
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
October 28, 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, Alderwoman Mehl, Alderwoman Whitmore, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy. Alderman Jones and Alderman Thompson were not in attendance.

1. *Call to Order*
2. *Roll Call*
3. *Minutes: October 8th & October 14th, 2008*

Alderwoman Whitmore motioned to approve the October 8, 2008 and October 14, 2008 minutes as submitted. There was no discussion. The motion passed 6-0.

4. *Recognition of Guests: Employee Service Awards*

5 Years

James Gauvey - Sanitation

Felicia Rogers - Administration, Mayors Office

10 Years

Tony Parker - Street Dept.

Amanda Stanton - City Attorney's Office

Bryan Patrick - Planning & Development

5. *Public Hearings: None*

6. *Report of Standing Committees:*

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

1. **Resolution authorizing the Mayor to sign an extension of the power coordination and interchange agreement between Entergy Arkansas and the City.**

R-08-33

Richie Arnold, CEO Conway Corporation, gave a brief synopsis of the extension agreement which is set to expire in 2010 this will extend the term date to 2015.

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Alderman Smith motioned to adopt the resolution. Alderman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

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

- 1. Consideration to change the next regular scheduled City Council meeting (November 11th, 2008) to an alternative date.**

Alderman Grimes motioned to move the November 11, 2008 council meeting to Tuesday November 18, 2008. Alderman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

- 2. Resolution setting a public hearing to discuss the closure of a 20' alley lying in Block 73 of the Boulevard Addition.**

R-08-34

David Tyler, Tyler Surveying and Mapping, was present to answer questions. Alderman Smith motioned to adopt the resolution. Alderman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

- 3. Consideration to purchase the residual 0.69 acres of right of way from Mr. Johnny Irby for the Salem Road Extension to U.S. 64.**

Ronnie Hall, City Engineer, explained that Hometown Subdivision was unable to reach a suitable agreement with Johnny Irby and Mr. Hall requested the city purchase the right of way from Mr. Irby for \$34,500.00. Alderman Hawkins motioned to purchase the right of way from Mr. Irby. Alderman Smith seconded the motion. There was no discussion. The motion passed 6-0.

- 4. Ordinance accepting the annexation of land on Prince Street and Lee Andrew Lane to the City.**

O-08-129

Alderman Smith motioned to waive the readings of the ordinance. Alderman Whitmore seconded the motion. The motion passed 6-0. Alderman Hawkins motioned to adopt the ordinance and the emergency clause. Alderman Smith seconded the motion. Robert Henry, Attorney at Law, was present to answer questions. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderman Smith, Alderman Whitmore, and Alderman Mehl. The motion passed 6-0.

5. **Ordinance to rezone property located at 2100 Spring Valley Drive, east of KIDZ University and south of Ellen Smith Elementary School, from A-1 to O-2.**

O-08-130

Alderman Smith motioned to waive the readings of the ordinance. Alderman Whitmore seconded the motion. The motion passed 6-0. Alderman Smith motioned to adopt the ordinance. Alderman Hawkins seconded the motion. Alderman Whitmore asked why this was not submitted as a conditional use request. Bryan Patrick, Planning & Development Director, stated the Planning Dept. suggested a conditional use, but the applicant did not want any conditions placed on the property. Michelle Gillum, applicant, stated she is requesting the rezoning in order to offer professional tutoring service after hours. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, and Alderman Mehl. The motion passed 5-2 with the Mayor voting with the majority. Alderman Smith and Alderman Whitmore voted in opposition.

6. **Ordinance to allow indoor firing range in the I-3 Industrial Zoning District with a conditional use permit.**

O-08-131

Alderman Smith motioned to waive the readings of the ordinance. Alderman Whitmore seconded the motion. The motion passed 6-0. Mayor Townsell stated that this is an amendment adding in this particular option to our permitted land use/zoning chart. Alderman Hawkins asked if we have a request for a firing range. Bryan Patrick, Planning & Development Director, stated yes, we have been approached by a gentleman who wished to open an indoor firing range, but after review of the zoning ordinance there was nothing in place to allow this type of facility. Mr. Patrick explained after researching other cities methods to allow an indoor range it was decided that a conditional use permit would be sufficient for placement in an industrial zone. Alderman Grimes motioned to adopt the ordinance. Alderman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Grimes, Alderman Vaught, Alderman Smith, Alderman Whitmore, and Alderman Mehl. The motion passed 6-0.

7. **Ordinance rezoning property located at 2730 Dave Ward Drive from RMH to MF-1.**

O-08-132

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Frank Shaw, Attorney at Law, was present to answer questions. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion failed 5-1. Alderman Hawkins voted in opposition. Alderman Grimes suggested that the presentation be put off until the ordinance can be considered. Mayor Townsell read ordinance O-08-132 for the first time. Alderman Grimes motioned to hear the presentation of this ordinance at the time the ordinance can be voted on. Alderwoman Smith seconded the motion. The motion passed 5-1. Alderman Hawkins voted in opposition.

8. Consideration of a conditional use permit to allow MF-2 density for property located at 2730 Dave Ward Drive.

Alderman Hawkins motioned to hold this item in committee. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 5-2 with the Mayor voting with the majority. Alderwoman Smith and Alderwoman Whitmore voted in opposition.

9. Ordinance to rezone property located on the northwest corner of the intersection of South Donaghey Avenue and Moix Boulevard from O-1 to MF-3.

Alderman Hawkins motioned to adopt the ordinance. Alderwoman Smith seconded the motion. Jim Edwards, property owner, Woodland Springs, stated he never received a notice of the rezoning and lives within 200 feet of the property and is against the proposed rezoning. Mayor Townsell asked Planning & Development Director Bryan Patrick about notification. Mr. Patrick stated he checked the sign placement the Monday after the deadline and it was in place. Mr. Patrick went onto say that our zoning ordinance mimics Arkansas Law that notification be sent to any property owner within 200 ft of the boundaries of property; notification was sent out to according to Faulkner County Assessor's office records and he believes that due notification was satisfied. There was discussion among council and City Attorney Michael Murphy in regards to procedures of registered mail. Mr. Murphy stated that no matter how Mr. Edwards found out he is here now. Mr. Edwards stated there is a "for sale" sign on his property with his phone number and believes that he could have been called. Alderman Vaught asked Mr. Patrick if he could retrieve the list of property owners that notifications were sent to from his office in City Hall. Mr. Patrick stated yes. Glen Kimble, property owner 925 Enderlin Dr., states he lives close to the property in question and is opposed to the rezoning due to increased traffic congestion. Mayor Townsell asked Mr. Kimble what lies between this property and his property. Mr. Kimble stated a vacant lot. Mayor Townsell stated if that vacant lot is over 200 ft. the Planning Dept. is not legally required to notify you. Gene Salter, 2915 St Charles, stated he has been working with the property owners in order to build a high density apartment complex and requests the rezoning of the southern 15 acres of this parcel; we are encompassed

by R-2 and MF-3 properties, the property does not abut any residential areas, and we have tried to address all issues with property owners. After retrieving his file from City Hall Mr. Patrick verified that Mr. Edward's letter was sent to the vacant lot address instead of his home address and confirmed online that the tax assessor's record showed his address as 1005 Summerwood; he is unsure how this mistake happened. Mayor Townsell asked Mr. Patrick if he feels this was adequate notification. Mr. Patrick stated no. Mr. Murphy stated that Mr. Edwards can waive notice from the Planning Commission and discuss this item tonight or he can choose to not waive the notice procedure and have this process start over. Mr. Edwards stated he does not choose to waive notice. Mayor Townsell explained that due to Mr. Edwards not waiving his right to notification this process must start over.

10. Consideration of conditional use permit to allow retail – general and hotel for property located along the south side of Dave Ward Drive on both sides of Moix Boulevard.

Gene Salter, 2915 St Charles, explained we have worked with the Planning Dept. and rather than request a rezoning they decided to go with a conditional use request to build a hotel on this property. Alderman Hawkins asked if there were any additional curb cuts planned on Dave Ward Dr. Mr. Salter he is not sure if any curb cuts are needed and stated in order to do add any curb cuts they would have to be approved by the City of Conway, the Arkansas Highway Dept., and Metroplan. Alderman Hawkins motioned to grant the conditional use permit with the one condition attached. Alderwoman Whitmore seconded the motion. Felix Moix Jr, 1830 Stanley Russ Rd, spoke in favor of the conditional use request. Irvin McKittrick, 980 Enderlin Dr., spoke in opposition of the conditional use request citing concerns over unknown curb cuts and increased traffic congestion in the area. There was no further discussion. The motion passed 6-0.

11. Discussion/Ordinance amending the sign ordinance of the Conway Zoning Ordinance.

O-08-133

Mayor Townsell explained this will change the language of the sign ordinance within the zoning ordinance to clarify the cities intent on banning message boards. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore 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, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 6-0.

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

- 1. Ordinance waiving bids & entering into an agreement for contracted services with Terracon Consultants for the Conway Sanitation Department.**

O-08-134

Mayor Townsell explained since the Sanitation Dept. is required to have testing done by several agencies we feel it is best to stay with Terracon Consultants, formerly known as Genesis, as they have a history with our landfill and we are recommending the waiving of bids and entering into this agreement. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore 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, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 6-0.

- 2. Consideration of approval to change the name of First State Soccer Park to Centennial Park.**

Mayor Townsell explained this would reflect the name change of First State Bank to Centennial Bank; the original agreement stated that First State Bank's board of directors would have to sign off on any name change and they are requesting this change; Mayor Townsell feels we should honor the request. Alderwoman Smith motioned to approve the name change. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

- 3. Consideration to annex Cadron Settlement Park into the City limits.**

Mayor Townsell explained once we approve to proceed with annexing Cadron Settlement Park into the city the Corp of Engineers will at some point in the future approve this and then we can proceed with the process of annexing this land. Alderwoman Smith motioned to proceed with the annexation of Cadron Settlement Park. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

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

- 1. Ordinance waiving bids to purchase a HP ProCurve switch for the Conway Police Department.**

O-08-135

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Mark Elsinger, Special Project Coordinator, explained this will allow Agilysys to be the sole source vendor and allow us to buy a Hewlett Packard (HP) Pro Curve Switch for \$15,934.00. The IT Dept. has searched several vendors, including state contract vendors, and found Agilysys has the lowest cost. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore 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, Alderman Grimes, Alderman Vaught, Alderwoman Smith, Alderwoman Whitmore, and Alderwoman Mehl. The motion passed 6-0.

7. *Old Business*

A. 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, was present to answer questions. City Attorney, Michael Murphy, explained that a letter of intent to revoke dock permit was mailed out to the Brown's via certified mail with returned receipt and also by regular mail, we have heard nothing from them. Alderman Vaught stated he would like to make sure that they did indeed receive the notice before proceeding. Mr. Murphy stated his office could call tomorrow and double check if it was received. Mr. Burnside stated this started over a year and a half ago and feels we have been more than lenient. There was discussion among council on how to proceed. Mr. Burnside stated the Brown's have an additional dock that was grandfathered in and has had no changes made to it. Alderman Vaught motioned to remove the entire boat dock and revoke the dock permit. Alderwoman Smith seconded the motion. Mayor Townsell stated he would like to have the means to increase the Brown's dock permit fee for next year to include the costs the city incurs to tear down the dock in question. Mr. Murphy explained the ordinance could be amended to require anyone that applies for a dock permit to settle any fees/expenses owed to the city before a permit can be issued. Mr. Murphy stated since this is administrative action we should wait 30 days after we take action due to the 30 day window for appeal. There was no further discussion. The motion passed 4-2 with the Mayor voting with the majority. Alderman Hawkins and Alderman Grimes voted in opposition.

8. *New Business*

A. Consideration of a request by Shawn Demers & Michael Chambers for a franchise permit to operate a taxi cab service.

Alderwoman Smith motioned to grant the franchise request. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 6-0.

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Adjournment

PASSED this 28th day of October 2008

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett