



Legislation Text

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AN ORDINANCE PROVIDING FOR PURCHASES OF BUSES AND EQUIPMENT; ISSUANCE OF BONDS FOR PURCHASE, PLEDGING RESERVES FOR PAYMENT OF BONDS; APPOINTING A COMMISSION OF PUBLIC TRANSPORTATION; RECITING A COMMISSION OF PUBLIC TRANSPORTATION; RECITING OTHER MATTERS RELATING TO TRANSPORTATION AND DECLARING AN EMERGENCY (**NOTE: THIS ORDINANCE WAS AMENDED BY ORD-58:1769 ON JULY 7, 1958**)

It is found and declared by the Council of the City of Jonesboro that the operation of a system of buses over the streets of Jonesboro and to Nettleton, Arkansas, is necessary to the public welfare; that such transportation is not hereafter obtainable through private ownership or operation; that the City Council and interested citizens have exhausted all possibilities of maintaining such bus service through other than public ownership; it is now necessary that the City of Jonesboro purchase and operate a public bus transportation facility.

Citizens of Jonesboro, represented by the Jonesboro Chamber of commerce, have contracted and underwritten the sale of bonds to obtain capital to purchase a bus system and for the supplying of certain operating capital, and the City Council has, by resolution, unanimously adopted on July 5, 1955, contracted to purchase buses and equipment of the Transit Company and to authorize the execution and delivery of evidences of indebtedness in the total sum of \$10,000.00, to be secured by the properties purchased and net revenues to be derived from the bus operation; and has agreed to appoint five commissioners of public transportation to have charge of the operations for and on behalf of the City of Jonesboro, and to supply certain operating capital as set out in "Memoranda of Agreement Concerning Bus Operation in Jonesboro Arkansas".

NOW, THEREFORE, in furtherance of the requirements of the public welfare and in compliance with said Memoranda of July 5, 1955, the terms of which are again found to be in the public interest, required to meet a public necessity and are confirmed as binding upon the City;

BE IT ORDAINED:

SECTION 1: That, the seven buses are purchased by the City of Jonesboro from the City transit company for consideration of \$7,846.83.

SECTION 2: That the City of Jonesboro issue, and the Mayor and the City Clerk execute and deliver to purchasers thereof, bonds, each in the sum of \$50.00, and in a total amount of \$10,000.00, dated as of July 15, 1955, and maturing in five years from date of issue, said bonds to bear interest at the rate of 4%, payable annually, and that said principal and interest be secured by a pledge, mortgage of Deed of trust executed on behalf of the City by the Mayor and the City Clerk. The bonds and pledge shall not constitute an indebtedness of the City within any constitutional or statutory limitations, and shall be substantially in the following form:

PLEDGE AND MORTGAGE

KNOWN ALL MEN BY THESE PRESENTS:

That whereas for the purpose of providing a public bus transportation system which has been found to be necessary to the

public welfare, the City of Jonesboro has been found to be necessary to the public welfare, the City of Jonesboro has issued a series of bonds, payable at the office of the City Collector, dated as of July 15, 1955, and maturing July 15, 1960, and being numbered 1 to 200, inclusive, and each in the denomination of \$50.00, and bearing interest, payable annually on the 15<sup>th</sup> day of each July, at the rate of 4% per annum, and said bonds being in substantially the following form;

BOND  
CITY OF JONESBORO  
CRAIGHEAD COUNTY  
ARKANSAS

The City of Jonesboro, Craighead County, Arkansas, for value received, promises to pay to bearer, from a special fund a hereinafter set forth, Fifty Dollars (50.00) on the 15<sup>th</sup> day of July, 1960, when presented to the office of the City Collector, together with interest rate of 4% per annum, payable annually on the 15<sup>th</sup> day of each July on the principal amount of amounts outstanding or unpaid during each year preceding such date. Payments of interests or payments on principal to be endorsed on this bond when same is presented to the City Collector after call or on the due dates herein set out.

This Bond is one of a series of 200 of like terms and amounts issued in full compliance with the laws of the State of Arkansas obligating a city to act in furtherance of the demands of public welfare. Said bonds are not general obligations of the city, but are special obligations, payable solely from net revenues of the public bus transportation system after provision for payment of the operating costs of said system.

The moneys received from the sale of the bonds of this issue have been used to purchase buses and equipment described in the Pledge securing the issue, and holders of such bonds shall have a mortgage on the equipment and vehicles described in the pledge securing this issue for the equal and retable payment of the bonds and interest.

The bonds of this issue may be called for redemption prior to maturity on any date, and, in event the buses and equipment of the public transportation system in Jonesboro are sold in their entirety, the funds derived from such sale must b used to call the bonds of this issue, and all prepayments or partial payments shall be made in equal amounts on each bond outstanding. Notice of any call for redemption or partial payment before maturity shall be published by the City Clerk once a week for two weeks in a newspaper published in the City of Jonesboro, Arkansas, and shall state the amount to be paid upon each bond and the date of such payment. After the said date, no interest shall accrue on that part of the bond that is called for payment.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen, and be performed precedent to and in issuance of this bond have existed, have happened, and have been performed in due time, form and manner as required by law; that revenues form the bus system not required for said operations, maintenance or depreciation have been pledged to and will be set aside into a special fund for the payment of principal and interest on the bonds of this issue as set out herein and in the Pledge securing same.

IN WITNESS WHEREOF the City of Jonesboro, Arkansas, by its City Council, has caused this bond to be signed by the Mayor and the City Clerk and the seal of the City affixed thereto as of the 15<sup>th</sup> day of July, 1955.

CITY OF JONESBORO, ARKANSAS

By: Herbert Sanderson, Mayor  
Faye Jelks Brown

City Clerk

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and sufficient considerations, and for the purpose of securing the payment of each and all of the aforesaid bonds and interest thereon, the City of Jonesboro, Arkansas, does hereby pledge, mortgage, sign, transfer, and set over to William J. Perry, Trustee, and his successors, all of the vehicles and equipment purchased from the proceeds of said bond issue and described as follows:

- 1 New V-8 Motor Block Assembly
- 1 Reconditioned Motor Block Assembly
- 1 Air Compressor
- 1 Transmission
- 1 Ring Gear and Pinion
- 1 12V Starter
- 1 Generator Armature
- 1 Starter Armature
- 3 Voltage Regulators
- 1 Radiator
- 1 Box transmission Tools and Gauges
- 1 New 12V Battery
- 3 Electric Fuel Pumps
- 1 Lot Smaller Parts
- 1 Chevrolet
- 6 Ford Transit Buses

Together with all buses, vehicles, equipment, machinery, tools, or chattels of whatsoever kind or nature hereafter acquired or used in connection with the public transportation system of Jonesboro, Arkansas. Provided, however, that the City of Jonesboro, through its Public Transportation Commission, or otherwise, may dispose of or trade and apply upon purchase of new equipment any of such vehicles or equipment described above, free of the lien of this Pledge, but the property acquired through such transactions shall be subject to the Pledge; however, the lien hereof shall be subsequent and inferior to any lien retained by an unpaid seller of equipment hereinafter acquired. As further security, the City of Jonesboro hereby pledges and agrees to set aside, in a special fund, for the payment of bonds and interest above described, revenues derived from the operation of buses or public transportation system by the City of Jonesboro, but in such sums, amounts, and at such times as the Commission of Public Transportation of said city shall deem proper after making full provision for the operation, depreciation and replacement of public transportation facilities.

For and in consideration of acceptance of the above described bond issue, and for the purpose of insuring performances of its Pledge and Mortgage securing said bonds, the City hereby covenants with William J. Perry, trustee for the holders of said bonds, or his successor, that:

(1) That five commissioners of transportation of the City of Jonesboro shall be appointed and serve according to the terms of the ordinance appointed same and the Memoranda of Agreement concerning bus operations in Jonesboro, Arkansas, dated July 5, 1955. Such Commissioners shall determine all policies of operation of the bus system and detail of such operation, including, but not limited to, determination of schedules, routes and fares. They shall employ all personnel required to operate the system and make such contracts, purchases or sales, for cash or credit, payable only from operating revenues as they shall deem advisable, and that they shall hold office until death or resignation or removal by the Council for cause involving stated failures to perform the duties set out in the contracts and ordinances concerning their appointment. Further, that each appointment in succession of members of said Commission shall be of persons recommended by the Chamber of Commerce so long as any of the indebtedness herein secured remains unpaid.

(2) The commissioners shall be required to make, or cause to be made, monthly operating statements and a yearly audit and deliver the same to the City Council and to the Secretary of the Jonesboro Chamber of Commerce.

(3) Bonds shall be paid at the office of the City Collector and may be called for payment as set out in said bonds, and all payments shall be ratably made so that each bond shall receive an equal credit and equal share of each such payment, and partial payments and payments of interest shall be endorsed on said bonds by the City Collector.

(4) The holders of a majority of the bonds at any time outstanding, or the Chamber of Commerce of Jonesboro, Arkansas, or the City Council may declare the entire amount of the outstanding bonds to be due and in default in event that the operation of the public transportation system fails to show any net profit for three consecutive months. Upon such declaration made by any one of the three entities authorized, and delivered in writing to the Trustee, it shall be the Trustee's duty to immediately proceed to foreclose the lien and enforce the Pledge securing the said bond issue, and the cost of such foreclosure or such proceeding shall first be paid out of the securities pledged and the balance distributed equally to each of the bonds outstanding.

(5) In event a net operating loss has occurred in any month and a majority of commissioners of public transportation certify to the City Council that the operation of buses is imperiled by losses and that there are no reserves in debt service accounts, nor in depreciation accounts, then the City Council shall appropriate sums as may be requested by the Commission for operation of buses, not exceeding \$1,000.00 for any 30-day period, \$2,000.00 for any 90-day period, nor \$3,000.00 in any calendar year. In event default has not been declared, as set out above, the Council's obligation to immediately appropriate such sums upon such request and showing shall be absolute, and the amounts so appropriated shall not be refunded or repaid to the City while any of the bonds secured hereby are outstanding and unpaid.

(6) William J. Perry shall be Trustee for the owners of bonds of this issue and shall serve without compensation, but shall be reimbursed for any expenses incurred in the making or enforcing of this Pledge. The Trustee may be changed and a successor trustee appointed at any time by resolution of the board of the Jonesboro Chamber of Commerce, or in writing by the holders of the majority of bonds outstanding. The Trustee shall not be responsible for the enforcement of the terms of this Pledge nor for the legal sufficiency thereof, nor required to take notice of any default, but only to act at the direction of the City Council, the chamber of Commerce or majority of bondholders as herein set out.

IN WITNESS WHEREOF the City of Jonesboro has caused this instrument to be executed on behalf of its Mayor and City Clerk this 15<sup>th</sup> day of July, 1955.

MAYOR

CITY CLERK

SECTION 3: There is hereby established and created a Commission of Public Transportation, consisting of the President of the Chamber of Commerce and four citizens of Jonesboro. The term of office of the President of the Jonesboro Chamber of Commerce shall terminate with the ending of such presidency, and the successor presidents of the Jonesboro Chamber of Commerce shall serve and are hereby appointed as members of the Commission of Public Transportation. The four other members shall hold office until death or resignation or removal by the Council for cause involving stated failures to perform the duties set out in this ordinance. So long as any of the bonds provided in this ordinance remain unpaid, the successor commissioners shall be persons recommended by the Jonesboro Chamber of Commerce.

SECTION 4: There is hereby named and appointed by the Mayor and the City Council Ernest Freebee, R.H. Wall, Herbert Goodman and Stanley Cox, as Commissioners of Public transportation, and Ed Cherry, Jr., is appointed as such Commissioner by reason of his presidency of the Jonesboro Chamber of Commerce.

SECTION 5: The Commissioners of Public Transportation are authorized and empowered to manage and determine any and all matters pertaining to operation of city-owned buses or other modes of publicly-owned transportation facilities in the City of Jonesboro, and to act for the City of Jonesboro in all such matters as fully as the Mayor and City Council might do, and to take any and all steps required to carry out, complete, and maintain, supervise and operate a public transportation facility in the City of Jonesboro. Said Commission shall determine all policies of operation of the bus system or other public transportation, including schedules, routes, fares, the employment of a manager and of all personnel deemed by them as required to operate such transportation system. They may contract concerning purchase, or sell any equipment or property under their control, but shall have no power to pledge or spend any funds or assets of the City of Jonesboro except such as accrue from the operation of buses or the handling of equipment under their control. They shall make or cause to be made and delivered to the City Council and to the Chamber of commerce monthly operation statements and a yearly audit of the operations of a public transportation system. They shall set aside such funds from time to time as may be available, and deemed by them as not immediately required for operations, into a reserve or depreciation fund, and also into a fund which they shall establish for the payment of interest and principal of the bonds described in this ordinance, and shall determine when said bonds should be called for payment and place in the hands of the designated city official moneys to pay the principal and interest of said bonds as they shall deem the same available for such purpose. The actions of said commissioners in conformity to this ordinance are approved, ratified and confirmed hereby.

SECTION 6: If any section, provision, or paragraph of this ordinance shall be declared invalid, such invalidity shall not be constructed to affect the other parts or portions of this ordinance.

SECTION 7: It being found that bus transportation is necessary to the health, safety and general welfare of the citizens of the City of Jonesboro, and that such transportation cannot be accomplished except under the provisions of this ordinance it is therefore, declared that an emergency exists and this ordinance is necessary for the immediate preservation of the public peace, health and safety, and shall be in full force and effect from and after its passage.

PASSED and ADOPTED this 18<sup>th</sup> day of July, 1955.