

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday, 6:30 pm
January 28, 2020

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: Councilman Hawkins, Councilman Grimes, Councilman Ledbetter, Councilwoman Mehl, Councilman Jones, Councilwoman Isby, Councilman Pruitt and Councilwoman Smith. Also, present and acting: Mayor Bart Castleberry, City Clerk Michael Garrett and City Attorney Chuck Clawson.

Call to Order: Mayor Bart Castleberry

Roll Call: Michael O. Garrett, City Clerk

Minutes: January 14, 2020

Councilwoman Isby motioned to approve the **January 14, 2020** minutes as submitted. Councilwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

Councilman Grimes joined the meeting.

Financial Report Ending December 31, 2019

Tyler Winningham, CFO addressed the Council calling their attention to the end of year numbers in the report, and the fact that the City is showing approximately 3.7% over budget for 2019. He reminded the Council that at the beginning of the year, the numbers were down for several months, but the numbers have taken an upturn since. He also reminded them that the final numbers in several line items have not come in yet so those numbers will change. He said that once the final numbers have come in, he would revise the report and send to the Council. He added that the 1.5-million-dollar net expense for the year was due to the new City Hall project. The 2019 expenditures for that project were 1.7 million dollars. Minus those numbers, the City would have had a \$200,000 net revenue for the year. He called their attention to the balance sheet for the General Fund stating that the reserve account now shows a little more than one million instead of the two million, as the transfer was made in November for the Council action that was approved. He reminded them that in the 2020 budget there is \$250,000 to begin repayment of these funds. The plan is to return the reserve fund to two million over the next four years. He called the Council's attention to some new numbers that are audit entries related to 2018, and the OPED entries, explaining that this is due to the City being required to recognize a potential liability for retirees that are still on the City's health insurance. He referenced the quarterly financial statements saying that the City has paid off the HP Bond Issue of 2008, a 2.2-million-dollar bond issue for parking and site improvements at the old HP facility, as well as several other debts. He concluded by saying that the City's debt situation has improved over the last few years. Councilwoman Smith made a motion to approve the Financials ending December 31, 2019 and Councilwoman Isby seconded it. The motion carried 8-0.

Report of Standing Committees:

A. Economic Development Committee (Conway Area Chamber of Commerce, Conway Development Corporation, Conway Downtown Partnership & Conway Corporation)

1. Resolution of intent for the issuance of bonds for the purpose of assisting in the financing of the acquisitions, construction and equipping of an industrial facility to be located at 1500 Lollie Road.

R-20-09

Mayor Castleberry presented Item A1 to the Council. Gordon Wilbourn, attorney with Kutak Rock explained the Resolution to the Council, reminding them that there is no liability on the part of the City and that it allows the Company to receive property tax abatement. He said there would be an Ordinance presented at a later date. He added that these bonds commonly known as Act 9 Bonds (Industrial Development Bond Act), are secured by lease revenues paid by the company for the project, so the City is not liable for any funds. Jamie Gates with the Conway Chamber of Commerce

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

addressed the Council added that this is the first step in the process which if the process continues, an ordinance would be presented. He said that this is good news for Conway as it represents new investment and new jobs for the community. Councilman Hawkins stated that this was a 250-million-dollar project and the largest project of this sort to date in Conway was 75 million dollars, and he asked if Mr. Gates could give any details about what sort of company and facility this is. Mr. Gates replied that this company is manufacturing related, and that figure would include the real estate and eligible equipment. There was no further discussion. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The Resolution passed 8-0.

B. Community Development Committee (Airport, Community Development, Planning & Development, Permits & Inspection (Code Enforcement), Historic District, Transportation)

1. Consideration to approve the nominations for the Public Art Board.

Councilman Hawkins presented Item B1 to the Council and motioned to approve Jennie Strange and Payton Christenberry to a four-year term on the Public Art Board. Councilwoman Smith seconded the motion. The motion to approve carried 8-0.

2. Consideration to approve annual bids for the City of Conway.

Councilman Hawkins presented Item B2 to the Council. Jamie Brice, Purchasing Manager addressed the Council stating that there are eight annual bids for the City, and asked the Council to approve the lowest bid for each. She added that there was a 5% local preference that was given to Satterfield. Councilman Hawkins made a motion to approve the bids and Councilwoman Smith seconded it. The motion to approve carried 8-0.

3. Resolution authorizing an application to US Economic Development Administration and the Department of Aeronautics for the Conway Regional Airport.

R-20-10

Councilman Hawkins presented Item B3 to the Council. Jamie Brice addressed the Council explaining that this Resolution gives permission to apply for the grant. She added that the most it should cost the City \$4,000 and that the City is working with the Department of Aeronautics for the remainder of the match grant. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The Resolution passed 8-0.

4. Ordinance entering into an agreement and appropriating funds for the purchase of software for land-use, permitting, and code enforcement.

O-20-07

Councilman Hawkins presented Item B4 to the Council. Aaron Knight, Director of IT addressed the Council stating that the idea for purchasing this type of software began in 2013. There was an RFP sent out in 2014, it was estimated to go live in 2015, but because of problems with the third party that was supposed to implement the project, we didn't get to sign off on it until March of 2017. He added that they have worked with some third parties to try and get the system to work and meet the needs of the City but has never been satisfactory. Last June a committee was formed to look at the process of replacing the current system. Several vendors were evaluated, and the committee is confident that they have found one that will serve the needs of the City. James Walden, Planning Director addressed the Council stating that the company they have chosen is Tyler Technology's EnerGov. He said that different packages were looked at, and it was considered how the system would be monitored and serviced by the company after purchase. He said that Tyler Technologies would closely govern the implementation of the system, and the committee felt that based on their research, this was the gold standard and would best serve the community. Mayor Castleberry stated that he purposefully did not include this purchase in the 2020 budget because a final cost had not been established. Aaron Knight added that one of the opportunities they had in this process was to look at using our cooperative purchase agreements which creates room to negotiate. He added that the initial investment will be just under the amount invested in the ACCELA system and the annual rate will be comparable. Councilman Pruitt asked if any other

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

cities in Arkansas use this system presently. Mr. Knight stated that Fayetteville, Fort Smith uses it and Bentonville uses the Finance piece of the system. Mayor Castleberry asked if we would be able to migrate Springbrook over to the new system and Mr. Knight said that yes, the Springbrook data would be able to migrate to the new system. Councilman Hawkins asked City Attorney Chuck Clawson if there was any legal recourse regarding the current system that has never performed as promised. Mr. Clawson stated that several options were looked at, but it was determined that the best thing was to look for another system. Mr. Walden added that Mr. Clawson had written a very strong letter to Accela and as a result we were able to get out of the 10-year contract initially entered into. Mr. Knight added that the implementation of the new system would take a series of months to complete. There was no further discussion. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded it. The motion carried 8-0. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Smith seconded it. The Clerk called the roll with the following voting "Aye": Councilman Grimes, Councilman Pruitt, Councilwoman Isby, Councilman Jones, Councilman Ledbetter, Councilwoman Mehl, Councilwoman Smith and Councilman Hawkins. The Ordinance passed 8-0.

5. Resolution expressing the willingness of the City to utilize federal aid transportation program funds for the Salem Road Bridge Project.

R-20-11

Councilman Hawkins presented Item B5 to the Council. Jamie Brice addressed the Council asking the Council to commit the funds for the Salem Road Bridge Project. She said the total budget for the project is \$2,000,000 so that would be a \$400,000 commitment from the Pay-As-You-Go fund. Councilman Pruitt confirmed that this bridge would be raised so that the trail could go under it. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The motion carried 8-0. The Resolution passed 8-0.

6. Resolution expressing the willingness of the City to utilize federal aid transportation program funds for the Kinley/Tucker Creek Trail Extension.

R-20-12

Councilman Hawkins presented Item B6 to the Council. Jamie Brice asking the Council's permission to apply. She added that cost estimates were still being established and we have a maximum match of \$500,000. Mayor Castleberry confirmed that is an 80/20 match grant. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The motion carried 8-0. The Resolution passed 8-0.

7. Consideration to request a conditional use permit to allow childcare facility in O-3 at 703 Donaghey Avenue.

Councilman Hawkins presented Item B7 to the Council stating that the item was reviewed by the Planning Commission at their meeting on January 8th and was voted 8-0 to forward to the City Council with the recommendation of approval with conditions:

- 1) Any expansion or additions to the structure as well as any changes to the use shall require an amended or new conditional use permit.
- 2) A designated drop off/pick up location shall be identified at the interior of the parking lot by pavement marking and/or signage.
- 3) A fencing plan shall be submitted to the Planning Department for approval prior to any installation of new fencing.

Councilman Hawkins moved to grant the conditional use permit and Councilwoman Isby seconded it. The Conditional use permit was approved 8-0.

C. Public Safety Committee (Police, Fire, District Court, Animal Welfare Unit, CEOC-Communication Emergency Operations Center, Department of Information Systems & Technology, & Office of the City Attorney)

1. Consideration to dispose of inventory for the Conway Police Department.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Mayor Castleberry presented Item C1 to the Council. Chief Spradlin addressed the Council asking for approval to dispose of several items from the Department. Councilwoman Isby made a motion to approve and Councilwoman Smith seconded it. The motion for approval carried 8-0.

2. Ordinance accepting and appropriating donation funds from Centennial Bank to the Conway Police Department.

O-20-08

Mayor Castleberry presented Item C2 to the Council. Chief Spradlin told the Council that roughly 15-20 years ago Centennial Bank was instrumental in purchasing the first patrol bikes for the Police Department, and he said that this money would be used for 5 patrol bikes for the Crime Suppression Team. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded it. The motion carried 8-0. Councilwoman Smith made a motion to adopt the Ordinance and Councilwoman Isby seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Isby, Councilman Ledbetter, Councilman Grimes, Councilman Jones, Councilman Pruitt, Councilman Hawkins, Councilwoman Smith and Councilwoman Mehl. The Ordinance passed 8-0.

3. Ordinance accepting reimbursement funds and appropriating additional funds to replace the battery backup system at the Conway Emergency Operations Center. (CEOC)

O-20-09

Mayor Castleberry presented Item C 3 to the Council. Chief Spradlin confirmed that the County split the cost of the battery with the City. He added that this is the original battery backup system, so it is roughly 18 years old. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded it. The motion carried 8-0 Councilman Jones made a motion to adopt the Ordinance and Councilman Ledbetter seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Mehl, Councilman Ledbetter, Councilwoman Smith, Councilman Grimes, Councilman Hawkins, Councilman Pruitt, Councilman Jones and Councilwoman Isby. The Ordinance passed 8-0.

4. Ordinance appropriating reimbursement funds for the Conway Police Department.

O-20-10

Mayor Castleberry presented Item C4 to the Council. Chief Spradlin stated that the Cops and Coats program is donated to by area business who give money and coats so that the officers can distribute. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded it. The motion carried 8-0 Councilman Jones made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilman Pruitt, Councilwoman Mehl, Councilman Grimes, Councilman Hawkins, Councilman Ledbetter, Councilwoman Smith, Councilman Jones and Councilwoman Isby. The Ordinance passed 8-0.

D. New Business

1. Update on condemnation cases for the City of Conway.

City Attorney Chuck Clawson addressed the Council, stating that one of the main jobs of the City Attorney's office is to manage the City's contractual arrangements to avoid litigation which drains the City's resources. But at times the litigation prevention/avoidance methods don't work, then there can be lawsuits to deal with. He said that the City has several cases pending court at this time and a couple of appeals, which for a City the size of Conway and with all the projects, employees, services offered, and contracts involved, sometimes litigation is unavoidable. He added that there are nine cases actively litigated at this time and in the civil cases he feels very strongly about the City's legal position being good. He attributed that to the training that City employees have received, and good decisions being made in the field. Mr. Clawson explained that with all the ongoing construction and street projects, the City is seeing more condemnation cases. He said that these are some of the more time consuming and complicated cases that we have, and his office has been very successful in reaching resolution with these cases, and he attributed much of this success to his Chief Deputy, Charles Finkenbinder. Mr.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Finkenbinder addressed the Council explaining that condemnation or eminent domain is where the City takes private property for public use, whether it's a sidewalk, road expansion, overpass, etc., and that's where litigation can arise because of disputes over the value of the property taken. He said that the City has developed a good method of dealing with these cases where a fair appraisal is taken of the property, and an offer is made to the property owners. If an agreement cannot be reached, then it is often necessary to pursue the matter through the Circuit Court. He referenced the Sturgis Road expansion stating that he and Mr. Clawson took that to a jury in 2018 and that resulted in an 84% reduction in the claim, or about \$55,000. He said that there is also the 6th Street Overpass case, in which they felt that the methodology used by the expert witness retained by the landowner was flawed. They did the research and filed a motion and brief, and at the hearing the judge found in favor of the City. He added that this was a \$320,000 in reduction in the claim by the landowner. He said that the goal is that the City pays a fair value for the property, but no more. He referred to the Central Landing Boulevard project stating that there is a trial forthcoming on that case. He reminded the Council that the Tyler Street Project is nearing completion and said that the Transportation Department did an amazing job in reaching agreements with many property owners, but a few that could not were forwarded to the City Attorney's office, which were resolved in a very short time. He said it was a good example of the policy of their office, that every interaction with every citizen should be a positive one. He added that he was proud of the fact that on the Tyler Street project they were able to save one citizen, a Vietnam Veteran living on a very fixed income, \$300 when his mortgage company wanted to charge him \$300 to process the paperwork to get the condemnation done for the property needed for the sidewalk. The City Attorney's office working with the Transportation Department, the mortgage company and the Faulkner County Title Company, were able to get the fee waived. Councilwoman Mehl added that most of the property owners on Tyler Street received new mailboxes as part of the sidewalk project. Mr. Finkenbinder said that overall the interaction with property owners on the project was positive.

There was no further discussion. The meeting was adjourned.

Adjournment-----

PASSED this 28th day of January 2020

APPROVED:

Mayor Bart Castleberry

City Clerk Michael O. Garrett