

**AGENDA FOR PARKERSBURG CITY COUNCIL,  
TUESDAY, SEPTEMBER 13, 2016, 7:30 PM  
SECOND FLOOR, COUNCIL CHAMBERS  
MUNICIPAL BUILDING**

**PRAYER AND PLEDGE OF ALLEGIANCE**

- I. CALL TO ORDER – Council President, John Rockhold
- II. ROLL CALL
- III. MINUTES – meeting held August 23, 2016
- IV. REPORTS FROM STANDING OR SPECIAL COMMITTEES
- V. MESSAGE FROM THE EXECUTIVE
- VI. PUBLIC FORUM
- VII. RESOLUTION
  - 1. Resolution requesting a budget revision in the amount of \$5,000.00 out of the fund balance for renovation to the Police Department substation in south Parkersburg on Blizzard Drive. (Sponsored by Councilmen Lynch, Wilcox, Brown, Rockhold, Reed, Bigley, and Carpenter)
- VIII. ORDINANCE, FINAL READING
  - 2. An ordinance repealing Section 529.05, Fortune Telling; Palmistry, Astrology, etc. prohibited, of the Codified Ordinances of the City of Parkersburg. (Sponsored by Councilmen Brown, Carpenter, and Reynolds.) (had failed on first reading July 12, 2016).
- XII. ADJOURNMENT

**NOTE – URA TO FOLLOW THIS MEETING**

PARKERSBURG, W. VA., August 23, 2016

CASTO &amp; HARRIS, INC., SPENCER, WV RE-ORDER NO. 12275-13

The Council of the City of Parkersburg met in regular session Tuesday, August 23, 2016, at 7:30 PM in the Council Chambers on the second floor of the Municipal Building at One Government Square, Parkersburg, WV 26101 and joined in the Lord's Prayer and Pledge of Allegiance.

The meeting was called to order by Council President, John Rockhold, who presided over the meeting. The clerk noted the attendance and those present included Councilmen Nancy Wilcox, Sharon Lynch, Roger Brown, Kim Coram (by telephone), JR Carpenter, Mike Reynolds, Warren Bigley, Jim Reed, and John Rockhold.

MINUTES – Mr. Reed moved, seconded by Mr. Bigley, to approve the minutes from the meeting held August 9, 2016 and the motion was adopted by unanimous vote.

There were no reports from standing or special committees.

MESSAGE FROM THE EXECUTIVE – Mayor Jimmy Colombo told Council that we had visitors from a prayer meeting group and a member from the Waverly Fire Department this evening. He thanked everyone involved with the recent Parkersburg Homecoming, including our first responders who planned and took care of traffic.

PUBLIC FORUM – Cathy Wermter, 2605 Capital Drive, spoke concerning the upcoming trash can ordinance and cautioned about the fine being imposed. City Attorney, Joe Santer, stated that the decision of the fine would be made by our Municipal Judge.

Mr. Scott Heckert and another member of the Parkersburg Homecoming Committee thanked Mayor Colombo, Chief Martin, and Rick Lemley, members of the Police and Fire Departments for their assistance during the Homecoming. He said it was amazing to watch the officers and how they conduct themselves with pride with the children.

Mayor Colombo stated that he was in the parade for the Homecoming, riding in our antique firetruck, when he saw a baby fall at 8<sup>th</sup> and Avery Streets. The fire trucks stopped, the men took care of the baby, and after that the parade continued. He said this is what our first responders do every day, and that was a great example.

Ms. Janie Baer from Washington, WV, appeared from the prayer group that has met in the City Building since 1998. She asked Council not to let the ACLU threaten them for not voting for the ordinance to ban the fortunetelling code, article 529.05. Ms. Debbie Mason from 42<sup>nd</sup> Street also spoke and asked Council to vote no to repeal this ordinance. She said it was not the government that decides how it will be from the beginning to the end, but God decides that.

Mr. Rob Noland, 2801 27<sup>th</sup> Street, stated that God gave us free will. No one complained about the strip clubs or gambling in the City, he said, and the first amendment gave us free speech.

Ms. Sharon Kuhl, distributed copies of an injury from a child who was hurt at City Park at the volleyball courts where there was a broken bottle in the sand, and the child had to have several stitches in her foot because of it. She is concerned that the parks are not safe and said someone should check daily through the sand for needles and glass.

Ms. Donna Helmick, 600 29th Street, is with an organization called M.A.D. – Making a Difference. She said we have a huge problem with substance abuse, and said they would have a meeting September 10<sup>th</sup> at the City Park with speakers and music to focus on education for quality of life.

Michael Hess, 2619 26<sup>th</sup> Avenue, reminded Council that in October 2007 Parkersburg was recognized by the National League of Cities for Strength in Families and Youth. Now he hears about drugs and youth, and how they will find jobs and stay here. We should re-adopt this platform, he said, and work with other individuals to connect with.

The public forum concluded at 8:00 PM.

#### RESOLUTION

WHEREAS, the City of Parkersburg has and continues to support the Parkersburg and Wood County Public Library; and

WHEREAS, the City of Parkersburg as a further show of its support for the mission of the said Public Library granted to the Library the use of the real property upon which the new South Parkersburg Library, 1807 Blizzard Drive, has been built; and

WHEREAS, the Parkersburg and Wood County Public Library Board did approve and adopt a resolution dated July 27, 2016 to give and grant the building at 1713 Blizzard Drive to the City of Parkersburg.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the City of Parkersburg accepts the building at 1713 Blizzard Drive, Parkersburg, WV, which building formerly housed the Southside satellite facility of said Public Library.

Dated this 23<sup>rd</sup> day of August, 2016.

MOTION – Mr. Reynolds moved, seconded by Mr. Bigley, to adopt the resolution.

Mr. Reynolds asked if the City had immediate plans for the building, and Mayor Colombo said we did not, but he would rather not get into another building to lease, and we don't want to have a parking problem for the Fire Department.

Mr. Santer stated that the building belonged to the South Parkersburg Library until they build a new library close by. Mr. Reed said we could have \$7,000 to \$8,000 in expenses if we have to tear it down, and Mr. Santer said that either way, the City will have to deal with it.

VOTE – the motion was adopted by unanimous vote.

#### RESOLUTION

#### RESOLUTION AUTHORIZING THE TRANSFER BY DONATION OF A RETIRED FIRE DEPARTMENT FIRE TRUCK

WHEREAS, the City of Parkersburg has an excess retired (out of service) fire truck; and

WHEREAS, the Waverly Volunteer Fire Department is in need of such a fire truck for its day to day operation as a Volunteer Fire Department;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that Mayor James Colombo or his designee is hereby authorized to transfer by donation, one (1) retired fire truck, 1985 Sutphen, Mini Tower Truck, VIN #1S9A5LDD6F1003329, to the Waverly Volunteer Fire Department, State Route 2, Waverly, West Virginia 26184.

MOTION – Ms. Wilcox moved, seconded by Mr. Bigley, to adopt the resolution, and the motion was adopted by unanimous vote.

#### ORDINANCE, FINAL READING:

#### AN ORDINANCE AMENDING SECTION 783.03, FLOODWALL MAINTENANCE FEES IMPOSED, OF ARTICLE 783 OF THE CODIFIED ORDINANCES OF THE CITY OF PARKERSBURG

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that Section 783.03 of Article 783, Floodwall Maintenance Fees, of the Codified Ordinances of The City of Parkersburg be and it is hereby amended as per Subsections (a), (b), (c), (e) and (f) but only as per those said Subsections and as follows:

- (a) There is hereby imposed upon the respective owners of all tracts of land in the protected flood zone an annual fee in an amount equal to the total number of square feet of land multiplied by \$0.001.
- (b) There is hereby imposed upon the respective owners of all buildings in the protected flood zone an additional annual fee in an amount equal to the total number of square feet contained in the building multiplied by \$0.067 per square foot.
- (c) There is hereby imposed upon the respective owners of all commercial and institutional buildings in the protected flood zone an additional annual fee in an amount equal to the total number of square feet contained in the building multiplied by \$0.067 per square foot.
- (e) There is hereby imposed upon the respective owners of all mobile homes in the protected flood zone an annual fee of five dollars and sixty-seven cents (\$5.67).
- (f) There is hereby imposed upon the respective owner and/or occupant of all utility poles, multiple poles or tower structures within the protected flood zone an annual fee of two dollars and no cents (\$2.00) for each utility pole, multiple pole or tower structure owned or occupied by each such entity.

MOTION – Mr. Reynolds moved, seconded by Mr. Carpenter, to adopt the ordinance on final reading.

Mr. Wilcox asked the Finance Director the amount of income from the floodwall, and Mr. Jiles said we receive \$135,000.00 for a full year, and the maintenance is \$132,000.00. She asked what we would do if we had unexpected maintenance, and Public Works Director, Rick Lemley, said that we cannot predict those amounts, but the maintenance we do now falls in line with what is in the budget.

There will be a select few get a reduction by lowering this fee, she stated. People are saving money on insurance because we have the floodwall, and the money we are letting go of is taken from something else in the general fund. We could be cutting more grass in our parks, or sifting sand.

When FEMA came in 1978, Mr. Reed said we dealt with 100 year flood plain, and now it is about 1,000. He asked if we could be doing an injustice if we cut the fee.

Mr. Reynolds said we told the public we would try to reduce fees. He believes this is the right direction, and the budget is balanced with the reduction. Mr. Carpenter said that had it not been borne by the businesses and people living in the flood zone, the City could not operate. The wall affects everyone, he said.

CASTO & HARRIS, INC., SPENCER, WV RECORDER No. 12275-13

Mr. Brown said he thought we would eliminate fees when we got the 1% sales tax. Mayor Colombo stated that City Council gave \$2,040,000.00 back to the citizens when we lowered the B & O taxes in order to get the 1% sales tax. Citizens no longer pay B & O fees for their electric or gas bills, he said.

VOTE – the motion was adopted by majority vote as follows:

VOTING 'YES'

- Mr. Brown
- Ms. Coram
- Mr. Carpenter
- Mr. Reynolds
- Mr. Bigley

VOTING 'NO'

- Ms. Wilcox
- Ms. Lynch
- Mr. Reed
- Mr. Rockhold

ORDINANCE, FINAL READING:

AN ORDINANCE AMENDING AND RE-ENACTING  
SECTION 955.05 OF ARTICLE 955, OF THE  
CODIFIED ORDINANCES OF THE  
CITY OF PARKERSBURG

The Council of the City of Parkersburg Hereby Ordains that Section 955.05, Article 955 of the Codified Ordinances of the City of Parkersburg be hereby amended and re-enacted as follows:

955.05 COLLECTION BY CITY OR PRIVATE COLLECTORS ONLY: RULES.

No person, except the City and private collectors, shall engage in or conduct the business of collection, removal or disposal of solid waste within the corporate limits. It shall be mandatory for all occupants of residential units to place their recycling containers, garbage containers, refrigeration appliances and white appliances at the curbside, alleyside or other place to be designated by the Director of Public Works.

All said garbage containers, recycling containers and any other item left for collection shall not be placed at the curbside, alleyside or other place designated by the Public Works Director more than one (1) day prior to the date of collection. Nor shall any container be left at the curbside, alleyside or other designated point of pick up more than twenty-four (24) hours after the date and time of collection of said solid waste or recyclable.

955.99 PENAL TV

Whoever violates any provision of this article shall be fined not more than five hundred dollars (\$500.00). A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 0-584. Passed 1-9-90.)

MOTION – Ms. Coram moved, seconded by Mr. Carpenter, to adopt the ordinance on final reading.

Ms. Wilcox said this ordinance is similar to the yard sale ordinance – we can't take care of it, and it was brought on by one person in district #4.

Mr. Bigley stated that he agrees that this is an annoyance, but we cannot legislate good neighbors. If this ordinance is adopted, people will just find the next thing to be annoyed about.

Ms. Coram said this was about trash that is in the street every day, next door to her. Ms. Lynch said that neighbors usually help each other, and she had not received one call in favor of the ordinance.

VOTE:

The motion was adopted by majority vote, as follows:

VOTING 'YES'

- Mr. Brown
- Ms. Coram
- Mr. Carpenter
- Mr. Reynolds
- Mr. Reed

VOTING 'NO'

- Ms. Wilcox
- Ms. Lynch
- Mr. Bigley
- Mr. Rockhold

## ORDINANCE, FINAL READING:

AN ORDINANCE AMENDING THE CITY CHARTER,  
SECTION 2.105, QUALIFICATIONS OF COUNCILMEN; AND  
SECTION 3.102, QUALIFICATIONS OF MAYOR

WHEREAS the requirement that the Mayor and Councilmen shall have been residents of the City for a period of at least two (2) years immediately preceding their election is unconstitutional, it being a violation of the West Virginia Constitution.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that Section 2.105, Qualifications of Councilmen, and Section 3.102, Qualifications of Mayor, be amended by removing the requirement that those seeking election to those positions shall have been residents of the City for at least two (2) years preceding the election and that the Mayor be at least 25 years of age at the time of his/her election and as follows:

## SECTION 2.105 QUALIFICATIONS OF COUNCILMEN.

All Councilmen shall be citizens of the United States and qualified electors of the City, and shall not hold, during their terms of office, any other public office or position nor be members of any political executive committee; provided, however, that a notary public, member of the military or naval forces or public school or college employee shall not be deemed to hold a public office or position within the meaning of this section. Each Councilman shall during his term of office, reside within the district from which elected or appointed to represent; provided, however, that no redistricting of the City shall effect the term of any incumbent Councilman during his or her then existing term of office.

## SECTION 3.102 QUALIFICATIONS OF MAYOR.

The Mayor shall be a resident of the City, shall be a citizen of the United States and a qualified elector of the City, and shall remain a resident of the City during his term of office.

(See West Virginia Supreme Court of Appeals decision, Marra v Zink, 256 S.E. 2d 581, 163 W.Va. 400, that finds that any qualification in excess of the provisions set forth in the W.Va. Constitution, article 4, section 4, is unconstitutional. )

MOTION – Mr. Reynolds moved, seconded by Mr. Bigley, to adopt the ordinance on final reading.

PUBLIC HEARING – at 8:17 PM, President Rockhold declared a public hearing open to give the citizens an opportunity to voice their opinion on this Charter change. No one appeared, and the hearing was declared closed at 8:18 PM.

VOTE - the motion was adopted by majority vote with all members voting "yes" with the exception of Ms. Lynch, who voted "no".

## ORDINANCE, FINAL READING:

AN ORDINANCE AMENDING THE CITY OF PARKERSBURG  
CHARTER, SECTION 5.101, SUBMISSION OF BUDGET AND  
BUDGET MESSAGE, SECTION 5.105, COUNCIL ACTION ON  
BUDGET; AND SECTION 5.108 ADMINISTRATION OF BUDGET,  
OF ARTICLE V, FINANCIAL PROCEDURES

WHEREAS certain deadlines concerning the submission and approval of the City Budget and certain procedures for revisions to the Budget as presently set forth in the City Charter are either impractical, in contravention of State Law and or regulations of the State Auditor; and

WHEREAS the proposed changes will bring the City Charter into compliance with the dates and requirements for Budget submission, and approval. Now Therefore Be It Ordained By The Council of the City of Parkersburg that Article V, Financial Procedures of the Charter of the City of Parkersburg be and they are amended as follows:

ARTICLE V  
FINANCIAL PROCEDURES

## SECTION 5.101 SUBMISSION OF BUDGET AND BUDGET MESSAGE

On or before the 5th day of March of each year, the Mayor shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

CASIO & HARRIS, INC., SPENCER, WV RE-ORDER NO. 12275-13

(1) Notice and Hearing. The Council shall publish in one or more newspapers of general circulation in the City the general summary of the budget and a notice stating:

(a) The times and places where copies of the message and budget are available for inspection by the public, and

(b) The time and place, not less than two weeks after such publication, for a public hearing on the budget.

(2) Amendment Before Adoption. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit; provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income. (3) Adoption. The Council shall adopt the budget on or before the date it enters its order adopting the statutory levy estimate and laying the levies, but in any event not later than the 26<sup>th</sup> day of March in the fiscal year currently ending. Adoption of the budget shall constitute appropriations of the amounts specified herein as expenditures from the funds indicated. Adoption shall be by resolution. The levy order and State required budget form shall be adopted by separate resolutions except that State required estimates and budget form may be approved in the same resolution by which the City budget is adopted.

SECTION 5.108 ADMINISTRATION OF BUDGET.

At such time as the Mayor shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Mayor shall review and authorize such allotments with or without revision as early as possible in the fiscal year, subject however to Council's approval and submission to and approval of the State Auditor. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations, subject however to Council's approval and submission to and approval of the State Auditor and further subject to any limitation imposed by general law.

MOTION – Mr. Carpenter moved, seconded by Mr. Brown, to adopt the ordinance on final reading.

PUBLIC HEARING – at 8:19 PM, President Rockhold declared a public hearing open to give the citizens an opportunity to voice their opinion on this Charter change. No one appeared, and the hearing was declared closed at 8:20 PM.

VOTE – the motion was adopted by unanimous vote.

MOTION TO RENEW the ordinance concerning palm reading, fortunetelling, etc..

MOTION – Mr. Brown moved, seconded by Mr. Carpenter, to renew the ordinance and vote on the following:

AN ORDINANCE REPEALING SECTION 529.05, FORTUNE TELLING, PALMISTRY, ASTROLOGY, ETC. PROHIBITED, OF THE CODIFIED ORDINANCES OF THE CITY OF PARKERSBURG

Ms. Wilcox asked if this ordinance could be referred to the Municipal Planning Commission, and City Attorney, Joe Santer, stated that he did not think the Planning Commission had a say in this. We are presenting this ordinance as an interpretation from the Supreme Court about free speech, and he asked Council to adopt it.

VOTE – on motion to renew, was adopted by majority vote, as follows:

VOTING 'YES'

- Mr. Brown
Ms. Coram
Mr. Carpenter
Mr. Reynolds
Mr. Bigley

VOTING 'NO'

- Ms. Wilcox
Ms. Lynch
Mr. Reed
Mr. Rockhold

ORDINANCE, FIRST READING:

AN ORDINANCE REPEALING SECTION 529.05, FORTUNE TELLING, PALMISTRY, ASTROLOGY, ETC. PROHIBITED, OF THE CODIFIED ORDINANCES OF THE CITY OF PARKERSBURG

MOTION – Mr. Carpenter moved, seconded by Mr. Reynolds, to adopt the ordinance on first reading.

Stating his appreciation for the comments made by the prayer representatives this evening, Mr. Bigley said that he also was a Christian, and a Gideon, but this ordinance is about the First Amendment. They have a right to believe what they think and practice what they want. Everybody has the right to worship, he said.

Ms. Lynch said she understood what the City Attorney said, but there are some restrictions on where certain businesses are allowed to be, and the Planning Commission decides. Mr. Santer said these are two different issues – one is about the First Amendment, and the other is about zoning for a business, and this ordinance precludes it entirely.

VOTE – the motion was adopted by majority vote, as follows:

VOTING 'YES'

VOTING 'NO'

- Mr. Brown
- Ms. Coram
- Mr. Carpenter
- Mr. Reynolds
- Mr. Bigley

- Ms. Wilcox
- Ms. Lynch
- Mr. Reed
- Mr. Rockhold

The meeting adjourned at 8:25 PM.

*Jimmy Skaggs*  
City Clerk

\_\_\_\_\_  
Council President

**RESOLUTION**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Mayor, or his designee, be authorized to request approval from State Auditor's Office for the following budget revision within the General Fund for the Fiscal Years 2016-2017 prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists, and to make said budget revisions upon the State Auditor's approval:

*g/s*

**GENERAL FUND**

<b>Fund</b>	<b>Account</b>	<b>Description</b>	<b>Revenue Increase/ (Decrease)</b>	<b>Expenditure Increase/ (Decrease)</b>	<b>Fund Source / Description</b>
001	299-00	FUND BALANCE	5,000.00		SOUTHSIDE SUBSTATION
001	700-458-000	CAPITAL OUTLAY - OTHER IMP		5,000.00	SOUTHSIDE SUBSTATION
			<u>5,000.00</u>	<u>5,000.00</u>	

The above revision appropriates a portion of the pending surplus carryover toward renovations of the former Southside Library for the purposes of converting it to a Police Substation.

**ORDINANCE REPEALING SECTION 529.05,  
FORTUNE TELLING, PALMISTRY, ASTROLOGY,  
ETC. PROHIBITED, OF THE CODIFIED  
ORDINANCES OF THE  
CITY OF PARKERSBURG**

FTS

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG** that Section 529.05, of Article 529, Fortune Telling, Palmistry, Astrology, Etc. Prohibited, of the Codified Ordinances of the City of Parkersburg, be and it is hereby repealed in its entirety.

SPONSORED BY COUNCILMEN: