

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

PRESENT: Mayor Kathy Harrison, Aldermen Robert "Butch" Berry, Beverly Blankenship, Aaron Falotico, Terry McClung, Rick Rojek, Lori Weaver, City Attorney Tim Weaver, Public Works Director Robert Forrest, CAPC Marketing Director Lynn Berry and City Clerk-Treasurer Mary Jean Sell.

PLEDGE OF ALLEGIANCE:

Mayor Harrison led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA:

Mr. Falotico moved to approve the agenda. Mr. Rojek seconded.

Mayor Harrison said Mark Jipp had asked for a postponement of Old Business Item 1, Stone Wall Board of Appeals discussion of wall on Ellis Grade, until the Sept. 12 regular meeting.

Mr. Rojek moved to consider a revised offer to settle the Latimer lawsuit as Old Business Item #6. Mr. McClung seconded. Four voted aye. Mr. Falotico and Ms. Weaver voted no. Motion passed 4/2/0

Mr. Berry moved to defer New Business Item #1, consideration of proposed Ordinance 1994, amending Municipal Code Chapter 7.84, Signs, to the Sept. 12 meeting. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

Mayor Harrison said Mr. Forrest has asked to move New Business Item 5, review of ETEC change order, to include it with department report.

Mr. Berry moved to defer reading of the minutes of Aug. 6 to the Sept. 12 meeting. Mr. Falotico seconded. Mr. Berry asked if the minutes could be sent out by e-mail. As amended, all voted aye. The motion passed 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Hospital Commission – Position 6 - Expires 9/7/05

Historic District Commission – Position 2 – Expires 3/7/08

CAPC – Position 1 – Expires 6/30/05

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

Mayor Harrison said there is one more vacancy on the CAPC, the restaurant representative seat. Mr. McClung encouraged her to reappoint Steve Roberson to the CAPC.

DEPARTMENT & COMMISSION REPORTS:

CAPC, Fire/EMS, Building, Cemetery, Planning, Finance

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CAPC – Ms. Berry said the CAPC tax collections (2 percent gross sales tax collections on hotels, motels, restaurants, gift shops and attractions) in June, reported in July, are down 6 percent over the projected revenue. For the seven months of the year to date, collections are down 1.5 percent/approximately \$7,500. She said Operations Manager Sheila Hulse estimates approximately \$10,000 is owed on delinquent reports.

She said discussions are being held as to whether or not the Visitors' Center will remain in the transit department building, 137 W. Van Buren, after the existing contract expires in March of 2006.

Fire/EMS – Ms. Sell read the report aloud.

Mr. Falotico was concerned about the possible awarding of a grant to purchase another aerial fire truck and how would the city afford to house it, maintain and operate it. He was also concerned about the cost to the department for the booth at the county fair.

Building – Ms. Sell read the report aloud.

Mr. McClung asked about the work in the Harmon Park Community Building's kitchen by Eureka Kids. Mayor Harrison said the Building Official has not been contacted about installation of any equipment.

Mr. Falotico wanted to know why the number of permits issued is down from the July figures of 2004.

Cemetery – Ms. Sell reported she was not aware of any meetings.

Hospital – Ms. Sell reported Hospital Administrator would bring a report to the Sept. 12 meeting.

Planning – Ms. Sell reported the Commission had not had a quorum for its Aug. 11 meeting.

Finance – Mayor Harrison read the financial report. The Council agreed to hold a budget workshop at 6:30 p.m. Thursday, Aug. 25, to finalize the mid-year budget adjustments.

Public Works – Mr. Forrest explained the need for the change order to include a Jet Tech Nutrient Feed System, an additional oxygen analyzer, and a floating, non-solids excluding, supernatant decanter for a total cost of \$34,082 for the new waste treatment plant on Highway 23 North.

Mr. McClung moved to approve the change order for the additional equipment. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

OLD BUSINESS:

1. Discussion of Ordinance #1997 – regarding bid limits (1st reading)

Mr. Berry moved to place Ordinance 1997 on its first reading. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

Mayor Harrison read the ordinance aloud.

Mr. Berry moved to approve Ordinance 1997 on its first reading. Mr. Rojek seconded.

Mayor Harrison said this ordinance places the city's Municipal Code in line with the new limits set by the 2005 General Assembly.

Mr. Falotico moved to strike Section 5. Emergency Clause. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

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Mr. McClung moved to approve Ordinance 1997 on its first reading as amended. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

2. Discussion of Ordinance #1999 – regarding loading zone at Pendergrass Corner (2nd, 3rd and emergency clause reading)

Mr. Falotico moved to suspend the rules and place Ordinance 1999 on its second reading by title only. Mr. Berry seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Harrison read the ordinance aloud.

Mr. Falotico moved to approve the second reading of Ordinance 1999 by title only. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

Mr. Berry moved to suspend the rules and place Ordinance 1999 on its third reading by title only. Mr. Falotico seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Harrison read the ordinance aloud.

Mr. Falotico moved to approve the third reading of Ordinance 1999 by title only. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

Mr. Falotico moved to read the emergency clause. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

Mayor Harrison read the emergency clause aloud.

3. Discussion of Ordinance #2000, regarding naming of Lower Wall St., from Owl St. to Armstrong St. as one-way down hill. (2nd reading)

Mr. Falotico moved to suspend the rules and place Ordinance 2000 on its second reading by title only. Mr. Rojek seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Harrison read the ordinance aloud.

Mr. Falotico moved to approve the second reading of Ordinance 2000 by title only. Mr. Rojek seconded. Five voted aye. Mr. Berry voted no. Motion passed 5/1/0

4. Discussion of Ordinance #1995 – levying personal and real property taxes for 2006.

Mr. Falotico moved to suspend the rules place Ordinance 1995 on its third reading by title only. Ms. Blankenship seconded. By roll call, all voted aye. Motion passed 6/0/0.

Mayor Harrison read the ordinance aloud.

Mr. Rojek moved to approve Ordinance 1995 on its second reading by title only. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

5. Discussion regarding painting of new transit shuttle vans.

Mayor Harrison read aloud prices for the painting of the three vans from Transit Director Lamont Richie: \$4,536 each for a total of \$13,608, and decals are estimated at \$750 per vehicle.

Ms. Blankenship said she would like to see the new vans match the colors of the trolleys. She has priced the paint jobs locally and says each van can be done for \$3,800. She believes the Transit Department will have a maintenance surplus of \$16,000 at the end of the year that could be used for the painting.

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Ms. Blankenship moved to have the vans painted green. Mr. Falotico seconded.

Mr. Berry suggested revisiting the issue at the end of the year, considering the city's budget crunch and the increasing cost of gasoline.

Ms. Blankenship withdrew her motion and Mr. Falotico withdrew his second.

Council agreed to revisit the issue during the fourth quarter of the year.

Ms. Blankenship read aloud: "I make a motion to reconsider Mr. McClung's motion, from August 8th, that the City provide to the Johnsons a 30' easement in which to build a gravel road approximately 15' wide, at its widest, approximately 400' in length along Corley street and that the owner be responsible for the installation of this road and also included in that is Berryville Avenue and at the end of the easement where Corley Street adjoins their property, on the north side, where the ravine is located, that they would build a pool which would be by bridging with tin horns or by spillway to cross that and provide a pool like Dr. Brahana has suggested.

And Mr. Rojek's amendment to this motion, by specifying the conditions of the road construction as laid out in Dr. Brahana's letter in paragraph 2.

I would like to amend Mr McClung's motion and have it stop at the end of Berryville Avenue, striking the building of a pool. I do not believe council has the authority to tell any person what they have to build or not build on their own private property."

Mr. McClung seconded the motion. Four voted aye, Mr. Falotico and Ms. Weaver voted no. Motion passed 4/2/0

Ms. Blankenship said she had discussed the situation with the county judge and the municipal judge. She said they told her if the case came to them, they would grant access to the property and tell the city to build a road.

She repeated her statement/motion to remove the amendment to the motion requiring the road to stop at the end of Berryville Avenue and striking the building of the pool. Mr. Rojek seconded. Four voted aye. Mr. Falotico and Ms. Weaver voted no. Motion passed 4/2/0

On Mr. Rojek's motion to include paragraph 2 of Dr. Brahana's letter ("The opinion above is based on specific conditions of road construction, including: 1) a road surface that is permeable and allows infiltration of precipitation; 2) a road surface that utilizes a geomembrane for stabilization; 3) a road width that is narrower than 30 feet (approximately 15 feet wide) to allow road placement in the plated right-of-way with a minimum of tree removal; and 4) an alignment that will require contouring, where feasible, to facilitate upgradient infiltration of runoff."), four voted aye. Mr. Falotico and Ms. Weaver voted no. Motion passed 4/2/0

After discussion, Mr. Berry called the question to stop discussion. Mr. Rojek seconded. Four voted aye. Mr. Falotico and Ms. Weaver voted no. Motion passed 4/2/0

Ms. Blankenship reread her statement/motion. Four voted aye. Mr. Falotico and Ms. Weaver voted no. Motion passed 4/2/0

Mr. McClung moved to take a break at 8 p.m. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

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NEW BUSINESS:

1. Discussion of Ordinance 2001 regarding CAPC collections, enforcement. (McClung, Rojek)

Mr. Rojek moved to place Ordinance 2001 on its first reading. Mr. McClung seconded. Five voted aye. Mr. Falotico voted no. Motion passed 5/1/0

Mayor Harrison read the ordinance aloud.

Mr. Rojek moved to approve Ordinance 2001 on its first reading. Mr. McClung seconded.

Mr. Weaver explained the ordinance reduces the penalty for failure to pay the CAPC tax from a felony to a Class A misdemeanor. That gives him authority to prosecute in district court.

Mr. McClung moved to rephrase the title of the ordinance to include changing from a felony to Class A misdemeanor. Mr. Rojek seconded. Five voted aye. Mr. Falotico voted no. Motion passed 5/1/0

On the motion to approve Ordinance 2001 as amended on its first reading, five voted aye. Mr. Falotico voted no. Motion passed 5/1/0

Mr. McClung moved to suspend the rules and place Ordinance 2001 on its second reading by title only. Mr. Rojek seconded. By roll call, five voted aye. Mr. Falotico voted no. Motion passed 5/1/0

Ms. Sell read the title of the ordinance aloud.

Mr. McClung moved to approve Ordinance 2001 on its second reading by title only. Mr. Rojek seconded. Five voted aye. Mr. Falotico voted no. Motion passed 5/1/0

Mr. McClung moved to suspend the rules and place Ordinance 2001 on its third reading by title only. Mr. Rojek seconded. By roll call, five voted aye. Mr. Falotico voted no. Motion passed 5/1/0

Ms. Sell read the title of the ordinance aloud.

Mr. Rojek moved to approve Ordinance 2001 on its third reading by title only. Mr. McClung seconded. Five voted aye. Mr. Falotico voted no. Motion passed 5/1/0

2. Discussion of the CAPC request for city to fund auditorium. (McClung, Rojek)

Ms. Berry read aloud the text of the CAPC request, which said, in part: "The city auditorium is used as a venue to host festivals and special events with the hope of attracting tourists, it gets equal use by locals... For the past several years, 2001 through 2004, approximately \$819,000 of tourism tax collections have been spent by the CAPC for the operation, maintenance, renovation and staffing of the City Auditorium... Auditorium expenditures for 2005 are estimated to be about \$236,000... It is not feasible to continue diverting such a significant portion of tourism tax dollars, designated for advertising and promotion, to the running of the city auditorium when it clearly benefits all the citizens of Eureka Springs."

3. Discussion of CAPC request for city to pay loan for SAT match. (McClung, Rojek)

The city was awarded a \$250,000 Saving America's Treasures grant in 2002 from the Department of the Interior for renovation of the theater portion of the City

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Auditorium. The city matched that amount with a \$265,000 five-year loan. The CAPC was to make the annual payments. Because of the CAPC budget crunch, the city made this year's payment of approximately \$52,000.

Mr. Rojek moved for the city to forgive the loan payment reimbursement from the CAPC for 2005 and to pay the 2006 payment. Mr. McClung seconded.

Mr. Falotico moved to table the motion to the Sept. 12 meeting. Mr. McClung seconded. All voted aye. Motion passed 6/0/0

4. Discussion of settlement of Latimer/Rose Hall lawsuit.

Mr. Rojek moved to open discussion of the settlement offer. Mr. McClung seconded.

The proposal allows, in part, Sandra Latimer to pay the city \$35,000. The City is asked to issue a conditional use permit (CUP) to operate a bed and breakfast with wedding services at 46 Hillside Ave. The City is asked to transfer the CUP to Susan Misavage to operate a bed and breakfast with wedding services in the same location, providing she purchases the property on or before March 15, 2006.

Mr. McClung moved to approve the agreement and settle the lawsuit. Mr. Rojek seconded.

Mr. Rojek moved to amend the "first whereas" to add the words "and required bed and breakfast license and CoFO (Certificate of Occupancy) to operate a business" after "permit" at the end

of the paragraph. Mr. McClung seconded.

Mr. Falotico moved to table the motions to the Sept. 12 meeting. Ms. Weaver seconded. Mr. Falotico and Ms. Weaver voted aye. Four voted no. Motion failed 2/4/0

On the motion to amend the "first whereas," five voted aye. Ms. Weaver voted no. Motion passed 5/1/0

On the motion to accept the settlement agreement as amended, four voted aye. Mr. Falotico and Ms. Weaver voted no. Motion passed 4/2/0

CITY COUNCIL COMMENTS:

Mr. Falotico thanked members of the Council, particularly Ms. Blankenship, for their hard work on the mid-year budget adjustments. He is working on the finance department ordinance and hopes to have a finance department by the first of the year. He said the mayor should not enter into debate without stepping aside as mayor, as per *Robert's Rules of Order*.

Ms. Blankenship said she wants green transit vans.

Ms. Weaver said school has started and urged everyone to watch for children.

MAYOR'S COMMENTS:

Mayor Harrison announced the state will recognize Eureka Springs as a Fire Wise Community during a reception from 11 a.m. to 1 p.m. Thursday, Sept. 8, at the Inn of the Ozarks Oak Room. RSVP by calling the fire department.

American Style magazine has named Eureka Springs one of the Top 25 Arts Destination in the US. We are included with Carmel, Calif., Naples, Fla., Laguna Beach, Calif., and Aspen, Colo.

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Our nomination to the National Register as a nationally significant historic district has been approved by the Department of the Interior. The Arkansas Historic Preservation Program (AHPP) has given us \$85,000 to have the city resurveyed and to have the nomination package prepared by Sandra Taylor Smith of North Little Rock.

The Executive Committee of the Arkansas Municipal League met here at the end of last week. The Committee wants to encourage representatives of communities to meet with state legislators on a regular basis to keep track of proposed resolutions and legislation that will affect cities.

ReMax will have an open house Thursday. They will have a hot air balloon behind the Bank of Eureka Springs/McDonald's for free rides.

ADJOURNMENT:

Mr. Falotico moved to adjourn at 9:22 p.m. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the minutes of the Aug. 22 regular City Council meeting.

Mayor Kathy Harrison

City Clerk-Treasurer Mary Jean Sell

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