
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
October 12, 2010

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

Call to Order

Roll Call

Minutes: *September 27th, 2010 & October 6th, 2010*

Alderwoman Whitmore motioned to approve the September 27, 2010 and the October 6, 2010 minutes as submitted. Alderman Vaught stated he was not in attendance on October 6, 2010 and asked that his name be removed from the voting log. Mayor Townsell stated we will get that corrected. There was no further discussion. The motion passed 8-0.

Announcements / Proclamations / Recognition:

1. Public Hearings:

A. Public hearing: Discussion of Wastewater Revenue Improvement Bonds, Series 2010.

Mayor Townsell opened the public hearing. Gordon Wilbourn, Kutak Rock, explained this is a first in a series of financing for the new wastewater treatment plant; Conway Corporation has secured a commitment from Arkansas Natural Resources Commission for up to \$70 million of financing for the plant, but certain expenses associated with it that money will not cover. These items range from engineering costs to the conveyance system. Mr. Wilbourn stated these bonds will be issued on a parity basis with the outstanding 2005 bonds and 2009 bonds and are not to exceed \$14,955,000.00. Jack Sotallaro, Conway resident, asked how the yearly debt service will be paid for. Mayor Townsell stated Conway Corporation sewer revenues will pay the debt service. Mr. Sotallaro asked if electric rates will be a back up if the sewer revenue does not cover them. Mayor Townsell stated yes, that is typical of the bonds for Conway Corp. Mr. Sotallaro stated it seems unfair to the citizens to pass this all in one night. The Mayor closed the public hearing.

1. Ordinance authorizing the issuance and sale of wastewater revenue improvement bonds for Conway Corporation.

O-10-109

Alderman Grimes 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. Alderwoman Mehl seconded the motion. Mr. Shackelford, Conway Corporation, explained the project is a wastewater treatment plant and gave a brief synopsis of the reasons a new plant is necessary.

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There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

B. Public hearing: Discussion of Industrial Development Revenue Bonds, Series 2010.

Mayor Townsell opened the public hearing. Tom Leggett, Friday Eldridge & Clark Law Firm, stated this past July the city issued \$45 million industrial development bonds and was for machinery and equipment. Mr. Leggett stated Kimberly Clark notified them several weeks ago that they have additional costs for an additional facility; this will be an additional \$30 million and would include building improvements and rather than issue new bonds we are amending the bond issue to increase the principal amount from \$45 million to \$75 million. Mayor Townsell closed the public hearing.

1. Ordinance authorizing an increase in the principal amount of industrial revenue bonds for Kimberly Clark Corporation.

O-10-110

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

Mayor Townsell asked that council suspend the rules to move the last item (B-10) up on the agenda. Alderwoman Smith motioned to move item B-10 up on the agenda. Alderwoman Mehl seconded the motion. The motion passed 8-0.

Mayor Townsell explained we have heard many concerns expressed to council, and among council, that disconnecting, as the planning commission did, the rezoning aspects of this request and the conditional use protection aspect of this request, is not the proper way to proceed but that we should find a way to combine those, either in a meeting, or perhaps in a PUD process where we can deal with them together. Mayor Townsell went onto say he contacted City Attorney Michael Murphy asking if we could bring the conditional use request that is still in committee with the planning commission forward so we can consider that issue alongside the rezoning issue. Mr. Murphy stated no. Mayor Townsell asked how council wishes to proceed tonight. Alderman Hawkins stated he would like to hear all of the requests at one time. After some discussion among council Mayor Townsell asked all audience members to please stand up if they are not in support of this in any fashion. Many people stood up. Mayor Townsell asked all opposed to this, but could be supportive of it with conditions to stand up. One person stood up. Jim Hathaway, Kroger representative, stated our intent was to handle these items simultaneously and the reason we are in this position is because we had a negative vote from the planning commission and at that time the planning commission said they did not want to hear any dialogue about

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their second application, which was for the conditional use and reiterated that we will do whatever it takes to please council in terms of getting you to consider these simultaneously. Alderman Hawkins motioned to hold this item in committee. Alderman Jones seconded the motion. Alderman Vaught stated he would rather deny the request, waive the year waiting period if we desire, to force it to go to the PUD process; if we hold it in committee it is indeed in limbo. Mr. Hathaway asked are we allowed to withdraw this and resubmit. Mayor Townsell stated yes if we get a two-thirds vote to do so. Mr. Hathaway stated he would rather withdraw if he had some assurance that we will be able to come back and did ask that the rezoning be withdrawn. Alderman Hawkins motioned to suspend the rules to consider allowing Kroger to come back without waiting a full year. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderman Hawkins motioned to allow Kroger to resubmit an application. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-2. Alderwoman Smith and Alderman Rhodes voted in opposition.

C. Report of Standing Committees:

A. Economic Development Committee (Airport, Conway Corporation, Conway Development Corporation, Chamber of Commerce)

1. Consideration to accept bids for the Lollie Road Relocation for the Conway Street Dept.

Ronnie Hall, City Engineer, stated this is for relocation of Lollie Rd for the new Conway Municipal Airport. Mr. Hall recommended awarding the bid to the lowest bidder Weaver Bailey Construction Co. in the amount of \$381,710.95. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

2. Consideration to enter into an agreement with Garver Engineering in conjunction with the New Conway Airport Project.

Ronnie Hall, City Engineer, stated as part of the construction observation work for Lollie Rd. and for the new airport, Garver has presented a contract for the construction administration work, and the construction inspection work in the amount of \$267,000.00, with \$190,000.00 of that being for a construction observer to make sure the contracts performs to contracts and specs. Mr. Hall stated this is 95% FAA funded and 5% state funded and requests approval of this contract subject to approval of FAA and confirmation of appropriateness of the engineering fee by our independent fee analyst. Alderwoman Smith motioned to approve the contract. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

3. Consideration to enter into an agreement with Thomas & Associates for material testing for the New Conway Airport Project.

Ronnie Hall, City Engineer, stated Garver has recommended them to assist us with material testing. Mr. Hall recommended council approve this agreement with an estimated amount of \$12,393.25. There was no discussion. Alderwoman Smith

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motioned to enter into this agreement. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

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

1. Consideration of an appointment to fill out the remainder of a term on the Health Facilities Board.

Alderman Hawkins stated Phillip Shell has resigning and stated they are requesting Michael Garrett finish out his term which expires October 2011. Alderwoman Smith motioned to approve this appointment. Alderman Jones seconded the motion. There was no discussion. The motion passed 8-0.

2. Resolution requesting the Faulkner County Tax Collector to place a certified lien on property located at 3035 Franklin as a result of incurred expenses by the City.

R-10-59

Alderman Hawkins stated the property address is 3035 Franklin; the cost of cleanup was \$181.06 plus 10% collection penalty. There was no one present to speak to this issue. Alderman Hawkins motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

3. Resolution of support for the Brownfield's Grant Application for CDBG.

R-10-60

Wes Craiglow, Planning & Development, was present to answer questions. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

4. Ordinance accepting additional federal funding and appropriating additional grant revenue to the CDGB Program.

O-10-111

Lauralee McCool, CDBG Director, stated this was already passed by resolution, but needs to be passed by ordinance. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderman Jones motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

5. Ordinance accepting and appropriating grant funds for the Conway Tree Board.

O-10-112

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

6. Ordinance accepting and appropriating grants funds for the Planning & Development.

O-10-113

Bryan Patrick, Planning & Development Director, stated this grant in the amount of \$23,535.97. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Jones motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

7. Ordinance amending the building permit fees to include a permit fee for issuance of a temporary certificate of occupancy for the City of Conway.

O-10-114

Lynn Hicks, Asst. Planning & Development Director, explained this is very common on commercial projects and explained the need. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. Mayor Townsell asked that the emergency clause be stricken from the title of the ordinance. After much discussion Alderman Vaught asked if there was a way to eliminate this for single-family. Mayor Townsell asked if there is another mechanism that could be used for single-family. Mr. Hicks suggested charging \$25.00 for the first 30 days, and there after increase it to \$250.00. Council agreed that this would be better. Alderwoman Smith motioned to amend the ordinance - (item 8 Temporary Certificate of Occupancy) to charge \$25.00 for the first 30 days; then \$250.00 for every extension thereafter. Alderwoman Mehl seconded the motion. The motion passed 8-0. Alderman Jones motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

8. Ordinance revising the Conway Zoning Ordinance (O-09-54) to allow churches and religious activities in an I-1, RU-1, and I-3 Zoning Districts by conditional use permit.

O-10-115

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Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Bryan Patrick, Planning & Development Director, stated they received a request to start a church in a former warehouse in the I-3 district and found it was not allowed and we feel it is an appropriate change to the ordinance. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. Mayor Townsell stated we can remove the emergency clause from the title of the ordinance. Alderman Vaught stated we might want to add the word mosque to the ordinance. Mayor Townsell suggested we use language that is not so specific. Alderwoman Smith motioned to add the language "*house of worship*" to the ordinance and remove all other language and remove the emergency clause from the title of the ordinance. Alderwoman Whitmore seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

9. **Ordinance revising the assessed impact fee for medical offices for the City of Conway.**

O-10-116

Bryan Patrick, Planning & Development Director, stated we have had our medical impact fee in place since our study was completed; currently our medical office impact fee is \$3.84 per square foot. Mr. Patrick stated anyone that has to pay this impact fee complains and we have had recent requests to examine this impact fee and suggested we strike medical impact fee from our list of assessed fees and use general office which would drop it down to \$1.28 per square foot. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderwoman Whitmore motioned to adopt the ordinance and the emergency clause. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

10. **Ordinance to rezone property located at 2945 Prince Street from O-3 to C-2.**

This item was moved up on the agenda.

C. *Old Business*

D. *New Business*

Adjournment

PASSED this 12th day of October 2010

APPROVED:

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Mayor Tab Townsell

City Clerk Michael O. Garrett