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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 p.m.  
December 14, 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 Rhodes, Alderwoman Mehl, Alderwoman Whitmore, Alderman Jones, Alderman Vaught, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy.

*Call to Order*

*Roll Call*

*Minutes:* November 23<sup>rd</sup>, 2010

Alderwoman Whitmore motioned to approve the November 23, 2010 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 8-0.

Alderman Vaught motioned to suspend the rules to move the last item on the agenda up on the agenda. Alderwoman Smith seconded the motion. The motion passed 8-0.

**Resolution of certain levy to be made upon the assessed valuation of all taxable real estate and personal property tax for raising General Fund Revenues.**

James Quinn, Conway Ward 2 resident, spoke in opposition of increasing taxes of any kind. Myron Milholland, Conway Fire Dept., spoke on behalf of newly certified drivers explaining since no step increases were given last year, these drivers will not be paid drivers wages; it appears there is a priority issue to where funds go to programs and projects, not employees. Mr. Milholland stated we are not asking to necessarily give raises, but to pay the scale that has already been approved. Rick Stapleton, Conway Fire Dept., stated a department should not be penalized for not spending their budget. Scottie Keller, spoke in opposition of raising property taxes. Hebrew McKissick, stated the public needs to be made aware of what city government is doing and encouraged council to think outside the box. Clay Heslep, Conway Fire Dept., stated when he was hired, he was shown the step grid and was told that when you get your years of service and complete your training, this is the pay you will receive; it's not a raise, it's a guarantee. Jerry Glover unnamed individual stated this is not just about step grades, it is about an entire budget and stated the firefighters and police officers deserve their step grades. He also stated he resents the indication that you did not know this situation was going to arise, it has been coming for 3 years and this budget is based on the cities sales tax situation. He went onto say that he likes the proposal of rededicating the sales tax because this would put this in the hands of the voters. Mayor Townsell stated what we have before us is a resolution to raise the general revenue property tax from 1.9 mils to 2.9 mils for the upcoming year. Alderman Grimes stated he has no desire to raise the millage, but has a strong desire to insert the step increase into this budget as soon as possible. Alderman Grimes stated he is also in favor of rededicating the sales tax, and implementing some franchise fees on a temporary basis. Alderwoman Smith was in agreement. Mayor Townsell stated we need to talk with Conway Corp first to see about implementing the franchise fee increase and when that would hit the books. Alderwoman Mehl suggested possibly adding the step increases to the budget to take effect July 1, 2011 once we see how things play out. Mayor Townsell stated his office can get with Finance to determine some proposals to bring to council. This item failed due to the lack of a motion.

*Announcements/Proclamations/Recognition:*

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**1. 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 15' utility easement located in the Tommy Lewis Addition PH 2, Lot 3.**

**R-10-76**

Alderman Hawkins stated this public hearing will be set for Tuesday December 28, 2010 at 6:30 pm. Alderman Jones motioned to adopt the resolution. Alderwoman Smith seconded the motion. The motion passed 8-0.

**2. Consideration of appointments to the City of Conway Building Code Board of Appeals.**

Alderman Hawkins stated that following are the recommendations for the above mentioned board of appeals. Alderman Hawkins motioned to accept these nominations. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

- Kevin Rowell (alternate member) Public Citizen at Large - 1 year term
- Terry Clowers (alternate member) Industry Citizen at Large - 1 year term
- David Nabholz (regular member) Commercial Contractor - 4 year term
- Steve Watts (regular member) Mechanical Contractor - 4 year term

**3. Consideration/Update on property located at 5135 Lost Canyon.**

Brian Patrick, Planning & Development Director, stated council has ordered the demolition of the unsafe structure; bids were accepted and opened at which time an offer to purchase the home was made and recommends council to hold off on demolition bids until the December 28<sup>th</sup> meeting to allow for the completion of the real estate sale of the property to occur. Donny Quick, stated he has purchased the property, the loan has been approved and we are waiting on some federal guidelines.

**4. Consideration of 2011 annual materials and services bids for the City of Conway.**

Ronnie Hall, City Engineer, stated bids were taken and recommends the following to council for approval. Alderwoman Smith motioned to accept these bids. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

Asphalt Pre-Mix	Rogers Group	\$80.00/Ton
Asphalt Hot Mix FOB Plant	Rogers Group	\$65.00/Ton
In Place Asphalt Surface(PG 64-22)	Rogers Group	\$66.00/Ton
In Place Asphalt Surface(PG 70-22)	Rogers Group	\$71.00/Ton
In Place Asphalt Binder (PG 64-22)	Rogers Group	\$60.00/Ton
Crushed Stone FOB El Paso	Webco	\$7.53/Ton
Crushed Stone Delivered	Webco	\$11.40/Ton

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Ballast Stone Delivered	Webco	\$12.74/Ton
Stone Backfill delivered	Webco	\$11.94/Ton
Riprap delivered	Webco	\$18.39/Ton

Concrete Class A	Mallard	\$82.27/CY
Concrete Class S	Mallard	\$84.43/CY
Added Cost for 1% Calcium added	Mallard	\$4.00/CY

**Reinforced Concrete Pipe:**

12"	Scurlock	\$8.77/Ft.
15"	Scurlock	\$12.08/Ft.
18"	Scurlock	\$14.17/Ft.
24"	Scurlock	\$20.61/Ft.
30"	Scurlock	\$29.81/Ft.
36"	Scurlock	\$45.64/Ft.
42"	Scurlock	\$57.60/Ft.
48"	Scurlock	\$69.93/Ft.

**Concrete Blocks:** Conway Block Company

Standard Weight Concrete Blocks	\$1.48/Ea.
Interlocking Retaining Wall Blocks	\$5.00/Ea.

**Concrete Work:**

4" Curb & Gutter	Lasker Brothers	\$4.00/L.F.
6" Curb & Gutter	Lasker Brothers	\$5.00/L.F.
Sidewalk	Lasker Brothers	\$1.00/SF
Concrete Pavement Repair	Morrison Home & Remodling	\$6.33/S.Y.
Removal of Unsuitable Subgrade	Morrison Home & Remodling	\$6.33/C.Y.
Place and Shape Stone Backfill	Morrison Home & Remodling	\$6.33/C.Y.

**Gasoline & Diesel:**

Reg. Unleaded Gasoline	M.M. Satterfield	\$2.6280/Gal.
Diesel	M.M. Satterfield	\$2.6620/Gal.

**5. Consideration of a change order for the Lollie Bottom Road Relocation for the Relocated Conway Airport.**

Ronnie Hall, City Engineer, stated Weaver Bailey has requested that the paving be changed from asphalt and crushed stone to concrete and crushed stone and recommends entering into to this change order request. Alderwoman Smith motioned to enter into this agreement. Alderwoman Whitmore seconded the motion. Mr. Hall stated this change did not require a price increase however it includes an increase in earthwork due to a field change in alignment and grade in order to avoid adversely impacting the adjacent property which did result in an increase of \$3,778.49. There was no further discussion. The motion passed 8-0.

**6. Consideration to purchase right of way for the Museum Road Extension at Siebenmorgen Road to Lower Ridge Road.**

Ronnie Hall, City Engineer, stated we need almost an acre of land to build this roundabout; Coats Appraisal has given a value of approximately \$5.00 per square foot

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which would cost \$201,000.00 if the owners agree to the price. Mr. Hall stated I am asking council to approve the values listed and if they are not acceptable request the city attorney to prepare the necessary documents to proceed to eminent domain. Mayor Townsell asked if we could just approve the values tonight and not bring eminent domain into the equation just yet. Alderwoman Smith motioned to approve the value of these properties and the conditions. Alderman Hawkins seconded the motion. Luke Simon Jr. stated we asked for the removal of the barn because it will be in the line of the right of way and agree with the \$5.00 sq ft. There was no further discussion. The motion passed 8-0. The conditions are listed below:

*Northwest Corner (Simon Property)*

- Remove existing barn and foundation located adjacent to road. Delay removal until after May to allow material stored in barn to be removed.
- Construct asphalt driveway (36' wide) off Museum Rd near north end of existing barn to connect to existing barbed wire fence north of barn with decorative fence similar to that along CHDC property.
- Construct 4' high board fence from new driveway on Museum along roundabout to Museum to shield house from headlights and reduce road noise.
- Move portable building to existing concrete slab north of house.
- City to pay all closing cost.
- Remove tow existing brush and debris piles on property.
- The removal of the barn would allow the inset included in the original easement description around the barn to be eliminated and the easement line to continue a uniform distance off the road. This would increase the easement area to 20,546 square feet. At \$5.00 per square foot the price would be \$102,730.00

*Southeast Corner (Rose Freyaldenhoven Property)*

- Not prohibit driveway access to property beyond the limits of the roundabout. Allow driveways off Siebenmorgen Rd east of a point 135 feet off the centerline of Museum. Allow driveways off Museum south of a point 175 feet off the center of Siebenmorgen.
- Remove existing brush pile on property.
- Use the exact square footage of 11,509 square foot at \$5.00 per square foot in computing the property value.

**7. Ordinance waiving bids for the purchase and repair of traffic signal products for the Street Dept.**

**O-10-129**

Alan Alvey, Street Dept., stated we waive bids due to using certain products we use exclusively in this industry and we are limited as to whom we can purchase from because of territorial issues; if we were to request quotes from other vendors, Temple Inc. would have to quote us another price, this also helps us to get a traffic signal back in service. Mayor Townsell asked if will get the same price if we go to sole source vendor. Mr. Alvey stated the price does not change. 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. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting

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“Aye”: Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

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

**1. Consideration to approve a Consent Agreement Order with ADEQ in regards to Conway Station Park.**

Ronnie Hall, City Engineer, stated apparently there was a storm water pollution prevention violation back in June 2010 at Conway Station Park; Salter Construction quickly addressed the issues but ADEQ felt that a penalty was in order. Mr. Hall stated the contractor has agreed to pay the penalty, he may wish to further discuss this with ADEQ. Alderwoman Smith motioned to approve the consent agreement. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**2. Consideration of annual bids on green refuse containers & blue recycling carts for the Conway Sanitation Department.**

Cheryl Harrington, Sanitation Director, recommended accepting the bid Toter Inc for refuse carts in the amount of \$69,960.00/\$46.64 ea.; this is not the lowest bid but these carts have less maintenance on wheels. Alderwoman Smith motioned to approve the bid from Toter Inc. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

Cheryl Harrington, Sanitation Director, recommended the low bid from Toter Inc. for the blue recycling carts in the amount of \$99,100.00/\$39.64 ea. Alderwoman Smith motioned to accept the low bid from Toter Inc. Alderwoman Mehl seconded the motion. The motion passed 8-0.

**3. Consideration of to enter into a five year agreement between the Conway Sanitation Department & the Faulkner County Solid Waste Management District.**

Preston Scroggins, County Judge, stated we have entered into this agreement every year since 2007 and it has been a wonderful partnership between the Solid Waste District and the City. Alderwoman Smith motioned to enter into this agreement. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**4. Ordinance appropriating insurance funds for awning repair for the Conway Sanitation Department.**

**O-10-130**

Cheryl Harrington, Sanitation Director, was present to answer questions. The amount of the received from Liberty Mutual was \$2,379.62. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. 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 Hawkins, Alderwoman Mehl, Alderwoman

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Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

5. **Ordinance waiving bids for contracted services in conjunction with the City Landfill testing for the Conway Sanitation Department.**

**O-10-131**

Cheryl Harrington, Sanitation Director, was present to answer questions. Mayor Townsell stated Terracon Consultants, Inc. has in depth knowledge of our landfill and we recommend waiving bids for services at a price not to exceed \$23,765.00. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. 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 Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

**C. *Public Safety Committee (Police, CEOC, Information Technology, Fire, District Court, City Attorney & Animal Welfare)***

1. **Consideration to accept bids for a backup solution for the City of Conway IT Department.**

Lloyd Hartzell, IT Director, stated this system will back up our entire network; back-ups are currently loaded to tape which takes approximately 2 days to complete. Mr. Hartzell stated it is fiber and puts the back-up on hard disk and will take approximately one-half day to back up the system. Mr. Hartzell stated the only bid received was from NetGain Technologies in the amount of \$65,010.62. Alderwoman Smith motioned to accept the bid from NetGain. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

2. **Ordinance appropriating funds received from various donors to the CFD.**

**O-10-132**

Mike Winter, Asst. Fire Chief, was present to answer questions. 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": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0. The funds in the amount of \$1,410.00 will be used to purchase Special Operations Rescue Team USAR backpacks.

3. **Ordinance appropriating and accepting reimbursements and restitution funds from various entities to the CPD.**

**O-10-133**

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A.J. Gary, Chief of Police, stated the police department has received restitution/reimbursement funds from various sources totaling \$24,620.84 (listed below). 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. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

Restitution for overtime duties performed appropriated from 01.944 - Total \$22,385.61  
113.111 Salaries - \$ 1,798.86  
113.121 Overtime - \$15,766.79  
113.162 FICA - \$ 1,277.20  
113.164 LOPFI - \$ 3,542.76

Restitution funds in the amount of \$300.00 (08.911); appropriated to 01.113.297.

Reimbursement funds from 01.925 - Total \$1,935.23  
113.331 - \$ 547.00  
113.354 - \$ 1,388.23

**4. Consideration to approve annual uniform bids for the Conway Police Department.**

A.J. Gary, Chief of Police, asked council to approve the low bid from Gall's in the amount of \$870.99 plus tax. Alderwoman Smith motioned to accept the low bid. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 8-0.

***D. Finance***

**1. Consideration to approve the 2009 additional billing for JPMS Cox.**

David Grimes explained the billing is for \$22,900.00; the original amount quoted in the engagement letter was a base cost of \$79,000.00, to date they have already been paid \$77,000.00; \$2,000.00 of this amount is to pay the remainder of the original cost. The second piece is the standard 10% overage to cover any additional work needed, and that work was indeed needed, so this makes up \$7,900.00 of this amount. The other \$13,000.00 represents costs to cover the time that was spent on the audit that was not anticipated which is typical in any audit. Mr. Grimes stated he is comfortable with this amount and recommends paying the \$22,900.00. Alderman Grimes motioned to approve the additional \$13,000.00, totaling \$22,900.00. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 7-0. Alderman Rhodes was not present for the vote.

**2. Consideration to approve the 2010 engagement letter from JPMS Cox.**

Alderman Rhodes re-joined the council meeting in progress. David Grimes stated he is comfortable with JPMS Cox performing the 2010 audit for several reasons, one being they

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are familiar with Conway and with our system. Mr. Grimes stated JPMS is asking for a flat fee of \$110,000.00 which does not include the 10% contingency. Mr. Grimes stated he recommends JPMS Cox for the 2010 audit. Lowell McClanahan, Interim CFO, stated he is in agreement with Mr. Grimes. Alderman Grimes motioned to engage JPMS Cox for the 2010 audit. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

*E. Personnel*

**1. Consideration of a letter offering free use of the 365 Fitness facilities, formerly Extreme Fitness, to City employees and retirees for 2011.**

Mayor Townsell stated this would be effective until 12/31/2012. Lisa Mabry-Williams stated this facility is now under new ownership and they are renovating the facility. Ms. Williams stated they are also offering a deeper discount to family members. Alderman Jones motioned to enter into this agreement. Alderman Vaught seconded the motion. There was no discussion. The motion passed 8-0.

**2. Consideration of the RFP for Workers Compensation Insurance.**

Mayor Townsell explained that our workers comp insurance increased \$187,000.00 for 2011 so we took it out to bid. Lisa Mabry-Williams, HR Director, stated we received one bid from the Arkansas Municipal League (AML); the AML is who all the cities in Arkansas use except for Little Rock and Fort Smith. Alderwoman Whitmore motioned to continue on with the AML. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

**3. Consideration of the RFQ for Legal Representation of Management in Civil Service Hearings.**

Lisa Mabry-Williams, HR Director, stated we received one RFQ from Gary Jiles of Jack Nelson Jones Jiles & Gregory, P.A. Mr. Jiles has represented the city in this capacity since 2008 and has agreed to use the following fee schedule listed below for 2011; this schedule has remained unchanged since it was first presented to the City in 2009. Alderwoman Whitmore motioned to use Jack Nelson Jones Jiles & Gregory. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

Partner and of Counsel	\$ 180.00
Associate	\$ 140.00
Law Clerks	\$ 75.00
Paralegals	\$ 75.00

*F. Old Business*

*G. New Business*

**1. Ordinance granting a franchise to The Greens at Nutter Chapel to utilize right-of-way.**



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Mayor Townsell stated that they wish to erect a lighted flagpole in the center of the roundabout at S. Salem Rd. and Pebble Beach. Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Vaught seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no discussion.

- 2. Ordinance granting a temporary franchise to Green Cart Deli to utilize Simon Park to utilize Simon Park to operate a vending cart.**

O-10-135

Mayor Townsell stated we need to determine how long we want to grant the franchise. 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 to grant a franchise for a period of one year effective until 12/31/11. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

- 3. Consideration of a termination of lease agreement and quitclaim deed for property associated with Industrial Development Revenue Bonds for Acxiom.**

Mayor Townsell explained this is a termination of a lease agreement and a quitclaim deed with Acxiom allowing them to purchase the property back; this is associated with a Industrial Development Revenue Bond dating back to 1982. Mike Murphy, City Attorney, stated apparently there was some title work picked up that Acxiom never executed the option under the old lease agreement to actually buy the property back which they had the right to do. Mr. Murphy stated we discussed this with our bond council and we were advised Acxiom to give the City a letter to give assurance that the bonds have been in fact been paid which is the case. Alderwoman Smith motioned to terminate the lease agreement and approval to process the quitclaim deed. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

- 4. Resolution of a certain levy to be made upon the assessed valuation of all taxable real estate and personal property tax for raising General Fund Revenues.**

This item was moved up on the agenda.

**Adjournment**

**PASSED this 14<sup>th</sup> day of December 2010**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**