

Mayor Kathy Harrison called the regular City Council meeting to order at 5:05 p.m. on Monday, May 12, 2003, in the jury room of the Western District Carroll County Courthouse.

**PRESENT:** Mayor Kathy Harrison, Aldermen Penny Carroll, Karen Lindblad, Gayle Money, Bill Ott, Earl “Bud” Umland. There is one vacancy on the council. City Finance Director Diane Murphy, Public Works Director Kirby Murray, Carroll County Judge Ed Robertson, Justice of the Peace Marshall Turner, Western Carroll County Ambulance District Board of Directors Chairman Bob Grudek.

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

Mayor Harrison led the Pledge of Allegiance.

**APPROVAL OF THE AGENDA:**

Mayor Harrison announced five items to be added to the agenda because of time constraints:

0. Removal of three-way stop signs at Spring and Main Sts.
1. CAPC bond for matching funds needs a vote of approval.
2. Blues Festival Banners 15 3’x10’ banners, “Welcome Blues Fans” with Budweiser logo.
3. Dr. Kresse and Bill Fort will speak in favor of building a new city hospital. This letter is the only item missing in their application to the USDA.
4. Need to discuss changing the date of our next regularly scheduled meeting as Monday, May 26, is a holiday
5. Executive Session regarding the Building Inspector hearing. Place last on the agenda.

Mr. Umland asked if a discussion on Lower Wall could be added. Ms. Money seconded the addition.

Ms. Money moved to approve the agenda as amended. Mr. Umland seconded. All

voted aye. Motion passed 5/0/0

Mayor Harrison returned to the agenda items following discussion of the minutes to add a discussion of the removal of the three-way stop signs at Main and Streets.

Ms. Money moved to approve the agenda as amended, again. Ms. Lindblad seconded. All voted aye.

**APPROVAL OF MINUTES April 28, 2003**

Ms. Money moved to approve the minutes of April 28. Mr. Umland seconded.

Mayor Harrison noted a correction on page 4, in the discussion regarding the National Day of Prayer. She said she had met the city attorney in a restaurant and asked his opinion, he was not in her office, as the minutes indicated.

Ms. Money moved to approve the minutes as amended. Ms. Lindblad seconded. All voted aye. Motion passed 5/0/0

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

Planning Commission – Position 7 – Expires 1/1/06 No nomination

**City Advertising and Promotion Commission – Position 2 – Expires 6/30/06**

**Ray Dilfield**

Ms. Money moved to approve the nomination of Ray Dilfield to the CAPC. Ms. Lindblad seconded. All voted aye. Motion passed 5/0/0

**DEPARTMENT HEAD COMMENTS:** There were none.

**CITY ADMINISTRATIVE ASSISTANT’S REPORT:**

Ms. Dickens was at a meeting in Little Rock and was not present.

## **UNFINISHED BUSINESS:**

### **1. Discussion regarding Ordinance 1915, an ordinance amending the City Attorney duties.**

Mr. Ott moved to open the discussion. Ms. Lindblad seconded, for discussion only.

Mayor Harrison said the ordinance had been handed to the council just prior to the council meeting.

Mr. Ott asked the Mayor to make sure the ordinance had been amended according to the intent of the council. She said she would do that.

Mr. Ott moved to defer the ordinance discussion. Ms. Money seconded. All voted aye. Motion passed 5/0/0

### **2. Discussion regarding Ordinance 1914, an ordinance making the unnecessary and intentional revving, accelerating, or raking of vehicle exhaust or engines illegal within the city of Eureka Springs. (Money) (2<sup>nd</sup> reading)**

Ms. Money moved to suspend the rules and have Ordinance 1914 read by title only. Ms. Carroll seconded.

Ms. Sell read the ordinance aloud.

Mr. Ott moved to hold a public hearing on the ordinance. Ms. Lindblad seconded.

Following a brief discussion of the motion for a public hearing, Ms. Money called the question to end this discussion. Ms. Carroll seconded. Three voted aye, two voted nay. The motion failed 3/2/0.

On the motion for a public hearing, Ms. Lindblad, Mr. Ott and Mr. Umland voted aye, Ms. Money and Ms. Carroll opposed. Mayor Harrison did not vote. The motion failed 3/2/0.

Mayor Harrison called for a vote on the second reading of the ordinance. Ms. Money and Ms. Carroll voted aye, Ms. Lindblad, Mr. Ott and Mr. Umland vote against. The motion failed on the second reading 3/3/0.

## **NEW BUSINESS:**

### **0. Discussion for removal of three-way stop at Main and Spring Streets.**

Mr. Ott moved to have the stop signs on Main St. in the northbound lane and the

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stop sign on Spring St. removed. The stop sign on Main St. in the southbound lane will remain. Mr. Umland seconded. Four voted aye. Motion passed 4/0/0 Ms. Money had left the room.

### **1. Discussion regarding the Western Ambulance District contract. (Grudek)**

Mr. Grudek stated the City of Eureka Springs is out of compliance with the existing contract. He said it is the intention of the contract that clients only be billed for services up to the amount paid by Medicare. The city gets 85 percent of the year's revenues. He would like to see the rate structure and percentage of revenue paid to the city changed. If the city will not adjust its client's fees, then it needs to adjust the percentage it receives for the contract.

City Finance Director Diane Murphy said the third way to resolve the problem is to rewrite the contract. The City's bid was clear that the city would get 85 percent of the previous year's revenues for the contract. The city accepts Medicare assignment as full payment for services because anything else is illegal. The city is required to set a charge for services beyond the percentage of reimbursement by Medicare. Last year's fees were \$137,000 and St. John's bid was \$336,000 for the same services.

Assistant Fire Chief Bob Pettus said Medicare has changed its reimbursement fee schedule and is paying less for services. There is no way for the city to know what the reimbursement amount will be on charges, it is up to Medicare.

Ms. Money moved to draw a new contract with the original wording and intent of the bid. Ott seconded with an amendment to have the new contract presented at the next meeting.

Grudek said the city never asked for a clarification of the original contract or change in the CPI, in fact, did not want to base fees on a Consumer Price Index (CPI). He said he did not intend to terminate the contract or start litigation. He said the problem is a modification which benefits the City and the District.

Murphy said the City of Eureka Springs is not part of the district. The contract could not charge the residents of the city one rate for services and those outside the city, but in the district, another rate. If the 85 percent compensation is

reduced, it will not help the members, it will help the district.

Grudek said he had an attorney's opinion in March of 2001 that the contract was illegal, but he made the decision to continue with the contract. The district owned the ambulances and other equipment at the time. The equipment was also being used by the city's fire department.

The city has since purchased the equipment and is the sole owner of the ambulances at this time.

On the motion to rewrite the contract, all voted aye. Motion passed 5/0/0

Ott moved to suspend the rules and move a discussion of Ordinance 1917 to item # 2, discussion of FireWise to item #3, and the hospital discussion to item #4, item #5 will be discussion of animal drawn vehicles. Ms. Money seconded. No vote was taken.

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### **2. Discussion regarding Ordinance 1917, an ordinance rezoning 15 Pivot Rock Road from R-2, Contemporary Residential, to R-3, Multiple Family Residential.**

Mr. Ott moved to place Ordinance 1917 on its first reading. Ms. Money seconded. All voted aye. Motion passed 5/0/0

Ms. Sell read the ordinance aloud.

Bill Billings, owner of the property, said the new fire department address for the apartment complex is #15 Pivot Rock, the old address was #50 Pivot Rock. He said there was not an R-3 zoning classification when the apartment complex was built. He has requested the rezoning to bring the property into compliance with the Municipal Code.

Mr. Ott called for the question to close discussion. Mr. Umland seconded. All voted aye. Motion to close discussion passed 5/0/0

Ms. Money moved to approve Ordinance 1917 on its first reading. Mr. Ott seconded. All voted aye. Motion passed 5/0/0

### **3. Discussion regarding the FireWise Program for the EMS Department.**

David Samuel, coordinator of the FireWise Program for the Arkansas Forestry Commission, presented the program. It is a program of adult education, which provides guidelines for making properties safer, primarily in the event of wild fires. If the council supports a resolution adopting the program, a FireWise Board can be organized to do an assessment rating on properties and to set up an annual FireWise Day to make the public more aware of the program.

Assistant Fire Chief Bob Pettus urged the council to support the program in the city because it has a proven record of helping to prevent the spread of fires.

Mr. Ott moved to have a resolution written to support the FireWise Program. Ms. Money seconded. All voted aye. Motion passed 5/0/0

### **4. Discussion regarding a letter of support for the proposed hospital construction project.**

Dr. Greg Kresse gave a brief history of the operation of the Eureka Springs Hospital's situation which brought Jim Knight of Real Sources Inc., of Russellville, Ark., to town offering to build a new 22-bed hospital. Knight proposes obtaining a loan from the U.S. Department of Agriculture, Housing and Urban Development, to build the facility adjacent to the Eureka Family Medical Center on Passion Play Road. He said a letter of support from the mayor and/or city council is needed to accompany the loan application to show the city wants a new hospital.

Dr. Dan Bell expressed his faith in Knight as a health care consultant and developer.

Ms. Lindblad asked why the change in status from a non-profit hospital to a for-profit hospital. Dr. Bell said the change was made because of the nature of the loans Knight is asking for.

Mr. Umland asked if Mr. Knight secured the loan and the hospital "doesn't make it, the city will not be liable?" Dr.

Bell said that was correct.

Ms. Lindblad asked who would own the hospital? Dr. Bell said Real Sources or a

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not-for-profit board of directors.

Mr. Umland moved to support the hospital project and to have appropriate letters written. Mr. Ott seconded. Four voted aye, Ms. Lindblad opposed. Motion passed 4/1/0

**5. Discussion regarding creating a new ordinance concerning animal drawn vehicles. (Umland/Money)**

A copy of a draft ordinance 5.0 5/2/03 has been given to council members.

Ms. Money moved the draft be sent to the Municipal League for review and final rewriting. Mr. Umland seconded. All voted aye. Motion passed 5/0/0

**6. Discussion regarding (A) plans and specifications for wastewater repairs and (B) Lower Wall St.**

**(Umland)**

**A.** Mr. Ott moved to open discussion of Lower Wall St. Ms. Money seconded.

Mr. Umland said Lower Wall St. is rutted; a fire hydrant on the street is unusable because of the condition of the road; and there are seven homes to be served by that hydrant. He said Jerry Frederick, 18 Lower Wall, has offered to pay for having the road paved and had been told by representatives of Public Works he would also have to maintain the road.

Mr. Frederick said he had been told by the former owners that the road would be paved. Paving had started at the top of the street but had stopped at his property line. He said he had offered eight (8) months ago to pay for the paving and had been told he didn't need to do that. He said he had found a contractor to do the work. He had been told by Public Works Director Kirby Murray there was an easement issue and if he used this contractor, he would have to meet grade and asphalt requirements for the road.

Mr. Frederick said he had been told he would be responsible for anything happening on the road for the rest of his life.

Mr. Umland said Mr. Frederick wants to pave the road then turn it over to the city for future maintenance and he wants the fire hydrant opened and in working order.

Mr. Murray said he had no experience with the contractor Frederick wanted to use. Compaction tests would have to be done on the road, if it was paved, as well as density tests of the asphalt before it was put down. He said Mr. Frederick owns half of the street and the remainder of the platted street hangs over nothing.

Mr. Murray said the street is the proper width approximately for 220 feet then narrows to 14 feet wide, not wide enough for two cars to pass. If the road is paved, the speed of vehicles going down will increase, causing safety issues.

Discussion continued for some time. Council members asked if Murray and Frederick could discuss the problems and come to some reasonable agreement for both parties. Murray and Frederick said they would try to work out the problems.

**B. Mr. Umland moved to open discussion on the wastewater repairs. Mr. Ott seconded.**

Mr. Umland had several questions about the delay in starting the repair project. He said Mr. Murray had known about the mandate from the Arkansas Department of Environmental Quality since August of last year and wanted to know why he had waited until March of this year to start the project. He wanted to know what the cost estimates of the project were based on and who was doing the engineering.

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Mr. Umland said he had gotten bids on the project that were \$300,000 to \$400,000 cheaper than Murray's cost estimates.

Mr. Umland moved to suspend the work on the sewer repairs and take bids on equipment use and materials. Mr. Ott seconded for discussion purposes.

Mr. Murray said it would take at least three months for the project to be completely engineered, for specifications to be written and bids taken on the work. He said cost estimates had been based on similar previous projects.

Murray said making Roger Richards and his crew contract employees of the city would save the city a considerable

amount of money. Murray said he has used Richards on prior projects and trusts his abilities, knowledge of city sewer lines and placement requirements.

Ms. Money moved to postpone this discussion and have Mr. Umland, and other council members, supply Mr. Murray with their questions about the project so he could bring answers to the next council meeting. Ms. Carroll seconded. Ms. Lindblad, Ms. Carroll and Ms. Money voted in favor, Mr. Ott and Mr. Umland opposed. Motion failed 3/2/0

Ms. Money moved to set a workshop on this issue for 1 p.m. Tuesday, May 20, to go over these issues with Mr. Murray. Ms. Carroll seconded. All voted aye. Motion passed 5/0/0

### **7. Discussion regarding Ordinance 1916, an ordinance establishing a moratorium on all fill and excavation projects.**

Mayor Harrison said the ordinance is not ready for presentation.

Ms. Money moved to postpone reading of the ordinance until the meeting of May 28. Ms. Carroll seconded. All voted aye. Motion passed 5/0/0.

### **8. CAPC Bond**

Ms. Carroll moved for the city to go forward in requesting a five-year loan to match the \$250,000 grant from the Department of the Interior Save America's Treasures program for renovation of the City Auditorium. Ms. Money seconded.

Ms. Lindblad said she did not have any details of the proposal, the item was not on the published agenda and the community had no knowledge of the proposal.

Ms. Money said the CAPC had asked for the item to be on the agenda so work could go ahead on the paperwork as soon as possible.

Four voted in favor of the motion, Ms. Lindblad opposed. Motion passed 4/1/0

### **9. Blues Festival Banners**

Mayor Harrison explained that McBride Distribution had donated 15 banners to the blues Festival with the Budweiser beer logos on them and had done so in the past.

Mr. Ott moved to allow the banners to be used in town. Ms. Money seconded.

Ms. Lindblad was concerned about using banners advertising products by companies who were not actual sponsors of events.

On the motion, all voted aye. Motion passed 5/0/0

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### **10. Discussion of the next meeting date.**

The next scheduled meeting is for Monday, May 26, Memorial Day. The council agreed to meet at 6 p.m. Wednesday, May 28, in the jury room of the Western District Carroll County Courthouse.

### **11. Discussion regarding City Council Ward 2 Position 2 vacancy.**

Mayor Harrison said the names of all three nominees would be placed on the table with voting to continue until one of them gets three votes.

James DeVito was given #1, Rick Bright #2 and Robert "Butch" Berry #3.

In the first round of voting, Ms. Money and Mr. Umland voted for #1; Mr. Ott for #2; Ms. Lindblad and Ms. Carroll for #3.

Mr. Bright was eliminated.

In the second round of voting Ms. Money and Mr. Umland voted for #1; Mr. Ott, Ms. Lindblad and Ms. Carroll for #3.

Mr. Ott moved to give unanimous consent to the election of Robert "Butch" Berry. Ms. Lindblad seconded. Four voted aye, Ms. Money opposed. Motion passed 4/1/0

**12. Executive session – hearing for the Building Inspector per code.**

Mr. Ott moved for a short break and then to go into executive session at 8:42 p.m. Mr. Umland seconded. All voted aye. Motion passed 5/0/0

The council reconvened in open session at 10 p.m. Mayor Harrison announced the council had reached a decision in executive session to ratify the decision to let go Building Inspector Don Underwood. She said he would be paid for two weeks' vacation and the salary for the six weeks since his firing. He is still considered a city employee at this time.

Ms. Money moved to ratify the Mayor's decision with the added stipends. Ms. Carroll seconded. Four voted aye, Ms. Lindblad opposed. Motion passed 4/1/0

**COUNCIL COMMENTS:**

**Ms. Money** moved to have a discussion on the next agenda of the tree on North Main, which may have been fatally damaged during the work on the highway. Ms. Carroll seconded the agenda item.

**Mr. Ott** moved to have a public hearing on the noise ordinance. Ms. Lindblad seconded the agenda item. All agreed to set the hearing for 6 p.m. Tuesday, May 20, in the courtroom of the Western District Carroll County Courthouse. The hearing will be limited to two (2) hours, if possible, and each speaker given three (3) minutes.

**Ms. Lindblad** thanked Don Underwood for his service to the community.

**MAYOR'S COMMENTS:**

Mayor Harrison said the Preservation Society Garden Tour will be Saturday, May 17.

She said there would be a discussion of options for the closing of the Beaver Bridge during the Community Development Partnership (CDP) meeting at 10:30 a.m. Tuesday, May 13, at the Crescent Hotel.

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**ADJOURNMENT:**

Mr. Ott moved to adjourn at 10:10 p.m. Mr. Umland seconded. All voted aye. Motion passed 5/0/0

This is the signature page for the City Council minutes of May 12, 2003.

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Mayor Kathy Harrison

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City Clerk Mary Jean Sell

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