

MINUTES  
REGULAR MEETING  
CITY COUNCIL

December 7, 2020

Ronnie Thompson, Mayor

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

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

Tiffany Patterson, Interpreters  
Danette Steelman-Bridges

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 for those who appeared in person; however, due to COVID-19 the Council was still accepting public comments via email, U.S. mail, or hand-delivered letters.

No speakers signed up, appeared, or sent letters/email.

III. Pledge of Allegiance to the Flag – The Pledge was led by Councilman Hawkins.

IV. Invocation – The prerecorded invocation was given by the Rev. David Doster, Gateway Bible Church.

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

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

- Allen Davis, a Fire Engineer 1 in the Public Safety Department, was recognized for 20-years' service to the City. Councilman Jernigan presented Davis with his service pin. Davis stated he was grateful for the opportunity to work for the City. He thanked Chief Lowdermilk, Trent DeVinney, and Captain Cobb for their encouragement as a young employee. He stated he and Councilman Jernigan spoke prior to the meeting about Southmountain Institute where Davis said he spent about 13 years. He said his time there helped to put him on a straight path and he continues on that path with the support of his coworkers.

- Shelia Greene, a Meter Reader in the Electric Department, was recognized for 20-years' service to the City. Greene was unable to attend the meeting and will be given her pin at a later date.

## VII. Public Advocacy Issues and Strategies

a. Greg Branch, Director of IRMS/CoMPAS, presented a PowerPoint update on retransmission fee negotiations. Branch stated that retransmission consent is a provision of the 1992 United States Cable Television Consumer Protection and Competition Act that requires cable operators and other multichannel video programming distributors (MVPDs) to obtain permission from commercial broadcasters before carrying their programming. Under the provision, a broadcast station (or its affiliated/parent broadcast network) can ask for monetary payment or other compensation, such as carriage of an additional channel. If the cable operator rejects the broadcaster's proposal, the station can prohibit the cable operator from retransmitting its signal.

Branch stated that the local providers feel their programming is essential and in 2013 the retransmission fee was instituted. The National Cable Television Cooperative (NCTC) negotiates on behalf of over 700 small operators like CoMPAS to keep rates low. Branch stated that currently it looks as if the 2021 fee will be a \$10.79 per month increase, in 2022 a \$3.57 increase, and in 2023 will be increased by \$4.60. He stated that it is detrimental to CoMPAS not to include local channels. He stated that other providers include a Broadcast TV Surcharge, and effective January 1, 2020 CoMPAS will add a \$10 Broadcast TV Surcharge. He stated this is for 6 local channels; we either pay the fee or turn them off.

The City Manager reminded Council that the \$10 fee was discussed at budget time and ten dollars was the best guess at the time.

- b. The Mayor announced that Christmas Cheer Distribution Days would be December 9 and 10 in the lower level of the Collett Street Recreation Center. He stated the Blue Elves would hold their Distribution Day on December 12 at the Mountain View Recreation Center. He also announced that Martha's Park would be closing on December 28 to begin renovations.
- c. The Mayor announced the following events: Santa's elves will continue making pop-up appearances in Downtown through the week of December 14, the Downtown Storybook Walk continues; there will be a Holiday Farmers' Market on December 12 at the North Green Street location; and Santa Claus will hold a virtual special reading on December 12 on the Downtown Morganton Facebook page.
- d. Comprehensive Annual Financial Report  
Presented by: Tom McNiesh of Elliott Davis and Jessie Parris, Finance Director.

Tom McNiesh thanked Jessie Parris and her team for helping them get through the audit process this year saying that with the pandemic it has been challenging. He stated they provide three reports as part of the audit process.

He stated the Financial Statement Audit Opinion is important for third parties, bond holders, the Local Government Commission, and other granting agencies. These third parties expect to see an audit opinion saying the City is fairly stating the numbers and in compliance with grant requirements. The auditors were able to offer an unmodified opinion the equivalent of a clean opinion.

McNiesh stated the Internal Controls report looks at things like bank reconciliations to be sure things are being prepared accurately, and an item is being reviewed by someone other than the person who prepared it. Auditors look to see if those controls have strength and substance; this is the best way to make sure errors are prevented. They look at the internal controls as part of their risk assessment. The good news, McNiesh said, is there are no instances of material weaknesses or significant deficiencies in terms of the internal controls they looked at.

McNiesh stated the third report is Compliance with grant requirements. He said the City has been reimbursed over \$2 million in the past fiscal year from State and Federal grants. These grants come with a lot of strings attached and compliance requirements. The expectation from the granting agencies is that the City is very serious about complying with the requirements. Again, good news, stated McNiesh, they gave an opinion that the City is materially in compliance with those requirements.

McNiesh stated the City received a very good audit this year. He stated that it is noteworthy from a financial standpoint that City revenues did not fall off much in the early days of the pandemic environment.

Finance Director Jessie Parris stated she and Sally Sandy have decided to wait until January or February to give a more useful report which would look at the first six months of the current fiscal year and the fiscal impact of COVID on the City. She stated the CAFR has been submitted to the Federal Clearinghouse and to the GFOA.

The City Manager stated the Council has been given updated information along the way. She said they will be able to give Council a better snapshot with a full 6-months of information. She then thanked Tom and his staff for their work. She said this was the first CAFR Jessie has prepared for the City and she expressed her appreciation for the work Jessie has done.

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

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

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

- A. Approved minutes as submitted for a Regular Meeting held on November 2, 2020.
- B. Approved issuance of a Taxicab Franchise to Claudia Morales (Becerra Translation & Associates).
- C. Approved a budget amendment (Ord. #20-35) in the amount of \$100,000 to setup the Courthouse Square Project Fund / Water.
- D. Approved a budget amendment (Ord. #20-36) in the amount of \$100,000 to setup correct accounts for Transfer to Courthouse Square Project Fund / Water.  
  
Approved a budget amendment (Ord. #20-37) in the Water Fund of \$100,000 to appropriate retained earnings to pay for the water portion of the Courthouse Square renovation.
- E. Approved a budget amendment (Ord. #20-38) in the amount of \$521,544, to setup the Courthouse Square Project Fund / Electric.
- F. Approved a budget amendment (Ord. #20-39) in the amount of \$521,544, to setup correct accounts for transfer to the Courthouse Square Project Fund / Electric.
- G. Approved a budget amendment (Ord. #20-40) in the amount of \$2,266,814 to setup the Courthouse Square Project Fund / General.
- H. Approved a budget amendment (Ord. #20-41) in the amount of \$2,266,814, is to setup correct accounts for transfer the Courthouse Square Project Fund / General.
- I. Amended the Schedule of Fees and Charges to include a Bulk Internet Rate for Multi-Family Development and to allow the CoMPAS General Manager and the City Manager to set rates as necessary with a floor of 70% of regular rates.
- J. Approved Resolution #20-25 authorizing staff to apply for a \$600,000 grant from the FEMA Building Resilient Infrastructure and Communities (BRIC) Grant Program.
- X. Items Removed from Consent Agenda – No items were removed.
- XI. New Business
  - 1. Consideration of Award of Contract to Motorola Spillman Contingent Upon County Approving Contract

The City Manager stated that the Morganton Department of Public Safety has software housed at the Burke County Emergency Communication Center which is used for dispatch and records. While the City shares some modules County-wide, some are specific to Morganton. Burke County is currently migrating to a new software which means the City needs to as well. Motorola provides the software package. The new package will be \$479,600 but the City is being allowed to pay for it over a five-year period. If the City contracts before December 21, 2020, we receive a discount and the first payment will not be until Fiscal Year 2021/2022.

Staff believes the contract should be approved to get the special lease rate of 2.83%. Additionally, City approval is contingent upon Burke County's approval, as all partners in the BCECC need to migrate at the same time.

The Motorola Spillman Flex Suite software implementation project is intended to take the existing Public Safety dispatch, records, jail and crime analysis data and migrate it into a new single database public safety management suite County-wide.

The need for this transition arose several years ago, when the current vendor notified partner agencies that the OneSolution Public Safety Suite would be slowly phased out to other products the company had acquired through multiple mergers. Staff was informed that a path to migrate City data would be developed (at a significant cost); however, the product support from this vendor does not lend itself to further investments.

All agencies currently using the existing OneSolution product are in agreement that the Motorola Spillman Flex Suite software is superior in every way to the existing software. Therefore, all County agencies using the current public safety software have sought funding to transition to this new software platform.

Motorola has been a reliable partner over the years and offers exceptional research and product development within the Public Safety sector as well as providing excellent customer service. Currently, MDPS is spending approximately \$70,000 per year on OneSolution software maintenance. The cost is expected to go down by over \$16,800 per year with the Motorola Spillman Flex Site software maintenance.

Upon motion by Councilman McSwain, seconded by Councilman Hawkins, and carried unanimously, the Council approved awarding a contract to Motorola Spillman for \$479,600 contingent upon Burke County's approval of the contract to migrate to the new product, and to authorize the Mayor or the City Manager to execute and make such alterations, technical amendments and changes as may be necessary to implement this contract.

## 2. Consideration of Award of Contract to Carolina Grading & Utilities, Inc.

The City Manager stated this project involves the installation of approximately 1,900 linear feet of 10-inch sewer line along with nine manholes and other sewer line appurtenances.

Per the Memorandum of Understanding (MOU) between the City of Morganton and Homes Urban, LLC., funding for this particular project will be placed in escrow by Homes Urban, LLC with the City of Morganton prior to issuance of the Notice to Proceed to the contractor, The proposed sewer line extension will connect public sewer service from the existing sanitary sewer outfall at Hunting Creek to the proposed property line of the Murphy's Farm Apartment Complex, thereby providing a connection point for the project.

Sealed bid proposals were received and opened by the Development & Design Services Department on Thursday, November 5, 2020. Nine bids were submitted for the project. The lowest responsive, responsible bid was submitted by Carolina Grading & Utilities, Inc. of Jefferson, NC, in the amount of \$174,561.00 for the base bid.

This contract is contingent upon Homes Urban, LLC closing on acquisition of the property and depositing funds to pay for the sewer line with the City of Morganton.

Upon motion by Councilman Hawkins, seconded by Councilman Jernigan, and carried unanimously, the Council awarded a contract to Carolina Grading & Utilities, Inc. of Jefferson, NC, in the amount of \$174,561.00, to perform the City of Morganton Sewer Line Extension WPCC Campus Project, but with approval and execution of such contract contingent upon closing by Homes Urban, LLC (or its assignee) on purchase of the properties described in the MOU between Homes Urban and the City; and to authorize the Mayor or the City Manager to execute and make such alterations, technical amendments and changes as may be necessary to implement this contract.

3. Consideration of Approving a Resolution to Award a Contract to Tri-County Paving, Inc., for the Construction of the Downtown Greenway Connector - Contingent on Receiving Concurrence by NCDOT

The City Manager stated the Downtown Greenway Connector project involves the construction of approximately 5,200 linear feet of 10-foot-wide greenway trail that will include grading approximately 4 acres and require 6,400 cubic yards of fill material, 775 linear feet of storm drain piping and boxes, and 730 tons of asphalt paving on 2,600 tons of ABC stone.

The City has secured a Federal grant in the amount of \$1,335,000 through the Locally Administered Project Program (LAPP). A required match of 20% (\$335,750) is being provided from the City of Morganton General Fund. The Greenway Connector Project will serve to connect the existing downtown greenway to Catawba Meadows Park and the greenway along the Catawba River.

Sealed bid proposals were received and opened by the Development & Design Services Department on Tuesday November 17, 2020. Five bids were submitted for the project. The lowest responsive, responsible bid was submitted by Tri-County Paving, Inc., of West Jefferson, NC, in the amount of \$797,158.20 for the base bid. Bid tabulation is included.

Since this project is utilizing Federal funding and passing through NCDOT to the City, NCDOT must concur with this award.

The plans for this greenway connector originally included two access points in the Mountain View Recreation Center area. Due to concerns over inadequate funding they were removed from bid requests. City staff is working with the contractor to cost these additions so they can be constructed and handled as change orders, since our bids were well below anticipated amounts.

Staff is asking for authorization of \$112,842, or 14%, contingency to allow these access points to be designed and constructed. These access points will be great for the Mountain View community and will make the entire project better. The LAPP funds will cover \$90,274 with a \$22,568 match from City funds to make up the full contingency. At a total cost of \$910,000 this project is well under the original budget numbers. The redesign and several years of delays have actually worked in the City's favor.

The Mayor asked when the work was projected to begin. The City Manager stated there would be some work beginning over the winter.

Councilwoman Cato said she was glad, that after 15-plus years, this was finally happening.

Councilman Jernigan said he was very happy about the contingency to add in the neighborhood connections.

Councilman Hawkins said better design for less money, who could not be happy about that.

Upon motion by Councilman Jernigan, seconded by Councilwoman Cato, and carried unanimously, the Council adopted Resolution #20-24 to award a contract with Tri-County Paving, Inc., of West Jefferson, NC, in the amount of \$910,000, to construct TIP No. EB-5807, contingent on receiving concurrence by NCDOT. The award is for a base contract of \$797,158.20 with a contingency of \$112,841.80. Further the motion authorizes the Mayor or the City Manager to execute and make such alterations, technical amendments and changes as may be necessary to implement this contract.

#### 4. Consideration of a Resolution Extending Temporary Outdoor Dining Guidelines

The City Attorney stated that back in June, faced with the on-going State of Emergency due to the Covid-19 pandemic, City Council by resolution adopted Temporary Outdoor

Dining Guidelines, and approved that the Sreatery on King Street, the various parklets and the closing of Concord Street in the evenings for Catawba Brewery, could stay in place until September 1, 2020. By further action in September, Council extended the Guidelines, the Sreatery, the parklets, etc. for an additional 90 days. These temporary arrangements have proven very popular.

Now, with continued restrictions on operating capacities and restrictions on indoor gatherings, the Mainstreet Department would like to request that the Sreatery, parklets and evening street closings for Catawba Brewery be extended for another period, until January 18, 2021.

Over the weekend of November 21, 2020, town was full and the Sreatery was at full capacity. It was a beautiful day with a high of 70 degrees. It is understood this will not happen every day, but on days when the weather is nice, and the temps are above 40 with the sun out, people will choose to eat outside. Until this pandemic is over Sharon Jablonski doesn't really foresee anything changing with regards to outdoor seating.

Sharon reports that the additional seating has made a difference. However, all of the businesses are fearful of the winter if the phasing continues to hold the numbers low. Nonetheless, even in winter, there are days warm enough to encourage outdoor dining. Even in this extended time period, staff will monitor use of the outdoor spaces and recommend earlier removal if use declines drastically.

Councilwoman Cato stated the weather is fickle at this point but it gives people an opportunity to be downtown and not indoors. She feels this is a good decision.

Councilman Hawkins stated it is good to have these extra days because of holiday shopping, more people off work, and while there could be frigid weather, it's just a likely the weather will be mild. He said that if we err, we should err on the side of helping our local businesses.

The City Manager stated that weather depending it may be the Sreatery isn't being used so it could be taken up, but the parklets will be kept in place because there is some protection from the buildings.

Upon motion by Councilwoman Cato, seconded by Councilman Jernigan, and carried unanimously, the Council approved Resolution #20-26 extending temporary outdoor dining guidelines until January 18, 2021.

## 5. Appointments to Boards and Commissions

a. Community House – The Community Building Board of Control is a Council appointed board that advises the Council concerning matters of operation of the Community House and responds to directives from the Council relating to the operation of the Community House.

The recommendation to Council is to reappoint Wanda Burnette, Phil Scarboro, Kay Dignan, Ron George and Colleen Bennett for terms to expire on December 31, 2023. These members have been excellent participants on this Board and have expressed interest in continuing to serve.

It is also recommended that Kelly Messenheimer be appointed to replace Marchelle Speas who passed away in September this year.

Upon motion by Councilman Jernigan, seconded by Councilman McSwain, and carried unanimously, the Council reappointed Wanda Burnette, Phil Scarboro, Kay Dignan, Ron George and Colleen Bennett and appointed Kelly Messenheimer to the Community Building Board of Control for terms to expire on December 31, 2023.

XII. Other Items from City Manager and City Council Not on Agenda – There were no other items presented.

XIII. Closed Session to Discuss an Economic Development Project as per General Statutes sec. 143-318.11(a)(4) and to Consult with the City's Attorney to Preserve the Attorney / Client Privilege as per General Statutes sec. 143-318.11(a)(3)

Council was asked to enter into a closed session to receive an update from Alan Wood, President/CEO, of Burke Development Inc., about economic development projects and to consult with the City Attorney while preserving the attorney-client privilege on a continuing legal matter.

Upon motion by Councilwoman Cato, seconded by Councilman Hawkins, and carried unanimously, the Council voted to go into closed session to discuss economic development projects as per General Statutes sec. 143-318.11(a)(4), and to consult with the City's Attorney to preserve the attorney / client privilege as per General Statutes sec. 143-318.11(a)(3).

The Council retired to Conference Room #4 for Closed Session at 6:49 p.m.

The Council returned to open session at 7:47 p.m. No action was taken in the Closed Session.

XIV. Reports – Reports were distributed to Council.

XV. Adjournment – The meeting was adjourned at 7:48 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