

**REGULAR MEETING JUNE 5, 2012:**

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, June 5, 2012 at 7:00 P.M.

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

**APPROVAL OF MINUTES:** The minutes of the Regular Meeting on May 15, 2012 were approved as printed.

**CORRESPONDENCE:** Council heard a presentation from CEO of Pace Enterprises, Greg Morris on "Operation Welcome Home", a local support center for returning veterans. Mayor Manilla then awarded certificates of recognition to Mrs. Larry Sypolt, in honor of her late husband's service on City Boards and Commissions. Proclamations were presented to Captain Brett Watson in honor of his retirement from the Police Department, as well as in observance of World Elder Abuse awareness and the High Point Moto-Cross races. Mayor Manilla then recognized Ethan Lawson of Boy Scout Troop 65, in attendance.

**PUBLIC HEARING -AN ORDINANCE AMENDING THE FY 2011-2012 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.**

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

**PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING IT TO PURCHASE MONONGALIA COUNTY TAX MAP 24 PARCELS 296, 312, 312.1 AND 314 FROM SANDRA PAUL MOORE FOR THE PURPOSE OF CREATING A NEW CITY PARK IN THE JEROME PARK AREA OF MORGANTOWN.**

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

**UNFINISHED BUSINESS:**

**AN ORDINANCE AMENDING THE FY 2011-2012 GENERAL FUND BUDGET:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING THE FY 2011-2012 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

Motion by Byrne second by Herbst, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE AUTHORIZING TO PURCHASE PARCELS TO CREATE A NEW CITY PARK IN JEROME PARK:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING IT TO PURCHASE MONONGALIA COUNTY TAX MAP 24 PARCELS 296, 312, 312.1 AND 314 FROM SANDRA PAUL MOORE FOR THE PURPOSE OF CREATING A NEW CITY PARK IN THE JEROME PARK AREA OF MORGANTOWN.

Motion by Byrne second by Shamberger, to adopt the above entitled Ordinance. Motion carried 7-0.

**BOARDS AND COMMISSIONS:** Motion by Byrne, second by Shamberger to appoint Penny Pugh to the vacancy on the Library Board, followed by a Motion by Byrne, second by Shamberger to re-appoint Jeanne Hagen to the Parking Authority. Motions carried by unanimous consent.

**SPECIAL COMMITTEE REPORTS:** Councilor Nugent reported on his attendance at the most recent West Virginia Municipal League Board Meeting. He informed Council that a State-wide texting while driving ban has been enacted and warrants discussion by Council. By consensus of Council, it shall be discussed at the July Committee of the Whole meeting.

**NEW BUSINESS:**

**AN ORDINANCE AUTHORIZING THE REFUNDING OF THE MORGANTOWN PARKING REVENUE BONDS:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING THE REFUNDING OF THE ISSUER'S OUTSTANDING PARKING REVENUE BONDS, SERIES 2002 AND FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS, THROUGH THE ISSUANCE OF PARKING SYSTEM REFUNDING REVENUE BONDS, SERIES 2012, OF THE ISSUER IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$5,500,000; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A TAX CERTIFICATE, AN OFFICIAL STATEMENT, A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT, AND OTHER DOCUMENTS IN CONNECTION THEREWITH; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ENACTING OTHER PROVISIONS WITH RESPECT THERETO.

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

**AN ORDINANCE AMENDING ARTICLE 1329.02 "DEFINITIONS" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO EXTRACTIVE INDUSTRY:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1329.02 "DEFINITIONS" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO "EXTRACTIVE INDUSTRY", "HEAVY INDUSTRY" AND "HEAVY MANUFACTURING" DEVELOPMENT.

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

**AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO EXTRACTIVE INDUSTRY:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1331.06 "SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE" OF THE PLANNING AND ZONING CODE

AS IT PERTAINS TO "EXTRACTIVE INDUSTRY", "HEAVY INDUSTRY" AND "HEAVY MANUFACTURING" DEVELOPMENT.

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

**AN ORDINANCE AMENDING ARTICLE 1331.06 "SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO EXTRACTIVE INDUSTRY:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1331.06 "SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO "EXTRACTIVE INDUSTRY", "HEAVY INDUSTRY" AND "HEAVY MANUFACTURING" DEVELOPMENT.

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

**AN ORDINANCE AMENDING ARTICLE 1355 "I-1, INDUSTRIAL DISTRICT" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO EXTRACTIVE INDUSTRY:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1355 "I-1, INDUSTRIAL DISTRICT" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO "EXTRACTIVE INDUSTRY", "HEAVY INDUSTRY" AND "HEAVY MANUFACTURING" DEVELOPMENT.

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

**AN ORDINANCE AMENDING TABLE 1365.04.01 "MINIMUM OFF-STREET PARKING REQUIREMENTS" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO EXTRACTIVE INDUSTRY:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING TABLE 1365.04.01 "MINIMUM OFF-STREET PARKING REQUIREMENTS" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO "EXTRACTIVE INDUSTRY", "HEAVY INDUSTRY" AND "HEAVY MANUFACTURING" DEVELOPMENT.

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

**AN ORDINANCE AMENDING ARTICLE 1385 "SITE PLAN REVIEW" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO EXTRACTIVE INDUSTRY:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1385 "SITE PLAN REVIEW" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO "EXTRACTIVE INDUSTRY", "HEAVY INDUSTRY" AND "HEAVY MANUFACTURING" DEVELOPMENT.

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

**AN ORDINANCE REPEALING ARTICLE 721, WELL DRILLING:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING ARTICLE 721 OF THE CITY OF MORGANTOWN BUSINESS AND TAXATION CODE, AS THE SAME APPLIES TO WELL DRILLING.

Motion by Nugent second by Bane, to pass the above entitled Ordinance to second reading. Motion carried 6-1, Councilor Byrne voted NO.

**AN ORDINANCE AUTHORIZING A LICENSE AGREEMENT TO INSTALL CABLE UPON AIRPORT REALTY:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN, AUTHORIZING A LICENSE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN AND COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC., (COMCAST) AUTHORIZING COMCAST TO INSTALL CABLE AND RELATED FIXTURES UPON MORGANTOWN MUNICIPAL AIRPORT REALTY.

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

**AN ORDINANCE ESTABLISHING THE RATES OF COMPENSATION:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE CITY OF MORGANTOWN EMPLOYEES FOR THE FISCAL YEAR 2012-2013.

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

**AN ORDINANCE AMENDING THE PERSONNEL RULES AND MONETARY AMOUNTS THEREIN:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING SECTIONS III-1(B) (LONGEVITY PAY), III-3(B) (SHIFT DIFFERENTIAL), AND III-4 (HAZARDOUS DUTY PAY) OF THE PERSONNEL RULES OF THE CITY OF MORGANTOWN BY INCREASING THE MONETARY AMOUNTS WITHIN EACH.

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

**AN ORDINANCE REPEALING AND REPLACING A DEED FOR RIGHT-OF-WAY ADJACENT TO HOGBACK TURN:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING AND AUGUST 2, 2011 ORDINANCE WHICH AUTHORIZED THE CITY TO DEED A 294 SQUARE FOOT RIGHT-OF-WAY, ADJACENT TO THE "HOGBACK TURN" ON WEST VIRGINIA STATE ROUTE 7, TO THE

WEST VIRGINIA DIVISION OF HIGHWAYS; AND AUTHORIZING A NEW DEED TO THE DIVISION OF HIGHWAYS FOR THE ABOVE DESCRIBED RIGHT-OF-WAY WHICH MORE ACCURATELY DESCRIBES THE WARRANTY BEING CONVEYED WITH SAID RIGHT-OF-WAY.

Motion by Bane second by Selin to pass the above entitled Ordinance to second reading. After discussion, motion carried 5-2. Councilors Byrne and Shamberger voted NO.

**A RESOLUTION APPROVING THE MORGANTOWN MUNICIPAL AIRPORT FUND AND AIRPORT IMPROVEMENT FUND BUDGET FOR THE FISCAL YEAR 2012-2013:** 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 TO APPLY FOR AND ADMINISTER COMMUNITY PARTICIPATION GRANT PROGRAM FUNDS, FOR USE FOR THE ZACKQUILL MORGAN STATUE, THROUGH "YOUR COMMUNITY FOUNDATION":** The above entitled Resolution was presented for approval.

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

**A RESOLUTION TO APPLY FOR AND ADMINISTER COMMUNITY PARTICIPATION GRANT PROGRAM FUNDS, FOR USE BY "MEMBERS OF DIVERSITY", A 501(c)3 ORGANIZATION:** The above entitled Resolution was presented for approval.

Motion by Byrne second by Shamberger, to approve the above entitled Resolution. Motion carried 7-0.

**A RESOLUTION TO APPLY FOR AND ADMINISTER COMMUNITY PARTICIPATION GRANT PROGRAM FUNDS, FOR USE BY "MOUNTAINFEST MOTORCYCLE RALLY":** The above entitled Resolution was presented for approval.

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

**A RESOLUTION TO APPLY FOR AND ADMINISTER COMMUNITY PARTICIPATION GRANT PROGRAM FUNDS, FOR USE FOR THE MORGANTOWN MARKETPLACE:** The above entitled Resolution was presented for approval.

Motion by Nugent second by Byrne to approve the above entitled Resolution. Motion carried 7-0.

**A RESOLUTION AUTHORIZING A LAND AND WATER CONSERVATION FUND GRANT CONTRACT, FUNDS FOR USE IN ACQUISITION OF MAYFIELD PARK PROPERTY:** The above entitled Resolution was presented for approval.

Motion by Byrne second by Shamberger, to approve the above entitled Resolution. Motion carried 7-0.

**PUBLIC PORTION:**

Renee Hernandez, 220 Overdale Street, thanked Council for enacting the indoor smoking ban. She commended Council for passing the first reading of the extractive industry zoning measures, and then voiced her disapproval of the proposed reworking of the "Hog Back Turn". Ms. Hernandez also relayed her opinion with regard to the airport hangars, which were purported to be in disrepair.

Anthony Livingston, Coalition Against Bigger Trucks, presented to Council the main goals of the Coalition, which is to lobby for reduced truck traffic, increased safety and decreased weight limits on loads and roads. He explained various legislation which the coalition hopes to impact, and asked for Council's support.

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

**CITY MANAGER'S REPORT:**

**NEW BUSINESS:**

1. Fair and Festival Permit Request from Classics 3 Restaurant for MountainFest Events:  
  
Motion by Byrne second by Shamberger, to approve the above Festival Permit Request. Motion carried 7-0.
  
2. Fair and Festival Permit Request from Archie's Restaurant for MountainFest Events.  
  
Motion by Bane second by Byrne, to approve the above Festival Permit Request. Motion carried 7-0.

**REPORT FROM CITY CLERK:** City Clerk Little announced upcoming weekend events including the United Way Corporate Cup, in which City of Morgantown employees are participating; along with the Arts Alive Festival at the Riverfront.

**REPORT FROM CITY ATTORNEY:** No Report.

**REPORT FROM COUNCIL MEMBERS: (Roll Reversal)**

Councilor Herbst: Councilor Herbst reported on a neighborhood picnic, adding there was an incident with an aggressive dog, following. She mentioned a traffic counting study being conducted in areas where motorists are using residential areas a through streets. She suggested the study be re-conducted in the Fall depending upon the outcome. Mr. Moore replied that the results may vary and a report on the findings is forthcoming. Councilor Herbst commented on trash rates, which effect citizens on fixed incomes. She reported her experience rowing with the WVU Crew teams.

Councilor Byrne: Councilor Byrne announced the formation of new neighborhood associations in Norwood, and the Upper Darst Street area, as well as upcoming neighborhood picnics. He thanked the Planning Commission and City Administration for their work on the extractive industry zoning ordinances, and explained that he voted 'no' on the repeal of the fracking ban, until the new zoning

regulations are fully in place. He commended the organizers of the Arts Alive Festival and asked the City Manager to find out how Council can assist the efforts of Mr. Livingston and the Coalition. He mentioned the City Attorney's findings with regards to chartered employees' personnel files and invited the Manager to keep the letter in question on file if he so chooses.

Councilor Shamberger:

Councilor Shamberger thanked the Code Enforcement Department and Allied Waste in cleaning up Willey Street. She also thanked the Street Department for the street signs that were recently replaced. She mentioned the Suncrest neighborhood picnic. Councilor Shamberger then read a statement expressing her feelings with regard to a recent email which discussed Sunnyside-Up and its director, indicating that in her view, an apology for the comments made is warranted.

Councilor Selin:

Councilor Selin thanked all those involved in the success of a recent neighborhood picnic. She noted her attendance at a Pittsburgh arts event, and announced the upcoming Crossroads meeting. She encouraged all to come and participate. She announced upcoming events from Sunnyside-Up Director, Jim Hunt including a trash cleanup event. She then concurred with Councilor Shamberger's comments regarding the email. She then thanked Director of Development Services Chris Fletcher for his work on the extractive industry ordinances. Lastly Councilor Selin inquired as to the status of discussion on the proposed Inclusive Community initiative. Mr. Moore replied that the dialogue will continue at the June 26<sup>th</sup> COW and the current direction will coincide with the long established Human Rights Commission.

Councilor Nugent:

Councilor Nugent reported his attendance at the National Extension Research and Administration Officer's Conference at the Event Center. He thanked those who helped with the Power of Change meters. He announced an upcoming outdoor concert at Krepp's park, and spoke about today's webinar. He noted many weekend clean-up events around Morgantown, including the Wiles Hill area clean-up. Lastly, he commended the City Clerk's Office on their work producing the digital council meeting packets.

Councilor Bane:

Councilor Bane requested that speed humps be considered for the Jack Roberts Park area in First Ward, as speeding has become a noted concern. He encouraged Council to consider a budget adjustment to help fund the transit authority, which is at risk of losing 18,00 rides in the Suncrest area. Mr. Moore responded that finding a means to a solution is underway and he will report back with more information. Councilor Bane suggested that routes out of town should be sacrificed before routes within Morgantown, as the City is one of the authority's biggest contributors.

Mayor Manilla:

No Report.

**EXECUTIVE SESSION:** Motion by Nugent, second by Selin, pursuant to West Virginia Code Section 6-9A-4(b)(12) Council moved by unanimous consent into executive session in order to discuss matters pertaining to attorney-client privilege, with Council Members, City Manager and City Attorney present. Session commenced at 8:45 p.m.

**ADJOURNMENT:** There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:55 p.m.

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City Clerk

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Mayor

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