

REGULAR MEETING, DECEMBER 17, 2013: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, December 17, 2013. The meeting was called to order by Mayor Selin at 7:30 P.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 December 3, 2013 Regular Meeting were approved as presented by acclamation.

CORRESPONDENCE: The rules were suspended to allow a presentation:

Colleen Harshbarger gave a presentation on a Safe Communities designation, and informed Council on how such a designation can be obtained for Morgantown, if desired by City Council. A power point presentation was viewed, and a handout was given to Council Members about the topic.

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN ADDING A NEW SECTION 941.08 TO ITS MUNICIPAL CODE, AS THE SAME APPLIES TO THE USE OF TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES ON OR IN PROPERTIES AND FACILITIES CONTROLLED OR UNDER THE JURISDICTION OF THE MORGANTOWN BOARD OF PARK AND RECREATION COMMISSIONERS.

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

PUBLIC HEARING – AN ORDINANCE AMENDING THE FY2013-2014 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN ON THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

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

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 905.02 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, BY ADDRESSING THE SALE OF PRODUCE, FOOD, GOODS, WARES AND OTHER MERCHANDISE UPON SIDEWALKS OF THE CITY.

Sarah Burkhart, 176 Kingwood Street, spoke in opposition to the proposed Ordinance, and asked Council to reconsider their votes. She noted a study on food vendors downtown done by the City of London and asked Council to support the food vendors for the benefit of Morgantown’s local economy.

Sam Wilkinson, 709 Park Street, spoke in opposition to the proposed Ordinance, and expressed objection to the passage of any Ordinances regulating food vendors. He feels that the regulations are a “handout” to brick and mortar businesses. He stated that he feels the rules are politically motivated.

Collin Thomas Wood, 420 Clark Street, spoke in opposition to the proposed Ordinance, and concurred with Mr. Wilkinson asking Council to reconsider passage of the Ordinance. He postulated that the timing of the passage of these Ordinances was purposeful in order to avoid complaints from students who are not present to speak against the measures.

Earnest Montyo, 1137 Eastgate Manor, spoke in opposition to the proposed Ordinance and defended the food vendor's pursuit of the American Dream. He asked Council to support small businesses and reconsider their votes.

Ray Glymph, 1420 Center Hill Avenue, Owner of the Morgantown Taco Truck, spoke in opposition to the proposed Ordinance and feels the measures will impose a tax upon small vendors. He emphasized the importance of nighttime safety downtown and stated that there have been no late night incidents caused by the food vendors.

Christina Green, 133 Marlin Street, Apt. 3, spoke in opposition to the proposed Ordinance and spoke about Mr. Byrd, a vendor. She feels the Ordinance will take away his livelihood. Ms. Green asserts the problems downtown are due to the drunk bar patrons and not the vendors. She asked Council to reconsider their votes.

Thomas Guy, 68 Kingwood Street, spoke in opposition to the proposed Ordinance and defended small businesses downtown. He remarked about big businesses entering downtown and the greater effect it has on small businesses and food vendors alike. He questioned Council's true motivations in passing such an Ordinance.

Tyler Nathaniel Turner, 89 Marion Street, spoke in opposition to the proposed Ordinance, and stated that he works at a small business downtown. He remarked his support for Mr. Byrd and The Hot Dog Man. He recounted interactions he witnessed between bar-goers and the vendors.

Nick Papanicklous, owner of business on High Street, spoke in opposition to the proposed Ordinance and noted that he has witnessed food vendors cleaning up the after their patrons.

Bethany Royce, 134 Peasant Street, spoke in opposition to the proposed Ordinance, and stated that the 300 block of High Street is the busiest and best lit area in downtown. She asked Council to reconsider their vote on the Ordinance.

Maurice Matthews, 119A Beechurst Avenue, spoke in opposition to the proposed Ordinance, asking Council not to take the vendors away, as the low cost food they provide improves the night life experience downtown.

Jonathan [name inaudible], 128 Columbus Drive, spoke in opposition to the proposed Ordinance and gave a personal plea to Council, recounting his relationships with Mr. Byrd and other vendors. He reported that they often intervene in situations and help to their patrons and the greater community. He stated that they stop people from driving drunk and stop fights as well.

Jonathan [name inaudible], 469 Junior Avenue, spoke in opposition to the proposed Ordinance, asserting that the measures will "kill" small businesses and asked Council to reconsider their votes.

Speaker [name inaudible], 100 Mountain Valley Dr., spoke in opposition to the proposed Ordinance and described how he was given a hot dog for free once. He feels that it is inhumane to take business away from the vendors who's downtown ventures are their only income.

Ryan Cox, WVU Graduate, spoke in opposition to the proposed Ordinance, also describing how he received free food from vendors as a college student. He offered his respect for Mr. Byrd and noted his positive affect on Morgantown residents and students. He stated the Ordinance is a step in the wrong direction and asked Council to reconsider their votes and support the food vendors.

Derek Shanks, 341 Lindhurst Street, food truck vendor, spoke in opposition to the proposed Ordinance and described how he relocated to Morgantown specifically to fill a need for food vendors and build a life and small business in Morgantown. He asked Council to reconsider their votes.

Casey Piper, 804 College Avenue, spoke in opposition to the proposed Ordinance and expressed that civil liberties should not be taken away in the name of public safety. She feels this loss of freedoms is unacceptable.

George Cable, 327 Willey Street, spoke in opposition to the proposed Ordinance and asked Council to educate the citizens on the details of Ordinances where there are points of contention among those it affects.

Randy Jones, 762 Spring Branch Road, WVU SGA Liaison, stated that the students have spoken their opinion to the Council on the issue, and hoped that Council would likewise speak to the students about future issues that concern them.

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

PUBLIC HEARING – 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 PRODUCE, FOOD, GOODS, WARES OR OTHER MERCHANDISE IN THE DOWNTOWN BUSINESS DISTRICT OF THE CITY.

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

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING IT, AS LESSOR, TO LEASE SPACE AT THE FORMER WOODBURN SCHOOL, NOW OWNED BY THE CITY, TO “GIRLS ON THE RUN”, LESSEE.

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

UNFINISHED BUSINESS:

AN ORDINANCE TO PROHIBIT TOBACCO USE AT BOPARC PROPERTIES AND FACILITIES: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN ADDING A NEW SECTION 941.08 TO ITS MUNICIPAL CODE, AS THE SAME APPLIES TO THE USE OF TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES ON OR IN PROPERTIES AND FACILITIES CONTROLLED OR UNDER THE JURISDICTION OF THE MORGANTOWN BOARD OF PARK AND RECREATION COMMISSIONERS.

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

AN ORDINANCE AMENDING THE ANNUAL BUDGET, GENERAL FUND: The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING THE FY2013-2014 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN ON THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

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

AN ORDINANCE AMENDING SECTION 905.02, SALES UPON CITY SIDEWALKS: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 905.02 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, BY ADDRESSING THE SALE OF PRODUCE, FOOD, GOODS, WARES AND OTHER MERCHANDISE UPON SIDEWALKS OF THE CITY.

Motion by Kaweck, second by Shamberger to adopt the above entitled Ordinance. After explanation from the City Manager, the City Attorney explained the minor amendments made since the original version of the Ordinance was last presented. Motion by Kaweck, second by Ganz to approve of the minor amendments as described. After discussion, motion on the amendments carried 6-1. Councilor Bane voted NO. After further discussion, roll was called on the main motion, and the above entitled Ordinance was adopted 6-1, as amended. Councilor Bane voted NO.

AN ORDINANCE AMEND SECTION 361.09, PARKING SPACES AND SALES IN THE DOWNTOWN BUSINESS DISTRICT: The below entitled Ordinance was presented for second 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 PRODUCE, FOOD, GOODS, WARES OR OTHER MERCHANDISE IN THE DOWNTOWN BUSINESS DISTRICT OF THE CITY.

Motion by Fike, second by Bane to adopt the above entitled Ordinance. After explanation from the City Manager, the City Attorney explained the minor amendments made since the original version of the Ordinance was last presented. Motion by Bane, second by Ganz to approve of the minor amendments as described. Motion on the amendments carried 7-0. After further discussion, the main motion to adopt the above entitled Ordinance was carried 7-0, as amended.

AN ORDINANCE LEASING SPACE AT WOODBURN SCHOOL TO ‘GIRLS ON THE RUN’: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING IT, AS LESSOR, TO LEASE SPACE AT THE FORMER WOODBURN SCHOOL, NOW OWNED BY THE CITY, TO “GIRLS ON THE RUN”, LESSEE.

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

BOARDS AND COMMISSIONS: Motion by Bane, second by Nugent and carried by acclamation, William Burton was appointed to the Board of Zoning appeals. Motion by Nugent, second by Shamberger and carried by acclamation, the following persons were appointed to form the Woodburn School Redevelopment Commission: Chris Haddox, Timothy Mashburn, Bonnie Witmyer, Mark Furfari, Mary Angel Blount, Christina Byrne-Hoffman and Kerry Lilly.

PUBLIC PORTION:

Guy Panrell, South Hills Drive, recalled his recent appointment to, and participation on the Ward and Boundary Commission. He noted that 5 different Council members attended both of the recent meetings and that they insisted upon speaking even though there was no public portion at those meetings. He stated that he felt these actions were disrespectful to both the Commission and the City Clerk. He requested that Council

allow the City Administrators to do the jobs they have been given and run the affairs of the City without interference. He urged the Council to focus on their job of supervising the Manager and supporting efforts to improve infrastructure, update vital equipment and properly compensate its employees.

Christina Byrne-Hoffman, appointed to the Woodburn School Redevelopment Commission, thanked Council for her appointment and corrected the spelling of her name, for the record.

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

SPECIAL COMMITTEE REPORTS: No Reports.

NEW BUSINESS:

A RESOLUTION TO APPLY FOR AND ADMINISTER A COMMUNITY PARTICIPATION GRANT, FUNDS FOR USE FOR THE ZACKQUILL MORGAN STATUE PROJECT: The above entitled Resolution was presented for approval.

After explanation from the City Manager, motion by Nugent, second by Bane to approve the above entitled Resolution. Motion carried 7-0.

CITY MANAGERS REPORT:

NEW BUSINESS:

1. Engineering Services for Sunnyside TIF Phase 2

After explanation from the City Manager, motion by Shamberger, second by Kawecki to approve the engineering services contract, as presented. Motion carried 7-0.

REPORT FROM CITY CLERK: City Clerk Little wished everyone a Merry Christmas and a Happy New Year.

REPORT FROM CITY ATTORNEY: No Report.

REPORT FROM COUNCIL MEMBERS: (Roll Reversal)

Councilor Ganz: Councilor Ganz commented that there is too much violence and drunkenness downtown, and regrets that the public has misconceptions about the Council's intentions with regard to the vendor Ordinances. She praised the efforts of the vendors as described by the public, and hoped to invite them to other downtown events. She regrets the misinformation that spread about the Ordinances, and hopes that the people who cared to speak will become involved in making the community better. She offered to speak more in detail with anyone willing about this or future issues of controversy. She wished everyone peace and safe travels this holiday season.

Councilor Fike: Councilor Fike announced he was asked to serve on the MTEC advisory council and reported on their latest meeting. He noted many graduates enter the workforce in Morgantown well trained. He reminded Council that much time has been spent interviewing

boards and commission applicants and urged Council to continue placing the importance of boards and commissions at the forefront of its decision making.

Councilor Shamberger:

Councilor Shamberger announced her participation in the Mon County Child Advocacy Center for abused children and family support. She noted the airline trip she and Mayor Selin took, they flew from Morgantown to Clarksburg to tour their airport and downtown and meet with the Clarksburg Mayor. She noted the honor certificates for Eastwood Elementary students and then thanked all those who spoke on the vendor issue. She concurred that there is misinformation on the subject. She addressed comments made at the Public Portion, and admitted to attending the Ward and Boundary Commission meeting and asking questions. She stated she felt the need to speak because there was no public portion at the meeting and she wanted to ensure the Commission would follow procedures for boundary setting as described in the City's Charter. She also clarified that the Charter states the Council is responsible only for the Manager, Clerk and Judge. She then wished everyone happy holidays.

Councilor Nugent:

Councilor Nugent thanked the Church of the Brethren carol organizers and announced the upcoming Wiles Hill Highland Park neighborhood association meeting. He announced the Museum Commission meeting, and the Manager's forum on downtown development issues. He announced a community reception at the Alumni Center for President Clements. He wished everyone happy holidays.

Councilor Kaweck

Councilor Kaweck noted recent coal forums in the area and then inquired what the format will be with regard to the Manager's downtown development forum. Mr. Mikorski replied that zoning, development, comprehensive plan and other information would be presented to the public and there would be time for public comment as well.

Councilor Bane:

Councilor Bane explained his vote on the vendor issues, and then expressed concerned over some Councilor's interest in the Ward and Boundary Commission. He cautioned Councilors who involve themselves with the Commission, not to violate the Charter and interfere with the Commissioners' charge. He noted that he has also heard of Council interference with Administration. He urged Councilors not to do so, as Charter violation can result in expulsion from Office. He then offered compliments to the Manager, Mr. Mikorski for his efforts and work over the past year, and thanked him. He then wished all happy holidays.

Mayor Selin:

Mayor Selin announced the retired Kitchenaire Band has been honored and their instruments have been donated to the Morgantown History Museum. She then announced several community events including: Poets open-mic night, the Manager's public forum on downtown development, flights from

Morgantown's airport, the Wizard of Oz at the Met Theatre, and the winter Farmer's Market. She thanked those who spoke on the vendor issues and recognized that vendors are vital to the downtown area. She thanked Councilor Fike for his involvement with MTEC and then wished everyone happy holidays.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 9:55 p.m.

City Clerk

Mayor

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