

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, February 10, 2014 6 p.m.
AGENDA**

CALL TO ORDER

ROLL CALL, ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE TO THE FLAG

APPROVAL OF THE AGENDA

STATE OF THE CITY ADDRESS

APPROVAL OF THE MINUTES: January 27, 2014

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Pos. 2 – vacant – expires 1/1/17. 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

HDC – Pos. 2 – Dee Bright -- expired 11/30/13. Pos. 4 – Doug Breitling – expired 11/30/13.

Pos. 5 – vacant – expires 11/30/14

Cemetery

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Ordinance reclaiming McCune and portion of Hartman – Mr. DeVito and Ms. Zeller
2. Ordinance No. 2198 Business Licenses for Multi-family – 2nd reading/City Attorney's opinion re: Cert. of Occ. for residential – Mr. Purkeypile and Mr. McClung
3. Cottage at 1 Magnetic/vacating un-named street/Rock St. – update from City Attorney by **February 10** – Mr. McClung and Ms. Schneider
4. Ordinance for procedures for vacating property, with processing fee – Mr. McClung and Ms. Schneider
5. Film Industry tax incentive update – Ms. Schneider and Mr. Mitchell
6. Ordinance No. 2201 Clean City/**workshop date** – Mr. Mitchell and Ms. Schneider
7. Discussion of collapsing parking lot by Auditorium – Ms. Schneider and Mr. Purkeypile
8. Discussion of increasing water and sewer rates – Mr. Clark's research -- Mr. Purkeypile and Ms. Schneider
9. Ordinance reclaiming portion of Sweeney Alley – Mr. McClung and Mr. DeVito
10. Ordinance No. 2200 Vacating portion of Nut St. – fee to be determined

NEW BUSINESS:

1. Presentation of Green and Energy Conservation award from Crews and Assoc. – **postponed until March 10** --Mayor Pate
2. Preparation of ordinance for prohibiting animals over 25 lbs. in performances in C-3 – Mr. Mitchell and Mr. DeVito
3. Workshop date for parking rate increase for special events – Mr. Purkeypile and Ms. Schneider
4. Discussion of vehicles used as limousines – Mr. Purkeypile and Ms. Schneider
5. Discussion of turning over control of Black Bass Dam to Parks – Mr. Purkeypile and Mr. Mitchell
6. Discussion of Court House lease – Ms. Schneider and Ms. Zeller

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

FEBRUARY 10, 2014

Mayor Morris Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, February 10, 2014, in the jury room in the Western District Carroll County Courthouse.

PRESENT: Mayor Morris Pate, Aldermen James DeVito, David Mitchell, Joyce Zeller, Mickey Schneider, Dee Purkeypile, City Attorney Tim Weaver, and City Clerk/Treasurer Ann Armstrong
Alderman Terry McClung arrived at 6:10 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Pate led the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Mr. Purkeypile moved to approve. Mr. Mitchell seconded. Ms. Schneider moved to table Unfinished Business 8 until a workshop can be scheduled. Mr. DeVito seconded. Mr. DeVito moved to postpone Unfinished Business #5 until the next meeting. Mr. Mitchell seconded. Mr. Purkeypile moved to delete New Business #5. Mr. DeVito seconded. It was confirmed New Business #1 was postponed until March 10. Mayor Pate added the State of the City Address. Mr. DeVito moved to approve the agenda as amended. Mr. Mitchell seconded.

Motion carried 5/0/0.

STATE OF THE CITY ADDRESS:

Mayor Pate read the State of the City Address.

APPROVAL OF THE MINUTES: January 27, 2014

Mr. DeVito moved to approve the January 27, 2014 minutes. Mr. McClung seconded.

Motion carried 6/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – no report
CAPC – no report
Hospital – no report
Parks – no report
HDC – no report
Cemetery – no report

PUBLIC COMMENTS:

Rachel Brix noted Eureka Springs was chosen nationally as one of five cities as a Dog Town, due to being so dog friendly.

UNFINISHED BUSINESS:

1. Ordinance reclaiming McCune and portion of Hartman

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Ms. Schneider favored signage to indicate there would be no turnaround. Mr. Weaver noted Mr. Crouch requested reclaiming jurisdiction over all of Hartman and prepared ordinances for that as well as for just a portion of Hartman. Following discussion, Mr. Purkeypile moved to give the (portion) ordinance a number and pass it on its first reading. Mr. DeVito seconded.

Motion carried 6/0/0. Ms. Armstrong read **ORDINANCE NO. 2202 AN ORDINANCE RECLAIMING AUTHORITY OVER PART OF THE UNOPENED PORTION OF HARTMAN STREET AND McCUNE STREET FROM THE PARKS COMMISSION'S AUTHORITY PREVIOUSLY GRANTED OVER GREEN SPACE WITHIN THE CITY**
Mr. DeVito moved to approve Ordinance No. 2202 on the first reading. Mr. Purkeypile seconded.

Motion carried 6/0/0. Ms. Schneider moved to suspend the rules and place Ordinance No. 2202 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. 2202 on its second reading. Ms. Schneider seconded. A voice vote followed.

Motion carried 6/0/0. Mr. McClung made a motion to suspend the rules and place Ordinance No. 2202 on its third and final reading, by title only. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. McClung motioned to approve Ordinance No. 2202 on its third and final reading. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 6/0/0.

2. Ordinance No. 2198 Business Licenses for Multi-family – 2nd reading/City Attorney’s opinion re: Certificate of Occupancy for residential

Mr. Mitchell moved to discuss. Mr. DeVito seconded. Mr. Weaver recapped his understanding of the Building Official’s concerns. The Certificates of Occupancy that have been issued do not have to be re-issued unless there is a transfer of ownership or a major re-build. He suggested compiling a list of all those now existing to prevent later argument. New construction could require what is listed in the proposed ordinance regarding height and space. To try to go back and enforce it on some of the places in existence would leave “a whole lot of nothing being accomplished by the ordinance”. Following discussion of safety concerns and advantages for a property owner to have fire extinguishers and smoke alarms for insurance purposes, Mr. Mitchell moved to refer the ordinance back to Planning. Mr. Purkeypile seconded.

Motion carried 6/0/0.

3. Cottage at 1 Magnetic/vacating un-named street/Rock St. – update from the City Attorney

Mr. DeVito moved to discuss. Mr. Purkeypile seconded. Mr. Mitchell said he understood the topic to be whether the City owns the property and has the right to vacate. Mr. Weaver concurred and indicated he’d spoken with the attorney for an adjacent landowner and with the attorney for the landowner of the area where the disputed property is. It was Mr. Weaver’s opinion the City probably does have a recognizable claim of ownership and that the property owners can go through the same vacating procedures others have. He said that, if it is vacated, there probably will be legal action. Acknowledging previous notification for the public hearing by Parks, Mr. Weaver indicated the attorney is trying to use additional publication for vacating. His view was that this would make the issue more difficult to challenge in court, if the street were vacated.

Ms. Brix confirmed publication took place before the public hearing held by Parks and certified letters were sent. She said the only objection came from property owners who claimed it was their ingress and egress, but they have four other routes available. Following discussion regarding viability of using the route in question, Mr. Weaver reiterated the request from the Brixes’ attorney regarding additional publication.

Mr. Mitchell motioned to draft a re-claim ordinance for Rock St., specific to the boundaries of the Brixes’ property. Mr. Purkeypile seconded. Mr. Weaver asked Mr. Mitchell whom he would like to procure the legal description of the street. Mr. Mitchell added, “and our City Attorney is to draft that ordinance with a legal description”. Mr. Weaver noted that, in the past, the landowner provided the description so as to prevent action against the City for not providing an adequate description. Mr. Mitchell rephrased his motion as, “to reclaim the right-of-way of Rock St. within the boundaries of their surveyed property, to be vacated.” Mr. Purkeypile’s second was confirmed.

Motion carried 4/1/1 with Mr. McClung voting “No” and Ms. Schneider voting “Present”.

Mayor Pate requested a ten minute break. Mr. DeVito moved to do so. Mr. Purkeypile seconded. Motion carried 6/0/0.

4. Ordinance for procedures for vacating property, with processing fees

Mr. McClung said an ordinance had not been prepared and moved to postpone. Mr. Purkeypile seconded.

Motion carried 6/0/0.

5. Film Industry tax incentive update

Postponed during approval of the agenda until the next meeting

6. Ordinance No. 2201 Clean City/workshop date

Mr. Mitchell motioned to discuss. Mr. Purkeypile seconded. Mr. Mitchell said he’d made modifications based on input at the last meeting and sent out an updated draft. Mr. DeVito moved to set a workshop. Mr. Purkeypile seconded.

Motion carried 6/0/0.

7. Discussion of collapsing parking lot by the Auditorium

Mr. Purkeypile moved to discuss. Mr. DeVito seconded. Mr. DeVito noted the leases have just been signed and cannot be changed and moved to delete the item. There was no second. Mr. Purkeypile summarized his observations of the situation with the large rectangular limestone blocks which have all cracked. It was his engineering opinion that the over-arching rock probably has enough frictional resistance to direct the forces down and around the side, although it will have to be dealt with. Public Works Director Dwayne Allen is working on a mitigation plan to help get funding for future events, and two past applications for funding were turned down by the Federal Government. Ms. Schneider said the County owns the property and should fix it.

Mr. Purkeypile recommended cutting out a section of blacktop and concrete and placing a reinforced concrete pad across, with footings, to support any vehicle that would happen to be there. It would also be wide enough to offset the width of the storm sewer. Discussion followed regarding responsibility, insurance, tort immunity, the opinion from the Municipal League that the City is not responsible, and an estimate of \$5-6000 for the concrete-rebar repair. Mayor Pate said the City cannot spend money on County property, but it could be repaired and the bill given to the County.

Mr. McClung made a motion to get the Carroll County Judge to give written permission authorizing the repair to the parking lot as Mr. Purkeypile has suggested, with a dollar figure not to exceed \$8,000. Ms. Schneider seconded. Following discussion, Mr. McClung withdrew his motion and Ms. Schneider withdrew her second. Mr. McClung made a motion for Mr. Purkeypile to “put a pencil to it” and bring it back to the table. Ms. Schneider seconded.

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

8. Discussion of increasing water and sewer rates – Mr. Clark’s research

Tabled during approval of the agenda until a workshop can be scheduled

9. Ordinance reclaiming portion of Sweeney Alley

Mr. DeVito moved to discuss. Ms. Schneider seconded. Mr. Weaver said he did not hear from the petitioner regarding a description. Mr. DeVito moved to postpone. Mr. Mitchell seconded.

Motion carried 6/0/0.

10. Ordinance No. 2200 Vacating portion of Nut St. – fee to be determined

Mr. McClung moved to discuss. Ms. Schneider seconded. Mr. McClung motioned for the Council to insert a dollar amount of \$0. Mr. Mitchell seconded.

Motion carried 6/0/0.

NEW BUSINESS:

1. Presentation of Green and Energy Conservation award from Crews and Assoc.

Postponed until March 10

2. Preparation of ordinance for prohibiting animals over 25 lbs. in performances in C-3

Mr. Mitchell motioned to discuss. Ms. Schneider seconded. Following extensive discussion, Mr. Mitchell made a motion to, under C-3, delete the word “animals” from prohibitions. Ms. Schneider seconded.

Motion carried 6/0/0.

3. Workshop date for parking rate increase for special events

Mr. Purkeypile moved to discuss. Ms. Schneider seconded. Mayoral Assistant Diane Wilkerson summarized her observations of lot use during special events and changes made in the number allowed for rent. Mr. Mitchell made a motion to bring back to the table the proposed ordinance for raising the parking rate for special events. Mr. DeVito seconded.

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

4. Discussion of vehicles used as limousines

Ms. Schneider moved to discuss. Mr. Purkeypile seconded. Mr. DeVito noted the issue was proposed by a limousine operator, did not see it as an issue for Council, and indicated the marketplace will regulate it. Discussion followed regarding the limousine ordinance, the City’s authority within City limits only, and competition. No action was taken.

5. Discussion of turning over control of Black Bass Dam to Parks

Deleted during approval of the agenda

6. Discussion of Court House lease

Ms. Schneider moved to discuss. There was no second.

AGENDA SETTING:

Mr. Mitchell added discussion of the 2015 budget process. Ms. Schneider seconded.
Ms. Schneider added a discussion of the Court House lease. Mr. Mitchell seconded.

CITY COUNCIL COMMENTS:

Mr. DeVito commended Public Works for their efforts during the freezing weather.
Mr. McClung echoed those sentiments.
Ms. Schneider wished her 13th grandchild and 8th grandson Happy Birthday.

MAYOR'S COMMENTS:

Mayor Pate gave his thanks to all City departments, particularly Public Works. He read a list of upcoming events.

ADJOURNMENT:

Mr. DeVito moved to adjourn. Mr. Purkeypile seconded.
Motion carried 6/0/0. The meeting ended at 8:30 p.m.

ATTEST:



City Clerk/Treasurer Ann Armstrong

APPROVED:



Mayor Morris Pate