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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 p.m.  
September 9, 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, Alderwoman Smith, Alderman Vaught, Alderwoman Mehl, Alderwoman Whitmore, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy. Alderman Jones and Alderman Thompson were not present.

1. *Call to Order*
2. *Roll Call*
3. *Minutes: August 26<sup>th</sup>, 2008*

Alderwoman Whitmore motioned to approve the August 26, 2008 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 6-0.

4. *Recognition of Guests:*
5. *Public Hearings:*

6. *Report of Standing Committees:*

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

1. **Ordinance to grant Conway Corporation a franchise agreement to operate cable television system within the City of Conway.**

Alderwoman Smith motioned to hold items 6A-1, 6A-2, and 6A-3. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

2. **Ordinance to provide for the lease services of the City cable television system to Conway Corporation.**
3. **Ordinance entering into a franchise agreement with AT&T for video services within the City of Conway.**

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

1. **Consideration of the nomination of Eric King by Alderman Mark Vaught to the Parks Advisory Committee.**

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Alderman Vaught motioned to accept the nomination and appoint Eric King to the Parks Advisory Committee. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 6-0.

**2. Ordinance appropriating funds for parking deck design consultation from Wilcox Group.**

**O-08-104**

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 6-0. Mayor Townsell explained that he and the council determined it would be best to move forward with exploring the possibility of building a parking deck. The initial cost of the design and studies incurred so far is \$61,763.00 which will be paid for from the fund balance appropriation from the general fund reserve. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, Alderwoman Hawkins, and Alderwoman Mehl. The motion passed 6-0.

**3. Discussion of an ordinance amending the Conway Subdivision ordinance to require curbs to be six inches stand up curbs.**

**O-08-105**

Bryan Patrick, Planning & Development Director, Ronnie Hall, City Engineer, and Jack Bell, Asst. to the Mayor, were all present to answer questions. Mayor Townsell explained that mandating the stand up curbs has caused some concerns in the building community primarily as it imposes extra costs. Mayor Townsell went onto say if the curb is there first and the house and driveway are constructed after the fact, the curb has to be torn out and reshaped; given the restrictions already placed on the building community we would like to repeal this ordinance. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 6-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderman Grimes seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, Alderwoman Hawkins, and Alderwoman Mehl. The motion passed 6-0.

**4. Consideration of a sign variance for property located at 1014 Harkrider St. (Sav-On Pharmacy).**

Alderwoman Smith motioned to hold this item in committee until Tuesday Sept. 23, 2008. Alderman Grimes seconded the motion. The motion passed 6-0.

**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 Birch Tree Communities stated some changes have been addressed, one being that we will be acquiring all the acreage and the perk test has been performed but the Health Dept. has not inspected the septic system but is scheduled to do so this Friday. Ms. Osborne explained due to the fact that the bank has decided to proceed with the foreclosure on the property she requests the approval of this conditional use permit as they need to have this done by Thursday of this week. In discussion, Mayor Townsell expressed concern over the closing of the sale of the property prior to approval by the Health Dept. Ms. Osborne stated that she has been assured that the land should perk and feels confident to move forward with the closing. Marsha Chase, #8 Azalea Loop, explained she is against this project as she is not clear on what the use will actually be for as she has been told numerous things, one being that these individuals are medicated and will be "locked down". Pat Clark spoke in opposition of the conditional use request. Ron Nichols, 263 Carroll Rd Conway and the current owner of the property, stated if the individuals who will be treated at this facility were dangerous they would be at the State Hospital; there are other uses the building can be used for with its current zoning and had he known he would be unable to sell the property he might not have ever built it. Mr. Nichols went onto say that he was told by the State that if problems arose with the septic system holding tanks could be installed; if any runoff should ever occur it would go toward Victory Ln not Azalea Loop. Mr. Nichols stated he counted the number of structures on Lower Ridge Rd. from Don Owens east to E. German Ln. and there are 4 mobile homes, 2 houses, and 7 commercial buildings. Alderman Hawkins asked if someone could address the patients that will be at the facility. Jonna Robertson, Associate Director Birch Tree Communities, stated the members are currently members of this community; they work, shop, and vote in this community and noted that the facility is not a locked facility. None of the members are disabled to the point that they are unable to function and this facility would help them. Alderman Grimes asked if there was already a facility in Conway. Ms. Robertson stated yes, we have 2 group homes and 1 program center. Alderwoman Smith asked if the members receive counseling. Ms. Robertson stated yes, they receive individual therapy, group therapy, and, day treatment programs that include social skills training etc. Alderwoman Smith asked if the members will drive to the facility. Ms. Robertson stated no they will be transported in mini-buses and they plan on using E. German Ln. as their preferred route. The hours will be approximately 8:00 am to 6:00 pm. Alderman Hawkins motioned to approve this conditional use request pending the results of the perk test from the health dept. Alderman Grimes seconded the motion. Mayor Townsell suggested that condition #1 should state the septic system

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should accommodate 55 people and should be maintained; also adding an additional condition that states the entire 2 acre parcel shall be owned by the applicant. Alderwoman Smith motioned to amend the conditional use permit with the changes suggested by the Mayor. Alderman Hawkins seconded the motion. There was no further discussion. The motion on the amendment passed 5-0-1. Alderwoman Whitmore abstained. After more discussion the main motion on the floor passed 5-1-1 with the Mayor voting with the majority and Alderman Vaught voted in opposition.

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

- 1. Resolution accepting the location of the proposed Class 4 Landfill expansion area by the City.**

**R-08-26**

Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. The motion passed 6-0.

- 2. Consideration to accept bids for 30 yard hook lift roll off containers for the Sanitation Department.**

Mayor Townsell stated the recommendation is to accept the low bid from N.E.O. FAB at \$4,402.00 each. Alderman Hawkins motioned to accept the low bid. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 6-0.

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

- 1. Ordinance accepting asset forfeiture items for the Conway Police Department.**

**O-08-106**

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

- 2. Ordinance appropriating funds to purchase UPS batteries for the Communication Center.**

**O-08-107**

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

**3. Ordinance appropriating funds to the Conway Police Department to replenish several line items.**

O-08-108

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

**4. Consideration to allow the Conway Police Pension Board to request an increase in benefits from the Arkansas Pension Review Board.**

Mayor Townsell explained this is the same type of increase the fire pension board requested two weeks ago. Mark Elsinger, representing the police pension board, was present to answer questions. Alderman Vaught asked how many retirees are in this plan. Mr. Elsinger stated approximately 42 beneficiaries which include widows etc. Alderman Vaught asked if this plan were to default if the city would be liable. Mr. Elsinger stated yes. Mayor Townsell stated this is questionable, but he has been told the city would be liable. Mr. Elsinger stated this would allow the police pension board to go before the (PRB) Pension Review Board who decides if an increase is possible. Mayor Townsell explained the law allows plans with smaller numbers of beneficiaries the opportunity to use the "Alternate Cash Flow Projection Valuation" to determine possible increases acknowledging the risks involved. Alderman Hawkins asked if this plan would increase in size. Mr. Elsinger stated no this plan will only get smaller. Alderwoman Smith motioned to allow the Police Pension Board to request an increase in benefits, understanding the risks involved in using a cash flow model for a small group. Alderwoman Whitmore seconded the motion. There was no further discussion. Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, Alderwoman Hawkins, and Alderwoman Mehl, voting in favor of the motion. The motion passed 6-0.

**5. Ordinance to accept insurance proceeds from State Farm for the Conway Fire Department.**

**O-08-109**

Alderswoman Whitmore motioned to waive the readings of the ordinance. Alderswoman Smith seconded the motion. The motion passed 6-0. Alderswoman Smith motioned to adopt the ordinance. Alderswoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderman Vaught, Alderswoman Smith, Alderswoman Whitmore, Alderswoman Hawkins, and Alderswoman Mehl. The motion passed 6-0.

***E. Personnel***

**1. Consideration of 2009 Medical, Dental, & Life insurance benefits.**

Bentley Pew, Blue Cross Blue Shield (BCBS), was present to answer questions. Mayor Townsell stated our current provider for medical and dental coverage is BCBS and the premium increases for the 2009 plan will be 3% for medical coverage and 2% for dental coverage. Mayor Townsell stated the employer paid life insurance provided by United Healthcare has a zero premium increase scheduled for 2009. Mayor Townsell explained council will need to decide if the city should bid these out or approve the renewal of these contracts for 2009 as recommended by HR Director Lisa Mabry-Williams. Alderswoman Whitmore motioned to renew the BCBS contracts. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 6-0.

**2. Consideration of 2009 Voluntary Benefits.**

Mr. Thompson, Flex-Co Inc., was present to answer questions. Mayor Townsell stated there are no increases in premiums for any voluntary benefit programs. Todd Harvey, Aflac, explained Aflac has a broad range of products which allows an employee who terminates to take their plan with them where ever they go with no change in cost or coverage; the benefits are paid directly to the employee when a claim is filed and there have been no rate increases in 15 years. Mayor Townsell explained the recommendation from HR Director Lisa Mabry-Williams is to approve the renewal of the contract with Benefit Partners/FlexCo Inc. for 2009. Alderswoman Whitmore motioned to renew with Benefit Partners/FlexCo Inc. Alderswoman Smith seconded the motion. There was no discussion. The motion passed 5-0-1. Alderman Hawkins abstained.

***7. Old Business***

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

Alderman Smith motioned to hold this item in committee. Alderman Whitmore seconded the motion. The motion passed 6-0.

**8. New Business**

- A. **Consideration to enter into an agreement with Energy Systems Group.**

Alderman Smith motioned to hold this item in committee. Alderman Whitmore seconded the motion. The motion passed 6-0.

Alderman Smith motioned to suspend the rules to discuss repairs needed to the City Clerk's office due to water damage. Alderman Whitmore seconded the motion. The motion passed 6-0. Michael Garrett, City Clerk stated approximately \$2,500.00 is needed to make the necessary repairs. Alderman Whitmore motioned to approve up to \$2,500.00 to cover damages to the City Clerk's office and other areas. Alderman Smith seconded the motion. Alderman Smith asked if insurance would cover any portion of the repairs. Mr. Garrett stated damage has to be \$100,000.00 before insurance will cover any damages to buildings. There was no further discussion. The motion passed 6-0.

Mayor Townsell explained that he would like to recommend allowing the County to remove and sell the small trees from the new fair grounds site to cover their costs of the work they are performing at the site. Alderman Hawkins motioned to suspend the rules to discuss the sale of trees. Alderman Smith seconded the motion. The motion passed 6-0. Alderman Hawkins motioned to allow the County to remove and sell the scrub trees at the new fair grounds site. Alderman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

**Adjournment**

**PASSED this 9<sup>th</sup> day of September 2008**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**