



REGULAR MEETING  
CITY COUNCIL

January 8, 2024

Ronnie Thompson, Mayor

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

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

Interpreters  
Danette Steelman-Bridges  
Ernest Williams, IV

- I. Call to Order – Mayor Thompson called the meeting to order at 6:00 p.m.
- 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. No speakers or other comments via email, U.S. mail or hand-delivered letters were received.
- III. Pledge of Allegiance to the Flag – Councilmember McSwain led the Pledge of Allegiance.
- IV. Invocation - Rev. Latrese Lyerly of New Hope in Christ Baptist Church gave the invocation.
- V. Introduction of Council – Mayor Thompson introduced Councilmembers and Staff.
- VI. Special Recognition
  - A. Mayor Thompson recognized Tom Anderson, Director of Risk Control & Public Safety Risk Management for the North Carolina League of Municipalities – Mr. Anderson presented a Law Enforcement Risk Management Review plaque to Chief Jason Whisnant to Public Safety. Mr. Anderson stated that the review assesses an agency's adherence to best practices, court decisions, and policies and procedures related to high-liability activities in law enforcement. The goal is to mitigate liability exposures, enhance officer safety, and validate that training and operating procedures meet industry standards. He stated that he is proud to report that Morganton Public Safety has completed the risk review process and, more significantly, this is the third time, and they are the second in the State to complete this review for the third time. Mr. Anderson stated that Morganton Public Safety is a "stand-out". He stated that his staff commented, "In working with Assistant Chief Lander and Chief Whisnant their dedication to the profession and their department was evident from start to finish."

Chief Whisnant thanked the NC League of Municipalities for keeping Morganton Public Safety honest and accountable.
  - B. Mayor Thompson recognized Chief Jason Whisnant, Morganton Public Safety. Chief Whisnant recognized PSO Michael Cristobal. PSO Cristobal was nominated by his supervisors for the "Hometown Hero" award. He was chosen as the overall winner and honored at a formal banquet with 25 others from around the State on December 12, 2023 in Raleigh.



Chief Whisnant also congratulated PSO Cristobal for his extra efforts as a newly appointed Downtown officer. He was recently assigned seven cases of vandalism. This occurred in October and November 2023. He worked tirelessly, and formally charged a person in these cases.

Chief Whisnant stated further that PSO Cristobal represents the best that we have to offer in Morganton and his work is reflective of the values of Morganton Public Safety – Integrity, professionalism, honor, accountability, respect and equality.

#### VII. Service Pins

- A. Mayor Thompson recognized Jason Oliver, Maintenance Crew Leader in Recreation, for his 30 years of service. He was not able to attend the Council meeting and will be presented his pin at a later time.
- B. Mayor Thompson recognized Ronnie Suttles, Superintendent D/C in Water Resources, for his 20 years of service. Councilmember McSwain presented the 20-year pin to Ronnie. Councilmember McSwain thanked Ronnie for his years of service.

#### VIII. Retirements

- A. Mayor Thompson read the retirement resolution honoring William Daniel Lyle, Fire Engineer I, Public Safety for his 29 years of service to the City of Morganton.

Upon motion by Councilmember Jernigan, seconded by Councilmember Hawkins, and carried unanimously, the Council adopted Resolution #24-05 honoring retiree William Daniel Lyle.

Upon motion by Councilmember Jernigan, seconded by Councilmember McSwain, and carried unanimously, the Council approved declaring as surplus a fire helmet, Cairns brand, Serial Number 1044DSB, sold for one dollar, then presented to retired Fire Engineer I, William Daniel Lyle. City Manager Sandy paid the dollar on behalf of Engineer Lyle.

Chief Whisnant presented the fire helmet to Engineer Lyle, who thanked everyone for their support over the years.

Councilmember Hawkins presented the framed retirement resolution to Danny on behalf of the Morganton City Council.

- B. Mayor Thompson read the retirement resolution honoring Michael D. Crotts, Chief Building Codes Enforcement Administrator, Development & Design, for his 31 years of service to the City of Morganton.

Upon motion by Councilmember Jernigan, seconded by Councilmember McSwain, and carried unanimously, the Council adopted Resolution #24-04 honoring retiree Michael D. Crotts.

Mayor Thompson recognized Councilmember Jernigan. He presented the retirement resolution to Michael thanking him for his service and referencing the many projects around the City that exist because of his service. Michael thanked everyone for supporting throughout his years of service to the City of Morganton.

- C. Mayor Thompson read the retirement resolution honoring William Richard Whisenant, Wastewater Treatment Plant Operator, Wastewater Department, for his 20 years of service to the City of Morganton



Upon motion by Councilmember Cato, seconded by Councilmember Jernigan, and carried unanimously, the Council adopted Resolution #24-03 honoring retiree William Richard Whisenant.

Mayor Thompson recognized Councilmember Hawkins, who presented the retirement resolution to Richard.

- D. Mayor Thompson read the retirement resolution honoring Jason W. Oliver, Maintenance Crew Leader, Recreation Department, for his 30 years of service to the City of Morganton. Mr. Oliver was not able to attend the meeting and will receive the resolution at a later time.

Upon motion by Councilmember McSwain, seconded by Councilmember Hawkins, and carried unanimously, the Council adopted Resolution #24-02 honoring retiree Jason W. Oliver.

IX. Public Advocacy Issues and Strategies

- A. Sharon Jablonski introduced Makenzie Hamrick as the new Main Street Manager. Makenzie stated that she is honored, thrilled and excited to move to Morganton and is looking forward to getting to know everyone and continue the successes of Downtown Morganton.

- B. Mayor Thompson announced the following upcoming events:

- **Downtown/City Hall**

**Art in the Hall:** January continues to feature a project report by TOSS. In a series of informational panels, the method and magic of community mural-making is illustrated in this "midway" review. There are another three murals planned for 2024 and folks are invited to join the initiative for round two! Community members can attend a listening session, paint party, host an artist, donate a wall, or volunteer during installation. Check out the TOSS website to get involved: <https://www.tosstudio.org/murals>

**Pop-Up Winter Farmers Market:** Saturday, January 13, 2023, 9 a.m. to 1 p.m. at 111 North Green Street.

- **CoMMA Performing Arts Center**

Friday, January 19, 2024 at 7:30 p.m.  
**Landau Eugene Murphy, Jr.**

Tuesday, January 30, 2024 at 7:30 p.m.  
**Annie**

- X. North Carolina Municipal Power Agency Number 1 Update - No report given.

- XI. Consent Agenda – All items below are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member, staff member or citizen so requests. In the event a request is made, the item will be removed from the consent agenda and considered under Item XII.

City Manager Sandy presented the Consent Agenda. Mayor Thompson asked if any items should be removed. No request was made.

Upon motion by Councilmember Jernigan, seconded by Councilmember McSwain, and unanimously carried, approving the Consent Agenda and each individual item therein was adopted as stated, those being as follows:



- A. Consideration of Approval of Minutes – For a Regular Meeting held on December 4, 2023 and for a Joint Workshop with Planning & Zoning Commission held on December 14, 2023.

Approved minutes as submitted.

- B. Consideration of Updated Pay Ranges

Approved the new pay ranges effective January 8, 2024.

- C. Consideration of a Budget Amendment to Pay for Increase in Health Insurance Rates Effective January 1, 2024

Approved budget amendments (Ordinance 24-02) totaling \$72,833 to appropriate fund balance/retained earnings to cover additional health insurance costs for the remainder of FY 23-24.

- D. Consideration of a Budget Amendment to Recognize Receipt of Restricted Contribution for Recreation Projects

Approved a budget amendment (Ordinance 24-03) in the amount of \$15,000 to recognize receipt of restricted contribution for Recreation projects.

- E. Consideration of a Budget Amendment to Recognize Receipt of Insurance Reimbursement for General Fund

Approved a budget amendment (Ordinance 24-04) in the amount of \$2,269.60 for damage to Public Safety vehicles.

- F. Consideration of a Budget Amendment to Accept a Transfer of Funds from the General Fund to Capital Reserve Fund

Approved a budget amendment (Ordinance 24-05) in the amount of \$139,757 to accept a transfer from the General Fund to Capital Reserve Fund for the sale of timber on Williams Road.

- G. Consideration of a Budget Amendment to Recognize Receipt of Insurance Reimbursement for the Water Fund

Approved a budget amendment (Ordinance 24-06) in the amount of \$1,330.69 to recognize receipt of insurance reimbursement for the water fund for damage to a Water D&C trackhoe.

- H. Consideration of Acceptance of a Building Reuse Grant Agreement, a Contract with the Western Piedmont Council of Governments (WPCOG) to Administer a Building Reuse Grant and Associated Budget Amendment for Project Fern/Chaddock Furniture

1. Accepted a Building Reuse Grant Agreement (2024-03) with the NC Department of Commerce.
2. Approved a contract (2024-02) with WPCOG to administer the Project Fern/Chaddock Furniture Building Reuse Grant.
3. Approved the budget amendment (Ordinance 24-01) for \$200,000 in grant funds and \$10,000 in administration costs.

- XII. Items Removed from Consent Agenda – None were removed.

- XIII. New Business



A. Other Business

1. Consideration of Approving a Contract with James A. Harrell, III and Associates, PLLC for Lobbying Services

City Attorney Vinay stated that he and the City Manager had recently conferred and interviewed with James Harrell, a registered lobbyist. Mr. Harrell is a former State legislator, an experienced lobbyist, and is well-connected with current legislative leadership. Additionally, Mr. Harrell has worked for Burke County and Burke Development, Inc. who have been pleased with his lobbying efforts. The City, Burke County and BDI work closely on development opportunities and staff believes some cohesiveness in lobbying efforts would be beneficial. We have discussed with Harrell and County Manager Brian Epley whether there is any risk of a conflict of interest between the City and the County, and all agree that in the very unlikely event of such conflict, Mr. Harrell would withdraw from representation.

Mr. Harrell has proposed a contract for services at the rate of \$4,000 per month. There would be no particular term, and either party may terminate the arrangement on 30 days' notice. Mr. Harrell would be authorized to represent the City before the General Assembly, the executive branch, and any entity from which we might solicit grants. As usual, City staff would evaluate this contract arrangement and funding with the annual budget process.

City Attorney Vinay stated that he and City Manager Sandy believe the proposed contract as set out in the attached Letter Agreement is in the best interests of the City, and recommend approval.

Upon motion by Councilmember Hawkins, seconded by Councilmember McSwain, and carried unanimously, the Council approved a resolution to enter into a contract (2024-07) with James A. Harrell III, and Associates, PLLC, for provision of lobbying services, and authorizing the Mayor and/or City Manager to sign the letter agreement and any other necessary documents.

2. Consideration of Sidewalk Encroachment Agreements for 308 South Green Street – Toner's Irish Pub

City Manager Sandy stated that the owner of 308 South Green Street has requested a formal sidewalk encroachment for purposes of outdoor seating and business use. The sketch and exhibit attached shows a 5' clear minimum walkthrough sidewalk with the remaining 6'-7" of walkway for business use. The easement area shown runs parallel to the building. The easement area is further defined as being 6'-7" wide as measured at the building corners, by the length of the building front façade. This width varies through the easement area, due to the relief of brick details in the façade and stairs protruding into the easement area.

This does not allow for any use, other than pedestrian, of the 5 feet, as in prior easements at other locations in downtown, which allow room for such items as street furniture, easel signs and similar. This full 5 foot width is required for pedestrian use and shall remain clear of any obstacles. Any types of street furniture, signs, tables, seating, patrons, planters and the like shall remain in the easement itself with no overhang over the sidewalk to 7 feet in height. As an example, umbrellas may be placed in the easement with the canopy overhanging the sidewalk, but must be 7 feet clear in height from the sidewalk.

Upon motion by Councilmember Jernigan, seconded by Councilmember McSwain, and carried unanimously, the Council approved an encroachment



agreement with the owner of 308 South Green Street to utilize the public sidewalk for outdoor seating and similar business uses, to leave five feet of sidewalk clear, at all times, for pedestrian movement.

3. Consideration of Resolution of Intent to Sell Property at 210 West Meeting Street

City Manager Sandy stated that the City is the owner of 0.06 acres located at 210 West Meeting Street. This strip of land is landscaped, is part of a larger tract of about 0.43 acre now used as a public parking lot and is adjacent to a 0.65 acre tract owned by Jeff and Laura Toner. City Attorney Vinay stated that the property proposed to be sold is strictly the landscaped strip and this would not affect the paved parking lot.

The City has now received an offer from Jeff and Laura Toner to purchase the 0.06 acres to be combined with the 0.65 acre they currently own that is adjacent to the City's property. After negotiation, City staff and those making the offer have agreed on a purchase price for the City property of \$25,000.

The offer made is a good and fair one, and City staff recommends its approval.

After negotiation, City staff has reached agreement with Jeff and Laura Toner about the terms and conditions of such a purchase. The City proposes to sell this property under the negotiated sale and upset bid process provided in General Statutes 160A-269. Therefore, an initial earnest money deposit of \$1,250 (5% of the sale price) is required and has already been tendered by the Toners.

If City Council wishes to proceed on this matter, it would be necessary to adopt a Resolution of Intent to declare this property surplus, and to indicate intent to sell the property through the upset bid process. The matter would then be advertised in the News Herald to allow ten (10) days for any upset bids, which would not only have to increase the offered price, but offer the same or similar conditions.

Upon motion by Councilmember McSwain, seconded by Councilmember Hawkins, and carried unanimously, the Council adopted a Resolution declaring as surplus the property (0.06 acres) located at 210 West Meeting Street, expressing the intent of the City to sell such lands to Jeff and Laura Toner, and directing City staff to properly notice the proposed sale for upset bids as required by law.

4. Consideration of Amendments to Schedule of Fees and Charges to Reflect New Utility Deposit Amounts

Jessie Parris, Director of Finance, advised that City staff have re-evaluated utility deposits and recommend changes. Staff have checked other communities, our write-offs and our payment history to determine what amounts would be appropriate. Proposed rates for utility deposit amounts would change to \$300, \$200 and \$150, if all three services are being used. This covers the City's risk and doesn't punish customers to have utilities with the City.

Staff recommends the new amounts to become effective immediately after approval.

Upon motion by Councilmember Jernigan, seconded by Councilmember Hawkins, and carried unanimously, the Council approved amendments as submitted to the Schedule of Fees and Charges to reflect new utility deposit amounts effective January 9, 2024.



5. Consideration of Amendment and Extension of Contract for Sale and Purchase of Property on East Meeting Street with 400 Meeting Street, LLC

City Attorney Vinay stated that at its January 9, 2023, meeting, the City Council approved a Contract for Sale and Purchase with 400 Meeting Street, LLC ("the Purchaser"), for the six adjoining tracts of real property located on East Meeting between White Street and Church Street. At the request of the Purchaser, the City Council, by unanimous votes at its May 1, 2023 and August 7, 2023 meetings, extended the Contract to set a closing date of November 10, 2023. At its November 6, 2023 meeting, City Council approved a detailed Development Agreement with the Purchaser, which sets out the terms under which the property is to be developed.

After the November 6, 2023 meeting, and before the November 10 closing date, the Purchaser notified the City that its attorneys had identified a land title issue on one of the six tracts. Even after the City agreed to provide a limited indemnification to the Purchaser and title insurer, the Purchaser and its investors were unwilling to proceed with closing until this matter was resolved. No closing has occurred, but the parties strongly desire to proceed with this sale and the proposed housing project. We therefore agreed to hold the Contract in suspension while further measures are considered.

The Purchaser has continued to diligently work on this project, is pressing ahead with development plans, and has recently held multiple meetings with the Department of Development and Design about those plans.

City staff recognizes that further pushing back closing on this transaction is not desirable. However, the proposed development remains an excellent use of the City property, and the Purchaser is moving ahead with design and other work in a reasonable manner.

The City and the Purchaser have now agreed on terms for extension of the Contract for Sale and Purchase, in order to allow time for legal proceedings to cure any title issue. The Purchaser would pay \$20,000 additional earnest money, to be held in escrow by the City Attorney, and in consideration of this payment, the City would extend the Contract by six months, so that closing must occur by June 30, 2024. Except for the closing date extension and the additional earnest money, all the terms and conditions of the January 9, 2023, Contract would remain in full force and effect. The City Attorney continues to hold the Purchaser's original earnest money deposit of \$21,250

City staff urges that City Council consider a motion amending the Contract to extend closing by a further six months, that is, until June 30, 2024, in consideration of the Purchaser's payment of a further \$20,000 in earnest money. The Purchaser would have to join in signing the amended Contract to signify its acceptance.

Upon motion by Councilmember Hawkins, seconded by Councilmember McSwain, and carried unanimously, the Council agreed to and accepted an amendment of the Contract for Sale and Purchase with 400 Meeting Street, LLC, to extend the Contract, and the closing date on the sale, until June 30, 2024; to accept Purchaser's payment into escrow of an additional \$20,000 in earnest money; and further to authorize and direct the Mayor and City Manager to execute all necessary documents.

6. Consideration of Approval of Change Order #1 with Garver Engineering for Additional Services

City Manager Sandy advised that the City has received the final report on the wastewater plant capacity analysis from Garver Engineering. It revealed



several limitations through a flow & loading evaluation, a hydraulic capacity evaluation, treatment capacity evaluation, and an evaluation of solids processing capacity.

The next phase of the project is developing a capacity improvements plan with the following intended goals.

- 1) To identify the conceptual improvements needed, including details on infrastructure improvements and operational optimization strategies.
- 2) To identify the costs associated with the improvements.
- 3) To serve as a stand-alone master plan for the wastewater plant that can ultimately feed into a system-wide master plan proposed for next fiscal year.

Originally, we intended to complete the plan in the upcoming fiscal year. However, there is a need to expedite initial cost opinions for purposes of informing/planning the mega-site project and growth areas in the Western end of our service district. We plan to defer one of our approved capital projects at the wastewater plant (200K budgeted) in order to complete this higher priority project in the current year.

City Manager Sandy stated that the contract for \$160,759 would identify the capacity improvements, optimization improvements, give an asset list and cost some of those out so staff can plan next steps to do what was identified in the capacity study.

Upon motion by Councilmember McSwain, seconded by Councilmember Jernigan, and carried unanimously, the Council approved Change Order #1 (Capacity Improvements Plan) with Garver Engineering (2024-01) for additional services, in the amount of \$160,759, for the wastewater plant capacity analysis.

## 7. Appointments to Boards and Commissions

### a. Fireman's Relief Fund

Mayor Thompson stated the terms for Council appointee Finance Director Jessie Parris and Public Safety appointee Fire Chief Israel Gibson have expired. These members have been excellent participants on the Board and have expressed interest in continuing to serve as members of the Board.

Upon motion by Councilman Hawkins, seconded by Councilman McSwain, and carried unanimously, the Council reappointed Jessie Parris and Israel Gibson for terms to expire on January 15, 2026.

### b. Western Piedmont Council of Governments TAC/RPO

Mayor Thompson stated the Council appointee and an alternate for the WPCOG TAC must be appointed every two years.

Upon motion by Councilman Jernigan, seconded by Councilman McSwain, and carried unanimously, the Council agreed to appoint Wendy Cato as the City's representative on the Technical Advisory Committee (TAC) of WPCOG Unifour Rural Planning Organization and agreed to appoint Ronnie Thompson as the Alternate.



c. Western Piedmont Council of Governments Policy Board

Mayor Thompson stated the Council appointee and an alternate for the WPCOG Policy Board must be appointed every two years.

Upon motion by Councilman McSwain, seconded by Councilman Hawkins, and carried unanimously, the Council agreed to appoint Chris Jernigan as WPCOG Policy Board Delegate and appoint Ronnie Thompson as the Policy Board Alternate.

8. 30-Day Notice Boards and Commissions

a. Morganton Housing Authority

The Mayor stated there is one term expiring on the Morganton Housing Authority Board.

The representative with the expiring term is Adriana Morris. She has been a consistent member of the Morganton Housing Authority and is willing to continue serving on this Board.

Appointments and/or reappointments will be made at the February 5, 2024 City Council Meeting.

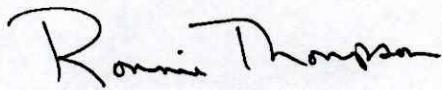
If you have an interest in volunteering for a vacancy, applications for *Request for Appointment to City of Morganton Boards and Commissions* are available during business hours from the Clerk's office or on the City website.

XIV. Other Items from City Manager and City Council Not on Agenda – No other items were considered.

XV. Reports – No reports were given.

XVI. Adjournment – Mayor Thompson adjourned the meeting at 6:43 p.m.

Preparation of Minutes. These minutes were prepared by Renee C. Carswell, City Clerk. 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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Ronnie Thompson, Mayor



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Renee C. Carswell, City Clerk

