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MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday 6:30 p.m.  
July 12, 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, 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:** June 28<sup>th</sup>, 2011

Alderwoman Whitmore motioned to approve the June 28, 2011 minutes as submitted. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

**Announcements / Proclamations / Recognition:**

Alderwoman Smith motioned to suspend the rules and move item "2 - New Business" up on the agenda. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

**Consideration of a settlement agreement in regards to Livingston vs. City of Conway.**

Mark Hayes, Attorney Arkansas Municipal League, explained this is a matter before the EEOC and believes we have agreed upon a good financial resolution to the matter that would settle the case with a payment of \$17,119.24 which will eliminate the circumstance entirely. Alderwoman Smith motioned to enter into this settlement agreement. Alderman Hawkins seconded the motion. Mr. Hayes gave a brief synopsis of the events that lead to the lawsuit and explained that this course of action will cost far less than allowing this case to move to the Federal level. After some discussion the motion passed 8-0.

**1. Report of Standing Committees:**

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

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

**R-11-30**

Alderman Hawkins stated the property address is 1480 Chinook Dr; the cost of cleanup was \$128.32 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-11-31**

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Alderman Hawkins stated the property address is 11 Mockingbird Ln; the cost of cleanup was \$143.24 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-11-32**

Alderman Hawkins stated the property address is 2735 Arrow Smith Ln; the cost of cleanup was \$177.11 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-11-33**

Alderman Hawkins stated the property address is 4 Gwen Ln; the cost of cleanup was \$231.85 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 8-0.

**R-11-34**

Alderman Hawkins stated the property address is 2420 Mountain Park Dr; the cost of cleanup was \$334.87 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 8-0.

**2. Consideration to enter into an agreement for transportation services provided by Boys & Girls Club & FCCDD.**

Mayor Townsell stated we have an opportunity to use street funds for transportation services due to a legislative change that allowed the definition of transit to include providers such as Senior Citizens Center, Boys and Girls Club, and FCCDD. Robert Wright, representing FCCDD and the Boys and Girls Club, stated we are requesting funding for transportation to the Boys and Girls Club from all elementary schools, intermediate schools, and Conway High East. Mr. Wright stated that FCCDD provides transportation to and from work for individuals with disabilities. Mayor stated the amount being asked for by the Boys and Girls Club is \$20,000.00 and \$30,000.00 for FCCDD. Ronnie Hall, City Engineer, stated it is a worthy cause but we do not have anything budgeted for this year for this purpose; this will also take away council's ability to respond to the needs of our streets. Alderman Rhodes motioned to enter into these agreements. Alderman Grimes seconded the motion. After some discussion among council Alderman Rhodes amend his motion to approve these agreements and fund them by one-half, \$10,000.00 for the Boys and Girls Club and \$15,000.00 for FCCDD. Alderman Grimes concurred. There was no further discussion. The motion passed 6-2. Alderman Vaught and Alderman Hawkins voted in opposition.

**3. Consideration to enter into an agreement with Simmons Traffic Services for traffic signal design at Donaghey Avenue and Lee Street.**

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Finely Vinson, Traffic Engineer, stated the traffic signal at Donaghey Ave and Lee St. was removed in preparation for the improvements planned for Donaghey Ave which include building larger curb radii at this intersection; we hope to have this signal installed before school starts. Mr. Vinson stated he contacted Mr. Simmons, Simmons Traffic Services, and he has looked at the intersection and is capable of producing a set of plans for us in a timely manner. Mr. Vinson stated these plans would then be given to contractors to place bids. Mayor Townsell stated the cost is \$7,500.00. Alderwoman Smith motioned to enter into this agreement. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

#### **4. Consideration to accept bids for the 2011 Sidewalk Improvements projects.**

Ronnie Hall, City Engineer, stated these are the sidewalk improvements that you included in your 2011 annual project selection. Mr. Hall recommended awarding the bid to the low bidder JCI Construction in the amount of \$61,750.00. Mr. Hall stated this includes the following sidewalks:

- Stermer Rd (south side) from Jana to Salem - \$8,500.00.
- Farris Rd (east side) Bruce to College - 35,000.00.
- Conway Blvd (east side) Bruce to College - \$33,000.00.
- Portions of sidewalks on Meadowlake Rd and Farve Ln.

Alderwoman Smith motioned to award this bid to JCI Construction. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

#### **5. Consideration to accept bids for the Prince Street Improvements (Shady Lane to Western Avenue).**

Ronnie Hall, City Engineer, recommended the low bidder JCI Construction in the amount of \$3,407,041.00. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. Mayor Townsell asked if this included the right of way. Mr. Hall stated no. After some discussion the motion passed 8-0.

#### **6. Consideration of right of way acquisitions along Old Military Road - McNutt Road at Donnell Ridge.**

Ronnie Hall, City Engineer, stated we have two different appraisers that have varied opinions on the value of this land; Coats appraisal was \$135,000.00 and Affiliated appraisal was \$248,500.00. Mr. Hall stated we have visited with Mitch Hart of Hart Development and he believes that Mr. Coats appraisal may be below fair market value. Mr. Hall stated Mr. Hart is willing to sell the right of way at \$40,000.00 per acre which would be \$237,204.00 and Affiliated's appraisal is roughly \$43,000.00 per acre. After some discussion Mr. Hall stated that an adjacent piece of property sold for approximately \$40,000.00 per acre. Mitch Hart explained that he has been in real estate for approximately 20 years and he mainly deals in land; he explained he was not pleased with Coat's appraisal and stated that Coat's Appraisal has been doing appraisals for him for approximately 20 years and feels there is always some debate involved in appraisals. Mr. Hart explained his problem with the Coat's appraisal is there were four comparable properties, two of those properties were auction sales; the normal marketing time

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considered for most comparables used for properties is a one year marketing time; he been told by his appraiser, which is Affiliated, that the auctioned properties should not be used as comparables for this property. Alderwoman Smith stated she trusts what has been submitted and she would personally have to go with the lower appraisal. Mr. Hart stated he has sold three properties zoned I-1 that were within a few hundred yards of this property and this would be the lowest price he has taken on any piece of property in that area. Alderman Vaught asked if Mr. Hart he is willing to sell the property for the appraisal price given by Coats Appraisals. Mr. Hart stated he believes he has tried to work with the city on this issue. Alderman Grimes stated did we already agree to a price range on this property. Mr. Hall stated council did agree to a price range if supported by an appraisal. Mayor Townsell stated, and Mr. Hart agreed, if that appraisal was within that range. Alderman Hawkins asked what the price range the city agreed to. Alderman Rhodes stated \$45,000.00 to \$55,000.00 per acre. Mr. Hart concurred stating he is only asking for \$40,000.00. After some discussion Alderman Rhodes motioned to offer Hart Development \$40,000.00 per acre. Alderman Hawkins seconded the motion. Mike Murphy, City Attorney, explained the process of condemnation to council and the risk involved since the appraisals differ so. Greg Esser, 1449 Old Military Rd, stated if the land were flat there would be no fill dirt. The motion failed 3-5. Alderman Hawkins, Alderman Grimes, and Alderman Rhodes voted in favor of the motion. Mr. Hart suggested obtaining another appraisal. Alderman Vaught asked if Mr. Hart would split the cost of the appraisal. Mr. Murphy stated we could get a third appraisal, Mayor Townsell and council concurred. Mayor Townsell asked if Mr. Hart would split the cost of the third appraisal. Mr. Hart stated yes. Alderwoman Smith motioned to obtain a third appraisal and split the cost with Mr. Hart. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

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

**1. Ordinance appropriating asset forfeiture funds for various items for the Conway Police Department.**

**O-11-55**

A.J. Gary, Chief of Police, explained these funds can only be used for purchasing certain items as allowed by law; the items include the following which total \$23,511.00:

- \$16,011.00 - Tactical lights and holsters for duty weapons.
- \$6,000.00 - honor guard uniforms.
- \$1,500.00 - to repair issues with audio/visual equipment in investigative interview rooms.

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

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**2. Ordinance accepting assets obtained through court order for the Conway Police Department.**

**O-11-56**

A.J. Gary, Chief of Police, explained these items are seized due to criminal activity, or the rightful owner could not be found; most of these items are firearms and can be traded to our vendor to reduce the cost of purchasing new service weapons; the ones that cannot be traded in, will be destroyed. Alderman Vaught asked if there is a way to sell the ones that cannot be traded in to individuals in order to put money back into the city's general fund. Chief Gary stated yes some of the hunting rifles could be sold as long as we could do it a proper and safe manner, but if they can be traded in this is the approach we will take. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore 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 Rhodes, Alderwoman Smith, Alderman Hawkins, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

*New Business*

**1. Consideration to dispose of certain items from inventory for various departments.**

Mayor Townsell stated vehicles will be sold for scrap or offered for sale as is and they may be cannibalized prior to being sold/scrapped by fleet maintenance. Alderwoman Whitmore motioned to remove these items from fixed assets and dispose of them. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

**2. Consideration of a settlement agreement in regards to Livingston vs. City of Conway.**

Item moved up on the agenda.

*Adjournment*

**PASSED this 12<sup>th</sup> day of July 2011**

**APPROVED:**

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**Mayor Tab Townsell**

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**City Clerk Michael O. Garrett**