

REGULAR MEETING, MAY 7, 2013: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, May 7, 2013 at 7:00P.M.

PRESENT: City Manager Jeff Mikorski, City Attorney Steve Fanok, City Clerk Linda Little, 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 of April 16, 2013, were approved as corrected.

CORRESPONDENCE: Mayor Manilla read several proclamations honoring: The WVU Rifle Team, Law Enforcement Memorial Day, Municipal Clerk's Week, Kids to Parks Day, and Letter Carrier's Food Drive.

LEED CERTIFICATION OF THE NORTH SIDE FIRE STATION:

Assistant City Engineer Damien Davis explained the LEED Certification, and presented the Certification to Mayor Manilla for the North Side Fire Station.

COMPREHENSIVE PLAN PRESENTATION:

City Manager Jeff Mikorski gave a brief introduction of the presentation, and Director of Development Services Chris Fletcher came forward to give an accompanying power-point presentation to Council. Following the presentation, Mr. Fletcher explained the plan's non-regulatory and guiding nature, adding an ordinance is required for the plan's approval. He asked Council if they wish to move the Comprehensive Plan ordinance to a regular meeting agenda item for approval.

Motion by Selin, second by Nugent, and approved by acclamation, Council consented to place the Comprehensive Plan approving Ordinance on an upcoming regular meeting agenda.

Mayor Manilla then thanked Mr. Fletcher and the Planning Commission for their input and work on the Comprehensive Plan.

UNFINISHED BUSINESS:

BOARDS AND COMMISSIONS: By acclamation, Council permitted the shuffling of terms on the Sister Cities Commission, and further approved the re-appointment of George Lies, Richard Fleischer, Rosalyn Becker and Betsy Pyle to the Sister Cities Commission.

PUBLIC PORTION:

Danielle Thomas, 8 West Park Avenue, (not a City resident) addressed noise disturbances coming from the Rock Top Bar and Grill. She asked that the issue be looked into and resolved, as the noise is continuous and she perceives it to be above lawful decibel ranges.

Allen Stagers, First Energy-Mon Power, addressed the Resolution opposing the transfer of power plants on the agenda, stating that Mon Power and First Energy support the transaction and understand that cost is a concern, however he warned that not taking action or pursuing alternative courses of action will be far costlier than a transfer. He attested that it is a complex case which is currently pending before the Public Service Commission, adding that in the long run this change will benefit the customers, citizens and workers of West Virginia.

James Kotcon, 414 Tyrone Avery Road, Member of Morgantown Green Team, congratulated the City on its LEEDS Certification for the North Side Fire Station. He spoke in opposition to rate and bill increases of power customers. He explained why there is opposition to the transfer of ownership of the power plant, as no jobs would be created and rates would increase as a result. He also encouraged that energy efficient lights be used in streetlights and throughout public areas of the Municipality to save energy and reduce costs. He asked that Morgantown take a stance against higher energy rates by adopting the resolution opposing the transfer.

Guy Panrell, 763 South Hills Drive, congratulated Mr. Mikorski for his appointment as permanent City Manager, he also congratulated the newly elected and re-elected Council members- thanking those who did not win re-election for their service on Council. He encouraged the new members of Council to avoid special interest groups and serve only the greater good.

Aaron Sutch, 201 Wagner Road, spoke in support of the Resolution which opposes the transfer of power plants. He feels the associated rate hike would be unnecessary. He encouraged energy efficiency and the seeking of alternative measures. He asked Council to support the Resolution.

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

SPECIAL COMMITTEE REPORTS: None

NEW BUSINESS:

AN ORDINANCE ANNEXING 5 ACRES OF ADDITIONAL TERRITORY INTO THE CITY OF MORGANTOWN: The below entitled Ordinance was presented for first reading:

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF 5 ACRES ADDITIONAL TERRITORY, COMMONLY KNOWN AS MILEGROUND ARMORY SITE, INTO THE CITY OF MORGANTOWN PURSUANT TO SECTION 8-6-4 OF THE WEST VIRGINIA CODE:

Motion by Bane, second by Byrne to pass the above entitled Ordinance to second reading. After explanation from the City Manager and City Attorney Steve Fanok added that this annexation was brought forth by petition. There being no discussion, motion carried 7-0.

AN ORDINANCE AND RESOLUTION WHICH WOULD AUTHORIZE AND DIRECT THE MODIFICATION OF CERTAIN TERMS OF THE CITY'S OUTSTANDING TAX INCREMENT REVENUE BONDS (FALLING RUN PROJECT NO. 1) SERIES 2007A AND APPROVE THE FORMS OF CERTAIN DOCUMENTS IN CONNECTION WITH SUCH MODIFICATIONS: The above entitled Ordinance and Resolution was presented for first reading:

Motion by Byrne, second by Shamberger to pass the above entitled Resolution to second reading. After explanation from the City Manager, motion carried 7-0.

A RESOLUTION APPROVING AND AUTHORIZING TO SUBMIT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) THE 2013 COMMUNITY DEVELOPMENT BLOCK GRANT ACTION PLAN: The above entitled Ordinance was presented for approval:

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

A RESOLUTION APPROVING AND AUTHORIZING A GRANT TO FUND THE MORGANTOWN WALNUT STREET STREETScape 2012 TRANSPORTATION ENHANCEMENT PROGRAM PROJECT: The above entitled Ordinance was presented for approval:

Motion by Byrne, second by Shamberger to approve the above entitled Resolution. Motion carried 7-0.

A RESOLUTION OF THE CITY OF MORGANTOWN PROTESTING ELECTRIC UTILITY RATE IMPACTS OF PROPOSED POWER PLANT TRANSFERS: The above entitled Ordinance was presented for approval:

Motion by Byrne, second by Shamberger to approve the above entitled Resolution. Discussion commenced and Councilor Nugent thanked the speakers and the Green Team for bringing the issue to Council's attention, and feels the Resolution is too narrowly focused on energy efficiency, rather than on the issue at hand. He offered his own suggestions for the language of the Resolution in writing to Council.

Discussion continued about various related issues. Councilor Bane suggested language focus on rate payers and their potential for hardships resulting from the proposed action by First Energy. Councilor Selin suggested the Green Team offer alternative wording to help modify the message of the Resolution. Councilor Byrne questioned how strong of a position Morgantown is willing to take on the matter and concurred that the Green Team is the right body to look at and modify the Resolution language. Councilor Herbst offered caution and encouraged Council to carefully consider the wording to avoid controversial issues, as in the past.

After further discussion Councilor Shamberger concurred with rate payer concerns and the suggestion to allow the Green Team to re-work the Resolution language. Councilor Byrne then withdrew his previous motion to approve, substituting a motion to refer the Resolution to the Green Team for language modification, review to be completed in time to discuss at the next regular meeting of City Council. Motion was seconded by Councilor Bane, and carried 7-0.

Discussion resumed about energy efficiency and the possibility of LED streetlights and collaboration as such with First Energy.

CITY MANAGERS REPORT:

Primarily, Mr. Mikorski addressed Ms. Thomas' comments at Public Portion, informing that noise waivers are no longer available for commercial businesses. He stated that noise levels are measured close to the site in question and close to the site of the complaint to ascertain noise levels. Mr. Mikorski then invited Police Chief Ed Preston to elaborate on the process of dealing with noise complaints of this nature.

Chief Preston stated that the Rock Top Bar and Grill has not been the only business in question related to downtown and event noise and complaints. He explained the process for responding to and investigating noise complaints on a business level. He noted that Rock Top has been issued a warning for violating the noise ordinance and another violation will cause fines and citations. He stated that the process for enforcing noise ordinances is uniform and the last readings for Rock Top were below the maximum decibel levels allowed in City Code.

Councilor Shamberger asked what Ms. Thomas' recourse could be, as she is not a Morgantown City resident. Chief Preston has informed Ms. Thomas that the next time she has a noise complaint to request a Morgantown Officer be present to test the noise levels traveling to her home. Discussion continued about decibel levels and the origination of the City's current noise ordinances. Mr. Fanok urged that reasonable noise levels are still covered by the City Code and the responding Police Officer would make such a determination at the scene. Discussion continued about residential and commercial noise waivers processes and related concerns.

NEW BUSINESS:

1. Elevator Maintenance Contract.

After explanation from Mr. Mikorski, followed by discussion; motion by Selin, second by Shamberger, to approve the bid results for the Elevator Maintenance Contract to Kone Elevators and Escalators. Motion carried 7-0.

INFORMATION:

1. Mon Power Meter Schedule Change

After explanation from the City Manager, the rules were suspended to allow Council to take questions from Mon Power representative Allen Staggers. Discussion then continued regarding the upcoming meter schedule change.

2. Current Street Sweeping Schedule

Mr. Mikorski updated Council with new information about the current street sweeping schedule.

3. 6-Month Goals

Mr. Mikorski shared goals with Council for his first six months as City Manager.

REPORT FROM CITY CLERK: No Report.

REPORT FROM CITY ATTORNEY: Mr. Fanok commended Mr. Mikorski on his goals presentation.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane: Councilor Bane thanked Mayor Manilla and Councilor Herbst for their service to the community and time on Council. He stated that Mr. Mikorski's goals are worthy and he hoped that the next Council will continue to support the City Manager. He commended Mr. Mikorski and his many years of service to the City. Councilor Bane encouraged new Council members to read the City Charter and familiarize themselves with the 'do's and don'ts' for Council Members.

Councilor Nugent: Councilor Nugent thanked the voters for re-electing him to Council and pledged to work hard toward the betterment of the City.

Councilor Selin: Councilor Selin noted that she looks forward to working with the City Manager and that his goals instill confidence for moving forward. She announced the Farmer's Market is now open under the new pavilion, and a special Mother's Day concert at the Met Theatre with Landau Eugene Murphy. She thanked the voters who participated in the City Election.

Councilor Shamberger: Councilor Shamberger thanked fellow Council Members for their service, and expressed enthusiasm for the City Manager's goals. She was grateful that the election returns were live-streamed online, and

also noted that the Boys and Girls Club has moved into the Woodburn School and is utilizing the property.

Councilor Byrne:

Councilor Byrne mentioned a national accolade given to MHS. He congratulated those who won in the City Election, thanked those who have served on Council and also thanked employees who worked during the election. He commended Mr. Mikorski on his goals and suggested that all Morgantown's business areas be recognized for generating revenue and looked at for expansion. He noted that stakeholders should be involved in the development of the Safe Community designation. He stated that Council should support the City Manager and looks forward to the new Council.

Councilor Herbst:

Councilor Herbst thanked Mr. Mikorski for his thoughtful goals. She noted that she will continue working within her ward even after her Council term is up, to support improvements to the area.

Mayor Manilla:

Mayor Manilla gave the Main Street Morgantown bi-monthly update as provided by the organization. He then announced that student move-out continues through May 12th.

EXECUTIVE SESSION: Pursuant to WV State Code Section 6-9A-4(b)-2(A) in order to discuss personnel matters and Pursuant to WV State Code Section 6-9A-4(2)(9) as it pertains to the sale, purchase or lease of realty. Motion by Bane second by Nugent to enter into executive sessions at 9:15 p.m., with City Council, City Manager and City Attorney present.

Mayor Manilla noted for the record that the personnel matters portion of the upcoming executive sessions will be to finalize the terms of the recently appointed City Manager's employment agreement.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 10:06 p.m.

City Clerk

Mayor

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