

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING  
Thursday, April 21, 2011 6 p.m.  
amended AGENDA**

**CALL TO ORDER**

**ROLL CALL, ESTABLISH QUORUM**

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**APPROVAL OF THE AGENDA**

**APPROVAL OF THE MINUTES: April 7, 2011**

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

**Parks** – Position 1 – expires 5/1/12 Position 5 – expires 5/1/11  
**Planning** -- Position 1 – expires 7/1/11 Position 6 – expires 1/1/12  
**Hospital**  
**HDC** – Position 4 – expired 11/30/10 Position 3 – expired 11/30/11  
**Cemetery**  
**CAPC**  
**Building, Fire/EMS, Public Works, and Transit Departments**  
**Finance Department**

**PUBLIC COMMENTS**

**UNFINISHED BUSINESS:**

1. Discussion of Resolution 484 and Ordinance 1940 -- fee schedule for Planning Commission/BOZA -- Mr. Pownall and Mr. DeVito
2. Discussion of Domestic Fowl Ordinance – Planning Commission
3. Deer hunt update – Mayor Pate
4. Discussion of Mun. Code 2.36.04 – Operations manual for the Finance Dept. – Ms. Ballance and Dr. Kirkpatrick
5. Black Bass Dam update – Mayor Pate
6. Signatories on checks/surety bonds – Ms. Ballance and Dr. Kirkpatrick

**NEW BUSINESS:**

1. Basin Park Project Presentation– Mayor Pate and Parks Commission/  
Open Discussion regarding Basin Park – Dr. Kirkpatrick and Ms. Ballance
2. Discussion of new accounting software program for Finance Department – Ms. Ballance and Dr. Kirkpatrick
3. Dog control – Mr. Pownall and Ms. Alexander
4. Discussion of land bank – Mayor Pate and Parks Commission  
Open Discussion regarding Basin Park – Dr. Kirkpatrick and Ms. Ballance
5. Condition of Lake Leatherwood Park – Ms. Alexander and Ms. Ballance
6. Ordinance for waiving bid process for ambulance(s) – Mayor Pate
7. Discussion of personal use of public vehicles – Dr. Kirkpatrick and Ms. Ballance
8. Yellow trash bags – Ms. Ballance and Mr. Pownall
9. Signs at Main and Spring – Mr. Pownall and Ms. Ballance
10. Crosswalk at Pendergrass Corner – Mr. Pownall and Ms. Ballance
11. Proposed ordinance for Backflow valves/check valves – Mayor Pate
12. Restrooms maintenance – Ms. Alexander and Ms. Ballance
13. Discussion of budget amendments – Ms. Ballance and Mr. Pownall

**AGENDA SETTING**

**CITY COUNCIL COMMENTS**

**MAYOR'S COMMENTS**

**ADJOURNMENT**

**CITY OF EUREKA SPRINGS  
CITY COUNCIL  
REGULAR MEETING**

**THURSDAY**

**APRIL 21, 2011**

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Thursday, April 21, 2011 in the jury room on the second floor of the Western District Carroll County Courthouse.

**PRESENT:** Mayor Morris Pate, Aldermen Ken Pownall, Lany Ballance, Robert “Butch” Berry, James DeVito, Dean Kirkpatrick, Janet Alexander, City Attorney Tim Weaver, City Clerk/Treasurer Ann Armstrong

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

Mayor Pate led the Pledge of Allegiance to the Flag.

**APPROVAL OF THE AGENDA:**

Mr. DeVito moved to approve the agenda. Mr. Berry seconded. Mayor Pate chose to move New Business item #4 to #1. Dr. Kirkpatrick moved to postpone Unfinished Business item #4 and New Business items #2 and 8 (became #7). Ms. Alexander moved to postpone New Business item #6 (became #5) until a later date. Mr. Pownall requested adding Mr. Grinnell’s name for reconsideration under HDC. Mr. DeVito moved to reposition Ms. Schneider under Planning – Position 1. Mr. Berry seconded. A roll call vote followed: Ms. Alexander, Mr. Berry, and Mr. DeVito – Aye. Mr. Pownall, Dr. Kirkpatrick, and Ms. Balance – No. Mayor Pate’s Aye vote broke the tie.

Motion carried 4/3/0

Mr. DeVito moved to approve the agenda as amended. Mr. Berry seconded.

Motion carried 6/0/0

**APPROVAL OF THE MINUTES: April 7, 2011**

Mr. DeVito moved to approve the minutes from the April 7, 2011 Council meeting. Mr. Pownall seconded.

Motion carried 6/0/0

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

**Parks** -- Position 1 – expires 5/1/12. Mayor Pate nominated Betsy Rodier.

**Planning** – Position 1 – expires 7/1/11. Mayor Pate resubmitted Mickey Schneider’s name. Position 6 – expires 1/1/12. Mayor Pate nominated Teresa DeVito. Mr. DeVito moved to approve the nomination of Mickey Schneider. Mr. Berry seconded. A roll call vote followed: Ms. Alexander, Mr. Berry, and Mr. DeVito – Aye. Mr. Pownall, Dr. Kirkpatrick, and Ms. Ballance – No. Mayor Pate’s Aye broke the tie.

Motion carried 4/3/0

**Hospital**

**HDC** – Position 3 – expires 11/30/11. Mayor Pate nominated Charles Templeton. Position 4 – expires 11/30/10. Position 6 – expires 3/7/14. Mayor Pate resubmitted Richard Grinnell’s application. Mr. Pownall motioned to approve the nomination of Mr. Grinnell. Mr. DeVito seconded.

Motion carried 6/0/0

**Cemetery** – Caretaker Tom Rennels read a letter from Commissioner Bennie Clark regarding the need to replace the nine year old mower required for 40+ acres. Mr. Rennels then addressed Council regarding having used his own weed eaters and chainsaws with no money from the City for maintenance. He requested that Council members tour the cemetery and to see the maintenance equipment.

CAPC – Interim Director Joanne Graupner invited everyone to the next meeting and welcomed questions. She noted progress in the CAPC office.

**Building, Fire/EMS, Public Works, and Transit Departments** – written reports were submitted.

**Finance Department** – March 2011 budget report was submitted.

Mr. Pownall requested a decision on which version of Roberts Rules of Order Council would use. Mr. Berry suggested the *newly revised* edition. Mr. Pownall seconded.

Motion carried 6/0/0

## **PUBLIC COMMENTS:**

Mickey Schneider clarified her position regarding her vote on the cell tower. She explained why she had chosen to chastise new Council members. Ms. Schneider then spoke about her view on voting “present”. She then explained why she “slammed out” of the last meeting.

Melissa Green spoke about the most recent attack by a pit bull in which the second dog was killed. She noted that a neighbor of the owner is afraid to make a report because of potential retaliation. Ms. Green asked Council to add impoundment to regulations.

Deborah Stoup offered specific suggestions for the ordinance chapter on dogs. Key points were improving the definitions of “nuisance” and “restraint”, escalation of penalties for owners of repeat offenders, improvement in licensing regulations, and impoundment. She called for a committee to tighten up the ordinance.

Jan Grinnell addressed Council regarding licensing dogs and suggested a data base posted on the City web site. She said this is a crisis situation and called for increased hours for the animal control officer.

Sam Feldman described an incident with a rottweiler running loose.

## **UNFINISHED BUSINESS:**

### **1. Discussion of Resolution 484 and Ordinance 1940 – fee schedule for Planning Commission/BOZA**

Mr. Berry moved to discuss. Mr. DeVito seconded. Mr. Pownall noted these fees have not been increased in 11 years. Mr. Berry moved to give the resolution and number and read it.

Motion carried 6/0/0. Ms. Armstrong read **RESOLUTION 580 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, AUTHORIZING A SCHEDULE OF FEES FOR APPLICATIONS PERTAINING TO TITLE 14 OF THE MUNICIPAL CODE.**

### **2. Discussion of Domestic Fowl Ordinance**

Mr. DeVito moved to discuss. Mr. Pownall seconded. Mayor Pate read a letter from Planning Commissioner Jim Morris saying the ordinance read at the April 7 meeting was not the version approved by the Planning Commission. Following brief discussion, Mr. DeVito moved to table until the next meeting. Ms. Alexander seconded.

Motion carried 6/0/0

### **3. Deer hunt update**

Mr. DeVito moved to discuss. Mr. Pownall seconded. Mayor Pate noted that requests to the public resulted in 12 offers for hunting on private land. He summarized the locations, most of which are within City limits. Discussion included limited City-owned property and compliance with Game and Fish regulations. Mayor Pate agreed to provide further information as it comes in.

### **4. Discussion of Mun. Code 2.36.04 – Operations manual for the Finance Dept.**

Postponed during Approval of the Agenda

### **5. Black Bass Dam update**

Mr. DeVito moved to discuss. Mr. Pownall seconded.

Motion carried 6/0/0

Mayor Pate visited the dam with Fire Chief Williams and observed water coming over the spillway. Since heavy rains were predicted for the next six days, Mayor Pate directed Public Works to start the 6" drain and begin drawing the lake level down. Mr. Berry suggested taking photographs for documentation.

**6. Signatories on checks/surety bonds**

Ms. Ballance moved to discuss. Mr. Pownall seconded.

Motion carried 6/0/0

Ms. Ballance said that in order to ensure separation of power, and checks and balances, she would move to have the City Attorney draw up a resolution designating signatories in the following order: Mayor, City Clerk/Treasurer, and Mayor Pro-tem, removing all others. Dr. Kirkpatrick seconded. Following discussion, Ms. Kline noted the timeframes in which checks are ready for signing. Further discussion prompted Ms. Ballance to withdraw her motion and request Mr. Pownall to rephrase the motion. Dr. Kirkpatrick withdrew his second. Mr. Pownall moved that the signatory order, with two required signatures be: Mayor, City Clerk/Treasurer, Mayor Pro-tem, with the Finance Director as a fourth, only in cases that can't be avoided. Ms. Ballance seconded. She then amended it to include "if the first or second signatory is not available in an eight hour period, it will fall to the third, and the fourth only (in) cases of extreme emergency." Dr. Kirkpatrick seconded. A voice vote on amending the original motion followed. Motion carried 6/0/0.

A vote on the amended motion followed. Motion carried 6/0/0

Seven minutes recess

Mr. Pownall spoke about the requirement for surety bonds. Ms. Ballance moved to discuss. Mr. DeVito seconded. Motion carried 6/0/0. Ms. Kline explained that State turnback funds provide for surety bond premium payments. Coverage is for all elected officials, commissioners, and employees with the exception of Parks, Cemetery, and Hospital Commissions. They have separate coverage.

**NEW BUSINESS:**

**1. Basin Park Project Presentation/Open Discussion regarding Basin Park**

It was agreed by all to combine these two items.

Rick Armellini read a brief history of the Basin Park Improvement Committee, which began in 2003. Numerous meetings and studies resulted in a master plan for the park, which was approved by the Parks Commission. The BPIC was called upon to address infrastructure deterioration, and they began a process to generate funds by private donations. The current proposal is designed to improve the flow, safety, and seating in the park, increase visibility of the band shell, and open the basin.

The concept video was shown. Mr. DeVito then moved to incorporate New Business item #5 into discussion on the table (see above). Dr. Kirkpatrick seconded. Motion carried 6/0/0

In answering Dr. Kirkpatrick's question about ADA compliance, Mr. Berry said the State Architect confirmed the project can not and need not comply with regulations for ramps. A cut-out in the stone wall would allow a wheelchair-bound person to view the basin. Construction documents will be generated after funding is in place. He assured Council building codes will be followed.

Mr. Featherstone emphasized the commitment to open discussion and updates. Mr. DeVito and Mr. Featherstone confirmed Parks' enabling legislation conflicts with statutes placing responsibility for Parks projects on City Council.

**2. Discussion of new accounting software program for Finance Department**

Postponed during Approval of the Agenda

**3. Dog control**

Mr. Pownall moved to discuss dog control. Dr. Kirkpatrick seconded. Ms. Alexander moved to have a workshop for improving the current ordinance. Mr. DeVito seconded.

Motion carried 6/0/0

#### **4. Discussion of land bank**

Mr. Pownall moved to discuss. Ms. Ballance seconded.

Motion carried 6/0/0.

Mr. Featherstone confirmed that Council received the narrative and proposed ordinance for the land bank. He noted the purpose is to dispose of unneeded land and to acquire needed land, such as the lot adjacent to Magnetic Spring. It was agreed that purchase and sale of property is to be approved by Council. Mr. Berry moved to have the City Attorney draft an ordinance establishing a land bank (with a \$5,000 loan) from the City. Mr. Pownall seconded.

Motion carried 6/0/0

#### **5. Condition of Lake Leatherwood Park**

Postponed during Approval of the Agenda

#### **6. Ordinance for waiving the bid process for ambulance(s)**

Mr. Pownall moved to discuss and Dr. Kirkpatrick seconded.

Motion carried 6/0/0

Mayor Pate reported on the three bids received from local banks, with Community First offering the lowest interest rate at 4.89% for either one or two ambulances. Chief Williams said one of the main units required \$4,000 in engine repairs recently. Nearly \$2,500 was spent on the same unit two months ago. Since the second unit is also failing, Chief Williams strongly encouraged Council to agree on the purchase of two ambulances. Mr. Berry moved to discuss the purchase of two ambulances. Mr. Pownall seconded.

Motion carried 6/0/0

Ms. Kline confirmed that payments on the fire station bay will be completed in August 2011. Her amortization calculations are \$6148.78 per month for two ambulances. Mr. Pownall moved to give the ordinance waiving competitive bidding a number and approve the first reading. Dr. Kirkpatrick seconded.

Motion carried 6/0/0

Mayor Pate read **ORDINANCE 2136 – AN ORDINANCE TO WAIVE COMPETITIVE BIDDING TO PURCHASE TWO (2) FRAZER TYPE I 14' GPM ON 2011 DODGE RAM 4500 AMBULANCES FOR THE EUREKA SPRINGS, AR, FIRE DEPARTMENT.** Mr. Pownall moved to approve the reading of Ordinance 2136. Mr. DeVito seconded.

Motion carried 6/0/0. Mr. DeVito moved to suspend the rules and place Ordinance 2136 on its second reading by title only. Mr. Pownall seconded. A roll call vote was taken: All voted Aye.

Motion carried 6/0/0. Mayor Pate read Ordinance 2136 by title only. Mr. DeVito moved to approve Ordinance 2136 on its second reading. Mr. Berry seconded. A voice vote was taken.

Motion carried 6/0/0. Mr. Pownall moved to suspend the rules and place Ordinance 2136 on its third reading by title only. Dr. Kirkpatrick seconded. A roll call vote was taken: Mr. Berry, Ms. Alexander, Mr. Pownall, Dr. Kirkpatrick, Mr. DeVito – Aye. Ms. Ballance – No.

Motion carried 5/1/0. Mayor Pate read Ordinance 2136 by title only. Mr. DeVito moved to approve Ordinance 2136 on its third reading. Ms. Alexander seconded. A voice vote was taken.

Motion carried 5/1/0. Mr. Berry moved to read the emergency clause. Mr. Pownall seconded. A roll call vote was taken: Mr. Pownall, Mr. Berry, Ms. Alexander, Mr. DeVito, Dr. Kirkpatrick – Aye. Ms. Ballance – No

Motion carried 5/1/0. Mayor Pate read the emergency clause.

Mr. Pownall moved to assign an ordinance number and place on its first reading the ordinance for the purchase of two ambulances. Mr. Berry seconded. By voice vote, all agreed

Motion carried 6/0/0

Mayor Pate read **ORDINANCE 2137 – AN ORDINANCE OF THE CITY OF EUREKA SPRINGS, ARKANSAS, AUTHORIZING SHORT-TERM FINANCING AS RELATES TO THE PURCHASE OF TWO (2) FRAZER TYPE I 14' GPM ON 2011 DODGE RAM 4500 AMBULANCES AND DECLARING AN EMERGENCY** Mr. DeVito moved to suspend the rules and place Ordinance 2137 on its second reading by title only.

Mr. Pownall seconded. By roll call, all agreed.

**City Council 4/21/11 4**

Motion carried 6/0/0. Mayor Pate read Ordinance 2137 by title only. Mr. DeVito moved to approve Ordinance 2137 on its second reading. Mr. Pownall seconded. By voice vote, all agreed.

Motion carried 6/0/0. Mr. DeVito moved to suspend the rules and place Ordinance 2137 on its third reading. Ms. Alexander seconded. By roll call, all agreed.

Motion carried 6/0/0. Mayor Pate read Ordinance 2137 by title only. Mr. DeVito moved to approve Ordinance 2137 on its third reading. Mr. Pownall seconded. A voice vote was taken.

Motion carried 5/1/0. Mr. DeVito moved to read the emergency clause. Mr. Pownall seconded. A roll call vote was taken: Mr. DeVito, Ms. Alexander, Mr. Berry, Dr. Kirkpatrick, Mr. Pownall – Aye. Ms. Ballance – No.

Motion carried 5/1/0. Mayor Pate read the emergency clause.

**7. Discussion of personal use of public vehicles**

Postponed during Approval of the Agenda

**8. Yellow trash bags**

Mr. Pownall moved to discuss. Ms. Ballance seconded. Ms. Ballance moved to postpone until the next meeting. Mr. DeVito seconded. By voice vote, all agreed.

Motion carried 6/0/0

**9. Signs at Spring and Main**

Ms. Ballance moved to discuss. Mr. Pownall seconded. By voice vote, all agreed.

Motion carried 6/0/0. Mayor Pate informed Council of discussion which had taken place during a Department Head meeting. One suggestion was to ask John Cross if he would approve moving the Highway Department signs to the #1 Spring side of the highway. The **Spring** and **Main** sign that currently blocks the “No” indicator for large vehicles will either be raised or lowered. The **15 mph** sign and **Please Ride Quietly** sign will be on the same post and raised.

Mr. Pownall moved to take this item off the Agenda. Ms. Ballance seconded.

Motion carried 6/0/0

**10. Crosswalk at Pendergrass Corner**

Mr. Berry moved to discuss. Mr. Pownall seconded. Mr. Berry said he had been in touch with Public Works in response to concerns about drainage and a planned handicap ramp at that location. The present configuration (already) directs rain water into the Oriental shop, Zarks, and the restaurant. Mr. Armellini addressed Council about a second concern - the potential loss of two vital loading zones. Mayor Pate agreed to attend to the matter.

**11. Proposed ordinances for Backflow valves/check valves**

Mayor Pate postponed.

**12. Restroom maintenance**

Ms. Ballance moved to discuss. Ms. Alexander seconded.

Motion carried 6/0/0. Mayor Pate noted an ad in the paper resulted in seven applications from people willing to clean the restrooms. Interviews were to be scheduled for the following week, vandalism is still a problem, and hours for the restrooms to be open could be discussed in the next Department Head meeting. Mayor Pate agreed to keep Council informed.

**13. Discussion of budget amendments**

Ms. Ballance moved to discuss. Mr. Pownall seconded.

Motion carried 6/0/0. Ms. Ballance asked that the request from the Cemetery (caretaker Tom Rennels) be seriously considered. She requested further discussion at the next meeting. Mayor Pate said the City diesel mechanic could repair the mower, and he will keep Council apprised.

Ms. Ballance noted the City Clerk/Treasurer has to ask permission to buy supplies and requested a budget. Mr. DeVito suggested addressing this issue during the mid-year budget review.

Mr. Pownall recommended “unfunded budget” lists from Department Heads which could be prioritized. Ms. Ballance moved to postpone until mid-year budget discussions. Mr. Pownall seconded.

Motion carried 6/0/0

**AGENDA SETTING:**

Mr. Pownall moved discuss. Ms. Ballance seconded.

Motion carried 6/0/0.

Mr. Pownall added Better Control of yard sales. Ms. Ballance seconded.

Ms. Ballance added Discussion of fluoride in the water supply. Mr. Pownall seconded.

Ms. Alexander added Discussion of animal control. Mr. Berry seconded.

**CITY COUNCIL COMMENTS:**

Ms. Ballance thanked those who call her with input, and the people who were here to protect her (from behavior displayed on the Court House steps at the last Council meeting).

Mr. DeVito wished everyone Happy Easter.

Mr. Berry wished Mayor Pate Happy Birthday.

Ms. Alexander noted this was a good meeting.

Mr. Pownall thanked everyone for their calls.

**MAYOR'S COMMENTS:**

Mayor Pate expressed pleasure in progress made during the meeting. He recommended signing up for Nixle for weather reports and read a list of upcoming community events.

**ADJOURNMENT:**

Mr. Pownall moved to adjourn at 9:30 p.m. Mr. Berry seconded.

Motion passed 6/0/0

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Thursday, April 21, 2011.

APPROVED:



Mayor Morris Pate

ATTEST:

  
City Clerk/Treasurer Ann Armstrong