

---

---

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

---

Conway, Arkansas  
Tuesday 6:30 pm  
January 22, 2013

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, Alderman Grimes, Alderman Pruitt, Alderwoman Mehl, Alderwoman Smith, Alderman Ledbetter, and Alderman Jones. Also, present and acting: Mayor Tab Townsell, City Clerk/Treasurer Michael Garrett, and City Attorney Michael Murphy. Alderwoman Whitmore was not in attendance.

**Call to Order: Mayor Tab Townsell**

**Roll Call: Michael O. Garrett, City Clerk/Treasurer**

**Minutes: January 8<sup>th</sup>, 2013 City Council Meeting**

Alderwoman Smith motioned to approve the January 8, 2013 minutes as submitted. Alderwoman Mehl seconded the motion. The motion passed 7-0.

**Announcements/Proclamations/Recognitions:** *Employee Service Awards*

**5 Years**

Greshin Brown - CEOC

Jesse Wilson - Sanitation Dept.

Jason Lyon - Planning & Development Dept.

**15 Years**

Sherrill Durham - Police Dept.

Joseph Rowe - Police Dept.

Ron Stephens - Police Dept.

**1. Report of Standing Committees:**

**A. Public Hearing:**

- 1. Public Hearing/Ordinance to discuss the closing of a 10 foot utility easement and 15 foot right of way easement located at 2050 Dave Ward Drive.**

**O-13-12**

Mayor Townsell opened the public hearing. Bryan Patrick, Planning & Development Director, explained the only letter not received is from AT&T as they are waiting on the relocation of the phone equipment, which has been delayed to recent storm damage. Mr. Patrick went onto explain AT&T has also not determined a monetary value on this project and asked council to approve this tonight contingent on AT&T sign off. There was no one else present to speak. Mayor Townsell closed the public hearing. 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 contingent on AT&T sign off. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Pruitt,

---

---

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

---

Alderwoman Mehl, Alderman Ledbetter, Alderman Jones, Alderman Grimes, and Alderman Hawkins. The motion passed 7-0.

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

**1. Consideration of a change order for JCI Construction for the Tucker Creek Pathway (Prince Street to Adamsbrook Drive).**

Ronnie Hall, City Engineer, stated as we finish up Prince Street it would be an ideal time to finish up the pathway between Prince Street and Adamsbrooke, and recommended adding a change order to the current JCI contract to construct this section of the pathway, which is approximately 850 feet. Mr. Hall stated it would cost approximately \$270,000.00 to build. Alderwoman Smith asked how this would be funded. Mr. Hall stated there is residual money in parks bond money allocated for trails, and there is a need to spend this money. Alderwoman Smith motioned to approve the change order. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

**2. Consideration to accept bids with the proposed change order (#1) for the Stone Dam Creek Pathway (Mimosa Drive to Dave Ward Drive).**

Ronnie Hall, City Engineer, this project would construct 2,665 feet of 12 foot wide asphalt pathway; we deferred awarding this contract back in August 2011 due to the city not having obtained the necessary easements, which have since been obtained through the platting process. Mr. Hall requested awarding the project to F.P. Bivens Construction Co., the low bidder, with the exception of the bridge and the fencing, as these subcontractors will not hold their prices. Mr. Hall stated in lieu of the bridge we propose to use reinforced box culvert to cross the creek; this may be better as it would keep the trail down at creek bank level. Mr. Hall with the removal of the bridge and fencing, we can get the cost down to approximately \$635,509.35. Alderwoman Smith motioned to approve the change order and award the bid to F.P. Bivens Construction Co. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

**3. Consideration/Resolution for assignment of lease for the Boys and Girls Club of Faulkner County.**

**R-13-08**

Bill Adkisson, Attorney at Law, stated the Boys and Girls Club is seeking funding and the bank requires collateral, in this case it is assignment of the lease for the Boys & Girls Club and Mr. Adkisson asked council to approve the lease assignment. Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

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

**1. Consideration to enter into an agreement with the Conway Housing Authority for one fully equipped community police officer from the Conway Police Department.**

---

---

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

---

A.J. Gary was present to answer questions. Mayor Townsell stated the Housing Authority will pay us \$35,000.00 to help offset the cost. Alderwoman Smith motioned to approve entering into this agreement. Alderman Ledbetter seconded the motion. Alderman Jones asked if this amount was for one officer and covered one-half the salary. Chief Gary stated yes, it is for one officer and actually will cover more than one-half the salary, but there are also other expenses; i.e. vehicle and gas etc. Mayor Townsell stated this is the same agreement we have with the schools. There was no further discussion. The motion passed 7-0.

**2. Ordinance appropriating grant funds from the Justice Assistance Grant (JAG) for the Conway Police.**

**O-13-13**

A.J. Gary, Chief of Police, stated this is for the 2012 JAG Grant and is applied for in conjunction with the Faulkner County Sheriff's Office (FCSO); the amount of the grant is \$23,551.00, which is split with FCSO and will be used to purchase surveillance equipment and additional tasers. 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. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Pruitt, Alderwoman Mehl, Alderman Ledbetter, Alderman Jones, Alderman Grimes, and Alderman Hawkins. The motion passed 7-0.

**3. Ordinance waiving competitive bids for the purchase of Tasers from Teeco Safety for the CPD.**

**O-13-14**

A.J. Gary, Chief of Police, explained we will purchase 28 tasers this year. The remainder of this discussion is inaudible due to the passing of a train. 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. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Pruitt, Alderwoman Mehl, Alderman Ledbetter, Alderman Jones, Alderman Grimes, and Alderman Hawkins. The motion passed 7-0.

**4. Ordinance appropriating funds for the reclassification of positions at District Court.**

**O-13-15**

Susan Weaver, District Judge, was present to answer questions. Mayor Townsell stated these will amend the 2013 District Court budget for a new full time and a part-time position that will be funded by Faulkner County; this ordinance will recognize the additional revenue. 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

---

---

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

---

“Aye”: Alderwoman Smith, Alderman Pruitt, Alderwoman Mehl, Alderman Ledbetter, Alderman Jones, Alderman Grimes, and Alderman Hawkins. The motion passed 7-0.

**D. Finance**

- 1. Ordinance appropriating funds for a new one step employee salary scale and new salary amounts for full time elected officials.**

**O-13-16**

Mayor Townsell stated this is money we had plugged into our budget as a placeholder and the ordinance will disperse the funds to the various departments to recognize the new pay scale we put into place in December 2012. Mayor Townsell stated the general fund portion is \$1,762,851.00 and CDBG fund portion is \$9,197.00. Mayor Townsell stated this is changing the adopted budget, not the total. 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 and the emergency clause. Alderwoman Mehl seconded the motion. Alderman Hawkins asked if we have had a chance to get with the JESAP group and look further into some of the items brought to our attention. Mayor Townsell stated no, we will not do that until we can meet as a committee as a whole and allow council to look at these positions and agree that these positions need to be addressed; we will let you pick and choose these positions you want more information on. Alderman Pruitt asked if we could set that date tonight. Mayor Townsell stated we could, but it is easier for his assistant to take care of that during the day. There was no further discussion. The clerk called the roll with the following voting “Aye”: Alderwoman Smith, Alderman Pruitt, Alderwoman Mehl, Alderman Ledbetter, Alderman Jones, Alderman Grimes, and Alderman Hawkins. The motion passed 7-0.

- 2. Consideration to approve the monthly financials reporting ending December 31, 2012.**

Tyler Winningham, CFO, explained adjustments will be made to these numbers as we close out our books and prepare for the 2012 audit and some figures will be based on estimates, the main one being sales tax revenue, as we have not yet received our January and February sales tax revenues which will be reported back to 2012. Mr. Winningham stated if you look at the sales tax revenues listed, it is shown to be 4% over what we budgeted; if January and February come in as the rest of 2012 did, it will probably be somewhat higher. Mr. Winningham stated you do not see it reflected here because it is not a separate line item; it is just recorded in with the sales tax. Mr. Winningham noted the one-eighth cent rededicated sales tax has brought in \$1,107,826.00 since February 2012, which is up 5% over what we projected. Mr. Winningham stated overall if you look at the larger revenue sources in the general fund the sales tax turnback was up 108%, beverage tax was up 116%, and parks was up 123%; we had a good year, the least performing is sales tax which was up 104%. Mr. Winningham stated the Ad Valorem tax (property tax) did budget, and there is still adjusting to do here. Mr. Winningham explained on the expenditure side of things, our departments ended the year in good shape with the exception of District Court, which is not the departments fault, they have several different pensions, non-uniform, APERS, and the judges retirement funds that we contribute to and we miscalculated this. Mr. Winningham stated we ended the year \$3,491,000.00 revenues over expenses; most of this is cash we moved from the sanitation fund to the general fund, even though approximately only \$1.5

---

## MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

---

million of this money is available for spending. Mr. Winningham explained the Fund Balance Appropriations listed are items that were not in the 2012 budget but approved by council; there was no dedicated revenue for these items, we decided to use general fund balance to pay for these; all items have been expensed except the Information Technology bucket truck and server replacement; these should be pay out soon. Mayor Townsell stated if you take "Note 3" on page 1, and remove the \$2 million that was put in for cash flow purposes, we have \$1.5 million remaining, then remove the \$449,000.00 for the bucket truck and server replacement, we still have a positive cash flow into the general fund of \$1 million from operations in 2012, which is just good management of budget, and you must credit the department heads for this, as well as a good economy. Mayor Townsell stated from a historical perspective you can see our Fund Balance is \$7.68 million; back in 2009 we thought our Fund Balance was \$3.8 million, knowing then that our cash balance would be less. Mayor Townsell explained our cash balance is now \$4.2 million, which is above that fictitious Fund Balance number of \$7.6 million, this is nice but I do not pay attention to this anymore, I concentrate on the cash operating balance, which is still \$500,000.00 above that in reserve; this tells you that our position is better now than in February 2010 when we discovered we were in financial trouble; this is a financial success story for the city. Mr. Winningham moved on to the Street Fund explaining 2012 was a good year here as well, the low performing revenue item was the severance tax, we knew this was coming, we adjusted accordingly; on the expenditure side, they are in line and the street dept. was able to put back \$55,000.00 to increase their Fund Balance. Mr. Winningham explained in looking at the 2012 revenue for Sanitation, the landfill fees were at 110% of what was budgeted and we only collected approximately one-half of what we budgeted in recyclables; on the expenditure side sanitation grew their fund \$400,000.00, even with providing aid to the general fund. Mr. Winningham stated this is good news, but looking forward the expenses are catching up to the revenues. Mayor Townsell stated it is a good time to point out, that because of the transfers that have been made, the general fund is no longer taking from sanitation fund at all, we are completely free of it, so this report and others looking forward, will not show invasions of the sanitation fund from the general fund. Mayor Townsell stated this is why we set this up, we wanted to make sure our revenues and expenditures matched up as close as possible; if our expenditures start climbing above where they need to be, this would be justification to raise revenue; if they continue to be low and we can get by with the revenue that we historically generated in the sanitation fund, then we will not need to raise fees. Mayor Townsell stated at one time we were bringing in three quarters of a million dollars in recycling proceeds, this market has all but dried up and we are at one-third of that now, so we cannot budget these numbers. Mayor Townsell stated we have seen our revenues shrink from historical levels and we should be more cautious and closely monitor revenue levels verses expenditure as these are fairly stable; it is the historic revenue levels, that are coming down, which may cause us to look at our sanitation rates and stated we have not raised our residential sanitation monthly rates in more than a decade. Alderwoman Smith asked if we are still paying on the recycling sorter. Mayor Townsell state yes, we are still paying that loan; there is another 3 years left. Mr. Winningham stated the 2013 sanitation budget has approximately a \$500,000.00 gap between revenue and expenditures, and it will take approximately \$340,000.00 of that to implement the new pay scale; the sanitation budget for 2013 is within a few \$100,000.00 of being flush as far as revenue and expenditures go. Alderman Jones motioned to approve the December 2012 financial reports. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

---

---

## MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

---

Alderman Grimes stated our finance committee has typically had 4 people and with Mark Vaught leaving we are down to myself, Mary Smith and Shelley Mehl; if anyone is interested in joining the finance committee let them know; we meet the last Tuesday of the month, prior to our regular council meeting. Alderman Theo Jones stated he would like to take part in this committee. Mayor Townsell stated there are also openings on the Human Resource committee if anyone is interested.

### Old Business

### New Business

- 1. Resolution urging the United States Congress to propose amendments to the US Constitution for states consideration relating to contributions and expenditures intended to affect elections.**

#### R-13-09

Mayor Townsell stated this is specifically in reaction to the Citizens United vs. The Federal Election Commission Supreme Court ruling of 2010. Mayor Townsell stated he personally does not agree to put resolutions or items, that weigh in on state or local issues on city agendas, as we prefer to tend to local issues, unless in our each individual capacities argue state or federal issues; however this particular ruling changes and tilts the tables on not just federal or state elections, but will tilt the tables, in his opinion on local elections. Mayor Townsell stated this allows a consideration of paid speech as free speech, and corporations as individuals, just like you and I are individuals, even though corporations have obligations to their stockholders, they do not swear an oath to the constitution like we do, they can participate in elections with no restraints on funding, and they can buy a lot more free speech than I can buy; the definition of free speech should not include how much advertising you can purchase. Mayor Townsell stated he has agreed to the consideration of this amendment to change this, it is not just corporations, Mayor Townsell stated he feels the same way about union endorsement, democratic national committee, and republican national committee, explaining if you want to participate in an election, fund it through the election cycle, stick to the limits of the local campaign rules and let it be transparent, this is not. Mayor Townsell stated we have already seen this type of influences in state elections in this last cycle, and this is not personal to anyone. Mayor Townsell stated we had a state senate race, in which outside money that came into both candidates; however this is personal to us locally and they can keep their money elsewhere, but I believe we, the citizens of Conway, should decide where this is; if you do not think corporate money can come in here and effect our local elections because we do not raise a lot of money in city council elections and a little bit of money can go a long way to stacking the deck and Mayor Townsell stated he does not believe this is fair and feels this is a bad decision on part of the Supreme Court but he feels in this instance this is not national, this can also be local. Alderman Hawkins motioned to allow this item. Alderwoman Mehl seconded the motion. Jim Mosley, 1260 Hunter St, explained he feels this is relevant and hundreds of city council's, including 4 in Arkansas have already approved this resolution, 11 states have already submitted their request for a constitutional convention. Glenn Miller, Coordinator for Move to Amend Arkansas and Move to Amend USA, concurs with Mr. Mosley and Mayor Townsell and stated corporations are strictly built on a quid pro quo relationship and when they give to a candidate their shareholders are expecting a return on that investment;

---

---

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

---

this is not needed, especially in Arkansas. Brenda Smith, Conway resident, spoke in favor of this resolution. J.T. Scott, Conway resident, spoke in favor of the resolution explaining that the influence of money on politics has had a clearly negative effect upon our country and urged council to support this resolution. Jerry Glover, Conway resident, spoke in favor of this resolution. Janet Crow, 26 Ed Speaker Rd, stated she disagrees with the resolution and feels like it is a free speech issue, she stated she is unsure who brought this issue up and asked Mayor Townsell if there was a particular campaign that he had in mind. Mayor Townsell stated he feels it is wrong for any campaign. Dusty Weaver, Conway resident, stated he is here to speak in opposition of this resolution and stated if the constitution is amended to say that money is not speech, then the government could very well limit political advocacy as this is what restrictions on political speech almost always does, whether intended or not they favor the view of certain factions while suppressing others. Jack Sotallaro, Conway resident, explained he finds it difficult to understand how a city council could entertain a resolution that would limit a corporation's right to free speech and not discuss unions, etc. Mr. Sotallaro stated all the examples drawn here tonight, opposing Citizens United, have been drawn because certain people on the conservative side put their money where their mouth is; before you legislate speech, you should legislate fairness. Mr. Sotallaro explained this is the expression of an individual's thought or opinion that they are expressing with their pocketbook. Doug Henderson, spoke in opposition of this resolution. Dorothy Troddler, Conway resident, stated she is disappointed that council had already decided to vote for this resolution before hearing your constituents have to say. Mr. Mosley reiterated that the proposed constitutional amendment would apply to unions, organizations of any kind not just corporations and feels Moveon.org is a perfect example as they targeted 10 representatives that they did not favor and took down 9 of them. After some discussion the motion passed 7-0.

**Adjournment**

**PASSED this 22<sup>nd</sup> day of January 2013**

**APPROVED:**

\_\_\_\_\_  
**Mayor Tab Townsell**

\_\_\_\_\_  
**City Clerk Michael O. Garrett**