

TURN OFF ALL ELECTRONIC DEVICES AS THEY INTERFERE WITH RECORDING EQUIPMENT

**CITY OF EUREKA SPRINGS
COUNCIL MEETING**

Monday -- September 24, 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: September 10, 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 – expires 7/1/16. Pos. 4 – Bobbie Foster – expired 6/30/12

Hospital – Pos. 2 – vacant – expires 6/1/14. Pos. 5 – Jack Pritchard – expired 6/1/12. Pos. 6 – vacant – expires -- 9/7/15

Parks – Pos. 1 – vacant – expired 5/1/12.

HDC – Pos. 1 – vacant – expires 11/30/12

Cemetery – Pos. 1 – expires 2/15/15 **Vote on June Westphal**

PUBLIC COMMENTS

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs – postponed until the sign ordinance is approved – Planning
2. Building permits, parking lots, demolition and construction ordinance – Postponed until reviewed by the City Attorney – Planning
3. “Weekly” dwelling units list – Postponed until reviewed by the City Attorney -- Planning
4. Update on the Taxi franchise workshops -- Mr. DeVito and Ms. Lindblad
5. Discussion of the Auditorium agreement for 2013 – Postponed until further notice – Mr. Pownall and Mr. DeVito
6. Ordinance for Voting by ward – Ms. Lindblad and Mr. Pownall
7. Discussion of the proposed ordinance for Water/Sewer committee – Mr. Weaver’s opinion regarding the Sanitary Board – Mr. Pownall and Ms. Ballance
8. Auditorium heat coil report – first meeting in October – Mayor Pate
9. Yellow Bag Committee recommendations – Postponed until no later than the second meeting in October

NEW BUSINESS:

1. Proposed changes for the definition of Bed and Breakfast – Postponed until reviewed by the City Attorney -- Planning
2. Planning Commission research on structures encroaching on public property – Ms. Ballance and Ms. Lindblad
3. Update on the Zoning map – Postponed until further notice -- Planning
4. Discussion of sales at City festivals – Mr. Berry and Ms. Lindblad for Planning
5. Resolution for a Professional Services bond for Fire/EMS – Mayor Pate
6. Discussion of the Sign Ordinance – Mr. Pownall and Ms. Ballance
7. Reconsideration of the Deer Hunt – Ms. Lindblad and Ms. Ballance
8. Sewer Commission ordinance – Ms. Lindblad and Mr. Pownall
9. Exploration of costs and issues for moving Council meetings to the Court Room – Mr. DeVito and Mr. Raphael
10. Budget Resolution – Mayor Pate
11. Executive Session
12. Cemetery Financials – Mr. Pownall and Ms. Ballance

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, September 24, 2012, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen Karen Lindblad, Parker Raphael, Ken Pownall, Lany Ballance, James DeVito, 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. DeVito moved to approve the agenda. Mr. Berry seconded. Mr. Pownall added Cemetery Financials to New Business. Ms. Ballance seconded. Mr. DeVito cancelled the Executive Session. Mr. Raphael seconded. Mr. Pownall postponed Unfinished Business item #6 until the next meeting. Mr. DeVito seconded. Mayor Pate called for approval of the amended agenda.

Motion carried 4/0/1 with Ms. Ballance voting "No". (Ms. Lindblad had not yet arrived.)

APPROVAL OF THE MINUTES: September 10, 2012

Mr. DeVito moved to approve the September 10, 2012 minutes. Mr. Raphael seconded.

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

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Chair Beverly Blankenship expressed thanks for the training provided by the Municipal League.

CAPC – no report

Hospital – no report

Parks – no report

HDC – no report

Cemetery – Mr. Berry moved to approve the nomination of June Westphal (for Position 1). Mr. Raphael seconded.

Motion carried 6/0/0.

PUBLIC COMMENTS:

Bob Jasinski, 46 Hillside Ave., spoke about zoning laws and tourist lodging. He noted the requirement for Conditional Use Permits (in R-1) for lodging and expressed his belief that the weekly rental licenses should be revoked.

Gwen Bennett spoke about weekly rentals. She noted regulations regarding lodging and the violations by allowing weekly rentals without the owner/manager on site. R-1 is to have no new lodging and there are to be none within 200 ft. of each other. Ms. Bennett cited other Code provisions in direct conflict with weekly rentals.

Diane Stull, referenced an opinion posted on the internet regarding the questionable legality of the process that initiated the deer hunt.

Cynthia Hudson, objecting to the deer hunt, suggested methods for residents to protect their property without killing.

Frances Davilla objected to the deer hunt inside the City limits and noted she uses "Deer Scram" with success.

Bob Jeffreys expressed his objection to the City-sponsored deer hunt.

UNFINISHED BUSINESS:

1. Non-conforming Off-Premise Signs

Postponed until the sign ordinance is approved

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

Mr. Weaver noted Council was given a version the Planning Chair and he have reviewed. Mr. DeVito moved to discuss. Mr. Raphael seconded. Following discussion regarding procedures, Ms. Ballance moved to postpone until the next meeting. Ms. Lindblad seconded.

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

3. "Weekly" dwelling units list

Mr. Weaver indicated this would be ready for the next meeting. Mr. Pownall moved to postpone until the October 8 meeting. Mr. DeVito seconded.

Motion carried 6/0/0.

4. Update on the Taxi franchise workshops

Mr. DeVito moved to discuss. Mr. Pownall seconded. Mr. DeVito noted that when the budget workshops are finished, he'll try to schedule one last taxi workshop.

5. Discussion of the Auditorium agreement for 2013

Mayor Pate noted he would provide information to Council for consideration at the next meeting. Mr. Pownall moved to postpone until October 8. Mr. DeVito seconded.

Motion carried 6/0/0.

6. Ordinance for voting by ward

Postponed during Agenda Setting until the next meeting.

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

Mr. Pownall moved to discuss. Mr. DeVito seconded. Following Mr. Raphael's request, Mr. Weaver noted most cities do not have this and despite the way the Statute is written, it is something used very rarely. Mr. Pownall referenced an email from David Schoen regarding the (A.C.A.) 14-235-206(b) Sewer Committee requirement, the 14-235-208 option for a Sanitary Board, or a combination of the two. He noted use of the word "shall". Following discussion, Mr. Pownall motioned to take the item from the table as an Agenda item by roll call vote only. Mr. Raphael seconded. A roll call vote followed.

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

8. Auditorium heat coil report

Mr. Pownall moved to discuss. Mr. Berry seconded. Mayor Pate referenced the update from MCC Airworks provided for later discussion. Mr. DeVito moved to postpone until the first meeting in October. Mr. Pownall seconded.

Motion carried 6/0/0.

9. Yellow Bag Committee recommendations

Postponed until the second meeting in October

NEW BUSINESS:

1. Proposed changes for the definition of Bed and Breakfast

Mr. Berry moved to postpone until the next meeting. Mr. Pownall seconded.

Motion carried 6/0/0.

2. Planning Commission research on structures encroaching on public property

Ms. Ballance moved to discuss. Mr. Pownall seconded. Ms. Blankenship relayed the Commissioners' request for specific details and a budget line item. She noted 150 vacations in 126 years of ordinances and an estimate of \$100,000 to survey the City. Ms. Blankenship expressed her opinion that the money would be better spent buying land that would be useful to the City, via the Land Bank. Mr. Pownall motioned for the Planning Commission to report back at the next meeting (documentation) of Ms. Blankenship's report. Ms. Lindblad seconded.

Discussion followed regarding how often vacations are requested, documentation of green spaces, overlapping surveys, review by Council on a case-by-case basis, and the disadvantage of limiting the ability to sell or trade City property. A voice vote followed on Mr. Pownall's motion.

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

3. Update on the Zoning map

Postponed until further notice

4. Discussion of sales at City festivals

Mr. Berry moved to discuss. Mr. DeVito seconded. Ms. Blankenship expressed her belief that the

City has had a Master Plan for a very long time. She said she made the decision to look at ordinances older than ten years old. Ms. Blankenship provided copies of Ordinance No. 1953 and noted the (outdated) phrases "City sponsored events" and "permits are issued by the Mayor's office and CAPC or special events director." Ms. Armstrong provided background on the 48 events that have gone through the review process in 2012 and requested that corrections be made by those who deal with the permits.

Mr. Berry expressed his belief that the City is operating illegally if permits are being issued that are not City sponsored. Discussion followed regarding sales on private property, Planning's intent to address garage sale permits, privately sponsored events, consignment by vendors through "brick and mortar" people, and business licenses. Ms. Lindblad made a motion for the City Clerk to provide a list of suggestions by the next meeting. Mr. Raphael seconded.

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

Ms. Ballance moved for a ten minute break. Mr. Pownall seconded.

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

5. Resolution for a Professional Services bond for Fire/EMS

Mr. Pownall moved to discuss. Mr. Berry seconded. Mr. Pownall moved to assign a resolution number and read for discussion only. Mr. DeVito seconded.

Motion carried 6/0/0.

Ms. Armstrong read RESOLUTION NO. 605 A RESOLUTION AUTHORIZING THE MAYOR TO OBTAIN AND EXECUTE A PERFORMANCE BOND BETWEEN THE CITY OF EUREKA SPRINGS AND THE WESTERN CARROLL COUNTY AMBULANCE DISTRICT.

Mr. Pownall spoke for inclusion of a line item. Mayor Pate noted the cost for the \$150,000 bond is \$6,000 per year. Noting it was not a requirement in the past, Mayor Pate also defined "performance bond". Ms. Ballance moved to add "from Professional Services Fire Department" to Section 2. Ms. Lindblad seconded. A roll call vote followed.

Motion carried 6/0/0. The language was added.

Mr. Pownall moved to approve Resolution No. 605 as amended. Mr. DeVito seconded.

Motion carried 6/0/0.

6. Discussion of the Sign Ordinance

Mr. Pownall moved to discuss. Ms. Ballance seconded. Mr. Pownall noted the September 5 version is the current copy and it has been reviewed by Planning and by the City Attorney. Ms. Armstrong requested inclusion of review by (the Historic Preservation Officer and Building Inspector). Mr. DeVito moved to postpone until the next meeting.

Mr. Pownall explained having included Ordinance No. 2027 which was never codified. Mr. Pownall motioned to assign an ordinance number and to place it on its first reading. Mr. DeVito noted there was a motion on the floor. Mayor Pate called for a second. Mr. Raphael seconded. Discussion followed regarding versions received and their contents.

Mr. Weaver confirmed his review of the ordinance prepared by Mr. Pownall. He opined that the underlying sign ordinance needs work in certain areas and indicated that is not what is being addressed in the ordinance. Mr. Pownall recapped the process Mr. Leswig and he followed, noting the changes proposed by Ms. Booth and Mr. Ray do not include (the missing) Ordinance No. 2027 but do include the codified Ordinance No. 2037. He confirmed Ms. Lindblad's recap of the purpose for the (September 5) ordinance.

A voice voted followed on the motion to postpone.

Motion carried 4/2/1 with Ms. Lindblad and Mr. Raphael voting "No", Mr. Pownall abstaining, and Mayor Pate adding "Aye" to carry.

7. Reconsideration of the Deer Hunt

Mr. Pownall moved to discuss. Ms. Lindblad seconded. Mr. Pownall moved that the item be removed from the table and moved to the Mayor's office for execution of the Deer Hunt. Mr. Berry seconded. Mr. Weaver confirmed this could clarify the matter. Mr. Berry withdrew his second. Ms. Ballance added her second.

Following discussion regarding the process for reconsideration and flaws in the ballot measure and process, a voice vote was taken.

Motion carried 4/0/2 with Ms. Lindblad and Ms. Ballance abstaining.

8. Sewer Commission ordinance

Mr. Pownall moved to suspend the rules and delete (this item) from the agenda. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0.

9. Exploration of costs and issues for moving Council meetings to the Court Room

Mr. Pownall moved to discuss. Mr. Raphael seconded. Discussion followed regarding logistics and sound quality in the Court Room, running a cable to the Transit building, and citizen access to proceedings. Use of the current High School property and a delay in airing proceedings were considered. Mr. Berry proposed postponing until the next meeting with the purpose of getting feedback from the citizens. Mr. DeVito motioned to do so. Mr. Berry seconded.

Motion carried 6/0/0.

10. Budget Resolution

Finance Director Lonnie Clark provided copies of the proposed resolution. Mr. Pownall moved to discuss. Mr. Berry seconded. Mr. Pownall moved to suspend the rules and (address the issue) after the workshop. Mr. DeVito seconded. Following discussion, Mr. Berry called the question. Mr. Raphael seconded. A roll call vote followed.

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

A roll call vote was taken on the motion to address this after the budget workshop.

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

11. Executive Session

Cancelled during Agenda Setting

12. Cemetery Financials

Mr. Pownall moved to discuss. Ms. Ballance seconded. Mr. Pownall motioned to add a Cemetery line item to the City of Eureka Springs General Fund expenditure portion of the budget for operating expenses. Ms. Lindblad seconded. Following discussion, a voice vote was taken.

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

AGENDA SETTING:

Mr. Pownall moved to discuss. Mr. Raphael seconded.

Mr. Pownall added status of the Fixed Assets list. Ms. Ballance seconded.

Mr. Pownall added Code that calls for City Council to decide the number of Police Officers. Ms. Ballance seconded.

Mr. Pownall added the letter from John Cross regarding (the Eureka event). Ms. Lindblad seconded.

Mr. Berry added ramifications of a voluntary tax for the Cemetery Commission. Mr. DeVito seconded.

Ms. Lindblad added discussion of readjustment of vacation water rates. Ms. Ballance seconded.

COUNCIL COMMENTS:

Ms. Ballance expressed concern about some of the legal counsel received at the table.

Mr. Pownall thanked the people who have called and let him know their concerns.

Mr. DeVito thanked the 100+ people who helped raise over \$2300 for Mr. Berry's campaign for the State Legislature. He noted contributions can still be made and encouraged everyone to register to vote.

Ms. Lindblad apologized for the way the deer hunt issue was presented and noted the (incomplete) list of properties. She noted the legality of a 2/3 Council vote to override a referendum vote.

MAYOR'S COMMENTS:

The Mayor read a list of upcoming events. He encouraged people to register to vote.

ADJOURNMENT:

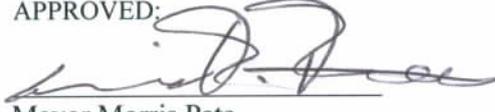
Mr. DeVito moved to adjourn. Mr. Pownall seconded.

Motion carried 6/0/0. The meeting ended at 9:10 p.m.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate

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