

**WEIRTON CITY COUNCIL
COUNCIL MEETING - REGULAR
MONDAY, APRIL 10, 2017, 7:00 PM**

A regular meeting of the Common Council of the City of Weirton, Hancock and Brooke Counties, West Virginia was held on Monday, April 10, 2017, at 7:00 P.M., in the Council Chambers of the Weirton Municipal Building.

Councilmembers in Attendance:

Tim Connell	Councilmember Ward 1	
Matthew Provenzano	Councilmember Ward 2	
Fred S. Marsh	Councilmember Ward 3	
George E. Ash, Sr.	Councilmember Ward 4	ABSENT
Douglas L. Jackson	Councilmember Ward 5	ABSENT
Enzo Fracasso	Councilmember Ward 6	
Terry Weigel	Councilmember Ward 7	

City Officials in Attendance:

Rob Alexander	Police Chief
Travis L. Blosser	City Manager
Vince Gurrera	City Attorney
Jerry Shumate	Fire Chief
Matt Burskey	Code Official
A.D. Mastrantoni	Utilities Director
Mark Miller	Planning & Development Director
Rod Rosnick	Public Works Director

Mayor Harold Miller led everyone in the reciting of the Pledge of Allegiance.

READING OF THE MINUTES:

A motion was made by Councilman Marsh, and second by Councilman Weigel to approve the minutes of the:

March 13, 2017 Regular Meeting

The motion passed, 5/0

Mayors Awards and Proclamations:

Proclamation for National Child Abuse Prevention Month 2017

April is nationally recognized as National Child Abuse Prevention month, and our community will utilize the month of April to raise awareness of child abuse prevention and promote child and family well-being.

To receive Proclamation, is Rhonda Stubbs of a Child's Place CASA

Proclamation for Recognition Day for National Service 2017

To hereby proclaim April 4, 2017, as National Service Recognition Day, and to encourage residents to recognize the positive impact of citizen service and to use this opportunity to thank those who serve through our nonprofit and service groups in our communities.

To receive Proclamation, is Paula Dalton and Barbara Andrews of the Retired Senior Volunteer Program

Proclamation

Colton Yensen – First Place Award – West Virginia State PTA, National PTA Reflections Program. This is to acknowledge his artistic achievement in Film Production by a Colliers Primary School student in second grade.

Taylor Pannett – First Place Award – West Virginia State PTA, National PTA Reflections Program. This is to acknowledge her artistic achievements for Dance/Choreography by a Brooke High School Senior.

CERTIFICATE OF RECOGNITION

Alexia Murdock – This is to recognize the artistic achievement with appreciation for her participation in the WVPTA Reflections Program and receiving Third Place for Visual Arts.

SPECIAL GUEST

Robert A Gill

Robert is a Lieutenant Commander from the United States Navy. He is retiring from the Navy this year. He has received numerous awards. One of his retirement requests was to fly the United States Flag from his time on the USS Houston (SSN 713) over his hometown. He raised the flag over our town this morning at 0800, and he will be lowering the flag at sunset today.

Citizens Remarks:

Kachina Mooney – Ordinance No. 2018

I am a resident of Weirton, WV. I am here to speak in opposition of Ordinance No. 2018 the charge and appearing in a public place or automobile in a drug induced condition. As a resident and graduate student entering the mental health field, I am painfully aware that not only does West Virginia have one the highest rates of mental illness in the United States, but that people with mental illness are sixteen times more likely to be killed during a police encounter. To add insult to injury, our police forces are not adequately trained to distinguish the differences between the aggressive behaviors of those mind altering drugs, and the behaviors of a citizen with mental illness or mental disability. Neurological conditions, mental illnesses, and physical disabilities all have the potential to fall prey to this this poorly worded ordinance. Through my studies and my first hand experiences, I have the empathy and understanding that it is never a personal intention, or a personal weakness that leads to addiction or to illness. We do not consciously write ordinances to jail, or fine cancer patients, or autistic children, or those suffering from PTSD. Why are we trying to jail and fine our citizens who suffer from addiction? If this city and the council of Weirton seek to find a path to wellness, we collectively suggest that the ordinance be rewritten to reflect medical treatment with the omission of fines and jail time. This is critical in the light of the recent passing of Senate Bill 386 in the West Virginia Legislature, which would make it nearly impossible to enforce this ordinance.

Andrew Eskelund – Ordinance No. 2018

I am also a resident of Weirton, and I wanted to address the fact that this ordinance as written is overly vague. The fifth and fourteenth Amendments of the U.S. Constitution prohibit against vague laws. It requires that criminal statues define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited, and also in a manner that does not encourage arbitrary and discriminatory enforcement, while they do not specifically define that conduct of a legal person arrest or the void for vagueness. I am prescribed the medication that puts me in a drug induced condition. I took my medicine this morning, and I am in public right now. Under the wording of this ordinance as written, I should be taken to jail if this passes. After passage will I be allowed to leave my house? Furthermore, let's say I need to have surgery. If a friend drives me home while I sleep in the passenger seat, and the friend gets pulled over on the way home. I will then be found sleeping in a vehicle in a drug induced condition. Again, according to the wording of this ordinance I should then be taken to jail. Now, a reasonable person would not consider taking prescribed medication or falling asleep after surgery to be arrestable offenses. But an ordinary person could read this ordinance and understand that not to be the case. Additionally, clearly that is not the intention of this ordinance. No one thinks that is what we are intending here. The law needs to be written in such a way that it is clear, what is, and is not intent. We cannot legislate intent. So, addressing the actual intent of this ordinance according to its wording, if an addict is found in the middle of an overdose that person would not necessarily be taken to a hospital, or somewhere to get the help they need. They can be taken straight to jail. Additionally, a person coming down off a long term high would have to go through withdrawal, and would also not necessarily be taken to a place so they can get the help that they need. They would be taken straight to jail to suffer through the symptoms of withdrawal in a cell by themselves. This borders on arguably and unusual, it is torture, and I would argue that this is not the kind of town we

would want to be. So, on the issue of being overly vague, and the general wording of the ordinance I ask the Council to rewrite this ordinance.

Matthew Wyatt – Ordinance No. 2018

I am here to stand in opposition of City Ordinance 2018. The Ordinance as in its current form does not get sufficient notice as to what it is criminalizing. Is a person in a drug induced state when they are legally taking prescribed medication as directed by their doctor? What if they are taking over the counter medication as directed down the side of the label? That constitutes a drug induced state that is a drug. What about those of you on council that are taking current medication right now to stay alive. Even my friends that have nitrates that need that to regulate their heart. That is a drug induced state. I understand that this not the intent of the ordinance, I truthfully do. I am also concerned that this would put our officers and expose them to additional lawsuits. Right now, we are one in five states that do not have crisis intervention training, which is seen as the best training for interacting with the disabled mentally ill persons. Mentally ill are seven times more likely to interact with police officers, and they are sixteen times more likely than the average person to be killed unfortunately. A recent report found that the West Virginia State Trooper who trains the diversity and hate crimes does not have a background in diversity, inclusion, or cultural sensitivity. Subjective ordinances like these run the higher risk of bias and discrimination. The most recent example of this is the pending lawsuit against the Weirton Police Force by the ACLU of West Virginia, where an officer was fired because he did not eliminate the threat of a mentally ill black man, this is not an isolated incident. The West Virginia study in 2009 found that Hispanic drivers in West Virginia are 1.48 times more likely, and black drivers are 1.64 times more likely to be stopped than white drivers. One stop non-white drivers are more likely to be arrested than whites, despite contraband hit rate being significantly lower than white drivers. Even more alarming is this data, that I am quoting, it comes from a study from self-reported officers across the state. The Supreme Court Justice William Douglas said in a court case Robinson vs California. Prosecution has no relationship to cure an illness.

Diana Magnone – Ordinance No. 2018

I am not here to support or oppose this Ordinance. There are times when I get off work at 11:00 or 12:00 at night, and I drive through downtown, and I see what these police officers are doing. It is very difficult for them out there. They are routinely pulling cars over that have Michigan Plates and Illinois Plates. They are coming from everywhere. While they do need to protect us, I am concerned of the ACLU's response to this ordinance. I am not going to go through it. You all have a copy of it, and it is five pages long. I would like to know how you are addressing it or if you are. If you are going to type more language so it is not as vague, or put anything in there so that physical and mental disabilities so officers could be trained to recognize those. Inadvertently get somebody who maybe on medication for something like epilepsy, or if they are having a sugar attack. To train them so they can recognize this type of things so we are no exposed to any civil actions. That is my question, where are we with the ACLU question?

Travis Blosser, City Manager – The City Attorney is reviewing that letter. We will have no response to that letter in this open meeting relative to that. The City Attorney is reviewing that at the moment, and we will have a response separate from that, but not in this open meeting.

Diana Magnone – Ordinance No. 2018

Is it being practiced at this time or are you waiting?

Travis Blosser, City Manager – As far as we are concerned, it is an enacted law at the moment. The City Attorney is the prosecutor for the city. It is within his jurisdiction and the police chief's jurisdiction.

Diana Magnone – Ordinance No. 2018

Is there anything that we can do to help?

Vince Gurrera – City Attorney – I actually have no problem if you guys want to stick around until after the Council Meeting, and we can talk.

COMMUNICATIONS:

Travis Blosser, City Manager – I would like to touch on one fact for the media just to make sure that no lines of factual information are crossed here. There is absolutely "NO" pending litigation against the city whatsoever regarding any incident, or I should say "NO" pending litigation against the city by the ACLU whatsoever related to any incident detailed here tonight on the floor. I wanted to make that very clear to the press.

Request by Council to convene into Executive Session consistent with WV Code 6-9A-4-A(9) to consider personnel matters.

N/A

OLD BUSINESS:

NONE

NEW BUSINESS:

1. Resolution to Enter into Contract for Audit Services for Fiscal Year 2015-2016 (City Manager)

Motion was made by Councilman Marsh, and second by Councilman Fracasso.
Motion passed 5/0

2. Resolution Authorizing the City of Weirton to Serve as Co-Sponsor for the 2017 Renaissance Weirton Festival (City Manager)

Motion was made by Councilman Connell, and second by Councilman Fracasso.
Motion passed 5/0

3. Resolution for the B-17 Community Development Block Grant (CDBG) (City Manager)

Motion was made by Councilman Marsh, and second by Councilman Connell.
Motion passed 5/0

4. Resolution for the C-17 Revised Citizen Participation Plan (City Manager)

Motion was made by Councilman Fracasso, and second by Councilman Connell.
Motion passed 5/0

APPOINTMENTS:

NONE

DEPARTMENTAL REPORTS

Police Department – Chief Alexander

Nothing additional to add to the submitted reports.

Utilities – Water and Sewer – A. D. Mastrantoni.

Nothing additional to add to the submitted reports.

Code Department – Matt Burskey

Nothing additional to add to the submitted reports.

Fire Department – Chief Shumate

Just to let you know we completed Weir High's prom mock auto crash with the alcohol related high school extrication for the high school seniors.

Library – Rik Rekowski

Absent.

Public Works – Rod Rosnick

Nothing additional to add to the submitted reports.

Transit – Marke Henne

Nothing additional to add to the submitted reports.

Planning & Development – Mark Miller

Nothing additional to add to the submitted reports.

Park Board – Terry Weigel

Nothing additional to add to the submitted reports.

Finances– Diana Smoljanovich, Finance Director

General Fund Cash Report for March 2017

Beginning Cash Balance:	\$2,287,640.47
Interest on Checking:	\$713.95
Deposits:	\$2,141,109.19
Draw-downs on Investment:	\$0.00
Disbursements:	\$1,205,793.36

Deposits to Investments:	\$0.00
Ending Cash Balance:	\$3,223,670.25
Beginning Investment Balance:	\$0.00
Interest on Investments:	\$0.00
Investment Proceeds:	\$0.00
Change in Value:	\$0.00
Deposits:	\$0.00
Withdrawals:	\$0.00
Ending Investment Balance:	\$0.00
Petty Cash:	\$800.00
Total Cash and Investments Available:	\$3,224,470.25

Motion was made to approve the bills, accept the financial report and all departmental reports by Councilman Marsh, and second by Councilman Fracasso.
Motion passed 5/0

ADJOURNMENT

Mayor Harold Miller called for a motion to adjourn the meeting after the closing prayer which was recited by Councilman Connell.
Motion was made by Councilman Connell, and second by Councilman Marsh.
Motion passed 5/0