

CITY OF EUREKA SPRINGS

CITY COUNCIL

REGULAR MEETING

MONDAY

DECEMBER 14, 2009

Mayor Dani D. Joy called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, Dec. 14, 2009, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Dani D. Joy, Aldermen Robert "Butch" Berry, Beverly Blankenship, Patrick Brammer, James DeVito, Mickey Schneider, Joyce Zeller, City Attorney Tim Weaver, Finance Director Yvonne Kline, City Clerk-Treasurer Mary Jean Sell CMC.

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Joy led the Pledge of Allegiance to the Flag.

APPROVAL OF THE AGENDA:

Mr. DeVito moved to approve the agenda as presented. Ms. Zeller seconded.

Ms. Blankenship said discussion of the proposed lighting ordinance had been left off the agenda. It should be Old Business Item #2.

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

APPROVAL OF THE MINUTES: Nov. 9, 2009 Nov. 30, 2009 Special meeting

Nov. 9 - Mr. DeVito moved to approve the minutes of the regular City Council meeting of Nov. 9, 2009. Ms. Schneider seconded.

Ms. Blankenship said she was absent and could not have voted as recorded on Page 2 in the discussion of Ordinance 2112.

On the motion to approve the amended minutes of Nov. 9, all voted aye. Motion passed 6/0/0

Nov. 30 - Mr. DeVito moved to approve the minutes of the special City Council meeting of Nov. 30, 2009. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Planning - Position 2 - expires 1/1/11 Mayor Joy nominated Ed Leswig to fill Position 5, expiring 1/1/10.

HDC - Position 6 - expires 3/07/11

Parks - Position 4 - expires 5/01/10 - Nominee Joann Graupner Ms. Blankenship moved to approve the nomination of Joann Graupner to Position 4 on the Parks Commission. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

Mayor Joy reported on her trip to New Orleans, La., to the National League of Cities Conference on Childhood Obesity. She said it was an excellent conference. She said not one of today's fourth graders will outlive their parents.

She had information on the "Edible Schoolyard" program in New Orleans. Children are encouraged to plant vegetables in gardens, encouraged to tend the gardens, to pick the produce, then prepare it in a kitchen to be eaten.

The attendees were taken on a short field trip to see the "Urban Garden." Mayor Joy said

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she is hoping something similar might be developed through the Eureka schools.

PUBLIC COMMENTS: None

OLD BUSINESS:

1. Discussion of sidewalks, Ordinance 2112 , vote on amendments and 2nd reading

Mr. Brammer moved to open discussion. Mr. DeVito seconded.

Ms. Blankenship moved to suspend the rules and place Ordinance 2112 on its second reading by title only. Mr. DeVito seconded. By roll call, Ms. Schneider, Ms. Zeller, Ms. Blankenship, Mr. DeVito voted aye. Mr. Berry, Mr. Brammer voted no. Motion passed 4/2/0

Ms. Schneider said she thinks the city should look into the possibility of installing rubber sidewalks. She has done some internet research and says this might be the answer to our sidewalk problem. Rubber sidewalks have a maximum of 20 years' use.

Mr. DeVito said he had also done some research and said the lifespan of a rubber sidewalk would be a maximum of 15 years where concrete or limestone would last 50 or 60 years.

Mr. Berry moved to require limestone for sidewalks from Center St. to Mountain St. There was no second.

Mr. DeVito called the question to halt discussion.

On the motion to approve Ordinance 2112 on its second reading as amended, by roll call, Ms. Schneider, Ms. Blankenship voted aye. Mr. DeVito, Ms. Zeller, Mr. Berry, Mr. Brammer voted no. Motion failed 4/2/0

Ms. Blankenship moved to return to the original draft of Ordinance 2112, to renumber it to Ordinance 2113 and put it on its first reading. Mr. Berry seconded. All voted aye.

Mr. Berry asked for a recess while the city clerk went to produce copies of the new ordinance. Mr. Brammer seconded. All voted aye. Meeting resumed at 7:12 p.m.

Ms. Sell read Ordinance 2113 aloud.

Mr. Brammer moved to approve the first reading of Ordinance 2113. Mr. DeVito seconded.

Mr. Berry moved to amend Section 9.08.07 to include: *This notice may be served in person, by certified return receipt requested restricted delivery mail to the last known address of the owner. The endorsement upon the notice by the Building Official serving the notice shall be sufficient evidence of his action in the premises.*

And to amend Section 9.08.07 (B) to read: "If any person shall neglect or refuse to repair or rebuild any sidewalk in *within one hundred eighty days (180) days* after notice as aforesaid, he shall be subject to a fine of Twenty-Five Dollars (\$25.00) for each offense, and each day he shall neglect or refuse to repair said sidewalk, shall constitute a separate offense. *The owner shall be allowed an extension of up to ninety (90) days upon approval of the Building Official.* He shall also be liable for all damages which the city may incur by reason thereof, to be recovered by the city in an action of law."

And to amend Section 9.08.06 (C) to become 9.08.07(C): The Building Inspector shall, in all cases where parties refuse or neglect to repair or rebuild sidewalks in pursuance of notice, or

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where the owner cannot be found, cause the sidewalk to be repaired or built within a reasonable time after the expiration of the notice and report the expense of the work to the City Council, who shall proceed to assess the cost of such improvements against the property. The order of assessment may be in form as follows:

ORDERED - That the several sums set opposite the following lots, or parts of lots, and the names of the owners, thereof, respectively, to-wit: Lot____ Block____, owned by _____. Amount assessed, \$_____ be and the same are hereby assessed, respectively, on said lot, and against the respective owners thereof, to defray the expenses of a sidewalk or sidewalks therealong constructed or repaired by the Building Inspector.

The Building Inspector shall thereupon present the total amount of assessment as made for payment, and upon refusal of payment, the City Attorney is instructed to proceed to collect the amount by law. The assessments so made against the owners or occupants of the property for the purpose of repairing sidewalks within the city, are made and constitute a personal charge against the owners, and also a lien upon the lots or property so assessed from the time of such assessment. (MC 1978, 9.04.05)

Ms. Blankenship seconded. All voted aye on the amendments. Motion passed 6/0/0

On the motion to approve Ordinance 2113 on its first reading as amended, by roll call, Ms. Blankenship, Mr. DeVito, Mr. Brammer, Mr. Berry voted aye. Ms. Zeller, Ms. Schneider voted no. Motion passed 4/2/0

2. Discussion of proposed lighting ordinance.

(Note: The ordinance was presented from the Planning Commission during the regular meeting of Oct. Mr. Weaver asked for time to review the ordinance before the Council considered it.)
Mr. Weaver said he did not have the ordinance ready just yet, he would like for an electrician and the building inspector to review the proposal. He said some of the proposed wording could potentially prohibit Christmas lights and some porch lights.
Mr. Berry moved to table the proposed ordinance to the next regular meeting, Jan. 11, 2010. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

NEW BUSINESS:

1. Discussion of resolution supporting application for improvement funds for

Harmon Park.

Mr. DeVito moved to discuss the resolution. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0
Parks Director Bruce Levine said Arkansas Department of Parks and Tourism has General Improvement Funds available to provide programs, maintain or fund improvements to parks. He wants to apply for approximately \$1,700 to purchase a ride that simulates the motion of a skate board, which would help children improve their balance and coordination, and a "mini-backhoe," a device operated by hand to pick up and move small amounts of gravel. Levine said a pile of gravel in the park is apparently a very popular place for children to play. This equipment will also help with hand-eye coordination. Ms. Blankenship moved to number the resolution (563) and read it. Mr. Berry seconded.

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All voted aye. Motion passed 6/0/0

Ms. Sell read Resolution 563 aloud.

2. Schedule first Council meeting in January 2010.

Mayor Joy set the date on the second Monday in January, Jan. 11, 2010, at 6 p.m. in the in the jury room on the second floor of the Western District Carroll County Courthouse.

CITY COUNCIL COMMENTS:

Ms. Blankenship said she would like to be the Council's representative on the City Advertising and Promotion Commission (CAPC) next year.

Ms. Schneider said she wanted citizens to write or e-mail their Council representatives regarding the sidewalk ordinance and proposed surface regulations. She said she wants to know the citizens' input.

MAYOR'S COMMENTS:

Mayor Joy read a list of coming events. She complimented the Council, saying, "Everyone is doing a good job. It takes a lot of effort."

ADJOURNMENT:

Mr. Brammer moved to adjourn at 7:50 p.m. Mr. DeVito 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 Monday, Dec. 14, 2009.

APPROVED:

ATTEST: Mayor Dani D. Joy

City Clerk-Treasurer Mary Jean Sell CMC

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