

Mayor Dani Wilson called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, June 25, 2007, in the courtroom on the third 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, Chief of Emergency Services David Stoppel, Economic Development and Certified Local Government Coordinator Glenna Booth 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:

Mr. Brammer moved to approve the agenda. Ms. Zeller seconded.

Mr. Scheunemann asked to postpone Old Business Item #5, discussion of purchase of the Landaker Hotel property.

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

DEPARTMENT HEAD AND COMMISSION REPORTS:

Fire – Chief Stoppel reported on the recent open house for the new fire station at 142 Van Buren and updated the number of calls and responses for the year.

Finance – Mayor Wilson read aloud a report from Finance Director Yvonne Kline.

Public Works – Mayor Wilson read aloud a report from Public Works Director Jay Wilson.

Transit – Mayor Wilson read aloud a report from Transit Director Lamont Richie.

Municipal League Summer Conference – Mayor Wilson said she had talked with Gov. Mike Beebe, Municipal League attorney David Schoen and Carroll County Election Commission Chairman Levi Phillips during the conference about a variety of Eureka Springs issues. Ms. Hahn and Ms. Harrison also reported on attending the conference.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Cemetery - Position 5, expiring 2/15/08

Hospital – Position 1, expiring 6/1/07 Nomination for re-appointment Dr. Jack Pritchard

Mr. Brammer moved to approve the nomination of Dr. Jack Pritchard for re-appointment to Position 1 on the Hospital Commission. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

CAPC – All positions are open pending creation of new Commission

Before starting Old Business, Public Comments were taken.

Kent Crow, representing the Carroll County Board of Realtors, said that organization opposes any increase in the business license fee for real estate brokers. He said raising these fees is not a viable way of replacing lost revenue for the City Advertising and Promotion Commission (CAPC).

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OLD BUSINESS:

1 Discussion of resolution concerning “protecting the city’s gateways” and a study of plans for Highway 62 west with regional engineer Ralph Fulton.

Mr. Scheunemann moved to open the discussion. Mr. Brammer seconded.

Mr. Scheunemann read a statement thanking everyone for participating in the discussion this evening. He said a committee, including justices of the peace, county officials and community officials have been working to draft a resolution asking AHTD to slow the speed limits and grant variances from road-building standards regarding shoulder width on the

portion of Highway 62 west of Eureka Springs under construction near the entrance to Lake Leatherwood. He also read aloud letters from Dr. Andrea Radwell to Congressman John Bozeman and from AHTD Director Dan Flowers to Mayor Wilson regarding the project.

He read aloud a proposed resolution from the committee, similar to the one presented to the Council in April of this year.

Mayor Wilson introduced Arkansas Highway and Transportation Department (AHTD) District Engineer Ralph Fulton.

Mr. Fulton did not have a presentation, but tried to address issues and questions brought up by Mr. Scheunemann and Dr. Radwell's letter.

There was discussion about the need for two entrances requested by the city to Lake Leatherwood Park, instead of the one AHTD planned to build, whether or not a cave had been uncovered during site preparation for a bridge pier, and the blasting and demolition work as site preparation on the north side of the highway.

Mr. Fulton encouraged everyone to submit letters to him about their concerns so they could be answered.

Alex Haynes said he represented the Grassy Knob area and he and his neighbors are very opposed to any changes to the safety requirements for the highway.

Phyllis Johnson said she has been coming to Eureka since 1948 and she supports the resolution. She wants the safety of the highway improved, but she wants the beauty of the area preserved.

Ernst Schrader said people come to Eureka Springs for the natural beauty of the area and they are worried and amazed at the destruction at the entrance to the city. We do not need massive highways into Eureka Springs. This is vacation territory and huge highways are insane.

Karen Lindblad said she supports the resolution because people come here to slow down. What kind of environmental standards is the highway department held to? Will they replace the trees? Usually only grass is replanted. She can't figure out why there is so much devastation to the area.

Beau Satori said there is no longer any consideration for any aesthetic concern by the AHTD. The bridge over the Kings River has no style or architectural value. This project is an aesthetic failure and will not help the city build tourism.

Discussion lasted approximately one hour and 15 minutes. The Council took no action.

2. Discussion of Ordinance 2047 regarding demolition by neglect (2nd reading)

(Note: This is actually the third reading. The ordinance was read and approved on April 23 and June 11.)

Mr. Brammer moved to approve Ordinance 2047 on its second reading by title only. Mr. Scheunemann seconded.

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There was discussion with suggestions for amendments offered. No specific motions for amendments were made or approved during this discussion.

Ms. Zeller called the question after 30 minutes of discussion.

Mr. Brammer moved to approve Ordinance 2047 as amended. Mr. Scheunemann seconded. Four voted aye. Ms. Harrison and Ms. Buchanan voted no. Motion passed 4/2/0

Ms. Hahn moved to take a break at 8:15 p.m. Mr. Scheunemann seconded. All voted aye. Meeting resumed at 8:30 p.m.

3. Discussion of Ordinance 2051 proposed amendments to Municipal Code Chapter 4.36 regarding taxis (3rd reading).

Ms. Hahn moved to suspend the rules and place Ordinance 2051 on its third reading by title only. Ms. Harrison seconded. By roll call, four voted aye. Mr. Brammer and Ms. Zeller voted no. Motion passed 4/2/0

Mayor Wilson read aloud the title of Ordinance 2051.

Ms. Hahn moved to approve Ordinance 2051 on its third reading by title only. Ms. Harrison seconded.

Ms. Hahn began the discussion by saying she would not be intimidated by threats of lawsuits over this ordinance.

Attorney Kent Crow, author of the ordinance, reviewed a critical letter from attorney Wade Williams point by point.

Mr. Williams said the new ordinance should apply to the recipient of the franchise as well as to any other applicants.

Mr. Weaver said the ordinance has elements of granting a monopoly to one taxi business but regulating limousines exceeds the authority of the Council.

Jeff Feldman, president of the Greater Eureka Springs Area Chamber of Commerce, said Mr. Crow is the only person on the planet who understands the 12 pages of this ordinance. He said if the Council wants to approve an ordinance to protect one individual business, then it should be prepared to approve ordinances to protect other businesses in town as well.

Roscoe Pittenger said he drives limousines on weekends for David White (current taxi license holder) and he has never had a complaint about the costs or service.

RoAnna McDaniel said she is the wedding planner for the Crescent and Basin Park Hotels. She said the Council is trying to make decisions without facts or figures about the need for limousines, the economics of operating a limousine and/or taxi business. If Mr. White is the only limousine service in town, who will she be able to call when he is busy?

Mike Klecha asked if the Council has seen a profit and loss plan for Mr. White’s business? He asked about hotel shuttles, sight seeing tours, public safety. He said the ordinance says nothing about drug or alcohol testing of drivers. And what is Mr. White decides to sell his business? There are no checks and balances in the ordinance.

Patti Corcelli said the ordinance will be here long after Mr. White. The Council should protect and preserve the transportation service we have. The Council should do what is good for business and locals. Transportation has to be viable and available for everyone.

Beau Satori said other cities don’t have taxi services now because they cannot afford to subsidize them. Our city doesn’t need limousines, but the tourism industry does. We must protect the services.

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Mr. Williams said Mr. Crow is not the city’s attorney. The city has an attorney to represent the city. The ordinance is not necessarily bad, but it needs to be tweaked. Franchise rules should apply to everyone.

Karen Lindblad said the Council should protect the city by keeping the taxi service we have. Citizens expect service and a taxi is essential.

After an hour of discussion, on the motion to approve Ordinance 2051 on its third reading by title only, four voted aye. Mr. Brammer and Ms. Zeller voted no. Motion passed 4/2/0

(Amended by Mr. Brammer to add: Mr. Brammer asked attorneys Weaver, Crow and Williams if Ordinance 2051 does or does not fall under the Sherman and Clayton Antitrust Laws. Mr. Weaver said: somewhat, yes advised to similarity, no to ordinance. Williams said: Not necessarily, but the ordinance is in need of work. Crow said: No, we have the power to regulate transportation under state statute.)

4. Discussion of Ordinance 2050 regarding adoption of Municipal Code (2nd reading)

Mr. Brammer moved to suspend the rules and place Ordinance 2050 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 of Ordinance 2050 aloud.

Mr. Brammer moved to approve the second reading of Ordinance 2050 by title only. Ms. Zeller seconded.

Mr. Weaver said he still has not been able to talk with Municipal League attorney David Schoen about the code issues. He suggested removing the sentences in the ordinance dealing with repealing ordinances left out of the text of the code as a correction for the deficiencies on the ordinance.

Mr. Brammer moved to amend the ordinance by removing a portion of the title and Section 2 regarding repealing ordinances left out of the code. Mr. Scheunemann seconded. Five voted aye. Ms. Harrison voted no. Motion to amend passed 5/1/0

On the motion to approve Ordinance 2050 as amended on its third reading by title only, five voted aye. Ms. Harrison voted no. Motion passed 5/1/0

Mr. Brammer moved to take a break at 9:50 p.m. Ms. Buchanan seconded. All voted aye. Motion passed 6/0/0 Meeting resumed at 10:02 p.m.

6. Discussion of Ordinance 2053 regarding City Advertising and Promotion (CAPC) membership and

levying the two percent gross receipts tax. (2nd reading vote, 3rd reading)

Ms. Harrison moved to delay action on Ordinance 2053 because of the lateness of the hour but to allow citizens who have been waiting the opportunity to speak to the ordinance. Mr. Scheunemann seconded.

Jeff Feldman said he would reserve his comments for the later discussion.

James DeVito said the Council should pass the ordinance as it is because of a deadline imperative from the state legislature. Pass this ordinance now to meet the deadline and fix the problems later.

Tom Tharp said the Council should make this ordinance right, allow for representatives of B&Bs (bed and breakfasts), make this right or be faced with referendums and class action law suits. Make it right and simple.

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Dina Landis said she has been in business here 24 years. She has always paid the CAPC tax but has never thought it was equitable. She has never known us not to be mad at the CAPC.

Karen Lindblad said she is totally against any CAPC retail tax. No other cities charge this kind of retail tax and it is inappropriate.

Beau Satori said the legislative act (Act 464) is a mess and has to be tweaked because the legislature obviously did not read what was sent from here to them.

Ms. Harrison said she had talked to Municipal League attorney David Schoen today and he has several problems with the ordinance. The Council has to pass the language of Act 464.

Mr. Weaver suggested going back to Ordinance 2053 as he originally proposed it, not the version amended by Ms. Zeller and read during the regular meeting of June 11.

Mr. Brammer moved to approve the original version of Ordinance 2053 on its second reading by title only. Ms. Zeller seconded. There was additional discussion. Mr. Brammer withdrew his motion. Ms. Zeller withdrew her second.

Mr. Scheunemann moved to postpone any vote and to have a special meeting at 9 a.m. Friday, June 29, to discuss the ordinance. Mr. Brammer seconded. All agreed.

7. Discussion of Ordinance 2057 for no parking on south side of Mountain St.

between White and Washington streets (3rd reading).

Mr. Scheunemann moved to suspend the rules and place Ordinance 2057 on its third and final reading by title only. Mr. Brammer seconded. By roll call, all voted aye.

Mayor Wilson read the title of Ordinance 2057 aloud.

Mr. Brammer moved to approve Ordinance 2057 on its third reading by title only. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

NEW BUSINESS: None

AGENDA SETTING:

Ms. Harrison distributed a packet of information pertaining to Planned Unit Development, the Planning Commission and a proposed ordinance.

CITY COUNCIL COMMENTS:

Ms. Buchanan said she agrees with the changes to the ordinance (2047) for demolition by neglect. The world's largest slumber party (all night movies at the Lucky 13 Cinema) was a lot of fun.

Mr. Scheunemann said new commissioners are needed for the CAPC and asked people to turn in applications to volunteer.

Ms. Hahn said she had gotten an e-mail from Police Chief Hyatt commending Officer Shelly Summers for her work. She said she will not be coerced into anything by the threat of a lawsuit.

Ms. Harrison said Council members need to have the courage to say "no" and do the right thing for the city. She has reports from observers that the Council is not working as a team. She has served the city for six years and has taken a lot of verbal abuse and innuendo. She read a loud a letter that had no signature. She said she hopes everyone can start working together in the second half of the year.

Mr. Brammer wished his mother a happy birthday, and thanked everyone for attending tonight's meeting.

MAYOR'S COMMENTS:

Mayor Wilson congratulated Ms. Buchanan on the media coverage she received for her Cinema 13 slumber party. She read aloud a list of upcoming events.

ADJOURNMENT:

Mr. Brammer moved to adjourn at 10:55 p.m. Ms. Hahn seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Monday, June 25, 2007.

Mayor Dani D. Wilson

City Clerk-Treasurer Mary Jean Sell