

January 14, 2020

The regular meeting of the City Council of the City of Fairmont was held at 7:00 p.m. on the 14th day of January, 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
Second District	Frank G. Yann
Third District	Karl (David) Kennedy
Fourth District	Kenneth (Brad) Merrifield
Fifth District	Barry H. Bledsoe
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
City Attorney	Kevin Sansalone
City Clerk	Janet L. Keller
Fire Chief	Ed Simmons
Police Chief	Steve Shine
City Planner	Mark Miller
Marketing Director	Hanna Turner
Program Manager	Alex Petry

IN RE: OPENING CEREMONIES

Bob Pirner gave the invocation followed by the Pledge of Allegiance to the Flag led by Councilmember Blood.

APPROVAL OF MINUTES

Mayor Merrifield noted that each member of Council had received a copy of the minutes from the Regular Meeting held on December 17, 2019.

The Mayor moved to approve the minutes as submitted. The motion was seconded by Councilmember Mainella.

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

IN RE: PROCLAMATION S PRESENTED

The Mayor presented two proclamations to Alexa Raymond with Hope, Inc. The proclamations proclaimed the month of January as “Human Trafficking Awareness and Prevention Month” and “Stalking Awareness Month”.

IN RE: FAIRMONT’S HISTORY

The Mayor read an article celebrating the birth of Fairmont from the WV Encyclopedia. He read the following: “Fairmont is located in north-central West Virginia, where the West Fork and Tygart Valley rivers join to form the Monongahela. Fairmont was established by the Virginia legislature on January 19, 1820, on the farm of Boaz Fleming. It became the county seat when Marion County was created in 1842. The original name of Middletown was changed to Fairmont in 1843”. He said that no matter what date we use as the birth of Fairmont, it doesn’t change the beauty of it. Fairmont is a grand place and he was glad to be celebrating no matter what the year.

PUBLIC HEARINGS

IN RE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT PROVIDING FOR AND AUTHORIZING THE PURCHASE OF THOSE CERTAIN PARCELS OF REAL ESTATE SITUATE IN THE CITY OF FAIRMONT, FAIRMONT DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING PARCELS 94 AND 95 OF MARION COUNTY TAX MAP 3-1, AND MORE PARTICULARLY DESCRIBED IN THAT CERTAIN DEED DATED NOVEMBER 2, 1995, AND OF RECORD IN THE MARION COUNTY CLERK’S OFFICE IN DEED BOOK 929, AT PAGE 814 FROM HALLWOOD, L.C., A VIRGINIA LIMITED LIABILITY COMPANY; RATIFICATION

Pursuant to a notice duly published in the Times-West Virginian on December 23, 2019, a public hearing was convened to obtain citizen input on a proposed ordinance authorizing the purchase of Parcels 94 and 95 of Tax Map 3-1 from Hallwood, L.C. (gravel parking lot at the corner of Adams Street and Monroe Street).

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

Ms. Means spoke in favor of this proposed ordinance. She said that this ordinance is an important part of what we are trying to do in our downtown and it also will help to complete one of Mayor and Council’s goals.

There being no one else to speak, the public hearing was called to a close at 7:13 p.m.

ANNOUNCEMENTS

IN RE: EAST SIDE DEVELOPMENT

Councilmember Yann mentioned that the development on East Side on Front Street, Mr. Fantasia and the Association made their first sale.

IN RE: COUNCILMEMBER KENNEDY 'S COMMENTS ON SOCIAL MEDIA

Councilmember Yann said that the elephant in the room seems to be, he does not fool with social media but people send him things and he overlooks them but when they are personal to him, but a remark about his wife, then he has to say something especially when the person doesn't know, has not met and are not aware of the accomplishments of this lady which is the Chair of the Board of Governors at FSU. If you sat down with anyone in the area and in the State of WV, you will realize the accomplishments that she has had and she has done in this State with no regard for any recognition.

Councilmember Mainella stated that he sincerely hopes that this Council is not judged or this City is not judged by the inflammatory, vehement remarks Councilmember Kennedy has been putting on social media. He said there are eight of us who are good people who care about the future of this City and want to leave it a better place than we found it and he really hopes that nobody associates the eight of us good people with this guy right here (pointing to Councilmember Kennedy).

Councilmember Blood said this is a sad day for us. She read a letter that she received from one of our citizens who could not attend tonight's meeting. She noted that she articulates her thoughts as well. "My name is Jennifer **Trippett**. I reside at 107 Rosewood Avenue in Fairmont and I have lived in Fairmont for most of my life. I am writing to express my concern regarding some extremely disturbing comments posted on Facebook by Councilmember David **Kennedy**. His wanton disregard for decency and decorum is troubling to say the least. Mr. Kennedy has repeatedly used discriminatory invective on social **media**. His harmful language is not only hurtful to residents of our community it is detrimental to the welfare of our community as a **whole**. From our potential to recruit and retain population to our ability to attract businesses, Mr. Kennedy's disgusting words jeopardize our culture and our **reputation**. We are better than that. I urge the other members of City Council to publicly denounce Mr. Kennedy's behavior. I urge you to consider adopting a Code of Conduct for Councilmembers, including a Social Media **policy**. I urge you to consider Diversity and Inclusion training for Councilmembers and employees connected to City **management**. Please do what you can to let Mr. Kennedy know that such behavior will not be tolerated. Thank you for doing your best for our community."

Mayor Merrifield echoed the fact that Fairmont is an inclusive community and as far as he is concerned we are going to stay an inclusive community, that is the law and that is what the citizens passed and that is what we will abide by. Whatever way that leads us, that's the way it's going to be and that is the way it has to be. He can't say it any more clearly than that.

IN RE: CONGRATULATIONS TO DR. MARTIN AT FSU

Councilmember Kennedy congratulated Dr. Martin on the extension of her contract at FSU.

IN RE: PREPARED STATEMENT READ BY COUNCILMEMBER KENNEDY

Councilmember Kennedy read from a prepared statement:

“When I won this office 16 months ago, I never dreamed this position would have so many twists and turns. In this very room, I made a pledge to uphold the Constitution of our country, state and the charter of our city. So far, I have done that to the best of my ability. To you, of my District, District 3, I give my heartfelt condolences that I did not work harder for you. I have seen the corruption we still have in Fairmont and the workings of hate groups who continuously work their evil under the guise of bettering mankind. They are well funded, talented and work their evil work to take away our freedom and sell our God-given birthright of liberty for a mess of pottage. Whether we like it or not, we are all engaged in this battle. Personal attacks have come to me. My words have been taken out of context, lied about and destroyed completely. In time, if you stay the course, those same attacks will come to you. There will be no place to hide. In January of 1966, I lifted my hand as a U.S. Marine and swore my sacred oath to Almighty God to uphold the Constitution of the United States and protect her from all enemies, both foreign and domestic. At one time, those enemies were outside our borders. Now, they are beside us and their aim is to destroy liberty and freedom wherever they find it. Resigning this council seat would be giving up that fight for truth, justice and the American way. We cannot do that. Thank you”.

IN RE: 200TH ANNIVERSARY RELIGIOUS SERVICE

Councilmember Mainella reported that he and some of the other Councilmembers attended a really nicely done 200th Anniversary of Fairmont religious service at the First Presbyterian Church on Sunday. He said that D.D. Meighen did a great job, the music was beautiful and the congregation was very welcoming and he thanked him again for the invitation to attend the service.

Councilmember Grubb congratulated D.D. Meighen on such a wonderful program held on Sunday. She also recognized former Councilmember Ron Straight who was in attendance and participated in the program.

IN RE: LAW ENFORCEMENT APPRECIATION DAY

Councilmember Blood reported that last Thursday was Law Enforcement Appreciation Day. She thanked the Chief for a wonderful job that he is doing and his department for keeping our community safe.

IN RE: MOTION TO REDUCE THE MINUTES TO SPEAK FOR CITIZENS PETITIONS

The Mayor said that since there are so many people to speak tonight, he made a motion to suspend the rules and to limit the time in order to give everyone a chance to speak that wants to speak and adjust the time under Rule 6.2 from five minutes to three minutes. The motion was seconded by Councilmember Mainella.

The Mayor declared the motion passed by unanimous vote of Council.

CITIZENS PETITIONS

IN RE: WILL GRAHAM CELEBRATION

REV. JIM NORTON, 13 Fairway Lane, addressed Council regarding the Will Graham Association. He read from a prepared statement: “I need to say something briefly about my background before offering a suggestion. I was raised in two Christian denominations: the Assemblies of God and what is now the United Methodist Church. As a pre-teen and paper carrier, I contributed from my earnings to the Billy Graham Association and while I never had the privilege of seeing him in person, I did attend one time a Kathryn Kuhlman service held in the auditorium of Carnegie Library in Pittsburgh. I find myself torn between loyalties of the past and my present Christian undertakings. I would like to be among those who welcome the upcoming Celebration with Will Graham. But similar revivals, especially those conducted by his father, Franklin, have intensified divisions now so much a part of our county. Franklin has violated the separation of church and state by stating unabashedly that God’s approval rests on Donald Trump; he has professed harsh judgments on those who are differently gendered, and in other ways used religion to sanction present right-wing political discourse. Such pronouncements by the Graham Association create an unwelcoming atmosphere for those of us who hold differing opinions. Moreover, I wonder about friends whose given nature is disrespected by far-right leanings and how uncomfortable they must feel when the City is represented as sponsoring such narrow views as those of the Graham Association. Yes, I realize that the action by a few in presenting the Graham organization with a plaque emblazoned with a large key and an inscription underneath worded, “The City of Fairmont” was not meant to be official city recognition. Still, it has the same effect as if it had been presented by City Council. Consequently, I would humbly suggest, in light of the seeming endorsement by a few, that City Council issue a statement clearly stating that the Mountain State Celebration featuring Will Graham is not supported or endorsed by the City of Fairmont”.

IN RE: COUNCILMEMBER KENNEDY ’S COMMENTS ON SOCIAL MEDIA

ANTHONY HORTON, 914 Lewis Street, addressed Council regarding comments that Councilmember Kennedy made on social media. Mr. Horton said: “Mr. Kennedy should reflect on how his words have impacted other people. His mother had a saying “once a person shows you who they are, that’s who they are”. I look at you, Dave, and you’re sitting there just mean and hateful, and you know that you hurt people with the words that you used, “towel-head”. It is unacceptable. At the end of the day, you represent the City of Fairmont and it is up to City Council to discipline Dave and I think he needs to be censured or he needs to be asked to step down. You really, really hurt a lot of people. I don’t know if you understand that, but words hurt. You need to reflect on what you said and try to do better. I pray that God will work on your heart to make you a better person”.

JARRYD POWELL, 952 Coleman Avenue, stated that we are the Friendly City, but the

question is, “Are we going to lose it if we continue to embrace hate? We won’t allow hate to be followed by silence”. He said that the City that he has grown up and lived in is about to make national news. He said that the New York Times called him about the racially-charged comments. He then said “they wanted to know what I thought about this hate manifesting itself in Fairmont, West Virginia. They said, oh yeah, aren’t you the state that just one month ago had the problem of a Nazi salute?” He said that he hoped that Council listened to the people of Fairmont and do their best to attempt to get the resignation of Councilmember David Kennedy.

ZACHARY FANCHER, 20 Squibb Wilson Boulevard, also addressed County regarding Mr. Kennedy’s comments. He said that if you see something that is not right, not fair, not just, you have a moral obligation to do something and say something about it. These were the words shared by Georgia Congressman John Lewis at a commencement address in 2016. Mr. Fancher said “As a student at FSU, I am deeply troubled by the remarks levied by Councilmember Kennedy in reference to our brothers and sisters who are different because of their race and the color of their skin. I am troubled because not only is this racism wrong but it is not representative of who we are as a City and a community. When you come to the City of Fairmont, you see signs and hear the slogan “Welcome to the Friendly City” yet as we sit here tonight and hear these things and see these things, we also have members of this community and even of this Council making disparaging remarks that counter that slogan. Referring to people as “towel-heads” and “gooks” is not only wrong but is racist and beneath the dignity of this Council but also the City. I am deeply disheartened by these remarks that are levied by a member of this Council with just a few miles up the road sets FSU that is diverse and has a large international student population. What message does this send to our children and the people around us when we do not stand up and say something or do something about hate in our City? What does this message send to the students at FSU, especially international students, who are receiving an education within our community and looking to the possibility of making home in our City, State, and/or Country. Bigotry and racism should be called out period. We are not only better than this and we should not only do better than this but we are better than this”. He then asked members of this Council and members of the community to hear Congressman Lewis’ call to action to say something and do something when something is wrong and demand that not only appropriate action be taken against Councilmember Kennedy for his reprehensible remarks but also his resignation.

ARYANA ISLAM, 116 Wilson Lane, stated this is the Friendly City but the comments are friendly to nobody. Ms. Islam said the following: “Elected officials represent the community and emphasis on everyone. Recently there was a debate over why downtown Fairmont was not booming. Elected officials continue to have the same backwards mindset that is only more of a deterrence to downtown and Fairmont as a whole. There is no incentive to live here if our elected officials represent hate”.

DAVID KNAPP, 1107 Delaware Avenue, stated he was a devoted public servant for 12 years, four of those years with the 366 Fighter Wing in Air Force Base in Idaho. Mr. Knapp made the following remarks: “I was appalled to hear that a member of this Council, David Kennedy, took to a public forum and used language so vile and

disparaging and it demands a response. When confronted on the matter, Councilmember Kennedy, then attempted to excuse the language by cloaking himself as he has this evening in the culture of his service to the United States is an excuse that anyone that served in those days would use similar language. I am here to remind the Councilmember that those days are long over and together we are moving forward as a society and as human beings. Yesterday's enemies will always have the potential to be tomorrow's allies. I also want to remind the representative that when he speaks publicly while holding this office, he will always be a reflection on the people of Fairmont". He then asked the Council to do the following: demand the resignation of Councilmember David Kennedy effective immediately, it is both requested and required by the people of Fairmont. If the Councilmember cannot resign in good conscience, then I ask that the Council censure him and use any other disciplinary actions where possible. He went on to say that the people of Fairmont of WV and of this Nation deserve better from those they choose to represent them. Let it start here and now with Councilmember Kennedy.

ANDREW MILLS, 94 - 4th Street, Carolina, stated that today marks his day of retirement after 23 years in the military. He has worked with people of Muslim faith, served with many Asians and Councilmember Kennedy's words are despicable. Mr. Mills said the following: "Mr. Kennedy is a public servant and held to a higher standard and have to be held to account and you should hold yourself to a higher standard. We would not allow this behavior from any of our law enforcement, firefighters, EMS, or any other public servants. Why should we allow this behavior from you. As a Christian, I believe in forgiveness and reconciliation and I would hope that you can ask for forgiveness from your heart but not while you are in that seat. I ask for your resignation in part of your asking for forgiveness. After I read your words and after hearing your service, which I thank you for, but that jacket is not a shield. Your service is not a shield. You are you, you are held to your personal responsibility and accountability. If you can't do that for yourself then I ask for the City Council to ask for your resignation".

SAMATHA CHADWELL, 97 Hickory Avenue, stated that she wanted to address two things, the first, what Rev. Norton talked about with the appearance that Fairmont has given Mr. Graham a "go to" to come here and he is welcomed here and that it is really hurtful to a lot of people that organization is heard and even if it was done, it should have been done as a personal not from the City. She thought those folks should have used better judgment in making it appear that the City endorsed it.

Ms. Chadwell then address Mr. Kennedy: "The way you're sitting there daring to take umbrage and playing the victim is almost as disgusting as your words. I don't need to tell everyone the words that you wrote, I think most of Fairmont has seen them by now at this point. I would really urge the Council in seeking his resignation and to really think hard of what we want to represent. Finally, in this age of social media, folks have come to say what they want without consequences and we just don't see that in children at school but we see it as adults". She then walked from the podium and approached Mr. Kennedy. Mr. Kennedy said that was "close enough". Ms. Chadwell then said: "What I really would like you to do is to hold my hand and look me in the eye and call me (a gay slur) like you did online".

Mr. Kennedy denied calling Ms. Chadwell the slur but Councilmember Mainella said “I have a copy of it right here”. He then produced a copy of what appeared to be Mr. Kennedy’s Facebook post in which he used the gay slur.

DIXIE SORENSON, 2464 Serene Drive, stated the following: “I do not think all of the citizens of Fairmont are burdened or all of the citizens here and in Fairmont are perfect. I make mistakes and I say things. I went online and saw hate being spewed back, names called for Mr. Kennedy, who serves. You all serve and you all make mistakes, we all do. She then said that the hate is going too far. It’s going both ways. Now, if you say anything, people want your job, they want you removed from office, where other people voted for them. You’re not allowed to say, “I made a mistake”. I am embarrassed. Everybody knows that Robert Byrd was in the KKK yet he served us honorably for 51 years and he didn’t show any partiality. He did it with honor and we can all admit he was a good man. All I’m asking is that once we could say to one another “I’m sorry”, “I offended you”, “I didn’t mean to call you a Polack” or “I didn’t mean to use a phrase that is unattractive”. We did that and all got along. Now that the Government is involved, everybody hates one another. It’s time to come together and heal in this town. I hope none of you make a mistake and Lord knows, I hope I don’t because there is public lynchings”.

Councilmember Mainella told Councilmember Kennedy “if there is “this much” honor or dignity left in your body, you should resign”.

Councilmember Kennedy responded by saying: “You deserve an answer to that. Here’s how it stands. The voters voted me in, and the voters can vote me out. That’s a long time out, and there’s a lot of work to do here. You can choose the evil or you can choose the good. It’s on your back. Choose the evil or choose the good”.

Councilmember Blood asked “may I ask, David, what is good about calling people names such as gook”.

Councilmember Kennedy responded by saying “you had to be there, honey”.

Councilmember Blood said she didn’t appreciate Councilmember Kennedy calling her “honey”.

CITY MANAGER’S REPORT

IN RE: FY21 BUDGET

Ms. Means stated that staff is working diligently on building the FY21 Budget. We plan to have a least two work sessions sometime scheduled in the month of February, probably February 18 and 25 but those are tentative dates as of now.

IN RE: DEMOLITION PROGRAM

The Manager stated that we are continuing with the demolition program and of the

current slate, we have at least four of those properties already demolished out of the 13.

She stated that she is also watching closely the progress of a WV Municipal League resolution that supports a bad building impact fund which, if passed, would allow grant money to be used to assist with demolition and rehabilitation.

IN RE: ROSE COUSINS BRIDGE

The City Manager reported that she received word from the WV Legislative Administrative Office that they did receive our application and resolution for the naming of the Rose Cousins Bridge.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: ADOPTION, AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT PROVIDING FOR AND AUTHORIZING THE PURCHASE OF THOSE CERTAIN PARCELS OF REAL ESTATE SITUATE IN THE CITY OF FAIRMONT, FAIRMONT DISTRICT, MARION COUNTY, WEST VIRGINIA, AND BEING PARCELS 94 AND 95 OF MARION COUNTY TAX MAP 3-1, AND MORE PARTICULARLY DESCRIBED IN THAT CERTAIN DEED DATED NOVEMBER 2, 1995, AND OF RECORD IN THE MARION COUNTY CLERK'S OFFICE IN DEED BOOK 929, AT PAGE 814 FROM HALLWOOD, L.C., A VIRGINIA LIMITED LIABILITY COMPANY; RATIFICATION

Mayor Merrifield entertained a motion for the adoption of an ordinance authorizing the purchase of Parcels 94 and 95 of Tax Map 3-1 from Hallwood, L.C. (gravel parking lot at the corner of Adams Street and Monroe Street).

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 Council and the ordinance designated as Ordinance No. 1844 was duly adopted.

IN RE: ADOPTION, A RESOLUTION OF THE COUNCIL FOR THE CITY OF FAIRMONT APPROVING THE FORM OF THAT EMERGENCY MEDICAL SERVICE-MEDICAL DIRECTOR AGREEMENT BY AND BETWEEN THE CITY OF FAIRMONT AND P.S. MARTIN, MD, FACEP, FAEMS, AND AUTHORIZING AND EMPOWERING THE CITY MANAGER TO EXECUTE AND DELIVER THE AGREEMENT ON BEHALF OF THE CITY OF FAIRMONT; RATIFICATION

Mayor Merrifield entertained a motion for the adoption of a resolution approving the Emergency Medical Service Medical Director Agreement by and between the City of

Fairmont and P.S. Martin, MD.

Motion:

Councilmember Rice 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 Council.

IN RE: ADOPTION, A RESOLUTION BY THE COUNCIL OF THE CITY OF FAIRMONT, WEST VIRGINIA, AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE WEST VIRGINIA DEPARTMENT OF HIGHWAYS FOR A TRANSPORTATION ALTERNATIVES PROGRAM GRANT FOR TRAFFIC CALMING DEVICES, AND FURTHER AUTHORIZING THE ACCEPTANCE THEREOF, AND PROVIDING THE CITY MANAGER WITH AUTHORITY TO DO ALL THINGS REASONABLE AND NECESSARY IN CONNECTION THEREWITH

Mayor Merrifield entertained a motion for the adoption of a resolution authorizing the submission of a grant application to the WV Department of Highways for traffic calming devices.

Motion:

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

Roll call was taken by the Clerk.

The Mayor declared the ordinance adopted by unanimous vote of Council.

IN RE: ADOPTION, A RESOLUTION OF THE COUNCIL OF THE CITY OF FAIRMONT MANIFESTING THE CITY'S SUPPORT FOR THE FAIRMONT CHAMBER MUSIC SOCIETY, INC., AND AUTHORIZING THE DELIVERY OF A LETTER OF SUPPORT

Mayor Merrifield entertained a motion for the adoption of a resolution manifesting the City's support for the Fairmont Chamber Music Society and authorizing a Letter of Support.

Motion:

Councilmember Mainella 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 Council.

ADJOURNMENT

The Mayor entertained a motion for adjournment.

Motion:

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

The Mayor declared the meeting adjourned by voice vote of Council at 8:01 p.m.