

# MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas  
Tuesday, 6:00 pm  
November 26, 2024

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 Grimes, Councilwoman Mehl, Councilman Cummins, Councilman Ledbetter, Councilman Hawks, Councilman Jones, and Councilwoman Isby. Also, present and acting: Mayor Bart Castleberry, Deputy City Clerk/Treasurer Denise Hurd, and City Attorney Charles Finkenbinder.

**Call to Order: Mayor Bart Castleberry**

**Roll Call: Denise Hurd, Deputy Clerk/Treasurer**

**Minutes: November 12<sup>th</sup>, 2024, City Council Meeting**

Councilwoman Isby made a motion to approve the minutes as submitted and Councilwoman Mehl seconded it. The motion carried 8-0.

**Monthly Financial Report ending October 31, 2024.**

Tyler Winingham addressed the Council stating that the ad valorem tax for October was a little over half a million dollars which is up about 6% over last year. He said that sales tax was down about 2.5 % in October but still up 3.7% for the year and was not a cause for concern. He said that Beverage tax revenue has been caught up through October and is up about 2% over last year. He added that the Parks & Recreation department has collected about 50% above their budget at this point and it's been a good year at the Expo Center. He told them that overall expenditures are well below expected for the first 10 months of the year, and the City has a net revenue of over 2.4 million dollars through October. He added that operating cash is the highest it has been all year at 19.2 million dollars. Councilwoman Isby made a motion to approve the monthly financials and Councilwoman Mehl seconded it. The motion carried 8-0.

**Report of Standing Committees:**

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

**1. Consideration to approve waiving all three readings for the ordinances on the November 26<sup>th</sup>, 2024, City Council agenda.**

Councilwoman Isby made a motion to approve the waiving of all three readings and Councilwoman Mehl seconded it. The motion carried 8-0.

**2. Resolution requesting the Faulkner County Tax Collector place a lien in the amount of \$164.64 on property located at 2600 Donaghey Ave for expenses incurred by the City.**

**R-24-60**

Councilman Hawkins presented Item A2 to the Council. Spencer Clawson addressed the Council stating that this was a vacant lot that needed cleaning. There was no one present to represent the property. Councilwoman Isby made a motion to adopt the Resolution and Councilwoman Mehl seconded it. A vote was called, and the motion carried 8-0.

**3. Consideration to approve equipment disposal for the Department of Public Works.**

Councilman Hawkins presented Item A3 to the Council. Spencer Clawson told the Council they had several pieces of equipment that cost too much to keep them maintained due to needed servicing. Councilwoman Isby made a motion to approve the consideration and Councilwoman Mehl seconded it. The motion carried 8-0.

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**4. Ordinance to rezone property located at 805 4<sup>th</sup> Street from R-2A to C-3.**

**O-24-83**

Councilman Hawkins presented Item A4 to the Council. Anne Tucker of the Planning Department told the Council that the request was to make the entire piece of property the applicant was seeking to develop, be zoned the same. She added that the property was surrounded by C-3. A representative of the applicant reiterated to the Council that the applicant was attempting to get all the property consistently zoned. 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, Councilman Hawks, Councilman Grimes, Councilman Ledbetter, Councilman Cummins, Councilman Hawkins, and Councilwoman Isby. The Ordinance passed 8-0.

**5. Ordinance to rezone property located at 333, 400, and 500 S. East German Lane from A-1 to S-1.**

**O-24-84**

Councilman Hawkins presented Item A5 to the Council. Anne Tucker told the Council that Conway Christian School is the applicant and that the property is currently zoned A-1. The school is seeking to rezone the property to align with current use. She added that they were in the planning stage of future development and this measure would prevent them from having to request a CUP later. She said that approval of the rezoning would negate the current conditional use permit. 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 Hawks, Councilwoman Mehl, Councilman Hawkins, Councilman Cummins, Councilwoman Isby, Councilman Ledbetter, Councilman Jones, and Councilman Grimes. The Ordinance passed 8-0.

**6. Consideration to approve a conditional use permit to allow MF-2 density in the C-3 zone for property located at 470 Harkrider Street.**

Councilman Hawkins presented Item A6 to the Council. Anne Tucker told the Council that the rezoning passed with O-24-83 was part of this development. She said the owner was planning to build multi-family dwellings which will require a conditional use permit in the C-3 zone. She said they are asking for an MF-2 density which allows for 18 units per acre with no site less than an acre. Councilman Hawkins confirmed that there would be no ingress or egress off of Harkrider Street. Councilwoman Isby made a motion to approve the condition use permit and Councilwoman Mehl seconded it. A vote was called and the motion carried 8-0.

**7. Consideration to modify the current conditional use permit to allow Retail-General Use in O-1 zone for property located at 2555 Prince Street.**

Anne Tucker told the Council that the property has a CUP attached to it that was issued in 2008 with no expiration date which allowed for Retail Restricted. She told them the applicant was asking for a CUP for Retail General, and the Planning Commission approved the request with 16 conditions. She said the applicant originally requested 11 am to 10 pm operating hours, but the Commission expanded those hours to allow for 5 am to midnight, citing consistency with other businesses in the area. There was discussion among the Council regarding the operating hours. Ms. Tucker stated that some neighboring property owners have voiced concerns about the closing time due to alcohol sales, etc., but she said the applicant is fine with a 10 pm closing.

She said they were working with Shadrach's Coffee next door to provide a joint access drive so that no additional curb cuts would be necessary. She read to them the additional conditions. She told them that the applicant asked that the condition that states if the use of the property ceases for an 18-month period it would negate the CUP, be extended to 24 months and the Planning Commission approved that. There was additional discussion among the Council as to the closing time allowed by the CUP. The applicant Jerry Coleman addressed the Council and confirmed that the hours they were requesting were 7 am to 10 pm. Councilman Jones moved to approve the conditional use permit with the amendment of the operating hours and Councilwoman Isby seconded it. Councilman Grimes asked if this business did not open would another business be able to come in under the CUP. Anne Tucker said that if this business did not open, the applicant would have 24 months to find another tenant. Councilman Grimes expressed concern that another business going in the location would cause traffic issues such as were discussed regarding a previous request at the location. Councilman Hawkins asked the applicant if it would be a problem if the CUP was granted based only on this particular business tenant. Jerry Coleman told the Council that he has

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an executed lease from the restaurant, and he fully expected them to open. He added that the building they are building would not have a drive-through so the concern about traffic being backed up onto Dave Ward would not be an issue. With the motion to approve with the amended hours of operation, and a second, a vote was called, and the motion passed 8-0.

### **B. Public Service Committee (Physical Plant, Parks & Recreation, & Sanitation)**

#### **1. Consideration to approve vehicle disposal for the Sanitation Department.**

Mayor Castleberry presented Item B1 to the Council. Joe Hopper told the Council that his department had one piece of heavy equipment and three trucks to remove from the fixed assets inventory. Councilwoman Isby made a motion to approve, and Councilwoman Mehl seconded it. A vote was called, and the motion carried 8-0.

#### **2. Ordinance appropriating funds for a hydraulic excavator for the Sanitation Department.**

Mayor Castleberry presented Item B2 to the Council. Joe Hopper told the Council that this is a used excavator, and as such is exempt from the bidding process by state law. He said the slightly used machine had about 1100 hours of use on it. Councilman Ledbetter made a motion to adopt the Ordinance with the emergency clause and Councilwoman Mehl seconded it. The Clerk called the roll with the following voting "Aye": Councilman Hawkins, Councilman Ledbetter, Councilman Jones, Councilwoman Isby, Councilman Hawks, Councilwoman Mehl, Councilman Cummins, and Councilman Grimes. The Ordinance with the emergency clause passed 8-0.

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

#### **1. Consideration to approve equipment disposal for the Department of Information Technology.**

Mayor Castleberry presented Item C1 to the Council. Kevin McCoy told the Council that the department had a number of old IT equipment items for disposal. He added that any that were operational would be sold at auction. Councilwoman Isby made a motion to approve the consideration and Councilwoman Mehl seconded it. A vote was called, and the motion carried 8-0.

### **D. Old Business**

#### **1. Consideration to approve the settlement agreement in Linn vs. Conway.**

City Attorney Charles Finkenbinder reminded the Council that there was a settlement offer from Mary Katherine Linn for the property that was acquired for the 6<sup>th</sup> Street Overpass. He said that when the lawsuit began, the City deposited \$248,250, and Ms. Linn's counterclaim started at \$750,000 and has since gone to \$1 million. He clarified that what is under consideration is the authorization by the Mayor to accept Ms. Linn's settlement offer for the lawsuit. There was discussion among the Council regarding the various options available with Mr. Finkenbinder counseling and answering their questions. Mr. Finkenbinder recommended that if the Council were to vote to authorize the Mayor to enter into a settlement agreement, that it should be done as a counteroffer which accepts the amount but adds the condition that all future claims be waived. He also stated that Ms. Linn has been fair and equitable throughout the whole process, but the waiver would be for any future owners of the property. He clarified that the settlement counteroffer from the City would be in the amount of \$516,125, taking into account the monies previously deposited. Councilman Hawkins made a motion to authorize the Mayor to accept the settlement agreement as a counteroffer adding the condition that no future claims whatsoever be made against the City. Councilman Ledbetter seconded the motion. A vote was called, and the motion carried 8-0.

Adjournment-----

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***PASSED this 26<sup>th</sup> day of November 2024***

**APPROVED:**

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***Mayor Bart Castleberry***

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***City Clerk Michael O. Garrett***