

MINUTES
CITY OF CHEROKEE VILLAGE, ARKANSAS
REGULAR CITY COUNCIL MEETING
6:30 P.M., THURSDAY, OCTOBER 18, 2012
CHEROKEE VILLAGE CITY HALL
(meetings are video recorded)

Mayor Lloyd Hefley called the regular meeting of the City Council to order at 6:30 p.m. on October 18, 2012. He led the Pledge of Allegiance followed by a moment of silent prayer.

Roll was called by City Clerk Lana Hamilton. Present were Jerry Adams, Curtis Bratcher, Verna Mae Newman, Russ Stokes, Tom Thone, Ray Torbit, Kent Viers, Mayor Hefley and City Attorney Jon Abele. Absent was Lynn Maxedon.

APPROVAL OF THE AGENDA: Councilman Bratcher moved to approve the agenda, seconded by Councilman Newman and passed unanimously.

PUBLIC COMMENTS ON AGENDA ITEMS: (limit 3 minutes per person) Dave Gruger addressed Council and stated he had provided council with a rebuttal to proposed Rental Ordinance 2012-AA. Gruger strongly urged council to read and question the manner in which the proposed ordinance is written; Gruger stated the proposed ordinance is vague and open-ended. Gruger stated the proposed ordinance gave the authority of whoever holds the office to change the ordinance without approval; Gruger stated this should not happen as the ordinance will become a law if it passes. Gruger also stated that it allowed for property, such as the property he purchased for his mother, but kept in his name, to become rental property under the ordinance after his mother passes. Mayor Hefley stated there had been numerous meetings on this issue and every aspect had been reviewed. Glenn Harris, of Planning & Zoning, said he had not had seen the information furnished by Gruger; Harris stated the issue went back at least ten (10) months and there had been a working session with the Tri-County Board of Realtors and most issues in the proposed ordinance were agreed upon. (Gruger provided Harris with a copy of the information.) Harris stated he would review the information. Peter Martin approached the podium and asked Councilman Thone if he had been denied access to one of the meetings; Thone said he and two (2) other council members had been denied access to the meeting; Harris stated it was not an open meeting but a working session between two (2) inspectors and the board of realtors. Councilman Thone stated he had received an e-mail from Dick Sackett stating he had been promised a revised copy of the proposed ordinance before it was acted upon; Thone asked if he had received one. Harris stated Julie Decker had picked up a copy for Sackett at City Hall. Martin inquired if other rental property owners were in attendance at the meeting or if it was just the board of realtors; Martin stated it should be an open meeting so everyone is aware before it is read. Harris stated once the proposed ordinance was read it would be publicized in the newspaper.

APPROVAL OF THE MINUTES: Councilman Viers moved to approve the minutes for the September 27, 2012 regular meeting of the C.V. City Council, seconded by Councilman Newman and passed unanimously.

CORRESPONDENCE: None

MAYOR'S REPORT: None

FINANCIAL REPORT: Councilman Thone inquired about some changes to budget items following a budget meeting he did not attend; Clerk Hamilton stated there would be another budget meeting where the items could be discussed. Mayor Hefley stated an e-mail would be sent out advising the date of the next budget meeting and urged all council members to attend.

DEPARTMENT REPORTS:

- **FIRE:** (report on file) Councilman Newman inquired about the difference between an EMS assistance and a lift assistance; Newman asked if the lift assist was when someone had fallen. Fire Captain, Johnny Pendarvis, stated when the ambulance isn't called and the Fire Dept. is called, it considered a lift assist. Pendarvis stated when the ambulance and the Fire Dept. are both called it is an EMS assist.

- **POLICE:** (report on file) Mayor Hefley stated the thefts continued to look high; Chief Crook stated burglaries were down. Councilman Torbit asked if the most recent police vehicle had been painted; Crook stated it was still in the shop. Chief Crook stated he had received the grant check for the radio narrow-banding upgrades required by law. Councilman Newman inquired about the offense chart; Newman stated the chart listed damaging wires and other fixtures. Crook stated that statute primarily covered telephone companies, power companies, and utility companies; Crook stated if someone stole copper, as previously done, that was the statute covering it and it would be a felony. Councilman Adams thanked the chief and Officer Jeremy Rose for their good police work in arresting the man charged with child pornography; Crook stated he could not discuss it as it was still on-going. Councilman Newman expressed council's sympathy to Chief Crook and the officers on the loss of Patrol Officer, Mike Alexander.

- **ANIMAL CONTROL:** (report on file)

- **STREET:** (report on file) Councilman Adams stated he had a question for Robert McKnight of the Street Dept. Adams stated he had been contacted by citizens inquiring about the progress of mowing; Adams asked if the Street Dept. was still cutting. McKnight stated the Street Dept. was currently doing their final mowing. Adams asked if they would be continuing until all streets were done or until the end of the year, weather permitting; McKnight replied they would. McKnight stated the mowing was kept up with on a map and they would be doing a final mowing of the main roads once the secondary roads are completed.

- **COMMUNITY SERVICE:** (report on file)

- **DISTRICT COURT:** (report on file)

PLANNING & ZONING

- **PERMIT COMPARISONS:** (report on file)

- **CODE ENFORCEMENT:** (report on file)

- **RESTORATION:** Bob Bickle stated of the four (4) properties brought up last month, two (2) properties had been cleaned up, the third property was sold to a gentleman that should be moved in within three (3) to four (4) weeks who will take care of the clean up and the property will then be inspected. Bickle stated the remaining one (1) property was scheduled to be cleaned up by November 24th. Bickle stated there were three (3) more properties ear-marked after the fourth one is completed; one (1) is abandoned and two (2) are burn outs. Bickle stated a fundraiser earned ninety-six dollars (\$96) at Oktoberfest to go towards the commission. Bickle thanked Jerry Adams and his wife, Yvonne Adams, and his own wife, Judy Bickle, for their help with the fundraiser. Bickle stated he wanted to address the body and dispel a rumor that he was employed by the city; Bickle stated he was a volunteer and the gas spent to go to the courthouses to file the liens was taken care of and the clean up work was performed by volunteers. Mayor Hefley thanked Bickle for his efforts. Councilman Thone inquired about the abandoned building; Bickle stated the property had been neglected for some time. Bickle stated a property sheet would be pulled, the mortgage holder located which would show who the property owner is and with the help of the attorney, the owner would be notified about the property.

COMMITTEES:

- **PERSONNEL:** Councilman Newman stated she had attended the Advisory Council for the Municipal League and one of the items discussed was the Winter Conference in January, 2013 which will be geared for new Aldermen and new Clerks. Newman moved to set aside twenty-five hundred dollars (\$2,500) for the four (4) new Aldermen to attend; Newman stated they needed the training and the new Aldermen should be aware of the laws coming up. Newman stated the twenty-five hundred dollars (\$2,500) would easily cover the cost and she would be attending at her own expense. Councilman Bratcher asked if this should be covered under the budget meeting; Newman stated the budget meeting covered 2012 and room reservations and fees needed to be paid before the end of the year. Councilman Adams seconded the motion to set aside the money for the training. Mayor Hefley called for a roll call vote; there were two yeas and Bratcher, Stokes, Thone, Torbit and Viers voted no. Clerk Hamilton stated the motion did not pass.

- **SAFETY:** None

- **WEBSITE & GRANT:** None

UNFINISHED BUSINESS:

1. Second reading – Ordinance 2012 – A&P – Ordinance Creating the Cherokee Village Advertising and Promotion Commission, Levying a Gross Receipts Tax, and Other Purposes. Councilman Thone moved to table the ordinance, seconded by Councilman Bratcher. Councilman Stokes asked Thone if he was asking to table the motion indefinitely; Thone stated he was tabling until it was brought up again. Stokes asked if he was aware it would take six (6) votes to bring the issue back; Thone stated he was aware. Mayor Hefley called for a roll call vote to table the ordinance; there were five (5) yeas; Adams and Newman voted no, passing the motion to table Ordinance 2012 – A&P.

2. Second reading – Ordinance 2012 – AA – An ordinance providing for the establishment of a rental housing code for Cherokee Village purposes. Councilman Newman moved to read the ordinance by title only, seconded by Adams, passing unanimously. Clerk Hamilton read Ordinance 2012, Temporary number AA, by title only. Newman moved to vote on the ordinance, seconded by Adams. Mayor Hefley called for a roll call vote; there were seven (7) yeas, passing the 2nd reading of Ordinance 2012 – AA unanimously.

3. David Walker to discuss Sewer System in Cherokee Village. David Walker stated he had left information to be reviewed at the previous council meeting and advised everyone to contact him with questions; Walker stated he did not hear from anyone but Mayor Hefley had asked him to return to answer any questions. Walker stated he would like to comment on the timetable before discussing the issue; Walker stated if the council approved the resolution to advertise for an engineer tonight, it would be mid-November before an engineer could be selected by the City of Cherokee Village. Walker stated at that point, an engineering report would need to be prepared and submitted to the Arkansas National Resource Commission who would forward it to the Waste Water Committee. Walker stated it would be the first Wednesday of January 2013, at the earliest, before the report would go to that committee. Walker stated if the holidays had an impact on the preparation of the report it may be the first Wednesday of February. Walker stated once the committee reviews the report it would make a recommendation on which funding source would be applicable for the project, which may take another thirty (30) days. Walker stated it would probably be late spring before a funding source was identified by the State, at which point, the detailed work of the report would start. Walker stated the handout he provided at the previous meeting outlined the process, which would be lengthy, and allow time to determine which section would be done and in what order. Councilman Newman asked if the surveying and the work to research funding would be done at no charge to the City; Walker replied the preliminary report would be done at no charge but would eventually be paid for by the funding awarded thru the Arkansas National Resource Commission. Newman asked if it was deemed not possible or effective to proceed, was the City under any obligation. Walker stated if the City did not receive any funding, the engineer who prepared the report had done it at their own risk. Newman asked if an area was surveyed around Lake Thunderbird and it was deemed possible to put in sewers, would the homeowners

be given the opportunity to meet and discuss whether or not they wanted the sewer service. Walker stated any homeowners affected would be given the opportunity to meet with the engineers and the City to look at the routes and the cost involved. Newman asked for confirmation there was no cost to the City at this point and that the City was under no obligation; Walker confirmed there was no cost or obligation. Councilman Adams asked what the next step would be to move forward; Walker stated council would need to pass a resolution authorizing the Mayor, in conjunction with the planning district, to advertise for an engineer to do the preliminary engineering report. Councilman Thone asked if ETI had been involved with The City of Highland on their project; Walker stated they had not. Thone stated the City had conversations with Highland and the cost was several million dollars for a limited sewer system. Councilman Viers asked what the cost would be to the homeowners for the hook-up and use of the system; Walker stated the cost would be included in the analysis. Councilman Bratcher moved to table the issue until new council, after the first of the year, seconded by Councilman Thone. Mayor Hefley called for a roll call vote on the motion to table; there were three (3) yeas, Adams, Newman, Stokes and Torbit voted no to table the motion. Newman moved to allow the analysis, seconded by Adams. Councilman Torbit stated the motion should be to allow the Mayor to advertise. Councilman Stokes stated he felt the attorney should write the resolution if the vote passed. Mayor Hefley called for a roll call vote; there were four (4) yeas, Bratcher, Thone and Viers voted no. Mayor Hefley voted yes to pass the motion to proceed with advertising for an engineer.

NEW BUSINESS:

1. Dave Gruger to address City Council in regards to his parking lot at Eagles Catch. Mayor Hefley stated Dave Gruger would like to address the parking lot and asked Gruger if he had spoken to Planning & Zoning about the matter; Gruger stated he had in March. Gruger asked to speak on behalf of his wife, Debbie Gruger, the owner. Councilman Newman stated if it was Mrs. Gruger's business, she would like her to speak. Gruger stated his wife had asked him to speak for her. Gruger stated he would first like to apologize for a comment he made regarding a park grant; he had heard it was a fifty/fifty (50/50) grant but has learned it is a full grant; Gruger apologized for any heartache he caused the City. Gruger stated he submitted plans more than a year ago on his wife's behalf for the business building; Gruger stated the plans were approved as a site and a building as it sits at its current state. Gruger stated his wife was given a temporary occupancy permit as they had not built an interior wall at that time. Gruger stated the wall has been built and a final inspection held off because of the parking lot issue that came up four (4) to five (5) months after the business opened. Two (2) months after the Eagles Catch opened for business, Gruger stated he and his wife were at City Hall conducting business when they were approached by Mr. DeLoach and informed they were required to have a handicap parking spot and a ramp to the front door. Gruger stated two (2) to three (3) months later he and his wife were at City Hall again and Mr. DeLoach informed them they were required to pave the entire parking lot, including the entrance and exit. Gruger stated the legal entrance was right in front of a house across the street. Gruger stated he questioned Mr. DeLoach why this wasn't

caught during plan review and approval. Gruger stated there was an argument between him and Mr. DeLoach when Gruger was threatened to be shut down; Gruger stated they were told the business would be closed by spring if the parking lot was not paved. Gruger stated he immediately called and got on the docket for the Planning & Zoning meeting. Gruger stated everything was laid out on a table at the Planning & Zoning meeting, including a site plan that had no parking lot improved on it; Gruger stated it had no markings stating it needed to be changed and the plans were verified by the City. Gruger stated he asked why the Eagles Catch had become the topic when the Farmers Market had been purchased for commercial use to store Street Dept. equipment and then turned into a public access building for the Farmers Market and has not been paved, does not have ADA handicap parking spots, has not been brought up to ADA laws, and the bathroom does not comply to the capacity that is possible in that building. Gruger stated when he questioned that, he was told it was grandfathered in. Gruger stated the business across from Thunderbird Marina has been a parking lot for the past twenty-five (25) plus years. Gruger stated he built a building on the property and got the approval of City and Planning & Zoning and now has received a letter from the City stating if the parking lot is not complete by the end of October, the City will pull the occupancy. Gruger stated he would be closing his business at the end of October and the City would be losing revenue. City Attorney, Jon Abele, advised council and Mayor Hefley not to discuss the issue with Gruger as it may come back on appeal from Planning & Zoning; Abele stated council members were to listen only at this time. Gruger stated it was not his position to review every code and every ordinance the City has. Gruger stated he had submitted buildable plans that were accepted, approved and returned to him to build on. Gruger stated if they eventually decided to pave the parking lot, the City would need to provide run off because the current run off would go directly across the street into the homeowner's house. Gruger stated the City needs to make sure the inspectors are certified by the State to make sure we take care and responsibility in reviewing plans.

2. Jonathan Rhodes from King-Rhodes to speak about their future plans for Cherokee Village. Jonathan was not present at the meeting.

COMMENTS OF CITY RELATED ITEMS: (limit 3 minutes per person) Linda O'Neal thanked Councilman Newman for the request of twenty-five hundred dollars (\$2,500) for training for the incoming council members even though it was voted down. O'Neal stated the individuals running for council are running for the betterment of Cherokee Village and felt those elected should pay their own way for training.

Dave Gruger thanked council for tabling the A&P tax and stated the C.V. Business Association was against the tax. Gruger stated there was a community Meet & Greet scheduled on Saturday, October 20th from 1 p.m. till 4 p.m. at the Senior Center for all candidates running for council and all current council members. Gruger stated the Meet & Greet had been published in The Villager.

ANNOUNCEMENTS: There will be a Christmas Craft Show at the Farmers Market on November 23rd and 24th from 9 a.m. until 4 p.m. each day.

ADJOURNMENT: Newman moved to adjourn the meeting at 7:15 p.m., seconded by Bratcher and passed unanimously.

NOTE: Minutes are prepared by Kathi Blackwell, Assistant to Clerk/Treasurer Lana Hamilton (with Hamilton's approval)

DATE: November 16, 2012

Lloyd Hefley

APPROVED:

Lloyd Hefley, Mayor

ATTEST: Lana Hamilton
Lana Hamilton, City Clerk/Treasurer