

416 DEPARTMENT HEADS COMMENTS:

COMMISSION, COMMITTEE, AND AUTHORITY REPORTS:

Vacancies:

Planning, Position 3, expires 7/1/98

ONGOING PROJECTS:

McClelland Engineering, Sewer, Sidewalks, Parks, Grant Work in Progress

Ordinance No. 1782, amending the sign ordinance to allow the display of banners.

Ordinance No. 1789, an ordinance amending the noise ordinance. Ordinance No. , an ordinance updating the Municipal Code book for the current building codes.

CITY OF EUREKA SPRINGS

CITY COUNCIL MEETING

TUESDAY, July 28th, 1998

Mayor Barbara O'Harris called the meeting to order at 9 a.m., on Tuesday, July 28, 1998, in the Court Room of the Western District Courthouse.

PRESENT:

Mayor O'Harris, Alderpersons Seratt, Jeffrey, Zeller, Freeland, Christman, and Watson.

ALSO PRESENT:

Alan Long, David Dempsey, Kirby Murray, Nikki Salazar, Ed Leswig, Diane Murphy, David Beauchamp, Kathy Harrison, Beau Satori, Earl Hyatt, Kim Dickens, Don Matt, Jay Miner and Clerk Lee.

PLEDGE OF ALLEGIANCE:

Ms. Dickens led in the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

The motion was made and seconded to approve the agenda. All were in favor, 6/0/0.

APPROVAL OF THE MINUTES:

The motion was made by Alderman Christman to approve the minutes of June 23rd, 1998 as written. Alderman Freeland seconded. It was pointed out that if there were any amendments, they could not be approved as written. Aldermen Christman, and Freeland withdrew their motion and second. They then made the motion and second to approve as amended. With a few minor amendments, the vote to approve, as amended, was 5/0/1, with Alderwoman Seratt abstaining.

Clerk Lee asked that the minutes of July 14th, 1998, be postponed. She left out the discussion on Department Head raises, and it needs to be in the minutes. She apologized to the Council

and asked that approval be postponed until August 11th. The motion was made and seconded to do so, and the favorable vote was 6/0/0.

OLD BUSINESS:

1. Ordinance No. 1770, an ordinance amending Chapter 9, Section 9.04.03, Sidewalks, of the Municipal Code of the City of Eureka Springs, revising requirements for building and maintaining sidewalks, (first reading), To be postponed:

The motion was made and seconded to postpone reading this ordinance until August 25th, 1998. All were in favor, 6/0/0.

2. Ordinance No. 1779, an ordinance providing a pay back plan for private persons utilizing an existing water/sewer line(s) that was initially paid for by private citizens. (Second Reading):

The motion was made and seconded to suspend the rules and place

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3. Ordinance No. 1791, an ordinance regarding Carroll-Boone expansion, (second reading):

The motion was made and seconded to suspend the rules and place Ordinance No. 1791 on its second reading by title only. All were in favor, 6/0/0.

Ms. Dickens read the ordinance by title only.

The motion was made and seconded to approve.

Mr. Satori still didn't understand some points.

Alderman Freeland explained the important points, which are: the City is in no way obligated in the bond issue to update the system; the City will only be paying for the amount of water it uses; and the City will receive all the water it needs. Yes, the water rates will go up, and naturally some of the rate increase will pay for the bond issue.

The vote, by roll call, was 6/0/0 in favor.

4. Ordinance No. 1790, an ordinance to re-zone the First United Methodist Church property on Hwy 23 to O-2, (second reading):

The motion was made and seconded to suspend the rules and place Ordinance No. 1790 on its second reading by title only. All were in favor, 6/0/0.

Ms. Dickens read the ordinance by title only.

The motion was made and seconded to approve. All were in favor, 6/0/0.

The motion was made and seconded to further suspend the rules and place Ordinance No. 1790 on its third and final reading by title only. By roll call, the vote was 5/1/0, with

Alderman Freeland casting the no vote. Ms. Dickens read the ordinance by title only. The motion was made and seconded to approve. Since there had been no controversy, or question about the re-zoning, all were in favor, 6/0/0.

5. Ordinance No. 1792, an ordinance regarding a water tap for Stroup on Rockhouse Road, (second reading):

Alderman Watson asked for a postponement until the August 11th Council Meeting. She said she was not prepared to vote on it. Alderman Christman seconded, and the vote was 5/1/0, with Alderman Seratt voting no to postpone.

NEW BUSINESS:

1. Resolution No. 451, regarding the Outdoor Recreation Grant:

Alderman Seratt made the motion to read Resolution No. 451, with Alderman Freeland seconding. The vote in favor was 6/0/0. Ms. Dickens read the resolution.

Alderman Seratt made the motion to approve. Alderman Christman seconded. There was a lot of discussion.

Ms. Salazar, Parks Director, said that the deadline for the matching grant is August 20th, 1998.

The main thrust of the discussion was how much money this would actually cost the City, and where the money would come from, if we even have it. The matching money was \$50,000 for the grant. However, the other cost to the City would be to move utility lines, and that could be another \$50,000 or more. The Parks Commission has \$13,000 right now toward this project. This will be used for Phase 1 of the Sportsplex. Alderman Zeller said that the City does not have the money unless it goes into reserves.

Alderman Watson said what about the problems with the dam? Where would the money come from for that if it is, indeed, as badly in need of repair as we were told.

After more discussion, Alderman Watson made the motion to postpone until the August 11th Council meeting. Alderman Christman seconded. ~The vote was ~/4/~ and the motion was not carried ~partial line~

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Alderman Freeland said that he is for anything that is a they spend 50% and we spend 50%. Alderman Jeffrey said he is also in favor of a 50-50 deal. He hates to see the City pass up this opportunity.

Alderman Watson asked how much was in the reserve account, which is \$200,000 to \$300,000.

David Beauchamp said that part of the sales and use tax money does go in to General Fund Capital. Part of the reason he gets uncomfortable when the General Fund Capital account is depleted is because that is where the bond indebtedness is paid from.

The vote on Resolution No. 451 was 4/1/1. Aldermen Freeland, Jeffrey and Christman and Alderwoman Seratt voted yes, Alderwoman Zeller voted no, and Alderwoman Watson abstained.

2. Approval for Public Works to be responsible for maintenance at the North Main Parking Lot Kirby Murray said that the total cost for this year to maintain that property would be \$621. for the rest of the year. He said that for 39 weeks next year, it would cost the City \$1404. He said that Verla Donne said it will take about three and one-half hours weekly to maintain the lot. He said there will eventually be a watering system put in, which cost \$150. and that will cut down on maintenance. It was decided that since it is within Mr. Murray's budget, no vote is necessary.

At this time Jay Miner, City Attorney reported on the on-going court cases that the City is involved in:

1. The Weaver case: The City wanted to purchase the Weaver property by eminent domain. They offered \$26,000 for the property which was the approximate appraisal. A hearing was held. Once the City decided to do this by eminent domain, the only thing to be decided was the price the City would have to pay. Mr. Weaver wanted \$60,000 for it. The jury came back that it was worth \$80,000.

Mr. Miner did research in case law that said that a City can back out of eminent domain anytime before the purchase price is paid, if there was not any bad faith.

The City declined to buy it for \$80,000. The judge ruled, backed by case law, that it was not bad faith to back out. The court of appeals judge ruled that it was, if the City had the money to pay for it. There were charges that Judge Clinger thought the City should have to pay for, however, he could not rule that the City pay them. The Court of Appeals ruled that the city pay Mr. Weaver's legal fees of \$18,162.00. There may be a few more charges that will have to be paid, but this is what the legal fees amount to at this time.

2. The Freeman Waste Lawsuit

They are still in discovery. More depositions will be take in August. The trial was set, by Judge Clinger, for November 4th, 1998.

3. A case was filed in federal court recently, for six million dollars. The City has filed this case with Municipal League, and they have not contacted us. Mr. Miner said he cannot comment further.

4. The case filed in Chancery Court by Rose Hall has been answered by Mr. Miner. He filed a memorandum stating his views according to case law. That is all that has happened so far.

Alderwoman Zeller said that the \$18,000 plus check for the Weaver Case came out of the general fund, and that took care of the \$20,000 that the City was head for the month. She asked how much more money would have to be paid.

Barbara A. O'Harris
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David Beauchamp reminded Alderwoman Zeller that Sales and Use Tax is

divided into three parts: 1 Cent goes into General Fund Capital, 60% of one cent goes into Streets, and 40 % of one cent goes into General Fund Operating, so that any money we receive goes into those three places.

MAYORS COMMENTS:

The Mayor reminded the Council that they had requested a six month report from the Transit Department. She said that it was a good looking report.

ADMINISTRATIVE ASSISTANTS REPORT:

Ms. Dickens reported that the latest Sales and Use Tax report is in. Our deposits were \$177,220.53. The amount distributed was \$174,139.01. We are up 3.68% for the year.

Alderwoman Zeller said that the Transit Department is running a \$4900. deficit. The Mayor said that the Transit Department hasn't been open and running for very long. They did a little business in April, but the season is just barely under way for them. Alderwoman Watson said it was the best she had ever seen in this four year period that she had served on Council.

Ms. Dickens said she and Bill had received several phone calls about the noise ordinance and they were going to come up with a date to hold a meeting and contact people to be there. The mayor asked that something be ready to present to the Council by the agenda-setting meeting.

The 1998 amended budget will be ready very shortly. Then it will be time to set up the 1999 budget. Alderwoman Seratt asked that there be an itemized list of all employees salaries since the raises.

The motion was made and seconded to adjourn. All were in favor, 6/0/0. The meeting was adjourned at 10 a.m.

ATTEST:

