
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
June 14, 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 Jones, Alderman Vaught, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy. Alderman Rhodes was not in attendance.

Call to Order

Roll Call

Minutes: *May 24th, 2011*

Alderwoman Smith motioned to approve the May 24, 2011 minutes as submitted. Alderwoman Whitmore seconded the motion. The motion passed 7-0.

Announcements / Proclamations / Recognition:

Conway Rotary 90th Anniversary Celebration

Mayor Townsell recognized the Conway Rotary Club's 90th anniversary.

1. Report of Standing Committees:

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

- 1. Resolution setting a public hearing to discuss the closing of an alley located within The Village at Hendrix, Phase I.**

R-11-23

Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. The motion passed 7-0. The public hearing will be held Tuesday June 28, 2011 at 6:30 pm.

- 2. Resolution setting a public hearing to discuss the closing of the southernmost 250 feet of Simon Street (unpaved).**

R-11-24

Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. The motion passed 7-0. The public hearing will be held Tuesday June 28, 2011 at 6:30 pm.

- 3. Ordinance establishing standards for public tree preservation and protection for the City of Conway.**

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Alderman Smith motioned to hold this item in committee. Alderman Mehl seconded the motion. The motion passed 7-0.

4. Consideration of bids for Farris Road Improvements (Bruce Street to Dave Ward Drive).

Ronnie Hall, City Engineer, recommended awarding the bid to the low bidder Paladino Nash in the amount of \$1,222,791.30. Alderman Smith motioned to accept the low bid. Alderman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

5. Consideration of entering into an agreement with Paullus Structural Consultants for professional engineering services for a report on the property located at 912 Front Street.

Lynn Hicks, Asst. Planning & Development Director, recommended Paullus Structural Consultants from Olive Branch, MS to perform the engineering study stating they have a background of working with unreinforced masonry and historical buildings. Mr. Hicks stated he and Mr. Paullus surveyed the building and Mr. Paullus feels the building is in not structurally sound and has submitted his proposal to provide engineering services to determine the best way to demolish the building in a safe manner. Alderman Hawkins asked who would be paying for these services. Mayor Townsell stated the city will have to pay for this if we want to expedite the process; otherwise we are dealing with condemnation. Mr. Paullus indicated that this should be handled expediently, and also suggested we look for a contractor while he compiles his findings. Mayor Townsell stated if we pay for these services we would attach liens in some fashion back to the property owners. Alderman Jones asked how much we will be paying Mr. Paullus. Mayor Townsell stated the cost is no to exceed \$4,500.00 and stated Mr. Paullus has said the Dryer Building is unstable and needs to be demolished. Mayor Townsell stated Mr. Paullus' firm will not be the on-site management for the demolition; they can be hired if we so choose, but this contract does not cover include this. Alderman Vaught asked if any costs associated with engineering and/or demolition can eventually be billed back to the property owners. Mayor Townsell stated yes, that is his understanding. Michael Murphy, City Attorney, stated this is what will trigger the condemnation process for the city to act, to demolish the building; a part of this will be the information gathered in the engineering study showing the need for demolition. Alderman Vaught asked if we will give the property owners the option of demolishing the building before we do and place a lien on their property. Mr. Murphy stated depending on the timing that is an option and if the property owner can move more quickly that is to everyone's benefit. Mr. Hicks stated the city has yet to condemn the building due to the fact that we were trying to see if the building could be saved in some way; we now have a report from Mr. Paullus indicating the building is hazardous and is a danger he feels that in order to stay within the process this council will have to condemn the building in order for the city to be able to actually place a lien on the property once the entire process is completed and was not sure if council was prepared to do that tonight or at a later date. Mr. Murphy stated this is all under the assumption that the city acts under its state authority to condemn the building; council needs to determine if they want to condemn the building which would trigger any ability to attach liens under state condemnation authority. Mr. Hicks stated that once council condemns the building the owner still has 30 days from that point to

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demolish the building unless the city steps in under an emergency clause. Alderman Jones asked can we condemn the building without first receiving an engineering report. Mayor Townsell stated we should wait until we get the report then condemn. Alderman Grimes stated we need more than someone looking at the building from outside and saying it is not safe. Mayor Townsell stated that Mr. Paullus is not going to enter the building because of safety concerns. Mr. Murphy stated as a body you have the authority to make decisions based on information provided by Mr. Hicks or someone else; it depends on councils comfort level. Alderman Jones asked if the entire building needs to be demolished. Mr. Hicks stated yes. Mayor Townsell concurred. Ronnie Hall, City Engineer, stated that Mr. Paullus' report will tell us what needs to be demolished and he will enter the other buildings involved perform and inspection. Alderman Grimes stated it sounds like we know what needs done; we need to determine the steps that should be taken, and based upon Mr. Hicks and Mr. Paullus' opinions the building is unsafe and we should condemn it and hire someone to figure out if the other buildings may or may not need to come down as well. Mayor Townsell stated we will have this report in hand by the time we can get an ordinance condemning the building on the next agenda. Mayor Townsell stated we can condemn the building tonight. Mr. Hicks stated the building next door (Pentecostal Church) needs to be vacated until the Dryer building can be made safe or demolished. Alderman Vaught asked if Bates Furniture building should be vacated. Mr. Hicks stated he feels this is not necessary; if the Dryer Building were to collapse it would do so in a hinged fashion at the second floor, it would not be where the entire wall would collapse. Alderwoman Mehl asked Mr. Murphy what the official process is to start condemnation; do we need to contact the owner, give them time to respond, and hold a public hearing. Mr. Murphy stated all of those things and some of those may have to be done on the front end; we also need to check the records and see at what point council tabled this issue. Randy Dryer, owner Dryer Building, asked if the last time on the agenda was it to have a structural engineer inspect all three buildings. Mr. Dryer stated no one entered his building and stated he was there for over 30 minutes and never saw anyone and an inspection of a building take approximately 3 hours to get a report which has not been done because he did not enter the building; if he has a report he has taken information from other reports. Mr. Dryer stated I have several reports here from various people and they vary in opinions; one from 2 months ago says the bank vault is causing the problem but he feels that someone needs to get on the roof of the church building and check inside the ceiling and see if the pockets still contain boards. After some discussion in regards to the various reports Mr. Murphy stated that council needs to have as much of this information as the property owners are willing to share and would help council in its deliberation. Mr. Dryer stated he is willing to share his reports with council. Terry Long, Pastor Downtown Pentecostal Church, stated this will put a financial strain on his church and stated Mr. Hicks and Mr. Paullus did come in the building and looked in the upstairs and downstairs ceilings which helped him make his determination. Mr. Long's concern is the \$800.00 mortgage payment, the fact that they have no money, and not knowing when or if we will ever be able to occupy our building again. Mr. Long asked what is the most expedient way to determine what needs to be done with the building. Mr. Long stated he cannot afford in a number of ways for this to drag out and asked for consideration on our behalf that whatever needs to happen can be expedited. Alderman Hawkins motioned to enter into the agreement with Paullus Structural Consultants. Alderwoman Smith seconded the motion. Alderman Grimes asked if Mr. Paullus is going to look at all 3 buildings and any other buildings that may be associated with the Dryer Building. Mr. Hicks stated he believes his scope of work

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will take him all the way down the block. Alderwoman Whitmore asked if Mr. Paullus would enter the Dryer Building. Mr. Hicks stated no. Alderman Grimes stated he would rather have someone who is willing to enter the Dryer Building as well. Alderman Vaught concurred. Mayor Townsell suggested, if the roof joists are coming out this could push the wall out further; but more critical is the foundation underneath the wall and if it is prone to continue moving. Mr. Hicks stated one thing to look at if you consider the other firms is the scope of work, as they would look at the wall, they were not asked to inspect the building, and also you need to look at the date and the time that those reports were written. Mr. Hicks went on to say that he has been keeping an eye on the building since this issue came up and he believes that it is getting worse. Mr. Hall stated this engineer came to us from an advertised RFP and there were only 2 firms that submitted their qualifications. Charlie Crossman, Crossman Printing, stated he personally hired engineer to inspect his building and if this gentleman is going to come in and there is a cloud of unknown expenses who will pay the bill and how much of the block will be inspected; personally he would like to know because he has already incurred an expense and asked how much further are we going to go. Mayor Townsell stated we don't know at this point how much of the expenses will go to the various businesses but stated he cannot see if your building is deemed safe that there would be a burden to you. Mr. Crossman stated he would like to know ahead of time. Mayor Townsell stated that will be determined if your building is deemed safe and stated the cost is \$4,500.00 but how that is divided up has not been determined. Alderwoman Mehl asked if we can place a lien on building we have not condemned. Mr. Murphy stated no. Mr. Hicks to expedite a resolve to this issue as he has watched the building the past couple of years and it has gotten worse and he believes the building is going to fall. Alderman Grimes stated it sounds like Mr. Paullus has made up his mind and he may well be correct but he can't support this if Mr. Paullus is not willing to go inside the building and inspect it and it and give us a 100% confirmation that the building needs to be demolished. Alderman Vaught stated from all we have heard and after Mr. Murphy again explaining his stance on this body having the authority to make decisions based on the information provided recommended we start the process of giving the property owners notification that the city council has deemed their building/buildings unsafe and begin the process of making them safe or demolish them. Mr. Murphy stated you either condemn the building or you don't. Mayor Townsell stated we need to hire someone to determine how to stabilize the building so it can be demolished in a systematic fashion and if we do not use this firm we have to hire someone or we are left at the mercy of the contractor itself. Alderwoman Mehl asked if we can condemn the building tonight. Mayor Townsell stated no, we do not have an ordinance drafted or all the necessary documentation needed including Mr. Dryers studies. Alderman Hawkins asked for clarification from Mr. Hicks that Mr. Paullus is not going to enter the Dryer Building. Mr. Hicks stated I cannot say he won't change his mind. Alderwoman Mehl asked if we can hold this in committee until we get the ordinance and give Mr. Hicks time to talk with Mr. Paullus. Bryan Patrick, Planning & Development Director, suggested making this agreement contingent on Mr. Paullus entering the building. Council concurred. Mr. Patrick stated he has also been watching this building for 2 years and stated it is moving. Alderman Jones motioned to approve this agreement with the contingency that Mr. Paullus will enter the building and have an ordinance ready for condemnation for the next council meeting. Alderwoman Whitmore seconded the motion. After some discussion it was determined to leave the cap on the price to not exceed \$4,500.00. There was no further discussion. The motion passed 6-1. Alderman Grimes voted in opposition.

6. Discussion of bids for the Conway Municipal Airport Stage 1B - Grading and Drainage Construction Project.

Ronnie Hall, City Engineer, explained we took bids on the runway completion, earthwork and drainage, as well as the earthwork and drainage for the terminal and apron area; the low bidder was TL Wallace in the amount of \$2,359,826.45 for Schedule 1 (Complete Initial Dev.) and \$2,013,031.90 for Schedule 2 (Complete Runway Only). TL Wallace has made a request to the city to reject his bid as he omitted the cost of the dirt required to make the fill. Mr. Hall stated the discrepancy would show up in the embankment material, TL Wallace bid \$2 per cubic yard, the next low bidder, bid \$3.70 per cubic yard; other bids ranged from \$3.75 - \$4.00 per cubic yard. Mr. Wallace has a representative here tonight to explain the issue with the bid. Alderman Vaught asked what "borrow" material is. Mr. Hall stated, on airport sites, borrow material is where you excavate digging material for building the runway, but there is not enough for the embankments, so you have to go off site and get material from land we do not own so the material must be paid for. Will Black, TL Wallace, we were taking bids from sub-contractors on this, had discussions with an earthwork sub-contractor to make sure they include the cost of the borrow, unfortunately they had a mistake on their side and this translated into our bid which caused it to be so low. Mr. Black stated we are hoping we could have consideration to withdraw the bid and without. Mayor Townsell explained City Attorney, Michael Murphy, participated in an email exchange with Mr. Hall today and that allowance for systematic errors is a way to disallow a bid without having an affect bond; that is allowable under state law. Council stated they do not have a problem with the withdrawal of the bid. Mr. Hall recommended to vote to reject TL Wallace's bid and we will not act on the other bids until we get a grant from the FAA and we do not know if we are getting enough money to do the entire earthwork package or the Schedule 1 (runway only) or not even all of Schedule 1 and it could be up to a month before we know how much money we are going to receive. Mr. Hall stated these bids are good for 60 days. Alderwoman Smith motioned to reject the bid from TL Wallace and hold the other bids for the time being. Alderwoman Mehl seconded the motion. Alderman Hawkins stated if there had been a complete omission of that line item he would be inclined to vote for withdrawal, but they have submitted a bid. Mr. Hall stated they submitted a bid and they have a bid bond. Mr. Hall stated you can hold them to it or you can be compassionate. Mayor Townsell stated we have more projects associated with this in the future and we are not trying to beat someone out of some money and he would rather make sure we have good competitive bidders in the future. Mr. Hall stated what would likely happen if you decide to hold them to the bid he would more than likely drag it out and fail to execute contract; at the end of the 60 days which at that time you could cash the bid bond; but during that time the FAA is going to issue grant money based on his bid so you will not have enough money to for the second load. Alderwoman Mehl stated so it would slow down the process. The majority of council agreed they should move forward and allow them to withdraw the bid. There was no further discussion. The motion passed 7-0.

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

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- 1. Consideration to enter into an agreement with Conway Housing Authority for one community policing officer.**

Mayor Townsell stated the Housing Authority will pay the city \$35,000.00 to offset revenue for the officer being provided and explained this is a renewal of agreement that we have been doing for some time now. Alderwoman Smith motioned to enter into this agreement. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

- 2. Consideration to enter into an agreement with Conway Public School District for the School Resource Officers.**

Mayor Townsell stated this agreement will include, on a full time basis, 4 police officers and 1 police sergeant which the school will pay the city \$175,000.00 for a total up to one-half the costs. Alderwoman Smith motioned to enter into this agreement. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

- 3. Consideration to submit an application for the DHS Emergency Operation Grant Program for the Conway Police Department Emergency Communication Center.**

Major Bill Milburn, Conway Police Dept, was present to answer questions. Alderwoman Smith motioned to pull this item from the agenda due to the current budget restraints. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 7-0.

- 4. Ordinance appropriating and accepting reimbursement/restitution funds from various entities for the Conway Police Department.**

O-11-44

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

- 5. Ordinance accepting assets obtained through court order for the Conway Police Department.**

O-11-45

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. The court order awards the Conway Police Dept a 2008 Ford Truck Vin # 1FTOW14V18KB17112. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

6. Ordinance amending Ordinance No. O-04-60 the "Animal Control Ordinance" in regards to adoption fees.

O-11-46

Shona Osborne, Chief Animal Control Officer, explained the Senate recently passed a bill that requires any animal adopted from the animal shelter to be spayed or neutered before leaving the shelter. Ms. Osborn stated currently the ordinance any veterinarian that sells city tags can take a voucher for payment from the city; we have veterinarians out as far as Greenbrier that sell our city tags. Ms. Osborn stated if someone comes in to adopt and wants to take the animal to Greenbrier to be spayed or neutered this would mean we would have to pull an officer off the street and transport the animal to Greenbrier; the other issue was depending on what veterinarian they choose to use will determine when they can get the animal into be fixed so this animal could have to stay in the kennels when it's technically adopted however it cannot be taken to the veterinarian because their schedule is backed up for whatever reason. Ms. Osborn explained she believes it would be better for the animal shelter to hire a veterinarian to be on staff one day a week to spay and neuter the animals; she spoke to Dr. Carlin who recently retired from practice and proposed that any equipment he wished to sell that possibly please consider the city. Dr. Carlin sent a list of items he wishes to donate to the city for the spay/neuter clinic. Ms. Osborn stated based on what he is donating we will need to make adjustments to a room we currently use for vaccinations etc. This room this room can be changed over into a small surgery suite and we do have Ad Valorem funds to plumb the room and purchase a surgery table and other necessary equipment. Ms. Osborn stated currently the city gives a voucher for \$120.00 for canines and \$80.00 for feline; we can hire a veterinarian a day for what we pay out on 4 canine vouchers in one day. Ms. Osborn stated sometimes a voucher will go out because the State Senate Bill says that any animal that is 3 months and younger can leave our facility without being spayed or neutered because they are too young etc. Ms. Osborn explained that adoption fees in most animal shelters in our area are much higher because their animals already leave spayed or neutered or they have veterinarians on staff so this proposed ordinance will increase our adoption fees which will still leave us below what the adoption fee is in other areas. Ms. Osborn stated currently our adoption fee is \$25.00 and you get a voucher; we are proposing to raise the adoption fee to \$50.00 and when that animal is adopted it will be spayed, neutered, and vaccinated and we are proposing \$25.00 of this fee go back to the general fund just as it does now and the remaining \$25.00 will go back into our spay and neuter account to continue to pay salaries, buy vaccine, needles, syringes etc. Alderwoman Smith asked if Ms. Osborn has someone in mind to be the staff veterinarian. Ms. Osborn stated yes. Alderwoman Smith motioned to waive the readings of the ordinance to amend ordinance O-04-60. Alderwoman Whitmore seconded the motion. The motion passed 7-0. 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 Hawkins, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

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7. Consideration of appropriating ad valorem funds to purchase equipment for the setup of a new spay/neuter surgery suite at the Animal Welfare Unit.

Mayor Townsell stated this is a budget transfer from the Ad Valorem account to the various accounts listed below. Alderwoman Smith motioned to approve these budget transfers. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 7-0.

From revenue account 222-127-4101 to:

222-000-5699 - \$412.00 - Misc. supplies (needle holders, surgical towels, etc)

222-000-5904 - \$2890.00 - Building Improvements (plumbing and electrical work)

222-000-5950 - \$1110.00 - Accountable Equip (canine spay packs and sink)

222-000-5910 - \$2017.00 - Capital Equip (surgery table)

8. Ordinance accepting donated items for the surgery suite for the Conway Animal Welfare Unit.

O-11-47

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

9. Consideration for an additional part time position (P/T Veterinarian) for the Animal Welfare Unit.

Alderwoman Smith motioned to add a part-time veterinarian position. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

C. Finance

1. Ordinance adopting certain accounting policies utilized by the City of Conway.

O-11-48

Lowell McClanahan, Interim CFO, stated the sanitation dept has numerous heavy equipment on their inventory; currently the ordinance stated heavy equipment will be kept for 10-15 years; this has been changed to 5-15 years because there is equipment at sanitation that cannot last 10 years and infrastructure has been changed to 10-40 years. 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. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Hawkins, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 7-0.

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Old Business

New Business

Adjournment

PASSED this 16th day of June 2011

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett