

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING**

Monday,  
August 27, 2012 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 13, 2012

**COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:**

**Planning** – Pos. 1 – Mickey Schneider – expired 7/1/11. Pos. 3 – vacant – expires 7/1/13. Pos. 4 – Jim Morris – expired 7/1/12

**CAPC** – Pos. 1 – vacant – expires 7/1/16. **Vote on Robert Schmidt.** Pos. 3 – Lynn Bridwell – expired 6/30/11. Pos. 4 – Bobbie Foster – expired 6/30/12

**Hospital** – Pos. 2 – vacant – expires 6/1/14. Pos. 5 – vacant – expires 6/1/17. **Vote on Jack Pritchard.** Pos. 6 – vacant – expires -- 9/7/15

**Parks** – Pos. 1 – vacant – expired 5/1/12. Pos. 5 – vacant – expired 5/1/11

**HDC** – Pos. 1 – vacant – expires 11/30/12

**Cemetery** – Pos. 1 – June Westphal – expired 2/15/12.

**Yellow Bag Research Committee**

**Deer Hunt Committee**

**PUBLIC COMMENTS**

**UNFINISHED BUSINESS:**

1. Non-conforming Off-Premise Signs – postponed until the sign ordinance is approved – Planning Commission
2. Ordinance No. 2155 Limousines – second reading – tabled until the second meeting in August – Mr. Raphael and Ms. Ballance
3. Action for non-participating Commissioners – postponed until September 10 -- Mr. Pownall and Ms. Ballance
4. Building permits, parking lots, demolition and construction ordinance -- Planning
5. "Weekly" dwelling units list – Planning
6. Update on the Taxi franchise workshops -- Mr. DeVito and Ms. Lindblad
7. Discussion of the Auditorium agreement for 2013 – Mr. Pownall and Mr. DeVito
8. Discussion of the marker proposed for Conway Spring – Ms. Ballance and Ms. Lindblad
9. Deer Hunt – Mr. Pownall and Ms. Ballance
10. Voting by ward – Ms. Lindblad and Mr. Pownall

**NEW BUSINESS:**

1. Discussion of the proposed ordinance for Water/Sewer committee – Mr. Pownall and Ms. Ballance
2. Discussion of financial procedures – Mr. Pownall and Ms. Balance
3. Discussion of asking the Planning Commission to research structures encroaching on public property – Ms. Ballance and Ms. Lindblad
4. Resolution for December free parking on Spring and Main – Mayor Pate
5. Resolution for allocating money to repair Auditorium heat coil units – Mayor Pate
6. Discussion of the electric trolley – Mr. Pownall and Ms. Ballance

**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. Monday, August 27, 2012, in the jury room on the second floor of the Western District Carroll County Courthouse.

**PRESENT:** Mayor Morris Pate, Aldermen Parker Raphael, Ken Pownall, Lany Ballance, Butch Berry, Karen Lindblad, City Attorney Tim Weaver and City Clerk/Treasurer Ann Armstrong

**ABSENT:** James DeVito (with notice)

**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. Ms. Ballance seconded. Mr. Pownall moved to add discussion of the deer hunt as Unfinished Business item #9. Ms. Ballance seconded. Ms. Lindblad moved to add voting by ward as Unfinished Business item #10. Mr. Pownall seconded. Mr. Pownall moved to add discussion of the Electric Trolley Association under New Business. Ms. Ballance seconded. Mayor Pate called for approval of the amended agenda.

Motion carried 5/0/0.

**APPROVAL OF THE MINUTES: August 13, 2012**

Mr. Berry moved to approve the August 13, 2012 minutes. Ms. Lindblad seconded. Ms. Ballance noted two typing errors. Ms. Lindblad moved to approve the minutes as amended. Mr. Pownall seconded.

Motion carried 5/0/0.

**COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:**

**Planning** – Chair Beverly Blankenship noted there will be an October 9, 2012, Public Hearing for a Conditional Use Permit for 5 Summit St. She noted that about 50 CUPs have been revoked since the beginning of review. Ms. Blankenship requested that Code section 4.48.01 be added to the agenda. She noted there have been revisions to the Building Permits ordinance listed as Unfinished Business item #4. A list of licensed weekly rentals was provided. Ms. Blankenship agreed to provide an update on the Zoning map.

Mr. Pownall moved to suspend the rules and postpone Unfinished Business items #4 and 5. Mr. Raphael seconded. A roll vote followed.

Motion carried 5/0/0.

**CAPC** – Mr. Berry moved to approve the nomination of Robert Schmid for Position 1. Mr. Raphael seconded.

Motion failed 1/4/0 with Ms. Lindblad, Mr. Raphael, Ms. Ballance and Mr. Pownall voting “No”.

Mr. Berry moved to approve Lynn Bridwell for Position 3. Mr. Raphael seconded. Ms. Lindblad noted the nomination was not on the agenda and she had no information. Mr. Berry moved to defer until the next meeting. Mr. Raphael seconded.

Motion carried 5/0/0.

**Hospital** – Mr. Berry moved to approve Jack Pritchard for Position 5. Mr. Raphael seconded.

Motion failed 1/3/1 with Ms. Lindblad, Mr. Raphael, and Ms. Ballance voting “No” and Mr. Pownall abstaining. Mayor Pate said he (Dr. Pritchard) is still on the Commission.

**Parks** – Mayor Pate nominated Rachel Brix. He will provide the Position number at the next meeting.

**HDC** – no report

**Cemetery** – no report

**Yellow Bag Research Committee** – next meeting

**Deer Hunt Committee** – to be discussed under Unfinished Business

**PUBLIC COMMENTS:**

1. **Jan Grinnell**, 5 Ojo, expressed her concern about the list of proposed deer hunt locations. She believes health, safety and welfare have not been taken into account. It is Ms. Grinnell’s understanding that it

is the responsibility of those who do not want their property included to mark the property.

2. **Gregory Moon**, 2 Prospect, agreed with Ms. Grinnell and said the hunt should be outside of the City limits.

3. **Melissa Greene** spoke in favor of bringing the issue of the deer hunt back to the voters.

#### **UNFINISHED BUSINESS:**

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

Postponed until the sign ordinance is approved

2. **Ordinance No. 2155 Limousines – second reading**

Mr. Raphael moved to discuss. Ms. Lindblad seconded. Mr. Raphael moved to amend the ordinance to the original version with a two-hour minimum. Ms. Lindblad seconded.

Motion carried 4/1/0 with Mr. Berry voting “No”.

Mr. Berry moved to suspend the rules and to place Ordinance No. 2155 on its second reading by title only. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the title of Ordinance No. 2155. Mr. Berry moved to approve Ordinance No. 2155 on its second reading. Ms. Lindblad seconded. A voice vote followed.

Motion carried 5/0/0.

3. **Action for non-participating Commissioners**

Postponed until September 10

4. **Building permits, parking lots, demolition and construction ordinance**

Postponed following the Commission report

5. **“Weekly” dwelling units list**

Postponed following the Commission report

6. **Update on the Taxi franchise workshops**

Mr. Berry moved to discuss. Mr. Raphael seconded. Following discussion, a workshop was scheduled for Thursday, September 6, at 6:00 p.m.

7. **Discussion of the Auditorium agreement for 2013**

Mr. Pownall moved to discuss. Mr. Raphael seconded. Mr. Pownall moved to postpone until the next meeting since Mr. DeVito was absent. Mr. Berry seconded.

Motion carried 5/0/0.

8. **Discussion of the marker proposed for Conway Spring**

Ms. Ballance moved to discuss. Ms. Lindblad seconded. Discussion followed regarding authority over City property, Parks as an autonomous entity, and where the line for approval is to be drawn. Mr. Weaver noted that sale of property, placing a lien, or taking out a loan would come before Council.

9. **Discussion of the Deer Hunt**

Ms. Lindblad moved to discuss. Mr. Pownall seconded. Discussion followed regarding placing the issue on the ballot since what is currently proposed varies greatly from the original ballot measure. Ms. Lindblad motioned to create an ordinance to repeal the original deer hunt ordinance. Ms. Ballance seconded. Discussion followed regarding what would have to be accomplished by the close of business the following day to get the issue on the next ballot.

Ms. Ballance moved to take a ten minute recess. Mr. Pownall seconded.

Motion carried 4/1/0 with Mr. Berry voting “No”.

When the session resumed, discussion followed regarding the length of the hunt. Mr. Pownall suggested review of the timeframe as currently understood and disclosure of addresses proposed for hunting.

Ms. Ballance moved to proceed with the hunt. Mr. Pownall seconded. Mr. Berry asked the City Attorney if failure of the motion would mean that the hunt doesn't proceed. Mr. Weaver reviewed the relevant motions and votes from the last meeting. He agreed that was the case.

Referring to Ms. Lindblad's original motion, Mr. Weaver confirmed the repeal would be of the decision of the people when they voted. A separate ordinance would be needed to place the issue back on the ballot. A third could be needed to repeal the ordinance that initially brought the hunt for a vote.

Ms. Ballance withdrew her second on Ms. Lindblad's motion. Ms. Lindblad withdrew the motion.

Ms. Ballance restated her motion to proceed with the deer hunt. Discussion followed regarding the accuracy of the (August 13) minutes and the wording of the current motion.

Motion failed 2/3/0 with Ms. Lindblad, Ms. Ballance and Mr. Pownall voting “No”.

## **10. Voting by Ward**

Mr. Pownall moved to discuss. Ms. Lindblad seconded. Mr. Pownall moved to form a committee and to have a workshop to make a proposal. Ms. Lindblad seconded.

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

Ms. Lindblad spoke about voters not being represented by those they choose in their wards due to the current method. Ms. Ballance moved to have a workshop. Mr. Pownall seconded.

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

Ms. Ballance moved to instruct the Attorney to draw up an ordinance to change the wording that allows people to vote City-wide to voting by ward. Mr. Weaver confirmed one has been written. Ms. Ballance moved to postpone the issue until the second meeting in September. Ms. Lindblad seconded.

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

## **NEW BUSINESS:**

### **1. Discussion of the proposed ordinance for Water/Sewer committee**

Mr. Pownall moved to discuss. Ms. Ballance seconded. Mr. Pownall provided copies of the ordinance previously reviewed by the City Attorney, with a few minor changes. He motioned to have (the new version) reviewed and recommendations made at the next meeting. Mr. Berry seconded.

Motion carried 5/0/0.

### **2. Discussion of financial procedures**

Mr. Pownall moved to discuss. Ms. Ballance seconded. Mr. Pownall moved to postpone until the first meeting in September. Ms. Ballance seconded.

Motion carried 5/0/0.

### **3. Discussion of asking the Planning Commission to research structures encroaching on public property**

Ms. Ballance moved to discuss. Mr. Pownall seconded. Ms. Ballance moved to ask the Planning Commission to research structures encroaching on public property. Ms. Lindblad seconded. Mr. Berry considered it an almost impossible task without doing title research on every piece of property in town. Ms. Ballance suggested beginning with the green spaces Parks oversees. Mr. Pownall favored giving Planning a chance to work it.

Motion carried 5/0/0.

### **4. Resolution for December free parking on Spring and Main**

Mr. Pownall moved to discuss. Mr. Raphael seconded. Mr. Pownall made a motion to assign a Resolution number and to read for discussion. Mr. Berry seconded.

Motion carried 5/0/0. (The Resolution number, 602, was later corrected to number 603.) Ms. Armstrong read **Resolution No. 603 A RESOLUTION REMOVING THE REQUIREMENT OF PAYING THE PARKING METERS ON SPRING STREET AND MAIN STREET AND ESTABLISHING FREE PARKING ON SPRING STREET AND MAIN STREET FROM DECEMBER 1 THROUGH DECEMBER 31, 2012.**

Discussion followed regarding grammar and possible expansion of the free parking areas. Ms. Ballance moved to add verbiage to Section 1 to include "must pay the parking meters". Ms. Lindblad seconded.

Motion failed 2/3/0 with Mr. Pownall, Mr. Berry and Mr. Raphael voting "No". Mr. Berry then suggested removing Section 1. Mr. Weaver saw no problem.

Mr. Berry moved to remove Section 1. Mr. Raphael seconded.

Mr. Pownall moved to have all City-owned parking included. Ms. Ballance seconded.

A vote on Mr. Berry's motion followed.

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

Mr. Weaver noted the second motion would have to be made again. Mr. Pownall moved for Section 1. to read **"free two hour parking is established at all City-owned metered spaces in Eureka Springs during the period of December 1 to December 31, 2012"**. Ms. Ballance seconded.

Motion carried 5/0/0. Mr. Pownall moved to approve Resolution No. (603) as amended. Ms. Lindblad seconded. A roll call vote followed.

Motion carried 5/0/0. (There was no motion to formally change the resolution title.)

### **5. Resolution for allocating money to repair Auditorium heat coil units**

Mr. Pownall motioned to discuss. Ms. Lindblad seconded. Mayoral Assistant Diane Wilkerson summarized the proposal to replace heat coils in two Carrier Air Handlers, noting only Airworks gave a bid.

The project came in too late to qualify for the "green grant" money. Ms. Lindblad recapped her conversation with Bob Miller from Airworks regarding an entire systems check, life expectancy of the system, and other (components) which could fail.

Ms. Lindblad motioned to proceed forward by having MCC Airworks do a thorough evaluation of the heating and cooling system in the Auditorium, at a cost of \$500-1,000. Ms. Ballance seconded. Discussion followed regarding the annual inspections of the boiler by the State and an earlier inspection by Trane that resulted in the same recommendation.

Mr. Pownall motioned to assign a number and read the Resolution for discussion that has taken place. Mr. Berry seconded.

Motion carried 5/0/0. Ms. Armstrong read **Resolution No. 604 A RESOLUTION MAKING A 2012 BUDGET ADJUSTMENT**. Mayor Pate called for a vote on the Resolution.

Two "Ayes" were heard, one from Mr. Berry and one from Ms. Lindblad. Mr. Weaver noted that, if this was a vote for approval, it was to have been done by roll call. The vote was deleted.

Ms. Lindblad restated her motion to spend \$500-1,000 and have MCC Airworks come in and look at the entire system and check it all out and let (Council) know where the entire system stands right now, by the end of September. The funds would come from the General Fund Expenses. Mr. Berry seconded. Mr. Pownall questioned which expense line would be used and if the funds are available. Mr. Weaver agreed the money would have to be budgeted. Professional Services Other, under Department 10, the Mayor's budget, was designated. Mr. Berry reviewed the line item and said the money is available. A roll call vote followed.

Motion carried 5/0/0.

Mr. Pownall moved to table Resolution No. 604 as presented, until the first meeting in October. Mr. Raphael seconded. A roll call vote followed.

Motion carried 5/0/0.

#### **6. Discussion of the Electric Trolley Association**

Mr. Pownall moved to discuss. Ms. Lindblad seconded. Mr. Pownall asked what the Association was and why they have the right to decide where City Transit money is going. Mayor Pate said he believed that (the Association) was a private entity which gave \$6,000 to transit. Mr. Weaver concurred and noted private entities can donate money to various City entities.

#### **AGENDA SETTING:**

Mr. Raphael moved to discuss. Mr. Pownall seconded.

Mr. Raphael added an update on the Zoning Map situation. Mr. Pownall seconded.

Mr. Berry added a Planning request regarding sales at City Festivals. Ms. Lindblad seconded.

Mr. Pownall added discussion of the Employee Handbook update. Ms. Lindblad seconded.

Mayor Pate added a resolution for a Professional Services bond for Fire/EMS.

Mayor Pate added discussion of the money the Cemetery Commission has in the bank.

#### **COUNCIL COMMENTS:**

Ms. Lindblad spoke about Delfeayo Marsalis playing in the Auditorium in September. She agreed to provide details at the next meeting.

#### **MAYOR'S COMMENTS:**

The Mayor's office, Fire Department, Building Inspector and Dean Fanning took care of the pine tree in the cemetery that was struck by lightning and caught fire. He read a list of upcoming events and encouraged everyone to register and to vote.

#### **ADJOURNMENT:**

Mr. Berry moved to adjourn. Mr. Raphael seconded.

Motion carried. The meeting ended at 8:45 p.m.

ATTEST:

  
City Clerk/Treasurer Ann Armstrong

APPROVED:

  
Mayor Morris Pate