

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

PRESENT: Mayor Kathy Harrison, Aldermen Robert “Butch” Berry, Beverly Blankenship, Penny Carroll, Terry McClung, Rick Rojek, Lori Weaver, City Attorney Tim Weaver, Public Works Director Jay Wilson, Parks and Recreation Commission Director Bruce Levine, Planning Commission/Board of Zoning Adjustment Chairman Leah Karnes 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. Rojek moved to approve the agenda. Ms. Carroll seconded.

Mayor Harrison added a discussion by attorney Wade Williams and Mr. Weaver regarding a proposed settlement to the lawsuit regarding the zoning of the Old Stone Church, 80 Mountain St. as Item #1 under Old Business.

She added a discussion of a water drainage problem on Steele St. as part of the Public Works department report.

She added a discussion of Bill King’s letter from the *Lovely County Citizen* as Item #2 under New Business.

Ms. Blankenship corrected the dates of the minutes to be read as Nov. 14 and Nov. 28. Mayor Harrison added the minutes from the special meeting Dec. 5.

She asked to add a discussion of the Latimer referendum petition to Old Business. Mr. McClung seconded.

Mr. Rojek asked to postpone discussion of Resolution #519 to the Jan. 9, 2006, regular meeting to give members of the City Advertising and Promotion Commission (CAPC) time to review the resolution before it is read by the Council.

Mr. Berry asked for a discussion of the establishment of a finance committee as Item #3 of New Business. Mr. McClung seconded.

Ms. Carroll asked to reopen discussion about having a second December meeting instead of canceling the meeting scheduled for Dec. 26. It was set as Item #4 of New Business.

All voted in favor of approving the agenda as amended. Motion passed 6/0/0

APPROVAL OF THE MINUTES: Nov. 14, Nov. 28, special meeting Dec. 5, 2005

Nov. 14 – Ms. Blankenship moved to approve the minutes of the regular City Council meeting Nov. 14. Mr. Rojek seconded.

City Council 12/12/05 1

Ms. Blankenship noted a correction in a date on Page 4 Item #4, discussion of ABC application for the auditorium, from Dec. 12 to Nov. 28.

On the motion to approve the minutes of Nov. 14 as amended, all voted aye. Motion passed 6/0/0

Nov. 28 – Ms. Blankenship moved to approve the minutes of the regular City Council meeting Nov. 28. Mr. Rojek seconded.

Ms. Blankenship noted a correction in the discussion of the finance director’s position on Page 5. She said she had made a motion to set the salary at \$36,600 for the finance director and it is not reflected in the minutes.

All agreed to postpone approval of the Nov. 28 minutes to the meeting of Jan. 9, 2006.

Dec. 5 – Mr. McClung moved to approve the minutes of the special City Council meeting of Dec. 5. Mr. Rojek seconded. All voted aye. 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 11/30/07

CAPC – Position 4 – Expires 6/30/08

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

DEPARTMENT & COMMISSION REPORTS:

Police, Transit, HDC, Building/Harmon Park Community, Public Works/Update on waste treatment plant project, ACE

Police – Ms. Sell read the report from Chief Earl Hyatt.

Transit – Ms. Sell read the report from Director Lamont Richie

Building/Harmon Park Community Building – Mr. Berry said he has gotten the technical information for the fire suppression system for the kitchen area. Barb Dunnam is reviewing the material. He said he hopes to take bids on the system soon.

Public Works – Director Jay Wilson said USI consulting engineers have sent him the application to fill out to go with the plans for the wastewater treatment plant to the Arkansas Department of Environmental Quality (ADEQ). He hopes to have it completed and returned to USI within a day or so. He distributed copies of the engineering fee estimates for the plant.

Mildred Krebbs spoke to the Council regarding a water drainage ditch problem on Steele St. She said the drainage ditch on the east side of the street is partially blocked and water flows onto her property. She presented a bid of \$2,991 for repairs of the damage to her sidewalk, steps, garage driveway and rock wall from the water.

Mr. Wilson presented photographs of the ditch during a heavy rainstorm. He said the ditch cannot be dug down much further because of gas lines.

Mayor Harrison said she had talked with Chief Hyatt about problems with cars parking on both sides of the street blocking access by emergency vehicles.

Ms. Blankenship read portions of the Municipal Code regulating parking on public streets and prohibitions of filling existing drainage ditches.

Mr. Rojek moved to direct Public Works to dig out the ditch on the city's right of way. Ms. Blankenship seconded.

City Council 12/12/05 2

Ms. Carroll wanted to postpone discussion until Sandra Synar, a property owner across from Ms. Krebbs could be notified of the discussion and given the opportunity to participate.

After additional discussion, Mr. Rojek withdrew his motion. Ms. Blankenship withdrew her second.

Mr. Rojek moved to postpone the discussion to the Jan. 9, 2006, regular meeting. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

Open Microphone

The Council allows citizens to speak to any issue during the first meeting of each month. Each speaker is asked to limit comments to three minutes. The Council does not respond or engage in discussion during this time

Karen Lindblad – said she is here to question the wisdom of two Council members forming a committee to oversee invoices and payment of bills. Department heads have more experience and knowledge about what their departments need. The Council is now moving into administrative areas. The Council is supposed to be a legislative body, not administrative. Citizens are wondering about the intrusive nature of this action.

The Council meeting resumed at 7:05 p.m.

OLD BUSINESS:

1. Discussion of proposal to settle the Bird vs. City of Eureka Springs lawsuit.

Attorney Wade Williams, representing Dave Bird, owner of the Old Stone Church at 80 Mountain St., has proposed a settlement to the zoning issue of the case. He suggests the Council agreeing to a court order granting the zoning request, but restricting the use of the property so a restaurant cannot be put in the building. He said there had been a discussion about putting a restriction on the deed when the rezoning application was heard before the Planning Commission/Board of Zoning

Adjustment, but the city's ordinances do not allow that type of exception.

Mr. Weaver explained state law will not allow the exception, but a court-ordered restriction could be put on the deed.

Mr. McClung moved to approve the settlement agreement on the Old Stone Church lawsuit between the city and Mr. Bird and for the attorneys to negotiate the settlement. Ms. Carroll seconded. All voted aye. Motion passed 6/0/0

2. Discussion of vacating a portion of Hines St.

Mr. McClung moved to approve the vacation of a portion of Hines St. as requested. Mr. Berry seconded.

Mr. Levine and Ms. Karnes spoke to the request on behalf of their respective commissions' actions. Mr. Weaver explained the requirements for notification and responses by affected property owners.

Mr. McClung withdrew his motion. Mr. Berry withdrew his second.

Mr. McClung moved to have the city attorney work out a land-for-land trade/for like kind across the street in lots 11, 12 or 13. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

City Council 12/12/05 3

3. Discussion of vacating an unnamed alley between Peerless Ave. and Highway 62.

Mr. McClung moved to vacate the alley as requested. Mr. Rojek seconded.

Mr. Levine and Ms. Karnes spoke to the request on behalf of their respective commissions' actions

Mr. McClung withdrew his motion. Mr. Rojek withdrew his second.

Mr. McClung moved to have an ordinance prepared to approve the vacation of the alley pending notification from the utility companies that they have no objections. Mr. Berry seconded.

Mr. Weaver said a description of the area to be vacated needs to be created. He asked who is going to pay for the description. Ms. Carroll said the property owner should pay for the description.

On the motion, Mr. McClung voted aye, five voted no. Motion failed 1/5/0

4. Discussion of vacating a portion of McElyeu St.

Mr. McClung moved to approve the vacation of a portion of McElyeu St. and an unnamed alley. Mr. Rojek seconded.

Ms. Karnes said the Planning Commission voted to approve this vacation, reserving the right for utility rights-of-way.

Mr. Levine said the Parks Commission voted not to vacate this area.

On the motion, four voted aye, Ms. Blankenship and Ms. Weaver voted no. Motion passed 4/2/0

5. Discussion of Latimer lawsuit referendum petition appeal.

Mayor Harrison gave an up-date on the progress toward getting the appeal dismissed. He said she has talked with attorney Matt Bishop about drawing the petitions for dismissal. She said the appeal will be null and void on Jan. 9, 2006, if petitions to dismiss are not filed.

NEW BUSINESS:

1. Discussion of priorities for 2006 relating to capital expenditures.

There was a brief discussion of the estimated cost for the new fire station at 144 E. Van Buren; the Planer Hill park and ride lot development; the parks and auditorium requests.

Council members agreed to hold a budget workshop at 6:30 p.m. Monday, Dec. 19, to work on the general fund and capital expenditures requests.

2. Discussion of letter from Bill King, publisher of the Lovely County Citizen, regarding the CAPC's production of a festival guide.

Mr. King has written a letter opposing the CAPC representative soliciting for advertising from local merchants to support the festival guide. He feels it is competition for at least two other businesses in town that do similar work. He said he would not pursue a lawsuit, but asked the Council to have the CAPC "do the right thing" and not compete against local businesses.

Mr. Weaver said he would like to talk with attorneys at the Municipal League and develop an opinion on the situation. He asked that the discussion be postponed to the first meeting in January.

3. Discussion of establishing a finance committee within the City Council.

Mr. Berry said proposed Ordinance 2011 is not intended to allow the Council to overstep its duties, but to provide a mechanism for the Council to review expenditures and control the city's budget. He would like to have a workshop on the proposal.

Mr. McClung moved to place Ordinance 2011 on its first reading. Mr. Rojek seconded. Five voted aye, Ms. Weaver voted no. Motion passed 5/1/0

Mayor Harrison read the ordinance aloud.

Mr. McClung moved to approve Ordinance 2011 on its first reading. Mr. Berry seconded. Five voted aye. Ms. Weaver voted no. Motion passed 5/1/0

Mr. Berry said he would provide copies of the ordinance by e-mail to the Mayor, City Clerk and City Attorney.

Ms. Carroll and Mr. McClung asked for Mr. Weaver to review the ordinance and provide a written opinion.

COUNCIL COMMENTS:

Mr. McClung said the town Christmas lights are disappointing this year. He would like to ask the Council to try to find a way to support ECHO, the new free clinic.

Mr. Rojek wished every one a Merry Christmas.

Ms. Carroll said she had a disturbing experience at the last Planning Commission meeting and wants to hire a city planner. She said the processes are very confusing and a discredit to the city.

MAYOR'S COMMENTS:

Mayor Harrison said bids have been awarded for two CDs to Community First Bank with a rate of 6.28 percent.

ADJOURNMENT:

Mr. McClung moved to adjourn at 10 p.m. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the minutes of the regular City Council meeting Dec. 12, 2005.

Mayor Kathy Harrison

City Clerk Treasurer Mary Jean Sell

