

City of Mansfield
MINUTES OF *REGULAR* PUBLIC MEETING
September 14, 2015

The Board of Aldermen met in regular session on **Monday, September 14th**, in Mansfield City Hall located at 705 Polk Street. Mayor McCoy called the meeting to order at **4:30 p.m.**, after which an Invocation was offered by **Alderman Mitchell L. Lewis**. The Pledge of Allegiance was led by **Alderman Kervin D. Campbell**. Following the pledge, the roll was called, and the following officials were recorded as **Present**: Hon. Curtis W. McCoy, **Mayor**, Mitchell L. Lewis –District **C**, Joseph Hall, Jr. –District **D** and Kervin D. Campbell –District **E**. **Absent**: Mary L. Green –District **A** and Roy R. Jones –District **B**. **Other City Personnel Present**: Gwendolyn Jones (Deputy Clerk), Brian Phillips (Court Clerk) and James “*Jim*” Ruffin (Public Works Director). Others Present: Ransome Canipe, Jr., George Apperson, and John S. Evans. **Press Present**: None.

It was MOTIONED by **MITCHELL L. LEWIS** and SECONDED by **JOSEPH HALL, JR.** to approve the minutes of the **August 24, 2015 *regular*** City Council meeting and to dispense with the reading. Motion Passed Unanimously.

It was MOTIONED by **MITCHELL L. LEWIS** and SECONDED by **KERVIN D. CAMPBELL** to approve the payment of current outstanding bills for this period. Motion Passed Unanimously.

The City Clerk next opened the floor to hear public comments from those in attendance to any item outlined on the meeting agenda. When no comments were offered from the floor, the **Public Comments Period** was then closed.

Old Business:

Item A: A public hearing was conducted to hear and discuss any comments related to the adoption of an Ordinance to renew a **Franchise Agreement** with ***BellSouth Telecommunication, LLC*** (d/b/a AT&T Louisiana). When no comments were offered from the floor, the **public hearing** was subsequently closed.

Item B: It was MOTIONED by **MITCHELL L. LEWIS** and SECONDED by **JOSEPH HALL, JR.** to approve adoption of **Ordinance No. 9 of 2015** to renew a **Franchise Agreement** with ***BellSouth Telecommunication, LLC*** (d/b/a AT&T Louisiana) authorizing AT& T the use of city streets, alleys, public ways and thoroughfares for the construction, maintenance and operation of facilities used in the provision of telephone and telegraph services to the public and to provide for related matters. This new agreement bears a 15-year term and becomes effective **October 1, 2015** and expires on **September 30, 2030**. All other terms are recited within the body of the Agreement. Motion Passed Unanimously. (Full Ordinance recited below):

City of Mansfield
ORDINANCE NO. 9 OF 2015

AN ORDINANCE TO APPROVE AN AGREEMENT RELATIVE TO THE AUTHORIZATION TO USE AND OCCUPY THE STREETS, ALLEYS, PUBLIC WAYS AND THOROUGHFARES OF THE **CITY of MANSFIELD** FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING AND OPERATING STRUCTURES AND FACILITIES USED IN OR INCIDENTAL TO THE PROVISION OF THE TELEPHONE OR TELEGRAPH SERVICES TO THE PUBLIC THEREIN AND TO PROVIDE FOR RELATED MATTERS.

BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Mansfield, Parish of DeSoto, State of Louisiana, in *regular* session convened:

Section 1.

The Mayor and Board of Aldermen of the **City of Mansfield** hereby approve and ratify the following agreement for the provision of telephone and telegraph services in such Municipality:

AGREEMENT

THIS AGREEMENT is made and entered into by and between the **City of Mansfield**, a municipal corporation organized and existing under the laws of the State of Louisiana (the "Municipality"), and **BellSouth Telecommunications, LLC** d/b/a AT&T Louisiana, a corporation organized under the laws of the State of Georgia (the "Company"), doing and authorized to do a general telephone business in the State of Louisiana and in the Municipality.

WITNESSETH

WHEREAS, a disagreement exists between the Municipality and the Company with respect to the Company's use of the streets, alleys, public ways and thoroughfares of the Municipality for the operation of the Company's business; and

WHEREAS, it is to the mutual advantage of the Municipality and the Company that the Company continue operating in the Municipality, and in furtherance thereof that the Company be permitted to continue to maintain its facilities in the streets, alleys, public ways and thoroughfares of the Municipality under conditions mutually agreed upon by the Municipality and the Company;

NOW, THEREFORE, in consideration of these premises and the following mutual covenants, the Municipality and the Company do hereby agree as follows:

SECTION 1
COMPANY'S RIGHT OF USE

- (a) Pursuant to the terms of this Agreement, the Municipality acknowledges that the Company is authorized to use and occupy the streets, alleys, public ways and thoroughfares of the Municipality for the purpose of constructing, maintaining and operating its poles, wires, conduits, cables, anchors, towers, transmission lines, manholes, piers, abutments, and other structures and facilities used in or incidental to the provision of telephone services to the public.
- (b) The Company's right to use and occupy said streets, alleys, public ways and thoroughfares of the Municipality shall not be exclusive, and the Municipality reserves the right to grant a similar use of said streets, alleys, public ways and thoroughfares to any person, firm or corporation at any time during the period of this Agreement, provided that if local exchange telephone service is either offered or provided within all or any portion of the corporate limits of the Municipality by any person, firm or corporation other than the Company, such person, firm or corporation enters into a similar agreement with the Municipality, including the requirement that such other person, firm or corporation pay to the Municipality a percentage of its gross receipts from local exchange telephone service not less than the percentage required of the Company under Section 2 (a).

SECTION 2
CONSIDERATION

- (a) In consideration for the Municipality's acknowledgement of the Company's rights set forth in Section 1, the Company hereby agrees to pay to the Municipality **five percent** (5%) percent of the Company's gross receipts from local exchange telephone service provided by the Company within the corporate limits of the Municipality.
- (b) For purposes of this Agreement, the term "gross receipts from local exchange telephone service" is defined to mean and include only those charges resulting from the Company's provision of basic local exchange telephone service to residences and businesses, based on rates established from time to time by tariffs on file with the Louisiana Public Service Commission.
- (c) The payments contemplated by this Section are to be made in quarterly installments and paid not later than **thirty** (30) days after the end of each calendar quarter.

- (d) The terms of this Agreement shall apply to newly annexed areas of the Municipality within a reasonable period, as agreed upon by the Municipality and the Company, after written notice of such annexation has been transmitted to the Company by the Municipality.
- (e) The payments contemplated by this Section are deemed to be the sole and exclusive consideration for the Municipality's acknowledgement of the Company's rights set forth in Section 1; and the Municipality hereby agrees that, for the period during which this Agreement is in effect, the Municipality will not pass any law or ordinance, or otherwise seek to impose, levy, or collect from the Company any other amount or service (including any telephone service that may heretofore have been provided by the Company to the Municipality without charge) for any of the rights set forth in Section 1. This subsection (e) shall not affect the Company's liability to pay any general taxes, fees or licenses legally imposed for the general maintenance of the Municipality.
- (f) The Company shall maintain and shall make available for audit by the Municipality, upon reasonable notice, all necessary accounts and records reflecting the amounts of and basis for computation of all gross receipts from local exchange telephone service within the corporate limits of the Municipality.
- (g) In the event that the Company shall fail to pay a sum of money for which it is obligated under this Agreement within **thirty** (30) days of the receipt of written demand therefore, the obligation shall be deemed delinquent; and, in addition to legal interest accruing from the date of delinquency, the Company shall pay a penalty of one and one-half (1½%) percent of the principal sum due.

SECTION 3
INDEMNIFICATION, INSURANCE AND REIMBURSEMENT

- (a) The Company hereby agrees to protect, indemnify, and hold the Municipality harmless from any and all claims for damages to persons or property arising from or resulting from the Company's exercise of any of the rights set forth in Section 1; provided, however, that the Company shall not be liable for any damages caused by the negligence of the Municipality, its officers, agents, contractors, or employees.
- (b) The Company further agrees either to:

- (1) Obtain a policy of public liability insurance in an amount not less than One Million Dollars (\$1,000,000) with the Municipality named as an additional insured under such policy, or
- (2) Provide the Municipality with proof of self-insurance in an amount not less than One Million Dollars (1,000,000).

The Municipality's right of indemnification under Subsection (a) shall not be limited by the amount of the Company's insurance coverage.

(c) The Municipality hereby agrees to reimburse the Company for the cost of repairing any and all damage to the Company's structures or facilities caused by the negligence of the Municipality, its officers, agents, contractors or employees.

(c) The provisions of this Section are not intended to create liability for the benefit of third parties but are solely for the benefit of the Municipality and the Company.

SECTION 4 **COMPLIANCE WITH ORDINANCES**

The Company shall at all times during the life of this Agreement be subject to all lawful exercises of the police power of the Municipality, and to such reasonable and lawful regulation as the Municipality shall hereafter by ordinance or resolution provide.

SECTION 5 **CONDITIONS ON USE AND OCCUPANCY**

None of the Company's structures or facilities shall at any time interfere with the use, repair, maintenance, or drainage of the streets, alleys, public ways and thoroughfares of the Municipality. Except in the case of an emergency, the Company, shall, in advance of any construction or repairs, comply with all applicable laws and ordinances of the Municipality relative to permits regarding such construction or repair. The Company shall be responsible for all repair or replacement costs incurred by the Municipality as a result of any damage to the streets, alleys, public ways and thoroughfares of the Municipality caused by the construction, maintenance or repair work of the Company.

SECTION 6 **MAINTENANCE**

The Company shall at all times maintain its structures and facilities in good condition and shall comply with all reasonable safety requirements in the operation thereof.

SECTION 7
CONSTRUCTION AND EFFECTIVE DATES

- (a) This Agreement is entered into and is to be construed under and in accordance with the laws of the State of Louisiana.
- (b) The Municipality hereby covenants that its Council has passed all necessary ordinances or resolutions, in accordance with the terms of its charter and all applicable provisions of Louisiana law, authorizing the undersigned Mayor to execute this Agreement on behalf of the Municipality and by doing so bind the Municipality to all of the terms and conditions of this Agreement.
- (c) The Municipality and the Company understand, acknowledge and agree that the payments contemplated by Section 2 are to be considered payments received by a Municipality from a public utility within the meaning of La. R.S. 33:4510, as amended, and that in accordance therewith, such payments are subject to the charge-back provisions contained therein.
- (d) The Municipality and the Company mutually agree that by entering this Agreement, neither party shall be considered to have surrendered, waived, or in any way prejudiced any rights or claims granted to them by any applicable constitutions, laws or ordinances.
- (e) The Municipality and the Company hereby agree that this Agreement shall be in effect for an initial term of **fifteen** (15) years, beginning on **October 1, 2015** and ending on **September 30, 2030**. This Agreement will continue thereafter on a year-to-year basis unless cancelled by either party upon at least sixty days notice prior to the expiration of the initial term or any extension thereof.

Section 2.

BE IT FURTHER ORDAINED that Curtis W. McCoy, in his capacity as Mayor of the **City of Mansfield**, be and is hereby granted the authority and power to execute on behalf of the **City of Mansfield** the Agreement contained herein, and by doing so bind the **City of Mansfield** to all of the terms and conditions of that Agreement as of the dated executed by the Company.

Said Ordinance having been introduced on August 24, 2015, the title having been read and the Ordinance considered and on motion by Mitchell L. Lewis, seconded by J. Joseph Hall, Jr. to adopt the Ordinance, a record vote was taken and the following results were had:

YEAS: 3 (M. Lewis, J. Hall, Jr., K. Campbell)

NAYS: 0

ABSENT: 2 (M. Green, R. Jones)

ABSTAIN: 0

WHEREUPON, the Mayor declared the above Ordinance duly adopted on September 14, 2015.

AFTER PUBLICATION, Effective Date: October 1, 2015.

Item C: No other old business discussed.

New Business:

Item A: It was MOTIONED by **JOSEPH HALL, JR.** and SECONDED by **MITCHELL L. LEWIS** to approve the recommendation of Public Works Director, Jim Ruffin, to offer full-time employment with the City of Mansfield to Mr. **Ransome A. Canipe, Jr.** Mr. Canipe was originally hired on July 2, 2014 and worked in a part-time capacity in the city's Street Department. He was transferred to the Sanitation Department on June 18, 2015, when his work hours were extended to full time. Finally, Mr. Canipe has demonstrated that he can be relied on to complete the tasks assigned to him by his supervisor (s). Motion Passed Unanimously.

Item B: Present at this meeting was DeSoto Parish attorney, Mr. **John S. Evans**, whom the Mayor introduced to the Council as the legal counsel being considered to replace former city attorney, Mr. Richard Z. Johnson, Jr. Mr. Johnson recently relocated to Baton Rouge and tendered a resignation to relinquish his role as municipal attorney for the City of Mansfield. Mr. Evans has submitted an Attorney-Client Fee Agreement for review by the Mayor and Council in consideration for assuming this vacant position. It was MOTIONED by **JOSEPH HALL, JR.** and SECONDED by **MITCHELL L. LEWIS** to approve the recommendation of the Mayor to confirm Mr. Evans as the city's new municipal attorney and authorize the Mayor to negotiate the terms specified in the Agreement which will result in the best mutually beneficial arrangement for both the City and Mr. Evans. Motion Passed Unanimously.

Item C: No other new business discussed.

In a general statement, the City Clerk announced that the city's budget process had begun to initiate preparation of the 2016 Annual Budget of Revenue and Expenditures. Finally, Alderman Joseph Hall requested permission to use the pavilion at City Hall on Monday, September 21st for a city-wide Prayer service which commences at 5:00 p.m. and will be hosted by pastors in the community. His request was granted. With no further business to discuss, the meeting was declared adjourned at **4:44 p.m.** by MOTION from **JOSEPH HALL, JR.** and was SECONDED by **MITCHELL L. LEWIS.** Motion Passed Unanimously.

Curtis W. McCoy, *Mayor*
Marvin R. Jackson, *Clerk*