

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Wednesday – May 29, 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: May 13, 2013 and Special Meeting May 17, 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. 2 – vacant – expires 6/1/14

Parks

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

Cemetery

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Digitizing paper documents – Mayor Pate
2. Town Hall meeting update – Mr. DeVito and Mr. Purkeypile
3. Ordinance No. 2181 – Jumbo cabs and Limousines -- 2nd reading
4. Demolition by neglect workshop update – postponed until June -- Mr. Mitchell and Mr. DeVito
5. Ordinance No. 2180 – Parking Lot Regulations – 3rd reading
6. Weekly rentals rules and regulations – Ms. Schneider and Mr. Mitchell

NEW BUSINESS:

1. Ordinance to rezone 123 S. Main from R-1 to C-1 – Brammer
2. Commercial recycling of glass and cardboard – Mr. DeVito and Mr. Mitchell
3. Taxi cab space or stand – Mr. Purkeypile and Ms. Zeller
4. Permitted uses in C-3 – Ms. Schneider and Mr. Mitchell
5. Removal of 80 Mountain from list of buildings in R-1 used for religious purposes – Ms. Schneider and Mr. Mitchell
6. Status report from Commissions for the 1st quarter – special emphasis on the hospital, preferably in person – Mr. Mitchell and Mr. Purkeypile
7. Removal of all front corner setbacks – Mr. Purkeypile and Mr. Mitchell
8. Update on Black Bass Dam – Mr. Purkeypile and Mr. McClung
9. Moratorium on 199 business licenses – Ms. Zeller and Ms. Schneider
10. Resolution in support of a national carbon tax – Mr. Mitchell and Ms. Schneider

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Wednesday, May 29, 2013, in the jury room on the second floor of the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen Terry McClung, James DeVito, David Mitchell, Joyce Zeller, Dee Purkeypile, 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. Purkeypile moved to discuss. Mr. McClung seconded. Mayor Pate added the nomination of Suzanne Tourtelot for Hospital Commission Position 2. He added the May 17, 2013 special meeting minutes. Mr. DeVito moved New Business #6 for discussion after Public Comments. Ms. Zeller seconded. Mr. DeVito moved to postpone Unfinished Business #2 until the next meeting. Mr. Purkeypile seconded. Mr. DeVito moved to approve the amended agenda. Mr. Purkeypile seconded.

Motion carried 6/0/0.

APPROVAL OF THE MINUTES: May 13, 2013 and Special Meeting May 17, 2013

Mr. DeVito moved to approve the May 13, 2013 minutes. Mr. Mitchell seconded.

Motion carried 6/0/0.

Mr. DeVito moved to approve the May 17, 2013 minutes. Mr. Purkeypile seconded.

Motion carried 6/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Hospital – Commission Chair Michael Merry reviewed the December 2012 Audit Report. He noted the assets of \$1,229,581.22 are held in local banks. Mr. Merry reviewed the fixed assets and noted income is from the leases to Home Health Care and Allegiance Health Care and interest on CDs. He reviewed operating expenses. Mr. Merry said the estimate for a new hospital is \$12-15 million and discussion continues with Allegiance regarding construction. Discussion followed about critical care licensure and accounting.

Mayor Pate noted the nomination for Ms. Tourtelot.

Planning – Planning Chair Beverly Blankenship said there will be a new construction review for 5 Judah and a workshop to review definitions in zoning codes.

CAPC – Mike Maloney reviewed strategies, television markets, internet advertising, and reduced print advertising. He spoke briefly about brand, event and seasonal advertising. Mr. Maloney summarized the profit and loss statement for January 1 through May 29, 2013 and confirmed numbers reflect collection from the previous month. The CAPC has a new web site provider. No money will be borrowed to continue operations.

Parks – Director Bruce Levine said the Community First Bank provided a soccer score board. The Preservation Society will fund repainting the Crescent Park gazebo. Calif Spring will have new flower beds and a chess board. Game and Fish may provide some grant money for the road to Lake Leatherwood. A \$40,000 grant was received from the Highway Department for an in-town trail from Harmon Park and along Spring Garden road. The Dog Park may be constructed this year.

HDC – no report

Cemetery – Commission Chair Mary Ann Pownall sent a written report.

PUBLIC COMMENTS:

Bob Jasinski noted no license is needed for non-transient rentals but is required for tourist lodging. He expressed his belief that some business owners misrepresented their intent when obtaining licenses. Mr. Jasinski spoke about filing a request for declaratory relief so a judge can require that the law be enforced.

Jerry Landrum, with the Citizens Climate Action Progress Committee, thanked the business owners who worked with the utility company contractors on the energy efficiency program. He spoke about the National revenue-neutral carbon tax agenda item and noted it is also on the table for the Senate Finance Committee. Mr. Landrum also noted the need for volunteers for The Eureka event coming up in August.

Joe Joy, 265 Spring St., recalled Planning Chair Beverly Blankenship's coming to Council and saying there is a problem and that weekly rentals are legal in the City of Eureka Springs. The Joys hired an attorney and documented that what they are doing is perfectly legal. He expressed his belief that they have been operating with the guidance and help of the City and as tenant-landlords.

UNFINISHED BUSINESS:

1. Digitizing paper documents

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. Purkeypile relayed his understanding that Finance Director Lonnie Clark had indicated funds are available for the two-year project. Ed Wells offered a brief demonstration of the Town Hall option for the City web site. Council could pose a question and the public could post comments. A person's name and email address would be required. Entries could be hidden and the option turned off. It could be set up so that a person posting would be unable to post again for a certain number of days. Mr. Weaver advised against pulling comments unless they're pornographic. Discussion followed regarding an option requiring logging into the site, having a user name, password, and site monitoring.

Mr. DeVito made a motion to authorize the Mayor to enter into a contract for two years to digitize City records and to set up a Town Hall web site on the City web site. Ms. Schneider seconded.

Motion carried 6/0/0.

2. Town Hall meeting update

Postponed during Approval of the Agenda until the next meeting

3. Ordinance No. 2181 – Jumbo cabs and Limousines – 2nd reading

Mr. Purkeypile moved to discuss. Ms. Schneider seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2181 on its second reading by title only. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2181 on its second reading. Ms. Schneider seconded. A voice vote followed.

Motion carried 6/0/0.

4. Demolition by neglect workshop update – postponed until June

5. Ordinance No. 2180 – Parking Lot Regulations – 3rd reading

Mr. DeVito moved to discuss. Ms. Schneider seconded. Mr. Purkeypile moved to suspend the rules and place Ordinance No. 2180 by title only for its third and final reading. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2180 on its third reading. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 6/0/0.

6. Weekly rental rules and regulations

Ms. Schneider moved to discuss. Mr. Mitchell seconded. Ms. Schneider spoke in favor of removing weekly rentals from 199, giving it rules and regulations and a CUP (Conditional Use Permit). Mr. DeVito noted this is governed by Arkansas law as a landlord-tenant relationship that does not require collecting taxes. There is no need for a 199 to be in a landlord-tenant relationship. Mr. Weaver indicated he could review the draft ordinance with Planning. He confirmed CUPs are an option in R-2 but not in R-1.

Mr. DeVito moved to table the item so as to allow the City Attorney to meet with the Planning Chair to develop an ordinance for the next meeting. Mr. Mitchell seconded. Mr. Weaver noted a resolution or other device could be passed to stay any prosecutions. It would prevent a Court from being able to issue a writ. After noting there was a motion on the table, Mr. DeVito called Point of Order. A roll call vote followed.

Motion failed 2/4/0 with Ms. Zeller, Ms. Schneider, Mr. Purkeypile and Mr. McClung voting "No".

Ms. Schneider indicated she meant CUPs for R-2. Mr. McClung favored review of the draft ordinance.

Mr. Mitchell made a motion for City Council to direct the City Attorney to take the prior draft

ordinance presented at the last Council, based on input to this point, present to Council at the next meeting a draft ordinance on this topic. Mr. McClung seconded. Ms. Schneider said this could be allowed in both R-1 and R-2, providing the CUP with regulations is involved, and the 200 ft. rule. Discussion followed regarding protection of R-1 Victorian neighborhoods, renting in R-1 for no less than a calendar month at a time, non-transferable CUPs in R-2, and “grandfathering” those who can prove they’ve engaged in landlord-tenant relationships. Further discussion included unraveling the character of residential neighborhoods and impacting the value of commercial property. The motion was restated.

Motion carried 6/0/0.

NEW BUSINESS:

1. Ordinance to rezone 123 S. Main from R-1 to C-1

Mr. Mitchell motioned to discuss. Ms. Schneider seconded. Ms. Blankenship confirmed the rezoning passed Planning by 4/1. All of the required procedures were completed. Ms. Blankenship referenced the Vision Plan and green space. She noted the whole section could be rezoned.

Patrick Brammer, the applicant, spoke about having borne the financial burden of the process. He noted that, with the exception of one house, everything is commercial there. He said if he were asking for industrial, that would be spot-zoning. He confirmed the application is for a grid.

Mr. McClung clarified his motion for Planning to get with the City Attorney to establish an ordinance making everything from the Museum to Hwy 62, on both sides, C-1. Mr. Mitchell seconded.

Motion carried 6/0/0.

Mr. DeVito noted Council had not yet addressed the topic of rezoning 123 S. Main from R-1 to C-1 for Mr. Brammer. Mr. McClung made a motion to postpone rezoning 123 S. Main. Mr. Mitchell seconded. Mr. DeVito spoke about Mr. Brammer having gone through the process and the unfairness of having him wait two or three months. Following discussion, Ms. Schneider noted this is what is on the agenda. A voice vote was taken on Mr. McClung’s motion to postpone.

Motion failed 3/3/0, with Mr. DeVito, Mr. Purkeypile and Ms. Schneider voting “No”. Mr. DeVito made a motion to assign the ordinance a number and place it on its first reading. Ms. Schneider seconded.

Motion carried 6/0/0. Ms. Armstrong read **ORDINANCE NO. 2183 AN ORDINANCE TO REZONE PROPERTY FROM R-1 VICTORIAN RESIDENTIAL, TO C-1 VICTORIAN COMMERCIAL**. Mr. DeVito moved to approve Ordinance No. 2183 on its first reading. Ms. Schneider seconded. A voice vote followed.

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

Mr. DeVito moved for a 10 minute recess. Ms. Schneider seconded.

Motion carried 6/0/0.

2. Commercial recycling of glass and cardboard

Mr. DeVito moved to discuss. Ms. Schneider seconded. Mr. DeVito expressed his concern for the amount of glass going into the landfill. He favored an ordinance requiring all commercial businesses to place their glass in cardboard. Discussion followed regarding Eureka Springs having received an award for Green Initiatives, containers, a public service announcement, possible fines, and a standard for enforcement. Mr. Mitchell moved to postpone until the next meeting. Mr. DeVito seconded.

Motion carried 6/0/0.

3. Taxi cab space or stand

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

Motion carried 6/0/0.

4. Permitted uses in C-3

Ms. Schneider moved to discuss. Mr. DeVito seconded. Ms. Schneider read the list of conditional uses in C-3 Quiet Use Commercial. She noted Council has been asked to add “small entertainment” and that (Code) definition includes live theater, small cinemas, bars, taverns, dance halls, video arcades and bowling alleys. Ms. Schneider referenced New Business item #5, the Gavioli Chapel, and suggested adding “entertainment- small” to conditional uses for C-3, specifying “small, quiet, live theater only”.

Mr. Purkeypile moved to table. Ms. Schneider seconded.

Motion carried 6/0/0.

5. Removal of 80 Mountain from list of buildings in R-1 used for religious purposes

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Ms. Blankenship spoke about annual review of legally non-conforming businesses. She expressed her belief that 80 Mountain St. has been rezoned to C-3 and is no longer used for religious purposes. Ms. Blankenship asked for an ordinance taking this off of the list of legally non-conforming religious buildings in R-1. She noted Council could recommend that Planning look at C-3 permitted uses. It was her opinion that neighbors should have a say.

Jack Moyer spoke in support of moving towards permitted use within the C-3 zone for the Gavioli Theater as a performing arts venue. He said wedding services were not financially supportable for that building and they are trying to create a sustainable path to preserve an historic building. Mr. Moyer favored making no changes to the zoning on that building until Planning has an opportunity to go back and find a permitted use that's appropriate. Mr. DeVito moved to table item #5 until the next agenda. Mr. Purkeypile seconded.

Motion carried 6/0/0.

6. Status report from Commissions for the 1st quarter

Completed as the first item of business

7. Removal of all front corner setbacks

Mr. DeVito moved to discuss. Mr. Purkeypile seconded. Ms. Blankenship spoke about the C-2 requirement and expressed her belief that Code came from a bigger city and seems wrong. She favored parking on the sides and in the back. Mr. McClung said that, because of terrain, it's usually necessary for parking to be in front. This also ties in with the landscape ordinance.

Mr. DeVito motioned to have the City Attorney draw up an ordinance removing said item from the building code. Ms. Schneider seconded. Ms. Blankenship said the requirement is in C-2, Industrial, and Agricultural. Mr. Weaver said it is to allow the City to envelope the corner for better flow or for a turn-lane.

Motion carried 6/0/0.

8. Update on Black Bass Dam

Mr. Purkeypile moved to discuss. Mr. McClung seconded. Mr. Purkeypile spoke about the interview with Jacqueline Froelich of KUAF radio. He said Bryan Hostick suggested setting up a web site and tying in with the Parks 501(c)3 designation to obtain funds to save Black Bass Lake Dam. Mr. Purkeypile encouraged people to listen to the Ozarks at Large interview.

9. Moratorium on 199 business licenses

Ms. Zeller motioned to discuss. Ms. Schneider seconded. Ms. Schneider motioned to delete this from the agenda. Mr. DeVito seconded.

Motion carried 6/0/0.

10. Resolution in support of a national carbon tax

Mr. Mitchell motioned to discuss. Mr. DeVito seconded. Ms. Schneider motioned to give the resolution a number and read for passage. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read **RESOLUTION NO. 620 A RESOLUTION SUPPORTING A NATIONAL REVENUE-NEUTRAL CARBON TAX TO CURB CLIMATE CHANGE.**

AGENDA SETTING: none

CITY COUNCIL COMMENTS:

Mr. Purkeypile thanked Pat Lujan for taking care of the landscaping at the North Main parking lot.

MAYOR'S COMMENTS:

Mayor Pate thanked everyone who participated in the North Main Music Park dedication. There will be additional sculptures added. He read a list of upcoming events and thanked Glenna Booth, Earl Hyatt and Angelo Yao for receiving the Paul Harris Award from the Rotary Club. Mayor Pate thanked the employees and department heads who helped clean up after the storm.

ADJOURNMENT:

Mr. McClung moved to adjourn. Mr. DeVito seconded.
Motion carried 6/0/0. The meeting ended at 9:10 p.m.

ATTEST:



City Clerk/Treasurer Ann Armstrong

APPROVED:



Mayor Morris Pate