

CITY OF EUREKA SPRINGS

COUNCIL MEETING

Monday, July 23, 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: July 9, 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 – 7/1/12. 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. 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 – Planning Commission – postponed until the sign ordinance is approved
2. Ordinance No. 2154 Animal Drawn Vehicles – third reading
3. Ordinance No. 2155 Limousines – second reading
4. Discussion of water rate increase – postponed until review is completed -- Mr. Raphael and Ms. Ballance
5. Action for non-participating Commissioners – postponed until the second meeting in July - Mr. Pownall and Ms. Ballance
6. Ordinance No. 2156 Revision of Appendix A – third reading
7. Ordinance No. 2157 Ward map revisions – second reading
8. Building permits, parking lots, demolition, and construction ordinance -- Planning
9. Removing the word “weekly” from definition of Dwelling Units – Planning
10. Vine St. vacation – postponed until after the Public Hearing – Mayor Pate
11. Amended ordinance for adjustments of EMS charges – Mayor Pate
12. Discussion of Group Tour trams – postponed until the first meeting in August – Ms. Ballance and Mr. Raphael
13. Update from the City Attorney re: ordinances, resolutions, actions – Mr. Pownall and Ms. Ballance

NEW BUSINESS:

1. Yellow bags and enforcement – Ms. Ballance and Mr. Raphael
2. Discussion of the Taxi franchise – workshop date -- Mr. DeVito and Ms. Lindblad
3. Discussion of the proposed ordinance for Water/Sewer committee – Mr. Pownall and Ms. Ballance
4. Discussion of the Auditorium agreement for 2013 – Mr. Pownall and Mr. DeVito
5. Discussion of voting changes for Alderman – Mr. Pownall and Mr. Raphael
6. Discussion of the deer hunt -- Ms. Lindblad and Ms. Ballance
7. Two Vine St. vacation ordinances – Mr. Berry and Mr. DeVito
8. Discussion of the marker proposed for Conway Spring – Ms. Ballance and Ms. Lindblad
9. Appendix for Animal Drawn vehicle routes – Ms. Ballance and Mr. DeVito
10. Discussion regarding limousines – Ms. Ballance and Ms. Lindblad
11. Discussion of standards – Mr. Berry and Mr. Pownall
12. Discussion of financial procedures – Mr. Pownall and Ms. Balance
13. Resolution for moratorium on business license category 199 – added during session

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, July 23, 2012, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen Karen Lindblad, James DeVito, Lany Ballance, Butch Berry, City Attorney Tim Weaver, and City Clerk/Treasurer Ann Armstrong

ABSENT: Ken Pownall and Parker Raphael (both with notice)

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. Ms. Lindblad seconded. Mayor Pate added the nomination of Dr. Pritchard for the Hospital Commission. Ms. Ballance postponed Unfinished Business items # 5. Mr. DeVito seconded. Ms. Ballance postponed Unfinished Business item # 13. Mr. DeVito seconded. Ms. Ballance postponed New Business item #1. Mr. DeVito seconded. Ms. Ballance postponed New Business item #3. Mr. DeVito seconded. Ms. Ballance postponed New Business item #4. Mr. DeVito seconded. Ms. Ballance postponed New Business item #5. Ms. Lindblad seconded. Ms. Ballance postponed New Business item #7. Ms. Lindblad seconded. Ms. Ballance postponed New Business item #8. Ms. Lindblad seconded. Ms. Ballance postponed New Business item #11. Ms. Lindblad seconded. Ms. Ballance postponed New Business item #12. Ms. Lindblad seconded. Mr. Berry removed New Business item #11. Mr. DeVito seconded. Following discussion, Mr. DeVito withdrew his second and Mr. Berry withdrew his motion. Mayor Pate noted there will be a Public Hearing regarding Vine St. on July 25 at 6:30 p.m.

Mr. DeVito moved to accept the Agenda as amended. Mr. Berry seconded.

Motion carried 4/0/0.

APPROVAL OF THE MINUTES:

Mr. DeVito moved to approve the July 9, 2012 minutes. Mr. Berry seconded.

Motion carried 4/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Chair Beverly Blankenship noted there will be Public Hearings for a set-back variance for 5 Paxos and for a Conditional Use Permit for 255 Dairy Hollow on July 24, 2012. A presentation from Parks for a proposed trail system was made at the last meeting. Ms. Blankenship requested that the definition of Bed and Breakfasts be added to the next agenda.

CAPC – Mr. DeVito noted Robert Schmidt has received approval for his nomination from the CAPC for the open seat. He placed Mr. Schmidt's name for nomination (by Council). Mayor Pate said he'd received one phone call in opposition.

Hospital – Mayor Pate noted receipt of letters requesting reconsideration of Mary Jean Sell. Discussion followed regarding having a Council member who had voted with the majority bringing the topic to the table.

Parks – no report

HDC – no report

Cemetery – no report

Yellow Bag Research Committee – postponed during Approval of the Agenda

Deer Hunt Committee – to be discussed under New Business

PUBLIC COMMENTS: none

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs

Postponed until the sign ordinance is approved

2. Ordinance No. 2154 Animal Drawn Vehicles – third reading

Mr. Berry motioned to discuss. Mr. DeVito seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2154 for its third reading by title only. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/0/0. Ms. Armstrong read the title: **Ordinance No. 2154 AN ORDINANCE AMENDING TITLE 4 CHAPTER 28 OF THE EUREKA SPRINGS MUNICIPAL CODE.**

Mr. DeVito moved to approve Ordinance No. 2154 on its third reading. Mr. Berry seconded. A roll call voted followed.

Motion carried 4/0/0.

3. Ordinance No. 2155 Limousines – second reading

Ms. Lindblad moved to discuss. Ms. Ballance seconded. Following discussion regarding reconsideration of the topic during the last meeting, the revised ordinance (with a one-hour hiring requirement) was presented. Mr. DeVito motioned to revise the ordinance to require a two-hour delay for reservations and to remove minimum fares. Mr. Berry seconded for discussion. Following discussion, Ms. Ballance moved to amend the motion to require a two-hour minimum hiring at \$75 an hour. Ms. Lindblad seconded. Following discussion, Ms. Ballance moved to postpone until the second meeting in August. Ms. Lindblad seconded. Ms. Ballance then rescinded her motion and moved to table until the second meeting in August. Mr. DeVito seconded. A roll call vote to table followed.

Motion carried 4/0/0.

4. Discussion of water rate increase

Postponed until review is completed

5. Action for non-participating Commissioners

Postponed during Approval of the Agenda

6. Ordinance No. 2156 Revision of Appendix A – third reading

Mr. DeVito moved to discuss. Mr. Berry seconded. Mr. Berry moved to suspend the rules and to place Ordinance No. 2156 on its third reading by title only. Mr. DeVito seconded. A roll call vote followed.

Motion carried 4/0/0. Ms. Armstrong read the title: **Ordinance No. 2156 AN ORDINANCE AMENDING APPENDIX A OF CHAPTER 14 OF THE EUREKA SPRINGS MUNICIPAL CODE.**

Mr. Berry moved to approve Ordinance No. 2156 on its third reading. Mr. DeVito seconded. A roll call vote followed.

Motion carried 4/0/0.

7. Ordinance No. 2157 Ward map revisions – second reading

Ms. Armstrong relayed the request from the Election Commission to complete approval so as to meet deadlines for filing before the election. The roll call vote that was not taken at the last meeting necessitated repeating the second reading. Mr. DeVito moved to suspend the rules and place Ordinance No. 2157 on its second reading by title only. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/0/0. Ms. Armstrong read the title: **Ordinance No 2157 AN ORDINANCE REDISTRICTING THE EUREKA SPRINGS ELECTION WARDS WITH AN EMERGENCY CLAUSE.**

Mr. DeVito moved to approve Ordinance 2157 on its second reading. Ms. Lindblad seconded. A voice vote followed.

Motion carried 4/0/0.

Mr. DeVito moved to suspend the rules and place Ordinance No. 2157 on its third reading by title only. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/0/0. Ms. Armstrong read the Ordinance title.

Mr. DeVito moved to approve Ordinance No. 2157. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/0/0.

Mr. DeVito moved to read the emergency clause for approval. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/0/0. Ms. Armstrong read the emergency clause.

8. Building permits, parking lots, demolition, and construction ordinance

Mr. DeVito motioned to discuss. Mr. Berry seconded. Ms. Ballance moved to postpone until the next meeting since the ordinance was just provided. Mr. DeVito seconded. A voice vote followed.

Motion carried 4/0/0.

9. Removing the word “weekly” from definition of Dwelling Units

Mr. DeVito motioned to discuss. Mr. Berry seconded. Mr. Weaver noted that a list of existing non-conforming properties needs to be prepared. It was noted that at least five licenses have been issued. Mr.

Berry suggested a 90 day moratorium. Ms. Blankenship explained that “weekly” rentals do not require a Conditional Use Permit, thus creating the loophole.

Mr. DeVito moved to ask the City Attorney to draft a resolution during the next break for a moratorium on weekly rentals. Mr. Berry seconded. Mr. Weaver noted it would be necessary to place the moratorium on the license category. Ms. Blankenship noted a list of licensed properties could be prepared for the next meeting.

Mr. DeVito changed his motion to instruct the City Attorney to draft a resolution (for) a 90 day moratorium on the issuance of any business licenses under (category) 199. Mr. Berry seconded. A voice vote followed.

Motion carried 4/1/0 with Ms. Ballance voting “No” and Mayor Pate adding his “Aye” to carry.

10. Vine St. vacation

Postponed until after the Public Hearing

11. Amended ordinance for adjustments of EMS charges

Mr. DeVito moved to discuss. Mr. Berry seconded. Assistant Chief Bob Pettus presented the amended ordinance and confirmed review by the City Attorney. Mr. Pettus noted the charge categories were clarified. Mr. DeVito moved to place Ordinance No. 2158 amended on its second reading by title only. Mr. Berry seconded. Following Mr. Weaver’s suggestion, Mr. DeVito withdrew his motion and Mr. Berry withdrew his second. Mr. DeVito moved for the second reading of Ordinance No. 2158 amended. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/1/0 with Ms. Lindblad voting “No” and Mayor Pate adding his “Aye” to carry.

Mayor Pate read **Ordinance No. 2158 AN ORDINANCE AMENDING SECTION 2.44.09, REGARDING AMBULANCE FEES AND RELATED CHARGES OF THE MUNICIPAL CODE OF THE CITY OF EUREKA SPRINGS, ARKANSAS.** Mr. Pettus confirmed clarification of terms. Ms. Ballance noted two typing errors.

Mr. DeVito moved to approve Ordinance No. 2158 amended on its second reading. Mr. Berry seconded. A voice vote followed.

Motion carried 4/1/0 with Ms. Lindblad voting “No” and Mayor Pate adding his “Aye” to carry.

Mr. Weaver said that, in order to meet the deadline, a third reading would be needed tonight or an emergency clause would be needed at the first meeting in August. Discussion followed regarding State law and the Mayor’s voting to pass an ordinance.

Mr. DeVito moved to take a 10 minute recess. Mr. Berry seconded.

Motion carried 4/0/0.

When the session resumed, Ms. Ballance read from State Statute 14-43-501 case notes. The reference was to not using the Mayor’s vote in amending or repealing any part of an initiated act. Mr. Weaver clarified this to be an act that had come forward by a vote of the people. It appeared, then, the Mayor’s vote was appropriate for (passing the ordinance).

Mr. DeVito moved to suspend the rules and place Ordinance No. 2158 amended on its third reading by title only. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/1/0 with Ms. Lindblad voting “No” and Mayor Pate adding his “Aye” to carry.

Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2158 amended on its third reading. Mr. Berry seconded. Discussion ensued regarding publication, posting, and time for citizens to respond. A roll call vote followed.

Motion carried 4/1/0 with Ms. Lindblad voting “No” and Mayor Pate adding his “Aye” to carry.

12. Discussion of Group Tour trams

Postponed until the first meeting in August

13. Update from the City Attorney re: ordinances, resolutions, actions

Postponed during Approval of the Agenda

NEW BUSINESS:

1. Yellow bags and enforcement

Postponed during Approval of the Agenda

2. Discussion of the Taxi franchise – workshop date

Mr. Berry moved to discuss. Mr. DeVito seconded. Following discussion, it was agreed that four Council members could meet at 6:30 p.m. on Monday, July 30. An email will be sent to confirm.

3. Discussion of the proposed ordinance for Water/Sewer committee

Postponed during Approval of the Agenda

4. Discussion of the Auditorium agreement for 2013

Postponed during Approval of the Agenda

5. Discussion of voting changes for Aldermen

Postponed during Approval of the Agenda

6. Discussion of the deer hunt

Ms. Lindblad motioned to discuss. Ms. Ballance seconded. Ms. Lindblad spoke about the phone calls and letters she's received. She noted one of the biggest concerns was the hunt going on for five months. Ms. Lindblad spoke about the training and background checks required by the Arkansas Bow Hunters Association. She spoke about the difference in perceptions of what the people voted for and what is planned. Ms. Lindblad expressed concerns of people opposed to the hunt.

Ms. Ballance summarized the feedback she's received and noted there is slightly more opposition to than favor for the hunt. She motioned to go ahead and allow the hunt to proceed under the Committee's recommendations. Mr. Berry seconded.

Mr. Berry noted that two members of the Committee are hunters and recapped some of the feedback he's received. His vote tally was about 3:2 in favor of the hunt. He noted hunting was legal in the City until 1996 and there is no record of anyone being hurt. Mr. Berry commented that people have been killed in (vehicle) accidents involving deer.

Mr. DeVito noted his support of the feeding ban. Not in favor of the hunt, he suggested the compromise of eliminating the first portion of the hunt and continuing with the second part.

Following discussion, a voice vote was taken.

Motion failed 2/2/0 with Ms. Lindblad and Ms. Ballance voting "No".

Mr. Weaver opined Council did not end the possibility of a hunt.

7. Two Vine St. vacation ordinances

Postponed during Approval of the Agenda

8. Discussion of the marker proposed for Conway Spring

Postponed during Approval of the Agenda

9. Appendix for Animal Drawn vehicle routes

Mr. DeVito moved to discuss. Ms. Ballance seconded. Mr. Weaver noted the Ordinance just passed provides for an appendix when new applications are made since the route is part of the application. Olden Days Carriage owner Susan Tharp spoke about a means to have the routes defined for clarity. Following discussion, Mr. DeVito moved to strike this from the Agenda. Ms. Lindblad seconded.

Motion failed 3/0/1 with Ms. Ballance abstaining.

10. Discussion regarding Limousines

Ms. Ballance moved to postpone discussion until the next meeting. Mr. DeVito seconded. A voice vote followed.

Motion carried 4/0/0.

11. Discussion of standards

Postponed during Approval of the Agenda

12. Discussion of financial procedures

Postponed during Approval of the Agenda

13. Resolution for moratorium for business license category 199

Mr. Berry moved to discuss. Mr. DeVito seconded. Mr. Berry moved to read the resolution for a moratorium on weekly rentals for discussion. Discussion followed regarding procedure and suspending the rules. Mr. DeVito moved to amend the Agenda to include the reading of the resolution calling for a moratorium on weekly rentals. Mr. Berry seconded. He noted time is of the essence so as to prevent people from getting a business license without a Conditional Use Permit. A roll call vote followed.

Motion carried 4/1/0 with Ms. Ballance voting "No" and Mayor Pate voting "Aye" to carry.

A voice vote was then taken on the motion to read the resolution.

Motion carried 4/1/0 with Ms. Ballance voting "No" and Mayor Pate adding his "Aye" to carry. Mr. Weaver read **Resolution No. 602 A RESOLUTION ESTABLISHING A MORATORIUM ON THE ISSUANCE OF BUSINESS LICENSES UNDER THE LINE ITEM 199, ALL SERVICES AND BUSINESSES NOT OTHERWISE LISTED.**

Mr. DeVito moved to approve Resolution No. 602. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/1/0 with Ms. Ballance voting "No" and Mayor Pate adding his "Aye" to carry.

AGENDA SETTING:

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

Ms. Ballance added discussion of asking the Planning Commission to do research on structures that are encroaching on public property, for the purpose of possibly getting those into long-term leases. Ms. Lindblad seconded.

Mr. Berry added establishing a deer hunt, regarding schedules and regulations. Mr. DeVito seconded.

Mr. Berry added definitions of B&Bs. Mr. DeVito seconded.

COUNCIL COMMENTS:

Ms. Ballance wanted Mr. Pownall and his wife and family to know they are in our thoughts. He is missed.

MAYOR'S COMMENTS:

Mayor Pate wished Mr. Raphael a quick recovery from his infirmities. He will let the hunters and property owners who have signed up for the deer hunt know the Council is reconsidering some issues. Mayor Pate read a list of upcoming events.

ADJOURNMENT:

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

Motion carried 4/0/0. The meeting ended at approximately 8:30 p.m.

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Monday, July 23, 2012.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate