

**480 CITY OF EUREKA SPRINGS
COUNCIL MEETING MINUTES
FEBRUARY 4, 1999, 7 P.M.**

Mayor Beau Satori called the February 4, 1999 regularly scheduled meeting to order at 7 p.m. in the Courtroom of the Western District Courtroom.

PRESENT: Mayor Satori, and Alderpersons Jeffrey, Freeland, Taylor, Schrader, Stoppel, and Sumpter.

ALSO PRESENT: L. J. Smole, William and Janet Penn, Priscilla Wdowia Rick Murphy, Marvin Peterson, Marvin Shepard, Joe McBrayer, Jim and Patsy Girkin, Jane LaRue, Anne Moore, Joan Bullock, Jeff Wendt, Scott Ruliffson, Jim Williams, Machele Williams, Kim Ridenour, Charles Goodwin, Jack Dozier, Joseph Nicosia, Mike Kosinski, K. J. Zumwalt, Dave Drennon, Jack Moyer, Ken Smith, Michael Manley, David Anderson, Terry McClung, Tim McClung, Chris McClung, Rex Gustin, Jerry Ballinger, Robin Lumley, Mike Drennon, Joe McClung, Jr., Jed Bullock, Robert Miller, Earl Hyatt, Nikki Salazar, Samuel Ingles, Ginger Shira, David Beauchamp, Cheryl Tucker, Pat Matsukis, Whit Brittain, Kathy Harrison, Butch Berry, Bill Eamgey, Ron Morrison, Royal Alcott, Tom Laub, the camera people, more people who did not sign in, Kim Dickens, and Clerk Lee.

THE PLEDGE OF ALLEGIANCE TO THE FLAG: Ms. Dickens led in the Pledge of Allegiance.

APPROVAL OF THE AGENDA: Alderman Freeland made the motion to approve the agenda. Alderman Schrader seconded. All were in favor, 6/0/0.

APPROVAL OF THE MINUTES: Alderman Schrader spotted two typos in spelling, Alderman Jeffrey mentioned wording that was incorrect with regards to the nominations that the Council make. Alderwoman Taylor made the motion to approve the amended minutes with Alderman Schrader seconding. All were in favor, 6/0/0.

UNFINISHED BUSINESS:

1. Council Procedures for 1999. Televised Parking Authority:
Alderwoman Taylor made the motion to televise the Parking Authority Meetings, Alderman Schrader seconded. After discussing the subject, in which it was pointed out that Don Matt was unavailable for input, since he runs the equipment, Alderman Jeffrey made the motion to postpone the vote until the February 18th, 1999 meeting. Alderman Sumpter seconded. Alderman Schrader said that public access is the biggest single issue. Aldermen Stoppel and Sumpter said they would like to hear from the community and also check with Mr. Matt about his schedule. The roll call vote was 4/2/0, with Alderpersons Taylor and Schrader voting no.

2. Council CAPC Representatives for 1999.
Alderwoman Taylor made the motion to approve Bill Freeland to be a Council representative on the CAPC. Alderman Schrader seconded. All were in favor, 6/0/0.

Alderman Sumpter made the motion to approve David Jeffrey to be a Council representative on the CAPC. Alderman Stoppel seconded. By roll call, the vote was 3/3/0, with Jeffrey, Sumpter and Stoppel voting yes, and Taylor, Schrader and Freeland voting no. Mayor Satori chose not to vote to break the tie.

Alderman Schrader made the motion to approve Becky Taylor to be a Council representative on the CAPC. Alderman Freeland seconded. By roll call, the vote was 3/3/0, with Jeffrey, Stoppel, and Sumpter voting no, and Taylor, Schrader, and Freeland voting yes, and Mayor Satori voting yes, 4/3/0.
Alderman Jeffrey said he was under the impression the Mayor could not vote to break a tie on a Council selection. The City Attorney was consulted and he said he had called Municipal League, and they and he

advised that the Mayor can vote on any tie vote.

3. Removal of City Advertising and Promotion Commissioners:

Alderman Schrader made the motion to remove Jon Loudemilk from the CAPC, with Alderwoman Taylor seconding.

Alderman Jeffrey said that this was a divisive action and asked the Mayor to remove his request of the Council to remove them. He said he had many calls with a ratio of about 10 to one against this action. He said the Mayor had indicated that he wanted the City to work together and to create this divisiveness at this time would be, in his mind, very bad. There was no comment from the Mayor.

The majority of the Council said that the calls they had were mostly against the removals. The citizens were concerned about making such a staggering change just at the beginning of the season. Some Council members remarked that a lot of the calls were from people who lived out of the city limits.

Alderman Sumpter said that it shouldn't matter where they live. If they own businesses in the City, they have a right to comment. His concern was that he found nothing in the profiles he was given to indicate anything but a difference of opinion. He did not feel that was enough reason to remove commissioners.

Alderman Freeland said that people are afraid, and he didn't blame them. When he came here in 1994, he immediately became afraid because the system did not work for everybody. He said that people's daily lives are affected by the effectiveness of this commission. He feels that this removal is in the best interest of the City and the ordinance save the commission ~~~~~ missing text

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Mayor Satori mentioned that there are 721 businesses in the City of Eureka Springs. Of those, 338 collect the CAPC tax. He feels that 10% to 20% of the business owners have responded and 5% to 10% of business owners/residents. Many of the businesses that were in the Chamber letter do not have businesses in the city. They still have a right to voice their opinions.

Marvin Shepard spoke. He said that one of the charges against the commissioners was that they had had no meetings of the long range planning committee. He named times and dates on which discussions and reports were given on the long range planning from April of 1998 through the year 2000. He said the charges that the planning committee was not doing anything were false.

Many people spoke Cindy Sumpter said when she read the information about Mr. Loudemilk, she felt that a lot of it was taken out of context. Jack Moyer made the point that the removals are being made without a written plan being presented, therefore nobody knows how to move forward. Joe McBrayer said that last year was the first year he could call a good year. Now they are doing this radical move and will he have to start all over. Whit Brittain said the City needs diversity and change in the way the City is marketed to the world. Pat Matsukis spoke in support of the change. John Mitchell spoke in favor, of change. Chris McClung regrets to see all of the talent and experience removed with David Jeffrey and the other commissioners. He said that Mr. Jeffrey has spent a great deal of time and his own money to research and work for the CAPC. Rex Gustin said he's owned many businesses in town and they have all collected the tax. He does not live within the city limits. He feels that it is unfair not to let these people work with the new administration and finish out their terms. K.J. Zumwalt said business downtown is not good and she is happy about the change.

Alderman Jeffrey said that apparently the Mayor was not removing his request to remove. He said the city has a right to know the plan before all of the commissioners are removed. He asked the Mayor what his plans were.

Mayor Satori said his reasons stand alone. This is not a popularity contest. He will present his ideas in due time and also his nominations. He said that his intentions are in the studies that have been done and never implemented.

Alderman Sumpter said that this could cause long reaching repercussions. Is the City going to go through this every time a new administration comes in? Change should come at its own pace instead of all coming at once.

The vote to remove Jon Loudemilk from the CAPC was, by roll call, 3/3/0, with Alderpersons Sumpter, Stoppel, and Jeffrey voting no, and Taylor, Schrader, and Freeland voting yes, and the Mayor voted yes, 4/3/0.

Alderman Schrader made the motion to remove Randy Wolfenbarger from the CAPC. Alderwoman Taylor seconded. The roll call vote was 3/3/0, with Alderpersons Sumpter, Stoppel, and Jeffrey voting no, and Alderpersons Taylor, Schrader and Freeland voting yes, with the Mayor voting yes, 4/3/0.

Jack Moyer asked when the CAPC will actually meet again and the Mayor said he would nominate the people he had chosen tonight and they would be voted on at the February 18th, 1999 meeting. Mr. Moyer said that the marketing plan for 1999 began in August of 1998, and it is already in place. Mr. Moyer said that he feels that this community has unfairly treated Mr. Loudemilk. He has been the strongest proponent for not comingling funds with the CAPC. Neither organization can go to the other and have say in how the money is spent.

Gwen Bennett said she has been so frustrated. She is an artist of 25 years, and lived here 12 years. She feels that the people who would buy her work have never been targeted in the advertising. She welcomes change.

Alderman Schrader made the motion to remove Marvin Shepard from the CAPC. Alderman Freeland seconded.

Alderman Schrader believes Mr. Shepard to be a good person, and his views are not a personal attack on Mr. Shepard.

Alderman Jeffrey brought up the point that Mr. Shepard's term will be up in a few months, and he should be left to serve out his term.

There was quite a lot more discussion. Alderman Jeffrey said that every decision that was made was to correct problems that had been inherited.

Jon Loudemilk said he understood the difficulty that the Council had to make. He said the Commissioners should not be removed because they have shown a willingness and a desire to serve the community. He said that none of them were provided with the paperwork that maligned them to the community, and unless they spoke at the Council Meeting they would not have the chance to let the community know that they were being maligned. He called for a vote from the hearts of the Council.

Kelly Simon spoke against the removal. Ron Morrison said that with all of the talent and potential that this City has, there is one thing that is blatant. That is its divisiveness. He said the City will never reach the potential that we are capable of, because we are divided and it looks to him as if it is so blatant that it can never be overcome. Cheryl Tucker spoke in favor of change. Mr.

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McBrayer said that we should overcome our division and work together. The downtown would do better if they stayed open longer. He hears it every year. Jack Moyer said that Mr. Wolfenbarger is a good businessman, with experience that is needed on the commission. He also said that there are downtown business people whose businesses are flourishing because they don't depend on the CAPC exclusively to market their businesses. They do a lot of their own marketing.

The vote to remove Marvin Shepard from the CAPC was 3/3/0, with Alderpersons Sumpter, Stoppel and Jeffrey voting no, and Alderpersons Taylor, Schrader and Freeland voting yes, and the Mayor voted yes, 4/3/0.

The motion was made and seconded to recess for 5 minutes—the Mayor gave them 10 minutes. Vote, 6/0/0. The meeting was recessed at 8:50 and reconvened at 9 p.m.

4. Removal of City Planning Commission Members:

Alderman Schrader made the motion to remove Jack Dozier from the Planning Commission. Alderman Freeland seconded.

Alderman Jeffrey again voiced his concern that to remove all three commissioners removes much of the continuity of the commission.

Alderman Sumpter again said he did not like removing people for reasons other than wrong-doing. Mayor Satori said Municipal League advised him not to give reasons. He feels it is in the best interest of the City.

Jack Dozier gave a long talk against being removed. Scott Ruliffson said he did not appreciate his name being put out on television before anyone had the courtesy to speak with him.

The roll call vote to remove Jack Dozier was 3/3/0, with Alderpersons Jeffrey, Stoppel, and Sumpter voting no, and Alderpersons Freeland, Taylor, and Schrader voting yes, and Mayor Satori voted yes, 4/3/0.

Alderman Schrader made the motion to remove Scott Ruliffson from the Planning Commission.

Alderman Taylor seconded. There was a comment from the gallery that it looked like everyone's minds were made up before they came to the meeting. The roll call vote was 3/3/0, with Alderpersons Stoppel, Sumpter and Jeffrey voting no, and Alderpersons Freeland, Taylor and Schrader voting yes, with Mayor Satori voting yes, 4/3/0.

Alderman Schrader made the motion that Sid Boutwell be removed from the Planning Commission.

Alderman Taylor seconded.

Alderman Jeffrey said he felt that Mr. Boutwell would be a good commissioner and that his real estate business would not be a conflict of interest in any way.

Mayor Satori said that developers are customers of realtors and realtors have a pre-disposition to accommodate developers.

Alderpersons Jeffrey, Stoppel, and Sumpter voted no and Alderpersons Schrader, Freeland, and Taylor voted yes, 3/3/0. Mayor Satori voted yes, so the vote was 4/3/0.

NEW BUSINESS:

1. New program to Control Speeding on Residential Streets, (Ernst Schrader):

It was agreed that speeding is a problem in residential areas. Alderman Schrader suggested that a Citizens Committee be made up of volunteers, and they would come up with ideas.

Alderman Stoppel made the motion that the problem be forwarded to the Mayor and the Police Chief and the Council not spend a lot of time on it. Alderman Sumpter seconded.

Alderman Stoppel said the Mayor has the executive power make decisions and direct the Chief of Police. Mayor Satori said he has had input from the citizens, and he is appalled by the speeding he has observed. He promised to do all he could to help resolve the problem.

Police Chief Hyatt has worked traffic. He said speed traps are illegal. Money is the bottom line. There are not enough officers to monitor traffic in the residential areas. He said every citizen has the authority to report license plate numbers and to report speeding when it occurs. If there are witnesses, the police officer does not have to see the speeding happening.

Alderman Freeland made the motion to postpone the subject until the February 18^o, 1999 meeting. There was no second.

Alderman Stoppel made the motion to pass the speeding concerns to the Mayor, and place under ongoing projects on the agenda. Alderman Jeffrey seconded. All were in favor, 6/0/0.

2. New Program to Control Excess Deer Population Within the City Limits, (Ernst Schrader): Alderman Schrader explained that many of the deer in the herds people have seen around town have sick, or deformed or crippled deer, and they should be thinned for the health of the deer population. Also, there seems to be a much larger population than usual. Alderman Schrader said that he has spoken with Arkansas Game and Fish of Carroll County and they have said the removal of 12 large does would make a difference in the population here. However, the cost for anesthetizing and removing deer is prohibitive. Sumpter said it would probably help if the people did not feed the deer. It is not against the law to feed them, and he does for his customers, because everyone enjoys seeing them. It
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Alderman Freeland made the motion to have Alderman Schrader work with Arkansas Game and Fish to find solutions to the problem. Alderman Stoppel seconded. Alderman Schrader made a pitch to the community for volunteers to help with this project. The Police Chief will help. Alderman Sumpter asked if the Game and Fish is bound by our ordinances and they are. The vote was in favor, 6/0/0.

3. Call for a report on the Status of the City's Ordinance Re-Codification Initiative, (Ernst Schrader): Alderman Schrader expressed a concern as to how secure the process is. Ms. Dickens explained that over the years, ordinances have been written by everybody. An ordinance should be written by an attorney using the proper language needed to be concise and clear for anyone to read and understand and also to stand up in court. That is the purpose of the re-codification, Everything is then compared to the State Statutes, and those statutes will then be listed in the code book, so that one can double check them with the State Statutes. The city has paid \$1900 so far. When the analysis comes in, the City will pay another \$1900. When the final work is done and the 15 Code Books come in with all of the work in them, the City will pay the final \$1900. Then each time an ordinance is passed it will go through the same process, and be put in our code books.

There was a misunderstanding as to who was doing what. Our zoning ordinance was given to a professional land use attorney in Springdale, Arkansas. It was written by members of the community. It was very difficult to read and understand. Everyone had a different opinion on what to do, because the ordinance contradicted itself time after time after time. This is not the same thing as codification, nor is it the same attorney's office. The document will cost \$7000 to \$8000. The document will be written in such a way that it will be understood and enforceable. It will be of immeasurable help in the coming years to avoid legal tangles. Ms. Dickens made it very clear that she was directed by the former Administration and the former Council to do this. It is not something one takes upon themselves without direct permission. The Resolution that Alderman Schrader proposed reported on the concern of some citizens that special interest groups could

lobby for changes in our ordinances while they were being codified. Alderman Sumpter said that this is a just rumor. Going into the Mayor's office and discussing it with Ms. Dickens could have cleared up this subject.

4. Restructuring the City's Information Channel 5 on Cable TV, (Ernst Schrader): There was some discussion, but public access is a different problem. Alderwoman Taylor made the motion to postpone the subject until Don Matt gets back. Alderman Jeffrey seconded. All were in favor, 6/0/0.

5. Resolution 454, Special Election, April 13<sup>th</sup>, 1999:

Alderwoman Taylor made the motion to read Resolution No. 454. Alderman Jeffrey seconded.

All were in favor, 6/0/0.

Ms. Dickens read the resolution.

Alderman Jeffrey made the motion to approve. Alderman Stoppel seconded.

All were in favor,

6/0/0.

The date for hearing of the Rcse Fall Lawsuit is set for July 26<sup>th</sup>, 1999.

Fire Chief McVey reported that half of the force has obtained the Firefighter I Certification. Every Hydrant in town has been serviced. The hydrants are to be painted according to water flow.

Samuel Ingles was nominated to the Cemetery Commission at the last meeting. Alderman

Freeland made the motion to approve him with Alderwoman Taylor seconding.

All were in favor,

6/0/0.

The nominations for the remaining seats on the Cemetery Commission are Jane LaRue and Joe

Head. They will fill positions 4 and 5, which will expire on February 15<sup>th</sup>, 1999.

They will be voted

on at the February 18<sup>th</sup>, 1999 meeting.

Mayor Satori announced that his nominees for the Planning Commission are Elaine VanNatta and Royal Alcott. He will have two more by the February 18<sup>th</sup>, 1999 meeting, but these are to be voted on at that meeting.

His nominations for the CAPC for consideration are: Paul Wilson, of Ermilics, Calvin Cotton, coowner of Eureka Gold and Silver, and Sue Ely, Grand Central Hotel.

Alderman Jeffrey said that the three open positions are Gift Shops, Hotels, and Bed & Breakfast. He asked what position Mr. Wilson would fill. Mayor Satori said that the only dedicated positions are the Gift Shop position. A hotel, motel or restaurant owner or manager can hold the other three positions on the CAPC. State law and the Municipal Code back this up. In the future, if they want to it can be set up differently, by changing in the code.

There is no report on the old police building at this time. It is taking more time than expected,

Alderwoman Taylor made the motion to adjourn, Alderman Jeffrey seconded.

All were in favor, 6/0/0. The meeting was adjourned at 11.05 pm.