
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday, 6:00 pm
January 10, 2023

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, Councilwoman Mehl, Councilwoman Tucker, Councilman Ledbetter, Councilwoman Webb, Councilman Jones, and Councilwoman Isby. Also, present and acting: Mayor Bart Castleberry, City Clerk Michael Garrett, and City Attorney Charles Finknbinder. Councilman Grimes was not present.

Call to Order: Mayor Bart Castleberry

Roll Call: Michael Garrett, City Clerk

Minutes: December 13, 2022

Councilwoman Isby motioned to approve the **December 13, 2022** minutes as submitted. Councilwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

Mayor Castleberry asked the Council to suspend the rules to discuss the practice of waiving the three readings of Ordinances. Councilman Hawkins made a motion to suspend the rules and Councilwoman Isby seconded it. The motion carried 7-0. Mayor Castleberry told the Council he had conferred with City Attorney Finknbinder as well as the Municipal League, and has learned that other municipalities suspend the rules at the beginning of each Council meeting and vote to waive the three readings for all Ordinances that come before them at that meeting. He clarified that if it was something that was of great impact to citizens then normal procedure would be followed. He said that the procedure is no longer relevant for normal conducting of business, as we now have social media, website, etc. He asked the Council to approve this change. Councilman Hawkins asked if the procedure could be waived for the whole year, or just for each meeting and Charles Finknbinder said it could be done however the Council voted. Councilman Ledbetter moved to waive the three readings for all future Ordinances unless any business requires three readings, and Councilwoman Isby seconded the motion. The motion carried 7-0.

Report of Standing Committees:

A. Economic Development Committee (Conway Area Chamber of Commerce, Conway Development Corporation, Conway Downtown Partnership, & Conway Corporation)

1. Resolution to approve an Arkansas Advantage application for Turbare Manufacturing.

R-23-01

Councilman Hawkins presented Item A1 to the Council. Corey Parks, with the Conway Development Corporation told the Council that Arkansas Advantage is a state income tax credit based on the payroll of full-time employees, that must be approved by local government. He said that this company will add 103 jobs with an average salary of just over \$50,000, which equates to an annual payroll of 5.3 million dollars, with 11 million dollars invested in equipment and purchase of the facility. He asked the Council to approve this application for Turbare Manufacturing. Councilwoman Mehl made a motion to approve the Resolution and Councilwoman Isby seconded it. A vote was called and the Resolution passed 7-0.

2. Resolution to approve applying for the GRID Resilience and Innovation Partnership Program grant with Conway Corporation.

R-23-02

Councilman Hawkins presented Item A2 to the Council stating that this is a large pass-through grant for up to 29 million dollars. He added that should Conway Corp falter, the City would be responsible for it. He added that as far as costs to the City, there might be some accounting fees added but those would be minimal. Greg Dell of Conway Corporation addressed the Council stating that this is from the Infrastructure Investments and Jobs Act. He said that this project would start a sub-transmission loop which would allow

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them to better meet economic projects. It would also add to reliability in the northeast section of town. He added that the first phase of this project is estimated to be about 29 million, with a 50% match leaving Conway Corp to invest \$14,500,000. He said that this grant would help speed up the project that was already planned to occur over the course of a number of years. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Mehl seconded it. Councilwoman Webb asked Mr. Dell how the money for the match would be acquired and if it would impact customers. He replied that while Conway Corp does have cash reserves, but it was expected that these funds would be offset by industrial and customer growth. He added that their planning methodology is to have the funds in place before they are needed. He said that a rate increase for this purpose was not being contemplated or expected. A vote was called, and the Resolution passed 7-0.

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

1. Resolution to approve the policies and procedures for the FY2023 for City Council.

R-23-03

Councilman Hawkins presented Item B1 to the Council and made a motion to adopt the Resolution and Councilwoman Isby seconded it. Mayor Castleberry noted that the only major change was that all committee meetings would take place from 5:00-6:00 with all Council meetings now starting at 6:00 regardless of a committee meeting. A vote was called that the Resolution passed 7-0.

2. Ordinance approving the private club permit location Los Gallitos de Faulkner, Inc. to be located at 1250 Old Morrilton Highway.

O-23-01

Councilman Hawkins presented Item B2 to the Council. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The motion carried 7-0. The Clerk called the roll with the following voting "Aye": Councilman Ledbetter, Councilwoman Tucker, Councilman Hawkins, Councilwoman Isby, Councilwoman Mehl, Councilwoman Webb, and Councilman Jones. The Ordinance passed 7-0.

3. Ordinance approving the private club permit location for Malys Entertainment Non-Profit, Inc. to be located at 1355 East Dave Ward Drive.

O-23-02

Councilman Hawkins presented Item B3 to the Council. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The motion carried 7-0. The Clerk called the roll with the following voting "Aye": Councilman Ledbetter, Councilwoman Mehl, Councilwoman Tucker, Councilman Jones, Councilwoman Isby, Councilwoman Webb, and Councilman Hawkins. The Ordinance passed 7-0.

4. Ordinance appropriating funds and approve entering into an agreement with Central Arkansas Professional Surveying for the Conway Drainage Survey Project for the Transportation Department

O-23-03

Councilman Hawkins presented Item B4 to the Council. Kurt Jones of the Transportation Department said they recently solicited statements of qualification for an inventory survey of our drainage system within the City, and received three SOQ's from engineering surveying firms, and Central Arkansas Professional Surveyors was selected based on the scoring system. He asked that the Council approve this agreement with CAPS with a contract not exceed \$400,000. He added that this will be a very useful tool as it will be incorporated into our GIS system so that developers, etc. can use the information. Councilman Hawkins asked about the scoring procedure and Mr. Jones said that a committee of four City employees scored the applicants 1-100 in 10-12 different categories. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Isby, Councilwoman Mehl, Councilman Jones, Councilwoman Webb, Councilwoman Tucker, Councilman Hawkins, and Councilman Ledbetter. The Ordinance passed 7-0.

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5. Ordinance appropriating funds to purchase property located at 811 Court Street for the Chestnut Drainage & Sewer Project for the Transportation Department.

O-23-04

Councilman Hawkins presented Item B5 to the Council. Mayor Castleberry told the Council that this is the first step in helping our drainage problem in downtown Conway. He said that MLK park was part of that and this was another step. He told them the building is owned by Ray Kordsmeier and family, and that it appraised for \$130,000 and the Kordsmeier's agreed to sell for that price. He told the Council that the City planned to raze the building, make the area walkable and add a pocket park and parking nearby. Kurt Jones explained the process of re-organizing the drainage systems under Chestnut and Court streets. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Webb, Councilman Ledbetter, Councilman Hawkins, Councilwoman Isby, Councilwoman Mehl, Councilwoman Tucker, and Councilman Jones. The Ordinance passed 7-0.

6. Ordinance appropriating reimbursement funds for 2021 CLG Grant for the Historic District Commission.

O-23-05

Councilman Hawkins presented Item B6 to the Council. James Walden explained that this is accepting reimbursement funds for the re-surveying of the Hendrix Addition and the Conway Downtown Commercial District. He added that our Historic Preservation Plan recommends that we re-survey the historic districts every 10 years or so, to get an idea of changes that have occurred. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl, seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Mehl, Councilman Jones, Councilwoman Webb, Councilman Ledbetter, Councilwoman Tucker, Councilman Hawkins, and Councilwoman Isby. The Ordinance passed 7-0.

7. Ordinance to rezone property located on the eastern 10.02 acres +/- of property located at 1150 Dave Ward Drive from I-3 to C-3.

O-23-06

Councilman Hawkins presented Item B7 to the Council. James Walden explained that this property was formerly part of the old bus plant hence the Industrial zoning designation. He said that portion of the corridor has changed a great deal and the plant is being looked at for development. He added that this is actually down-zoning to a more compatible zoning with the area. Councilman Hawkins asked about the ingress and egress of the property and Mr. Walden replied that the property is large enough that it would have one and that the developers are aware of the Dave Ward Access Management Plan. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl, seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Webb, Councilwoman Mehl, Councilman Hawkins, Councilwoman Tucker, Councilwoman Isby, Councilman Ledbetter, and Councilman Jones. The Ordinance passed 7-0.

8. Ordinance approving the annexation of 6.05 acres +/- located north of Hwy 319 and immediately west of 5580 Hwy 319 to be zoned A-1.

O-23-07

Councilman Hawkins presented Item B8 to the Council. James Walden said that this annexation is being sought for the benefit of Conway Corp as they have some utility issues in that area. He added that the request went through all of the City's reviews and was well-supported. Luke Ferguson who is representing the applicant was present to answer any questions from the Council. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl, seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilman Ledbetter, Councilman Jones, Councilwoman Isby, Councilwoman Webb, Councilwoman Mehl, and Councilwoman Tucker. The Ordinance passed 7-0.

9. Ordinance to rezone property located at 2505 Prince Street and 963 Farris Road from O-3 and R-1 to O-1.

O-23-08

Councilman Hawkins presented Item B9 to the Council. James Walden told the Council that this property has been looked at for a number of development possibilities, with other developments happening in the

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area such as Shadrach's and Don Pepe's, and now Whataburger is looking at this property. He said they are including a piece of property that's R-1 to the south and were told that the property is tight for what they wanted to do, and advised them to consider O-1 to allow restaurant by conditional use. Councilwoman Tucker asked why the C-1 zoning was not considered and Mr. Walden replied that it was to alleviate concerns that might exist for surrounding property owners in residential areas. Councilman Hawkins added that a conditional use permit to allow a restaurant would provide some additional protection for residential homeowners regarding future activities on the property. Councilman Jones asked if there was any residential opposition. Mr. Walden replied that one homeowner presented concerns, mostly about buffering the property. He added that one of the conditions of the permit were to provide a 20' vegetative buffer between the properties. Councilwoman Tucker noted that the Planning Commission denied the request for 24 hours and that Whataburger said that they would not proceed without it. Landon Sanders, the representative for Whataburger confirmed for the Council that the 24 hour operation was actually the business model and explained what all that entailed. He added that the Planning Commission recommended 6:00 am to 1:00 am operating time but stated that Whataburger would not agree to those operating hours. Councilwoman Tucker reminded the Council that when other businesses in that area came in, the residents nearby were promised that operating hours would be limited. Councilman Jones stated that he has never been aware of a Whataburger restaurant abutting a residential neighborhood. Mr. Sanders named a location and stated that there have been no negative reactions reported. He added that the zoning being sought is consistent with the direction that the Prince street area is going, in becoming a more commercial area. There was discussion about the ingress and egress planned for the restaurant and the traffic issues already present. Councilman Jones clarified that if the rezoning was allowed and Whataburger decided not to build there, then the property would be zoned O-1 for any future activities there. There was much discussion among the Council to that effect. Councilwoman Tucker made a motion to adopt the Ordinance and Councilwoman Isby seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Tucker, Councilman Jones, Councilman Hawkins, Councilwoman Isby, Councilman Ledbetter, Councilwoman Mehl, and Councilwoman Webb voting "No". The Ordinance passed 6-1.

10. Consideration to approve a conditional use permit in an O-1 zoning district for property located at 2505 and 2515 Price Street and 963 Farris Road.

Councilman Hawkins presented Item B10 to the Council stating that the Planning Commission voted 6-0 to forward to the City Council with a recommendation of approval on conditions. Roger McDougal spoke to the Council stating that he was the owner of the property at 959 Farris and he was against the 24 hour operation planned by the Whataburger restaurant. He stated that there were suggestions to minimize the impact on his property such as a greenspace buffer but he did not agree with the placement of the buffer or the orientation of the building and driveways. He voiced concerns about the traffic, safety, and drainage issues. Landon Sanders, representing Whataburger told the Council that Whataburger has made efforts to be a good neighbor and he believed that the citizens of Conway want the restaurant to be built. He stated figures relating to the tax and job impacts the restaurant would create for the community. There was discussion among the Council regarding traffic concerns and concerns from neighbors. David Elrod, real estate broker for Whataburger addressed the Council stating that they have worked with all parties involved to alleviate concerns. He stated that they have not been able to find another property suitable, or available, that did not have traffic issues. Councilman Ledbetter stated that something will be built there someday that will increase traffic. Councilman Hawkins stated that he regretted Council's approval of 24 hour operation for Taco Bell on Prince Street, and reminded the Council that after that occurred, promises were made to residents that it would not happen again. He added that Whataburger would be great for the community but not at that location. Councilwoman Tucker stated that she was on the Planning Commission when Walmart was approved and they also promised residents that 24 hour operation would not be granted. There was more discussion among the Council regarding traffic and future road development. Councilman Ledbetter made a motion to adopt the Ordinance with the conditions, including hours of operation. James Walden clarified that if the Council approved the conditional use permit with the conditions, and the applicant still wanted to pursue the 24 hour operation, they would have to start the process over with the City as a modified conditional use permit. Charles Finkenbinder clarified that if

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Council denied the conditional use permit, the applicant could not re-apply for 12 months. A vote was called with Councilman Ledbetter, Councilman Jones, and Councilman Hawkins voting "Aye", and Councilwoman Webb, Councilwoman Isby, Councilwoman Mehl and Councilwoman Tucker voting "No". The conditional use permit was denied 3-4.

11. Consideration to approve a conditional use permit for 6.06 acres +/- for property located at the northwest corner of the intersection of Dave Ward Drive and S Country Club Road.

Councilman Hawkins presented Item B11 to the Council. James Walden told the Council that this is the service station connected to the Harps store that will be built at the location. He said that a conditional use permit is required for an automotive service station in the C-2 zoning. He added that there are 13 conditions with the primary issue being screening and buffering requirements. Mr. Jeffrey representing New Life Church, an adjacent property owner spoke in favor of the conditional use permit, but voiced concerns about the orientation of the drives in and out. He said that they were requesting that the building be orientated to face Country Club Drive. Sarah Hopper, representative of Harps, spoke and said that Harps was in favor of the orientation requested by New Life Church, but that the Planning Department had asked them to change the orientation. James Walden explained the path analysis to the Council and why it was requested that the building be orientated toward the New life Driveway. He added that facing Dave Ward Drive was not an option. He summed up by saying that considering all the various situations of the building, he felt that it would be unfortunate for the building to not face the New Life Drive. Mayor Castleberry stated that since Harps and New Life Church are in agreement with the orientation they want, he felt that the City should let them make the decision. Councilman Hawkins clarified with Mr. Jeffrey of New Life Church, what the orientation was that they desired and Mr. Jeffrey stated that the orientation they sought was for the building to face Country Club Drive, so that access to Harps would be mainly from Country Club and the access from the New Life Driveway would be a supplemental access. Councilwoman Mehl made a motion to approve the conditional use permit with all of the conditions listed and Councilwoman Webb seconded it. A vote was called and the motion carried 7-0.

12. Ordinance to amend the Conway Zoning Code for the purpose of regulating accessory dwelling units.

O-23-09

Councilman Hawkins presented Item B12 to the Council. James Walden told the Council that currently in the zoning code there is a loophole for manager/caretaker residences. He added that the way it is defined in the code it allows for anyone to place two residences on one lot. He said it's mainly been used on pool houses, etc. He said that this reforms how these structures are allowed. He said accessory dwelling units are very popular right now, so this allows a homeowner to build a second small housing unit on their property and rent it out to a caretaker or family member etc. He added that the homeowner must maintain permanent residence and would not allow someone to own properties and build rental units on all of them. He said this would be a great way to provide affordable housing options in the City. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilman Ledbetter, Councilman Jones, Councilwoman Tucker, Councilwoman Webb, Councilwoman Isby, and Councilwoman Mehl. The Ordinance passed 7-0.

13. Ordinance to amend §515A (Hospital Services) of the Conway Zoning Code.

O-23-10

Councilman Hawkins presented Item B13 to the Council. James Walden said that this would apply only to hospital zones-Conway Regional or Baptist. He explained that Baptist was not situated in a residential area, and Conway Regional falls under the Overlay District with its own regulations and that this part of the code was unnecessary. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Mehl, Councilman Ledbetter, Councilwoman Isby, Councilwoman Tucker, Councilman Hawkins, Councilman Jones, Councilwoman Webb. The Ordinance passed 7-0.

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14. Ordinance to amend Article VII (Board of Zoning Adjustment) of the Conway Zoning Code.

O-23-11

Councilman Hawkins presented Item B14 to the Council. James Walden explained that the definitions of the Board of Zoning Adjustment and the Planning Commission was changed by state law and this is just a legality that should be updated in our zoning code. He added that it provides some additional criteria for examining variance applications and aligns procedures and approval of variances. He said it also allows for special exceptions or administrative waivers by the planning staff or Planning Director. He gave the Council several examples of occasions when this would be more efficient. Councilwoman Tucker made a motion to adopt the Ordinance and Councilwoman Isby seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Isby, Councilman Ledbetter, Councilwoman Mehl, Councilwoman Tucker, and Mayor Castleberry; and Councilman Hawkins, Councilwoman Webb, and Councilman Jones voting "No". The Ordinance passed 4-3.

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

1. Ordinance appropriating funds for Conway Station Park for the Parks & Recreation Department.

O-23-12

Councilman Hawkins presented Item C1 to the Council. Derek Cox with the Parks & Recreation Department told the Council that this is \$750,000 from the A&P Fund for the Conway Station Park. Councilwoman Isby made a motion to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Hawkins, Mehl, Webb, Tucker, Isby, Ledbetter, Jones. The Ordinance passed 7-0.

D. 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. Consideration to approve an amendment to the agreement for Fire Station #6 located at 1835 South Donaghey Avenue.

Mayor Castleberry presented Item D1 to the Council. Chief Winter told the Council that the lease for the property that Station 6 is located on South Donaghey is up for renewal and asked the Council to approve the consideration. He added that there were no changes to the lease. Councilwoman Mehl made a motion to approve the lease and Councilman Ledbetter seconded it. A vote was called, and the motion carried 7-0.

Adjournment-----

PASSED this 10th day of January 2023

APPROVED:

Mayor Bart Castleberry

City Clerk Michael O. Garrett