
MINUTES OF THE CITY COUNCIL, CITY OF CONWAY, ARKANSAS

Conway, Arkansas
Tuesday 6:30 pm
November 12, 2013

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 Mehl, Alderman Ledbetter, Alderwoman Smith, Alderman Jones, Alderwoman Whitmore, and Alderman Grimes. Also, present and acting: Mayor Tab Townsell, City Clerk Michael Garrett, and City Attorney Michael Murphy. Alderman Pruitt was not in attendance.

Call to Order: Mayor Tab Townsell

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

Minutes: October 22nd, 2013 City Council Meeting

Alderwoman Smith motioned to approve the October 22, 2013 minutes as submitted. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

Recognition:

1. Report of Standing Committees:

A. Economic Development Committee (Airport, Conway Corporation, Conway Development, Chamber of Commerce, Downtown Partnership)

1. Consideration to approve the agreements for ground lease agreement for private aircraft hangars & aircraft "t" hangars at the new Conway Municipal Airport.

Bill Hegeman, Chairman Airport Advisory Committee, was present to answer questions. Mayor Townsell stated before you tonight are two agreements; Ground Lease/User Agreement for Corporate Aircraft Hangar and Lease and Use Agreement for Aircraft T Hangar. Alderwoman Smith motioned to approve both agreements. Alderwoman Whitmore seconded the motion. Alderman Hawkins asked the ground lease term for corporate hangar. Jack Bell, Chief of Staff, stated forty years maximum. There was no further discussion. The motion passed 7-0.

2. Ordinance amending by reference Ordinance O-94-54 (Conway Zoning Ordinance) in regards to development review standards for airports.

O-13-115

Bryan Patrick, Planning & Development Director, gave a brief synopsis of the proposed design standards for airports. Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to adopt the ordinance and the emergency clause. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, Alderman Grimes, Alderwoman Mehl, and Alderman Hawkins. The motion passed 7-0.

3. Ordinance amending by reference by the airport height and land use zoning overlay district adopted by referring Ordinance O-11-35.

Mayor Townsell asked council to hold this item in committee. Alderwoman Smith motioned to hold this item in committee. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

Alderwoman Smith motioned to suspend the rules to add an already published public hearing to the agenda. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Mayor Townsell opened the public hearing. David Menz, Attorney at Law, explained this district is not established to building anything at this time and went onto described how the Little Rock Metro Center District operates. Ray Kordsmeier, downtown property owner, stated he is in favor of this improvement district as it will keep downtown Conway moving forward as a viable economic area. George Covington, 904 Front St, explained his company has been at this location for 90 years and feels there are many more things to accomplish in downtown Conway; approximately 75% of the property owners have signed the petition. Mr. Covington explained it is difficult to place a tax upon your own property, but feels this will benefit the downtown area for years to come. Linda Paxton, 1258 Lincoln St, explained she has had calls from property owners who are included in this area; they are neither for or against this improvement district, but they want know what will happen to their property, if the city will take their property, will their taxes increase etc. Ms. Paxton stated you need to communicate to the property owners what will happen with their property. The Mayor stated the city will not take their property however their property taxes will increase if they are inside the boundary of the improvement district. The Mayor suggested Ms. Paxton come by city hall and get copies of the improvement district map to help these property owners determine if they will be included. Mr. Menz stated if council approves the district tonight, the assessor will file an assessment book, which has to be published twice, and each property owner will have the opportunity to see what their proposed taxes and assessments will be; single family homes will be taxed very low, the commercial property will bear the brunt of the increases. Mr. Menz stated once the assessment books are filed we will ask council to approve the assessments after another public hearing, if the assessments are approved then the taxes will go out on the tax bill in February or March. Kim Williams, Conway Downtown Partnership, stated the master plan completed in 2002 and one of the recommendations was the creation of the Central Business Improvement District the master plan for downtown Conway; it will provide for upgrading to public urban space and will continue to make the downtown area a more friendly public environment, will increase property value, and property owners can receive a tax credit on new construction. Elroy Smith, downtown property owner, encouraged everyone to think how this will benefit entire city and how this burden can be spread. Mr. Smith feels a nice public restroom facility is needed in the downtown area. The Mayor closed the public hearing.

4. Ordinance establishing the Central Business Improvement District No. 1 for the City of Conway.

O-13-116

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

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ordinance. Alderwoman Whitmore seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, Alderman Grimes, Alderwoman Mehl, and Alderman Hawkins. The motion passed 7-0. The emergency clause is to be added to the ordinance. Alderwoman Smith motioned to adopt the emergency clause. Alderwoman Mehl seconded the motion. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, Alderman Grimes, Alderwoman Mehl, and Alderman Hawkins. The motion passed 7-0.

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

1. Presentation of the 2012 Audit Federal Grants from Craft, Veach, & Company.

Tyler Winningham, CFO, was present to answer questions. John Craft, Craft, Veach, & Company, stated no problems were found during this audit, no internal weaknesses were identified, nor were there any findings. Alderwoman Smith motioned to accept the report as presented. Alderman Jones seconded the motion. There was no discussion. The motion passed 7-0.

2. Resolution setting a public hearing to discuss the closing of a 15 foot utility easement located in Christina Subdivision located at west of 2401 Christina Lane.

R-13-73

Alderwoman Whitmore motioned to adopt the resolution. Alderwoman Smith seconded the motion. There was no discussion. The motion passed 7-0. The public hearing will be held Tuesday November 26, 2013 at 6:30 pm.

3. Resolution setting a public hearing to discuss the closing of a 16.5 foot utility easement Golden Meadows Subdivision.

R-13-74

Alderwoman Smith motioned to adopt the resolution. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0. The public hearing will be held Tuesday November 26, 2013 at 6:30 pm.

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

R-13-75

Alderman Hawkins stated the property address is 2002 Prince St; the cost of cleanup was \$185.32 (\$141.20 + Penalty \$14.12 + filing fee \$30.00). 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 7-0.

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R-13-76

Alderman Hawkins stated the property address is 1270 Pyramid; the cost of cleanup was \$211.80 (\$165.28 + Penalty \$16.52 + filing fee \$30.00). 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 7-0.

R-13-77

Alderman Hawkins stated the property address is 130 Locust; the cost of cleanup was \$218.59 (\$171.41 + Penalty \$17.14 + filing fee \$30.00). 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 7-0.

R-13-78

Alderman Hawkins stated the property address is 2745 Glohaven; the cost of cleanup was \$324.14 (\$267.40 + Penalty \$26.74 + filing fee \$30.00). 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 7-0.

- 5. Ordinance accepting and appropriating donation funds for the Conway Tree Board for the Arbor Day celebration.**

O-13-117

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 Ledbetter, Alderman Jones, Alderwoman Whitmore, Alderman Grimes, Alderwoman Mehl, and Alderman Hawkins. The motion passed 7-0.

- 6. Consideration for Tract 72 to be provided a rent subsidy for the Conway Western Arterial Lop (Baker Willis Parkway).**

Ronnie Hall, City Engineer, stated this is for rental tenant Marcus Falkins; OR Colan & Associates has determined, in accordance with federal relocation policy, Mr. Falkins is entitled to this payment. Alderwoman Smith motioned to approve this payment. Alderman Ledbetter seconded the motion. There was no discussion. The motion passed 7-0.

- 7. Ordinance to rezone property located at 1514 & 1516 Bruce Street and 303 & 309 Conway Blvd. from R-2A to S-1.**

O-13-118

Alderwoman Smith motioned to waive the readings of the ordinance. Alderwoman Whitmore seconded the motion. The motion passed 7-0. Alderwoman Smith motioned to

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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 Ledbetter, Alderman Jones, Alderwoman Whitmore, Alderman Grimes, Alderwoman Mehl, and Alderman Hawkins. The motion passed 7-0.

8. Consideration of a request from Chick-Fil-A for a conditional use permit to allow a drive through window in a PUD being developed at property located at 2510 Prince Street.

Alderman Hawkins motioned to approve the conditional use permit with the conditions listed below. Alderwoman Smith seconded the motion. Paxton Singleton, representing Chick-Fil-A, stated they have no objections to the conditions listed. Alderwoman Whitmore asked if they would be opposed to business hours being 6:00 am to midnight, 6 days a week. Mr. Singleton stated no, Chick-Fil-A is not open on Sunday's. Julie Atkinson, representing First Presbyterian Church, stated they will be landscaping to the east of Farris Rd and would like to landscape in a manner that would be attractive for both parties and inquired if Chick-Fil-A would be willing to flip their plans so the building would be on the opposite side as to be further away from the church. Ms. Atkinson asked if Chick-Fil-A could provide an e-site elevation in order to plan their landscaping. Alderman Jones asked for clarification of operating hours. Mr. Singleton stated they are open 6 am - 10 pm. Mayor Townsell stated the more standardized the restrictions are, the easier they are for us to keep up with. Bryan Patrick, Planning & Development Director, stated these conditions followed the Wal-Mart Market PUD. After some discussion Alderwoman Whitmore motioned to amend condition 4 to read "Hours of operation - Business hours are limited to 6:00 am to midnight, Monday through Saturday." Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0. Alderwoman Smith motioned to add a condition to provide First Presbyterian Church an E-elevation. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0. There was no further discussion on the main motion. The motion passed 7-0.

1. Exterior Facades shall be red brick similar to area structures.
2. Ingress/Egress - Curb cuts are allowed as proposed. Outlot curb cuts are limited to access from the North/Wal-Mart Parking Lot and the West/Wal-Mart Private Drive.
3. External Sound System - There will be no exterior sound system on the restaurant or in the parking lot other than the drive through/menu board sound system.
4. Hours of Operation - Business hours are limited to 6:00 am to midnight, Monday through Saturday.
5. Construction Hours - Hours of external construction are limited to 7:00am to 7:00pm Monday through Saturday and 1:00pm to 7:00pm on Sunday.
6. Design/Landscaping - Store design will be generally as depicted in submitted site plans and renderings.
7. Signage - All signage will meet current Conway Sign Ordinance regulations.
8. Chick-Fil-A shall provide First Presbyterian Church an E-site elevation.

9. Discussion/Review of the conditional use permit issued for property located at 3725 College Avenue (Back Achers Ranch).

Bryan Patrick, Planning & Development Director, stated Back Achers Ranch is now in compliance and council may now extend the conditional use permit without a time period

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they desire. Alderman Hawkins motioned to approve a no fault finding in compliance. Alderwoman Mehl seconded the motion. There was no discussion. The motion passed 7-0.

10. Discussion/Review of the Conway Sign Ordinance (Electronic Message Board Regulations).

Bryan Patrick, Planning & Development Director, stated he feels the sign ordinance, as it pertains to electronic signs, should not be changed at this time; the request is allow Simmons First National Bank to replace their electronic message board (EMB), with a new LED panel. This would be a significant upgrade, and is similar to the request by Sav-On Drugs which allowed them to upgrade their existing EMB, due to a technicality in the sign ordinance. Mr. Patrick stated he feels this should not be allowed because, one it is out of character to the Historic District, and two, to allow Simmons First to upgrade a pre-existing, non-conforming sign would bring up many legal issues for the city. Mr. Patrick stated if we allowed EMB city wide, it would eliminate any legal issues, but we would first need Simmons First to bring their sign up to a conforming state, and then establish regulations to allow EMB. Mr. Patrick stated he does not feel the city should allow any EMB that flashes, blinks, or has animation, etc. Mr. Patrick stated another option is to allow the static fuel price only sign and schools to have EMB, but again, regulations would need to be put in place and the legalities would need to be looked at. Mr. Patrick went onto say that if this were opened up he feels electronic billboards would be a part of this. Mr. Whitehouse, explained not only do we want to update our EMB, but to look at all EMB in Conway as a whole; these older signs can be given a new face and last for years, but the EMB life span is much shorter and feels it is wrong to not allow an EMB sign to be up graded because the business has made a significant investment on this type of sign. Mr. Whitehouse stated 6 of the 8 cities in this benchmark allow EMB with restrictions, but the benchmark does not state if refurbishing of the non-conforming signs are allowed. Candace Meeks, Simmons First National Bank, explained the banks EMB sign is their primary source of advertisement and it has been in need of repair for approximately a year. Ms. Meeks stated the other 18 EMB signs in the city, will at some point, require maintenance, and feels businesses should be allowed to repair the sign, and not be forced to take them down. Richie Howell, Simmons First National Bank, explained they need their sign repaired, and stated there needs to be an option available for repair, instead of removal. Alderman Grimes asked if EMB can be repaired. Mr. Patrick stated yes, if you can find parts for them. Alderman Grimes stated our intent was to allow the EMB signs remain, be repaired, be removed once they have reached the end of their lifespan, and then replace with a conforming sign, such as a static sign. Alderman Grimes stated he is willing to look at the fuel sign for legality purposes, but he is not ready to look any further in-depth to the sign ordinance. Alderwoman Smith concurred. Alderman Hawkins stated he is willing to look at these signs listed but he is not willing to allow EMB signs city wide. Alderman Ledbetter concurred. After some further discussion the Mayor stated we can discuss what we want and come up with language that allows us to meet our objectives.

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

- 1. Consideration to enter into an agreement with Nabholz Properties for the placement of a brick & concrete pedestal with a bronze sculpture by the City of Conway.**

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Mayor Townsell stated this is a 10 year agreement. Alderman Hawkins motioned to enter into to this agreement. Alderwoman Whitmore seconded the motion. There was no discussion. The motion passed 7-0.

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

1. Ordinance appropriating funds received for travel reimbursement to District Court.

O-13-119

Alderman Jones motioned to waive the readings of the ordinance. Alderwoman Smith seconded the motion. The motion passed 7-0. Alderwoman 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": Alderwoman Smith, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, Alderman Grimes, Alderwoman Mehl, and Alderman Hawkins. The motion passed 7-0.

2. Ordinance appropriating funds and confirming an approved adjustment in pay for the Deputy City Attorney.

O-13-120

Mayor Townsell stated this new salary was approved in March, but was not reflected in the 2013 budget therefore a fund balance appropriation in needed; \$16,500 will appropriated. The new salary is \$72,500.00 effective March 1, 2013. 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. There was no discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, Alderman Grimes, Alderwoman Mehl, and Alderman Hawkins. The motion passed 7-0.

3. Ordinance donating a smokehouse trailer to the Faulkner County Office of Emergency Management from the Conway Fire Department.

O-13-121

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. Alderman Hawkins seconded the motion. Brian Moix, Fire Chief, stated section 2 should also read as donating to Office of Emergency Management. Chief Moix stated by donating items to OEMS and Wescon Volunteer Fire Dept, they can utilized by other entities/departments. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, Alderman Grimes, Alderwoman Mehl, and Alderman Hawkins. The motion passed 7-0.

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- 4. Ordinance accepting/appropriating grant funds and waiving competitive bid requirements for various purchases for the Conway Fire Department.**

O-13-122

Alderswoman Whitmore motioned to waive the readings of the ordinance. Alderswoman Smith seconded the motion. The motion passed 7-0. Alderswoman Whitmore motioned to adopt the ordinance and the emergency clause. Alderswoman Whitmore seconded the motion. Brian Moix, Fire Chief, stated this is a Homeland Security grant in the amount of \$140,637.00 and is 100% refundable. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderswoman Smith, Alderman Ledbetter, Alderman Jones, Alderswoman Whitmore, Alderman Grimes, Alderswoman Mehl, and Alderman Hawkins. The motion passed 7-0.

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

O-13-123

Alderswoman Whitmore motioned to waive the readings of the ordinance. Alderswoman Smith seconded the motion. The motion passed 7-0. Alderswoman Whitmore motioned to adopt the ordinance. Alderswoman Smith seconded the motion. A.J. Gary, Chief of Police, stated this property was either seized or confiscated, we were unable to locate the owners; if possible, we will use the items, if not, they will be auctioned. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderswoman Smith, Alderman Ledbetter, Alderman Jones, Alderswoman Whitmore, Alderman Grimes, Alderswoman Mehl, and Alderman Hawkins. The motion passed 7-0.

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

O-13-124

Alderswoman Whitmore motioned to waive the readings of the ordinance. Alderswoman Smith seconded the motion. The motion passed 7-0. Alderswoman Whitmore motioned to adopt the ordinance. Alderswoman Smith seconded the motion. A.J. Gary, Chief of Police, stated these are reimbursements from various entities. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderswoman Smith, Alderman Ledbetter, Alderman Jones, Alderswoman Whitmore, Alderman Grimes, Alderswoman Mehl, and Alderman Hawkins. The motion passed 7-0.

- 7. Ordinance appropriating funds for Shop Secure for the Conway Police Department.**

O-13-125

A.J. Gary, Chief of Police, stated this is a program we have done for a number of years to have added security in our shopping areas during the holiday season. A fund balance appropriation in the amount of \$50,000.00 is needed to cover these expenses. Alderswoman Smith motioned to waive the readings of the ordinance. Alderswoman Whitmore seconded

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the motion. The motion passed 7-0. Alderwoman Whitmore motioned to adopt the ordinance and the emergency clause. Alderwoman Smith seconded the motion. Alderman Hawkins asked how many hours of overtime this covered. Chief Gary stated approximately 1180 hours. There was no further discussion. The clerk called the roll with the following voting "Aye": Alderwoman Smith, Alderman Ledbetter, Alderman Jones, Alderwoman Whitmore, Alderman Grimes, Alderwoman Mehl, and Alderman Hawkins. The motion passed 7-0.

E. Old Business

F. New Business

Adjournment

PASSED this 12th day of November 2013

APPROVED:

Mayor Tab Townsell

City Clerk Michael O. Garrett