

REGULAR MEETING September 1, 2015: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, September 1, 2015 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 Kawecky, Wes Nugent, Jenny Selin, Jay Redmond, and Nancy Ganz.

The meeting was called to order by Mayor Shamberger.

APPROVAL OF MINUTES: Minutes from the August 18th Regular Meeting and August 25th Special Meeting were approved as printed.

CORRESPONDENCE: Mayor Shamberger presented a proclamation to Canine Officer Dull as the Police Department lost one of their family this year. Officer Dull thanked the Mayor for the honor for Arco that it has been a very emotional time for the Police Department. Mayor Shamberger announced the Art of George Evans Exhibit September 2nd; MAC Writing Workshop September 2nd; First Fridays at Woodburn September 4th; Morgantown Farmer's Market September 5th; Book Sale at the Library September 8th; Ice Cream Sundae Social at the Library September 10th; Child Safety Seat Check by the Fire Department September 14th. Councilor Ganz read correspondence from Frank Gutta in reference to property on Van Voorhis that is a vacant lot that is going to use it for parking and tailgating for students at WVU games. Mr. Gutta is requesting this property not to be used as a parking lot for it will affect the neighbors in the Suncrest area. **(Exhibit A)** She then read a letter in reference to denying a liquor license for a strip bar at 3561 Collins Ferry Road. She stated that a bar of this type is contrary to the mission of the Suncrest Neighborhood which is preservation and renewal. The Suncrest Neighborhood Association asks Robert Moats, Commissioner, deny the liquor license application filed by Prestige Venture Capital. **(Exhibit B)**

PUBLIC HEARINGS:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT FOR SUITE 229 AT THE MORGANTOWN MUNICIPAL AIRPORT.

Mayor Shamberger declared this Public Hearing open.

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

UNFINISHED BUSINESS:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT FOR SUITE 229 AT THE MORGANTOWN MUNICIPAL AIRPORT: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT FOR SUITE 229 AT THE MORGANTOWN MUNICIPAL AIRPORT.

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

BOARDS AND COMMISSIONS: Councilor Nugent stated that since he was not present for the Special Meeting he does not feel comfortable voting for candidates he has not interviewed; and he called for a division. Councilor Bane agreed with Councilor Nugent. After discussion, point of order by Councilor Nugent to seek the will of Council. Motion by Ganz, second by Selin to appoint Robin Hess

and Kenneth Weiss to serve on the Metropolitan Theatre Board. Motion carried 5-2 (Bane and Nugent voted No)

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

Ross Justice, 748 Johnson Avenue, thanked Council for being interviewed for the Metropolitan Theatre Board and stated that he looks forward to applying for another Board and Commission and working with us in the near future.

Randy Jones, 762 Spring Branch Road, questioned Council's questions at the special meeting that Council asked a question about Ross Justice that by being a student at WVU would this be a conflict by serving on the Met Theatre Board. Mr. Jones stated "how is this a conflict" and if Council is asking these kinds of questions they are losing a lot of candidates.

Kay Lotspeich, 1053 Tacoma Street, noted her concerns to Council on the construction in the neighborhood and is requesting Council to address the narrow roads and limited parking, mitigation and traffic concerns.

Larry Mabrey, West Virginia Public Theatre Executive Director, presented a letter to Council requesting \$3,600.00 to cover the cost of rent for their monthly office rent to the end of December.

Billie Murray, 342B Overhill Road, informed Council that Diversity Week is coming up soon and that WVU opened up an Art Museum. She also reported that at University and Stewart the cross walk timing is off and students have had a time getting across and so it needs to be reset.

Matthew Cross, 524 Milford Street, President for Suncrest Neighborhood Association, presented Council with several issues. **1.** With the recent expansion of WVU Hospitals offside parking with bus service at 3040 University Avenue is caused for concerns with local residents. **(Exhibit C)** **2.** A gravel parking lot was constructed very quickly and we were concerned if City Codes were followed. The gravel lot exits on University Avenue which is a congested intersection near the Suncrest Middle School and we wonder if any traffic studies were taken. As our City grows we must accommodate such growth. **3.** He also noted the concern of the strip tease bar at 3561 Collins Ferry Road and the Suncrest Neighborhood Association strongly suggests this application be denied. **(Exhibit D)** **4.** The last and final issue is the Suncrest Neighborhood Association is pleased that additional ground has been purchased to construct more classrooms for the Middle School at 360 Baldwin Street, however there is a problem with a portion of the sidewalk at 380 Baldwin Street creating a hazardous safety issue for any child or person walking in that area. I think it is time to find some resolution to this. **(Exhibit E)**

James Prete, 1136 Munsey, commented that the sidewalk on Baldwin Street has been an issue for years; and noted that a complete construction would cost \$30,000. He reminded Council again that it needs to be addressed, what the City has been waiting on to repair this sidewalk. He also questioned the construction of the new Suncrest Middle School; for the way it appears to him the school is a fire trap.

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

SPECIAL COMMITTEE REPORTS: No Report

NEW BUSINESS:

AN ORDINANCE AMENDING SECTION 349.18 OF THE TRAFFIC CODE RELATING TO USE OF ELECTRONIC COMMUNICATION DEVICES WHILE DRIVING: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING SECTION 349.18 OF THE TRAFFIC CODE RELATING TO USE OF ELECTRONIC COMMUNICATION DEVICES WHILE DRIVING.

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

AN ORDINANCE AUTHORIZING AN AGREEMENT WITH MOUNTAINEER CONTRACTORS, INC. LEASING OFFICE SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING AN AGREEMENT WITH MOUNTAINEER CONTRACTORS, INC. LEASING OFFICE SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT.

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

A RESOLUTION TO ENDORSE THE MORGANTOWN HUMAN RIGHTS COMMISSION RESOLUTION FOR SUPPORTING A JUST TRANSITION FOR COAL WORKERS: The above entitled Resolution was presented for first reading.

A RESOLUTION TO ENDORSE THE MORGANTOWN HUMAN RIGHTS COMMISSION RESOLUTION FOR SUPPORTING A JUST TRANSITION FOR COAL WORKERS.

After discussion, motion by Selin, second by Kawecki, to pass the above entitled Resolution. Motion carried 6-1. (Nugent voted no)

A RESOLUTION TO ENDORSE THE MORGANTOWN HUMAN RIGHTS COMMISSION RESOLUTION REQUIRING COMPLIANCE WITH ACCESSIBILITY DESIGN STANDARDS: The above entitled Resolution was presented for first reading.

A RESOLUTION TO ENDORSE THE MORGANTOWN HUMAN RIGHTS COMMISSION RESOLUTION REQUIRING COMPLIANCE WITH ACCESSIBILITY DESIGN STANDARDS.

After discussion, motion by Ganz, second by Selin, to pass the above entitled Resolution. Motion carried 6-1. (Nugent voted no)

CITY MANAGERS REPORT:

NEW BUSINESS:

1. University Avenue and Oakland Street Intersection Bid Award
According to the 2014 traffic study by Trans Associates Engineering Consultants, Inc., the intersection of Oakland and University Avenue is recommended to have a traffic light to alleviate

congestion on Oakland Street entering onto University Avenue, improve turning onto Oakland with turn lanes, and improve pedestrian crossing at Oakland Street. As seen in the attached letter from Damien Davis, City Engineer/ Public works Director, one company responded to the request for proposals. I recommend awarding the contract to the lowest bid from Graybar, for \$198,775.

After discussion, motion by Ganz, second by Selin to award the contract for the traffic light Oakland and University to Graybar, for \$198,775. Motion carried 4-3 (Bane, Nugent and Redmond voted No)

2. WV Public Theatre Request

City Manager, Jeff Mikorski, asked Council what their preference was for this item. After discussion, Council directed the City Manager to have the Director speak at the next COW Meeting. City Manager noted though if information is obtained before the COW Meeting he will send a letter out to Council.

3. Takoma Street Update

City Manager responded to Tacoma Street issue of parking and the City has already been looking in that problem in that neighborhood also looking at the Baldwin Street traffic light. He will also check with the BOE to see if the school will be acquiring large trucks for storage and MUB about MS4 Standards.

REPORT FROM CITY CLERK: City Clerk, Linda Tucker, announced a Liquor License Application – J.W. Thirsty’s 341 Grill.

REPORT FROM CITY ATTORNEY: No Report.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane gave condolences to the Price family and noted Don Price’s insight and wisdom on the City Charter. He stated that Mr. Price will be missed in this community. He then thanked the City Clerk for the Birthday note.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki stated the SPAN Yard sale was a success and reported that the SPAN’S Block Party will be held on 9-18-15.

Councilor Nugent:

Councilor Nugent echoed Councilor Banes comments about Don Price and also gave condolences to his family. He noted that Mr. Price was not only a mentor but a friend and he taught me to respect the Charter and rules. He stated that I am wanting to carry on his legacy in following such rules. He then thanked the City Manager for the Traffic Enforcement on Willowdale. He then apologized for being absent from the COW; and thanked the Mayor for

contacting him about future budget meetings. He requested that all meeting of such be held in Council Chambers and be televised. He then noted that he watched the COW Meeting from home on 8-25; and was disappointed that a colleague had stated that I was not paying attention. He reminded Council that there are times when members miss meetings for family reasons etc., but; for the order of Council we must show continuity.

Councilor Selin:

Councilor Selin agreed with Councilor Nugent that she too has missed meetings due to family and noted that Council members may have to do this once in a while. She then reported that the “Meet Your Neighbor Event” at the Market Place was nice and very successful, we had food, events and music; also at the Wharf District had Jazz Music starting at 2:30 pm; Art Museum had an open house Friday and Krepps Pool ended with a great year; in fact Morgantown is just a great place to live.

Councilor Redmond:

Councilor Redmond congratulated Councilor Bane on his 5th Birthday; and Condolences to the Tucker Family. He thanked City Administration for the South Hills NH Picnic, FF Brian Jones had a Fire Truck on display and Aaron Dull had the new Canine Dog. He noted this was great for the children and the adults to learn about our City Departments.

Councilor Ganz:

Councilor Ganz wished Councilor Bane a Happy Birthday. She then reported that the Suncrest Neighborhood Association had a great meeting and that the next meeting will be September 24th, 2015. She then mentioned the concerns about tailgating and suggested that the City Manager/Administration work on a permit process before the Maryland game. She mentioned that the questions asked during Boards and Commission interviews are for consistency and information. She thanked BOPARC staff

for another summer of community activities at our parks and pools. She also requested her report be added to minutes as part of the record. **(Exhibit F)**

Mayor Shamberger:

Mayor Shamberger welcomed Councilor Bane to her decade. She then thanked the City Manager for his help in assuring that the, "Meet Your Neighbor Event was a success. She sent her condolences to the Price family and Tucker family and then noted that in the Council Journal of November 19, 1991 Councilor George Nedeff requested that meetings not last more than 4 hours. **(Exhibit G)**

EXECUTIVE SESSION: Motion by Ganz, second Selin, to go into an Executive Session to discuss the City Managers Evaluation per State Code 6-9A-4(b) (2). Present City Council and City Manager. Time 8:55pm.

ADJOURNMENT: There being no further items of business or discussion, motion by Selin, second by Ganz to adjourn. Motion carried by unanimous consent at p.m. 10:43 pm.

City Clerk

Mayor

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

Linda Tucker

From: Jeff Mikorski
Sent: Friday, September 11, 2015 12:07 PM
To: Jay Redmond (CC Ward 6); Jenny Selin (C.C. Ward 4); Linda Tucker; Marti Shamberger (C.C. Ward 5); Nancy Ganz (CC Ward 7); Ron Bane (CC Ward 1); Wes Nugent (C.C. Ward 3); William Kawecki (C.C. Ward 2)
Subject: Urban Agriculture Ordinance
Attachments: Ordinance - Amending Article 505 Regulating Animals and Fowl 4.pdf

Good morning City Council members,

As you will see in the Council packet for Tuesdays meeting, the Urban Agriculture Ordinance has changed slightly from the version at the Committee of the Whole. We have included limitations in the Article 505 that have been discussed at past meetings. This change has the following effect:

- The number of fowl identified (this Ordinance has been modified from three to six based on Council discussion at the Committee of the Whole) cannot be changed by with a variance.
- Setbacks (including the included distance from neighbors houses identified at Committee of the Whole) cannot be modified with variances.
- We will enforce the Ordinance on all premises in the city equally (see discussion below on non-conforming uses)
- Registration of fowl is included

Sincerely,

Jeff Mikorski, ICMA-CM
City Manager
City of Morgantown, WV
304-284-7405
Note new email address: jmikorski@morgantownwv.gov

Jeff,

I'm writing to follow up briefly on our discussion this morning about the ordinance regulating animals under Article 505, and specifically the opportunity to establish nonconforming uses as exceptions to police power regulations. The commonly-used treatise on zoning states that "[b]ecause the nonconforming use doctrine was developed in the context of zoning, the courts may refuse to extend it to other types of regulations." 2 Am. Law. Zoning § 12:4 (5th ed.). Nonconforming use challenges to ordinances adopted under the general police power (as opposed to the specific power to enact zoning, which is a derivation of the police power) are made, though I've found no reported decisions in West Virginia on this issue. A 2007 Kansas Court of Appeals decision found that a town's prohibition of farm animals did not allow residents to maintain nonconforming uses. *Bice v. City of Rexford*, 168 P.3d 67 (unpublished). Central to the court's decision was that the essence of zoning is the creation of zones within the city where certain activity is permitted, and the farm animal ordinance did not create such zones. *Id.* at *2. The court also referred to instances where Kansas courts had previously found cities may regulate animals under the police power. *Id.* (See *Hearn v. City of Overland Park*, 244 Kan. 638, 772 P.2d 758 (1989) (upholding ban on pit bulls within city); *State v. Risjord*, 249 Kan. 497, 819 P.2d 638 (1991) (upholding limits on horseback riding within city parks); *Dorssom v. City of Atchison*, 155 Kan. 225,

124 P.2d 475 (1942) (upholding city authority to require tuberculosis testing of cows within city). While this is not binding precedent in West Virginia, it demonstrates that courts will uphold regulation of animals under a general grant of power from the State against challenges from residents claiming they have established contrary property rights.

It is important to note that courts will inquire into the nature of the ordinance when determining whether it is a zoning ordinance that permits continuation of nonconforming uses or a general exercise of a city's police power. In a Tennessee case challenging an ordinance regulating fireworks, the Court determined that nonconforming uses were not permitted to continue because the ordinance did not refer to the city's comprehensive plan and did not involve "land, zones, buildings, lot lines, or any other terms and concepts customarily associated with comprehensive zoning plans." *SNPCO, Inc. v. City of Jefferson City*, 363 S.W.3d 467 (Tenn. 2012). This review is called the "substantial effects" test and considers two factors: (1) whether the ordinance is so closely related to the zoning plan that it can be fairly characterized as zoning; and (2) whether the challenged ordinance substantially affects the use of the property. In one application of a similar theory, a Michigan court found that kennel licensing regulations were equivalent to zoning and nonconforming use challenges must be considered. *People v. Strobridge*, 127 Mich. App. 705, 339 N.W.2d 531 (1983). However, it is fair to note that the same regulation prohibited kennel licenses in residential areas, so some specific attempt at zoning was made. *Id.* With reference to Morgantown's proposed revisions to Article 505, you and Council should be aware that the inclusion of matters commonly used in zoning – setbacks, references to use of a premises and principal building – could be used by a reviewing court to determine that residents may establish and continue nonconforming uses or that prevention of those uses is a regulatory taking. Use of some zoning principles is not always fatal to exercise of the general police power. In New Jersey, State legislation requiring setbacks for sexually-oriented businesses was found not subject to nonconforming use principles because the legislation was not zoning, although the decision was based in part on the specific provisions of state legislation that provided for nonconforming uses only in the context of municipal zoning regulations. *Do-Wop Corp. v. City of Rahway*, 168 N.J. 191, 773 A.2d 706 (2001).

There is no specific precedent in West Virginia as to whether an ordinance adopted pursuant to a city's *W. Va. Code* 8-12-5(26) power to regulate animals and fowl permits nonconforming uses to continue. Generally, exercise of the police power – often considered as establishment of criminal laws – does not permit preexisting uses to continue. The specific provisions permitting nonconforming uses to continue until abandoned in West Virginia are established by *W. Va. Code* 8A-7-10 and do not specifically apply to municipal exercise of authority derived outside of Chapter 8A (permitting zoning). However, the statutory provision for nonconforming uses is partially a codification of a constitutional principle preventing the taking of property without just compensation, and, as noted above, a court may consider whether that principle applies even when the City acts under general police powers. Nonconforming uses are less likely to be permitted if the proposed ordinance does not rely on setbacks, lot lines, and particular uses of a structure, though ensuring uniformity of application is one of many appropriate goals for Council when legislating.

Please feel free to discuss this or pass this message on to Council if you believe it will be helpful. I am available to discuss any issues, though it should be noted that discussion of specific legal challenges to an ordinance – i.e. does a person possessing hoofed animals have a right to continue a nonconforming use under this proposed ordinance – is problematic in a public meeting as a matter of legal strategy, because it creates the potential to advise opponents of available challenges to an ordinance and could limit viable defenses by the City in favor of upholding an ordinance.

If I can be of any additional assistance, please let me know.

Sincerely,

Ryan Simonton
City Attorney
City of Morgantown
389 Spruce Street
Morgantown, WV
(304) 284-7477

Correspondence Exhibit A

To: Morgantown City Council
From: Frank Gutta
Re: Van Voorhis abroad vacant lot (George Property)

It is my understanding that the George family has again leased the property to a person or group who plans to use it for parking and tailgating for students. This is not the same person who has leased it in the past. This property is zoned PRO which as I recall the use of a parking lot is not permitted. I would like to remind you of the problems that adjoining property owners have had due to the partying that takes place on this lot. If the City of Morgantown is going to allow the illegal use of this property as a parking lot and the disorderly conduct that stems from the parties on football Saturdays, I expect that our surrounding properties will have adequate police protection from the trespassers who urinate, throw up, deface and have open sex on our properties.

The City should not allow this property to be used for a parking lot as a PRO Zone does not permit it. Several years ago the Wedgewood Doctors requested to use the lot for additional parking and were denied. A PRO Zone also does not permit one to lease property for the use of an open bar.

I can be contacted at [304-288-6875](tel:304-288-6875) if you have any questions.

Sincerely,
Frank a. Gutta III

Nancy Ganz <nancyganz7@gmail.com>

Aug 30 (2 days ago)

to Frank, citycouncil, jmikorski

City Council and Manager,

Mr. Frank Gutta speaks for himself and numerous neighbors in 7th Ward to say that the partying on this property is unacceptable. There is no getting around the fact that it attracts negative activities to the surrounding area.

This needs to be addressed prior to the first game. I understand the police chief and WVU entities may have been in conversation, but it might be helpful to let out some information to allay the community concerns.

Respect,

Nancy Ganz, City Council Ward 7

correspondence

August 28, 2015

Robert Moats, Commissioner
Alcohol Beverage Control Administration
900 Pennsylvania Avenue
4th Floor
Charleston, West Virginia 25302

Re: Suncrest Neighborhood Association's Request for Denial of License for Prestige Venture Capital, LLC d.b.a. H2O 3561 Collins Ferry Road, Morgantown, WV

Dear Commissioner Moats:

This letter is a request for the denial of the liquor license application filed by Prestige Venture Capital, LLC d.b.a. H2O. Prestige Venture Capital, LLC wants to reopen a strip bar in our community located at 3561 Collins Ferry Road, Morgantown, West Virginia. This neighborhood has endured the effects of the prior strip bar for years. Finally, due to the violent and unlawful activities that encompassed the prior strip bar, it was shut down. Now, another business, who has the same purpose of opening a strip bar, has applied for a new liquor license. Allowing another strip bar to come into the Suncrest neighborhood is detrimental to our neighborhood and the families that reside there.

By way of background, the Suncrest neighborhood of Morgantown is a storybook place with tree-lined streets, green parks and play areas, quiet neighborhoods, outstanding schools, world-renowned health care and plenty of cultural amenities. We were founded on the belief that friendly neighborhoods and responsible community development are key. However, this neighborhood is not the place for a strip bar type establishment.

To begin, the prior strip club brought with it crime, noise, and concerns about neighborhood safety. The police have been called to this location on numerous occasions. Residents of Suncrest have reported hearing gun shots, and witnessing alcohol related wrecks on the only road that provides ingress and egress to the bar location. While the noise from the bar disturbs the peace and quiet of this community.

To make matters worse, there is a new elementary school being built within close proximity to the bar location. Again, the only ingress and egress to the new school is past the bar, and there is a school bus stop located in the bar's parking lot. Also within close proximity to the bar is a day care, and assisted living/nursing home.

This area is not a commercial area. While there is professional offices located nearby, the area is surrounded by single family homes, and a community apartment complex directly behind the bar. Patrons of the bar must travel past blocks of our neighborhood to even reach

Exhibit C



Morgantown, West Virginia 26505

To: Morgantown City Council

September 1, 2015

Greetings,

WVU Hospitals plays a vital role to our community providing health care and employment opportunities. We value and appreciate their presence and the Suncrest Neighborhood Association hopes to engage in cooperation and communication regarding our local relationship.

The recent expansion of their facilities and off site parking with bus service at 3040 University Avenue is cause for concern for local residents. A gravel parking lot with 117 spaces was constructed very quickly and we wonder if city codes were considered in the process. Greenspace buffer zones are not present and the open lot is currently an unattractive sight where a primary gateway into our residential neighborhood begins at Collins Ferry Road. This gravel lot now exits on University Avenue directly into an already unsafe and congested intersection that includes school busses exiting Baldwin Street from our Suncrest Middle School. This portion of University Avenue is under WVDOH jurisdiction and we wonder if any traffic studies were undertaken to consider the impact upon safety and volume.

It is our understanding that the residence located at the address of 1127 Munsey Street adjoining the property on University Avenue has been purchased by WVU Hospitals with the possible intention of expanding the parking lot and further development. We certainly hope that there is no consideration by the City of Morgantown to allow any of the excessive vehicle activity to have access to Munsey Street and the surrounding neighborhood. The impact is already felt upon us with a neighbor choosing to move after learning of the possibility.

As our city grows and services expand flexibility upon established positions may be under review for accomodation of such growth. The Suncrest Neighborhood Association is willing to hear all reasonable proposals. But in order to maintain the quality of living and neighborhood integrity that appeals to longtime residents and newcomers alike we ask that all developers, businesses, corporations, West Virginia University and it's hospital implement and execute a planning process that considers all parties involved.

Sincerely,

A handwritten signature in cursive script that reads "Matthew Cross".

Matthew Cross
 President
 Suncrest Neighborhood Association



Morgantown, West Virginia 26505

To: Morgantown City Council

September 1, 2015

Greetings,

At our August meeting of the Suncrest Neighborhood Association it was brought to our attention that the establishment located at 3561 Collins Ferry Road, which is known to be a striptease bar is applying for a liquor license from the WVABC. We strongly request that this application be denied.

Our community greatly appreciates the efforts of our Monongalia County School Board to purchase land closely bordering Suncrest with the intent to build a modern facility for our children. Construction is under way with an estimated completion date for the new school being 2017.

The address for our future school is 3647 Collins Ferry Road. The address of the striptease club is 3561 Collins Ferry Road. The distance between

the properties is within one hundred yards and Collins Ferry Road is the only access to the school requiring school busses and parents to drive past the establishment which has a setback from the road of only forty seven feet.

The Suncrest Neighborhood Association hopes to create the best environment possible for our children to learn and grow in. We see a bar/stripleub in such close proximity to our elementary school as having a detrimental effect to this commitment and hope that the WVABC agrees and will deny the application.

Sincerely, *Matthew Cross*

Matthew Cross
President
Suncrest Neighborhood Association



Morgantown, West Virginia 26505

To: Morgantown City Council

September 1, 2015

Greetings,

The Suncrest Neighborhood Association is very pleased that additional ground has been purchased by the Monongalia County Board of Education to construct more classrooms for our Suncrest Middle School located at 360 Baldwin Street. Suncrest Middle has been a top performer in the state and should continue to be so.

Along with the building construction a new sidewalk is expected to connect with the current sidewalk on Baldwin Street. There is however a longstanding problem with a portion of this sidewalk located at the property adjoining the school with the address of 380 Baldwin Street. For many years now the concrete has become so dilapidated as to be almost non-existent, creating a serious safety hazard and barrier to any child or person walking to the school or destination nearby. I myself travel this route and think it is time now to find some resolution to this.

Morgantown Municipal Code 913.03 determines (paraphrase) "it shall be the duty of the owners or occupants....to pave and repave the same... whenever required by an order of council to do so". Many of us know this particular property has been in question before and the responsibility has been contested. In instances such as this it becomes now a question of civic duty to communicate, cooperate and if necessary enforce the laws which we have deemed to be right and appropriate.

We hope at this time with the expansion of our neighborhood middle school we can all come together for a solution. It really is a sad shame that our city, with all of it's appeal and prosperity cannot provide a safe path for a child to walk to school.

Sincerely,

A handwritten signature in black ink that reads "Matthew Cross". The signature is written in a cursive style.

Matthew Cross
President

Suncrest Neighborhood Association

Council Report Tuesday, Sept. 1, 2015; Nancy Ganz 7th Ward

Co councilors, as you can see there is much going on in our community:

- Suncrest Neighborhood association had another great meeting. I encourage all Suncrest Stakeholders to put on their Calendar the next meeting, Thursday, September 24 when Developers and BOE staff may attend.
- Concerns about tailgating as you heard: Suggest city manager and police chief and whoever work out a party permit process to include a deposit, numbers, potties, trash, security, and control of underage drinking. This would help those who have a party keep it in control and will help neighbors not suffer ill effects. Police would be able to follow through possibly in more effective manner.

Boards & Commission questions are same for all candidates
 • City manager and council: can we write a letter paralleling SNA letter *Need for consistency in information provision processes*
about strip club

• WVU healthcare issues as R1 and other zoning become parking lots or ingress egress into our neighborhoods *→ what are processes towards working in this?*
Importance of WVU planning water drainage into our community

• Working with School Board and property owners to pave Baldwin where property fronts. I believe city won court case with property owner several years ago and needs to follow through or work with school board to do such *\$30,000 for paving*
Sat in court hearing w/ Council & ordered to do it

Boards, commissions - all people interviewed as same questions
 • Thanks to Boparc staff for another super summer of community activities in our parks and pools.

These activities serve to unite our communities and neighborhoods.

Sept 18 - Spam block party

Mayor Marshall:

Referred to comments from Larry Murray regarding the possibility of a local insurance agency providing the employees' insurance. Discussion followed during which it was pointed out that local companies did not respond except for Booker Walton. Concern about the insurance costs for retirees was expressed.

EXECUTIVE SESSION:

At 11:00 p.m., Councilor Bloom moved to enter executive session pursuant to 6-9A-4 of the West Virginia Code to discuss personnel matters and asked that the following persons be present at different times: Intermin City Manager, Staff Attorney, Assistant Staff Attorney, Airport Director, Lou Dempsey, David Bruffy and Frank Calzonetti. Motion was seconded by Councilor Scafella and passed 7-0.

REGULAR SESSION (resumed):

At 12:23 a.m., Council returned to regular session at which time Councilor Scafella moved that George Nedeff, Terry Stobbe, Michael McCawley, Dean Watson, Charles Chico, Barton Loar, Frank Calzonetti and Frank Saus be approved as citizen members of the Beechurst Power Plant Advisory Committee; that City Planner Bill Bechtel be approved as the City Administration's appointee to this committee. The motion was duly seconded and approved unanimously. The City Clerk is to inform each of the committee members of their appointment.

Councilmember Nedeff moved that Morgantown City Council meetings not exceed four hours in duration. Motion was duly seconded and approved unanimously.

ADJOURNMENT: There being no further business, the meeting adjourned at 12:45 a.m..


City Clerk


Mayor