

REGULAR MEETING SEPTEMBER 20, 2011:

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, September 20, 2011, at 7:30 P.M.

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

APPROVAL OF MINUTES: The minutes of the Regular Meeting on September 6, 2011 were approved as printed.

CORRESPONDENCE: Mayor Manilla first read several proclamations honoring Constitution Week, Worldwide Day of Play, Public Lands Day, and a Proclamation for former Council Member Charlie Byrer, for his years of service on City Council. City Manager Terrence Moore then introduced Michael Clow, the new Director of the Municipal Airport.

PUBLIC HEARING - AN ORDINANCE AUTHORIZING THE CITY OF MORGANTOWN, LESSOR, TO EXECUTE A COAL REMOVAL LEASE AGREEMENT WITH MEPCO, LLC, AS LESSEE, AS THE SAME PERTAINS TO COAL RESERVES SITUATE IN MARION COUNTY, WEST VIRGINIA: 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 VACATING, ABANDONING AND ANNULLING A 10' WIDE PORTION OF AN UNNAMED ALLEY EXTENDING AND RUNNING A DISTANCE OF APPROXIMATELY ONE HUNDRED AND SEVENTY-SEVEN FEET IN A NORTHWEST DIRECTION FROM ITS INTERSECTION WITH JONES AVENUE, IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES: 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 VACATING, ABANDONING, AND ANNULLING A 12' WIDE PORTION OF AN UNNAMED ALLEY EXTENDING AND RUNNING A DISTANCE OF APPROXIMATELY ONE HUNDRED AND EIGHTEEN FEET FROM ITS INTERSECTION WITH JONES AVENUE TO A 10' WIDE UNNAMED ALLEY IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES: 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 WHICH WILL EXTEND THE EFFECTIVE DATE OF AN ORDINANCE ADOPTED JUNE 21, 2011, PERTAINING TO ARTICLE 1155, CLEAN INDOOR AIR CODE: Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

John McGraw, 522 Monroe Street, as a business owner, he spoke on behalf of other businesses who are urging Council to come to a consensus with the County on Smoking Regulation, and asked that the City continue to postpone implementation of such until a reasonable conclusion is reached.

Chris Roberts, representative of Breathe Easy Alliance, stated that he is eager to learn any updates regarding the Smoking Ordinance, and asked Council to remain consistent. He feels the Ordinance should be implemented as soon as possible, and that community support for the ban on smoking is great.

Beverly Keener, Regional Tobacco Prevention Coordinator, expressed she is glad talks with the County are underway for possible County-wide smoking regulation. She hopes that Council will remain steadfast regarding this ban on smoking and implement the Ordinance as soon as possible.

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

UNFINISHED BUSINESS:

AN ORDINANCE AUTHORIZING THE EXECUTION OF A COAL REMOVAL LEASE AGREEMENT: The below entitled Ordinance was presented for second reading:

AN ORDINANCE AUTHORIZING THE CITY OF MORGANTOWN, LESSOR, TO EXECUTE A COAL REMOVAL LEASE AGREEMENT WITH MEPCO, LLC, AS LESSEE, AS THE SAME PERTAINS TO COAL RESERVES SITUATE IN MARION COUNTY, WEST VIRGINIA.

Motion by Nugent, second by Bane to adopt the above entitled Ordinance. After brief explanation by the City Manager, motion carried 6-0.

AN ORDINANCE ANNULLING AN UNNAMED ALLEY IN THE FOURTH WARD: The below entitled Ordinance was presented for second reading:

AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 10' WIDE PORTION OF AN UNNAMED ALLEY EXTENDING AND RUNNING A DISTANCE OF APPROXIMATELY ONE HUNDRED AND SEVENTY-SEVEN FEET IN A NORTHWEST DIRECTION FROM ITS INTERSECTION WITH JONES AVENUE, IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

Motion by Nugent, second by Bane to adopt the above entitled Ordinance. After brief discussion following a point of information presented by Councilor Nugent, motion carried 6-0.

AN ORDINANCE ANNULLING AN UNNAMED ALLEY IN THE FOURTH WARD: The below entitled Ordinance was presented for second reading:

AN ORDINANCE VACATING, ABANDONING, AND ANNULLING A 12' WIDE PORTION OF AN UNNAMED ALLEY EXTENDING AND RUNNING A DISTANCE OF APPROXIMATELY ONE HUNDRED AND EIGHTEEN FEET FROM ITS INTERSECTION WITH JONES AVENUE TO A 10' WIDE UNNAMED ALLEY IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

Motion by Nugent, second by Bane to adopt the above entitled Ordinance. Motion carried 6-0.

AN ORDINANCE EXTENDING THE EFFECTIVE DATE OF A PREVIOUS ORDINANCE: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN WHICH WILL EXTEND THE EFFECTIVE DATE OF AN ORDINANCE ADOPTED JUNE 21,2011, PERTAINING TO ARTICLE 1155, CLEAN INDOOR AIR CODE.

Motion by Bane, second by Nugent to adopt the above entitled Ordinance. Motion carried 5-1. Councilor Shamberger voted NO.

BOARDS AND COMMISSIONS: No Appointments.

PUBLIC PORTION:

Wil Smith, 200 Webster Avenue, reported problems with construction on Grand Avenue, causing traffic to be re-routed down an alley behind his home. He reported that large trucks, buses and heavy traffic have been using this small unpaved alleyway since June. He stated that the alley use is continuing to increase, which produces dust and deteriorates the condition of the roadway. He also informed Council that the Public Works department was not helpful when he inquired about the construction, and reported the diverted traffic and subsequent hazards it created.

Bert Manning, Owner, Pita Pit Restaurant, informed Council that he is displeased with what he feels is a lack of regulation for food-cart vendors. He feels these after-hours hot dog vendors are undercutting downtown businesses. He asked that Council look into the regulation and procedures under which these vendors operate and asked that they be more stringently enforced. He also stated that he does not wish to allow these vendors to operate outside of the front of his business, and will not grant permission for such at any time. He inquired as to whether the use of “no solicitation” signs would prevent the vendors from doing business in front of his restaurant.

Evan Dove, 37 Shady Village, WVU-SGA Student Liaison, introduced himself to Council and stated that he is looking forward to working with Council to improve relations between the students of WVU and the City of Morgantown. He also stated that the Communications team set up by former Liaison Nelson France will resume presently. He invited Council to attend the Student Government meetings as well.

Doris Znoy, Cheat Lake Area Resident, reported that her property is being adversely affected by the recent acquisition by MUB of the Canyon PSD. She has various issues including drainage and looks to Council for assistance in getting her concerns met by the appropriate authorities.

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

NEW BUSINESS:

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CITY CODE: The below entitled Ordinance was presented for first reading:

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CITY CODE.

Motion by Bane, second by Selin to pass the above entitled Ordinance to second reading. After brief explanation from the City Attorney, motion carried 6-0.

A RESOLUTION THAT THE MORGANTOWN CITY COUNCIL SUPPORTS THE EFFORTS OF THE FRIENDS OF DECKERS CREEK IN ADDRESSING THE RICHARD MINE DISCHARGE, AND FURTHER AUTHORIZES THE CITY MANAGER TO EXECUTE AND SEND

LETTERS TO SUPPORT THE SMALL WATERSHED GRANT PROJECT: The below entitled Ordinance was presented for first reading:

Motion by Nugent, Second by Bane, to approve the above entitled Resolution. After a brief comment from the City Manager, followed by discussion, the motion carried 6-0.

SPECIAL COMMITTEE REPORTS: No Reports.

CITY MANAGERS REPORT:

NEW BUSINESS:

Item No. 1: Budget Adjustment Considerations to Support Morgantown Market Place Project and to Expand OPEB Trust Fund.

Motion by Bane, second by Nugent to approve of the above reference Budge Adjustments. After explanation from the City Manager, motion carried 6-0.

Item No. 2: Bid Proposal Considerations for 2012 Salt Bid.

Motion by Nugent, second by Bane to accept the above referenced Bid Results. After explanation from the City Manager and continued discussion, motion carried 6-0.

CITY CLERK'S REPORT: No Report.

CITY ATTORNEY'S REPORT: No Report.

REPORT FROM COUNCIL MEMBERS: (Roll Reversal)

Councilor Herbst:

Councilor Herbst reported that the new WVU game-day shuttles were used sparsely throughout this past weekend, and hopes that ridership continues to increase. She addressed the order of the Council agenda and suggested that the Public Portion be moved closer to the Council reports, if possible, so that Council may promptly and adequately address their comments, without having to attend to other business matters in-between the comment portions. By consensus of Council it was decided that this should be discussed at an upcoming Committee of the Whole. Councilor Herbst concluded by encouraging students and citizens to celebrate responsibly on WVU game-days.

Councilor Byrne:

Absent.

Councilor Shamberger:

Councilor Shamberger commended the community on recent 9/11 Memorial events. She mentioned that she enjoyed the City Tour recently and relayed concerns regarding the Trick-or-Treat times designated by the City and MPD. She asked whether they could be moved or changed to accommodate these concerns for children's safety. She announced she attended the Fairness West Virginia Reception and then congratulated the Code Enforcement and Fire Departments for their work on this week's couch abatement exercises.

Councilor Selin: Councilor Selin announced that she attended an Art Show featuring art based on 90 different species of animals. She appreciates all the opportunities that the various galleries in the area present to artists and art enthusiasts. She also complimented the City Tour and stated that the Council is supportive of the Morgantown Market Place Project.

Councilor Nugent Councilor Nugent added that he also appreciated the City Tour, and all those employees who work hard behind the scenes. He announced the Wiles Hill/Highland Park Neighborhood Association meeting, where the couch abatement order will be discussed. He then expressed some concerns and questions over the boundaries of the abatement order. Councilor Nugent also remarked that he has concerns over future sources of revenue for the City.

Councilor Bane: Councilor Bane reported that several traffic lights are not synchronized on University Avenue below downtown, and this has been exacerbating the already congested corridor. He remarked that he agrees with Mr. Manning of the Pita Pit, that street vendor regulations should be reviewed. He stated that downtown is a vibrant area and encourages everyone to visit, shop and dine there at least once a month. He commended the MPD for recently expanding their presence, and the increased level of enforcement.

Mayor Manilla: Mayor Manilla addressed Mrs. Znoy regarding her concerns over the Canyon PSD acquisition and its effects on her property. She was encouraged to contact MUB, and it was agreed that the City will help Mrs. Znoy by initiating her dialogue with MUB. Mayor Manilla suggested, and Council agreed by consensus that street vendor regulation be addressed at the next available Committee of the Whole meeting, and discussion continued. Mayor Manilla addressed Mr. Smith and it was agreed that the City will look into the construction and alley concerns he brought forth. Mayor Manilla then welcomed Mr. Dove, the new WVU-SGA Student Liaison. He then confirmed with Mr. Moore that the new Planning Administrator position had been appropriately budgeted for. He also suggested added signage to encourage observance of pedestrian cross-walks on High Street and other areas. Mr. Fanok added that WVDOH permission would need to be granted in order to place such signs. Discussion erupted concerning the details of this issue.

Mayor Manilla discussed the Mountain Line service expansion plan, to research the possibility of adding public transportation amenities to the area. Councilor Bane explained that the Dave Bruffy, Director of the Transit Authority first wishes to determine Council's interest in such a possibility. Discussion continued about the merits and other conceivable uses of this prospect. By Consensus of Council it was agreed to hear Mr. Bruffy's presentation and engage discussion of this possibility. Lastly, Mayor Manilla inquired as to the best course of action to forward citizen's complaints and concerns to City Officials. Mr. Moore added that Council may feel free to

forward complaints received via email to the City Manager as well as the appropriate City Official in order to comply with the City Charter. He added for the public's benefit that anonymous tips can be accommodated as well.

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 attorney-client matters; with the following persons present: Mayor Manilla, Council Members, City Attorney, City Manager and Mr. Bob Bastress; at 8:45pm.

ADJOURNMENT: There being no further business, the meeting adjourned by unanimous consent at 9:44pm.

City Clerk

Mayor

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