
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 pm
May 28, 2013

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, Alderman Pruitt, Alderwoman Smith, Alderman Ledbetter, Alderwoman Whitmore, and Alderman Jones. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy. Alderman Grimes and Alderwoman Mehl were not in attendance.

Call to Order: Mayor Tab Townsell

Roll Call: Michael O. Garrett, City Clerk/Treasurer

Minutes: May 14th, 2013 City Council Meeting

Alderwoman Smith motioned to approve the May 14, 2013 minutes as submitted. Alderwoman Whitmore seconded the motion. The motion passed 6-0.

Recognition: Employee Service Awards

5 Years

David McNinch – Street Dept.

10 Years

Shona Osborne – Animal Welfare

Adwinna French - CEOC

Cheryl Harrington – Sanitation Dept.

15 Years

Ealton Dillard - Sanitation Dept.

1. Report of Standing Committees:

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

1. Consideration to acquire the Conway Scrap Metal Yard located at 1110 Spencer Street.

Lauralee McCool, CDBG Director, stated in the third paragraph of the memo it should state "*Notice of Interest to Purchase*" instead of "*Notice of Intent to Purchase*". Ms. McCool explained this project has been in the works for a number of years and proposed negotiations will have compensation at \$275,000.00, which is the median of 2 appraisals and also includes \$12,000.00 for moving costs, if owners chose this option. Ms. McCool stated the top surface would be cleaned, subsurface would not. Alderman Jones asked if everything would need to be moved. Mayor Townsell stated the offer is contingent on the remediation costs and asked Mr. Grummer to clarify. Scott Grummer, CDBG Program Manager, explained the appraisals that were completed were for clean land ready for development and stated the city would be responsible for remediation costs; we should have these costs by July and any negotiations from this point forward will be contingent

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upon the values we receive. Alderwoman Smith asked what would happen to the material now on the property. Mr. Grummer stated the materials are scrap and considered assets; this proposal is based on the owners scraping the materials, selling and removing the scrap leaving us a barren piece of property. The Mayor explained, as outlined in the memo, compensation will be contingent on environmental remediation costs not exceeding \$50,000.00 and reiterated the estimated costs will be known in July. Alderman Jones asked what funding source will be used for this project. The Mayor explained we can justify a variety of revenue streams; a portion of general and street fund monies can be used as long as the land is used as a retention facility to help eliminate downtown flooding, park monies as long as it is a city park, but CDBG monies cannot be used. Mr. Grummer explained the intent was to utilize some CDBG monies, but the EPA has since changed their regulations on grant application, you can no longer apply for remediation grants without having ownership of the land. Mr. Grummer explained we inquired with HUD and CDBG and were told we could not utilize any federal funding until we have all planning in place which includes clearing the site in order to determine remediation costs. Mr. Grummer explained at this point CDBG monies may be possible but only after all other aspects are completed which would require other funding methods. Alderman Ledbetter asked to what extent will it help the downtown flooding issue. Ronnie Hall, City Engineer, stated it will reduce the frequency of flooding from 2-3 per year to 1 time every 5 years. Don Jordan, representing the West family, stated the family is open to negotiations and fully understands that clean up costs will be substantial; explaining the yard has no more room and can only be piled higher. Mr. Jordan stated the business cannot be sold in the current location and clean up needs to occur as both parties will benefit from this; it would be advantageous for the West family to relocate the business as this area will never redevelop until this occurs. Alderwoman Smith motioned to approve the authorization to proceed with negotiations. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 6-0.

2. Consideration for approval for various parcels for right of acquisitions and approval of an additional screening fence (Tract 52) & payment for moving cost (Tract 73) for the Conway Western Loop Project/South Interchange (Wills Baker Parkway).

Ronnie Hall, City Engineer, recommended approving the following 2 requests that were discussed at the previous council meeting.

Gertrude Rappold (Tract 52) for fencing to preserve privacy, and to increase the market value by 10%, or \$270.00; the compensation for this tract would be as follows:

Market Value (5,266 Sq Ft)	\$2,700.00
Temporary Construction Easement	\$ 100.00
Additional Compensation Requested	\$ 270.00
<u>8' Privacy Fence (318 feet by Legacy Fencing)</u>	<u>\$6,595.00</u>
Total	\$9,665.00

Charles and Frankie Collins (Tract 73) requests payment for eligible moving expenses of \$4,327.04 which is based on a quote from Downey Moving & Storage Inc; this is the lower of 2 quotes obtained.

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Alderman Hawkins motioned to approve these 2 requests. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 6-0.

3. Consideration for approval for right of way acquisition parcels for Prince Street Improvement (Western Avenue to Shady Lane).

Ronnie Hall, City Engineer, recommended approving this last acquisition for Four Winds Property – Trinity Square Apartments (Parcel 21) for \$1,160.00 for 289 Sq Ft of ROW plus \$12,500.00 for decorative fence replacement totaling \$13,660.00. Alderwoman Smith motioned to approve the acquisition. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

4. Ordinance to rezone property located at 5105 Tyler Street from A-1 to R-1.

O-13-54

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderman Jones seconded the motion. The motion passed 6-0. Alderwoman Smith motioned to adopt the ordinance. Alderman Jones seconded the motion. There was no discussion. The clerk called the roll with the following voting “Aye”: Alderwoman Smith, Alderwoman Pruitt, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, and Alderman Hawkins. The motion passed 6-0.

5. Ordinance to rezone property located at 192 Commerce Road from I-1 to I-3.

O-13-55

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 6-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. Bryan Patrick, Planning & Development Director, stated this request is from Conway Machine Shop and they wish to expand their business. There was no further discussion. The clerk called the roll with the following voting “Aye”: Alderwoman Smith, Alderwoman Pruitt, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, and Alderman Hawkins. The motion passed 6-0.

6. Ordinance to rezone property located at 1370 Sturgis Road from A-1 to I-3.

O-13-56

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 6-0. 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”: Alderwoman Smith, Alderwoman Pruitt, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, and Alderman Hawkins. The motion passed 6-0.

7. Ordinance to rezone property located at 2725 College Avenue from R-2 to RU-1.

O-13-57

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Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 6-0. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Smith seconded the motion. Alderwoman Smith asked if parking is adequate. Bryan Patrick, Planning & Development Director, stated yes. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderwoman Pruitt, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, and Alderman Hawkins. The motion passed 6-0.

8. Consideration of a conditional use permit request from Kids Play Properties to allow general retail, indoor commercial recreational facility and veterinarian clinic for property located at 2725 College Avenue.

Alderman Hawkins motioned to approve the conditional use request. Alderwoman Smith seconded the motion. David Tapp, representing the applicant, requested changing the hours of operations of the veterinarian clinic to 7am to 6pm to meet the needs of the clinic and requested some type of outdoor music system for the patio area of the coffee shop, which is located by the walking trail and a PA system for the drive through menu board. Alderman Hawkins stated he is fine with both requests if the residents of Laura Lane approve. Alderman Jones motioned to approve the amendments to conditions 1 and condition 9 as shown below. Alderwoman Smith seconded the motion. The motion passed 6-0. There was no further discussion the main motion passed 6-0.

1. Hours of operation: 9am to 9pm for the club house; 7am to 6pm for the veterinarian clinic; and 6 am to 11pm for the coffee shop.
2. General retail is allowed.
3. A 6-foot high privacy fence is required along the south and east property lines.
4. No exterior kennel areas are allowed. Overnight exterior boarding of animals is prohibited.
5. Screening evergreen trees, one per 15 feet, shall be required along the south property line in addition to canopy trees as required by development review.
6. Indoor recreational facility is limited to a children's play facility. Includes indoor activity only.
7. Conditional Use Permit 1310 shall be repealed and replaced by these new conditions.
8. Construct ditch to city standards.
9. No outdoor sound systems are allowed with the exception of the proposed coffee shop on the west side of the property. The coffee shop may have a public address system for the drive through menu board and a low wattage background music system in the patio dining area.

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

1. Ordinance establishing responsibility for tarping and securing materials/debris during transportation within the Conway Sanitation Department.

Cheryl Harrington, Sanitation Director, stated this issue is not to create a revenue stream and explained Conway is being littered by loads coming to the landfill un-tarped; the sanitation department chooses to clean up litter from Hwy 64 W in order to keep the landfill area clean. Ms. Harrington stated it is becoming more difficult to find enough employees to

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clean up the litter; code enforcement picks up litter, and we are inundated with phone calls on a daily basis in regards to litter. Ms. Harrington stated we want to charge \$5.00 to all customers who bring trash to the landfill un-tarped; this is a good way to get customers accustomed to tarping. Ms. Harrington stated this would not apply to furniture or items of this nature, but would apply to household trash or yard waste, anything that could litter the streets. Alderwoman Mehl asked if the Police Dept could stop vehicles that are littering the streets. Michael Murphy, City Attorney, stated yes and asked if the Police Dept has been contacted about additional enforcement on littering. Ms. Harrington stated she was not clear if this was an avenue the city wanted to take, but is willing to engage in this discussion; explaining she feels focusing on changing the mindset of individuals is the way to change how people bring their trash to the landfill. Mr. Murphy recommended tabling this issue to allow review of the ordinance and adding a due process. Alderwoman Smith motioned to hold this item in committee. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 6-0.

- 2. Ordinance authorizing city officials and city employees to be employed by or otherwise serve in a dual capacity with the Faulkner County Solid Waste Management District.**

O-13-58

Ms. Harrington, Sanitation Director, explained this scenario was addressed last time in an inter-local agreement, but the opinion of the Attorney General suggests this be addressed and approved in the form of an ordinance. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 6-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderman Ledbetter seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderwoman Pruitt, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, and Alderman Hawkins. The motion passed 6-0.

- C. Public Safety Committee (Police, Fire, CEOC, Information Technology, City Attorney, & Animal Welfare)**

- 1. Ordinance appropriating funds received from the Municipal Property Program for the Conway Fire Department.**

O-13-59

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 6-0. 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": Alderwoman Smith, Alderwoman Pruitt, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, and Alderman Hawkins. The motion passed 6-0.

- D. Finance**

- 1. Resolution requiring an audit of the accounting records for the fiscal year 2012 for the City.**

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Mayor Townsell asked council to table this issue until Alderman Grimes is in attendance and the audit committee can review. Tyler Winningham, CFO, stated yes, explaining the Legislative Audit team has asked for an answer by Friday, May 13, 2013; they have us tentatively scheduled for September or October. Alderwoman Smith motioned to hold this item in committee. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

2. Consideration to approve the monthly financial ending April 30th, 2013.

Tyler Winningham, CFO, stated sales tax is up 1% over this time last year, but down overall by 1.1%. Mr. Winningham stated all other line items are normal; explaining the negative net expense total is a result of our accounting procedure of Ad Valorem taxes; stating the first 2 months of 2013 are reported back to 2012. Mr. Winningham explained this revenue will catch up in June when we receive our first large revenue check from the county. The Mayor stated the purpose for budgeting flat sales tax flat in the 2013 has obviously paid dividends as sales tax revenues has been relatively flat. The Mayor stated 55%-60% of the general fund revenue comes from sales tax; we were smart not to budget any growth in this area and recommended continuing to budget flat moving forward. Mr. Winningham explained there is also a negative net expense total in the street fund due to Ad Valorem accounting procedures this will also catch up in June. Mr. Winningham stated sanitation made the annual loan payment in April; the interest is reported during the month but the principal is reflected on the balance sheet. The Mayor explained the post closure fund discussed earlier is listed here at 4.4 million in assets and is offset in the landfill post closure account in liabilities. Mr. Winningham state the difference between these is the interest. Alderwoman Smith motioned to approve the financials for April 2013. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

Old Business

New Business

Adjournment

PASSED this 28th day of May 2013

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett