

SPECIAL MEETING  
BUDGET HEARING  
CITY COUNCIL

June 17, 2019

Ronnie Thompson, Mayor

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

Wendy Cato                    )  
Forrest A. Fleming        ) Council  
Christopher Hawkins     )  
Sidney Simmons         )

I. The Meeting was called to order in the Council Chamber at City Hall at 6:00 p.m. by Mayor Thompson.

II. Public Hearing Concerning the City of Morganton Budget for Fiscal Year 2019-2020

The Mayor opened the public hearing at 6:00 p.m.

The City Manager stated that the Budget Ordinance establishes the tax rate at \$0.57 for general tax and \$0.14 for municipal service district tax per \$100 valuation. Also included are revenues anticipated and expenditures authorized as presented to the City Council on June 3, 2019. The public hearing notice was published in The News Herald on June 10, 2019.

There being no public comment, the Mayor closed the public hearing at 6:01 p.m.

Upon motion by Councilman Hawkins, seconded by Councilwoman Cato, and carried unanimously, the Council adopted a Budget Ordinance (Ord. #19-20) for FY 2019-2020.

a. Consideration of Adoption of Schedule of Fees and Charges 2019-2020

The City Manager presented the proposed Schedule of Fees and Charges.

Upon motion by Councilman Hawkins, seconded by Councilman Fleming, and carried unanimously, the Council adopted the Schedule of Fees and Charges for FY 2019-2020.

•The Mayor announced a public meeting regarding the Center Square Park would be held at the Collett Street Recreation Center on Tuesday, June 25, 5:30-7:30 p.m.

### III. Consideration of Approval of Pay Range and Position Classifications as Included in the Budget

The City Manager stated there are a few position changes that Council should be aware of as well as a few updates to the pay ranges due to the market review mini study. She stated that Council was made aware of these changes and updates during the budget process. Council approval is required for pay ranges and position classifications.

#### Administrative Specialist (611) - Public Works

The recently retired incumbent had over 25 years in the position and developed the experience, knowledge, and understanding of operations to allow her a greater degree of independent decision making and advising the Director. She also had several personal skills (interpreting for hearing impaired, for example) that were assets and utilized in the job, but would not be considered essential skills. These factors were considered in the position being slotted as an Administration Specialist II at pay grade 23 (2 grades higher than the Administrative Specialist I positions) back in 2017.

The other essential qualities and skills require a level similar to other administrative positions: strong organizational skills, attention to detail, writing, computer skills, and interacting with the public. Although the number of divisions is greater, the core responsibilities, required skills, and abilities are in line with the Administrative Specialist I position and I recommend it be classified as such and slotted at a grade 21 (30,388.99 - 37,986.23 - 45,583.48).

#### Parks Maintenance Supervisor (724) - Recreation

To improve efficiency, narrow the scope of supervision, and make better use of technical expertise, the maintenance division will be split into two areas: building / facilities maintenance, and parks / turf maintenance. The Parks Maintenance Supervisor (Job #0724) is a reconfiguring of the Recreation Maintenance Supervisor position (Job #0736) that was vacated by retirement. The Parks Maintenance Supervisor will have responsibility for all the athletic fields, greenways, and recreation green space maintenance and supervise four positions, including the Turf Maintenance Manager position. I recommend the Parks Maintenance Supervisor be slotted at a pay grade 26, (38,785 - 48,481- 58,177) in line with other recreation supervisory positions with similar responsibilities.

The other range changes resulted from the market review mini-study for positions in Development and Design, Finance, Recreation, IRMS, Water, Sewer, administrative assistants, and administrative non-sworn positions in Public Safety.

Upon motion by Councilman Fleming, seconded by Councilman Simmons, and carried unanimously, the Council approved updated pay ranges and classifications.

IV. Consideration of Approval of Year-end Budget Amendments 2018-2019

The City Manager stated the City of Morganton year-end budget amendments include the General Fund and the IGS Warehouse Fund. The General Fund amendment is \$18,435. No additional fund balance required for amendment due to increases in various revenues.

The IGS Warehouse Fund is an adjustment related to Electric transformer purchases and amounts to \$155,000.

Upon motion by Councilman Simmons, seconded by Councilman Hawkins, and carried unanimously, the Council approved the General Fund Budget Amendment for \$18,435. (Ord. #19-28)

Upon motion by Councilman Simmons, seconded by Councilman Fleming, and carried unanimously, the Council approved a budget amendment for \$155,000 to appropriate adjustments in the IGS Warehouse fund. (Ord. #19-29)

V. Consideration of Budget Amendments / Green Street Revitalization

The City Manager stated these budget amendments appropriate and reallocate funds for the Green Street revitalization project based on actual bids.

Upon motion by Councilman Fleming, seconded by Councilwoman Cato, and carried unanimously, the Council approved budget amendments as presented to properly allocate funding for the North Green Street Revitalization Project between funds based on actual bids received. (Ord. #s 19-22, 23, 24, 25)

VI. Consideration of a Budget Amendment to Fund a Downtown Parking Study

The City Manager stated the Main Street Program would like to engage a firm to provide a comprehensive parking study and report for the Downtown area to assist the City of Morganton in managing a diverse public parking program.

With continued development of second floor housing and projected infill housing developments, as well as continued commercial growth, it is important that we understand how to best use our current parking lots, the management and monitoring of parking, as well as shared parking. Furthermore an analysis of where parking is located vs where it is needed and a parking garage vs building more lots, needs to be completed.

The study would provide a report based on site visits giving a comprehensive overall analysis of Downtown Morganton's parking including, but not limited to:

- parking space capacity versus utilization forecasts
- supply / demand analysis

- shared parking analysis
- parking demand, current and future
- residential parking program, current and future
- parking rate analysis and revenue trends
- development of annual maintenance plans for various lots
- feasibility analysis of a parking garage and lot feasibility analysis
- implementation of new technologies
- on-street parking occupancy and inventory

The study would provide parking consulting services as requested, including, but not limited to:

- functional design (level of service, flow capacity and circulation systems)
- lighting
- parking and revenue control equipment
- signage and way finding
- security
- occupancy evaluations, both on-street and off-street
- evaluation of current ticket/revenue collection methods
- evaluation of current and future parking needs
- evaluation of current conditions of parking facilities
- recommend garage preventive maintenance schedules
- project management and full engineering design of new facilities
- evaluation of parking enforcement
- evaluation of residential parking program
- recommend industry guidelines for parking debt policy
- development of parking related RFPs
- surveys of other city systems for parking comparison benchmarks

The Main Street Advisory Board and staff feel strongly that a comprehensive parking study is necessary to provide the best information for decision making as we plan for future growth for commercial business and downtown living. Some of the parking lots currently owned/leased by the City are in poor repair. These lots/locations need to be evaluated to maximize parking availability and to address the perception that there is not enough parking, while many city leased lots sit empty.

After reaching out to several North Carolina communities that have recently completed such studies, the costs ranged from \$35 to \$60 thousand dollars. We believe \$40,000 will be adequate for our study. Timing is important and we need to get this done as soon as possible. There are funds available in 2018/2019 to do this study.

Councilman Fleming asked where the money was coming from to pay for this study. The City Manager stated it would come from General Fund fund-balance.

Upon motion by Councilwoman Cato, seconded by Councilman Hawkins, and carried unanimously, the Council approved a budget amendment in the amount of \$40,000 for a downtown parking study so funds can be carried over into next fiscal year. (Ord. #19-21)

VII. Consideration of an Award of Contract for Improvement of Tennis Courts at Bethel Park

The City Manager stated that in an effort to keep our park facilities in good repair and available to provide recreational opportunities to our citizens, routine maintenance must be performed.

In order to make the tennis courts at Bethel Park more versatile, the plan is to resurface them to serve pickle ball and tennis.

Bids were received to do this work. Staff recommends awarding the contract to Thermal Belt Sports Surfaces to repair and add pickle ball courts to Bethel Park. They were the low bid of \$33,400. Two other bids were submitted by Court One (\$39,453) and North State Resurfacing (\$58,726).

Upon motion by Councilman Fleming, seconded by Councilwoman Cato, and carried unanimously, the Council approved awarding a contract to Thermal Belt Sports in the amount of \$33,400 for resurfacing and to establish pickle ball on the courts at Bethel Park.

VIII. Consideration of Award of Contract for Construction of a Road / TIP No. U-6057 – Proposed Connector Road Between South Sterling Street and West Parker Road

This project involves the demolition of an existing structure, and the installation of approximately 1,300 linear feet of new three-lane roadway with curb and gutter, a 10' multiuse path, storm drainage facilities and a new traffic signal at the intersection of South Sterling Street and the proposed connector road.

A \$1,374,714 grant from the Appalachian Regional Commission (ARC) has been secured to fund this particular project. The proposed Connector Road between South Sterling Street and West Parker Road will serve as access for new development.

Sealed bids were received and opened by the Development & Design Services Department on Friday June 14, 2019. The City received five bids. All bids were over budget. The lowest responsible, responsive bid was submitted by NHM Construction, LLC in the amount of \$1,305,784.

City staff has been in contact with ARC to ask if additional funding can be secured to complete the project. We have been advised that the answer is maybe.

The timeline to get an answer could be as long as three weeks. If we do not award bids for three or more weeks, we will risk not being able to complete the project before asphalt plants close down for the season.

If the City chooses to award the contract for \$1,305,784 we would commit \$173,195 of General Fund balance. If the additional ARC funds are secured, the fund balance used would be reimbursed.

A budget amendment of \$173,195 is necessary to appropriate the gap funding and to transfer funds to the Exit 105 Connector Road capital project fund.

Councilman Fleming asked if the investors would be willing to help fund this difference. The City Manager stated that the developers are paying the full cost for utilities.

Councilwoman Cato asked if there is room for future development along the road once complete. The Manager stated there would be additional parcels at the West Parker end of the road.

Councilman Fleming stated that in order to spur economic development it will cost some money.

Upon motion by Councilwoman Cato, seconded by Councilman Hawkins, and carried unanimously, the Council approved awarding a contract in the amount of \$1,305,784 to NHM Construction, LLC for the construction of the connector road and approved authorizing the City Manager and Mayor to execute contracts and make any technical changes required.

Upon motion by Councilwoman Cato, seconded by Councilman Fleming, and carried unanimously, the Council approved a budget amendment in the amount of \$173,195 to appropriate funds for the project. (Ord. #19-26 and 19-27)

IX. Consideration of Award of Contract for Water Main Improvements Associated with the Proposed Connector Road Between South Sterling Street and West Parker Road

The City Manager stated that this project involves the installation of a new water main to serve a proposed new restaurant, which will be located at 2156 South Sterling Street. The project includes the installation of approximately 88 linear feet of 16-inch steel encasement pipe (to cross South Sterling Street), and approximately 377 linear feet of 8-inch water line, along with other water line appurtenances.

This project is associated with the Proposed Connector Road between South Sterling Street and West Parker Road project. The developer of the proposed restaurant is responsible for the funding the water line improvements associated with this project as detailed in a recently executed Memorandum of Understanding.

Bid proposals were received by the Development & Design Services Department on Friday June 14, 2019.

We received one sealed bid and one no-bid. Bids remained unopened due to only receiving one. The City Manager stated that Council needs to reject all bids and staff will reissue bid requests.

Upon motion by Councilman Simmons, seconded by Councilman Fleming, and carried unanimously, the Council approved rejecting all bids and authorizing staff to solicit new bids on this project.

X. Consideration of an Encroachment Agreement with NCDOT for the Purposes of Establishing a Trial Outdoor Seating in a Parking Space for an Eating Establishment

The City Manager stated that Main Street staff recognizes that foot traffic has greatly increased in the last year on the sidewalks and in stores in downtown. The increase in tourism numbers support this as we hit 101 million dollars in visitor spending in 2017. Numbers for 2018 have not been released but it is expected to be 3 to 4 percent higher than 2017. This is great news.

Additionally, outdoor seating continues to be requested as more and more businesses try to meet customer demand. To date we have been able to meet these requests. However, not all sidewalks are created equal and therefore accommodating outdoor seating requires different solutions. The Grind Café located at 129 West Union Street has had outdoor seating but has not been in compliance with our encroachment policies. Basically there is not enough room to encroach. Over the years their business has tripled and the demand for seating, especially outdoor seating, has grown. Early on the outdoor seating didn't really bother anyone, but again with the increased foot traffic it has become an ever growing challenge.

Several downtowns have addressed this challenge by taking parking places and turning them into a raised seated area in line with the curb, examples were shared with Council. In particular downtown Concord and downtown Asheville have put several in place. It has helped meet the demand for outdoor seating while still providing a clear path for pedestrians. Some towns have identified parking areas, developed them and then labeled them as public parklets. We did this temporarily during our Masterplan process.

City staff has met with NCDOT officials on site and are awaiting their response. If DOT approves, we would like to use the last space on the 100 block of West Union Street in front of The Grind as a trial to see how it works. Business owners next to this space are in full agreement for the space to be used as an outdoor seating area. They also stated that the parking space was left vacant more times than not because of its close proximity to the stop light and the difficulty of backing in with the extended island.

Once given approval, the Main Street office would proceed with the construction of the flooring and purchase of large flower pots, to match our existing pots, to then put in place as a barrier street side. The restaurant will be responsible for the tables and chairs. Estimated cost \$1,800.00 and is in the Main Street Budget for 2019/2020.

Again, this requires permission from NCDOT so nothing will occur until we receive that.

Councilman Simmons asked about the parking study and doesn't taking away a space before completing the study put the cart before the horse. The City Manager stated this would be a trial to see if it works or not and the parking study would be more broad in scope. She stated she didn't think this one space would be detrimental.

Councilman Simmons asked if anyone had approached The Grind to see if they would pay for the platform since it will be used for their seating. The City Manager stated that in all the towns/cities they spoke with the municipality paid for the structure since it was being put in the town/city parking space/sidewalk area.

Councilman Fleming asked if other businesses with encroachments have paid for the barriers in their encroachment area. The City Manager stated they have and if this became a permanent fixture she would suggest then asking for The Grind to pay; however it is just a trial period.

Mayor Thompson asked if this was the same thing demonstrated during the Masterplan. The City Manager stated it was.

Councilman Simmons stated that the particular parking space being talked about was difficult to park in.

Sharon Jablonski stated the parking place being discussed was difficult because one must pull out into the intersection in order to maneuver into the spot. She stated everything she has read about vibrant downtowns are the sidewalks are messy; and that's ok. She would just like to try out the idea to get the feel and get feedback. The City Manager stated that it might not happen if we don't get DOT approval.

Councilman Simmons stated he still feels that the parking study should be done first. Jablonski replied that the study would be looking more broadly at the overall management of parking.

Councilman Fleming stated that all other businesses have paid for their encroachments and he feels this business should have to pay at least 50%.

Councilwoman Cato made a motion to enter into an encroachment agreement with NCDOT for the purposes of establishing a trial outdoor seating area in a parking space for an eating establishment. The motion was seconded by Councilman Hawkins. The motion failed upon a 2-3 vote with Councilmen Fleming and Simmons and Mayor Thompson voting no.

Councilman Fleming made a motion to enter into an encroachment agreement with NCDOT for the purposes of establishing a trial outdoor seating area in a parking space for an eating establishment provided the establishment agrees to pay 50% of the cost

of the building supplies for the platform. The motion was seconded by Councilman Simmons.

Councilman Hawkins stated that he felt this was a good solution but he was for equitable treatment. He stated that since others had paid for their encroachments that he supported The Grind paying 100% of the cost for the sake of fairness.

The motion passed upon a 3-2 vote with Councilman Hawkins and Councilwoman Cato voting no.

XI. Consideration of a Resolution Authorizing a Grant Application from the North Carolina Appalachian Regional Commission (ARC) for the Craft District

The City Manager stated the City intends to start the Craft District Infrastructure Project to improve water and sanitary sewer on McDowell Street. The City estimates that the Craft District Infrastructure Project will cost about \$619,600. The North Carolina Appalachian Regional Commission (NC ARC) Construction Grant Program assists local governments in developing projects that will provide significant economic and community development opportunities for communities in our region with funding up to \$300,000.

The City has committed to providing local matching funds for the project in the amount of \$319,600. City Council must approve a resolution authorizing the grant application.

The Mayor asked for clarification that this is just approval to apply. The City Manager stated that was correct.

Upon motion by Councilwoman Cato, seconded by Councilman Hawkins, and carried unanimously, the Council authorized staff to apply for a \$300,000 grant from the North Carolina Appalachian Regional Commission Construction Grant Program.

XII. Consideration of Amendment to Personnel Policy

The City Attorney stated that Section 2.05(b) of the City's Personnel Policy addresses the problems that can arise if close family members are employed by the City. The policy as originally adopted forbade the employment of immediate family members of employees. Later amendments somewhat liberalized this process, so that such relatives could be employed if not in the same department, but broadened the definition of "immediate family member", and specified that no permanent positions could be filled by relatives of the Mayor, Council members, City Manager, City Attorney, Assistant City Manager, Finance Director or Human Resources Director.

Now, concerns have arisen that the current policy may be too restrictive, especially in regards to employment of relatives of elected officials.

City staff has researched the anti-nepotism policies of other N.C. municipalities, and found that there is a wide range of such policies, from very restrictive to much more lenient, across all sizes of towns. A summary of what was found in the polling was shared with Council.

There are several different ways in which the policy could be amended to accomplish a “narrowing” of its effect upon City employees. The City Attorney has drafted three alternate amendments of policy 2.05(b), designated versions 1-3, each of which changes the rule in slightly different ways.

While revisions to the Personnel Policy are issued by the City Manager, substantive changes are made only in consultation with the elected representatives. In this case, the initiative for the changes is from City Council, and therefore approval of the amendment by Council is necessary. The Council should choose which, if any, of the draft versions it wishes to enact.

Councilman Simmons stated he liked draft policy #1 with an exception. He would be in favor of striking the in-laws from the prohibited list. He gave the example of, “If Sally had a sister and I married her, Sally would lose her job.”

The City Manager asked for clarification. Are you saying that if a mother-in-law and father-in-law or sister-in-law / brother-in-law were all working for the City, it would be okay? Councilman Simmons stated he is not locked in and could be swayed. He stated that he could live with it in there.

The City Attorney stated that sometime back before 2011 the policy included in-laws and it’s pretty common to include in-laws in the prohibition. He stated if you allow it and you have a brother-in-law of an employee, what happens when the brother-in-law and sister divorce, you could have problems.

Councilman Simmons stated he feels we should not include “common law marriage”. He stated that we are digging somewhere we ought not to dig. He stated the number one question is who is going to police this.

The City Attorney stated it was a fair question and that the language has been in the policy for a long time and is very standard in almost every anti-nepotism policy these days. Councilman Simmons stated he felt this might be open up the City to a law suit.

Councilman Fleming asked if we were going to begin knocking on doors and checking to see who is in bedroom number one and bedroom number two. The City Attorney stated that when two employees have the same address, it is known.

The City Attorney asked Human Resources Director Rus Scherer to address this. Scherer stated the City would not be doing bed checks. He stated that employees with same address, same tax filings, can create the same problems which we try to avoid

with the Nepotism Policy. He stated that while not perfect in enforcement it is good tool to have established and again, standard in most nepotism policies.

Councilman Simmons stated he could see a man and a woman, but what about those of same sex who live together and consider themselves as just best friends. He asked who was going to go see if they are best friends or if “both sides of the bed are warm”.

Scherer stated in those situations you look at the situation as if they are two sisters living together and working together. He stated we need to try and focus in on what are the likely possibilities of disruption in the workplace. It is impossible to go through and investigate every situation, but we might look at the totality of evidence; what is plausible or most likely.

The City Attorney stated another aspect is parent / child. Scenario: couple who live together but not-married, one has a child by a previous relationship who has been raised in the household as if they were the son / daughter of the employee. Do we ignore that because they aren't related? For all practical purposes it is a parent / child.

Councilman Simmons stated it is a can of worms.

The City Attorney stated that in making this particular change the Council may need more study and thought before making the change. The City Attorney stated his counsel would be for Council to direct staff to look into this further before making a change.

Councilman Simmons made a motion to go with draft policy #1\* striking the definition from section 3 beginning with “The definition for this Sub-section...” through the end of the paragraph\*\*. Councilman Fleming seconded the motion.

\*(Draft policy #1 as presented to Council: 2.05(b)(1) To prevent actual or perceived favoritism and/or discrimination in the workplace, no person shall be hired, assigned to work or allowed to work for the City in a full-time or part-time position within the same department as an immediate family member of that person.

(2) The City also prohibits employment of any person in any permanent position who is an immediate family member of any person holding any of the following offices or positions: Mayor, City Council member, City Manager, Assistant City Manager, City Attorney, Finance Director or Human Resources Director.

(3) For purposes of this Sub-section 2.05(b), “immediate family” is defined as spouse, child, parent, sibling, grandparent or grandchild, and includes in-laws, step-and half-relatives in those degrees of relationship. *\*\*The definition for this Sub-section also includes individuals living in the same household who share a relationship comparable to traditional immediate family members. For example, individuals who live together in a consensual*

*personal or cohabitation arrangement in the nature of what is commonly referred to as a “common-law marriage”, or who share a conjugal bed as if married, will be treated as spouses; and where an individual not formally related resides and is treated in the same manner as if a child of an adult in that household, then this will be treated as parent and child.*

(4) [Existing (2) will be re-numbered as (4), and the reference in the last paragraph will also be changed.]

Councilman Hawkins stated most people understand the need for a nepotism policy including to avoid supervisory conflicts, to avoid favoritism or the appearance of favoritism, to avoid family influence regarding grievances or work conflicts or even job promotions. He stated we also have these policies to promote a sense of fairness for everyone involved. He stated in his years as a supervisor he has found it is better not to face these conflicts with relatives. He stated the City’s policy is very close to the policy the SECU follows. Councilman Hawkins stated he favors leaving the current policy as it is; making no changes at all. Councilman Hawkins then questioned if we are currently having hiring difficulty due to the policy as it stands.

Scherer stated it is a difficult thing to gauge, but anecdotally maybe between three and half-dozen times in the past four years has someone mentioned a relative might be a good hire. He stated that the current policy is much more in-line with what is reasonable in the segregation of chain of command and the impact one employee might have on the relative’s employment situation.

Councilman Hawkins stated again that he is in favor of keeping the policy as it is.

Mayor Thompson stated there was a motion on the floor and called for a vote. The motion passed with a 3-2 vote (opposing were Councilwoman Cato and Councilman Hawkins). Following is the approved text:

2.05(b)(1) To prevent actual or perceived favoritism and/or discrimination in the workplace, no person shall be hired, assigned to work or allowed to work for the City in a full-time or part-time position within the same department as an immediate family member of that person.

(2) The City also prohibits employment of any person in any permanent position who is an immediate family member of any person holding any of the following offices or positions: Mayor, City Council member, City Manager, Assistant City Manager, City Attorney, Finance Director or Human Resources Director.

(3) For purposes of this Sub-section 2.05(b), “immediate family” is defined as spouse, child, parent, sibling, grandparent or grandchild, and includes in-laws, step-and half-relatives in those degrees of relationship.

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

XIV. Adjournment – The meeting was adjourned at 6:57 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.

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Mayor

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Assistant City Clerk