PLEASE TURN OFF ALL ELECTRONIC DEVICES AS THEY INTERFERE WITH RECORDING EQUIPMENT

Amended 9/6/11

CITY OF EUREKA SPRINGS
COUNCIL MEETING

Thursday, September 1, 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: August 18, 2011

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Firemen's Pension Board – resolution for monthly increase

NEW BUSINESS:

1. Resolution No. 586

Planning
CAPC
Hospital
Parks – Position 5 – expires 5/1/14 – vote on Jan Grinnell
HDC – Position 4 – expired 11/30/10
Cemetery
Yellow Bag Research Committee – proposed correction in Code – Mr. Weaver and Mayor Pate
Transit – New hire

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Discussion of ordinance to amend Parks enabling ordinance – Postponed until September 15 -- Mr. Raphael, Ms. Ballance, Dr. Kirkpatrick
2. FOIA Workshop Date – Mayor Pate
3. Deer hunt – feedback from Arkansas Bowhunters Assn. – Mayor Pate
4. Dog control update -- Mayor Pate
5. Vacation of Palo Pinto – Planning Commission
6. Non-conforming Off-Premise Signs – Postponed until Code references are corrected
7. Update on Alcohol Beverage Tax/CAPC right to collect – Mayor Pate
8. Operations Manual for Finance Department – Postponed until today/New Finance Director is hired -- Ms. Ballance and Dr. Kirkpatrick
9. New Accounting Software for Finance Department – Postponed until today/New Finance Director is hired -- Ms. Ballance and Dr. Kirkpatrick
10. Wal Mart Update – project application postponed until October -- Mayor Pate
11. Multi-Family Dwellings Appendix Ordinance #2142 – second reading

NEW BUSINESS (cont'd):

2. Discussion of Moratorium on Capital Improvements to City Parks – Ms. Ballance and Dr. Kirkpatrick
3. Ordinance to codify Parks ¼ cent tax – Mayor Pate
4. Discussion of Hospital Commission/Hospital – Mr. Pownall and Ms. Ballance
5. List of Surety Bonds required of City officials – Mr. Pownall and Ms. Ballance

AGENDA SETTING
CITY COUNCIL COMMENTS
MAYOR'S COMMENTS
ADJOURNMENT

CITY OF EUREKA SPRINGS
CITY COUNCIL
REGULAR MEETING THURSDAY SEPTEMBER 1, 2011

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Thursday, September 1, 2011 in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen Dean Kirkpatrick, James DeVito, Butch Berry, Ken Pownall, Lany Ballance, Parker Raphael, 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. Pownall moved to approve the agenda. Dr. Kirkpatrick seconded. Mr. Pownall moved to postpone Unfinished Business item #5 until November 3. Mr. Raphael seconded.

Motion carried 6/0/0.

Mr. Pownall moved to postpone the vote for Parks position 5 until the next meeting. Ms. Ballance seconded.

Motion carried 4/3/0, with Mayor Pate voting "Aye" to carry.

Mayor Pate noted a reversed number for an ordinance and added New Business item #5. Mr. DeVito moved to approve the agenda as amended. Mr. Pownall seconded.

Motion carried 6/0/0.

APPROVAL OF THE MINUTES: August 18, 2011

Mr. Pownall moved to approve the minutes from the August 18, 2011 Council meeting. Dr. Kirkpatrick seconded. Mr. Pownall noted a name correction. Ms. Ballance added the words "illegal exaction" to her August 4 meeting comments. She also requested the addition of a sentence in the August 18 forensic audit discussion. Mr. Pownall moved to approve the minutes as amended. No seconded was recorded.

Motion carried 6/0/0

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND VACANCIES:

Firemen's Pension Board – Tom Walker and Terry Bunch explained the purpose for Resolution No. 586 – a requirement by the Pension Review Board in Little Rock to enable the retirees to apply for a raise. Mr. Pownall motioned to suspend the rules and move New Business item #5 to first place. Mr. Berry seconded. A roll call vote followed and all voted "Aye".

Motion carried 6/0/0.

NEW BUSINESS:

1. **Resolution No. 586**

Mr. Pownall moved to read and discuss the Resolution for Pension Board Rule #4. Mr. Berry seconded. Ms. Armstrong read **RESOLUTION NO. 586 ADOPTING PENSION REVIEW BOARD RULE #4.** Mr. Pownall moved to approve as read. Mr. Raphael seconded.

Motion carried 5/0/1, with Ms. Ballance abstaining.

Planning – Planning Chair Beverly Blankenship said the Commission is working on an ordinance to protect handicap parking. They are researching landscaping ordinances and are (finishing) codification (corrections) in the sign ordinance.

CAPC – Director Mike Maloney spoke about the new web site, preparing for the final quarter of

the year in advertising and promotion, and developing a five-year plan. He noted the accounting is being changed to Quick Books. As of the end of June, restaurant income is up about 2% from the same time last year, lodging is down 4% and, overall, the CAPC is at 47% of the projected budget.

Hospital – none

Parks – Position 5 – expires 5/1/14 – postponed during Agenda Setting

HDC – Position 4 – expired 11/30/10

Cemetery – none

Yellow Bag Research Committee – Mayor Pate said he has a meeting with (the Solid Waste Authority) on Tuesday, September 6. He will update by email. Ms. Ballance will schedule a Committee meeting.

Transit – Mayor Pate said he had hired Ken "Smitty" Smith as Transit Director, subject to Council's approval. Ms. Ballance moved to suspend the rules and have an Executive Session at the end of the meeting after New Business. Mr. Pownall seconded. A roll call vote followed. All voted "Aye".

Motion carried 6/0/0.

PUBLIC COMMENTS:

Robert Hotchkiss, 103 E. Van Buren, #103, offered a December 2010 report from the Northeast Regional Center for Rural Development which emphasizes economic growth through nurturing small, locally-owned businesses. He also noted that there is nothing in the City ordinances limiting the maximum size of businesses and there are no requirements for any kind of impact study. Mr. Hotchkiss distributed a proposed ordinance and requested Council's consideration.

Mickey Schneider passed on a request from her son, Jeremy, who is serving in Afghanistan. He asked for singing fish to help keep spirits up. Donations can be delivered to shops across from the Court House.

Susan Tharp, addressed a request from a person who would like to bring a carriage company to town. She noted there is a third route available if he is interested in it.

UNFINISHED BUSINESS:

1. **Discussion of ordinance to amend Parks enabling ordinance**

Postponed until September 15

Mr. Weaver was welcomed to the table.

2. **FOIA Workshop Date**

Mr. Pownall moved to discuss. Ms. Ballance seconded. Mayor Pate said (Municipal League Attorney) Mark Hayes asked about setting a date for a Friday evening or Saturday morning. He requested answers by email. The public will then be notified.

3. **Deer hunt – Feedback from Arkansas Bowhunters Assn.**

Mr. Pownall moved to discuss. Mr. Raphael seconded. Mr. Pate reported Jeff Smith will send an email with answers to a list of questions and noted it's probably too late for a hunt this year. Lengthy discussion followed regarding qualifications, scheduling a presentation by Mr. Smith, rules and regulations, clarification of "one-time bow hunt", and long range management. Mr. Berry motioned for the hunt to be deferred to a date to be determined by a committee, appointed by the Mayor, consisting of one police officer, one council member, and three citizens. Mr. Raphael seconded.

Following discussion Mr. Berry motioned to defer the deer hunt to a date and time to be recommended by a Deer Management Committee of five people selected by the Mayor (consisting of one police officer, one Council member, and three citizens). That committee of five will establish a future urban hunt. Announcement of the date will be made during the last meeting in February. Mr. Pownall seconded.

Motion carried 6/0/0. Mr. Pownall motioned to, "in the meantime, look at alternative methods of deer control that don't involve the hunt so we aren't totally ignoring the problem until the committee comes up with something". Ms. Ballance seconded. Mr. Berry recalled lengthy and exhaustive research

by Mr. Freeland and Mr. Schrader about 12 years ago, and asked (Ms. Armstrong) to look for minutes from that meeting.

Motion failed 1/4/1, with Dr. Kirkpatrick, Mr. Berry, Mr. DeVito, and Mr. Raphael voting "No" and Ms. Ballance abstaining.

4. Dog Control update

Mr. Pownall moved to discuss. Mr. DeVito seconded. Mr. Pownall said he had no update. He is still trying to get some priorities taken care of with the Animal Control Officer and the citizens' concerns. Mr. Pownall moved to postpone until October 6, 2011. Mr. Berry seconded.

Motion carried 6/0/0.

5. Vacation of Palo Pinto

Postponed until November 3, 2011

6. Non-conforming Off-Premise Signs

Postponed until Code references are corrected

7. Update on Alcohol Beverage Tax/CAPC right to collect

Mr. Pownall moved to discuss. Mr. DeVito seconded. Ms. Armstrong will schedule time with Mr. Weaver. She said Mr. Maloney will review the CAPC regulations. Mr. Pownall moved to postpone until October 6. Mr. DeVito seconded.

Motion carried 6/0/0

8. Operations Manual for the Finance Department

Postponed until a new Finance Director is hired. Mayor Pate said ads were on Craig's List and in the (Arkansas Democrat Gazette). There was difficulty in opening the video resume submitted and he requested the applicant resubmit on paper. Ms. Ballance moved to postpone until there is a new Finance Director. Mr. Berry seconded.

Motion carried 6/0/0.

9. New Accounting Software for Finance Department

Ms. Ballance moved to discuss. Mr. Pownall seconded. Ms. Ballance moved to postpone until there is a new Finance Director. Mr. Berry seconded.

Motion carried 6/0/0.

10. Wal Mart update

Mr. DeVito moved to discuss. Mr. Berry seconded. Ms. Ballance moved to postpone indefinitely. Mr. Pownall seconded.

Motion carried 6/0/0.

11. Multi-Family Dwellings Appendix Ordinance No. 2142

Mr. Pownall moved to discuss. Mr. Berry seconded. Mr. Berry said it appears 17 ½ Elk needs to be removed from the list of dwellings. Mr. Weaver assured Council reading appendices is not a requirement, although it is not improper to do so. Ms. Blankenship stated Planning had prepared of list of apartment houses in R-1 today. Ms. Ballance read aloud the letter from former Building Official Marion Chrysler (who served during the Joy administration- 2007 through 2010) to Mr. Beattie. Therein, the property is described as two residences and one workshop. Extensive discussion regarding the terms "qualifying" and "legally non-conforming" followed.

Mr. Weaver confirmed the purpose for ordinance No. 2142- to list apartment buildings that were operating legally before the year 2000. Dr. Kirkpatrick moved to postpone until September 15. Ms. Ballance seconded. Following discussion, Dr. Kirkpatrick withdrew his motion. Ms. Ballance withdrew her second.

Ms. Ballance moved to remove 17 ½ Elk St. from the list. There is no second recorded.

Motion carried 4/1/1, with Mr. Pownall voting "No" and Mr. DeVito voting "Abstain".

Ms. Ballance moved to suspend the rules and read Ordinance 2142 by title only and include reading the addresses on Appendix C, less 17 ½ Elk. Mr. Berry seconded. A roll call vote followed.

Motion carried with all voting "Yes".

Ms. Armstrong read Ordinance 2142 by title only and addresses in Appendix C. Ms. Ballance moved to (approve) Ordinance 2142 on the second reading. Mr. Berry seconded.

Motion carried 5/1/0, with Mr. Pownall voting "No".

Ms. Ballance moved for a ten-minute recess. Mr. Pownall seconded.

Motion carried 6/0/0. Mr. Pownall left the meeting.

NEW BUSINESS (cont'd):

2. Discussion of a Moratorium on Capital Improvements to City Parks

Ms. Balance moved to discuss. Dr. Kirkpatrick seconded. Ms. Ballance moved to give the resolution a number and to read it. Dr. Kirkpatrick seconded. Following a suggestion from Mr. Weaver, Ms. Ballance withdrew her motion and Dr. Kirkpatrick withdrew his second. Ms. Ballance moved to give the resolution a number, approve it, and read it. Dr. Kirkpatrick seconded. Mr. DeVito, Mr. Weaver and Mr. Berry expressed their concerns. Ms. Ballance referenced State Statute 14.43.502 b(1) regarding Council management and control of finances and of all real and personal property belonging to the Corporation. Ms. Ballance withdrew her motion. Dr. Kirkpatrick withdrew his second. Ms. Ballance moved to postpone discussion until the next meeting. Dr. Kirkpatrick seconded.

Motion failed 3/2/0, with Mr. Berry and Mr. DeVito voting "No". In response to a question from Dr. Kirkpatrick, Mr. Weaver noted that, in adopting a Parks Commission, control (by Council) was surrendered. He concurred that, in the way the resolution was written, every capital improvement in town would be stopped. Mr. DeVito reviewed the history of the Basin Park Improvement Committee. Lively discussion followed.

3. Ordinance to codify Parks ¼ cent tax

Mayor Pate said he did not recall "taking this one on". Mr. Levine explained that there was to have been an ordinance written to amend Ordinance 1906 reflecting the vote to remove the sunset clause for the ¼ cent tax for Parks. Mr. Weaver agreed to write the clean-up ordinance. Mr. DeVito moved to have an ordinance written to address the issue. Mr. Berry seconded.

Motion carried 4/1/0, with Mr. Parker voting "No".

4. Discussion of Hospital Commission/Hospital

Ms. Ballance moved to postpone until the next meeting. Mr. DeVito seconded.

Motion carried 5/0/0.

5. List of Surety Bonds required of City officials

Mr. Pate noted Council has been provided with the information. Ms. Ballance moved to postpone until the next meeting. Dr. Kirkpatrick seconded.

Motion carried 5/0/0.

EXECUTIVE SESSION

Ms. Ballance moved to go into Executive Session to discuss a personnel issue. Mr. Berry seconded. When the Open Session resumed, Ms. Ballance moved to discuss. Mr. Berry seconded. Mr. Berry made a motion to support the Mayor in hiring Ken "Smitty" Smith as the new Transit Director. Mr. DeVito seconded.

Motion carried 5/0/0.

AGENDA SETTING:

Ms. Ballance moved to discuss. Mr. Raphael seconded. Mr. DeVito appealed to Council to not add items after Agenda Setting.

Ms. Ballance requested that discussion of a Forensic Audit be added. Ms. Armstrong confirmed that deletion was her misinterpretation.

Ms. Ballance added Discussion of Out-Sourcing Finance. Dr. Kirkpatrick seconded.

Ms. Ballance added Discussion of a Tree-Cut Moratorium. Mr. Raphael seconded.

Dr. Kirkpatrick added Time Limit for Discussions. Ms. Ballance seconded.

Mr. Berry added cleaning up the Domestic Fowl Ordinance as it relates to other animals. Mr. DeVito seconded.

CITY COUNCIL COMMENTS:

Mr. Raphael noted the number of items postponed during the meeting.

Mr. DeVito said he hopes everyone has a safe and happy Labor Day.

Mr. Berry said he promised a Planning Commission member that, at some point when discussing the budget, (Council) would include a City Planner.

MAYOR'S COMMENTS:

Mayor Pate read Glenna Booth's letter about the Sesquicentennial historic marker dedication at the Rock House Cave on Saturday, September 10. He then read a list of upcoming events.

ADJOURNMENT:

Mr. DeVito moved to adjourn. Mr. Raphael seconded.

Motion passed 5/0/0. The meeting ended at 8:55 p.m.

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Thursday, September 1, 2011.

APPROVED:

Mayor Morris Pate

ATTEST:

Ann Armstrong

City Clerk/Treasurer Ann Armstrong