

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday, 6:30 pm
August 27, 2019

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, Councilman Jones, Councilman Ledbetter, Councilwoman Mehl, Councilman Grimes, and Councilwoman Smith. Also, present and acting: Mayor Bart Castleberry, City Clerk Michael Garrett and City Attorney Chuck Clawson. Councilman Pruitt and Councilwoman Isby were not present.

Call to Order: Mayor Bart Castleberry

Roll Call: Michael O. Garrett, City Clerk

Minutes: August 13, 2019

Councilwoman Isby motioned to approve the **August 13, 2019** minutes as submitted. Councilwoman Smith seconded the motion. There was no discussion. The motion passed 6-0.

Approval of the monthly financial report ending July 31, 2019

Tyler Winningham, Chief Financial Officer, addressed the Council stating that the City was starting to see the insurance turn back from LOPFI which has turned out to be above what was budgeted to come in. He added that sales tax was up again at about 6.25%, which is up about 2.5% year to date. He stated that the bottom line still appears flat, but the expenditures related to the remodeling at the new City Hall is at \$359,000 presently, which would not be seen in a normal year. Councilwoman Smith moved to approve the monthly financials and Councilman Jones seconded it. The motion to approve carried 6-0.

Report of Standing Committees:

A. Public Hearing

1. Public Hearing to discuss the issuance and sale of wastewater revenue improvement bonds for Conway Corporation.

Mayor Castleberry opened the public hearing. Brett Carroll, CEO of Conway Corporation was present to speak in favor of the proposal stating that the improvements made to Tucker Creek wastewater facility will benefit the citizens of Conway by reducing yearly maintenance costs and providing a better system of wastewater treatment. As there was no one else present to speak for or against the matter, the Mayor closed the public hearing.

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

1. Ordinance authorizing the issuance and sale of wastewater revenue improvement bonds for Conway Corporation.

O-19-84

Mayor Castleberry presented Item B1 to the Council. Councilwoman Smith made a motion to waive the readings and Councilwoman Mehl seconded it. The motion carried 6-0. Councilman Jones moved to adopt the Ordinance with the emergency clause and Councilwoman Smith seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilwoman Smith, Councilwoman Mehl, Councilman Jones, Councilman Grimes and Councilman Ledbetter. The Ordinance with the emergency clause passed 6-0.

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2. Ordinance amending Ordinance No. O-18-80 governing of small wireless communication facilities for the City of Conway.

O-19-85

Mayor Castleberry presented Item B2 to the Council. Brett Carroll stated to the Council that the amendment to the Ordinance O-18-80 reflects recent changes in the law. Jason Carter, former Little Rock City Attorney and Arkansas Municipal Power Association General Counsel addressed the Council stating that the Arkansas Legislation adopted Act 999 which governs small cell wireless communication, making amendments to the Ordinance necessary as it is a developing technology. He added that the new rules would serve the community better. He explained that Conway anticipated the technology when O-19-80 was passed. The proposal reflects the intent that small cell facilities will facilitate the race to a wireless 5G and a more interconnected society. He added that the ordinances that the City passes now will affect the aesthetics of our communities, and the technological infrastructure that evolves with the development of this new technology. Councilwoman Smith made a motion to waive the readings and Councilman Jones seconded it. The motion carried 6-0. Councilwoman Smith moved to adopt the Ordinance with the emergency clause and Councilman Jones seconded it. The Clerk called the roll with the following voting "Aye": Councilman Grimes, Councilwoman Mehl, Councilman Jones, Councilman Hawkins, Councilman Ledbetter, and Councilwoman Smith. The Ordinance with the emergency clause passed 6-0.

C. Community Development Committee (Airport, Community Development, Planning & Development, Permits & Inspection (Code Enforcement), Historic District, Transportation)

1. Resolution setting a public hearing to discuss the closing of a utility easement on Lots 4 & 7, Block 3 in Robbinswood Addition.

R-19-34

Councilman Hawkins presented Item C1 to the Council. Councilwoman Smith moved to adopt the Resolution and Councilman Ledbetter seconded it. The motion carried 6-0.

2. Ordinance approving the private club permit location for Walk Ons Sports Bistreaux of Conway for property located at 955 S. Amity Road.

O-19-86

Councilman Hawkins presented Item C2 to the Council. Councilwoman Smith made a motion to waive the readings and Councilwoman Mehl seconded it. The motion carried 6-0. Councilwoman Smith moved to adopt the Ordinance and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Smith, Councilman Hawkins, Councilman Grimes, Councilwoman Mehl, Councilman Ledbetter and Councilman Jones. The Ordinance passed 6-0.

3. Ordinance approving the private club permit location for Verona Entertainment of Conway for property located at 190 Skyline Drive.

O-19-87

Councilman Hawkins presented Item C3 to the Council. Councilwoman Smith made a motion to waive the readings and Councilwoman Mehl seconded it. The motion carried 6-0. Councilwoman Smith moved to adopt the Ordinance and Councilman Jones seconded it. The Clerk called the roll with the following voting "Aye": Councilman Ledbetter, Councilman Grimes, Councilwoman Mehl, Councilwoman Smith, Councilman Jones and Councilman Hawkins. The Ordinance passed 6-0.

4. This item was removed from the Agenda

5. This Item was removed from the Agenda.

6. Ordinance amending the Title 11 of the Conway Municipal Code as related to flex duct limitations for the Permits and Inspections Dept.

O-19-88

Councilman Hawkins presented Item C6 to the Council. Cecil Corning, City Mechanical Inspector was present to address the Council. He stated that the use of flex duct is being abused by contractors in

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residential construction. He said that in many cases they are going beyond Code limitations as far as length and support. He added that it is not as durable and long lasting as metal pipe. He recommended that the municipal Code be amended to eliminate flex duct in residential construction. He went on to explain the correct procedures for installing duct in residential construction and how the flex duct wasThere was no further discussion. Councilwoman Smith made a motion to waive the readings and Councilwoman Mehl seconded it. The motion carried 6-0. Councilwoman Smith moved to adopt the Ordinance with the emergency clause and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilwoman Mehl, Councilman Jones, Councilwoman Smith, Councilman Hawkins, Councilman Grimes and Councilman Ledbetter. The Ordinance passed 6-0.

7. Resolution authorizing the Office of the City Attorney to seek condemnation for property located at 1604 Tyler Street for the Tyler Street Improvement Project.

R-19-35

Councilman Hawkins presented Item C7 to the Council. City Attorney Chuck Clawson told the Council that there has been ongoing negotiations with homeowners along the Tyler Street Improvement Project, and the City has reached agreements with most of the homeowners regarding purchasing of right-of-ways for the construction of sidewalks. The owners of this property and the following item have been unreachable which necessitates this action of condemnation. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Mehl seconded it. The motion to adopt the Resolution passed 6-0.

8. Resolution authorizing the Office of the City Attorney to seek condemnation for property located at 2111 Tyler Street for the Tyler Street Improvement Project.

R-19-36

Councilman Hawkins presented Item C8 to the Council. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Mehl seconded it. Mr. Clawson added that this is just one step in the process of condemnation. When the Resolution is passed, there will be an application to Circuit Court, then a Right of Entry, followed by the deposit of funds for the property owners to claim. The motion to adopt the Resolution passed 6-0.

9. Resolution accepting the bid for reflective paint and thermoplastic pavement markings as part of the Transportation Department's construction and maintenance program.

R-19-37

Councilman Hawkins presented Item C9 to the Council. Mayor Castleberry stated that the paint we are currently using is not lasting. He added that the cost of the thermoplastic is higher but it lasts from 8-10 years. Finley Vinson, Director of Transportation addressed the Council asking them to approve the bid from Contractors Specialty in the amount of \$175,259 for the paint. Councilwoman Smith made a motion to adopt the Resolution and Councilwoman Mehl seconded it. The motion to adopt the Resolution passed 6-0.

10. Consideration to approve a conditional use permit request from Sarah Huggins/Victor Investment Properties to allow church/religious activities in I-3 zoning district for property located at 750 9th Avenue.

Councilman Hawkins presented Item C10 to the Council. James Walden, Director of Planning Development addressed the Council stating that the applicant intends the use as temporary but that it is not guaranteed. When the item was reviewed at the Planning Commission meeting the applicant stated that this is about a 50 member religious congregation that meets on Tuesdays and Thursdays and Sundays. They would not have childcare/preschool program. It was voted 8-0 by the Planning Commission with the following conditions:

1. Parking would be upgraded to meet current standards
2. They would meet all required landscaping
3. Any expansions or changes to the use would require re-approval of the conditional use permit
4. Conditional use permit would be limited to the current users of the property

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Councilman Grimes cautioned the Council about approving non-industrial uses in industrial zoned areas, because if they are filled with such uses then additional industrial zoning may be required. Councilwoman Mehl stated that she understood the use would be temporary, and James Walden stated that temporary can always become permanent. However the applicant has stated that they fully expect it to be temporary. There was no further discussion. Councilwoman Smith made a motion to approve the conditional use permit and Councilwoman Mehl seconded it. The motion to approve passed 6-0.

11. Consideration to approve a conditional use permit request from Allen Shaver/Shaver Properties to allow a density of up to 12 dwelling units per acre in R-2A (two family residential district) for property located at 553 Factory Street.

Councilman Hawkins presented Item C11 to the Council stating that this item was reviewed by the Planning Commission at their August meeting and was voted 8-0 that the item be forwarded to City Council with the recommendation for approval with conditions:

1. Access to all three units shall be provided from the 3rd Street frontage
2. All units shall front on Factory Street with principle entrances that face the street.
3. If proposed, garages shall be rear or side loaded.
4. All parking shall be located to the rear of the property.

Councilman Hawkins moved that the conditional use permit be granted with the conditions and Councilwoman Smith seconded it. Councilman Grimes asked Mr. Walden under the current zoning what could be built on this property. Mr. Walden stated that the property falls under the Old Conway Overlay District and additionally under the R2-A zoning, meaning that it could be developed as a duplex, and would be subject to the Old Conway design overlay. Councilman Grimes stated that R2-A was created to prevent overbuilding in this area and he felt that this particular property was small even for two units and the proposal is for three to be built. Councilman Ledbetter and Councilman Jones agreed with the concern. The Mayor called for a vote and the request for conditional use failed 2-4 with Councilwoman Smith and Councilwoman Mehl voting in favor.

Mayor Castleberry asked the Council to suspend the rules to consider a request from Blackwood Grill for a transfer of location for their Private Club permit. Councilwoman Mehl moved to suspend the rules and Councilwoman Smith seconded it. The motion carried 6-0.

O-19-89

The Mayor stated that Blackwood Grill was relocating to the former Fish House location at 116 S. Harkrider Street and was requesting approval of the location. Councilman Jones moved to waive the three readings and Councilwoman Smith seconded it. The motion carried 6-0. Councilman Grimes moved to adopt the Ordinance and Councilman Hawkins seconded it. The Clerk called the roll with the following voting "Aye": Councilman Grimes, Councilwoman Mehl, Councilwoman Smith, Councilman Ledbetter, Councilman Jones and Councilman Hawkins. The Ordinance passed 6-0.

D. Public Safety Committee (Police, Fire, District Court, Animal Welfare Unit, CEOC-Communication Emergency Operations Center, Department of Information Systems & Technology, & Office of the City Attorney)

1. Consideration to dispose & remove items from inventory (vehicles) for the Conway Police Department.

Mayor Castleberry presented Item D1 to the Council. Chief Jody Spradlin addressed the Council stating that there are three vehicles they are requesting to remove from inventory and sell at publicsurplus.com. Councilwoman Smith made a motion to approve the consideration and Councilwoman Mehl seconded it. Mayor Castleberry stated that there is a non-profit organization in Conway that takes vehicles no longer useful to cities and police departments and get them to people who need transportation. He asked if the Council would approve donating the three vehicles. Chief Spradlin said that the City would receive very little from the sale of these vehicles and he was not opposed to donating. The approval to donate passed 6-0.

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2. Consideration to dispose & remove from inventory (air sampler and inventory logs) for the Conway Police Department.

Mayor Castleberry presented Item D2 to the Council. Chief Spradlin said this was outdated equipment no longer of use. Councilwoman Smith moved to approve the consideration and Councilman Hawkins seconded it. The motion to approve carried 6-0.

3. Ordinance appropriating reimbursement funds from various entities for the Conway Police Department.

O-19-90

Mayor Castleberry presented Item D3 to the Council. There was no discussion. Councilman Hawkins made a motion to waive the three readings and Councilwoman Smith seconded it. The motion carried 6-0. Councilwoman Smith made a motion to adopt the Ordinance and Councilman Hawkins seconded it. The Clerk called the role with the following voting "Aye": Councilman Ledbetter, Councilman Grimes, Councilwoman Smith, Councilman Jones, Councilwoman Mehl and Councilman Hawkins. The Ordinance passed 6-0.

4. Ordinance appropriating asset forfeiture funds for a K9 Handler certification course for the Conway Police Department.

O-19-91

Mayor Castleberry presented Item D4 to the Council. Chief Spradlin stated that there were asking for \$1900 from the asset forfeiture funds to train a new K-9 handler. Councilwoman Smith made a motion to waive the three readings and Councilwoman Mehl seconded it. The motion carried 6-0. Councilwoman Smith made a motion to adopt the Ordinance and Councilman Hawkins seconded it. The Clerk called the role with the following voting "Aye": Councilwoman Mehl, Councilman Jones, Councilman Grimes, Councilwoman Smith, Councilman Ledbetter and Councilman Hawkins. The Ordinance passed 6-0.

5. Ordinance accepting bids and appropriating asset forfeiture funds for the police and fire training facility for the City.

O-19-92

Mayor Castleberry presented Item D5 to the Council. Chief Mike Winter was present to address the Council stating that this is Phase II of the three-phase building project for the Police and Fire Training Center. RFQs were sent out for electrical installation and interior construction and he asked the Council to approve Centech Services Inc. as the lowest correct bidder at \$57,000 for electrical installation and Eric Moix Construction for the Interior Construction. Councilwoman Smith made a motion to waive the three readings and Councilwoman Mehl seconded it. The motion carried 6-0. Councilwoman Smith made a motion to adopt the Ordinance and Councilman Hawkins seconded it. The Clerk called the role with the following voting "Aye": Councilman Hawkins, Councilwoman Smith, Councilwoman Mehl, Councilman Jones, Councilman Grimes and Councilman Ledbetter. The Ordinance passed 6-0.

Adjournment-----

PASSED this 27th day of August, 2019

APPROVED:

Mayor Bart Castleberry

City Clerk Michael O. Garrett