
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday, 6:30 pm
November 23, 2021

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 Smith, Councilman Jones, and Councilwoman Isby. Also, present and acting: Mayor Bart Castleberry, City Attorney Charles Finkenbinder, Denise Hurd, Office of the City Clerk

Call to Order: Mayor Bart Castleberry

Roll Call: Denise Hurd

Minutes: November 9, 2021

Councilwoman Isby motioned to approve the **November 9, 2021** minutes as submitted. Councilwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

Monthly Financial Report: Month ending October 31, 2021

Tyler Winningham addressed the Council stating that sales tax was up again this month about 13%. He added that year to date sales tax is at 14% with those numbers holding steady. He said that the City has already collected the budgeted amount for sales tax this year so the November and December amounts will be "icing on the cake". He added that the bottom line is still strong, and departments are ahead of schedule in revenues and behind schedule in expenditures. Councilwoman Isby made a motion to approve the monthly financial report and Councilman Jones seconded it. The motion carried 8-0.

Report of Standing Committees:

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

1. Ordinance calling and setting a date for a special election for the purpose of building a community center and soccer fields for the City of Conway.

O-21-117

Councilman Hawkins presented Item A1 to the Council. Councilwoman Isby made a motion to waive the three readings and Councilwoman Mehl seconded it. The motion carried 8-0. Gordon Wilbourn of Kutak Rock addressed the Council and explained the points of the election. He said that to go before the voters was the refunding of the existing 2017 bonds, the community center question, and the soccer field question, adding that these are independent of each other. He explained various scenarios in which one or two of the items passed and others did not. Mayor Castleberry reiterated that this is not an additional tax but an extension of an existing bond issue, which would allow the addition of an indoor and outdoor water park, and new soccer fields. He added that the water park would be on land that the City currently owns at the old airport and the old Acxiom building. He said the soccer fields would be located north of Curtis Walker park on land that has been donated to the City by the County. Mayor Castleberry asked Mr. Wilbourn what date we were looking at for the election. Mr. Wilbourn replied that it was the second Tuesday in February or February 8th. Councilman Hawkins asked Mr. Winningham to explain how these projects would be financed. Mr. Winningham explained how the A&P tax revenue is used for parks facilities. He added that this year we expected the revenues to be 4 million dollars. He explained how all the A&P funding and the bond extensions would pay for the aquatic center project, and would not cost any additional or new tax dollars. A representative of the project development group addressed the Council, and described the design of the aquatic centers and all of its features. Councilwoman Isby made a motion to adopt the ordinance with the emergency clause and Councilwoman Mehl seconded it. The roll was called with the following voting "Aye": Councilman Hawkins, Councilman Ledbetter, Councilman Jones, Councilman

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Grimes, Councilwoman Tucker, Councilwoman Smith, Councilwoman Isby, and Councilwoman Mehl. The Ordinance with the emergency clause passed 8-0.

2. Ordinance appropriating insurance proceeds for the Code Enforcement and Physical Plant Departments.

O-21-118

Councilman Hawkins presented Item A2 to the Council. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded it. The motion carried 8-0. Spencer Clawson told the Council that a check in the amount of \$1,732.06 has been received and requested appropriation of the funds in order to pay for damage to one of the department's trucks. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The roll was called with the following voting "Aye": Councilwoman Mehl, Councilman Ledbetter, Councilman Grimes, Councilwoman Isby, Councilwoman Tucker, Councilman Hawkins, Councilman Jones, and Councilwoman Smith. The Ordinance passed 8-0.

3. Ordinance to annex +/- 30.27 acres located south of Lower Ridge Road, east of East German Lane to be zoned R-1.

O-21-119

Councilman Hawkins presented Item A3 to the Council. Councilwoman Isby made a motion to waive the three readings and Councilwoman Mehl seconded it. The motion carried 8-0. James Walden explained that R-1 is for residential single-family, and the developer intended to build a sub-division in this area. He said it would yield approximately 130-175 lots. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The roll was called with the following voting "Aye": Councilwoman Isby, Councilman Ledbetter, Councilman Jones, Councilwoman Mehl, Councilwoman Smith, Councilman Grimes, Councilwoman Tucker, and Councilman Hawkins. The Ordinance passed 8-0.

4. Ordinance to rezone +/- 0.14 acres west of 449 Reedy Road from R-1 to O-2.

O-21-120

Councilman Hawkins presented Item A4 to the Council stating that this was reviewed by the Planning Commission at their meeting in November and was voted to forward to City Council with the recommendation for approval. Councilwoman Isby made a motion to waive the three readings and Councilwoman Mehl seconded it. The motion carried 8-0. James Walden told the Council that this application came to the City due to a notice of violation that was issued. He said that they are working with the property owner to correct the issues on the property. He said the first step is to get it properly zoned for the current use, then they would be taken through the development review process. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The roll was called with the following voting "Aye": Councilman Hawkins, Councilwoman Mehl, Councilwoman Smith, Councilman Grimes, Councilwoman Tucker, Councilwoman Isby, Councilman Ledbetter, and Councilman Jones. The Ordinance passed 8-0.

5. Consideration for a conditional use permit to allow a kennel in an I-3 zoning district for property located at 1890 South Amity Road.

Councilman Hawkins presented Item A5 to the Council stating that this was reviewed by the Planning Commission at their meeting in November and was voted 6-1 to forward to City Council with the recommendation for approval. James Walden explained that this site is located in the southeast part of town near the industrial park. He said the applicant is seeking to have a kennel in an I-3 zoned area and staff recommended that they seek a conditional use permit rather than rezoning the area to C-3. He added that this allows the City to impose conditions on the operation of the kennel. Councilwoman Smith asked to clarify one of the conditions regarding staff being on the property overnight when animals are present. Councilwoman Mehl asked that what other types of businesses would be allowed in I-3 zoning, and Mr. Walden replied that I-3 is one of the most intensive zonings. There was some discussion about the noise expectations in an industrial area zoned I-3. Mr. Walden pointed out the condition imposed on the applicant

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regarding noise and its affects on the nearby neighborhood. The applicant, Kevin Miller addressed the Council stating that he agreed to the conditions set forth in the conditional use permit. Councilman Jones asked how many animals he expected to be serving and Mr. Miller said he did not know, but that there was a demand for such services in Conway. Councilman Grimes asked Mr. Miller to describe the current situation of his business in Maumelle. Mr. Miller said that there is a nursery next to the Maumelle location and a large apartment complex directly behind the business. He added that they have not had any noise complaints. There was no one else present to speak for or against the matter. Councilwoman Isby made a motion to approve the conditional use permit and Councilman Ledbetter seconded it. Councilman Grimes asked about the noise condition in the permit and how would it be determined what a "nuisance" noise was. Charles Finkenbinder, City Attorney referred to the Municipal Code Noise Ordinance and said that most complaints would have to be decided judiciously. A vote was called and the motion to approve passed 8-0.

6. Ordinance to rezone property located at the northwest corner of Dave Ward Drive and South Country Club Road from O-1 to MF-3. (*Appeal of Planning Commission denial*)

O-21-121

Councilman Hawkins presented Item A6 to the Council stating that that this was reviewed by the Planning Commission at their meeting in October and was voted 5-4 to deny this rezoning and the applicant is submitting an appeal to this decision. Councilwoman Isby made a motion to waive the three readings and Councilwoman Mehl seconded it. The motion carried 8-0. Mayor Castleberry asked if there was anyone present to speak for this matter. The application, David White addressed the Council stating that he has a client that wants to build a multi-family complex on the property. He said that the Planning Commission was agreeable to rezoning to MF-2, but some were opposed to the MF-3 zoning and the density that the developer desired. He added that there were other MF-3 zonings in the area and he felt it was not out of order. He gave several examples of how traffic would be minimized on Diane Lane. He said that fencing and gates would keep vehicle and foot traffic off of the New Life Church property. He addressed the parking concerns and questions from the Council regarding parking. Phil Dyer addressed the Council and spoke in favor of the rezoning. Megan Weckwerth spoke in favor of the rezoning. Brian Christian, Pastor of New Life Church spoke to the Council in opposition of the rezoning. Jill Turner spoke in opposition to the rezoning. Adam Crawford spoke in opposition to the rezoning. Bill Brown spoke in opposition to the rezoning. Ann Mattison spoke in opposition to the rezoning. Councilwoman Smith asked Mr. Walden how many apartments would be allowed in an MF-2 zoning as compared to MF-3 zoning. He said that the difference is 18 units per acre as opposed to 24 units per acre. Councilwoman Tucker asked if it was known whether all of the units would be two bedroom. Mr. Walden replied that at the time of rezoning there would be no conditions attached. Councilwoman Tucker made a motion to adopt the Ordinance and Councilman Grimes seconded it. The roll was called with the following voting "No": Councilman Jones, Councilman Hawkins, Councilwoman Mehl, Councilwoman Tucker, Councilwoman Smith, Councilwoman Isby, Councilman Ledbetter, and Councilman Grimes. The motion to adopt the Ordinance failed 0-8.

7. Consideration to modify conditional use permit no. 1398 to allow a religious facility located at 1301 Sunset Drive.

Councilman Hawkins presented Item A7 to the Council. James Walden reminded the Council they had reviewed this matter last year. He said that One Church has been attempting to purchase the property and they went through the conditional use process believing that they would have access from the south along the Neighborhood Walmart parking lot and secondary access from Sunset Drive. He said that the Planning Dept, Transportation Dept and the applicant were all working with Walmart to see about obtaining that access. He said that negotiations with Walmart to that end were not successful which left the City no option but to declare eminent domain in order to make that connection. He said the applicant was advised to seek a conditional use permit to access Sunset Drive, to which there was public opposition. Paul Hudson, Pastor of One Church addressed the Council giving an overview of events that have transpired to bring them to the present request. Kent Baker spoke in favor of allowing the conditional use permit. Don Chandler, Senior

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Pastor of Central Baptist Church spoke in favor of allowing the conditional use permit. Frank Shaw addressed the Council explaining that the issue is that Farris Rd does not continue to the back of the Walmart property, which is an anomaly. He said that they have exhausted their resources with Walmart. He added that the agreement between Walmart and Clara Baker states that if she sold the property for residential use, they would be required to open the street. He reiterated the planned use for the property and the necessity of the right of way. Councilman Jones asked if there was a way that the City could open the street. James Walden answered that it would require the City declaring eminent domain and it would have to be for a public purpose. Charles Finkenbinder added that it would be a condemnation of property to benefit a private property owner and only a court could rule on it and grant access. There was discussion about extending the trail system through to the school property and other suggestions. Mr. Walden reminded the Council that the issue they are acting on is the access off of Sunset Dr. Mayor Castleberry stated that he understands that the neighborhood is concerned about construction equipment on Sunset Drive during the construction of the church building. There was discussion about the eminent domain process and how long that would take. Mayor Castleberry asked Pastor Hudson if the Fire Department approved the one means of ingress and egress. He answered that all aspects of the site plan had been approved. Councilwoman Smith asked if the school needed an additional access to the back of their property, would Walmart be required to grant access. There was some discussion about the feasibility and other ideas for approaching the issue were discussed. Councilman Grimes reminded the Council that the issue is the ingress and egress and that there have been concerns from the neighborhood. Councilwoman Tucker expressed concern about the construction and traffic on Sunset Drive during the construction period. Councilwoman Mehl made a motion to table this item until there was more information available on the City's options. Councilwoman Smith seconded it. The motion carried 8-0 and the item was tabled until a later date.

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

1. Ordinance appropriating donation funds for personal protective equipment at the Fire Department.

O-21-122

Mayor Castleberry presented Item B1 to the Council. Chief Winter told the Council the department had received a \$1,000 grant from Walmart. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded it. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The roll was called with the following voting "Aye": Councilman Grimes, Councilman Jones, Councilwoman Mehl, Councilman Ledbetter, Councilwoman Tucker, Councilwoman Smith, Councilwoman Isby, and Councilman Hawkins. The Ordinance passed 8-0.

2. Ordinance to authorize the addition of one new position for an Investigator for the City Attorney's Office.

O-21-123

Mayor Castleberry presented Item B2 to the Council stating that this will help us put officers back on the street and cut down on overtime due to officers having to deliver subpoenas, etc. Charles Finkenbinder told this Council that this was an option to help alleviate the burden on the police department. He explained to the Council all the duties that this position of Investigator would fill. Councilwoman Isby made a motion to waive the three readings and Councilwoman Smith seconded it. Councilman Jones made a motion to adopt the Ordinance with the emergency clause and Councilwoman Smith seconded it. The roll was called with the following voting "Aye": Councilman Hawkins, Councilman Grimes, Councilman Ledbetter, Councilman Jones, Councilwoman Mehl, Councilwoman Isby, Councilwoman Smith, and Councilwoman Tucker. The Ordinance passed 8-0.

3. Resolution supporting the creation of an income tax credit for law enforcement officers in the state for the Police Department.

R-21-124

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Mayor Castleberry presented Item B3 to the Council. Chief Tapley explained that in the next legislative session there will be legislation to create the tax credit to help with recruiting and retaining officers throughout the state. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Isby seconded it. A vote was called, and the Resolution passed 8-0.

C. Finance

1. Ordinance appropriating funds for an employee appreciation Christmas bonus.

O-21-125

Mayor Castleberry presented Item C1 to the Council stating that the bonus would be \$600 for all full-time employees and \$300 for part-time employees. Councilwoman Smith made a motion to waive the three readings and Councilwoman Isby seconded it. Councilwoman Isby made a motion to adopt the Ordinance with the emergency clause and Councilwoman Mehl seconded it. The roll was called with the following voting "Aye": Councilwoman Mehl, Councilwoman Smith, Councilman Hawkins, Councilman Grimes, Councilwoman Tucker, Councilman Ledbetter, and Councilwoman Isby. The Ordinance passed 8-0.

D. New Business

Resolutions regarding the levy of millage rates on personal property taxes.

Mayor Castleberry presented and read the Resolutions to the Council, noting that there is no increase in the rates from the previous year. Councilwoman Smith made a motion to adopt the Resolutions for the levy of millage rates on personal property taxes. Councilwoman Isby seconded the motion. The Resolutions were passed 8-0.

1. Resolution of a voluntary levy of two-tenths (.2) mill on the dollar be made upon the assessed valuation of all taxable real estate and personal property tax for an Animal Shelter for the City of Conway.
2. Resolution of a voluntary levy of four-tenths (.4) mill on the dollar be made upon the assessed valuation of all taxable real estate and personal property tax for a recreation assessment raising special revenue for the sole and exclusive purpose of providing additional funds for the purpose of construction, equipping, operating, and maintaining the public recreation and playgrounds of City of Conway.
3. Resolution of a voluntary levy of four-tenths (.4) mill on the dollar be made upon the assessed valuation of all taxable real estate and personal property tax for raising special revenue the exclusive purpose of operating and maintaining the cemeteries for the City of Conway.
4. Resolution of a levy of four-tenths (.4) mill on the dollar be made upon the assessed valuation of all taxable real estate and personal property tax for raising special revenue for the Pension and Relief Fund for a Policeman's Pension and Relief Fund.
5. Resolution of a levy of four-tenths (.4) mill on the dollar be made upon the assessed valuation of all taxable real estate and personal property tax for raising special revenue for the Pension and Relief Fund for a Fireman's Pension and Relief Fund.
6. Resolution of a levy of four-tenths (.4) mill on the dollar be made upon the assessed valuation of all taxable real estate and personal property tax for raising special revenue for the Pension and Relief Fund for paid Non-uniformed employees.
7. Resolution of a levy of three (3.0) mill on the dollar be made upon the assessed valuation of all taxable rate and personal property tax for raising General Fund Revenues.

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Adjournment-----

PASSED this 23rd day of November 2021

APPROVED:

Mayor Bart Castleberry

City Clerk Michael O. Garrett