

**CITY OF EUREKA SPRINGS
COUNCIL MEETING MINUTES
MARCH 2, 2000**

The March 2, 2000 meeting was called to order at 7:10 p.m. by Mayor Beau Satori. It was held in the courtroom of the Western District Courthouse.

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

ALSO PRESENT: Susan Loume, Ed Leswig, Georgia Rubley, Glenna Booth, Virginia Voiers, Royal Alcott, Glen and Carol Strange, James DeVito, Ruby Alexander, L. J. Smole, Bill Camgey, Bruce Levine, Davie White, Cynthia Hudson, Karen Brawley, Phyllis Shimaka, Bob McVey, Diane Murphy, Kirby Murray, Earl Hyatt, Don Matt, Kim Dickens, Tom Laub, and Clerk Lee.

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

APPROVAL OF THE AGENDA:

Ms. Dickens announced that the approval of the Minutes of February 17th, 2000, is postponed until the March 17th City Council Meeting.

It was suggested by Ms. Dickens to move item 1, under New Business, to the beginning so that Mr. Murray could leave at a reasonable time. The Mayor suggested that it be put under Commission, Committee, and Authority reports and vacancies. The motion was made and seconded to approve the agenda as amended. All were in favor, 6/0/0.

Members of the Preservation Society, Georgia Rubley, Virginia Voiers, Glenna Booth, and Royal Alcott came to present the Mayor and the City of Eureka Springs with a replica of an 1880 Flag which was in existence at the time Eureka Springs was born.

APPROVAL OF THE MINUTES:

The minutes were postponed until the March 2nd, 2000 Council Meeting.

COMMISSION, COMMITTEE AND AUTHORITY REPORTS AND VACANCIES:

DEPARTMENT HEAD COMMENTS:

Mary Springer had been nominated by the Mayor at the last meeting for Position No. 5 on the Historic District Commission. The motion was made and seconded to approve. All were in favor to approve, 5/0/0.

The Mayor nominated Calvin Cotton for Position No. 1 on the CAPC.

Kelley Simon had been nominated by the Mayor for Position No. 5 on the Parks and Recreation Commission. The motion was made and seconded to approve. All were in favor, 5/0/0.

Mayor Satori nominated Dr. Jim Fain for Position No. 3 on the Hospital Commission. The motion was made and seconded to approve, and the vote was 5/0/0.

The Mayor reported that Bennie Clark had agreed to serve another term in Position No. 2 on the Cemetery Commission. The motion was made and seconded to approve, 5/0/0.

UNFINISHED BUSINESS:

Discussion regarding burying the power lines under Planer Hill, (Kirby Murray):

Mr. Murray said he is in favor of burying the power lines. He is concerned about the expense. He has bought the conduit and casing from the Street Fund. He knows that the expenses can be brought against the grant money if it comes. He said conduit has to be laid by an electrician. He also said that four crossings were necessary, to go under the road. He wanted the Council to know that he had not budgeted for this expense and that an adjustment would have to be made mid-year.

Mayor Satori said that back in October, he had applied for a \$500,000 T-21 grant to be used for burying power lines from the top of Planer Hill to Spring Street. The grant awarded is \$175,000 and it is an 80%-20% grant, which means the City will have to come with \$35,000. This amount is not in the budget. The Mayor said the State has not instructed him specifically as to how the money can be used. He directed Mr. Murray to lay down sections of casing, to go under the street, to hold the conduit, which will have to be installed by an electrician. The total cost so far is \$5802, excluding the cost to have the electrician lay conduit. The cost to drill under the street later would be very expensive.

Mr. Murray said that the next project is the Planer Hill Sidewalk project. It would seem that burying the casing and conduit would seem to be the sensible thing to do, before the sidewalk is laid down. Just the cost of the conduit is \$18,106 (\$8.23 per square foot times 2,200 feet). That does not include the cost of the electrician, and elbows, junction boxes and anything else that might be needed.

Diane Murphy, Finance Director, said that the \$35,000 for the matching grant has not been budgeted for and an adjustment will have to be made mid-year. She had been trying to reach the Auditor to find out if the expense for burying utilities can come out of Street Funds. It will certainly come out of the grant money when we are able to use it.

Mr. Murray said the plans for burying the utility lines will have to be drawn up and submitted, he believed, by June 1st. The Highway Department delayed the Planer Hill Sidewalk being built, so they gave us an extension as to when the money must begin to be spent.

Mr. Murray said that Grand Avenue has been started and is due to be finished this year.

Alderman Jeffrey said that the Mayor applied for the grant without a budget amendment and without approval from the Council, and from a financial standpoint it should come out of the Mayor's budget.

DEPARTMENT HEAD COMMENTS:

There were no department head comments.

CITY ADMINISTRATIVE ASSISTANT'S REPORT:

Ms. Dickens announced that Monday, March 20th, 2000, is Arbor Day. At that point the City Clerk asked for ideas for the celebration from the community. Mayor Satori suggested that Parks and Recreation help. 1999 is the eighteenth year to receive the Tree City Award, and that will be awarded at the celebration by the Forestry Department for Carroll County.

UNFINISHED BUSINESS:

Ordinance No. 1829, Amending Title Eleven of the Municipal Code:

The motion was made and seconded to suspend the rules and place Ordinance No. 1829 on its third and final reading by title only. The roll call vote was 4/1/0, with Alderman Schrader voting no. Ms. Dickens read the ordinance by title only.

The motion was made and seconded to approve.

Alderman Schrader stated that he wanted the ordinance to include a list of things homeowners can do inside their homes without asking permission.

Ms. Dickens said that she had understood that the handout she had staff working on had been okayed by Alderman Schrader. It was going to give the information needed in cases of people who are working on their own homes.

Alderman Freeland said his concern was with how many projects are done in the City without qualified people doing them. He agrees with the spirit intended for public relations, but he would not like to tamper with the ordinance.

The motion was made and seconded to amend the ordinance by inserting a new clause, 11.04.02(a).1, Owners may work on the interiors of their buildings without permission or inspection from the City, except for those operations which the ordinance specifically states require permission from the City and are subject to follow up inspections. He also said that it be renumbered one and two to two and three. Alderman Freeland seconded for discussion sake. The vote was Schrader and Jeffrey, yes, and, Sumpter, Freeland, and Stoppel, no, 2/3/0.

The vote on the original motion was 4/1/0, with Alderman Schrader voting no.

Discussion regarding the legal opinion of the Great Passion Play collecting CAPC Tax:

The Smith Foundation is listed as a 501 C 3 organization and the legal opinion of the State is that they cannot collect the CAPC tax for the City.

James DeVito said that the State tax for attractions can be collected. The attractions in the City cannot be taxed.

Alderman Jeffrey said there is a distinction about the line of business CAPC tax can be collected from. It cannot be collected on the attraction ticket sales. The Passion Play businesses that were going to collect the tax were the gift shop and the restaurant. He said that he had a copy of a bill that was passed in the 1999 regular session. It said if a charitable organization sold new tangible personal property, it would be subject to gross receipts tax if the sales competed with for-profit businesses. The gift shop and the restaurant were the only two businesses at the Passion Play that were to collect the tax, and they definitely are in competition to shops and restaurants in town. It seems that the State has passed legislation that is in direct conflict with itself. He said the City should follow up on this with a letter asking the directors of the Passion Play what they would like to do in this situation.

Alderman Schrader read a long law that said basically that if the IRS exempts them from being taxed, they may not collect CAPC tax.

Alderman Freeland asked Ms. Dickens to contact the Passion Play and find out, based on what the findings are, if they still want to pursue collecting the tax for Eureka Springs. He asked that if they do want to pursue it, the subject go on the March 16th, 2000 meeting agenda.

NEW BUSINESS:

The motion was made and seconded to move item no. 3, creation of a Parks and Recreation Department to item no. 1 under new business. All were in favor, 5/0/0.

Discussion regarding the creation of a Parks and Recreation Department. (Dave Jeffrey):

Alderman Jeffrey said that three years ago the suggestion was made to create a Parks and Recreation Department. The idea was brought up because of the added responsibility of Lake Leatherwood Park. The budget was about \$100,000 and now it is \$400,000 annually. He has received many calls, most of them negative, about the actions of the new commission. He said that none of the commissioners have any management experience. The only person who did have was Nikki Cherry, who is no longer there.

Alderman Schrader said it would be a terrible burden on the City.

Alderman Freeland said he could understand peoples' concerns because it is a big management issue. He also said he has the same concerns and they are for all of the City's commissions. He said the City should be helping commissioners and not criticizing them.

Several people spoke and some said they thought there should be Council representation on the commission like there is on the CAPC. Ed Leswig and Glen Strange were two who thought that Council representation is important. Jack Byrne wanted to know what a department can do that a commission can't do.

Alderman Freeland said the Council should have a work session with commission chairmen, to discuss some of the issues that face them, and ask if the council can help in anyway.

Alderman Sumpter said he has read and heard a great deal about what Parks is doing but he really didn't know which idea was best.

Mayor Satori said in past years he had favored it becoming a department, because it seemed to have so little support from the City Council. He felt that if it were a department, it would get more recognition and funding from the council. This is a much stronger commission than the City has ever had and has addressed and solved many of the commission's problems. He said the Council can create a department, hire a director, and hope it works out, or have an advisory board who really has no power except to advise. Otherwise the director would be bringing every problem to the Council to vote on.

He said he fully supports the efforts of the commission.

Alderman Schrader mentioned the new system for accounting that the Administration Department is going to be implementing. When the system is in place the City will take over the accounting for the commissions.

Karen Brawley, Parks commissioner, said she wanted to let the community know that the Parks Commission is not running amuck! She said they are sincerely dedicated to getting things done to the best of their ability and they were working very hard. She was sincerely concerned about what would happen to the land if the Parks Commission did not have custody of it.

Glen Strange took exception to the present Parks Commission taking credit for things that were decided on before the new people came in. He was outraged at many of the comments, and offered documentation to any Council Member who would be interested in seeing what the last commissioners carried out.

Jack Byrne said the Council needs to take a closer hand at working with commissioners. He said when he was on a commission, he felt that the City really didn't consider the commission part of City government, and that continuity can only be maintained by the commissioners and the council working together to a common goal. One of the most important things is for the City to let people know where their perimeters are and how to make judgments according to the laws of the City.

After much discussion, Alderman Jeffrey said that he had been asked by many people to bring the idea to the table. He said it was evident to him that the idea had insufficient support. He felt that many good ideas have come from the discussion.

Commission Chairman Bill Eamgey spoke. He said Nikki Cherry wasn't fired; she resigned. He said they cut the budget from \$400,000 by 52 %, so that they can do more bricks and mortar projects. He is proud of the work that has been done.

Phyllis Shimaka spoke as a county citizen on why she thought a department should be formed. Her concern is that the Mayor and the City Administrator do not oversee the commission and that there are no professionals serving on the commission.

Chairman Earngey listed the professionals that they have and that they will be hiring.

The motion was made and seconded to have a short recess. All were in favor, 5/0/0. The meeting recessed at 9:10 and reconvened at 9:25 p.m.

Commissioner Levine invited anyone who was interested to attend a meeting on Friday, March 17th, at one o'clock at Harmon Park. It is an informal meeting with the grants supervisor. He also said he would support the idea of someone from the Council being on the commission.

Alderman Freeland said that there should be a work session with all of the Commission Chairmen.

Discussion regarding Special Election issues:

Ms. Dickens said a date has already been set for a special election on June 6th. She is sure the City's issues could be included.

Alderman Schrader told the Council that a petition was circulated against the bond issue for the police building and all of the banks and the bond company said they would withdraw if there was a petition. He said the Council might just as well rescind the ordinance and start over. There was no support from the rest of the Council to do so.

He said that a bond might be necessary to improve Lake Leatherwood Dam.

Mayor Satori said it might be good to get public opinion on the building of a new Tourism Headquarters. Also, annexation issues may go on there. Until help is available to do the work on the dam, the City may have to entertain borrowing some of the funds.

The motion was made and seconded to approve June 6th, 2000, as the date for a special election. The vote was 4/1/0, with Alderman Schrader voting no.

Alderman Jeffrey is still of the opinion that the City should challenge the State on their findings on the dam. He thinks the City should get a second opinion. He cannot really agree with the findings. He said we should not assume that it really should be done.

Discussion regarding Ordinance No. 1835, adopting new code for the City of Eureka Springs. (Kim Dickens):

Ms. Dickens had given the ordinance to the council for them to look over. She then passed out the codification to take home and study. There are five sections that are waiting for the new ordinances to be put in. The sections that are missing are Title 11, which was finished tonight, Landscaping, Trees, Zoning, and Signs. The ordinances are sent to the codifier who send the pages back for our code books. There will be an updated CD rom so that the book can be put in the computer and also on the web.

The books are very expensive. They are numbered and anyone going out of office is responsible for turning in the books in the condition they are in now. Don't deface the books or take pages out of them.

The last time there was a codification was in 1978. The Council decided to start working on the code book at the March 17th, 000, meeting.

The City has a plan to put a computer on a desk in the front lobby for citizens to look things up on.

Discussion regarding Title 14, Zoning, video arcades and wedding chapels:

There was comment that this was not proper to be on the agenda now, with the new zoning ordinance so close to being brought to the council.

Ms. Dickens said that there was a great deal of pressure brought to bear, from members of the community to bring this to the council table. She would have no problem with the council giving it back to the Planning Commission and the people would have to wait for the new ordinance. That is a decision the council can make.

L.J. Smole said there is no instrument within the City Code to instruct her how to proceed with this. She asked the council to make the decision.

Mayor Satori said that Ms. Smole cannot issue a business license to people as the ordinance stands now. The new ordinance covers the issues.

Alderman Schrader asked two members of the Planning Commission if this subject had come up and they told him that it has not.

Ed Leswig, Chairman of the Planning Commission said that there is only one section of the zoning ordinance that is not yet agreed upon. It will be agreed upon at the next meeting.

City Attorney said if we are that close to a new ordinance we should wait.

Mr. Leswig said "close" is relative. It will take about ninety days to pass the ordinance.

The Council's options were limited to waiting for the Planning Commission.

The Approval of the Rotary Banner for April 27, 28, 29, 2000 which will say "Welcome Rotarians":

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

Approval of the Victorian Classic Run, April 1, 2000:

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

COUNCIL COMMENTS:

Alderman Sumpter asked about the regulations on United States flags. He has seen some pretty raggedy ones around town. It was mentioned that the American Legion is usually the watchdog for flags.

Alderman Stoppel asked that the Council have a workshop on the Lake Leatherwood Dam. He thinks the City should invite people to explain why it needs to be pinned and give the Council the facts. Ms. Dickens said she would set it up with McClelland, and someone from Arkansas Soil and Water, etc.

Alderman Schrader said he would like an engineer to be there. He has heard that there is a proposal of lowering the height of the dam three feet, bringing in the perimeter of the lake drawing the dam out from under the state law.

Ms. Dickens said that many ideas have come up and have been addressed and were not workable.

Alderman Stoppel asked that the subject about speed bumps needs to be put back on the agenda. He asked that it go on the March 16, 2000 agenda. His suggestions were to put three-way stop signs at the end of Flint, Echols and Cross.

Alderman Schrader asked if Parks can spend money on lands outside the City limits. He said if they don't build ball fields at Leatherwood, are there any level fields on other City land.

MAYOR'S COMMENTS:

Mayor Satori said the North Main Business Association had approached him with their concerns about the work that will be done on North Main St. and how it will affect their businesses. They asked if there was a way to work with the City and the State Highway Department so that people could get to their businesses. Mayor Satori said that it looks like some re-scheduling can be done so that it will work better for all that are concerned.

The motion was made and seconded to adjourn. All were in favor, 5/0/0. The meeting was adjourned at 10:25 p.m.

This is the signature sheet for the March 2nd, 2000 City Council Meeting Minutes.

APPROVED:

Beau Zar Satori, Mayor

ATTEST:

Mary Ann Lee, City Clerk-Treasurer