

**STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE,
MAY 1, 2007**

The Council of the City of Moundsville met in Regular Session in the Council Chambers on May 1, 2007 at 7:00 p.m.

Meeting was called to order by Mayor Dennis Wallace.

Invocation by Councilperson Mark Simms.

City Clerk called the roll and the following councilpersons were in attendance: Cunningham, Haynes, Vice Mayor Lemasters, Simms, Wood and Mayor Wallace. Absent: DiRemigio. Also present: City Manager Hendershot, Police Chief Kudlak, Fire Chief Clarke, Street Foreman Chuck Richmond, Building Inspector Wise, Attorney Thomas White, CPA Finance Director Thomas Dobbs and City Clerk Hewitt.

MINUTES:

Regular Council Meeting of April 17, 2007.

Councilperson Wood made a motion to accept and approve the minutes of the regular council meeting of April 17, 2007, seconded by Councilperson Lemasters. Motion carried unanimously.

GENERAL PUBLIC HEARING:

Mark Crow - National Day of Prayer asked that council recognize May 3, 2007 as National Day of Prayer. He also invited council and citizens of Moundsville to attend the prayer celebration at the John Marshall Football Stadium on May 3, 2007 at 6:30 p.m.

Councilperson Wood made a motion to recognize May 3, 2007 as National Day of Prayer, seconded by Councilperson Simms. Motion carried unanimously.

Before the Third Street residents spoke, Manager Hendershot announced the situation at 215 Ash Avenue had changed. The city will receive written notification that there is no longer anyone involved in the clean up of 215 Ash Avenue. As soon as the letter is received, it is the intention of the City of Moundsville to declare the property a nuisance and will have the property cleaned up and haul the garbage away. The city will then place a lien on the property for the expense of the abatement.

* Virginia Magers, 1312 Third Street, asked that the property be condemned and tore down. Mrs. Magers stated she had received an estimate of \$6,700 to raze the building.

Councilperson Simms asked Attorney White would it be legal if the majority of council wants the building condemned and tore down? Attorney White stated there is no provision or authority to

raze a building if it is structurally sound. However, you can go in and abate the nuisance that is causing the problem. Councilperson Simms commented that he wishes to do everything for the citizens within the law. The city's role as a government is to protect the citizens. The city can not receive ownership of the property or can not make anybody tear it down.

* Debra Magers, 1312 Third Street, also wants the property condemned and feels nothing is being done to help the residents.

* Betty Hahn, 1307 Third Street, asked when the apartment is cleaned out can the city determine if the structure is sound?

Building Inspector Wise explained the procedure for the Building Enforcement Agency that determines if the building is sound. The agency consists of the Building Inspector, the Fire Chief, a Professional Contractor and a member of the Health Department (which no longer participates). They, as a body, determine the outcome of properties.

Mayor Wallace suggested hiring a structural engineer to inspect the building and submit a report to the City Manager.

Councilperson Wood made a motion to declare 215 Ash Avenue a public nuisance and hire an impartial structural engineer to address the property, seconded by Councilperson Simms. Motion carried unanimously.

Councilperson Cunningham questioned council's decision not to condemn the property? Mayor Wallace and Manager Hendershot explained this procedure has to be addressed legally.

* Bob Blake, 1400 Third Street, hopes that council does not allow a city worker to remove material from 215 Ash Avenue without proper respiratory equipment and suit.

* Kevin Robinson, 213 Ash Avenue, lives closest to the property and is still concern about the hazards that exist.

* Mimi Logston, parents live at 1312 Third Street, expressed concern about her father who has a breathing problem when workers start removing material from the house.

* Don Childers, 3 S Highland Avenue, reported that he continues to wait on the city to repair his street.

* Ray Gaughenbaugh, 1043 Jefferson Avenue, again addressed council on the possibility of using automatic withdrawal. City Manager Hendershot and Mr. Dobbs are still looking into the request.

* David White, 406 Clinton Avenue, thanked the Street Department for repairing the alley behind his house. Also reported windows broken out of 414 Juniper Avenue Rear.

OLD BUSINESS:

Discussion of Lease Agreement Between the City of Moundsville and the Moundsville Rifle Pistol Club.

Manager Hendershot noted the major change in the agreement is from a 25 year to a 5 year renewal.

Councilperson Simms made a motion to authorize the City Manager to enter into a lease agreement between the City of Moundsville and the Moundsville Rifle Pistol Club, seconded by Councilperson Wood. Motion carried unanimously.

Other Items to be Discussed by Council.

Councilperson Lemasters asked if there is a master list for grass problems. Chief Kudlak responded stating the only list available is work orders. Mr. Lemasters reported that 32 Fostoria Avenue grass is very high.

NEW BUSINESS:

Discussion and Approval of an Ordinance Pertaining to Canvassers and Solicitors 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 A PART OF SECTION 717.02 OF THE CODE OF THE CITY OF MOUNDSVILLE, PROVIDING AN INCREASE IN THE FEE FOR SOLICITORS AND CANVASSERS LICENSES IN ORDER TO FUND INVESTIGATIONS NECESSARY TO ISSUANCE OF SAID LICENSES. (FIRST READING)

Councilperson Lemasters made a motion to accept and approve the solicitors and canvassers ordinance, seconded by Councilperson Simms.

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

Discussion and Approval of Naming Wal-Mart Access Road.

Councilperson Simms made a motion to name the access road by Wal-Mart to Wal-Mart Drive, seconded by Councilperson Wood. Motion carried unanimously.

Re-Appointment to the Moundsville Zoning Appeals Board.

The term for Margaret Legg had expired and a letter was submitted by Ms. Legg asking to be re-appointed to the Zoning Appeals Board. Councilperson Lemasters made a motion to re-appoint Margaret Legg to the Moundsville Zoning Appeals Board. Motion carried unanimously.

Other Items to be Discussed by Council.

CARE Funeral & Cremation Service - 1201 Fifth Street.

Attorney David Hummel, Jr., representing CARE Funeral & Cremation Service submitted a letter to Attorney David White, counsel for the Moundsville Board of Zoning Appeals stating their decision to withdraw from a proposed variance at 1201 Fifth Street.

Discussion of #8 Locust Avenue.

Councilperson Lemasters questioned Building Inspector Wise of a building placed on an area of property at #8 Locust Avenue that could be obstructing a right of way. Inspector Wise indicated the owner is in his right to place the building where it is located.

Benches at Riverfront.

Councilperson Cunningham asked about obtaining donations from businesses to place picnic tables at the Riverfront Park. It was discussed that council could not solicit business for donations, but this matter could be brought up at the Parks and Recreation Meeting.

MANAGER ITEMS:

Discussion of a Request from the Moundsville Business and Cultural District for New Street Banners.

The Moundsville Business and Cultural District is in the process of designing new banners for the Jefferson Avenue business area. The banners will include the business name. City Manager Hendershot requested that this matter be placed on the Finance Committee agenda.

Possibility of Abandonment of Alley for Board of Education.

Manager Hendershot announced that Mr. Renzella and the Board of Education will be approaching council to abandon the alley that runs along the east side of Central School that will probably go through to Jefferson Avenue. However, they are not clear as to whether they want the road to remain private or public.

Old Gordon's Auto Parts Building.

Manager Hendershot reported that Mr. Weber, the owner Gordon's Auto Parts building has made an offer to the city. He would like to donate the murals, which are painted on the brick, to the city. He would also like to donate the building to the city to allow the city to raze it, but he wishes to maintain possession of the land. He stated he has a business that would like to place on the empty lot once the city has razed it.

Council suggested the Mr. Weber take care of razing the building himself. Discussion was held on the process of fining the owners of abandoned and dilapidated structures in the city.

Other Items Discussed by the City Manager.

Certificates of Publication by Attorney Thomas White.

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

1. 2007-2008 Levy Estimate
2. Zoning Appeals Board - 8 Locust Avenue
3. Zoning Appeals Board - 1201 Fifth Street

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

MAYOR ITEMS:

* Mayor Wallace commented on the Burger King building and asked about Buffalo Wild Wings. Councilperson Simms asked about West Texas Roadhouse. CPA Thomas Dobbs commented that he spoke with the owner of the property who said that two different businesses want the same piece of property.

COMMITTEE REPORTS:

Discussion and Approval of Recommendations by the Finance Committee.

Councilperson Lemasters scheduled a Finance Meeting on Wednesday, May 9, 2007 at 6:00 p.m.

Discussion and Approval of Recommendations by the Traffic Committee.

Councilperson Simms scheduled a Traffic Meeting to follow the Finance Meeting.

Discussion and Approval of Recommendations by the Policy Committee.

Councilperson Wood scheduled a Policy Meeting to follow the Traffic Meeting.

COUNCIL ITEMS:

* **Wood** - Asked for an update of the Thorn Avenue access road to McNinch. Manager Hendershot reported that he did not think the Board of Education was ready for construction yet.

Also asked if annexation was discussed for McNinch School. Manager Hendershot affirmed the discussion.

* **Simms** - Asked for an update on the enlarging the shelter and building the RV park at the Riverfront. Manager Hendershot said that council agreed to match the private donation for the shelter but nothing has been discussed further. The final check on the timber was received with approximately \$31,000 to be allocated for the RV park.

* Discussed cleaning the sidewalks on Jefferson Avenue. Manager Hendershot said that the sidewalk needs cleaned with a steamer then sealed. Also, discussion of refinishing the benches and garbage cans on Jefferson Avenue.

* Asked who owns the vacant lot beside McDonalds. Recommended that dirt could be spread out to beautify the area.

* **Cunningham** - Nothing at this time.

* **Haynes** - Asked for an update on the Jefferson Avenue sidewalk project. Manager Hendershot said the project hopes to be complete within three weeks.

* Asked if Reservoir Road was going to be graded. The intention was to put the culvert in and large stone to secure it, then look at the road again.

* **Lemasters** - Attended the ground breaking at the Mound. Suggested removing the trees on 10th Street side of the mound and install angle parking.

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

Meeting adjourned at 8:26 p.m.

Sondra J. Hewitt, City Clerk

Dennis Wallace, Mayor