

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING**  
Monday, October 14, 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:** September 23, 2013 as amended October 2.

**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. Pos. 4 – vacant – expires 6/30/16

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

**Parks**

**HDC**

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

**PUBLIC COMMENTS:**

**UNFINISHED BUSINESS:**

1. Ordinance No. 2189 Increase parking rate for special events – 2<sup>nd</sup> reading
2. Ordinance No. 2190 Removing 80 Mountain from Religious Use list – 3<sup>rd</sup> reading
3. Richard Grinnell/Palo Pinto vacation request – Mr. McClung and Ms. Schneider
4. Ordinance removing portion of Nut St. from Parks – Ms. Schneider and Mr. Mitchell
5. Ordinance for Intimate Theater in C-3 as a permitted use – Mr. Mitchell and Mr. McClung
6. Workshop date for Council and Planning re: Master Plan – Mr. DeVito and Mr. Purkeypile
7. Ordinance for Land Bank – Mr. Mitchell and Ms. Schneider
8. Business licenses for multi-family housing – Mr. Mitchell and Ms. Schneider

**NEW BUSINESS:**

1. Ordinance rezoning 80 Mountain to C-3 – Mr. Mitchell and Ms. Schneider
2. Hours of operation and animals in C-3 – Mr. Mitchell and Mr. Purkeypile
3. Discussion of Tour Vehicle moratorium – Mr. DeVito and Mr. Purkeypile
4. Clean City Ordinance – Mr. Mitchell and Ms. Schneider
5. Commission and Department Head reports on priorities – Mr. Mitchell and Ms. Schneider
6. Discussion of fluoride – Ms. Schneider and Mr. Mitchell
7. Property tax ordinance for the Quorum Court – Mayor Pate
8. Conditional Use permit for farm animals – Mayor Pate
9. Group Tour Franchise ordinance changes – Mayor Pate
10. Noise ordinance committee – Mr. Mitchell and Mr. Purkeypile

**AGENDA SETTING**

**CITY COUNCIL COMMENTS**

**MAYOR'S COMMENTS**

**ADJOURNMENT**

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

**MONDAY**

**OCTOBER 14, 2013**

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Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, October 14, 2013, in the jury room in the Western District Carroll County Courthouse.

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

**ABSENT:** City Attorney Tim Weaver (with notice)

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

Mayor Pate led the Pledge of Allegiance.

**APPROVAL OF THE AGENDA:**

Mr. DeVito moved to approve. Mr. Mitchell seconded. Mr. Mitchell moved to table Unfinished Business #4 due to Mr. Weaver's absence. Mr. DeVito seconded. Mr. Mitchell moved to table New Business #1 and 4. Mr. McClung seconded. Ms. Schneider moved to table New Business #2. Mr. DeVito seconded. Ms. Schneider moved to postpone New Business #8. Mr. DeVito seconded. Mayor Pate called for approval of the amended agenda

Motion carried 6/0/0.

**APPROVAL OF THE MINUTES: September 23, 2013**

Mr. McClung moved to approve the September 23, 2013 minutes. Mr. DeVito seconded.

Motion carried 6/0/0.

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

**Planning** – Beverly Blankenship said there will be a public hearing for 8 Washington St. on October 22 for a 200 ft. variance and a Conditional Use Permit (CUP). She recapped developments with the County aerial mapping project and noted lots and blocks will be overlaid later. There will be a public hearing on rezoning South Main to C-1.

**CAPC** – Mayor Pate noted the written reports submitted from (departments).

**Hospital** – no report

**Parks** – no report

**HDC** – no report

**Cemetery** – Mayor Pate nominated Henry Romanski for Position 4.

**PUBLIC COMMENTS:**

**Chris Hall**, with McGoodwin, Williams and Yates, spoke about the Carroll Boone Water District plan to install a new transmission line parallel to the existing line. There is a request for Council to pass a resolution to allow Carroll Boone to either go after private funding or through the Arkansas Natural Resources Commission (ANRC) to fund Phase I improvements from the plant to the City's second meter on Hwy. 23. Mr. Hall noted it will take 2-3 years to design and construct. The Memorandum of Understanding requires approval from three of the four cities served before incurring debt. Estimated cost is \$14-17 million.

Mr. DeVito moved to amend the agenda to allow CBWD (Mr. Hall) to address Council. Mr. Purkeypile seconded.

Motion carried 6/0/0.

Mr. McClung favored having the topic for the next meeting, for the resolution. Discussion followed regarding draft resolutions, line compatibility with fluoridated water, and Phase I being the five mile segment from the treatment plant to Eureka Springs. Mr. Hall said nothing would have to be done to existing City facilities. Increasing delivery within the City, however, would require lift-station upgrades.

**Steve Beacham** encouraged the creation of a committee to review the existing noise ordinance. He

avored including residents, motorcycle experts, business owners, and representatives from law enforcement, the CAPC, the Chamber of Commerce and Council. Mr. Beacham affirmed the need to not destroy what visitors come to enjoy.

**Tom Tharp** favored lifting the moratorium on (Tour Vehicles). He requested that Council take no action on suggestions for Code changes he'd provided earlier.

**Mark Hughes**, 101 Owen Rd., expressed concern for decreasing population and at least 15 structures for sale between the Gavioli Chapel and Hwy. 62. He favored having intimate theater in the Chapel on a conditional use basis.

**Gwen Bennett** said there is no ambiguity in Code regarding studio/workshop. She expressed concern about crafting an ordinance for one business, the absence of a conditional use requirement, and applying regulation to a building rather than the business itself.

**Jim Girkin** spoke in opposition to additional taxes for multi-family dwellings and noted added costs would have to be passed to the renters.

#### **UNFINISHED BUSINESS:**

**1. Ordinance No. 2189 Increase parking rate for special events – 2<sup>nd</sup> reading**

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Ms. Schneider said the workshop was virtually non-existent and made a motion to postpone. Mr. Purkeypile seconded.

Motion carried 6/0/0.

**2. Ordinance No. 2190 Removing 80 Mountain from Religious Use list – 3<sup>rd</sup> reading**

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2190 on its third 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. 2190 on its third reading. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 6/0/0.

**3. Richard Grinnell/Palo Pinto vacation request**

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. Grinnell indicated the request is now only for the first 100 ft. of Palo Pinto to be vacated, so as to allow clear title for sale of the property. He summarized the history, notification process for adjacent property owners, and approval from Parks and Planning. Mr. Grinnell provided photos to show the two structures on Palo Pinto and where the proposed vacation would end immediately below them. It was confirmed access to adjacent properties would not be affected.

Mr. Mitchell motioned for the City to honor the petition to vacate Palo Pinto St. to the four adjacent property owners of Burrell, Stone, Peters and (Grinnell). Ms. Schneider seconded.

Motion carried 6/0/0.

**4. Ordinance removing portion of Nut St. from Parks**

Tabled during approval of the agenda until the next meeting

**5. Ordinance for Intimate Theater in C-3 as a permitted use**

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Mr. Purkeypile moved to assign the ordinance a number and read it. Mr. Mitchell seconded.

Motion carried 6/0/0. Ms. Armstrong read **ORDINANCE NO. 2191 AN ORDINANCE AMENDING EUREKA SPRINGS MUNICIPAL CODE TO ESTABLISH AN ADDITIONAL USE IN QUIET USE COMMERCIAL (C-3) ZONES.** Discussion followed regarding impact on the neighborhood when the Gavioli was a church, property improvements made since the neighborhood meeting, and sound on the upper historic loop.

Mr. McClung made a motion to approve Ordinance No. 2191 on its first reading. Mr. Mitchell seconded. Mr. Purkeypile indicated he saw no problem with use of the word "building" rather than "business". Mr. DeVito expressed concern about the absence of a requirement for a Conditional Use Permit. Further discussion included the zoning designation having been made by the Court, a possible lawsuit, and conditional use as a means to assure compliance. Ms. Zeller called for the question.

Motion carried 6/0/0. A vote on the motion to approve on the first reading followed.

Motion carried 5/1/0 with Mr. DeVito voting "No".

**6. Workshop date for Council and Planning re: Master Plan**

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Following discussion, Mr. Purkeypile made a motion to have a workshop on October 29 at 6:00 p.m. Ms. Schneider seconded.  
Motion carried 6/0/0.

**7. Ordinance for Land Bank**

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Mr. Purkeypile moved to table until Mr. Weaver can prepare. Mr. DeVito seconded.  
Motion carried 6/0/0.

**8. Business licenses for multi-family housing**

Mr. Mitchell motioned to discuss. Mr. Purkeypile seconded. Discussion included health and safety, and a search warrant-type of situation. Mr. Mitchell made a motion to refer the business license for multi-family housing that was sent from Planning back to the Chair to get with the City Attorney and draft a draft ordinance for (Council) review. Mr. Purkeypile seconded.

Discussion followed regarding multi-family being charged with a license when an individual home doesn't have to have that and possibly overlapping with existing laws. Further discussion included the requirement for a search warrant, excluding duplexes from inspection, and people being responsible for their own safety in their own homes. Mr. Mitchell withdrew his motion after recalling the Attorney is preparing an ordinance. Mr. Purkeypile withdrew his second. Ms. Schneider made a motion to have Ed Leswig come back to clarify. Mr. Mitchell seconded.

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

**NEW BUSINESS:**

**1. Ordinance rezoning 80 Mountain to C-3**

Tabled during approval of the agenda until the next meeting

**2. Hours of operation and animals in C-3**

Tabled during approval of the agenda until the next meeting

**3. Discussion of Tour Vehicle Moratorium**

Mr. DeVito moved to discuss. Mr. Purkeypile seconded. Mr. DeVito noted the moratorium expires October 20 and proposed removing the topic from the agenda. Interpreting this as a motion, Ms. Schneider seconded.

Motion carried 6/0/0.

**4. Clean City Ordinance**

Tabled during approval of the agenda until the next meeting

**5. Commission and Department Head reports on priorities**

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Mr. Mitchell noted reports that were provided and thanked everybody for doing it.

**6. Discussion of fluoride**

Mr. Purkeypile moved to discuss. Ms. Schneider seconded. Ms. Schneider spoke about the State mandate to fluoridate the water. She recalled the two occasions when fluoride was rejected by voters and the countries that have outlawed its use. Discussion followed regarding the possibility of the City suing the State, absence of a disclosure requirement for the fluoride, construction that has begun at Carroll Boone, and cities favoring fluoride. Mr. Mitchell opposed expending City resources. Ms. Zeller opined action would best come from the Quorum Court after lobbying for support from the other cities.

**7. Property tax ordinance**

Mr. Purkeypile moved to discuss. Mr. DeVito seconded. Following confirmation the ordinance is required on a yearly basis, Mr. Purkeypile moved to assign a number and place the ordinance on its first reading. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read **ORDINANCE NO. 2192 AN ORDINANCE LEVYING A TAX ON ALL REAL AND PERSONAL PROPERTY IN THE CITY OF EUREKA SPRINGS, ARKANSAS.** Mr. DeVito moved to approve Ordinance No. 2192 on its first reading. Mr. Purkeypile seconded.

Motion carried 6/0/0. Mr. DeVito moved to suspend the rules and place Ordinance No. 2192 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. 2192 on its second reading. Mr. Purkeypile seconded.

Motion carried 6/0/0. Mr. DeVito moved to suspend the rules and place Ordinance No. 2192 on its third 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. 2192 on its third reading. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 6/0/0. Mr. DeVito moved to read the Emergency Clause. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Emergency Clause.

**8. Conditional Use Permit for farm animals**

Postponed during approval of the agenda until Planning has reviewed the issue

**9. Group Tour Franchise ordinance changes**

Mr. Purkeypile moved to discuss. Mr. DeVito seconded. Mr. Purkeypile moved to table until Mr. Weaver can bring it forward. Mr. DeVito seconded.

Motion carried 6/0/0.

**10. Noise ordinance committee**

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. Mitchell spoke about concern for noise in general and comprehensive ordinances in other cities. He favored forming a committee to look at the issue without targeting any one segment but that is cohesive and respectful of the residents and not damaging to the main industry of tourism. Ms. Zeller favored amending (Code) to address motorized vehicles specifically with a "fine only" ordinance. Discussion followed regarding enforcement, citizen participation, and noise from other sources such as leaf blowers and barking dogs.

Mr. Purkeypile motioned to nominate Mr. Mitchell as the Council representative for the Noise Ordinance Committee. Ms. Schneider seconded.

Motion carried 6/0/0. Mr. Schneider favored including Al Frost from the Police Department.

**AGENDA SETTING:**

Mr. Purkeypile added discussion of a parking facility downtown. Mr. DeVito seconded.

**CITY COUNCIL COMMENTS:**

Mr. DeVito thanked the CAPC for bringing The Cleverlys to Basin Park.

Mr. McClung requested attention to the crosswalks on Main St.

Mr. Mitchell said the formation of the Noise Committee will commence tomorrow and input from citizens will be solicited.

Mr. Purkeypile noted the Glenn St. sewer rehabilitation project is on target. Spring St. and Van Buren are also being evaluated. The leak detector has been repaired.

Ms. Schneider noted the upcoming Veterans Weekend will include a hamburger cook-off, a picking contest in Basin Park, a Veteran-related art show, and the Monday 10:00 a.m. parade and 21 Gun Salute.

**MAYOR'S COMMENTS:**

Mayor Pate spoke about the progress with the North Main restroom project and the Lake Leatherwood Rd. improvements. He encouraged people to gather facts about citations and warnings issued for noise. A list of upcoming events was read.

**ADJOURNMENT:**

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

Motion carried 6/0/0. The meeting ended at 8:25 p.m.

**ATTEST:**

  
City Clerk/Treasurer Ann Armstrong

**APPROVED:**

  
Mayor Morris Pate