

## APRIL 20, 2023

Prior to the regular session of Council held on Thursday, April 20, 2023, Council conducted a conference session at 5:30 p.m. at the Clarksburg Municipal Building, City Manager's Conference Room, 2<sup>nd</sup> 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: 23-18a

### **AMENDED AGENDA**

#### CITY OF CLARKSBURG

AGENDA FOR REGULAR MEETING OF COUNCIL OF THE CITY OF CLARKSBURG TO BE HELD **THURSDAY, APRIL 20, 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

1. ROLL CALL
2. PRAYER *(to be given by Vice Mayor Junkins)* & PLEDGE
3. PROCLAMATION PRESENTATION: APRIL – “SEXUAL ASSAULT AWARENESS MONTH” – RECOGNIZED BY HOPE, INC.
4. APPROVAL OF MINUTES:
  - CONFERENCE (WORK) SESSION – MARCH 8, 2023
  - REGULAR SESSION – APRIL 6, 2023
5. PETITIONS, COMMUNICATIONS AND PUBLIC HEARINGS
6. CITY MANAGER'S REPORT/UPDATE
7. UNFINISHED BUSINESS:
  - A. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CODIFIED ORDINANCES
  - B. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG TO AMEND SECTION 745 TO ADD A TAX CREDIT FOR CERTAIN NEW RETAIL BUSINESS LOCATION WITHIN THE CENTRAL BUSINESS DISTRICT
  - C. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG TO CREATE SECTION 115.16 – RULES OF ATTENDANCE FOR COUNCIL MEMBERS
8. NEW BUSINESS:
  - A. CONSIDERATION TO AWARD BID TO OHIO-WEST VIRGINIA EXCAVATING CO. FOR THE LOW BID OF \$293,545.75 AND FOR BOTH OF THE ADDITIVE ALTERNATIVE BIDS OF \$219,665.25 AND \$220,175.00 FOR A TOTAL OF \$733,386.00 WITH A 10% CONTINGENCY FOR THE LIBERTY AVENUE/WINDING WAY SLIP
  - B. CONSIDERATION OF A RESOLUTION TO EXTEND AN OFFER OF EMPLOYMENT FOR THE POSITION OF CITY MANAGER
  - C. CONSIDERATION OF APPROVAL OF THE ANNUAL REPORTS FOR THE FISCAL YEAR ENDING JUNE 30, 2022 FOR THE POLICEMEN'S AND FIREMEN'S PENSION
  - D. CONSIDERATION OF APPOINTMENTS TO THE PLANNING & ZONING COMMISSION
9. COUNCIL COMMENTS
10. ADJOURNMENT

During the conference session, Chief Kiddy (filling in for the Interim City Manager) reviewed the agenda and provided updates to the City Manager's Report. On behalf of the City

Clerk's office, Chief Kiddy informed of the requirement for disclaimers on campaign signs and printed materials.

At this time, the Clarksburg City Council met in REGULAR SESSION on Thursday, April 20, 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:**

Police Chief Mark Kiddy  
Richard Marsh, City Attorney  
Annette Wright, City Clerk

Following roll call, the prayer was offered, and the pledge was led by Vice Mayor Junkins.

PROCLAMATION PRESENTATION: APRIL – “SEXUAL ASSAULT AWARENESS MONTH” – RECOGNIZED BY HOPE, INC. – Vice Mayor Junkins presented representatives of HOPE, Inc. with the above-referenced proclamation.

**MOTION** by Councilmember Malfregeot, **SECONDED** by Councilmember Hyman for approval of the minutes of the conference (work) session of Council held on March 8, 2023. **MOTION APPROVED UNANIMOUSLY.**

**MOTION** by Councilmember Hyman, **SECONDED** by Councilmember Malfregeot for approval of the minutes of the regular session of Council held on April 6, 2023. **MOTION APPROVED UNANIMOUSLY.**

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

**Chris Lane** – stated that it is coming up on a year since Council was apprised of the issues on Spring Avenue and he still has not heard any definite answer on what was being done to resolve the issues. Mr. Lane explained that he was frustrated with the City not taking any action to address the same.

**Rev. Carl Radcliff**, 925 N. 14<sup>th</sup> Street – addressed Council concerning the Notices of Violation which he received for parking RVs, campers, trailers on grass and/or gravel. Rev. Radcliff informed that he has parked his camper at his residence since 1972 and opined that this requirement would affect many residents and suggested that the ordinance be revisited.

**AGENDA ITEM NO. 5:      **CITY MANAGER'S REPORT/UPDATE****

**Manager's Report  
April 20, 2023  
Submitted by Steve Pulice**

**ECONOMIC DEVELOPMENT:**

1. There is an upcoming ribbon cutting for Elwoods Pizzeria in Glen Elk scheduled for April 24<sup>th</sup> at 11:00 a.m.
2. This week staff has been updating URA property sales methods to establish best sales prices for city owned parcels, drafting zoning language related to micro distillery and micro brewing land uses, and will be touring Agama Glass facilities on Wednesday, April 19<sup>th</sup>.

**POLICE DEPARTMENT:**

1. The Police Department will again be assisting with the DEA National Drug Take Back Program on Saturday, April 22, 2023, from 10:00 a.m. until 2:00 p.m. at the rear parking lot of City Hall, Walgreens at Rosebud Plaza and Walmart on Emily Drive. Citizens can dispose of unwanted prescription medications.
2. Four new officers will be graduating on May 12<sup>th</sup> from the WV State Police Academy.

3. The department is in the final stages of completing a civil service hiring list for police officers. Future testing dates will be forthcoming to compile a new hiring list.

#### **CITY PARKS:**

1. The Park Board is awaiting official notification of the Pickleball Court grant and once that is received, a meeting with the Thrasher Group will be held to develop bid packages and proceed with the project.
2. The Recreating Coordinator has been certified to instruct lifeguards and five staff members have been registered for the certified pool operators class in April.
3. "38 Special" will be the first show this year at the AMP on June 9<sup>th</sup>. Tickets went on sale last week with 1,143 tickets sold to date.

#### **WASTEWATER TREATMENT PLANT:**

1. #1 Main Raw Pump Update – Waiting on additional parts needed for repair of pump. The expected ship date of those parts is in July 2023.
2. We have set up with Pace Analytical testing for PFAS/PFOS. Once we start to receive results, we will be able to plan on how to treat the PFAS/PFOS in our system.
3. The Sanitary Board has posted an RFP looking for a law firm to provide services to the Sanitary Board. The RFP will run in The Clarksburg Exponent, Dominion Post, Wheeling Intelligencer and the Charleston Gazette Sunday papers. The last day for submission is April 27<sup>th</sup>.
4. On April 26<sup>th</sup> at 10:00 a.m. in Council Chambers, there will be a signing with the West Fork Co-op and the Sanitary Board.

#### **FIRE DEPARTMENT:**

1. The month of April is Spring cleanup for all stations and apparatus.
2. Two new firefighters have started in the month of April. Please welcome Arden Fox and Scott Bexfield.
3. The Fire Department assisted with two Narcan distributions in April.

#### **ROBINSON GRAND PERFORMING ARTS:**

1. Several ticketed events remain for April and one theater rental as well as Pierpont Health Sciences Pinning Ceremony and Salem University graduation.

#### **CODE ENFORCEMENT:**

1. Code Enforcement issued 37 building permits for a total job cost of \$528,350, 31 NOV's, 5 citations, 7 reboards, 26 inspections, 65 animal control complaints, 37 see, click, fix inspections, 22 campers tagged, 15 boats tagged, 14 vehicles tagged.
2. All vacant and condemned properties are now being inspected at least once a week to ensure they are secure by Code Officials and routine follow up checks are conducted by the Police Department late at night as well.

#### **PUBLIC WORKS DEPARTMENT:**

1. Demo properties at 401 E. Pike and 356 S. 22<sup>nd</sup> Street.
2. Compost has received 29,860 pounds of debris and has sold 113,650 pounds of compost.
3. Started painting street light poles around town, renewed yellow in WI NV and Hartland areas.

#### **FINANCE DEPARTMENT:**

1. 2023 quarter 1 sales & Use Tax collections is \$1,272,249.39. This is an increase of nearly 7.7% from last year quarter 1.
2. Completed the closeout process for the small venue operator's grant received by the RGPAC in the amount of \$709,685.96 for the time period March 2020 through June 2022.

#### **END OF REPORT**

#### **UNFINISHED BUSINESS:**

#### **A. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CODIFIED ORDINANCES**

The City Clerk announced that notices regarding the public hearing on the above-captioned matter appeared in *The Exponent Telegram* on April 11, 2023 and April 18, 2023 with Mayor Marino then declaring the public hearing open. There being no one to speak therefor, the public hearing was closed. **MOTION** by Councilmember Malfregeot, **SECONDED** by Councilmember Keith for approval of the above-captioned ordinance on second and final reading. **MOTION APPROVED UNANIMOUSLY.**

**B. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG TO AMEND SECTION 745 TO ADD A TAX CREDIT FOR CERTAIN NEW RETAIL BUSINESS LOCATION WITHIN THE CENTRAL BUSINESS DISTRICT**

With notices regarding the public hearing on the above-captioned matter advertised as previously stated by the City Clerk, Mayor Marino opened the public hearing. Chris Lane, appearing therefor, provided Council with an email from the proposed brew pub requesting a ten-year tax break and remarking that for many years it seems like businesses have been leaving Clarksburg. Mr. Lane remarked on the growth in Harrison County and the lack thereof in downtown noting the need for the City to offer an incentive to entice businesses to locate. There being no one else wishing to speak for the public hearing, the same was closed. **MOTION** by Councilmember Malfregeot, **SECONDED** by Councilmember Keith to **TABLE** the above-captioned matter. Concluding discussion regarding a proposed amendment to the ordinance, as well as **MOTION** to amend the ordinance to a 100% tax break for ten years and **SECONDED** by Councilmember Malfregeot, which **MOTION failed 5-2 with only Councilmembers Keith and Malfregeot in favor thereof**, Council was ultimately in agreement to table the matter and discuss the same at a future work session. **MOTION TO TABLE APPROVED UNANIMOUSLY.**

**C. CONSIDERATION OF SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG TO CREATE SECTION 115.16 – RULES OF ATTENDANCE FOR COUNCIL MEMBERS**

**MOTION** by Councilmember Hyman, **SECONDED** by Councilmember Keith for approval of the above-captioned ordinance. **MOTION APPROVED 5-2 with Vice Mayor Junkins and Mayor Marino casting the dissenting votes.** (*Note: public hearing was not recognized*).

**NEW BUSINESS:**

**A. CONSIDERATION TO AWARD BID TO OHIO-WEST VIRGINIA EXCAVATING CO. FOR THE LOW BID OF \$293,545.75 AND FOR BOTH OF THE ADDITIVE ALTERNATIVE BIDS OF \$219,665.25 AND \$220,175 FOR A TOTAL OF \$733,386.00 WITH A 10% CONTINGENCY FOR THE LIBERTY AVENUE/WINDING WAY SLIP**

**MOTION** by Councilmember Hyman, **SECONDED** by Councilmember Malfregeot to award the above-referenced bid to Ohio-West Virginia Excavating Co. in the amounts as specified hereinabove for the Liberty Avenue/Winding Way slip. **MOTION APPROVED UNANIMOUSLY.**

*(Deviating from the agenda)*

**C. CONSIDERATION OF APPROVAL OF THE ANNUAL REPORTS FOR THE FISCAL YEAR ENDING JUNE 30, 2022 FOR THE POLICEMEN'S AND FIREMEN'S PENSION**

**MOTION** by Councilmember Malfregeot, **SECONDED** by Councilmember Keith for approval of said annual reports for the Policemen's and Firemen's Pension. **MOTION APPROVED UNANIMOUSLY.**

**D. CONSIDERATION OF APPOINTMENTS TO THE PLANNING & ZONING COMMISSION**

**MOTION** by Councilmember Hyman, **SECONDED** by Councilmember Malfregeot to appoint C. David McMunn and Chris Lane to the Planning & Zoning Commission. **MOTION APPROVED UNANIMOUSLY.**

*(Returning back to the agenda for consideration of Item 8B):*

**B. CONSIDERATION OF A RESOLUTION TO EXTEND AN OFFER OF EMPLOYMENT FOR THE POSITION OF CITY MANAGER**

**MOTION** by Councilmember Hyman, **SECONDED** by Councilmember Riffle for adoption of the above-captioned resolution. Under discussion, Mayor Marino commented that this has been a huge issue for the City noting the process that has taken place since the departure of former City Manager Harry Faulk. **MOTION APPROVED UNANIMOUSLY.**

**MOTION** by Councilmember Riffle, **SECONDED** by Councilmember Malfregeot to reconsider Agenda Item 8B to name the candidate selected to fill the position of City Manager. **MOTION TO RECONSIDER APPROVED UNANIMOUSLY.**

**MOTION** by Councilmember Malfregeot, **SECONDED** by Councilmember Hyman that said employment offer for City Manager be extended to Tiffany Fell. **MOTION APPROVED UNANIMOUSLY.**

**COUNCIL COMMENTS:**

Councilmember Malfregeot: Reminded all that if they see something to say something; reminded all candidates to include disclaimers on their printed campaign materials; noted May 5<sup>th</sup> for First Friday event.

Councilmember Riffle: Welcomed our two new firefighters; thanked Rev. Radcliff for attending this evening and expressing his concerns and concurring that this is something that the Code Department needs to look into further; expressed his pleasure in the City Manager search being done opining that the process took way too long and that he looked forward to getting back to work.

Councilmember Worth: Thanked the three council candidates in attendance this evening for coming to the meeting; expressed appreciation to Mr. Radcliff for addressing Council this evening and suggested that the matter be reviewed further at a future work session. With regard to Spring Avenue, he, too, would like to find a resolution, as well, and suggested this matter be on a future work session along with the tax incentive ordinance; also expressed his pleasure in the hiring of the new City Manager.

Councilmember Keith: Expressed apologies to Mr. Lane for the number of times he has had to address Council concerning the Spring Avenue matter. Concurred with Mr. Radcliff that the no parking on gravel/grass ordinance needed to be reviewed; congratulated the four new officers who will be graduating from the Academy, as well as the new firefighters; recognized candidates Hattie Wright, Marc Jackson and Martin Howe for attending the meeting; noted his position regarding the tax incentive and encouraging the same to entice businesses to locate downtown; welcomed Tiffany Fell to the City.

Councilmember Hyman: Also noted Mr. Lane's frustration; addressed Mr. Radcliff remarking that Code Enforcement does do a good job but questioned the priority of issues such as these when there is major slum and blight throughout the City and stated that he hoped that Council could come together and amend said ordinance; noted the need to get creative regarding tax incentives to entice businesses to locate downtown; and also noted the First Friday event on May 5<sup>th</sup>.

Vice Mayor Junkins: Concurred with many of the remarks of Councilmember Hyman; commented on the difficulty for Code Enforcement to not enforce ordinances on the books and also concurred that there were bigger problems; expressed that she disagreed with Mr. Lane stating that she believes that the City has been extremely responsive with Chief Kiddy adding that the City

has not received anything back since the last work session in order to report to anyone. With regard to the tax incentive ordinance, stated that there is a process and she did not believe that Council should operate in a “knee jerk” manner; however, expressed support to attract business downtown. She informed the candidates that were present that she was glad to see them here and noted the upcoming First Friday event.

Mayor Marino:

Expressed appreciation to Rev. Radcliff for making his concerns known this evening stating that it is much more complicated than it appears to be and that Code Enforcement treats everyone equally and that his concerns with the ordinance could be discussed at a work session; addressed Mr. Lane stating that he relies on the professionals and that once the report was received it would be made available; remarked that he did not know how we could make tax incentives without the input of the Finance Director and noted the issue for a work session. The Mayor remarked that the City Manager position was very important and that they worked together to get the best person and he was looking forward to her arrival with a start date in June.

There being no further business to come before Council, **MOTION** by Councilmember Hyman, **SECONDED** by Councilmember Riffle for adjournment. **MOTION APPROVED UNANIMOUSLY.**

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Mayor James Marino

Approved: May 4, 2023

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Annette Wright, City Clerk