
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 5:30 p.m.
May 10, 2011

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

Call to Order

Roll Call

Minutes: *April 12th, 2011 & April 26th, 2011*

Alderwoman Whitmore motioned to approve the April 12, 2011 and April 26, 2011 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 8-0.

Announcements / Proclamations / Recognition:

1. Report of Standing Committees:

A. Public Hearing:

Mayor Townsell opened the public hearing. Robert Brown, Development Consultants representing Acxiom Corp., was present to answer questions. Mayor Townsell closed the public hearing.

1. Public Hearing: Ordinance closing a utility easement located within the Acxiom Corporate Campus.

O-11-34

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

R-11-18

Mayor Townsell introduced a resolution that declares the intent of the city council to utilize the proceeds of the upcoming 2006 Sales Tax rededication for granting employees step raises in 2011 and January 2012 to restore the police patrol division officers full 84 hour schedule, to replenish the depleted general fund, fund balance, and to create a reserve fund. Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. Lowell McClanahan, Interim CFO, was present to answer questions and gave a brief overview of the resolution. After further discussion among

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council Alderman Vaught motioned to amend the resolution to add language to the beginning of Section 4 stating *“regardless of the passage of the 2006 Sales Tax” Re-dedication*”. Alderman Grimes seconded the motion. There was no discussion. The motion passed 7-1. Alderman Hawkins voted in opposition. There was no further discussion on the main motion. The motion passed 5-4 with Mayor Townsell voting with the majority. Alderwoman Whitmore, Alderman Jones, Alderman Hawkins, and Alderman Rhodes voted in opposition.

Alderman Grimes exited the meeting.

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

1. Consideration of a warranty deed for transfer of property at the proposed Tupelo Wastewater Plant.

Greg Dell, Conway Corp, stated that the southernmost tip of the land for the wastewater treatment plant falls within a 10,000 ft radius of the proposed airport runway and the FAA restricts the building of wastewater treatment facilities within that radius. Mr. Dell went onto explain that their engineering firm believes if we keep all of the treatment facility out of this section of land that would satisfy FAA requirements; the cities engineering firm has recommended we deed this 16 acres to the city which would protect the city and their funding for the airport and it would not allow Conway Corp to use this area at all. Alderwoman Smith motioned to approve this transfer of property. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

2. Consideration for condemnation proceedings for easements on the Harkrider widening project.

Greg Dell, Conway Corp, explained this project runs from Oak St to Siebenmorgen and the highway department is pushing this project because construction needs to begin this year. The utilities must be moved and explained there are two parcels of land that we have been unable to obtain easements on thus far; this request is for easements only. Mr. Dell stated that one property owner (Casey Jones) is in litigation with the Highway Dept; we consider this a friendly condemnation and it was recommended to Conway Corp to come before council for these requests. Mr. Dell stated the second easement is Walgreens and it is “lost” at corporate headquarters explaining they are not opposed to this and asked council to proceed on these condemnations. Alderwoman Smith motioned to authorize City Attorney Michael Murphy to move forward with these condemnations. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

3. Resolution establishing the intent of the City of Conway to annex certain lands comprised of 57.64 acres located South of Dave Ward Drive and west of Lollie Road and East of Sand Gap Road with the possible address of 3605 Lollie Road or 3600 Sand Gap Road.

R-11-19

Mayor Townsell explained this is land we have purchased that will be part of the new airport footprint. Ronnie Hall, City Engineer, explained the airport property is approximately 430

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acres; most of that land was annexed by voluntary annexation via the Brown and Hendrickson families, the Moon Trust, and the Conway Development Corporation. Mr. Hall stated this owner Jackie Williams elected not to join in that annexation so after the purchase of the land we needed proof of annexation for the FAA. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. Mayor Townsell stated this will be zoned I-3 once annexed. There was no further discussion. The motion passed 7-0.

4. Ordinance adopting by reference the City of Conway Airport height and land use zoning overlay district.

O-11-35

Ronnie Hall, City Engineer, stated this is required by the FAA and was agreed upon by resolution back in 2008 and is also a condition of a 2010 grant the city received from the FAA. Mr. Hall explained the overlay zoning district basically creates a safe environment for aircraft to operate and has two separate parts, one being a height restriction, and one being land use restriction. The land use restriction is to ensure that habitats are not created to attract birds; we are grandfathering in activities that are and have been ongoing in the Lollie Bottoms area for some time, like rice planting etc, stating the FAA is in agreement with this until it is determined that an activity could be a detriment to aviation, if that should happen we will have to litigate the situation. Mayor Townsell suggested adding an emergency clause. Mr. Hall concurred. Alderman Vaught inquired how Perry County could be affected by the new airport. Mr. Hall gave a brief overview of height restrictions that the FAA would impose. Alderman Vaught read letters from Senator Jason Rapert and Perry County Judge Baylor House that voiced their concerns regarding the lack of contact from the City of Conway and the Conway Planning Commission as they feel they should be considered in the decision making process that may affect the quality of life of those Perry County residents living closest to the airport. Mayor Townsell stated we should check to see if all jurisdictions need to be consulted. Mr. Hall stated we are putting under contract a \$1.7 million project that is funded by the FAA and they are asking us for copies of this ordinance to ensure we have complied. Mr. Hall stated we are also taking bids on another project in late May which will be a 2011 grant and he is not sure what we can do by meeting with these officials other than explain to them what we are doing which can be done after the passage of this ordinance. Mayor Townsell stated if it is an obligation to consult with them, then we need to abide and asked if this ordinance can be held for two weeks to determine our obligation. Mr. Hall stated it is our ordinance but the FAA will impose these restrictions weather we do or not. Mr. Hall stated they would like to have the grants issued before the end of May; we were notified that we need to get our application in. Mr. Hall stated he met with Mr. Rapert six months ago and went over this project with him. After some discussion among council Mayor Townsell suggested passing this ordinance tonight and clarify what the cities notice requirements are. Joe Thrash, 510 South Hampton Dr; Conway, stated he is a land owner and farmer in the Lollie Bottoms asked if hunting is allowed. City Attorney Michael Murphy stated that "pre-existing lawful uses" can continue. 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 and the emergency clause. Alderman Hawkins seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman

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Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

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

1. Consideration to accept bids on the demolition of a structure located at 1415 Lincoln Street.

Alderman Hawkins motioned to accept the low bid from Paladino Construction Inc. in the amount of \$2,200.00. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

2. Ordinance to rezone property located at 1544-1546, 1550-1552, 1605, 1606, 1616, 1619, 1625 Clifton Street; 1503 ½, 1505, 1531, 1541, 1545, 1551, 1553, 1605, 1615 Washington Ave; Vacant Lots at Front and Independence East of Railroad tracks; and the parking lot at Harkrider and Markham from MF-3 AND C-3 TO S-1.

O-11-36

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderman Hawkins motioned to adopt the ordinance. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

3. Consideration of a conditional use permit by Basic Unit, LLC to allow mobile home replacement for property located at 1930 South Amity Road.

Bill Adkisson, Attorney representing Basic Unit LLC/Charles Simon, requested the one condition be removed. Alderman Hawkins stated he does not have a problem with removing the condition. Alderwoman Smith motioned to approve the conditional use permit request and to remove the one condition. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 7-0.

4. Consideration of a RFQ for Prince Street Right of way appraisal and land acquisition services for the City of Conway.

Ronnie Hall, City Engineer, in anticipation for the need of appraisal services we advertised for consultants and received RFQ's from four firms and the selection committee reviewed these appraisals and selected O.R. Colan Associates (Little Rock) for the Prince Street right of way projects. Alderwoman Smith motioned to approve the selection of O.R. Colan Associates. Alderman Vaught seconded the motion. Mr. Hall stated they will do all of the property acquisitions and 19 of the appraisals. Alderwoman Mehl asked why these were split. Mr. Hall stated we wanted to compare appraisals. Mayor Townsell asked if O.R. Colan Associates will do the property acquisition and 19 of the 29 appraisals and Coats Appraisal Service will do 10 of the appraisals. Mr. Hall stated that is correct. Alderwoman Smith motioned to accept O.R. Colan Associates and Coats Appraisal Services for the Prince St.

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project and Richard Stephens & Associates (Little Rock) for the Cantrell Field appraisal. There was no discussion. The motion passed 7-0.

5. Consideration of a RFQ for property appraisal services for the existing Conway Municipal Airport.

Mr. Hall recommend the use of Richard Stephens & Associates (Little Rock) for the airport appraisal of the airport property at Cantrell Field as they did the appraisal for the new airport and did a good job. This appraisal is needed to satisfy the FAA to determine the market value of the existing airport and invest that amount in aviation facilities at the new airport. This item was approved with 1C/4 above.

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

1. Consideration to accept bids for a 4x4 Service Truck, 11yd Commercial Rear Load Refuse Truck, & Commercial Rear Load Refuse Truck for the Conway Sanitation Department.

Rebecca McHughes, Sanitation Dept, was present to answer questions. The outline of the bids are as follows:

- 2011- 4X4 Service Truck – low bidder was Smith Ford in the amount of \$82,180.16
- 2011 – 11 yd Commercial Rear Load Refuse Truck – second lowest bidder from Diamond Int'l of Little Rock in the amount of \$117,700.00; the low bidder did not meet specs.
- 2011 – 25 yd Commercial Rear Load Refuse Truck – second lowest bidder from River City Hydraulics in the amount of \$114,825.00; the low bidder did not meet specs.

Alderswoman Smith motioned to approve the recommendations from the Ms. McHughes. Alderswoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

2. Ordinance appropriating & accepting restitution funds from The Hartford Insurance for the Conway Parks Department.

O-11-37

Steve Ibbotson, Parks Director was present to answer questions. The amount of restitution was \$2,295.00 for damage to the fence at Don Owen Sports Center. Alderswoman Whitmore motioned to waive the readings of the ordinance. Alderswoman Mehl seconded the motion. The motion passed 7-0. Alderswoman Whitmore motioned to adopt the ordinance. Alderswoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderswoman Smith, Alderswoman Mehl, Alderswoman Whitmore, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

3. Ordinance to waive bids for the construction of a washout bay at Conway Expo Center and Fairgrounds.

O-11-38

Steve Ibbotson, Parks Director was present to answer questions. Mayor Townsell explained when we were designing/constructing the fairgrounds we were told that the wash out bays could be left uncovered but the runoff had to be captured in a sanitary sewer system. During times when the bay is not in use, and we receive rainfall, we thought we could put a diverter in to that would allow the runoff to enter the creek system, however the EPA forces Conway Corp to completely separate these; it was determined that a canopy was needed to cover the wash out bay. Mayor Townsell stated if we had to build a canopy before the facility opened we authorized Salter Construction at that time to communicate with the local engineer that worked with the livestock pavilion and determine the best way to do build a canopy and Salter has the engineered plans. Mayor Townsell suggested going forward with Salter Construction and stated the quote is \$101,859.00. Alderwoman Smith motioned to waive the readings. Alderwoman Whitmore seconded the motion. The motion passed 7-0. After some discussion Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, and Alderman Jones. The motion passed 5-1. Alderman Vaught voted in opposition and Alderman Hawkins was not present for the vote. Lowell McClanahan noted this will be funded by A & P monies.

4. Consideration to approve additional parking at Conway Station Park.

Mayor Townsell stated we built all the parking we could afford to build at the time and explained there are two additional parking lots that were left off that we knew we would ultimately build, it was also planned to use the side streets for parking as well. This will allow us to place gravel on the grass at the northeast corner of the park (480' X 180') as temporary parking. Mayor Townsell stated the total estimate for this project is \$32,800.00. The stone is 2,000 ton @ \$11.40/ton = \$22,800 and to spread and compact it is 2,000 ton @ \$5.00/ton = \$10,000. We recommend F.P. Bivens for spreading as they are a good contractor and guarantee their work. After some discussion Alderwoman Smith motioned to approve the additional parking. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0. Lowell McClanahan noted this will be funded by A & P monies.

5. Discussion regarding work done along Beaverfork Lake shoreline at property located at 62 Southshore.

Mayor Townsell stated that a resident has built a retaining wall of sorts without proper approval and asked for council direction on how to handle this matter. James Burnside, Beaverfork Caretaker, explained the resident has built a retaining wall, created a peninsula on his land, and had a tree in the water. Mayor Townsell asked if it is on his land or the city's water. Mr. Burnside stated it is in our water and asked for council direction. Robert Kyzer, 62 Southshore Ln; stated it is true I dug approximately 2 feet around my dock which is not really deep enough for a boat. Mr. Kyzer stated he had someone come dig around the dock a bit more and did have that dirt hauled out and placed in the water a distance from the dock and it is sticking up out of the water, it is not connected to my property and I did not do it to extend my land. Mr. Kyzer stated I was only trying to make the water deeper around my dock and I did have approximately 3-4 dump truck loads of dirt dug out of a cove and had

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the wall constructed and if council needs me to tear it down he is willing to do so. Mr. Kyzer stated he could have burned the tree but thought it would improve the fishing. Alderwoman Mehl stated Beaverfork Lake belongs to the citizens of Conway and feels that anything that happens on the lake should belong to the citizens of Conway and if Mr. Kyzer is willing to let people use it she is okay with it, if not she will have to take the same stance as she does on boat docks. Mr. Kyzer stated he does not care if people use the dock etc. Mayor Townsell stated the block wall would have probably been approved so if we could go through the steps to get that documented but feels the pile of dirt is the most intrusive. Mayor Townsell stated what we should have him permit the block wall and then when the time becomes appropriate to remove the dirt from the water weather that be in a time of drought or we drop the lake. Mayor Townsell suggested tying the removal of the dirt to the renewal of the boat dock permit on an annual basis. Alderwoman Smith motioned to allow Mr. Kyzer to permit the retaining wall and tie the removal of the dirt to the annual renewal of the boat dock permit no matter who owns the property. Alderman Jones seconded the motion. There was no discussion. The motion passed 7-0.

Old Business

New Business

Adjournment

PASSED this 10th day of May 2011

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett