

**REGULAR MEETING JULY 6, 2010:**

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Monday, July 6, 2010, at 7:30 P.M.

**PRESENT:** City Manager Dan Boroff, Mayor Bill Byrne, City Clerk Linda Little, City Attorney Steve Fanok. Council Members Ron Bane, John Gaddis, Charlie Byrer, Jenny Selin, Marti Shamberger and Don Spencer. Assistant City Manager Jeff Mikorski Absent.

**ELECTION OF MAYOR AND DEPUTY MAYOR:**

City Clerk, Linda Little opened the floor for nominations for Mayor for the 2010-2011 term: Motion by acclamation to reappoint Bill Byrne as Mayor.

City Clerk, Linda Little then opened the floor for nominations for Deputy Mayor for 2010-2011 term: Motion by acclamation to reappoint Don Spencer as Deputy Mayor.

City Clerk administered oath of office to the Mayor and Deputy Mayor for the 2010-2011 term.

The meeting was called to order by the Mayor.

**APPROVAL OF MINUTES:** Minutes from the regular meeting on June 15, 2010 and Special Meeting on June 29, 2010 were approved as printed

**CORRESPONDENCE:** Mayor Byrne presented a Retirement Proclamation to Bill Graham for his service to the City as a Firefighter.

**PUBLIC HEARING- AN ORDINANCE AMENDING ARTICLE 1329.02 OF THE PLANNING & ZONING CODE PERTAINING TO THE DEFINITIONS OF "FAMILY", "FUNCTIONAL FAMILY UNIT", AND "RELATED PERSONS":**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

John Duarte, 460 Grove Street, does not agree with this Ordinance and feels like it will become a problem. He asked Council to look at it again before passing.

Ms. Ohara, 515 Clark Street, agreed with Mr. Duarte stating the neighborhoods will become more crowded if this Ordinance is passed.

Bill Burton, 405 Linden Street, Realtor, supports the Ordinance and said that the concept of this will bring the neighborhoods back the way they should be.

There being no more appearances or objections, Mayor Byrne declared this public hearing closed.

**PUBLIC HEARING- AN ORDINANCE AMENDING TABLE 1365.04.01 "MINIMUM OFF-STREET PARKING REQUIREMENTS" OF THE PLANNING & ZONING CODE AS IT RELATES TO RESIDENTIAL DWELLINGS:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

John Duarte, 460 Grove Street, does not agree with this Ordinance and the parking requirements. He inferred that the City does not have enough data on the student population in order to make an informed decision on this.

Ms. Ohara, 515 Clark Street, concurred with Mr. Duarte and stated that the students need to be included. She said the large parking lots are an eyesore and should be done away with.

Nancy Ganz, 1276 Colonial Drive, mentioned that the neighborhood association looked at this Ordinance and they feel there is not enough data on the students and the parking requirements would be more than is indicated by this Ordinance.

There being no appearances or objections, Mayor Byrne declared this public hearing closed.

**PUBLIC HEARING- AN ORDINANCE AMENDING ARTICLE 1361.03 “DESIGN AND PERFORMANCE STANDARDS COMMON TO ALL SUNNYSIDE OVERLY DISTRICTS” OF THE PLANNING & ZONING CODE AS IT RELATES TO MINIMUM PARKING SPACES FOR MULTI-FAMILY DWELLINGS:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

John Duarte, 460 Grove Street, is against this Ordinance citing he feels there is not enough data and we should not reduce the amount of parking in this area.

Mr. Boroff responded that the Ordinance is not to reduce the amount of parking.

There being no appearances or objections, Mayor Byrne declared this public hearing closed.

**PUBLIC HEARING- AN ORDINANCE AMENDING ARTICLE 1751.02 “DEFINITIONS” OF THE HOUSING CODE AS IT RELATES TO THE DEFINITION OF “FAMILY”:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

John Duarte, 460 Grove Street, stated that he does not agree with the Ordinance and feels that an excessive number of rentals will result.

Ms. Ohara, 515 Clark Street, agreed with Mr. Duarte and by passing this Ordinance more rentals will result.

There being no appearances or objections, Mayor Byrne declared this public hearing closed.

**PUBLIC HEARING- AN ORDINANCE AMENDING SECTION 333.01 OF THE CITY OF MORGANTOWN TRAFFIC CODE FOR THE OFFENSE OF DRIVING UNDER THE INFLUENCE:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

There being no appearances or objections, Mayor Byrne declared this public hearing closed.

**PUBLIC HEARING- AN ORDINANCE ADDING A NEW SECTION 333.011 TO THE CITY OF MORGANTOWN TRAFFIC CODE APPLICABLE TO THE OFFENSE OF DRIVING UNDER THE INFLUENCE:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

There being no appearances or objections, Mayor Byrne declared this public hearing closed.

**UNFINISHED BUSINESS:**

**AN ORDINANCE AMENDING THE PLANNING AND ZONING CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING ARTICLE 1329.02 OF THE PLANNING & ZONING CODE PERTAINING TO THE DEFINITIONS OF “FAMILY”, “FUNCTIONAL FAMILY UNIT”, AND “RELATED PERSONS”.

After discussion, motion by Bane second by Selin, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE AMENDING THE PLANNING AND ZONING CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING TABLE 1365.04.01 “MINIMUM OFF-STREET PARKING REQUIREMENTS” OF THE PLANNING & ZONING CODE AS IT RELATES TO RESIDENTIAL DWELLINGS.

After discussion, motion by Spencer, second by Bane, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE AMENDING THE PLANNING AND ZONING CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING ARTICLE 1361.03 “DESIGN AND PERFORMANCE STANDARDS COMMON TO ALL SUNNYSIDE OVERLY DISTRICTS” OF THE PLANNING & ZONING CODE AS IT RELATES TO MINIMUM PARKING SPACES FOR MULTI-FAMILY DWELLINGS

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

**AN ORDINANCE AMENDING THE HOUSING CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING ARTICLE 1751.02 “DEFINITIONS” OF THE HOUSING CODE AS IT RELATES TO THE DEFINITION OF “FAMILY”.

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

**AN ORDINANCE AMENDING THE TRAFFIC CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING SECTION 333.01 OF THE CITY OF MORGANTOWN TRAFFIC CODE FOR THE OFFENSE OF DRIVING UNDER THE INFLUENCE.

After discussion, motion by Selin second by Bane, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE ADDING A NEW SECTION TO THE TRAFFIC CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE ADDING A NEW SECTION 333.011 TO THE CITY OF MORGANTOWN TRAFFIC CODE APPLICABLE TO THE OFFENSE OF DRIVING UNDER THE INFLUENCE

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

**BOARDS AND COMMISSIONS:** Motion by acclamation to reappoint Ashley Hardesty to Fire Civil Service Commission and Christi Venham to the Museum Commission.

**PUBLIC PORTION:**

Lisa Bethea and Rachel Hewitt, Youth Ambassadors spoke about their trip to Sister City Guanajuato Mexico and thanked Council for their support.

Nancy Ganz, 1276 Colonial Drive, is concerned about a variance in the neighborhood and thinks that a stop work order should be done at 1268 Fairlawns. Mrs. Ganz stated there are just many things that are not being done properly at this address and has spoken to the Planning Department about this also.

John Duarte, 460 Grove Street, commented on the fact that all the construction around town is blocking pedestrian routes and the City should make arrangements for alternate walking routes including signage. He also feels that ADA standards are not being met and asked the City to comply.

Ms. Ohara, 515 Clark Street, spoke in opposition to the proposed Urban Deer Hunt and mentioned the parking lot in her neighborhood is always full of cars and she doesn't like the way it looks. She also spoke out against cutting down trees and wants the City to issue permits for citizens who wish to cut down trees on their property.

Nelson France, 222 High Street, BOG Representative, is working on the Community relations team and would like to meet with each Council Member.

Bill Burton, 450 Linden Street, Realtor, spoke about the Ordinance on minimum area requirements will be a helpful Ordinance and asked Council to pass it.

There being no more appearances Mayor Byrne then declared the Public Portion closed

**NEW BUSINESS:**

**AN ORDINANCE AMENDING ARTICLE 1713:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING ARTICLE 1713 OF THE MORGANTOWN BUILDING AND HOUSING CODE, ADDING NEW SECTION 1713.02 ADDRESSING MINIMUM AREA REQUIREMENT FOR OCCUPANCY.

Motion by Gaddis second by Bane, to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AMENDING AGREEMENT WITH MET THEATRE:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN AMENDMENT TO AN APRIL 19, 2005 LEASE BETWEEN THE CITY AND THE MORGANTOWN THEATRE COMPANY, AS IT PERTAINS TO THE METROPOLITAN THEATRE.

After discussion, motion by Selin, second by Byrer, to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**A RESOLUTION PROMOTING CIVIC SUPPORT FOR NEIGHBORHOOD-SCALED GROCERY STORES IN CENTRAL CITY AREAS:** The above entitled Resolution was presented for approval.

After discussion, motion by Spencer, second by Shamberger, to adopt the above entitled Resolution. Motion carried 7-0.

**A RESOLUTION TO ENTER INTO A CONTRACTUAL AGREEMENT WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES TO RECEIVE AND ADMINISTER GRANT FUNDS PURSUANT TO PROVISIONS OF THE RECOVERY ACT: JUSTICE ASSISTANCE GRANT PROGRAM:** The above entitled Resolution was presented for approval.

Motion by Byrer, second by Shamberger, to adopt the above entitled Resolution. Motion carried 7-0.

**A RESOLUTION TO PARTICIPATE IN THE WV VOTE BY MAIL PROGRAM:** The above entitled Resolution was presented for approval.

Motion by Bane, second by Gaddis, to adopt the above entitled Resolution. Motion carried 7-0.

**SPECIAL COMMITTEE REPORTS:** No reports.

## **CITY MANAGERS REPORT:**

### **INFORMATION:**

Item No. 1: The U. S. Department of Transportation has announced that it is extending Essential Air Services for the City of Morgantown Airport for a two year period through July, 2012 for an annual cost of \$2,976,438 (includes Clarksburg/Bridgeport). The service will allow Cogan Air, Inc. to continue 18 round trip flights per week to Washington D. C. Dulles International Airport using a 34 passenger, pressurized Saab 340 aircraft.

Mr. Boroff added that administratively, per council's direction he will move forward with the Jim Dunn Festival Permit.

### **NEW BUSINESS:**

Item No. 1: Attached you will find a letter from Main Street Morgantown requesting a Festival Permit to support Brew HA HA that will be conducted in Downtown Morgantown on August 7, 2010 from 3:00 p.m. until 7:00 p.m. Given the success of last year's event, I recommend that the request be approved.

After discussion, motion by Spencer second by Selin to approve the Main Street Festival Permit to support Brew HA HA. Motion carried 7-0.

Item No. 2: The second attachment is also a request for a Festival Permit from Mountaineer Spay Neuter Assistance Program. The organization plans to have a fund raiser at Classic's Restaurant from July 22 through July 25 this year as part of the WV Mountainfest Motorcycle Rally. Based upon treatment of similar non profit organizations, I recommend that the request be granted.

Motion by Bane, second by Selin, to approve Festival Permit from Mountaineer Spay Neuter Assistance Program. Motion carried 7-0.

Item No. 3: The third attachment is a letter from the Airport Director reporting bid results for the North Terminal Renovation Project. I agree with his comments and recommend that the contract be awarded with alternates to the low bidder Lombardi Development Co. for a cost of \$458,375.

After discussion, motion by Spencer, second by Byrer to award the bid to Lombardi Development Company for \$458,375 for the North Terminal Renovation Project. Motion carried 7-0.

Item No. 4: The fourth attachment is the proposed 2010-2011 budget for the Airport including the Airport Improvement Fund. Given revenues available, I recommend that the documents be adopted for the new fiscal year.

Motion by Bane, second by Selin to approve the 2010-2011 Budget for the Airport, including the improvement fund. Motion carried 7-0

Item No. 5: Given the options to support Council's search for a new City Manager, I recommend that \$25,000 be budgeted from the Capital Escrow Account Contingency line item to fund related expenses.

After discussion from Council; Councilor Bane stated that he disapproves of the amount being spent to hire a new City Manager, motion by Shamberger, second by Selin to approve \$25,000 from Capital Escrow to support Council's City Manager Search. Motion Carried 5-2. Bane and Gaddis voted NO.

Mayor Byrne then informed Council that the Affion representative Scott Riley will be attending the 7/13 Special Meeting to present the contract to Council.

Item No. 6: The fifth attachment is a memo from the Finance Director reporting Workers Compensation proposals for FY 2010-2011. I agree with her comments and recommend that the coverage be provided by Travelers for an approximate cost of \$342,948

After discussion, motion by Shamberger, second by Selin to approve the Finance Director's Worker's Comp proposal for the 2010-2011 FY.

Item No. 7: The last attachment is a memo from the Police Chief reporting bid results for a prisoner transport van to be financed with a Department of Justice Grant. I agree with the Chief's comments and recommend that the contract be awarded to Sirchie Vehicles for \$43,276.

After discussion, motion by Selin, second by Byrer to approve the bid results for the prisoner transport van for the Police Department. Motion carried 7-0.

**CITY CLERK'S REPORT:** No report

**CITY ATTORNEY'S REPORT:** No report

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane: No Report.

Councilor Gaddis: Councilor Gaddis inquired whether a registration process could aid in neighborhood parking problems. Mr. Boroff stated that generally parking permits are issued to remedy this. He then asked about out of state registrations being prohibited from parking and Mr. Fanok stated that you cannot discriminate parking based on the state of registration. He addressed Ms. O'Hara's parking issues and the Parking Authority has agreed that area in question is a parking lot and they will look into her complaints. He announced the Parking Authority meetings are on the 2<sup>nd</sup> Wednesday of each month.

Councilor Byrer: Councilor Byrer commemorated the lives of the late Ken Vance and Senator Byrd. He then Announced Kid's Day Downtown and encouraged citizens to check on loved ones and the elderly in hot weather.

Councilor Selin: Councilor Selin reminded everyone to attend the Miner's memorial concert at MHS this weekend.

Councilor Shamberger:

Councilor Shamberger announced the upcoming Woodburn Neighborhood Association meeting and commented on the work being done on Beechurst. She stated to Nancy Ganz that property owners proceed at their own risk when renovating their property and may or may not be cited for work being done.

Councilor Spencer:

Councilor Spencer appreciated all the citizen comments this evening. He then asked for 3 Ordinances to be placed on the upcoming Committee of the Whole meeting agenda, including street signs, clean air zone, and air protection. He thanked all who have supported him as Deputy Mayor last year and over the years.

Mayor Byrne:

Mayor Byrne mentioned the urban landscape award given to Woodburn Association of Neighbors Saturday, and also gave an award to Dr. David Morgan for his years of service at WVU. He reminded everyone to go to the new Event Center and reminded Council of the Special meeting on the 13<sup>th</sup>. He stated that the contract will not exclude local interests and will be a nation wide search and a fair and equitable process. After discussion, there will be no July COW.

**ADJOURNMENT:** There being no further business, the meeting adjourned by unanimous consent at 9:25 p.m.

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City Clerk

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Mayor

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