

Mayor Kathy Harrison called the regular meeting of the City Council to order a 6 p.m. Monday, Jan. 5, 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, Parks and Recreation Executive Director Bruce Levine 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:

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

Mr. McClung asked to add the Mayor's veto of the Council's Dec. 13, 2004, vote to grant a conditional use permit (CUP) to Susan Missavage to operate a bed and breakfast at 46 Hillside to the agenda. Mr. Weaver said the Council granting the CUP should have been the one to consider overriding the veto and they didn't.

Mr. Berry said he had a letter from Municipal League Attorney David Schoen with an opinion that the new council could overturn the veto.

Mr. McClung moved to add the item to the agenda. Mr. Berry seconded. Mr. McClung, Mr. Berry and Ms. Blankenship voted aye. Mr. Rojek, Mr. Falotico and Ms. Weaver voted nay. Motion failed 3/3/0

Mr. McClung moved to add a discussion to the agenda to repeal Ordinance 1879 setting a requirement of 200 feet between properties operating similar businesses in the R-1 zone. Ms. Blankenship seconded. Mr. McClung and Ms. Blankenship voted aye. Mr. Berry, Mr. Rojek, Mr. Falotico and Ms. Weaver voted nay. Motion failed 2/4/0

Mr. McClung moved to allow Dwight Witcher of EPS in Conway to speak to the Council to learn why he was not chosen as the contractor for the construction of the wastewater treatment plant. Mr. Berry seconded.

Mr. Weaver said he understood Mr. Witcher has brought lawyers into the issue and it is his advice that the Council not discuss the matter at the table.

Mayor Harrison said she would not discuss the awarding of the contract.

On the motion, Mr. Berry and Mr. McClung voted aye. Ms. Blankenship, Mr. Rojek, Mr. Falotico and Ms. Weaver voted nay. Motion failed 2/4/0

Mr. Falotico moved that Item #1 under New Business be moved to the first item of discussion. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

Mr. Berry asked for an explanation of why an executive session has been listed on the agenda. Mayor Harrison said Mr. Falotico had requested it to discuss a City Advertising and Promotion Commission (CAPC) position. Mr. Berry said the Council does not have that authority, the CAPC is an autonomous commission.

Mayor Harrison asked for a vote to approve the amended agenda. All voted aye.

City Council 1/10/05 1

APPROVAL OF THE MINUTES: December 13, 2004 They were not available.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

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

Planning Commission – Position 2 – Expires 1/1/09 – vote- Leah Karnes

Mayor Harrison said there was some concern about re-appointing Ms. Karnes to the commission because she works for one of the aldermen. Mayor Harrison knows Ms. Karnes to speak her own mind and hold her own opinions. Ms. Blankenship moved to appoint Ms. Karnes to the position. Mr. McClung and Ms. Weaver seconded. All voted aye. Motion

passed 6/0/0

Historic District Commission – **Position 4** – Expires 11/30/07 – re-instate **John Brammer**.

Mr. Berry moved to re-instate Mr. Brammer to the position. Mr. Falotico seconded.

Ms. Blankenship asked if there are other candidates. Mayor Harrison said she has applications from other candidates, but she only brings one name forward at a time for consideration.

On the motion, Mr. Rojek and Ms. Blankenship voted nay. Mr. McClung, Mr. Falotico, Mr. Berry and Ms. Weaver voted aye. Motion passed 2/4/0

Historic District Commission - Position 1 – Expires 11/30/06 – nominate Richard Grinnell

NEW BUSINESS:

1. 2005 City Council Rules/Procedures, set meeting time and day of week.

Mr. Falotico moved to adopt *Robert's Rules of Order*. Mr. Berry seconded. Five voted aye, Ms. Weaver opposed. Motion passed 5/1/0

Mr. Rojek moved to continue to meet at 6 p.m. on the second and fourth Mondays of each month. Mr. Falotico seconded. All voted aye. Motion passed 6/0/0

Mr. Falotico said he would like to see the Council elect a president of the council to run the meetings in the absence of the mayor. Mr. Berry seconded the motion. All voted aye. Motion passed 6/0/0

Ms. Weaver nominated Mr. Falotico to serve as President of the Council. Mr. Rojek seconded. Five voted aye. Mr. Falotico abstained. Motion passed 5/0/1

There was some discussion of how and when agenda items may be placed on the agenda. Mr. Falotico moved to continue the practice of having two council members request a new item be placed on the agenda. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

Mr. Weaver spoke to the group about not talking to one another about city business away from the council table, do not e-mail, send letters, telegrams or communicate in any form. Talk to the mayor, city clerk or the city attorney about city business. They will relay information to other council members.

City Council 1/10/05 2

OLD BUSINESS:

1. Discussion of Corley Street

Mr. Berry moved to have an ordinance drawn to open Corley St. Mr. McClung seconded.

Mr. Weaver said Corley Street is not a road, it is a platted green space at this time. He said there is no case law of individuals forcing a city to open a street. He said an ordinance to open the street would not settle the issues of who was to pay for the installation of a street.

Mayor Harrison said she has a letter from Chief of Emergency Services David Stoppel saying he cannot provide ambulance or fire protection to the property on Corley St. because any road in the proposed area would not allow for the turning of ambulances or fire trucks.

Mr. Weaver asked if anyone knew if the sale of the property had gone through or if the current owner had the property in a bankruptcy case.

Mr. Berry said the area is city property dedicated for street use, but he didn't know what liability might be incurred if the street is opened.

Mildred Krebbs, 39 Steel St., opposes the opening of the street.

Mayor Harrison said she has letters from Pat Costner and Barbara Harmony of the National Water Center expressing their concerns for the affects opening the street would have on the two spring reservations in the area.

Mr. Falotico moved to table the discussion. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

Phil Krebbs, 45 Steel St., asked the Council to consider all of the property owners downhill from Corley St. and how the downhill drainage would be affected by opening the street. He asked that if a street is to be built, that it be a "real

street” with curbs and gutters and good drainage.

2. Discussion of Ordinance 1978, an ordinance regulating special events. (3rd reading)

Mr. Falotico moved to suspend the rules and place Ordinance 1978 on its third 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. Berry moved to approve Ordinance 1978 on its third reading by title only. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

3. Discussion of Ordinance 1976, an ordinance establishing the duties and salary of the City Clerk

Treasurer. (3rd reading)

Mr. Falotico moved to suspend the rules and place Ordinance 1976 on its third 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 Ordinance 1976 on its third reading by title only. Mr. Rojek seconded Ms. Sell noted the effective date of the ordinance will have to be changed to Feb. 13, 2005, pending publication.

Mr. Rojek moved to amend the ordinance to change the effective date to Feb. 13,

City Council 1/10/05 3

2005. Mr. Falotico seconded. All voted aye. Motion passed 6/0/0

Mr. Berry said he feels the city should hire a deputy city clerk to do many of the duties not being done by a part-time city clerk. He wants the deputy responsible to the mayor as an administrative position.

Ms. Blankenship questioned how the council would have control over how the city clerk performed her duties and that it might be better to have a deputy clerk as an administrative position. She also said the state statutes set out the duties of the clerk as a check and balance to the mayor’s duties.

Former Alderman Karen Lindblad said it would be a slap in the face of the voters to remove the elected position from their control. She said if the official doesn’t perform, the official can be removed at the next election or legal charges could be brought.

Mr. Weaver, speaking as a citizen, expressed the city’s need for a full-time clerk.

On the motion to approve the ordinance, by roll call, Ms. Blankenship, Mr. Falotico, Mr. Rojek and Ms. Weaver voted aye. Mr. Berry and Mr. McClung voted nay. Motion passed 4/2/0

4. Discussion of increase in rates for Carroll County Solid Waste – Roger Miner

Mr. Miner presented information including a copy of the city’s contract with CCSW, a rate schedule and other information about the operation of CCSW. He is asking for the 8 percent annual increase specified in the contract, but is willing to take 4 percent. In 2004, the Council agreed to a 4 percent rate increase and suggested he return to this Council for another increase. He said the increased costs in fuel and equipment in the past year have forced the need for the rate increase.

Mr. McClung moved to increase the trash pick-up rates for residential customers 4 percent and 8 percent for commercial customers as presented. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

5. Discussion of Ordinance 1982, amending the Zoning Code Chapters 114-4(c)(3)b and Chapters 114-4(c)

(4)b, regarding dwelling (units) in commercial buildings. (2nd reading)

Mr. McClung moved to suspend the rules and place Ordinance 1982 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 aloud.

Mr. McClung moved to approve Ordinance 1982 on its second reading by title only. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

The Council agreed to a break at 7:47 p.m. Meeting resumed at 8:03 p.m.

NEW BUSINESS:

2. Council nominations to the CAPC.

Mr. McClung nominated Mr. Rojek. Ms. Wilkinson seconded. Five voted aye. Mr. Rojek abstained. Motion passed 5/0/1

Mr. Berry nominated Mr. McClung. Mr. Rojek seconded. Five voted aye. Mr. McClung abstained. Motion passed 5/0/1

City Council 1/10/05 4

3. Discussion of Ordinance 1984, an ordinance to amend Chapters 114-4(b) and 70-4 of the Eureka Springs Municipal Code regarding manufactured homes.

Mr. Berry moved to place Ordinance 1984 on its first reading. Mr. Falotico seconded. All voted aye. Motion passed 6/0/0

Ms. Sell read the ordinance aloud.

Mr. Berry moved to approve Ordinance 1984 on its first reading. Mr. Falotico seconded. All voted aye. Motion passed 6/0/0

Mr. McClung pointed out that the ordinance would allow the construction of a building 20 feet by 20 feet.

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

4. Discussion of ordinance to replace “Green Zone” Ordinance 1628.

Mr. Levine explained many of the areas designated as “Green Zones” are actually platted rights-of-way for streets and alleys. Many of them are included in 60 to 99 year leases.

The proposal from the Green Zone Committee is to only lease the areas for 55 years at a time, with renewals every five years following. A fee schedule is included in addition to definitions and other information in the packet he has given to the Council.

Mr. Falotico moved to table any discussion to the next meeting to give Council members time to consider the information. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

5. Discussion of Resolution #507 adopting the National Incident Management System established by the U.S. Department of Homeland Security.

Mr. Berry moved to read Resolution #507. Mr. Rojek seconded.

Mayor Harrison read the resolution aloud.

COUNCIL COMMENTS

Ms. Blankenship said she wants the Council to consider whether or not the City Clerk gets to speak during discussions or if the Clerk must speak to issues as a citizen.

Mr. Falotico wants to have department heads and commission representatives present reports to the Council on a regular basis. He asked to set a budget workshop. The group agreed on 6:30 p.m. Thursday, Jan. 20.

Mr. Berry welcomed the new members of the Council and said he is looking forward to everyone working together in a positive manner.

Ms. Weaver said she is excited to be on the Council and hopes they can achieve great things for the city.

Mr. Falotico moved to have public comments during the first meeting of each month, starting at 7 p.m., with comments limited to 3 minutes per person. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

Mr. Falotico moved to have department heads and commission representatives provide reports to the Council once a month. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

City Council 1/10/05 5

ADJOURNMENT

Mr. McClung moved to adjourn at 9:05 p.m. Mr. Falotico seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the regular City Council meeting of Jan. 10, 2005.

Mayor Kathy Harrison

City Clerk Mary Jean Sell