
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
July 13, 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, Alderwoman Whitmore, Alderman Rhodes, Alderman Grimes, Alderwoman Mehl, and Alderman Vaught. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and Deputy City Attorney Kurt Meredith. Alderman Jones and City Attorney Michael Murphy were not in attendance.

Call to Order

Roll Call

Minutes: *June 22nd & June 29th, 2010*

Alderwoman Whitmore motioned to approve the June 22, 2010 and June 29, 2010 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 7-0.

Alderwoman Smith motioned to suspend the rules to add 3 items to the end of the agenda. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

Announcements / Proclamations / Recognition:

1. Public Hearings

a. Discussion of renaming Story Drive.

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

1. Ordinance renaming Story Drive to Storie Drive located in Marlise Manor Phase III in the City of Conway.

O-10-70

Bryan Patrick, Planning & Development Director, stated the street was actually supposed to be named after Junior Storie who is a member of our Tree Board and former Planning Commissioner but the spelling of the street did not match the spelling of Mr. Stories name. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. Mayor Townsell stated that "Section 3" be stricken from the ordinance. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

2. *Report of Standing Committees:*

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

1. **Consideration to enter into an agreement on the design and materials for a fire staging area for The Village at Hendrix.**

Scott Schalhorn, General Council & Vice President Hendrix College, explained Gold Creek runs through our property and serves a dual purpose, one being to sustain wildlife and secondly to handle the storm water needs of the neighborhood. Mr. Schalhorn explained the agreement acknowledges that The Village took steps to create a fire apparatus staging only to find out that it did not meet the needs of the Fire Dept. Mr. Schalhorn explained we stepped back and tried to come up with an alternative framework that will allow us work through to find an alternative staging area strategy that is more esthetically pleasing that will also serve the needs of the Fire Dept. Alderwoman Smith motioned to approve this agreement. Alderwoman Whitmore seconded the motion. Alderman Vaught stated he thought a legally binding document is overkill. Mr. Schalhorn stated the city attorney has reviewed this agreement and sees no problems with this agreement. There was no further discussion. The motion passed 7-0.

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

R-10-29

Mayor Townsell stated the property address is 408 South Davis St; the cost of cleanup was \$138.33 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

R-10-30

Mayor Townsell stated the property address is 88 South Ash St; the cost of cleanup was \$181.52 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 7-0.

R-10-31

Mayor Townsell stated the property address is 1315 Harrison St; the cost of cleanup was \$182.97 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 7-0.

R-10-32

Mayor Townsell stated the property address is 503 Monroe St; the cost of cleanup was \$182.97 plus 10% collection penalty. There was no one present to speak to this issue.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Alderman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

R-10-33

Mayor Townsell stated the property address is 141 Oaklawn Dr; the cost of cleanup was \$199.44 plus 10% collection penalty. Graham McCollough & Jeffery Crenshaw, residents of 141 Oaklawn Dr, stated their lawnmower has been out of service but the yard was mowed two weeks prior to the city mowing it. They feel the bill is excessive; they were charged for 6 hours yard mowing and cleaning which totaled \$80.09 and stated it generally takes approximately an hour to mow the yard. Mr. Crenshaw stated they were also charged twice for the code enforcement officer on the administrative fees. Grant Tomlin, Code Enforcement Officer, passed out pictures of the property prior to mowing and stated the bill shows 4 workers were onsite and the number of workers determines the amount of charged for man hours. The administrative fee for is for 2 hours, which is the total time he invested on this property. After much discussion Alderwoman Smith motioned to adopt the resolution. Alderman Hawkins seconded the motion. There was no further discussion. The motion passed 7-0.

R-10-34

Mayor Townsell stated the property address is 211 Griffith St; the cost of cleanup was \$246.20 plus 10% collection penalty. Ron Sharp stated he only received the bill after the work was completed, he also submitted pictures of the front yard which shows you cannot see the back yard from the front at all. Mr. Sharp explained they came onto his property and cut his grass, his flowers, and removed an outdoor pool that was purchased last summer; then they charged me a whole list of fees and explained this entire incident was started by a neighbor that complains about everything. Mayor Townsell explained that this is problem driven and it does not matter if you can see it from the street or not, certain conditions within the city limits. Mr. Sharp explained the grass was less than 6 inches high. Mayor Townsell stated that the grass is higher in the pictures we are looking at and asked Mr. Sharp about not receiving notice. Mr. Sharp stated he did not receive any notice nor did he sign for anything. Grant Tomlin, Code Enforcement Officer, stated that all correspondence was sent to the same address and we have this problem all the time where people do not get the notices but they get the bill. Alderman Grimes asked if the bills are sent certified mail. Mr. Tomlin stated they are sent regular mail and certified mail. Mr. Sharp stated the pool was down and was going to be filled back up. Mayor Townsell stated that the rubbish of the pool was noticed on April 21, 2010 and it was still down on May 3, 2010 and again on June 3, 2010. Alderwoman Smith stated the pool was observed a year earlier in the same condition. Mr. Sharp stated the pool was behind a shed in the backyard and you would have to walk by it to see it and wants to know why his pool was removed. Mayor Townsell stated with the condition the pool was in for 1 ½ months can make it a harborage for vermin and mosquitoes and that condition is not allowed in the city weather you can see it or not. Alderman Hawkins motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 7-0.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

R-10-35

Mayor Townsell stated the property address is 1716 Hutto; the cost of cleanup was \$285.39 plus 10% collection penalty. Allen Shaver, 6 Colton Lane, explained photo #1, he provided council, shows the view from the street of the storage building the brick were behind; photo #2 shows random brick in bundles and stated they have set there for many years and were still new; photo #3 shows where the city used a tractor and ran up into the bricks breaking the bands and destroying the brick; photo #4 shows a pile of brick that was loaded in the city dump truck. Mr. Shaver stated after a tenant notified him that someone was at the property he went to the property and talked city officials into leaving the brick, which they did. Mr. Shaver stated photo #5 is a warning received for grass only; the grass was mowed and trash was picked up but he did not know that the brick was not allowed by city code and stated he was told if he places the brick on a pallet that would be permissible. Mr. Shaver stated during the time he was at the property there was 1 city worker there but he was charged for 3 city workers. Grant Tomlin, Code Enforcement Officer, stated the day the clean up was scheduled there were at least 2 men there when he was on site, one running a tractor and the other one was operating the dump truck and confirmed city workers did load some of the brick up and after talking with Mr. Shaver he agreed to leave the brick because Mr. Shaver stated he would have the shop bricked within a week. Mr. Tomlin stated he took pictures yesterday and the brick are in the same pile as when they were in when he left the property that day. Mayor Townsell asked Mr. Shaver if he had seen the warning that was issued. Mr. Shaver stated no. Mr. Tomlin explained he did not know that Mr. Shaver was the property owner until he did a re-check on the property. Alderman Hawkins asked why the brick was busted up. Mr. Shaver stated I happened when the tractor was loading the brick to be dumped in the dump truck. After some discussion Mayor Townsell stated that the original report states that Mr. Shaver did state that his tenant delivered the original warning to him at his office and asked Mr. Shaver if that was accurate. Mr. Shaver stated he never saw it. Mayor Townsell asked Mr. Tomlin if that is what Mr. Shaver had told him. Mr. Tomlin stated yes. Alderman Grimes asked Mr. Tomlin to verify that the brick was still in the same location as it was. Mr. Tomlin stated yes, he the brick left on Mr. Shavers property and it is still in the same condition as it was when he left that day which has been over a month ago. Alderman Grimes asked if Mr. Shaver is subject to anymore fines due to brick still being there. Mr. Tomlin stated yes he could write him a ticket for every day the brick has been sitting there. Alderman Grimes asked Mr. Shaver if he plans on using the brick. Mr. Shaver it would be more difficult to use. Mr. Tomlin stated the brick has been sitting there for 5 years. Mayor Townsell stated from the pictures council have seen the conditions behind the shed needed cleaned up. Alderman Hawkins motioned to adopt the resolution. Alderwoman Grimes seconded the motion. There was no further discussion. The motion passed 7-0.

R-10-36

Mayor Townsell stated the property address is 2 Cedar Oaks; the cost of cleanup was \$333.13 plus 10% collection penalty. There was no one present to speak to this issue. Alderman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

- 3. Ordinance to rezone property located approximately 650' east of McNutt Road stretching from London Road to Donnell Ridge Road from R-1 to I-1.**

O-10-71

Mitch Hart, 1401 Hogan Lane, explained Keith Williams approached him about purchasing 2 acres of property behind his current business in order to incorporate some outdoor training areas for his baseball clientele. Mr. Hart explained they contacted the city planning dept and was told in order to plat the 2 acres behind his current building separately, he would need road frontage. Mr. Hart stated that Mr. Williams wished to purchase this property as a separate entity from his existing loan. Mr. Hart stated he retained a 50 ft strip of property in case he ever sold these 2 acres and the city said he would need more than 50 ft of frontage to have a separate lot under R-1 zoning but under I-1 zoning you can have 50 ft of frontage and Mr. Williams current business is zoned I-1 at which point the rezoning process was started in Mr. Harts name. Mr. Hart explained they spoke with Mr. Clements after the last council meeting explaining their intent. Mr. Hart stated he is here tonight representing Mr. Williams who is out of town and Mr. Williams told him he has had two meetings with the neighbors and it is his understanding that they have come to some type of agreement on the property and they felt more comfortable with the situation. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

- 4. Ordinance to rezone property located at 940, 960, & 980 South Donaghey and 2010 Woodland Spring Drive from R-1 to PUD.**

O-10-72

Kim Tyler, Tyler Surveying & Mapping, representing MCMG LLC, stated a required community meeting was held on May 27, 2010 in which Chris Thornton, property owner, shared his plans with the neighborhood and the neighbors also listed certain things they wanted in order to support this proposed PUD, one being a brick fence along the western border of the property. Ms. Tyler pointed out that the 3 lots would become 12 lots with homes that will be 1500 - 1800 sq ft and explained there would be a private drive entering from Woodland Springs Dr and exiting only on to South Donaghey. Mr. Thornton explained he believes he has accommodated all the neighbors wishes and was available for questions. Bob McCormick, Woodland Springs resident, spoke in favor of the proposed PUD. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. 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, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

5. **Ordinance to rezone property located at 970 & 980 Prince Street from A-1 to PUD, A-1 to R-1 and PUD to R-1.**

O-10-73

Kim Tyler, Tyler Surveying & Mapping, representing Turnberry Partners LLC, explained the plat has just recently filed and is comprised of 73 lots and 2 lots (6 & 7) that needed cleaned up for zoning purposes and in order to make the boundaries straight an agreement was reached by Greg Wren, owner of lot 7, and Kevin Watson to swap triangular pieces of land but in turn this made an unusual zoning configuration so we would like to make everything either R-1 or PUD. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

6. **Ordinance to rezone property located at 2010 Washington Ave from R-2A to O-2.**

O-10-74

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. Rhett Thompson, 995 Cadron Gap Rd, explained this is a piece of rental property that has been vacant for approximately 4 months and his office space rental downtown is quite high and he requests council approve this rezoning. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. Roger Lewis who owns a piece of property at Washington & Hutto zoned C-2 stated he did speak in favor of this proposed rezoning at the June planning commission meeting but he has some concerns since that time and would like some clarification. Mr. Lewis stated he understands that Mr. Thompson originally filed for a conditional use permit which included the condition that he would have to provide the right of way for the roundabout Washington Ave; Mr. Thompson then withdrew his conditional use permit and filed for a rezoning instead and with a rezoning the city cannot make him provide the right of way for the roundabout and he feels a roundabout at this intersection is very important. Mayor Townsell asked Mr. Thompson how cooperative he is on the 900 ft the city needs from his right of way. Mr. Thompson stated 100%; he wants the roundabout as much as anyone. Mr. Vaught asked why he changed his request from a conditional use to a rezoning. Mr. Thompson stated he had never done this before and after careful consideration he decided he should go with the rezoning and reiterated he will do whatever he can to help get that roundabout in as soon as possible. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

7. **Consideration of a conditional use permit to allow a 150 foot monopole transmission (cell) tower for property located at the 1200 block of North Museum Road.**

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Alderman Hawkins motioned to approve the conditional use permit. Alderwoman Smith seconded the motion. John Binkey, representing Georgia Towers Crown Castle Int'l AT&T, stated when we originally applied for the permit we had a standard monopole design and we heard that your preference is stealth design so that is what we have implemented. Mayor Townsell asked if they intend to allow co-locators. Mr. Binkey stated yes we will allow an additional 3 co-locators in addition to AT&T. There was no discussion. The motion passed 7-0. The conditions are as follows:

- The proposed monopole will not exceed 150 feet in height.
- Monopole will be of stealth design as presented with no external antennae or cabling.
- No signs, banners, advertising, etc., allowed except for signage required by the FCC.
- No lighting allowed except that required by the FAA and emergency lighting inside the compound.
- Six-foot high chain link fence to be constructed around the compound.

8. Consideration to accept bids for the Museum Road Extension project (Siebenmorgen Road to Lower Ridge Road).

Ronnie Hall, City Engineer, recommended accepting the low bidder J's Construction in the amount of \$1,502,532.50 and stated this will be funded by street impact fee monies. Alderwoman Smith motioned to accept the low bid from J's Construction. Alderman Hawkins seconded the motion. The motion passed 7-0.

9. Consideration to accept bids for the College Avenue Reconstruction project (Locust Ave to Harkrider Street).

Ronnie Hall, City Engineer, stated this project will be funded out of the pay as you go sales tax and does not include the widening of Harkrider nor the light at Harkrider. Mr. Hall recommended accepting the low bid from JCI Construction Co in the amount of \$767,447.00. Alderwoman Smith motioned to accept the low bid from JCI Construction. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

10. Ordinance waiving the requirement to obtain competitive bids for restoration of backyards damaged by seep holes into storm drainage system.

O-10-75

Ronnie Hall, City Engineer, explained we are asking to waive bids in this matter rather than unnecessarily allowing individuals to enter into a private citizens property; we took two proposals from contractors we knew could do the work. Mr. Hall stated the work estimate exceeded \$2,000.00 and J's Construction was the low proposal in the amount of \$10,980.00. Mayor Townsell explained this drainage work is not only in private citizens backyards, it is also along a drainage easement that is owned by the city that is causing sink holes. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion.

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

11. Ordinance amending the permit fees for the construction and alterations of buildings and building systems in the City by adding a Commercial plan review fee.

O-10-76

Mayor Townsell stated this deals with building plan review for everything except one and two family dwellings. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 7-0. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. Alderman Hawkins asked if this would require the hiring of new personnel. Lynn Hicks, Asst Planning & Development Director, stated he currently does the commercial planning review fees so this would not require additional personnel. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 7-0.

B. Public Safety Committee (Police, CEOC, Information Technology, Fire, District Court, City Attorney & Animal Welfare)

Alderman Rhodes exited the meeting.

1. Ordinance appropriating funds for additional computerized storage and remote support software expenses related to District Court automation.

O-10-77

Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 6-0. 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, Alderwoman Mehl, Alderwoman Smith, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

2. Ordinance waiving the requirement to obtain competitive bids for a vehicle exhaust system for Station 6 of the Conway Fire Department.

O-10-78

Asst Fire Chief Winters was present to answer questions. Mayor Townsell stated we will use the pay as you go sales tax money to purchase this item. 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 Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

3. Ordinance accepting restitution for overtime performed by the Conway Police Department.

O-10-79

A.J. Gary, Chief of Police, was present to answer questions. Mayor Townsell stated the amount of restitution is \$51,866.25. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 6-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderwoman Whitmore, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

4. Consideration to enter into an agreement with the Conway School District for School Resource Officers.

A.J. Gary, Chief of Police, explained we have one sergeant and four officers assigned to the school resource office program and Conway Public Schools agrees to pick up one-half of their salaries, which also includes part of the comp time and overtime that they get from the school related activities throughout the school year. Alderwoman Smith motioned to enter into this agreement. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 6-0.

5. Consideration to accept bids for night vision goggles for the Conway Police Department.

A.J. Gary, Chief of Police, explained these will be paid for from grant money we received and stated the low bidder failed to meet bid specifications and recommends awarding the bid to the next low bidder Aurora Tactical, LLC in the amount of \$29,883.00. Alderwoman Smith motioned to accept the bid from Aurora Tactical, LLC. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

Consideration to approve a change order from Salter Construction to reduce their contract price for the new fairgrounds project.

Mayor Townsell stated at our request Salter Construction has deducted \$116,876.00 from their contract price in order to purchase the cages and pens; the change order to reduce the contract price was associated with the west parking area, the plaza area in front, and the east parking area. Alderwoman Smith motioned to approve the change order. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

Consideration of a settlement order in the Lee vs. City of Conway.

Deputy City Attorney Kurt Meredith explained we although we won this case in District Federal Court Mr. Lee and his attorney, Robert Newcomb, have appealed to the 8th

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Circuit Court of Appeals in St. Louis. After they appealed a single count of the three, that they had won, they then approached the city of Conway about their willingness to settle the case for half of the attorney's fees that he had incurred which was estimated to be \$2,500.00 and the amount of overtime that was a subject of the suit which is approximately \$500.00. Mr. Meredith stated since they approached us in regards to a settlement we should consider this before taking it up on appeal at a cost of \$3,000.00. Mr. Meredith stated there is always a chance that the appeals court could disagree with the initial decision, but he feels this is highly unlikely and explained after discussions with the attorneys at the Arkansas Municipal League, City Attorney Michael Murphy, and myself we recommend the city does not accept the settlement and move forward with the appeal; the worst we could lose is \$500.00 in overtime and asked council how they wish to proceed. Alderwoman Smith motioned to continue with the appeal. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 6-0.

Consideration of the consent order in City of Conway vs. Todd A Bruins.

Deputy City Attorney Kurt Meredith explained after the city ordered the Bruins pool cleaned up and declared a nuisance and were going to proceed with removal of the pool as permitted by state statutes but to avoid entering Mr. Bruins property and the costs involved with removal of the pool we proceeded with filing suit against Mr. Bruins for declaratory judgment in circuit court. Mr. Meredith stated after we filed suit Mr. Bruins approached the city of Conway about settling this case and council at that time listed out their conditions. Mr. Meredith stated that Mr. Bruins and his attorney have agreed to councils conditions and are listed in the consent order. Alderman Hawkins asked Grant Tomlin, Code Enforcement Officer, if there have been any complaints filed this year in regards to the Bruins pool. Mr. Tomlin stated when he was notified of the consent order last week he went to check the pool only to find it stagnant once again; Mr. Tomlin submitted pictures, to council, to show the condition of the pool. Mr. Meredith stated having knowledge of the condition of the pool he does not feel comfortable executing this order. Mayor Townsell stated the pool need to be cleaned before we consider signing this consent order. Alderwoman Smith motioned to hold this consent order until the Bruins family can be notified that the pool needs to be cleaned first. Alderwoman Whitmore seconded the motion. Alderman Vaught stated this is what we should expect once we contact the family and go through the motions again. Mr. Tomlin stated he believes this is going to be an ongoing problem until the pool is removed. There was no further discussion. The motion passed 6-0.

C. Old Business

D. New Business

Adjournment

PASSED this 13th day of July 2010

APPROVED:

MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Mayor Tab Townsell

City Clerk Michael O. Garrett