
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 pm
April 22, 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, and Alderwoman Whitmore. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, City Attorney Michael Murphy and Deputy City Attorney Charles Clawson. Alderman Jones was not in attendance.

Call to Order: Mayor Tab Townsell

Roll Call: City Clerk/Michael O. Garrett

Minutes Approval: April 8, 2014

Alderwoman Whitmore motioned to approve the April 8, 2014 minutes as submitted. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

Employee Service Awards:

5 Years

Doug Duran - Physical Plant

Toby Gibson - Physical Plant

10 Years

Stewart Wilcox - Fire Dept.

20 Years

Ben Lackey - Police Dept.

Monte Matthews - Police Dept.

Proclamation: Conway High School Girls Basketball 7A State Champions

1. Report of Standing Committees:

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

1. Consideration to accept the nomination of Jessica Henry Spayde to the Bicycle & Pedestrian Advisory Board.

Alderman Hawkins motioned to accept the nomination of Ms. Henry Spayde to a 2 year term ending December 31, 2015. Alderman Grimes seconded the motion. There was no discussion. The motion passed 7-0.

2. Consideration to approve the appraisal values for right of way required for South Donaghey - Favre Lane roundabout.

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Ronnie Hall, City Engineer, explained Arkansas Appraisal Associates appraised this property (Tract 1 - Fore Co Inc./Shadowstorm LLC - 14,532 sq. ft.) at \$48,000.00, and Mr. Fore has made a counter offer of \$58,500.00 and their preference is to move toward a friendly condemnation with \$58,500.00 being put on deposit with the courts. Alderwoman Smith motioned to approve an offer of \$48,000.00 and proceed with condemnation. Alderwoman Whitmore seconded the motion. After a short discussion regarding the condemnation process the motion passed 7-0.

3. Consideration to approve the amended version of the corporate lease agreement for the new Conway Municipal Airport.

Jack Bell, Chief of Staff, the major change to this lease is Section I-B - Term of Agreement: changing the term from 20 year, plus 10 year, plus 10 year extensions, to a straight 40 year lease; this will allow the lessee to more easily obtain financing. Mr. Bell stated Section II - C: adds language regarding design standards, and in Section III-A: the word "sole" has been removed, and the FAA wording "order 5190.6B has been added. Mr. Bell stated Section X - Indemnity: has clarified the hangar owners are responsible for their actions, and Section XV - Assignment: clarified that lessees are not able to lease parts of their hangar to others; this is only allowed when they receive approval from the city, or if they own 50% interest in the property. Mr. Bell went onto say Section 18-A-2 - Cancellation by Lessor: has defined what is meant by "lack of use". Mr. Bell stated he believes we will have 6 corporate hangars, maybe more. Alderman Hawkins asked if there would be an on-site mechanic. Mr. Bell stated, we do not have a mechanic now, but this would be very beneficial. Alderwoman Smith motioned to approve the amended agreement. Alderwoman Whitmore seconded the motion. Mayor Townsell stated he has been waiting for the approval of this lease before hiring an airport manager so he would have a better idea of how much revenue would be available this year, and in order to prepare a budget for 2015. There was no further discussion. The motion passed 7-0.

4. Ordinance authorizing the Mayor and City Clerk to enter into a 5 year financing agreement to fund the Western Loop South Interchange (Structures & Grading).

Mayor Townsell stated in amending this ordinance, it changed some of the bid requirements, and we cannot confirm that the bid we received will hold with the changed requirements of the interest rate as it has to be placed in the ordinance. Mayor Townsell asked council to hold this item in committee and we will determine if the interest rate complies with the terms of the ordinance, if it does not we will re-bid the financing. Alderwoman Whitmore motioned to hold the ordinance in committee. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

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

1. Ordinance appropriating reimbursements funds from various entities for the Conway Police Department.

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A.J. Gary, Chief of Police, was present to answer questions. 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 Hawkins, Alderman Grimes, Alderwoman Mehl, Alderman Ledbetter, Alderwoman Smith, Alderwoman Whitmore, and Alderman Pruitt. The motion passed 7-0.

2. Ordinance appropriating asset forfeiture funds for various departmental training & annual conference membership dues for the Conway Police Department.

O-13-35

A.J. Gary, Chief of Police, was present to answer questions. 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. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderwoman Mehl, Alderman Ledbetter, Alderwoman Smith, Alderwoman Whitmore, and Alderman Pruitt. The motion passed 7-0.

3. Consideration to accept the request for qualifications for installation, upgrades, maintenance and support for access control systems for the IT Department.

Lloyd Hartzell, IT Director, recommended AlarmTech as they have provided service to the city since 2009. Alderwoman Whitmore motioned to approve the RFQ from AlarmTech. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

4. Consideration to accept the request for qualifications for telephone installation, upgrades and maintenance for the IT Department.

Lloyd Hartzell, IT Director, recommended Netcom as the vendor of choice. Alderman Ledbetter asked why Netcom was selected. Mr. Hartzell stated they are trained, qualified and have more than enough employees to service the city; they primarily service NEC in Benton and Little Rock. Alderman Pruitt asked if they would be able to integrate quickly. Mr. Hartzell stated yes. Alderman Ledbetter asked if the current vendor is not doing this. Mr. Hartzell stated in his opinion no. Alderman Grimes stated, you chose Netcom, based on your past experience, and asked for an explanation. Mr. Hartzell stated Kirby's Communications is a one man business and our RFQ required listing an employee count, Netcom has 500, HCI has 500 +, and Kirby's stated they had 10,000, when they only have 1 person. Mr. Hartzell stated there have been instances where the city needed service but Kirby's was unavailable, working on issues for other customers, and explained one person is not adequate to service the city of Conway. Alderman Ledbetter stated this appears to be an increase in the hourly charge. Mr. Hartzell stated no, our RFQ requested a maintenance contract so the vendor can be held to a price and a timeframe; we never knew when Kirby's would be available or when we would be billed; we were billed for things we did not know we would be billed for and stated the cost is not important to them, it is the service. Alderman Ledbetter stated a local company has done it for a number of years. Alderman Pruitt stated with his interaction with

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the IT Department and with his work experience he has knowledge of the support that is necessary for your customers, and he does not feel it was adequate enough for what the city deserves. Alderman Pruitt stated he feels it is unacceptable that we were not provided passcodes to our own equipment. Mr. Hartzell stated the most important thing is the service we are provided and explained when we requested a quote for the airport system at the end of March, Mr. Davis told us we would get it at the beginning of April, and if the city wants it sooner they can put me on the payroll, as he has other customers to take care of. Stacy Davis, Kirby's Communications, first addressed the issue of quoting a price for a phone system for the airport explaining he was contacted by Dustin Johnson 7 times that week for bids, help, and support on different items, including online upgrading DID numbers for various departments. Mr. Davis stated he has always been available to the city and has never disregarded a request from the city, to take care of another customer. Mr. Davis stated he is not a one man operation, he always has one employee working for him, and he also has another person training to become a certified technician. Mr. Davis stated this is what he agreed to 5 years ago when he proposed the city start using local vendors, other than Russellville and Little Rock vendor. Mr. Davis stated the RFQ was unexpected and explained he has had issues with Mr. Hartzell regarding the passwords, the passwords are important for 2 reasons, one being "Section 8: Indemnification" which Mr. Davis read to council, this section alone tells him if something happens to the telephone system, he is liable, and he has been since 2009 when they installed the first phone system at the police station. Mr. Davis stated he has supplied everything Mr. Hartzell and Mr. Johnson have requested with the exception of the master passcodes, and there are many reasons he will not supply them and they are directly related to NEC. Mr. Davis explained he spoke to an NEC representative this morning, and was informed, that NEC does not recommend giving master passcodes to anyone that is not qualified, and trained on the system. Mr. Davis stated he cannot train anyone who is not an NEC salesman or representative, to be an NEC technician, but he can and has trained Mr. Johnson, and Mr. Anthony before him, on administration processes, programming names, telephone numbers, voice mails etc. Mr. Davis stated when the system was first installed he worked closely with David Anthony to the system up, but in his opinion, since Mr. Johnson has taken over this position, there is a lack of communication. Mr. Davis stated he has told them if he is needed to call him; he has been ridiculed by Mr. Hartzell and Mr. Johnson because he does not carry a smartphone nor check his email via a smartphone. Mr. Davis stated he tells all his customers that he checks his email 3 times a day and explained he has responded to all of Mr. Johnson's emails by the evening they were sent. Mr. Davis stated most of the service he performs, for the city, during the evenings at home he does not charge the city for as a courtesy; if something requires 10 minutes of his time, he will not charge for it, but if it takes 30 - 60 minutes he will. Mr. Davis stated it is untrue that he charges for things the city is unaware of and will address any invoice where this has been the case. Mr. Davis stated he has documentation of everything addressed here tonight and he is not here to defame another company, but explained the company Mr. Hartzell is recommending to the city just received their SV Certification last week, and they have never installed one of these telephone systems. Mr. Davis explained the cities phone system is made up of 9 telephone systems combined connected via high peak services which he suggested and designed 5 years ago; he has maintained it since day one; there are over 275 users on this system with an array of various types of telephones including IP telephones, digital telephones, analog telephones, and facsimiles. Mr. Davis stated he has never been sarcastic, offensive, or disrespectful to any city employee and feels one can only be pushed so far, before you start pushing back. Mr. Davis went onto say these issues began last year when he received an email from Mr. Johnson requesting the passcodes, when he inquired as to why

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Mr. Johnson wanted them, he said so he could look at the licenses, so Mr. Davis then sent copies of all the licenses to Mr. Johnson. Mr. Davis stated he then received an email from Mr. Hartzell that said "I want all of the passwords for the city, I want the administrator codes and I want everything, send them to me and me only, do not copy anybody else on these". Mr. Davis explained he called Mr. Hartzell immediately, and went to visit him in person to explain the liability issue of providing the city with the passwords. Mr. Davis went onto say if he provided Mr. Johnson the passcodes, without full understanding of the programming, he could cause issues that could take significant time to correct. After further discussion Mr. Davis stated during the transition from AT&T to Conway Corporation telephone service, he supplied all the records to Mr. Hartzell in order for the city to revert those numbers to Conway Corp due to the fact Mr. Hartzell had misplaced all the copies of the contracts. Mr. Davis stated he did not charge the city for any of the time spent with Mr. Hartzell and Conway Corp during this transition, and stated his rate is \$65.00 per hour, no matter what time of day, and this is not going to change. Mr. Davis stated he would like council to talk to other city employees before making a consideration on the telephone vendor. Alderman Grimes asked why we are here today as opposed to any other year, and also what we approved 5 years ago with this vendor. Mr. Davis stated he believes it is because he would not provide Mr. Hartzell the passcodes. Mr. Hartzell stated council decided to use Kirby's Communications, a local vendor, as opposed to Service Plus out of Russellville. Alderwoman Mehl asked if it was approved each year. Mr. Hartzell stated no, I requested council approve a sole-source vendor each year and council has stated they do not like "sole source", so this year it was decided to do an RFQ for telephones and alarms. Mr. Hartzell stated he sent RFQ requests out to each vendor on the same day, including Mr. Davis. Alderwoman Smith feels if there were issues like this council should have heard about them before now. Mayor Townsell stated it has not been discussed at this level in the past 5 years. Alderman Grimes stated if there are issues he would like to hear about it before it gets to this level. Mr. Davis explained Mr. Hartzell first became upset prior to the installation of District Courts new telephone system as we were unable to obtain parts for 3 months as NEC's facility in Japan had flooded. Mr. Davis explained 6 months later NEC decided to terminate the life of the UX5000, which meant the model we purchased in 2009 would no longer be manufactured, it was at this point Mr. Hartzell wanted to upgrade the city telephone system to the SV8100. Mr. Davis stated he told Mr. Hartzell the only thing to gain by upgrading the telephone systems are an increase in CPU's and spending money; until it is time to add a phone system, Mr. Davis explained it is not advantageous to upgrade 9 telephone systems at the cost of \$1,000.00 per system, until it is necessary. Alderwoman Mehl asked if Netcom was certified by April 4th. Mr. Hartzell stated no they were qualified when they turned in the RFQ. Mayor Townsell stated there are two issues here, who will get the RFQ, if anyone, and the ongoing relationship between our IT Dept. and Kirby Communications, and he believes there are irreconcilable differences and council does not need to be the referee; in the end it comes down to whom conforms to whom and the Mayor feels like it is neither, and told Mr. Davis it does not sound like that is what you were trying to do when came before council. Mr. Davis believes there needs to be a new way he receives orders from the city due to the many billable man hours he spends trying to get correct information that he does not bill for. Alderman Pruitt asked if Mr. Davis has detailed documentation/instructions on how to perform certain tasks on the telephone system. Mr. Davis stated yes. Alderman Pruitt stated he would like to see these documents. Alderman Grimes stated he has heard enough examples, and feels there are conflicts between our IT Dept. and Kirby's Communications, but he is not sure if it is enough to choose a different vendor and possibly pay more, and feels the parties should work things out. Alderman Grimes asked if Netcom is willing to share the passcodes with the IT Dept. Mr.

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Hartzell stated yes. Alderman Grimes asked if they will be absolved from the liability if they do so. Mr. Hartzell stated probably the same as Mr. Davis, and we can be trusted with passwords, we do it every day. Alderman Grimes asked Mr. Davis if you get the liability you need will you be comfortable handing over the passwords. Mr. Davis stated yes. Alderman Grimes stated one problem is solved, what is next. Mr. Davis stated the RFQ asks the vendor to train a city employee at no charge; NEC will provide the training online. Alderman Grimes asked if NEC will allow the release of liability. Mr. Davis stated NEC has to confer with their legal department before they will issue a release of liability. After some discussion Alderman Grimes stated he is not prepared to make a decision tonight and would like Mr. Hartzell to provide council with a written detailed list of needs he is not being provided, and how it is being handled, and if Mr. Davis cannot do it, we may need to look for a new vendor, but if he can, we will try to make this work. Mayor Townsell stated we need Mr. Hartzell to present his case, and to verify Netcom and HCI's qualifications and look at this issue again in 2 weeks. Alderwoman Smith motioned to hold this item in committee. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 7-0.

C. Finance

1. Consideration to approve the monthly financial report ending March 31st, 2014.

Tyler Winningham, CFO, began with the general fund and stated sales tax was down 7.3% and feels the weather played a large role in its decline. Mr. Winningham explained we are still not current on the beverage tax, and the \$250,000.00 in net revenue is due to the \$500,000.00 draw from the airport loan, which paid the city back on expenses incurred over previous years. Mr. Winningham stated the expenditures are in line, and fund balance appropriations for the year total \$200,987.00. Mr. Winningham explained the street fund is stable but has also seen a decline in sales tax, while the severance tax is up 15% over the same time last year. Mr. Winningham stated the sanitation fund is in good shape. Alderwoman Smith motioned to approve the March 2014 financials. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

Alderwoman Smith motioned to suspend the rules to add an item to the agenda regarding termination of the Cope Aviation Services lease. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Mayor Townsell stated item 4 of the lease agreement outlines our responsibilities; the \$280,000.00 value of lease hold improvements has been calculated by his office at \$175,000.00, plus documentation that can be provided by Cope Aviation. Mayor Townsell stated we in turn must provide notification to them 90 days prior to the termination of the lease. Alderwoman Smith motioned to approve the termination of the Cope lease. Alderwoman Whitmore seconded the motion. After some discussion the motion passed 7-0.

Special Announcement:

- ❖ 2014 City Council Workshop Meeting III - April 29th, 2014 at 5:30pm - CPD/Upstairs Conference Room.

Adjournment

PASSED this 22nd day of April 2014

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APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett