

**REGULAR MEETING OCTOBER 20, 2009:**

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Monday, October 20, 2009, at 7:30 P.M.

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

The meeting was called to order by the Mayor.

**APPROVAL OF MINUTES:** Minutes from the regular meeting on October 6, 2009, were approved as printed.

**CORRESPONDENCE:** Mayor Byrne read a letter from Wendy Cerne commending the Fire Department on their exceptional response to the fires in the Woodburn Neighborhood. Mayor Byrne mentions a letter from Keri Demasi, Executive Director of Bartlett House, asking Council for a letter of support for the construction of a new facility on West Run Road. Mayor Byrne presented proclamations for Municipal Government Week and Lights on Afterschool. Mayor Byrne then read "IF I WERE MAYOR" letters from Woodburn Elementary and Suncrest Primary Schools and thanked Deputy Mayor Spencer for attending Woodburn on his behalf.

**PUBLIC HEARING - AN ORDINANCE AMENDING SECTIONS OF THE BUILDING AND HOUSING CODE:**

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

Bill Burton, owner of Bell Cross Properties, commented that he does not oppose the ordinance but asked that it be tabled and amended so the statements could be submitted electronically, which would be more convenient and save paper.

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

**PUBLIC HEARING - AN ORDINANCE TO AMEND SECTIONS OF THE BUSINESS AND TAXATION CODE:**

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

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

**PUBLIC HEARING - AN ORDINANCE ANNULING A RIGHT-OF-WAY IN THE THIRD WARD:**

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

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

**PUBLIC HEARING - AN ORDINANCE ANNULLING A RIGHT-OF-WAY IN THE THIRD WARD:**

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

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

**PUBLIC HEARING - AN ORDINANCE AMENDING A SECTION OF THE TRAFFIC CODE:**

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

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

**PUBLIC HEARING - AN ORDINANCE AMENDING AND ADOPTING SECTIONS OF ARTICLE 747:**

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

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

**UNFINISHED BUSINESS:**

**AN ORDINANCE AMENDING SECTIONS OF THE BUILDING AND HOUSING CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING SECTIONS 1751.01 AND 1751.05 OF THE CITY OF MORGANTOWN BUILDING AND HOUSING CODE AND ADDRESSING CLASS IV REALTY DOCUMENTATION, AND ALSO ADDING A NEW SECTION 1751.11 ADDRESSING SEVERABILITY.

Motion by Bane, second by Byrer, to adopt the above entitled Ordinance. City Manager Dan Boroff then recommended that Council table the Ordinance so the City Attorney can look into Mr. Burton's suggestion and see whether or not it is a viable option. Motion by Spencer, second by Bane to table above Ordinance. Motion carried 7-0.

- **AN ORDINANCE TO AMEND SECTIONS OF THE BUSINESS AND TAXATION CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING SECTION 719.04 OF THE BUSINESS AND TAXATION CODE OF THE CITY OF MORGANTOWN, AS IT PERTAINS TO THE APPLICATION PROCEDURE FOR SOLICITOR OF CANVASSER PERMITS.

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

- **AN ORDINANCE ANNULLING A RIGHT-OF-WAY IN THE THIRD WARD:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 10' RIGHT-OF-WAY EXTENDING ALONG A PORTION OF AN UNNAMED ALLEY AND RUNNING A DISTANCE OF APPROXIMATELY FIFTY AND ONE HALF FEET IN A NORTHWESTERLY DIRECTION IN THE THIRD WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

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

- **AN ORDINANCE ANNULLING A RIGHT-OF-WAY IN THE THIRD WARD:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 10' RIGHT-OF-WAY EXTENDING ALONG A PORTION OF AN UNNAMED ALLEY AND RUNNING A DISTANCE OF APPROXIMATELY ONE HUNDRED FEET FROM THIRD STREET IN A NORTHWESTERLY DIRECTION IN THE THIRD WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

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

- **AN ORDINANCE AMENDING A SECTION OF THE TRAFFIC CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING SECTION 335.06 OF THE CITY OF MORGANTOWN TRAFFIC CODE AS IT PERTAINS TO THE USE OF RADAR AND OTHER DEVICES TO MONITOR VEHICULAR SPEED.

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

- **AN ORDINANCE AMENDING AND ADOPTING SECTIONS OF ARTICLE 747:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING SECTION 747.05 AND ADOPTING SECTION 747.11 OF ARTICLE 747 TO PROVIDE FOR LIENS ON REAL PROPERTY FOR UNPAID AND DELINQUENT FIRE SERVICE FEES.

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

- **BOARDS AND COMMISSIONS:** By acclamation Ron Bane was reappointed to serve another 5 year term on the Morgantown Utility Board.

- **PUBLIC PORTION:**

Paul Steel, 220 Grand Street, mentioned a property at 232 Cobun Avenue that has garbage out all the time and due to its location at the end of the South Park Bridge, is very noticeable to the public.

Mayor Byrne requested that the City Manager Dan Boroff check into this situation.

**SPECIAL COMMITTEE REPORTS:** Mayor Byrne announced that he is resigning from his position on the Sunnyside Up Board of Directors because he didn't feel he could give the board the time it needed due to his Mayoral duties.

**CITY MANAGER'S REPORT:**

- **INFORMATION:**

**Item No 1:** The City has been notified that it has been awarded a \$118,000 Cultural Facilities Grant from the West Virginia Division of Culture and History for the restoration of the Metropolitan Theatre. Grants from this program now total \$505,000 for Theatre projects.

**NEW BUSINESS:**

**Item No. 1:** Attached you will find a memo from the Public Works Director reporting bid results for painting the Metropolitan Theatre Auditorium. I agree with her comments and recommend that the contract be awarded to the low bidder John Canning & Co. for \$222,000.

After discussion, motion by Shamberger, second by Spencer to award the contract to John Canning & Co. for \$222,000 to paint the Met Theatre Auditorium. Motion carried 7-0.

**Item No. 2:** The last attachment is a memo from the Finance Director with Police and Fire Pension Fund Reports for the last

two fiscal years. Based upon the accuracy of the reports; State requirements to file the reports; and pending State contributions to the two funds, I recommend that the reports be approved and forward to the appropriate office.

After discussion, motion by Gaddis, second by Selin to approve the Police and Fire Pension Fund Reports and be forwarded to the appropriated office. Motion carried 7-0.

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**CITY CLERK'S REPORT:** No report.

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

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane: Councilor Bane requested an update on Falling Run project.

City Manager Dan Boroff responded that Falling Run has control of property until April, 2011; after that the property will revert back to the City, pending unpaid commercial rent.

Councilor Bane thanked Mr. Boroff for his help dealing with a property on Madison Avenue that has an overgrown lawn.

Councilor Gaddis: No report.

Councilor Byrer: Councilor Byrer requested an updated on the Event Center.

Mr. Boroff replied that the Event Center should be completed this calendar year. He announced an upcoming tour of the Event Center and that further updates will be discussed at October's COW.

Councilor Byrer reminded everyone of the Wiles Hill/Highland Park Neighborhood Association meeting on the 21<sup>st</sup> at the Senior Center.

Councilor Selin: Councilor Selin mentioned that the Evansdale NHA will be meeting on 10-22-09 at 7pm and will be electing new officers. Councilor Selin announced that BOPARC will be having their meeting at the new Day Care Center on 10-22-09 at 6pm; and reminded everyone of the Decker's Creek Adventure Day this Sunday. Councilor Selin reported that she and various City Officials attended the 2009 National Summit on Your City's Families in Boston. She said it was a great conference and she felt proud representing our City and our good economy, and commended our City Manager for the job he does.

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Councilor Shamberger: No report.

Councilor Spencer: Hazel Ruby McQuain Park and Trails - Several groups including the Mon River Trails Conservancy Board of Directors have expressed concern about the social gatherings along the trails ant at the Hazel Ruby McQuain Park and its restroom. They are concerned about the aggressive behavior of persons along the trails and in encampments and want to know what is being done to make the area safe and comfortable for all persons throughout the day early morning and early evenings. The MRTC Board is reluctant to refer to the people creating the problems as homeless because they believe that the term homeless should not be used interchangeably with descriptions of persons who are having problems with alcohol. It is not fair to the broader homeless persons who include persons with a wider range of needs. He asked:

- What is being done on this, Dan?
- Can we expect a report soon on what strategies are being developed in collaboration with city departments and various agencies?
- Will some of the persons involved be able to be part of the problem solving?

City Manager Dan Boroff responded the Bartlett House has new grant funding and is looking at new resources to make some changes. The Police Department is patrolling the area more often and our City Representative Dave Bott is also working on solving this issue.

Game Days - In regard to other problems with Alcohol Use, tailgating continues to be an issue for lots of different people. In addition to drinking and disturbances related to large parties, there are problems with urination, trash, trespassing on private property – all of which are concerns for neighbors, businesses, city and university police, and WVU. I would like to request a meeting be organized to include all of these interest groups so that 1) these issues can be discussed and 2) so that both the city and the University can be sure that everything possible is being done to responsibly manage crowd concentrations in the community before and after large events.

Water Quality Control – At the Water Quality Forum last Friday there were representatives from the WV and PA DEPs, the EPA, The Army Corps of engineers, MUB, and various watershed organizations in addition to WVU. The golden algae was discussed, reports were given on the TDS levels in the stream, etc. One item that I want to pass along from the meeting was the report that algae can be active in streams with high levels of TDS – somewhere between 1,000 and 1,500 parts per millions. The EPA representative said that this was the first such incident in West Virginia, but that other stream with high TDS are also susceptible – including the MON itself. The State of Texas has had a problem with the algae over several years. They have taken the position that the only way to control the algae is to control the TDS. The type of controls that we recommended last January is the type of action that he believes needs to be taken in West Virginia to protect water resources.

Mayor Byrne:

Mayor Byrne suggested that everyone read House Bill 2960. He thanked Ben & Jo Statler for their gift to Met Theatre. He mentioned that celebrating Municipal Government this week shows the dedication of our citizens like Ben & Jo, which is the best part of American democracy. Mayor Byrne gave an update of the Grant Avenue Task Force and mentioned the opening of the Mountaineer Station. He thanked many partnerships and Congressman Mollohan's donation. Mayor then reminded everyone that Halloween will be celebrated on Saturday from 6pm to 7:30pm.

Councilor Spencer quickly added that the Bicycle Board and Pedestrian Board were also involved with the development of the Mountaineer Station.

**ADJOURNMENT:** There being no further business, the meeting adjourned by unanimous consent at 8:25p.m.

City Clerk

Mayor

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