

**STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE,  
JULY 17, 2007**

The Council of the City of Moundsville met in Regular Session in the Council Chambers on July 17, 2007 at 7:00 p.m.

Meeting was called to order by Mayor Dennis Wallace.

Invocation by City Manager Allen Hendershot.

Acting City Clerk Karen Ankrom called the roll and the following councilpersons were in attendance: Cunningham, Haynes, Vice Mayor Lemasters, Wood, and Mayor Wallace. Absent: DiRemigio, Simms, and City Clerk Hewitt (vacation). Also present: City Manager Hendershot, Police Chief Kudlak, Fire Chief Clarke, Fire Assistant Chief Ullom (Building Inspection), Street Commissioner Richmond, Attorney Thomas White, CPA Kathryn Goddard, and Acting Clerk Ankrom.

Councilperson Cunningham asked for a moment to commend Police Chief Kudlak and Fire Chief Clarke for doing a “good, quick, and efficient job” in resolving the dumpster fire issue.

**MINUTES:**

**Regular Council Meeting of June 19, 2007.**

Councilperson Wood made the motion to accept and approve the minutes of the regular council meeting of June 19, 2007, seconded by Vice Mayor Lemasters. Motion carried unanimously.

**Regular Council Meeting of July 3, 2007.**

There were no minutes due to the lack of a quorum.

**Special Council Meeting of July 10, 2007.**

Vice Mayor Lemasters made the motion to accept and approve the minutes of the special council meeting of July 10, 2007, seconded by Councilperson Wood. Motion carried unanimously.

**GENERAL PUBLIC HEARING:**

\* Lester Tasker, 1407 Tenth Street, expressed concern that the police department is not patrolling as often as in the past.

\* Kim Brooks, 208 Eleventh Street, questioned whether all affected residents were notified of the prospective billboard to be placed in her area; Manager Hendershot explained that all property owners within the 200' restriction were. Ms Brooks looked over a zoning map with Mayor

Wallace, with explanation from Manager Hendershot and Attorney White that the approval from the Zoning Board applied only to the height of the sign and that placement restrictions will be reviewed by the Building Inspection department when permits are applied for. Discussion was held on the ordinances affecting on and off premise advertising signs and how they apply to different zones. Ms Brooks presented a map, that she obtained from the WV Department of Transportation, showing easements and right-of-ways that will affect the placement of the billboard. Ms Brooks also explained that the neighbors who own this property have been disruptive to the neighborhood and complaints have been filed with the Police Department, however, she is not satisfied with the response from the department; Chief Kudlak assured that he will look into the situation.

\* George Miller, 1107 Lockwood Avenue, also expressed his concerns about the prospective billboard, which he also presented at the Zoning Board meeting. Mr. Miller stated that pictures are posted on the property displaying the sign, and it will be directly behind his residence. Mr. Miller also expressed discontent with the in-town noise level, especially on the bridge, where he would like to see more speed monitoring. Chief Kudlak explained that the City Police have jurisdiction as far as the low-water mark on the Ohio side; and Attorney White stated that he has seen citations come through Municipal Court that were issued on the bridge, which is monitored by the department motorcycle.

\* David White, 406 Clinton Avenue, noticed some used tires lying behind Ken Blake's property on Jefferson Avenue. He thanked the Street Department for the patching and curb painting. Manager Hendershot explained that the football fields will be allowed to remain until work begins on the Riverfront Campground project, which does have funding available to start laying water and sewer lines. Mr. White asked about progress on 7<sup>th</sup> Street, and Manager Hendershot explained that two engineering firms have looked at the problem to determine if the sewer line, which is 20+ feet deep, is broken or if settling has occurred. For safety purposes, the street will remain closed.

\* Kim Brooks, 208 11<sup>th</sup> Street, presented an aerial view of Boso's property on Tenth Street so that Council could see the problem there. She also expressed displeasure that Mr. Boso was appointed to the Zoning Board when he does not follow the ordinances pertaining to his own property.

## **OLD BUSINESS:**

### **Discussion and Approval of an Ordinance Concerning Changes to Zoning. (Second Reading)**

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

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA, AMENDING SECTIONS 1355.03 AND 1357.03 AND 1359.03 OF THE CODE OF THE CITY OF MOUNDSVILLE, ELIMINATING FUNERAL HOMES AS**

**PERMITTED SPECIAL EXCEPTIONS IN URBAN RESIDENTIAL, GENERAL RESIDENTIAL, AND MULTI-FAMILY RESIDENTIAL ZONES IN THE CITY OF MOUNDSVILLE (SECOND READING)**

Vice Mayor Lemasters made the motion to accept and approve the ordinance concerning zoning changes on second reading, seconded by Councilperson Haynes.

Mayor Wallace called for a voice vote. Acting Clerk announced the following tally: 5 yeas. Motion carried unanimously.

\*Vice Mayor Lemasters asked about the dumpster that has been sitting at 14 Potomac Street for about six months. Manager Hendershot explained that he has met with Chief Kudlak, Chief Clarke, and Building Inspector Wise to develop an internal tracking system so that the deadlines for correcting such problems are shortened. Vice Mayor Lemasters agreed that property owners are given too much time.

**NEW BUSINESS:**

**Discussion and Approval of an Ordinance Pertaining to Demolition and Condemnation Process. (First Reading)**

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

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA, AMENDING AND REENACTING ARTICLE 1105 OF THE MUNICIPAL CODE OF THE CITY OF MOUNDSVILLE AND REPEALING PORTIONS OF ARTICLE 1717 OF THE MUNICIPAL CODE OF THE CITY OF MOUNDSVILLE TO PROVIDE FOR THE ADOPTION OF A NEW NUISANCE ABATEMENT AND DEMOLITION ORDINANCE. (FIRST READING)**

Councilperson Wood made the motion to accept and approve the ordinance pertaining to demolition and condemnation process on first reading, seconded by Vice Mayor Lemasters.

City Manager Hendershot explained that the intention is to modernize the ordinance and shorten time frames. Attorney White recommended that this ordinance be referred back to the Policy Committee for review.

Mayor Wallace called for a voice vote. Acting Clerk announced the following tally: 5 yeas. Motion carried unanimously.

**Discussion and Approval of a Recommendation from Planning Commission for a Zone Change at 223 Elm Avenue.**

Manager Hendershot explained that the former “Elm Club” cannot re-open as a bar due to the

church that is located across the street. Assistant Chief Ullom, who is filling in at the Building Inspection department, does not believe that the prospective pizza shop plans to serve alcohol.

Vice Mayor Lemasters made the motion to accept the recommendation from the Planning Commission and direct the City Attorney to draw up the ordinance pertaining to the zoning change at 223 Elm Avenue, Councilperson Haynes seconded. Motion carried unanimously.

### **Discussion and Approval of Requisition #20 for the Moundsville Water Treatment Plant Project**

Councilperson Wood made the motion to approve Requisition #20 for the Moundsville Water Treatment Plant Project, seconded by Vice Mayor Lemasters.

Manager Hendershot explained that the Water Treatment Plant is almost complete, and the Water Board will be taking a tour of the plant on July 20 at 2:00 PM; members should meet at the Lafayette Avenue office. The new plant is scheduled to open on August 25. Motion carried unanimously.

### **MANAGER ITEMS:**

#### **Re-Appointment to the Moundsville Water Board**

Manager Hendershot stated that Jim Stultz' application was the only one received for the seat on the Moundsville Water Board, and he received a letter of support from the Board. Councilperson Wood made the motion to re-appoint Jim Stultz to the Water Board, seconded by Vice Mayor Lemasters. Motion carried unanimously.

#### **Re-Appointment to the Moundsville Planning Commission**

Barbara Bettinazzi, a long-term member of the Planning Commission, was the only submission for the seat. Manager Hendershot will re-appoint her to the Commission.

#### **Appointment to the Library Board**

Manager Hendershot explained that the five-member, non-paid board has three seats appointed by the County Commission and two by the City. Evan Rogerson was bestowed, by the Library Board, an Honorary, non-voting position, leaving his seat vacant. Jim Stultz and Denise Freeland submitted letters of interest to the Mayor.

Councilperson Haynes made the motion to appoint Jim Stultz to the Library Board, seconded by Councilperson Wood. Motion carried unanimously.

#### **Annexation of Gump Property**

Manager Hendershot stated that he had reviewed the information and confirmed that the personal

dwelling and business of Floyd Gump are included in the property to be annexed. Councilperson Wood made the motion to move the annexation off of the table, seconded by Vice Mayor Lemasters. Motion carried unanimously.

Councilperson Wood then made the motion to approve the Gump Addition for annexation on first reading, seconded by Vice Mayor Lemasters.

Mayor Wallace called for a voice vote. Acting Clerk announced the following tally: 5 yeas. Motion carried unanimously.

### **MAYOR ITEMS:**

\* Mayor Wallace questioned whether City Council has the authority to veto decisions made by the Zoning Appeals Board. Attorney White explained that their decisions are appealable only to the Circuit Court.

### **COMMITTEE REPORTS:**

#### **Discussion and Approval of Recommendations by the Finance Committee.**

1. Recommend the City of Moundsville Contribute \$1,570.00 to the Moundsville Business & Cultural District for Banners

Vice Mayor Lemasters motioned to approve \$1,570.00 to the Business & Cultural District to replace banners on Jefferson and Lafayette Avenues, seconded by Councilperson Wood. Motion carried unanimously.

2. Recommend the City Contribute an Additional \$500.00 to SNAP Program

Vice Mayor Lemasters made the motion to approve \$500 to be deposited to the SNAP Account, seconded by Councilperson Haynes. Motion carried unanimously.

3. Recommend Providing \$4,650.00 to Replace Six Vests in the Police Department Each Year for the Next Three Years

Vice Mayor Lemasters explained that he has discussed this issue with Chief Kudlak, and recommends donating \$4,650.00 this year, and the same amount for the next two years, to be included in the budget and approved by City Council, to purchase new vests. Councilperson Haynes made the motion, seconded by Vice Mayor Lemasters. Motion carried unanimously.

4. Recommend the Police Department be Given \$5,022.00 for the Purchase of New Weapons

Vice Mayor Lemasters recommended the approval of \$5,022.00 for the purchase of 18 new weapons for the Police Department; Chief Kudlak stated the company will honor the originally

quoted price. Councilperson Haynes made the motion to approve, seconded by Vice Mayor Lemasters. Motion carried unanimously.

**Discussion and Approval of Recommendations by the Traffic Committee.**

1. Recommend to Approve Handicapped Parking Space at 1101 Third Street.

Vice Mayor Lemasters made the motion to approve the handicap request for 1101 Third Street, seconded by Mayor Wallace. Motion carried unanimously.

2. Direct the City Attorney to draft an Abandonment Ordinance Requested by Marshall County Schools for the Connector Alley by Central School.

Vice Mayor Lemasters made the motion to direct the City Attorney the draft the abandonment ordinance for the connector alley by Central School, seconded by Councilperson Wood.

Manager Hendershot explained that this is the short alley that runs north and south, on the east end of Central School. Once complete, the private driveway will run from the turn at the corner of the school out to Jefferson Avenue; the section from the turn south onto 8<sup>th</sup> Street will be the section abandoned. Motion carried unanimously.

3. Recommend to Change to Traffic Flow on Kentucky Avenue to be Two Way Between Potomac and Fourth Street.

Vice Mayor Lemasters made the motion to change the flow on Kentucky Avenue for two way traffic, seconded by Mayor Wallace. Manager Hendershot explained that, at present, one section is designated for north-bound traffic, another section for south-bound. The street is not two-cars wide, and the issue can be re-visited if problems arise. Motion carried unanimously.

4. Recommend to Eliminate One Loading Zone Space at 231 Jefferson Avenue.

Councilperson Haynes explained that there are currently two spaces at 231 Jefferson Avenue being used as a loading zone, and the Committee recommends eliminating one space and installing a parking meter. After review, Manager Hendershot confirmed that he can address traffic flow, but not parking patterns and explained that the Police Department has some enforcement issues due to the placement of the loading zone sign. Vice Mayor Lemasters voiced concern that, since this item did not appear on the agenda, nor was it published, it must, therefore, appear on the next Council agenda.

\* Vice Mayor Lemasters questioned whether a request was received by the Marshall County Fair Board to waive the Vendor License Fees; Manager Hendershot confirmed that it was not. Vice Mayor Lemasters made the motion to waive the license fees for Fair Vendors, as has been done in the past, seconded by Councilperson Wood. Motion carried unanimously.

## **Discussion and Approval of Recommendations by the Policy Committee.**

1. Direct the City Attorney to Prepare a Revised Outdoor Burning Restriction Ordinance for Council's Approval

Mayor Wallace made the motion to have the City Attorney to draft a Revised Outdoor Burning Restriction Ordinance, seconded by Vice Mayor Lemasters. Motion carried unanimously.

\* Attorney White asked for a motion to receive and file a legal ad for a zoning variance for Anthony T. Skavarka at 2008 Hancock Street. Vice Mayor Lemasters made the motion to receive and file the ad, seconded by Councilperson Wood. Motion carried unanimously.

### **COUNCIL ITEMS:**

\* **Wood-** Requested an update on Fostoria. Manager Hendershot explained that some abatement must be done before demolition can continue. Street Commissioner Richmond stated that weeds on First Street side will be cut on Wednesday.

\* Mentioned a newer, less invasive, heating process being used by company in Fayetteville, NC for sewer line treatment. Manager Hendershot explained that a similar process was already tried, which did lead to pipe replacement, but was not helpful with current problem.

\* Asked about paving system used by the City of Wheeling and how successful that would be for Moundsville. Manager Hendershot and Commissioner Richmond explained that streets would have to be individually checked for base and overlay to see if system could be changed; they will begin by looking at the streets that have already been approved for paving. This could only be done on low traffic streets since the layering system would not be as durable. Councilperson Wood stated that he has received many comments about Jefferson Avenue and residents do appreciate the work. Manager Hendershot commented that Councilperson Cunningham was the force behind getting that area repaired.

\* Commented on the high grass at the former Gordon's Building on Second Street. Manager Hendershot stated that this building will be one of the first to be addressed in the new dilapidated building program.

\* Mentioned the house on First Street across from Smith Mart. This residence will also be addressed.

\* Asked about status of Thorn Avenue issue with the Board of Education and the State Road; Manager Hendershot stated that it has been approved.

\* **Cunningham -** Commented that a resident at Second Street and Ash Avenue has been causing problems with his ATV. The newly-graveled alley was torn up, and neighbors are concerned for their safety. Chief Kudlak has not received any other reports from the neighbors, but has stepped

up patrols in that area.

\* Commissioner Richmond confirmed that the grate on Ash Avenue has been ordered and about 2' of terra cotta pipe will be replaced with plastic.

\* Questioned whether billboard project can be held over until officials are better informed. Manager Hendershot explained that he will stay informed once permits have been requested.

\* Raised discussion on whether roadway at end of Tenth Street was open to public traffic. Manager Hendershot will check on the allegation of a boat dock being placed in that area; and also stated that he has conferred with Tom Sutton about the old Ferry Landing being kept closed because it is not appropriate for boat launching.

\***Haynes** - Commented on a wrecked car parked at the intersection of Maple and Hancock Avenues.

\* Mentioned the hedges overgrown and blocking the sidewalk between 11 and 13 Linden Avenue.

\* Questioned Commissioner Richmond about the handicap parking sign at the VFW. Commissioner Richmond confirmed that it was taken care of.

\* Inquired of Manager Hendershot whether City can offer program of no or low interest loans to business owners. The Manager confirmed that programs are available through the State, which would require approval from the County Commission since Moundsville is a Class III City; and he will investigate whether any grant programs are available. Manager Hendershot commented that, overall, the downtown business district is "very nice."

\***Lemasters** - Requested an updated listing of the City Boards and Commissions.

\* Questioned whether the City could be billing property owners for call out time when storms cause tree and/or branches to fall on public property. Manager Hendershot stated that crews will only clean debris on public property, and owners are responsible for debris left on their private property.

\* Commended the curb painting crew on an "excellent job;" Street Commissioner Richmond confirmed that the crew is "right on schedule." Although it is nearly impossible to get the entire city done, Commissioner Richmond is confident that more work will be done this year than ever before.

\* Thanked all the City employees for the job that they do, and thanked the fill-in City Clerk.

Vice Mayor Lemasters made a motion to adjourn, seconded by Councilperson Haynes. Motion carried unanimously.

Meeting adjourned at 8:21 p.m.

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Karen L. Ankrom, Acting City Clerk

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Dennis Wallace, Mayor