
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday, 6:30 pm
July 27, 2021

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 Pruitt, Councilwoman Mehl, Councilman Ledbetter, Councilwoman Smith, Councilman Jones, and Councilwoman Isby. Also, present and acting: Mayor Bart Castleberry, City Attorney Charles Finkenbinder, City Clerk Michael Garrett.

Call to Order: Mayor Bart Castleberry

Roll Call: Michael O. Garrett, City Clerk

Minutes: July 13, 2021

Councilwoman Isby motioned to approve the **July 13, 2021** minutes as submitted. Councilwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

Monthly Financial Report ending June 30, 2021

Mayor Castleberry presented the financial report in Mr. Winningham's absence. Councilwoman Smith made a motion to approve the monthly financials and Councilwoman Isby seconded it. The motion to approve carried 8-0.

Report of Standing Committees:

A. Community Development Committee (Airport, Community Development, Code Enforcement, Permits, Inspections, & Transportation, Planning & Development)

1. Consideration to approve nominations for the Health Facilities Board.

Councilman Hawkins presented Item A1 to the Council. The nominees were read as follows:

Robin Scott	Term ending August 15 th , 2024
Lorie Melton	Term ending August 15 th , 2025
Osmar Garcia	Term ending August 15 th , 2025

Councilwoman Smith made a motion to approve the nominations and Councilwoman Mehl seconded it. The motion to approve carried 8-0.

2. Ordinance to approve the private club permit for Jack's Dig-In, Inc., DBA Jack's Ultra Sports, to be located at 655 Equity Avenue, Conway, Arkansas 23032

O-21-79

Councilman Hawkins presented Item A2 to the Council. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby 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": Councilwoman Mehl, Councilman Jones, Councilwoman Smith, Councilman Hawkins, Councilman Grimes, Councilman Ledbetter, Councilman Pruitt, and Councilwoman Isby. The Ordinance passed 8-0.

3. Resolution to apply for a Federal Assistance Grant for the Conway Regional Airport.

R-21-60

Councilman Hawkins presented Item A3 to the Council. Jack Bell, Airport Director addressed the Council stating that this is a very generous grant in the amount of \$59,000 from the FAA to help with various operations at the airport. He added that a large part of it would provide services such as cleaning of the furniture and rugs. He said it would also help pay overtime hours due to Covid-19 and other operational expenses. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The motion carried 8-0.

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4. **Resolution requesting the Faulkner County Tax Collector place a certified lien against property located at 255 Garland Street in the amount of \$145.04 for expenses incurred by the City.**

R-21-61

Councilman Hawkins read the Resolution. There was no one present to represent the property. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Smith seconded it. The motion carried 8-0.

- Resolution requesting the Faulkner County Tax Collector place a certified lien against property located at 602 Fifth Street in the amount of \$165.04 for expenses incurred by the City.**

R-21-62

Councilman Hawkins read the Resolution. There was no one present to represent the property. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Smith seconded it. The motion carried 8-0.

- Resolution requesting the Faulkner County Tax Collector place a certified lien against property located at 1450 Rachel in the amount of \$165.04 for expenses incurred by the City.**

R-21-63

Councilman Hawkins read the Resolution. There was no one present to represent the property. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The motion carried 8-0.

- Resolution requesting the Faulkner County Tax Collector place a certified lien against property located at 517 Watkins in the amount of \$165.04 for expenses incurred by the City.**

R-21-64

Councilman Hawkins read the Resolution. There was no one present to represent the property. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The motion carried 8-0.

- Resolution requesting the Faulkner County Tax Collector place a certified lien against property located at 409 Durham in the amount of \$224.32 for expenses incurred by the City.**

R-21-65

Councilman Hawkins read the Resolution. There was no one present to represent the property. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The motion carried 8-0.

- Resolution requesting the Faulkner County Tax Collector place a certified lien against property located at 1499 Manor in the amount of \$259.92 for expenses incurred by the City.**

R-21-66

Councilman Hawkins read the Resolution. There was no one present to represent the property. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The motion carried 8-0.

5. **Resolution to enter into a real estate contract to acquire property located at 2036 Prince Street for the Donaghey Phase 2 Project for the Transportation Department.**

R-21-67

Councilman Hawkins presented Item A5 to the Council. Finley Vinson, Director of Transportation addressed the Council stating that this is the northeast corner of Donaghey and Prince, where one of the two roundabouts will be built for Phase 2 of the Donaghey construction that is expected to begin this winter. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The motion carried 8-0.

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6. Ordinance to repair the subdivision brick wall adjacent to the future Salem and Tyler roundabout for the Transportation Department.

O-21-80

Councilman Hawkins presented Item A6 to the Council. Finley Vinson told the Council that it was necessary to tear down some of the brick walls at that intersection in order to relocate the existing utilities. He added that there were two quotes received and asked Council to approve the lowest bid. 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 Pruitt, Councilman Grimes, Councilwoman Mehl, Councilwoman Smith, Councilman Ledbetter, Councilman Jones, Councilwoman Isby, Councilman Hawkins. The Ordinance passed 8-0.

7. Ordinance to waive the competitive bid process to upgrade school flashers for the Transportation Department.

O-21-81

Councilman Hawkins presented Item A7 to the Council. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded it. The motion carried 8-0. Finley Vinson told the Council that all of the school flashers that exist now operate on 3G cable modems, and that technology is going away. He said that the flashers would be upgraded to 4G and added that he was asking to have the bid process waived because the company that provided the flashers are the ones who would need to upgrade the hardware. Mayor Castleberry asked the Council to suspend the rules to add an emergency clause to the Ordinance. Councilwoman Smith moved to suspend the rules and Councilwoman Isby seconded it. The motion carried 8-0. Councilwoman Smith made a motion to adopt the Ordinance with the emergency clause and Councilwoman Isby seconded it. Councilman Hawkins made a motion to rename the equipment in the Ordinance "*school zone traffic calming*", and Councilman Smith seconded it. The motion carried 8-0. The Clerk called the roll with the following voting "Aye": Councilman Ledbetter, Councilman Grimes, Councilwoman Smith, Councilwoman Isby, Councilman Pruitt, Councilman Jones, Councilwoman Mehl, and Councilman Hawkins. The Ordinance with the name change and the emergency clause passed 8-0.

8. Ordinance to waive the competitive bid process for the adaptive system on the 65 corridor for the Transportation Department.

O-21-82

Councilman Hawkins presented Item A8 to the Council. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded it. The motion carried 8-0. Finley Vinson addressed the Council stating that this corridor that we know as "Skyline" is a state highway and has been under construction for some time. He said it is being maintained by ARDOT, but once the warranty period is concluded they will return it to the City to maintain the signals and the timing. He added that this is the last corridor or sequence of traffic signals that does not have advance technology but does not require a high level of adaptive signal technology as does Oak Street and Dave Ward Drive. To meet the need, his department has found a piece of software that would provide the necessary level of technology and asked the Council to approve services by Mid-American Signal in the amount of \$65,000. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Smith seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Mehl, Councilwoman Isby, Councilman Jones, Councilman Pruitt, Councilman Grimes, Councilwoman Smith, Councilman Ledbetter, and Councilman Hawkins. The Ordinance passed 8-0.

9. Ordinance to rezone property located at 3601 Dave Ward Drive from A-1 to I-1 for the Planning & Development Department.

O-21-83

Councilman Hawkins presented Item A9 to the Council. James Walden Director of Planning & Development addressed the Council stating that this property is at the corner of McNutt and Dave Ward Drive where Trailers Plus is located. He said that sight is already developed by the trailer manufacturer, but it was

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realized that part of the property the business is located on is zoned A-1. So, in order to get the zoning in line with the present use there, this rezoning is being requested. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby 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 Hawkins, Councilman Grimes, Councilman Pruitt, Councilman Ledbetter, Councilwoman Isby, Councilman Jones, Councilwoman Smith, Councilwoman Mehl. The Ordinance passed 8-0.

10. Request to appeal the Planning Commission action for the rezoning of property at Bill Bell Lane and South of Acuff Lane for the low to medium density residential development for the Planning Department.

Councilman Hawkins presented Item A10 to the Council. James Walden addressed the Council stating that this item came before the Planning Commission as a request to rezone from A-1 to MF-1. He said there was a public hearing with a large attendance of neighboring property owners, and during that public hearing Mr. Shaw amended the request to reflect R-2 and R-1 as indicated on the map as shown. He said the Planning Commission voted 4-2-1 on the application, and he incorrectly advised the Chair that the item had passed, but upon further review of the by-laws, realized that it required six votes on an action and because there were only seven people at the meeting it did not have the required six votes. He said that they informed Mr. Shaw who filed an appeal the next day, which pushed the matter to City Council. He explained that the City Council must vote to affirm the Planning Commission's decision or reverse the decision. There was some discussion among the Council regarding Planning Commission procedure for an applicant amending the request during a public hearing. Mayor Castleberry asked if there was anyone that wished to speak in favor of the matter. Mr. Frank Shaw, applicant addressed the Council explaining his position and expressing his disagreement with the details as presented of how the amending of the request came about. He stated that he is requested the re-zoning after the public hearing as per the staff recommendation. He pointed out that the development of the property is in keeping with the staff recommendations and every consideration was being taken to minimize the effect on the surrounding properties and neighborhoods. He disagreed with the objections that the zoning is out of character for the area by pointing out similar developments adjacent to the property in question. He also addressed the objection to increase traffic on Bill Bell Road as a result of the development and rezoning. There was some discussion regarding the possibility of moving the R-2 zoning to the other side of the road and Mr. Walden stated that such a change would need to be reviewed by the Planning Commission. Buck Bean of 1318 Stanley Russ Rd spoke in opposition to the matter. Sherry Smith of 1825 Daniel Lane spoke in opposition to the matter. Carl Schroeder of 1525 Southern Hills Drive spoke in opposition to the matter. Thomas Hambuchen 1360 Stanley Russ Road spoke in opposition to the matter. Councilwoman Mehl asked Mr. Walden if the Planning Department used a formula or guidelines to determine traffic content, etc. in forming their recommendations for zoning and development. Mr. Walden said that they did have studies and standard rules that they consider. Barbara Kordsmeier of 3 Maryellen Drive spoke in opposition to the matter. Christine Wilson of 2700 Redhaven expressed concern to the Council about the trees being removed for the project. Mr. Shaw addressed the Council restating that he received the Planning Commission's recommendation on Friday morning and changed his request as soon as possible to comply to the Commission's recommendation. He asked the Council to allow him to rezone the property as per his request. He asked that if the Council does not grant the request to rezone the property, if he could be allowed to approach the Planning Commission in less than the one-year time period required. Councilwoman Isby made a motion to uphold the Planning Commission's decision to deny the rezoning of the property located at Bill Bell Lane and South of Acuff Lane, and Councilwoman Smith seconded it. A vote was called, and the Planning Commission's denial was upheld 6-2, with Councilman Pruitt and Councilman Hawkins voting no.

Councilwoman Mehl moved to allow Mr. Shaw to bring the rezoning matter back to the Planning Commission within a year's time, and Councilwoman Isby seconded it. The motion carried 8-0.

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

1. Consideration to enter into an agreement with Conway High School for the Police Department.

Mayor Castleberry presented Item B1 to the Council. Chief Tapley addressed the Council stating that this is the annual contract with the public schools for the School Resource Officers, providing officers throughout the school district. He added that it is the same contract however the amounts have increased due to the salary raises put in place by the Council. Councilwoman Smith made a motion to approve the agreement and Councilwoman Isby seconded it. The motion carried to 8-0.

2. Resolution to approve professional services to remodel Station #3 for the Fire Department.

R-21-67

Mayor Castleberry presented Item B2 to the Council. Chief Winter addressed the Council stating that Station #3 has had substantial roof damage with water coming in and the building has moved slightly. He added that these professional evaluations will determine if the building can be repaired. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. The Resolution was adopted 8-0.

3. Ordinance amending existing restrictions on the burning of materials within the City limits.

O-21-84

Mayor Castleberry presented Item B3 to the Council. Chief Winter told the Council that years ago an Ordinance was passed amending the rules for burning within the City limits, but the Municipal Code was not adjusted to reflect the changes. He added that this Ordinance would bring the Code up to date. 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": Councilman Ledbetter, Councilwoman Isby, Councilwoman Mehl, Councilman Grimes, Councilman Hawkins, Councilwoman Smith, Councilman Pruitt, and Councilman Jones. The Ordinance passed 8-0.

Mayor Castleberry asked the Council to suspend the rules to hear an update regarding litigation in the Reed v. City of Conway case. Councilwoman Smith moved to suspend the rules and Councilman Ledbetter seconded it. The motion carried 8-0. Amanda Lefever, Attorney with the Municipal League addressed the Council with an update on the case, telling them that Mr. Reed's attorney has sent a settlement request/demand and offered to answer any questions. She asked for a decision from the Council as to whether to accept the settlement/demand or to continue litigation. She stated that the offer from Mr. Reed and his counsel was a request for mediation with monetary back pay/damages in the amount of \$37,739.64, an agreement to give Mr. Reed a pay increase at the battalion chief rate of pay and promote him to that position at the next opportunity. There was some discussion among the Council. Councilman Ledbetter made a motion to reject the offer of settlement/mediation and agree to continue litigation in the case and Councilman Grimes seconded it. There was no further discussion. The motion carried 8-0.

Adjournment-----

PASSED this 27th day of July 2021

APPROVED:

Mayor Bart Castleberry

City Clerk Michael O. Garrett