

**REGULAR MEETING November 1, 2016:** The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, November 1, 2016 at 7:00 p.m.

Mayor Shamberger announced item B under New Business on the Agenda is being pulled due to the fact that new ordinances must go to the COW Meeting for discussion and referred by Council to be placed on the Agenda. She pulled Items C&D under New Business for items that were already approved and are part of Resolutions F&G.

**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:** October 18, 2016 Special Meeting Minutes; October 18, 2016 Regular Meeting Minutes; and October 25, 2016 COW Meeting Minutes were approved by acclamation. Mayor Shamberger noted receiving a thank you from the Koon Family for presenting a proclamation honoring them for singing for 50 years.

**CORRESPONDENCE:** Mayor Shamberger presented proclamations for Extra Mile and National Hospice Palliative Month. Mayor Shamberger announced an event held on Saturday involving 40 WVU Greek Life Students, Morgantown Fire Department. She stated that American Red Cross, Executive Director Carisa Collins reported that information was provided to 100 homes, 15 smoke alarms installed in the 5<sup>th</sup> ward. She requested that the Interim City Manager Glen Kelly help publicize the Red Cross “Smoke Alarm” event to help keep the Community Safe.

**PUBLIC HEARING -** None

**UNFINISHED BUSINESS:** None

**BOARDS AND COMMISSIONS:** By acclamation Council reappointed the following: BZA; Bill Burton, MUB; Frank Scafella, Planning Commission; Peter DeMasters and Planning Commission William Blosser. By acclamation Council appointed the following: Parking Authority; Amy Dale and Traffic Commission Erica Hetzel.

**PUBLIC PORTION:**

Mayor Shamberger declared the Public Portion open.

Tom Bloom, 1021 Ashton Drive, noted he was surprised Council had on the agenda first reading of an ordinance developing a TIF district on Falling Run Road. He stated that he thanked the Mayor for taking the TIF ordinance off the agenda at the beginning of the meeting. He noted that he spoke with Mr. Kelly and that he was going to suggest that the ordinance be placed on COW meeting in November. He noted his concerns about this TIF and thanked Mr. Kelly for recommending delaying the topic and requested Council to investigate the scope of the project. **Exhibit A**

Joseph Schaeffer, 48 Donley Street, representing Calvary Baptist Church noted that the re-zoning of this parcel is consistent with the Comprehensive Plan. He urged Council to approve this parcel to B-2.

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

**SPECIAL COMMITTEE REPORTS:** Councilor Ganz gave an update on the Hydro-Power meeting on 11-1-16 and that Council has requested the Interim City Manager Glen Kelly to write a response of no significant impact. She suggested checking into the issue of no significant impact with the Federal Energy Regulatory Commission; coordinate cooperate with developer so that recreation and other interest are taken into consideration and too cooperate with the two other sites. She asked the Interim City Manager to have the City Attorney work with the WVU Land Management Institute to address the 3 issues she brought forth.

Councilor Ganz announced that Suncrest Elementary School will be opening in the next month and requested that the Interim City Manager Glen Kelly work with BOE in annexation of the School. She then mentioned that the US DOE which is also on Collins Ferry Road is needing annexed and requested the Interim City Manager & City Attorney work on both of these projects together.

Mayor Shamberger mentioned that Hotel Motel fees would be a good topic to mention to the Municipal League so that Cities can be on top of the fees that are collected.

By acclamation Councilor Ganz and Councilor Redmond were appointed to the Downtown Task Force.

**NEW BUSINESS:**

**AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE (1) PARCEL OF REAL ESTATE IN THE SEVENTH WARD FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-2 SERVICE BUSINESS DISTRICT:** 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 SEVENTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL 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 WERE FULLY SET FORTH HEREIN.

Motion by Redmond, second by Nugent to approve the above entitled Ordinance to second reading. After discussion, question was called. Motion failed 5-2. Nugent & Redmond Voted Yes.

**AN ORDINANCE APPROVING AND CREATING A NEW TAX INCREMENT FINANCING DISTRICT:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE APPROVING AND CREATING A NEW TAX INCREMENT FINANCING DISTRICT IN THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA TO BE KNOWN AS "THE CITY OF MORGANTOWN DEVELOPMENT DISTRICT NO.5"; APPROVING THE UPPER FALLING RUN PROJECT PLAN NO. 1 AS APPROVED BY THE WEST VIRGINIA DEVELOPMENT OFFICE; ESTABLISHING A TAX INCREMENT FINANCING FUND AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

This item was pulled from the Agenda per Mayor.

**AN ORDINANCE AUTHORIZING IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM NOT MORE THAN \$100,000,000 IN AGGREGATED PRINCIPAL:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING ACQUISITION & CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND FINANCING THE COST OF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$100,000,000 IN AGGREGATED PRINCIPAL.

This item was pulled from Agenda per Mayor.

**AN ORDINANCE AUTHORIZING IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE COMBINED UTILITY SYSTEM THE FINANCING OF THE COST NOT OTHERWISE PROVIDED THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$29,000,000 IN AGGREGATE PRINCIPAL AMOUNT COMBINED SYSTEM REVENUE BONDS SERIES 2016 B-1 AND NOT MORE THAN \$1,000,000 COMBINED UTILITY SYSTEM REVENUE BONDS SERIES 2016 B-2:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST NOT OTHERWISE PROVIDED THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$29,000,000 IN AGGREGATE PRINCIPAL AMOUNT COMBINED SYSTEM REVENUE BONDS SERIES 2016 B-1 AND NOT MORE THAN \$1,000,000 COMBINED UTILITY SYSTEM REVENUE BONDS SERIES 2016 B-2.

This item was pulled from Agenda per Mayor.

**AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CITY CODE:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CITY CODE.

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

**A SUPPLEMENTAL RESOLUTION RE-DESIGNATING THE PREVIOUSLY AUTHORIZED COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 A (TAX EXEMPT) AS COMBINED UTILITY SYSTEM REVENUE BONDS SERIES 2016 A:** The above entitled Resolution was presented for first reading.

Motion by Ganz, second by Kawecki, to approve the above entitled Resolution. Council suspended the rules to have Tim Ball, MUB Director explain Resolution and answer questions. Motion carried 7-0.

**A SUPPLEMENTAL RESOLUTION AUTHORIZING ISSUANCE OF TWO SERIES AND REDESIGNATING PREVIOUSLY AUTHORIZED COMBINED UTILITY SYSTEM REVENUE BONDS SERIES 2016 C-1 AS COMBINED UTILITY SYSTEM BONDS SERIES 2016 B-1 AND COMBINED UTILITY SYSTEM REVENUE BONDS SERIES 2016 B-2 AS TO PRINCIPAL**

**AMOUNTS DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE COMBINED UTILITY BONDS:** The above entitled Resolution was presented for first reading.

Motion by Ganz, second by Kawecki to approve the above entitled Resolution. Motion carried 7-0.

**A RESOLUTION AUTHORIZING A GRANT AGREEMENT WITH THE DIVISION OF JUSTICE AND COMMUNITY SERVICES FOR THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION GRANT PROGRAM:** The above entitled Resolution was presented for first reading.

Interim City Manager Glen Kelly explained. Motion by Selin, second by Ganz to approve the above entitled Resolution. Motion carried 7-0.

**A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER, GLEN KELLY, TO ACT ON ITS BEHALF TO ENTER A CONTRACTUAL AGREEMENT WITH THE DIVISION OF JUSTICE AND COMMUNITY SERVICES, TO RECEIVE AND ADMINISTER GRANT FUNDS FOR THE SUPPORT OF A PREVENTION RESOURCE OFFICER (PRO) AT MOUNTAINEER MIDDLE SCHOOL:** The above entitled Resolution was presented for first reading.

Interim City Manager Glen Kelly explained. Motion by Selin, second by Nugent to approve the above entitled Resolution. Motion carried 7-0.

**A RESOLUTION SUPPORTING THE DOWNTOWN TASK FORCE:** The above entitled Resolution was presented for first reading.

After discussion, motion by Kawecki, second by Selin to approve the above entitled Resolution. Motion carried 7-0.

**CITY MANAGER'S REPORT:**

**New Business:**

**1. Legislative Agenda Items**

Interim City Manager Glen Kelly asked council for approval of the 4 legislative items to be approved for release to the Municipal League and other entities in support of City Councils Legislative Agenda. The items attached are the same from committee of the whole last week.

**Exhibit B**

After discussion, Interim City Manager Glen Kelly went over the 4 legislative items with Council and by acclamation they approved items to be released.

**2. Demographer Search**

Interim City Manager Glen Kelly informed council that we only received one proposal. He asked council to approve the signing of the contract.

After discussion, motion by Kawecki, second by Ganz to approve signing of the contract for the demographer. Motion carried 5-2. Nugent & Redmond Voted No

**3. Hazel Ruby McQuain Park**

Interim City Manager announced that the mayor, Councilor Selin and Redmond met with the Hazel Ruby McQuain Foundation about a place holder for a grant for repair and improvements at the park. City Administration will continue to work with the foundation, BOPARC, Mon County to develop a grant to fill this requirement.

**REPORT FROM CITY CLERK:**

No Report

**REPORT FROM CITY ATTORNEY:**

No Report

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane:

Councilor Bane appreciates that the paving in the 1<sup>st</sup> Ward is complete. He mentions that there were some issues with the paving but hopes that next year who ever we get, he would like for us to be a top priority and that paving should start once students leave and be completed by the time they return.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki agreed with Councilor Bane with the street milling and paving. He went to Empty Pockets at Woodburn and was enjoyable. He mentions that the Arts Mon will be sponsoring an Arts Auction by Joe Pyles on November 11<sup>th</sup> at Hotel Morgan and the cost for that will be \$10 that can be obtained at the Convention and Visitors Bureau or any Council Member.

Councilor Nugent:

Councilor Nugent noted that he has received complaints about the paving in the 3<sup>rd</sup> Ward. He mentioned that he had talked with the City Manager in regards to Aspen Street and how it was repaved. He hopes that because it so late in the season that there are not any corner's being cut. Councilor Nugent stated that when the Falling Run TIF Project is put on the COW meeting and is discussed that any correspondence to and from the West Virginia Development Office be included for Council to review. Councilor Nugent mentioned the RFP portal and how it needs to be unlinked from the City's Website immediately. He also mentioned that route changes at Transit will affect transportation for students. He announced public hearings coming up for the Mountain Line Transit Authority routes through Evansdale will be held on November 8<sup>th</sup> at 1:30 pm and November 9<sup>th</sup> at 6:00 pm at 420 DuPont Road in Westover. He also

reminded everyone that November 8<sup>th</sup> is Election day and encourages everyone to get out and vote and fulfill their civic duty and make your voice be heard.

Councilor Selin:

Councilor Selin noted the paving and patching in the City and appreciates the portion of the staff that has worked very hard on the paving project. She stated that next year she hopes that they start on time with the paving. She mentioned that Baldwin traffic has calmed down, and the sidewalks progress in the Suncrest area. She also mentioned the yellow lines in the Suncrest area and how it is still an issue. Councilor Selin announced that she spent a couple of days in Philadelphia with the Botanic Gardens visiting various gardens. Councilor Selin talked about the Hydro Electric Facility being considered at our lock & damn and thanked City Administration for their representation at those meetings.

Councilor Redmond:

No Report

Councilor Ganz:

Councilor Ganz noted that she had over 200 children for Trick-or-Treat and enjoys the community spirit of Morgantown. She noted that 4<sup>th</sup> & 7<sup>th</sup> wards have had yellow lines, and very little paving, but did have a milled street. She stated that we did have some paving and would have appreciated signs stated being paved or milled due to User Fee. She reported that someone informed her that attended a meeting with our City Fire Marshall that there has been less fires under the Home Rule by empowering our Fire Marshalls. She announced a Town Hall Safe Community Meeting on November 14, 2016, and referenced the Dominion Post and all the alcohol related incidents and how the city is in need of this Town Hall Meeting. She noted being thankful to serve as a Councilor for the Citizens of Morgantown. She encouraged citizens to either early vote or vote on Election Day as it is our civic duty.

Mayor Shamberger:

Mayor Shamberger welcomed WVU Forestry Class 438 - Human Dimensions & Natural Resources to the Council Meeting. By acclamation Council will have their meeting with Legislatures in December. She thanked the Police for being out and about making it safer during Trick-or-Treat in the 5<sup>th</sup> ward. Mayor Shamberger agrees that the City needs to place a deadline on the paving contract, and if they don't follow the contract have to pay for the delay. She noted that a schedule of what streets get paved would be very valuable for next year. She said thank you to our Veterans Deputy Mayor Kawecky & Interim City Manager Glen Kelly for serving our country. She announced the Veterans Day Parade will be on November

11, 2016 downtown. She noted being very proud of her father-in-law who is a WWI Veteran and 95 years and he will be giving a presentation at Morgantown High on Monday about World War II. She then made the following announcements: WVU Musical Theatre, Faibo, 11-3 to 11-5; M.T. Pockets, Neverwhere, 11-3 to 11-5; MGT. Library, Veterans Day, 11-5; MGT Library, Dracula, & Penny Pinchers Coupon Swap, 11-7; Eastwood Elementary, Honoring Veterans, 11-10; MGT. Library, How2Go Green, 11-10; Bears, Chairs & Derrieres Art Auction, Clarion, 11-11; MGT. Library, Under the Sea, 11-12; Old Time Square Dance & Concert, Marilla, 11-12; Concerts in the Loft/Wesley UMC, 11-13; Adult Relaxation Night, MGT. Library, 11-14; Hemlock Woolly Adelgid Program, 11-20; MGT. Library, Finding Dory, 11-22; MGT. Library, Charlie Brown Library, 11-22; Downtown MGT, Small Bs. Saturday, 11-26 and WVU CAC, David Crosby, 12-1. Mayor Shamberger announced that the Service League will be open 11-5&6 for their Holiday Bazaar at the Old Stone House proceeds go back to the community. Mayor Shamberger sent sympathy to Lisa Dooley on the loss of her husband.

**ADJOURNMENT:** There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:45 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\***

My name is Tom Bloom, 1021 Ashton Drive and I am speaking as an individual County commissioner. I was surprised that you had listed a first reading of an ordinance to develop a TIF district on Falling Run Road. I met with Mr. Glen Kelly and he explained to me that he is recommending it be placed on the Committee of the Whole, which I believe is the prudent thing to do....

I spoke to this group on July 5<sup>th</sup> and requested that you respond to several concerns that I voiced. I have not seen any documentation to this date, and I believe there are now two more legal questions that need to be reviewed

- 1) Mr. Maryts presented a letter written on February 2, 2015 which changes the definition of low cost housing to be added to the deed...this document states that it will be updated to the property deed in the Court house.....It never happened....Therefore, with no addition to the deed of record, which takes preference?????? The deed or a letter that is not certified, notarized or may never have been approved by all parties?
- 2) The Tif district is being established currently for a nonprofit group. Thereby, they are NON tax producing and can never pay back the TIF...This nonprofit is planning to sell this property to a developer? Or are they going to lease the property?? (which could be considered at a different tax rate) This seems contrary to the reasons for having a TIF in the State of WV?????....

I want to thank Mr. Kelly for his recommendation of delaying this topic and only hope the City Council will answer these questions and also investigate if the scope of the project that was in the application, has been changed.



**Office of the City Manager**

# The City of Morgantown

Interim City Manager  
COL (Ret) Glen Kelly  
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October 25, 2016

## **Proposed Legislative Agenda Items**

### **1. Airport Protection Against Land Development and Land Use Encroachments. Overlay District**

As you are well aware, the City of Morgantown, along with the other local airports across West Virginia, are not afforded local control to protect airspace above and around our airports. In 2014, the City of Morgantown took steps, what appear to be the first in West Virginia, under the Planning and Zoning Code to establish a zoning overlay district. Unfortunately, the overwhelming majority of the Federal Aviation Administration's (FAA) Federal Aviation Regulations (FAR) Part 77 surfaces for which the geometry of the City's Airport Overlay District was designed lies outside the City's corporate boundary.

At the heart of the matter is the lack of legislative authority to enact local protection measures for public health, safety and welfare. Specifically, local measures can protect pilots, passengers, people and property by:

- Identifying possible obstructions before they occur.
- Restricting heights of objects in and around airports so they will not interfere with aircraft operations.
- Providing a link to existing federal processes that evaluate airspace for objects, existing or proposed, to prevent and/or mitigate hazards.
- Reducing the possibility of accidents that could injure both passengers in the air and people on the ground.
- Protecting against incompatible land uses and liabilities.

In addition to potential public safety calamities, our airports are economic assets and engines to both the communities where our airports are located and to the state as a whole. Height obstructions can reduce access to and economic impact our airports have on:

- General business use.
- Movement of people and good
- Tourism and recreation.
- Air Ambulance

## SOLUTION = COLLABORATION + LEGISLATION

We need to understand this is a local, regional AND statewide problem. We need to recognize our obligation to protect life in the air; life and property on the ground; and, our airports' economic vitality and growth potential. We need the right people working together to develop creative solutions that fit our unique physical and political landscapes. We need legislation to empower local authority and intergovernmental coordination to establish protection around our airports through the airport sponsors authority to establish an airport.

I respectfully request Morgantown City Council, through the City Manager's Office, to include this matter on its 2017 legislative agenda and work towards a joint legislative study resolution during the 2017 Legislative Session.

A study resolution will enable the issue to be assigned to a joint legislative committee for study, engagement of affected entities and interested sectors, identification of factual constraints and creative solutions, scheduling of informative hearings, and the formation of a legislative bill that could be considered during a Special Legislative Session in 2017 or during the Regular Legislative Session in 2018.

Creative solutions are long overdue, but measured exploration should lead to a higher degree of participation, support and endorsement resulting in a stronger legislative effort to advance local public safety and desired economic development outcomes.

2. **Re-introduction and continued support of H.B. 2479. The purpose of the bill is to state the legal right and authority of state and local law enforcement to enter public areas on or adjacent to any private club, or take other appropriate police action to enforce underage drinking laws of WV.**

A comprehensive analysis Alcohol Related Issues, as prepared by Robert F. Williams, House Judiciary Committee is will be attached.

The Attorney General Opinion of January 21, 1970, which has served as the leading interpretation of the WV Code as it relates to Private Clubs is attached. (Tab3) This opinion is clearly outdated and could/should be reviewed for interpretation in accordance with the analysis presented in Tab 2. Should a legislative revision not be appropriate, a re-visitation and analysis of the ABC Code, in particular with attention being paid to the specific action of management of "Private Clubs" as described by the ABC Commission.

- 3. Change in aviation fuel; tax from 14.2 cents a gallon to 25 cents a gallon to support the State of West Virginia's 5% match of FAA grants for airports.**
  
- 4. Review and introduction of an Unauthorized Substance Tax. Such a statute would provide a mechanism for law enforcement to subsidize criminal prosecution of drug and unauthorized substances violations as well as provide a revenue stream for State Government of off-set Coal Severance Funds that have been reduced as a result of economic trends.**

These recommendations are submitted for your discussion and approval.

Respectfully,

Glen Kelly  
Interim City Manager