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# MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

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Conway, Arkansas  
Tuesday, 6:00 pm  
April 12, 2022

On this date the City Council of the City of Conway, Arkansas met in regular session. The following members were present and acting: Councilman Hawkins, Councilwoman Tucker, Councilman Ledbetter, Councilwoman Mehl, Councilman Grimes, Councilwoman Smith, and Councilwoman Isby. Also, present and acting: Mayor Bart Castleberry, City Attorney Charles Finkenbinder, City Clerk Michael Garrett. Councilman Jones was not present.

**Call to Order: Mayor Bart Castleberry**

**Roll Call: Michael O. Garrett, City Clerk**

**Minutes: March 22<sup>nd</sup>, 2022**

Councilwoman Isby motioned to approve the **March 22, 2022** meeting minutes as submitted. Councilwoman Smith seconded the motion. There was no discussion. The motion passed 6-0. (Councilman Grimes was not present for the vote.)

Mayor Castleberry asked the Council to suspend the rules to move Section D, Item 1 to the beginning of the meeting. Councilwoman Smith made a motion to suspend the rules and Councilman Ledbetter seconded it. The motion to suspend the rules carried 6-0.

**Discussion of the Reed vs. City of Conway case**

Ms. Lefever with the Arkansas Municipal League addressed the Council and updated them on the case. She informed them that the judge had stated that he was 99% sure that the City's request for a summary judgement would be granted. For that reason, she recommended that the plaintiff's settlement offer be rejected. Councilman Hawkins made a motion to reject the offer of settlement and Councilman Ledbetter seconded it. A vote was called, and the motion carried 6-0.

(Councilman Grimes was not present for the vote.)

Councilman Grimes joined the meeting.

**Report of Standing Committees:**

**A. Community Development Committee (Airport, Community Development, Code Enforcement, Permits and Inspections, Transportation and Planning & Development)**

**1. Ordinance authorizing the issuance of capital improvement bonds for the Community Center and Soccer Complex.**

**O-22-36**

Councilman Hawkins presented Item A1 to the Council. Mr. Paul Phillips, with Crews & Associates addressed the Council stating that he was very pleased with the progress of the bond sales and gave them an overview of the structure of the bonds and final terms and conditions. Gordon Wilbourn of Kutak Rock gave a summary of the Ordinance the Council was to vote on. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded the motion. The motion carried 7-0. Councilwoman Smith made a motion to adopt the Ordinance with the emergency clause and Councilwoman Isby seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Mehl, Councilwoman Smith, Councilman Grimes, Councilman Ledbetter, Councilwoman Tucker, Councilman Hawkins, and Councilwoman Isby. The Ordinance and the emergency clause passed 7-0.

**2. Ordinance approving the location of a private club permit for Marriott Courtyard Hotel, Café 501 of Conway, Inc.**

**O-22-37**

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Councilman Hawkins presented Item A2 to the Council. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded the motion. The motion carried 7-0. Councilman Hawkins made a motion to adopt the Ordinance and Councilwoman Smith seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Smith, Councilwoman Mehl, Councilman Hawkins, Councilwoman Tucker, Councilwoman Isby, Councilman Ledbetter, and Councilman Grimes. The Ordinance passed 7-0.

**3. Consideration to approve the nomination for the Oak Grove Cemetery Board.**

Councilman Hawkins presented Item A3 to the Council and made a motion to approve the nomination of David Reynolds and Councilwoman Smith seconded it. A vote was called and the motion to approve passed 7-0.

**4. Consideration to approve the nomination for Conway Corporation Board of Directors.**

Councilman Hawkins presented Item A4 to the Council and made a motion to approve the nomination of Osmar Garcia and Councilwoman Smith seconded it. A vote was called and the motion to approve passed 7-0.

**5. Resolution requesting the Faulkner County Tax Collector place a lien against property located at 1450 Rachel Drive for expenses incurred by the City in the amount of \$161.77.**

**R-22-18**

Councilman Hawkins presented Item A5 to the Council. There was no one present to represent the property. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. A vote was called, and the Resolution passed 7-0.

**6. Resolution to condemn the structure located at 44 Thousand Oaks for the Code Enforcement Department.**

This item was held in Committee.

**7. Resolution to approve the bid for the Harkrider Street Sidewalk Project for the Transportation Department.**

**R-22-19**

Councilman Hawkins presented Item A7 to the Council. Kurt Jones, Transportation Department Director, told the Council that this is a sidewalk project from Bruce to Robins. He said the low bid amount was \$507,000 and the City has a Metroplan grant for \$200,000 so the City's share would be \$307,000. He added that it is about 1000 feet of sidewalk. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. A vote was called, and the Resolution passed 7-0. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. A vote was called, and the Resolution passed 7-0.

**8. Ordinance amending Ordinance No. O-19-35 for revised methods for the removal from city boards, commissions, and committees.**

**O-22-38**

Councilman Hawkins presented Item A8 to the Council. James Walden, Director of Planning & Development addressed the Council stating that there has been an increasing issue with attendance at Board & Commission meetings and the current system set up directs the issue back to the Board or Committee to deal with which place an awkward burden on them. He said that this amendment removed a lot of the discretion in terms of how a member is removed. If an individual has 4 absences within a twelve month period, upon notification from the City Attorney or direction of the Mayor they would be considered removed from the Board. He clarified that it is a rolling 12 month period. Councilman Hawkins recommended that every Board or Commission be notified in writing of this change. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded the motion. The motion carried 7-0. Councilwoman Isby made a motion to adopt the Ordinance with the emergency clause and Councilwoman Smith seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilman Ledbetter, Councilwoman Isby,

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Councilwoman Smith, Councilwoman Mehl, Councilwoman Tucker, and Councilman Grimes. The Ordinance with the emergency clause passed 7-0.

**9. Ordinance to amend the Conway Zoning Code Revisions of definitions and table for office, bank, and financial institutions, etc. for the Planning & Development Department.**

**O-22-39**

Councilman Hawkins presented Item A9 to the Council. James Walden explained that there has been a problem where an office is treated as a bank and requires a conditional use permit due to a bank having a drive-through. He said that this amendment clarifies the requirements for those situations. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded the motion. The motion carried 7-0. Councilwoman Isby made a motion to adopt the Ordinance with the emergency clause and Councilwoman Smith seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Tucker, Councilman Grimes, Councilman Hawkins, Councilwoman Isby, Councilwoman Smith, Councilman Ledbetter, and Councilwoman Mehl. The Ordinance passed 7-0.

**10. Resolution to amend the Master Street & Trail Plan addressing Connect Conway for the Planning and Development Department.**

**R-22-20**

Councilman Hawkins presented Item A10 to the Council. James Walden told the Council that this was to ensure that the route for the Trail was shown correctly on the Master Street & Trail Plan, for the Connect Conway grant applications. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. A vote was called, and the Resolution passed 7-0.

**11. Consideration to modify the Conditional Use Permit no. 1042 to allow a Childcare Facility in the O-1 zoning district for property located at 700 Salem Rd. (CUP-0122-0182).**

Councilman Hawkins presented Item A11 to the Council. James Walden told the Council that this is for the Conway Regional Fitness Center. He said they had one before the Covid shutdown, and then the Mayor issued an executive order allowing them to continue childcare for our frontline workers such as doctors and nurses, etc. It was decided that they wanted to continue to offer this service they are going through the process to get it approved. He added that there was no opposition and was approved unanimously by the Planning Commission. Councilwoman Smith made a motion to approve the request and Councilwoman Isby seconded it. A vote was called, and the consideration was approved 7-0.

**12. Consideration to modify the Conditional Use Permit no. 1277REV to allow Retail Restricted and General in the O-1 zoning district for property located at 2525 Prince Street.**

Councilman Hawkins presented Item A12 to the Council. James Walden told the Council that there was a broader conditional use that was approved for several properties there and is in place now. He said that the development fell through and now there is a renewed interest in developing that property from multiple entities. He added that the applicant is seeking general retail with a restaurant and drive through so it would broaden the amount of allowed retail uses, such as department stores, household appliance stores, pet stores, etc. He said the application met all of the notification requirements and there has been some opposition from the public. Mayor Castleberry asked if there was anyone present who would like to speak for or against this item and no one came forward. Councilwoman Smith made a motion to approve the conditional use permit and Councilman Ledbetter seconded it. A vote was called and the consideration to approve passed 7-0.

**13. Ordinance to rezone property located at 1 & 3 Azalea Lane and 5 Azalea Loop from A-1 to R-2A.**

**O-22-40**

Councilman Hawkins presented Item A13 to the Council stating that this item was reviewed by the Planning Commission and was voted 7-0 to forward to the City Council with a recommendation for approval. James Walden told the Council that this is in a neighborhood that is in a level of transition. He said the applicant was seeking to rezone to allow for duplex development, with two duplexes netting 4 units. Councilwoman Smith made a motion to waive the three readings and Councilwoman

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Isby seconded the motion. The motion carried 7-0. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Smith seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilman Ledbetter, Councilwoman Tucker, Councilwoman Smith, Councilwoman Isby, and Councilwoman Mehl. The Ordinance passed 7-0.

### **14. Ordinance to rezone property located at 3055 Stermer Road from RU-1 to A-1.**

#### **O-22-41**

Councilman Hawkins presented Item A14 to the Council stating that it was reviewed by the Planning Commission and voted unanimously to forward to the City Council with a recommendation for approval. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded the motion. The motion carried 7-0. Councilwoman Smith made a motion to adopt the Ordinance and Councilwoman Isby seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Mehl, Councilman Ledbetter, Councilman Grimes, Councilwoman Isby, Councilwoman Tucker, Councilman Hawkins, and Councilwoman Smith. The Ordinance passed 7-0.

### **15. Ordinance to rezone +/- 3.70 acres located at 2522 and 2600 College Avenue from O-2 to PUD.**

#### **O-22-42**

Councilman Hawkins presented Item A15 to the Council stating that this item was reviewed by the Planning Commission and was voted 7-0 to forward to the City Council with a recommendation for approval with conditions:

1. The development shall be constructed in a manner consistent with the proposed sketch plan in regard to the general location of the building. It will be constructed with minimal setback addressing the corner of the intersection of College Ave/Denison St.
2. The site shall be limited to the following uses: multi-family development with a max of 12 units, office, retail-restricted, and eating place without drive-thru.
3. The height of the proposed structure shall not exceed 40 feet or 3 stories.
4. The development shall meet all applicable standards for Article 1101 of the Zoning Code.
5. The first two stories of the building shall be limited to stone, brick, and glass with precast concrete used as architectural accents.
6. The development shall meet all applicable signage standards for the O-2 district.
7. All proposed site improvements shall be subject to Development Review as handled within Article 1101 of the Zoning Code.
8. Prior to issuance of Development Review approval for the site, the applicant shall plat the property and file a deed restriction or similar document that ties the parking lot improvements and maintenance to the use of the building and building owner in perpetuity.
9. All other zoning requirements not addressed via this approval shall be governed by the provisions of O-2 zoning.
10. For the property east of Denison St, a 20' undisturbed vegetative buffer shall be maintained which shall include the addition of planting evergreen trees capable of forming a continuous row of vegetation to a height of at least 30' in addition to meeting the landscaping requirements of Article 1101 of the Zoning Code.
11. For the property west of Denison St, all property north of the existing concrete ditch (as of February 17, 2022) shall be left as an undisturbed vegetative buffer. Within 10' of the north property line, additional evergreen trees capable of forming a continuous row of vegetation to a height of at least 30' shall also be required in addition to meeting the landscaping requirements of Article 1101 of the Zoning Code.
12. Denison St shall be constructed to city standards as a local residential street and may include parallel parking. Any parking provided as parallel parking may be counted to reduce the off street parking requirements.

Councilwoman Tucker stated that she is hearing mostly concerns about traffic on College from her constituents and ask James if that issue had been looked at. He said that traffic counts were looked at and proved to be lower than half of a comparable street with similar structure and number of lanes, such as Donaghey. He said that most of the congestion is caused by the intersection at College

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and Farris which is scheduled to become a roundabout in the near future. He said that development based on the application would create less traffic than if the property were left to develop in its present zoning. There was discussion among the Councilmembers regarding the placement of structures and parking lots. The applicant addressed the Council and showed photos of the site plan. He explained that these units are designed for single occupancy with each being one bedroom, fully furnished units. There was discussion among the Council about traffic flow and turning left onto College from Denison. It was determined that there is room for a left turn lane out of Denison. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded the motion. The motion carried 7-0. Councilwoman Smith made a motion to adopt the Ordinance with the stated conditions and an additional condition to add a turn lane at Denison onto College, and Councilman Hawkins seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Isby, Councilman Ledbetter, Councilwoman Mehl, Councilwoman Smith, Councilman Grimes, and Councilman Hawkins. Councilwoman Tucker voted "no". The Ordinance with the stated conditions passed 6-1.

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

#### **1. Ordinance appropriating funds for the completion of landscape planting on Prince Street.**

##### **O-22-43**

Mayor Castleberry presented Item B1 to the Council. Spencer Clawson addressed the Council asking them to approve the appropriation of \$22,285.35 for the contract with Olive Branch Landscape Management. He said that the project included the Islands on Prince Street and that 44 Tulip Poplar trees would be planted and were included in the price of the contract. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded the motion. The motion carried 7-0. Councilwoman Smith made a motion to adopt the Ordinance with the emergency clause and Councilwoman Isby seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilwoman Mehl, Councilwoman Smith, Councilman Grimes, Councilwoman Tucker, Councilwoman Isby, and Councilman Ledbetter. The Ordinance with the emergency clause passed 7-0.

#### **2. Ordinance to enter into an independent contractor agreement and appropriate funds for the hanging baskets in Downtown Conway.**

##### **O-22-44**

Mayor Castleberry presented Item B2 to the Council. Spencer Clawson told the Council that due to the decreased number of baskets ordered this year, the actual amount of the contract would be \$22,000. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded the motion. The motion carried 7-0. Councilwoman Isby made a motion to adopt the Ordinance and Councilman Hawkins seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilwoman Mehl, Councilwoman Tucker, Councilwoman Smith, Councilwoman Isby, Councilman Ledbetter, and Councilman Grimes. The Ordinance passed 7-0.

#### **3. Resolution to enter into an agreement for construction management services for the Conway Soccer Complex.**

##### **R-22-21**

Mayor Castleberry presented Item B3 to the Council. Steve Ibbotson of the Parks & Recreation Department told the Council that the committee interviewed 5 out of the 9 applicants for the construction management services and chose Nabholtz Construction. Councilwoman Smith made a motion to adopt the Resolution and Councilman Hawkins seconded it. A vote was called, and the Resolution passed 7-0.

#### **4. Resolution to enter into an agreement for construction management services for the Conway Community Center.**

##### **R-22-22**

Mayor Castleberry presented Item B4 to the Council. Steve Ibbotson said there were three applicants and all three were interviewed and the committee chose Nabholtz Construction for the services.

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Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. A vote was called, and the Resolution passed 7-0.

**C. Public Safety Committee (District Court, Department of Information Systems & Technology, Animal Welfare, Communication Emergency Operations Center, Police Fire, and Office of the City Attorney)**

**1. Ordinance appropriating grant funding received from the Department of Justice for the Connect and Protect grant for the Conway Police Department.**

**O-22-45**

Mayor Castleberry presented Item C1 to the Council. Chief Tapley addressed the Council to approve the appropriation for this grant. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded the motion. The motion carried 7-0. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Smith seconded it. The Clerk called the roll with the following voting "Aye": Councilman Grimes, Councilwoman Mehl, Councilman Ledbetter, Councilwoman Tucker, Councilwoman Smith, Councilwoman Isby, and Councilman Hawkins. The Ordinance passed 7-0.

**2. Ordinance appropriating funds for the purchase of property located at 1108 Deer Street for the Conway Police Department.**

This item was pulled from the Agenda.

**3. Ordinance appropriating insurance proceeds for the Conway Fire Department.**

**O-22-46**

Mayor Castleberry presented Item C3 to the Council. Chief Winter addressed the Council stating that they received an insurance check and asked to appropriate the funds. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded the motion. The motion carried 7-0. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Smith seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilman Grimes, Councilman Ledbetter, Councilwoman Mehl, Councilwoman Isby, Councilwoman Smith and Councilwoman Tucker. The Ordinance passed 7-0.

**4. Resolution to enter into an agreement for construction management services for Conway Fire Station #3.**

**R-22-23**

Mayor Castleberry presented Item C4 to the Council. Chief Winter asked the Council to approve Nabholtz Construction for the construction management services for Fire Station #3. Councilwoman Smith made a motion adopt the Resolution and Councilman Hawkins seconded it. A vote was called, and the Resolution passed 7-0.

Councilman Ledbetter told the Council that in keeping with former traditions, he moved that the new Fire Station #3 be named in honor of retired Chief Doyce G. Ballard. Councilwoman Smith made a motion to name the station after retired Chief Doyce G. Ballard and Councilman Grimes seconded it. A vote was called, and the motion carried 7-0.

**Adjournment-----**

*PASSED this 12<sup>th</sup> day of April 2022*

**APPROVED:**

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*Mayor Bart Castleberry*

*City Clerk Michael O. Garrett*