

September 27, 2016

The regular meeting of the City Council of the City of Fairmont was held at 7:00 p.m. on the 27th day of September, 2016, at the Public Safety Building located at 500 Quincy Street in Fairmont, West Virginia.

Mayor Straight called the meeting to order.

Councilmembers present were:

First District	Marianne Moran
Second District	Frank G. Yann
Third District	Robert (Rob) Linger
Fourth District	William H. (Bill) Burdick
Fifth District	Fran Warner
Sixth District	Daniel K. (Dan) Weber
Eighth District	Thomas (Tom) Mainella
Ninth District	Ronald J. (Ron) Straight, Sr.

Councilmembers absent were:

Seventh District	Philip R. (Phil) Mason
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Also present were:

City Manager	Robin I. Gomez
Representing City Clerk	Paula Friend
City Attorney	Kevin Sansalone
Police Chief	Steve Shine
Fire Chief	Ed Simmons
Director of Planning	Sandra Scaffidi

IN RE: EXCUSE COUNCILMEMBER MASON

Councilmember Mainella made a motion to excuse Councilmember Mason from tonight's meeting. Councilmember Weber seconded the motion.

The Mayor declared Councilmember Mason excused by voice vote of Council.

IN RE: OPENING CEREMONIES

Rev. D.D. Meighen gave the invocation followed by the Pledge of Allegiance to the Flag led by members of the VFW.

APPROVAL OF MINUTES

Mayor Straight noted that each member of Council had received a copy of the minutes from the Regular Meeting held on September 13, 2016.

Councilmember Weber moved to approve the minutes as submitted. The motion was seconded by Councilmember Moran.

The Mayor declared the minutes approved as submitted by voice vote of Council.

PROCLAMATION PRESENTATION

Mayor Straight invited the Purple Heart recipients to come forward to have a proclamation that was actually presented to them in August to be formally read at tonight's meeting. This proclamation designates the City of Fairmont as a Purple Heart City. The Purple Heart recipients that accepted the proclamation were:

- Arthur Vincent, served in WWII and was wounded in January of 1945.
- Butch Mundell, served two tours in Vietnam.
- Bob Carr, served in Vietnam.
- Dennis Carl, served in Vietnam.
- James Frey, served in Vietnam.
- Wilbert Williams, served in Vietnam.
- Danny Greene, served in Vietnam.

Mayor Straight reminded everyone that Veterans Day is coming up. He also said that the helicopter (helo) that they brought in over 20 years ago is going to be refurbished on-site and should be ready by Veterans Day. He encouraged everyone to go up and see the before and after changes. He then thanked all of the veterans in attendance at tonight's meeting.

PUBLIC HEARINGS

IN RE: AN ORDINANCE TO APPROVE AND ADOPT CURRENT REPLACEMENT PAGES TO THE FAIRMONT CITY CODE

Pursuant to a notice duly published in the Times-West Virginian on September 19, 2016, a public hearing was convened to obtain citizen input on a proposed ordinance to approve and adopt current replacement pages to the Fairmont City Code.

The Mayor asked if anyone present desired to speak to the proposed

ordinance.

There being no one to speak, the public hearing was called to a close at 7:10 p.m.

IN RE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING ORDINANCE NO. 1691, DULY ADOPTED JUNE 14, 2016, WHICH PROVIDES FOR THE CITY OF FAIRMONT'S CURRENT PAY PLAN AND LIST OF OCCUPATIONAL CLASSES FOR ALL CLASS TITLES AND EMPLOYEES, TO PROVIDE FOR THE FOLLOWING: RECLASSIFICATION OF CERTAIN POSITIONS FROM EXEMPT STATUS TO NON-EXEMPT STATUS TO COMPLY WITH THE FINAL RULE TO BE EFFECTIVE DECEMBER 1, 2016, WHICH RE-DEFINED CERTAIN EXEMPTIONS UNDER THE FAIR LABOR STANDARDS ACT; INCREASING THE BASE PAY FOR PROBATIONARY POLICE OFFICER; ELIMINATING THE POSITION OF MASTER BUILDING INSPECTOR; RE-ESTABLISHING THE SPECIAL DUTY ASSIGNMENT PAY FOR FIRE PREVENTION TRAINING OFFICER; PROVIDING CERTIFICATION PAY AT THE RATE OF \$0.28 PER HOUR FOR A FIREFIGHTER WITH A BACHELOR'S DEGREE; AND RE-ESTABLISHING AN HOURLY RATE FOR CROSSING GUARDS

Pursuant to a notice duly published in the Times-West Virginian on September 19, 2016, a public hearing was convened to obtain citizen input on a proposed ordinance to amend the City of Fairmont's current Pay Plan.

The Mayor asked if anyone present desired to speak to the proposed ordinance.

Councilmember Weber spoke regarding the proposed ordinance. He said that he is in favor of people getting a pay raise. However, when he read all of the occupational classes for employees, he stated that he noticed that there was a new one in there and asked if Council needed to have an executive session relating to the salaries and this position.

City Manager Gomez asked which position. Councilmember Weber stated he would rather discuss that in executive session since they would be talking about salaries and employees. He then stated that it was the position of Parks Coordinator at \$37,500 per year. He said he does not ever remember discussing that position on Council. Mr. Gomez said that it is not currently a filled position but has been on the pay plan for some time. City Attorney Kevin Sansalone said that this is one of the positions that needs to be moved from exempt to non-exempt as a result of the changes to the Fair Labor Standards Act. He said that the salary level of this position is below the threshold that is necessary for exempt as a result of the changes that go

into effect on December 1, 2016. Mr. Sansalone said that this position is currently not filled and there are several positions in the pay plan are not filled but the pay plan still provides for those positions in the event that there would be a future need for that position.

Councilmember Weber stated that he is in favor of pay raises. His question is that we have never had this position before and we do not even have a parks committee anymore.

Mr. Sansalone said that it is the current pay plan that would provide for exempt employees, which would include all the persons who are basically in a supervisory position where their salary is a certain level and because of the changes, it had to be moved to the non-exempt. It didn't meet the \$47,476.00. Mr. Gomez then stated that the law that goes into effect December 1, 2016, there are a variety of positions that were previously salary positions, or exempt. They were exempt from the Fair Labor Standards Act, which means they were not eligible for overtime, they were not hourly positions. Because of the change in the law, we are moving the eleven positions that are in the pay plan and have been in the pay plan since he has been here and those positions are being moved from salaried or exempt to hourly and non-exempt, which means if those positions are filled, they will now be hourly and subject to overtime under the new law.

Councilmember Weber stated that he was just arguing that the position (Parks Coordinator) has never been discussed at Council since he has been on Council. Mr. Sansalone said that the position had been filled at one time by Mark Miller but he advanced to the position of City Planner and the Parks Coordinator position has been unfilled since then. He stated that the Parks Coordinator position has been approved by Ordinance.

Councilmember Weber said he questions the position and what their requirements are. Mr. Sansalone said that there is a position description with a number assigned to it and has been in the pay plan for a multiple number of years. Mr. Sansalone stated that he could provide Councilmember Weber with the position description. Councilmember Weber stated he feels that all of Council should be provided with a copy of it.

There being no one else to speak, the public hearing was called to a close at 7:17 p.m.

IN RE: AN ORDINANCE AMENDING AND SUPPLEMENTING PART THREE – TRAFFIC CODE, CHAPTER FIVE–VEHICULAR OPERATIONS, ARTICLE 343 SPECIAL STOPS REQUIRED OF THE FAIRMONT CITY CODE, AND MORE

PARTICULARLY SECTION 343.07 STOPPING FOR SCHOOL BUS; SIGNS AND WARNING LIGHTS; SALE OF SCHOOL BUS; AND SECTION 343.99 PENALTY THEREOF, TO PROVIDE FOR AND MEET CERTAIN CHANGES MADE TO THE LAWS OF THE STATE OF WEST VIRGINIA IN 2016

Pursuant to a notice duly published in the Times-West Virginian on September 19, 2016, a public hearing was convened to obtain citizen input on a proposed ordinance to provide for and meet certain changes to stopping for school buses.

The Mayor asked if anyone present desired to speak to the proposed ordinance.

City Attorney Kevin Sansalone spoke regarding this ordinance. He said that this particular provision of the WV State Code has long been a part of the City Code. In 2016, the state amended the underlying statute and this ordinance just provides for a clean-up of our City Code provisions to mirror the State Code.

There being no one else to speak, the public hearing was called to a close at 7:18 p.m.

IN RE: AN ORDINANCE OF THE COUNCIL FOR THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING PART FIFTEEN – FIRE PREVENTION CODE OF THE FAIRMONT CITY CODE, AND IN PARTICULAR THE PROVISIONS OF ARTICLE 1523 OPEN BURNING, SECTION 1523.02 OPEN BURNING PERMITTED; GENERAL PROVISIONS, AND SECTION 1523.99 PENALTY, THEREOF, TO PROVIDE FOR THE ENHANCED PROTECTION OF THE HEALTH, SAFETY, COMFORT AND PROPERTY OF OTHERS FROM PARTICULATE MATTER RESULTING FROM PERMITTED OPEN BURNING

Pursuant to a notice duly published in the Times-West Virginian on September 19, 2016, a public hearing was convened to obtain citizen input on a proposed ordinance to provide for certain changes to the Open Burning Code.

The Mayor asked if anyone present desired to speak to the proposed ordinance.

There being no one to speak, the public hearing was called to a close at 7:18 p.m.

ANNOUNCEMENTS

IN RE: MAIN STREET FAIRMONT'S NEW LOCATION

Councilmember Moran stated that Main Street Fairmont recently moved into their new office on the 5th Floor of the Wesbanco Building downtown. They are currently looking for a part time director. She said resumes must be in by October 7th and they are on the mainstreetfairmont.org website as well as their Facebook page.

IN RE: MARATHON FOR WOUNDED WARRIOR PROJECT

Councilmember Burdick stated that he recently ran in a marathon in Morgantown and that the proceeds from that race benefited the Wounded Warrior Project. He said that the race was headed up by Jamie Summerlin, who ran from Oregon to the East Coast for the Project. Councilmember Burdick said that Fairmont was the only city that did a proclamation for Jamie.

IN RE: PASSING OF ARNOLD PALMER

Councilmember Burdick acknowledged the passing of Arnold Palmer, who is from his home area of Ligonier/Latrobe, PA. He said that he ran in a race in Latrobe and ended up running next to Arnold Palmer. He said that everyone in that area has a good story to tell about Mr. Palmer.

IN RE: PAVING OF FIRST STREET

Councilmember Warner said that she lived on one of the only brick streets in the city. She hoped that the street would always remain bricked, even though she knows it costs 3-4 times as much as it does to pave it but it also lasts over 100 years. She said when she came back from vacation last week, she came back to find that her street had been paved.

IN RE: CONGRATULATIONS TO DAVID LESTER

Councilmember Weber congratulated David Lester with St. Peter's Church and also Mr. Garcia for their help for over a week volunteering to remodel some homes in the area. He said that Deacon Lester has done this in Marion County and all over the United States. He wanted to thank all of the volunteers that helped with the project as well as the ladies that prepared lunches for the workers.

IN RE: TIMES WEST VIRGINIAN

Councilmember Weber stated that again the Times has missed opportunities,

including one last week when there was a Planning Commission Meeting dealing with the issues on Bell Run Rd. He said that there were over 100 people in attendance at that meeting to hear the Planning Commission's decision.

He then explained that the Bell Run Rd. issue was that there were proposed townhomes to be built on Bell Run Rd. but the neighbors of that area came to the meeting to voice their opposition to the development. Therefore, the Planning Commission turned it down. He said that the Times West Virginian missed an opportunity to cover this story.

He stated that two weeks before, there was a large hearing with Council dealing with Republic Services regarding the increase of 12.8%. He said that Council approved it but the Times missed an opportunity to come and listen to that proposal and talk to the people.

Councilmember Weber said that when there are issues like the Bell Run Rd. and Republic Services issues, the public needs to know. He said that the only way for people, especially seniors, to know about these things is to read it in the paper. When the newspaper does not cover these stories, they are not being a good newspaper. These are issues dealing with the people of this city and how they live in the city. He feels there should be more information in the paper.

He then stated that he has asked the Times to post the agendas in the paper but they refuse to do so. He said they want the city to pay for that service, even though it is information that the citizens need to know.

He said that we have to find a way to get this information in the newspaper and on television also that we are having these meetings, and that these meetings deal directly with the people of the City of Fairmont.

IN RE: RECOGNITION OF THE VFW

Councilmember Mainella thanked all of the members of the VFW in attendance tonight for their service. He also thanked Mayor Straight, Councilmember Weber and Councilmember Linger for their service. In addition, he thanked Bob Gribben and Councilmember Warner who lost their dads in World War II.

IN RE: FAIRMONT STATE UNIVERSITY HOMECOMING PARADE

Mayor Straight said that Fairmont State will be having their homecoming parade on Thursday evening and encouraged everyone to come out. He

stated that he would be walking in the parade with his fraternity.

CITIZENS PETITIONS

IN RE: GO MART TRAFFIC

Mark Bowyer, 905 Seventh St., spoke regarding the issues with traffic congestion getting in and out of the Go Mart parking lot. He said that people block the 7th St. entry into the parking lot, which can then block traffic onto Fairmont Ave. He is requesting that the City of Fairmont install a sign stating "Do Not Block Entrance".

Doug, Manager at Go Mart, also spoke about the traffic issues. He said that if he calls about a shoplifter in the store and the Police Dept. is coming up 7th St. and the entrance is blocked, they have to sit and wait and the shoplifter can get away. He also is requesting a sign at the entrance to their lot.

City Manager Gomez stated that traffic from Fairmont Ave. should be entering the parking lot from the Fairmont Ave. side and not turning left off 7th St. into the parking lot.

Police Chief Steve Shine said that traffic is permitted to turn off 7th St. into the parking lot. He suggested shutting off that entrance to the parking lot or posting a sign asking that traffic not block the entry into their parking lot.

IN RE: VETERANS PLAZA NEEDING REPAIRS

John Oliverio, representing the Marion County Veterans Council, VFW Post 629 and also the Combat Veterans Motorcycle Association spoke regarding the conditions of Veterans Plaza. He said that he served three tours of duty in Iraq.

Mr. Oliverio said that he spoke to Council on May 12, 2015. He praised Council for the work that has been done in the city. He said that when he last approached Council, the City Manager at that time, Jay Rogers, said that the Council had approved the 2016 budget with funds of \$30,000 to the plaza to be used in the new fiscal year but nothing has been done yet. He said that the group of veterans will not stop trying to get the plaza fixed. He said that they wish for two things: 1) Hope that a promise that was made is kept and 2) Hope for a renewed commitment to the completion of that promise that was made.

Kenny Satterfield, one of the original founders of the plaza and is also the Vice Commander of the Military Veterans Council of Marion County, also asked that Council make sure that Veterans Plaza gets repaired. He said that more than the Veterans use the plaza.

Brad Newbraugh, said that the repairs to the plaza are important to everyone. He said to them it is a memorial to what their fathers and grandfathers and now what their children are going to be doing. It is important to Council because the community uses it for public events. He then passed around a tablet that had photos of the damage to the plaza that are engineering design defects, but are reparable. He said if the repairs do not get done soon, someone is going to have an accident down there and it becomes a liability issue. He is asking for paint and stairways to be repaired before Veterans Day.

Mayor Straight then said that Council has never not taken care of it. He said that we have protocol and there is a process of bidding this out.

City Manager Gomez said that the funding is in the budget, it has not gone away. He also said that we will probably need more than \$30,000 to repair. It depends on whether we repair or replace what is there. He said that it would probably be more beneficial if there were replacements of the planters, for example, and a re-do of the drainage along both sides of the plaza. We are beginning that process to look for designs and ideas. He then said that if anyone has a specific design or idea as to what it should look like, they were welcome to let us know. We will have to follow procurement process and get bids for the work. During the spring and summer, the plaza is used quite a bit. In order to make those repairs/replacements, we may have to close the park in stages. He would like to get the work done in the next 60-90 days, before the cold arrives.

Councilmember Yann asked if there was anything Public Works could do to spruce it up a little. Mr. Gomez said that we could paint it.

Councilmember Linger said that the drainage is the issue, especially when the leaves fall. He said that we need to concentrate on fixing the drainage problem.

Mr. Newbraugh asked if the city could use volunteers for the project. Mr. Gomez said that to fix it needs more than just patching. It needs contracting work but we have to go through our procurement process to issue a bid to do the work.

Ron Beafore, a member of VFW Post 629 and former OSHA instructor spoke and said one of his biggest concerns is that there are several violations at Veterans Plaza, with the electrical outlets and the walls. He said that the problems have to be addressed. Mr. Gomez said if it were an emergency process, then the plaza would have to be closed until it was repaired.

CITY MANAGER'S REPORT

IN RE: VETERANS PLAZA

Mr. Gomez said that Veterans Plaza was now at the top of the list of projects.

IN RE: PAVING

Mr. Gomez stated that we completed the paving of 54 streets, 3 parking lots (the lots are paid out of the Parking Fund, not the Street Maintenance Fee), an alley in downtown and also parts of Morris Park (paid out of General Fund, not Street Maintenance Fee) recently. The Street Maintenance Fee pays for actual roads and streets to be repaved. The contractor and Public Works staff paved nearly 11 miles of streets, which concluded last Wednesday. He thanked the Public Works staff for all of their hard work and patience, including dealing with unhappy residents. He also thanked the residents for their patience, especially those that had to park away from their homes while paving was being conducted.

IN RE: CITY PROJECTS

Mr. Gomez reminded Council about all of the projects that are currently underway, including a new East Side Fire Station, improvements at Veterans Plaza and the green space in the 100 block of downtown. Soon they will be obtaining bids and getting input from the public. He then thanked City staff for all they do.

IN RE: FAIRMONT STATE UNIVERSITY'S HOMECOMING PARADE

Mr. Gomez invited all to attend FSU's homecoming parade this week. He said that it was a Wizard of Oz theme with the slogan of "There is No Place Like Fairmont".

IN RE: BURNING REGULATIONS

City Manager Gomez reminded everyone that with the transition into fall and

winter, he advised everyone to be cautious when it comes to burning. He stated that there is one item introduced as an ordinance to clarify the open burning rules. He advised everyone to exercise caution when burning, keep water nearby and remember that you are not allowed to burn trash, only yard waste from your own yard.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: ADOPTION, AN ORDINANCE TO APPROVE AND ADOPT CURRENT REPLACEMENT PAGES TO THE FAIRMONT CITY CODE

Mayor Straight entertained a motion for the adoption of an ordinance to approve and adopt current replacement pages to the Fairmont City Code.

Motion:

Councilmember Moran moved for the adoption of the proposed ordinance. Councilmember Yann seconded the motion.

Roll call was taken by the Clerk.

The Mayor declared the ordinance adopted by unanimous vote of Council and the ordinance designated as Ordinance No. 1704 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING ORDINANCE NO. 1691, DULY ADOPTED JUNE 14, 2016, WHICH PROVIDES FOR THE CITY OF FAIRMONT'S CURRENT PAY PLAN AND LIST OF OCCUPATIONAL CLASSES FOR ALL CLASS TITLES AND EMPLOYEES, TO PROVIDE FOR THE FOLLOWING: RECLASSIFICATION OF CERTAIN POSITIONS FROM EXEMPT STATUS TO NON-EXEMPT STATUS TO COMPLY WITH THE FINAL RULE TO BE EFFECTIVE DECEMBER 1, 2016, WHICH RE-DEFINED CERTAIN EXEMPTIONS UNDER THE FAIR LABOR STANDARDS ACT; INCREASING THE BASE PAY FOR PROBATIONARY POLICE OFFICER; ELIMINATING THE POSITION OF MASTER BUILDING INSPECTOR; RE-ESTABLISHING THE SPECIAL DUTY ASSIGNMENT PAY FOR FIRE PREVENTION TRAINING OFFICER; PROVIDING CERTIFICATION PAY AT THE RATE OF \$0.28 PER HOUR FOR A FIREFIGHTER WITH A BACHELOR'S DEGREE; AND RE-ESTABLISHING AN HOURLY RATE FOR CROSSING GUARDS

Mayor Straight entertained a motion for the adoption of an ordinance to amend the City of Fairmont's current Pay Plan.

Motion:

Councilmember Warner moved for the adoption of the proposed ordinance. Councilmember Mainella seconded the motion.

Roll call was taken by the Clerk.

The Mayor declared the ordinance adopted by unanimous vote of Council and the ordinance designated as Ordinance No. 1705 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE AMENDING AND SUPPLEMENTING PART THREE – TRAFFIC CODE, CHAPTER FIVE–VEHICULAR OPERATIONS, ARTICLE 343 SPECIAL STOPS REQUIRED OF THE FAIRMONT CITY CODE, AND MORE PARTICULARLY SECTION 343.07 STOPPING FOR SCHOOL BUS; SIGNS AND WARNING LIGHTS; SALE OF SCHOOL BUS; AND SECTION 343.99 PENALTY THEREOF, TO PROVIDE FOR AND MEET CERTAIN CHANGES MADE TO THE LAWS OF THE STATE OF WEST VIRGINIA IN 2016

Mayor Straight entertained a motion for the adoption of an ordinance to provide for and meet certain changes to stopping for school buses.

Motion:

Councilmember Mainella moved for the adoption of the proposed ordinance. Councilmember Linger seconded the motion.

Roll call was taken by the Clerk.

The Mayor declared the ordinance adopted by unanimous vote of Council and the ordinance designated as Ordinance No. 1706 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE OF THE COUNCIL FOR THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING PART FIFTEEN – FIRE PREVENTION CODE OF THE FAIRMONT CITY CODE, AND IN PARTICULAR THE PROVISIONS OF ARTICLE 1523 OPEN BURNING, SECTION 1523.02 OPEN BURNING PERMITTED; GENERAL PROVISIONS, AND SECTION 1523.99 PENALTY, THEREOF, TO PROVIDE FOR THE ENHANCED PROTECTION OF THE HEALTH, SAFETY, COMFORT AND PROPERTY OF OTHERS FROM PARTICULATE MATTER RESULTING FROM PERMITTED OPEN BURNING

Mayor Straight entertained a motion for the adoption of an ordinance to provide for certain changes to the Open Burning Code.

Motion:

Councilmember Mainella moved for the adoption of the proposed ordinance. Councilmember Warner seconded the motion.

Roll call was taken by the Clerk.

The Mayor declared the ordinance adopted by unanimous vote of Council and the ordinance designated as Ordinance No. 1707 was duly adopted.

ADJOURNMENT

The Mayor entertained a motion for adjournment.

Motion:

Councilmember Mainella moved to adjourn the meeting. The motion was seconded by Councilmember Weber.

The Mayor declared the meeting adjourned by voice vote of Council at 8:05 p.m.