

REGULAR MEETING SEPTEMBER 6, 2011:

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Monday, September 6, 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 Meeting on August 16, 2011 were approved as printed.

CORRESPONDENCE: City Manager Terrence Moore first introduced to Council, Susan Sullivan, the City's new Public Communications Manager. She addressed Council and shared her background information as well as her goals and current projects for the new office.

Mayor Manilla then read a proclamation in honor of Environmental Services Week. A Presentation was then made to award three local boys: Kyle Crabtree, Riley Bowers, and Michael Curtis, with a Good Samaritan Certificate of Recognition; for their part in alerting and aiding first responders in an emergency where a fellow citizen required medical attention.

PUBLIC HEARING - 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 WAS FULLY SET FORTH HEREIN: Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

Bernie Bossio, representative of Vintner Reserve, LLC., explained to Council the reason for the needed rezoning, and also detailed aspects of the property and project. He offered to answer any further questions Council may have regarding the development.

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

UNFINISHED BUSINESS:

AN ORDINANCE PROVIDING FOR ZONING RECLASSIFICATION IN THE FOURTH WARD:

The below entitled Ordinance was presented for second 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 WAS FULLY SET FORTH HEREIN

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

BOARDS AND COMMISSIONS: Mayor Jim Manilla was appointed by acclamation to serve as a Council Representative on the Morgantown Monongalia Task Force on Homelessness.

PUBLIC PORTION:

Catherine Whitworth, Breathe Easy Alliance of Morgantown, shared with Council the results of a recent poll printed in the local newspaper, regarding the City’s proposed Smoking Ban. She stated that the poll indicates a high level of support for Council’s ban. She asked Council not to consider rescinding the Ordinance.

Jerry Lorenze, 735 Chestnut Ridge Road, asked that Council continue working with the Board of Health and that they extend the effective date of the Ordinance. He also stated that the business community is largely not for nor against smoking, they simply want all businesses in the area to be following uniform regulations. He hopes business owners valuable input will be included in the discussions regarding this.

John McGraw, 522 Missouri, gave examples from various other Counties’ Boards of Health and shared reasons why he hopes the City will continue to extend the effective date of the smoking Ordinance.

Bob Anderson, 7th Ward Resident, thanked Council for passing the Smoking Ordinance, and reminded them that the Board of Health has made no indication that they will work to make the Ordinance County-wide. He asks, that because of this, Council remain vigilant in enacting the Ordinance as it is currently written.

Valerie Frye McClung, Breathe Easy Alliance, urged Council to enact the Smoking Ordinance without delay, regardless of what action or inaction the County Commission may take.

Chris Roberts, Breathe Easy Alliance, echoed the comments made, and encouraged Council to follow through with the implementation of the Smoking Ordinance. He asked that Council reconsider the delay currently pending before them.

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

NEW BUSINESS:

AN ORDINANCE AUTHORIZING A COAL REMOVAL LEASE AGREEMENT: The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING THE CITY OF MORGANTOWN, AS 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 Byrne, second by Shamberger to pass the above entitled Ordinance to second reading. After discussion and explanation from the City Manager and City Attorney, the motion carried 7-0.

AN ORDINANCE ANNULING A PORTION OF AN UNNAMED ALLEY: The below entitled Ordinance was presented for first reading:

AN ORDINANCE VACATING, ABANDONING AND ANNULING 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 Shamberger, to pass the above entitled Ordinance to second reading. After a brief comment from the City Manager, the motion carried 7-0.

AN ORDINANCE ANNULING A PORTION OF AN UNNAMED ALLEY: The below entitled Ordinance was presented for first 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 pass the above entitled Ordinance to second reading. After brief commentary from the City Manager, the motion carried 7-0.

AN ORDINANCE EXTENDING THE EFFECTIVE DATE OF AN ORDINANCE: The below entitled Ordinance was presented for first 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 pass the above entitled Ordinance to second reading. After explanation from the City Manager, assuring business owners that their input will be valued, adding that the main goal is to have communication regarding City and County smoking regulations. Following further discussion by Council, motion carried 5-2. Councilors Shamberger and Byrne voted NO.

SPECIAL COMMITTEE REPORTS: Councilor Nugent reported on the Main Street Economic Restructuring Committee meeting and also announced the free shuttles to and from the game for riders with a game-day parking garage ticket.

CITY MANAGERS REPORT:

INFORMATION:

Item No. 1: Direction concerning business and occupational tax proceeds to Board of Education for infrastructure projects.

Mr. Moore explained that preparations are underway to the above effect. Discussion among Council continued regarding potential projects and other issues, such as consideration of the Woodburn property.

NEW BUSINESS:

Item No. 1: Approval of Police Pension annual report.

Item No. 2: Approval of Fire Pension annual report.

Mr. Moore asked Finance Director JR Sabatelli to address Council regarding both the Police and Fire Pension, (items one and two above). Mr. Sabatelli offered Council a handout and explained the pensions' current funding to them. Discussion continued among Council with questions, and answers from Mr. Sabatelli.

The above Annual Police and Fire Pension reports were unanimously approved as presented by acclamation of Council.

Item No. 3: Festival Permit Request for annual Morgantown Arts Walk event.

The above Festival Permit was unanimously approved by acclamation of Council.

CITY CLERK'S REPORT: No Report.

CITY ATTORNEY'S REPORT: Mr. Fanok added details about Police and Fire Pension Funds and the methods by which they are governed under State Code.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane: Councilor Bane thanked the WVU President for inviting City Council to the WVU-Marshall game. He also mentioned West Virginia Municipal League Executive Director Lisa Dooley and asked that Council minimize their list of legislative priorities. He also suggested that Council gather in a work session and come to a consensus about what priorities will be presented to Legislators during the next Capitol visit.

Councilor Nugent: Councilor Nugent echoed Councilor Bane's appreciation for the WVU-Marshall game invitation. He also reminded those present that the Boston Beanery on High Street has voluntarily converted to a smoke free restaurant, and expressed his gratitude toward the management.

Councilor Selin: Councilor Selin thanked MUB for their efforts and hard work during this very rainy season. She agreed that a meeting to discuss legislative priorities would be a productive measure. She also commended the three young boys who received the Good Samaritan award this evening.

Councilor Shamberger: Councilor Shamberger shared Councilor Selin's sentiments regarding the three boys and recognized Eagle Scout Tyler Anderson for his Eagle project at the Botanical Gardens. She thanked the Woodburn Association of Neighbors for their recent presentation at the Committee of the Whole meeting, and is pleased that those presentations will be online for all to view. She then asked that the lighting and safety be improved in the Willey Street area, where there are many pedestrians.

City Manager Terrence Moore added that Willey Street is maintained by the WV Department of Highways, and he will be happy to pass the suggestions along to the appropriate persons.

Councilor Shamberger then concluded by mentioning the new "Learn Not to Burn" campaign, which discourages area college student from igniting celebratory fires.

Councilor Byrne: Councilor Byrne announced the Wheeling Symphony, who performed at the Metropolitan Theatre. He thanked Bill Rumble and BOPARC for their efforts. He thanked Police Chief Preston for the department's response to an incident in Suncrest during the game this weekend. He also thanked those who helped take care of a problem property, and commended the quick response from the City. He added that he is impressed with new Public Communications Manager Susan Sullivan and looks forward to her ideas for the City. He also announced upcoming events such as the Blood Drive, WVU Chorus and others. He then requested an executive session at

the next regular Council meeting to discuss the Marcellus Shale litigation and a status report from City Attorney Steve Fanok.

Councilor Herbst:

Councilor Herbst thanked her postal carrier, who courageously assisted first responders during a recent fire. She reported concerns in her neighborhood during game days such as providing portable restrooms and litter management.

Mayor Manilla:

Mayor Manilla reiterated earlier comments about the WVU-Marshall Game invitation, as well as the networking opportunities that invitation provided. He asked that an update be provided during the next Committee of the Whole regarding the Airport developments.

Mr. Moore added that he does have information for Council and will make arrangements to the above effect for the Committee of the Whole meeting. Discussion erupted regarding this and other Committee of the Whole agenda items, as well as the number of items on the agendas. Mr. Moore recommended that a maximum of ten items be discussed at any one Committee of the Whole meeting. Discussion regarding the Committee of the Whole agenda continued.

Mayor Manilla then reported that the environment on Wall Street has deteriorated and is becoming a problem area. Discussion continued among Council regarding the loitering, littering and illicit activities being conducted along the Wall Street thoroughfare. Mr. Moore remarked that there is a continued cleanup and law enforcement effort in that area. Council's discussion continued about the problems with, and solutions for, Wall Street.

Mayor Manilla then announced Halloween Trick or Treating, the upcoming City of Morgantown 9/11 Memorial Blood Drive, and several 9/11 Remembrance Events taking place at the Hazel Ruby McQuain Park, the Morgantown Event Center, and at MTEC as well.

EXECUTIVE SESSION: By acclamation, Council unanimously moved to go into Executive Session pursuant to Section 6-9A-4(a) of the West Virginia Open Governmental Proceedings Act in order to discuss personnel matters; with the following persons present: Mayor Manilla, Council Members, City Attorney, and City Manager at 9:00 p.m.

ADJOURNMENT: There being no further business, the meeting adjourned by unanimous consent at 9:55 p.m.

City Clerk

Mayor

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