

**BOARD OF DIRECTORS  
BLUEFIELD, WEST VIRGINIA  
April 9, 2013**

The Board of Directors of the City of Bluefield, West Virginia met in regular session April 9, 2013 at 12:00 p.m. in the Municipal Boardroom. Present were Directors Mary Frances Brammer, Deb Sarver & Pete Sternloff; City Manager Jim Ferguson; City Attorney Brian Cochran; City Treasurer Ken Mulkey; City Clerk Helen Mitchell and Bobbi Kersey. Mayor Linda Whalen and Director Tom Blevins were not in attendance.

**INVOCATION/PLEDGE**

The Invocation was given by Gene Wyatt, followed by the Pledge of Allegiance. Director Mary Frances Brammer welcomed everyone to the meeting.

**MINUTES**

Minutes of the March 26, 2013 meeting were approved as presented on a motion by Director Pete Sternloff, seconded by Director Deb Sarver.

**DISCUSSION ITEMS**

City Manager Jim Ferguson announced Bluefield's annual neighborhood clean up initiative will take place in the form of PROJECT CLEAN SWEEP scheduled this year from April 22 through May 16.

**Basic Guidelines:**

- A. The project is open to City residences or businesses, only, which have City garbage service. *The free pickup will be suspended and normal City fees and ordinances will apply to anyone "carrying in" debris from out-of-city locations or who does not subscribe to City garbage pickup.*
- B. Items for pick up must be placed in your regular trash pickup location. Please, place all items you want picked up out at the same time, so City crews won't have to make multiple stops at the same location.
- C. Do not place any items out for pick up prior to the Sunday evening of the week designated for your neighborhood. *Items placed for pickup to or after the designated days for your neighborhood will be subject to normal fees and ordinances.*
- D. Loose items and materials need to be secured against wind.
- E. Any items for pickup must be placed outside no later than 8 a.m. on the Thursday of the week designated for your neighborhood.
- F. Do not mix brush, tree trimmings, etc., with other debris. These items will be picked up by different crews, possibly at different times.
- G. Hazardous materials (car batteries, solvents, oil or fuel, etc.) will not be picked up.
- H. Tires or refrigerators type appliance, television or computers will not be picked up.
- I. Construction or demolition debris will not be picked up.
- J. Banned items will not be picked up by the city crews and must be taken care of immediately by the residences. If left on the curb, it could be subject to citation.

**Schedule and Boundaries**

**Zone I-North side** and section of the west end from Chestnut St. to Carolina Ave., west along Bluefield Ave. to the Virginia line- April 22 through April 25

**Zone 2-** Along Princeton Ave. and east side of Bland Street to north side of Cumberland Road, east to and along Grassy Branch Road- *April 29 through May 2*

**Zone 3-** South side of Cumberland Road, along Rt. 460 and East Cumberland Heights-*May 6 through May 9*

**Zone 4-**South Mercer area, Downtown area, west side of Bland Street to West Cumberland Road, Washington Street Ext. to Rt. 460 and west to Virginia line- *May 13 through May 16.*

**Anyone with questions can call the Public Works office at 304-327-2490**

The City Manager further noted that the city is upgrading Project Clean Sweep to pick up all lawn debris and brush but debris must be bagged. This year ranges, washers, dryers and scrap metal will also be picked up during the Clean Sweep. All items must be brought to the curb. Regular garbage service will stay on normal scheduled days.

Manager Ferguson said we are also looking for organizations, civic groups, citizen volunteers to adopt sections of our city to clean. If interested, call City Hall and speak with Angie Foley about adopting a section of our city to rid it of rubbish.

Manager Ferguson reported sidewalk replacement is ready to start on the west side of Bland Street starting at Clifford Street and continuing toward Wilson Street. The goal is to have it completed by August 24.

Manager Ferguson said three playgrounds in the city will be getting improvements thanks to a \$45,000 gift from the June O. Shott Foundation. The three playgrounds are the East River Playground, the East End Playground and the Wayne Street Playground.

City Manager Ferguson announced that demolition of blighted properties will continue with a goal of fifty being demolished by year-end. A slight break will occur due to the Clean Sweep Project.

City Manager Ferguson reported that the US South 52 entrance to Bluefield will get a makeover. All the properties have been demolished. CASE is ready to start construction of homes on Highland Avenue and additional improvements to the surrounding properties.

City Manager Ferguson stated that AEP is ready to begin improvements to the electrical infrastructure of our city in the amount of \$3.5 million. These improvements will involve up to 50 underground vaults located around the city with concentration in the downtown area.

Manager Ferguson announced that groundbreaking is scheduled on May 24 for the interpretive walk on the site of the formerly named Colonial Intermodal. This project is scheduled for completion prior to the Bluefield High School/Graham High School Football game. Ferguson showed an artist rendering and explained that three signs will be facing the downtown area with historical information. The remaining signs will face the rail yard and will also have historical information.

Manager Ferguson announced Team Blue night with the Bluefield Blue Jays is scheduled June 22.

Manager Ferguson explained an educational program called Lemonade Day WV will consist of three participating schools: Lashmeet Elementary School, Bluewell Elementary and Bluefield Intermediate. This program is designed to teach children, grades 3, 4 & 5, business skills, financial literacy and entrepreneur development. The program allows the opportunity to show students how to start up a business at a young age.

The City Manager introduced Shannon Bailey from the Bluefield Sanitary Board to discuss the Southern WV storm water management system that is being planned in conjunction with the Scott Street Open Air Parking Center. Mr. Bailey explained the City of Bluefield has had a storm water permit issued through the WV Department of Environment Protection since 2003. This permit is in place to help the state deal with storm water pollution.

Bluefield is one of 23 towns that has this permit and must comply with the DEP regulations. To comply with the DEP permit the Sanitary Board has been looking at projects. Because the Scott Street Parking Building was taken down to the bare ground, it presented an opportunity for these projects. The Sanitary Board considered the following:

- Catching all the rainfall
- Installing a tank to capture the water for later use on flowers
- Installing Pervious Concrete

They recommended that the City of Bluefield use pervious concrete. This design will catch the 1<sup>st</sup> one inch of rainfall, which meets the permit compliance. This is the largest project of this kind in the state. There was a description of how pervious concrete works, and Mr. Bailey said a sign would be erected at the Scott Street location explaining the project.

Installation of pervious concrete will save the city \$90.00 a month in storm water fees. Director Pete Sternloff praised the project. The cost of the pervious concrete project is \$56,211 and is not part of the original Scott Street project. City Manager Ferguson concluded the report on the Scott Street Parking by saying a landscaping project is currently being planned for the terraces located inside the Scott St. Parking Center. The opening is scheduled for Mid-May.

## **ACTION ITEMS**

Director Pete Sternloff made a motion to accept a change of order for the Scott Street Open-Air Parking Pervious Concrete project, seconded by Director Deb Sarver. Unanimously approved and so ordered.

Director Pete Sternloff made a motion to set a date for a special meeting to "Lay the Levy" for April 16, 2013 at 10:00 am, seconded by Director Deb Sarver. Unanimously approved and so ordered.

City Manager Ferguson introduced John Stump, an attorney from Steptoe and Johnson, to review an ordinance regarding financial improvements to the city sewer system. Two bond issues were reviewed:

1. Not to exceed \$1.6 million
2. Not to exceed \$350,000

Mr. Stump explained that the total cost is not expected to exceed \$174,040 for the small bond and not expected to exceed \$1,363,826 for the larger bond. The smaller loan will be forgiven by the federal government and is essentially a grant. There will be no rate increase to the citizens.

This is the first reading, the second reading is scheduled for April 23 and a final reading is scheduled for May 14 along with a public hearing. After the three readings, the city will have to pass a supplemental resolution passed. Mr. Stump said he would be attending the public hearing for questions. City Manager Ferguson read the ordinance.

**FIRST READING OF BOND ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS, AND IMPROVEMENTS, TO THE EXISTING SEWERAGE SYSTEM OF THE CITY OF BLUEFIELD AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$1,600,000 IN AGGREGATE PRINCIPAL OF SEWER REVENUE BONDS. SERIES 2013 A (WEST VIRGINIA SRF PROGRAM); AND NOT MORE THAN \$350,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2013 B (WEST VIRGINIA SRF PROGRAM/GREEN) PROVIDING FOR THE RIGHTS AND REMEDIES OF A SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS, AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.**

Director Deb Sarver moved to approve the first reading of the ordinance as read, seconded by Director Pete Sternloff. Unanimously approved and so ordered

City Attorney Brian Cochran presented the first reading of an ordinance to amend Part II, Chapter 4 Animals, Article II of the City Code:

**FIRST READING OF AN ORDINANCE TO AMEND PART II, CODE OF ORDINANCES OF THE CITY OF BLUEFIELD, CHAPTER 4 ANIMALS, ARTICLE II, DOGS AND CATS, SECTION 4-39, DEFINITIONS, AND THE ENACTMENT OF SUBSECTIONS 4-39 (5), AND 4-51 (1) AND (2).**

**WHEREAS**, Chapter 8, Article 12, of the West Virginia Code grants West Virginia Municipalities the authority to pass Ordinances to promote the safety of its citizens and to prevent risk of harm to its citizens; and

**WHEREAS**, dangerous animals, specifically described in Article II, Section 4-39 (3) and (4) of the Code of Ordinances of the City of Bluefield, and typically referred to as pit bull dogs, and wolf-hybrids, are aggressive by nature, have a propensity to attack without provocation, and have been found to represent a public health and safety hazard; and

**WHEREAS**, the ownership, maintenance, and control of dogs and/or other animals within the City of Bluefield is a local concern, which is rationally related to the City's legitimate interests, and which is a proper exercise of its police powers granted by the West Virginia Legislature; and

**WHEREAS**, for the reasons set forth above, it is the desire of the Board of Directors of the City of Bluefield to amend Section 4-39 and enact subsections 4-39(5), 4-51(1), and 4-51(2) of the Code of Ordinances of the City of Bluefield; and

**WHEREAS**, the duly elected governing authority of the City of Bluefield is the Board of Directors thereof.

**NOW, THEREFORE BE IT RESOLVED, that** the City of Bluefield hereby adopts the amendment of Section 4-39 and the enactment of subsections 4-39(5), 4-51(1), and 4-51(2) as follows, effective April 23, 2013:

**Sec. 4-39. Definitions.**

Dangerous animal means and includes the following:

- 1) (This subsection shall remain unchanged.)
- 2) (This subsection shall remain unchanged.)
- 3) (This subsection shall remain unchanged.)

{4) (This subsection shall remain unchanged.)

The owner of any animal described in subsections (3) and (4) of this definition shall register such animal with the city police department, ~~within ten days of the enactment of the ordinance from which this definition is derived or within ten days of bringing any such animal within the city limits.~~

(5) The owner of any animal described in subsections (3) and (4) of this section who has registered such animal with the city police department as required above, within ten (10) days of the effective date of Section 4-51(1), and who is in compliance with the proper and adequate safeguards to protect the public health, safety, and welfare described in Section 4-51, subsections (a), (b), (c), and (d), may keep such dog(s) within the confines of the City. However, this exemption shall not apply to such animal(s) acquired subsequent to passage of Section 4-51(1), or to animals found by the municipal court to be in violation of Section 4-51 (a) through (d). Nothing in this section shall prevent an owner of a "service animal," as defined by the Americans with Disabilities Act (ADA), from owning and keeping such service animal in the City.

Section 4-51. Pit bulldog, wolf-hybrid regulations.

- 1) Except as provided for in Section 4-39(5) of this Article, no person shall own, keep, or harbor a pit bull dog, as defined in Section 4-39(3), or any wolf species as defined in Section 4-39(4), within the corporate limits of the City.
- 2) This section is a necessary control to eliminate the risk of attack by dangerous animals on human beings and on other animals in the City, which have become a threat to the health, safety, and welfare of the public; and the lack of knowledge or lack of intent to injure is eliminated as a defense to any violation thereof.
  - a) *Leash and muzzle.* (This subsection shall remain unchanged.)
  - b) *Confinement.* (This subsection shall remain unchanged.)
  - c) *Confinement indoors.* (This subsection shall remain unchanged.)
  - d) *Signs.* (This subsection shall remain unchanged.)
  - e) *Penalty.* (This subsection shall remain unchanged.)

Passed on First Reading: \_\_\_\_\_

Passes on Second Reading: \_\_\_\_\_

Effective as of: \_\_\_\_\_

Director Pete Sternloff moved to approve the first reading of the ordinance as read, seconded by Director Deb Sarver. Unanimously approved and so ordered.

An issue was raised by a member of the public whether a second reading would have to include a public hearing. City Attorney Cochran assured him that a public hearing was not required.

City Manager Jim Ferguson requested a motion to table the first reading of an ordinance granting Appalachian Power Company, D/B/A American Electric Power Non-Exclusive Franchise due to the legal advertisement had not been published.

Director Pete Sternloff moved to table the AEP Ordinance until the legal advertisement had been published, seconded by Director Deb Sarver. Unanimously approved and so ordered.

Director Deb Sarver moved to appoint Bobbi Kersey as the City Clerk, seconded by Director Pete Sternloff. Unanimously approved and so ordered.

Director Pete Sternloff moved to appoint Helen Mitchell (D) & Ken Mulkey (R) as ballot commissioners, seconded by Director Deb Sarver. Unanimously approved and so ordered.

Director Pete Sternloff moved to appoint Dan Shortridge, contingent on him accepting, to the Zoning Board, seconded by Director Deb Sarver. Unanimously approved and so ordered.

Director Deb Sarver moved to approve the payment application #8 to Swope Construction Company in the amount of \$150,141.31 for the demolition of the Scott Street Parking Building, seconded by Director Pete Sternloff. Unanimously approved and so ordered.

## **REPORTS OF OFFICERS, BOARD AND STANDING COMMITTEES**

Director Pete Sternloff recognized the successful "Gospel Sing" at Gary Bowling House of Art.

Director Mary Frances Brammer thanked everyone for coming to the meeting. Director Brammer announced and congratulated Mayor Whalen for becoming a new Grandmother thus the reason the Mayor was absent. Ms. Brammer said Director Blevins was ill and wished him a speedy recovery. She was also very pleased that more pit bull owners had registered with the city.

## **PUBLIC COMMENT**

Art Riley, representing the Downtown Merchants, thanked Ms. Mitchell in appreciation for all of her hard work and dedication to the city.

Mr. Riley reminded everyone of the noon concerts to begin in downtown Bluefield on May 24.

Mr. Riley explained the problems of the Ridge Runner and believes they are now corrected. He thanked Lori Mills and other city employees for all of their help with the Ridge Runner.

Steve Coleman spoke in opposition of the pit bull ordinance.

Blaine Braithwaite offered the assistance of the South Bluefield Neighborhood Association with the cities consideration of the AEP franchise.

## **ANNOUNCEMENTS AND OTHER**

- April 13 - Heritage Festival - Bluefield Area Arts Center – 10 a.m. – 4 p.m.
- Annual Better Living Show - Brushfork National Guard Armory - April 26 -10 a.m. – 8 p.m. April 27 – 10 a.m. – 6 p.m.
- Business after Hours “Sneak Peak” – April 25 - 5:30 p.m. – 7:30 p.m.

Director Pete Sternloff moved to adjourn the meeting, seconded by Director Deb Sarver. Unanimously approved and so ordered.

Hearing no further business the meeting was adjourned.

Bobbi Kersey, City Clerk

Linda Whalen, Mayor