

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING MINUTES 491  
March 4, 1999**

The March 4th, 1999 meeting was called to order at 7 p.m. Mayor Beau Satori presided over the meeting, which was held in the Courtroom of the Western District Courthouse.

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

ALSO PRESENT: Robert McVey, Alan Long, Kirby Murray, Vickie Thompson, Royal Alcott, Earl Hyatt, Alex Haynes, Ed Leswig, David Beauchamp, Jeff Pratt, Butch Nisenkier, John Billings, Liz Latino, Pete Latino, David White, Kim Dickens, Tom Laub, and Clerk Lee.

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

APPROVAL OF THE AGENDA: The item concerning the tent at Legends Theatre is to be taken off. In its place on the agenda, the Fire Department asked that their banner about charging batteries with the time change be approved. Ms. Dickens said the minutes for February 18th, 1999 were ready to be approved, and the Mayor would be reading a Proclamation for Arbor Day for tree City USA. Alderman Jeffrey said he thought that City Council Comments should come before the Mayor's Comments, because the Mayor's would be kind of a wrap up of the meeting. Alderman Schrader mentioned that the appointments should be voted on early in the meetings instead of keeping people waiting until late in the evening. Alderman Freeland made the motion to approve the agenda as amended. Alderman Sumpter seconded. All were in favor, 6/0/0.

APPROVAL OF MINUTES: Alderman Jeffrey made the motion to postpone the approval of the minutes of February 18th, 1999 until the March 18th, 1999 meeting. Alderman Freeland seconded. All were in favor, 6/0/0.

**UNFINISHED BUSINESS:**

Council Procedures for 1999:

Alderman Jeffrey said that the comments of the Council should be kept to two minutes or less and should be limited to announcements or items of information. The slot was not created to go into long discussions or to add things to the agenda. The whole purpose of agenda is so the community can know ahead of time what will be discussed. Alderman Schrader wanted to know about discussing on-going projects. Ms. Dickens said that the on-going projects are only to remind the Council what is in the works. As soon as something is known, it will be put on the agenda and a report will be given as to the status. The Mayor said he is working on things but he has to get all of the reports back and all of the information before he can present it to the Council.

Wastewater Discussion:

Mr. Murray, Director of Public Works, said he wanted to get the subject before the Council again. The situation is much like it was before the citizens voted down the rate increase for wastewater last year. The City still has to meet the nitrate/nitrite limits by June of the year 2000. The City also needs to replace the trunk line under North Main St., increase the composting facility, and to upgrade the head works at the treatment plant. The reason for that is to prevent the clogging of the system, and save wear and the pumps. The composting facility is successful in that it saves dumping costs and when it is finished it is a worthwhile product. He suggested having a workshop and deciding what to do and how to do it. The urgency is that even if it had been started back when it was voted in last year, the engineers say it still wouldn't have been enough time to finish before the deadline. If we could have done this last year they might have forgiven the City and extended the time limit. The loan has already been applied for. The City still has to decide the scope of the work and the amount of money needed. Ms. Dickens suggested that Mr. Quinn, from McClelland Engineering come and go through what is needed with the new members of the Council. Alderman Sumpter made the motion to have a workshop on Tuesday, March 9th, 1999 at 1p.m. Alderman Schrader seconded. The motion was amended to reflect the date and time change which was Monday, March 8th at 1p.m. in the jury room. All were in favor, 6/0/0.

Planer Hill Sidewalk Discussion (Kirby Murray):

Mr. Murray explained that the City has grants for the sidewalk and the fountain feature for the center isle at the top

of Planer Hill, in the amount of \$142,000. There will be a retaining wall on each side of the sidewalk. One to hold back the dirt from the hillside and the other to hold up the sidewalk. There are some places where the sidewalk will be head high above the road.

All of the easements have been obtained except for the Sandy Bass property. Ms. Bass had given the City a temporary easement which has expired. Mr. Murray said a sidewalk can only improve her property, so he believes she will give the City one again. Easements were needed because of the earthwork that will have to be done behind the retaining wall. The sidewalk will be ADA approved and the engineering work has been finished and is paid for. The sidewalk will be four feet wide. The west side of the road was chosen because it has the widest part of the right-of-way, and the sidewalk would be elevated away from traffic. It seemed as though it would be safer for pedestrians. Six inches have been added to the sidewalk to accommodate the railings which will be attached to

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the hand railing.

The estimates today are \$400,000, plus the cost of limestone. That includes the hand railing and an additional six inches in width. That does not include the cost of either limestone or imprinted concrete. There was some discussion as to the difference in cost between exposed aggregate, imprinted concrete, and limestone.

Conduit, plumbing, and wiring will be installed in preparation for adding lights, water, and restrooms at a later date. There will be water every hundred feet to water any plantings that are done.

Mr. Beauchamp said that the rest of the money would come out of Street Fund reserves, and it would take approximately \$260,000 or about half of the money in reserves. Mr. Murray said it would not affect the plans that the City has budgeted for this year. Before the job is put out for bids, a decision will have to be made about the surfaces to be used.

Alderman Jeffrey stated that if the City was ever going to consider buying Mr. Runge's property at the top of Planer Hill, this would be the time to do it. It is the entrance to the downtown.

Alderman Freeland made the motion to have Mr. Murray to get some details on numbers for surfacing and have Alderman Jeffrey look into the Runge property and bring it back to the table in two weeks. Alderman Stoppel seconded. All were in favor, 6/0/0. Mayor Satori said that imprinted concrete is about four times as costly as concrete and that if large quantities of limestone are contracted for, it isn't as expensive as most people think. Alderman Jeffrey said we must consider people with wheel chairs coming down on rough stone surfaces.

Planer Hill Water Feature: Mr. Murray said that this is in with the \$142,000 in grants. It was a combined thought, when it began to have the fountain and the sidewalk as one project. If it was considered art, there would need to be no bidding process. An artist could submit an idea to be considered. It was suggested that each artist would be given a footprint of the area, with certain dollar limits, and a sign would need to be integrated into it to point out the Historic District. Mayor Satori said an art competition could become a nightmare. We should look at something very Victorian, however. Barbara Harmony brought pictures of flow forms. They recreate a vortex motion and make water live. Geometrically they reproduce a pulse. They were lovely, but very modern in design. The Council decided to put the subject on the agenda for the March 18th, 1999 meeting.

The motion was made and seconded to recess, with all in favor. The meeting recessed at 8:15 p.m., and reconvened at 8:23 p.m.

**NEW BUSINESS:**

Parking Authority Discussion:

Mr. Knapp did not attend the meeting.

Bay Shores Water Agreement: Alex Haynes came to represent the folks from the Grassy Knob area. Ms. Dickens gave the background history. She said that two years ago, the City Council gave permission to the Mayor to enter into an agreement with Bay Shores to sell them water. Bay Shores is in the Grassy Knob area. There are currently ten homes, a motel and a fire station. They have just completed their infrastructure, and are ready to tap on to our system. Carroll-Boone has come to a new agreement with the cities, and the price that was in the agreement with Bay Shores is now too low. Ms. Dickens, Mayor Satori, Tom Laub and Kirby Murray met with Alex Haynes to try to come to an agreement. Mayor Satori wants to raise the price from \$1.48 per thousand gallons to \$2.18 per thousand gallons. Mr. Haynes and the Mayor cannot come to an agreement. The Council needs to decide on the amount of money to charge Bay Shores. The agreement is attached and a resolution, to be taken care of once the price is agreed upon. Mr. Haynes explained that there were two levels in the original agreement. The first price was \$1.55 for the first 250,000 gallons, and the second was \$1.48 per thousand gallons. Mayor Satori said that he wants us to take \$1.09, which is the City's figure, and double it, and that is where his figure came from.

Alderman Jeffrey said he thought that the City should honor the agreement that was entered into, and just add the 15% that Carroll-Boone is charging us. They built their infrastructure on the strength of the City's agreement with them. They are willing to pay the extra 15% that Carroll-Boone is charging everyone.

Mayor Satori said that part of the selling of water should be recouping some of the cost of our infrastructure, and that if the price is always double our rate everyone will know how much it costs to buy water from us.

Mr. Haynes explained that the \$1.48 figure was chosen because that was the figure Harrison charged Alpena to sell them water. Now that the price has gone up, they are charging Alpena \$1.77. He said in actual fact, it does not cost the City to transact this sale. The water would not go through our distribution system. The 200% is somewhat arbitrary, in that, they have signed an agreement that was reasonable, and even with the raise in water prices it is still reasonable but now the City wants 200%. It leaves Bay Shores wondering if they are at the mercy of people who will raise it to %300 percent in a few years.

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Alderman Freeland ran some figures for the ten homes in the area. (Mr. Haynes reminded him that there is also a motel and a fire station, also). Using the \$1.48 per thousand, with 5000 gallons a month per household, (which is about 600,000 gallons per year), is about \$888 annually. The difference we are talking about is the difference between that price and about \$1300 annually.

Mayor Satori said that the City is still paying on the bond for our system, and he feels we should recoup part of that money.

Mr. Haynes said he did not want to down play the City's importance in developing the water system. However, 90% of the cost was paid by the taxpayers, of which Bay Shores was a part. The City did a great job of building and backing the system, but they did not pay for the whole thing.

Alderman Stoppel made the motion to set the rate for selling water at \$1.87 per thousand gallons. Alderman Jeffrey seconded for purposes of discussion. Alderman Jeffrey does not agree that we should charge this group the same amount of money that we would charge someone who is getting water through our distribution system. He felt that we should honor the contract that we have made with Bay Shores. That would cover \$1.55 going to \$1.78 for the first 250,000 and the \$1.42 going to \$1.63 and that would be the fair cost. After more discussion, they withdrew their motion and second.

Mr. Haynes said that the most expensive part of water is the distribution system. Even buying water from Carroll-Boone, most of the cost is getting the water to us. Bay Shores has spent \$70000 for their infrastructure.

Attorney, Tom Laub said that The Council was putting the cart before the horse. He said what needed to be done to get this started was to get Ordinance # 1807 read onetime. He said the figures for pricing should be in the contract. He suggested that Number six be amended to read: that all contracts with users connecting directly to the Carroll-Boone Water District System shall be set at a rate established by the City Council as deemed proper. There was nothing in the ordinances to allow the City to sell water in this manner. This ordinance must be passed to sell water at any other rate than what is on our books.

Alderman Jeffrey made the motion to place Ordinance #1807 on its first reading in its entirety. Alderman Sumpter seconded. All were in favor, 6/0/0.

Mr. Laub said he would read the ordinance and put in the charges. He had left out part of the date on the top of page two. It should read December 18, 1998. And he would read number six as it should be amended. Also, in number 3, plumbing was mis-spelled. Mr. Laub read the ordinance in its entirety.

Alderman Stoppel made the motion to approve and Alderman Sumpter seconded. All were in favor, 6/0/0.

A motion was made and seconded to further discuss the Bay Shores water rates. It was impossible to hear on the tape because everyone was talking at once. There was no vote. Alderman Sumpter said that the discussion was not bringing any new information to the table. His opinion was that whether or not the last administration's agreement was proper, we did sign an agreement. Since we are not processing the water in question in any way, he felt that we should honor the agreement and do a 15% increase on the rates. Alderman Schrader said that it was his understanding that only a certain area would be getting these rates, in other words the rates would only pertain to the area covered at this time. That would allow us to go with the agreement but not set a precedent.

Alderman Freeland took a straw vote which was unclear on the tape and unclear in the meeting.

Alderwoman Taylor asked about the boundaries included in the agreement. Ms. Dickens said that the agreement included all of the Bay Shores subdivision.

Alderman Schrader made the motion to table the discussion until the March 18th, 1999 meeting. Alderman Freeland seconded. The vote was 5/1/0. Alderman Jeffrey voted no.

#### Banner for the Fire Department:

Fire Chief McVey asked that the Fire Department be allowed to hang a banner to remind the public to change the batteries in their smoke alarms when they change the time for daylight savings time.

Alderwoman Taylor made the motion to hang the banner at the entrance to Spring St. Alderman Freeland seconded. All were in favor, 6/0/0.

#### CITY COUNCIL COMMENTS:

Alderman Jeffrey said there were a lot of people voicing their concern about the parking around the Courthouse. The Mayor said he would address that under his comments.

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Alderman Schrader brought up the shut off policy of the City. He said the City is shutting off poor

people's water who aren't paying their water bills and some of them are disabled. Diane Murphy from the water department explained the City's policy. The shut-off in question was not one month in arrears, but actually three months in arrears. The subject had been discussed by a newspaper in town but the same questions that were asked of Fayetteville were not asked of the City's water department. There are several places people can ask for help here and regardless, we are all responsible for making some kind of arrangements. Ms. Dickens said she would put the code in the Council's boxes regarding water shut-offs.

Ms. Dickens said the Mayor had asked her to report on the various law suits against the City.

She met with John Everett that morning. A court date has not yet been set for the Freeman law suit. They sent the Mayor a settlement offer. It was declined on the suggestion of our attorney.

Last week Earl Hyatt was served with a lawsuit. It includes the Police Chief, Officer Dunham, Officer Pate, Officer Summers, and Mayor Satori. They feel that their civil rights were violated, in February, 1998. It has gone to Municipal League.

On March 22 and 23 Kim Dickens and Marvin Hawkins will be deposed in the Rose Hall et al, Case. Municipal League is also that attorney.

#### MAYOR'S COMMENTS:

The Mayor said that State Highway Department had an understanding with then Mayor O'Harris that the City would raise the parking lot to meet the curb. Their responsibility went as far as the curb. County Judge Jackson has let the State know that the parking lot is County property and that the Mayor really has no right to make any decisions regarding the parking lot. There have been a lot of phone conversations to Little Rock. Alderman Jeffrey said there is much concern about losing parking for the buses. Mayor Satori said there are three bus parking places, so the City has gained one.

The Mayor then read the Proclamation for Arbor Day which is March 15th, 1999.

#### COMMISSION, COMMITTEE, AND AUTHORITY REPORTS AND VACANCIES:

There were three nominations to vote on.

David Fithian was nominated for Position 4 on the Planning Commission. Bob Jeffreys was nominated for Position 6 on the HDC.

Alderman Taylor made the motion to approve David Hager for Position #2 on the CAPC. Alderman Freeland seconded. The vote was 5/0/1, with Alderman Jeffrey abstaining.

Alderman Freeland made the motion to approve Bruce Levine for Position #1 on the Parks and Recreation commission. Alderman Taylor seconded. They all had very good things to say about Mr. Levine. The vote was 6/0/0.

Alderman Schrader made the motion to approve Bill Eamgey for Position #4 on the Parks and Recreation Commission. Alderman Jeffrey seconded. The vote was 6/0/0.

Alderman Taylor made the motion to adjourn. Alderman Sumpter seconded. All were in favor, 6/0/0. The meeting was adjourned at 10:15 p.m.

Beau Zar Satori, Mayor

ATTEST:

Mary Ann Lee 'City Clerk-Treasurer'