

July 28, 2020

The regular meeting of the City Council of the City of Fairmont was held at 7:00 p.m. on the 28th day of July, 2020, 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	(by phone)
Second District	Frank G. Yann	(by phone)
Third District	Karl (David) Kennedy	(left the meeting at 7:47 p.m.)
Fourth District	Kenneth (Brad) Merrifield	
Fifth District	Barry H. Bledsoe	(by phone)
Sixth District	Dora Kay Grubb	
Seventh District	Philip R. (Phil) Mason	
Eighth District	Thomas (Tom) Mainella	
Ninth District	Donna M. Blood	

Also present were:

City Manager	Valerie Means	(by phone)
City Attorney	Kevin Sansalone	
City Clerk	Janet L. Keller	
Fire Chief	Ed Simmons	

IN RE: OPENING CEREMONIES

Rev. Wesley Dobbs gave the invocation followed by the Pledge of Allegiance to the Flag led by Councilmember Kennedy.

APPROVAL OF MINUTES

Mayor Merrifield noted that each member of Council had received a copy of the minutes from the Regular Meeting held on July 14, 2020.

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

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

IN RE: PROCLAMATION PRESENTED TO HERSHEL "WOODY" WILLIAMS

The Mayor presented a proclamation in honor of the life and service of United States Marine Corps Warrant Officer and World War II Veteran Hershel "Woody" Williams. The Mayor acknowledged the valor and heroism of this outstanding American hero, one of our "greatest generation" who epitomizes "Mountaineer Pride", who truly went "above and beyond" for this great nation, as well as honoring him for a life well lived helping his fellow veterans and his fellow man.

After receiving the proclamation, Mr. Williams introduced his daughter, Tracy Ross, who accompanied him to the meeting. He then said a few words regarding his life, family, and serving this country.

Councilmember Grubb stated that this was one of the biggest honors that she has ever had. She said that she has looked at all of the things that Mr. Williams has done and was so interested in him and it broke her heart when the Gold Star Mothers disbanded here in Fairmont.

PUBLIC HEARINGS

IN RE: AN ORDINANCE PROVIDING FOR AN AMENDMENT TO THE CITY OF FAIRMONT'S 2020-2021 ANNUAL BUDGET: GENERAL FUND

Pursuant to a notice duly published in the Times-West Virginian on July 17, 2020, 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.

Ms. Means spoke in favor of this proposed ordinance. She said this is the revision that is required by the State to be done by the end of the timeframe.

There being no one else to speak, the public hearing was called to a close at 7:26 p.m.

IN RE: AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT OF THE FOLLOWING UNOPENED PORTIONS OF THE RIGHT OF WAY OF FLEMING AVENUE IN THE CITY OF FAIRMONT,

FAIRMONT CITY DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING THOSE TWO CERTAIN PORTIONS OF THE UNOPENED RIGHT OF WAY OF FLEMING AVENUE AS FOLLOWS:

- a. THAT CERTAIN PORTION OF FLEMING AVENUE FROM THE INTERSECTION OF FLEMING AVENUE AND BISON STREET WITH FLEMING AVENUE TO THE RIGHT OF WAY OF A 15' UNNAMED ALLEY AND MORE PARTICULARLY DESCRIBED AS .19 ACRES OR 8,250 SQUARE FEET AS SHOWN ON THE ATTACHED PLAT (EXHIBIT A) AND SITUATE ADJACENT TO PARCELS 46 AND 47 OF MARION COUNTY TAX MAP 03-12, WHICH PARCELS ARE OWNED BY RICHARD OLDAKER AND DIANE OLDAKER; AND
- b. THAT CERTAIN PORTION OF FLEMING AVENUE FROM THE INTERSECTION OF FLEMING AVENUE AND A 15 'UNNAMED ALLEY WITH FLEMING AVENUE TO THE INTERSECTION OF FLEMING AVENUE AND WORTHINGTON STREET AS SHOWN ON THE ATTACHED PLAT (EXHIBIT B) AND SITUATE ADJACENT TO PARCEL 4 OF MARION COUNTY TAX MAP 03-12 WHICH PARCEL IS OWNED BY DANIEL SERGE AND CECELIA SERGE, AND PARCELS 5 AND 5.1, OF SAID TAX MAP, WHICH PARCELS ARE OWNED BY KENNETH C. SABO

EXCLUDING THE RIGHT OF WAY OF A 15' UNNAMED ALLEY AND RESERVING ALL UTILITY RIGHTS

Pursuant to a notice duly published in the Times-West Virginian on July 17, 2020, a public hearing was convened to obtain citizen input on a proposed ordinance providing for the abandonment of an unopened right-of-way on Fleming Avenue requested by Richard and Diane Oldaker.

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

DIANE OLDAKER, a resident of Fleming Avenue, spoke in favor of the proposed ordinance. She said that she would greatly appreciate to have the property since she takes care of it any way. She said that she would like to remove some overgrowth, some large trees and trash out of the area. She said that she would make it more user friendly, not just for her, but for the kids that play on it. She said she would make the neighborhood look nicer.

There being no one else to speak, the public hearing was called to a close at 7:26 p.m.

IN RE: AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT OF THE FOLLOWING UNOPENED PORTION OF THE RIGHT OF WAY OF AN UNNAMED ALLEY LYING AND BEING IN THE CITY OF FAIRMONT, WINFIELD CITY DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING THAT CERTAIN UNOPENED PORTION OF SAID UNNAMED ALLEY PERPENDICULAR TO MOUND AVENUE AND BETWEEN PARCELS NOS. 61, 62, AND 63 OF MARION COUNTY TAX MAP 06-06, AS SHOWN ON THE ATTACHED PLAT, WHICH SAID PARCELS ARE OWNED BY VICTORY BAPTIST CHURCH; RESERVING ALL UTILITY RIGHTS

Pursuant to a notice duly published in the Times-West Virginian on July 17, 2020, a public hearing was convened to obtain citizen input on a proposed ordinance providing for an abandonment of an unopened right-of-way perpendicular to Mound Avenue which said parcels are owned by Victory Baptist Church.

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 7:28 p.m.

IN RE: AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT OF THE FOLLOWING UNOPENED PORTION OF THE RIGHT OF WAY OF EDGEMORE LANE LYING AND BEING IN THE CITY OF FAIRMONT, GRANT ANNEX DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING THAT CERTAIN PORTION OF EDGEMORE LANE PERPENDICULAR TO MAPLEWOOD DRIVE AND PARALLEL TO FAIRMONT AVENUE AND SITUATE BETWEEN PARCELS NOS. 112, 113, 125, 126, AND 127 OF MARION COUNTY TAX MAP 04-07, AS SHOWN ON THE ATTACHED PLAT, WHICH SAID PARCELS ARE OWNED BY RANDALL NEWLON; RESERVING ALL UTILITY RIGHTS

Pursuant to a notice duly published in the Times-West Virginian on July 17, 2020, a public hearing was convened to obtain citizen input on a proposed ordinance providing for an abandonment of an unopened right-of-way of Edgemore Lane perpendicular to Maplewood Drive and parallel to Fairmont Avenue which said parcels are owned by Randall Newlon.

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 7:29 p.m.

IN RE: AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT OF THE UNOPENED RIGHT OF WAY OF AN UNNAMED ALLEY IN THE CITY OF FAIRMONT, FAIRMONT CITY DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING THAT CERTAIN UNNAMED ALLEY LYING BETWEEN STERLING ROAD AND COLBURN STREET (UNOPENED) AND SITUATE BETWEEN PARCELS NOS. 163, 164, AND 165 OF MARION COUNTY TAX MAP 03-30, AS SHOWN ON THE ATTACHED PLAT, WHICH SAID PARCELS ARE OWNED BY BRANDON HAUN AND ALI HAUN; RESERVING ALL UTILITY RIGHTS

Pursuant to a notice duly published in the Times-West Virginian on July 17, 2020, a public hearing was convened to obtain citizen input on a proposed ordinance providing for an abandonment of an unnamed alley lying between Sterling Road and Colburn Street which said parcels are owned by Brandon and Ali Haun.

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 7:30 p.m.

IN RE: AN ORDINANCE APPROVING THAT CERTAIN USER AGENCY AGREEMENT FOR CRIMINAL JUSTICE INFORMATION BY AND BETWEEN THE CITY OF FAIRMONT POLICE DEPARTMENT AND MARION COUNTY CENTRAL COMMUNICATIONS DATED JULY 1, 2020

Pursuant to a notice duly published in the Times-West Virginian on July 17, 2020, a public hearing was convened to obtain citizen input on a proposed ordinance approving the User Agency Agreement between the City of Fairmont Police Department and Marion County Central Communications.

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 7:31 p.m.

ANNOUNCEMENTS

IN RE: PUBLIC WORKS DEPARTMENT COMMENDED

Councilmember Grubb thanked the Public Works Department for putting up a sign for Fleming Place and for cutting back the shrubbery that was hiding back the visibility.

IN RE: PLACARD AND LIGHTING REQUESTED FOR MURAL

Councilmember Mason stated that he has taken a number of people by the mural and tried to explain to them what the people on the mural represent. He then asked if it was possible to have a sign or placard describing the history in a brief way of each of the individuals displayed on the mural. He said that he didn't think it would cost a lot but he thought it would be a good thing to do for the people who come by to see it.

Councilmember Mason then said that because of Councilmember Grubb, he has been enlightened in terms of his view of what he has called the "ugly wall" on Merchant Street. He said that he wanted the ugly wall to be torn down but after looking at the mural and listening to Councilmember Grubb, she explained to him that the soldiers in World War I and II were picked up in downtown and East Side of Fairmont and they went across that abutment and he said okay after some thought. He then said that it would be a good idea if the City endorsed Mr. Dugan and his students to do the mural on the ugly wall and make it a beautiful wall.

IN RE: WELCOME BACK TO COUNCILMEMBER BLEDSOE

Councilmember Kennedy welcomed Councilmember Bledsoe back. He noted that it was wonderful news to hear that he is out of the hospital and is certainly the result of a lot of praying.

Councilmember Rice also welcomed Councilmember Bledsoe home and was glad to see him doing well.

Councilmember Bledsoe said thank you for the welcome back comments.

IN RE: HERSHEL "WOODY" WILLIAMS

Councilmember Mainella thanked retired Sgt. David Tucker for facilitating the bringing of Woody Williams to the Council meeting. He said it was a privilege to be in the same room with him. He mentioned that he has been on Council for 14 years and he cannot think of a more honorable, prestige

person who has come to visit us in those 14 years than Woody Williams tonight.

Mr. Tucker said that he is a humble old soldier that served for 25 years starting with 201st here in Fairmont. He then thanked Council for making this evening possible. He added that it was a wonderful thing. He said that we are known as the "Friendly City" but he also thought we were the "Patriotic City" as well.

IN RE: LIGHTING PROPOSED FOR MURAL

Councilmember Mainella also mentioned that we should consider adding some lights to the mural. He noted that spotlights would be very little expense and he thought it would be a good addition.

Councilmember Blood stated that the wall needs a little bit of explanation, it's beautiful and having the historic figures up there is really great but to have a plaque to describe their contribution would be awesome as well as lighting.

The Mayor said he agreed about getting placards and lighting for the mural. He mentioned that a lot of people are going to come and look at it and the placards and lighting would be wonderful.

IN RE: MAIN STREET FAIRMONT

Mayor Merrifield said that it was unfortunate, due to the Covid, Main Street Fairmont has had some activities planned, however, with the Governor's order they decided to hold off on those activities for now.

IN RE: MEETING MISSED

Councilmember Rice stated that he missed a meeting that he would like to have made tonight especially to honor Woody Williams.

Councilmember Yann said that if the numbers start going down on the new cases of Covid, he hopes to be there in person at the next meeting.

IN RE: COUNCILMEMBER KENNEDY LEFT THE MEETING

Councilmember Kennedy left the meeting at 7:47 p.m. after getting called out to work.

CITIZENS PETITIONS

IN RE: CITY OF FAIRMONT HIRING PRACTICES

REV. WESLEY DOBBS addressed Council regarding the hiring practices for the City of Fairmont. He said at the June 23, 2020 Council meeting, Councilmember Bledsoe brought up something about the police quitting their jobs and the reason they were quitting their job was because of the harrasment they were receiving. He said that he did not know of any police officer quitting here. He went on to say that he believes law enforcement has a job, it's a tough job but it's a job that has to be done. He also believes there is a way to do anything and some of the things that we have been hearing in the past and some that we will be hearing in the future, there is a way that you do your job. He said that having a chokehold for 8 minutes and 46 seconds and a knee on a person's neck while they are saying I cannot breath, is not doing your job. He said that he believes police have every right if they have a problem to use whatever is necessary but he thinks a knee on a neck is a little excessive especially when a person is already down. We, as African Americans, also have to obey the law and he agrees with that 100%. If you break the law, you have to pay. There is a way that you do anything.

Rev. Dobbs then said he would like to see the City of Fairmont look around and employ, if possible, people in the Street Department, the Water Department, bookkeeping, or whatever can be found. He said that Chief Shine, any time he has an opening, always sends him information and he appreciates that. He said that we have a great Chief in Chief Shine and his officers. He said that he also thinks that African Americans deserve an opportunity and if he sends us someone, it is going to be someone that he respects and that he feels can do a good job. He said that we have some young, bright, intelligent African Americans that can do a job. He went on to say that in the Street Depatment, anyone can dig a ditch and anyone could lay pipe in the Water Department. He said that there are some people that can do that job. He then asked the City of Fairmont to just have an open mind and not to just do it because he is here tonight but have an open mind, look around and if there is someone you feel that can do the job, give them the opportunity. We know that we have a drug problem and that problem is basically there because if you cannot find a job, some people are going to go the easiest way. If given an opportunity, they will do the job and this comes from his heart, not the NAACP.

IN RE: OPERATION UNDERGROUND RAILROAD PROJECT

ALI HERMOSILLA GROSE, spoke about a non-profit organization that they are partnering with and a local event that they will be having at Herмосilla's

Deli. The organization is called Operation Underground Railroad and is a network of secret rooms and safe houses established in the United States to free slaves during the early to mid 19th century and OUR stands for Operation Underground Railroad and it strives to carry on the same mission of freedom. OUR locates child sex slaves and connects with local law enforcement to rescue the children and take them to safe havens for rehabilitation. OUR then goes after the ringleaders to break up these organizations. OUR also provides after care and with the support system for survivors by vetting and evaluating after care centers. OUR relies on 100% donations and on volunteers to help spread the word. She then stated that they are holding an event at the Deli on Thursday, July 30, which is the world day against human trafficking and they will be collecting donations during their business hours. He said that roughly 800,000 children are reported missing each year in the United States which is about 2,000 children per day. She mentioned that many traffickers will operate at airports and other transportation hubs where they can take a child and be miles away in minutes. She then encouraged everyone to come to the Deli to show their support for our children on Thursday, July 30.

IN RE: MANDATORY FACE MASKS

NICOLE WALLS, a resident of Peacock Lane, addressed Council regarding the concerns of COVID. This health issue is one that has affected each and every one of us in some way. Our community depends on our essential workers to keep us going. All too often we take these amazing men and women for granted. They have become so much a part of our daily existence that they often become invisible and unfortunately forgotten. We are also currently faced with the dilemma of whether or not our children, teachers and service personnel will be safe to go back to school. A monumental decision that is not easy for the Board of Education to make themselves. She went on to say that in these trying times of uncertainty and fear, no one knows what the right answers are, but one thing is always for sure, we love our community. As much as we may bicker and complain on social media and maybe even on the street corners, she believes that the roots of this community are strong and that we love each other as any family would and in hard times we would support one another. She said that we can't live in fear and we can't make people quarantine in their homes all of the time. We can't make people walk the street wearing a mask every day and we can't require that every single person be tested on a regular basis. We can't require temperatures be taken at every place of employment and we can't close off our county and prevent all outsiders from "hot spot" areas from coming in. In closing, she said that we can require businesses that operate within our community to enforce the Governor's mandate for face coverings in order for anyone to enter their stores and

also enforce a fine that would require them to pay for any community costs of having our police officers called to the premises for non-compliance.

CITY MANAGER'S REPORT

IN RE: WELCOME BACK COUNCILMEMBER BLEDSOE

Ms. Means welcomed back Councilmember Bledsoe and said she is very happy that he is home with his loved ones and on the way to getting better.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: ADOPTION, AN ORDINANCE PROVIDING FOR AN AMENDMENT TO THE CITY OF FAIRMONT'S 2020-2021 ANNUAL BUDGET: GENERAL FUND

Mayor Merrifield entertained a motion for the adoption of an ordinance providing for an amendment to the General Fund Budget.

Motion:

Councilmember Mason 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 by phone) and the ordinance designated as Ordinance No. 1857 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT OF THE FOLLOWING UNOPENED PORTIONS OF THE RIGHT OF WAY OF FLEMING AVENUE IN THE CITY OF FAIRMONT, FAIRMONT CITY DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING THOSE TWO CERTAIN PORTIONS OF THE UNOPENED RIGHT OF WAY OF FLEMING AVENUE AS FOLLOWS:

1) THAT CERTAIN PORTION OF FLEMING AVENUE FROM THE INTERSECTION OF FLEMING AVENUE AND BISON STREET WITH FLEMING AVENUE TO THE RIGHT OF WAY OF A 15' UNNAMED ALLEY AND MORE PARTICULARLY DESCRIBED AS .19 ACRES OR 8,250 SQUARE FEET AS SHOWN ON THE ATTACHED PLAT (EXHIBIT A) AND SITUATE ADJACENT TO PARCELS 46 AND 47 OF MARION

COUNTY TAX MAP 03-12, WHICH PARCELS ARE OWNED BY RICHARD OLDAKER AND DIANE OLDAKER; AND

2) THAT CERTAIN PORTION OF FLEMING AVENUE FROM THE INTERSECTION OF FLEMING AVENUE AND A 15 'UNNAMED ALLEY WITH FLEMING AVENUE TO THE INTERSECTION OF FLEMING AVENUE AND WORTHINGTON STREET AS SHOWN ON THE ATTACHED PLAT (EXHIBIT B) AND SITUATE ADJACENT TO PARCEL 4 OF MARION COUNTY TAX MAP 03-12 WHICH PARCEL IS OWNED BY DANIEL SERGE AND CECELIA SERGE, AND PARCELS 5 AND 5.1, OF SAID TAX MAP, WHICH PARCELS ARE OWNED BY KENNETH C. SABO

EXCLUDING THE RIGHT OF WAY OF A 15' UNNAMED ALLEY AND RESERVING ALL UTILITY RIGHTS.

Mayor Merrifield entertained a motion for the adoption of an ordinance providing for the abandonment of an unopened right-of-way on Fleming Avenue requested by Richard and Diane Oldaker.

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 those Councilmembers present (and by phone) and the ordinance designated as Ordinance No. 1858 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT OF THE FOLLOWING UNOPENED PORTION OF THE RIGHT OF WAY OF AN UNNAMED ALLEY LYING AND BEING IN THE CITY OF FAIRMONT, WINFIELD CITY DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING THAT CERTAIN UNOPENED PORTION OF SAID UNNAMED ALLEY PERPENDICULAR TO MOUND AVENUE AND BETWEEN PARCELS NOS. 61, 62, AND 63 OF MARION COUNTY TAX MAP 06-06, AS SHOWN ON THE ATTACHED PLAT, WHICH SAID PARCELS ARE OWNED BY VICTORY BAPTIST CHURCH; RESERVING ALL UTILITY RIGHTS

Mayor Merrifield entertained a motion for the adoption of an ordinance providing for an abandonment of an unopened right-of-way perpendicular to

Mound Avenue which said parcels are owned by Victory Baptist Church.

Motion:

Councilmember Mason 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 by phone) and the ordinance designated as Ordinance No. 1859 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT OF THE FOLLOWING UNOPENED PORTION OF THE RIGHT OF WAY OF EDGEMORE LANE LYING AND BEING IN THE CITY OF FAIRMONT, GRANT ANNEX DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING THAT CERTAIN PORTION OF EDGEMORE LANE PERPENDICULAR TO MAPLEWOOD DRIVE AND PARALLEL TO FAIRMONT AVENUE AND SITUATE BETWEEN PARCELS NOS. 112, 113, 125, 126, AND 127 OF MARION COUNTY TAX MAP 04-07, AS SHOWN ON THE ATTACHED PLAT, WHICH SAID PARCELS ARE OWNED BY RANDALL NEWLON; RESERVING ALL UTILITY RIGHTS

Mayor Merrifield entertained a motion for the adoption of an ordinance providing for an abandonment of an unopened right-of-way of Edgemore Lane perpendicular to Maplewood Drive and parallel to Fairmont Avenue which said parcels are owned by Randall Newlon.

Motion:

Councilmember Blood 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 those Councilmembers present (and by phone) and the ordinance designated as Ordinance No. 1860 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE PROVIDING FOR THE VACATION AND ABANDONMENT OF THE UNOPENED RIGHT OF WAY OF AN UNNAMED ALLEY IN THE CITY OF FAIRMONT, FAIRMONT

CITY DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING THAT CERTAIN UNNAMED ALLEY LYING BETWEEN STERLING ROAD AND COLBURN STREET (UNOPENED) AND SITUATE BETWEEN PARCELS NOS. 163, 164, AND 165 OF MARION COUNTY TAX MAP 03-30, AS SHOWN ON THE ATTACHED PLAT, WHICH SAID PARCELS ARE OWNED BY BRANDON HAUN AND ALI HAUN; RESERVING ALL UTILITY RIGHTS.

Mayor Merrifield entertained a motion for the adoption of an ordinance providing for an abandonment of an unnamed alley lying between Sterling Road and Colburn Street which said parcels are owned by Brandon and Ali Haun.

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 those Councilmembers present (and by phone) and the ordinance designated as Ordinance No. 1861 was duly adopted.

IN RE: ADOPTION, AN ORDINANCE APPROVING THAT CERTAIN USER AGENCY AGREEMENT FOR CRIMINAL JUSTICE INFORMATION BY AND BETWEEN THE CITY OF FAIRMONT POLICE DEPARTMENT AND MARION COUNTY CENTRAL COMMUNICATIONS DATED JULY 1, 2020

Mayor Merrifield entertained a motion for the adoption of an ordinance approving the User Agency Agreement between the City of Fairmont Police Department and Marion County Central Communications.

Motion:

Councilmember Mainella 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 by phone) and the ordinance designated as Ordinance No. 1862 was duly adopted.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE AN ORDINANCE AMENDING AND SUPPLEMENTING THAT PORTION OF CITY ORDINANCE NO. 1809, 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 AUGUST 1, 2020

Mayor Merrifield entertained a motion and second for the introduction of an ordinance amending the State Building Code as requested by the WV State Fire Commission.

Motion:

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

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

The Mayor declared the public hearing set for August 11, 2020.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE AMENDING AND SUPPLEMENTING THAT PORTION OF CITY ORDINANCE NO. 1810, 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 CERTAIN REVISIONS 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 AUGUST 1, 2020

Mayor Merrifield entertained a motion and second for the introduction of an ordinance to provide for certain revisions to the State Building Code for the discretionary provisions.

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 August 11, 2020.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE AMENDING AND REVISING ARTICLE II, "THE COUNCIL" OF THE FAIRMONT CITY CHARTER, AND MORE PARTICULARLY SECTION 2.03 *COMPENSATION; EXPENSES* THEREOF, TO PROVIDE COMPENSATION TO THE MAYOR AND COUNCILMEMBERS FOR THOSE REGULAR COUNCIL MEETINGS WHICH ARE CANCELLED DUE TO A DECLARED STATE OF EMERGENCY

Mayor Merrifield entertained a motion and second for the introduction of an ordinance to provide compensation to the Mayor and Councilmembers for those regular Council meetings which are cancelled due to a declared State of Emergency.

Motion:

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

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

The Mayor declared the public hearing set for September 8, 2020.

IN RE: ADOPTION, A RESOLUTION OF THE COUNCIL FOR THE CITY OF FAIRMONT APPROVING AND ADOPTING AN AMENDMENT TO THE RULES AND REGULATIONS OF THE POLICE CIVIL SERVICE COMMISSION OF THE CITY OF FAIRMONT ADOPTED BY THE COMMISSION ON JULY 14, 2020, TO PROVIDE FOR CERTAIN CHANGES TO ACCOMMODATE THE AMENDMENT TO WEST VIRGINIA CODE 8-14-15 *APPOINTMENT FROM LIST OF ELIGIBLES*

Mayor Merrifield entertained a motion for the adoption of a resolution approving an amendment to the Rules and Regulations of the Police Civil Service Commission to provide for certain changes relating to the appointment from the list of eligibles.

Motion:

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

The Clerk read the proposed resolution by synopsis.

Roll call was taken by the Clerk.

The Mayor declared the resolution adopted by unanimous vote of those Councilmembers present (and by phone).

IN RE: ADOPTION, A RESOLUTION OF THE COUNCIL FOR THE CITY OF FAIRMONT ELIMINATING THE PAST PRACTICE OF PROVIDING CANDIDATES FOR ELECTED OFFICE WITH THE OPPORTUNITY TO ADDRESS COUNCIL TO ANNOUNCE ONE'S OWN CANDIDACY FOR OFFICE

Mayor Merrifield entertained a motion for the adoption of a resolution eliminating the practice of allowing candidates for elected office with the opportunity to address Council to announce one's own candidacy for office.

Motion:

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

The Clerk read the proposed resolution by synopsis.

Roll call was taken by the Clerk.

The Mayor declared the resolution adopted by unanimous vote of those Councilmembers present (and by phone).

IN RE: ADOPTION, A RESOLUTION OF THE COUNCIL OF THE CITY OF FAIRMONT, WEST VIRGINIA OSTRACIZING COUNCILMEMBER KARL DAVID KENNEDY, REPRESENTATIVE OF COUNCIL DISTRICT THREE, FOR HIS CONTINUED TOXIC AND EMBARRASSING BEHAVIOR

Mayor Merrifield entertained a motion for the adoption of a resolution ostracizing Councilmember Karl David Kennedy for his continued toxic and embarrassing behavior.

Motion:

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

The Mayor read the proposed resolution by synopsis.

Discussion:

Councilmember Grubb stated that that this is a very serious matter that we are talking about. She said that last time she did not talk up and she was very sorry that she didn't. She went on to say that Dave Kennedy may say or do inappropriate postings in his private life, however, he is an elected official and is not an employee. The voters are the ones that are responsible for his removal of office. You are talking about shunning. He was voted by 2,000 people to represent them and he represented them and he has every right unless they pull the plug. He has every right to be able to say what he wants privately and to be on without being shunned. Do you all realize what shunning means? Shunning means you ignore him, you don't talk to him. You understand that he is representing the voters that voted for him and we do not have the right to shun and that is what we are doing if we pass this resolution. This means that he will not be able to carry on his business as he was elected to do so. She said that she did not see anywhere in the Constitution of the United States or the City's Charter or the Declaration of Independence or the Constitution of WV. There are procedures for taking control or having someone eliminated from office. In our last visit to this same issue, which was January 28, 2020, the subject of David Kennedy's private Facebook comments were addressed and Councilmembers asked for his resignation and public censure for his behavior. She said that she voted against it for reasons that we do not have the legal authority to do so. Again, she wanted to stress that he is an elected official regardless of what we think and if you want to have him taken out of his seat or his resignation, then you need to do it by the laws that were set up do to so. The people said that they were going to do it and one thing you have to do is start a petition and you have to do it in an orderly manner. That petition was never finished so apparently the voters of Fairmont did not want him removed because if they did want him removed, it would have been done. She went on to say that she talked to several attorneys and she asked them about this and they said that we are touching very rapidly on the First Amendment and it is a slippery slope that we are even thinking about doing this. You are condemning him for what he said in private and he did not call one single person that, he said it generally. No, she didn't like it but who has the right to say this. She said that we are opening ourselves up for a lawsuit and who has decided in using these names in the resolution, toxic and embarrassing behavior, what court decided this. We are not a court but who made these decisions. She closed by saying that she feels that this should be dropped right now. The Council has a lot of business rather than sitting around and

hassling over what we should not be touching at all. It is a waste of time and energy and a possible lawsuit individually.

Councilmember Mainella stated that he was sorry that Councilmember Kennedy was abruptly called away for work. He has never really seen that happen before at a Council meeting. He stated that he wished he was here to hear this discussion. He has been an embarrassment as a Councilmember and to the citizens of Fairmont from calling them all kinds of names (the names mentioned were not typed in the minutes). Councilmember Mainella said that he was not even on Facebook but he knows what he said because he saw it in print. He then said that he thought Councilmember Grubb was terribly mistaken thinking that if we pass this resolution, he is no longer going to be on Council. He's going to have the same privileges, votes, and everything that the other Councilmembers will have. To him, this is a very well written apology to the people that he has offended and to us that we don't condone his toxic, irresponsible, asinine remarks that he makes as an elected official. He noted that he was not doing it privately. He's doing it on Facebook which is not private and he's doing it as a Fairmont City Councilmember. Councilmember Mainella stated that he hopes this resolution passes and if it does pass, he's going to ask for a copy of it, signed by the Mayor and use it for when people email him and text him and see him on the street and say what are you going to do about David Kennedy, he's an embarrassment to the City. He said he was going to say here's what we did and this is all we can do, we can't get rid of him because we can't get rid of him. He's here and he's here for two more years and he's going to continue to do this and this is a tool that was very well constructed but really does nothing but allow us to say we don't want anything to do with this guy, although you elected him, those of us that voted for it, we want to ignore him and he is not here to represent them and that's it.

Councilmember Blood stated that she, too, believes that this resolution is the proper thing for Council to do, the moral thing for us to do. The horrible speech that he has on Facebook and his talking and calling people names, we have had enough of it and she is embarrassed and was truly, deeply offended by that last anti-feminist post that he put on Facebook. She then said that when you post something on Facebook, just be careful what you post.

Councilmember Bledsoe stated that he has thought long and hard about this resolution and he is a friend of his but he has had a number of conversations that did not include other City Councilmembers and some just between him and Dave to try to get him to stop the offensive posting on Facebook. He said that he has talked to Dave until he was blue in the face and finally gave

up because he could tell he wasn't getting anywhere. Dave's comments that he makes are offensive and calls people names and calls groups names and what is aggravating is sometimes he doesn't think he even knows the meaning of the names that he is using. He noted that he is way over the line and he understands how some people could get offended and he understands the frustration of the other City Councilmembers. He said that he was frustrated and quit trying to talk to him about that issue because it, obviously, is not doing any good. Having said that, Councilmember Bledsoe said that he has never seen a post Facebook that he made where he represents himself as a City Council person, it is David Kennedy speaking as David Kennedy not as a Council person for the City of Fairmont. He then mentioned that there is a freedom of speech issue and this is just merely Council trying to distance themselves from David Kennedy and his actions and his words. He does not represent Council, he gets that's, but having said that, he has never seen him represent himself as a Council person when he makes these idiotic comments. Councilmember Bledsoe said that he was going to vote against the resolution but he thinks he has a right to do it as much as he would like to see him quit but as offensive as it is, he has that right as wrong as it is. He said again that he will be voting against this resolution.

Councilmember Rice stated ditto to everything that Councilmember Blood and Councilmember Mainella has said. He said that everything he says is offensive and we need to definitely ostracize him from Council.

The Mayor said that the one thing that he has struggled with during the whole thing is the freedom of speech issue. Whether he agrees with it or not, but saying that he does not represent himself as a Councilmember unfortunately you can't un-connect yourself as a Councilmember. You either are or you are not and the thing that a lot of us have trouble remembering sometimes is that when we speak, it can be perceived that we're speaking for other people, not just ourselves. We have to really be cognizance of that because we don't just represent ourselves, unfortunately, it's almost like we lose that privilege while we are in office. I know it doesn't say that anywhere but it is something that he is torn with and the fact that what he just said, he doesn't know how to put it any more clearly.

Councilmember Mainella said that when you get elected to a public office, whether you want it to be or not to be, you are associated with that public office. He then said that if anyone around the Council table would get a DUI or got caught shoplifting or beat up our spouse or anything else like that, it would be in the newspaper "City Councilmember Tom Mainella" did this, it's not just going to say "Tom Mainella at 8 Hollen Circle, Insurance man", it's

going to say "City Councilmember Tom Mainella". He then said that when you get elected to office, it's a stigma.

The Mayor said that you can't unseparate or separate from it.

Councilmember Grubb stated that when we did this on January 28, 2020, he was reprimanded and asked to resign so are we going to continue bringing this up every time.

Councilmember Mainella said that was a good point. He said he thought this should give it closure and if he is ostracized, he is no longer a factor here. He said that he will come in and sit down and vote. Councilmember Mainella noted that Councilmember Kennedy usually abstains from anything that is controversial but he said that he was going to kick ass and take names which he hasn't seen much of that out of him but anyhow he thought that was a good point. He said he thought tonight should be closure and we should forget about him and if it passes, Councilmember Mainella said that he was going to forget about him even if it doesn't pass. He mentioned that we have spent too much time on this and he has brought too much disgrace on this governing body and this should give it finality.

The Mayor said make no mistake, this will not hinder his ability to represent the people that he represents and it will not take away anything from his ability to do his job as a Councilmember. This only deals with the other issue.

Councilmember Grubb said that should be added to the resolution that this will be the last time that this is addressed.

Councilmember Mainella note that the discussion will be in the minutes and it will be added.

Councilmember Blood noted that she cannot agree with that. She said that if he does something horrible again, she is going to call him out on it.

The Mayor said that we can't tell the future.

Councilmember Yann noted that usually we try to be impartial but this vote to him will be personal.

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

Councilmember Mason	Yes	Councilmember Rice	Yes
Councilmember Mainella	Yes	Councilmember Yann	Yes

Councilmember Bledsoe	No	Councilmember Grubb	No
Councilmember Blood	Yes	Mayor Merrifield	Yes

The Mayor declared the resolution ordinance adopted by majority vote of those Councilmembers present (and by phone).

ADJOURNMENT

The Mayor entertained a motion for adjournment.

Motion:

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

The Mayor declared the meeting adjourned by voice vote of Council at 8:35 p.m.