

**WEIRTON CITY COUNCIL
COUNCIL MEETING - SPECIAL
TUESDAY, JULY 17, 2018, 6:30 PM**

A special meeting of the Common Council of the City of Weirton, Hancock and Brooke Counties, West Virginia was held on Tuesday, July 17, 2018, at 6:30 P.M. in Council Chambers of the Weirton Municipal Building.

Councilmembers in Attendance:

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

City Officials in Attendance:

Kathy Mrvos	City Clerk
Jerry Shumate	Fire Chief
Diana Smoljanovich	Finance Director

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

Councilman Ash asked to amend the Agenda to include the resignation of Matt Provenzano.

Councilman Ash made a motion to amend the Agenda then it will be discussed, second by Councilman Fracasso.
Motion passed 5/0

Councilman Ash, we all know that Matthew Provenzano has resigned it has not been put in the paper, or any discussion about it yet. I would like to have all the resumes in for the City Council for his replacement no later than close of business on July 27, 2018. That gives us plenty of time if we decide we are going to do interviews we can, if we want to do Executive Session, and discuss it. That is the first motion.

Vince Gurrera, City Attorney, you could technically vote on it if you decided who it was it is Council Meeting, you can vote on it, and they can sit in on the Council Meeting. It is all one vote.

Councilman Fracasso, you do have up to six weeks.

Vince Gurrera, City Attorney, you have to be careful with this, if you don't do it within six weeks after that six week period, the election has to be within 90 days. You cannot then pick someone between six weeks and 90 days.

Councilman Ash, what is his effective date that he resigned?

Mayor Miller, a week ago Wednesday. He emailed me it on Friday.

Councilman Ash made a motion for July 27, 2018 as close of business for all resumes for the replacement of Matt Provenzano, second by Councilman Connell.

Motion passed 5/0

Councilman Ash, stated second thing we can do it one of two ways. We have a Special Council Meeting, and interview people in Executive Session, or we can have a panel of three Council Members to interview, and give recommendations to the rest of the Council. It is up to you guys on how you want to do it. I don't want to do the way we did it the last time, and go behind closed doors, and do a bunch of talking. I would actually like to know what we are doing.

Councilman Fracasso, with their resumes or with them sitting there?

Councilman Ash, with their resumes and sitting there.

Mayor Miller, My opinion, I think it is a good option to interview them together.

Councilman Ash, we should not interview them in the open. It is personnel action. We should do it in Executive Session.

Councilman Connell, open in Executive Session with us.

Councilman Ash, all of us?

Councilman Connell, I think it should be all of us. All that can attend.

Councilman Ash, either way with me I don't care. So that is what we will do after the 27th of July all the applicants and resumes, and have a Special Council Meeting on the following Monday or Tuesday (July 30, 2018 or July 31, 2018). Then we will start the interview process.

Vince Gurrera, City Attorney, I just want to make sure you guys are going to have a Special Council Meeting to interview the people in Executive Session. So then you will invite those people to the Special Council Meeting.

Councilman Ash, yes

Vince Gurrera, City Attorney, if you are going to have more than three Council Meetings you have to have Executive Session.

Mayor Miller, how are you going to do the elimination of the applicants?

Councilman Ash, it is common sense, if you look at it you can tell and read the resume if they are qualified or not. Just look at the Charter. The Charter will address what the qualifications are, and if they are qualified you interview them.

Mayor Miller, it will be the 27th.

Councilman Fracasso, close of business on July 27, 2018.

Mayor Miller, the goal will be to get someone sworn in by August 13, 2018.

Councilman Ash, yes.

Councilman Ash, I would like to ask Vince, City Attorney a question? If two or three of us go back and forth with texts or emails is that alright? I know we cannot do it with four of us.

Vince Gurrera, City Attorney, you cannot do four of you. The only thing I would caution you on is there is an outside chance that your emails will not be private.

A motion was made by Councilman Ash, second by Councilman Connell
Motion passed 5/0

NEW BUSINESS:

1. Approving the Minutes for the Regular Council Meeting on July 9, 2018.

A motion was made by Councilman Ash, second by Councilman Connell.
Motion passed 5/0

A motion for the revisions of the minutes by Councilman Ash, second by Councilman Connell.

Motion passed 5/0

A motion on the resolution with the revisions by Councilman Ash, second by Councilman Marsh

Motion passed 5/0

A motion to recess the meeting by Councilman Marsh, second by Councilman Ash

Motion passed 5/0

WORKSHOP ON THE ORDINANCE FOR THE PREVENTION CODE

Jerry Shumate, Fire Chief, gentlemen, I would like to turn my floor over to Captain Mastrantoni, he is the brains behind the Fire Prevention Code. The gentlemen with him is Mikel Serafine and Jason Kazimirski would be the other two Deputies, Fire Marshalls at this time. They are the ones receiving the training. Captain Mastrantoni will come up to answer your questions.

Councilman had asked about due process which was already in there. Captain Mastrantoni stated that the City of Weirton adopted and using in 1986 NFPA Code. In the NFPA it also reiterates provisions for due process constitutional rights. So the City is has been operating on those standards.

Another question by Councilman Ash on page 9, 1501.24, (A), All Buildings and Premises, is that what it means?

Captain Mastrantoni, yes sir. That comes directly from the authority from the State of West Virginia Legislature. It reads exactly the same in the West Virginia State Fire Code it is something that we brought into our code to try to reiterate it, all buildings except for the interior of private dwellings. We can do all buildings, vehicles, things like that for inspection, pretty much anyplace that is for the public to walk in and out of. For example, like a Walmart Store. We could not just walk in, and inspect inside of a private dwelling, could not go into some ones apartment or home without their permission. Does not really apply to one or two family dwellings anyway.

Councilman Ash, what gives you the right to walk into a business, and say I want to inspect you. Do you have to have a reason to go in their?

Captain Mastrantoni, it is not criminal in its nature.

Councilman Ash, brought up a situation Clyde Mase was the Chief, he went to Kmart one time and they had boxes in the aisles. He said shut down all Kmart until you get this place cleaned up.

Captain Mastrantoni, but definitely anyplace that the public has access into and out of there is a concern for public safety, from the National Fire Code to the State of West Virginia's Fire Code, and the West Virginia State Legislature has granted the Fire Departments the authority plenary power, in fact, to inspect premises to negate all dangers from that could arise from a fire situation.

Councilman Ash, questioned whether they would make certain buildings to have a second egress. Will you have that option?

Captain Mastrantoni, it would depend if it was large multi-storage, multi-unit facility, then yes, it may fall under our fire code. If it is a single family dwelling, there are some provisions (keep in mind that the fire code itself works in conjunction with the building codes). We work hand-in-hand with Inspections Department on building codes. Whereas, the fire code would deal with multi family structures, three unit, four unit, five unit buildings, and upward, the Building Code for the City would deal more with one and two family dwellings. I do know in the IBC it does require secondary access from residential units. That could constitute a window that could be considered secondary. Additionally, the stairwells would fall under both State Fire Code and National Fire Code that we would be adopting with this document. There are regulations in there dealing with travel distances exits if it is so many floors off the ground there needs to be a secondary staircase.

Councilman Ash, if you go into a residential place, any resident, and you see if there is violation in there for a fire, or helping somebody, and you see there are violations the steps are bad going in. Are you going to have authority to deal with that?

Captain Mastrantoni, that would fall more under (it is definitely a concern as far as firefighting goes as far as Fire Safety goes) but that would be best handled by us by picking up the phone and calling Building Inspectors, and having the people that are used to dealing with property maintenance issues, and dealing with structures that are in a state of dilapidation. We would notify them. We could support them with any fire document or fire regulations that would pertain to that, but we would let that organization be the lead on something like that.

Councilman Marsh, let me back up a question ... ok. You go in a house on first responder call. You see cords all over the place which is a violation of code. What are you going to do?

Captain Mastrantoni, that would be a violation of any National Fire Code, National Electric Code 70. Given this provision, because if you are dealing with a one or two dwelling family, that would still best handled under the Building Inspections Department. If we were to walk into Brooks Tower for example, because of its height, because of the number of units involved, that clearly would let us be the lead on that one. For one and two family

dwelling the City Building Inspections would still be the best option to handle those kind of things.

Councilman Marsh, you talk about egress, ingress, the sprinklers the whole bit, a lot of these buildings in this town, commercial buildings, are old. Such in my case, I have been granted an occupancy permit that probably does not meet your standards. Now what are you going to do?

Captain Mastrantoni, in that particular case, where you have older buildings, unless there is a major retrofit of the building, or a major occupancy change, those buildings would be grandfathered in. Any new buildings that would be constructed or you would purchase your building today, instead of it being a supply store you wanted to make it a restaurant. That would be a major occupancy change that would require a major refit of the building. At that point the new codes would kick in. If you should sell it to another hardware dealer that would be mercantile to mercantile it is pre-existing, it would continue to exist the way it does.

Councilman Marsh, What I am saying is I have read the code. I have two ways in and out of the building, and if I figure right my distances is not there. I have an occupancy permit from 1985 that says I am ok. Are you going to make me put in another door?

Captain Mastrantoni, no sir.

Councilman Fracasso, A single family resident turned into a multi-unit apartment, where as the top floor has both two doors escape route, egress, and the bottom just has the one cellar door.

Captain Mastrantoni, that would depend on whether or not that bottom apartment was above or below grade.

Councilman Fracasso, below grade.

Captain Mastrantoni, I believe that a new residential unit, which would be below grade, would require having a secondary egress out. They would have to have a window well, or something meeting the size requirements.

Councilman Ash, a follow-up on Fred's question, all these empty buildings we have on Main Street will they all be grandfathered or do they have to be codes?

Captain Mastrantoni, they would have to meet code.

Councilman Ash, are you going to inspect them before anyone goes into them?

Captain Mastrantoni, yes, when someone would purchase that building depending what that usage would be, they would have to get a building permit to do any work to make the building suitable for their use. In the process for that, they would submit plans for their

project. Fire Department would receive those plans we would do a plan review, as part of the inspection process, we would go out and make sure any changes are being made to the building would meet modern code.

Councilman Ash, how long is this going to take? I know that businesses have complained to me all the time that they cannot get into their business it takes them months. Is it going to take them longer?

Captain Mastrantoni, our average turn around on a plan review currently is around a week and half to two weeks. There have been cases where they have been longer. There are cases where we will receive plans, and this code will hopefully stream line that process somewhat. How that process works currently is inspections department will receive those plans, and then distribute them out to the different departments. We look at them, and instead of being able look at those plans independently handle any issues we might have we deal through Inspections Department. For example, we run into this scenario a lot we will receive a set of plans, and whereas the plans may be adequate to do a IBC Inspection they were not adequate for a NFPA or State Fire Code Inspection. For example, they may have general dimensions on the building or span ratings for their support pieces, but they may not include travel distances, or how big the exit doors are, or how many stairs. We receive the plans, and start looking through everything, and then say I don't have what I need here. Pick up the phone and call Inspections Department, and say I am not going to be able to do this because I do not have what I need. The Inspections Department contact the people, and the people draw another set of plans, or get whatever they need they get back to Inspections. Inspections will get back with Fire, and then two, three, four weeks have past. It does happen occasionally. Hopefully we would like to reduce some of that.

Councilman Ash, I have couple more questions but unless somebody else has something.

Councilman Connell, I have a question. Captain, 1501.23 Authority to Enter Premises on page 9. The Chief of the Fire Department, Inspectors of the Bureau of Fire Prevention, or any other inspector thereof, may at all reasonable hours, enter any building or premises within his or her jurisdiction for the purpose of making any inspection or investigation which, under the provisions of this Fire Prevention Code, he or she or they may deem necessary to be made. No person, owner or occupant of any building or premises shall fail, after proper credentials There is what gets me proper credentials is this also a search warrant?

Captain Mastrantoni, search warrant would absolutely be an order from the court.

Councilman Connell, it says any time at all reasonable hours they can do this.

Captain Mastrantoni, yes sir.

Councilman Connell, you can go any time you deem in that building, that person has to let you in.

Captain Mastrantoni, the way the law says is reasonable hours. That would mean operating business hours.

Councilman Ash, 9 to 5 or 8 to 4.

Captain Mastrantoni, for example I could not at 3 o'clock in the morning decide that I am going to do an inspection.

Councilman Connell, it says reasonable hours but says by showing proper credentials. If you are in uniform, and have your badge that proves you have proper credentials.

Captain Mastrantoni, I would expect so sir.

Councilman Connell, in other words he does not have to have a search warrant at any time.

Captain Mastrantoni, No, if I am going to do reasonable.

Councilman Ash, I think there is some confusion here. I think you said this the last time we discussed this. If you want to go into Fred's business he tells you no, you are not coming in, then you would have to go and get a search warrant.

Captain Mastrantoni, yes

Councilman Ash, If he told you to come in ok.

Captain Mastrantoni, absolutely yes.

Councilman Ash, this is not what this says.

Councilman Connell, this is not what this says. No person, owner or occupant of any building or premises shall fail, after proper credentials. I want to know what the proper credentials are?

Captain Mastrantoni, there is a difference between a criminal investigation, and a fire safety inspection. If we are doing an arson investigation I can't violate constitution. I cannot violate constitution anyhow. But, if your business is open to the public, and you are letting the public come in and out of your place of work or whatever you are operating there people are coming in and out then that person has a responsibility to make sure that the public is safe in that process. Under the West Virginia Code, and under NFPA Fire Departments are granted that right to ensure that safety to the public entering those premises. So, during normal operating hours we do have that right but we cannot show up in tee shirts and jeans. As a fire official we can show up make sure that premise is safe and meets any code requirements. It has to be under reasonable circumstances.

Councilman Connell, the way it is stated here, entering any building and premises within his or her jurisdiction for the purpose of making any inspection or investigation. It doesn't say

he is open for business, and we want to come in and inspect. People are in there you should be able to go in.

Vince Gurrera, City Attorney, it has to be an investigation mandated under the provisions of the Fire Code Prevention. After which, under the provisions of this Fire Prevention Code, that is important because what he does is going to be conducted by did he have reasonable cause which you normally need for a search warrant anyway. Reasonable cause under the prior Prevention Code, if he said, I decided to do it because my friend Billy called me and said go do it that is not plausible. If there is some reason under the Fire Prevention Code that he is allowed to do it then it is reasonable. It doesn't only say 9 to 5, it may be reasonable at 3 o'clock in the morning for you to go in there if there is 700 people in a 200 feet building.

Captain Mastrantoni, if it is a night club that is open at that point of time, then it would be reasonable operating hours. Also, I wanted to make you gentlemen aware, and I am not sure if that got passed along, this document that we have come up with has been reviewed by the Assistant Attorney General of the State of West Virginia, the attorneys for West Virginia State Fire Commission, the attorneys from the West Virginia State Fire Marshalls Office, and our City Attorney here. None of those organizations had any issues with any constitutionality, as a matter of fact, it was approved unanimously at the State Fire Commission. There were a few issues coming up, I am not a legal mind, and there were some things that we put in there as a Fireman, and I would love to see certain things that our founding fathers maybe did not have an issue with. We were able to work in conjunction with some attorneys from the West Virginia State Fire Commission and the West Virginia Attorney General Office, and we were able to come up with the document that everybody was happy with at that level. I was not sure if you gentlemen was aware or not, but I did want to make you aware. I know you guys were having a lot of questions dealing with constitutionality. I am not a constitutional scholar by any measure, but it has been reviewed by people that are. Just for your peace of mind I thought you should know that.

Councilman Marsh, correct me if I am wrong, even if a space is open to the public it is still private property, and the owner can pick and choose who he wants in.

Captain Mastrantoni, that is correct.

Councilman Marsh, the owner can deny them then you would have to get a warrant.

Vince Gurrera, City Attorney, they would convince a judge to give them a warrant. If I won't let a Police Officer in my home, a Police Officer can stand outside my home and make sure I don't run, or do anything wrong he/she will call another Police Officer and say go get a search warrant, and come back with the search warrant. That is what basically they have to do. They would have to call the police, or contact me, or whoever, and go and get a search warrant. They would have to tell me the reason why they want in that place. I would have to contact the judge, and the judge would say yes here is the search warrant or no you are not getting one.

Councilman Marsh, even though it is public space I have the right to say you can come in or you cannot come in.

Captain Mastrantoni, and they is why it makes a differentiation between interiors or private dwellings, and other buildings. I could not come into your home, and say I want to come in and look, and say I want to make sure you have smoke detectors. Your home is your castle and that cannot happen.

Councilman Marsh, this leads me to my big question what is driving this document? Why are we looking at it?

Captain Mastrantoni, that is an excellent question. One of the reasons why we looked at doing this is we had an operating fire code in the City and it was light to say the least. It dealt with the transportation hazardous materials, the current ordinances that the city council passed, something to do with insurance companies paying out after a fire. That was the document in its entirety. Looking at that, and looking at what we have been doing especially after the past five to six years, we are doing more and more plan reviews. There seems to be some growth in the city we are working more and more in conjunction with Building Inspectors, and unfortunately we have had increase in set fires happening in the city.

Councilman Marsh, an increase of what?

Captain Mastrantoni, set fires.

Councilman Marsh, arson.

Councilman Fracasso, would that be considered malicious burning?

Captain Mastrantoni, yes, malicious burnings is one of the things we worked out with the West Virginia State Fire Commission Attorneys. We had worded out somethings dealing with malicious burning, and their contention was the State already has that down. The solution we reached was just to adopt the State Arson Code from start to finish into our malicious burning.

Councilman Fracasso, I thought that was what you meant.

Captain Mastrantoni, without real legal authority what we were running into is we are doing it, for example, we would get a call they are doing something dangerous in this building. We go and look at it, yeah they sure are. We talk to the property owner, and say hey, according to the Fire Code, NFPA Code, you are not going to be able to do this. The person tells me I don't care leave. At that point, I turn around leave. I can tell somebody, and if the West Virginia State Fire Marshall wants to come in, and they have personnel available or they have the time they can come in, or I can put that on the Building Inspectors. I already know that they have a full plate. The same thing was happening on the arson

investigations side. We would go and investigate, but I cannot turn in evidence to the West Virginia State Police Lab. Technically we are not enforcement agency. We would have to turn it over to the Weirton Police. Chain of custody form goes to the Weirton Police sits in their evidence locker. Now, if it is a gas can something like that, it is going to ruin every finger print everything else they have in their evidence locker. The Chief of Police frankly does not want our stinky stuff in his evidence locker. With the passage of this, we will be able to procure an ORI number, and will be able to directly deal with the West Virginia State Police Lab reducing the amount of time evidence changes hands, reducing chain of custody problems, and be able to be masters of our own domain. That being said, I don't think there are any Starsky and Hutch's going on in the Fire Department anything we would do would be hand in hand with the Weirton Police Department or West Virginia State Fire Marshalls or both. It would give us the ability, as fire fighters, we already have a lot of the face knowledge necessary to perform a lot of these arson investigations and frankly NFPA Inspections. Whereas, the Police Officers they already have the investigatory power do not have a lot of knowledge there. This document kind of bridges that gap, and allows us to go out, and even some extent correct some of these issues. I have no citation power now. As the Burning Ordinance is written out in the city and the Fire Department goes out and checks these things out. Now I go out for the fifth time that day because two neighbors are squabbling and somebody is having a barbecue. I tell the guy he has to put his fire out, and he tells me no. I say O.K., I am going to tell somebody, and I turn around and walk out. I have no ability to solve that issue. At least with the passage of this document I would able to at least write a citation or something that is dangerous, or it is becoming a nuisance and somebody was clearly becoming defiant. We sat down and when we saw a need for it because we was leaning so much on other departments whereas, we are Professional Civil Service Department, and we should be able to stand on our own feet, and handle some of these issues ourselves.

Councilman Ash, I agree with that last comment. I want to ask couple more questions. The Police Department has the discretionary power are you going to have that also?

Captain Mastrantoni, you would have to describe discretionary power?

Jason Kazmirski, Discretionary power, if we were going in to do not so much an investigation but an inspection you just do not walk in just because you see a couple things like the exit sign is missing or something like that. You just do not automatically cite those people, that is no way to get yourself out there, and get the public's trust. You can give them discretion on whether or not, but we are going to give your some time to fix this, and we believe that is the right thing to do. Maybe their business is down on their luck. You do not kick them while they are down. Give them some time. When you walk in to do an inspection and they was nice enough to let you in, you might tell them hey here is a couple things you need to fix, or if you could take care of this in the future that would be great. Give me a call I will be back, and I will look at it. I believe you have discretionary power there.

Councilman Ash, the other thing is the County and the State considers them, as far as I know, they consider them as businesses to get businesses licenses. The City of Weirton

they do not get business license. If we forced them to get Business License would they still be under this order?

Captain Mastrantoni, any residents that has three or more units would be subject to this Fire Code. There are provisions to this that any new single home built has to have smoke detectors, has to have carbon monoxide detectors installed. There are few areas where it deals with one and two families, but for the vast majority of it three units is the magic number. When it is three units, basically it is a fire issue.

Councilman Ash, The last page we have a \$100 minimum fine, how much does it cost you to go out on an inspection?

Captain Mastrantoni, my rate is about \$17 an hour depending on the size of the structure how many hours are put in.

Councilman Ash, and all the administrative work you have to do after.

Captain Mastrantoni, I am there on shift anyhow sir. Whether I am doing administrative work, or whether I am checking fire apparatus or mopping the floor it is all the same.

Councilman Ash, you do not know the cost of doing an inspection from beginning to the end all the paperwork? It is still going to cost more than \$400.

Captain Mastrantoni, yes sir.

Councilman Ash, just to let you guys know, we are going to make an amendment to that not less than \$300.

Councilman Fracasso, back to the fireworks I have a question. What I understand is any fireworks that are aerial is against City Ordinance right or wrong?

Vince Gurrera, City Attorney, It is against and enforceable City Ordinance.

Councilman Fracasso, then why are we allowed to sell them in these tents?

Councilman Marsh, which is my point, which I am going to ask. We can go out and impose our will upon the citizens of our community that pay taxes, invest in the community, hire people in the community, but these guys walk. This is basically what this says.

Jerry Shumate, Fire Chief, exactly, because the State Legislature in their intent of their law was that they will get the licensing fee, they will do the inspection.

Councilman Marsh, I am very happy they are not getting the money they thought they were.

Jerry Shumate, Fire Chief, they are sole responsibility of the sale of fireworks no one else has any jurisdiction.

Councilman Marsh, one of the dangerous things you could see, and we are letting this walk. But we are going to impose our will upon the tax payers that hire people, pay the fire service fee, pay the \$2 a week, and these guys are going to get a walk.

Jerry Shumate, Fire Chief, they are within the lines of the State Law, and I am with you. You look at how many injuries are annual for fireworks.

Councilman Marsh, I do not care if you buy fireworks. You want to sell them in this town you be a part of business community like everybody else is.

Councilman Ash, If he goes to get a new license or his license is up, and he has to get it renewed does that constitute you a reason for you to go into that building.

Captain Mastrantoni, no, not unless he has changed something within that building. If he has changed something structural, changed his occupancy, anything that would require a building permit, and submit plans, we would take a look at that. Even under that particular scenario what he may be doing, for example 7 Eleven submitted a building permit, we got a plan review for it, and all we was doing was moving some shelves around, putting some equipment in, it just hit the dollar figure to require a building permit. It did not affect any travel, any egress or ingress, fire had no issue with it. If you had to renew a permit or something like that unless there was some radical changes to the building, no he would not have to.

Vince Gurrera, City Attorney, Just so Council understands we may even have been overboard a little bit, in September 2017, we even sent this out to, and I got emails from the Deputy General Council of the Department of the Military Affairs in Public Safety to approve (and they recommended some changes and we made those changes) we had several meetings over it. I do not know any governmental agencies that we did not get involved, and we went overboard on that part.

Councilman Fracasso, getting back to these aerial fireworks, who would liable since it is against our City Ordinance but it is ok with the state? They sell these aerial fireworks, land on someone's roof, or flies through someone's window, catches the house on fire, who is going to be liable for that?

Vince Gurrera, City Attorney, The person that lit off the fireworks.

Councilman Fracasso, and how are you going to catch them?

Vince Gurrera, City Attorney, they have that in Louisiana every year that people shoot guns up in the air, and if you can figure out who shot the gun that landed half a block away and killed someone.

Councilman Fracasso, would the city be held liable since we have an Ordinance on aerial fireworks, and we do not uphold the Ordinance. We uphold every other Ordinance's.

Vince Gurrera, City Attorney, we try to uphold the Ordinance, and what happened was the Circuit Court Judge told us we cannot uphold that Ordinance.

Councilman Fracasso, so why do we have it?

Vince Gurrera, City Attorney, We can get rid of it if you want to.

Councilman Fracasso, if it is no good then it is just taking up paper space.

Vince Gurrera, City Attorney, absolutely it is.

Councilman Fracasso, someone is going to read that Ordinance, and they are going to get upset.

Councilman Ash, there is probably 150 Ordinances that we have that are unenforceable.

Councilman Marsh, isn't the City of Wheeling currently in the Supreme Court over this one.

Vince Gurrera, City Attorney, it is a situation where we have a Circuit Court Judge opinion from 2005/2006, something like that, in which he made it more than clear that not only the city, but any officer who tries to override that State Law is looking at liability and jail time. When I explained that to the officer, I literally, every June 26th to the fourth of July I have text messages back and forth with Police Officers, just saying I want to let you know if you do this the city cannot back you up.

Councilman Marsh, Captain how many people are doing plan reviews?

Captain Mastrantoni, currently three, myself, Lieutenant Hosteller, and Fire Fighter Phillip Martin.

Councilman Marsh, any chance of getting them sped up.

Captain Mastrantoni, we will do our best sir.

Councilman Marsh, I am not going to point fingers at nobody, it is just aggravating to find out he said, she said.

Captain Mastrantoni, will be happy to discuss anytime.

Councilman Fracasso, I want to ask about this key vault system. Every apartment that is three units or more has a key vault so you have access to the building in case of emergency and business. It is everyone even though none of them has it now.

Captain Mastrantoni, it is not retroactive, it is not going to go back to everything that is existing now. Everything that is going to be built in the future would need to do that.

Councilman Ash, do we really want to grandfather everything?

Captain Mastrantoni, I do not think we have a choice.

Councilman Fracasso, I feel that they should have a key vault system.

Vince Gurrera, City Attorney, it is very much like the gambling machines. If you keep it as a gambling machine then keep it as a gambling machine there is not much you can do. If you let it go for a year, and then someone else comes in, and does something else then they lost that grandfather ability.

Captain Mastrantoni, really the key vault system protects the property owner. If we get a fire alarm and we think we see smoke Better than decade ago we got a fire alarm to a apartment. We get there and looked in the window and it appeared to be full of smoke. We see a flicker of red inside there is nobody at the door we cannot get access we knock the door off its hinges. We go in, and it is a frosted window, and an electric fire place inside. A key vault system in that environment we would be able to unlock the door and say ok we don't have a fire here and walk away. It protects the property owner from mistakes.

Councilman Fracasso, I think it is a good idea that everyone has a key vault system.

Jerry Shumate, Fire Chief, Councilman most of the reasonable property owners we had a call couple nights ago to the Signode Company on Three Springs no access. The Officer made the decision I am not going to trash the door because I see nothing and the alarm stopped ringing. Their Property Management Group or Mangers called the next day, and started asking questions, and when they realized the price of the key vault as opposed to the price of the glass door they want to do a key vault. Most reasonable people when they look at that price we had a fire long, long time ago, they called it in before they had their key vault. We had two fires that were involved on two floors. We ended up breaking into every room onto two floors. By luck, we did very little damage all they had to do is repaint. What would it of cost the Holiday Inn if those doors would have been damaged. That is the question that the property owner's has to ask themselves. Right now the key vault that we recommend for businesses is around \$340/\$360 depending on what color you want or options you want. Is it a big expense for somebody operating on a very close bottom line ... yes. But how much is a glass door \$1000/\$1500 for a double door. The insurance would pay for the double door unless your deductible is high they will not pay up front for the key vault.

Mayor Miller, I did not see anything about proper identification on the house or housing number.

Captain Mastrantoni, no sir there is nothing.

Mayor Miller, that is something that we have talked about with Chief that it be mandatory that you place the house number on your mailbox or house.

Captain Mastrantoni, I believe that is already an Ordinance operating in the city.

Mayor Miller, years ago, I do not know who was in office back then when they use to paint the number right on the curb when it snowed you could not find it. The Emergency Services is important that they know what unit, and that they are going to the right location when they get a call.

Captain Mastrantoni, it is a daily struggle for us.

Councilman Marsh, the one you want to take a look at is down in Brooke County. They made everybody put it on the mailbox.

Jerry Shumante, Fire Chief, What we are hoping to do with this Ordinance is to layout a clearly defined level of credentials and qualifications for those that are going to act. I will have the responsibility to make sure that these gentlemen meet the training outlined in this. I will be training in the State Code before I say ok fighter go get them. That is not my intention here, my intention is to make it safe for the investigators, safe for inspectors, safe for the public. That is the goal of the Fire Prevention Code.

Councilman Fracasso, 1501.31 on page 13 Smoke Alarm explain that is that, doesn't everybody have to have a smoke alarm, carbon monoxide alarm.

Captain Mastrantoni, every new resident. Only those residents that have fuel burning equipment, or an attached garage. If you have an all-electric house with no attached garage obviously you are not going to generate CO so there is no need for the carbon monoxide detector.

Councilman Fracasso, as it is right now all new.

Captain Mastrantoni, yes, new or adding on or making changes.

Councilman Marsh, does your inspections cover ADA issues?

Captain Mastrantoni, no sir.

Councilman Ash, There are two people that are not part of this, Brenda Mull and Joe Stankiewicz, and wanted to know if it would be appropriate to ask Joe or Brenda if they have any questions since they are here?

Joe Stankiewicz, I remember the last time I talked with my dad about the inspections in the Fire Department. There was an old saying back in the 50's that none of you guys know about back then, if the Building Inspectors did not do their job, the Fire Department ended

up with the problem. That was the way it was back in the old days. Probably that is one of the best things that you could actually do. Doing the Inspections properly, and actually this would be a great time to reorganize the Fire Department.

Councilman Fracasso, all inspectors will have fire arms.

Councilman Ash, Eventually all inspectors will have fire arms.

Jerry Shumate, Fire Chief, if they qualify with the Police Department, and follow the mandate of what the outline is.

Councilman Fracasso, now in order to qualify, would it just be like sending lead down range.

Captain Mastrantoni, it would be the same qualifications and standards as a Police Officer has.

Brenda Mull, you know I always looked out for the business community, and I respect what you guys do, and I know you have a job to do. Kind of reiterating some of the things George asked, I guess my concern is you go to a business, and you do find something wrong that you don't shut them down, or can you give them time to fix whatever to correct it.

Captain Mastrantoni, Absolutely, we would follow policy and procedure very similar to what Inspections Department has now. If we find a violation, and like Councilman Ash spoke of, discretionary power if it is a simple locked door that should not be locked there is no reason for a citation. As a matter-of-fact we don't want to cite people. We are not out there to hammer people, or close businesses they are our life line. Without businesses in the community there is very little reason for a Fire Department. We want to make it safe for them, for us, and for the public utilizing their facility. If we can assist in the process of making a residential building safer, or business safer, that would our main goal there not to hammer people.

Brenda Mull, my other concern is if you do find a violation that has to be corrected if a new business comes in there are certain things that they have to do, you have to approve, what is the time frame now, and will this create a longer length of time if you do find things. I am assuming you are going to put this in action that Code has to be followed. How long will it take how long will a business be waiting? I know there is a wait now, and I know you are limited on how many men you have to do that.

Captain Mastrantoni, currently the wait is now with the plan reviews. Those plan reviews coming up before a Building Permit is issued. Once that Building Permit is issued any inspections that occur subsequent to that should not delay any process in them opening or construction process. We have people on staff 24/7 barring any major event that would take the entire shift those people should be able to handle those inspections in relatively timely quick fashion to make sure they are Code compliant.

Brenda Mull, what do you consider relatively timely fashion?

Captain Mastrantoni, no more than what they dealing with the Building Inspectors Office now. As a matter of fact, we will be working hand-in-hand with them during that process.

Brenda Mull, how many Building Inspectors take care of this now?

Captain Mastrantoni, right now we do not do any field inspections.

Brenda Mull, no You will be working with the Building Inspectors.

Captain Mastrantoni, correct there will be five to six of us spread out in the different shifts.

Brenda Mull ... ok

Mayor Miller, Over the years I have been in favor of decreasing the amount of time to get the permits. What happens also, sometimes the engineers that work for the companies that are building new buildings or bidding on old buildings forget a sheet in the blue print, or forgot to tell you that they are going to put a bathroom back in this corner. So they have to start the process all over. Someone in the flow of things forgot something, and they have to backup, and redo it. It is better than it was. I remember I opened a building, and we put a ramp in for ADA. We did not have to because we was grandfathered in all areas, but we put a ramp in because we wanted to have a ramp for ADA. People who get in the business, and they hire an architect, and engineer to decide a building, it doesn't always go up that way.

Jerry Shumate, Fire Chief, if it happens to be a building the size of Pietro Fliortini it is not going to be done overnight. Generally for the average business owner to come in for the first visit there is a paper that says what the Fire Department needs. A lot of them fail to provide that. If an inspection is done in a location there is a segment in there that says when a citation or a notation of an error on unsafe condition. You have 30 days and then there is an appeal process already outlined in there also.

Councilman Marsh, Brenda 1501.03 section 8.

Jerry Shumate, Fire Chief, If we walk into your business and your boiling gasoline on your stove we are going to stop you asap. If it is a life threatening problem it needs to fixed now.

Brenda Mull, I don't disagree with that You have a job to do.

Jerry Shumate, Fire Chief, every other citation would be written with so many days to correct and then follow up. If corrected, we say thank you so very much. That is the goal to make everyone safe.

Vince Gurrera, City Attorney, It does help everybody to work together a little bit. We just had an issue one time on Marland Heights. It was a Meth Lab, and the neighbors who clearly was in danger refused to leave. Chief Alexander called, and said Vince in 10 minutes we need some kind of waiver for these people to sign, and I actually had four (4) times in this waiver in big bold print "your life is in danger if you don't leave your place". I think two out of the four families left and two stayed. They signed the waiver and stayed right there. You guys would be able to say look this is way too busy, and we are going shut the place down.

Councilman Fracasso, 1501.26 Unsafe Buildings. It was a rental. He does not rent out anymore he just shoves stuff in there.

Captain Mastrantoni, Single family dwelling.

Councilman Fracasso, Single family dwelling he just stores stuff like garbage or whatever it is in the house. Would that be considered unsafe or a nuisance to the public?

Captain Mastrantoni, if it is a vacant or unused structure that is posing problems to the public I would feel comfortable looking at that situation from a fire prospective with this document.

Councilman Ash made a motion to close the Workshop, second by Councilman Fracasso
Motion passed 5/0

Councilman Marsh, made a motion to come out of recess, second by Councilman Weigel
Motion passed 5/0

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

Motion made to go into Executive Session by Councilman Fracasso, second by Councilman Ash.
Motion passed 5/0

Motion to come out of Executive Session by Councilman Ash, second by Councilman Marsh.
Motion passed 5/0

Vince Gurrera, City Attorney, we discussed personnel matters completing the council vacancy, and how we are going to go about it pertaining to Matthew Provenzano resignation.

PRAYER

ADJOURNMENT

Mayor Miller called for a motion to adjourn the meeting after the closing prayer, which was recited by Councilman Connell.

Motion was made by Councilman Marsh, second by Councilman Ash.

The motion passed 5/0