

October 16, 2023

CITY OF CONWAY  
CITY COUNCIL MEETING  
CONWAY CITY HALL  
229 MAIN STREET, CONWAY  
MONDAY, OCTOBER 16, 2023 - 4:00 P.M.

**PRESENT:** Mayor Barbara Jo Blain-Bellamy, Mayor Pro Tem Justin Jordan, Autry Benton, Amanda Butler, William Goldfinch, Beth Helms, Larry White.

**STAFF:** Adam Emrick, City Administrator; Mary Catherine Hyman, Deputy City Administrator; John Rogers, Deputy City Administrator; June Wood, Public Information Officer; Jeff Leveille, Technology Services Director; Allison Williams, Finance Director; Timmy Williams, Hospitality & Beautification Director; Kayla Fleming, Associate Judge; Brandon Harrelson, Public Works Director; Reggie Jenerette, Solid Waste Director; Lynn Smith, Human Resource Director; Rock Rabon, Fleet Maintenance Director; Jasmine Waites Parker, City Attorney; Ted Dudley, Public Utilities Deputy Director; Jessica Hucks, Planning and Development Director; Le Hendrick, Fire Chief; Ashley Smith, Recreation Director; Robert Cooper, Construction Services Director; Dale Long, Police Chief; Rosanne Dates, Grants Supervisor; Katie Dennis, Planning Concierge; Brent Gerald, Planner; and Alicia Shelley, City Clerk.

**OTHERS:** Priscilla Fuller, Hillary Howard, FX Williams, and Ronald Matta. There were approximately 30 others in attendance.

**CALL TO ORDER:** Mayor Blain-Bellamy called the meeting to order, Andrew Salley of the Rock Church gave the invocation and led the Pledge of Allegiance.

The requirements for posting notice of this meeting under South Carolina's Freedom of Information Act (FOIA) were met.

**APPROVAL OF AGENDA:** **Motion:** White made a motion, seconded by Jordan, to approve the October 16, 2023 meeting agenda. **Vote:** Unanimous. Motion carried.

**CONSENT AGENDA:**

- A. Final Reading of Ordinance #ZA2023-10-16 (B), to annex 0.35 acres of property located at 803 Donald Street (PIN 369-12-04-0003), and rezone from the Horry County Residential, no mobile homes allowed (SF20) district to the City of Conway Low/Medium-Density Residential (R-1) district.**
- B. Special Event – Jingle Jam – December 17, 2023**
- C. Approval of October 2, 2023 Council Meeting Minutes**

**APPROVAL OF CONSENT AGENDA:** **Motion:** Butler made a motion, seconded by Benton to approve the October 16, 2023 consent agenda. **Vote:** Unanimous. Motion carried.

**PUBLIC INPUT:**

- Tim McGee of the Theater of the Republic thanked Council for the grant money and staff for help with various events.
- Ronald Matta spoke in opposition of the potential purchase of the Ocean Fish Market and not telling the citizens what it would be used for. Matta also spoke in opposition of the Highway 701 annexation.
- Renee Ruff spoke in opposition of rezoning 154 Winyah Road to the HI district.
- FX Williams said that he supports his neighbor's efforts regarding 154 Winyah Road.
- Lew Sanford asked Council to reach out to DHEC, EPA and legislature regarding the health hazards of 154 Winyah Road.
- Nancy Aboyan asked for help in enforcing the Ordinance against 154 Winyah Road.
- Robin Doyle spoke on behalf of Bob Padlowski regarding the air quality of 154 Winyah Road.

**Motion:** Goldfinch made a motion, seconded by Benton, to close public input. **Vote:** Unanimous. Motion carried.

**SPECIAL PRESENTATION:**

**Presentation of Public Service Employee of the Month** – Hucks presented the Employee of the Month to Brent Gerald, Planner.

**FIRST READING**

- A. First Reading of Ordinance #ZA2023-11-06 (A), to annex approximately 15 acres of property located at 154 Winyah Rd (PIN 383-00-00-0339), and rezone from the Horry County Limited Industrial (LI) district to the City of Conway Heavy Industrial (HI) district.** Hucks stated that this request came about as a result of the City's annexation ordinance, which requires that as a condition of receiving city utilities, the property owner for any new account being set up must submit an annexation request. The property is currently zoned LI in Horry County, which is considered a legal, nonconforming use, as it has been at this location since approximately 1994. The City's future land use maps identify the property as Highway Commercial; however, due to the industrial nature of Winyah Road and Yeager Avenue, industrial is a more appropriate use. The closest zoning district that the City has that would accommodate an asphalt batch plant, would be the HI district. Additionally, while the UDO has specific requirements with regard to the HI district, such as odor, air and water pollution, and noise, it would be difficult, if not impossible, to require an existing use that existed prior to the adoption of the ordinance, to have to adhere to such requirements. Per the UDO, a nonconforming use is defined as a "use or activity that was lawful prior to the adoption,

revision or amendment of the UDO that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

Hucks said that the county does have specific regulations for asphalt and concrete batch plants, there is also a section of their zoning ordinance for existing asphalt or concrete batch plants that were legally operating in the limited or heavy industrial zoning districts before zoning regulations for asphalt or concrete batch plants, and with two limitations: 1) expansion may occur up to the setbacks of the zoning district in which the facility is located provided that all applicable permits are obtained, and 2) hours of operation shall be in compliance with the Noise Control ordinance for the County.

Hucks stated that if the property is annexed it would be subject to Article 12 - Nonconformities of the UDO, which states that when land comes under the jurisdiction of this article, existing structures or uses of land or structures which would be prohibited under the regulations of the district in which they are located shall be considered as nonconforming. Nonconforming structures or uses may be continued provided they conform to the provisions within Article 12. These provisions would restrict the ability of the property to 1) become another nonconforming use, 2) it would not be allowed to be reconstructed if demolished, 3) enlargement or expansion would be prohibited, except that a nonconforming use may be extended in any part of the existing building that was designed for such use but cannot be extended to occupy land outside of that building, and 4) if the use were to be abandoned or discontinued, the use would not be allowed to be re-established after 180 days.

Hucks said that Planning Commission held the required public hearing at their October 5 meeting, and several people from the Wild Wing community were in attendance. Many were opposed to the annexation, but some were in favor of annexation, in the hopes that by doing so, certain things could be enforced that were not being enforced in the county, including the noise ordinance and air pollution; both of which are components of the city's HI district; however, the HI standards would not be applicable to this property. The requirements within Article 12 — Nonconformities, as previously mentioned, would be applicable to this property.

Hucks went on to state that whether or not the City's noise ordinance would be applicable is another thing to consider; however, the noise ordinance is not regulated through the city's UDO, but rather through Public Safety. Additionally, the county's current noise ordinance carves out an exception for asphalt or concrete batch plants under their special events ordinance when such operations are under the direction and control of a governmental entity. There is a process associated with this exemption, however, city staff cannot speak for the county as to whether or not this specific location is exempt from those standards given that use is a legal nonconforming use.

Hucks said that staff met with a few of the Wild Wing residents prior to the October 5 Planning Commission meeting, and staff is empathetic to the issues that they are living with on a daily basis. While the asphalt batch plant is not in the city's jurisdiction, the effects of the plant are being felt by many residents who are City residents. However, there is existing case law that protects uses that can be considered a nuisance, when the use existed before anyone locates within an area where the nuisance already exists. This

term is called "coming to the nuisance". Because of this, staff feels it's highly likely that any remedy would need to be resolved in the court system, and not through zoning.

The UDO does not address asphalt batch plants, and if any new plants were proposed, they would not be permitted because our ordinance does not provide specifications for the use. Even if we were to adopt regulations for the use, this not-only would not-apply- to this property, but would allow for the use to expand outside of the existing footprint.

Hucks stated that staff recommends against annexation.

**Motion:** White made a motion to deny annexation. Benton seconded the motion.

After much discussion regarding zoning districts, uses, environmental safety, noise, regulations, and nonconformities, White amended his motion to include that the City deny annexation, but be an advocate for the Wild Wing community and contact Horry County, EPA, DHEC, and the state and federal delegation to bring in experts to enforce regulations. Benton seconded the amended motion. **Vote:** Unanimous. Motion carried.

- B. First Reading of Ordinance #ZA2023-11-06 (B), amending Article 11 – Signage, of the City of Conway Unified Development Ordinance (UDO), regarding Sign Standards in Residential and Non-Residential Zoning District, as well as requirements for Electronic Message Centers (EMC's) / Light Emitting Diodes (LED) signs with digital/animated display.** Hucks said that earlier this year, this ordinance was amended to allow theaters, educational facilities, and public recreational facilities to have an EMC / LED sign with digital or animated display. Since that time, there have been a few churches that have sought approval of the same. However, unless the church is zoned Highway Commercial and located on Hwy 501 Bypass or Church Street, this type of sign is not permitted. One of the churches on Grainger Road applied to have an LED/EMC sign, and because the church sits on property greater than 3 acres in size, they were informed they would have to rezone to a PD and could include this type of sign in their PD. The church subsequently applied to rezone the property to a PD. Staff gave a special presentation of the request to Council a couple of months ago, and at that time, Council expressed their interest in making it easier for churches to have an EMC/LED sign without having to go thru the rezoning process. Staff has drafted an amendment that would permit religious institutions to have such signs in addition to the other uses that the ordinance was amendment for. However, if the church is located in a residential district, in addition to the standards for an EMC/LED sign, the church would have to adhere to the requirements for signage in residential districts, which limits the sign area to 50 sq. ft. and the sign height to 6'.

Hucks stated that Planning Commission held the required public hearing at their October 5 meeting. There was no public input, and PC recommended approval. Staff also recommended approval of the amendment.

**Motion:** Goldfinch made a motion, seconded by White, to approve first reading of Ordinance #ZA2023-11-06 (B). **Vote:** Unanimous. Motion carried.

**C. First Reading of Ordinance #ZA2023-11-06 (C), amending Article 5 – Specific Use Regulations, of the City of Conway Unified Development Ordinance (UDO), regarding the requirements for religious institutions.** Hucks stated that staff has been in the process of updating the UDO and identifying inconsistencies or outdated information, and intend to continue bringing each article of the UDO forward one at a time for consideration. Article 5 — Specific use Regulations, provides conditions for specific uses, including religious institutions. Religious institutions on property 3 acres or larger have been required to adhere to the Planned Development process since at least 2011, when the UDO was initially adopted. This is because many religious institutions can become more like a campus, containing many structures other than the sanctuary, including educational facilities and daycare facilities. A 2005 South Carolina Supreme Court ruling rendered a Planned Development request in Charleston County invalid, citing that the PD was not comprised of housing of different types and densities and of compatible commercial uses nor was the site characterized by a unified site design for a mixed-use development, as that particular PD was only to reduce the dimensional standards that were required in the current zoning district on property under 3 acres in size. This court ruling does not prevent counties or cities from using other techniques or processes for a planned development so long as the requirements are consistent with the state planning enabling act. For churches, while many can be considered a campus, in most cases, many of the uses associated with the church are accessory in nature, insubordinate to the primary use and structure. Some situations may warrant a Planned Development, and there is nothing that would prohibit a church from requesting the PD zoning designation. However, short of the proposed use or uses of the property meeting the intent of a PD district, the choice to become a PD should be that of the property owner, and meet the minimum requirements for a PD, based on existing law. The proposed amendment eliminates the requirement for religious institutions 3 or more acres in size from having to be a PD. Additionally, this amendment would be consistent with the South Carolina Religious Freedom Act and the Religious Land Use and Institutionalized Persons Act.

Hucks said that staff recommended approval of the amendment.

**Motion:** Benton made a motion, seconded by Jordan, to approve first reading of Ordinance #ZA2023-11-06 (C). **Vote:** Unanimous. Motion carried.

**D. First Reading of Ordinance #ZA2023-11-06 (D), amending Article 7 – Streets and Circulation, Article 10 – Subdivision and Land Development, and Article 12 – Nonconformities, of the City of Conway Unified Development Ordinance (UDO), regarding the requirements for installation of sidewalks.** Hucks said that part of the City's Complete Street ordinance requires that sidewalks be installed along the frontage of all properties that abut arterial, or local nonresidential streets. The UDO also requires that sidewalks be constructed on any existing street segment maintained by the city, the county, or SCDOT where one does not currently exist. There is nothing that separates what the requirements are for sidewalk installation for new development vs. existing development. The applicant does have the ability to seek a waiver of sidewalk installation if the Technical Review Committee recommends it. Even still, the waiver can only be granted by City Council, and in addition to the waiver being granted, a fee in lieu of sidewalk installation is required that is equal to the city's contracted amount for sidewalk installation.

Hucks stated that a recent request on Fourth Avenue was presented to Council where the building went almost to the property line, and would have been impossible for sidewalk installation to occur. The fee in lieu amount, if the waiver is granted, totaled almost \$10,000.

Hucks said that in cases where properties are vacant, and not considered as nonconforming, they will continue to be required to meet the complete street ordinance and any other section of the UDO relating to sidewalk requirements. The amendment being considered is for properties that are considered as legal nonconforming, such as existing building locations or street access.

Hucks informed Council that Planning Commission recommended approval of this amendment at their October 5 meeting.

**Motion:** Goldfinch made a motion, seconded by Blain-Bellamy, to approve first reading of Ordinance #ZA2023-11-06 (D). **Vote:** Unanimous. Motion carried.

## **CONSIDERATION:**

**Consideration of Transfer of Ownership of Kirkland Drive Between Lots 1 and 32 of Elmhurst Development** – Waites-Parker explained the request and said that the developer initially transferred the streets, sidewalks, water/sewer, etc. to the City of Conway through a deed. However, there is a discrepancy regarding the ownership of Kirkland Drive as depicted on the Original Plat and the subsequent approval of the Revised Plat. The Original Plat, which was the only recorded plat during the phase 1 development, shows Kirkland Drive continuing between lots 1 and 32. The deed executed by Gerald technically transferred the title and ownership of the streets as shown on the Original Plat to the City of Conway. However, there are errors in the first paragraph of the legal description in the deed. Subsequently, the City and/or Gerald requested and approved the placement of a cul-de-sac at the intersection of Kirkland Drive and Lockwood Lane, leading to the reconfiguration of lots 1 and 32 as shown on the Revised Plat. It is important to note that the approval of the Revised Plat does not revoke or transfer ownership back to Developer of the portion of Kirkland Drive between lots 1 and 32 as depicted on the Original Plat.

Waites-Parker recommended that City Council approve the signing of the quitclaim deeds. These quitclaim deeds, which are attached, will grant the necessary interests to the current owners of lots 1 and 32 as depicted on the Revised Plat. By signing these quitclaim deeds, the City is not providing any warranties of title to the grantees but simply transferring the City's interest in Kirkland Drive between lots 1 and 32 on the Original Plat to the owners who now own lots 1 and 32 as shown on the Revised Plat. By approving the signing of these quitclaim deeds, the City Council will ensure that the appropriate rights and interests of the current lot owners are recognized and protected. This will resolve the ownership discrepancy and provide clarity regarding the transfer of ownership of Kirkland Drive between lots 1 and 32.

Waites-Parker informed Council that Attorney Davis Inabnit was present to answer any questions.

Jordan asked for clarification regarding the amount on the deed. Inabnit stated that was a typo and the corrected version will be submitted and signed.

**Motion:** Jordan made a motion, seconded by Helms, to approve the signing of the quitclaim deeds for the transfer of ownership of Kirkland Drive between lots 1 and 32 of Elmhurst. **Vote:** Unanimous. Motion carried.

### **CITY ADMINISTRATOR'S REPORT:**

Emrick informed Council of the following:

- Emrick started tonight by reporting on the International City Managers Conference as he was asked to speak at the ICMA conference in Austin, TX two weeks ago. There were 5,550 City Managers attending from all over the globe. Most of the sessions were on budgeting, conducting meetings, navigating difficult meetings, those sorts of things. Emrick said he was titled, Halloween, South Carolina, how we won October. Emrick said his one regret was that it was on October, as he could not report on the nearly overwhelming number of people enjoying it this year. Conway is packed downtown, seven days a week, even in the rain. And there have been nothing but raves over what has been done. Staff is already preparing for next year. There are some great events coming up... here are a few:
  - Conway Downtown Alive's Ghost Walk is Wednesday through Saturday. As it is every year, it is sold out.
  - The Pilot Club is hosting their first ever Spooky Share this Wednesday at 6:30 at Chantis and learn about the Pilot Club.
  - Our Forest of Fear starts Thursday and runs through Saturday this week and Thursday through Saturday next week. It is at the Sports and Fitness Complex.
  - The Haunted Hustle is Thursday at 6:30 at the Sports and Fitness Center.
  - Little Shop of Horrors at Theater of the Republic, starts Thursday the 26th.
  - There are so many more things to do and Emrick said he would be here all night if he went through them all. Emrick recommended everyone to check out the City's website or Facebook page for more.
- The Whittemore Task Force will meet for their first meeting this Wednesday at City Hall.
- Earlier today, there was a ribbon cutting at the new Pickleball courts at Collins Park. There were a lot of City Staff members responsible for this project. One person who did not reserve any credit for herself today was Mary Catherine Hyman, who spearheaded the project and needs a big round of applause.
- Conway High School's Boys and Girls Volleyball are both heading to the Playoffs, the girls have the number one seed! The girl's tennis team is also heading to the playoffs. The ladies golf team played in the Lower State Championship today.
- The Alley project is coming along. The ERF is just about done now except for lighting and equipment. The restrooms will be done in a couple of weeks.
- The Tailgate and Watch Party for the CCU vs. App State game was a lot of fun. It had the look and feel of a festival and it was on a Tuesday night. And we whooped App State.
- Homecoming for Coastal is October 28. It is also the City sponsored game and game time is 6 p.m. Emrick invited Council to ride in the parade that morning which is combined with the Halloween Golf Cart Parade. The train will be your ride which will be appropriately attired for the event. Be at the Public Safety Building no later than 8:30 am on the 28<sup>th</sup> wearing your choice of a costume or teal.

- The Municipal Election is November 7.
- Christmas is here... well not quite, but staff is gearing up for it. The transformation will take place as early in November as possible and we will actually close Marina Drive next week for the Celebration of Lights set up. By request, we have added a dreidel and menorah to this year's light show.
- Emrick said next are reports from Court and Human Resources, and he asked Judge Fleming to go first since it was her birthday.

**Court** – Fleming updated Council with the following:

- The Court Department is Fully Staffed, with Judge Fleming, Stephen Grooms as Associate Judge, Nikki Goldman as clerk, and Traci Salley and our newest Addition Samantha Huggins as Judicial Assistants.
- In the beginning of September, Fleming said she had the opportunity to attend the 2023 Litter Summit with Timmy Williams and Nevada Mileur from Grounds and Maintenance and Jon Brown from the Police Department. We attended sessions about homeless camps, scrap tire regulations, and investigative procedures.
- Filed 4,300 cases YTD
- Disposed of 3,400 cases YTD
- Court Clerk is working diligently with Prosecutor Waites-Parker to reduce the City's pending Jury Trials and held status conferences two weeks ago to determine how to proceed on numerous cases.
- Just turned in the report for our Debt Set Off and Court will be seeking \$453,000 in 2024 from years 2019, 20, 21.

**Human Resources** – Smith updated Council with the following:

Flyer to Employees:

Blood Screening Reviews

Events:

Annual SC PEBA Open Enrollment  
United Way Campaign  
Flu Shots 10-3-2023

New Hires:

PU Tradesworker I  
2 Firefighter/EMT's  
2 Firefighter I's  
Police Officer-Trainee  
Judicial Assistant  
2 Hospitality & Beautification Technicians  
PT Fitness Associate  
PT Lifeguard

Promotions:

Records Clerk to Police Officer Trainee  
Police Officer Trainee – Police Officer Patrol  
Police Detective to Police Sergeant  
Sr. Master Police Officer – Police Corporal  
Sr. Police Officer – Sr. Master Police Officer



Hospitality & Beautification Technician - Supervisor

Retirees: None  
Separations: Susan Greer, Utility Billing Specialist  
Michael Brazier, Solid Waste Equipment Operator II  
Jenna Richardson, Part Time Lifeguard

Workers Compensation Claims: Elbow Injury

FMLA: None in September

Smith, with the help of Wood presented a video of what staff had been working on.

**COUNCIL INPUT:**

**Jordan** said that he had the privilege of speaking on behalf of the City at the grand opening of the Teal Nation store and that the crowd was amazing. Jordan said that he heard that by 4 p.m. the crowd was past the grand opening of the Broadway store. Jordan said that the weekend was amazing as he and Goldfinch judged the soup contest on Friday, and then seeing the crowd as he walked past the movie that was playing at the Terrace. Jordan then stated that on Saturday was another large crowd, as he ran into some business associates from Andrews that were visiting. Jordan said that he did have some ask about addressing the benches on Main Street, with chipped paint. Jordan said that it continued on Sunday and it was amazing to see the crowds living, loving and playing in downtown Conway. Jordan thanked everyone involved in making it possible. Jordan lastly told staff that the pickleball revenge is on.

**Goldfinch** said that he would piggyback on Jordan's story and as they were walking up the street Friday the 13<sup>th</sup> was playing, where you needed 3D glasses to watch, and the last pair was handed out to the person in front of Goldfinch, which was due to the large number of people. Goldfinch told Emrick that he was wrong and had no idea that this Halloween concept could bring what it has and that this is a quality of life event. Goldfinch then read a text from State Senator Goldfinch acknowledging the great work of the ones on Council and Goldfinch thanked Emrick for being a trailblazer and convincing that you sometimes need to step outside of your comfort zone to grow. Goldfinch said that is what we are doing and he is proud.

**White** said ditto to all that had been said as he had been under the weather, and missed the weekend activities.

**Helms** thanked the city staff and said that staff is great from top to bottom, high and low, and everywhere in between and thinks that staff do not get enough credit.

**Benton** congratulated the Mayor, Mary Owens and Tim Johnson to the Conway High School Hall of Fame and said it was neat how their lives intertwined with each other. Benton echoed what Helms said regarding staff, especially Ashley as the parks and rec is looking really good.

**Blain-Bellamy** introduced a special friend that attended the meeting, Stevie Blair. Blain-Bellamy said that last week the second meeting of the Student Advisory Council took place and the following officers were elected: Rachell Hernandez, Jr. Mayor; Tristen Dennison, Jr. Mayor Pro

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Tem; and India Wilkes, Jr. Public Information Officer. Blain-Bellamy said that they will report to Council soon. Blain-Bellamy also gave a kudos to staff, and a huge shout out to Emrick saying she is proud to know and work with.

Blain-Bellamy called for a short break and said that the meeting would reconvene in the conference room for the workshop.

### **WORKSHOP:**

Goldfinch gave an update on the Ride IV program saying that there is a consensus on the additional need for the Conway river crossing. Goldfinch stated that the others ideas he would be mentioning are: four lane East Cox Ferry from Highway 90 to Highway 501 and improving that intersection, four lane from Highway 501 to Highway 544, widening or improving Cultra Road, off ramp off of Highway 501 to Marina or tying into Second Avenue.

Goldfinch said that he was given reassuring news of the two bridges in Conway and that they have a longer lifespan than what Council believed.

**Discussion of the Warden Station Planned Development and Development Agreement –** Hucks updated Council on where we started and where we are now with this request. Hucks said that staff still has concerns with Stormwater and the required traffic improvements.

Benton recommended the City hire a third party to do a fiscal impact study. Hucks said that staff has tweaked the study that was started by the Intern in the Planning Department and plan to send to Allison Williams to review.

Emrick said that the County has used TishlerBise for impact studies, but he has concerns with setting a precedent if hired by the City. Emrick then said that an RFP would have to be issued, which could delay the project.

Harrelson told Council that his biggest concern with Stormwater is the downstream.

After some discussion, it was decided that Guyton and his staff would conduct the downstream study.

There was much discussion regarding ROW's, an impact study, stormwater, utilities, enhancement fees to cover the cost of the project, and a municipal improvement district, among a few.

Hucks said that the last fiscal impact study was conducted in 2007 by Clemson.

It was then agreed that Guyton's group would take the 2007 study and compare to what staff has come up with to see where we are today regarding the fiscal impact study.

The next workshop on this request will be held on November 20, 2023.

**ADJOURNMENT: Motion:** Goldfinch made a motion, seconded by Jordan to adjourn the meeting. **Vote:** Unanimous. Motion carried.

**APPROVAL OF MINUTES:** Minutes approved by City Council this 6 day of  
November, 2023.

Alicia Shelley  
Alicia Shelley, City Clerk