

Mayor Dani Wilson called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, March 12, 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 and Recreation Director Bruce Levine, 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. Zeller moved to approve the agenda. Mr. Brammer seconded.

Ms. Harrison asked for a discussion of the Mayor's veto of Resolution 538 regarding changes in the City Advertising and Promotion Commission (CAPC) enabling legislation be placed on the agenda. Ms. Hahn seconded. This will be item #8 under Old Business.

Ms. Buchanan asked that New Business Item #8, discussion of proposed amendments to Municipal Code Chapter 4.36 regarding taxis be postponed to the March 26 meeting.

Mayor Wilson said Old Business Item #7, discussion of Ordinance 2042 waiving bidding process for computer software updates for city computers, has been withdrawn. She said New Business Item #3, discussion of the HDC proposed ordinance for demolition by neglect, and New Business Item #6, Ordinance 2045 requiring surety bond for contractors, have been postponed to the March 26 meeting.

She added an item to New Business, discussion of Ordinance 2048 regarding parking on Spring Street between Howell and Crescent Spring.

She said she had actually nominated Deborah Stroup to the Historic District Commission (HDC) and James Morris to the Planning Commission/Board of Zoning Adjustment during the meeting of Feb. 26.

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

**APPROVAL OF THE MINUTES: Feb. 26, 2007**

Mr. Brammer moved to approve the minutes of the regular meeting of Feb. 26, 2007. Ms. Harrison seconded.

Ms. Buchanan noted a correction in the vote on the nominee to the Parks Commission on Page 2. She said she had voted yes on Mr. Grinnell's re-nomination on Page 3.

Ms. Harrison said she wanted an addition to the minutes of Judge Ralph Ohm's presentation saying he had emphasized several times that the local municipal code should be followed.

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

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**DEPARTMENT HEAD AND COMMISSION REPORTS**

**Parks** – Mr. Levine said Eureka Springs will host the 2008 Arkansas Parks and Recreation Association meeting. The Tree City Committee is recommending the removal of the large sycamore tree on the south side of Basin Spring Park. The tree is leaning and could fall at any time. He has an application before the Planning Commission for approval of the request to remove the tree.

He asked that the agenda New Business Item #2, discussions of Parks Commission requests for \$30,000 capital funding and funding for a gardener's position, be postponed to the March 26 meeting.

**Mayor's Economic Advisory Committee** – Mayor Wilson introduced Jeff Jeans of the Mayor's Economic

Advisory Committee. He said the group is studying the operations of the City Auditorium and the CAPC to find a viable way to operate the Auditorium on a more profitable basis. He encouraged anyone with suggestions to contact him or other members of the committee.

## **PUBLIC COMMENT:**

**Jeff Feldman**, president of the Greater Eureka Springs Area Chamber of Commerce, said he was speaking to introduce Kathy Hughes, Clark Henson and Jan Grinnell.

**Kathy Hughes** introduced herself as the co-owner of five Historic District properties. She said she walked a petition and got signatures from 252 persons with 195 or 78% in full support of the Roenigk Project. She gave 15 pages of signatures to Mayor Wilson.

(Note: Martin and Elise Roenigk, owners of the Crescent and Basin Park Hotels, have proposed building 19 cottages with 40 living units in the area known as Glenwood Park, below the west/front Crescent Hotel parking lot, down to Spring Street, bounded on the west by Glen Ave./Ellis Grade.)

She said there is a large group (about 20) of people in the hallway outside the meeting room who are attending the meeting to show their support of the project and of Mayor Wilson. She invited them to walk through the meeting room so they could be seen by television viewers.

**Clark Henson** said he was at the meeting to support HB 1586 regarding changes in the City Advertising and Promotion Commission (CAPC) enabling legislation now before the Arkansas Legislature. He asked citizens to support the CAPC or to present solutions to “the problem.”

**Jan Grinnell**, 5 Ojo, said she is concerned about the time it is taking to appoint new members to the Planning Commission/Board of Zoning Adjustment. She said all of the Council members campaigned on “action,” but no appointments have been approved. The non-approval of volunteers discourages others who might volunteer.

**Bill King** said the Council should follow the Municipal Code in dealing with the Crescent/Glenwood Park issue. He said a group of concerned citizens is planning on filing a request for a writ of mandamus. Everyone should be treated fairly and the Municipal Code followed. The Council has the decision as to whether or not the project can go forward.

**Barbara Lightner** told the Council to follow the Municipal Code to be on legal ground. She said she could find an equal number of persons opposed to the Roenigk project to walk through the meeting as those who supported it earlier. She asked if the Building Official has received drawings required by the Fire Department and if a surety bond has been posted to cover the harm done to roads leading to and from the project.

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**Karen Lindblad**, 17 Vaughn, said this situation (the Roenigk project) is not a contest, it is a matter of law. The approvals given by the Planning Commission/Board of Zoning Adjustment were not for the final project plans. She is opposed to HB1586 and the changes it proposes in the CAPC legislation. She said the Council should back up its resolution (Res. 538 opposing the changes) and override the Mayor’s veto.

**Richard Grinnell**, co-owner of 5 Ojo and a member of the CAPC, said the CAPC legislation gives the City Council the final say on who will collect the 2 percent tax. The legislation does not attempt to change who collects or how much is collected, that is up to the City Council.

**Woodie Acord** said he has been a resident and voter here since June 26, 1979 and has operated a business since July 2, 1979. He has collected and paid taxes. He supports the Crescent Condo project and the benefits it will bring to this community. In 10 years, it could amount to more than \$10 million in taxes for the schools, county libraries and city. He encourages the Council to look favorably on the project.

**Jamie Gregg** asked the Council to follow the Municipal Code with regard to the Crescent Park project. The Code says the city is not to part with green space if it is a detriment to the city. It is a valuable piece of land. (He is referring to the request from the Roenigks to vacate an unopened and unnamed street lying in Block 83 of the Clayton Addition.)

**Beau Satori** said he wanted the amendments to the sign ordinance as proposed in Ordinance 2037 should allow one flag per 10 feet of store frontage. He suggested the contested issues in HB1586 be divided and that the state Senate be asked to withdraw the bill. He wants the Roenigk project returned to the Planning Commission/Board of Zoning Adjustment. He wants the tax records checked to make sure the Roenigks own the property known as Glenwood Park.



Mr. Brammer moved to suspend the rules and place Ordinance 2037 on its third and final reading by title only. Ms. Zeller seconded. By roll call, five voted aye. Ms. Buchanan voted no. Motion passed 5/1/0

Mayor Wilson read the title of Ordinance 2037 aloud.

Mr. Brammer moved to approve the third reading of Ordinance 2037. Ms. Zeller seconded. Five voted aye. Ms. Buchanan voted no. Motion passed 5/1/0

#### **6. Discussion of proposal to allow elected officials to do business with the city.**

Ms. Harrison moved to open discussion. Ms. Hahn seconded.

Mr. Weaver presented Ordinance 2049 for consideration. He said he and Municipal League attorney David Schoen had written the ordinance specifically referring to Alderman Charlotte Buchanan's ability to do business with the city. Mr. Weaver said an ordinance specifically referring to one person is preferable and more defensible than a blanket ordinance for all elected officials.

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Ms. Harrison moved to place Ordinance 2049 on its first reading. Ms. Hahn seconded. Ms. Buchanan recused herself. Three voted aye. Ms. Zeller and Mr. Brammer voted present. Mr. Weaver said the Buchanan, Zeller and Brammer votes count as nay votes. Mr. Brammer changed his vote to aye. The motion passed 4/1/1

Ms. Sell read Ordinance 2049 aloud.

Ms. Harrison moved to approve Ordinance 2049 on its first reading. Ms. Hahn seconded. Ms. Buchanan recused herself. Five voted aye. Motion passed 5/0/1

Ms. Harrison moved at 7:38 p.m. to take a short break. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0  
Ms. Zeller moved to resume the meeting at 7:53 p.m. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

#### **7. Discussion of the Mayor's veto of Resolution 538 regarding changes in the City Advertising and Promotion Commission (CAPC) enabling legislation.**

Mayor Wilson read her reasons for the veto aloud.

Ms. Hahn moved to discuss the veto. Mr. Scheunemann seconded.

There was discussion about whether to change the recommendations for changes to the state legislature; the advisability of having an at-large member; who would determine the tax collectors; and the Council's ability to determine which items would be taxed.

Ms. Harrison moved to allow the public to speak on the issue. Ms. Hahn seconded. Mr. Weaver cautioned the Council against allowing supporters of only one side of the issue to speak since the item was not on the published agenda. Four voted against the motion. Ms. Hahn and Ms. Harrison voted for the motion. Motion failed 4/2/0

Ms. Hahn moved to reinstate Resolution 538 and override the Mayor's veto. Ms. Harrison seconded. By roll call, Ms. Harrison, Ms. Hahn, Mr. Scheunemann voted aye. Ms. Buchanan, Ms. Zeller, Mr. Brammer voted no. Motion failed for lack of a majority 3/3/0.

#### **NEW BUSINESS:**

##### **1. Presentation from Roger Miner of Carroll County Solid Waste regarding downtown trash compactor.**

Mr. Miner was not present. Mayor Wilson said the presentation would be postponed to the meeting of March 26.

##### **2. Discussion of proposal to make the city a Patriot Act Free Zone**

Megan Boes presented a packet of information on the issue to the Council during the regular meeting of Feb. 12. She said 401 cities and counties have approved documents similar to this in the belief that the Patriot Act violates the U.S. Constitution. She called the action a "moral statement of intent."

Ms. Buchanan moved to make Eureka Springs a Patriot Act Free Zone. Mr. Scheunemann seconded.

Mr. Weaver urged caution in approving any resolution or document of declaration. He asked to be given time to review Ms. Boes' proposal and to have the Municipal League also review it.

**3. Presentation of Crescent Hotel condominium project.**

(Note: Martin and Elise Roenigk, owners of the Crescent and Basin Park Hotels, have proposed building 19 cottages with 40 living units in the area known as Glenwood Park, below the west/front Crescent Hotel parking lot, down to Spring Street, bounded on the west by Glen Ave./Ellis Grade.)

No one representing the Roenigks or the project was in attendance.

Beau Satori said tremendous changes have been made in the plan and it should be reviewed by the city.

(Note: Proposed changes in the plan were published in the *Carroll County Newspaper Weekend Edition*, *The Lovely County Citizen* and the *Patriots' Herald* newspapers but nothing has been presented to the Council or the Planning Commission/Board of Zoning Adjustment as of this date.)

Mr. Weaver said if the Council believes enough changes have been made in the proposed plan that it should be reconsidered by the Planning Commission/Board of Zoning Adjustment. He wasn't sure that newspaper articles were reliable information and sufficient to warrant Council action.

There was additional discussion of the newspaper articles, whether or not the plan should be reviewed again and who should review it.

Mr. Brammer moved to table the presentation to the March 26 regular meeting so Mayor Wilson could contact the developers to see if changes are being made from the plan as presented to the Planning Commission/Board of Zoning Adjustment. Mr. Scheunemann seconded. Five voted aye. Ms. Hahn voted no. Motion passed 5/1/0

**4. Discussion of City Clerk's request to destroy obsolete records.**

Ms. Sell explained these are records that have been kept the five years as required by law and are now eligible for destruction. This is an annual request.

Ms. Zeller moved to approve the destruction of the 2002 obsolete records. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

**5. Discussion of Ordinance 2048 regarding parking on Spring Street between Howell and Crescent Spring.**

Ms. Zeller moved to place Ordinance 2048 on its first reading. Mr. Scheunemann seconded. All voted aye. Motion approved 6/0/0

Mayor Wilson read Ordinance 2048 aloud.

Ms. Hahn moved to approve Ordinance 2048 on its first reading. Mr. Scheunemann seconded. All voted aye. Motion approved 6/0/0

**AGENDA SETTING:**

Ms. Buchanan said she wanted to make sure the agenda item on proposed changes in the Municipal Code regarding taxis would be continued to the March 26 meeting.

**COUNCIL COMMENTS:**

**Mr. Scheunemann** thanked the citizens who filed through the meeting for their participation. He thinks the Council is now acting appropriately with regard to the Crescent/Glenwood Park project and should work with the Planning Commission to define the

special areas and zoning for Planned Unit Developments (PUDs).

**Ms. Hahn** thanked the citizens who stepped forward and volunteered for commission positions.

**Ms. Harrison** asked for input on HB2689 regarding establishing blood tests before marriage licenses are issued in Arkansas. She said it would have an effect on the 4,000 marriage licenses issued per year from the Western District Carroll County Courthouse in Eureka Springs. She asked for a recall of SB959 which would not allow gay persons to foster children. The bill is in the Senate Healthcare Committee.

**Ms. Buchanan** read a lengthy statement. She said she understands why the Crescent people feel like they have jumped through all the city's hoops. She said she appreciates the citizens who came to the meeting tonight. She suggested establishing flow charts and lists to follow projects through the city's processes; a monthly breakfast with the press, Mayor and Council; a monthly press conference for the Mayor; and the hope that the City Council, Chamber of Commerce and state agency delegates can work together.

**MAYOR'S COMMENTS:**

Mayor Wilson read a list of coming activities and events in the community, including an open house at City Hall on Friday, March 16.

She congratulated Jed Bullock of the Best Western Eureka Inn on being named winner of the Albert Rusher Golden Key Award from the Arkansas Hospitality Association for leadership and service to the industry.

She congratulated Jack Moyer, general manager of the Basin Park Hotel, for being named as one of the top five finalists in the Executive of the Year category in the Arkansas Business of the Year Awards.

**ADJOURNMENT:**

Mr. Brammer moved to adjourn at 9:55 p.m. Mr. Scheunemann 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 for March 12, 2007.

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Mayor Dani D. Wilson

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City Clerk-Treasurer Mary Jean Sell