

MINUTES
REGULAR MEETING
CITY COUNCIL

August 3, 2015

Mel L. Cohen, Mayor

Sally W. Sandy, City Manager
Louis E. Vinay, Jr., City Attorney

John H. Cantrell)
Forrest A. Fleming) Councilmen

Sidney Simmons)

Ronnie Thompson arrived at 5:50 p.m.)

Becky Brinkley, Interpreter

I. The meeting was called to order in the Council Chamber at City Hall at 5:30 p.m. by Mayor Cohen.

II. Public Comment – The Mayor stated the guidelines for public comment.

•Michael Collingwood resides at 203 Walker Street. Collingwood addressed the Council regarding water quality on Walker Street and said that he did not like the addition of fluoride in the water supply. Collingwood presented the Council with a sample of water that he stated came from his tap. Collingwood stated he had all PVC pipe in his home. Councilman Cantrell asked if the water tap to the house was also PVC. Collingwood stated it was schedule 40 pipe.

•Bryant Lindsey resides at 113 Rockview Lane. Lindsey addressed the Council regarding the “courthouse issue”. The Mayor asked if Lindsey were going to take his concerns to the County. Lindsey stated he would be addressing the County Commissioners.

•The Mayor asked Brad Boris, Director of Water Resources, to relay to the Council his communications with Mr. Collingwood. Boris stated that he had spoken with Collingwood in the past week regarding his water quality issue. The staff has been looking at the pressure, age and condition of the lines, etc. The 1928 2” cast iron pipe was replaced in 1975 with a 6” cast iron water line. Boris stated this is a dead-end waterline with very little water usage in that area. The water stays in the waterline a long time. Boris stated staff is looking at two options including connecting with Morehead Street to move the water through the lines. Another option is to replace the whole 6” waterline with a plastic material. He stated that it is close to the end of the life of the pipe. Boris stated that when replacing infrastructure in one older area you may see issues pop up in another area.

Boris stated that fluoride is added for the benefit of dental health. The EPA has lowered the standards from 1 to 0.7 mg per liter. The City has followed the guideline and lowered the amount of fluoride added.

Councilman Cantrell stated that if this cloudy water were coming into his house he would think it would be on the fast track for attention. Cantrell asked what Mr. Collingwood should do. Boris stated the only alternative would be to change the waterline, clean the waterline, or loop it into another free-flowing waterline. Councilman Cantrell stated he felt like we should have a way to help someone in this situation. Boris stated that they will continue cleaning the line and flushing while working on a longer-term solution. Councilman Cantrell stated that he would like Brad to communicate with Mr. Collingwood.

Councilman Simmons stated it sounded like the easiest and quickest answer would be to loop the line. Brad stated they are looking at the most cost effective as well as quickest solution.

Councilman Fleming asked about the time-frame for the loop to be completed. Brad stated he hoped to have a plan of action in a week and resolution within a month or two.

There being no further comments, the Mayor recessed the meeting at 5:53 p.m.

III. Business of the Council – The Mayor reconvened the meeting at 6:00 p.m.

IV. Pledge of Allegiance to the Flag – Councilman Fleming led the recitation of the Pledge of Allegiance to the Flag.

V. Invocation – The invocation was given by the City Attorney.

VI. Introduction of Council – The Mayor introduced the Council and staff.

VII. Retiree Resolutions

- The Mayor read a resolution recognizing retiring employee Randy E. Beane. Randy retired from the City of Morganton on August 1, 2015 with 20 years', three months service. Randy retired from the Water Resources Department as Distribution and Collection Supervisor.

Upon motion by Mayor Cohen, seconded by Councilman Cantrell, and carried unanimously, the Council approved Resolution #15-26 recognizing retiring employee Randy E. Beane.

- The Mayor read a resolution recognizing retiring employee Grayson H. Morris. Grayson retired from the City of Morganton on August 1, 2015 with 30 years', five months service. Grayson retired from the Public Works Department / Sanitation Division on July 1, 2015 as Equipment Operator.

Upon motion by Mayor Cohen, seconded by Councilman Cantrell, and carried unanimously, the Council approved Resolution #15-27 recognizing retiring employee Grayson H. Morris.

•The Mayor read a resolution recognizing retiring employee Charles W. “Bill” Perry. Bill retired from the City of Morganton on July 1, 2015 with 21 years’ service. Bill retired from the Public Safety Department as Sergeant.

Upon motion by Mayor Cohen, seconded by Councilman Cantrell, and carried unanimously, the Council approved Resolution #15-28 recognizing retiring employee Charles W. “Bill” Perry.

a. Consideration of Award of Service Weapon and Fire Services Helmet

Historically, the City has followed the North Carolina General Statutes and awarded a retiring member with their service weapon along with their fire services helmet. This has been done by the Council declaring the particular items as surplus and then allowing someone to purchase the weapon for the officer for a fee of one dollar.

Sergeant Perry has complied with the North Carolina General Statutes in regard to obtaining a valid gun permit for the weapon. City staff recommends that his weapon, Glock model 23-4 semi-auto pistol, serial number XHY487, and fire services helmet, *Paul Conway American Classic* brand helmet, Serial number LH00061438, be declared surplus, sold for one dollar, and presented to Sergeant Perry.

Upon motion by Mayor Cohen, seconded by Councilman Fleming, and unanimously carried, the Council declared as surplus Glock model 23-4 semi-auto pistol, serial number XHY487, and fire services helmet, *Paul Conway American Classic* brand helmet, Serial number LH00061438, which were bought by the City Manager for one dollar and presented to retired Public Safety Sergeant Charles W. “Bill” Perry.

VIII. Public Advocacy Issues and Strategies

The Mayor stated the Morganton Big League Softball Southeast Regional Championship Team is in Sussex County, DE for the 2015 Little League World Series. The Morganton Recreation Foundation has made a donation to help off-set the costs for families to attend. The families were very complimentary of Gary Leonhardt and his support of the team while in Florida for the regional tournament.

Consideration of a Budget Amendment / World Series – This is a request to appropriate the receipt of a \$15,000 contribution from the Morganton Recreation Foundation to help cover expenses for the Softball World Series event.

Upon motion by Councilman Thompson, seconded by Councilman Fleming, and carried unanimously, the Council approved appropriation of a \$15,000 contribution from the

Morganton Recreation Foundation to help cover expenses for the Softball World Series event. (Ord. #15-31)

a. The Mayor announced the following upcoming events: CoMMA BackPorch Series: Margo and the Price Tags, August 8, Ash Breeze Band, August 20, and on the Mainstage: *Supreme Reflections*, August 28

- Farmer's Markets continue on Saturdays behind the Old Depot and Wednesdays on North Green Street.
- Third Thursday Art Crawl in Downtown, August 20, 5-7 p.m.
- Historic Morganton Festival is scheduled for September 11-12

b. Burke Substance Abuse Network Youth Initiative: Rhonda Cook, Joe Marks, Sarah Dergins – Joe Marks spoke on the topic of underage alcohol, tobacco, and drug use. Marks stated their group was working to empower youth.

Rhonda stated many citizens don't want to look at substance abuse but there are many problems and BSAN is looking for solutions head-on. They get a lot of community support and BSAN is moving from a networking group to an action oriented organization.

Sarah Dergins gave a short overview of aDAPt (A Drug Alcohol Prevention Team), the impetus for which has to come from youth. The long term goal is to get the aDAPt program/club in all the schools county-wide beginning with a focus in middle-school and expanding into the high schools as the youth aged-up.

They thanked the Council for the past support BSAN and as they form a call-to-action they looked forward to continued Council support.

Dergins stated that there would be a parent's training on August 17, 6:00 p.m. in the Lake James Conference Room at Grace Hospital.

Councilman Cantrell asked if they got much help from CoMPAS cable. Rhonda stated they have not looked into that in the past but would appreciate the support. Councilman Cantrell stated that Bill Harkins would be the person to speak with.

c. Tarheel Challenge Academy: Jim Bright, Recruiter – Bright gave an overview of the Tarheel Challenge which is a residential, 17-month program for at risk 10-12 grade students sponsored by the Nation Guard. Students receive an allowance while at academy, they are required to wear uniforms, there is full-time staff, and required community service. The program has been around for 20-years but they don't have a lot of funds for advertising. His purpose this evening is to share information about the program.

Councilman Cantrell asked if it were voluntary to the students or in lieu of incarceration. Bright stated many times parents "assist the student in volunteering" but they also take

court-ordered students. Bright stated that as long as they don't have a pending felony they can apply. The program is funded with 75% federal and 25% state monies.

d. NCGFOA – Certificate of Achievement for Excellence in Financial Reporting – The Mayor announced the City has received the Excellence in Financial Reporting award again this year and thanked Karen and her staff for the fine job they continue to do.

e. Drought Update: Brad Boris, Water Resources – The Mayor asked Brad Boris to give an update on the drought situation. Boris stated the Catawba-Wateree Drought Management Advisory Group has issued a Stage 1 (moderate drought) advisory. He then shared water saving tips.

IX. North Carolina Municipal Power Agency Number 1 Update – There were no updates.

X. Consideration of Changing City Council Meeting Date for September 2015 – The City Manager stated that due to the Labor Day Holiday, City staff recommends that the City Council Meeting for September be changed from September 7, 2015 to September 14, 2015.

Upon motion by Councilman Simmons, seconded by Councilman Cantrell, and carried unanimously, the Council changed the City Council Meeting date from September 7, 2015 to September 14, 2015.

XI. Consent Agenda – The City Manager presented the consent agenda and asked if any items should be removed from the Consent Agenda. No request was made.

Upon motion by Councilman Thompson, seconded by Councilman Cantrell, and unanimously carried, the consent agenda was approved and each individual item adopted as stated, these being as follows:

A. Approved Minutes for a Regular Meeting held on June 1, 2015 and Special Meetings on June 22 and 29, 2015.

B. Approved tax releases in the amount of \$19,456.69.

C. Approved a budget amendment (Ord. #15-27) to appropriate the receipt of a \$100 contribution for the Etta Baker memorial.

D. Approved a budget amendment (Ord. #15-28) to move budgeted paving funds between departments to reflect actual bids.

E. Approved a budget amendment (Ord. #15-29) to appropriate the receipt of funds from an insurance claim and to appropriate funds for the repairs to a Public Safety vehicle.

F. Approved a budget amendment (Ord. #15-30) to appropriate funds to re-roof the Shuey Park field house.

G. Awarded an Installment Purchase financing contract for Public Safety Vehicles, \$420,000, to First Citizens Bank at an interest rate of 1.26% for a period of three years. (Resolution #15-29)

H. Approved Resolution # 15-30 authorizing Public Safety to make application for the North Carolina Governor's Highway Safety Program Grant.

I. Approved Resolution #15-31 Greater Hickory MPO Amended Memorandum of Understanding.

J. Approved Ordinance #15-32 deleting the listing of Independence Boulevard from Carbon City Road to the Catawba River as a 55 mph speed limit, and clarifying that the speed limit on the street is 45 mph.

K. Adopted Ordinance #15-33 establishing a 25 mph posted speed limit within the Camelot subdivision including Camelot Drive, Woodsway Lane, and Woodsway Court.

Adopted Ordinance #15-33 establishing a 25 mph posted speed limit within the Winding Creek subdivision including Winding Creek Drive and Clearwater Drive

Adopted Ordinance #15-33 establishing a 25 mph posted speed limit within the Silver Creek neighborhood including Silver Creek Road, Rockview Lane, West Park Road, Walton Road, and Louise Street.

XII. Items Removed from Consent Agenda – There were no items removed from the Consent Agenda.

XIII. New Business

A. Public Hearings and Actions

1. Public Hearing to Consider Amending the Zoning Ordinance to Allow Bed and Breakfast Inns Within the Neighborhood Conservation Overlay (NC-O) of the Medium Intensity District (MID)

The Mayor opened the public hearing at 6:41p.m.

The City Manager stated that a request has been submitted by Ms. Samantha Reid to amend Sections 3.1 and 3.4.2 (C) of the Zoning Ordinance regulating the location and use of Bed and Breakfast Inns within traditional residential zones of the City's jurisdiction. Currently Bed and Breakfast Inns are allowed within the Low Intensity (LID) and Medium Intensity (MID) zoning districts if certain conditions are met. The current ordinance prohibits B&B uses within any Neighborhood Conservation Overlay (NC-O)

area. This amendment proposes to alter the NC-O prohibition by allowing B&B's within NC-O areas that fall within MID districts. B&B's would still be prohibited within the NC-O areas of LID zones. The amendment also would clarify that the B&B's cannot be used as a Restaurant or Assembly Hall within the LID or MID areas.

Lee Anderson clarified some of the terminology and specifics of the request.

Upon review and consideration, the staff and by the Planning Commission recommend approval of this amendment.

This Public Hearing was advertised in the Morganton News Herald on July 19 & 26, 2015

There being no comments, the Mayor closed the public hearing at 6:46 p.m.

Actions:

Upon motion by Councilman Thompson, seconded by Councilman Simmons, and carried unanimously, the Council confirmed that the requested amendment is in compliance with the Morganton Mission 2030 goals and objectives.

Upon motion by Councilman Thompson, seconded by Councilman Simmons and carried unanimously, the Council adopted Zoning Ordinance #15-34 Amendment to allow bed and breakfast inns within the Neighborhood Conservation Overlay (NC-O) of the Medium Intensity District (MID).

2. Public Hearing to Consider Amending the Zoning Ordinance to Allow Correctional Facilities as a Permitted Use Within the High Intensity Districts (HID)

The Mayor opened the public hearing at 6:47 p.m.

The City Manager stated that a request has been submitted by the County of Burke to amend Section 3.1 of the Zoning Ordinance to permit Correctional Facilities within High Intensity Districts (HID). Currently Correctional Facilities are only permitted within the Central Business District (CBD), the State Institutional District (SID), and Exclusive Industrial District (EID). The uses are prohibited within any Corridor Overlay (C-O) or River District Overlay (RD-O). The County has indicated it would like to construct a new jail facility adjacent to the current jail along Government Drive. This area is presently zoned under a High Intensity District (HID) classification. The proposed amendment would amend the ordinance to allow Correctional Facilities within all HID districts with the exception of Corridor or River District overlay areas. This amendment would accommodate the County's request at the proposed location along Government Drive.

This amendment is recommended for approval by the staff and Planning Commission (vote of 7-2, with Wallace and Kirk opposed).

This Public Hearing was advertised in the Morganton News Herald on July 19 & 26, 2015.

There being no comments, the Mayor closed the public hearing at 6:49 p.m.

Actions:

Upon motion by Councilman Fleming, seconded by Councilman Thompson, and carried unanimously, the Council confirmed that the requested amendment is in compliance with the Morganton Mission 2030 goals and objectives.

Councilman Thompson asked the reason for the Planning Commission's 7-2 vote. Anderson stated there was a lot of concern for opening up a lot of areas to this type of development and wondering why the County needed a new jail which was outside the auspices of the Planning and Zoning Commission but they felt they could not support it.

The City Attorney clarified that the exclusion of correctional facilities in this zone had not been a deliberate decision. Anderson stated they did not debate this particular item until the County made the request.

Upon motion by Councilman Fleming, seconded by Councilman Cantrell, and carried unanimously, the Council adopted Zoning Ordinance #15-35 Amendment to allow Correctional Facilities within the High Intensity Zoning District (HID).

B. Other Business

1. Consideration of a Resolution Seeking Permission to Join State Health Plan

The City Manager stated that Governor McCrory signed H.B 154 allowing units of local government to participate in the State Health Insurance Plan. Morganton has been self-insured for several years and it has served the City well, yielding significant savings as compared to being fully insured under a group policy based on our population. However, the opportunity to join the State Health Plan (SHP) would offer the security of more stabilized rate increases, competitive health benefits, and reduce the potential exposure of significant claims. With over 475,000 active employees and dependents, the State Health Plan affords the City the opportunity to benefit from the economy of scale that it would not have available on its own. While final premium rates are not yet available, it is estimated the change will save the City several hundred thousand dollars in FY 15/16.

As a first step in the process, the City must pass a valid resolution expressing its desire to participate in the Plan. The legislation restricts the number of local governments who may join the Plan by capping the total number of new employees and dependents enrolled at 10,000. To secure the City's option to participate, it is important to get the approved resolution to the SHP as soon as possible.

The City's participation in the SHP would only begin on January 1, 2016. Before then, we must also comply with various requirements which the SHP has yet to actually publish.

An additional "memorandum of understanding" and other details will be forthcoming once the resolution is submitted.

Councilman Thompson asked if this would give the City the option to join but not force us to join. The City Manager stated there would be further action once all details were worked-out.

Councilman Simmons asked if we would be giving Benefit Control the opportunity to provide us another plan for self-insurance or a better deal than the State Health Plan. The City Manager stated it could be done and our current provider would like to do that also. Councilman Simmons stated that some of the parts of the State Health plan are not what the City was looking for. The City Manager stated that because we are self-insured the full burden of claims and healthcare falls to the tax-payers. With this option we go back into a group. We go from being self-insured to being full insured. The reason for changing previously was because of the higher and higher costs. At that time it was worth the risk of being self-insured. The State Health Plan would take this risk away and the costs will be borne by the group and not solely on the citizens of Morganton.

Councilman Thompson asked if we are not accepted as part of the 10,000 enrollees would we continue to be self-insured. The Manager stated that is correct.

Upon motion by Councilman Cantrell, seconded by Mayor Cohen, and carried unanimously, the Council adopted Resolution #15-32 expressing the City's interest in joining the State Health Plan.

2. Consideration of Proposed New Ordinances Addressing the Problem of Dilapidated or Abandoned Non-Residential Buildings

The City Attorney stated at its June 29 meeting, the Council discussed at length the problems caused by commercial or other non-residential buildings which are abandoned or in a state of disrepair, and it was agreed that these structures have created serious issues of blight and possibly of threats to public health and safety. The City's current ordinances are adequate to deal with dilapidated residences, but not with commercial or industrial structures. Council directed the City Attorney to draft and present new ordinances which would allow the City to better address these issues.

The City Attorney proposes to add two new Articles to the chapter of the City Code which deals with "building regulations"—Chapter 2 of Part 9 of the Code.

The first of these articles would authorize the City building inspector to take action on dilapidated non-residential structures in a manner very similar to that in which the

inspector currently acts as to dilapidated residences. After a hearing, the inspector could issue an order directing the property owner to remediate by repairing or demolishing the structure, as the case might be. If a cited property owner failed to comply with the order, the inspector could come before City Council and request an ordinance directing the City to carry out the demolition/removal, charging the cost as a lien against the property in question.

The second article would in effect create an alternative approach. By this ordinance, the City Council may designate "Community Development Target Areas" in which dilapidated or abandoned structures have caused particularly blighted conditions. Within those areas, the building inspector may, again, order remediation of dilapidated conditions in non-residential structures. The standards leading to an order of remediation are slightly different from the other article. A significant difference from the other procedure is that if the City is forced to carry out the demolition/removal, then a lien for the cost may be placed not only on the subject property, but on any other property in the City with the same owner (other than his/her own residence).

The existing ordinance on dilapidated or unsafe residential buildings would remain in effect.

Councilman Cantrell asked if the designation would be like the designated redevelopment area. The City Attorney stated it was.

Councilman Thompson asked if CDBG monies could be used for this. Lee Anderson stated that monies are appropriate for low-mod areas. The City Manager stated it would need to meet HUD requirements.

Upon motion by Councilman Thompson, seconded by Councilman Fleming, and carried unanimously, the Council adopted Ordinance #15-36 amending Part 9, Chapter 2 of the City of Morganton Charter and Code of Ordinances by adding a new Article G. titled "Abandoned or Unsafe Non-Residential Structures", and a new Article H. titled "Community Development Target Areas for Non-Residential Structures".

3. Consideration to Award a Contract for the Bouchelle Street Pedestrian Improvements Project

The City Manager stated this contract is the second part of the Bouchelle Street resurfacing project which was approved by the City Council in June. It is also part of the intersection signalization project being undertaken by the NCDOT. Funding for this part of the project would be through CDBG infrastructure funds. The project will install thirteen (13) curbed islands creating 24 new parking spaces within the two block stretch between E. Union and Patterson Street. It will also install pedestrian and handicap crossing improvements at the Avery/Bouchelle intersection, greatly improving pedestrian safety links between residential, civic and commercial uses within this section of the downtown. Installation of trees and shrubbery within the new islands are also part of this contract along with minor drainage improvements.

This project has been presented to the Morganton Community Appearance Commission and the Main Street Advisory Commission. Both recommend its approval.

Sealed bids were received by the City Engineer on Thursday, July 30, 2015 at 2:00 p.m. at City Hall. Bids were submitted by four contractors. Little Mountain Builders of Maiden, North Carolina was the lowest responsible, responsive bidder for this project, submitting a bid in the amount of \$ 118,015.00. Bids were also received from Concrete Matters of Mooresville, NC in the amount of \$ 133,172.00, from Ridgeline Building Corporation of Morganton, NC in the amount of \$ 133,613.00 and from Country Boy Landscaping, Inc. of Harmony, NC in the amount of \$ 214,878.00.

Upon motion by Councilman Fleming, seconded by Councilman Cantrell, and carried unanimously, the Council authorized and contracted with Little Mountain Builders of Maiden, North Carolina in the amount of \$118,015 for the Bouchelle Street Improvements Project.

4. Consideration of Consent to Assignment of Yianni's Lease

The City Attorney stated that in 2011 the City entered into "an Amended and Restated Lease Agreement" with Yianni's Family Restaurant, Inc. for the rental of a part of the building at 112 West Union Street for the continuing operation of a restaurant known as Yianni's. By its terms, this lease continues through 2032. Now, Yianni's has been in discussion with Mr. Elliot Stevens about potential sale of the restaurant operation. A letter has been received from the attorney for Yianni's requesting that the issue of the assignment of this lease with the City be placed on the August 3, 2015 City Council agenda for consideration. Yianni's has entered into a contract of intent with Stevens under which they propose to close by September 1, 2015 on sale of the entire business of Yianni's to Stevens or a corporate entity controlled by him.

One of the terms of the City's lease with Yianni's states that the involvement of John K. Dimarhos, ("Yianni"), as the principal of the tenant Yianni's Family Restaurant, Inc. was an inducement to the City to grant the lease, and for that reason Yianni's may not assign any part of the leased premises without the prior written consent of the City, such consent not to be unreasonably delayed or withheld. Further, sale of any of the assets of, or transfer of control of, Yianni's Family Restaurant, Inc. without prior consent of the City is deemed to be an assignment in violation of the lease. It is significant that the lease was personally guaranteed by John K. Dimarhos. As is well known, the business known as Yianni's was specifically recruited by the City in the 1990s as a cornerstone of the redevelopment of a vibrant downtown Morganton. The restaurant has clearly been successful in this role and remains a popular and critical feature in downtown Morganton.

At this point, City consent to assignment of lease would be conditional on Yianni and Stevens actually closing on their deal for the sale of the restaurant business. Among other things, the proposed consent to assignment would require that Elliot Stevens

personally guarantee the lease; that John K. Dimarhos continue to be bound by his personal guarantee on the lease for a period of six months; that John K. Dimarhos agree to continue working with and being a presence at Yianni's Family Restaurant, assisting the transition to management and leadership by Stevens, for at least three months; and that the restaurant continue to operate under the name "Yianni's" for at least six months.

The City Attorney stated that in addition, the City also has a current Small Business Loan Agreement with Yianni's Family Restaurant, Inc. under which \$50,000 was granted to Yianni's in 2010. Under the terms of that agreement, 75% of the loan amount may be forgiven by the City provided that Yianni's meets certain conditions and makes all loan payments as required for a period of 5-years. The 5-year term for such payments extends through March 2016. It is a condition of the City's consent to assign the lease that Yianni's remain in business at least until March 2015, and that either Yianni's continues to make the payments in full until the expiration of the 5-year term or pay in advance sufficient funds to cover the remaining payments due to complete the 5-years. In either of those cases, the remaining balance of the loan shall be forgiven, and turned into a grant for which no repayment is required. t

The original reasons back in 1997 for having a viable restaurant in the downtown area continue to apply, and by consenting to the Assignment of the Lease, the downtown area will continue to have a popular restaurant and meeting place.

The Mayor stated that in 1996 there was a visioning group to plan a new and more orderly approach to the MainStreet program. The number one recommendation was a full-service restaurant in downtown. They looked locally and could find no one to run such a business. Then they met Yianni, and because of his past experience, he has had a successful 18-year business. At that time they required that the owner have experience in running a restaurant and working in a kitchen. The Mayor stated he felt the Council needed to maintain that approach. He stated the restaurant business has the highest failure rate of any business in America today. He feels the Council needs to safeguard this downtown anchor.

Councilman Thompson asked about the Small Business Loan Agreement. The City Attorney stated there is an outstanding loan with Yianni's which was granted in 2011. There is no provision to assign, Yianni is not seeking to assign, and the Agreement would remain in place. Under the terms of that agreement if Yianni's makes the payments through March 2016 the balance would be forgiven. A second condition of forgiveness is that the business must remain operational.

Sharon Jablonski reiterated the business must remain operational through March 2016 whether the loan is paid-off early or not. The priority position and goal of the loan/grant is that the business remain operational.

Councilman Cantrell stated the Council has been made aware of Stevens' business plan which is in written form and some contingencies which may occur. In Stevens'

proposition he states what he would do if some of those things come to pass. Councilman Cantrell stated that Stevens looks prepared and is a successful businessman in another county. However he has not been in the kitchen in a long while and his son has not worked in the kitchen. He stated that if the Council doesn't approve this we take away from Yianni the opportunity to reap the reward of 18 years work. He stated the Council has been put in a position that is not in the job description of a city council. They are elected to govern not to manage.

Councilman Fleming stated this is a big decision and the Council has looked seriously at how this could affect the downtown district. The City greatly values the leaseholders and businesses and the Council wants them to be successful. He stated that it appears that Stevens is quite serious about operating this business. Councilman Fleming hopes the restaurant continues to be successful.

Upon motion by Councilman Thompson, seconded by Councilman Fleming, and carried 4-1 (Cohen), the Council consented to Resolution #15-33 Assignment of Lease from Yianni's Family Restaurant, Inc. to Elliot Stevens.

5. Consideration of an Appointment to the Board of Adjustment

There is one vacancy on this board due to the resignation of Sandy Turner. Thomas L. Eure has expressed interest in serving on the Board of Adjustment.

Upon motion by Mayor Cohen, seconded by Councilman Cantrell, and carried unanimously, the Council appointed Thomas L. Eure to the Board of Adjustment to fill an unexpired term through June 3, 2018.

XIV. Other Items from City Manager and City Council Not on Agenda

•The Mayor asked to make a statement, which follows:

In April, 2015, the County submitted a formal request to the City asking for the closing of the block of Bouchelle Street behind the current Courthouse for the construction of the County's projected 256 bed jail. This request was made without providing any traffic study or other objective evidence in support, as had been requested months earlier by the City. Morganton has not recently—if ever—closed and abandoned the right-of-way of any major thoroughfare. Because of the permanent and unique nature of this request, it was initially presented to 3 different standing committees of City Council, so that all members would have opportunity to consider and comment before the May Council meeting. At those committee meetings, the Mayor and all four Councilmen indicated they opposed permanent closing of this block of Bouchelle Street. Council members asked to meet with County Commissioners to discuss the jail project and how the two governments could cooperate going forward.

The City Manager therefore contacted the County, through its Manager, to suggest, first, that the County agree to hold off on presenting the street closing request at the

City Council's May meeting, because Council was unanimously opposed, and, second, that representatives of the County meet with the City Manager, Mayor Cohen and Councilman Thompson to further discuss possibilities for the construction of the jail in downtown. The County declined any such meeting, and directed the City to proceed immediately with the request to consider the closing of a portion of Bouchelle Street.

At the May 4 Council meeting, the Mayor and all 4 Councilmen voiced their opposition to closing the street, but repeatedly expressed their desire to compromise, if the County would consider a smaller jail, or a multi-story structure, or other changes. County Commission Chairman Johnny Carswell and County Manager Bryan Steen argued in favor of closing the street. Under questioning by Council, the County's representatives acknowledged that they did not know how many jail beds the County currently used, and that they planned to "rent out" their excess beds to the State to raise revenue to help pay for the downtown jail. They explicitly stated that the County would not consider any other size or design options for the downtown jail, and that the proposed one-story 256 bed jail was "the only proposal the County could use". When it was suggested that the City would consider closing part of this very wide street, the County Manager responded that they would need all of the extra space "for safety". Chairman Carswell stated that if the City would not close the street, then "the County would have to look at other options".

For the record, the Burke County commissioners never mentioned the courthouse relocation in any discussion, including in the comments made at the May 4 City Council meeting. There was no mention of it in the County Manager's office on August 20, 2014. No mention of it at the September 11, 2014 public meeting of the City Council and the Planning and Zoning Board. No mention of it at the September 22, 2014 County Commission Meeting. No mention of it in the discussions between September and the April street closing request. In fact, the County had been openly discussing a new jail for many months, and had paid an architect substantial fees for designs for a jail downtown...without ever even mentioning in public any thought of moving the Courthouse. Only after the City's May 4 action did the County begin raising that possibility.

So, the question is, if the County had indicated that not closing Bouchelle Street would lead to a decision to move the County Courthouse out of downtown Morganton, would the City Council have made a different decision? Honestly, I do not know. It is entirely up to the County Commission whether and where to build a jail, or a courthouse. Likewise, it is entirely up to the City Council whether it is in the City public's interest to close a public street. At this point, the City Council just wants to make clear the background for its decisions on this matter, and to reiterate that it remains perfectly willing to collaborate with the County on planning for a new jail or other facilities in downtown Morganton.

I ask the County Commissioners to pause and, again, I ask them - let's talk. Let's not obligate our citizens to a \$30-35 million debt.

•Councilman Cantrell stated that he met last week with the Burke County Public Library Trustees and they asked him to share with the Council their appreciation of the budgetary support. He stated the library was a very valuable asset for the City and County.

XV. Reports – Reports were distributed for information.

XVI. Adjournment – The meeting was adjourned at 7:30 p.m.

Preparation of Minutes. These minutes were prepared by Mikela D. Russell, Assistant City Clerk. Copies of all resolutions, ordinances and orders referenced in these minutes are intended to be incorporated into these minutes as if fully set forth herein. Prior to including them into the official minute book, the minutes have been read and approved by the City Manager and the City Attorney, then distributed to each member of the City Council for further review and final approval, at a subsequent Council Meeting.



Mayor

Assistant City Clerk