

**CITY OF EUREKA SPRINGS
COUNCIL MEETING**
Monday, February 23, 2015 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 9, 2015

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Pos. 2 – Mickey Schneider (temp.) – expires 1/1/17. Pos. 6 – Ed Leswig – expired 1/1/15

CAPC

Hospital

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

HDC – Pos. 3 – vacant – expires 11/30/17

Cemetery – Pos. 1 – June Westphal – expired 2/15/15. Pos. 2 – vacant – expired 2/15/15

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Update on Dwayne Allen's recommendations for yard waste – Ms. Schneider and Mr. McClung
2. Update on repair of parking lot by the Auditorium – Mr. McClung and Ms. Schneider
3. Update on the new hospital – Mr. McClung and Mr. Mitchell

NEW BUSINESS :

1. Readdressing the Circus Animal ordinance – Mr. Mitchell and Mr. DeVito
2. 2007 records destruction – A.C.A 14-59-111
3. Discussion of City referendum on Ordinance No. 2223 – Mayor Berry
4. Discussion of current State legislation regarding fluoride – Mr. Mitchell and Ms. Zeller

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

FEBRUARY 23, 2015

Mayor Berry called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, February 23, 2015 in the jury room in the Western District Carroll County Courthouse.

PRESENT: Mayor Berry, Aldermen Bob Thomas, 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 Berry led the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Mr. DeVito moved to approve. Mr. McClung seconded. Ms. Schneider moved to postpone Unfinished Business #1. Mr. DeVito seconded. A voice vote on approval of the Agenda followed. Motion carried 6/0/0.

APPROVAL OF THE MINUTES: February 9, 2015

Mr. McClung moved to approve. Mr. DeVito 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 – Mayor Berry noted Virgil Fowler submitted an application for the next meeting.

Cemetery – Mayor Berry re-nominated June Westphal. Mr. McClung moved to approve. Ms. Schneider seconded.

Motion carried 6/0/0.

PUBLIC COMMENTS:

Cameron DeNoewer spoke about how he chose Eureka Springs for his home, and about the Non-discrimination Ordinance. He felt strongly that any belief system that actively judges a person for their ability to love is not rooted in love, but is rooted in hate.

Jim Morris disagreed with Ordinance No. 2223 as he did not see or feel bigotry and didn't believe the Ordinance is in the interest of Eureka Springs. It was his position it causes ill will and divides the City, and that federal laws have established due process that can handle most anything of a discriminatory nature.

Tracellen Kelly spoke in support of the proposed ordinance to prohibit traveling exotic animal circuses. She read quotes from Betty Singer and Martin Luther King Jr. in defense of animals.

Natalie Mannering requested passage of a ban on wild animal shows.

Kevin Thompson brought a petition for placing the Non-discrimination Ordinance for a vote by the people. He spoke of the Ordinance as infringing on others' rights.

Mike Mercer, Pastor of Beaver Lake Baptist Church, favored a vote on the Non-discrimination Ordinance. It was his belief it was passed illegally and that it damages the business aspect of Eureka Springs.

Philip Wilson, a religious professional, spoke about the Non-discrimination Ordinance and said he had grievous concerns. He said he did not believe it is Constitutional. Mr. Wilson objected to the Mayor deciding whether discrimination occurred in a church and favored separation of church and state.

Bryan Manire read a Unitarian Universalist Fellowship statement expressing appreciation for passage of the Non-discrimination Ordinance. He said he has been one of those discriminated against and was forced to resign from a job with the Springdale schools, and applauded Council's actions.

DJ Holt Gay, owner of Redbud Valley Resort, expressed her view that the Ordinance protects a certain walk of people but walks on the rights of others. She felt businesses would be hurt.

John Gay expressed his view the Ordinance creates a divisive issue that is unnecessary. He favored letting people in the City vote on it.

Melissa Greene considered Senator Hester and Representative Ballinger's bills scary and applauded Council for passing Ordinance No. 2223 for her safety, welfare, and health. She wondered if sleeve patches would be next.

UNFINISHED BUSINESS:

1. Dwayne Allen's recommendations for yard waste

Postponed during approval of the Agenda

2. Update on repair of the parking lot by the Auditorium

Ms. Schneider moved to discuss. Mr. McClung seconded. Mayor Berry clarified that the County will be paying for the material and labor. The City will pay for engineering work, and observation and supervision. The project will begin after a break in the weather and may take up to 30 days. The culvert will be poured in place or cast on-site. Engineering fees will come out of the Mayor's budget. Supervision and observation will come from Public Works.

3. Update on the new hospital

Ms. Schneider moved to discuss. Mr. Mitchell seconded. Mayor Berry said he'd received an email indicating work with the architect and contractor continues for putting the cost estimate together. He confirmed the range is still \$15-20 million.

NEW BUSINESS:

1. Readdressing the Circus Animal ordinance

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. Mitchell moved to assign the ordinance a number and have the first reading. Ms. Zeller seconded. Following discussion about putting the issue on the next General Election ballot, the rarity of circuses in town and free enterprise, Ms. Zeller called for the question. Mr. DeVito seconded. A roll call vote followed.

Motion carried 5/1/0 with Ms. Schneider voting "No." A voice vote for the first reading followed.

Motion carried 4/2/0 with Mr. McClung and Ms. Schneider voting "No." Ms. Armstrong read **ORDINANCE NO. 2224 AN ORDINANCE AMENDING TITLE 6 OF THE EUREKA SPRINGS MUNICIPAL CODE, TO PROHIBIT TRAVELING EXOTIC AND/OR WILD ANIMAL EXHIBITIONS AND/OR PERFORMANCES.** Mr. DeVito moved to approve Ordinance No. 2224 on its first reading. Mr. Mitchell seconded.

Ms. Schneider spoke again for putting the issue on the ballot. Discussion continued regarding not using Lake Leatherwood Park for another circus and ample time for citizens to make their views known. Mr. Mitchell called the question. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0. A voice vote on approval of the first reading was taken.

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

2. 2007 Records Destruction

Ms. Zeller moved to discuss. Mr. Mitchell seconded. Mayor Berry said the 20 or so boxes could be shredded for \$6.00 a box for letter size and \$8.00 a box for legal size. The company will come here and the materials can then be recycled. Mayor Berry agreed to look into the price of a shredder.

Mr. Mitchell made a motion for Council to give the Mayor permission to dictate the method of destruction, including what the (statute) says. Mr. McClung seconded.

Motion carried 6/0/0.

3. Discussion of City referendum on Ordinance No. 2223

Ms. Schneider moved to discuss. Mr. Mitchell seconded. Mayor Berry spoke about a petition being circulated and about having the vote at the same time Berryville holds a Special Election so as to share the cost. Council's placing the issue on the General Election ballot was noted as an option that would negate further action and not cost money. Discussion followed regarding impending State law and the possibility of a vote being illegal. Discussion continued regarding why Council acted quickly, the issue as not life threatening, and the process for getting the issue on the ballot.

Following discussion about the effective date of State law, Mr. DeVito made a motion to place Ordinance No. 2223 on the May 12 County-wide election. Mr. Mitchell seconded for discussion.

Discussion continued regarding timing, expense, a possible lawsuit, and possible consequences for

legislation to render an existing city ordinance unenforceable. Taking local control, misleading wording on a ballot, and a special meeting to review an ordinance for the ballot were discussed. A roll call vote on the motion to place Ordinance No. 2223 on the May 12 ballot followed.

Motion carried 6/0/0. Mr. DeVito moved to have the City Attorney draw up the pertinent documents involved in placing Ordinance No. 2223 to a vote on May 12. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 6/0/0. Mr. Mitchell moved to have a Special Meeting within 48 hours to review the ordinance that the Attorney is producing. Mr. DeVito seconded. Following discussion, Mr. Mitchell amended the motion for a Special Meeting for City Council on Tuesday, February 24, 2015 at 5:00 p.m. There was no audible second. A voice vote followed.

Motion carried 6/0/0.

4. Discussion of current State legislation regarding fluoride

Mayor Berry said the House did approve, and Senator King said he would support, giving local control of whether or not we put fluoride in the water. Ms. Schneider cautioned that the issue is not over and that the mandate has not been removed.

AGENDA SETTING: no new items

CITY COUNCIL COMMENTS:

Ms. Zeller said the State legislation is a major violation of 14th Amendment rights since it is absolutely plain in the Constitution that you simply will not pass a law that denies rights to any American citizen.

Ms. Schneider noted 70 years ago today Marines planted the flag on Iwo Jima. She welcomed two more great grandchildren.

Mr. Mitchell thanked the people who came in and spoke about the traveling animals and those who spoke about the Non-discrimination Ordinance. He thanked the City Attorney for his input.

Mr. DeVito encouraged respect for others' Constitutional rights of free speech. He said we'll still have a community to attend to when this is over.

Mr. McClung suggested that a resolution could have been better than a (non-discrimination) ordinance and cautioned against letting emotions get in the way of Council positions at the table.

Mr. Thomas spoke about fear tactics used when he grew up in a segregationist family. Referencing the current fear tactics, he expressed the opinion that people will look back and be embarrassed.

CITY CLERK/TREASURER COMMENT:

Ms. Armstrong noted that, by State law, it is the Clerk who is responsible for City records.

MAYOR'S COMMENTS:

Mayor Berry thanked the citizens who came down, made phone calls and sent emails. He also had concerns about not using taxpayer money frivolously. Mayor Berry noted his intent to bring the (non-discrimination) issue for a vote of the people. He then read an international Proclamation for the Rotarians in recognition of 110 years of extensive community service. A list of upcoming events was read.

ADJOURNMENT:

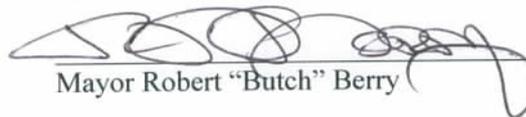
Mr. DeVito moved to adjourn. Mr. McClung seconded.

Motion carried 6/0/0. The meeting ended at 8:15 p.m.

ATTEST:


Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Robert "Butch" Berry