

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, February 9, 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: January 26, 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. 2 – vacant – expires 2/15/15

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. 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 Ms. Zeller and Mr. DeVito
2. Discussion of the process for franchises -- Mr. Mitchell and Ms. Schneider

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

FEBRUARY 9, 2015

Mayor Berry called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, February 9, 2015 in the jury room in the Western District Carroll County Courthouse.

PRESENT: Mayor Berry, Aldermen Joyce Zeller, Bob Thomas, James DeVito, David Mitchell, Mickey Schneider, City Attorney Tim Weaver, and City Clerk/Treasurer Ann Armstrong

ABSENT: Terry McClung (with notice)

PLEDGE OF ALLEGIANCE TO THE FLAG:

Mayor Berry led the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Ms. Schneider moved to approve. Mr. Mitchell seconded. Mr. Thomas added destruction of 2007 records. Ms. Zeller seconded. Mr. Mitchell removed New Business #2. Mr. Mitchell added discussion of a proposed resolution against Senate Bill 202. Ms. Schneider seconded. Mr. DeVito added an ordinance regarding anti-discrimination. Mr. Mitchell seconded. A voice vote on approval of the Agenda followed.

Motion carried 5/0/0.

APPROVAL OF THE MINUTES: January 26, 2015

Mr. DeVito moved to approve. 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 – Mayor Berry re-nominated Ken Fugate. Ms. Schneider moved to approve. Mr. DeVito seconded.

Motion carried 5/0/0.

PUBLIC COMMENTS:

Lamont Richie read a letter explaining some of the consequences if Senate Bill 202 becomes law. He encouraged Council to pass a non-discrimination ordinance and noted time is of the essence.

Natalie Mannerling spoke in support of prohibiting traveling wild animal shows such as circuses. Her concerns were the treatment of the animals and absence of public safety measures.

Tracellen Kelly, with the Good Shepherd Humane Society, described behaviors displayed by caged, stressed animals. She read a letter from the GSHS Board requesting passage of an ordinance prohibiting animal circuses in Eureka Springs.

Rebecca Zeleny supported passage of an ordinance to prohibit traveling exotic animal performances. Concerned primarily with health and safety, she read many news headlines about animal escapes and accidents.

Jan Grinnell spoke in favor of banning animal circuses from town.

Melissa Greene, 17 Bridge St., spoke of Eureka Springs as a sanctuary. She favored saying “No” to discrimination and to animal abuse.

Rachel Brix, 1 Magnetic, spoke about the image of Eureka and of expanding awareness of animal cruelty. She noted the pending Traveling Exotic Animal Protection Act in Congress and existing City laws regarding animal welfare.

UNFINISHED BUSINESS:

1. Dwayne Allen's recommendations for yard waste

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Ms. Schneider summarized progress in resolving this issue.

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

Mr. Mitchell moved to discuss. Mr. DeVito seconded. Mayor Berry recapped his meeting with the Quorum Court and Judge Barr. Engineering drawings were prepared for submission to the County. The projected time for beginning the project was the following week, with the City providing labor and materials and the County providing emergency funding. Mayor Berry noted State and Federal funding will be sought for repairs of the failing portion of the drainage system at the intersection of Water St, Flint St. and East Mountain.

3. Update on the new hospital

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mayor Berry estimated that it would be six weeks before the hospital architects will have estimates. More information may be available by the next Council meeting.

NEW BUSINESS:

1. Readdressing the Circus Animal ordinance

Mr. DeVito moved to discuss. Ms. Zeller seconded. Mr. Weaver opined the ordinance could be reconsidered since there is a new Council and term, or another version could be introduced. Mr. DeVito made a motion to resubmit at the next Council meeting the circus animal ordinance. There was no second. Ms. Zeller had an un-numbered ordinance and moved to give it a number and put it on its first reading. Mr. DeVito seconded. It appeared that not everyone had the same proposed version. Discussion followed regarding jurisdiction, and possibly yet another version prepared by a committee. Further discussion included Eureka as a compassionate community, and adding the issue to the next ballot. A roll call vote followed.

Motion failed 3/1/1 with Ms. Schneider voting "No" and Mr. Mitchell voting "Present."

2. Discussion of the process for franchises

Removed during Approval of the Agenda

3. 2007 Records Destruction

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Ms. Armstrong noted A.C.A. 14-59-111 requirements for destroying public records, described the process and provided a list of the 2007 records. Mr. Thomas volunteered to be the Council participant. Discussion followed regarding recycling, shredding, and potential security problems. Mayor Berry agreed to talk with Don Matt about the process. Mr. DeVito moved to defer until the next Council meeting. Ms. Schneider seconded.

Motion carried 5/0/0.

4. Discussion of Senate Bill 202

Mr. DeVito moved to discuss. Ms. Schneider seconded. Mr. DeVito summarized actions in the State Senate, Home Rule, and the legislation as a means to prevent cities from passing laws to protect their citizens. Municipal League Attorney Mark Hayes and League President Mark Stodola have both expressed concern about language in SB 202. Mr. DeVito explained Home Rule as providing authority for the rule of law to start with cities. Following Mayor Berry's confirmation the resolution can be sent to Representatives, Mr. DeVito moved to give the resolution a number and pass it upon reading. Ms. Schneider seconded. A roll call vote was taken.

Motion carried 5/0/0. Ms. Armstrong read **RESOLUTION NO. 654 A RESOLUTION DECLARING OPPOSITION TO SENATE BILL 202.**

Mayor Berry agreed to fax the Resolution to Senator King and Representative Ballinger.

5. Discussion of an ordinance regarding civil rights

Ms. Schneider moved to discuss. Mr. Mitchell seconded. Mr. DeVito clarified that the proposed State law would preclude Council from passing any ordinance protecting gay, lesbian, and transgender people in our community. It was Mr. Weaver's opinion that language in the proposed State law would prevent the City from enforcing the proposed ordinance. Discussion followed regarding fining someone for violating someone else's Constitutional rights and possible lawsuits.

Mr. DeVito moved to give the ordinance a number and place it on its first reading. Ms. Schneider

seconded.

Motion carried 5/0/0. Ms. Armstrong read **ORDINANCE NO. 2223 AN ORDINANCE TO AMEND THE EUREKA SPRINGS CODE BY ENACTING CHAPTER 7.65 CIVIL RIGHTS ADMINISTRATION TO PROTECT THE CIVIL RIGHTS OF EUREKA SPRINGS RESIDENTS AND VISITORS.** Mr. DeVito moved to approve Ordinance No. 2223 on its first reading. Ms. Schneider seconded. Following Mr. Mitchell's question regarding 7.65.07(E), Mr. Weaver opined passage would allow the State to authorize discriminatory behavior later on, against any individual they wished. He noted this would probably draw action in a court of law.

Further discussion included the penalty as opening potential for a charge under 42-USC-1983, for taking someone's rights under color of law. Discussion continued regarding House Bill 1228 and State denial of the City's right to enforce the ordinance. Mr. Mitchell called the question. Mr. DeVito seconded. A roll call vote followed.

Motion carried 5/0/0. A vote on approving the Ordinance on the first reading followed.

Motion carried 5/0/0. Mr. DeVito moved to suspend the rules and place Ordinance No. 2223 on its second reading by title only. Ms. Schneider seconded.

Ms. Schneider moved to amend by adding "or visit" to two portions of the Ordinance. Mr. DeVito seconded.

Motion carried 5/0/0. Mr. DeVito moved to add "nor more than Five Hundred DOLLARS" to 7.65.12. Mr. Mitchell seconded.

Motion carried 5/0/0. Mr. Mitchell moved to amend 7.65.11 by inserting "and/or assigning an investigator to conciliate complaints filed under this chapter." Mr. DeVito seconded.

Mr. DeVito suggested adding the same language to 7.65.02(B). Mayor Berry suggested adding "or his appointee" to the same section. Mr. DeVito favored "the Mayor who is authorized to receive, conciliate, investigate, or have his appointee investigate complaints brought under this chapter." Mr. Mitchell withdrew his motion and Mr. DeVito withdrew his second.

To section 7.65.11(A) Mr. DeVito moved to use the language "receiving, conciliating, investigating, or appointing an investigator for complaints filed under this chapter." Mr. Mitchell seconded.

Motion carried 4/1/0 with Mr. Thomas voting "No."

Mr. Weaver suggested adding language to provide for the Mayor or the Attorney to have an investigator, or to engage the Police to investigate. Mr. DeVito called for a break to allow Mr. Weaver time to pen his proposed changes. Mr. Mitchell seconded.

A ten minute break followed

When the session resumed, Mr. Weaver suggested changes to 7.65.11(C): "refer any unresolved complaint to the Eureka Springs Police Department for possible issuance of a citation and to the City Attorney's office for appropriate further action, including prosecution. Nothing in this act shall limit officer discretion and/or prosecutorial discretion." It was clarified that the Police Chief serves "at the pleasure of the Mayor." Mr. DeVito moved to amend the Ordinance to reflect the verbiage from the City Attorney regarding 7.65.11(C). Mr. Thomas seconded.

Motion carried 5/0/0. A roll call vote on suspending the rules and reading the Ordinance by title only followed.

Motion carried 5/0/0. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2223 on its second reading as amended. Mr. Mitchell seconded. A voice vote followed.

Motion carried 5/0/0. Mr. DeVito moved to suspend the rules and place Ordinance No. 2223 on its third reading by title only. Mr. Thomas seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the Ordinance title. Mr. DeVito moved to approve Ordinance No. 2223 on its third reading. Ms. Schneider seconded. A roll call vote followed.

Motion carried 5/0/0. Mr. DeVito moved to invoke the emergency clause. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read the Emergency Clause.

AGENDA SETTING:

Mr. Mitchell added the ordinance prohibiting traveling exotic/wild animals/performances to Eureka Springs. Mr. DeVito seconded.

CITY COUNCIL COMMENTS:

Mr. Thomas said he grew up in Alabama and noted that Madison County, Alabama, was one of the few counties in Alabama that married same-sex couples today.

Mr. DeVito thanked Council for being brave and passing the Ordinance.

Mr. Mitchell concurred and spoke about Council being consistently pro-active and timely.

Ms. Schneider said she wished the legislators would pay attention to Eureka.

MAYOR'S COMMENTS:

Mayor Berry read a list of upcoming events.

ADJOURNMENT:

Mr. DeVito moved to adjourn. Mr. Thomas seconded.

Motion carried 5/0/0. The meeting ended at 8:50 p.m.

ATTEST:


Clerk/Treasurer Ann Armstrong

APPROVED:


Mayor Robert "Butch" Berry