

REGULAR MEETING September 15, 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 15, 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 September 1, 2015 meeting were approved as printed. Councilor Nugent ordered a point of order and noted that packets need to be sent out in a timely fashion per the Sunshine Law.

CORRESPONDENCE: Mayor Shamberger read an e-mail from Doug Milbrand requesting that it be read in as part of the record, attended a Green Team meeting to gather information about the agriculture ordinance. He stated that Citizens should not be criminalized for using their land as they fit. **(Exhibit A)**; Mayor Shamberger presented a proclamation to Frank Scafella for Doug Shepherd to honor him and his extraordinary commitment and service to the City of Morgantown and its citizens for his unique revitalization and remodeling of the 3rd Street area; Mayor Shamberger also announced a Proclamation in honor of EcoCAR Day. Councilor Ganz read a letter from Joan R. Gibson that lives at 1104 Koontz Avenue in regards to Koontz Avenue and Munsey Street. It read that on September 8, 2015 their life changed drastically. Joan walks every morning early and that day on September 8th, 2015 she saw headlights everywhere as pickup trucks were parked on Koontz and up Munsey. The trucks were from the contractors that are working on the Prete building. The men were told by WVU Healthcare that they were not able to park in the parking lot of the building where they were working. WVU Healthcare showed them aerial photographs and told them that they could park on Koontz and Munsey. There was a sign that was put up on the Woodford property asking that they not park in the blind curve on Munsey. With the parking along Koontz it is impossible to drive up or down for only it is restricted to just one way for a car to travel. Not only is it the neighborhood not able to travel the road both ways but also the United States Postal Service is as well. Prior to the invasion, perpetrated by WVU Healthcare, the street worked for residents but that ended on Tuesday, September 8th, 2015 at 6:00 am. **(Exhibit B)**; Councilor Selin announced that October is Domestic Violence Month. Councilor Nugent read correspondence from Jim Manilla, Richard and Shirley Herstine, and Susan Hine. All are against Ordinance permitting 6 chickens in every backyard in the City. **(Exhibit C)** Councilor Redmond read correspondence from Andrew Lohmann, Sharon and Richard Hilleary, Bill Wasson, and Patricia Stemple asking Council not to approve City residents to allow chickens on their properties. **(Exhibit D)** Councilor Ganz requested point of order and do all emails have addresses attached to them. Councilor Bane mentioned an email from Barbara Olsen on Lebanon Street stating that the proposed law addresses some issues but is vague and has the potential to bring havoc and undesirable consequences to city property owners. He also received one from Madonna Bird and Jack Yorty. **(Exhibit E)**

PUBLIC HEARINGS:

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

Mayor Shamberger declared this Public Hearing open.

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

AN ORDINANCE AUTHORIZING AN AGREEMENT WITH MOUNTAINEER CONTRACTORS, INC. LEASING OFFICE SPACE 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 AMENDING SECTION 349.18 OF THE TRAFFIC CODE RELATING TO USE OF ELECTRONIC COMMUNICATION DEVICES WHILE DRIVING: The below entitled Ordinance was presented for second reading.

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

After discussion, motion by Selin, second by Ganz, to adopt the above entitled Ordinance. 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 second reading.

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

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

BOARDS AND COMMISSIONS: By acclamation Council appointed Ross Justice and Rodney Pyles to the Museum Commission. Deputy Mayor Kawecki gave an update on the Morgantown Housing Advisory Commission that he will confirm with the members on appointments and will report back to Council with the update.

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

Dave Biafora, 11600 Mid Atlantic Drive, is still looking to see how \$80,000 was taken to pave a street by a developer who does not have a permit and pay taxes. Everyone is due that because when Harding Avenue was paved it was not on the list. Dave had tried to contact Jeff Mikorski, City Manager four different times and no phone calls were returned so he come in and he was given 4 different years 2011, 2012, 2014 and 2015. He would like to know why the City has a right to take tax payers money and build a private development when there are roads that need to be paved. He has a street that needs to be done and he hopes that he will get a response from the City, and not have to get a lawyer to get a response.

Adrienne Dering, 26 Maple Avenue, and she is speaking in regards to the Ordinance on residential fowl. According to ASPCA there are 80 million dogs and cats that live in this country. Adrienne is

comparing residential dogs and cats to farm animals and the statistics are 47% of those residents own a dog and 37% own a cat. The general way people acquire a dog or cat is 20% from a breeder, 29% from a shelter, and the remaining percentage were given as gifts or received from family members. Approximately 75% of people who own a dog or cat had another human being approve them and 57% filled out an adoption contract to prove they are responsible to own one. You can buy chickens for \$1.50 at the Tractor Supply Store with no contracts and coupons cost around \$150.00. There is no education involved in that choice and there is no community to rely upon for information about that choice. If a dog or cat gets sick there are 15 licensed veterinarian clinics in Morgantown but there is only 1 Avian in the whole state of WV that will see farm animals. Dogs and cats are domesticated animals and are bred to perform services for people whereas chickens are bred and raised for food and that can be done outside the City.

Ivy M. Deal, 408 Cobun Avenue in Greenmont, addresses the ongoing controversy regarding the Chicken Ordinance and its keeping inside the City. She feels that it is a good source for food in which it costs less than what you would pay in a grocery store. She states that she is a Real Estate Appraiser and has been for 10 years and she says that urban chicken keeping is detrimental to property value which is not accurate. She feels that the Ordinance that is proposed is overly onerous and she is in complete favor of some of the regulations to keep both chickens and neighbors happy and healthy and that the controversy has been distorted out of proportion to the actual issue. **(Exhibit F)**

Barbara Olson, 2015 Lebanon Street, states the first issue that there are some areas in City that has property that is not a complete uniform rectangular shape. For example her backyard is at an angle and it curves and is surrounded by 6 different neighbors. If the Ordinance is passed as proposed that would mean that she would be surrounded by 36 chickens, 18 rabbits, and 18 miniature pigs. If she decided to move would she get the fair market value for her home and property when it is surrounded by 72 farm animals? The second issue is that any animal that is kept in the city limits should be treated as and considered to be a pet. That is what makes a city residence different than a farm. She read a section of the City Ordinances that defines a kennel as 4 or more dogs, or any small animal kept in any lot or premises. City Council needs to model this agricultural ordinance in a similar fashion and allow 3 small animals per lot, dogs, cats, chickens, rabbits or miniature pigs and if a person wants to have chickens allow 3 per lot, as long as they don't have a dog, cat or any other small animal. If they have a dog then they are limited to 2 chickens in which is fair to all parties and is manageable within the city properties and if they keep the property maintained it would help prevent anyone from becoming a nuisance to neighbors. **(Exhibit G)**

James Kotcon, and he is speaking on behalf of the Morgantown Green Team and they have been extensively involved in the Urban Agricultural Ordinance. The Morgantown Green Team is concerned that in order to appease the vocal opponents, the latest draft has lost sight of what the original intent purpose was first proposed. They compared the draft under consideration now with the ones that was previously discussed. There were several issues that were different in the current proposed Ordinance versus the original Ordinance. Morgantown Green Team supports the original intent of the Urban Agricultural Ordinance and urges the City Council to return to the principles that guided them from the first original proposed Ordinance. **(Exhibit H)**

Ruth Heavener, 1145 Louise Avenue, speaks in regards to the Ordinance that is in place now. The Ordinance has been in place since the 1950's and chickens have been in the city with 2 chickens (roosters as being not allowed) without any permission of any neighbor and if the permission was got the sky is the limit. When there are a reasonable number of chickens they are healthier. The only complaint has been with one family and this is what the fire storm is about. She requests the City Council think about that because not everyone wants chickens but thinks that it is a good option.

Mary Singleton, 225 Lebanon Street, stated that the one thing that she liked about the old Ordinance is that the neighbors did have some say. They should allow neighbors in a reasonable way to be part of the

decision to have chickens, which she prefers to not have chickens however she knows that other people have other preferences. Do we really want an Ordinance that is structured so because there are many options forces to consider. In the new Ordinance there is nothing in it that acknowledges that there is any other point of view. She employers council that of they are determined to pass the Ordinance allowing chickens that they would include neighbors, whether permission by letter is received so there will be more conclusive. She believes that this Ordinance is going to be very extremely detrimental and create discord in neighborhoods. Everyone should be equal and if you do not give that person recourse other than the most extreme forms then it is going to create disharmony in the neighborhood.

Steve Farmer, 2234 Suncrest Village, states that he has seen and heard from both sides the pros and cons and mentions that chickens are not pets and they are farm animals for farm purposes and should be for conditional use. 90% of people in their neighborhood should not be subject to the will of 10%. For the people who want chickens should have to get a conditional use permit in order to do so and also notify their neighbors so that if they do not agree they are not able to have them. He believes that it would not be opposing the will of a person or a minority on the majority of the neighborhood and that would mean only one reason why Council would not adopt such a plan and that would be you opposing your will on the majority of this community for the benefit of the minority. He thinks that this could be the only reason why they have not put this into an unconditional use permit which would give the neighbors, the voice to protect, the character of their neighborhood. Steve suggests that the Council give the power to the people of the neighborhoods to decide what their neighborhood is going to look like.

Andy Wilkins, 293 Dormont Street in Hopecrest, stated that when his family bought a home in Morgantown they had no problem with livestock being raised in the city. Back in the day they were protected by the R-1 district which secured his family and home in which his home was his largest investment. He gave us the definition of the R-1 District that provides for single family neighborhoods that prefer larger lot sizes and do not generally desire to live in the close proximity to other types of uses and preserves the desirable character of existing single family neighborhoods and protects the single family residential areas from change and intrusion that may cause deterioration and to provide for adequate like ventilation while in privacy for neighborhood residents. He feels that if the Ordinance passes then his rights would be taken away. He is protected from a mobile home moving in next door to him or an Industrial Park being built next to him but he is not protected from a flock of chickens next to him. He agrees with several other speakers this evening and thinks that the neighborhoods need to be able to decide whether their neighborhood wants to have chickens.

James Giuliani, 256 Prarie Avenue, he has been coming to all the meetings since this has started and he thinks that they should look into a Pilot Program. He also stated that the County Justice System opened today and it was magnificent and it is a great asset to The City of Morgantown. He also wants to know why they are wanting to take most of the parking away from Weaver Street. He feels that it is not right for the City to just come in and decide this without any notification. He thinks that there is some favoritism going on and that is why nothing is getting done in his neighborhood. The last and final thing is about the garbage at the end of Prarie Avenue that have been sitting there for the last 5 years and cannot get them moved and also couches that have been on porches for several months, he has contacted the City Manager and nothing has been done about it.

Tara Thineberg, a current Morgantown homeowner and she has almost completed her doctorate in the Public Health field of Epidemiology and has a Master's Degree in Public & Community Health. What is the use of land if not to provide economic prosperity to our children and to our future generation? She feels that Urban Agriculture is essential to the community and is in favor of the first original Ordinance and is not opposed of the proposed amendments as they stand.

William Davis, 116 Forest Drive, come to speak in regards to the changed Ordinance. He is not sure why but is it because of the 80 feet inside or outside? This has promoted a Wild West mentality rather than community with understanding. All that he asks is for Council to try to build the community with communication between residents. This ordinance once it is passed who is going to enforce it under general offenses? Do you really want to burden our underfunded, under staffed police department with additional tasks at this time? Some residents have chickens as pets, a pet that is loved just like a family dog or cat, but once this Ordinance passes what will happen to the family pet. His family just moved here from Belgium and purchased a home in the city. The one thing that made us decide of living in the city was that the urban agriculture within the Ordinance. He would like to keep it attractive. **(Exhibit I)**

Sherry Owens, WV School of Public Health, is in favor of the original Ordinance.

Matthew Held, 213 Kingwood Street, a lot has been said in reference to this Ordinance and chickens have been a loud for a long time. The mistake that was made was about modernizing this Ordinance before this incident occurred in Hopecrest. He noted that he also is a 6 chicken household owner which puts him at risk and stated that he uses chicken manure as compost for his garden. He reminded Council that this is his family's way of living.

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

SPECIAL COMMITTEE REPORTS: No Report

NEW BUSINESS:

AN ORDINANCE AMENDING ARTICLE 505 REGULATING KEEPING OF ANIMALS AND FOWL: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING ARTICLE 505 OF THE GENERAL OFFENSES CODE REGULATING THE KEEPING OF ANIMALS AND FOWL.

Point of order by Councilor Bane to take off the tablet. After discussion, motion by Kawecki, second by Selin, to table the above entitled Ordinance. Councilor Selin would like to have staff review the tabled Article 1329, 1331, and 505 related to Urban Agricultural and bring back all three original Ordinances to the agenda that was first brought forth in front of Council. After discussion, motion carried 4-3. (Bane, Nugent, Redmond voted no)

A RESOLUTION APPROVING AGREEMENT WITH WEST VIRGINIA UNIVERSITY RESEARCH CORPORATION: The above entitled Resolution was presented for first reading.

City Manager explained, motion by Nugent, second by Kawecki, to pass the above entitled Resolution. Motion carried 7-0.

CITY MANAGERS REPORT:

New Business:

1. Recommendation to restrict parking on Weaver Street

Weaver Street has been one of the City's narrowest travel streets due to a narrow right-of-way and on-street parking, and has created problems for trash pickup, emergency response vehicles, or snow plows to service the residents of the street. Based on recommendations from Fire Chief Mark Caravasos, City Engineer Damien Davis, and Parking Authority Director Tom Arnold I am

requesting the removal of on-street parking on Weaver Street from Richwood Avenue to Oak Street. According to Code 305.02, the City Manager can recommend to City Council that on-street parking to be removed from a street. If Council approves of the recommendation, it shall be recorded into the minutes by proper order.

After discussion, motion by Ganz, second by Kawecki to restrict parking on Weaver Street. Motion carried 6-1. (Bane voted no)

2. West Virginia Public Theatre request for support

At the September 1 City Council meeting, Larry Mabrey, Executive Director of the West Virginia Public Theatre, requested emergency funding in the amount of \$3,600 for the operations of the Public Theater. The West Virginia Public Theatre has been a big part of the art and culture of Morgantown for many years. With the new leadership and direction of the Theatre and their efforts to reduce outstanding debt, I am recommending that \$3,600 of our Capital Escrow contingency be utilized for supporting the West Virginia Public Theater operations as identified in the attached letter.

After discussion, motion by Selin, second by Kawecki to fund the West Virginia Public Theatre \$3,600.00 for the operations of the Public Theatre until the end of December. Motion carried 6-1. (Bane voted no)

3. Halloween Trick or Treat in 2015

Each year the City of Morgantown identifies the time for Trick or Treat throughout the City. This year Halloween falls on Saturday, so I recommend Trick or Treat be acknowledged as Saturday, October 31, from 6:00 pm to 7:30 pm in the City of Morgantown.

Approved by consensus trick or treat will be on Saturday, October 31st, 2015 from 6:00 pm to 7:30 pm in the City of Morgantown.

4. Letter to WV Alcohol Beverage Control Administration

During the September 1, 2015 City Council meeting, the City of Morgantown was requested by the Suncrest Neighborhood Association to voice concern to the West Virginia Alcohol Beverage Control Administration regarding a liquor license application for Prestige Venture Capital, LLC d.b.a. H2O to be located at 3561 Collins Ferry Road. I will be presenting a letter for City Council to review and act upon.

After discussion, it was approved by council to continue with a letter to be written to West Virginia Alcohol Beverage Control Administration on behalf of the community. Motion carried 4-3. (Bane, Nugent, Redmond voted no)

REPORT FROM CITY CLERK: Linda Tucker announced that Fire Applications are still being accepted until Thursday, September 17th, 2015 at 5:00 pm.

REPORT FROM CITY ATTORNEY: Ryan Simonton reported that the City Manager, Jeff Mikorski, and City Attorney attended the meeting of the Home Rule Board. The board considered and approved the City's proposed Amendment to grant the Fire Marshals limited law enforcement authority. This will be on the COW Meeting this month for further discussion.

Assistant City Manager, Glen Kelly mentioned that the City Manager, Jeff Mikorski, was going to bring up the approval for the certifications for the grant approval that was new from the FAA in which was supposed to be briefed by the City Manager, Ryan Simonton, in which he stated that it was already done. Assistant City Manager, Glen Kelly, mentioned that Mr. Yoder had signed a requested annexation with City Attorney, Ryan Simonton today.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane requested that City Administration be given enough time to give corrections to the animal Ordinance and suggested that it be brought back to the meeting October 20th, 2015. He noted that he is not going to support the Ordinance and said that 6 chickens are too many and that the citizens need to have input and residents need to be protected.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki announced that the South Park Neighborhood Association will be hosting the 26th Annual Block Party on September 18th and for everyone to bring a dish.

Councilor Nugent:

Councilor Nugent announced the next Wiles Hill Highland Neighborhood Association Meeting September 16th, 2015 at 7:00 pm. He then mentioned that he will follow up with the City Manager on some Ward based issues. He then mentioned as in his earlier comments about the Agenda public notice concerns and mentioned possibly to back up the production to adhere to make sure the agenda goes out by Thursday. He also will work with staff of Boards and Commissions to also adhere to these rules.

Councilor Selin:

Councilor Selin announced that the President of the Bicycle Board would like to do a presentation at a COW Meeting about the shared land markings in which would allow bicycles to use partial or full lane. Also signs are getting ready to be put up and she was wanting to get approval by Council for the Bicycle Board to go ahead with the presentation to move forward with this project. Councilor Selin mentioned that she and the City Manager was at the

opening ceremony today for the new Justice Center and congratulated the County Commissioners, and that everyone has been waiting on this for a long time and wished them all well. Councilor Selin also mentioned the upcoming Create WV Conference and encourages all of Council to think about attending this for the continuing education.

Councilor Redmond:

Councilor Redmond discusses his displeasure on the Urban Agriculture Ordinance stating that the progress has gone backwards and is a complete mess. Councilor Redmond mentions that an email he received this week from the Green Team was very unhappy with the response that was given in regards to the Urban Agriculture Ordinance. He was reading by memory in which he did not have it in front of him but stated that it seems as though the Ordinance has been high jacked by political interests. Councilor Redmond responded to that stating that if the will of the people is considered high jacking then he thinks that the Green Team has shown their true colors and what their true motives are. Councilor Redmond wanted to congratulate Assistant City Manager, Glen Kelly in the negotiation with Mr. Yoder and feels that the City of Morgantown and Mr. Yoder will benefit from this. Councilor Redmond announced that tomorrow will be his Ward Tour and that he has 5 Neighborhood Association's involved and in 3 hours they are going to have to hustle to get everything covered.

Councilor Ganz:

Councilor Ganz thanked the City Manager, Jeff Mikorski and staff for touring the 7th Ward with the Suncrest Neighborhood Association President. Councilor Ganz also mentioned that they looked at the concerns with street repairs, speed, and safety and also looked at concern's with WVU Healthcare's parking which is the construction vehicles that is blocking community

streets and would like to work with the City Attorney, Ryan Simonton and others to talk with someone at WVU to express this concern. Councilor Ganz stated that Suncrest has made tremendous progress due to the aggressive tailgating that was happening. She thanked the property owners in choosing to not have tailgaters and also some smaller parking lots have also made them alcohol free and has been an asset to the neighborhood. Councilor Ganz mentioned that the next Suncrest neighborhood Association Meeting will be next Tuesday, September 24, 2015 at 7:00 pm at Calvary Baptist Church. Councilor Ganz wanted to thank Jamie Summerlin, Veterans and the Marathon event coordinators for having the Marathon here in the City of Morgantown and notes that this would be a good time for neighbors to rev up their property so it will look nice for the International runners coming for the marathon and to put out that welcoming mat.

Councilor Selin:

Councilor Selin wanted to see if she can correct something about the Green Team if she could, Mayor Shamberger then said that she did not think that we should address that right now and that we should finish these reports and then Councilor Selin stated that she would be brief. Councilor Selin commented I just feel then Councilor Nugent called for a point of order and asked if we could continue with the meeting.

Mayor Shamberger:

Mayor Shamberger announced the next High Street Bazaar will be Saturday, September 19th from 10:00 am to 2:00 pm; Art is Food Friday, October 2nd from 5:00 pm to 7:00 pm and Arts Walk will be Friday, October 2nd 6:00 pm to 9:00 pm. Mayor Shamberger reported that also on October 2nd at the Woodburn Activity Center there will be "First Friday"; bring a covered dish and listen to some music. She announced that the Art of George B. Evans Exhibit is still being viewed at the Museum;

there will be a MAC Literacy Writing Workshop; WV Botanic Garden Bird Day Event; Book Sale at Morgantown Library and Botanic Garden Fall Mushroom Walk. She mentioned that she will participate in a Gandhi Walkathon that will benefit Habitat.

EXECUTIVE SESSIION: Motion by Ganz, second Selin, to go into an Executive Session to discuss the City Clerks Evaluation per State Code 6-9A-4(b) (2). Present City Council and City Clerk. Time 10:24 pm.

ADJOURNMENT: There being no further items of business or discussion, motion by Selin, second by Ganz to adjourn. Motion carried by unanimous consent at 11:13 p.m.

City Clerk

Mayor

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



READ Corresp.

Exhibit A

Marti Shamberger <shambergerward5@gmail.com>

9/15/15 Urban Agriculture

2 messages

doug milbrand <de.milbs@gmail.com>

Tue, Sep 15, 2015 at 11:59 AM

To: citycouncilward1@cityofmorgantown.org, wm_a_kawecki@comcast.net, citycouncilward3@cityofmorgantown.org, jennifer.selin@mail.wvu.edu, citycouncilward5@cityofmorgantown.org, citycouncilward6@cityofmorgantown.org, nancyganz7@gmail.com
Cc: jmikorski@cityofmorgantown.org

Dear Morgantown City Council,

Please read the following body of this email into the record at the 9/15/15 Morgantown City Council meeting.

Last evening, 9/14/15, my wife and I attended our first ever Morgantown Green Team meeting. The intent of our presence was to gather more information on local efforts promoting sustainability and self-sufficiency throughout the greater Morgantown area. I was distraught to learn that an all-encompassing revision to the urban agriculture ordinance is no longer being considered by the Council as was the original intent. Instead, the amendment to the Planning and Zoning section of the city code has now been reduced and captured within an amendment to the General Offenses code. Having recently purchased a residence with enough land for a garden and fruit trees, I have experienced first hand the financial benefits a supplemental food source can provide. This will be extremely beneficial for lower-income residents of the city of Morgantown. In addition, the abundant harvest that is produced from urban agriculture is enough for sharing. This further strengthens the sense of community among neighbors and neighborhoods, thereby increasing desirability and consequently real estate prices. If the opportunity presents itself, this abundance can also be used to start a small business, such as the new market on High Street, further strengthening the Morgantown economy.

I ask that the City Council dismiss the amendment to the General Offenses code and reintroduce and pass the amendment to the Planning and Zoning code with the few minor requested revisions. I must assume that the City Council has many other more pressing issues to address than the raising of six chickens on a property for eggs. Instead of addressing, at a city level, the few isolated incidents where urban agriculture is not desirable, leave the banning of animals and other urban agriculture to the individual communities through HOA covenants and restrictions. The citizens of Morgantown should not be criminalized for using their land as they see fit. After all, real property ownership was the foundation of this great nation.

Thank you for your time.

Doug Milbrand

shambergerward5 <shambergerward5@gmail.com>

Tue, Sep 15, 2015 at 12:45 PM

To: doug milbrand <de.milbs@gmail.com>, citycouncilward1@cityofmorgantown.org, wm_a_kawecki@comcast.net, citycouncilward3@cityofmorgantown.org, jennifer.selin@mail.wvu.edu, citycouncilward5@cityofmorgantown.org, citycouncilward6@cityofmorgantown.org, nancyganz7@gmail.com
Cc: jmikorski@cityofmorgantown.org

Thank you for your comments Mr.Milbrand . I will read your letter into the record at our meeting tonight.
Marti Shamberger

Sent from my U.S. Cellular® Smartphone
[Quoted text hidden]

Read at Correspondance

Exhibit B

On Tuesday, September 8, life changed dramatically for the residents of Koontz Avenue and Munsey Street. I walk early in the morning. As I came down the driveway, I saw headlights everywhere as pickup trucks parked on Koontz and up Munsey. I spoke with several of the men by the Prete Building. They are contractors working on the building for WVU Healthcare and had been told by WVU Healthcare they could no longer park on the property where they were working. WVU Healthcare representatives showed them aerial photographs and **TOLD THEM** to park on Koontz and Munsey. Someone put up a sign on the Woodford property asking that they not park the blind curve on Munsey –there were more cars that day. I am unable to use Koontz at times as the “new” parking patterns make it strictly one lane during the day. The mail carriers are having trouble delivering mail. Prior to the invasion, perpetrated by WVU Healthcare, the street worked for the residents. That ended Tuesday, September 8 at 6:00 a.m.

Sincerely,

Joan R. Gibson

1104 Koontz Ave.

Morgantown, WV 26505

Exhibit C
Read by Nugent

Jim Manilla <jimmanilla@gmail.com>

Wed, Aug 26, 2015 at 10:53 AM

To: citycouncil <citycouncil@cityofmorgantown.org>

Cc: Jeff Mikorski <jmikorski@cityofmorgantown.org>, COL Glen <calvin.kelly@yahoo.com>, cityclerk@cityofmorgantown.org, sunshine.wiles@wvradio.com, "editor@dominionpost.com" <editor@dominionpost.com>

I'd like to throw my two cents in on your chicken situation. I think if someone wants to have chickens in the city they need to get a conditional use from the BZA. They would go to the BZA with a plan. How many, a drawing, etc. Citizens that live in the area have a chance to come in to speak for or against. Morgantown is a very condensed city, not like Charleston or Huntington. No grandfathering. Start from scratch.

Thanks,

Jim Manilla

Jim Manilla
Premier Commercial Real Estate Services
Morgantown, WV 26508
304-216-8671

srherstine@comcast.net <srherstine@comcast.net>

Mon, Sep 7, 2015 at 10:04 PM

To: citycouncilward1@cityofmorgantown.org, citycouncilward3@cityofmorgantown.org,
citycouncilward4@cityofmorgantown.org, citycouncilward5@cityofmorgantown.org

WE ARE AGAINST THE PENDING ORDINANCE PERMITTING 6 CHICKEN IN EVERY BACK YARD IN THE CITY. IF 5 NEIGHBORS OUT OF 6 CHOOSE TO PUT THESE CHICKENS ON THEIR PROPERTY--THE STENCH WOULD BE UNBEARABLE AND THE NOISE WOULD BE ANOTHER AGGRAVATION. WOULD YOU WANT TO LIVE ON YOUR STREET IN SITUATION?? ANOTHER PROBLEM IF YOU WOULD WANT TO SELL YOUR HOME UNDER THESE CIRCUMSTANCE--WHO WOULD BUY IT--WOULD YOU?

WHY NOT START THINKING OUT OF THE BOX--BRING BUSINESSES INTO OUR CITY. TAKE PROGRESSIVE STEPS LIKE WESTOVER HAS DONE. THEY ARE NOT TALKING FARM ANIMALS BUT MAKING THE NECESSARY BOUNDARY ADJUSTMENTS. CHICKENS WILL NOT PUT ANY MONEY IN THE CITY POCKETS--BUT ADDED BUSINESS REVENUE WILL!!

WE ARE LIFE TIME RESIDENCE OF THIS GREAT CITY OF MORGANTOWN. IT IS OUR HOPE WE WILL NOT BE DEFINED BY THE CHICKEN ORDINANCE BUT BY A COUNCIL THAT IS CONSIDERING ALL MORGANTOWN CITY RESIDENCE.

WE ARE 3rd WARD VOTING RESIDENCE

RICHARD AND SHIRLEY HERSTINE
709 LIBERTY STREET

sue.hein1@frontier.com <sue.hein1@frontier.com>

Mon, Sep 7, 2015 at 9:13 AM

Reply-To: "sue.hein1@frontier.com" <sue.hein1@frontier.com>

To: "citycouncil@cityofmorgantown.org" <citycouncil@cityofmorgantown.org>

City Council Members,

I live in Suncrest and I do not want my neighbors to raise live chickens. Our yards are too small and close together. I live in the city and do not want to live next to a chicken coop. If they want to raise chickens they should move to an area more suitable for raising livestock. My driveway and deck are along my neighbor's back yard and I enjoy sitting in that area. I do not want to look at, smell, or hear chickens. I lived next to a neighbor who had chickens and ended up moving. I now own my own home and do not want them in the neighborhood.

Susan Hein
433 Devon Rd
Morgantown, WV 26505
304-276-0741

Exhibit D

Redmond

Mon, Sep 7, 2015 at 10:23 AM

Andrew Lohmann <wvadzman@me.com>

To: citycouncil@cityofmorgantown.org

I implore you to use common sense and to NOT approve the measure that would allow city residents to possess chickens.

Chickens would create health issues with messy excrement and run-off.

Chickens would create noise issues and complaints.

Chickens will bring coyotes (which we have already spotted in our neighborhood) closer to our homes.

Chickens will create bad odors and offensive smells.

Chickens will decrease our property values as prospective buyers will seek other neighborhoods.

Chickens could result in Avian Influenza outbreaks (as in China several years ago).

Chickens will result in our neighbors breaking our "no fence" covenant.

Chickens will create problems between neighbors that are in favor, and neighbors that are opposed.

There is no shortage of accessibility to organic, farm-fresh eggs from our local Farmer's Market, Kroger, Giant Eagle, Wal-Mart or Sam's stores. For citizens that are interested in having chickens to satisfy that need, it is very easy and inexpensive to obtain those products from any grocery store. The city is also very close to thousands of rural parcels where chickens could be safely and healthfully raised without impeding on the rights of other residents.

Charming as it may seem, there are numerous health, aesthetic and economic reasons municipalities do not allow livestock within city limits. I am respectfully asking you to consider your constituents interests when voting on this issue.

Respectfully -

Andrew Lohmann
916 Southpoint Circle
Morgantown, WV 26501
304-296-5112
WVAdzMan@me.com

Sharon Hilleary <hilleary1@frontier.com>
To: citycouncil@cityofmorgantown.org

Mon, Sep 7, 2015 at 12:02 PM

We are respectfully urging all of you to vote "no" on the upcoming ordinance allowing residents within city limits to house as many as 6 chickens on their properties. The potential problems resulting from the passing of this ordinance far outnumber the desire to have fresh eggs which are easily accessible to all Morgantown residents. Property values will go down pitting neighbor against neighbor as odor, excrement, and noise emanate from housing fowl in residential neighborhoods. One only needs to drive through Hopecrest to see evidence of this disgrace. Coyotes and foxes are spotted in our neighborhood on a regular basis, and having fowl on properties within the city will entice them even more. There are many reasons why we live within City Limits with covenants and ordinances in place to protect against such eyesores. Please choose to vote for the welfare of the majority of Morgantown residents rather than suddenly changing the rules for a sparse minority.

Sharon and Richard Hilleary
738 Courtney Avenue
Morgantown

----- Original message -----

From: nancyjwasson@comcast.net
Date: 09/11/2015 4:58 PM (GMT-05:00)
To: citycouncil@cityofmorgantown.org
Subject: Chickens in the city

Morgantown City Council Members -

I'm writing to urge you to vote against any ordinance allowing city residents to keep chickens or other farm animals on their property. This morning my husband and I drove past the Hope Crest residence where chickens reside, and we're incredulous that the surrounding neighbors agreed to such a situation. While a wrought iron fence on that property is more aesthetically pleasing than all wire, the home owner also had to put up a flimsy wire fence along one side of the enclosure so as to allow passage through a gate to the sidewalk. Various tools, i.e. to feed, water, and pick up excrement, were stacked along one wall of the house adding to the unattractiveness of the property.

I can't imagine the noise, smell, and disease that, most likely, accompanies having chickens/roosters on a city resident's lot. Fresh eggs are readily available from the many farmers' markets in and near Morgantown. Allowing residents to keep chickens in the city is a ridiculous idea and should not be permitted.

Nancy J. Wasson

wasson.b@comcast.net <wasson.b@comcast.net>
To: citycouncil@cityofmorgantown.org

Mon, Sep 7, 2015 at 1:26 PM

I understand that council is preparing to vote on allowing up to six chickens per residence. That is ridiculous!! Chickens and other farm animals do not belong in the city. I will be watching this and vote (in the next election) against any council member who supports it.

Bill

Patricia Stemple <pstemple@comcast.net>
To: citycouncil@cityofmorgantown.org

Tue, Sep 8, 2015 at 7:16 AM

Please be advised that I as a voting citizen of Morgantown request that you vote NO on the fowl ordinance. Most citizens would be fine owners of fowl, some would not, and will cause problems beyond belief for their neighbors. Can you imagine, I hope so, what will happen when one of the few destroy home values and "fowl" water and air. Please, protect all the citizens you represent. Vote NO.

Patricia Stemple
913 Southpoint Circle

dagmarwv@frontier.com <dagmarwv@frontier.com>
To: citycouncil@cityofmorgantown.org

Sat, Aug 8, 2015 at 7:30 PM

I have lived in Morgantown for one month shy of 22 years. This is the first time I have felt the need to contact elected officials. That should give you an indication of how concerned I am about the proposed urban agriculture laws. I hope each of you will read this letter in its entirety and give it due consideration.

I think everyone agrees that the current law regarding urban agriculture needs to be changed. It is vague, non-specific, and certainly not enforced. Although the proposed law addresses some of the issues, it has the potential to bring havoc and undesirable consequences to city property owners.

I understand that the "home agriculture" portion of the proposed law would allow for up to 6 chickens, 3 rabbits and an unspecified number of miniature pet pigs on every city lot. That may sound quaint and reasonable on paper, but I hope you will listen carefully to the city residents who are currently living with and experiencing the side effects of such a proposal.

I live in a very modest home on lower Lebanon Street. Clearly, the chickens kept at the ~~Frisch~~ home on the corner of Lebanon and Dormont, do not affect me nearly as much my neighbors. However, I walk my dog through the neighborhood at least twice a day and am appalled that the conditions at the ~~Frisch~~ home are allowed to continue. And, should the proposed law pass as written, such conditions could soon be the norm.

Here are my observations and experiences with the current situation:

- o There have been as many as 15 chickens and 3 ducks on the property. At one time there were also an unknown number of young chicks housed in the garage.
- o Once or twice a week, on average, one or more chickens escape the pen and roam the streets and adjoining properties.
- o At least twice I have encountered dead chickens in the road in the morning, killed overnight by a raccoon, coyote or other animal. Their carcasses and feathers lay in the road for days, if not weeks. The sanitation issues are obvious.
- o The odor emanating from the pen is noxious.
- o Chickens are high maintenance. They scratch, peck and eliminate waste so frequently that apparently it is nearly impossible to maintain a neat pen area, much less a lawn.
- o The chickens are noisy, especially in the morning when left in the coop past 8 or 9 AM.
- o On occasion, trash bins containing chicken waste have tipped over and the waste has been left on the road.

All of these issues would be multiplied exponentially if every household in the city had their allotted 6 chickens, 3 rabbits and miniature pigs. I agree with Mr. Farmer when he stated that you are about to pass an ordinance that you hope few people will use. But many could. And if so, we will all face farm animal mayhem within the city.

I have addressed my concerns directly to ~~Ms. Frisch~~. I explained that, in my opinion, no neighbor would be upset with a couple of chickens, in a secured pen, that is kept clean, neat and tidy. But that is not the case. ~~Ms. Frisch~~ made it very clear to me that she has no intention of compromising for the sake of her neighbors. She openly admitted that she does not have the permission of one homeowner within 80 feet of her coop, only the permission of the tenant. Her posts to social media sites punctuate her lack of desire to be reasonable or considerate.

How ironic it is that I, in accordance with city ordinances, walk my dog on a leash and pick up after her, all the while trying to protect myself and my dog from chickens roaming freely and defecating in the street.

If we must have chickens in the city, keep the limit to the more manageable number of two and abolish the provision for more "with permission of the neighbors". Chickens affect entire neighborhoods, not just the

immediately surrounding properties. I cannot speak to the side effects of housing rabbits or miniature pigs within the city limits.....yet.

I would prefer city ordinances limit ALL small animals – dogs, cats, chickens, rabbits, miniature pigs, etc. - to less than 4 per household, similar to the definition of a kennel in Section 1329.02. Animals within the city should be cared for and treated as pets. Residents wanting chickens would therefore be allowed to have 3, so long as there were no other pets (dogs, cats, rabbits, etc.) in or on the property.

Listen to your fellow city residents who have real life experience with the side effects of your proposed ordinance. Consider the effect on your property value, should your neighbors choose to have their allotted number of farm animals. Build enforcement procedures into the ordinance, budget for them accordingly, and pursue them diligently.

Thank you for your time and consideration. I trust you to listen to the city residents you represent and act accordingly.

Sincerely,

Barbara Olson
205 Lebanon Street
Morgantown, WV 26501
304-288-7604

Jack Yorty <jsyorty@gmail.com>
To: citycouncil@cityofmorgantown.org

Tue, Sep 8, 2015 at 8:58 AM

Begin forwarded message:

Members of the city council:

As you vote and decide whether or not to pass the new ordinance amending article 1331, I would like to state once more that chickens are farm animals, not pets. Farm animals should be raised and managed on farms, not in the city.

Many sound arguments have been given for this rationale, including health and safety reasons. With the University offering a viable alternative to home animal farming, I'm sure that the council will use its sound judgment and common sense to vote "no" on this amendment. Then, modify it to eliminate the farm animal sections, and pass a newly amended ordinance that is both practical and in the city's best interests.

Thank you.

Jack Yorty

Exhibit F

From: Ivy Winning [mailto:ivewinning@comcast.net]
Subject: Pro Chicken Propaganda
Date: September 14, 2015 at 1:53 PM
To: Bernie Worley [mailto:bernieworley@gmail.com], ericdeal@msn.com, wvubassoon@hotmail.com

My name is Ivy Deal and I am a homeowner at 408 Cobun Avenue in Greenmont. I would like to address the ongoing controversy regarding chicken keeping inside the city of Morgantown. We are emphatically pro-chicken. My husband and I love our neighborhood and we love our neighborhood chickens. We feel that they add color and character to our already diverse and vibrant community. Responsibly kept chickens, as a label that can be applied to most (if not all) of the city birds are, are pets. They are also a valuable and very environmentally conscious source of food. Their eggs are healthy, cheap, and delicious and their composted waste and bedding make great additions to garden soil. I work from home most days, and my home office window overlooks my neighbor's yard. Loretta, Buffy, and Dotty - the three hens in my neighbor's yard, are quaint and relaxing scenery.

In response to the fear mongering that has been going on and the anti-chicken propaganda that I've heard recently on our local radio station- I believe we need some factual information. As an expert in residential real estate value I would like to weigh in here. I am a Residential Real Estate Appraiser with over ten years experience who regularly appraises property in Morgantown for individuals and financial institutions. The idea that responsible urban chicken keeping is detrimental to property values is inaccurate. ^{In fact} In the neighborhoods where chicken keeping has been on the rise (Greenmont, South Park, Evansdale, Wiles Hill, and First Ward) property values have been steadily rising ~~as well~~. It is not generally considered a negative factor if a neighboring property has pet hens. I understand that there has been one complaint against one property owner in one neighborhood. This seems to be a dispute between neighbors regarding personal taste. This is not a general trend or the widespread reaction of the market.

I feel that the ordinances, as proposed, are overly onerous. I am completely in favor some regulation by the city to keep both chickens and neighbors happy and healthy. I feel that the language, as proposed, would make chicken keeping virtually illegal. I am also concerned that the ordinance was moved from planning and zoning, an appropriate place for it, to the general offenses section without direction from council or democratic process. It is my understanding that this would render my chicken keeping neighbors criminals with no recourse or opportunity to even have their flocks grandfathered in.

We should be encouraging green ordinances and responsible urban agriculture, not hindering it. I feel that this controversy has been distorted out of proportion to the actual issue. Please consider the facts of the situation with regard to property values. And please consider the feelings of homeowners and neighbors who are already happily co-existing with neighborhood hens.

Thank you for your time,

Ivy M. Deal

--

Ivy Winning Deal

WVLRA#0838

The Greenmont Group

408 Cobun Avenue

Morgantown, WV 26501

thegreenmontgroup@gmail.com

Barbara Olson
205 Lebanon St.

I have two points for you to consider before acting on the proposed changes to the Home Agriculture ordinance.

First, we all know Morgantown is not built on a grid system. Streets take off at angles and have sharp turns. Therefore, not all city lots are a uniform rectangular shape. My home is on lower Lebanon. Due to the angle of Lebanon and the curve of Jefferson, the backyard of my property is surrounded by the backyards of 6 different residences – 2 on Lebanon and 4 on Jefferson. If you pass this ordinance as proposed, my now quiet and serene backyard could soon be surrounded by 36 chickens, 18 rabbits and 18 miniature pigs. Is that likely to happen? I hope not. But it could. And if it did, there would be nothing I could do about it. Nothing the City could do about it. My neighbors would all be within code. My only possible option would be to move. But, I may not be able to afford to do so. As with probably most Morgantown residents, my largest financial asset is my home and property. Would I be able to get the fair market value for my home and property when it is surrounded by 72 farm animals? A potential buyer may love my house, as I do. They may love my neighborhood, as I do. But will they love the back patio and yard when they see 6 chicken coops, 6 rabbit hutches and 6 whatever structures are needed to house miniature pigs? Once they hear the noise and smell the odor created by 72 farm animals, are they going to even want to purchase, much less pay a fair price? And who do I turn to for that financial loss? The City? My neighbors with farm animals? There will be no one to turn to, but I'll certainly know who to blame.

Second, any animal kept within city limits should be treated as and considered to be a pet. That's part of what makes a city residence different than a farm. Section 1329.02 of the city ordinances defines a kennel as 4 or more dogs, or small animals, kept on any lot or premises. I can only assume that definition and restriction on the number of dogs was put into place to prevent a nuisance to neighbors. I imagine there was a lot of discussion, both pro and con, before finally settling on a compromise and the decision that 3 is a fair and just number for both sides. I suggest City Council model this home agriculture ordinance in a similar fashion. Allow 3 small animals per lot – dogs, cats, chickens, rabbits or miniature pigs. If a person wants chickens, they can have up to 3, as long as they don't also have a dog, cat or any other small animal. If they have a dog, then they are limited to two chickens, etc. That is fair to all parties, it's manageable within city properties, and, if properly maintained, would help prevent any property from becoming a nuisance to neighbors.

When I vote, I place my trust in elected officials to be fair, just and reasonable. Please do not place the health and well being of a flock of chickens at a higher priority than the health, well being, and financial security of the citizens you represent.

Thank you.

Sept. 14, 2015

To Morgantown City Council
From: Morgantown Green team

RE: Urban Agriculture Ordinance

The Morgantown Green team has been extensively involved with review and study of a proposed urban agriculture ordinance since it was first proposed last year. We have reviewed the proposed ordinance under consideration tonight and are concerned that, in order to appease a few vocal opponents, the latest draft has lost sight of the original intent and beneficial purposes for which the ordinance was first proposed.

We compared the draft under consideration tonight with the earlier drafts, in particular the most recent previous draft discussed at the Committee of the Whole meeting, August 25.

- 1) The first Whereas section of the earlier draft indicated that the City “is committed to increasing access to fresh, locally grown, wholesome foods for all residents”. Although no one ever spoke against such a provision, that section was struck in the current draft, suggesting that the City is no longer committed to that goal.
- 2) The second Whereas of the earlier draft stated that “the City seeks to create and encourage programs and policies that sustain greater local food security and improve access to healthy foods in underserved neighborhoods”, that section has also been struck. Does this mean the City no longer supports health food in underserved communities?
- 3) The third Whereas stated that “urban agriculture contributes to the local economy by generating living-wage jobs...etc.” That section was struck. Is the City no longer interested in generating jobs?
- 4) Likewise, all of the other policy intentions to promote urban agriculture have been struck, even though no citizens have ever spoken against any of them.
- 5) The Green Team recognizes that these “Whereas” sections merely state the City’s intent and may not be legally binding, but this draft also strikes out all of the definitions of commercial agriculture, aquaponics, community gardens, and also strikes the zoning changes to allow and encourage these land uses, even though no resident has ever spoken against these provisions. Were this draft to be adopted, it would appear that Council unambiguously opposes policies and practices designed to promote urban agriculture activities, even those are activities that no resident has ever opposed.

In conclusion, the Morgantown Green Team supports the original intent of the urban agriculture ordinance to promote wholesome, locally grown food, to encourage opportunities for resident entrepreneurship, to reduce the negative impact of vacant lots and under-utilized properties, to enhance the educational opportunities for students, and to assist low-income and under-served residents to supplement the family food budget and create food-related small businesses. The draft under consideration tonight does not encourage any of these, and instead retreats from the support for urban agriculture that so many communities across America are pursuing. We sincerely hope that this was not the intent of the majority of Council, and we urge Council to return to the principles that guided the August 25 draft and the direction Council set that night.

Sincerely,

Pamela Cubberly, Jim Kotcon, Ella Belling, Joey James, Morgantown Green Team

Exhibit I
William Davis
116 Forest Dr.

-
- Why was this changed from zoning to general offenses? To fix one problem for one group of people?
- What problems came from the last ordinance? Was it the inside 80 feet or outside 80 feet?
- From my understanding, the one problem which mainly drove the review and rewriting of the ordinance was from outside 80 feet. I wholeheartedly agree, this portion needed to be rewritten. It promoted a Wild West mentality rather than community with understanding.
- Why did the inside 80 feet cause little to no substantial problems? IMHO, it took everybody out that didn't belong. It was between two or three neighbors, acting neighborly. Creating and encouraging communication, dialogue, mutual respect, and giving power to who deserved it.
- Why did the outside 80 feet cause problems that still can't be resolved? IMHO, it took everyone, I mean everyone out of it. There was no control to regulate this activity to make sure it was done in a responsible way. Neighbors had zero say, the city had zero say. I am for an ordinance, whether it be under zoning or general offenses. All I ask is that you try to build the community with communication between residents.
- Who will enforce this new ordinance under general offenses? I hear it's going to be the Police Department. Do you really want to burden our underfunded, under staffed police department with additional tasks at this time? How much will it cost to enforce these new laws for keeping animals, by the way which create no revenue from fines from disobedient citizens.
- Some of your residents keep chickens at pets, a pet that is loved, loved just like the family dog or cat. If and when this proposed ordinance passes, what are your expectations of them? To just say goodbye to their beloved family pet? Have them for dinner?
- I understand Grandfathering will be gone with it being filed under general offenses. This is necessary to fix that one problem. But, what about everyone else? What about everyone that was conducting this activity responsibly and with respect to their neighbors? There are dogs around me that bark, all. Day. Long. Can we start rewriting other laws to fix this problem since we're doing this for individuals now, instead of the community?
- My family and I just moved here from Belgium, we purchased a home within the city limits because of the ease of being "intown". The opportunity of urban agriculture within your current ordinance is one thing that attracted us to buy within city limits. Let's keep it attractive 😊
- 502.02 (h) Any resident found keeping animals outside of the guidelines presented above, must be able to present the inspecting official with written permissions from owners of all adjoining properties, dated no older than one year. Any permission/agreement that was granted expires annually and must be reinstated between property owners.