

Mayor Kathy Harrison called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, Oct. 24, in the jury room of the Western District Carroll County Courthouse.

**PRESENT:** Mayor Kathy Harrison, Aldermen Robert “Butch” Berry, Beverly Blankenship, Terry McClung, Rick Rojek, Lori Weaver, City Attorney Tim Weaver, Parks Director Bruce Levine, City Advertising and Promotion Commission (CAPC) Executive Director Lynn Berry and City Clerk-Treasurer Mary Jean Sell. Alderman Aaron Falotico was absent.

**PLEDGE OF ALLEGIANCE:**

Mayor Harrison led the Pledge of Allegiance to the Flag.

**APPROVAL OF THE AGENDA:**

Mr. McClung moved to approve the agenda. Mr. Rojek seconded.

Mayor Harrison added a Proclamation for National Domestic Violence Month as New Business Item #3.

Mr. McClung asked to add a discussion of the referendum election of the Latimer appeal as New Business Item #4.

Mr. Berry seconded. All voted aye.

On the agenda as amended, all voted aye. Motion passed 5/0/0

**APPROVAL OF THE MINUTES: Oct. 10, 2005**

Mr. Rojek moved to approve the minutes of the Oct. 10 regular City Council meeting. Mr. Berry seconded.

Mr. McClung noted a correction on Page 4 under New Business Item #1 regarding a request to vacate portions of S. Nebo St and McElyeu St. He said the Terrills have occupied the property since 1940s. He wanted a separate sentence regarding the lack of survey.

On the minutes as amended, all voted aye. Motion passed 5/0/0

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

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

Mayor Harrison nominated Tammy Bullock to remain in Position 7, expiring 9/7/05

**Historic District Commission** – Position 3 and Position 5, both expire 11/30/05

Mayor Harrison has nominated Frank Green Jr. to Position 3 and said Constance Schrader had agreed to stay in Position 5 until a replacement could be appointed. Mr. Rojek moved to approve Mr. Green’s nomination. Ms. Weaver seconded. Four voted aye. Ms. Blankenship voted nay. Motion passed 4/1/0

CAPC – Position 4 – Expires 6/30/08

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

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**DEPARTMENT & COMMISSION REPORTS:**

CAPC, Fire/EMS, Building/Harmon Park Community Building, Cemetery, Planning, Parks, Finance, Update on waste treatment plant project

**CAPC** – Ms. Berry reported on the 2 percent gross sales tax receipts for the month of September, actually collected in August: collections are down 1 percent from projected income and down .4 of a percent from September of 2004. For the year, as of the end of September, collections overall are less than 1 percent below last year. She gave her monthly activity report.

**Fire/EMS** – Mayor Harrison read the report aloud.

**Building** – Mr. Berry said he has met with Building Official Justin Fuson and he is preparing plans for the stove, vent hood, emergency sprinkler system and some remodeling in the Harmon Park building. Mayor Harrison read aloud the report

from Mr. Fuson.

**Planning** – Commissioner Ken Foggo explained the reasoning for Resolution 5-2005 from the Planning Commission to the Council asking that the new Municipal Code be rejected. He said there are numerous mistakes in the Code, sections are left out, and other problems in using the Code. Mayor Harrison said the city’s attorney has recommended revising and adopting new sections of the Code in segments, rather than rejecting the entire new Code at one time. Mayor Harrison said she, Ms. Sell and Mr. Foggo are going to form a committee to work on revisions. She asked for volunteers. Mr. Berry and Mr. Weaver volunteered to work with the committee during the discussion of the resolution.

**Parks** – Mr. Levine reported members of the Parks and Recreation Commission will meet with members of the Planning Commission to review and update the Green Zone Ordinance. He presented a design for a playground area with new equipment in Harmon Park. He said the \$42,000 cost will be paid with a \$30,000 grant from the state, \$5,000 from the Harmon Foundation, some funds left from the Skateboard Park fund drive and approximately \$1,000 from the parks’ reserves.

**Finance** – Mayor Harrison said the financial information had been presented during the Oct. 10 meeting. She said the city’s tax revenues for August show a 1.62 percent increase over last year’s collections.

**Cemetery** – Ms. Sell reported the main street into the cemetery has been paved and work is progressing on the construction of the memorial fountain.

**Public Works** – Mayor Harrison read aloud a letter from D.J. Fox, wastewater treatment facility superintendent, to the Arkansas Department of Environmental Quality (ADEQ) regarding a plant inspection Oct. 4, 2005. She responded/answered the eight violations noted by the inspectors.

Mayor Harrison said the plans for the new wastewater treatment plant are being reviewed by USI engineers in Fayetteville. They are waiting on a date from ADEQ for submitting the plans. The ADEQ review could take as much as three months before approval. The engineers are hoping to be able to bid the construction project in January and start in February. She said she has not gotten any price changes.

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**OLD BUSINESS:**

**1. Discussion of Sunday Market for 2006 (McClung)**

Mr. McClung said he asked for this to be on the agenda because the Council members had agreed it would be discussed before Nov. 1.

Mayor Harrison said the Council is involved in the discussion of the Sunday Market because the organizer, Charlotte Buchanan, requests the use of a portion of the city-owned parking lot on North Main between the Basin Spring Bath House building and the old Greenlee Funeral Home building on Sundays from the first weekend of May through the first weekend of October.

Ms. Buchanan presented a petition with 119 signatures of business owners in support of the Sunday Market. She said the parking lot, with its proximity to the Spring and Main Street intersection, is in the heart of town. She said this is the best location because of the nearby public restrooms and the proximity to the downtown area.

The Council agreed to proceed with the open mic format, asking those who wished to speak to sign up and allowing each speaker three minutes.

Mr. McClung moved to take a short break at 7:04 p.m. Mr. Rojek seconded. All voted aye. Motion passed 5/0/0. The meeting resumed at 7:14 p.m.

Nineteen persons signed up to speak. Of those, five wanted the market moved to another day of the week or to another location. Fourteen spoke in support of the market, having it on Sunday and the location.

Ms. Weaver moved to keep the market the way it is. Ms. Blankenship seconded. By roll call vote, Ms. Weaver, Mr. Rojek, Ms. Blankenship voted aye. Mr. Berry and Mr. McClung voted no. Mayor Harrison voted aye to approve the motion. Motion passed 4/2/0.

**NEW BUSINESS:**

**1. Discussion of Resolution 5-2005, regarding repealing of Ordinance 1990 adopting the new municipal code, from the Planning Commission.**

Mayor Harrison gave a brief explanation of the need for changes in the new municipal code.

Mr. Weaver said repealing the ordinance, going back to the old municipal code would create prosecution and enforcement problems in several areas. He suggested using a committee to go through the new book to determine changes that are needed. The Council could approve amendments to sections of the code, as they are prepared.

Mr. Berry volunteered to serve on the committee with Mayor Harrison, Ms. Sell and Mr. Foggo. Mr. Weaver said he would volunteer to serve on the committee without pay. The first committee meeting was set for 5 p.m. Thursday, Oct. 27.

**2. Discussion of proposed Transit Drug Testing Policy.**

Mayor Harrison said Transit Director Lamont Richie has included a resolution to adopt the policy in the information. It was given the number of 515 and its title is "A Resolution Adopting a Substance Abuse Policy for The Eureka Springs Transit System."

Mr. Rojek moved to read the ordinance. Mr. Berry seconded. All voted aye. Motion passed 5/0/0

Mayor Harrison read the ordinance aloud.

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**3. Discussion of proclamation regarding National Domestic Abuse Month.**

Mayor Harrison said she had been asked to proclaim October as National Domestic Abuse Month. She read the proclamation aloud.

**4. Discussion of the referendum appeal. (McClung, Berry)**

(Note: Citizen petitions calling for a referendum election on the Council's action to settle the Latimer lawsuit and to grant an easement for a roadway on Corley St. (See minutes of Aug. 22 and Sept. 12, 2005) were presented to the Carroll County Election Commission Sept. 23. On Oct. 13, Judge Alan Epley ruled the petitions in the Latimer case had not been filed in a timely matter. On Oct. 18, Judge Epley ordered the issue removed from the Nov. 8 special election ballot. On Oct. 20, an appeal was filed to the Supreme Court of Arkansas asking for relief from Judge Epley's decision, on behalf of Mayor Harrison, City Clerk Sell, Election Commissioners Brian King and James Phillips.)

Mr. McClung asked the Mayor if it is going to be the city's responsibility to pay the costs of the appeal.

Mayor Harrison said she believes it is the city's responsibility to appeal the decision and bear the cost since it was a petition from the citizens that called for the issue to be on the ballot.

Mr. Berry said he had requested an opinion from the Arkansas Municipal League, but had not received an answer. He said that the citizens should file the appeal and stand the expense.

Mr. Weaver said the citizens were not named in the original lawsuit to remove the lawsuit from the ballot and only those parties specifically named could appeal the decision.

**COUNCIL COMMENTS:**

**Mr. McClung** – announced a Mardi Gras benefit in the park on Highway 23 south Saturday to raise money for the musicians in New Orleans.

**Ms. Blankenship** – said Gatlinburg, Tenn., has more than 3 million visitors a year and that town has very little public parking available.

**Ms. Weaver** – encouraged everyone to visit the Pumpkin Patch at Pine Mountain Village to purchase pumpkins to help the students from the Academy of Excellence.

**MAYOR'S COMMENTS:**

Mayor Harrison said Harley Fox will have a program and demonstration of his drunk driving program at 10 a.m. Tuesday, Nov. 1, at the Berryville Community Center.

She read aloud a letter from the Mayor of Yellville, Ark., thanking Police Officer Thomas Achord and Traffic Control Officer Larry Martin for their assistance during the mayor's visit to Eureka Springs.

**ADJOURNMENT:**

Mr. Berry moved to adjourn at 9:35 p.m. Mr. McClung seconded. All voted aye. Motion passed 5/0/0

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This is the signature page for the minutes of the regular Eureka Springs City Council meeting Oct. 24, 2005.

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Mayor Kathy Harrison

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City Clerk-Treasurer Mary Jean Sell

