

NOVEMBER 1, 2007

The Clarksburg City Council met in REGULAR SESSION on Thursday, November 1, 2007 at 7:00 P.M. at the Clarksburg Municipal Building – Council Chambers, 222 West Main Street, Clarksburg, West Virginia, with Mayor Thompson presiding.

COUNCIL MEMBERS PRESENT:

Margaret Bailey
Sam Lopez
Martin Shaffer
Patsy Trecoast II
Vice Mayor B.K. Vanhorn
Mayor Dan Thompson

ALSO PRESENT:

Martin Howe, City Manager
Greg Morgan, City Attorney
Annette Wright, City Clerk

COUNCIL MEMBER(S) ABSENT:

James Hunt

The opening prayer was offered by Vice Mayor Vanhorn with Councilman Trecoast leading in the Pledge of Allegiance.

The City Clerk read the following letter submitted by Libby Stout:

To: City Manager Howe and Members of City Council:

I missed the dedication of our new parking building but had the good fortune to attend the Rotary Club gathering on Thursday. Well you could have knocked me down with a feather!

I had heard a lot of comments about the new building – some good and some bad – so I listened to what the visitors had to say:

“This place is absolutely beautiful, I mean it’s classy!” Man, this is something good – wouldn’t it be a nice place for a wedding, or a concert, a birthday party – decorate it at Christmas time! We needed this.

Their remarks made me feel good! It’s nice to know people appreciate your accomplishments. Things are really beginning to shape up around here (and I’m glad I’m still around to enjoy it all).

Give my regards to the architect and to all others who in any way made the new building possible. I’m proud of it. You all should be too.

Keep up the good work!

Sincerely,
“Libby” Stout

P.S. I’m not a “glory hunter” but I hope you will read this at your next council meeting.

Mayor Thompson called for petitions, communications and public hearings with no one appearing therefor.

MOTION by Councilwoman Bailey, **SECONDED** by Vice Mayor Vanhorn for approval of the minutes of the regular sessions held on October 4, 2007 and October 18, 2007. **MOTION APPROVED UNANIMOUSLY.**

AGENDA ITEM NO. 5: **CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG PROVIDING FOR THE PURCHASE OF REAL PROPERTY SITUATE AT 1412 NORTH 14TH STREET IN THE CITY OF CLARKSBURG, COAL DISTRICT, HARRISON COUNTY, WEST VIRGINIA**

The City Clerk advised that notices of the public hearing concerning the above-captioned matter appeared in the *Clarksburg Exponent/Telegram* on October 23, 2007 and October 30, 2007 and that the publisher's certificate would be filed with the permanent record.

Mayor Thompson declared the public hearing open with no one appearing therefor. Upon closing the public hearing, **MOTION** by Vice Mayor Vanhorn, **SECONDED** by Councilman Trecost for approval of the above-captioned ordinance on second and final reading. **MOTION APPROVED UNANIMOUSLY.**

AGENDA ITEM NO. 6: CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG AMENDING ARTICLE 768, PART SEVEN OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG RELATING TO THE DEFINITION AND LICENSING OF A "HANDYMAN CONTRACTOR," AS WELL AS TAX RESPONSIBILITY AND PENALTIES

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Mayor Thompson declared the public hearing open with no one appearing therefor. Upon closing the public hearing, **MOTION** by Councilwoman Bailey, **SECONDED** by Councilman Shaffer for approval of the above-captioned ordinance on second and final reading. **MOTION APPROVED UNANIMOUSLY.**

AGENDA ITEM NO. 7: CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG REVISING AND AMENDING ARTICLE 303.11, PART THREE OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG WITH REGARD TO ENFORCEMENT ACTIONS FOR UNPAID PARKING CITATIONS, INCLUDING INCREASING THE NUMBER OF UNPAID CITATIONS FOR IMMOBILIZATION FROM FIVE (5) TO TEN (10) OR UNPAID FINES IN EXCESS OF TWO HUNDRED DOLLARS (\$200.00); AND AUTHORIZING PAYMENT AGREEMENTS FOR RELEASE OF VEHICLES IMMOBILIZED

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Mayor Thompson declared the public hearing open with no one appearing therefor. Upon closing the public hearing, **MOTION** by Councilman Shaffer, **SECONDED** by Councilman Trecost for approval of the above-captioned ordinance on second and final reading. Under discussion, Councilwoman Bailey expressed concerns with approving this ordinance until the collection system could be reviewed. Concluding discussion of this matter, **MOTION APPROVED 4-2 with Councilwoman Bailey and Councilman Lopez casting the dissenting votes.**

AGENDA ITEM NO. 8: CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG AMENDING ARTICLE 363, PART THREE OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG WITH RESPECT TO THE REGULATION OF PARKING METERS, INCLUDING LIMITING THE SCOPE OF THE ARTICLE TO "ON STREET" PARKING METERS; REMOVING FEES FOR PARKING AT ON STREET METERS ON SATURDAYS FROM METER PAYMENT PERIODS; INCREASING OVERTIME VIOLATIONS FINES FROM TWO

DOLLARS (\$2.00) TO TEN DOLLARS (\$10.00); INCREASING THE PAYMENT PERIOD FROM SEVENTY-TWO HOURS TO SEVEN DAYS; INCREASING THE PENALTY FOR SECOND AND SUCCEEDING OFFENSES FROM FIVE DOLLARS (\$5.00) TO TWENTY DOLLARS (\$20.00)

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Mayor Thompson declared the public hearing open with no one appearing therefor. Upon closing the public hearing, **MOTION** by Councilman Trecost, **SECONDED** by Vice Mayor Vanhorn for approval of the above-captioned ordinance on second and final reading. Under discussion, Councilman Lopez expressed his opposition to raising fines or fees as well as hiring another parking attendant to write tickets. Councilwoman Bailey also expressed her opposition to the ordinance commenting that she believes we are sending the wrong message out to those visiting our city and again reiterated that the collection system needed to be reviewed. Vice Mayor Vanhorn advised that he would not support the ordinance in its current form; however, he would support a moderate increase. **MOTION** by Councilman Trecost, **SECONDED** by Vice Mayor Vanhorn to amend the overtime violation fines from the above-stated amount of \$10.00 to \$5.00 and to increase the penalty for second and succeeding offenses from the above-stated amount of \$20.00 to \$10.00. **MOTION, AS AMENDED, APPROVED 4-2 with Councilwoman Bailey and Councilman Lopez casting the dissenting votes.**

AGENDA ITEM NO. 9: CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG AMENDING ARTICLE 365, PART 3 OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG REGARDING OFF-STREET PARKING INCLUDING REMOVING FEES FOR PARKING AT OFF-STREET PARKING ON SATURDAYS; ESTABLISHING MONTHLY PARKING RATES FOR THE LIBRARY PARKING LOT; AND ESTABLISHING A MINIMUM MONTHLY RATE IN ALL RESERVED MONTHLY PARKING LOTS

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Mayor Thompson declared the public hearing open with no one appearing therefor. Upon closing the public hearing, **MOTION** by Vice Mayor Vanhorn, **SECONDED** by Councilwoman Bailey for approval of the above-captioned ordinance on second and final reading. **MOTION APPROVED UNANIMOUSLY.**

AGENDA ITEM NO. 10: CONSIDERATION OF A RESOLUTION OF THE COUNCIL OF THE CITY OF CLARKSBURG SUPPORTING THE EFFORTS OF THE WEST VIRGINIA CHILD ABDUCTION PREVENTION PROGRAM (WV-CAPP) IN PROMOTING LEGISLATION TO AUTHORIZE EVERY WEST VIRGINIA CITY AND TOWN TO ENACT A SEX OFFENDER RESIDENCY ORDINANCE

MOTION by Councilwoman Bailey, **SECONDED** by Councilman Trecost for adoption of the above-captioned resolution. Under discussion, Mr. Morgan explained that Council does not have the authority to make changes or amendments to the criminal codes; however, the above-stated resolution makes known Council's strong position on this matter. Mr. Morgan suggested that WV-CAPP advise the legislators of their request for a change in the criminal codes. Councilwoman Bailey requested that the City Manager send a letter with a copy of the Resolution to appropriate parties urging that this be addressed by the legislators. **MOTION APPROVED UNANIMOUSLY.**

AGENDA ITEM NO. 11: CITY MANAGER’S REPORT/UPDATE

City Manager Martin Howe discussed the following written report provided to Council:

Follow-up/General Updates

1. Streetscape Project FY 2006 – (Third and Fourth Streets and 200 linear feet along West Pike Street) – The contractor has completed the removal of the sidewalks along the East side of Third Street and has poured the curbs. They will also be pouring the sidewalks along the East side next week. The contractor is currently pouring the color coded concrete and stamping brick along 4th Street.
2. Demolition – The contractor will start demolishing the old boat house on E.B. Saunders Way this week.
3. We have received inquiries from citizens wanting to purchase the former North View Fire Station lot on N. 16th Street. I would recommend that we put this property out to bid.
4. Fall clean-up has produced 54 loads in the amount of 75 tons of waste for the first week.

Police and Fire

1. Police Firing Range –
 - a. Recommend waiving competitive bidding for the purchase of the target system from Mancom Manufacturing in the amount of \$70,600.
 - b. Met with MSES Engineering regarding the layout and build out of the firing range.
 - c. Range plans along with the Erosion Sediment Plan will be sent to the DEP for review and approval. This will take approximately six (6) weeks.
 - d. MSES will be staking out the fence line for the firing range.
2. Fire – We have been interviewing candidates from the eligibility list this week to fill the two (2) firefighter vacancies.
3. Monday, November 5th – Christopher Runner will be sworn in as a probationary firefighter.

Construction Projects

1. Clark Street Bridge –
 - a. The contractor in which was responsible for the relocation of the waterline has completed reinstallation of the brick streets (Legett Street and Baltimore Avenue).
 - b. The entire bridge has been completely demolished.
 - c. The curbs have been poured on the Ohio Avenue side of the bridge.

In connection with the fall clean-up, Mayor Thompson advised of a house on Milford Street in poor condition with Mr. Howe informing that said structure is on the demolition list.

Mr. Howe advised that Hilton Gardens is anticipating an opening date of November 15th.

CITY CLERK’S INFORMATION:

- A. ZONING FORM IN CONNECTION WITH A “NOTICE OF APPLICATION TO OPERATE: A PRIVATE CLUB, PRIVATE WINE RESTAURANT OR TAVERN” FILED BY ALLIANCE HOSPITALITY MANAGEMENT, LLC d/b/a THE GREAT AMERICAN GRILL, 606 EMILY DRIVE – RETURNED TO APPLICANT ON 10/16/07

UNFINISHED BUSINESS:

Councilman Shaffer inquired as to the status of his June 2nd request for letters between Council and the City Manager as well as dates and meetings concerning Mr. Papa with Mr. Howe advising that he would provide such information.

Councilman Shaffer also inquired as to the status of the City Manager's responses to the July 3rd meeting of the Downtown Revitalization Committee with Mr. Howe advising that he believed that such requests were addressed at the last meeting with Councilman Shaffer stating that there were still a number of requests unaddressed.

Councilman Shaffer inquired as to when a meeting would be held to discuss the TIF for downtown and Glen Elk with Mr. Howe advising that he would set up a meeting to start the process again.

Councilman Shaffer made inquiries concerning an anonymous letter from a city employee wherein the employee stated that they read in the newspaper that he (Councilman Shaffer) was requesting employees' names, addresses, phone numbers and W-2s. Mr. Howe advised that he did not know the identity of the employee who submitted the letter. Councilman Shaffer inquired as to when he would be receiving his request for employees' names, addresses and phone numbers with Mr. Howe advising that he spoke with the Mayor concerning such request and that he would be more comfortable to have Council vote on this request. Councilman Shaffer provided Mr. Howe with a copy of the Charter and asked that he locate the language that supported a previous comment made by Mr. Howe wherein pursuant to Charter, city council members were not allowed to talk to city employees. Mr. Howe stated that Council could speak to employees; however, Council could not give direction to employees. Councilman Shaffer again requested the names, addresses and phone numbers of the employees with Mr. Howe seeking direction from Council on this request. Councilwoman Bailey called for *point of order* stating that some of these matters/requests needed to be addressed with the City Manager in his office and not during the meeting all the time. Councilman Shaffer stated he has not received a response to some of these requests; therefore, he is putting it on record. Mr. Howe advised that he would send a memo to the employees asking if their number was listed or unlisted and if they would like their number to be provided and that such information would be provided to Councilman Shaffer. Councilman Lopez requested that Councilman Shaffer's requests be put on the agenda for a vote opining that the City Manager's responsibility is to Council as a whole noting the time involved in handling such requests. Councilman Shaffer called for *point of order* informing that he still had the floor.

Councilman Shaffer inquired as to when a meeting would be scheduled with the DEP to discuss the demolition landfill with Mr. Howe responding that he has contacted the City Engineer and left this matter up to him. Councilman Shaffer inquired if we were going to proceed with the demolitions before we find out if we can do asbestos abatement in our land fill with Mr. Howe advising that he is not prepared to answer this question. (*Councilman Lopez requested permission to be excused with permission being granted by Mayor Thompson*). Mayor Thompson stated that we could look into the landfill issue; however, the structures needed to come down.

Councilman Shaffer remarked that at the last Council meeting, Councilman Lopez accused him of violating the Charter and in reference thereto, Councilman Shaffer stated that he did not tell the engineer he had to contact an attorney but rather he advised him to contact an attorney about legal advice rather than the engineer providing such advice. Councilman Shaffer also disputed the accusation that he told Mr. Alvaro that he did not have to repair his roof. Councilman Shaffer remarked that it was inappropriate for council members to be making false allegations against other people or other council members.

Councilman Shaffer advised that when he toured the old City Hall, he found a roomful of abandoned riot gear as well as some old records in the attic and that he advised Mr. Howe of his findings. Councilman Shaffer referenced a previous request about signage to be posted for street cleaning and inquired as to who made the decision not to put signs up. Mr. Howe stated that this matter was discussed prior to Councilman Shaffer being on Council.

Councilman Shaffer advised that he was informed by the Attorney General's Office that he was entitled to the evaluations of the City Manager which he had previously asked for and did not receive. Mr. Howe advised that he did not have such information with Mayor Thompson informing that each council member completed an evaluation form. Councilwoman Bailey added that the City Attorney provides the City Manager with written documentation as to Council's evaluations and recommendations. Vice Mayor Vanhorn noted that any action taken relative to the City Manager's evaluation would be of record in the minutes.

As Councilman Lopez had returned, Councilman Shaffer again commented on the allegation made by Councilman Lopez concerning a violation of the Charter and challenged Councilman Lopez to read the pertinent section of the Charter which was violated. Councilman Lopez stated to Councilman Shaffer that he told an employee to do something (being a direction) which violates the Charter. Councilman Lopez noted that Council has two employees, the City Manager and City Clerk, which are the only two employees Council can give direction to. Councilman Shaffer inquired of Councilman Lopez where he received information that he (Councilman Shaffer) told Mr. Alvaro that he did not have to repair his roof with Councilman Lopez stating that this information was provided to him from another citizen. Councilwoman Bailey again called for *point of order* stating that this is not a forum for arguing or confrontation but rather to do the legislation for the citizens of Clarksburg. Councilman Shaffer remarked that he was not arguing and that he expected allegations to be supported by facts.

Councilman Shaffer inquired of the City Manager what disciplinary action would be taken against an employee who lied to a superior with Mr. Morgan explaining the multi-stage disciplinary program set forth in the handbook.

Councilwoman Bailey expressed appreciation to the Public Works Department for the fall clean-up program.

Councilwoman Bailey expressed her desire for Council to continue expressing to the Board of Education Council's concern for addressing problems at Washington Irving Middle School as well as Council's willingness to work with the Board in addressing such problems.

Councilwoman Bailey continued her challenge to downtown property owners to work with the City in getting something in their empty buildings.

Councilman Trecoast inquired as to the status of the Christmas tree with Mr. Howe advising that some inquiries have been made. Mr. Howe also confirmed to Councilman Trecoast that he spoke to Mr. Bellotte regarding lights (for John Cooper-Park).

Councilman Trecoast advised that the property beside 901 N. 14th Street needed mowed at least once this year as well as the guardrail area on Alpha.

Vice Mayor Vanhorn commented on the positive happenings such as the demolition projects performed by Empire Builders and the West Pike Street Parking Facility.

Vice Mayor Vanhorn expressed appreciation to the Mayor and the City Clerk on the work they have done on the Mayor's Youth Council (consisting of 39 youth) and expressed his pleasure in being a part of this program.

Mayor Thompson inquired as to the status of the old Sheraton building with Mr. Howe informing that a meeting with the State would be requested.

NEW BUSINESS:

A. CONSIDERATION OF AUTHORIZING THE APPROPRIATION OF FUNDS IN THE AMOUNT OF \$11,392.00 FOR THE CONSTRUCTION OF A FISHING PIER AT VETERAN'S MEMORIAL PARK

MOTION by Vice Mayor Vanhorn, **SECONDED** by Councilman Shaffer for approval of the above-captioned appropriation of funds. Under discussion, Councilwoman Bailey inquired as to why these funds were being appropriated through the general fund rather than the Park Board with Councilman Trecoast advising that the Park Board would be funding the boat ramp. Councilwoman Bailey commented that although this is a wonderful idea, she is against funding it from the general fund and rather it should be the responsibility of the Park Board. Councilman Shaffer commented that the fishing pier would be a great addition to the park system. **MOTION CARRIED 5-1 with Councilwoman Bailey casting the dissenting vote.**

B. CONSIDERATION OF WAIVING COMPETITIVE BIDDING FOR THE PURCHASE OF A TARGET SYSTEM FOR THE POLICE DEPARTMENT FIRING RANGE AND APPROVING THE PURCHASE THEREOF FROM MANCOM MANUFACTURING INCORPORATED IN THE AMOUNT OF \$70,600.00

MOTION by Vice Mayor Vanhorn, **SECONDED** by Councilwoman Bailey for approval of the above-captioned matter. Under discussion, Mr. Howe advised of the process and time period involved with the shooting range. **MOTION APPROVED UNANIMOUSLY.**

C. CONSIDERATION OF RESCHEDULING THE NOVEMBER 15TH COUNCIL MEETING TO TUESDAY, NOVEMBER 20, 2007 AT 9:00 A.M.

MOTION by Councilwoman Bailey, **SECONDED** by Councilman Trecost for approval of the above-captioned matter. **MOTION APPROVED UNANIMOUSLY.**

In other New Business, Councilman Lopez suggested that periodically a newsletter be sent with the fire service fee bill informing the citizens of the positive projects going on in the city.

Councilman Lopez noted that Mr. Howe was given an extension at his last evaluation with his salary to be reviewed a few months later and requested that within the next 30 days we look into discussing the City Manager's salary with Mayor Thompson acknowledging said request.

Vice Mayor Vanhorn referenced the Harrison County Development Authority's prior announcement of a development project near Summit Park which might involve annexation and requested that the City Manager inquire as to the status of this project.

Mayor Thompson referenced the new road (Meadowbrook Road) and requested that a sign be erected to indicate city limits.

Councilwoman Bailey informed that more improvements/investments are anticipated by Wendy's Restaurant.

Councilwoman Bailey referenced the upcoming annual City Christmas Dinner noting Council's contribution over the past with Council in agreement to a \$30 individual contribution.

Councilman Shaffer advised of a request from a Glen Elk citizen about a possible speed bump on 6th Street Bridge due to speeding and suggested that police check into such speeding concerns.

Councilman Shaffer inquired if a record was maintained as to the number of visitors to our Visitor's Bureau as he would like to know how many visit.

Councilman Shaffer inquired if it was appropriate for a council member to demand \$5,000 pay raises for friends and family members. Mr. Morgan stated that Council approves an ordinance which sets the salary range for all the employees and Council also approves the budget. Councilman Lopez noted that the City Manager has the authority to give a 15% pay raise to any employee he wishes.

Councilman Shaffer reminded that on November 7th, the Bridgeport Convention and Visitors Bureau would be hosting a speaker on the topic of improving tourism.

Councilman Shaffer suggested that we look into televising our council meetings.

Mr. Barry Calef updated Council on the upcoming charity basketball game scheduled for November 7th, 7:30 p.m. at Bridgeport High School, wherein Clarksburg would be teaming up against (and with) Bridgeport to raise monies for Eli Wagner.

There being no further business to come before Council, **MOTION** by Councilman Trecost, **SECONDED** by Vice Mayor Vanhorn for adjournment. **MOTION APPROVED UNANIMOUSLY.**

Mayor Dan Thompson

December 6, 2007

Approved

Annette M. Wright, City Clerk