

Mayor Dani Wilson called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, March 26, 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, Building Official Marion Chrysler, Cemetery Commission Chairman Ken Fugate, Cemetery Commissioner Frank Green Jr., Cemetery Commission Secretary Linda Clark 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. Harrison seconded.

Ms. Hahn asked to have a discussion of meeting procedures added as New Business Item #4. Ms. Harrison seconded.

Mayor Wilson said Old Business Item #6, Discussions of Parks Commission requests for \$30,000 capital funding and funding for a gardener's position has been postponed. She added a discussion of the City Advertising and Promotion Commission (CAPC) legislation as New Business Item #5.

Mr. Scheunemann moved to approve the agenda as amended. Ms. Buchanan seconded. All voted aye. Motion passed 6/0/0

APPROVAL OF THE MINUTES: March 12, 2007

Mr. Scheunemann moved to approve the minutes of the regular City Council meeting of March 12. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

DEPARTMENT HEAD AND COMMISSION REPORTS:

Cemetery – Commission Chairman Fugate gave a presentation for a new lawn mower for the cemetery. He said the cost will be \$10,986.53. (Note: The Cemetery Commission did not present a budget to be included in the city's 2007 budget. The request for the funding is from the city's capital fund.) Ms. Chrysler said she has not used \$10,000 of the vehicle appropriation for her department and she is willing to give it to the Cemetery Commission for the mower.

Ms. Harrison moved to allow the expenditure of \$10,986.53 for the mower. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

PUBLIC COMMENTS

Randy Woodward said he has had family in this area since the 1880s. He has lived here since 1979. He said the Roenigk project is a quality project and this is a turning point for the city to move forward or slip back. Merchants here stress a quality client base to get people to come back. If we build quality, they will come.

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(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.)

Bill Ott, 22 Pine St., read a statement aloud. He thanked the Council for allowing citizens to speak on issues. The City Council is a representative democracy and a true form of government.

Michelle McDonald, owner of the Rosalie Tour Home, said citizens are looking for a connection with each other. Trees are special but so are our neighborhoods. We should look in our own backyards before we start looking at others.

She said the yard at 17 Vaughn St. is in need of cleaning up, before the owner of the property says anything about how others manage their properties.

Jack Moyer said he owns property in town, but lives at the lake. He said a significant part of the population lives outside of town but makes their living inside. Individual regulars who speak to every issue are now ad hoc council members. The Council was elected to represent the citizens and should be doing their jobs.

Susan Morrison read a statement regarding the possibility of the closing of the Crescent Hotel, approximately 20 years ago. She said she is glad Marty and Elise (Roenigk) are here and what they've already done for the hotel has been a rebirth of an old friend. To kill this project would be to kill the hotel.

Kathy Hughes asked why the Council has thrown itself into the discussion of the Roenigk project, it should be left with the Planning and Zoning Commission (Planning Commission/Board of Zoning Adjustment). We will all lose if the project is denied. This is beginning to look like a personal agenda Council.

Penny Gentry said she is a property owner and an employee. She is interested in seeing Eureka grow and the Crescent project is an efficient way to do that. It will help the city and its citizens.

Bill King said he owns property in the city. He said there are plenty of legal reasons why the Council should be involved in the (Crescent) project. He is in awe of the Historic District but once people start putting in subdivisions and condo projects, we become like everyone else. The rebirth of the community came when (historic) preservation was discovered.

Beau Satori said the public should be allowed to speak to issues because someone might have useful information for the Council. He has been researching property deeds from 1880 to 1894. City properties after 1885 were not deeded to private ownership, but a lot of private property owners have encroached on public property. The owners of Glenwood Park decided in 1886 they didn't want anything built in the area so they called it a park.

Richard Grinnell quoted Judge Ralph Ohm from his presentation of Feb. 26 for the Council to follow its own (Municipal) Code and to resolve this issue quickly. Twenty-five percent of the year is gone. Stand up for something, Delays are costing money and keeping everybody waiting.

Jan Grinnell thanked Mayor Wilson for conducting a professional meeting. She said it is disturbing to persons watching the Council meeting when Council members and citizens have private conversations during the meetings. She wants to sit at the table and talk with Council members, too. If a business has paid the Council to refer to it during the meeting, she wants her business advertised from the table, too.

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Ann McCool said she is a motel owner and new to town. She said it is the job of alderpersons to bring issues to the table for discussion and citizens to come for open microphone. She wants everyone to be considerate of others.

Karen Lindblad said Council could put time limits on public comments. If a citizens stays through a meeting, the citizen should be allowed to speak. The quality of Eureka Springs is historic and a lot of other towns have lost their historic qualities. People don't come here to see condos and gated communities, they come to see the distinctive historic homes.

Travis Walls said he is a past president of the Historic Preservation Alliance of Arkansas and had been appointed by the governor. Eureka Springs has chosen a heritage theme, or at least a theme which does not include condos and subdivisions.

Beverly Blankenship said if Council members are worried about the federal government infringing on rights through the Patriot Act Free Zone declaration, then Mr. Scheunemann and Ms. Harrison have stepped all over her constitutional rights. She said she has never been accused of a crime, but Mr. Scheunemann said she consistently broke the law. The Bill of Rights says no private property can be taken for public use.

Mr. Scheunemann said he had talked with an attorney regarding (decisions made when Ms. Blankenship was a member of the Council) Wall St., Anderson Road paving project and the Corley St. project. She asked him not to prosecute but to elect better public officials. He said Municipal League attorney David Schoen (Amendment added April 9, 2007, "*and Cheryl Hall of the Arkansas Attorney General's office*") agreed with that recommendation.

Terry McClung asked Council members to remember the excitement about establishing an Arts and Cultural District on North Main, going around to Dairy Hollow. He said this (Roenigk) project is well thought out and will be a kick off to the district. He supports it and said the Council should too.

Joe Zickmund said he is a property and business owner and he supports the Crescent Park project. It could be an

\$11 million treasure. He said citizens need to consider their access to the Council and the Council should remember to do its own research.

Mayor Wilson thanked everyone for attending and expressing their views.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Cemetery - Position 5, expiring 2/15/08

Position 3 – Re-nomination Ken Fugate Mr. Scheunemann moved to approve the nomination of Ken Fugate. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Historic District Commission – Position 5 – Nominee - Deborah Stroup Ms. Buchanan moved to approve nomination of Deborah Stroup. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Planning Commission – Position 4, expiring 7/1/09 – Nominee James Morris

Position 5, expiring 1/1/10 Position 7, expiring 1/1/09

Mr. Brammer moved to approve the nomination of James Morris. Ms. Buchanan seconded. All voted aye. Motion passed 6/0/0

Mayor Wilson nominated Ken Foggo for Position 7 and Bill Earngey for Position 5.

Mayor Wilson said the Arkansas legislative bill (HB1586) to change the CAPC enabling legislation has passed both the House and the Senate. Residents interested in applying for the at-large position should get applications turned in as soon as possible.

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Mr. Brammer moved to take a five-minute recess at 7:20 p.m. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0 Meeting resumed at 7:31 p.m.

OLD BUSINESS:

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

Jeff Feldman, president of the Greater Eureka Springs Area Chamber of Commerce, gave a brief overview of the issue, including asking for variances to the roadway safety standards to have narrower shoulders on Highway 62 west. There has been discussion about asking the state and federal highway offices to keep Highway 62 west pretty much as it is, as an “historic” entrance to Eureka Springs.

Mr. Scheunemann and Mr. Brammer have volunteered to work with the Chamber committee to draft a resolution on the matter.

Mr. Brammer asked if Council members agreed Highway 62 shoulders do not have to be as wide as federal guidelines require. All voted aye to agree.

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

Mr. Brammer moved to table to the April 9 agenda. Ms. Harrison seconded. All voted aye. Motion passed 6/0/0

3. Discussion of Ordinance 2049 to allow Alderman Charlotte Buchanan to do business with the city. (2nd reading)

Mr. Brammer moved to open discussion. Ms. Harrison seconded.

Ms. Buchanan said she would prefer that the ordinance not be just for her, but written so any elected official could do business with the city. She wants the opportunity to be able to bid on jobs or to submit proposals that fall within her expertise and to be considered as any other contractor.

Mr. Weaver said an ordinance for an individual would be more likely to survive a challenge in court than a blanket ordinance for all officials.

Ms. Hahn moved to suspend the rules and place Ordinance 2049 on its second reading by title only. Ms. Harrison

seconded. By roll call vote, Mr. Scheunemann, Ms. Hahn, Ms. Harrison voted aye. Ms. Zeller and Mr. Brammer voted no. Ms. Buchanan recused herself. Mayor Wilson voted aye. Motion passed 4/2/1

Mayor Wilson read the title of Ordinance 2049 aloud.

Ms. Harrison moved to approve Ordinance 2049 on its second reading by title only. Mr. Scheunemann seconded. Mr. Scheunemann, Ms. Hahn, Ms. Harrison voted aye. Ms. Zeller and Mr. Brammer voted no. Ms. Buchanan recused herself. Mayor Wilson voted aye. Motion passed 4/2/1

4. Discussion of Ordinance 2048 changing parking on Spring St. between Howell and Crescent Spring.

(2nd reading)

Mr. Brammer moved to suspend the rules and place Ordinance 2048 on its second reading by title only. Ms. Harrison seconded. By roll call vote, all voted aye. Motion passed

6/0/0

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Mayor Wilson read the title of Ordinance 2048 aloud.

Ms. Harrison moved to approve Ordinance 2048 on its second reading by title only. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

5. Presentation from Roger Miner of Carroll County Solid Waste regarding downtown trash compactor.

Mr. Miner gave some history of the project, saying this is an effort to reduce the amount of trash and recyclable materials picked up in the downtown area. He gave packets of information to the Council during a previous meeting. A compactor has been purchased and a location for it has been chosen on Center St. Arrangements for the land are still being discussed.

After discussion of the proposal, Council members agreed to have Mr. Miner return with specifics about the program when they are available.

6. Discussion of proposal to make the city a Patriot Act Free Zone

Ms. Buchanan moved to discuss the proposal. Mr. Brammer seconded.

Ms. Hahn reminded everyone that when they were sworn into office, they swore to uphold the U.S. Constitution. She said this action would be a symbolic stand for the Constitution.

Mr. Weaver suggested the Council look carefully at the wording of the proposed resolution or any resolution dealing with the Patriot Act. He said many cities have written their own resolutions that were not so strongly worded.

Mayor Wilson said she was concerned about the possibility of jeopardizing the federal funds for the city's transit department.

After discussion, Mr. Brammer said he would like to have some input on the matter from the city's department heads.

Ms. Harrison moved to have Mr. Weaver draft a resolution. Mr. Scheunemann seconded. All voted aye. Motion passed 6/0/0

7. Presentation of Crescent Hotel condominium project.

Mayor Wilson said she had talked with Jack Moyer at the Crescent Hotel and explained the Council's requests regarding the project. She said they had come in Friday morning (March 23) to see the Building Official.

Ms. Chrysler said final plans for the arrangement of the buildings had been brought to her for review. She and Fire Marshall Jimmy Kelley have spent several hours going over them. A copy has been sent to the International Code Council (ICC) for review at the developer's expense. The Arkansas Health Department has approved the plumbing plans. The plans for the structures will be going to the HDC (agenda of April 4).

Ms. Chrysler said the project was originally approved by the Planning Commission/Board of Zoning Adjustment and they should review the new plan because there are changes. The relocation of the buildings into the C-1 and C-3 zones puts them into the proper use zones. There is no need now for a rezoning and rezoning should not be an issue.

There was additional discussion about the plans with no action taken.

8. Discussion of Ordinance 2045 requiring surety bond for contractors.

Ms. Chrysler said the proposal requires a \$10,000 surety bond, across the board, for all contractors working in the city. She said this is a protection for the contractors, the persons hiring them and the city.

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Ms. Zeller moved to place Ordinance 2045 on its first reading. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Mayor Wilson read Ordinance 2045 aloud.

Mr. Brammer moved to approve Ordinance 2045 on its first reading. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

9. Discussion of proposed amendments to Municipal Code Chapter 4.36 regarding taxis.

Ms. Harrison moved to open discussion. Mr. Brammer and Ms. Hahn seconded.

Attorney Kent Crowe presented a proposed ordinance regarding taxi and limousine services and licensing by the city. He said it is a composite of ordinances from several other cities.

Ms. Harrison moved to give the ordinance a number (2051) and place it on the April 9 regular agenda for its first reading. Ms. Hahn seconded. All voted aye. Motion passed 6/0/0

NEW BUSINESS:

1. Discussion of Ordinance 2050 regarding adoption of Municipal Code

Ms. Hahn moved to open discussion. Ms. Buchanan seconded. There was a brief discussion.

Ms. Hahn moved to table Ordinance 2050 to the April 9 regular meeting agenda. Ms. Harrison seconded. All voted aye. Motion passed 6/0/0

2. Discussion of Domestic Partners Registry

Mayor Wilson said this proposal has come forward and she would like for the Council to consider it. The registration would acknowledge a couple's commitment to each other, but has no legal binding authority. A certificate of recognition will cost \$35 and a certificate of termination will cost \$20. It is revenue for the city.

Mr. Brammer moved to place Ordinance 2052 on the April 9 regular meeting agenda. Ms. Harrison seconded. All voted aye. Motion passed 6/0/0

3. Proclamation for National Historic Preservation Month

Ms. Harrison moved to have a proclamation for National Historic Preservation Month read aloud. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Mayor Wilson read the proclamation naming May as National Historic Preservation Month with a theme of "Making Preservation Work!"

4. Discussion of meeting procedures

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

Ms. Hahn said she believes in the public being allowed to speak during meetings, but a two-minute time limit should be enough.

Ms. Harrison said she wanted citizens to be able to speak to the agenda items as well as make suggestions for new topics on future agendas.

Ms. Zeller said citizens should not be allowed to interrupt the business of the meeting. They could write a note to the Mayor with comments.

Ms. Buchanan said a reasonable middle ground could be reached to allow citizen comments without unlimited time.

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Ms. Hahn moved to have the agenda setting comments at the beginning of the meeting with a one-minute limit and limiting comments to two minutes after an agenda item discussion. Ms. Harrison seconded. By roll call, Ms. Buchanan, Mr. Scheunemann, Ms. Zeller and Ms. Hahn voted aye. Mr. Brammer and Ms. Harrison voted no. Motion passed 4/2/0

5. Discussion of CAPC legislation changes

Mayor Wilson said the state General Assembly has approved the bill changing the CAPC legislation. Governor Mike Beebe has signed the bill and it will go into effect in 45 days.

Mayor Wilson has asked the members of her Economic Advisory Group to propose a new ordinance for the Council to consider. The Group is meeting at 10 a.m. each Tuesday at Café Amore, 2270 E. Van Buren.

Ms. Harrison opposed the Group's involvement, saying the new ordinance should be written at the Council table with members of the CAPC helping.

CITY COUNCIL COMMENTS:

Ms. Buchanan said she want the Council and press to meet once a month to "talk amongst ourselves." She asked about the progress on the signs for quiet motorcycles. Mayor Wilson said the signs are here, but have not been installed.

Mr. Scheunemann crews from AEP/SWEPCO are in town to trim the power line rights-of-way and are continuing to spray herbicides. Citizens should be given input about the cutting of significant trees. Tourists come here to see trees. He is glad for the public input this evening and thinks it has been a fantastic meeting.

Ms. Harrison commented on the 17 persons who spoke during the meeting as an interesting mix of people and ideas. (Amendment added April 9, 2007: *There were three persons for the CAPC amendment, three persons against it, and the rest did not have public comments.*) She thanked members of the EMS team who responded to her family's emergency and Dr. Greg Kresse for his actions. She thanked everyone for the thoughts and prayers.

Mr. Brammer said there will be a Clean Springs trash pick up and a special clean up of Magnetic Spring on Monday, April 2.

Ms. Hahn said the turkey vultures have left the area. She wished everyone good night and good luck.

MAYOR'S COMMENTS:

Mayor Wilson commented on a bill proposed before the General Assembly to raise the fees for marriage licenses has already died through the efforts of our Representative Bryan King.

She read a list of events coming up in the next two or three weeks.

ADJOURNMENT:

Ms. Buchanan moved to adjourn at 10:40 p.m. Ms. Hahn seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the minutes of the March 26, 2007, regular Eureka Springs City Council meeting.

City Clerk Mary Jean Sell

Mayor Dani D. Wilson
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