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

*Call to Order*

*Roll Call*

*Minutes:* November 22<sup>nd</sup>, 2011

Alderwoman Whitmore motioned to approve the November 22, 2011 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 6-0.

*Announcements / Proclamations / Recognition:*

**1. Report of Standing Committees:**

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

- 1. Resolution requesting the Faulkner County Tax Collector to place certified liens on 4470 Raleigh as a result of incurred expenses by the City.**

**R-11-69**

Alderman Hawkins stated the property address is 4470 Raleigh; the cost of cleanup was \$135.88 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 6-0.

- 2. Resolution approving and authorizing the issuance of hospital revenue improvement bonds for Conway Regional Medical Center.**

**R-11-70**

Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

- 3. Resolution authorizing an inter-local agreement between the City of Conway and Faulkner County to provide GIS services to Faulkner County through the GIS Coordinator.**

**R-11-71**

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Bryan Patrick, Planning & Development Director, explained that Faulkner County has duplicate mapping services and the county's mapping contractor took another job; the county requested the city take on the county's mapping functions and in return the city will receive \$14,000.00 in funding to go towards GIS functions, software maintenance, etc. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

**4. Resolution extending the agreement between ATT & the City of Conway.**

**R-11-72**

Mayor Townsell stated this agreement began in 2008 and it is related to AT&T's U-verse IP-enabled video services; this resolution will extend this agreement for another 5 years. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

**5. Consideration of a request from David Bradley for a flood plain variance at property located at 10 Trafalgar.**

Ronnie Hall, City Engineer, was present to answer questions explained that Mr. Bradley's home was built prior to any floodplain ordinance was in affect and the property is approximately 100 ft below the 100 year flood elevation on our current maps. Mr. Hall stated that Mr. David Bradley wished to add an addition onto his home and if we follow the ordinance it must be 2.5 ft above base flood or 3.5 ft above his existing floor and Mr. Bradley is asking for a variance from this requirement. Mr. Hall recommended granting this variance request. Alderwoman Smith motioned to grant the flood plain variance. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 6-0.

**6. Consideration to approve the annual bids for materials and services utilized by the Conway Street Department.**

Alderman Jones joined the meeting in progress.

Ronnie Hall, City Engineer, recommended the following bids be awarded as outlined below:

<u>MATERIALS OR SERVICE</u>	<u>CONTRACTOR</u>	<u>PRICE</u>
Crushed Stone FOB El Paso	Webco	\$7.53/Ton
Crushed Stone Delivered	Webco	\$11.40/Ton
Ballast Stone Delivered	Webco	\$12.74/Ton
Stone Backfill delivered	Webco	\$11.94/Ton
Riprap delivered	Webco	\$18.39/Ton
Concrete Class A	Southern Star	\$81.72/CY
Concrete Class S	Southern Star	\$83.89/CY
Added Cost for 1%	Southern Star	\$3.00/CY
Calcium added		

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Reinforced Concrete Pipe:

12"	Hanson	\$8.51/Ft.
15"	Hanson	\$11.72/Ft.
18"	Hanson	\$13.60/Ft.
24"	Hanson	\$19.68/Ft.
30"	Hanson	\$28.47/Ft.
36"	Hanson	\$43.58/Ft.
42"	Hanson	\$55.01/Ft.
48"	Hanson	\$66.78/Ft.

Concrete Blocks: Conway Block Company

Standard Weight Concrete Blocks		\$1.49/Ea.
Interlocking Retaining Wall Blocks		\$4.91/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		No Bid
Removal of Unsuitable Subgrade		No Bid
Place and Shape Stone Backfill		No Bid

Gasoline & Diesel:

Reg. Unleaded Gasoline	M.M. Satterfield	\$2.8975/Gal.
Diesel	M.M. Satterfield	\$3.1750/Gal.

Mr. Hall explained the city may want to delay awarding the asphalt bid until the city resolves the issue of West Tyler St with Rogers Group; they are willing to repair the street but they want us to remove the faulty material at the cities expense. Alderman Jones and Alderwoman Smith expressed their concerns over the city paying the expense to remove the faulty material and feel that the contractors should be held accountable. Mr. Hall explained that Rogers Group would have to pay someone to remove the material just like the city would. Alderwoman Smith stated she is not willing to approve the asphalt contract with Rogers Group as long as they want us to have to pay to remove faulty material. Alderwoman Smith motioned to approve all bids except the asphalt bid and allow Mr. Hall to talk with Rogers Group. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 6-0.

**7. Consideration to approve the nominees for the following boards: Oak Grove Cemetery, Building Codes of Appeal Board, Historic District Commission & Planning Commission.**

Alderman Hawkins read off the following nominations:

**Oak Grove Cemetery:**

Chris Odom - 5 year term; expires December 2016

Carol Powers - 5 year term; expires December 2016

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**Building Code Board of Appeals:**

Judy Corcoran (Alternate Member) Public Citizen at Large - 1 Year Term  
Gene Hendrix (Alternate Member) Industry Citizen at Large - 1 Year Term  
Derek Harmon (Regular Member) Fire Protection Contractor - 4 Year Term  
Steve Hurd (Regular Member) Architect - 4 Year Term

**Historic District Commission:**

Becky Harris - 3 year term; expires December 2014  
Scott Zielstra - 3 year term; expires December 2014  
Betty Pickett (Pine St. Comm. Dev. Corp Member) - 3 year term expires December 2014

**Planning Commission:**

Mark Lewis, 2540 Peabody (Ward 2) - 5 year term; expires December 2016  
Matthew K. Brown, 965 Joseph Dr (Ward 1) - 5 year term; expires December 2016  
Jeff Allender, 37 Cumberland Park (Ward 4) - 3 year term; expires December 2014  
Anne Tucker, 14 Walnut Dr (Ward 2) - 2 year term; expires December 2013

Bryan Patrick, Planning & Development Director, recommended allowing Becky Harris to be recognized as a full voting member for the duration of 2011. Alderwoman Smith recommended the nominations and allowing Ms. Harris to be a full voting member for the remainder of 2011. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0-1. Alderman Rhodes abstained.

8. **Ordinance amending the Arkansas Plumbing Codes for the construction and alterations to plumbing systems as adopted by the City of Conway.**

**O-11-105**

Bryan Patrick, Planning & Development Director, explained this is more clarification of state code and gave a brief synopsis of the ordinance. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderman Jones seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Hawkins, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

Alderman Grimes entered the meeting.

9. **Consideration to purchase right of way for the Prince Street Improvement Project.**

Ronnie Hall, City Engineer, explained the city needs to purchase approximately 8 ft of right of way from 1<sup>st</sup> Presbyterian Church; the strip of land is 8,467 square feet, our appraisal came back at \$5.89 per square foot or \$49,000.00. Mr. Hall stated the church had an appraisal done for another strip of property along the west side of the church which appraised for \$8.00 per square foot and stated the church is willing to settle for \$7.00 per square foot or \$59,269.00 for the 8,467 square feet needed for the Prince Street improvements. Mr. Hall requested approval to offer the church \$7.00 per square foot or \$59,269.00 for the strip along Prince St. Mr. Hall stated we would like to go ahead and

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get an agreement with the church to build the section of Farris Rd that is extending north of Prince St to the school property and give the city right of entry. It was anticipated that Wal-Mart would be required to purchase this strip and dedicate it as street right of way as part of any PUD or conditional use, but that project has been delayed due to a land title issue. Mr. Hall feels that the church would be receptive to this if we agree to pay them the same \$7.00 per square foot (\$105,049) price for the 15,007 square foot parcel for one-half right of way for Farris Rd. north of Prince St. Alderman Hawkins asked if Wal-Mart asked if Wal-Mart reimburse the city for that strip of right of way. Mr. Hall stated we would hope that Wal-Mart would come through and purchase it before September of next year or whatever date we set that the city must purchase it. Mr. Hall stated we would give Wal-Mart the right to buy purchase it first and possibly require that as a requirement in the PUD. City Attorney Michael Murphy stated he would need to look into that as he is not sure we can hold that out prior to them making transaction on the property. After some discussion regarding appraisals Mayor Townsell stated in summary the recommendation is to (1) approve the offer of \$7.00 per square foot for Prince Street right of way from 1<sup>st</sup> Presbyterian Church. (2) approval to make an offer to 1<sup>st</sup> Presbyterian Church to receive a right of entry for road construction purposes and pay them \$7.00 a square foot if the land is not acquired by Wal-Mart for access purposes by a set date, and (3) secure an agreement with the Baker family to receive a right of entry for road construction purposes. Alderwoman Mehl motioned to approve paying 1<sup>st</sup> Presbyterian Church \$7.00 per square foot (\$59,269.00) for Prince St. right of way. Alderman Vaught seconded the motion. There was no further discussion. The motion passed 7-0-1. Alderman Grimes abstained.

**10. Consideration of a request for a conditional use permit for Jennifer Nichols to allow general retail sales at property located at 2405 Prince Street.**

Alderman Hawkins motioned to approve the conditional use permit request. Alderwoman Mehl seconded the motion. Bryan Patrick, Planning & Development Director, explained that condition three is not necessary as we found on the plat that the right of way has already been dedicated. Alderman Grimes and Alderman Vaught stated they see no need to dictate hours of operation. Alderman Hawkins and Alderwoman Mehl concurred and condition one was also removed. Mayor Townsell stated the motion is to approve with condition number 2 only. There was no further discussion. The motion passed 8-0. The remaining condition is as follows:

- Conditional use is limited to the applicant Jennifer Nichols.

**11. Consideration of a request for a conditional use permit for First Church of Nazarene for property located at 500 block of Center (514, 518, & 520 Center Street).**

Bill Millburn stated the church did have a community meeting and spent extra money to have a better picture drawn up of the parking lot and how the trees would be saved and stated at the conclusion of this meeting all the neighbors stated they felt better about the project. Bryan Patrick, Planning & Development Director, concurred with Mr. Milburn. Alderwoman Smith motioned to approve the conditional use permit request. Alderman Jones seconded the motion. There was no discussion. The motion passed 8-0.

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

**1. Ordinance approving the property transfer of warning siren systems to the City of Magazine.**

**O-11-106**

Mayor Townsell stated these are sirens are ones we have replaced with new sirens and they are no longer of use to the city. Major Bill Milburn explained that he received an email from Chief Hicks, Chief of Police at Magazine, requesting warning sirens and he knew we had 8 that were no longer compatible with our new system. Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Jones seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Hawkins, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

**2. Ordinance to accept bids and appropriating additional funds for the Conway Fire Department Station #7 Remodel Project (1810 Highway 64 West).**

**O-11-107**

Fire Chief Bart Castleberry stated we set aside \$100,000.00 of pay as you go sales tax for this remodel; our lowest bid came in at \$125,500.00 from Moser Construction Co; this will authorize an additional cost of \$25,500.00 and \$14,500.00 for additional architectural fees from pay as you go sales tax for a total not to exceed \$40,000. Also included, is the purchase, from state contract, 2 command vehicles with a cost not to exceed \$58,457.00. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. Alderwoman Smith motioned to waive the readings of the ordinance and the emergency clause. The motion passed 8-0. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Hawkins, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

**3. Consideration to accept bids on the Conway Fire Department Station #7 (1810 Highway 64 West) Driveway Reconstruction.**

Ronnie Hall, City Engineer, recommended accepting the low bidder, Paladino Construction, in the amount of \$23,950.00. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

*C. Finance*

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- 1. Consideration to accept the RFQ from Craft, Veach, & Company for A-133 Audit Services for 2011.**

Tyler Winningham, CFO, stated the cities financial statements will be audited by the State's Legislative Division for 2011, but they will not audit our federal spending and recommends Craft, Veach, & Company. John Craft, Craft, Veach, & Company, was present to answer questions. Alderwoman Smith motioned to accept the recommendation to accept Craft, Veach, & Company for A-133 audit services. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

*D. Personnel*

- 1. Consideration to accept the RFQ for legal services for representation of management in Civil Service Commission appeal hearings.**

Lisa Mabry-Williams, HR Director, stated the city received one statement of qualifications from Gary Jiles with Millar, Jiles, Cullipher, LLP. Ms. Williams stated that Mr. Gary Jiles has represented the city since 2008 and has agreed to use the same fee schedule that he has used since 2009. Ms. Williams recommended Mr. Jiles for these services. Alderwoman Smith motioned to accept legal services from Gary Jiles for 2012. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

*Old Business*

*New Business*

- 1. Resolution outlining the purpose of the rededication election of the current quarter cents sales tax for the City.**

**R-11-73**

Mayor Townsell stated if this rededication of the 2006 one-quarter cent sales tax passes we will do the following:

Move \$2 million sanitation enterprise fund monies will be transferred from the sanitation fund to the general fund as those monies become available throughout the year on a cash flow basis. These funds are currently dedicated for major capital purchases the sanitation department will be making in 2012. Mayor Townsell stated since the sanitation department will be using the money from the bond proceeds this money will not be needed and we will not have to borrow from the sanitation fund any longer.

Commit to purchasing new police vehicles annually up to 12 per year or up to \$500,000.00 annually from the existing pay as you go one-quarter cent that we are currently using for fire department capital improvement and purchases and the street department major road projects. Should the rededication pass we will commit \$500,000.00 to police cars and the remainder to the street fund.

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Commit to creating and funding a true general fund reserve that cannot be used without council approval. We will take \$500,000.00 annually, from 2012 through 2015, for a total of \$2 million on a cash flow basis as those funds become available. Mayor Townsell stated what is not stated here is that we are, by the bond issue rededication, we will be putting in an additional \$1.5 million on an annual basis and put that into the general reserve fund each of the next 4 years.

Mayor Townsell stated lastly we will give our employees a onetime bonus in 2012 to be determined by city council as money becomes available.

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

**2. Ordinance setting an election date for the rededication of the current quarter cent sales tax.**

**O-11-108**

Gordon Wilbourn, Kutak Rock, states this ordinance sets forth the form of the ballot and the election date and reiterated that questions 1 and 2 have to pass, in order to refund the existing bonds, and for anything else to move forward; if questions 3 & 4 (new money for the fire and sanitation departments) fail you can still move forward. Mr. Wilbourn stated the election date is set for Tuesday February 14, 2012. Mayor Townsell explained we are taking the one-quarter cent tax, currently pledged to the debt of the police station, and splitting it into 2 one-eighth cents tax; one being for general fund which will contribute \$1.5 million in new money every year, the other one-eighth will issue new bonds for the remaining debt of the police station, \$6 million in bonds to purchase fire department capital needs, and \$2 million in bonds for sanitation capital needs; all scheduled to pay out in 2022. Alderman Vaught asked what happens if the public votes for questions 1 and 2, but votes against questions 3 and 4. Mr. Wilbourn stated there is no obligation on the council to do anything but you could come back and issue just the refunding bonds, which would give you a smaller issue, a one-eighth cent and then pledge the refunding bond to pay those off more quickly, the one-eighth cent special tax has to be used to pay off the debt service, if it comes in the way sales tax bonds are structured you take excess collections and call the bonds off the long end; you would have a smaller issuance but you could pay them off more quickly. Alderman Rhodes motioned to waive the first reading of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderman Rhodes motioned to waive the second reading of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderman Rhodes motioned to waive the third reading of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderman Rhodes motioned to adopt the ordinance. Alderwoman Smith seconded the motion. City Attorney, Michael Murphy read the title of the ordinance. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Hawkins, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0. Alderman Rhodes motioned to adopt the emergency clause. Alderwoman Smith seconded the motion. The clerk called the roll for the emergency clause with the



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following voting "Aye": Alderman Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Hawkins, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0. Alderman Grimes suggested that prior to the election we hold open meeting to educate and take feedback the public on this issue. Mayor Townsell stated he feels that is a good idea.

*Adjournment*

**PASSED this 13<sup>th</sup> day of December 2011**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**