

Mayor Kathy Harrison called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, Sept. 26, 2006, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Kathy Harrison, Aldermen Beverly Blankenship, Robert “Butch” Berry, Penny Carroll, Terry McClung, Rick Rojek, Lori Weaver, City Attorney Tim Weaver, City Advertising and Promotion Commission (CAPC) Director Lynn Berry, Fire Chief David Stoppel, Planning Commissioner Kenneth Pownall and City Clerk-Treasurer Mary Jean Sell.

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.

Ms. Blankenship asked to add discussion of the Mayor’s vetoes of the amendments to the minutes of the Aug. 14 Council meeting and of Ordinance 2028 waiving bidding on holiday lights as New Business Item #3.

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

APPROVAL OF THE MINUTES: Special meeting Sept. 8 Regular meeting Sept. 11, 2006

Sept. 8 – Ms Blankenship had several corrections for the minutes of the special Council meeting Sept. 8. She then moved to approve the minutes as amended. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

Sept. 11 – The minutes of the regular Council meeting Sept. 11 were not available.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Historic District Commission – 1 Position

CAPC – 1 Position

Planning Commission –2 Position –Re-nomination Eric Scheunemann, Pos. 4

Ms. Weaver moved to approve the nomination of Eric Scheunemann to Position 4 on the Planning Commission. There was no second. The nomination failed.

DEPARTMENT & COMMISSION REPORTS

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

CAPC – Ms. Berry gave her report. The July tax collections were up one-half of one percent over last year. Thirteen persons from Eureka Springs attended the Parks and Tourism Commission meeting in Rogers. The state’s website is now listed as #4 for “hits” in the country.

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Hospital – Administrator David Wheeler presented a report. He said the recent open house sponsored by the Hospital Guild had been very successful. The Home Health and Hospice program had 62 clients in January of this year and now has 118. A physical therapy clinic has been opened in Huntsville and already has more than 30 patients.

Fire/EMS – Chief Stoppel said the NIMS (National Incident Management System) class will be held Oct. 2 and 16. The volunteers have cleaned out leaves and debris from the back of the Main Street fire station and he encourages all the property owners to do the same. A retirement party for James Fetty will be held Wednesday, Oct. 4. Fetty has been a volunteer fireman for 28 years.

Cemetery – Ms. Sell said the Cemetery Commission has not met recently.

Planning – Ms. Sell read aloud the report from Commission Chairman Leah Karnes.

Parks – Ms. Sell read aloud the report from Parks Director Bruce Levine.

Transit – Mayor Harrison read aloud Transit Director Lamont Ritchie’s report. The annual hearing on the transit

budget, routes and fares will be held Thursday, Sept. 28.

OLD BUSINESS:

1. Discussion of construction financing for fire truck/ambulance building at 144 Van Buren.

Mayor Harrison read aloud a note from Finance Director Kristi Rachel saying the Bank of Eureka Springs has agreed to roll in the \$98,532.79 to cover the costs of changing the design and construction plans for the fire truck/ambulance building into the initial loan amount with the same terms for repayment and interest.

Ms. Blankenship asked about transferring funds from the water and sewer accounts as administrative fees. Mayor Harrison said she is waiting until the water and sewer audit is done and if bond payments can be made before she will charge administrative fees to the department.

2. Public hearing on request for Certificate of Public Convenience (taxi) from Robert Wagner.

Ms. Carroll moved to open the public hearing on the request from Robert Wagner for a Certificate of Public Convenience for a taxi business at 6:44 p.m. Mr. Rojek seconded.

Attorney Kent Crow appeared on behalf of David "Fuzzy" White, owner of Ozark Taxi, to request a continuance so Mr. White can hire an attorney to represent himself. He also said Mr. Wagner needs to follow the state statutes and provide his statement of qualifications to operate a taxi service.

Mr. Weaver said the Council could go ahead with the public hearing, since it has been published for this time and date, but not take action on the request tonight.

Mr. Wagner, Shelly Brown, Mark Hicks and Paul Faulk spoke in support of the new taxi business.

Helen Bodo spoke of her need for reliable transportation to Fayetteville for doctor's appointments.

Wayne Schmidt and Ralph Levy spoke in support of Mr. White's years of service to the community.

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Mr. Berry moved to close the public hearing at 7:07 p.m. Mr. Rojek seconded.

Ms. Carroll moved to postpone further action on the request until more information could be gathered. Mr. McClung seconded. All voted aye. Motion passed 6/0/0

NEW BUSINESS:

1. Proclamation for America in Bloom

Ms. Blankenship moved to read a proclamation for America In Bloom. Mr. Rojek seconded.

Mayor Harrison read aloud the proclamation naming Sept. 28-30 as America In Bloom Days, recognizing the organization's national symposium to be held here as well as the community's participations in the programs.

2. Discussion by citizens (Whit Brittain) requesting a variance of the noise ordinance for a two-week period.

Mr. Brittain asked for the variance to allow the Public Works Department to fire a sonic cannon every evening for two weeks in the area between Ridgeway and Linwood streets to frighten away roosting turkey vultures. He said he asked the Council for assistance with the problem in March of this year and the cannon is the answer. He said the population of the flock is growing each year.

Bill White said he is concerned about the smell from the vultures' waste.

Robert "Shalom" Miller said he is concerned about the possibility of the vultures eating other birds that have died from bird flu and spreading the disease in town.

Virginia Danes said the birds' waste is a nuisance to have to clean up.

Dwayne Richards says the birds' waste falls into his dogs feeding and drinking dishes and he is concerned about resulting problems for his animals.

Debbie Clark said she is concerned about her pets tracking the vultures' waste into her house.

David Cunningham said the situation is not safe or sanitary.

Mr. Berry asked why a variance was necessary to handle this problem. Mr. Weaver said the sonic cannon is a

manufactured sound broadcast by an electronic device. Police Chief Earl Hyatt has recommended a variance.

Mr. McClung moved to approve the use of sonic cannons for two weeks at the schedule of the U.S.D.A. representative. Ms. Carroll seconded. All voted aye. Motion passed 6/0/0

Mayor Harrison called for a short break at 7:42 p.m. Mr. McClung moved to take a break. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0 The meeting resumed at 7:52 p.m.

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3. Discussion of the Mayor's vetoes of the amendments to the minutes of the Aug. 14 and 28 Council meetings and of Ordinance 2028 waiving bidding on holiday lights.

Holiday lights - Mr. McClung said an Arkansas Attorney General's opinion (AG 2001-78) from January 26, 2001, states an A&P (advertising and promotion) commission

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does not have to solicit bids for administrative services. He believes the city should honor the commitment to participate in the state's Trail of Lights, purchase the lights and put them up.

Mr. McClung moved to override the veto of Ordinance 2028. Mr. Rojek seconded.

Mayor Harrison read aloud from an opinion from Municipal League Attorney David Schoen regarding the AG opinion in that the funds to be spent were not generated from the A&P Commission's (CAPC) tax collections, but from the city's general fund and bids should have been taken on the lighting project.

Mr. Weaver said the proper action to take was what the Council did in approving an ordinance waiving the bid, but it could have the appearance of "not proper" because it is the city's money that will be spent, not the CAPC's.

Tori Bush said she is in favor of getting holiday lighting no matter how it is done. She believes holiday lighting is very important to boost the holiday economy.

Michelle McDonald said she is hoping people will come together for the holiday season and donate money to pay street musicians, decorate shop windows, dress in costumes and create a holiday ambiance.

Susan Tharp offered her services to help remove old lights and install new ones. She said she had been part of an effort to make the city aware of the need to regularly replace the lights several years ago. She wants the city to take the initiative in getting the lights up as an encouragement to shop owners to decorate.

On the motion to override the veto, five voted aye. Ms. Weaver voted no. Motion passed 5/1/0

Minutes veto – Mayor Harrison said she has not provided the Council with written reasons for her vetoes of the minutes of Aug. 14 and 28, so the minutes would stand as amended.

COUNCIL COMMENTS:

Mr. McClung said he wanted to thank the CAPC, Chamber of Commerce and Council for getting the holiday lights done.

Ms. Blankenship said she wanted to thank all the Eureka Springs citizens who attended the Parks and Tourism meeting in Rogers.

Mr. Berry said Eureka Springs can be proud of the state's advertising campaign. He is sorry that the situation had to come to a fight over the holiday lights. He has gotten a lot of positive comments about the lights, but the situation has come down to the last minute. We need to be ready much earlier next year.

Ms. Carroll said the Council should think about the proposal of Martin Roenigk for the construction of condos on the Crescent Hotel property and the impact on the area and the community.

Ms. Blankenship said she would like to have an update on the progress of the revision of the Municipal Code at the next meeting. Ms. Sell said the work is being done by the Municipal League in Little Rock and should be returned by the end of September. She said she could provide copies on disks for Council members to review when it is returned.

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MAYOR'S COMMENTS:

Mayor Harrison asked Ms. Berry about a contract for an electrician to put the electrical plug boxes on the buildings.

Ms. Berry said she did not have a contract at this time.

Mayor Harrison commended the Abendshone Chapter of the Daughters of the American Revolution (DAR) for its annual celebration of Constitution Week Sept. 17-23.

She extended another welcome to those who will be here for the America In Bloom Symposium and the Cherokee Gourd Dance at Blue Spring Heritage Center.

ADJOURNMENT:

Ms. Blankenship moved to adjourn at 8:45 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 Sept. 25, 2006.

Mayor Kathy Harrison

City Clerk-Treasurer Mary Jean Sell

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