
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
April 11th, 2006

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, Alderman Bell, Alderman Jones, Alderwoman Smith, Alderman Brewer, Alderman Grimes, Alderwoman Whitmore and Alderman Weeks. Also, present and acting: Mayor Tab Townsell, City Attorney Michael Murphy and City Clerk Michael Garrett. Alderwoman Whitmore motioned to approve the March 28th minutes with the spelling correction of Steve Heard to Steve Hurd within transcription of item 3/New Business/O-06-37. Alderwoman Smith seconded the motion. The motion passed unanimously 8-0.

1. Report of Standing Committees:

A. Economic Development Committee (Airport, Conway Corporation, CDC)

- 1. Resolution certifying local government (Snap on Equipment Services) endorsement of business to participate in the tax back program.**

R-06-07

Alderwoman Smith motioned to adopt the resolution. Alderman Bell seconded the motion. There was no discussion. The motion passed 8-0.

2. Resolution setting a public hearing for an abandonment of a railway right of way in the original Conway Industrial Park as requested by Conway Development Corporation.

R-06-08

Alderman Bell motioned to set the public hearing at the next regular council meeting. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

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

1. Consideration of the reappointment of Leslie Marshall to a new four year term on the Advertising and Promotion Commission.

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Alderman Grimes motioned to re-appoint Ms. Marshall to the A & P Commission. Alderman Bell seconded the motion. There was no discussion. The motion passed 8-0.

2. Resolution setting a public hearing for an abandonment of a street in the CC Boens Sub. #2 as requested by Conway Public Schools.

Alderman Bell motioned to adopt the resolution. Alderwoman Smith seconded the motion. The public hearing is set for Tuesday April 25, 2006. There was no discussion. The motion passed 8-0.

3. Consideration of waiving the cost of disposing of the old surface and asphalt from the track for the Conway Schools Athletic Department

Coach Bolding, Conway Public Schools Athletic Director, was present to answer questions. Coach Bolding stated the bids they received for the new track included a fee for disposal which is \$75.00 per ton and there is approximately 567 tons which would cost \$42,525.00. The school is asking the City to waive the disposal fee. Alderman Bell motioned to waive the fee. Alderman Grimes seconded the motion. Mayor Townsell stated that state law says the City can not give services away and wants to make sure the City is comfortable with this. The Mayor went on to say that City Attorney Michael Murphy has been doing research on this issue and also mentioned that the City has been accused by Waste Management of possible contract interference. If this issue is covered under the contract between the Conway School District and Waste Management then the City would have to stand back. If the City can not give away services, there might be an opportunity for us to reduce the cost. Michael Murphy addressed the council stating that state law (Article 12; Section 5) says a "*county or city cannot give any corporation or any institution any kind of loan, appropriate money for, or giving of resources unless the entity was created by the County or the City*". Mr. Murphy went on to say that there is a depression era statute that did allow cities to give financial assistance on an annual basis for operating expenses of a school district or university that is located in the city limits. Ms. Harrington, Sanitation Director, addressed the council and stated that the cities regular rate would bring the fee down to \$12,893.00 verses the \$75.00 per ton which is the rate for special handling waste. Alderman Brewer asked what the cost is. Ms. Harrington stated \$22.74 per ton, which is the regular city rate. Alderman Brewer asked Coach Bolding what the school district had budgeted for the new track. Coach Bolding stated \$150,000.00 to \$175,000.00, but if the disposal cost could be cut down to \$13,000 he felt like the board would entertain that. Mayor Townsell stated that the City needs to see if we can do this without contractual interference with Waste Management, and stated we don't need to waive the fee at this time, but go along with Ms. Harrington's recommendation and accept the fee at \$22.74 per ton. Michael Murphy will check with the school district contract with Waste Management to see if it this is contractual interference. Alderman Bell withdrew his motion to waive the

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fee. Alderman Grimes withdrew his second. There was no action taken on this issue at this time.

4. Consideration of a request by Bruce Hendricks for allowance of a building permit to build two single family structures on Lots 2 & 3 of Hendricks' Plat at property located at 1370 & 1360 Robins Street due to the Old Conway Moratorium.

Bruce Hendricks with Hendricks Enterprises LLC, was present to answer questions. Alderman Brewer motioned to grant the exception. Alderman Bell seconded the motion. Bryan Patrick, Planning Director, was present and stated the types of homes Mr. Hendricks is proposing to build are not inappropriate with the mix of houses that are in this area. Mr. Patrick went on to say that if it is desirable for the council to make this area meet a more historic design standard this would not be a politically historic design standard particularly with the garage protruding forward. Mayor Townsell and Alderman Jones stated that the carport would be a better fit than the garage. Alderman Brewer called a question. Alderwoman Whitmore seconded the motion. The motion passed 7-1. Alderman Hawkins voted in opposition. There was no further discussion. The motion failed 4-4 due to lack of support. Alderwoman Whitmore, Alderman Jones, Alderman Hawkins and Alderman Grimes voted in opposition. Alderwoman Smith motioned to approve this with the carport verses the garage. Alderman Jones seconded the motion. There was no discussion. The motion passed 7-1. Alderman Hawkins voted in opposition. Mayor Townsell stated that the moratorium ordinance is to apply to new construction only and asked if the council members understood this and were in agreement. All council members were in agreement.

5. Consideration of a conditional use permit for hazardous materials storage and chemical compounding or packaging that is located at 103 Amity Road.

Alderman Bell motioned to approve the conditional use permit. Alderman Brewer seconded the motion. Don Havens with Multi-Chem addressed the council and stated that with the limited hours from 8 AM to 6 PM their concern is if there was a delivery outside those hours it would be an inconvenience and they would like to have the latitude to bring a load of material in anytime. Mr. Havens went on to say that their competition will be doing this and feels it would be undo hardship on them. Mr. Havens asked if activities develop can they come back and amend this. The Mayor asked if a tanker arrived in the middle of the night where would it park. Mr. Havens stated they would have access to the yard. Cade Bourque with Multi-Chem stated that they could also be at a DOT certified safe haven. Alderman Hawkins stated he would like to have them on site. Alderman Brewer stated he feels there is a misunderstanding about the noise factor of off loading a tanker load of liquid. Alderman Brewer motioned to amend and remove condition two (2). Alderman Hawkins seconded the motion. The motion failed 3-5. Alderman Bell, Alderwoman Smith, Alderwoman Whitmore, Alderman Jones, and Alderman Grimes voted in

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opposition. There was no further discussion. The main motion on the floor passed with the following conditions 8-0.

- The City Engineer and the Conway Fire Department must approve the formulas and calculations for the containment.
 - Hours of operation for tanker trucks are 8 AM to 6 PM.
 - No external sound system is allowed.
 - A landscape buffer must be provided to screen neighboring residents and properties from the perimeter fencing that Multi-Chem is required by applicable state and federal regulations to install since it will be 6-foot chain link fencing with barbed wire along the top.
 - Signage must be monument style and conform to overlay district requirements (64 sq feet per face, 8 ft in height, monument).
 - The routes that must be taken by vehicles carrying hazardous chemicals must be approved by the Fire Department.
6. Consideration of accepting the low bid from Tom Lindsey Contractor Inc. for Siebenmorgen Road Improvements from Freyaldenhoven Lane to East German Lane.

Ronnie Hall, City Engineer, was present to answer questions. Mr. Hall stated that Tom Lindsey submitted the low bid of \$635, 340.10 and recommends that we award this to Mr. Lindsey. Alderwoman Smith motioned to accept this low bid. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 8-0.

C. Public Service Committee (Sanitation, Parks & Recreation, & Physical Plant)

1. Discussion of Conway Parks & Recreation concession stands.

Mayor Townsell stated that the concession franchise is up at this time and it has been advertised two (2) times and the City has not received any bids. When the current person, who had the franchise found this out, she explained to us why she was not willing to do it any longer. She is not willing to give up 10% of the revenues and pay so much on the bid work. Mayor Townsell believes they were getting \$5,000.00 from the six (6) month season and that did not include their own salaries. Mayor Townsell stated that she has come back and suggested if we cut out the fee and the 10% and do it for \$500.00, she would be willing to re-up the cities contract for this year. Mayor Townsell recommended to accept her offer. Alderman Brewer motioned to accept the bid and the \$500.00 fee be paid at the end of the season and this be renewable for one (1) year. Alderman Hawkins seconded the motion. There was no further discussion. The motion passed 8-0.

2. Consideration of entering into an agreement with the University of Central Arkansas for rental of Jefferson D. Farris Jr. Softball Fields for 2006.

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Alderman Smith motioned to enter into the agreement. Alderman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

3. Consideration of entering into an agreement with the University of Central Arkansas and Youth Softball Association of Conway for rental use of the Jefferson D. Jr. Softball fields at UCA for 2006.

Alderman Smith motioned to enter into the agreement. Alderman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

4. Consideration of accepting a bid & an ordinance appropriating funds for the purchase of a 2006 Komatsu Dozer H&E Equipment for the City Sanitation Department.

O-06-38

Cheryl Harrington, Sanitation Director was present to answer questions. Alderman Bell motioned to accept the low bid. Alderman Smith seconded the motion. There was no discussion. The motion passed 8-0. Alderman Bell motioned to waive the readings of the ordinance. Alderman Smith seconded the motion. The motion passed 8-0. Alderman Smith motioned to adopt the ordinance and the emergency clause. Alderman Jones seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Smith, Alderman Hawkins, Alderman Brewer, Alderman Weeks, Alderman Grimes, Alderman Whitmore, Alderman Bell, and Alderman Jones. The motion passed 8-0.

5. Ordinance waiving the bid process requirements for vehicle maintenance supplies for the Conway Sanitation Department.

O-06-39

Cheryl Harrington, Sanitation Director was present to answer questions. Alderman Smith motioned to waive the readings of the ordinance. Alderman Grimes seconded the motion. The motion passed 8-0. Alderman Smith motioned to adopt the ordinance. Alderman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Smith, Alderman Hawkins, Alderman Brewer, Alderman Weeks, Alderman Grimes, Alderman Whitmore, Alderman Bell, and Alderman Jones. The motion passed 8-0.

6. Ordinance waiving the bid process requirements for the Conway Sanitation Department and appropriation of recycling funds for the purchase of a freightliner day cab truck.

O-06-40

Cheryl Harrington, Sanitation Director, and Mr. Caplinger were present to answer questions. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Grimes motioned to adopt the ordinance. Alderman Hawkins seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Hawkins, Alderman Brewer, Alderman Weeks, Alderman Grimes, Alderwoman Whitmore, and Alderman Jones. The motion passed 7-0. Alderman Bell was no present at the time of the vote. Alderman Brewer motioned to adopt the emergency clause. Alderman Hawkins seconded the motion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Hawkins, Alderman Brewer, Alderman Weeks, Alderman Grimes, Alderwoman Whitmore, and Alderman Jones. The motion passed 7-0. Alderman Bell was not present at the time of the vote.

D. Public Safety Committee (Police, Fire, Dist. Court & City Att., & Animal Control)

1. Consideration of a bid for an outdoor warning siren from Harris System Group, Inc. for the City of Conway.

Alderman Hawkins motioned to approve the acceptance of this bid. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0. Alderman Bell was not present at the time of the vote.

2. Ordinance appropriating donated funds to the Conway Police Department for the National Law Enforcement Accreditation.

O-06-41

Alderman Bell motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderman Bell motioned to adopt the ordinance and the emergency clause. Alderman Hawkins seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Weeks, Alderman Grimes, Alderwoman Whitmore, and Alderman Jones. The motion passed. The motion passed 6-2. Alderman Brewer and Alderwoman Smith voted in opposition.

E. Finance

1. Discussion of banking service contracts for the City of Conway.

Mayor Townsell excused himself from the meeting as he and his wife are stock holders in First State Bank. Alderman Hawkins was asked to proceed with this segment of the meeting. Robin Scott, Chief Financial Officer, was present to answer

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questions. Ms. Scott stated that First State Bank has provided the City excellent service and also noted that she is able to call bank contacts at night if the need arises, which it has in the past. Ms. Scott went on to say that we have 16 accounts with First State Bank and have access to these accounts online and are able to make transactions online as well. Alderman Hawkins asked if this would include CD's. Ms. Scott stated no, that the City would continue to bid out all CD's as we do at the present time. Michael Murphy, City Attorney, stated that there is not aware of a statute that requires a bid process. Alderman Brewer stated that in the interest of seeing where the market is as far as what services are available that it would not hurt to do an RFP, since the Mayor told the banks that the bid process would happen again in five (5) years. Alderman Brewer motioned to do an RFP. Alderman Bell seconded the motion. There was no further discussion. The motion passed 5-1-2. Alderman Bell and Alderwoman Whitmore abstained.

2. Old Business

3. New Business

- A. Ordinance repealing the City of Conway Uniformed Employee's Code.

O-06-42

Mayor Townsell stated that under the Uniformed Employee Code you have to read any amendment, and the abolishment of it would be an amendment. The ordinance has to be read three (3) times and this is the first reading. Michael Murphy, City Attorney read the ordinance in its entirety.

- B. Consideration of the selection of two city council members to the "Old Conway" Ad Hoc Task force.

Alderman Grimes and Alderman Jones volunteered to serve on the Ad Hoc Task Force. Alderman Bell motioned to accept the volunteers. Alderwoman Smith seconded. There was no discussion. The motion passed 8-0.

Mayor Townsell stated that there are two (2) vacancies on the Parks Advisory Committee. Alderwoman Smith motioned to suspend the rules. Alderwoman Whitmore seconded the motion. The motion passed 8-0. The Mayor recommended Amy Shiew to fill one position. Alderman Bell motioned to accept the recommendation. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

A proclamation was read by Mayor Townsell to honor Conway citizens, Dr. Jack Logan and Mr. Bert Alexander, who passed away while on a mission trip. Alderman Hawkins motioned to adopt the proclamation. Alderman Bell seconded the motion. The motion passed 8-0.

Adjournment

There was no further discussion and the meeting was adjourned.

PASSED this 11th day of April 2006

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett