

**CITY OF EUREKA SPRINGS
COUNCIL MEETING**
Monday, December 9, 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: November 25, 2013

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Pos. 4 – Jim Morris – expired 7/1/12. Pos. 5 – Melissa Greene – expired 1/1/13

CAPC – Pos. 2 – vacant – expires 6/30/14

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

Parks

HDC

Cemetery

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Vacating request for portion of Hartman and McCune – Mr. DeVito and Mr. Mitchell
2. Ordinance No. 2191 Additional Use in C-3 – 3rd reading
3. Amended Land Bank ordinance – Mr. Purkeypile and Mr. Mitchell
4. Ordinance No. 2198 Business Licenses for Multi-family – 2nd reading
5. Ordinance No. 2199 Vacating 100 ft. of Palo Pinto – 2nd reading
6. Vacating portion of Nut St., property description clarification – Mr. Purkeypile and Mr. DeVito
7. Auditorium Commission ordinance – Mr. DeVito and Mr. Mitchell

NEW BUSINESS:

1. Appeal of Planning Commission decision re: cottage at 1 Magnetic – Mr. Purkeypile and Mr. Mitchell
2. Hours of operation and animals in C-3 – Mr. Mitchell and Mr. Purkeypile
3. Clean City Ordinance – Mr. Mitchell and Ms. Schneider
4. Conditional Use permit for farm animals – **postponed pending Planning action** -- Mayor Pate
5. Discussion of Planning Commission procedures for vacating property – Ms. Schneider and Mr. DeVito
6. Film Industry tax incentive – Mayor Pate
7. Resolution for parking lot lease
8. Resolution for City offices lease

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

DECEMBER 9, 2013

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, December 9, 2013 in the jury room in the Western District Carroll County Courthouse.

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

ABSENT: Alderman Dee Purkeypale and City Attorney Tim Weaver (with notice)

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Pate led the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Mr. McClung moved to approve. Mr. DeVito seconded. Mayor Pate added two items to New Business: resolutions for the parking lot lease and for the City offices lease. Ms. Schneider moved to table Unfinished Business #1. Mr. Mitchell seconded. Ms. Schneider moved to table Unfinished Business #3. Mr. Mitchell seconded. Mr. Mitchell moved to postpone New Business #2. Mr. DeVito seconded. Mr. Mitchell confirmed postponement of New Business #4. Mr. DeVito seconded. Mr. DeVito moved to postpone Unfinished Business #4. Ms. Zeller seconded. Mr. DeVito moved to postpone Unfinished Business #7. Ms. Schneider seconded. Mr. Mitchell moved to postpone New Business #3. Ms. Schneider seconded. Mr. DeVito moved to postpone New Business #6. Mr. Mitchell seconded. Mr. DeVito moved to approve the agenda as amended. Mr. McClung seconded.

Motion carried 5/0/0.

APPROVAL OF THE MINUTES: November 25, 2013

Mr. McClung moved to approve the November 25, 2013 minutes. Mr. DeVito seconded.

Motion carried 5/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – no report

CAPC – no report

Hospital – no report

Parks – no report

HDC – no report

Cemetery – no report

PUBLIC COMMENTS: none

UNFINISHED BUSINESS:

1. Vacating request for portion of Hartman and McCune

Tabled during approval of the agenda

2. Ordinance No. 2191 Additional Use in C-3 – 3rd reading

Mr. Mitchell moved to discuss. Mr. DeVito seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2191 on its third reading by title only. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the Ordinance title. Mr. Mitchell recalled the vote to have the additional use as a permitted use rather than a conditional use. Review of the September 23 minutes confirmed the vote. The Ordinance title was changed to: **ORDINANCE NO. 2191 AN ORDINANCE AMENDING EUREKA SPRINGS MUNICIPAL CODE TO ESTABLISH AN ADDITIONAL PERMITTED USE IN QUIET USE COMMERCIAL (C-3) ZONES.**

Mr. McClung moved to approve Ordinance No. 2191 on its third and final reading. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 4/1/0 with Mr. DeVito voting “No”.

3. Amended Land Bank ordinance

Tabled during approval of the agenda

4. Ordinance No. 2198 Business Licenses for Multi-family – 2nd reading

Postponed during approval of the agenda

5. Ordinance No. 2199 Vacating 100 ft. of Palo Pinto – 2nd reading

Mr. Mitchell motioned to discuss. Mr. DeVito seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2199 on its second reading by title only. Ms. Schneider seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2199 on its second reading. Mr. Mitchell seconded. A voice vote followed.

Motion carried 5/0/0. Mr. DeVito moved to suspend the rules and place Ordinance No. 2199 on its third reading by title only. Mr. McClung seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the Ordinance title. Mr. McClung moved to approve Ordinance No. 2199 on its third reading. Mr. DeVito seconded. A roll call vote followed.

Motion carried 5/0/0. Mr. DeVito moved to read the Emergency Clause. Ms. Schneider seconded.

Motion carried 5/0/0. Ms. Armstrong read the Emergency Clause.

6. Vacating portion of Nut St., property description clarification

Ms. Schneider moved to discuss. Mr. DeVito seconded. It was confirmed clarification of the property description had been provided. Mr. DeVito moved to assign the ordinance a number and place it on its first reading. Ms. Schneider seconded. A voice vote followed.

Motion carried 5/0/0. Ms. Armstrong read **ORDINANCE NO. 2200 AN ORDINANCE VACATING AN UNOPENED PORTION OF NUT ST.** Mr. McClung motioned to approve Ordinance No. 2200 on its first reading. Mr. Mitchell seconded. A voice vote followed.

Motion carried 5/0/0.

7. Auditorium Commission ordinance

Postponed during approval of the agenda

NEW BUSINESS:

1. Appeal of Planning Commission decision re: cottage at 1 Magnetic

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Rachel Brix confirmed that the previous request for Council to agree the City does not own a particular strip of property resulted in a vote to take no action. The current request for a cottage has cleared the HDC as a design concept. Ms. Brix then addressed “assumptions made about that strip of land that runs through (their) property”. She said they are preventing development of the property and potentially causing loss of income, threatening to negatively impact the marketability of the property, and obscenely threaten their right to access, use and reasonably enjoy the property. Ms. Brix expressed her belief that Planning denied approval for a cottage based on the assumption that the driveway and part of the yard belong to the City. She said the Parks Director and Chair have gone on record expressing their certainty the land is City property and they will be using it as a trail.

Ms. Brix challenged the assumption the property is a City street and referenced the deeds back to 1884. She contended the City has never had an easement, made claims to the strip of ground or maintained it. It functions as opened and is the only access to the property. Ms. Brix said allowing and directing children to walk down a driveway as part of a trail is “not only dangerous – it’s absurd”. The Brixes need Council to determine whether the City has any rights to this strip of land.

Mr. Mitchell made a motion for Council to direct the City Attorney to conduct a legal review of whether the City actually owns that piece of property or not. Mr. DeVito seconded. Mr. McClung opined the City does not own it but has control of it as a platted street. Mr. Mitchell expressed concern for the movement of decisions that are being applied to vacating streets. Further discussion included another route for a trail, platted lots and roads coming under City jurisdiction, the old timber road that became the driveway, and the drawing in of a road that does not exist.

Mr. McClung amended the motion to include having Mr. Weaver get with a land use attorney. Ms. Schneider seconded. A vote on the amendment followed.

Motion carried 4/1/0 with Mr. Mitchell voting “No”. A vote on the amended motion followed.

Motion carried 5/0/0.

Ms. Brix requested a swift timeline since it will determine whether or not a Federal case will be initiated. Mr. Mitchell motioned for the City Attorney and consulting attorney of his choice to give a legal opinion by February 15, 2014. Ms. Schneider seconded.

Motion carried 5/0/0.

2. Hours of operation and animals in C-3

Postponed during approval of the agenda

3. Clean City Ordinance

Postponed during approval of the agenda

4. Conditional Use permit for farm animals – postponed pending Planning action

5. Discussion of Planning Commission procedures for vacating property

Mr. McClung moved to discuss. Mr. DeVito seconded. Mr. McClung referenced the proposal from Planning and #7 regarding \$200 per lot or fair market value. He noted it is not in (Code) but shows up in an old Ordinance. Mr. McClung said he will be recommending payment of a processing fee of \$200 that would go to Parks on approval of the whole process.

6. Film industry tax incentive

Postponed during approval of the agenda

7. Resolution for parking lot lease

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. DeVito moved to assign the resolution a number and, by its reading, signify its passage. Mr. Mitchell seconded.

Motion carried 5/0/0. Ms. Armstrong read RESOLUTION NO. 631 A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF EUREKA SPRINGS, ARKANSAS, TO NEGOTIATE AND EXECUTE A PARKING LOT LEASE AGREEMENT FOR THE CARROLL COUNTY WESTERN DISTRICT COURTHOUSE PARKING LOTS BY AND BETWEEN THE COUNTY OF CARROLL COUNTY, ARKANSAS, AS "LESSOR", AND THE CITY OF EUREKA SPRINGS, ARKANSAS, AS "LESSEE"

8. Resolution for City offices lease

Mr. DeVito moved to assign the resolution a number and pass it by its reading. Mr. Mitchell seconded.

Motion carried 5/0/0. Ms. Armstrong read RESOLUTION NO. 632 A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF EUREKA SPRINGS, ARKANSAS, TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT BY AND BETWEEN THE COUNTY JUDGE OF CARROLL COUNTY, ARKANSAS, AS "LESSOR", AND THE CITY OF EUREKA SPRINGS, ARKANSAS, AS "LESSEE".

AGENDA SETTING:

Mr. McClung added redoing Code Section 9.10.01 regarding street and alley vacations. Mr. DeVito seconded.

Mr. Mitchell added a 2014 budget workshop. Ms. Schneider seconded.

CITY COUNCIL COMMENTS:

Mr. DeVito commended the plowing crews.

Mr. McClung said "Merry Christmas!"

Ms. Schneider wished everyone a "Safe and Happy Christmas".

MAYOR'S COMMENTS:

Mayor Pate gave his thanks to Richard Kelly for having served on City Council and condolences to his family. He read a list of upcoming events. The next meeting will be Monday, January 13, 2014.

ADJOURNMENT:

Mr. DeVito moved to adjourn. Mr. Mitchell seconded.

Motion carried 5/0/0. The meeting ended at 7:15 p.m.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED:



Mayor Morris Pate

City Council

12/9/13

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