
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
December 8, 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:* November 24th, 2009

Alderwoman Smith motioned to approve the Nov. 24, 2009 minutes as submitted. Alderman Whitmore seconded the motion. The motion passed 8-0.

4. *Recognition of Guests:*

Mayor Townsell recognized the UCA Sugarbears women's volleyball team for their outstanding season.

5. *Public Hearings:*

- A) *Public hearing to discuss the closing of a 15' extended overhead electric utility easement located in part of the Block 6 of the West End Addition at 2740 College Avenue.*

Mayor Townsell opened the public hearing. No one was present to speak to the issue. Mayor Townsell closed the public hearing.

- 1) **Ordinance closing the 15' extended overhead electric utility easement located in part of Block 6 of the west end addition at 2740 College Ave.**

O-09-141

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. Alderman 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.

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- 2) **Public hearing to discuss the closing of a portion of right of way located at the northeast & southeast corner of Prince Street & Western Avenue.**

Mayor Townsell opened the public hearing. No one was present to speak to the issue. Mayor Townsell closed the public hearing.

- 1) **Ordinance to abandon a portion of the Western Avenue right of way at the northeast corner & southeast corner of Prince Street & Western.**

O-09-142

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

1) *Report of Standing Committees:*

A. *Economic Development Committee (Airport, Conway Corporation, Conway Development Corporation, Chamber of Commerce)*

1. **Consideration of payment to property owners & possible condemnation of properties for the acquisition of the new Conway Municipal Airport.**

Jim Gladwin, Project Mgr. O.R. Colan Associates, was present to answer questions. Mayor Townsell reviewed the 5 tracts of land and the cost of each (listed below):

Tract 1: Conway Development Corporation - 153.5 acres, an avigation easement of .12 acres, and damages at a cost of \$717,471.50.

Tract 3: J.W. Brown & Patsy Ann Brown Revocable Trust - 125.65 acres, an avigation easement of 23.94 acres, and damages at a cost of \$600,916.00. The Brown's are also eligible for certain relocation expenses.

Tract 4: Jerry & Margaret Pearson - 34.35 acres, plus damages at a cost of \$181,370.00.

Tract 2: Jack & Sheila Williams - 57.64 acres, an avigation easement of .23 acres, at a cost of \$294,194.00. The William's are also eligible for \$20,000.00 relocation

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in lieu of payment for the substantial change to the farming operation on this tract of land.

Tract 5: The Moon Trust – 68.55 acres, an avigation easement of 15.58 acres, and damages at a cost of \$364,361.25. The Moon Trust is also eligible for a relocation of two (2) wells.

Alderwoman Smith motioned to approve the purchase of the 5 tracts of property. Alderwoman Mehl seconded the motion. Mayor Townsell explained the city must pay for this property up front but we will be reimbursed by the FAA. 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 to accept nominations for the Old Conway Review Design Board, Historic District, Commission & Oak Grove Cemetery Board.

Alderman Hawkins gave a review of the nominees, they are as follows:

The Old Conway Design Review Board selects the following persons to fill vacant positions:

George Covington, Sr. – Term expires Dec. 31, 2010
Sandra Mabry – Term expires Dec 31, 2011.

The Conway Historic District Commission selects the following persons to fill vacant positions:

Rosie Hemphill – Term expires Dec. 31, 2012
Mary Etta Qualls – Term expires Dec 31, 2012
Chad Brown – Term expires Dec 31, 2012
(Trey) Glen Massingill III – Term expires Dec 31, 2010

The Oak Grove Cemetery Board Commission selects the following persons to fill vacant positions:

Brenda Collier – 5 year term
Marvin Wendel Dale – 5 year term

Alderwoman Whitmore motioned to approve the nominations with the designated terms. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

- 2. Resolution requesting the Faulkner County Tax Collector to place a certified lien on property located at 1845 Drury Lane as a result of incurred expenses by the City.**

R-09-94

Mayor Townsell stated the cost of cleanup was \$232.65 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 8-0.

- 3. Ordinance to accept additional funding and appropriating additional grant revenue funds to CDBG.**

O-09-143

Lauralee McCool, CDBG Director, was present to answer questions. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderman Jones motioned to adopt the ordinance. 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.

- 4. Ordinance to rezone property located at 2018 Caldwell Street, stretching north to Cross Street from R-1 to HR.**

Frank Shaw, property owner, feels this is a modest rezoning request, pointing out that this property is not in the historic district nor is the property to the west. Mr. Shaw stated his plan is to divide this property into 4 lots, that would be larger than the lots to the west, with larger single family homes than the lots to the west (approximately 2,000 sq feet plus). Mr. Shaw stated that the homes across the street are the only single family residences in that block; all other residences in that block from Watkins to Donaghey are duplexes. Mr. Shaw feels like this could revitalize the area adjacent to downtown with new construction. There was discussion among council and the applicant in regards to other ways to build on the lot. Scott Stevenson, resident of Hendrix Addition, spoke in opposition of the rezoning. Jay Bernard, 1905 Caldwell, stated he is not opposed to one house on Caldwell being built and one house on Cross Street being built but does oppose four homes being built. Dan West, 920 Center St. concurred with Mr. Bernard. Hebrew McKissick, 2021 Cross St, and Margaret West, Conway resident, stated they are opposed to four homes being built but would welcome two homes being built. Mr. Shaw asked if he could modify his request to one lot on Caldwell and limit the rezoning request to the property on Cross St. Bryan Patrick, Planning & Development Director, in the past we have allowed

reductions in zones. Michael Murphy, City Attorney, since you have basically reduced your request your notice would still be good and does not see a problem. Mr. Shaw stated he would like to amend his request to leave the lot on Caldwell as is, and subdivide the two lots on Cross Street as previously set forth to HR. Alderman Hawkins stated he would be more interested in seeing the HR zoning on Caldwell. Mr. Shaw stated with an HR zoning duplexes are allowed, but only if there are no other duplexes within 150 ft which is the case with this lot. Alderman Hawkins asked for clarification that no duplexes can be built on the lot. Mr. Patrick stated it is possible on the Cross Street lot but council would have to approve that with a conditional use permit. Alderman Jones asked if the zoning now will allow Mr. Shaw to build a house on Cross Street and a house on Caldwell why rezone. Mr. Patrick stated because Mr. Shaw is requesting it. Mr. Shaw stated he would like to build three houses on these lots if council will allow. Mayor Townsell if the request is being reduced where would you like the divider line. Mr. Shaw stated approximately 140 ft instead of 133 ft. Mayor Townsell stated so you would want to reduce the north/south dimension by 140 ft. from the south lot line on Caldwell. Mr. Shaw concurred. Alderman Hawkins motioned to amend the request to rezone from R-1 to HR of the northern 127.5 ft. of this parcel. The motion died due to a lack of a second. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. There was no motion to approve the ordinance so no action was taken on this issue.

5. Consideration to purchase a Smartsensor Advance Detector unit from Mid American Signal for the intersection of Donaghey and Dave Ward Drive.

Ronnie Hall, City Engineer, explained he would like council's approval to purchase this item from Mid American Signal for \$9,784.00 and recognize them as a soul source vendor. Alderman Hawkins motioned to authorize this purchase. Alderwoman Smith seconded the motion. Mr. Hall explained that this equipment will detect traffic 500 ft. out. There was no discussion. The motion passed 8-0.

6. Consideration to provide speed humps on Freyaldenhoven Lane between Siebenmorgen Road and Theodore Jones School.

Ronnie Hall, City Engineer, explained a traffic count was completed and the traffic count was approximately 1,000 cars per day. Mr. Hall stated this comes within one point of funding speed humps. Mayor Townsell stated we have actually funded speed humps at this number in the past. Mr. Hall stated the one issue with this street is the bus traffic as it is not generally recommended that speed humps be placed along a route where busses travel. Alderwoman Smith motioned to provide the speed humps. Alderwoman Mehl seconded the motion. Bill Terry, 1560 Freyaldenhoven, stated the situation in this area is in need of help. We are situated in between 3 schools, we get cut through traffic from the Lower Ridge Rd. area and the no parking signs are ignored to some extent.

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James Crawford, area resident, concurred with Mr. Terry. There was no further discussion. The motion passed 7-1. Alderman Jones was no present for the vote.

7. Consideration of annual bids for asphalt, gravel, concrete, concrete pipe, concrete work, concrete work, & gasoline/diesel for the City of Conway.

Ronnie Hall, City Engineer, requested that council award the bids to the contractors listed below:

<u>MATERIALS OR SERVICE</u>	<u>CONTRACTOR</u>	<u>PRICE</u>
Asphalt Pre-Mix	Rogers Group	\$84.50/Ton
Asphalt Hot Mix FOB Plant	Rogers Group	\$65.00/Ton
Asphalt Hot Mix (Type 2) In Place	Rogers Group	\$72.00/Ton
Asphalt Hot Mix (Type 3) In Place	Rogers Group	\$67.00/Ton
Crushed Stone FOB El Paso	Webco	\$6.99/Ton
Crushed Stone Delivered	Webco	\$10.86/Ton
Ballast Stone Delivered	Webco	\$12.20/Ton
Stone Backfill delivered	Webco	\$11.40/Ton
Riprap delivered	Webco	\$17.85/Ton
Concrete Class A Mallard	Mallard	\$84.35/CY
Concrete Class S Mallard	Mallard	\$87.14/CY
Added Cost for 1% Calcium added	Mallard	\$4.00/CY
Reinforced Concrete Pipe:		
12"	Hanson	\$9.05/Ft.
15"	Hanson	\$12.50/Ft.
18"	Hanson	\$14.89/Ft.
24"	Scurlock	\$22.75/Ft.
30"	Scurlock	\$32.90/Ft.
36"	Hanson	\$46.75/Ft.
42"	Hanson	\$58.38/Ft.
48"	Hanson	\$74.01/Ft.
Concrete Blocks:		
Standard Weight Concrete Blocks	Conway Block	\$1.49/Ea.
Interlocking Retaining Wall Blocks	Conway Block	\$5.12/Ea.
Concrete Work:		
4 Curb & Gutter	Lasker Brothers	\$3.50 "
6 Curb & Gutter	Lasker Brothers	\$4.50 "
Sidewalk	Lasker Brothers	\$1.25/SF
Gasoline & Diesel:		
Reg. Unleaded Gasoline	M.M. Satterfield	\$2.0398/Gal.
Diesel	M.M. Satterfield	\$2.1015/Gal

Alderwoman Smith motioned to accept Mr. Halls recommended bids. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

8. Consideration to lease space in the Pine Street Community Center.

Tracey Schichtl-Montoto, President Faulkner Co. Hispanic Information Center was present to answer questions. Mayor Townsell explained this would be an information/outreach center for the Hispanic community here in Conway. Ms. Montoto stated she believes there is a need for a non-profit organization in Faulkner Co. to assist the Hispanic community reach their full potential as a people through research, education, and advocacy. Our intent is to open a 501C3 non-profit charitable organization that would be staffed with volunteers from the community and local church organizations and we intend to support our services in the future with private donations and grants. Ms. Montoto requested the use of the vacant office located in the Pine Street Community Center. Alderman Jones motioned to enter into this agreement. Alderwoman Smith seconded the motion. There was no discussion. Mayor Townsell stated we will work on getting the lease drawn up and presented to council. The motion passed 8-0.

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

1. Consideration to enter into an agreement with the Faulkner County Solid Waste Management District.

Cheryl Harrington, Sanitation Director, stated this agreement is entered into on an annual basis to continue to allow recycling services in the county in the form of Saturday clean-ups etc.; this is the third year for this agreement. Alderwoman Smith motioned to enter into this agreement. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

2. Ordinance waiving bids for contracted services with Terracon Consultants Inc. in conjunction with the City Landfill testing.

O-09-144

Cheryl Harrington, Sanitation Director, explained that ADEQ requires that we conduct water sample testing as well as air and gas testing throughout the year; Terracon know our landfill and they do a good job for us. The cost will be \$23,740.00. 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. Alderman Grimes seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl, Alderman Hawkins, Alderman

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

3. Ordinance waiving competitive bids and appropriating funds for clearing services through Tucker Creek Bike Trail.

O-09-145

Mayor Townsell explained we are waiving competitive bids because the contractor on site is the person who already has the job of building the bike trail and this will ensure the safety of the citizens who use it. The cost contractor is F.P. Bivens Construction for \$18,904.00; this includes \$3,000.00 that was previously approved. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith asked if the ordinance needs amended to read \$15,904.00. Mayor Townsell stated yes. Alderwoman Smith motioned to adopt the ordinance amending the cost to read \$15,904.00 and for the adoption of 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.

4. Consideration to enter into a professional services agreement for an inspector at Conway Station Park.

Mayor Townsell stated due to some small issues in regards to the completion of the City of Colleges Park it has been decided a liaison is needed between the engineering/design services and the construction services during the construction of Conway Station Park. Mayor Townsell explained we have chosen Jacobs Engineering to perform on-site inspection services to ensure things are built according to the plans. The estimated cost is approximately \$35,000.00 - \$40,000.00 and they have proposed an hourly fee in direct expenses and Mayor Townsell suggested moving forward in expanding the contract to include this. Alderwoman Smith motioned to enter into this service agreement. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

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

1. Ordinance amending Title 4 of the Conway Municipal Code as related to Pawnbrokers & Scrap Metal Dealers.

This item has been pulled from the agenda.

2. Consideration to accept annual bids for the Conway Police Uniforms.

Mayor Townsell stated two bids were received, one from Gall's in the amount of \$1,094.00 and one from Cruse's in the amount of \$1,477.67. The recommendation from Police Chief A.J. Gary is to accept the low bid from Gall's. Alderwoman Whitmore motioned to accept the low bid. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

Alderman Hawkins asked to discuss a personnel matter before voting on the budget and asked for a suspension of the rules and enter into executive session. Alderwoman Smith motioned to suspend the rules and enter into executive session. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

Mayor Townsell stated for disclosure, the reason for the executive session should have been stated prior to convening, and stated we should not have gone into executive session for this issue. Mayor Townsell explained we discussed departmental raises and how to include departmental reviews in the budget. We determined we still need to have the review process, and as everyone else, there will be a 1% cap on their cost of living adjustment (COLA); explaining that is the most we will do with department heads and go down from there depending on the evaluation. Mayor Townsell stated this is a legislative issue, not an executive session issue.

E. Finance

1. Ordinance adopting the FY2010 City of Conway budget.

O-09-146

Mayor Townsell stated we have cut every department in the city except for police, fire, and physical plant; we have taken out the step raise for everyone who is not at step seven, we are including a 1% cost of living adjustment (COLA) for everyone. We have cut capital dramatically only funding what is necessary and we will be borrowing/taking \$750,000.00 from the Sanitation Reserve Fund in order to purchase 12 new police cars and a new fire truck. Robin Scott, CFO, was present to answer questions. Alderwoman Smith 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": Alderwoman Mehl, Alderman Hawkins, Alderman Jones, Alderman Vaught, Alderman Rhodes, Alderman Grimes, Alderwoman Smith, and Alderwoman Whitmore. The motion passed 8-0.

Mayor Townsell recognized Jamie Brice for her hard work and efforts in regards to the 2010 budget.

2. **Ordinance waiving bids for the purchase of police vehicles for the Police Department.**

O-09-147

A.J. Gary, Chief of Police, explained we request to waive competitive bids and purchase the vehicles from Lander Brothers Chrysler Dodge Jeep. The cost will be the same as if we went with state bid but the difference is this dealership contracts with the Fleet Safety who installs the radios and all other equipment into the vehicles. Chief Gary went onto say that we overall we can get the vehicles for less because of the contract Landers has with Fleet Safety. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Jones 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.

3. **Ordinance waiving bids for the purchase of a new fire truck for the Fire Department.**

O-09-148

Bart Castleberry, Fire Chief, explained that our fire trucks are the same in regards to where the equipment is located etc. This allows our fire fighters to know each vehicle regardless of which fire house they are working at. The specs for the trucks are put together by a group of Conway fire fighters and Pro Fire Equipment is located here in Conway; if we have a mechanical issue they are quick to send out a mechanic and help us out where ever we may be located. We purchased our last truck from the Houston/Galveston area at a co-op and we will do the same with the new truck which will save us approximately \$12,000.00. Chief Castleberry went onto explain that if we order the truck prior to January 1, 2010 then we would not fall under the 2010 emission systems regulations which could save us approximately \$12,000.00 per truck. If we wait until January 1, 2010 the cost will be slightly higher and the emission system will be equipped to reduce the nitrates in the exhaust. Mayor Townsell suggested we wait until after January 1, 2010 to be in compliance with the 2010 emission regulations. Alderwoman Smith asked if the two trucks will be ordered at the same time. Mayor Townsell stated we can order two trucks; one will be paid for out of the general fund, the other one will be paid for with pay as you go street/fire funds collected from the one-quarter cent sales tax. Alderwoman motioned to waive the readings of the ordinance. Alderman Jones seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the

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ordinance and the emergency clause amending the ordinance to allow for the purchase of two (2) fire trucks both with the 2010 emission systems. 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.

2) Old Business

3) New Business

A. Discussion of levying permit fees for alcoholic beverages & a business license permit fee.

Mayor Townsell these items are up for discussion only, the ordinances are not on the agenda. Mayor Townsell explained that council had discussions on these issues and asked for these ordinances to be drafted. One could enact the levying of a sales tax on alcohol sales and permitting of those establishments that do sell alcohol. Current state law allows cities to levy up to 5% tax on alcohol sales. The state also requires an annual permit from private clubs in the amount of \$500.00; the state will allow cities to permit a private club for a fee up to \$200.00. Mayor Townsell stated in 2008 there were \$2,994,000.00 in alcohol sales; the city could have collected approximately \$150,000.00 had we had a 5% tax in place. Mayor Townsell explained the issue with business licenses is being driven not just by revenue, but by safety as well. There are so many businesses in the community that use chemicals this would give our fire and police departments knowledge in advance as to what chemicals and products are stored in a particular business. Mayor Townsell went onto say that the planning department could double check land use. There are many ways to model a business license, but we would like to base it on number of employees. Mayor Townsell stated that the budget that we just passed did include \$165,000.00 in monies from an alcohol tax but it does not contain any revenue projected from business licensing. Mike Coats, Mike's Place, is opposed to the alcohol tax and stated Arkansas is the 2nd highest taxed state in the nation; we are also at a disadvantage of being located in a dry county, we have to hire people to go to Little Rock and pick up our alcohol. Mr. Coats stated the restaurant industry is suffering the worst recession since the great depression. Mr. Garner asked why the restaurant industry is being singled out. Mayor Townsell stated to be honest, it was the easiest. Mr. Garner stated it does affect us and will affect our customers and is opposed to the proposed alcohol tax. Stewart Bennett, Old Chicago Pizza, stated 2009 has been a challenging year for us as we are seeing our sales down 17% just here in Conway; across the state, as a company, we are down approximately 2.5% and is opposed the proposed alcohol tax. Council decided to discuss these items further at a committee meeting and feels there should be more public input.

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Adjournment

PASSED this 8th day of December 2009

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett