
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
May 11, 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, and Alderman Jones. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy.

Call to Order

Roll Call

Minutes: April 27th, 2010

Alderwoman Whitmore motioned to approve the April 27, 2010 minutes as submitted. Alderwoman Smith seconded the motion. Alderman Vaught motioned to amend the minutes and change the name Jack Jumper to Jack Sotallaro. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

Announcements/Proclamations/Recognition:

Mayor Townsell read a letter from Becky Harris, Conway Public Art Committee, in regards to the "Art in Architecture Historic Homes of Conway" exhibit which will be on display in Conway City Hall through June 24, 2010.

National Preservation Month: Mayor Townsell stated that Conway has been named a Preserve America Community and read a proclamation proclaiming May 2010 as "National Preservation Month" in the city of Conway.

Presentation: Lowell McClanahan - 1st Quarter Financial Report - This item was moved down on the agenda.

1. *Public Hearings*

A. **Public Hearing / Discussion of an ordinance authorizing the issuance of industrial development revenue bonds for Kimberly-Clark Corporation.**

Mayor Townsell opened the public hearing. Brad Lacy, Conway Development Corporation (CDC), asked council to support these industrial revenue bonds. Jack Sotallaro, Conway resident, spoke in favor of the bond issue but wondered if for some reason Kimberly-Clark were to go out of business would the city be responsible for the bonds. Mayor Townsell stated no, these bonds will not be an obligation on the city at all. Mr. Sotallaro asked what the tax implications would be for the city since Kimberly-

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Clark would fall under the "Pay in Lieu of Tax" (PILOT). Mayor Townsell with the tax implication with the city ownership of land the corporation agrees to pay a PILOT that we distribute to the various property taxing organizations; the payments are collected annually by the city clerk's office and it is distributed to the county and other various entities that are eligible to receive these funds. Mayor Townsell explained that the current facility has been exempted 65% of their tax rate which is the most we can exempt by law. There was no further discussion. Mayor Townsell closed the public hearing.

1. *Ordinance authorizing the issuance of industrial development revenue bonds for Kimberly-Clark.*

O-10-42

Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderman Jones motioned to adopt the ordinance and the emergency clause. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 8-0. The clerk called the roll for the emergency clause with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 8-0.

Presentation: Lowell McClanahan - 1st Quarter Financial Report

Lowell McClanahan, CFO, explained the city has the challenge of making some hard decisions and setting priorities that have not been done in the past. Mr. McClanahan read a brief article from a government finance review. Mr. McClanahan stated he believes that our 2010 revenue will meet our needs with the revenue that will be available to us but it will be based on council decisions and council priorities and we will need to manage better than we have in the past. Mr. McClanahan that at the beginning of the year our fund balance was \$934,000.00 and was \$840,000.00 at the end of March. First quarter sales tax were above our budget and the \$1.587 million in the street fund balance is 100% committed or assigned meaning none of this money is available to be used. Mr. McClanahan stated we have a sanitation fund balance of \$6.045 million as of March 31, 2010, but this money is not spendable and he sees no cushion in our budget at this time.

B. Report of Standing Committees:

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

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- 1. Consideration of two requests from the Moon Trust Heirs to lease 2.2 acres of land near the Conway Airport for farming & the relocation of Owens Road for the New Conway Airport Project.**

Ronnie Hall, City Engineer, was present to answer questions. Mayor Townsell stated Owens Rd would be relocated to the south end of the Moon property and go around the southern end of the runway. Mayor Townsell stated the 2.2 acres would be leased at \$50.00 per acre with a 5 year commitment. Alderwoman Mehl asked if we would have moved this road anyway or would we have closed it. Mr. Hall stated we would have to continue the road through the airport property to the Williams property; it's the same length of road that we would have to build anyway. Alderwoman Smith motioned to approve these two requests. Alderman Hawkins 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. Resolution setting a public hearing to discuss renaming Sutton Street.**

R-10-15

Alderman Jones motioned to adopt the resolution. Alderman Grimes seconded the motion. The public hearing will be held May 25, 2010 at 6:30 pm. The motion passed 8-0.

- 2. Resolution requesting the Faulkner County Tax Collector to place a certified lien on property located at 809 Walnut Street as a result of incurred expenses by the City.**

R-10-16

Mayor Townsell stated the cost of cleanup was \$166.55 plus 10% collection penalty. There was no one present to speak to this issue. Alderman Hawkins motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

- 3. Resolution ordering the demolition of a structure located at 335 Natchez Trail and declaring the intent of the City to bring the property up to code.**

Grant Tomlin, Code Enforcement Officer, was present to answer questions. Mayor Townsell asked if anyone was present to speak to this issue; no one was present. Alderman Jones asked if we know who owns the property. Mr. Tomlin stated yes and regular protocol has been followed in an effort to contact the property owner and the mortgage company, but we have had no

response from either party. Mr. Tomlin stated the property has been in this condition for 9 months since the fire. City Attorney Michael Murphy stated the summary states the letters came back undeliverable and asked if that included the regular mailed letters and the certified letters. Mr. Tomlin stated we have only received the certified letters back. After some discussion Mr. Tomlin stated that you can gain access to the residence and we are receiving a lot of complaints on the property and recommended at least boarding the house up until we can acquire more information on the mortgage company. Alderwoman Whitmore motioned to hold this item in committee. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

4. Resolution ordering the demolition of a structure located at 1910 Hillman and declaring the intent of the City to bring the property up to code.

Grant Tomlin, Code Enforcement Officer, explained this structure has an excessive amount of fire/water damage and explained that his office followed regular protocol in an effort to contact the property owner, the property owner did sign for the certified letter but they have made no attempt to restore the property; this fire occurred May 6, 2009. Mr. Tomlin explained that the inside of the house is exposed to the elements and animals are able to gain access inside the house as well. Danny Crabtree, attorney representing Mark and Ramona McNutt, the property owners, stated there is an insurance issue which was just resolved in court yesterday, however the issue with the mortgage company has not been resolved; the property is in foreclosure and he believes they will have the issue resolved with Freddie Mac within the next 60-90 days. Mr. Crabtree stated that the appliances that were outside have been moved into the structure and the mortgage company has secured the property on a couple of occasions because he has seen these added onto the McNutt's mortgage fees and asked council for leniency to allow the McNutt's some time to resolve the issues with the mortgage company and give them time to make the repairs. If the issues are not resolved with the mortgage company, and the property goes into foreclose, this would then become the mortgage company's issue to deal with not the McNutt's. Alderman Vaught asked if the house is boarded up. Mr. Crabtree stated yes. Mr. Tomlin concurred and stated that one would have to gain access from the roof. Alderman Hawkins asked how much time you are requesting. Mr. Crabtree stated he would like 6 months. Alderman Grimes asked Mr. Crabtree if an extension is granted that the city is kept up to date on the progress of this situation. Mr. Crabtree stated he will give Mr. Tomlin his business card. Alderman Jones stated he feels Mr. Crabtree should contact Mr. Tomlin as he has done enough on the city's behalf. Mr. Crabtree stated he would be glad to contact Mr. Tomlin as needed. Alderman Hawkins motioned to hold this item in committee for 60 days. Alderwoman Smith seconded the motion. Mr.

Tomlin stated he is okay with this as long as some progress is seen within a minimum of 60 days. There was no further discussion. The motion passed 8-0.

Alderwoman Smith exited the meeting.

5. Ordinance amending the permit fees for the construction and alterations of buildings and building systems in the City.

Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 8-0. Alderman Hawkins motioned to adopt the ordinance. Alderman Rhodes seconded the motion. Gene Salter, Salter Construction, stated on large scale projects, such as one he has underway, the building permit fee is \$24,000.00 the new proposed plan review fee would be \$12,000.00. Mr. Salter stated that Bryan Patrick, Planning & Development Director has stated that most plans take 4-6 hours to review and he understands that the larger the project, the longer it will take to review the plans, but to make the plan review fee one-half of the building permit fee, on a larger scaled project, is unreasonable. Mr. Salter stated he doesn't disagree that some type of compensation is warranted but there are other fees that are already collected by the Planning Dept but feels this should be looked at closer in regards to large scale multi-million dollar projects and possibly be capped. Alderman Hawkins stated since his project has already started Mr. Salter's project should be grandfathered in. Mayor Townsell stated as we have done in the past this could have an effective date attached to the ordinance. Lynn Hicks, Asst. Planning & Development Director, explained that this fee is not a "made up" number and stated he has worked in five different municipalities in the past which all had a commercial plan review fee and it has always been established at one-half the building permit fee; this was actually the recommended fee in previous building code editions until they stopped publishing recommended fees a few years back. Mr. Hicks stated he checked with other communities, some do charge this amount; some less and some other communities have set a cap on this fee. Mr. Hicks explained that by having a commercial plan review process we have a safer city and more customer service and stated we currently review commercial plans and will continue to do so even if this body chooses to charge a fee or not. Alderwoman Whitmore asked Mr. Hicks if he knew what the cap was in other cities. Mr. Hicks stated he cannot say for certain without referring back. Alderwoman Mehl asked if other building permit fees correspond with that of other cities. Mayor Townsell explained when we raised our building permit fees from 3 cents to 10 cents and raised the HVAC/electrical/plumbing fees from 2 or 3 cents to 6 cents per sq ft we looked at what other cities were charging, Maumelle was charging 18 cents per sq ft and we did not raise ours as high as what the average of the other

cities were. Little Rock bases theirs on a valuation basis and they average approximately 30% more than what Maumelle averages. Mayor Townsell went onto say that our building permit fees are lower in relation to the pier cities that we have looked at. Alderman Jones states he can see why Mr. Salter is concerned as feels we need a cap. Alderwoman Mehl stated she would like to see it tied more closely to the expense of the reviewers' time. After some discussion Alderman Grimes motioned to hold this item in committee until the next council meeting. Alderwoman Mehl seconded the motion. There was no further discussion. The motion passed 7-0.

6. Ordinance amending the mechanical permit fees for the construction and alterations of mechanical systems in buildings in the City.

O-10-43

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderman Grimes seconded the motion. The motion passed 7-0. Lynn Hicks, Asst. Planning & Development Director, explained the purpose of this ordinance is to create a fee schedule for commercial building mechanical work that charges a fair fee that is in line with the scope and volume of work; the proposed change only applies to commercial mechanical work that falls into the category of remodel, renovation, alteration, replacement, and repairs, it does not change the current fees for new work nor any residential permit fees. Mr. Hicks stated that the current fees for mechanical work listed as remodel, renovation, alteration, replacement, and repair is a flat \$30.00 fee. Mr. Hicks went onto say that the proposed fee change allows for a continuation of the current fee for one and two family dwellings but changes the fee for commercial projects by creating a separate category for the various types of mechanical systems. Alderman Vaught motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. Gene Salter, Salter Construction, stated he feels this is a fair fee schedule. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 7-0. Alderman Vaught stated that we did not vote on the emergency clause and asked if it was needed. City Attorney Michael Murphy stated not it is in the title of the ordinance but is not in the body. Alderwoman Mehl stated "purposes" is misspelled. Mayor Townsell stated we can add an emergency clause if needed. Alderman Vaught stated he does not feel it is needed. Mayor Townsell clarified that this ordinance does not have an emergency clause.

7. Ordinance to rezone property located at 1510 South Donaghey Avenue from R-1 to MF-1.

Mayor Townsell stated that this item has been withdrawn by the applicant.

8. Consideration to accept bids on 2010 Pavement Markings for the Conway Street Department.

Ronnie Hall, City Engineer, explained this is mainly for the bike lanes and the symbols for the bike lanes and recommended the low bidder, Contractors Specialty Service Co., in the amount of \$83,675.00. Alderman Hawkins motioned to accept the low bid. Alderwoman Mehl seconded the motion. Mayor Townsell explained that this will be paid for out of the alternative transportation money that we have set aside from the natural gas severance tax. There was no discussion. The motion passed 5-0. Alderman Jones left the meeting prior to the vote.

Mayor Townsell asked council skip the next item until Alderman Grimes rejoins the meeting since this item is an ordinance.

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

1. Ordinance waiving bids for repairs to a residential trash truck for the Conway Sanitation Department.

O-10-44

Alderwoman Mehl motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 6-0. Alderman Hawkins motioned to adopt the ordinance and the emergency clause. Alderman Vaught seconded the motion. Cheryl Harrington, Sanitation Director, explained that the transmission went out in truck #181 and it was taken to G.W. Diesel Services in hopes that the truck could be fitted with a transmission from a truck that was salvaged last year, but that option was not viable. The cost of repair is not to exceed \$12,100.00. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

2. Consideration to create additional parking at Pompe Park located off Prince Street.

Mayor Townsell explained this will allow citizens who want to use the trail a place to park and stated Mr. Bivens created a place to park his vehicles and he has suggested we add to that area to allow for parking; the cost to the city will be \$7,500.00. Alderman Hawkins motioned to approve this change order agreement. Alderwoman Whitmore seconded the motion. Mayor Townsell

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stated this will come out of the Parks trails money. There was no discussion. The motion passed 6-0.

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

1. Discussion of Code Red Weather Warning System for the City of Conway.

Mayor Townsell stated this is being driven by the county, and it appealed to some council members previously and Mayor Townsell wanted to give you the opportunity to discuss this warning system. Mayor Townsell stated Lowell McClanahan, CFO, has explained how lean our budget is at the present time. Mayor Townsell explained one package of the system will allow us to target an area of the city and warn them via telephone and cell phone. This would warn citizens about power outages, main breaks, and missing children. There is also a weather warning system that would warn citizens about severe weather. Mayor Townsell explained the cities portion for the software package would be \$25,250.88. Alderwoman Mehl asked if this was an annual cost. Mayor Townsell stated he believes it is and stated we can always do this later but the county is moving forward with this. Alderman Grimes stated he is interested but he does not know if we can afford this right now. Other council members concurred. Mayor Townsell stated we will take no action on this item tonight.

E. Old Business

1. Ordinance appropriating funding for FCCDD, Senior Citizens Center, & Boys & Girls Club for transportation needs within the City of Conway.

Mayor Townsell stated this is actually a discussion on the transportation program monies for the above listed programs; we originally thought we could take street fund money to cover these transportation costs but it has been determined that the street fund can only cover public transit transportation costs. Nancy Rowell, Financial Administrator Faulkner County Senior Citizens, stated we do serve a particular section of the public but these individuals are also the ones who have the greatest need for transportation. Ms. Rowell went onto to say that we are a tool of the city and this is a service we provide on behalf of the city; if the city does not fund the transportation costs then there is no other funding source for it and we will have to discontinue the service. Alderman Hawkins stated he would like to continue doing this but with the cities current situation we are faced with he sees no way to do so. Mayor Townsell said for full disclosure we use sanitation monies but he would want CFO Lowell McClanahan's approval to do so. Alderwoman Mehl asked Ms. Rowell if she had already provided services for the first quarter of this year. Ms. Rowell stated yes. Alderwoman Mehl asked

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if we can cover the first quarter of the year. Alderman Rhodes asked if we could pay it in installments and he stated he feels like we have already made this commitment. Mayor Townsell stated it's really not a cash flow problem it is a total budget issue. Alderwoman Mehl stated we voted previously and they proceeded to operate under the impression that we were going to fund the program and feels there have been real expenses incurred that they did in good faith and know we may not can afford it all but feels we have some obligation. Ms. Rowell stated we have dipped into a reserve that we are required to have in connection with our state and federal funding in anticipation of receiving this money which could leave us in a precarious situation with our future state and federal funding. Alderman Grimes stated he spoke with FCCDD and they have already spent money with the impression that the city was going to fund the transportation program; he believes they bought another van with their reserve because of the demand for transportation services. Ms. Rowell stated that the number of trips we provide annually is what qualifies us annually for a new vehicle, so that will be a resource will be lost. Mayor Townsell stated 5/12th of the \$85,407.00 is \$35,600.00 and feels we did lead them to believe they would be getting this funding. Alderman Hawkins stated we have a half a million dollar problem that we are responsible for at the sanitation department and as much as he would like to approve these monies he feels we just cannot afford it. Alderwoman Mehl asked if we can re-visit this in July. Mayor Townsell stated we can rev-visit this anytime. Alderman Hawkins stated he is in favor of re-visiting this as well. Alderman Rhodes stated we told them on two occasions that we were going to fund these programs and he feels like we should honor this somehow. Alderwoman Mehl asked if we could be taken to court over this. City Attorney Michael Murphy stated yes, but council, can at anytime, look at their budget and decide that they can or cannot make expenditure out of the general fund. After much discussion Mayor Townsell suggested looking at this again in late June. Alderman Grimes stated he feels we should pay them what they have already spent based upon our promise and then re-evaluate the situation in a couple of months. Alderman Rhodes motioned to fund one-half year (January - June) of the transportation programs from the sanitation fund and to re-evaluate the situation in late June. Alderman Grimes seconded the motion. Alderman Vaught asked Mr. McClanahan how this will impact the sanitation fund. Mr. McClanahan stated he cannot answer that but stated it will not affect our cash flow until December. Mayor Townsell stated that sanitation cut all their capital expenses in the hopes that the compactor would come out of the sanitation surcharge and be put back on the bottom line but obviously \$500,000.00 of that cannot, and in all likelihood we can afford the \$42,000.00 and possibly more but we know that is not a guarantee at this time. Robert Wright, Boys & Girls Club, explained they have already spent their transportation money for the year and also explained that FCCDD takes approximately 65 individuals to their place

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of employment, and it is likely that some of these individuals will quit their jobs due to the lack of transportation. There was no further discussion. The motion passed 6-0.

F. New Business

1. Discussion of projects for the severance tax revenue received for alternative transportation.

Mayor Townsell stated we cannot purchase bike racks with severance tax money; the city has been working with SFI to purchase 80 bike racks at a cost of approximately \$3,500.00 - \$4,000.00 but this project also has no funding source. Alderwoman Mehl stated she feels we should wait to purchase the bike racks. Alderwoman Mehl motioned to delay purchasing bike racks. Alderman Vaught seconded the motion. There was no discussion. The motion passed 6-0.

Alderman Vaught stated the resolution setting the public hearing for item 2-B1 states the public hearing will be held at city hall instead of district court. Alderwoman Mehl motioned to change the location from city hall to district court on resolution R-10-15. Alderman Vaught seconded the motion. There was no discussion. The motion passed 6-0.

Alderman Grimes motioned to suspend the rules to add two items to the agenda. Alderwoman Whitmore seconded the motion. The motion passed 6-0.

Consideration to grant Conway Corporation right-of-way easements beyond City of Colleges Park located at Little Creek.

Mayor Townsell explained Conway Corp needs to replace outflow lines past the park and across the creek. Alderman Hawkins motioned to grant approval for the easements. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

Adjournment

PASSED this 11th day of May 2010

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett

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