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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 p.m.  
November 24, 2009

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 Grimes, Alderwoman Whitmore, Alderwoman Mehl, Alderman Vaught, Alderman Jones, and Alderman Rhodes. 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:** November 3, 2009

Alderwoman Smith motioned to approve the November 3, 2009 minutes as submitted. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

4. **Recognition of Guests:** Employee Service Awards / Wescon Update from Elwood Smith

5 Years

John Clements - Sanitation

15 Years

Sergeant Gene Hodges - Police Dept.

Elwood Smith expressed his gratitude towards several Conway Firefighters, whom have since 2007, volunteered to keep the Wescon Fire Dept. open. James Garnett, Fire Chief Wescon Fire Dept., read a letter expressing his gratitude to the following firefighters: Chief Bart Castleberry, Tyler Castleberry, David Groves, Mark Ledbetter, Jerry Gibson, John Arnold, Chad Upton, Brian Moix, Bill Keathley, Colby Lester, Clint Smith, and Steve Ashcraft.

5. **Public Hearings:**
6. **Report of Standing Committees:**

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

1. **Resolutions requesting the Faulkner County Tax Collector to place certified liens on certain properties as a result of incurred expenses by the City.**

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Mayor Townsell stated the property address is 1922 Bruce Street; the cost of cleanup was \$157.15 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

**R-09-89**

Mayor Townsell stated the property address is 2735 Arrow Smith; the cost of cleanup was \$196.01 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

**R-09-90**

Mayor Townsell stated the property address is 2504 Zoysia; the cost of cleanup was \$300.04 plus 10% collection penalty. There was no one present to speak to this issue. Alderman Jones motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

- 2. Resolution setting a public hearing to discuss the closing of a 15' extended overhead electric utility easement located in part of the Block 6 of the West End Addition at 2740 College Avenue.**

**R-09-91**

Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The public hearing will be held Tuesday Dec. 8, 2009 at 6:30 pm. The motion passed 8-0.

- 3. Resolution setting a public hearing to discuss the closing of a portion of right of way located at the Northeast & Southeast corner of Prince Street & Western Avenue.**

**R-09-92**

Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The public hearing will be held Tuesday Dec. 8, 2009 at 6:30 pm. The motion passed 8-0.

- 4. Consideration of a conditional use permit to allow a transmission (cell) tower on property located at 1313 Deer Street.**

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Alderman Hawkins motioned to approve the conditional use permit. Alderwoman Smith seconded the motion. Trevor Wood, representing T-Mobile Central LLC, stated that T-Mobile is in the process of introducing service in Conway and explained that he has worked with and came to an agreement with Dr. Terry Fiddler in regards to moving the tower closer to Deer St and away from Dr. Fiddler's property. Ronnie Hall, City Engineer, and Bobby French were present to answer questions. There was discussion among council in regards to the placement of the cell tower and its affect on the re-routing of College Ave. Alderman Hawkins suggested that Mr. Hall confirm that the placement of this cell tower is not on the property where the new road is going. Bryan Patrick, Planning & Development Director, stated the tower can be placed anywhere on the property. Mayor Townsell recommended amending condition #1 to allow only one (1) tower to be erected and to add another condition stipulating the placement of the tower that is satisfactory to the property owners and the street engineer. Alderman Hawkins motioned to amend his original motion to allow only one (1) tower, add a condition that allows co-location and placement of the tower in the north east corner of the parcel that meets approval of the city engineer and the property owner. Alderman Vaught seconded the motion. There was no discussion on the amendments. The motion passed 7-1. Alderman Grimes voted in opposition. There was no further discussion. The motion passed 6-1-1. Alderman Grimes voted in opposition and Alderwoman Whitmore abstained. The conditions are listed below:

- 1) One monopole tower, 150-foot maximum height, of stealth design.
- 2) No external antennae or cabling allowed.
- 3) No signs, banners or advertising except for signage required by the FCC.
- 4) No lighting except that required by the FAA and/or emergency lighting inside the compound.
- 5) Forty-foot by forty-foot compound surrounded by 8-foot wood fence.
- 6) Height will not exceed FAA regulations for height in that particular area.
- 7) If the utility transformer or telephone rack cannot be built inside the compound, it is to be built outside and a least 6 feet away from fence to prevent someone from climbing onto transformer and jumping over fence.
- 8) Co-location must be allowed and tower is to be located in the North East corner of property per City Engineer's approval.

**5. Consideration of a conditional use permit to allow a bookstore (college textbook store) for property located at 708 S. Donaghey Avenue.**

Alderman Hawkins motioned to approve the conditional use permit. Mayor Townsell asked how much parking was available at this location. Alderman Hawkins stated he believes there are approximately 18. Alderwoman Mehl stated drivers will try to turn into this location from Donaghey which is not an ideal situation. Mayor Townsell asked City Engineer Ronnie Hall how much the

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intersection improvements will encroach on this property. Mr. Hall stated the improvements did not widen on the east side north of Donaghey, the widening is all on the west side. Sarah Hendricks-Batchbarn was present to answer questions. Mr. Hall stated another condition we should consider is asking the applicant to dedicate the right of way the city will need in the future. Mayor Townsell stated we will want to add a condition to obtain dedication of one-half of the right of way which is 50 feet. There was no further discussion. The motion passed 8-0. The conditions are listed below:

- 1) Hours of operation are 8:00 am to 5:00 pm, Monday through Friday, except during peak periods to roughly coincide with the beginning of first and second semesters when hours are 8:00 am to 7:00 pm and include Saturdays.
- 2) No banners permitted.
- 3) Permit is for this owner as he operates this bookstore.
- 4) Directional signage to encourage entrance from Dave Ward Drive and exit to South Donaghey.
- 5) Applicant to dedicate to the city a 50 foot right of way.

**6. Consideration of a conditional use permit to allow an automotive repair and service center for property located at 941 Locust Street.**

Alderman Hawkins motioned to approve the conditional use permit. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0. The conditions are listed below:

- 1) Hours of operation are not to extend outside the 8:00 am to 6:00 pm, Monday through Friday, timeframe.
- 2) No extended storage of inoperable vehicles.
- 3) Conditional use permit is for this owner/this business and in not transferrable.

**7. Consideration of a conditional use permit to allow a drive through pickup window for property located at 2625 Donaghey Avenue, Suite 101, Townsend Center.**

Alderman Hawkins motioned to approve the conditional use permit. Alderwoman Smith seconded the motion. William Watkins, applicant, requested council amend condition #4 to be "for this business only" as not to limit him from willing the business to his children. Alderman Vaught stated if it is willed to your children there should not be a problem. Council agreed to remove "for this owner" from condition #4. Alderman Hawkins and Alderwoman Smith were in agreement. There was no further discussion. The motion passed 8-0. The conditions are listed below:

- 1) Permit is for Suite 101, or the westernmost suite.

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- 2) The pick-up window is allowed on the west end of the building.
- 3) No remote/external order station allowed.
- 4) Permit is for this business/this type business only.
- 5) A directional sign to be added to indicate traffic flow.

**8. Ordinance appropriating funds to reimburse the Department of Finance for an outstanding construction surcharge balance.**

**O-09-136**

Alderman Smith motioned to waive the readings of the ordinance. Alderman Whitmore seconded the motion. The motion passed 8-0. Mayor Townsell stated the state applied a state building permit surcharge in 1999 and explained the city applied the surcharge to building permits but not to remodeling permits; this went unnoticed by the state until this year. The state has estimated that we owe a total of \$18,929.00 which includes interest. Alderman Smith motioned to adopt the ordinance. Alderman Whitmore seconded the motion. It was decided that an emergency clause was necessary and Alderman Smith and Alderman Whitmore concurred. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderman Smith, and Alderman Whitmore. The motion passed 8-0.

**9. Consideration to accept bids for the electronic equipment for Traffic signal controllers & Master Signal Controller for the Conway Street Department.**

Ronnie Hall, City Engineer, recommended awarding the bids to the low bidders (listed below). Alderman Smith motioned to accept the low bids. Alderman Whitmore seconded the motion. Mayor Townsell asked if the units would be compatible coming from different vendors. Mr. Hall stated that Alan Alvey has researched this and they are compatible. There was no further discussion. The motion passed 8-0.

- Digi Port Server from Elliott Electric in the amount of \$28,338.00
- GarrettCom Swith from Elliott Electric in the amount of \$29,662.80
- Video Server from Temple, Inc. in the amount of \$42,180.00

**10. Consideration to accept bids on an asphalt roller & Dump Truck for the Conway Street Department.**

Ronnie Hall, City Engineer, recommended awarding the bids (details below) to the low bidders. Alderman Smith motioned to accept the low bids. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 8-0.

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- Asphalt Roller (LeeBoy 400 w/tow package) from Clark Machinery Co. in the amount of \$42,000.00.
- Dump Truck (2003 International 8600) from Diamond International in the amount of \$30,375.00

**11. Consideration to accept bids on the Safe Route to School Sidewalk Project.**

Ronnie Hall, City Engineer, recommended awarding the bid to the low bidder, JCI Construction in the amount of \$60,467.00. Alderman Hawkins motioned to accept the low bid. Alderwoman Mehl seconded the motion. Mr. Hall stated the award would be subject to concurrence in the award by the state. Alderman Hawkins amended his motion to include Mr. Hall's recommendation regarding the concurrence. Alderwoman Mehl concurred. There was no discussion. The motion passed 8-0.

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

**1. Resolution approving the concept plan from Crafton Tull Sparks for Pompe Park.**

**R-09-93**

Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

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

**1. Ordinance accepting grants funds received from the JAG Grant for the Conway Police Department.**

**O-09-137**

A.J. Gary, Chief of Police, explained this year we had to apply for this with the Faulkner County Sheriff's office as a joint grant; our part is \$64,000.00. These funds will be used for replacement headsets at the Conway Emergency Operations Center and also to purchase 11 mobile vision digital system (in car camera systems) which in turn will decrease the cost of any vehicles we may need in the future. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

**2. Ordinance accepting & appropriating restitution for overtime performed by the Conway Police Department.**

**O-09-138**

A.J. Gary, Chief of Police, explained all extra duty employment performed for businesses is performed by our officers and they are paid overtime for their services and the businesses are billed for the service. The amount is \$93,945.00. 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": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

**3. Ordinance appropriating funds for the Shop Secure Program for the Conway Police Department.**

**O-09-139**

Mayor Townsell explained this will give the police department \$11,000.00 extra dollars to cover the Shop Secure Program during this shopping season; this will provide up to 3 officers. Mayor Townsell explained there is an alternative which would give the police department \$22,000.00 toward the Shop Secure Program and would provide up to 6 officers. Chief Gary stated this is our fifth year to be involved in this program and last year this was funded it totally out of our overtime budget, which had enough funds to cover it at that time. Alderman Jones stated he believes we should fund the 6 officers. Alderwoman Smith motioned to waive the readings on the alternate ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause to fund 6 officers. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

**4. Consideration to accept legal services to represent management in Civil Service Commission appeal hearings for 2010.**

Lisa Mabry-Williams, HR Director, explained only Jack Nelson Jones Jiles & Gregory submitted an RFP; this is the firm we currently use. Ms. Mabry-Williams stated they have agreed to use the 2009 fee schedule for 2010 and Ms. Mabry-Williams recommended council approve this firm for 2010. Alderwoman Smith motioned to use Jack Nelson Jones Jiles & Gregory for legal services to

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represent management in civil service commission hearings for 2010. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

*D. Finance*

**1. Discussion of the FY2010 City of Conway budget.**

Mayor Townsell explained that our departments have trimmed where possible and we realize that there are some items in the budget that will need to be expanded and we will honor those as we can. The police dept. is asking for an increase in overtime and we are adding over adding 80 acres of park maintenance. Also included in the budget is a 1% cost of living adjustment (COLA) increase across the board for all employees; this does not include a 1% COLA for department heads nor does this include any step raises as these have been deferred for the time being. Mayor Townsell went onto say that there is a need to start replacing police cars and fire trucks so we have projected using \$750,000.00 from the sanitation reserve fund to do this. Alderwoman Smith feels it is possible to look over the budget and be ready to vote on it by the next regular council meeting.

**7. Old Business**

**8. New Business**

**A. Ordinance amending section 4.56 of the Conway Municipal Code in regards to wrecker services for city tows.**

O-09-140

Jack Bell, Assistant to the Mayor, gave a synopsis of changes made to this section of code. 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 and the emergency clause. Alderman Jones seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

**B. Consideration to enter into an agreement with the Conway Towing Associate for wrecker services for the City of Conway.**

Alderman Hawkins motioned to approve this agreement. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.



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**C. Consideration to lease space in the Pine Street Community Center.**

Item moved to the December 8, 2009 council meeting.

Alderman Smith motioned to suspend the rules to add two items to the agenda and to move item 8-C to the December 8, 2009 council meeting. Alderman Mehl seconded the motion. The motion passed 8-0.

**Consideration to enter into an agreement with Peters & Associates for traffic light engineering services.**

Mayor Townsell explained that the new Business Building at UCA will be opening in January 2010 and there is a need to expedite installation of a traffic signal at Robins and Donaghey; the Mayor recommended using Peters & Associates for the design services. Ronnie Hall, City Engineer, explained we have all the equipment necessary this \$11,500.00 is for installation only. Alderman Smith motioned to approve this agreement. Alderman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

**Consideration to pay an additional payment to Tiffany's Industries for right of way acquisition for Salem Rd overpass.**

Mayor Townsell explained that our appraisal was low; it came in at \$225,000.00 so we are short approximately \$138,000.00 with \$22.00 per day interest added. Kurt Meredith, Deputy City Attorney, stated if we pay the bill tomorrow we will owe \$139,286.59. Alderman Jones motioned to approve this additional payment. Alderman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

*Adjournment*

**PASSED this 24<sup>th</sup> day of November 2009**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**