

**CITY OF EUREKA SPRINGS  
COUNCIL MEETING  
Monday, September 12, 2016 6 p.m.  
AGENDA**

**CALL TO ORDER**

**ROLL CALL, ESTABLISH QUORUM**

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF THE AGENDA**

**APPROVAL OF THE MINUTES: August 22, 2016, Special meetings August 31 – #1, #2**

**COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:**

**Planning**

**CAPC – Pos. 4 – vacant – expires 6/30/20**

**Hospital – Pos. 4 – vacant – expires 6/1/16**

**Parks**

**HDC**

**Cemetery – Pos. 5 – vacant – expires 2/15/17**

**PUBLIC COMMENTS:**

**NEW BUSINESS:**

1. Discussion of the 2013 and 2014 Legislative Audits – Mr. Mitchell and Mr. DeVito
2. 2016 Mid-year budget adjustment -- Mayor Berry
3. Resolution for Trail Head grant and to use Community Center Foundation funds for matching– Mayor Berry
4. Resolution to waive bidding on playground project at Lake Leatherwood – Mayor Berry
5. Discussion of rescinding Ordinance No. 1628 Lands under the Jurisdiction of Parks – Ms. Kendrick and Mr. McClung
6. Discussion of moratorium on vacating green spaces – Mr. DeVito and Ms. Schneider  
Ms. Schneider
7. Discussion of CAPC/auditorium – Mr. Mitchell and Ms. Schneider

**UNFINISHED BUSINESS:**

1. Ordinance No. 2246 Vacate a portion of Hickory St. and deed two segments of Girkin property to the City – 3<sup>rd</sup> reading

**AGENDA SETTING**

**CITY COUNCIL COMMENTS**

**MAYOR COMMENTS**

**ADJOURNMENT**

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

**MONDAY**

**SEPTEMBER 12, 2016**

Mayor Robert "Butch" Berry called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, September 12, 2016 in the jury room in the Western District Carroll County Courthouse.

**PRESENT:** Mayor Berry, Aldermen Mickey Schneider, Terry McClung, James DeVito, Kristi Kendrick, Bob Thomas, David Mitchell, City Attorney Tim Weaver, and City Clerk Treasurer Ann Armstrong

**PLEDGE OF ALLEGIANCE:**

Mayor Berry led the Pledge of Allegiance.

**APPROVAL OF THE AGENDA:**

Mr. DeVito moved to approve the agenda. Mr. McClung seconded. Mr. DeVito requested a revisit of the vote on Damon Henke for the CAPC. New Business #3 was removed. Ms. Kendrick moved to approve the agenda as amended. Mr. DeVito seconded.

Motion carried 6/0/0.

**APPROVAL OF THE MINUTES: August 22, 2016**

Mr. DeVito moved to approve the minutes from August 22, 2016. Ms. Kendrick seconded.

Motion carried 6/0/0.

Mr. DeVito moved to approve the first Special Meeting minutes from August 31, 2016. Mr. McClung seconded.

Motion carried 6/0/0.

Mr. DeVito moved to approve the second Special Meeting minutes from August 31, 2016. Mr. McClung seconded.

Motion carried 6/0/0.

Mayor Berry welcomed the Boy Scouts to the Council meeting and noted they are working toward earning their Civics and Government merit badges.

A Proclamation for U.S. Constitution Week (September 17 through 23, 2016) was read by Mayor Berry to honor the two hundred and twenty ninth anniversary of the signing of the Constitution.

Several minutes of silence were held in respect for the passing of Patrick Brammer.

**COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:**

**Planning** – No report

**CAPC** – No action was taken by the prevailing side in the vote for Damon Henke for Position 4.

**Hospital** – No report

**Parks** – No report

**HDC** – No report

**Cemetery** – Mayor Berry noted Position 5 is open.

**PUBLIC COMMENTS:**

**Damon Henke** offered background on his businesses in town, participation in the Downtown Network and with the Chamber of Commerce. He said he would be available to answer questions for those who voted "No" to his nomination for the CAPC and thanked Council for their service to the community.

**Paul Arnold**, tenant of Damon Henke, spoke highly of Mr. Henke and recapped the emails sent to Council members. He considered Mr. Henke one of the fairest, most compassionate and least greedy landlords he's ever had.

**NEW BUSINESS:**

**1. Discussion of the 2013 and 2014 Legislative Audits**

Ms. Kendrick moved to discuss. Ms. Schneider seconded. In answer to Mr. Mitchell's question regarding the auditor's notation on segregation of duties, Finance Director Lonnie Clark said that will always be on there because we can't afford to hire enough people. Duties have been rearranged and checkpoints allow people to review others' work.

Mr. Mitchell moved to approve and accept the Auditor's report for 2013. Mr. McClung seconded.

Motion carried 6/0/0.

Mr. DeVito moved to approve the Legislative Audit from 2014. Mr. McClung seconded.

Motion carried 6/0/0.

**2. 2016 Mid-year budget adjustment**

Ms. Schneider moved to discuss. Mr. DeVito seconded. Following Mr. Clark's summary of funds that have been shifted within departments, grants received, and additional expenses that have occurred in 2016, Mr. McClung moved to assign the mid-year budget resolution a number and read it for passage. Mr. DeVito seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read **RESOLUTION NO. 689 A RESOLUTION AMENDING THE ADOPTED 2016 BUDGETS FOR THE CITY OF EUREKA SPRINGS, ARKANSAS, AS A RESULT OF THE MID-YEAR BUDGET REVIEW PROCESS.**

**3. Resolution for Trail Head grant and to use Community Center Foundation funds for matching**

Deleted during approval of the agenda

**4. Ordinance to waive bidding on the playground project at Lake Leatherwood**

Mr. McClung moved to discuss. Ms. Kendrick seconded. Parks Director Justin Huss described the process whereby the State negotiates for large-scale items governmental entities buy. He recalled the initial grant was for a pavilion and playground equipment and said the pavilion portion has been removed. Funds for Parks' match were budgeted.

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

Motion carried 6/0/0. Ms. Armstrong read **ORDINANCE NO. 2247 AN ORDINANCE TO WAIVE COMPETITIVE BIDDING FOR CONSTRUCTION OF NEW PLAYGROUND EQUIPMENT IN THE LAKE LEATHERWOOD CITY PARK.**

Mr. DeVito moved to approve Ordinance No. 2247 on its first reading. Mr. McClung seconded.

Motion carried 6/0/0.

Mr. DeVito moved to suspend the rules and place Ordinance No. 2247 on its second reading by title only. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title.

Mr. DeVito moved to approve Ordinance No. 2247 on its second reading. Mr. McClung seconded.

Motion carried 6/0/0.

Mr. DeVito moved to suspend the rules and place Ordinance No. 2247 on its third reading by title only. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title.

Mr. DeVito moved to approve Ordinance No. 2247 on its third reading. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0.

Mr. DeVito moved to invoke the emergency clause. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the emergency clause.

**5. Discussion of rescinding Ordinance No. 1628 Lands under the Jurisdiction of Parks**

Ms. Kendrick moved to discuss. Mr. Mitchell seconded. Ms. Kendrick provided and read a summary regarding land grants from the U.S. Government, subsequent litigation, and land granted but not currently inside City limits as they are now recognized. The overview also referenced ownership of streets, green spaces, the process for vacating streets, and recommendations for changing the process.

Ms. Kendrick agreed to provide copies of the U.S. Patents from which the map in the summary was drawn. Mr. DeVito added further discussion to the next agenda. Mr. Mitchell seconded.  
Motion carried 6/0/0.

**6. Discussion of moratorium on vacating green spaces**

Ms. Schneider moved to discuss. Mr. DeVito seconded. Mr. McClung moved to take this item from the table. Mr. Mitchell seconded.  
Motion carried 6/0/0.

**7. Discussion of the CAPC/Auditorium**

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. Mitchell reviewed the history of the CAPC and Auditorium Commissions and Committees, noting Ordinance 1086 transferred responsibility for the Auditorium to the CAPC and was never rescinded. He expressed concern about the vote for the tax being impacted by citizens' belief the CAPC is responsible for the Auditorium. Mr. Mitchell proposed a written agreement from the CAPC for the management and maintenance of the Auditorium for 10 years.

Mr. DeVito spoke of the CAPC prior to 2007 and the separate CAPC that began in 2007 and which follows laws used by commissions throughout the State. He agreed to take Mr. Mitchell's suggestion to the next Commission meeting. Mr. DeVito spoke about the small staff at the CAPC and the recommendation to form an Auditorium Commission to ensure continuity.

Mr. McClung favored a commission to "be on top of" the Auditorium at all times, with a separate revenue stream. He suggested that less revenue to run the CAPC and to advertise could result in less revenue for the town.

Mayor Berry noted the tax would provide funds for grant matches.

**UNFINISHED BUSINESS:**

**1. Ordinance No. 2246 – Vacate portion of Hickory St. and deed two segments of Girkin property to the City – 3<sup>rd</sup> reading**

Mr. McClung moved to discuss. Ms. Kendrick seconded. Mr. DeVito moved to suspend the rules and place Ordinance No. 2246 on its third reading by title only. Mr. McClung seconded. A roll call vote followed.  
Motion carried 6/0/0. Ms. Armstrong read the Ordinance title.

Mr. DeVito moved to approve Ordinance No. 2246 on its third reading. Mr. McClung seconded. A roll call vote followed.

Motion carried 6/0/0.

**AGENDA SETTING:**

Mr. Mitchell added an update from the CAPC on their plans for the Auditorium. Ms. Schneider seconded.

**CITY COUNCIL COMMENTS:**

Mr. McClung thanked Ron Sumner for his efforts in putting the Jazz weekend together.  
Ms. Schneider showed a photo of the remains of her smashed SUV.

**MAYOR'S COMMENTS:**

Upcoming events were announced.

**ADJOURNMENT:**

Mr. DeVito moved to adjourn. Mr. McClung seconded.  
Motion carried 6/0/0. The meeting ended at 7:30 p.m.

**ATTEST:**

  
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City Clerk Treasurer Ann Armstrong

**APPROVED:**

  
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Mayor Robert "Butch" Berry