

**STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE,
OCTOBER 21, 2008**

The Council of the City of Moundsville met in Regular Session in the Council Chambers on October 21, 2008 at 7:00 p.m.

Meeting was called to order by Mayor Wayne Lemasters.

Invocation by City Manager Hendershot.

City Clerk 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 Stocklask, Building Inspector Vickers, CPA Kathryn Goddard, Attorney Thomas White and City Clerk Hewitt. Absent: Street Commissioner Richmond.

MINUTES:

Regular Council Meeting of October 7, 2008.

Councilperson Haynes made a motion to accept and approve the minutes of the regular council meeting of October 7, 2008, seconded by Councilperson Simms. Motion carried unanimously.

GENERAL PUBLIC HEARING:

* Brad Varlas, 1107 12th Street, asked when the sidewalk project on 12th Street will start? Manager Hendershot reported probably spring 2009. Mr. Varlas asked the city to enclose the area that storm sewer sink holes are on 12th Street in the Warden's Yard. He is afraid the amount of kids crossing through the yard will fall in the holes. Mr. Varlas also spoke to council about their discussion of providing an ambulance service in the city stating that a new owner has purchased Tri-State Ambulance and will make sure there is an ambulance at all times in the city.

* Bill Costello, Glen Dale, spoke to council as a part time employee of Tri State Ambulance. He commented that Mr. Kenneth Joseph is the new owner and will meet with council to discuss his plans for the ambulance service and financial matters.

Councilperson Wallace commented that council's concern is response time of the ambulance and the safety of the citizen's of Moundsville.

NEW BUSINESS:

Discussion and Approval of an Ordinance Pertaining to Animal Restraint and Tethering 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 505.03 OF THE CITY CODE OF THE CITY OF MOUNDSVILLE RELATING TO HUMANE TREATMENT OF ANIMALS WITH RESPECT TO RESTRAINT AND TETHERING OF DOGS, AND PROVIDING FOOD AND SHELTER FOR DOGS IN THE CITY OF MOUNDSVILLE. (FIRST READING)

Councilperson Simms made a motion to accept the animal tethering ordinance, seconded by Councilperson Wood.

Mayor Lemasters called for a roll call vote. City Clerk announced the following tally. 4 yeas, 2 nays. James and Haynes voting nay. Motion carried.

Discussion and Approval of an Ordinance Concerning Motorized Recreational Apparatus 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 CITY OF MOUNDSVILLE TO AMEND AND REENACT ARTICLE 355 OF THE MOUNDSVILLE CODE PROVIDE FOR A 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. (FIRST READING)

Councilperson Wood made a motion to accept the ATV ordinance as presented, seconded by Councilperson Haynes.

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

Discussion and Approval of a Resolution for the 2008-2009 General Fund Budget Revision #1.

Ms. Goddard reported a typo on the last budget revision which was corrected and presented to council to be refiled.

Councilperson Simms made a motion to approve the resolution for the corrected budget revision #1, seconded by Councilperson Haynes.

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

Discussion and Approval of a Resolution for the 2008-2009 Coal Severance Budget Revision #1.

Councilperson Simms made a motion to approve the resolution for the 2008-2009 Coal Severance Budget Revision, seconded by Councilperson Haynes.

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

MANAGER ITEMS:

Moment of Silence Requested.

Manager Hendershot requested a moment of silence for the passing of Moundsville Building Commission Member Kris McLendon.

Street Paving Update.

Manager Hendershot reported paving is continuing, six intersections are complete, three intersections will be reviewed by the City Manager, Street Commissioner Richmond and Klug's, three are partially completed and one has not been started.

ADA Sidewalk Project.

Manager Hendershot reported the ADA Sidewalk Project on Jefferson Avenue has been started. Being installed are two of the new wider handicapped accessible parking spaces that are geared toward wheelchairs and vans with loading ramps. Two new parking spaces will be installed on Jefferson Avenue, one near the Court House and one near the Health Department and four handicapped ramps installed on the islands on Jefferson Avenue located across from each other.

Public Hearing Scheduled for Brownsfield Grant.

Manager Hendershot asked that council schedule a public hearing for the Brownsfield Grant application for the Fostoria Project cleanup. The application needs a final approval and sent to the EPA by the November 12, 2008. Council agreed to schedule meeting at the beginning of the next regular council meeting.

Flood Plain Ordinance Meeting.

Manager Hendershot attended a Flood Plain Ordinance meeting where FEMA and the State DEP are digitizing flood plan maps. Along with revising maps, they are requiring communities who

have flood plain insurance to update their ordinances, which were provided to Attorney White. Manager Hendershot and Attorney White will submit to council with recommendations at the next Policy Meeting.

Legal Ads by Attorney White.

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

1. Municipal Fee Suit
2. Paving Bids
3. Handicapped Sidewalk Bids

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

MAYOR ITEMS:

* Mayor Lemasters attended a meeting at John Marshall High School with SADD (Students Against Destructive Decisions). National Red Ribbon Week is proclaimed for the last week in October to send the message “Live Drug-Free”!

* Mayor Lemasters appointed an EMS Committee consisting of Manager Hendershot, Fire Chief Noel Clarke, Councilperson David Wood, Councilperson Dennis Wallace, Safety Coordinator Earl Shaw and city residents Tony Karpinski and Tony Zwolensky.

* Mayor Lemasters thanked the city employees for the jobs they do.

* Mayor Lemasters announced that Election Day is two weeks away. He also commended the council members for doing an excellent job.

Discussion and Approval of Recommendations by the Finance Committee.

1. Discussion and Review of the Purchase of a Pelican Street Sweeper. City Manager and Street Commissioner will research the trade in value.

2. Discussion of Amount of Sanitation Deposit Being Required for Commercial Accounts. Attorney White will see if the amount can be set for certain commercial accounts.

3. Discussion of Implementing a City Ambulance Service. Councilperson Wallace noted the concern of council was response time and ambulance absence, which was addressed by Bill Costello and Brad Varlas. The new committee will research this matter and discuss with council at a later date.

4. Discussion and Approval of Request from JMHS Boys Basketball Banner Sponsor Renewal for 2008-2009 in the Amount of \$100.

Councilperson Wallace made a motion to donate \$100 to the JMHS Boys Basketball Banner, seconded by Councilperson Simms. Motion carried unanimously.

5. Discussion and Approval of Employee's Christmas Bonus to Increase the Amount to \$325 for full time and \$125 for part time.

Councilperson Wallace made a motion to approve Christmas Bonus for employees, seconded by Councilperson James. Motion carried unanimously.

Discussion and Approval of Recommendations by the Traffic Committee.

1. Request for Handicapped Parking Space at 1013 Tomlinson Avenue. Committee denied the request.

2. Request for Handicapped Parking Space at 1017 Tomlinson Avenue. Chief Kudlak is still researching request.

3. Discussion of 4 Way stops at 7th & Poplar Avenue; 7th & Washington Avenue and 3rd & Curtis Avenue. Committee denied all requests.

Discussion and Approval of Recommendations by the Policy Committee.

1. Discussion & Review of Sidewalk Replacement Program. There will be further research into the financial and legal part of the program.

2. Discussion of Requirements for Council Attendance at Council Meetings to Take Action to Direct City Attorney to Draft a Charter Change Ordinance.

Councilperson Wood made a motion to direct the City Attorney to draft a charter change ordinance pertaining to the attendance of council at council meetings, seconded by Councilperson James.

Councilperson Wallace made comment of this decision not being a "witch hunt" for Councilperson Cunningham. The charter change has been needed for a very long time. The absence of Councilperson Cunningham is unfair to the citizens that voted for him in the Fourth Ward.

Councilperson Simms and Councilperson Haynes suggested not sending Mr. Cunningham's check in the mail because we can not be sure he is the one receiving the check. Mr. Cunningham must pick up his check at the City Building.

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

3. Discussion and Recommendation to Vacate the Position of Mike Lauter on the Moundsville Building Commission.

Manager Hendershot pointed out by ordinance committee members, board members and commissions are required to attend 75% of meetings. If they do not attend the required amount, they must vacate or resign the position. Mr. Hendershot reported that Mr. Lauter will be out of town for 6 months which will be difficult to have a quorum since the passing of Kris McLendon.

Councilperson Wood made a motion to vacate the position of Mike Lauter on the Moundsville Building Commission, seconded by Councilperson Simms.

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

COUNCIL ITEMS:

* **Simms** - Reported a street light out at 5th & Tomlinson Avenue. He is not sure if the light is owned by the resident or the city.

* Reported the city's street globe light is burnt out in front of Neubauer's. Collins changed the light across the street, but did not change the one reported.

* Reported an already existing yellow line on Morton Avenue between First & Second Street was repainted but not the length it was originally. And a pot hole in same place.

* **Wallace** - Asked if the Moundsville Building Commission was partisan or non partisan. And asked if this was a state regulation. Manager Hendershot advised that political parties are required by the state.

* Reported 1400 Center Street is vacant and windows are broke out.

* **Wood** - Wished all candidates good luck in November election.

* Asked that Manager Hendershot highlight in the local paper the notice of the ADA sidewalks and that Moundsville was successful in obtaining the grant funding.

* Asked for an update on the Fostoria project. Manager Hendershot reported RAZE are cleaning up the area of concern of cross contamination. They have submitted their original work orders to DEP for approval. DEP expanded the area that was to be cleaned. Clean up is moving forward.

* Asked for an update on the Bonnette Property on Purdy Avenue. Building Inspector Vickers reported four heirs are involved in the property and none of them speak to each other. Mr. Vickers also has called the attorney involved in the property.

* Asked when demolition will start at 1223 First Street. Manager Hendershot reported it's a matter of the contractors scheduling.

* **James** - Reported the street light out at 14th & Lockwood Avenue.

* **Haynes** - Nothing at this time.

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

Meeting adjourned at 7:55 p.m.

Sondra J Hewitt, City Clerk

Wayne Lemasters, Mayor