
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
January 26, 2010

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 Mehl, Alderwoman Whitmore, Alderman Vaught, Alderman Jones, and Alderman Rhodes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy.

Call to Order

Roll Call

Minutes: January 12th, 2010

Alderwoman Smith motioned to approve the January 12, 2010 minutes as submitted. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

Announcements/Proclamations/Recognition:

Employee Service Awards

5 Years:

Barbara Bivens - Sanitation

10 Years:

Myron Barnes - Finance

20 Years:

Ken Pickett - Planning & Development

25 Years:

Mark Mobbs - Fire Dept.

Special Recognition: Marilyn Moix

Bart Castleberry, Fire Chief, recognized Ms. Moix for her selfless dedication she has given to the citizens of Conway over the years and to her tireless efforts to help those who are less fortunate, including the Hurricane Katrina refugees.

1. *Public Hearings:*

A. *Public Hearings:*

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- 1. Public hearing to discuss the closing of a 10' utility easement located near the north boundary of Lot 11 of I-40 re-plat at 565 Amity Road.**

Mayor Townsell opened the public hearing. Kim Tyler, Tyler Surveying, stated she is representing Pinnacle Hotel Group and requests the closing of the utility easement. Mayor Townsell closed the public hearing.

- 2. Ordinance closing the 10" utility easement located near the north boundary of Lot 11 of I-10 re-plat at 565 Amity Road.**

O-10-07

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

Alderman Hawkins motioned to suspend the rules to move the State of the City address to the end of the agenda and to add one item to the agenda. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

2010 State of the City: Mayor Tab Townsell

This item was moved to the end of the agenda.

Kurt Meredith, Deputy City Attorney, explained that recently council approved the filing of a law suit in circuit court against property owners of #1 Cambridge in regards to the ongoing conditions of the pool water over a period of several years. Mr. Meredith explained that the individual was served and his attorney has contacted our office and explained the pool is clean and asked if we needed to proceed with this suit. Mr. Meredith stated he explained this decision would have to be made by the city council and Mr. Meredith asked council how they wished to proceed. Mayor Townsell asked Grant Tomlin, Code Enforcement Officer, how long this pool has been an issue. Mr. Tomlin stated we have paper work as far back as 4-5 years. Alderwoman Smith motioned to move forward with the lawsuit. Alderman Hawkins seconded the motion. There was no further discussion. The motion passed 8-0.

B. Report of Standing Committees:

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

1. Ordinance authorizing the issuance and sale of water revenue refunding bonds for Conway Corporation.

O-10-08

Gordon Wilbourn, Kutak Rock LLP, explained the ordinance would authorize the issuance of refunding bonds on a Series 2001 Water Issue not to exceed \$13,350,000.00. The bond issue itself would not exceed 4%, and no single bond would exceed 4.5%. Paul Phillips, Crews & Associates, explained the final maturity of these bonds is 2023, which would remain the same and the refinancing would save in excess of \$700,000.00 in aggregate and over \$50,000.00 a year based on current conditions. Mr. Gordon added that is authorizes the issue of the bonds, it does not direct you to issue the bonds as to allow us to get a good look at the market. Brett Carroll and Bill Bethea, Conway Corporation, were present to answer questions. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. 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": Alderwoman Mehl, Alderman Hawkins, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 8-0.

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

1. Consideration of the nomination of Arletha Manley to the Board of Housing Authority.

Alderwoman Smith motioned to appoint Ms. Manley to the Board of Housing Authority. Alderman Jones seconded the motion. This term will be a five year term beginning January 15, 2010. There was no discussion. The motion passed 8-0.

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

R-10-06

Mayor Townsell asked if anyone was present to speak to the condition of property located at 1709 Marilyn. The cost of the cleanup was \$153.05 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderwoman

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Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

3. Ordinance repealing and replacing by reference ORD No. O-02-124 which established the Conway Historic District Commission and ORD No. O-04-43 which created the Robinson Historic District with 2010 Historic District Commission standards.

Bryan Patrick, Planning & Development Director, explained these guidelines have been prepared for the Robinson Historic District, and in order for the above mentioned ordinances to work together some adjustments were necessary. Mr. Patrick gave a brief synopsis of the proposed guidelines/changes. Mayor Townsell reiterated if we choose to pass the ordinance the way it is written we will no longer as a city council sign off on the guidelines or changes to the guidelines. Alderwoman Smith stated she has no problems with the ordinance. Alderman Vaught stated he would like to see council still have a say in regards to any proposed changes the Historic District Commission wants to enact and allow the public to know about these changes. Mayor Townsell clarified this will not create an appeal opportunity to city council; those appeals would be handled in a court of law. Mayor Townsell asked Mr. Patrick who has the right to change the guidelines under our current ordinance. Mr. Patrick stated it is not specified in the ordinance; typically it comes from the Historic District Commission. Mayor Townsell stated his concern is that this could make it difficult for future council's to make changes. Mr. Patrick stated he feels that is the danger and also why other cities have not gone this route. Alderwoman Mehl asked how we find a good balance of accountability. Mr. Patrick stated could change it and if it gets out of hand you can always go back in and go over priorities. Alderman Vaught asked if it is a problem now and what has prompted this change. Mr. Patrick stated this is the first time we have outlined the guidelines and the reasons would be expediency, qualifications of the historic district commission members themselves, and the fact that appeals are not made to this body. Alderman Vaught stated that since appeals are not made to this body is more of a reason to have this so the public can be heard. Alderman Jones concurred. Mayor Townsell explained in order to keep a good balance would be to keep the historic district commission, in some future manifestation from going rogue, then the guidelines need to be approved by the city council; but to keep political meddling out of the historic district every change needs to be initiated by the historic district, and not by the city council. Mayor Townsell asked Mr. Patrick if he could add language to the proposed ordinance. Mr. Patrick stated yes and he would provide copies to the city clerk's office as required by law. Alderman Jones motioned to hold this item in committee. Alderwoman Whitmore seconded the motion. There was no further discussion. The motion passed 8-0. Mary Ann Welch, President of the Old Conway

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Preservation Society, stated on behalf of the society we support the passage of the ordinance and guidelines.

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

1. **Ordinance appropriating donation funds received from Soaring Wings Ranch for the Conway Park Department.**

O-10-09

Mayor Townsell stated we are accepting \$1,000.00 donation to be used for purchasing park benches. Alderwoman Smith motioned to waive the readings of the ordinances. Alderman Hawkins 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, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, Alderman Jones, and Alderman Vaught. The motion passed 8-0.

D. Personnel

1. **Ordinance adopting an Employee Handbook and Personnel Policy for the City.**

O-10-10

Lisa Mabry-Williams, HR Director, explained the revisions concern the cash out options listed in the handbook listed under vacation pay as you well know due to budget constraints this year we did not budget money for the vacation cash out which can amount which can range from \$150,000.00-\$300,000.00. Ms. Williams stated the first option changes the wording so it states the city may choose to offer the vacation cash out. Ms. Williams went on to explain that we traditionally offer the cash out to employees who have been employed for one year and maintain a balance in their vacation account of 40 hours; the payout is given in April and September. The first option allows the city the *option* to offer the vacation payout every year. The second option would raise the minimum leave balances which would require employees would have to maintain a minimum of 80 hours in their vacation account and 80 hours in their sick leave account. The impact, based on leave balances, based on 80 vacation hours and 80 sick hours would bring the amount down by 132 employees to 245 employees who would be eligible for the vacation payout. Alderwoman Smith asked how many employees take advantage of this cash out. Ms. Williams stated approximately 250 employees; the minimum that can be cashed out is 8 hours and the maximum is 80 hours.

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Ms. Williams gave a breakdown of the accrual rates. Alderwoman Whitmore stated that vacation pay is something that is earned by the employee and typically what you see from employees who utilize their vacation are employees who are your most productive employees and feels that anything we can do to encourage an employee to take time off is something we should take a look at and she is in favor of option two. Alderwoman Mehl asked to put in the word "may". Mayor Townsell stated the wording should be at the discretion of the city council. Alderman Jones stated he is torn because one may be cashing out their vacation to supplement their income. Alderman Hawkins asked if other cities offer this type of cash out. Ms. Mabry stated yes, some do. Mayor Townsell stated that the vacation cash out is not budgeted for 2010. Alderman Grimes stated that we have to adopt language that states the city "*may*" offer these cash outs and as far as changing the hours from 40 to 80 he has no preference. Mayor Townsell stated he feels it is important moving forward to leave adequate leave time for employees in their banks. Mayor Townsell stated he believes he is hearing the need to add the language "*may*" and to raise the minimums to 80 hours for both sick time and vacation time. Council concurred. Ms. Williams stated that both options say may. Mayor Townsell stated then we would want to go with option two. Alderwoman Smith motioned to adopt the second option proposed by Ms. Williams. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0. Alderman Jones motioned to amend the ordinance in section two specifically adding what is listed as alternative two in terms of the vacation buyout. Alderwoman Mehl seconded the motion. City Attorney, Michael Murphy, stated Ms. Williams has specific language that can be added. Ms. Williams read for the record the following language of option two which is to be inserted into section two of the ordinance: **"The city may choose to offer a vacation cash out option to employees; if offered eligible employees may cash out accrued vacation leave, a minimum of 8 hours and a maximum of 80 hours. At no time can employees reduce their vacation leave account below 80 hours through a cash out. In addition, employees must have a minimum of 80 hours in their sick time to be eligible to participate in the cash out option. There will be no exceptions to this even for emergencies. Requests for cash outs must be made on designated forms and reach the finance office by September or April deadline listed on the forms. Payments will be made way of a payroll checks on or after the 14th of these months. The rate of pay for the cash out is the rate of pay as of the deadline listed on the cash out form for the respective month."** The motion passed 8-0. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the amended ordinance and the emergency clause. Alderman Hawkins seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Mehl,

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

Old Business

New Business

1. Consideration of an application to operate a taxi cab within the City of Conway.

Mayor Townsell stated the request comes from City Cab of Conway and the taxi franchise is not an exclusive franchise. April Guy, Matthew Guy, Vernon Wilcox, and Robin McGowan were present to answer questions. Alderman Grimes asked City Attorney Michael Murphy why we regulate this type of business. Mr. Murphy stated there is a public safety aspect to grant permission and we can verify that insurance is in place. Alderman Grimes motioned to approve the request. Alderwoman Mehl seconded the motion. Ronnie Cooper, Conway Yellow Cab, stated he is not here as a matter of competition but as a matter of supply as he feels there is no demand for a third taxi company. Currently the two companies that are in business strive daily to stay in business and a third company would prevent us from making it. Brittany Chambers, Conway Yellow Cab, stated that City Cab of Conway is one of our DBA's and we have a certificate to prove it; it was from our first business partner. Mayor Townsell stated that although he appreciates your comments you are asking the city council to step in as a role of a regulator and by doing that we would be interfering with the most efficient regulator of supply and demand and that is market and we would not tell another restaurant or private club to not come to Conway. Alderman Jones concurred. Alderwoman Mehl asked she is more concerned about the name. Ms. Guy stated she has registered with the county clerk and the state but she would be happy to change it to Conway City Cab. Alderman Grimes asked Mr. Murphy if we could skip these requests coming before council. Mayor Townsell stated there is a motion for approval and you will need to work out the issue with the name of the business and it will be subject to meeting all the requirements of the ordinance. There was no further discussion. The motion passed 8-0.

Mayor Townsell read the State of the City address.

Adjournment

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PASSED this 26th day of January 2010

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett