

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
September 27, 2011

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; Alderwoman Smith, Alderwoman Mehl, Alderman Rhodes, Alderman Hawkins, Alderman Jones, Alderwoman Whitmore, 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 13th, 2011

Announcements / Proclamations / Recognition: Employee Service Awards

1 Year

Lowell McClanahan – CFO Finance Dept

5 Years

Debra Krems – Police Dept
Ottie Cowgill – Planning & Development
Lance Thrower – Street Dept.
Melba Mullins – District Court
Grant Tomlin – Planning & Development

10 Years

Travis Ragland – Fire Dept
Larry Sanders – Fire Dept
Daniel Collins – Fire Dept

15 Years

Lt. William Tapley – Police Dept
Sgt Tracy McDermott – Police Dept
Officer Charles Townsend – Police Dept
Sgt Michael Welsh – Police Dept

30 Years

Captain Fred Gates – Fire Dept

1. Report of Standing Committees:

A. Public Hearings:

- 1. Public Hearing / Ordinance to close a 10 foot utility (waterline) easement located within The Village at Hendrix, Multi-Family row house units.**

Mayor Townsell opened the public hearing. There was no one present to speak. Mayor Townsell closed the public hearing.

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O-11-72

Ward Davis, Hendrix College, was present to answer questions. 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 Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Hawkins, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

2. Public Hearing / Ordinance to close a portion of College Avenue, Front Street, Elm Street, and Chestnut Street right of ways.

Mayor Townsell opened the public hearing. There was no one present to speak. Mayor Townsell closed the public hearing. Mayor Townsell asked council to hold the ordinance in committee until paving can be completed. Alderwoman Smith motioned to hold the ordinance in committee. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

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

1. Ordinance changing the street name of the section of Elm Street between the railroad and Harkrider Street to College Avenue.

O-11-73

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

2. Discussion / Update regarding the Dryer Building located at 912 Front Street.

Laura Dryer, owner of the Dryer Building, explained we will have the north wall shored up very soon. Ms. Dryer asked to meet with the necessary parties prior to demolition so all parties are updated and knows everyone's involvement. Mayor Townsell concurred.

3. Resolution requesting the Faulkner County Tax Collector to place a certified lien on 1515 Freyaldenhoven as a result of incurred expenses by the City.

R-11-49

Alderman Hawkins stated the property address is 1515 Freyaldenhoven Lane; the cost of cleanup was \$192.85 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There no discussion. The motion passed 8-0.

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4. Ordinance accepting grant proceeds and appropriating funds for the Conway Eco-Fest 2011.

O-11-74

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

5. Consideration of a request from the Health Facilities Board to reappointment Michael Garrett & Fletcher Smith.

Alderman Hawkins stated Mr. Garrett will replace Phillip Shell and Mr. Smith will be re-appointed for another term. Their terms are listed below. Alderman Hawkins motioned to approve the appointments. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

- Michael Garrett – term expires October 2016
- Fletcher Smith - term expires October 2015

6. Ordinance revising the Board Ribbon Commission rules and regulations for City Boards/Commission.

O-11-75

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderman Vaught asked what this ordinance would change. Mayor Townsell explained that the Advertising and Promotions Commission is asking council to become a non-primary city board/commission which will allow members to serve multiple terms, and to eliminate the Old Conway Design Review Board which has been rolled into the Historic District Board. Greg Kordsmeier, 1 Burford; Conway, explained the reasoning for this request is the board is unique, in that its composition is mandated by state statutes, which allows 2 city council members, 4 members from the restaurant/hotel industry, and 1 member at large. Mr. Kordsmeier stated the terms are set by state statutes at 4 years and our concern is depth of personality and knowledge, on this particular board, is limited because you have to choose from within the industry and requested the A & P Commission be exempt from the Blue Ribbon Commission rules and regulations. Mayor Townsell stated there is a small pool of individuals, who wish to commit their time to serve on the A & P Commission, and this would be advantageous for the commission. Alderman Vaught asked if this would allow A & P Commissioners to serve at the will of the Mayor and city council indefinitely. Mayor Townsell and Alderman Grimes stated we would still have to approve the nominee but would allow a re-nomination. 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 Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes,

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Alderman Hawkins, and Alderman Jones. The motion passed 7-1. Alderman Vaught voted opposition.

7. Consideration of a request from the A&P Commission to reappointment Angela Bagby.

Alderman Hawkins motioned to accept the reappointment of Ms. Bagby to a second term on the board. Alderwoman Smith seconded the motion. Ms. Bagby's term will expire in May 2015. There was no discussion. The motion passed 8-0.

Alderman Jones exited the meeting.

8. Consideration of a conditional use permit for Robinson and Center Church of Christ Church to allow religious activities for property located at 1505 Robinson Avenue.

Alderman Hawkins motioned to grant the conditional use permit. Alderwoman Whitmore seconded the motion. Matt Jordan, 537 Center St, explained we are losing 3 houses in the area with this proposal; no one likes to lose houses in the downtown area but in this instance, the church came to the area neighbors, in a neighborhood meeting and presented a well thought out plan that actually will make improvements and add green space and is in favor of this conditional use request. There was no further discussion. The motion passed 7-0. The conditions are listed below:

1. Six-foot solid wood fence with brick columns.
2. Lighting shall be inward, downward, and shrouded.
3. City Engineer approval of all civil work to insure no new drainage issues.
4. Buffering and landscaping shall be generally as shown on the submitted proposed site plan sketch.

9. Resolution expressing the willingness of the City of Conway to partner with the AHTD for the relocation of Hwy. 25.

R-11-50

Ronnie Hall, City Engineer, explained this will give our support to the Arkansas Highway & Transportation Dept. (AHTD), in conjunction with the county, for the relocation and extension of Hwy 25 interchange to the existing Hwy 25. Mr. Hall stated this does not commit any city funds at this time. Mayor Townsell explained that as a city and county that we will pick up half the cost of this project and stated that the cost listed on the resolution, which is \$9 million, is higher than the estimated cost. Mr. Hall stated the cost is now estimated to be \$4 million; the county will pick up the higher share of this cost. After some discussion Alderman Hawkins motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no further discussion. The motion passed 7-0.

10. Ordinance closing the southernmost 250 feet of Simon Street (unpaved) located at 650 Simon Road.

O-11-76

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Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Tim Tyler, Tyler Surveying & Mapping, stated the city will need to retain the north 15 feet of this closure for a drainage easement if the road is closed. Rodney John, RJ Construction, gave a brief update on the construction stating that it is 95% complete. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. Mr. Hall stated the language to reserve the north 15 foot for the drainage easement needs to be added to the ordinance. Alderman Hawkins and Alderwoman Mehl were in agreement to amend the ordinance by including the language Mr. Hall recommended. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Grimes, Alderman Hawkins, and Alderman Vaught. The motion passed 5-3. Mayor Townsell voted with the majority. Alderman Rhodes, Alderwoman Whitmore, and Alderwoman Smith voted in opposition.

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

- 1. Ordinance clarifying procedures by which fees, surcharges and revenues are assessed for residential and commercial trash pickup for the Conway Sanitation Department.**

O-11-77

Cheryl Harrington, Sanitation Director, stated we had 3 ordinances that laid out the charges for the sanitation department which included the surcharges, base charges, and add on charges for the state disposal fee. Ms. Harrington stated what we have done here is went back and combined all of these into one chart; this was actually done in 2003 but we have since found, that the chart we have been working off of, is not consistent with the ordinances that are currently in place. Ms. Harrington stated some charges are more, some are less and everyone that is a commercial customer will see a difference in their charges based upon how the ordinances actually read. Ms. Harrington explained we made one adjustment; one of the ordinances referenced a commercial surcharge which was based on 0 - 11 yard weight, but then when you looked at commercial waste disposal, it was broken down into 1 - 5. Ms. Harrington stated she met with Mayor Townsell and Lowell McClanahan on numerous occasions to determine a fair way to break these down; it was decided to break those down into a 0-11, 12-23, 24-35, 36-47, and 48 and up; due to the cap that was in place it was a \$525.00 charge. Ms. Harrington stated it does vary from what is currently being charged depending on how many containers you have. Ms. Harrington went onto say that this ordinance only addresses the \$12.90 per month residential rate and container charges, it does not address the \$29.70 charge as we are unsure what we are going to do with this. Mayor Townsell stated we can come back with that at a later date. Mayor Townsell stated what we think we have simplified and cleaned up discrepancies between the old chart and the existing ordinances so they conform. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. Mayor Townsell stated this will not go into effect until January 1, 2012. Alderwoman Smith suggested taking the emergency clause out since it will not effect until January 1. Council concurred. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman

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Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Hawkins, and Alderman Vaught. The motion passed 7-0.

D. Finance

1. Consideration to enter into an agreement with Pitney Bowes for mailing services for the City.

Amy Walker, Pitney Bowes, was present to answer questions. Tyler Winningham, CFO, explained our current lease agreement with Pitney Bowes expires in May 2012 leaving the city with obsolete equipment that is unable to be updated electronically. The city currently spends \$1,395.00 quarterly on the old meter; the new equipment lease would reduce our quarterly payments down to \$858.00. Mr. Winningham stated the machine is smaller than what we have, but feels it will meet our needs. Alderwoman Smith motioned to enter into this agreement. Alderwoman Whitmore seconded the motion. There was no discussion.

E. Personnel

1. Consideration of 2012 Voluntary Employee Benefits.

Lisa Mabry-Williams, HR Director, explained the city does not pay any portion of these benefits and is offered and managed by Benefit Partners and FlexCo, explaining everyone that participates in these plans are pleased with the service and recommends the city approve the renewal of our voluntary benefit contract for 2012. Alderwoman Smith motioned to approve the renewal of the voluntary benefits contract for 2012. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 7-0.

2. Consideration of a RFP for 2012 Medical/Life Benefits.

Lisa Mabry-Williams, HR Director, explained she does not have a bid from our current vendor because the anticipation is there will be an increase next year and recommended to council that we take the medical, dental, and life insurance out for bid. Alderwoman Smith motioned to take the medical, dental, and life insurance benefits out to bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

Old Business

New Business

1. Ordinance approving the proposed new City Council ward lines.

O-11-78

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. There was no

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discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Hawkins, and Alderman Vaught. The motion passed 7-0.

- 2. Ordinance authorizing the Mayor to enter into a settlement agreement and appropriating funding for the City of Conway.**

O-11-79

Michael Murphy, City Attorney, explained that David Anthony contacted HR and the Mayor's office stating that when he was hired in 2001, as a non-uniformed employee, he requested to participate in the non-uniformed pension fund, but was not allowed to do so by the former HR Director. Mr. Murphy stated that he and Lisa Mabry-Williams, HR Director, spoke with Mr. Hayes, General Counsel of the Municipal League, and explained the situation to him. Ms. Williams then spoke to the former HR Director and reviewed Mr. Anthony's personnel file to familiarize herself with the circumstances. Mr. Murphy explained that Mr. Anthony's personnel file were references, from then Chief of Police, Randall Aragon, whom had determined that Mr. Anthony would have been eligible to participate in the non-uniformed pension plan. Mr. Murphy stated that the Municipal League explained if the city could not rebuke Mr. Anthony's claims, then it would be advantageous to the City to reach an agreement with Mr. Anthony to avoid possible litigation. Mr. Murphy explained the agreement we have reached is to allow Mr. Anthony to pay the city his 6% contributions to the pension fund and the city match that 6%; the calculations have been discussed and approved by the non-uniform pension board. Mr. Murphy stated that Mr. Anthony's share and the cities share would be \$26,193.15 each; Mr. Murphy concurs with Mr. Hayes recommendation to enter into this agreement. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. 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": Alderman Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Hawkins, and Alderman Vaught. The motion passed 7-0.

- 3. Consideration of an approval for a conceptual easement for CenterPoint Energy for a Pipeline Reroute across City property.**

Mayor Townsell gave a synopsis of the re-route and requested council to approve the conceptual plan. Alderwoman Whitmore motioned to approve the conceptual easement design. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

- 4. Resolution accepting the recommendation from the Conway Citizen Taskforce Committee.**

Alderwoman Smith motioned to hold this item in committee. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

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Adjournment

PASSED this 27th day of September 2011

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett