

Mayor Kathy Harrison called the regular meeting of the City Council to order at 6 p.m. Monday, Jan. 9, 2006, 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, and City Clerk-Treasurer Mary Jean Sell. Aldermen Penny Carroll, 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. Berry moved to approve the agenda. Ms Blankenship seconded.

Mayor Harrison added a discussion of the CAPC festival guide publication as Item #7 under Old Business.

All voted in favor of approving the agenda as amended. Motion passed 4/0/0

**APPROVAL OF THE MINUTES:** Nov. 28, 2005; Dec. 12, 2005; Dec. 19, 2005 Special

**Nov. 28, 2005** – Ms. Blankenship moved to approve the minutes of the regular meeting Nov. 28. Mr. Rojek seconded. All voted aye. Motion passed 4/0/0

**Dec. 12, 2005** – Ms. Blankenship moved to approve the minutes of the regular meeting Dec. 12, 2005. Mr. Rojek seconded. Mr. McClung noted a correction in a date on Page 2. All voted in favor of approving the minutes as amended. Motion passed 4/0/0

**Dec. 19, 2005** – Ms. Blankenship moved to approve the minutes of the special meeting Dec. 19, 2005. Mr. Berry seconded. All voted aye. Motion passed 4/0/0

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

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

Historic District Commission – Position 2 –Expires 11/30/07 Position 4 - Expires 11/30/07

**Position 5 – 11/30/08** Mayor Harrison nominated Jeff Jeans for Position 5.

CAPC – Position 4 – Expires 6/30/08 Position 1 – Expires 6/30/09

Planning Commission – Position 1 – Expires 7/1/08 Position 6 - Expires 1/1/09

**Position 7 - Expires 1/1/09** Mayor Harrison nominated Ken Foggo for re-instatement.

**DEPARTMENT & COMMISSION REPORTS:**

Police, Transit, HDC, Building/Harmon Park Community, Public Works/Update on waste treatment plant project

**Police** – Ms. Sell read aloud the report from Police Chief Earl Hyatt summarizing activity for 2005: 181 traffic accidents, with no fatalities; 396 prisoners booked into the city jail on 732 different charges; 81 arrests for drunk driving; 2,040 calls for service; 1,253 citations and 1,168 written warnings; 858 incident reports on 1,165 different incident types; 313 warrants served.

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**Transit** – Mayor Harrison read aloud from the report from Transit Director Lamont Richie with some comparative facts: In 2005, vehicles traveled 188,688 miles, a 3.8% increase over 2004. Cost of diesel fuel in 2004 was \$1.41 compared to the 2005 cost of \$2.12 per gallon in 2005. Ridership in 2005 fell 11.6% to 258,000, a 34,000 drop from 2004. He also reported that the limited funding from the Arkansas Highway and Transportation Department (AHTD)

available for the Planer Hill Park and Ride lot means several projects included in the concept drawings for the development of the lot will have to be eliminated or scaled back. Nancy Parrett, a transit employee since 2001, has retired today. He praised her as an employee.

**Building Department** – Mayor Harrison read aloud from the report from Building Official Justin Fuson. He has received plans for the hood and fire suppression system in the kitchen area of the Harmon Park Community Building but has not had time to review them. Mr. Berry said his architect’s stamp is needed on the plans.

**Public Works** – Mayor Harrison read aloud reports from Public Works Director Jay Wilson. The plans and application for the new wastewater treatment plant have been submitted to the Arkansas Department of Environmental Quality (ADEQ). The review will take approximately 90 days and then the project can go out for bids. He is waiting on the new metal building for the belt press to arrive.

Mr. Wilson provided photographs of heavy rain runoff on Steele St., near the Krebbs home at #39. In his opinion, the “ditch is not creating the runoff of water in front of Mrs. Krebbs, however she does have a water issue that does need to be resolved.”

Mrs. Krebbs asked the Council during the meeting Dec. 12 to authorize payment for repair work of damages caused to her property by runoff water and to have the ditch along the east edge of the street dug out.

Sandra Synar, 12 Steele St., told the Council she had used rubble and rocks in front of the house to build a stacked stonewall to make a flowerbed at the front of her property. She said she never filled in the ditch. She said there is a drain under her house that puts water into the ditch. Ms. Synar said the water from her neighbor’s property runs into the street and into Mrs. Krebbs’ property, not the water from her property.

Ms. Blankenship suggested having the Building Official inspect the situation and to issue citations, if necessary. Mr. Berry agreed it is an administrative situation at this point and the property owners should clean out the ditch, if that is the resolution to the problem.

## **OLD BUSINESS:**

### **1. Discussion of Ordinance #2011 creating finance committee – 2<sup>nd</sup> reading**

Ms. Blankenship moved to suspend the rules and place Ordinance 2011 on its second reading by title only. Mr. Berry seconded. By roll call, all voted aye. Motion passed 4/0/0

Mayor Harrison read the title of the ordinance aloud.

Mr. McClung moved to approve Ordinance 2011 on its second reading by title only. Mr. Berry seconded.

Ms. Blankenship suggested changing the ordinance’s first paragraph: to remove “created significant problems” and to insert “*has created gaps in accounting procedures,*”; Section 1, to remove “in” and to insert “*over*” and to remove “more” and to insert “*under \$20,000,*”; Section 2, to remove “more” and to insert “*under \$20,000*”; Section 5, to remove “more” and to insert “*under \$20,000*”; Section 7 c to remove “account statement” and to insert “*balance sheet.*”

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Ms. Blankenship moved to amend the ordinance as described. Mr. Rojek seconded. All voted aye. Motion passed 4/0/0

Mayor Harrison announced a short break at 6: 55 p.m. before the start of open mike. The meeting resumed at 7:10 p.m.

### **Open Mic**

The purpose of open mic is to allow residents to address the Council on any topic. The Council does not engage in questions or discussion of the issues at this time.

**Beau Satori** said he understands the concerns of the Council toward developing a more efficient and understandable method of financial reporting, but he does not believe there are great gaps in the system. When the city had a finance director, the reports were not any better, in fact, were worst. He sees Ordinance 2011 as part of a continuing effort to undermine the mayor.

**Gwen Bennett** said she is concerned about the proposed settlement of the Old Stone Church, 80 Mountain St.,

lawsuit. She said facilitating a sale of property is not a reason to rezone a property. Six surrounding property owners wrote letters opposing the original rezoning application before the Planning Commission/Board of Zoning Adjustment (PC/BOZA). The court should settle the lawsuit, not the Council.

**Ernst Schrader** said the creation of Ordinance 2011 is another attempt by Alderman Berry and others to change the balance of city government and to overthrow the mayor. He began reading an e-mail from Lucinda Adkins to members of the Council suggesting ways in which to restrict Mayor Harrison's activities and powers. Time was called before he finished reading.

**Eric Scheunemann** said rezoning a piece of property to allow the owner to make a nice profit on the sale of the property goes against the city's vision plan. There are plenty of commercial properties available in town. Just because a lawsuit is threatened is no reason to put your hands up. The Council represents the people of the city. When the people say they do not want a rezoning, the Council is bound to listen to them. Settling this lawsuit this way is illegal.

**Alicia Hensley** said she lives at 751/2 Mountain St., across from the Old Stone Church. She said she is baffled that the Council will agree to settle zoning issue in a residential area that is in court or rezone an area at the threat of a lawsuit. She does not agree with the rezoning. She does not want to see a shop at that location. She said the Council is not listening to the people who elected them and those people will not be silent.

The Council meeting resumed at 7:25 p.m.

### **3. Discussion of Ordinance #2012 vacating a portion of Hines St.**

The proposed ordinance has not been presented to the Council.

Mr. Berry moved to defer discussion to the next meeting, Jan. 23. Mr. Rojek seconded. All voted aye. Motion passed 4/0/0

### **4. Discussion of vacating an unnamed alley between Peerless Ave. and Highway 62.**

Mr. Rojek moved to direct the city attorney to write an ordinance to vacate the alley between Peerless Ave. and Highway 62. Mr. Berry seconded.

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Ms. Blankenship said the laws of the state allow the city to receive fair market value for this land. She wants to know what the benefit to the city will be if the area is vacated.

Mr. McClung said the cost to appraise a piece of land 16 feet wide and 64 feet long would be more than what it could be sold for as a single piece.

Lori Davis, applicant for the vacation, said someone has been parking in the area, without paying rent or parking fees to the city, for more than 10 years. She said the City would get the purchase price of the property plus the increased property taxes on the larger piece of property when they are combined.

On the motion to have the ordinance written, all voted aye. Motion passed 4/0/0

### **5. Discussion of Ordinance #2013 vacating a portion of McElyeu St.**

The proposed ordinance has not been presented to the Council.

Mr. Berry moved to defer discussion to the next meeting, Jan. 23. Mr. Rojek seconded. All voted aye. Motion passed 4/0/0

### **6. Discussion of Resolution #519 supporting Auditorium application to ABC to sell alcohol for on-premise consumption. (Berry, Rojek)**

Mr. Rojek moved to read Resolution 519. Mr. Berry seconded.

Mr. Rojek said the CAPC (City Advertising and Promotion Commission) voted unanimously to support the application during its regular meeting Dec. 14, 2005.

Ms. Blankenship said she was not sure this would increase ticket sales at auditorium events. She hasn't heard a good thought-out plan or reasons to do this.

Mr. McClung said the purpose is to generate revenue and offset expenses for auditorium productions.

On the motion, all voted aye. Motion passed 4/0/0

Mayor Harrison read Resolution 519 aloud.

### **7. Discussion of the proposed CAPC festival guide publication.**

Ms. Blankenship said she wanted to wait on legal opinions from attorneys before having this discussion and those opinions are not yet available.

Mr. McClung said the CAPC is moving forward with the publication.

Bill King, publisher of the *Lovely County Citizen* newspaper, said the CAPC shouldn't compete with local companies who were willing and able to produce such publications. He said his newspaper has been promoting auditorium events without charge, but if the CAPC goes into competition with him, the newspaper will change its focus.

Ms. Blankenship moved to defer the discussion until the meeting of Jan. 23 to allow time to get the opinions from the Municipal League and city attorneys. There was no second to the motion.

### **NEW BUSINESS:**

#### **1. Discussion of Old Stone Church lawsuit settlement agreement**

Ms. Blankenship moved to open discussion. Mr. Rojek seconded.

Ms. Blankenship said she has had several telephone calls and the neighbors don't want the property (at 80 Mountain St.) to be zoned commercial (C-3, quiet use).

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Dan Bennett, former PC/BOZA chairman, reviewed the history of the application for the rezoning of the property, the votes by the Commission and Council.

Mr. Berry said he is not in favor of rezoning the property, but the proposed settlement has a legitimate exception (to not allow a restaurant in the building).

Mr. Berry moved to defer the discussion to the Jan. 23 meeting to be able to discuss the settlement with the City Attorney. Mr. Rojek seconded. Three voted aye. Mr. McClung voted no. Mayor Harrison voted aye to defer the discussion. Motion passed 4/1/0

#### **2. Set regular meeting dates for 2006**

Mr. Rojek moved to continue to have regular City Council meetings at 6 p.m. on the second and fourth Mondays of each month in 2006. Ms. Blankenship seconded. All voted aye. Motion passed 4/0/0

#### **3. Adoptions of rules of procedure for 2006**

Mr. Berry moved to adopt Robert's Rules of Order. Mr. Rojek seconded. All voted aye. Motion passed 4/0/0

Mr. Berry moved to elect a mayor pro-tem. Mr. Rojek seconded. All voted aye. Motion passed 4/0/0. Council agreed wait until all members were present for the election.

#### **4. Selection of Council representatives to CAPC for 2006**

Mr. Berry nominated Mr. Rojek to continue as one of the Council's representatives to the CAPC. Mr. McClung seconded. Three voted aye. Mr. Rojek did not vote. Mayor Harrison voted aye. Mr. Rojek was chosen by a vote of 4/0/1

Mr. Berry nominated Mr. McClung to continue as one of the Council's representatives to the CAPC. Mr. Rojek seconded. Three voted aye. Mr. McClung did not vote. Mayor Harrison voted aye. Mr. McClung was chosen by a vote of 4/0/1

#### **5. Discussion of proposed Ordinance #2014 regarding ambulance fees**

Mr. Berry moved to place Ordinance 2014 on its first reading, Mr. Rojek seconded. All voted aye. Motion passed 4/0/0

Mayor Harrison read Ordinance 2014 aloud.

Ms. Blankenship moved to approve Ordinance 2014 on its first reading. Mr. Rojek seconded. All voted aye.

Motion passed 4/0/0

Mr. Rojek moved to suspend the rules and place Ordinance 2014 on its second reading by title only. Mr. McClung seconded. By roll call, all voted aye. Motion passed 4/0/0

Mayor Harrison read the title aloud.

Mr. McClung moved to approve Ordinance 2014 on its second reading by title only. Ms. Blankenship seconded. All voted aye. Motion passed 4/0/0

#### **COUNCIL COMMENTS:**

**Mr. McClung** wished everyone a happy new year and said he is looking forward to a good year.

**Ms. Blankenship** said Ordinance 2011 is not manipulative or undermining of the mayor.

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She has called other mayors to see if they have the authority to initiate, authorize and sign checks and they said they do not. Ordinance 2011 is not undermining and is a check and balance until a procedure is in place. She would not do that or support that kind of action. This is a temporary situation until a finance director is hired.

**Mr. Rojek** wished everyone a happy new year and hopes everyone has a great 2006. He wants everyone to work together to insure a good year with a positive attitude.

**Mr. Berry** wished all members of the community a happy new year. He hopes everyone can work together and be positive this year.

#### **MAYOR'S COMMENTS:**

Mayor Harrison asked Council to set a budget meeting. They agreed on 6 p.m. Thursday, Jan. 12.

She said Eureka Springs has won a *Your Town Workshop*, one of four, in the country. The city has gotten a \$22,000 grant from the National Endowment of the Arts to support the workshop, tentatively scheduled for the last part of August. She thanked Certified Local Government (CLG) Coordinator Glenna Booth for her efforts in getting the funding.

Mayor Harrison read aloud excerpts from a story published in the *Arkansas Democrat Gazette* Dec. 27, 2005, quoting mayors of Rogers, Fayetteville and Gentry saying the procedures in the proposed ordinance (#2011) would slow down a city's payment of bills and blurs the council's role from legislative into administrative.

#### **ADJOURNMENT:**

Mr. McClung moved to adjourn at 8:50 p.m. Mr. Berry seconded. All voted aye. Motion passed 4/0/0

This is the signature page for the minutes of the regular City Council meeting Jan. 9, 2006.

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Mayor Kathy Harrison

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City Clerk-Treasurer Mary Jean Sell

