
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday, 6:00 pm
July 11, 2023

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: Councilman Hawkins, Councilman Grimes, Councilwoman Mehl, Councilwoman Tucker, Councilman Ledbetter, Councilwoman Webb, Councilman Jones, and Councilwoman Isby. Also, present and acting: Mayor Bart Castleberry, City Clerk Michael Garrett, and City Attorney Charles Finkenbinder.

Call to Order: Mayor Bart Castleberry

Roll Call: Michael Garrett, City Clerk

Minutes: June 13th, 2023

Councilwoman Isby made a motion to approve the minutes as submitted and Councilwoman Webb seconded it. The motion carried 7-0. *(Councilman Hawkins stepped away from the meeting.)*

Monthly Financial Report

Tyler Winningham presented the monthly financial report for the month ending May 31, 2023. He stated that the City was not in as good a position as this time last year due to the expenses from the cost of living raises and the adjustment to police salaries. He called their attention to the ad valorem tax receipt and the large collection from the County for the first round of property tax received. He said that sales tax for the month was up approximately 2% over the same month last year and about 4.5% for the year. He added that for the last few years the numbers have been above average, and they are now showing positive but more average growth. He said that the balance sheet shows that our cash on hand is still very healthy. He pointed out that the Street fund was showing a net balance which is not unusual this time of year due to street projects. There was no further discussion. Councilwoman Isby made a motion to approve the monthly financial report and Councilwoman Mehl seconded it. The motion carried 7-0.

Report of Standing Committees:

A. Public Hearing

1. Ordinance (O-23-45) to approve the proposed electric rate adjustment for Conway Corporation (2nd reading)

O-23-45

Mayor Castleberry announced a public hearing for O-23-45 and declared the public hearing open. Brett Carroll, CEO of Conway Corporation addressed the Council reminding them that he last came before them requesting an electric rate increase in 2017, and he gave them some explanation as to the rate study brought before them. He pointed out to them various supply and demand issues which have increased costs for Conway Corp the last few years. He thanked the Council for their leadership and asked them to support the rate increase request. Jill Schuepbach with New Gen Strategies and Solutions addressed the Council and explained the processes of the rate study including revenue requirement, which for Conway is \$72,000,000.00 which it must collect through electric rates and tariffs. Other elements of the rate study process she explained were the costs of service, and rate design which enables the revenue to be collected. Ms. Schuepbach detailed some of the costs that have increased, and which have driven the need for rate increases, and also the financial forecasts and their impact on fund balances and how the rates were designed. Finally, she presented recommendations to the Council asking them to support the 150-180 days cash on hand policy as well as the three-year phase-in of rates as approved by the Conway Corp Board. Tom Courtway, Chair of the Conway Corp Board addressed the Council in favor of the proposed electric rate increase stating that he believed it was well-studied, well-founded, and prudent. Brad Lacey of the Conway Development Corporation addressed the Council in support of the proposal. There was no further

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

discussion. Mayor Castleberry declared the public hearing closed and brought the matter back to the Council. Brett Carroll explained to the public the relationship between Conway Corp and the City of Conway per the request of Councilman Grimes. Mr. Carroll explained the relationship stating that Conway Corp is a private non-profit corporation governed by a Board of Directors and the City of Conway is the regulatory authority. Councilwoman Webb asked Mr. Carroll if a crypto mining company came to Conway would they be responsible for paying for any new facility to which he replied that they would. He added that such businesses are looking for areas where electricity is inexpensive, and that Conway Corp has taken that into consideration when designing the rate policies to mitigate the risk. Councilman Jones made a motion to waive the second and third readings of the Ordinance and Councilwoman Isby seconded it. The motion carried 7-0. Councilman Jones made a motion to adopt the Ordinance and Councilwoman Isby seconded it. Councilman Grimes reiterated that the City approves the rates, and he stressed that the Council does not take the matter lightly. He added that because of the wonderful job that Conway Corp does day to day, it makes it easier to support them in situations like this. Mayor Castleberry added that one of the reasons that Conway is the fastest growing city in the State is due to Conway Corp. The Clerk called the roll with the following voting "Aye": Councilman Ledbetter, Councilman Grimes, Councilwoman Mehl, Councilwoman Webb, Councilwoman Tucker, and Councilwoman Isby. The Ordinance passed 7-0.

B. Economic Development Committee (Conway Area Chamber of Commerce, Conway Development Corporation, Conway Downtown Partnership, & Conway Corporation)

1. Consideration to approve waiving all three readings for the Ordinances on the July 11th City Council Agenda.

Mayor Castleberry presented Item B1 to the Council. Councilman Grimes made a motion to waive the three readings and Councilwoman Isby seconded it. The motion carried 7-0.

2. Ordinance approving the revision of NET Metering rules for Conway Corporation.

O-23-48

Mayor Castleberry presented item B2 to the Council. Brett Carroll of Conway Corp addressed the Council stating that Act 278 was passed in the last legislative session, which had to do with net metering so the Ordinance already in place in Conway just needed to be revised to reflect the new changes. Jason Carter, Arkansas Municipal Power Association General Counsel addressed the Council stating that the revisions to the Ordinance presented to them are to cause Conway Corps rules to be compliant with state law. He added that customers that have installed solar facilities will not be affected by the changes. He said the primary objective is to update procedures and to be sure that we are compliant. He went over a handout listing key changes with them. There was no further discussion. Councilwoman Mehl 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 Tucker, Councilman Grimes, Councilwoman Webb, Councilwoman Isby, Councilman Ledbetter, Councilman Jones, and Councilwoman Mehl. The Ordinance with the emergency clause passed 7-0.

3. Ordinance appropriating funds for the Lake Conway Master Plan Development in partnership with the Conway Area Chamber of Commerce.

O-23-49

Mayor Castleberry presented Item B3 to the Council. Brad Lacy with the Chamber of Commerce addressed the Council stating that the Game and Fish Commission is planning a re-do for Lake Conway which will be a great asset to the City of Conway. He told them that this presents an opportunity to look at recreation on the Lake a bit differently. He showed them a map of properties on the Lake owned by the CDC that is in the floodplain and would likely never be developed but could be considered for potential recreation land. He said it could potentially be donated to the City for the park system, or to the Game and Fish Commission. He added that they have consulted with an ecological design group regarding development possibilities particularly for wetlands and how to connect this area with existing park trail infrastructure. He said that the Master Plan would consider all things recreational adding that both Boards, the CCD and the Chamber have together approved paying for half of the cost of the study. He asked them to consider approving paying for the other half as a partner on this project. Mayor Castleberry added that this is a way for us to use Lake

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway in a new and different way. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Mehl, Councilwoman Isby, Councilman Jones, Councilman Ledbetter, Councilwoman Webb, Councilwoman Tucker, and Councilman Grimes. The Ordinance passed 7-0.

***Councilman Grimes made a motion to move Section D, Items 1,2,3 and 4 to precede Section C. Councilwoman Mehl seconded the motion. The motion carried 7-0.*

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

1. Ordinance appropriating funds for Cybersecurity tools and services for the IT Department.

O-23-50

Mayor Castleberry presented Item D1 to the Council. Aaron Knight addressed the Council stating that over the last few months his department has reviewed their cyber security practice and program to see what programs could be added to improve the City's security posture. He added that it was necessary to make some investments in the City's cyber security infrastructure. He asked the Council to approve the appropriation of funds for the additional programs. Councilwoman Mehl asked if the funds requested were for the rest of the year and Mr. Knight replied that it was an annual total figure. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilman Grimes, Councilman Ledbetter, Councilwoman Tucker, Councilwoman Isby, Councilman Jones, Councilwoman Webb, and Councilwoman Mehl. The Ordinance passed 7-0.

2. Ordinance approving the reclassification of a position and personnel change within the District Court.

O-23-51

Mayor Castleberry presented Item D2 to the Council. Judge Clawson addressed the Council stating that they were requesting reallocation of funds already in the budget to increase the salaries of two positions in the District Court. Councilman Grimes told the Council that the salary committee reviewed the matter and recommended approval of the adjustment. Councilwoman Isby made a motion to adopt the Ordinance with the emergency clause and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilman Ledbetter, Councilwoman Tucker, Councilwoman Isby, Councilwoman Mehl, Councilman Grimes, Councilwoman Webb, and Councilman Jones. The Ordinance with the emergency clause passed 7-0.

3. Consideration to approve entering into an agreement for School Resource Officers with the Conway Public Schools.

Mayor Castleberry presented Item D3 to the Council. Assistant Chief Harris addressed the Council stating that the school system wants to add two new School Resource Officer positions which would increase the cost to \$508,485. He added that this addition would bring the total to 10 officers. Mayor Castleberry added that he was aware that the schools would be requesting more officers, and that the City will be negotiating the payment of the officers with the Conway School District. Councilman Jones stated that he felt these officers were much needed and hoped the school system would work with the City to provide them. Councilwoman Isby asked how the situation with officers on the street was and Assistant Chief Harris said that he was aware of two vacancies which he felt was reasonable considering that there will always be turnover. Councilwoman Webb asked if the two new canines that were previously approved would be stationed at the schools and Chief Harris said that the two new canines would go on patrol but that there was a canine already established at the schools. Councilwoman Tucker praised the SROs for their service in the school system. Councilwoman Isby made a motion to approve the annual contract and Councilwoman Mehl seconded it. The motion to approve carried 7-0.

4. Resolution to allow entering into an agreement with AT&T for 911 upgrades for the Conway Police Department.

R-23-29

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Mayor Castleberry presented Item D4 to the Council. Assistant Chief Harris told the Council that the 911 system is upgraded every five years. He said it was a non-recurring fee of \$100,000 and a recurring monthly fee of \$37.50 which was approved in the 2023 budget. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Mehl seconded it. A vote was called, and the Resolution passed 7-0.

C. Community Development Committee (Airport, Community Development, Code Enforcement, Permits, Inspections, Transportation, & Planning & Development)

Councilwoman Tucker stepped away from the meeting.

1. Resolution requesting the Faulkner County Tax Collector place a lien on various locations for expenses incurred by the City.

Mayor Castleberry presented the properties to the Council.

R-23-30

26 Brierwood Circle in the amount of \$169.89. There was no one present to represent the property. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Mehl seconded it. A vote was called, and the Resolution passed 6-0.

R-23-31

255 Garland St in the amount of \$169.89. There was no one present to represent the property. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Mehl seconded it. A vote was called, and the Resolution passed 6-0.

R-23-32

2600 Donaghey Ave. in the amount of \$124.58. There was no one present to represent the property. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Mehl seconded it. A vote was called, and the Resolution passed 6-0.

R-23-33

2620 Donaghey Ave. in the amount of \$188.62. There was no one present to represent the property. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Mehl seconded it. A vote was called, and the Resolution passed 6-0.

Councilwoman Tucker rejoined the meeting.

2. Ordinance appropriating funds for the Community Development Block Grant Program Year 2023.

O-23-52

Mayor Castleberry presented Item C2 to the Council. Shawanna Rodgers addressed the Council stating that the City has received the CDBG funding for program year 2023. She said that there were 6 non-profits requesting funding for transportation services, also the funding to complete the emergency shelter, and funding to complete the sidewalks in the Pine Street Revitalization Project for the Spruce Street Cottage Development. She said the City has been awarded \$476,650 and requested approval for the appropriation. Councilman Jones made a motion to adopt the Ordinance and Councilwoman Isby seconded it. The Clerk called the roll with the following voting "Aye": Councilman Ledbetter, Councilwoman Mehl, Councilman Grimes, Councilwoman Tucker, Councilman Jones, Councilwoman Isby, and Councilwoman Webb. The Ordinance passed 7-0.

3. Ordinance appropriating funds received from Gov Deals for the Conway Airport.

O-23-53

Mayor Castleberry presented Item C3 to the Council. Jake Briley, Airport Director told the Council they had sold two of the Airport's courtesy vehicles. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Isby, Councilwoman Mehl, Councilman Jones, Councilwoman Webb, Councilwoman Tucker, Councilman Grimes, and Councilman Ledbetter. The Ordinance passed 7-0.

4. Resolution approving the request to apply for the (STBG) Surface Transportation Block Grant Program for Salem Road Bridge Project for the Transportation Department.

R-23-34

Mayor Castleberry presented Item C4 to the Council. Kurt Jones addressed the Council stating that this item is for the Salem Road Reconstruction Project extending from Dave Ward Drive to College Avenue. He added that the City has received a grant for the design work for the project and this application would be for the construction portion of the project. Councilwoman Mehl confirmed that this is a separate project from the bridge project in the same corridor. Councilwoman Isby made a motion to adopt the Resolution and Councilman Jones seconded it. A vote was called, and the Resolution passed 7-0.

5. Resolution approving the use of Federal-aid Highway Infrastructure Program funding for the College Avenue Bridge Project for the Transportation Department.

R-23-35

Mayor Castleberry presented Item C5 to the Council. Kurt Jones told the Council that this is for the replacement of the bridge on College Avenue over Tucker Creek. He added that they were successful in getting the design grant for the project, and this Resolution would allow the agreement to be finalized. Councilwoman Mehl made a motion to adopt the Resolution and Councilman Jones seconded it. A vote was called, and the Resolution passed 7-0.

6. Consideration to approve an Impact Fee Credit for Lands' End Subdivision.

Mayor Castleberry presented Item C6 to the Council. Ryan Robeson, Senior Planner addressed the Council. He told them that this is an impact fee credit agreement between Rush Hal Development and Halter Craft Irrevocable Trust and the City of Conway in the amount of \$342,886.14. He said that it is for Lands End Construction Phase 1 where they have extended Tyler Street to the west and is eligible for this credit. Mr. Robeson clarified that this consideration is an approval of the credit agreement and would come before them as an ordinance at the next City Council meeting. Councilman Jones made a motion to approve, and Councilwoman Isby seconded it. The motion to approve carried 7-0.

7. Ordinance to rezone property located at 1700 South Boulevard from R-2A to R-2.

O-23-54

Mayor Castleberry presented Item C7 to the Council. Kris Paxton, Planning Director, addressed the Council stating at the May 15th Planning Commission meeting the applicant verbally amended the request which was originally an S1 to seen R2 low density residential due to public feedback. He added that this rezoning would bring no change of use and would bring the site up to the current zoning standards through a conditional use permit and appears consistent with uses in the area. He said that his staff recommends approval of the rezoning. There were no questions or comments from the Council. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Webb, Councilman Ledbetter, Councilwoman Isby, Councilwoman Mehl, Councilwoman Tucker, Councilman Jones, and Councilman Grimes. The Ordinance passed 7-0.

8. Consideration to approve a request to allow a conditional use permit for property located at 1700 South Boulevard for a childcare facility.

Mayor Castleberry presented Item C8 to the Council. Mr. Paxton told the Council that the applicant is requesting concurrent approval of a conditional use permit to the previous request for rezoning. He added that staff recommends approval of the permit with the 11 conditions as noted. Councilwoman Isby made a motion to approve the Conditional Use Permit with the 11 conditions and Councilwoman Mehl seconded it. The motion for approval carried 7-0.

Councilman Hawkins rejoined the meeting.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

9. An appeal to reverse the Planning Commission’s decision to deny the rezoning of property located east of Padgett Road at the intersection of Spencer Lake Drive from A-1 to PUD.

Mayor Castleberry presented Item C9 to the Council. Kris Paxton gave a presentation to the Council regarding the request and the process to date. He said that the request is an appeal to rezone the 11.60 acre property, proposing 63 single family lots, with a second option for fewer lots. He gave the basic site information such as location, traffic impact, and ARDOT traffic counts. Mr. Paxton gave a summary of the Staff report describing the property and surrounding areas. He told them there were two public information sessions for the project with opposition to both plans with public concerns including drainage, wetlands, compatibility, size of homes/lots, traffic, home values and other issues. He added that there was opposition from the public at the Planning Commission meeting as well with many concerns voiced. He related to the Council public comments that were “for” and “against” the rezoning. He shared the Planning Commission’s considerations both “for” and “against” the rezoning. He stated that the Planning Commission voted 1-7 with 1 abstaining, and the zoning amendment failed. He said that the applicant is seeking an appeal to the decision because they feel the rezone is consistent with the City’s Comprehensive Growth Plan and is an appropriate use of the land, and because they feel the Planning Commission relied upon factors that are inappropriate for zoning decisions. Mr. Paxton explained to the Council the reasonings behind each of the points of the appeal. He listed the changes the applicant made to the request after the Planning Commission meeting, in order to address the concerns of the public, including driveway length, front setbacks, and maximum lot coverage. He told them that staff recommended approval with the amendments as listed. Councilwoman Webb inquired as to the single entrance to the subdivision. Mr. Paxton confirmed that there is a plan for a future connection in the form of a stub-out to nearby streets but that is not in the plan presently. A representative of the applicant, John Pennington, addressed the Council. He called their attention to a handout showing plats of the property and describing efforts that have been made to address the public concerns. He called their attention to one of the plats which is a hypothetical plat showing 50 lots instead of 62 lots on the property. He made comparison between the potential of R-1 zoning and a PUD stressing that a PUD allows the City more control over the development process. He also spoke to the affordability issue stating that it is his desire to build affordable housing in Conway. He asked them to allow him to build affordable housing in west Conway. Kevin Leach spoke to the Council in opposition to the PUD due to density concerns, safety for school children, traffic, and the likelihood of a future PUD in the area creating more density. Jim Stockdale spoke to the Council in opposition to the PUD. Mary Ellen York spoke to the Council in opposition to the PUD. Brandon Ruhl, representing Spencer Mountain POA, spoke to the Council in opposition to the PUD. Landon Sanders, a representative of the applicant, addressed the Council and gave response to some of the points of opposition. There was discussion among the Councilmembers. Councilwoman Tucker made a motion to uphold the Planning Commission’s decision to deny the rezoning and Councilman Hawkins seconded it. The Clerk called the roll with the following voting “Aye”: Councilwoman Mehl, Councilman Jones, Councilwoman Webb, Councilman Grimes, Councilman Ledbetter, Councilwoman Tucker, and Councilwoman Isby; and Councilman Hawkins voting “No”. The decision by the Planning Commission to deny the rezoning was upheld by the City Council 7-1.

Adjournment-----

PASSED this 11th day of July 2023

APPROVED:

Mayor Bart Castleberry

City Clerk Michael O. Garrett