

Mayor Kathy Harrison called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Tuesday, Dec. 19, 2006, in the jury room on the second floor of the Western District Carroll County Courthouse. (This is a re-scheduled meeting. The regular meeting would have been Dec. 25, Christmas day.)

PRESENT: Mayor Kathy Harrison, Aldermen Beverly Blankenship, Penny Carroll, Robert “Butch” Berry, Terry McClung, Rick Rojek, City Advertising and Promotion Commission (CAPC) Director Lynn Berry, Parks Director Bruce Levine, Mayor-elect Dani Wilson, Alderman-elect Patrick Brammer and City Clerk-Treasurer Mary Jean Sell. Alderman Lori Weaver and City Attorney Tim Weaver were 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. Berry seconded. All voted aye. Motion passed 5/0/0

APPROVAL OF THE MINUTES: Dec. 11, 2006

Ms. Blankenship moved to approve the minutes of the regular City Council meeting of Dec. 11, 2006. Mr. McClung seconded.

Ms. Blankenship said she would like to have the words “green space” changed to “Parks authority” in her Council Comments.

Ms. Blankenship moved to approve the minutes as amended. Mr. McClung seconded. All voted aye. Motion passed 5/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Historic District Commission – 1 Position

CAPC – 1 Position

Planning Commission – Position 4, expired 7/1/06 Position 5, expiring 1/1/07

DEPARTMENT & COMMISSION REPORTS

CAPC, Fire/EMS, Cemetery, Planning, Parks, Financials

CAPC – Ms. Berry gave her report, including information that collections of the 2 percent gross sales tax are down overall 2.2 percent over last year for the October revenue collected in November. Hits on the CAPC website are estimated to reach 12,428 by the end of December, significantly more than in past years.

Cemetery – Mayor Harrison said the Cemetery Commission is requesting additional capital funds this year for lighting and street work.

Planning – Ms. Sell read aloud the report from Chairman Leah Karnes, including information that Martin and Elise Roenigk have withdrawn the request for rezoning of their property along Spring Street since their proposal for a planned unit development

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(PUD) has been approved by the Planning Commission/Board of Zoning Adjustment.

Parks – Mr. Levine said work is going ahead on the preparations for stabilization of the stream bank near the Lake Leatherwood Ball Fields. The estimated cost of the project is \$19,000 and approximately \$10,000 in stone has been donated from the highway construction project on Hwy. 62. He will be applying for a grant for the remainder of the funds. The sheet rock and electric wiring have been done for the concession stand at the Lake Leatherwood Ball Fields. The contractor doing the ball field lighting has provided additional electric work and a scoreboard.

Financials – Mayor Harrison asked to have \$1,524.62 put into the budget from surplus funds to pay for the Nov.

28 run-off election. Since an ordinance or resolution had not been prepared for the adjustment, Council members agreed to leave the item for the “clean-up” ordinance to balance the budget in January.

Mr. McClung moved to have the water and sewer department pay for services from the city since the revenue for the department has exceeded the initial estimates. Mr. Rojek seconded. Three voted in favor. Mr. Berry and Mr. McClung voted no. Motion failed 3/2/0

OLD BUSINESS:

1. Discussion of recommendation from Planning/Parks to vacate a portion of Fritz St., adjacent to 9 Summit. Determination of which version of Ordinance 2029 to read: (1) vacating entire area or (2) vacating a portion and leasing a portion of area.

Ms. Blankenship moved to open the discussion. Ms. Carroll seconded.

Mr. McClung moved to place Ordinance 2029 on its first reading and to vacate tracts #2 and #3. Ms. Carroll seconded. All voted aye. Motion passed 5/0/0

Mayor Harrison read Ordinance 2029 aloud.

Mr. McClung moved to approve Ordinance 2029 on its first reading. Mr. Rojek seconded. All voted aye. Motion passed 5/0/0

Mr. McClung moved to suspend the rules and place Ordinance 2029 on its second reading by title only. Mr. Rojek seconded. By roll call, all voted aye. Motion passed 5/0/0

Mayor Harrison read the title of Ordinance 2029 aloud.

Mr. McClung moved to approve Ordinance 2029 on its second reading by title only. Ms. Carroll seconded. All voted aye. Motion passed 5/0/0

Mr. McClung moved to suspend the rules and place Ordinance 2029 on its third reading by title only. Mr. Rojek seconded. By roll call, all voted aye. Motion passed 5/0/0

Mayor Harrison read the title of Ordinance 2029 aloud.

Mr. McClung moved to approve Ordinance 2029 on its third reading by title only. Ms. Carroll seconded. All voted aye. Motion passed 5/0/0

2. Vote on third reading of Ordinance 2033 giving Council authority over unnamed street in Block 83 of the Clayton Addition/Glenwood Park to Eureka Springs – Roenigk condo project area.

Amendment: In the meeting of Jan. 8, 2007, Ms. Harrison asked that the minutes include an explanation for this action. Ordinance 2003 was given its third reading during

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the regular meeting of Dec. 11, 2006. Only four Council members were present at that meeting. The motion to table the vote on the third reading was to give all Council members the opportunity to vote at the next meeting.

Mayor Harrison called for the vote. All voted aye. Motion passed 5/0/0

COUNCIL COMMENTS:

Mr. McClung said it has been a pleasure to serve on the Council, interesting but a pleasure to serve the city. He hopes to be able to do it again someday.

Ms. Blankenship said she felt the same way Mr. McClung does. She wished everyone a merry Christmas and happy new year. She thanked the citizens for letting her serve.

Mr. Rojek thanked everyone for the opportunity to serve. He said it has been great getting to know everyone on the Council and he respects them for their efforts.

Mr. Berry thanked the city and the citizens for the opportunity to serve. He said merry Christmas to all.

Ms. Carroll said it has been a pleasure and she has enjoyed working with the other Council members.

MAYOR'S COMMENTS:

Mayor Harrison said it has been an incredible honor to serve as mayor and the city is being handed to good hands. She read the following proclamation aloud:

WHEREAS the Arkansas Code Annotated 14-43-5-4, *Powers and duties of a Mayor generally*, states that it shall be the special duty of the Mayor to cause the ordinances and regulations of the City to be faithfully and constantly obeyed, and that the Mayor shall supervise the conduct of all the officers of the City; and

WHEREAS on November 16, 2006, the Eureka Springs Planning Commission approved a Planned Unit Development of the proposed Crescent Park Hotel-Condo project; and

WHEREAS Eureka Springs Municipal Code 11.56.07 B, *Final grading plan*, states, "No subdivision may be finalized nor commercial development plan approved before a final grading plan has been submitted to the City, reviewed by the Building Official, City Planner, Public Works Director, Fire Marshal, Chief of Police, and approved by the Building Official; and

WHEREAS Eureka Springs Code 11.56.07 B, *Approval* states, "Approval of a grading plan is contingent on meeting all the requirements of this chapter plus any set of varied requests approved by the Planning Commission," and

WHEREAS a final grading plan for the project has not been submitted, reviewed or approved as required by code before a development plan was approved; and

WHEREAS approval of a development plan before a final grading plan is submitted, reviewed and approved as described in Eureka Springs Municipal Code 11.56.07 B is in conflict with City law; and

WHEREAS Eureka Springs Code 13.04.04, *Organizations and rules*, states the Planning Commission "shall adopt rules and regulations for the discharge of its duties and the transaction of business, and shall keep a public record of all business, resolutions,

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transactions, findings and determinations; and

WHEREAS the Eureka Springs Planning Commission has adopted Roberts Rules of Order as its procedures for operation; and

WHEREAS Roberts Rules of Order 47, *Votes that are Null and Void even if Unanimous*, states "No motion is in order that conflicts with the laws of the nation, state, or with the assembly's constitution or by-laws, and if such a motion is adopted, even by a unanimous vote, it is null and void.

THEREFORE, I, Kathy Harrison, Mayor of the City of Eureka Springs, hereby proclaim this 19th day of December, 2006:

1) That the vote of the Eureka Springs Planning Commission approving a Planned Unit Development for the Crescent Park Hotel-Condo project is null and void.

2) That no City employee or official shall issue any permits for this proposed project until all approvals required by the City and State law are obtained as the manner described by code.

3) That the City of Eureka Springs accepts no liability for funds expended on the project by the developer based on any perceived approval of the Planned Unit Development.

Signed this 19th day of December, 2006 Kathy Harrison, Mayor

ADJOURNMENT:

Ms. Carroll moved to adjourn at 7:22 p.m. Ms. Blankenship seconded. All voted aye. Motion passed 5/0/0

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Tuesday, Dec. 19, 2006.

Mayor Dani Wilson

