

5:00 p.m. REVIEW OF SEPTEMBER FINANCIALS AND 2015 BUDGET UPDATE

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, October 27, 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: October 13, 2014

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Pos. 1 – Steve Beacham – expired 7/1/14. Pos. 2 – Mickey Schneider (temp.) – expires 1/1/17.

CAPC –

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

Parks – Pos. 6 – vacant -- expires 5/1/19

HDC –

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

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Dwayne Allen's recommendations for yard waste – Ms. Schneider and Mr. Mitchell
2. Ordinance No. 2214 Multi-family – Planning Commission
3. Response from the Hospital Commission re: meetings taped/occurring in the jury room – Mayor Pate
4. Update on the status of the new hospital – Mr. McClung and Ms. Schneider

NEW BUSINESS:

1. Osage Group update on Hazard Mitigation Plan – Mayor Pate
2. Ray Dotson's application for a carriage franchise – Mr. McClung and Mr. Mitchell
3. Ordinance prohibiting traveling circuses and animal shows – Mr. DeVito and Mr. Mitchell
4. Appraisal for two fire stations – **pending scheduling** -- Ms. Schneider and Mr. Mitchell
5. Summary of the September 25 Tourism workshop – Mr. Purkeypile and Mr. Mitchell
6. Ordinance allowing an at-large seat from within Carroll County to serve on the CAPC – Mr. DeVito and Ms. Schneider
7. Third quarter financials – A.C.A. 14-43-506
8. Free two hour parking in December – Mayor Pate
9. Discussion of the "Henri's" stairway – Mayor Pate

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

OCTOBER 27, 2014

Mayor Pate called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, October 27, 2014, in the jury room in the Western District Carroll County Courthouse.

PRESENT: Mayor Pate, Aldermen Terry McClung, Joyce Zeller, Dee Purkeypile, James DeVito, Mickey Schneider, David Mitchell, 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. Mitchell moved to approve. Mr. Purkeypile seconded. Mayor Pate added discussion of artwork on the stairway as the first item for discussion under New Business. He postponed New Business #7. Mayor Pate called for a vote on the amended agenda.

Motion carried 6/0/0.

APPROVAL OF THE MINUTES: October 13, 2014

Mr. DeVito moved to approve. 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:

Tracellen Kelly read a resolution from the Good Shepherd Humane Society advocating the prevention of cruelty to animals and supporting the proposed ordinance prohibiting circuses that use performing animals.

Sue Ewan requested that Council pass the ordinance against circuses in Eureka Springs.

Sam Ewan thanked everyone for making the town so nice. He spoke in favor of the proposed ordinance and said a circus is not the type of values he's seen here.

Melissa Greene thanked the newspapers for giving each side of the (circus issue) a chance to speak. She referenced a letter from Carson and Barnes Circus owner Barbara Byrd and spoke about citations for violations of the Animal Welfare Act.

Rachel Brix spoke about circuses as enslaving and prostituting animals for money. She said no governmental agency monitors training sessions. Ms. Brix said 27 countries and 21 states have full or partial bans on circuses and she supported passage of the proposed ordinance.

UNFINISHED BUSINESS:

1. Update on disposal of yard waste

Ms. Schneider moved to discuss. Mr. McClung seconded. Ms. Schneider summarized findings on the problems with disposing of yard waste and noted Public Works Director Dwayne Allen is looking into a way to permit burning vines. She said she's learned bamboo explodes when burned and that woodworkers could make use of it. An area at the City compost site could be for bamboo to be picked up and recycled.

Mr. McClung noted property owners can burn yard waste by permit from the Fire Department. Mr. Mitchell favored hearing directly from Dwayne Allen.

2. Ordinance No. 2214 – Multi-family

Mr. DeVito moved to suspend the rules and place Ordinance No. 2214 on its second reading by title

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only. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Planning Commissioner Melissa Greene confirmed there was a public hearing and expressed her belief that exploring duplexes and single-family rentals was requested.

Mr. McClung spoke about the ordinance as not appropriate and did not consider the requirement for business licenses for duplexes and single-family rentals a good thing. Mr. DeVito said the Ordinance would apply on change of ownership, other than a nominal fee. Further discussion included one license for all rental properties owned by one person, a license for each building, possible over-regulating, opposition from multi-family dwelling owners, and safety features required for insurance. Health, safety and welfare were Mr. DeVito and Mr. Mitchell's concerns.

Mr. DeVito motioned to approve Ordinance No. 2214 on its second reading. Mr. Mitchell seconded. A roll call vote followed.

Motion failed 2/4/0 with Ms. Zeller, Ms. Schneider, Mr. Purkeypile and Mr. McClung voting "No."

3. Response from the Hospital Commission re: meetings taped/occurring in the jury room

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. Mitchell said the Commission is very comfortable with where they meet. They feel they can meet the needs of the Council and the public by keeping everyone informed through reports and/or by coming to Council in person.

Mr. DeVito objected to the Commission meeting on private property without the overview of the citizenry they're supposed to represent. If there were visual or audio recordings that could be replayed on public television, he would drop his conditions. Further discussion included the new hospital that would be a private entity, and plenty of room for those who want to attend the meetings where they're held.

4. Update on the status of the new hospital

Mr. Purkeypile moved to discuss. Mr. Mitchell seconded. Hospital CEO Chris Bariola recapped communications with the Allegiance attorney, Rick Reynolds, regarding the contract for property. They're working toward an agreement with the City. He noted the estimated cost is \$300-350 per square foot. Offering as many services as possible in one location could require 69,000 square feet. Discussion included services provided by other cities for new hospitals, providing a site plan in addition to the existing description, commitment from Allegiance, and commitment from the City for the sewer line.

Mr. DeVito addressed compensation for the outlay if Allegiance were to default on the agreement.

NEW BUSINESS:

9. Discussion of artwork on the "Henri's" stairway

Raven Derge and Steve Vorbeck spoke about the proposed art project. It was noted the Historic District Commission (HDC) unanimously approved the stairway repair and project concept. The Arts Council is also supportive. After repair, a base coat would be applied and followed by a tint-able sealant. The budget allows for maintenance for three years. High School art students would assist. Mr. DeVito asked the City Attorney to draft a resolution allowing the project to go forward. Mr. McClung seconded. It was confirmed the painting would be on the risers, not the stair treads.

Motion carried 6/0/0.

1. Osage Group update on Hazard Mitigation Plan

Mr. Purkeypile moved to discuss. Ms. Schneider seconded. Craig Hull recapped progress made since the August report. He noted the three things the Federal Emergency Management Agency (FEMA) will grade are evidence of public outreach, acknowledgement in the plan of having reviewed all possible hazards, and the means to get from the plan to action. The purpose is to entitle to the City to qualify for non-emergency response funding from FEMA and the Department of Emergency Management.

The issues that came to the front are the water drainage tunnel system, Black Bass Dam and the waste water collection system. The ancillary focus of the plan is to address rain water, storm water and water quality issues. Mr. Hull noted the provided resolution for review by state and federal agencies. Mr. Purkeypile noted he'd recommended blast rock for the dam face. Mr. Hull confirmed there will be a digital version of the Plan available.

Mr. Hull spoke about the water drainage tunnel ownership, right-of-way and access. The problem of fragmented ownership could be solved by creating an improvement district or other entity to create, as provided under State law, the power and authority to set up ownership easements and financial participation.

Following qualification and adoption by FEMA, money for dam repair and the sewer system could be made available. Mr. Hull encouraged consideration of voluntary storm water management to lower flow rates through the use of cisterns, rain barrels and rain gardens.

Mr. Mitchell motioned to ask the City Attorney to look at the draft resolution adopting a hazard mitigation plan for the City of Eureka Springs. Mr. DeVito seconded.

Motion carried 6/0/0.

Mr. DeVito motioned to discuss New Business #3 next. Mr. Mitchell seconded.

Motion carried 6/0/0.

Mayor Pate said he'd entertain a motion for a ten minute break. Ms. Schneider seconded.

Motion carried 6/0/0.

3. Ordinance prohibiting traveling circuses and animal shows

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

Motion carried 5/1/0 with Ms. Schneider voting "No." Ms. Armstrong read **ORDINANCE NO. 2219 AN ORDINANCE AMENDING TITLE 6 OF THE EUREKA SPRINGS MUNICIPAL CODE, TO PROHIBIT TRAVELING EXOTIC AND/OR WILD ANIMAL EXHIBITIONS.** Mr. DeVito moved to approve Ordinance No. 2219 on its first reading. Mr. Mitchell seconded. Mr. Weaver confirmed Turpentine Creek would be prevented from exhibiting any rescued animal inside the corporate limits of the City until it had been stabilized for more than 14 days.

Ms. Schneider favored an ordinance for permitted events after background checks. She spoke about those who do care for the animals, their livelihood, and the proposed ordinance as a step toward ending places like Turpentine Creek. Ms. Schneider cited language in the ordinance she believes could lead to law suits. Further discussion included humans as animals, concerns as a "straw man," following the language compiled by the City Attorney, "working rabbits," the monkey in a current show, and use of the word "traveling." Ms. Zeller called the question. Following a recommendation to put it for a vote of the people, a voice vote on approval of the first reading was taken.

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

2. Ray Dotson's application for a carriage franchise

Mr. DeVito moved to discuss. Mr. Purkeypile seconded. Ms. Armstrong confirmed the seven required items on the application have been received and noted Code includes a limit in the number of franchises for one person to 2/3. She said Mr. Tharp is no longer in business, and Mr. Dotson has one route franchise in effect until the end of 2016.

Mr. Weaver said abandonment of routes should be in writing. He opined Mr. Dotson would need to surrender his route and apply separately for the two other routes. He indicated the two remaining years on the franchise could not be reimbursed.

Representing Mr. Dotson, Bob Ballinger said there's nothing in Code saying the routes are divided in those three ways. It was his opinion the two could be considered one. The Crescent Hotel could be the main point of departure. A map was provided of the two routes operated by Tom Tharp. Discussion included Council approving the route when approving a franchise, and an expanded route possibly resulting in prevention of a future third route.

Following comments regarding a lawsuit over operation of a motor-driven vehicle, Mr. Weaver opined it would be for Council to limit the scope of consideration. Mr. Purkeypile favored limiting discussion to the application for the modified route. Discussion included monopoly, the request to merge Mr. Tharp's old routes into one, both routes for the price of one, and violation of the (Code.)

Mr. Mitchell made a motion for the City to maintain the three franchise routes and, should the current applicant wish to apply for two of those routes and surrender the route he has, that (Council) approve the request for two separate franchises as marked on the map. Mr. DeVito seconded. Mr. Weaver suggested that Council accept Mr. Tharp's surrender before taking any action to award them to anyone. Mr. Mitchell withdrew his motion. Mr. Ballinger suggested approval conditional upon surrender of the other franchise.

Mr. Mitchell motioned to table discussion until surrender of the two franchises held by Mr. Tharp. Mr. Purkeypile seconded. Mr. Weaver confirmed there is a pending civil suit with Mr. Dotson and a pending

criminal suit against one of Mr. Dotson's employees. Mr. Purkeypile opined Council can't make a decision on the application until there is some finality in the litigation. Mr. Mitchell withdrew his motion. Mr. Purkeypile seconded. Mr. Purkeypile made a motion to table until the next meeting until there is clarification on the status of the lawsuits and Mr. Tharp's surrender of his two franchises. Mr. DeVito seconded. A roll call vote on tabling followed.

Motion carried 6/0/0.

4. Appraisal for the two fire stations – pending scheduling

5. Summary of the September 25 Tourism workshop

Ms. Schneider moved to discuss. Mr. McClung seconded. Mr. Purkeypile spoke about emphasis on marketing toward motorcycles and the Carroll County Airport. The goal is to improve tourism. The next meeting date is not yet known. Mayor Pate noted all of the courtesy cars were used and airport employees used their personal vehicles to transport visitors to Eureka Springs.

6. Ordinance allowing an at-large seat from within Carroll County to serve on the CAPC

Mr. Purkeypile moved to discuss. Mr. McClung seconded. Mr. DeVito moved to table until the next meeting. Mr. Mitchell seconded. Mr. Weaver clarified the proposed ordinance would make only the at-large seat open to the County. A roll call vote followed.

Motion carried 6/0/0.

7. Third quarter financials

Postponed during approval of the agenda

8. Free two hour parking in December

Mr. DeVito moved to assign the resolution a number and read it for passage. Mr. McClung seconded. Ms. Zeller commented the downtown merchants who contacted her favored free parking for locals during November, during the week. Discussion followed regarding extending the length of time for free parking and doing so next year. A roll call vote on the resolution followed.

Motion carried 6/0/0. Ms. Armstrong read **RESOLUTION NO. 649 A RESOLUTION REMOVING THE REQUIREMENT OF PAYING THE PARKING METERS ON SPRING STREET AND MAIN STREET AND ESTABLISHING FREE TWO-HOUR PARKING FROM DECEMBER 1 THROUGH DECEMBER 31, 2014.**

AGENDA SETTING:

Mr. DeVito added discussion of metered parking spaces for special events. Mr. Purkeypile seconded.

Mr. McClung added discussion of having the Planning Commission and the City Attorney work up an ordinance on minimum square footage requirements for residential. Mr. Mitchell seconded.

Mr. McClung added discussion of residential requirements in C-2. Mr. Mitchell seconded.

Mr. Purkeypile added discussion of the length of time a person can pay for parking at City meters.

Mr. DeVito seconded.

CITY COUNCIL COMMENTS:

Mr. DeVito thanked all for a great October.

Mr. Mitchell thanked business leaders and the Chamber members who sought out Mr. Womack and are reaching out to the Legislature to seek possible solutions for issues that have plagued Eureka Springs.

Ms. Schneider congratulated Eileen Powell on her excellent article in *Chicken* magazine.

MAYOR'S COMMENTS:

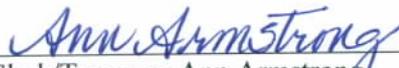
Mayor Pate asked Council to consider letting parents make the decision about whether to take their children to see the Circus animals. He read a list of upcoming Community events.

ADJOURNMENT:

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

Motion carried 6/0/0. The meeting ended at 8:45 p.m.

ATTEST:


Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Morris Pate

City Council

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