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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 p.m.  
January 12, 2010

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 Grimes, Alderwoman Mehl, Alderwoman Whitmore, Alderman Vaught, Alderman Jones, and Alderman Rhodes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy.

*Call to Order*

*Roll Call*

*Minutes:* December 22<sup>nd</sup>, 2009

Alderwoman Whitmore motioned to approve the Dec. 22, 2009 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 8-0.

*Mayors Announcements/Proclamations/Recognition:*

**Officer of the Year: Chris Mitchell**

**Firefighter of the Year: Wayne Hartness**

**1. *Public Hearings:***

- a) *Public hearing regarding issuance of industrial development revenue bonds for USABLE Corporation.*

Mayor Townsell opened the public hearing. Tad Bohannon, Wright, Lindsey & Jennings LLP, representing USABLE Corporation and Arkansas Blue Cross & Blue Shield stated these companies recently announced the opening of a new data center in Conway and the issuance of the Act 9 Bonds will enable them to finance the facility. Mr. Bohannon stated the bonds will be sold to Centennial Bank and in connection with the issuance there is a PILOT agreement. Mr. Bohannon explained the construction is set to begin in March and we anticipate it to be up and running by September 2012. Mayor Townsell explained that the PILOT agreement contemplates the lowering of property taxes for the life of the bond issue. There was no further discussion. Mayor Townsell closed the public hearing.

- 2) **Ordinance authorizing the issuance of industrial development revenue bonds for USABLE Corporation.**

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Alderman Vaught motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. Mayor Townsell stated we need to read the title of the ordinance aloud, which he did. Alderwoman Smith motioned to waive the second and third readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Whitmore motioned to adopt the ordinance and the emergency clause. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 8-0.

**2. Report of Standing Committees:**

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

- 1. Resolution setting a public hearing to discuss the closing of a 10' Utility easement located near the north boundary of Lot 11 of I-40 re-plat at 565 Amity Road.**

**R-10-01**

Alderman Hawkins stated the public hearing will be held January 26, 2010 at 6:30 pm. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

- 2. Resolutions requesting the Faulkner County Tax Collector to place a certified lien on certain properties as a result of incurred expenses by the City.**

**R-10-02**

Mayor Townsell stated the property address is 2104 Sugar Creek; the cost of cleanup was \$166.74 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**R-10-03**

Mayor Townsell stated the property address is 324 & 326 Herford Street; the cost of cleanup was \$175.69 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Whitmore motioned to

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adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

**R-10-04**

Mayor Townsell stated the property address is 2 Eva Lane; the cost of cleanup was \$206.42 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**R-10-05**

Mayor Townsell stated the property address is 615 Donaghey Ave; the cost of cleanup was \$924.41 plus 10% collection penalty. Scott Humphries stated he cleaned up what he was told needed corrected, but he did not correct what he was unaware of and these were cleaned up without his knowledge. Grant Tomlin, Code Enforcement Officer, stated a complaint was received about this residence on October 6, 2009; he visited the residence and found several violations, which were documented, and a warning was left at the residence. Mr. Tomlin stated the residence was re-checked on October 14, 2009 with the violations still existing; certified letters were mailed. Again the violations were not corrected and clean-up was scheduled for November 6, 2009. Mr. Tomlin stated we then sent letters both certified and regular mail to the property owner (Conway Regional Health Foundation) and to the resident of the property. Mr. Tomlin visited with Mr. Humphries at his residence, in mid November, and informed him the property needed to be cleaned up. Mr. Humphries asked what needed to be cleaned up; Mr. Tomlin pointed out the violations, and also told him that all rubbish and trash on the property would need to be picked up. Mr. Tomlin stated the property was re-checked on November 31, 2009 with the violations still existing, clean-up was once again scheduled for December 4, 2009. There was discussion in regards to who would be responsible for the clean-up charges etc. Mr. Humphries again stated he did not know that anyone was coming to his residence to clean up the property and stated that a lawnmower was taken. Mr. Tomlin stated that the city work crews did take some items that they should not have, but they have since been returned. Mr. Humphries stated some of the items have been returned, not all. Mr. Tomlin stated you can tell by the pictures that it is hard to tell what is operable and what is inoperable. Alderman Vaught asked if there is other property that belongs to Mr. Humphries that he can reclaim. Mr. Tomlin stated most of the items were taken to the city landfill in one trip; the items that did not go in the first trip were returned to Mr. Humphries. Mr. Humphries approached council and went over the list of items that has

not been returned. Mayor Townsell told Mr. Humphries that we will double check with City Attorney Michael Murphy to determine what if any obligations we have to you in regards to items taken that were useable. Mayor Townsell explained to Mr. Humphries that you made it difficult for the city to know what to take. There was no further discussion. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

**3. Ordinance amending Title 5 of the Conway Municipal Code as related to a curb violation.**

**O-10-02**

Mayor Townsell explained this is an initiative from our Code Enforcement office that will hopefully help eliminate some of the problems they have encountered over the current \$250.00 fine for leaving a trash can at the curb side. Ottie Cowgill, Code Enforcement Officer, explained that the proposed ordinance will fine residents \$5.00 for the first offense, \$10.00 for the second offense, \$20.00 for the third offense, and then \$50.00 for the fourth offense and all subsequent offenses that occur within 12 months will be \$50.00. Mr. Cowgill stated a curb side citation will be left at the residence with an envelope for the convenience of the residents. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Vaught motioned to adopt the ordinance and the emergency clause. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 8-0.

**4. Ordinance to rezone property at 1114 Gum Street from R-2 to C-3.**

**O-10-03**

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Jones motioned to adopt the ordinance. Alderman Hawkins seconded the motion. Alderwoman Smith asked what the plans for the property are. JoAnne Clay, 205 Grandview Heights, stated she plans to have a day care at this location. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 8-0.

**5. Consideration of a conditional use permit to allow MF-3 density in MF-2 zoning for the property located south and east of the intersection of Denison Street and West Martin.**

Alderman Hawkins motioned to grant the conditional use permit request. Alderwoman Smith seconded the motion. There was no discussion. The conditions are listed below:

- 1) Improvement to residential street standard required for the south half of West Martin Street adjacent to this property.
- 2) Surety for completion of street and drainage improvements is required to be presented to the City of Conway.
- 3) Both conditions are subject to the City Engineer's approval.

**6. Consideration to purchase bike racks from SFI of Conway for all City facilities & Downtown areas.**

Mayor Townsell explained we have priced these for less at other companies but by the time you tack on shipping it was just about cheap to purchase them locally and we would like approval to do so. Mayor Townsell explained we would like to purchase 75 of these bike racks at \$100.00 each. They would be placed at all city buildings, all city parks, and a variety of places downtown. Alderwoman Smith motioned to purchase 75 bike racks from SFI. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0-1. Alderwoman Mehl abstained.

***B. Public Safety Committee (Police, CEOC, Information Technology, Fire, Dist. Court & City Attorney, & Animal Control)***

**1. Consideration to accept bids for CCTV components for the Sanitation Department & District Court.**

Lloyd Hartzell, IT Director, was present to answer questions. Mayor Townsell stated the recommendation is to accept the low bid from Surveillance Systems Integration in the amount of \$14,911.00. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**2. Consideration to reclassify a Crime Analyst position to an Administrative Assistant I position at the Conway Police Department.**

A.J. Gary, Chief of Police, explained we now have a sworn officer performing duties of the crime analyst position and ask to reclassify the previous crime analyst position over to an Administrative Assistant I

position; this will not cost the department any more money. Alderwoman Smith motioned to approve the reclassification. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**3. Consideration to reclassify a patrol officer position to a sergeant position at the Conway Police Department for Special Events/Traffic Unit.**

A.J. Gary, Chief of Police, explained this position will mainly assist in the planning of special events and supervision of personnel assigned to special events/traffic unit. Chief Gary explained this would add an additional \$3,325.11 to the 2010 budget and since it was not budgeted for he wishes to use forfeiture funds to cover this reclassification. Alderman Hawkins motioned to approve the reclassification. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**4. Ordinance appropriating asset forfeiture funds to cover a reclassification of a position within the Conway Police Department.**

**O-10-04**

Alderman Jones motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. 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": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 8-0.

**5. Ordinance to appropriate insurance proceeds received for damages to Engine 7 for the Conway Fire Department.**

**O-10-05**

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. 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": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 8-0.

*Old Business*

*New Business*

**1. Discussion of Department Head COLA.**

Mayor Townsell stated that we have decided to give department heads up to a 1% COLA unless performance has dropped; this is the most we can give. Mayor Townsell stated we need to meet in executive session to discuss performance of the various department heads. Alderwoman Smith motioned to convene to executive session. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Council returned from executive session and Mayor Townsell stated that our department heads are the best they have ever been and do outstanding work for the city.

**2. Ordinance appropriating funds for personal services for the City of Conway.**

**O-10-06**

Mayor Townsell stated this will increase the compensation for department heads to match what we previously gave all other city employees; this is a 1% raise which comes to a total of \$16,163.00. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. An unnamed gentlemen addressed council explaining he agrees our city government does a great job, but expressed his disapproval of giving pay raises in a time of recession. He went onto say that others in the city are not getting raises or are losing their jobs and thinks it only appropriate, that going forward from here, the city government should commit to not giving anyone any raises until the economy has improved. Alderman Vaught stated that he believes it is not in the cities best interest to give raise's this year. If we are going to give money to our employees it should be in the form of a bonus, as we will be adding this money to the base salaries and will be responsible for this amount from here on out. Alderman Vaught went onto to say that if we have another year this year like we did in 2009 he will not support any raises or bonuses and will be voting against this raise tonight. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Jones. The motion passed 6-2. Alderman Vaught and Alderman Hawkins voted in opposition.

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*Adjournment*

**PASSED this 12<sup>th</sup> day of January 2010**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**