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## MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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**Conway, Arkansas  
Tuesday, 6:00 pm  
March 28, 2023**

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: Councilman Hawkins, Councilwoman Mehl, Councilwoman Tucker, Councilman Ledbetter, Councilman Jones, Councilwoman Webb, and Councilwoman Isby. Also, present and acting: Mayor Bart Castleberry, City Clerk Michael Garrett, and City Attorney Charles Finkenbinder. Councilman Grimes was not present.

**Call to Order: Mayor Bart Castleberry**

**Roll Call: Michael Garrett, City Clerk**

**Minutes: March 14, 2023**

Councilwoman Isby made a motion to approve the minutes as submitted and Councilwoman Mehl seconded it. The motion carried 7-0.

**Monthly Financial Report:** Month ending February 28, 2023

Tyler Winningham, Chief Financial Officer addressed the Council stating that February sales tax was flat, although the General Fund is stable. He said there was net revenue of 1.6 million dollars through February due to expenditures being so low. He said that the street fund was stable and added that the Sanitation department is not showing any revenue just because of a timing issue, and there should be changes to the numbers in March. Councilwoman Isby made a motion to approve the monthly financials and Councilwoman Mehl seconded it. The motion carried 7-0.

**Report of Standing Committees:**

**A. Community Development Committee (Airport, Community Development, Code Enforcement, Permits, Inspections, & Transportation, Planning & Development)**

- 1. Resolution requesting the Faulkner County Tax Collector place a lien on 920 Garland in the amount of \$162.03 for expenses incurred by the City.**

**R-23-16**

Councilman Hawkins presented Item A1 to the Council. There was no one present to represent the property. Councilman Jones made a motion to adopt the Resolution and Councilwoman Isby seconded it. A vote was called, and the Resolution passed 7-0.

- 2. Resolution to approve the Oak Street Corridor Plan as an amendment to the Comprehensive Plan.**

**R-23-17**

Councilman Hawkins presented Item A2 to the Council. Kris Paxton told the Council that the Planning Commission voted unanimously to forward the matter to the City Council with a recommendation for approval. He added that the Oak Street Corridor Plan has been extensively vetted by the Planning Commission, Council members, staff, and numerous stakeholders. He said that approval of this Resolution would allow the Planning and Development Division to take appropriate action for development within this Corridor. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Mehl seconded it. Councilwoman Isby thanks all who worked diligently on the plan. A vote was called, and the Resolution passed 7-0.

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**3. Consideration to approve a conditional use permit to allow an extermination service in an O-1 zone for property located at 783 Diane Lane.**

Councilman Hawkins presented Item A3 to the Council. Kris Paxton told the Council that staff recommended approval of the conditional use permit with the conditions as set forth. Councilwoman Isby made a motion to approve the conditional use permit with the eight (8) conditions recommended by staff. Councilwoman Mehl seconded it. A vote was called, and the motion carried 7-0.

**4. Ordinance to rezone property located at 4106 Prince Street, from R-1 to C-3  
O-23-26**

Councilman Hawkins presented Item A4 to the Council. Kris Paxton told the Council that the owner is combining the two lots in question and bringing the use into compliance with the primary structure. He said that the owner is not planning any major changes to the use of the property, other than to improve aesthetics with landscaping in conjunction with their remodel of the structure, which has been completed. Mr. Paxton reported to the Council various concerns and issues related to development that were brought forth at the public hearing. He summarized the events leading to the request for rezoning and reiterated the recommendation of approval by staff. Councilman Ledbetter recused himself from the vote due to the property being in his neighborhood. Councilwoman Tucker clarified that if the present owner moved away from the property, any future use would be subject to site development review. There was some discussion among the Council of the history of the property and its uses. Councilman Hawkins made a motion to adopt the Ordinance and Councilwoman Isby seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Mehl, Councilman Jones, Councilwoman Webb, Councilwoman Tucker, Councilman Hawkins, and Councilwoman Isby. The Ordinance passed 6-0-1, with Councilman Ledbetter recusing.

**5. Consideration to appeal the interpretation of the subdivision Code requiring sidewalks for property located at 2805-2830 Harbelle Dr.**

Councilman Hawkins presented Item A5 to the Council. Kris Paxton told the Council that the applicant is appealing the interpretation of the subdivision regulations applying to sidewalk requirements. He said the Planning Commission heard the item at their meeting on March 13<sup>th</sup> and had concerns about inconsistent application of the Subdivision code requiring sidewalks to be constructed within a new subdivision development. He said that the options for this development was to construct sidewalks or pay a fee in-lieu. He explained that there had been issues between the Planning Staff and the Permitting Staff in the process of review of the requirements which have since been resolved. These issues resulted in these two lots receiving Certificates of Occupancy without properly being assessed fees. Due to the sidewalks not being constructed, the applicant was notified of the in-lieu requirements by the previous Planning Director. Mr. Paxton explained to the Council the order of process in which the applicant was made aware of the code requirements. He said that the applicant appealed the decision and stated that fees in-lieu were not assessed at the time of permitting, and that sidewalks and fees were not required on the first two homes that were built. Mr. Paxton stated that this was an administrative error, not a waiver of the requirement. He summarized the concerns of the applicant and presented several options of resolution for the Council to consider. Councilman Hawkins asked where the sidewalks are in the subdivision. Mr. Paxton answered that in this subdivision there are currently no sidewalks. Councilman Ledbetter asked if everyone in the subdivisions had paid the in-lieu fee. Mr. Paxton answered that the code states that sidewalks must be built or a waiver requested and if granted an in-lieu fee would be paid. There was discussion among the Council as to the original motivation for the in-lieu fees and code requirements, and that developments platted before 2005 would not have the current sidewalk requirements per the code. Councilwoman Mehl stated that she believed the interpretation was correct but that there was a mistake on the part of the City. She asked if Mr. Longing, the applicant had built other homes in Conway and paid the in-lieu fees, and Mr. Paxton stated that he had. He clarified that the applicant was within his right to appeal the decision of the Planning Commission and that the Commission forwarded the matter to the City Council for clarification and further decision. The applicant, Jacob Longing, told the Council that he submitted his plat with no

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sidewalks shown and it was approved as such. He said that at the time of his plat being approved, there were other subdivisions on Round Mountain with no sidewalks, so he was under the impression that sidewalks were not required as there were none in the subdivision in question. He added that he permitted the first two houses and built them to completion without sidewalks required or in-lieu fees. He said he then started two more homes that were near completion and additional homes under contract. He stated that when he started the home at 2860 Harbelle, he was billed an in-lieu fee for that house. He listed a number of homes he has built in the area that he was not required to pay in-lieu fees for or build sidewalks. He said at that time he questioned the Permit Department about the in-lieu fee billing he received and was told that mistakes were made and that they are in fact, required and he received bills for homes he had built earlier. It was at that time that he filed an appeal to the Planning Commission. He expressed concern for his homeowners who are now required to pay the fees that were not included in their contracts. There was some discussion between Mr. Longing and Councilmembers as to whether he had paid in-lieu fees for other properties, and he stated that he usually builds sidewalks for his homeowners when required because he can build them for less cost than the in-lieu fees. Councilman Jones expressed concerns that waiving the fees in this case would set a precedent. Mayor Castleberry suggested that a compromise might be reached in that the fees could be reduced to the amount for an actual build, for the lots where the fees have not been waived. Mr. Longing declined to speak for his clients as to whether that would be acceptable. Councilwoman Tucker said that she felt that if an administrative mistake had been made, then the responsibility should fall on the City. Several other Councilmember spoke in agreement. Councilwoman Mehl reiterated that the reason behind the in-lieu fees is to provide safe sidewalks in the City. She made a motion to uphold the Planning Director's interpretation of the subdivision code and approve Option 2 as presented. Option 2 being to uphold the interpretation of the Planning Director and to waive the requirement for the developer to construct or pay fees-in-lieu for the 5 homes currently under contract and refund fees-in-lieu which were paid by the developer to achieve a Certificate of Occupancy upon the City receiving a copy of each contract. Councilman Hawkins seconded the motion. A vote was called, and the motion to approve the appeal carried 6-0-1 with Councilman Ledbetter voting "No".

**B. Public Safety Committee (Animal Welfare, Communication Emergency Operations Center, Department of Information Systems & Technology, District Court, Fire, Office of the City Attorney, and Police)**

**1. Ordinance appropriating funds and waiving the competitive bid process for emergency building repairs for District Court.**

**O-23-27**

Mayor Castleberry presented Item B1 to the Council. Spencer Clawson addressed the Council reminding them that in January there had been damage to the building due to some pipes that had frozen and burst. He told them that funds from the Municipal Property Program had been received as well as \$12,242.23 from the General Fund to complete the emergency repairs to the District Court building. Councilman Hawkins made a motion to adopt the Ordinance with the emergency clause and Councilman Jones seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Webb, Councilwoman Mehl, Councilman Hawkins, Councilwoman Tucker, Councilwoman Isby, Councilman Ledbetter, and Councilman Jones. The Ordinance with the emergency clause passed 7-0.

**2. Ordinance appropriating insurance proceeds funds for the Conway Fire Department.**

**O-23-28**

Mayor Castleberry presented Item B2 to the Council. Chief Winter told the Council that a check for \$696.00 was received from Municipal League to make repairs on engine 6. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilman Ledbetter, Councilman Jones, Councilwoman Isby, Councilwoman Webb, Councilwoman Mehl, and Councilwoman Tucker. The Ordinance passed 7-0.

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**3. Ordinance appropriating donation funds for the Conway Fire Department.**

**O-23-29**

Mayor Castleberry presented Item B3 to the Council. Chief Winter told the Council that the department had received a check for \$286.50 as reimbursement for the purchase of an ammo burner, and requested the appropriation so that the funds could be replaced in the account. Councilman Hawkins made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Tucker, Councilman Jones, Councilman Hawkins, Councilwoman Webb, Councilwoman Isby, Councilman Ledbetter and Councilwoman Mehl. The Ordinance passed 7-0.

**4. Ordinance appropriating funds and waiving the competitive bid process for a grant received from the Arkansas Department of Emergency Management for the Conway Fire Department.**

**O-23-30**

Mayor Castleberry presented Item B4 to the Council. Chief Winter told the Council that his department has received a check for the Bomb Squad in the amount of \$186,330.00 and requested approval of Sole Source as the vendor for the purchase of the Logos machine. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilman Ledbetter, Councilman Jones, Councilwoman Isby, Councilwoman Webb, Councilwoman Mehl, and Councilwoman Tucker. The Ordinance passed 7-0.

**Adjournment-----**

*PASSED this 28th day of March 2023*

**APPROVED:**

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*Mayor Bart Castleberry*

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*City Clerk Michael O. Garrett*