

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, August 12, 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: July 22, 2013

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Pos. 1 – vacant – expires 7/1/14. Pos. 4 – Jim Morris – expired 7/1/12

CAPC – Pos. 2 – vacant – expires 6/30/14. Pos. 4 – vacant – expired 6/30/13

Hospital – Pos. 1 -- Anna Ahlman – expired 6/1/13

Parks – Pos. 2 – Ruth Hager – expired 5/1/13

HDC

Cemetery – Pos. 4 – vacant -- expires 2/15/14

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. August 19 Town Hall meeting outline – Mr. DeVito and Mr. Purkeypile
2. Demolition by neglect workshop update – **postponed until the last meeting in September** -- Mr. Mitchell and Mr. DeVito
3. Ordinance No. 2187 Commercial recycling of glass and cardboard – 2nd reading
4. 80 Mountain – rezone to C-3/remove from R-1 list of bldgs. for religious purposes -- Ms. Schneider and Mr. Mitchell
5. Ordinance No. 2186 limousine and taxi business licenses – 3rd reading
6. Ordinance No. 2188 extending 200 ft. rule to all residential zones – 2nd reading
7. N. Main parking lot restrooms – Mr. DeVito and Mr. Mitchell
8. Land Bank – Mr. Purkeypile and Mr. McClung

NEW BUSINESS:

1. Black Bass Dam and the web site – Mr. Purkeypile and Mr. McClung
2. Re-read/Discussion of Resolution No. 618 – Opposition to transmission lines in the Eureka area -- Ms. Schneider, Mr. Mitchell, Ms. Zeller
3. Vacating portion of Rock St. – Mr. Purkeypile and Mr. Mitchell
4. 2nd quarter financials – A.C.A. 14-43-506
5. Geese issue at Lake Leatherwood City Park – Mayor Pate
6. One-day permit for fireworks at Lake Leatherwood City Park – Mayor Pate
7. Loan for Leatherwood Rd. – Mayor Pate

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

AUGUST 12, 2013

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, August 12, 2013, in the jury room on the second floor of the Western District Carroll County Courthouse.

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

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Pate led the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Mr. DeVito moved to discuss. Mr. McClung seconded. Mr. Mitchell moved New Business #3 for the first item of discussion. Ms. Schneider seconded. Mr. DeVito moved to approve the amended agenda. Mr. Mitchell seconded.

Motion carried 6/0/0.

APPROVAL OF THE MINUTES: July 22, 2013

Mr. DeVito moved to approve the July 22, 2013 minutes. Mr. Mitchell seconded.

Motion carried 6/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Beverly Blankenship said Planning has new construction reviews scheduled for 3018 E. Van Buren and 5 Center St. She noted Mr. Weaver wrote the Intrigue Theater can operate legally as a studio because the definition has the word “theater” in it, and requested adding a multi-family dwelling ordinance to the next agenda.

CAPC – no report

Hospital – no report

Parks – no report

HDC – no report

Cemetery – no report

Transit – Director Ken Smith noted June and July numbers made up for losses in March, April, and May. He said the group tour franchise expires in December and he is seeking to increase what Transit keeps to 65%. Mr. Smith said trams help to keep Transit solvent and he noted funding will be available for one trolley next year. He said federal money is not available for a downtown parking garage.

PUBLIC COMMENTS:

Roseanna Stone objected strongly to closing Spring St. and noted some customers said they would not come back because they had been rerouted the previous weekend to areas they didn't know.

Jan Shipley spoke against closing Spring St., sought consideration, and favored other viable locations.

Mel Shipley expressed concerns regarding safety for visitors if the street were set up with tents. He spoke about relying on repeat business and the majority of shop keepers on Spring St. not wanting the street closed.

Marjie Anderson opposed having tents on Spring St. and she favored use of highway locations. She said business was half when the street was blocked the previous weekend.

Joe Zickmund, 95 Spring, spoke about ensuring tax collection by people who might set up on Spring St. He considered it fair and also a means to measure success.

Iris Feutz spoke about artists now marketing on the internet or in galleries rather than at street fairs. She noted over 1,000 artists are represented in the shops and cited the City's architecture and gardens as art.

Karen Lindblad spoke of the expenses involved in maintaining a business and favored having a craft fair in the AUD basement instead of on Spring St. She requested legislation to not close Spring St.

Alderman Zeller favored tabling discussion of closing Spring St. until 2015.

NEW BUSINESS:

3. Vacating portion of Rock St.

Mr. Mitchell moved to discuss. Mr. McClung seconded. Property owners Rachel and Ryan Brix provided extensive materials describing their property at 1 Magnetic Rd. Ms. Brix noted absence of reference to an easement when the property was purchased, and the appraiser's written confirmation. The only legal access is maintained by the couple and utility companies have signed off as having no need for access. A Federal land patent deeded the property to a private individual in 1884, prior to the 1893 plat map commonly used today. Ms. Brix showed a series of photos to confirm use of the open drive prior to the City's incorporation and maps with no reference to reference to Rock St. She requested acknowledgement that the City has never owned and does not have easement through their property.

Parks Director Bruce Levine said the 1893 map has always been viewed as delineating streets. Referencing the drive as an unopened street, he spoke about the City's jurisdiction and neighboring property owners' objections to restricting access. Mr. Levine referenced State Statute 14-54-104 and said Parks could not consider recommending something to Council that would put the Council in potential litigation.

Mr. Purkeypille noted the improved access from Magnetic Rd. to the neighbors' property, a second cut that could be used, and potential access from Mill Hollow Rd. He did not favor opening a road four feet from the Brixes' front door.

City Attorney Weaver cautioned against cutting off access and creating inverse condemnation, compensation for which a jury would determine. He opined a legitimate, complete answer can be found by a court and advised against Council action.

Ms. Schneider suggested abandoning to the public use.

In response to Mr. McClung's question of whether the Marble Flats owners would sue the City, Wade Williams, counsel for Marble Flats, answered that in all likelihood a lawsuit would be filed. He said the filing of a plat in the public records creates a dedication of the roads, and whether explicit or implied, a dedication of the roads to the public. Following discussion about property deeds, no current plans for development of Marble Flats, and public interest as making sure a road is not built on the hill, Mr. DeVito motioned to take no action on the matter. Mr. McClung seconded. Ms. Brix responded to Mr. Williams' assertions. Mr. Mitchell called for the question. Mr. DeVito seconded.

Motion carried 6/0/0. A vote on the motion to take no action followed.

Motion carried 6/0/0.

Mr. DeVito moved to take a ten-minute recess. Ms. Schneider seconded.

Motion carried 6/0/0.

UNFINISHED BUSINESS:

1. August 19 Town Hall meeting outline

Mr. Mitchell moved to discuss. Mr. DeVito seconded. Mr. DeVito said everything has been firmed up with the facilitator and an agenda has been prepared for Council and Commission Chairs. Food will be provided and the event will begin at 6:30. Mr. Mitchell encouraged citizen participation.

2. Demolition by neglect workshop update – postponed until the last meeting in September

3. Ordinance No. 2187 Commercial recycling of glass and cardboard – 2nd reading

Mr. Purkeypille moved to discuss. Mr. Mitchell seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2187 on its second reading by title only. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2187 on its second reading. Mr. McClung seconded. Ms. Schneider objected to "mandatory". A voice vote followed.

Motion carried 4/2/0 with Mr. Purkeypille and Ms. Schneider voting "No".

4. 80 Mountain – rezone to C-3/remove from R-1 list of buildings for religious purposes

Mr. Mitchell moved to discuss. Mr. DeVito seconded. Mr. Mitchell noted Code allows theaters in C-3 and that Planning is working on the definition of theater. He made a motion for Planning to take up the topic of zoning in C-3 specific to the issue of animals, hours of operation, and the definition that they had

passed at Planning last time. Mr. DeVito seconded.

Motion carried 6/0/0.

5. Ordinance No. 2186 limousine and taxi business licenses – 3rd reading

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2186 on its third reading by title only. Ms. Schneider seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. McClung made a motion to approve Ordinance No. 2186 on its third and final reading. Mr. DeVito seconded. A roll call vote followed. Motion carried 6/0/0.

6. Ordinance No. 2188 extending 200 ft. rule to all residential zones – 2nd reading

Mayor Pate called for a motion to discuss. Mr. DeVito moved to suspend the rules and place Ordinance No. 2188 on its second reading by title only. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. McClung made a motion to approve Ordinance No. 2188 on its second reading. Mr. DeVito seconded. A voice vote followed.

Motion carried 6/0/0.

7. N. Main parking lot restrooms

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Architect Butch Berry said there are two bidders on the 224 sq. ft. restroom project. There will be automatic lights, flushers, and hand wash fixtures. Three feet of stone will surround the base since it is in a flood zone. Utilities will be underground and there will be no paving. Bids will be opened on August 22 at 2 p.m. and the contractor will have 75 days to complete the project. The project cleared the Historic District and Planning Commissions.

8. Land Bank

Mr. Purkeypile moved to discuss. Mr. DeVito seconded. Bill Featherstone recapped the Land Bank concept and a proposed ordinance was offered. Properties owned by the City that are considered of no use could be sold and the money used to purchase other land. Mr. Featherstone said there will hopefully be an urban trails master plan in place by the end of the year. Bruce Levine spoke about the 320 acres of land that were deeded to the City, and identifying green zones not needed for public use. Mr. McClung favored including information on encroachments and utility easements.

Mr. DeVito made a motion to send the ordinance to the City Attorney for his perusal and to change anything that is necessary. Mr. Mitchell seconded.

Motion carried 6/0/0.

NEW BUSINESS:

1. Black Bass Dam and website

Mr. DeVito moved to discuss. Mr. Purkeypile seconded. Mr. Purkeypile spoke about the web site as a means to raise public funding for upfront engineering costs. Decommissioning, repairing, and repairing to an architectural or historical standard are options. A tax ID number will be obtained. In response to Mr. McClung's question regarding a timeline, Mr. Purkeypile confirmed the dam is in a serious state of disrepair now.

2. Re-read/Discussion of Resolution No. 618

Mr. DeVito moved to discuss. Ms. Schneider seconded. Mr. DeVito said he thinks the Resolution is a very solid resolution and referenced the phrase "and its environs". Noting the request for a re-read, Ms. Schneider read the title and "therefore" portion that included the Eureka Springs area.

4. 2nd quarter financials

Mr. Mitchell moved to discuss. Mr. DeVito seconded. As required by A.C.A. 14-43-506, the Clerk provided copies of the bank reconciliations, payroll, cash receipts, and clearing account. She noted the debt service report is in the Finance Director's office.

5. Geese issue at Lake Leatherwood City Park

Mr. Purkeypile made a motion to discuss. Mr. DeVito seconded. Bill Featherstone spoke about the resident, non-migratory flock of geese. He requested that the record show that the Parks Commission, to a person, loves all of God's creatures, including geese. Mr. Featherstone noted it is the poop that is the issue and the swim beach is closed due to the E. coli. A goose management plan and timeline are being put together, with extermination as a last resort. Discussion followed regarding trapping and transporting, hunting, disturbance tactics, and stopping feeding.

6. One-day permit for fireworks at Lake Leatherwood City Park

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Bill Featherstone spoke about a generous offer from Jack Moyer to have exclusive use of part of the park on Wednesday, August 21. The request includes a professional fireworks display over the lake from a dock that would later be donated to Parks. Mr. Featherstone noted the 4/1 Parks vote to allow the one-time fireworks display.

Mr. DeVito made a motion to allow a one-time fireworks display at Lake Leatherwood Park on August 21. Mr. McClung seconded.

Motion carried 6/0/0.

7. Loan for Leatherwood Rd.

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Bruce Levine said the apparent low bid for road repair is \$149,000. An estimated \$5-8,000 will be spent for engineering of repair and resurfacing. He spoke about borrowing \$45,000 from the City and repaying by December. Mr. Levine indicated the Finance Director found the proposal acceptable.

Mr. Purkeypile moved to approve \$45,000 to be made available to Parks as a bridge loan for Leatherwood Rd. construction, said loan to be paid back by the end of December, 2013. Mr. DeVito seconded.

Motion carried 6/0/0.

AGENDA SETTING:

Mr. Mitchell added consideration of a workshop for the 2014 budget sometime in late October-early November. Ms. Schneider seconded.

Mr. Mitchell added a workshop on the discussion of a "Clean City" ordinance toward the end of August. Mr. Purkeypile seconded.

Ms. Schneider added discussion regarding closing Spring St. Ms. Zeller seconded.

Ms. Schneider added discussion of the recycling conference at the end of September. Mr. DeVito seconded.

CITY COUNCIL COMMENTS:

Mr. McClung said he had real concerns about the 80 Mountain St. theater.

Mr. Mitchell suggested staying away from the issue until various commissions that are vested with the responsibility have the opportunity to address the issue in its totality.

Mr. Purkeypile reminded everyone of the August 19 Town Hall meeting, at 6:30.

Ms. Schneider spoke about the complete loss of the Railway Winery and asked for anyone who sees wine vats or other equipment to call her.

MAYOR'S COMMENTS:

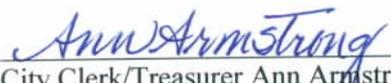
Mayor Pate read a list of upcoming events.

ADJOURNMENT:

Mr. DeVito moved to adjourn. Mr. Purkeypile seconded.

Motion carried 6/0/0. The meeting ended at 8:45 p.m.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate