

**CITY OF EUREKA SPRINGS  
CITY COUNCIL  
SPECIAL MEETING**

**MONDAY**

**November 30, 2015**

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Mayor Berry called the special meeting of the Eureka Springs City Council to order at 5:00 p.m. Monday, November 30, 2015 in the jury room on the second floor of the Western District Carroll County Courthouse. Mayor Berry stated the purpose of the meeting: **To discuss a possible settlement regarding Ray Dotson's lawsuits against the City.**

**PRESENT:** Mayor Robert "Butch" Berry, Aldermen Bob Thomas, Mickey Schneider, Terry McClung, David Mitchell, James DeVito, Joyce Zeller, City Attorney Tim Weaver and City Clerk Treasurer Ann Armstrong

**PLEDGE OF ALLEGIANCE:**

Mayor Berry led the Pledge.

**PUBLIC COMMENTS:** none

**ACTION:**

Mr. Mitchell moved to discuss. Mr. DeVito seconded.

Bob Ballinger, Ray Dotson's attorney, said he'd like to wipe the slate clean and start over with the relationship between his client and the City. He spoke of cancelling "all claims from here past, from each other" and getting the application granted.

City Attorney Tim Weaver reminded Council of the pending litigation hearing set for the morning and advised circumspection.

Mr. Ballinger said it began with a ticket his client received for operating a franchise without a license. His client filed a civil suit to get an injunction to prohibit the City from ticketing him further. Mr. Ballinger said Mr. Dotson was able to get the injunction.

A franchise application was later filed. They then requested to have the Court ask Council to reconsider the application. It was Mr. Ballinger's belief Council tabled the application at the January 12 meeting. On that date, three members voted "No" and three members voted "Present."

Now the request was for Council to grant the franchise.

Mr. McClung received confirmation three Council members had voted "No" and three had voted "Present." Discussion followed regarding the route Mr. Dotson has and which he has not operated, Mr. Dotson's preference for another route, and the updating of the application after the ordinance was passed. Mr. Ballinger expressed his belief the application was complete.

Yet another application change was filed (updated today at 4:15 p.m.) which Mr. Ballinger considered complete except for the information about the depot location that wasn't 100% accurate. They (the property owners) felt they didn't want to get involved and in the middle of it. Now, Mr. Dotson does not want to lease a depot location until he knows he has the franchise.

In response to Mr. Mitchell's question regarding the franchise application "that's under contest," Ms. Armstrong confirmed it is not complete. Discussion followed regarding another person's completed application for the same route, and the reason for Council's denial of the (Dotson) application in January.

Mr. Weaver spoke about the application Mr. Dotson submitted in October 2014 that matched older Code and the application that was printed from a source other than directly from the City. He noted the latest application matches an Ordinance passed in 2012.

Discussion continued regarding pending litigation based on the "original" application, and the

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upcoming hearing on whether the Writ of Mandamus was correctly applied. Possible future lawsuits, Council's responsibility to deal with business in the community, and recent applications were referenced.

Mr. Weaver advised consideration of the ongoing lawsuit and injunction regarding the vehicle and ticket. He spoke of making changes to Mr. Dotson's application that are deemed appropriate tonight.

It was confirmed the depot location is not definite and there is no list of pick-up and drop-off locations. Mr. Ballinger said the depot will be the pick-up and drop-off location and there will be no others until a list is provided.

Mr. Mitchell made a motion that the mutual release and settlement agreement as presented to Council by Ray Dotson and his Attorney of Record be denied. Ms. Schneider seconded. A roll call vote followed.

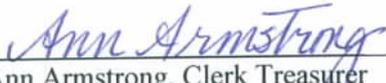
Motion carried 5/1/0 with Mr. DeVito voting "No."

**ADJOURNMENT:**

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

Motion carried 6/0/0. The meeting ended at 5:56 p.m.

**ATTEST:**

  
Ann Armstrong, Clerk Treasurer

**APPROVED:**

  
Robert "Butch" Berry, Mayor

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