

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Thursday, May 5, 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: April 21, 2011

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

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

CAPC -- Position 6 -- expires 12/31/11

Parks -- Position 1 -- expires 5/1/12-- Vote on Betsy Rodier nomination. Position 5 -- expires 5/1/11

HDC -- Position 4 -- expired 11/30/10 Position 3 -- expires 11/30/11. Vote on Charles Templeton nomination

Hospital

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 update -- Mayor Pate
8. Land bank ordinance update -- Mayor Pate
9. Condition of Lake Leatherwood Park -- Ms. Alexander and Ms. Ballance
10. Discussion of personal use of public vehicles -- Dr. Kirkpatrick and Ms. Ballance
11. Yellow trash bags -- Ms. Ballance and Mr. Pownall
12. Update on crosswalk at Pendergrass Corner -- Mayor Pate
13. Update on restrooms maintenance -- Mayor Pate
14. Discussion of budget amendments -- Ms. Ballance and Mr. Pownall

NEW BUSINESS:

1. Better control of yard sales -- Mr. Pownall and Ms. Ballance
2. Discussion of fluoride in the water supply -- Ms. Ballance and Mr. Pownall
3. Discussion of Ordinance 2060 -- Dr. Kirkpatrick and Ms. Ballance
4. Ward map adjustment -- Clerk/Treasurer

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, May 5, 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 (6:15), 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. Mr. Pownall said he wanted to add FOIA procedures and discussion of the CAPC. Ms. Ballance seconded. Mr. DeVito told Mayor Pate to remind Council about adding items at the last minute. Mayor Pate noted the new items could be added under agenda setting, for the next meeting. Discussion regarding the process followed. Mr. Pownall noted the items were for discussion only. He expressed concern about potential FOIA violations, and withdrew the two new items.

Dr. Kirkpatrick postponed Unfinished Business items #4 and 5. Ms. Alexander removed Unfinished Business item #9. Further discussion of the process for adding items to the Agenda followed.

It was agreed that Unfinished Business items #1 and 2 would be addressed in the Planning Commission report. Mayor Pate removed Unfinished Business item #12. Mr. DeVito moved to approve the amended agenda. Dr. Kirkpatrick seconded.

Motion carried 5/1/0.

APPROVAL OF THE MINUTES: April 21, 2011

Mr. Pownall moved to approve the minutes from the April 21, 2011 Council meeting. Ms. Alexander seconded.

Motion carried 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Planning – Position 6 – expires 1/1/12.

Commission Chair Beverly Blankenship updated Council on progress with the ordinance regarding electronic/digital signs. The required public hearing will be held (May 24 at 6:00 p.m.). She noted the public hearing regarding multi-family dwellings in R-1 will be held (May 24 at 6:15 p.m.). Ms. Blankenship said Planning is looking into the cost for updating the Zoning map. It was noted professional planner Jim vonTungeln will be leading a workshop on May 26 at 1:00 p.m. Ms. Blankenship spoke about the Domestic Fowl ordinance and sought clarification regarding separating unrelated subjects. She will take the ordinance back to Planning. Regarding the proposed ordinance for backflow valves/check valves, Ms. Blankenship noted Planning has just begun (research).

It was noted Teresa DeVito had withdrawn her application for Planning Position 6. Mayor Pate brought Susan Chamberlain's application to the table.

CAPC – Position 6 – expires 12/31/11.

Interim Director Joanne Graupner said production of the new summer TV commercial has been posted on their Facebook page and on Geekfest. A new billboard may go up on Hwy. 540 in the

Fayetteville/Rogers area and another may be installed on the highway from Branson.

Mr. Pownall asked when the annual budget would be presented to Council. He also asked about the annual audit. Ms. Graupner said the audit is in process and, as she was not in her position in January, she could not speak to (the subject of the annual budget).

Regarding Position 6, Mayor Pate said Ms. Alexander had both resigned and requested reappointment. Mr. Berry moved to reappoint Ms. Alexander to the CAPC. Dr. Kirkpatrick seconded.

Motion carried 6/0/0

Parks -- Position 1 – expires 5/1/12. Ms. Alexander moved to approve the nomination of Betsy Rodier. Mr. DeVito seconded.

Motion carried 6/0/0.

Position 5 – expires 5/1/11. Mayor Pate noted Council has copies of Mike Riley’s application. In reference to Ms. Ballance’s inquiry about Karen Lindblad’s application, Mayor Pate said Parks has no interest in Ms. Lindblad’s application being submitted. He said he would submit it for approval or disapproval. Mr. Berry noted Council already has Mike Riley’s application. There is only one vacancy. Mayor Pate said he brought Karen Lindblad’s as a courtesy to Ms. Ballance. Council does not have to consider it; it’s just in the folder. Ms. Ballance noted that if everyone on a commission is always in agreement, perhaps some of the citizens are not being represented.

HDC – Position 3 – expires 11/30/11. Mr. DeVito moved to approve the nomination of Charles Templeton. Mr. Berry seconded.

Motion carried 6/0/0

Hospital – no report

Cemetery – no report

PUBLIC COMMENTS:

Deb Stroup stated “this Council does listen... and did an expedient workshop on the dog issues”. She commented Mr. Pownall put together a masterful rewording of a draft for Council to review, particularly regarding repeat offenders. Ms. Stroup requested the *Citizen* to have an article about licensing dogs.

Jan Grinnell said she appreciated the support from Council, the Animal Control Officer, the Police and the Mayor. She requested not adding items to the agenda (at the beginning of a meeting).

Melissa Greene spoke about the improvement with the dog issue and noted “these people will listen”. She commented she likes the diverse Council.

Jim Morris said being in the vet’s office after the second pit bull attack wasn’t a pleasant scene. Regarding the “pop off” valves, he favored discussion at the table rather than taking an item off of the agenda. This allows the public to (be informed) and to be able to come and address Council.

James Wells spoke about the two broken windows in his car which resulted from weedeating at Harmon Park. He spoke with Mr. Levine and Mr. Featherstone, filed a police report, spoke with the City Clerk, and the Mayor. He asked Council to reimburse him for the windows.

UNFINISHED BUSINESS:

1. Discussion of Domestic Fowl Ordinance

Included in the Planning Commission report, and postponed

2. Proposed ordinance for backflow valves/check valves

Included in the Planning Commission report, and postponed

3. Deer Hunt update

Mayor Pate spoke again with Dick Baxter from Game and Fish. Council will have to set a date for the bow hunt during bow season, and contact the property owners. The list of private property owners who have volunteered allowing the bow hunt on their property is now up to 16. Regional hunting safety courses are available. Mayor Pate noted regulations require 50 yards distance from

dwellings unless the property owners give permission to hunt around their dwellings.

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

Postponed during Approval of the Agenda

5. Discussion of new accounting software program for Finance Department

Postponed during Approval of the Agenda

6. Black Bass Dam update

Dee Purkeypile presented drawings of three options for stabilizing the dam. Alternative #1 is a large, free-draining wedge of riprap with an anchor key at the toe. The conceptual design, with a 25-30% contingency, is estimated at \$175-200,000. Alternative #2, better looking than the first option, is a series of large limestone blocks, stepped and pinned with steel rods. The estimated cost ranges from \$350-400,000. Alternative #3, more visually similar to the historic design, involves extending the slope for better stabilization. Riprap, 6-20 in., would allow drainage. A reinforced concrete beam would anchor the structure and stacked limestone block on the face would be pinned with steel. Estimated cost is in the \$350,000 range.

Discussion of damage to the structure as a result of recent heavy rains followed. Mr. Purkeypile indicated repairs will require political will. Mr. Berry suggested the mid-year budget review would be the time to address reserving funds. Mr. Purkeypile said that after a budget is determined, a detailed plan would require ANRC approval.

7. Dog Control update

Mayor Pate spoke about the workshop held with citizens. Ms. Alexander noted the excellent draft Mr. Pownall introduced for review. Mayor Pate asked for a vote to schedule another workshop. Motion carried 6/0/0

8. Land bank ordinance

Mr. Berry moved to discuss. Mr. DeVito seconded. Mr. Weaver said the draft ordinance was modified earlier in the day by Bruce Levine. A committee could suggest properties, a line item in the budget could be created for this one purpose, and Council would approve land purchases and sales. Mayor Pate asked for a motion to postpone until the next meeting. Mr. DeVito motioned. Mr. Pownall seconded.

Motion carried 6/0/0

9. Condition of Lake Leatherwood Park

Removed during Approval of the Agenda

10. Discussion of personal use of public vehicles

Dr. Kirkpatrick expressed concern about the private use of public vehicles in all departments. Mayor Pate said it is for the department heads to give use of vehicles for company time. He said that, in the Police Department, the Assistant Chief, the Detective, and the Chief (on-call 24/7) take cars home. Ms. Ballance said she would visit with Mayor Pate in private.

11. Yellow trash bags

Ms. Ballance moved to discuss. Mr. Pownall seconded. Ms. Ballance spoke about the burden of purchasing the bags, particularly for senior citizens on fixed incomes. In discussion which followed, Mr. DeVito noted that businesses are required to recycle cardboard. He suggested the possibility of also mandating glass and plastic recycling. He noted that if businesses put more trash out for pickup than their allotment, they pay additional fees.

Following discussion, Ms. Ballance moved to form a committee to explore options. Mr. Pownall seconded. A roll call vote followed: Mr. Pownall, Ms. Alexander, Ms. Ballance, and Dr. Kirkpatrick – Aye. Mr. DeVito, Mr. Berry – No.

Motion carried 4/2/0. Mr. DeVito moved to postpone further discussion until the next meeting.

Motion carried 6/0/0

12. Update on crosswalk at Pendergrass Corner

Withdrawn during Approval of the Agenda

13. Update on restroom maintenance

Mayor Pate said that of the seven applications, six were withdrawn. The remaining applicant placed restrictions on when he wants to work. Seeking a person who would work as a City employee, for now, will continue. Currently, third shift Police officers are closing restrooms after 9:00 p.m.

14. Discussion of budget amendments

Ms. Ballance moved to discuss. Mr. Pownall seconded. A roll call vote followed: Mr. Pownall, Ms. Ballance, Dr. Kirkpatrick – Aye. Mr. Berry, Ms. Alexander, Mr. DeVito – No. Mayor Pate broke the tie with an “Aye”.

Motion carried 4/3/0. Mayor Pate said the cemetery lawnmower was repaired for \$433.97.

Mr. Berry said he had voted “No” because he was unclear about what the discussion would address. Following discussion, it was agreed to postpone until the mid-year budget review.

NEW BUSINESS:

1. Better control of yard sales

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

Motion carried. In response to citizens’ enquiries, Mr. Pownall expressed concern for ongoing sales at the same location(s) throughout the year and visitors’ perceptions. Ms. Kline assured Council a spreadsheet of names of people purchasing yard sale permits and locations is maintained, and that the Code is being followed. Limitations are on applicants (3x year) rather than the location.

2. Discussion of fluoride in the water supply

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

Motion carried 6/0/0. Ms. Ballance, in response to citizens’ requests asked about possible ways to keep Eureka Springs’ water free of fluoride. Mr. DeVito noted the mandate is for systems providing water for over 5,000 people and Carroll Boone cannot (avoid compliance).

3. Discussion of Ordinance 2060

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

Motion carried 6/0/0. Dr. Kirkpatrick motioned to have the City Attorney write an ordinance to rescind Ordinance 2060 at the next meeting. Ms. Ballance seconded, stating that it was for the sake of discussion. Dr. Kirkpatrick stated he does not, and many citizens do not believe this ordinance is working. His intention was not to remove the tax, but to write something better. Mr. DeVito noted the existing ordinance was voted on by the people and is a State enabling ordinance. Mr. Weaver opined that (rescinding) the ordinance would leave the CAPC defunct, and the previous ordinance has been repealed already. He asked for clarification on a new ordinance. Mr. DeVito said every city in the State functions with this ordinance, and there is no other. Ms. Alexander concurred.

Mr. Pownall questioned the validity of allowing a commissioner to take a leave of absence, take a paid position within the commission, and leave the seat open. Mayor Pate confirmed the commission has the power to make that decision. Mr. Berry agreed that the CAPC is autonomous.

Dr. Kirkpatrick restated his motion. Ms. Ballance seconded.

Motion failed 2/4/0

4. Ward map adjustment

Following through with a request made by the Election Commission, Ms. Armstrong described the process of reviewing the 2010 Census map and adjusting the wards to be within 5% population variance in each. As in the 1994 adjustment, the fastest growing ward (3) would decrease and ward 2 would increase. Mr. Pownall stated the only real effect would be who could run for Council positions.

Mr. Berry asked if this needs to be referred to the people and whether it would be done by resolution or ordinance. He suggested postponing until the next meeting.

AGENDA SETTING:

Ms. Ballance moved to discuss. Mr. Pownall seconded. Ms. Ballance added discussion of placing the Basin Park project on the ballot for the next general election. Mr. Pownall seconded.

CITY COUNCIL COMMENTS:

Mr. DeVito invited the public to an informational seminar on "Professional City Government" May 25 in the Auditorium. The emphasis will be the city manager form of government.

MAYOR'S COMMENTS:

Mayor Pate read a list of upcoming events. He noted two representatives from Senator Boozeman's office were in town to (observe the impact) of the recent rainfall. FEMA has also done a preliminary assessment. Mayor Pate said he would not be present for the next Council meeting. Pro-tem Butch Berry will chair the meeting.

Mayor Pate said the City is being sued for illegal exaction as a result of Mary Jean Sell's pension.

Mr. Weaver cautioned Council to not ask the Clerk/Treasurer to seek seconds on agenda items. He opined this could be interpreted as "serial meetings".

ADJOURNMENT:

Mr. DeVito moved to adjourn at 8:40 p.m. Mr. Pownall seconded.
Motion passed 6/0/0

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Thursday, May 5, 2011.

ATTEST:



City Clerk/Treasurer Ann Armstrong

APPROVED:



Mayor Morris Pate