

PLEASE TURN OFF ALL ELECTRONIC DEVICES AS THEY INTERFERE WITH RECORDING EQUIPMENT

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, June 11, 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: May 14, 2012 meeting, May 30 Spec. mtg. #1, Spec. mtg. #2

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

- Planning** – Pos. 1 – Mickey Schneider – expired 7/1/11. Pos. 5 – **vote on Melissa Greene** – 1/1/13.
Pos. 7 – **vote on Deni Flaherty** – 1/1/15
CAPC – Pos. 1 – vacant – 7/1/12. Pos. 3 – Lynn Bridwell – expired 6/30/11
Hospital – Pos. 4 – Pamela Crockett – expired 6/1/11. Pos. 6 – vacant -- 9/7/15
Parks – Pos. 5 – vacant – 5/1/11
HDC – Pos. 3 – **vote on Dan Hebert** – 11/30/14. Pos. 7 – **vote on Susie Allen**. Pos. 7 – vacant – 3/7/14
Cemetery – Pos. 1 – June Westphal – expired 2/15/12. Pos. 2 – vacant – expires 2/15/14
Yellow Bag Research Committee -- discussion of drawstring bags
Deer Hunt Committee

PUBLIC COMMENTS

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs – Planning Commission
2. Auditorium Commission ordinance for referendum -- Mr. Berry and Mr. DeVito
3. Proposed Animal Drawn Vehicle ordinance – Mr. DeVito and Mr. Raphael
4. Ordinance to regulate Limousines – postponed until second mtg. in June -- Mr. Raphael and Ms. Ballance
5. Discussion of water rate increase – postponed until review is completed -- Mr. Raphael and Ms. Ballance
6. Date for 2012 mid-year budget review – Mr. Raphael and Mr. Berry
7. Opposition to Water Fluoridation resolution – Ms. Ballance and Mr. Pownall
8. Action for non-participating Commissioners – Mr. Pownall and Ms. Ballance

NEW BUSINESS:

1. Discussion of Climate Action Plan resolution – Mr. Raphael and Ms. Ballance
2. Discussion of potential ability to restructure the CAPC tax – Ms. Ballance and Mr. Pownall
3. Recommended revision of Appendix A from Planning – Mr. Berry and Ms. Ballance
4. Building permits, parking lots, demolition, and construction recommendations from Planning – Mr. Berry and Mr. Raphael
5. Defining weekly dwelling units – recommendations from Planning – Mr. Berry and Mr. Raphael
6. Ward map revisions – as required by the Election Commission
7. First quarter 2012 financials – as required by A.C.A. 14-43-506
8. Vine St. vacation – Mayor Pate

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

JUNE 11, 2012

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, June 11, 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, Karen Lindblad, Lany Ballance, James DeVito, City Attorney Tim Weaver, and City Clerk/Treasurer Ann Armstrong
ABSENT: Butch Berry (with notice)

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. DeVito seconded. Mr. Pownall moved to postpone New Business item #8: Vine St. vacation. Mr. Raphael seconded. Mr. DeVito moved to postpone Unfinished Business item #2 until the next meeting: Auditorium Commission ordinance for referendum. Mr. Pownall seconded. Mr. Pownall moved to postpone Unfinished Business item #1: Non-conforming off-premise signs. Ms. Ballance seconded. Mr. Pownall moved to approve the agenda as amended. Mr. DeVito seconded.

Motion carried 5/0/0.

APPROVAL OF THE MINUTES:

Mr. DeVito moved to approve the May 14, 2012 minutes. Mr. Pownall seconded.

Motion carried 4/0/1 with Ms. Lindblad abstaining due to not yet having been sworn in.

Ms. Ballance moved to approve the May 30, 2012 special meeting #1 minutes. Ms. Lindblad seconded.

Motion carried 4/0/1 with Mr. Pownall abstaining due to absence.

Ms. Ballance moved to approve the May 30, 2012 special meeting #2 minutes. Ms. Lindblad seconded.

Motion carried 4/0/1 with Mr. Pownall abstaining due to absence.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Mr. Pownall moved to approve Melissa Greene for Position 5. Mr. Raphael seconded.

Motion carried 5/0/0.

Mr. Pownall moved to approve Deni Flaherty for Position 7. Mr. DeVito seconded.

Motion carried 5/0/0.

Commission Chair Beverly Blankenship noted three items for the next agenda: 1) removing the word “weekly” from the definition of dwelling units; 2) review of construction applications by Planning; and 3) review of Code Appendix A, Legally Non-conforming Bed and Breakfasts and Tourist Lodgings.

CAPC – no report

Hospital – Mayor Pate nominated Pam Crockett for Position 4. Mayor Pate nominated Mary Jean Sell (for Position 6).

Parks – no report

HDC – Mr. Pownall moved to postpone the vote for Dan Hebert until a working phone number can be obtained. Ms. Ballance seconded. Mr. Pownall moved to approve Susie Allen for

City Council **6/11/12** **1**

Position 7. Mr. DeVito seconded.

Motion carried 5/0/0.

Cemetery – Mayor Pate nominated Gloria Stevens for Position 2.

Yellow Bag Research Committee – Ms. Ballance noted previous discussion regarding putting the issue on the ballot for the next general election. She requested that this item come under New Business on the next agenda so the public would be informed. Ms. Ballance offered cost comparisons for trash bags and reported the availability of bio-degradable bags. Discussion followed regarding use of approved bags and tags as well as about providing yellow bags at cost. A letter from the Solid Waste Authority was read to inform downtown merchants that cardboard will be picked up on Mondays and Fridays.

Deer Hunt Committee – Mayor Pate noted there is a meeting scheduled for Thursday, June 21 at 2:30 p.m. in the Mayor's office.

PUBLIC COMMENTS:

Jerry Landrum, 19 Kimberling, encouraged Council to adopt the Climate Action Plan. He noted the newly named Citizens Climate Action Progress Committee is available to assist Council with projects. Mr. Landrum provided an article in support of seeing the issues in a non-partisan way.

Susan Tharp, co-owner of Olden Days Carriage, expressed her concerns about sections "S" and "T" being removed from the proposed ordinance. She also favored adding route descriptions and requested questions from Council.

Mickey Schneider noted that Council can ask for (input) from the public at any time during discussion. She encouraged Council to look into whether the Hospital is in compliance. Ms. Schneider asked that the ward map revisions not be postponed.

Beverly Blankenship, Planning Commission Chair, noted that, when a street vacation request comes up, Planning usually holds a public hearing followed by forwarding Commission recommendations to Council.

Regarding the Deer Hunt -- Ms. Lindblad asked what the City's liability is if a dog is shot during the deer hunt. Mayor Pate responded the City would have none. Mr. Weaver indicated the (person) could bring a civil suit for trespass against the hunter. Ms. Lindblad asked who sanctioned the hunt and Mayor Pate noted the voters decided. Ms. Lindblad asked what would happen if a (wounded) deer came onto the property of a person who opposed the hunt on their property. Mayor Pate said Game and Fish regulations say the hunter can go onto the property and retrieve the deer. Ms. Ballance objected to trespassing. Mayor Pate noted the options of 1) the property owner taking the deer, 2) the hunter (retrieving) the deer, 3) the property owner allowing the hunter access, or 4) the property owner letting the animal die. At Ms. Lindblad's request, Mayor Pate agreed to look further for answers.

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs

Postponed during Agenda Setting

2. Auditorium Commission ordinance for referendum

Postponed during Agenda Setting

3. Proposed Animal Drawn Vehicle ordinance

Mr. Pownall moved to discuss. Mr. DeVito seconded and asked Ms. Tharp to express her concerns about sections "S" and "T". Ms. Tharp spoke about the dangers and traffic problems involved in running carriages before 4:00 p.m. Referencing section T, she noted the paragraph regulating a portion of Hwy. 23 remained in the proposed ordinance. Ms. Tharp recommended revision of the wording in the first (deleted) paragraph so as to include regulating on Hwy. 62

between the City limits. She noted this would protect paying passengers and she recalled Chief Hyatt's agreement about the danger. Ms. Tharp spoke again in favor of listing specific routes for the benefit of future Councils.

Mr. Raphael suggested that Mr. Weaver include the recommended portions. Mr. Weaver favored listing current routes as an appendix via a separate ordinance. Mr. DeVito moved to instruct the City Attorney to add sections "S" and "T" to the May 14 draft. Mr. Raphael seconded. A voice vote followed.

Motion carried 5/0/0.

4. Ordinance to regulate Limousines

Postponed until the second meeting in June

5. Discussion of water rate increase

Postponed until analysis is complete

6. Date for 2012 mid-year budget review

The (jury) room has been reserved for Wednesday, June 27 at 10:30 a.m.

7. Opposition to Water Fluoridation resolution

Ms. Ballance moved to discuss. Mr. DeVito seconded. Mr. Pownall moved to assign a resolution number and read for discussion purposes. Ms. Ballance seconded. A voice vote followed.

Motion carried 5/0/0. Ms. Armstrong read **Resolution 600 A RESOLUTION IN OPPOSITION TO THE MANDATED FLOURIDATION OF THE EUREKA SPRINGS CITY WATER SUPPLY.**

Mr. Weaver noted the resolution is "somewhat generic" so it can be less limited in its effect. Mr. Pownall moved to approve the resolution as read. Ms. Lindblad seconded. A roll call vote followed. All voted "Aye".

Motion carried 5/0/0.

Mr. Pownall made a motion to have the City Clerk determine every possible office to which the resolution might be sent and show in the record when it was sent. Ms. Ballance seconded. Mr. DeVito favored having the list come back to Council. Mr. Pownall amended his motion to have the City Clerk prepare an appropriate list of places for distribution and address it at the next Council meeting. Mr. Raphael seconded. A voice vote followed.

Motion carried 5/0/0.

8. Action for non-participating Commissioners

Mr. Pownall moved to discuss. Ms. Lindblad seconded. Mr. Pownall spoke for an ordinance to remove Commissioners from each and every Commission when there is lack of participation in events and meetings. He then moved to postpone until the next meeting. Mr. DeVito seconded. A voice vote followed.

Motion carried 5/0/0.

NEW BUSINESS:

1. Discussion of Climate Action Plan resolution

Mr. Raphael moved to discuss. Ms. Ballance seconded. Mr. Raphael moved to give the resolution a number and read it for discussion. Ms. Lindblad seconded. A voice voted followed.

Motion carried 5/0/0. Ms. Armstrong read **Resolution No. 601 (Climate Action Plan)**

Following discussion, Ms. Ballance moved to adopt the version which included a special committee. Mr. Weaver asked whether Council might be giving the committee illegal authority. Ms. Ballance (amended her motion) and moved to postpone until the next meeting. Ms. Lindblad seconded. A voice vote followed.

Motion carried 4/2/0 with Ms. Lindblad and Mr. Raphael voting "No" and Mayor Pate voting in the affirmative.

Mr. Weaver agreed to review the Resolution.

2. Discussion of potential ability to restructure the CAPC tax

Ms. Ballance moved to discuss. Ms Lindblad seconded. Ms. Ballance asked Mr. Weaver if he had found anything in State Statutes or City Code that would forbid Council from restructuring. Mr. Weaver opined the tax was assigned to the Commission and not to Council. He recommended reading the ordinances that created the tax and the Commission. Ms. Ballance spoke about resistance to added taxes. Mr. Weaver indicated reduction or restructuring would also have to be done by the voters. He cautioned against putting both on one ballot. Following discussion regarding Statutes and intent, Mr. DeVito expressed his understanding that an initiative petition from the people would be required to put the issue on a ballot. Following extensive discussion, Mr. DeVito moved to postpone until the next meeting. Mr. Pownall seconded. A voice vote followed.

Motion carried 4/2/0 with Ms. Lindblad and Ms. Ballance voting "No" and Mayor Pate adding his "Aye".

3. Recommended revision of Appendix A -- from Planning

Mr. Pownall moved to discuss. Mr. DeVito seconded. Ms. Blankenship noted Planning has reviewed the legally non-conforming B&Bs and Tourist Lodgings. In response to the question of whether an ordinance would be the correct procedure for approval of the revised Appendix, Mr. Weaver indicated he would investigate how the original Appendix was accepted.

Mr. Raphael moved to have Mr. Weaver and Ms. Blankenship work together to prepare the recommended changes. Mr. DeVito seconded. A voice vote followed.

Motion carried 5/0/0.

4. Building permits, parking lots, demolition, and construction recommendations from Planning and (see item #5)

5. Defining weekly dwelling units

Ms. Ballance moved to postpone both items until the next meeting. Mr. DeVito seconded. Following a request from Ms. Blankenship, Ms. Ballance amended her motion to "the first meeting in July". Mr. DeVito seconded. A voice vote followed.

Motion carried 5/0/0.

6. Ward map revisions

Mr. DeVito moved to discuss. Mr. Pownall seconded. Ms. Armstrong provided an overview of the process and results. A digitized map was prepared by the East Lab students and the new ward map descriptions were confirmed by them. A color-coded map was also provided.

Mr. Weaver confirmed that State law does not include a timeline for revisions. He noted the purpose is to allow equal representation in wards. Mr. Weaver also noted State law has been interpreted to allow combined polling places. Mr. DeVito made a motion to have the City Attorney prepare an ordinance to reflect the changes. Mr. Pownall seconded. A voice vote followed.

Motion carried 5/0/0.

Ms. Ballance called for a two minute break.

Motion carried 5/0/0.

7. First quarter 2012 financials

Mr. DeVito moved to discuss. Mr. Pownall seconded. Bank balances for 41 accounts, a summary of the payroll account and the clearing account, receipts and disbursements, the cash receipt summary, and the debt service summaries were brought to the table. All will be available for Council review.

8. Vine St. vacation

Postponed during Agenda Setting

AGENDA SETTING:

Ms. Lindblad moved discuss. Mr. Raphael seconded.

Mayor Pate noted the proposed adjustments for EMS charges were provided and he requested that Council review them for the next meeting.

Ms. Lindblad added discussion of changing voting (for Council members) to be by Ward rather than City-wide. Ms. Ballance seconded.

Mr. Pownall requested that information provided in Council mailboxes indicate the source of the information.

COUNCIL COMMENTS:

Ms. Ballance said, "Thank Goodness it rained! We sure could use some more."

Ms. Lindblad said she still has some reservations about the deer hunt. She asked citizens who have concerns to come to the meeting or to contact members of the Committee.

Mr. Pownall said he had brought several issues to the table and requested information. Some of these have been circumvented. In response to an editorial, he said "it is an absolutely untrue statement" that his intention is to close the Hospital. His (concern is) violation of State laws and the correct issues and solutions.

MAYOR'S COMMENTS:

Mayor Pate read a list of up-coming events. He said members of the Deer Hunt Committee are Chief Hyatt, Dee Purkeypile, Butch Berry, Mickie Schneider, Gwen Bennett, and himself.

ADJOURNMENT:

Mr. DeVito moved to adjourn. Mr. Pownall seconded.

Motion carried 5/0/0. The meeting ended at approximately 7:55 p.m.

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Monday, June 11, 2012.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED: 
Mayor Morris Pate