

# **CITY OF EUREKA SPRINGS**

## **CITY COUNCIL**

### **REGULAR MEETING MONDAY OCTOBER 26, 2009**

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Mayor Dani D. Joy called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, Oct. 26, 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 Advertising and Promotion Commission (CAPC) Director Jim Williams and City Clerk-Treasurer Mary Jean Sell CMC.

#### **PLEDGE OF ALLEGIANCE TO THE FLAG:**

Mayor Joy led the Pledge of Allegiance to the Flag.

#### ***PROCLAMATION FOR BREAST CANCER AWARENESS***

Mayor Joy read aloud a proclamation of October as Breast Cancer Awareness Month and presented the document to Dr. Merlin Leach of the Leach Foundation in Berryville. Dr. Leach outlined the services available to area residents through the Foundation.

#### **APPROVAL OF THE AGENDA:**

Mr. Brammer moved to approve the agenda as presented. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

#### **APPROVAL OF THE MINUTES:** Oct. 12, 2009

Mr. DeVito moved to approve the minutes of the regular City Council meeting of Oct. 12, 2009. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

#### **COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:**

**Planning**— Position 2 - expires 1/1/11 Position 7 – expires 1/1/12 – Mayor Joy nominated Dave Graupner

**HDC** – Position 3 – expires 11/30/11- Nominee Ray Dilfield Mr. Brammer moved to approve the appointment of Ray Dilfield to Position 3. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

Position 6 – expires 3/07/11

**Hospital** – Position 7 – expires 9/7/15 – Mayor Joy nominated Enid Swartz.

## **PUBLIC COMMENTS:**

Sue Glave said she is organizing a Veterans Day parade for 10 a.m. Wednesday, Nov. 11, to celebrate and honor veterans.

Three citizens spoke about the number of live chickens allowed per household and that the number should be increased.

Sam Evans spoke in support of the proposed outdoor lighting ordinance.

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## **OLD BUSINESS:**

### **1. Discussion of sidewalks, Ordinance 2112 , vote on 1<sup>st</sup> reading**

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

Ms. Blankenship moved to approve Ordinance 2112 on its first reading. Mr. Brammer seconded. By roll call, Ms. Blankenship, Ms. Zeller, Ms. Schneider voted aye. Mr. Brammer, Mr. DeVito, Mr. Berry voted no. Mayor Joy voted aye. Motion passed 4/3/0

Ms. Schneider moved to suspend the rules and place Ordinance 2110 on its second reading. There was no second.

Mr. Brammer moved to suspend the rules and place Ordinance 2112 on its second reading. Ms. Schneider seconded. By roll call, Ms. Blankenship, Ms. Schneider, Ms. Zeller and Mr. DeVito voted aye. Mr. Berry, Mr. Brammer voted nay. Motion passed 4/2/0

Mayor Joy read the title of Ordinance 2112 aloud.

Ms. Schneider moved to amend the ordinance by including "aggregate" in Section A, (2) (3) (4), including aggregate as option C in (2). Ms. Zeller seconded.

After discussion, Mr. DeVito called for the question.

On the amendment motion, Ms. Schneider voted aye. Five others voted no. Motion failed 1/5/0

Ms. Schneider moved to change the notification procedure in Sec. 9.08.07 to say "notice may be served in person" and by "certified return receipt requested restricted delivery" mail; to remove "by leaving a copy at the residence or place of business of such owner" and "or any combination thereof). Mr. DeVito seconded.

Ms. Zeller said she wanted to see the amendments in writing before voting on them. She moved to table the vote on the second reading of Ordinance 2112 until the next regular meeting, Nov. 9. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

2. **Discussion of Ordinance 2109 raising City Clerk's salary. 3<sup>rd</sup> reading**

Mr. Brammer moved to suspend the rules and place Ordinance 2109 on its third reading

by title only. Mr. DeVito seconded. By roll call, five voted aye. Ms. Blankenship voted no. Motion passed 5/1/0

Mayor Joy read the title of Ordinance 2109 aloud.

Mr. Brammer moved to approve the third reading of Ordinance 2109 by title only. Ms. Schneider seconded. Five voted aye. Ms. Blankenship voted no. Motion passed 5/1/0

3. **Discussion of Resolution 472 giving Council responsibility for operations of City**

**Auditorium.**

Mr. DeVito moved to discuss. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0

Mr. DeVito moved to rescind Resolution 472. Ms. Zeller seconded. All voted aye. Motion passed 6/0/0

Ms. Zeller moved to direct the city attorney to draft an ordinance directing the city to assume maintenance of the City Auditorium and the City Advertising and Promotion Commission (CAPC) to assume operations of the City Auditorium Ms. Schneider seconded. All

voted aye. Motion passed 6/0/0

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Ms. Blankenship moved to take \$25,000 out of reserve and put it into capital funds to repair the City Auditorium's roof damage. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

4. **Discussion of Ordinance 2111 regarding firefighters' sick leave accrual. 3<sup>rd</sup>**

**reading**

Mr. Brammer moved to suspend the rules and place Ordinance 2111 on its third reading by title only. Mr. DeVito seconded. By roll call, all voted aye. Motion passed 6/0/0

Mayor Joy read the title of Ordinance 2111 aloud.

Mr. Brammer moved to approve Ordinance 2111 on its third reading by title only. Ms. Schneider seconded. All voted aye. Motion passed 6/0/0

Ms. Schneider move to take a 10 minute break at 7:27 p.m. Mr. Brammer seconded. All voted aye. Motion passed 6/0/0 Meeting resumed at 7:40 p.m.

**NEW BUSINESS:**

1. **Discussion of number of live chickens allowed per household.**

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

After a brief discussion, Mr. Berry moved to send the issue to the Planning Commission for consideration. Ms. Schneider seconded. All voted aye. Motion passed 6/0/0

2. **Discussion of establishing five-mile territorial jurisdiction**

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

Ms. Schneider said she wanted to direct the Planning Commission to look into the state statutes regarding using the territorial jurisdiction area from which to draw Commission members.

Mr. Berry discussed some of the requirements to establishing the area.

No action was taken.

3. **Discussion of proposed lighting ordinance from Planning Commission**

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

Ms. Blankenship moved to forward the proposal to the City Attorney to be put in proper ordinance form. Mr. DeVito seconded.

Mr. Weaver asked for at least two meetings to go by before he brings the ordinance to the table.

Mr. Berry moved to amend his motion to give Mr. Weaver two meetings before bringing the ordinance to the table at the December meeting. Ms. Blankenship seconded. All voted aye. Motion passed 6/0/0

**COUNCIL COMMENTS:**

Ms. Blankenship said she will be gone for the November meeting.

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**ADJOURNMENT:**

Mr. Berry moved to adjourn the meeting at 8:10 p.m. Mr. DeVito seconded. All voted aye. Motion passed 6/0/0

This is the signature page for the regular meeting minutes of Monday, Oct. 26, 2009.

APPROVED:

ATTEST:

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Mayor Dani D. Joy

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City Clerk-Treasurer Mary Jean Sell CMC

