

April 23, 2019

The regular meeting of the City Council of the City of Fairmont was held at 7:00 p.m. on the 23rd day of April, 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:

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

Absent:

First District	Joshua D. (Josh) Rice
----------------	-----------------------

Also present were:

Interim City Manager	Bruce McDaniel
City Attorney	Kevin Sansalone
City Clerk	Janet L. Keller
Fire Chief	Edward Simmons
Utility Controller	Mark Moore

Rev. D.D. Meighen gave the invocation followed by the Pledge of Allegiance to the Flag led by Councilmember Bledsoe.

IN RE: EXCUSE COUNCILMEMBER RICE

The Mayor entertained a motion to excuse Councilmember Rice from this meeting.

Motion:

Councilmember Mainella moved to excuse Councilmember Rice. Councilmember Mason seconded the motion.

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

APPROVAL OF MINUTES

Mayor Merrifield noted that each member of Council had received a copy of the minutes from the Regular Meeting April 9, 2019 and from the Levy Meeting held on April 16, 2019.

Councilmember Bledsoe 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 OF THE COUNCIL FOR THE CITY OF FAIRMONT APPOINTING VALERIE A. MEANS AS THE CITY MANAGER FOR THE CITY OF FAIRMONT AND APPROVING AND FIXING THE TERMS AND CONDITIONS OF THAT CERTAIN CITY MANAGER EMPLOYMENT AGREEMENT DATED APRIL _____, 2019, BY AND BETWEEN THE CITY OF FAIRMONT AND VALERIE A. MEANS, AND PROVIDING THE MAYOR WITH THE AUTHORITY TO EXECUTE AND DELIVER SAID AGREEMENT ON BEHALF OF THE CITY OF FAIRMONT

Pursuant to a notice duly published in the Times-West Virginian on April 15, 2019, a public hearing was convened to obtain citizen input on a proposed ordinance approving the terms and conditions of the City Manager Employment Agreement with Valerie A. Means.

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

Interim City Manager McDaniel spoke in favor of the proposed ordinance.

There being no one else to speak, the public hearing was called to a close at 7:06 p.m.

IN RE: AN ORDINANCE AMENDING AND SUPPLEMENTING THAT PORTION OF CITY ORDINANCE NO. 1694, WHICH IS CODIFIED AS SECTION 1709.01 OF THE CITY CODE TO PROVIDE FOR A CERTAIN REVISION TO THE STATE BUILDING CODE PROMULGATED BY THE WEST VIRGINIA STATE FIRE COMMISSION AND ESTABLISHED BY

LEGISLATIVE RULE, TITLE 87, SERIES 4, TO BE EFFECTIVE APRIL 30, 2019

Pursuant to a notice duly published in the Times-West Virginian on April 15, 2019, a public hearing was convened to obtain citizen input on a proposed ordinance amending Ordinance No. 1694 providing for a certain revision to the State Building Code.

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

Mr. McDaniel spoke in favor of this ordinance.

There being no one else to speak, the public hearing was called to a close at 7:07 p.m.

IN RE: AN ORDINANCE AMENDING AND SUPPLEMENTING THAT PORTION OF CITY ORDINANCE NO. 1695, WHICH IS CODIFIED AS PART 17 BUILDING AND HOUSING CODE, ARTICLE 1709 WEST VIRGINIA STATE BUILDING CODE, OF THE CITY CODE, AND PARTICULARLY, SECTION 1709.02 SCHEDULE FOR PERMIT FEES AND PENALTIES AND SECTION 1709.03 DISCRETIONARY PROVISIONS THEREOF, TO PROVIDE FOR A CERTAIN REVISION TO THE STATE BUILDING CODE PROMULGATED BY THE WEST VIRGINIA STATE FIRE COMMISSION AND ESTABLISHED BY LEGISLATIVE RULE, TITLE 87, SERIES 4, TO BE EFFECTIVE APRIL 30, 2019

Pursuant to a notice duly published in the Times-West Virginian on April 15, 2019, a public hearing was convened to obtain citizen input on a proposed ordinance amending Ordinance No. 1695 providing for a certain revision to the State Building Code and the Schedule for Permit Fees.

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

Mr. McDaniel spoke in favor of this ordinance.

There being no one else to speak, the public hearing was called to a close at 7:08 p.m.

ANNOUNCEMENTS

IN RE: JULIA PIERPONT CELEBRATION

Councilmember Grubb reminded everyone that we give credit to Julia Pierpont as the founder of Declaration Day which became Memorial Day. She noted that they will be celebrating Memorial Day on Saturday, May 25th and will be having a program to honor Julia Pierpont.

IN RE: CIVIL WAR TRAIL MARKERS

Councilmember Grubb reported that the civil war trail markers are going to be re-done and she was excited about that.

IN RE: PROPERTY TO ENCOURAGE DEVELOPMENT

Councilmember Mason asked the Interim City Manager, in the interest of encouraging development, for a list of available properties that the City owns and also a list of properties or areas, not necessarily owned by the City, but within the city limits, that have not been developed for residential or commercial purposes. He said that he hears a lot of people wanting to know why we don't have more development, more housing areas, new housing, new opportunities for businesses as well as residential. He said that we need to pursue more development and make some things happen in Fairmont.

Mr. McDaniel replied that he thought we have our GIS System available to use.

Sandra Scaffidi stated, from the audience, that it is not available yet but they are working on it.

Mr. McDaniel said that we have a good inventory of what we own but may not have a good inventory of what everybody else owns.

IN RE: THANK YOU CARDS TO BE SENT

Councilmember Blood said that since Councilmember Rice could not be here tonight, she wanted to mention that two thank you cards are being passed around for two young gentleman, ages 11 and 14, who took upon themselves to clean up a vacant lot that was littered with garbage and Councilmember Rice happened to come upon these kids and then asked the City Clerk to do something for the boys. She said how often do you have two boys, just on their own, picking up the trash and making our City a better place to live.

IN RE: BRUCE MCDANIEL COMMENDED

Councilmember Bledsoe said that he really wanted to thank Mr. McDaniel for what he has done filling in until we get Valerie Means on board. He said that he sent him a few emails with questions or whatever and he is right there with answers. He noted that he has been amazing in responding back to Council.

Councilmember Mainella also thanked Mr. McDaniel for his service for the past four months. He noted that he and Bruce served together back in the 1990's and he knew what we were getting with Bruce. He said that it was very gracious of him to come out of his semi-retirement to help the City of Fairmont.

Mayor Merrifield said that Mr. McDaniel has been very instrumental in helping him get through the first couple of months and has been a stabilizing factor. He said that with his experience level, he didn't have to search too far for the answers. He noted that we have not missed a beat and largely because of Bruce.

IN RE: REPUBLIC SERVICES

Councilmember Bledsoe stated that he has not heard any complaints with Republic Services the last couple of weeks, however, when things start going a little better they seem to forget that there is an issue. He said that he received a copy of the contract from Mr. McDaniel and found out that, not only are they providing poor service, they are not fulfilling a few terms of their contract which are things like, no semi-annual audits to ensure how many garbage customers we have, no regular reports of tonnage, and no penalties for them not following the terms of the contract. He said that when the next contract comes up, if we have another contractor, we need to make sure that it is a better contract with penalties if they don't follow the terms on the contract and think of alternatives. We will work with the new City Manager to explore those alternatives to give Fairmont better service.

IN RE: MARION MEALS ON WHEELS

Councilmember Yann extended congratulations to Marion Meals on Wheels on celebrating their 46th year this month of delivering meals. He noted that they have over 100 volunteers that give their time and their vehicles to deliver these meals five days a week.

IN RE: GATEWAY CONNECTOR

Councilmember Kennedy thanked the contractor who is mowing the grass on the Connector. He noted that the grass looks really nice.

CITIZENS PETITIONS

IN RE: MAIN STREET FAIRMONT

BRENDA GIANNIS, 1095 Charles Avenue, addressed Council as the President of the Board of Directors for Main Street Fairmont. She then introduced the new Main Street Director, Patricia Pagan.

Ms. Pagan stated that she came to Fairmont 21 years ago, left and then came back. She said that Main Street Fairmont is planning a celebration for the 200th birthday that we have coming up in 2020 and they are planning a homecoming to bring back everybody who left and show what we have done and where we are going.

CITY MANAGER'S REPORT

IN RE: INTERIM CITY MANAGER

Mr. McDaniel stated that this will be his last meeting as Interim City Manager. He said that he has enjoyed being able to serve and staff has been very willing and able to keep their operations going and moving forward. He said that he wished everyone the best and asked Council to pay attention to staff and he thinks the good work of the City will continue.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: ADOPTION, AN ORDINANCE OF THE COUNCIL FOR THE CITY OF FAIRMONT APPOINTING VALERIE A. MEANS AS THE CITY MANAGER FOR THE CITY OF FAIRMONT AND APPROVING AND FIXING THE TERMS AND CONDITIONS OF THAT CERTAIN CITY MANAGER EMPLOYMENT AGREEMENT DATED APRIL _____, 2019, BY AND BETWEEN THE CITY OF FAIRMONT AND VALERIE A. MEANS, AND PROVIDING THE MAYOR WITH THE AUTHORITY TO EXECUTE AND DELIVER SAID AGREEMENT ON BEHALF OF THE CITY OF FAIRMONT

Mayor Merrifield entertained a motion for the adoption of an ordinance approving the terms and conditions of the City Manager Employment Agreement for Valerie A. Means.

Motion:

Councilmember Bledsoe 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 those Councilmembers present and the ordinance designated as Ordinance No. 1808 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE AMENDING AND SUPPLEMENTING THAT PORTION OF CITY ORDINANCE NO. 1694, WHICH IS CODIFIED AS SECTION 1709.01 OF THE CITY CODE TO PROVIDE FOR A CERTAIN REVISION TO THE STATE BUILDING CODE PROMULGATED BY THE WEST VIRGINIA STATE FIRE COMMISSION AND ESTABLISHED BY LEGISLATIVE RULE, TITLE 87, SERIES 4, TO BE EFFECTIVE APRIL 30, 2019

Mayor Merrifield entertained a motion for the adoption of an ordinance amending Ordinance No. 1694 to provide for a certain revision to the State Building Codes.

Motion:

Councilmember Yann 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 those Councilmembers present and the ordinance designated as Ordinance No. 1809 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE AMENDING AND SUPPLEMENTING THAT PORTION OF CITY ORDINANCE NO. 1695, WHICH IS CODIFIED AS PART 17 BUILDING AND HOUSING CODE, ARTICLE 1709 WEST VIRGINIA STATE BUILDING CODE, OF THE CITY CODE, AND PARTICULARLY, SECTION 1709.02 SCHEDULE FOR PERMIT FEES AND PENALTIES AND SECTION 1709.03 DISCRETIONARY PROVISIONS THEREOF, TO PROVIDE FOR A CERTAIN REVISION TO THE STATE BUILDING CODE PROMULGATED BY THE WEST VIRGINIA STATE FIRE COMMISSION AND

ESTABLISHED BY LEGISLATIVE RULE, TITLE 87, SERIES 4, TO BE EFFECTIVE APRIL 30, 2019

Mayor Merrifield entertained a motion for the adoption of an ordinance amending Ordinance No. 1695 to provide for a certain revision to the State Building Codes and the Schedule for Permit Fees.

Motion:

Councilmember Kennedy 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 those Councilmembers present and the ordinance designated as Ordinance No. 1810 was duly adopted.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE OF THE COUNCIL FOR THE CITY OF FAIRMONT AUTHORIZING THE ACQUISITION OF THE ASSETS OF THE WATERWORKS SYSTEM OF MONTANA WATER ASSOCIATION INC. AND APPROVING AN ACQUISITION AGREEMENT BY AND AMONG MONTANA WATER ASSOCIATION INC., THE CITY OF FAIRMONT AND FAIRMONT WATER BOARD

Mayor Merrifield entertained a motion and second for the introduction of an ordinance authorizing the acquisition of Montana Water Association, Inc.

Motion:

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

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

The Mayor declared the public hearing set for May 14, 2019.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE OF THE COUNCIL FOR THE CITY OF FAIRMONT SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CERTAIN CUSTOMERS OF THE WATER SYSTEM OF THE CITY OF FAIRMONT FORMERLY CUSTOMERS OF MONTANA WATER ASSOCIATION, INC.

Mayor Merrifield entertained a motion and second for the introduction of an ordinance setting forth the rates, fees and charges for service to certain customers formerly customers of Montana Water Association, Inc.

Motion:

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

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

The Mayor declared the public hearing set for May 14, 2019.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING CHAPTER NINE – JUDICIAL, ARTICLE 189 MUNICIPAL COURT OF THE FAIRMONT CITY CODE TO IMPLEMENT AND PROVIDE FOR A CERTAIN COURT COST RELATING TO THE SUSPENSION AND REINSTATEMENT OF DRIVERS’ LICENSES FOR NON-PAYMENT OR DEFAULT OF FINES AND FAILURE TO APPEAR OR RESPOND, TO BE CODIFIED AS SECTION 189.08, THEREOF

Mayor Merrifield entertained a motion and second for the introduction of an ordinance providing for court cost relating to the suspension and reinstatement of drivers’ licenses for non-payment of fines and failure to appear in court.

Motion:

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

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

Councilmember Blood asked how this item came about. She stated that she understood that there is no way to do community service at this point, however, some individuals and families could really benefit and they got caught in this cycle and can't rectify it financially without some type of community service. She said that she thought it kept the families trapped in the cycle of poverty where they can't find work and it is an issue that she would like to see addressed.

Councilmember Mason asked what the genesis of this ordinance is.

Kevin Sansalone, City Attorney, responded by saying that the purpose is to compensate the Municipal Clerk for her efforts involved in suspending and revoking drivers licenses. She suspends and revokes approximately 312 licenses throughout the year and it results in a lot of administrative paperwork for purposes of not only the suspension but also the re-instatement and we became aware that the city to the south of us were charging a fee to reimburse the City for the administrative cost associated with that suspension and thought it would be an appropriate charge for the City to impose on its citizens who fail to pay their fines or fail to appear in Municipal Court or those that fail to fulfill their obligations under their payment plans.

The Mayor declared the public hearing set for May 14, 2019.

**IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING
AN ORDINANCE PROVIDING FOR THE SALE OF ONE (1) 2002 JOHN
DEERE 6220 TRACTOR SIDE ARM/CUTTER OWNED BY THE CITY OF
FAIRMONT TO THE FAIRMONT-MARION COUNTY REGIONAL
AIRPORT AUTHORITY**

Mayor Merrifield entertained a motion and second for the introduction of an ordinance providing for the sale of a John Deere tractor to the Fairmont-Marion County Regional Airport Authority.

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 May 14, 2019.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING ORDINANCE NO. 1803, DULY ADOPTED MARCH 12, 2019, TO BE CODIFIED AS SECTION 1765 OF THE FAIRMONT CITY CODE *FLOODPLAIN REGULATIONS* SO AS TO MAINTAIN COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND TO ENSURE RECEIPT OF FEDERAL FUNDING OR ASSISTANCE IN THE EVENT OF A DISASTER

Mayor Merrifield entertained a motion and second for the introduction of an ordinance amending Ordinance No. 1803, the current Floodplain Ordinance.

Motion:

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

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

The Mayor declared the public hearing set for May 14, 2019.

IN RE: ADOPTION, AN EMERGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING ORDINANCE NO. 1803, DULY ADOPTED MARCH 12, 2019, TO BE CODIFIED AS SECTION 1765 OF THE FAIRMONT CITY CODE *FLOODPLAIN REGULATIONS* SO AS TO MAINTAIN COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND TO ENSURE RECEIPT OF FEDERAL FUNDING OR ASSISTANCE IN THE EVENT OF A DISASTER

Mayor Merrifield entertained a motion for the adoption of an emergency ordinance amending Ordinance No. 1803, the current Floodplain Ordinance as to maintain compliance with the National Flood Insurance Program.

Motion:

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

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

Roll call was taken by the Clerk.

The Mayor declared the ordinance adopted by unanimous vote of those Councilmembers present and the ordinance designated as Ordinance No. 1811 was duly adopted.

IN RE: ADOPTION, A RESOLUTION OF THE COUNCIL OF THE CITY OF FAIRMONT REQUESTING AND AUTHORIZING THE LAYING OF A CORNERSTONE BY THE MASONIC FRATERNITY FOR THE NEW EAST FAIRMONT FIRE STATION TO BE CONSTRUCTED BY THE CITY OF FAIRMONT

Mayor Merrifield entertained a motion for the adoption of a resolution authorizing the laying of a cornerstone by the Masonic Fraternity for the new East Fairmont Fire Station.

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 Grubb.

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 those Councilmembers present.

IN RE: ADJOURN TO EXECUTIVE SESSION

Mayor Merrifield entertained a motion to adjourn to Executive Session to discuss pending litigation.

Motion:

Councilmember Mason 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 Blood seconded the motion.

Roll call was taken by the Clerk.

The Mayor declared the meeting adjourned to Executive Session at 7:55 p.m. by unanimous vote of those Councilmembers present. The Mayor noted that no further action will be taken when the meeting is reconvened.

IN RE: MEETING RECONVENED

The Mayor declared the meeting reconvened at 8:39 p.m.

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 8:40 p.m.