

**REGULAR MEETING SEPTEMBER 7, 2010:**

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Monday, September 7, 2010 at 7:30 P.M.

**PRESENT:** City Manager Dan Boroff, Assistant City Manager Jeff Mikorski, Mayor Bill Byrne, City Clerk Linda Little, City Attorney Steve Fanok. Council Members Ron Bane, John Gaddis, Charlie Byrer, Jenny Selin, Marti Shamberger and Don Spencer.

**APPROVAL OF MINUTES:** Minutes from the regular meeting on August 17, 2010 were approved as printed.

**CORRESPONDENCE:** Mayor Byrne presented a retirement proclamation to Karen Everly, and then he presented a proclamation proclaiming Morgantown Service League Inc. Week.

Terry Cutright then updated Council on the Streetscape project and introduced Delegate Marshall, who presented a Governor's Community Partnership grant of \$15,000 for the Farmer's Market Awning. Other Delegates and Senator Oliverio were present for the presentation.

**PUBLIC HEARING- AN ORDINANCE AMENDING PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN REALTY IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM (PUD) PLANNED UNIT DEVELOPMENT TO (O-1) OFFICE AND INSTITUTIONAL DISTRICT AND (R-3) MULTI-FAMILY RESIDENTIAL DISTRICT THEREBY RESCINDING THE "GRAND CENTRAL APARTMENTS PLANNED UNIT DEVELOPMENT" BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

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

**PUBLIC HEARING- AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF A PARCEL OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM (B-2) SERVICE BUSINESS DISTRICT TO (B-5) SHOPPING CENTER DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

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

**PUBLIC HEARING- AN ORDINANCE BY THE CITY OF MORGANTOWN RELEASING THE RIGHTS-OF-WAY FOR STORM, SANITARY SEWERS AND ALL UTILITIES, PREVIOUSLY RESERVED, OVER ONE HUNDRED AND TWENTY FOOT PORTION OF 12' WIDE PREVIOUSLY ANNULLED UNNAMED ALLEY WHICH RAN FROM OAKLAND AVENUE IN**

**A WESTERLY DIRECTION, LOCATED IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

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

**PUBLIC HEARING- AN ORDINANCE AUTHORIZING A RIGHT-OF WAY AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, GRANTOR, AND WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, GRANTEE, AUTHORIZING THE PLACEMENT MAINTENANCE OF AN ELECTRICAL DUCT BANK UNDER A PORTION OF NORTH HIGH STREET AND PROSPECT STREET IN THE FIFTH WARD OF THE CITY OF MORGANTOWN:**

Pursuant to a legal notice appearing in the Dominion Post, Mayor Byrne called for a public hearing on the above referenced ordinance.

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

**UNFINISHED BUSINESS:**

**AN ORDINANCE PROVIDING FOR ZONING RECLASSIFICATION IN THE FOURTH WARD OF THE CITY OF MORGANTOWN:** The below entitled Ordinance was presented for second reading:

**AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN REALTY IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM (PUD) PLANNED UNIT DEVELOPMENT TO (O-I) OFFICE AND INSTITUTIONAL DISTRICT AND (R-3) MULTI-FAMILY RESIDENTIAL DISTRICT THEREBY RESCINDING THE "GRAND CENTRAL APARTMENTS PLANNED UNIT DEVELOPMENT" BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.**

After explanation from the City Manager, motion by Spencer second by Byrer, to adopt the above entitled Ordinance. Motion carried 7-0

**AN ORDINANCE PROVIDING FOR ZONING RECLASSIFICATION IN THE SIXTH WARD OF THE CITY OF MORGANTOWN:** The below entitled Ordinance was presented for second reading:

**AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF A PARCEL OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM (B-2) SERVICE BUSINESS DISTRICT TO (B-5) SHOPPING CENTER DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.**

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

**AN ORDINANCE RELEASING RIGHTS OF WAY IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN:** The below entitled Ordinance was presented for second reading:

**AN ORDINANCE BY THE CITY OF MORGANTOWN RELEASING THE RIGHTS-OF-WAY FOR STORM, SANITARY SEWERS AND ALL UTILITIES, PREVIOUSLY RESERVED, OVER ONE HUNDRED AND TWENTY FOOT PORTION OF 12' WIDE PREVIOUSLY ANNULLED UNNAMED ALLEY WHICH RAN FROM OAKLAND AVENUE IN A WESTERLY DIRECTION, LOCATED IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN.**

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

**AN ORDINANCE AUTHORIZING A RIGHT OF WAY AGREEMENT IN THE FIFTH WARD OF THE CITY OF MORGANTOWN:** The below entitled Ordinance was presented for second reading:

**AN ORDINANCE AUTHORIZING A RIGHT-OF WAY AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, GRANTOR, AND WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, GRANTEE, AUTHORIZING THE PLACEMENT MAINTENANCE OF AN ELECTRICAL DUCT BANK UNDER A PORTION OF NORTH HIGH STREET AND PROSPECT STREET IN THE FIFTH WARD OF THE CITY OF MORGANTOWN.**

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

**BOARDS AND COMMISSIONS:** Ken Fones-Wolfe was reappointed by acclamation to serve on the Personnel Board and Anne Cumming was reappointed by acclamation to serve on the Urban Landscape Commission.

**PUBLIC PORTION:**

Paul Brown, 428 Grand Street, requested Council organize a Climate Coordinating Commission to replace the Green Team in order to better address climate change and environmental problems.

George Lilley, 173 Poplar Drive, Pedestrian Safety Board, commented on the Pedestrian Safety Plan, remarking that it is a comprehensive approach to make Morgantown safer.

Dave Bruffy, General Manager Transit Authority, encouraged Council's support of the no income, low income, senior citizens and student population as you think about the Pedestrian Safety Plan. Mr. Bruffy suggested Council the use of public transit be integrated into the plan.

Stan Cohen, 460 Young Street, Pedestrian Safety Board, stated that the safety plan is the result of three years of work and reminded that everyone walks, even those who drive and that the plan used research of other college towns.

Randy Jones, 28 Summit Hall, shared that living in Morgantown has greatly shaped his life and he thanked the Community for making him the person he is today.

Annette Pyles, commented on the closing of the Warner Theatre and stated that it is the last remaining Warner Bro.'s theatre in the Country and that it must be of historical value to the community and hopes that the community will step up and help save this landmark for all its value and qualities. She presented a Resolution in support of this.

Nancy Ganz, 1276 Colonial Drive, thanked the WVU BOG and President and Vice President for speaking at the Conference Session earlier this evening and invited them to Neighborhood Coordinating Council meetings in order to work together to ensure better community relations with the students.

Wes Nugent 126 Willowdale, thinks that it is important that the students get involved in the neighborhood associations and within the community and that actions are needed to repair the relationship between students and citizens.

Nelson France, WVU Student Government, stated that he supports the Deer Ordinance this evening and pedestrian safety plan, and will continue to attend Neighborhood Coordinating Council meetings and Wiles Hill Neighborhood Association meetings.

There being no appearances Mayor Byrne then declared the Public Portion closed.

**NEW BUSINESS:**

**AN ORDINANCE PROHIBITING THE FEEDING OF DEER:** The below entitled Ordinance was presented for first reading:

**AN ORDINANCE ADOPTING A NEW SECTION 505.18 WITHIN THE GENERAL OFFENSES CODE OF THE CITY OF MORGANTOWN PROHIBITING THE FEEDING OF DEER.**

After discussion, motion by Shamberger, second by Selin to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT FOR AN EXCHANGE OF REALTY:** The below entitled Ordinance was presented for first reading:

**AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN IT AND THE STATE ARMORY BOARD WHEREIN THE CITY AGREES TO DEED 46.50 ACRES OF AIRPORT REALTY TO THE STATE IN RETURN FOR THE STATE ARMORY BOARD DEEDING ITS MILEGROUND ARMORY REALTY TO THE CITY.**

After explanation from the City Manager, motion by Bane, second by Selin to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT REGARDING THE AIRPORT BUSINESS PARK:** The below entitled Ordinance was presented for first reading:

**AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN IT AND THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY REGARDING THE DEVELOPMENT OF THE MORGANTOWN AIRPORT BUSINESS PARK.**

After discussion, motion by Spencer for a minor amendment which stated, *“The Committee shall work to integrate compatibly the activity of the Business Park with the operations of the Airport whenever possible.”* second by Bane to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AMENDING THE BUILDING AND HOUSING CODE OF THE CITY OF MORGANTOWN:** The below entitled Ordinance was presented for first reading:

**AN ORDINANCE AMENDING ARTICLE 1713 OF THE CITY OF MORGANTOWN'S BUILDING AND HOUSING CODE BY ADDING A NEW SECTION 1713.03 ADDRESSING BOARDING STANDARDS FOR STRUCTURES.**

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

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT FOR OFFICE SPACE AT THE MUNICIPAL AIRPORT:** The below entitled Ordinance was presented for first reading:

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, LESSOR, AND APHELION AVIATION, LESSEE, IN WHICH OFFICE SPACE IS BEING LEASED AT THE MORGANTOWN MUNICIPAL AIRPORT FOR THE PURPOSE OF OPERATING A FLIGHT TRAINING CONCESSION.**

After discussion, motion by Shamberger, second by Selin to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**SPECIAL COMMITTEE REPORTS:** No reports.

**CITY MANAGERS REPORT:**

**NEW BUSINESS:**

**Item No. 1:** Attached you will find an Option to Purchase agreement to acquire an approximately two acre site in Jerome Park for a cost of \$10,000 to be credited to the \$257,000 acquisition cost. Given the use of this space for a neighborhood park; the generous purchase options; and the merits of the project, I recommend that it be approved.

After discussion, motion by Shamberger, second by Byrer to approve the agreement to acquire property. Motion carried 7-0.

**Item No. 2:** As discussed during the past year, the second attachment reports significant, proposed changes in the City's Health Insurance Program to mitigate substantially increased OPEB costs. I recommend that effective January 1, 2011 that as described, the new deductions be authorized; the proposed HRA's be established; and that all new hires not be qualified for health insurance benefits when they retire.

After discussion, motion by Shamberger, second by Gaddis to approve changes to the Health Insurance. Motion carried 7-0.

**Item No. 3:** The last attachment is a summary of the Pedestrian Safety Plan Goals and Objectives as submitted by the City's Pedestrian Safety Board. Given the merits of the Plan, I recommend that its fundamental principles be adopted by the City to guide the construction of a City wide network of pedestrian walkways and traffic calming measures.

After discussion, motion by Bane, second by Gaddis to approve of the Pedestrian Safety Plan's Goals and Objectives. Motion carried 7-0.

**CITY CLERK:** No report.

**CITY ATTORNEY'S REPORT:** No report.

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane: Councilor Bane agreed with Ms. Pyle’s comments about the historical significance of the Warner Theatre and hopes the community pulls together to save the theatre. He commented that he appreciated the students’ input and comments.

Councilor Gaddis: Councilor Gaddis also commented on the WVU BOG and the State of the Student Address and invited them to come to the Greenmont neighborhood meetings so they can get involved.

Councilor Byrer Councilor Byrer agreed with Mr. Nugent’s comments and also invited students to his neighborhood meetings and to an upcoming tour of the Wiles Hill/Highland Park area. He stated in reference to the Warner Theatre that the Historic Landmarks Commission will carefully consider the resolution and seek funding.

Councilor Selin Councilor Selin added that she is in support of the Warner Theatre resolution and attended the last showing this past weekend. She commented that not only should students attend the neighborhood meetings, but Council should also attend the BOG meetings at WVU. She also said that she supports the Old Stone House proclamation and has fond memories there. She voiced her support of the City acquiring a machine to clean bubble gum off sidewalks in.

Councilor Shamberger: Councilor Shamberger appreciated the WVU BOG’s time and effort to reach out to the City. She stated that there are many students in her ward and she wants to reach out to them and invited them to her neighborhood meetings. She thanked everyone for coming to the sneak peek of the Met Theatre and remarked about the high quality of the Theatre. She also praised the police presence during the first football game of the season. She asked that everyone be aware of litter and graffiti and asked that all incidences be reported for cleanup.

Councilor Spencer: Councilor Spencer thanked the BOG officials for speaking and thanked Ms. Pyles and Dr. Brown for their comments as well. He praised the Warner Theatre resolution. Mr. Boroff stated that he will forward Dr. Brown’s letter to the Green Team. Councilor Spencer remarked that there are still concerns over tailgating and requested

that information be drafted about large parties to be distributed to neighborhood associations. Councilor Spencer stated that recent data is showing the ratio of rentals to home owners is now more than 2:1 in Morgantown, that as of August 1, 2010 there were 8,456 rental units, 11,808 housing units and there are 3,352 owner occupied or vacant properties. He announced the Bike Board's infomercial on Channel 15. He commented on Blue Line Parking and wants to review it. He complimented Councilor Shamberger on the Met Theater progress. He also stated that the symphony this weekend was the best yet.

Mayor Byrne

Mayor Byrne announced the upcoming wine and jazz festival, Arts Mon Photography, the Met Theatre's Grand Opening with Patrizio Vuanne, and Trinity School Heritage Day and proclamation presentation. He commented that the economy is due to the Warner Theatre's closing. He commended the Wheeling Symphony performance. He announced a WV Fair Housing Advocate Conference. He complimented the WVU BOG presentation and stated that communication and relationships are what makes Cities work well along with freely and openly talking about concerns and he pledged to go to the BOG meetings as well.

**EXECUTIVE SESSION:** Motion by Spencer, second by Shamberger to go into executive session pursuant to Section 6-9A-4-2 of the West Virginia Code in order to discuss personnel matters, with Council and City Manager present.

**ADJOURNMENT:** There being no further business, the meeting adjourned by unanimous consent at 9:31 p.m.

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City Clerk

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Mayor

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