

CITY OF EUREKA SPRINGS

CITY COUNCIL

REGULAR MEETING

MONDAY

NOVEMBER 9, 2009

Mayor Dani D. Joy called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, Nov. 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, James DeVito, Mickey Schneider, Joyce Zeller, City Attorney Tim Weaver, Finance Director Yvonne Kline, City Clerk-Treasurer Mary Jean Sell CMC. Aldermen Beverly Blankenship and Patrick Brammer were absent.

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. Mr. Berry seconded.

Ms. Sell asked to add consideration of a resolution dealing with the Firemen's Pension Board as Item #3 under New Business.

On the motion to approve the agenda as amended, all voted aye. Motion passed 4/0/0

APPROVAL OF THE MINUTES: Oct. 26, 2009

Mr. DeVito moved to approve the minutes of the regular City Council meeting of Monday, Oct. 26, 2009. Mr. Berry seconded. All voted aye. Motion passed 4/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Planning - Position 2 - expires 1/1/11 Position 7 - expires 1/1/12 - Nominee David Graupner Mr. DeVito moved to approve the appointment of David Graupner to Position 2 on the Planning Commission. Ms. Schneider seconded. All voted aye. Motion passed 4/0/0

HDC - Position 6 - expires 3/07/11

Hospital - Position 7 - expires 9/7/15 - Nominee Enid Swartz Mr. DeVito moved to approve the appointment of Enid Swartz to Position 7 on the Hospital Commission. Ms. Schneider seconded. All voted aye. Motion passed 4/0/0

Finance - Ms. Kline said she will be bringing an ordinance to the next meeting to raise water rates in conjunction with the water purchase price increase from the Carroll-Boone Water District.

Lawsuit - Mayor Joy said Smith Two-Way Communications of Fayetteville has filed a lawsuit against the City over the denial of a location for a communication tower. (Note: The City Council turned down an appeal of the Planning Commission/Board of Adjustment's denial of the application from Smith Two-Way to construct the tower during the regular City Council meeting of Sept. 28, 2009.)

PUBLIC COMMENTS:

Comments were taken from two citizens regarding the potential repairs to Black Bass Dam and one citizen regarding sidewalk surface repair.

City Council 11/09/09 1

OLD BUSINESS:

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

Ms. Schneider moved to open discussion. Ms. Zeller seconded. All voted aye. Motion passed 4/0/0

Ms. Schneider said she wanted to amend the ordinance by adding a time limit for repairs to section 9.08.07.

Mr. Berry moved to add existing section 9.08.06 (B) and to amend it 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." Mr. DeVito seconded. All voted aye. Motion passed 4/0/0
Mr. Berry moved to amend Section 9.08.06 (C) to become 9.08.07 (C). Ms. Schneider seconded. All voted aye. Motion passed 4/0/0

Ms. Schneider moved to change 9.08.04 A (3) regarding new installation from "shall be replaced" to "may be replaced."
Ms. Zeller seconded. By roll call, Ms. Schneider. Ms. Zeller voted aye. Mr. DeVito and Mr. Berry voted no. Motion failed 2-2

Ms. Schneider moved to table further action on Ordinance 2112 to the next regular meeting, Monday, Dec. 14. Ms. Zeller seconded. All voted aye. Motion passed 4/0/0

2. Discussion of proposed lighting ordinance from Planning Commission

Mayor Joy said Mr. Weaver is scheduled to have the ordinance ready for reading at the regular meeting Dec. 14.

NEW BUSINESS:

1. Destruction of obsolete records

Ms. Sell presented the request and list of documents and files from 2004 that can, by law, be destroyed in 2009.

Mr. DeVito moved to approve the list of records from 2004 to be destroyed. Mr. Berry seconded. All voted aye. Motion passed 4/0/0

2. Discussion of repairs to Black Bass Dam

Mr. DeVito moved to open discussion. Ms. Schneider seconded.

Mayor Joy introduced Dee Purkeypille, consulting dam engineer. He has been checking on the Black Bass Dam approximately four years. He said the face of the dam has deteriorated significantly in the last year because of heavy rains.

Mr. Berry said there is a water pumping station buried near the toe of the dam. The pump pushes water to the west side of Eureka. Should the dam collapse, it will "wipe out" the pumping station and cut the water supply on the west side of town. Public Works Director Dwayne Allen said he has put pipes in the spillway of the lake to lower the water level. The level is down approximately five feet now and the large seeps and leaks in the top portion of the dam have stopped. He said the "wing wall" of the spillway has sustained serious damage this fall and could possibly fail.

City Council 11/09/09 2

Purkeypille recommended keeping the lake's level as low as possible while he and other engineers are trying to determine the best solution for repairing the dam.

Applications have been made to the Federal Emergency Management Agency (FEMA) for funds to repair the dam.

Mr. Berry moved to allocate up to \$90,000 from the capital accounts for repair of the Black Bass Dam spillway and wing wall. Ms. Schneider seconded. All voted aye.

3. Discussion of Resolution #561 regarding the Firemen's Pension Fund and

application to the state Pension Review Board for an increase in allocations to pension group members.

Mr. DeVito moved to read aloud and adopt Resolution #561. Mr. Berry seconded. All voted aye. Motion passed 4/0/0

Ms. Sell read Resolution #561 aloud.

COUNCIL COMMENTS: None

MAYOR'S COMMENTS:

Mayor Joy read aloud a long list of holiday activities

ADJOURNMENT:

Mr. DeVito moved to adjourn at 7:40 p.m. Mr. Berry seconded. All voted aye. Motion passed 4/0/0

This is the signature page for the minutes of the regular meeting of the Eureka Springs City Council Monday, November 16 2009.

APPROVED:

ATTEST: _____
Mayor Dani D. Joy

City Clerk-Treasurer Mary Jean Sell CMC
City Council 11/09/09 3