

**STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE,
SEPTEMBER 2, 2008**

The Council of the City of Moundsville met in Regular Session in the Council Chambers on September 2, 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, Wood, Wallace and Mayor Lemasters. Absent: Cunningham. Also present: City Manager Hendershot, Police Chief Kudlak, Fire Chief Clarke, Street Foreman Stocklask, Building Inspector Wise, CPA Kathryn Goddard, Attorney Thomas White and City Clerk Hewitt. Absent: Street Commissioner Richmond.

MINUTES:

Regular Council Meeting of August 19, 2008.

Councilperson Haynes made a motion to accept and approve the minutes of the regular council meeting of August 19, 2008, seconded by Councilperson James. Motion carried unanimously.

GENERAL PUBLIC HEARING:

* David Haynes, 21 Elm Avenue informed council of the drug problem in Moundsville. He also invited council to attend a drug free coalition held at the Moundsville Federal Building on Rt. 2 and 7th Street on the 1st Friday on the month at 12:00 noon.

* Carol Mitchell, 501 10th Street, inquired where the stop signs were going to be placed by the Golden Towers and asked for patrol for speeding vehicles.

Councilperson Simms (Traffic Chairperson) informed Mrs. Mitchell that a decision was made by the Traffic Committee that signs could not be placed at the area coming from Kings because it is private property nor could one be placed at the bottom of the street at Weaver Avenue.

* Kim Brooks, 208 11th Street, said if council was bringing the request for zone change back up for Thompson Avenue, she did not think the procedure would be correct she thinks Mr. Cunningham would have to appeal the zone change to Circuit Court.

Attorney White explained his opinion in this matter is the only action that was taken last meeting was council directing him to draft an ordinance, which is an administrative function. Council would be allowed to bring the item back for the attorney to draft an ordinance. Mrs. Brooks did ask if property owners were to be notified if council was going to bring the

matter up again. Attorney White advised he thinks the only thing the property owner would be notified is from the Planning Commission and if an ordinance was drafted, second reading of the ordinance would be advertised in the local paper.

* George Kachalo, 31 Fostoria Avenue, told council that he is upset that his neighbor pulled the stake from his yard. Mayor Lemasters informed Mr. Kachalo this being a civil matter and he must consult an attorney.

* David White, 406 Clinton Avenue asked how long the Fostoria contract with the Building Commission is? Asked if curfew can be reviewed because kids running the street on Clinton Avenue all hours of the night? Also asked if anyone has heard from Councilperson Cunningham?

Manager Hendershot advised Mr. White the contract is for 3 years between the Building Commission and Harold Games. The curfew time varies with different ages. And nobody has heard from Councilperson Cunningham.

* Nick Mascierelli, owner of Demolition Man, informed council that he was the contractor involved in the Fostoria project last year. He was unhappy because of rumors that he was the reason the Fostoria project was never finished.

OLD BUSINESS:

Other Items to be Discussed by Council.

Councilperson Simms apologized for his hasty decision on the negative vote concerning the recommendation by the Planning Commission for 1008 Thompson Avenue, Dwight Cunningham property.

Councilperson Simms made a motion to direct Attorney White to draft an ordinance for a zone change at 1008 Thompson Avenue from R-M to C-C-C-H, seconded by Councilperson Wallace.

Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 4 nays, 2 yeas. Simms and Wallace voting yea. Motion failed.

NEW BUSINESS:

Discussion and Renewal of the City Manager.

Councilperson Simms made a motion to renew the City Manager, seconded by Councilperson Wood. Motion carried unanimously.

Discussion and Approval of a Zone Change Ordinance at 105 Jefferson Avenue & 811 First Street from Residential (R-G) to Central Business District (C-C). (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, WEST VIRGINIA, PROVIDING TO CHANGE A CERTAIN DESIGNATED AREA AT OR NEAR THE CORNER OF FIRST STREET AND JEFFERSON AVENUE IN THE CITY OF MOUNDSVILLE FROM GENERAL RESIDENTIAL ZONE TO CENTRAL BUSINESS DISTRICT ZONE. (FIRST READING)

Councilperson Simms made a motion to approve the zone change for 105 Jefferson Avenue and 811 First Street, seconded by Councilperson Wood.

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

Discussion and Renewal of the Fostoria Project Contract.

Councilperson Simms made a motion to approve the renewal of the Fostoria Project Contract, seconded by Councilperson Haynes for discussion.

Discussion was held on the “out” clause of 90 days and deeding the corner lot 90 days after the contract is signed.

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

Other Items to be Discussed by Council.

Councilperson Simms asked Attorney White if the city is permitted to fill a council seat when a council member has made no contact with the City Manager or fellow council members. Attorney White advised that council can direct him to draft an ordinance pertaining to council missing meetings or establish a recall allowing citizens to vote him out. Other council members agreed the seat should not be empty.

After further discussion, Councilperson Simms made a motion to direct the City Attorney to continue researching this matter and bring to Policy Committee, seconded by Councilperson Wood. Motion carried unanimously.

MANAGER ITEMS:

Fourth Level Grievance Filed.

Manager Hendershot advised council of a fourth level grievance received by employee of the

Police Department. It is now council's responsibility to schedule a hearing within 15 days of notification. Manager Hendershot noted that Chief Kudlak responded within his time frame of 15 days, Manager Hendershot responded within his 15 day time frame but the employee didn't respond until 21 days, which was not in the correct time frame.

Councilperson Wood made a motion to deny a hearing for the employee based upon the response time, seconded by Councilperson Simms.

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

Business After Hours.

Manager Hendershot announced Business After Hours will be hosted by Perkins on September 18, 2008 from 5 p.m. to 7 p.m. Anyone wishing to attend please notify Marilyn Kaufman.

Riverfront Park Improvements.

Notification was received from the West Virginia Development Office for the Riverfront Shelter Improvement Project. City Manager Hendershot referred this to the Parks & Recreation Board.

Rural Water Conference.

The Annual Rural Water Conference is being held on September 7, 8, & 9, 2008. Manager Hendershot will be attending along with Superintendent Larry Bonar and Board Member Bill McConnell.

Discussion of Committee Meetings.

Since Manager Hendershot will be out of town for the Rural Water Conference, council postponed the Committee Meetings.

Thank You Letter from WV State Rt. 2 & I-68 Authority.

A letter was received on behalf of the WV Route 2 & I-68 Authority thanking the City of Moundsville for adopting the resolution in support of the development throughout the Ohio Valley.

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

Seventh Street Project.

Manager Hendershot advised that he has conducted an inspection of the Seventh Street project with Superintendent Larry Bonar. The job is moving along and they hoped to be on time for

completion.

Columbia Gas Transmission.

Columbia Gas will be performing required testing on 10" steel natural gas pipelines that run through part of the City of Moundsville. The areas planned for inspection are:

1. 12th Street from DOT Drive to Weaver Avenue
2. Weaver Avenue from 12th Street to Tenth Street
3. The alley adjacent to Golden Towers
4. Tenth Street from Golden Towers to Lockwood Avenue
5. Lockwood Avenue near Seventh Street
6. Western Avenue from Seventh Street to Blazer's Auto Body
7. Pipeline Right of Way behind Busy Beaver & Save-A-Lot.

MAYOR ITEMS:

* Mayor Lemasters asked for update on AAA Trailer Court ditch line. Manager Hendershot spoke with Street Commissioner Richmond who hopes to have the project started next week.

* Mayor Lemasters reported the cracks are being filled on the basketball courts at East End.

* Mayor Lemasters asked Manager Hendershot & Chief Kudlak to check the back yard at 106 Tomlinson Avenue, looks like a salvage yard.

* Mayor Lemasters reported low branches hanging onto sidewalk at 1206 4th Street & 1112 7th Street.

* Mayor Lemasters reported pot holes on Fostoria Avenue.

* Mayor Lemasters also commented on the vandalism at the Riverfront to the new swings that people are carving names into them.

COUNCIL ITEMS:

* **Simms** - Nothing at this time.

* **Wallace** - Nothing at this time.

* **Wood** - Spoke with Mr. Crow concerning the tree in his neighbor's yard. Mr. Crow is not pleased with the answer he received in a letter stating the tree was not a hazardous or decaying. Therefore, the tree does not meet the criteria for nuisance. Mr. Wood asked Attorney White what options does the family have for the tree. Attorney White stated there has been no damage done from the tree.

* Was pleased to see the publication in the paper for demolition bids for 1223 First Street.

* Discussed paving streets, funding and intersections being paved. Manager Hendershot asked for paving list from council, however a priority list was never established. Manager Hendershot and Street Commissioner Richmond provided a list of intersections from council that are in dire need of paving. Engineering has also slowed down the paving process.

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

* **Haynes** - Reported yellow lines need painted at 1st & Elm Avenue.

* Reported tires in the rear of houses in town.

* Reported speeders on Locust Avenue & Linden Avenue.

* Reported Wal Mart carts in the creek by Cherokee Drive.

* Advised the new fire hydrant that was on Park Street has been relocated to Locust Avenue and Jones Street.

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

Meeting adjourned at 8:25 p.m.

Sondra J. Hewitt, City Clerk

Wayne Lemasters, Mayor