

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6:04 p.m. Monday, May 24, 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 Planner Richard Harper, Building Official Randy Mills, Public Works Director Robert Forrest, City Advertising and Promotion Commission (CAPC) Executive Director LeRoy Gorrell, Fire Chief/Chief of Emergency Services David Stopple, 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.

APPROVAL OF THE AGENDA:

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

Mayor Harrison asked to move Item #4 of Old Business, citizens appeal of denial of application to allow multi-family use in the R-1 zoning district at 245 Spring St., to number #1 on the Old Business portion of the agenda. Mr. Ott said Mr. Harper had asked that the item be referred back to the Planning Commission.

Ms. Money asked that Item #1 of Old Business, a discussion of Aerial Data Services and comparative services, be postponed until additional information is available.

Ms. Carroll asked that requests for professional services be included in the Item #2 of New Business discussion regarding the city’s bid policy.

Ms. Carroll also asked that Mr. Forrest speak during the Department Heads comments.

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

APPROVAL OF THE MINUTES: May 10, 2004

Ms. Money noted on Page 2 in the discussion of bids for banking services that “Mayor Harrison said she wouldn’t award the bid (contract) until the bid committee had met.” In council comments, she wants included that she encouraged everyone to vote in the special election.

Ms. Money moved to approve the minutes as amended. Mr. Berry 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 – vote- Marilyn Kelley Still

Ms. Carroll said she had comments that Ms. Still would not be a good choice for

City Council 5/27/04 1

the commission because of the short length of time she has been in the city and there would be a conflict of interest since she is working for the city as a waste treatment plant consultant.

Ms. Money said she has not had time to review Ms. Still’s application.

Ms. Lindblad said she has gotten good feedback from citizens who have met and talked with Ms. Still.

Mayor Harrison agreed to postpone the vote on the nomination to the June 14 meeting.

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

Hospital Commission – Position 5 – Expires 6/1/07- vote – Tammy Bullock

Ms. Money moved to approve the nomination of Tammy Bullock to the Hospital Commission Position 5. Mr. Ott seconded. All voted aye. Motion passed 6/0/0

DEPARTMENT HEAD COMMENTS:

CAPC Executive Director LeRoy Gorrell reported in the first four months of the year, the collection of the 2 percent gross sales tax is up 11 percent, with April up 13 percent. All areas of CAPC expenses are under budget allocations. He thanked the finance department for moving \$3,000 for fire protection in the auditorium into the CAPC accounts.

Hospital Commission – Ms. Sell reported information from the last commission meeting: Hospital Administrator David Cox is still waiting on notification from the Washington D.C. and Little Rock offices of the U.S. Department of Agriculture (USDA) regarding the loan for construction of a new hospital. The hospital is making a greater profit than a year ago. Ms. Lindblad said she would like to see someone from the Hospital Commission make a report to the council.

Fire/EMS Chief David Stoppie reported he has purchased almost all of the personnel fire fighting equipment funded with the FEMA (Federal Emergency Management Agency) grant. Renovation of the building at 143 E. Van Buren is almost complete. An application has been made to FEMA for a 75-foot ladder truck. Johnson Troillett Architecture is working on plans for the renovation of the truck bays at Station #1.

Finance – Mayor Harrison said advertisements have been placed in newspapers for an “accounts supervisor.” She has received two resumes so far. Ms. Money said former Finance Director Diane Murphy had provided a job description for the position.

Building Official Randy Mills provided a written report showing 263 permits issued through May 24 with a total of 300 projected for 2004. A total of 220 general contractor/trades occupation licenses have been issued through May 24 with 100 projected for the year.

Public Works Director Robert Forrest gave a review of his plans for rebuilding and improving the waste treatment plant and for using a “pipe-bursting” method for replacing water and sewer lines.

Mr. Ott asked for cost estimates of the work at the waste treatment plant. Mr. Forrest said they would not be available until the engineering work had been done and he could get estimates based on the engineering plans. He said he had hired Tracy

City Council 5/27/04 2

Engineering of Tulsa, Okla., as his engineering consultant. Mayor Harrison said she has had Ron Tracy’s qualifications since the first of the year when all professionals working with the city were asked to submit their qualifications to provide services.

OLD BUSINESS:

1. Citizens appeal to the denied application to allow multi-family in the R-1 Zoning District at 245 Spring Street – Chuck Schmidt, Chuck Ford

The Planning Commission denied a request for a conditional use permit (CUP) to have a four-unit apartment complex in the building from Mr. Schmidt and Mr. Ford following a public hearing Feb. 26, 2004. Eight property owners within 200 feet of the property expressed their opposition to the application either in person or through letters during the public hearing. The application was denied by a vote of 4/1/0.

Mr. Berry recused himself from the discussion.

Mr. Ott moved to refer the issue back to the Planning Commission. Ms. Carroll seconded.

Mr. Harper said the Municipal Code gives the Council options about how to deal with such an appeal, including upholding the Planning Commission’s decision or returning it to them for further study. He said the CUP discussion was closely tied to whether or not there was ample parking for the apartment complex. When the CUP was denied, there was no need for discussion of the parking issue.

Planning Commissioner Eric Scheunemann said he would prefer the issue not come back to the commission. He said the application had been discussed and voted on.

Ms. Lindblad said she had talked with a member of the Planning Commission and had been told the commission went over every option and the parking before taking action.

Ms. Lindblad called the question. Ms. Money seconded. Five voted aye. Mr. Berry abstained. Motion passed 5/0/1

On the motion to send the issue back to the Planning Commission, Mr. Umland, Ms. Lindblad, Ms. Money voted nay, Mr. Ott and Ms. Carroll voted aye. Motion failed 3/2/1

Mr. Ott moved to open discussion. Ms. Lindblad seconded.

Ms. Carroll moved to grant the request to reverse the Planning Commission's denial of the CUP. Motion died for lack of a second.

Ms. Money moved to uphold the Planning Commission's denial of the CUP. Ms. Lindblad seconded.

Mr. Ott called the question. There was no second.

Mr. Schmidt gave a brief history of the use of the building for both commercial and residential purposes at the same time. He said he was aware he could rent two apartments in the building under the R-1 zoning without a CUP. He said he had the parking available off of King St. to meet the zoning regulations for the four units.

During discussion, Mr. Schmidt said he was currently renting three units in the building and he did not have a Certificate of Occupancy (Cof O) from the building official to rent the spaces.

Bill Rubley, 246 Spring St.; Linda McBride, 264 Spring St.; Jan Bullock, 253 Spring St.; Robert Murphy, 254 Spring St., and Richard Ludig, 242 Spring St., spoke in opposition to the apartment complex.

City

Council 5/27/04 3

Ms. Lindblad said she had letters from Arthur Gadberry, Elizabeth Antonio and Jack Bodie, neighboring property owners, opposing the apartment complex.

Ms. Money said she had 11 letters of opposition.

On the motion to uphold the Planning Commission's denial of the CUP, four voted aye, Ms. Carroll opposed.

Motion passed 4/1/1

The council took a break at 8:05 p.m. and resumed at 8:17 p.m.

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

Ms. Money moved to suspend the rules and place Ordinance 1956 on its third reading by title only. Ms. Carroll seconded. By roll call, five voted aye, Mr. Berry opposed. Motion passed 5/1/0.

Mayor Harrison read the title of the ordinance aloud.

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

Mr. Forrest explained the changes to the ordinance clarifying that if the city built a retaining wall, it is the city's responsibility to repair it. If the wall is holding up private property, it is the property owner's responsibility for repair.

Mr. Berry asked whose responsibility are the walls if they were holding back dirt so a street could be built or if the walls were built before 1910?

Mr. Forrest said there must be proof shown of who built the walls and for what purpose to establish responsibility.

Ms. Money moved to have sections A,B and C in the old ordinance retained in the new ordinance for additional clarification. Ms. Carroll seconded.

Mr. Berry moved to table the vote. Ms. Carroll seconded.

Mr. Berry withdrew his motion. Ms. Carroll withdrew her second.

On the motion to amend the ordinance to include sections A,B and C, five voted aye. Ms. Lindblad voted nay.

Motion passed 5/1/0

Ms. Carroll moved to table the vote on the amended ordinance. Mr. Berry seconded.

There was additional discussion of particular walls and whether or not they were on private or public property.

Mr. Berry called the question. Ms. Money seconded. By roll call, five voted aye. Ms. Lindblad opposed. Motion passed 5/1/0

On the motion to table the vote on the amended ordinance, five voted aye, Ms. Lindblad opposed. Motion passed 5/1/0

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

Ms. Money moved to suspend the rules and place Ordinance 1957 on its second reading by title only. Mr. Berry seconded. By roll call, five voted aye, Ms. Lindblad voted nay. Motion passed 5/1/0

Mayor Harrison read the title of the ordinance aloud.

Ms. Money moved to approve Ordinance 1957 on its second reading by title only. Ms. Carroll seconded.

Ms. Lindblad said she did not believe the proposed ordinance had a broad enough scope for membership and perhaps it would be better to follow the membership guidelines in the International Building Code (IBC).

Building Official Randy Mills said the requirement had been modified because there are not any registered professional engineers qualified for the board who live within the city limits. He believes there are licensed tradespeople qualified through experience to serve on the board.

Mr. Ott moved to call the question. Mr. Umland seconded. By roll call, five voted aye, Ms. Lindblad opposed. Motion passed 5/1/0.

On the motion to approve Ordinance 1957 on its second reading, five voted aye, Ms. Lindblad opposed. Motion passed 5/1/0

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. (3rd reading)

Mr. Ott moved to suspend the rules and place Ordinance 1941 on its third reading by title only. Mr. Umland seconded. By roll call, four voted aye. Mr. Berry and Ms. Lindblad voted against. Motion passed 4/2/0

Mayor Harrison read the title of the ordinance aloud.

Mr. Ott moved to approve Ordinance 1941 on its third reading by title only. Mr. Umland seconded.

Ms. Lindblad moved to table the vote. Mr. Berry seconded.

Mr. Berry wants to wait for the Planning Commission to recommend areas for re-zoning to R-3 rather than approve the ordinance including R-3 and A, agriculture, zones. He does not want agriculture zones included in the final ordinance.

Ms. Money strongly urged the Planning Commission to find and re-zone some R-3 areas as quickly as possible.

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

NEW BUSINESS

1. Citizen to discuss State Highway 187, Town of Beaver Bridge – Pat Matsukis

Ms. Matsukis asked the council for support of a resolution supporting “no change” to Highway 187. She said there are currently four proposals for new bridges and improvements and widening of Highway 187 from Highway 23 North through Beaver to Highway 62 West before the Arkansas Highway and Transportation Department (AHTD). She said AHTD has agreed to wait until after the general elections in November to make a final decision on the old bridge and the improvements to Highway 187. She also discussed the highway and bridge’s places in tourism in the area.

Mr. Ott moved to ask Ms. Matsukis to prepare a resolution to entreat the county/Quorum Court to consider taking over the bridge and highway maintenance. Ms. Money seconded. All voted aye. Motion passed 6/0/0

2. Discussion of city bid policy.

Ms. Money said she has discussed the city’s bid policy with an attorney at the Arkansas Municipal League. She was advised the city council could set a policy as long as it did not step on state law. She is concerned that there is no provision for action should the bid policy not be followed.

Ms. Carroll said she wanted to make a list of things for the city attorney to investigate regarding the city’s bid policy, the state law, etc.

Mayor Harrison said she was following the city’s state auditor’s (Mark Marley) suggestions when she recently advertised for bids for the city’s banking services and certificates of deposit (CDs).

Mr. Ott said he had spoken with Mr. Marley and he did not remember giving her advice about the CD bids. Mr. Ott maintains the CD bid process was flawed and the bids received should be thrown out.

Ms. Carroll moved to have all questions regarding the bid policy and requests for professional services forwarded to Brenda Spencer, with copies to all council members. Ms. Money seconded. Five voted aye, Ms. Lindblad opposed. Motion passed 5/1/0

3. Discussion of authorized signatories for banking business.

Mayor Harrison said state law requires the mayor and city clerk to be the depositors for the city's funds. At the moment, Police Chief Earl Hyatt is the third signer for signature cards. She said the new accounts supervisor would become the third or fourth signer when that person was hired.

A representative of the Municipal League has told Mr. Ott and Ms. Money the council can designate who the third signer should be.

Ms. Carroll moved to have Transit Director Lamont Richie designated as the third signer. Mr. Ott seconded.

Ms. Lindblad moved to table any action until City Attorney Tim Weaver is available for additional information. Mr. Umland seconded.

Ms. Carroll moved to call the question. Ms. Money seconded. Four voted aye, Mr. Umland and Ms. Lindblad opposed. Motion passed 4/2/0

On the motion to table designating a third signer, Mr. Umland, Mr. Ott and Ms. Lindblad voted aye. Mr. Berry, Ms. Carroll and Ms. Money opposed. Motion failed 3/3/0

Mr. Ott moved to adjourn. Ms. Money seconded. The motion and second were withdrawn in favor of making council comments.

CITY COUNCIL COMMENTS:

Mr. Ott announced he is performing in "Romero and Juliet" at Dairy Hollow Thursday, May 27. He said he will not be seeking re-election to the council.

Mr. Berry asked the Mayor about the wording of the advertising for the accounts supervisor.

Ms. Carroll said she is still disturbed by the numbers of free newspapers in the streets.

Ms. Lindblad commended Mayor Harrison for putting so much light on city business, from ordering a copy machine to be installed in the City Hall lobby early in her term, to bidding out CDs for the first time in years. **City Council**

5/27/04 6

MAYOR'S COMMENTS:

Mayor Harrison said she has increased the city's income by \$60,000 per year by putting the CDs out for bids and changing banks. She said she is trying to be a good shepherd of the city's money.

ADJOURNMENT:

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

This is the signature page for the City Council minutes of May 25, 2004.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

