
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
May 25, 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, and Alderman Vaught. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and Deputy City Attorney Kurt Meredith. City Attorney Michael Murphy and Alderman Jones were not in attendance.

Call to Order

Roll Call

Minutes: May 11th, 2010

Alderwoman Whitmore motioned to approve the minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 7-0.

Announcements / Proclamations / Recognition:

Employee Service Awards

5 Years

Nathan Crockett - Sanitation Dept.

10 Years

Andrew Freeman - Street Dept.

Officer James Presley - Police Dept.

15 Years

Jeff Roberts - Parks & Recreation Dept.

Central Baptist College Women's Softball Team

Mayor Townsell recognized the CBC 2010 Christian College Athletic Association Champions for their outstanding season with a record of 53-1.

1. Public Hearings

A. Discussion of renaming Sutton Street to Bishop Anderson Street.

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Mayor Townsell stated this item has been pulled by the applicant however a public hearing notice was published and therefore we need to hold that public hearing. No one was present to speak. Mayor Townsell closed the public hearing.

B. Report of Standing Committees:

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

- 1. Resolution certifying local government endorsement of Rock-Tenn to participate in the targeted tax-back program.**

R-10-17

Mayor Townsell stated this was recently approved by council but in order to correct an error in the original resolution we need to pass this resolution tonight. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

- 2. Consideration of a request from Ronald & Tammy Brown for the use of land for farming at the new Conway Airport location.**

Mayor Townsell explained that the Brown's had already planted a crop on a portion of this land, and in the sales contract, the city agreed not to charge them rent on this land; this will be the last crop grown on this tract of land. Alderwoman Smith motioned to allow farming on this property and not to charge rent. Alderwoman Whitmore seconded the motion. The motion passed 7-0.

- 3. Consideration to accept the Conway Airport Business Plan as prepared by General Aviation Consulting Services Inc.**

Jack Bell, Assistant to the Mayor, stated this is not approving the plan, it is just accepting it and stated we can make changes if we feel like we need to. Alderwoman Smith motioned to accept the plan. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

Lowell McClanahan explained that our bank accounts are considerable but our unassigned funds are quite small, and this requires us to do significant managing to make sure we meet all of our requirements as we move forward. Mr. McClanahan stated tonight we will be asking you to approve a half million dollar expenditure for the sanitation dept which is available in the sanitation reserve fund and asked council to approve this equipment purchase. Mr. McClanahan stated early on in his tenure he asked council to

approve \$35,000.00 in order to hire an accounting firm to help us with our software conversion and stated we still need this, but realized after the fact that there is no money for this and asked council to be careful to approve only those things that money is available for.

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

- 1. Resolution setting a public hearing to discuss the closing of an easement located at 3255 Miller's View (between Lots 11 & 12).**

R-10-18

Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. The motion passed 7-0. The public hearing will be held Tuesday June 8, 2010 at 6:30 pm.

- 2. Resolution ordering the demolition of a structure located on 4 Gwen Lane and declaring the City's intent to bring the property up to city code.**

Mayor Townsell informed council that code enforcement is checking on other options for repairing the roof at this time and asked that this be pulled from the agenda. Alderwoman Smith motioned to pull this item from the agenda. Alderwoman Whitmore seconded the motion. The motion passed 7-0.

- 3. Consideration of a request by Steve Conley of C&C Commercial services for a conditional use permit to allow MF-1 density in an R-2 zoning district for property located at 307 South Center Street.**

Steve Conley, C & C Commercial Services, stated his initial request included 305 & 307 South Center but he has since amended his request to just lot 307 as this lot was initially where his home was but it burned down 2 1/2 years ago. Mr. Conley explained there is a 20 ft gas easement on this property and the corner of his house started 5 ft from the gas line therefore he cannot build his house there. Mr. Conley explained that even though it is zoned R-2 but the city's comprehensive plan in this area is single family but 85% of that area does not fit into the city's comprehensive plan; on his block there are five houses and all the other 30+ lots are duplexes; the street behind his block is all duplexes. Mr. Conley explained his initial plan was to build a five unit duplex that has one story on the front side and 2 stories on the back side of the unit but stated his neighbor did not want a 2 story unit looking over into her backyard so he honored her request and handed out a drawing of what he is proposing to build. Alderman Grimes asked if he is changing what he proposed and can we proceed with this tonight or does this have to go back before the planning commission. Bryan Patrick, Planning & Development

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Director, stated in the past the city attorney has allowed applicants to take away from a legal description but not add to. Mr. Conley explained his lot is 80 ft wide and 230 ft deep and has a vinyl privacy fence on both sides and intends on putting the fence on the back side back up when finishes and showed several pictures of the area to show council the area. Alderman Vaught asked for clarification of what can be done on top of the easement and explained that the driveway would be placed on the easement and feels that this unit would not bring anymore traffic to the area than is already there nor would it add as much traffic as the new ball field. Mr. Conley stated that is what the easement states and explained he obtained a copy of CenterPoint Energy rules of what they will allow and drive ways and parking lots are allowed. Ronnie Hall, City Engineer, stated that the gas easement is a private issue between the applicant and the gas company. Mr. Conley stated the planning commission made a big issue of the gas line and they wanted a signed agreement between myself and the gas company before they would even consider it. Alderwoman Smith asked what way the apartments will face. Mr. Conley stated north. After some discussion Mayor Townsell asked if anyone else wished to speak to this conditional use. Sheila French, adjacent property owner, stated she owns property to the north of Mr. Conley and requested that her conditions be written into this conditional use request (these conditions are listed below). Alderman Grimes asked Mr. Patrick if we should limit this to one access point. Mr. Patrick stated this issue and others will be addressed in design and review. After some discussion Alderman Vaught motioned to approve the conditional use permit request. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 7-0. The conditions are as follows:

- 1.No second story windows facing north allowed.
 - 2.Restore vinyl fence along north property line and maintain it regularly; tapering out appropriately for safety of sidewalk and the street.
 - 3.Match plans submitted at council meeting.
 - 4.Work to save trees as possible and improve façade along S. Center.
- 4. Consideration of a request by Allen Shaver, Shaver Properties for a conditional use permit to allow MF-1 density in an R-2 zoning district for property located at 617 & 621 Third Avenue.**

Allen Shaver, applicant, stated he would like to construct a single family residence behind the existing duplex. Alderwoman Smith motioned to approve the conditional use request. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

- 5. Ordinance amending the permit fees for the construction and alterations of buildings and building systems for the City by adding a commercial plan review fee.**

Mayor Townsell stated Lynn Hicks, Assistant Planning & Development Director, asked that this be removed from the agenda for further review. Alderman Hawkins motioned to pull this item from the agenda. Alderwoman Mehl seconded the motion. The motion passed 7-0.

6. Ordinance waiving the requirement to obtain competitive bids for parts and equipment repairs to a Track hoe for the Street Department.

O-10-45

Ronnie Hall, City Engineer, explained the boom broke on the back hoe and the part we need costs \$23,867.80. Mayor Townsell stated in order expedite repairs we are requesting the waiving of bids and explained that piece of equipment is sold by J.A. Riggs, the Caterpillar supplier for this area, stating we would have to use them anyway. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Whitmore 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, and Alderman Vaught. The motion passed 7-0.

7. Consideration to sell right of way along Hwy 266 (Bruce Street) to the Arkansas State Highway & Transportation Department.

Mayor Townsell stated that the Arkansas Hwy Dept (AHTD) is buying right of way on Harkrider between Hwy 266 (aka Siebenmorgen) and Bruce St for the Harkrider widening project and they need tract 17 at Mill St and they do not want to pay us for this right of way. Mayor Townsell asked council to approve this in order to expedite the street widening process. Alderwoman Whitmore motioned to approve this request. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

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

1. Consideration to accept bids for Universal Refuse Roll Carts & Recycling Roll Carts for the Conway Sanitation Department.

Cheryl Harrington, Sanitation Director, asked council to approve the low bid for 820 recycling roll carts from Toter Inc. in the amount of \$32,513.00/\$39.65 ea. Alderwoman Smith motioned to accept the low bid. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

Cheryl Harrington, Sanitation Director, requested that council approve buying 520 universal refuse roll carts from Toter Inc in the amount of \$24,408.80/\$46.94 ea. explaining that we would like to stay with Toter because they seem to provide us with a cart that is well built. Alderwoman Smith motioned to accept the bid from Toter Inc. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

2. Ordinance waiving the requirement to obtain competitive bids for the purchase/lease of a compactor for the Sanitation Department.

O-10-46

Cheryl Harrington, Sanitation Director, was present to answer questions. Mayor Townsell explained we need this piece of equipment in order to preserve our landfill space and requested that council waive bids and allow us to purchase the compactor from G.W. Van Keppel Co. in the amount of \$442,992.00. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. 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": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

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

1. Ordinance appropriating donated funds from Faulkner County in conjunction with a grant through Central Arkansas Planning Development on behalf of the Metro SWAT team.

O-10-47

A.J. Gary, Chief of Police, explained this \$37,912.00 will be used to purchase equipment for the SWAT team. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Mayor Townsell stated we will add an emergency clause to the ordinance. Alderwoman Smith motioned to adopt the emergency clause as well. Alderwoman Whitmore 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, and Alderman Vaught. The motion passed 7-0.

2. Ordinance appropriating asset forfeiture funds for the Conway Police Department.

O-10-48

A.J. Gary, Chief of Police, explained \$5,000.00 of this money will be for undercover operations and \$3,520.00 will be used to purchase CritaCall Software that will allow us to test our telecommunicator applicants on many different tasks. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. Alderwoman Whitmore motioned to adopt the ordinance and the emergency clause. Mayor Townsell stated we will add an emergency clause to the ordinance. 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, and Alderman Vaught. The motion passed 7-0.

E. Personnel

1. Consideration to insert pay rates into vacant grade and step positions listed on the existing police and fire pay grid.

Mayor Townsell explained this item needs to be pulled from the agenda. Alderwoman Smith motioned to pull this item from the agenda. Alderwoman Whitmore seconded the motion. The motion passed 7-0.

F. Old Business

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

O-10-49

Mayor Townsell explained this ordinance cuts the annual amount in half and approves these funds through June 2010. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. 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": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

G. New Business

- 1. Ordinance granting a temporary franchise to Bryan Cox for a horse drawn carriage to operate in Downtown Conway area.**

O-10-50

Bryan Cox explained with the development of downtown he feels this is a perfect opportunity to offer this service and they would like to be fully operational by July 4, 2010; this service will also be available for special events such as weddings etc. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. After some discussion in regards to the route Alderwoman Smith motioned to adopt the ordinance and the emergency clause to include a \$50.00 annual franchise fee, insurance to be \$25,000/\$50,000/\$25,000, to pro-rate the fee for 2010, franchise valid until December 31, 2011 to be renewed every January 1st, and the route will be in an area east to Harkrider, north to Tyler, south to Robins, west to Donaghey to include UCA. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

Alderwoman Smith motioned to suspend the rules to add 3 items to the agenda. Alderwoman Whitmore seconded the motion. The motion passed 7-0.

Ordinance waiving bids for parts and labor for traffic signal repairs at S. German Lane & Dave Ward Dr. due to an accident.

O-10-51

Ronnie Hall, City Engineer, explained the accident on May 11, 2010 destroyed most of the wiring and electronic equipment in this traffic signal box; with the help of DeSoto County Electric and Temple Inc. we were able to get that box operational in 2 days and requested that we waive bids and pay these companies. Mayor Townsell stated the amount owed Temple Inc is \$13,744.43 and DeSoto is owed \$18,349.61. Alderwoman Whitmore motioned to waive the readings of the ordinance. The motion passed 7-0. Alderwoman Whitmore 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, and Alderman Vaught. The motion passed 7-0.

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Consideration to allow Cuerden Sign Co to perform vegetation control (Bush hogging) along the highway right of way adjacent to the property owned by Mary Kay Dickens on I-40 at mile marker 124 and property owned by DJ Waller on I-40 at mile marker 126.

Alderman Hawkins motioned to allow Cuerden Sign to clear this property. Alderman Grimes seconded the motion. There was no discussion. The motion passed 7-0.

Discussion for settling the Bruin's swimming pool condemnation case on property located at 1 Cambridge Dr.

Deputy City Attorney, Kurt Meredith, stated he approached Mr. Bruin's attorney to see if he would be willing to pay the city's costs and to post a bond for removing the pool should it become non-compliant to city code. Mr. Meredith went onto say that Mr. Bruin's asked if the city would be willing to accept a promise from his father (Mr. Dale Bruin's) who has the means to keep the pool compliant explaining that bonds of this nature are either very expensive or hard to find. Mr. Meredith stated that this is quite different than what council had directed him to pursue. Alderman Grimes asked what was said in regards to reimburse the city the costs out of pocket to date. Mr. Meredith stated he seemed to be willing to pay these. Alderwoman Smith asked how much has the city been out. Mr. Meredith stated approximately \$2,500.00. Mayor Townsell explained that bonds are only good for a period of time. Alderman Rhodes suggested a binding agreement to settle this issue. Mr. Meredith stated that is what he is proposing. Alderwoman Smith motioned to allow entering into a binding agreement with Mr. Bruin's. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

Adjournment

PASSED this 25th day of May 2010

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett