

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, May 12, 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: April 28, 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 – Pos. 3 – Draxie Rogers – expired 5/1/14. Pos. 6 Daniel Jackson – expired 5/1/14. Pos. 7 Bill Featherstone – expired 5/1/14.

HDC – Pos. 6 – Richard Grinnell – expired 3/7/14. Pos. 7 – Susie Allen – expired 3/7/14.

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

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Ordinance for film industry tax incentive – Mr. Purkeypile and Ms. Schneider
2. Ordinance No. 2207 Reclaiming un-named street/Rock St. – 3rd reading – Mr. Purkeypile and Mr. Mitchell
3. Ordinance No. 2201 Clean City -- revised again – 3rd reading – Mr. Mitchell and Ms. Schneider
4. Discussion of collapsing parking lot by Auditorium – Mr. Purkeypile and Mr. Mitchell
5. Noise Ordinance draft – Mr. Mitchell and Mr. DeVito
6. Resolution No. 636 temporarily removing alley from Parks' jurisdiction and allowing one-year use – amend

NEW BUSINESS:

1. Resolution for State aid for repaving – Mayor Pate
2. Ordinance vacating portion of Sweeney Alley – Mr. DeVito and Mr. Purkeypile
3. Funding for North Main music park stage – Mayor Pate
4. Resolution to purchase four storage containers – Mayor Pate
5. Ordinance for funds for new City Shop building – Mayor Pate

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

MAY 12, 2014

Mayor Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, May 12, 2014, in the jury room in the Western District Carroll County Courthouse.

PRESENT: Mayor Pate, Aldermen James DeVito, Dee Purkeypile, Joyce Zeller, David Mitchell, Terry McClung, 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. McClung moved to approve. Mr. Mitchell seconded. Mayor Pate added two items to New Business: a resolution for storage containers for the City Shop and an ordinance for a new City Shop building. Mr. McClung moved to approve the agenda as amended. Mr. Mitchell seconded.
Motion carried 6/0/0.

APPROVAL OF THE MINUTES: April 28, 2014

Mr. Mitchell moved to approve the April 28, 2014 minutes. Mr. Purkeypile seconded.
Motion carried 5/0/0 with Mr. DeVito abstaining due to absence.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Mayor Pate noted the passing of Commissioner Deni Flaherty.

CAPC – no report

Hospital – no report

Parks – Ms. Schneider moved to re-seat Draxie Rogers, Daniel Jackson and Bill Featherstone. Mr. DeVito seconded. After a request to vote one at a time, Ms. Schneider changed her motion to accept Draxie Roger's renewal. Mr. DeVito seconded.

Motion carried 6/0/0. Ms. Schneider moved to accept Daniel Jackson's renewal. Mr. Purkeypile seconded.

Motion carried 6/0/0. Ms. Schneider made a motion to, if Bill Featherstone would do it, accept his renewal. Mr. McClung seconded.

Motion carried 4/2/0 with Mr. Mitchell and Ms. Zeller voting "No".

HDC – no report

Cemetery – Ms. Schneider moved to approve Mary Ann Pownall's application. Mr. McClung seconded.

Motion carried 6/0/0.

PUBLIC COMMENTS:

Nancy Fuller expressed concern about some of the language in the proposed Noise ordinance, asking who would determine the parameters and whether there is equipment and training to determine decibel levels. She recapped research on other cities' ordinances regarding motorcycles, noted the generosity of riders in tipping service people, and favored not rushing the ordinance through.

Steve Arnold, Spring St. shop owner, spoke about deafening sound downtown and the small percentage of motorcyclists who deliberately rack pipes. He favored regulation and enforcement.

Charles Stanley, 35-year resident, considered some of the proposed Clean City ordinance arbitrary and subjective and opposed passage.

UNFINISHED BUSINESS:

1. Ordinance for film industry tax incentive

Mr. Purkeypile moved to discuss. Mr. DeVito seconded. Sandy Martin said actual figures for

City Council 5/12/14 1

rebates that applied to the movie *Crystal* were provided. Proposed permit applications, location applications, process procedures and the proposed ordinance were provided. Following discussion regarding CAPC Chair Charles Ragsdell's response to the proposal and planned clarification from the Municipal League, Mr. DeVito moved to assign a number and read the ordinance. Mr. McClung seconded.

Motion carried 6/0/0. Ms. Armstrong read **ORDINANCE NO. 2208 AN ORDINANCE PROVIDING FOR LOCAL FILM INCENTIVES**. Mr. DeVito moved to approve Ordinance No. 2208 on its first reading. Mr. Purkeypile seconded.

Motion carried 6/0/0. Mr. DeVito moved to suspend the rules and place Ordinance No. 2208 on its second reading by title only. Mr. Mitchell seconded.

Ms. Martin confirmed \$250,000 is consistent with the State expenditure and encourages a higher quality film production crew. The amount can be modified. Mr. Purkeypile supported the figure. Mayor Pate called for a vote on approval of \$250,000.

Motion carried 6/0/0. A roll call vote on suspending the rules for a second reading followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2208 on its second reading. Mr. Purkeypile seconded.

Motion carried 6/0/0.

2. Ordinance 2207 Reclaiming un-named street/Rock St. – 3rd reading

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Mr. Mitchell moved to read the Ordinance by title only. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 5/0/1 with Ms. Schneider voting "Present". Ms. Armstrong read the Ordinance title. Wade Williams, Attorney representing the owners of Marble Flats, offered the suggestion that his clients approach Parks and work to find an alternate location with regard to any trail system that would need to cross Mr. and Ms. Brixes' property. In exchange, the petition to vacate would be withdrawn. Following extensive discussion, Mr. Mitchell moved to approve Ordinance No. 2207 on its third reading. Mr. Purkeypile seconded. A roll call vote followed.

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

3. Ordinance No. 2201 Clean City – revised again – 3rd reading

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Discussion followed regarding procedures for amending and passing. Mr. Mitchell made a motion to suspend the rules and read Ordinance No. 2201 by title only. Mr. Purkeypile seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the (amended) Ordinance title. Discussion followed regarding medicinal plants, family emergencies, each day as a separate violation, and involvement by the Historic District Commission. Ms. Schneider objected to the portion regarding possible sale of the house and the proposed requirement to register boats and vehicles that will not be used for a period of time.

Mr. Mitchell made a motion to amend Ordinance No. 2201 and read proposed changes. Mr. Purkeypile proposed further amendments. Mr. DeVito seconded.

Motion carried 5/1/0 with Ms. Zeller voting "No". Mr. Purkeypile moved to amend the amended Ordinance No. 2201. Ms. Schneider seconded. Mr. Purkeypile moved to strike the requirement for medicinals to be cultivated in a garden. Ms. Zeller seconded. Mr. Mitchell confirmed the HDC would designate a building as non-contributing. A vote on Mr. Purkeypile's amendment followed.

Motion carried 6/0/0. Ms. Schneider moved to amend the portion requiring a vehicle to have current registration. Ms. Zeller seconded.

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

Ms. Schneider made a motion to clean up the wording on registration applying to cars and not to boats or trailers. Following discussion, motion failed due to lack of a second. Ms. Zeller questioned whether this meant a person cannot restore an antique vehicle on his own property if it's seen. Hearing an affirmative reply, she objected to the intrusiveness of many parts of the ordinance. Mr. DeVito called point of order and said there was no motion on the table.

Ms. Zeller motioned to amend by adding "bamboo may not be cultivated in the City limits." Motion failed due to a lack of a second.

Mr. Mitchell moved to pass Ordinance No. 2201 as amended on the third reading. Mr. DeVito seconded. A roll call vote followed.

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

Mr. DeVito moved to take a five-minute recess. Ms. Schneider seconded.

Motion carried 6/0/0.

4. Discussion of collapsing parking lot by Auditorium

Mr. Purkeypile moved to discuss. Ms. Schneider seconded. Mr. Purkeypile said the Fire Chief and members of the Osage Group want to participate in another investigation of the storm water tunnel beneath the parking lot. Craig Hull explained the Osage Group was retained to assist in preparing a report for State Emergency Services and the Federal Emergency Management Agency (FEMA) to qualify the City for non-emergency assistance such as mitigating hazards. Mr. Purkeypile moved to table until the next meeting. Mr. DeVito seconded.

5. Noise Ordinance draft

Mr. Mitchell motioned to discuss. Ms. Schneider seconded. Mr. Mitchell offered background on the preparation of the proposed ordinance and assured all it was not targeting motorcycles. Mr. McClung favored leaving the existing noise ordinance as is. Mr. Mitchell noted current enforcement is based on State law and fines migrate mostly to the State. He said an expanded City ordinance would allow the money to stay. The word "or" was removed from Section A(5). Mr. DeVito favored firming up wording in B(8) regarding permitted events. Ms. Zeller considered A(1) and (2) to be contradicted by A(5).

Mr. Mitchell made a motion to assign an ordinance number and have the first reading. Ms. Schneider seconded.

Motion carried 5/1/0 with Mr. McClung voting "No". Ms. Armstrong read ORDINANCE NO. 2209 AN ORDINANCE ADDING A SECTION TO CHAPTER 7.16, NOISE, OF THE EUREKA SPRINGS MUNICIPAL CODE TO ADDRESS VEHICLES, MACHINERY AND EQUIPMENT, AND SOUND PRODUCING DEVICES. Mr. DeVito moved to approve Ordinance No. 2209 on its first reading. Mr. Purkeypile seconded.

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

6. Resolution No. 636 temporarily removing alley from Parks' jurisdiction and allowing one-year use - amended

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Mr. Weaver explained the need to replace the word "Lessor" with the word "Lessee". Mr. Purkeypile motioned to approve Resolution No. 636 as amended. Mr. McClung seconded.

Motion carried 6/0/0.

NEW BUSINESS:

1. Resolution for State aid for repaving

Mr. Purkeypile moved to discuss. Ms. Schneider seconded. Mayor Pate said this is for paving Pivot Rock Rd and Passion Play Rd. Mr. Mitchell made a motion to assign the resolution a number and pass it. Mr. Purkeypile seconded.

Motion carried 6/0/0. Ms. Armstrong read RESOLUTION NO. 637 A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF EUREKA SPRINGS TO UTILIZE STATE AID STREET MONIES FOR THE FOLLOWING CITY PROJECT. Mayor Pate noted the State is allowing up to \$250,000.

2. Ordinance vacating portion of Sweeney Alley

Mr. Purkeypile moved to discuss. Mr. DeVito seconded. Mr. DeVito moved to assign the ordinance a number and place it on its first reading. Mr. Purkeypile seconded.

Motion carried 6/0/0. Mayor Pate read ORDINANCE NO. 2210 AN ORDINANCE VACATING AN UNOPENED PORTION OF SWEENEY ALLEY. Mr. DeVito moved to approve Ordinance No. 2210 on its first reading. Mr. Purkeypile seconded.

Motion carried 6/0/0.

3. Funding for North Main music park stage

Mr. Purkeypile moved to discuss. Ms. Schneider seconded. Mayor Pate offered background on the purpose for the stage. Mr. Mitchell motioned to assign the resolution a number. Mr. Purkeypile seconded.

Motion carried 5/1/0 with Mr. McClung voting "No". Ms. Armstrong read RESOLUTION NO. 638 A RESOLUTION AMENDING THE ADOPTED 2014 BUDGETS FOR THE CITY OF EUREKA SPRINGS, ARKANSAS.

4. Resolution to purchase four storage containers

Mr. Purkeypile moved to discuss. Ms. Schneider seconded. Mayor Pate said they would be used to store materials from the City Shop during deconstruction and rebuilding. Afterwards, they'll be available to store materials as needed around the City. Mr. Mitchell made a motion to assign the resolution a number and pass it. Mr. Purkeypile seconded.

Motion carried 6/0/0. Mayor Pate read **RESOLUTION NO. 639 RESOLUTION AMENDING THE ADOPTED 2014 BUDGETS FOR THE CITY OF EUREKA SPRINGS, ARKANSAS.**

5. Ordinance for funds for new City Shop building

Mr. Mitchell moved to discuss. Mr. Purkeypile seconded. Mayor Pate spoke about the condition of the existing building. He noted Floyd Construction and Sales will construct the metal frame for the 100 ft. x 50 ft. x 20 ft. structure. It will have a 4 in. reinforced slab, four bay doors, three entry doors, three windows and insulation for \$90,000. Plumbing and electric are estimated to cost \$35,000. Usable materials from the building are planned for constructing storage on the property.

Mr. Mitchell enquired why competitive bidding was waived. Mayor Pate indicated Floyd is the only company in Carroll County able to construct dura-frame trusses. He said there will probably also be a maintenance pit and, if possible, an electric or hydraulic lift. In response to Mr. McClung's question, Mayor Pate said heat and air are part of the \$35,000 estimate. The plan includes using one of the existing heaters.

Mr. Purkeypile motioned to provide the ordinance a number and read for the first time. Mr. McClung seconded.

Motion carried 6/0/0. Ms. Armstrong read **ORDINANCE NO. 2211 AN ORDINANCE TO WAIVE COMPETITIVE BIDDING FOR CONSTRUCTION OF A NEW SHOP BUILDING FOR THE EUREKA SPRINGS, ARKANSAS, PUBLIC WORKS DEPARTMENT.** Mr. Purkeypile moved to approve Ordinance No. 2211 on its first reading. Ms. Schneider seconded.

Motion carried 6/0/0. Mr. DeVito moved to suspend the rules and place Ordinance No. 2211 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. 2211 on its second reading. Mr. Purkeypile seconded.

Motion carried 6/0/0. Mr. DeVito moved to suspend the rules and place Ordinance No. 2211 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. 2211 on its third reading. Mr. Purkeypile seconded. A roll call vote followed.

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

Motion carried 6/0/0. Mayor Pate read the Emergency Clause.

AGENDA SETTING:

Mr. DeVito moved to discuss. Mr. Mitchell seconded.
No new items were added.

CITY COUNCIL COMMENTS:

Mr. Purkeypile thanked Dwayne Allen and Public Works for dealing with the drainage issue on German Alley.

Mr. DeVito offered congratulations to the couples who received their same-sex marriage licenses and noted Eureka Springs was the first city in the South to issue them.

Mr. Mitchell concurred. He spoke about Eureka Springs' ability to continue to embrace diversity in a peaceful and wonderful manner.

Ms. Schneider spoke about the Chamber of Commerce's annual "photo op." She congratulated everyone who managed to get a license for same-sex marriage.

Ms. Zeller hoped the publicity would encourage sales of The Hidden History of Eureka Springs.

MAYOR'S COMMENTS:

Mayor Pate read a list of upcoming Community events.

ADJOURNMENT:

Mr. DeVito moved to adjourn. Mr. Purkeypile seconded.
Motion carried 6/0/0. The meeting ended at 8:35 p.m.

ATTEST:


Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate

City Council 5/12/14 4