

CITY OF EUREKA SPRINGS

CITY COUNCIL

REGULAR MEETING

MONDAY

MARCH 9, 2009

Mayor Dani Joy called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, March 9, 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, Rob Wagner, Joyce Zeller, City Attorney Tim Weaver, Finance Director Yvonne Kline, Mayor's Assistant Diane Wilkerson and 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. Berry moved to approve the agenda. Mr. DeVito seconded.

Ms. Zeller asked for a discussion of considering ordinances proposed by persons other than the city attorney as New Business Item #5.

Mayor Joy added a consideration of the application for an animal-drawn vehicle franchise from Tom Tharp, Olden Days Carriage, to New Business Item #1.

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

APPROVAL OF THE MINUTES: Feb. 23, 2009

Mr. DeVito moved to approve the minutes of the regular City Council meeting of Monday, Feb. 23, 2009. Ms. Blankenship seconded.

Mr. Wagner said he would not be voting to approve minutes for meetings he did not attend.

On the motion, five voted aye, Mr. Wagner abstained. Motion passed 5/0/1

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Planning—Position 2 - expires 1/1/11 Position 7 – expires 1/1/11

HDC – Position 5 – expires 11/30/11

CAPC –Position 3 – expires 6/30/11 Position 4 – expires 6/30/12 CAPC Chairman Richard Grinnell brought the nominations of Bobbie Foster for Position #4 and Lynn Bridwell for Position #3. Mr. DeVito moved to approve the nomination of Lynn Bridwell. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0 Ms. Blankenship moved to approve the nomination of Bobbie Foster. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

Cemetery – Positions 1, 2, 3 expire 2/15/12 June Westphal re-nominated for Position 1 Frank Green re-nominated for Position 4 expiring 2/15/11 Mr. Brammer moved to approve the nomination of June Westphal. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0 Mr. Brammer moved to approve the nomination of Frank Green. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

PUBLIC COMMENTS: None

City Council 3/09/09 1

Public Works Director Dwayne Allen reported he needs an appropriation of \$50,000 from the street funds to finish the clean up following the ice storm Jan. 26-27. He said the city crews are the only ones working right now, other contractors for debris removal have finished their work. Mr. Allen is anticipating a reimbursement payment from the Federal Emergency Management Agency (FEMA) for the clean-up costs.

Ms. Blankenship moved to allocate \$50,000 to the expenses Fund #10, adding to the \$150,000 FEMA state revenue already pledged. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Mr. DeVito read aloud a proposed ordinance from a citizen regarding guidelines for outdoor lighting in order to meet the standards in the Arkansas Shielded Outdoor Light Act.

By consensus, Council members referred the proposal to the Planning Commission.

OLD BUSINESS:

1. Discussion of 2008 budget clean up ordinance. (3rd reading)

Mr. Brammer moved to suspend the rules and place Ordinance 2095, the 2008 budget clean-up ordinance, on its third and final reading by title only. Mr. Berry seconded. By roll call, four voted aye. Ms. Blankenship voted no. Motion passed 5/1/0

Mayor Joy read aloud the title to Ordinance 2095.

Mr. Brammer moved to approve Ordinance 2095 on its third reading by title only. Mr. Berry seconded. Four voted aye. Ms. Blankenship voted no. Motion passed 5/1/0

NEW BUSINESS:

1. Hearing on request to renew animal-drawn vehicle franchise from Ada Jensen, Southern Pride Carriage Tours.

Ms. Jensen made a brief statement about her business.

Ms. Blankenship moved to approve the renewal of a five-year franchise for Ada Jensen, Southern Pride Carriage Tours. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

2. Hearing on request to renew animal-drawn vehicle franchise from Tom Tharp, Olden Days Carriages

Susan Tharp presented the request. She said there is one route change, the carriages sometimes go onto Center Street and turns around near East By West, 9 Center St.

Ms. Blankenship moved to approve the renewal of a five-year franchise for Tom and Susan Tharp, Olden Days Carriage. Mr. Wagner seconded. All voted aye. Motion passed 6/0/0

3. Discussion of the Artery on First Street.

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

Mayor Joy said she has not been able to find any kind of written agreement or contract between the city and Charlotte Buchanan for the continued use of the wall for the Artery display of art works on the city's concrete wall on First Street. One of the panels has been vandalized and at least one has paint peeling off.

Mark Mattmiller, Design Committee Chairman for the Downtown Network, presented a proposal for continued operation of the Artery.

City Council 3/09/09 2

Mayor Joy said Ms. Buchanan could visit with the Council during the March 23 meeting to discuss the issue.

Mr. Brammer moved to postpone further action until the March 23 regular meeting. Mr. Berry seconded. All voted aye. Motion passed 6/0/0

4. Discussion of grant for auditorium repair.

City Advertising and Promotion Commission (CAPC) Director Jim Williams told the Council the persons doing the architectural study of the City Auditorium building, 36 S. Main, have recommended immediately replacing the cap stones on the parapet. Some of them are crumbling and could fall at any time.

Glenna Booth, Historic Preservation Officer (HPO) and Certified Local Government Coordinator (CLG), said there is grant money available from the Arkansas Historic Preservation Program Historic Preservation Restoration Grant program with AHPP paying two-thirds and the city paying one-third.

Ms. Blankenship moved to allocate \$15,500 from the city's general capitol fund for auditorium repairs contingent upon receiving grant funds from the Arkansas Historic Preservation Program Historic Preservation Restoration Grant. Alderman Robert "Butch" Berry seconded. All voted aye. Motion passed 6/0/0

5. Discussion of hiring outside counsel for pending lawsuit.

Mayor Joy said it may be necessary to hire an outside lawyer to represent the city in the McClung vs. Harriman (CB 2008-58) lawsuit over the construction of a new building at 2½ Spring St. The city has been named as a party in the suit.

Because it is a civil lawsuit, the Municipal League has declined to represent the city.

Mr. Wagner moved to give the Mayor permission, if needed, to hire outside counsel if the Municipal League attorneys are not available. Mr. Brammer seconded. By roll call, all voted aye. Motion passed 6/0/0

6. Discussion of considering ordinances proposed by persons other than the city attorney.

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

Ms. Zeller said there had been some problems during the previous council term with ordinances being presented to the Council that had not been written or reviewed by the city attorney. She would like to see all ordinances reviewed by Mr. Weaver before they are brought to the council table.

By consensus, other alderman agreed.

COUNCIL COMMENTS:

Ms. Blankenship asked to have a date set for a workshop with Transit Director Lamont Richie to discuss changes in the tour guide franchise. She asked for structural issues to be resolved before cosmetic issues. She said she would like to have the proposal for outdoor lighting restrictions reviewed by the Planning Commission.

Mr. DeVito said he was opposed to House Bill 2176 introduced and sponsored by Rep. Bryan King of Berryville which would make Domestic Partnership Registries (DPR) illegal in Arkansas.

City Council 3/09/09 3

(Note: Eureka Springs City Council approved Ordinance 2052, establishing a DPR, May 14, 2007, and the city began issuing certificates on June 22, 2007.)

Mayor Joy read aloud the following statement as her response to Mr. King's proposed bill:

Today in Little Rock our State Representative, Brian King filed a bill, House Bill 2176, for consideration that will increase the State's authority over municipal affairs by prohibiting any city or county in Ark. from adopting anything like our Domestic Partnership Registry.

Representative King and I have worked together over the years to better the district as well as Eureka Springs and we agree on many issues. I appreciate most of the efforts that he has made on our behalf.

This issue however is one that we do not agree on.

When I brought the DPR to the council in 2007 I believed that we had the chance to help supply individuals and families that had been previously uninsured an avenue to get to medical care and it not cost them their entire income. With a federal government that had a previous track record of ignoring the medical needs of the middle class families that were making too much money to get Medicaid and not enough to pay for insurance, I believed that we had found a way to help them out.

Over 254 fortune 500 companies at the time offered access to their medical insurance and benefits to employee's families that could produce a DPR document. 13 states and more than 188 counties and cities offer their public employees domestic partnership protection. Even our capital, Washington D.C. has a domestic partnership policy.

We've seen many couples. Straight, gay, young, old. All were excited about the opportunity of simply saying I love you and getting a document that isn't worth anything more than the paper it's printed on. It doesn't give them any legal rights. It doesn't break any laws. And it states this specifically in our ordinance.

I am troubled by Mr. King's actions and question how much authority the state is attempting to have over municipal government when there have been no laws broken and the city wishes to allow its citizens an avenue to simply make a public statement of commitment. Our actions as a city were nothing more than the authority of a proclamation.

With the creation of the DPR much talk and ridicule arose and turned this into a gay/lesbian issue. What started out as a simple gesture by the city quickly became a human rights issue.

As the mayor of this city I stand beside each and every one of our constituents no matter who they are. I will not stand silent any longer and allow a demographic of our citizens be humiliated and degraded. I lived thru the racial wars of the 60's. I've seen the prejudice that my first husband endured being Jewish and having his mother come out of concentration camps, and I've even seen the condemnation in people's eyes when they look upon my son who has a disability.

Prejudice or bigotry have no place in our city. The gay and lesbian community are our friends, neighbors and family.

Under the Declaration of Independence it states:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." July 4, 1776.

In this city, we are all equal.

City Council 3/09/09 4

I strongly request that the state remembers what our forefathers said and not overstep their jurisdiction into the area of municipal government.

I stand by the actions of the city council and its adoption of Ordinance 2052 on May 14, 2007.

ADJOURNMENT:

Mr. Brammer moved to adjourn at 7:38 p.m. Ms. Blankenship 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, March 9, 2009.

APPROVED:

ATTEST:

Mayor Dani D. Joy

City Clerk-Treasurer Mary Jean Sell CMC

City Council 3/09/09 5