

**REGULAR MEETING APRIL 5, 2011:** The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Monday, April 5, 2011 at 7:30 P.M.

**PRESENT:** City Manager Terrence Moore, Deputy City Manager Jeff Mikorski, Mayor Bill Byrne, City Clerk Linda Little, Council Members Ron Bane, John Gaddis, Charlie Byrer, Jenny Selin, Marti Shamberger and Don Spencer.

**APPROVAL OF MINUTES:** The Minutes of the Special Meeting on March 8, 2011 and March 15, 2011 were approved as presented.

**CORRESPONDENCE:** No Correspondence.

**PUBLIC HEARING –AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING ARTICLE 133 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE DIRECTOR OF PLANNING.**

There being no appearances, Mayor Byrne then declared this Public Hearing Closed.

**PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 1701.01 OF ITS BUILDING AND HOUSING CODE, AS THE SAME PERTAINS TO THE REPORTING RESPONSIBILITY OF THE BUILDING OFFICIAL.**

There being no appearances, Mayor Byrne then declared this Public Hearing Closed.

**UNFINISHED BUSINESS:**

**AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING ARTICLE 133 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE DIRECTOR OF PLANNING:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING ARTICLE 133 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE DIRECTOR OF PLANNING.

Motion by Selin, second by Gaddis to approve the above entitled Ordinance. After explanation from the City Manager and discussion, motion carried 7-0.

**AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 1701.01 OF ITS BUILDING AND HOUSING CODE, AS THE SAME PERTAINS TO THE REPORTING RESPONSIBILITY OF THE BUILDING OFFICIAL:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 1701.01 OF ITS BUILDING AND HOUSING CODE, AS THE SAME PERTAINS TO THE REPORTING RESPONSIBILITY OF THE BUILDING OFFICIAL.

Motion by Gaddis, second by Byrer to adopt the above entitled Ordinance. Motion carried 7-0.

**BOARDS AND COMMISSIONS:** No Appointments.

**PUBLIC PORTION:**

The Friends of Deckers Creek made a presentation outlining the goals and achievements of the organization to Council.

Duane Nikels, 330 Dreamcatcher Circle, spoke about Marcellus Shale development in our area and how leadership and regulation is needed. He gave Council facts and information concerning TDS in the Mon River and urged Council to be leaders in this situation.

Mike McCallen, 229 W. Main St. Clarksburg, Marcellus Shale development representative, spoke on behalf of Marcellus drilling and touted the benefits of drilling including job creation, and property and other tax revenue to Counties and Cities. He also discussed the safety and regulations in place to protect the environments.

Jim Manilla, 202 Gordon Street, asked City Council to adopt a resolution supporting the Morgantown Municipal Airport.

Dale Maurer, Director of Sales and Marketing of the Waterfront Place Hotel, spoke in opposition of the Marcellus Shale resolution. He stated that the industry creates not only jobs, but increases revenue for other area businesses as well. He asked the Council not to pass any resolution on Marcellus Shale Drilling with a moratorium in it.

Peg Reese, conservationist, commented that there is a past history of abuse by extraction industries in West Virginia. She urged Council to support more regulation in the Marcellus drilling industry, and think of the natural resources here and the safety and health of the people of the Morgantown area.

Corky DeMarco, spoke against a moratorium Resolution on Marcellus Shale Drilling. He noted to Council that the gas drilling industry is taking the brunt of media backlash right now and he urged that more leadership and regulation is needed in order to come to amicable solutions for stakeholders. He stated that the gas drilling industry can create more jobs here, and that the plastics industry could be reinvigorated in this area with the use of gas by-products.

Jeff Gordon, 45 Maple Avenue, thanked Council for issuing a Resolution for more regulations in the Marcellus Shale gas drilling industry. He noted the health issues reported by those who live near gas drilling fields and insisted that more regulation is needed.

Stacy Brodack, Chesapeake Energy, asked Council to consider scientific claims based on the facts of the drilling industry. She stated that there are many erroneous claims made concerning side effects of drilling. She assured Council that there are no wastewater dumping in the Mon River taking place, nor will take place. She reminded Council that the industry is regulated heavily by several overlapping federal, state and local laws that ensure safe practices are followed. She stated that the Company supports high levels of regulation. She asked that Council not pass a moratorium, but allow for more regulation if necessary.

Nelson France, 222 High Street, WVU SGA Liaison, announced upcoming walking events to support various charities.

Rick Toothman, VP Stone Energy, spoke in support of the oil and gas industry. He insists that the industry can support environmentally safe practices while creating and maintaining jobs. He asked that Council not pass a resolution containing a moratorium on Marcellus Shale drilling.

James Coatsman, WV Sierra Club, spoke in support of a Moratorium. He cited reasons such as a lack of State well inspectors, the fundamental difference in hydro fracking, and lack of current ability to regulate a new process with old regulations. He also noted the impact to highways, and water. He also disbelieves that the industry does not support regulation. He asked that Council pass the moratorium Resolution until more

regulation is passed.

Will Spino, Lakeview Resort, spoke in opposition to a moratorium on gas drilling, stating that jobs will be lost in the hospitality and other related industries. He warned Council of possible negative economic impacts related to a moratorium.

Olivia McConnel, WVU Education Student, supports a moratorium resolution and feels that the gas drilling industry will ruin West Virginia's natural resources.

Joe Gorman, 309 Green Street, supports a moratorium on gas drilling because he is concerned about the effects it may have on the safety of drinking water in our area and its possible health effects.

There being no other appearances, Mayor Byrne declared this Public Portion closed.

**SPECIAL COMMITTEE REPORTS:** None.

**NEW BUSINESS:**

**AN ORDINANCE AMENDING A LEASE AGREEMENT AT THE MUNICIPAL AIRPORT:**

The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN (LESSOR) AND TAILWINDS, INC. (LESSEE) AS IT PERTAINS TO THE LEASING OF ADDITIONAL SPACE, BY LESSEE, AT THE MORGANTOWN MUNICIPAL AIRPORT.

Motion by Gaddis, second by Byrer to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT AT THE MUNICIPAL AIRPORT:** The below entitled Ordinance was presented for first reading:

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

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

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT AT THE MUNICIPAL AIRPORT:** The below entitled Ordinance was presented for first reading:

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

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

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT AT THE MUNICIPAL AIRPORT:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN (LESSOR) AND LOMBARDI DEVELOPMENT COMPANY, INC. (LESSEE) AS IT PERTAINS TO OFFICE SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT.

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

**AN ORDINANCE PROVIDING FOR ZONING RECLASSIFICATION IN THE FIFTH WARD:**

The below entitled Ordinance was presented for first reading:

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF A PARCEL OF REAL ESTATE IN THE FIFTH WARD OF THE CITY OF MORGANTOWN FROM (R-1) SINGLE-FAMILY DISTRICT TO (R-2) SINGLE AND TWO-FAMILY RESIDENTIAL DISTRICT BY AMENDING ARTICLE 1331 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 THEREIN.

Motion by Spencer, second by Gaddis to pass the above entitled Ordinance to second reading. The rules were suspended to allow further explanation from Director of Development Services Chris Fletcher, and City Manager Terrence Moore. After discussion, Motion by Byrer, second by Spencer to table the above entitled Ordinance until Council hears from the parties involved. Motion to table failed 2-5, Councilors Bane, Gaddis, Selin, Shamberger and Mayor Byrne voted against the motion to table.

After continued discussion, the main motion to pass the above entitled Ordinance to second reading was called. Motion carried 6-1, Councilor Byrer voted NO.

**A RESOLUTION CALLING FOR A SPECIAL SESSION OF THE STATE LEGISLATURE:**

The below entitled Resolution was presented for approval:

A RESOLUTION CALLING FOR THE CONVENING OF A SPECIAL SESSION OF THE WEST VIRGINIA LEGISLATURE BY THE GOVERNOR FOR THE PURPOSE OF ADDRESSING REGULATION OF MARCELLUS SHALE PERMITTING AND DRILLING.

Motion by Byrer, second by Selin to discuss the above entitled Resolution . Substitute motion by Spencer, second by Gaddis to substitute the below entitled Resolution (Moratorium) for the above entitled Resolution (Special Session). After discussion, it was decided to make a motion to allow both versions of the Resolution to be on the table for simultaneous discussion. Council then moved on to the alternate Resolution below:

**A RESOLUTION CALLING FOR A MORATORIUM ON MARCELLUS SHALE PERMITTING AND DRILLING:** The below entitled Resolution was presented for approval:

A RESOLUTION FOR THE ESTABLISHMENT OF A STATE MORATORIUM ON ISSUANCE OF ADDITIONAL PERMITS FOR HORIZONTAL DRILLING IN MARCELLUS SHALE UNTIL ADEQUATE STATE REGULATIONS ARE PROMULGATED TO PROTECT THE DRINKING WATER SUPPLIES, PUBLIC HEALTH AND PUBLIC SAFETY.

Motion by Spencer, second by Selin to discuss the above entitled Resolution (Moratorium) simultaneously with the above entitled Resolution (Special Session). Mayor Byrne declared that discussion is now open on both above entitled Resolutions.

After discussion, for clarification, Council agreed to refer to the Resolution for a Special Session, as No. 1; and the Resolution for a Moratorium as No. 2. Discussion continued about the two versions of the Agenda, and Resolution.

Councilor Spencer then proposed a third, revised version to substitute both of the above entitled Resolution, No. 1 (Special Session) and No. 2 (Moratorium). Motion by Spencer to replace both Resolutions with a new version failed for lack of a second.

Mayor Byrne then lead the discussion on both Resolutions, and each Council Member agreed to briefly discuss why they are for or against each Resolution. Discussion continued with each Council Member giving reasons for or against both Resolutions, with comments by City Manager Terrence Moore.

After discussion, motion by Bane, second by Selin to amend Resolution No. 1 (Special Session) by adding language stating: "Whereas, The WV DEP recommended standards for regulating oil and gas wells original version SB 424 and HB 3042 to the joint judiciary committees have recommended controls for hydraulic fracturing and horizontal drilling original version SB 528 and HB 2878."

After clarification and further discussion Councilor Spencer moved to amend the above motion by adding the above language to both Resolution No. 1 (Special Session) and Resolution No. 2 (Moratorium).

Motion by Spencer, second by Bane to add the above referenced language to both Resolutions. After discussion, Councilor Selin moved to also include the language: "That the City of Morgantown wishes to join with the 23 or more Delegates, and other Cities and the Dominion Post in our call to have the Governor call a Special Session of the Legislature to address these issues in a timely manner." in both Resolutions along with the above referenced language. The motion was seconded by Bane. The motion to add the above referenced language to both Resolutions carried 7-0.

There being no further discussion on the matters related to both of the Resolutions on the table for discussion, motion by Spencer to adopt Resolution No. 2 (Moratorium). Motion failed for lack of a second.

Motion by Bane, second by Gaddis to adopt Resolution No. 1 (Special Session) as amended above. After discussion, motion by Spencer, second by Selin to add additional language at the end of the Resolution referring to a freeze, which Council discussed would be perceived the same as referencing a moratorium. Motion failed 3-4. Councilors Bane, Gaddis, Byrer and Byrne voted NO to add the additional language to the amended Resolution No. 1 (Special Session). The main motion was called to adopt Resolution No. 1 (Special Session) as amended above with the two additional paragraphs. Motion carried 7-0.

**A RESOLUTION TO APPLY FOR AND ADMINISTER COMMUNITY PARTICIPATION GRANT FUNDS:** The below entitled Resolution was presented for approval:

**A RESOLUTION THAT THE CITY APPLIES FOR AND ADMINISTERS A COMMUNITY PARTICIPATION GRANT, FUNDS FOR USE BY THE MOUNTAINEER BOYS AND GIRLS CLUB.**

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

**CITY MANAGERS REPORT:**

Information:

1. Mr. Moore offered an update on the 2011 Combined Paving Project.

New Business:

1. Approval for Mayor Byrne to join the Partnership for a New American Economy.

Motion by Selin, second by Gaddis to approve the Mayor joining the Partnership. After discussion, motion carried 7-0.

2. Appoint Airport Director Glen Kelly to serve on the Monongalia County Development Authority.

Motion by Spencer, second by Selin to approve Glenn Kelly serving on the Development Authority. After discussion, motion carried 7-0.

**CITY CLERK:** Ms. Little gave an update on the progress of the Vote By Mail Municipal Election. She presented Council with a list of the potential Election Workers.

Motion by Shamberger, second by Selin to approve of the list of Election Workers. Motion carried 6-1, Councilor Spencer was not present at the time the vote took place.

**CITY ATTORNEY'S REPORT:** No Report.

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane: Councilor Bane reminded voters to only place one ballot per envelope, and follow all procedures correctly and read voting instructions carefully.

Councilor Gaddis: Councilor Gaddis asked citizens to be careful using the Hog Back Turn, he awaits the DOH presentation at the next meeting on the topic.

Councilor Byrer: Councilor Byrer talked about an article detailing Marcellus Shale gas drilling. He then reported potholes on Raleigh Avenue and asked the City Manager what the status of the natural gas pipelines under city streets. Mr. Moore replied that information will be available soon and he will include it in the next Information Letter Report. Councilor Byrer then asked what would happen if the Federal Government shuts down this Friday. Mr. Moore answered that it would not have an effect on the City directly, but there could be an impact on local federal employees.

Councilor Selin: Councilor Selin announced some of the ongoing ward tour walks, where infrastructure and other aspects will be pointed out. She thanked the Friends of Deckers Creek folks for coming and making their presentation to Council.

Councilor Shamberger: Councilor Shamberger announced that she attended the Coalition for Social Justice meeting. She also attended the Sunnyside Up Clean-up event and noted its success and thanked its participants. She announced the Woodburn neighborhood walk through and upcoming neighborhood association meeting. She thanked City Clerk Little for all her work on the Election. She reported that several people have complimented the Vote By Mail process. She announced Chocolate Lover's Day downtown, and also complimented the Deckers creek youth.

Councilor Spencer: Councilor Spencer announced that he attended the ribbon cutting at the completion of the first phase of the Honors dormitory on Grant Ave. He noted

that the paper recently had an article about investment and infrastructure. He stated that infrastructure upgrades are very important investments especially in Sunnyside. He mentioned the installment of new utility poles was discussed in the neighborhood association meeting. He requested that the matter of underground utilities be looked into again to see if it is a viable option for Morgantown. He then talked about the 2010 Census results, and stated that it is important to have accurate results so that federal resources can be allocated appropriately. He thanked the City for the work that was done on the lights on Beechurst Ave.

Councilor Selin interjected an announcement about an upcoming Banth Mountain film festival at the Met Theatre.

Mayor Byrne:

Mayor Byrne echoed the announcement about the Chocolate Lover's Festival, he announced the League of Women Voter's candidate forum and also a play at the Erickson Center, telling the creation story of the State of WV and encouraged all to attend. He also noted that he was in attendance at the Honors Hall ribbon cutting this morning, and thanked those Councilmembers and City Administration that attended. He stated that the article about investing in infrastructure was interesting and that it is important to continue making improvements. He talked about cuts to the federal budget and the trickle-down effects it could have on funding.

Councilor Bane suggested that Airport Director Glen Kelly attend the next Council meeting to discuss the possible implications of a loss of EAS funding. Mayor Byrne agreed that Mr. Kelly would provide good insight into this. He then spoke about this importance of developing comprehensive regulation and the language with which it is presented. He continued to discuss the possibility of policy making regarding the Marcellus shale drilling issues. He commented that he appreciates everyone's views and suggestions.

#### **EXECUTIVE SESSION:**

Motion by Spencer, second by Selin to go into an executive session pursuant to Section 6-9A-4(b)9 of the West Virginia Code in order to discuss personnel matters with the following persons present: Mayor Bill Byrne and Council Members, City Manager Terrence Moore, Deputy City Manager Jeff Mikorski, City Attorney Steve Fanok, Director of Development Services Chris Fletcher and Attorney Steve Shuman. Motion carried by unanimous consent. Council entered into Executive Session at 10:15pm.

**ADJOURNMENT:** There being no further business, the meeting adjourned by unanimous consent at 10:29 p.m.

---

City Clerk

---

Mayor