

ORDINANCE NO. 7 of 2012

AN ORDINANCE TO REPEAL ORDINANCE NO. 47 OF 2001; AUTHORIZING THE DISTRIBUTION OF THE FUNDS IN THE EONE GRINDER PUMP ACCOUNT INTO THE CABOT WASTEWATER GENERAL ACCOUNT; AUTHORIZING THE CLOSURE OF THE EONE GRINDER PUMP ACCOUNT; ASSIGNING ALL FUTURE CELL TOWER LEASE PROCEEDS TO THE CABOT WATER AND WASTEWATER COMMISSION TO BE USED FOR ANY LAWFUL PURPOSE IN THE OPERATION OF THE CITY'S WATER AND WASTEWATER SYSTEM; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the City Council (the "Council") of the City of Cabot, Arkansas (the "City") adopted Ordinance No. 47 of 2001 on August 20, 2001 ("Eone Ordinance"), to assign the proceeds of all of the City's cell tower site leases to an account for the limited purpose of paying for the repair of Eone Grinder Pumps installed as part of the City's wastewater collection system (the "Eone Account"); and

WHEREAS, the Cabot Water and Wastewater Commission (the "Commission") has recommended to the Council that the Eone Account is accumulating more money than is needed for the repair of Eone Grinder Pumps; and

WHEREAS, the Commission has reported to the Council that the Commission is in need of funds for other wastewater projects in addition to repair of the Eone Grinder Pumps; and

WHEREAS, the Commission has requested the release of all funds in the Eone Account to the Commission to fund other wastewater projects; and

WHEREAS, the Commission has also requested the assignment of all future proceeds from the City's cell tower site leases to the Commission to be used by the Commission for any lawful purpose in the operation of the City's water and wastewater systems; and

WHEREAS, the Council, based on the Commission's recommendation, has determined that the continued funding of the Eone Account is no longer necessary and that the Eone Ordinance should be repealed; and

WHEREAS, the Council, based on the Commission's recommendation, (see Exhibit "A" attached hereto) has determined that all of the funds currently in the Eone Account should be transferred by the Commission to the Commission's wastewater general account, to be used by the Commission for any lawful purpose in the operation of the City's wastewater system; and

WHEREAS, the Council, based on the Commission's recommendations, has

determined that all future proceeds of the City's cell tower site leases should be assigned to the Commission to be used as the Commission deems necessary for the operation of the water or wastewater systems.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CABOT, ARKANSAS:

SECTION 1: *Repeal of Ordinance No. 47, 2001.* The Eone Ordinance is hereby repealed in its entirety and shall be inapplicable.

SECTION 2: *Distribution of Funds in the Eone Account to the Wastewater General Account.* The Council hereby authorizes the Commission to transfer all funds in the Eone Account to the Commission's wastewater general account, to be used by the Commission for any lawful purpose in the operation of the City's wastewater system.

SECTION 3: *Assignment of all future cell tower site lease proceeds to the Commission.* The Council hereby assigns and transfers to the Commission all future proceeds of the City's cell tower site leases and authorizes the Commission to deposit such proceeds into the Commission's general account, to be used by the Commission for any lawful purpose in the operation of the City's water or wastewater systems.

SECTION 4: *Further Action.* The Council hereby authorizes the Mayor and City Clerk/Treasurer to execute and deliver such additional agreements, documents and instruments, and to take such further actions, as shall in the opinion of the Mayor be necessary or desirable to further or complete the assignment of the City's cell tower site leases, and all of the proceeds thereof, from the City to the Commission, to be used by the Commission for any lawful purpose in the operation of the City's water and wastewater systems.

SECTION 5: *Severability.* The provisions of this Ordinance are hereby declared to be separable and, if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of the Ordinance.

SECTION 6: *Repealer.* The Eone Ordinance is hereby repealed in its entirety and all other ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7: *Emergency Clause.* It is hereby ascertained and declared that the repeal of the Eone Ordinance and the re-designation of the cell tower site lease proceeds for use by the Commission for the operation of the City's water and wastewater systems must be accomplished as soon as possible in order to make the water and wastewater systems adequate for the needs of the City and its inhabitants, without which the life, health, safety and welfare thereof are jeopardized, and that the taking of the actions authorized by this Ordinance are necessary for, the accomplishment thereof. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage.

SPONSOR:

Cabot Water and Wastewater

Date: March 22, 2012

Passed: 4-0

CO-SPONSOR:

Budget & Personnel Committee

Date: April 2, 2012

Passed: 5-0

PASSED: 8-0

EMERGENCY CLAUSE 8-0

DATE: April 16, 2012

APPROVED AS TO FORM: Jim Taylor, City Attorney

ATTEST: Tammy Yocom, City Clerk

