

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING  
Monday, July 8, 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:** June 24, 2013

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

**Planning** – Pos. 1 – vacant – expires 7/1/14. 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** – Pos. 2 – Ruth Hager – expired 5/1/13

**HDC**

**Cemetery** – Pos. 5 – vacant -- expires 2/15/14

**PUBLIC COMMENTS:**

**UNFINISHED BUSINESS:**

1. Schedule Town Hall meeting date – 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. 2184 -- Weekly rentals – 3rd reading
4. Ordinance for commercial recycling of glass and cardboard – Mr. DeVito and Mr. Mitchell
5. Removal of 80 Mountain from list of buildings in R-1 used for religious purposes -- **postponed until Planning has held a public hearing** – Ms. Schneider and Mr. Mitchell
6. Permitted uses in C-3 – Ms. Schneider and Mr. Mitchell
7. Ordinance No. 2185 -- Removal of front corner setbacks – 3rd reading
8. Ordinance setting rate for limousine business license – Mr. DeVito and Ms. Zeller
9. Update on .58 acre containing City sewage lift station easement – Mayor Pate

**NEW BUSINESS:**

1. Discussion of extending 200 ft. rule to all residential zones – Mr. DeVito and Mr. Mitchell
2. Mid-year budget review – **2<sup>nd</sup> meeting in July** – Mr. DeVito and Mr. McClung
3. Code enforcement – Mr. Mitchell and Ms. Schneider
4. Moratorium on all CUPs in R-1 – Mr. DeVito and Mr. Mitchell

**AGENDA SETTING**

**CITY COUNCIL COMMENTS**

**MAYOR'S COMMENTS**

**ADJOURNMENT**

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

**MONDAY**

**JULY 8, 2013**

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, July 8, 2013, in the jury room on the second floor of the Western District Carroll County Courthouse.

**PRESENT:** Mayor Morris Pate, Aldermen Joyce Zeller, James DeVito, David Mitchell, Terry McClung, Mickey Schneider, City Attorney Tim Weaver, and City Clerk/Treasurer Ann Armstrong  
**ABSENT:** Dee Purkepile (with notice)

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

Mayor Pate led the Pledge of Allegiance to the Flag.

**APPROVAL OF THE AGENDA:**

Mr. DeVito moved to discuss. Mr. McClung seconded. Mr. Mitchell moved to have New Business item #3 after Public Comments. Mr. DeVito seconded. Ms. Schneider moved to remove Unfinished Business item #6 until further notice. Mr. Mitchell seconded. Mr. DeVito moved to add an agenda item: a moratorium on CUPs in R-1. Mr. Mitchell seconded. Mayor Pate called for approval of the amended agenda.

Motion carried 5/0/0.

**APPROVAL OF THE MINUTES: June 24, 2013**

Mr. DeVito moved to approve the June 24, 2013 minutes. Ms. Schneider seconded.

Motion carried 5/0/0.

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

**Planning** – Planning Chair Beverly Blankenship noted upcoming items for Planning: a public hearing for a zoning variance for the 200 ft. rule for 8 Washington St., a conditional use hearing for 23 Hillside and a public hearing for rezoning South Main from R-1 to C-1. She said the Commission voted to leave the zoning code as it is and, after a public hearing, recommended no additional uses for C-3.

**CAPC** – no report

**Hospital** – no report

**Parks** – no report

**HDC** – no report

**Cemetery** – no report

**PUBLIC COMMENTS:**

**Bob Jasinski** referenced Code section 14.08.09 D and the minimum penalty of \$50 for each zoning code violation. He expressed concern about Ordinance No. 2184 repealing that fine and causing trouble. Mr. Jasinski opposed “grandfathering” illegal use.

**NEW BUSINESS:**

**3. Code enforcement**

Mr. Mitchell moved to discuss. Mr. DeVito seconded. Mr. Mitchell noted concern about the appearance of the downtown area and demolition by neglect. Building Official Bobby Ray said the original owner of a property on N. Main has passed and his family will meet to decide whether to rebuild or demolish the structure. He spoke about scheduling a meeting with the Judge to establish set fines for Code. Mr. Ray noted the new accounting program will integrate the Building Department with Accounts Receivable and allow home owners and the Police Department to confirm issuance of permits.

**UNFINISHED BUSINESS:**

**1. Schedule Town Hall meeting date**

Mr. DeVito said a format has been set for the Mayor, City Council, Commission Chairs and Department Heads to give updates, and for Public Comments. The outline will be submitted to Council for approval. Mr. Mitchell seconded. August 19 is the scheduled date.

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

**3. Ordinance No. 2184 – Weekly rentals – 3rd reading**

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2184 on its third reading by title only. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 4/1/0 with Ms. Schneider voting “No”. Ms. Armstrong noted the appendix is now “D” and the five addresses were read: 23 Fairmount, 18 Hale, 18 Nut, 9 Singleton and 10 Singleton. The Ordinance title was read.

Mr. McClung motioned to approve Ordinance No. 2184 on its third and final reading. Mr. DeVito seconded. Ms. Schneider asked why one certain type of lodging throughout town was being targeted but she agreed for R-1. Responding to Mr. Jasinski’s concern regarding fines, Mr. Weaver agreed the Ordinance would set no statutory minimum but would leave minimums for the remainder of Code. The Judge could impose/suspend a fine.

Mr. DeVito moved to amend Ordinance No. 2184 to read “30 days”. Mr. Mitchell seconded. A voice vote followed.

Motion carried 5/0/0. Mr. Weaver confirmed the Ordinance allows existing uses to continue, whether they’re by a CUP or a right by zoning currently in place. This is to prevent rentals that would be outside those already granted specific rights.

Ms. Zeller addressed the comment made regarding rental agreements automatically making someone a resident. Mr. Weaver indicated the Ordinance addresses the number of days, not whether renters are residents or transients. Discussion followed regarding the Ordinance language, discrimination, Arkansas law regarding landlord-tenant, and establishing a means for enforcement. Mayor Pate called for a vote on approval of the third reading as amended. A roll call vote followed.

Motion carried 4/1/0 with Ms. Schneider voting “No”.

**4. Ordinance for commercial recycling of glass and cardboard**

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

**5. Removal of 80 Mountain from list of buildings in R-1 used for religious purposes – postponed until Planning has held a public hearing**

Mr. Mitchell moved to discuss. Mr. McClung seconded. Ms. Blankenship said this property has been C-3 since 2006 and the public hearing was about C-3. Mr. Mitchell confirmed the Planning vote to not add “small entertainment” to C-3. He noted an upcoming meeting with property owner Elise Roenigk and owners of neighboring properties.

Regarding removal of 80 Mountain from the appendix, Mr. Weaver noted it would take an ordinance unless the ordinance that was passed approving the Court settlement that changed it had a clause that allowed for repeal of all conflicts. Mr. DeVito moved to table the item until the next meeting so as to find out if said ordinance exists. Mr. Mitchell seconded.

**6. Permitted uses in C-3**

Removed until further notice, during approval of the agenda

**7. Ordinance No. 2185 – Removal of front corner setbacks – 3<sup>rd</sup> reading**

Mr. DeVito moved to discuss. Ms. Schneider seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2185 on its third reading by title only. Ms. Zeller seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2185 on its third reading. Ms. Schneider seconded. A roll call vote followed.

Motion carried 5/0/0.

**8. Ordinance setting rate for limousine business license**

Ms. Schneider motioned to discuss. Mr. Mitchell seconded. Mr. DeVito moved to assign the ordinance a number and place it on its first reading. Mr. McClung seconded.

Motion carried 5/0/0. Ms. Armstrong read **ORDINANCE NO. 2186 AN ORDINANCE SETTING BUSINESS LICENSE FEE FOR LIMOUSINE BUSINESSES**. Mr. DeVito moved to approve Ordinance No. 2186 on its first reading. Mr. McClung seconded. Mr. Weaver confirmed taxi companies can use limousines as jumbo cabs.

Motion carried 5/0/0.

**9. Update on .58 acre containing City sewage lift station easement**

Mr. Mitchell motioned to discuss. Mr. DeVito seconded. Mayor Pate read Public Works Director Dwayne Allen’s summary of property ownership and easement. A 15 ft. easement through Rocky Whitely’s property exists and Mr. Allen advised against purchase of the Liberty property. It was agreed to take no further action.

**NEW BUSINESS:**

**1. Discussion of extending the 200 ft. rule to all residential zones**

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Ms. Blankenship summarized the Planning Commission's request for the extension for all the residential zones. She spoke about not granting a CUP if there is already the same type of business within 200 ft. on that same street. Ms. Blankenship noted the Board of Zoning and Adjustment can grant a variance.

Mr. DeVito made a motion to have the City Attorney draw up an ordinance extending the 200 ft. rule to all residential zones. Mr. McClung seconded.

Motion carried 5/0/0.

**2. Mid-year budget review – 2<sup>nd</sup> meeting in July**

**4. Moratorium on all CUPs in R-1**

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. DeVito recalled the experience with weekly rentals. He favored looking at the impact residential zone activities have on commercial zones. Mr. Mitchell concurred, for R-1. Ms. Schneider objected. Ms. Blankenship noted a hearing for a conditional use permit for 23 Hillside has been scheduled.

Following discussion of the current list of CUPs and "grandfathered" properties in R-1, the impact of the 2008 recession and the current trend of job creation in Northwest Arkansas, Mr. DeVito moved to call for a resolution for a 90-day moratorium on all CUPs in R-1, excluding pending applications, effective immediately. Ms. Schneider seconded. A roll call vote followed.

Motion carried 5/0/0.

**AGENDA SETTING:**

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mayor Pate noted Mr. Berry provided architectural plans for the N. Main free parking lot restrooms, for reference only. He added the item to the next agenda for discussion.

**CITY COUNCIL COMMENTS:**

Mr. DeVito thanked Council for their votes.

Mr. Mitchell thanked all the various entities who have started cleaning up the weeds on Spring St. and under balconies. He favored an ongoing joint effort among civic organizations.

Ms. Schneider thanked everyone for a safe, fun, eventful July 4<sup>th</sup>.

**MAYOR'S COMMENTS:** none

**ADJOURNMENT:**

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

Motion carried 5/0/0. The meeting ended at 7:25 p.m.

**ATTEST:**

  
City Clerk/Treasurer Ann Armstrong

**APPROVED:**

  
Mayor Morris Pate