
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 pm
March 18, 2014

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

Call to Order: Mayor Tab Townsell

Roll Call: City Clerk/Michael O. Garrett

Minutes Approval: February 25, 2014

Alderwoman Whitmore motioned to approve the February 25, 2014 minutes as submitted. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

1. Report of Standing Committees:

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

- 1. Resolution setting a public hearing to discuss the closing of (4) fifteen foot utility easements located in the Tommy Lewis Addition Phase 2.**

R-14-09

Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0. The public hearing is set for Tuesday March 25, 2014 at 6:30 pm.

- 2. Consideration to accept the nomination of Dwayne Young to the Conway Housing Authority Board.**

Alderman Hawkins motioned to accept the nomination of Mr. Dwayne Young for a five (5) year term beginning January 15, 2014. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

- 3. Consideration to accept the nomination of Reggie Rose to the Advertising and Promotion Commission.**

Alderman Hawkins motioned to approve Reggie Rose for a second, four (4) year term. Alderwoman Smith seconded the motion. Mayor Townsell explained we recently changed the restriction on this board and others, that allows a member to re-up; we encourage individuals to limit themselves to two (2), but they cannot stay on indefinitely. There was no further discussion. The motion passed 7-1. Alderman Ledbetter voted in opposition.

4. Consideration of a supplemental engineering agreement with Garver to include full time inspection during the Western Loop Sturgis Road Overpass Construction.

Ronnie Hall, City Engineer, explained the original Garver contract did not include full-time observation for the bridge structure which he feels is necessary. Mr. Hall recommends council approve funds in the amount of \$462,365.71 for this specialist, and a \$21,486.00 increase for material testing. Mr. Hall stated Garver has included, in their budget, 60 weeks for a full time inspector, but the contractor thinks they can complete the project in 30 weeks, so it could possibly decrease this number by \$150,000.00. Mr. Hall stated we are actually increasing the maximum contract price, but we will be billed on an hourly rate for the hours they actually work on the project. Alderman Hawkins asked why the contractor is not responsible for this. Mr. Hall stated the contractor is who needs observed, explaining this is the way the highway dept. does it. Alderwoman Whitmore asked if Garver is the only one that can provide this service. Mr. Hall stated no, there is no difference, they are all approximately the same rate; if you have a contract of 400 days, they will all tell you that they have to put enough time in for those 400 days. Mr. Hall stated he believes it is more economical for you to use Garver, as they are more familiar with the project because they prepared the plans. Alderman Ledbetter asked if we had someone on staff that is qualified to do this. Mr. Hall stated at this point and time yes, Mike Jetton, who is an engineer, a contractor, and has built bridges. Mr. Hall explained if he were to observe this project full time, we would not have anyone to look after our other projects. Alderwoman Smith asked if it would be more economical to have someone else look after the other projects on a temporary basis. Mr. Hall stated if council wants to hire someone. Alderman Ledbetter asked if we could contract these services out. Mr. Hall stated yes we can, but he wants to clarify it would be more than this if you hire a consultant to provide inspections as they will provide you a full-time inspector; he will not work for two (2) hours at one project, and then travel to other various projects on a daily basis; our man visits the necessary projects on a daily basis. Alderman Jones asked if we placed city street personnel on this project, and there was a problem, would that be a conflict due to the city placing fault. Mayor Townsell stated if we have a problem, we would have that anyway. Alderman Grimes added it would be more liability if our personnel is giving final sign off, rather than us paying a third party. Alderman Pruitt stated he would like to see bids to compare costs. Mr. Hall stated we cannot bid this. Mayor Townsell stated professional services goes through an RFP process; you review a list and go through recommendations, rank the engineering firms based on how you believe they can provide the service, they will then provide you a cost for that service; you either accept it, or discard it, and move on down the list; you cannot not go back to one you already discarded. Mr. Hall stated the contractor plans on being finished by October, so we could approve 30 weeks of full time inspections, and we would know ahead of time, if 30 weeks is not sufficient timing, at which time Garver could request more time. Alderman Hawkins asked if we are looking at one-half the cost. Mr. Hall stated he believes we are looking at approximately \$160,000.00, so we could possibly approve an increase of only \$300,000.00; if they exceed this amount, we can make Garver justify more time. Alderman Hawkins motioned to approve an increase up to \$300,000.00. Alderwoman Mehl seconded the motion. There was no further discussion. The motion passed 8-0.

5. Consideration of a request from Lewis Crossing Development (Old Sale Barn Site) to pay in lieu fee in place of sidewalks and bike lanes.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Finley Vinson, Traffic Engineer, explained in initial meetings/discussions with the developer we discussed where we would place sidewalks, bike lanes and/or shared use paths. Mr. Vinson stated there is an ordinance that requires sidewalks be constructed on both sides of the street, any new streets, and on commercial development frontage. Mr. Vinson stated he is leaning on the complete streets ordinance, to require the developer to build bicycle facilities for the streets, in addition to sidewalks that are being rebuilt. Mr. Vinson stated he has met with the Bicycle and Pedestrian Advisory Board (BPAB) to obtain a recommendation to determine if they want bicycle lanes, shared use paths, or share roads; their preference was to request an in lieu fee, this typically is requested by the developer. Mr. Vinson referred to a drawing provided in council packet: the orange color represents existing sidewalks, light blue represents proposed new sidewalks, magenta represents proposed shared use paths, and green represents the existing eight (8) foot shoulder, which is wide enough for a bicycle to use. Mr. Vinson stated this is what he would require the developer to build, if we do not allow an in lieu payment, this is also what he would base the in lieu payment on. Mr. Vinson explained if the city allows an in lieu payment, Dave Ward Drive is a state highway and ultimately it will be the highway department whom decides if they will require sidewalks, and stated they may, or may not, require bicycle lanes. Mr. Vinson stated in the past we have pushed hard for bicycle facilities on state routes, so we could be sending mixed messages if we were to ask them to not build them here, and asked council to take this under advisement. Mr. Vinson stated we are not requiring them to rebuild the street just south of S. Amity Road round-about, so he is not recommending the construction of any bicycle facilities there; however the ordinance requires sidewalks on the development side. Mr. Vinson stated to the north of this he suggests, share on one side, and sidewalk on the other side. Mr. Vinson stated council may decide to ask the developer to build it just as he has it drawn, or you may ask for an in lieu payment for a portion of the bicycle lane, or sidewalks. Mayor Townsell stated the recommendation from the BPAB recognizes that we are looking at an area that is very inaccessible, except for those who can do nothing but walk; safe bicycling is difficult here. Mayor Townsell stated we are pushed for these types of facilities on highways elsewhere in the city, he agrees it would be sending a mixed message; if you have city ordinances that mandate these facilities, the highway department, if they spend money inside your city, by law, has to honor it. Mayor Townsell went onto say if the city starts waiving these requirements, the highway department could set precedence in other areas of the city. Mr. Vinson concurred and explained the developer is wanting clarification and if we will require him to amend the site plan based on what is shown here, or if we will allow an in lieu payment for some, or all of it. Alderman Grimes motioned to require sidewalks and bicycle lanes. Alderman Ledbetter seconded the motion. There was no discussion. The motion passed 8-0.

Mr. Hawkins exited the meeting.

6. Ordinance authorizing additional personnel within the Conway Street Department.

O-14-24

Mayor Townsell explained the street department feels with additional personnel, they can more effectively time our traffic signal system; this would require an appropriation of \$3,604.00 from the street fund. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Alderswoman Smith motioned to adopt the ordinance. Alderswoman Whitmore seconded the motion. Alderman Pruitt asked what this will authorize. Finley Vinson, Traffic Engineer, stated this will allow us to hire part-time personnel to manually count traffic; in the past we contracted it out but the vendor would charge us \$40.00 an hour, and only pay the individual \$10.00 an hour. Mr. Vinson explained in the past he handled this task, but no longer has time. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderswoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderswoman Smith, Alderswoman Whitmore, and Alderman Jones. The motion passed 7-0.

7. Ordinance appropriating funds for cost associated with repairs to the Honda Civic for the Planning Department.

O-14-25

Bryan Patrick, Planning & Development Director, was present to answer questions. Mayor Townsell stated this was an unforeseeable expense and will require a general fund balance appropriation of \$4,503.00. Alderman Pruitt motioned to waive the readings of the ordinance. Alderswoman Smith seconded the motion. The motion passed 7-0. Alderswoman Smith motioned to adopt the ordinance and the emergency clause. Alderswoman Whitmore seconded the motion. Alderswoman Mehl asked what needs repaired on the Civic. Mr. Patrick stated the hybrid battery needs replaced and the clutch needs repaired. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderswoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderswoman Smith, Alderswoman Whitmore, and Alderman Jones. The motion passed 7-0.

8. Resolution amending the Master Street Plan in the Old Cantrell Field/Central Landing Area.

R-14-10

Bryan Patrick, Planning & Development Director, Mayor Townsell stated this is an opportunity to re-direct traffic flows across a large area of Conway. Mr. Patrick stated the master street plan needs many updates, one being the Cantrell Field airport area; this will bring the master street plan up to date to reflect some street projects/changes we have completed. Mr. Patrick stated this amendment sites roundabouts on the master plan, a roundabout and overpass at Elsinger Blvd which will tie into Sixth Street. Mr. Patrick stated there will be a repositioning of the Oak Street, the I-40 entrance ramp (west bound) will veer off into the re-developed airport area. Mr. Patrick went onto say this plan entails many changes and will bring connectivity to the re-developed airport area, as well as east-west connectivity across Conway. Mayor Townsell stated we do have a master street plan that calls for an overpass at Middle Road and is absolutely not in future funding at this time, however an overpass at Elsinger Blvd and Sixth Street is being discussed for funding. Alderswoman Smith motioned to adopt the resolution. Alderswoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

9. Ordinance amending the Conway Subdivision ordinance to require additional right of way as needed for roundabouts.

O-14-26

Bryan Patrick, Planning & Development Director, explained as needs change for obtaining dedicated additional right-of-way, this ordinance will amend Ordinance No# O-00-03/ Intersections and Alignment, c.: to read as follows; the change is bold, italicized, and underlined: "Additional street paving and right-of-way in the form of turning lanes *and/or roundabouts* may, upon consultation with the City Engineer and/or Planning Staff, be required along arterial streets and intersections with other arterial or collector streets." 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 discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, Alderwoman Whitmore, and Alderman Jones. The motion passed 7-0. Alderwoman Mehl stated the description of the ordinance does not reflect an emergency clause. Mayor Townsell stated without the motion for the emergency clause that section would not pass.

10. Discussion/Update on the Phoenix Recovery (transitional housing) located in the Brown Subdivision area of Conway.

Bryan Patrick, Planning & Development Director, explained Matt Bell/Phoenix Recovery were approved to operate transitional housing on September 24, 2013; one of the conditions, placed on this project, required a 6 month review by council. Mr. Patrick stated the minutes from September 24, 2013 reflected #9 conditions, of these conditions, #6, and #7 are complete, and conditions #8 and #9 need more clarification from Mr. Bell. Mr. Patrick stated item #8 (closing internal streets with placement of a gate across the street) could be managed through the amendment to the Northeast Old Conway Area Specific Plan (NOCASP), but feels we should determine if this is what we want to do. Mr. Patrick stated these are currently public streets with one private home still existing, he does not feel it would be appropriate to make this a private street at this time. Mr. Patrick stated the city currently does not allow a gate to be placed over a public street; if this area is to become gated, the streets need to become private through clarification of the amendment to the NOCASP, or possibly a PUD. Mr. Patrick stated from a planning perspective, he doesn't feel this is something we want to do right now; if this facility should move or close, the streets and infrastructure are still viable and can be rebuilt. Mr. Patrick stated he does not believe that Mr. Bell has an issue with condition #9 (\$10,000.00 donation for beautification); the city needs direction on how and where to use this money. Alderman Jones asked the reason for waiting a week before the review deadline to get clarification. Mr. Patrick stated he does not have a good answer; we should have stepped up before now. Alderwoman Whitmore stated it is her recollection the conditions were to be completed in six (6) months, not reviewed in six (6) months as Mr. Patrick stated. Ms. Whitmore went onto say council was provided, requested conditions per the applicant, at the September 24, 2013 meeting; one (1) condition is not listed on the information we have, which was to purchase the home and lot by Habitat on Shannon Circle within six (6) months of zoning amendment approval, of which both lots are to be added to the amended zoning ordinance, which was also a part of what they approved last September. Mr. Patrick stated that item was not in the minutes and added he did not attend the September 24, 2013 meeting; if the minutes are inaccurate, they need to be corrected. Alderwoman Smith asked about the \$10,000.00 that was to be donated to the Pine Street neighborhood. Mr. Patrick stated the applicant's conditions, shows the donation is to be made. Mayor Townsell stated what we accept and place in our

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

minutes is what matters; we need to tie back to the minutes, unless we find contradictions, based on transcript, of that particular meeting. Alderman Jones stated even if we did not specify Pine Street was to receive the donation, why did we wait until one (1) week before the deadline to get clarification. Alderman Grimes asked what we voted on six (6) months ago. Mr. Patrick stated an amendment to the Old Conway Plan, which is in it-self a subset of the zoning ordinance; conditions were placed on land use in a particular location. Alderman Grimes stated an ordinance is more efficient that what is in the minutes. Mayor Townsell stated he is not sure this is the case, actually what council does is more important than what we sign. Alderwoman Whitmore stated her recollection of the meeting is very clear, this is what we were given (referring to documents in her possession), and this is what we said was to be done in six (6) months; which was from the applicant. Alderwoman Smith stated that is why we were going to review it six (6) months. Alderwoman Whitmore stated "we said it was to be completed". Alderman Grimes asked when conditions are placed on a project is it out of the ordinary to expect the conditions to be completed in six (6) months. Mayor Townsell stated he does not recall that statement, perhaps we did not capture it exactly right but he does not believe the intent was to be a "deal killer" nor a "drop dead date" and feels it was not discussed in that fashion. Mayor Townsell stated there is always time for compliance; we are telling the applicant, the city will review the project in six (6) months in order to see what progress had been made. Alderman Jones asked why timeframes are placed on anything if we are not going to make him do anything. Mayor Townsell stated we set goals for the project, told the applicant to do certain things, and we are checking for compliance. Mayor Townsell stated without having to go back and reconstruct what was already said, these motions to approve minutes, matter and if they are not exactly right, then we need to get it right. Mayor Townsell stated we have to get the minutes correct. Alderwoman Smith stated the vote was based on all the conditions. Mayor Townsell stated we typically do not take a sheet of paper given to us and say, we approve this sheet of paper submitted to us by the applicant. Mayor Townsell stated we typically go through them ourselves, adding and deleting items, and vote on what is left; what is important, is what we write down. Alderman Grimes stated we need to know what has not been completed. Matt Bell, MFB Investments/Phoenix Recovery, explained conditions #1-7 are in compliance. Mr. Bell stated multiple discussions have taken place regarding condition #8; he has obtained bids on the fence/gate and is committed to paying for these. Mr. Bell stated this condition was a suggestion from a concerned citizen in the neighborhood, stating he is indifferent, but it is a cost he is willing to incur, adding, he will do whatever it takes for council to be satisfied with a resolution. Mr. Bell stated he has the check and needs to know whom to make the check payable to. Mr. Bell stated in addition to the Borregas home, there are other lots back there that have no access to Shannon Street; he has placed them under contract as well. Mr. Bell stated he is working with Habitat and Mr. Borregas, on sale of this property. Mr. Bell stated an appraiser was hired to determine fair market value and the appraisal should be ready by Monday. Mr. Bell stated the biggest issue he sees is condition #8; currently we have agreements from all parties but ultimately it is council's decision to determine how to proceed with condition #8. Mayor Townsell stated it appears that all private property inside this boundary will be acquired, so if council wishes, they could close all streets. Mr. Bell explained a plan is in place to close the streets, and asked council to advise him on their requirements from him in order to meet the needs of the city. Mayor Townsell stated before streets can be closed, the city would need proof of ownership of all properties; if council wishes, they could place a date on this condition, or Mr. Bell could petition the city to close the streets. Mayor Townsell added if closing the streets are pursued, community input would be heard, as well as to how to use the

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

\$10,000.00 donation. Mayor Townsell stated the donation can be made payable to the City of Conway and dispersed on behalf of the recipient as determined by council. Alderwoman Smith asked Police Chief A.J. Gary to update council on any issues that may have occurred due to the Phoenix Recovery Center. Chief Gary explained the city averages approximately fifty (50) parolees a month; these individuals are tracked, and many of them go to Phoenix Recovery. Chief Gary stated in January and February there were forty-two (42) offenders that entered Phoenix Recovery, of those forty-two (42), two (2) of them had previous ties to Faulkner County; it does appear that we have a large number coming from other jurisdictions, but in all fairness he cannot say this is in any way connected to an increase in our burglary and theft reports. Alderwoman Smith stated this is a concern for her, initially we knew that many of the clients there were from Faulkner County, but she does not feel this is the case, but she is not necessarily in favor of individuals coming here and staying here. Alderwoman Smith stated she thought the philosophy behind this was to transition individuals here and return to their own communities to live and does not believe this is happening. Chief Gary stated his department is working with Linzy Paxton to determine the ratio. Mayor Townsell stated we could never have, nor can we now, place a condition that only allows Faulkner County residents to enter this facility; we cannot make that distinction in our law. Alderman Grimes asked Chief Gary for an overview of the parole system. Chief Gary stated we work closely with our Department of Community Corrections and we know by tracking them, who is being paroled to our area. Alderman Grimes asked how we know if Conway receives local or out of town individuals. Chief Gary stated we do get parolees from out of state. Alderman Grimes asked if parole officers know addresses of their parolees. Chief Gary stated yes, the parole office should know where their parolee is living. Alderman Grimes stated so a parolee could be living at Phoenix Recovery or somewhere else in Conway. Chief Gary stated yes, if parolees being released here, were convicted in Faulkner County more than likely they will be paroled back to this area. Alderman Pruitt stated it seems as though we have gone beyond the scope of review of the entire project. Alderman Grimes stated we need to determine if the conditions have been met or not. Mayor Townsell concurred and stated he believes we should get more community input. Mayor Townsell stated this is a land use decision, not an operational or personnel decision; all personnel decisions are Mr. Bell's, not councils. Mr. Bell explained several months ago, the facility underwent a surprised, organized, canine search of our facility conducted by the DEA and Conway Police Dept. Mr. Bell stated the search consisted of fifty (50) cars, two (2) helicopters and ten (10) dogs; at the end of this raid, only one (1) pint of alcohol was found; Mr. Bell explained he was very proud of the outcome, and feels you would find much worse in other facilities around the state. Mr. Bell stated we run a very organized, well controlled, and orderly facility and they are proud of this and feels the community should be very proud of this as well. Jonetha Hogan, owner Sonshine Inn, asked council to consider giving some of the donated funds for the beautification of the park on Pine St., if all the funds are not allocated to the Pine Street community. Mayor Townsell stated that is good advice regardless. Mayor Townsell stated council needs to determine if they wish to allow Mr. Bell to gate the area and how to spend the donation; this would also be a sign off of the other conditions. Alderman Ledbetter asked if the street could be re-opened if the facility closes or moves. Mayor Townsell stated it would have to be re-platted and dedicated and asked Mr. Patrick to explain the opportunity with a large un-platted section of land. Mr. Patrick stated in a sense it is platted because it is currently Brown's Subdivision, and it was developed as a subdivision with public streets for single family homes or duplexes, and this stands, which is a good and it works well for Mr. Bell's facility. Mr. Patrick stated if council wishes to close a street the state requires a public hearing be

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

held, and if council approves, an ordinance would need to be passed. Mr. Patrick explained the street will be allowed as public through the amendment to the NOCASP which is a zoning ordinance within itself. Mr. Patrick stated the city should consider what condition that street could be in if someone were to petition the city to accept it back as a public street. Mr. Patrick stated it could be complicated and suggested if council desires to close the street re-platting might be in order on the front end to make the area one big lot. Alderman Pruitt wondered if it is healthy, in a manner of speaking, to house these clients behind a gated facility when they have just been released from a gated facility. Mr. Bell stated it is not his desire to put the gate up, but it offers us some security of people coming into the area, but we do not have a big fear of our clients going out. Mr. Bell stated we do have surveillance cameras but the gate was condition brought forth by one of the neighbors and he is unaware if this is still a concern of the neighborhood. Mr. Bell concurred with Alderman Pruitt; the gate would not be good for some of the clients. Alderman Ledbetter stated the gate will not stop criminal activity. Alderman Pruitt stated he is opposed to the gate. Alderman Grimes remembers one individual that felt the gate would keep visitors from going in to see the clients, in the facility, but feels they could simply park and walk in. Alderwoman Smith stated she would like the donation to be given to Pine Street Neighborhood Association and allow them to disperse the funds. Mr. Bell stated to clarify, that was the original intent. After some discussion Alderwoman Smith motioned to give the money (\$10,000.00) to the Pine Street Neighborhood Association. Alderman Grimes seconded the motion. Mayor Townsell asked if the money is to be directed to Pine Street Neighborhood Association through the city. Alderman Smith stated yes. There was no discussion. The motion passed 6-0. Alderman Pruitt motioned to remove condition #8. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0. Mayor Townsell stated everything has been presented to the city and asked if the conditions are satisfied at this six (6) month interval. Alderwoman Whitmore stated her only contention is when this was approved there were neighbors present then, that are not present tonight; they were presented with the condition, that Mr. Bell presented to council, and she wants to be on record as saying "item #9 on that list, as it was presented that night with the residents here, that particular item has not still, in my mind, been met the time frame, so I would at least like for us to consider putting some type of time frame on that". Alderwoman Whitmore stated this is a process she has followed and in the initial meetings, Habitat was not in favor of this, and part of the contention for their support was the home that was there, and feels due diligence needs to be done with that. Mayor Townsell confirmed with Alderwoman Whitmore that she wishes item #9, on the list that was handed out, a requirement to purchase the home; granted the sale of houses do not always go as planned, but we can require something that will get that taken care of. Mr. Bell stated he feels it is important to make it mutually agreeable for the Borregas, as they understand our agreement and are in no hurry to move. Mayor Townsell asked Mr. Bell if he would like to suggest something on this. Alderwoman Whitmore stated the paperwork she has shows Habitat owns the house. Mr. Bell stated Habitat owns the mortgage and are representing them, but the homeowners own the loan and it is their decision. Alderwoman Mehl stated so you are saying, we do not want to force them to move, if they do not want to. Mr. Bell stated yes, the Borregas want extra time to move; he has agreed to pay for their moving expenses and closing costs, reiterating we have mutually agreed on all of these details. Alderwoman Whitmore asked if Habitat is involved in these conversations. Mr. Bell stated yes, they are. Mayor Townsell asked if it would satisfy Alderwoman Whitmore if we require a report be presented to council within two (2) months, so we know where things stand. Alderwoman Whitmore stated yes, but she would also like to hear from a representative from Habitat. Mayor

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Townsell reiterated we wish to have a status report in two (2) months, if it is not fully taken care of in one fashion or another, then we will bring it back before council with all parties involved. Alderwoman Whitmore asked if we can make sure that is duly noted in our minutes. Mayor Townsell stated yes. Alderwoman Whitmore stated for clarification, May 18, 2014 is on a Sunday, so we would need to have this at our council meeting on May 13, 2014. Mr. Bell concurred. Mayor Townsell asked if Mr. Patrick will track this for us. Mr. Patrick stated yes, he will; Mr. Patrick gave Michael Garrett the donation check from Phoenix Recovery in the amount of \$10,000.00 (the check was receipted on 3/20/14 - receipt #39393). Mayor Townsell stated we have the acceptance of conditions #1-7, removal of condition #8, disbursement of condition #9 through the city, to Pine Street Neighborhood Association, and the addition of a two (2) month review of where the purchase of the property stands, and if not satisfactorily closed, then we will have all parties, including Habitat, back before council on May 13, 2014. Alderwoman Smith motioned to approve the Mayors summation previously stated. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 6-0. Alderman Jones exited the meeting prior to roll call.

11. Consideration to approve the 2014 CDBG Allocations.

Lauralee McCool, CDBG, summarized the funding allocations decided earlier in the committee meeting:

Public Services

Boys & Girls Club - Transportation	\$10,000.00
Faulkner Co. Council on Aging - Transportation	\$15,901.00
Faulkner Co. Day School - Matching funds for van	\$10,000.00
Women's Shelter - Transportation	\$ 5,000.00
Faulkner Co. Council on Developmental Disabilities	<u>\$20,000.00</u>
Total Services:	\$60,901.00

Administration: **\$81,202.00**

Capital Projects

Community Services	\$ 7,000.00
Faulkner Co. Day School	\$13,907.00
HAVEN	\$25,000.00
Independent Living Services	\$74,000.00
Pine Street	\$82,000.00
Soul Food Café	<u>\$62,000.00</u>
Total Projects:	\$263,907.00

Alderwoman Smith stated she believes Community Services was \$7,000.00. Ms. McCool stated that is correct. Mayor Townsell stated Independent Living Services would be up to \$74,000.00, if the drainage ditch can be completed for less, this would decrease the allocation. Ms. McCool stated all the projects would be "up to" the specified amount. Alderwoman Smith motioned to approve the allocations. Alderwoman Mehl seconded the motion. Alderwoman Whitmore stated she would be abstaining on the vote under administration, due to the fact that HAVEN is a subsidiary of her employer. Mayor

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Townsell stated 5 members are sufficient. There was no further discussion. The motion passed 5-0-1. Alderwoman Whitmore abstained.

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

1. Consideration to approve bids for a 2014 commercial rear load refuse truck & 2014 automated side loading refuse truck for the Conway Sanitation Department.

Cheryl Harrington, Sanitation Director, recommended accepting bid #2 from Truck Centers of Arkansas for the rear load truck in the amount of \$186,356.00; this was the lowest bid that met all bid specifications. Ms. Harrington asked her shop manager, Danny Alford, to explain why we chose bid #2. Mr. Alford explained the rear load vehicle is a "leach" body, while the automated side loading is a "free" body; it is the same company and housing. This is a body we are unfamiliar with and it is not good business to purchase something out of state until we can obtain more information,. Alderwoman Smith motioned to accept the bid from Truck Centers of Arkansas. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

Ms. Harrington recommended accepting bid #2 from River City Hydraulics, Inc. for the side load truck in the amount of \$265,625.00; the truck meets all bid specifications. Alderwoman Smith motioned to accept bid #2. Alderwoman Whitmore seconded the motion. Alderwoman Whitmore asked why River City Hydraulics had three (3) bids for different amounts. Mr. Alford explained they provide the body, but partner with various trucking manufacturing companies. There was no further discussion. The motion passed 6-0. Ms. Harrington apologized as she failed to mention that we were trading in vehicles for the new trucks. Mayor Townsell asked if these were reflected on the motions for the bids. Ms. Harrington stated yes, the trade in for the rear load refuse truck is a 2008 Freightliner with a trade-in amount of \$22,500.00 and \$23,500.00 for the side load truck.

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

1. Ordinance authorizing personnel changes within the Conway Fire Department.

O-14-27

Fire Chief Mike Winter stated his request is to reclassification three (3) positions and this relates back to the JESAP Study that took effect in 2013; the department is comprised of three (3) divisions, Fire Marshall Division, Operations Division, and Training Division. Chief Winter stated currently we have a Chief over the Training Division and the Fire Marshall's Division; his former position of Assistant Chief, oversaw Operations, Training and Fire Marshall Division. Chief Winter stated the JESAP Study identified those positions as having more roles and responsibilities and recommended a higher salary, which was granted for our two (2) Division Chiefs at the time. Chief Winter stated he is asking for the Assistant Chief position be lowered, not by rank, but by title change, to Assistant Chief of Operations, to bring them in line with the other two (2) divisions. Chief Winter stated we would have a Division Chief over each division within the department and it would change the name from Division Chief to Assistant Chief, explaining we would then have an Assistant Chief of Operations, Assistant Chief of Training, and an Assistant Chief of Fire

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Marshall Division. Chief Winter stated two (2) of the pay scales would not change; whoever is promoted to Assistant Fire Chief would not receive the pay that he was receiving, they would receive the same pay as the two (2) current Divisions now, which would ultimately result in a savings of \$5,000.00 per year. 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. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

2. Ordinance appropriating funds to purchase computers for various departments.

O-14-28

Mayor Townsell stated this is primarily for the Police Dept., in order for the city to comply with the ending of support for the Microsoft XP Operating System. 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 and the emergency clause. Alderwoman Smith seconded the motion. Mayor Townsell explained this was not a part of the budget process and will take us to \$200,000.00 beyond where our budget started this year. This will require a general fund balance appropriation in the amount of \$107,359.00. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Grimes, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

D. Finance

1. Consideration to dispose of certain inventory within various departments for the City.

Mayor Townsell explained the Police Dept. will auction off (2) motorcycles and twenty (20) taser guns which will be sold to Accredited Security for \$300.00 each. Alderwoman Smith motioned to approve the disposal of this inventory. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0. The items to be auctioned/sold are as follows:

- 2007 Harley Davidson Motorcycle - VIN 06886 (Tag #1009)
- 2007 Harley Davidson Motorcycle - VIN 07415 (Tag #1010)
- X26 Taser 544198 (Tag #828)
- X26 Taser 382694 (Tag #839)
- X26 Taser 570714 (Tag #827)
- X26 Taser 544284 (Tag #845)
- X26 Taser 285288 (Tag #833)
- X26 Taser 360642 (Tag #836)
- X26 Taser 383131 (Tag #849)
- X26 Taser 383684 (Tag #838)
- X26 Taser 382988 (Tag #847)
- X26 Taser 529881 (Tag #835)
- X26 Taser 382884 (Tag #844)
- X26 Taser 383004 (Tag #848)
- X26 Taser 382620 (Tag #837)
- X26 Taser 572341 (Tag #830)
- X26 Taser 391235 (Tag #834)

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

- X26 Taser 382732 (Tag #840)
- X26 Taser 530944 (Tag #842)
- X26 Taser 483813 (Tag #829)
- X26 Taser 382882 (Tag #843)
- X26 Taser 382751 (Tag #841)

2. Consideration to approve monthly financials ending February 28th, 2014.

Tyler Winningham, CFO, began the discussion with the General Fund, explaining January sales tax was only up by one-half a percent, February sales tax was up six (6) percent. The beverage tax revenues are always received later because of the due date. Mr. Winningham stated we took our first draw in February from the five (5) year financing that was authorized for the airport; this revenue offsets the expenses shown below; year to date we are expenses are \$400,000.00. Mr. Winningham stated the expenditures always hit hard at the beginning of the year due to insurances and dues etc. Mr. Winningham pointed out the fund balance appropriations for the year, and stated the Street Fund looks good and is off to a good start for the year. Mr. Winningham moved on to discuss the Sanitation Fund explaining some of the budget expenses shown here includes expenses that were rolled from 2013, for capital purchases that were not purchased by years end. Mr. Winningham stated all looks good with the Sanitation Fund except the proceeds from recycles materials are off to slow start. Alderwoman Smith motioned to approve the February 2014 financials. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

New Business:

1. Ordinance to regulate, control & license door to door solicitors and peddlers in the City of Conway.

Mayor Townsell stated this ordinance would regulate, control, and license door to door solicitors and peddlers in the City of Conway; the city has received many complaints regarding this issue. The Mayor explained not many things can be done to prevent this, even the Supreme Court has as much told individuals to post "No Soliciting" signs. Mayor Townsell explained this ordinance is not completely vetted in terms of public input, but it is vetted in term of the law and it is something we can do, but there are implications to what we do to everyone else who wants to go door to door as well. Deputy City Attorney, Chuck Clawson, explained there is ordinance on the books, but it is not being enforced and what we have done is here is update this to reflect more of what is in line with the U.S. and the Arkansas Constitution. Mr. Clawson stated this is a model used by the International Municipal Lawyers Association; there are many municipalities that use ordinances like this; we have tweaked it be more specific to our needs and the case law we have researched. Mr. Clawson stated this is commercial free speech and it is protected by the U.S. Constitution, it is not something we can or want to stifle; knowing who is in our city going door to door would benefit our public safety. Mr. Clawson went onto say this ordinance lays out a process and provides a guideline for the Chief of Police to use his discretion when approving a permit. Alderwoman Smith asked if school based fund raisers would be required to get a permit. Mr. Clawson stated depending on what the fundraiser is for, there is an exception for a "canvasser", which are exempt from the permitting requirements; Girl Scouts would be required to obtain a permit; we have to deal with the "what, not the who", under constitutional law,

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

one can get into trouble if you try to regulate the "who", and making exemptions for certain groups. Mr. Clawson stated once everyone is aware of the permitting process, it will quick and painless. Alderwoman asked if a fee is required. Mr. Clawson stated there is an opportunity for council to decide if a fee is something you wish to consider, and suggested a cost that would only cover the expenses the Police Dept. will be out. Alderwoman Smith asked if the Girl Scouts would get a badge. Mr. Clawson stated the sponsor would receive a badge from the city and the sponsor would be required to provide badges for the girls. Alderman Ledbetter asked if we can waive fees for certain groups. Mr. Clawson stated no, and it will depend on if a group falls under the definition of a "canvasser"; if one is selling a product they will be required to get a permit; if one is pushing a political agenda, this would not require a permit. Mr. Clawson went onto say there is a 2005 Attorney General opinion that states if one sells produce, you are exempt from the permitting requirements; this is not in this ordinance but we are discussing this further. After some discussion Alderman Ledbetter asked if back ground checks can be required. Mr. Clawson referred to Section 7 (a 3-4); Denial of Permit, that states if an applicant has been convicted of a felony, misdemeanor, or ordinance violation involving a sex offense, trafficking in controlled substances against any person or property within the previous five (5) years, or a person against whom a judgment based upon conviction for fraud, deceit or misrepresentation within the previous five (5) years could potentially still be on parole or probation, which could result in several requirements. Mr. Clawson stated he would like to see if this could be excluded altogether, but more research is needed. Alderman Ledbetter stated he would like to hold this item in committee until a fee can be determined. Mr. Clawson stated the ordinance contains an appeals process; if the Chief of Police denies the permit, it can be appealed to the Mayor, again, this need more research. Susan Ackert, stated she is a product sales manager and volunteer for Faulkner County Girl Scouts and explained they are concerned about this, even if the fee for the badge is \$10.00, we are looking at \$5,000.00 - \$6,000.00, whereas they only make fifty scents a box. Alderwoman Mehl stated one (1) fee would be required for each troop. Mayor Townsell stated each girl would need identification. Ms. Ackert stated she oversees the entire group of Girl Scouts in Faulkner County; each Girl Scout has a badge, which is a universal pin, and asked if each group has to be registered individually. Alderwoman Mehl and Alderwoman Smith stated they believe Ms. Ackert could obtain one permit for all. Alderman Grimes asked if Dr. Murry could register the school district, or would the various coaches be required to register each fundraising group individually. Alderwoman Mehl stated Ms. Ackert has touched on a valid point, since she has the membership list and has ultimate supervisory control, then she feels that fits. Ms. Ackert went onto say the Girl Scouts have many controls in place, and no one sells cookies unless they are registered and verified through the national database. Ms. Ackert went onto say we would like to see another way to eliminate the additional cost. Mr. Clawson stated the permit is only good for ninety (90) days. Chief Gary asked if ninety (90) days would cover the period of the sale. Ms. Ackert stated we have two (2) sales per year, one in the fall, and one in the spring, and feels two (2) permits a year would have to be obtained. Mr. Nix stated his concerns may have already been addressed in that each solicitor or peddler would need to be permitted, and he wondered if a discussion has occurred on how the city would handle individuals who might make fake badges. Mayor Townsell stated the purpose of the badge allows us to trace the individual at the city level, but the general public would still need to use common sense about someone approaching their door, as the city is not expecting the citizen to validate the badge, this is for city personnel to do. Mr. Nix asked

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

how we know if a person soliciting is permitted. Mayor Townsell stated you should ask to see proof. James Quinn, Rolling Hills Drive, stated what is important to him is the protection of free speech for political candidates and church/religious groups; canvasser is defined, but canvasser is not excluded from the ordinance, it is only excluded in the section that deals with person over age eighteen (18), and does not address canvasser right for anyone under eighteen (18). Mr. Quinn stated he feels it would be clearer if canvasser was specifically excluded from the coverage of the ordinance. Mr. Clawson stated Section 2(e) does specifically exclude canvasser and would not require a permit no matter their age. Mr. Quinn stated Section 2 specifically talks about individuals under age eighteen (18). Alderwoman Mehl stated canvasser is shown as exempted in Section 2 (e). Mr. Quinn again stated this section deals with individuals over eighteen (18). Mr. Quinn stated the application section does not mention anything about vehicles that will be used to conduct business; the Application Review section requires the permit to identify the description of any vehicle, and he does not feel this is the intent of the ordinance. Valerie Lane expressed her concern as a parent, as she has children who are involved in various non-profit organizations who go door to door to sell for fundraisers. Ms. Lane stated we teach our children, from a very young age, about stranger danger; police officers always tell us to make sure our children are not in public with their names visible, due to the fact that a stranger can see the name of the child and could use this later as a tool to connect with this child. Mr. Clawson stated he will look into this issue. Alderman Ledbetter motioned to hold this item in committee to be brought back on the city council agenda April 7, 2014. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 6-0.

Special Announcements:

- ❖ **City Council workshop meetings have been set for April 1st, 2014 @ 5:30pm at the Conway Police Department Upstairs Conference Room.**

Adjournment

PASSED this 18th day of March 2014

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett