

REGULAR MEETING January 5, 2016: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, January 5, 2016 at 7:00 p.m.

Mayor Shamberger opened the meeting explaining that the question was raised on December 30th if the meeting agenda would meet the Open Meetings Act requirement of providing 3 business days' notice to the public and media since December 31st was a half workday. The question will be asked of the WV Ethics Commission in writing for future reference. Therefore, our meeting tonight will meet the requirements of a special meeting notice, which is providing two business days' notice to the public and media.

PRESENT: City Manager Jeff Mikorski, City Clerk Linda Tucker, Mayor Marti Shamberger, City Attorney Ryan Simonton, Assistant City Manager Glen Kelly and Council Members: Ron Bane, Deputy Mayor Bill Kawecki, Wes Nugent, Jenny Selin, Jay Redmond, and Nancy Ganz.

The meeting was called to order by Mayor Shamberger.

ADJOURNMENT: There being no further items of business or discussion, motion by Nugent, second by Bane to adjourn at 7:05pm.

SPECIAL MEETING January 5, 2016: The special meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, January 5, 2016 at 7:15 p.m.

PRESENT: City Manager Jeff Mikorski, City Clerk Linda Tucker, Mayor Marti Shamberger, City Attorney Ryan Simonton, Assistant City Manager Glen Kelly and Council Members: Ron Bane, Deputy Mayor Bill Kawecki, Wes Nugent, Jenny Selin, Jay Redmond, and Nancy Ganz.

The meeting was called to order by Mayor Shamberger.

APPROVAL OF MINUTES: December 15th, 2015 minutes will be reviewed by City Clerk and presented at the January 19th, 2016 meeting.

CORRESPONDENCE: Mayor Shamberger presented a proclamation to Pastor Sonnenday on Ending Homelessness for the month of January. Councilor Nugent read a letter in response to clarification of the MPO's role in the approval of the Van Voorhis widening project. **(Exhibit A)** Mayor Shamberger announced the following meetings and activities: Community Leadership Forum, Wednesday, January 6th, 2016 at the WVU Coliseum; Monongalia County Day at the WV Legislature on January 13th, 2016 at the Capital in Charleston; Morgantown Community Orchestra Meet & Greet January 9th, 2016 at 11:00 a.m. at the WVU Creative Arts Center; Community Old Time Dance January 9th, 2016 at 8:00 p.m. at the Marilla Center; Adult Coloring Day January 11th, 2016 at 5:30 p.m. at the Morgantown Public Library; Martin Luther King, Jr. Day Celebration January 18th, 2016 at 2:00 p.m. at the Metropolitan Theatre; Martin Luther King, Jr. Breakfast in the Mountainlair Ballrooms on January 18th, 2016 at 8:00 am. Mayor Shamberger mentioned that County Commissioner President Tom Bloom is present tonight.

PUBLIC HEARING - AN ORDINANCE AMENDING THE "CONCEPTUAL GROWTH FRAMEWORK MAP" AND THE "LAND MANAGEMENT MAP" OF THE 2013 COMPREHENSIVE PLAN UPDATE, ADOPTED JUNE 18, 2013, BY MODIFYING THE BOUNDARIES OF THE "ENCOURAGED GROWTH" GENERAL CONCEPT AREA ADJACENT TO THE MORGANTOWN MUNICIPAL AIRPORT AS SHOWN ON THE EXHIBITS HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

PUBLIC HEARING - AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 26.65 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-67 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, Mayor Shamberger declared the Public Hearing closed.

PUBLIC HEARING - AN ORDINANCE AMENDING ARTICLE 1329.02 "DEFINITIONS" OF THE PLANNING AND ZONING CODE AS IT RELATES TO SHOPPING CENTERS.

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

PUBLIC HEARING - AN ORDINANCE AUTHORIZING THE SALE OF REAL ESTATE AT STAR CITY TAX MAP 1, PARCEL 12.1.

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

UNFINISHED BUSINESS:

AN ORDINANCE AMENDING THE "CONCEPTUAL GROWTH FRAMEWORK MAP" AND THE "LAND MANAGEMENT MAP" OF THE 2013 COMPREHENSIVE PLAN UPDATE, ADOPTED JUNE 18, 2013, BY MODIFYING THE BOUNDARIES OF THE "ENCOURAGED GROWTH" GENERAL CONCEPT AREA ADJACENT TO THE MORGANTOWN MUNICIPAL AIRPORT AS SHOWN ON THE EXHIBITS HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING THE "CONCEPTUAL GROWTH FRAMEWORK MAP" AND THE "LAND MANAGEMENT MAP" OF THE 2013 COMPREHENSIVE PLAN UPDATE, ADOPTED JUNE 18, 2013, BY MODIFYING THE BOUNDARIES OF THE "ENCOURAGED GROWTH" GENERAL CONCEPT AREA ADJACENT TO THE MORGANTOWN MUNICIPAL AIRPORT AS SHOWN ON THE EXHIBITS HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

City Manager summarized, motion by Selin, second by Ganz, to adopt the above-entitled Ordinance. Motion carried 7-0.

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 26.65 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-67 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: The below entitled Ordinance was presented for second reading.

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 26.65 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF

MORGANTOWN BY ORDINANCE 15-67 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.

After discussion, motion by Ganz, second by Selin, to adopt the above-entitled Ordinance. Motion carried 7-0.

AN ORDINANCE AMENDING ARTICLE 1329.02 “DEFINITIONS” OF THE PLANNING AND ZONING CODE AS IT RELATES TO SHOPPING CENTERS: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING ARTICLE 1329.02 “DEFINITIONS” OF THE PLANNING AND ZONING CODE AS IT RELATES TO SHOPPING CENTERS.

City Manager summarized, motion by Selin, second by Ganz, to adopt the above-entitled Ordinance. Motion carried 7-0.

AN ORDINANCE AUTHORIZING THE SALE OF REAL ESTATE AT STAR CITY TAX MAP 1, PARCEL 12.1: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AUTHORIZING THE SALE OF REAL ESTATE AT STAR CITY TAX MAP 1, PARCEL 12.1.

City Manager summarized, after discussion, motion by Selin, second by Kaweck. Question called on vote. Motion failed 3-4.

BOARDS AND COMMISSIONS: City Clerk updated Council that Morgantown Housing still needs a Real Estate position. Sister Cities still has one vacancy available. Transit Board has vacancies and City Clerk is checking with Dave Bruffy and the County Commission on those. The Urban Landscape vacancies will be updated by Marchetta Maupin and given to the Clerk.

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

Renee Hernandez, 779 Pedlar Run Road, Madsville, WV, commended the City on the homeless initiative. She commented the user fee is not fair to low and fixed income people. She noted glad to see improvement on Van Voorhis Road. She agrees with others about the Arboretum should not be disrupted. She requested that the light at Stewartstown and 705 be checked for they change too quickly.

Susan Case, 472 Lawnview Drive, commented that she is representing a group of people concerned about the lawsuit that is pending in the court system. She noted that the elephant in the room this evening is the three members that signed to remove four members from Council; this surely is not productive nor positive for the citizens. She requested that the three Council members withdraw their names from the lawsuit so that this Council can get back to business and work together in a positive nature.

Barbara Howe, 432 Riley Street, noted the guest commentary article that was in the Dominion Post on December 20th, 2015 written by George Papandreas, President of Main Street Morgantown, noting that the new employee tax will be implemented; this will be a hardship for some but will be administered so

that the entire community will reap the benefit. She reminded Council that the user fee passed with a 4-3 vote and is hoping that this Council will work together as a unit on this issue.

Tom Bloom, 1021 Ashton Drive, President of County Commission, invited Council to a meeting on Wednesday, February 3rd, 2016 from 6:30 p.m. - 8:30 p.m. to be part of a public meeting in raising revenues for the Library, Transit and Recreation. President Bloom requested Council to also have public meetings regarding raising of the revenues for Library, Recreation and Transit at a COW meeting to give everyone a fair chance to be part of this process. President Bloom asked for Council's support to help in changing State Code from 60% to 50% of voters to pass the Levy.

Rich Dennis, 197 Upper Cobun Creek Road, stated that he is here this evening in reference to the proposed dam and reservoir being built. He questioned whether or not there has been enough public disclosure of the project. He then requested from the City Manager more information on the design of the study be presented.

Jim Kotcon, 414 Tyrone Avery Road, spoke on behalf of the Green Team in support of adopting of the Year to Go Green: A Path to a Cleaner Morgantown, which will be discussed during the City Manager's Report.

Holly Purpura, 2756 University Avenue Apt. 14, she is also in support of the approval of the Year to Go Green: A Path to a Cleaner Morgantown support by the Green Team.

Corey Anderson, 131 Waitman Street, stated that he is the husband of Rachel Fetty and is here tonight on behalf of his wife due to conflicting duties. He is presenting his and Rachel's thoughts on the lawsuit and user fee. He stated that Council should not be suing other members of Council, but should work together. He noted that he and Rachel support the user fee that it will be a hardship but it will help improve the City in many ways. He then asked Council to consider a quote "perfect is enemy of the good".

Don Spencer, 565 Harvard Avenue, endorses other citizens this evening supporting Council members that have actions against them by this lawsuit. He then noted an article in the Dominion Post by Roger Banks where he had stated that Mr. Spencer's briefs were misleading that I had mentioned in a commentary in the Dominion Post. Mr. Spencer mentioned that he could not find a vote of 6-0, which Roger Banks had mentioned in his article, which tends to be misleading. Mr. Spencer suggests a written policy the City to adopt a policy regarding procedures and insurance coverage of public officials and referenced State Code 8-12-7.

Ron Justice, 741 Johnson Avenue, commented on the collaboration of the City Police and the University Police Assistance Agreement and thanked the City Manager, City Attorney, and the City Police Chief for working together on this project.

Susan Elkin, 408 Cobun Creek Road, commented that she supports opposing this reservoir coming to Cobun Creek and stated that the Cobun Creek residents need more details on this plan.

Susan Singleton, 225 Lebanon Street, commented that she is here in support of those that live at Cobun Creek.

Teresa Evanoff, 408 Cobun Creek Road, commented that there has been no discussion on the long-term impact of this reservoir.

There being no more appearances, Mayor Shamberger declared the Public Portion closed.

SPECIAL COMMITTEE REPORTS: Councilor Nugent requested comments and discussion from Council on this topic of Van Voorhis widening project and MPO's clarification letter. After discussion, Council requested the City Manager to work with Bill Austin, Director of MPO, with all stakeholders and report back as needed.

NEW BUSINESS:

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS TO THE SANITARY SEWER PORTION OF THE UTILITY SYSTEM NOT MORE THAN \$100,000,000: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$100,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 A (TAX EXEMPT); PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

After discussion, motion by Selin, second by Ganz, to approve the above entitled Ordinance to second reading. Mayor Shamberger requested to suspend the rules and have Tim Ball explain and answer questions. Motion carried 6-1. (Councilor Nugent voting no)

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS TO THE SANITARY SEWER PORTION OF THE UTILITY SYSTEM NOT MORE THAN \$30,000,000: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$30,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 B (TAX EXEMPT-EXTRAORDINARY OPTIONAL CALL); PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

Motion by Bane, second by Ganz, to pass the above entitled Ordinance to second reading. Motion carried 6-1. (Councilor Nugent voting no)

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS TO THE SANITARY SEWER PORTION OF THE UTILITY SYSTEM NOT MORE THAN \$10,000,000: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$10,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 C (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

Motion by Bane, second by Ganz to pass the above entitled Ordinance to second reading. Motion carried 6-1. (Councilor Nugent voting no)

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS TO THE SANITARY SEWER PORTION OF THE UTILITY SYSTEM NOT MORE THAN \$40,000,000: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE POTABLE WATER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$40,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 D (TAX EXEMPT); PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

Motion by Ganz, second by Bane, to pass the above entitled Ordinance to second reading. Motion carried 5-2. (Councilor Nugent and Redmond voting no)

CITY MANAGERS REPORT:

New Business:

1. City Police and University Police Cooperation and Assistance Agreement

City Manager explained the agreement that proposes to help the Morgantown Police Department provide additional law enforcement manpower and supervision in the area around the University Greek Houses by allowing the University Police Department concurrent jurisdiction in the identified "Cooperation Zone". Morgantown Police Chief Preston and University Police Chief Roberts are both in agreement that this agreement will improve the response and supervision of law enforcement officers in the "Cooperation Zone". City Manager agrees with the Police Chief and recommends that Council support the agreement.

Motion by Ganz, second by Selin to approve agreement and suspend the rules to have Chief Preston explain and answer questions to Council. Vote was taken and motion carried 7-0.

2. Request for “Year of” recognition by the City Council

City Manager reported that Friends of Decker’s Creek and the Morgantown Green Team is requesting consideration for 2016 to be declared as “Year to Go Green: A Path to a Cleaner Morgantown” or other similar title.

City Manager explained, motion by Ganz, second by Selin, to approve by acclamation to have the Green Team do a Presentation at the COW Meeting about their vision for the Year of Green.

REPORT FROM CITY CLERK: City Clerk, Linda Tucker, reminded Council to register for the WVML Conference on January 17th & 18th, 2016.

REPORT FROM CITY ATTORNEY: No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane: No Report

Deputy Mayor Kawecki: Deputy Mayor Kawecki reported that the WV Division of Culture and History will travel to Morgantown on Friday, January 8th to recognize Woodburn Hall as one of the 14 Historic sites featured in the 2016 State Historic Preservation Office Calendar.

Councilor Nugent: Councilor Nugent stated that the City is growing and changing whether we like it or not; new strategies are needed to cope with change. He referenced a quote by Thomas Aquinas, “Judgement tells me any new governance strategies must be founded in higher law – natural law –. Then “otherwise, the form and function of laws may not be directed at increasing the common good. History shows laws can be ineffective or defective for reasons both unintentional”. He noted in signing the petition with other residents his desire is to be heard by the court as of the importance to Morgantown’s Charter as well as Municipalities across West Virginia. He noted that the law is not defective; heaven knows that no one is perfect and to err is human. He commented that respectable people could agree to respectfully disagree on interpretation of facts and otherwise misinforming and misleading the public. He stated as we cope with the present uncertainty and unpleasantness, lets resist disturbing and hurtful trends and

focus on building tomorrow's society in grounded in eternal truths.

Councilor Selin:

Councilor Selin appreciated the comments from the citizens that spoke on her behalf and respects Councilor Nugent's point of view. She noted that Council should be involved with the funding for Library, Transit and Recreation that President Commissioner, Tom Bloom, discussed this evening. She then requested that the funding items be placed on a future COW Meeting. Council agreed to do so by acclamation. She noted that this lawsuit involves a three-judge panel; a lot of waiting and is not productive for any of the parties involved. She stated in reference to the Ward & Boundary issues, Council is allowed to vote for Ward & Boundary changes as stated in the City of Morgantown Charter. She stated that if a Council member needs to be removed from office it could be taken care within the two-year cycle. She stated why are we wasting money in the court system with this suit when the citizens can and will have the opportunity to vote Council in or out in 2017.

Councilor Redmond:

Councilor Redmond commented thanking the people who spoke this evening and he noted that he is not a party to the lawsuit but signed the petition so that his concerns are properly aired. He stated that there were violations to the Charter and does not read it any other way.

Councilor Ganz:

Councilor Ganz clarified that "It is not a lawsuit; it is a petition for removal". She stated that she will not quit and is proud to be here as a Councilor. She commented that Morgantown together could do amazing things. She stated that Council along with WVU and others have accomplished Intergovernmental Governmental Agreements, MUB, Home Rule, and Fire Marshals in bars, Technology in Court, Homelessness,

Safe Community Fee, raised Fire Fee service, Synthetic Marijuana off streets, Naloxone approved as Countywide program and Go Green in 2016. She stated that she will not be embarrassed by this lawsuit; there have been FOIA requests and lawsuits against the City and nothing comes to fruition. She reminded everyone that she will continue to work for her community and 7th ward residents after this lawsuit is resolved.

Mayor Shamberger:

Mayor Shamberger reminded Council on February 3rd from 6:30 p.m. – 8:30 p.m. that the County Commission will be meeting about the funding for the Transit, Recreation and Library.

ADJOURNMENT: There being no further items of business or discussion, motion by Nugent, second by Ganz to adjourn. Motion carried by unanimous consent at 9:50 pm.

City Clerk

Mayor

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



82 Hart Field Road Suite 105
Morgantown, WV 26508
(304) 291-9571
www.planttogether.org

December 29, 2015

Councilman Wesley Nugent
City of Morgantown
389 Spruce Street
Morgantown, West Virginia 26501

Councilman Nugent,

This letter is in response to your request for clarification of the Morgantown Monongalia Metropolitan Planning Organization's (MMMPO) role in the approval of the Van Voorhis widening project. In order to fully respond to your request I need to clarify the MMMPO's role in transportation for our area. As defined by Federal Regulations, particularly 23 CFR 400, a Metropolitan Planning Organization's (MPO) primary task is the development of the area's long range transportation plan (LRTP) and subsidiary plans for projects to implement the LRTP. MPOs also have the authority to approve or disapprove the use of Federal funds for surface transportation projects within an urban area by including it in the Transportation Improvement Program (TIP). In West Virginia MPOs have no authority to approve or disapprove the use of State funds. Also, in both state and federal legislation MPOs have no authority to approve or disapprove the design of any project for which it has approved funding. If an MPO does not approve of the design of a federally funded project the MPO's only recourse is to disapprove the use of Federal funds for the construction of the project. If the State of West Virginia wishes to move forward using only state funds, it may do so over the objection of an MPO.

In regard to public involvement requirements, an MPO must perform public involvement activities for the adoption of and amendments to plans, policies, and the TIP. There is no provision for an MPO to perform public involvement for a funded project unless it is actually implementing the project.

An agency implementing a funded transportation project, in the instance of the Van Voorhis project the West Virginia Department of Transportation (WVDOT), is required to follow the requirements of the National Environmental Policy Act (NEPA) including public involvement activities associated with an Environmental Impact Statement (EIS) or other class of environmental action. The recent public meeting on the redesign of the intersection of Greenbag Road and WV 7 in Sabraton is an example of this type of meeting. The funding for that project was approved by the MMMPO. It is being implemented by WVDOT. Though as a courtesy to

WVDOT the MPO found the location for the meeting, the public meeting itself was held by WVDOT. It is my understanding that the Van Voorhis project is a reconstruction project which is exempted from most NEPA requirements associated with an EIS or other environmental action as a "categorical exclusion" as defined in 23 CFR 771.117. This exemption includes public involvement activities.

The MMMPO has been involved with the Van Voorhis project since its inception in 2010. This project is a reconstruction project that addresses the condition of the pavement on Van Voorhis and the ongoing storm water management issues in the area. The WVDOT has allowed the MPO's involvement in the project primarily as a courtesy. The project as currently structured is completely funded using State funds and as noted earlier the MPO has no authority over state funding. The WVDOT did ask for the MMMPO to approve the inclusion of the project in the MPO's TIP, in the event that WVDOT should in the future want to seek Federal reimbursement for the construction of the project. The MPO advertised the project in accordance with its' adopted public involvement plan and the MPO Policy Board approved its inclusion in the Transportation Improvement Program. It is my recollection that this project has been advertised three times under the TIP public involvement process.

To date the MPO's only request to WVDOT on this project has been to ask that WVDOT consider how it can address pedestrian concerns along the length of the project. MPO Staff has worked with the City of Morgantown, the Morgantown Utility Board and WVDOT to facilitate coordination between the agencies during Technical Advisory Committee meetings. There have been no plans for the implementation of the Van Voorhis Project brought to any of the MPO's committees. It should also be noted that the MPO does not have the technical expertise or authority to address the issue of how storm-water should be directed in the area. The MPO's staff's expertise is in traffic operations and transportation planning not storm-water management.

I hope this letter satisfactorily answers your inquiry. Please do not hesitate to contact me if you have any questions or if we may be of any assistance.

Respectfully,

A handwritten signature in blue ink, appearing to read "J. William B. Austin".

J. William B. Austin AICP
Executive Director
Morgantown Monongalia MPO