

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING  
Monday, July 28, 2014 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: July 14, 2014**

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

**Planning** – Pos. 1 – Steve Beacham – expired 7/1/14. Pos. 5 – Melissa Greene – expired 1/1/13

**CAPC** – Pos. 2 – vacant – expired 6/30/14. Pos. 7 – Charles Ragsdell – expired 6/30/14

**Hospital** – Pos. 2 – Suzanne Tourtelot – expired 6/1/14

**Parks** –

**HDC** –

**Cemetery** – Pos. 2 – vacant – expires 2/15/15. Pos. 4 – Henry Romanski – expired 2/15/14.

**PUBLIC COMMENTS:**

**UNFINISHED BUSINESS:**

1. Unnamed street/Rock St. – survey and new ordinance – Mr. DeVito and Mr. McClung
2. Ordinance for easement beyond the Brixes' property for Marble Flats' utilities – Mr. DeVito and Mr. Mitchell
3. Resolution re: fluoride – Ms. Schneider and Ms. Zeller
4. Update on disposal of yard waste – Ms. Schneider and Mr. Mitchell
5. Decision re: extension of wastewater lines to Miles Mountain – **recap of the July 22 meeting** – Mr. Mitchell and Mr. Purkepile
6. Parking garage workshop – **date** -- Mr. DeVito and Mr. Mitchell
7. Ordinance No. 2214 – Multi-family – 2<sup>nd</sup> reading – Planning Commission

**NEW BUSINESS:**

1. Rezoning old H.S. property from R-1 to C-2-H (Historic) – ES School District
2. Discussion of conflict of interest – Mr. Mitchell and Ms. Schneider
3. Discussion of two fire stations – Ms. Schneider and Mr. Mitchell

**AGENDA SETTING**

**CITY COUNCIL COMMENTS**

**MAYOR'S COMMENTS**

**ADJOURNMENT**

Mayor Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, July 28, 2014, in the jury room in the Western District Carroll County Courthouse.

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

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

Mayor Pate led the Pledge.

**APPROVAL OF THE AGENDA:**

Mr. DeVito moved to approve. Mr. Purkeypile seconded. Ms. Schneider motioned to postpone New Business # 3. Mr. Purkeypile seconded. Mayor Pate called for a vote on the amended agenda.

Motion carried 6/0/0.

**APPROVAL OF THE MINUTES: July 14, 2014**

Mr. DeVito moved to approve the July 14 minutes. Mr. McClung seconded.

Motion carried 6/0/0.

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

**Planning** – Mayor Pate nominated Melissa Greene for Position 5. Mr. DeVito moved to approve. Mr. Purkeypile seconded.

Motion carried 6/0/0.

**CAPC** – no report

**Hospital** – no report

**Parks** – no report

**HDC** – no report

**Cemetery** – no report

**PUBLIC COMMENTS:**

**Bill King** considered the proposed requirement for business licenses for owners of multi-family dwellings discriminatory. He noted there was no Planning public hearing for the current ordinance version. Mr. King strongly requested that Council file a law suit and stop the fluoridation of the public water supply.

**John Rankine** asked several pointed questions regarding the proposed requirement for business licenses for multi-family dwellings including why affordable housing is not being addressed by Council. He asked why one and two-dwelling units aren't included.

**Valerie Hubbard Damon** called for Council to find a way to stall and stop the fluoridation. She said there is no doubt that good, clean water is healing water and water with fluoride is poison water.

**Kit Shepperd** said she has listened to scientists all over the world talk about the kind of fluoride that is being put in the water. She noted it is a byproduct from chemical fertilizers, a neurotoxin that requires safety equipment and clothing when handled, and is absorbed through bathing.

**Eric Scheunemann** provided a sample resolution regarding fluoride wherein the Arkansas Attorney General is called to begin the process for removing and prosecuting the Governor and members of the State Legislature for treason and attempted genocide in overturning the peoples' votes to not fluoridate the water.

**Sheryl Willis** opposed closing Rock St., said there have been offers of easements for trails across private property, and spoke about two kinds of fluoride. She noted the fluoride mandated for the water supply is rat poison, damages the pineal gland and causes sleep disturbances.

**Bob Howle** considered the proposed multi-family dwelling ordinance an attempt to extort money from the owners. The City would provide no services, there are no requirements for the business license, and it is really a tax. He said under Arkansas law, rental property cannot be taxed.

**Don Goudeau** referenced a report from Dr. Joseph Mercola and a September 2001 report in the *International Journal of Pediatric Dentistry*. "Fluoride saturated" American teens were reported to have twice the number of cavities as children exposed to natural fluoride.

**Jim Morris** spoke in opposition to fluoride in the water. He was concerned that the source is unknown and one of the results can be bone softening. Mr. Morris favored a law suit against the State.

**Melissa Greene**, 17 Bridge St., favored sending the fluoride issue to a vote of the people.

**Ray Manna** noted Eureka is founded on health and recreation, and supported the decision to not go backwards by having fluoride in the water.

**Jasmine Stanley** said she appreciates all at the table who have read up on fluoride. She favored passage of the resolution that was read. Ms. Stanley emphasized that she does not want to be made to ingest something she does not want to ingest.

**Natalie Mannering** spoke about developing a strategy regarding fluoride. She noted Mickey Schneider is learning about some of the loopholes and advised following her lead.

**Donna Hersey** spoke about the motorcycle parking garage turned down twice by Planning and passed by Council. She noted it is planned to be built below her bedroom window and there was no attempt by Council to protect the neighborhood against the devaluation of property and the noise level.

**Pat Matsukis** spoke about how the Brixes have been treated. She said there is funding available within the City to hire an attorney who specializes in issues such as fluoride. Ms. Matsukis addressed the problem of bamboo and objected to approval of the motorcycle parking garage and property devaluation.

#### **UNFINISHED BUSINESS:**

##### **1. Unnamed street/Rock St. – survey and new ordinance**

Mr. DeVito moved to discuss. Mr. Purkeypyle seconded. Mr. Weaver confirmed he'd seen the proposed ordinance and noted Council has an opportunity to sidestep the veto while considering the ordinance. Rachel Brix confirmed she was "ok" with the proposed ordinance. Wade Williams confirmed the proposed ordinance was ready to go and noted that he'd done the proofing of the legals by hand. Mr. DeVito made a motion to assign the ordinance a number and place it for its first reading. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 4/2/0 with Ms. Schneider and Mr. McClung voting "No." The Clerk and Mayor read **ORDINANCE NO. 2215 AN ORDINANCE VACATING AN UNNAMED, UNOPENED STREET LOCATED BETWEEN BLOCKS 1 AND 2 OF THE MAGNETIC BAYS SURVEY TO THE CITY OF EUREKA SPRINGS, CARROLL COUNTY, ARKANSAS; RECEIVING AND GRANTING UTILTIY EASEMENTS, AND FOR OTHER PURPOSES.**

Mr. DeVito moved to approve Ordinance No. 2215 on its first reading. Mr. Mitchell seconded. Following Mr. McClung's observation of one incorrect legal description, an amendment on page 3 was made. Mr. Williams provided a map to clarify the area granted by the City to Marble Flats for utilities.

Mr. DeVito amended his motion to strike the line "A utility easement being thirty (30) feet wide for construction purposes and permanently twenty (20) feet wide across" from the description in point 1 on page 3. Ms. Zeller seconded. A voice vote on the amendment followed.

Motion carried 4/2/0 with Mr. McClung and Ms. Schneider voting "No." A roll call vote on approval of the first reading followed.

Motion carried 4/2/0 with Mr. McClung and Ms. Schneider voting "No." Mr. DeVito moved to suspend the rules and place Ordinance No. 2215 on its second reading by title only. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 4/2/0 with Ms. Schneider and Mr. McClung voting "No." Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2215 on its second reading. Mr. Mitchell seconded. Mr. McClung said he doesn't believe the Council has the right to vacate a street that serves property owners down the line. A roll call vote followed.

Motion carried 4/2/0 with Ms. Schneider and Mr. McClung voting "No." Mr. DeVito moved to suspend the rules and place Ordinance No. 2215 on its third and final reading by title only. Mr. Purkeypyle seconded. A roll call vote followed.

Motion carried 4/2/0 with Ms. Schneider and Mr. McClung voting "No." Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2215 on its third reading. Ms. Zeller seconded. A roll call vote followed.

Motion carried 4/2/0 with Mr. McClung and Ms. Schneider voting "No."

**2. Ordinance for easement beyond the Brixes' property for Marble Flats' utilities**

Completed with Unfinished Business #1. Mr. Purkeypile moved to withdraw the motion to override the Mayor's veto of Ordinance No. 2213. Mr. Mitchell seconded. A voice vote followed.

Motion carried 6/0/0.

**3. Resolution re: fluoride**

Ms. Schneider moved to discuss. Ms. Zeller seconded. Ms. Schneider provided a resolution and recommended that it be numbered, read and sent on to the Carroll Boone Water District Board. Mr. DeVito seconded.

Carroll Boone Board member Gene Bland confirmed the Board did not request that fluoride be added to the water. He noted a contract has been signed to have the facility constructed and paid for by Delta Dental. Mr. Bland confirmed the consumers pay for the chemicals.

Mr. Weaver noted Council would have to decide if an injunction would be filed through the State or Federal Court. Drafting a complaint requires that the attorney satisfy herself/himself of the likelihood that she/he will prevail under the laws as written, or that there is a good faith basis for a change of law. Twenty to fifty hours of due diligence at \$250 per hour would be likely on a State level and \$350-400 per hour on a Federal level. If due diligence isn't there, sanctions can be brought against the body bringing the suit and the attorney. A vote on the motion to read the resolution for approval followed.

Motion carried 6/0/0. The Clerk read **RESOLUTION NO. 644 A RESOLUTION IN OPPOSITION TO THE MANDATED FLUORIDATION OF THE EUREKA SPRINGS CITY WATER SUPPLY.**

**4. Update on disposal of yard waste**

Ms. Schneider moved to postpone until the next meeting. Mr. Mitchell seconded. There was no vote.

**5. Decision re: extension of wastewater lines to Miles Mountain**

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Finance Director Lonnie Clark said he'd received a preliminary proposal from Dennis Hunt of Stephens for re-funding the 2008 and 2010 water and sewer bonds, extending the settlement date to 2035 and including \$1,500,000 for the wastewater line extension with a net interest rate of approximately 3.38%. The Water and Sewer Departments would have revenues available for debt service of at least \$321,000 or 1.25 x the coverage. The Departments' 2011 audit indicates that there's a debt service available of \$306,000. A 2014 audit and a nine-month statement ending September 30, 2015 would be prepared and available for the offering. The bond total would be \$3,760,000.

At par, transfers from the prior issues of the reserve funds would be \$179,305 and there would be an original issue discount on the bonds of \$16,000. The total of money coming in would be \$3,922,679.05. The use of the funds at that time would be to pay off the existing 2008 and 2010 issues. That would take \$2,195,000 of the funds. The \$1,500,000 for the project would be set aside. There would be a debt service reserve fund established of \$129,543.13. The underwriter's fee would be \$56,400. The cost of issuance (printing and some attorney fees) would be \$40,000 with miscellaneous expenses of \$1,735.92.

For the debt service schedule, starting in 2016, the principal would be \$150,000 and interest would be \$109,086.26 for a total of \$259,086.26. The total cost in the end would be \$5,137,385.14.

Discussion followed regarding deadline extensions, absence of compliance with the bond covenants, raising water rates to ensure compliance, and the City's bargaining position. Further discussion included mention of a contract of financial responsibility, future hookups for existing property owners, and timing installation of the wastewater line with completion of the hospital.

Mr. Mitchell motioned for the City Attorney to draft an ordinance allocating \$1.5 million to construct a sewer line out to the property line of the hospital after a contract is established with Allegiance detailing their commitment to pay for said line, should the City have any expenses and they not build the hospital. Mr. DeVito seconded for discussion. Discussion followed regarding delay until 2015, including a timeframe in the ordinance, and the preliminary status of the bonding company's estimate. Mr. Mitchell's motion was verified as "ask the City Attorney to draft an ordinance to allocate \$1.5 million to construct a sewer line after a contract is drawn up detailing their commitment to build the facility." Mr. Mitchell then withdrew his motion. Mr. DeVito withdrew his second.

Discussion continued regarding a contract with the hospital before anything, the City "stepping up to the plate" with parameters, and a resolution followed by the contract. Mr. Mitchell asked the City Attorney to draft a resolution based on the discussion. Mr. Purkeypile seconded.

Motion carried 6/0/0.

**6. Parking garage workshop -- date**

To be determined

**7. Ordinance No. 2214 – Multi-family – 2<sup>nd</sup> reading**

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2214 on its second reading by title only. Mr. Mitchell seconded.

Motion carried 5/1/0 with Mr. McClung voting “No.” Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2214 on its second reading. Melissa Greene confirmed the Ordinance was changed and Mr. King was correct in requesting a public hearing. She asked Council to table the issue until Planning has a public hearing and it is brought back to the table. Mr. Mitchell moved to table and send the Ordinance back to Planning. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 6/0/0.

**NEW BUSINESS:**

**1. Rezoning old H.S. property from R-1 to C-2-H (Historic)**

Ms. Schneider moved to discuss. Ms. Zeller seconded. Mr. DeVito motioned to rezone the High School property from R-1 to C-2-Historic. Mr. McClung seconded. Mr. DeVito clarified his motion to have the City Attorney draw up an ordinance reflecting rezoning the old Eureka Springs High School property from R-1 to C-2-H. Mr. Mitchell seconded.

Motion carried 6/0/0.

**2. Discussion of conflict of interest**

Mr. Mitchell moved to postpone until the next meeting. Mr. DeVito seconded.

Motion carried 6/0/0.

**3. Discussion of the two fire stations**

Dick Titus summarized discussions with Fire Chief Rhys Williams regarding the possible appraisal and sale of the fire stations on White St. and Main St. Mr. DeVito favored waiting to hear from Chief Williams. This was interpreted as a motion. Mr. Purkeypile seconded.

Motion carried 6/0/0.

**AGENDA SETTING:**

Mr. Mitchell added discussion of a status update on the Clean City Ordinance and buildings that were identified as demolition by neglect. Mr. Purkeypile seconded.

Mr. Mitchell added discussion of a status update on the Noise Ordinance. Mr. Purkeypile seconded.

Mr. Mitchell added discussion of a status update on the City computer system. Mr. Purkeypile seconded.

Mr. Mitchell added discussion of a status update on water leaks and meters. Mr. Purkeypile seconded.

Mr. Mitchell added a mid-year budget review. Mr. Purkeypile seconded.

Mr. Purkeypile added a resolution for cost share on maintenance and repair items at Lake Leatherwood. Mr. Mitchell seconded.

Mr. Purkeypile added a resolution for an easement for the State for funds to repair the Parks office. Mr. Mitchell seconded.

Ms. Schneider added further discussion of fluoride. Ms. Zeller seconded.

Mr. DeVito added discussion of the time length for the loading zone behind the auditorium. Mr. McClung seconded.

**CITY COUNCIL COMMENTS:**

Mr. Purkeypile emphasized the need to address Black Bass Dam because of the water supply.

Ms. Schneider welcomed one son home and offered congratulations to her oldest son who's getting married.

**MAYOR'S COMMENTS:**

Mayor Pate updated Council on the “Noise Ordinance Strictly Enforced” signs and read a list of upcoming Community events.

**ADJOURNMENT:**

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

**ATTEST:**

  
Clerk/Treasurer Ann Armstrong

**APPROVED:**

  
Mayor Morris Pate