
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 pm
December 8, 2015

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 Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Chuck Clawson. Alderman Grimes and Alderman Jones were not in attendance.

Call to Order: Mayor Tab Townsell

Roll Call: Michael O. Garrett

Minutes: November 24, 2015 City Council Meeting

Alderwoman Whitmore motioned to adopt the November 24, 2015 minutes as submitted. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 5-0-1. Alderwoman Mehl abstained.

1. Report of Standing Committees:

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

1. Ordinance authorizing the issuance and sale of wastewater revenue bonds, Series 2016 for Conway Corporation.

O-15-135

Gordon Wilbourn, Kutak Rock, explained the purpose of this bond issue is to refund the existing 2010 Series which will thereby accomplish interest savings and stated we are set to close January 12, 2016. Mr. Wilbourn stated the ordinance approves all the various necessary documents and explained these bonds will be issued on a parity with an existing bond, so you are supplementing an existing trust indenture that secures the other bonds; these bonds are secured solely by wastewater revenues. LeAnn Burnett, Stephens Inc., stated you will be issuing \$12,415,000.00 in bonds and the refunding will generate \$1,130,000.00 in savings to both the City and Conway Corporation's Wastewater Dept. 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. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

2. Resolution requesting the Faulkner County Tax Collector to place a certified lien on certain properties as a result of incurred expenses by the City.

R-15-72

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Alderman Hawkins stated the property address is 1935 Puma Dr.; the cost of cleanup was \$180.30 (\$136.64 + Penalty \$13.66 + filing fee \$30.00). There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

R-15-73

Alderman Hawkins stated the property address is 2133A Hickory Street; the cost of cleanup was \$320.94 (\$264.49 + Penalty \$26.45 + filing fee \$30.00). There was no one present to speak to this issue. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 6-0.

- 3. Ordinance amending the FY2015 budget for grant funds received from the Arkansas Department of Aeronautics for City of Conway.**

O-15-136

Tyler Winningham, CFO, stated we have received approximately \$600,000.00 in grant funds and asked council to approve the ordinance in order to amend the FY2015 budget. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 6-0. Alderwoman Whitmore motioned to adopt the ordinance. Alderwoman Smith seconded the motion. Alderman Hawkins asked if this money was set aside for what we discussed earlier in the committee meeting. Mayor Townsell stated it will functionally serve that by going into our cash flow and reserve categories. Mr. Winningham stated we are being reimbursed for money we have spent for the terminal buildings and hangars. Alderman Hawkins stated it seems like it is a step towards \$6.1 million. Mr. Winningham stated it will definitely help our financial position. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

- 4. Consideration to approve the nominations for the Planning Commission.**

Alderman Hawkins stated the names forwarded to council for recommendation to serve on the Planning Commission for 5 year terms are Dalencia Hervey and Leanne L. Lefler. Bryan Patrick, Planning & Development Director, explained as of this afternoon we discovered there were 5 nomination forms that were lost in the shuffle, and stated he sent out an email today to the Planning Commissioners asking them how they would like to handle this situation. Mr. Patrick stated they will likely want to open it up to interview those individuals and stated it is our fault as we received different emails that we thought had the complete list of nominees that we forwarded to the Planning Commission, but somehow 5 nomination forms were left out. Alderwoman Whitmore motioned to hold this item in committee. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 6-0.

- 5. Consideration to approve the nominations for the Oak Grove Cemetery Board.**

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Alderman Hawkins stated the Oak Grove Cemetery Board has recommended Rick Green and Claude D. Moore to serve on the board. Alderman Hawkins motioned to approve these nominations. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 6-0.

- 6. Ordinance amending the Conway Historic District Commission membership and Old Conway Design Overlay District certificates of appropriateness expiration limits.**

O-15-137

Bryan Patrick, Planning & Development Director, explained one proposed change is largely due to the fact that the City did not receive any nominations for these boards and stated the Historic District Board voted to drop its members from 9 to 7, which is outlined in this ordinance. Mr. Patrick went onto to explain when we first formed the rules for the Old Conway Design Overlay District we set the expiration date of one year to seek a building permit, if you did not get a building permit within this time frame, you had to start over. Mr. Patrick stated this ordinance will extend the time frame to 2 years. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith 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 Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

- 7. Ordinance accepting and appropriating donation funds for the Conway Tree Board to help pay expenses associated with the annual Arbor Day Celebration.**

O-15-138

Alderman Hawkins explained we received \$597.00 in donations from private donors. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith 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 Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

- 8. Ordinance appropriating grant funds for the Spencer Street Brownfield Cleanup project for the Planning and Development Department.**

O-15-139

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. Alderwoman Smith seconded the motion. The amount of grant funds received are \$3,429.79. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

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9. Ordinance appropriating funds towards the installation of speed humps for the Street & Engineering Department.

O-15-140

Alderswoman Smith motioned to waive the readings of the ordinance. Alderswoman Whitmore seconded the motion. The motion passed 6-0. Alderswoman Whitmore motioned to adopt the ordinance. Alderswoman Smith seconded the motion. \$1,600.00 has been received from Spring Valley POA for installation of 2 speed humps on Zoysia Lane. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderswoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderswoman Smith, and Alderswoman Whitmore. The motion passed 6-0.

10. Ordinance appropriating funds to cover the shared cost to purchase the old scrap yard property located on Markham for the Street & Engineering Department.

O-15-141

Alderswoman Whitmore motioned to waive the readings of the ordinance. Alderswoman Smith seconded the motion. The motion passed 6-0. Alderswoman Smith motioned to adopt the ordinance. Alderswoman Whitmore seconded the motion. \$105,000.00 will be appropriated to share in the purchase cost of the old scrap yard property. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderswoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderswoman Smith, and Alderswoman Whitmore. The motion passed 6-0.

11. Consideration to acquire right of way property from Rock Solid Church for the Central Landing Boulevard project.

Finley Vinson, City Engineer, stated after meeting with the churches board members we all agreed to amend the agreement to compensate the church for the loss of 13 parking spaces at \$1,380.00 each for a total of \$17,940.00; it was previously believed that they would only lose 2 parking spaces. Mr. Vinson stated we also will be moving a sign and light pole for a total cost of \$19,897.00, which will cover the cost to move and re-install these items. Alderswoman Smith motioned to approve the counter offer. Alderswoman Hawkins seconded the motion. There was no discussion. The motion passed 6-0.

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

1. Ordinance appropriating reimbursement funds from various entities for the Animal Welfare Unit.

O-15-142

Jody Spradlin, Chief of Police, stated the Animal Welfare Dept. received reimbursement funds in the amount of \$1,323.00 from Rescue Wagon and \$195.50 from Public Processing. Alderswoman Whitmore motioned to waive the readings of the ordinance. Alderman Hawkins seconded the motion. The motion passed 6-0. Alderswoman Whitmore motioned to adopt the ordinance. Alderswoman Smith seconded the motion. There was no discussion.

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The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

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

O-15-143

Jody Spradlin, Chief of Police, explained we have partnered with the Secret Service for a number of years and one of our detectives has been trained in computer forensics. Chief Spradlin stated the Secret Service trains our detective, provides the equipment that can be use for all cases, and they also send us federal cases that we analyze, such as computer hard drives and cellular telephones. Chief Spradlin stated as a part of this partnership they occasionally send us funds to use to purchase equipment. The reimbursements are as follows:

- \$14,027.54 US Secret Service - Various Reimbursements
- \$11,367.02 Various Companies - Police Extra Duty
- \$ 90.00 District Court - Restitution

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderman Smith seconded the motion. The motion passed 6-0. 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, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

3. Ordinance appropriating grant funds received from the Arkansas Department of Emergency Management for the CPD Swat Team.

O-15-144

Jody Spradlin, Chief of Police, explained this is a federal Homeland Security grant in the amount of \$110,820.00 and is matched by the Department of Emergency Management, and this is the second year we have received this grant. Chief Spradlin stated the purpose of the grant is to prepare and train to respond acts of terrorism or other catastrophes within our jurisdiction. Chief Spradlin stated we used this money to provide equipment that we normally do not get approval to purchase. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderman Smith seconded the motion. The motion passed 6-0. 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, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

4. Ordinance appropriating donation funds received from Fred's to the Conway Fire Department.

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O-15-145

Mayor Townsell stated the Fire Department received donated funds from Fred's in the amount of \$314.00. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderman Smith 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 Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

- 5. Ordinance accepting and appropriating grant funds from Central Arkansas Planning & Development District (CAPDD) to the Conway Fire Dept.**

O-15-146

Mike Winter, Fire Chief, explained the department was able to secure \$13,703.00 to be used for the purchase of a new firefighting hose; this is a 100% grant funded through the state and asked council to approve this ordinance. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderman Smith seconded the motion. The motion passed 6-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

C. New Business

- 1. Ordinance creating a temporary franchise to utilize street rights of way and parks for Horse Drawn carriage rides in the City of Conway.**

O-15-147

Bobby Stokes, Hot Springs Carriage Company, was present to answer questions. Jack Bell, Chief of Staff, stated we have received his certificate of insurance and he would like to start the carriage rides tomorrow. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderman 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. Alderman Hawkins asked where the route is and how much rides will cost. Mr. Stokes stated the route will run down Court Street, Front Street, and Main Street and come back up Oak Street, ending at the site of the Christmas tree. Mr. Stokes stated we will try to begin and end at the Christmas tree and the cost is \$5.00 per person; as long as the city does not have another event taking place Santa Clause will drive the carriage every night. Mr. Stokes stated rides will begin around 5:00 pm and end when there are no more customers. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderman Pruitt, Alderman Ledbetter, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 6-0.

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2. Consideration to change the next regularly scheduled City Council meeting on December 22, 2015 to an alternative date.

Mayor Townsell stated since council determined not to move the next council meeting no action is needed for this item.

Mayor Townsell asked City Attorney Chuck Clawson to briefly discuss the ruling handed down by the Judge in the lawsuit regarding employee salaries. Mr. Clawson stated in September 2012 an action was filed against the city with 2 represented parties in that class; Richard Shumate and Damon Reed. Mr. Clawson stated they had 2 actions based on the 2001 quarter-cent sales tax the first being illegal exaction. Mr. Clawson stated this means if a tax is collected but not used for the purpose for which it was dedicated; the second part of that was a contractual claim based on what they believed the pay scale to be, or alleges to be. Mr. Clawson stated from the hearing presided over by Judge Braswell in Faulkner County Circuit Court which consisted of motions for summary judgement and to certify the class. Mr. Clawson stated the Judge's ruling came out yesterday and the illegal exaction has been dismissed with prejudice. Mr. Clawson stated the contractual matter is still before the court and the class was certified on this, and Mr. Clawson pointed out that when the court certifies a class, they are not looking at the merit of the case but they also looking at 6 criteria that is set out by superior courts; in general it is basically become now to the claim is there enough people to make a class etc. Mr. Clawson stated in this particular case based on the motions and pleadings the court determined that those class characteristics were present and did not make rulings on the merits but said that based on the class characteristics it could move forward as a class action. Mr. Clawson stated the litigation will proceed on the contractual claim as a class and potentially a class party would be employees during the period of time that the lawsuit mentions. Mayor Townsell stated to clarify that the claim that we misspent the money, that we told the public we would use for increase the compensation and or salaries of our employees, has been dismissed; our allegation has always been that we spent that money appropriately and we can show that we have not only spent more than the tax brings in every year, we spend more every year than the tax brings in for compensation of employees. Mayor Townsell stated what is left is the contractual claim of the case that when the city did not give step or COLA raises, we broke the contract and we disagree that there is a contract. Alderman Hawkins asked if this will occur in 2016. Mr. Clawson stated we have the choice to appeal which could delay litigation, but it has not been determined if we are going to do that.

Adjournment

PASSED this 8th day of December 2015

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett