
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
March 9, 2010

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

Call to Order

Roll Call

Minutes: February 23rd, & March 3rd, 2010

Alderwoman Whitmore motioned to approve the February 23, and March 3, 2010 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 8-0.

Announcements / Proclamations / Recognition:

1. Report of Standing Committees:

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

1. Consideration to enter into an agreement with the Faulkner County Senior Citizens & FCCDD for transportation services.

Mayor Townsell stated the Faulkner County Senior Citizens program has notified the city they only need \$42,907.00 instead of the \$45,000.00 that was previously approved and budgeted; Mayor Townsell explained that as previous decided this will come out of the street fund instead of the general fund and is in lieu of the Bean Street construction. The FCCDD agreement is for \$30,000.00. Alderwoman Smith motioned to enter into the two agreements. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

2. Consideration of additional Street Impact Fee Projects, Corridor Street Projects, & 2010 Street Improvement Projects.

Mayor Townsell explained council has identified their projects they wish to pursue to City Engineer Ronnie Hall and stated Mr. Hall has also provided you with a list of major arterial projects that will run through 2013 that will be funded by the pay as you go sales tax. Mr. Hall referred to the list of streets submitted to him for overlays this year explaining that

Ward 4 has another \$36,000.00 that can be used for another project. Alderman Jones asked if Mill Pond road had been priced. Mr. Hall stated he believes it could be seal coated for \$30,000.00 from Ginger Cary to Lot 210; this was with the county completing the seal coat work and the city buying the material. Alderman Jones and Alderwoman Whitmore asked Mr. Hall to check with the county to see if they are still willing to do the work. Mr. Hall stated he would confirm this with the county judge. Mr. Hall explained we have projects coming up that we need to establish funding for; we have looked at the pay as you go sales tax; one being the College Ave relocation and also the western loop engineering. Mayor Townsell asked if we need to approve through items #12 or #13 tonight. Mr. Hall stated tonight we need to approve through #12. Alderwoman Smith motioned to approve these street projects and the pay as you go projects through item #12. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

3. Discussion of the condemnation resolution for property located at #1 Cambridge Drive.

Mayor Townsell explained this pool has been an ongoing problem for the city and we moved to condemn/remove the pool per R-09-28 but upon advice of City Attorney Michael Murphy we decided to go to court and ask the courts to ensure we are within our right to move forward; the court has not ruled on this yet. Mr. Murphy stated his office has filed a motion in circuit court to ask the court to grant an order of entry onto the land in order for the city to carry out the resolution. Mayor Townsell stated this situation has come to the attention of the property owner's father and this is the first time the family has responded to any attempts to speak with code enforcement. Dale Bruins, father of property owner, stated what has happened here is unacceptable and he was under the impression the issue had been resolved but while taking care of his son's bills, while he was out of town in treatment, Mr. Bruins received the letter in January and at this point realized the issue had not been resolved. Mr. Bruins requested that council reconsider this as the pool has been taken care of and assures council you will not have to address this again. Alderwoman Smith asked if Mr. Bruins will make sure that this is taken care of from month to month. Mr. Bruins stated yes and had he known prior it would have been taken care of. Mayor Townsell stated we can duplicate whom we contact in regards to any issue that may arise. Mr. Bruins stated he would appreciate that happening. Alderman Grimes stated he has no interest in filling in any ones pool, the end goal is to abate the nuisance to the neighbors and he is willing to give them a chance. Grant Tomlin, Code Enforcement Officer, explained we have been dealing with this pool for five years and he appreciates Mr. Bruins concern for the situation but he is not the property owner, his son is and is responsible for the property. Mr.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Tomlin stated for 5 years he has not cooperated with us at all and now that it is time to move forward someone is finally willing to cooperate. Mr. Tomlin stated we have an obligation to the neighbors to abate the nuisance once and for all; the pool is clean right now but when the property owner comes back and takes over the property again and it returns to its previous state, we have to start over from the beginning and if this happens it will tie up more of our time and councils time. Mr. Tomlin stated the case is due in court on March 15 and feels we need to move forward with this case and do what we told the neighbors we would do. Alderwoman Smith asked if there is anything we can do to circumvent the process if we decided to give them another chance to where code enforcement will not have to start over if the need arises. Mr. Murphy stated yes there are things we can do but we need to realize that Mr. Bruins father is here, not the property owner, nor his attorney; they have appeared in circuit court to contest this action. Mr. Murphy went on to say that there have been expenses incurred on this in the way of filing fees, staff cost, etc. Alderman Grimes asked if we could amend our resolution to extend the timeframe to 90 or 160 days instead of 30 days. Mr. Tomlin stated even if we did that we have gone past that timeframe. Mr. Murphy stated you cannot amend the resolution. After much discussion Mayor Townsell stated Mr. Murphy outlined the option for us if we do not want to fill in the pool but the property has been remedied which is what we promised the neighborhood and the issue to be concerned with if it will stay clean. Mayor Townsell went onto say that we can make arrangements with the property owner and get the consent decree that is built in to pay for the fines, staff time, etc and get some type of promise that the pool will be maintained in the future, and if it is not maintained we can proceed with the resolution to fill in the pool. Mr. Murphy stated Mr. Bruins that is present tonight may have some insight on this but the problem is that no one is present tonight who can make those decisions but it can be relayed to them. Kurt Meredith, Deputy City Attorney stated our code enforcement officers have been leaving notices in the door, sending certified and regular letters without getting any response from the property owner. Mr. Meredith stated last fall we filed a subpoena to command the property owner to appear before District Court on city nuisance violations; our warrant officers have spent over 24 hours in employee time following the property owner from his home to his place of business, and entering his place of business, only to be told by his employees that he is not there; this has happened on more than 3 occasions. To date the city has been out over \$2,500.00 for filing fees, certified mail fees etc. Alderman Grimes stated if the nuisance is abated that is good enough for him. Alderman Hawkins asked if there is a bond that the city could require. Mr. Murphy stated yes, if council desires we can talk with the property owner and his attorney about achieving goals such as obtaining a consent order and also about recouping the cities costs

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

incurred to date. Alderman Grimes asked if Mr. Bruins had ever been involved with the cleaning of the pool. Mr. Bruins stated no, we have been estranged for 3 years and he stated he understands the issue of me not being the property owner and if that becomes an issue that will be resolved as well. Alderman Rhodes motioned to allow the city attorney's office to negotiate with Mr. Bruins attorney to ensure that city is reimbursed on expenses we have incurred and create a financial incentive that would benefit the city if the pool became in disrepair. Alderman Jones stated we should add that the pool will be removed if the property owner is not in compliance. Mr. Murphy stated just a general motion can be made that would allow us to enter into negotiations with the property owner and his council and try to reach an agreement on terms and bring these terms back to council for approval. Mr. Meredith stated the court date could be moved if the agreement is not approved in time. Alderman Rhodes mended his motion to allow the city attorney's office to meet with the property owner and his council to reach terms of an agreement in regards to the pool. Alderwoman Whitmore seconded the motion. After some discussion the motion passed 5-3. Alderman Hawkins, Alderman Vaught, and Alderwoman Smith voted in opposition.

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

- 1. Ordinance appropriating revenue funds received from Marck Industries to the Conway Sanitation Department.**

O-10-23

Mayor Townsell explained this \$17,150.00 is money we have received for our old recycling line. 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 Mehl 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 Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 8-0.

C. Public Safety Committee (Police, CEOC, Information Technology, Fire, District Court, City Attorney & Animal Welfare)

- 1. Ordinance appropriating insurance proceeds received for fire engine repairs to the Conway Fire Department.**

O-10-24

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Mayor Townsell stated this \$1,655.00 is money received for damages on engine #5. 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. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Jones, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 8-0.

Alderwoman Smith motioned to suspend the rules to add two items to the agenda. Alderman Grimes seconded the motion. The motion passed.

An ordinance amending Section 1301 of the Conway Sign Ordinance O-94-54.

Bryan Patrick, Planning & Development Director, explained that in #2 of Section 1 of the proposed ordinance the phrase "*except in the case of street relocation*" needs to be stricken. Mr. Patrick stated this is an opportunity for the city to capture some of the signs on Harkrider once that street is improved; basically the Arkansas Highway and Transportation Dept (AHTD) would pay for these signs as they would be included as part of their appraisals of the property, this would also include other future street projects which would allow for compensation of those signs involved. Alderman Jones asked if business owners should be able to have input before we make this change. Mr. Patrick stated the AHTD suggested we make this change. Jack Sotallaro, Conway business owner, explained he believes pre-existing/non-conforming signs should be changed to conform to the sign ordinance, but reminded council that prior to that ordinance passing the sign committee debated at length about the right businesses had to keep and maintain their pre-existing/non-conforming signs until which time they became no longer usable, at which point the city had the right to have them taken down. Mr. Sotallaro stated that what you want to do is change the spirit of that ordinance and you are basically telling the business owners they "have" to have a conforming sign. Alderwoman Smith asked what will happen if we do not approve this. Mayor Townsell explained that if we do not approve this the AHTD will offer to move the sign for the business. Alderwoman Smith asked can we put this off until the next council meeting to allow for public input. Mr. Patrick stated we will lose options if we do not pass this tonight as the AHTD has already started their appraisals. Alderwoman Smith asked they have not told us anything until today. Mayor Townsell stated they have been in contact with us and asking questions in regards to how our ordinances apply to signs, access management etc. and how the city wants to proceed with conformances in this area; whatever our ordinances commands is what

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

they will pay for. Mr. Patrick stated he has told AHTD all along that we had intended to change this ordinance but we have not done so yet and after talking with them today they had made an administrative decision that they will do "what the ordinance says today" and move forward and it's unlikely they will change their plans at a later date. After some discussion in regards to the intent of this section of the sign ordinance the Mayor stated if the city, or AHTD, has a relocation that requires the removal of a sign the AHTD, in this instance, will pay for the value of that sign from which the property owner can get a purchase a new sign. Alderman Grimes stated he would have voted for it in this form 3-4 years ago and he will vote for it in this form again tonight, this is the way it needs to be because we have a great chance of the AHTD to take care of this for us. Mayor Townsell stated this change would affect Harkrider immediately and it will affect Prince Street at some point and affect our cost as well and the Mayor stated this is the last time we will touch Harkrider and if we have a chance to get those old signs this is the opportunity to do so. Alderman Grimes motioned to waive the readings of the ordinance. Alderman Hawkins seconded the motion. The motion passed 7-1. Alderman Vaught voted in opposition. Alderman Jones and Alderwoman Smith stated they are not against the ordinance but feel the public should have some input. Alderman Jones motioned to hold this item in committee. Alderwoman Mehl seconded the motion. The motion passed 8-0.

Consideration of a change order for Conway Station Park.

Mayor Townsell explained as we move forward with this project we are finding items that require additions to our original bid specifications. Brian Knopp, Parks Director, requested council approve the following items outlined below:

Item #19 Boring under South German: Mr. Knopp explained items 1 - 3 were previously approved by council and item #3 (boring under South German) is now item #19; Conway Corporation's price has increased due to the need to bore "3 - 4" bores" and "1 - 3" bore".

Item # 7 Fire Hydrant: Mr. Knopp explained Conway Corp has said that 3 fire hydrants in the park must be replaced and they will be relocated inside the park; Conway Corp gave us an estimate of \$17,900.00; the \$16,300.00 shown was a bid from Paladino-Nash through Salter Construction.

Item # 10 Concession Windows: Mr. Knopp is proposing a sliding window instead of a raising window as we realized at the girls complex, it

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

is difficult for the workers inside the concession stand to hear the guests outside.

Item # 13 Removal of Concession Slab: Mr. Knopp explained that while digging we found approximately 12 concrete bleacher seats buried where the sewer line is going; these have already been removed and the cost was \$2,548.00.

Item # 14 Scoreboard Post: Mr. Knopp explained the scoreboard on field #9 is twice the size of the other scoreboards and the pole size needs to be larger in order to hold the larger scoreboard; this was a mistake made by Jacobs. The cost is \$2,192.00.

Item # 15 Electrical Wiring: Mr. Knopp explained the wire size was too small and will need to be increased; the cost shown is \$2,147.00 but that will most likely come down to around \$1,500.00.

Item #17 Truncated Domes Mat: Mr. Knopp explained this is for handicapped crosswalks at Robins/Center. The cost is \$532.00.

Undercut for Maintenance Building: Mr. Knopp stated we had bad soil there and Geotech tested and confirmed it; this work has been completed and the cost was \$19,656.00.

Alderman Smith stated she is concerned that we are once again being asked to add more items to a bid contract that goes beyond what the original cost of the bid was. Mayor Townsell stated we do not have to do any of this but you will get an inferior product and after some discussion Alderman Mehl asked where do we get this money. Mayor Townsell stated this can be paid for out of the parks pay as you go sales tax and park impact fee monies as well as interest revenue from the park bonds that is not been previously allocated. Alderman Grimes motioned to approved to these change orders. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 8-0.

D. Finance

Old Business

New Business

Adjournment

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

PASSED this 9th day of March 2010

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett