

Mayor Kathy Harrison called the regular City Council meeting to order at 6:30 p.m. Monday, Oct. 25, in the jury room of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Robert "Butch" Berry, Aaron Falotico, Karen Lindblad, Gayle Money, Bill Ott and Earl "Bud" Umland, Mayor's Assistant Brenda Spencer, City Attorney Tim Weaver, Public Works Director Robert Forrest, City Advertising and Promotion Commission (CAPC) Marketing Director Lynn Berry, Auditorium Director/Special Events Coordinator Pearl Brick 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. Mr. Ott seconded.

Mr. Umland asked to have a discussion regarding the repeal of the ordinance dealing with the city clerk's position put on as New Business Item #11.

Mayor Harrison said Old Business Item #3, Ordinance #1941, discussion of the ordinance regarding manufactured homes, is postponed to the Nov. 8 meeting. New Business Item #4, Ordinance 1966 regarding rezoning of property at 80 Mountain St. from residential to commercial, and Item #6, an ordinance to replace the "Green Zone Ordinance" #1628, are not ready. New Business Item #7 regarding an appeal of a denial of a conditional use permit (CUP) at 46 Hillside will be postponed to Nov. 8 at the attorney's request.

Ms. Lindblad said New Business Item #1, Ordinance 1920, regarding special permits, is not ready for discussion. She asked for a workshop at 5 p.m. Monday, Nov. 8, prior to the 6 p.m. council meeting.

Mr. Berry asked to defer New Business Item #10, discussion of retaining wall board of appeals, until the Nov. 8 meeting.

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

APPROVAL OF THE MINUTES: September 13, September 27, October 12

Ms. Money moved to postpone the reading of the minutes. Mr. Falotico seconded. All voted aye. Motion passed 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

City Advertising and Promotion Commission (CAPC) – Position 4 – Expires 6/30/08 – vote – Jack Moyer.

City Council 10/25/04 1

Ms. Money moved to postpone any action on Mr. Moyer's nomination if the mayor will put all the names she has of candidates on the table to let the council choose one to appoint. Mr. Umland seconded. Four voted aye, Mr. Ott and Mr. Berry voted nay. Motion passed 4/2/0

Mayor Harrison said she had the names of James DeVito and Robert J. Murphy as volunteers.

Mr. DeVito said he would remove his name from consideration because of the up-coming election.

COMMITTEE REPORTS

Deer Committee – Berry, Ott and Lindblad Mr. Ott presented "a full inch of information" from the Internet and said committee members would meet at 5:30 p.m. Wednesday, Oct. 27, to review the material.

CAPC Collectors' Definition Committee – Falotico, Lindblad and Ott Mr. Falotico said the group is working.

OLD BUSINESS:

1. Discussion of Ordinance #1948, an ordinance amending the definition of “gift shops.”

Mr. Ott moved to put Ordinance 1948 on its first reading. Ms. Money seconded. Five voted aye, Ms. Lindblad voted nay. Motion passed 5/1/0

Ms. Sell read the ordinance aloud.

Mr. Ott moved to approve Ordinance 1948 on its first reading. Ms. Money seconded.

Ms. Lindblad urged the council to delay action to give residents a chance to review the changes in the proposal.

Ms. Money asked for the addition of an emergency clause. City Attorney Tim Weaver said he would prepare one.

Ms. Lindblad opposed adding an emergency clause because there is not a consideration of the community's health, safety or public peace.

Mr. Falotico noted a change in the definitions in Section 2 regarding restaurants and cafes in the last line. The words “or off” need to be removed to make the local ordinance match the state's enabling statute.

He moved to amend the ordinance to remove “or off” from the last line of Section 2 definition of restaurant or café.

Mr. Umland seconded. All voted aye. Motion passed 6/0/0

Ms. Lindblad said the city attorney had asked her to recuse herself from voting on the ordinance. She said she would, but she thought every other member of the council should as well since they are all affected by the ordinance, especially Mr. Berry since his wife is the CAPC marketing director.

Auditorium Director/Special Events Coordinator Pearl Brick asked the council to consider the ordinance changes and how it would affect the CAPC's overall revenue and ability to maintain the City Auditorium and special events.

Mr. Ott called the question to stop discussion. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

City Council 10/25/04 2

On the motion to approve Ordinance 1948 on its first reading, five voted aye, with Ms. Lindblad not voting. Motion passed 5/0/0

Mr. Ott moved to suspend the rules and place Ordinance 1948 on its second reading by title only. Ms. Money seconded. By roll call, five voted aye, with Ms. Lindblad not voting. Motion passed 5/0/0

Mayor Harrison read the title of Ordinance 1948 aloud.

Ms. Money moved to approve Ordinance 1948 on its second reading by title only. Mr. Ott seconded. Five voted aye, with Ms. Lindblad not voting. Motion passed 5/0/0

Mr. Ott moved to suspend the rules and place Ordinance 1948 on its third reading by title only. Ms. Money seconded. By roll call, four voted aye, Mr. Falotico voted nay and Ms. Lindblad did not vote. Motion passed 4/1/0

Mayor Harrison read the title of Ordinance 1948 aloud.

Ms. Money moved to approve Ordinance 1948 on its third reading by title only. Mr. Ott seconded.

Mr. Falotico moved to table the vote on the third reading until the regular meeting Nov. 8. Mr. Umland seconded. Mr. Berry and Mr. Falotico voted aye, four voted nay. Motion passed 4/2/0

On the motion to approve Ordinance 1948 on its third reading by title only, five voted aye, with Ms. Lindblad not voting. Motion passed 5/0/0

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

Ms. Sell read the emergency clause aloud.

2. Discussion of Ordinance #1974, an ordinance regarding collection of CAPC tax.

Mr. Ott moved to place Ordinance 1974 on its first reading. Mr. Umland seconded. Five voted aye, Ms. Lindblad voted nay. Motion passed 5/1/0

Mayor Harrison, Mr. Falotico, Ms. Money, Mr. Umland, Mr. Ott, Mr. Berry, Ms. Lindblad and Ms. Sell read the ordinance aloud.

Ms. Money moved to approve Ordinance 1974 on its first reading. Mr. Falotico seconded.

Ms. Lindblad moved to table the vote until the public has had a chance to review the changes in the ordinance.

Motion died for lack of a second.

Ms. Money moved for a break at 8:27 p.m. Mr. Ott seconded. All voted aye. Motion passed 6/0/0 The meeting resumed at 8:42 p.m.

On the motion to approve Ordinance 1974 on its first reading, five voted aye, Ms. Lindblad voted nay. Motion passed 5/0/0

Mr. Ott moved to suspend the rules and place Ordinance 1974 on its second reading by title only. Ms. Money seconded. By roll call, five voted aye, Ms. Lindblad voted nay. Motion passed 5/0/0

Mayor Harrison read the title aloud.

Mr. Ott moved to approve Ordinance 1974 on its second reading by title only. Ms. Money seconded. By roll call, five voted aye, Ms. Lindblad voted nay. Motion passed 5/0/0

City Council 10/25/04 3

Mr. Ott moved to suspend the rules and place Ordinance 1974 on its third reading by title only. Ms. Money seconded. By roll call, five voted aye, Ms. Lindblad voted nay. Motion passed 5/0/0

Mayor Harrison read the title aloud.

Mr. Ott moved to approve Ordinance 1974 on its third reading by title only. Ms. Money seconded. By roll call, five voted aye, Ms. Lindblad voted nay. Motion passed 5/0/0

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

Mr. Ott moved to place New Business Item #4, discussion of parking for Saint James Episcopal Church, as the next item of business. Motion died for lack of a second.

Ms. Money suggested having a council meeting Monday, Nov. 1, to finish the agenda items. Mr. Umland seconded and asked the council to choose items to discuss.

Mayor Harrison asked to hold the discussion of Saint James parking.

Ms. Money asked to put Ordinance 1920, the noise ordinance, at the first of the next agenda.

Mr. Berry moved to defer the reading of Resolution #505 adopting the Johanson Group Job Evaluation and Salary program. Mr. Ott seconded. Five voted aye, Ms. Lindblad voted nay.

Mr. Umland moved to defer the discussion of the city clerk's position to the Nov. 8 meeting.

As agreed, agenda items for discussion will now be #1 Ordinance 1966; #2 St. James parking; #3 Main Street merchants; and #4 Ordinance 1971 regarding Corley St.

3. Discussion of Ordinance #1966, an ordinance rezoning property from residential to commercial (80 Mountain St.) (1st reading)

Attorney Wade Williams said there was an error in the writing of the Municipal Code and the application for the rezoning should be returned to the Planning Commission. He said the council cannot overturn a negative decision from the commission.

Ms. Money moved to return the application to the Planning Commission. Mr. Ott seconded. All voted aye. Motion passed 6/0/0

4. Executive session.

Mr. Ott moved to defer the executive session. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

Mr. Falotico moved to consider the next item on the revised agenda. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

5. Discussion of proposed modification of parking signs for the Saint James Episcopal Church, 28 Prospect Ave.

Police Chief Earl Hyatt said he had discussed church representatives' proposal for

parking along Prospect Street from Linwood to Kansas streets with Transit Director Lamont Richie and both approved the plan. From 7:30 a.m. to noon on Sundays parking from Linwood to Kansas St. will be marked for church parking. Loading zones will be used as handicapped zones for those with difficulty getting in and out of vehicles.

Ms. Money moved to accept the recommendations as outlined by Hyatt. Mr. Umland seconded. All voted aye. Motion passed 6/0/0

6. Discussion of recommendations from Main Street Merchants.

Mayor Harrison said she and Mr. Umland had met with the merchants Wednesday, Oct. 13, to discuss the downtown parking and shopping situation. They will be meeting with Transit Director Richie on Friday.

Merchants' representative Mickey Schneider said her group is pleased that the work is going forward.

7. Discussion of Ordinance 1971, an ordinance for the city to regain Corley Street right-of-way from the Parks and Recreation Commission. (1st reading)

Mr. Ott moved to place Ordinance 1971 on its first reading. Ms. Money seconded. Five voted aye, Ms. Lindblad did not vote. Motion passed 5/0/0

Mayor Harrison read Ordinance 1971 aloud.

Mr. Ott moved to approve Ordinance 1971 on its first reading. Ms. Money seconded.

Public Works Director Robert Forrest presented a stack of papers and said he wanted the council to understand what opening a roadway now entails. He said the Arkansas Department of Environmental Quality (ADEQ) has to issue permits on a storm water management plan, pollution prevention study, endangered species studies and others. Since the request to construct more than 400 feet of road involving two spring reservations, additional environmental studies are required. He said a gravel road "just can't be put in" without the permitting process.

He had an engineering estimate from Tracy Consulting Engineers of Tulsa, Okla., showing an estimated cost of \$273,780 for construction of the roadway, water and sewer utility lines.

Mr. Berry said he didn't think all that paperwork was necessary since Corley St. is already a dedicated street.

Mr. Forrest said the street only exists on paper, not on the ground.

City Attorney Tim Weaver cautioned the council that "these are the considerations if you take back the street. The Johnsons want a dirt road and seven trees have to be cut. They are demanding that it be done immediately."

After additional discussion, Mr. Umland called the question to stop discussion. Mr. Ott seconded. All voted aye.

On the motion to approve Ordinance 1971 on its first reading, all voted aye. Motion passed 6/0/0.

COUNCIL COMMENTS

Mr. Falotico said this would be the last weekend for Eureka Screams, a haunted house at the Carroll County Fairgrounds, north of Berryville.

City Council 10/25/04 5

Ms. Money wanted to know if an ordinance from Mr. Richie would be on the next agenda.

Mr. Umland said the ballots for voting in the city council races Nov. 2 seem to be confusing in that the instructions say "vote for one" and there are two council seats. He wanted to assure the public they could vote in both races.

Mr. Ott encouraged everyone to get out and vote.

Mr. Berry said he wants an engineer's report on the status of the work at the wastewater treatment plant for the Nov. 8 meeting.

Ms. Lindblad said she disagrees with passing ordinances with emergency clauses when there is no danger to the community's peace, health or safety.

MAYOR'S COMMENTS

Mayor Harrison distributed copies of a proposed ordinance returning the city clerk-treasurer's job to full-time and setting a salary. She said there have been some problems with permits being issued by persons without proper authority and keeping of the city's records.

She congratulated John Rankine on his “fabulous” photographic exhibit.

She said she was very disappointed that the council had not adopted Resolution 505, the Johanson Group job and salary study, and hoped it could be done at the next meeting.

ADJOURNMENT

Mr. Ott moved to adjourn at 9:45 p.m. Ms. Money seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the minutes of the Oct. 25, 2004, regular City Council meeting.

Mayor Kathy Harrison

City Clerk Mary Jean Sell

City Council 10/25/04 6