# TURN OFF ALL ELECTRONIC DEVICES, AS THEY INTERFERE WITH THE RECORDING EQUIPMENT

# CITY OF EUREKA SPRINGS COUNCIL MEETING

Monday, March 11, 2019 6 p.m.

### **AGENDA**

CALL TO ORDER
ROLL CALL, ESTABLISH QUORUM
PLEDGE OF ALLEGIANCE
APPROVAL OF THE AGENDA
APPROVAL OF THE MINUTES: February 25, 2019

# COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Pos. 3 – vacant – expires 7/1/20. Pos. 7 – vacant – expires 1/1/21

CAPC - Pos. 1 - vacant - expires 6/30/21

Hospital Pos. 2 – vacant – expires 6/1/19 – vote on Peggy Duncan

**Parks** 

**HDC** 

Cemetery

\*Building Inspector's report

### PUBLIC COMMENTS -- 3 minutes for each citizen

### **UNFINISHED BUSINESS:**

- 1. Planning Commission request to reduce number of members to five Ms. Greene and Mr. Buford (12-10-18 meeting)
  - 2. Ordinance addressing animals in hot cars Ms. Greene and Ms. Harman
  - 3. Ordinance No. 2275 Revoking Ordinance No. 2179 2<sup>nd</sup> reading
  - 4. Ordinance No. 2276 To Vacate alley Midway alley 3<sup>rd</sup> reading

# **NEW BUSINESS:**

- 1. Ordinance for aggregate in sidewalks Mr. McClung and Ms. Schneider
- 2. Mr. Weaver on ex parte Mr. Thomas and Ms. Greene
- 3. Discussion of the Norris St. property Ms. Greene and Mr. Meyer
- 4. Ordinance to waive bidding for SCBAs for Fire Dept. Mayor Berry

AGENDA SETTING
CITY COUNCIL COMMENTS
MAYOR'S COMMENTS
ADJOURNMENT

Mayor Robert "Butch" Berry called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, March 11, 2019 in the Auditorium lobby at 36 S. Main St.

**PRESENT:** Mayor Berry, Council members Melissa Greene, Harry Meyer, Mickey Schneider, Susan Harman, Bob Thomas, Terry McClung, City Attorney Tim Weaver and City Clerk Treasurer Ann Armstrong

#### PLEDGE OF ALLEGIANCE:

Mayor Berry led the Pledge of Allegiance.

#### APPROVAL OF THE AGENDA:

Ms. Greene moved to approve the agenda. Mr. McClung seconded. Mayor Berry postponed Unfinished Business #1 and 2 and New Business #1. He noted New Business #4 would be an ordinance, not a resolution. Mr. McClung moved to approve as amended. Ms. Greene seconded.

Motion carried 6/0/0.

# APPROVAL OF THE MINUTES: February 25, 2018

Ms. Greene moved to approve the minutes of February 25, 2019. Ms. Schneider seconded. Motion carried 5/0/1 with Ms. Harman abstaining due to absence.

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

Planning - Two vacancies

CAPC - One vacancy

Hospital – Mr. McClung moved to approve Peggy Duncan. Ms. Greene seconded.

Motion carried 5/0/1 with Ms. Schneider recusing.

Parks - No report

HDC - No report

Cemetery - No report

**Building Inspector** – Bobby Ray provided the quarterly report of permits, licenses, tree removals, Certificates of Occupancy, and enforcement totals by category. Timelines depend on the violation, with large projects having more time to complete. Mr. Ray summarized how data is collected and categorized, and said letters about sidewalk repair will be going out about six at a time.

### **PUBLIC COMMENTS:**

**Damon Henke** spoke about the upcoming Chamber of Commerce networking events -- an Instagram educational event, and the Tourism Trade Show on April 23, 2019 for gathering and distributing information on the industry this year.

**Chris Fischer** spoke about the Tree City committee, and the Arkansas Forestry Commission Urban and Community Forestry grant that will be used to draft an updated urban forestry management plan. A database of locations of public and private contributory trees and three design projects will be established.

### **UNFINISHED BUSINESS:**

1. Planning Commission request to reduce number of members to five

Postponed during approval of the agenda

2. Ordinance addressing animals in hot cars

Postponed during approval of the agenda

3. Ordinance No. 2275 Revoking Ordinance No. 2179 – 2<sup>nd</sup> reading

Mr. McClung moved to discuss. Ms. Schneider seconded. Mr. McClung moved to suspend the rules and read Ordinance No. 2275 by title only. Ms. Greene seconded. Mr. Thomas said he'd like to keep the capability of putting a City Council person on if their membership drops again. Discussion followed about voting at one table only and doing what's right for the City. A roll call vote followed.

City Council

Motion carried 4/2/0 with Mr. Thomas and Ms. Greene voting "No." The Ordinance title was read. Mr. McClung moved to approve Ordinance No. 2275 on its second reading. Ms. Schneider seconded. Motion carried 4/2/0 with Mr. Thomas and Ms. Greene voting "No."

### 4. Ordinance No. 2276 To Vacate Midway alley

Mr. McClung moved to discuss. Ms. Harman seconded. Mr. McClung moved to suspend the rules and read Ordinance No. 2276 by title only. Mr. Meyer seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. McClung moved to approve Ordinance No. 2276 on the third reading. Ms. Harman seconded. A roll call vote followed. Motion carried 6/0/0.

#### **NEW BUSINESS:**

### 1. Ordinance for aggregate in sidewalks

Postponed during approval of the agenda

### 2. Mr. Weaver on ex parte

Ms. Greene moved to discuss. Ms. Harman seconded. Mr. Weaver noted ex parte is a communication with an authority without giving the opposite side a voice. And conversations that happen between voting members of a council or commission on subjects that may require a vote, outside the hearing of the public, are violations of Freedom of Information (FOIA) Open Meeting Rule. If they are speaking about anything for which their vote may be required, it's difficult because they don't know for certain what might lead to the development of something that may need a vote. It can result in a fine or removal from the board.

Mr. Weaver confirmed this could be problematic for a Council member who sits on Planning, and said he thinks this violates the Open Meeting Rule.

# 3. Discussion of the Norris St. property

Ms. Greene moved to discuss. Mr. Meyer seconded. Mayor Berry said he'd sent copies of the 2018 appraisal to Council members, noting it was appraised as a commercial structure for \$114,000. Discussion followed about possibly using money from the sale to help with the Auditorium basement renovation, getting a residential appraisal and putting it out for bid.

Mr. Thomas moved to get a residential appraisal. Ms. Greene seconded. Following discussion, Mr. Thomas amended the motion to be "get a residential appraisal from the same company that did the commercial." Ms. Greene seconded. Following an opinion from the City Attorney about restricting it to one company, Ms. Greene withdrew her second and Mr. Thomas withdrew the motion. He made a new motion for the Mayor to get the best priced residential appraisal he can get. Ms. Greene seconded.

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

### 4. Ordinance to waive bidding for SCBAs for Fire Dept.

Mr. McClung moved to discuss. Ms. Schneider seconded. It was noted the money is already in the Capital budget for 2019. Mr. McClung moved to assign the ordinance a number and read it for its first reading. Ms. Schneider seconded.

Motion carried 6/0/0. Ms. Armstrong read ORDINANCE NO. 2277 AN ORDINANCE WAIVING THE REQUIREMENTS OF COMPETITIVE BIDDING FOR THE PURPOSE OF PURCHASING SELF-CONTAINED BREATHING APPARATUS.

Mr. Thomas moved to approve Ordinance No. 2277 on its first reading. Ms. Schneider seconded. Motion carried 6/0/0. Mr. McClung moved to suspend the rules and read Ordinance No. 2277 on its second reading by title only. Ms. Schneider seconded. A roll call vote followed.

Motion carried 6/0/0. The Ordinance title was read. Mr. McClung moved to approve Ordinance No. 2277 on its second reading. Ms. Schneider seconded.

Motion carried 6/0/0. Mr. McClung moved to suspend the rules and read Ordinance No. 2277 by title only for the third reading. Ms. Schneider seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. McClung moved to approve the third reading. A roll call vote followed.

Motion carried 6/0/0. Mr. McClung moved to read the emergency clause. Ms. Schneider seconded. A roll call vote followed.

Motion carried 6/0/0. The emergency clause was read.

#### **AGENDA SETTING:**

Ms. Greene added discussion of the last two lead and copper reports. Ms. Schneider seconded.

### **CITY COUNCIL COMMENTS:**

Mr. Thomas spoke in favor of misunderstandings at the table being clarified without a lot of arguing.

Ms. Greene said she's just glad to be alive and here, and glad for Spring.

Ms. Schneider said she agreed with what (Mr. Thomas) said.

### **MAYOR'S COMMENTS:**

Mayor Berry apologized to Mr. Thomas for interrupting him. He read a list of upcoming events.

### ADJOURNMENT:

Mr. McClung moved to adjourn. Ms. Greene seconded. Motion carried 6/0/0. Meeting adjourned at 7:26.

ATTEST:

City Clerk Treasurer Ann Armstrong

APPROVED:

Mayor Robert "Butch" Berry

City Council 3/11/19