

ORDINANCE NO. 0-82-1

AN ORDINANCE CREATING THE PUBLIC FACILITIES BOARD OF THE CITY OF CONWAY, ARKANSAS, PURSUANT TO ACT NUMBER 142 OF THE ACTS OF ARKANSAS OF 1975, AS AMENDED; PRESCRIBING THE METHOD OF APPOINTMENT OF THE INITIAL MEMBERS THEREOF; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, Act 142 of the Acts of the General Assembly of Arkansas for the year 1975, as amended, referred to as the Public Facilities Board Act (The "Act") authorizes cities to create one or more public facilities boards for purposes authorized in the Act including the developing and providing of financing for public facilities projects of various kinds; and

WHEREAS, it is found that the public welfare will be enhanced by providing a means and faculty for developing such public facilities, and for providing a means for financing the same;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

SECTION 1. Creation of Board: Pursuant to the authority of the Act there is hereby created and established a public facilities board which is named the "Public Facilities Board of the City of Conway, Arkansas", (the "Board"). The Board shall have authority as hereinafter provided to undertake one or more public facilities projects within the meaning and scope of the Act, as amended, from time to time. The governing body of this City may at its sole discretion, and at any time, alter or change the structure, organization, programs, or activities of the Board, including exercising the power to terminate the Board, but no such action shall be effective to alter or impair contracts entered into by the Board prior to the effective date of such action.

SECTION 2. Membership of the Board; Term of Office.

The Board shall consist of five persons who shall be residents of the City of Conway, Arkansas. The initial members of the Board shall be appointed by the Mayor of the City of Conway, Arkansas, and confirmed by the Conway City Council (the "City Council"). The initial members of the board shall serve for terms of one, two, three, four and five years respectively. Successor Board members

shall be elected by a majority of the Board for terms of five years each and confirmed by the City Council. As soon as practicable after the appointment of the initial Board members, each member shall qualify by taking and filing with the City Clerk the oath of office prescribed by the Act.

Section 3. Organization of the Board. The members of the Board shall meet and organize by electing one of their members as chairman, one as vice-chairman, one as secretary and one as treasurer, and such officers shall be elected annually thereafter in like manner. The duties of Secretary and Treasurer may be performed by the same member. The Board may also appoint an Executive Director who shall not be a member of the Board and who shall serve at the pleasure of the Board and receive such compensation as shall be fixed by the Board. The members of the Board shall receive no compensation for their services but shall be entitled to reimbursement of expenses incurred in the performance of their duties. Any member of the Board may be removed pursuant to the Act.

Section 4. Meetings of the Board. The Board shall meet upon the call of its Chairman, or a majority of its members; and at such times as may be specified in the Board's bylaws for regular meetings, and a majority of its members shall constitute a quorum for the transaction of business. The affirmative vote of the majority of the members present at a meeting of the Board shall be necessary for any action taken by the Board. Any action taken by the Board may be authorized by resolution and such resolution shall take effect immediately unless a later effective date is specified in the resolution. No vacancy in the membership in the Board shall impair the rights of a quorum to exercise all the rights and perform all the duties of the Board. All meeting of the Board shall be held in accordance with Act 93 of the Acts of the General Assembly of Arkansas for the year 1967, as amended, and commonly referred to as the Arkansas Freedom of Information Act.

Section 5. Powers of the Board. The Board is empowered, from time to time, to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, land

for the purpose of constructing, acquiring or equipping, or to otherwise deal in or dispose of any one or more public facilities authorized in the Act, except residential housing facilities, or any interest in such public facilities other than residential housing facilities, including, without limitation, leasehold interests in and mortgages on such facilities. The Board is not, however, empowered to make mortgage loans to mortgage lenders (as defined in Section 4 of the Act) to provide financing for any one or more of the types of public facilities enumerated above. In addition to the foregoing, the Board is authorized and empowered:

- (a) To have perpetual succession subject to Section 1 hereof as a body politic and corporate and to adopt bylaws, not in conflict with this Ordinance or the Act, as amended from time to time, for the regulation of its affairs and the conduct of its business;
- (b) To adopt an official seal and alter the same at its pleasure;
- (c) To maintain an office at such place or places in this City as the Board may designate from time to time;
- (d) To fix, charge and collect rents, fees, loan repayments, interest and charges for the use of any public facilities project or loan or loans made in connection therewith;
- (e) To employ and pay compensation to such employees and agents, including attorneys, consulting engineers, architects, surveyors, accountants, financial experts, contractors and such other employees and agents as the Board in its judgment may find necessary for the accomplishment of the purposes and objectives for which it has been created, and to fix their compensation;
- (f) To accomplish public facilities projects as authorized by the Act and this Ordinance;
- (g) To do any and all other acts and things in the Act and this Ordinance authorized or required to be done, whether or not included in the powers enumerated herein;
- (h) To lend money, directly or indirectly, for the financing of the construction, acquisition and equipment of a public facilities project; and
- (i) To do any and all other things necessary or convenient to

accomplish the purposes of the Act and this Ordinance.

Section 6. Issuance of Bonds. The Board is authorized to issue revenue bonds, from time to time, and to use the proceeds, either alone or together with other available funds and revenues, to accomplish the purposes for which the Board is created as the same relate to the financing and development of one or more public facilities projects as enumerated in this Ordinance. Provided, however, that before the issuance of any bonds hereunder the approval of such issue shall be obtained from the Conway City Council by resolution passed by the Conway City Council. Such revenue bonds shall be obligations only of the Board and shall not constitute an indebtedness for which the faith and credit of the City of Conway, Arkansas, or any of its revenues are pledged. The principal of and interest on the bonds shall be payable from and secured by a pledge of revenues derived from the public facilities project or projects acquired, constructed, reconstructed, equipped, extended and/or improved, in whole or in part, with the proceeds of the bonds or other obligations of the Board as authorized by and in accordance with the provisions of the Act, together with such other collateral as may be properly pledged under the Act and as the Board in its discretion may determine. Any net earnings of the Board, beyond that necessary for retirement of any indebtedness of the Board or to implement any authorized public facilities project or to comply with any covenants contained in any contract or indenture made to secure the rights of bondholders or other lenders of the Board, shall not inure to the benefit of any person other than the City of Conway, Arkansas.

Section 7. Records. The Secretary shall keep a record of the proceedings of the Board and shall be custodian of all books, documents, and papers filed with the Board and of the minute book or journal of the Board and its official seal, if any shall be adopted, provided that such documents may be delivered to the City Recorder for safekeeping. The Secretary may cause copies to be made of all minutes and other records and documents of the Board to the effect that such copies are true copies, and all persons dealing with the Board may rely upon such certificates.

Section 8. Annual Reports. Within the first ninety (90) days of each calendar year, the Board shall cause a written report concerning its activities for the preceding calendar year to be delivered to the Mayor and City Council of this City. Each such report shall include and set forth a complete operating and financial statement covering its operation during the year.

Section 9. Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application.

Section 10. Repealer. All ordinances of the City Council of the City of Conway, Arkansas, or parts thereof, in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 11. Emergency. It is hereby found and determined that there is an immediate need for the providing of adequate public facilities, within the City of Conway, Arkansas, authorized to be provided under Act 142 of 1975, as amended, and the providing of financial assistance to encourage the development and establishment of such public facilities projects, and that the creation of the Board and the exercise of the duties and powers provided in this Ordinance are necessary for the preservation of the public peace, health and safety. Therefore, an emergency is declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED: 2-9-82

Bill Wright
Mayor

ATTEST:
[Signature]
City Recorder-Treasurer

