

**REGULAR MEETING SEPTEMBER 2, 2008:**

- The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, September 2, 2008 at 7:30 p.m.

**PRESENT:** Mayor Ron Justice, City Manager Dan Boroff, City Clerk Linda Little, City Attorney Steve Fanok, Assistant City Manager Jeff Mikorski, and Council Members: Jenny Selin, Don Spencer, Charlie Byrer, Ron Bane, Bill Byrne, and John Gaddis.

The meeting was called to order by Mayor Justice.

**APPROVAL OF MINUTES:** Minutes from the regular meeting on August 19, 2008 were approved as printed.

**CORRESPONDENCE:** Mayor Justice read proclamations for Lifelong Learning Week, Arbor Day, Greg Biffle, and one in appreciation of City Clerk Linda Little. He also read a Resolution from the WVML giving thanks for our hospitality as Host City.

**PUBLIC HEARING - AN ORDINANCE AUTHORIZING THE CITY TO PLACE CONCRETE DUCT BANK UNDER AND ACROSS SECOND STREET:**

- Pursuant to a legal notice appearing in the Dominion Post, Mayor Justice called for a public hearing on the above referenced Ordinance.

There being no appearances or objections, Mayor Justice declared this public hearing closed.

**PUBLIC HEARING - AN ORDINANCE APPROVING REPLACEMENT PAGES TO THE CITY CODE:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Justice called for a public hearing on the above referenced Ordinance.

There being no appearances or objections, Mayor Justice declared this public hearing closed.

**UNFINISHED BUSINESS:**

**AN ORDINANCE AUTHORIZING THE CITY TO EXECUTE A RIGHT OF WAY AGREEMENT FOR A DUCT BANK UNDER AND ACROSS SECOND STREET:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AUTHORIZING THE CITY OF MORGANTOWN, AS GRANTOR, TO EXECUTE A RIGHT OF WAY AGREEMENT WITH THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, AS GRANTEE, REGARDING THE PLACEMENT OF A CONCRETE DUCT BANK UNDER AND ACROSS SECOND STREET IN THE FOURTH WARD OF THE CITY OF MORGANTOWN.

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

**AN ORDINANCE APPROVING REPLACEMENT PAGES TO THE CITY CODE:** The below entitled Ordinance was presented for second reading:

- AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CITY CODE.

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

- **BOARDS AND COMMISSIONS:** No appointments for Boards and Commissions at this time.

**NEW BUSINESS:**

**AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF PORTIONS OF REAL ESTATE IN THE FOURTH WARD:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ALL OR A PORTION OF NINE PARCELS OF REAL ESTATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM O-I, OFFICE AND INSTITUTIONAL DISTRICT AND R-3, MULTI-FAMILY RESIDENTIAL DISTRICT TO PUD, PLANNED UNIT DEVELOPMENT DISTRICT BY AMENDING ARTICLE 1331.02 OF PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT AND HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH THEREIN

After explanation from the City Manager, and after discussion, motion by Byrne, second by Spencer to pass the above entitled Ordinance to second reading. Motion carried 6-1. Bane voted NO.

**AN ORDINANCE AMENDING SECTIONS OF ARTICLE 1701, ENFORCEMENT:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1701, SECTIONS 1701.01, 1701.03, 1701.04, AND 1701.05, AND DELETING SECTIONS 1701.02 AND 1701.06 OF THE CITY OF MORGANTOWN BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO ENFORCEMENT.

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

**AN ORDINANCE DELETING SECTIONS OF ARTICLE 1705, PERMITS AND FEES:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE DELETING SECTIONS 1705.05, 1705.08, 1705.11 AND 1705.13 WITHIN THE CITY OF MORGANTOWN'S BUILDING AND HOUSING CODE; AND AMENDING SECTION 1705.12 THEREIN, AS THE SAME APPLIES TO BUILDING PERMITS AND FEES.

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

**AN ORDINANCE AMENDING SECTION 717.01, NATIONAL ELECTRIC CODE:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING SECTION 1717.01 OF THE CITY OF MORGANTOWN BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO ADOPTION OF THE NATIONAL ELECTRICAL CODE.

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

**AN ORDINANCE REPEALING ARTICLE 1719, UNSAFE STRUCTURES:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE REPEALING ARTICLE 1719 OF THE CITY OF MORGANTOWN BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO UNSAFE STRUCTURES.

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

**AN ORDINANCE REPEALING ARTICLE 1725, GAS APPLIANCES AND STRUCTURES:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE REPEALING ARTICLE 1725 OF THE CITY OF MORGANTOWN BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO GAS APPLIANCES AND ACCESSORIES.

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

**AN ORDINANCE REPEALING ARTICLE 1733, AND REPLACE WITH APPENDIX H OF INTERNATIONAL BUILDING CODE:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE REPEALING ARTICLE 1733 OF THE CITY OF MORGANTOWN BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO SIGNS AND REPLACING IT WITH A NEW ARTICLE 1733, CONSISTING OF APPENDIX H OF THE INTERNATIONAL BUILDING CODE.

After discussion, minor amendment by Byrne to add the phrase "These provisions shall be mandatory" to the Article. Motion by Byrne, second by Selin to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE REPEALING ARTICLE 1739, TRAILERS:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE REPEALING ARTICLE 1739 OF THE CITY OF MORGANTOWN BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO TRAILERS.

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

**AN ORDINANCE AMENDING AND REPEALING SECTIONS OF ARTICLE 1751, RENTAL HOUSING:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING SECTION 1751.08 AND REPEALING SECTIONS 1751.09, 1751.10, 1751.18 AND 1751.19 OF THE CITY OF MORGANTOWN BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO RENTAL HOUSING.

After discussion, motion by Bane, second by Byrer to pass the above entitled Ordinance to second reading.

Motion carried 7-0.

**AN ORDINANCE APPROVING LEASE REVENUE BONDS FOR NORTH SIDE FIRE STATION:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE APPROVING THE LEASING BY THE CITY OF MORGANTOWN OF A NEW FIRE STATION AND FIRE TRUCK FROM THE CITY OF MORGANTOWN BUILDING COMMISSION AND THE APPROVAL OF THE ISSUANCE BY THE CITY OF MORGANTOWN BUILDING COMMISSION OF ITS NOT TO EXCEED \$5,000,000 PRINCIPAL AMOUNT OF LEASE REVENUE BONDS, SERIES 2008 A (NORTH SIDE FIRE STATION PROJECT) TO FINANCE THE DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF SUCH NEW FIRE STATION AND FIRE TRUCK.

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

**A RESOLUTION SETTING A PUBLIC HEARING DATE FOR THE PROPOSED ESTABLISHMENT OF A TIF DISTRICT TO BE KNOWN AS "THE CITY OF MORGANTOWN REDEVELOPMENT DISTRICT NO. 3" AND THE PROPOSED APPROVAL OF A PROJECT FOR SUCH TIF DISTRICT TO BE KNOWN AS "SUNNYSIDE UP- PROJECT PLAN NO. 1".** The above entitled Resolution was presented for approval:

After explanation from the City Manager, motion by Byrne, second by Selin to approve the above entitled Resolution. Motion carried 6-1, Bane voted NO.

### **PUBLIC PORTION:**

John Duarte, 460 Grove Street: Stated that he was unclear on the new changes to City Code concerning rental properties and code enforcement. He does not agree with the PUD either, commenting that developers may have too much power over the City. He felt that the development will require traffic and streets to be improved and this should be done.

Duane Nichols, President Unitarian Fellowship, owns property on Warrick Street: Does not agree with the PUD and asked for greater involvement from citizens and more information from the City on these types of projects.

Simone O'Hara, 315 Clark Street: Corrected statements made in a recent article of the Daily Athenaeum. She gave an update on the progress of the Greenmont Neighborhood Association. She thanked the Mayor and Council for fighting for the neighborhoods. She commented that Code Enforcement officers have been citing violations, but she claimed the elderly feel harassed by the inspections and violations. She also mentioned that homeowners she knows who reside in Sunnyside near the new multi-unit dwellings are still dealing with drugs and drug selling, seeing fewer police in the area.

There being no more appearances, Mayor Justice declared this public portion closed.

### **SPECIAL COMMITTEE REPORTS:**

Councilor Byrne gave an update on new Sister City activities. Councilor Selin thanked Council members for attending the Youth Commission Picnic.

### **CITY MANAGERS REPORT:**

#### **NEW BUSINESS:**

**Item No 1:** This past year, the City committed to reinvest B & O Construction taxes generated by the Morgantown High School contract into public improvements to support the project (sidewalks). At that time, taxes to be paid were estimated to be \$110,000. Actual taxes to be paid though now total \$136,114. The sidewalk project however totals \$148,598. Since the total school construction costs of the project exceed the bond revenue, the Board of Education requests that the \$12,484 difference between the taxes and the sidewalk costs be split between the Board and the City. Given the public character of the sidewalk project, I recommend that the \$6,242 request be granted.

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

**Item No 2:** Attached is a memo from the Assistant City Manager reporting the benefits of an Interdepartmental Data and Software Program that will effectively integrate a number of City programs and services. I agree with the points he has made and recommend that the City contract with New World Systems to install the program for a cost of \$150,000.

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

**Item No 3:** The second attachment is a memo reporting a proposed Capital Escrow Account amendment totaling \$989,517. Based upon the merits of the projects and City Council goals, I recommend that the amendment be adopted.

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

Item No 4: With increased energy cost, there has been significant interest in developing natural gas wells in North Central West Virginia. To explore the potential of leasing undeveloped City properties for such activities, I recommend that the City partner with the County Development Authority and MUB to jointly seek competitive bids for leasing rights from qualified firms interested in pursuing this initiative. Bid results and related information, will be presented to Council for consideration.

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

Item No 5: The third attachment is a proposed policy for the use of the Public Safety Building and City Hall. Given the absence of such a policy and the growing demand for meeting places, I recommend that the policy be adopted.

After discussion, motion by Byrne, second by Byrer to approve the item above. Motion carried 7-0.

Item No. 6: The Woodburn Neighborhood Association working with the City has realized much success in improving the entrance ways to their neighborhood. To complete the project, the Association request \$2,200 for an addition sign to mark the area. Given the nature and character of the activities completed to date, I recommend that the request be granted.

-  
Motion by Byrne, second by Selin to approve the item above. Motion carried 7-0.

-  
Item No 7: The last attachment is a memo from the Public Works Director reporting the bid results for installing the new marquee at the Metropolitan Theatre. I agree with her comments and recommend that the contract be awarded to the low bidder Maccabee Industrial, Inc. for a cost of \$30,425. Special Note: The total project cost is \$230,000 and should be completed this fall.

-  
After discussion, motion by Bane, second by Byrer to approve the item above. Motion carried 7-0.

**CITY CLERK'S REPORT:** She gave the Wards and Boundaries Commission Report. Motion by Byrne, second by Bane to approve the Report. Motion carried 7-0. Clerk little also mentioned the upcoming Charity Hot Dog Sale. She thanked Council and all those involved for the Proclamation they presented to her.

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

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane

No Report.

Councilor Gaddis

Councilor Gaddis reported on the latest endeavors of the South Park Neighborhood Association meeting including lighting. He inquired as to who is responsible for Building Codes where school buildings are concerned.

Mr. Boroff responded that schools are not subject to local building codes.

Councilor Byrer

Councilor Byrer inquired about the state of the current PUD for the Augusta citing slippage and missing traffic signs. He complimented the Employee Newsletter. He commented that he thinks the City needs more Police Officers. Councilor Byrer mentioned the Ward and Boundaries Commission report, then spoke about the upcoming election and what changes need to be made for best voter turnout and efficiency.

Councilor Selin

Councilor Selin mentioned that the Suncrest Neighborhood Association met and that their meeting centered on rental units and the problems some cause. She said the Youth Commission retreat was successful. Councilor Selin spoke of the Wheeling Symphony playing on the Waterfront and how many citizens enjoyed it. She assured that the PUD will undergo thorough examination and will include all the necessary components for a multi use complex before it is completed. She stated that she would support vote by mail if the local election came to that.

Councilor Byrne

Councilor Byrne concurred with Councilor Selin that the Wheeling Symphony

was great and that the Youth Commission picnic was also a good experience. He wished Councilor Bane and Clerk Little a happy birthday. Lastly he spoke about the comments made in the Public Portion, stating he agrees the owner occupied neighborhoods are under pressure and the City should do more.

Councilor Spencer

Councilor Spencer began by citing code enforcement as the biggest issue facing Seventh and Fourth Wards. He requested that the Police and Code Enforcement Departments report back to Council what their issues are with enforcement where college students' neighborhood disturbing behavior is concerned. He urged Council and City Administration to find another way to handle these issues. Secondly, he mentioned graffiti and how a plan should be in place for removal, prevention and enforcement of such. Next he spoke about the status of the Riverview site. He then requested information about air-quality data in Morgantown, stating more air monitors are needed. He mentioned CO poisoning and asked for a report on the frequency of such incidents and what the City and other municipalities are doing to raise prevention and awareness. Lastly, he thanked BOPARC for the great concert, congratulated the County Commission for purchasing a litter clean-up truck, and mentioned that Arbor Day is approaching and celebrations will be held on that day.

Mayor Justice

Mayor Justice began by reminding Council that it is not possible to legislate entirely the behavior of college students. It is an arduous task, but one worth attempting to maintain appropriate civil boundaries. He mentioned that in order to attain more properties for owner occupation in our neighborhoods, there must be a willingness to first attain at least one. He suggested that a new entity be formed outside of the Housing Authority to accomplish this task. He complimented the leadership in the Woodburn Neighborhood and shared with Council a letter they give to new residents stating the traffic and noise expectations but also welcoming them and inviting them to be a part of the association and attend meetings. This he states has been given a positive response. He mentioned the Fall Fest coming up, which will feature food, music and fun.

**ADJOURNMENT:** There being no further business, the meeting adjourned by unanimous consent at 9:55 pm.

---

City Clerk

---

Mayor

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