

**CITY OF EUREKA SPRINGS
COUNCIL MEETING**

Thursday, February 17, 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: February 3, 2011

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Planning -- Position 1 -- expires 7/1/11 Position 6 -- expires 1/1/12

Parks -- Position 1 -- expires 5/1/12

Hospital -- Position 2 -- expires 6/1/14 Position 4 -- expires 6/1/11

Position 5 -- expires 6/1/12

*David Mitchell has been nominated for Position 6 -- expires 9/7/15

HDC --

*Marty Cogan has been nominated for Position 4 -- expires 11/30/13

Cemetery Commission -- Position 4 -- expires 2/15/14. Frank Green has submitted his application.

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Written determination from Municipal League regarding retirement benefits
2. Discussion of proposal to establish Auditorium Commission
3. Discussion of Resolution 484- fee schedule for Planning Commission/BOZA
4. Procedures at the Council table

NEW BUSINESS

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

corrected and approved 3/3/11

THURSDAY

FEBRUARY 17, 2011

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Thursday, February 17, 2011 in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen Janet Alexander, Lany Ballance, Robert "Butch" Berry, James DeVito, Dean Kirkpatrick, Ken Pownall, City Attorney Tim Weaver, Finance Director Yvonne Kline, 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. Berry moved to approve the agenda. Mr. DeVito seconded. Ms. Armstrong added the application from Frank Green for Cemetery Commission. Mr. Pownall added procedures at the table during meetings. He also would like to see the resolution on DPR benefits moved forward and included in the City personnel manual.

Mr. Pownall moved to approve the agenda as amended. Ms. Ballance seconded.
Motion carried 6/0/0

APPROVAL OF THE MINUTES: February 3, 2011

Mr. DeVito moved to approve the minutes of the February 3, 2011 City Council meeting. Mr. Pownall seconded.
Motion passed 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

CAPC -- Chairman Joe Joy spoke of Interim Director Joanne Graupner's work on the spring media campaign, successful renegotiations for better rates, and an upcoming decision on new web site development.

Planning -- Position 1 -- expires 7/1/11 Position 6 -- expires 1/1/12

Parks -- Position 1 -- expires 5/1/12

Hospital -- Position 2 -- expires 6/1/14 Position 4 -- expires 6/1/11.

Position 5 -- expires 6/1/12. Mr. Pownall moved to approve David Mitchell for Position 6 which expires 9/7/15. Mr. Berry seconded.

Motion passed 6/0/0

HDC -- Position 1 -- Mayor Pate requested changing Marty Cogan's nomination to Position 1, to expire 11/30/12. Mr. Berry moved to approve the nomination. Ms. Ballance seconded.

Motion carried 6/0/0

Position 4 -- expired 11/30/10. Mr. Breitling may apply to keep that position.

Cemetery -- Mayor Pate nominated Frank Green. Mr. DeVito moved to approve Frank Green's nomination for Position 4 which expires 2/15/14. Ms. Alexander seconded.

Motion carried 6/0/0

Mr. Pownall motioned to discuss procedures. Ms. Ballance seconded. Mr. Pownall would like to hear from all Department Heads and Commissions on a regular basis. Further discussion resulted in Mr. Kirkpatrick's motion for written monthly reports. Ms. Ballance seconded. Mr. Pownall amended the motion to include presenting written reports at the second monthly Council meeting. Ms. Alexander seconded.

Motion passed 6/0/0

PUBLIC COMMENTS:

Beau Satori informed Council the CAPC voted last fall to continue management of the Auditorium through 2011. He recommended allowing them to do so. Mr. Satori also addressed the recent removal of 120-year-old limestone sidewalk and the replacement with slate gray concrete. He asked Council to add sidewalk ordinances to the next meeting.

UNFINISHED BUSINESS:

1. Written determination from Municipal League regarding retirement benefits

Mayor Pate called for a motion to discuss the written determination regarding retirement benefits. Mr. DeVito moved to do so. Ms. Alexander seconded. Ms. Ballance referred to an earlier letter from Mr. Shoen and a "change in direction" with the current opinion. She expressed concern for the lack of a tax millage for a retirement fund.

Mr. DeVito stated the money can come from the General Fund, and this applies to people who have been elected to office. He stated further the Municipal League has rendered the opinion favoring action the last Council took.

Mr. Kirkpatrick noted that all of his calls from the public oppose the decision.

Mr. Pownall noted difficulty in obtaining records. He also noted items in Mr. Shoen's letter regarding "intent" which are not in the recorded Council meeting.

Mr. DeVito stated that it is quite clear in the State statutes who can receive pension; it's not salaried employees. It's people who have been elected to office.

Mr. Pownall referred to the City Council minutes of May 22, 1990, New Business, item #4. Council made Ms. Sell Deputy City Clerk because the City Clerk would like to have her act as deputy city clerk with the approval of Council.

Mr. DeVito reiterated that State law is very clear who qualifies. It's elected officials. He stated again, "We're not talking about somebody who received a salary working for the City. Those people don't qualify."

Mr. Berry said he did not believe funding is an issue, and that he did attempt to have a workshop on funding. He said adamant comments he'd heard were "about 50/50" and if the people don't agree with the laws, they need to go to the State Legislature.

Mr. Weaver stated Mr. Shoen was assigned to review the material, did so, and offered his opinion. He indicated that Ms. Sell's attorney had intended to file a suit that afternoon and, as a result of his conversation with Mr. Weaver, did not file.

Mr. Pownall again expressed concern about where the money would come from.

Ms. Kline reminded Council that the resolution passed during the last meeting "gave the money for the retirement".

Mayor Pate stated his understanding the Council agreed to abide by Mr. Shoen's determination.

Mr. DeVito made a motion to approve funding for MJ Sell's retirement. Mr. Berry seconded.

Mr. Berry, Mr. DeVito and Ms. Alexander voted "Aye". Mr. Kirkpatrick, Mr. Pownall and Ms. Ballance voted "Present". Mayor Pate broke the tie with "Aye". Motion carried.

2. Discussion of proposal to establish an Auditorium Commission

Mr. DeVito moved to discuss. Ms. Alexander seconded. She stated that because of the weather, the CAPC has been unable to meet. CAPC would like to discuss this issue. Mr. DeVito moved to table until the next meeting. Mr. Kirkpatrick seconded.

Motion carried 6/0/0

3. Discussion of Resolution 484- fee schedule for Planniug/BOZA

Mr. Pownall moved to discuss Resolution 484. Ms. Ballance seconded.

Mr. Pownall stated the resolution is to remain posted in City Hall and is not. He would like to see fees set almost ten years ago readdressed.

Mr. DeVito motioned to send Resolution 484 back to the Board of Zoning Adjustment for review. Mr. Kirkpatrick seconded.

Mr. Pownall suggested including Ordinance 1940 in the review.

Motion carried 6/0/0

NEW BUSINESS:

Mr. Pownall stated he would like the Agenda to include who is bringing issues to the table. He expressed concern regarding Council being kept up to date on developments and a preference for having Department Heads at Council meetings.

MAYOR'S COMMENTS:

Mayor Pate passed printed information on the Frazier ambulances and noted bids will be taken from several banks. He stated the new truck for the Fire Department is being rewired.

CITY COUNCIL COMMENTS:

Ms. Alexander thanked everyone.

Ms. Ballance stated she was ashamed at the dichotomy of what occurred at the table under unfinished business and how an unfortunate citizen whose house was jetted with sewage was treated by the City.

Mr. Berry reiterated if people are upset with what happened regarding the retirement issue, they need to go to the State and have the laws changed. He also expressed sympathy for the lady who has the sewage problem and believes that issue will be worked out.

Mr. Pownall thanked the voters who have contacted him. He would like to have a workshop to address priorities for the Council. Mr. Pownall encouraged people to join commissions.

Mayor Pate noted upcoming February events.

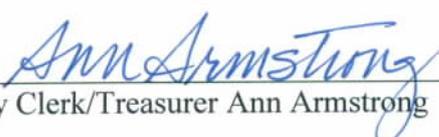
ADJOURNMENT:

Mr. DeVito moved to adjourn at 7:20 p.m. Mr. 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 Thursday, February 3, 2011.

ATTEST:



City Clerk/Treasurer Ann Armstrong

APPROVED:



Mayor Morris Pate