

Mayor Kathy Harrison called the regular City Council meeting to order at 6:07 p.m. Monday, May 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, Earl "Bud" Umland, City Attorney Tim Weaver, Transit Department Director Lamont Richie, Building Official Randy Mills, City Planner Richard Harper, Public Works Director Robert Forrest, Parks and Recreation Commission Executive Director Bruce Levine, Fire Chief/Chief of Emergency Services David Stoppel, ACE (Arkansas Community of Excellence) Glenna Booth, mayor's assistant Brenda Spencer and City Clerk Mary Jean Sell.

**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.

Ms. Money asked to add a building official report to department head comments.

Mr. Ott said he had been asked by City Planner Richard Harper to defer Item #1 of Old Business, discussion of Aerial Data Services and comparative services. He said New Business #2, discussion of Ordinance #1948 regarding amending Article II Section 102-32 of Municipal Code amending definition of gift shops, is not ready. New Business Item #5, citizens appeal of denial of application to allow multi-family dwelling in the R-1 Zoning District at 245 Spring St., there is no one present to present the appeal. He asked Mayor Harrison to add comments regarding recent bank bids for services under department head comments since she is the administrative department head.

Ms. Money said several persons were in attendance to speak about the 245 Spring St. matter. She wants them to be allowed to speak so they won't have to attend another meeting. Ms. Lindblad agreed.

Ms. Lindblad moved to approve the agenda with amendments, except for Item #5 of New Business. Ms. Money seconded.

Mr. Ott moved to amend the motion to include a discussion of the bank services bid, bid policy amendments, and bank account signatories along with deferring Item #1 of Old Business and Item #2 of New Business, Ms. Carroll seconded. Five voted in favor of the motion, Ms. Lindblad opposed. Motion passed 5/1/0

Mr. Ott moved to defer Item #5 of New Business until the next meeting. Ms. Carroll seconded.

Mr. Weaver was asked if comments could be taken without taking action on the appeal. Mr. Weaver said if statements were taken, they could not be considered part of the appeal hearing because all parties involved were not present.

Mr. Umland called for the question to end the discussion. Mr. Ott seconded. All

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voted aye. Motion passed 6/0/0.

On the motion to defer Item #5, five voted aye, Ms. Lindblad opposed. Motion passed 5/1/0

Ms. Money moved to add a discussion of the city's bid policy to the end of the New Business portion of the agenda. Ms. Carroll seconded.

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

Discussion of awarding the contract for banking services continued.

Mayor Harrison said she had spoken with Mr. Umland about setting a date for a bid committee meeting and was waiting to determine a convenient time for Ms. Money so she could attend. She said she would not award a contract until the committee had met.

Ms. Money moved to add a discussion of the city's bid policy to the next meeting's agenda, after the bid committee meets. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

**APPROVAL OF THE MINUTES: April 26, 2004**

Ms. Money moved to approve the minutes of April 26 as presented. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

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

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

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

Mayor Harrison nominated Ms. Still, a wastewater treatment consultant, who will be living in the community for the next year as work is done on the city's wastewater treatment system.

Historic District Commission - Position 7 – Expires 3/7/05

Hospital Commission – Position 5 – Expires 6/1/07

**DEPARTMENT HEAD COMMENTS**

Police, Transit, Public Works, Parks and ACE

Mayor Harrison read aloud a written report submitted by Police Chief Earl Hyatt.

**Transit Director Lamont Richie** submitted a written report, then reviewed plans for transportation during the 2004 Blues Festival, the first weekend of June.

He also gave a report as a member of the Parks Green Space Committee. He said the term “green space” is being changed to “undeveloped rights-of-way” because many of the platted, but un-opened, pieces of land are not suitable for development or use, for a variety of reasons. The committee is working on a system to prioritize potential uses for the spaces, because there will be times when it will be in the city's best interest to vacate them. Leases and fees will be part of the final policy. It will be the recommendation that the Parks Commission and/or the city look at each piece on a case-by-case basis.

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**Public Works Director Robert Forrest** reported bids on the paving of Benton St. will be opened at 10 a.m. Thursday, May 20. Paving has been completed on Lower Wall and Frontage St., and Thunder Road will be completed within the next two weeks. He is investigating the situation at Pendergrass Corner, the corner just past the New Orleans Hotel on Spring St., to determine what needs to be done to resupport the roadway. Paving is in progress on Lake Leatherwood Road. Contractor Jimmy Jones has started the sewer project on Martz and Hayes Circles. Ms. Money and Mr. Berry clarified that all decisions about whether or not streets are to be one-way and placement of stop signs are to be made by the City Council.

**Parks Director Bruce Levine** reported receipt of a \$15,000 grant from Arkansas Rural Development for the Skate Park project. He said a total of \$55,000 toward the needed \$75,000 has been raised. Lake Leatherwood Park is open for day use.

**ACE Coordinator Glenna Booth** reported she is working on a guide for city services. She is working with the City Advertising and Promotion Commission (CAPC), the Western Carroll County Community Development Partnership (CDP), and the Greater Eureka Springs Chamber of Commerce to develop information for new business and relocation prospects.

**Building Official Randy Mills** reported he has designed a fluorescent green temporary parking permit form for one day use of city-owned parking areas for temporary, open-air enterprises.

**Mayor Harrison** expressed her deep regret over the resignation of Finance Director Diane Murphy, effective May 21. She said advertisements for a replacement will be made when an accurate job description is determined. She reported bids have been opened for the addition to the trolley barn and bids are out for the Benton Street paving project. There will be a Salary & Personnel Committee meeting 9 a.m. Friday, May 14.

**OLD BUSINESS:**

**1. Discussion of Ordinance #1955, an ordinance amending Section 46-89 of the Municipal Code to authorize ambulance and related service charges (3<sup>rd</sup> reading).**

Ms. Money moved to suspend the rules and read Ordinance 1955 by title only. Mr. Berry seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Harrison read the title of the ordinance aloud.

Ms. Money moved to approve Ordinance 1955 on its third reading by title only. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

**2. Discussion of citizen proposal for traffic control at Prospect and Linwood.**

Ms. Money moved to approve Police Chief Hyatt's recommendations. Ms. Lindblad seconded.

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Ms. Money read the recommendations aloud: A. To paint the curb red along the Veranda Inn's rock wall on Linwood and to extend it to Frankie Gill's property at 5 Linwood; B. to add a one-space yellow parking zone in front of the Veranda Inn on the Prospect St. side; C. to have a white limit line painted on Linwood at the approach to the stop sign.

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

**3. Discussion of Ordinance #1956, an ordinance regarding retaining walls (2<sup>nd</sup> reading).**

Ms. Money moved to suspend the rules and place Ordinance 1956 on its second reading by title only. Ms. Lindblad seconded. All voted aye. Motion passed 6/0/0

Mayor Harrison read the title aloud.

Ms. Money moved to approve Ordinance 1956 on its second reading by title only, Ms. Lindblad seconded.

Mr. Forrest gave a lengthy explanation of how the ordinance will be interpreted so that the city's retaining walls can be maintained.

Ms. Money suggested a field trip for council members so they could see what he was talking about.

Mr. Berry called for the question to end the discussion. Mr. Ott seconded. By roll call, all voted aye. Motion passed 6/0/0

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

**4. Discussion of Ordinance #1941, an ordinance to amend Chapters 114-4(c)(6) and 70-4 of the Eureka Springs Municipal Code, regarding manufactured homes. (2<sup>nd</sup> reading).**

Mr. Ott moved to suspend the rules and place Ordinance 1941 on its second reading by title only. Mr. Umland seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Harrison read the title aloud.

Ms. Money moved to approve Ordinance 1941 on its second reading by title only. Mr. Ott seconded.

Mr. Berry said he would like to have the A (agriculture) zones taken out of the ordinance. He said the Planning Commission is working to designate R-3 zones and will be having a public hearing on the matter in the near future.

Mr. Weaver suggested going ahead with the approval to indicate a forward motion by the council in getting areas designated within the city for the placement of manufactured homes. The state legislature had mandated such an ordinance be in place by Oct. 1, 2003. He suggested the council encourage the Planning Commission to take action on designating areas as quickly as possible.

On the motion to approve the ordinance, five voted aye, Mr. Berry opposed. Motion passed 5/1/0

Mr. Ott moved to send a letter of encouragement to the Planning Commission telling them to announce plans for a public hearing on proposed new R-3 zoning areas before May 24, the next council meeting. He also suggested the mayor attend the next Planning Commission meeting (scheduled for May 13). Ms. Money seconded. All voted aye. Motion passed 6/0/0

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**5. Discussion of citizen proposal for green space/alley connecting Owen and Mountain Street – Betty Zaboly.**

Ms. Zaboly said it had been Mr. Richie's recommendation to close the section of Draper St. which is under her garage at 44 Owen St. or for the city to give her a long term lease. She has agreed to work out a payment for the portion of the street on her neighbor's property.

Glenda Satterfield said Mr. Richie had also suggested that Ms. Zaboly give an easement to the city for the portion of the sewer line under her house.

Ms. Money moved to have Mr. Richie give his recommendations to Mr. Weaver. Mr. Ott seconded. There was no vote on the motion.

**NEW BUSINESS:**

**1. Discussion of creating an ordinance for procedure for non-payment of CAPC tax.**

CAPC Director LeRoy Gorrell reported he has met with Mr. Weaver, Ms. Murphy and Mayor Harrison to discuss the matter.

Mr. Weaver said the city's Municipal Code currently has no procedure for a business owner who is not collecting the CAPC tax to present evidence to support the position. There needs to be a procedure for notice, a hearing, and appeal to circuit court. There also needs to be a punishment established, fines, levies or liens. He does not believe revoking a business license is a good idea.

Mr. Ott moved to instruct Mr. Weaver to work with Mr. Gorrell to draft an ordinance addressing the issue. Ms. Money seconded.

Ms. Lindblad said it would create an interesting situation to create an enforcement ordinance before an ordinance defining "who" would collect the tax was in place. She believes the two ordinances should be passed at the same time, or the ordinance defining collectors first.

Ms. Carroll said she thought Ms. Lindblad should recuse herself since her business was one of those not paying the CAPC tax and the ordinance would directly affect her.

Ms. Lindblad said if she recused herself then Mr. Berry should as well since his wife is employed by the CAPC and the three other council members who also have businesses affected by the CAPC ordinances.

Mr. Ott called the question to end discussion. Ms. Money and Ms. Carroll seconded. Five voted aye, Ms. Lindblad opposed. Motion passed 5/1/0

On the motion to have the ordinance written, five voted aye. Ms. Lindblad opposed. Motion passed 5/1/0

**2. Reassigning bond money already allocated for wastewater treatment plant to new design.**

Mayor Harrison said there is money left from the 2002 bond issue originally designated for improvements to the inflow and infiltration system and wastewater treatment plant. She said initial purpose of the bonds is not changing, only the type of repairs and equipment to be purchased for a design/type of plant.

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Mr. Forrest explained that he has had several wastewater treatment experts and engineers look at the existing system and it is not functioning properly, part of the plant has failed completely.

He gave a lengthy review of the plans for the new system, with the assistance of consulting engineer Ron Tracy. Both men said the Sequential Batch Reactor (SBR) System is the most efficient system for the type of wastewater demand in Eureka Springs. Forrest said he has talked with the Arkansas Department of Environmental Quality (ADEQ) about this system and ADEQ's representatives are in agreement this is the best type of system for Eureka. ADEQ has to approve all designs and plans for the new system before it can be installed.

Ms. Carroll was concerned about consulting other engineering firms and getting opinions on the plans.

Mr. Ott moved to put a vote on reassigning the bond money on the next council agenda and information on costs be provided to council members before the meeting. Ms. Carroll seconded.

Mayor Harrison said there was no need for a vote. The funding has been committed for wastewater plant improvements and Mr. Forrest's presentation was to keep the council informed as to what is being done.

Mr. Ott withdrew his motion.

### **3. Discussion of Ordinance #1957, an ordinance to establish a Board of Appeals.**

Mr. Berry moved to place Ordinance 1957 on its first reading. Mr. Ott seconded. Five voted aye, Ms. Lindblad opposed. Motion passed 5/1/0

Mayor Harrison read the ordinance aloud.

Mr. Berry moved to approve Ordinance 1957 on its first reading. Mr. Ott seconded.

Mr. Berry asked Mr. Weaver if the at-large members of the board could live outside the city limits. Mr. Weaver said it is necessary that all members of the board live within the city.

Ms. Money wanted a definition of "promptly" as it is used within the ordinance. Mr. Weaver said it should mean as soon as possible since a construction project would have been stopped for the appeal to be heard.

On the motion to approve the ordinance on the first reading, all voted aye. Motion passed 6/0/0

### **4. Discussion regarding bank account signatures.**

Ms. Money wanted to know who was going to be on the signature cards for city accounts now that Ms. Murphy has resigned.

Mayor Harrison said state statute 19-8-106 provides for the mayor, city clerk/recorder and city collector to be the depository board. She said Ms. Sell had agreed to be one of the signers.

Ms. Money said it has been recommended to her to have a third person as a signer.

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### **COUNCIL COMMENTS:**

**Ms. Money** thanked Diane Murphy for her years of service to the city and said she will be missed. She said the Bid Committee would meet at 4:30 p.m. Wednesday, May 12. She encouraged everyone to vote in the special election May 11.

**Mr. Umland** thanked Diane Murphy for her years of service to the city. He encouraged everyone to vote in the special election May 11.

**Mr. Ott** said he is saddened by the resignation of Diane Murphy and he wanted to let her know she was appreciated for her hard work and dedication to the city. He said the bid committee meeting would be open to the public. He encouraged everyone to participate in the May Festival of the Arts activities.

**Mr. Berry** said thanks to Diane Murphy and she will be missed by the council and city. He wished her Godspeed.

**Ms. Lindblad** thanked Brenda Spencer and others for their work on Earth Day and for their visit to the city's schools to involve the children in Earth Day activities. She thanked Diane Murphy for her time with the city. She thanked the mayor for opening up the city's bid process to the public.

### **MAYOR'S COMMENTS:**

Mayor Harrison encouraged everyone to vote May 11 in the special election.

She said if she accepted the bid of the highest bidder on the city's banking services, the city would be making and additional \$93,000 in interest on its funds.

She said Cameron Crow, writer for Paramount Studio's motion picture "Elizabethtown" has added more scenes to the picture to include downtown Eureka Springs. She thanked Lynn Berry, marketing director of the CAPC, for her efforts in escorting Crow and his entourage around the area.

### **ADJOURNMENT:**

Ms. Money moved to adjourn at 10:22 p.m. Mr. Ott seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the City Council minutes of May 12, 2004.

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Mayor Kathy Harrison

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City Clerk Mary Jean Sell

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