

CITY OF EUREKA SPRINGS

CITY COUNCIL

REGULAR MEETING

MONDAY

MAY 11, 2009

Mayor Dani Joy called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, May 11, 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, 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. Ms. Blankenship seconded.

Mr. DeVito said he would like to bring the discussion of the Artery to the agenda as New Business Item #4. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

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

APPROVAL OF THE MINUTES: April 27, 2009

Mr. DeVito moved to approve the minutes of the April 27, 2009, regular City Council meeting. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

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

Position 7 – expires 1/1/12

HDC – Position 5 – expires 11/30/11 Nominee Greg Moon Ms. Blankenship moved to approve the nomination of Greg Moon for Position #5. Mr. Brammer seconded. Five voted aye. Mr. Wagner abstained. Motion passed 5/0/1

Underground drainage – Mayor Joy said she has received a report from McClelland Engineering of Fayetteville on the proposed repairs to the underground tunnel and creek that run alongside Main Street. The estimate is \$3,123,550. She said there may be some grant funds available from the Federal Emergency Management Agency (FEMA) for the work. McClelland will apply for the grant on the city's behalf.

Financial report – Ms. Klinereported the flag pole atop the Western District Carroll County Courthouse took a direct hit of lightning about 10 a.m. Friday, May 1. In the city hall, eight of the 10 computers sustained minor damage; the cable television broadcast system monitor switch was damaged; the FAX machine and paper shredder were damaged; the telephone system was damaged and will have to be replaced because of its age. The insurance company has been notified. Twelve new telephones and replacement of the telephone system will cost \$8,585.98; computer repairs are estimated at \$2,500.

Ms. Blankenship moved to allocate \$10,000 out of the general fund capital account for repairs and equipment replacement. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

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PUBLIC COMMENTS:

Comments were taken from 10 citizens.

OLD BUSINESS:

1. Discussion of Leatherwood Bridge proposed annexation

Mr. Weaver said he is still waiting on a survey and legal description of the bridge and surrounding property. There are several surveys of the area, but none specifically of the bridge.

2. Ordinance 2100, amending sign ordinance, third reading.

Ms. Blankenship moved to suspend the rules and place Ordinance 2100 on its third reading by title only. Mr. DeVito seconded. By roll call, all voted aye. Motion passed 6/0/0

Ms. Sell read the title of Ordinance 2100 aloud.

Mr. Brammer moved to approve the third reading of Ordinance 2100 by title only. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

3.Ordinance 2101, adoption of city emergency plan, second reading

Ms. Blankenship moved to suspend the rules and place Ordinance 2101 on its second reading by title only. Mr. Wagner seconded. By roll call, all voted aye. Motion passed 6/0/0

Ms. Sell read the title of Ordinance 2101 aloud.

Ms. Blankenship moved to add a paragraph C in section 7.12.05 allowing for notification of the city council of an emergency. Mr. Berry seconded. Ms. Blankenship read the amendment aloud. All voted aye. Motion passed 6/0/0
Mr. Brammer moved to approve the second reading of Ordinance 2101, as amended, by title only. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

4.Discussion of ordinance regarding group tour franchises

Ms. Blankenship moved to give the ordinance a number (2102) and to place it on its first reading. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

Ms. Sell and Mr. Wagner read Ordinance 2102 aloud.

Mr. Brammer moved to approve the first reading of Ordinance 2102. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

NEW BUSINESS:

1.Recommendation from Planning Commission to rezone property behind Best Western Eureka Inn from R-1 to C-2.

Mr. Wagner moved to discuss. Ms. Zeller seconded. Mr. Brammer and Mr. Berry recused. Motion passed 4/0/0
Ms. Blankenship moved to give the ordinance a number (2103) and to place it on its first reading. Mr. Wagner seconded. Four voted aye. Mr. Berry recused. Mr. Brammer had stepped out of the room. Motion passed 4/0/2

Mayor Joy read Ordinance 2103 aloud.

Ms. Blankenship moved to approve the first reading of Ordinance 2103. Mr. DeVito seconded. Four voted aye. Mr. Berry and Mr. Brammer recused. Motion passed 4/0/2

Mr. DeVito moved for a 10 minute recess at 7:25 p.m. Mr. Wagner seconded. All voted aye. Motion passed 6/0/0 Meeting resumed at 7:38 p.m. **City Council 5/11/09 2**

2.Discuss rescheduling of regular meeting of Monday, May 25, Memorial Day

Mr. Wagner moved to only have one meeting in May. Mr. DeVito seconded. By roll call, all voted aye. Motion passed 6/0/0

3.Discussion of special event application for Cinema 13

(Note: the 2009 Special Event Application for the Lucky 13 Cinema is being held without signatures until the City Council makes changes in Chapter 7.16, Noise, in the Eureka Springs Municipal Code.)

Ms. Blankenship moved to open discussion. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

There was general discussion about conflict in portions of the noise ordinance that don't allow for amplified music during festivals.

Mr. Berry moved to direct the city attorney to write an amendment to Chapter 7.16.04 to allow amplified sound for special events. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

Mr. Wagner moved to direct the police department to suspend the noise ordinance for festivals and permitted events for the next 90 days. Mr. DeVito seconded. After brief discussion, Mr. Wagner rescinded his motion and Mr. DeVito rescinded his second.

Mr. Wagner moved to approve the special event application for the 2009 Cinema 13 contingent upon approval of amendments to Chapter 7.16 of the Municipal Code. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

4.Discussion of the Artery contract for use of public space to display works of art

(Note: The Artery is located on First Street. It is painted four by eight foot panels mounted on a concrete wall, owned by the city. The concept and project have been done by Charlotte Buchanan Yale. Council members have expressed concern that there is not a contract between the two parties for the use of public property.)

Mr. DeVito moved to open discussion. Mr. Wagner seconded. All voted aye. Motion passed 6/0/0

Mr. Wagner moved to deny the proposed contract in its entirety, to have everything removed from the concrete wall within 30 days and to redeem the wall for further use considered by the Council. Ms. Zeller seconded for discussion purposes.

Discussion followed on establishing an art council to review panels proposed for installation. Ms. Buchanan said she has a team who does exactly that. Current members are James Yale, Nancy Foggo, Rosie Rose and others.

After additional discussion, Mr. DeVito moved to call the question to halt discussion. Mr. Berry seconded. By roll call, all voted aye. Motion passed 6/0/0

On the motion to deny the proposed contract, by roll call, Ms. Zeller, Mr. Wagner voted aye; Mr. DeVito, Mr. Berry and Ms. Blankenship voted nay; Mr. Brammer abstained. Motion failed 2/3/1

Mr. Berry moved to amend Article 7B and C of the contract "to include the Eureka Springs Arts Council including exhibitor." Ms. Blankenship seconded.

Mr. Weaver said that language leaves an ambiguity in the contract if a conflict between the two groups ever arose.

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Mr. Berry restated his motion to amend 7B and C adding Eureka Springs Arts Council only. Ms. Blankenship seconded.

After further discussion, Mr. Berry moved to call the question. Mr. DeVito seconded. By roll call, all voted aye. Motion passed 6/0/0

On the motion, by roll call, Mr. Wagner, Ms. Zeller voted aye. Mr. Berry, Ms. Blankenship, Mr. DeVito voted nay. Mr. Brammer abstained. Motion failed 2/3/1

Mr. DeVito moved to establish a commission of six members of the Eureka Springs Arts Council, five members to be picked by the exhibitor and the exhibitor to select work to be displayed at the Artery. There was no second.

Mr. DeVito moved to establish a commission of six members of the Eureka Springs Arts Council, six members of local artists and one representative selected by the exhibitor. Mr. Berry seconded. By roll call, five voted aye. Mr. Brammer abstained. Motion passed 5/0/1

Ms. Blankenship moved to amend Section 3 to say the exhibitor will pay \$1 and all promotion value the city receives. Mr. DeVito seconded. By roll call, five voted aye. Mr. Brammer abstained. Motion passed 5/0/1

Mr. Berry moved to amend Section 1 to include artists living within 90 miles of Eureka Springs with three visiting artists. Mr. DeVito seconded. Mr. Berry withdrew his motion. Mr. DeVito withdrew his second.

Mr. DeVito moved to strict "local artists" everywhere it is mentioned in the contract, particularly in sections one and seven. Mr. Berry seconded. By roll call, five voted aye. Mr. Brammer abstained. Motion passed 5/0/1

Mr. Weaver said there needs to be a definition/clarification of who the city is signing a contact with for the operation of the Artery.

Mr. DeVito moved to ask the city attorney to review the paperwork relating to the Artery. Mr. Berry seconded. By roll call, five voted aye. Mr. Brammer abstained. Motion passed 5/0/1

ADJOURNMENT:

Mr. DeVito moved to adjourn at 9:21 p.m. Mr. Wagner 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, May 11, 2009.

APPROVED:

ATTESTED:

Mayor Dani D. Joy

City Clerk-Treasurer Mary Jean Sell, CMC