

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

The Council of the City of Moundsville met in Regular Session in the Council Chambers on July 1, 2008 at 7:00 p.m.

Meeting was called to order by Mayor Wayne Lemasters.

Invocation by City Manager Hendershot.

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, Street Foreman Chuck Richmond, Building Inspector Wise, CPA Kathryn Goddard, Attorney Thomas White and City Clerk Hewitt. Absent: Street Commissioner Richmond.

**MINUTES:**

**Regular Council Meeting of June 17, 2008.**

Councilperson Wood made a motion to accept and approve the minutes of the regular council meeting of June 17, 2008, seconded by Councilperson Haynes. Motion carried unanimously.

**GENERAL PUBLIC HEARING:**

\* David White, 406 Clinton Avenue, asked what was discussed at the Building Commission Meeting concerning the Fostoria and asked if the asbestos goes into the air? Manager Hendershot reported no quorum at the meeting. DEP does not concern themselves with natural ware, only if the building is disturbed. Reported a utility trailer at 3<sup>rd</sup> & Grant Avenue. Chief Kudlak will check on trailer. Asked if the street sweeper runs on Jefferson Extension. Street Foreman Richmond advised the sweeper runs to Dorsey Street. Reported Dwight Cunningham property on Thompson Avenue is being used to hold compost. Manager Hendershot advised that Mr. Cunningham is allowed to have compost on his property if he wishes. Asked why Councilperson Cunningham is missing so many meetings? Mayor Lemasters stated that Mr. Cunningham has only missed three meetings.

\* Phyllis Hewitt, 16 Hickory Avenue, reported the owner of 18 Hickory Avenue (Gregory Sberna) who lives at 2406 First Street refuses to cut his grass. Pigeons are going into the house and trying to get out by flying into the windows.

Manager Hendershot reported that Police Chief Kudlak has started the process of abatement for Mr. Sberna.

**Discussion and Approval of an Ordinance Pertaining to Clothing Allowance. (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 A SECTION 155.06(h) OF THE CODE OF THE CITY OF MOUNDSVILLE, INCREASING ALLOWANCES REGARDING UNIFORMS FOR EMPLOYEES OF THE CITY OF MOUNDSVILLE. (SECOND READING)**

Councilperson Simms made a motion to accept the uniform ordinance on second reading, seconded by Councilperson James.

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

**Discussion and Approval of an Ordinance Pertaining to Travel Expenses. (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, TO AMEND SECTION 155.04(g) OF THE EMPLOYEE POLICY REGULATIONS PROVIDING FOR AN INCREASE IN REIMBURSEMENT OF TRAVEL EXPENSES. (SECOND READING)**

Attorney White informed council of the amended ordinance which allows the City Manager to follow the rate of the federal government.

Councilperson Wood made a motion to accept the amendment, seconded by Councilperson Haynes.

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

Councilperson Simms made a motion to approve the ordinance as amended, 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 made a motion to instruct the City Attorney to draft a recall or referendum for the Policy Committee, seconded by Councilperson Wood. Motion carried unanimously.

**NEW BUSINESS:**

**Discussion and Approval of a Charter Change Pertaining to Mayor and Vice Mayor in the City of Moundsville. (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 SECTION 7 OF THE CHARTER OF THE SAID CITY OF MOUNDSVILLE TO AMEND THE TIME FOR ELECTION OF THE MAYOR AND VICE MAYOR OF THE CITY OF MOUNDSVILLE. (FIRST READING)**

Councilperson Simms made a motion to approve the above ordinance, seconded by Councilperson Wood.

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

**Discussion and Approval of an Ordinance Concerning Retirement Options Sick Leave Buy Out for Employees. (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, TO AMEND SECTION 155.07(g)(8) OF THE EMPLOYEE POLICY REGULATIONS PROVIDING FOR AN INCREASE IN SICK LEAVE PAYMENT UPON RETIREMENT. (FIRST READING)**

Councilperson Wood made a motion to accept the sick leave ordinance, seconded by Councilperson Wallace.

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

**Discussion and Approval of an Ordinance Creating a Job Incentive Program for Service and Manufacturing Industries. (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 TO AMEND AND REENACT SECTION 745.151 OF THE MOUNDSVILLE CITY CODE TO PROVIDE BUSINESS AND OCCUPATION TAX EXEMPTIONS FOR CERTAIN BUSINESSES LOCATING IN THE CITY.**

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

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

**Discussion and Approval of an Ordinance Concerning Changes to the DUI Code, Article 333 to Bring into Compliance with Recent Changes to State Code. (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 SECTION 333 OF THE MUNICIPAL CODE OF THE CITY OF MOUNDSVILLE RELATING TO THE OFFENSE OF DRIVING UNDER THE INFLUENCE AND PROVIDING AMENDED PENALTIES. (FIRST READING)**

Councilperson Wallace made a motion to accept and approve the DUI ordinance, seconded by Councilperson James.

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

**Discussion and Approval of a Resolution to Enter Into a Contract with City of Moundsville and Central Michigan Exploration.**

Councilperson Simms made a motion to approve the resolution, seconded by Councilperson Wallace. Manager Hendershot advised this contract is still under discussion.

Councilperson Simms and Councilperson Wallace rescinded their motion and second.

Councilperson Simms made a motion to table this resolution until further notice, seconded by Councilperson Haynes. Motion carried unanimously.

**Discussion and Approval of a Resolution Authorizing the City of Moundsville to Enter into a Loan Agreement for Lease-Purchase of a 2008 Police Cruiser.**

Councilperson Simms made a motion to approve the resolution for the loan agreement for a 2008 Police Cruiser, seconded by Councilperson Haynes. Motion carried unanimously.

**Appointment to the Moundsville Water Board. (Council's Appointment)**

The Water Board provided a letter asking that council consider re-appointing David Haynes to the board. Councilperson Simms made a motion to re-appointment David Haynes to the Moundsville Water Board, seconded by Councilperson James. Motion carried unanimously.

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

Councilperson Simms made a motion to increase council and mayor salary \$100, seconded by Councilperson James. Motion carried unanimously.

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

**MANAGER ITEMS:**

**Moundsville Police Department Received Plaque.**

The Moundsville Police Department received a plaque for their efforts to reduce underage drinking and clear driving in Marshall County presented by the Marshall County Anti Drug Coalition and the Marshall County Youth In Action Team.

**Update on Seventh Street Project.**

Manager Hendershot attended a pre-construction meeting on the Seventh Street project. Begin of construction will be the end of July with a 90 day completion date. The Sanitary Board will be making notification to residents about upcoming changes and parking arrangements.

**Twelfth Street Paving.**

Manager Hendershot commented that WV DOH paved Twelfth Street.

**Security System Installed at City Building.**

Manager Hendershot reported a security system was installed in the City Building. The system was funded by a digest grant which was provided by Delegate Varner and Senator Kessler and shared with the Street Department.

**Vacancy on the Zoning Appeals Board. (Council's Appointment)**

The term for Wayne McCardle will expire on July 19, 2008. Mr. McCardle has submitted a letter of intent to serve another 3 year term.

Councilperson Wallace made a motion to re-appoint Wayne McCardle to the Zoning Appeals Board, seconded by Councilperson James. Motion carried unanimously.

**Vacancy on the Moundsville Housing Authority. (Manager's Appointment)**

There is an existing vacancy on the Moundsville Housing Authority. Director of Housing Shelly Glazter submitted a letter of recommendation for Marilyn Carlsen. Manager Hendershot announced that he will be appointing Ms. Carlsen for this term.

**Notification from the State Auditor's Office.**

The City of Moundsville has received a notification from the State Auditors Office a notice of conditional approval of the levy estimate. Minor issues need to be resolved.

**Notice from Moundsville Fire Chief Clarke.**

Fire Chief Clarke would like to remind council and the public that Moundsville will be presenting the fireworks display in Valley Fork Park on Friday evening, July 4, 2008. The park will be closed at 8:00 p.m., this does include the walking trail.

**Moundsville Building Commission Attendance.**

Manager Hendershot provided a list of names to council of the Moundsville Building Commission members and noted that a letter was sent to members advising them of the regulations on attending meetings.

**Proposal to Purchase Elgin Street Sweeper.**

Street Commissioner Richmond provided a quote of \$138,000 for a new Elgin Street Sweeper for the Moundsville Street Department.

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

**MAYOR ITEMS:**

\* Mayor Lemasters received a complaint that employees are wearing their uniforms when they are working other places.

\* Mayor Lemasters asked Manager Hendershot to find out where the insurance check for the reimbursement of the destroyed trees at Valley Fork went. He commented that the check was

for \$8,000 and \$900 of that was spent on new trees.

\* The Recreation Board held a special meeting to update their policies for the Parks & Pool employees.

### **COMMITTEE REPORTS:**

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

Councilperson Wallace scheduled a Finance Meeting after the Traffic Meeting.

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

Councilperson Simms scheduled a Traffic Meeting at 5:00 p.m., on July 9, 2008.

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

Councilperson Wood scheduled a Policy Meeting after the Finance Meeting.

### **COUNCIL ITEMS:**

\* **Haynes** - Reported a utility trailer on Ash Avenue at First Street.

\* Reported a stop sign is needed at 12<sup>th</sup> Street at the south end of the Fairground entrance. Manager Hendershot explained this is private property. Although he could contact the Fair Board to see if they are interested in having a stop sign installed provided by the city.

\* **James** - Nothing at this time.

\* **Simms** - Asked the City Attorney about a large tree beside 1902 Meighen Avenue. The residents are afraid the tree will fall on their house during a storm. Owner at 1900½ Meighen Avenue no longer lives there and the house is for sale. Can council declare this an intimate danger or public nuisance and have the tree cut down? Attorney White advised if the tree is declared a nuisance, the city can follow the procedure to abatement and cut the tree. However, council can remove anything that is on city property.

Councilperson Simms made a motion to authorize the city to start process for abatement to have tree removed, seconded by Councilperson James.

Attorney White stated that council can not remove the tree on private property, but can remove half the tree on city property. Homeowners have no recourse unless something happens or they can cut the part of the tree on their property.

Mayor Lemasters announced motion was made and seconded. Motion carried unanimously.

\* **Wallace** - Commented to Mr. & Mrs. Hewitt in the audience that it is a shame that people choose to live in the conditions they do.

\* Hopes everyone has a happy & safe Fourth of July.

\* **Wood** - Asked for an update on properties at First & Jefferson Avenue and First Street across from Smith Mart.

Building Inspector Wise reported the owners have started working on the First & Jefferson Avenue property. The next step for the First Street property will be up to the city.

\* Agrees with Councilperson Wallace concerning Mr. & Mrs. Hewitt's problem next to their residents.

\* Asked for an update on the 12<sup>th</sup> Street Sidewalk Project. Manager Hendershot reported this has been through the federal notification and comment process. The City has not received their final notice to proceed. A 6 month extension was requested for the ADA sidewalk. Construction will start soon. Final design was submitted to the Charleston Office for approval. A letter of support and review of the drawings were received from local Highways Office.

\* Reported that a resident was told by the VFD that the city would pick up a tree that was hit by lightning at Second Street & Birch Avenue. Manager Hendershot advised that the VFD will be informed.

\* Asked to bring back to the Policy Committee the Dog Tethering Ordinance.

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

Meeting adjourned at 8:00 p.m.

---

Sondra J. Hewitt, City Clerk

---

Wayne Lemasters, Mayor