

REGULAR MEETING October 20, 2015: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, October 20, 2015 at 7:00 p.m.

PRESENT: City Manager Jeff Mikorski, City Clerk Linda Tucker, Mayor Marti Shamberger, City Attorney Ryan Simonton, Assistant City Manager Glen Kelly and 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.

Councilor Ron Bane called for a point of order, commenting that the agenda is not being followed per Ordinance. Councilor Ganz asked for parliamentary response from the City Attorney, Ryan Simonton deferred to the chair, and Mayor Shamberger commented she had attended a seminar that stated that the prayer can go at the beginning of the meeting. City Clerk, Linda Tucker reported, she is working on the order of procedure Ordinance for Council to review.

APPROVAL OF MINUTES: October 6th, 2015 minutes were approved as printed.

CORRESPONDENCE: Mayor Shamberger announced a Proclamation for Municipal Government Week; Councilor's read letter's "If I were Mayor" from Eastwood Elementary School students; Email from Clyde Cale was read against adoption of the user fee.

PUBLIC HEARINGS:

PUBLIC HEARING - AN ORDINANCE AMENDING SECTIONS 1505.01 AND 1511.02 OF THE MORGANTOWN CITY CODE TO GRANT CITY FIRE MARSHALS AND DEPUTY FIRE MARSHALS ARREST AUTHORITY AT FIRE SCENES AND FOR CERTAIN VIOLATIONS OF THE FIRE PREVENTION CODE.

Mayor Shamberger declared this Public Hearing open.

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

PUBLIC HEARING - AN ORDINANCE ANNEXING PROPERTY OF THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS AND WEST VIRGINIA DEPARTMENT OF TRANSPORTATION IN MORGAN DISTRICT INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN.

Mayor Shamberger declared this Public Hearing open.

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

PUBLIC HEARING - AN ORDINANCE ANNEXING PROPERTY OF AIRPARK, LLC IN MORGAN DISTRICT INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN.

Mayor Shamberger declared this Public Hearing open.

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

PUBLIC HEARING - AN ORDINANCE AUTHORIZING AN AGREEMENT WITH KLM PROPERTIES, INC. TO LIST RENTAL SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT.

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 745 IN THE CITY CODE TO ESTABLISH A SERVICE FEE FOR PUBLIC RIGHTS-OF-WAY AND POLICE SERVICE.

Mayor Shamberger declared this Public Hearing open.

Judy McCracken, 169 Darst Street, spoke against the user fee and suggested adding a fee to the water bill or garbage bill.

Dave Kelly, 100A Seventh Street, noted that this user fee would not be needed if the City would work efficiently and apply their monies fairly.

Jim Petitto, Owner Petitto Mining Co., requested Council to table User Fee ordinance and not penalize his employees.

Judy Jenkins, 1020 Montrose Avenue, asked Council to look at the Municipal Access Tax that citizens pay and felt that the User Fee Ordinance should be tabled.

Jim Clevenger, 548 Harvard, has lived in Morgantown for 60 years and noted that the streets and potholes need to be addressed.

Frank Kooser, 1036 Curtis Avenue, requested Council to consider that the seniors can't afford this User Fee and requested that they table the ordinance this evening.

Chris Bailey, 2203 Circle Drive, suggested raising the B&O tax that this tax would affect the businesses in the City.

Andrew Santo, 553 Pennsylvania Avenue, commented that this is an aggressive fee for the regular citizen and asked Council to reconsider passing this User Fee.

Russell Palet, 115 Pennsylvania Blvd. Coal Miner, stated that he has friends working on minimum wage that can't afford this User Fee. He commented that the Government tries to make money instead of trying to help the citizens.

Donna Balderson, 348 Webster Avenue, reminded Council that this same issue was voted on years ago and failed. Ms. Balderson commented that she works at the Library and the employees can't afford this User Fee; and asked Council to table ordinance.

James Giuliani, 256 Prarie Avenue, Government tries to make money instead of trying to help the citizens.

George Capel, 327 Willey Street, President, Student Body WVU, stated that WVU Students that are working will be affected and those that are self-employed. Mr. Capel urged Council to postpone the

User Fee ordinance.

Jason Turak, 26 Madora Drive, property owner, stated that there is not enough information given out to the public on this and requested Council to table User Fee Ordinance.

Don Spencer, 565 Harvard Avenue, stated this is a complex issue but we are talking about the future and we must move ahead. He noted that this User Fee is essential to the growth of our community and supports the approval of the User Fee Ordinance.

Joanne Pollitt, 520 Overhill Street, requested Council to table User Fee Ordinance to have more Public Meetings.

Lyndell Millecchia, 476 Lawnview Drive, President of the Library Board, stated that many of the Libraries part-time employees will be affected. She also commented that this fee could affect Library services. Ms. Millecchia agrees with Mr. Spencer that a User Fee is needed for the repair of our streets in the City.

Brian McAllister, 349 Cobun Avenue, stated that the City is under strained conditions both Police Department and City Streets need help. The need is evident to pass this User Fee Ordinance tonight.

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

UNFINISHED BUSINESS:

AN ORDINANCE AMENDING SECTIONS 1505.01 AND 1511.02 OF THE MORGANTOWN CITY CODE TO GRANT CITY FIRE MARSHALS AND DEPUTY FIRE MARSHALS ARREST AUTHORITY AT FIRE SCENES AND FOR CERTAIN VIOLATIONS OF THE FIRE PREVENTION CODE: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING SECTIONS 1505.01 AND 1511.02 OF THE MORGANTOWN CITY CODE TO GRANT CITY FIRE MARSHALS AND DEPUTY FIRE MARSHALS ARREST AUTHORITY AT FIRE SCENES AND FOR CERTAIN VIOLATIONS OF THE FIRE PREVENTION CODE.

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

AN ORDINANCE ANNEXING PROPERTY OF THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS AND WEST VIRGINIA DEPARTMENT OF TRANSPORTATION IN MORGAN DISTRICT INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN: The below entitled Ordinance was presented for second reading.

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City Manager explained, motion by Selin, second by Ganz, to adopt the above entitled Ordinance. Motion carried 7-0.

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AN ORDINANCE AUTHORIZING AN AGREEMENT WITH KLM PROPERTIES, INC. TO LIST RENTAL SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT: The below entitled Ordinance was presented for second reading.

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City Manager explained, motion by Selin, second by Kawecki, to adopt the above entitled Ordinance. Motion carried 7-0.

AN ORDINANCE CREATING A NEW ARTICLE 745 IN THE CITY CODE TO ESTABLISH A SERVICE FEE FOR PUBLIC RIGHTS-OF-WAY AND POLICE SERVICE: The below entitled Ordinance was presented for second reading.

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Motion by Bane, second by Redmond to postpone to give the citizens more time to understand the user fee. Motion failed 4-3 with Councilor Bane, Councilor Nugent, and Councilor Redmond voting No.

After discussion, motion by Ganz, second by Kawecki, to adopt the above entitled Ordinance. Motion carried 4-3 with Councilor Bane, Councilor Nugent, and Councilor Redmond voting no.

BOARDS AND COMMISSIONS: Rachel Fetty by acclamation was appointed to the Morgantown Housing Advisory and John Ganz was appointed to MUB.

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

James Giuliani, 256 Prarie Avenue, handed out photos of the project on University Avenue for Council to view. He stated that this all comes down to trusting administration to do the right thing in getting this project completed.

Randy Jones, 762 Spring Branch Road, stated that this User Fee is unfair as presented and thanked Councilor Redmond for postponement of ordinance.

Joanne Pollitt, 520 Overhill Street, stated that students that are putting themselves through school will have to pay this User Fee and that is just another burden on their finances.

George Capel, 327 Willey Street, WVU, BOG, Student Body President, explained that he is not against the User Fee Ordinance but in how it is written. Mr. Capel invited Council to a BOG Meeting which is held on Wednesday's at 7:30pm at E. Moore Hall to explain this User Fee to all Students.

Andrew Santo, 553 Pennsylvania Avenue, asked if it was true that residents get reimbursed for cars that are damaged from potholes. Mayor Shamberger responded that we will answer your question later on in the meeting.

Andrew Southerland, 1000 District Drive, reported that he will be working with Chelsi Baker, Communications Manager and thanked Mayor Shamberger and Councilor Selin for their participation in our Good Neighbor Day. Andrew then reminded that this weekend there is Make A Difference day and anyone wanting to volunteer contact either Andrew or Chelsi Baker.

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

SPECIAL COMMITTEE REPORTS: Mayor Shamberger reported that the Safe Community Application has been accepted and that the Committee will make a visit to Morgantown in November.

NEW BUSINESS:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH FRIENDS OF DECKERS CREEK, INC. FOR SPACE AT THE WOODBURN SCHOOL SITE: The below entitled Ordinance was presented for first reading.

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE (1) PARCEL OF REAL ESTATE IN THE THIRD WARD OF THE CITY OF MORGANTOWN FROM R-1A, SINGLE-FAMILY RESIDENTIAL DISTRICT TO R-2, SINGLE-AND-TWO 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.

City Manager explained, motion by Ganz, second by Selin, to adopt the above entitled Ordinance. Motion carried 7-0.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE: The below entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE.

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

CITY MANAGERS REPORT:

New Business:

1. **Press release to allow 38 more days on University Avenue**

City Manager explained that a press release was released earlier than it was supposed to be and stated they were adding 38 more days onto the contract that was already in place for the completion of the project. Adding 38 more days for completion has been misinterpreted and a letter has been sent to Reclaim to add more manpower to complete the project by October 23rd, 2015 and is part of the contract. October 26th, 2015 is set for the substantial completion and if it is not, they will get with Reclaim to work out the issue.

2. Potholes in Morgantown

There have been several pothole claims and those citizens have been referred to the Department of Highways for reimbursement.

3. Agreement with West Virginia Radio Corporation

The attached agreement with the West Virginia Radio Corporation allows the trimming of eight trees along Deckers Creek in Marilla Park to allow satellite signals to reach the West Virginia Radio Corporation's dishes at their facility on Earl Core Road. Over the years, trees along the creek grew tall enough to interfere with satellite signals needed for emergency broadcasting service. The Tree Board's recommendation was to allow the trimming of the trees but make sure the creek bank was protected with additional plantings and repair if any of the trimmed trees fail. I recommend Council authorize me to sign the agreement and move the project forward.

City Manager explained the agreement to City Council and after discussion, was approved by acclamation. Motion carried 7-0.

4. Municipal Court Technology upgrade

With the introduction of a Municipal Court Technology Fee approved by City Council April 7, 2015, the City began to look at the needs of the Municipal Court and work with vendors that have installed court technology equipment. Electronic Specialties Company recently installed the technology equipment to all courts in the County Justice Center and provided a recommendation for upgrading our Municipal Court based on meetings with the Municipal Judge and Assistant City Attorney. Total cost of the upgrade is \$28,438.00, which will be paid with the funds generated by the Municipal Court Technology Fee as it is collected and submitted to the Capital Escrow Fund. I recommend City Council to authorize me to sign the attached contract with Electronic Specialty Company.

City Manager explained, the upgrade amount has been corrected to \$24,947.94. Council approved the Municipal Court Upgrade per City Manager's request by acclamation. Motion carried 7-0.

5. Fiscal Year 2015 Police and Fire Pension Fund Reports

As included in the attached report by Lori Livengood, Acting Finance Director, the Police and Fire Pension reports are submitted to City Council for approval. The Municipal Pensions Oversight Board require approval from the governing body before the State portion of funding can be invoiced and deposited into the accounts. I agree with the reports, and recommend City Council approve the reports as provided.

City Manager explained, motion by Ganz, second by Selin, by acclamation, to approve the Police and Fire Pension report for approval for 2015.

REPORT FROM CITY CLERK: No Report

REPORT FROM CITY ATTORNEY: No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane requested that this Council not change the order of the pledge on the agenda procedure process.

Deputy Mayor Kawecki:

No report.

Councilor Nugent:

Councilor Nugent gave an update on the Wiles Hill Highland Neighborhood Meeting will be on the 21st at 7:00 pm. He also appreciated the report from the City Manager on the University Avenue Construction and apologized to the community in hoping timelines will be differently in the future. He noted in reference to the user fee he respects everybody's comments but could not support the user fee at this time.

Councilor Selin:

Councilor Selin thanked her colleagues for supporting the passage of the user fee and thanked all of those for all of their support and work on this Ordinance. She noted that the City employees and staff work on taxation, grants, and many other programs and services to keep this City thriving and I commend them for their work.

Councilor Redmond:

Councilor Redmond stated that this user fee has passed and hopefully it will be presented properly to the public with due diligence. He mentioned the Editorial by Tim Ball MUB Director in Sunday's paper. He then responded to the Met Theatre Lease and thought it was a good decision and was well thought out. He also responded to the University Avenue construction site hoping that we can show some resolve.

Councilor Ganz

Councilor Ganz reported that BOPARC Ice Arena is open for the 2015-2016 season and they are offering Tot Cycles. She then thanked the Met Theatre for presenting Annie Jr. and commended the 40 youth involved. She also thanked the landlords in the 7th Ward for having non-alcoholic tailgating parties and appreciated Mr. Kelly explaining annulments and right-of-ways and their proceeds. She then reminded everyone of the Suncrest Neighborhood Association Meeting, October 29th at Calvary Baptist Church.

Mayor Shamberger:

Mayor Shamberger reported that there will be a chili cook off on Sunday at the Market Place; Lights on after school on October 23rd; Puppy Day at the Library November 7th; Pumpkin drop October 23rd; Reel Rock 10 at the Met Theatre; Chestnut Ridge Park Halloween Bash on October 24th; Kiss me Kate on October 24th at the CAC; Book Sale at the Stone House on October 25th; Botanical Garden Walk October 25th; Craig Ferguson will be entertaining at the CAC on October 26th; The City will observe Halloween on October 31st from 6:00 pm – 7:30 pm.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 10:45p.m.

City Clerk

Mayor

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