
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
October 14, 2008

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 Smith, Alderman Vaught, Alderman Jones, Alderwoman Mehl, Alderman Thompson, Alderwoman Whitmore, and Alderman Grimes. 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: September 23rd, 2008*

Alderwoman Smith motioned to approve the Sept. 23, 2008 minutes as submitted. Alderwoman Mehl seconded the motion. The motion passed 8-0.

4. *Recognition of Guests: Conway Police Department and Planning & Development*

A.J. Gary, Chief of Police, recognized our three newest officers, Adam Bledsoe, Andrew James, and Derek Flowers. Chief Gary introduced Kevin Rice with the United States Secret Service who gave a brief presentation in which he recognized assistance given by Conway Police Officers over the past few months.

Mayor Townsell recognized the Conway Planning Awards as follows:

Aesthetics Award – Conway Downtown Partnership
Conceptual Design Award – Old Chicago Pizza/Does' Eat Place
Historic Neighborhoods Award – Hendrix College
Special Contribution Award – Caldwell Toyota

Alderwoman Smith motioned to suspend the rules to move items 8-A and 8-B up on the agenda and add an ordinance for consideration for Hewlett Packard. Alderman Grimes seconded the motion. The motion passed 8-0.

Consideration to enter into an agreement with Energy Systems Group and an ordinance authorizing the execution and delivery of a guaranteed efficiency savings performance contract for the purpose of arranging for certain energy system upgrade at City Facilities.

O-08-121

Gordon Wilbourn; Kutak Rock LLP, was present to answer questions. Mayor Townsell read the title of the ordinance for the first time. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Mayor Townsell read the title of the ordinance for the second time. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 8-0. Mayor Townsell read the title of the ordinance for the third time. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Smith seconded the motion. Michael Murphy, City Attorney, stated it is his understanding that the statutes requires that the aggregate guarantee savings be protected by a bond and attachment B1 shows the bond is in effect for one year and they have the option to renew, but what happens if they don't renew. Mr. Wilbourn stated if they don't renew, the contractor has to put up cash, another bond, or a letter of credit. Mr. Murphy asked how the city would be notified of this. Mr. Wilbourn stated the surety is to give thirty days notice to the city of the termination date each year to let the city know if they are going to renew. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

An ordinance authorizing the execution and delivery of a trust indenture securing certain taxable industrial development revenue bonds previously authorized by the city.

O-08-122

Gordon Wilbourn, Kutak Rock LLC, explained that the bond issuance and the bond purchase agreement were approved last week, but what was not approved were the lease agreement, trust indenture, and the PILOT (pay in lieu of tax) agreement. Mayor Townsell read the title of the ordinance. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Mayor Townsell read the title of the ordinance for the second time. Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Grimes seconded the motion. The motion passed 8-0. Mayor Townsell read the title of the ordinance for the third time. Alderman Hawkins 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 Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

5. Public Hearings: None

6. Report of Standing Committees:

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

- 1. Ordinance waiving bids for the purchase and repair of traffic signal equipment for the Conway Street Department.**

O-08-123

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Allen Alvey, Street Dept., was present to answer questions. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. 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, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

- 2. Ordinance appropriating funds for the Conway Tree Board to pay for expenses associated with the 2008 Arbor Day celebration.**

O-08-124

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. 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 Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

- 3. Resolution establishing the intent of the City to annex land west of Mill Pond Road and East and South of Cresthaven subdivision.**

R-08-28

Jason Lyons, Planning & Development Dept., explained the resolutions before you tonight shows the cities intent to annex the remaining five islands within the city; if the resolutions pass tonight a public hearing can be held on Tuesday November 11, 2008. Once the public hearing is held the ordinances can be placed on the Tuesday November 25, 2008 council meeting agenda. Alderman Thompson motioned to pass all five resolutions R-08-28 through R-08-32. Alderman Vaught seconded the motion. There was no discussion. The five resolutions passed 8-0.

- 4. Resolution establishing the intent of the City to annex land west and north of South Donaghey Ave, south of Spring Valley and Justin Place subdivisions and east of South Salem Road.**

R-08-29

Passed above with item 6A-3.

- 5. Resolution establishing the intent of the City to annex land west of East German Lane and North of East Siebenmorgen Road.**

R-08-30

Passed above with item 6A-3.

- 6. Resolution establishing the intent of the City to annex land south of Bill Lucy Road, 225 feet east of Trison Road and 330 feet north of East Siebenmorgen.**

R-08-31

Passed above with item 6A-3.

- 7. Resolution establishing the intent of the City to annex land east of Makenna Cove subdivision, south of Lower Ridge Road, west of East German Road and North of Bill Lucy Road.**

R-08-32

Passed above with item 6A-3.

- 8. Discussion/Ordinance amending the sign ordinance of the Conway Zoning Ordinance.**

Bryan Patrick, Planning & Development Director, explained this came about due to recent LED questions raised in regards to some loop holes regarding electronic message boards. Mr. Patrick gave a synopsis on the proposed amendments which includes signs prohibited (section 2:01), changeable copy (section 2:07), determination of legal nonconformity (Section 4.01), variances for signs (section 6.06), inventory and abatement (section 6:11), and definitions (section 8.0). Alderwoman Smith motioned to hold this item in committee until the city attorney's office can review. Alderwoman Smith seconded the motion.

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

- 1. Consideration to approve bids for an articulated hauler for the Sanitation Dept.**

Cheryl Harrington, Sanitation Director, recommend accepting the low bid from H & E Equipment Services in the amount of \$368,749.00. Alderwoman Whitmore motioned to accept the low bid. 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 Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

- 2. Consideration to approve a boat dock permit for property located at 54 Hwy 25.**

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Richard Howe, property owner, and James Burnside, Lake Beaverfork Caretaker, were present to answer questions. Mayor Townsell stated that this boat dock conforms to the cities requirements and that an engineer has signed off that the structure is structurally sound. Alderman Hawkins motioned to approve the boat dock permit. Alderman Grimes seconded the motion. There was no discussion. The motion passed 6-2. Alderman Vaught and Alderwoman Mehl voted in opposition.

3. Consideration for approval for selling sponsorships for the scoreboards that will be located at the City of Colleges Park.

Rhonda Cox, Parks Dept., was present to answer questions. Mayor Townsell explained the Parks Dept. is recommending these sections be sold to anyone who wishes to sponsor the field for a period of five years for \$5,000.00 with the exception of the championship field which will cost \$7,000.00. Alderwoman Smith motioned to approve the sponsorships. Alderwoman Whitmore seconded the motion. Alderman Hawkins asked how we came up with these figures. Mayor Townsell explained that the Parks Dept. called other cities to see what they charged. Alderman Hawkins explained he feels we are short changing ourselves and feels we should shorten the first contract to three years rather than five years but keep the sponsorship fee the same. Alderman Hawkins motioned to shorten the term from five years to three years. Alderman Grimes seconded the motion. There was no discussion. The motion passed 5-3. Alderwoman Smith, Alderman Jones, and Alderwoman Whitmore voted in opposition. Alderwoman Mehl motioned that we reserve the three spots for the colleges/universities and have some type of selection process for the remaining two fields. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0. Alderwoman Smith motioned to approve the scoreboard sponsorship program as amended. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

4. Consideration of a recommendation from Council for an unauthorized boat dock owned by Phillip Brown located at 26 Lakeview Drive.

James Burnside, Lake Beaverfork Caretaker, explained that he noticed some modifications being done by the property owner last year and asked Mr. Brown to stop construction and to get with him in regard to what to do to meet the cities guidelines. Mr. Burnside stated that he never heard from Mr. Brown and while he was back in the area he noticed the dock was completed. Mr. Burnside stated he notified Mr. Brown that he needed to come in and fill out the paperwork and do this according to the cities regulations; he again heard nothing from Mr. Brown. Mr. Burnside stated he again contacted Mr. Brown earlier this year and Mr. Brown stated he never received the paperwork so Mr. Burnside emailed the paperwork to him again; again he never heard from Mr. Brown however he did receive payment for his regular dock fee. Mr. Burnside stated he sent out final notices to all individuals who had not yet paid their fees and also mailed Mr.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Brown asking for the proper documentation to be submitted as stated by city ordinance. Mr. Burnside stated he did not hear from the Brown's until the deadline date for the agenda for this council meeting and asked council how to proceed. Mayor Townsell asked if anything he has built is in non-compliance of the city's ordinance. Mr. Burnside stated he believes that the dock is oversized even though he does not have the dimensions. Alderman Hawkins asked if there are fines that can be imposed on this. Mr. Burnside stated the fines range from \$20.00 to \$200.00. After some discussion Michael Murphy, City Attorney, stated he feels that we should have the Parks Dept. send a notice of intent to terminate the permit, whether written or implied, by certified mail and by regular mail and give the Brown's the opportunity to come before the council; at that point council can, under the ordinance, have the structure removed if so desired. Alderman Hawkins motioned to pursue the intent to terminate the boat dock permit from the Brown's. Alderman Thompson seconded the motion. There was no discussion. The motion passed 8-0.

5. Consideration to enter into a partnership with the Memphis Grizzlies to provide a youth basketball program with the Parks & Recreation Department.

Rhonda Cox, Parks Dept. was present to answer questions. Mayor Townsell explained that this will consist of the Parks Dept. building a \$20.00 fee into the registration of their basketball program. Ms. Cox briefly explained the benefits of the partnership. Alderwoman Smith motioned to approve entering into a partnership with the Memphis Grizzlies. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 8-0.

6. Consideration of amending the agreement with Carter & Burgess to include architecture services for the new fairgrounds.

Alderman Hawkins motioned to hold this item in committee. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

C. Public Safety Committee (Police, CEOC, IT Technology, Fire, Dist. Court & City Att., & Animal Control)

1. Ordinance accepting a collection of the Arkansas Code for the City of Conway.

O-08-125

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Michael Murphy, City Attorney, stated he is donating these books that his office has been using and then the city can purchase any future updates as needed. Alderwoman Smith motioned to accept the collection of Arkansas Code. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

2. Ordinance appropriating funds for civil service expenses related to police testing for the City.

O-08-126

Alderman Hawkins 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 Mehl 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 Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

3. Ordinance waiving competitive bids for the purchase of two police vehicles for the Conway Police Department.

O-08-127

A.J. Gary, Chief of Police, stated the funds for these vehicles are in their budget but purchase from state contract is unavailable at this time so it is necessary to waive bids. Ralph Sreeton, Fleet Maintenance Manager, stated these are priced below the 2008 state contract price. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Whitmore motioned to adopt the ordinance. Alderwoman Smith seconded the motion. It was determined the need to add an emergency clause. Alderwoman Whitmore motioned to adopt 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 Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 8-0.

4. Consideration of the reclassification of Animal Welfare Officers and Managers.

A.J. Gary, Chief of Police, explained it has been brought to his attention that there are two different non-sworn enforcement rates and he is requesting the reclassification of Animal Welfare Officer's/Manager position's to the same rate as the parking enforcement officer and the code enforcement officers. Alderwoman Smith motioned to approve the reclassifications. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 8-0.

D. Personnel

1. Consideration to enter into an agreement with JESAP/DB Squared for a job evaluation and salary administration program.

Lisa Mabry-Williams, Human Resource Director, was present to answer questions. Mayor Townsell stated this software will give us structure and equate our positions against one another but it will also provide us salary scaling and benchmarking against other cities. This involves a three year licensing agreement in which we would pay \$13,350.00 the first year, \$11,125.00 the second and third year; based on an employee count of 455. This includes a market update fee comparing our positions with other cities markets which will cost \$3,000.00 per year, there is also a \$150.00 per hour consulting fee (up to 40 hours) that has been figured in as well which is approximately \$6,000.00; the total if approved for this year's budget is \$22,350.00 and the next two years will budget \$11,125.00 for the software licensing. Mayor Townsell feels this is a good program that will help our Human Resource Dept. Alderman Hawkins motioned to enter into the agreement. Alderwoman Whitmore seconded the motion. Alderman Vaught expressed his concerns over spending this kind of money on software when we already know what other cities pay. Mayor Townsell stated the salary study is only \$3,000.00 of this program, we have the report from the municipal league which shows averages but does not give us the scale of other cities pay grades. The rest of the program is a program by which you can evaluate, through objective criteria all the jobs within the city, the duties related to these jobs which gives you a point total that you scale those jobs and where their pay scale should be verses other jobs. There was no further discussion. The motion passed 7-1. Alderman Vaught voted in opposition.

2. Ordinance appropriating funds for a job evaluation and salary administration program for the City of Conway.

O-08-128

Mayor Townsell stated the amount of funds needed is \$22,350.00. 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. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderwoman Smith, Alderman Thompson, Alderman Jones, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 7-1. Alderman Vaught voted in opposition.

7. Old Business

8. New Business

A. Consideration to enter into an agreement with Energy Systems Group.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Item moved up on the agenda.

- B. Ordinance authorizing the execution and delivery of a guaranteed efficiency savings performance contract for the purpose of arranging for certain energy system upgrade at City Facilities.**

Item moved up on the agenda.

Adjournment

PASSED this 14th day of October 2008

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett