TOWN OF MARLINTON

Marlinton Town Council
October 7, 2024
Regular Meeting Minutes

Location: Municipal Building Auditorium with Zoom and call-in options.

Mayor Sam Felton called the meeting to order at 7:00 p.m.

The Mayor led the Council and the audience in the Pledge of Allegiance.

The Recorder called the roll.

Present:	Sam Felton, Mayor	Mary K. Clendenen, Recorder
	Tina Barkley	Tom Miller
	Olivia Dean	Joe Smith
	Scott Gibb	
Absent:	None	

Reading and Approval of Prior Council Meeting Minutes: The Council reviewed the minutes of the September 9, 2024 Regular Meeting and the September 25, 2024 Special Meeting.

- Scott Gibb moved to approve both sets of minutes as presented. Tom Miller seconded the motion. **Motion passed by unanimous vote.**

Mayor's Report: The Mayor reviewed his monthly report with the Council. The Town has been working on tree trimming and removal during the past month. Empire Salvage had the low bid for demolishing dilapidated buildings under the DEP DLAP grant, and they have begun their work. The Town has ordered a new phone system to be installed at the Municipal Building in December. A new mural was dedicated at the VFW Building prior to the 9/11 Ceremony at the Gazebo. At the Special Meeting on September 25th, Thrasher Engineering was selected as the engineering firm to work on the trailhead and other ongoing recreational projects. Mayor Felton also completed his final meeting as chair of the Regional Optical Communication group that has been working on broadband for a 19-county area.

The Mayor also reported that he recently attended a special meeting with the County Commission, Dave Sharp at Potesta, Rural Water, the Pocahontas PSD, Region 4 Planning and Development, and PMH representatives concerning the water system at Beard Heights. He said he will be giving further details in upcoming Mayor's Corner articles in the Pocahontas Times; however, it appears the Town will not be involved in the water project due to the length of time that would be needed to get funding.

Hear Public Input: Caroline Sharp requested that Bruce VanMeter distribute the updated floodplain mitigation information to the public. For the information of the Council and audience, she also listed several items that are currently needed for hurricane relief in North Carolina. The Mayor reminded everyone that City National Bank is accepting drop-off donations.

Crystal Dean had questions about the proposed Setback Ordinance changes and why the Council will have the ability to waive the grandfather clause in the updated ordinance. She was concerned that if an older home burns down or is torn down, the Council could choose not to allow a home to be rebuilt in the same footprint on that property. She also asked why section 5 was removed, which allowed the Council to review decisions made by the Building Inspector, and the purpose of section D2. This was discussed further under New Business item #6.

Committee and Department Reports: None

Unfinished Business:

1. **Discuss and/or Act on Third and Final Reading of Ordinance Amending Business and Occupation Tax:**

   - Scott Gibb moved to approve the ordinance on the third reading. Olivia Dean seconded the motion. **The motion passed by unanimous vote.**

2. **Discuss and/or Act on Third and Final Reading of Ordinance Implementing Sales and Use Tax:**

   - Scott Gibb moved to approve the ordinance on the third reading. Olivia Dean seconded the motion. **The motion passed unanimously.**

New Business:

1. **Presentation of Certificate of Appreciation to Dixie Schoolcraft:** The Mayor and Bruce VanMeter presented a Certificate of Appreciation to Miss Schoolcraft and thanked her for volunteer work she performed for the Town during the past several weeks.

2. **Discuss and/or Act on Request from Pocahontas County High School to Sponsor a Community Parade:** The Council reviewed a request from PCHS to have a Homecoming Parade and bonfire in Marlinton on Tuesday, October 8th from 7:00 p.m. to 8:30 p.m. Warriors Above the Influence will provide hotdogs and s'mores and McCoy's Enterprises will provide the wood for the bonfire. Arrangements have already been made with the fire department.

   - Joe Smith moved to approve the parade and bonfire. Tom Miller seconded the motion. **The motion passed by unanimous vote.**

3. **Discuss and/or Act on Request for Donation from Pocahontas County Free Libraries:** The Council discussed a donation request from Hallie Herold, Director of Operations for Pocahontas County Libraries, for $500. Joe Smith reiterated that he did not feel the town should be in the business of giving donations, but he said the library does provide a good service to the community. Mary Clendenen commented that the Town had donated $300 last fall.

   - Joe Smith made a motion to donate $300. Olivia Dean seconded the motion. **The motion passed unanimously.**

4. **Discuss and/or Act on Town Halloween Activities:**
   a. Set Date and Time for Trick or Treat: Joe Smith commented that Trick or Treat is usually held on the evening of Halloween, unless it falls on a Sunday.

      - Joe Smith moved that Trick or Treat be held on Thursday, October 31, 2024 from 5:00 – 7:00 p.m. Olivia Dean seconded the motion. **The motion passed unanimously.**

   b. Activities at Discovery Junction – Crystal Dean: Ms. Dean requested that the Council approve a costume contest to be sponsored by DariLand at Discovery Junction and a family-friendly block party on Third Avenue to be held by multiple town businesses on the evening of Trick or Treat. She asked that Third Avenue be shut down between 8th and 9th Streets during this event.

      - Joe Smith moved to approve the costume contest and block party. Tom Miller seconded the motion. **The motion passed unanimously.**

5. **Discuss and/or Act on Christmas Decorating Contest:** Olivia Dean said she would like to get approval to have this year's Christmas Decorating Contest with the same rules and prizes as last year. Voting by the public would take place the first two weeks of December. The total prizes would be $1,200.00. Over 3,000 votes were received last year.

She also hopes to add hot chocolate, candy canes and horse-drawn carriage rides to the Town's festivities the first two weekends in December, if possible. She will present more information about that at a future meeting.

- Tina Barkley moved to approve the Christmas Decorating Contest and prizes. Scott Gibb seconded the motion. **The motion passed unanimously.**

6. **Discuss and/or Act on First Reading of an Ordinance to Establish Minimum Setback Requirements:** Bruce VanMeter presented the ordinance, which was prepared by Tom White. He said Town's attorney was asked to update the Setback Ordinance because a former council had voted on setbacks of 5 feet for commercial and 10 feet for residential buildings, but had only handwritten them into an existing ordinance. He said the updated ordinance does not preclude someone from rebuilding on a property if the new structure complies with codes.

   Due to a typographical error at the attorney's office, this draft of the ordinance incorrectly stated in the first paragraph that it pertained to prohibiting tents and recreational vehicles as permanent residences, instead of establishing minimum setback requirements. Crystal Dean expressed frustration that many town lots are very narrow, and a ten-foot setback would not allow sufficient room to construct a new building on those lots. She said she felt this is a discriminatory requirement and that it is unconstitutional.

   Olivia Dean questioned whether the Town Council should be able to individually evaluate each replacement building to determine if grandfathering is allowed. Mr. VanMeter and Mary Clendenen both stated that Tom White indicated to them that the setbacks were intended to prevent safety concerns.

   - Joe Smith moved that the Council send the proposed ordinance back to the Town's attorney for further revisions, clarification, and to have the first paragraph corrected concerning the purpose of the ordinance. Tina Barkley seconded the motion. **The motion passed by unanimous vote.**

7. **Discuss and/or Act on First Reading of Changes to Garbage Fee Ordinance:** Mary Clendenen recused herself from this portion of the meeting. The Council then reviewed the updated Garbage Fee Ordinance, which reflects a 35% increase for each class of collection fees and eliminates the Special Pick Up paragraph concerning large items and leaf pickups. The increase in rates is needed due to the increase in tipping fees at Pocahontas County Landfill that became effective September 1, 2024. The special pickups done by the Town on Fridays will likely required the Town to pay the minimum of $26.20 at Pocahontas County Landfill.

   - Joe Smith moved to approve the first reading of changes to the Garbage Fee Ordinance. Tom Miller seconded the motion. **The motion passed by unanimous vote.**

Mary Clendenen returned to the meeting after the vote was taken.

8. **Discuss and/or Act on General Penalty for All Town Ordinances, Resolutions, Rules or Regulations that Currently Do Not Have a Penalty:** The Town's existing Code §10.99 and West Virginia Code §8-11-1, 8-12-5(58) state that the Town Council can set a reasonable fine for the violation of any ordinance resolution, rule, regulation, notice or order that has no specific penalty provided for the violation thereof. Mary Clendenen stated she would like to get additional information from the Town's attorney concerning the maximum penalty allowed before the Council takes action.

   - Scott Gibb moved to table this discussion until further information is received concerning the penalties. Tom Miller seconded the motion. **The motion passed unanimously.**

9. **Discuss and/or Act on Bids for Mini Excavator:** The advertisement requesting bids for a mini excavator was run in the Pocahontas Times for two weeks with a due date of October 4th. Scott Gibb explained that this excavator is needed to do work at the cemetery, sewer treatment plant and to assist with moving on slopes in several different areas of town. The Town currently has to rent a machine to do this work. One bid was received from Leslie Brothers Equipment for a 2021 John Deere mini excavator with 438 hours for $49,500. This included a mower attachment.

- Joe Smith moved that the Council accept the bid of $49,500 from Leslie Brothers Equipment. Tom Miller seconded the motion. **The motion passed unanimously.**

Approve Invoices/Payment of Bills:

- Joe Smith moved to approve the bills for payment. Scott Gibb seconded the motion. **The motion passed by unanimous vote.**

Adjournment: As there was no further business, Mayor Felton adjourned the meeting at 8:20 p.m.

Sam Felton

Sam Felton, Mayor

Mary K. Clendenen

Mary K. Clendenen, Recorder