

1 **STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE,**
2 **SEPTEMBER 2, 2008**

3
4 The Council of the City of Moundsville met in Regular Session in the Council Chambers on
5 September 2, 2008 at 7:00 p.m.

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7 Meeting was called to order by Mayor Wayne Lemasters.

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9 Invocation by City Manager Hendershot.

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11 City Clerk Hewitt called the roll and the following councilpersons were in attendance: Haynes,
12 James, Simms, Wood, Wallace and Mayor Lemasters. Absent: Cunningham. Also present: City
13 Manager Hendershot, Police Chief Kudlak, Fire Chief Clarke, Street Foreman Stocklask,
14 Building Inspector Wise, CPA Kathryn Goddard, Attorney Thomas White and City Clerk
15 Hewitt. Absent: Street Commissioner Richmond.

16
17 **MINUTES:**

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19 **Regular Council Meeting of August 19, 2008.**

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21 Councilperson Haynes made a motion to accept and approve the minutes of the regular council
22 meeting of August 19, 2008, seconded by Councilperson James. Motion carried unanimously.

23
24 **GENERAL PUBLIC HEARING:**

25
26 * David Haynes, 21 Elm Avenue informed council of the drug problem in Moundsville. He also
27 invited council to attend a drug free coalition held at the Moundsville Federal Building on Rt. 2
28 and 7th Street on the 1st Friday on the month at 12:00 noon.

29
30 * Carol Mitchell, 501 10th Street, inquired where the stop signs were going to be placed by the
31 Golden Towers and asked for patrol for speeding vehicles.

32
33 Councilperson Simms (Traffic Chairperson) informed Mrs. Mitchell that a decision was made by
34 the Traffic Committee that signs could not be placed at the area coming from Kings because it is
35 private property nor could one be placed at the bottom of the street at Weaver Avenue.

36
37 * Kim Brooks, 208 11th Street, said if council was bringing the request for zone change back up
38 for Thompson Avenue, she did not think the procedure would be correct she thinks Mr.
39 Cunningham would have to appeal the zone change to Circuit Court.

40
41 Attorney White explained his opinion in this matter is the only action that was taken last meeting
42 was council directing him to draft an ordinance, which is an administrative function. Council
43 would be allowed to bring the item back for the attorney to draft an ordinance.

44 Mrs. Brooks did ask if property owners were to be notified if council was going to bring the
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1 matter up again. Attorney White advised he thinks the only thing the property owner would be
2 notified is from the Planning Commission and if an ordinance was drafted, second reading of the
3 ordinance would be advertised in the local paper.

4
5 * George Kachalo, 31 Fostoria Avenue, told council that he is upset that his neighbor pulled the
6 stake from his yard. Mayor Lemasters informed Mr. Kachalo this being a civil matter and he
7 must consult an attorney.

8
9 * David White, 406 Clinton Avenue asked how long the Fostoria contract with the Building
10 Commission is? Asked if curfew can be reviewed because kids running the street on Clinton
11 Avenue all hours of the night? Also asked if anyone has heard from Councilperson
12 Cunningham?

13
14 Manager Hendershot advised Mr. White the contract is for 3 years between the Building
15 Commission and Harold Games. The curfew time varies with different ages. And nobody has
16 heard from Councilperson Cunningham.

17
18 * Nick Mascierelli, owner of Demolition Man, informed council that he was the contractor
19 involved in the Fostoria project last year. He was unhappy because of rumors that he was the
20 reason the Fostoria project was never finished.

21
22 **OLD BUSINESS:**

23
24 **Other Items to be Discussed by Council.**

25
26 Councilperson Simms apologized for his hasty decision on the negative vote concerning the
27 recommendation by the Planning Commission for 1018 Thompson Avenue, Dwight
28 Cunningham property.

29
30 Councilperson Simms made a motion to direct Attorney White to draft an ordinance for a zone
31 change at 1018 Thompson Avenue from R-M to C-C-C-H, seconded by Councilperson Wallace.

32
33 Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 4 nays, 2
34 yeas. Simms and Wallace voting yea. Motion failed.

35
36 **NEW BUSINESS:**

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38 **Discussion and Renewal of the City Manager.**

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40 Councilperson Simms made a motion to renew the City Manager, seconded by Councilperson
41 Wood. Motion carried unanimously.

42
43 **Discussion and Approval of a Zone Change Ordinance at 105 Jefferson Avenue & 811 First**
44 **Street from Residential (R-G) to Central Business District (C-C). (First Reading)**

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1 Attorney White read the following ordinance by title only to be passed by council on first
2 reading:

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4 **AN ORDINANCE OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA, PROVIDING**
5 **TO CHANGE A CERTAIN DESIGNATED AREA AT OR NEAR THE CORNER OF**
6 **FIRST STREET AND JEFFERSON AVENUE IN THE CITY OF MOUNDSVILLE**
7 **FROM GENERAL RESIDENTIAL ZONE TO CENTRAL BUSINESS DISTRICT ZONE.**
8 **(FIRST READING)**

9

10 Councilperson Simms made a motion to approve the zone change for 105 Jefferson Avenue and
11 811 First Street, seconded by Councilperson Wood.

12

13 Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 6 yeas.
14 Motion carried unanimously.

15

16 **Discussion and Renewal of the Fostoria Project Contract.**

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18 Councilperson Simms made a motion to approve the renewal of the Fostoria Project Contract,
19 seconded by Councilperson Haynes for discussion.

20

21 Discussion was held on the “out” clause of 90 days and deeding the corner lot 90 days after the
22 contract is signed.

23

24 Mayor Lemasters called for a voice vote. City Clerk announced the following tally 5 yeas, 1
25 nay. Lemasters voting nay. Motion carried.

26

27 **Other Items to be Discussed by Council.**

28

29 Councilperson Simms asked Attorney White if the city is permitted to fill a council seat when a
30 council member has made no contact with the City Manager or fellow council members.

31 Attorney White advised that council can direct him to draft an ordinance pertaining to council
32 missing meetings or establish a recall allowing citizens to vote him out. Other council members
33 agreed the seat should not be empty.

34

35 After further discussion, Councilperson Simms made a motion to direct the City Attorney to
36 continue researching this matter and bring to Policy Committee, seconded by Councilperson
37 Wood. Motion carried unanimously.

38

39 **MANAGER ITEMS:**

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41 **Fourth Level Grievance Filed.**

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43 Manager Hendershot advised council of a fourth level grievance received by employee of the
44 Police Department. It is now council’s responsibility to schedule a hearing within 15 days of
45 notification. Manager Hendershot noted that Chief Kudlak responded within his time frame of
46 15 days, Manager Hendershot responded within his 15 day time frame but the employee didn’t

1 responded until 21 days, which was not in the correct time frame.

2
3 Councilperson Wood made a motion to deny a hearing for the employee based upon the response
4 time, seconded by Councilperson Simms.

5
6 Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 6 yeas.
7 Motion carried unanimously.

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9 **Business After Hours.**

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11 Manager Hendershot announced Business After Hours will be hosted by Perkins on September
12 18, 2008 from 5 p.m. to 7 p.m. Anyone wishing to attend please notify Marilyn Kaufman.

13
14 **Riverfront Park Improvements.**

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16 Notification was received from the West Virginia Development Office for the Riverfront Shelter
17 Improvement Project. City Manager Hendershot referred this to the Parks & Recreation Board.

18
19 **Rural Water Conference.**

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21 The Annual Rural Water Conference is being held on September 7, 8, & 9, 2008. Manager
22 Hendershot will be attending along with Superintendent Larry Bonar and Board Member Bill
23 McConnell.

24
25 **Discussion of Committee Meetings.**

26
27 Since Manager Hendershot will be out of town for the Rural Water Conference, council
28 postponed the Committee Meetings.

29
30 **Thank You Letter from WV State Rt. 2 & I-68 Authority.**

31
32 A letter was received on behalf of the WV Route 2 & I-68 Authority thanking the City of
33 Moundsville for adopting the resolution in support of the development throughout the Ohio
34 Valley.

35
36 Councilperson Simms made a motion to receive and file the letter, seconded by Councilperson
37 James. Motion carried unanimously.

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39 **Seventh Street Project.**

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41 Manager Hendershot advised that he has conducted an inspection of the Seventh Street project
42 with Superintendent Larry Bonar. The job is moving along and they hoped to be on time for
43 completion.

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1 **Columbia Gas Transmission.**

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3 Columbia Gas will be performing required testing on 10" steel natural gas pipelines that run
4 through part of the City of Moundsville. The areas planned for inspection are:

- 5
6 1. 12th Street from DOT Drive to Weaver Avenue
7 2. Weaver Avenue from 12th Street to Tenth Street
8 3. The alley adjacent to Golden Towers
9 4. Tenth Street from Golden Towers to Lockwood Avenue
10 5. Lockwood Avenue near Seventh Street
11 6. Western Avenue from Seventh Street to Blazer's Auto Body
12 7. Pipeline Right of Way behind Busy Beaver & Save-A-Lot.

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14 **MAYOR ITEMS:**

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16 * Mayor Lemasters asked for update on AAA Trailer Court ditch line. Manager Hendershot
17 spoke with Street Commissioner Richmond who hopes to have the project started next week.

18
19 * Mayor Lemasters reported the cracks are being filled on the basketball courts at East End.

20
21 * Mayor Lemasters asked Manager Hendershot & Chief Kudlak to check the back yard at 106
22 Tomlinson Avenue, looks like a salvage yard.

23
24 * Mayor Lemasters reported low branches hanging onto sidewalk at 1206 4th Street & 1112 7th
25 Street.

26
27 * Mayor Lemasters reported pot holes on Fostoria Avenue.

28
29 * Mayor Lemasters also commented on the vandalism at the Riverfront to the new swings that
30 people are carving names into them.

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32 **COUNCIL ITEMS:**

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34 * **Simms** - Nothing at this time.

35
36 * **Wallace** - Nothing at this time.

37
38 * **Wood** - Spoke with Mr. Crow concerning the tree in his neighbor's yard. Mr. Crow is not
39 pleased with the answer he received in a letter stating the tree was not a hazardous or decaying.
40 Therefore the tree does not meet the criteria for nuisance. Mr. Wood asked Attorney White what
41 options does the family have for the tree. Attorney White stated there has been no damage done
42 from the tree.

43
44 * Was pleased to see the publication in the paper for demolition bids for 1223 First Street.
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1 * Discussed paving streets, funding and intersections being paved. Manager Hendershot asked
2 for paving list from council, however a priority list was never established. Manager Hendershot
3 and Street Commissioner Richmond provided a list of intersections from council that are in dire
4 need of paving. Engineering has also slowed down the paving process.

5
6 * **James** - Nothing at this time.

7
8 * **Haynes** - Reported yellow lines need painted at 1st & Elm Avenue.

9
10 * Reported tires in the rear of houses in town.

11
12 * Reported speeders on Locust Avenue & Linden Avenue.

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14 * Reported Wal Mart carts in the creek by Cherokee Drive.

15
16 * Advised the new fire hydrant that was on Park Street has been relocated to Locust Avenue and
17 Jones Street.

18
19 Councilperson Wallace made a motion to adjourn, seconded by Councilperson Simms. Motion
20 carried unanimously.

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22 Meeting adjourned at 8:25 p.m.

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Sondra J. Hewitt, City Clerk

Wayne Lemasters, Mayor