

CITY OF CHEROKEE VILLAGE, ARKANSAS
City Council Minutes
July 21, 2005

The monthly meeting was called to order at 7:00 PM Thursday, July 21, 2005 by Mayor Ray Maynard. The meeting was held at City Hall. The Pledge of Allegiance was recited; he called for the roll call and declared a quorum.

ROLL CALL:

Answer Roll Call: Tom Henkels, Peter Martin, Scott Paul, Angela Petersen, Russ Stokes, Jan Torbit and Kent Viers

Also Present: Susan Maynard, City Clerk/Treasurer and City Attorney R.T. Starken

Absent: Jim Fenton

MINUTES: Motion to approve the June 23, 2005 minutes as presented was made by Mr. Stokes and seconded by Mr. Paul. With a voice vote of seven ayes, motion carried unanimously.

TREASURER'S REPORT: Mr. Henkels asked if we put out a bid for fuel. Mayor Maynard said we had put out a bid for 2004, and received none. We may start to do this quarterly. Motion to file the June financial report for audit was made by Mrs. Torbit and seconded by Mr. Stokes. With a voice vote of seven ayes, motion carried unanimously.

CORRESPONDENCE: Mrs. Maynard read a letter from the University of Arkansas Criminal Justice Institute selecting our Police Dept. as a winner of the "Click It or Ticket" incentive program. We will receive a grant of \$2,000 to spend on safety related equipment. We have submitted a request for a vehicle-mounted breath analyzer, and it has been approved.

REPORTS:

Animal Control: No report, representative not present.

Fire Dept.: In packet.

Homeland Security: No report.

Municipal Planning & Development: No report.

Planning & Zoning: In packet.

Police Dept.: Sgt. Shultz gave the police report which was in the packet.

Street Dept.: In packet. A test section of road has been done to evaluate the materials. The Water Dept.'s contractor has done some damage to our roads. We have been assured that it will be repaired in a timely manner. We have a schedule of roads to be repaired.

UNFINISHED BUSINESS:

a. Assignment of second-in-command. The following table was presented to the Council:

Dept. Head	Second in Command
Mayor Ray Maynard	Council appoints alderman
C/T Susan Maynard	Joan Romans
Police Chief Scott Goodwin	Sgt. K.C. Shultz
Street Supt. Jim Cherry	Foreman Denny Gilbreath
Fire Chief Mike Taylor	Lt. in charge of the current shift
P/Z Sec. Joan Romans	Dept. Clerk Kristi Baldwin
Dist. Court Clerk Dora' Lee Schaffert	Dep. Clerk Joan Romans
Admin. Asst. Pat Dunlap	Dep. Clerk Kristi Baldwin
Bailiff Kristi Baldwin	Bailiff Bob Smith

Mr. Martin asked if these people would be compensated for their additional responsibility should they have to take over. They are now being paid in that manner. Mrs. Maynard said Mrs. Romans does payroll and can issue checks in her absence, but if she were incapacitated, the Council would have to appoint a new clerk/treasurer.

Mr. Martin suggested they appoint an interim mayor – the alderman with the most seniority, Scott Paul. Mr. Paul declined the appointment. Motion to appoint Mr. Stokes to be the interim mayor in Mayor Maynard's absence was made by Mr. Martin, seconded by Mr. Henkels. Discussion. Mr. Paul doesn't think they should have one person appointed at the first of the year. He feels the Council should have an emergency meeting to decide who is situated to take over at each particular time. Mr. Stokes did agree that he would accept the position if he were voted in. The Mayor asked for a roll call vote. The Clerk/Treasurer called the roll: Tom Henkels, yes; Peter Martin, yes; Scott Paul, yes; Angela Petersen, yes; Russ Stokes, abstain; Jan Torbit, yes; and Kent Viers, yes. With a vote of six ayes, motion carried.

b. Discuss giving Planning & Zoning some direction as to why the Council rejected its last drafted ordinance. Mr. Martin feels the past Planning and Zoning ordinances have been ambiguous and discriminating, and not following the Municipal League's guidelines – they are not living up to their ordinances. He also feels they need more Public Hearings to allow the public to voice its concern on each. He hasn't seen any public notices published. Tom Thomson, Planning & Zoning Director, stated that one of the proposed ordinances had had a public hearing, which was published in the paper 15 days in advance and announced on the radio. Two people attended that meeting. He said that the last ordinance that passed had been discussed at least once in a public Planning & Zoning meeting, and the ordinance was read at three separate Council meetings before it passed. That makes at least four "public hearings". Mr. Martin feels we aren't giving the public a chance to speak at the regularly scheduled Council meetings. Mayor Maynard stated that "if any citizen has an issue with anything, they are certainly welcome to discuss that with their alderman, I'll discuss it with them, I'm sure the head of Planning & Zoning will. These issues are not something that – I mean, it isn't a public forum when we're trying to vote on an ordinance." Mr. Martin feels Council meetings are not public hearings. Mayor Maynard feels they are. Mr. Martin states again that he feels we need working meetings. He said, "This board does not sit down and discuss anything amongst ourselves before things like this come up." The mayor feels we're arguing over semantics. Ordinances similar to this have been passed in other cities. Mr. Martin said, "Every time someone wants to put up a fence, there should be a public hearing and the people around that property notified." He thinks the Planning & Zoning board is selectively doing things, and not abiding by its own rules and regulations.

That's why we need to give them direction. Mr. Martin says he has tried, since the first of this year, to sit down with people and openly discuss it. He's looking for a reasonable debate on these items, but "this Council doesn't want to participate - they've got their own agenda." Mayor Maynard said, "Doesn't it strike you as odd that you seem to be the only one that seems to have a big problem with this stuff?" Mr. Martin replied, "Who else is looking out for the public?" The mayor emphatically responded by saying, "Every one of these individuals on here is looking out for the public." Mr. Martin feels some people are trying to push out people in the "poor end of town". The Mayor asked where all this was going - it seemed we're pontificating on a plethora of different issues. Again Mr. Martin stated he wanted to discuss all this in working meetings. He feels it up to the other board members to show him the error of his ways. Mr. Paul said that by the other member's not going to meetings to discuss the length of the yards should send a clear message that they are happy with the ordinances. Mr. Henkels called for the question. (Recorder's note - there was no motion.) Mayor Maynard said, "We can't sit here and just let you (Mr. Martin) go on and on and on about everything in the world. If you've got a motion, make it and we'll bring it up to a vote and we'll go on. Mr. Martin replied he would rather sit down with people and talk it over rationally, but we have to do it in an open meeting forum. The mayor reminded Mr. Martin that I've extended numerous invitations to you to come talk with me about anything you want to talk about, but you have yet to set foot in my office." Mr. Martin is under the impression that under the Freedom of Information Act that if any of the two of them get together, they're not to be discussing city business. Mr. Henkels again called for the question. Mrs. Maynard stated there was no motion on the table. Mayor Maynard again said, "If you've got a motion, make a motion. We can't stay here all night just rattling on." Mr. Martin again said he just wanted to discuss things rationally and apologized if he had wasted the other aldermen's time.

c. Discuss having working meetings. Discussed in the above session.

d. Police Dept. shooting range. Sgt. Shultz gave a report on what was found about the Sheriff's range and some issues the Chief wanted to discuss on it. One of the big issues is safety. Per ground and aerial photos of both the Sheriff's and our ranges, he feels ours is the safer range. Mr. Martin stepped in and said the issue is the liability. Is it fenced in, etc. We'll have to put a lot of time and money into it, and what's wrong with using the county range. The Mayor said there are numerous houses and a riding arena immediately down-range from that range. Much discussion between Mr. Martin and Mr. Paul. The Mayor banged his gavel. The Mayor said, "We're either going to discuss this—." Mr. Martin interrupted and said, "He's (Mr. Paul) bringing up nonsensical things" and went on to say how the county's range will be, and that the County would be picking up the tab for all this, and the citizens of this city would not have to take it out of their pockets. Mr. Martin said, "Are you calling the Sheriff stupid for putting a range up like that?" The mayor said, "I'm going to call you out of order one more time and then you're going to leave." With that, Mr. Martin said, "You cannot make me leave, sir." With that the mayor banged his gavel and said, "Officer, escort that man out of this building." Mr. Martin again replied, "You cannot do it. You can make me be quiet, but you cannot make me leave a meeting." Mayor Maynard said, "If you don't quit being disruptive and argumentative to everybody that brings up any kind of a suggestion, you're going to leave. Now if you have a motion - if somebody wants to make a motion as to whether we go ahead with this range for the City or not, I'll entertain that motion." Mr. Paul asked if, in light of Mr. Martin's discussion, we had all facts regarding fencing, insurance and anything else before we go ahead with it. The

mayor stated it was his understanding that the City is torte immune as long as we exercise reasonable precautions, and that that torte immunity goes away if you're careless. There are guidelines for building shooting ranges, which we are going by. Mr. Martin has the understanding that if someone gets on the range, like on a four-wheeler, and gets hurt, we are responsible for it. We are not – we're torte immune, unless we have been negligent. Mr. Martin also said we haven't seen any plans, etc. Motion to table this until we have information from the City Attorney on the liability, and we have a packet put together that addresses some of this issues that have been brought up was made by Mr. Paul and seconded by Mr. Martin. With a voice vote of seven ayes, motion carried unanimously.

e. Additional road project. The City has a considerable amount of money in a savings account and there are many roads that need attention. The Road Committee has been looking at the possibility of using some of that money (approximately \$120,000) to improve some of these roads. One of them is Pontiac Dr. from Hiawatha to the city limits. If it's the Council's pleasure to do so, we can get together some real figures and bring them to the Council. Motion that we look at doing a major improvement project to Pontiac Dr., and have realistic figures and Highland's outlook at being involved brought back to the Council at a future meeting was made by Mr. Paul and seconded by Mrs. Torbit. Mr. Martin asked if we had contacted Highland yet. The Mayor replied that he didn't want to approach them until he had the Council's OK to do so. Mr. Stokes said it was the Road Committee's consensus that this be brought to the Council and that the Council agree. Then the people who need to do the legwork and the documentation, etc. would bring it back to the Committee for approval, suggestions and recommendations, and then it would be forwarded to the Council for adoption. Both Mr. Martin and Mr. Henkels would like to see cooperation by all four cities and the county in buying and using each other's equipment. The Mayor asked for a roll call vote. The Clerk/Treasurer called the roll: Tom Henkels, yes; Peter Martin, yes; Scott Paul, yes; Angela Petersen, yes; Russ Stokes, yes; Jan Torbit, yes; and Kent Viers, yes. With a vote of seven ayes, motion carried.

f. Donation of 1984 Ford Cube Van to Tri-County Recycling Program. A citizen donated the van to the City. The Recycling Center had been using the van, but now it seems to need more money put into it than its worth. We have advertised for bids the van for two weeks, with the bid opening to be tomorrow. Motion to increase the grant budget to the Recycling Center by the amount received from the high bidder was made by Mr. Paul and seconded by Mr. Martin. With a voice vote of seven ayes, motion carried.

g. Grass mowing ordinance. Discussed in "b" above.

h. Spring River Paramedic Ambulance Service boundaries. Mrs. Torbit said she has talked with several people at 9-1-1, and no one could really tell her the boundaries. She also talked with Grace Richeson of the ambulance service, who said they should know the boundaries. There is a high attrition rate with 9-1-1 employees, and they may not get the training they need. Basically it is up to the 9-1-1 operator which ambulance service to send. One can ask for a specific service to respond. When there is an accident in Fulton County, Fulton County Ambulance will be called out. If it's on the border between Sharp and Fulton, SRPAS is called, and will respond if all five ambulances are not out already. Mayor Maynard has talked with Mrs. Richeson, who said she and the Fulton County Ambulance Service were working on straightening out the border issue.

NEW BUSINESS:

a. Employee handbook amendment. Our handbook originally lumped Police and Fire employees together as far as vacation and sick leave. The Legislature has now defined a fire fighter's day as a 24-hour shift, and so the handbook needs to be updated. Corrections were made as follows:

Page 9 Table, "days accrued" changed to "24-hour shifts" accrued

Page 10 Third paragraph, "previously" changed to "above"

 Fourth paragraph, "physician's" changed to "state licensed health care provider"

Motion to approve the handbook amendment corrections was made by Mr. Viers and seconded by Mrs. Torbit. With a vote of seven ayes, motion carried. Mayor Maynard asked Mrs. Maynard to read **A resolution adopting the amendment to the employee policies and procedures manual for the City of Cherokee Village.** Mr. Stokes made a motion to accept the resolution. Mrs. Torbit seconded the motion. Discussion. The Clerk/Treasurer called the roll: Tom Henkels, yes; Peter Martin, yes; Scott Paul, yes; Angela Petersen, yes; Russ Stokes, yes; Jan Torbit, yes; and Kent Viers, yes. With a vote of seven ayes, motion carried. This will be **Resolution 2005-06.**

b. Procedure to fill aldermanic vacancies. Mr. Martin thinks the Council should make up a list of procedures, and to interview the prospects in public, not in executive session (per FOIA). Motion to table this issue until next meeting so Mr. Martin can draft up procedures in the form of an ordinance was made by Mr. Martin and seconded by Mrs. Petersen. With a voice vote of seven ayes, motion carried unanimously.

c. Setting agenda. Motion to allow Mr. Stokes to draft some procedural rules to establish an agenda was made by Mr. Henkels and seconded by Mrs. Torbit. With a voice vote of seven ayes, motion carried unanimously.

d. Planning & Zoning Amendment to Ordinance 2003-12, Sewage Disposal Systems. Mayor Maynard asked Mrs. Maynard to read **An Ordinance to amend Ordinance 2003-12 to regulate installation and repair of sewage disposal systems in the City of Cherokee Village, Fulton and Sharp Counties, Arkansas.** Mr. Paul made a motion to accept the first reading of the Ordinance. Mrs. Torbit seconded. Discussion. Mrs. Torbit asked what prompted these changes. In the Mayor's opinion this would get us into the septic design business. Mr. Thompson stated that last year we gave out 53 permits to repair septic systems, and so far this year, we have given 47. Cherokee Village is the only city in the state to do septic systems the way we do. He says they are only trying to get the City in line with the State. He also said the problem we're having is when a homebuilder builds a house with two bedrooms and a sewing room or office; or someone adds on a bedroom to a two bedroom house. It can have a "two bedroom" septic. Then the house gets advertised for sale as a three bedroom house. Mr. Henkels doesn't think we need to be in the septic design business as the State Dept. of Health already inspects all septic systems. Mr. Martin made a motion to table this issue to do more research. Motion died for lack of a second. The Clerk/Treasurer called the roll: Tom Henkels, no; Peter Martin, no; Scott Paul, no; Angela Petersen, abstain; Russ Stokes, no; Jan Torbit, no; and Kent Viers, no. With a vote of no ayes, motion was defeated.

e. Planning & Zoning Amendment to Ordinance 99-2, Building Codes. Mayor Maynard asked Mrs. Maynard to read **An Ordinance to amend Ordinance 99-2 approving and adopting that certain zoning documents and technical codes known as the Cherokee Village Zoning Code,**

establishing permit fees and penalties for violation thereof and for other purposes. Mr. Viers made a motion to accept the first reading of the Ordinance. Mr. Henkels seconded. Discussion. In this issue a more restrictive unit could be built in a less restrictive area. Also on commercial land, the 30 foot set backs would be changed to 12 feet. The fire marshal has said he only needs 20 feet of clearance between buildings. Also as it is now, the landowner could not build on 60 feet of his property, 30 feet on each side of the building. In order to build differently now, we need to grant a variance. We would have to rezone the area in order to build a more restrictive unit in a less restrictive area. Mr. Viers called for the question. Mr. Stokes asked that spelling be corrected and clean up the grammatical errors. The Clerk/Treasurer called the roll: Tom Henkels, yes; Peter Martin, abstain; Scott Paul, yes; Angela Petersen, yes; Russ Stokes, yes; Jan Torbit, yes; and Kent Viers, yes. With a vote of six ayes, motion carried.

PUBLIC COMMENTS: Ray Torbit asked a question on the financial report and on the fire report. He also expressed his disappointment that the Council didn't vote to follow the state septic system standards. Mayor Maynard replied that we are now operating under "Bulletin 9" which is the state standards. Steve Martin had some comments, but the recorder could not understand them.

MEETINGS AND ANNOUNCEMENTS:

Friday, July 27, 4:00 PM; Strategic Planning Committee meeting, Townhouse Bldg.

Monday, August 1, 1:00 PM; Planning & Zoning Commission, City Hall

Wednesday, August 3, 3:00 PM; Road Committee, City Hall

Monday, August 8, 6:00 PM; Sharp County Quorum Court, Ash Flat Courthouse

Monday, August 8, 7:00 PM; Fulton County Quorum Court, Salem Courthouse

Tuesday, August 9, 4:00 PM; Municipal Planning & Dev. Committee, City Hall

Thursday, August 18, 7:00 PM; City Council Meeting, City Hall

Friday, August 19, 9:00 AM; District Court, City Hall

Cherokee Lodge (Senior Citizen's Center) open, Monday through Friday, 9 – 2,
unless otherwise noted; lunch at 11:30 AM

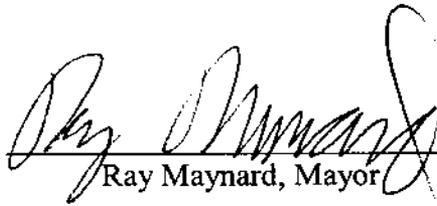
Re-cycling open every Tuesday 9:00 – 11:00 AM, weather permitting, City Hall Prkg Lot

ADJOURNMENT:

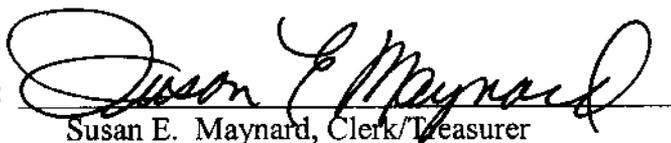
Motioned to adjourn was made by Mr. Paul and seconded by Mr. Martin. With a voice vote of seven ayes, motion carried unanimously. Meeting adjourned at 9:25 PM.

DATE: August 18, 2005

APPROVED:


Ray Maynard, Mayor

ATTEST:


Susan E. Maynard, Clerk/Treasurer