

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

5:15 – December

Budget review

**CITY OF EUREKA SPRINGS
COUNCIL MEETING**

Monday, January 28, 2019

6 p.m.

AGENDA

CALL TO ORDER

ROLL CALL, ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE

APPROVAL OF THE AGENDA

APPROVAL OF THE MINUTES: January 14, 2019

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

**** **Carroll Co. Solid Waste rate increase** – was to have been added from the 1/14 meeting

Planning – Pos. 3 – **vacant** – expires 7/1/20. Pos. 5 – **vacant** – expires 1/1/19. Pos. 6 – **vacant** – expires 1/1/21

CAPC – Pos. 1 – **vacant** – expires 6/30/21. Pos. 2 – **vacant** -- expires 6/30/22

Hospital

Parks

HDC

Cemetery

PUBLIC COMMENTS -- 3 minutes for each citizen

NEW BUSINESS:

1. Public Hearing re: Vacating request for alley between Midway and Benton St.
2. Budget for 2019/Amortization chart – Mayor Berry
3. Vote on Pease vs. Cook, Gillette, and the City of Eureka Springs settlement
4. Discussion of adding a Planning Commissioner from Council – Ms. Greene and Ms. Schneider
5. Discussion of the Animal ordinance – Ms. Greene and Ms. Schneider
6. Discussion of Council members who are also on a Commission voting on an issue at only one table – Ms. Schneider and Ms. Greene
7. Resolution to accept DOT sidewalk grant – Mayor Berry

UNFINISHED BUSINESS:

1. Ordinance No. 2274 Collection of Expenditures for Clean-up – 3rd reading
2. Planning Commission request to reduce number of members to five – *place holder for March 11 meeting*

AGENDA SETTING

CITY COUNCIL COMMENTS

MAYOR'S COMMENTS

ADJOURNMENT

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

MONDAY

JANUARY 28, 2019

Mayor Robert "Butch" Berry called the regular meeting of the Eureka Springs City Council to order at 6 p.m. Monday, January 28, 2019 in the Auditorium lobby at 36 S. Main St.

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

PLEDGE OF ALLEGIANCE:

Mayor Berry led the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Mayor Berry called for a motion to approve the agenda. Mr McClung said he so moved. Ms. Schneider seconded. Mayor Berry said he'd like to move New Business 3 up for discussion first. (No motion was made.) Ms. Greene said she seconded. Mr. Thomas moved to have the vote for the CAPC position take place after (New Business) 6. Ms. Schneider seconded. A vote on the amended agenda followed.

Motion carried 6/0/0.

APPROVAL OF THE MINUTES: January 14, 2018

Ms. Schneider moved to accept the minutes. Ms. Greene seconded.

Motion carried 6/0/0.

COMMISSION, COMMITTEE, AUTHORITY REPORTS AND EXPIRED TERMS:

Carroll County Solid Waste – Ms. Schneider moved to discuss the solid waste increase. Ms. Greene seconded. Mayor Berry called for a motion to approve the (3.5%) increase. Mr. McClung said he so moved. Ms. Harman seconded.

Motion carried 6/0/0.

Planning – Ms. Greene moved to approve Ferguson Stewart to sit on the Planning Commission (Pos. 5). Ms. Harman seconded.

Motion carried 6/0/0. Ms. Greene moved to defer the vote for John Nuckolls (Pos. 6.) Ms. Schneider seconded.

Motion carried 6/0/0.

CAPC – Deferred during approval of the agenda

Parks – No report

HDC – No report

Cemetery – No report

PUBLIC COMMENTS:

James DeVito said the change in the way Council was voting on the CAPC Commissioners should have been as agenda topic. He spoke about his experience, said he would not be here during discussion of the sixth (agenda) item, and considered the change an abrogation of Council's rules.

Damon Henke spoke about Chamber efforts toward economic development, noting the Visitors Guide is coming from the printers. The Chocolate Fest, networking through Wake Up Eureka, Business After Hours, and Tourism Trade Show are upcoming events.

James DeVito returned to the mic, saying he'd just changed the rules for public comments and stating that (CAPC) seat has been vacant for eight months.

Pat Matsukis asked, "Who are we as a town when we say you have to move out if you can't maintain your property?" She favored moving Parks tax money, by ballot, to the Auditorium infrastructure. Concern for the absence of a plan for the City was expressed as was consideration of using biodegradable plastic bags.

NEW BUSINESS:

3. Vote on Pease vs. Cook, Gillette, and the City of Eureka Springs settlement

Mayor Berry called for a motion to discuss. Ms. Schneider said she so moved. Mr. Meyer seconded. Attorney Tom Kieklack thanked Council for their work and noted they are to approve in this meeting the settlement that was reached in the conference ordered by the Federal Judge and conducted by the Federal Magistrate.

Mr. Kieklack summarized the essential terms: the City of Eureka Springs will write a check for \$40,000 to the defendants. The shed that was built next to the Roundhouse will be removed within 120 days down to the floor, with a permit. All the claims against everyone will be dismissed. No fault will be admitted.

The shed will be reroofed according to Code and HDC requirements. Any new building on that property will have to comply. The settlement document will be circulated.

Mr. Kieklack requested that the Council motion include approval for the Mayor to have authority to execute any documents needed to finish up the settlement. Mr. Thomas moved to approve what the Lawyer just said. Ms. Schneider seconded. A roll call vote followed.

Motion carried 4/2/0 with Ms. Greene and Ms. Schneider voting "No."

1. Public Hearing re: Vacating request for alley between Midway and Benton St.

Laura Corona, representative for the property owners, said the owners would like to get the title clear for subdivision of the property.

The public hearing was closed.

Ms. Schneider moved to accept the vacation of the alley for the family involved. Ms. Greene seconded.

Motion carried 6/0/0.

2. Budget for 2019/Amortization chart

Ms. Greene moved to discuss the budget for 2019. Ms. Schneider seconded. Finance Director Lonnie Clark noted there were two changes since the budget meeting: The school's contribution of \$60,000 for the resource officer was added to revenues, and \$10,000 was added to appropriations for economic development.

Mr. Thomas moved to add \$50,000 for remodeling the downstairs of the Auditorium. Ms. Schneider seconded. Mayor Berry added that a \$150,000 grant from the Arkansas Historic Preservation Program has been applied for, and the \$50,000 could be for matching funds.

Motion carried 6/0/0. Mr. Thomas moved to approve the 2019 budget as amended. Ms. Greene seconded.

Motion carried 6/0/0. Ms. Greene moved to assign the resolution a number and read it for passage. Ms. Schneider seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read **RESOLUTION NO. 749 A RESOLUTION PROVIDING FOR AND ADOPTING BUDGETS FOR THE CITY OF EUREKA SPRINGS, ARKANSAS, FOR THE TWELVE MONTH PERIOD BEGINNING JANUARY 1, 2019, AND ENDING DECEMBER 31, 2019; APPROPRIATING MONEY FOR EACH AND EVERY ITEM OF EXPENDITURE THEREIN PROVIDED FOR.**

Mr. Clark provided an amortization schedule for accelerated Water Sewer bond payments and a schedule for the 2012 Sales Tax bond and long term liabilities.

4. Discussion of adding Planning Commissioner from Council

Ms. Greene moved to discuss. Ms. Harman seconded. Ms. Greene said seating a Council member would allow for a liaison. It was clarified that having a Council member on that Commission is allowed, just not happening now. Discussion followed regarding recent applications, and a member voting on an issue at two tables, Mr. Thomas moved to reserve position 6 on the Planning Commission for a Council member. Ms. Greene seconded. Objecting to the Mayor intervening, Mr. Thomas withdrew the motion. Ms. Greene withdrew the second.

5. Discussion of the Animal ordinance

Ms. Greene moved to discuss. Ms. Schneider seconded. Ms. Greene provided written recommendations she said she'd shown to (the Animal Control Officer.) Mr. Weaver reflected that listing temperatures in Code can make it more difficult to ascertain whether there's violation or not. He spoke about a law listing a temperature that was being challenged. Discussion followed about various temperature tolerances, discretion of the Animal Control Officer and veterinarian testimony in court.

Ms. Greene favored adding language about animals in hot cars and moved to have Tim (Weaver) draft language for definitions and changes to 6.04.04(A) and (H.) Ms. Harman seconded.

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

6. Discussion of Council members who are also on a Commission voting on an issue at only one table

Ms. Greene moved to discuss. Ms. Schneider seconded. Ms. Schneider spoke of (appeals of Planning decisions) being heard by Council and her concern of it not being fair to the community. It was noted (the intent of) discussion was about Planning, not all commissions. Following discussion about voting what's in the best interest of the City, Ms. Schneider moved to limit a Council member who is also a Planning Commissioner from voting on the same issue at both (tables.) Ms. Greene seconded. Mr. Weaver said that how the State deals with it is, if they believe there could be a conflict by someone sitting on two boards, one that reviews the other, they prevent anyone from sitting on both boards.

Ms. Schneider moved to take the first motion from the table. Ms. Green withdrew the second. Ms. Schneider moved to remove Ordinance No. 2179 from the books and no longer allow a Councilman to sit on Planning at the same time, or any Commission, except the CAPC and Cemetery. She then rephrased to moving to revoke Ordinance No. 2179. Mr. Meyer seconded. A roll call vote followed.

Motion carried 4/2/0 with Ms. Greene and Mr. Thomas voting "No."

CAPC – vote on application from James DeVito

Ms. Greene moved to discuss. Mr. McClung seconded. Ms. Greene moved to approve James DeVito for CAPC position 2. Mr. McClung seconded.

Motion carried 5/0/1 with Ms. Schneider voting "Present."

7. Resolution to accept DOT sidewalk grant

Mayor Berry confirmed receipt of grant funds for the sidewalk. Ms. Greene moved to give the resolution a number and read it for passage. Ms. Schneider seconded. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read **RESOLUTION NO. 750 A RESOLUTION TO AUTHORIZE THE MAYOR TO SEEK, OBTAIN AND USE TAP GRANT FUNDS PREVIOUSLY AUTHORIZED UNDER RESOLUTION 727 ADOPTED ON APRIL 27, 2018.**

UNFINISHED BUSINESS:

1. Ordinance No. 2274 Collection of Expenditures for Clean-up – 3rd reading

Ms. Greene moved to suspend the rules and place Ordinance No. 2274 on its third reading by title only. Ms. Schneider seconded. Mr. Weaver suggested removing two State code references. A roll call vote followed.

Motion carried 6/0/0. Ms. Armstrong read the Ordinance title. Mr. McClung moved to follow the suggestion from Counsel and make two amendments, citing the references to be deleted. Ms. Greene seconded.

Motion carried 6/0/0. Ms. Greene moved to approve Ordinance No. 2274 by title only, as amended. Ms. Schneider seconded. A roll call vote followed. Mr. Thomas expressed concern about potential for arbitrary decisions. Mr. Weaver noted neither is required by State law and one method could be an option.

Following discussion of Mr. Thomas's written suggestion for a modification, and time frames for the two methods, a roll call vote was taken.

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

2. Planning Commission request to reduce number of members to five – place holder for March

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AGENDA SETTING:

Mayor Berry will provide information on sidewalk surfaces from the (Historic District Commission.) Ms. Schneider added discussion of Code enforcement and policy procedures. Ms. Greene seconded.

Ms. Schneider added discussion of Commissioners and Council members voting on issues related to their own businesses. Ms. Greene seconded.

Mr. Thomas asked Mr. Weaver to do his ex parte lecture. Ms. Greene seconded.

CITY COUNCIL COMMENTS:

Mr. Thomas noted Council often moves agenda items. He said he'd (used the word Chairman) because a Chairman has to remain impartial.

Ms. Greene said she's glad to be here.

Ms. Schneider clarified that the end of the Viet Nam War was 46 years ago on this day.

Mr. McClung said it could be a good night to let the water drip.

MAYOR'S COMMENTS:

Mayor Berry read a schedule of upcoming events.

ADJOURNMENT:

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

Motion carried 6/0/0. The meeting ended at 7:55 p.m.

ATTEST:


City Clerk Treasurer Ann Armstrong

APPROVED:


Mayor Robert "Butch" Berry