

REGULAR MEETING, FEBRUARY 5, 2013: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, February 5, 2013 at 7:00 P.M.

PRESENT: Interim City Manager Jeff Mikorski, City Attorney Steve Fanok, City Clerk Linda Little, Mayor Jim Manilla and Council Members: Ron Bane, Wes Nugent, Jenny Selin, Marti Shamberger, Bill Byrne, and Linda Herbst.

APPROVAL OF MINUTES: The minutes of the Regular Meeting of January 15, 2013, and the Special Meeting of January 29, 2013 were approved as printed.

CORRESPONDENCE: Councilor Shamberger thanked everyone for e-mails she received in support of the Woodburn School Property project.

HOME RULE PRESENTATION: Mayor Andy McKenzie from Wheeling briefed Council on the "Home Rule Pilot Program" and how it has worked in Wheeling and benefited their community. After a question and answer session with Council, Lisa Dooley, Executive Director of the West Virginia Municipal League requested that Council submit any legislative items for Home Rule to the League by April 2013.

Following the presentation, Mayor Manilla announced Journalism class 215 and Boy Scout Troop 77 in attendance.

BOARDS AND COMMISSIONS: By acclamation of Council, Seret Cole was appointed to the Historic Landmarks Commission; Aaron Hawley was appointed to the Museum Commission; and Guy Panrell was appointed to the Ward and Boundary Commission.

SPECIAL COMMITTEE REPORTS: Councilor Byrne announced the upcoming Chinese New Year celebration being held at WVU and reminded that all of Council is invited to attend.

NEW BUSINESS:

AN ORDINANCE AMENDING ARTICLE 367, "PARKING DISTRICTS": The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 367 "PARKING DISTRICTS" OF THE CITY OF MORGANTOWN TRAFFIC CODE AS IT PERTAINS TO THE PROMULGATION OF RULES RELATING TO THE ESTABLISHMENT OF PETITION, FEASIBILITY STUDY, AND ADMINISTRATIVE RECOMMENDATION PROCESSES; PARKING PERMIT TYPES; AND, PARKING PERMIT FEES.

Motion by Byrne second by Selin to pass the above entitled Ordinance to second reading. After discussion and commentary from the City Attorney, motion carried 7-0.

AN ORDINANCE ELIMINATING THE INTERSTATE SIGN OVERLAY DISTRICT FROM THE OFFICIAL ZONING MAP: The below entitled Ordinance is presented for first reading:

AN ORDINANCE PROVIDING FOR THE ELIMINATION OF THE "ISOD, INTERSTATE SIGN OVERLAY DISTRICT" FROM THE OFFICIAL ZONING MAP OF THE CITY OF MORGANTOWN SO THAT THE BOUNDARIES OF SAME MAY BE DEFINED AND DESIGNATED BY DESCRIPTION IN ARTICLE 1359 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS

SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

Motion by Byrne second by Nugent to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AMENDING ARTICLE 1329.02 "DEFINITIONS": The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1329.02 "DEFINITIONS" OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS IT PERTAINS TO "BILLBOARD SIGN" AND "POLE SIGN".

Motion by Byrne second by Bane to pass the above entitled Ordinance to second reading. After explanation from the City Manager, motion carried 7-0.

AN ORDINANCE AMENDING ARTICLE 1359, INTERSTATE SIGN OVERLAY DISTRICT: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1359 "ISOD, INTERSTATE SIGN OVERLAY DISTRICT" OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE.

Motion by Nugent second by Bane to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AMENDING TABLE 1369.06.01, "PERMITTED SIGNS": The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING TABLE 1369.06.01 "PERMITTED SIGNS" OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS IT PERTAINS TO BILLBOARD SIGNS.

Motion by Byrne second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AMENDING TABLE 1369.09.01, "FREESTANDING SIGNS HEIGHT LIMITS": The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING TABLE 1369.09.01 "FREESTANDING SIGN HEIGHT LIMITS" OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS IT PERTAINS TO BILLBOARD SIGNS.

Motion by Byrne second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AMENDING ARTICLE 1369.10 "PROHIBITED SIGNS AND DEVICES": The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1369.10 "PROHIBITED SIGNS AND DEVICES" OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS IT PERTAINS TO BILLBOARD SIGNS.

Motion by Byrne second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AMENDING THE FIRE PREVENTION CODE, MALICIOUS BURNING:

The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 1512.05 OF ITS FIRE PREVENTION CODE, AS THE SAME APPLIES TO MALICIOUS BURNING.

Motion by Herbst second by Byrne to pass the above entitled Ordinance to second reading. After explanation from the City Manager, motion carried 7-0.

AN ORDINANCE AMENDING THE ADMINISTRATIVE CODE, ORDER OF PROCEDURE FOR COUNCIL MEETINGS: The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 121.04 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE ORDER OF PROCEDURE FOR COUNCIL MEETINGS; MORE PARTICULARLY, THE LOCATION OF THE "PUBLIC PORTION" UPON THE CITY COUNCIL MEETING AGENDA.

Motion by Byrne second by Selin to pass the above entitled Ordinance to second reading. After extensive discussion, motion carried 4-3, Councilors Bane, Nugent and Manilla voted NO.

AN ORDINANCE AMENDING THE ADMINISTRATIVE CODE, URBAN LANDSCAPE COMMISSION MEMBERSHIP: The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 163.03 OF ITS ADMINISTRATIVE CODE AS THE SAME APPLIES TO MEMBERSHIP OF THE URBAN LANDSCAPE COMMISSION.

Motion by Byrne second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AMENDING THE ADMINISTRATIVE CODE, SISTER CITIES COMMISSION MEMBERSHIP: The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 172.02 OF ITS ADMINISTRATIVE CODE AS THE SAME PERTAINS TO QUALIFICATIONS FOR MEMBERSHIP ON THE MORGANTOWN SISTER CITIES COMMISSION.

Motion by Byrne second by Shamberger to pass the above entitled Ordinance to second reading. After discussion, motion by Bane to amend the language to state that two members may be from the greater Morgantown area, but they shall be ex-officio non-voting members, seconded by Nugent. After discussion on the amendment and commentary from the City Attorney, the question was called on the above stated amendment. Motion on the amendment carried 4-3. Councilors Selin, Shamberger and Byrne voted NO on the amendment. The question was called for the main motion as amended and carried 7-0, to pass to second reading.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT FOR A FLIGHT TRAINING CONCESSION: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, LESSOR, AND BJK AVIATION, LLC. LESSEE, IN WHICH OFFICE SPACE, SPECIFICALLY SUITES 235 AND 241, ARE BEING LEASED AT THE MORGANTOWN MUNICIPAL AIRPORT FOR THE PURPOSE OF OPERATING A FLIGHT TRAINING CONCESSION.

Motion by Byrne second by Shamberger to pass the above entitled Ordinance to second reading. After explanation from the City Attorney, motion carried 7-0.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT FOR A CHARTER FLIGHT CONCESSION: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, LESSOR, AND AC EXPRESS, INC., LESSEE, IN WHICH OFFICE SPACE, SPECIFICALLY SUITE 229, IS BEING LEASED AT THE MORGANTOWN MUNICIPAL AIRPORT FOR THE PURPOSE OF OPERATING A CHARTER FLIGHT CONCESSION.

Motion by Byrne second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 7-0.

A RESOLUTION AUTHORIZING THE EXECUTION OF A GOVERNOR'S COMMUNITY PARTICIPATION GRANT, FUNDS FOR USE BY MOUNTAINFEST, LLC. FOR THE MOUNTAINFEST MOTORCYCLE RALLY: The above entitled Resolution was presented for approval:

Motion by Byrne second by Bane to approve the above entitled Resolution. After discussion, motion carried 7-0.

A RESOLUTION AUTHORIZING THE EXECUTION OF A GOVERNOR'S COMMUNITY PARTICIPATION GRANT, FUNDS FOR USE FOR THE MORGANTOWN MARKETPLACE PROJECT: The above entitled Resolution was presented for approval:

Motion by Selin second by Bane to approve the above entitled Resolution. Motion carried 7-0.

A RESOLUTION AUTHORIZING THE EXECUTION OF A GOVERNOR'S COMMUNITY PARTICIPATION GRANT, FUNDS FOR USE FOR THE COLONEL ZACKQUILL MORGAN STATUE PROJECT: The above entitled Resolution was presented for approval:

Motion by Nugent second by Bane to approve the above entitled Resolution. After discussion, motion carried 7-0.

A RESOLUTION AUTHORIZING THE EXECUTION OF A GOVERNOR'S COMMUNITY PARTICIPATION GRANT, FUNDS FOR USE FOR THE MEMBERS OF DIVERSITY ORGANIZATION: The above entitled Resolution was presented for approval:

Motion by Byrne second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 7-0.

PUBLIC PORTION:

Don Price, 251 Wagner Road offered the conclusion of his commentary regarding charter revision and voter turnout. He asked that the transcript of his comments be made part of the record and are attached hereto.

There being no other appearances, Mayor Manilla declared the public portion closed.

CITY MANAGERS REPORT:

NEW BUSINESS:

1. Bid Result Report for Public Works 4x4 Rubber Tire Backhoe

Motion by Byrne, second by Nugent to approve the purchase recommendations. Motion carried 7-0.

2. Capital Escrow Capital Lease Purchase of Fire Department Vehicles

Motion by Byrne, second by Bane to approve the budget adjustment. Motion carried 7-0.

REPORT FROM CITY CLERK: Ms. Little reminded candidates of the deadline for petitions and paperwork for the Municipal Election, as well as reminded citizens to contact her for an absentee ballot application if needed.

REPORT FROM CITY ATTORNEY: Mr. Fanok commented on the Public Portion discussion and noted that the location of the Public Portion has moved several times over the years, and that it will continue to be a source of debate for the future.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane: Councilor Bane congratulated Council passing the resolutions for grant monies that will directly benefit the community. He also noted for the future that Council members should be mindful of keeping confidences of executive sessions for the future. He stated he supports Mr. Mikorski in his role as Manager.

Councilor Nugent: Councilor Nugent mentioned that the City of Morgantown has recently celebrated its 175th anniversary, and noted how far the City has come since 1838.

Councilor Selin: Councilor Selin thanked those who worked on the MLK Day festivities and noted its success.

Councilor Shamberger: Councilor Shamberger inquired about missing street signs and about an amnesty for fines for those who return the signs. Mr. Mikorski replied that an amnesty date could be arranged if it were the will of Council. Councilor Shamberger then inquired about burnt out street lights and the procedure for repairs. Mr. Mikorski responded that when reports come in, City workers identify the

pole and a Mon Power crew makes the repairs. Councilor Shamberger then mentioned she is looking forward to the upcoming Chinese New Year Festival at WVU and thanked those who helped with the MLK Day events.

Councilor Byrne:

Councilor Byrne commended the Municipal Airport staff for their diligence in clearing runways to keep up with the much needed emplanements. He inquired about the status of the TIF district in Sunnyside and asked the Manager for a comprehensive report.

Councilor Herbst:

Councilor Herbst announced the Empty Bowls event to feed the hungry. She asked that citizens who cut through neighborhoods to avoid traffic to slow down, and encouraged neighbors to wear light reflective colors when out exercising in the evenings.

Mayor Manilla:

Mayor Manilla thanked the Street Department for their work clearing recent snow. He mentioned that the Director position for Sunnyside Up was turned down by the most recent applicant; and additionally that the City is awaiting property appraisals. Mr. Mikorski added that the evaluation of the area must be made before the second phase of bonding could begin. The funding request for Sunnyside Up will also be made for the upcoming budget.

EXECUTIVE SESSION: Motion by Bane, second by Nugent, Council moved by unanimous consent into executive session pursuant to WV State Code section 9-6A-4(B)(9) in order to consider matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving commercial competition, which if made public, might adversely affect the financial or other interest of the city; with City Manager, City Attorney, Council Members, and Attorney James Gianola present. Session entered at 8:55 p.m., session exited at 9:50 p.m.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 9:50 p.m.

City Clerk

Mayor

*A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS IS AVAILABLE ON DVD AT THE MORGANTOWN CITY LIBRARY.