

March 12, 2019

The regular meeting of the City Council of the City of Fairmont was held at 7:00 p.m. on the 12th day of March, 2019, at the Public Safety Building located at 500 Quincy Street in Fairmont, West Virginia.

Mayor Merrifield called the meeting to order.

Councilmembers present were:

First District	Joshua D. (Josh) Rice
Second District	Frank G. Yann
Third District	Karl (David) Kennedy
Fourth District	Kenneth (Brad) Merrifield
Fifth District	Barry H. Bledsoe
Sixth District	Dora Kay Grubb
Seventh District	Philip R. (Phil) Mason
Eighth District	Thomas (Tom) Mainella
Ninth District	Donna M. Blood

Also present were:

Interim City Manager	Bruce McDaniel
City Attorney	Kevin Sansalone
City Clerk	Janet L. Keller
Police Chief	Steve Shine
Fire Chief	Edward Simmons
City Planner	Sandra Scaffidi

Rev. Valerie Gittings gave the invocation followed by the Pledge of Allegiance to the Flag led by Councilmember Mainella.

APPROVAL OF MINUTES

Mayor Merrifield noted that each member of Council had received a copy of the minutes from the Regular Meeting held on February 26, 2019.

Councilmember Mainella moved to approve the minutes as submitted. The motion was seconded by Councilmember Yann.

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

PUBLIC HEARINGS

IN RE: AN ORDINANCE REPEALING ORDINANCE NO. 1558, DULY ADOPTED APRIL 24, 2012, AND CODIFIED AS SECTION 1765 OF THE FAIRMONT CITY CODE, *FLOODPLAIN REGULATIONS*, AND RENACTING ARTICLE 1765 *FLOODPLAIN REGULATIONS* TO PROVIDE FOR CERTAIN MODIFICATIONS TO SAID REGULATIONS RECOMMENDED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND THE STATE OF WEST VIRGINIA DIVISION OF HOMELAND SECURITY, WEST VIRGINIA FLOOD MANAGEMENT PROGRAM ESTABLISHING THAT A FLOODPLAIN EXISTS AND REQUIRING ALL CONTRACTORS, PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR DEVELOPMENT AND THE CONSTRUCTION, SUBSTANTIAL IMPROVEMENT, OR RELOCATION OF ANY BUILDING OR STRUCTURE; PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR CONSTRUCTION WITHIN THE FLOODPLAIN AREA AND SETTING FORTH SPECIAL PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS; AND ESTABLISHING PENALTIES FOR ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE

Pursuant to a notice duly published in the Times-West Virginian on March 4, 2019, a public hearing was convened to obtain citizen input on a proposed ordinance to amend the current Floodplain Ordinance.

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

Sandra Scaffidi, City Planner, spoke in favor of the proposed ordinance.

There being no one else to speak, the public hearing was called to a close at 7:14 p.m.

IN RE: FY2019-2020 CITY BUDGETS: GENERAL FUND, PARKING FUND, COAL SEVERANCE AND OUTSIDE AGENCIES

Pursuant to a notice duly published in the Times-West Virginian on February 26, 2019 and March 5, 2019, a public hearing was convened to obtain citizen input on the FY 2019-2020 City Budgets: General Fund, Parking Fund, Coal Severance and Outside Agencies.

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

Mr. McDaniel spoke in favor of the proposed ordinance. He said as per our work session on March 4th, he is presenting to Council a balanced budget with changes that were discussed in the amounts of \$17,586,469 for General Fund, Coal Severance at \$60,006, the Parking Fund at \$314,512, and Outside Agencies at \$127,340. He noted that the General Fund Budget actually funds all of the operations of the City of Fairmont with the exception of Water, Sewer, and Storm Sewer which are under separate Boards with rates to be controlled by City Council. He added that the Coal Severance Budget is and has been for years dedicated to snow removal to buy salt, cinders, and help supplement any overtime necessary to remove snow. He then asked for Council's approval of the budget resolution so it can be submitted to the State of WV.

Ed Vincent, 606 Maple Avenue, spoke against the re-adjustment of the user fee. He said that he wasn't speaking against the proposed raises for the Police Department but he was speaking against the way that the money is being appropriated. He said the way he understood it the plan is to take 50% of the user fee for street maintenance and give it to the Police Department for raises or city employees generally. He said that he did not think it is right to just arbitrarily say we're taking half of that money and using it for another purpose. He said in his mind, it's probably illegal.

Mr. McDaniel replied that part of it goes to Police and the other part will fund what goes to the Fire department offsetting what comes out of their fire service fee. He said that the total amount does not just go to the Police.

Mr. Vincent said that as the Code reads, the user fee is for street maintenance and it was set up for street maintenance and then read from the City's website regarding the street maintenance fee that funds may not be used for any other purpose. If you are going to take money out of the street maintenance, then Council needs to go through the legal process of setting up a new user fee. He said this is not right to take the money to use for this or for that. He then said that when you cut that in half, what happens to our streets. He went on to say that the next round of paving is going to be more costly because now we have to start grinding the streets before we pave them and in the past we have just put an overlay on them. He closed by saying that he did not think it was right to arbitrarily say that we are taking that money and use it for another purpose.

Mr. McDaniel responded by saying that user fee was implemented by an ordinance of Council, which he said can be amended at any time to cover other things. He said that it will not be implemented without an ordinance change by Council.

There being no one else to speak, the public hearing was called to a close at 7:20 p.m.

ANNOUNCEMENTS

IN RE: HISTORY EXPO

Councilmember Grubb reported that the History Expo will be held on Saturday, March 16th in the Marion County Court House. She noted that it was open to the public. This is the second year in a row that the antique big trucks will be on display outside of the Court House.

IN RE: CONGRATULATIONS TO FSHS GIRLS BASKETBALL TEAM

Councilmember Blood congratulated the FSHS Girls Basketball team for winning the state championship.

Councilmember Rice also extended congratulations to them.

IN RE: CONCERNS FROM RESIDENTS REPORTED

Councilmember Yann stated that there was some unfinished business before Mr. Gomez left as City Manager and he thought it was taken care of but there were problems with rental property, parking, demolition, and line paving and Mr. McDaniel was out a couple weeks ago with his illness so he made a call to the City Clerk and within an hour he had emails forwarded to him with all of the answers. He then asked the City Clerk to thank the people in those departments that answered the concerns. The residents were very happy with the answers they received.

IN RE: STATEMENT FROM BRENDA GIANNIS

Councilmember Mainella read a statement from Brenda Giannis, the newly-elected President of Main Street Fairmont thanking City Council for their past financial support and she hopes it will continue in the future.

CITIZENS PETITIONS

There were no citizen's petitions for this meeting.

CITY MANAGER'S REPORT

Mr. McDaniel thanked Council for bearing with him while he gets over an

illness and staff for working with him and helping to take up the slack. He said that staff has been very attentive and been very professional and everyone is in good hands.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: ADOPTION, AN ORDINANCE REPEALING ORDINANCE NO. 1558, DULY ADOPTED APRIL 24, 2012, AND CODIFIED AS SECTION 1765 OF THE FAIRMONT CITY CODE, *FLOODPLAIN REGULATIONS*, AND RENACTING ARTICLE 1765 *FLOODPLAIN REGULATIONS* TO PROVIDE FOR CERTAIN MODIFICATIONS TO SAID REGULATIONS RECOMMENDED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND THE STATE OF WEST VIRGINIA DIVISION OF HOMELAND SECURITY, WEST VIRGINIA FLOOD MANAGEMENT PROGRAM ESTABLISHING THAT A FLOODPLAIN EXISTS AND REQUIRING ALL CONTRACTORS, PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR DEVELOPMENT AND THE CONSTRUCTION, SUBSTANTIAL IMPROVEMENT, OR RELOCATION OF ANY BUILDING OR STRUCTURE; PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR CONSTRUCTION WITHIN THE FLOODPLAIN AREA AND SETTING FORTH SPECIAL PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS; AND ESTABLISHING PENALTIES FOR ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE

Mayor Merrifield entertained a motion for the adoption of an ordinance to amend the current Floodplain Ordinance.

Motion:

Councilmember Blood 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. 1803 was duly adopted.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE PROVIDING FOR AN AMENDMENT TO THE CITY OF FAIRMONT'S 2018-2019 ANNUAL BUDGET: GENERAL FUND

Mayor Merrifield entertained a motion and second for the introduction of an

ordinance providing for an amendment to the City's 2018-2019 General Fund Budget.

Motion:

Councilmember Mason moved for the introduction of the proposed ordinance. The motion was seconded by Councilmember Blood.

The Clerk read the proposed ordinance by synopsis for the first time.

The Mayor declared the public hearing set for March 26, 2019.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT OF TWO PLATTED UN-NAMED UN-OPENED ALLEYS SITUATE IN FAIRMONT CITY DISTRICT (03), MARION COUNTY, WEST VIRGINIA, ONE OF WHICH SAID ALLEYS IS PERPENDICULAR TO GARRETT AVENUE BETWEEN THE PLATTED RIGHTS OF WAY OF SYCAMORE STREET AND WILLARD DRIVE AND PARCELS 82 AND 83 OF MARION COUNTY TAX MAP 03-35 AND PARCELS 81, 80, AND 79 OF SAID TAX MAP, AND THE OTHER OF SAID ALLEYS BEING PARALLEL TO GARRETT AVENUE AND PERPENDICULAR TO THE PLATTED RIGHT OF WAY OF SYCAMORE STREET AND BETWEEN PARCELS 89 AND 90 AND PARCELS 87 AND 88 OF SAID TAX MAP, ALL OF WHICH PARCELS ARE TITLED IN THE NAME OF PLEASANT VIEW LIMITED PARTNERSHIP, RESERVING ALL UTILITY RIGHTS

Mayor Merrifield entertained a motion and second for the introduction of an ordinance providing for the vacation and abandonment of two alleys, one is perpendicular to Garrett Avenue and the other is parallel to Garrett Avenue.

Motion:

Councilmember Mason moved for the introduction of the proposed ordinance. The motion was seconded by Councilmember Rice.

The Clerk read the proposed ordinance by synopsis for the first time.

The Mayor declared the public hearing set for March 26, 2019.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE OF THE COUNCIL FOR THE CITY OF FAIRMONT GRANTING THE REQUEST OF EUGENE PAYNE FOR A VARIANCE

FROM SECTION 7.5.6A.i, OF THE PROVISIONS OF *Clearzoning*®, THE CITY OF FAIRMONT'S CODIFIED PLANNING AND ZONING CODE, RELATING TO CERTAIN REAL ESTATE SITUATE IN FAIRMONT CITY DISTRICT, MARION COUNTY, WEST VIRGINIA, BEING 200 HIGHLAND AVENUE, FAIRMONT, IDENTIFIED AS PARCEL 7 ON MARION COUNTY TAX MAP 03-42, AND 210 LIBERTY AVENUE, FAIRMONT, IDENTIFIED AS PARCEL 6 ON SAID TAX MAP

Mayor Merrifield entertained a motion and second for the introduction of an ordinance granting the request of Eugene Payne for a variance at 200 Highland Avenue.

Motion:

Councilmember Mason moved for the introduction of the proposed ordinance. The motion was seconded by Councilmember Blood.

The Clerk read the proposed ordinance by synopsis for the first time.

The Mayor declared the public hearing set for March 26, 2019.

IN RE: ADOPTION, A RESOLUTION APPROVING THE CITY OF FAIRMONT'S FISCAL YEAR 2019-2020 CITY BUDGETS: GENERAL FUND, PARKING FUND, COAL SEVERANCE AND OUTSIDE AGENCIES

Mayor Merrifield entertained a motion for the adoption of a resolution approving the FY20 General Fund Budget.

Motion:

Councilmember Mason moved for the adoption of the proposed resolution and the reading of a synopsis in lieu of the entire resolution. The motion was seconded by Councilmember Blood.

The Clerk read the proposed resolution by synopsis for the first time.

Roll call was taken by the Clerk.

The Mayor declared the resolution adopted by unanimous vote of Council.

IN RE: ONE CITY MANAGER APPOINTMENT TO BE CONFIRMED BY COUNCIL, FAIRMONT HUMAN RIGHTS COMMISSION, THREE-YEAR TERM TO END NOVEMBER 15, 2021

Mayor Merrifield entertained a motion to confirm the City Manager's

appointment to the Fairmont Human Rights Commission for a three year term to end November 15, 2021.

Motion:

Councilmember Mainella moved to accept the City Manager's appointment of Gia Deasy to the Fairmont Human Rights Commission for a three-year term to end November 15, 2021. The motion was seconded by Councilmember Mason.

Roll call was taken by the Clerk.

The Mayor declared Gia Deasy appointed to the Fairmont Human Rights Commission for a three-year term ending November 15, 2021 by unanimous vote of Council.

IN RE: ONE CITY MANAGER APPOINTMENT TO BE CONFIRMED BY COUNCIL, FAIRMONT HUMAN RIGHTS COMMISSION, THREE-YEAR TERM TO END NOVEMBER 15, 2021

Mayor Merrifield entertained a motion to confirm the City Manager's appointment to the Fairmont Human Rights Commission for a three year term to end November 15, 2021.

Motion:

Councilmember Mason moved to accept the City Manager's appointment of Brett White to the Fairmont Human Rights Commission for a three-year term to end November 15, 2021. The motion was seconded by Councilmember Blood.

Roll call was taken by the Clerk.

The Mayor declared Brett White appointed to the Fairmont Human Rights Commission for a three-year term ending November 15, 2021 by unanimous vote of Council.

IN RE: ONE CITY MANAGER APPOINTMENT TO BE CONFIRMED BY COUNCIL, FAIRMONT HUMAN RIGHTS COMMISSION, THREE-YEAR TERM TO END NOVEMBER 15, 2021

Mayor Merrifield entertained a motion to confirm the City Manager's appointment to the Fairmont Human Rights Commission for a three year term to end November 15, 2021.

Motion:

Councilmember Mason moved to accept the City Manager’s appointment of James Nolan to the Fairmont Human Rights Commission for a three-year term to end November 15, 2021. The motion was seconded by Councilmember Blood.

Roll call was taken by the Clerk and the following votes were taken:

Councilmember Kennedy	Yes	Councilmember Yann	Yes
Councilmember Grubb	Yes	Councilmember Mainella	Abstain
Councilmember Mason	Yes	Councilmember Blood	Yes
Councilmember Rice	Yes	Councilmember Bledsoe	Yes
Mayor Merrifield	Yes		

The Mayor declared James Nolan appointed to the Fairmont Human Rights Commission for a three-year term ending November 15, 2021 by majority vote of Council.

IN RE: ONE CITY MANAGER APPOINTMENT TO BE CONFIRMED BY COUNCIL, FAIRMONT HUMAN RIGHTS COMMISSION, THREE-YEAR TERM TO END NOVEMBER 15, 2021

Mayor Merrifield entertained a motion to confirm the City Manager’s appointment to the Fairmont Human Rights Commission for a three year term to end November 15, 2021.

Motion:

Councilmember Blood moved to accept the City Manager’s appointment of Rev. Larry Buckland to the Fairmont Human Rights Commission for a three-year term to end November 15, 2021. The motion was seconded by Councilmember Grubb.

Roll call was taken by the Clerk.

The Mayor declared Rev. Larry Buckland appointed to the Fairmont Human Rights Commission for a three-year term ending November 15, 2021 by unanimous vote of Council.

IN RE: ONE CITY MANAGER APPOINTMENT TO BE CONFIRMED BY COUNCIL, FAIRMONT HUMAN RIGHTS COMMISSION, THREE-YEAR TERM TO END NOVEMBER 15, 2021

Mayor Merrifield entertained a motion to confirm the City Manager's appointment to the Fairmont Human Rights Commission for a three year term to end November 15, 2021.

Motion:

Councilmember Yann moved to accept the City Manager's appointment of Marianne Moran to the Fairmont Human Rights Commission for a three-year term to end November 15, 2021. The motion was seconded by Councilmember Blood.

Roll call was taken by the Clerk and the following votes were recorded:

Councilmember Mason	Yes	Councilmember Kennedy	Yes
Councilmember Blood	Yes	Councilmember Bledsoe	Yes
Councilmember Yann	Yes	Councilmember Grubb	Yes
Councilmember Rice	Yes	Councilmember Mainella	Abstain
Mayor Merrifield	Yes		

The Mayor declared Marianne Moran appointed to the Fairmont Human Rights Commission for a three-year term ending November 15, 2021 by majority vote of Council.

IN RE: ONE CITY MANAGER APPOINTMENT TO BE CONFIRMED BY COUNCIL, FAIRMONT HUMAN RIGHTS COMMISSION, THREE-YEAR TERM TO END NOVEMBER 15, 2021

Mayor Merrifield entertained a motion to confirm the City Manager's appointment to the Fairmont Human Rights Commission for a three year term to end November 15, 2021.

Motion:

Councilmember Yann moved to accept the City Manager's appointment of Dani DeVito to the Fairmont Human Rights Commission for a three-year term to end November 15, 2021. The motion was seconded by Councilmember Mainella.

Roll call was taken by the Clerk.

The Mayor declared Dani DeVito appointed to the Fairmont Human Rights Commission for a three-year term ending November 15, 2021 by unanimous vote of Council.

IN RE: ONE CITY MANAGER APPOINTMENT TO BE CONFIRMED BY COUNCIL, FAIRMONT HUMAN RIGHTS COMMISSION, THREE-YEAR TERM TO END NOVEMBER 15, 2021

Mayor Merrifield entertained a motion to confirm the City Manager's appointment to the Fairmont Human Rights Commission for a three year term to end November 15, 2021.

Motion:

Councilmember Mainella moved to accept the City Manager's appointment of Cynthia Straight to the Fairmont Human Rights Commission for a three-year term to end November 15, 2021. The motion was seconded by Councilmember Mason.

Roll call was taken by the Clerk.

The Mayor declared Cynthia Straight appointed to the Fairmont Human Rights Commission for a three-year term ending November 15, 2021 by unanimous vote of Council.

ADJOURNMENT

The Mayor entertained a motion for adjournment.

Motion:

Councilmember Mason moved at 7:36 p.m. to adjourn this meeting to Tuesday, April 16, 2019 at 4:30 p.m. in order to approve the Levy Rates. The motion was seconded by Councilmember Rice.

The Mayor declared this meeting adjourned until 4:30 p.m., Tuesday, April 16, 2019 by unanimous vote of Council.