

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, May 9, 2016 6 p.m.
AGENDA**

**CALL TO ORDER
ROLL CALL, ESTABLISH QUORUM
PLEDGE OF ALLEGIANCE
APPROVAL OF THE AGENDA
APPROVAL OF THE MINUTES: April 25, 2016**

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

**Planning – Pos. 6 – vote on application for Susan Harman
CAPC
Hospital
Parks
HDC
Cemetery – Pos. 3 – vacant – expires 2/15/18**

PUBLIC COMMENTS:

UNFINISHED BUSINESS:

1. Ordinance for expanding Parks Commission eligibility – Parks Commission
2. Resolution for adoption of the Hazard Mitigation Plan – Mr. DeVito and Mr. Mitchell
3. Discussion re: development of Improvement District

NEW BUSINESS:

1. Appeal Planning Commission decision re: Conditional Use Permit (CUP) for one unit Bed and Breakfast – 23 Elk St. – Martone/Toub for Dreamatrix LLC
2. Vacating portion of Hickory St. – Planning Commission
3. First meeting of the month budget review – Mayor Berry
4. Resolution to accept USDA grant for air packs – Mayor Berry
5. 2016 1st quarter financial report – A.C.A. 14-43-506
6. Resolution for refinancing ambulance payments – Mayor Berry
7. Discussion of White St. Fire Station auction by sealed bid – Mayor Berry
8. Discussion of Ghost Tours/Tour Homes – Mayor Berry

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

CITY OF EUREKA SPRINGS

CITY COUNCIL

REGULAR MEETING

MONDAY

MAY 9, 2016

Mayor Robert "Butch" Berry called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, May 9, 2016 in the jury room in the Western District Carroll County Courthouse.

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

ABSENT: Terry McClung (with notice)

PLEDGE OF ALLEGIANCE:

Mayor Berry led the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Mr. DeVito moved to approve. Ms. Schneider seconded. Mr. DeVito moved to have New Business #8 as the third item for discussion. Mr. Mitchell seconded. A voice vote on the amendment followed.

Motion carried 5/0/0. A vote amended agenda followed.

Motion carried 5/0/0.

APPROVAL OF THE MINUTES: April 25, 2016

Mr. DeVito moved to approve. Ms. Schneider seconded.

Motion carried 5/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Ms. Zeller moved to approve the application from Susan Harman. Mr. DeVito seconded. Motion carried 5/0/0.

CAPC – No report

Hospital – No report

Parks – No report

HDC – No report

Cemetery – No report

PUBLIC COMMENTS:

Denise Ryan spoke in support of Kathy Martone and Gary Toub. She noted parking on the property is used. The applicants have met all of the requirements and she did not understand why they were denied.

Laura Lee Wilcox, 310 Spring St., opposed the B&B application for 23 Elk. It was her position the 200 ft. rule applies to all tourist lodging and B&Bs, and that Planning's decision should be upheld.

Betsy Rodier, 20 Fairmount, property manager for 27 Elk St., expressed her belief that allowing 23 Elk to be a B&B would open Pandora's Box and there will be a flood of B&Bs applying for CUPs. She said 15 property owners found a loophole and have guest lodging that are called weekly rentals.

Britt Evans spoke on behalf of the citizens of Eureka St. He said the Haunted Eureka Tours operating in the residential neighborhood are causing quite a bit of unrest. Mr. Evans called for help in keeping citizens feeling safe and comfortable in their homes.

Judith Leswig, 30 Eureka St., proposed having the tour riders stay on the bus while in the neighborhood. She said they trespass and are a breach to security. Ms. Leswig was also concerned about people falling due to lack of sidewalks.

Paul Sutherland, 60 Mountain, provided a petition in opposition to the Haunted Eureka Tours having guests in the middle of the street or on the sidewalk. He favored a moratorium on home tours and considered tours to homes the same as tour homes.

Chris Fishcher, co-owner of property at 21 White St., said there's potential for 23 Elk St. with off-street parking and a building that has not been being used. He suggested sending the issue back to Planning for a more comprehensive look at the larger lodging picture.

Randy Fairbanks spoke favorably about the B&B applicants, noting Gary and Kathy pay attention to detail.

Linda Gregg, 24 Fairmount, spoke of Kathy Martone and Gary Toub as conscientious people who take great care of their property and are assets to the community. She noted 23 Elk has plenty of off-street parking and they live on the premises.

Jacquelyn Cross, 5 Kirk St., spoke in support of the Conditional Use Permit for 23 Elk St. She spoke about adequate parking and favored looking at what it would contribute to the economy. Ms. Cross said this would assure upkeep in appearance.

Marsha Yearsley advocated the Elk St. permit. She spoke about the history of the home and adjoining property. Ms. Yearsley described the small structure constructed for guests and she noted housing and jobs are provided by B&Bs for a manager or owner on-site.

UNFINISHED BUSINESS:

1. Ordinance for expanding Parks Commission eligibility

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. Mitchell moved to remove the item from the agenda until an ordinance is provided. Mr. DeVito seconded.

Motion carried 5/0/0.

2. Resolution for adoption of the Hazard Mitigation Plan

Mr. DeVito moved to discuss. Mr. Mitchell seconded. Mr. DeVito moved to assign the resolution a number and to read it for passage. Mr. Thomas seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read **RESOLUTION NO. 682 A RESOLUTION BY THE CITY OF EUREKA SPRINGS FOR THE HAZARD MITIGATION PLAN.**

3. Discussion re: development of Improvement District

Mr. DeVito moved to discuss. Ms. Schneider seconded.

Craig Hull spoke about the suggestion for an Improvement District as having come from discussion with State and Federal agencies. This long-term maintenance issue needs a sustained process. The rights-of-way are shared by many owners who can join to create an authority to make one subterranean easement. Mr. Hull explained assessment of benefits would follow. Modest fees on property taxes could be used under Board leadership for easements and improvements. He offered to ask someone to come up to provide details on the process.

Mr. Hull indicated he was considering underground drainage within the watershed and, long term, storm water drainage. He referenced the town's early development through use of an improvement company. Following discussion of the process, Mr. Mitchell motioned to send the issue back to Planning so they can get more information. Ms. Schneider seconded. Mr. DeVito favored a joint workshop with Planning, Council, and the person who can come and address it. Mr. Mitchell withdrew his motion. Ms. Schneider withdrew her second.

Mr. DeVito moved to ask Planning to join Council in a workshop whenever it can be arranged for the gentleman Mr. Hull mentioned to be here. Mr. Mitchell seconded.

Motion carried 5/0/0.

NEW BUSINESS:

1. Appeal Planning Commission decision re: Conditional Use Permit (CUP) for one unit Bed and Breakfast – 23 Elk St.

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. DeVito asked Mr. Weaver if there is another step beyond bringing the appeal to Council -- is Council the final arbiter? Mr. Weaver answered that, if Council turned down or approved and a party believed their rights had been aggrieved, then yes, there is an appeal from here to Circuit Court. He said Council can refer it back to Planning for further consideration and study.

Discussion followed regarding the length of time Planning had knowledge prior to the meeting, site visits, and communications brought to the Planning table. The possibility of misleading statements and innuendos was considered. In response to a question regarding how she might vote tomorrow, Commissioner Greene said she

“would probably not vote the same way.”

Planning Chair Steve Beacham spoke about affirmative votes of the Commission required if more than 20% of the adjacent property owners object to granting approval. He noted the use of the word “similar” in the list of considerations.

Mr. DeVito moved to send this back to Planning. Mr. Mitchell seconded. Discussion followed about changed opinions, the banning of Tourist Lodging, and whether 20% applies to those within a 200 ft. radius. Mr. Weaver advised caution in making a decision based on things Council was told, and are either not in the Planning record or on the record here tonight.

Mr. Mitchell called the question. Mr. DeVito seconded. A roll call vote followed.

Motion carried 5/0/0. A vote on the motion to send the issue back to Planning was taken by roll call.

Motion carried 4/1/0 with Ms. Zeller voting "No."

2. Vacating portion of Hickory St.

Mr. Mitchell moved to discuss. Mr. DeVito seconded. Property owner Jim Girkin clarified that closing the street will make it possible to sell the property. He confirmed Parks and Planning have approved his application and that he agreed to donate the lower portion to Parks. Mr. Weaver addressed the need for a legal description of the portion Mr. Girkin will be donating to Parks, and a legal description for the portion the City will be giving to Mr. Girkin.

Mr. Thomas favored an explanation from Parks as to why they need the land. Mr. DeVito moved to have an ordinance drafted pending receiving legal descriptions of the property in question, as supplied by Mr. Girkin. Ms. Schneider seconded.

Motion carried 5/0/0.

8. Discussion of Ghost Tours/Tour Homes

Mr. DeVito moved to discuss. Ms. Schneider seconded. Mr. DeVito moved to postpone until the next agenda. Ms. Schneider seconded.

Motion carried 5/0/0.

3. First meeting of the month budget review

Mayor Berry said most of the departments are running within budget, with Water running just a little over. He noted most of the problem with Sewer is in Plant Operation and Maintenance. The chemical expenses are running about \$180,000 a year. Testing is running about \$60,000 per year. Mayor Berry spoke about potential savings with a storage facility for bulk chemicals rather than buying by containers.

Transit is over because of the new tram purchase. The Fire Department is also running above budget. February and April were good months for sales taxes.

4. Resolution to accept USDA grant for air packs

Mr. DeVito moved to assign the resolution a number and read it for passage. Mr. Mitchell seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read RESOLUTION NO. 683 A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A USDA RURAL SERVICES GRANT AND EXPRESSING THE WILLINGNESS OF THE CITY OF EUREKA SPRINGS TO UTILIZE THE MONIES TO PURCHASE FIRE EQUIPMENT/BREATHING APPARATUS FOR THE FIRE DEPARTMENT.

5. 2016 1st quarter financial report

Ms. Armstrong provided receipts, disbursements, payroll, bank balances, and debt service summary.

6. Resolution for refinancing ambulance payments

Mr. DeVito moved to assign the resolution a number and read it for passage. Ms. Schneider seconded. A roll call vote followed.

Motion carried 5/0/0. Ms. Armstrong read RESOLUTION NO. 684 A RESOLUTION TO AUTHORIZE THE MAYOR TO SEEK AND ACCEPT BIDS TO REFINANCE AMBULANCE LOAN FOR PURCHASE OF EQUIPMENT FOR FIRE DEPARTMENT.

7. Discussion of White St. Fire Station auction by sealed bid

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mayor Berry said the station is no longer able to handle the existing fire trucks. He said the Fire Chief is hoping the money can go back into repairs for the fire station downtown, and confirmed that would be Council's decision.

Mr. DeVito moved to allow the Mayor to accept sealed bids for the sale of the White St. Fire Station. Mr. Mitchell seconded.

Motion carried 5/0/0.

AGENDA SETTING: no additions

CITY COUNCIL COMMENTS:

Ms. Schneider thanked everyone for their thoughts and prayers for her grandson, who is alive and recovering.

Mr. DeVito thanked the Art Community for a wonderful start to May Fine Arts month.

MAYOR'S COMMENTS:

Mayor Berry read a list of upcoming events.

ADJOURNMENT:

Mr. DeVito moved to adjourn. Ms. Zeller seconded.

Motion carried 5/0/0. The meeting ended at 7:50 p.m.

ATTEST:



City Clerk Treasurer Ann Armstrong

APPROVED:



Mayor Robert "Butch" Berry