

**REGULAR MEETING October 18, 2016:** The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, October 18, 2016 at 7:00 p.m.

**PRESENT:** Interim City Manager Glen Kelly, City Attorney Ryan Simonton, City Clerk Linda Tucker, Mayor Marti Shamberger, Council Members: Ron Bane, Deputy Mayor Bill Kawecki, Wes Nugent, Jenny Selin, Jay Redmond, and Nancy Ganz.

The meeting was called to order by Mayor Shamberger.

**APPROVAL OF MINUTES:** September 27, 2016 COW; September 30, 2016 Special Meeting; October 4, 2016 Special Meeting and October 4, 2016 Regular Meeting were approved by acclamation.

**CORRESPONDENCE:** Mayor Shamberger asked Chief Ed Preston to come forward to present the following Police Department Awards: Certificate of Merit Lifesaving Medal to Dr. Fogarty and Taylor Sovastion. Unit Commendations to Police Officers Chad Reyes, Troy Ball, Matt Beavers, Bernie Molek, Nick Stanish, Tyler Holder and Brandon Bailey.

Mayor Shamberger present a proclamation to Penny Pugh, Chair of the Library Board for National Library Week. Mayor Shamberger announced the week of October 17<sup>th</sup> – 21<sup>st</sup> as “Municipal Government Week” and noted a proclamation for Arbor Day which was held on October 15<sup>th</sup>. Mayor Shamberger announced that the City of Morgantown will host the WVML Summer Conference August 2017.

**PUBLIC HEARING - AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO (2) PARCELS OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO R-1A, SINGLE-FAMILY RESIDENTIAL 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.**

Mayor Shamberger declared this Public Hearing open.

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

**PUBLIC HEARING - AN ORDINANCE CREATING A NEW ARTICLE 951 IN THE CITY CODE PROVIDING FOR TAXI STANDS.**

Mayor Shamberger declared this Public Hearing open.

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

**UNFINISHED BUSINESS:**

**AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO (2) PARCELS OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN**

**FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO R-1A, SINGLE- FAMILY RESIDENTIAL 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:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO (2) PARCELS OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO R-1A, SINGLE- FAMILY RESIDENTIAL 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 5-2. Kawecki and Ganz voted No.

**AN ORDINANCE CREATING A NEW ARTICLE 951 IN THE CITY CODE PROVIDING FOR TAXI STANDS:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE CREATING A NEW ARTICLE 951 IN THE CITY CODE PROVIDING FOR TAXI STANDS.

Motion by Bane, second by, Kawecki to adopt the above entitled Ordinance. Interim City Manager Glen Kelly explained, after discussion, motion carried 7-0 to adopt above entitled Ordinance

**BOARDS AND COMMISSIONS:** Motion by acclamation to appoint Amy Dale to serve on the Parking Authority and Roy Nutter as the 4<sup>th</sup> ward member on the Ward & Boundary Commission. Motion by acclamation to reappoint Liz Finklea to serve on the Sister Cities Commission. Council requested the City Clerk have a Special Meeting at 6 p.m. on 10-25-16 to interview Christina Hoffman and other candidates if needed.

**PUBLIC PORTION:**

Mayor Shamberger declared the Public Portion open.

There being no appearances Mayor Shamberger declared the Public Portion closed.

**SPECIAL COMMITTEE REPORTS:**

Councilor Ganz reported that the Sister Cities Commission was invited to the WVU Embassy of China and Delegate Barbara Fleischauer is going as the commissions representative.

Mayor Shamberger announced that she attended the “Downtown Taskforce Meeting” and that it was well attended many issues were discussed and sub-groups developed.

**NEW BUSINESS:**

**A RESOLUTION AUTHORIZING A SUB-GRANT AGREEMENT WITH WEST VIRGINIA DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY HOMELAND SECURITY STATE ADMINISTRATIVE AGENCY (SAA) AND THE MORGANTOWN FIRE DEPARTMENT:** The above entitled Resolution was presented for first reading.

A RESOLUTION AUTHORIZING A SUB-GRANT AGREEMENT WITH WEST VIRGINIA DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY HOMELAND SECURITY STATE ADMINISTRATIVE AGENCY (SAA) AND THE MORGANTOWN FIRE DEPARTMENT.

Interim City Manager Glen Kelly explained. Motion by Bane, second by Kawecki to adopt the above entitled Resolution

**CITY MANAGER'S REPORT:**

**New Business:**

**1. Airport Update**

Interim City Manager Glen Kelly announced that along with other airports in the state cities are moving away from Silver Air Ways due to poor reliability. He noted that the Morgantown Airport is filling every airplane, and we expect to exceed 11,000 enplanements.

**2. Double taxation – Council guidance requested**

Interim City Manager Glen Kelly is seeking council's guidance on repealing the ordinance that instituted our \$3 city tax on dogs. As the emails he provided council for the last meeting demonstrate this is a function of the county and their officers can only operate in the city under agreement to do so. The numbers provided show that this contracted service is a huge savings to the city and should be continued but there is no requirement to collect an additional tax on our citizens.

After discussion, Council requested by acclamation to have double taxation placed on the 10-25-16 COW for further discussion.

**3. Fuel farm upgrades to meet 1 January law change**

In order to meet the new requirements for the fuel tanks in West Virginia we are moving forward with the final phase of repairs needed prior to the January deadline. Interim City Manager noted that repairs to the containment wall of the fuel farm will be done to maintain compliance, the cost is \$17,013.40.

**4. Letter to County Clerk**

I have forwarded a letter to the County Clerk regarding updating and correcting the County's voter rolls in regard to the city. The letter outlines the information that the Clerk and the City Engineer have sent outlying a possible 3500 likely errors. This number represents 19% of our voters. It is my hope that we can meet to help assist with updating and correcting the voter rolls prior to 30 November.

**5. Request for Proposals - Demographer**

Interim City Manager Glen Kelly updated Council that per your request he has issued a request for proposal to obtain the services of a demographer to assist with our delineation of wards and boundaries prior to our next election. This has been advertised on the 14<sup>th</sup> and 21<sup>st</sup> of October with deliverables are due by the 30<sup>th</sup> of November.

**6. Uber information requested**

Interim City Manager Glen Kelly noted that Uber is a complex question and with the city attorney’s help here is the information we have:

Businesses operating in the city are taxable on their gross receipts received from services provided in the city. For Uber itself, the question is whether the company is providing services within the city. WV regulations don’t provide a clear answer for an internet business without a physical presence. The closest we get is “Persons domiciled outside a municipality who ... render services to others therein, are doing business in the municipality, irrespective of the domicile of such persons and irrespective of whether or not such persons maintain a permanent place of business in the municipality.” W. Va. Code R. § 110-26-11. There is a limitation on taxing authority for services performed elsewhere: “In no instance shall the taxing authority extended under W. Va. Code § 8-13-5(e) apply to sales of services performed in another municipality which imposes a municipal business and occupation tax or performed outside of West Virginia unless such services are incidental to the basic provision of a service as indicated under Sections 11.3.3 and 11.3.4 of these regulations.” W. Va. Code R. § 110-26-12.3.6.

Uber drivers are engaged in a service business or calling performed within the city and are required to have a service business license (which would require them to have a WV business registration through the State Tax Department) and obligated to pay B&O tax on their receipts. Enforcement would obviously be a challenge.

After discussion, Council requested that the Interim City Manager send out a press release on Uber for the communities benefit of understanding how they do business.

**REPORT FROM CITY CLERK:** No report.

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

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane:

Councilor Bane apologized for missing the Special Meeting this evening, as he was at a funeral. He noted that that one of his employees (Robert Sawyer) of 33 years of service passed away Saturday. He stated that he was a good person and in fact had known him for 25 years, and sends condolences to the family.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki reported that on Arbors Day there was a tree planted at Kings Park and the South Park Association helped with the planting. He complimented

the City of the organization of the project and said that this is one of the things he enjoys as being a Councilor.

Councilor Nugent:

Councilor Nugent asked the Interim City Manager Glen Kelly what the status was on the video upgrades for Council Chambers. Interim City Manager Glen Kelly stated that he had went back to the company and their solution was to cut the numbers so that we could put a RFP out and do it competitively. Councilor Nugent mentioned that there will be a MPO meeting later this week and hopes that those who will be there can follow-up on some of the key issues that are State related and continue to get guidance on how to prove the turnaround on requests. Councilor Nugent also mentions that the League of Women's Voters Forum will be held on October 20<sup>th</sup> from 7:00 pm – 9:00 pm at South Middle School. He also mentioned that the Wiles Hill Neighborhood Association Meeting scheduled for Wednesday October 19<sup>th</sup> is cancelled and neighbors are encouraged to turnout on that forum to listen to those candidates. Councilor Nugent wants to thank the Interim City Manager in regards to an email that he received from Jack Thompson in regards to efforts that have been taken to address dilapidated structures.

Councilor Selin:

Councilor Selin mentions that on October 26<sup>th</sup> at Marilla Park Rec Center between 4-7 pm transportation planning update session will be held for any council members that would like to attend as well as residents. Councilor Selin mentioned that because we have a relationship with WVU in regards to the Met Theatre if there could be some information every 3-4 months reported back in regards to how things are going. Councilor Selin also mentions that if any of her neighbors have concerns on the yellow lines that were painted in the Suncrest area to contact the Engineering Department. Councilor Selin appreciated the trees that were planted in her neighborhood. Councilor Selin stated that someone had mention at one point that it would be helpful to the downtown to look at sales of a single can of beer versus a six pack. Councilor Selin stated that she has been talking to BOPARC and the Interim City Manager about is the Amphitheater and how the back of it needs to be recovering. Councilor Selin wants to put it on the COW for November to discuss the issue. Interim City Manager responded in regards to the issue and stated that he had talked with Mr. Farmer and they are trying to look in the realm of the possible. Once there are some things that are done to improve the park, as placeholders there could be possible grants in the future.

Councilor Redmond:

Councilor Redmond mentions that he was at the Task Force meeting and it was good even though he had to leave early. The meeting consisted mostly of the panhandling and loitering going on downtown. He feels that panhandling and loitering is not the cause of the downtown issues, and he feels that it all has to do with behavior and how individuals act. Councilor Redmond mentions correcting the behavior and that the City plays a key role, and that we need to improve the Ordinance. Councilor Redmond reports that he has talked with the City attorney and mentioned to the Interim City Manager about a new development of a permit such as a sidewalk permit for downtown. Councilor Redmond mentions from the meeting from last night that some of the issues that were discussed was lighting, new sidewalks, and the lack of public restrooms. He stated that there used to be public restrooms downtown at the Court House that are no longer there. Councilor Redmond mentioned that he knows someone that was in Columbia, South Carolina and saw permanent signs in the downtown area that says "Just say no to panhandling" and thinks that this is something that maybe the City could look into. Councilor Redmond mentions the detention facility that has been talked about that can work towards and improve on our enforcement and patrols downtown. Councilor Redmond states that he agrees with Councilor Selin in regards to a report on the Met Theater every so often and states that it is good idea. Councilor Redmond stated that he is sorry to hear about Mr. Callen and prayers to his family as he was hospitalized for an illness. Interim City Manager reports that he received a text message from him and the he is in the hospital and that it seems to be a stomach issue.

Councilor Ganz:

Councilor Ganz states that she had the opportunity to read to Ashley Moran's First grade class at Eastwood Elementary School. She wanted to share a thank you that she received back from the class. She read the book "Make Way for Ducklings" and gave some color sheets to them. Councilor Ganz mentioned the meeting with the Homeless Coalition with John Sonnenday was very pleased with the outcome as well as others that attended. She feels that this is a multi-facet approach to move forward to prevent this behavior. Councilor Ganz mentions that there is an Open House for Meals on Wheels at University Avenue in Star City on October 20<sup>th</sup>, 2016 from 5:00 pm to 7:00 pm which they will show all that they offer to the community. Councilor Ganz wants to thank the Morgantown Municipal Pedestrian Board for their brochure and is very educational and she is

encouraging the University to distribute it to the students. It talks about the safe walking in Morgantown and she would like for Linda Tucker, City Clerk to forward some to Eastwood Elementary School because we are sister school so we can help educate the students. Councilor Ganz wanted to thank the Interim City Manager and everyone involved with the safe streets paving program and appreciates the video. She would like to see more signs about paving going on by the City and the User Fee that is being collected. She also talks about a YouTube video that shows road paving and shows over 200 curb cuts made possible with Safe Communities. Councilor Ganz wants to congratulate the City Attorney and the Planning Commission for upholding the City in the most recent CA Living Appeal in front of the Supreme Court. Councilor Ganz asks the Interim City Manager to look into what the cost would be of litigations that are filed and asked if it was possible to see what it is costing in man hours. Councilor Ganz wants to thank the Municipal Airport and University Toyota for a great balloon festival that was enjoyed by all that watched them.

Mayor Shamberger:

Mayor Shamberger is reporting a street light out on Willey and Richwood Avenue. She is requesting that someone contact the DOH to have them put a reflector sign on the pole by the cross walk and if the cross walk can be painted. Mayor Shamberger announces that over the last 2 weeks she has been a guest speaker at the Indian Festival at WVU and appreciated being asked to speak and she mentioned that it was a lot of fun and great food. Mayor Shamberger also spoke at a Political Science Class (Dr. Hader) on City and State Government. The class consisted of Freshman and Sophomore students sharing their perspectives of their hometown and City Government and how they can get involved here. She had the honor also to speak at a Diversity Colicum for the Graduates and the PHD potential candidates moving to Morgantown. It was interesting to hear the questions being asked about the Diversity in Morgantown. Mayor Shamberger announces that on Saturday, October 22<sup>nd</sup>, 2016 from 10:00 am to 2:00 pm at various locations will be drop off for any pills or patches that you can dispose of. Kroger in Sabraton and Patteson Drive, CVS in Star City, and Pierpont Landing Pharmacy; Bra Day 10/19/2016; Met Theatre, The Crystal Blue Band on 10/21/2016 at 7:30 pm; Farmer's Market, 8:30 am – noon on 10/22/2016; Tree Lore, Sunday, October 23, 2016 at 2:00 pm WV Botanic Garden; Stomp, Tuesday, October 25, 2016 at 7:30 pm at the CAC cost is \$23; How2GoGreen, Thursday, October 27, 2016 at 5:30 pm

to 7:30 pm at the Morgantown Public Library; America's Got Talent finalist Stevie Starr, Thursday, October 27, 2016 at 7:30 pm at the Met Theatre; Trick or Treat downtown Friday, October 28<sup>th</sup>, 2016 from 5:00 pm to 7:00 pm by Main Street Morgantown; Mountaineer Week starts Friday, October 28<sup>th</sup>, 2016 – Sunday November 6, 2016 at WVU; Early Voting starts 10/26/16 to 11/5/2016; City of Morgantown Trick or Treat on 10/31/16 from 5:30 pm to 7:30 pm; Boys & Girls Club are hosting "Lights on Afterschool: 10/21/16 and the League of Women Voters are hosting a Candidate Forum on 10/20/16 from 6pm to 9pm.

**EXECUTIVE SESSION:** Pursuant to WV State Code Section 6-9A-4(2) (B)(9) motion by, second by, to go into executive session in order to discuss property acquisition. Present: Council, City Attorney Ryan Simonton and Interim City Manager Glen Kelly. Time: 9:05 p.m.

**ADJOURNMENT:** There being no further items of business or discussion, the meeting adjourned by unanimous consent at 9:30 p.m.

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City Clerk

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Mayor

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