

REGULAR MEETING DECEMBER 6, 2011:

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Wednesday, December 6, 2011, at 7:30 P.M.

PRESENT: City Manager Terrence Moore, City Clerk Linda Little, City Attorney Steve Fanok, Deputy City Manager Jeff Mikorski, Mayor Jim Manilla and Council Members Ron Bane, Wes Nugent, Jenny Selin, Marti Shamberger, Bill Byrne and Linda Herbst.

APPROVAL OF MINUTES: The minutes of the Regular Meeting on November 15, 2011 and the Special Meeting on November 29, 2011 were approved as printed.

CORRESPONDENCE: Mayor Manilla then presented award certificates to the WVU Women's Soccer and Cross County teams as well as the MHS Girls' Soccer and Cross Country teams.

PUBLIC HEARING - AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 929.01, 929.03, 929.05, 929.06, 929.10, 929.13, 929.19, 929.20 AND 929.22 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, AS THE SAME APPLIES TO STORMWATER MANAGEMENT AND SURFACE WATER DISCHARGE CONTROL.

There being no appearances or objections, Mayor Manilla declared the Public Hearing closed.

PUBLIC HEARING - AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING ARTICLE 1741 OF ITS BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO GRADING PERMITS.

There being no appearances or objections, Mayor Manilla declared the Public Hearing closed.

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING ARTICLE 1705 OF ITS BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO BUILDING PERMIT COORDINATION WITH PROVISIONS SET FORTH IN ARTICLE 1741 “GRADING REQUIREMENTS” AND ARTICLE 929 “STORMWATER ORDINANCE”.

There being no appearances or objections, Mayor Manilla declared the Public Hearing closed.

PUBLIC HEARING – AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF A PARCEL OF REAL ESTATE IN THE FIFTH WARD OF THE CITY OF MORGANTOWN FROM (B-1) NEIGHBORHOOD BUSINESS DISTRICT TO (B-4) GENERAL 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 WAS FULLY SET FORTH HEREIN.

Scott Batt, Property Owner in regard to above rezoning Ordinance, passed out materials to Council and asked them to reconsider based on land use alone.

Pastor Michael Hadaway, Trinity Episcopal Church, voiced concern for the zoning status of the Church property relating to its location adjacent to the above referenced rezoning Ordinance. He added that the rezoning would affect the parking lot and also several community functions of the Church property.

Matt Cross, 524 Milford Street expressed opposition to the rezoning Ordinance because of the heritage and beauty of the property, stating a change would be inappropriate.

Rebecca Singleton, 225 Lebanon, stated that she is not against the zoning change, but since she is a member of the church the increase of use of the shared church parking lot would negatively impact the outreach programs of the church and decrease accessibility.

Rodney Pyles, 536 Harvard Avenue, Member- Historic Landmarks Commission, stated that historic buildings are important to the downtown area, and the zoning change could lead to the deterioration of more historical buildings.

Vanessa Pyles, 536 Harvard, stated that historical buildings are one of a kind and citizens should stand up to protect the historic districts.

Kara Haas, 727 Louise Avenue, shared that she researches historic buildings in our state and noted the importance of preserving these types of buildings. She added that the Trinity Church outreach programs are important and urged Council to keep the area preserved as it is without changes.

Charlie Byrer, 420 Raymond, spoke in opposition to the proposed rezoning, and reminded that once a building is destroyed it is gone forever.

Terri Cutright, Executive Director- Main Street Morgantown, stated that she understands the differences between preservation and economic development, and that the community should strive for a balance, although sometimes sacrifices are made. She urges Council to make a good decision and offered to answer any questions Council may have.

George Papandreas, President- Main Street Morgantown, spoke in favor of the proposed rezoning and assured that the project is planned to re-use the existing historic building. He reminded Council that the Planning Commission did not follow the recommendations of the Director of Development Services and presented an alternate interpretation to Council.

Bill Kawecki, 324 Cobun Avenue, reminded Council that the property owner bought the property knowing full well the current zoning requirements. He also stated that he feels the Planning Commission made a good decision in not recommending the proposed rezoning.

Susan McDonald, 911 Fairfax Drive, asked Council not to consider the proposed rezoning, and leave property with its existing zoning requirements.

There being no other appearances or objections, Mayor Manilla declared the Public Hearing closed.

UNFINISHED BUSINESS:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, STORMWATER MANAGEMENT: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 929.01, 929.03, 929.05, 929.06, 929.10, 929.13, 929.19, 929.20 AND 929.22 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, AS THE SAME APPLIES TO STORMWATER MANAGEMENT AND SURFACE WATER DISCHARGE CONTROL.

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

AN ORDINANCE AMENDING THE BUILDING AND HOUSING CODE, GRADING PERMITS: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING ARTICLE 1741 OF ITS BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO GRADING PERMITS.

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

AN ORDINANCE AMENDING THE BUILDING AND HOUSING CODE, PERMIT COORDINATION: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING ARTICLE 1705 OF ITS BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO BUILDING PERMIT COORDINATION WITH PROVISIONS SET FORTH IN ARTICLE 1741 "GRADING REQUIREMENTS" AND ARTICLE 929 "STORMWATER ORDINANCE".

Motion by Byrne, second by Selin to adopt the above entitled Ordinance. Motion carried 7-0.

AN ORDINANCE PROVIDING FOR A ZONING RECLASSIFICATION OF A PARCEL OF REAL ESTATE IN THE FIFTH WARD: The below entitled Ordinance was presented for second reading:

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF A PARCEL OF REAL ESTATE IN THE FIFTH WARD OF THE CITY OF MORGANTOWN FROM (B-1) NEIGHBORHOOD BUSINESS DISTRICT TO (B-4) GENERAL 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 WAS FULLY SET FORTH HEREIN.

After discussion, motion by Selin second by Shamberger to deny the above entitled Ordinance. Motion carried 4-3, Councilors Byrne, Herbst, and Mayor Manilla voted NO.

Councilor Bane motioned, seconded by Nugent to take the Marcellus Shale Drilling Ban Ordinance off the Table, and be placed on the December 20th Regular Meeting Agenda. Question was called and carried 4-3 with Councilors Selin, Shamberger and Byrne voting NO.

BOARDS AND COMMISSIONS: By acclamation of Council, the following persons were reappointed to their respective boards and commission: Bernie Bossio and George Papandreas to the Board of Zoning Appeals; Ralph Schmitt and Larry Sypolt to the Historic Landmarks Commission; Frank Scafella to MUB; Sam Loretta and Tim Stranko to the Planning Commission; followed by Denny Poluga to the Transit Authority.

PUBLIC PORTION:

Dave Small, WVU SGA Representative, commented that he looks forward to working with the City and County on safety concerns and will have a report at the first of the year.

James Giuliani, 256 Prarie Avenue, stated that Council should have tabled the zoning ordinance instead of denying it this evening. He reminded Council that the City does not have a Comprehensive Plan and that it was supposed to be done by 2014. He noted that other property owners are upset and won't build.

Susan McDonald, Evansdale Neighborhood Association, made Council aware of streets that need to be paved in her area, as well as areas that need sidewalks. She added that some neighbors have no sidewalks on their property yet still have to pay sidewalk taxes. She argued that those people should be exempt from such a tax. Ms. McDonald also urged City Council to keep the Marcellus Shale Ordinance on the books as it is. She then thanked Council for hiring Terrence Moore and also appreciated the hiring of the new Police Chief Ed Preston.

Bill Kawecki, SPAN President, complimented City Manager Terrence Moore on his work and stated he is very happy with all the work he has done..

There being no more appearances, Mayor Manilla declared this public portion closed.

NEW BUSINESS:

AN ORDINANCE AUTHORIZING THE SABRATON STORMWATER PROJECT BONDS:

The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE STORMWATER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$3,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

The rules were suspended to allow explanation from MUB Director Tim Ball, and address any questions of City Council. Motion by Byrne, second by Nugent to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AUTHORIZING THE WHISPERING WOODS/QUARRY RUN WATER PROJECT BONDS: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER PORTION OF THE EXISTING PUBLIC COMBINED WATERWORKS, SEWERAGE AND STORMWATER SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$1,100,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA DWTRF PROGRAM) AND NOT MORE THAN \$1,600,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012 B (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The rules were suspended to allow explanation from MUB Director Tim Ball, and address any questions of City Council. Motion by Byrne, second by Bane to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AMENDING CITY CODE, UTILITY BOARD MEMBERS: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 169, SECTION 169.01, OF THE MORGANTOWN CITY CODE, AS THE SAME APPLIES TO MORGANTOWN UTILITY BOARD MEMBERS.

After discussion, Motion by Nugent, second by Herbst, to pass the above entitled Ordinance to second reading. After discussion, motion carried 5-2. Councilor's Selin & Shamberger voting NO.

AN ORDINANCE PROVIDING FOR A ZONING RECLASSIFICATION OF A PARCEL IN THE SIXTH WARD: The below entitled Ordinance was presented for first reading:

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF REALTY IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM (PUD) PLANNED UNIT DEVELOPMENT TO (R-1A) SINGLE-FAMILY RESIDENTIAL DISTRICT THEREBY RESCINDING THE "HABITAT FOR HUMANITY JEROME PARK PLANNED UNIT DEVELOPMENT" 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 Terrence Moore offered clarification regarding the above stated Ordinance. After discussion, motion by Bane, second by Selin, to pass the above entitled Ordinance to second reading. After further discussion, motion carried 7-0.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT FOR AIRPORT ACCESS ROAD: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING A LICENSE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, LICENSOR, AND MONONGALIA COUNTY DEVELOPMENT AUTHORITY, LICENSEE, AS THE SAME APPLIES TO A PORTION OF THE REALTY BEING UTILIZED FOR THE CONSTRUCTION OF ROAD KNOWN AS THE MORGANTOWN MUNICIPAL AIRPORT ACCESS ROAD.

Council suspended the rules to allow explanation from Airport Director Michael Clow. Motion by Bane, second by Byrne, to pass the above entitled Ordinance to second reading. After discussion, motion carried 7-0.

A RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY PARTICIPATION GRANT, FUNDS FOR USE BY THE WEST VIRGINIA BOTANIC GARDENS: The above entitled Resolution was presented for Council's approval:

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

A RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY PARTICIPATION GRANT, FUNDS FOR USE BY THE CENTER FOR EXCELLENCE IN DISABILITIES AT WEST VIRGINIA UNIVERSITY: The above entitled Resolution was presented for Council's approval:

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

SPECIAL COMMITTEE REPORTS: Councilor Nugent thanked Council for the consensus to move forward with signage for the Morgantown History Museum, adding that the museum will be opening soon.

Councilor Byrne then reported that the Sister Cities Commission has voted to accept the application for Friendship City status from the Quanshan District in Xuzhou City, China and asked that the Commission be allowed to present their recommendation to Council at the Jan. 17th meeting. By consensus of Council, such presentation will be added to the agenda.

Councilor Byrne then announced the receiving of a grant for \$100,000 funds by the WV Botanical Gardens for capital improvements from the WV Nurseryman's Association.

CITY MANAGERS REPORT:

INFORMATION:

Item No. 1: Board of Health Clean Indoor Air Regulation

Mr. Moore explained that the final draft of the County's new regulations will be distributed soon, and recommended to Council that following the March 2012 implementation of such, the City adopt its own congruent Code changes. Discussion continued regarding the enforcement and adoption timeline.

NEW BUSINESS:

Item No. 1: Transfer of Ownership of Tailwinds, Inc. and Ali Baba Restaurant to Kunundrum International, LLC.

Following explanation from the City Manager, motion by Bane, second by Byrne to authorize the above referenced transfer of ownership. Motion carried 7-0.

CITY CLERK'S REPORT: City Clerk complimented those responsible for the beautiful Christmas decorations throughout City Hall.

CITY ATTORNEY'S REPORT: No Report.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane reminded that Council usually approves the budgeted annual employee gift at this time of the year and noted he hopes that tradition will continue and be on the next Agenda. He then explained his reasoning behind his motion to remove the Drilling Ban from the table, adding that once the zoning is in place, the process will move forward. He also explained why the denied zoning Ordinance was not tabled and encouraged the involved parties to work through their differences.

Councilor Nugent:

Councilor Nugent thanked Chief Caravasos for allowing him the experience of a post-game ride-along and commending the

department's skills. He stated that he wishes to see the packet electronic conversion process move along as soon as possible and noted that he will follow up with the City Manager on street sign issues at a later time.

Councilor Selin: Councilor Selin informed Council that the certificates and plaques are produced by the City Clerk's Office. She asked that the issues with historic preservation be looked at more carefully.

Councilor Shamberger: Councilor Shamberger thanked Councilor Selin for bringing the sports teams in for recognition. She recognized BOPARC for their efforts with the Museum project and reported on the recent Woodburn Neighborhood Association meeting. She announced her attendance at the WVU President's Luncheon.

Councilor Byrne: Councilor Byrne reported that his family spent Thanksgiving at Dorsey's Knob and noted what a great facility it is. He congratulated the Museum Commission on their achievements and then commented about the Marcellus Shale issues. He urged Council to stand by the Ordinance until the State has passed suitable regulations to protect our community. He then explained his reasoning behind his vote for the above failed rezoning Ordinance calling for a balance between historic preservation and economic development.

City Attorney Steve Fanok added that the Municipality can only work within the framework of the existing law concerning these types of issues.

Councilor Herbst: Councilor Herbst concurred with Councilor Shamberger on the recognition of women's and girls' sports. She announced the upcoming Suncrest Neighborhood Association meeting.

Mayor Manilla: Mayor Manilla agreed with Councilor Byrne's comments regarding the rezoning issues, and then inquired as to the timetable for the City's Comprehensive Plan.

Mr. Moore replied that he will update Council in this week's Information Letter Report. Discussion continued as to the specifics of this timetable and process.

EXECUTIVE SESSION: By acclamation, Council unanimously moved to go into Executive Session pursuant to Section 6-9A-4 of the West Virginia State Code in order to discuss Personnel Matters with City Manager and City Council present at 10:00 p.m.

ADJOURNMENT: There being no further business, the meeting adjourned by unanimous consent at 10:20 pm.

City Clerk

Mayor