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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 12, 2008

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, Alderman Vaught, Alderman Jones, Alderwoman Mehl, Alderman Thompson, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and Deputy City Attorney Kurt Meredith. Alderwoman Whitmore, Alderwoman Smith, and City Attorney Michael Murphy were not in attendance.

1. *Call to Order*
2. *Roll Call*
3. *Minutes: July 22<sup>nd</sup>, 2008*

Alderwoman Smith motioned to approve the July 22, 2008 minutes as submitted. Alderman Vaught seconded the motion. The motion passed 6-0.

4. *Recognition of Guests: "Special Recognition -- Robbie Powell"*

Mayor Townsell recognized Robbie Powell for his kindness and compassion shown toward his late friend, Ben Patterson, during his illness. Today Tuesday July 22, 2008 was proclaimed "Robbie Powell" day and he was presented with a key to the city.

5. *Public Hearings:* None

6. **Report of Standing Committees:**

- A. *Economic Development Committee (Airport, Conway Corporation, CDC, Downtown Partnership)*

1. **Resolution certifying local government endorsement of business to participate in tax back programs.**

Mayor Townsell stated this is a state program that needs council's endorsement; the companies involved are Equipment Services, Inc. (R-08-21) and Hewlett Packard (R-08-22).

**R-08-21**

Brad Lacy, Conway Chamber of Commerce/CDC was present to answer questions and he briefly explained the tax back program. Alderman Hawkins

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motioned to adopt the resolution. Alderman Grimes seconded the motion. There was no discussion. The motion passed 6-0.

**R-08-22**

Alderman Hawkins motioned to approve the resolution. Alderman Grimes seconded the resolution. There was no discussion. The motion passed 6-0.

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

**1. Consideration to accept the low bid from J's Construction for Sturgis Road Improvements (The Meadows Corporate Office).**

Ronnie Hall, City Engineer, recommended accepting the low bid from J's Construction in the amount of \$1,028,987.67. Alderman Hawkins motioned to award the contract to the low bidder. Alderman Grimes seconded the motion. There was no discussion. The motion passed 6-0.

**2. Ordinance to rezone property located at 1827 Hairston Avenue from R-2A to R-2.**

**O-08-92**

Alderman Vaught motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 6-0. Alderman Hawkins motioned to adopt the ordinance. Alderman Vaught seconded the motion. Bryan Patrick, Planning & Development Director, explained there are several mixed zonings in this area. Mr. Tyler spoke in favor of the rezoning and explained the improvements planned would improve the area. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Vaught, Alderman Thompson, Alderman Jones, and Alderwoman Mehl. The motion passed 5-1. Alderman Grimes voted in opposition.

**3. Ordinance to rezone property located at 805 Donaghey, 809 Donaghey, and 2106 Robinson from R-2A to O-2.**

**O-08-93**

David Stobaugh, owner of Stoby's Restaurant, stated this property/house is located between Stoby's and the CRMC Imaging Center, and explained he would like to put a bakery in this location. Alderwoman Mehl motioned to waive the readings of the ordinance. Alderman Vaught seconded the motion. The motion passed 6-0. Alderman Jones motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll

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with the following voting "Aye": Alderman Hawkins, Alderman Vaught, Alderman Thompson, Alderman Jones, Alderwoman Mehl, and Alderman Grimes. The motion passed 6-0.

**4. Consideration of a conditional use permit for an eating place with pickup window for property located at 805 Donaghey, 809 Donaghey, and 2106 Robinson.**

David Stobaugh, owner Stoby's Restaurant, was present to answer questions. Alderman Hawkins motioned to grant the conditional use permit with two (2) conditions listed below. Alderman Vaught seconded the motion. Alderman Grimes questioned the reasoning to close the bakery on Sunday and Monday as stated in condition #2. Bryan Patrick, Planning & Development Director, stated he is unsure why this was put in. Mr. Stobaugh stated he would like to have this removed; at some point the bakery could be open on Monday's. Mayor Townsell suggested striking the last sentence of condition #2 and changing the word "Tuesday" to "Monday" in the first sentence of condition #2. Alderman Thompson motioned to amend condition #2 as described above. Alderwoman Mehl seconded the motion. The motion passed 6-0. The main motion on the floor passed 6-0. The conditions for this conditional use are as follows:

- 1) Two pick-up windows only will be allowed - one pick-up window only per building. Pick-up windows may not be full drive-through windows with drive-up ordering stations.
- 2) Hours of operation for the bakery will mirror Stoby's hours which are 6:00 a.m. until 11:00 p.m. on the days Monday through Saturday.

**5. Consideration of a conditional use permit for an adult day care providing professional services to the mentally ill for property located at 132 Lower Ridge Road.**

Chris Osborne, Remax of Conway, representing Nichols Heating and Air and Birch Tree Communities was present to answer questions. Tim Bennett, Operations Director, Birch Tree Communities, stated they are a private non-profit mental health clinic that spans 10 cities across Arkansas; they have been in Conway on Fourth St. for approximately two years. Mr. Bennett stated they are going to provide day treatment services at this location. Alderman Hawkins asked how clients are referred to the clinic. Mr. Bennett stated they get referrals from the State Hospital and also from mental health facilities across the state and will not reside at this location. Ms. Osborne stated they are requesting some time to complete the septic system as well as the subdivision plat as there was not time to get these items completed before tonight's meeting. Alderman Hawkins asked if the lease was up at the current location. Mr. Bennett stated no, there are approximately five months left on their current lease. Alderman Vaught explained that there was recently a corridor study completed of Lower Ridge Rd. that will be presented to the Planning Commission next Monday night August

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18, 2008; if approved by that body this will come back before the city council on August 26, 2008. Alderman Vaught requested that council hold off on granting any zoning changes or conditional uses in this area until we know what this study looks like. Alderwoman Mehl was in agreement. Mayor Townsell asked if this would be a significant change since this is only a conditional use request and they would be moving into an existing building. Alderman Vaught stated he feels that any changes made today would be jumping the gun and he would prefer that this be tabled for a month. Mayor Townsell asked if this would be significant enough to affect the plan. Bryan Patrick, Planning & Development Director, stated he doesn't believe it would have a huge affect on the plan as it still calls for this area to be single family residential; but with that said the structure is there, it has been used as a commercial facility, is zoned office, and we will need to find some type of use for it. Alderman Hawkins asked how clients be transported to the facility. Mr. Bennett stated they have an 11 passenger mini bus, some 15 passenger vans, some mini vans, and also 5 or 6 vehicles that will be used for transporting clients; on occasion some clients may drive themselves. Marsha Chase, #8 Azalea Loop, stated she has concerns over the septic system, as she believes this is not the optimum means to dispose of waste as it can be very problematic. Ms. Chase also stated her concerns in regards to the meals that would be served which would add food preparation, dish washing and garbage disposal waste which would go to the septic holding tank; she feels that this project is too big for the area as it lacks the needed infrastructure. Pat Clark spoke in opposition to this conditional use request as she is also concerned with the septic system. Sandra Bryant, #67 Azalea Loop, stated she is concerned with the increase in traffic this would bring; she feels that Lower Ridge Rd. is not wide enough at this location and is already in bad shape. Ms. Bryant added that the septic system is not adequate for this type of facility. Alderman Hawkins asked if a septic system can be designed to accommodate 60 people. Ronnie Hall, City Engineer, stated yes. Alderman Jones suggested that we wait to see if the land will perk before we approve this request. Alderman Hawkins asked if we know if the land will perk. Ms. Osborne stated there has not been a perk test performed yet but we have 2 acres to work with. Alderman Hawkins asked the size of the property. Ms. Osborne stated 2 acres total but the building sits on 7/3 of an acre and the septic system is on the other acreage. Alderman Vaught asked Mr. Patrick if the septic field lines are on the property in question. Mr. Patrick stated he is unclear on that at this point, this is all one big piece of property and they would be required to subdivide it off which would allow them to have a sewer line easement going out to the field lines. Mr. Patrick stated he talked to several surveyors and they say this is a standard practice, weather the field lines will actually be on their property or not is unclear but it could be done through the platting process. Alderman Grimes stated that one of the conditions is to bring the septic system up to commercial standards; we could pass this now and if they are unable to meet the conditions this would become void. Alderwoman Mehl stated the time and effort put fourth into the corridor study shows that we want this area to remain R-1 and feels if this is considered

tonight we would be going against all the work that was done. Alderman Grimes stated it is zoned O-2 and that is probably not going to change. Alderman Grimes asked Mr. Patrick if there is an O-2 that could currently draw more people than it the previous heat and air company. Mr. Patrick stated yes. Alderman Hawkins motioned to grant the conditional use permit request with the 5 conditions. The motion died due to lack of a second. Mayor Townsell suggested pulling this item from the agenda and re-visit this issue once the corridor study has been heard. There was no objection to this.

6. **Ordinance amending street design standards and sidewalk requirements of the Conway Subdivision Ordinance.**

O-08-94

Alderwoman Mehl motioned to waive the readings of the ordinance. Alderman Grimes seconded the motion. The motion passed 6-0. Bryan Patrick, Planning & Development Director, gave a brief synopsis on the revisions. Ronnie Hall, City Engineer, was present to answer questions. There was some discussion to the language used in the proposed ordinance and was suggested changing the word "may" to "shall" in the last paragraph of "Section 9 - Sidewalks; item #9". Alderman Thompson motioned to change the word "may" to "shall". Alderwoman Mehl seconded the motion. The motion passed 5-1. Alderman Vaught voted in opposition. Dr. Collins, a local developer, is requesting that a developer be given the same financial break that is given to lots that have access to sewer; in his case for instance, if he has a 1 acre lot, and another individual has 3 lots on that 1 acre (which is typical where you have access to sewer) Dr. Collins has to pay 3 times what each of those lots are for his 1 lot. He believes he is at a considerable disadvantage by meeting Health Dept. requirements and also city requirements. Dr. Collins requested that the maximum in-lieu of fee to be paid for sidewalks be 100 ft. and corner lots are included in the 100 ft. on each side. Alderman Grimes motioned to have the maximum width for in-lieu of fee be set at 125 ft per frontage to include corner lots. Alderman Hawkins seconded the motion. The motion passed 6-0. Alderman Hawkins motioned to adopt the ordinance with the amendments mentioned above. Alderwoman Mehl seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Thompson, Alderman Jones, Alderwoman Mehl, and Alderman Grimes. The motion passed 5-1. Alderman Vaught voted in opposition.

7. **Consideration of allowing Campus Crest a rezoning rehearing to go back before the Planning Commission for development located at 2730 Dave Ward Drive.**

Mayor Townsell explained this will take a 2/3 vote or 6 positive votes for approval. Frank Shaw, Attorney at Law, explained the reasons for wanting to go back before the Planning Commission include onsite changes and offsite changes

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which he briefly explained to council. Alderman Grimes, Alderman Hawkins, and Alderman Thompson were willing to allow this to go back before the planning commission. Alderman Jones stated if the traffic study was not favorable when first presented a new study which would include school traffic would not be favorable either. Mr. Shaw stated he does not believe they would be able to get 6 positive votes tonight and asked the council to table this item for 2 weeks. Alderman Hawkins motioned to hold this item in committee for 2 weeks. Alderman Thompson seconded the motion. There was no discussion. The motion passed 6-0.

Alderman Vaught motioned for a 5 minute recess. Alderwoman Mehl seconded the motion. The motion passed 6-0.

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

**1. Consideration to pursue certain debts owe to the Conway Sanitation Department.**

Mayor Townsell explained that the Sanitation Dept. allows frequent users of the landfill a charge account and on occasion charges become past due; the Sanitation Dept. is asking for approval to pursue these debts in District Court. Alderman Grimes motioned to allow the Sanitation Dept. to pursue the collection of these debts. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 6-0.

Alderman Grimes exited the meeting temporarily.

**2. Consideration of providing compensation to Limestone Partners, LLC for damages caused to property located in downtown Conway between Mike's Place & Quinn Insurance buildings.**

Mayor Townsell stated that apparently one of our employees ran the dumpster into the brick building puncturing the brick and pushed the brick wall into the block wall moving it approximately ¼ of an inch. Mike's Place repaired the damages and Mayor Townsell is requesting the city reimburse Mike's Place for the damages in the amount of \$3,988.00. Alderman Thompson motioned to pay for the damages. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 5-0. Alderman Grimes was not present for the vote.

Alderman Grimes re-joined the meeting.

**3. Consideration of entering into an agreement with Steve Robertson to provide an after-hours presence at Cadron Settlement Park.**

Mayor Townsell stated this is a temporary solution, but a good solution; Mr. Robertson will be located in a fifth-wheel trailer between the bathrooms and the pavilion area and Mayor Townsell recommends we enter into this agreement. Brian Knopp, Parks Director, stated that in addition to the trailer and 2 autos Mr. Robertson is asking to be allowed to park a motorcycle in the location as well. Alderman Thompson motioned to amend the agreement to allow Mr. Robertson motorcycle. Alderman Vaught seconded the motion. The motion passed 6-0. Alderman Hawkins motioned to enter into the agreement. Alderman Thompson seconded the motion. There was no discussion. The motion passed 6-0

**4. Consideration of amending the agreement with KONE for the service of the elevators in City Hall & at the McGee Center & Don Owens Sports Complex.**

Kurt Meredith, Deputy City Attorney, stated when we first entered into the agreement with KONE there were some changes that we made to the original draft agreement and some items were non-negotiable. Mr. Meredith stated we thought we had come to agreed upon terms and the agreement was executed. Two plus weeks after this our KONE service representative heard back from their corporate attorneys and they too had changes they wanted to make. All changes are represented in the rider provided to you and Mr. Meredith stated there is nothing significant about these changes and there is nothing to worry about. Alderman Hawkins motioned to enter into the agreement. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

**5. Ordinance appropriating donated funds from First State Bank to the Parks & Recreation Department.**

O-08-95

Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 6-0. Alderwoman Mehl 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, Alderman Vaught, Alderman Thompson, Alderman Jones, Alderwoman Mehl, and Alderman Grimes. The motion passed 6-0.

**6. Consideration of increasing the reservation fees of City Park Pavilions operated by the Conway Parks Department.**

Brian Knopp, Parks Director, was present to answer questions. Mayor Townsell stated the request is to raise the reservation fee from \$5.00 to \$25.00 and noted that anyone can use the pavilions for free but if you want to reserve it you must pay the fee. Alderman Hawkins motioned to increase the reservation fees. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

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

- 1. Ordinance appropriating funds for leased space for the South Donaghey (Station 6) for the Conway Fire Department.**

**O-08-96**

Mayor Townsell stated the cost for leasing this space is \$15,000.00 through December 31, 2008 which is pro-rated. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 6-0. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Vaught, Alderman Thompson, Alderman Jones, Alderwoman Mehl, and Alderman Grimes. The motion passed 6-0.

- 2. Ordinance accepting insurance proceeds from the AR Municipal League vehicle program for the Conway Police Department.**

**O-08-97**

A.J. Gary, Chief of Police was present to answer questions. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 6-0. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Vaught, Alderman Thompson, Alderman Jones, Alderwoman Mehl, and Alderman Grimes. The motion passed 6-0.

- 3. Ordinance accepting court ordered forfeiture assets for the Conway Police Department.**

**O-08-98**

A.J. Gary, Chief of Police was present to answer questions. Alderwoman Mehl motioned to waive the readings of the ordinance. Alderman Vaught seconded the motion. The motion passed 6-0. Alderman Jones motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Vaught, Alderman Thompson, Alderman Jones, Alderwoman Mehl, and Alderman Grimes. The motion passed 6-0.

**7. Old Business**

**8. New Business**

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- A. **Resolution declaring the intent of the City to dedicate all natural gas severance tax state turn-back funds that accretes to Conway for alternative transportation facilities and services.**

**R-08-23**

Mayor Townsell read the resolution. Alderman Thompson motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

- B. **Resolution declaring the City of Conway intent for adopting an action plan for a bicycle friendly community.**

**R-08-24**

Mayor Townsell read the resolution. Alderman Hawkins motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

- C. **Consideration to authorize the Mayor to pursue an agreement with Energy Savings Group (ESG) for energy savings methods for the City of Conway.**

Alderman Hawkins stated if we can figure out a way for it to pay for itself then he is on board. Alderman Grimes motioned to proceed with the agreement. Alderman Hawkins seconded the motion. Alderman Vaught asked if this approval commits us to spending any money. Mayor Townsell stated yes, there are different payment options available and this can be decided at a later date. There was no further discussion. The motion passed 6-0.

**Adjournment**

**PASSED this 12<sup>th</sup> day of August 2008**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**