



Office of the City Clerk

The City of Morgantown

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AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
May 15, 2012
7:00 p.m.

1. **CALL TO ORDER**
2. **ROLL CALL BY CITY CLERK**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES:** Regular Meeting May 1, 2012
Special Meeting May 1, 2012
5. **CORRESPONDENCE**
6. **PUBLIC HEARING:**
 - A. **PUBLIC HEARING of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A RIGHT-OF-WAY AGREEMENT BETWEEN IT, AS GRANTOR, AND MOUNTAINEER GAS COMPANY, AS GRANTEE, AS THE SAME APPLIES TO GAS LINE INSTALLATION THROUGH MORGANTOWN MUNICIPAL AIRPORT REALTY TO WEST VIRGINIA NATIONAL GUARD READINESS CENTER REALTY.**
 - B. **PUBLIC HEARING of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN IT AND THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, REGARDING THE CITY'S TEMPORARY USE OF WEST VIRGINIA UNIVERSITY'S EQUIPMENT KNOWN AS A 'GUMBUSTER'.**
7. **UNFINISHED BUSINESS:**
 - A. **Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A RIGHT-OF-WAY AGREEMENT BETWEEN IT, AS GRANTOR, AND MOUNTAINEER GAS COMPANY, AS GRANTEE, AS THE SAME APPLIES**

TO GAS LINE INSTALLATION THROUGH MORGANTOWN MUNICIPAL AIRPORT REALTY TO WEST VIRGINIA NATIONAL GUARD READINESS CENTER REALTY. (FIRST READING: MAY 1, 2012)

- B. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN IT AND THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, REGARDING THE CITY'S TEMPORARY USE OF WEST VIRGINIA UNIVERSITY'S EQUIPMENT KNOWN AS A 'GUMBUSTER'. (FIRST READING: MAY 1, 2012)**

C. BOARDS AND COMMISSIONS

8. SPECIAL COMMITTEE REPORTS

9. NEW BUSINESS:

- A. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AMENDING THE FY 2011-2012 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.**
- B. Consideration of APPROVAL of FIRST READING of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING IT TO PURCHASE MONONGALIA COUNTY TAX MAP 24 PARCELS 296, 312, 312.1, AND 314 FROM SANDRA PAUL MOORE FOR THE PURPOSE OF CREATING A NEW CITY PARK IN THE JEROME PARK AREA OF MORGANTOWN.**

10. PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION

11. CITY MANAGER'S REPORT:

NEW BUSINESS:

- 1. Police and Fire Pension Fund Annual Reports**
- 2. Mon River Trails Conservancy Half Marathon**
- 3. Farmer's Market Food Permit**
- 4. Appointment of City Representatives to the Fairmont/Morgantown Housing Authority**

12. **REPORT FROM CITY CLERK:**
 1. **Changes to Police Civil Service Commission Rules & Regulations**
13. **REPORT FROM CITY ATTORNEY**
14. **REPORT FROM COUNCIL MEMBERS**
15. **EXECUTIVE SESSION:** Pursuant to West Virginia Code Section 6-9A-4(b)(B)(9) as it pertains to matters involving or affecting the purchase, sale or lease of property.
16. **ADJOURNMENT**

If you need an accommodation contact us at 284-7439

SPECIAL MEETING MAY 1, 2012:

The special meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Wednesday, May 1, 2012 at 6:30 p.m.

PRESENT: Mayor Jim Manilla, City Manager Terrence Moore, Deputy City Manager Jeff Mikorski, City Clerk Linda Little, and Council Members Wes Nugent, Jenny Selin, Marti Shamberger, Bill Byrne and Linda Herbst. Councilor Bane absent.

The meeting was called to order by Mayor Manilla.

UNFINISHED BUSINESS:

INTERVIEWS FOR LIBRARY BOARD – TO FILL ONE VACANCY:

Council interviewed candidates Penny Pugh and Robert Gallagher for the vacant seat on the Library board. The successful candidate would fill the vacant unexpired term on the board. Following the interview sessions, Council retired into executive session to make their determination on which candidate will be chosen.

EXECUTIVE SESSION:

Pursuant to West Virginia State Code section 6-9A-4(2)a Council moved by unanimous consent to enter into executive session in order to discuss matters pertaining to the appointment of a public officer, with Council Members present. Session commenced at 6:45 p.m.

ADJOURNMENT:

There being no further business, Council adjourned at 6:50 p.m.

City Clerk

Mayor

***A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS IS AVAILABLE ON CD AT THE MORGANTOWN CITY LIBRARY.**

REGULAR MEETING MAY 1, 2012:

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, May 1, 2012 at 7:00 P.M.

PRESENT: City Manager Terrence Moore, City Clerk Linda Little, City Attorney Steve Fanok, Deputy City Manager Jeff Mikorski, Mayor Jim Manilla and Council Members: Ron Bane, Wes Nugent, Jenny Selin, Marti Shamberger, Linda Herbst and Bill Byrne.

APPROVAL OF MINUTES: The minutes of the Regular Meeting on April 17, 2012 were approved as amended.

CORRESPONDENCE: Mayor Manilla presented four proclamations commemorating Municipal Clerk's Week, Bike Month, Letter Carrier's Food Drive and Correctional Officer's Week.

PUBLIC HEARING - AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO PARCELS OF REAL ESTATE IN THE THIRD WARD OF THE CITY OF MORGANTOWN FROM (R-3) MULTI-FAMILY RESIDENTIAL DISTRICT TO(B-2) SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

There being no appearances or objections, Mayor Manilla declared the public portion closed.

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 121.04 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE ORDER OF PROCEDURE FOR COUNCIL MEETINGS; MORE PARTICULARLY, THE LOCATION OF THE “PUBLIC PORTION” UPON THE CITY COUNCIL MEETING AGENDA.

There being no appearances or objections, Mayor Manilla declared the public portion closed.

UNFINISHED BUSINESS:

AN ORDINANCE FOR ZONING RECLASSIFICATION IN THE THIRD WARD FROM (R-3 TO (B-2): The below entitled Ordinance was presented for second reading:

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO PARCELS OF REAL ESTATE IN THE THIRD WARD OF THE CITY OF MORGANTOWN FROM (R-3) MULTI-FAMILY RESIDENTIAL DISTRICT TO(B-2) SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

Motion by Nugent, second by Shamberger to adopt the above entitled Ordinance. After explanation from the City Manager, motion carried 7-0.

AN ORDINANCE AMENDING THE ADMINISTRATIVE CODE, ORDER OF PROCEDURE FOR COUNCIL MEETINGS: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 121.04 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE ORDER OF PROCEDURE FOR COUNCIL MEETINGS; MORE PARTICULARLY, THE LOCATION OF THE “PUBLIC PORTION” UPON THE CITY COUNCIL MEETING AGENDA.

Motion by Herbst, second by Byrne, to adopt the above entitled Ordinance. After explanation from the City Manager, motion carried 7-0.

BOARDS AND COMMISSIONS: By acclamation of Council the following Commissioners were appointed: Julie Thalman to the Traffic Commission and Robert Gallagher to the Library Board.

PUBLIC PORTION: There being no appearances, Mayor Manilla declared the public portion closed.

NEW BUSINESS:

AN ORDINANCE AUTHORIZING A RIGHT OF WAY AGREEMENT WITH THE WV NATIONAL GUARD READINESS CENTER: The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A RIGHT-OF-WAY AGREEMENT BETWEEN IT, AS GRANTOR, AND MOUNTAINEER GAS COMPANY, AS GRANTEE, AS THE SAME APPLIES TO GAS LINE INSTALLATION THROUGH MORGANTOWN MUNICIPAL AIRPORT REALTY TO WEST VIRGINIA NATIONAL GUARD READINESS CENTER REALTY.

Motion by Nugent, second by Bane, to pass the above entitled Ordinance to second reading. After discussion, motion carried 7-0.

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH WVU: The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN IT AND THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, REGARDING THE CITY'S TEMPORARY USE OF WEST VIRGINIA UNIVERSITY'S EQUIPMENT KNOWN AS A 'GUMBUSTER'.

Motion by Byrne, second by Selin, to pass the above entitled Ordinance to second reading. After explanation from the City Manager, motion carried 7-0.

A RESOLUTION OF THE COUNCIL OF THE CITY OF MORGANTOWN, WEST VIRGINIA, AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, WITH REGARD TO ESTABLISHMENT AND MAINTENANCE OF A TRAFFIC SIGNAL SYSTEM WITHIN THE MUNICIPAL LIMITS OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA: The above entitled Resolution was presented for approval:

Motion by Nugent, second by Selin, to approve the above entitled Resolution. Following clarification from the City Manager, motion carried 7-0.

A RESOLUTION APPROVING AND AUTHORIZING TO SUBMIT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) THE 2012 COMMUNITY DEVELOPMENT BLOCK GRANT ACTION PLAN: The above entitled Resolution was presented for approval:

Motion by Byrne, second by Shamberger, to approve the above entitled Resolution. Following explanation from the City Manager, motion carried 7-0.

A RESOLUTION OF COUNCIL TO SUPPORT MAKING THE WEST VIRGINIA 457 PLAN OPTION AVAILABLE TO MUNICIPAL EMPLOYEES: The above entitled Resolution was presented for approval:

Motion by Herbst, second by Selin, to approve the above entitled Resolution. Following explanation from the City Manager, motion carried 7-0.

A RESOLUTION TO ADOPT THE 2012 GREATER MORGANTOWN BICYCLE PLAN: The above entitled Resolution was presented for approval:

Motion by Byrne, second by Bane, to approve the above entitled Resolution. Following explanation from the City Manager and discussion, motion carried 7-0.

A RESOLUTION AUTHORIZING THE NEIGHBORHOOD/BUSINESS RECOGNITION PROGRAM: The above entitled Resolution was presented for approval:

Motion by Nugent, second by Bane, to approve the above entitled Resolution. After discussion, motion by Selin, second by Shamberger to amend the Resolution language to reflect neighborhood “associations” and “wards”. Motion to amend the Resolution language carried 7-0. The question was called on the main motion to approve the Resolution as amended and carried 7-0.

SPECIAL COMMITTEE REPORTS: No Reports.

CITY MANAGER’S REPORT:

NEW BUSINESS:

1. Application to Edward Byrne Memorial Justice Grant(JAG).

Motion by Byrne, second by Shamberger to approve the application to the Grant program. Motion carried 7-0.

REPORT FROM CITY CLERK:

1. City Clerk Little announced the Blood Drive event and Multiphasic Testing on May 3rd.
2. City Clerk Little reported that Deputy Clerk Sypolt has begun earning credits towards her CMC Certification.
3. City Clerk Little reminded all citizens to vote in the upcoming Election on May 8th.

REPORT FROM CITY ATTORNEY: No Report.

REPORT FROM COUNCIL MEMBERS: (Roll Reversal)

Councilor Herbst:

Councilor Herbst announced an upcoming clean-up event in the Suncrest area. She noted her concerns over off-street residential parking in Morgantown and the congestion it causes. She added that neighborhoods are interested in creating a policy to address these problems. Mr. Moore replied that discussions are set to take place at an upcoming Committee of the Whole meeting in order to begin finding solutions.

Councilor Byrne

Councilor Byrne reported that a citizen informed him that gravel has been cleared on the shoulder of Route 119 and he thanked the Public Works department for their maintenance efforts. He then inquired on the status of the Inclusive City initiative, and Mr. Moore replied that meetings have been set to discuss the proposal. Councilor Byrne asked

that the Manager keep Council informed and that the item come up for a Council vote as soon as possible.

Councilor Shamberger

Councilor Shamberger thanked those who participated in the recent neighborhood clean-up event. She also announced a production at the Met Theatre.

Councilor Selin:

Councilor Selin announced the Evansdale Neighborhood Association meeting and reported on the Evansdale Campus Re-design meetings.

Councilor Nugent:

Councilor Nugent announced the upcoming Economic Re-structuring Committee meeting, which is working to implement the Downtown Plan. He also announced the Main Street Morgantown First Friday Event and encouraged all to attend. Councilor Nugent mentioned the opening of the Farmer's Market for the season, and its temporary location in lot B, during construction of the Market Place Pavilion. He concurred with Councilor Herbst's comments regarding parking and the blue curb program. He noted his appreciation for the work presented by those involved with the Inclusive City initiative, and reminded Council that a consensus will be necessary to have the item placed back before Council for a vote.

Councilor Bane:

Councilor Bane announced ongoing youth athletic events and encouraged all to attend and support the students. He extended appreciation to Council Members who assisted with his meeting duties as Deputy Mayor, during his recent brief absence.

Mayor Manilla:

Mayor Manilla reported that he welcomed the Big 12 CVB representatives who visited recently, adding that the Conference CVB's network with one another to promote mutual interests within the Conference Cities. He addressed the parking concerns raised by Councilor Herbst and City Attorney Steve Fanok reminded Council that the permit parking is by Ordinance, and was designated by area, not by individual street. Lastly, Mayor Manilla announced that student move-out week is upon us and noted preparations that are underway in the City to aid the transition.

Mr. Moore added that the City is slated to execute the move-out more efficiently by partnering with Allied Waste. He then announced that Morgantown has recently been designated as a bronze-level bicycle friendly city and offered his congratulations to those involved in the designation.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:04 p.m.

City Clerk

Mayor

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City of Morgantown

Finance Department

389 Spruce Street

Morgantown, WV 26505

Phone (304) 284-7407/Fax 7418

MEMO

DATE: May 3, 2012

TO: Terrence Moore, ICMA-CM, City Manager

FROM: J.R. Sabatelli, CPA, Finance Director *JRS*

RE: FY11 Annual Reports of Police & Fire Pension Funds

Attached are copies of the Annual Reports for the fiscal year ended June 30, 2011 for the Morgantown Police and Fire Pension Funds required by the WV Municipal Pensions Oversight Board. Please include this item on the agenda for the May 15th City Council meeting as part of your City Manager's report. Once Council approves the reports, a request for the State's insurance tax allocation will be made.

The most recent actuarial valuation is the 7/1/10 valuation. Pension fund balances have increased as follows:

	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>
Policemen's Pension	\$11,067,983	\$11,646,868	\$12,867,840
Firemen's Pension	\$ 8,511,184	\$ 9,052,894	\$10,056,586

The funded ratio for the two plans decreased from the previous actuarial valuation as follows:

	<u>7/1/09</u>	<u>7/1/10</u>
Policemen's Pension	38.26%	29.33%
Firemen's Pension	34.79%	29.19%

Please let me know if you have any questions or need additional information.

**Annual Report of Policemen's and Firemen's Pension and Relief Funds
to the Municipal Pensions Oversight Board
as required by WV Code §8-22-19(d)(1)(B) and §8-22-23a(a)**

Pension Fund Morgantown Policemen's Pension & Relief Fund

Treasurer Joseph R. Sabatelli, Finance Director

Municipality City of Morgantown, West Virginia

Fiscal Year (July 1 - June 30) July 1, 2010 - June 30, 2011

Actuarial Funding Method

<input type="checkbox"/>	Standard Funding Method
<input type="checkbox"/>	Optional Funding Method
<input checked="" type="checkbox"/>	Alternative Funding Method (107%)
<input type="checkbox"/>	% Necessary to Maintain Plan Solvency for 15 Years
<input type="checkbox"/>	Conservation Funding Method

PART I		Amount
Item		
Beginning Fair Value of Pension Plan	July 1	\$ 11,646,868.12
I. Revenue During Fiscal Year		
1. Employee Contributions for employees hired prior to Jan. 1, 2010	Percent of Gross Salary 7.00%	\$ 212,184.55
<i>Total amounts contributed by employees or withheld from their salaries</i>		
2. Employee Contributions for employees hired on or after Jan. 1, 2010	Percent of Gross Salary 9.50%	\$ 11,444.85
<i>Total amounts contributed by employees or withheld from their salaries</i>		
3. Employee Contributions for Plans utilizing the Conservation Funding Method	Percent of Gross Salary 1.50%	\$ -
<i>Total amounts contributed by employees or withheld from their salaries</i>		
4. Government Contributions		
a. From Parent Local Government	<i>Required employer contributions from your municipality</i>	\$ 549,877.00
b. Additional employer contributions from your municipality		\$ -
c. From State Government	<i>Municipal Pensions Oversight Board (premium surcharges on fire and casualty insurance)</i>	\$ 490,017.61
5. Earnings on Investments		
a. Net Appreciation/(Depreciation) of Fair Value of Investments		\$ 741,047.44
b. Bond Interest		\$ 217,278.44
c. Dividends		\$ 124,177.55
d. Net Realized Gain (Loss) on Sale or Exchange of Assets		\$ 657,817.70
e. Other		\$ 1,344.57
f. Less Investment Expense		\$ (113,258.98)
Net Investment Income		\$ 1,628,406.72
6. All Other Revenues		
<i>Please Specify</i>		
Total Revenues	<i>The sum of Items I.1. through I.6.</i>	\$ 2,891,930.73

**Annual Report of Policemen's and Firemen's Pension and Relief Funds
to the Municipal Pensions Oversight Board
as required by WV Code §8-22-19(d)(1)(B) and §8-22-23a(a)**

Pension Fund

Morgantown Policemen's Pension & Relief Fund

Item		Amount
II Expenditures During Fiscal Year <small>Does not include Investment Expenses, see I.5.f. on first page.</small>		
1. Benefits Paid	<small>Retirement, disability, survivor and any other benefits.</small>	\$ 1,656,567.31
2. Withdrawals	<small>Amount paid to employees or former employees or their survivors, representing return of contributions made by employees during the period of their employment.</small>	\$ 11,897.01
3. Other Payments	<small>Administrative expenses and other costs or payments non representing benefit payments or withdrawals.</small>	
a. Administration	<small>Municipal administration fees.</small>	\$ 2,495.00
b. Other	<small>Example: Pension Secretary expenses; Rent; etc.</small>	\$ -
Total Expenditures	<small>The sum of Items II.1. through II.3.b.</small>	\$ 1,670,959.32
Net Income/(Loss)		\$ 1,220,971.41
Ending Fair Value of the Pension Plan	June 30	\$ 12,867,839.53
III Asset Allocation at End of Fiscal Year		
1. Cash and Short-Term Investments	Percent of Total Assets	3.29%
<small>Institution or Money Manager</small>	<small>Type of Account</small>	<small>Fair Value</small>
a. Centra Bank	Checking	\$ 1,564.86
b.	Non-Interest Bearing	\$ -
c. Morgan Stanley Smith Barney	Savings or Money Market Account	\$ 421,866.27
d.	Certificates of Deposit	\$ -
e.	Re-Purchase Agreements	\$ -
		Fair Value
Total Cash and Short-Term Investments	<small>The sum of Items 1.a. through 1.e.</small>	\$ 423,431.13
2. Government Securities	Percent of Total Assets	21.13%
<small>Institution or Money Manager</small>	<small>Type of Account</small>	<small>Fair Value</small>
a. Morgan Stanley Smith Barney	Treasury Notes and Bonds	\$ 2,719,460.16
b.	State and Municipal Bonds	\$ -
c.	Mutual Funds (Government Bonds)	\$ -
		Fair Value
Total Government Securities (at fair value)	<small>The sum of Items 2.a. through 2.c.</small>	\$ 2,719,460.16
3. Corporate Bonds	Percent of Total Assets	24.32%
<small>Institution or Money Manager</small>	<small>Type of Account</small>	<small>Fair Value</small>
a. Morgan Stanley Smith Barney	Bonds	\$ 3,129,972.70
b.	Mortgage-backed Securities	\$ -
c.	Debentures	\$ -
d.	Mutual Funds (Corporate Bonds)	\$ -
		Fair Value
Total Corporate Bonds (at fair value)	<small>The sum of Items 3.a. through 3.d.</small>	\$ 3,129,972.70

**Annual Report of Policemen's and Firemen's Pension and Relief Funds
to the Municipal Pensions Oversight Board
as required by WV Code §8-22-19(d)(1)(B) and §8-22-23a(a)**

Pension Fund

Morgantown Policemen's Pension & Relief Fund

4. Corporate Stocks		Percent of Total Assets	50.74%
Institution or Money Manager		Type of Account	Fair Value
a.	Morgan Stanley Smith Barney	Individual Stocks Held	\$ 6,528,978.44
b.		Mutual Fund Shares (Equities)	\$ -
			Fair Value
Total Corporate Stocks (at fair value)		The sum of Items 4.a. through 4.b.	\$ 6,528,978.44
5. Other		Percent of Total Assets	0.51%
Institution or Money Manager		Type of Account	Fair Value
a.	Morgan Stanley Smith Barney	Accrued Interest	\$ 65,997.10
b.			\$ -
			Fair Value
Total Other (at fair value)		The sum of Items 5.a. and 5.b.	\$ 65,997.10
			Fair Value
Total Assets		Sum of III.1. through III.5.	\$ 12,867,839.53

PART II

Membership and Beneficiaries

* Please report the figures requested below, for the fiscal year reported on page 1. To figure the Average Monthly Number of Persons, add figures for each month and divide by 12. Please round to two decimal places. An employee must have been paid for 100 hours in any month to be included in that month.

** Please report the total number of disability applications received during the fiscal year, the status of each application at the end of the fiscal year, the total applications granted and denied, and the percentage of disability benefit recipients to the total number of active members of the fund. This requirement satisfies §8-22-23a(a) of the WV Code if the report is submitted to the Municipal Pensions Oversight Board prior to December 31st of each year.

Item		Avg. Monthly #
I. Members of your Pension Fund		
<i>Exclude Beneficiaries</i>		
1.	Active Members	60.83
2.	Inactive Members	1.83
II. Beneficiaries Receiving Periodic Benefit Payments During Fiscal Year		
1.	Retirees	39.00
2.	Disability Retirees	9.00
<i>Includes the new applications approved during reporting period</i>		
a.	Number of Disability Applications received during the fiscal year	0.00
b.	Status of each Disability Application at end of fiscal year - please attach separate sheet with details	
(1.)	Disability Applications Approved during Fiscal Year	0.00
(2.)	Disability Applications Denied during Fiscal Year	0.00
3.	Percentage of Disability Benefit Recipients to the Total of Active Members in the fund	14.80%
4.	Survivors (of Deceased Members) Drawing Benefits	8.00

**Annual Report of Policemen's and Firemen's Pension and Relief Funds
to the Municipal Pensions Oversight Board
as required by WV Code §8-22-19(d)(1)(B) and §8-22-23a(a)**

Pension Fund Morgantown Firemen's Pension & Relief Fund

Treasurer Joseph R. Sabatelli, Finance Director

Municipality City of Morgantown, West Virginia

Fiscal Year (July 1 - June 30) July 1, 2010 - June 30, 2011

Actuarial Funding Method

<input type="checkbox"/>	Standard Funding Method
<input type="checkbox"/>	Optional Funding Method
<input checked="" type="checkbox"/>	Alternative Funding Method (107%)
<input type="checkbox"/>	% Necessary to Maintain Plan Solvency for 15 Years
<input type="checkbox"/>	Conservation Funding Method

PART I		Item	Amount
Beginning Fair Value of Pension Plan		July 1	\$ 9,052,894.22
I. Revenue During Fiscal Year			
1. Employee Contributions for employees hired prior to Jan. 1, 2010	Percent of Gross Salary	7.00%	
<small>Total amounts contributed by employees or withheld from their salaries</small>			\$ 152,053.53
2. Employee Contributions for employees hired on or after Jan. 1, 2010	Percent of Gross Salary	9.50%	
<small>Total amounts contributed by employees or withheld from their salaries</small>			\$ 15,118.42
3. Employee Contributions for Plans utilizing the Conservation Funding Method	Percent of Gross Salary	1.50%	
<small>Total amounts contributed by employees or withheld from their salaries</small>			\$ -
4. Government Contributions			
a. From Parent Local Government			
<small>Required employer contributions from your municipality</small>			\$ 446,400.00
b. Additional employer contributions from your municipality			\$ 23,493.00
c. From State Government		<small>Municipal Pensions Oversight Board (premium surcharges on fire and casualty insurance)</small>	\$ 433,398.15
5. Earnings on Investments			
a. Net Appreciation/(Depreciation) of Fair Value of Investments			\$ 551,952.31
b. Bond Interest			\$ 170,171.78
c. Dividends			\$ 96,263.46
d. Net Realized Gain (Loss) on Sale or Exchange of Assets			\$ 528,511.22
e. Other			\$ 1,650.74
f. Less Investment Expense			\$ (88,261.70)
Net Investment Income			\$ 1,260,287.81
6. All Other Revenues			
<small>Please Specify</small>			
Total Revenues			\$ 2,330,750.91
<small>The sum of Items I.1. through I.6.</small>			

**Annual Report of Policemen's and Firemen's Pension and Relief Funds
to the Municipal Pensions Oversight Board
as required by WV Code §8-22-19(d)(1)(B) and §8-22-23a(a)**

Pension Fund

Morgantown Firemen's Pension & Relief Fund

Item		Amount
II Expenditures During Fiscal Year <small>Does not include Investment Expenses, see I.5.f. on first page.</small>		
1. Benefits Paid	<small>Retirement, disability, survivor and any other benefits.</small>	\$ 1,319,555.12
2. Withdrawals	<small>Amount paid to employees or former employees or their survivors, representing return of contributions made by employees during the period of their employment</small>	\$ 4,869.06
3. Other Payments	<small>Administrative expenses and other costs or payments non representing benefit payments or withdrawals.</small>	
a. Administration	<small>Municipal administration fees.</small>	\$ 2,635.00
b. Other	<small>Example: Pension Secretary expenses; Rent; etc.</small>	\$ -
Total Expenditures	<small>The sum of items II.1. through II.3.b.</small>	\$ 1,327,059.18
Net Income/(Loss)		\$ 1,003,691.73
Ending Fair Value of the Pension Plan	June 30	\$ 10,056,585.95
III Asset Allocation at End of Fiscal Year		
1. Cash and Short-Term Investments	Percent of Total Assets	4.55%
	Institution or Money Manager	Type of Account
		Fair Value
a. Centra Bank	Checking	\$ 1,544.70
b.	Non-Interest Bearing	\$ -
c. Morgan Stanley Smith Barney	Savings or Money Market Account	\$ 455,618.20
d.	Certificates of Deposit	\$ -
e.	Re-Purchase Agreements	\$ -
		Fair Value
Total Cash and Short-Term Investments	<small>The sum of items 1.a. through 1.e.</small>	\$ 457,162.90
2. Government Securities	Percent of Total Assets	20.77%
	Institution or Money Manager	Type of Account
		Fair Value
a. Morgan Stanley Smith Barney	Treasury Notes and Bonds	\$ 2,089,106.08
b.	State and Municipal Bonds	\$ -
c.	Mutual Funds (Government Bonds)	\$ -
		Fair Value
Total Government Securities (at fair value)	<small>The sum of items 2.a. through 2.c.</small>	\$ 2,089,106.08
3. Corporate Bonds	Percent of Total Assets	23.42%
	Institution or Money Manager	Type of Account
		Fair Value
a. Morgan Stanley Smith Barney	Bonds	\$ 2,355,567.10
b.	Mortgage-backed Securities	\$ -
c.	Debentures	\$ -
d.	Mutual Funds (Corporate Bonds)	\$ -
		Fair Value
Total Corporate Bonds (at fair value)	<small>The sum of items 3.a. through 3.d.</small>	\$ 2,355,567.10

**Annual Report of Policemen's and Firemen's Pension and Relief Funds
to the Municipal Pensions Oversight Board
as required by WV Code §8-22-19(d)(1)(B) and §8-22-23a(a)**

Pension Fund

Morgantown Firemen's Pension & Relief Fund

4. Corporate Stocks		Percent of Total Assets	50.79%
Institution or Money Manager		Type of Account	Fair Value
a.	Morgan Stanley Smith Barney	Individual Stocks Held	\$ 5,108,189.12
b.		Mutual Fund Shares (Equities)	\$ -
			Fair Value
Total Corporate Stocks (at fair value)		The sum of items 4.a. through 4.b.	\$ 5,108,189.12
5. Other		Percent of Total Assets	0.46%
Institution or Money Manager		Type of Account	Fair Value
a.	Morgan Stanley Smith Barney	Accrued Interest	\$ 46,560.75
b.			\$ -
			Fair Value
Total Other (at fair value)		The sum of items 5.a. and 5.b.	\$ 46,560.75
			Fair Value
Total Assets		Sum of III.1. through III.5.	\$ 10,056,585.95

PART II

Membership and Beneficiaries

* Please report the figures requested below, for the fiscal year reported on page 1. To figure the Average Monthly Number of Persons, add figures for each month and divide by 12. Please round to two decimal places. An employee must have been paid for 100 hours in any month to be included in that month.

** Please report the total number of disability applications received during the fiscal year, the status of each application at the end of the fiscal year, the total applications granted and denied, and the percentage of disability benefit recipients to the total number of active members of the fund. This requirement satisfies §8-22-23a(a) of the WV Code if the report is submitted to the Municipal Pensions Oversight Board prior to December 31st of each year.

Item		Avg. Monthly #
I. Members of your Pension Fund		
Exclude Beneficiaries		
1.	Active Members Current number of employees contributing to the pension fund	46.50
2.	Inactive Members Non-active vested members and employees on extended leave without pay	0.00
II. Beneficiaries Receiving Periodic Benefit Payments During Fiscal Year		
1.	Retirees	39.48
2.	Disability Retirees Includes the new applications approved during reporting period	2.00
a.	Number of Disability Applications received during the fiscal year	0.00
b.	Status of each Disability Application at end of fiscal year - please attach separate sheet with details	
(1.)	Disability Applications Approved during Fiscal Year	0.00
(2.)	Disability Applications Denied during Fiscal Year	0.00
3.	Percentage of Disability Benefit Recipients to the Total of Active Members in the fund	4.30%
4.	Survivors (of Deceased Members) Drawing Benefits	11.85

City of Morgantown

Finance Department

389 Spruce Street

Morgantown, WV 26505

Phone (304) 284-7407/Fax 7418

jsabatelli@cityofmorgantown.org

MEMO

DATE: 5/9/2012

TO: Terrence Moore, ICMA-CM
City Manager

FROM: Joseph R. Sabatelli, CPA 
Finance Director

RE: Mon River Trails Conservancy Half Marathon

We have received the attached request from the Mon River Trails Conservancy for \$2,000. In order to provide this funding, a budget adjustment must be approved by City Council and may be done during the City Manager's Report. If approved, the amount would be pulled from and subsequently reduce the contingency line in the Capital Escrow Fund.

February 2, 2012

Dear City Manager Terrence Moore and Members of the Morgantown City Council:

Please consider supporting the Mon River Trails Conservancy's (MRTC) 12th annual Deckers Creek Trail Half Marathon, being held on Saturday, June 2, National Trails Day. The Mon River Trails Conservancy (MRTC) is the non-profit, volunteer organization developing and managing the Deckers Creek and Mon River Trails. Our goals are to maintain the Deckers Creek and Mon River Trails to the highest standards possible.

The Mon River Trails Conservancy is requesting \$2,000 from the city of Morgantown to help cover the cost of equipment and refreshments for this event. This festival provides MRTC, area residents, trail users, and volunteers with the opportunity to celebrate National Trails Day. In past years, the festival has raised over \$15,000 dollars for the rail-trails of north central West Virginia.

MRTC's Trail Mix Festival / Deckers Creek Trail Half Marathon will provide opportunities to:

1. increase public awareness regarding the trail system by providing on-site festivities and information about MRTC.
2. maximize recreational use of the trail through a half marathon race, and community and family activities.
3. assist in the establishment of long-term funding.

The Trail Mix Festival is being held at Hazel Ruby McQuain Riverfront Park in Morgantown, WV and on the Deckers Creek Trail. Please join us this celebration. We appreciate your support and assistance to our organization. Please let me know if you need further information. I can be reached at 304-296-6185 or email at ella@montrails.org.

Sincerely,


Ella Belling, Director
Mon River Trails Conservancy, Ltd.

City of Morgantown

Finance Department

389 Spruce Street

Morgantown, WV 26505

Phone (304) 284-7407/Fax 7418

jsabatelli@cityofmorgantown.org

MEMO

DATE: 5/7/2012

TO: Terrence Moore, ICMA-CM
City Manager

FROM: Joseph R. Sabatelli, CPA 
Finance Director

RE: Farmer Market Food Permit

We have received a request from Main Street Morgantown for payment of the food permit as required by the Monongalia County Board of Health. This contribution was made in March 2010, however was not made last fiscal year. Terri Cutright is requesting a reimbursement in the amount of \$1,700, \$950 for the previous year and \$750 for the current year. In order to reimburse Main Street for these costs which are outside of their other funding requests, a budget adjustment must be approved by City Council and may be done during the City Manager's Report. If approved, the amount would be pulled from and subsequently reduce the contingency line in the Capital Escrow Fund.

Zimbra

tmoore@cityofmorgantown.org

Monongalia County Farmers' Market Food Permit

From : Terri Cutright <director@downtownmorgantown.com>

Mon, May 07, 2012 09:47 AM

Subject : Monongalia County Farmers' Market Food Permit**To :** Terrance R. Moore <tmoore@cityofmorgantown.org>**Cc :** George Papandreas <gpapandreas@gmail.com>, barb@downtownmorgantown.com, HR Scott <hrscott@mail.wvu.edu>

Good Morning Terrance:

As per previous years. The City of Morgantown has provided the funds for the downtown Morgantown Farmers' Market health permits. I have been provided with all the forms to deliver with the check to the Health Department. The amount needed is (\$750). The program began 3 years ago as a partnership between the City and the Farmers' Market. It began during the year when the leadership of the Market was able to attract \$45,000 to the bricks and mortar of the City of Morgantown's project, (MMP). It continues as a gesture of support for the important economic anchor that provides for the business community in downtown Morgantown.

Thank you for your continued support and please alert me when the check has been provided and I again will deliver the forms to the Health Department on behalf of the growers and the City of Morgantown.

Terri



Fairmont / Morgantown Housing Authorities

NeighborWorks® HomeOwnership Center

May 1, 2012

Terrance Moore
City Manager
City of Morgantown
389 Spruce Street
Morgantown, WV 26505

Dear Mr. Moore,

Pursuant to the merger of the Fairmont and Morgantown Housing Authorities the US Department of Housing and Urban Development has given final approval to the merger. This was the last legal requirement to complete the merger process. The merger will become effective as of July 1, 2012 whereby the organization will become the Fairmont-Morgantown Housing Authority.

As per the approved merger plan, each city is to appoint two commissioners. The fifth commissioner, by HUD regulations, shall be an assisted housing recipient or public housing resident alternately appointed by each city, in which the city of Morgantown will appoint the first. Two of our current commissioners, Kim Mosby and Frank Scafella have requested to be appointed from the City of Morgantown. I am requesting that Mr. Scafella and Ms. Mosby be placed on the city council agenda for approval for terms of one and three years respectively at your earliest convenience. Appointment must be made by July 1, 2012.

Should you have any questions regarding the matter, please do not hesitate to contact me at 304-363-2977.

Very truly yours,



John Martys
Executive Director

BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

BOPARC:

Nancy Ganz's term expires on 6-30-12. City Clerk will advertise. Council will interview candidates at a Special Meeting. Residents at Large appointed by Council, 7 members.

PARKING AUTHORITY:

Jeanne Hagen's term expires on 6-30-12, and she wishes to continue to serve. Council can vote on that reappointment at the Regular Meeting on May 15, 2012. Residents, 3 members at large appointed by Mayor, 1 elected and 1 Council Member.

URBAN LANDSCAPE COMMISSION:

Vacancy: Seeking 1 qualified applicant to fill unexpired 2 year term of position of **Urban Forester**, Nominated by CM, from each ward, 13 members with staggered terms, 1 councilmember, and non-ward members must represent specific category.

***POLICE & FIRE CIVIL SERVICE COMMISSIONS:** NEW PRESIDENTS APPOINTED IN JANUARY.

**Information for Boards and Commissions vacancies are placed in the Dominion Post, are advertised on the City's Government Station Channel 15, and are posted at the Library and also information is on the City's Web Page.*

**Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, the City Clerk will check with Council before scheduling a Special Meeting.*

5/10/2012

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A RIGHT-OF-WAY AGREEMENT BETWEEN IT, AS GRANTOR, AND MOUNTAINEER GAS COMPANY, AS GRANTEE, AS THE SAME APPLIES TO GAS LINE INSTALLATION THROUGH MORGANTOWN MUNICIPAL AIRPORT REALTY TO WEST VIRGINIA NATIONAL GUARD READINESS CENTER REALTY.

The City of Morgantown hereby ordains that its City Manager is authorized to execute the right-of-way agreement hereto attached by and on behalf of the City of Morgantown.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

EASEMENT AND RIGHT-OF-WAY

FORM OPS-38 PAGE 1 OF 2

REV 9/13/11 PROC

MAP NUMBER	WORK REQUEST NUMBER
397447	

THIS EASEMENT AND RIGHT-OF-WAY, made and entered into this 17th day of April 20 12, between City of Morgantown

having a mailing address of 389 Spruce St., Morgantown WV 26505

hereinafter, whether singular or plural, call the "Grantor," and Mountaineer Gas Company, a West Virginia corporation, with principal offices at 2401 Sissonville Drive, Charleston WV, 25387-1336.

WITNESSETH

That for and in consideration of the sum of One Dollar (\$1.00) paid by Mountaineer Gas Company to Granters, the receipt whereof is hereby acknowledged, the Grantors hereby grant and convey to Mountaineer Gas Company, its successors and assigns, an exclusive easement and right-of-way ten (10) feet wide with five (5) feet on both sides of the proposed pipeline route, with right of ingress and egress thereto, for pedestrians, vehicles and equipment, to construct a pipeline, together with service connections for other landowners, and appurtenant equipment which Mountaineer Gas Company may use in connection with the transportation of gas, oil, petroleum products or any other materials or substances which may be transported singly or in combination through a pipeline; and to operate, maintain, replace or change the size of its pipe without interruption of service, and finally remove said pipeline; service connections and appurtenant equipment; over and through all that certain tract or parcel of land described and recorder in deed book 290, page 293 and situate in Morgantown Co District, Monongalia County, State of ~~West~~Virginia, and being more particularly bounded and described as follows:

Map 32 A, Parcel 12 containing 46.09 acres

Bordered north by parcel 2 DB 599/Pg 4 containing 79.55 acres/ 9-21-1961

Bordered south by parcels 20 & 22 DB 365/Pg 92 containing 67.66 acres/ 6-18-1945

Bordered west by parcel 13 DB 368/Pg 392 containing 30 acres/ 9-22-1945

lying east of the Morgantown Corporation & Union District Line

Being the same property from Thomas E. and Mary C. Powell/ February 9th, 1938

****the center of the pipe is to be the center of the R/W

It is distinctly understood and agreed that Mountaineer Gas Company shall be responsible for any damages to persons or property that may result from Mountaineer Gas Company's negligent or careless installation, operation, maintenance or removal of said facilities and/or equipment. Mountaineer Gas Company shall replace and restore the area disturbed by the laying, construction, maintenance or removal of said facilities to as near as practical to its original condition.

All pipe and service connections shall be buried so as not to interfere with the present use of the land. Grantor agrees not to construct any permanent structures over said right-of-way and not to change the grade more than six (6) inches without written permission from Mountaineer Gas Company. The Grantors may fully use and enjoy the said premises except for the purpose hereinbefore granted to Mountaineer Gas Company.

EASEMENT AND RIGHT-OF-WAY

FORM OPS-38 PAGE 2 OF 2

REV 9/13/11 PROC

This exclusive easement and right-of-way herein granted unto Mountaineer Gas Company, its successors and assigns shall be perpetual, so long as Mountaineer Gas Company or its successors and assigns use the said facilities and equipment for any or all of the purposes hereinbefore set forth. The rights, privileges and terms hereof shall extend to and be binding upon the Grantors, Mountaineer Gas Company and their respective representatives, heirs, grantees, successors and assigns.

This transaction is not a transfer of title to the aforesaid property, and therefore, is not subject to state excise tax provided in Section 11-22-2 of the West Virginia Code.

Under the penalties of fine and imprisonment as provided by law, Mountaineer Gas Company declares the total consideration for said easement and right-of-way transferred by this document to be _____ Dollars (_____).

IN WITNESS WHEREOF, the Grantors have hereto caused this Easement and Right-of-Way to be executed the day and year first above written.

GRANTORS:

STATE OF WEST VIRGINIA

COUNTY OF _____, to wit:

I, _____, a Notary Public in and for said County and State, do certify that _____, whose name is signed to the writing hereto annexed, bearing date on the _____ day of _____, 20____, has the day acknowledged the same before me in my presence.

Given under my hand this _____ day of _____, 20____.
My commission expires _____.

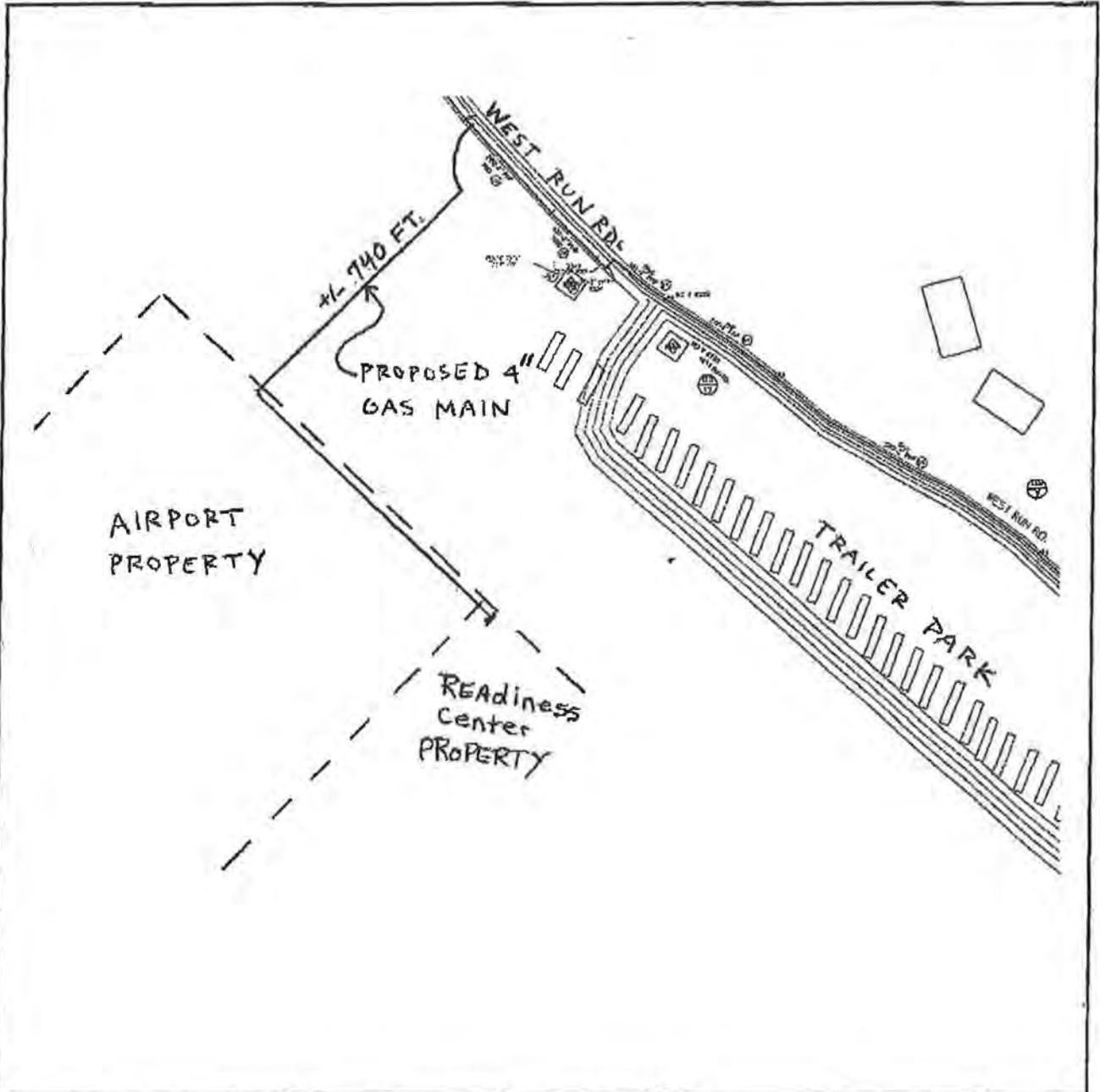
(NOTARY PUBLIC)

Instrument prepared by:

MOUNTAINEER GAS COMPANY

Mike Lewis

304-284-7409



MOUNTAINEER GAS COMPANY			
Service Center:	Kingwood	Site Location:	Morgantown.
Description:		Acquire right of way from City of Morgantown	
County:	Monongalia	Tax District Name:	Morgan
Scale:	MGC Map: 397447	Tax District No.:	
Date:	W.O. No.:	Prepared By:	
		LEGEND	NORTH ARROW
			↑

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN IT AND THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, REGARDING THE CITY'S TEMPORARY USE OF WEST VIRGINIA UNIVERSITY'S EQUIPMENT KNOWN AS A 'GUMBUSTER'.

The City of Morgantown hereby ordains that its City Manager is authorized to execute the intergovernmental agreement, hereto attached, by and on behalf of the City of Morgantown.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

DRAFT

AGREEMENT

THIS AGREEMENT ("Agreement") is made this March 30, 2012, ("Effective Date") by and between the West Virginia University Board of Governors on behalf of West Virginia University ("WVU"), and the City of Morgantown ("City").

WHEREAS, the City intends to establish a gum cleanup program for some of the City's sidewalks, including those located adjacent to High Street (the "Program"); such Program will provide an intangible benefit to the faculty, staff, and students of WVU who live, work, and learn in the City;

WHEREAS, through this Agreement, WVU will support the Program by granting to the City temporary possession, custody and use of WVU's special piece of equipment that is used to remove chewing gum from sidewalks known as a 'gumbuster' (the "Equipment").

THEREFORE, in furtherance of the above-referenced goals and objectives, WVU and the City agree to the following:

1. Publicity. Issue a jointly approved press release to publicize the execution of this Agreement.
2. Termination.
 - a. Unless terminated pursuant to Section 2(b), this Agreement shall terminate upon mutual agreement by the parties.
 - b. Either party shall have the right to cancel this Agreement, without further obligation.
3. Transportation and Return of Equipment.
 - a. City shall be responsible for transporting the Equipment from WVU to locations where the City intends to use the Equipment.
 - b. Upon the expiration or termination of this Agreement as provided herein, or earlier at the direction of WVU, City shall return and surrender the Equipment to WVU.
4. Use of Equipment.
 - a. Prior to the City's use of the Equipment, the City and WVU will agree upon dates of use; such dates shall not interfere with WVU's planned use of the Equipment.

- b. City's rights of possession, custody and use of the Equipment shall commence on the date of pick up and shall end upon its return delivery to WVU. City shall not sublet, part with possession, of the Equipment, nor allow the Equipment or any part thereof to be used by anyone except the City and its employees, contractors and agents, without the prior written consent of WVU.
- c. City shall cause the Equipment to be used by such personnel in accordance with instructions which WVU shall provide to City. City shall not modify or change the Equipment without City's prior written consent.
- d. City agrees that the Equipment is to be used solely for the Program and in its intended manner, and is not to be used for any other purpose unless agreed to by WVU. City agrees not to disassemble, modify, or service the Equipment in any way.

5. Ownership of Equipment; License.

- a. The Equipment is solely owned by WVU. During the term of this Agreement, full and complete title to the Equipment shall remain with WVU, subject to City's rights hereunder. City's rights hereunder are solely temporary possession, custody, and use of the Equipment as City for the Program, in accordance with the terms of this Agreement.
- b. City shall not sell, lease, borrow against, pledge, or otherwise create a legal or equitable security interest in the Equipment other than the security interest of WVU created hereunder.
- c. WVU hereby grants to City a limited, non-exclusive, non-transferable license to use the Equipment in accordance with, and during the term of, this Agreement.

6. Warranties; Disclaimer of Warranties. Except as expressly stated herein, the equipment is provided "as is." WVU makes no other warranties or representations, whether statutory, express or implied (including any warranties of merchantability and fitness for a particular purpose or arising out of any course of dealing or usage of trade). Any description of the equipment (including, but not limited to manufacturer's instructions, if any) is for reference purposes only and is not intended to be construed as a warranty relating to condition or completeness. WVU specifically disclaims any warranty relating to the condition or completeness of the equipment.

7. Limitation of Liability.

- a. Neither WVU, nor the employees or agents of WVU shall be liable to the city in contract, tort (including negligence and strict liability) or otherwise



for loss resulting from use of the equipment, cost of repair or clean-up costs associated with damages caused by city's use of the equipment, claims of any third party, or any special, incidental, indirect, or consequential loss or damage whatsoever.

- b. City's liability to WVU for loss, damage, or destruction of the equipment shall be limited to the replacement value of the equipment.
- 8. Amendment or Extension. This Agreement may be amended or extended by written modification of the parties.
- 9. Governing Law. The laws of the State of West Virginia shall govern the interpretation and enforcement of the Agreement.
- 10. Entire Agreement. This Agreement represents the entire agreement between the parties. This Agreement may not be changed orally, but only by a written document agreed to and executed signed by WVU and the City.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as the date of the signatures of their duly authorized representatives.

West Virginia University Board of
Governors on behalf of West Virginia
University

City of Morgantown

By:
Its:

By:
Its:

AN ORDINANCE AMENDING THE FY 2011-2012 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

The City of Morgantown hereby ordains:

That the FY 2011-2012 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 03) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

Mayor

Filed:

Recorded:

City Clerk

Ora Ash, Director
 West Virginia State Auditor's Office
 200 West Main Street
 Clarksburg, WV 26302
 Phone: 627-2415 ext. 5114
 Fax: 627-2417

REQUEST FOR REVISION TO APPROVED BUDGET

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

CONTROL NUMBER
2012
 FY
General
 FUND
1
 REV. NO.
1 of 2
 PG. OF NO.

City of Morgantown
 GOVERNMENT ENTITY

Person To Contact Regarding
 Budget Revision: **J.R. Sabatelli**
 Phone: **304-284-7407**
 Fax: **304-284-7418**
 389 Spruce Street
 STREET OR PO BOX
 Morgantown, WV 26505
 CITY ZIP CODE

Municipality
 Government Type

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
304	Excise Tax on Utilities	952,000	50,500		1,002,500
305	Business and Occupation Tax	12,010,000	320,000		12,330,000
328	Franchise Fees	377,000	8,000		385,000
306	Wine & Liquor Tax	581,000	29,000		610,000
370	Charges to Other Funds	68,200	2,500		70,700
362	Charges to Other Entities	250,000	12,000		262,000
NET INCREASE/(DECREASE) Revenues (ALL PAGES)			472,000		

COUNTIES-TRANSFERS TO THE GENERAL FUND FROM OTHER FUNDS MUST HAVE PRIOR APPROVAL OF AUDITOR'S OFFICE

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
416	Police Judge's Office	234,582	5,800		240,382
420	Engineering	471,585	8,777		480,362
436	Building Inspection	821,988	19,518		841,506
440	City Hall	601,719	15,000		616,719
700	Police Department	6,236,870	256,335		6,493,205
706	Fire Department	4,325,613	67,350		4,392,963
750	Streets and Highways	2,613,356	18,000		2,631,356
754	Central Garage	714,117	80,000		794,117
699	Contingencies*	5,824	1,220		7,044
	#N/A				
	#N/A				
	#N/A				
NET INCREASE/(DECREASE) Expenditures			472,000		

APPROVED BY THE STATE AUDITOR
 BY: _____
 Director, Local Government Services Division Date

AUTHORIZED SIGNATURE
 OF ENTITY

APPROVAL
 DATE

City of Morgantown

Finance Department

389 Spruce Street

Morgantown, WV 26505

Phone (304) 284-7407/Fax 7418

jsabatelli@cityofmorgantown.org

MEMO

DATE: May 10, 2012

TO: Terrence Moore, ICMA-CM, City Manager

FROM: J.R. Sabatelli, CPA, Finance Director *JRS*

RE: General Fund Budget Revision 3

Included herewith you will find the proposed ordinance and "Request for Revision to Approved Budget" for the FY2012 General Fund Budget. An explanation of the proposed changes follows:

The adjustments to revenue reflect increased projections of income from various sources including business and occupation taxes, utility taxes and franchise fees.

The adjustments to expenditures reflect the overtime requirements for police and fire, the payouts associated with retirements of two long-tenured officers and a change in how field training officers are compensated during the training period, as well as general activities where increases are taking place, i.e. vehicle supplies are increased due to an increase in fuel costs and increased usage, and maintenance activities are increased due to the continued deterioration of City equipment and vehicles. A slightly more detailed breakdown of individual lines affected in each department is included as supplementary information.

City of Morgantown
 General Fund
 Budget Revision #3
 Fiscal Year 2012

Payroll items requiring adjustment:

Department 420

Engineering:	Current	New	Revision
Wages	264,276.00	269,276.00	5,000.00
FICA	16,447.00	16,695.00	248.00
Med	3,847.00	3,905.00	58.00
Retire	31,304.00	31,775.00	471.00
			<u>5,777.00</u>

Department 436

Code Enforcement:	Current	New	Revision
Wages	425,346.00	441,346.00	16,000.00
FICA	26,805.00	27,363.00	558.00
Med	6,269.00	6,400.00	131.00
Retire	49,250.00	52,079.00	2,829.00
			<u>19,518.00</u>

Department 700

Police Department:	Current	New	Revision
Wages	3,161,258.00	3,261,258.00	100,000.00
Overtime	308,500.00	387,500.00	79,000.00
FICA	18,118.00	21,118.00	3,000.00
Med	50,775.00	54,660.00	3,885.00
Retire	27,964.00	38,414.00	10,450.00
			<u>196,335.00</u>

Department 706

Fire:	Current	New	Revision
Overtime	110,000.00	134,000.00	24,000.00
Med	33,685.00	34,035.00	350.00
			<u>24,350.00</u>

Non-wage increases requiring adjustment:

	Current	New	Revision
Dept 416 Municipal Court			
Contracted Services	6,000.00	8,600.00	2,600.00
Telephone	1,800.00	5,000.00	3,200.00
Dept 420 Engineering			
Environmental Services	14,000.00	17,000.00	3,000.00

Dept 440 City Hall Utilities/Electric	85,000.00	100,000.00	15,000.00
Dept 700 Police Vehicle Supplies	90,000.00	150,000.00	60,000.00
Dept 706 Fire Vehicle Maintenance	65,000.00	95,000.00	30,000.00
Vehicle Supplies	30,000.00	43,000.00	13,000.00
Dept 750 Street Vehicle Supplies	45,000.00	63,000.00	18,000.00
Dept 754 Garage Monongalia Co. Gasoline	210,000.00	290,000.00	80,000.00
Total nonwage	546,800.00	771,600.00	224,800.00
Total Increase overall			470,780.00

Totals by Department

Dept 416 Municipal Court	5,800.00
Dept 420 Engineering	8,777.00
Dept 436 Code Enforcement	19,518.00
Dept 440 City Hall	15,000.00
Dept 700 Police	256,335.00
Dept 706 Fire	67,350.00
Dept 750 Street	18,000.00
Dept 754 Garage	80,000.00
Contingencies	1,220.00
	<u>472,000.00</u>

Revenue Adjustment

	Current	New	Revision
Electric Utility Tax	395,000.00	407,000.00	12,000.00
MUB Utility Tax	85,000.00	105,500.00	20,500.00
Motor Haulers Utility Tax	44,000.00	62,000.00	18,000.00
B&O Taxes	10,260,000.00	10,830,000.00	570,000.00
B&O - Construction	1,750,000.00	1,500,000.00	(250,000.00)
Wine and Liquor Tax	581,000.00	610,000.00	29,000.00
Cable TV Taxes	377,000.00	385,000.00	8,000.00
Fuel and Parts Charges	27,000.00	29,500.00	2,500.00
Mon County Fuel Reimb	250,000.00	262,000.00	12,000.00
Police-Miscellaneous	41,000.00	91,000.00	50,000.00
	<u>13,810,000.00</u>	<u>14,282,000.00</u>	<u>472,000.00</u>

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING IT TO PURCHASE MONONGALIA COUNTY TAX MAP 24 PARCELS 296, 312, 312.1, AND 314 FROM SANDRA PAUL MOORE FOR THE PURPOSE OF CREATING A NEW CITY PARK IN THE JEROME PARK AREA OF THE CITY OF MORGANTOWN.

The City of Morgantown hereby ordains that the City Manager is authorized to execute any and all documents necessary to purchase for the City Monongalia Tax Map 24, parcels 296, 312, 312.1 and 314 (containing 2.056 acres), shown on the Exhibit attached hereto, from Sandra Paul Moore at the realty's appraised value of \$257,000.00.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

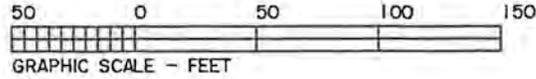
ADOPTED:

FILED:

CITY CLERK

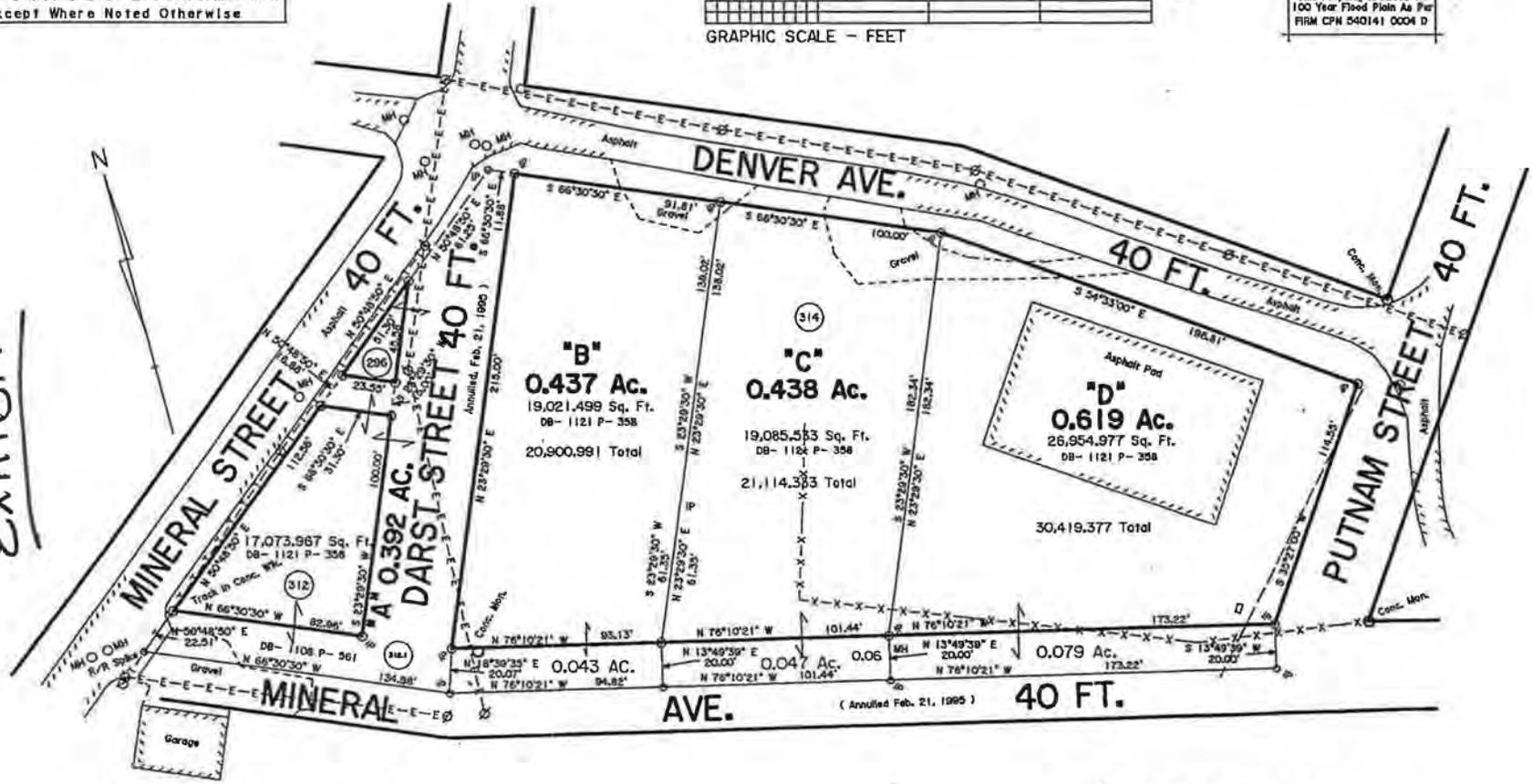
RECORDED:

IP Denotes 3/8 Inch Deformed Rod
Except Where Noted Otherwise



This Property is Above The
100 Year Flood Plain As Per
FIRM CPN 040141 0004 D

EXHIBIT



H J SURVEYING AND ASSOCIATES INC.
MORGANTOWN, W. VA. 304-296-5711
John W. Hoane, L.L.S. #72-SU
6-21-07

PROPERTY OF
SANDRA PAUL MOORE
AREAS "A", "B", "C" & "D" AS SHOWN
SABRATON INDUSTRIAL ADDITION
6th WARD, MORGANTOWN, W.VA.
DATE: 6-7-07 SCALE: 1" = 50 FT.



Office of the City Clerk

The City of Morgantown

Linda L. Little, CMC
389 Spruce Street, Room 10
Morgantown, West Virginia 26505
(304) 284-7439 Fax: (304) 284-7525
cityclerk@morgantown.com

MEMORANDUM

TO: Honorable Mayor Justice & Councilmembers
FROM: Linda L. Little, City Clerk
RE: Civil Service Change

The Police Civil Service Commission met on May 2, 2012 and made a change in the Police Civil Service Rules and Regulations and would like City Council's approval of the rule change. The change would bring the Rules up to standard with the State Rules and also made minor amendments as needed.

Thank you for your assistance in this matter.

III

cc: file

attachments

RULES AND REGULATIONS
OF THE
POLICE CIVIL SERVICE COMMISSION
OF THE
CITY OF MORGANTOWN, WEST VIRGINIA

REVISED AND AMENDED

~~August 20, 2002~~

May 15, 2012

APPROVED BY COUNCIL

Pre-Employment Physical Agility Screening Standards Amended & Approved by Council on 9-5-06

By virtue of the authority vested in it by law, the Police Civil Service Commission of the City of Morgantown, West Virginia, has approved and published these rules and regulations for the administration of the Commission, effective on and after Seventh Day of May 1994 the Commission reserving the right to alter, amend or revoke any of the said rules and regulations and to make additional ones from time to time as circumstances or good of the Commission may require.

By order of Police Civil Service Commission of the City of Morgantown, West Virginia, this 2nd day of October 1993. 2nd day of May 2012.

Jerry Summers, President

Ed Bodkin, Member

Charlie Chico, Member

Approved by the common Council of the City of Morgantown upon motion duly seconded, the 17th day of May 1994. 15th day of May 2012.

Jim Manilla, Mayor

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**RULES AND REGULATIONS OF THE POLICE CIVIL SERVICE COMMISSION
OF THE CITY OF MORGANTOWN, WEST VIRGINIA**

AS ADOPTED

RULE I

ORGANIZATION AND DUTIES

Section 1. At the first regular meeting held in January of each year, the Commission shall elect one of its members as president. It shall be the duty of the Commission to adopt, amend and enforce a code of rules for examinations for positions in the police service of the City of Morgantown and for the appointments and promotions therein, and it may amend the same from time to time or may temporarily suspend any of the provisions of the rules upon giving due notification and publication of such amendment or temporary suspension in the manner provided by law. It shall supervise all examinations held under these rules to ascertain the fitness and merit of candidates for the service of the City of Morgantown Police Department and for promotions therein, in respect to ability, character and industry, shall estimate and determine the relative excellence or standing of the persons examined and shall certify the same as provided by general law. It shall conduct such hearings as necessary in accordance with provisions of the general law, in all instances wherein charges have been brought or removal, reduction in rank, or suspension of a member of the Police Department is in question.

Section 2. It shall be the duty of the City Clerk to keep for the Commission an accurate record of its proceedings. The Commission shall make recommendations to the Mayor, the Chief of Police and the City Council as it may deem best for the interest of the service.

Section 3. The City of Morgantown shall provide and pay for the printing of all rules and regulations adopted by the Civil Service Commission.

Section 4. It is hereby declared to be the intention of the Police Civil Service Commission that the sections, paragraphs, sentences, clauses and phrases of these rules and regulations are severable; and if any phrases, clauses, sentences, paragraphs or sections shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections since the same would have been enacted by the Commission without the incorporation in these rules and regulations of any unconstitutional or invalid phrases, clauses, sentences, paragraphs or sections.

RULE II

QUORUM

Section 1. Two members of the Commission shall constitute a quorum provided that all three members have been notified of the meeting for the transactions of business. At least two members of the Commission must supervise the written and oral examinations, promotions and the written examinations for appointments, and determine those to be certified for appointment or promotion. In the event there is a tie vote, when there are only two members present, the tie vote automatically tables said motion until all three members are present.

RULE III

APPLICATION FOR EXAMINATION

Section 1. The Commission shall require persons applying for admission to any examination, provided for by the Civil Service Act or by the Rules of the Commission herein prescribed, to file with the Commission within 15 days prior to the proposed examination, a formal application in which the applicant shall complete in their own handwriting under oath or affirmation.

Section 2. The Commission may refuse to examine or, after examination, to certify as eligible, applicants found to lack any of the established preliminary requirements for the examination for which they apply; or who are unfit for the performance of the duties of the position to which they seek appointment; or who are addicted to the use of drugs or the excessive intoxicating beverages; or who have been guilty of a crime or a misdemeanor involving moral turpitude or disgraceful conduct; or who have been convicted of a felony; or who have been dismissed from the public service for delinquency or misconduct; or who have practiced or attempted to practice any deception or fraud in their applications; or whose character, in the opinion of the commission, is unsatisfactory. Any of the foregoing disqualifications shall be sufficient cause for removal of any appointee from the service pursuant to laws and regulations provided, if ascertained within five years after appointment.

Section 3. Any person who has or hereafter may resign under charges, or who has been or may hereafter be dismissed upon charges, shall not be admitted to examination for any position in the police service.

Section 4. No application for any position shall remain on file for more than two years from the date of application.

Section 5. Any applicant who fails to appear for examination when notified by the City Clerk by mail to the last address given shall be disqualified from further examinations for one year, unless a reasonable excuse for such absence be given to the Commission of such.

RULE IV

QUALIFICATIONS FOR POSITIONS AS PROBATIONARY POLICE OFFICERS

Section 1. All applicants for examinations for the position of probationary police officer shall, in addition to the general requirements of Rule 111, comply with the following qualifications prior to submission of an application:

- A. Must be 18 years of age and not more than ~~35~~ 40 years of age at date of their application;
- B. Required to have been honorably discharged, or generally discharged under honorable conditions, if he/she has previous military service;
- C. Required to submit documentary proof of birth and military service, if applicable;
- D. Must possess a valid operator's license from any state in the Union at the time of filing of the application and must possess a valid West Virginia operator's license within 30 days of employment;
- E. Must have a high school diploma or equivalent;
- F. Must meet the residency requirements as outlined on page 12.

Section 2. Each applicant shall be furnished with this Rule IV at the time he/she is given an application.

RULE V

SELECTION PROCESS FOR POSITION AS PROBATIONARY POLICE OFFICER

Section 1. The following selection process shall be used by the Commission to determine those candidates who are to be placed on the eligible list for appointment as probationary police officers. The Commission shall govern the selection process; however, several of the examination processes shall be conducted by the Chief of Police under the supervision of the Commission. At the conclusion of the selection process, a summary of all information and findings developed by the Chief of Police shall be presented to the Commission.

A. Written Examination. Applicants for appointment must pass, with a grade set by the Commission, the general adaptability test for police officers, which examination shall be practical in character and shall relate to such matters and include such inquiries as will fairly test the merit and fitness of the persons examined to discharge the duties of employment sought by them. The Commission shall conduct the written examination. No person other than the applicants taking the examination and the members of the Commission shall be in the examination room. The press may be present before and after the testing.

B. Oral Examination. All applicants for appointment who successfully pass the written examination test must also pass, to the satisfaction of the Commission, an oral examination to be given by ~~a Board of Police Officers appointed by the Chief of Police~~ the Commissioners for grading the applicants on the qualities of honesty, alertness, appearance, physique, social adaptability, training, experience and general moral background. Following the oral examination, each applicant must submit his/her fingerprints to the West Virginia State Police and the Federal Bureau of Investigation to determine a criminal record.

C. Background Investigation. Applicants for appointment who successfully passes the polygraph examination must pass, to the satisfaction of the Commission, a background examination conducted by the Police Department. This investigation will also include drug testing.

D. Polygraph Examination. The Commission, in its discretion, may require applicants who have successfully passed the foregoing examination tests to submit to a polygraph examination to determine the applicant's level of integrity, moral attitudes and related background. The examination shall be limited to those matters which pertain to the applicant's capability of fulfilling the duties and responsibilities of a police officer. The examiner shall be an accredited polygraph examiner approved by the Commission, with a list of questions to be asked each applicant approved by the Commission. The results of the polygraph examination shall be kept confidential, under the supervision of the Commission.

E. Physical Agility Test. The Commission, at its discretion, may require all applicants who successfully pass ~~the physical agility test will then take the written examination to undergo a physical agility test~~ conducted by the Police Department under the general supervision of the Commission. Such agility test shall be job related and shall be designed to measure the applicant's general fitness for police work. All members of the Morgantown Police Department shall undergo an agility test once each year.

F. Psychological Examination. The Commission, at its discretion, may require applicants for appointment to successfully pass standard psychological examinations selected and approved by the Commission.

Note: The psychological examination will be required after receiving the job offer from the City Manager.

G. Physical Examination. Applicants for appointment who successfully passes the background examination must undergo a medical examination which shall be conducted under the supervision of a doctor of medicine, at West Virginia University, ~~appointed by the Mayor.~~ Such Board must certify that the applicant is free from any bodily or mental defects, deformity, or diseases which might incapacitate him/her from the performances of duties. The Board shall examine each applicant in compliance with such physical standards as proposed by the Mayor and approved by the Commission, in addition to those outlined in Rule IV. **Note: The Physical Examination will be required after receiving the job offer from the Manager Mayor.** After employment, each year an employee will be required to pass a weight and height examination based on the minimal physical fitness performance requirement's chart for threshold weight. If employee is unable to meet the standards; he/she will be tested by the Physical Fitness Test Battery that consists of five basic tests. Failure to meet such standards ~~within a reasonable time set by the Commission will be cause for dismissal~~ will be noted in the Officer's evaluation.

H. Recruit Training School. All applicants selected for final employment as a probationary police officer shall complete, to the satisfaction of the Police Department and the Commission, the basic academy for state and local law enforcement.

RULE VI

REINSTATEMENT

Section 1. An applicant for reinstatement under the provisions of Section 8-14-12 of the Civil Service Act shall file a regular application form and submit to a physical examination in exactly the same manner as any new applicant. Upon being properly certified by a board of two doctors of medicine, ~~appointed by the Mayor~~ the doctor shall report such fact to the Chief of Police, who in turn shall immediately notify the President of the Commission, and such applicant shall be eligible for reinstatement at the discretion of the Commission and certified to the Mayor within thirty days next following the Medical Examiner's report, and he/she may then be appointed to the lowest rank in the Department next above the probationers. The cost of the physical examination shall be assumed by the applicant for reinstatement.

Section 2. Each applicant for reinstatement shall also satisfactorily pass a background investigation and polygraph examination, which shall be conducted by the Police Department under the supervision of the Commission, before his/her name shall be added to the list of eligibles.

Section 3. No police officer of any grade/rank who has been discharged for cause by the ~~Mayor~~ Chief of Police and whose case has been reviewed by the Commission and the discharge sustained by the Commission and who has not appealed as provided by law, shall be eligible for reinstatement.

Section 4. Any resignation tendered to the Chief of Police or Mayor by any officer shall be fully stated and copies thereof mailed to each member of the Commission within twenty-four hours from the time received. A copy shall also, within said time, be deposited with the Clerk of said Commission and placed in the Commission's file.

RULE VII

PROMOTIONS

Section 1. Effective August 20, 2002 testing will be required for any promotion of any grade or rank (excluding Chief) within the Morgantown Police Department. All applicants for examination(s) for promotions from a lower grade/rank to the next higher grade/rank shall be required to have completed at least two years in the next lower grade/rank before they shall be eligible for promotion.

Section 2. An applicant for promotion shall be graded on a scale of 100 points. This is to be comprised of 70 points for written examination, 30 points for seniority. The possibility of 30 points for this part shall be computed by awarding to each competitor one point per year for each full year of service he/she has had with the department up to 30 years.

A. Written Examination. This part shall consist of such number of questions as may be set by the Commission, based upon subjects designed to show the familiarity of competitors with the knowledge involved in the class or position to which they seek promotion.

Section 3. All candidates for promotion who have passed the competitive examination specified above shall, before being promoted, undergo a medical examination appointed for such purpose by the City Manager. Such examination must certify that the applicant is free from any bodily or mental deficiencies, deformity or disease which might incapacitate him/her from the performance of the duties. The Board shall examine each candidate for promotion in compliance with the physical requirements as adopted by the City Manager and Commission.

Section 4. Each applicant for promotion will be notified within a reasonable time of the results of his/her examination(s).

Section 5. The actual conduct of every written examination shall be under the responsible supervision of at least two members of the Commission. No person other than the members of the Police Department taking the examination and the members of the Commission shall be in the examination room. The press may be present before and after the testing.

Section 6. Any applicant for appointment or promotion shall be automatically disqualified if he/she attempts, in any manner, to communicate with or influence the Commission or any members thereof with respect to any other applicant or any matter under their jurisdiction, except in a manner provided by law. Further, the Commission shall not receive or consider any such communication except such as it may invite in accordance with its rules and regulations or such as is submitted in a manner provided by law.

RULE VIII
CODE OF ETHICS

Section 1. Any and all general orders issued by the Chief of Police shall be filed with the Commission, and may or may not thereafter be adopted by the Commission as a part of the Rules and Regulations.

CODE OF ETHICS

"As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all, maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confined to me in my official capacity will be kept secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feeling, prejudices, animosities or friendships to influence my decisions with no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuity.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession — "Law Enforcement."

RULE IX

PROCEDURES FOR HEARING BEFORE THE COMMISSION

Section 1. Definitions

- A. "Commission" shall mean the Police Civil Service Commission of the City of Morgantown, West Virginia.
- B. "Charged Officer" shall mean any member of the Department being subjected to disciplinary action by the Police Department by and through its proper officers and the City of Morgantown by and through its proper officers or either of them.
- C. "Department" shall mean the Morgantown Police Department, Morgantown, Monongalia County, West Virginia.
- D. "General Orders" shall mean the general orders promulgated and adopted by the Department.
- E. "Rules and Regulations" shall mean the rules and regulations governing the conduct of the members of Department promulgated by the Department.
- F. "Ordinances" shall mean ordinances of the City of Morgantown.
- G. "Statutes" shall mean the laws enacted by the Legislature of the State of West Virginia and the Legislature of the United States of America.
- H. "Removing Officer" shall be the person who is attempting to cause the removal, discharge, suspension or reduction of any officer as stated in Chapter 8, Article 14, section 20 of Code.
- I. "Code" shall mean the Official Code of the State of West Virginia of 1931, as amended.

Section 2. Before any matter will be heard by the Commission, the Charged Officer shall have exhausted his administrative remedies provided by the General Orders, Rules and Regulations, Ordinances and the Charter of the City of Morgantown.

Section 3. The Removing Officer shall specify in writing served upon the Charged Officer at least three (3) days prior to any hearing conducted by the Removing Officer the particular Rules and Regulations, General Orders, Ordinances, Statutes and customs and usages of the Police Department, or any of them, alleged to have been violated by the Charged Officer, together with a short comprehensive statement of the conduct of the Charged Officer supporting the alleged violations of the aforesaid Rules and Regulations, General Orders, Ordinances, statutes or customs and usages or any of them.

Section 4. No charges other than those specifically set forth pursuant to paragraph 3 shall be considered by the Commission; provided, however, that the charges set forth pursuant to paragraph 3 may be amended in writing at any time prior to the first administrative hearing set forth in the General Orders and Ordinances provided such amendment be served upon the Charged Officer at least three (3) days prior to such hearing.

Section 5. After the exhausting of his administrative remedies, if the Charged Officer is desirous of appealing the decision rendered as a result of the administrative procedure, he/she shall give notice of this intention to do so to the Commission in accordance with the provisions of Chapter 8, Article 14, section 20 of the Code and shall make a part of such notice an answer replying specifically to the charges alleged pursuant to Section 3

hereof. Such appeal shall then be heard by the Commission in accordance with the provisions of Chapter 8, Article 14, section 20 of the Code upon the issues made by the provisions of this section and those of section 3.

Section 6. The Removing Officer shall have the burden of proof and shall open and close the hearing. The hearing shall be held with the same decorum as a hearing before a court of general jurisdiction in the State of West Virginia. Failure of counsel for either party to conduct himself/ herself with proper decorum shall result in the discretion of the Commission in a continuance of the hearing until such time as the offending counsel shall assure the Commission that he/she will conduct himself/herself in a proper and decorous manner as is befitting an officer of the court.

Section 7. Counsel for parties may present opening and closing statements and may submit written briefs. If briefs are submitted, a copy shall be furnished to opposing counsel and three (3) copies shall be furnished to the Commission.

Section 8. The Commission shall take notice of all General Orders, Rules and Regulations, Charter of the City of Morgantown and State Statutes. Counsel for parties shall not be required to prove them or introduce them into evidence. Customs and usages of the Department not set forth in the General Orders or Rules and Regulations must be proved by the party asserting such custom and usage and the burden shall be upon such party to prove such custom and usage.

Section 9. If, after a hearing date shall have been set, the Charged Officer, either in person or by or through his/her attorney, shall fail to appear at said hearing, then the Charged Officer's appeal shall be dismissed by the Commission unless good cause be shown for such failure to appear in person or by counsel.

RESIDENCY REQUIREMENTS FOR MEMBERS TO THE MORGANTOWN POLICE DEPARTMENT

To assure that an adequate number of personnel is available at all times and that off-duty police officers will be available for call-back within a reasonable response time in emergency situations, the City finds it necessary to require that its police officers reside no further than a specified distance from their work place. Consequently, the following residency requirements shall apply:

1. Any police officer employed by the City of Morgantown with an appointment date after the effective date of these residency requirements shall establish and maintain his/her permanent physical residence within a fifteen (15) air mile radius of the main station of the Morgantown Police Department, 300 Spruce Street, Morgantown, WV, and shall continue to maintain his/her permanent physical residence within the residency area for the entire period of his/her active employment with the Morgantown Police Department. The area within which residency is required is shown on the map attached hereto and declared to be a part of these rules.
2. Any police officer who does not reside within this area at the time of his/her appointment shall establish his/her physical residence within the specified area within ninety calendar days of the date he/she receives notice that he/she has been awarded permanent employment status with the Police Department. An extension of this period for a period not to exceed ninety calendar days may be granted by the Police Civil Service Commission upon receipt of a written request from a police officer requesting such an extension. Any such request will be considered by the Commission only upon presentation of sufficient evidence that strict enforcement of the requirement would present a substantial hardship to the police officer requesting the extension. In no case shall the Commission delay the enforcement of this rule beyond the ninety-day extension period.

Any and all disputes involving the enforcement of this rule shall be decided by the Commission.

3. The residency regulation effective date is March 20, 2001.

PRE-EMPLOYMENT PHYSICAL AGILITY SCREENING
FOR WEST VIRGINIA STATE AND LOCAL
LAW ENFORCEMENT OFFICERS

PRE-EMPLOYMENT PHYSICAL AGILITY SCREENING

The ADA provides that "an employer may give a physical agility test to determine physical qualifications necessary for certain jobs **prior** to making a job offer if it is simply an agility test and not a medical examination."* Moreover, if an employer uses such a test, he must be prepared to demonstrate the job-relatedness of the test and that the test is consistent with business necessity.

The ADA Technical Assistance Manual, furthermore, clarifies that an agility test does not involve medical examinations or diagnoses by a physician. However, an employer "can request the applicant's physician to respond to a very restricted inquiry which describes the specific agility test and asks: "Can this person safely perform this test?""

In light of the above and the necessity in policing that physical capacity to learn and perform essential tasks must be demonstrated, the Commission devised a Pre-Employment Physical Agility Screening Test. The Commission did not devise a content-based test because they tend to have adverse impact and do not accurately predict actual candidate performance.

Based on the significant work of the Cooper Institute for Aerobics Research, the Commission proposed the battery of screening elements which are contained on the following page. The Commission recommends this process because its elements get to a candidate's train ability and does not have adverse impact. Also, it is the Commission's expectation that these elements can and will be administered locally and a determination of pass/fail made there as well. Failure in anyone element is sufficient to exclude the person from proceeding any further in the selection process. The instruction titled "How to Prepare for the Tests" also follows below and should be distributed to applicants well before test administration. Nevertheless, if a person fails an element, retesting can be provided if it suits the employer.

Finally, prior to undergoing the test battery, the applicant must present, signed, the attached "Doctor's certification of Fitness to Perform Agility Test." Failure to do so must mean exclusion from the testing process.

* See Americans with Disabilities Act - A Technical Assistance Manual, U.S. EEOC, 1992, pp. IV-8/IV-9.

PRE-EMPLOYMENT PHYSICAL AGILITY SCREENING
FOR WEST VIRGINIA STATE AND LOCAL
LAW ENFORCEMENT OFFICERS

TEST WILL BE GIVEN THE SAME DAY AS THE WRITTEN TEST

West Virginia Legislative Rules 149-2-8.6 Physical Agility Standards, see the percentiles which determine an applicant officer's pass/fail screening for admission into the basic entry level training program.

The following are the new requirements set forth as of 6-29-06:

1. Sit-ups: Twenty-seven(27) bent-leg sit-ups completed in one (1) minute.
2. Push-ups: Eighteen(18) conventional push-ups completed in one (1) minute.
3. One and one-half mile run-Fifteen minutes and twenty seconds(15:20) as the elapsed time to complete run.

The flex, "sit and reach" test will no longer be used as a performance indicator of pass/fail for screening of admission into the basic entry level training program.

The test battery which has been described herein should be performed locally only as a pass/fail screening device. Once a candidate passes the elements according to the scores stated on the Pre-Employment Physical Agility Test Battery, the remaining elements of the local selection process may be applied.

RELEVANCE OF TEST ITEMS TO ESSENTIAL TASKS

The three elements of the test battery are designed to establish physical capacity to produce recruit level training and perform the essential tasks of policing. They are not simulations but rather assessments of the candidate's capacity to learn and perform essential physical tasks.

HOW TO PREPARE FOR THE TESTS

The following guidelines are presented based on a twelve (12) week period preceding screening.

- Preparing for the MUSCULAR ENDURANCE test:

The progressive routine is to do as many bent-leg sit-ups (hands behind the head with someone holding your feet) as possible in one minute. At least three (3) times per week do three (3) sets (three (3) groups of the number of repetitions you did in one (1) minute.

- Preparing for the ABSOLUTE STRENGTH test:

If you have access to weights, determine the maximum weight that you can bench press one time. Take 60% of that poundage. This will be your training weight. You should be able to do 8-10 repetitions of that training weight. Do three (3) sets of 8-10 repetitions adding 2 ½ -5 pounds every week.

If you do not have access to weights, then the push-up exercise can be used. Determine how many push-ups you can do in one minute. At least three (3) times per week do three (3) sets of the amount you can do in one minute.

- Preparing for the CARDIOVASCULAR CAPACITY test:

Below is a gradual schedule that would enable you to perform a maximum effort for the 1.5 mile run. If you can advance the schedule on a weekly basis, then proceed to the next level. If you can do the distance in less time, then that is encouraged.

WEEK	ACTIVITY	DISTANCE (Miles)	TIME (Minutes)	FREQUENCY (Per Week)
1	Walk	1	17-20	5
2	Walk	1.5	25-29	5
3	Walk	2	32-35	5
4	Walk	2	28-30	5
5	Walk/Jog	2	27	5
6	Walk/Jog	2	26	5
7	Walk/Jog	2	25	5
8	Walk/Jog	2	24	4
9	Jog	2	23	4
10	Jog	2	22	4
11	Jog	2	21	4
12	Jog	2	20	4

DOCTOR'S CERTIFICATION OF FITNESS TO PERFORM AGILITY TEST

I have reviewed the attached four elements of the West Virginia Governor's Committee on Crime, Delinquency and Correction Physical Agility Test and find that the candidate identified below can/cannot (circle one) perform the elements of the test safely.

Candidate's Name: _____

Agency To Which Application Is Made: _____

Date Of Examination: _____

Doctor's Signature: _____