

**REGULAR MEETING AUGUST 2, 2011:**

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Monday, August 2, 2011, at 7:30 P.M.

**PRESENT:** City Manager Terrence Moore, Deputy City Manager Jeff Mikorski, 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 Meetings on July 19, 2011 meeting were approved as corrected.

**CORRESPONDENCE:** Mayor Manilla read a proclamation announcing the month of August 2011 as Breastfeeding Awareness Month urging citizens to seek reliable nutrition for healthier babies.

**PUBLIC HEARING - AN ORDINANCE AUTHORIZING THE CITY OF MORGANTOWN TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE MONONGALIA COUNTY COMMISSION, WHEREBY THE MONONGALIA COUNTY COMMISSION WILL PROVIDE ANIMAL CONTROL SERVICES TO THE CITY OF MORGANTOWN.** Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

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

**PUBLIC HEARING - AN ORDINANCE AMENDING THE FY 2011-2012 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET HERETO ATTACHED AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.** Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

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

**PUBLIC HEARING - AN ORDINANCE AMENDING THE FY 2011-2012 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.** Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

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

**PUBLIC HEARING - AN ORDINANCE ADOPTING 533.11 OF THE CITY OF MORGANTOWN GENERAL OFFENSES CODE, OFFENSES RELATING TO PROPERTY.** Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

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

**PUBLIC HEARING - AN ORDINANCE BY THE CITY OF MORGANTOWN CREATING A NEW SECTION 505.18 WITHIN ITS GENERAL OFFENSES CODE, AUTHORIZING URBAN DEER MANAGEMENT WITHIN THE CITY OF MORGANTOWN, AS AUTHORIZED BY LEGISLATIVE RULE OF THE WEST VIRGINIA DEPARTMENT OF NATURAL RESOURCES.** Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

Guy Panrell, 763 South Hills Drive, stated that the Citizens that oppose the Deer Hunt have no real reasons for not doing the hunt. He commented the most effective and most economical way of reducing the deer is by Bow Hunting which is at no cost.

Renee Hernandez, 222 Overdale Street, noted that she was disturbed by Mr. Panrell's comments that the Citizens that oppose the Deer Hunt have no concrete reasons for not doing this hunt. She referenced that Deer for one are beautiful and there is also the safety issue of this hunt, and felt insulted by Mr. Panrell's comment. Ms. Hernandez stated that she does not agree with the Bow Hunt and thinks Council should look at other alternatives.

Richard Eaton, 229 Park Street, commented that Mr. Panrell had some good answers to the Deer problem. He stated he had some good answers too to the problem that it is cheaper to use bow to kill the deer.

Dave Samuel, Deer Committee Member, stated that he understands the concerns of Ms. Hernandez that Citizens have concerns about that Deer problem and agree with Mr. Panrell's comments. He commented that our Committee looked at all the data we could find, all the science we could find on the options and the most effective and safest is the Bow Hunt. He assured that this type of hunt has been done in hundreds of towns and cities and there has never been an accident it is legal, safe and will take care of the deer population.

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

**PUBLIC HEARING - AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE TRANSFER OF 294 SQUARE FEET OF CITY OWNED REALTY, LOCATED ADJACENT TO WHAT IS COMMONLY KNOWN AS "HOGBACK TURN" ALONG WEST VIRGINIA STATE ROUTE 7, TO THE WEST VIRGINIA DIVISION OF HIGHWAYS, SO THAT IT MAY WIDEN THE TURNING RADIUS WITHIN THE ROUTE 7 ROADWAY AT THAT LOCATION.** Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

Guy Panrell, 763 South Hills Drive, stated that he appreciated Council taking care of a safety issue that has been around for years, and some Citizens do not understand that Council is limited to what they can do. He commented that Council cannot stop trucks from going on a State Route or interfere with Interstate Commerce.

Renee Hernandez, 222 Overdale Street, reminded Council of how often the trucks wake her up at night as they travel Brockway Ave. She then described a recent traffic incident and insisted that City Council can do something about this, and stated that she would lobby the Legislature until someone routes the trucks around downtown and neighborhoods. She also vowed to attend every Council meeting and speak about these issues until they are resolved. She expressed disappointment that the little old lady will lose her garden and said that renters and property owners should care about the noise, dirt and truck traffic in that area.

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

He mentioned for the record, that Council is dressed casually tonight because the air conditioner in Chambers is broken and it is very hot in the building.

**UNFINISHED BUSINESS:**

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH MON COUNTY FOR ANIMAL CONTROL SERVICES:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AUTHORIZING THE CITY OF MORGANTOWN TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE MONONGALIA COUNTY COMMISSION, WHEREBY THE MONONGALIA COUNTY COMMISSION WILL PROVIDE ANIMAL CONTROL SERVICES TO THE CITY OF MORGANTOWN.

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

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

AN ORDINANCE AMENDING THE FY 2011-2012 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET HERETO ATTACHED AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.

Motion by Nugent, second by Selin, 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 FY 2011-2012 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.

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

**AN ORDINANCE ADOPTING A NEW SECTION OF THE GENERAL OFFENSES CODE:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE ADOPTING 533.11 OF THE CITY OF MORGANTOWN GENERAL OFFENSES CODE, OFFENSES RELATING TO PROPERTY.

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

**AN ORDINANCE AUTHORIZING URBAN DEER MANAGEMENT:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN CREATING A NEW SECTION 505.18 WITHIN ITS GENERAL OFFENSES CODE, AUTHORIZING URBAN DEER MANAGEMENT WITHIN THE CITY OF MORGANTOWN, AS AUTHORIZED BY LEGISLATIVE RULE OF THE WEST VIRGINIA DEPARTMENT OF NATURAL RESOURCES.

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

**AN ORDINANCE AUTHORIZING THE TRANSFER OF REALTY TO THE WVDOH:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE TRANSFER OF 294 SQUARE FEET OF CITY OWNED REALTY, LOCATED ADJACENT TO WHAT IS COMMONLY KNOWN AS "HOGBACK TURN" ALONG WEST VIRGINIA STATE ROUTE 7, TO THE WEST VIRGINIA DIVISION OF HIGHWAYS, SO THAT IT MAY WIDEN THE TURNING RADIUS WITHIN THE ROUTE 7 ROADWAY AT THAT LOCATION.

After discussion, and explanation from the City Manager Terrence Moore that he has met with the DOH on crosswalks, sidewalks, lighting in making "Hogback Turn" safer; and also to extend the issue even further the PSC will attend the September 27<sup>th</sup>, 2011 COW meeting to discuss the truck issue. Motion by Bane, second by Nugent, to adopt the above entitled Ordinance. Question called for vote motion carried 5-2. Councilor Shamberger & Byrne voted NO.

**BOARDS AND COMMISSIONS:** By acclamation Council reappointed Kara Hurst as Chair to the Urban Landscape Commission. Council by acclamation also made the following Council appointments: BOPARC: Marti Shamberger; Historic Landmarks: Linda Herbst; Museum Commission: West Nugent; Parking Authority: Linda Herbst; Sister Cities Commission: Bill Byrne; Traffic Commission: Wes Nugent; MPO: Bill Byrne, Wes Nugent and Jim Manilla.

**PUBLIC PORTION:**

Renee Hernandez, 222 Overdale Street, commented that on Rt. 7 there may be a new Business, which is going to be a Hotel by the JD Byrider property, that is good, but it will increase traffic and trucks in that area. She also stated that she would not want to stay in a Hotel on Rt. 7 with noisy trucks going by at 3am in the morning, whoever is overseeing this needs to look at this closely. Ms. Hernandez thanked Councilor Shamberger and Byrne for their support of the citizens in South Park.

Jim Price, Owner, University Taxi, stated that University Taxi is in the process of finding a facility in Morgantown and has filed the paper work to do Business in Mon County. He stated that Mr. King, owner of Yellow Cab sent in a letter of protest, and now I have to prove that there is a need for additional taxi service in Mon. County. He handed to the City Clerk a Letter of Support for Additional Taxi Service for Council to review and requested Council to go on the PSC web-site and review Case No. 11-0906-MC-C. He commented that he has a proven record in leadership in this business and the key to this is a just and fair treatment of the public.

Guy Panrell, 763 South Hills Drive, noted he is pleased that Council is on a path to fiscal responsibility and hopes they will continue in this direction.

Sarah Janson Zegre, 352 Oakland Street, representative of the tree board, welcomed new Council members and stated that she is a newer member of the board. She then told Council how beautiful the view is from the PRT ride because of all the urban trees. She commented that she is supportive of this Council and looks forward to working with the City to continue the beautification of Morgantown through trees.

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

**SPECIAL COMMITTEE REPORTS:** Councilor Shamberger reported that the Met Theatre Foundation, Met Theatre Committee, City Manager and the Deputy City Manager met on August 2, 2011 and decided on the 5 year Capital Improvement Program for the Met Theatre.

**NEW BUSINESS:**

**AN ORDINANCE ANNULING A PORTION OF A RIGHT-OF-WAY IN THE FOURTH WARD:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE VACATING, ABANDONING AND ANNULING A 1158 SQUARE FOOT PORTION OF A RIGHT-OF-WAY EXTENDING ALONG A PORTION OF FALLING RUN ROAD IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

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

**AN ORDINANCE ANNULING A PORTION OF AN UNNAMED ALLEY IN THE FIRST WARD:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE VACATING, ABANDONING AND ANNULING A 192 SQUARE FOOT PORTION OF AN UNNAMED ALLEY IN THE HOPECREST ADDITION IN THE FIRST WARD OF THE

CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

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

**AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF A PORTION OF REAL ESTATE IN THE FOURTH WARD:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF APPROXIMATELY 15,884 SQUARE FEET OF REAL ESTATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM (PRO) PROFESSIONAL, RESIDENTIAL AND OFFICE DISTRICT TO (B-2) SERVICE 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 WERE FULLY SET FORTH HEREIN.

Council suspended the rules to have Chris Fletcher, Director of Development Services, answer questions from Council. Motion by Bane, second by Byrne, to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**A RESOLUTION THAT THE CITY MANAGER ENTER INTO A CONTRACTUAL AGREEMENT WITH THE WV DIVISION OF JUSTICE AND COMMUNITY SERVICES TO RECEIVE AND ADMINISTER GRANT FUNDS.:** The above entitled Resolution was presented for approval.

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

### **CITY MANAGERS REPORT:**

#### **INFORMATION:**

Item No. 1: Review of Proposed Revised Tree Ordinance (Draft).

Mr. Moore detailed the information regarding the proposed Tree Ordinance and explained further considerations to Council. This explanation was followed by commentary from the City Attorney and Councilor Selin regarding the proposed Ordinance and the Tree Board in general.

Item No. 2: ISO Rating of Morgantown.

Mr. Moore reported that the City of Morgantown is the highest rated City in the State of West Virginia. He then complimented all those involved with making this new rating possible for the City.

**CITY CLERK'S REPORT:** No Report.

**CITY ATTORNEY'S REPORT:** Made further remarks concerning the Tree Board Ordinance and asked Council to consider this carefully and expressed hopes that we can move forward with this for the benefit of the Tree Board and the City.

He then asked Council for an executive session at the end of the meeting pursuant to section 6-9A-4 of the State Code to discuss attorney client privilege, with City Council Members, City Attorney and City Manager present.

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane: No Report.

Councilor Nugent: Councilor Nugent thanked the Wiles Hill-Highland Park Neighborhood Association for hosting the National Night Out on August 2. He stated it was nice to have neighbors, families and employees from across our community spend an evening in Wiles Hill Park. He requested respectfully with Council's consensus, that a discussion of in-kind support by the City on behalf of the Year of the Neighborhood activities be placed on the August 30<sup>th</sup> COW agenda. He informed Council that on July 20-29 he judged the WVU State 4-H Day's competitions, which allows youth to participate in educational activities that develop subject matter knowledge, leadership skills and life skills. He commented that he was surprised the number of youths that asked about couch burnings and in talking with parents they were pleased to hear there are efforts afoot to change the culture. He also attended a meeting on August 1 relating to malicious burning with WVU, Sunnyside Up and Fire Marshal Ken Tennant. He reported that increasing fines for malicious burning, jail time especially when an accelerant is used; and Allied Wasted can play a role by removing combustibles in neighborhoods prior to weekends and large sporting events. He mentioned that Landlords can play a role by incorporating rules in their leases about not storing combustibles outside and on porches. He requested that the malicious burning issue be an item on the COW agenda with the Police Chief, Fire Chief, Fire Marshal and City Attorney to bring forward their thoughts.

Mayor Manilla reminded Council that from now on Council must come to a consensus when issues are brought up that a member wishes the City Manager to place on the Committee of the Whole Agenda.

Councilor Selin: Councilor Selin mentioned the Learn Not to Burn Campaign and asked that this group present at the August COW meeting. She announced on August 24<sup>th</sup> the 4<sup>th</sup> ward follow up meeting will take place.

Councilor Shamberger: Councilor Shamberger stated that she is looking forward to the WV Municipal League Conference and noted that Council members and other local officials are involved and giving presentations at the Conference.

Councilor Byrne: Councilor Byrne reiterated the next meeting date of the Tree Board and then recognized Councilor Selin's feature in Eberly Magazine, acknowledging her work in her field. Relayed information from an email from the Municipal League regarding Coal Severance Legislation. He urged that the City should lobby for these changes.

Councilor Herbst: Councilor Herbst thanked the City Manager and Police Department for responding to some recent issues in the Suncrest Neighborhood.

Mayor Manilla: Mayor Manilla remarked that he is pleased to hear about the new ISO Rating for the City, and assured Council that he will speak to the appropriate people at the WVML Conference regarding the Coal

Severance Legislation. He commented about the Taxi Company gentleman.

Councilor Selin interjected that she was the Council person that he made the initial comments to and that the Public Service Commission should evaluate the situation. Mr. Fanok added that the City should alert the PSC if they feel that the County could be better served by a second taxi company. Councilor Byrne added that competition might make the service better for area citizens and that Council should look at the issue objectively.

Mayor Manilla continued, stating that he is concerned about the Airport during this crucial time and wishes for reports on a weekly basis regarding the status of the current transitions there. He then quickly reported on several upcoming events including the Greatest Garage Sale, the Mon County Fair, Christian Help collection drive, and a family movie event at Hazel Ruby McQuain Park.

**EXECUTIVE SESSION:** By acclamation Council unanimously moved to go into Executive Session, pursuant to Section 6-9A-4 of the West Virginia Code in order to discuss attorney/client matters with the following persons present: Mayor Manilla and Council Members, City Manager Terrence Moore, and City Attorney Steve Fanok; and entered into executive session at 9:15 p.m.

**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.**