

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, July 9, 2012 6 p.m.
AGENDA**

amended July 12, 2012

CALL TO ORDER

ROLL CALL, ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE TO THE FLAG

APPROVAL OF THE AGENDA

APPROVAL OF THE MINUTES: June 25, 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 – Betsy Rodier – expired 5/1/12. Pos. 5 – vacant – expired 5/1/11. Conway Spring marker

HDC – Pos. 1 – vacant – expires 11/30/12. Pos. 3 – **vote on Dan Hebert** – expires 11/30/14

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 – second 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. Opposition to Water Fluoridation Resolution No. 600 mailing list – Mr. DeVito and Mr. Pownall
6. Action for non-participating Commissioners – Mr. Pownall and Ms. Ballance
7. Discussion of potential ability to restructure the CAPC tax – Ms. Ballance and Mr. Pownall
8. Ordinance No. 2156 Revision of Appendix A – second reading
9. Ordinance No. 2157 Ward map revisions – second reading
10. Voting for Council members by ward – Ms. Lindblad and Ms. Ballance

NEW BUSINESS:

1. Building permits, parking lots, demolition, and construction recommendations from Planning – postponed until July 9 -- Mr. Berry and Mr. Raphael
2. Removing the word “weekly” from definition of Dwelling Units – postponed until July 9 -- from Planning
3. Vine St. vacation – postponed until after the public hearing -- Mayor Pate
4. Yellow bags and enforcement – Ms. Ballance and Mr. Raphael
5. Proposed adjustments for EMS charges – Mayor Pate
6. Discussion of the Taxi franchise – Mr. DeVito and Ms. Lindblad
7. Discussion of Group Tour trams – Ms. Ballance and Mr. Raphael
8. Discussion of the deer hunt – Ms. Ballance and Ms. Lindblad
9. Update from the City Attorney re: ordinances, resolutions, actions – Mr. Pownall and Ms. Ballance
10. Resolution for Recreational Trails grant – Mayor Pate
11. Auditorium agreement for 2013
12. Executive Session

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

JULY 9, 2012

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, July 10, 2012, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen Parker Raphael, James DeVito, Lany Ballance, Ken Pownall, Karen Lindblad, Butch Berry, City Attorney Tim Weaver, and 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. Mr. Raphael seconded. Mr. DeVito requested an Executive Session under New Business. Mr. Berry seconded. Mr. Berry added vacation of Vine St. Mr. DeVito seconded. It was added to existing New Business item #3. Mr. Pownall removed his name from Unfinished Business item #7. Ms. Lindblad added her name. Mayor Pate dropped New Business item #10 until a later date. Mr. Pownall added discussion of the Auditorium agreement for 2013. Ms. Ballance seconded. Mr. Pownall added Discussion of the Sign ordinance. Mr. Pownall moved to approve the agenda as amended. Mr. Raphael seconded.

Motion carried 6/0/0.

APPROVAL OF THE MINUTES:

Mr. DeVito moved to approve the June 25, 2012 minutes. Mr. Pownall seconded. He noted a typo in Approval of the Minutes. Mr. Pownall moved to approve the minutes as amended. Mr. Raphael seconded.

Motion carried 6/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – no report

CAPC – Finance Director Rick Bright presented the quarterly report and noted the sales tax receipts were up 12.3%. He confirmed the \$1,000 payments to the City for the Aud have been made for 2011 and 2012.

Hospital – no report

Parks – Ms. Ballance motioned to have the Conway Spring marker brought to Council. Ms. Lindblad seconded. It was agreed to address this again during Agenda Setting.

HDC – Mr. DeVito motioned to discuss. Mr. Berry seconded. Mr. DeVito moved to accept the nomination of Dan Hebert for Position 3. Mr. Berry seconded.

Motion carried 4/1/2 with Ms. Lindblad voting “No”, Mr. Pownall and Ms. Ballance abstaining and Mayor Pate voting “Aye” to carry.

Cemetery – no report

Yellow Bag Research Committee – to be discussed under New Business

Deer Hunt Committee – to be discussed under New Business

PUBLIC COMMENTS:

Kristi Kendrick, representing Brad and Deborah Hill, noted the City Attorney believes the City may own Vine St. This varies with her understanding of an 1885 compromise giving the property to the Eureka Improvement Company and making Vine St. an easement for the public.

Bob Jasinski, 46 Hillside, offered his views on a recent CAPC decision regarding a vacant commission position. He spoke about increased City revenue because of weddings and noted the value of having a B&B owner on the commission.

Susan Misavage, owner of Angel at Rose Hall, spoke about comments made by CAPC Chair Charles Ragsdell. She noted there is no commissioner representing B&Bs or cabins. Ms. Misavage spoke about her understanding of a conversation between the Commission Chair and another B&B owner. She called for respect and dignity.

Joe Zickmund presented a U.S. flag with an advertisement attached. He said he placed 85 of these on property on East Mountain. Saying his intention was to stimulate patriotic behavior, he expressed his displeasure with what he believes to have been said by City Clerk Ann Armstrong to (his broker) in response to a citizen complaint. He said he wanted his grievance to be on record.

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs

Postponed during Agenda Setting until the sign ordinance is approved

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

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

Motion carried 6/0/0. Ms. Armstrong read: **Ordinance No. 2154 AN ORDINANCE AMENDING TITLE 4 CHAPTER 28 OF THE EUREKA SPRINGS, ARKANSAS MUNICIPAL CODE**

Mr. Pownall moved to approve Ordinance No. 2154 on its second reading. Mr. DeVito seconded. Mr. Berry requested that the ordinance be reviewed by the Police Chief. A voice vote on Mr. Pownall's motion followed.

Motion carried 6/0/0.

3. Ordinance No. 2155 Limousines – second reading

Mr. Pownall moved to discuss. Mr. DeVito seconded. Mr. Pownall asked about including advance notice for (hiring) limousines. Discussion followed regarding the decision to use a streamlined version of the Hot Springs ordinance, possible circumvention of the ordinance, and the original two hour rental requirement. Mr. Pownall reiterated his question regarding inclusion of a reservation time requirement for limousines. Following discussion, Mr. Raphael moved to suspend the rules and place Ordinance No. 2155 on its second reading by title only. Mr. DeVito seconded. A roll call voted followed.

Motion failed 1/4/1 with Mr. DeVito voting "Aye", Ms. Lindblad, Mr. Raphael, Mr. Berry, and Mr. Pownall voting "No" and Ms. Ballance abstaining.

Discussion followed regarding previous Council consideration of a failed motion to read, discussion of the topic on a State level, and amending the ordinance. It was noted that a (Council member) who voted with the majority could bring the topic back. Mr. Berry motioned to reconsider the vote. Mr. Raphael seconded. A roll call vote followed.

Motion carried 4/2/0 with Mr. Pownall and Mr. DeVito voting "No".

4. Discussion of water rate increase

Postponed until review is completed

5. Opposition to Water Fluoridation Resolution No. 600

Mr. Pownall motioned to discuss. Mr. Berry seconded. Mr. Pownall motioned to send the Resolution to (people) listed. Mr. DeVito seconded.

Motion carried 6/0/0. The City Clerk was asked to write the accompanying letter.

6. Action for non-participating Commissioners

Mr. Pownall moved to discuss. Ms. Ballance seconded. Mr. Pownall read from the June 25 minutes wherein action was requested of the City Attorney. He noted action was postponed until (Mr. Weaver clarified) the list of Commissions over which Council has authority. Mr. Pownall moved to postpone until the second meeting in July. Mr. DeVito seconded.

Motion carried 6/0/0.

7. Discussion of potential ability to restructure the CAPC tax

Ms. Ballance motioned to discuss. Ms. Lindblad seconded. Ms. Ballance read from the June 25 minutes regarding Mr. Weaver's agreement to research whether adding reducing the CAPC tax could be initiated by the Council or if the petition must be from the citizens. Mr. Weaver opined that it would be more appropriate if addressed from the citizens. He said Council has, in the past, changed enabling ordinances on its own initiative.

8. Ordinance No. 2156 Revision of Appendix A – second reading

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

City Council 7/9/12 2

Motion carried 6/0/0. Ms. Armstrong read: **Ordinance No. 2156 AN ORDINANCE AMENDING APPENDIX A OF CHAPTER 14 OF THE EUREKA SPRINGS MUNICIPAL CODE**

Mr. Pownall moved to approve Ordinance No. 2156 on its second reading. Mr. DeVito seconded. Motion carried 6/0/0.

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

Mr. Pownall moved to discuss. Mr. Raphael seconded. Mr. Pownall moved to suspend the rules and place Ordinance No. 2157 on its second reading by title only. Mr. DeVito seconded. A vote was not taken. Ms. Armstrong read: **Ordinance No. 2157 AN ORDINANCE REDISTRICTING THE EUREKA SPRINGS ELECTION WARDS.**

Mr. Berry moved to approve. Ms. Lindblad seconded. A voice vote followed. Motion carried 6/0/0.

10. Voting for Council members by ward

Mr. Raphael moved to discuss. Mr. Pownall seconded. Mr. DeVito apologized to the citizenry, changed his position, and now supports this going to a vote of the people. Ms. Lindblad noted there have been times when people have been chosen by the voters in a ward and then defeated by votes from other wards. Discussion followed regarding the Statutes allowing Council to decide, the option of one representative elected from a ward and one at-large, and staggered terms.

NEW BUSINESS:

1. Building permits, parking lots, demolition, and construction recommendations from Planning

Planning Chair Beverly noted the Code section regarding development and review by Planning and the Historic District Commission. She requested that the City Attorney draft an ordinance for review of construction, parking lots, or demolition in commercial zones by the Planning Commission. Ms. Blankenship said Chief Hyatt also agrees this is a good idea. She included a recommendation for the Mayor to sign off if Planning does not have a quorum. Mr. Berry noted the International Building Code is adopted by reference and requires a survey. Ms. Blankenship said if the project is for less than 25% of the overall square footage, a building permit is not required.

Mr. Raphael motioned for Ms. Blankenship to get with the City Attorney for an ordinance for her intent. Mr. DeVito seconded.

Motion carried 6/0/0.

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

Mr. Pownall moved to discuss. Mr. Berry seconded. Ms. Blankenship noted the word “weekly” allows people to rent their homes in R-1 on a short-term basis without a business license or collection of CAPC taxes. A recommendation was to change the definition for transient lodging to “anything less than 30 days”.

Mr. DeVito moved to instruct the City Attorney to get with the Planning Commission Chair and redefine the ordinance, eliminating “weekly” rentals. Mr. Pownall seconded.

Motion carried 5/1/0 with Ms. Ballance voting “No”.

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

3. Vine St. vacation – a) Proposal #1 postponed until after the public hearing, and b) Proposal #2 – New information

Mr. Berry moved to discuss. Mr. Raphael seconded. Mr. Pownall objected since the information was just provided. Ms. Ballance objected since the public did not know this was to be discussed. Mr. Weaver noted it was added during Agenda Setting.

Attorney Kristi Kendrick, representing Brad and Deborah Hill, spoke about the two ways to vacate. This (new) proposal does not require public hearings and allows Council to proceed on its own initiative.

Attorney Matt Bishop, representing Cornerstone Bank, noted the adjoining neighbors have agreed to support vacating the street (from Mill Hollow to Alexander St.) rather than just the building footprint initially requested. Property owner Bruce Levine concurred.

Mr. Raphael motioned to assign the ordinance (prepared by Ms. Kendrick) a number and to read. Mr. Pownall objected since the item was for discussion only. He moved to cancel the public hearing. Mr. Berry

seconded. Following Mr. Bishop's request to have the hearing, Mr. Berry withdrew his second. Ms. Ballance then seconded Mr. Pownall's motion. Mr. Weaver advised having the hearing so as to not favor one party over the other. Mr. Pownall withdrew his motion.

Mr. Berry made a motion for the City Attorney to review the ordinance before the next meeting. Mr. DeVito seconded. Mr. Weaver noted there are two ordinances and he has reviewed both. Mr. Berry (withdrew his motion).

Ms. Ballance said she would like to be on record again saying she is "not in favor of vacating the people's property."

4. Yellow bags and enforcement

Ms. Ballance moved to discuss. Mr. Pownall seconded. Ms. Ballance noted she has not been able to get in touch with all of the Committee members and moved to postpone until the next meeting. Mr. DeVito seconded.

Motion carried 6/0/0.

5. Proposed adjustments for EMS charges

Mr. DeVito moved to discuss. Mr. Raphael seconded. Mr. DeVito moved to assign the ordinance (a number) and place it on its first reading. Mr. Berry seconded.

Motion carried 5/0/1 with Ms. Lindblad abstaining. Mayor Pate read **Ordinance No. 2158 AN ORDINANCE AMENDING SECTION 2.36.09 REGARDING AMBULANCE FEES AND RELATED CHARGES OF THE MUNICIPAL CODE OF THE CITY OF EUREKA SPRINGS, ARKANSAS**

Mr. Pownall favored listing the code definitions as part of the ordinance and noted EMS is not defined. Ms. Ballance observed differing section numbers. (The correct section number was determined to be **2.44.09.**)

In response to Mr. Pownall's objection to listing a date by which the ordinance would become effective, Mr. Weaver noted there is no conflict so long as minimum times for publication are not violated. An emergency clause may be necessary in order to meet the August 15 publication deadline and alignment with Medicare billing requirements.

Ms. Ballance moved to change all (incorrect) references to 2.44.09. Mr. Pownall seconded.

Motion carried 6/0/0.

Mr. Pownall moved to make the definitions an appendix. Ms. Ballance seconded.

Motion carried 4/2/0 with Mr. Berry and Mr. Raphael voting "No".

Mr. Pownall moved to amend the ordinance by including a reference to "Appendix A". Ms. Ballance seconded. Mr. Weaver cautioned against the action. Following discussion, Mr. Berry suggested having Assistant Chief Pettus address the issue. A roll call vote followed on including the reference to "Appendix A".

Motion carried 6/0/0. (See item #5 continued below.)

6. Discussion of the Taxi franchise

Mr. DeVito moved to discuss. Mr. Raphael seconded. Mr. DeVito said he would like to set a workshop to discuss the Taxi ordinance. Mr. Pownall seconded.

Motion carried 6/0/0. Mr. DeVito requested that the City Clerk arrange the date.

5. Proposed adjustments for EMS charges (continued)

Mr. Pownall moved to suspend the rules and continue discussion of New Business item #5. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0.

Mr. Pettus noted the codes included in the ordinance are those used by Medicare and are not universally accepted. Following discussion, he said the codes could be taken out of the ordinance and terms such as "Advanced Life Support 1" could remain. A revised ordinance will be prepared for the next meeting.

7. Discussion of Group Tour trams

Ms. Ballance moved to discuss. Mr. Raphael seconded. Ms. Ballance read from a Transit memo regarding the condition of the trams. She noted equipment and vehicles for other franchises are not paid for by the taxpayers and requested discussion. Mr. Pownall concurred and noted Transit is not within Council's purview. Ms. Ballance moved to postpone discussion until the first meeting in August. Ms. Lindblad seconded.

Motion carried 6/0/0.

8. Discussion of the deer hunt

Ms. Lindblad made a motion to discuss. Mr. Pownall seconded. Ms. Lindblad spoke about the phone calls and letters she's received. Objections include the deer camp method, the extended schedule, not using the Arkansas Game and Fish Commission Urban Deer Hunt Protocol, concern about insurance and the possibility of deer dying in others' yards. Mr. Pownall also expressed his concerns.

Mayor Pate spoke about the Committee formed of one Council member, Earl Hyatt and three citizens, for the purpose of organizing the hunt. He said the hunt club approach was recommended by Game and Fish because of the limited public property. Mayor Pate noted erroneous information from the Arkansas Bow Hunters Association. Game and Fish does not have the authority to go onto private property to retrieve an injured deer. Discussion followed regarding citizen objections, tracking wounded deer, and retrieval.

Mr. Pownall said he wanted to go on record as saying he does not believe the people are getting what they voted for. The hunt dates of September 15 through October 7 and November 10 through February 28 were read. Mr. Pownall motioned that the Deer Committee provide for (Council) by the 15th of August the rules for the deer hunt. Mr. DeVito seconded.

Motion carried 6/0/0.

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

Mr. Pownall moved to discuss. Mr. Berry seconded. Mr. Weaver said he understood that preparation for bringing the ¼ cent tax to the people was not on the table at this time. He noted he is not aware of any other documents owed. Mr. Pownall moved to take the issue off the table. Mr. DeVito seconded.

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

10. Resolution for Recreational Trails grant

Deleted during Approval of the Agenda

11. Auditorium agreement for 2013

Mr. Pownall moved to suspend the rules and delete items #11 and 12 from the Agenda. Mr. DeVito seconded. A roll call vote followed.

Motion carried 4/1/1 with Mr. Raphael voting "No" and Ms. Lindblad abstaining.

Mr. Pownall moved to take a five minute break. Ms. Ballance seconded.

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

12. Executive Session

Mr. DeVito stated that his reason for requesting an executive session was a personnel matter. Mr. Pownall moved to go into executive session. Mr. Berry seconded.

Motion carried 6/0/0.

When the regular session resumed, Mr. Pownall moved that no action be taken. Ms. Ballance seconded.

Motion carried 6/0/0.

AGENDA SETTING:

Mr. Pownall moved to discuss. Ms. Ballance seconded.

Mr. Pownall added discussion of the proposed ordinance on the Sewer/Water committee. Ms. Ballance seconded.

Mr. Pownall added discussion of the AUD agreement for 2013. Mr. DeVito seconded.

Mr. Pownall added discussion of voting changes for Aldermen. Mr. Raphael seconded.

Ms. Lindblad added discussion of the deer hunt. Ms. Ballance seconded.

Mr. Berry added the two Vine St. vacation ordinances. Mr. DeVito seconded.

Ms. Ballance added discussion of the marker proposed for Conway Spring. Ms. Lindblad seconded.

Ms. Ballance added an appendix for Animal Drawn vehicle routes. Mr. DeVito seconded.

Ms. Ballance added discussion regarding limousines. Ms. Lindblad seconded.

Mr. Berry added discussion of standards. Mr. Pownall seconded.

Mr. Pownall added discussion of financial procedures. Ms. Ballance seconded.

COUNCIL COMMENTS:

Ms. Ballance asked that anyone interested in the yellow bag issue come to speak with (Council). She

expressed appreciation for the rain and for everyone who has given her support and information.

Ms. Lindblad asked that those who have questions about the deer hunt get (in touch) with her. She was thankful for the rain.

Mr. Pownall wished his wife a Happy 10th Wedding Anniversary. He noted the handout on the sign ordinance appendix is for the comparison with the current ordinance.

MAYOR'S COMMENTS:

Mayor Pate requested that, if the public has any issues with the deer hunt, please contact City Hall. He noted the issue was inherited from a previous administration. He thanked the property owners and hunters who stepped forward.

Mayor Pate thanked Mr. Raphael for stepping up to be the Council liaison to the Finance Department. He noted the building of a wall separating the City Clerk's office from Accounts Payable. A list of up-coming events was read.

ADJOURNMENT:

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

Motion carried 6/0/0. The meeting ended at approximately 9:50 p.m.

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Monday, July 9, 2012.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate