
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
March 8, 2011

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, Alderwoman Mehl, Alderman Rhodes, Alderman Jones, Alderman Vaught, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy. Alderwoman Whitmore was not in attendance

Call to Order

Roll Call

Minutes: *February 22nd, 2011*

Alderman Smith motioned to approve the February 22, 2011 minutes as submitted. Alderman Vaught seconded the motion. The motion passed 7-0.

Announcements / Proclamations / Recognition:

1. Report of Standing Committees:

A. Public Hearings:

- 1. Public Hearing: Ordinance closing of a fifteen foot wide utility easement abutting the west property line of Lot 1 of the Prince/Salem Station subdivision.**

O-11-15

Alderwoman Smith 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 Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

Mayor Townsell called for a motion to move the proposed lawsuit settlement between the City and Damon Reed forward on the agenda. Alderman Hawkins moved to suspend the rules and move this item. Alderwoman Smith seconded. There was no discussion. The motion passed unanimously. 7-0

Consideration to approve a settlement offer for Reed vs. City of Conway

John Wilkerson, attorney with the AR Municipal league, presented the proposed settlement and stated he felt it was a reasonable offer and advised the Council to accept. Alderman Hawkins made a motion to accept the offer. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

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

- 1. Resolution setting a public hearing to discuss changing the name of Southwestern Energy Drive to SWN Drive.**

R-11-12

Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0. The public hearing will be held Tuesday March 22, 2011 at 6:30 pm.

- 2. Resolution setting a public hearing to discuss closing the easternmost 794 feet of Bruce Street (Oak Grove Cemetery Entrance on East) on the southern edge of Cantrell Airfield.**

R-11-13

Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0. The public hearing will be held Tuesday March 22, 2011 at 6:30 pm.

- 3. Ordinance to rezone property located north of Quail Run subdivision at the terminus of Abbey Gail Drive from A-1 to R-2.**

O-11-16

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 7-0. Alderman Hawkins 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 Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

- 4. Ordinance accepting the annexation of certain lands comprised of two tracts with street frontage along Old Military Road addressed as 1729 & 1735 Old Military Road.**

O-11-17

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 7-0. Alderman Jones 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": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

- 5. Ordinance accepting the annexation of certain lands west of Old Military Road addressed as 1805 Old Military Road.**

O-11-18

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Alderwoman Smith 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 and the emergency clause. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

6. Consideration of a conditional use permit from Conway Public Schools to allow an elementary school/school activities in an A-1 zone for the property located at 1805 Old Military Road.

Carol Bishop, Conway Public Schools, was present to answer questions. Alderman Hawkins motioned to approve the conditional use permit. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

7. Ordinance to rezone property located at 2220 Prince Street (on the Conway High School Softball Field) from R-1 to RU-1.

O-11-19

Alderwoman Smith 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 Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

8. Consideration of a conditional use permit from T-Mobile to allow a transmission tower (cell tower) for property located at 2220 Prince Street (on the Conway High School Softball field) from R-1 to RU-1.

Alderman Grimes suggested a condition to require adding a light and to put up and American Flag. Garther Adcock, Manager T-Mobile, was present to answer questions stating they would be glad to meet any requirements the city desires. Carroll Bishop, Conway School District, and Bryan Patrick, Planning & Development Director, were present to answer questions. Alderman Hawkins motioned to approve the conditional use permit with all five conditions; amending condition four (as outlined below). Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 7-0. The conditions are as follows:

- No external lighting on the pole unless required by the FAA.
- Eight (8) foot wooden privacy fencing shall be constructed as proposed and maintained by the applicant.
- Screening vegetation shall be planted as proposed.
- Make pole flag ready. American flag will be flown since the flag pole will be lighted.
- Other conditions as may be deemed appropriate by the City Council.

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9. **Consideration of a conditional use permit from Deep Well Campus Ministries to allow restricted office and religious activities in an R-2A zone for the property located at 625 Donaghey Avenue (Southwest corner of Donaghey and Louvenia).**

Alderman Hawkins motioned to approve the conditional use permit with the 7 conditions attached. Alderwoman Smith seconded the motion. Alderwoman Mehl asked how we can require students to use parking spaces at UCA. Brenton Witonski, representing Deep Well Campus Ministries, stated most everyone that uses the facility, as far as students, already live on campus and have parking permits, the staff would use the additional parking at the location. Mayor Townsell asked how many staff members. Mr. Witonski stated seven (7). Mayor Townsell asked if there would be gathering of any kind. Mr. Witonski stated outside religious activities there would be prayer and discipleship meetings. There was discussion among council in regards to parking concerns along Louvenia and unwanted parking in the hospital parking areas. Alderwoman Mehl stated she would like to strike the condition that allows parking at the UCA campus parking areas. Mayor Townsell stated he would like to hold this in committee and review the operations of the ministry in more detail. Alderwoman Smith motioned to hold this item in committee. Alderwoman Mehl seconded the motion. There was no further discussion. The motion passed 7-0.

10. **Consideration of a conditional use permit from Conway Corporation to allow a wastewater treatment plant in an A-1 zone located in an A-1 zone for the property located at 1405 Lollie Road.**

Greg Dell, Conway Corporation, stated this request is the key component to meet the present wastewater needs of the citizens of Conway and the property owners in the Lollie Bottoms. Mr. Dell explained in 2006 Conway Corp hired Garver Engineers to create a wastewater master plan, this plan was completed in March 2007; this master plan concluded that the most cost effective means to meet the waste water needs for the city of Conway was to de-commission the two existing waste water plants and construct one central plant. Mr. Dell went onto say that from the waste water master plan identified the Lollie Bottoms as the area for this plant as we studied the potential areas for growth in the city and concluded that the most potential for additional waste water was in the Lollie Bottoms. Mr. Dell stated the site was further defined by the city's Comprehensive Use Plan, which states this property is suitable for light industrial use, also Act 1336 of 1997 which mandates that wastewater treatment plants are built within the city limits of the city which they serve. Mr. Dell stated FAA circular 155200-33A requires that a wastewater treatment facility is built 10,000 ft. outside a radius of the runway. Mr. Dell stated the name of the plant is Tupelo Bayou; this site will allow for future expansion up to 32 million gallons per day, which takes us well beyond our planning period. Mr. Dell explained this plant is designed as conventional activated sludge treatment plant, the plans for this plant stipulate the head works, or preliminary treatment stages, which include the rake assembly, the de-grit assemblies are housed at this plant; at both of existing plants those are exposed and this is a major area for odor but at this plant they will be housed in a building and with specified biological air filters to scrub that air of odor before it is discharged into the atmosphere. Mr. Dell stated the bulk of funding for this plant is through the clean water state revolving loan fund which is administered through the Arkansas Natural Resource Commission and the requirements of this loan program ensure that state and federal environmental regulations are met. Mr. Dell

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explained that Fayetteville West Side Plant has been in operation for approximately 2 years and is similar to our proposed plant. Mr. Dell explained that Conway Corp and members of the Conway Planning Commission contacted various individuals in Fayetteville including principals of 2 schools that are within three-quarters of a mile radius of the Fayetteville Plant, they also contacted individuals of the Fayetteville Planning Commission and Fayetteville city administration and they stated they have not had any odor, noise, environmental, or other complaints in regards to the plant. Karen Cooper, resident Lollie Rd., stated she has toured the Fayetteville plant and it is good distance from neighborhoods, where the proposed Conway plant is one-tenth a mile from residences. Ms. Cooper also spoke in regards to the loss of property values, possible contamination of ground water, and the close proximity to the river. Morris Arnold, Conway resident, stated he is neither for nor against the proposed plant and explained that a septic system is more likely to contaminate well water than a properly run wastewater plant and feels the proposed facility will not slow the growth of the area. Jerry Glover, Conway resident, stated there is a gated dam on Tucker Creek that a group of farmers control the water levels, to keep it from backing up into the Lollie Bottoms. Mr. Glover asked Mr. Dell how long the wastewater plant could sustain a high flow of water, out of that plant into those creeks, before there is a problem. Mr. Dell explained the plant is designed to flow water via gravity from the plant to the river which will take place most days of the year; Mr. Dell reiterated that the plant discharges into the river and explained in times of high river flow there are approximately 2 days a year they will have to pump the water into the river due to the river being so high that gravity will not carry it. Chris Steplock, Conway Planning Commission, explained he took a tour of the plant and noted there is a large subdivision and an elementary school less than three-quarters of a mile from the plant and stated there was a lot of construction going on around the plant. Mr. Steplock explained his visit occurred during the winter time but he noticed no visible odors unless he was in a building and once arriving at the plant you would not think you were at a wastewater treatment facility. Mr. Steplock stated he visited with neighbors across the street and one-half mile away, none had any issues with the plant. Carol Bishop, Conway Public Schools, stated as long as Conway continues to develop we will need a facility for our wastewater and stated he supports Conway Corps decision. Alderwoman Smith motioned to approve the conditional use permit with the 14 conditions. Alderman Hawkins seconded the motion. Alderman Grimes asked what the cost would be to connect to the city's water and sewer in that area. Mr. Dell stated the connection fee is \$3,400.00; this is a set fee and we look at this cost periodically to see if adjustments need to be made but stated this cost is on the low end. Mayor Townsell asked if this fee was for water only. Mr. Dell stated yes. After some discussion the motion passed 7-0. The conditions are as follows:

- **Fencing:**
 - **East side:** wrought iron décor fence and gated with decorative gate post (iron column/capped) from NE corner to first gated entrance where fence is not behind berm. **North & West sides:** chain link powder coated/razor top fencing.
 - **South side:** Berm; with acceptations to the request of Ronnie Hall and land use of this area not known at this time to be decided by Design and Review Board.
 - Cedar and Leland Cypress trees or evergreen species and shrubbery will accent the plant and fencing on north, south, and east areas.

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- **Lighting:** as planned in specs, i.e., inward, downward, and shrouded.
- **Odor:** meet or exceed specs as presented.
- **Noise:** no horns such as yard alarms.
- **Berm:** East side - acceptable as planned with landscaping.
- **Security:** standard industry practices.
- **Signage:** sign ordinance by the City of Conway.
- **Marine life:** All required agencies with regulation jurisdictions.
- **Road Conditions:** meet weight limits and standards as set by the city/state weight.
- Dedication of the east 40' of the property to the city as a street right of way.
- **Time Window for Construction:** sunrise to 9:00 p.m. for exterior construction.
- **Dust:** Best management practice ADEQ Contractor in Compliance.
- **Landscaping:** Cedar and Leland Cypress or similar evergreen species with shrubbery to non-attract birds.
- **Appearance of Plant:** to make the plant as attractive as possible as a drive by for all neighbors and passersby.

11. Consideration of a conditional use permit from Conway Corporation to allow a wastewater pump station in an A-1 zone for property located at 5398 Donnell Ridge Road.

Alderman Hawkins motioned to approve the conditional use permit. Alderwoman Smith seconded the motion. Greg Dell, Conway Corporation, was present to answer questions. There was no discussion. The motion passed 7-0.

12. Consideration of 2011 Street Improvement Projects.

Ronnie Hall, City Engineer, stated we have \$1,125,000.00 in our annual budget for street projects explaining council had earmarked Donaghey Ave. for \$555,000.00 and Main St. as a project that would be removed from the list which leave just under \$120,000.00 for each Ward. Alderman Jones asked if there is any way to complete Museum Rd. with pay as you go monies. Mayor Townsell stated it may qualify if we reclassify it; currently it is a collector street. Alderman Jones stated Ward 1 is not ready to make a decision on their street repairs this evening. Alderwoman Smith stated Ward 3 wishes to complete the following street projects:

- (B-14) Shady Lane - White Oak to Red Oak for \$80,000.00 with city forces.
- (C-13) Red Oak - Shady Lane to Shady Lane Loop \$23,000.00.
- (C-7) Royal Oaks/Krooked Kreek with the remainder of the funds.

Alderwoman Mehl stated Ward 2 wishes to complete the following street projects:

- (B-8) Lower Ridge Rd at US Hwy 65 - realign intersection and connect to shopping center at a cost of \$125,000.00 with city forces.

Alderman Grimes stated Ward 1 wishes to complete the following street projects:

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- (C-4) Bainbridge Dr. - Bainbridge Subdivision (870') for \$18,000.00 with city forces.
- (C-5) Kensington Dr. - Bainbridge Subdivision (3,900') for \$72,000 with city forces.
- (F-1) Stermer (south side) Janan to Salem for \$8,500.00.
- (F-5) Farris Rd. (east side) - Bruce to College for \$35,000.00; this would include using \$16,000.00 from the sidewalk fund.

Alderwoman Smith motioned to approve the suggested street projects. Alderwoman Mehl seconded the motion. Mayor Townsell stated this does not include the other major street improvements projects on pay as you go, and I am asking you to approve all of those as future projects to be funded; Mr. Hall stated 2012 will be the year for a large draw of funds for Prince St. and Old Military Rd and there may be a need to borrow money in 2012. Mr. Hall stated the available money is \$17.6 million through 2014 and that includes the pay as you go sales tax plus the impact fees; this absorbs the impact fee projects into this project list. Mayor Townsell asked Alderwoman Smith if this is a part of her motion. Alderwoman Smith stated yes. Alderman Hawkins concurred. There was no further discussion. The motion passed 7-0.

13. Resolution certifying local government endorsement of Wonder State Box Company to participate in the tax back program.

R-11-14

Alderwoman Smith motioned to adopt the resolution. 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 repealing Ordinance No. O-10-122 & updating the fees & language in regards to the rental of the Conway Expo Center & Fairgrounds.

O-11-20

Steve Ibbotson, Parks Director, stated the facility user fee was difficult to understand and we changed it to \$30.00 per hour and made access for set up and break down between the hours of 8:00 a.m. and 4:00 p.m. and any hours before or after that are charged at \$30.00 per hour. Mr. Ibbotson stated the other change was to expand our ability to charge deposits on a facility, not so much on the Expo center but on pavilions so we want to charge based on the size of the event to encourage vendors to clean up after themselves. Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Hawkins seconded the motion. The motion passed 7-0. Alderman Jones 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": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

2. Consideration to approve the Conway Expo Center & Fairground contract.

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Steve Ibbotson, Parks Director, stated we modeled our contract from the State House Convention Center and it has been reviewed by our city attorney Michael Murphy. Alderman Hawkins asked if the city attorney approves of this contract. Mr. Murphy stated yes. Alderwoman Smith motioned to approve the contract. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 7-0.

3. Consideration to accept bids to purchase a 2011 Automated Side Loading Refuse Truck for the Conway Sanitation Department.

Cheryl Harrington, Sanitation Director, was present to answer questions. Mayor Townsell stated the recommendation is to award the bid to the lowest bidder Shipley Motor in the amount of \$228,560.86. Alderwoman Smith motioned to approve the low bid. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 7-0.

4. Consideration to accept bids for a Break Room Building located at the Conway Sanitation Department.

Cheryl Harrington, Sanitation Director, stated this will replace the gray building which is in poor condition and recommended the low bidder Salter Construction in the amount of \$71,468.00. Alderwoman Smith motioned to approve the low bid. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 7-0.

City Attorney Michael Murphy exited the meeting. Deputy City Attorney Adam Rose joined the meeting in progress.

5. Ordinance clarifying procedures by which fees, surcharges, and revenues are assessed for residential and commercial trash pickup; and establishing that all fees surcharges and sanitation revenues be collected as one revenue stream.

O-11-21

Mayor Townsell explained this ordinance deals with what the city does with these funds internally, there will be no changes seen by the public. Mayor Townsell explained this will help clean up, where we stand, in regard to our auditors; we feel this ordinance takes care of all revenue streams weather it is generated by what will soon be the former waste disposal fee, former surcharge, and the former garbage collection, which will be aggregated into one revenue stream, with no distinction by ordinance; all the funds will go to the sanitation dept to be budgeted for personnel, operating, and capital. Mayor Townsell stated he is aware of Sanitation Director Cheryl Harrington's concerns, as well as some members of city council, in regards to what will protect sanitations capital purchases once we eliminate the distinction of the surcharge. Mayor Townsell went onto say that in actuality there are two things that could affect capital purchases, one is the growth of personnel and operations, and if rates need adjusting we can do that. Secondly, it could be borrowed, as we have borrowed for police cars etc., we see that coming as well but we will not do that unless we have to; we cannot let sanitation monies sit when we have distress in other areas of our budget and again, we see this coming and we can decided not to make those withdrawals out of the sanitation fund, or we can decided to make those withdrawals out of the sanitation fund and raise rates. Mayor Townsell explained he does not see this being a problem, on an ongoing basis, particularly when we

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would have a means of supplying fire trucks, we cannot currently supply, and if that is cleared up we have a potential means of supplying police cars if we follow our two step process of the special election and rededicating our bond issues. Alderwoman Smith asked if we are doing away with the enterprise fund. Alderwoman Smith asked how much money is in the enterprise fund. Lowell McClanahan, Interim CFO, stated as of yesterday \$1.7 million in the enterprise fund, and \$1.3 million in the surcharge fund. Mayor Townsell stated if we pass this ordinance there would be \$3 million, there would no longer be a distinction; accounting wise we already merge the funds and consider them apart of one account. Alderman Jones asked which fund we take money from to meet payroll. Mayor Townsell stated the enterprise fund. Alderman Jones asked how much is in the enterprise fund now. Alderwoman Smith stated \$1.7 million. Alderman Jones asked if we ever touch the \$1.3 in the surcharge fund. Mr. McClanahan stated the purpose of the surcharge fund, dating back to 2000 when the ordinance was passed was for capital and we have religiously only spent that money for capital; we had an issue a few weeks back where we spent money for the liner and a truck and I asked City Clerk Michael Garrett to move the money from fund 23 to fund 50, in order to pay for them because they were capital expenditures. Mr. McClanahan stated the issue was that when you passed the ordinance it had fund 50, the enterprise fund, in the ordinance, I was not sure the council really cared what that number was, but as I see it we were spending capital monies for capital purposes. The ordinance itself directed us to take it out of fund 50 so Mr. Garrett, by following that ordinance, went back and moved that money back. Alderwoman Smith asked how much money is in general fund right now. Mr. McClanahan stated \$800,000 today and we will be borrowing from the enterprise fund next week to meet payroll. Alderwoman Smith asked if we have to pay that money back. Mr. McClanahan stated we have always paid that money back and challenged the council tell him how to make payroll otherwise. Alderman Vaught stated if we did away with the enterprise fund altogether then our cash flow problems would magically disappear altogether. Mayor Townsell stated that is correct. Alderman Vaught stated but I am not suggesting we do that because the surcharge fund was set up in 2000 to protect the capital needs of the sanitation dept, the enterprise fund was set up in 2004 to put money aside to build up, not to borrow for other capital needs of the city. Alderman Vaught stated he understands Mayor Townsell's point whereas we have a pressing need for police cars or fire trucks and we have the money in the sanitation fund just sitting there, we can use it. Mr. McClanahan stated that is just not right, when we I brought the opportunity for council to purchase police cars from the enterprise fund, that was a direct result of action by City Engineer Ronnie Hall and Ms. Harrington because we had \$2 million in committed funds for the cell replacement and they replaced that for \$1 million. This was a one time opportunity to purchase the police cars out of the savings from that operation. Mr. McClanahan stated he is the last person that wants to cause any risk to Ms. Harrington's capital purchases, I have been an advocate of everything she has brought forward. Alderman Vaught stated what you are saying is an exception; since he has been on the council; the rule has been if there was a need in the city for money, we always found it in the sanitation fund. Alderman Vaught stated we funded an employee raise or bonus from the sanitation fund and in the past 2 years when we have been in financial stress we have borrowed from the sanitation fund; his point being the sanitation enterprise fund, as he understands it, was never set up to do any of that under any kind of economic situation. Mayor Townsell stated he disagrees with that. Alderman Vaught stated his understanding was the enterprise fund is to cover the future expenses of the sanitation dept weather it is closing the current landfill and opening a new landfill etc.

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Mayor Townsell stated I can that is not the reason it was set up; we talked about the need of the surcharge fees would cover our most pressing needs which was to buy replacement trucks and landfill expansion; that is what drove the creation of the enterprise fund. Mayor Townsell stated we also knew we would need some capital to start building up toward a new landfill at some point in time. Mayor Townsell explained the surcharge fund put us in a situation, for the first time, that we would bring in revenue, and the cost of the expenses were beginning to match; we were not siphoning from the sanitation dept like we once were and we could not take the funds out without hurting the general fund, now they were beginning to match so we saw an opportunity to break them off into an enterprise fund, such that we could manage them, without having to worry about trying to set rates knowing how much we would borrow from the general fund; we could manage them and set their rates based on their costs, if costs increased we had to increase rates, it could be tied directly back to, that is why the enterprise fund was set up. Mayor Townsell stated we did not set it up to be forever exclusive and untied to the general fund, it was always such that we could go back and borrow from it if necessary, if we had financial distress. Alderwoman Smith asked if the reason we are doing this is because we need the money in our general fund. Mr. McClanahan stated no, in fact since I have been here we have used an enterprise fund for 2 things, one being repairs needed for fire engines and the purchase of the new police cars. The second is the process of cash flow, starting last year the city borrowed \$2 million from Conway Corp to get the city through the cash flow crunch and also to cover payrolls; all of this has been paid back each time, and we owe the enterprise fund nothing today. Alderman Jones asked if we pass this ordinance and we take money from the sanitation enterprise fund out to make payroll are we still going give the money back. Mr. McClanahan stated yes. Mayor Townsell stated if this ordinance passes all of sanitations monies are blended. Alderwoman Smith asked Ms. Harrington her concerns in regards to this ordinance. Ms. Harrington stated I have \$1.3 million in the approved budget for capital expenditures, I have a \$425,000.00 loan payment due in April, I feel if I do not have secured funds and the money will be used for other things, and those capital projects will not be funded. Alderwoman Mehl asked if we will have that information before us before we make any decisions are made to move any money. Mr. McClanahan stated the only way the money is at risk is if you decide to move it. Alderman Grimes stated we as a council are the ones who approve sanitations capital requests weather it comes from one or more funds. Alderman Vaught asked if we move forward with this proposed ordinance are we removing the terminology surcharge account from the enterprise fund. Mayor Townsell stated yes. Alderman Vaught asked if we are also removing the surcharges from the sanitation bills. Mayor Townsell stated no. Alderman Vaught asked how we will split out a surcharge on the residential bill if we do not put it in the surcharge account. Mayor Townsell stated the residential bill becomes \$12.90. Alderman Vaught stated then we are raising sanitation rates. Mayor Townsell stated no. Mr. McClanahan stated shortly after coming to the city he was presented with an audit issue that said the city was not following city ordinances; the reason I am not following the ordinances is because there were 10 of them and they contradicted themselves. I asked a year ago to eliminate all the old ordinances and give me an ordinance that I can comply with. Alderman Vaught stated it is impossible to know the breakdown of the commercial charges but we have a separate surcharge on our Conway Corp bill for residential. Mayor Townsell asked what the base monthly rate for residential. Ms. Harrington stated \$9.75. Mayor Townsell stated we are getting rid of the current monthly rate of \$9.75, the \$2.00 surcharge fee, and the .65 cent waste disposal fee, but the total is going to stay the same; we will have one monthly rate of \$12.90 which

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matches the monthly rate that is an accumulation of 3 separate charges. Alderman Vaught stated yes, but we are raising our base rate by whatever the surcharge is. Alderwoman Mehl and Alderman Grimes stated we are reducing our surcharge. Mayor Townsell stated the public will pay \$12.90 before like they will after. Alderman Vaught stated we should say that we are setting a new sanitation rate that is \$2.90 higher than it is now. Mayor Townsell stated as we draft the ordinance discussed at the committee meeting today, it will say we are replacing 3 charges with 1 and it will be the same charge in the end. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 7-0. Alderman Hawkins motioned to adopt the ordinance and the emergency clause. Alderman Grimes seconded the motion. Alderman Vaught stated both sections 3 and 4 have phrases that states "the excess funds are not restricted and can be made payable to the general fund"; we were told that was just a copy of what the original ordinance was, but when the original ordinance was put into place the payable fees did go to the general fund because there was no enterprise fund at that time. Alderman Vaught asked if this ordinance should say "shall not be restricted and made payable to the sanitation enterprise fund" and then we all know that if council so chooses we can provide ordinances to move that money to the general fund. Mayor Townsell stated he feels the wording interprets it correctly; it is not automatically done and would require action by council to do so. Alderman Vaught asked Deputy City Attorney Adam Rose his opinion on the wording of the ordinance. Mayor Townsell stated we could add "by approval of council". Mr. Rose stated you can add whatever language you feel comfortable with. Mayor Townsell asked if we are going to add "by approval of council". Alderman Vaught stated yes. Alderman Hawkins and Alderman Grimes concurred. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, and Alderman Grimes. Mayor Townsell voted with the majority. The motion passed 5-3. Alderman Jones, Alderwoman Smith, and Alderman Vaught voted in opposition.

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

1. Ordinance appropriating and accepting restitution funds from various entities for the Conway Police Department.

O-11-22

A.J. Gary, Chief of Police, stated the first item will move the extra duty employment back into the appropriate account and will also put the Under Age Drinking grant funds back into its originating accounts. Alderwoman Mehl motioned to waive the readings of the ordinance. Alderman Hawkins seconded the motion. The motion passed 7-0. Alderwoman Smith 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 Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

2. Ordinance appropriating asset forfeiture funds to purchase various items & equipment for the Conway Police Department.

O-11-23

A.J. Gary, Chief of Police, stated there are several items listed here, the money currently is in the asset forfeiture account, which are restricted funds that we can use to cover additional needs we may have throughout the year. Chief Gary explained the largest request is for professional services in the amount of \$10,000.00; we received word that the drug enforcement administration was depleted on funds for meth lab clean-up, which means that if we take down a meth lab, the city will be responsible for the disposal of that lab. Chief Gary stated hopefully that money will be re-appropriated through the federal government and we will not have to use this \$10,000.00 but we wanted to go ahead and move this money into an account so that if we run across a lab we will have the money to dispose of that lab properly; it could be as little as \$2,000.00 per meth lab. Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Hawkins seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderman Hawkins seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

3. Consideration to remove certain items from inventory & dispose of for the Conway Police Department.

A.J. Gary, Chief of Police, explained some of the older vehicles have been accumulating at the police and fire training facility and are still in running condition and we wish to auction these off on "publicsurplus.com"; those proceeds would go to the general fund. Chief Gary stated the other vehicles we feel would cost too much to repair and auction than what we would get out of them. Chief Gary stated the fire dept has a need for vehicles to conduct training sessions and once they are done with them they could be sold as scrap metal. Alderwoman Smith motioned to approve this list of items to be removed from inventory. Alderman Jones seconded the motion. There was no discussion. The motion passed 7-0.

Old Business

New Business

1. Ordinance calling and setting a date for a special election for the proposed extension of payment on the 2006B Sales & Use Tax Bond.

O-11-24

Gordon Wilbourn, Kutak Rock, stated the easiest way to approach this is to explain where you are on your current bond issue, and where you would be afterwards. Mr. Wilbourn stated you currently have approximately \$6 million in outstanding bonds, and have pledged to secure those bonds with the one-half cent special tax. Mr. Wilbourn stated the designation between special and general is the special tax base can, by state statutes, pay debt service and in order to get those bonds sold at the best rate at the time, you did a back up pledge of another one-half cent general tax that you, as a council, have designated to be used for capital improvements. Mr. Wilbourn stated he does not know if that money

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was ever needed to make any interest payment on these bonds, but it has been a long time if so. Mr. Wilbourn stated moving forward the one-half cent pay as you go tax will remain as is with no changes; you will be taking your one-quarter cent general tax, splitting it into a one-eighth cent special tax and a one-eighth cent general tax, both again being pledged to the bond to the extent needed to pay debt service. Mr. Wilbourn explained with the numbers they have looked at he believes the one-eighth cent special tax will be sufficient to pay scheduled debt service. Mr. Wilbourn explained this would then put the one-eighth cent general tax going to the city to be used for any proper municipal purposes. Mr. Wilbourn explained in order to accomplish all of this, this proposed ordinance calls for a special election to put 2 questions on the ballot; one is refunding the existing bonds, which has to happen because of the existing covenants for these one-quarter cent taxes that you have to pay off these bonds, and placing a refunding issue there would then be secured by these 2 one-eighth cent taxes which will allow you to take the one-eighth cent general tax for whatever the needs of the city may be. Mr. Wilbourn explained that the May 10, 2011 date is the soonest we can do it by state law. Mayor Townsell stated for those of you who want to know why we are doing this, that one-eighth cent that would be freed up, and if not needed for debt service, would go to the general fund which would generate \$1.5 million annually and would put us in a lot better position to not borrow from the sanitation dept and to fulfill our obligations to employees. Alderman Grimes asked if there is a better way to word question one on the ballot issue. Mr. Wilbourn stated if you look at title to the ballot it talks about replacing an existing tax; the wording of that question is mandated by state statutes, the total tax rate is not going to change. Mr. Wilbourn stated the title of the ordinance needs to be read three times and also the emergency clause. Mr. Hawkins read the title of the ordinance. Alderwoman Smith motioned to read the title of the ordinance for the second time. Alderman Jones seconded the motion. The motion passed 7-0. Alderman Hawkins read the title of the ordinance for the second time. Alderwoman Smith motioned to read the title of the ordinance for the third time. Alderman Jones seconded the motion. The motion passed 7-0. Alderman Hawkins read the title of the ordinance for the third time. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderman Hawkins seconded the motion. After some discussion the clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

2. Consideration to approve a settlement offer for Reed vs. City of Conway.

This item was moved up on the agenda.

Adjournment

PASSED this 8th day of March 2011

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett