
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
March 27, 2012

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 Grimes, Alderman Hawkins, Alderman Vaught, Alderwoman Mehl, Alderwoman Smith, Alderman Jones, and Alderwoman Whitmore. 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: Mayor Tab Townsell

Roll Call: Michael O. Garrett, City Clerk/Treasurer

Minutes: March 13, 2012 City Council Meeting

Alderwoman Whitmore motioned to approve the March 13, 2012 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 7-0.

Announcements/Proclamations/Recognitions: Employee Service Awards

10 Years

Officer Sharen Carter - Police Dept.

15 Years

Jerome Perkins - Street Dept.

Capt. Todd Cardin - Fire Dept.

Engineer Mike Cullum - Fire Dept.

Lt, John Skinner - Fire Dept.

Engineer Jerry Stacks - Fire Dept.

20 Years

Engineer Kenneth Hartness - Fire Dept.

1. Report of Standing Committees:

A. Public Hearing

1. Public Hearing for the purpose of receiving comments and questions regarding the proposed wastewater rate increase by Conway Corporation.

Mayor Townsell explained we had planned on holding a public hearing to hear public comments and questions regarding the proposed waste water rate increase that Conway Corp has brought before council. However, the legal notice, for the public hearing, did not get published and this will not be the legal public hearing; we will pass another resolution tonight to set the public hearing for the April 10, 2012 meeting. Mayor Townsell explained that we will proceed tonight with receiving public input but the legal passage of an ordinance setting those rates will be April 10, 2012.

Mayor Townsell opened the public hearing. Richie Arnold, CEO - Conway Corp, explained this project began after we completed our March 2007 master plan that looks at treatment

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and collection needs through 2030; at that time Garver had projected our population being approximately 109,000, which is consistent with other projections we have seen. Mr. Arnold explained the projections are based on a 219 gallon per capita day. Garver looked at existing treatment facilities, Stone Dam Wastewater Treatment Facility (activated sludge - 33 years old facility that discharges into Stone Dam Creek and then to Lake Conway), Tucker Creek Facility (aerated lagoon that discharges into the Arkansas River). The capacity of those facilities is 6 and 6.4 but the hydraulic rate at Stone Dam is limited to 4 million gallons per day. Mr. Arnold stated the conclusion, from the master plan, additional treatment capacity is necessary; it's estimated that we will need approximately 24 million gallons per day treated. Mr. Arnold stated after looking at alternatives expansions etc., the cost resulted in our preferred solution which is to construct a new treatment facility in the Lollie Bottoms area that will discharge into the Arkansas River. Mr. Arnold explained the rates we will discuss tonight will repay the debt used to construct the new facility. Mr. Arnold said another part of this is to abandon the Stone Dam Facility which would need a new permit for nitrate, nitrite, copper and zinc as we were already facing significant capital upgrades to meet that new permit, so money could be saved if that plant is phased out. Mr. Arnold stated we will keep Tucker Creek Facility for the time being but we would try to immediately transfer flows to the new facility and phasing out Tucker Creek within 5 years. Mr. Arnold stated the low bid for the project came from PC Construction, their bid was very close to our engineer's estimate, which was \$66 million; the conveyance low bid came from Rosetta Construction in the amount of \$11.6 million (engineers estimate was \$19.2 million). Mr. Arnold stated the lift station low bid came from Branco Construction in the amount of \$12.3 million (engineers estimate was \$11.3 million). Mr. Arnold stated we came before council in 2009, and council approved a memorandum of agreement with the Arkansas Natural Resources Commission (ANRC) to secure a loan for \$70 million, which will fund the construction of the new facility; this will be a 20 year loan at 3.25% interest, and secured by revenues. Mr. Arnold explained the conveyance and the lift stations will be constructed with a 25 year bond issue for approximately \$25 million which will be secured by future revenues. In conclusion Mr. Arnold stated we have no choice but to raise rates to cover the debt of the new facilities. Brett Carroll, CFO Conway Corp, explained the process and methodology used for this rate proposal is consistent with the ones we discussed in the past; our philosophy on setting rates is cost based in such a way that they meet the full revenue requirements of the utility which is O&M, capital expenditures, and debt service. Mr. Carroll explained that rates should be established using general accepted rate setting techniques, and rates should be stable and provide adequate revenues to meet financial and regulatory requirements. To ensure prudent financial planning, we need to ensure the generation of revenues to cover our operating expenses, capital expenditures, and debt service related to bonds. Mr. Carroll stated we must also meet rate covenants, which means looking at total revenues and reduce it by O&M expenses which leaves available funds to cover debt; if you divide this number by the debt service payments, this leaves debt service coverage; our bond covenants require 1.1 coverage on the average annual debt service. Mr. Carroll gave a brief synopsis of the study compiled for the proposed rate increase summarizing that the biggest factor here is debt service increasing from \$3.7 million to \$8.9 million incrementally over the planning period and we will be unable to fund debt service and fund this project without a rate increase. Mr. Carroll stated the classifications for residential, industrial, and commercial customers will stay as is and all will receive equal percentages rate increase. Mr. Carroll stated that Phase I rate increase would become effective June 1, 2012, Phase II would become effective January 1, 2013, and Phase III would become effective January 1, 2014 which will correlate rates with construction expenses. Mr.

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Carroll explained our residential customers pay approximately \$19.32 monthly for wastewater (billed on approximately 5,000 gallons of wastewater); compared to other cities in Arkansas they are paying about the same monthly and most of these cities have other means of funding wastewater improvements. Fayetteville and Hot Springs ordinances have an automatic 3% increase yearly on their total rate structure, so the other cities will be in line with our rates in 3 years. Mr. Carroll stated that at Phase I a typical residential customer will pay \$23.18 monthly, Phase II will increase it to \$27.82 monthly, and Phase III will take it to \$37.56 monthly (.60c cents daily) and we recommend the adoption of these rates. Alderman Vaught asked when the debt is paid off will these rates automatically go down. Mr. Carroll stated no, we have to come before council to raise or lower rates. Alderman Jones asked if the increased could be spread out over a longer length of time. Mr. Carroll stated we would have to do it over 3 years in order to cover our debt service. Jerry Glover, Conway resident, stated the facility is needed and he endorses it but feels that the increase over 3 years is excessive and asked if they could find a way to spread it out over a longer period of time. There was no further discussion and Mayor Townsell stated we will hold the legal public hearing on April 10, 2012 at 6:30 pm. Mayor Townsell closed the public hearing.

2. Ordinance fixing rates for services rendered by the sewer system. (Second Reading Only)

O-12-14

Mayor Townsell read the title of the proposed ordinance for the second time.

3. Resolution setting a public hearing for the purpose of receiving comments and questions on a proposed wastewater rate increase.

R-12-07

Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. The motion passed 7-0. The public hearing will be held Tuesday April 10, 2012 at 6:30 pm.

4. Public Hearing for the issuance of Wastewater Revenue Improvement Bonds, Series 2012A for the wastewater treatment facility located in the Tupelo Bayou area for the City of Conway.

Mayor Townsell opened the public hearing. Richie Arnold, CEO - Conway Corp, explained the project from a financing stand point is actually 2 separate pieces; the ANRC loan would fund the treatment facility and the \$25 million bond issue would address the conveyance and lift stations. Gordon Wilbourn, Kutak Rock, Conway Corp Bond counsel, explained the ANRC loan is technically a bond until you issue a single bond to ARNC; the public hearing will address both issues. The Series 2012A will be the \$25 million and will fund the conveyance and lift stations; you have 3 years to spend these funds. The Series 2012B will be the ARNC loan (\$70 million); it is drawn on over time and only interest is paid for a period of time. Mayor Townsell declared the public hearing closed.

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

- 1. Ordinance to amend Ordinance No. O-86-11, to extend the lease and franchise to operate the water system and the sanitary sewer system maintained by Conway Corporation.**

O-12-25

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

- 2. Resolution authorizing the Mayor to execute a marketing agreement and an integration agreement with Entergy Arkansas Inc. and the co-owners of the White Bluff and Independence Steam Electric Stations.**

R-12-08

Richie Arnold, CEO - Conway Corp, explained they have owned 2% of White Bluff and Independence Steam Electric Stations since 1979. Mr. Arnold stated that Entergy Arkansas, Inc (EAI) is preparing to turn over control of transmission assets to Midwest Independent System Operator (MISO) which is in our retail regional transmission organization. Mr. Arnold stated our agreement with MISO does not address issues we will be faced with, so it was necessary to create a marketing agreement that will allow us to maximize the economic value of the units, in new markets, and asked council to authorize the Mayors execution of these agreements. Alderman Hawkins motioned to adopt the resolution. Alderwoman Smith seconded the motion. The motion passed 7-0.

- 3. Resolution authorizing the preparation of certain documents related to the proposed issuance of franchise revenue refunding bonds, Series 2012 for the City of Conway.**

R-12-09

Jack Trumper, Kutak Rock, explained this is an opportunity as we hope to be able to refinance the 2006 Series Franchise Fees Bond issue to lower your interest rates and provide for a cost savings. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

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

- 1. Resolution requesting the Faulkner County Tax Collector place a certified lien against property located at 912 Front Street for incurred expenses by the City of Conway.**

R-12-10

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Alderman Hawkins explained the expenses to date are in the amount of \$8,250.42. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

- 2. Ordinance authorizing the Mayor to enter into an Agreement of Understanding with the AHTD for a Safe Routes to School Infrastructure grant & appropriate funds to the Conway Planning & Development Department.**

O-12-26

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

- 3. Ordinance closing a portion of Ellis Avenue right of way and a portion of the alley closing Sanders Street and Lot 105 located in the Village at Hendrix.**

O-12-27

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

- 4. Ordinance amending Ordinance O-06-134-A, Traditional Neighborhood Dev. Overlay Ordinance.**

O-12-28

Lawrence Finn, Village at Hendrix, was present to answer questions. Bryan Patrick, Planning & Development Director, explained that when the Village at Hendrix had some townhomes on their original platting, since discovering that market is not as strong for that type of development; they wish to build a cluster of smaller homes instead. Mr. Patrick explained we discovered that the Traditional Neighborhood Development Overlay (TND) ordinance did not cover this type of lot configuration, in order allow this type of development we will need to modify our ordinance. 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": Alderwoman Smith, Alderman Vaught, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Hawkins, and Alderman Jones. The motion passed 7-0.

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5. **Consideration of a request by Jeri Butler for a conditional use permit to allow a food establishment in I-3 for property located at 800 Exchange Avenue, Suite 103. Industrial Park, Preferred Plaza 1.**

Jeri Butler was present to answer questions. Alderwoman Smith motioned to approve the conditional use permit with the conditions listed below. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

- Restaurant is limited to sit down only at this location.
- No drive-through allowed.

6. **Consideration of approval for the Prince Street Improvements of the following parcels: Parcels 9 (Trinity Dev), Parcel 10 (Watts), Parcel 18 (Regions), and Parcel 19 (Bank of Ozarks).**

Ronnie Hall, City Engineer, recommended the following offers to property owners in order to secure the parcels to proceed with the Prince Street improvements. Alderwoman Smith motioned to approve Mr. Hall's recommendations. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

1. **Parcel 9** - Trinity Development - \$179,000.00.
 - \$150,120.00 for 0.28 acres of land and improvements
 - \$28,800.00 for parking lot restriping and 4 signs
2. **Parcel 10** - Mary Watts - \$38,760.00 for 0.072 acres of land.
3. **Parcel 18** - Regions Bank - \$194,850.00.
 - \$34,850.00 for 0.07 acres of land and improvements.
 - \$160,000.00 for modifications to drives, parking lot, and signs.
4. **Parcel 19** - Bank of the Ozarks - \$35,423.00
 - \$28,913 for 0.059 acres of land and improvements.
 - \$6,510.00 for landscaping, sprinkler system, and sign.

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

1. **Consideration to enter into an agreement with Sowell Architects for additional buildings (concessions & toilet facility) to be constructed at Conway Station Park.**

Mayor Townsell stated this is a proposal for architectural services at a cost of \$7,500 get plans for the construction of a small building to serve as a restroom facility. This building will match the maintenance building and will be between the maintenance building and the entrance to the four-field complex and will serve both males and females. Alderwoman Whitmore motioned to enter into this agreement. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

2. **Consideration to accept bid for a 2012 Landfill Dozer for the Conway Sanitation Department.**

Cheryl Harrington, Sanitation Director, recommended the low bid from Warrior of Arkansas in the amount of \$394,344.00; we will be trading in a Komatsu Landfill Dozer that

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will need to be removed from inventory. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

3. Consideration to accept bids for two 2012 automated side loading refuse truck for the Conway Sanitation Department.

Cheryl Harrington, Sanitation Director, recommended the low bid from River City Hydraulics, Inc in the amount of \$449,504.00: we will receive \$15,000.00 a piece on 2 trade-ins. Alderwoman Smith motioned to accept the low bid. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

4. Consideration to accept bids for 2, 3, 6, & 8 yards front and rear load containers for the Conway Sanitation Department.

Cheryl Harrington, Sanitation Director, recommended the low bids from N.E.O. Fab as they were the low bidder on the majority of the containers and these have to be purchased in bulk. The prices are listed below and do include tax and delivery costs. Alderwoman Smith motioned to accept the bids from N.E.O. Fab. Alderman Jones seconded the motion. There was no discussion. The motion passed 7-0.

- 2 yd Rear - \$448.00 ea.
- 3 yd Rear - \$657.00 ea.
- 6 yd Rear - \$904.00 ea.
- 3 yd Front - \$467.00 ea.
- 6 yd Front - \$715.00 ea.
- 8 yd Front - 843.00 ea.

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

1. Resolution authorizing the purchase of mobile radios for the Conway Fire Department.

R-12-11

Bart Castleberry, Fire Chief, explained 2 weeks ago council approved the "Assistance Firefighters Grant" for radios and stated Motorola has a sale in progress, and if we order the radios prior to April 1st, we can save approximately \$55,900.00. Chief Castleberry stated the issue is funding for the radios is tied to the bond issue, but Motorola has agreed to wait and bill us once the bond money is in place. Chief Castleberry stated with the grant proceeds and the savings of the \$55,900 the city will save approximately \$230,000.00 on the initial estimated cost of the radios. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

2. Ordinance appropriating funds & accepting bids for flame resistant clothing for the CFD.

O-12-29

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Bart Castleberry, Fire Chief, stated our uniform committee researched our current uniforms and found they do not meet National Fire Protection Agency standards; our previous vendor, at the time of the last bid, met the criteria, but not any longer. The modified specifications will cause an increase in uniform expense that was not previously budgeted for and we need an additional \$10,781.00 for our 2012 budget. Chief Castleberry recommended Cintas Uniforms; their bid was the only one submitted. Alderman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderman Jones motioned to adopt the ordinance. Alderwoman Smith seconded the motion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Vaught, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Hawkins, and Alderman Jones. The motion passed 7-0.

3. Ordinance accepting insurance proceeds & appropriating ad valorem funds for the AWU.

O-12-30

A.J. Gary, Chief of Police, explained one of our Animal Welfare vehicles was involved in an accident and the insurance company has paid approximately \$11,000.00; in order to purchase a new vehicle we need an additional \$5,700.00 to make up the difference and we wish to take that from the Ad Valorem account. Alderman Hawkins 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": Alderwoman Smith, Alderman Vaught, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Hawkins, and Alderman Jones. The motion passed 7-0.

4. Ordinance authorizing the Mayor to enter into an agreement with the Arkansas ETS Board to allocate the city's portion of funding for a new 911 system for the CPD.

O-12-31

A.J. Gary, Chief of Police, explained the 911 System is used by the city and the county, the total price to upgrade and replace is \$335,459.00. Chief Gary explained we have \$226,919.00 in the ETS fund which is set up for maintenance and replacements for the 911 System; one-half goes to the city and one-half to the county. Chief Gary stated we request, in a joint effort with the county, that each entity take out their portion of these funds in order to replace the system and asked council to allow the release of those funds. Chief Gary stated this amount will not cover the cost of the system and the city will need an additional \$54,269.52, as would the county; the current system would cost well over \$100,000.00 just to upgrade it and keep it going for a short period of time. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderman Jones motioned to adopt the ordinance and the emergency clause. Alderwoman Smith seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Vaught, Alderwoman Mehl, Alderwoman Whitmore, Alderman Grimes, Alderman Hawkins, and Alderman Jones. The motion passed 7-0.

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5. Resolution adopting the Conway Police Department Rules and Regulations.

R-12-12

A.J. Gary, Chief of Police, explained this is a housekeeping issue being driven by the Arkansas Municipal League that Police Department have their city council adopt their rules and regulations. Chief Gary explained instead of adopting the entire policy manual yearly, through our accreditation process we are required to send a report into CALEA that indicates changes to our policy that we made in any given year. Chief Gary stated the easiest thing to do is to attach the changes each year to our already adopted policy manual. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

F. Finance

1. Consideration to dispose of certain inventory for the fixed assets listing for the various departments.

Alderwoman Smith motioned to approve of the disposal of items listed. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

2. Ordinance adopting budget adjustments for the City of Conway and providing that the adjustment state in the summary of amendments be made to the 2012 Budget.

O-12-32

Tyler Winningham, CFO, stated since the passage of the 2012 budget we found some changes, adjustments, and corrections that need to be made; the following is an outline of these changes:

(Acct Type - Revenue/Acct# 001-119-4121 - Beverage Tax) Original Budget - \$140,000/Change - \$195,000/Amended Budget \$35,000

Explanation: Ordinance O-11-54 raised the tax rate from 2% to 5%; this increase was not reflected in the original 2012 revenue budget.

(Acct Type - Expense/Acct# 001-131-5399 - Other purchased services) Original Budget - \$93,700/Change - (\$30,350)/Amended Budget - \$65,350

Explanation: MEMS lowered their requested subsidy after 2012 budget was passed.

(Acct Type - Expense/Acct# 001-107-5450 Vehicle Maintenance) Original Budget - \$195,022/Change - (\$165,022)/Amended Budget - \$30,000

Explanation: Vehicle maintenance funds were in original budget twice, once in fleet maintenance department, and also in each individual department. This is to correct that error.

(Acct Type - Expense/Acct# 001-106-5411 - Janitorial/Cleaning) Original Budget - \$33,500/Change (\$32,300)/Amended Budget \$1,200

Explanation: Janitorial supply funds were in original budget twice, once in Physical Plant department, and also in each individual department. This is to correct that error.

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Total change - \$422,672 - Positive Impact on the 2012 General Fund Budget

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

Old Business

New Business

Adjournment

PASSED this 27th day of March 2012

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett