

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING  
Monday – April 22, 2013 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: April 8, 2013**

**COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:**

**Planning** – Pos. 1 – vacant – expires 7/1/14. Pos. 3 – vacant – expires 7/1/13. Pos. 4 – Jim Morris – expired 7/1/12. Pos. 5 – Melissa Greene – expired 1/1/13.

**CAPC** – Pos. 4 – Bobbie Foster – expired 6/30/12

**Hospital** – Pos. 2 – vacant – expires 6/1/14

**Parks**

**HDC** – Pos. 1 – vacant – expired 11/30/12

**Cemetery**

**PUBLIC COMMENTS:**

**UNFINISHED BUSINESS:**

1. Sherwood Court's sewer problem – Mr. Purkeypile and Mr. DeVito
2. Town Hall meeting – workshop date – Mr. DeVito and Mr. Purkeypile
3. Ordinance raising Mayor's salary to \$36,000 on Jan. 1, 2014 – Mr. DeVito and Mr. Purkeypile
4. Limousine ordinance – Mr. DeVito and Ms. Schneider
5. Planning Commission membership ordinance No. 2179 – 2<sup>nd</sup> reading
6. Demolition by neglect workshop update – Mr. Mitchell and Mr. DeVito
7. Parking lot regulations ordinance – Mayor Pate
8. Bicycle racks downtown – update – Mayor Pate

**NEW BUSINESS:**

1. Discussion of raising Council salaries – postponed until November
2. Taxi ordinance with "jumbo cabs" – Mr. DeVito and Ms. Schneider
3. Discussion of weekly rentals – Ms. Zeller and Mr. DeVito
4. Discussion of SWEPCO power line rights-of-way – Mr. DeVito and Mr. Purkeypile

**AGENDA SETTING**

**CITY COUNCIL COMMENTS**

**MAYOR'S COMMENTS**

**ADJOURNMENT**

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

**MONDAY**

**APRIL 22, 2013**

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Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, April 22, 2013, in the jury room on the second floor of the Western District Carroll County Courthouse.

**PRESENT:** Mayor Morris Pate, Aldermen James DeVito, Joyce Zeller, Dee Purkeypile, David Mitchell, Terry McClung, City Attorney Tim Weaver, and City Clerk/Treasurer Ann Armstrong

**ABSENT:** Mickey Schneider

**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. Purkeypile seconded. Mayor Pate added New Business #5 SWEPCO Resolution. Mr. DeVito moved to have New Business #4 after Unfinished Business #1. Ms. Zeller seconded. Mr. DeVito moved to drop Unfinished Business #3. Mr. Purkeypile seconded. Mayor Pate called for a vote on the amended agenda.

Motion carried 5/0/0.

**APPROVAL OF THE MINUTES: April 8, 2013**

Mr. DeVito moved to approve the April 8, 2013 minutes. Mr. McClung seconded.

Motion carried 5/0/0.

**COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:**

**Planning** – Planning Chair Beverly Blankenship noted an application for a B&B at 8 Drennon Dr. was denied. There will be a new construction review for an O’Reilly’s store at 109 E. Van Buren. There is a tree cut request for 179 N. Main. On May 14, there will be public hearings for 37 Mountain and 123 S. Main.

**CAPC** – Bobbie Foster’s renewal application for Position 4 was provided by Mayor Pate. Mr. McClung moved to approve. Mr. DeVito seconded.

Motion carried 5/0/0.

**Hospital** – no report

**Parks** – no report

**HDC** – no report

**Cemetery** – no report

**PUBLIC COMMENTS:**

**Jerry Landrum** spoke about the Citizen’s Climate Action Progress Committee. A contractor will be available on Tuesday for no-cost Small Business Direct Install review of energy usage. Mr. Landrum said approximately 75% of improvements can be paid for through rebates. Act 1074 was signed into law and will enable payment for the 25% not recovered through rebates.

**Doug Stowe** spoke in behalf of Save the Ozarks and provided a summary of his research on the proposed SWEPCO 345,000 volt transmission project. He favored Council action to demonstrate disinterest in the “superhighway” through Carroll County.

**Patricia Helwig**, geologist, expressed her concern for the lack of public hearings on the proposed SWEPCO project, the requirement for a lawyer to respond to the Public Service Commission, the public not being informed earlier and lack of detail about the project. Ms. Helwig noted the 150 page environmental impact statement contains almost no references to geology.

**Ilene Powell** spoke in opposition to the proposed 48 miles-long transmission line that would destroy over 800 acres of land and the resulting contamination. Ms. Powell said her home is ground zero for four of the proposed routes and noted the economic domino effect that would affect everyone in the community. She asked for Council support in preventing the project.

**Glenn Crenshaw**, All Seasons Real Estate Co., spoke about the impact the proposed SWEPCO project would have on eco-tourism and on property values.

**Lany Ballance** confirmed a permit was pulled for the (work across from Sherwood Court). She noted the ongoing sewer problems since purchase in 2006. Ms. Ballance expressed her concern about the proposed SWEPCO project. She spoke about the number of applications for the Planning Commission never brought to the table.

**Jeff Danos** requested Council to take a stand against the proposed transmission lines across NW Arkansas. He noted the towers would be placed about 800 ft. apart for about 50 miles and have 150 ft. wide paths with herbicides. Mr. Danos noted the towers would be visible from Spring St., Thorncrown Chapel, the Christ of the Ozarks, Lake Leatherwood, the Beaver bridge, and would run through the middle of the view at Inspiration Point.

**Bryan and Lil Hostick**, owners of Sherwood Court, clarified misstatements regarding the February 7, 2013 work order for the sewage backup and the permit issued for work at a neighboring property. Mr. Hostick summarized review of three years of work orders and the denied request for review of the Public Works maintenance plan and schedule. He suggested directing diverted funds back to maintenance.

#### **UNFINISHED BUSINESS:**

##### **1. Sherwood Court's sewer problem**

Mr. Purkeypile moved to discuss. Mr. DeVito seconded. Public Works Director Dwayne Allen said there was no indication the City had jetted during the referenced time frame. He noted the work on the main in February included jetting, use of a camera and dye testing. Discussion followed regarding low-no flow, roots in clay lines, lack of funding for a manhole and new line, maintenance of problem lines, and removal of trees above lines. Further discussion included estimated costs for a manhole and PVC main.

Mr. DeVito suggested Mr. Purkeypile be the liaison with Public Works. Mr. McClung supported directing funds to the main rather than to the property owners. Mr. Mitchell referenced the core issue of whether the City would hold with tort immunity or compensate the property owners. Mr. DeVito moved to further the item on to the next agenda. There was no second. Mr. Purkeypile agreed to serve as liaison. Further discussion included a plan of action, lack of evidence of City jetting, Mr. Hostick working with Mr. Purkeypile and Mr. Allen, negligence as "duty owed, duty breached, damages because of".

Mr. Purkeypile motioned to table until the next meeting. Mr. DeVito seconded.  
Motion carried 5/0/0.

#### **NEW BUSINESS:**

##### **4. Discussion of SWEPCO power line rights-of-way**

Mr. DeVito moved to discuss. Mr. Purkeypile seconded. Mr. DeVito recapped the extent of the proposed SWEPCO transmission line project that would include 160 ft. high towers every 800 ft. with 150 ft. rights-of-way. He spoke about the economic impact on the City, Beaver Lake, and the State. Mr. Mitchell concurred and favored a resolution in support of Save the Ozarks as soon as possible. Following Ms. Zeller's question regarding Federal influences, Doug Stowe said he learned from (Senator) Mark Pryor's office this is a State Public Service Commission issue. Patricia Helwig summarized the process used to determine SWEPCO's preferred route. Ms. Zeller recommended involving the CAPC and Parks and Tourism.

Mr. Purkeypile motioned for Mr. DeVito to act as a liaison with the City Attorney to hash out a resolution regarding the stance against the proposed routes in the Eureka Springs area. Mr. Mitchell seconded.  
Motion carried 5/0/0.

#### **UNFINISHED BUSINESS:**

##### **2. Town Hall meeting**

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. DeVito requested that (Mayoral Assistant) Diane Wilkerson set a date for a workshop to develop a structure for the meeting.

##### **3. Ordinance raising the Mayor's salary to \$36,000 on January 1, 2014**

Dropped during Approval of the Agenda

##### **4. Limousine Ordinance**

Mr. DeVito moved to discuss. Mr. Purkeypile seconded. Mr. Weaver confirmed he will be working

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with Mr. DeVito to prepare the ordinance but has been unable to do so as yet.

Mr. Purkeypile moved to table until the next meeting. Mr. DeVito seconded.

Motion carried 5/0/0.

**5. Planning Commission membership ordinance No. 2179 – 2<sup>nd</sup> reading**

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2179 on its second reading by title only. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the Ordinance title.

Mr. DeVito moved to approve Ordinance No. 2179 on its second reading. Mr. Purkeypile seconded. A voice vote followed.

Motion carried 5/0/0. Mr. DeVito moved to suspend the rules and place Ordinance No. 2179 on its third reading by title only. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the Ordinance title.

Mr. DeVito moved to approve Ordinance No. 2179 on its third reading. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 5/0/0.

**6. Demolition by neglect workshop update**

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Mr. Mitchell summarized the goal to look at structures within the total City limits in two ways: 1) prevention, and 2) taking neglected structures down in an expeditious manner with due process. He noted Council, at this time, is not discussing the condition of people's yards. Glenna Booth and he will clean up the previous ordinance and another workshop will probably be arranged.

**7. Parking lot regulations ordinance**

Mr. Purkeypile moved to discuss. Mr. McClung seconded. Mr. DeVito moved to assign the ordinance a number and place it on its first reading. Mr. Mitchell seconded. A voice vote followed.

Motion carried 5/0/0. Ms. Armstrong read **ORDINANCE NO. 2180 AN ORDINANCE AMENDING THE EUREKA SPRINGS MUNICIPAL CODE SUBSECTION 8.48**. Mr. DeVito moved to approve Ordinance No. 2180 on its first reading. Mr. McClung seconded. A voice vote followed.

Motion carried 5/0/0.

**8. Bicycle racks downtown -- update**

Mayor Pate confirmed Denton West has agreed to build the bicycle racks. Discussion followed regarding locations for installation. Mr. DeVito said the Postmaster agreed to have one at the Post Office if there is no cost. Mr. Weaver confirmed Council would have to approve the second location if it's on City property. Mayor Pate will relay the information to Mr. West.

**NEW BUSINESS:**

**1. Discussion of raising Council salaries – postponed until November**

**2. Taxi ordinance with “jumbo cabs”**

Mr. DeVito moved to discuss. Mr. Purkeypile seconded. Mr. Weaver noted that, as soon as he can see, he'll get with Mr. DeVito and prepare the ordinance. Mr. Purkeypile moved to table the discussion until the next meeting. Mr. DeVito seconded.

Motion carried 5/0/0.

**3. Discussion of weekly rentals**

Mr. Purkeypile moved to discuss. Mr. DeVito seconded. Beverly Blankenship noted there is definition in Code for “dwelling unit” and Code for R-1 specifically says there is to be no more tourist lodging. She referenced material prepared by Building Official Bobby Ray wherein he noted that, at this time, according to definitions in Code, weekly rentals are permitted in R-1. Ms. Blankenship said if he had gone on to say “but only in a landlord-tenant relationship” that would have been correct. If it's for rental to any transient or tourist, it's illegal. Ms. Blankenship said it was previously agreed language in Code was strong enough and people who are doing this should be cited. Discussion followed regarding clarification with “fine-only” language for violation, having a workshop, and documentation to set up a case for the judge by where and how owners are advertising and to whom they are renting.

Mr. Weaver reiterated renting on a weekly basis is not uncommon for those who are unable to pay

by the month. He noted having a 199 license does not make a business legal if it's otherwise illegal. It is legal to rent to those who do not have the economic wherewithal to rent for a longer term. Discussion continued about where rentals are advertised, rentals by the month for stability in neighborhoods, and resistance to "grandfathering" those who were not going by the law. Mr. Weaver recommended review of the ordinance prepared earlier and having owners prove they've been renting to contributing members of the community so they can continue that use. Mr. Weaver suggested a Public Hearing to allow those who are operating legally to present documentation.

Mr. DeVito moved to table the item until the next agenda in order to get copies of the considered ordinance and the list of properties wanting to be "grandfathered" in. Mr. Mitchell seconded.

Motion carried 5/0/0.

**5. SWEPCO resolution**

Mr. Purkeypile moved to discuss. Mr. McClung seconded. Mayor Pate said SWEPCO is closing the serviceman's office on 23S. So he would not have to work from his truck and because there is space in the bottom of the Public Works building, SWEPCO could rent it for \$100 per month. The resolution is for Council to approve use of real estate and to make a finding there is a public purpose.

Mr. DeVito moved to assign the resolution a number and read for approval. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read **RESOLUTION NO. 617 A RESOLUTION AUTHORIZING THE MAYOR TO CONTRACT WITH SWEPCO/AEP.**

**AGENDA SETTING:** none

**CITY COUNCIL COMMENTS:** none

**MAYOR'S COMMENTS:**

Mayor Pate put out thoughts and prayers to the folks in Boston and kudos to the law enforcement agencies there, and also to people in West, Texas. He read a list of upcoming events. Mayor Pate offered kudos to the Wood Carving Festival sponsors and volunteers.

**ADJOURNMENT:**

Mr. DeVito moved to adjourn. Mr. McClung seconded.

Motion carried 5/0/0. The meeting ended at 8:15 p.m.

**ATTEST:**

  
City Clerk/Treasurer Ann Armstrong

**APPROVED:**

  
Mayor Morris Pate