

**STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE,
APRIL 21, 2009**

The Council of the City of Moundsville met in regular session in the Council Chambers on April 21, 2009 at 7:00 p.m.

Meeting was called to order by Mayor David Wood.

Invocation by Councilperson Mark Simms.

City Clerk called the roll and the following councilpersons were in attendance: DeWitt, Haynes, Saunders, Simms, Wallace, Young and Mayor Wood. Also present: City Manager Hendershot, Police Chief Kudlak, Fire Chief Clarke, Street Commissioner Richmond, Building Inspector Wise, CPA Kathryn Goddard, Attorney Thomas White and City Clerk Hewitt.

MINUTES:

Regular Council Meeting of April 7, 2009.

Councilperson Haynes made a motion to accept and approve the minutes of the regular council meeting of April 7, 2009, seconded by Councilperson Saunders. Motion carried unanimously.

GENERAL PUBLIC HEARING:

* Millard Adkins, 298 11th Street, opposed the zone change at 1008 Thompson Avenue. He also complained about the cat problem in his area. Manager Hendershot informed Mr. Adkins that he can arrange to meet with Chief Kudlak to acquire live traps.

* Kim Brooks, 208 11th Street, opposed the zone change at 1008 Thompson Avenue. She also commented on the 30,000 gallon propane tank that is located at the Marshall County Co-op. State Code does not permit that size of a propane tank be located near residents. Mrs. Brooks also submitted signed letter from Tim Harrison opposing the zone change.

* Dwight Cunningham, 1301 Fourth Street, owner of property at 1008 Thompson Avenue submitted plans for the project in question.

* David White, 406 Clinton Avenue, commented that Mr. Cunningham did not show the Planning Commission those certain plans at the meeting. He believes this matter should be sent back to the Planning Commission. Mr. White also asked that holes be patched in alley behind his residence.

* Sue DeLong, 1010 Thompson Avenue, opposed the zone change at 1008 Thompson Avenue stating that she lives right beside the proposed zone change and does not want a business beside her property also the traffic will increase with an ice cream shop.

OLD BUSINESS:

Discussion and Approval of a Zone Change Ordinance Pertaining to 1008 Thompson Avenue. (Second Reading)

Mayor Wood asked Building Inspector Don Wise to explain his findings of the city's Comprehensive Plan and the zone changes in question.

Building Inspector Wise noted that the Comprehensive Plan presently in effect for the City of Moundsville was adopted in 1972. It planned for a bridge and cloverleaf intersection for access to what was to be the relocated State Route 2, adjacent to the Ohio River. In anticipation of this, the comprehensive plan provided for greens space in the area of the cloverleaf and adjacent thereto. The bridge became a reality but State Route 2 was not relocated toward the river. The green space area was denoted to be a Special Conservation (S-C) zoning district. Thus, where there was supposed to be no buildings in the are, we now have houses and businesses. This area never was zoned S-C. Instead, it was zoned Multi-Family Residential District (R-M). The present zoning is not in compliance with the Comprehensive Plan in the area. The proposed zone change would not be in compliance with the Comprehensive Plan either. The failure to implement the Comprehensive Plan for this area constitutes a major physical change in the area since it was to be uninhabited. Instead, we find it has become an area inhabited by a mix of business and residential uses. The business uses are major economic, physical and social changes that were not anticipated at the time the Comprehensive Plan was adopted. The following business uses now exist within close proximity to the area proposed for change are an animal hospital; car repair; auto towing; marine sales & service; and a farm supply store. Given the commercial nature of the area, the proposed zoning from residential to commercial would not be inconsistent with similar uses in close proximity, and would blend without detrimental effect on the area as a whole.

Mayor Wood asked Building Inspector Wise if his answer applies to both zone changes? Mr. Wise said his answer does apply to both changes in question.

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

AN ORDINANCE OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA, PROVIDING TO CHANGE A CERTAIN DESIGNATED AREA AT OR NEAR 1008 THOMPSON AVENUE IN THE CITY OF MOUNDSVILLE FROM A MULTI-FAMILY RESIDENTIAL (R-M) ZONE TO A COMBINED CENTRAL BUSINESS & HIGHWAY COMMERCIAL ZONE (C-C-C-H). (SECOND READING)

Mayor Wood moved to pass the ordinance on second reading and that the council makes a finding that although the amendment is inconsistent with the Comprehensive Plan, there have been major changes of an economic, physical and social nature within the area involved which

were not anticipated when the Comprehensive Plan was adopted and those changes have substantially altered the basic characteristics of the area, seconded by Councilperson Saunders.

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

**Discussion and Approval of a Zone Change Ordinance Pertaining to 109 Thirteenth Street.
(Second Reading)**

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

AN ORDINANCE OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA, PROVIDING TO CHANGE A CERTAIN DESIGNATED AREA AT OR NEAR 109 THIRTEENTH STREET IN THE CITY OF MOUNDSVILLE FROM A SPECIAL RECREATIONAL ZONE TO A NEIGHBORHOOD COMMERCIAL ZONE. (SECOND READING)

Mayor Wood moved to pass the ordinance on second reading and that the council makes a finding that although the amendment is inconsistent with the Comprehensive Plan, there have been major changes of an economic, physical and social nature within the area involved which were not anticipated when the Comprehensive Plan was adopted and those changes have substantially altered the basic characteristics of the area, seconded by Councilperson Saunders.

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

NEW BUSINESS:

Lay the Levy for the 2009-2010 General Fund Budget.

Councilperson Haynes made a motion to lay the levy for the 2009-2010 General Fund Budget, seconded by Councilperson Simms.

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

Discussion and Approval of Street Paving Bids.

One bid was received from Klug Brothers Inc for the paving of the following streets:

- | | |
|--|-------------|
| 1. Sixth Street - Jefferson to Grant Avenues | \$45,980.22 |
| 2. Washington Avenue - Second to Third Streets | \$44,433.83 |
| 3. Park Street - Linden to Locust Avenues | \$23,694.44 |

Total \$114,108.49

Councilperson Haynes made a motion to approve the bids for Klug Brothers in the amount of \$114,108.49, seconded by Councilperson DeWitt for discussion.

Councilperson Saunders asked if council could place more streets out for bid to pave this year? Manager Hendershot advised they could and pave in the fall.

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

Discussion and Approval of a Resolution to Authorize the City Manager to Enter into a Lease Agreement with the Department of Natural Resources for the Moundsville Rifle Club.

Councilperson Simms made a motion to authorize the City Manager to enter into the lease agreement with the Department of Natural Resources, seconded by Councilperson Saunders.

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

MANAGER ITEMS:

Business After Hours.

The Marshall County Chamber of Commerce Business After Hours will be hosted by the Marshall County Co-op on April 23, 2009 from 5-7 p.m. Any councilperson wishing to attend, please let Marilyn know.

Thank You Letter.

Manager Hendershot received a letter from Cub Scout Pac #78 thanking council for their support during its annual Feller Cake Bake.

Progress at the Former Fostoria Glass Site.

Council received an update from Raze International Inc on the progress at the Fostoria Site.

Other Items Discussed by the City Manager.

* Manager Hendershot reported receiving an e-mail concerning \$23.3 million toward the construction of a new Cameron Middle High School and Field House. Groundbreaking will be in June 2009.

MAYOR ITEMS:

* Mayor Wood thanked fellow council members for meeting before the regular council meeting concerning “goals”.

* Mayor Wood asked Manager Hendershot for an update on the complaint that was received last week concerning trash in the Dorsey Street area, along the stream turning into Cherokee Hills. Manager Hendershot reported the city cleaned the stream area, the private property above stream has been cleaned and the Housing Authority cleaned the area at Dorsey Street. Street Commissioner Richmond reported hauling four pickup truck load of debris from the area.

* Mayor Wood congratulated the Marshall County Board of Education for receiving funds to help in the construction of Cameron Middle High School and Field House.

* Mayor Wood asked if the two animal control officers are also humane officers? Chief Kudlak stated that law enforcement officers are all designated as humane officers. They have the ability to enforce the animal ordinances, however, they do not have the expertise. The dog wardens have the expertise in that area, but they don't have the authority to enforce the ordinances. The officers and dog wardens try to work hand in hand with problems. Some citations dog wardens can issue citations such as shots.

Councilperson DeWitt asked if the dog wardens can become humane officers? Chief Kudlak advised if the dog wardens become humane officers, they would become armed, which would raise questions on academy training.

Proclamation to Declare April 2009 Fair Housing Month.

Councilperson Simms made a motion to declare April 2009 Fair Housing Month, seconded by Councilperson DeWitt. Motion carried unanimously.

Discussion and Approval of Recommendations by the Finance Committee.

1. Recommend Approval of Process for Proposed Sanitary Rate Increase.

Manager Hendershot reported the Sanitary Board met last week in which the board directed the Superintendent to work with the Finance Director and Engineer to assure that all the requirements are met. No action taken at this time.

2. Recommend Approval of Advertising for Purchase of Low Boy Trailer.

Manager Hendershot reported receiving an estimate on a used low boy in the amount of \$14,000, which was sold. However, they do have a new low boy for \$16,000. Manager Hendershot recommended proceeding with the process of advertising for bid.

Councilperson Simms made a motion to proceed with the bidding process of the low boy trailer,

seconded by Councilperson Haynes for discussion.

Councilperson Wallace noted that the Water Department has agreed to give \$4,000 and the Sanitary Board agreed to give \$4,000 towards the purchase of the low boy trailer. Leaving the City to pay \$8,000 with funds from the Sanitation Department.

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

3. Recommend Approval of Increasing Parking Meter Fines from \$2 to \$3 and remove the \$5 after 24 hrs to \$10 after 48 hrs.

Councilperson Saunders made a motion to increase parking meter fines to \$3 and \$10 after 48 hrs., seconded by Councilperson Haynes.

After further discussion, Councilperson Saunders amended his motion to include this to start July 1, 2009, seconded by Councilperson Simms.

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

4. Recommend Approval of Advertising for Sanitation Vehicle.

Manager Hendershot asked that council approve going out for bid now on a new Sanitation vehicle because new emission standards will be in effect that will raise the purchase price of the vehicle and the operating cost of the vehicle. The purchase will not be made until next fiscal year when the funds are available.

Councilperson Haynes made a motion to authorize advertising for a Sanitation vehicle, seconded by Councilperson Saunders.

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

Discussion and Approval of Recommendations by the Traffic Committee.

1. Discussion of Limiting Simmons Drive to Parking on One Side Only.

Councilperson Simms thanked Councilperson Haynes for going door to door speaking with neighbors concerning the request, but the majority did not want one side parking. There was no action taken at this time.

Discussion and Approval of Recommendations by the Policy Committee.

1. Discussion of City's Comprehensive Plan reference: 109 Thirteenth Street and 1008 Thompson Avenue.

The committee recommended the City Attorney to have a written opinion for the Building Inspector so that this can be presented to City Council at the April 21st meeting.

2. Discussion of Establishing Goals for Upcoming Year.

Mayor Wood noted that goals were presented at the 6:00 p.m. meeting. Council will be revisiting goals.

3. Discussion of Revised Substance Abuse Policy Reference Definition of Safety Sensitive Duty Employees for Random Testing.

The committee recommended place on the agenda for discussion to direct the City Attorney to draft an ordinance to make adjustments to current policy for the May 5th council meeting.

Mayor Wood made a motion to direct the City Attorney to draft amendments to the Substance Abuse Policy for Random Drug Testing, seconded by Councilperson Haynes.

Mayor Wood called for a voice vote. City Clerk announced the following tally. 2 yeas, 5 nays. Wallace, Wood yea. Motion failed.

4. Dilapidated structures were discussed with committee requesting an updated list of structures under review from building inspectors at the present time for status report as to where properties are in the process of resolving with property owners. Committee recommends the violators be brought to Court if necessary.

COUNCIL ITEMS:

* **Young** - Asked Manager Hendershot why the Building Inspectors do not have computers and thinks they are cramped for space. Manager Hendershot reported not having the funds for computers and stating the whole City Building is cramped for space.

* **Wallace** - Suggested purchasing the printers at a local plant for the front office. Manager Hendershot reported equipment was already purchased for the Street Department.

* **Simms** - Asked Manager Hendershot to research if random drug testing was done for CDL & Safety Sensitive employees would the city's liability insurance decrease?

* Reported pot holes need filled on Fourth Street & alley behind Clinton Avenue; behind the Volunteer Fire Department.

* Was told that somebody trapped 53 cats in the area of Pine & Poplar Avenue. Chief Kudlak

was unaware if any cats were trapped.

* Announced that he & Chief Clarke were asked to judge Moundsville Idol Contest at the Elizabethtown Festival.

* **Haynes** - Thanked Jim Richmond & the Street Department for fixing the street in Cherokee Hills and for cleaning all the debris at the entrance.

* Asked for extra patrol on Sandy Avenue.

* **Saunders** - Announced that he has been elected to speak at Boys State and asked for other council members to attend June 14 through 20, 2009.

* Wished to thank the Street Department for fixing pot holes in town. Reported a hole at First Street & Poplar Avenue.

* Thank the Street Department for adding the sign "During School Hours" at 7th & Jefferson and 7th & Tomlinson Avenue.

* Asked Manager Hendershot when the traffic light at 5th & Jefferson will be taken down? Manager Hendershot advised that he spoke to a DOH engineer who advised him the process could take several months.

* **DeWitt** - Asked if council could approach the County Commission to have Humane Officers? Chief Kudlak reported the police and the dog wardens working well together and he could see problems arising with another agency involved.

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

Meeting adjourned at 8:20 p.m.

Sondra J. Hewitt, City Clerk

David Wood, Mayor