domain. The city needs to know the possible liability on the front end, because we cannot proceed in court and then not pay what the court says the land is worth. Mayor Townsell suggested we get an appraisal done at office zoning to give us a better idea of the possible risks. Alderman Bell motioned to move forward with an appraisal of the property as office zoning. Alderwoman Smith seconded the motion. The motion passed 8-0.

1. **Consideration of nominations for the Parks Advisory Board for the following: Dr. Frank Servedio (Alderman Hawkins), Pete Tanguay (Alderman Vaught), & Jeff Standridge (Alderwoman Mehl).**

Alderman Hawkins nominated Dr. Frank Servedio for the Parks Advisory Board, Alderman Vaught nominated Pete Tanguay and Alderwoman nominated Jeff Standridge to the Parks Advisory Board. Alderman Hawkins motioned to accept these nominations. Alderman Bell seconded the motion. There was no discussion. The motion passed 8-0.

2. **Consideration of the nomination of Tom Poe to the Conway Tree Board as the Chamber of Commerce Representative.**

Alderman Hawkins motioned to accept the nomination of Tom Poe to the Conway Tree Board. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

3. **Ordinance appropriating funds to Conway Corporation for Guy Murphy Industrial Park.**

Mayor Townsell stated this item can be taken care of in house and was already approved through a previous contract and is being paid for through grant funds and does not require council action.

Alderman Hawkins exited the council meeting.

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

1. **Consideration of acceptance of bid for concession stand lease at Don Owens Sports Complex.**

Mayor Townsell stated the bid is for one year with four additional years upon proper notice and compliance, only one bid was received from PO Boys Concessions and Parks and Recreation requests we accept this bid. Alderwoman Smith motioned to

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accept the bid. Alderwoman Whitmore seconded the motion. Alderman Vaught asked what the amount of the bid was. Rhonda Cox, Parks Dept., stated \$100.00. Mayor Townsell stated this is the second time there has only been one bid. There was no further discussion. The motion passed 7-0.

- 2. Consideration to appropriate funds to purchase equipment for the Youth Softball Association of Conway.**

**O-07-05**

Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Bell seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderman Bell seconded the motion. Alderwoman Whitmore asked what the funds will purchase and if in the future we are looking at going to girl's softball. Mayor Townsell stated most of the items are multi-year items. Alderwoman Whitmore asked if we are purchasing any equipment for our baseball teams. Mayor Townsell stated we will purchase general equipment for boy's baseball such as pitching machines. Alderwoman Whitmore asked in regards to the list of items, if this is something will be doing for boy's baseball, she understands the purchasing of pitching machines, but this includes bags, helmets etc. Mayor Townsell stated that boy's baseball will be run totally under the city of Conway and that we will be buying this for boy's baseball. Alderman Vaught asked if some of this money should go toward city services that are more pertinent like traffic signals in need of repair etc. Mayor Townsell stated there are a host of things that are covered under the umbrella of city government and the provision of recreational services is one of them. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderman Vaught, Alderman Jones, Alderwoman Mehl, Alderwoman Smith, Alderwoman Whitmore, and Alderman Bell. The motion passed 7-0.

- 3. Discussion for obtaining an appraisal of park land for property located on Morningside Drive.**

This item was moved up on the agenda.

***C. Public Safety Committee (Police, CEOC, Fire, Dist. Court & City Att., & Animal Welfare)***

- 1. Ordinance appropriating funds for the wastewater lift station and force main for Animal Welfare Unit.**

**O-07-06**

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Ronnie Hall, City Engineer, stated this contract was awarded last fall and the appropriations were never were made from Animal Welfare. There was \$34,000 appropriated from Sanitation Dept. Mayor Townsell stated that \$15,000 is to cover Animal Welfare's portion. Mr. Hall stated yes. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Whitmore motioned to adopt the ordinance. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderman Vaught, Alderman Jones, Alderwoman Mehl, Alderwoman Smith, Alderwoman Whitmore, and Alderman Bell. The motion passed 7-0.

**2. Ordinance appropriating asset forfeiture funds to the Conway Police Department for National Law Enforcement Accreditation fees.**

**O-07-07**

Mayor Townsell stated this is the annual accreditation fees. Alderwoman Mehl motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. Alderwoman Whitmore motioned to adopt the ordinance and the emergency clause. Alderman Grimes seconded the motion. Alderman Vaught asked when this would end. Mayor Townsell stated if we stay certified it won't. Alderman Vaught stated ordinance O-04-84 paid \$12,590 to complete the National Laws Enforcement Accreditation process which does not include the re-accreditation option and asked if that has since been repealed. Mayor Townsell stated the price for those fees does not include any monies toward re-accreditation that was for the initial accreditation. Mayor Townsell stated it is important to stay accredited as it is a measure of professionalism and a measure of our purposes as a city. We are only one of three departments in the state that is accredited. Alderman Grimes stated it is a good investment for the city. Alderwoman Smith asked what get out of this. Mayor Townsell stated there are benefits and if we did it ourselves we would have no one to come look over our shoulders and make sure we are not cutting corners and by putting in the documentation it provides back up if anything should go to court we have the documentation that attorneys need to make the cities case. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderman Jones, Alderwoman Mehl, Alderwoman Smith, Alderwoman Whitmore, and Alderman Bell. The motion passed 6-1. Alderman Vaught voted in opposition.

**3. Ordinance waiving bids for the purchase and maintenance of radio equipment for the City of Conway.**

**O-07-08**

Mayor Townsell stated this is a sole source vendor and the city determined 20 years ago to pick Motorola as our vendor and there is no blending of systems and this ordinance will designate Motorola as a sole source vendor. Mayor Townsell recommends approving this and when the city does bid out to exchange this system or install a brand new system then we can bid it out. Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Bell seconded the motion. The motion passed 7-0. Alderman Bell motioned to adopt the ordinance and the emergency clause. Alderman Grimes seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderman Jones, Alderwoman Mehl, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, and Alderman Bell. The motion passed 7-0.

**4. Ordinance waiving bids for Business Networks to provide network application and system support to the City of Conway.**

**O-07-09**

Mayor Townsell stated that Business Network Solutions (Jim Hays) has been doing this for the city at a rate of \$75.00/hr which is lower than current market price. This would guarantee hours and a rate (\$65.00/hr) and recommends we waive bids. Alderwoman Smith asked if \$66,000 is what we paid them as contract last year. Lloyd Hartzell, IT Director, stated no. Alderwoman Smith asked what Mr. Hays was paid last year for contract labor. Lloyd Hartzell stated he is not sure because every department that used him paid out of their own budget, but he feels it was over \$10,000. Alderwoman Smith asked how much it would cost the city if we hired someone full time. Mr. Hartzell stated at least \$50,000 but there will be a learning curve. Alderwoman Smith voiced her concerns over continuing this type of relationship year after year. Alderman Vaught stated that the city could hire an experienced person in at a good salary and still enter into a contract with Jim Hayes to train this person to take over at some point. Mr. Vaught feels the money is there if we could work with the numbers and get a full time employee soon and not spend this \$54,000 this year. Mayor Townsell stated that this is feasible and would move us towards getting an in house person and asked if Alderman Vaught is recommending hiring someone in at a higher level to supplement the contract for the year to get them trained. Alderman Vaught stated he recommends not entering into the contract for the year and doesn't feel it would take a year to train someone. Mr. Hartzell does not feel that this is realistic. Mayor Townsell stated we could look at six month arrangement if the council chooses but we need to keep someone who can fix our system also. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderwoman Whitmore seconded the motion. Michael Murphy, City Attorney, stated if the intent of the council is to waive bids the language is not in the body of the ordinance and suggests amending the proposed ordinance to read "That the City of Conway shall

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waive the requirement of obtaining bids for the providing of network applications and systems support for the city of Conway wide area network (WAN) and shall contract with Business Network Solutions as a sole source vendor”. Alderman Vaught asked if a time frame should be added. Mr. Murphy stated yes, that can be added if the council wishes. Alderwoman Smith motioned to amend Mr. Murphy’s wording to include “for a six month period”. Alderman Jones seconded the motion. Alderman Grimes asked if the hourly rate should be changed in the proposed ordinance to read \$65.00. The council unanimously agreed. There was no further discussion. The motion passed 7-0. There was no further discussion on the main motion. The clerk called the roll with the following voting “Aye”: Alderman Grimes, Alderman Jones, Alderwoman Mehl, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, and Alderman Bell. The motion passed 7-0.

**5. Consideration to enter into a contract with Jim Hayes of Business Network Solutions to provide network support to the City.**

This item was included in 6C-4 above.

**6. Consideration to transfer funds from part time labor to contract labor to provide funds to compensate Jim Hays of Business Network Solutions for network support.**

Mayor Townsell stated with a 6 month contract this would only be half, \$33,280. The funds will be transferred from 01.112.114 (Part Time Labor) to 01.112.131 (Contract Labor). Alderwoman Whitmore motioned to approve the contract. Alderman Bell seconded the motion. There was no discussion the motion passed 7-0.

**7. Old Business**

**A. Consideration of a sidewalk variance for property located at 4965 College Avenue.**

Mayor Townsell stated Kenny Wiedower is a part of a 5 home subdivision that requires sidewalks to be built, but the developer, Hal Crafton, sold the lots without passing this information along. The city did not catch this until the fourth lot was being finished and the city allowed that individual to close on their house knowing the city could require construction of sidewalks at some point. Mr. Wiedower is asking to put his sidewalk in when the street is widened. Mr. Grimes stated that he feels that as houses get passed from owner to owner the sidewalks will get lost in the shuffle and thought that the provision for not building a sidewalk is to pay the in lieu of sidewalk fee. Mayor Townsell stated that was created after the fact. Mayor Townsell stated that Mr. Wiedower is being held by final inspection. Alderwoman Smith motioned to not require Mr. Wiedower to build a sidewalk at this time.



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Alderman Bell seconded the motion. There was no further discussion. The motion passed 7-0.

**8. *New Business***

**A. Consideration to terminate the entire wrecker service agreement with Helton Auto Wrecker, Jim Smith Wrecker Service, Pro Auto Wrecker Service, & Steve's Auto Wrecker.**

This item was moved up on the agenda.

**B. Consideration to terminate the wrecker service agreement with Helton Auto Wrecker and Pro Auto Wrecker Service.**

This item was moved up on the agenda.

**C. Consideration of Department Head & Elected Official compensation review.**

Mayor Townsell stated department heads are not automatically given cost of living adjustments and there are two department heads whose salaries are still above what their position should be paid with today's standards because their salary is based on an old pay grid. Mayor Townsell stated that all department heads should receive a cost of living adjustment with the exception of Bryan Patrick, Planning Director, and Brian Knopp, Park Director as they are underpaid by looking at salary surveys from the Municipal League. Mayor Townsell stated that Mr. Knopp and Mr. Patrick should both receive more than a 3% adjustment to help move their salary up to where it should be and recommended moving them both up toward \$60,000. Alderman Grimes motioned to give all department heads 3% adjustments, and adjust Bryan Patrick and Brian Knopp's salary to \$60,000 each. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 7-0. Alderman Grimes motioned to give Mayor Townsell, Michael Murphy, Michael Garrett, and Jack Roberts a 3% cost of living adjustment. Alderman Vaught seconded the motion. There was no discussion. The motion passed 7-0. Alderwoman Smith motioned not to give the city council members a cost of living adjustment. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

**Adjournment**

There was no further discussion and the meeting was adjourned.

**PASSED this 23<sup>rd</sup> day of January 2007**

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APPROVED:

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Mayor Tab Townsell

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City Clerk Michael O. Garrett