
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
March 24, 2009

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; Alderman Hawkins, Alderwoman Smith, Alderman Jones, Alderwoman Whitmore , Alderwoman Mehl, Alderman Vaught, Alderman Rhodes, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy.

1. *Call to Order*
2. *Roll Call*
3. *Minutes:* March 10th, 2009

Alderwoman Whitmore motioned to approve the March 10, 2009 minutes as submitted. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

4. *Recognition of Guests:* Employee Service Awards

5 years

Danny Jackson - Parks & Recreation Dept.

10 Years

Cathy Hatcher - Police Dept.

15 Years

Pam Sweeney - Police Dept.

Bill Keathley - Fire Dept.

5. *Public Hearings:*
6. *Report of Standing Committees:*

A. Economic Development Committee (Airport, Conway Corporation, Conway Development Corporation, Chamber of Commerce)

1. **Consideration to accept the nomination of Brad Hegeman for the Conway Corporation Board of Directors.**

Mayor Townsell stated this is the recommendation from the Conway Corp. Board of Directors. Alderman Hawkins motioned to accept the nomination. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

B. Community Development Committee (Planning, Zoning, Permits, Community Development, Historic District, Streets, & Conway Housing Authority)

- 1. Ordinance accepting additional federal funding and appropriating funds to the Conway Community Development Block Grant Program.**

O-09-33

Lynn Keith, CDBG Director, explained this \$113,389.00 is a portion of stimulus money we will receive to supplement fiscal year 2008. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderwoman Whitmore, and Alderman Grimes. The motion passed 8-0.

- 2. Ordinance authorizing personnel changes within the Conway Community Development Block Grant.**

O-09-34

Lynn Keith, CDBG Director, explained that funds need to be appropriated for the project coordinator position that was approved by council back in December 2008. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderwoman Whitmore, and Alderman Grimes. The motion passed 8-0.

- 3. Consideration of widening Lake Beaverfork Park entrance Rd from 20' to 30' wide.**

Wes Pruitt, Conway Chamber of Commerce, explained that the city is hosting the Arkansas Half Ironman Triathlon and this committee has requested the city widen the park entrance to accommodate more athletes. Alderwoman Smith motioned to approve the widening of Beaverfork Park entrance. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

- 4. Ordinance to rezone property located at 1220 and 1221 Ash St from R-2A to PUD.**

O-09-35

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Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Steven Jiles, Attorney at Law, representing the applicants Mitch Frye and Dr. Carol Jackson, explained this project started out as a rezoning request approximately 2 years ago and has been scaled down to 10 units comprised of 5 buildings, four of these will have 2 bedroom duplexes and 1 building will have two 3 bedroom units. Mr. Jiles stated he believes they have addressed many of the neighbor's concerns, some of them being traffic and drainage; the applicants have planned to put in an onsite underground storage detention structure, as well as bring Ash St. up to city standards (up to Mill St.). Mr. Jiles stated they have agreed to all conditions of the application but ask that the city close the alleyway as to defer any additional costs to the applicants. Eric Bryan, 1704 Mill St., is opposed to the development and stated the applicants promised to close the alley regardless of the outcome but have not done so due to the costs. Mr. Bryan explained they offered to close the alley and pay the costs but the applicants refused to sign the papers. Mr. Bryan stated that in the last 12-18 months there have been 4 serious accidents, two of which required medical personnel. Mr. Bryan stated there are more neighbors who wish to have fencing constructed than are listed in the conditions. Tess Fletcher, 1213 Clifton, lives to the east of the development has asked that a fence be constructed along her property. Alderwoman Smith asked if the applicant would be willing to put up a fence on the east side of the development. Mr. Jiles stated that an 8 ft fence is unattractive, but the applicants have given thought to putting a fence up around the entire development to eliminate the "cutting through" that occurs. There was discussion about what height of fence to construct and it was decided to require construction of an 8 ft fence on the north side and a 6 ft fence on the east and west sides. Alderwoman Smith motioned to rezone the property from R2-A to a PUD with the attached conditions and to amend it to include the addition of a 6 ft fence on the west and the east sides of the property. Alderwoman Mehl seconded the motion. Mayor Townsell stated the Bryan's want an 8 ft fence and the applicants prefer the 6 ft fence. Mr. Jiles stated we would prefer the 8 ft fence on the west side and we will work with the planning dept on the other sides. Mayor Townsell stated the north & southwest sides will have 8 ft fencing and 6 ft around the remainder of the development. Council was in agreement. Alderwoman Smith amended her motion to include the city closing the alley. Alderwoman Mehl was in support of the amendment. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Jones, Alderman Rhodes, Alderwoman Whitmore, and Alderman Grimes. The motion passed 7-1. Alderman Vaught voted in opposition. The conditions are as follows:

1. That no certificate of occupancy be granted until the street is completed.
2. That there be an eight-foot (8') fence constructed on the north side of the property as a boundary between the Group Homes, Independent Living

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Services, and the property; and that an eight-foot (8') fence be constructed on the southwest property line. A six foot fence shall be constructed around the remainder of the development.

3. That rolling curbs be established throughout the project.
4. Alley is to be closed by the city.
5. Hours of work will be 7:00 a.m. to 7:00 p.m., Monday through Friday.
6. The development must be constructed according to plans and documents presented to the Planning Commission and City Council.
7. Offsite street, drainage, and sidewalk improvements (curbs, drainage structures, sidewalks on both sides, etc.) to Ash Street are required as a part of the PUD development, subject to approval of City Engineer.

5. Ordinance to rezone property located at 919 Donaghey Ave from R-2A to O-3.

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Applicant Eric Armstrong explained they are in the process of purchasing the property and decided on this particular property because he feels this house meets the needs they are looking for. Mr. Armstrong stated the changes to the office area will be simple and the only thing they want to do outside is modernize the flowerbeds and meet the cities requirements for parking. Mr. Armstrong stated he does not feel there will be traffic backing out onto Donaghey because of the large circle drive in front. Mr. Armstrong stated they will average less than 10 cars daily and stated there are businesses all around this property. Ms. McKissick stated her parents reside at 954 Donaghey spoke in favor of the proposed rezoning. Brain Strandlund, 915 & 909 Donaghey, stated the area does have rental property, some which is his, and he is concerned that with O-3 zoning one could put up a neon sign, a pole sign, a banner sign, or 8 ft. sign which would be next door to families. Mr. Strandlund went onto say that this move would be the Armstrong's fourth move and if this location does not work out for them they could once again move but the property would remain O-3. Alderman Vaught stated he would like to see the city make some changes to the cities rules concerning conditional uses in residential areas. Mayor Townsell stated it would take an amendment to our ordinance; and explained that some years ago the Planning Dept. suggested allowing conditional uses for offices in residential areas. Alderman Grimes suggested doing a corridor study to determine what we want along this stretch of Donaghey to become permanently; once we start rezoning or issuing conditional uses along this stretch we will have more and more requests. Alderwoman Smith was in agreement. Mayor Townsell stated that there is a way to allow this request now by amending our zoning ordinance to allow conditional uses but this request would have to start over; we could then put a moratorium on any further requests until a corridor study could be completed. Mr. Strandlund stated he would be supportive of a conditional use on the property. Alderman Vaught

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motioned to hold this item in committee. Alderwoman Mehl seconded the motion. The motion passed 8-0.

6. Ordinance to rezone property located at 406 Sixth St. from R-2A to R-2.

O-09-36

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Smith seconded the motion. James Ross, 1955 E. Oak, representing Jacob Longing, was present to answer questions and spoke in favor of the rezoning. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderwoman Whitmore, and Alderman Grimes. The motion passed 8-0.

C. Public Service Committee (Sanitation, Parks & Recreation, & Physical Plant)

1. Consideration of entering into an agreement with UCA & Youth Softball Association of Conway for rental use of softball fields.

Mayor Townsell stated this is done on an annual basis and allows us to use 3 softball fields at UCA that is used by the girl's fast pitch softball league. Alderwoman Smith motioned to approve the 2 agreements. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

2. Consideration of entering into an agreement with UCA for rental use of the softball fields.

Approved with Item C-1 above.

D. Public Safety Committee (Police, CEOC, IT Technology, Fire, Dist. Court & City Atty., & Animal Control)

1. Ordinance appropriating funds for additional insurance coverage on the new Conway Police Central Police Department.

O-09-37

Mayor Townsell explained that we need to add the new police facility to our insurance policy and the cost is \$4,667.00 to cover the remainder of the year; this will cover the difference in value of the two buildings. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no

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discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderwoman Whitmore, and Alderman Grimes. The motion passed 8-0.

2. Ordinance accepting assets obtained through court order for the Conway Police Department.

O-09-38

A.J. Gary, Chief of Police, was present to answer questions. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. Mayor Townsell asked if the stated value should be \$500.00 instead of \$400.00. Chief Gary stated yes. Mayor Townsell stated this will need to be changed on the ordinance. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderwoman Whitmore, and Alderman Grimes. The motion passed 8-0.

3. Consideration to accept a different vendor for the Conway police annual uniform bid.

Mayor Townsell explained that Conway Police Supply won the annual bid but they are unable to fulfill the requirements of the contract and the Police Dept. is asking that the 2009 uniform bid be changed to Cruse Uniforms. A.J. Gary, Chief of Police, stated that Cruse Uniforms was next in line at \$887.05. Alderwoman Smith motioned to accept the bid Cruse Uniforms. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

7. Old Business

8. New Business

A. Discussion of an ordinance waiving bids in conjunction with actuarial services for the City of Conway pension plans.

Mayor Townsell stated this has been brought about by the position of our 3 defined benefit pension plans. Mayor Townsell explained that "defined benefit" means when one begins employment with the city, the city will pay an individual 50% of their salary, typically, when one meets the qualifications of retirement. The non-uniformed plan vests in 10 years and one can begin drawing their pension at age 60 or after 20 years of service. The other 2 plans are "old style" fire and police plans; everyone hired prior to 1983 is in the old style plan; all other police and fire hired since 1983 are in LOPFI, a state run plan.

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Mayor Townsell stated that our pension plans have been challenged by the losses in the stock market; the fire plan is the most pronounced at this time. Mayor Townsell explained that we receive certain revenues each year one being .4 mills of property taxes on each of the 3 funds; these revenues can get us within \$200,000 - \$300,000 of paying the maximum cost of our benefits will ever have to pay in any given year; but we are short this amount. Mayor Townsell went onto say if wanted to eliminate our liability under these plans we need to determine how to proceed. Right now state law is not clear among experts who will hold ultimate responsibility, if any of the plans go bankrupt; the Arkansas Municipal League says statutory law states the plan is just bankrupt. LOPFI and the state pension plan (APERS) both believe constitutional provisions regarding contracts would hold out, which means that the initial contract of employment offer, when the city says it will pay an individual a 50% pension payment upon meeting certain criteria would win out, but no one knows this for sure, it would have to be tested in a court of law. Mayor Townsell stated if we could generate enough revenue to pay the outflow each year that maximum payout is going to gradually decline as we lose members of that pension plan, but how much under the cash flow basis and what liability would it create for us was the question. Another way is to join LOPFI, they will accept our plan and put together a compiling actuarial study. They can accept these and will tell us how much we have to pay over 15 years in flat increments to make our plan completely funded. Mayor Townsell stated they will not look into the first scenario for us; we have to do this for ourselves; that is what part of this ordinance is. This is only for the police and fire plans. Mayor Townsell explained we could possibly do this with non-uniform plan and turn it over to APERS or we could keep it separate; this would stop the plan where it is right now and all existing employees would stay in that defined benefit plan and all future employees would switch over to a defined contribution plan which becomes like a 401K; but we cannot make those financial judgment decisions without expert advice on what our liability is and what our options are. Mayor Townsell stated this \$27,000.00 is expensive but we feel it is worth it and recommended that we hire Gabriel Roeder Smith & Company (GRS) for these actuarial services. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Jones motioned to adopt the ordinance. Alderwoman Smith seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderwoman Whitmore, and Alderman Grimes. The motion passed 8-0.

Adjournment

PASSED this 24th day of March 2009

APPROVED:

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Mayor Tab Townsell

City Clerk Michael O. Garrett