

**STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE,
AUGUST 19, 2008**

The Council of the City of Moundsville met in Regular Session in the Council Chambers on August 19, 2008 at 7:00 p.m.

Meeting was called to order by Mayor Wayne Lemasters.

Invocation by Councilperson Mark Simms.

City Clerk Hewitt called the roll and the following councilpersons were in attendance: Haynes, James, Simms, Wood and Mayor Lemasters. Absent: Cunningham & Wallace (vac). Also present: Acting City Manager Deanna J. Hess, Police Sgt. Shelva Smith, Fire Chief Clarke, Street Foreman Stocklask, Building Inspector Vickers, CPA Kathryn Goddard, Attorney Thomas White and City Clerk Hewitt. Absent: City Manager Hendershot (vac), Police Chief Kudlak (vac) and Street Commissioner Richmond (vac).

MINUTES:

Regular Council Meeting of August 5, 2008.

Councilperson Simms made a motion to accept and approve the minutes of the regular council meeting of August 5, 2008, seconded by Councilperson Haynes. Motion carried unanimously.

GENERAL PUBLIC HEARING:

* Kim Brooks, 208 11th Street, strongly opposed the proposed zone change for Dwight Cunningham on Thompson Avenue from a R-M to a C-C-C-H. Mrs. Brooks also presented a petition of neighbors also in opposition of the change to be received and filed by council.

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

* David White, 406 Clinton Avenue, thanked the Street Department for painting lines on 10th Street. Asked why minutes aren't in the paper. He was informed the minutes are in the paper usually a few days after the meeting. Asked if the Building Commission was going to sign the agreement with Harold Games? Acting City Manager Hess advised that a Building Commission meeting is scheduled for Wednesday, August 20, 2008.

OLD BUSINESS:

Public Hearing Concerning the Ordinance for the Election of Mayor and Vice Mayor in the City of Moundsville.

Mayor Lemasters opened the hearing for discussion. With no comments or discussion in the audience, Mayor Lemasters closed the public hearing.

Discussion and Approval of an Ordinance Concerning the election of Mayor and vice Mayor in the City of Moundsville. (Second and Final 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 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. (SECOND AND FINAL READING)

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

Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 5 yeas. Motion carried unanimously.

NEW BUSINESS:

The Planning Commission has Recommended to Council that a Zone Change be Considered at 105 Jefferson Avenue & 813 First Street from R-G to Central Business District.

Councilperson Haynes made a motion to direct the City Attorney to draft a zone change ordinance for 105 Jefferson Avenue & 813 First Street from R-G to Central Business District, seconded by Councilperson Simms.

Councilperson Simms asked if a Central Business District is a limited zone change. Building Inspector Vickers reported that Central Business District is the zone along Jefferson Avenue Business District. Mr. Jackson has acquired the property at 105 Jefferson Avenue to expand his parking lot on his car lot.

Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 5 yeas. Motion carried unanimously.

The Planning Commission has Recommended to Council that a Zone Change be Considered on 1008 Thompson Avenue from R-M to C-C-C-H.

Councilperson James made a motion to deny the recommended zone change at 1008 Thompson Avenue, seconded by Councilperson Haynes for discussion.

Councilperson Simms commented that his concern for the C-C-C-H was that it is the most expanded zone in the code, which means anything goes. This zone will open the door for any type of business to be built if it changes hands again.

Building Inspector Vickers commented that this property is also in a flood zone therefore anything that is constructed is limited uses.

Mayor Lemasters called for a voice vote to deny the recommendation by the Planning Commission. 5 yeas. Motion carried unanimously.

Discussion and Approval of a Resolution of the Council of the City of Moundsville Amending the 2008-2009 General Fund Budget for the City of Moundsville.

Councilperson Simms made a motion to approve the resolution amending the 2008-2009 General Fund Budget, seconded by Councilperson Wood.

Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 5 yeas. Motion carried unanimously.

Discussion and Approval of a Resolution to Offer a State Deferred Retirement Plan Funded through Employee Contributions.

Councilperson Wood made a motion to approve the resolution to offer employees a state deferred retirement plan funded through employee contributions, seconded by Councilperson Simms.

Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 5 yeas. Motion carried unanimously.

Discussion and Approval of an Ordinance Concerning ATV's in the City of Moundsville.

Councilperson James made a motion to table this ordinance until it can be discussed further, seconded by Councilperson Haynes.

Mayor Lemasters called for a voice vote. City Clerk announced the following tally. 4 yeas, 1 nay. Wood voting nay. Motion carried to table.

MANAGER ITEMS:

Update on Seventh Street Project.

Acting City Manager Hess provided a hand out to council members of the preliminary construction schedule for Seventh Street.

Week 1: 8/18/08-01/22/08: Complete Service Lateral for south side of 7th Street and prepare dewatering ditch for sub-contractor, sub-contractor to set up dewatering system. Start dewatering on Friday August 22, dewater for a maximum of 7 days, end dewatering on August 28, 2008.

Week 2: 08/25/08-08/29/08: Continue dewatering area of construction.

Week 3: 09/02/08-09/05/08: Start construction on 21-inch main line.

Week 4 : 09/08/08-09/12/08: Continue work on main line.

Week 5: 09/15/08-09/19/08: Tear down and remove dewatering and bypass equipment.

Week 6: 09/22/08-09/26/08: Start base paving on street.

Week 7: 09/29/08-10/03/08: Complete overlay paving of street. Complete clean up and complete job.

Update on Tree Problem at 1900 Meighen Avenue.

Acting City Manager Hess provided council with a letter from William L MacDonald, Professor of Forest Pathology of WVU Davis College of Agriculture, Forestry and Consumer Sciences. This provides a professional assessment of the condition of the silver maple tree at 1900 Meighen Avenue. Also noted in the letter Dr. MacDonald stated that he did not believe the tree poses any immediate danger, but the limbs would need to be pruned as they died.

Further discussion was held on this tree problem with Councilperson Simms asking Attorney White if council could declare the tree an imminent domain. Attorney White informed that it is the business of administration not council.

Discussion of 1223 First Street.

Acting City Manager Hess informed council that Building Inspector Wise was directed by City Manager Hendershot to move forward with 1223 First Street being demolished. Council was asked if they wanted this to go out for bid for demolition. Attorney White informed council again this was an administrative decision, not council decision to place things out for bid.

MAYOR ITEMS:

Mayor's Proclamation for VFW Buddy Poppies.

Mayor Lemasters signed a proclamation for the Veterans of Foreign Wars Buddy Poppy days celebrated September 4 & 5, 2008.

Councilperson Simms made a motion to receive and file the VFW Buddy Poppies proclamation, seconded by Councilperson Wood. Motion carried unanimously.

Other Items to be Discussed by Mayor.

* Reported vehicles parked on the bike trail/walking trail on Thompson Avenue. Asked for no parking on trail signs.

* Ditch line at AAA Trailer Court needs to be taken care of as soon as possible.

* Reported somebody is trying to break into the parking meters on Jefferson Avenue in front of the Eagles.

COMMITTEE REPORTS:

Discussion and Approval of Recommendations by the Finance Committee.

1. Consider approval of recommendation to make offer to purchase property located on Thompson Avenue.

Councilperson Simms made a motion to offer the property owner \$3,000 for the property near the Riverfront, seconded by Councilperson Haynes. Motion carried unanimously.

2. Consider Approval of Recommendation to Direct the City Attorney to Draft an Ordinance to Charge a Deposit to Commercial Sanitation Customers.

Councilperson Simms commented that the city is having trouble with people opening a business and not paying their garbage bill, leaving the city with a very large loss. The amount of the deposit was not decided at this time. Councilperson Simms asked to place this item on the next Finance Meeting.

3. Discussion of Purchasing Equipment for the Street Department (Sweeper, Salt Spreader, Pickup and Dump Truck)

Councilperson Simms reported no action was taken on this request and asked for this item to be placed back on the Finance Meeting.

Discussion and Approval of Recommendations by the Traffic Committee.

1. Consider adding two street lights in front of Central School on Eighth Street. Poles are currently there.

Councilperson Simms made a motion to add two street lights in front of Central School on Eighth Street, seconded by Councilperson Wood. Motion carried unanimously.

2. Discussion & review for yellow line and alternation of parking in vicinity of 113 Morton Avenue.

Councilperson Simms reported the committees recommendation was to leave as is.

3. Discussion and review of traffic near Golden Towers.

Councilperson Simms reported the committees recommendation was to leave as is and possibly painting some yellow lines.

Discussion and Approval of Recommendations by the Policy Committee.

1. Discussion and review of ATV Ordinance-Article 355. Recommendation to place on council meeting agenda.

2. Discussion and review of nuisance Ordinance-Article 1105. Recommendation to meet with City Attorney, Police Chief, City Manager and Building Inspectors.

3. No action taken on the sidewalk replacement program.

4. Discussion and review of recall referendum. Recommendation to contract the Municipal League for assistance from other communities to determine if this has been done.

Legal Certifications by Attorney White.

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

1. Election of Mayor & Vice Mayor Ordinance
2. Building Enforcement Agency for Demolition - 1223 First Street
3. Zoning for Signs - 2 Wal Mart Drive
4. Zone Change Ordinance - 105 Jefferson Avenue & 813 First Street
5. Zone Change Request - 1008 Thompson Avenue

COUNCIL ITEMS:

* **Haynes** - Reported grass being left on the walking trail when it is being cut.

* Thanked the Street Department for cutting grass on Linden Avenue.

* **James** - Reported the old light pole used years ago for Fire Truck & Emergency Car crossing at Sixth Street & Jefferson Avenue on the north/east corner is rusted at the bottom of the pole.

- * Reported a tree on Water Street near the playground growing into the street.
- * Thank council for having patience with him while he is still learning.
- * **Wood** - Wished to publicly thank Fire Chief Clarke for taking the time to provide the emergency procedures classes.
- * Asked if the Building Commission and Harold Games were going to sign the Fostoria contract at their next meeting. Attorney White advised the commission directed him to amend the contract that they will consider Wednesday night (8-20).
- * Announced that he attended workshops at the WVML Conference and has brought back items to share with council.
- * **Simms** - Asked if the City Engineer has the intersections ready to pave for Moundsville or are things slowing down. Acting City Manager Hess advised she can not answer that question at this time, but she will advise the City Manager of councils concern.
- * Has the attendance problem with the Moundsville Building Commission been corrected. Acting City Manager Hess advised last two meeting had a quorum.

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

Meeting adjourned at 7:45 p.m.

Sondra J. Hewitt, City Clerk

Wayne Lemasters, Mayor