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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 p.m.  
August 14, 2010

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

**Call to Order**

**Roll Call**

**Minutes:** August 24<sup>th</sup>, 2010

Alderwoman Smith motioned to approve the August 24, 2010 minutes as submitted. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

Announcements / Proclamations / Recognition:

**1. Report of Standing Committees:**

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

**1. Consideration of the 2011 Community Development Block Grant allocations.**

Lauralee McCool, CDBG Director, explained the recommendations for the 2011 allocations are before council tonight and recommended approval. Alderwoman Smith motioned to approve the CDBG 2011 allocations. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0. The allocations are listed below:

**Projects**

Pine Street Revitalization Project	\$ 90,000
Housing Rehabilitation	\$ 70,000
Bethlehem House (New Facility)	\$ 50,000
Boys and Girls Club (New Facility)	<u>\$ 50,000</u>
<b>Total Projects</b>	<b>\$260,000</b>

**Public Services**

Bethlehem House (Third shift staffing)	\$15,000
Boys and Girls Club (Transportation)	\$ 9,000
Faulkner County Council on Aging (Transportation)	\$10,000
Faulkner Co. Council on Dev. Disabilities (Transportation)	\$20,000
Women's Shelter of Central Arkansas (Transportation)	<u>\$ 6,000</u>
<b>Total Public Services</b>	<b>\$60,000</b>

<b>Administration</b>	<b>\$80,000</b>
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<b>Total Budget</b>	<b>\$400,000</b>
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2. **Resolution ordering the demolition of a structure located at 5135 Lost Canyon Drive and declaring the intent of the City to bring property up to city code.**

**R-10-53**

Lynn Hicks, Asst. Planning/Development Director, explained that on April 5, 2007 a building permit was issued to erect a single family dwelling at this address for a two story, 6,979 sq ft home in Centennial Subdivision. Mr. Hicks went onto explain that on May 7, 2007 a footing inspection was completed and this was the last inspection done by the city; framing and roof covering were added but no inspections were ever done by the city and the residence remains this way to date. Mr. Hicks explained the building, in its current condition, is considered unsafe for a variety of reasons. Mr. Hicks stated a letter of notice regarding the unsafe structure and nuisance were sent to the property owners, Terry & Merle Keeling, and received on July 19, 2010, also a letter dated August 16, 2010 was sent informing them of tonight's council meeting and the cities intent. Mayor Townsell asked if anyone was present to represent the property owner. No one came forward. Alderman Grimes asked if the certified letters were accepted or rejected. Mr. Hicks stated the first letter was accepted and the letters sent regarding tonight's meeting, and the USPS tracking system, showed it was delivered and the regular letters were not returned to us. Alderwoman Smith stated she is aware that there have been offers made on the property to sell it. Mr. Hicks stated that is correct. Alderman Vaught asked if there are issues with enforcing the nuisance abatement ordinance that was adopted subsequent to this nuisance. City Attorney, Michael Murphy, stated the nuisance has likely gotten worse over time, and you would catch the current nuisance. Alderman Grimes stated if the resolution passes tonight will it give the property owners 30 days to sell etc.; Mr. Murphy stated yes, it would tie them to a date. Mr. Murphy suggested some changes to the resolution; in the title we need to insert "*Demolition, Razing and removal*". Also, in line two of the "*second whereas*" this should read "*by resolution, order the removal or razing of said structure*". Mr. Murphy stated in "**Section 1**" the last sentence should read "*hereby order the property be razed, removed, or otherwise brought up to city code by the owner therefore.*" Mr. Murphy stated in "**Section 3**" should read "*owner has 30 days to remove said structure or otherwise bring the property up to city code*" and the third line should read "*then the Mayor of the City of Conway, Arkansas is directed to proceed at once to remove and raze such structure or clean up the property*". Mr. Murphy stated also in "**Section 3**" that a portion of the last sentence should read "*prepare an itemized statement of cost of removing said structure and bring the property up to code*". Mr. Murphy also stated if council passes the resolution tonight they may want to consider to arrange for a process server to deliver actual notice of council's actions just to make sure that the property owners are given proper notice. Alderwoman Smith motioned to adopt the resolution. Alderman Vaught seconded the motion. Jeanie Ratliff, 5125 Lost Canyon Drive, stated along with the obvious appearance the lot is hardly ever mowed and skunks have become a big problem. Tony Henderson, Lost Canyon Drive resident, spoke in favor of the resolution. Daniel Goodwin, Centennial Valley resident, stated this house creates a nuisance for the entire neighborhood and the neighborhood association has worked very hard to communicate to the owners the problem and to work with them and allow them to correct it. Mr. Goodwin stated he has sent letters to the property owners, that have been accepted, and has had a phone

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conversation with them to list the property, which it was, but subsequently has been taken off the market; the neighborhood association does not want the house demolished, we want it to be sold, but this has not happened and appreciates councils efforts to correct this situation. Mr. Murphy asked Mr. Goodwin if would mind giving copies of his correspondence to council. Mr. Goodwin stated he would get copies of his correspondence to the city. Reggie Rose, General Manager Centennial Valley Country Club, stated the club and the ownership of the club is 100% in support of the homeowners association. After some discussion the motion passed 8-0.

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

**R-10-54**

Alderman Hawkins stated the property address is 2115 Dillard; the cost of cleanup was \$158.91 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.

**R-10-55**

Alderman Hawkins stated the property address is 2 Cedar Oaks Drive; the cost of cleanup was \$297.62 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

- 4. Consideration of equipment bids for the Conway Street Department.**

Ronnie Hall, City Engineer, explained bids were opened for various pieces of equipment first being a street sweeper; Mr. Hall recommended going with the low bid from Hernard Utility Products (used - Schwarze M6000) in the amount of \$139,500.00.

Mr. Hall stated the next piece of equipment is a medium duty dump truck (4,300 International w/David Bed), and recommended going with the low bid from Diamond International in the amount of \$67,740.00.

Mr. Hall stated next bids were taken on an asphalt grinder; we compared specifications on an open drum piece of equipment to avoid a build-up and a slow-down of equipment from a build-up of residue under the drum, so we would like the open drum unit. Mr. Hall recommended the Coneqtec AP1000EL from Scott Equipment Co. in the amount of \$21,743.86.

Mr. Hall stated the last piece of equipment is a boom crane for their service truck and recommended the low bidder, Dealers Truck Equipment Co., in the amount of \$16,130.42 for a Auto Crane 6406H w/Pendant Control. The total price for all pieces of equipment is \$245,114.28. Alderman Jones asked what kind of warranty is on the piece of used equipment. Mr. Hall stated 1 year or 1200 hours. Alderman Hawkins motioned to purchase the equipment recommended by Mr. Hall and to transfer \$22,621.02 from

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equipment maintenance (02.201.235). Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

**5. Ordinance appropriating additional funds for heavy equipment purchase for the Street Department.**

This item was removed from the agenda.

**6. Consideration to enter into an agreement with Kutchins & Groh for an independent fee analysis for the engineering cost to relocated the Conway Airport.**

Ronnie Hall, City Engineer, explained that all FAA engineering contracts that exceed \$100,000.00 require an independent group to evaluate the fee being proposed by the engineer. Mr. Hall stated that Garver's engineering contract for this is approximately \$267,000.00 and requested council allow us to hire Kutchins & Groh to perform the analysis. The cost of this analysis is \$4,500.00. Alderwoman Smith motioned to enter into this agreement. Alderwoman Whitmore seconded the motion. Mayor Townsell stated 95% of this cost will be paid for by the FAA and the other 5% from a state grant. There was no discussion. The motion passed 8-0.

**7. Consideration of awarding street construction projects for the Conway Street Department.**

Mayor Townsell explained that last council meeting we discussed the issues we are having with Rogers Group on two projects; one being a small section of Stanley Russ Rd where we were dealing directly with Rogers Group. Mayor Townsell explained we relayed to them, via email, that we wanted a section repaired that was placed, but not rolled, until after it had turned cold. Rogers Group has told us they will not fix it; they have 15 days to make the necessary repairs before we are legally allowed, by our annual bid specs, to hire someone to make the needed repairs. Mayor Townsell stated we are asking you to allow us to hire Cranford Construction at the unit price, do not look at the total amount, because we are not sure how much more we will need them. Mayor Townsell stated on the Salem Rd project we are not dealing directly with Rogers Group; the gravel that is under Salem Rd, over the ridge, was supplied by Rogers Group, but was laid and compacted by Lindsey Contractors; we have subsequently learned a year later that it is not a good supportive material, once it is determined, if we can, who is at fault and then we will proceed. Alderwoman Smith motioned to allow the street department to use the unit prices with Cranford Construction for projects to be determined. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0. The unit prices are listed below:

- Asphalt Hot Mix Surface Course \$68.19/Ton
- Asphalt Hot Mix Binder Course \$63.76/Ton
- Remove Existing Asphalt (2" thickness) \$ 1.35/S.Y.
- Remove Existing Crushed Stone Base Course (1" thickness) \$ 0.30/S.Y.
- Prime Coat \$ 4.00/Gal

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

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- 1. Ordinance appropriating funds for the Sanitation Department for the construction and overview for the services zones 18 & 19 bottom liner system.**

**O-10-95**

Mayor Townsell stated we received a bid from Graco Construction Company in the amount of \$647,672.00 to perform the construction; we are also asking to appropriate \$54,840.00 for professional services from Terracon for the overview and monitoring of construction activities; a grand total of \$702,512.00. 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, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

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

- 1. Ordinance accepting asset obtained through court order to the Conway Police Department.**

**O-10-96**

Mayor Townsell stated this camera has a value of around \$599.00. 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. Alderman Jones seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

Alderman Hawkins exited the meeting.

- 2. Ordinance authorizing the owner of golf carts to operate on city streets.**

**O-10-97**

A.J. Gary, Chief of Police, explained the purpose of this ordinance is to prohibit children from riding on golf carts, and being on them in an unsafe manner, which is currently taking place in neighborhoods around Conway golf courses. Chief Gary stated while keeping the children safe, this will allow the owner of the golf cart to cross the street and drive on to the golf course. Mayor Townsell explained this is the only type of ordinance we can pass regarding golf carts, right now it is illegal to drive a golf cart on city streets; this is state law and there are very few things we can add to the ordinance. Alderman Jones asked if his son who is a senior in high school can drive his golf cart to the golf course to play golf. Chief Gary stated that is the way he see it. Michael Murphy, City Attorney, explained that the state statutes allows the city to authorize the operation of golf carts on city streets only from the owners place of residence to the golf course and to

return from the golf course to the owners residence; it also states who can operate the golf cart: "any owner of a golf cart to operate the golf cart". Mr. Murphy stated under the scenario that Alderman Jones suggested, the senior in high school, is not the owner of the golf cart under the language of the statute. Mayor Townsell explained that is the legal side of things, what he and Chief Gary are saying is they are not going to emphasize it, if the person looks like they can manage the vehicle, that will not be an issue. Chief Gary stated it will be difficult to determine who owns the golf cart. Mr. Murphy stated the state legislature did not give any guidance to those types of questions because it would be impossible to know for sure who owns the golf cart. Mayor Townsell stated that is the practical application of enforcement of the ordinance. Alderman Grimes asked if the legislature gives us any authority at all to place an age limit in our ordinance. Mr. Murphy stated no, explaining Maumelle defaulted to the legal driving age in their ordinance. After much discussion among council Alderwoman Smith motioned to waive the readings of the (Maumelle drafted) ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderman Grimes seconded the motion. Alderman Vaught motioned to amend the ordinance to include the phrase "*for the express purpose of playing golf*". Mr. Murphy stated that could fit in Section 3B. Alderman Jones seconded the motion. The motion failed 1-6. Alderman Vaught voted in favor. Alderman Vaught motioned to amend Section 3A by adding to the end of the sentence the phrase "*and operation shall not be authorized on streets designated as major arterials, minor arterials, or non-residential collector streets as defined by the comprehensive plan/master street plan of the city of Conway.*" The motion failed due to the lack of a second. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Jones. The motion passed 6-1. Alderman Vaught voted in opposition. Alderman Grimes motioned to add an emergency clause to this ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

**3. Ordinance amending Title 4 (Pawnshops) of the Conway Municipal Code for the City of Conway.**

A.J. Gary, Chief of Police, was present to answer questions. Major Spradlin and Detective Brad Fornash were present to answer questions. Major Spradlin gave a brief synopsis of the proposed ordinance. There was discussion of the benefits of photographing jewelry and how one would be able to prove if a particular piece of jewelry belonged to a particular individual. Chief Gary stated that one piece of evidence will not be enough to get a conviction, but if you take that piece of evidence along with other pieces of evidence the fact that that is being reported is providing us a person of interest to move forward with the investigation. Alderman Grimes asked if these items have to be turned over to the police dept. Chief Gary stated no. Kent Holder, stated he is concerned many things in the proposed ordinance and it seeks to expand the definition to include dealers of secondhand goods. Mr. Holder stated the definition describes a dealer in secondhand goods as any person who buys any used goods for resale; it goes further to make it more inclusive with other language which includes exclusions. Mr. Holder feels the definition given for a dealer in secondhand goods is definitive and all

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inclusive, however the exemptions are not and would leave all citizens who sell goods outside the realm of a yard sale, flea market, auction, or consignment store liable to this ordinance and renders them subject to each requirement named. Mr. Holder is stated he is opposed to the idea that the police dept. would be able to inspect the records of any Conway citizen who would buy secondhand goods for resale, he is also opposed to the requirement, to all persons liable to this amendment, be required to keep a computerized inventory tracking system and submit their dealings and inventory to the police department. Mr. Holder suggested using the definition "free enterprise" and asked that the city get input from the people this proposed ordinance will affect. Major Spradlin stated he this process has been worked on for over a year and he has visited with pawn shops, Hastings, gaming stores; this has been done in other jurisdictions and it is ready to be implemented here all we have to do is modify the computers. Craig New, Game Point, stated the proposed ordinance will affect us quite a bit due to them not being a chain store. Mr. New stated one item that would be detrimental to him is the 7 day hold period; if he has a customer looking for a specific game, they are not going to wait 7 days to purchase it, and they will go to Wal-Mart and purchase it as they have many competitors. Mr. New stated I am not the only one who opposes this 7 day wait period, we have 1400 petition signees on record. Mr. New stated that approximately 95% of what he we sells cannot be traced or tracked, as all games and accessories look identical, for the exception of consoles and we already trace those. Mr. New stated we have not received a phone call in regards to any stolen property in 6 months. Alderman Vaught asked if games could be put on the exclusion list. Major Spradlin stated no, because the game can be combined with other evidence, from a single crime, in order to help build a case. Major Spradlin stated items that are taken to the store and used toward an in store credit, or traded in on other items, will not have to be reported, all that would have to be reported is when cash is given for items sold. After much discussion Mr. New stated that he will have to hire someone to record and track all these games on a daily basis and it will be a burden to him and his business. Alderwoman Smith asked if we could just require the tracking of the game consoles for now and see how that works. Major Spradlin stated the games are stolen just as much as the game consoles. After some discussion as to amendments to this proposed ordinance Alderwoman Mehl motioned to hold this item in committee. Alderman Vaught seconded the motion. The motion passed 7-1. Alderman Grimes and Alderman Rhodes voted in opposition.

*D. Old Business*

*E. New Business*

- 1. Resolution in support of certain amendments to the Constitution of the State of Arkansas in the upcoming November 2010 general election.**

**R-10-56**

Mayor Townsell stated this is a resolution in support of certain amendments to the States constitution as proposed by the state legislature and the Municipal League, and a number of people are recommending we support these amendments, they are outlined below:

**Amendment 1:** Allows the right to hunt fish.

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**Amendment 2:** This is three fold, it allows individuals to take energy savings, and bond those energy savings out as cash, to pay for the actual system improvements. Mayor Townsell stated it will also open up consumer loans to where rates are adjustable.

**Amendment 3:** Will take away some of the limiting economic development tools we have; as it eliminates the 500 person new job requirement and the \$500,000,000.00 investment.

Alderman Grimes motioned to adopt the resolution. Alderwoman Smith seconded the motion. The motion passed 6-0-1. Alderman Vaught voted present.

Alderman Grimes motioned to move the last item E-3 up on the agenda and discuss this now. Alderwoman Mehl seconded the motion. The motion passed 7-0.

**2. Consideration of approval for a consent order for the City of Conway vs. Todd Bruns.**

City Attorney, Michael Murphy, explained he took the language council suggested that if the pool returned to an unsanitary condition that city will be entitled to cause the pool to be removed without further notice. Alderwoman Smith motioned to enter into this consent order. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

**3. Consideration to move the next regularly scheduled City Council Meeting.**

Alderwoman Smith motioned to move the next regularly scheduled council meeting to Monday September 27, 2010 at 6:30 p.m. Alderwoman Whitmore seconded the motion. The motion passed 7-0.

Alderwoman Smith motioned to suspend the rules to add an item to the agenda. Alderwoman Mehl seconded the motion. The motion passed 7-0.

**Ordinance appropriating funding for civil service expenses.**

**O-10-98**

Alderwoman Mehl motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. Alderman Rhodes 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": Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

*Adjournment*

**PASSED this 14<sup>th</sup> day of August 2010**

**APPROVED:**



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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**