
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
July 28, 2009

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, Alderman Grimes, Alderwoman Whitmore, Alderwoman Mehl, Alderman Vaught, Alderman Jones, and Alderman Rhodes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy.

1. *Call to Order*
2. *Roll Call*
3. *Minutes:* July 14th, 2009

Alderwoman Whitmore motioned to approve the July 14, 2009 minutes as submitted. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

4. **Recognition of Guests:** *Employee Service Awards*

5 Years: Osvaldo Alvarez & Ed Hutchinson – Sanitation Dept.

5. *Public Hearings:*
6. *Report of Standing Committees:*

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

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

R-09-32

Ottie Cowgill, Code Enforcement Officer, stated the property owners of 324, 325, & 327 Hereford St. were properly served notices regarding the condition of their property; as of June 23, 2009 the properties had not been brought up to code and clean up was performed by the cities Physical Plant. Mayor Townsell stated the cost of cleanup was \$198.88 plus a 10% collection penalty.

Bill Haynes, Code Enforcement Officer, stated the owners of the properties listed below were properly served notices regarding the condition of their properties; all owners failed to comply.

R-09-33

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2752 East Port Circle was brought up to code on June 5, 2009 at a cost of \$153.66 plus 10% collection penalty.

R-09-34

3350 Marlsgate Dr was brought up to code on June 9, 2009 at a cost of \$212.62 plus 10% collection penalty.

R-09-35

2345 Krystal Kreek was brought up to code on June 9, 2009 at a cost of \$134.02 plus 10% collection penalty.

Grant Tomlin, Code Enforcement Officer, stated the owners of the properties listed below were properly served notices regarding the condition of their properties; all owners failed to comply.

R-09-36

1901 Robins St was brought up to code on July 24, 2009 at a cost of \$117.76 plus a 10% collection penalty.

R-09-37

2530 T.J. Drive was brought up to code on June 10, 2009 at a cost of \$165.54 plus a 10% collection penalty.

R-09-38

105 Second St was brought up to code on June 10 & 11, 2009 at a cost of \$593.30 plus a 10% collection penalty.

Alderman Jones motioned to approve resolutions R-09-32 through R-09-38. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

- 2. Resolution amending the Conway Comprehensive Plan in the Northeast Old Conway Area with replacement graphics and supporting text as per the 2009 Northeast Old Conway Area Study Comprehensive Plan update.**

R-09-39

Donald Anthony, Planning & Development Dept., explained the Pine St Neighborhood Study began in February 2008 and stated that the study was broken down into 4 subareas; Area 1 - Markham St Corridor, Area 2 - Harkrider Corridor, Area 3 - Historic Pine St Neighborhood, and Area 4 - Brown &

Erbacher Addition. Mr. Anthony explained the conditions that lead to this study are deteriorating economic conditions, many vacant properties with very little new building occurring, and the zoning is incompatible with current uses. Mr. Anthony stated our hopes are to give this area a boost by enacting the visions set forth in the proposed comprehensive plan and he gave a brief synopsis of the 6 goals of the study and the comprehensive plan itself. Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

3. Ordinance amending Ordinance O-06-139 in reference to the Old Conway Design Overlay District.

O-09-86

Wes Craiglow, Planning & Development Dept., reviewed the changes as follows:

- Boundary shift
- The addition of the Brown & Erbacher Addition
- The addition of subareas; Urban, Transition, and Suburban.
- The addition of 2 new board members

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

4. Ordinance accepting the annexation of certain lands along the east side of Old Military Road north of Deerbrook Subdivision.

O-09-87

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 Mehl seconded the motion. Alderwoman Whitmore stated that it needs to be understood that the city will maintain the street in its current form and not expect the city to pave/update the street. Alderwoman Smith amended her motion to include the emergency clause. Alderwoman Mehl seconded the motion. There was no

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

5. Ordinance to rezone property located at 2501 East Oak from R-1 to I-3.

O-09-88

Alderman Hawkins stated that the Planning Commission voted 8-0 that this request be sent to council with the recommendation for denial; in a separate motion the Planning Commission voted 8-0 to recommend that the council consider rezoning this property to O-1 with a conditional use request for appropriate building and landscape variances for fairgrounds. Mayor Townsell asked if there are provisions within the recommendation that we could be allowed to have building and landscape variations on the façade of the facility. Donald Anthony, Planning & Development Dept., stated not to the extent necessary. Mayor Townsell explained the driving force behind this is everything built in the city has to conform to our building design standards; the only area these are relaxed are in an Industrial I-3 zone. Mayor Townsell stated what we have with the fairgrounds is an industrial facility; we do not want to build something unattractive, but it also doesn't have to be built to the quality of construction as the McGee Center or the new Police Station. Mayor Townsell recommended to council that we deed restrict the property so will always be public property; we frankly do not have the money to build it to city standards. Mayor Townsell recommended that we take a position as a council that this is "non-precedence setting and it is not our intention to set this up as an industrial area". David Myers, area property owner, spoke in favor of the rezoning but stated that if at some point the city decides to relocate the fairgrounds there should be restrictions that would disallow a salvage yard or toxic waste dumping/disposal. Jim Martin, Hazelwood resident, spoke in favor of the rezoning and stated he appreciates council's acknowledgement to the area residents concerns but wants the assurance that there is a way to reverse the rezoning if the fairgrounds should ever relocate. Unnamed gentlemen asked if an amphitheater was going to be constructed. Mayor Townsell stated only a performance stage that would be similar to what the fairground currently has. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 8-0. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Smith seconded the motion. Alderman Grimes stated he hopes that the park will not be gated as it is a great space and hopes it can be utilized year round. Gene Salter, Salter Construction, stated our plan is to relocate a couple of buildings to this property and he showed some conceptual drawings to council. Mr. Salter explained that the entrance area will be a minimum of 50% if not totally masonry on the front section and explained this is being driven by the amount of money the city has

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set aside for this project. The 56,000 ft building will be an open sided barn /exhibition area; the other is a 44,000 ft area that will be an enclosed structure with basics; the front entrance area will have meeting rooms, and a kitchen facility is planned; but the funding will determine the extent of completion. Alderman Jones asked if we can have the property deed restricted. Mayor Townsell we can do it in some form. Alderman Jones asked if this as a part of the proposed ordinance we are voting on. Mayor Townsell stated we will need to make a second motion to instruct City Attorney, Michael Murphy, to move forward with the deed restriction. Mr. Murphy stated he anticipates having to do a resolution that will address the Mayors suggestions in regards to setting precedence and stated something will have to attach to the deed to become a part of the land record so it will run with the land. Mayor Townsell suggested removing the emergency clause. Mr. Murphy concurred; should problems arise the ordinance can be rescinded before it goes into effect, but stated he does not foresee any problems. Alderman Grimes stated that if something did happen and the deed restriction cannot work that we rezone the property back to R-1. Council was in agreement. Alderman Hawkins asked if it would be appropriate to recognize the donation. Mayor Townsell stated yes. Alderman Hawkins thanked Ken Patel who donated the buildings for the new fairgrounds. Mayor Townsell stated those details are still being worked out. Alderman Vaught asked if we could create a new zone that applies only to this piece of property. Mayor Townsell stated yes it is possible but we would have to go through the motions of amending the zoning ordinance, and to address the cost issue, we would also need to amend the design guidelines to include that new zone. Alderman Grimes stated that sound fine but we are up against a timeframe to have the fairgrounds ready; we could rezone the property tonight to I-3 and then move forward with the process of implementing a new zone. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 7-1. Alderman Vaught voted in opposition.

6. Consideration of a conditional use permit to allow religious activities (including new buildings for worship and staff residence) on property located at 1715 South Blvd.

Wes Craiglow, Planning & Development Dept., stated the current conditional use permit is very restrictive in terms of hours of operation and this particular party needs additional hours; we are basically expanding the hours and the capacity and explained there will be an expansion of the building as well. Alderman Hawkins motioned to grant the conditional use permit. Alderman Grimes seconded the motion. Dr. Shinwari was present to answer questions and requested that council approve the conditional use request. There was no further discussion. The motion passed 8-0. The one condition attached is listed below:

- Revoke Conditional Use Permit No. 1116.

7. Consideration to accept bids for intersection improvements for Donaghey Avenue & Dave Ward Drive.

Ronnie Hall, City Engineer, explained this project will add dual left turn lanes both North and South bound on Donaghey Ave; dual through lanes south bound to Moix Meadows, and dual lanes north bound from Woodland Springs Dr to Dave Ward Dr. Mr. Hall stated since he has not worked with the low bidder, CO-BAR Contracting, Inc., in several years the city requested a statement of bidder's qualifications; some of their references were not favorable. Mr. Hall stated since this is a sensitive project and needs to be completed in a timely manner, Mr. Hall recommended accepting the second lowest bid from JCI Construction in the amount of \$1,042,579.00. Alderwoman Smith asked when construction would begin. Mr. Hall stated approximately 30 days. Alderwoman Smith motioned to grant the bid to JCI Construction. Alderman Hawkins seconded the motion. Mayor Townsell stated he has spoken with Sherwood and North Little Rock and they have had issues with CO-BAR Contracting in regards to finishing the project in a timely fashion but stated he is willing to work with them on other projects. Alderman Jones asked how far down we are going. Mr. Hall stated the north bound, east side, will go to Woodland Springs Dr; the west side will go to Moix Meadows. Alderman Jones asked if there would be only one lane turning into Woodland Springs. Mr. Hall stated yes. Alderman Jones asked why not 2 lanes both ways. Mr. Hall stated he was trying to address the concerns and minimize costs; however a change order can be requested if council wishes to approve the west side to continue down to Woodland Springs and add the curb, gutter, and drainage along the western side and give a full left turn lane for the entrance into Woodland Springs. Alderwoman Smith stated as busy as the area is she feels this would be the best thing to do. Alderman Jones concurred. Alderwoman Smith asked how much this will increase the cost. Mr. Hall stated approximately less than \$100,000.00. Council agreed that the left turn lane should be added. There was no further discussion. The motion passed 8-0.

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

1. Ordinance waiving the requirements to obtain competitive bids and appropriating funds for equipment repairs for the Sanitation Department.

O-09-89

Mayor Townsell explained we want to waive bids and allow JA Riggs to repair the D6RKL Dozer as this is the company we purchased the dozer from. The cost is approximately \$29,060.00. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Whitmore motioned to adopt the ordinance and the emergency clause. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye":

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

C. Finance

- 1. Ordinance waiving bids for insurance coverage for the City's vehicle and property.**

O-09-90

Mayor Townsell explained we have used the Arkansas Municipal League for some time and asked Alderman Hawkins his if he had looked at these numbers. Alderman Hawkins stated it appears the property premium remained about the same even with the addition of a \$7 million building to our roll. Alderman Hawkins raised questions in regards to the losses; stating there is a per occurrence loss on the current policy and if the city were to have a catastrophic event it could cost the city additional money due to the \$5,000.00 deductibles on buildings, but overall Alderman Hawkins feels the insurance is acceptable. Alderman Hawkins motioned to waive the readings of the ordinance. Aldерwoman Mehl seconded the motion. The motion passed 8-0. Aldерwoman Smith motioned to adopt the ordinance. Aldерwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Aldерwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Aldерwoman Smith, and Aldерwoman Whitmore. The motion passed 8-0.

7. Old Business

- A. Ordinance rezoning property located on the northwest corner of the intersection of South Donaghey Avenue and Moix Blvd.**

O-09-91

Mayor Townsell explained that previous discussions revealed two concepts; one not acting on this until the road improvements were made, or not acting on this until the improvements had begun and we knew the improvements were going to be carried out. Ronnie Hall, City Engineer, stated we have given the contractor 150 working days to complete which is approximately 6 months. Mayor Townsell stated explained that any construction of apartments would be well beyond that and the Mayor feels it is appropriate to zone multi-family in this area. Alderman Grimes stated that agenda item 7B is not valid. Mayor Townsell stated that item 7B can be removed for consideration tonight as this has already been approved and was inadvertently added to the agenda. Gene Salter stated this proposed rezoning has been in the works for a year and was approved by the Planning Commission on October 7 with a vote of 7-0; after that the item

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was brought before council but one property owner inadvertently did not receive proper notice; we again appeared before the Planning Commission on November 17 and was approved with a vote of 6-2. Mr. Salter went onto say he again appeared before council and from discussions that came out of that meeting the biggest concern of area residents was traffic impact and flow. At this point council held this item in committee and Mr. Salter feels all public input has been heard. Mr. Salter stated he then waited for Mr. Hall to get the road improvements approved which was to be in February, and it is now August, and he is at a standstill on moving forward with financing. Mr. Salter stated he does not mind waiting a period of time for the rezoning to occur he just needs to be assured that the property is approved for rezoning. Brett Salter, 1380 South Donaghey, spoke in favor of the proposed rezoning. Felix Moix Jr., 1830 Stanley Russ Rd., explained the process on rezoning this property actually started a decade ago and asked council to approve this rezoning tonight. Raymond Kerr, resident Woodland Springs Subdivision, stated if council does approve this he recommends construction on the complex be held for 6 months until after the completion of the road project and to consider making Moix Blvd. one-way going onto Dave Ward Dr. which he feels would alleviate some of the traffic problems. Mr. Kerr went onto say that his subdivision is starting to see vandalism and feels that would increase. Roger Lewis, resident Woodland Springs Subdivision, stated he feels there should be no left turn out of Moix Blvd. during certain periods of the day or have access to Moix Blvd from the west bound lane of Dave Ward Dr. Mayor Townsell stated if UCA does put in an entrance on the south side of their campus it would line up with Moix Blvd but he is unsure when this could happen. Mr. Hall stated he is sure this would have to be a signalized. Diane Bryant, 1980 Springwood Dr and President of the Woodland Springs Property Owners Assn., stated they are against the proposed rezoning; she believes the area does not need any more apartments and since the other apartments were completed the crime rate has increased. Mr. McCormick stated weather the rezoning is approved or not he feels it necessary to have the proper infrastructure in place to handle to traffic. Alderwoman Smith and Alderman Jones both feel that the apartment complex development and the road construction should not happen simultaneously. Mayor Townsell stated we know it will be four lanes up to Moix Blvd and we have discussed doing a change order to take it on to Woodland Springs, and just north of Moix Blvd it will be 6 lanes; 4 northbound and 2 southbound. Alderwoman Smith suggested addressing the issue of no left turns onto South Donaghey. Mayor Townsell stated we should give more thought to that idea. Alderman Jones again stated he would like to see the intersection improvements completed before we move forward with the rezoning. Alderman Grimes asked Mr. Salter about a timeline on construction. Mr. Salter stated with what is left to do, he does not feel could start anytime before 6 months, and occupancy could be 16 months out and reiterated that he does not mind waiting for the completion of the intersection improvements before allowing occupancy of the apartment complex. Alderman Vaught stated there is should be a way to compromise. Mayor Townsell

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suggested putting an effective date of in the ordinance. Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Grimes seconded the motion. The motion passed 8-0. Alderman Jones asked if we will tear up the road before paving. Mr. Hall stated no, the existing road will remain in place. Mayor Townsell stated that City Attorney Michael Murphy suggested wording the end of section 1 to read the "property is hereby rezoned as of November 1, 2009". Alderman Vaught motioned to adopt the ordinance with the amendment suggested by Mr. Murphy. Alderwoman Mehl seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 7-1. Alderman Jones voted in opposition.

B. Consideration of a conditional use permit to allow Retail-General & Hotel for property located along the south side of Dave Ward Drive on both sides of Moix Blvd, starting at Stone Dam Creek.

This item was removed from the agenda.

Alderwoman Smith motioned to suspend the rules to add an item to the agenda. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

Resolution authorizing the Mayor to conduct bids for the construction of boy's baseball complex (Conway Station Park).

R-09-40

Alderwoman Smith motioned to adopt the resolution. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 8-0.

8. *New Business*

Adjournment

PASSED this 28th day of July 2009

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett