

Mayor Kathy Harrison called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, June 13, 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, Transit Director Lamont Richie, Public Works Director Robert Forest, Mayor’s Assistant Brenda Spencer, Parks and Recreation Commission Chairman Bill Featherstone and City Clerk 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. Ms. Weaver seconded.

Ms. Blankenship asked if Mr. Weaver had completed his research on I-9s. He said he had not and hoped to talk to other city attorneys at the Municipal League meeting at the end of the week. Ms. Blankenship asked that the discussion item be placed on the agenda for the June 27 meeting.

Mayor Harrison removed the second executive session at the bottom of the agenda.

Mr. Falotico moved to remove Old Business Item #2 regarding the grease trap ordinance, and Old Business Item #1 regarding Corley Street from the agenda. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

Mr. Weaver said there is a problem with the codification of Ordinance #1973, regarding sidewalks, in the new Municipal Code Book without the ordinance having been approved by the Council. He asked that Old Business Item #3, discussion of Ordinance 1973, be removed from the agenda and a discussion about how to proceed held instead.

Mr. Falotico moved to approve the agenda as amended. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

APPROVAL OF THE MINUTES: May 23, 2005

Mr. Falotico moved to approve the minutes as presented. Mr. McClung seconded. All voted aye. Motion passed 6/0/0

EXECUTIVE SESSION:

Mr. Falotico moved to go into executive session to discuss a possible conflict of interest on the part of a member of the Parks and Recreation Commission. Mr. Rojek seconded.

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Mr. Berry asked if an executive session is needed because a commissioner is not a city employee.

Mayor Harrison said she had talked with Municipal League attorney Mark Hayes and, in his opinion, this issue can be addressed by the Council.

Mr. Weaver said the Council could discuss the matter if they wished to discipline the commissioner.

Mr. McClung moved to go into executive session to discuss a possible conflict of interest on the part of a member of the Parks and Recreation Commission. All voted aye. Motion passed 6/0/0

The executive session began at 6:08 p.m. The meeting resumed at 6:42 p.m.

Mayor Harrison announced no action would be taken.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Hospital Commission – Position 6 – Expires 9/7/05
Hospital Commission – Position 3 – Expires 6/1/05
Historic District Commission – Position 2 – Expires 3/7/08

DEPARTMENT AND COMMISSION REPORTS:

Police, Transit, Public Works, Parks, HDC and Planning

Police - Ms. Sell read the report from Chief Earl Hyatt. He said five young men, Adam Biossat, Garrett Levine, Wes Beaver, Will Gladden and Griggs Covington, have been recruited as potential auxiliary police officers. They must complete a 160-hour training course. The report included the monthly statistical report.

Transit – Mr. Richie reported on the successful use of the trolleys during the annual Blues Festival Weekend. He said his department provided 54.5 hours of service and gave 2,257 rides. Department employees worked a total of 144 hours, incurring 99 hours of overtime. The department spent \$2,600 and took in \$5,000.

He has continued working with the Federal Transit Authority (FTA) in Dallas, Texas, on the potential purchase of the Planer Hill parking lot.

Three new buses are in place and operating. The three cost a total of \$196,000 and one trolley costs \$285,000. He is hoping for 50 percent better mileage and greater operating efficiency from the new vehicles. He has submitted a request to the Arkansas Highway and Transportation Department (AHTD) for \$280,000 to purchase another trolley next year.

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. Open mic begins at 7 p.m.

Elaine Van Natta, 25 Emporia, - opposes the complete paving of Anderson St because it will increase the traffic on Emporia, Avo and Paxos. There is a large deer population and a lot of children in the area. She presented a petition with signatures of 36 citizens opposing the paving project.

Mary Fly – wants to keep Anderson St. as a gravel road. It is a special road to

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her. In the summer, the paved road will be hotter. In the winter, residents won't be able to drive out on an asphalt street when the weather is bad, but they can now because the road is gravel.

Jeannie Jones – don't pave the street because residents can't get out in the winter.

Charles Stanley, 50 Dickey St., owns 150 feet of frontage on Anderson. He is willing to put up with the dust rather than an increase in traffic which would be deleterious to pets and children walking on the road.

Jessica Crandall - the city needs a public voice when roads are coming up for paving without notice. Gravel roads are escape routes for locals. She wants citizens to be able to have a voice in these decisions.

Ree Slande – Eureka Springs is not a new vacation destination. We should be figuring out how to benefit the city in a positive way, not spending time on petty issues. If business owners in town can't make it, who will pay the taxes?

Harry Huntley – there are people who want Anderson St. paved. His mother lives on the street and cannot open her windows because of the dust. She is a taxpayer and has to drive on gravel roads. People fly down the road. Some people want the street paved.

Harley Fox – Save Our Children Against Drunk Driving – he has raised \$4,100 for his drunk driver education program. He has a promise of \$2,500 from the Eureka Springs Rotary Club if he can raise \$5,000. The program is now part of county schools' curriculum. He is hoping for donations of \$1,400 to reach his goal.

Eric Scheunemann, speaking as a member of the Planning Commission, is concerned because the Municipal Code states in the general purpose of the Commission, that it will make recommendations and advice when a road will significantly affect traffic. He thinks this issue should have come to the Planning Commission for a public hearing so the people could speak and the Commission make a recommendation. He thinks any and all paving projects should come before the Commission.

Jasmine Standley, 50 Dickey, she loves Eureka Springs and has lived her 25 years. She has watched kids walk to school, deer play on the streets, and there are cats in the neighborhood. She hopes Anderson St. won't be paved.

Mary Wise – came to the meeting to show support for the program at Eureka Kids. It provides a needed service.

Mickey Schneider lives on Emporia St. and is staying neutral about Anderson St. She said someone should talk to the residents of a street before a decision is made to pave it. She has been doing research on the Eureka Kids issue. No one has a deed to the Harmon Park building, not the city or the county. She said the original lease for the use of the building by Eureka Kids has been stolen and what is now the lease is signed by the CEO of Eureka Kids, not by the board of directors.

Mayor Harrison announced a 10 minute break at 7:22 p.m. The meeting resumed at 7:35 p.m.

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DEPARTMENT AND COMMISSION REPORTS:

Public Works – Mr. Forrest presented day-to-day reports on projects done January through May; a projects update list of those completed and on going; and budget expenditures through June 13. He said he is at 40.7 percent of his budget spent in water and sewer; 37.9 percent for waste treatment, and 47.6 percent for streets.

Mr. Falotico wants projects to be initiated at the Council table and approved before work starts. Mr. Forrest said many of the projects are on-going maintenance and the work needs to go ahead.

Parks – Mr. Featherstone presented a list of projects to correct health and safety code violations in the Harmon Park Community Building. Estimated cost is \$7,300.

Mr. Falotico moved to terminate the current lease with Eureka Kids and renegotiate the contract for lease of the building by Eureka Kids. Mr. Berry seconded.

Ms. Blankenship said the contract was not a good contract and the Council is not trying to stop or get rid of any programs.

Mr. Falotico moved to amend his motion to set a 30-day time limit for the approval of a new lease. Mr. Berry seconded.

Mr. McClung said he hoped the attorney's could have a draft of the new lease for the Council to review in two weeks.

On the amendment setting a 30-day time limit on preparation of a new lease, all voted aye. Motion passed 6/0/0

On the amended motion to terminate the current lease with Eureka Kids, to negotiate a new lease and to have it ready to go into effect in 30 days, all voted aye. Motion passed 6/0/0

HDC – Ms. Sell read a report from Certified Local Government (CLG) Coordinator Glenna Booth.

Planning – Ms. Sell said the Commission held a public hearing on whether or not to change the 200-foot rule in R-1 zone and is recommending no change. The ordinances regarding elimination of the Parking Authority and ribbons to be used for flagging trees to be cut are before the Council. Work on the proposed sign ordinance is on going.

OLD BUSINESS:

1. Discussion of the Johnsons' request to open Corley Street – Dr. Brahana's report. No report was presented.

2. Discussion of grease trap Ordinance #1895 – McClung, Berry

The amended ordinance is not ready.

3. Discussion of Ordinance #1973 regarding sidewalks.

Mayor Harrison said Ordinance 1973 has mistakenly been included in the new Municipal Code book, adopted April 25, 2005. The ordinance has not been properly read and approved by the Council.

Mr. Weaver said the Council should decide what it wants the ordinance to be and approve it. They can use what is in the codebook, change it or create a new ordinance, but it has to go through all three readings and approval.

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Mr. Falotico asked for copies of the old code, the proposed Ordinance 1973, and the amended Ordinance 1973 for review.

4. Discussion of Parks Commission recommendations for the Community Center renovations.

Mr. Falotico asked about the relocation of the stairs in the building.

Mr. Featherstone said that is not a code violation issue. Items being addressed now for repair or up-grade are code violations or safety issues. The Commission will discuss the rest of the proposals at its next meeting.

Ms. Blankenship moved to allocate \$10,000 from the community center funds to get the list of code violations fixed. Mr. Falotico seconded.

Ms. Blankenship moved to amend her motion from \$10,000 to \$8,500 from the community center fund. Mr. Falotico seconded.

Mayor Harrison said the funds could come from the capital expenditures account. She asked to keep the community center funds in tact to use as a matching amount for a proposed grant for the Fire Department.

Mr. Falotico said he did not want to touch the capital funds until the mid-year budget review.

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

On the motion to approve \$8,500 for repairs to the community building, all voted aye. Motion passed 6/0/0

NEW BUSINESS:

1. Discussion of transit hours. Falotico, Blankenship

Mr. Falotico asked about the feasibility of operating the transit system on Fridays and Saturdays later in the evening.

Mr. Richie said it costs \$47 an hour per vehicle to operate. He said he is not against running later in the day, but the ridership isn't there. He said he has tracked ridership for the three years the trolleys operated late, but ridership drops dramatically after 5 p.m. He said he is also short on drivers and it is difficult to find people who can comfortably drive the trolleys and deal with the people. He said he could expand the service hours if he had enough drivers and the Council is willing to pay the additional expenses.

Mr. Richie said he had asked the City Advertising and Promotion Commission (CAPC) about funding extra hours. He will have a report for the July 11 meeting.

2. Discussion of approval to destroy obsolete city records, 1998 and 1999.

Ms. Sell read the request to destroy the records aloud.

Ms. Blankenship moved to approve the destruction of the 1998 and 1999 obsolete city records. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

Mr. Berry, Mr. Rojek and Ms. Blankenship volunteered to assist when needed.

3. Discussion of the city audit report. Blankenship, Falotico

Ms. Blankenship said she had talked with the state's auditor Mark Marley about the 2003 audit report to make sure we have proper procedures in place and about the findings. **City Council**

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There was a half-hour discussion about the city's accounting and reporting procedures, fund allocations and expenditures.

Mr. Berry asked Mr. Weaver to clarify the limits required by state statutes for when bids are required and when they are not necessary.

Mr. Falotico said he wants the Municipal Code amended to follow state statutes.

4. Discussion of paving Anderson Street. Falotico

Mr. Falotico said the Council has heard from area residents about the proposed paving.

Ms. Blankenship said it is not the Council's jurisdiction to say what road gets paved or not, it is the public works department's responsibility.

Mr. Rojek said the Council is responsible to eliminate unnecessary expenses when possible. He doesn't think the tourists will use the street, it will be local traffic.

Mr. Falotico said it is the Council that decides which projects will be done.

Mr. Berry said there will be increased traffic if the road is paved. He is not happy with the police department determining the direction of one-way streets. He would like to see the Planning Commission more involved in the decisions in keeping with the city's master plan.

Mr. Falotico moved to direct the Public Works Department not to pave Anderson Street at this time. Mr. Berry seconded. Mr. Berry and Mr. Falotico voted aye. Four voted no. Motion failed 2/4/0

Ms. Blankenship moved to pave Anderson Street. Mr. Rojek seconded. Four voted aye. Mr. Berry and Mr. Falotico voted against. Motion passed 4/2/0

5. Discussion of Ordinance #1991, an ordinance repealing Chapter 8.32 of the Eureka Springs Municipal Code eliminating the Parking Authority and placing parking matters under the Transit Department. (1st reading)

Mr. Berry moved to place Ordinance 1991 on its first reading. Ms. Blankenship seconded. All voted aye. Motion passed 5/0/1 Mr. Falotico had left the room.

Mayor Harrison read the ordinance aloud.

Mr. Berry moved to approve Ordinance 1991 on its first reading. Mr. Rojek seconded. All voted aye. Motion passed 5/0/1 Mr. Falotico had left the room.

6. Discussion of Ordinance #1992, an ordinance amending Chapter 7.92.03 Application A of the Eureka Springs Municipal Code, requiring neon green flagging tape to be used to mark trees to be removed. (1st reading)

Mr. Berry moved to place Ordinance 1992 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 1991 on its first reading. Mr. Rojek seconded.

Mr. McClung moved to amend the ordinance to add "excluding red, orange or blue tape or any other colors currently being used by surveyors." Mr. Falotico seconded. Five voted aye. Mr. Berry voted against. Motion passed 5/1/0

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On the motion to approve Ordinance 1992 as amended, five voted aye. Mr. Berry voted no. Motion passed 5/1/0

COUNCIL COMMENTS:

Mr. McClung read aloud the Arkansas Attorney General's opinion regarding the CAPC local ordinance: Opinion 2005-065 Requestor: Jackson, Phillip – State. Rep.

"As written, the criteria used in ACA 26-75-701 et seq. can only apply to one city in Arkansas, namely Eureka Springs. In your opinion, does that subchapter conflict with either Ark. Const. art. 5, sec. 25 or Amendment 14? RESPONSE: The statute, which authorizes cities of the first class having fewer than 5,000 inhabitants and containing an historic district including property listed on the National Register of Historic Places to impose a tax on gift shops to be used for advertising and promotion, is not local or special legislation in violation of the Arkansas Constitution. The statute is not directed exclusively at Eureka Springs. At least seven Arkansas cities other than Eureka Springs could impose the tax merely by forming an historic district. The statute is reasonably calculated to promote tourism in smaller cities of the first class and is not constitutionally objectionable."

Ms. Blankenship said she wants Ordinance 1895, regarding grease traps, ready for the June 27 meeting. She believes the city needs an accounting director. The city has not received billing for Laura Escalante's services. (She is an employee of Engstrom, Grayson, Green and Patterson, an accounting firm in Little Rock. She does data entry for the city's receivables.) She wants a discussion of an accounting director on the July 11 agenda. Mr. Falotico seconded the agenda item.

Mr. Falotico thanked the Parks Commission for digging into the costs for the repairs for the community building.

Mr. Berry thanked Mr. Richie for the efficient operation of the transit system during the Blues Festival and commended the businesses that helped sell trolley tickets. He also thanked all who contributed to the success of the festival.

Mr. Rojek thanked all of the citizens for their input during open mic. He asked about the plans for the construction

of the fire station at 144 W. Van Buren. Mayor Harrison said the plans are almost ready for review.

Ms. Weaver thanked everyone for speaking during open mic. She said the Council appreciates the comments.

MAYOR'S COMMENTS:

Mayor Harrison said there will be a joint meeting of the CAPC and Council at 6:30 p.m. Thursday, June 23, upstairs in the courtroom to talk about accountability. She has been asked to ask the Council to consider removing the yellow paint from the curb in front of Quicksilver Gallery, 73 Spring St., to the corner in front of The Grill restaurant.

Mr. McClung asked about increased enforcement, more frequent police patrols of the loading zone area in front of Michael's Center Street Pub and Grill.

Mr. Falotico said all of the suggestions should be addressed at once. He asked for recommendations from public works and the police departments as well.

Mayor Harrison said the Council will have to look at the budget before considering hiring an accounting person. She said Yvonne Kline has taken on additional responsibilities and tasks and is doing an excellent job. City Council

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ADJOURNMENT:

Mr. Falotico moved to adjourn at 10:10 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 June 23, 2005.

Mayor Kathy Harrison

City Clerk-Treasurer Mary Jean Sell

