

CITY OF EUREKA SPRINGS

CITY COUNCIL

REGULAR MEETING

MONDAY

OCTOBER 13, 2003

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6 p.m. Monday, Oct. 13, in the jury room of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Robert “Butch” Berry, Penny Carroll, Karen Lindblad, Gayle Money, Bill Ott, Earl “Bud” Umland, Finance Director Diane Murphy, Public Works Director Kirby Murray, Historic District Commission (HDC) Commissioner Chuck Schmidt, Parks Executive Director Bruce Levine and City Clerk Mary Jean Sell.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Harrison led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA:

Ms. Money moved to approve the agenda. Ms. Lindblad seconded.

Mayor Harrison asked that Ordinance 1934, rezoning of 30 Peerless, be added to the agenda as New Business Item #7. Mr. Berry moved to add the item. Ms. Money seconded.

Mr. Ott asked to defer Unfinished Business Item #2, discussion of deer challenges in the city, until a future date.

Mayor Harrison asked to add a discussion from Jay Gustin. Ms. Money moved to add the discussion as Item #1 under New Business. Mr. Umland seconded.

Mr. Berry asked to have a request for financial assistance for the HDC listed as Item #2 under New Business. He asked for workshops on the Landscape and Tree Ordinances, to defer the discussion but not to drop it. Ms. Lindblad seconded. Ms. Money suggested separate workshops.

Ms. Carroll objected to the inclusion of Item #3 under Unfinished Business, a discussion regarding Ordinance 1932, regarding the duties of the City Attorney. She said the ordinance has not been returned to the table as per *Robert’s Rules of Order*. Mr. Ott said this was not Ordinance 1926, which had failed. Ms. Carroll said the ordinance was virtually the same, with just a few words changed.

Mr. Ott called the question on discussion and moved to include Item #3 on the agenda. Ms. Lindblad seconded. Ms. Money, Mr. Berry and Ms. Carroll voted against having the discussion on the agenda. Ms. Lindblad, Mr. Umland and Mr. Ott voted in favor of having the item on the agenda. Mayor Harrison voted aye to have the item on the agenda and to accept the agenda.

APPROVAL OF THE MINUTES: October 6, 2003 October 9, 2003

Ms. Money moved to approve the minutes of Oct. 6. Mr. Umland seconded.

Ms. Money noted on correction, at the top of Page 2, the Ordinance number is 1926, not 1929. All voted aye to approve the minutes as corrected. Motion passed 6/0/0

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Ms. Money moved to approve the minutes of the special council meeting Oct. 9. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES

Planning Commission – Position 2 - Expires 1/1/05 – Ken Foggo

Mr. Ott moved to approve the appointment of Ken Foggo. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

Planning Commission – Position 7 – Expires 1/1/06 Mayor Harrison nominated Leah Karnes.

Hospital Commission - Position 1 – Expires 9/7/05

CAPC – Position 1 – Expires 6/30/05 – Kara White – vote.

Ms. Lindblad moved to approve the appointment of Kara White. Motion died for lack of a second.
Mayor Harrison said Jan Watson had applied for the CAPC position.

DEPARTMENT HEAD COMMENTS: Finance, CAPC, Fire/EMS, Hospital

Finance Director Diane Murphy referred to a memo explaining that water bills will now be paid at the Public Works Department on Highway 62 East. A night drop box will be available at that location. She said it is time for department heads to get budget requests turned in so work can begin on the 2004 budget preparation.

There was no CAPC report.

Mayor Harrison distributed a financial report from Diane McClelland, chairman of the Hospital Commission.

Fire/EMS Assistant Chief Bob Pettus reported renovation construction has started on the Fire Department building at 143 E. Van Buren and Engine #1 has been taken to the Leeco company in Damascus, Ark., for repair of the water pumping mechanism. He said there is no new information on the Western Carroll County Ambulance District contract, discussion is continuing.

Parks Executive Director Bruce Levine reported the Parks and Recreation Commission is in the process of hiring a professional electrical engineer to prepare a bid package for the lighting of Lake Leatherwood sports fields. He estimated the cost at between \$3,000 and \$5,000.

UNFINISHED BUSINESS:

1. Discussion regarding Ordinance 1929, an ordinance adopting the International Fire Code. (2nd and 3rd readings)

Mayor Harrison said she has received a letter from the state fire marshal approving the wording of the ordinance.

Ms. Money moved to suspend the rules and put Ordinance 1929 on its second reading. Mr. Berry seconded. By roll call vote, all voted aye. Motion passed 6/0/0

Ms. Sell read the title aloud.

Ms. Money moved to approve Ordinance 1929 on its second reading by title only. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

Ms. Money moved to suspend the rules and put Ordinance 1929 on its third reading by title only. Ms. Lindblad seconded. By roll call vote, all voted aye.

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Motion passed 6/0/0

Ms. Sell read the title aloud.

Ms. Money moved to approve Ordinance 1929 on its third reading by title only. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

Ms. Money moved to read the emergency clause. Mr. Berry seconded. By roll call, all voted aye. Motion passed 6/0/0

Ms. Sell read the emergency clause aloud.

Ms. Money moved to approve the emergency clause. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0.

2. Discussion regarding Ordinance 1932, an ordinance regarding the duties of the City Attorney.

Mr. Ott moved to place Ordinance 1932 on its first reading. Ms. Lindblad seconded.

Ms. Money moved for a short break before the reading of the ordinance. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

The break began at 6:55 p.m. The meeting resumed at 7:05 p.m.

Ms. Sell read Ordinance 1932 aloud.

Mr. Ott moved to approve Ordinance 1932 on its first reading. Ms. Lindblad seconded.

There was an extended discussion of the ordinance.

Ms. Money moved to table the vote on the approval until the next meeting. Ms. Carroll seconded. Mr. Berry, Ms.

Carroll and Ms. Money voted aye, Mr. Ott, Mr. Umland and Ms. Lindblad voted nay. Motion failed 3/3/0

There was additional discussion.

Mr. Ott called the question on the discussion and asked for a vote. Ms. Lindblad seconded. The vote split 3 to 3.

Ms. Carroll said the call of the question didn't carry because it did not get a 2/3 vote.

Ms. Money moved to amend Section A of the ordinance to have the city attorney attend regular or special meetings at the request of the mayor or two council members. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

Ms. Money moved to amend Section C of the ordinance to allow the council to request a specific attorney or law firm to be used. Ms. Carroll seconded. Ms. Money and Ms. Carroll voted aye on the amendment. Mr. Berry, Ms. Lindblad, Mr. Ott and Mr. Umland voted nay. The motion failed 2/4/0

On the motion to approve Ordinance 1932, as amended, on its first reading, Ms. Lindblad, Mr. Ott and Mr. Umland voted aye. Mr. Berry, Ms. Carroll and Ms. Money voted nay. Mayor Harrison voted aye to pass the motion. 4/3/0

NEW BUSINESS

1. Discussion from Jay Gustin regarding sewer line repair bill for 39 S. Main.

Mr. Gustin is the owner of 39 S. Main, known as Main Street Café. The area of the sewer line from his property to where it joins the city's main, underneath Main Street, given incorrect information by a city employee as to where the line was located under the

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street. Initial digging did not reveal the line. Additional digging was required. He presented a total bill of \$6,499.95 for the repair work and asked that it be paid from the city's Public Works budget.

Mr. Summers said employees of the Public Works department had put a camera into the line to try to locate the collapse. He said the camera did not work and one had to be located in Springdale and brought to the location.

Public Works Director Kirby Murray explained that by the Municipal Code it is not the city's responsibility to repair private sewer lines until the two lines actually meet downstream, and in no case, is any line smaller than six (6) inches to be repaired. The property owners are responsible for their service lines. He said the city's main is a 10-inch line underneath Main Street and Mr. Gustin's line is a four (4) inch line. He said the issue is between the property owner and the state because the state's contractor apparently broke the line or allowed it to be installed improperly and it collapsed.

Mr. Umland moved to compensate Mr. Summers \$4,000 for the bill and for the city to be reimbursed when Mr. Summers got the bill paid by the state. Ms. Money seconded.

There was additional discussion. Ms. Carroll moved to call the question to end the discussion. Ms. Money seconded. By roll call, all voted aye. Motion passed 6/0/0

On the motion to give Mr. Summers \$4,000, Mr. Umland and Ms. Money voted aye. Mr. Berry, Ms. Carroll, Ms. Lindblad and Mr. Ott voted nay. Motion failed 4/2/0

Ms. Money moved for a short break. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0.

The break began at 8:50 p.m. The meeting resumed at 9:07 p.m.

2. Discussion of an HDC request for \$200 to assist with funding of the statewide HDC seminar to be held here Oct. 23 and 24.

Mr. Ott moved to approve the request of \$200. Mr. Umland and Ms. Money seconded. All voted aye. Motion passed 6/0/0

3. Discussion regarding Ordinance 1931, an ordinance regulating Landscaping and Screening (1st reading) (Lindblad, Berry)

Ms. Money moved to postpone the ordinance so council members might have additional time to study the ordinance. Ms. Carroll seconded. All voted aye. Motion passed 6/0/0

4. Discussion regarding Robert's Rules of Order and debate time.

Ms. Money moved to consider allowing the council to set its own rules for debate instead of strictly following

Robert's Rules of Order. Mr. Umland seconded.

Mr. Ott moved to table the discussion. Ms. Carroll seconded. All voted aye. Motion passed 6/0/0

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5. Discussion on sewer project. (Umland, Lindblad)

Mr. Umland moved to open discussion of the sewer project. Ms. Money seconded.

Mr. Umland asked Ms. Sell to read aloud Section 22-9-101 of the state statutes regarding inspection of "any public works projects involving engineering or architecture for which the plans, specifications, and estimates have not been made by, and the construction executed under the observation of, a registered professional engineer or architect, in their respective areas of expertise, who are licensed to practice under the laws of Arkansas."

The section further explains "an engineering project does not exceed twenty-five thousand dollars (\$25,000) or an architectural project that does not exceed one hundred thousand dollars (\$100,000)."

Mr. Umland moved to rescind the council's vote to waive the bidding on the current sewer line replacement project. Ms. Lindblad seconded.

Mr. Umland introduced Ron Tracy, a licensed engineer, part-time resident and property owner in Eureka Springs and Tulsa, Okla. Mr. Tracy said he had been following similar projects in other communities the past six to nine months. He presented a chart of sewer and water rates for several cities in northwest Arkansas.

Mr. Umland said he had talked with the Arkansas Department of Environmental Quality (ADEQ) there would not be a problem with the city putting the project out to bid, the city would not be in danger of a fine.

Mr. Murray said it would be fine with him to turn the project over to a contractor who could take responsibility for the installation of the lines.

Mr. Umland withdrew his original motion to rescind the waiving of the bids. He then moved to have an ordinance drafted to rescind the waiving of the bids. Ms. Lindblad withdrew her original second, then seconded the new motion.

During additional discussion, Ms. Money called for the question to stop the discussion. Mr. Umland seconded. By roll call vote, all voted aye. Motion passed 6/0/0

On the motion to draft an ordinance rescinding the bid waiver, five voted aye, Ms. Carroll voted nay. Motion passed 5/1/0

6. Discussion requiring regular reports on city projects to be presented to the Council. See attached memo. (Money, Umland)

Mayor Harrison explained that there are so many city projects going on that the council would like to have regular reports from all departments on projects and progress.

Ms. Money moved to have a letter sent to all department heads notifying them of the need for regular report. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

7. Discussion regarding Ordinance 1934, regarding the rezoning of 30 Peerless St. from R-2, contemporary residential, to C-2, contemporary commercial. (1st reading)

Ms. Money moved to place Ordinance 1934 on its first reading. Mr. Umland seconded.

Mayor Harrison read the ordinance aloud.

Ms. Money moved to approve Ordinance 1934 on its first reading. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

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8. Executive Session

Mayor Harrison said she would defer the executive session, but that she is planning to hire a part-time interim building inspector.

9. Set next meeting and agenda.

Mr. Ott moved to have the next council meeting Monday, Oct. 20. Ms. Money seconded. All voted aye. Motion passed 6/0/0

COUNCIL COMMENTS:

Ms. Lindblad complimented the CAPC, Special Events Coordinator Pearl Brick and the auditorium staff for their work on the Roseanne Cash concert.

Mr. Umland expressed his thanks to Brittany Wright for stepping in and helping organize and put on the Queen's Contest for the 56th annual Original Ozark Folk Festival.

Mr. Ott said it is high time the council recognizes the need for full support and funding for a city building official/inspector.

Mr. Berry noted the lack of job descriptions for city employees and the need to have them prepared.

MAYOR'S COMMENTS:

Mayor Harrison expressed her enjoyment of the Folk Festival.

ADJOURNMENT:

Ms. Money moved to adjourn at 10:12 p.m. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the City Council minutes of Oct. 13, 2003.

Mayor Kathy Harrison

City Clerk Mary Jean Sell