REGULAR MEETING June 7, 2016: The Regular Meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, June 7, 2016 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.

APPROVAL OF MINUTES: The following minutes were approved by acclamation: Special Meeting and Regular Meeting May 17, 2016.

CORRESPONDENCE: Mayor Shamberger presented a Proclamation to Tim Cotter for High Point Motocross National Weekend. Tim Cotter invited all Council and Grand Marshalls to the event at High Point Raceway on Saturday, June 18th, 2016 in Mount Morris, PA. Cotter thanked Council for doing a Proclamation to promote this year's 40th year of hosting the High Point AMA Pro National. Mayor Shamberger received an email from Michael Minc from the Gene Vance Day thanking us for all of our hard work and making the day wonderful.

The Mayor declared this Public Hearing open.

PUBLIC HEARING - AN ORDINANCE AMENDING THE FY 2015-2016 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.

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

James Giuliani, 256 Prairie Avenue, asked Council about the Volunteer Fire levy that was passed in May, and asked why City Fire Fighters do not join the Volunteers because both have to have the same training and it would be so beneficial to our community.

PUBLIC HEARING - AN ORDINANCE AMENDING THE FY 2015-2016 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN 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 Shamberger declared the Public Hearing closed.

PUBLIC HEARING – AN ORDINANCE AMENDING ARTICLE 145 AND SECTIONS 1387.01 AND 1387.02 OF THE CITY CODE RELATING TO THE MORGANTOWN PLANNING COMMISSION.

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

James Giuliani, 256 Prairie Avenue, stated that the city is not following the City & State Laws. He also stated that when the City Manager filled the position, he did not follow the protocol in how it was to be done.

UNFINISHED BUSINESS:

AN ORDINANCE AMENDING THE FY 2015-2016 COAL SEVERANCE FUND: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING THE FY 2015-2016 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.

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

AN ORDINANCE AMENDING THE FY 2015-2016 GENERAL FUND: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING THE FY 2015-2016 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

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

AN ORDINANCE AMENDING CITY CODE RELATING TO THE MORGANTOWN PLANNING COMMISSION: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING ARTICLE 145 AND SECTIONS 1387.01 AND 1387.02 OF THE CITY CODE RELATING TO THE MORGANTOWN PLANNING COMMISSION.

City Manager explained, after discussion, motion by Selin, second by Kawecki, to adopt the above entitled Ordinance. Motion carried 5-2 with Ron Bane and Jay Redmond voting no.

AN ORDINANCE ANNULLING A PORTION OF FIFTH STREET IN THE FORTH WARD: The below entitled Ordinance was presented for second reading.

AN ORDINANCE VACATING, ABANDONING, AND ANNULLING A PORTION OF FIFTH STREET MEASURING APPROXIMATELY FORTY (40) FEET IN WIDTH AND APPROXIMATELY ONE HUNDRED (100) FEET IN LENGTH LOCATED AND SITUATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA.

Motion by Selin, second by Kawecki, to bring it off the table. After discussion, motion failed and stays on the table with a 3-4 vote. (Ron Bane, Wes Nugent, Jay Redmond, and Nancy Ganz voting no.)

BOARDS AND COMMISSIONS: City Clerk announced that there are openings for the following: Human Rights Commission has 5 vacancies; Museum Commission has 1 vacancy; Parking Authority has 1 vacancy; Sister Cities has 2 vacancies; and Traffic Commission has 4 vacancies.

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

James Giuliani, 256 Prairie Avenue, requested a few more seconds to speak once time limit was up. He then noted how upset that people are not prepared and now the Fifth Street annulment was placed on the agenda without a public hearing. He stated, the City is having a Planning Commission meeting this week and how can the City approve the Standard, if this project cannot be built across an annulled street.

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

SPECIAL COMMITTEE REPORTS: None

NEW BUSINESS:

AN ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE FISCAL YEAR 2016-2017: The below entitled Ordinance was presented for first reading.

AN ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE CITY OF MORGANTOWN EMPLOYEES FOR THE FISCAL YEAR 2016-2017.

After discussion, motion by Kawecki, second by Selin, to pass the above entitled Ordinance to second reading. Motion carried 6-1 with Wes Nugent voting no.

AN ORDINANCE AMENDING LONGEVITY PAY, SHIFT DIFFERENTIAL, HAZARDOUS DUTY, AND SPECIAL SUPERVISION PAY: The below entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING SECTIONS III-1(B) (LONGEVITY PAY), III-3(B) (SHIFT DIFFERENTIAL), III-4 (HAZARDOUS DUTY PAY), AND III-5 (SPECIAL SUPERVISION DIFFERENTIAL) OF THE PERSONNEL RULES OF THE CITY OF MORGANTOWN BY INCREASING THE MONETARY AMOUNTS WITHIN EACH.

City Manager explained, motion by Kawecki, second by Nugent, to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE RELATING TO WALL SIGNS: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING ARTICLES 1329.02, 1369.07, AND 1369.11 OF THE PLANNING AND ZONING CODE AS THEY RELATE TO WALL SIGNS.

City Manager explained, after discussion, motion by Ganz, second by Kawecki, to pass the above entitled Ordinance to second reading. Motion carried 4-3 with Ron Bane, Wes Nugent and Jay Redmond voting no.

AN ORDINANCE AUTHORIZING AN AGREEMENT WITH KLM PROPERTIES TO LIST RENTAL SPACE AT THE MMA: The above entitled Ordinance was presented for first reading.

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

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

AN ORDINANCE AMENDING CITY CODE OF THE PARKING AUTHORITY: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING CITY CODE SECTION 155.03 PROVIDING FOR THE COMPOSITION AND MEMBERSHIP OF THE PARKING AUTHORITY.

City Manager explained, motion by Nugent, second by Selin, to pass the above entitled Ordinance to second reading. Motion carried 7-0.

A RESOLUTION AUTHORIZING AGREEMENT WITH D.O.H. FOR PLACEMENT OF NETWORK FACILITIES IN RIGHTS-OF WAY: The above entitled Resolution was presented for Council's approval.

City Manager explained, after discussion, motion by Ganz, second by Selin, to adopt the entitled Resolution. Motion carried 7-0.

A RESOLUTION THAT THE CITY WILL HEREBY SET FORTH A PUBLIC HEARING REGARDING CREATION OF THE CITY OF MORGANTOWN DEVELOPMENT FUND DISTRICT NO. 5 AND APPROVAL OF A PROJECT PLAN FOR UPPER FALLING RUN PROJECT NO. 1 AND ISSUANCE OF TAX INCREMENT FINANCING OBLIGATIONS: The above entitled Resolution was presented for Council's approval.

After discussion, motion by Selin, second by Kawecki, after discussion, motion to suspend the rules to have attorney Brian Helmick from the Housing Authority to answer questions. Question was called, motion carried 7-0 to adopt above entitled Resolution.

A RESOLUTION APPROVING THE BUDGET FOR THE AIRPORT FOR THE FISCAL YEAR 2016-17: The above entitled Resolution was presented for Council's approval.

Assistant City Manager and Airport Director explained, after discussion, motion by Selin, second by Bane to adopt the above entitled Resolution. Motion carried 7-0.

CITY MANAGERS REPORT:

New Business:

1. **Match for Deckers Creek Rail-Trail Grant**
   Monongalia County Rail Trail Conservancy (MRTC) was awarded a grant to add lighting to the trail under pass below University Avenue, and one or two pole lights along the Deckers Creek Trail. It will also add trail amenity directional signage in the same location. The Department of highways grant of $34,320 needs to be matched with $8,580 to complete the project, and the original match funding is no longer available. City Manager Jeff Mikorski recommended that the City Council allocate $8,580 from Capital Escrow contingency to complete this trail project.

   The City has a long and successful history with MRTC and working with them to complete rail projects within the City. We are currently matching two other MRTC grants totaling $60,000 that will be under construction soon.

After discussion, motion by Kawecki, second by Ganz to add $8,580 from the Capital Escrow contingency to complete the trail project. Motion carried 7-0.

2. **Public Safety Building Plaza**
City Manager updated City Council on the construction of the PSB Plaza and that the Zackquill Morgan Statue was put in place and will be covered until the dedication on June 20th, 2016 at 10:00 a.m.

REPORT FROM CITY CLERK: **No Report**

REPORT FROM CITY ATTORNEY: City Attorney Ryan Simonton reported that he has been working with the Parking Authority on updating ordinances and those ordinances will come to Council at a Committee of the Whole. He then briefly addressed the Cities annulment process, stating that the City's process follows state law. He stated that the ordinances provided to Council shows the history of relinquishing those property rights in various forms. He noted that when the City annuls a right-of-way without retaining an easement, the City does not have control over the future use of that piece of land. He stated in response to a question from Council, it was noted that the City does not specifically track whether structures are built over an annulled right-of-way and that any limitation on the property is only provided by an easement if one is retained.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane stated the 800-pound gorilla in the room today has to be addressed. He stated that we all started our journey on Council with the best intentions, but now we have become a force against each other. He commented there has been testimony, the Charter has clearly been violated and we all take an oath to follow that charter. He commented this evening Council had 6 to 7 7-0 votes, but there are times when it is 4-3 down the line. He noted that he received a call from a citizen stating that she is sick of watching the meetings and Council arguing all the time. He understood why Councilor Nugent spoke during the Public Portion at the COW, for he felt he would not be heard as a Councilor.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki commented that he appreciates what Councilor Bane has said, and noted he has always been cooperative while sitting in this chair. He stated that is weary of the circumstances and knows the public is also tired of the bickering. He mentioned that the Ethics, Prosecuting Attorney, Secretary of State and now there are Lawyers fighting this issue. He asked all of Council to simmer

down and move forward with real City business.

Councilor Nugent:

Councilor Nugent reminded the City Manager Jeff Mikorski that the welcome sign by Cobun Creek is still defaced. City Manager Jeff Mikorski responded that the sign should be repaired by the end of this month. He reported a broken mirror at Protzman, Vangilder and Stewart. He noted concerns about streetlights and asked the City Manager Jeff Mikorski for an update on lights. City Manager Jeff Mikorski stated that he has been putting in for street light request to Mon Power, but he will contact Allen Staggers and report to Council. He questioned the 2% raise added to the base see where we are with additional revenues, respect what our employees do and supportive of longevity pay. He noted his concern on the Wall Sign and hoping this nor other signs would not affect the quality of life. He remarked that he has no regrets on his statements, but most of the time he is ruled out of order. He stated he ran for City Council to serve and we have challenges to overcome. He stated that every day when he gets up he kisses his wife and baby and looks himself in the mirror, and as a member of Council, the Charter is why he serves on this body. He commented that he is passionate about this, but this issue to have clarity; it is hard to find a bridge that can be built to resolve this issue. He noted his disappointment with the Dominion Post editorial by using talking points than stating the facts in the article in reference to Senate Bill 267. He noted that the Senate Bill has not changed much it requires more signature to the tune of around 110 voters. He stated that he does not believe this would deter a citizen from doing such a petition. He noted his concern was that Council placed this issue on the top of their Legislative Priorities for 2016 and Councilor Bane and I were concerned. He asked the City Manager Jeff Mikorski the question that he works for all of

Council correct. City Manager Jeff Mikorski responded yes I work for all of Council. He wants a timely resolution as to what the Charter states. He then referenced Roberts Rules of Order 11th Edition, pages 121, 653 and 660 and requested the City Manager and City Attorney to review and come back to Council with a clear understanding on how to move forward. He stated that he has respect for the judicial decision, but the City needs to come to a resolution on this matter.

Councilor Selin:

Councilor Selin stated that it is a choice on how we conduct ourselves, so each item that we bring up and we choose to deal with differences with lawsuits and then by putting our employees in the middle of the issues. She noted that all of Council earned their votes, by being voted into office and it is the voters we are responsible to, and voters that put us here. She wanted to remind everyone that State Law in reference to removal trumps everything on the City level process. She stated that Councilor Kawecki has remarked that nothing has been proven of any wrongdoing; let us move forward and work together for the betterment of the City and the community. She requested the City Manager, Jeff Mikorski check on the Brunch Bill through the Home Rule process and requested a report. She announced an event: Summer Stroll on the 25th of June by the Family Resource Network.

Councilor Redmond:

Councilor Redmond thanked Councilor Selin for mentioning the Brunch Bill. He mentioned and addressing the City Manager and City Attorney that Shepherdstown is already doing the Brunch Bill through Home Rule and the City of Charleston's Mayor is checking into doing the Brunch Bill by Home Rule. He noted that the support is there from CVB and Main Street at the Legislative level; and the B&O tax collected from this could be substantial.

He mentioned the Met Theatre agreement and is very excited about this and this is only a win/win situation and will be a benefit for the City and WVU. He commented about the annulment issue questioning why on the application it states, "No permanent structures can be built on the annulled area"; when the City has not been consistent in this process. He suggested that the City re-check themselves and move slowly with the annulment process. He noted that in reference to the 800-pound elephant in the room he is the new kid on the block and was not here when this alleged behavior took place. He stated the way he runs, his life principles are very important, and he has very instinct idea of what is right or wrong. He stated that when he took his Oath of Office he read the City Charter and at that, time swore to uphold the Charter. He noted he was approached to sign the petition and reviewed the Charter and felt it was the right thing to do and that an investigation was warranted. He stated that after the testimony by City Employees that he does not think the Ethics Commission, Prosecutor on three Judge Panel decision stands stronger than the City Charter.

Councilor Ganz:

Councilor Ganz stated she does understand the Charter that when a person wants to work with me they do not turn an Ethics Commission Violation about me, then taking such action to Prosecuting Attorney and them finding no problem; people that sign a petition to be heard by a 3 Judge panel tell me they want to work with me. She noted I find it fascinating that by watching the news today that they want us removed from office. She commented there is a division on this Council she was elected by the voters to bring prosperity to this community. She noted that her constitutes have brought safety, fire services, fire protection, safe community fee, police on the streets, raised the budget and the retention of every

employee. She noted that Councilor Bane was reading the State Journal as she was doing her report. Mayor Shamberger stated to Councilor Ganz, "Please direct your comments to the Chair". She commented that she would continue to work for the citizens: new art; livability for our town, improvements for MRTC, Airport and Urban Landscape changes. She made the following announcements: Sister Cities Day on June 8th; Suncrest Neighborhood meeting will be June 9th and this year's picnic will be at Krepps Park on July 7th. She then stated she is proud to be a Councilor.

Mayor Shamberger:

Mayor Shamberger made the following announcements: Farmers Market every Saturday from 8:30am to noon; Botanical Garden Essential Oils for Emotional Health on June 12th; Our Voice at the CAC on June 17th; Slide the City on June 18th; Mo-Town on June 18th; Ageless Friends at the Met on June 18th and Unveiling Ceremony of Zackquill Morgan Statue on June 20th. She asked for prayers for the King family, Fire Fighters and employees for the loss of Fire Fighter Vanden King. She reminded Council of the Heroin Epidemic Seminar on June 15th from 10 to noon. She asked Council to contact the City Clerk to sign up for the WVML Conference in August. She reported that the National League of Cities Conference will be in Pittsburgh in November and asked Council to look at their calendars for that event. She spoke to 5th graders at Eastwood at their Career Day about being the Mayor and about challenging yourself every day. She then explained she had a great challenge, she got a call from the White House and was invited to an all-day Conference reducing Gun Violence. She was very honored to have been chosen to attend and noted will be sharing this information with our local delegates before the next legislative session. She stated that their strategies for gun violence were procurement

practices, public health, suicide rates, gun safety and education. She stated that in reference to the 800-pound gorilla in the room it has affected all of Council and the Community. She noted that Senate Bill 267 was not only a League priority for 2016 but also other cities too. She commented that she had good intentions of being organized and being in touch with Council with a Calendar, and work together and move things forward. She stated that all of sudden personal things occurred, my tires were getting flat, she thought she should take a step back and not let people know where she is all the time. She then requested a workshop for all of Council be set up on the City Charter. Mayor Shamberger mentioned vacations and possibility of moving the July 5th meeting, after discussion Mayor will mention subject at the June 21st meeting. Mayor Shamberger mentioned evaluations for City Clerk and City Manager and noted that she found in her notes that Council was to review the Clerk in 6 months, and will e-mail Council with some dates.

ADJOURNMENT: There being no further business, motion by Kawecki, second by Ganz to adjourn by unanimous consent at 9:40 p.m.

City Clerk

Mayor

*** COMPREHENSIVE DVD IS AVAILABLE OF ALL COUNCIL MEETINGS AT THE MORGANTOWN CITY LIBRARY.***