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**CITY OF EUREKA SPRINGS
CITY COUNCIL MEETING MINUTES
May 12, 1998 at 9 a.m.**

The regularly scheduled meeting of the Eureka Springs City Council was brought to order on Tuesday, May 12, 1998, at 9: 46 a.m. It was held in the Council Room of the Western District Courthouse.

PRESENT: Mayor Barbara A. O'Harris, Alderpersons Christman, Freeland, Zeller, Watson and Jeffrey were present. Alderwoman Seratt was absent. The same people were at the special meeting, that was held at 8:30 a.m.

ALSO PRESENT: Alan Long, David Dempsey, Nikki Salazar, Earl Hyatt, Johnny Quinn, Robert White, Kirby Murray, Ray Rasor, Don Matt, Kim Dickens, Jay Miner and Clerk Lee.

PLEDGE OF ALLEGIANCE:

Ms. Dickens led in the Pledge of Allegiance.

The Mayor asked David Stoppel to report on an accident on Highway 23 North. Brent Updegraph was the lead paramedic at that scene. A small car had been hit on the side by a dump truck, and the patient was trapped in the car. The patient's survival was attributed to Brent by the emergency room physician at the Northwest Medical Center. She had a collapsed lung, which means she had more air in her lung cavity than was outside. Brent put a needle into her chest, to let out the air, and enabled the patient to breathe. The Dr. said it was this quick action that saved her life. The department is very proud to have him on their team.

Chief of Police Hyatt had a letter of commendation for Officer Shelly Summers, who is the School Resource Officer for the Eureka Springs School District. On the evening of May 2nd and the early hours of May 3rd, she demonstrated her devotion to this community. She was contacted by students from the high school, on Wednesday, April 29th, and was asked if she would sponsor students for a Prom Promise. Prom Promise is an event that is organized by nationwide insurance, in an effort to save teen lives, and prevent injuries.

The event provides after-prom activities which are drug and alcohol free. She agreed donate her time, and along with Morris Pate, she began to organize activities. Many local businesses and residents donated entertainment, food and gifts. The event lasted until 6 a.m. She provided a safe fun night for one of this community's most precious resources, our youth.

The Mayor went on to thank all of the people involved for their generosity.

APPROVAL OF THE AGENDA:

The Rural Development Grant was moved to the agenda. Alderman Christman made the motion to approve the agenda as amended, with Alderwoman Zeller approving. All were in favor, 5/0/0.

APPROVAL OF THE MINUTES:

April 14th, 1998: The motion was made and seconded to approve the minutes from April 14th, 1998. All were in favor, 5/0/0.

April 28th, 1998: Alderwoman Watson left for a minute. The motion was made and seconded to approve the minutes from the April 28th meeting. The vote was taken just as Ms. Watson was returning. The vote was 5/0/0.

OLD BUSINESS:

1. Ordinance #1783-A, increase water rates, (Third reading, 5-12-98), with no emergency clause:

Alderman Jeffrey made the motion to place Ordinance #1783-A on its third reading and read it in its entirety, because of the amendments to it. Alderman Freeland seconded. All were in favor, 5/0/0.

Kim Dickens read the ordinance in its entirety. Alderman Jeffrey made a motion to approve and Alderman Christman seconded.

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Alderwoman Watson said she is not happy about the rate increase for anyone. She says it affects all of us personally. She sees no other way to pay for the costs of updating our system. She said that we are being forced to make changes, and this is the only way that anyone can see to get the job done.

Alderman Freeland said it costs more to live today, and nobody wants to face up to that concept. He feels that not everyone will be able to recoup the rate increase. Unfortunately, increases are going to be necessary, anyway.

He said that the City is faced with an ugly decision, and its bound to get worse before it gets better.

The vote on the third reading of Ordinance #1783-A was a unanimous 5/0/0.

The discussion then turned to the Rural Development Grant. Alderman Jeffrey made the motion to break the discussion into parts, Phase 1-A, and Phase 1-B, for purposes of discussion. Alderman Freedland seconded the motion.

Johnny Quinn said that he would still propose that we consider doing all of Phase 1 under the Revolving Loan Fund application, and that the City look at all of Phase 2 for the Rural Development Grant. That is the City's plan and it is the premise that everyone has been working under.

Mr. Quinn said that McClelland Engineering has always given the City Council information on all of the options that were available to them, and that it is in everyone's best interests that they do so. He said that comments have been made earlier that the engineer is responsible for things not being done. The engineer can only suggest and outline options. They are here to give the City their recommendations based on the plan as it is presented to them. It is up to the City Council to make the decisions from the knowledge that has been given them.

He is not opposed to Permaculture in itself. He is opposed to anything that could not be brought to fruition in this instance. Permaculture is not new. Neither has it been perfected to the point that it produces waste water that fulfills all of the requirements. He said if the City is interested in looking into Permaculture, invite Martin Maner from the Arkansas Department of Pollution Control and Ecology. He is an expert on alternative systems. He said it might be a good idea to pick an unsewered area that might be conducive to alternative systems, and make a demonstration project out of it. There is a certain amount of risk, and the City might have to go in a few years later and re-do the system, but he said the Council needs to keep an open mind. It would save that much more capacity at the Wastewater Treatment Plant, also.

The Mayor asked Kirby Murray to speak. He has been in on the project for the last twenty years. Mr. Murray said that he agrees with Mr. Quinn on Phase 1. He feels the Highway Department has been very cooperative about what they have agreed to do on Highway 23 North, going through town. He said that it has taken so many years to get them to put concrete in, it would be a shame to lose out on that decision now. He said they could come in here someday and lay asphalt and say, "It is our highway and it needs to be fixed".

Mr. Murray said that the composting costs can only keep on going up. He said that he recently attended a solid wastes operator's school. 75 % of the landfills in Arkansas have closed in the last 2 to 3 years, because of the new regulations for lime landfills. He hates to see postponement of the expansion of the composting unit. It was a long hard fight to get our composting facility, because it was innovative and nobody wanted to be responsible. Everyone want to be on the list to receive the compcst, and when they call , everything is gone in two hours.

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Mr. Murray attended a class with Martin Maner and they discussed Permaculture. Mr. Maner was still very interested and had set up projects in different parts of the state. He would like to see it work. He said some of the projects were successful part of the time. None of them were successful all of the time. The plants die off, and there must be a dedicated group of people who constantly monitor and take care of the project. So far, that has never happened. In Europe and other places where these seem to work, the restrictions are not as stringent as they are here in the United States. People have to use certain kinds of paper, and they don't put anything down the toilet that will hurt the system. It could not be used here in the City except to clean up the water before it went into the treatment plant, but it is not clean enough to meet our standards. Alderman Jeffrey said he would like to see a pilot project go in, and see if it would work in a completely residential area. He also said that he would like to see the City use our force account to do a lot of our own work. He said that it would save a lot of money for the City.

After more discussion, Alderman Jeffrey withdrew his motion and Alderman Freeland withdrew his second. Alderman Jeffrey then made a motion to go with Phase 1, as a whole, and Alderman Freeland seconded. All were in favor, 5/0/0.

Mr. Quinn asked that the Council to vote on whether to go for grants for Phase 2, for their pre-application. He asked for the Council to ratify going for the Phase 2 grant.

Alderman Watson made the motion to go for the Phase 2 grant, with Alderman Christman seconding. All were in favor, 5/0/0.

2. Ordinance #1785, Request to vacate a portion of The Boulevard in Block 28, Clayton Survey:

The motion was made and seconded to place Ordinance #1785 on its first reading. Then it was discovered that the ordinance had already been read once. So the vote was to place it on its second reading by title only. All were in favor, 5/0/0.

Mrs. Dickens read the ordinance by title only.

The motion was made and seconded to approve. All were in favor, 5/0/0.

The motion was made and seconded to further suspend the rules and place Ordinance #1785 on its third and final reading by title only. All were in favor, 5/0/0, by roll call.

Mrs. Dickens read the ordinance by title only.

The motion was made and seconded to approve. All were in favor by roll call vote, 5/0/0.

3. Ordinance #1784-A, Concerning mopeds, (Third reading):

The motion was made and seconded to place Ordinance #1784-A on its third and final reading in its entirety, because of the amendments. All were in favor, 5/0/0.

Mrs. Dickens read the ordinance in its entirety.

Alderman Jeffrey said that the "Rules of the Road" are not incorporated into the ordinance or the rental agreement, and he thought they would be. Mr. Miner said the rules of the road are set by the state, and it is implied by the fact that people have vehicle driver licenses, that the same people would know the rules, or they would not have licenses.

Alderman Jeffrey said that Eureka Springs has more stringent "Rules of the Road" and he wanted to be sure, for everyone's safety, that each customer understands what they are.

Alderman Freeland said that he had suggested a box with the City's rules of the road to be inserted into the rental agreements, so that the customer could sign off that they understood them.

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Other members of the council said that it is already in the agreement. Chief Earl Hyatt said that when a person rents a moped, they must have an operator's license, or have a parent with

them to supervise them. If you have an operator's license, you know what the rules of the road are. When you sign the operator's license, you are saying that you know what the rules of the road are. When, a parent signs the moped rental agreement, he is implying that he knows the rules of the road, and that he understands that he is responsible for the way his child behaves while on the moped. He feels that adding anything more could be redundant. Mr. Rasor said that he is about to have his rental agreements printed again, and he will add whatever the Council feels is needed. It was suggested that Mrs. Dickens meet with Mr. Rasor and let him know exactly what is suggested.

Alderman Zeller said that an amendment needs to be made, that the rental agreement must include the improvements of Section 4.52.07 of Ordinance #1784-A with the provision of renter's acknowledgment. She also said that it is ambiguous as to the Council's role in approving any sale of franchise. The City Clerk also said that she wanted that in there, that the Council would have to approve the license.

Mr. Miner read the amendment which amended Section 4.52.07 which reads as follows: The rental agreement between the franchisee and the operator must include Section 4.52.07 of Ordinance #1784-A, with the provision of renter's acknowledgment. The other amendment was paragraph two of Section 1 which was: A franchise cannot be transferred or leased to another person or entity unless approved by the City Council.

The roll call vote on the amendments was 5/0/0. The roll call vote on the third reading was 5/0/0.

NEW BUSINESS:

1. Resolution #447, to designate the City Administrative Assistant as the City's representative on the Four County Regional Solid Wastes Management District:

The motion was made and seconded to read Resolution #447. The roll call vote was 5/0/0.

Mrs. Dickens read the resolution.

The motion was made and seconded to approve. The roll call vote was 5/0/0. It passed.

2. Proclamation for National Preservation Week, May 10-16, 1998. Mayor O'Harris read the proclamation and said that it would be on our T.V. Channel 5.

3. Permission requested for Public Works to assist the Parking Authority on the Main Street Parking Lot:

The amount of money needed from the City to landscape that project was \$3622.

Alderman Freeland made the motion to postpone until a unified plan was submitted to the Council.

Alderwoman Zeller seconded for the sake of discussion.

Alderman Jeffrey said that the Parking Authority already had submitted a unified plan that was discussed in a Public Hearing.

Alderman Freeland said it does not a comprehensive plan that include transportation as a whole.

Alderman Jeffrey said that he did not see why the landscaping should be held up for a unified plan which has already been done, and has been before a Public Hearing. It is not a great deal of money that is needed. Alderman Freeland said that there has been gross mismanagement of the project.

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Alderman Freeland withdrew his motion to postpone and Alderwoman Zeller withdrew her second.

Alderwoman Zeller made a motion to postpone any action on the North Main Parking Lot, as well any action on any other parking lots until the zoning ordinance was codified and made clear. The vote by roll call was 3/2/0, with Freeland, Zeller and Christman voting yes, and Jeffrey and Watson voting no. The motion failed.

Alderwoman Zeller said that the zoning laws are so ambiguous that there are things being allowed that are questionable.

Mr. Miner said that what Alderwoman Zeller is calling for is a moratorium. It was brought up that the Council was not discussing anything but permission from the Council to authorize Public Works to help with the landscaping of the North Main Parking Lot and authorizing the funds asked for.

Alderwoman Watson said that the Council was discussing two separate things. Approving help for North Main, and putting a moratorium all parking lots are two different things, and the only one that is on the agenda is the North Main situation.

Alderman Jeffrey made the motion to allow Public Works to help the Parking Authority to the tune of \$3622. Alderwoman Watson seconded.

The roll call vote was Christman, Jeffrey and Watson, yes, and Zeller and Freeland, no, with the Mayor voting yes, also. The vote then was 4/2/0, in

favor, with the Mayor's vote.

Mayor O'Harris appointed Glen Strange to Position 1 on the Parks Commission, and also, David Sisco to Position 4 on the same commission. There was no opposition, so they were accepted.

Mr. Miner asked to comment on the Elk Street parking lot. He was asked to look into the property on Elk Street. The house that is involved is a commercial property. They want to clear off a lot for parking in a residential zone. That is an unusual instance, if you want to use a lot for parking, and it is residential, it needs a conditional use permit. Our ordinance says if you have less than four parking places, you need a conditional use permit. If you own a home and the parking lot is for residential use, it can be done. The code says that a yard or lot cannot be defaced to have off street parking. A person can apply for a tree cut, and the building inspector must give a judgment. Mr. Miner said he recommends that the matter be postponed until the governing ordinance is clear.

Alderman Jeffrey said he thinks the intent of the ordinance was to limit any parking lots in a residential zone to three parking spaces. In the case of the Elk St. lot, that property has been used for a commercial purpose for a number of years. He felt that the Board of Zoning adjustment should ask that it be covered with a dust free surface and landscaped.

At the end of the meeting, the Council voted to accept Ray Rasor's application for Moped Franchise, 5/0/0.

The motion was made and seconded to adjourn. All were in favor, 5/0/0. The meeting was adjourned at 11:40 a.m.

APPROVED:

SCOOTER RENTALS

RENTAL AGREEMENT

Regular Deposit: \$20.00

Minimum Charge 1 Hr

Rental Rates:

SCOOTER I _____

WE RECOMMEND AND PROVIDE FREE USE OF HELMETS

NAME OF RENTER _____

PERMANENT ADDRESS _____

DRIVERS LICENSE It _____

AUTOMOBILE MAKE & YEAR _____ COLOR _____ AUTO LICENSE# _____

LOCAL ADDRESS (Motel) _____ ROOM # _____

This agreement is hereby entered into by and between the renter and Scooter Rentals. The agree to the following terms and conditions:

- 1) That bodily injury or property damage liability insurance or any other insurance coverage is renter or any other party under the terms of this contract.
- 2) To pay for all and any repairs to vehicle, (except normal wear) transportation of vehicle to owners premises, and replacement of parts and other related costs arising out of any accidents or mishaps that occur during the rental period, whether caused by renter or otherwise.
- 3) That vehicle is to be used only for the purposes intended, (No wheelies, donuts, power-slides, excessive honking or weaving in traffic) and agrees not to allow passengers, hire out, loan out, use in violation of any local, state, and federal laws, use as a public conveyance, race or engage in speed contests, use to pull or propel any other vehicle or article, or use while under the influence of any drugs or narcotics. Any violation of this contract will forfeit your deposit.
- 4) To follow the Rules of the Road, avoid steep streets, and to restrict all operation of vehicle to paved roads and streets and will not ride on gravel or dirt roads or other unpaved areas.

5) That renter has inspected the vehicle rented, is satisfied that it is in good mechanical condition, is familiar with its operation and handbrakes, and further agrees to return said vehicle in the same undamaged and good condition to Scooter Rentals.

6) To return vehicle to renter's premises for additional servicing, oil, gasoline, etc.

7) To operate the vehicle only under the terms of this contract.

8) That renter has a valid drivers license and assumes all responsibility arising from the use of the vehicle and understands that serious injury or death to renter or others may occur if not properly used.

9) That renter agrees to release, discharge and hold harmless the owner and owners agents from claim by renter or renter's family or by any third party arising out of the use of vehicle.

10) The undersigned hereby understands and agrees to release, discharge and hold harmless the owners, officers, agents and employees of Scooter Rentals from any and all liabilities, damages, costs and expenses of any kind arising out of or in connection with the rental and use of this vehicle. The undersigned also agrees to pay all costs of damages to the vehicle and to other property sustained during the rental period. The undersigned further agrees that the owners, operators, agents and employees of Moped Rentals have the right to cancel or terminate any furtherance of this agreement at any time (without refund) if it is determined that continuance of this agreement may pose any danger whatsoever to renter or to the property or health of any others or for any violations of rules and regulations contained herein.

I have read, understand, and agree to the terms and conditions of this rental agreement:

RENTER X

RENTER X