

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

PRESENT: Mayor Dani D. Joy, Aldermen Patrick Brammer, Rae Hahn, Kathy Harrison, Eric Scheunemann, Joyce Zeller, City Attorney Tim Weaver, Public Works Director Jay Wilson, Planning Commissioner Ken Pownall and City Clerk-Treasurer Mary Jean Sell. Alderman Charlotte Buchanan resigned her position as of noon Tuesday, Nov. 20, 2007.

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Joy led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA:

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

Ms. Hahn asked about setting a budget workshop. Council agreed on 9 a.m. Monday, Dec. 3.

Ms. Harrison asked to add an old business discussion of the hiring of Eddie Davis as fire chief. Ms. Hahn said she wanted clarification of the situation. Mayor Joy set the discussion as New Business Item #5.

On the motion to approve the agenda, by roll call vote, all voted aye. Motion passed 5/0/0

APPROVAL OF THE MINUTES: Nov. 5, 2007

Mr. Scheunemann moved to approve the minutes of the regular City Council meeting of Nov. 5, 2007. Mr. Brammer seconded.

Mr. Scheunemann said he wanted to amend the Page 2, Old Business Item #2, discussion of the Highway 62 west construction project. He said he read a consensus agreement, not a resolution, and he will be meeting with area groups regarding the consensus agreement.

Ms. Hahn said she wanted to postpone the minutes because she has not had time to read them.

Mr. Scheunemann withdrew his motion. Mr. Brammer withdrew his second.

Ms. Hahn moved to postpone the approval of the minutes of Nov. 5. Mr. Scheunemann seconded. All voted aye. Motion passed 5/0/0

Discussion of cable television franchise renewal.

Mayor Joy introduced Cox Communications representatives Scott J. Schneider, director for government affairs from Wichita, Kansas, and John Sampson, public affairs specialist from Springdale, Ark.

Mr. Schneider reviewed the terms of the franchise agreement, including reducing the length of the term from 15 years to five (5) years.

There was some discussion about the payment of franchise fees by customers instead of the company. Ms. Harrison asked for a breakdown, by company, of the total franchise fees collected annually.

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Ms. Hahn moved to place Ordinance 2072, granting the cable television franchise, on its first reading. Mr. Scheunemann seconded. All voted aye. Motion passed 5/0/0

Ms. Sell read Ordinance 2072 aloud.

Mr. Brammer moved to approve Ordinance 2072 on its first reading. Mr. Scheunemann seconded. All voted aye. Motion passed 5/0/0

Mayor Joy read aloud an agreement from Mr. Schneider saying Cox Communications would continue to provide cable television services from Dec. 1, 2007, through Feb. 29, 2008, to give Ordinance 2072 time to be properly approved and published.

DEPARTMENT HEAD AND COMMISSION REPORTS:

Planning – Mr. Pownall gave a report on the work of the Planning Commission/Board of Zoning Adjustment in developing a new set of policies and procedures. He said the document will be ready for adoption during the Commission's Dec. 13 regular meeting. One of the key points within the document is the ability for the commission members to police their own activities and behavior, including removal (*Added by Mr. Brammer – recommend continuing education requirements*) of a commissioner for failure to properly work within the commission or excessive absenteeism. (*Added by Mr. Scheunemann – The City Attorney noted that the Planning Commission's policing would not hinder the City Council's legal power to remove appointed officials upon the passage of Ordinance 2068.*)

Public Works – Mr. Wilson said electric starters and valves for the new wastewater treatment plant had been overlooked and not ordered. He said the mistake will not cost the city any funds, but will delay the start-up of the plant by at least eight weeks, putting the date at Feb. 18, 2008.

Mr. Brammer moved to allow for an eight-week extension on the construction contract with Branco. Ms. Zeller seconded. All voted aye. Motion passed 5/0/0

PUBLIC COMMENTS:

James DeVito asked the Council to consider the establishment of the Arts and Culture District. He has presented the plan to Alice Walton in hopes of gaining her support. He said she is excited about the idea. He wants the city to endorse an overlay zoning district and the creation of a TIF district.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Cemetery - Position 5, expiring 2/15/08

Parks – Position 2, expiring 5/1/08 – Nominee Ruth Goodwin Hager Mr. Brammer moved to approve the nomination of Ms. Hager to the Parks and Recreation Commission. Ms. Zeller seconded. All voted aye. Motion passed 5/0/0

Black Bass Dam Committee – Ms. Hahn said that since the dam has been removed from the Parks and Recreation Commission project and the final report on the condition of the dam has not been received, the committee is on hold.

Annexation Committee and Impact Fee Committee – Ms. Hahn said she is trying to get a land use map and land use plan.

Community Building Repair Committee – No report

Transportation Committee – No report

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Sidewalk Committee – Mayor Joy said Mr. Wilson and Economic Development Coordinator Glenna Booth are working on plans.

Highway 62 Committee – Mr. Scheunemann said he has met with the Berryville City Council on the consensus agreement and will meet with them again.

OLD BUSINESS:

1. Discussion of request for election from referendum petition on Ordinance 2051 regarding taxis/limousines. (Mayor)

2. Discussion of request for election from referendum petition on Ordinance 2047 regarding demolition by neglect. (Mayor)

Ms. Sell said she met with the Carroll County Election Commission on Friday, Nov. 16, to discuss the options for a special election or participation in the primary election on May 20. Chairman Levi Phillips consulted by telephone with an attorney for the state Election Commission and determined the Eureka Springs referendum items could be included on the May 20 ballots.

The Council had voted Nov. 5 to hold the election on the second Tuesday of May, the 13th, but the state election will be on the third Tuesday, the 20th.

Ms. Hahn moved to change the election date for the referendums on Ordinances 2051 and 2047 to Tuesday, May 20, 2008. Mr. Scheunemann seconded. Four voted aye. Ms. Harrison voted no. Motion passed 4/1/0

3. Discussion of Ordinance 2068 for removing appointed officials (Harrison) 2nd reading

Mr. Scheunemann moved to table the reading of Ordinance 2068 until a full Council is present. Ms. Hahn seconded. Ms. Hahn, Mr. Scheunemann, Ms. Harrison voted in favor. Mr. Brammer and Ms. Zeller voted against. Motion passed 3/2/0*

4. Discussion of Ordinance 2069 regarding taxi definition (Hahn)

Ms. Hahn moved to place Ordinance 2069 on its first reading. Ms. Harrison seconded for the purpose of discussion Ms. Hahn withdrew the motion. Ms. Harrison withdrew her second. Both said they only wanted to discuss the ordinance, not put it on its first reading. Four voted aye to discuss. Mr. Brammer voted no. Vote was 4/1/0

Ms. Hahn moved to table Ordinance 2069 to the next meeting. Ms. Harrison seconded. Three voted aye. Ms. Zeller and Mr. Brammer voted no. Motion failed 3/2/0*

Ms. Hahn moved at 7:50 p.m. to take a break. Mr. Brammer seconded. Meeting resumed at 8:10 p.m.

Mr. Weaver said he had been looking at A.C.A. 14-55-203(b) and the Municipal Code during the break. In his opinion, any issue needs four votes to pass, even though the Council is one member short at this meeting. There are still six positions on the Council. The only exception would be the vote of the five remaining members on the appointment of the sixth member to fill the vacancy.

*He said Ordinances 2068 and 2069 should be reconsidered because both had a 3-2 vote.

Ms. Zeller moved to put Ordinance 2068 on its second reading by title only. Mr.

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Brammer seconded. By roll call, Ms. Zeller voted no. Ms. Harrison, Mr. Scheunemann and Ms. Hahn did not answer the roll call because they were walking out of the meeting. Motion failed 0/1/4.

With three of the five Council members away from the table, Mayor Joy declared the meeting adjourned at 8:28 p.m.

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

Mayor Dani D. Joy

City Clerk-Treasurer Mary Jean Sell