
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
August 24, 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 Rhodes, Alderwoman Mehl, Alderman Vaught, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy. Alderwoman Whitmore and Alderman Jones were not present.

Call to Order

Roll Call

Minutes: *August 10th, 2010*

Alderwoman Smith motioned to approve the August 10, 2010 minutes as submitted. Alderwoman Mehl seconded the motion. The motion passed 6-0.

Announcements / Proclamations / Recognition: *Employee Service Awards*

5 Years

Preston Martin - Fire Dept.
Regan Murphy - Sanitation
Rick Stapleton - Fire Dept.

10 Years

Lenose Haynes - Street Dept.

15 Years

Rhonda Cox - Parks Dept.

Alderman Vaught motioned to suspend the rules to move item 2A-8 up on the agenda. Alderwoman Mehl seconded the motion. The motion passed 6-0. April Guy, Conway City Cab, stated they have been advised to request that this item be tabled as they did not fully understand the rules. Alderwoman Smith motioned to table this item. Alderwoman Mehl seconded the motion. After some discussion the motion passed 6-0.

1. Public Hearing:

A. Public Hearing to discuss closing four utility easements located in Woodland Springs Subdivision, Phase III along Lot 122, 123, & 124.

Mayor Townsell opened the public hearing. Kim Tyler, Tyler Surveying, explained in order to construct the PUD these easements need to be closed; Conway Corporation and AT&T are still redesigning their plans to relocate their utilities; a waiver letter will not be received, from these companies, until the utilities have been relocated. Mayor Townsell closed the public hearing. Mayor Townsell stated since we do not have the various waivers, we can hold this issue, or we can add a section to the ordinance to become effective once all waivers are received by the planning department. Alderman Grimes

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stated he believes we have done this in the past. City Attorney Michael Murphy, stated yes. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 6-0. Alderwoman Smith motioned to adopt the ordinance and amend it by adding a section that states when the ordinance will take effect. Mr. Murphy suggested that a specific timeframe be added. Alderwoman Smith asked how long before the waivers can be obtained. Ms. Tyler explained since this is a design issue it could possibly be more than 30 days; December 31, 2010 should be sufficient. Mr. Murphy stated the ordinance will go into effect on December 31 or it will die. Mayor Townsell stated that the ordinance will be in full effect when receipt of all utility waivers are in the hands of the planning department subject to the deadline of December 31, 2010. Alderwoman Smith motioned to add the Mayors language to the ordinance. Alderwoman Mehl seconded the motion. There was no further discussion.

1. Ordinance closing a 5' utility easements and three 15' located in Woodland Springs Subdivision, Phase III along Lot 122, 123, & 124.

O-10-87

Mayor Townsell stated since we do not have the various waivers we can hold this issue, or we can add a section to the ordinance stating the ordinance is effective once the planning dept. is in receipt of all proper waivers. Alderman Grimes stated he believes we have done this in the past. City Attorney Michael Murphy, stated yes. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 6-0. Alderwoman Smith motioned to adopt the ordinance and amend it by adding a section that states when the ordinance will take effect. Mr. Murphy suggested that a specific timeframe be added. Alderwoman Smith asked how long before the waivers can be obtained. Ms. Tyler explained this is a design issue and it is possible we will need more than 30 days; December 31, 2010 should be sufficient. Mr. Murphy stated the ordinance will go into effect on December 31 or it will die. Mayor Townsell stated that the ordinance will be in full effect when receipt of all utility waivers are in the hands of the planning dept. subject to the deadline of December 31, 2010. Alderwoman Smith motioned to add the Mayors language to the ordinance. Alderwoman Mehl seconded the motion. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

B. *Public hearing to discuss the closing of Edgewood Drive in the Second Baptist Subdivision.*

Mayor Townsell opened the public hearing. Keith Johnson, speaking on behalf of Second Baptist Church, explained the church recently found an outstanding check made out to the city that was for building sidewalks around this particular street and were unaware it was a city street. Mr. Johnson explained this street runs into the residence of Mr. O'Kelley, and he was looking at possibly developing this out at some point, but we as a church have no intention of doing this. Mr. Johnson stated we are requesting the city abandon the street right-of-way. There was no one else present to speak to the matter. Mayor Townsell closed the public hearing.

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- 1. Ordinance closing a 50' street right of way known as Edgewood Drive located in the Second Baptist Subdivision in the City of Conway.**

O-10-88

Alderman Smith motioned to waive the readings of the ordinance. Alderman Mehl seconded the motion. The motion passed 6-0. Alderman Smith motioned to adopt the ordinance. Alderman Mehl seconded the motion. Ronnie Hall, City Engineer, stated the city needs to retain that entire right of way for a drainage, utility, and floodway easement for all utilities. Mayor Townsell asked City Attorney, Michael Murphy, to add this language to the ordinance in section 1. Mr. Murphy stated he will add the language necessary. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderman Mehl, Alderman Smith, Alderman Rhodes, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

- 2. Report of Standing Committees:**

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

- 1. Consideration of nominations from the Bicycle Advisory Board.**

Alderman Hawkins motioned to accept the nominations of James Bruce and Lynn Ramage Schaefer to the Conway Bicycle Advisory Board. Alderman Vaught seconded the motion. There was no discussion. The motion passed 6-0.

- 2. Resolution ordering the demolition of a structure located at 11 Mockingbird Lane.**

R-10-49

Daniel Davis, owner of 11 Mockingbird Lane, explained he had not anticipated this matter would still be pending at this point. Mr. Davis stated he has spoken to the contractor at Divine Homes and Landscaping, who is under contract to demolish the structure, and he had been delayed by a family member's hospitalization. Mr. Davis stated that Divine Homes was trying to raise the original bid, so he told them their services were no longer needed. Mr. Davis stated he then contracted with Arkansas Construction to complete the demolition and went onto say that the demolition permit has applied for and it will take Conway Corporation 2 business days to verify that the meters have been pulled from the property. Mr. Davis stated it is looking as if it will be closer to the end of the week before the demolition permit will be in hand and stated that Arkansas Construction said they can start immediately. Grant Tomlin, Code Enforcement Officer, asked that council pass this resolution since Mr. Davis will still have 30 days to bring the property up to code. Alderman Hawkins motioned to adopt the resolution. Alderman Smith seconded the motion. There was no further discussion. The motion passed 6-0.

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

R-10-50

Mayor Townsell stated the property address is Mildred (Parcel #710-04605-000); the cost of cleanup was \$125.20 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

R-10-51

Mayor Townsell stated the property address is 3880 Rupert Drive; the cost of cleanup was \$153.20 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

R-10-52

Mayor Townsell stated the property address is 1515 Freyaldenhoven Lane; the cost of cleanup was \$166.72 plus 10% collection penalty. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

- 4. Consideration to reallocate funds within the Community Development Block Grant Program.**

Lauralee McCool, CDBG Director, stated she is requesting that part of her salary be taken from the Pine Street Revitalization project; this is a common practice in CDBG cities in Arkansas; when she was hired her salary came exclusively from that fund and since we have taken it from administration. Ms. McCool explained we have learned that the money we obligated, to write both of our 5 year plans, must come out of administration funds, and that money is capped, and there is not enough in administration to pay all the administrative costs without taking some from the Pine Street Revitalization project. Ms. McCool explained that Wes Craiglow, Planning and Development Department, had agreed to help with the Pine Street project and he was to be paid out of that project, but he has not been paid and he has decided not to work on that project and stated she has taken the lead on that particular project. Ms. McCool went onto say that Mr. Craiglow has been working on the downtown drainage project and the planning department will be reimbursed if HUD approves this. Alderwoman Smith motioned to approve paying Ms. McCool's salary from the Pine Street Revitalization project. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 6-0.

- 5. Consideration to approve the contracts for the 2010 CDBG funding recommendations.**

Lauralee McCool, CDBG Director, explained the only thing that changed is the reallocation of \$1,798.00 to each of the five public service projects and these contracts reflect what council approved earlier this year. Alderman Hawkins motioned to approve

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the CDBG contracts. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 6-0. The contract amounts are listed below:

Projects:

• Pine Street Revitalization Project	\$138,963.00
• CAPCA	\$ 70,000.00
• Bethlehem House	\$ 50,000.00
• Downtown Drainage Project	\$ 50,000.00

Public Service Request:

• Bethlehem House	\$ 16,798.00
• Boys & Girls Club	\$ 10,798.00
• Senior Citizens	\$ 11,798.00
• FCCDD	\$ 21,798.00
• Women's Shelter	\$ 7,798.00
• Administration (20%)	<u>\$ 91,988.00</u>
	\$469,941.00

6. Consideration of an offer and acceptance for property located at 819 Siebenmorgen & 1416 & 1429 Sutton Street.

Alderman Hawkins stated the purchase price for these properties is \$39,600.00 and \$33,000.00. Lauralee McCool, CDBG Director, stated the purchase of these properties is contingent upon the approval of the environmental reviews she has submitted to HUD. Mayor Townsell explained that this is part of our larger project to invest in properties in the Pine Street area and work with Habitat for Humanity or a private contractor to start rebuilding housing in this area. Alderwoman Mehl asked if these are being purchased from Habitat. Mayor Townsell stated yes. Alderwoman Smith motioned to enter into both property offer and acceptances. Alderwoman Mehl seconded the motion. There was no further discussion. The motion passed 6-0.

7. Ordinance to rezone property located at 2600 College Avenue from R-1 to O-2.

O-10-89

Susan Moore explained there has been a lot of interest in this property that leans toward the zoning we are requesting tonight; most of the property across the street *is not* zoned residential and out of respect for the adjoining property owners she feels this zoning is suitable. Bill Farris, area property owner, explained his property is just north of Ms. Moore's property and wants to make sure that access to that property from Dennison is maintained. Mayor Townsell stated if that is a dedicated right of way then the owners of the property cannot close that without being brought before council. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl 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, Alderman Rhodes, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

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- 8. Consideration of a conditional use permit to allow a taxicab stand or dispatch station for property located at 704 East Sixth Street.**

Item removed from the agenda.

- 9. Consideration of obtaining right of way from Mr. J.E. Williams for the Museum Road Extension (Siebenmorgen Road to Lower Ridge Road).**

Ronnie Hall, City Engineer, explained that Jack Bell, Assistant to the Mayor, has negotiated a price for this right of way and we have obtained a signed offer and acceptance in the amount of \$20,000.00 for 2.16 acres. Alderwoman Smith motioned to accept the offer to be paid for out of "pay as you go sales tax". Alderwoman Mehl seconded the motion. After a brief discussion the motion passed 6-0.

- 10. Consideration of bids for asphalt for Salem Road (Meadowlake Road to US 64) & other projects for the City of Conway.**

Ronnie Hall, City Engineer, explained the work on this project was completed (except for paving) in August 2009; Rogers Group placed the asphalt on the roadway on August 31, 2009; traffic was opened on September 9, 2009. Mr. Hall stated the asphalt that was placed was the initial 2" layer of binder course with an additional 1.5" of surface course that followed. Mr. Hall stated that the 1.5" surface course was not placed by Rogers Group, and it is still not placed; we contacted Rogers Group in regards to finishing this project, there was no attempt on our part to delay paving. Mr. Hall stated the emphasis on this is important, because there was some thought that allowing the binder course to lay through the cold wet freezing winter months may have caused some deterioration in the binder course which shows with significant failures in it now; it will need to be replaced before paving or the cracks will just come through. Mr. Hall stated initially he contacted Steve Garrett, who tests asphalt etc., to take a look at the road, he said that it looked like the failures were due to weathering of the binder course and he also stated there were sections of the binder course that were thin due to failure. Mr. Hall stated that we forwarded a letter of recommendation to Mr. Gorman at Rogers Group for his use and we assumed that Rogers Group would repair the failed sections when their schedule permitted. Mr. Hall explained he emailed Mr. Gorman on May 20, 2010 requesting a schedule for repairs and paving to Salem Rd. Mr. Hall went onto say that on June 4, 2010 he received a response from Mr. Gorman that Rogers Group was reviewing the issues of this project; on July 22, 2010 Mr. Hall again emailed Mr. Gorman requesting a schedule for repairs. Mr. Hall stated that on July 26, 2010 Mr. Gorman met with him, and other city officials, and informed us they would not bare the costs of repairing Salem Rd failures, nor would they be responsible for any deficiencies in the crushed stone base course that they supplied to Tom Lindsey. Mr. Hall stated we then obtained the services of Carl Garner to investigate and determine the reason for the asphalt pavement failure and to give us an acceptable method of repairing the asphalt. Mr. Hall stated this study is still underway and Mr. Garner's initial evaluation of the base course indicated that it was not of "support value" for typical aggregate base course and it needed some strengthening to provide the roadway structural numbers and explained that Mr. Garner recommended we remove 1" of base course, and replace it with 1/2" of additional binder course and 1/2" of additional surface course. Mr. Hall went onto say as a follow up to our

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meeting with Mr. Gorman we took bids to remove the asphalt, remove 1" gravel base course, and provide the asphalt paving work for the Salem Rd project completion as well as our other paving projects throughout the year. Mr. Hall stated the bid prices we received today before you and explained the low bidder was Cranford Construction in the amount of \$478,789.50; this includes approximately \$110,000.00 that would be contributed to the Salem Rd extension project and \$46,000.00 for additional thickness of pavement; the portion of that bid assigned to Salem Rd will be approximately \$156,000.00. Mr. Hall stated the remainder of the bid is for paving the new fair grounds entrance; Winfield, Smith, Heidi Court, Pheasant Rd, Deerbrook, and Middle Road which were overlay projects approved by council for this year. Mr. Hall recommends approving the low bid from Cranford for the items outlined above; this is a unit price contract per ton as noted which is \$68.19 for asphalt surface course, 63.76 for binder course, \$1.35 per sq yard for removal of existing asphalt, .30 cent a sq yard to removal of the crushed stone, and \$4.00 per gallon for prime coat. Alderman Rhodes asked if we will seek reimbursement from Rogers Group. Mr. Hall stated yes we will seek reimbursement and may need the assistance of City Attorney Michael Murphy. Alderman Grimes stated the project was awarded to Tom Lindsey Contractors and asked if the asphalt work was included in this bid or a separate bid from Rogers Group. Mr. Hall stated the asphalt was included in the contract from Tom Lindsey Contractors. Alderman Grimes asked why Tom Lindsey Contractors is not liable for this. Mr. Hall stated that is who we would have to go through to get to Rogers Group for the crushed stone; if indeed the crushed stone is an issue. Alderman Grimes asked if Mr. Hall has spoken with Lindsey Contractors. Mr. Hall stated Lindsey does not want to be involved adding Lindsey purchased crushed stone base, which was advertised and sold as a spec material, that would be a competent base material according to highway department specs; once it was in place and in service, it was tested and found to be "out of spec"; either the supplier or the contractor caused it to be out of spec. Alderman Hawkins asked if a bond was required for this project. Mr. Hall stated Mr. Lindsey was required to have one; but the annual bid contractor was no required to have as that has not typically been a requirement but it probably should have been. Alderman Hawkins stated if we have not been requiring that we need to think about putting that in future specifications. Mr. Hall stated one reason we don't is because the dollar amount is not known when we start the year and the bonding company wants a dollar amount and projects listed to the bond itself. Mayor Townsell asked if we can bond individual projects instead of the annual bid. Mr. Hall stated yes, we can bond each individual project. Alderwoman Smith asked if we are severing our contract with Rogers Group. Mr. Hall stated yes, we will need to cancel their contract for the remainder of 2010. Alderman Hawkins asked City Attorney Michael Murphy if that is possible. Mr. Murphy stated he would like to get with Mr. Hall and look over the contract first to determine the criteria for either party to cancel the contract. Mayor Townsell asked when Mr. Garner's final report to be done. Mr. Hall stated approximately 2 more weeks. Mayor Townsell asked if we have 2 weeks to wait on paving the fairgrounds. Mr. Hall stated possibly if the weather is good. Mayor Townsell stated suggested holding this in committee until we can review the contract. Alderwoman Smith motioned to hold this item in committee. Alderwoman Mehl seconded the motion. There was no further discussion. The motion passed 6-0.

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

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- 1. Ordinance approving the donation of a phone system from the Conway Fire Department.**

O-10-90

Mike Winters, Assistant Fire Chief, explained their phone system was recently updated and we wish to get this item off of our inventory and the Sherwood Fire Dept. expressed an interest in our old system. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. 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, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

- 2. Ordinance amending Title 6 (Animal Welfare) of the Conway Municipal Code Book.**

O-10-91

Shona Osborne, Animal Welfare, stated the city currently does not have a "no tethering" law which allows owners to chain their animals to a stationary object. Ms. Osborne stated this is not a new law, and other area cities have a law very similar. Alderman Rhodes asked if there were be discretion used for individuals who take their animals out and place them on a cork screw type device for short periods of time. Ms. Osborne stated yes, there discretion will be used, we want to eliminate the problem of individuals who continually leave their animals tethered even after several warnings. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl seconded the motion. The motion passed 6-0. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Smith asked if the emergency clause was needed. Mayor Townsell stated no. Alderwoman Mehl seconded the motion. Alderman Vaught concurred with Alderman Rhodes. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Mehl, Alderwoman Smith, Alderman Rhodes, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

- 3. Ordinance appropriating reimbursement funds to the Conway Police Department.**

O-10-92

A.J. Gary, Chief of Police, was present to answer questions. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl 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, Alderman Rhodes, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

- 4. Ordinance appropriating insurance funds to the Conway Police Department.**

O-10-93

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A.J. Gary, Chief of Police, was present to answer questions. A.J. Gary, Chief of Police, was present to answer questions. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Mehl 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, Alderman Rhodes, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

5. Ordinance appropriating asset forfeiture funds to the Conway Police Department.

O-10-94

A.J. Gary, Chief of Police, was present to answer questions. Alderwoman Smith motioned to waive the readings of the ordinance. Alderman Hawkins 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, Alderman Rhodes, Alderman Grimes, and Alderman Vaught. The motion passed 6-0.

C. Old Business

D. New Business

Adjournment

PASSED this 24th day of August 2010

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett