

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING**  
Thursday, September 15, 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:** September 1, 2011

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

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

**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** – update on proposed correction in Code – Mr. Weaver and Mayor Pate

**Department Heads** – written reports

**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 – update -- Mayor Pate
3. Dog control update -- Postponed until October 6 -- Mayor Pate
4. Vacation of Palo Pinto – Postponed until November 3 --Planning Commission
5. Non-conforming Off-Premise Signs – Postponed until Code references are corrected
6. Update on Alcohol Beverage Tax/CAPC right to collect – Postponed until October 6 -- Mayor Pate
7. Operations Manual for Finance Department – Postponed until today/New Finance Director is hired -- Ms. Ballance and Dr. Kirkpatrick
8. New Accounting Software for Finance Department – Postponed until today/New Finance Director is hired -- Ms. Ballance and Dr. Kirkpatrick
9. Multi-Family Dwellings Appendix Ordinance #2142 – third reading
10. Ordinance to codify Parks ¼ cent tax – Mr. DeVito and Mr. Berry

**NEW BUSINESS:**

1. Ray Dotson's carriages – Mayor Pate
2. Discussion of Hospital Commission/Hospital – Mr. Pownall and Ms. Ballance
3. List of Surety Bonds required of City officials – Mr. Pownall and Ms. Ballance
4. Discussion of Forensic Audit – Ms. Ballance and Dr. Kirkpatrick
5. Discussion of Outsourcing Finance – Ms. Ballance and Dr. Kirkpatrick
6. Discussion of a Tree-cut Moratorium – Ms. Ballance and Mr. Raphael
7. Discussion of Time Limit for Discussions – Dr. Kirkpatrick and Ms. Ballance
8. Clean-up Ordinance for Title 6 Animals and Fowl – Mr. Berry and Mr. DeVito

**AGENDA SETTING**

**CITY COUNCIL COMMENTS**

**MAYOR'S COMMENTS**

**ADJOURNMENT**

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

**THURSDAY**

**SEPTEMBER 15, 2011**

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Thursday, September 15, 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, Lany Ballance, Parker Raphael, City Attorney Tim Weaver, City Clerk/Treasurer Ann Armstrong  
**ABSENT:** Ken Pownall

**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. Ms. Ballance moved to postpone Unfinished Business items #7 and 8. She noted new information has come in regarding Unfinished Business item #9 and moved to postpone until the next meeting. Dr. Kirkpatrick seconded. Mayor Pate called for a roll call vote on item #9: Dr. Kirkpatrick, Mr. Raphael and Ms. Ballance – “Yes”. Mr. DeVito and Mr. Berry – “No”

Motion failed 3/2/0.

Ms. Ballance moved to postpone New Business item #1 indefinitely. Mr. Raphael seconded. A roll call vote followed: Dr. Kirkpatrick, Mr. Raphael, and Ms. Ballance – “Yes”. Mr. DeVito and Mr. Berry – “No”

Motion failed 3/2/0.

Ms. Ballance postponed New Business item #2 until the next meeting. Mr. Raphael seconded. A voice vote followed.

Motion carried 5/0/0.

Ms. Ballance moved to postpone New Business item #3 until the next meeting. Mr. Raphael seconded. A voice vote followed.

Motion carried 5/0/0.

Ms. Ballance moved to postpone New Business item #4 until the next meeting. Dr. Kirkpatrick seconded. A voice vote followed.

Motion carried 5/0/0.

Ms. Ballance moved to postpone New Business item #6 until the next meeting. Mr. DeVito seconded. A voice vote followed.

Motion carried 5/0/0.

Dr. Kirkpatrick moved to cancel New Business item #7. Mr. Raphael seconded. A voice vote followed.

Motion carried 5/0/0. Mayor Pate called for a vote to approve the agenda as amended. Dr.

Kirkpatrick moved to do so. Mr. Berry seconded.

Motion carried 5/0/0.

**APPROVAL OF THE MINUTES: September 1, 2011**

Ms. Ballance moved to discuss. Mr. Berry seconded. Ms. Ballance moved to approve the minutes from the September 1, 2011 Council meeting. Mr. DeVito seconded.

Motion carried 5/0/0.

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

**Planning** – Position 6 – expires 1/1/12. Mayor Pate noted Susan Chamberlain’s resignation.

**CAPC** – none

**Hospital** – none

**Parks** – Position 5 – expires 5/1/14. Mr. Berry moved to discuss. Mr. DeVito seconded. Mr. Berry moved to approve Jan Grinnell for Position 5 on Parks. Mr. DeVito seconded. A voice vote followed. Motion failed 3/2/0 with Ms. Ballance and Dr. Kirkpatrick voting “No”. Mayor Pate then called for a roll call vote, which also failed: Mr. Berry and Mr. DeVito – “Yes”. Ms. Ballance, Mr. Raphael and Dr. Kirkpatrick – “No”.

Mayor Pate’s “Yes” brought the vote to 3/3/0. Motion failed.

Mr. Weaver agreed to review the enabling ordinance for Code section 12.04.02 regarding membership in the voting body when approving commissioners.

Parks Director Bruce Levine presented a draft packet for a grant application. Funds from AR Game and Fish granted through Parks and Tourism could be used to repair trails, create ADA-compliant parking for a bird blind, construct a foot bridge, build a second bird blind, and a wild life observation pier on the NE part of the lake. This is a no-match \$100,000 grant and will require a resolution at the next Council meeting.

**HDC** – Position 4 – expired 11/30/10. Doug Breitling will apply to continue holding this seat.

**Cemetery** -- none

**Yellow Bag Research Committee** – Mayor Pate spoke with Carroll County Solid Waste Director Phil Jackson, whose understanding is that all residents will use the yellow bags. Bed and Breakfasts are to use one yellow bag plus regular trash bags and dumpsters. Other businesses are not to use yellow bags. It is Mr. Jackson’s belief they are to use regular containers, bags and dumpsters. He welcomes anyone to come to the recycling center (for discussion).

**Department reports** – printouts were provided.

**PUBLIC COMMENTS:**

**Bob Howle**, owner of 285 Spring St., responded to a letter from a neighbor who opposes listing this address in the legally non-conforming multi-family dwellings appendix. Mr. Howle noted there has never been a CUP and 285 Spring has been a multi-family dwelling since at least 1991.

**Joe Zickmund**, owner of 95 Spring St., said he understood there was a Council workshop scheduled for (the previous) Monday and it was cancelled. He said it would be good to notify the community in the paper and commented on the (preliminary) list of items. Mr. Zickmund found it foolish to discuss returning to a City of the Second Class, having a budget for the City Clerk, or discussing Roberts Rules of Order. He favored a town meeting and discussion of two items: changing the form of city government and sewerage the west side of town. Mr. Zickmund objected to postponing the deer hunt.

**Charles Ragsdell** spoke against listing 285 Spring St. as a multi-family dwelling, saying requests for Conditional Use Permits were rejected by neighbors and (previous owners) used green space to create off-street parking. He said it was operated as an illegal multi-family dwelling, with a CUP request withdrawn 7/11/2000. Mr. Ragsdell requested Council to review property files before the third vote on Ordinance 2142. He believes vacancy for one year disqualifies the property.

**Bruce Levine** noted the Parks information provided earlier is a draft. The Trails Committee and the Parks Commission will be meeting to finalize the proposal.

**UNFINISHED BUSINESS:**

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

Dr. Kirkpatrick moved to discuss and Ms. Ballance seconded. Ms. Ballance suggested having

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the City Attorney (review) the ordinance for later discussion. Dr. Kirkpatrick seconded. Following discussion, Ms. Ballance withdrew her motion and Dr. Kirkpatrick withdrew his second.

**2. FOIA Workshop Date**

Mr. DeVito moved to discuss. Mr. Berry seconded. Mayor Pate said he sent an email to Council regarding the September 20 public workshop in Fayetteville, to be put on by the Attorney General's office and the Arkansas Press Association. Mr. DeVito made a motion to do away with the plan for a workshop in Eureka and to direct everyone to the one in Fayetteville. Dr. Kirkpatrick seconded.

Motion carried 4/1/0, with Ms. Ballance voting "No".

**3. Dog Control update**

Postponed until October 6, 2011

**4. Vacation of Palo Pinto**

Postponed until November 3, 2011

**5. Non-conforming Off-Premise Signs**

Postponed until Code references are corrected

**6. Update on Alcohol Beverage Tax/CAPC right to collect**

Postponed until October 6, 2011

**7. Operations Manual for the Finance Department**

Postponed until October 6, 2011/New Finance Director is hired

**8. New Accounting Software for Finance Department**

Postponed until October 6, 2011/New Finance Director is hired

**9. Multi-Family Dwellings Appendix Ordinance No. 2142**

Mr. DeVito moved to discuss. Mr. Berry seconded. Ms. Ballance moved to postpone. Mr. Raphael seconded. The voice vote was unclear. A roll-call vote followed: Mr. Raphael, Dr. Kirkpatrick, Ms. Ballance, and Mr. Berry – "Yes". Mr. DeVito – "No".

Motion carried 4/1/0.

**10. Ordinance to codify Parks ¼ cent tax**

Mr. Weaver said the ordinance is not ready. Mr. DeVito moved to postpone. Mr. Berry seconded.

Motion carried 5/0/0.

**NEW BUSINESS:**

**1. Ray Dotson's carriages**

Mr. DeVito moved to discuss. Mr. Berry seconded. Mr. Dotson spoke about his intention to run his carriages on the State Highway and his belief that there's a "grey area" in the City's franchise ordinance. He said he is permitted in Fayetteville, Springdale and Fort Worth. He stated his plan to run on State Highways and to hotels and restaurants with the licenses he has. Discussion included rate of speed, previous applications denied, legality of franchises, and Attorney Generals' opinions. Mr. Parker made a motion to direct Mr. Weaver for an opinion. Dr. Kirkpatrick seconded.

Motion carried 5/0/0.

**2. Discussion of Hospital Commission/Hospital**

Postponed until October 6, 2011

**3. List of Surety Bonds required for City officials**

Postponed until October 6, 2011

**4. Discussion of Forensic Audit**

Postponed until October 6, 2011

**5. Discussion of Outsourcing Finance**

Ms. Ballance moved to discuss. Dr. Kirkpatrick seconded. Ms. Ballance spoke about her research and possible benefits in insurance costs, office space, and accounting software. Having CPA

firms address Council and sending out (requests for) bids were suggested. Ms. Ballance moved to set a date for a workshop to discuss outsourcing Finance. Mr. Raphael seconded. Mr. Berry requested a list of cities that outsource.

Motion failed 3/2/0, with Mr. DeVito and Mr. Berry voting "No".

**6. Discussion of Tree-cut Moratorium**

Postponed until October 6, 2011

**7. Discussion of Time Limit for Discussions**

Cancelled during Approval of the Agenda

**8. Clean-up Ordinance for Title 6 Animals and Fowl**

Mr. DeVito moved to discuss. Mr. Berry seconded. Mr. Weaver noted the Fowl Ordinance that was passed has a repealer clause in it. He favored having the Code service remove the clauses which no longer apply. He confirmed that regulations for other animals still stand.

**AGENDA SETTING:**

Mr. DeVito moved to discuss. Mr. Berry seconded.

Mr. DeVito added discussion of extending water and sewer services beyond City limits. Mr. Raphael seconded. Mayor Pate will ask Public Works Director Dwayne Allen to attend.

Mr. Raphael requested an update on the Auditorium Committee. Ms. Ballance seconded.

Ms. Ballance added discussion of State Statute 14-52-201. Dr. Kirkpatrick seconded.

Ms. Ballance added discussion of access to City property (Rock House Cave). Mr. Raphael seconded.

Ms. Ballance added discussion of out-sourcing the Finance Department. Mr. Raphael seconded.

**CITY COUNCIL COMMENTS:**

Mr. Berry thanked members of Gaskin Switch for their reunion and for contributing about \$1100 to Parks, for kids.

Ms. Ballance thanked the people who (organized) Antique Car Weekend.

**MAYOR'S COMMENTS:**

Mayor Pate noted the City received \$2000 through the North West Arkansas Economic Development District. The funds will be used for the kids' sports program.

He said he is not going to (hire a Finance Director) until Council decides what to do (regarding outsourcing).

Mayor Pate then read a list of upcoming events.

**ADJOURNMENT:**

Dr. Kirkpatrick moved to adjourn. Mr. DeVito seconded.

Motion passed 5/0/0.

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Thursday, September 15, 2011.

ATTEST:

  
\_\_\_\_\_  
City Clerk/Treasurer Ann Armstrong

APPROVED:

  
\_\_\_\_\_  
Mayor Morris Pate