

FEBRUARY 16, 2023

Prior to the regular session of Council held on Thursday, February 16, 2023, Council conducted a conference session at 5:30 p.m. at the Clarksburg Municipal Building, City Manager's Conference Room, 2nd Floor, 222 West Main Street, Clarksburg, West Virginia to review the meeting agenda as set forth hereinbelow with those Council members present therefor noted as well:

COUNCIL MEMBERS PRESENT:

Will Hyman
Gary Keith
Jim Malfregeot
Jerry Riffle
Wayne Worth
Vice Mayor Lillie Junkins
Mayor James Marino

AG: 23-09
<u>AGENDA</u>
CITY OF CLARKSBURG
AGENDA FOR REGULAR MEETING OF COUNCIL OF THE CITY OF CLARKSBURG TO BE HELD THURSDAY, FEBRUARY 16, 2023 AT THE CLARKSBURG MUNICIPAL BUILDING – COUNCIL CHAMBERS, 222 WEST MAIN STREET, CLARKSBURG, WEST VIRGINIA AT 6:00 P.M.
PRIOR TO THE REGULAR COUNCIL MEETING, COUNCIL WILL BE MEETING IN THE CITY MANAGER'S CONFERENCE ROOM AT 5:30 P.M. FOR A CONFERENCE SESSION (NOTE: THIS SESSION IS ALSO OPEN TO THE PUBLIC). IN ADDITION TO THE AGENDA, COUNCIL WILL HAVE THE OPPORTUNITY TO ASK QUESTIONS TO THE CITY MANAGER AND/OR ATTENDING STAFF.
ORDER OF BUSINESS
<ol style="list-style-type: none">1. ROLL CALL2. PRAYER (<i>to be given by Councilmember Hyman</i>) & PLEDGE3. PETITIONS, COMMUNICATIONS AND PUBLIC HEARINGS4. CITY MANAGER'S REPORT/UPDATE5. UNFINISHED BUSINESS:<ol style="list-style-type: none">A. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG AMENDING SECTIONS 5, 25, AND 38 OF THE CITY CHARTERB. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE REGARDING CHARTER AMENDMENTS AND ELECTIONS6. NEW BUSINESS:<ol style="list-style-type: none">A. CONSIDERATION OF A RESOLUTION TO SUBMIT A GRANT APPLICATION FUNDING REQUEST IN THE AMOUNT OF \$500,000 TO WEST VIRGINIA DEPARTMENT OF ECONOMIC DEVELOPMENT COMMUNITY ADVANCEMENT AND DEVELOPMENT DIVISION FOR FY 2022 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR WEST MAIN STREET SIDEWALK REPAIRSB. CONSIDERATION OF A RESOLUTION OF THE CITY OF CLARKSBURG, WEST VIRGINIA, FOR AGREEMENT WITH CENTRAL HOLDINGS L.L.C. REGARDING SIDEWALK REIMBURSEMENTC. CONSIDERATION OF A PETITION FILED BY STOCKMEIER URETHANES U.S.A., INC. REQUESTING THE ABANDONMENT OF PROGRESS WAY LOCATED IN THE BUSINESS AND TECHNOLOGY PARKD. CONSIDERATION OF THE USE OF \$500,000 OF THE ARPA FUNDS FOR PHASE V OF THE SANITARY BOARD'S LONG TERM CONTROL PLANE. DISCUSSION REGARDING CITY MANAGER APPLICANTS7. COUNCIL COMMENTS8. ADJOURNMENT

During the conference session, Interim City Manager Pulice reviewed the agenda with the following comments thereto: Mayor Marino inquired as to the agenda item regarding the ordinance for charter change and inquired if the same was supposed to be a special election. City Attorney Marsh referenced State Code wherein the same could be on the ballot as a special election or a regular election opining this to be a regular election. In response to questions raised by the Mayor and Vice Mayor, Mr. Marsh responded that the State Code discusses how the Charter can be severed

if it is not in compliance with State Code noting that the extended terms were in violation of the State Code and the Constitution. Mr. Marsh continued that we are using our powers to sever the same to satisfy third-party lenders. Mr. Marsh further stated that there will be a referendum on the ballot to resolve that Charter issue as to how we are going to remedy the same noting that the proposed changes to the charter amendments are in said ordinance. Mayor Marino inquired how the election was being noticed without the final adoption of the ordinance with Mr. Marsh noting that Council approved the resolution at the previous regular meeting allowing the City Clerk to move forward with the election process. Mr. Marsh remarked that if the ordinance is not passed tonight, there would be no election. Councilmember Worth noted that his amendment to address the 2019 Council as well as the 2021 Council terms was voted down. Councilmember Malfregeot commented that prior to the budget meeting, he believed the \$5,000 contribution for the historic cemetery be withdrawn at this time due to concerns related thereto.

At this time, the Clarksburg City Council met in REGULAR SESSION on February 16, 2023 at 6:00 P.M. at the Clarksburg Municipal Building – Council Chambers, 222 West Main Street, Clarksburg, West Virginia, with Mayor Marino presiding.

COUNCIL MEMBERS PRESENT:

Will Hyman
Gary Keith
Jim Malfregeot
Jerry Riffle
Wayne Worth
Vice Mayor Lillie Junkins
Mayor James Marino

ALSO PRESENT:

Steve Pulice, Interim City Manager
Richard Marsh, City Attorney
Annette Wright, City Clerk

Following roll call, the prayer was offered, and the pledge was led by Councilmember Hyman.

The following individuals appeared for petitions, communications and public hearings:

Daniel Phares, 235 East Main Street – addressed Council concerning an abandoned house and zoning. Mr. Phares stated that four years ago, a structure located on Quality Hill had been condemned and the property has been vacant at least ten years. Mr. Phares stated that he wanted his concerns noted for the record. Mr. Phares commented that he has been told that it would be looked at and informing that at one time, Dr. Lopez and his wife, requested a rezoning of their property which is located in the same area to allow for a business to sell cookies which was denied. Mr. Phares continued that on numerous occasions, he informed council about this property noting broken windows and trash thereon, further inquiring as to why property owners were not being held accountable. Mr. Phares remarked that it was beyond his understanding how the old McGlumphy Funeral Home was taken down before said structure. Mr. Phares added that he also wanted someone to get back to him regarding his concerns and that he wanted the concern regarding this property to be a priority. Mayor Marino informed Mr. Phares that he would direct the Interim City Manager to get with the Code Department for an update with Interim City Manager apprising Mr. Phares that he would be in touch with him.

Jayne Palumbo, 217 Buckhannon Avenue – appeared before Council concerning a new City Manager. Mrs. Palumbo remarked that there are a lot of rumors going around about the proposed City Manager appointee and stated that there are more qualified and educated applicants for the position. Mrs. Palumbo stated that with our last Council, it cost the City hundreds of thousands of dollars and opined that the citizens deserved better, and she did not want someone's friend who is not qualified to be the City Manager.

Brandon Siren, 109 Thompson Street – addressed Council concerning condemned houses and rising crime. Mr. Siren stated that he is hearing rumors that the demolition program is being dismantled and he has concerns due to the rise in crime rate and unsafe conditions in our community. Numerous calls have been made; testing has been done but the properties are not taken down. Mr. Siren opined that the patrol cars do not go down the back streets where the backpackers and drug houses are located. Mayor Marino informed Mr. Siren that he would have Interim City Manager Pulice follow up with the Code Department and Public Works and get back to him.

Michael Brown, 1324 Adams Avenue – addressed Council concerning the City Manager position. Mr. Brown opined that leadership was needed in the City Manager position to turn our City around noting the unfavorable remarks being made about the City and urged Council to exercise due diligence to move the City in the right direction.

Brad Morris, 1020 Oral Lake Road – also addressed Council concerning the City Manager position stating that he would like to see someone hired from outside of town that has experience in growing the City. Mr. Morris remarked that the City suffers from citizen apathy. Further, he would like someone who would listen to the citizens and build relationships therewith. With regard to the demolition program, Mr. Morris stated that he believed that the City’s demolition program was one of the best programs noting the difference the same makes in our communities.

LaDonna Lathon, 1515 N. 14th Street – appeared before Council concerning upcoming projects for youth in our area and diverse selections at the Robinson Grand. Ms. Lathon expressed her concern wherein there is very little for youth to do and inquired if there were any upcoming events or could there be some type of facility noting that the YMCA is not accessible for many. Also, Ms. Lathon requested something more diverse at the RG.

Chris Lane, 317 Buckhannon Avenue – Mr. Lane apprised that several months ago he and his family experienced their home being broken into while they were there. Mr. Lane provided a copy of a letter to Council and also opined that the police report did not contain various details. Also, Mr. Lane noted the discussions about a City Manager noting that Council has presided over five Managers which included three interims remarking on concerns with Council leadership. Mr. Lane expressed concern with lack of communication as well as the City’s failure to respond to citizen concerns in a timely manner. Mayor Marino informed Mr. Lane that he would have Interim City Manager Pulice get back to him as soon as possible regarding his concerns.

Tommy Lopez, 307 Spring Avenue – appeared to discuss streets. Mr. Lopez revisited some of the issues previously raised regarding the storm drain concerns in his neighborhood; noted the presence of Board of Education President Gary Hamrick, opining on the City’s need for involvement with the school system and asked Council to participate in School Board meetings. With regard to the City Manager position, Mr. Lopez remarked that Council needed to hold off and allow the new Council to fill this position.

AGENDA ITEM NO. 4: CITY MANAGER’S REPORT/UPDATE
Manager’s Report
February 16, 2023

MANAGER’S OFFICE:

1. The City of Clarksburg was the host for the recent Mayors Association meeting held on February 8th. Thanks to our City Clerk and Public Works for showcasing our facilities here at City Hall.
2. Economic Development would like to recap the week, 2/15 – WV Entrepreneur meeting, 2/16 – “Swing the Sledgehammer” Hilton Garden Inn, CDBG Sidewalk Meeting #2.

POLICE DEPARTMENT:

1. Four new officers are in their third week of training at the WV State Police Academy.
2. Background investigations are continuing for new applicants for the police department.
3. The police department would like to warn motorists to be aware of icy spots on roadways early in the morning while traveling.

CITY PARKS:

1. Splash Zone – an online meeting will be held on March 1st to discuss waterslide improvements. Applications are being accepted and interviews scheduled for new staff.
2. Salem University will be constructing a storage building and Frank Loria field in the future, at no cost to the Board.
3. Maintenance on mowers, trimmers and tractors has been completed at City Park and is in progress at Veteran’s Park.

WASTEWATER TREATMENT PLANT:

1. The DEP will be on site Thursday, February 23rd for our annual LAB audit and while on site they will complete a final walk through of the plan for the Phase IV Upgrade.
2. Plans for the Phase V Upgrade have been submitted for funding.

FIRE DEPARTMENT:

1. The Fire Department would like to welcome Probationary FF Jonathan Curry. FF Curry was appointed on February 1st to replace Lt. Jeff Rogers who retired in January after 26 years of service.
2. Firefighters are continuing with their EMR classes and should complete them sometime during the first week of March.

ROBINSON GRAND PERFORMING ARTS:

1. To celebrate Black History Month, the Robinson grand showed the moved “Black Panther.” The musical “Cross the River” is taking place this evening for the public and tomorrow morning for local schools. “Forever Tina” – a Tina Turner tribute will take place on February 25th.
2. Several new events are in the pipeline and will be released over the next few weeks.
3. Event information and tickets are available at [tickets>therobinsongrand.com](https://tickets.therobinsongrand.com).

CODE ENFORCEMENT:

1. Code Enforcement issued 29 building permits for total job cost of \$790,687.14, 14 NOV’s, 0 citations, 4 condemnation orders, 19 inspections, 32 animal control complaints, 8 property checks to clear vagrants.
2. Patrol area checks resulted in 13 entry letters, 6 vehicles tagged and 7 yellow tags on doors.

FINANCE DEPARTMENT:

1. B&O tax - \$648,798.62, police citations - \$3,238.00, building permit fees - \$10,134.00, Board-Ups - \$400.00, Vacant property registration - \$1,000.00, Fire Service fees - \$175,685.39, Payment agreements - \$555.00. Demo payments - \$5,923.97, New business licenses – 5.

PUBLIC WORKS DEPARTMENT:

1. Demo’s on 532 & 535 S. Chestnut Street.
2. Litter pickup along Emily Drive and cut the brush back.
3. Boarded up 2 NOV houses.
4. Painted yellow in NV, Broadway and Monticello Ave.
5. Installed 600 feet of pipe repairing laterals, 15 sewer calls all being private, installed new pump in the Armory lift station.

END OF REPORT

UNFINISHED BUSINESS:

A. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG AMENDING SECTIONS 5, 25, AND 38 OF THE CITY CHARTER

City Clerk Wright announced that notices regarding the public hearing on the above-captioned ordinance appeared in *The Exponent Telegram* on February 7, 2023 and February 14, 2023. Mayor Marino declared the public hearing open with no one appearing therefor. **MOTION** by Councilmember Malfregeot, **SECONDED** by Councilmember Riffle for approval of the above-captioned ordinance on second and final reading. Under discussion, Mayor Marino opined that this matter should be addressed by the Court. (*Mayor Marino read an anonymous letter aloud and requested the same to be made a part of the record; however, anonymous communications are not to be introduced to Council*). **MOTION CARRIED 5-2 with Vice Mayor Junkins and Mayor Marino casting the dissenting votes.**

B. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE REGARDING CHARTER AMENDMENTS AND ELECTIONS

City Clerk Wright announced that notices regarding the public hearing on the above-captioned ordinance appeared in *The Exponent Telegram* on February 7, 2023 and February 14, 2023. Mayor Marino declared the public hearing open with Chris Lane appearing therefor stating that the concern was that the amendment included the Council term extension which the Secretary of State’s office has opined such to be against the Constitution. Mr. Lane noted the Water Board’s project to address lead concerns and the risk to public health if the same was not addressed. Mr. Lane opined that the fight regarding the term extension is not worth the risk of the quality of life to the citizens and that it was disappointing not see a unanimous vote. There being no other citizens

wishing to speak for the public hearing, the same was closed. **MOTION** by Councilmember Malfregeot, **SECONDED** by Councilmember Riffle for approval of the above-captioned ordinance on second and final reading. Under discussion, Vice Mayor Junkins remarked that nothing underhanded was done concerning the amendments noting the term limits and recall and referendum that was also on the ballot. Vice Mayor Junkins continued that the year extension was not for her advancement. Mayor Marino commented that the City Attorney wrote the Charter amendments and that if there was a mistake therewith that he would run again and win as he wanted Council to be held accountable. Councilmember Riffle stated that although he did not believe the 2019 term extension was to allow for an additional year, he noted the importance of the Water Board project and the same could not be risked. Mayor Marino added that the Secretary of State's Office opined that neither the 2019 nor the 2021 Council could extend their terms and now this only pertains to the 2019 Council with Councilmember Riffle pointing out that the Mayor voted against the same applying to the 2021 Council. *(With interruptions and comments being made, Councilmember Worth called for Point of Order)*. Councilmember Keith remarked that he did not like going against the voters but informed that he had a call from the City Attorney stating that the Ethics Commission has offered himself and the Mayor a deal wherein they would pay \$1,000, admit to the violation and the same would be done. Councilmember Keith remarked that at some point Council needed to look at this matter and note the mistake and that Council has to do what is right for the Water Board and for the citizens. Addressing the lead pipes is more important than fighting for another year, remarked Councilmember Keith. Councilmember Worth commented that he believed that the action taken this evening maintains the intent of the Charter amendments and unfortunately, mistakes are made that have to be fixed. Vice Mayor Junkins commented that she was advised by the City Attorney, who wrote the Charter amendments, that he could defend it. Councilmember Malfregeot concurred with Councilmember Hyman as to this being the biggest project in the State and it didn't make any difference to him if he had another year noting the importance of the project for the people. Mayor Marino remarked that the Water Board had relief by filing an injunction stating that he wanted an authority figure to make Council do what was right and not just an opinion. **MOTION CARRIED 5-2 with Vice Mayor Junkins and Mayor Marino casting the dissenting votes.**

NEW BUSINESS:

A. CONSIDERATION OF A RESOLUTION TO SUBMIT A GRANT APPLICATION FUNDING REQUEST IN THE AMOUNT OF \$500,000 TO WEST VIRGINIA DEPARTMENT OF ECONOMIC DEVELOPMENT COMMUNITY ADVANCEMENT AND DEVELOPMENT DIVISION FOR FY 2022 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR WEST MAIN STREET SIDEWALK REPAIRS

MOTION by Councilmember Malfregeot, **SECONDED** by Councilmember Hyman for adoption of the above-captioned matter. Under discussion, Councilmember Hyman informed that he was the only one in attendance at the public hearing and hoped that he would see other council members thereat in the future. **MOTION APPROVED UNANIMOUSLY.**

B. CONSIDERATION OF A RESOLUTION OF THE CITY OF CLARKSBURG, WEST VIRGINIA, FOR AGREEMENT WITH CENTRAL HOLDINGS, L.L.C. REGARDING SIDEWALK REIMBURSEMENT

MOTION by Vice Mayor Junkins, **SECONDED** by Councilmember Keith for adoption of the above-captioned resolution. Councilmember Hyman thanked the City Attorney for the preparation of this resolution noting the transparency benefit thereof. **MOTION APPROVED UNANIMOUSLY.**

C. CONSIDERATION OF A PETITION FILED BY STOCKMEIER URETHANES U.S.A., INC. REQUESTING THE ABANDONMENT OF PROGRESS WAY LOCATED IN THE BUSINESS AND TECHNOLOGY PARK

MOTION by Councilmember Keith, **SECONDED** by Councilmember Worth to refer the above-captioned petition to Planning & Zoning. **MOTION APPROVED UNANIMOUSLY.**

D. CONSIDERATION OF THE USE OF \$500,000 OF THE ARPA FUNDS FOR PHASE V OF THE SANITARY BOARD'S LONG TERM CONTROL PLAN

MOTION by Councilmember Hyman, **SECONDED** by Councilmember Worth for approval of the above-captioned matter. **MOTION APPROVED UNANIMOUSLY.**

(deviating from the agenda)

COUNCIL COMMENTS:

Councilmember Riffle:

Thanked those who spoke this evening commenting that Council has so many things to fix but we waste so much time; commented on the importance of the youth and the Zombie law; apologized to all for Council “dropping the ball.” Councilmember Riffle said that Council is their own worst enemy and that Council could keep arguing or get back to work.

Councilmember Worth:

Remarked that things were not perfect in the City as there are a lot of opportunities but also a lot of challenges; stated that in work sessions they would be talking about demolitions, the prioritization of the list, etc.

Mr. Phares, who spoke earlier, inquired as to the process for the property he raised concerns, with Mayor Marino assuring him that said property would be placed on the priority list and we would let him know.

Mr. Lane, who also spoke earlier, remarked that seven months ago, Council made the same promise to the residents of Spring Avenue.

Continuing, Councilmember Worth informed that there has been talk about a land reuse agency; with regard to the Board of Education, remarked that he would love to have a school within the natural boundary of the city; apologized to the Spring Street residents for not looking into this further and suggested to Council that they discuss the same at a work session; expressed pleasure in seeing ARPA funds dedicated to infrastructure.

Councilmember Keith:

Thanked everyone for attending; regarding the house on East Main Street, apologized for not following up on the same. Remarked that demolitions were quite expensive and opined that the process should be overhauled; expressed his disappointment in the handling of the City Manager position opining the same to be unprofessional; advised that the person of interest has now backed out because of the drama.

Councilmember Malfregeot:

Reminded all that if they see something to say something; with regard to the concerns raised regarding Spring Avenue, Councilmember Malfregeot stated that he is not an engineer, but the photos taken by Councilmember Hyman, illustrate that there appears to be a problem that will have to be addressed; thanked all for attending.

Councilmember Hyman:

Remarked that he would like to see something for the youth, as well; with regard to schools, stated that he did not know what the City could do but he would like to sit down for a discussion with all parties; advised that he drove over to Spring Avenue during the rain and noted that there is a concern and that a resolution needed to be discussed shortly; commented that while he supported all the Charter amendments, he recognized the facts and issues concerning the same and added that he believed the intent of the voters

will remain in tact as the elections will be moved, there will be term limits; commented that he did not agree about fighting the issue in court; noted the public hearing held today for the \$500,000 investment for our City sidewalks and he was the only one in attendance; concurred with Councilmember Keith regarding the City Manager situation and noted that no formal offer had been made and advised that he prepared some contracts for the remaining applicants adding that he hoped that the matter could be discussed politely as Council has been working on this for ten months and that Council has had plenty attempts to find someone that met the requirements but did not.

Vice Mayor Junkins:

Remarked that she did not feel like this was drama but rather accountability and that they were elected to stop such shenanigans from happening and encouraged the public to keep speaking.

Mayor Marino:

Remarked that there were two qualified applicants for the City Manager position; concurred with Vice Mayor Junkins regarding accountability; opined that in 2019 this City was ready to go down the toilet and that they have cleaned up a lot of issues; added that Council could not go in the backroom and do anything they wanted noting the requirements of the City Manager position ad; remarked that we needed to get away from the “good old boy” system and not hire friends contributing such to be the reason the City is in the shape it is in; also remarked that we needed a City Manager on board as soon as possible.

E. DISCUSSION REGARDING CITY MANAGER APPLICANTS

MOTION by Councilmember Hyman, **SECONDED** by Vice Mayor Junkins to adjourn into Executive Session pursuant to Chapter 6, Article 9A, Section 4 of the West Virginia Code to discuss personnel issues and that the following persons be present: Mayor, Members of City Council and the City Attorney. Under discussion, Councilmember Keith opined that Council should not go into Executive Session but rather discuss the same in open meeting. Councilmember Worth remarked that after Executive Sessions, much information is made known and he, too, would be voting against the Executive Session. Councilmember Malfregeot remarked that Council was “too heated” this evening to go into Executive Session. **MOTION DEFEATED 4-3 with only Councilmember Hyman, Vice Mayor Junkins and Mayor Marino voting therefor.**

Concluding much confusion, as well as votes on the adjournment of said meeting failing to pass, eventually **MOTION** by Councilmember Riffle, **SECONDED** by Councilmember Worth to adjourn. The meeting was adjourned.

Mayor James Marino

Approved: March 2, 2023

Annette Wright, City Clerk