

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

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, March 12, 2012 6 p.m.
AGENDA**

CALL TO ORDER

amended 3/13

ROLL CALL, ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE TO THE FLAG

APPROVAL OF THE AGENDA

APPROVAL OF THE MINUTES: February 27, 2012 meeting

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Building Inspector – Report on High School inspections

Department Reports

Planning – Pos. 1 – Mickey Schneider – expired 7/1/11. Pos. 5 – vacant – 1/1/13. Pos. 6 – vacant – 1/1/12. Pos. 7 – Deni Flaherty – expired 1/1/12

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

Hospital – Pos. 4 – Pamela Crockett – expired 6/1/11

Parks – Pos. 5 – vacant – 5/1/11

HDC

Cemetery – Pos. 1 – June Westphal – expired 2/15/12. Pos. 2 – Bennie Clark – expired 2/15/12.

Yellow Bag Research Committee – decision target date

Deer Hunt Committee

PUBLIC COMMENTS

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs – postponed until Code references are corrected – Planning Commission
2. Hospital Audit report/Hospital lease – postponed until the first meeting in March – Mr. Pownall and Ms. Ballance
3. Auditorium Commission ordinance review – update on workshop date in April -- Mr. Berry and Mr. DeVito
4. Setting date for workshop to review/rewrite Animal Drawn Vehicle requirements -- Mr. DeVito, Ms. Ballance, Mr. Berry
5. Update on the emissions reduction plan – Ms. Ballance and Mr. Raphael
6. Discussion of a license fee for apartment buildings – Mr. Berry and Mr. Pownall
7. Ordinance to regulate Limousines – update on March 8 workshop – Mr. DeVito and Mr. Pownall
8. Update on Code chapter 2.32 City Attorney – Mr. Pownall and Mr. Raphael

NEW BUSINESS:

1. Discussion of BKD audit (ACA 10-4-418) – Mr. Pownall and Ms. Ballance
2. Discussion of water rate increase – Mr. Raphael and Ms. Ballance
3. Discussion of minimum monthly billing on garden meters – Mr. Raphael and Ms. Ballance
4. Discussion of planting invasive species – Ms. Ballance and Mr. Raphael
5. Executive Session

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

MARCH 12, 2012

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, March 12, 2012, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen Parker Raphael, Dean Kirkpatrick, James DeVito, Ken Pownall, Lany Ballance, 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. Berry moved to approve the agenda. Mr. DeVito seconded. Mr. Pownall moved to add an Executive Session to be placed before Agenda Setting. Ms. Ballance seconded.

APPROVAL OF THE MINUTES:

Mr. DeVito moved to discuss the minutes from the February 27 meeting. Mr. Berry seconded. Dr. Kirkpatrick moved to approve. Mr. DeVito seconded. A voice vote followed. Motion carried 6/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Department reports – Written reports were presented from Transit, the Building Inspector, and the Police Department.

Finance -- Director Lonnie Clark said year-end reports as well as financials for January and February will be ready within the following two days. The Western District ambulance contract is being reviewed.

Planning – no report

CAPC – no report

Hospital – David Mitchell resigned from the Commission.

Parks – no report

HDC – Melissa Greene resigned from the Commission.

Cemetery – no report

Yellow Bag Research Committee – Ms. Ballance motioned to discuss at the next meeting. Mr. Raphael seconded. A voice vote followed.

Motion carried 6/0/0.

Deer Hunt Committee – Mayor Pate reported the Game and Fish (Commission) is seeking a regional area for an orientation meeting.

PUBLIC COMMENTS: none

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs

Postponed until Code references are corrected.

2. Hospital Audit report/Hospital lease

Mayor Pate said a report will be made at the next meeting.

City Council **3/12/12** **1**

3. Auditorium Commission ordinance review

A workshop will be held on Sunday, April 22 at 2:00 p.m.

4. Setting date for workshop to review/rewrite Animal Drawn vehicle requirements

A workshop will be held on Tuesday, March 20 at 6:30 p.m.

5. Discussion of emissions reduction plan

Ms. Ballance moved to discuss. Mr. Raphael seconded. Jerry Landrum thanked Mike Bishop and Mayor Pate for co-sponsoring a seminar on February 1 regarding the economics of commercial-scale solar water heating. He noted the importance of getting the Property Assessed Clean Energy (PACE) legislation passed at the State level to finance such projects. He agreed to continue volunteering to help fine tune the greenhouse gas emissions reduction plan. In response to Mr. DeVito's question regarding fueling vehicles with natural gas, Mr. Landrum favored further study and consideration of bio-diesel from waste vegetable oil.

Mr. Landrum suggested Council pass the greenhouse gas reduction plan and request the policy changes from the State.

6. Discussion of a license fee for apartment buildings

Mr. Berry moved to discuss. Mr. DeVito seconded. Mr. Berry said Council needs to decide if apartment (rental) is a business. He spoke about safety inspection by the Building Inspector. Ms. Ballance was not in favor of a license fee for apartments but suggested a flat rate for the business and the same fee for each unit regardless the number of units. Mr. Pownall noted the issue resulted from the intention to assist Planning in regulating non-conforming (multi-family dwellings). He favored not charging for government-subsidized apartments.

Dr. Kirkpatrick motioned to drop the subject from further discussion. Ms. Ballance seconded. A voice vote followed.

Motion failed 3/3/0 with Mr. DeVito, Mr. Berry, and Mr. Pownall voting "No."

7. Ordinance to regulate Limousines

Mr. Berry moved to discuss. Mr. DeVito seconded. Mr. DeVito summarized discussions from the March 8 workshop. He noted Council needs to address the overlap between limousines and the taxi in order to keep the taxi franchise. A workshop is scheduled for March 22 at 6:30 p.m.

8. Discussion of Code chapter 2.32 City Attorney

Mr. Pownall moved to discuss. Mr. Raphael seconded. Mayor Pate discussed this with Mr. Clark and it was determined the way in which Mr. Weaver is being paid is within IRS guidelines. As contract labor, Mr. Weaver works primarily from his private office and at an hourly rate. Mr. Pownall said the personal services listing in the budget needs to be addressed. It was noted a change in the fees and duties would go into effect at the end of the current term.

Mr. Raphael and Mr. Pownall favored changing the portion of the Code regulating contact with the City Attorney. Ms. Ballance moved to ask the City Attorney to rewrite 2.32.04 (d) to include "elected city officials and district court personnel" to those who may initiate contact and to remove "city planner". Mr. Raphael seconded. A voice vote followed.

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

Referencing Mr. Pownall's concerns regarding the duties and pay defined in Code, Mayor Pate authorized Mr. Weaver to contact the Municipal League.

NEW BUSINESS:

1. Discussion of State and BKD audits

Mr. Pownall moved to discuss. Mr. Raphael seconded. At Mayor Pate's request, Mr. Clark summarized his experience in auditing banks, savings and loan companies, manufacturing companies, and a municipality. He said he has been a certified public accountant for forty years.

Mr. Clark reviewed the BKD Water and Wastewater audit for 2010. He expressed concern about interest on investments having been used for bond payments rather than rates having been raised. To be in compliance, net revenues are to be at 120%, and the City is currently at 92%. Although payments are being made on time, assets are being depleted.

Statements of revenues, net assets, cash flows, notes to the financial statements, capital assets, long term liabilities, and water and sewer bonds were reviewed. Addressing notations on internal controls, Mr. Clark said progress is being made to have a more secure server. A possible addition to the Finance staff was mentioned. He also spoke about increased efforts to collect on delinquent accounts.

The Schedule of Expenditures of Federal Awards (SEFA) and the included opinion were reviewed. Again, Mr. Clark said internal controls were addressed and corrections are being made.

Ms. Ballance moved to take a ten minute recess. Mr. Raphael seconded. A voice vote was taken.

Motion carried 6/0/0.

2. Discussion of water rate increase

Mr. Raphael moved to discuss. Mr. Berry seconded. Mr. Raphael noted the 3% water rate increase earlier in the year. Mr. Clark said an additional 8-10% could be required but favored consideration of an increase in waste water rates. Professionals in analyzing water and waste water rates have been consulted and could do a thorough review to help prepare for the future.

Mr. DeVito moved to place the topic on the April 8 agenda. Ms. Ballance seconded.

Motion carried 6/0/0.

3. Discussion of minimum monthly billing on garden meters

Mr. Raphael moved to discuss. Ms. Ballance seconded. Mr. Raphael spoke about a portion of Code that allows billing on meters that have been shut off. Both Ms. Ballance and he objected to this practice for irrigation meters. The commonly used term "vacation disconnect" does not appear in Code. But, it was noted, a \$25 turn-on fee and a \$25 turn-off fee were listed for regular water meters. No such fees are listed for irrigation meters. A minimum monthly (stand by) fee could be charged for both regular and irrigation meters. Approximately \$16,000 could be derived from this annually. Mr. Clark said this would begin with the April billing. Mr. DeVito favored waiting until the systems study is completed before adding the charges. He moved to postpone action until the April 8 meeting. Mr. Berry seconded. A roll call vote followed.

Motion carried 4/2/0, with Ms. Ballance, Mr. Berry, Mr. Pownall, and Mr. DeVito voting "Aye" and Dr. Kirkpatrick and Mr. Raphael voting "No."

4. Discussion of planting invasive species

Ms. Ballance moved to discuss. Mr. Raphael seconded. Ms. Ballance spoke about untended plant species encroaching on neighboring properties, particularly bamboo. Mr. Weaver cautioned against regulating on private property. He said if damage to property is occurring, the owner can initiate a civil court action.

EXECUTIVE SESSION: Mayor Pate called for a voice vote on an Executive Session.

Motion carried 6/0/0.

When Council resumed, Mr. DeVito moved to take no action. Mr. Raphael seconded. A voice voted followed.

Motion carried 4/2/0, with Ms. Ballance and Mr. Pownall voting "No."

AGENDA SETTING:

Mr. Pownall moved to discuss. Mr. DeVito seconded.

Ms. Ballance added discussion of budget overspending and misfeasance. Mayor Pate

said to add malfeasance. Ms. Ballance and he settled on "mal/misfeasance". Mr. Raphael seconded. Mr. Pownall requested postponement of Unfinished Business item 2 (Hospital Audit report/Hospital lease) until the last meeting in April. Ms. Ballance seconded.

COUNCIL COMMENTS:

Ms. Ballance wished herself "Happy Birthday."

Mr. Pownall congratulated the Eureka Springs High School boys basketball team and the Green Forest High School girls basketball team

Mr. Raphael wished Ms. Ballance "Happy Birthday."

MAYOR'S COMMENTS:

Mayor Pate read a list of upcoming events. He noted the receipt of a \$15,000 rebate check from the Carroll-Boone water treatment plant.

ADJOURNMENT:

Dr. Kirkpatrick moved to adjourn. Mr. Pownall seconded.

Motion carried 6/0/0. The meeting ended at 8:25 p.m.

This is the signature page for the minutes of the regular Eureka Springs City Council meeting of Monday, March 12, 2012.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate