

**STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE,
AUGUST 5, 2008.**

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

Meeting was called to order by Mayor Wayne Lemasters.

Invocation by Councilperson Simms.

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

MINUTES:

Regular Council Meeting of July 15, 2008.

Councilperson Haynes made a motion to accept and approve the minutes of the regular council meeting of July 15, 2008, seconded by Councilperson Simms.

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

Introduction of Recently Hired Police Officers.

Chief Kudlak introduced the recently hire police officers: Patrol Officer Steve Oliver, who is at the WV State Police Academy; Patrol Officer Doug Sayman, Patrol Officer Brittany Poplawski; Patrol Officer Mike Baker and Patrol Officer Trevor Goode.

Chief Kudlak also introduced Cpl. Donald DeWitt who will be promoted to Sergeant; PFC Scott Farris promoted to Cpl., and Detective Shawn Allman promoted to Cpl., on Wednesday, August 6, 2008.

GENERAL PUBLIC HEARING:

* David White, 406 Clinton Avenue, asked Manager Hendershot how much money was in the city's account for paving? Also reported a vacant house at 3rd Street & Morton Avenue.

* Donald Bonnet, 113 Morton Avenue, asked if council had solved the yellow line problem on Morton Avenue near his house.

Councilperson Simms advised this matter will be discussed at the Traffic Committee on August

12, 2008.

* Don Foster, 117 Morton Avenue, would also like to see the parking problem resolved on Morton Avenue.

* George Kachalo, 31 Fostoria Avenue, told council that he put a stake in the ground showing his property line and his neighbor's son removed it. Mr. Kachalo wants to put the stake back in the ground.

* Carmina Oakland, 29 Fostoria Avenue, informed council that Mr. Kachalo put the stake on her property and her son removed the stake.

OLD BUSINESS:

Discussion and Approval of an Ordinance Pertaining to ATV's in the City of Moundsville. (Second Reading)

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

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MOUNDSVILLE TO AMEND AND REENACT ARTICLE 355 OF THE MOUNDSVILLE CODE PROVIDE FOR A PROHIBITION AGAINST THE OPERATION OF CERTAIN MOTORIZED RECREATIONAL APPARATUS WITHIN THE CORPORATE LIMITS OF THE CITY OF MOUNDSVILLE UPON ANY PUBLIC STREET, ALLEY, OR PROPERTY; TO MAKE THE OPERATION OF SUCH APPARATUS A CRIMINAL OFFENSE; TO PROVIDE PENALTIES THEREFOR; AND TO PROVIDE EXCEPTIONS. (SECOND READING)

Councilperson Simms noted that based on a letter received from resident, Ronnie Labat, electric motorized scooters are included in the ordinance and should go back to the traffic committee.

After further discussion, Councilperson Wallace made a motion to accept the ordinance as read, seconded by Councilperson Wood.

Councilperson James commented that he did not think the ordinance was broad enough.

Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 3 yeas, 3 nays. Haynes, James and Simms voting nay, Wallace, Wood and Lemasters voting yea. Motion failed due to tie vote.

Councilperson Wood made a motion to send the ATV ordinance back to the Policy Committee, seconded by Councilperson Simms.

Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 3 yeas, 3 nays. Motion failed due to tie vote.

Councilperson Haynes stated that he misunderstood the vote. He wanted to change his vote to yea. City Clerk called the roll and announced the following tally. 4 yeas, 2 nays. James and Wallace voting nay. Motion carried to send this item to the Policy Committee.

Discussion and Approval of an Ordinance Pertaining to Increases for City Council and Mayor. (Second Reading)

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

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA, AMENDING AND REENACTING SECTION 121.07 OF THE CODE OF THE CITY OF MOUNDSVILLE, TO PROVIDE FOR AN INCREASE IN COUNCIL MEMBERS' SALARY. (SECOND READING)

Councilperson Wood made a motion to accept and approve the above ordinance, seconded by Councilperson James for discussion.

Attorney White explained that an amendment was needed for this ordinance to increase council to \$400 per month and mayor to \$500 per month.

Councilperson Simms made a motion to amend the ordinance for allow council to receive \$4,800 per year and mayor an additional \$1,200 per year, seconded by Councilperson Wallace.

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

Mayor Lemasters called for a voice vote on the original motion. City Clerk announced the following tally. 6 yeas. Motion carried unanimously.

Other Items to be Discussed by Council.

* Mayor Lemasters announced that he attended the celebration for Alice Burge who was celebrating her 100th Birthday. She was very pleased to receive the proclamation from Moundsville City Council.

NEW BUSINESS:

Discussion and Approval of a Resolution of the City of Moundsville Urging Upgrades to WV Rt. 2.

Manager Hendershot announced this request was from the I-68 Committee who is trying to persuade Governor Manchin to place the expansion and renovation of Rt. 2 as a priority.

Councilperson Simms made a motion to approve the resolution for the City of Moundsville to Urge Upgrades to WV Rt. 2, seconded by Councilperson Haynes.

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

Discussion and Approval of a Resolution of the City of Moundsville for Funding Through the Governor's Community Participation Grant Project at the Riverfront in the Amount of \$12,000.

Councilperson Simms made a motion to approve the resolution for funding at the Riverfront in the amount of \$12,000, seconded by Councilperson James.

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

Other Items to be Discussed by Council.

* Councilperson Simms commented on the absence of Councilperson Cunningham stating that Mr. Cunningham refuses to speak to council members, manager or anyone. Councilperson Simms made a motion to direct the City Manager to send a letter to Councilperson Cunningham asking what his intentions are as a councilperson and a letter of resignation to sign if that is his intention, seconded by Councilperson Wood.

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

Mayor Lemasters noted that Mr. Cunningham has not corresponded with the mayor, council members or the City Manager. The citizens voted Mr. Cunningham to represent them and they are not receiving representation.

* Mayor Lemasters presented a request for a proclamation for the Marshall County Family Resource Network designating the fourth Monday in September as "*Family Day - A Day to Eat Dinner with Your Children*".

Councilperson Simms made a motion to authorize Mayor Lemasters to sign the proclamation, seconded by Councilperson Haynes.

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

MANAGER ITEMS:

Appointment to the Moundsville Housing Authority. (Manager's Appointment)

Mr. Bill Hinegardner has indicated that he was interested in serving a five year term on the Moundsville Housing Authority. Manager Hendershot announced that he will be re-appointing Mr. Hinegardner to that vacancy.

State Auditor's Report.

Manager Hendershot advised council that he received the report of the agreed upon procedure requested from the WV State Auditor's Office in reference to the loss in the Clerk's Office that is available to see. The city is continuing prosecution in that case.

Marshall County Chamber of Commerce Annual Dinner.

The Marshall County Chamber of Commerce Annual Dinner will be held at the Mollohan Building on October 2, 2008 at 6:00 p.m. Guest speaker will be Mr. Bobby Douglas who is a well-known wrestler and coach. Any council member wishing to attend should contact Marilyn at the Manager's Office.

WV Retirement Plus Program.

Manager Hendershot requested that council refer to the Finance Committee a WV Retirement Plus Program created by the State Treasurer John Perdue, which entitles municipal employees to participate in a pension program. This program does not match the employee contribution and is strictly voluntary. The program is a safe investment program administered through the state by the state for state and municipal employees.

Councilperson Simms made a motion to send this item to the Finance Committee, seconded by Councilperson Haynes. Motion carried unanimously.

Federal FDIC Coverage.

United Bank has been invited to attend the Finance Meeting to discuss with council Federal FDIC Coverage for investors who have more than \$100,000 invested in the bank. Manager Hendershot will place this item on the finance agenda.

Employee Increases.

Manager Hendershot reported some confusion concerning the first pay of the fiscal year during the budget process manager and council had spoken in terms of a yearly amount pay increase of \$1000 which is \$.48. It was said that employees will be given a \$.50 raise. In the future, council members will make themselves clear on the amount.

Letter Received from the Marshall County Health Department.

A letter was received from Ronda Francis, Administrator of the Marshall County Health Department, concerning an experience when an ambulance was needed at the facility. An employee was suffering from severe chest pains and breathing difficulties, after calling 911, Firefighter Ron Walker responded within one minute, assessed the situation and provided oxygen to the patient. Ms. Francis was concerned of the response time of 12 minutes for Tri-State Ambulance to arrive. She hopes that council could re-evaluate the need for expanding the services to citizens of Moundsville.

Manager Hendershot will be contacting Tri-State Ambulance Service to advise them of the concerns about their response time. Also, council would like to discuss the possibility of an ambulance service at the City of Moundsville for the Finance Meeting in September.

Mayor Lemasters made a motion to refer this matter to the Finance Committee, seconded by Councilperson Haynes. Motion carried unanimously.

Property on Thompson Avenue.

Manager Hendershot reported the property on Thompson Avenue is still for sale and the owners have contacted him again to see if council was interested in purchasing the property. Manager Hendershot referred this request to the Finance Committee.

Sanitary Board Long Range Control Plan.

The Sanitary may be the first in the state to receive an approval for the Long Range Control Plan. The ground work was laid when Councilperson Simms was Superintendent and was very time consuming as far as following DEP requirements at the state and federal levels. The Sanitary Board is moving forward and getting close to approval on the plan. This will also include the separation project which are being done in phases that will include Jefferson Avenue and business district which was expanded to include a separation project into McConnell Drive and Parriott Avenue area which has a very large storm sewer that is used as a sanitary sewer. All that water is dumped into the sanitary system then goes to the plant.

MAYOR ITEMS:

* Mayor Lemasters asked for an update on the AAA Trailer Court project. Manager Hendershot reported that Street Commissioner Richmond is working with Mr. Rice, owner of AAA Trailer Court, to find a way to get equipment to the area.

* Mayor Lemasters asked Chief Kudlak about curfew in the city. Chief Kudlak reported there are different times for different ages.

* Mayor Lemasters reported graffiti on the building at Fourth Street & Cedar Avenue. Chief Kudlak reported looking into the matter.

* Mayor Lemasters reported that Four Seasons Pool is closed due to the pool pump motor.

Legal Certifications by Attorney White.

Attorney White presented legal certifications published in the Moundsville Daily Echo to be received and filed by council:

1. Ordinance Concerning B&O Tax
2. Ordinance Concerning Sick Leave Payment
3. Ordinance Concerning DUI Amendments
4. Ordinance Concerning Salaries for Council
5. Ordinance Concerning ATV's

Councilperson Simms made a motion to receive and file the legal publications, seconded by Councilperson James. Motion carried unanimously.

COMMITTEE REPORTS:

Discussion and Approval of Recommendations by the Finance Committee.

Councilperson Wallace scheduled a Finance Meeting on Tuesday, August 12, 2008 at 5:00 p.m.

Discussion and Approval of Recommendations by the Traffic Committee.

Councilperson Simms scheduled a Traffic Meeting to follow the Finance Committee and requested the traffic problem around the Golden Towers be placed on the agenda.

Discussion and Approval of Recommendations by the Policy Committee.

Councilperson Wallace scheduled a Policy Meeting to follow the Traffic Committee.

COUNCIL ITEMS:

* **Haynes** - Reported grass needs cut at 47 Linden Avenue. Chief Kudlak reported that have tried numerous times to contact the owner with negative results sending certified letters and contacting the mail carrier.

* Received a complaint of the church at 3rd & Grant Avenue painting the curb yellow making it difficult for residents to park in front of their houses. Manager Hendershot reported there being a neighborhood dispute and resident parking up against the driveway making it difficult for vehicles to get in & out, so the curbs were painted three foot on each side.

* Councilperson Wallace stated that he also spoke with the complainant who stated part of the driveway was on his property. Manager Hendershot advised that would be a civil matter.

* **James** - Permitted Chief Kudlak to speak under his items.

* Chief Kudlak wanted to make it clear to the press that because the ATV Ordinance had failed, doesn't mean that the Police Department will not be enforcing the use of them on public streets.

* Reported high grass on the bank at 7th Street & Myrtle Avenue. Manager Hendershot will provide the Police Department with a work order.

* Reported holes in street at Center Street & Pine Avenue.

* **Wood** - Announced that the "Back to School Fun Fair" will be held at the Marshall County Fairgrounds on Monday, August 11, 2008. This program was designed by Susie Baker to provide children with backpacks, school supplies, hair cuts, doctor, eye and dental exams free of charge.

* Asked for an update on Fostoria. Manager Hendershot reported the Building Commission met on July 29th with Harold Games to discuss terms of the new contract. A special meeting may be scheduled for August 6th to finalize negotiations.

* Asked if there can be something done with the traffic light at 5th & Jefferson Avenue. Manager Hendershot advised the light is on timer, just as 5th, 7th, & 10th Street at Lafayette Avenue. The timers are regulated through Charleston via modem. Councilperson Wood asked that council consider having four way stop at 5th & Jefferson Avenue.

* Asked for an update on the tree situation on Meighen Avenue. Manager Hendershot reported the tree near the alley will be removed by a local tree contractor. The tree in the yard was inspected by Building Inspector Wise who found the tree was not an immediate danger. However, the situation will be inspected by a tree expert.

* **Wallace** - Asked if Steve Katz was going to cut the tree, why can't he assess the situation for the tree in the yard? Manager Hendershot commented that Mr. Katz could but not for a couple of weeks.

* Asked for an update on the 7th Street Project. Manager Hendershot advised that a notice was given to proceed, the final contract was signed on Friday. Contractors should be moving equipment in and start working by the end of the week.

* Asked for no parking signs at the walking/bicycle trail. People are parking on the trail. Manager said he will take care of request.

* Commented on situation with Councilperson Cunningham not attending meetings. Councilperson Wallace stated that the Fourth Ward needs to know where their councilperson is and Councilperson Cunningham needs to be in contact with fellow council and City Manager.

* **Simms** - Agrees with Councilperson Wallace stating that somebody needs to know what Councilperson Cunningham's intent is.

Councilperson Simms made a motion to adjourn, seconded by Councilperson Haynes. Motion carried unanimously.

Meeting adjourned at 8:17 p.m.

Sondra J. Hewitt, City Clerk

Wayne Lemasters, Mayor