

MINUTES
REGULAR MEETING
CITY COUNCIL

February 3, 2020

Ronnie Thompson, Mayor

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

Wendy Cato)
Christopher Hawkins) Council
Chris Jernigan)
Butch McSwain)

Becky Brinkley, Interpreter

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

II. Public Comment – The Mayor stated the guidelines for public comment and said speakers were to be called in order of sign-up.

- Harvey Daw resides at 101 Woodland Place. Daw stated he came before Council last month and said it is a special honor to talk about issues in this forum with Council and citizens. He stated his issue is the ongoing and exploding number of homeless in the downtown area. He expressed concerns about specific areas in downtown, but also mentioned he has seen a marked improvement over the past month. He congratulated Public Safety for increasing the number of officers walking in the downtown area. He stated he wanted to give the Council a “man on the street” view of what is going on. He thanked Council for the continued attention to this problem.

No other speakers were signed up or appeared.

III. Pledge of Allegiance to the Flag – At the Mayor’s request, Councilman Chris Jernigan led the recitation of the Pledge of Allegiance to the Flag.

IV. Invocation – The Invocation was given by the Rev. Larry Britt, Chaplain MDPS.

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

VI. Retiree Resolutions

- The Mayor read a resolution honoring Robin E. Triplett who retired from the City of Morganton on February 1, 2020 with 22 years and 6 month’s service. Triplett retired from the Public Safety Department as a Lieutenant III. Councilman McSwain presented Triplett with his resolution

Triplett stated the other day there was a reception at the Community House for him where he forgot to thank some people; particularly his family. He mentioned all the days, weeks, and months, that he didn't get home or missed family events. He stated his appreciation to those officers who went before him and taught him throughout the years, leading him to be the person he wanted to be.

Upon motion by Councilman Jernigan, seconded by Councilman Hawkins, and carried unanimously, the Council adopted Resolution #20-02 honoring retiree Robin E. Triplett.

Upon motion by Councilman Jernigan, seconded by Councilman McSwain and carried unanimously, the Council declared a weapon, Glock 22 Gen 4 pistol, Serial #XHY513XPH031 and a *Cairnes* 1044DSR fire services helmet as surplus, sold for one dollar, paid for by the City Manager, to be presented to retired Lt. Triplett at another time.

- The Mayor read a resolution honoring Ronnie D. Rector who retired from the City of Morganton on February 1, 2020 with 28 years' service. Rector retired as Chief from the Public Safety Department. Councilman Hawkins presented Rector with his retirement resolution.

Upon motion by Councilwoman Cato, seconded by Councilman Hawkins, and carried unanimously, the Council adopted Resolution #20-03 honoring retiree Ronnie D. Rector.

Upon motion by Councilman McSwain, seconded by Councilman Hawkins, and carried unanimously the Council declared a weapon, Glock 23 Gen 4 pistol, Serial # XPH020 and a *Paul Conway* fire services helmet, serial number LHM71509 as surplus, sold for one dollar, paid by the City Manager, to be presented to retired Chief Rector at another time.

Rector thanked the Council for allowing him the privilege of being the Director of Public Safety. He thanked the department directors for accepting him as a peer and for putting the Council's thoughts, words, and vision into action. Rector thanked the community for the trust placed in him and for their support over the years, not only to him but to the entire department. Rector then addressed the City Manager, thanking her for taking the chance on him. He stated she has earned his trust, respect, admiration, and appreciation. He stated he could not imagine a more capable, compassionate City Manager anywhere; saying the City of Morganton is lucky to have Sally as a leader. He stated it had been a true privilege to work with the men and women of Public Safety, citing their dedication, commitment, and professionalism.

The City Manager thanked retired Chief Rector saying the community was lucky to have him as Chief. She stated he has instilled confidence within the community as well as within the department.

VII. Service Pin – The Personnel Committee and City staff have decided to recognize long-term employees for years of service at a Council meeting.

Councilwoman Cato presented a 20-year pin to Jackie Cain, Senior Administrative Specialist in the Development and Design Department.

The City Manager stated there aren't many current employees in City Hall who moved from the old City Hall, but both she and Jackie had. She stated it has been a delight working with Jackie for the past 20 years.

Cain stated that it was hard to follow the Chief's retirement. She stated that relationships are formed over those years with fellow employees becoming like family. She stated it is an honor to work at the City and watch the City grow. The Mayor thanked Jackie for her service.

VIII. Public Advocacy Issues and Strategies

a. The Mayor announced that Chief Rector's Retirement Reception would be held at the Community House on Friday, February 7 from 11:30 a.m. – 1:30 p.m. with remarks at 12:15 p.m.

b. The Mayor announced the following upcoming events at CoMMA: *Peacherine Ragtime Society Orchestra* on February 6; *The Color Purple* on February 27; and *Rhythm of the Dance* on February 29.

The Mayor stated that the magazine Planetware voted the City of Morganton as one of the "13 Top-Rated Small Towns in North Carolina".

IX. North Carolina Municipal Power Agency Number 1 Update – The City Manager said there were no updates.

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

Upon motion by Councilman Hawkins, seconded by Councilman McSwain, and unanimously carried, the Consent Agenda was approved and each individual item adopted as stated, those being as follows:

A. Approved Minutes for a Regular Meeting held on January 6, 2020 and a Special Meeting held on January 21, 2020 as submitted.

B. Approved the award a contract for audit services to Elliott Davis for FY 2019/2020 at a cost of \$39,000.

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

XII. New Business

A. Public Hearings

1. Public Hearing for the City of Morganton Consolidated Plan FY 2020-2024

The Mayor opened the public hearing at 6:22 p.m.

Lisa Helton with Western Piedmont Council of Governments stated this public hearing is to receive public input and comments concerning the proposed 2020-2024 Consolidated Plan for the City of Morganton. This Plan, as required by the U.S. Department of Housing and Urban Development (DHUD), outlines the goals and actions of the City of Morganton in its use of Community Development Block Grant (CDBG) funds for the next five years, beginning July 1, 2020 and ending June 30, 2024.

A second public hearing will be required and held at the April 6, 2020 City Council Meeting.

•Beverly Carlton resides at 111 River Hills Lane and is the Executive Director of Olive Hill Community Development Corporation. Carlton suggested the City has been doing the same thing year after year. She stated there may be other ways to disburse the monies. She suggested using CDBG funds to work with Community Development Corporations such as hers to help with housing issues. She offered Charlotte / Mecklenburg as a model to consider. She suggested considering a bond or percent of tax to be set-aside to work with non-profits, especially for capital improvement projects that non-profits need for their facilities. Carlton spoke about the homeless issue and the fact there is not a minority affairs committee to address how this impacts residents. Carlton gave an example of someone who might become homeless because they live in public housing. She stated that if that person got a job there are policies and procedures used in public housing regarding having to pay rent beginning immediately so there is no time to catch up on other bills. She stated these policies and procedures have an impact on homelessness. She stated she would like the City and her non-profit development corporation to work more closely together in order for her company to be more productive and make a difference in the community.

The Mayor closed the public hearing at 6:26 p.m.

Upon motion by Councilwoman Cato, seconded by Councilman Jernigan, and carried unanimously, the Council approved proceeding with development of the Consolidated Action Plan for FY 2020-2024.

B. Other Business

1. Consideration of Grant Award of Entitlement Funds to Non-Profits

The City Manager stated the City awarded CDBG Non-profit funds in the amount of \$22,235 in October 2019. Olive Hill CEDC was awarded \$1,406. Staff met with Beverly Carlton on October 29, 2019 to go over required paperwork. At that time, Ms. Carlton said she didn't believe they would accept the funds. On December 10, 2019 staff received an email from Ms. Carlton stating that Olive Hill would not accept the funds. Staff recommends that The Outreach Center be awarded these funds instead.

The Outreach Center originally requested \$9,845 in October 2019 to provide for the purchase of an electric pallet jack and two new computers needed for the food distribution program. They were awarded \$5,399. If awarded, the additional \$1,406 in funds will be used to purchase bags for the food program.

Upon motion by Councilman Hawkins, seconded by Councilwoman Cato, and carried unanimously, the Council approved awarding FY 2019 Entitlement Funds to the Outreach Center in the amount of \$1,406.

2. Consideration of a Resolution Adopting the Unifour Regional Hazard Mitigation Plan

Mike Willis, Burke County Fire Marshal / Emergency Management Director, gave a brief presentation that summarized the Plan and Morganton's role in implementation over the next 5 years.

He stated that natural hazards, such as floods, tornadoes, and severe winter storms are a part of the world around us. Their occurrence is natural and inevitable, and there is little we can do to control their force and intensity. He stated we must consider these hazards to be legitimate and significant threats to human life, safety, and property.

The Unifour Region, which is comprised of Alexander, Burke, Caldwell, and Catawba counties, is vulnerable to a wide range of natural hazards. These hazards threaten the life and safety of the Region's residents, and have the potential to damage or destroy both public and private property and disrupt the local economy and overall quality of life.

Willis stated the NC Legislature in Section 1 Part 166A of the North Carolina General Statutes require that for a state of disaster to be proclaimed pursuant to G.S. 166A-6(a), after August 1, 2002, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act.

He stated that over the past year, representatives from the various cities and counties within the Unifour Region have worked together with a private consultant to develop a Regional Hazard Mitigation Plan in compliance with State Law.

Upon motion by Councilwoman Cato, seconded by Councilman McSwain, and carried unanimously, the Council approved Resolution #20-04 adopting the Unifour Regional Hazard Mitigation Plan.

3. Consideration of Award of Contract for Construction of Catawba River Soccer Complex Phase III

The City Manager stated the City has been planning the third expansion of the Catawba River Soccer Complex for several years. City staff submitted a grant request to the NC Parks and Recreation Trust Fund (PARTF) to help fund the expansion. The City has been awarded a \$385,000 PARTF grant for this project. Additionally, funding from the Morganton Recreation Foundation, the City, Carolinas HealthCare – Blue Ridge, Case Farms, Eddie and Linda Wall, and Electricities make up the \$1,410,000 budget for this project.

On January 16, 2020 the City staff received bids for the expansion. Five bids were received with the \$1,591,585.80 bid from Wilkie Construction Company being the lowest responsible responsive bid.

Since this exceeded the budgeted amount, staff has negotiated with Wilkie, as low bidder, and after some adjustments recommends awarding a contract to Wilkie for \$1,400,000. In order to award the contract and be able to move forward in a timely manner that does not jeopardize the PARTF grant funds, staff recommends pulling the amenities package from the bid. These amenities included: playground equipment, picnic shelter, and dog park. In order to complete the original plan and maintain all desired components, staff will be utilizing resources, grants and existing City budget in order to complete the project as planned.

The Mayor asked if the City Manager knew when grading would begin. The City Manager stated sometime this spring – possibly May, weather permitting. She stated that timing is important for two reasons: Recreation doesn't want to miss another growing season for the turf and the NCPARTF funds have a time limit in which to be used.

Councilman McSwain commented on how Staff helped with the Skate Park and other projects; he feels confident the quality will be what we want.

Councilman Hawkins asked what the estimated time frame would be once ground was broken to project completion. Rob Winkler, Recreation Director, stated possibly October 2020. The City Manager stated that depending upon growing season the fields may be ready for play in spring of 2021.

Upon motion by Councilman McSwain, seconded by Councilman Hawkins, and carried unanimously, the Council awarded a contract to Wilkie Construction Company in the amount of \$1,400,000 for Phase III of the Catawba River Soccer Complex.

4. Consideration of Amendments to Ordinance Concerning Keeping Livestock or Farm Animals

The City Attorney stated that within Part 8 of Morganton's Code of Ordinances, Chapter 2 provides regulations on the keeping and treatment of animals. Specifically, Section 8-2005 sets forth definitions for "Livestock" and "Cloven hoofed animal"; Section 8-2029 regulates the keeping of chicken or domestic fowl; and Section 8-2030 addresses the keeping of livestock. Separately, the City's Zoning Ordinance, in the Table of Permitted Uses and in Section 3.4.1, also sets out rules and requirements for keeping domestic animals. Unfortunately, coordination between the Zoning Ordinance and Part 8 of the Code is imperfect, and despite specific references in the Zoning Ordinance to Part 8, Chapter 2, there are some conflicts or contradictions. Therefore, the City Attorney and the Department of Development and Design suggest amending portions of Part 8, Chapter 2, to clarify our regulations and assure full conformity with the Zoning Ordinance.

He stated there were three issues to be addressed.

First, the "Definitions" list in Section 8-2005 simply defines "Livestock" by reference to "Cloven-hoofed animal". Staff proposes deleting that definition and replacing with a new, clearer definition of "livestock" as being any cloven-hoofed mammal such as horses, cattle, sheep and goats, but excluding swine and wild or exotic animals. The definition would also distinguish between "large" and "small" livestock, the dividing line being an adult weight of 15 pounds.

Second, City Staff proposes that Section 8-2029(b)(4) be amended to reduce, from one acre to one-half acre, the minimum size lot on which domestic fowl may be kept, with no other changes in the regulations. This would be a recognition of the existing reality in the City, which is that small numbers of chickens or fowl are being kept on small residential lots of less than one acre in size.

Finally, and perhaps most significantly, City Staff proposes changes in the regulation of "livestock". Section 8-2030(b) (1) would be amended to clarify that no more than 2 animals per acre may be kept, and that the minimum lot size for large livestock is 2 acres, and for small livestock is one acre. Section 8-2030(b)(4) would be amended to bring the minimum setbacks into conformance with the Zoning Ordinance—by requiring barns or stalls to be at least 100 feet from the property line, and pasture or pens at least 50 feet from the property line.

The City Attorney stated that he and the D&D staff believe these changes will usefully clarify the City's regulation of farm animals. These amendments were drafted by the Attorney after investigation of the language used in some other cities, although there is a wide variety of approaches used throughout North Carolina, especially concerning setback distances and the density of animals allowed. The figures used herein seem well within the norms adopted elsewhere.

Upon motion by Councilwoman Cato, seconded by Councilman Jernigan, and carried unanimously, the Council approved amending Part 8, Chapter 2, of the City's Code of

Ordinances to clarify regulations on the keeping of livestock or farm animals in the City, as set out in Proposed Ordinance.

5. Consideration of Amendments to Personnel Policy Concerning Nepotism

Rus Scherer, Director of Human Resources, stated that Council members would recall that last year there was considerable discussion about the City's "anti-nepotism" rules within the Personnel Policy.

He stated that section 2.05(b) of the City's Personnel Policy addresses the challenges 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.

At the June 17, 2019 meeting, Council voted to amend the policy in two ways: (1) to remove aunts, uncles, nieces, nephews and first cousins from the definition of "immediate family member", and (2) to remove from the policy restrictions that apply to those people who might be living in the same household but were not legally related.

Since last June, concerns continue to be raised over the proper balance which should be struck in an anti-nepotism policy between avoiding the appearance of favoritism or discrimination in employment, and assuring that the City has a sufficient pool of qualified applicants and the ability to retain valuable and experienced employees.

City staff has researched the anti-nepotism policies of other North Carolina municipalities, and found that there is a wide range of such policies, from very restrictive to much more lenient, across all sizes of towns.

After much study, and consultation within the working committee structure of the City Council, it is recommended that further amendment of Policy 2.05(b) be considered. Revisions would include:

- 1) revise the definition of "immediate family member" to once again include aunts, uncles, nieces and nephews;
- 2) provide that such definition includes individuals who co-habit in a consensual long-term relationship as if married, as well as the immediate family of such co-habitators;
- 3) authorize the City Manager and HR Director, in very limited cases, to make exceptions to the policy where existing employees become in-laws or step-relations through no action on their own parts; and

4) update and clarify the rules concerning existing employees who marry or begin co-habitation or a consensual personal relationship.

While revisions to the Personnel Policy can be issued by the City Manager, substantive changes are made only in consultation with the elected representatives. City staff believes that these proposed amendments will clarify what has long been a somewhat contentious policy, and will assure Morganton's citizens, taxpayers, and City employees that the City is committed to hiring and keeping the best possible employees, while avoiding not only the fact but even the appearance of favoritism or bias in employment matters.

Councilwoman Cato stated the personnel committee met at length wanting to make sure the terminology was correct, create a policy that would last for a long time, and one that is easier to understand.

Councilman McSwain stated the more one looks at the policy the more confusing it can be, but feels they have hammered out a logical policy.

The City Attorney wanted to clarify the part that allows the City Manager and HR Director to make changes in certain cases. He stated that this applies only where existing employees may become in-laws or step-family through no action of their own; this can easily happen and, in fact, has happened. He stated that it seemed harsh to punish those people who had no control over the situation.

Councilman Hawkins stated that he likes this proposal. He stated that he works in management and it is important to get this "as right as possible"; this will help promote fairness and the sense of fairness.

Councilman Jernigan added his thanks to those who have worked on this and said a strong policy is important.

Upon motion by Councilman Jernigan, seconded by Councilman Hawkins, and carried unanimously, the Council approved amendments to the Anti-Nepotism section 2.05(b) of the City's Personnel Policy to:

- 1) revise the definition of "immediate family member" to include aunts, uncles, nieces and nephews;
- 2) provide that "immediate family members" includes individuals who co-habit in a consensual long-term relationship as if married, as well as the immediate family of such individuals;
- 3) authorize the City Manager and HR Director to make exceptions to the policy where existing employees become in-laws or step-relations through no action on their own parts; and

4) clarify the sub-section governing active employees who marry or begin a co-habiting or consensual relationship.

6. Appointments to Boards and Commissions

a. Morganton Housing Authority - There are currently three expiring terms on the Morganton Housing Authority Board. Those with expiring terms are the Rev. Tom Bland, Marcia Peterson and Scott Carrico. All have been consistent members of the Morganton Housing Authority and are willing to continue serving on this Board.

Morganton Housing Authority Director Steve Villar has requested that each of these members be reappointed for another 5-year term which would expire in 2025.

The Mayor reappointed the Rev. Tom Bland, Marcia Peterson and Scott Carrico for terms to expire in February 2025.

XIII. Other Items from City Manager and City Council Not on Agenda – The City Manager asked Interim Chief of Public Safety Tony Lowdermilk to step to the podium so she could introduce him to the citizens. Chief Lowdermilk stated he is excited about the opportunity to work with City staff and Public Safety employees.

XIV. Reports – Reports were distributed to Council.

XV. Adjournment – The Mayor adjourned the meeting at 6:49 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