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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 26, 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, Alderwoman Mehl, Alderman Thompson, and Alderman Grimes, Alderwoman Whitmore, and Alderwoman Smith. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy. Alderman Jones was not present.

1. *Call to Order*
2. *Roll Call*
3. *Minutes:* August 12<sup>th</sup>, 2008 & August 20<sup>th</sup>, 2008

Alderwoman Smith motioned to approve the August 12, 2008 and August 20, 2008 minutes as submitted. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

4. *Recognition of Guests:* Employee Service Awards

5 Years

Joe Lachowsky - Equipment Operator - Sanitation Dept.  
Will McFadden - Civil Engineer - Street Dept.  
Jacob Reynolds - Crew Leader - Street Dept.

10 Years

Kenny Bartlett - Driver - Fire Dept.  
Dale Battles - Driver - Fire Dept.  
Brian Cannon - Lieutenant - Fire Dept.  
Jeff Moix - Lieutenant - Fire Dept.  
Joe Wunstel - Driver - Fire Dept.

15 Years

Donna Rappold - Deputy Court Clerk - District Court

5. *Public Hearings:*

A. *Consideration of entering into a contract with Crews and Associates.*

Mayor Townsell opened the public hearing. Gordon Wilbourn, Kutak Rock, stated the purpose of these bonds is an incentive for Hewlett Packard (HP) to locate to the city of Conway; these will provide partial tax abatement and property tax abatement. The actual bonds will not be tax exempt bonds because the facility does not qualify. The

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bonds will not exceed 30,500,000 which includes 20,500,000 that will be the primary issuance, which will hopefully be placed with local financial institutions, and will also cover the additional \$10 million grant from the state for certain parts of the project; but in order to get the tax abatement on these as well, we would need to include this as a separate issue that Conway Development Corporation (CDC) or some related entity will be the owner of. Mr. Wilbourn stated we are looking at a twenty five (25) year amortization of the bonds with approximately a year and one half "interest only" up front. Mayor Townsell stated that this is not an obligation to the city's finances or resources at all. Mr. Wilbourn stated not at all, the city will be the owner of the facility and lease it to the CDC or some other entity that they may form, there will be a mortgage on the facility and the CDC will also guarantee the bond so there is no obligation to the city other than what you receive from the lease. Mayor Townsell stated this is something that we have done for other industries in the city, and many industries in Conway have pursued these Act 9 industrial development bonds. Mr. Wilbourn stated that is correct; some years back the state included in state law a provision that without going through some "special hoops" you have to collect at least 35% of what would otherwise be collected in property taxes in PILOT (payment in lieu of tax). That is the proposal that has been made to HP; it would really be an abatement of 65% of the property taxes. Mayor Townsell closed the public hearing. Mayor Townsell stated there is an agreement that needs addressed tonight that designates Crews and Associates as being selected as the financial advisors for this particular bond issuance. Paul Phillips, Crews and Associates, was present to answer questions. Alderwoman Smith motioned to enter into this agreement. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

Alderman Jones joined the meeting in progress.

**6. Report of Standing Committees:**

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

- 1. Ordinance appropriating funds for the new airport project for the City of Conway.**

O-08-99

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Ronnie Hall, City Engineer, was present to answer questions. Mayor Townsell stated we are accepting grant funds and appropriating \$34,944.00 from general fund to cover the cities 5% portion. Mr. Hall stated this amount is for engineering and appraisal type services and went onto explain that the total amount for these services is \$698,880.00 of which we will be reimbursed 95% from the FAA. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the

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following voting "Aye": Alderman Grimes, Alderman Thompson, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, Alderwoman Hawkins, Alderwoman Mehl, and Alderman Jones. The motion passed 8-0.

**2. Ordinance authorizing the issuance of taxable industrial development revenue bonds for Hewlett Packard Company.**

Mayor Townsell stated the ordinance for this issue is being pulled in order to add specific details and will be presented at a later date.

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

Alderman Hawkins motioned to move item 7B (*Consideration of allowing Campus Crest a rezoning rehearing to go back before the Planning Commission for development located at 2730 Dave Ward Drive*) up on the agenda. Alderman Grimes seconded the motion. The motion passed 8-0.

Mayor Townsell stated this would allow Campus Crest Development to go back before the Planning Commission waiving the 12 month waiting period. Frank Shaw, Attorney at Law, explained the reasons for wanting to go back before the Planning Commission include onsite changes and offsite changes which he briefly explained to council. John Gathright, Second Baptist Church Administrator, stated they like the plan for the development and the bike/pedestrian pathway that would be on Dave Ward Dr. but also voiced a few concerns which included a curb cut on their property frontage, upkeep of the pathway, and the possibility of putting the utilities underground. Michael Causey, Conway resident spoke in favor of the proposed development. Don Coldwell, Director UCA Nature Reserve, spoke in favor of the proposed development. Cinnamon King, Conway resident, spoke in opposition of the proposed development and asks that council does not allow it to go back before the Planning Commission. David Sterns, Conway resident, spoke in opposition of the proposed development. Alderman Grimes stated he still has issues with the development does not mind allowing them to start over on their request to the Planning Commission. Alderman Thompson motioned to allow the request to go back before the Planning Commission. Alderman Grimes seconded the motion. Alderwoman Smith explained that she feels the development is too dense for the area and feels that notification should be made to surrounding residents in cases in like this. Mayor Townsell asked Bryan Patrick, Planning Director, what the appropriate use of this land is in relation to the comprehensive land use plan. Mr. Patrick stated multi-family. There was some discussion among council about how many multi-family units could be put on this acreage. There was no further discussion. The motion failed 5-3. Alderman Jones, Alderwoman Smith, and Alderwoman Whitmore voted in opposition.

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1. **Consideration of a request to allow the cutting of vegetation on the highway right of way for property located at 554 Museum Road.**

Ivo Jones was present to answer questions. Alderman Grimes motioned to allow the cutting of vegetation. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

2. **Consideration of approving CDBG contracts for the FY2008.**

Lynn Keith, CDBG Director, explained the money has been received from HUD and requested approval of the contracts with funding levels that have been previously approved.

Boys & Girls Club	\$ 4,000.00
Faulkner County Senior Citizens	\$ 10,000.00
FCCDD	\$ 20,000.00
Pine Street Free Medical Clinic	\$ 10,000.00
Women's Shelter	\$ 5,456.00
Bethlehem House	<u>\$ 15,000.00</u>
<b>Total:</b>	<b>\$ 64,456.00</b>

Alderman Hawkins motioned to approve the contracts. Alderman Grimes seconded the motion. There was no discussion. The motion passed 8-0.

3. **Consideration to allow a change order for the contract between Tom Lindsey Contractor and the City of Conway for the Salem Road Extension to U.S. 64 West.**

Ronnie Hall, City Engineer, explained this is an offer from Tom Lindsey is to remove asphalt from this contract and reduce the unit price for crushed gravel from the bid price of \$23.05 to \$19.50 which will reduce the cost of the project by \$46,150.00 in hopes that asphalt will be less expensive next spring. Alderwoman Smith motioned to allow the change order request. Alderman Vaught seconded the motion. There was no discussion. The motion passed 8-0.

4. **Consideration to allow for reimbursement for sidewalk in lieu of payment for Cresthaven Subdivision - Phase 3.**

Mayor Townsell explained this \$37,875.00 refund request is a result of the passage of ordinance O-08-94 which included a provision for establishing a maximum in lieu of payment per lot for sidewalks (maximum 125 ft sidewalk per lot for each street frontage the lot has @ \$15.00 per foot). Alderman Grimes motioned to approve the refund. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0-1. Alderman Vaught abstained.

Alderman Grimes exited the meeting.

5. **Ordinance to rezone property located at 1303 Country Club Road from R-1 to S-1.**

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderman Thompson feels that it is inappropriate to place a cell phone tower on an elementary school playground and explained there was quite a bit of opposition at the Planning Commission meeting on this subject. Alderman Thompson went onto say that there were no alternative sites discussed as well. Jeff Holland, 3285 Tyler, explained his property is adjacent to the school playground and due to property values and the safety of the children that play on this playground he is opposed to the proposed cell tower. Mr. Stephens, 1 Northwood, spoke in opposition to the proposed cell tower. Jim Rankin, 1307 Main St., spoke in opposition of the proposed cell tower due to property values and the safety of the children who play on the playground. Laura McAnear, AT & T Representative, explained the proposed location of the cell tower was chosen to veer away from the school's main traffic, the school did not recommend placement of the proposed tower and were open to A T & T's ideas and are not opposed to moving it. Alderwoman Smith motioned to "*deny*" the rezoning request. Alderwoman Whitmore seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Thompson, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, Alderwoman Hawkins, Alderwoman Mehl, and Alderman Jones. The motion passed 7-0.

6. **Consideration of a conditional use permit to allow a transmission tower (cell tower) for property located at 1303 Country Club Road. (On the grounds of Julie Lee Moore School).**

This item was pulled from the agenda.

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

This item was pulled from the agenda.

8. **Resolution amending the Conway comprehensive plan in the Lower Ridge Road and Old Morrilton Highway areas.**

R-08-25

Bryan Patrick, Planning & Development Director, was present to answer questions. Donald Anthony, City Planner, explained he has spent the last six months working on the Lower Ridge Rd. and Old Morrilton Highway area

studies and gave a synopsis of the proposed plans. Alderman Vaught motioned to adopt these two plans as small plan amendments to the comprehensive land use plan. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

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

- 1. Ordinance appropriating revenue funds to the Conway Sanitation Department received from Allstate Insurance Company.**

**O-08-101**

Mayor Townsell stated the amount received was \$2,262.63. Alderwoman Hawkins motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 7-0. Alderwoman Smith 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 Thompson, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, Alderwoman Hawkins, Alderwoman Mehl, and Alderman Jones. The motion passed 7-0.

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

- 1. Consideration to allow the Conway Fire Pension Board to request an increase in benefits from the Arkansas Pension Review Board.**

John Turbeville, Merrill Lynch, stated in previous years we have asked council to allow the local fire pension board to use the cash flow method for computing actuarial soundness of their plan. He added that this method is available to all plans throughout the city and state that have less than fifty (50) retirees in their plan. Mr. Turbeville stated that in 2005 the fire pension plan had \$6.6 million in assets, today the plan has grown to nearly \$8 million which puts them in a better place to qualify for this today than back in 2005. Mayor Townsell stated if the economy were to decline to a catastrophic state and the funds were depleted, the city would ultimately hold the responsibility Mr. Turbeville explained that we are asking for the ability to use the cash flow method for computing actuarial soundness with the understanding of the risks of using this type of valuation on small groups. Alderwoman Smith motioned to allow the Fire Pension Board to proceed with the request for the increase. Alderwoman Mehl seconded the motion. Alderman Hawkins inquired about the cities responsibility should the fund go under. Mayor Townsell asked Mr. Turbeville if the city would be ultimately responsible for the fund if it were to become in distress. Mr. Turbeville stated that is a point of discussion at state board meetings on occasion; state statutes states that if the plan becomes distressed financially the benefits will be prorated, but some would agree with your statement that it would fall

back on the city but that has not been tested and is unknown. Alderman Hawkins asked how diversified the investments are. Mr. Turbeville stated they have five (5) different investment managers and are very well diversified; currently we have approximately 60% in stocks and approximately 40% in bonds and cash. Alderman Hawkins asked how often it is reviewed. Mr. Turbeville stated they are reviewed quite often. Alderman Hawkins asked how often the group in Conway sees these reviews. Mr. Turbeville stated every quarter. Alderman Hawkins asked how many firemen this applies to. Mr. Turbeville stated it applies to firemen that were hired prior to 1983. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Thompson, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, Alderwoman Hawkins, Alderwoman Mehl, and Alderman Jones. The motion passed 7-0.

## **7. Old Business**

- A. **Ordinance adopting an employee handbook and personnel policy for the City of Conway.**

### **O-08-102**

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 7-0. Lisa Mabry-Williams, HR Director, explained there are two major changes to the handbook; one being an addition of an employee relations open door policy that will replace the current grievance procedures. Ms. Williams explained this policy is more flexible and encourages open communication; there are no timelines for the employee or for the city to respond, it does not have to be in writing, and gives an employee a way to voice their concerns. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Ms. Williams explained the second item changed increases the vacation accrual schedule for the non-uniformed employees which includes increasing the amount of vacation time to be held in their bank during "cash out" time from twenty-four hours to forty hours. Alderwoman Whitmore seconded the motion. The clerk called the roll with the following voting "Aye": Alderman Thompson, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, Alderwoman Hawkins, Alderwoman Mehl, and Alderman Jones. The motion passed 7-0.

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

This item moved up on the agenda.

### **O-08-103**

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Alderwoman Smith motioned to suspend the rules to discuss reclassification of a Director of Permits and Inspection to Assistant Director of Permits, Inspection and Code Enforcement. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 7-0. Mayor Townsell explained that this is being changed in order to establish a pay grid. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderwoman Mehl seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Thompson, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, Alderwoman Hawkins, Alderwoman Mehl, and Alderman Jones. The motion passed 7-0.

8. *New Business*

**Adjournment**

**PASSED this 26<sup>th</sup> day of August 2008**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**