

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

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, June 25, 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: June 11, 2012

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Pos. 1 – Mickey Schneider – expired 7/1/11. Pos. 3 – vacant – 7/1/13

CAPC – Pos. 1 – vacant – 7/1/12. Pos. 3 – Lynn Bridwell – expired 6/30/11

Hospital – Pos. 2 – vacant – 6/1/14. Pos. 4 – **vote on Pamela Crockett** – expired 6/1/11. Pos. 6 – **vote on Mary Jean Sell** -- 9/7/15.

Parks – Pos. 5 – vacant – 5/1/11

HDC – Pos. 3 – **vote on Dan Hebert** – 11/30/14.

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

Yellow Bag Research Committee

Deer Hunt Committee

PUBLIC COMMENTS

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs – Planning Commission
2. Auditorium Commission ordinance for referendum – postponed until June 25 -- Mr. Berry and Mr. DeVito
3. Proposed Animal Drawn Vehicle ordinance – Mr. DeVito and Mr. Raphael
4. Ordinance to regulate Limousines – postponed until June 25 -- Mr. Raphael and Ms. Ballance
5. Discussion of water rate increase – postponed until review is completed -- Mr. Raphael and Ms. Ballance
6. Opposition to Water Fluoridation Resolution No. 600 mailing list – Mr. DeVito and Mr. Pownall
7. Action for non-participating Commissioners – postponed until June 25 -- Mr. Pownall and Ms. Ballance
8. Climate Action Plan Resolution No. 601 – Mr. Raphael and Ms. Ballance
9. Discussion of potential ability to restructure the CAPC tax – Ms. Ballance and Mr. Pownall

NEW BUSINESS:

1. Recommended revision of Appendix A -- Mr. Berry and Ms. Ballance
2. Building permits, parking lots, demolition, and construction recommendations from Planning – postponed until July 9 -- Mr. Berry and Mr. Raphael
3. Removing the word “weekly” from definition of Dwelling Units – postponed until July 9 -- from Planning
4. Ward map revisions ordinance – as required by the Election Commission
5. Vine St. vacation – Mayor Pate
6. Discussion of yellow bags in next general election – Ms. Ballance and Mr. Raphael
7. Proposed adjustments for EMS charges – Mayor Pate
8. Voting for Council members by ward – Ms. Lindblad and Ms. Ballance
9. Executive session – Ms. Ballance and Ms. Lindblad
10. Executive session – Mr. DeVito and Mr. Berry

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, June 25, 2012, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen James DeVito, Karen Lindblad, Ken Pownall, Butch Berry, Lany Ballance, Parker Raphael, 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. Pownall noted the vote for Gloria Stevens for the Cemetery Commission was to have been added. He postponed Unfinished Business item #1 until the sign ordinance is approved. Ms. Ballance seconded. Ms. Ballance added an Executive Session after New Business and before Agenda Setting. Ms. Lindblad seconded. Mr. DeVito added a second Executive Session. Mr. Berry seconded. Mr. Pownall moved to approve the Agenda as amended. Ms. Ballance seconded.

Motion carried 6/0/0.

APPROVAL OF THE MINUTES:

Mr. DeVito moved to approve the June 11, 2012 minutes. Mr. Pownall seconded.

Motion carried 5/0/1 with Mr. Berry abstaining due to absence.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – no report

CAPC – no report

Hospital – Mr. DeVito moved to approve Pam Crockett for Position 4. Mr. Raphael seconded.

Motion carried 4/2/1 with Ms. Lindblad and Mr. Pownall voting “No” and Ms. Ballance abstaining.

Mayor Pate added his “Aye” to carry.

Mr. DeVito moved to appoint Mary Jean Sell for Position 6. Mr. Berry seconded.

Motion failed 2/4/0 with Ms. Lindblad, Ms. Ballance, Mr. Pownall and Mr. Raphael voting “No”.

Parks – Ms. Ballance requested more information on the request to install a marker at Conway Spring. She cited Statute 14-43-502 (b)(1) and Mayor Pate said he would (inform) Parks.

HDC – Ms. Lindblad noted the request to not call Dan Hebert until June 30. Mr. Pownall moved to postpone the vote for Mr. Hebert until the first meeting in July. Mr. DeVito seconded.

Motion carried 6/0/0.

Cemetery – Mr. Pownall moved to appoint Gloria Stevens for Position 2. Mr. Raphael seconded. Mr. Pownall spoke about Ms. Steven’s volunteer efforts on behalf of the Cemetery.

Motion carried 6/0/0.

Secretary/Treasurer Mary Ann Pownall thanked Bear Creek Nursery, Sun Fest, and Dean Fanning for their contributions. She said Tom Rennels is now the sexton. Ms. Pownall noted the new rate for a plot is \$485. The filing fee is \$15 and a cornerstone is \$100. She noted the June 1 operating balance of \$1512.86 and savings of \$554.81.

Mr. Rennels said four plots have been sold in 2012. Block 27 has been opened and there are now approximately 300 plots available.

Yellow Bag Research Committee – to be discussed (under New Business)

Deer Hunt Committee – Mayor Pate noted there was a meeting and no Council members attended. He said the City’s tort immunity is insurance, and it is up to the property owners and hunters to deal with issues that come about as a result of a mistake. Mayor Pate noted a hunter is to be 10 ft. off the ground and 50 yds. from any residence. A property owner can give a hunter permission to (retrieve a wounded deer) or Game and Fish can be called.

Ms. Lindblad reviewed the wording on the ballot regarding the hunt. Mayor Pate noted Game and Fish gave the City the opportunity to pick the times. Ms. Lindblad read from the G&F protocol. Mayor Pate noted time constraints for scheduling orientations. He said a list of properties for the hunt will be available and it is for the property owners to clarify boundaries. Fourteen hunters and thirty two property owners have signed up. Ms. Lindblad conveyed another citizen's concern regarding boundaries for those who do not want hunting on their property. Mr. DeVito called point of order and Ms. Lindblad moved to add this to the next agenda. Ms. Ballance seconded.

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

PUBLIC COMMENTS:

Kristi Kendrick, representing Brad and Deborah Hill, noted a new proposal regarding the vacating of Vine St. Parks has rescinded a motion to vacate the footprint of the (former) Café Santa Fe. (Vine St. is listed for discussion under New Business.)

Susan Tharp, co-owner of Olden Days Carriage, expressed her thanks for the time to answer questions and noted she will again be available for the agenda item.

Jerry Landrum, 19 Kimberling, encouraged Council to adopt the Climate Action Plan. He considers it a valid balance of policies and projects to help meet the greenhouse gas reduction goals. Mr. Landrum spoke briefly about current economic and environmental stresses.

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs

Postponed during Agenda Setting until the sign ordinance is approved

2. Auditorium Commission ordinance for referendum

Mr. Berry moved to discuss. Mr. Raphael seconded. Mr. Berry questioned the wording of the agenda item and Mr. DeVito favored discussion of establishing an Auditorium Commission. Mr. Berry spoke of the (proposed) ¼ cent sales tax as a separate item for a referendum. Mr. DeVito preferred to address the tax issue toward the end of the year. Mr. Berry moved to have the City Attorney review the proposed ordinance establishing an Auditorium Commission. Mr. DeVito seconded.

Motion failed 2/3/1 with Ms. Lindblad, Ms. Ballance, and Mr. Raphael voting "No" and Mr. Pownall abstaining.

3. Proposed Animal Drawn Vehicle ordinance

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

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

Mr. DeVito moved to approve Ordinance No. 2154 on its first reading. Mr. Raphael seconded. Mr. Berry expressed his concern about prohibiting carriages from operating on Hwy. 62. or on Main St. Mr. Weaver noted agreement is solicited as part of a contract with the City and is listed as a requirement on the application. Mr. Pownall called for approval of Ordinance No. 2154 on its first reading. Ms. Lindblad seconded. A roll call vote followed.

Motion carried 6/0/0 with all voting "Aye".

4. Ordinance to regulate Limousines

Mr. Raphael moved to discuss. Ms. Lindblad seconded. Mr. Raphael moved to assign a number and place the ordinance on its first reading for discussion. Mr. DeVito seconded.

Motion carried 6/0/0. Ms. Armstrong read **Ordinance No. 2155 AN ORDINANCE REGULATING OPERATION AND RATES WITH REGARD TO CERTAIN FOR-HIRE VEHICLES.**

Mr. DeVito moved to approve Ordinance No. 2155 on its first reading. Mr. Raphael seconded. Comments followed regarding the two-hour requirement and changing rates by resolution.

Mr. DeVito moved to amend Section 3 by striking "two-hour minimum" (and adding) "one-hour minimum". Mr. Berry seconded. Ms. Lindblad asked that David White be allowed to answer questions.

Motion carried 6/0/0. Mr. White explained costs incurred by maintaining (luxury) service. Discussion followed regarding cleanliness, Hot Springs' requirements, and avoidance of over-regulating. A roll call vote for the amendment followed.

Motion carried 4/3/0 with Ms. Ballance, Mr. Raphael, and Ms. Lindblad voting "No" and Mayor Pate voting "Yes" to carry.

Mr. Pownall moved to approve Ordinance No. 2155 on its first reading as amended. Mr. DeVito seconded.

Motion carried 6/0/0.

5. Discussion of water rate increase

Postponed until review is completed

6. Opposition to Water Fluoridation Resolution No. 600 mailing list

Ms. Pownall moved to discuss. Ms. Ballance seconded. Ms. Armstrong provided a list (of Senate and House Health and Welfare Committee members and Carroll Boone Water District Board members) and welcomed recommendations. Ms. Ballance moved to postpone until the next meeting for time to consider. Mr. DeVito seconded.

Motion carried 6/0/0.

7. Action for non-participating Commissioners

Mr. Pownall moved to discuss. Mr. Raphael seconded. Mr. Pownall noted there is only one commission that allows removal of commissioners with the recommendation of the Mayor and approval by the City Council. He expressed the need to define participation and "for cause". Mr. Weaver read the Planning Commission requirements for participation and removal. Discussion followed regarding autonomy of some commissions, inability to conduct business without quorums, and uniformity of rules.

Mr. Pownall motioned for the City Attorney to draft applicable changes to each commission title that would mirror the Planning Commission procedures, for consideration (by Council). Ms. Lindblad seconded. Mr. Weaver asked for guidance on how many meetings could be missed and what is an excusable excuse. Mr. DeVito moved to postpone until the next meeting for more information as to what commissions (Council) has authority over and what guidelines (Council) wants to establish, for the City Attorney. Mr. Berry seconded. A roll call vote on postponing was taken.

Motion carried 6/0/0 with all voting "Aye".

Mr. DeVito requested moving (New Business item #5) Vine St. vacation up in the order of business. Mr. Raphael seconded. A roll call vote followed. Mr. Pownall, Mr. Berry, Mr. Raphael, Mr. DeVito, and Ms. Lindblad – "Aye". Ms. Ballance abstained.

Motion carried 5/0/1.

Ms. Ballance motioned for a 10 minute break. Mr. Pownall seconded.

Motion carried 6/0/0.

NEW BUSINESS:

5. Vine St. vacation

Mr. DeVito moved to discuss. Mr. Raphael seconded. Matt Bishop spoke as a representative for Cornerstone Bank. He noted a petition to vacate a portion of Vine St. was filed; Parks approved and subsequently removed approval. He requested a date for a public hearing so as to follow the requirement for publishing twice.

Ms. Ballance recapped a conversation with Jim vonTungeln. Noting City property belongs to the citizens and since, in this case, one of the entities objects, Mr. vonTungeln advised against vacating. Ms. Ballance added the options of a 99 year lease or removing the structures from public property.

Mr. DeVito moved to have the public hearing July 25 in the Court Room at 6:30. Mr. Raphael seconded.

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

UNFINISHED BUSINESS (continued)

8. Climate Action Plan Resolution No. 601

Mr. Raphael moved to discuss. Mr. DeVito seconded. Mr. Raphael motioned to read Resolution 601 for discussion.

Motion carried 6/0/0. Ms. Armstrong read **Resolution No. 601 RESOLUTION TO ADOPT THE EUREKA SPRINGS CLIMATE ACTION PLAN.** Mr. Pownall moved to approve. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0 with all voting "Aye".

9. Discussion of potential ability to restructure the CAPC

Ms. Ballance moved to discuss. Ms. Lindblad seconded. Ms. Ballance asked Mr. Weaver if there is legislation prohibiting putting restructuring of the CAPC tax on the ballot. Mr. Weaver confirmed legislation dictates the money goes to the (Commission). Ms. Ballance moved to place reducing the CAPC tax to 2% on the next general election ballot. Ms. Lindblad seconded. Mr. DeVito said it has to be an initiative petition from the people. Mr. Weaver noted the change would be in State law. He agreed to research whether it could be initiated by Council or if the petition must be from the (citizens). Ms. Ballance moved to postpone until the next meeting. Mr. Raphael seconded.

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

NEW BUSINESS (continued)

1. Recommended revision of Appendix A

Mr. Pownall moved to discuss. Mr. Raphael seconded. Mr. Pownall motioned to assign a number and place the ordinance on its first reading. Mr. DeVito seconded.

Motion carried 6/0/0. Mayor Pate read **Ordinance No. 2156 AN ORDINANCE AMENDING APPENDIX A OF CHAPTER 14 OF THE EUREKA SPRINGS MUNICIPAL CODE.** Mr. DeVito moved to approve Ordinance No. 2156 on its first reading. Mr. Pownall seconded. A roll call vote followed.

Motion carried 6/0/0 with all voting "Aye".

2. Building permits, parking lots, demolition, and construction recommendations from

Planning

Postponed until July 9

3. Removing the word "weekly" from definition of Dwelling Units

Postponed until July 9

4. Ward map revisions ordinance

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

Motion carried 6/0/0. Ms. Armstrong read **Ordinance No. 2157 AN ORDINANCE REDISTRICTING THE EUREKA SPRINGS ELECTION WARDS.** Mr. Pownall moved to approve Ordinance No. 2157 on its first reading. Mr. Raphael seconded.

Motion carried 6/0/0.

6. Discussion of yellow bags in next general election

Ms. Ballance moved to discuss. Mr. Pownall seconded. Mr. Pownall asked what changes are being requested of (Council) by the Carroll County Solid Waste Authority. In response to his question regarding the process for getting the issue on the general election ballot, Mr. Weaver noted contracts are not generally available to the population. Requests for changes to the contract can be made by Council.

Mayor Pate agreed to find out (if enforcement of requirements is imposed upon residential customers and not upon commercial customers and, if so, why.) Ms. Ballance moved to postpone until the next meeting. Ms. Lindblad seconded. Ms. Ballance agreed to ask Committee members to be present at the next meeting. (There was no vote on the motion.)

7. Proposed adjustments for EMS charges

Mr. DeVito moved to discuss. Mr. Pownall seconded. Assistant Chief Bob Pettus offered a draft ordinance and proposal as explanation. Current ambulance fees were set by Council in 2006. Medicare has increased fees as well as restructuring ways in which they allow charges. Mr. Pettus explained how EMS revenues could be increased. More money could be collected from insurance companies while minimally affecting what patients would pay out-of-pocket. He noted EMS would also write off charitable care in the same (and verified) proportion as the hospitals. Mr. Pettus explained the codes listed in the draft ordinance. He explained how funds are collected and remitted.

Mr. Pownall motioned to have the City Attorney review the ordinance for the next agenda. Mr. Raphael seconded. Following discussion, Mr. DeVito moved to assign the ordinance and number and place it on its first reading. A vote was taken on Mr. Pownall's initial motion.

Motion carried 4/3/0 with Mr. DeVito, Mr. Raphael, and Mr. Berry voting "No" and Mayor Pate voting "Aye" to carry.

8. Voting for Council members by ward

Ms. Lindblad moved to discuss. Mr. Raphael seconded. Mr. DeVito moved to (ask) the City Attorney to draft an ordinance allowing the residents of Eureka Springs to vote by ward. Ms. Ballance seconded. Ms. Lindblad amended the motion to include "by the next meeting". Ms. Ballance seconded. A vote was taken for the amendment.

Motion carried 6/0/0. A vote was taken on Mr. DeVito's motion.

Motion carried 6/0/0.

9. Executive Session

Ms. Ballance moved to go into Executive Session to discuss the performance of a Department Head. Ms. Lindblad seconded.

Motion carried 6/0/0.

When the session resumed, Mr. Pownall moved to take no action. Mr. DeVito seconded.

Motion carried 6/0/0.

10. Executive Session

(Did not occur)

AGENDA SETTING:

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

Mr. DeVito added discussion of the Taxi Franchise. Ms. Lindblad seconded.

Ms. Ballance added discussion of Group Tour trams. Mr. Raphael seconded.

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

Vine St. will remain on the agenda until after the public hearing.

Mr. Pownall requested an update from the City Attorney on the status of ordinances, resolutions and actions which have been sent for his review. Ms. Ballance seconded.

COUNCIL COMMENTS:

Ms. Lindblad said many residents feel what is (happening with) the deer hunt is not what they voted for. She requested that the Deer Committee show up at the next meeting and for citizens to continue contacting her with their concerns.

Ms. Ballance spoke about Municipal League Attorney Mark Hayes' presentation regarding State Statute 14-55-204, appropriating funds before spending.

MAYOR'S COMMENTS:

Mayor Pate read a list of up-coming events. He spoke about accusations regarding inappropriate actions as far as money is concerned. Mayor Pate said he explained why money was spent and noted there was no mid-year budget review last year. He said Council did not have the 2012 budget ready by the time required by the State.

ADJOURNMENT:

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

Motion carried 6/0/0. The meeting ended at approximately 10:00 p.m.

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Monday, June 25, 2012.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate