

TURN OFF ALL ELECTRONIC DEVICES AS THEY INTERFERE WITH RECORDING EQUIPMENT

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday – December 10, 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: November 12, 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. Pos. 4 – Bobbie Foster – expired 6/30/12

Hospital – Pos. 2 – vacant – expires 6/1/14. Pos. 5 – Jack Pritchard – expired 6/1/12. Pos. 6 – vacant – expires -- 9/7/15

Parks

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

Cemetery

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Ordinance No. 2169 – 3rd reading -- Planning
2. Nominees for Carroll Co. Solid Waste Advisory Committee – Mr. Pownall and Ms. Ballance
3. Discussion of Code section 4.48, amending to “City-permitted” or “City-sanctioned” – Mr. Berry and Ms. Lindblad
4. Discussion of readjustment of vacation water rates – Ms. Lindblad and Ms. Ballance
5. Ordinance re: number of subordinate Police Officers – Ms. Ballance and Ms. Lindblad

NEW BUSINESS:

1. Discussion of Outdoor Sales – Mr. Raphael and Mr. DeVito
2. Pg. 3 Personnel Policy Handbook and A.C.A.14-42-110 – Ms. Lindblad and Ms. Ballance
3. 2012 Budget Adjustment Resolution – Mayor Pate
4. 2013 Budget – 14-58-201
5. Resolution to end moratorium on bus. license category #199 – Mayor Pate
6. Resolution to lease parking lots – Mayor Pate
7. Discussion of Joint Legislative Audit – Ms. Ballance and Ms. Lindblad

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, December 10, 2012, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen Parker Raphael, Karen Lindblad, Butch Berry, Lany Ballance, James DeVito, City Attorney Tim Weaver, and 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. Mayor Pate added New Business #6 Resolution to Lease Parking Lots. Ms. Ballance added New Business #7 Discussion of Joint Legislative Audit. Ms. Lindblad seconded. Approval of the November 21, 2012 Special Meeting minutes was added. Ms. Ballance deleted New Business #3. Ms. Lindblad seconded. Ms. Lindblad deleted Unfinished Business #4. Ms. Ballance seconded. Ms. Lindblad deleted New Business #2. Ms. Ballance seconded. Mr. DeVito deleted New Business #1. Mr. Raphael seconded. A voice vote on the amended agenda followed.

Motion carried 5/0/0.

APPROVAL OF THE MINUTES: November 27, 2012 and November 21, 2012 Special Meeting

Mr. DeVito moved to approve the November 27, 2012 minutes. Mr. Berry seconded.

Motion carried 5/0/0.

Mr. DeVito moved to approve the Special Meeting minutes from November 21, 2012. Mr. Berry seconded.

Motion carried 3/0/2 with Ms. Ballance and Ms. Lindblad abstaining due to absence.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Chair Beverly Blankenship noted there will be two open seats in January. There will be a Public Hearing on December 11 for a Conditional Use Permit at 23 Hillside and for tree cuts at 579 W. Van Buren. A SWEPCO representative will be present to discuss underground utilities.

CAPC – no report

Hospital – no report

Parks – no report

HDC – no report

Cemetery – no report

PUBLIC COMMENTS: none

UNFINISHED BUSINESS:

1. Ordinance No. 2169 – 3rd reading

Mr. Berry moved to discuss. Mr. DeVito seconded. Mr. DeVito moved to place Ordinance No. 2169 on its third reading by title only. Mr. Raphael seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2169 on its third reading. Ms. Lindblad seconded. A roll call vote followed.

Motion carried 5/0/0.

2. Nominees for Carroll Co. Solid Waste Authority Committee

Mayor Pate noted he was not ready to discuss. Ms. Ballance moved to discuss. Ms. Lindblad seconded. Ms. Ballance moved to postpone until the next meeting. Ms. Lindblad seconded.

Motion carried 5/0/0.

3. Discussion of Code section 4.48, amending to “City-permitted” or “City-sanctioned”

Mr. Berry moved to discuss. Mr. Raphael seconded. Ms. Blankenship noted the request to change “City-sponsored” to “City-approved and permitted” so as to allow sales during events. Mr. Berry made a motion to have the Attorney draw up an ordinance to change section 4.48.01(D) to “City-approved”. Mr. DeVito seconded.

Motion carried 5/0/0.

4. Discussion of readjustment of vacation water rates

Deleted during Approval of the Agenda

5. Ordinance re: number of subordinate Police Officers

Ms. Ballance moved to discuss. Ms. Lindblad seconded. Ms. Ballance moved to assign a number and place the ordinance on its first reading. Ms. Lindblad seconded. Mr. Berry called for discussion and said there was an Attorney General’s opinion that Council is not required to set the number of officers by a separate specific ordinance. Mr. Berry considered the ordinance superfluous and expressed his belief that the number is set by the budget. Noting the AG’s opinion included passing the budget by ordinance, Ms. Ballance observed the budget has not been being passed by ordinance. Discussion included Chief Hyatt’s information regarding the number of officers, compliance with State Statutes, passing the budget by ordinance, efficiency, and the proposed budget increase for 2013. Ms. Lindblad seconded Ms. Ballance’s motion.

Ms. Armstrong read ORDINANCE NO. 2171 AN ORDINANCE SETTING THE MAXIMUM NUMBER OF SUBORDINATE POLICE OFFICERS FOR THE CITY OF EUREKA SPRINGS, ARKANSAS POLICE DEPARTMENT. Ms. Lindblad moved to include “11” for the number of subordinate officers. Ms. Ballance seconded. A voice vote followed.

Motion failed 3/2/0 with Mr. DeVito and Mr. Berry voting “No”. Ms. Ballance moved to include “9” subordinate officers. Ms. Lindblad seconded. A voice vote followed.

Motion failed 3/2/0 with Mr. Berry and Mr. DeVito voting “No”. Ms. Ballance moved to include “19” subordinate officers. Ms. Lindblad seconded. Mr. Weaver opined putting a number that is unrealistic would be “setting up” a future Council to be in violation by not remembering the ordinance exists. Mr. Berry made a motion to defer until the first of the year. Mr. DeVito seconded. A voice vote followed.

Motion carried 4/2/0 with Ms. Ballance and Ms. Lindblad voting “No” and Mayor Pate adding his “Aye” to carry.

Ms. Ballance moved to suspend the rules and motioned for the budget to be passed by ordinance in the future. Ms. Lindblad seconded. Mr. DeVito called Point of Order. His belief was that the topic was setting the number of police officers and he objected to adding agenda items after the beginning of the meeting.

NEW BUSINESS:

1. Discussion of Outdoor Sales

Deleted during Approval of the Agenda

2. Pg. 3 Personnel Policy Handbook and A.C.A. 14-42-110

Deleted during Approval of the Agenda

3. 2012 Budget Adjustment Resolution

Deleted during Approval of the Agenda

4. 2013 Budget – 14-58-201

Mr. Berry moved to discuss. Mr. Raphael seconded. Mr. Berry moved to defer until the first meeting in January. Mr. DeVito seconded. Ms. Lindblad said she had questions and asked why the Police Department budget is being increased by \$109,278. She noted Berryville is looking into hiring retired veterans because they get a credit. Finance Director Lonnie Clark observed requested increases for building maintenance, vehicle maintenance, Cost of Living Adjustments (COLA), and equipment maintenance. He confirmed there were no Cost of Living increases last year. A voice vote on Mr. Berry’s motion followed.

Motion carried 5/0/0.

5. Resolution to end moratorium on bus. license category 199

Mr. Berry moved to discuss. Mr. DeVito seconded. Mr. Berry moved to assign a number and read the resolution for discussion. Mr. DeVito seconded.

Motion carried 5/0/0. Ms. Armstrong read RESOLUTION NO. 610 A RESOLUTION ENDING A MORATORIUM ON THE ISSUANCE OF BUSINESS LICENSES UNDER THE LINE ITEM 199, ALL SERVICES AND BUSINESSES NOT OTHERWISE LISTED. Mr. Berry moved to approve Resolution No. 610. Mr. DeVito seconded. A roll call vote followed.

Motion carried 5/0/0.

6. Resolution to lease parking lots

Mr. DeVito moved to assign the resolution a number and place it for discussion. Mr. Berry seconded.

Motion carried. Ms. Armstrong read **RESOLUTION NO. 611 A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK/TREASURER OF THE CITY OF EUREKA SPRINGS, ARKANSAS, TO EXECUTE THAT CERTAIN INSTUMENT CONSISTING OF TWO (2) TYPEWRITTEN SHEETS AND DENOMINATED AS "CARROLL COUNTY, WESTERN DISTRICT COURTHOUSE PARKING LOT LEASE AGREEMENT" BY AND BETWEEN THE COUNTY OF CARROLL COUNTY, ARKANSAS, AS "LESSOR", AND THE CITY OF EUREKA SPRINGS, ARKANSAS, AS "LESSEE"**.

It was confirmed that \$23,004 is budgeted for the lease. Mr. DeVito moved to approve Resolution No. 611. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/0/2 with Ms. Ballance and Ms. Lindblad abstaining and Mayor Pate adding his "Aye" to carry.

7. Discussion of the Joint Legislative Audit

Ms. Ballance moved to discuss. Ms. Lindblad seconded. Ms. Ballance expressed her understanding that general fund expenditures exceeded general revenues by \$401,409 in 2011, \$445,711 in 2010, \$175,688 in 2009 and \$409,407 in 2008. Mr. Clark expressed his view that 2011 ended "in the black". He said no CDs have been cashed in and interest rates are low. Discussion followed regarding the requirement to have a balanced budget, reserve funds, interpretation of the audit report, and reclassification of revenues/expenses. Mr. Clark said there may have been grants received that were not classified as operating revenues and assured Council there was no overspending.

Mr. Berry read from the report a portion regarding officials and commissions being in "substantial compliance with Arkansas Fiscal and Financial laws". Ms. Ballance read from a portion regarding Federal Funds Program compliance wherein absence of certain controls was noted.

AGENDA SETTING:

Mr. Berry moved to discuss. Mr. Raphael seconded. No items were added.

CITY COUNCIL COMMENTS:

Ms. Lindblad received confirmation that bids on two CDs will be opened on December 17 at 11:00 a.m. in the Mayor's office. She said it has been an honor to serve, thanked those who voted for her and wished the next Council Good Luck.

Mr. Berry thanked the citizens for the opportunity to serve. He said it's been an interesting term of office. He wished the new Council Good Luck.

Mr. DeVito spoke about how government works and noted one of the two lawsuits in which he is involved used the same process to purchase the new heating system for the Auditorium. He said he hopes for less hostility and wished everyone Merry Christmas and Happy Holidays.

Ms. Ballance said it's been interesting and that if she feels another lawsuit is appropriate, she'll bring it. She wished everyone Happy Holidays and Good Luck.

Mr. Raphael said it has been interesting and wished everyone Happy Holidays.

MAYOR'S COMMENTS:

Mayor Pate thanked the Council and wished everyone Merry Christmas and Happy Holidays. He read a list of upcoming events.

ADJOURNMENT:

Mr. DeVito moved to adjourn. Mr. Raphael seconded.
Motion carried 5/0/0.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate