
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
July 27, 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, Alderwoman Mehl, Alderman Vaught, Alderman Grimes, 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: July 13th, 2010

Alderwoman Whitmore motioned to approve the July 13, 2010 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 8-0.

Announcements / Proclamations / Recognition:

Employee Service Awards

5 Years

Jamie Brice - Finance Dept
Firefighter James DuVall - Fire Dept
Driver Luke Williamson - Fire Dept

10 Years

Driver Jeff Hill - Fire Dept

15 Years

Todd Wilson - Street Dept
Officer Jimmy McJunkins
Sgt Angelina Loeschner - Police Dept
Capt Danny Shock - Fire Dept
Capt Phillip Short - Fire Dept
Lieutenant David Groves - Fire Dept
Driver Farris Parks - Fire Dept
Driver Shon Randles - Fire Dept
Asst Chief Mike Winter - Fire Dept

25 Years

Major Bill Milburn - Police Dept

1. Report of Standing Committees:

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

- 1. Resolution authorizing the Mayor and City Clerk to enter into the termination and assignment agreement with co-owners of the Independence Steam Electric Station 2.**

R-10-37

Bill Bethea, Conway Corporation, explained this resolution authorizes the Mayor to execute this agreement that will turn the Independence Steam Electric Station 2 back over to Arkansas Electric Cooperative now that the bank has been paid; all parties have agreed. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore 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 the closing of an easement (part of Lot 1) located in University Park Subdivision.**

R-10-38

Alderwoman Smith motioned to adopt the resolution to set the public hearing for Tuesday August 10, 2010 at 6:30 pm. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

- 2. Resolution ordering the demolition of a structure located at 11 Mockingbird Lane.**

Daniel Davis, owner of 11 Mockingbird Ln, stated he received notice in the mail a few days ago in regards to this issue. Mr. Davis stated he has this property under contract with Divine Homes and Landscaping to have this property demolished; the Shelter Insurance adjuster, John Ripley, has had some issues with some of the bids and rejected the first two bids received and explained Mr. Ripley has been out of town but is due back this week. Mr. Davis stated he has been assured by Divine Homes and Landscaping that as soon as Mr. Ripley returns this issue would be resolved and demolition can begin. Mayor Townsell asked if the entire structure will be demolished. Mr. Davis stated yes along with the pad. Mayor Townsell asked when the fire occurred. Mr. Davis believes it was in May 2010. Grant Tomlin, Code Enforcement Officer, stated the fire occurred March 1, 2010. Mr. Tomlin stated if someone is going to start demolition next week he does not have a problem holding off on the demolition until we see if demolition does occur. Mayor Townsell asked if the property is secure. Mr. Davis stated it really is not, there are gates open, the doors were melted etc. After some discussion Alderman Smith motioned to hold this item in committee. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 8-0.

- 3. Resolutions requesting the Faulkner County Tax Collector to place certified liens on certain properties as a result of incurred expenses by the City.**

R-10-39

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Alderman Hawkins stated the property address is 4910 College Ave; the cost of cleanup was \$128.09 plus 10% collection penalty. There was no one present to speak to this issue. Alderman Jones motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

R-10-40

Alderman Hawkins stated the property address is 1515 Freyaldenhoven Lane; the cost of cleanup was \$142.62 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Whitmore motioned to adopt the resolution. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 8-0.

R-10-41

Alderman Hawkins stated the property address is 2 Eve Lane; the cost of cleanup was \$183.64 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

4. Ordinance accepting grant proceeds and appropriating funds for the Historic District Commission to be administered by the Planning and Development Department.

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

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

1. Ordinance accepting a donation and appropriating funds for the Conway Parks Department.

O-10-81

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": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

2. Ordinance appropriating funds for the installation of the French drainage system at the City of Colleges Park.

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O-10-82

Mayor Townsell stated that Nabholz has completed the work and this \$3,502.00 is from Jacobs Engineering Group Inc. 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 Mehl 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 Vaught, and Alderman Jones. The motion passed 8-0.

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

- 1. Ordinance repealing Ordinance O-10-65 that regulated the possession, sale, and ingestion of K-2.**

O-10-83

City Attorney Mike Murphy explained since the passage of ordinance O-10-65 the State Dept of Health has adopted regulations that regulate substances known as K-2; after discussions it has been concluded that the Health Dept's intent is not to regulate or criminalize simple possession, but they have regulated the sale and distribution of K-2. Mr. Murphy stated the Arkansas Municipal League has reviewed this and advised all their member cities that since the state has entered into this realm, basically preempted localities from acting, to immediately repeal any K-2 ordinances. Alderman Vaught asked if it is right to back off the law and allow people to possess K-2. Mr. Murphy stated he is not privy to all the information that the Board of Health has access to and stated this is their area of expertise, but we have been advised to repeal all K-2 ordinances ASAP. Mr. Murphy stated it does not preclude us from prosecuting persons who are impaired as long as the case meets impairment statutes. After some discussion Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Grimes seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderman Grimes seconded the motion. After some discussion Mayor Townsell stated we will need to strike the word possession from the ordinance. Mr. Murphy concurred and stated the first "*whereas*" will read "*the State of Arkansas, via the Board of Health acted to regulate matters regarding substances known as K-2;*" and the second "*whereas*" will read "*any actions that will be taken by the City of Conway will now be done pursuant to the state law, including Ark Code Ann. 20-7-109 and promulgated regulations.*" Alderwoman Smith stated she amends her motion to read per Mr. Murphy's language. Alderwoman Whitmore seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Jones. The motion passed 6-1-1. Alderman Vaught voted in opposition and Alderman Hawkins voted present.

E. Old Business

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1. Consideration of a consent order in the matter of the City of Conway vs. Todd A. Bruns.

Mayor Townsell asked Code Enforcement Officer Grant Tomlin if he had checked the condition of the pool. Mr. Tomlin stated yes, the pool is clean today. Mayor Townsell explained we held this in committee at our last meeting because the pool had once again become stagnant. Mayor Townsell explained this consent order basically states the defendant has to pay \$2,740.00 for expenses incurred by the city and will provide a guarantee, signed by the defendant's father, to cover the cost of the removal of the pool should it become necessary to do so. Alderwoman Smith asked can we take action at any time the pool is found to be stagnant. Alderwoman Mehl stated the order says "upon proper notice". Alderman Vaught suggested that section 3 read "*In the event the Defendant allows the swimming pool to return to any unsanitary and unsafe condition, the city will then be entitled to cause the pool to be removed.*" Alderwoman Smith concurred with Alderman Vaught. City Attorney Michael Murphy stated we can change the language and present it to Mr. Bruns attorney and if they do not want to agree to our terms then we can set it for a hearing and ask the judge to order the pool removed. Mr. Murphy stated he agrees with Alderman Vaught the draft from Mr. Brazil does not have a time frame. Alderwoman Smith motioned to approve the consent order as amended per Mr. Murphy's suggestion. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 8-0. Mr. Murphy stated he will make the amendments and send it to Mr. Brazil.

Mayor Townsell stated the Parks Dept wants to drain down Lake Beaverfork in order to make repairs to our properties as well as giving lake land owners a chance to do repairs as well.

Mayor Townsell stated that the street department has come up with a 4 lane/median design for Prince Street that would extend from the Conway High School roundabout through Salem Rd. Mayor Townsell stated we want to present it to council and the public at a committee meeting soon.

F. New Business

Adjournment

PASSED this 27th day of July 2010

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett