
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
June 28, 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, Alderwoman Whitmore, 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: *June 14th, 2011*

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

Announcements / Proclamations / Recognition: *Employee Service Awards*

5 Years

Donald Picquet - Sanitation Dept.

10 Years

Officer Jimmy Weser - Police Dept.

Officer Aaron Julian - Police Dept.

15 Years

Officer Paul Burnett - Police Dept.

1. Report of Standing Committees:

A. Public Hearing:

1. Public Hearing/Ordinance closing of an alley located within The Village at Hendrix, Phase I.

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

O-11-49

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.

2. Public Hearing/Ordinance closing of the southernmost 250 feet of Simon Street (unpaved).

Mayor Townsell opened the public hearing. Kim Tyler, Tyler Surveying & Mapping, stated the main reason for the request is due to a privacy fence being installed; if the road is left opened they would have to go 250' over and 250' back; they would like to be able to cut the property line off and go straight across. Ms. Tyler stated we would like to retain the sewer easement. Robert Stone, 1805 Mockingbird Ln, stated we have 100 or more signatures on a petition and feels that most everyone in the neighborhood is not in favor of this. Mr. Stone stated there used to be a 10 acre buffer between the salvage yard and the subdivision; that buffer is now gone and is not in favor of this street closing. Darrell Hutchins, 22 Hummingbird Ln, stated there is only 2.5 acres between the subdivision and the salvage yard zoned C-3 and he is opposed to closing any portion of anything to allow a business to expand the area to house more junk automobiles. Ronnie Hall, City Engineer, stated the city will need to accommodate the drainage from Simon Rd so a drainage easement from the terminus of Simon Rd where the new right of way cuts off to Little Creek and suggested we make that a condition of the ordinance and asked if the signing of the ordinance can be delayed until we get the easement in hand. City Attorney Michael Murphy stated it would be best not to pass the ordinance; it should be tabled until all documents are in place. Mayor Townsell stated we should delay this until all necessary documents are in place. Jesse Clark, 53 Sandpiper Circle, spoke in opposition of this street closing stating that the salvage yards continue to keep encroaching upon the neighborhood. Marilyn Martin, 40 Mockingbird Ln, spoke in opposition of the proposed street closing. Rodney John, RJ Construction, General Contractor on the project stated the reason for the dirt work that is taking place is due to engineering requirements that require us to mitigate the amount of flood waters that come down the channel at Little Creek; in order to mitigate the flood waters; the site has been permitted and inspected and we are making sure that the project is being completed in the proper way. Mr. stated that closing Simon Rd is simply a part of our plan, it is already in the proper zoning and it appears that we may not be able to achieve the proper zoning that Mr. Worman desires. Mr. stated that Simon Rd has no valuable use to the city of Conway, it cannot be developed; Mr. Worman and Mr. Simon own both sides of that property and it dead ends into the wrecking yard and assures council that the work we are doing there will be an absolute improvement on those downstream situations that the residents have noted. Mr. stated we work many hours daily to expedite this process and get this fence up to remove the salvage yard from the sight of the neighbors. Mayor Townsell closed the public hearing. Alderman Grimes stated we need to focus on the issue of the street closing; any future re-zonings have no bearing on this what so ever. Alderwoman Smith asked if we close the road can they use that property to stack cars on. Mayor Townsell stated they can use it for whatever the underlying zoning is for the neighboring land is; technically one half of the right of way goes to the property owner to one side of the street and the other half goes to the property owner on the other side of the street. After discussion among council Alderman Grimes motioned to grant the closing of the street based on the conditions that Mr. Murphy will provide us next council meeting. Alderman Hawkins seconded the motion. Mr. Murphy stated Mr. Hall indicated there is something there he needs to construct in the right of way. Alderman Grimes restated he does not want to pass the motion tonight but asked that we poll the council to know their intent as not to waste time bringing it back before council if it is going to fail. Mayor Townsell asked council members to raise

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their hands if they support the street closing. A majority of council raised their hands. Mayor Townsell stated he needs Alderman Grimes to withdraw his original motion and make a motion to hold this item in committee. Alderman Grimes motioned to withdraw his motion and motioned to hold this item in committee. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 8-0.

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

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

R-11-25

Alderman Hawkins stated the property address is 165 Niagara Falls; the cost of cleanup was \$156.19 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 8-0.

R-11-26

Alderman Hawkins stated the property address is Mildred Street (Parcel #710-04605-000); the cost of cleanup was \$156.33 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 8-0.

R-11-27

Alderman Hawkins stated the property address is 241 Center St; the cost of cleanup was \$220.13 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 8-0.

- 2. Consideration of a right of way easement of a water line extension project for Conway Corporation.**

Greg Dell, Conway Corporation, stated this water line that will go to the new sewage treatment facility; it will go across the end of the soccer fields and beyond, south of the road, down Cooper Ln and on to Lollie. Alderwoman Smith motioned to grant this right of way easement. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

- 3. Ordinance accepting grant proceeds and appropriating funds for Conway EcoFest 2011.**

O-11-50

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Aldерwoman Smith motioned to waive the readings of the ordinance. Aldерwoman Whitmore seconded the motion. The motion passed 8-0. Aldерwoman Smith motioned to adopt the ordinance. Aldерwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Aldерwoman Smith, Aldерwoman Mehl, Aldерwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

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

O-11-51

Aldерwoman Whitmore motioned to waive the readings of the ordinance. Aldерwoman Smith seconded the motion. The motion passed 8-0. Aldерwoman Smith motioned to adopt the ordinance. Aldерwoman Whitmore seconded the motion. After some discussion the clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Aldерwoman Smith, Aldерwoman Mehl, Aldерwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

5. **Ordinance to rezone property located at the Northeast corner of Dave Ward Drive and South German Lane from I-3 to C-3.**

O-11-52

Aldерwoman Smith motioned to waive the readings of the ordinance. Aldерwoman Whitmore seconded the motion. The motion passed 8-0. Alderman Hawkins motioned to adopt the ordinance and the emergency clause. Aldерwoman Mehl seconded the motion. David Carpenter, representing RJ Properties the purchaser, stated the closing of this sale has not taken place but we do have a proposed plan of use for the property which is not complete; there would be a division of the property and would be all commercial use. The building has a Phase I environmental survey completed on it and obviously it falls into ADEQ requirements. Alderman Hawkins inquired about ingress and egress. Mr. Carpenter stated there are none on German Ln but it would be required to have one on German Ln; the existing building would be razed and a new building would be erected. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Aldерwoman Smith, Aldерwoman Mehl, Aldерwoman Whitmore, Alderman Grimes, Alderman Vaught, and Alderman Jones. The motion passed 8-0.

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

1. **Consideration of bids on a 2012 Commercial Rear Load Refuse Truck & a 2012 Hook Lift Roll- Off Truck for the Conway Sanitation Department.**

Ms. Harrington, Sanitation Director, explained both trucks have a Go Red Grant from Dept. of Environmental Quality; upon completion we will receive 25% of the actual cost of the equipment.

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Ms. Harrington recommended the low bid on the 2012 Rear Road Refuse Truck from Diamond International in the amount of \$153,679.96. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

Ms. Harrington recommended the low bid on the 2012 Hook Lift Roll-Off Truck from Diamond International in the amount of \$125,760.17. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

2. Consideration of a bid for 3, 6, & 8 Yard Front Load Containers for the Conway Sanitation Department.

Ms. Harrington recommended the low bid on the 3, 6, & 8 Yard Front Load Containers from Louisiana Containers Co, Inc. in the amount of \$30,102.00. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 8-0.

Alderman Grimes asked for a suspension of the rules to move to move the "Item 1 - New Business" item up on the agenda. Alderwoman Smith motioned to move item "Item 1 - New Business" up on the agenda. Alderwoman Whitmore seconded the motion. The motion passed 8-0.

Ordinance granting a temporary franchise agreement for The Big House Burger Joint Inc. to have several vending carts in Downtown Conway & Simon Park.

O-11-53

Mike Willbanks, Big House Burger Joint, explained the areas he would be setting up his vending cart will offer a breakfast menu and hot dogs for lunch; the cart would operate at one of the 7 locations per day Monday through Friday. The cart will offer the breakfast menu from 7:00 am to 9:30 am; the lunch menu would be offered from 11:30 am to 2:00 pm. Mr. Willbanks assured council the cart would not be located near the front door of any business, would not limit foot traffic, would not limit access to any business or sidewalk, and the cart will be located on sidewalks only. Mr. Willbanks stated there are 6 locations that we will be able to locate, outside of Simon Park, which we request use of the park according to scheduling ability. Mr. Willbanks gave a synopsis of the locations and described the cart. Alderman Grimes motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 8-0. Alderwoman Smith motioned to adopt the ordinance and to add an emergency clause to the ordinance. Alderwoman Whitmore seconded the motion. Mayor Townsell stated this is a temporary franchise that will be in effect until December 31, 2011. After some 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.

Old Business

1. Discussion regarding options for the property located at 912 Front Street.

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R-11-28

Lynn Hicks, Asst. Planning & Development Director, explained Mr. Paullus agreed to amend his contract and enter the building and also amended the contract price to not exceed \$5,500.00. Mr. Hicks stated at the Mayors request, he has prepared a draft request of bids from licensed demolition contractors to provide shoring, bracing, and stabilization to allow for safe demolition in accordance with an engineered plan; also in that contract it asked that it include demolition of building, removal of debris, and also necessary work on any exterior remaining adjacent building. Mr. Hicks recommended to council to proceed with the condemnation process to condemn the building as an unsafe structure which will allow the city to proceed with the necessary actions to abate the hazard and also the cleanup of the property once the work is completed to re-coupe the costs. Mr. Hicks explained that condemnation by council establishes a 30 day window of time for the owner of the building to either complete repairs or the demolition themselves. Mayor Townsell stated the building must be repaired or torn down and we should at least shore the building to stabilize it and if there is a chance the building can be restored after further inspection then that would be acceptable as well. Alderwoman asked if the owner needs to take care of the building, and has 30 days to do so, then do we need to approve the amended contract with the inspector at a cost of \$5,500.00. Mayor Townsell stated we take a risk of the owner not taking action at the end of 30 days then we hire a contractor to make recommendations to demolish in a safe manner; it would delay the actions by 30 days. Randy Dryer, stated council agreed to hire someone to inspect the building. Alderwoman Mehl stated if the time frame is 30 days and the report come back in approximately 3 weeks and the decision is made to repair the building, then Mr. Dryer has a week to complete the repairs. Mr. Dryer stated he feels you would need an inspection before you condemn the building. Alderman Jones asked Mr. Dryer if he would like to preserve the building. Mr. Dryer stated yes. Alderman Jones stated we have given you the opportunity to preserve it or demolish it and asked why he has not proceeded with preservation. Mr. Dryer stated it is basically a cost factor. After much discussion Alderwoman Smith motioned to adopt the resolution. Alderman Vaught seconded the motion. The motion passed 7-1. Alderman Rhodes voted in opposition. Alderwoman Whitmore motioned to enter into the agreement with Mr. Paullus for up to \$5,500.00. Alderwoman Smith seconded the motion. The motion passed 7-1. Alderman Rhodes voted in opposition.

New Business

- 1. Ordinance granting a temporary franchise agreement for The Big House Burger Joint Inc. to have several vending carts in Downtown Conway & Simon Park.**

Moved up on the agenda.

- 2. Ordinance to amend Ordinance No. O-10-18; in regards to increasing the City's supplemental tax on any controlled beverage.**

O-11-54

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 8-0. Alderwoman Smith motioned

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to adopt the ordinance. Alderwoman Mehl seconded the motion. After some discussion among council the clerk called the roll with the following voting "Aye": Alderman Rhodes, Alderman Hawkins, Alderwoman Smith, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, and Alderman Jones. The motion passed 7-1. Alderman Vaught voted in opposition.

Alderwoman Smith motioned to suspend the rules to add an item to the agenda. Alderwoman Mehl seconded the motion. The motion passed 8-0.

Resolution for Reach Diagnostic Partners, LLC to participate in the Arkansas Equity Investment Tax Credit Program.

R-11-29

Alderwoman Smith motioned to adopt the resolution. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 8-0.

Adjournment

PASSED this 28th day of June 2011

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett