

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Thursday, June 2, 2011 6 p.m.
AGENDA**

CALL TO ORDER

ROLL CALL, ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE TO THE FLAG

APPROVAL OF THE AGENDA

APPROVAL OF THE MINUTES: May 19, 2011

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Planning -- Position 6 – expires 1/1/12. Susan Chamberlain nomination

CAPC

Parks –Position 5 – expires 5/1/14. Mike Riley nomination

HDC – Position 4 – expired 11/30/10

Cemetery

PUBLIC COMMENTS

UNFINISHED BUSINESS:

1. Discussion of Domestic Fowl Ordinance – Planning Commission
2. Proposed ordinance for backflow valves/check valves – Mayor Pate and 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. Discussion of new accounting software program for Finance Department – Ms. Ballance and Dr.
Kirkpatrick
6. Black Bass Dam update – Mayor Pate
7. Dog control workshop date – Mayor Pate
8. Land bank ordinance – Mayor Pate
9. Basin Park project – Mr. Weaver’s opinion

NEW BUSINESS:

1. Discussion of Procurement of a Mower for the Cemetery – Ms. Ballance and Ms. Alexander
2. Setting a date for a workshop on the Freedom of Information Act (FOIA) – Mr. Pownall and Ms.
Ballance
3. Setting a date to discuss the Budget Process – Mr. Pownall and Ms. Ballance
4. Setting a date to discuss Goals for the Council – Mr. Pownall and Ms. Ballance
5. Vacation of Palo Pinto – Planning Commission
6. Digital/Electronic Signs resolution – Planning Commission
7. Emergency ordinance for Waiving Competitive Bidding for Stabilization

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR’S COMMENTS

ADJOURNMENT

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Thursday, June 2, 2011 in the jury room on the second floor of the Western District Carroll County Courthouse.

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

ABSENT: Butch Berry

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. Ms. Alexander seconded. Mr. Pownall moved to postpone Unfinished Business item # 2 and to add Discussion of the Basin Park project and Mr. Weaver's opinion as #9. Mayor Pate called for a vote on the amended agenda.

Motion carried 5/0/0. Mayor Pate requested the addition of New Business item #7. Mr. DeVito moved to amend the agenda, adding Waiving Competitive Bidding for Ground Stabilization of Spring St. Mr. Pownall seconded.

Motion carried 5/0/0

APPROVAL OF THE MINUTES: May 19, 2011

Mr. DeVito moved to approve the minutes from the May 19, 2011 Council meeting. Mr. Pownall seconded. Ms. Ballance noted two typing errors. Mr. DeVito moved to approve the minutes as amended. Ms. Alexander seconded.

Motion carried 5/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Planning – Position 6 – expires 1/1/12. Mr. Pownall moved to accept Susan Chamberlain's nomination. Ms. Alexander seconded.

Motion carried 5/0/0.

Commissioner Jim Morris said Planning has been working on a (resolution) prohibiting digital/electronic signs. He said the zoning map update cost estimate from McClelland Engineering is \$1500 and confirmed the request for funds. Including more streets on the map will help to clarify boundaries. Mr. Morris noted Planning Commission approval of Jan Grinnell's request for vacation of a portion of Palo Pinto St. He also noted the Public Hearing held on the Multi-Family Dwelling proposal. Planning also held a productive workshop with professional Planner Jim vonTungeln. Mr. Morris said suggestions for pop-off valve regulation may be ready by the next Council meeting.

CAPC – Mayor Pate noted there are now two open positions. Ms. Alexander resigned. Mr. Pownall moved to appoint Mr. DeVito to the position. Ms. Alexander seconded.

Motion carried 3/2. The member-at-large position remains open.

Parks – Position 5 – expires 5/1/14. Mayor Pate said Mike Riley was nominated two meetings ago. Ms. Alexander called for discussion. Ms. Ballance seconded. Ms. Alexander noted that calls to individual Parks Commissioners confirmed that they would not mind having (Karen Lindblad) appointed. She recalled Mr. Riley's application as listing willingness to serve on any commission. Mr. DeVito moved to accept Mike Riley for Parks. There was no second.

HDC – Position 4 – expired 11/30/10

PUBLIC COMMENTS:

Jay Wilks, owner of Eureka Springs Limousine Company, said that when he purchased the business in 2009, he was handed a copy of Ordinance 2051. He learned that on May 31, 2011 the new City Clerk issued a license to another limousine company. Mr. Wilks then learned of the 2008 public vote defeating regulation of limousines as a franchise. He called for immediate action from the Council to regulate limousines.

UNFINISHED BUSINESS:

1. Discussion of Domestic Fowl Ordinance

Mr. DeVito moved to discuss. Ms. Alexander seconded.

Motion carried 5/0/0. Mr. Weaver noted the newest information available from Planning. Mr. DeVito moved to defer discussion of Ordinance until the first meeting in July. Ms. Ballance seconded. Motion carried 5/0/0

2. Proposed ordinance for backflow valves/check valves ("pop-off" valves)

Postponed during Approval of the Agenda

3. Deer hunt update

Mayor Pate noted that, as of today, 21 people have offered up access to their property for the municipal deer hunt. He said it is for Council to set and publish the date, and for hunters to get permission from the property owners. Mayor Pate requested that people register at City Hall and inform the City where they're going to hunt. He called for confirmation from property owners, and noted Game and Fish regulations must be followed. Mr. Pownall motioned to set a date and to require training. Ms. Alexander seconded. An informal roll call vote was taken. Ms. Alexander, Mr. Pownall and Dr. Kirkpatrick – Aye. Mr. DeVito – No. Ms. Ballance – abstain. Mayor Pate's Aye completed a majority.

Motion carried 4/1/1. It was agreed that Mayor Pate will set the date.

4. Discussion of Mun. Code 2.36.04 – Operations Manual for Finance Department

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

Motion carried 5/0/0. Yvonne Kline said she included information from the Legislative Auditors in the draft given to Council. Mayor Pate called for a motion to postpone until the first meeting in July. Ms. Ballance so moved. Mr. Pownall seconded.

Motion carried 5/0/0

5. Discussion of new accounting software program for Finance Department

Ms. Ballance moved to discuss. Dr. Kirkpatrick seconded.

Motion carried 5/0/0. Ms. Ballance recapped discussion at the previous Council meeting. She noted that some portions of audits have been brought into compliance. Ms. Ballance favored getting a new accounting software program that does not allow changes (after a year has been closed). Ms. Ballance motioned for the City Clerk Treasurer or the Finance Director to research (options). Dr. Kirkpatrick seconded.

Yvonne Kline noted that auditors look at Journal entries and confirm the paper trail. On the Balance sheet, she had inactivated some of the codes no longer used and did not realize how it presented on the Balance sheets. Ms. Kline said everything is in balance up to today, and said the 2008 and 2009 audits show the Finance Department in compliance without any deficiencies. She said she has looked into Centerpoint Fund Accounting and found it would not include (accounting for) the business licenses. The cost for the program and three users is \$16,155. Ms. Kline said the 11-year-old software downstairs is upgradeable and updated.

Ms. Ballance amended the motion to "City Clerk/Treasurer". A voice vote followed.

Motion carried 4/1/0, with Mr. DeVito casting the No vote.

6. Black Bass Dam update

Mayor Pate said the dam has not changed, and money has to be found. Mr. Purkeypile is researching grant opportunities. With storm damage to Hwy. 23, Hwy. 62, and the Spring St. slide, Mayor Pate expressed doubt the dam would be considered an emergency by FEMA or by the State. He noted FEMA would be here to accept claims on June 7 at 10.00 a.m.

7. Dog Control Workshop

Mayor Pate said he will inform Council when a date is set for the next workshop.

8. Land bank ordinance

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

Motion carried 5/0/0

Parks Commission Chair Bill Featherstone presented the "latest and greatest rendition". Ms. Ballance asked who would determine which properties are "of no value to the City" and what criteria would be used to determine that. Mr. Featherstone said the recommendations would be made by the Land Bank Committee and Council would decide. Criteria would vary from property to property. Mr. Pownall moved to postpone until the first meeting in July so the City Attorney can review it. Mr. DeVito seconded.

Motion carried 5/0/0

9. Discussion of the Basin Park project

Mr. DeVito moved to discuss. Ms. Alexander seconded.

Motion carried 5/0/0. Mr. DeVito read from Mr. Weaver's written opinion which confirmed "full and complete authority" of Parks by the Parks and Recreation Commission. Mr. Pownall read a section from the Municipal Code noting the requirement for approval from the Building Inspector, the HDC, and Planning where applicable. Ms. Ballance expressed concern for the absence of "say" by the voters as to what happens with Parks. Mr. Pownall referenced MC 12.04.04 d. regarding quarterly reports of receipts and disbursements and encouraged following the Code.

NEW BUSINESS:

1. Discussion of Procurement of a Mower for the Cemetery

Ms. Ballance moved to discuss. Mr. DeVito seconded. Mr. Pownall recused and left the room.

Motion carried 4/0/0. Cemetery Commission Chair Ken Fugate, Secretary/Treasurer Mary Ann Pownall, and Caretaker Tom Rennels addressed Council. Ms. Alexander noted the Commission has no budget and called to include this in the mid-year budget discussion. She confirmed that Mr. Rennels is again using his personal tools for maintenance. Mr. Fugate said the three bequests specify the Commission may use only the interest from investments. Ms. Pownall clarified that is \$26.71 per month. The only other source of income is the sale of deeds.

Mayor Pate suggested a voluntary millage or donation system, and encouraged discussion with the County Tax Assessor. Mr. DeVito noted the problem with the mower is probably electronic. He suggested both continuing efforts to locate the problem, and to review budget needs at mid-year. Ms. Ballance moved to postpone until the first meeting in July. Ms. Alexander seconded.

Motion carried 4/0/0. Mr. Rennels thanked Jim Blair for his efforts to keep the mower running.

2. Setting a date for a workshop on the Freedom of Information Act (FOIA)

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

Motion carried 5/0/0. Mr. Pownall noted there are other entities within the City Government who want to be included in a training workshop. Mr. Weaver suggested contacting David Schoen or Mr. Hayes from the Municipal League, or the professor from the University of Arkansas who wrote the definitive book on Arkansas law. Ms. Ballance agreed to invite Mr. Schoen to come and speak. Mr. DeVito suggested opening the invitation County-wide. Ms. Ballance moved to postpone until the first meeting in July. Mr. Pownall seconded.

Motion carried 5/0/0.

3. Setting a date to discuss the Budget Process

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

Motion carried 5/0/0. Discussion resulted in setting the date as July 28 at 6:00 p.m.

Motion carried 4/1/0

4. Setting a date to discuss Goals for Council

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

Motion carried 5/0/0. It was agreed to schedule discussion after the July 28 Budget workshop.

Motion carried 4/1/0

5. Vacation of Palo Pinto St.

Mr. DeVito moved to open discussion. Mr. Pownall seconded. Jan Grinnell, owner of 5 Ojo B&B, said she has a cottage that was built in the middle of Palo Pinto. The street was platted and never developed. She requested vacation of Palo Pinto down to the Lima St. alley and noted she has agreement from neighbors who (abut) Palo Pinto and from the Parks Commission. Utility companies have said it would not be a hindrance. Ms. Grinnell also presented a copy of the 99-year lease that was drawn up in 1932. Mr. Weaver opined that vacated property is generally divided by adjoining owners and the fee has been \$200 per lot. Ms. Ballance moved to postpone until the first meeting in July. Ms. Alexander seconded.

Motion carried 5/0/0

6. Digital/Electronic Signs resolution

Mr. DeVito moved to discuss. Mr. Pownall seconded. Mr. DeVito moved to have Mr. Weaver review and to postpone until the first meeting in July. Mr. Pownall seconded.

Motion carried 5/0/0

7. Emergency ordinance for Waiving Competitive Bidding for Stabilization

Mr. DeVito moved to give the ordinance a number and to read it. Mr. Pownall seconded.

Motion carried 5/0/0. Mayor Pate summarized the situation at Grotto Spring. An estimated 55,000 cubic yards of earth which supported Spring St. were displaced in the slide. The eight inch water line broke, with an estimated loss of 2-300,000 gallons of water. Lowell Johnson was contacted as an emergency contractor and has been working on stabilization. Discussion resulted in Mr. DeVito amending the motion to remove "Grand Ave." from the title. Mr. Pownall seconded.

Motion carried 5/0/0. Ms. Armstrong read **Ordinance 2138 WAIVING COMPETITIVE BIDDING FOR GROUND AND STREET STABILIZATION WORK REGARDING SUPPORT AND REPAIR OF SPRING ST. AND DECLARING AN EMERGENCY**. Mr. DeVito moved to approve Ordinance 2138 on its first reading. Ms. Alexander seconded.

Motion carried 5/0/0. Mr. DeVito moved to suspend the rules and place Ordinance 2138 on its second reading by title only. Mr. Pownall seconded. A roll call vote followed. Mr. DeVito, Ms. Alexander, Ms. Ballance, Mr. Pownall, Dr. Kirkpatrick – Aye.

Motion carried 5/0/0. Ms. Armstrong read the title of Ordinance 2138. Mr. DeVito moved to approve the second reading of Ordinance 2138. Ms. Alexander seconded.

Motion carried 5/0/0. Mr. DeVito moved to suspend the rules and place Ordinance 2138 on its third reading by title only. Mr. Pownall seconded. A roll call vote followed. Dr. Kirkpatrick, Mr. Pownall, Ms. Ballance, Ms. Alexander, Mr. DeVito – Aye.

Motion carried 5/0/0. Mayor Pate read the number and title. Mr. DeVito moved to approve the third reading of Ordinance 2138. Ms. Alexander seconded.

Motion carried 5/0/0. Mr. DeVito moved to read and approve the emergency clause. Ms. Alexander seconded. A roll call vote followed. Mr. DeVito, Ms. Alexander, Ms. Ballance, Mr. Pownall, Dr. Kirkpatrick – Aye.

Motion carried 5/0/0. Ms. Armstrong read the emergency clause. Mr. Pownall received confirmation from Mayor Pate the funds will be spent on City property.

AGENDA SETTING:

Ms. Pownall moved to discuss. Ms. Alexander seconded.

Mr. Pownall added Discussion of the Beaver Bridge. Ms. Alexander seconded.

Ms. Alexander added a Discussion of Ordinance 2051 regulating limousines. Ms. Ballance seconded.

Mr. Pownall added a Discussion of the Sign Ordinance. Ms. Ballance seconded.

Ms. Ballance added Discussion of writing a letter of discontent regarding forcing fluoride on the people. Ms. Alexander seconded.

Ms. Ballance added Discussion of the Employee Handbook regarding hiring employees. Mayor Pate seconded.

CITY COUNCIL COMMENTS:

Mr. DeVito talked up Coco Montoya and encouraged everyone to enjoy his Blues the following evening.

Ms. Alexander thanked Mr. DeVito for taking her seat on the CAPC.

Mr. Pownall said he was glad to see workshops set up for things that have been ignored for the last five months

Ms. Ballance noted the Yellow Bag Research Committee will hold a meeting on June 6 at 2 p.m. She also asked the Mayor to ask the Police Department to come into compliance with Code 2.48.01.

MAYOR'S COMMENTS:

Mayor Pate read from the current Employee Handbook a section regarding the hiring of hourly and salaried employees. The Handbook says the Mayor shall approve hiring according to Ordinance 2061 adopted in October 2007. He also referenced the Disaster Plan guidelines section "G" Emergency Command Vehicles. Mayor Pate also said Eureka Springs won the bid for the Blue Knights convention in 2013. He noted his invitation to an international group of "T-bucket" drivers to visit Eureka Springs in 2013. He read a list of upcoming events and thanked those who responded to dealing with the (Spring St.) landslide.

ADJOURNMENT:

Mr. DeVito moved to adjourn at 8:46 p.m. Mr. Pownall seconded.

Motion passed 5/0/0

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Thursday, June 2, 2011.

APPROVED:



Mayor Morris Pate

ATTEST:


City Clerk/Treasurer Ann Armstrong