

REGULAR MEETING SEPTEMBER 16, 2008:

- The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, September 16, 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 September 2, 2008 were approved as printed.

CORRESPONDENCE: Proclamation: Constitution Week; Mayor mentioned Assisted Living week was celebrated last week at Heritage Point; Arbor Day celebrated Saturday events @ farmer's market.

PUBLIC HEARING - AN ORDINANCE AMENDING SECTIONS OF ARTICLE 1701, ENFORCEMENT:

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

John Duarte spoke opposing the changes to article 1701.

City Attorney gave an explanation to Mr. Duarte and the public that changes to this and the following Ordinances were brought about as mandated by state code.

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

PUBLIC HEARING -AN ORDINANCE DELETING SECTIONS OF ARTICLE 1705, PERMITS AND FEES:

- 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 AMENDING SECTION 717.01, NATIONAL ELECTRIC 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.

PUBLIC HEARING -AN ORDINANCE REPEALING ARTICLE 1719, UNSAFE STRUCTURES:

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 REPEALING ARTICLE 1725, GAS APPLIANCES AND STRUCTURES:

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 REPEALING ARTICLE 1733, AND REPLACE WITH APPENDIX H OF INTERNATIONAL BUILDING 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.

PUBLIC HEARING - AN ORDINANCE REPEALING ARTICLE 1739, TRAILERS:

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 AMENDING AND REPEALING SECTIONS OF ARTICLE 1751, RENTAL HOUSING:

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 LEASE REVENUE BONDS FOR NORTH SIDE FIRE STATION:

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 - 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".

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

Jim Hunt, Director of Sunnyside Up: Spoke on behalf of the project, and asked for support of the TIF to revitalize the area. He cited all the benefits that the City and the Sunnyside area would reap. He also explained to the citizens the process, and the intended infrastructure improvements associated with the TIF.

John Duarte opposed the TIF because of the boundary confusion related to the adjacent Wiles Hill Neighborhood. He requested that the Resolution be tabled until boundaries are more defined to exclude his neighborhood and ensure its future as an owner occupied area.

Zane Shuck, 401 Highview Place: Spoke on behalf of the Wiles Hill Neighborhood Association and stated that he is confused about the TIF boundaries and opposes Council's passing of this Resolution until boundaries are identified more clearly to be sure they exclude Wiles Hill.

Duane Nichols, President Unitarian Fellowship: Concurred with, and reiterated the comments of the previous citizen speakers, showing an unwillingness to support the TIF and its current boundaries.

Renee Rieke, 459 Melrose: Concurred with, and reiterated the comments of the previous citizen speakers, showing an unwillingness to support the TIF and its current boundaries.

Dave McCain, 155 Ogden Avenue: Requested the maps should be reviewed and concurred with, and reiterated the comments of the previous citizen speakers, showing an unwillingness to support the TIF and its current boundaries.

Chuck Rosenecker, 621 Jones Avenue: concurred with, and reiterated the comments of the previous citizen speakers, showing an unwillingness to support the TIF and its current boundaries.

Michael Kay, 424 Hill Street: concurred with, and reiterated the comments of the previous citizen speakers, showing an unwillingness to support the TIF and its current boundaries.

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

UNFINISHED BUSINESS:

AN ORDINANCE AMENDING SECTIONS OF ARTICLE 1701, ENFORCEMENT: The below entitled Ordinance was presented for second 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 Bane, second by Byrne to approve the above entitled Ordinance.
Motion carried 7-0.

AN ORDINANCE DELETING SECTIONS OF ARTICLE 1705, PERMITS AND FEES: The below entitled Ordinance was presented for second 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 Bane, second by Spencer to approve the above entitled Ordinance.
Motion carried 7-0.

AN ORDINANCE AMENDING SECTION 717.01, NATIONAL ELECTRIC CODE: The below entitled Ordinance was presented for second 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 approve the above entitled Ordinance .
Motion carried 7-0.

AN ORDINANCE REPEALING ARTICLE 1719, UNSAFE STRUCTURES: The below entitled Ordinance was presented for second 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 Spencer, second Bane by to approve the above entitled Ordinance.
Motion carried 6-1. Byrne voted no.

AN ORDINANCE REPEALING ARTICLE 1725, GAS APPLIANCES AND ACCESSORIES: The below entitled Ordinance was presented for second 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 Bane, second by Gaddis to approve the above entitled Ordinance.
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 second 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 Spencer, second by Gaddis to approve the above entitled Ordinance. Motion carried 6-1. Bane voted no.

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

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

Motion by Bane, second by Gaddis to approve the above entitled Ordinance .Motion carried 7-0.

AN ORDINANCE AMENDING AND REPEALING SECTIONS OF ARTICLE 1751, RENTAL HOUSING: The below entitled Ordinance was presented for second 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 Gaddis to approve the above entitled Ordinance. Motion carried 4-3.
Selin, Byrne and Justice voted no.

AN ORDINANCE APPROVING LEASE REVENUE BONDS FOR NORTH SIDE FIRE STATION: The below entitled Ordinance was presented for second 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 Bane, second by Selin to approve the above entitled Ordinance. Motion carried 6-1. Byrer voted no.

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 second reading:

After discussion, motion by Byrne, second by Selin to exclude the Wiles Hill Neighborhood from the TIF map. Motion carried 5-2 to accept the Boundary adjustment. Bane abstained with complete objection to the TIF, Spencer Voted no.

After further explanation from the City Manager and Vince Collins, motion by Byrne, second by Spencer to approve the above entitled Resolution. Motion carried 5-2. Bane voted no, Gaddis abstained citing a lack of clarity in the TIF for the Citizens.

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

NEW BUSINESS:

AN ORDINANCE REPEALING THE JULY 15, 2008 AUGUST 19, 2008 ORDINANCE (SEWER RATES):

The below entitled Ordinance was presented for first reading:

AN ORDINANCE REPEALING THE JULY 15, 2008 AUGUST 19, 2008 ORDINANCE MAKING AMENDMENTS TO ARTICLE 925 OF THE MORGANTOWN CITY CODE (SEWER RATES), AND ENACTING NEW AMENDMENTS TO ARTICLE 925.

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

PUBLIC PORTION: Mayor Justice began by thanking citizens for patience with the lengthy meeting. He asked that speakers with concerns other than the main Colonial Avenue issue at hand please speak first, and then we will return to further concerns afterwards.

Jenny Dinsmore, 393 Mulberry Street, President Suncrest NH. Assoc: Suggested that, Council when discussing housing issues, consider appointing a new member to represent 7th ward on the Building Code Appeals Board. She asked them to consider this at the next COW meeting.

John Duarte, 460 Grove Street: Reiterated his concerns for the TIF in Sunnyside and stated his complete opposition to it. He repeated his concern for Wiles Hill being included in the TIF and asked again for the Resolution to be tabled to fix the boundary concerns.

Michael Kay, 424 Hill Street: Stated the maps were confusing for the TIF boundaries and asked Council to look again, fixing any anomalies.

Mayor: Asked citizens to move onto comments regarding Colonial Drive. He explained to citizens the COW meeting process and how they will define a single family home. He asked for the remainder of the Public Portion to flow like a Town meeting open forum where Council answers and addresses questions directly at this time.

Ruth Donaldson, 1300 Heritage Place: Mentioned that she appreciated hearing about the boundaries concerning Wiles Hill. She defined single family dwelling and stated that in Suncrest many single family dwellings are being bought and rented to more than 3 unrelated persons. She cited behavior problems for some renters including trash, lawn care, parties and parking. She asked Council for help in resolving these issues in her neighborhood.

Councilor Byrer asked her if she was ever threatened directly, she replied no, but that friends of hers have.

Nancy Ganz, 1276 Colonial Drive: Reported that she fears for her family in their own home because of the parties that occur constantly in rental properties in her neighborhood. She plead for help from Council to resolve these issues.

Helen Quarrick 1288 Colonial Drive: Stated that WVU should hire two full time police officers to patrol rental areas and help with the issues. She said Code Enforcement and MPD do not have the resources to divide all their attention to this matter, citing the "unplanned growth" of the University and Student population. She asked for a staff and an office devoted entirely to citizen-student and university-city relations. She reminded Council that the drinking is constant and daily in the neighborhoods.

Councilor Selin mentioned the provisions in some leases about what behavior is acceptable, and how some landlords intervene where necessary. She inquired as to whether the landlord in question did so. Mrs. Quarrick replied, no.

Councilor Byrne asked whether the houses in question were true rentals, or purchased by parents who allow dependents to reside there unsupervised. It was decided the house is a rental.

Councilor Bane requested a police officer patrol outside of Mrs. Ganz's house for the remainder of the week because he feels she needs the protection.

Councilor Byrer asked whether Police are following proper fining procedure when they catch students out of control in residential areas.

Joann Evans, 1285 Anderson Avenue: Stated that the problems in Suncrest have recently escalated and the City and WVU need to work together to resolve the issues.

Paul Zepp, 679 Bellaire Drive: Asked Council to place themselves in their positions where their favorite neighbor moved away and the house was rented to loud and wild students, and asked them, "what would you do?"

Jim Fishback, 1293 G Van Vhooris Road: Agreed with other speakers about the amount of noise and parties that occur, and asked the City to help the Citizens in need.

Councilor Spencer asked Mr. Fishback to elaborate on the specific incidences where such disturbances occur.

Mrs. Quarric then suggested where and how Police should patrol these areas.

John Ganz, 1276 Colonial Drive: Stated that the neighborhood parties instigate one another to become larger and more out of control. He expressed disapproval for the jobs that Code and Police have done to fix the behavior problems in their area. Feels he is given excuses for why steps cannot be taken. He reported smelling marijuana smoke that emits from a house nearby, and the trash that piles up from their house.

Mayor Justice asked for more information about the house in question.

Mrs. Ganz helped elaborate on the details of the house in question.

Councilor Bane inquired as to whether the newly passed Nuisance Ordinance can be enforced to help the Citizens that have come forward with the above complaints.

Mr. Ganz continued to state that he feels unsafe when outside and away from his house because of the student's behavior, citing specific incidents of dangerous situations that transpire.

Councilor Selin asked about a fire incident that occurred at Mr. Ganz's house.

Mrs. Ganz explained to Council about the fire that occurred on the deck of their house.

Mayor Justice requested a report back to Council from the City Manager on the issues at hand and asked for another meeting with the involved citizens to resolve the issues.

Mr. Ganz continued again to elaborate on trash from rental housing and incidents of trash pick up on his street. He argued about the commercial service rentals receive and the amount of alcohol related garbage is generated therein.

Councilor Byrne inquired as to whether there is proof that monies were exchanged for alcohol or drugs on the premises in question.

Mrs. Ganz interjected her response stating that when her daughter was home alone the student neighbors offered her to come over and party "for free".

Councilor Bane then insisted the City gain the assistance of higher authorities.

Mayor Justice, reminded Council that an Ordinance in place requires Regular Meeting business to be concluded by 11pm, and promised Citizens that after completion of the CMR, they will return to the discussion at hand until 11pm.

Councilor Byrer added a suggestion of including Magistrate and Municipal Court Judges, and the WVU Board of Governor's to help solve the problems.

SPECIAL COMMITTEE REPORTS: No Report.

CITY MANAGERS REPORT:

NEW BUSINESS:

Item No. 1: Attached you will find a memo from the Airport Director reporting bid results for a new Aircraft Rescue & Firefighting (ARFF) Vehicle. I agree with his comments and recommend that the contract be awarded to the low bidder Rosenbauer America with Alternate B (infrared search capability) and Additive Alternative 1 (loose tools, equipment, SCBD) for a total cost of \$648,405. Special Note: The City's share of this FAA project is \$17,319.

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

Item No. 2: The second attachment is a memo from the Public Works Director reporting bid results for salt for the Cities of Granville, Star City, Westover, and Morgantown. I agree with her comments and recommend that the contract be awarded to

the low bidder Cargill for a cost of \$85 per ton. Special Note: This vendor cannot assure additional salt beyond the amounts listed (the City is seeking additional sources in the event of a severe winter).

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

Item No.3: The third attachment is the proposed engagement letter for Steptoe & Johnson to serve as the City=s bond counsel for Lease Revenue Bonds, Series 2008 A (North Side Fire Station Project) for a fee of \$34,000. Given the firm=s expertise and experience, I recommend that the letter be authorized.

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

Item No. 4: The last attachment is also a proposed engagement letter for Steptoe & Johnson to serve as City counsel for Creation of TIF District and Approval of Project Plan for Sunnyside Up Campus Neighborhoods Revitalization Corporation for hourly fees reported on page 2. Given the firm=s expertise and experience, I recommend that the letter be authorized.

Motion by Byrer, second by Selin to approve the above item. Motion carried 5-2. Bane and Gaddis voted no.

CITY CLERK'S REPORT: No Report.

CITY ATTORNEY'S REPORT: No Report.

REPORT FROM COUNCIL MEMBERS: Due to the lengthy nature of the Public Hearings and Public Portion, Councilors did not give their regular Council Report.

At this time the Councilors and Citizens present continued to exchange information and discuss the above stated issues.

When there were no more appearances, due to the time constraints, Mayor Justice declared this public portion closed.

ADJOURNMENT: There being no further business, the meeting adjourned by unanimous consent at 11:00 pm.

City Clerk

Mayor

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