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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 p.m.  
September 23, 2008

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

1. *Call to Order*
2. *Roll Call*
3. *Minutes:* September 9<sup>th</sup>, 2008

Alderwoman Whitmore motioned to approve the September 9, 2008 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 8-0.

4. *Recognition of Guests: Employee Service Awards*

5 Yr

Officer Raymond Mudgett - Police Dept.  
Officer Thad Burrow - Police Dept.  
Driver Diana Burks - Fire Dept.  
Driver Charles Hankins - Fire Dept.

10 Yr

Cindy Hicks - District Court

15 Yr

Officer Thomas Knopp - Police Dept.

20 Yr

Carol Allen - Administration

5. *Public Hearings:*

- A. *Public hearing to discuss the issuance of franchise revenue improvement bonds for the City of Conway.*

Mayor Townsell opened the public hearing. There was no one present to speak to this issue. Mayor Townsell stated that the amount of improvements is approximately \$850,000.00. Mayor Townsell closed the public hearing.

6. *Report of Standing Committees:*

*A. Economic Development Committee (Airport, Conway Corporation, CDC, Downtown Partnership)*

1. **Ordinance entering into a franchise agreement with AT&T for video services within the City of Conway.**

**O-08-110**

Edward Skinner, Attorney at Law, explained that the proposed AT&T U-Verse is a combined package of services being offered by AT&T. One service is a video service which is a source of internet protocol enabled cable which will come through a telephone line. The agreement in short states that in return for AT&T paying an annual fee of 5% of revenues earned to the city; the city is agreeing to allow AT&T to provide video service by means of its existing facility fiber optic cable. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. Richie Arnold, CEO Conway Corporation, stated they have operated a cable system in Conway since 1980 and the franchise lease agreement fee is set at 3% and the monthly lease payment is \$42,000.00, which is unique because they are city owned. Mr. Arnold feels that they are proud of their product and feel they will be able to compete with AT&T. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

2. **Ordinance to grant Conway Corporation a franchise agreement to operate cable television system within the City of Conway.**

**O-08-111**

Richie Arnold, CEO Conway Corporation, stated some of the language in both ordinances needed modernized and increases the franchise fee from 3% to 5%. As with other services Conway Corporation's Board of Directors sets rates and they are then approved by the city council; because we will be in a competitive situation we feel we need the flexibility and the ability to move quicker in adjusting rates he feels the customer is protected by the competitive factor and asks that this change be included in the ordinance. Mr. Arnold went onto say that it has become difficult to bundle products as this is the way we market our services and this will allow us the flexibility to adjust their rates as they see what the competition will be charging. Mr. Arnold stated that they are also asking to abolish the programming committee know as the Citizens Cable Committee. Mr. Arnold explained that as far the lease is concerned the amount will need to be lowered to offset the increase in the franchise fee but there is a cap at \$10,000.00

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per month. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

3. **Ordinance to provide for the lease services of the City cable television system to Conway Corporation.**

**O-08-112**

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. 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 Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

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

1. **Ordinance appropriating funds to repair and replace items that were damaged in the City Clerk/Treasurer's Office.**

**O-08-113**

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the emergency clause. Alderwoman Mehl seconded the motion. The motion passed 8-0. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

2. **Consideration to purchase additional right of way (0.69 acre) for the Salem Road Extension to U.S. 64.**

Ronnie Hall, City Engineer, stated that Mr. Johnny Irby sold some of his property to Hometown subdivision and rather than sell all of the property south of Meadowlake Rd., he reserved property that the city would need for future

overpass right-of-way. Due to the change of right-of-way plans the land is no longer needed; it is incumbent upon us to make Mr. Irby whole in regards to the reserved land. Another option that has arisen is the developer of Hometown subdivision has agreed to try to purchase this land from Mr. Irby and add it to his subdivision, if the city will construct a ditch that he is required to build along his western boundary; Mr. Hall stated the costs are basically the same. Mr. Hall asked to either purchase the right-of-way from Mr. Irby, or alternately make a deal with Hometown subdivision for the city to construct the ditch and allow him to buy the land if the cost does not exceed the purchase price of the of the land. Alderwoman Smith asked if the city would do the work or contract it out. Mr. Hall stated that would be contracted out. Alderwoman Smith motioned to enter into an agreement with the developer of Hometown subdivision to construct their ditch on the west side of the development with the cost not to exceed \$35,000.00. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**3. Consideration to provide additional funding for the Favre Lane Improvements (Salem Road to Ellen Smith Rd).**

Ronnie Hall, City Engineer, as the Favre Ln. project got underway modifications had to be made in order to avoid adversely impacting neighborhood fencing and backyards. Mr. Hall stated the large drainage ditch had to be relocated to the northern side of the road and asked council to approve an additional \$164,000.00 for this purpose. Mr. Hall stated this request also includes building a sidewalk the city agreed to build adjacent to Hal Crafton's property as per our right-of-way agreement, this cost is \$31,000.00 for a total of \$195,000.00. Alderwoman Smith motioned to approve the needed funds to cover the cost of moving the drainage ditch and to build the sidewalk. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**4. Ordinance to rezone property located at 525 South German Lane at the northwest corner of the intersection of South German Lane and Hardy Street from R-2 to O-3.**

**O-08-114**

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Frank Shaw, Attorney at Law representing Will Fagan, stated in their need to expand, the county has bought Mr. Fagan's facility. Mr. Fagan wishes to move his business to this property which will allow him to be across the Faulkner County Detention Center. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman

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Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

**5. Consideration of a request to amend the Donaghey Court PUD to further clarify the language for its development.**

Bryan Patrick, Planning & Development Director, explained this PUD was one of the first in Conway and the developer wants clarification on the language. Mr. Patrick stated the language reads "C-3 with PUD allowing multifamily" which does not fit into our current standards, but feels the underlying idea was commercial C-3 like uses were allowed along with multifamily uses. Alderwoman Smith motioned to grant this request. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0

**6. Consideration of a sign variance for property located at 1014 Harkrider St. (Sav-On Pharmacy).**

Mr. Jiles, Attorney at Law representing Sav-On Pharmacy, explained this business has been located at this location for over 30 years and the sign has been up for approximately 20 years. The sign ceased working this year after being struck by lightning and stated that section 4.1 of the sign ordinance allows signs that have been grandfathered in to be repaired if they are damaged, by doing so will move the sign toward compliance as the ordinance states. Mr. Baker stated that the sign being inoperable has had a negative impact on Sav-On's business. Mr. Baker went onto say that the LED signs are more energy efficient and they look nicer; by allowing the repair of the sign the businesses that rent from Sav-On would once again be able to advertise. There was discussion in regards to what Sav-On Pharmacy is actually asking for; approval to move forward with the repairs or a variance. Mr. Jiles stated they did not want to proceed with any type of repairs without council's approval. Alderman Grimes stated that council decided to do away with message boards 2 years ago. Mayor Townsell stated that as the ordinance reads now Sav-On is allowed to replace the face of the sign. Alderman Hawkins stated if Sav-On is willing to agree to have this sign do nothing more than the sign could do prior he agrees with Mr. Jiles argument for repair. Alderwoman Smith motioned to grant the variance with the stipulation that the sign cannot have anymore capacities than it had previously. Alderman Hawkins seconded the motion. There was discussion about color and scrolling text versus flashing text. Alderman Vaught motioned to amend the previous motion to accept letters, symbols, and logos with multi-colors, scrolling, and flashing allowed; it cannot have graphic images and no graphic moving images. Michael Murphy, City Attorney, stated it is the council's variance you can add the limitations. Bryan Patrick, Planning & Zoning Director, stated that some cities ordinances say that a static message can last for 8 seconds which means no scrolling, blinking, or flashing. Alderman Vaught motioned to amend his amendment to allow scrolling messages than can be multi-colored that are limited to letters, symbols, and logos only. Alderwoman Smith seconded the

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motion. There was no further discussion. The motion on the amendment passed 8-0. The vote was called on the main motion on the floor, the motion passed 7-1. Alderman Grimes voted in opposition.

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

- 1. Consideration to accept a proposal from ENTECH Consulting Engineers for a metal shop that would be constructed at the Don Owens Complex for the Parks Department.**

Mayor Townsell asked if we have talked with the engineering firm about changing the building from metal to masonry building. Ronnie Hall, City Engineer, stated he does not believe that they would care if the building is brick or metal on the exterior of the building. Mayor Townsell explained that the Parks Dept. has grown 253 acres in the past 2 years and this is necessary for them to have a shop. Alderwoman Smith motioned to accept this proposal. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

*D. Public Safety Committee (Police, CEOC, IT Technology, Fire, Dist. Court & City Att., & Animal Control)*

- 1. Ordinance appropriating funds for small claims mediation for District Court.**

**O-08-115**

Mayor Townsell this was a grant awarded back in 2006 and 2007 and we have not needed this mediation program until now and the money is still available to us. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

- 2. Ordinance accepting restitution obtained from various sources for overtime performed by the Conway Police Department.**

**O-08-116**

A.J. Gary, Chief of Police, was present to answer questions. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye":

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Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

**3. Ordinance waiving bids and providing sole source status for the purchase of UPS batteries for the Communication Center.**

**O-08-117**

Mayor Townsell stated the amount needed for these batteries is \$13,994.00 which includes all labor and maintenance. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. 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 Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

**4. Ordinance appropriating funds & waiving bids to purchase a blade serve system for the IT Department.**

**O-08-118**

Mayor Townsell stated this will come from Agilysys, a Hewlett-Packard (HP) partner; the compensation from this system would come directly from HP. The cost of the server is \$298,724.00. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Whitmore motioned to adopt the ordinance and the emergency clause. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

**7. Old Business**

**A. Consideration of allowing Campus Crest a rezoning rehearing to go back before the Planning Commission for development located at 2730 Dave Ward Drive.**

Frank Shaw, Attorney at Law representing Campus Crest, gave a brief synopsis of the changes made to the development they wish to take back before the planning commission. Alderman Thompson motioned to allow this to go back before the planning commission. Alderman Hawkins seconded the motion.

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There was no discussion. The motion passed 7-1. Alderman Jones voted in opposition.

**8. *New Business***

**A. Consideration to enter into an agreement with Energy Systems Group.**

Aldерwoman Smith motioned to hold this item in committee for review of the final agreement. Aldерwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

Alderman Hawkins motioned to suspend the rules to discuss a Sanitation Dept. dozer. Aldерwoman Smith seconded the motion. The motion passed 8-0. Cheryl Harrington, Sanitation Director, was present to answer questions. Mayor Townsell explained we purchased a dozer approximately 1 year ago from Scott Equipment Co. and we found out after a break down, and inspection of the engine that it did not meet bid specs. The City specifically requested the radiators not be lined up behind one another. Mayor Townsell stated we have sent the dozer back, Scott Equipment Co. has agreed to reimburse the city \$90,000.00 for the dozer, which represents the original purchase price, less an agreed set-off for the City's use of the equipment. The Sanitation Dept. in turn wishes to accept the second lowest bid from Warrior of Arkansas in the amount of \$157,850.00. Aldерwoman Smith motioned to waive the readings of the ordinance. Aldерwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Jones motioned to adopt the ordinance and the emergency clause. Aldерwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Aldерwoman Smith, Alderman Thompson, Alderman Jones, Aldерwoman Whitmore, and Aldерwoman Mehl. The motion passed 8-0.

**Adjournment**

**PASSED this 23<sup>rd</sup> day of September 2008**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**