

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6:30 p.m. Monday, Aug. 23, in the jury room of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Robert “Butch” Berry, Karen Lindblad, Gayle Money, Bill Ott and Earl “Bud” Umland, City Attorney Tim Weaver and City Clerk Mary Jean Sell. There is one vacancy.

PLEDGE OF ALLEGIANCE:

Mayor Harrison led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA:

Ms. Money moved to approve the agenda. Mr. Ott seconded.

Mayor Harrison added a presentation on Carving in the Ozarks as Old Business Item #3 since there are people present to discuss the festival.

Mr. Berry asked for a discussion on the filling of the vacancy on the council as New Business Item #3.

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

APPROVAL OF THE MINUTES: August 9, 2004

Mayor Harrison said the minutes would be postponed until the next meeting.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Planning Commission – Position 5 – Expires 1/1/07- vote – Jan Grinnell

Ms. Lindblad and Ms. Money asked to postpone the vote on Ms. Grinnell another two weeks to give them time to contact her.

Parks and Recreation Commission - Position 1- Expires 5/31/07

Mayor Harrison nominated David Clements for the position.

City Advertising and Promotion Commission – Position 4 – Expires 6/30/08

COMMITTEE REPORTS

Vision – Ott, Lindblad, Richie and Harrison

Mr. Ott said a meeting is scheduled for 6 p.m. Monday, Aug. 30. He hopes to have a list of priorities for city action finalized during that meeting and ready for adoption by resolution during the Sept. 13 council meeting.

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OLD BUSINESS:

1. Discussion of Ordinance #1959, an ordinance for procedure for non-payment of CAPC tax – LeRoy Gorrell

Ms. Lindblad moved to table the ordinance. She said she had just gotten the ordinance with changes in it and had not had time to read it. Motion died for lack of a second.

Ms. Money moved to place Ordinance 1959 on its first reading. She asked for a discussion of the changes in the ordinance for clarification.

Mr. Weaver said the CAPC had removed references to the “executive director” and substituted “designee of the commission.” On page 1, the definition of “taxpayer” has been amended to include the current definition in the Municipal Code. He corrected typographical errors in the code citations on the last page.

Mr. Ott moved to amend the ordinance to reflect the changes as outlined by Mr. Weaver. Ms. Money seconded. Four voted aye, Ms. Lindblad opposed. Motion passed 4/0/0

Ms. Lindblad said she had information from Hot Springs City Attorney David White that the A&P ordinance there had never been tested in court, as our council had been told. She said she had done research at the University of Arkansas and could not find any court cases to support the ordinance. She still does not like the idea of one person being the arbitrator of issues, as set out in the ordinance. She would like either a CPA or lawyer specified as the arbitrator of issues.

Ms. Money said any business that collects taxes of any kinds runs the risk of having its books audited.

Mr. Ott said that in 17 years of the existence of the Hot Springs ordinance, it has been challenged five times: three of the challenges were settled out of court, one owner filed bankruptcy and the fifth went out of business.

Beverly Blankenship, candidate for council seat in Ward 3, said she has talked with business owners in the ward and they feel the ordinance penalties are too strong - way extreme. She said the people in Ward 3 do not want the ordinance approved.

Michael Johnson asked for time to read the ordinances with the changes before it was acted upon.

Virginia Lindblad said she had done the research on the Hot Springs ordinance. She found no relevant court cases in Westlaw, Garland County or through other sources. She said the Hot Springs ordinance only applies to hotels and restaurants.

CAPC Commissioner Bryan Sumpter said the commission had been told the ordinance was court-tested. He said the commission would be receptive to in-put from the citizens.

Joe Zickmund said he collects the CAPC tax in both his stores although he doesn’t have to because he has general merchandise. He said he is choosing not to pay the tax and encouraged others not to pay as well.

Bill Rubley said bringing in the definition of taxpayer is a super big mistake. State statutes give the city the right to enforce ordinances. The council needs to define the collectors before approving an enforcement ordinance.

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Mr. Umland said he was getting calls from business owners who did not feel the ordinance was a club of enforcement. He suggested a clear definition of tax collectors might be needed before the enforcement ordinance.

Mr. Berry said he could see both sides. He said the city has to have enforcement for the ordinance. People who are supposed to collect the tax but aren’t, are hurting themselves and the city.

On the motion to approve the ordinance on its first reading, Mr. Berry, Mr. Ott and Ms. Money voted aye. Mr. Umland and Ms. Lindblad voted nay. Motion failed 3/2/0

2. Discussion of Ordinance #1965, an ordinance restricting habitation and sleeping on public property in the City of Eureka Springs, except where designated. (2nd reading)

Ms. Money moved to suspend the rules and place Ordinance 1965 on its second reading by title only. Mr. Ott seconded. By roll call, all voted aye. Motion passed 5/0/0

Mayor Harrison read the title aloud.

Mr. Ott moved to amend the ordinance to include in Section 1 “unless a special overnight permit is issued by the Eureka Springs Police Department for special needs as/if they might arise.” Ms. Money seconded. All voted aye. Motion passed 5/0/0

Ms. Money moved to approve the ordinance on its second reading as amended. Mr. Ott seconded. All voted aye. Motion passed 5/0/0

Mr. Ott moved to suspend the rules and place Ordinance 1965 on its third reading by title only. Mr. Umland seconded. By roll call, four voted aye, Ms. Lindblad voted no.

Mayor Harrison read the title aloud.

Mr. Ott moved to approve Ordinance 1965 on its third reading by title only. Ms. Money seconded.

Ms. Lindblad said there wasn't an emergency to this issue and there was no need to hurry along with the readings.

She said people needed time to comment.

Fatima Swallow said there is an emergency. Five people have been "dropped" in the community and are creating havoc.

Mr. Berry said he had been contacted by people who believe there is an emergency.

Police Chief Earl Hyatt said there are more itinerant people in town this year. As the weather cools off, he believes they will leave the area for warmer climates.

On the motion to approve the ordinance, four voted aye, Ms. Lindblad voted no. Motion passed 4/1/0

3. Discussion of the Carving in the Ozarks proposed festival.

Bill Rubley said the chain-saw carving festival is scheduled for April 21-24, 2005, in the Planer Hill parking lot. The organizers would also like to use the city-owner property between the highway and the parking lot for a demonstration area.

David Blankenship said between 30 and 40 carvers interested in coming to the festival. He has posted information about the festival on several internet sites.

Mr. Ott moved to send the organizers to the special events committee to work with them. Ms. Money seconded. All voted aye. Motion passed 5/0/0

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Council members agreed to a break from 7:15 to 7:37 p.m.

NEW BUSINESS:

1. Discussion of Ordinance 1914, an ordinance making the unnecessary "racking" of vehicle exhaust illegal.

Mayor Harrison said this ordinance had failed the first time it was presented. A new ordinance needs to be written. She had notes from a workshop last year on including vehicle noise, amplified noise, unmuffled vehicles and posting of signs of welcome with the note that a noise enforcement is enforced in the city.

She asked for volunteers for a committee to work on the ordinance with Police Chief Hyatt. Ms. Money, Ms. Lindblad and Mr. Umland agreed to be on the committee.

They agreed to meet at 5 p.m. Monday, Sept. 30, in the jury room.

2. Discussion of Ordinance 1966, an ordinance concerning the re-zoning of the property at 80 Mountain St. from R-1 to C-3.

Ms. Money moved to place the ordinance on its first reading. Mr. Umland seconded. Four voted aye, Ms. Lindblad voted no. Motion passed 4/1/0

Mr. Ott moved to table the ordinance until there are six council members. Ms. Money seconded. Four voted aye, Ms. Lindblad voted nay. Motion passed 4/1/0

3. Discussion of filling Ward 1 vacancy.

Mr. Berry said he would like to have the seat filled as soon as possible. He asked members of the public interested in serving to get their resumes or applications to the City Hall by Aug. 30 so they could be reviewed in time for the Sept. 13 meeting.

Mr. Umland suggested the existing uncontested candidate in Ward 1 be appointed.

Mr. Ott seconded Mr. Berry's request for the agenda item during the Sept. 13 meeting.

COUNCIL COMMENTS:

Ms. Lindblad said she would like the council to reconsider following the rules of order only allowing each member two times to discuss an issue. She feels the public is getting cut short. She was concerned that several citizens and three members of the Planning Commission who attended the meeting to speak to the rezoning ordinance did not get to speak

when the ordinance was tabled. She wants the issue on the next agenda. Ms. Money seconded the agenda item.

Mr. Ott gave a brief presentation about the production of "Picasso at the Lapin Agile" by the Eureka Theater Company Sept. 3,4,5,9,10,11 and 12.

MAYOR'S COMMENTS:

Mayor Harrison said she was sorry the rezoning ordinance had been tabled so quickly, without discussion and without allowing citizens to comment.

ADJOURNMENT:

Ms. Money moved to adjourn at 7:58 p.m. Mr. Umland seconded. All voted aye. Motion passed
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This is the signature page for the City Council minutes of Aug. 23, 2004.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

CITY OF EUREKA SPRINGS

CITY COUNCIL

SPECIAL MEETING

TUESDAY

AUGUST 10, 2004

Mayor Kathy Harrison called the special City Council meeting to order at 5:30 p.m. in the jury room of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Robert "Butch" Berry, Karen Lindblad, Bill Ott and Earl "Bud" Umland, Mayor's Assistant Brenda Spencer. Alderman Gayle Money was absent. There is one vacancy.

The purpose of the meeting was to approve Ordinance 1967 providing emergency expenditures of

approximately \$40,000 for repair of Black Bass Dam and authorizing the Mayor to take the necessary steps to have the repairs done.

Mr. Ott moved to place Ordinance 1967 on its first reading. Ms. Lindblad seconded.

Mayor Harrison read the ordinance aloud.

Mr. Ott moved to approve Ordinance 1967 on its first reading. Ms. Lindblad seconded.

Mr. Ott moved to suspend the rules and place Ordinance 1967 on its second reading by title only. Ms. Lindblad seconded. By roll call, all voted aye. Motion passed 4/0/0

Mayor Harrison read the title aloud.

Mr. Ott moved to approve Ordinance 1967 on its second reading by title only. Ms. Lindblad seconded. All voted aye. Motion passed 4/0/0

Mr. Ott moved to suspend the rules and place Ordinance 1967 on its third reading by title only. Ms. Lindblad seconded. By roll call, all voted aye. Motion passed 4/0/0

Mayor Harrison read the title aloud.

Mr. Ott moved to approve Ordinance 1967 on its third reading by title only. Ms. Lindblad seconded.

Mayor Harrison read the title aloud

She explained the scope of work included hiring Ralph Prunte to level an area beside the dam for access by trucks, which will pump concrete into the cracks in the dam to seal them. Additional stone is to be stacked on the face of the dam for reinforcement.

Fencing for the two pump houses and the access gate to the area may be paid for through the Homeland Security Act. The gate can be closed to prevent "midnight visitors" in the dam area.

On the motion to approve the ordinance on its third reading, all voted aye. Motion passed 4/0/0

Mr. Ott moved to accept the emergency clause. Mr. Umland seconded.

Mayor Harrison read the emergency clause aloud.

Mr. Ott moved to adjourn at 5:45 p.m. Mr. Umland seconded. All voted aye. Motion passed 4/0/0

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This is the signature page for the minutes of the special City Council meeting Aug. 10. 2004.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6:05 p.m. Monday, Aug. 9, in the jury room of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Robert “Butch Berry, Karen Lindblad, Gayle Money, Bill Ott and Earl “Bud” Umland, City Attorney Tim Weaver, Mayor’s Assistant Brenda Spencer, City Advertising and Promotion Commission (CAPC) Executive Director LeRoy Gorrell, CAPC Marketing Director Lynn Berry, Historic District Commission (HDC) member Frank Green Jr. and City Clerk Mary Jean Sell. There is one vacancy.

PLEDGE OF ALLEGIANCE:

Mayor Harrison led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA:

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

APPROVAL OF THE MINUTES: July 26, 2004

Ms. Money moved to approve the minutes of the July 26 City Council meeting as presented. Mr. Ott seconded. All voted aye. Motion passed 5/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Planning Commission – Position 5 – Expires 1/1/07 Mayor Harrison nominated Jan Grinnell to the position.

Planning Commission – Position 3 – Expires 7/1/05 – vote – Patrick Brammer

Mr. Ott moved to approve the nomination of Mr. Brammer. Ms. Lindblad seconded. All voted aye. Motion passed 5/0/0

Historic District Commission (HDC) – Position 2 – Expires 3/07/05 – vote – John Brammer

Mr. Ott moved to approve the nomination of Mr. Brammer. Ms. Lindblad seconded.

Mr. Berry said thought the chairman of the HDC had been given Mr. Brammer’s name for her review and approval. He asked the Mayor if she routinely asked chairmen of commissions for their approval of nominees and why would a chairman know of a nomination before the council did.

Mayor Harrison said the chairman of the HDC did not know of the nomination before the council. Chairman Debbie Frisbie had asked the mayor to ask the council to postpone voting on the nomination until Ms. Frisbie had a chance to talk with Mr.

Brammer about his interest in serving on the commission.

Mr. Umland said he had received telephone calls saying that Mr. Brammer was in violation of HDC regulations.

Mr. Green said Mr. Brammer is in compliance with HDC regulations. The commission has made a site visit to their property and granted a six-month extension to the Certificate of Appropriateness (CofA) so the exterior work could be completed.

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

Parks & Recreation Commission – Position 1 – Expires 5/31/07

City Advertising and Promotion Commission – Position 4 – Expires 6/30/08

COMMITTEE REPORTS:

Vision – Ott, Lindblad, Richie and Harrison

Mr. Ott reported he and Mr. Richie had met and gone over their lists of recommendations for short and long-term city projects.

OLD BUSINESS:

1. Discussion of Ordinance #1959, an ordinance for procedures for non-payment of CAPC tax. – LeRoy Gorrell

Mr. Ott moved to suspend the rules and place Ordinance 1959 on its second reading by title only. Mr. Berry seconded. By roll call, four voted aye, Ms. Lindblad voted against. Motion passed 4/1/0

Mayor Harrison read the title of the ordinance aloud.

Mr. Ott moved to approve place Ordinance 1959 on its second reading by title only. Mr. Berry seconded.

Mr. Weaver said that with the elimination of the CAPC executive director’s position, there were references in the ordinance, which now have to be changed. He suggested the CAPC be given the opportunity to make the changes.

Mr. Ott moved to defer the vote on the second reading of the ordinance by title only to the next meeting, if the CAPC can meet and make the necessary changes in the ordinance. Ms. Money seconded.

Ms. Lindblad said she wants to know who will hear the appeals. She said the ordinance does not specify clearly enough. She wants a board of appeals made up of persons not connected with the commission.

On the motion to defer, five voted aye. Motion passed 5/0/0

NEW BUSINESS:

1. Discussion of noise Ordinance #1914.

Mr. Ott moved to place Ordinance 1914 on its first reading. Ms. Money seconded. All voted aye. Motion passed 5/0/0

Ms. Sell read the ordinance aloud.

Ms. Money moved to approve Ordinance 1914 on its first reading. Ms. Lindblad seconded.

Council members agreed in discussion the ordinance was not to discourage motorcycles in town, but to prohibit loud noises from a variety of vehicles.

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Mr. Berry moved to table the vote until Police Chief Earl Hyatt could come to the meeting. Mr. Umland seconded.

Mayor Harrison recognized Gentry Mayor Wes Hogue to speak. He said he understood the concern of the council for the peace and quiet of the city. Speaking as a motorcycle rider, instructor and mechanic, he said motorcycle riders now cross every aspect of society. He said many cyclists perceive the ordinance as a tool to discriminate against them. He asked the council to be sensitive to the perception and to not discourage cyclists from coming to town.

On the motion to defer the vote, Mr. Ott, Mr. Umland and Mr. Berry voted aye; Ms. Lindblad and Ms. Money voted against. The motion was declared passed. Later in the meeting, Mr. Weaver said that with a body of five voting, the mayor would have to vote in favor of a motion to give four votes for approval. Mayor Harrison voted in favor of the motion to defer the vote until Chief Hyatt could discuss the ordinance with the council. Motion passed 4/2/0

2. Discussion of Ordinance #1965, an ordinance restricting habitation and sleeping on public property.

Ms. Money moved to place Ordinance 1965 on its first reading. Mr. Ott seconded. All voted aye. Motion passed 4/0/0 Ms. Lindblad had briefly left the table.

Mayor Harrison read the ordinance aloud.

Ms. Money moved to approve Ordinance 1965 on its first reading. Mr. Ott seconded.

Mayor Harrison explained there a no current ordinances to restrict persons from sleeping or living on public property in the city.

Mr. Berry wanted to know the difference in sleeping and snoozing. Mayor Harrison said the ordinance was intended for those sleeping on public property as part of habitation.

Mr. Weaver agreed the word “sleep” might need to be defined in the ordinance. He thought local police officers and prosecutors would use common sense in determining “sleeping” and “habitation” of public property.

Mr. Ott moved to remove the word “sleep” and change the phrase to “overnight camping or overnight use” in the ordinance. The motion died for lack of a second.

Mr. Ott moved to remove the word “sleep” from the ordinance. Mr. Berry seconded. Four voted aye. Ms. Money voted no. Motion passed 4/1/0

On the motion to approve the ordinance on its first reading, as amended, all voted aye. Motion passed 5/0/0.

3. Applicants’ appeal to council concerning zoning request denied by Planning Commission.

Mayor Harrison said the council is to act as a separate body and to consider the appeal as a new case, not considering the action of the Planning Commission.

The application from James and Shirley Bird was to re-zone 80 Mountain St., known as the Old Stone Church, from R-1, residential, to C-3, quiet business use.

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Attorney Wade Williams presented a plat map showing the property zones and uses surrounding 80 Mountain St. He said the building is in a commercial area and should be brought into compliance with the existing zoning codes. The church, built in 1901, predates the city’s zoning code. It has more than 20 parking spaces.

He said several letters from neighboring property owners had objected to the rezoning if the building was to be used as a restaurant. He did not believe a conditional use permit (CUP) for the property would be appropriate. The city’s code prohibits the particular use of a property if the same use is within 200 feet. There is another church within 200 feet of this property.

He said the current owners of the property are not interested in using the property as a restaurant.

Planning Commissioner Terry McClung said he believed bringing the property into compliance with the zoning code would be appropriate.

Mr. Weaver said that any uses permitted within a zoning classification would be appropriate to the property and none of the uses could be excluded.

Ms. Money moved to have an ordinance drawn to re-zone the property from R-1, residential, to C-3, quiet commercial. Mr. Ott and Mr. Umland seconded.

After additional discussion, Mr. Umland called for the question to stop discussion. Ms. Money seconded. Mr. Ott, Mr. Umland and Ms. Money voted aye. Mr. Berry and Ms. Lindblad voted nay. Motion failed 3/2/0

On the original motion to have the ordinance prepared to re-zone the property, Mr. Ott, Mr. Umland and Ms. Money voted aye. Mr. Berry and Ms. Lindblad voted nay. Mr. Weaver said that with a body of five voting, the mayor would have to vote in favor of a motion to give four votes for approval. Mayor Harrison voted in favor of the motion. Motion passed 4/3/0.

COUNCIL COMMENTS:

Mr. Ott quoted former President Gerald Ford in saying, “Truth is the glue that holds government together.”

Ms. Lindblad said she did not appreciate being personally attacked during the council meeting. She hoped the council would be firm in not allowing such things.

MAYOR’S COMMENTS:

Mayor Harrison said a special meeting will be needed in the next few days to approve expenditures to repair Black Bass Dam. There are large holes in the dam allowing quite a bit of water to come through. She said it will be necessary to fence off the two pump houses near the dam and access to the dam area as part of homeland security measures. Federal funding might be available for the security measures. She thought the cost might be \$30,000-\$35,000.

She congratulated the four new candidates for city council, praising them for willingness to be of service to the community.

ADJOURNMENT

Ms. Money moved to adjourn at 7:49 p.m. Mr. Berry seconded. All voted aye. Motion passed 5/0/0

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This is the signature page for the minutes of the regular City Council meeting Aug. 9, 2004.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

CITY OF EUREKA SPRINGS

CITY COUNCIL

SPECIAL MEETING

MONDAY

AUGUST 2, 2004

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

PRESENT: Mayor Kathy Harrison, Aldermen Robert "Butch" Berry, Karen Lindblad, Bill Ott and Earl "Bud" Umland, City Attorney Tim Weaver, Transit Director Lamont Richie, Mayor's Assistant Brenda Spencer and City Clerk Mary Jean Sell. Alderman Gayle Money was absent. There is one vacancy.

The purpose of the special meeting was to consider Resolution #503, transferring funds from the city's general fund to the Transit Department for the purpose of paying for a trolley. The funds will be reimbursed from the Transit Department when they are received from the Arkansas Highway and Transportation Department (AHTD).

Mr. Ott moved to adopt Resolution #503. Mr. Berry seconded.
Ms. Sell read the resolution aloud.
All voted aye to adopt the resolution. Motion passed 4/0/0

Mr. Ott moved to adjourn at 6:03 p.m. Mr. Berry seconded. All voted aye. Motion passed 4/0/0.

This is the signature page for the special City Council meeting of Aug. 2, 2004.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

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**CITY OF EUREKA SPRINGS
CITY COUNCIL
SPECIAL MEETING**

MONDAY

AUGUST 2, 2004

Mayor Kathy Harrison called the special City Council meeting to order at 6:04 p.m. Monday, Aug. 2, in the jury room of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Robert "Butch" Berry, Karen Lindblad, Bill Ott and Earl "Bud" Umland, City Attorney Tim Weaver, Transit Director Lamont Richie, Mayor's Assistant Brenda Spencer and City Clerk Mary Jean Sell. Alderman Gayle Money was absent. There is one vacancy.

The purpose of the special meeting was to consider Ordinance #1964, an ordinance directing the Transit Department to eliminate trolley stop #83, at 99 Spring St., until Dec. 31, 2004, and declaring an emergency.

Mr. Ott moved to place Ordinance 1964 on its first reading. Mr. Umland seconded. All voted aye. Motion passed 4/0/0

Ms. Sell read the ordinance aloud.

Mr. Ott moved to approve Ordinance 1964 on its first reading. Mr. Umland seconded. All voted aye. Motion passed 4/0/0

Mr. Ott moved to suspend the rules and place Ordinance 1964 on its second reading by title only. Mr. Umland

seconded. By roll call, all voted aye. Motion passed 4/0/0

Mayor Harrison read the title aloud.

Mr. Ott moved to approve Ordinance 1964 on its second reading by title only. Mr. Umland seconded. All voted aye.

Motion passed 4/0/0

Mr. Ott moved to suspend the rules and place Ordinance 1964 on its third reading by title only. Mr. Umland seconded. By roll call, all voted aye. Motion passed 4/0/0

Mayor Harrison read the title aloud.

Mr. Ott moved to approve Ordinance 1964 on its third reading by title only. Mr. Umland seconded. All voted aye.

Motion passed 4/0/0

Joe Zickmund wanted to know why the fourth section of the ordinance had not been read.

Mayor Harrison explained it was the emergency clause and would not be read until the ordinance had been approved on its third reading.

Mr. Zickmund said he hoped the transit department would pass out statistical questionnaires to determine the ridership of the trolleys. He said the purpose of the trolleys was not to assist shop owners.

Mr. Richie said he thought it is "the height of micromanagement and a ludicrous

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action" for the council to remove the trolley stop. He said he would provide postcards to riders and the addresses of council members so riders could send their comments directly to council members.

Mr. Berry said he agreed with Mr. Richie that the purpose of the trolley system was not for the convenience of shopping but for moving people around town. He agreed with Mr. Richie's intent to have negative comments sent to the council.

Mr. Ott said the tax collections from the shops in the area would be seen if there was a spike in business to merit permanently changing the trolley stop.

Ms. Lindblad said she did not want to see the trolley system used to increase business for individual shops. She said it was not her intention to micromanage the transit system.

James DeVito said changing the trolley stop would make the available maps incorrect.

On the motion to approve the ordinance, all voted aye. Motion passed 4/0/0

Mr. Ott moved to read the emergency clause. Mr. Umland seconded. All voted aye.

Mayor Harrison read the emergency clause aloud.

Mr. Ott moved to adjourn at 6:20 p.m. Mr. Umland seconded. All voted aye. Motion passed 4/0/0

This is the signature page for the minutes of the second special City Council meeting Aug. 2, 2004.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

CITY OF EUREKA SPRINGS

CITY COUNCIL

REGULAR MEETING

MONDAY

JULY 26, 2004

Mayor Kathy Harrison called the regular City Council meeting to order at 6:07 p.m. Monday, July 26, 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 and Earl “Bud” Umland, City Attorney Tim Weaver, City Advertising and Promotion Commission (CAPC) Executive Director LeRoy Gorrell, Marketing Director Lynn Berry, CAPC Chairman Steve Roberson, CAPC Commissioner Bryan Sumpter, mayor’s assistant Brenda Spencer and City Clerk Mary Jean Sell.

PLEDGE OF ALLEGIANCE

Mayor Harrison led the Pledge of Allegiance to the American Flag

APPROVAL OF AGENDA

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

Ms. Lindblad moved to remove the discussion of Ordinance 1959, regarding procedures for non-payment of the CAPC tax, from Old Business and set a public hearing on the ordinance. Mr. Umland seconded.

Mr. Roberson urged the Council to go forward with the approval of the ordinance as quickly as possible. He said it is copied from the Hot Springs ordinance, modified to fit Eureka Springs, and it has stood up under court tests. The CAPC has tweaked it and it is ready.

There was some additional discussion.

On the motion, Ms. Lindblad and Mr. Umland voted aye; Mr. Berry, Ms. Carroll, Mr. Ott and Ms. Money voted nay. Motion failed 4/2/0

Mayor Harrison asked for two executive sessions, one to confirm the hiring of Ileene Kelly as accounts supervisor and one to confirm the dismissal of Building Official Randy Mills.

She called for the vote on the agenda as amended. All voted aye. Motion passed 6/0/0

APPROVAL OF THE MINUTES: July 12, 2004

Ms. Money moved to approve the minutes of July 12 as presented. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES

Mayor Harrison nominated Patrick Brammer for the Planning Commission Position 3, term expires 7/1/05.

She nominated John Brammer for Position 2 on the Historic District Commission, term expires 3/7/05

She said she has two applications for Position 1, expires 5/31/07, on the Parks and Recreation Commission.
Planning Commission – Position 5 – Expires 1/1/07

COMMITTEE REPORTS:

Vision – Ott, Lindblad, Richie and Harrison

Mr. Ott gave a brief report on the work to prioritize lists of city needs from members. The next meeting is at 6 p.m. Monday, Aug. 2.

OLD BUSINESS:

1. Discussion of Rules of Order - Ott, Berry

Mr. Ott moved to add the rule that each council member could only speak twice to any issue. Ms. Carroll seconded. After discussion, Mr. Ott moved to amend his motion to return to using *Robert's Rules of Order*. Ms. Lindblad seconded. Five vote aye, Ms. Money voted against. Motion passed 5/1/0

Mr. Ott moved to go into executive session on the arrival of Police Chief Earl Hyatt at 6:35 p.m. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

The Council returned to open session at 7:08 p.m. Mayor Harrison said the Council had accepted the resignation of the Building Official.

Mr. Ott moved to accept, by unanimous consent, the hiring of Ms. Kelly. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

2. Discussion of Ordinance #1959, an ordinance for procedure for non-payment of CAPC tax – LeRoy Gorrell.

Ms. Money moved to place Ordinance 1959 on its first reading. Mr. Ott seconded.

Ms. Lindblad said she had problems with the ordinance in the appeals process. Mr. Ott asked to save discussion of the ordinance until after its first reading. He called for the question. Ms. Carroll seconded. Five voted aye, Ms. Lindblad voted against. Motion passed 5/1/0

On the motion to read the ordinance, five voted aye, Ms. Lindblad voted against. Motion passed 5/1/0

Mayor Harrison, all of the council members and Ms. Sell read portions of the ordinance aloud.

Mr. Ott moved to approve Ordinance 1959 on its first reading. Ms. Money seconded.

Mr. Umland asked who would be designated to review non-payers books. Mr. Roberson said, in his opinion, it would be an outside CPA firm. The firm would review the books then issue a report to the CAPC. With that method, the working papers of the CPA firm would remain confidential and only the report would be subject to FOIA (Freedom of Information Act).

Ms. Lindblad wanted that language included in the ordinance. She also wanted an appeals board included, rather than putting the burden on the CAPC director or one designee.

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Ms. Money wanted to hold a public hearing on the ordinance at 5 p.m. Monday, Aug. 9, prior to the regular meeting at 6 p.m.

Ms. Money called the question to stop discussion. Mr. Ott seconded. Five voted aye, Ms. Lindblad voted against. Motion passed 5/1/0

On the motion to approve Ordinance 1959 on its first reading, five voted aye, Ms. Lindblad voted against. Motion passed 5/1/0

Ms. Money moved to begin at 5 p.m. Monday, Aug. 9, to hear comments from the public on the ordinance. Mr. Ott seconded. Five voted aye, Ms. Lindblad voted against. Motion passed 5/1/0

Ms. Carroll moved to have an emergency clause prepared so the ordinance could be read the second and third times Aug. 9 and approved to go into effect immediately. Ms. Money seconded. Four voted aye. Mr. Umland and Ms. Ms. Lindblad voted against. Motion passed 4/2/0

3. Discussion of ordinance amending 86-4 of the

Municipal Code regarding banners and signs.

Ms. Money said the ordinance is not ready for presentation.

Mr. Ott moved to suspend the rules and defer New Business Item #4, discussion of new sign ordinance, to the next council meeting or the one after. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

There was a brief discussion of new state statutes regarding signage, particularly billboards, which need to be incorporated into the proposed sign ordinance. Mr. Berry said the proposed ordinance should be returned to the Planning Commission to be updated.

Mr. Ott moved to defer consideration of the new sign ordinance and to return it to the Planning Commission for review. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

4. Discussion of Ordinance 1942, amending Chapters 114-4(c)(6) and 70-4 of the Municipal Code, regarding manufactured homes. (3rd reading) – Berry

Ms. Sell said the Planning Commission is still trying to determine which zoning districts to place manufactured homes, will be recommending the rezoning of properties with existing multi-family complexes to R-3, and has discussed the possible use of conditional use permits (CUP) or establishing a new zoning district, R-4, for manufactured homes. They do recommend the removal of the A, agriculture, zones from Ordinance 1942.

Mr. Weaver said a CUP in R-2 or R-3 areas would not meet the state requirements. Locations for an R-4 district would still have to be designated.

Mr. Berry said he had suggested placement with conditions or guidelines.

Mr. Ott moved to defer Ordinance 1942 until a recommendation comes from the Planning Commission. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

The Council took a break from 8:26 to 8:38 p.m.

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NEW BUSINESS

1. Discussion of vacancy on City Council – Umland, Lindblad

Ms. Carroll read a short prepared statement saying she is a resident of Ward 1. She had to move out temporarily because the house she was renting had been sold. She has a home in Ward 1 where she plans to live after renters have vacated and the place has been cleaned. She showed a copy of a six-month lease of 27 Paxos, also in Ward 1, where she said she was now living. She said she is storing her furniture and other things in a house on Eureka St. leased to John Foley, her business partner and the person with whom she has a committed relationship.

She provided copies of her voter registration card showing her address as 22 Emporia, tax records and a mortgage record for that property. She said it is her intention to reside at 22 Emporia.

There was almost an hour of discussion. Council members asked questions to determine the timeline of Ms. Carroll's activities. Mr. Umland said several times he felt she was being evasive and untruthful in her answers.

Ms. Lindblad said she wanted it recorded that the lease with Marcia Yearsley for 27 Paxos had been signed June 25.

Ms. Lindblad moved to recognize the vacancy in Ward 1. Mr. Umland seconded.

After additional discussion, Ms. Lindblad called for the question to stop the discussion. Mr. Umland seconded. Four voted aye, Ms. Money and Ms. Carroll voted against. Motion passed 4/2/0

On the motion to recognize the vacancy, Mr. Ott moved for a roll call vote. Mr. Umland seconded. All voted aye.

By roll call, voting yes were Ms. Lindblad, Mr. Umland and Ms. Money. Voting no were Ms. Carroll, Mr. Berry and Mr. Ott. Mayor Harrison voted aye to pass the motion 4/3/0.

Ms. Carroll left the table at 9:35 p.m.

2. Discussion of Ordinance #1962, an ordinance establishing voting by ward.

Ms. Money moved to put Ordinance 1962 on its first reading. Ms. Lindblad seconded. All voted aye. Motion passed 5/0/0

Mayor Harrison read the ordinance aloud.

Ms. Money moved to approve Ordinance 1962 on its first reading. Mr. Umland seconded.

Mayor Harrison said Carroll County Clerk Shirley Doss said approximately 300 persons are registered to vote in each of the city's three wards. Election Commission Chairman Levi Phillips has said that, based on the 2000 census, the Eureka wards have not changed significantly and could remain as they are.

Mr. Ott asked to have Mr. Phillips send a certified letter to that effect. Mayor Harrison said she would request it.

Mr. Ott moved to table discussion pending receipt of an opinion about the wards from the legal body in charge. Mr. Umland seconded. All voted aye. Motion passed 5/0/0

City Council 7/26/04 4

3. Discussion to establish a Board of Appeals regarding retaining walls – Berry.

Mr. Ott moved to have the council direct the city attorney to work with Mr. Berry to draft and amend Ordinance 1956 regarding retaining walls. Ms. Money seconded. All voted aye. Motion passed 5/0/0

4. Discussion on drafting an ordinance to revise downtown trolley stop – Umland, Ott

Mr. Ott moved to have an ordinance drawn to remove trolley stop #83 at 99 Spring St. and to designate #84 at 127 Spring St. as the last downtown stop. Mr. Umland seconded. All voted aye. Motion passed 5/0/0

5. Discussion of noise ordinance.

Ms. Lindblad asked that the discussion be deferred to the next meeting.

Mayor Harrison proposed reviewing Ordinance 1914 written by Police Chief Earl Hyatt. The ordinance was never voted on. Mr. Ott seconded. All voted aye. Motion passed 5/0/0

COUNCIL COMMENTS

Ms. Lindblad said the movie Sunday, July 25, was cancelled because of possible thunderstorms. "Pirates of the Caribbean" will be shown Sept. 19 as the final movie for the Lucky 13 Starlight Cinema this season.

MAYOR'S COMMENTS

She said she wanted to put the proposed ordinance regarding persons sleeping in the city parks on the Aug. 9 agenda.

She reminded council members that matters discussed during executive sessions should not be discussed in public. She said there is a council member who does discuss the matters in public. She said that could result in a lawsuit and she does not want that to happen. She said council members could be sued as council members and as individuals without the city attorney's services or protection.

ADJOURNMENT

Ms. Money moved to adjourn at 10:04 p.m. Mr. Umland seconded. All voted aye. Motion passed 5/0/0

This is the signature page for the City Council minutes of July 26, 2004.

**CITY OF EUREKA SPRINGS
CITY COUNCIL
REGULAR MEETING**

MONDAY

JULY 12, 2004

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6 p.m. Monday, July 12, in the jury room of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Robert “Butch” Berry, Karen Lindblad, Gayle Money and Earl “Bud” Umland, City Attorney Tim Weaver, City Advertising and Promotion Commission (CAPC) Executive Director LeRoy Gorrell, mayor’s assistant Brenda Spencer and City Clerk Mary Jean Sell. Aldermen Penny Carroll and Bill Ott were absent.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Harrison led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA:

Mr. Berry moved to approve the agenda. Ms. Money seconded.

Mr. Berry asked to defer Old Business Item #1, discussion of rules of order, and New Business Items #4, discussion of establishing a board of appeals dealing with retaining walls; #5, discussion of new sign ordinance; discussion of drafting an ordinance to revise downtown trolley stop, to the regular meeting of July 26.

Ms. Money asked to defer Old Business Item #3, discussion of amending Section 86-4 of the Municipal Code regarding banners and signs.

Ms. Money moved to approve the agenda as amended. Ms. Lindblad seconded. Three voted in favor, Ms. Lindblad voted against. Mayor Harrison voted aye to pass the motion. Motion passed 4/1/0

APPROVAL OF THE MINUTES: June 14, 2004 June 28, 2004

Ms. Money moved to approve the minutes of June 14 as presented. Ms. Lindblad seconded. All voted aye. Motion passed 4/0/0

Mr. Umland moved to approve the minutes of June 28 as presented. Ms. Lindblad seconded. All voted aye. Motion passed 4/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Mayor Harrison said she would nominate Patrick Brammer to Position 2 on the Historic District Commission, term expiring 11/30/04, during the July 26 meeting.

Planning Commission – Position 5 – Expires 1/1/07

Planning Commission – Position 3 – Expires 7/1/05

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COMMITTEE REPORTS:

Vision – Ott, Lindblad, Richie and Harrison

Mayor Harrison reported the group had met July 8 and began discussion priority projects. She asked for a citizen volunteer to meet with the group and for citizen suggestions of projects to be accomplished short and long term within the city.

OLD BUSINESS:

4. Discussion of Ordinance #1961, an ordinance regarding vacating a reserved right of way.

Ms. Money moved to place Ordinance 1961 on its first reading. Mr. Umland seconded.

Ms. Sell read the ordinance aloud.

Ms. Money moved to approve Ordinance 1961 on its first reading. Mr. Umland seconded.

Mr. Weaver explained there was no price set on the land in the ordinance because the amount is to be set by the council since the property is an undedicated right of way.

Ms. Lindblad said she is opposed to the city vacating or selling any property. She prefers long leases.

Mr. Umland moved to amend the ordinance to charge \$10 for the land being vacated. Ms. Money seconded. Three voted aye; Ms. Lindblad opposed. Mayor Harrison voted aye to pass the amendment. Motion passed 4/1/0

On the motion to approve Ordinance 1961, as amended, three voted aye; Ms. Lindblad opposed. Mayor Harrison voted aye to approve the first reading. Motion passed 4/1/0

Ms. Money moved to suspend the rules and place Ordinance 1961 on its second reading by title only. Mr. Umland seconded. By roll call, three voted aye, Ms. Lindblad opposed. Mayor Harrison voted aye. Motion passed 4/1/0

Ms. Sell read the title aloud.

Ms. Money moved to approve the second reading of Ordinance 1961 by title only. Mr. Umland seconded. Three voted aye, Ms. Lindblad opposed. Mayor Harrison voted aye. Motion passed 4/1/0

Ms. Money moved to suspend the rules and place Ordinance 1961 on its third reading by title only. Mr. Umland seconded. By roll call, three voted aye, Ms. Lindblad opposed. Mayor Harrison voted aye. Motion passed 4/1/0

Ms. Sell read the title aloud.

Ms. Money moved to approve the third reading of Ordinance 1961 by title only. Mr. Umland seconded. Three voted aye, Ms. Lindblad opposed. Mayor Harrison voted aye. Motion passed 4/1/0

Ms. Money moved to read the emergency clause. Mr. Umland seconded.

Ms. Sell read the emergency clause aloud.

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NEW BUSINESS

1. 1. Discussion of vacancy on City Council – Umland, Lindblad

Mr. Umland explained he had agreed to delay this discussion until the meeting of July 26, but several residents had called him asking that the council go ahead with the discussion. He said he had been contacted by a neighbor to the property where Ms. Carroll has moved in Ward 2, leaving Ward 1.

Ms. Lindblad moved to recognize a vacancy on the council. Mr. Umland seconded.

Ms. Money said she did not want to discuss the matter, Ms. Carroll had promised documentation of her residence for the meeting of the 26th, and she wanted to wait.

Ms. Lindblad said she had calls from citizens asking the council to follow the law and to declare the vacancy as soon as a council member moved out of the ward he or she had been elected to represent. Ms. Lindblad said Ms. Carroll should have notified the council ahead of the move.

Mr. Berry said it was not fair to discuss Ms. Carroll's situation when she was not present to contradict statements made.

Mr. Weaver said the state statutes give no clear guidelines to council members on how to determine if a vacancy exists, they have to be satisfied in their own minds about the situation. The council can vacate the seat or a private citizen can bring a lawsuit in circuit court. The burden of proof of residency is Ms. Carroll's.

Ms. Money moved to postpone the discussion to the meeting of June 26 and to have it as the first item of business on the agenda. Mr. Berry seconded.

Mr. Berry called for the question. Ms. Money seconded. Mr. Berry and Ms. Money voted aye. Mr. Umland and Ms. Lindblad voted nay. Motion failed 2/2/0

On the motion to postpone discussion until July 26, Mr. Berry and Ms. Money voted aye. Mr. Umland and Ms. Lindblad voted nay. Motion failed 2/2/0

On the motion to declare the vacancy, Mr. Berry called for the question. Ms. Money seconded. Mr. Berry and Ms. Money voted aye. Mr. Umland and Ms. Lindblad voted nay. Motion failed 2/2/0

Ms. Lindblad withdrew her motion.

Mr. Umland moved to hold a special meeting when Ms. Carroll returns from her vacation and can produce documentation of her residence. Ms. Lindblad seconded. Three voted aye. Mr. Berry voted nay. Mayor Harrison voted aye to pass the motion. Motion passed 4/1/0

2. Discussion of Ordinance #1962, an ordinance establishing voting by ward.

Mayor Harrison said she brought the ordinance to the council for review with the intention of having a discussion during the meeting of July 26.

Mr. Weaver said the council would need to act on the ordinance during that meeting so candidates for the city council seats could file appropriately before filing closed at noon Wednesday, Aug. 4

COUNCIL COMMENTS

Mr. Umland asked for suggestions for new festivals and ideas about how to bring more people to town.

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Ms. Lindblad urged everyone collecting the CAPC tax to get a copy of the proposed ordinance regarding enforcement and appeal procedures and to study it before the council begins discussions.

MAYOR'S COMMENTS

Mayor Harrison said she had the pleasure of attending the North American premier performance of *The House of the Sun* at the Walton Arts Center in Fayetteville, produced by Inspiration Point Fine Arts Colony Opera in the Ozarks. She commended General Director Jim Swiggart, his staff and students for their efforts.

She also welcomed members of the Arkansas Rural Educators Association (AREA) for their annual meeting.

ADJOURNMENT

Ms. Money moved to adjourn at 7:17 p.m. Ms. Lindblad and Mr. Umland seconded. All voted aye. Motion passed 4/0/0

This is the signature page for the regular City Council meeting minutes for July 12, 2004.

City Clerk Mary Jean Sell

**CITY OF EUREKA SPRINGS
CITY COUNCIL
REGULAR MEETING**

MONDAY

JUNE 28, 2004

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6:07 p.m., Monday, June 28, in the courtroom of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Penny Carroll, Karen Lindblad, Gayle Money, Bill Ott, Earl "Bud" Umland, City Attorney Tim Weaver, Building Official Randy Mills, mayor's assistant Brenda Spencer and City Clerk Mary Jean Sell. Alderman Robert "Butch" Berry was absent.

PLEDGE OF ALLEGIANCE

Mayor Harrison led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA:

Mr. Ott moved to accept the agenda.

Mr. Ott asked to defer:

Old Business Item #1, discussion of rules of order, to the July 12 Council meeting.

Old Business Item #2, discussion of Ordinance #1941, regarding manufactured homes, to the July 26 Council meeting.

Old Business Item #3, discussion of Ordinance #1959, regarding procedure for non-payment of CAPC (City Advertising and Promotion Commission) tax, to the July 12 Council meeting.

New Business Item #2, Ordinance #1961, regarding a reserved right of way, to the July 12 Council meeting.

New Business Item #4, amending Ordinance 1956, regarding retaining walls and establishing a Board of Appeals, to the July 12 Council meeting.

New Business Item #6, regarding a discussion of the new sign ordinance, to the July 12 Council meeting.

Mayor Harrison asked to defer:

New Business Item #1, regarding the Community Health Resource Board and operating authority, indefinitely.

New Business Item #3, Ordinance 1963, regarding establishing voting by wards, because the ordinance is not prepared.

Ms. Carroll asked to add a discussion of the sewer plant. Mr. Ott joined her. The discussion was set as New Business Item #1.

Mr. Ott moved to accept the agenda as amended. Ms. Money seconded. All voted aye. Motion passed 5/0/0

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APPROVAL OF THE MINUTES: June 14, 2004

Ms. Money moved to postpone the reading of the June 14 Council meeting minutes. Ms. Carroll seconded. All voted aye. Motion passed 5/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Mayor Harrison nominated Melissa Green to Position 7 of the Historic District Commission (HDC), term expires 3/07/05, and re-nominated Draxie Rogers to Position 3 of the Parks and Recreation Commission, term expires 5/31/09. Mr. Ott moved to accept the nomination of Ms. Green. Ms. Lindblad seconded. All voted aye. Motion passed 5/0/0
Mr. Ott moved to accept the nomination of Draxie Rogers. Ms. Lindblad seconded. All voted aye. Motion passed 5/0/0

- Planning Commission – Position 5 – Expires 1/1/07
- Planning Commission – Position 3 Expires 7/1/05
- Parks and Recreation Commission – Position 1 – Expires 5/31/07

COMMITTEE REPORTS:

Vision – Ott, Lindblad, Richie and Harrison Mr. Ott reported the group is reviewing previous surveys and master plans for the city to determine a new plan of action. The committee will meet at 6 p.m. July 6 in the jury room of the Western District Carroll County Courthouse.

Mr. Umland said he has received four telephone calls today informing him that Ms. Carroll had moved out of Ward 2 and into Ward 1. He asked her if it is true. Ms. Carroll said “No.” Ms. Lindblad asked Ms. Carroll where she had moved to. Ms. Carroll said, “This is a legal challenge and you should go through proper legal channels. I still reside in Ward 1.”

Mr. Weaver said he had gotten similar questions. He had talked with attorney Mark Hayes at the Municipal League. In Mr. Hayes’ opinion, the council can regulate its membership, if Ms. Carroll has moved out of the ward, she is immediately disqualified from the council, or a citizen can bring a civil suit.

Mr. Umland moved to add the discussion to the agenda. Ms. Money seconded.

Mr. Umland said there is a question of Ms. Carroll’s residence and until it is resolved he moved to suspend all of the agenda.

In Mr. Weaver’s opinion, since the Council was not scheduled to take a final vote on any issue during this meeting, Ms. Carroll could remain at the table. He cautioned the Council to be aware of possible action resulting from Ms. Carroll’s votes if she was determined to no longer be living in Ward 2.

Mr. Umland withdrew his motion and asked that the discussion be put on the agenda for the meeting of July 26, since Ms. Carroll will be absent from the July 12 meeting. Ms. Money withdrew her second and agreed to put the discussion on the July 26 agenda.

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NEW BUSINESS:

1. Discussion of the wastewater treatment plant.

Mr. Ott asked if the city’s drinking water is safe. Mayor Harrison said the drinking water is provided by the Carroll-Boone Water District from Beaver Lake and it is safe to drink.

Mr. Ott asked if toxic waste had been dumped from the treatment plant. Mayor Harrison said the city has had a Class B license to land apply the sludge from the treatment plant for several years. The sludge was taken to a proper location in Missouri and land-applied.

Mayor Harrison put a letter on the table from Mark Owen of the Arkansas Department of Environmental Quality (ADEQ) giving permission to deconstruct the existing sludge drying beds, the trickling filter and anaerobic digester.

Mr. Ott asked about employees at the treatment plant. Mayor Harrison said investigations are still going on. D.J. Fox has a Class III license and is currently lead operator. Todd Clark has a Class II license and is assisting her at the plant. Advertisements are in area newspapers for another person to work at the plant.

Mr. Ott asked about the purchase of the belt press for processing sludge. Mayor Harrison said she acted on recommendations from former consultant Marilyn Kelley Still in purchasing the equipment. Ms. Still had indicated a need to act quickly. She had contacted manufacturing companies, gotten prices and made a recommendation.

Ms. Money was concerned that the belt press was purchased without Council knowledge, without Council approval and without taking bids.

Mr. Ott added his concern over failure to follow proper bidding procedure.

Ms. Carroll said she is concerned about the water being discharged from the waste treatment plant into Leatherwood Creek and it's effect on the shallow wells in the Elk Ranch area. She has gotten equipment cost estimates from consulting engineer Ron Tracy, but the numbers are not clear and she doesn't understand some of the language and references. She has requested, but not received, discharge monitor reports from the waste treatment plant. She said she has been given non-compliance reports. She does not believe the city is under a "consent order" from ADEQ to dismantle the plant.

Ms. Lindblad said the alternative to the city building a new plant would be to have ADEQ come in, build the plant and operate it without any input from the city.

Ms. Money wants to see the plans, have the cost estimates and to be kept up to date by Public Works Director Robert Forrest.

Mayor Harrison said the plant is discharging water into the creek that is meeting state standards for the first time in a long time. Residents of Elk Ranch have no cause for concern about the water. She quoted Ms. Fox as saying the non-compliance reports were the ones Ms. Carroll requested and include the information she wanted. Work on the plans and cost estimates for the new plant are going forward and will be presented when they are complete.

Discussion was stopped at 7 p.m. so the open microphone/public forum portion of the meeting could begin.

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PUBLIC FORUM

The public forum/open microphone is held at the last meeting of each quarter to give citizens a chance to speak directly to the council about matters of concern to them.

John Wiley presented a proposal for eliminating trolley stop #83 to bring passengers into the Upper Spring Street shopping area before they are allowed to disembark. He presented a petition with 38 signatures asking the council "to make a positive change to preserve the businesses on Upper Spring Street."

Tony Halter thanked everyone for their efforts and encouraged the council to strive for more accountability. He suggested making the entire Historic Loop a quiet zone and asked enforcement of the noise ordinance with regard to motorcycles. He also asked for more law enforcement regarding reckless drivers and vehicles without license tags.

Enid Swartz said she lives outside the city limits but she takes part in activities in town and feels that she is a member of the community. She asked the council to consider removing trolley stop #83 as a trial run for the rest of the season and to support the businesses on Upper Spring Street.

Eric Scheunemann wanted to let the Mayor and City Council know he was very upset at the resignation of City Planner Richard Harper. He said Mr. Harper had been very helpful to the Planning Commission in his ability to gather information and make fair and impartial recommendations. He wanted to know why the planner was part of the building official's office. He asked for efforts to help Mr. Harper to remain on staff.

Beau Satori asked for an ordinance to require all of the city commissions to maintain electronic archives of agenda and minutes with a searchable database. He said Ms. Carroll had vacated Ward 1 and is living in Ward 2. He asked the council to take applications from volunteers for the seat in the next two weeks and take two weeks to consider the

applications and to proceed with filling the seat. He said he resented Ms. Carroll's hostile attitude in asking for a court challenge to her position and called for her immediate resignation from the council.

James DeVito said the people of Ward 3 were not challenging Ms. Carroll's residency and that she is a resident of Ward 1. He said three minutes every three months was not enough time for the council to hear from the public. He asked that a portion of every council meeting be set aside for public comments. He said an employee of Tracy Engineering had been a party to the choosing of a new public works director.

Ed Leswig urged the council to consider changing the trolley stop and to show support for the merchants.

Joe Zickmund said Mr. DeVito's idea for citizen input is a good one. He asked that the draft of Ordinance 1959 be put on the next council agenda with an emergency clause for quick passage.

Jerry Wilcox said he had tried to have a meeting with the mayor and she had failed to keep the appointment. He said he had bought the magic theater (building on Highway 23 south) and would be bringing a lot of employment and new visitors to Eureka Springs. He felt the fire marshal and building inspector were making unfair demands on him by requiring a sprinkling system in the building as a fire prevention and by asking for schematic drawings of the mechanical systems. He feels no one is working with him to get the building ready.

The public forum ended at 7:22 p.m. Mr. Ott moved for a break. Mr. Umland seconded. All voted aye. Motion passed 5/0/0

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The council meeting resumed at 7:50 p.m.

Discussion of the waste water treatment plant resumed.

Mr. Ott moved to hold a public forum at 7 p.m. Monday, July 19, in the courtroom of the Western District Courthouse, so citizens could hear a presentation of the status of the wastewater treatment plant plans and ask questions. Ms. Money seconded. All voted aye. Motion passed 5/0/0

2. Discussion of current sign ordinance – Money, Carroll

Ms. Money feels the current sign ordinance does not allow for banners and signage for holidays or special events not sponsored by the city. There are illegal signs in use all over town.

Mr. Umland agreed, saying recent changes in the sign ordinance did not allow for holidays and some special event signs.

Mr. Ott said the town needs to decide what it wants to look like, whether to have a strict sign ordinance or to create visual chaos.

Ms. Money moved to amend Section 86-4 of the Municipal Code regarding prohibited signs. Mr. Umland seconded.

Mr. Ott, Ms. Money, the Building Official and City Attorney are to meet to recommend changes and to bring them to the July 12 meeting.

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

3. Discussion of Ordinance #1963, an ordinance to adjust the 2004 budget for special election expenses.

Mayor Harrison said the city had gotten a bill for \$2,342.24 for expenses incurred in holding the special election from the Carroll County Clerk's office.

Mr. Ott moved to place Ordinance 1963 on its first reading, Ms. Money seconded. All voted aye. Motion passed 5/0/0

Ms. Sell read the ordinance aloud.

Mr. Ott moved to approve Ordinance 1963 on its first reading, Ms. Money seconded. All voted aye. Motion passed 5/0/0

Mr. Ott moved to suspend the rules and place Ordinance 1963 on its second reading by title only. Ms. Money seconded. By roll call, all voted aye. Motion passed 5/0/0

Mayor Harrison read the title aloud.

Mr. Ott moved to approve Ordinance 1963 on its second reading by title only, Ms. Money seconded. All voted aye. Motion passed 5/0/0

Mr. Ott moved to suspend the rules and place Ordinance 1963 on its third reading by title only. Ms. Money

seconded. By roll call, all voted aye. Motion passed 5/0/0

Mayor Harrison read the title aloud.

Mr. Ott moved to approve Ordinance 1963 on its third reading by title only, Ms. Money seconded. All voted aye.

Motion passed 5/0/0

Mr. Ott moved to read the emergency clause. Mr. Umland seconded.

Mayor Harrison read the emergency clause aloud.

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**4. Discussion of providing insurance for the Lucky 13
Cinema and Sunday Market.**

Mayor Harrison said both events are held on city property, which Charlotte Buchanan is using, but it is not proper for the city to provide insurance for privately sponsored events. She thought Ms. Buchanan would be able to find her own insurance.

5. Executive Session

Ms. Money moved to have an executive session at 8:45 p.m. to hear a report from Mayor Harrison on disciplinary action decided upon in an executive session in the June 14 meeting. Mr. Ott seconded. All voted aye. Motion passed 5/0/0

Council returned at 8:48 p.m. with no further action to be taken.

COUNCIL COMMENTS

Mr. Umland thanked everyone who came for the public forum. He asked that the proposal from Mr. Wiley be placed on the next agenda for discussion. Ms. Carroll, Mr. Ott, Ms. Money and Ms. Lindblad joined the request.

Ms. Carroll said she would like to see the proposed noise ordinance come back to the table for discussion in the July 26 meeting. She apologized for the confusion over her place of residence and said she would have documentation after her vacation.

Mr. Ott said he would like to have a trial run with trolley stop #83 removed. He is disheartened at the loss of Mr. Harper as city planner. With regard to painting streetlights, he said that is up to AEP/SWEPCO and perhaps council members could help with requests. He announced the Mike Bishop Sweet 'n Sassy show has closed due to a lack of attendance. He encouraged everyone to help support and attend local attractions.

Ms. Money had no comments

Ms. Lindblad said she has been talking with employees of the public works department to keep up on the situation at the wastewater treatment plant. She welcomed Melissa Green to the HDC and thanked Draxie Rogers for being willing to continue to serve on the Parks and Recreation Commission. She supports looking into the trolley situation.

MAYOR'S COMMENTS

Mayor Harrison said everyone is working hard with the engineers and Robert Forrest to make sure he is going by the book. She and Forrest went to ADEQ in Little Rock on Friday and talked with Mr. Owen and another engineer about the wastewater treatment plant situation. She said ADEQ is as anxious as the council to see the plans for the new plant and to get construction underway.

She invited everyone to the celebration of Eureka Springs' 125th birthday Sunday afternoon in Basin Spring Park and to Lake Leatherwood City Park for evening activities and fireworks.

ADJOURNMENT

Ms. Money moved to adjourn at 9:03 p.m. Mr. Ott seconded. All voted aye. Motion passed 5/0/0

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This is the signature page for the minutes of the June 28, 2004, City Council meeting.

City Clerk Mary Jean Sell

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CITY OF EUREKA SPRINGS

CITY COUNCIL

REGULAR MEETING

MONDAY,

JUNE 14, 2004

Mayor Kathy Harrison called the regular City Council meeting to order at 6 p.m. Monday, June 14, in the jury room of the Western Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Robert “Butch” Berry, Penny Carroll, Karen Lindblad, Gayle Money, Bill Ott, Earl “Bud” Umland, City Attorney Tim Weaver, Building Official Randy Mills, Public Works Director Robert Forrest, Police Chief Earl Hyatt, Parks Director Bruce Levine, ACE (Arkansas Community of Excellence) Coordinator Glenna Booth, mayor’s assistant Brenda Spencer and City Clerk Mary Jean Sell.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Harrison led the Pledge of Allegiance to the Flag.

Ms. Carroll moved to go into **executive session**. Ms Money seconded. Ms. Carroll said the executive session was needed to discuss a resignation. All voted aye. Motion passed 6/0/0

The executive session began at 6:05 p.m. The council meeting resumed at 6:59 p.m. Mayor Harrison said there would be no action on the resignation but disciplinary action would be taken.

APPROVAL OF THE AGENDA

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

Mayor Harrison announced Item #2 of New Business, Community Health Resource Board and operation authority would be moved to the June 28 agenda by request of Dr. Dan Bell. Item #5 of New Business, discussion of Green Zone Committee recommendations, would be moved to the June 28 agenda by request of Parks Director Levine.

Mr. Ott asked for a discussion of the council’s rules of procedures to be added to the June 28 agenda.

Ms. Money corrected agenda Item 2 under Old Business, this is the third reading of Ordinance #1957, not the second.

Mr. Ott said the agenda does not reflect the tabling of Ordinance 1941, regarding manufactured housing, to this meeting. He asked that it be added as the last item of Old business.

Ms. Money moved to approve the agenda as amended. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

APPROVAL OF THE MINUTES: May 24, 2004

Ms. Money moved to approve the minutes of May 24 as presented. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

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COMMISSION, COMMITTEE AND AUTHORITY REPORTS AND VACANCIES:

Planning Commission – Position 5 – Expires 1/1/07

Planning Commission - Position 3 - Expires 7/1/05 – vote – Marilyn Kelley Still

Mayor Harrison said Ms. Still had withdrawn her name from consideration.

Historic District Commission – Position 7 – Expires 3/7/05 – nominee Melissa Green

Parks & Recreation Commission - Position 1 – Expires 5/31/07

Parks and Recreation Commission – Position 3 – Expires 5/31/09 – re-nomination – Draxie Rogers

DEPARTMENT HEAD COMMENTS:

Police, Transit, Public Works, Parks and ACE

Mayor Harrison said the department heads have chosen to come to the council meetings only when they have something specific they need or to make requests. Mr. Ott asked if this could be included in the rules of procedure for the council during the June 28 meeting.

Police Chief Earl Hyatt reported a calm Blues Festival weekend. The Eureka Springs Police arrested 10 persons and the state police arrested 10 persons. The state police had its DWI (Driving While Intoxicated) team working on the highway. Chief Hyatt said the availability of public transportation gave persons who might have been drinking the option of not driving after the events.

Public Works Director Robert Forrest reported a pre-bid walk-through on Benton St. this morning. Work at Lake Leatherwood boat dock and roads has been completed. The wastewater treatment plant was inspected June 4 by a representative of the Arkansas Department of Environmental Quality (ADEQ) and no violations were found. Laboratory results on tests of the effluent from the plant are back and the city is within all parameters. Good quality water is being discharged from the plant. Ms. Carroll asked Mr. Forrest for cost estimates on the planned improvements to the wastewater treatment plant. He said they have not all been completed.

Parks Director Bruce Levine reported the lights at the Lake Leatherwood Soccer Field and parking lot should be completely installed by July 4. The arch sign for Basin Park is scheduled to be in place by July 4. He thanked the Basin Park Improvement Committee for its work and the Eureka Springs Rotary Club for funding the sign. Work on the Skatepark in Harmon Park is approximately two and a half weeks from completion. The work is being done by Dreamland of Oregon.

ACE Coordinator Glenna Booth reported she has not heard the results of the application for the historic homes preservation grant of \$94,500. A \$400,000 grant has been submitted to the federal Housing and Urban Development (HUD) department to be used in developing the city's Arts and Cultural District. She and members of the Parks and Recreation Commission received a \$15,000 check from the Arkansas Rural Development Commission (ARDC) during its recent conference in town. The ACE Core Team is getting material together to submit to the state for certification. The business team is working to format a two-part website for prospective businesses and residents to

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the community. It will be linked to the Chamber of Commerce website by the end of July. The Tourism Team is working on the 125th Birthday Celebration for Eureka Springs. Information is being gathered to submit Eureka Springs for consideration as a Volunteer Community of the Year. The America In Bloom Committee has been photographing gardens to submit to judges when they arrive in July to review the town. The work to submit a proposal to become a historic district of national significance should begin soon. The paperwork has to be submitted during February.

COMMITTEE REPORTS:

Vision – Ott, Lindblad, Richie and Harrison

The committee was unable to meet. Another meeting was set for 5:30 p.m. Tuesday, June 22.

OLD BUSINESS:

1. Discussion of Ordinance #1956, an ordinance regarding retaining walls (3rd reading)

Ms. Lindblad moved to suspend the rules and place Ordinance 1956 on its third reading by title only. Ms. Money seconded. Five voted aye. Mr. Berry opposed. Motion passed 5/1/0

Mayor Harrison read the title of the ordinance aloud.

Ms. Lindblad moved to approve Ordinance 1956 on its third reading by title only. Mr. Umland seconded.

Mark Jipp, co-owner of the Veranda Inn, 38 Prospect, and Jeff and Lee Jeans, 7 Hillside, presented information about their own retaining wall situations. Mr. Jipp believes the city should be responsible for the large wall at the back of his property. He can find no records of why or when the wall was built. Mr. Jeans says the wall holding up Hillside St. is moving toward his house and that the wall is not on his property.

After lengthy discussion, Mr. Umland called for the question to stop discussion. Mr. Ott seconded. Mr. Umland, Mr. Ott and Ms. Lindblad voted aye. Ms. Carroll, Ms. Money and Mr. Berry voted against. Mayor Harrison voted aye to break the tie to call the question. Motion passed 4/3/0

On the motion to approve the ordinance, Ms. Lindblad, Mr. Ott and Mr. Umland voted aye. Ms. Money, Ms. Carroll and Mr. Berry voted against. Mayor Harrison voted aye to break the tie to approve the ordinance.

2. Discussion of Ordinance #1957, an ordinance to establish a Board of Appeals -Berry – (3rd reading)

Ms. Money moved to suspend the rules and place Ordinance 1957 on its third reading by title only. Mr. Umland seconded. Five voted aye. Ms. Lindblad opposed. Motion passed 5/1/0

Mayor Harrison read the title of the ordinance aloud.

Ms. Money moved to approve Ordinance 1957 on its third reading by title only. Mr. Berry seconded.

Ms. Lindblad said she opposed the ordinance because she did not feel a sufficient effort had been made to find qualified members for the board as set out in the

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**CITY OF EUREKA SPRINGS
CITY COUNCIL**

REGULAR MEETING MONDAY SEPTEMBER 22, 2003

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6:03 p.m. Monday, Sept. 22, 2003, in the jury room of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Penny Carroll, Robert “Butch” Berry, Karen Lindblad, Gayle Money, Bill Ott, Earl “Bud” Umland, Parks Director Bruce Levine, Police Chief Earl Hyatt, Public Works Director Kirby Murray, Transit Director Lamont Richie and City Clerk Mary Jean Sell.

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Harrison led the Pledge of Allegiance to the Flag.

APPROVAL OF AGENDA:

Mayor Harrison said Aldermen Berry and Ott had requested the addition of item #7 under New Business as a discussion of a special election.

Ms. Carroll and Ms. Money asked to have Ordinance 1928 added as item #8 and discussion of the mayor's veto of the council's vote to rescind the firing of City Administrative Assistant Kim Dickens as item #9.

Mr. Ott and Mr. Berry asked that item #5 under Unfinished Business regarding deer challenges in the city be deferred.

Ms. Money asked to postpone item #1 of New Business regarding discussion of Ordinance 1926, regarding city attorney duties. She asked to add a discussion of scheduling regular weekly city council meetings be added as item #10 under New Business. Mr. Umland seconded the addition of item #10.

Ms. Lindblad protested the adding of so many new items to the agenda at the beginning of a meeting without public notice.

Ms. Money moved to approve the agenda as amended. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

APPROVAL OF MINUTES: September 8, 2003

Ms. Money moved to approve the minutes of Sept. 8, 2003, as presented. Ms. Carroll seconded. All voted aye. Motion passed 6/0/0

COMMISSION, COMMITTEE REPORTS AND VACANCIES:

Planning Commission – Position 2 – expires 1/1/05 Mayor Harrison nominated Ken Foggo to the position. She said Leah Karnes has indicated an interest in serving on the commission.

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

CAPC – Position 1- Expires 6/30/05 Mayor Harrison nominated Kara White to fill the lodging position.

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DEPARTMENT HEAD COMMENTS:

Parks Director Bruce Levine reported 14 members of the University of Arkansas Landscape Architecture program were in the process of surveying and examining Basin Spring Park to prepare recommendations for renovations and improvements.

Police Chief Earl Hyatt reported the recent motorcycle poker run had raised more than \$2,000 for the Eureka Kids program. He thanked all the volunteers and businesses who participated in putting on the day-long event.

He said in the past 30 days officers have booked 27 persons into the police facility; answered 253 calls; issued 95 traffic citations; filed 83 incident reports; issued 67 written warnings; and served 18 arrest warrants.

Public Works Director Kirby Murray reported McClelland Consulting Engineers are preparing a bid price for the Hayes St. portion of the sewer line replacement project and their work is not to exceed \$2,500.

A new denitrification pump has been installed in the tank in the city's wastewater treatment facility on Highway 23 north and the pump and tank should now be operating properly.

Public Works employees have been working cleaning up the city cemetery.

Work on the Planer Hill sidewalk now has a completion date of Oct. 10, Mr. Ott's birthday. The original contract bid price on the project was \$434,162.40. There have been five change orders for the work and a sixth is pending. Three of the change orders have added \$14,577.18 to the construction cost bringing the total to \$448,739.58. Of that amount, \$327,000 will be paid through grant funding. The city's portion of the cost will be \$121,739.58.

Transit Director Lamont Richie reported delivery of a new trolley paid for entirely with grant funds: 80 percent or \$218,000 from the Arkansas Highway and Transportation (AHTD) program and 20 percent from the Arkansas Transit Fund made up of collection of a tax on rental vehicles.

He has submitted three grants totaling \$425,000 to purchase another trolley, enhancement of the city's property at the top of Planer Hill/intersection of Highway 62 and 23, and for an addition to the trolley barn behind the Transit Department office/Visitor's Center at 162 W. Van Buren/Highway 62 West.

Additional information is included in a written report he submitted to the council, which is attached to the office copy of these minutes.

UNFINISHED BUSINESS:

1. Discussion regarding Ordinance 1923, an ordinance amending the 2003 adopted budget for the remaining six month period beginning July 1, 2003, and ending December 31, 2003. (3rd reading)

Ms. Money moved to suspend the rules and put Ordinance 1923 on its third reading by title only. Mr. Umland seconded. By roll call, all voted aye. Motion passed 6/0/0

Ms. Sell read the title of the ordinance aloud.

Mr. Berry moved to table any vote on the ordinance pending results of another

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budget workshop. Mr. Ott seconded. All voted aye. Motion passed 6/0/0

The budget workshop was set for 5 p.m. Monday Sept. 29.

2. Discussion regarding Ordinance 1924, an ordinance to waive competitive bidding for the lights at Lake Leatherwood sports fields (3rd reading)

Ms. Lindblad moved to postpone the third reading. Mr. Umland seconded.

Ms. Lindblad said she had given written questions to Parks Director Bruce Levine and had just received the answers just before the meeting and had not had time to read or consider the material.

Mr. Ott reminded the council of its promise to give Ms. Lindblad time to get her questions about the lighting project answered before taking final action on the ordinance.

Parks and Recreation Commission Chairman Bill Featherstone said the project could be delayed another week or two, but he hoped no more than that because the project needs to be completed before winter.

All voted aye on the motion to postpone the third reading. Motion passed 6/0/0

3. Announce date for workshop with the HDC, regarding amending the Municipal Code regulating Historic Preservation. (October 1st, Wednesday, 6:00 p.m. to 7:00 p.m.)

Mayor Harrison announced this workshop has been set up so the Historic District Commission (HDC) members could talk about the proposed amendments to the code and the reasoning behind them. Ms. Sell said a video tape recording of a portion of the workshop with North Little Rock City Attorney Paul Suskie, author of the amendments, and the HDC would be played so council could hear him explain the amendments' purposes.

4. Discussion of legal issues dealing with the Writ of Mandamus and steps the City has taken to comply with Enforcement of City Ordinances.

Mayor Harrison read from a prepared list of actions taken:

Prior to receiving the writ, she had hired a Building Official per requirement of the International Building Code, adopted earlier this year. She had requested Ms. Dickens to show the file of all permits and requests for construction, and instructed her to call Mr. (Red) Perkins immediately start inspecting the properties. There were approximately 22.

Since the writ was delivered, she has taken the following steps: Called Police Chief Earl Hyatt requesting an investigation. This must be done by an outside entity to ensure no conflict of interest. She has given all copies of information provided with the writ to Carroll County Prosecutor Tony Rogers with a request that he investigate. Called the state Attorney General (Mike) Beebe's office, and is on record reporting the need for an investigation. (The ombudsman in the A.G.'s office suggested being on record with the state police in this situation. Spoken with the Little Rock office of the state police who, in turn, gave her the local bureau's contact in Fort Smith. She has called but has not spoken with an investigator at this time.

Ms. Carroll asked if the information regarding the writ had been sent to the Municipal League as per the council's

instructions in the regular meeting of Sept. 8.

Mayor Harrison said the information had not been sent to the Municipal League

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because no writ of mandamus had actually been filed. The council had been given an opinion of a private attorney on material that might be included in a writ. She said she was trying to bring the city into compliance with requests made in a letter accompanying the information so the writ will not be filed.

5. Discussion regarding deer challenges in the city. (Ott, Berry).

Removed by Mr. Ott's request.

The regular meeting was halted at 6:57 p.m. for a short break.

PUBLIC FORUM

The quarterly public forum was called to order at 7:13 p.m. by Mayor Harrison. She said speakers would be given three minutes each. Names were called from a sign-up sheet.

Barb Deschner, director of the Eureka Kids after school program. She said the program had opened on April 1, 2002, following the closing of the Boys and Girls Club of Carroll County. The program had served 250 children in 2003. Since June 1, 150 new children had participated in activities in the program, now conducted in the community building in Harmon Park. The program is out of funds and owes the city \$5,000 for the summer program. She asked for assistance from the city council and the public to find funding for the program.

Ernst Schrader, former city council member. He said he wanted to back up Ms. Lindblad's objection to adding discussion items to the agenda at the start of each meeting without public notice. He reminded the council it should stick to the rules it has adopted for setting agenda items and publishing notices.

Margaret Leighty said she wanted to discuss changing the style of government in Eureka Springs. She understands that changing the style of government requires a petition from the citizens, not a proposal from the council. She thinks more research is needed before action is taken.

Margaret Slater said the intersection of Pivot Rock Road and Highway 62 is a very dangerous intersection. The school bus stop is a blind spot. She and other residents in the area are very concerned about safety in this area.

Kerry Leigh Pittenger said she had received information about the possible appointment of "coordinator of city service." She wants everyone to be aware of what all that implies and that it might not be in our best interest to appoint someone with so many duties and responsibilities. She wants the opportunity to elect a person to the position. She suggested combining the \$52,000 salary of the administrative assistant and the mayor's salary of \$6,000 and dividing it between the two.

Eric Scheunemann, member of the Planning Commission. He said Ms. Dickens had been very helpful to him when he was first appointed to the Planning Commission.

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He began reading an excerpt from the commission's June 25, 2003, minutes regarding a tree cut at the Faith Christian Church. He ran out of time before he could complete the excerpt.

Steve Roberson, member of the City Advertising and Promotion Commission (CAPC). He began reading from a statement. He said he was disappointed in the way the mayor and council members have conducted themselves regarding the firing of Ms. Dickens. He is looking for long-term solutions and wants the city to operate as the big business it is, letting department heads control their departments, etc. He expressed his concern that future mayors might not be able to give the time and attention to the job that Mayor Harrison has and who would be in the city hall to provide continuity and take care of

daily issues. A full-time position is needed with the guidance of the mayor and council. He also ran out of time before he could complete his statement.

James DeVito, former city council and former CAPC member. He read a quotation from Thomas Jefferson on the importance of newspapers. He said he is concerned about the factual reporting of information by the two newspapers in the community so the citizenry can have factual information about issues before them.

Tori Bush, former city hall employee. She said a report in the *Times-Echo* newspaper contained false statements attributed to Dan Krotzer, a computer consultant for city hall. She distributed copies of a letter from him regarding the story and wanted the council to know “about all the false statements out there.”

Ms. Sell, editor of the *Times-Echo*, said she would publish a correction in the paper tomorrow (Sept. 23).

Mickey Schneider, representing the South Main Street merchants. She said the group is concerned that there is not attention being shown toward tourists. She said more trash cans are needed in the downtown area. She said a broken pipe repair job on Main Street, which should have taken four hours, took four days and cost merchants business. She wants benches for the elderly to sit on, more trash cans, more accommodations for tourists. She wants the council to put the city first.

Wit Brittain complimented the young people (Leighty, Pittenger) who had spoken earlier in the forum. He said the recent bad publicity is “not playing well along the (Highway 71) corridor. We need to keep it down.”

Joe Zickmund wanted to address the civility or lack there of in Eureka Springs. He feels that outside businesses will not look at Eureka Springs for location if the government is not stable, nor will entities, which might give grants for city projects. He is concerned about the number of empty businesses in town and the number that are for sale. He wants the citizens to consider Title 14 Chapter 48 in the state statues, which outlines the method for changing to a city administrator form of government. He ran out of time for his discussion.

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Jan Watson, former city council member, said she wants more fairness in government. There are communication problems among the council and city government. We need more respect. She is tired of all the bad publicity in the newspapers. She wants the city to have a better presentation in the state.

The regular City Council meeting resumed at 7:42 p.m.

NEW BUSINESS:

1. Discussion of amendments of the Ordinance 1926 regulating the duties of the City Attorney (Money, Umland)

This item is postponed at the request of Ms. Money.

2. First reading – amended Section 94-3, the Municipal Code regulating sidewalks.

Ms. Money asked if the material presented is in ordinance form. Mayor Harrison said it is not and she would have an ordinance written to amend Section 94-3.

Mr. Ott moved to postpone the reading of the ordinance. Mr. Umland seconded. All voted aye. Motion passed
6/0/0

3. First reading - Ordinance 1830, an ordinance regulating Landscaping and Screening.

Mr. Ott moved to defer the ordinance to another meeting. Ms. Money seconded. All voted aye. Motion passed
6/0/0

4. Discussion of drafting ordinance and adoption of the International Fire Code.

City Fire Marshall Jim Kelley said he had been trying to work with attorney Tom Kieklak in drafting an ordinance for the adoption of the Fire Code. He said he had spoken with Ms. Dickens about it in January of this year and been told she would take the matter to the attorney.

Kelley said he had made several attempts to set up discussion sessions with Kieklak, the fire marshall in Rogers and the city attorney in Bentonville and had not been successful. He said he had gathered a lot of information for Kieklak but had not been able to meet with him to give it to him. Kelley said there were several state amendments to the fire code, which needed to be included in the ordinance and adopted.

Kelley said he had been told not to bring this matter to the council's attention.

Mr. Ott moved to have a draft Kelley's information into ordinance form for the next council meeting and to have all three readings with an emergency clause done at that time. Ms. Lindblad seconded.

Mr. Umland asked Kelley who had told him not to bring the matter to the council.

Kelley said Ms. Dickens had told him not to put himself in the limelight.

On the motion, all voted aye. Motion passed 6/0/0

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5. Set workshop with the Walton School of Business, University of Arkansas, on salaries and job descriptions.

Mayor Harrison said she was waiting on two professors to be able to schedule time to work with her on these matters.

6. Discussion of Western District – Johnson –vs- Carroll County Ambulance lawsuit.

Mayor Harrison said she was hoping Scott Johnson would be available to represent Carroll County in this lawsuit. (The issue is regarding proper tax collections with which to fund the Western Carroll County Ambulance District.)

Mr. Ott reminded the council that in the letter from City Attorney Tim Weaver he had said there were questions (interrogatories) that need to be answered by Oct. 4.

7. Discussion regarding a special election. (Berry, Ott)

Mr. Ott said there had been a lot of discussion in the community recently about having a special election to change to a city administrator form of government. There will be a special county election Nov. 4. Mr. Ott said he has talked with Carroll County Judge Ed Robertson about the possibility of a Eureka Springs issue being included on the ballot. Mr. Ott said there were a lot of things for people to do if they want to make the deadline for getting something on the Nov. 4 ballot.

Mr. Berry said he had been contacted by a lot of citizens regarding this issue. He said the people have options about their city government and holding an election is the way to make the change.

There was no action taken by the council. This was an information discussion.

8. Discussion of Ordinance 1928, an ordinance establishing the position of coordinator of administrative services for the City of Eureka Springs. (Carroll, Money).

Ms. Carroll moved to have the ordinance place on its first reading. Ms. Money seconded. Ms. Carroll, Ms. Money, Mr. Berry and Mr. Umland voted aye. Mr. Ott and Ms. Lindblad opposed. Motion passed 4/2/0

Ms. Sell read the ordinance aloud.

Ms. Carroll said the recent situation around the firing of Ms. Dickens has been very stressful and an enormous waste of time and energy for council members. She wants a professional person in the position of coordinator of administrative services interested in the council's well being.

Ms. Lindblad said the council is going into areas the council is not supposed to deal with in trying to hire and manage such a position. She said the city needs to have a balance between elected and hired personnel. She believes hiring someone for this position would create a redundant position and duplicity of efforts.

Ms. Carroll moved to approve the ordinance on its first reading. Ms. Money seconded.

Mr. Umland said the public has made it clear the council needs to get on with the matters of the town and that is the economy. The council needs to concentrate on solutions to economic problems.

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Ms. Money said she did not feel like she had anyone at to go to for information or quick answers to questions if there was not an administrator present.

Mr. Ott said the mayor has the right to hire and fire her own assistant. He does not want to become part of the executive branch of city government.

Ms. Sell said many of the duties the council members want to assign to the new position are traditionally done by the city clerk and could be done that way again if the clerk's position is returned to full-time.

Mr. Berry said he was not concerned with creating an ordinance for a person. He said he is embarrassed by recent newspaper publicity. He believes the city needs someone to coordinate day-to-day activities. He wants job descriptions for department heads. He wants to get on with the business of the city.

On the motion to approve the ordinance, Ms. Carroll, Ms. Money and Mr. Berry voted aye. Mr. Umland, Mr. Ott and Ms. Lindblad opposed. Mayor Harrison did not vote. Motion failed 3/3/0.

9. Discussion of the mayor's veto of the council's vote to rescind the Aug. 28 firing of City Administrative Assistant Kim Dickens.

The council met in special session Sept. 4 and voted to rescind the firing. Mayor Harrison presented her veto to the council just prior to this meeting, as required by state statute. (Copies attached to office minutes.)

Ms. Carroll moved to override the veto to rescind the firing of Kim Dickens. Ms. Money seconded.

Ms. Carroll and Ms. Money voted aye. Mr. Berry, Mr. Ott, Mr. Umland, Ms. Lindblad voted nay. Motion failed 2/4/0

Request for an executive session.

Ms. Money asked for an executive session to discuss a severance package for Ms. Dickens. Mayor Harrison suggested putting the session at the end of the regular business. Council members agreed.

10. Discussion of scheduling weekly City Council meeting. (Carroll, Money)

Ms. Money moved to temporarily have weekly city council meetings to take care of city business. Mr. Umland seconded.

Ms. Money amended her motion to include the setting of the agenda for the next meeting at the end of each weekly meeting. Mr. Umland seconded.

Mr. Ott moved to continue regular meetings on the second and fourth Mondays of each month, to use the meetings of the first, third and fifth Mondays to finish discussions not finished on the second and fourth Mondays, to have the agendas for the second and fourth Mondays published, and to limit debate in the alternate meetings to one hour.

Ms. Lindblad seconded.

All voted aye. Motion passed 6/0/0

Mayor Harrison announced a short break at 9:07 p.m. The meeting resumed at 9:25 p.m.

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11. Request for executive session to discuss severance package for Ms. Dickens.

Mayor Harrison said she did not believe the council could discuss matters regarding a person not employed by the city in an executive session.

Mr. Ott moved to suspend the rules and add a discussion of severance package for Ms. Dickens to the agenda. Mr. Berry seconded. By roll call, all voted aye. Motion passed 6/0/0

Ms. Money said Ms. Dickens long term employment and service to the city should be considered.

Ms. Carroll suggested three months' pay and benefits.

Mayor Harrison said she would check with the city's Finance Department to see what was customary and to see if Ms. Dickens had any accrued vacation time for which she might be paid and what insurance benefits might be available.

Ms. Lindblad suggested that information be available for the Sept. 29 meeting.

Ms. Money moved to table the discussion to the Sept. 29 meeting. Mr. Ott seconded. All voted aye. Motion passed 6/0/0

COUNCIL COMMENTS:

Mr. Ott announced he and Mr. Berry would no longer do "Politicians in the Park" due to a lack of attendance and Mr. Berry's scheduled absence in the next two months.

Mr. Money said she would like to see an agenda item regarding the time limitations on discussions, as earlier suggested by Mr. Ott.

MAYOR'S COMMENTS:

Mayor Harrison said Building Official Deborah James was working to schedule regular breakfast meetings for area contractors as a way to disseminate information about code issues.

ADJOURNMENT:

Mr. Ott moved to adjourn at 9:50 p.m. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the City Council minutes of Sept. 22, 2003.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

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CITY OF EUREKA SPRINGS

CITY COUNCIL

SPECIAL MEETING

FRIDAY

SEPTEMBER 12, 2003

A special meeting of the City Council was called by Alderman Robert "Butch" Berry, Penny Carroll and Gayle Money.

Mayor Kathy Harrison called the meeting to order at 6:02 p.m. Friday, Sept. 12, 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 and City Clerk Mary Jean Sell. Alderman Earl "Bud" Umland was absent.

Mayor Harrison announced the meeting was called by council members to adjust the regular meeting schedule of the city council.

Alderman Bill Ott raised a point of order regarding the notification of council members as per the Municipal Code. He said although he had received a telephone call about the meeting from the city clerk, he had not received his written notice of the meeting until just before the meeting began.

Clerk Sell said she would appreciate it when notices went out including her name, that her name be spelled correctly. Speaking as editor of the *Times-Echo*, the newspaper of record and of general circulation within the city, Sell said that should any other special meeting be called without proper notification to the *Times-Echo*, she would file FOIA (Freedom of Information Act) violations against each and every member of the council.

Sell said she had a letter on her desk from Linda Boyer of KTHS radio station in Berryville with essentially the same complaint, that she had not been properly notified of special meetings or cancellations of the meetings. Sell said she had notified the radio station by telephone of the last two meetings she was aware of, but had no information about previous meetings.

Sell said she thought the meeting should be adjourned and called properly at another time.

Mayor Harrison said one of the council members had not received notification of the meeting.

Ms. Lindblad arrived and raised a point of order. She said she had not received any written notice of this meeting and it was a null and void meeting.

Mr. Berry wanted to go ahead and schedule a meeting for Monday, Sept. 15, ahead of the budget workshop.

Time for the special meeting was set for 4:30 p.m. Monday, Sept. 15.

The meeting ended at 6:12 p.m.

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This is the signature page for the special city council meeting of Sept. 12, 2003.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

CITY OF EUREKA SPRINGS

CITY COUNCIL

REGULAR MEETING

MONDAY

SEPTEMBER 8, 2003

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6 p.m. Monday, Sept. 8, 2003, 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, City Attorney Tim Weaver, Finance Director Diane Murphy, Public Works Director Kirby Murray, Economic Development Coordinator Glenna Booth, Kim Dickens and City Clerk Mary Jean Sell.

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Harrison led the Pledge of Allegiance.

APPROVAL OF AGENDA:

Mr. Ott asked that New Business Item #5, regarding deer challenges in the city, be postponed until the meeting of Sept. 22

Ms. Money asked that New Business Item #5, regarding Ordinance 1918, regulating animal drawn vehicles, be postponed until Sept. 22

Mayor Harrison added a new Item #5 under New Business, a discussion of the writ of mandamus.

Ms. Carroll asked for a discussion of office space arrangements for Kim Dickens. Ms. Lindblad moved to add this discussion to the agenda for the sewer project workshop already scheduled for 6 p.m. Tuesday, Sept. 9. Mr. Umland seconded the motion. Mr. Ott, Ms. Lindblad, Mr. Umland voted in favor. Ms. Money, Mr. Berry, Ms. Carroll voted against. Mayor Harrison voted aye to add the topic to the workshop agenda. Motion passed 4/3/0.

Mr. Berry moved to set another budget workshop and a workshop to develop a job description for Kim Dickens at 4 p.m. Monday, Sept. 15 Mr. Ott seconded.

Ms. Money asked to add approval of the minutes of the special council meeting Sept. 4 to the agenda.

Ms. Money moved to approve the agenda as amended. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

APPROVAL OF THE MINUTES: August 25, 2003 Sept. 4, 2003

Ms. Money moved to approve the minutes of the regular council meeting Aug. 25 as presented. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

Ms. Money moved to approve the minutes of the special council meeting Sept. 4. Ms. Carroll seconded. All voted aye. Motion passed 6/0/0

COMMISSIONS, COMMITTEE, AUTHORITY REPORTS AND VACANCIES

Planning Commission – Position 2 – Expires 1/1/05

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

CAPC – Position 1 – Expires 6/30/05

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Mayor Harrison said she did not have any nominations for the CAPC but Kara White, manager of the New Orleans Hotel, had picked up an application form and was considering applying for the post.

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

Finance Director Diane Murphy reported the city's sales tax revenue received in August, collected in July, continues to drop below projected levels. She said the figures are within the 2003 budget, but care needs to be taken to maintain the budget. She said state auditor Mark Marley has completed the annual audit of the city's books for 2002 and had no comments, other than some procedural items.

CAPC Interim Chairman Penny Carroll reported finalizing contract arrangements with the new Executive Director LeRoy Gorrell.

Firefighter/EMS Greg Motzko reported for Fire Chief David Stoppel. He said Stoppel is waiting for finalization of the contract to start renovations of the fire department building at 146 E. Van Buren.

Hospital – Mayor Harrison said she hopes to have a written report from Administrator David Cox soon.

ACE (Arkansas Community of Excellence) – Economic Development Coordinator Glenna Booth reported seven Action Teams involving approximately 100 volunteers are meeting regularly. Two new teams, transportation and technology, are being organized. She has gone to Conway, Ark., for a training session; to Helena to the CLG (Certified Local Government) quarterly meeting (the Historic District Commission [HDC] participates in the CLG program); and to a three-day state economic development meeting in Fayetteville with Mayor Harrison.

UNFINISHED BUSINESS:

1. Discussion regarding Ordinance 1923, an ordinance amending the 2003 adopted budgets for the remaining six month period beginning July 1, 2003, and ending December, 31, 2003. (2nd reading)

Ms. Money moved to suspend the rules and place Ordinance 1923 on its second reading by title only. Mr. Berry seconded. By roll call, all voted aye. Motion passed 6/0/0

Ms. Dickens read the ordinance title aloud.

Ms. Money moved to approve Ordinance 1923 on its second reading by title only. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

2. Discussion regarding Ordinance 1924, an ordinance to waive competitive bidding the lights at Lake Leatherwood Sports Fields. (2nd reading)

Ms. Lindblad moved to postpone the reading of the ordinance since she had not received requested information from Parks Director Bruce Levine. The motion died for lack of a second.

Mr. Ott moved to postpone the reading until later in the meeting to allow time for Mr. Levine to arrive from Illinois. Ms. Lindblad seconded.

Mr. Ott moved to amend his motion to make the reading of Ordinance 1924 the last item of business on the agenda. Ms. Carroll seconded. Five voted aye. Ms. Lindblad voted against. Motion passed 5/1/0

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Mr. Levine arrived at approximately 7:25 p.m.

Ms. Carroll moved to suspend the rules and to put Ordinance 1924 on its second reading by title only. Ms. Money seconded. By roll call, five voted aye, Ms. Lindblad voted against. Motion passed 5/1/0

Ms. Dickens read the title of the ordinance aloud.

Ms. Money moved to approve Ordinance 1924 on its second reading. Ms. Carroll seconded.

Ms. Lindblad asked Mr. Levine several questions. Because he had just completed a long automobile trip, he was obviously very tired. He was not able to answer her questions.

On the motion to approve the ordinance on its second reading, five voted aye, Ms. Lindblad voted against. Motion passed 5/1/0

NEW BUSINESS:

1. Discussion regarding Ordinance 1927, an ordinance to amend Section 62 of the Eureka Springs Municipal Code regulating Historic Preservation. (1st reading)

Mr. Berry moved to open discussion. Mr. Umland seconded.

After brief discussion, Mr. Berry moved for a workshop with the council, the HDC and North Little Rock City Attorney Paul Suskie, author of the amendments. Ms. Money seconded. All voted aye. Motion passed 6/0/0

Mayor Harrison said she would contact Mr. Suskie and make arrangements for the workshop.

2. Discussion regarding Ordinance 1926, an ordinance regulating the Office of City Attorney. (1st reading)

Ms. Lindblad moved to put Ordinance 1926 on its first reading. Mr. Ott seconded. Four voted aye, Ms. Money and Mr. Berry voted against. Motion passed 4/2/0

Ms. Dickens read the ordinance aloud.

Ms. Lindblad moved to accept the ordinance. Mr. Ott seconded. Mr. Ott and Ms. Lindblad voted aye, Ms. Money, Mr. Umland, Ms. Carroll and Mr. Berry voted against. Motion failed 2/4/0

3. Discussion regarding drafting an ordinance to amend Section 94 in the Eureka Springs Municipal Code regulating sidewalks.

Mr. Berry moved to open the discussion. Ms. Money seconded.

Mr. Berry, former chairman of the Planning Commission, explained the ordinance amendment had been written by the Planning Commission and had been reviewed and approved by the HDC. He said the amendments would give property

owners some flexibility in the choice of materials for sidewalks.

Mr. Berry moved to have the amendment into ordinance form for review at the Sept. 22 meeting. Ms. Money seconded. All voted aye. Motion passed 6/0/0

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4. Discussion regarding Ordinance 1830, an ordinance to regulate Landscape and Screening in the City of Eureka Springs.

Mr. Berry moved to open discussion. Mr. Ott seconded.

Mr. Berry explained the Planning Commission had spent more than a year preparing the landscaping draft ordinance as a standard for new construction and parking areas to reduce the amount of visible parking by screening, as recommended in the city's Vision Plan.

Mayor Harrison, a member of the Planning Commission while the draft was being developed, suggested council members read the draft, bring suggested revisions to the Sept. 22 council meeting, and the draft could be sent back to the Planning Commission for finalizing.

Ms. Money moved to adopt the suggestion. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

5. Discussion of a writ of mandamus.

Council members had received copies of an opinion written by attorney Kent Crow of Berryville regarding a proposed writ of mandamus, with supporting documentation. (Copy attached to office copy of minutes)

Mr. Umland moved to table discussion to give council members time to study the document. The motion died for lack of a second.

Mr. Berry moved to have Ms. Dickens send the opinion to the Municipal League for comments. Ms. Carroll seconded.

Ms. Lindblad said she thought it was improper for Ms. Dickens to handle the matter since she is specifically named in the proposed writ. She moved to have the mayor send the request to the Municipal League. The amendment died for lack of a second.

Ms. Money moved to call the question to end the discussion. Five voted aye, Ms. Lindblad voted against. Motion passed 5/1/0

On the motion to have the opinion sent to the Municipal League, five voted aye, Ms. Lindblad voted against. Motion passed 5/1/0

COUNCIL COMMENTS:

Ms. Lindblad said the *Architectural Digest* article on Eureka Springs is in the October issue. Mayor Harrison held up the magazine to display the article.

Ms. Lindblad asked that the tree ordinance, prepared by the Planning Commission last year, be brought to the council for the Sept. 22 meeting. Mr. Berry seconded the request for the agenda item.

MAYOR'S COMMENTS

Mayor Harrison said she had a request from the city's fire marshal to put the International Fire Code on the Sept. 22 agenda for all three readings with an emergency clause. The Fire Code links to the International Building Code, which was adopted several months ago.

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ADJOURNMENT

Ms. Lindblad moved to adjourn at 7:55 p.m. Ms. Money seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the Sept. 8, 2003, regular City Council minutes.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

**CITY OF EUREKA SPRINGS
CITY COUNCIL
SPECIAL MEETING**

THURSDAY

SEPTEMBER 4, 2003

A special meeting of the City Council was called by Aldermen Robert "Butch" Berry, Penny Carroll and Earl "Bud" Umland.

Mayor Kathy Harrison called the meeting to order at 7 p.m. Thursday, Sept. 4, 2003, 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 and Earl "Bud" Umland, City Attorney Tim Weaver and City Clerk Mary Jean Sell. An audience of 50-60 citizens was in the jury room, the hallway and on the outside steps.

Mayor Harrison announced the special meeting was called by the council to ratify or deny the mayor's decision to terminate the mayor's administrative assistant. (Mayor Harrison fired City Administrative Assistant Kim Dickens Thursday, Aug. 28.)

Mayor Harrison asked the council to stay on topic, that is to discuss only ratification or denial of her decision. If there is any other discussion of policy or procedures, those issues would have to be placed on a regular agenda of the council or named for a discussion of any other special meeting. She said we will not digress into a quasi-legal discussion, but will be deferred to for a legal opinion from an attorney or a judge, should we end up in court. This is not a public hearing or a forum for debate.

Ms. Carroll moved to rescind the mayor's termination of the employment of the assistant city administrator Kim Dickens and to continue Ms. Dickens' tenure as city assistant administrator uninterrupted.

Ms. Money seconded. Ms. Carroll, Mr. Berry, Mr. Umland and Ms. Money voted aye. Ms. Lindblad and Mr. Ott voted nay. Motion passed 4/2/0

Ms. Money moved to adjourn at 7:07 p.m. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

Mayor Kathy Harrison