

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday, 6:30 pm
November 26, 2019

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, Councilwoman Isby, Councilman Ledbetter, Councilwoman Mehl, Councilwoman Smith. Also, present and acting: Mayor Bart Castleberry, Denise Hurd, Office of the City Clerk, and City Attorney Chuck Clawson. Councilman Pruitt, Councilman Jones and City Clerk Michael Garrett were not present.

Call to Order: Mayor Bart Castleberry

Roll Call: Denise Hurd, Office of the City Clerk

Minutes: November 12, 2019 and November 20, 2019 (Special meeting)

Councilwoman Isby motioned to approve the **November 12, and November 20, 2019** minutes as submitted. Councilwoman Smith seconded the motion. There was no discussion. The motion passed 6-0.

Approval of the Monthly Financial Report ending October 31, 2019

Tyler Winningham, CFO, gave report to the Council stating that the first end of the year ad valorem tax revenue was a boost to the General Fund, and that he expected additional ad val tax to come in this month and next. He stated that sales tax revenues were strong, with the new internet sales tax figuring prominently by almost doubling the sales tax numbers. He added that last month the sales tax numbers are up 5.5%, while last year they were up 2.5%. The numbers this month are up 7% while last year they were 3.6%. He stated that as there are still expenditures expected in various departments and considering the remodel of 1111 Main Street and the lawsuit settlement, he expected the year would end with a net expense. Councilwoman Mehl asked Mr. Winningham to confirm that there is still the \$2 million for cash flow, and \$2 million for reserve. He stated that the City has \$2 million for cash flow but \$1 million of reserve was moved the 18th of this month to cover expenditures related to the New City Hall, which was appropriated by Ordinance O-19-39 and would be reflected in next month's financials. Mayor Castleberry stated that there is \$250,000 in next year's budget to begin to replace those expenditures, and the same will happen over the next four years. Councilwoman Smith moved to approve the monthly financials and Councilwoman Isby seconded it. The motion to approve passed 6-0.

Report of Standing Committees:

A. Public Hearing

1. Public Hearing to discuss an ordinance fixing rates for services rendered by the wastewater system for Conway Corporation.

Mayor Castleberry opened the public hearing. Brett Carroll, CEO of Conway Corp addressed the Council in favor of the rate increase. He explained to the Council why the rate increase is necessary. Most important, is aging and undersized collection mains installed in the 1940s. He said that Conway Corp feels strongly that it is their duty to maintain critical infrastructure to continue to serve the needs of the citizens. Tracy Moore, CFO of Conway Corp, was present and spoke in favor of the rate increase pointing out the needs and uses by Conway Corp of the funds created by the rate increase. John Malfatti of Conway spoke in opposition to the rate increase due to concerns that increases would continue to be necessary. Mr. Moore and Mr. Carroll stated that the increase under discussion would serve to update and repair current infrastructure so that additional rate increases would not soon be necessary. It was discussed that Conway Corp's rates for utilities are extremely competitive compared to other cities in the state with similar population and growth rates. Mayor Castleberry declared the public hearing closed. There was no further discussion.

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

1. Ordinance (O-19-104) fixing rates for services rendered by the wastewater system for Conway Corporation.

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O-19-104

Mayor Castleberry presented Item B1 to the Council. Councilwoman Smith moved to waive the two readings and Councilwoman Isby seconded it. The motion carried 6-0. Councilman Grimes made a motion to adopt the Ordinance and Councilman Jones seconded it. The roll was called with the following voting "Aye": Councilwoman Isby, Councilman Grimes, Councilwoman Mehl, Councilman Hawkins, Councilman Ledbetter, Councilwoman Smith. The Ordinance passed 6-0.

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

- 1. Resolution requesting Faulkner County Tax Collector place a certified lien in the amount of \$188.87 against property located at 110 Oaklawn for expenses incurred by the City.**

R-19-73

Councilman Hawkins presented Item C1 to the Council. There was no one present to represent the property. Councilman Hawkins moved to adopt the Resolution and Councilwoman Smith seconded it. The Resolution passed 6-0.

- 2. Resolution requesting Faulkner County Tax Collector place a certified lien against property located at 1590 Marlise Drive for expenses incurred by the City.**

R-19-74

Councilman Hawkins presented Item C2 to the Council. There was no one present to represent the property. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Smith seconded it. The Resolution passed 6-0.

- 3. Consideration to approve an impact fee credit agreement in the amount of \$6500 with Rush-Hal Development, for the Stone Dam Creek Trail Improvement Project.**

Councilman Hawkins presented Item C3 to the Council. James Walden of the Planning Department addressed the Council reminding them that last month they approved the warranty deed to accept the land. He added that this is tied to the improvement of Stone Dam Creek. Councilwoman Smith made a motion to approve the agreement and Councilwoman Isby seconded it. The motion to approve passed 6-0.

- 4. Ordinance accepting and appropriating funds in the amount of \$245.00 for the Conway Tree Board in support of Arbor Day.**

O-19-118

Councilman Hawkins presented Item C4 to the Council. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded it. The motion passed 6-0. Councilwoman Isby moved to adopt the Ordinance and Councilwoman Smith seconded it. The roll was called with the following voting "Aye": Councilman Hawkins, Councilman Grimes, Councilman Ledbetter, Councilwoman Isby, Councilwoman Smith and Councilwoman Mehl. The Ordinance passed 6-0.

- 5. Ordinance accepting the annexation of certain lands comprised of +/- 31.18 acres located north and south of Emyp Trail.**

O-19-119

Councilman Hawkins presented Item C5 to the Council. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded it. The motion carried 6-0. Councilwoman Smith moved to adopt the Ordinance and Councilwoman Isby seconded it. The roll was called with the following voting "Aye": Councilman Ledbetter, Councilwoman Isby, Councilwoman Mehl, Councilman Grimes, Councilman Hawkins, Councilwoman Smith. The Ordinance passed 6-0.

- 6. Ordinance to rezone property located at 472 Ingram Street from R-2A to PUD.**

O-19-120

Councilman Hawkins presented Item C6 to the Council stating that this matter was reviewed by the Planning Commission at their meeting of November 18 and was voted 6-0 to forward to the City Council with the recommendation for approval including the approved uses and conditions as outlined in the

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Theodore Baughn PUD Final Development Plan. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded it. The motion carried 6-0. James Walden was present to answer questions from the Council. He stated that the applicant was seeking to rezone to a planned unit development consisting of two townhouse duplexes and retaining a single-family home for a total of 5 units on the site. Councilman Grimes expressed his concern regarding over building in the area. He stated that he felt that 5 units was excessive and set a precedent for further over development in the area. There was some discussion among the Council since it was unclear as to how many units the rezoning would allow versus what is allowed presently. Councilwoman Mehl stated that since the rezoning is to PUD there would be enough oversight to give the City some control over the development. Mr. Walden calculated the square footage of the lot(s) and determined that the zoning would allow for the construction of 5 units where only 1 duplex (2 units) was allowed presently. Councilwoman Smith made a motion for the adoption of the Ordinance and Councilman Ledbetter seconded it. The roll was called with the following voting "Aye": Councilwoman Mehl, and the following voting "No": Councilwoman Smith, Councilwoman Isby, Councilman Hawkins, Councilman Ledbetter, and Councilman Grimes. The Ordinance failed 1-5.

See the reconsideration of this item at the end of these minutes.

7. Ordinance to rezone portions of property located at 2505 and 2890 Salem Road from A-1 to C-2.

O-19-121

Councilman Hawkins presented Item C7 to the Council stating that this matter was reviewed by the Planning Commission at their meeting of November 18 and was voted 6-0 to forward to the City Council with the recommendation for approval. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded. The motion carried 6-0. Councilwoman Smith made a motion to adopt the Ordinance and Councilman Ledbetter seconded it. The roll was called with the following voting "Aye:" Councilman Ledbetter, Councilman Grimes, Councilwoman Mehl, Councilwoman Smith, Councilman Hawkins, and Councilwoman Isby. The Ordinance passed 6-0.

8. Ordinance to rezone property located at 105 Eve Lane from A-1 to R-1.

O-19-122

Councilman Hawkins presented Item C8 to the Council stating that this matter was reviewed by the Planning Commission at their meeting of November 18 and was voted 6-0 to forward to the City Council with the recommendation for approval. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded. The motion carried 6-0. Councilwoman Smith made a motion to adopt the Ordinance and Councilman Ledbetter seconded it. The roll was called with the following voting "Aye:" Councilwoman Mehl, Councilwoman Smith, Councilman Hawkins, Councilman Grimes, Councilman Ledbetter, and Councilwoman Isby. The Ordinance passed 6-0.

9. Ordinance amending the Conway Zoning Code and Subdivision Ordinance concerning submission deadlines for various application types.

O-19-123

Councilman Hawkins presented Item C9 to the Council. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded. The motion carried 6-0. There was no discussion. Councilwoman Smith made a motion to adopt the Ordinance and Councilman Grimes seconded it. James Walden of the Planning Department explained that the present 17-day review period was not enough time for all the steps to take place and extending the number of days before the deadline would make the application process more efficient in the long run. The roll was called with the following voting "Aye": Councilman Grimes, Councilwoman Mehl, Councilwoman Smith, Councilman Ledbetter, Councilwoman Isby and Councilman Hawkins. The Ordinance passed 6-0.

10. Ordinance amending Article 1301 of the Conway Zoning Code concerning loss of legal nonconforming status.

O-19-124

Councilman Hawkins presented Item C10 to the Council. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded. The motion carried 6-0. James Walden explained that this issue pertains to signs that are moved due to a City transportation project. The loss of legal

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nonconforming status was removed elsewhere by vote by the Planning Commission and needed to be addressed in the Zoning Code for consistency. Councilwoman Smith made a motion to adopt the Ordinance with the emergency clause and Councilman Grimes seconded it. The roll was called with the following voting "Aye": Councilman Ledbetter, Councilman Grimes, Councilwoman Smith, Councilwoman Isby, Councilwoman Mehl, and Councilman Hawkins. The Ordinance passed 6-0.

11. Resolution to modify the Planning Area Boundary within the territorial jurisdiction.

R-19-75

Councilman Hawkins presented Item C11 to the Council. James Walden explained that State law establishes where a City can regulate for planning, or "territorial jurisdiction", which is one mile outside of the city limits. It also states that the city shall set an area within the territorial jurisdiction where it creates plans and implements regulations and that is called the Planning Area Boundary. This modification is to reduce confusion regarding these areas and is the first step toward bringing reconciliation and consistency within all the codes and regulations. He added that no regulations will change with the passing of this Resolution, because at this time the subdivision regulations apply within the full territorial jurisdiction. However, the change to the Planning Area Boundary is made with the full intent of changing the subdivision regulations in the future to create consistency. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. Councilman Hawkins pointed out that when the 2020 census totals are calculated the City's population will likely exceed 60,000 extending the territorial jurisdiction to two miles instead of one. He expressed his concern with the cost of providing services to more areas as the City's boundaries expands. Mr. Walden stated there are means in place now for handling such a situation but recommended that Council investigate what would be required in the future for providing services within a larger jurisdiction. He added that the reason for this modification is not to automatically regulate properties within the Planning Area but instead, when future subdivision developments are planned outside of the City limits, the City will have control over the streets, etc. that are built, making sure they conform to city standards so that they are compliant when later annexed into the City. City Attorney Chuck Clawson added that this is again, another step in the reconciliation process of the City's planning regulations. Mr. Walden stated that even if the territorial jurisdiction is expanded to two miles after the 2020 census, property owners within the new boundary would not automatically become regulated by the City. Specific action would have to be taken by the Planning Commission and the City Council to change the Planning Area Boundary. Councilman Hawkins asked if the item could be tabled until a later date. Councilwoman Smith said that she felt that enough information has been presented and held her motion to adopt the Resolution. With the motion and second to adopt the Resolution, the Mayor called for a vote from the Council. The Resolution passed 5-1 with Councilman Hawkins voting "No".

D. Personnel

1. Ordinance appropriating funds for an Employee Appreciation Bonus.

O-19-125

Mayor Castleberry presented this item to the Council, stating that the bonus is in the amount of \$350 for full time employees and \$150 for part time employees. Tyler Winningham stated that the numbers were arrived at based on the number of full time and part time employees, including full time elected officials. Councilwoman Smith moved to waive the three readings and Councilwoman Isby seconded the motion. The motion carried 6-0. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Smith seconded it. The roll was called with the following voting "Aye": Councilwoman Mehl, Councilwoman Isby, Councilman Grimes, Councilwoman Smith, Councilman Ledbetter and Councilman Hawkins. The Ordinance passed 6-0.

E. New Business

1. Ordinance appropriating funds for the settlement of a lawsuit.

O-19-126

City Attorney Chuck Clawson explained that Council has already voted to enter into the settlement agreement and that this is the Ordinance appropriating the funds for the settlement. Councilwoman Smith moved to waive the three readings and Councilwoman Isby seconded the motion. The motion carried 6-0. Councilwoman Smith made a motion to adopt the Ordinance and Councilwoman Isby seconded it. The

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roll was called with the following voting "Aye": Councilman Hawkins, Councilwoman Smith, Councilwoman Mehl, Councilwoman Isby, Councilman Grimes and Councilman Ledbetter. The Ordinance passed 6-0.

The property owner of 472 Ingram Street who had requested rezoning from R2-A to PUD addressed the Council stating that some misinformation had been given in the earlier discussion and he wished to clarify. Councilwoman Mehl made a motion to suspend the rules for reconsideration of the Ordinance (Item C6). Councilwoman Isby seconded it. Clarification was made that the square footage of the property is in fact 21,000 allowing development potential to go from 4-5 units instead of 2-5 units as was previously stated. James Walden confirmed the figures. The Mayor called for a new vote and a new Ordinance number was assigned (O-19-127*). The roll was called with the following voting "Aye": Councilwoman Smith, Councilman Hawkins, Councilman Grimes, Councilwoman Mehl, Councilwoman Isby and Councilman Ledbetter. The Ordinance passed 6-0.

*City Attorney Chuck Clawson later advised that the original Ordinance number assigned (O-19-120) should have been used for the reconsideration and vote. The Ordinance number O-19-120 was retained for this Ordinance.

Having no further business, the Council adjourned.

Adjournment-----

PASSED this 26th day of November 2019

APPROVED:

Mayor Bart Castleberry

City Clerk Michael O. Garrett