
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 p.m.
June 12, 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: May 22nd, 2012 City Council Meeting

Alderwoman Whitmore motioned to approve the May 22, 2012 minutes as submitted. Alderwoman Smith seconded the motion. The motion passed 7-0.

Announcements/Proclamations/Recognitions:

1. Report of Standing Committees:

A. Public Hearings:

1. Public hearing/Ordinance to discuss changing the name of Ridge Road to Pike Ridge.

O-12-53

Mayor Townsell opened the public hearing. Jack Pike explained while his father was sick medical personnel were delayed in reaching his home because they were going to another street. Mr. Pike explained there are 13 county and city roads that have the name "Ridge" in them; Mr. Pike stated his parents were the first to own property on this road in 1942. Mayor Townsell closed the public hearing. Alderwoman Whitmore motioned to waive the readings of the ordinance. Alderman Jones seconded the motion. The motion passed 7-0. Alderwoman Whitmore motioned to adopt the ordinance. Alderman 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.

2. Public hearing/Ordinance to discuss the closing of a 10 foot utility easement located in the Conway Marketplace East Phase 2.

O-12-54

Mayor Townsell opened the public hearing. Mitch Hart, Heartland Development Co., was present to answer questions and spoke in favor closing the utility easement. Mayor Townsell closed the public hearing. Alderwoman Smith motioned to waive the readings of

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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.

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

1. Resolution ratifying the execution, sale and delivery of franchise fee refunding bonds, Series 2012.

R-12-19

Jack Trumper, Stephens Inc., gave a brief synopsis of the sale of the bonds. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

2. Resolution requesting the Faulkner County Tax Collector to place a certified lien on certain properties as a result of incurred expenses by the City.

R-12-20

Alderman Hawkins stated the property address is 2821 West Port Circle; the cost of cleanup was \$160.71 which includes a 10% collection penalty and filing fees. There was no one present to speak to this issue. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. After some discussion Mayor Townsell stated the amount due is the invoice total, \$118.83. There was no further discussion. The motion passed 7-0.

R-12-21

Alderman Hawkins stated the property address is 2148 Hickory; the cost of cleanup was \$175.24 which includes a 10% collection penalty and filing fees. E.J. Swaffer stated he would like someone to go to the residence and look at the grass; the grass is dead because he sprayed it and should not have needed mowed. Mr. Swaffer stated he feels the charges outlined are exuberant and illegal, and would like to see a list of other individuals who have paid these types of charges. Grant Tomlin, Code Enforcement Officer, stated the pictures provided to council were taken on May 8, 2012 which is the same date the pictures were taken. Mayor Townsell explained the pictures show the lot before and after and the city completed the work and the fees are due. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. Alderwoman Smith asked what amount is due. Mayor Townsell stated the resolution should reflect the billed amount of \$132.04, not the \$175.24 stated on the resolution. There was no further discussion. The motion passed 7-0.

R-12-22

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Alderman Hawkins stated the property address is 1270 Pyramid; the cost of cleanup was \$175.83 which includes a 10% collection penalty and filing fees. There was no one present to speak to this issue. Mayor Townsell stated the proper amount based on the invoice is \$132.58. Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

R-12-23

Alderman Hawkins stated the property address is 1804 Berry Place; the cost of cleanup was \$189.48 which includes a 10% collection penalty and filing fees. There was no one present to speak to this issue. Mayor Townsell stated the proper amount based on the invoice is \$144.99. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0.

R-12-24

Alderman Hawkins stated the property address is 817 Teal Drive; the cost of cleanup was \$190.36 which includes a 10% collection penalty and filing fees. There was no one present to speak to this issue. Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. Mayor Townsell stated the proper amount based on the invoice is \$145.79. There was no discussion. The motion passed 7-0.

3. Consideration to accept four nominations from the Bicycle & Pedestrian Advisory Board.

Alderwoman Smith motioned to accept the nominations recommended by the BPAB. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0. The nominees are listed below.

- David Barber- 2 year term ending 12/31/2014
- Michael Yoder - 3 year term ending 12/31/2015
- Jim Holland - 3 year term ending 12/31/2015
- Curt Amenta - 1 year term ending 12/31/2013

4. Resolution expressing the willingness of the City of Conway to utilize federal aid monies for a traffic signal installation at Highway 65B (Harkrider Street) & SWN Drive/Fleming Street.

Ronnie Hall, City Engineer, explained that before Southwestern Energy (SWN) constructed their building at the Hendrix site, SWN had requested a signal at this location but the Arkansas Highway Dept would not permit it at that time because the street were not there. Mr. Hall went onto explain that after the street was constructed and the traffic matured we requested the Highway Dept perform a traffic analysis and the study showed a traffic signal was warranted. Mr. Hall explained this resolution would allow the Highway Dept to move forward with a traffic signal at this location; being 80% federally funded, 10% state funded, and 10% city funded. Mr. Hall stated the estimated project cost is estimated at \$150,000.00. Alderman Jones stated he hasn't seen a traffic issue at this intersection and asked if it was just during certain hours of the day. Mr. Hall stated SWN currently will use the Winfield roundabout to exit the campus, but this may become more challenging as Hendrix Village area becomes more used. Alderman Hawkins asked if a roundabout would be better. Mr.

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Hall stated yes. Alderman Hawkins asked if this money can be used for that. Mr. Hall stated no. Mayor Townsell explained that Hendrix paid most of the costs of the roundabouts that are currently there and the city would have to purchase substantial right of ways to construct a roundabout at this location. Mr. Hall explained SWN is requesting this traffic signal and it was in our initial discussion with them. T.J. Johnston, VP Conway Development Corporation (CDC), explained before SWN chose a location they were addressing any potential issues and anticipating traffic needs and this is the one that came up. Mr. Johnston stated on behalf of our board we support this request and explained it is no different than what is being done for Hewlett Packard at the South interchange. Mayor Townsell reiterated this is something we did discuss and explained initially SWN wanted a traffic signal at the north end of Sanders Street and Skyline Drive. Mr. Hall reiterated that the Arkansas Highway Dept said would seriously consider the traffic signal at this location and said he has seen traffic backed up on Fleming. Alderman Grimes stated he doesn't like the idea of adding something to this area after just getting it opened up. Alderman Hawkins asked how much more it would cost to build a roundabout. Mr. Hall stated there is probably over \$500,000.00 of right-of-way that would have to be purchased. Alderwoman Smith suggested SWN contributing some funds for this project. After some discussion Alderwoman Smith motioned to hold this item in committee. Alderwoman Smith seconded the motion. There was no further discussion. The motion passed 7-0..

5. Consideration to accept bids for 2012 Sidewalk Projects. (Donaghey Ave (Tyler to Meadowlake) & Siebenmorgen Road (Bob Courtway to Maddox))

Ronnie Hall, City Engineer, recommended awarding the bid to the low bidder Paladino-Nash in the amount of \$89,662.00. Alderwoman Smith motioned to award the bid to the low bidder. Alderman Hawkins seconded the motion. There was no discussion. The motion passed 7-0.

6. Consideration to accept bids for the City of Conway Sanitary Landfill Borrow Area No. 3 (Access Road & Initial Excavation).

Ronnie Hall, City Engineer, recommended awarding the bid to the low bidder Kirby Specialties Corp. in the amount of \$186,049.00. There was no discussion. The motion passed 7-0.

7. Ordinance accepting the annexation of certain lands located south of Lantana Drive, west of the terminus of Trinity Crossing Drive and East of Padgett Road to the City of Conway with a zoning of R-1.

O-12-55

Ronnie Hall, City Engineer, was present to answer questions. 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.

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8. Ordinance to rezone property located at 2510 Prince Street from R-1 to PUD.

O-12-57

Alderman Hawkins stated this was last reviewed by the Planning Commission on June 4, 2012 and the Planning Commission recommended a PUD zoning and the following restrictions were recommended:

- 1) Land Use - The Wal-Mart Market lot should be governed by C-2 zoning regulations. The outlet shall not be zoned at this time. Any development on the outlet will require a PUD amendment. A request for a PUD amendment to the outlet will not require further conditions or amendments to the larger Wal-Mart Marketplace lot governed by the PUD. A pharmacy with drive through is allowed as part of the Neighborhood Market Lot.
- 2) Ingress/Egress - Curb cuts are allowed as proposed. Future outlet curb cuts are limited to access from the North/Wal-Mart parking lot and the West/Wal-Mart Private Drive.
- 3) Delivery Hours - Wal-Mart semi-truck deliveries are prohibited on Sundays between 9:00 am to 12:00 pm.
- 4) External Sound System - There will be no exterior sound system on the store or in the parking lot.
- 5) Hours of Operation - The Wal-Mart Marketplace may operate 24 hours per day, 7 days/week.
- 6) Construction Hours - Hours of external construction are limited to 7:00 am to 7:00 pm Monday through Saturday and 1:00 pm to 7:00 pm on Sunday.
- 7) Design/Landscaping - Store design will be generally as depicted in submitted renderings.
- 8) Lighting - Wal-Mart parking lot illumination will consist of high efficiency LED lighting mounted on metal poles 28 feet in height within a shrouded box type fixture directing light downward onto the parking lot.
- 9) Signage - All signage will meet current Conway Sign Ordinance regulations.
- 10) Right of Way - Wal-Mart shall be required to provide funding to the City of Conway to purchase necessary Farris Road Extended right of way or provide necessary right of way.
- 11) Sidewalks and pedestrian paths shall be constructed as submitted, including special paving surfaces and connectivity to the Tucker Creek pedestrian/bike trail.
- 12) A pedestrian/bike path public access easement is required to connect the Tucker Creek bike/pedestrian path to Farris Road.

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- 13) Generally, the project shall be developed as submitted.

Stephen Giles, Attorney representing the Baker family, stated we suggested leaving the outlot zoned C-2 which would allow C-2 uses of the C-2 district; this suggestion has now paid off as we have a specified C-2 user that is closed on Sunday. Mr. Giles feels there are many positive aspects to this development and explained this is an infield development, with a buffer, which offers a single use grocery store on the primary lot and a single use restaurant on the outlot parcel, and also the amount of land that surrounds the parcel. Mr. Giles explained one reason for this is to blend with Pompe Park and Wal-Mart is willing to provide access to the pedestrian/bike trail through Pompe Park and also 2 East/West routes to walk or ride through the Wal-Mart site to connect to Farris Rd and the school and areas eastward. Mr. Giles stated the city must require the right of way for Farris Rd at some point, but Wal-Mart is willing to provide \$375,000.00 toward the right of ways costs the city would have to normally obtain in order to extend Farris Rd on up to the high school. Mr. Giles explained there is a 6 acre tract of undeveloped land to the north that is still owned by Mrs. Baker that will remain undeveloped at this time; this will separate the Wal-Mart parcel from the neighbors to the north and the building itself will be 400 feet from the nearest neighbor and Wal-Mart has agreed to landscape provide buffers well above ordinance requirements. After some discussion among council Mayor Townsell opened the discussion up to the public. Suzanne Penn, 3010 Crawford Loop, spoke in opposition as she feels it would destroy the area of our schools, churches, and parks. Shawn (last name inaudible), 2035 Prince St., feels the proposed rezoning will bring down the property values in the area, bring down wages, pose possible flooding issues, and feels this is not an appropriate use of this parcel of land. Patrick Delosher, 5 Pin Oak Dr., reminded council that back in 1988 and 1996 Wal-Mart wanted to place a store very near Margaret Vann Elementary School which was rejected by city council members and was built further west on Dave Ward Dr and feels it would be a better fit in another part of Conway. Jeff Ryken, 4940 Park Place Dr and member of First Presbyterian Church, spoke in opposition to the proposed rezoning and feels it would be detrimental to the church and the neighborhood. Michael Causey, 14 Ironwood Dr., would like council to assure the neighborhood that the 6 acres tract still owned by Mrs. Baker will remain undeveloped and not be used by Wal-Mart at a later date. Mr. Causey went onto say that if his calculations are correct the traffic flow will increase 24% which is substantial and will cause traffic issues. Scott Howerton, neighborhood resident, spoke in opposition of the proposed rezoning. Norma Smothers, 2419 Meadow Dr, spoke in opposition of the proposed rezoning due to the potential growth it could continue to bring to the area and also the increase in traffic flow/congestion. Mary Polk, Smoking Oaks Subdivision, is concerned about the environmental impact this could cause, as she already has a drainage problem in front of her home and she unsure if this development would worsen the drainage issue, but is unwilling to take that chance without further information; increased traffic flow is also a concern. T.J. Johnson, CDC, stated he and the Conway Chamber of Commerce are in favor of the proposed rezoning. Jim Beamis, area resident, spoke in opposition of the proposed rezoning as he feels the traffic flow will increase and is concerned about the safety of his children. Mr. Giles addressed council in regards to some of the public comments made and reassured council and the public that Wal-Mart will be a good neighbor. Alderman Hawkins asked to be given information on traffic studies completed in the area. Ernie Peters, Peters & Associates, stated they have not specifically studied Morningside Dr but in regards to the studies that have been completed, during peak hours, the roundabouts being constructed will accommodate the additional

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traffic demand and stated the improvements currently being made to Prince St will be capable of a 100% increase in traffic compared to what the capacity is today. Alderman Grimes asked if the construction could be brick instead of cinder block. Mr. Giles stated we felt that the color scheme is neutral and would fit well into the green space area. Alderwoman Smith stated she doesn't see the need to have the Wal-Mart Market open 24 hours per day. Mr. Giles stated this is a free market enterprise and Kroger is open 24 hours per day as well. Alderman Jones stated he does not feel this area is a good fit for this development. Alderwoman Whitmore concurred. Drew Travis, Pastor First Presbyterian Church, stated we have not taken a stand on this issue one way or the other; we have taken a vote of the congregation to sell right of way property to the city to extend Farris Rd, if this enables Wal-Mart to move in, then it does, but no vote has been taken at the church on the Wal-Mart project. Mr. Travis stated that Wal-Mart has worked with us to address issues such as landscaping/buffering. Alderwoman Smith stated we have the ability to ask them to make changes to conditions if we so choose such as having the building be built out of red brick and the hours of operation etc. Alderman Vaught asked the procedure that Wal-Mart would have to go through if the city council wanted the building façade to be constructed of brick. Bryan Patrick, Planning Director, stated it could entail this being held in committee to allow Wal-Mart time to work on a different design. Mr. Giles asked if council would allow them ten minutes break to discuss this issue. Alderwoman Whitmore motioned to hold this item in committee for ten minutes. Alderwoman Smith seconded the motion. The motion passed 7-0.

Upon returning from their break Chris Neely, Wal-Mart Director of Public Affairs, stated they would obviously prefer to run the market 24/7 as research warrants that, after discussions with his manager they propose to adjust the store hours to be open from 6:00 am to 12:00 am and to place a red brick façade on the building as council recommended. Alderwoman Smith asked about the design standard on the façade. Mr. Neely stated the design standard would stay the same in term so the design of the building, but the color will change and become red brick if the project is approved. Alderman Grimes stated he would Chik-Fil-A to do the same. Alderman Hawkins motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. Alderman Hawkins adopt the ordinance with the agreed upon changes. Alderwoman Mehl seconded the motion. Mr. Giles stated we respectfully request that the outlot, listed in condition #1 be zoned C-2, with the specific user being Chik-Fil-A. Mayor Townsell stated we could accommodate this request if council so desires. Alderwoman Smith motioned to amend condition #1 to dictate the land use of the outlot to C-2, add conditions to dictate store hours of operation are 6:00 am to 12:00 am, allow only Chick-Fil-A, and red brick façade will apply to any structure on this PUD. Alderwoman Mehl seconded the motion. There was no further discussion on the amendment. The amendment passed 7-0. There was no further discussion on the main motion on the floor. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Vaught, Alderwoman Mehl, Alderman Grimes, and Alderman Hawkins. The motion passed 5-2. Alderman Jones and Alderwoman Whitmore voted in opposition.

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

- 1. Consideration to remove items from the fixed assets inventory for the Conway IT Department.**

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Alderswoman Smith motioned to remove these items from inventory. Alderswoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

2. Consideration to accept bids for turnout gear for the Conway Fire Department.

Bart Castleberry, Fire Chief, recommended the low bid from Sunbelt Fire, Inc. in the amount of \$1,922.00/set. Alderswoman Smith motioned to accept the low bid. Alderswoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

3. Resolution authorizing the purchase of an engine, an aerial, and equipment for the CFD.

R-12-25

Bart Castleberry, Fire Chief, stated the engine is \$992,000.00 and the aerial equipment is \$568,292.00. Mayor Townsell stated these will be funded from the 2012 bond issue. Alderswoman Smith motioned to adopt the resolution. Alderswoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

4. Ordinance authorizing personnel changes within the Conway Fire Department.

O-12-56

Bart Castleberry, Fire Chief, was present to answer questions. Mike Winter, Asst. Fire Chief, stated we formed a committee to devise a plan to enhance the department and continue to progress. Chief Winter explained we currently run 7 engines, 2 aerial apparatus, and rescues, only 9 of those units have an officer on board. Chief Winter stated in phase I we are asking to reclassify 3 of our drivers to the rank of a lieutenant, in order to put an officer on all of our units, if approved we will bring phase II before council. Alderswoman Smith motioned to waive the readings of the ordinance. Alderswoman Mehl seconded the motion. The motion passed 7-0. Alderman Vaught asked is the goal to reduce the number of officers that are employed by CFD. Chief Winter stated no, we want to increase our number of officers by 3, one per shift. Alderswoman Smith motioned to adopt the ordinance. Alderswoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderswoman Smith, Alderman Vaught, Alderswoman Mehl, Alderswoman Whitmore, Alderman Grimes, Alderman Hawkins, and Alderman Jones. The motion passed 7-0.

D. Finance

1. Consideration to approve the monthly financials reporting ending April 30th, 2012.

Tyler Winningham, CFO, gave a brief synopsis of the financials to council. There was no discussion regarding the reports. Alderman Hawkins motioned to approve the April 2012 financials. Alderswoman Mehl seconded the motion. The motion passed 7-0.

Alderman Grimes stated the Finance Committee met today addressed some items that have they have been discussing for some time, many relating to the re-dedication of the sales tax; one being to restore the Police Dept. 4 hours overtime by January 1, 2013 and funding a true

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Reserve Fund with \$500,000.00 by year's end (\$100,000.00 monthly) if possible after the discussion of bonuses. Alderman Grimes stated we had hoped to give full time employees a net bonus (after tax) of \$1,000.00, part time employees \$500.00, but grossing the bonus up is problematic in that all employees had different withholding levels etc. Alderman Grimes explained it was decided to go with a "same equal gross amount" and withhold taxes at current rate. Alderman Grimes stated we wanted to give employees a gross bonus of \$1,250.00 which would have gotten full time employees approximately \$1,000.00 but this wasn't possible and still contribute to the reserve fund the way we want to. Alderman Grimes stated we are proposing to give full time employees a gross bonus of \$1,000.00 and part time employees \$500.00; this will apply to all full time employees, part time employees, and full time elected officials, but not to part time elected officials. Alderman Grimes stated the cost for the bonuses is approximately \$484,000.00 from the general fund, \$38,000.00 from the street fund, and \$64,000.00 for a total cost of \$586,000.00. Alderman Grimes stated we would like to look at Christmas bonuses also, but we will have to see if revenues hold.

2. Resolution setting the amount and payment date of employee bonuses.

R-12-26

Alderman Grimes stated if we agree on the above recommendations of the Finance Committee Section 1 of the resolution should read "Bonuses shall be paid to all full time City employees and full time elected officials in the amount of \$1,000.00 gross, and all part time City employees in the amount of \$500.00 gross." Alderman Grimes stated we can add language that says the bonus is effective from employees who are employed by the City on June 30, 2012 to be paid on a separate payroll on July 13, 2012 amounts shall be the net amounts paid. Alderwoman Smith motioned to adopt the ordinance. Alderwoman Whitmore seconded the motion. After some discussion the motion passed 7-0.

Old Business

New Business

Adjournment

PASSED this 12th day of June 2012

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett