
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 pm
May 13, 2014

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 Mehl, Alderman Pruitt, Alderman Grimes, Alderman Ledbetter, Alderwoman Smith, and Alderman Jones, and Alderwoman Whitmore. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett and Deputy City Attorney Chuck Clawson. City Attorney Michael Murphy was not in attendance.

Call to Order: Mayor Tab Townsell

Roll Call: City Clerk/Michael O. Garrett

Minutes Approval: April 22, 2014 and April 29, 2014

Alderwoman Whitmore motioned to approve the April 22 and April 29, 2014 minutes as submitted. Alderwoman Smith seconded the motion. Alderwoman Mehl stated she was not in attendance at the April 29th meeting; the minutes will be corrected to reflect this. There was no further discussion. The motion passed 8-0.

1. Report of Standing Committees:

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

1. Consideration to accept the nominations for the Conway Civil Service Commission.

Alderman Hawkins motioned to approve the re-nomination of Bob Bell and Jack Ballard for a full six year term each. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

2. Consideration to approve the Garver Engineering Contract for the RTR Facility Design & Fueling System at the new Conway Municipal Airport.

Ronnie Hall, City Engineer, was present to answer questions and recommended the approval of the contract. Alderman Hawkins motioned to approve Garver's contract in the amount of \$25,000.00. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

3. Consideration to approve bids for the 2014 Paving Construction (Schedule 1, Schedule 2, & Schedule 3) and the AWOS Installation at the Conway Municipal Airport.

Ronnie Hall, City Engineer, recommended awarding Schedule 1 paving to Weaver Bailey Contractors in the amount of \$1,162,456.64, and awarding installation of the AWOS to Rick McGinty Co, Inc. in the amount of \$166,001.00. Mr. Hall went onto recommend these, subject to FAA concurrence, and subject to receiving FAA grant funding to cover these costs.

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Alderman Whitmore motioned to approve Mr. Hall's recommendations. Alderman Smith seconded the motion. There was no further discussion. The motion passed 8-0.

4. Ordinance authorizing various personnel changes within the Conway Street Department.

O-14-37

Ronnie Hall, City Engineer, stated we did not require a CDL license for our Construction Specialists, but desired one, nor was this reflected in the JESAP salary study. Mr. Hall requested the creation of a "Construction Specialist with CDL", and to recognize and compensate those performing these duties. Mr. Hall stated this rate will be the same as a Sanitation driver with a CDL and will take these employees from a rate of \$14.30 to \$15.09. Mr. Hall went onto say that most of these employees are recent hires who have not had a pay increase and asked council to help us keep these employees by compensating them for keeping their CDL current. Mayor Townsell stated a CDL license is a marketable commodity for employment. Alderman Smith stated she is not sure how the other council members feel, but we were unable give certificate pay to police and fire and she does not feel it is fair to move these employees up. Mr. Hall explained our rate structure is a mess and stated the 2 Construction Specialists, that do not hold a CDL and are not being moved up, are already at a pay grade of 12. Alderman Ledbetter stated we went through the JESAP Study to try to straighten this out. Mr. Hall stated they did not spend more than a day on street department employees. Alderman Ledbetter stated they likely got the same attention as everyone else did. Mr. Hall stated no, their focus was fire and police. Alderman Ledbetter stated the engineers received raises and threatened to leave if they did not get one. Mr. Hall stated if council wants to put us in a bind as far as driver positions, this will do it. Mr. Hall explained he is bringing this before council because he was informed by Lisa Williams, HR Director, the reason the street department drivers are not making what the sanitation drivers make, is because the street department position did not require a CDL. Alderman Ledbetter stated this is the same thing that happened with police and fire on the certificate pay and we have been unable to pay them for this. Mr. Hall stated this is already in the street department budget. Alderman Ledbetter stated it is the principal of the matter. Alderman Smith stated we cannot give one department raises and not others. Alderman Hawkins asked for clarification that the money is already in his budget. Mr. Hall stated yes, the Mayor approved these changes during the budget process but we are just now making the request. Mayor Townsell stated this does not supersede your ability to set, or not set new positions and new standards for those positions, it simply sets the money aside. Alderman Hawkins stated the money is set aside for this purpose. Mr. Hall stated yes. Mayor Townsell stated as a compromised position you could create this other position and not migrate employees to it until other city employees migrate to where they need to be. Alderman Smith stated this would be the fair thing to do; police and fire did not put raises in their budget. Mayor Townsell reminded council this is street fund money. Alderman Grimes asked if a Construction Specialist making \$14.30 left, would we then hire another Construction Specialist with CDL at \$14.30. Mr. Hall stated he believes we would be restricted to that amount. Alderman Grimes stated we do not want to lose these people over and over as they seek other employment in order to make higher wages. Alderman Smith asked have your employees never had a CDL. Mr. Hall stated they were not required to have a CDL; some had CDL's, but we did not have the number of vehicles then, as we do now that require a CDL. Alderman Smith stated she knew someone who applied for a job at the street department but was not hired because he did not have a CDL. Mr. Hall stated we have hired

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individuals with a CDL. Alderwoman Mehl stated she is inclined to create the position and when we are able to give pay increases to everyone, then street employees can move into the new position. Alderman Hawkins asked how many positions are affected. Mr. Hall stated there are no new positions, there are 7 re-classifications, and 1 employee is already being paid above pay grade. Alderman Hawkins stated he understands the other council members concern, but this is in the budget and is less than \$1,000.00 per person per year and we operate within budgets. Alderman Ledbetter and Alderwoman Smith both agree it is not the right thing to do. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderman Hawkins seconded the motion. The motion passed 8-0. Alderman Hawkins motioned to adopt the ordinance and the emergency clause. Alderman Pruitt seconded the motion. Alderman Jones stated he understands the concern here but there are many employees who did not get a raise of any kind and until everyone can get a raise he cannot vote for it. Alderwoman Mehl stated it is changing the requirements of the position to fit what the city needs as we have more vehicles that require a CDL. Alderwoman Mehl went onto say regardless of the employees in the positions now, she feels we would be required to hire them in at the higher rate. Mayor Townsell suggested keeping the Construction Specialist position and everyone inhabited in that position, and then create the Construction Specialist with CDL position so it will be there when needed, in the meantime we can continue to hire only individuals with a CDL into the Construction Specialist scale, and when possible compensate them by moving them into the new position. Alderman Grimes stated this is a change in the job description and requirement, however he agrees enough to hold off on implementing this. Mayor Townsell stated if the consensus is to not migrate 7 of the 9 positions into the new pay scale, a defeat of this does not even create the Construction Specialist with CDL position; it can be modified with an amendment if council desires. Alderman Hawkins withdrew his motion. Alderman Pruitt withdrew his second to the original motion. Alderwoman Whitmore then motioned to authorize these positions with this salary but not to move into the proposed rate at this particular time. Alderwoman Smith seconded the motion. After some discussion the emergency clause is to be removed from the ordinance. There was no further discussion. The Mayor called the roll with the following voting "Aye": Alderman Grimes, Alderwoman Mehl, Alderman Ledbetter, Alderwoman Smith, Alderwoman Whitmore, and Alderman Jones. The motion passed 6-2. Alderman Pruitt and Alderman Hawkins voted in opposition.

Alderman Grimes motioned to suspend the rules to add the Garver Contract to the agenda. Alderwoman Mehl seconded the motion. The motion passed 8-0.

Consideration to approve Garver Engineering services contract for the new Conway Municipal Airport.

Ronnie Hall, City Engineer, stated this is the basic annual design and construction observation contract for the listed projects; we anticipate a \$2.5 million grant from the FAA of which the cities match is approximately \$253,906.27, which is all reimbursable by state grant funds for this year's funds. Mr. Hall recommended approving this contract, subject to FAA approval, in the amount of \$2,539,062.68. Alderman Hawkins motioned to approve this contract. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

- 5. Ordinance to rezone property located at the southeast corner of the intersection of Interstate 40/Amity Road and East Dave Ward Drive from I-3 to C-3.**

O-14-38

Stephen Giles, Attorney at Law, was present to answer questions. 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. After some discussion the clerk called the roll with the following voting "Aye": Alderman Grimes, Alderman Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, Alderwoman Whitmore, and Alderman Jones. The motion passed 8-0.

6. **Consideration of a conditional use permit from Therapy and Rehab Solutions to allow restricted office for property located at 831 Donaghey Avenue.**

Alderman Hawkins motioned to approve the conditional use permit. Alderwoman Whitmore seconded the motion. Chris Thronberry, President Therapy and Rehab Solutions, requested council to consider changing the operating hours in order for staff to work as needed on various functions such as payroll, reports taxes, etc. Alderwoman Mehl stated she feels the hours of operation would apply to clients and their vehicular traffic, not to office staff who wish to come in and work outside the realm of the office hours. Bryan Patrick, Planning Director, stated that is the intent of the condition. Alderwoman Whitmore stated it would better if it were stated in the condition and motioned to add language to condition 1 to reflect the hours of operation are for public operation. Alderwoman Smith seconded the motion. Council concurred. There was no further discussion. The motion passed 8-0. The conditions are as follows:

- 1) **Hours of Operation:** The hours of *public* operation will be Monday through Friday from 8 am to 8 pm, but primarily normal business hours.
- 2) **Signage:** Wall signage shall be limited to a non-illuminating faceplate attached to the structure no greater than 2 square feet in area. Freestanding signage shall be a non-illuminated monument or two pole sign no greater than 4 feet in height and 4 feet wide. A non-illuminated post and arm sign as defined by Conway sign regulations may be substituted for a monument or two pole sign. No banners shall be permitted.
- 3) **Architectural Compatibility:** Any exterior remodeling or new construction must be compatible with the surrounding architecture. Within the Old Conway Design Overlay District, The Historic District Commission shall review and decide compatibility. This review shall include overall exterior appearance, materials, setbacks, height, lot coverage, etc. The setbacks, height, and lot coverage restrictions will be no greater than allowed by the lot regulations per zone, overlay, or historic district.
- 4) **Term of the Conditional Use:** This conditional use permit shall be limited to Therapy and Rehab Solutions.
- 5) **Lighting, parking, screening/buffering shall minimally match Conway Development Review Standards:** Additional parking and/or screening/buffering requirements may be recommended by the Planning Commission and required by the City Council including, but not limited to, parking location and design, fencing or landscaping as required to provide an adequate buffer for neighboring.
- 6) **Sidewalks:** Construction and or repair of existing sidewalks, if necessary, is required as per Conway Development Review Standards. **There is an existing sidewalk along the property's Donaghey frontage.**

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- 7) **No additional front yard parking allowed.**
- 8) **Trees must remain unless diseased or damaged.**

7. Consideration of a conditional use permit from Ann Siebenmorgen to allow an adult day care for property that is located at 1101 Museum Road, Suite 6.

Ann Siebenmorgen, applicant, was present to answer questions. Alderman Hawkins motioned to approve the conditional use permit. Alderwoman Whitmore seconded the motion. There was discussion of not limiting a single suite to allow for expansion, but limiting the permit to this applicant. Alderman Pruitt asked if we could remove condition 1; he feels it should stay with the applicant, not the location. Mayor Townsell stated a conditional use permit is a use for that piece of land; condition 1 allows for expansion. Alderman Pruitt stated he agrees with all conditions. There was no further discussion. The motion passed 8-0. The conditions are as follows:

- 1) The conditional use permit is applicable to 1101 Museum Road without limitation to a single suite to allow for possible future expansion or relocation of the business.
- 2) Hours of operation are 7:00 am to 6:00 pm, Monday through Saturday.
- 3) This conditional use permit is limited to this applicant. It is not transferrable and does not run with the property.

8. Consideration of a conditional use permit from Covenant Life Church to allow religious activities and childcare for property that is located at 235 Tilk Road.

Alderman Hawkins motioned to approve the conditional use permit. Alderwoman Smith seconded the motion. Bryan Patrick, Planning & Development Director, stated condition 3 should not be a condition, but a point for discussion. Mr. Patrick stated he checked with the Arkansas Beverage Control Board and there is a 1,000 foot rule that only applies to packaged liquor stores, which would not apply to this request. Mr. Patrick stated as far as the Planning Commission vote, some board members felt this location was not suitable for a daycare. Jay Burns, Pastor Covenant Life Church, was present to answer questions. Brian Tiner, VP Vacation Tour & Travel, explained he has 1 of the 2 retail businesses in this location and they are concerned that a church and or daycare could limit the future retail possibilities; we currently produce approximately \$8 million in payroll in the city of Conway and the future new retail development will be big for our business. In essence he would prefer to see retail move into this location which could produce sales tax revenue. Mayor Townsell believes there is legislation that does not allow us to prohibit religious facilities in locations. Mr. Patrick, stated it is dangerous to say one does not want a church in a retail area and explained the property is currently being leased. Alderman Pruitt asked Mr. Tiner if the majority of his business is via foot traffic. Mr. Tiner stated currently most of our revenue is online; 98% of our revenue comes from outside the state of Arkansas but we are trying to fill a need, with our partner Carnival Cruise, to have a walk in facility. After some discussion Mayor Townsell recommend holding this item in committee if Mr. Burns has the ability to do that at this time. Mr. Burns stated he has a lot of people with money invested in getting this up and going and he would appreciate a vote tonight. Alderman Grimes stated he does not see a problem with approving this night, we have no good reason to deny this request. There was no further discussion. The motion passed 7-1. Alderman Hawkins voted in opposition.

- 1) No outside sound system allowed.

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- 2) This conditional use permit is limited to this applicant only. It is not transferrable and does not run with the land.
- 3) It is suggested that the City Council give special consideration as to the church and day care location in relation to restaurants that will possibly be serving alcohol in their decision.

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

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

O-14-39

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

2. Ordinance accepting and appropriating donation funds to the Physical Plant Department.

O-14-40

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

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

1. Ordinance appropriating funds for the Conway Civil Service expenses related to promotional firefighter and police officer testing.

O-14-41

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

2. Ordinance waiving competitive bid requirements to utilize a sole source vendor to purchase two bomb suits for the Conway Fire Department.

O-14-42

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Alderman Whitmore motioned to waive the readings of the ordinance. Alderman Smith seconded the motion. The motion passed 8-0. Alderman Whitmore motioned to adopt the ordinance. Alderman Smith seconded the motion. Fire Chief Mike Winter stated Med-Eng is the vendor where the bomb suits can be purchased. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderman Hawkins, Alderman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderman Smith, Alderman Whitmore, and Alderman Jones. The motion passed 8-0.

D. Old Business

1. Consideration to accept the request for qualifications for telephone installation, upgrades and maintenance for the IT Department.

Mayor Townsell stated we discussed this issue at length during our last council meeting, and we have tried to work through this issue with the vendor and the department. Mayor Townsell recommended that we terminate our relationship, and do not accept the bid with Kirby's Communications; we have had a good relationship with him but unfortunately at this stage, feels we do not have mutually compatible interests. Alderman Hawkins asked why Mr. Hartzell is recommending Netcom. Lloyd Hartzell, IT Director, stated both Netcom and HCI are qualified to provide telephone support and maintenance to the city; they are both NEC dealers, both having about the same number of employees; Netcom has 10 employees, 5 technicians, 3 salesmen, and 2 office staff; HCI has 10 personnel, 4 technicians, and support personnel. Mr. Hartzell gave a brief history synopsis of Netcom and HCI and stated HCI charges \$125.00 per hour no matter if they are on site or via telephone. Netcom charges \$85.00 for onsite and \$21.25 for remote and recommends Netcom because of the cost of service and the availability of response time. Mr. Hartzell went onto say that Netcom has an office in Greenbrier and a technician that lives in Conway that can respond 24X7. Alderman Hawkins asked how they would bill for a 10 minute issue. Mr. Hartzell stated he believes each company bills in 15 minute increments. Alderman Hawkins motioned to accept Netcom as the cities telephone vendor. Alderman Pruitt seconded the motion. Alderman Smith stated since the last council meeting she contacted several city departments to inquire about Mr. Davis, and said they had nothing but glowing remarks about Mr. Davis and how helpful he had been over the years. Alderman Smith wanted Mr. Davis to know that several city employees think highly of him. Stacy Davis, Kirby Communications, stated he is aware of that and did not realize he would not get a chance for a rebuttal tonight. After a brief discussion between Mayor Townsell and Mr. Davis, Mayor Townsell stated we have a motion on the floor. Alderman Grimes stated he regrets the issue has come to this point, but the reality is we have a conflict that cannot be resolved. Alderman Grimes stated council does not have the authority to remove Mr. Hartzell so all we can do is remove the vendor and he is not happy it has gotten this far. There was no further discussion. The motion passed 7-1. Alderman Ledbetter voted in opposition.

Mayor Townsell recommended a suspension of the rules to add an agenda item regarding the moratorium on billboards. Alderman Smith motioned to suspend the rules to add this item to the agenda. Alderman Whitmore seconded the motion. The motion passed 8-0. Alderman Hawkins motioned to extend the moratorium on billboards through the next city council meeting (2 weeks). Alderman Smith seconded the motion. There was no discussion. The motion passed 8-0.

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PASSED this 13th day of May 2014

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett