
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
August 28, 2007

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; Alderwoman Smith, Alderman Vaught, Alderman Hawkins, Alderman Bell, Alderman Jones, Alderman Grimes, Alderwoman Whitmore, and Alderwoman Mehl. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy.

1. *Call to Order*
2. *Roll Call*
3. *Minutes: August 7th, 2007 & August 21st, 2007*

Alderwoman Smith motioned to approve the August 7, 2007 and August 21, 2007 minutes as submitted. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

4. *Recognition of Guests: Employee Service Awards*

Teri Kahookele - CEOC - 5 yrs of service

5. *Public Hearings:*

- A. *Public hearing to discuss closing four utility/drainage easement in the North Market Plaza P.U.D.*

Mayor Townsell opened the public hearing. David Hall, Tyler Surveying, stated the request is to reduce the easements from 25 feet to 15 feet. Mayor Townsell closed the public hearing.

1. **Ordinance to close four utility/drainage easements located in the North Market Plaza P.U.D.**

O-07-100

Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Bell seconded the motion. The motion passed 8-0. Alderman Bell 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, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Bell, Alderwoman Whitmore, Alderman Jones and Alderwoman Mehl. The motion passed 8-0.

Alderwoman Smith motioned to suspend the rules to consider a UCA Impact Fee agreement. Alderman Grimes seconded the motion. The motion passed 8-0. Tom Courtway, General Counsel UCA, stated there is a disagreement of how these fees apply to a State institution under Arkansas State law and the ordinance itself. Mr. Courtway stated that the City and UCA have reached an agreement regarding four projects and UCA will pay \$61,585 in impact fees over four installments, in 6 month intervals, the last payment being paid in March 2009. The money would be used by the City of Conway for street improvements in an area in close proximity to the UCA Campus and neither party is waiving any rights on subsequent projects. Mayor Townsell feels this agreement is better than going to the claims commission. Alderman Grimes motioned to approve the impact fee agreement. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 7-0. Alderwoman Mehl abstained.

6. Report of Standing Committees:

A. Economic Development (Airport, Conway Corporation, CDC, Downtown Partnership)

- 1. Resolution accepting certain real property located at Stanley Russ Road and South Donaghey Avenue from Conway Corporation.**

R-07-23

Mayor Townsell stated the 1.75 acres is a gift from Conway Corp. and it has housed a temporary fire station for 6 years; a permanent fire station will be built there in the near future. Alderman Bell motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

- 2. Consideration to entering into an agreement with Huitt-Zollars to perform the engineering work required to update the environmental assessment for the relocated of the Conway Airport.**

Ronnie Hall, City Engineer, stated Huitt-Zollars has increased the estimated cost to \$41,870. This increase is due to the incorporation of the water fowl study and the City's adopted land use/land control plan into the environmental assessment, plus the impact these will have on the other issues in the environmental assessment. Mr. Hall stated that this cost is 95% refundable. Alderwoman Smith motioned to enter into the agreement. Alderman Bell seconded the motion. There was no further discussion. The motion passed 8-0.

Alderwoman Smith motioned to suspend the rules to consider the choice of an investment firm to handle the park bond issue. Alderman Bell seconded the motion. The motion passed 8-0. Mayor Townsell stated this is the bonding of the A & P tax (1 ¾ cent) and a decision on a bonding house needs to be determined. Paul Phillips, Cruz & Associates, addressed the council and explained that Cruz & Assoc. has a good working relationship with the city and would like the opportunity to execute this bond issue. Jack Trumper, Stephens Inc., addressed the council and stated his firm would also like to be part of this bond transaction. Mayor Townsell recommended naming Stephens Inc. as Senior Manager of underwriting, and split the sale of the bonds. Alderman Bell motioned to use Stephens Inc. and Cruz & Assoc. for the park bond issue. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 8-0.

Alderman Grimes motioned to move item 8D *"Consideration to move the next regular scheduled City Council meeting (Sept. 11, 2007) to an alternative date."* up on the agenda. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to move the Sept. 11, 2007 council meeting to Tuesday Sept. 18, 2007. Alderwoman Whitmore 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. Resolution setting a public hearing to abandon the existing 15 foot utility easement located along the common lot line between 17 & 18 in the I-40 South Commercial Park.**

Alderman Bell motioned to adopt the resolution. Alderman Grimes seconded the motion. The public hearing will be held Tuesday Sept. 18, 2007 at 6:30 p.m. There was no discussion. The motion passed 8-0.

- 2. Resolution setting a public hearing to abandon an alley running through Block 2 in the Srygley Addition.**

R-07-25

Alderman Bell motioned to adopt the resolution. Alderwoman Smith seconded the motion. The public hearing will be held Tuesday Sept. 18, 2007 at 6:30 p.m. There was no discussion. The motion passed 8-0.

- 3. Resolution setting a public hearing to abandon a utility easement located in the West Plains Subdivision.**

R-07-26

Alderman Bell motioned to adopt the resolution. Alderwoman Smith seconded the motion. The public hearing will be held Tuesday Sept. 18, 2007 at 6:30 p.m. There was no discussion. The motion passed 8-0.

- 4. Resolution setting a public hearing to abandon the east west alley lying in Block 14 in the Robinson's Plan.**

R-07-27

Alderman Bell motioned to adopt the resolution. Alderwoman Smith seconded the motion. The public hearing will be held Tuesday Sept. 18, 2007 at 6:30 p.m. There was no discussion. The motion passed 8-0.

- 5. Consideration of a parking lot variance for property located at 2350 Sanders Road.**

Chase Garrett, 523 Garrison Ave; Ste 102, Ft. Smith, AR, stated this is a simple request to allow them to get vehicular access back to their lot. Alderwoman Smith motioned to grant the variance. Alderman Bell seconded the motion. Ken Patel spoke in opposition of the variance because this would cut into his private street. Mayor Townsell asked if La Quinta has an easement across lot 4. Mr. Garrett stated no, they have an easement across lot 5 (Outback property) and only an existing utility easement to the north of lot 4. Bryan Patrick, Planning Director, stated he

believes the access easement was a part of the platted property and is for anyone to use. Alderman Hawkins motioned to hold this item in committee for further review. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 8-0.

6. Consideration of a parking lot variance for property located at 308 Salem Road, Lot 17 Valley Creek Subdivision, across from Wicket Drive.

Bill Adkisson, Attorney at Law, stated given the unique layout, which is approximately 100 ft wide, north and south, this variance is needed to make the layout feasible, and they were unable to work out an agreement, to create a common drive, with the church next door. Alderman Bell asked how far the church driveway is from the lot line. Mr. Adkisson stated approximately 10-12 feet. Pastor Glen Winston stated the church needs both exits to accommodate their needs due to high traffic everyday except Thursdays. Alderwoman Whitmore asked if there is a way to move the driveway further south. James Ross stated it could but it would not be very desirable as it would be hard to get in and out of. Alderman Bell asked if the plans could be reversed. Mr. Ross stated yes. Alderman Vaught motioned to grant the variance. Alderman Hawkins seconded the motion. Alderman Jones stated he feels the drive should be moved further south. Mayor Townsell stated if it is moved further south there will be a conflict with Wicket St. There was no further discussion. The motion passed 6-2. Alderman Jones and Alderwoman Whitmore voted in opposition.

7. Ordinance to rezone property at 4555 Prince Street from A-1 to O-2.

O-07-101

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. Alderwoman Smith seconded the motion. Kim Tyler, Tyler Surveying, stated at the present time there are no definite plans for this property but the owners did wish to re-zone to O2. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Bell, Alderwoman Whitmore, Alderman Jones and Alderwoman Mehl. The motion passed 8-0.

- 8. Ordinance to rezone property located immediately South of the former intersection of Harkrider and closed Clayton Street with an address of 1265 Harkrider from MF-3 to C-3.**

O-07-102

Alderman Bell motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Allan Shafer 6 Colton Ln.; Conway, AR, stated he would like to rezone this property to C-3 for ATV sales. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Bell, Alderwoman Whitmore, Alderman Jones and Alderwoman Mehl. The motion passed 8-0.

- 9. Ordinance to rezone property located to the southeast of the large curving intersection of Meadowlake Rd and Salem Rd from A-1 and RMH to R-1.**

O-07-103

Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Bell seconded the motion. The motion passed 8-0. Alderman Bell 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, Alderman Vaught, Alderwoman Smith, Alderman Bell, Alderwoman Whitmore, Alderman Jones and Alderwoman Mehl. The motion passed 8-0.

- 10. Ordinance to rezone property located at 2415 Old Morrilton Highway (Highway 64 West) from R-2 to C-3.**

Mayor Townsell stated since this area will be under substantial developmental pressures over the next few years, in part due to the new interchange, the city does not feel that our Comprehensive Land Use Plan adequately addresses land use types and zoning; and proper planning needs to be completed. Mayor Townsell recommends this item be held in committee until the city can address planning and zoning along this entire corridor. Bryan Patrick, Planning Director, stated the Planning Dept. has looked at this rezoning request and they do not feel this is an appropriate

zoning at this time and feels that further in depth planning is needed. Alderman Bell concurred with Mr. Patrick. Alderman Bell motioned to hold this item in committee. Alderwoman Mehl seconded the motion. Fran Padgett, property owner, stated that access to this property, by next year, will be from Salem Rd. and that the traffic count now on Hwy. 64 is between 15,000 - 20,000 cars. Ms. Padgett feels with this type of traffic count their 244 ft of road frontage does not fit the zoning of residential or even multi-family. Robert McHughes, 2363 Old Morrilton Hwy., stated he would like to see Hwy 64 in its natural state and keeping it residential as far out as possible. There was no further discussion. The motion passed 8-0.

11. Consideration of a conditional use permit for Retail - Restricted for property located along College Avenue and extended between Prince Street and Wescon Lane.

Alderman Hawkins motioned to approve this conditional use permit with attached conditions. Alderman Bell seconded the motion. Bill Adkisson, property owner, stated this property is approximately 8 acres and has been platted into 8 lots; he would like to develop it in a manner that is consistent with the neighborhood to the north and asks the council approve this request for up to 45% for restricted retail. Mr. Adkisson asked that the council not restrict the number of curb cuts and allow him to work with the planning department on the issue of curb cuts. Mr. Adkisson added he would like to divert Wescon through the middle of what are lots 18 and 19 so it would be a 90 degree angle as it approaches College. Alderman Bell motioned to strike conditions 4 and 5. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0. There was no further discussion on the main motion on the floor. The motion passed 8-0. The conditions set out in this conditional use permit are as follows:

- 1) Development must conform to new proposed design standards. The standards include regulations concerning:
 - a. Tree preservation.
 - b. Site Coverage
 - c. Architectural Characteristics (Massing, Facade, Large Box-like Structures).
 - d. Curb cuts, Parking Access, Cross Access.
 - e. Screening and fencing (including service areas)
 - f. Landscaping

- g. Lighting
- h. Sidewalks

- 2) Buildable square footages will be limited to 45% restricted retail and 55% O-3 uses.
- 3) A 20 foot buffer shall be provided and maintained along the north property line.

12. Consideration of a conditional use permit for daycare and parking lot for property located at 1260 Markham Street.

Alderman Hawkins motioned to grant the conditional use permit with the attached conditions. Alderman Jones seconded the motion. Leona Walton, 1313 Factory St, stated that State law does not require a privacy fence, just a fenced in play area but she will try to do what the Old Conway Design Review board suggests. Alderman Hawkins motioned to change condition #6 to *"Hours of operation shall be 6:00 a.m. to 7:00 p.m., Monday through Friday."* Alderwoman Whitmore seconded the motion. The motion passed 8-0. There was no further discussion on the main motion on the floor. The motion passed 8-0. The conditions set out in this conditional use permit are as follows:

- 1) Old Conway Design Review Board standards apply to this project.
- 2) As required by Section 601.10 of the Zoning Ordinance, all outdoor play areas shall be fenced with a privacy fence not less than 6 feet high.
- 3) Additional privacy fencing, not less than 6 feet high shall screen adjoining residences.
- 4) As required by Section 601.10 of the Zoning Ordinance, signage is limited to a non-illuminated wall sign no more than 4 square feet in area. No free standing or other signs are permitted.
- 5) As required by Section 601.10 of the Zoning Ordinance, the maximum number of children allowed is fifty-seven (57).
- 6) Hours of operation shall be 6:00 a.m. to 7:00 p.m., Monday through Friday.
- 7) No outdoor speaker system allowed.

13. Ordinance amending Ordinance O-03-136 that requires buildings to be built with their lowest finish floor elevation no less than sixteen inches (16") above grade.

O-07-104

Mayor Townsell stated this should really say normal grade. Ronnie Hall, City Engineer, was in agreement. Mr. Hall stated the existing ordinance states you must have 16 inches at the edge of the building above the ground to the finished floor. Rausch Coleman (Crossing at the Green) would like to have the ordinance changed to allow them to only have 8 inches at the building and make sure the ground slopes away from the building to a point that is at least 12 inches below the building; an engineer would also prepare a grading plan that would ensure water sheds away from the sight and no flooding potential exists. This will probably be an issue in The Village at Hendrix, because when you get buildings that butt up against one another you have this type of issue. Mayor Townsell stated the critical point here is there will be a professional engineer/land surveyor doing this and certifying the requirements of the ordinance are being met. Where a general building permit is involved the project would require the 16 inch rule. Alderman Grimes voice his concerns about changing the ordinance because the potential for flooding in Conway is a concern and the higher you can build the better. Mr. Hall stated in addition to this requirement, the subdivision developer has to determine a 100 year flood elevation and set the floor elevation 2 feet above that level; so you are addressing the flooding issue when determining the 100 year flood issue, and this situation is for yard/street flooding that could flow into a carport that has happened in the past. David Starkey, Rausch Coleman, stated one goal with his company is that all their buildings be on a hill to provide drainage and traditionally we compact the soil in each lot, slope it and put drainage in between each building which sometimes is only 10 feet and if we do this on the front end it provides all the drainage that is needed. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Bell motioned to adopt the ordinance and the emergency clause. Alderwoman Smith seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Bell, Alderwoman Whitmore, Alderman Jones and Alderwoman Mehl. The motion passed 8-0.

14. Ordinance appropriating funds for the Downtown Conway Sidewalk renovations Phase III (Oak Street - Front Street to Chestnut St.).

O-07-105

Aldерwoman Smith motioned to waive the readings of the ordinance. Aldерwoman Whitmore seconded the motion. The motion passed 8-0. Aldерman Hawkins motioned to adopt the ordinance. Aldерman Bell seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Aldерman Hawkins, Aldерman Grimes, Aldерman Vaught, Aldерwoman Smith, Aldерman Bell, Aldерwoman Whitmore, Aldерman Jones and Aldерwoman Mehl. The motion passed 8-0.

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

- 1. Ordinance appropriating revenue funds to the Conway Sanitation Department.**

O-07-106

Aldерwoman Smith motioned to waive the readings of the ordinance. Aldерman Bell seconded the motion. The motion passed 8-0. Aldерman Bell motioned to adopt the ordinance. Aldерman Jones seconded the motion. \$1,777.71 shall be appropriated from the Sanitation Enterprise Fund Insurance Proceeds account (50.512) to the Equipment Repairs Operating Account (50.118.235.) There was no discussion. The clerk called the roll with the following voting "Aye": Aldерman Hawkins, Aldерman Grimes, Aldерman Vaught, Aldерwoman Smith, Aldерman Bell, Aldерwoman Whitmore, Aldерman Jones and Aldерwoman Mehl. The motion passed 8-0.

- 2. Consideration of a boat dock permit for property located at 60 Lakeview Drive.**

James Burnside, Beaverfork Caretaker, was present to answer questions. Aldерman Bell motioned to approve the permit. Aldерman Grimes seconded the motion. There was no discussion. The motion passed 6-2. Aldерman Vaught and Aldерwoman Mehl voted in opposition.

- 3. Consideration of a boat dock permit for property located at 44 Southshore Lane.**

James Burnside, Beaverfork Caretaker, was present to answer questions. Aldерman Bell motioned to approve the permit. Aldерman Grimes

seconded the motion. There was no discussion. The motion passed 6-2. Alderman Vaught and Alderwoman Mehl voted in opposition.

4. Consideration to enter into a lease agreement with the Conway School District for five acres of property located on Bob Courtway.

Mayor Townsell stated this property is located on the corner of Bob Courtway and Siebenmorgen Rd. and will be a part of the girl's softball complex; the lease is for a period off 99 years for \$1.00 per year. Alderman Bell motioned to enter into the lease agreement. Alderwoman Smith seconded the motion. Alderman Vaught expressed his concerns over this agreement as he has spoken with the Freyaldenhoven family and they feel that their first right of refusal has been overlooked. There was no further discussion. The motion passed 7-1. Alderman Vaught voted in opposition.

5. Consideration of a proposal from RWA Landscape Architects for the Pompe Park Master Plan.

Mayor Townsell stated the total for this master plan process is \$28,000.00 and recommended the city proceed with this. Alderwoman Smith motioned to approve the acceptance of the proposal. Alderman Bell seconded the motion. There was no discussion. The motion passed 8-0.

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

1. Consideration for the CFD to purchase two pick-up trucks with funds from the "pay as you go" portion of the 2006 Sales & Tax use bonds.

Alderman Bell motioned to enter into the contract to purchase the two trucks with pay as you go sales tax proceeds. Alderwoman Smith seconded the motion. Bart Castleberry, Fire Chief, was present to answer questions. There was no discussion. The motion passed 8-0.

2. Ordinance waiving bids for the Conway Fire Department to purchase two pickup trucks.

O-07-107

Alderman Bell motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0.

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, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Bell, Alderwoman Whitmore, Alderman Jones and Alderwoman Mehl. The motion passed 8-0.

7. *Old Business*

- A. **Ordinance clarifying procedures and permit requirements and providing for third party review of the fire code requirements for building construction or alteration.**

O-07-108

Mayor Townsell reiterated that this is for very particular categories that he feels are important to life safety and in our handling and awareness of hazardous materials. Bart Castleberry, Fire Chief, stated this is high category review for high hazard occupancy; the cost will be approximately between \$300.00 and \$800.00. Chief Castleberry stated our main goal is aimed at the housing of hazardous materials inside a structure and this will allow the city to bring in a third party to review the circumstances and give us a good idea what a business needs to do. Mayor Townsell stated in "*Section 2*" we should consider adding a section "*e*" which will cover "*any other building containing hazardous occupancies*". Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderwoman Mehl seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Bell, Alderwoman Whitmore, Alderman Jones and Alderwoman Mehl. The motion passed 8-0.

Chief Bart Castleberry stated in the past few months the gas industry has boomed in the area and we have had situations where we have accidentally caught businesses operating in Conway we were unaware of. One example is in the vicinity of Airport Rd.; contractors built a building according to code but then leased to businesses that the Fire Dept. is concerned about. Chief Castleberry went onto say that there are other businesses that warrant concern because they are not permitted; we do not know their threshold limits and we really don't know what they are

storing. These businesses have been located by the pre-fire survey that is conducted by the Fire Dept.

8. *New Business*

- A. Ordinance amending Ordinance O-07-85 (ice cream ordinance) as it relates to CDL license.**

O-07-109

The City Clerk, Michael Garrett, stated the CDL license is more than the State of Arkansas required. Alderman Bell motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderman Bell seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Bell, Alderwoman Whitmore, Alderman Jones and Alderwoman Mehl. The motion passed 8-0.

- B. Ordinance appropriating funds for the City Council to attend the National League of Cities: Congress of the Cities & Exposition in New Orleans, LA.**

O-07-110

Alderman Bell motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderwoman Whitmore seconded the motion. The cost of the business trip shall not exceed \$9,000.00. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Bell, Alderwoman Whitmore, Alderman Jones and Alderwoman Mehl. The motion passed 8-0.

- C. Consideration to enter into a lease agreement with First State Bank for two hour downtown parking spaces.**

Mayor Townsell stated this is necessary due to the downtown construction to help the businesses being affected by the construction the amount has yet to be determined but would be up to \$2,000.00 per month.

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Alderman Hawkins motioned to enter into the agreement. The motion passed 8-0.

- D. **Consideration to the move the next regular scheduled City Council meeting (September 11, 2007) to an alternative date.**

Item moved up on the agenda.

Adjournment

There was no further discussion and the meeting was adjourned.

PASSED this 28th day of August 2007

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett