

## ORDINANCE 2020 - 09

AN ORDINANCE AMENDING THE BUDGET OF THE CITY OF SEARCY, ARKANSAS; TO COMPLY WITH THE JUDGMENT OF THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS, IN CASE NO. 73-CV-18-570, CITY OF SEARCY v. JACK WISEMAN, DAVID EVANS, AND BELINDA LAFORCE; PROVIDING FOR THE CORRECTION AND PROPER PAYMENT OF RETIREMENT BENEFITS TO FORMER MAYOR DAVID EVANS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

The City Council of the City of Searcy, Arkansas, meeting in regular session, makes the following findings of fact and enacts the following provisions:

WHEREAS, in its Independent Audit Report issued on November 2, 2017, Arkansas Legislative Audit made certain findings with respect to retirement benefits being paid by the City of Searcy to certain former elected officials; and

WHEREAS, in response to the findings by Arkansas Legislative Audit, the Searcy City Council authorized the filing of a lawsuit seeking a Declaratory Judgment regarding the propriety of Searcy's payments of retirement benefits; and

WHEREAS, the White County Circuit Court entered a Judgment in the case of The City of Searcy v. Jack Wiseman, David Evans, and Belinda LaForce, Case No. 73-CV-18-570, on March 9, 2020; and

WHEREAS, the Searcy City Council recognizes the decree of the Circuit Court that the City miscalculated the proper retirement benefit payable to former Mayor David Evans, and that the Court determined the proper and lawful monthly benefit to which the former mayor is entitled; and

WHEREAS, the Searcy City Council finds it is appropriate that the budget as adopted be amended in its entirety to provide that all future payments of retirement benefits to former Mayor Evans be made in the proper and lawful amounts, and to provide for payment of the additional sum the Circuit Court determined that former Mayor Evans should have been paid in each month he received his benefit under the City's erroneous calculation; and

WHEREAS, the Searcy City Council finds that, in light of the need to comply with the ruling of the Circuit Court of White County and with Arkansas Code Ann. § 24-12-123, and to provide for the proper and lawful payment of past and future payments of retirement benefits to its qualified former elected official who served the citizens of the City of Searcy, an emergency is hereby declared and this ordinance is necessary to protect the public peace, health, safety and welfare.

NOW, THEREFORE, the Searcy City Council adopts the following amendment to the budget as adopted:

Section 1. The Budget of the City of Searcy, Arkansas, is hereby amended by adding a section which reads as follows:

It is hereby determined by the City Council that former Mayor David Evans is entitled to payment of all future monthly retirement benefits in the amount of \$3,414.25, subject to ordinary withholding requirements

for federal and state taxes. The City Council further finds and determines that former Mayor Evans is entitled to payment of an additional \$722.58 for each month in which he received his mayoral retirement benefit under the City's original but erroneous calculation, again subject to ordinary withholding requirements for federal and state taxes. Accordingly, the Mayor, or his duly authorized representative, is hereby directed to make payment for the past underpayments, and to make all future monthly payments in the amount established by the Circuit Court and by this Ordinance.

Section 2. The provisions of this ordinance are separable and, upon any finding that any provision of this ordinance is unenforceable, the remaining provisions shall be enforceable according to their terms.

Section 3. All ordinances, resolutions or other acts of the City in conflict with the terms hereof are repealed to the extent of any such conflict.

Emergency Clause. The Searcy City Council has determined than an emergency exists and that the immediate adoption and enforcement of this ordinance being necessary for the public peace, health, safety and welfare, the provisions hereof shall be in fully force and effect from and after its passage.

Adopted this 14<sup>th</sup> day of April, 2020.

The City of Searcy, Arkansas

By: /s/ Kyle Osborne  
Mayor of Searcy

Attest:

/s/ Jerry Morris  
Searcy City Clerk-Treasurer