

REGULAR MEETING, SEPTEMBER 3, 2013: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, September 3, 2013 at 7:00P.M.

PRESENT: City Manager Jeff Mikorski, Assistant City Manager of Operations Glen Kelly, City Attorney Steve Fanok, City Clerk Linda Little, Mayor Jenny Selin and Council Members: Ron Bane, Bill Kawecki, Wes Nugent, Marti Shamberger, Mike Fike and Nancy Ganz.

APPROVAL OF MINUTES: The minutes of the Regular and Special Meetings of August 20, 2013 were approved as presented.

CORRESPONDENCE: Mayor Selin read a letter from Michael Brieding requesting that all BOPARC facilities be tobacco free.

PUBLIC HEARING – AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO PARCELS OF REAL ESTATE IN THE THIRD AND FIFTH WARDS OF THE CITY OF MORGANTOWN FROM R-2, SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT AND B-2, SERVICE BUSINESS DISTRICT TO B-4, GENERAL BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND FULLY DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

There being no appearances, Mayor Selin declared the public hearing closed.

PUBLIC HEARING – AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE PARCEL OF REAL ESTATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-2, SERVICE BUSINESS 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 HEREIN.

There being no appearances, Mayor Selin declared the public hearing closed.

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN CREATING ARTICLE 162 WITHIN ITS ADMINISTRATIVE CODE, ESTABLISHING A WOODBURN SCHOOL REDEVELOPMENT COMMISSION.

There being no appearances, Mayor Selin declared the public hearing closed.

UNFINISHED BUSINESS:

AN ORDINANCE REZONING TWO PARCELS OF REAL ESTATE IN THE THIRD AND FIFTH WARDS: The above entitled Ordinance was presented for second reading.

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO PARCELS OF REAL ESTATE IN THE THIRD AND FIFTH WARDS OF THE CITY OF MORGANTOWN FROM R-2, SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT AND B-2, SERVICE BUSINESS DISTRICT TO B-4, GENERAL BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS

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

Motion by Shamberger, second by Nugent, to adopt the above entitled ordinance. Motion carried 7-0.

AN ORDINANCE REZONING ONE PARCEL OF REAL ESTATE IN THE FOURTH WARD: The below entitled Ordinance was presented for second reading:

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE PARCEL OF REAL ESTATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-2, SERVICE BUSINESS 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 HEREIN.

Motion by Bane, second by Nugent to adopt the above entitled ordinance. Motion carried 7-0.

AN ORDINANCE CREATING A WOODBURN SCHOOL COMMISSION: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN CREATING ARTICLE 162 WITHIN ITS ADMINISTRATIVE CODE, ESTABLISHING A WOODBURN SCHOOL REDEVELOPMENT COMMISSION.

Motion by Shamberger, second by Nugent to adopt the above entitled ordinance. After discussion, Councilor Fike suggested other commissions share their ideas with this committee. Motion carried 7-0.

BOARDS AND COMMISSIONS: The following appointments were approved by acclamation: Building Commission; Gary Murdock will serve another 5 year term. Historic Landmarks; Bill Kawecki will serve as Council Representative. Metropolitan Theatre; Marti Shamberger will serve as Council Representative. Museum Commission; Pam Ball will serve another 5 year term. Sister Cities; Mike Fike will serve as Council Representative.

After discussion, Motion by Nugent, second by Bane to nominate Robert Jones to the Human Rights Commission. Motion failed 2-5. (Councilors Kawecki, Shamberger, Fike, Ganz, and Mayor Selin voted NO)

Motion by Shamberger, second by Fike, to appoint Frances Whiteman to the Human Rights Commission. Motion carried 5-2, appointing Frances Whiteman. (Councilors Bane and Nugent voted NO).

By acclamation, Council requested the Clerk to post the Boards and Commissions list on Drop Box as changers are made on the list.

PUBLIC PORTION:

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

SPECIAL COMMITTEE REPORTS: Deputy Mayor Shamberger stated that tobacco use issues will be discussed at the next BOPARC meeting.

NEW BUSINESS:

AN ORDINANCE AMENDING THE TRAFFIC CODE, IMPLIED CONSENT FOR DRUGS OR ALCOHOL TESTING: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING SECTION 333.03 OF THE MORGANTOWN TRAFFIC CODE PROVIDING IMPLIED CONSENT TO TEST FOR CONTROLLED SUBSTANCES OR DRUGS; REMOVING URINE AS A SUBJECT OF TESTING TO DETERMINE ITS ALCOHOL CONTENT OR CONCENTRATION, OR ITS CONTROLLED SUBSTANCE OR DRUG CONTENT; AND SPECIFYING WHERE TESTING CAN BE DONE.

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

AN ORDINANCE AMENDING THE TRAFFIC CODE, CHEMICAL TESTS FOR DUI ARRESTS: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING SECTION 333.04 OF THE MORGANTOWN TRAFFIC CODE FOR THE INTERPRETATION AND USE OF CHEMICAL TESTS FOR ARRESTS FOR DRIVING A MOTOR VEHICLE UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR DRUGS.

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

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF MORGANTOWN: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF MORGANTOWN TO ESTABLISH A B-2 SERVICE BUSINESS DISTRICT ZONING CLASSIFICATION FOR CERTAIN REALTY ANNEXED INTO THE CITY BY ORDINANCE ON MAY 21, 2013 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 Fike, second by Ganz to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE ADDRESSING THE SALE OF MERCHANDISE UPON SIDEWALKS OF THE CITY: The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 905.02 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE BY ADDING A NEW SUBSECTION (d) THERETO ADDRESSING THE SALE OF MERCHANDISE UPON SIDEWALKS OF THE CITY.

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

AN ORDINANCE AMENDING TRAFFIC CODE, SALE OF MERCHANDISE IN DOWNTOWN PARKING SPACES: The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 361.09 OF ITS TRAFFIC CODE, AS THE SAME APPLIES TO PUBLIC PARKING SPACES AND THE SAME OF MERCHANDISE IN THE DOWNTOWN BUSINESS DISTRICT OF THE CITY.

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

AN ORDINANCE AUTHORIZING AN AGREEMENT FOR DEP ACCESS TO AIRPORT REALTY: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY AND THE STATE OF WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) WHEREBY DEP MAY ENTER UPON MUNICIPAL AIRPORT REALTY TO DETERMINE THE POSSIBLE EXISTENCE OF ADVERSE COAL MINING PRACTICES, AND TO ALSO DETERMINE THE FEASIBILITY OF CONTROL OF ANY SUCH ADVERSE COAL MINING PRACTICES.

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

AN ORDINANCE ANNULING A 13' WIDE UNNAMED RIGHT-OF-WAY IN THE SEVENTH WARD: The below entitled Ordinance was presented for first reading:

AN ORDINANCE VACATING ABANDONING AND ANNULING AN APPROXIMATE 13' WIDE UNNAMED RIGHT-OF-WAY EXTENDING AND RUNNING A DISTANCE OF APPROXIMATELY TWO HUNDRED AND SIXTY SEVEN FEET FROM OAKLAND STREET TO HARDING AVENUE, IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

Motion by Ganz to table, failed for lack of a second. Motion by Nugent, second by Bane to pass the above entitled Ordinance to second reading. After explanation from the City Manager and City Attorney, discussion then continued. The question was called and the main motion carried 6-1. (Councilor Ganz voted NO)

AN ORDINANCE ANNULING ST. JOSEPH STREET IN THE SEVENTH WARD: The below entitled Ordinance was presented for first reading:

AN ORDINANCE VACATING ABANDONING AND ANNULING AN APPROXIMATE 40' WIDE RIGHT-OF-WAY KNOWN AS ST. JOSEPH STREET, EXTENDING AND RUNNING A DISTANCE OF APPROXIMATELY THREE HUNDRED AND TEN FEET FROM OAKLAND STREET TO HARDING AVENUE, IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

Motion by Shamberger, second by Kawecki to pass the above entitled Ordinance to second reading. Motion carried 6-1. (Councilor Ganz voted NO)

AN ORDINANCE ANNULING HARDING AVENUE EXTENSION IN THE SEVENTH WARD: The below entitled Ordinance was presented for first reading:

AN ORDINANCE VACATING ABANDONING AND ANNULLING AN APPROXIMATE 40' WIDE RIGHT-OF-WAY KNOWN AS HARDING AVENUE EXTENSION, EXTENDING AND RUNNING A DISTANCE OF APPROXIMATELY ONE HUNDRED AND SEVENTEEN FEET TO REALTY OWNED BY THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS FROM THE INTERSECTION OF COUNTRY CLUB DRIVE AND HARDING AVENUE IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

Motion by Bane, second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 6-1. (Councilor Ganz voted NO)

AN ORDINANCE ANNULLING PORTIONS OF, AND ACCEPTING ADDITIONS TO, COUNTRY CLUB DRIVE IN THE SEVENTH WARD: The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN VACATING, ABANDONING AND ANNULLING PARTS OR PORTIONS OF COUNTRY CLUB DRIVE AND ACCEPTING THE DEDICATION OF ADDITIONS TO COUNTRY CLUB DRIVE, LOCATED AND SITUATE IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, IN CONJUNCTION WITH THE PARTIAL REALIGNMENT AND RELOCATION OF COUNTRY CLUB DRIVE.

Motion by Kawecki, second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 6-1. (Councilor Ganz voted NO)

A RESOLUTION OF THE CITY OF MORGANTOWN STATING THE REASONABLE EXPECTATION TO REIMBURSE THE CITY OF MORGANTOWN AND CAMPUS NEIGHBORHOODS REVITALIZATION CORPORATION FOR CAPITAL EXPENDITURES MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT BONDS: The above entitled Resolution was presented for approval:

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

CITY MANAGERS REPORT:

INFORMATION:

1. Tree Board to Plant Trees at Morgantown Public Library

City Manager Jeff Mikorski explained that in support of the Tree Board and Arbor Day, trees will be planted in front of the Library. The City will work to resurface sidewalks; planters will replace brick tree pits with new concrete pits to eliminate tripping hazards.

NEW BUSINESS:

1. River Town Program Update

After explanation from the City Manager, motion by Nugent, second by Bane to accept the letter of interest written by the Manager and accept the City's participation in the program. Motion carried 6-0. (Mayor Selin recused herself from both the discussion and the vote.)

2. Budget Amendment to transfer \$10,000 to BOPARC to correct a moisture problem at Metropolitan Theatre.

After explanation from the City Manager, and discussion by Council, Motion by Bane, second by Nugent to approve of the transfer of \$10,000 to assist BOPARC in the repair of the moisture problem at the Metropolitan Theatre.

REPORT FROM CITY CLERK: No Report

REPORT FROM CITY ATTORNEY: No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane: Councilor Bane spoke about the City Election, and the voter's responsibility to get out to the polls. He praised the election and the City Clerk and suggested that the entire finance department area be cordoned off to avoid problems in the future. He feels that it is important to participate and go to the polls to vote.

Councilor Kawecki Councilor Kawecki appreciated Councilor Bane's comments about the election. He feels that Council should make it easy and efficient to vote, while citizens should exercise their right to vote as well. He also praised the City Clerk for her work.

Councilor Nugent: Councilor Nugent announced an upcoming exhibit at the History Museum, celebrating West Virginia's statehood.

Councilor Shamberger: Councilor Shamberger thanked those responsible for the opportunity to attend the WVU Game with other local delegates and Senator Manchin. She announced events of the Woodburn neighborhood association including a cleanup, picnic and music. She added that citizens should vote and participate in government. She stated that absentee voting is not the same as Vote by Mail because the entire election is not conducted by mail.

Councilor Fike: Councilor Fike stated that he has learned many things in his time on Council, and shared that he watched a webinar about the University of Iowa, and that at a more appropriate time he would share more details. He noted that his constituents have been inquiring about the urban agriculture issue and hoped that it would not be set on the back burner. Discussion then took place about the process for working up recommendations to move forward with urban agriculture.

Councilor Ganz: Councilor Ganz stated that she feels it is council's job to encourage citizens to vote. She also appreciated the Clerk's report on electoral processes. She hoped that in the future decorum and respect will take precedent at the next municipal election. She clarified her no vote on the annulments; stating that because the University did not participate in the master planning of the City, she could not approve of the annulment, also in

accordance with the wishes of her constituency. She thanked the Fire Marshall for his recent activity report. She thanked Mr. Kelly for explaining the employee evaluation process to the Suncrest Neighborhood association. She also thanked the Year of the Tree committee and the organizers of the Chestnut Ridge park event.

Mayor Selin:

Mayor Selin announced several upcoming events including the continuing Farmer's Market, a Difference Voices event at the MAC, Whoopi Goldberg at the CAC, and the Blood Drive. She thanked all those who applied for the Human Rights Commission. She noted a Capital Steps performance at the Met Theatre, and neighborhood clean-up events, which the City can assist with in providing trucks and bags.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:15 p.m.

City Clerk

Mayor

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