

March 26, 2019

The regular meeting of the City Council of the City of Fairmont was held at 7:00 p.m. on the 26th 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

D.D. Meighen 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 Special Meeting held on March 12, 2019 and from the Regular Meeting held on March 12, 2019.

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

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

IN RE: PROCLAMATIONS PRESENTED

Mayor Merrifield presented two proclamations at the meeting.

The Mayor presented Jason Keeling with the American Red Cross a proclamation naming March, 2019 as American Red Cross Month. Mr. Keeling said that he is the Executive Director of the Northeast Chapter of the American Red Cross which includes 18 counties. He said that Red Cross Month was established by President Roosevelt. Mr. Keeling said that he was glad to serve Marion County but can always use more support.

Mayor Merrifield also presented a proclamation to Mike Baker, Director of the Marion County Child Advocacy Center and other staff members proclaiming April, 2019 as Child Prevention Awareness Month.

PUBLIC HEARINGS

IN RE: AN ORDINANCE PROVIDING FOR AN AMENDMENT TO THE CITY OF FAIRMONT'S 2018-2019 ANNUAL BUDGET: GENERAL FUND

Pursuant to a notice duly published in the Times-West Virginian on March 18, 2019, a public hearing was convened to obtain citizen input on a proposed ordinance providing for a General Fund budget revision.

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

Interim City Manager McDaniel spoke in favor of the proposed ordinance. He reported that this is the third amendment for this fiscal year and this is a routine budget revision that brings line items in to compliance with expenditures and revenues. He noted that there will be one more budget revision toward the end of this fiscal year to determine the fund balance.

There being no one else to speak, the public hearing was called to a close at 7:15 p.m.

IN RE: 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

Pursuant to a notice duly published in the Times-West Virginian on March 18, 2019, a public hearing was convened to obtain citizen input on a proposed ordinance providing for the vacation and abandonment of two alleys, one is perpendicular to Garrett Avenue and the other is parallel to Garrett Avenue.

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

SANDRA SCAFFIDI, City Planner, spoke in favor of the proposed ordinance. She stated that the Planning Commission voted in February that the right-of-way abandonment request met the requirement as stated in our Code. They do not believe that the right-of-way will serve any future public purpose and that it would be in the best interest of the City to abandon the right-of-ways.

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 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.

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 granting the request of Eugene Payne for a variance at 200 Highland Avenue.

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

EUGENE PAYNE, property owner, spoke in favor of the proposed ordinance. He said that he has been trying to sell his home for several months now and lost a couple buyers because of something that he had nothing to do with. His wife said that the previous property owners failed to come before the Commission to subdivide this property. She said that Mr. Payne bought the property in 2012 and now he is asking for a Clearzoning variance to get a clear title to the deed. He then said that he did not know anything about this problem until a few months ago and stated this will correct his problem. He then asked Council for their consideration.

PERCY CLAY, a resident of Morgantown, spoke in favor of the variance. He said that the variance would be in the best interest for the owners and for the other parties that adjoin the property. He said that it should be divided and should be two deeds, one for one property and one for the other, and both owners of the properties should be paying taxes.

SANDRA SCAFFIDI, City Planner, also spoke in favor of the proposed variance. She said the Planning and Zoning Code requires lots to be at least 6,000 square feet in size. She said that in 1950, the original parcel extended between Liberty Avenue and Highland Avenue, had two houses built on it. She said that it was initially separated for taxation purposes as one is a rental unit and one house was a primary home. Later an administration separation was recognized permanently through the sale of one of the lots. This separation created two substandard size lots which are both 3,615 square feet a piece. The situation occurred without the City's knowledge and unfortunately it was not until the current owner tried to sell the property that we discovered that the property had a clouded title. She went on to say that this variance is needed to correct this error.

There being no one else to speak, the public hearing was called to a close at 7:22 p.m.

ANNOUNCEMENTS

IN RE: NATIONAL WOMEN'S MONTH

Councilmember Grubb reported that this month is National Women's Month. She then talked about Lena Yost, from Farmington, who became a leader of Women's Suffrage Movement in 1898.

IN RE: LEISHA ELLIOTT COMMENDED

Councilmember Grubb commended Leisha Elliott, Executive Director of the Marion County CVB, for her recent "Shining Example Award" for best

marketing in the CVB.

IN RE: CONDOLENCES TO BOB GRIBBEN'S FAMILY

Councilmember Rice extended condolences to the family of Bob Gribben on his recent passing.

Councilmember Yann said that when he first came on Council, Bob was a mentor to him. He said that he will be sorely missed.

Councilmember Mainella said that Bob Gribben made nice, safe, warm housing for a lot of people in this community and he should be commended for that. He said there are hundreds of people that have a place to live today because of Bob Gribben and the Partnership.

The Mayor noted that Bob was a good man and will be truly missed.

CITIZENS PETITIONS

IN RE: AMERICAN LEGION MOUNTAINEER BOYS STATE FUNDING

RANDALL KOCSIS, P. O. Box 347, Enterprise, WV addressed Council regarding funding for the American Legion Mountaineer Boys State. The American Legion Mountaineer Boys State is an honors and leadership program for rising high school senior males. Its main purpose is to teach good government through participation. It is one of several youth programs sponsored by The American Legion and has been held, since 1936, at the State 4-H facility at Jackson's Mill. Mr. Kocsis said this program is a 501(C)(3) not for profit organization and all staff members are volunteers who receive no financial compensation. He then asked Council for any financial support that the City of Fairmont can provide, to sponsor an individual or individuals, to attend Boys State. He noted that this cost is \$250 per individual to attend.

CITY MANAGER'S REPORT

IN RE: PASSING OF BOB GRIBBEN

Mr. McDaniel also mentioned the passing of Bob Gribben, who was a former City Councilmember. He said that he was President of the Fairmont Community Development Partnership for a few years when Bob was the

Director. He will be sorely missed and was indeed a good man.

IN RE: REPUBLIC SERVICES COMPLAINTS

Mr. McDaniel stated that we have had several calls, inquiries, and complaints about issues with our waste hauler, Republic Services. He said that he and staff have been in contact with Republic Services and we have a commitment from them to bring in additional drivers and personnel to catch up the recycling and the issues with not picking up waste by the end of this week. He then asked the public to have patience with us, we are aware of it and we are doing everything we can, under the terms of the contract, to make this work.

Councilmember Bledsoe stated that he is disgusted with their service. He added that this has been a long-term issue and it seems like we keep rewarding their bad service with a new contract. He said that we need to look seriously at somebody else because the people in this City are fed up with them. He added that they are the ones not providing the service, we don't pay them for excuses and when they miss, they sure are not going to give us a discount. He said again that he was fed up with them and they need to go.

Mr. McDaniel replied that it is a complicated issue and he wasn't here when it was bid but he understands there are two issues. First of all, when it was bid, they were the only ones that came forward and second of all, the jurisdiction of the WV Public Service Commission, unlike governing water and sewer utilities where they can take care of complaints, they simply franchise an area and right now Republic Services, we have been told by the Public Service Commission, is the only approved franchisee for Fairmont. He added that we have a couple things going against us. You have a contract that does not have penalties for not picking up someone's garbage and you have a contract that allows you to terminate it but at the point in time, who is going to pick up the garbage. He added that a great deal of thought needs to be given to it when it comes time for renewal.

Councilmember Bledsoe said that because State Code or State Law or Public Service Commission Regulations don't allow anyone to compete with them, they have pretty much be as crappy as they want and get away with it. He said we need to fix this.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: ADOPTION, AN ORDINANCE PROVIDING FOR AN AMENDMENT TO THE CITY OF FAIRMONT'S 2018-2019 ANNUAL BUDGET: GENERAL FUND

Mayor Merrifield entertained a motion for the adoption of an ordinance providing for a General Fund budget revision.

Motion:

Councilmember Mason 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. 1804 was duly adopted.

IN RE: ADOPTION, 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 for the adoption 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 Bledsoe moved for the adoption of the proposed ordinance. Councilmember Blood 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. 1805 was duly adopted.

IN RE: ADOPTION, 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 for the adoption of an ordinance granting the request of Eugene Payne for a variance at 200 Highland Avenue.

Motion:

Councilmember Yann moved for the adoption of the proposed ordinance. Councilmember Mason 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. 1806 was duly adopted.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE AUTHORIZING THE RENEWAL OF THAT CERTAIN LETTER OF CREDIT, NO 2001-525, ISSUED BY WESBANCO BANK TO THE CITY OF FAIRMONT FOR PURPOSES OF SATISFYING A PORTION OF THE SELF-INSURED SECURITY AND INSURANCE REQUIREMENTS OF THE WEST VIRGINIA WORKERS' COMPENSATION ACT

Mayor Merrifield entertained a motion and second for the introduction of an ordinance authorizing the renewal of the Letter of Credit for Workers Comp from WesBanco Bank.

Motion:

Councilmember Mainella moved for the introduction of the proposed ordinance. The motion was seconded by Councilmember Kennedy.

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

The Mayor declared the public hearing set for April 9, 2019.

IN RE: ADOPTION, A RESOLUTION PROCLAIMING APRIL 2019 AS FAIR HOUSING MONTH IN THE CITY OF FAIRMONT

Mayor Merrifield entertained a motion for the adoption of a resolution proclaiming April 2019 as Fair Housing Month in the City of Fairmont.

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: ADJOURN TO EXECUTIVE SESSION

Mayor Merrifield entertained a motion to adjourn to Executive Session as per WV Code §6-9A-4(b)(2)(A) and City Charter 2.11 (a)(1)A – to consider matters arising from the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of a City Officer.

Motion:

Councilmember Bledsoe moved to adjourn to Executive Session as per WV Code §6-9A-4(b)(2)(A) and City Charter 2.11 (a)(1)A. Councilmember Mason seconded the motion.

Roll call was taken by the Clerk.

The Mayor declared the meeting adjourned to Executive Session at 7:48 p.m. by unanimous vote of Council.

IN RE: MEETING RECONVENED

The Mayor declared the meeting reconvened at 8:08 p.m.

IN RE: ADOPTION, A RESOLUTION OF THE COUNCIL FOR THE CITY OF FAIRMONT NOMINATING A CITY MANAGER FOR APPOINTMENT AND PROVIDING THE CITY ATTORNEY AND THE MAYOR WITH THE AUTHORITY TO NEGOTIATE A TENTATIVE EMPLOYMENT AGREEMENT

Mayor Merrifield entertained a motion for the adoption of a resolution nominating a City Manager (Valerie Means) for appointment and providing the City Attorney and the Mayor with the authority to negotiate a tentative employment agreement.

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 Rice.

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

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

Councilmember Mainella	Yes	Councilmember Rice	Yes
Councilmember Bledsoe	No	Councilmember Yann	Yes
Councilmember Kennedy	Yes	Councilmember Kennedy	Yes
Councilmember Blood	Yes	Councilmember Mason	Yes
Mayor Merrifield	Yes		

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

ADJOURNMENT

The Mayor entertained a motion for adjournment.

Motion:

Councilmember Mason moved to adjourn the meeting. The motion was seconded by Councilmember Kennedy.

The Mayor declared the meeting adjourned by voice vote of Council at 8:09 p.m.

