

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6:02 p.m. Monday, Feb. 28, 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, Mayor’s Assistant Brenda Spencer, Planning Commission Chairman Leah Karnes 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. Blankenship moved to approve the agenda. Mr. Rojek seconded.

Mayor Harrison asked to move the report from the Tree City Committee to the Committee Reports portion of the meeting. Council agreed.

All voted aye to approve the agenda. Motion passed 6/0/0

**APPROVAL OF THE MINUTES: February 14, 2005**

Ms. Blankenship moved to approve the minutes as submitted. Ms. Weaver seconded. All voted aye. Motion passed 6/0/0

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

Planning Commission – Position 6 – Expires 1/1/06

**Historic District Commission – Position 6 – Expires 3/7/05 – reinstate – Debbie Frisbie**

Mayor Harrison re-nominated Ms. Frisbie. Ms. Blankenship moved to approve the nomination. Ms. Weaver seconded.

Ms. Blankenship said she had talked to HDC members and they had “great things to say about her” and were in favor of her reappointment.

Mr. Berry said he had opposite response from persons he had talked with. He said he did not have the application forms Ms. Frisbie and Ms. Greene had filled out. He moved to defer consideration of both appointments until everyone has a chance to review the applications and talk with the candidates. Mr. Falotico seconded. All voted aye. Motion passed 6/0/0

Historic District Commission - Position 7 – Expires 3/7/05 – reinstate – Melissa Greene

**DEPARTMENT AND COMMISSION REPORTS:**

CAPC, Hospital, Fire/EMS, Building and Cemetery

Ms. Sell read aloud reports from the City Advertising and Promotion Commission

**City Council 2/28/05 1**

(CAPC), Fire/EMS, Building Department and spoke about the Hospital Commission.

Mayor Harrison spoke briefly about the Cemetery Commission.

**Tree City Committee** Chairman Michael Teague gave a presentation on the Committee, its work and goals. He said Eureka Springs is now the oldest Tree City in Arkansas, having participated in the program 22 years. The Tree City program is sponsored by the National Arbor Day Foundation, the USDA Forest Service and the National Association of State Foresters. The Committee is planning a week-long celebration of Arbor Day in late March, including the planting of 125 trees commemorating the 125<sup>th</sup> anniversary of the incorporation of the town.

## **OLD BUSINESS:**

### **1. Discussion of Ordinance #1987 – an ordinance to amend Chapter 114-2(b) regarding existing historic churches. (2<sup>nd</sup> reading)**

Ms. Blankenship moved to suspend the rules and place Ordinance 1987 on its second reading by title only. Mr. Falotico seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Harrison read the title of the ordinance aloud.

Mr. McClung moved to approve Ordinance 1987 on its second reading by title only. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

### **2. Discussion of Ordinance #1988 – an ordinance to rezone a vacant lot at 215 W. Van Buren from Agriculture to C-2 (2<sup>nd</sup> reading)**

Mr. McClung moved to suspend the rules and place Ordinance 1988 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 title aloud.

Mr. McClung moved to approve Ordinance 1988 on its second reading by title only. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

### **3. Review documentation and history of rezoning of Old Stone Church, 80 Mountain St., to C-3.**

Mr. Falotico moved to open discussion. Ms. Blankenship seconded.

Mr. Falotico said he had spoken with David Schoen, attorney with the Arkansas Municipal League, about the Planning Commission's votes on the matter. He quoted Mr. Schoen as saying "if the Commission transmitted its wish to the City Council, and they voted nay, the Council shouldn't be discussing the matter."

Wade Williams, attorney representing applicants David and Shirley Bird, said the Municipal League's opinion is irrelevant. He continues to believe the Planning Commission did not have a negative vote on the issue and did not properly transmit a recommendation to the Council.

Mr. Falotico asked if proposed Ordinance 1987 recognizing historic churches in the R-1, Victorian Residential, district could be a compromise. Mr. Williams said he is not interested in a compromise.

Mr. Weaver said he has problems with Ordinance 1987 referring to "churches" when it should be referring to "buildings where religious services are held."

## **City Council 2/28/05 2**

Mr. McClung moved to go forward with his motion from the Feb. 14 meeting to accept the responsibility to the city's Municipal Code and to go through the process of holding a public hearing on the rezoning appeal. Mr. Berry had seconded that motion. Mr. McClung voted aye, five voted nay. Motion failed 1/5/0

## **NEW BUSINESS:**

**1. Discussion of Ordinance #1989 – an ordinance to establish a Board of Appeals for stone walls.** The ordinance has not been prepared.

### **2. Discussion of drafting a resolution concerning Council review of professional services.**

Mr. Berry said that the city council of Bentonville reviews all bid packages, contracts, change orders in contracts and awarding of bids. He would like for the Eureka Springs City Council to do the same.

Mr. Weaver said he had talked with the city attorney in Bentonville and his interpretation of state law regarding such matters is not as strict as Mr. Berry's.

Mr. Berry said the Council is responsible. He just wants contracts, change orders and new projects brought to the Council for discussion prior to any action being taken.

Mr. Falotico said he would like to have the bid specifications before bids are awarded on projects.

Mr. Weaver warned against discussing bids or bidders, why or why not contracts were awarded at the council table.

Mr. Falotico moved to draft a resolution for the City Council to review bid packages before they are published and

to have the mayor notify the Council of bid awardees at the next Council meeting. Mr. Berry seconded.

Mr. Berry asked for an amendment to include having some sort of presentations to the Council on large projects before time and money is invested in preparation of specifications.

Mr. Falotico moved to amend his motion to include preliminary information on projects from department heads and “guesstimates” of project costs. Mr. Berry seconded.

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

#### **4. Discussion of drafting a resolution for Council review of bid specifications.**

Aldermen agreed this item had been covered in the previous discussion and motion.

#### **COUNCIL COMMENTS:**

**Mr. McClung** asked the Mayor for an update on the Spring Street paving project.

Mayor Harrison said there have been two “slight” cave-ins (in the Pendergrass Corner area) and the rock walls underneath the street are being rebuilt.

An engineer from USI has been to town and looked at Spring Street. In his opinion, it will take a minimum of 90 days, probably longer, to resurface (the 1,700 feet from Main St. to the post office) with concrete. She said she would get that estimate in writing from the engineer.

#### **City Council 2/28/05 3**

**Mr. Falotico** had several subjects:

1. Citizens are telling him they are upset with the additions to the last-minute additions to the meeting agendas
2. He asked for a capital funds budget workshop. Council agreed to 6:30 p.m. Thursday, March 10.
3. He wants financial reports from all departments and the CAPC in April.
4. He wants all city commission members to review the city and state laws pertinent to their commissions. He said no commission has the authority to change the laws without the City Council.
5. He wants to discuss community center funding during the March 28 meeting. Ms. Blankenship joined as a second for the agenda item.

**Mr. Berry** said he had talked with attorney Tom Kieklak in Springdale regarding this Council’s ability to override the Mayor’s Dec. 14, 2004, veto of the previous Council’s vote to grant a conditional use permit (CUP) to Sandra Latimer to operate a bed and breakfast at 46 Hillside Ave. Mr. Kieklak and the Municipal League believe this Council does have the authority to override the veto. Mr. Berry would like for Mr. Kieklak to attend the next Council meeting to discuss the situation.

Mayor Harrison said the Council will have to approve the expenditure to have Mr. Kieklak attend the meeting since it is not part of the lawsuit brought by Ms. Latimer against the city.

Mr. Weaver said hearings have been schedule in each of the next three months regarding the lawsuit. He said Municipal League attorney David Schoen had provided opinions from the state’s attorney general from which Mr. Weaver based his opinion that this Council could not overturn the veto.

Mr. Berry withdrew his comments.

**Ms. Blankenship** said she wants the city’s January financial report. She would appreciate getting the department financial reports, but she also wants someone to from each department to answer questions.

**Ms. Weaver** said everyone had a great time at the annual elementary school spaghetti dinner last Thursday night and the chili cook-off for the Academy of Excellence on Friday.

#### **MAYOR’S COMMENTS:**

Mayor Harrison said she has been surprised by the actions of a lot of people and hopes “we can all behave the way we should.”

**ADJOURNMENT:** Mr. Falotico moved to adjourn at 8:05 p.m. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the minutes of the regular meeting of the City Council Feb. 28, 2005.

---

City Clerk Mary Jean Sell

---

Mayor Kathy Harrison

**City Council 2/28/05 4**