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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 p.m.  
April 12, 2011

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 Mehl, Alderwoman Whitmore, Alderman Rhodes, Alderwoman Smith, Alderman Jones, Alderman Vaught, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and Deputy City Attorney Adam Rose. City Attorney Michael Murphy was not in attendance.

**Call to Order**

**Roll Call**

**Minutes:** *March 8<sup>th</sup>, 2011 & March 22<sup>nd</sup>, 2011*

Alderwoman Smith motioned to approve the March 8<sup>th</sup> and March 22<sup>nd</sup> minutes as submitted. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

**Announcements / Proclamations / Recognition:**

**1. Report of Standing Committees:**

**A. Economic Development Committee (Airport, Conway Corporation, Conway Development Corporation, Chamber of Commerce)**

**1. Resolution to adopt the Conway2025 Plan.**

**R-11-15**

Mayor Townsell stated this has been driven by the Conway Chamber of Commerce but also included a public participation survey that occurred this past year; we would like to adopt this plan as a strategic vision of the city having come from the citizens. Jamie Gates, Conway Development Corporation/Chamber of Commerce, stated we are not asking the city to lead this plan, we are asking you to join us in this community effort. Mr. Gates stated other local groups have adopted this plan and taken on the goals relevant to their own mission. Mr. Gates stated we are not asking for specific action, legal action, funding, or binding you or future councils but just asking you as a city to participate. Alderman Vaught asked Mr. Gates his status on a segment of the Conway2025 document that reads "*A committee of current 2025 volunteers, stakeholders, and community members will begin developing a plan of action that addresses the necessary funding, public policies, partnerships, and awareness to achieve these plans by 2025*". Mr. Gates stated the most visible action has been non-profits adopting these goals as their own and we are already seeing progress here. Our hope is not that any one organization will drive this and achieving this plan is not anyone's responsibility, it's everyone's responsibility. Mr. Gates stated regarding the nature of the document a strategic plan intentionally does not get down into specifics; it is not like the comprehensive land use plan. Mr. Gates stated we tried to identify where the city is heading but will rely on the cities professionals to make some of these decisions reiterating that it is just a future plan for the city. Alderman Vaught asked where we start according to prioritization. Mr. Gates stated we started with

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a list of 38 possible goals and this is a result of a lot of prioritizing and these stand out as the community's priorities. After further discussion Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. Charlie Nabholz, Conway 2025 Committee, explained the plan consists of things that are already taking place and is a means to meet the goals of our community and hopes the council will endorse this. There was no further discussion. The motion passed 8-0.

**2. Consideration to grant an easement for the Conway Corporation Sewer Project.**

Mayor Townsell explained this is an easement that will cross a portion of city owned land; it is a 40' wide easement through a portion of the fire training academy and is for a replacement sewer project. Alderwoman Smith motioned to approve the easement request. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0. Alderman Jones exited the meeting prior to the vote.

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

**1. Consideration to approve the newly reorganized Historic District Commission.**

Velton Daves, Chairman Conway Historic District Commission, was present to answer questions. Alderwoman Smith motioned to approve the commission members and their terms of office. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0. The committee members and terms are listed below:

- Velton Daves, Chairman – Ward 3 – Term expires 12/31/2012.
- Steve Hurd, Architect/Vice Chair – Ward 4 – Term expires – NA.
- Becky Harris – Secretary – Ward 3 – Term expires 12/31/2011 \*ex-officio member voting on Old Conway matters only.
- Scott Zielstra – Ward 4 – Term expires 12/31/2011 \*ex-officio member voting on Old Conway matters only.
- Chad Brown – Ward 3 – Term expires 12/31/2011.
- Betty Pickett – Pine Street Comm. Dev. Corp. Member – Ward 4 – Term expires 12/31/2011.
- Mary Etta Qualls – Ward 4 – Term expires 12/31/2012.
- (Trey) Glen Massingill III – Ward 2 – Term expires 12/31/2012.
- George Covington, Sr. – Downtown Partnership Member – Term expires 12/31/2013.
- Melissa Togni – Ward 4 – Term expires 12/31/2013.
- Barbara Stroope – Ward 2 – Term expires 12/31/2013.

**2. Ordinance to rezone property located at the southwest corner of Blaney Hill road and Vail Avenue from A-1 to RU-1.**

O-11-28

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no

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discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderwoman Whitmore. The motion passed 7-0.

**3. Ordinance to rezone property located at 3725 College Avenue from O-2 to A-1.**

**O-11-29**

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

**4. Consideration of a conditional use permit from Pediatrics Plus to allow restricted office in an R-2 zone for property located 2725 College Avenue.**

Alderman Hawkins motioned to approve the conditional use request with the conditions. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0. The conditions are as listed below:

- Hours of operation for administrative office purposes only will be from 7:00 am to 6:00 pm daily, seven days a week.
- Wall signage is limited to 2 square feet in area. Freestanding signage shall be a non-illuminated monument or two pole sign no greater than 4 feet in height and 4 feet wide.
- Conditional use permit is restricted to this applicant only.
- Construction of sidewalks shall be as required by the Development Review process and approved by the City Engineer.
- Parking is limited to no more than 6 cars on the property during hours of operation.
- Dedication of pedestrian/bike trail easements, drainage easements, and College Avenue right-of-way is required.

**5. Ordinance creating zoning district T-2 rural zone for the purpose of zoning within the Conway Territorial Jurisdiction.**

**O-11-30**

Bryan Patrick, Planning & Development Director, was present to answer questions. Mayor Townsell explained council has been provided two proposed ordinances as the original draft may be somewhat over ambitious in some areas. It could be more work on the department as we use this tool in the Lollie Bottoms/new airport area and beyond, where we annex, to add the controls needed by the FAA for land use in the area. Mayor Townsell went onto say it could also be more onerous on the population in the area if we include everything beyond; including commercial, churches etc. rather than the major problem which is industrial. Mayor Townsell stated the original draft controls everything beyond residential. Mr. Patrick stated we have had concerns raised and explained one

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thing the proposed ordinance does not include is building permits, code enforcement, nor animal control. It includes land use only depending on the version we choose. Mr. Patrick stated the proposed ordinance is what the planning commission preferred, as Mayor Townsell stated, and anything that goes beyond residential would have to go before the planning commission and ultimately the city council to obtain a conditional use permit to start a business. Mr. Patrick stated that section "2C - Lot, Yard, and Height Regulations" already takes place and is a part of our subdivision ordinance; it was inserted to make the two ordinances work together. Mr. Patrick stated the ordinance preferred by the planning commission includes all sign control just as we do in the city. Mr. Patrick stated next, you should look at the scaled back version; first it drops everything back to industrial use only so residential, multi-family, office, commercial, temporary sales would be allowed, the ordinance would apply only if industrial or manufacturing were proposed for development. The difference between the two ordinances is the signage, one has all signage regulation, the other prohibits billboards only and any existing billboards would be grandfathered in. Alderman Hawkins asked if billboards are included in the ordinance that regulates all signage. Mr. Patrick stated that is correct. Alderman Hawkins stated he would prefer to see all signage regulated. Alderwoman Whitmore and Alderman Grimes concurred. After further discussion Mayor Townsell opened the floor to public comment. Mary Kathleen Warner, Beaverfork Rd resident, stated she likes the freedom of living in the county and feels the city is over reaching, it is taxation without representation and is against the proposed zoning district. Jack Sotallaro, Conway resident, is against the proposed zoning district and feels the county should regulate and pass zoning regulations for the county, not the city. A county resident (name inaudible) stated he is against the proposed zoning district and feels most county residents do not even know what the city is proposing to do. He feels these regulations are being imposed due to one company and feels the county should handle the issues. Eleanor Deminkle, county resident, stated she is opposed to the proposed zoning district. Alderman Vaught motioned to amend the ordinance from the planning commission accepting the option that only addresses industrial and only prohibits billboards. Alderwoman Mehl seconded the motion. Mayor Townsell reiterated Alderman Vaught's amendment: "The amendment to change the ordinance from the planning commission will only affect industrial use by conditional use permit and only regulate billboards by prohibiting them". The motion failed 2-5. Alderman Vaught and Alderwoman Mehl voted in favor of the amendment. Alderman Rhodes motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. Alderman Vaught motioned to amend the ordinance to only regulate industrial use by condition and regulate all signage. Alderwoman Smith seconded the motion. The motion failed 3-4. Alderman Vaught, Alderwoman Mehl, and Alderwoman Whitmore voted in favor of the amendment. Alderman Vaught motioned to divide the question into six parts and vote on each question separately. Alderwoman Smith seconded the motion. Alderman Vaught stated the six divisions are the six sections of the ordinance. Mr. Patrick asked to change the district in the original ordinance to T2 instead of TJ. Mayor Townsell stated we will deal with that later. The motion passed 5-2. Alderman Hawkins and Alderman Rhodes voted in opposition. Alderman Vaught motioned to adopt Section 1. Alderwoman Mehl seconded the motion. Mayor Townsell stated Mr. Patrick wants to change the zone name to TJ. Alderman Vaught and Alderwoman Mehl agreed to the change. After a brief discussion the clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderwoman

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Whitmore. The motion passed 6-1. Alderman Hawkins voted in opposition. Alderman Vaught motioned to adopt Section 2. Alderwoman Smith seconded the motion. Mayor Townsell stated the section would be amended to change all T2's to TJ's. Council concurred. Alderman Vaught motioned to amend the zoning district chart in Section 2 to only allow conditional uses required for the entries that say "*Industrial, Manufacturing, Gas, Oil, and Mineral Exploration*". Alderman Vaught stated all other entries in the chart should contain an "X". The amendment failed due to a lack of a second. There was no further discussion on the main motion the clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, and Alderwoman Whitmore. The motion passed 5-2. Alderman Hawkins and Alderman Vaught voted in opposition. Alderman Rhodes motioned to adopt Section 3 amending TJ to read T2. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, and Alderwoman Whitmore. The motion passed 5-1-1. Alderman Vaught voted in opposition and Alderman Hawkins abstained. Alderman Vaught motioned to adopt Section 4. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderwoman Whitmore. The motion passed 6-0-1. Alderman Hawkins voted present. Alderman Vaught motioned to adopt Section 5. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderwoman Whitmore. The motion passed 6-0-1. Alderman Hawkins voted present. Alderman Vaught motioned to adopt Section 6. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderwoman Whitmore. The motion passed 6-1. Alderman Hawkins voted in opposition.

**6. Ordinance to zone property within the Conway Territorial jurisdiction along Highway 65 & Highway 64 west to T-2 Rural Zoning District.**

O-11-31

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. Alderwoman Mehl stated her concern is notification to persons in these areas in that they had an opportunity to attend the planning commission meeting and asked how many individuals attended that meeting that are county residents. Bryan Patrick stated 4-5 individuals but most of those were from Beaverfork Fire Dept who wanted to if this would help restrict the use of fireworks in the new zoning district. Mr. Patrick stated all notification required by state law was followed. After a brief discussion the clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Mehl, Alderwoman Smith, Alderman Hawkins, Alderman Grimes, Alderman Vaught, and Alderwoman Whitmore. The motion passed 7-0.

**7. Consideration to accept bids on a School zone flasher system for the Conway Street Department.**

Alan Alvey, Street Dept, stated currently our system is a pager system which is 150 MHz; this system is obsolete and will become unavailable in 2012 or 2013. The proposed system will give us better control and will establish a two way system between the street dept. and the flasher; we will know when one is not working. Alderman Hawkins motioned to accept the low bid from Temple Inc in the amount of \$33,826.18. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

**8. Consideration to accept bids on an ornamental steel fence located at Nina Russ Lane & the Meadows Corporate Center North Line.**

Ronnie Hall, City Engineer explained this fencing was in right-of-way acquisition agreement between the City and Stanley Russ. Mr. Hall recommended accepting the low bid from Legacy Fence in the amount of \$129,948.50. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

**9. Consideration to accept bids for construction (earthwork) of Old Military Road-McNutt Road realignment at Donnell Ridge Road.**

Ronnie Hall, City Engineer, stated the low bidder A & B Dirt is in need of this material to use on the new elementary school site so they were able to give us a very low bid in the amount of \$508,961.00, Mr. Hall stated we have not purchased the right-of-way for this property as we have not received the appraisals; Mr. Hart who owns the property is in agreement with accepting the appraised value as long as it is falls in the range of \$45,000.00-\$55,000.00. Mr. Hall asked for council's approval to make the arrangements with Mr. Hart if this price is within that range. Alderwoman Smith motioned to approve the low bidder and to approve the right-of-way appraisal pending the price range given by Mr. Hall. Alderman Grimes seconded the motion. There was no discussion. The motion passed 7-0.

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

**1. Ordinance to amend the Conway Municipal Code Title 6 as related to the Animal Welfare Unit.**

**O-11-32**

Shona Osborne, Animal Welfare, stated this is a matter of changing some "typographical errors" we have had along the way and the synopsis of the changes are outlined below.

- Section 6.04.04/D - The adoption fee would go from \$20.00 to \$25.00 to cover the cost of micro-chipping.
- Section 6.04.05/A - this change will require an individual to show a positive picture identification that provides the name, address, and date of birth to reclaim an animal.
- Section 6.04.05/E - will require upon redemption, by the owner, an additional fee of \$10.00 shall be assessed for micro-chipping.

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Alderman Vaught asked if we want to be in the business of mandatory micro-chipping. Ms. Osborn stated she has researched the micro-chipping and many cities are moving toward this process and some cities have eliminated the city license and only use micro-chipping. Alderwoman Mehl stated if we micro-chip could we eliminate the city required license. Ms. Osborne stated with the company we would purchase the microchips from, which will be provided to us by our Friends Non-Profit group to get us started, would allow us to register animals online and any lost animals, once found, could be scanned and the owners found via a web-based program. Alderwoman Mehl stated she would like to see the city license eliminated if we microchip.

- Section 6.04.08/A.4 - Numbers of animals counted will be changed to 12 weeks rather than at birth.
- Section 6.04.08/A.5 - Eliminate the \$500.00 permit fee per breed; the permit shall be issued by the Animal Welfare Unit and will be no cost for the permit and is renewable annually.
- Section 6.04.08/A.6 - "The holder of the permit shall agree to random inspection of the kennel to insure compliance with these regulations to insure that safe and sanitary conditions are maintained" will be added.
- Section 6.04.16/A - Addition of "Unless heated, animal houses shall contain proper bedding to insure protection from weather conditions."
- Section 6.04.22/C - As previously written was such that the vicious dog could be released into the backyard without being in a controlled environment. The change reads as follows: "No dangerous or vicious dog may be kept on a porch, patio, or in any part of a house or building that would allow the dog to exit on its own volition unless to a kennel *as described in Section B above*".
- Section 6.04.22/E - This change will require owners etc of vicious or dangerous dogs to provide notice of insurance cancellation to the Animal Welfare Unit instead of the City Clerk.
- 6.08.04/A.1 - The first paragraph would now read "*The keeping of horses, cows, donkeys, mules, goats, sheep, or ratites (flightless birds such as ostrich, emu, etc.) is permitted where they are maintained on an enclosed pasture with a minimum of three acres for each animal*"
- 6.08.04/B - Removal of "*goats and sheep*" in the first paragraph and added the following to the end of the section. "*Pens shall be designed to prevent run off of feces to adjacent property owners and maintain in such a way to prevent undue odors.*".
- 6.08.05/C - Removal of the words "Division of" in this entire section.

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. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderwoman Whitmore. The motion passed 7-0.

- 2. Ordinance to implement continue employment after the conclusion of participation in the deferred retirement option plan (DROP) for the City of Conway Fire Pension Fund.**

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O-11-33

Mayor Townsell stated this will be for any Firefighter who is eligible under the DROP plan of the old Conway Fire Pension Fund. It will not affect any police officers as all the old Conway Police Pension members have retired. Mayor Townsell explained if this is implemented the employee reaches their retirement and the 10 years of the DROP is over the employee and the city will cease contributions into the pension plan, they will not draw pension and they will not receive their collective DROP earnings; they will only receive their paycheck. After some discussion 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. Alderman Hawkins seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderwoman Whitmore. The motion passed 7-0.

*Old Business*

*New Business*

**1. Consideration of a property exchange between the Hart Family & the City of Conway.**

Mitch Hart was present to answer questions. Mayor Townsell stated this is discussion of an exchange of 7.90 acres of city owned land on Lake Beaverfork for 13 acres of land adjoining the new Fair Grounds. The Beaverfork land appraised for \$600,000.00 by Coats Appraisal, \$500,000.00 by Affiliated Real Estate, an average of \$550,000.00. The Hart land appraised at approximately \$58,000.00 an acre. After some discussion Alderwoman Smith motioned to approve the property exchange. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

**2. Resolution creating a City of Conway Reserve Account.**

Alderwoman Smith motioned to hold this item in committee until the next council meeting. Alderwoman Mehl seconded the motion. The motion passed 7-0.

*Adjournment*

**PASSED this 12<sup>th</sup> day of April 2011**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**