

Mayor Kathy Harrison called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, May 23, 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, City Advertising and Promotion Commission (CAPC) Marketing Director Lynn Berry, CAPC Chairman Bryan Sumpter, CAPC Commissioner Ray Dilfield 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. Rojek moved to approve the agenda. Ms. Weaver seconded.

Mr. Falotico moved to place a discussion of the paving of Anderson St. on the agenda as New Business Item #2. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

Mr. Berry moved to defer approval of destruction of 1998 and 1999 obsolete city records to the June 13 meeting. Mr. Falotico seconded. All voted aye. Motion passed 6/0/0

Mr. McClung moved to defer Old Business Item #2, discussion of grease trap ordinance 1895, to the June 13 meeting because the amending ordinance is not ready. Mr. Rojek seconded. All voted aye. Motion passed 6/0/0

Mr. Berry said Transit Director Lamont Richie is in St. Louis at a national transportation meeting and not available to discuss transit hours of operation this evening. Mr. Falotico said he wanted to keep the discussion on the agenda. All agreed to discuss the transit hours as scheduled.

On the motion to approve the agenda, as amended, all voted aye. Motion passed 6/0/0

APPROVAL OF THE MINUTES: May 9

Mr. McClung moved to approve the minutes of the May 9 City Council meeting. Mr. Rojek seconded.

Mr. McClung noted a correction on the last page in the second paragraph of the discussion of the sale of a portion of the Lake Leatherwood Property along Highway 62. The word “deed” should be substituted for “agreement.”

Ms. Blankenship noted corrections for the minutes of the April 25 minutes were not included – specifically her request for expenditures for professional services from department heads and that Mr. Falotico did not second his own motion to adjourn.

City Council 5/23/05 1

Mr. Falotico noted the discussion of a resolution of support of the Community Development Partnership grant request to HUD was deferred when discussion reached that item on the agenda.

Ms. Blankenship asked for a copy of Resolution #512.

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

COMMISSION, COMMITTEE AUTHORITY REPORTS AND VACANCIES:

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

DEPARTMENT AND COMMISSION REPORTS:

CAPC, Fire/EMS, Finance, Building and Cemetery

CAPC – Ms. Berry presented a lengthy report on marketing activities, including planning meetings for Christmas in

July, scheduled for July 21-24 with a parade on July 22.

Fire/EMS – Ms. Sell read the report from the Fire/EMS department. Mr. Falotico pointed out that plans for the construction of a new fire station or estimated costs have still not been presented to Council.

Finance – Ms. Blankenship had simplified the financial report and e-mailed copies to Council members. There was discussion about the accounting computer programs currently being used. Mr. McClung wants to use a simpler and less expensive software program to do all of the accounting, payroll and financial statements.

Mr. Berry asked to schedule a mid-year budget review workshop. The Council agreed on 6:30 p.m. Monday, June 20.

Building – Ms. Sell read the Building Official's report.

Cemetery – Ms. Sell said the Cemetery Commission has met. Commissioners are concerned about getting the cemetery "looking good" for the Memorial Day weekend.

OLD BUSINESS:

1. Discussion of City Attorney's findings concerning easements/vacating or purchase of unopened city right of way.

Ms. Blankenship asked if anyone had heard from Dr. Brahana and if his report is available. Mayor Harrison said she has not heard from him or the Johnson's.

Mayor Harrison said she has received a petition with 134 signatures asking the Council not to open Corley St. and to protect the springs in that area.

Mr. McClung said he understood the issues, but the Council could not restrict an individual from using private property.

Mr. Berry said the Council should wait for Dr. Braham's report on the impact of a street in the area before making any decisions.

John Wiley said he was representing the Eureka Springs Preservation Society. He said Society board members and citizens had contacted him asking him to encourage the Council to give serious consideration to the opening of a street with regard to the springs because of the importance of the springs in the city's history.

Marilyn Donohue, 30 Steel St., asked to speak on the importance of green space.

City Council 5/23/05 2

She said green space is very important to her and a primary reason for her moving to Eureka. She said she wants to emphasize that the green space is part of Eureka's uniqueness.

NEW BUSINESS:

1. Discussion of Ordinance 1973, to include Historic District Commission recommendations concerning sidewalks. (1st reading)

HDC Chairman Frank Green Jr. and Commissioner Ray Dilfield were present to answer questions. Mr. Green said commission members want to strike all references to aggregate concrete from the proposed ordinance. He said Commissioners are okay with city-licensed contractors putting in imprinted concrete. (The Municipal Code now requires public works employees to do the imprinted concrete work.) He emphasized the need to keep limestone sidewalks in place, as much as possible, and to use limestone for sidewalks, whenever possible, particularly in the downtown area.

Mr. Berry asked that changes in the proposed ordinance be underlined or have a line through the words to be removed when the ordinance comes back to the Council after revisions.

2. Discussion of paving of Anderson St.

Mr. Falotico opened the discussion saying the Public Works Department has not gotten approval to pave Anderson St. He wants to know if the project will cost enough to put out to bid and if anyone has talked with the neighbors along the street about the paving project.

Ms. Blankenship said approving the capital improvements budget requests gave department heads approval to go forward with projects. She doesn't think the Council should be running the departments on a day-to-day basis.

Mr. Falotico said this project was not included in the project list when the capital funds were approved for public works, so this project has not been approved.

Mr. Berry said he has received e-mails from citizens who are not happy about the placement of speed bumps on streets.

Mr. Forrest said his initial project list for streets was for six months. He is ahead of his schedule in completing paving projects. He is working on preparing the base and improving the drainage for Anderson St. He said the asphalt for the project was part of a bid taken last year to lock in the asphalt price. He believes he is operating within his jurisdiction in going forward with paving streets in town.

Michael Merry said he has lived on Anderson St. three years. He said the city grades the street twice a year and within three weeks it is in bad shape again. He said vehicles travel the street at “inordinate rates of speed, throwing rocks and gravel everywhere.” He said the road is used consistently and he would like to see it paved.

Mayor Harrison suggested the issue be placed on the June 13 agenda so residents of the area could speak during the open microphone portion of the meeting.

Mr. Falotico moved to take a break at 7:55 p.m. Mr. McClung seconded. All voted aye. Motion passed 6/0/0
The meeting resumed at 8:10 p.m.

City Council 5/23/05 3

3. Discussion of Transit hours. Falotico Blankenship

Mayor Harrison said Transit Director Lamont Richie is in St. Louis attending the Community Transportation Association of America’s annual Transit Conference and EXPO.

Ms. Blankenship said with the recent crowds in town, music in the park, gallery walks and other events, it is a shame that the trolleys stop running at 6 p.m. It gives the impression that the town closes at 6 p.m. She would like to see the trolleys run until 8 p.m.

Mr. Falotico said he has had comments from lodging owners who want the trolleys to run later in the day. The solution to downtown parking problems is not cutting trolley service.

Mayor Harrison explained transit hours are usually set following the annual public hearing in September. She said Mr. Richie has looked at the costs of operating trolleys and hiring additional drivers. The revenue does not support the extra costs.

Mr. Berry said he understood the costs of operating longer hours. He believes the businesses should be willing to be open longer to make running trolleys worthwhile. He would like for Mr. Richie to attend the June 13 meeting.

4. Discussion of City leasing Benton Street parking lot from Bank of Eureka Springs. Berry, McClung

Bank Board member Randy Wolfinbarger brought a proposal to Mayor Harrison and Police Chief Earl Hyatt suggesting that 10 of the reserved city employee parking spaces in the lot west of the courthouse be opened for visitor parking during the day. He suggested the city lease 10 parking spaces in the lot on Benton St., Monday through Friday, at \$500 per space per year or a total of \$5,000.

Mr. Weaver said the city would be increasing risk if employees were asked to walk back and forth to the lot. He said a designated parking space is considered a benefit for city hall employees.

After some discussion of possible revenues generated or lost, Ms. Blankenship called for a motion or to move on with the agenda.

Mr. Berry moved to take seven of the employee parking spaces and to rent seven spaces from the Bank of Eureka Springs in the parking lot on Benton St. at a cost of \$3,500 per year. Mr. McClung seconded.

Mr. McClung moved to amend the motion to divide the annual amount by 12 and pay on a monthly basis. Mr. Berry seconded. There was no vote on the amendment.

On the motion, by a roll call vote, Mr. McClung, Mr. Rojek and Mr. Berry voted aye. Ms. Blankenship, Mr. Falotico and Ms. Weaver voted nay. Motion failed 3/3/0

5. Discussion of resolution regarding city employee relationship to professional services contract.

Mayor Harrison said this matter has come up because her assistant's husband, J.D. Spencer, works on the city's computers from time to time. The city also uses three other area computer experts, depending on services needed by which department. All four companies/individuals have businesses licenses to work in Eureka Springs.

City Council 5/23/05 4

Mr. McClung moved to acknowledge that J.D. Spencer, working as Computer Guru 4 U, is the husband of Mayor's Assistant Brenda Spencer, and is occasionally called to service computers within the city's offices. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

6. Discussion of CAPC enabling laws. Falotico, Weaver.

Mr. Falotico said he wants to go forward with discussions about Eureka Springs following the state code (26-75-602) for collecting the 2 percent gross sales tax (known as an A&P or advertising and promotion tax) instead of the state code (26-75-605), which is currently used, by the city. He believes "605" is not a legal method of collecting taxes.

Ms. Blankenship said "602" does not allow for any retail establishments to collect the tax, only hotels, motels and restaurants.

Mr. McClung said he did not believe the CAPC tax could ever pass as a general retail tax here. He said the city's hands are tied for the next two years, until the next legislative session in 2007.

Mr. Sumpter suggested an open, public meeting with CAPC and Council members and the public. The date was set for 6:30 p.m. Thursday, June 23, in the third floor courtroom of the Western District Carroll County Courthouse.

7. Discussion of special events permits. Blankenship, Falotico.

Ms. Blankenship said the city has a new law (Ordinance 1978) requiring all festivals to have a city permit before they can be held. She said we don't have enforcement in place and festivals are being held without going through the proper channels, i.e. the recent White Street Walk.

Mayor Harrison said departments are signing the application forms as they are presented. Part of the difficulty is in knowing who to contact for festivals that are not the city's or the Chamber of Commerce's.

Ms. Sell reminded the Council that part of the reason for this discussion was whether or not to waive the parking lot fees for the Antique Automobile Show and the Corvette Show, both in September.

Mr. McClung moved to waive the fees for the parking lots for the Antique Automobile Show and the Corvette Show since they are shows. Mr. Berry seconded.

Mr. Falotico said it would not be fair to waive fees for some events and not for others.

Ms. Blankenship said the Council couldn't make laws then pick and choose who would follow the laws. If this was going to be a big problem, why not ask the CAPC or the Chamber to pay for the parking.

Mr. McClung moved to call the question to stop discussion. There was no second.

After further discussion, Mr. McClung withdrew his original motion to waive the fees. Mr. Berry withdrew his second.

City Council 5/23/05 5

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

Ms. Blankenship said there would be a special Parks and Recreation Commission meeting at 5 p.m. Thursday, May 26, at Harmon Park to discuss the renovations.

CITY COUNCIL COMMENTS:

Mr. McClung asked Mr. Weaver for reports on the city's lawsuits. Mr. Weaver listed the suits:

The Latimer lawsuit regarding issuance of a conditional use permit to operate a bed and breakfast at 46 Hillside is set for trial Sept. 14 and 15.

David and Shirley Bird vs. the City over rezoning of the Old Stone Church at 80 Mountain St.

Cris and Barbara Dunnam vs. the City because the city shut off water service to their property on Wheeler St. because sewage was running onto the ground from a broken sewer line.

A suit against the Western District Ambulance District over elements of the contract. The Arkansas Municipal League attorneys are handling this lawsuit.

An appeal from Marilyn Still, being handled in a federal administrator's court in Oklahoma City, regarding her alleged employment and firing by the City. A hearing is scheduled for the end of June.

A small claims case against the city because a tree, allegedly owned by the city, fell on a citizen's vehicle.

A suit involving a passenger's fall from a trolley that is being handled by the Municipal League attorneys.

Mr. Rojek suggested scheduling a workshop on the wastewater treatment plant. The Council agreed to 7 p.m. Monday, June 6. He said the City has lost a great ambassador in the recent death of Dub Elrod of Little Rock.

Ms. Blankenship said she wanted to thank everyone who worked so hard for the May Festival of the Arts. She asked if there should be a workshop on the 2003 Audit Report. Mr. Weaver said it should be discussed at the next Council meeting. Ms. Blankenship moved to place a discussion of the audit on the June 13 agenda. Mr. Falotico seconded.

Mr. Falotico asked the City Attorney to clarify the bid process. He said he did not get a cost breakdown on the repair work on Spring Street. He asked for an executive session during the June 13 Council meeting to discuss a possible conflict of interest of a Parks Commissioner. Mr. Rojek seconded.

Mr. Berry said he would like to acknowledge that Mr. Forrest had called him with information regarding the sewer projects, but he wants to see a written report for the wastewater workshop. He has been contacted about whether or not the city has the I-9

City Council 5/23/05 6

forms for employment of aliens.

Ms. Blankenship said the city has the I-9 forms for all of its employees, but she would like for the City Attorney to research the city's responsibility in hiring contractors and their employees.

Mr. Weaver said there is an on-going debate about the issue and he has already made inquiries.

Ms. Weaver encouraged everyone to have a safe and happy Memorial Day holiday.

MAYOR'S COMMENTS:

Mayor Harrison said contractors who are licensed by the state have to be a citizen of the U.S. and Arkansas. The city's general contractor for any project goes over the subcontractors' qualifications.

She said she had provided copies of audits prior to 2003 so Council members could see reports from other years. She said the numbers in the audit report will never match the numbers in the balance sheets because they are reporting different numbers. The City has had the same state auditor for 17 years. The City is not doing anything wrong. No money has been stolen, no money is gone. The auditor says we are doing a good job.

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 Monday, May 23, 2005.

City Clerk Mary Jean Sell

City Council 5/23/05 7