

Mayor Dani Wilson called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, Feb. 26, 2007, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Dani D. Wilson, Aldermen Patrick Brammer, Charlotte Buchanan, Rae Hahn, Kathy Harrison, Eric Scheunemann, Joyce Zeller, City Attorney Tim Weaver, Building Official Marion Chrysler, Public Works Director Jay Wilson, Planning Commission/Board of Zoning Adjustment member Ken Pownall and City Clerk-Treasurer Mary Jean Sell.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Wilson led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA:

Ms. Harrison moved to approve the agenda. Mr. Scheunemann seconded.

Mayor Wilson said she would like to move the presentation from Judge Ralph Ohm to the first item on the agenda.

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

1. Discussion with Judge Ohm regarding proposed Crescent/Glenwood Park

Condo Project

Mayor Wilson said there would be no public comments during Judge Ohm's presentation and all questions would be asked by Council members. She introduced him as a lawyer from Hot Springs, the Garland County attorney, a district judge and legal counsel for the Arkansas Public Entities Association. He has reviewed the records of the applications and plans for the Crescent Hotel Condominium Project proposed by owners Martin and Elise Roenigk.

Judge Ohm spent a more than an hour giving his opinion of the approvals given by the Planning Commission/Board of Zoning Adjustment and whether or not they met the requirements of the city's Municipal Code. He discussed Planned Use Developments (PUD) and the need for rezoning or not rezoning land to be used for PUDs. He said several times he did not look at the actual development plan presented by the Roenigks for the project.

Amendment: Judge Ohm emphasized the importance of following the city's Municipal Code.

Mr. Brammer moved to take a break at 7:22 p.m. Mr. Scheunemann seconded. All voted aye. Motion passed

6/0/0 Ms. Hahn moved to resume the meeting at 7:40 p.m. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

Mayor Wilson introduced Keaton Boardman, Dustin Martin and Nathan Wilkerson of Boy Scout Troop 67, Road Kill Patrol. They attended the meeting as part of the requirements for a citizenship badge.

Mayor Wilson asked to add Ordinance 2046, waiving the bidding process for the purchase of a leak detector for the Public Works Department, to the new business portion of the agenda. She said the discussion of the downtown trash compactor, New Business Item #2, is postponed to the next meeting at the request of Roger Miner. **City Council**

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Ms. Harrison moved to put Resolution #536 regarding the Crescent Hotel condo project on the agenda for a vote. The vote was tabled during the Feb. 12 regular Council meeting. Ms. Hahn seconded. During discussion, Ms. Harrison said she would withdraw her motion. Ms. Hahn withdrew her second.

Ms. Harrison moved to have a discussion about Resolution #536. Ms. Hahn seconded. By roll call, four voted aye. Mr. Brammer and Ms. Zeller voted no. Motion passed 4/2/0

Ms. Harrison moved to add Ordinance 2046 to the agenda as New Business #2. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Mr. Scheunemann moved to accept the agenda as amended. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Ms. Harrison said the proposed legislative bill amending the enabling legislation for the City Advertising and Promotion Commission (CAPC) is now in the House of Representatives for consideration. She asked for a discussion of House Bill 1586 as Item #4 under New Business on the agenda. Ms. Hahn seconded. All voted aye. Motion passed 6/0/0

APPROVAL OF THE MINUTES: Feb. 12, 2007

Ms. Harrison moved to approve the minutes of the regular City Council meeting of Feb. 12, 2007. Mr. Scheunemann seconded.

Ms. Buchanan asked that the minutes under New Business Item #4 on page 5 not be so much about her, but the small amount of event producers in the community who might want to do business with the city.

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

DEPARTMENT HEAD AND COMMISSION REPORTS:

Building – Ms. Chrysler asked to have Ordinance 2045 regarding surety bonds for contractors put on the March 26 agenda.

Transit – Ms. Sell read a letter from Transit Director Lamont Richie asking that the portion of the city’s personnel policy regarding the hiring of persons married to each other be waived so he could hire two trolley drivers. The couple already has appropriate CDL licenses and experience.

Ms. Zeller moved to waive the nepotism section of the city’s personnel policy according to Mr. Richie’s request. Mr. Brammer seconded. By roll call, all voted aye. Motion passed 6/0/0

Public Works – Mayor Wilson said there would be a walk through the areas where the turkey vultures are roosting at 1 p.m. Thursday, March 1, with Mike Hoy of the USDA Wildlife Service.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

CAPC – Position 1, expiring 6/30/09 – Nominee Alvin Byrd Mr. Brammer moved to nominate Alvin Byrd to Position 1 on the CAPC. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

Parks – Position 1, expiring 5/1/07 – Nominee Dawn Hagin Mr. Brammer moved to nominate Dawn Hagin for Position 1 on the Parks and Recreation Commission. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

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Historic District Commission – Position 5, expiring 11/30/08

Position 1, expiring 11/30/09 Re-Nomination – Richard Grinnell Mr. Brammer moved to approve the nomination Richard Grinnell for reappointment to Position 1. Ms. Zeller seconded. There was some discussion about whether or not one person should serve on two commissions (Mr. Grinnell is also on the CAPC.) On the motion to approve the nomination, Mr. Brammer, Ms Zeller, Ms. Buchanan and Ms. Hahn voted aye. Ms. Harrison and Mr. Scheunemann voted no. Mayor Wilson voted aye to appoint Mr. Grinnell. Motion passed 5/2/0

Planning Commission – Position 3, expiring 7/1/11 – Nominee Lany Ballance Mr. Brammer moved to approve the nomination of Lany Ballance to Position 3 of the Planning Commission/Board of Zoning Adjustment. Ms. Buchanan seconded. Five voted aye. Ms. Zeller was opposed. Motion passed 5/1/0

Position 4, expiring 7/1/09

Position 5, expiring 1/1/10 – Nominee Stan Shaw Mr. Brammer moved to appoint Stan Shaw to Position 5 on the Planning Commission/Board of Zoning Adjustment. Motion died for lack of a second.

Position 7, expiring 1/1/09 – Nominee Beverly Blankenship Mr. Brammer moved to appoint Beverly Blankenship to Position 7 on the Planning Commission/Board of Zoning Adjustment. Ms. Zeller seconded. After brief discussion, Mr. Brammer voted in favor. Five voted against the motion. Motion failed 1/5/0

Cemetery - Position 5, expiring 2/15/08

OLD BUSINESS:

1. Request from Mike Klecha to lease city property for access to Civil War Cave behind 29 S. Main.

Ms. Zeller moved to discuss the request from Mike Klecha. Ms. Buchanan seconded.

Mr. Weaver said he has looked at the material provided to him from various parties regarding the cave and its history. He said none of the local title companies want to do a title search on the property. He said the property is in the city's control and it is up to the Council to decide what to do with it.

He said the cave is reserved. The cave has public interest and the public should have a right to get to it. He has a problem leasing any property that would mean limited access to the public.

After some discussion, Ms. Harrison moved to not consider a lease. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

2. Discussion of Ordinance 2036, regarding grease trap fees and penalties for late payment (3rd reading)

Mr. Weaver did not have the amendments prepared. Mayor Wilson tabled the discussion to the regular meeting of March 12.

3. Discussion of resolution concerning "protecting the city's gateways" and a study of plans for Highway 62 west.

Ms. Zeller said she did not have any new information on the resolution.

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Jack Moyer, secretary of the Economic Development Committee of the Greater Eureka Springs Area Chamber of Commerce, said the proposal is to ask the Arkansas Highway and Transportation Department (AHTD) to consider variances in the federal highway construction guidelines and for the repair of the first intersection of Highways 62 and 187.

Mr. Scheunemann and Mr. Brammer volunteered to be on a committee to work with the Chamber's committee to draft the resolution.

4. Discussion of Ordinance 2034, vacating an unnamed street lying in Block 83 of the Clayton Addition, requested by Marty and Elise Roenigk.

Ms. Harrison moved to table the discussion. Ms. Hahn seconded. All voted aye. Motion passed 6/0/0

5. Discussion of Ordinance 2040, reimbursement for prisoner transportation costs

Ms. Harrison moved to suspend the rules and place Ordinance 2040 on its second reading by title only. Mr. Brammer seconded. By roll call, all voted aye.

Mayor Wilson read the title of Ordinance 2040 aloud.

Mr. Brammer moved to approve Ordinance 2040 on its second reading by title only. Ms. Harrison seconded. All voted aye. Motion passed 6/0/0

6. Discussion of Ordinance 2037, amendments to Chapter 7.84, Signs, (2nd reading)

Mr. Brammer moved to suspend the rules and place Ordinance 2037 on its second reading by title only. Mr. Scheunemann seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Wilson read the title aloud.

Mr. Weaver presented amendments to the ordinance. There was discussion.

Mr. Brammer withdrew his motion to approve Ordinance 2037 on its second reading by title only. Mr. Scheunemann withdrew his second.

Mr. Brammer moved to approve Ordinance 2037 as amended by the recommendations of the city attorney and to leave in language regarding product advertisement. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

7. Discussion of proposal to allow elected officials to do business with the city.

Mr. Brammer moved to open discussion. Ms. Harrison seconded. All voted aye. Motion passed 6/0/0

Mr. Weaver said he has been working with Arkansas Municipal League Attorney David Schoen to draft an

ordinance. He hopes to have something to present to the Council at the March 12 meeting.

8. Discussion of Ordinance 2042 waiving bidding process for computer software updates for city computers.

Mr. Weaver said he has some problems with the language of the ordinance as presented. Mayor Wilson tabled the ordinance to the regular meeting of March 12.

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NEW BUSINESS:

1. Discussion of Resolution #536 regarding the Crescent Hotel Condo project.

(Note: Resolution #536 was read aloud during the regular City Council meeting of Feb. 12, 2007, but was not voted on.)

Ms. Harrison moved to discuss Resolution #536. Ms. Buchanan seconded.

Ms. Harrison asked Ms. Zeller to explain why she was opposed to the resolution. Ms. Zeller said she thought some sections were illegal, would put the city in legal jeopardy and she did not want to vote to support the resolution.

Mr. Weaver said there is no need for the resolution. If there are any violations of the city's Municipal Code, they should be brought to the table and dealt with. Passing resolutions won't address the issue.

Wade Williams, attorney for Martin and Elise Roenigk, said there was no notice of this discussion during this meeting. The entire topic is not on the table.

There was additional discussion.

Ms. Harrison moved to have the items actually approved by the Planning Commission/Board of Zoning Adjustment and the Historic District Commission (HDC) put into a list and the plans for the condo project brought to the Council. Ms. Hahn seconded. All voted aye. Motion passed 6/0/0

2. Discussion of Ordinance 2046 waiving bidding process for purchase of a leak detector for the Public Works Department.

Ms. Harrison moved to place Ordinance 2046 on its first reading. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Ms. Sell read Ordinance 2046 aloud.

Mr. Brammer moved to approve Ordinance 2046 on its first reading. Ms. Zeller seconded. Ordinance 2046 on its first reading. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Mr. Brammer moved to suspend the rules and place Ordinance 2046 on its second reading by title only. Ms. Zeller seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Wilson read the title of Ordinance 2046 aloud.

Mr. Brammer moved to approve Ordinance 2046 on its second reading by title only. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

Mr. Brammer moved to suspend the rules and place Ordinance 2046 on its third reading by title only. Ms. Zeller seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Wilson read the title of Ordinance 2046 aloud.

Mr. Brammer moved to approve Ordinance 2046 on its third reading by title only. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

Mr. Brammer moved to read the emergency clause. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

Mayor Wilson read the emergency clause aloud.

3. Discussion of Resolution #537 supporting application to participate in Arkansas Downtown Network Program.

Mayor Wilson said this resolution is necessary as a support document to the city's application to the Arkansas Downtown Network Program.

Ms. Zeller moved to read Resolution #537. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Mayor Wilson read Resolution #537 aloud.

Ms. Harrison moved to approve Resolution #537. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

4. Discussion regarding HB 1586 amending the CAPC enabling legislation.

Ms. Harrison called for the discussion of the bill.

Mayor Wilson explained the changes in the existing legislation as proposed: to have one at-large appointee to the seven-member commission and to change one of the collectors' categories to "retail."

Ms. Harrison and Ms. Zeller said they were opposed to the changes at this time, particularly since there is a search for a new CAPC director underway. The last two paragraphs of the proposed HB1586 were not included in Resolution #534 as approved by the City Council Oct. 23, 2006.

After discussion, Ms. Zeller moved to write a resolution expressing the displeasure of the City Council with HB 1586 and asking that the bill not be submitted to the legislature, that it be withdrawn. Ms. Hahn seconded. All voted aye. Motion passed 6/0/0

Ms. Harrison moved to take a break at 10:50 p.m. to give Mr. Weaver time to write a resolution. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0 Ms. Hahn moved to reconvene the meeting at 11:11 p.m. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

Mr. Brammer moved to read Resolution #538. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0
Mayor Wilson read Resolution #538 aloud.

AGENDA SETTING:

David "Fuzzy" White asked for time on the next agenda for his attorney to present some amendments to the city's Municipal Code regarding operation of taxis. Ms. Harrison and Ms. Hahn said they would sponsor the discussion.

Jack Moyer said the recent "Romancing the Springs" wedding show had brought 96 brides and 200 attendees to town. He congratulated Bill Ott for spending \$3,000 on publicity and getting approximately \$45,000 worth. As a spokesman for the Crescent Hotel project, he said a compromise to the situation had been offered to four Council members and the Mayor during the last meeting break. As a member of the Chamber of Commerce's Economic Development Committee, he said the committee and other members of the Chamber consider the Council to be "anti-business" and "everyone is concerned."

Bill King said he had noticed Judge Ohm, Mr. Williams and Mr. Weaver meeting in the city hall after Judge Ohm's presentation. He hopes some light will be shed on the situation.

COUNCIL COMMENTS:

Mr. Scheunemann thanked Judge Ohm for answering questions and those who participated in the meeting.

Ms. Hahn said this was the first time she had heard the Council is anti-business. She said tourism is our business.

Ms. Buchanan asked for donations for the Richey family who lost their home to a fire. Donations can be taken to the Police Department on Passion Play Road.

Ms. Harrison asked for consideration of citizens who want to speak during the agenda setting portion of the meeting to move their opportunity earlier in the meetings, perhaps after the Department Head and Commission Reports. She said Mr. White has been waiting more than five hours to speak to the Council. She would like to have reports from the

MAYOR'S COMMENTS:

Mayor Wilson said she was disappointed that the Council had turned down citizens who had volunteered to serve on commissions. She said it was a slap in the face to them.

She said she was at the Economic Development Committee meeting Mr. Moyer referred to and she was shocked that there was such a strong belief from those persons that the Council is anti-business.

Eureka Springs has been certified for the 25th year as a Tree City.

She read a list of events coming in march.

ADJOURNMENT:

Mr. Brammer moved to adjourn at 11:25 p.m. Mr. Scheunemann seconded. All voted aye. Motion passed
6/0/0

This is the signature page for the minutes of the regular City Council meeting Monday, Feb. 26, 2007.

Mayor Dani D. Wilson

City Clerk-Treasurer Mary Jean Sell

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