

**CITY OF EUREKA SPRINGS
COUNCIL MEETING
Monday, November 14, 2016 6 p.m.
AGENDA**

CALL TO ORDER

ROLL CALL, ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE

****PUBLIC HEARING – Request to trade/vacate – Barbara Dicks**

APPROVAL OF THE AGENDA

APPROVAL OF THE MINUTES: October 24, 2016

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Pos. 3 – vacant – expires 7/1/19. Nomination of Doug Breitling. Review of 2016 and plans for 2017

CAPC – Pos. 4 – (review 1/2017) -- expires 6/30/20

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

Parks – Pos. 1 – vacant – expires 5/1/22

HDC – Pos. 2 – expires 11-30-16 – Renomination of Dee Bright. Pos. 4 – expires 11-30-16

Cemetery – Pos. 5 – vacant – expires 2/15/17. Review of 2016 and plans for 2017

PUBLIC COMMENTS:

NEW BUSINESS:

1. Discussion of Barbara Dicks' request to trade/vacate
2. Recommendations for change in Code definition of "Bed and Breakfast" and the "200 ft. rule" – Planning Commission
3. Discussion of funds for the Cemetery – Ms. Schneider and Mr. Thomas
4. Resolution for 2016 Cemetery budget adjustment – Mayor Berry
5. Resolution for additional 2016 City budget adjustment – Mayor Berry
6. Resolution to renew Voiers' lease for one year – Mayor Berry
7. Food Truck ordinance – Mayor Berry
8. Resolution for free December 2 hour parking on Spring and Main meters – Mayor Berry
9. Resolution to apply for NWAEDD gift grant – Mayor Berry
10. Discussion of proposed ordinances to change vacating process – Ms. Kendrick and Mr. DeVito
11. Update on State regulations regarding taxis – Mayor Berry

UNFINISHED BUSINESS:

1. Status on prohibition of smoking in City parks – Mr. DeVito and Ms. Kendrick

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR COMMENTS

ADJOURNMENT

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

MONDAY

NOVEMBER 14, 2016

Mayor Robert "Butch" Berry called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, November 14, 2016 in the jury room in the Western District Carroll County Courthouse.

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

ABSENT: James DeVito (with notice)

PLEDGE OF ALLEGIANCE:

Mayor Berry led the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Ms. Kendrick moved to approve the agenda. Mr. McClung seconded. Mr. McClung said he'd been advised Parks has not had a meeting on the smoking issue and requested postponement of New Business 1. He also favored moving New Business 10 for discussion after New Business 1. Ms. Schneider seconded. Mayor Berry called for a vote on the amended agenda.

Motion carried 5/0/0.

APPROVAL OF THE MINUTES: October 24, 2016

Ms. Schneider moved to approve the minutes. Mr. McClung seconded. Ms. Schneider said her son's encounter was in Savannah, not Atlanta. Ms. Armstrong agreed to make the change. Ms. Kendrick moved to approve the minutes as amended. Ms. Schneider seconded.

Motion carried 5/0/0.

PUBLIC HEARING – Request to trade/vacate – Barbara Dicks

Mr. McClung moved to open the public hearing. Ms. Schneider seconded. Barbara Dicks provided a plat map to show the location of the property she proposed to trade for an easement for a walking trail next to Dairy Hollow Rd. She noted that 30 ft. of an unopened 60 ft. alley was already granted to the owners of Lot 4, in the 1970's. Ms. Dicks is in negotiations to purchase lots to the southeast of her property. Her proposal included vacating the 10 ft. alley between her property and what she plans to purchase. The alley is landlocked by her property and leads only to the doorway of her barn. The plan was to trade the remaining 30 ft. next to Lot 4, the 60 ft. between Lot 5 and Lot 8, and the 10 ft. x 95 ft. alley for an easement to Parks for a walking trail.

Parks Director Justin Huss confirmed Parks is in agreement and the trail has been marked.

Mr. McClung moved to close the public hearing. Ms. Schneider seconded.

Motion carried 5/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Planning – Mr. Mitchell moved to approve the nomination of Doug Breitling. Mr. McClung seconded.

Motion carried 5/0/0.

Planning Chair Melissa Greene read a summary of Commission accomplishments in 2016 and their plans for 2017.

CAPC – No report

Hospital – Mayor Berry noted there is a vacancy.

Parks – There is one vacancy.

HDC – Mayor Berry noted the application for renomination for Dee Bright. Mr. McClung moved to approve Ms. Bright. Ms. Schneider seconded.

Motion carried 5/0/0.

Cemetery – Mayor Berry confirmed there is a vacancy.

Cemetery Superintendent and Commission Chair Peg Adamson provided an overview of the accomplishments of the Commission which formed in March of 2016. She spoke about movement toward gaining Historic Preservation status, and read a list of improvement goals for 2017.

Bob Thomas stepped away from the Council table and spoke as the Cemetery Secretary Treasurer. He noted there are now two part time employees, spoke about sources for operating expenses, and efforts to repair broken equipment.

PUBLIC COMMENTS:

Bill Reed spoke about highway property on which he would like to have up to four food trucks and a trolley stop. He favored offering the thousands of people who drive by every day and never stop an opportunity. Mr. Reed also welcomed existing restaurants to have their own food trucks there.

NEW BUSINESS:

1. Discussion of Barbara Dicks' request to trade/vacate

Mr. McClung moved to discuss. Ms. Kendrick seconded. Mr. Huss confirmed Ms. Dicks' offer would be part of a major artery for trails through town. The easement as marked is about 60% 30 ft. and about 40% 25 ft. and is part of a project to address drainage and safety in the area.

Mr. McClung made a motion to proceed with an ordinance (to reclaim the alley ways from Parks). Mr. Mitchell seconded. Mr. Huss said Parks will provide a survey for the trail and Ms. Dicks will provide a survey and description for the alley ways. Following discussion of a letter of confirmation from the current owner of the adjoining lots, Ms. Dicks expressed intent to provide an easement if she does not purchase those lots.

Motion carried 5/0/0.

10. Discussion of proposed ordinances to change vacating process

Ms. Kendrick moved to discuss. Mr. McClung seconded. Ms. Kendrick said she'd prepared an ordinance amending the Code portion that gave jurisdiction over unopened streets to Parks with giving them jurisdiction over existing and proposed trails according to the master plan. A second ordinance was prepared to amend the procedures for vacating streets and alleys. She said State Statute 14-54-104(2) provides another manner. Ms. Kendrick also expressed her belief the property owner should pay all of the City's costs unless the Council decides what the City is getting back justifies waving the application fee and the costs for vacating. She favored not refunding the application fee. She also proposed having brokers' opinions when considering selling streets and alleys. Ms. Kendrick said she'd prepared an application paring down what Departments and Commissions do to prepare vacations.

Mr. McClung spoke about what properties are truly worth, requests because of encroachments, and trying to keep it simple. He was in support of refunding the application fee if a request is denied. Following discussion regarding various past requests and added steps in the new proposal, Mr. Mitchell moved to table discussion for a workshop. Ms. Schneider seconded. It was agreed the City Attorney would be present.

Motion carried 5/0/0.

Ms. Schneider motioned for a five minute break. Mr. Mitchell seconded.

Motion carried 5/0/0.

2. Recommendations for change in Code definition of "Bed and Breakfast" and the "200 ft. rule"

Ms. Greene read proposed changes for Conditional Use Permits, the "200 foot rule," and for Bed and Breakfasts. She also read a change clarifying that Conditional Use Permits are granted by the Planning Commission (not the Board of Zoning Adjustment). An additional proposed requirement for a B&B owner or resident manager to register the establishment as his or her primary domicile was read.

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. Mitchell asked if a definition for "primary domicile" would be added and referenced five specific requirements listed in a law dictionary. Discussion followed about how a primary domicile would be registered, verification, legislating how many nights the owner or manager would stay there, and the absence of State requirements for one domicile. Further discussion included serving breakfast/land use, truth in advertising, having regulated new Tourist Lodgings out of R-1 zones, and the perception of B&Bs as home occupations.

Ms. Kendrick spoke about tightening up the registering of primary domiciles. Mr. Mitchell favored “owner or manager on site when there are guests” so an owner could shut down for 30 or 60 days. (The proposed changes will be provided in two forms for Council review.)

3. Discussion of funds for the Cemetery

Mr. Mitchell moved to discuss. Mr. Thomas seconded. Mr. Thomas noted that, until 2008, funds were budgeted for the Cemetery supplies and operating expenses. The current proposal was for \$4,500 for 2017.

Discussion followed regarding a voluntary tax on personal property taxes, and the remaining fraction of a mil that could be added to the personal property taxes. It was agreed to address the request during the 2017 budgeting process.

4. Resolution for 2016 Cemetery budget adjustment

Mr. Mitchell moved to discuss. Ms. Schneider seconded. Mr. Thomas spoke about the request to reallocate \$1,528 in funds from wages to expenses.

Mr. Mitchell made a motion 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. 691 (later changed to No. 696) A RESOLUTION REALLOCATING MONEY FROM CEMETERY WAGES TO CEMETERY EXPENSES FOR FISCAL YEAR 2016.**

5. Resolution for additional 2016 City budget adjustment

Mr. Mitchell moved to discuss. Ms. Kendrick seconded. Finance Director Lonnie Clark spoke about the need to make some adjustments in General Revenues and Expenses, and in the Transit Department.

Mr. Mitchell made a motion to assign the resolution a number and read it for passage. Ms. Schneider seconded. Mr. Thomas favored adding totals so as to see the impact of the changes.

Mr. Clark explained that the increase in wages was for holiday pay for Fire and Police that is according to a provision in State law but that was not included in the original budget. He noted the grant funds receipt and expense and the Transit reimbursement, which, overall, resulted in a positive impact. Totals was added to the resolution. A roll call vote on the motion followed.

Motion carried 5/0/0. Ms. Armstrong read **RESOLUTION NO. 692 (later changed to No. 697) A RESOLUTION AMENDING THE ADOPTED 2016 BUDGETS FOR THE CITY OF EUREKA SPRINGS, ARKANSAS, AS A RESULT OF THE THIRD QUARTER BUDGET REVIEW PROCESS.**

6. Resolution to renew Voiers’ lease for one year

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

Motion carried 5/0/0. Ms. Armstrong read **RESOLUTION NO. 693 A RESOLUTION TEMPORARILY RECLAIMING AN ALLEY BETWEEN NORTH MAIN STREET AND HILLSIDE AVENUE FROM THE PARKS COMMISSION’S AUTHORITY AND LEASING A PORTION THEREOF.**

7. Food Truck ordinance

Mr. Mitchell moved to discuss. Ms. Kendrick seconded. Ms. Schneider expressed her belief that Section 10 would result in a lawsuit from discrimination, and objected to reference to the CAPC in Section 3. She also had concern about property owners winning the lottery and not having working food trucks.

Mr. Mitchell moved to assign the ordinance a number and read it for the first reading. Ms. Kendrick seconded.

Motion carried 4/1/0 with Ms. Schneider voting “No.”

Ms. Armstrong read **ORDINANCE NO. 2249 AN ORDINANCE REGULATING FOOD TRUCKS AND TRAILERS AND AMENDING CHAPTER 4 BUSINESS LICENSES AND REGULATIONS OF THE MUNICIPAL CODE OF THE CITY OF EUREKA SPRINGS, ARKANSAS.**

Mr. Mitchell moved to approve Ordinance No. 2249 on its first reading. Ms. Kendrick seconded.

Addressing Ms. Schneider’s concern regarding Section 10, Mr. Weaver said a land use is being added that is, at this time, not allowed. A right is being given they did not have before.

Motion carried 4/1/0 with Ms. Schneider voting “No.”

8. Resolution for free December 2-hour parking on Spring and Main meters

Mr. McClung moved to discuss. Mr. Mitchell seconded. Mayor Berry confirmed this is an annual resolution. Mr. McClung moved to assign the resolution a number and read it for passage. Ms. Kendrick seconded. A roll call vote followed.

Motion carried 5/0/0.

Ms. Armstrong read **RESOLUTION NO. 694 A RESOLUTION REMOVING THE REQUIREMENT OF PAYING THE PARKING METERS ON SPRING STREET AND MAIN STREET AND ESTABLISHING FREE TWO-HOUR PARKING FROM DECEMBER 1 THROUGH DECEMBER 31, 2016.**

9. Resolution to apply for NWAEDD GIF grant

Ms. Kendrick moved to discuss. Mr. McClung seconded. Mayor Berry spoke about the City being granted \$250,000 to work on the tunnel under Water St., next to the Grand Central Hotel. The State Historic Preservation Program decided that could potentially be historically significant and now requires a cultural assessment. McClelland Engineers were selected to do the engineering work for \$6,200 and application is being made to the Northwest Arkansas Economic Development District for those funds.

Mr. McClung 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. 695 A RESOLUTION AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF A NORTHWEST ARKANSAS ECONOMIC DEVELOPMENT DISTRICT, INC. GIF GRANT TO FUND A CULTURAL RESOURCE SURVEY FOR THE CITY OF EUREKA SPRINGS.**

11. Update on State regulations regarding taxis

Mr. Weaver spoke about the State Legislative changes to regulations regarding UBER and its competitors. They have to register with the State. Taxis, however, are still regulated as they were. Applicants still have to come before Council and demonstrate there's a need.

UNFINISHED BUSINESS:

1. Status on prohibition of smoking in City parks

Postponed during approval of the agenda

AGENDA SETTING:

Ms. Kendrick added a report from the Hospital Commission on how much it would cost to run the hospital without their current contract. Mr. McClung seconded.

Ms. Schneider added discussion of the tax situation. Mr. McClung seconded.

CITY COUNCIL COMMENTS:

Mr. Thomas spoke about the generous contribution made by Mrs. Gladden Nance for repairing the fountain at the cemetery. The fence along the highway needs to be re-welded and painted. Draft guidelines for the cemetery are available through Mr. Thomas.

Ms. Schneider spoke about the great turnout for the Veterans Day luncheon and donations and events afterwards. She also congratulated Peg Adamson.

Ms. Kendrick also congratulated Peg Adamson.

MAYOR'S COMMENTS:

Mayor Berry read a list of upcoming events.

ADJOURNMENT:

Mr. McClung moved to adjourn. Ms. Kendrick seconded.

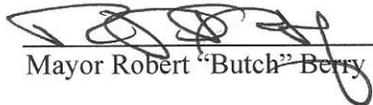
Motion carried 5/0/0. The meeting ended at 8:40 p.m.

ATTEST:



City Clerk Treasurer Ann Armstrong

APPROVED:



Mayor Robert "Butch" Berry