

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING**  
Monday, September 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:** August 26, 2013

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

**Planning** – Pos. 3 – vacant – expires 7/1/16. 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** – Pos. 2 – Ruth Hager – expired 5/1/13

**HDC**

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

**PUBLIC COMMENTS:**

**UNFINISHED BUSINESS:**

1. Ordinance No. 2187 Commercial recycling of glass and cardboard – 3<sup>rd</sup> reading
2. Ordinance No. 2189 Increase parking rate for special events – 2<sup>nd</sup> reading
3. Clarification of authority to close Spring St. -- Ms. Schneider and Mr. Mitchell

**NEW BUSINESS:**

1. Schedule workshop date for “Clean City” – Mr. Mitchell and Mr. Purkeypile
2. Ozarks Water Watch – presentation by David Casaletto – Mayor Pate
3. Rezone 80 Mountain to C-3 and remove from R-1 list of buildings used for religious purposes – Mr. Mitchell and Ms. Schneider
4. Definition of “intimate theater” – Mr. Mitchell and Ms. Schneider
5. Resolution for Black Bass Dam – Mr. Purkeypile and Mr. McClung
6. Set dates for November Council meetings – Ms. Schneider and Mr. Mitchell
7. Group Tour franchise – Mayor Pate
8. Resolution for support of airport extension – Mayor Pate
9. Review of Ordinance No. 2179 – Mr. Mitchell and Ms. Schneider
10. Discussion of protocol at the table – Ms. Schneider and Mr. Mitchell

**AGENDA SETTING**

**CITY COUNCIL COMMENTS**

**MAYOR’S COMMENTS**

**ADJOURNMENT**

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

**MONDAY**

**SEPTEMBER 9, 2013**

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

**PRESENT:** Mayor Morris Pate, Aldermen Terry McClung, Joyce Zeller, Dee Purkeypile, David Mitchell, Mickey Schneider, James DeVito, 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. DeVito moved to approve. Mr. McClung seconded. Mayor Pate added the nomination of Ruth Hager for Parks Position #2. He postponed New Business #8 until the next meeting. Mr. Mitchell added a review of Ordinance No. 2179. Ms. Schneider seconded. Ms. Schneider added discussion of protocol at the table. Mr. Mitchell seconded. Mr. Purkeypile changed the wording of New Business #5 to be a resolution for Black Bass Dam. Mr. DeVito seconded. Mayor Pate moved New Business #2 for the first item of discussion under New Business. Mayor Pate called for a vote on the amended agenda.

Motion carried 6/0/0.

**APPROVAL OF THE MINUTES: August 26, 2013**

Mr. McClung moved to approve the August 26, 2013 minutes. Mr. Mitchell seconded.

Motion carried 5/0/1 with Mr. DeVito abstaining due to absence.

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

**Planning** – Beverly Blankenship said five Commissioners and Glenna Booth attended training in Fayetteville. She noted upcoming agenda items: a New Construction reviews for an ice machine at 106 E. Van Buren, a New Construction review for 275 N. Main, and a vacating review on Nut St. Ms. Blankenship said recommendations were sent to Council for C-3 restrictions, multi-family dwellings, and land vacating procedures.

**CAPC** – no report

**Hospital** – no report

**Parks** – Mr. DeVito moved to approve the nomination of Ruth Hager for Position 2. Mr. Purkeypile seconded.

Motion carried 6/0/0.

**HDC** – no report

**Cemetery** – no report

**PUBLIC COMMENTS:**

**Lyla Allison**, 77 Spring St. business owner, expressed concern about closing any street for carts and vendors and she spoke in support of advertising for all businesses. Ms. Allison suggested having more businesses collect CAPC tax but at a lower rate.

**Mel Shipley** provided a list of business owners who object to closing Spring St.

**Charles Ragsdell**, 282 Spring St., objected to the proposed increase in parking rates for special events. He noted events are often fund raisers for non-profits and spoke about the increased revenues collected by businesses and through taxes. Mr. Ragsdell suggested a workshop to come up with a better plan.

**Lori Ragsdell**, co-promoter of Eureka Springs Blues Weekend, spoke about supporting Turpentine Creek, generating revenue, and not wanting volunteer efforts to be offset by parking fees. She encouraged having a workshop to allow input from other promoters.

**UNFINISHED BUSINESS:**

**1. Ordinance No. 2187 Commercial recycling of glass and cardboard – 3<sup>rd</sup> reading**

Ms. Schneider moved to discuss. Mr. McClung seconded. Mr. DeVito moved to suspend the rules

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and place Ordinance No. 2187 on its third reading by title only. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 4/2/0 with Mr. Purkeypile and Ms. Schneider voting “No”. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2187 on its third reading. Mr. Mitchell seconded. Mr. Weaver noted taking of items placed for collection is illegal already. Following discussion regarding adding the pick up of plastics, and cities that charge a tax for plastic bags, a roll call vote was taken.

Motion carried 4/2/0 with Mr. Purkeypile and Ms. Schneider voting “No”.

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

Ms. Schneider moved to discuss. Mr. Mitchell seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2189 on its second 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. 2189 on its second reading. Mr. Mitchell seconded. Ms. Schneider proposed amending the ordinance to say “City-recognized non-profits on an annual event calendar would be exempt from the \$9”. Mr. Weaver opined the City does not recognize charities. Discussion followed regarding the number of spaces used, \$2,010 collected in 2012, spaces rented and not used, and consideration of higher rental costs for prime spaces. Following discussion about money generated through special events, Mr. Mitchell made a motion to table Ordinance No. 2189 pending a workshop. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0.

**3. Clarification of authority to close Spring St.**

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Following Mr. Weaver’s request, Mr. DeVito motioned to postpone until the next meeting. Mr. Purkeypile seconded.

Motion carried 6/0/0.

**NEW BUSINESS:**

**2. Ozarks Water Watch – presentation by David Casaletto**

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Jamie Froelich provided a table describing water quality monitoring data collected over six years. All springs tested show some level of bacterial contamination. David Casaletto, Director of Ozarks Water Watch, noted the organization works on protecting water quality from the headwaters of the White River to Bull Shoals Dam. Volunteers and professionals took 4,000 measurements in 160 locations in 2012, recording invertebrate counts and chemical analyses.

Mr. Casaletto summarized work done in Stone County, Missouri, that impacts Table Rock Lake. He showed photos of inadequate sewage treatment systems as well as remediation projects. Inspection at the time of property transferal was introduced successfully in Stone County.

Mr. DeVito made a motion for a ten minute recess. Mr. McClung seconded.

Motion carried 6/0/0.

**1. Schedule workshop date for “Clean City”**

Mr. Mitchell moved to discuss. Mr. McClung seconded. Mr. Mitchell favored a workshop to review the proposed ordinance that addresses maintenance of lawns, vehicles that don’t run, boats, scavenged vehicles, and how yards look. Mr. DeVito moved to set up the workshop. Ms. Schneider seconded.

Motion carried 6/0/0.

**3. Rezone 80 Mountain to C-3 and remove from R-1 list of buildings used for religious purposes.**

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Mr. Mitchell moved to give the ordinance a number and place it on its first reading. Mr. DeVito seconded. A voice vote followed.

Motion carried 6/0/0. Ms. Armstrong read **ORDINANCE NO. 2190 AN ORDINANCE REMOVING 80 MOUNTAIN STREET FROM RELIGIOUS USE LIST**. Mr. DeVito moved to approve Ordinance No. 2190 on its first reading. Mr. McClung seconded.

Motion carried 6/0/0. Mr. Mitchell made a motion to request that the City Attorney draft an ordinance rezoning 80 Mountain Street from the Court-ordered C-3 designation to City ordinance. Ms. Schneider seconded.

Motion carried 6/0/0.

#### **4. Definition of “intimate theater”**

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. Mitchell read the definition proposed by Planning. He spoke about present legal use of the Gavioli Chapel under the current Code and noted Planning is working on restrictions regarding animals and hours of operation. Mr. Weaver summarized discussions regarding current definitions, possible litigation and Code interpretation. Beverly Blankenship said the request is to add the proposed definition. She said Planning would like to have it as a conditional use in C-3 and indicated related issues are being addressed.

Mr. Purkeypile made a motion for the City Attorney to draft an ordinance to add the conditional use in C-3 titled “Intimate Theater” and the definition set forward here by the Planning Commission Chair. Mr. DeVito seconded. It was noted a conditional use would allow neighbors to have input.

Motion carried 6/0/0.

#### **5. Resolution for Black Bass Dam**

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Mr. Purkeypile offered background on the purpose for the resolution. He said the first phase would be engineering studies and planning specifications for construction would follow. Contributions would be tax deductible. BlackBassDam.org and BlackBassDam.com are the two web sites being developed.

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

Motion carried 6/0/0. Mr. Weaver confirmed the wording does not prohibit other City funds from being used for the project. Ms. Armstrong read **RESOLUTION NO.626 A RESOLUTION DIRECTING THE FINANCE DIRECTOR OF THE CITY OF EUREKA SPRINGS TO ESTABLISH AN ACCOUNT FOR ANY MONIES RAISED OR DONATED FOR THE REPAIR, IMPROVEMENT AND MAINTENANCE OF BLACK BASS LAKE DAM.**

#### **6. Set dates for November Council meetings**

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Mr. DeVito favored one meeting in November. Discussion followed regarding the first Monday falling on Veterans Day. Mr. McClung made a motion to have meetings on November 4 and 25. Mr. Purkeypile seconded.

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

#### **7. Group Tour franchise**

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Transit Director Ken Smith provided a copy of the current ordinance due to expire December 15, 2013, with proposed changes. One proposed change would be for Transit to collect 65% of the individual tour fees with the franchise holders collecting 35%. He indicated that, if the 2014 budget included purchase of or rebuilding trams, he wouldn't mind going back to 60/40. Mr. Smith spoke about the history of the trams, declining group tour numbers, and the resulting larger payouts from Transit.

The second proposed change would be to allow the franchises to sell individual group tickets, keep 60% of the fees, and pay the sales tax. Discussion followed regarding the history of tour buses in town and inequity in how fees from individual tours are paid out to the franchisees. Mr. Mitchell made a motion to continue discussion or move the topic to a workshop. Mr. Purkeypile seconded. Discussion continued about CAPC marketing to tour busses, having one franchise and trams as necessary to cover Transit costs.

Mr. Mitchell amended his motion to move this to a workshop. Mr. DeVito seconded.

Motion carried 6/0/0.

#### **8. Resolution for support of airport extension**

Postponed during approval of the agenda until the next meeting

#### **9. Review of Ordinance No. 2179**

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Mr. Mitchell recapped an event in which a citizen became a member of Planning and then became a City employee. He expressed his belief the person resigned from Planning and was unclear as to how that took place. Mr. Mitchell said he reviewed the recording of the April 8 meeting wherein the City Attorney said an employee could be a Planning member. Mr. Weaver apologized if there was a miscommunication with the City Clerk and clarified his position.

Following Ms. Armstrong's recap of events, conversations and effort to gain clarity by first contacting the City Attorney, she favored having Mr. Lujan as a Commissioner. Mr. Weaver described the process by which Mr. Lujan could rejoin the Commission. Mr. McClung made a motion to reinstate Mr. Lujan on the Planning Commission. Mr. Purkeypile seconded. Mayor Pate asked Mr. Lujan if he would take the position. Mr. Lujan answered “Yes”. Mr. DeVito moved to approve the nomination. Mr. Purkeypile seconded.

Motion carried 6/0/0.

Mr. DeVito moved to amend the agenda to allow the nomination of Patrick Lujan to the Planning Commission. Ms. Schneider seconded.

Motion carried 6/0/0.

**10. Protocol at the table**

Ms. Schneider moved to discuss. Mr. Mitchell seconded. Ms. Schneider expressed her belief that ordinances and resolutions are to be read as presented, legalese is not plain English, and (one) does not have to understand it. It does not have to make sense.

**AGENDA SETTING:**

Mr. DeVito added discussion of limiting CUPs in R-1. Ms. Zeller seconded.

Ms. Schneider added discussion of the Land Bank. Mr. DeVito seconded.

Mr. Mitchell added discussion of licenses for multi-family housing. Ms. Schneider seconded.

Ms. Zeller added restrictions in C-3 Quiet Commercial. No second was heard or recorded.

**CITY COUNCIL COMMENTS:**

Mr. DeVito spoke took exception to having been questioned about his respect for men in Service in uniform.

Mr. McClung wished his son a Happy 25<sup>th</sup> Birthday. Andrew is serving in the Coast Guard.

Mr. Mitchell spoke about the high level of civility at the table.

Ms. Schneider spoke about owing all Veterans for everything we have, that we stand for, for all time.

Mr. Purkeypile favored consideration of a City-owned parking garage.

**MAYOR'S COMMENTS:**

Mayor Pate spoke about having served in the Army and considered a Council meeting on Veterans Day or any other holiday appropriate if it forwards the City's business. He read a list of upcoming events and noted the bid for the North Main restroom has been awarded to HDI Inc. for \$44,850.

**ADJOURNMENT:**

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

Motion carried 6/0/0.

**ATTEST:**

  
City Clerk/Treasurer Ann Armstrong

**APPROVED:**

  
Mayor Morris Pate