
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
October 13, 2009

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 Grimes, Alderwoman Whitmore, Alderwoman Mehl, Alderman Vaught, Alderman Jones, and Alderman Rhodes. 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 22nd & September 25th, 2009

Alderman Hawkins motioned to approve the Sept. 22, 2009 and Sept 25, 2009 minutes as submitted. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

4. *Recognition of Guests:*
5. *Public Hearings:*
6. *Report of Standing Committees:*

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

1. **Consideration to accept the nomination of Fletcher Smith to the Conway Health Facilities Board.**

Alderwoman Smith motioned to accept the nomination. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

2. **Resolution approving and authorizing the issuance of hospital revenue bonds for Conway Regional Medical Center.**

R-09-66

Mayor Townsell stated the bonds are not to exceed \$30 million. Jack Trumper, Stephens Inc., explained this is what we call mirror refunding of 1999A & 1999B bonds. These earlier bonds carried an average coupon of approximately 6.37% and we can issue new bonds at a lower interest rate and save money for the medical center. The payment terms will not change, they will still mature August 1, 2029, and all payment dates are the same. Mr. Trumper stated the potential savings are quite substantial at approximately \$200,000.00 yearly and our goal is to offer bonds the week of Nov. 16, 2009. Alderwoman Smith

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

3. Resolution ordering the condemnation & clean up of property located at 23 Shady Valley Drive.

R-09-67

Grant Tomlin, Code Enforcement, stated we have dealt with this property 2008 and have also received numerous complaints this year in regards to the condition of the water in the in ground pool along with other various violations. A warning letter was issued to the property owners on Sept. 3, 2009 via certified and regular mail. The letters were returned unclaimed and the residence was rechecked on Sept. 17, 2009 and all violations were taken care with the exception of the stagnant pool water. Mr. Tomlin stated due to the lack of cooperation of the property owners, warrants were issued for their arrest in May 2009 and he is unsure if they have been served. Mr. Tomlin stated he did speak with one of the owners and informed him the property was going into foreclosure and he does not believe that anyone is living at the residence. Mr. Tomlin states we have had numerous complaints on this property and asked council to approve this resolution to condemn the pool, remove it and fill it in. Ron Nichols stated he used to be an owner of the property and stated he has been served twice, once at his mother's house and once at his place of employment. Mr. Nichols stated he moved from the residence due to a divorce which was final on Jan. 2, 2005 and on Feb. 26, 2009 he surrendered that property to bankruptcy court and he does not understand why he is being asked to pay for the clean up when he has surrendered the property. Mr. Tomlin stated that the property record still shows Mr. Nichols and his ex-wife as owners of the property. Jamee Nichols stated although he surrendered the property she has tried to sell the property but is unable to do so because Mr. Nichols will not release it. Ms. Nichols stated she has done the best she could with the pool after being left in the house with no income, the problem is with the pipes in the ground as the pool has no suction and cannot circulate water. Ms. Nichols stated if Mr. Nichols would help she would try to correct the problem but she is financially unable to do so; she also stated she is no longer living at the residence. Mayor Townsell asked City Attorney, Michael Murphy, if the resolution is passed if it would simply go with the property as a lien. Mr. Murphy stated yes. Ms. Nichols asked if it could still be repaired instead of having it filled in as this would cost less money. Alderman Vaught asked who would maintain it if it were repaired. Ms. Nichols stated she understands as soon as Mr. Nichols is in agreement to sell the property we can do a quick sell; there are several people who are interested in that neighborhood. Mayor Townsell explained if council passes this resolution it will be condemned and it is council's decision. Mike Saucier Shady Valley resident representing the neighborhood, stated this has been a problem for us since the summer 2008 and we have tried to approach the family and wish them no ill will we just ask that they clean up the pool and believes that the pump is in

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need of repair. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. Alderman Grimes asked if the resolution gives them a timeframe to clean the pool before it is filled in or if we pass it we are filling it in regardless. Mayor Townsell stated if we pass the resolution it means it is condemned and the only matter at that point is who fills the pool in. Ms. Nichols asked if there is any way you would consider letting them clean it up. Alderman Grimes suggested before filling the pool in maybe we should consider another way. Alderman Vaught asked when the home would be released. Ms. Nichols stated her attorney stated it could be released relatively soon if Mr. Nichols would agree to release it. Alderman Vaught stated it sounds like the only one that would be hurt by the city filling in the pool is the bank as it will lower the value of the property. Alderman Grimes asked if a better alternative for us to spend a little less money by cleaning the pool and secure it to where no water can get in. Alderwoman Smith stated we have no guarantees as to how long this house could sit vacant. Alderman Hawkins asked if we can step in with the house being in bankruptcy. Mr. Murphy stated we should contact the bankruptcy trustee since this could affect their asset and see if we can get relief from the bankruptcy court before moving forward. Mayor Townsell asked if we should do this before or after we pass the resolution. Mr. Murphy stated he feels it can be done afterwards, before the actual action is started. Alderman Jones and Alderwoman Mehl asked if we could ask the bankruptcy court to fix the problem. Mr. Murphy stated he feels the bankruptcy court will weigh in once they realize there is significant action about to be taken to their asset. Alderman Grimes asked if she should pass the resolution or table it. Mr. Murphy stated we can go ahead and pass the resolution, research the case, and contact the trustee to get their input. There was no further discussion. The motion passed 8-0.

4. Resolutions requesting the Faulkner County Tax Collector to place certified liens on certain properties as a result of incurred expenses by the City.

R-09-68

Grant Tomlin, Code Enforcement Officer, explained the owners of 2245, 2255, 2265, 2275, 2285 Rosemary Dr. were properly served notices regarding the condition of their property; the owners failed to comply and the property was brought up to code on August 31, 2009 at a cost of \$394.32 plus 10% collection penalty. Alderman Hawkins motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

R-09-69

Bill Haynes, Code Enforcement Officer, stated the owners of 335 Natchez Trail were properly served notices regarding the condition of their property; the owners failed to comply and the property was brought up to code on August 28, 2009 at a cost of \$219.22 plus 10% collection penalty. Alderwoman Smith

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

R-09-70

Bill Haynes, Code Enforcement Officer, stated the owners of 1405, 1407, 1409 Bruce St. were properly served notices regarding the condition of their property; the owners failed to comply and the property was brought up to code on August 31, 2009 at a cost of \$212.99 plus 10% collection penalty. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

R-09-71

Ottie Cowgill, Code Enforcement Officer, stated the owners of 1724 & 1726 Robins St. were properly served notices regarding the condition of their property; the owners failed to comply and the property was brought up to code on August 28, 2009 at a cost of \$183.04 plus 10% collection penalty. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

R-09-72

Ottie Cowgill, Code Enforcement Officer, stated the owners of 1520 Hathaway were properly served notices regarding the condition of their property; the owners failed to comply and the property was brought up to code on Aug. 21, 2009 at a cost of \$203.80 plus 10% collection penalty. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

R-09-73

Ottie Cowgill, Code Enforcement Officer, stated the owners of 2 Eve Ln. were properly served notices regarding the condition of their property; the owners failed to comply and the property was brought up to code on Aug. 21, 2009 at a cost of \$253.48 plus 10% collection penalty. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

- 5. Ordinance to revise the assessed impact fee for movie theaters in the City of Conway.**

O-09-114

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

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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": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

- 6. Ordinance to rezone property at 1920 East Oak Street (US Hwy 64) from R-1 and C-2 to C-3.**

O-09-115

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Bo Wilkins, Engineering Services representing Harps Food Store, stated we wish to put in a grocery store at this location. 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": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

- 7. Ordinance to rezone property at 3805 Donnell Ridge Road from A-1 to MF-2.**

O-09-116

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. Bobby French, representing Hartland Development, stated he believes this is 35 acres which 10 acres of it is already zoned MF-2. Mayor Townsell explained that we have talked about connecting Old Military Rd with McNutt Rd. Mr. French stated the owner is aware that at some point this will happen. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

- 8. Ordinance to rezone property located along the west side of east side German Lane north of Wills Drive from A-1 to C3.**

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Ronnie Robertson, explained that the property he has is just north of 4 businesses, one being the same type business that he operates in Little Rock and wants to move it to this area. He realizes these 4 businesses are outside the city limits but feels

that at some point they could be. He realizes that after discussions with some council members, maybe he should have tried to rezone the property frontage as C-3 and explained that is what he is trying to do now. Bob Seymour, 1150 Wills Dr, explained his property adjoins Mr. Robertson's property and feels that his property will lose value and is against the proposed rezoning. James Stone, Wills Way resident, stated we have been trying to get the city to annex us in and is opposed to the proposed rezoning. An unnamed individual spoke in opposition of the rezoning. Alderman Grimes stated we should take the C-3 out of the equation as that could lead to drive-thru restaurants etc. and look at other viable options. Mr. Robertson stated he is open to other options and asked council to pull this item from the agenda for tonight. Alderwoman Smith motioned to hold this item in committee. Alderwoman Mehl seconded the motion. There was no further discussion. The motion passed 8-0.

9. Ordinance amending the permit fees for the construction and alterations of buildings and building systems for the City.

O-09-117

Lynn Hicks, Assistant Planning Director, stated a while back we cleaned up our permitting fee schedule and we inadvertently left out the language that charged \$0.10 per sq ft for residential, commercial, additions, and accessory buildings which was previously charged. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 8-0. Alderman Hawkins 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": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

10. Ordinance waiving bids to purchase the ACTRA traffic management system and software for the Conway Street Department.

O-09-118

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderwoman Whitmore motioned to adopt the ordinance and the emergency clause. Alderwoman Smith seconded the motion. Mayor Townsell stated this is a traffic management system and software that will allow all of our traffic boxes to communicate with themselves and communicate with one central control location at the street dept; this building is not yet in existence. The \$151,705.00 will be paid for out of the energy efficiency block grant that we received from the federal government this year. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderman Hawkins seconded the motion.

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There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

11. Consideration to enter into an agreement with Peters & Associates for traffic signal timing plans.

Greg Simmons, Peters & Associates, was present to answer questions. Alderwoman Whitmore motioned to enter into this agreement. Alderwoman Mehl seconded the motion. Mayor Townsell explained this is the third time we have looked at the traffic timing on Oak St and stated as new things come online the traffic patterns and timing needs change. Alderwoman Smith asked if the amount is not to exceed \$18,920.00. Mayor Townsell stated yes. There was no discussion. The motion passed 8-0.

12. Consideration to enter into an agreement for traffic lights conflict monitors for the Conway Street Department.

Alderwoman Smith motioned to enter into this agreement. Alderwoman Whitmore seconded the motion. Mayor Townsell stated Charlie Bocksnick provides testing of traffic light conflict monitors. These monitors ensure that 2 greens or 4 greens do not show up at one time and this is a continuation of an agreement we have had in the past. There was no discussion. The motion passed 8-0.

13. Consideration to accept bids for sidewalk improvements in various locations for the City.

Ronnie Hall, City Engineer, recommends accepting the low bid from HOJO Excavation Inc. which was \$84,764.00. Mayor Townsell stated we will take the additional funds needed from the alternative transportation money. Alderman Grimes motioned to accept the low bid. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 8-0.

14. Consideration to accept bids for additional parking at the City of Colleges Softball Complex.

Ronnie Hall, City Engineer, recommended awarding the bid to the low bidder J's Construction, Inc. in the amount of \$125,213.50. Alderwoman Smith motioned to award the bid to the low bidder. Alderwoman Whitmore seconded the motion. Mayor Townsell gave a synopsis of what monies are available for Parks and what monies can be used toward Parks projects. There was no discussion. The motion passed 8-0.

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

1. Consideration to accept bids on the 2010 Automated Recycling System for the Conway Sanitation Department.

Cheryl Harrington, Sanitation Director, recommended awarding the bid to Nexgen Baling Systems in the amount of \$1,583,700.00 as this was our only bid and met all specs. Alderwoman Smith motioned to accept the bid from Nexgen. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

2. Ordinance appropriating funds for the 2010 Automated Recycling System for the Conway Sanitation.

O-09-119

Mayor Townsell stated this ordinance appropriates \$1,583,700.00 for the automated recycling system approve above. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Mehl 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": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

3. Consideration to approve a business plan for the City of Conway Reuse Facility.

Cheryl Harrington, Sanitation Director, explained this reuse center will take items that are good and put them in a reuse center and offer them back to the public. The facility will be open Tuesday - Friday, Mondays and Saturdays, if needed, will be used for clean up days etc. Ms. Harrington stated we are not looking at this as a form of revenue but as a way to give back to the public who may not be able to afford these items new but they could get them from us at a lower cost. Ms. Harrington went onto say that Tuesdays and Thursdays we will work off of a voucher system and our hopes are that the United Way will be able to distribute these vouchers for us if approved by council. Wednesdays and Fridays we will be open to the general public; there is not a set fee on what we will charge but it will nominal. Alderman Hawkins motioned to approve the business plan for the reuse center. 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 Attorney, & Animal Control)

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1. **Ordinance to accept the donation of portable radios from the University of Central Arkansas for use for various City departments.**

O-09-120

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

2. **Ordinance appropriating funds and waiving bids for Honor Guard uniforms for the Conway Fire Department.**

O-09-121

Alderman Smith motioned to waive the readings of the ordinance. Alderman Whitmore seconded the motion. The motion passed 8-0. Alderman Jones motioned to adopt the ordinance. Alderman Smith seconded the motion. Bart Castleberry, Fire Chief, stated the Honor Guard represents the fire department and the city of Conway well and explained they are called upon frequently, throughout the state, whenever there is a firefighter death. Chief Castleberry went onto say that our current uniforms are 13 years old and we would like to update them. Mayor Townsell stated the cost of the uniforms are \$10,369.00 and we are waiving competitive bids and purchasing them from GST Public Safety. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderman Smith, and Alderman Whitmore. The motion passed 8-0.

3. **Ordinance waiving bids requirement for the Conway Fire Department to utilize a sole source vendor to repair the Reserve Engine #7.**

O-09-122

Alderman Smith motioned to waive the readings of the ordinance. Alderman Whitmore seconded the motion. The motion passed 8-0. Alderman Whitmore motioned to adopt the ordinance and the emergency clause. Alderman Smith seconded the motion. Mayor Townsell explained this will authorize repairs up to \$12,000.00 and will utilize Pro Fire Equipment as a sole source vendor. Alderman Smith asked how old this truck is. Bart Castleberry, Fire Chief, stated it is a 1995 model. There was discussion among council about the age of some of our fire truck fleet. There was no further discussion. The clerk called the roll with the following voting "Aye":

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

D. Personnel

1. Consideration of 2010 Dental Insurance Benefits

Lisa Mabry Williams, Human Resource Director, stated as council requested we bid out our dental insurance but had no one submitted a bid. Ms. Williams stated Blue Cross Blue Shield (BCBS) came back with 3% increase instead of a 6% and recommends approving BCBS for our dental benefits for 2010. Alderwoman Smith motioned to accept BCBS for dental benefits for 2010. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

2. Consideration of 2010 Voluntary Benefits.

Lisa Mabry Williams, Human Resource Director, stated we have been with our current vendor for several years and noted there is no increase for the premiums for the benefits provided; an additional first diagnosis cancer policy is available for the 2010 benefit year has been added. Ms. Williams stated that our vision policy (VPS) premium has been lowered 16.5% due to an increase in participation; this is a 2 year guarantee as well as increasing the benefits on glasses and contacts to \$140.00. Ms. Williams requested that council approve the voluntary benefits for 2010. Alderwoman Smith motioned to approve the 2010 voluntary benefits with our current vendors (Benefit Partners/FlexCo Inc. Alderman Hawkins seconded the motion. There was no discussion.

7. Old Business

8. New Business

A. Consideration to change the next scheduled City Council meeting date to an alternative date.

Mayor Townsell explained he will be out of town this day and recommended moving the meeting to another day. There was discussion of alternate dates among council without day being chosen. Alderwoman Smith motioned to cancel the Tuesday October 27, 2009 council meeting. Alderman Jones seconded the motion. There was no discussion. The motion passed 8-0.

Adjournment

PASSED this 13th day of October 2009

APPROVED:

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Mayor Tab Townsell

City Clerk Michael O. Garrett