

**FEBRUARY 6, 2020**

The Clarksburg City Council met in REGULAR SESSION on Thursday, February 6, 2020 +at 6:00 P.M. at the Clarksburg Municipal Building – Council Chambers, 222 West Main Street, Clarksburg, West Virginia, with Mayor Kennedy presiding.

**COUNCIL MEMBERS PRESENT:**

Frank Ferrari  
Marshall Goff  
Lillie Junkins  
Gary Keith  
Jim Malfregeot, (*via phone*)  
Jimmy Marino, Vice-Mayor  
Ryan Kennedy, Mayor

**ALSO PRESENT:**

Annette Wright, Interim City Manager  
James Cann, City Attorney  
Paula Hardman, Interim City Clerk

Following roll call, the opening prayer was given and the pledge led by Vice Mayor Marino.

At this time, Mayor Kennedy deviated from the agenda to allow for the following presentations: Vice Mayor Marino presented a proclamation proclaiming January 2020 as “STALKING AWARENESS MONTH” to Melanie Stephens from Hope Inc. who respectively received it with much appreciation.

Councilmember Junkins presented a proclamation proclaiming January 2020 as “HUMAN TRAFFICKING AWARENESS MONTH” to Melanie Stephens from Hope Inc. who respectively received it with much appreciation.

**MOTION** made by Councilmember Keith, **SECONDED** by Vice Mayor Marino for approval of the minutes of the Regular Session held on January 16, 2020. **MOTION APPROVED UNANIMOUSLY.**

**MOTION** made by Vice Mayor Marino, **SECONDED** by Councilmember Ferrari for approval of the minutes of the Special Session held on January 20, 2020. **MOTION APPROVED UNANIMOUSLY.**

**MOTION** made by Vice Mayor Marino, **SECONDED** by Councilmember Ferrari for approval of the minutes of the Special Session held on January 23, 2020. **MOTION APPROVED UNANIMOUSLY.**

**MOTION** made by Councilmember Goff, **SECONDED** by Councilmember Junkins for approval of the minutes of the Conference (Work) Session held on January 23, 2020. **MOTION APPROVED UNANIMOUSLY.**

**MOTION** made by Councilmember Goff, **SECONDED** by Vice Mayor Marino for approval of the minutes of the Special Session held on January 30, 2020. **MOTION APPROVED UNANIMOUSLY.**

**MOTION** made by Councilmember Keith, **SECONDED** by Councilmember Junkins for approval of the minutes of the Special Session held on January 31<sup>st</sup>, 2020. **MOTION APPROVED UNANIMOUSLY.**

Mayor Kennedy called for petitions, communications and public hearings with the

take home to their parents with a post card they can simply drop in the mail this year and they have added the convenience of being able to go online to fill out the information. They are doing everything possible to help. Councilmember Junkins inquired at this time of stipulations on who you can count with Ms. Johnston informing yes, explaining the same as such.

**James Harris**, 151 Hall Street appeared before Council to address agenda items 6-A, B and C, all public hearing items with regard to proposed Charter amendments and agenda item 7-C regarding Second Amendment Sanctuary. He opened with inquiring as to any objections filed with Mayor Kennedy informing as such. He then provided Council with a list of 6 questions requesting they review the list and take time to answer them at some point during the meeting, also requesting said list be added to the minutes for public record.

He then referenced questions one (1) and six (6) on said list discussing the amount of registered voters within the City also voicing concerns of what could happen if the Charter Amendment should pass, stressing major concerns that someone might target a member of City Council explaining the same as such.

The questions/comments provided by Mr. Harris, as requested, are attached hereto and incorporated herein as **ATTACHMENT 1**.

**Will Hyman**, 2207 Gould Ave., Clarksburg appeared before Council voicing concerns on agenda item #7-C, the proposed Ordinance of the City of Clarksburg, as the same apply to recognizing the City as a Second Amendment Sanctuary explaining the same as such.

He opened with informing council of several organizations he is affiliated with and how blessed we are to be living in West Virginia with some of the best gun laws in the United States, referencing the recent situation in Virginia. He explained, in his opinion, the best approach should be an ordinance as several other West Virginia Counties have done explaining the same as such in great detail.

In Closing, he requested if said ordinance passes as presented in agenda item #7-C, he would like the Mayor and members of City Council to draft an official letter stating that they support Bill ninety six (96) so that it can be submitted to our State Senate.

**AGENDA ITEM NO. 5:**

**Manager's Report  
February 6, 2020  
Submitted by Annette Wright**

**General Updates/Information**

1. Demolition-
  - a. Cira & Associates has removed trash/debris from all structures on Contract 1. They have abated four (4) structures to date, and said structures are now ready for demolition by our Public Works crew.
  - b. Empire Builders has demolished ten (10) structures to date. On average, they are demolishing one structure per day.
  - c. Public Works has demolished four (4) structures and will begin more demolitions as Cira completes the abatements.
2. Public Works is working on its bi-annual street light canvass to identify burned out street lights. We will put information on our Facebook page, as well, as to how individuals can also report burned out street lights.
3. In the case of *Jeffries v. The City of Charleston, Municipal Home Rule Board, et al.*, (Circuit Court of Kanawha County) Judge Bloom entered an Order Granting Defendants' Motion to Dismiss on January 14<sup>th</sup>. This suit challenged the Home Rule Program which many municipalities have now participated; therefore, this ruling proves positive for municipalities.

sought by interested persons/businesses: a permit to grow, a permit to process and a permit to dispense. A limited number of permits will be granted.

6. Budget preparation- Department Heads have submitted their proposed budgets to myself and the Finance Director. After review/revision with the respective Department Heads, the Finance Committee is also reviewing the proposed budget. Council will receive the proposed budget at the February 20<sup>th</sup> meeting with a budget work session to be scheduled.
7. The Sanitary Board will be meeting on Tuesday, February 11<sup>th</sup> at 3:30 pm.
8. The Planning & Zoning Commission will be meeting on Wednesday, February 12<sup>th</sup> at 4:00 pm.
9. The Mayor's Youth Council will be participating in "Valentines for Vets" on Wednesday, February 12<sup>th</sup> at 5:30 pm. The MYC will be preparing valentine messages, passing out sweet treats and visiting with residents.
10. The Urban Renewal Authority will be meeting on Thursday, February 13<sup>th</sup> at 8:30 am for the consideration of façade grant application.
11. The Board of Zoning Appeals will be meeting on Tuesday, February 25<sup>th</sup> at 4:00 pm.
12. The Harrison County Mayors Association will be meeting on Wednesday, February 26<sup>th</sup> at 6:00 pm at Clarksburg City Hall. All council members from the county are welcome to attend any of the meetings.
13. Our Finance Department has been working with OpenGov and the Auditor's Office to extract our data from Incode to put in the proper format for Project Mountaineer, the State's free financial transparency program.
14. We have submitted our permit renewal for our NPDES (National Pollutant Discharge Elimination System). The renewal process occurs every five years. The permit establishes discharge limits and conditions for discharge from municipal wastewater treatment facilities.

#### **Police**

1. The drug house ordinance has been utilized by Police and Code Department to abate an issue on Duff Street.

#### **Economic Development**

1. EastPointe/NewPointe
  - a. Shogun is now open.
  - b. Burger IM is now open.
  - c. A ribbon Cutting for Jersey Mikes, 270 Emily Drive, will be held at 10:00 am on February 12<sup>th</sup>
  - d. Wal-Mart has begun some major remodeling with two (2) contracts therefore.
  - e. We have received the site plans for the new Kroger Building on Emily Drive.

#### **Events**

1. "Swinging with Sinatra" as presented by VTC Signature Series will take place Saturday

**UNFINISHED BUSINESS:**

**A. PUBLIC HEARING ON AN ORDINANCE OF THE CITY OF CLARKSBURG SETTING FORTH A PROPOSED AMENDMENT TO SECTION 5 OF THE CITY CHARTER TO INCLUDE TERM LIMITS FOR ALL MEMBERS SERVING UPON THE CLARKSBURG CITY COUNCIL**

Notices of the public hearing concerning the above captioned Agenda item appeared in the Clarksburg Exponent/Telegram on January 7<sup>th</sup>, 2020 and January 14<sup>th</sup>, 2020.

Before opening the Public Hearing, Mayor Kennedy informed the Clerk's Office has already received objections to all three (3) proposed Charter Amendments, therefore, regardless of who objects, or who doesn't here tonight, there will already be a vote two (2) weeks from now of wither to put them on the ballot. Assuming it passes, there will be a vote of the people on wither or not to adopt said ordinances on a date that's set as part of that vote.

Mayor Kennedy now declared the public hearing open with Mr. Harris of 151 Hall Street appearing before Council to provide his objections thereto.

Upon closing the public hearing, Mayor Kennedy informed there would be no Vote at this time.

**B. PUBLIC HEARING ON AN ORDINANCE OF THE CITY OF CLARKSBURG SETTING FORTH A PROPOSED AMENDMENT TO SECTION 37 OF THE CITY CHARTER TO CHANGE THE DATE OF CITY ELECTIONS TO THE SECOND TUESDAY IN MAY**

Notices of the public hearing concerning the above captioned Agenda item appeared in the Clarksburg Exponent/Telegram on January 7<sup>th</sup>, 2020 and January 14<sup>th</sup>, 2020.

Mayor Kennedy informed at this time as previously stated on above captioned agenda item now declared the public hearing open with Mr. Harris of 151 Hall Street appearing before Council expressing concern with regard to list of questions he provided to Council with no answers provide to him as of yet.

Mayor Kennedy closed the public hearing with no Vote at this time.

**C. PUBLIC HEARING ON AN ORDINANCE OF THE CITY OF CLARKSBURG SETTING FORTH A PROPOSED AMENDMENT TO THE CITY CHARTER TO INCLUDE SECTION 45: INITIATIVE AND REFERENDUM AND RECALL**

Notices of the public hearing concerning the above captioned Agenda item appeared in the Clarksburg Exponent/Telegram on January 7<sup>th</sup>, 2020 and January 14<sup>th</sup>, 2020.

Mayor Kennedy now declared the public hearing open with Mr. Hyman of 2207 Gould Avenue appearing before Council discussing Initiative and Referendum and Recall voicing support as such urging others to do the same.

Mayor Kennedy closed the public hearing with no Vote at this time.

**NEW BUSINESS:**

**A. CONSIDERATION OF FIRST READING OF AN ORDINANCE OF THE CITY OF CLARKSBURG PROVIDING FOR THE SALE OF REAL PROPERTY SITUATE AT 1401 ADAMS AVENUE, TAX MAP 8, PARCEL 156, IN COAL DISTRICT, IN THE CITY OF CLARKSBURG, HARRISON COUNTY, WEST VIRGINIA, AND DIRECTING THE CITY MANAGER TO EXECUTE AND DELIVER A DEED FOR THE SALE OF THE SAID REAL PROPERTY**

**MOTION** by Councilmember Ferrari, **SECONDED** by Councilmember Goff for approval of the above-captioned ordinance on first reading. **MOTION APPROVED UNANIMOUSLY.**

**B. CONSIDERATION OF FIRST READING OF AN ORDINANCE OF THE CITY OF CLARKSBURG PROVIDING FOR THE SALE OF REAL PROPERTY SITUATE AT 1439 FARLAND AVENUE, TAX MAP 6, PARCEL 130, IN COAL DISTRICT, IN**

**MOTION** by Councilmember Keith, **SECONDED** by Councilmember Goff for approval of the above-captioned ordinance on first reading. **MOTION CARRIED 6 TO 1** with Councilmember Junkins abstaining from the vote.

**D. CONSIDERATION OF FIRST READING OF AN ORDINANCE AMENDING ARTICLE 1327.04 (c) OF THE CODIFIED ORDINANCES OF THE CITY OF CLARKSBURG, AS THE SAME APPLY TO DEFINING AND REGULATING LIMITED VIDEO LOTTERY IN A B2, B3 AND CBD ZONES**

**MOTION** by Councilmember Ferrari, **SECONDED** by Councilmember Goff for approval of the above-captioned ordinance on first reading. **MOTION CARRIED 6 TO 1** with Vice Mayor Marino recusing himself due to owning property that would be subject to said agenda item as such.

**E. CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLARKSBURG EXPRESSING SUPPORT OF THE 2020 CENSUS AND ESTABLISHING A 2020 CENSUS CLARKSBURG COMPLETE COUNT COMMITTEE**

**MOTION** by Councilmember Malfregeot, **SECONDED** by Councilmember Junkins for approval of the above-captioned Resolution as presented. **MOTION APPROVED UNANIMOUSLY.**

**F. CONSIDERATION OF A RESOLUTION DECLARING THAT THE UNLAWFUL DISTRIBUTION OF PRESCRIPTION CONTROLLED SUBSTANCES HAS CREATED A PUBLIC NUISANCE FOR THE CITIZENS OF THE CITY OF CLARKSBURG**

**MOTION** by Councilmember Keith, **SECONDED** by Councilmember Ferrari for approval of the above-captioned Resolution as presented. **MOTION APPROVED UNANIMOUSLY.**

*Deviating from the Agenda.*

**COUNCIL COMMENTS:**

**Councilmember Malfregeot:** No comments at this time.

**Councilmember Ferrari:** Commented on the City Managers report regarding report from the Health Department regarding Vaping informing he was in favor of prohibiting Vaping requesting if Council is in agreement, they jointly submit a letter of support to the Health Department with Mayor Kennedy requesting to have this issue put on the next agenda for consideration.

**Councilmember Goff:** No comments at this time.

**Councilmember Keith:** Thanked everyone in attendance directing attention to Mr. Harris and the list of questions he submitted to Council apologizing for not answering any of them informing he understood his position and his frustration. He also thanked Mr. Hyman for his comments understanding his position also. He thanked the Interim City Manager at this time being happy with the City Manager Report and agenda tonight and all the things discussed such as Project Mountaineer, transparency for the citizens is very important, Charter Amendments, the importance of giving the power back to the people and also informing Mr. Harris that they would love to discuss his concerns. Lastly he feels Clarksburg needs to be open to moving forward with medical cannabis. It's an industry that he feels is going to be huge in this state. Thank you.

**Mayor Kennedy;**

Thanked everyone for attending the meeting and voicing their comments also informing why he wore his American flag tie tonight pointing out two different State Seals in support for both the First and Second Amendments both being implicated here tonight. One is for West Virginia and he has decided to show solidarity with our friends in the East, the common wealth of Virginia because of what their dealing with right now with their Second Amendment issues. He also wanted to take a moment to address one of the questions on the list Mr. Harris had submitted to council. We boarder Bridgeport and if you look at the past, we have got left behind because if you look back on decades of how Bridgeport has done compared to us. There is no reason why other than Clarksburg's government was historically dysfunctional so we are passing these amendments to help fix that and apparently Bridgeport, Fairmont, Charleston, Huntington, Keiser, Morgantown, Parkersburg, South Charleston and Wheeling are already doing this with no problems with trust issues and we certainly trust the citizens of Clarksburg.

**G. CONSIDERATION OF INTERVIEW OF CITY MANAGER**

**MOTION** by Councilmember Goff, **SECONDED** by Councilmember Ferrari to adjourn into Executive Session pursuant to Chapter 6, Article 9A, Section 4 of the West Virginia Code to discuss personnel matters and that the following persons be present: Mayor, Members of Clarksburg City Council, Interim City Manager and reserving the right to call other(s) into Executive Session, as necessary. **MOTION APPROVED UNANIMOUSLY.**

Concluding Executive Session, **MOTION** by Councilmember Ferrari, **SECONDED** by Councilmember Goff to reconvene into regular session. **MOTION APPROVED UNANIMOUSLY**

There being no further business to come before Council, **MOTION** by Councilmember Ferrari, **SECONDED** by Councilmember Goff to adjourn meeting. **MOTION APPROVED UNANIMOUSLY**

  
\_\_\_\_\_  
Ryan Kennedy, Mayor

2-20-2020  
\_\_\_\_\_  
Approved

  
\_\_\_\_\_  
Paula Hardman, Interim City Clerk

QUESTIONS/COMMENTS – PUBLIC HEARING ON FEBRUARY 6, 2020

1. How will the ordinances, with the possible exception of the change of the City election date, increase voter turnout?
2. Did any member of Council, prior to the first reading of the ordinances on 11/7/19, or thereafter, receive a request from any qualified voter or freeholder of the City for one or more of the ordinances? If so, which ordinances and how many requests as to each?
3. In the opinions of those members of Council who favor, and voted to adopt, the ordinances, why are the ordinances required/necessary and what ill or deficiency does each cure or address? Why, after many years, is each required?
4. What specific circumstances/occurrences from the past can those members of Council who voted to adopt the ordinances cite as the necessity for the ordinances or any of them?
5. Why do those members of Council who support the ordinances desire to delegate the Council's authority to govern the City to the qualified voters and freeholders of the City, i.e., the power to propose ordinances and to require the Council to reconsider adopted ordinances upon petitions of only 10% of qualified voters of the City and the power to cause the Council to schedule a special election to remove a Council member upon a petition signed by 20% of the qualified voters in which case the Council member shall be removed if a majority (only) of those voting in the special election favor removal - no matter how small the percentage of all the qualified voters that may be. (Note: If the Council were required to schedule a special election and if the voter turnout is equal to the typical turnout for a Council election (17%), then a Council member could be removed on a vote of only 8-1/2% - 9% (a majority of 51% of the votes for removal) no matter how small the actual number of qualified voters that number may be.
6. Did the Council review and consider other similar ordinances from other West Virginia municipalities? If so, how many and which municipalities?