

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, March 10, 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: February 24, 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. 5 – vacant – expires 11/30/14. Pos. 6 – Richard Grinnell – expired 3/7/14

Cemetery – Pos. 4 – Henry Romanski – expired 2/15/14. Pos. 5 -- Mary Ann Pownall – expired 2/15/14.

PUBLIC COMMENTS:

AWARD PRESENTATION: Green and Energy Conservation – Crews and Associates – **postponed until April 14**

UNFINISHED BUSINESS:

1. Ordinance vacating McCune and portion of Hartman – Mr. DeVito and Ms. Zeller
2. Ordinance to reclaim un-named street/Rock St. – Mr. Purkeypile and Mr. Mitchell
3. Ordinance No. 2203 Procedures for Vacating Property – 2nd reading -- Mr. McClung and Ms. Schneider
4. Ordinance No. 2201 Clean City – amended version – Mr. Mitchell and Ms. Schneider
5. Discussion of collapsing parking lot by Auditorium – **update from Mr. Purkeypile -- postponed until March 24** -- Ms. Schneider and Mr. Mitchell
6. Discussion of increasing water and sewer rates – **postponed until March 24** -- Ms. Schneider and Mr. Mitchell
7. Ordinance No. 2204 Reclaiming portion of Sweeney Alley – 2nd reading, correct Code Sec. number in title – Mr. DeVito and Mr. McClung
8. Ordinance No. 2205 Removing “animals” from C-3 prohibitions – 2nd reading -- Mr. DeVito and Mr. McClung
9. Ordinance increasing parking rates for special events – Mr. Mitchell and Mr. DeVito
10. Discussion of Court House lease – **postponed until March 24** -- Ms. Schneider and Mr. Mitchell

NEW BUSINESS:

1. Discussion of Open Carry gun walk – Mr. DeVito and Ms. Zeller
2. Discussion of the Hospital and Hospital Commission – Mr. DeVito and Mr. Mitchell
3. Discussion of Wedding business licenses – Mr. Mitchell and Ms. Schneider
4. Discussion of the dog waste ordinance proposal – Mr. Mitchell and Mr. DeVito
5. Discussion of proposal regarding the Brixes’ property – **postponed until March 24** – Ms. Schneider and Mr. Mitchell
6. Discussion of reimbursement to Susie Allen for water damage – Ms. Schneider and Ms. Zeller
7. Fourth quarter financials – A.C.A. 14-43-506
8. Resolution for Transit re: Title VI – Mayor Pro tem DeVito
9. Discussion of the change in ambulance service letter – Mr. Mitchell and Ms. Zeller

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR’S COMMENTS

ADJOURNMENT

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

MONDAY

MARCH 10, 2014

Mayor Pro tem James DeVito called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, March 10, 2014, in the jury room in the Western District Carroll County Courthouse.

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

ABSENT: Mayor Morris Pate and Alderman Mickey Schneider (with notice)

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Pro tem DeVito led the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Mr. McClung moved to approve. Mr. Purkeypile seconded. Mr. Mitchell moved to add discussion of the change in ambulance services letter from the Mayor. Ms. Zeller seconded. Mr. Purkeypile moved to have New Business #8 as the first item for discussion. Mr. DeVito seconded. Mr. Mitchell confirmed previous postponement of Unfinished Business #s 5, 6, and 10 as well as New Business #5. He moved to delete New Business #3. Mr. DeVito seconded. Mr. Mitchell moved to postpone New Business #2 for a workshop with the Council and full Hospital Commission to discuss health care for Eureka Springs. Mr. DeVito seconded.

Motion carried 5/0/0. Mr. Mitchell moved to approve the agenda as amended. Mr. McClung seconded.

Motion carried 5/0/0.

APPROVAL OF THE MINUTES: February 24, 2014

Mr. McClung moved to approve the February 24, 2014 minutes. Mr. Mitchell seconded.

Motion carried 5/0/0.

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:

Teresa DeVito spoke in opposition to the open-carry of firearms planned by the group “Northwest 746”. She proposed they mount a legal challenge instead and favored an emergency ordinance banning open-carry of firearms in Eureka Springs.

Nancy Fuller spoke about open-carry as having its place 150 years ago and referenced the Attorney General’s opinion. She expressed concern about unstable people openly carrying guns and prompting events that could lead to loss of rights regarding weapons.

Chris Young said he has a concealed weapon permit that does not allow him to openly carry in Carroll County. He favored an ordinance to prevent open-carry of any weapon.

Raven Derge spoke about people who visit to get away from crime and to relax. She objected to being manipulated into putting a “No Firearms” sign in her shop window and favored preventing anyone other than law enforcement to openly carry weapons.

Susie Allen, owner of 120 N. Main, noted expenses resulting from the two water main breaks were less -- \$1,730, not \$3,250. She again sought reimbursement for damages.

Randy Woodward spoke about having presented an environmental program in a school with discipline and fear problems. The school, Columbine, had shootings less than a year later. He also recalled the energy deadening effect when four armed people entered a local restaurant.

Susan Morrison spoke about “murder made easy”. She recalled an altercation over parking wherein the use of guns was averted, and considered a sense of safety as one of the biggest revenue streams for Eureka. Ms. Morrison spoke of those who would parade with guns on their hips as “adult bullies” and appealed to Council to prevent the action.

Sheryl Willis, from the Eureka Springs Trails Committee, spoke in favor of a trails system for a “walkable” city. She presented a map of the proposed system and said Rock St. is absolutely critical to what (the Committee) has worked on for two years.

Sonny Carter, Democratic candidate for State Representative, opposed the event planned for March 29 and considered it absurd to allow untrained and unlicensed people to openly carry guns.

NEW BUSINESS:

8. Resolution for Transit re: Title VI

Transit Director Ken Smith summarized the purpose for the resolution -- updating the non-discrimination compliance form for the federally funded transit system. Mr. McClung made a motion to assign a number, vote to approve, and read into the record the required resolution. Mr. Purkeypile seconded. A roll call voted followed.

Motion carried 5/0/0. Ms Armstrong read **RESOLUTION NO. 635 A RESOLUTION APPROVING THE 2014 UPDATE TO THE TITLE VI PROGRAM AND FOR OTHER PURPOSES.**

UNFINISHED BUSINESS:

1. Ordinance vacating McCune and portion of Hartman

Following discussion of the process, Mr. McClung made a motion to assign the ordinance a number and approve it on its first reading. Mr. Mitchell seconded.

Motion carried 5/0/0. Ms. Armstrong read **ORDINANCE NO. 2206 AN ORDINANCE RELEASING, VACATING AND ABANDONING PART OF THE UNOPENED PORTION OF HARTMAN STREET AND McCUNE STREET IN THE CITY OF EUREKA SPRINGS, ARKANSAS AND FOR OTHER PURPOSES.** Mr. McClung moved to approve. Mr. Purkeypile seconded.

Motion carried 5/0/0.

2. Ordinance to reclaim un-named street/Rock St.

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Rachel Brix provided a map of an area larger than previously shown. The one clear access to the Brixes’ property and several access routes for the neighboring property, Marble Flats, were indicated. Ms. Brix showed where a maintained trail to Magnetic Rd. exists to the east of her home and a photo showing the proposed location for another trail near her front door. Discussion included other access points for Marble Flats, the right of Marble Flats owners to access platted streets, adverse possession, and Parks’ trails plan. Further discussion included vacations as mistakes, what is good for business, Rock St. as critical to the Parks’ plan, and another route that may have been vacated.

Mr. Weaver spoke about State law regarding diminished access. Attorney Matt Bishop, representing the Brixes, pointed out the existing sidewalk, and what is actually listed on the plat map as Rock St. Attorney Wade Williams, representing the owners of Marble Flats, spoke about right to access, and public interest and welfare. He provided a copy of the Brixes’ deed and of a 2009 survey. Mr. Williams spoke about the late 1800’s plat of a subdivision and dedication of streets to public use.

Further discussion included the Brixes as part of the public, rules of professional conduct for attorneys, and future tax revenue for the City if the property is vacated and the Brixes proceed with building a rental property. Right to access, procedures, language in the property deeds, utility company disinterest in use of the property, eminent domain, and efforts from the Brixes to compromise were touched upon.

Mr. Mitchell made a motion for assigning a number and reading the ordinance. Ms. Zeller seconded. Mr. Weaver indicated there would be no negative repercussions for reclaiming. Vacating could result in the City being sued.

Motion carried 4/1/0 with Mr. McClung voting “No”. Ms. Armstrong read **ORDINANCE NO. 2207 AN ORDINANCE RECLAIMING AUTHORITY OVER AN UNNAMED, UNOPENED STREET LOCATED BETWEEN BLOCK 1 AND BLOCK 2 OF THE MAGNETIC BAYS SURVEY AS PLATTED ON THE RILEY AND ARMSTRONG PLAT OF 1893, CARROLL COUNTY, ARKANSAS FROM THE PARKS COMMISSION’S AUTHORITY PREVIOUSLY GRANTED OVER GREEN SPACE WITHIN THE CITY OF EUREKA SPRINGS, ARKANSAS.** Mr. Purkeypile moved to approve on the first reading. Mr. Mitchell

with 200+ signatures from people in opposition to an open-carry gun walk. He recapped what he'd learned from a Wikipedia search on guns laws in Arkansas, the Law Center to Prevent Gun Violence, the Arkansas Attorney General's opinion regarding Act 746, and the text of Act 746. Mr. DeVito favored an Ordinance that specifically states what the law of Arkansas relating to hand guns says. Discussion followed regarding free speech, what an ordinance might accomplish, carrying weapons with the purpose of unlawfully employing them, an ordinance banning open-carry within the City and its enforcement, and the definition of "on a journey". Further discussion included an ordinance based upon the AG's opinion, the Mayor as the (supervisor) of the Police Chief, open-carry as a public relations nightmare, signs in windows, allowing a specific area and time frame for public outreach by Northwest 746, and tourism as the primary industry.

Mr. Mitchell moved to have an emergency meeting with the Mayor and Chief of Police. Mr. DeVito seconded. This was clarified to mean a special meeting of the City Council with the Mayor, Chief of Police and City Attorney. It was agreed to meet on Thursday at 3:00 p.m.

Motion carried 5/0/0.

2. Discussion of the Hospital and Hospital Commission

Postponed for workshop

3. Discussion of wedding business licenses

Deleted during approval of the agenda

4. Discussion of the dog waste proposal

Inadvertently skipped. Will be added to the next agenda

5. Discussion of proposal regarding the Brixes' property

Postponed until March 24

6. Discussion of reimbursement to Susie Allen for water damage

Mr. Purkeypile moved to discuss. Mr. DeVito seconded. Ms. Allen provided copies of a summary and receipts with the reduced total of \$1730. She recapped briefly the repairs involved. Mr. Weaver spoke about the City's tort immunity and the history of its application. Following Ms. Zeller's observation that there was nothing Ms. Allen could have done to prevent the damage and Mr. Weaver's cautionary reply, Mr. Mitchell made a motion to deny the claim based on the City having tort immunity. Mr. McClung seconded.

Motion failed 2/3/0 with Mr. Purkeypile, Ms. Zeller, and Mr. DeVito voting "No".

Mr. Purkeypile made a motion to grant payment of the invoice Ms. Allen brought forward. Mr. DeVito seconded.

Motion failed 3/2/0 with Mr. McClung and Mr. Mitchell voting "No".

Mr. Weaver noted the City claimed tort immunity in the Nellie Clark case and the Municipal League settled the lawsuit without the City's approval.

7. Fourth quarter financials

Ms. Armstrong provided the December 2013 payroll, check register, receipted funds, end-of-year bank balances and debt service reports.

9. Change in the ambulance service

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

Motion carried 5/0/0.

AGENDA SETTING:

Mr. Mitchell added the Noise Ordinance draft. Mr. DeVito seconded.

Mr. Mitchell added an update from the Director of Finance on the new computer system. Mr. Purkeypile seconded.

Mr. DeVito added the dog waste issue that was skipped. Mr. Purkeypile seconded.

CITY COUNCIL COMMENTS:

Mr. Purkeypile noted he will not be running for re-election for Council due to his increased business requirements.

Mr. Mitchell said he will not be seeking re-election as he has filed for service on the Quorum Court.

Mr. DeVito thanked the people who signed the petition and turned out to exercise their right of free speech.

MAYOR PRO TEM'S COMMENTS:

Mr. DeVito read a list of upcoming Community events.

ADJOURNMENT:

Mr. Purkepile moved to adjourn. Mr. McClung seconded.
Motion carried 5/0/0. The meeting ended at 9:30 p.m.

ATTEST:



City Clerk/Treasurer Ann Armstrong

APPROVED:



Mayor Pro tem James DeVito