

TURN OFF ALL ELECTRONIC DEVICES AS THEY INTERFERE WITH RECORDING EQUIPMENT

Thank you.

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday – March 25, 2013 6 p.m.
AGENDA**

CALL TO ORDER

amended 3/26/13

ROLL CALL, ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE TO THE FLAG

BIBLE READING PROCLAMATION – Mayor Pate

APPROVAL OF THE AGENDA

APPROVAL OF THE MINUTES: March 11, 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. Town Hall meeting – to follow priorities review workshop – Mr. Mitchell and Ms. Zeller
2. Ordinance No. 2178 Outdoor Sales – 2nd reading
3. Ordinance No. 2174 Utility lines – 3rd reading
4. Ordinance raising Mayor's salary to \$36,000 on Jan. 1, 2014 – Mr. DeVito and Mr. Purkeypile
5. Ordinance No. 2177 Accounting Program – 3rd reading, and Resolution to amend budget
6. Ordinance No. 2175 Cemetery electronic funds transfer – 3rd reading
7. Ordinance No. 2176 Parks tax – 3rd reading
8. Current lighting ordinance – Mayor Pate

NEW BUSINESS:

1. Discussion of limousines – Mr. DeVito and Mr. Mitchell
2. Discussion of raising Council salaries – postponed until November
3. Discussion of Sherwood Court's sewer problem – Mr. Mitchell and Mr. Purkeypile
4. Discussion of Planning Commission recruitment – Mr. Mitchell and Ms. Zeller
5. Issue with SWEPCO – Mayor Pate
6. Discussion of street closing (Spring St.) – Ms. Schneider and Ms. Zeller
7. Discussion of procedures – Ms. Schneider and Mr. DeVito
8. Discussion of trolley going up for bid – Ms. Schneider and Mr. Mitchell

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

MARCH 25, 2013

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, March 25, 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, Dee Purkeypile, 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.

BIBLE READING PROCLAMATION:

Mayor Pate read a proclamation to encourage Bible reading internationally.

APPROVAL OF THE AGENDA:

Mayor Pate removed Unfinished Business #8 and added New Business #5 (Issue with SWEPCO). Ms. Schneider added New Business #6 (Arts event on Spring St. – street closing). Ms. Zeller seconded. Ms. Schneider added New Business #7 (Discussion of procedures for Council). Mr. DeVito seconded. Ms. Schneider added New Business #8 (Trolley going out for bid). Mr. Mitchell seconded. Mr. Mitchell moved New Business #3 to follow Public Comments. Ms. Schneider seconded. Mr. DeVito tabled Unfinished Business #4 until the next meeting. Mr. Mitchell seconded. Mr. McClung moved to approve the agenda as amended. Mr. Mitchell seconded.

Motion carried 6/0/0.

APPROVAL OF THE MINUTES: March 11, 2013

Mr. DeVito moved to approve the March 11, 2013 minutes. Mr. McClung seconded.

Motion carried 6/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Planning Chair Beverly Blankenship noted a Public Hearing is scheduled for April 9 for a CUP request at 8 Drennon Dr. for a one-unit B&B. A new construction review is scheduled (March 26) for 110 Huntsville Rd. An application for a duplex on a small lot at 37 Owen St. was denied.

CAPC – no report

Hospital – Mr. Mitchell noted Allegiance will be present at the April 15 meeting.

Parks – no report

HDC – no report

Cemetery – Chair Mary Ann Pownall reviewed the Cemetery financial report and noted sales of \$11,263.84 in burial plots. An exchange involving five previously sold plots resulted in a \$1,569.16 fund reduction. CDs in the amount of \$110,000 remain as reserves. Recently received boxes of hand written notes contain plot sales information. Seventy plots are available and approximately ¾ of an acre is being cleared. On May 27, a Memorial Day event is planned and a Community workday is scheduled for (May 11).

PUBLIC COMMENTS:

Darlene Schrum provided a list of signatures from shop owners who opposed the closing of Spring St. on Memorial Day weekend. She spoke about the effects on businesses, and traffic and parking problems.

Mel Shipley expressed his concern about loss for businesses if the trolleys are shut down. He favored having events in parks or on side streets with less crowding.

Pat Lujan, 269 N. Main, spoke in favor of a clearer definition for Outdoor Sales as he has purchased property where he'd like to set up artists and crafters. He was also not in support of permits for studios in homes. Mr. Lujan favored the market sales on Spring St. and commended Council for their work.

City Council 3/25/13 1

Bob Jasinski was not in favor of closing Spring St. He noted Tourist Lodging is prohibited in R-1 and favored defining “Transient Lodging” as anything less than 30 days. Mr. Jasinski opposed the CAPC bonuses.

Kamal Atwal, 23-year business owner, opposed an event on Spring St. or in parking lots and suggested the school parking lot. He noted businesses depend on weekends.

NEW BUSINESS:

3. Discussion of Sherwood Court’s sewer problem

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Bryan and Lil Hostick, owners of Sherwood Court, described the process of discovering the clog in the main that resulted in damage to a four-room motel unit. Mr. Hostick noted the previous owners installed a backflow preventer in the sewer line. Another line was recently discovered and replaced with PVC and a backflow preventer. The Hosticks provided information regarding the requested reimbursement and a narrative from Public Works Director Dwayne Allen.

In response to Mr. Purkeypile’s question, Mr. Hostick said neither Mr. Allen nor he believes the problem is fixed. Recommendations included a larger main and a manhole at the 90 degree bend. Lil Hostick added there is not enough fall. Discussion included the possibility of line jetting having caused the problem, disclosure during the property sale, tort immunity, and infrastructure. Mr. Hostick said the newly discovered line had backed up and he repeated that a backflow preventer has been installed. It was through this line that a clog in the main line was freed.

Mr. Weaver cautioned against interpreting previous payments as having set a precedent, noting the refusal to pay on other occasions. Discussion regarding ethics followed. Mr. Mitchell made a motion to postpone until the next meeting at which time the Public Works Director can be present to give input. Mr. DeVito seconded. Mr. McClung said he’d like to be provided information from when the Miners (previous owners of the Sherwood Court) were paid.

Motion carried 6/0/0.

UNFINISHED BUSINESS:

1. Town Hall meeting – to follow priorities review workshop

Mr. Mitchell motioned to discuss. Ms. Schneider seconded. Mr. Mitchell moved to postpone until after the workshop. Mr. DeVito seconded.

Motion carried 6/0/0.

2. Ordinance No. 2178 Outdoor Sales – 2nd reading

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2178 on the second reading by title only. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 4/2/0 with Mr. Purkeypile and Mr. Mitchell voting No. Ms. Armstrong read the Ordinance title.

Mr. DeVito moved to approve Ordinance No. 2178 on its second reading. Mr. Mitchell seconded. He then considered whether business owners’ rights are impinged upon by (Council) not having defined “outdoor sales”. Mr. DeVito offered his interpretation of the Code and amendment. Mr. McClung expressed his belief the ordinance is for residential areas. Mr. DeVito concurred. Discussion followed regarding Code interpretation, yard sales as neighborhood cultural events, abiding by dictates of the City, and business licenses for commercial properties. Mr. McClung called the question. A vote on the motion to approve followed.

Motion carried 6/0/0.

3. Ordinance No. 2174 Utility lines – 3rd reading

Ms. Schneider moved to discuss. Ms. Zeller seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2174 on its third reading by title only. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the ordinance title from the previously read version. Ms. Schneider moved to approve the third reading. Mr. McClung seconded. Ms. Schneider made a motion to approve the amended Section 3. Ms. Zeller seconded. Ms. Schneider then moved to approve “Section 3. Definition Utilities Services – For the purpose of this Ordinance Utilities Services shall be defined as any service provided to a structure by means of pipes and/or wires and shall include but not be limited to: water

supply, sewage removal, electrical supply, cable television service and internet services, and natural gas lines.” Mr. DeVito seconded. A voice vote on the amendment followed.

Motion carried 6/0/0. Mr. McClung motioned to approve Ordinance No. 2174 as amended. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0.

4. Ordinance raising Mayor’s salary to \$36,000 on Jan. 1, 2014

Tabled during Approval of the Agenda until the next meeting

5. Ordinance 2177 Accounting Program – 3rd reading, and Resolution to amend budget

Mr. DeVito moved to suspend the rules and place Ordinance No. 2177 on its third reading by title only. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0. Mayor Pate read the ordinance title. Mr. DeVito moved to approve Ordinance No. 2177 on its third reading. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 6/0/0. Mr. DeVito moved to assign the resolution a number and read for approval. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read **RESOLUTION NO. 616 – A RESOLUTION AMENDING THE ADOPTED 2013 BUDGET FOR THE CITY OF EUREKA SPRINGS, ARKANSAS.**

6. Ordinance No. 2175 Cemetery electronic funds transfer – 3rd reading

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2175 on its third reading by title only. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the ordinance title. Mr. DeVito moved to approve Ordinance No. 2175 on its third reading. Mr. McClung seconded. A roll vote followed.

Motion carried 6/0/0.

7. Ordinance No. 2176 Parks tax – 3rd reading

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2176 on its third reading by title only. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the ordinance title. Mr. DeVito moved to approve Ordinance No. 2176 on its third reading. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0.

8. Current lighting ordinance

Removed during Approval of the Agenda

Mr. DeVito moved to take a 10 minute break. Ms. Schneider seconded.

Motion carried 6/0/0.

NEW BUSINESS:

1. Discussion of limousines

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. DeVito said he brought this item to the agenda because there is a limousine service that is operating as a taxi with \$5 rides. He provided information from Portland, Charleston, and Ann Arbor. He noted the last Council had considered an ordinance that would regulate on a two-hour minimum at \$75 an hour. It did not pass. Consideration was also given to regulating by having an hour between the call and pick up.

Discussion followed regarding having a workshop, separating taxi and limousine business licenses, and having the third service come forward for a license to operate as a taxi. Further discussion included enforcement, a fine-only ordinance regulating limousines, and State law preventing limousine franchises. Mr. Weaver again noted and the difference between a Certificate of Public Convenience and Necessity and a business license, saying the license is a taxing instrument the City uses to collect a fee from businesses. He suggested a time frame on response and a penalty for anyone operating where there is a faster response than that, other than the two approved taxis.

Mr. DeVito moved to have the City Attorney draw up an amendment to the present taxi ordinance defining limousine safety requirements and response time. Ms. Schneider seconded. Mr. Weaver confirmed the current Code does not specify insurance. Mr. DeVito added a requirement for a yearly inspection. Discussion followed regarding inspections and providing proof to the City. Mr. DeVito withdrew his motion and proposed a workshop for limousines and taxis. Ms. Schneider withdrew her second. Mr. Purkeypile seconded Mr. DeVito’s proposal.

Motion carried 6/0/0. Mr. DeVito tasked (Mayoral Assistant) Diane Wilkerson with arranging the time for a workshop.

2. Discussion of raising Council salaries – postponed until November

4. Discussion of Planning Commission recruitment

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Mr. Mitchell spoke about information provided by Ms. Blankenship and favored inclusion of City employees and people who sit on other commissions. Mr. Purkeypile concurred. Mr. Weaver noted Parks Commissioners can sit on boards other than Planning. Mr. Mitchell made a motion to amend the pertinent section of Planning to allow two members to be from the group that was restricted. Ms. Schneider seconded. Mr. Weaver cautioned against the action and noted that, if there were ever an appeal, a “holy nightmare” would be created if there were two Council members. Language was clarified. Mr. Mitchell withdrew his motion. Ms. Schneider withdrew her second.

Mr. Mitchell motioned and Mr. Weaver paraphrased, “no more than two members from the restricted group, but no more than one member from the City Council, at a time”. Ms. Schneider seconded.

Motion carried 5/1/0 with Mr. McClung voting “No”.

Mr. DeVito suggested moving item #6 up for discussion. Mr. McClung seconded. There was no vote.

6. Discussion of the Art event on Spring St. – street closing

Mr. DeVito moved to discuss. Mr. Purkeypile seconded. Arts Council Chair Sandy Martin said the event was planned in response to a request for a Memorial Day weekend event. She noted there was no intention of stopping the trolleys or delivery trucks, and public meetings have been advertised via email and the newspapers. The goal was to do a high-end art-only show.

Mr. DeVito spoke about the advantages of and successes in using Center St. Marsha Havens spoke about bringing more business in by having people walking. She expressed her belief that higher-end galleries were losing business due to a cluttered atmosphere. Discussion included timing, loss of parking, loss of business for merchants with shops, and more people not equaling more money. Further discussion included the effect on the community by closing Spring St., compromise, who decides to close a street, safety, and the possibility of using the old high school lot.

Ms. Martin indicated the event will be moved to the high school lot, if it’s allowed, with the exception of activities in Basin Park. Mayor Pate said having it on Spring St. was his idea.

5. Issue with SWEPCO

Mayor Pate said he brought the issue because it involves a City building. Mr. DeVito motioned to discuss. Mr. Mitchell seconded. Mayor Pate noted SWEPCO will no longer lease space for the local service man, Jerry Turner, from Eureka Plumbing and he proposed leasing the bottom of the Public Works building. It was noted the Public Works Director agreed to the plan. Mr. DeVito moved to have the Mayor enter into negotiations with SWEPCO on the leasing of the basement at the Public Works. Ms. Schneider seconded.

Motion carried 6/0/0.

7. Discussion of procedures

Ms. Schneider motioned to discuss. Mr. Mitchell seconded. Ms. Schneider enquired whether Council would want to limit time for Public Comments to two minutes when there are “a slew” of people. No members favored it.

Ms. Schneider asked why items that have been postponed are on the agenda. Ms. Armstrong said it is to promote continuity in the flow of the Council’s business. Mayor Pate said Administration had been accused of deleting items.

Ms. Schneider asked why, if (Finance Director) Lonnie Clark is not needed, does he have to sit here. Mr. Clark confirmed it is so he knows what’s going on.

8. Discussion of Trolley going out for bid

Mr. DeVito motioned to discuss. Mr. Purkeypile seconded. Ms. Schneider said the City’s last actual trolley is going out for bid. She proposed having it at the Planer Hill lot for photo ops and noted the City would have to bid on it. No members favored it.

AGENDA SETTING:

Mr. Mitchell added demolition by neglect. Ms. Schneider seconded.

Mr. Mitchell added smoking in establishments that serve food. Ms. Schneider seconded.

CITY COUNCIL COMMENTS:

Mr. Mitchell said he believes the reason there is a lot of smiling going on at the table is because Council members respect each other and it's done in a civil manner.

Ms. Schneider encouraged Council to read through the information prepared for the taxi issue.

MAYOR'S COMMENTS:

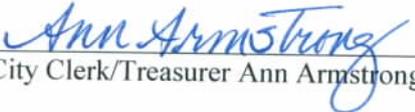
Mayor Pate read a list of upcoming events. He said he did not expect the opposition to trying to bring business downtown and people changing their minds. He expressed his opinion that some were coerced into signing (the petition). Mayor Pate said he had received two phone calls.

ADJOURNMENT:

Mr. McClung moved to adjourn. Mr. Purkeypile seconded.

Motion carried 6/0/0. The meeting ended at 9:20 p.m.

ATTEST:


City Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate