

MINUTES OF COUNCIL
APRIL 14, 2009

The Batesville City Council met in regular session on April 14 at 5:30 PM at the Municipal Building. Mayor Elumbaugh called the meeting to order. Councilmember Krug gave the invocation. Upon roll call, the following councilmembers answered present; Thomas Bryant, Margaret Henley, Davy Insell, Fred Krug, Doug Matthews, Matt McDonald, Richard O'Neal and David Shetron. The City Clerk and City Attorney were also present.

Councilmember Bryant moved to approve the minutes from the previous meeting. Councilmember Insell seconded and all voted for.

Councilmember Bryant moved to approve the prepared agenda as amended. Councilmember O'Neal seconded and all voted for.

COMMENTS FROM CITIZENS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

A) RECOGNIZE THE "CITIZENS FOR JOBS" GROUP

Mayor Elumbaugh recognized members from the "Citizens for Jobs" group who worked tirelessly in the effort to promote a one cent sales tax to make improvements to the City's Wastewater Treatment Plant. The election passed with a 93% voter approval which is an unprecedented success rate for any tax proposal in Arkansas. Members of the group were Dr. Sam Cooke, Chairman, Tony Thompson, H.D. Bailey, Bill Olson, Trula Pectol, Ronnie Hampton, Barry Hammers and the Batesville Chamber of Commerce.

B) PUBLIC FACILITIES BOARD ANNUAL REPORT, MR. JOE DON REYNOLDS

Mr. Joe Don Reynolds with the City's Public Facilities Board addressed the council

with the Board's Annual Report.

**C) CONSIDER A RESOLUTION TO ENTER INTO AN AGREEMENT WITH
McGOODWIN, WILLIAMS AND YATES FOR ENGINEERING SERVICES FOR THE NEW
WASTEWATER TREATMENT PLANT PROJECT**

City Engineer Damon Johnson and Jim Ulmer with McGoodwin, Williams and Yates, Inc. of Fayetteville, Arkansas addressed the council to answer questions regarding the proposed resolution authorizing the Mayor and City Clerk to execute an agreement with MW&Y for Engineering services for the Wastewater Collection and Treatment Project. Mr. Johnson said the Arkansas Natural Resources Commission (ANRC) requires an agreement for Engineering Services as a part of the project loan that has been acquired from the State of Arkansas Revolving Loan Fund. Councilmember Matthews introduced the resolution. City Attorney Stalker read the resolution in full. Councilmember Bryant moved to adopt the resolution and Councilmember O'Neal seconded. All voted for. The resolution was given #2009-04-01-R.

D) ENGINEER'S REPORT

City Engineer Damon Johnson gave his report to the council on projects within the City.

**E) CODE ENFORCEMENT OFFICER CHAD McCLURE REGARDING THE
ESTABLISHMENT OF A CODE ENFORCEMENT BOARD OF APPEALS**

Code Enforcement Officer Chad McClure addressed the council regarding establishing a Code Enforcement Board of Appeals. Mr. McClure said when the City adopted the State Fire and Buildings Codes, we are mandated to establish a Board of Appeals. He said the mandate includes fire and building issues but can also include code enforcement issues if the council so desires. Mayor Elumbaugh said he would call an Ad Hoc meeting sometime next week to discuss the matter further.

F) DISCUSSIONS FROM CITIZENS REGARDING THE PROPOSED HISTORIC PROTECTION AND PRESERVATION ORDINANCE

Mayor Elumbaugh opened the floor for comments from citizens regarding the proposed Historic Protection and Preservation Ordinance. Mr. Jerry Post, Mr. Terry Chandler, Ms. Jennifer Davidson and Mr. Richard Earnheart all addressed the council with concerns regarding the ordinance. Some thought it is too restrictive and gives the Historic Commission too much power. Although all were opposed to the proposed ordinance, all agreed that the City does need to protect its historic downtown.

G) DISCUSSION WITH MR. BOYD MAHER AND MR. ROB MIDDLETON REGARDING THE PROPOSED HISTORIC PROTECTION AND PRESERVATION ORDINANCE

Mr. Boyd Maher with the Arkansas Historic Preservation Program and City Planner Rob Middleton addressed the council. Mr. Maher told the council of the advantages of having a preservation plan for our city especially since we are the oldest existing city in the State of Arkansas. Mr. Middleton talked to the council more with a planning view point. The council then recognized Dr. Terrell Tebbetts, Chairman of the Historic commission. Dr. Tebbetts gave a brief account of how the preservation guidelines came about and tried to answer questions and clear up statements made by the preceding business owners. Mr. Chris Black, Chairman of Main Street Batesville addressed the council and said the Main Street Board is in support of the proposed ordinance. Mr. Rick Reed, local downtown business owner then addressed the council with his concerns with the ordinance.

H) SECOND READING OF AN ORDINANCE TO PROTECT AND PRESERVE THE CHARACTER OF AND PROPERTIES WITHIN THE HISTORIC DISTRICT

Councilmember Krug moved to read the second reading by title only. Councilmember Bryant seconded and the roll call count was 8 for and 0 against. Mr. Stalker read the ordinance by title only. Councilmember Shetron moved to suspend the rules and

waive the third reading. Councilmember Bryant seconded and the roll call count was 4 for (Shetron, Bryant, Insell and Krug) and 4 against (Henley, Matthews, McDonald and O'Neal). The motion failed. The ordinance will be place on the next council agenda for the third and final reading.

I) CONSIDER AN ORDINANCE TO ALLOW THE CITY OF BATESVILLE TO CONDUCT BUSINESS WITH CITY EMPLOYEES

Councilmember Insell introduced an ordinance to allow the City of Batesville to contract with its employees, their families and business associated for various incidental goods and services. Mr. Stalker read the ordinance in full. Councilmember Bryant moved to suspend the rules and waive the second and third readings. Councilmember Insell seconded and the roll call count was 8 for and 0 against. Councilmember Shetron moved to adopt the ordinance. Councilmember O'Neal seconded and the roll call count was 8 for and 0 against. The ordinance was given #2009-04-01. Mr. Stalker read the emergency clause. Councilmember Bryant moved to adopt the emergency clause and Councilmember Insell seconded. The roll call count was 8 for and 0 against.

J) REVIEW PAID BILLS REPORT

The council reviewed the paid bills report for March 31, 2009.

MAYOR'S COMMENTS

Mayor Elumbaugh asked Mr. Stalker what the status was on the condemnation of the properties on Grace Street and Pine Street. Mr. Stalker said he filed suit in Circuit Court today on the Grace Street property and is sending out re-notifications on the Pine Street property.

The Mayor said that an Interlocal Law Enforcement meeting is scheduled for Thursday, April 16th at 3:00 PM at the Municipal Building.

The Mayor asked the council for their approval to proceed with the plans to move the

Cemetery Shop to the Utility property across Myers Street from the Cemetery.

Councilmember Shetron moved to have a Commercial Appraisal on the current cemetery shop property. Councilmember McDonald seconded and all voted for.

Mayor Elumbaugh said bids were opened for the two dump trucks for the Utility Department. City Engineer Damon Johnson said the City received two bids with Tri-State Mack meeting the specs and coming in under the budgeted amount. Councilmember Bryant moved to accept the Tri-State Mack bids and Councilmember Shetron seconded. All voted for.

LIAISON REPORTS

None

COUNCIL COMMENTS

None

ADJOURNMENT

There being no further business, Councilmember Shetron moved that the meeting be adjourned. Councilmember Bryant seconded and all voted for.

RICK ELUMBAUGH, MAYOR

DENISE M. JOHNSTON, CITY CLERK