

Mayor Dani Wilson called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, Jan. 8, 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, Parks Director Bruce Levine and City Clerk-Treasurer Mary Jean Sell.

PLEDGE OF ALLEGIANCE: Mayor Wilson led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA

Ms. Harrison moved to approve the agenda. Ms. Hahn seconded.

Ms. Harrison asked to have a budget workshop instead of the discussion item of Old Business #2. Mr. Brammer seconded. Aldermen agreed to 4 p.m. on Tuesday, Jan. 16. On the motion, all voted aye. Motion passed 6/0/0

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

APPROVAL OF THE MINUTES: Dec. 19, 2006

Ms. Harrison moved to approve the minutes of the regular City Council meeting of Dec. 19, 2006. Ms. Hahn seconded.

Ms. Harrison asked to amend the minutes to include an explanation of why only the vote on the third reading of Ordinance 2033 was taken during the meeting in Item #2 on Page 2.

On the motion to approve the minutes of Dec. 19, 2006, as amended, all voted aye. Motion passed 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Historic District Commission – Position 1, expiring 11/30/09,
Position 5, expiring 11/30/08

CAPC – Position 1, expiring 6/30/09

Cemetery - Position 5, expiring 2/15/08

Parks – Position 1, expiring 5/1/07

Planning Commission – Position 3, expiring 7/1/11 Position 4, expiring 7/1/09

Mayor Wilson urged everyone to apply for positions on the commission to be a part of the solution to the city's problems.

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OLD BUSINESS:

1. Discussion of 2007 Sunday Market

Ms. Hahn moved to open discussion of the 2007 Sunday Market. Ms. Harrison seconded.

Ms. Sell said the Sunday Market has been declared a city festival and the issue before the Council is whether or not to rent the city's parking lot between the Basin Bath House Building and the old Greenlee Funeral Home on North Main St.

Ms. Harrison moved to allow the producers of the Sunday Market to continue to rent the parking spaces. Mr. Brammer seconded.

Mr. Weaver said the lawsuit against the city over the 2006 Sunday Market had been terminated by the judge hearing the case because the market had closed for the year. He said the crux of the issue is the lack of a definition of “thoroughfare” in the Municipal Code.

Ms. Buchanan introduced Heather Quinney as the new producer of the Market. Ms. Buchanan is one of the founders of the Market, now ready for its fourth season.

After discussion, five voted aye on the motion. Ms. Buchanan recused. Motion passed 5/0/1

Ms. Harrison moved to send a letter to the city attorney to draft an ordinance with a definition of “thoroughfare” to be included in the Municipal Code. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

NEW BUSINESS:

1. Discussion to set regular Council meeting dates and time

Ms. Harrison moved to open discussion to set regular Council meeting dates and Times. Ms. Buchanan seconded.

After discussion, Ms. Harrison moved to set regular Council meetings on the second and fourth Mondays at 6 p.m., including citizen comments during each meeting. Ms. Buchanan seconded. All voted aye. Motion passed 6/0/0

2. Adoption of rules of procedure

Ms. Harrison moved to adopt *Robert’s Rules of Order*. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

3. Election of mayor pro tem/vice-mayor

Ms. Hahn nominated Ms. Harrison as mayor pro tem, Mr. Scheunemann seconded. Five voted aye. Ms. Harrison abstained. Motion passed 5/1/0

4. Appointment of CAPC members from Council

Ms. Harrison nominated Joyce Zeller. Mr. Brammer seconded. Five voted aye. Ms. Zeller abstained. Motion passed 5/1/0

Ms. Hahn nominated Ms. Harrison. Mr. Scheunemann seconded.

Beverly Blankenship spoke against the nomination.

Enid Swartz asked if someone who lives outside the city limits could be nominated. Ms. Zeller and Mr. Weaver explained that is not possible under current enabling legislation.

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On the nomination, five voted aye. Ms. Harrison abstained. Motion passed 5/1/0

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

Ms. Hahn moved to open the discussion. Mr. Brammer seconded.

Ms. Hahn said she wanted everyone to walk the area to be clear about what is being proposed.

Bill Earngey presented information regarding Table Rock Spring Reservation, original deeds to the property and subsequent sales, leases and property vacations in the area through the years. He wants the city to research the question and determine who actually now owns what in the cave area.

Mr. Levine said the Parks and Recreation Commission has an opinion from Municipal League attorney David Schoen regarding the city’s ownership. He referred to Ordinances #102 and #109 from 1886 regarding the property.

Mr. Klecha said he is trying to provide access to the cave without having persons cross private property to get to it. He wants to improve the area.

Ms. Chrysler said the stairs from Spring St. up to the cave area and the stairs above the cave are no longer safe and do not meet safety codes. They need to be repaired and properly maintained.

Ms. Hahn moved to table the discussion and to get legal advice on the matter. Mr.

Scheunemann seconded. All voted aye. Motion passed 6/0/0

Aldermen agreed to a site visit at 3:30 p.m. Tuesday, Jan. 16.

6. Appeal from Priscilla Bowie/Carl Ennis of Board of Zoning Adjustment

refusing to consider application for conditional use permit (CUP) at 23 Elk St.

Ms. Sell said there was no formal application presented to the Board of Zoning Adjustment, just a discussion to see if an application would be considered. The Board had declined to consider because of Municipal Code Chapter 14 Zoning 14.08.03 P. which does not allow new CUPs within 200 feet of an existing CUP, and 14.08.05 E. which does not allow a use to be renewed after 180 days or "abandonment." Ms. Bowie has not used the cottage for lodging in several years.

After brief discussion, Ms. Harrison moved to uphold the BOZA decision to turn down the application. Mr. Scheunemann seconded.

Mr. Weaver said the motion was not proper because there is not an actual application decision for the Council to deliberate.

Ms. Harrison withdrew her motion and Mr. Scheunemann withdrew his second.

7. Discussion of Ordinance 2035 repealing Ordinance 2017 creating a finance committee.

Ms. Harrison moved to place Ordinance 2035 on its first reading. Ms. Zeller seconded.

Mayor Wilson read Ordinance 2035 aloud.

Ms. Harrison moved to approve Ordinance 2035 on its first reading. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

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Ms. Harrison moved to suspend the rules and place Ordinance 2035 on its second reading by title only. Mr. Brammer seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Wilson read the title of Ordinance 2035 aloud.

Ms. Harrison moved to approve Ordinance 2035 on its second reading by title only. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Mr. Weaver said it would be necessary to appoint a Finance Committee to serve until the ordinance has been read all three times, approved, published and has gone into effect.

Ms. Harrison moved to appoint Ms. Zeller and Ms. Hahn to the Finance Committee. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Ms. Harrison moved to take a break at 7:55 p.m. and go into the agenda-setting portion of the meeting on return. Mr. Scheunemann seconded. All voted aye. The meeting resumed at 8:15 p.m.

Ms. Chrysler asked the Council to consider lowering the annual fee for grease trap inspections from \$100 to \$50; to establish a \$25 late fee; and to include a penalty for failure to pay the fee after Jan. 31 of each year. She said she has sent letters to approximately 90 businesses about their grease trap fee and has responses from eight to 10.

Ms. Harrison moved to have the city attorney draft an ordinance to change the grease trap inspection fee from \$100 to \$50 with a late fee of \$25. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

CITIZENS' COMMENTS:

Bill King said the zoning and blasting issues for the proposed condominium development in the Glenwood/Crescent Park area should be pursued by the city. He wants a resolution supporting former Mayor Harrison's proclamation call for extensive review of the project. He wants the current Municipal Code book repealed. He wants the City Advertising and Promotion Commission (CAPC) to follow the same state statute as everyone else. He wants the marijuana initiative approved by the voters in November to be included in the Municipal Code book.

Jan Grinnell spoke in support of Planning Commission/Board of Zoning Adjustment Chairman Leah Karnes and the way she conducted Commission meetings dealing with the proposed Glenwood/Crescent Park condominium project in November and December of 2006. She said Ms. Karnes had done a good job.

Bill White spoke in support of Ms. Karnes, saying she is a lady of integrity, honest and fair.

Jack Moyer spoke in support of the Glenwood/Crescent Park condominium project. He said he and Martin (Marty) and Elise Roenigk have gone through the commission processes and feel like the commissioners acted with utmost character and followed the law. The remaining issue is the vacation of the unnamed street, which should be before the Council at the end of this month. He read letters from Cathie Matthews of the Arkansas Historic Preservation Program office in Little Rock saying the

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Historic District numbers will not be compromised by the condominium project, and from Ed McMahan, resident fellow with the Urban Land Institute in Washington, D.C., complimenting the Roenigks on the project.

Beau Satori said he wants the city's television and broadcasting equipment upgraded. He wants to be able to broadcast television from the City Auditorium. He wants older records transcribed and put into digital form. He wants the packets of information prepared for each council meeting for council members to be scanned and put on-line so the public can have the same information. He wants an effort made to preserve the old original records. He congratulated everyone on being elected.

Jeff Feldman, president of the Greater Eureka Springs Chamber of Commerce, congratulated everyone on being elected. He invited the Mayor and Council to attend any and all of the Chamber board meetings and to be involved with the economic development and work plans for the coming year.

Melissa Greene said that as a commissioner (Historic District Commission member) she will defend another commission and commissioners (Planning/BOZA) for following the law.

Marty Roenigk said he has admiration and appreciation for Leah Karnes and all of the commissioners he has dealt with in the presentation of the Glenwood/Crescent Park condominium project. He said the commissions have followed the law while others have been acting like children and wanting to change the rules. He asked the Council to respect the commissions and their decisions. He volunteered to give the Council a presentation on the condominium project.

Barbara Lightner asked for the removal of Planning Commission/BOZA Chairman Leah Karnes, saying she did not conduct her meetings fairly.

Lany Ballance presented seven pages of a petition signed by 66 persons and one dog asking for a legal opinion from an attorney regarding the use of Glenwood Park for private development. She presented a copy of an Arkansas Supreme Court decision May 9, 1955, in the lawsuit of the Incorporated Town of Mountain View vs. Lackey addressing similar issues. She asked the Council to explore options in these matters and to consider what Eureka Springs has been and will be.

Beverly Blankenship quoted Arkansas statute 14-56-405 and said the Council has no authority to remove Planning Commissioners from their appointments.

EXECUTIVE SESSION:

Ms. Harrison moved at 8:47 p.m. to go into executive session to discuss discipline of a department head. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

Council members returned to the open meeting at 9:30 p.m.

Mayor Wilson said two issues had been discussed but no action would be taken by the Council at this time. A department head would be disciplined.

She said there will be a need for another executive session during the Jan. 22 meeting.

AGENDA SETTING:

Ms. Harrison moved to return to the Council portion of the agenda-setting meeting. Ms. Buchanan seconded.

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Ms. Harrison said she wants to have the discussion of the ordinance for the grease trap fee; a review of the PUD (Planned Unit Development) given to the Roenigks; a discussion of independent audits for the CAPC and Parks Commission; the codification of the Municipal Code; and for all ordinances to be drafted by the City Attorney on the next

agenda.

Ms. Zeller said she wants to have a discussion of the Chamber of Commerce resolution to the State Highway Department regarding the protecting of the entrances to the city; and signage to regulate motorcycle noise on the next agenda.

Ms. Hahn said she wants to discuss organizing and reproducing old city records and saving them.

Mr. Scheunemann said he wants to discuss the preservation of Highway 62 to the west of town. He does not want commissions to hold joint meetings.

Ms. Buchanan read aloud a statement encouraging everyone to work together for the benefit and betterment of business and the community.

COUNCIL COMMENTS:

Ms. Hahn said she would like for citizens to speak up and get involved.

Ms. Buchanan said the Council is here to serve our neighbors and we should follow a credo of respect. She said bending the rules hasn't worked, so she wants everyone to follow the rules. She cautioned the Council to move slowly and cautiously on projects that make changes that can't be put back. **Ms.**

Harrison said she is glad to be able to serve the citizens again as a Council member. She said continuity is important.

Mr. Brammer wished everyone a happy new year.

Ms. Zeller had no comments.

Mr. Scheunemann read aloud a statement discussing the democratic process; the process used for consideration and approvals of the Glenwood/Crescent Park condominium project; possible violation of the freedom of speech during Planning Commission meetings; and the withdrawal of the rezoning request by the Roenigks.

MAYOR'S COMMENTS:

Mayor Wilson said it has been "one heck of a week." She said the city hall staff has been exceptional in their responses and willingness to work. The citizens can be proud and indebted to the dedicated staff. She is holding interviews for a new finance director. The Mayor's Economic Advisory Committee is forming and getting ready to move forward.

ADJOURNMENT:

Ms. Harrison moved to adjourn at 10 p.m. Ms. Hahn seconded. All voted aye. Motion passed 6/0/0

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This is the signature page for the minutes of the regular City Council meeting of Jan. 8, 2007.

Mayor Dani D. Wilson

City Clerk-Treasurer Mary Jean Sell

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