



Office of the City Clerk

# The City of Morgantown

Linda L. Tucker, CMC  
389 Spruce Street, Room 10  
Morgantown, West Virginia 26505  
(304) 284-7439 Fax: (304) 284-7525  
ltucker@morgantownwv.gov

**AGENDA**  
**MORGANTOWN CITY COUNCIL**  
**REGULAR MEETING**  
**October 18, 2016**  
**7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES: COW SEPTEMBER 27, 2016; SPECIAL MEETING SEPTEMBER 30, 2016; SPECIAL MEETING OCTOBER 4, 2016 AND REGULAR MEETING OCTOBER 4, 2016.**
5. **CORRESPONDENCE:**  
  
**AWARDS: Police Department: Certificate of Merit-2; Lifesaving Medal-2  
Unit Commendation-8**  
  
**PROCLAMATIONS: Arbor Day & Municipal Government Week**
6. **PUBLIC HEARINGS:**  
  
**A. AN ORDINANCE CREATING A NEW ARTICLE 951 IN THE CITY CODE PROVIDING FOR TAXI STANDS.**
7. **UNFINISHED BUSINESS:**  
  
**A. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE CREATING A NEW ARTICLE 951 IN THE CITY CODE PROVIDING FOR TAXI STANDS. (FIRST READING 10-4-16)**  
  
**B. BOARDS AND COMMISSIONS**
8. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION**

9. **SPECIAL COMMITTEE REPORTS:**

10. **NEW BUSINESS:**

- A. Consideration of **APPROVAL** of **A RESOLUTION A SUB-GRANT WITH WV DEPARTMENT OF MILITARY AFFAIRS, PUBLIC SAFETY HOMELAND SECURITY STATE ADMINISTRATIVE AGENCY AND THE MORGANTOWN FIRE DEPARTMENT.**

11. **CITY MANAGER'S REPORT:**

**NEW BUSINESS:**

1. Double taxation- Council guidance requested
2. Fuel farm upgrades to meet 1 January law change
3. Letter to County Clerk
4. Request for Proposals – Demographer
5. Uber information requested

12. **REPORT FROM CITY CLERK:**

13. **REPORT FROM CITY ATTORNEY:**

14. **REPORT FROM COUNCIL MEMBERS:**

15. **EXECUTIVE SESSION:** Council will go into executive session pursuant to West Virginia Code Section 6-9A- 4(2) (B) (9) in order to discuss property acquisition.

16. **ADJOURNMENT:**

\*If you need an accommodation contact us at (304) 284-7439\*



**Office of the City Manager**

# The City of Morgantown

Interim City Manager  
COL (Ret) Glen Kelly  
389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
(304) 284-7404 FAX: (304) 284-7430  
[www.morgantownwv.gov](http://www.morgantownwv.gov)

**October 12, 2016**

## **City Manger's Report for City Council Meeting on October 18, 2016**

### **New Business:**

#### **1. Double taxation – Council guidance requested**

I am seeking council's guidance on repealing the ordinance that instituted our \$3 city tax on dogs. As the emails I provided council for the last meeting demonstrate this is a function of the county and their officers can only operate in the city under agreement to do so. The numbers provided show that this contracted service is a huge savings to the city and should be continued but there is no requirement to collect an additional tax on our citizens.

#### **2. Fuel farm upgrades to meet 1 January law change**

In order to meet the new requirements for the fuel tanks in West Virginia we are moving forward with the final phase of repairs needed prior to the January deadline. We will be doing repairs to the containment wall of the fuel farm to maintain compliance, the cost is \$17,013.40.

#### **3. Letter to County Clerk**

I have forwarded a letter to the County Clerk regarding updating and correcting the County's voter rolls in regard to the city. The letter outlines the information that the Clerk and the City Engineer have sent outlying a possible 3500 likely errors. This number represents 19% of our voters. It is my hope that we can meet to help assist with updating and correcting the voter rolls prior to 30 November.

#### **4. Request for Proposals - Demographer**

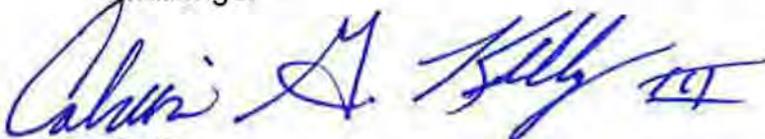
At the request of council, we have issued a request for proposal to obtain the services of a demographer to assist with our delineation of wards and boundaries prior to our next election. This has been advertised on the 14<sup>th</sup> and 21<sup>st</sup> of October with deliverables due by the 30<sup>th</sup> of November

**5. Uber information requested**

Uber is a complex question and with the city attorney's help here is the information we have.

Businesses operating in the city are taxable on their gross receipts received from services provided in the city. For Uber itself, the question is whether the company is providing services within the city. WV regulations don't provide a clear answer for an internet business without a physical presence. The closest we get is "Persons domiciled outside a municipality who ... render services to others therein, are doing business in the municipality, irrespective of the domicile of such persons and irrespective of whether or not such persons maintain a permanent place of business in the municipality." W. Va. Code R. § 110-26-11. There is a limitation on taxing authority for services performed elsewhere: "In no instance shall the taxing authority extended under W. Va. Code § 8-13-5(e) apply to sales of services performed in another municipality which imposes a municipal business and occupation tax or performed outside of West Virginia unless such services are incidental to the basic provision of a service as indicated under Sections 11.3.3 and 11.3.4 of these regulations." W. Va. Code R. § 110-26-12.3.6.

Uber drivers are engaged in a service business or calling performed within the city and are required to have a service business license (which would require them to have a WV business registration through the State Tax Department) and obligated to pay B&O tax on their receipts. Enforcement would obviously be a challenge.



**Glen Kelly**

**Interim City Manager**

**Morgantown, West Virginia**

# MONONGALIA COUNTY COMMISSION

COURTHOUSE  
MORGANTOWN, WEST VIRGINIA 26505

Florence I. Merow, Commissioner  
John W. Pyles, Commissioner  
Betty L. Wiley, Commissioner



Telephone: 304 291-7257

## ORDINANCE

AN ORDINANCE OF THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA, RESTRICTING DOGS FROM RUNNING AT LARGE; ENFORCEMENT; PENALTIES FOR VIOLATIONS; ALL UNDER THE AUTHORITY OF WEST VIRGINIA CODE CHAPTER 19, ARTICLE 20A, SECTION 8, AS AMENDED AND REENACTED

It appearing to the County Commission of Monongalia County, West Virginia, that there exists in Monongalia County, West Virginia, unsafe conditions due to increasing large number of dogs running loose, forming packs in some instances, that some smaller pets have been killed or attacked, children have been bitten going to and from school, that many people are reluctant to allow their children to play on their own property, while others feel it necessary to arm themselves with sticks or mace when walking in their neighborhood, and that there have been many complaints of property damage, gardens damaged, shrubs killed and unsanitary conditions caused by dog feces on lawns, so that the Monongalia County Commission feels that it should restrict dogs from running at large, and implementing a leash law with enforcement and penalties for violations pursuant to the power granted the Commission by Chapter 19, Article 20A, section 8, as amended and reenacted, the Commission hereby adopts the following ordinance and it shall be read as follows:

### Section 1. Dogs Running at Large.

(a) No person being the owner of or having charge of any dog shall permit it to run at large upon any public place or upon the premises of another. Dogs not confined on the owner's property shall be maintained on a leash of a length no longer than six feet. The name and address of the owner as well as County license and rabies vaccination tags shall be attached to the collars of all dogs.

(b) The running at large of any such animal in or

upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section.

(c) This ordinance shall not be applicable to the following:

1. Any vaccinated dog running at large while engaged in any lawful hunting activity;
2. Any vaccinated dog running at large while engaged in any lawful training activity; or,
3. Any vaccinated dog running at large while engaged in any lawful herding or other farm related activity.

Section 2. Trespassing Upon or Damaging Property of Another.

No person having the possession of a dog shall lead or take such dog upon the private property of another without permission, or knowingly permit any such dog to soil on, damage or destroy yards, flowers or shrubbery of another person, or otherwise trespass upon the property of another without permission.

Section 3. Impoundment.

The County has established a dog pound and may keep therein dogs seized under any of the provisions of this ordinance. Any dog found running at large in the County may be seized. The owner or keeper of any dog may retrieve such dog upon paying the fine imposed for the violation of this ordinance, or by posting proper bond pending the trial for the violation of this ordinance, and the impounding fees. If not paid, such dog may be sold and there shall be deducted from the

proceeds of such sale the fine imposed, if any, and the impounding fees, and the residue, if any, shall be paid over to the owner of such dog. If such dog is not sold, it may be properly euthanized and its body disposed of by the County without liability to the owner.

#### Section 4. Enforcement

(a) This ordinance shall be enforceable by the County Dog Warden, or his assistant(s), or the County Humane Officer(s), whichever the case may be.

(b) The County Dog warden, or his assistant(s), or the County Humane Officer(s), whichever the case may be, shall patrol the County and enforce all ordinances related to dogs, and shall seize on sight and impound any dog found running at large.

(c) When any dog has been seized and impounded, the County Dog Warden, or his assistant(s), or the County Humane Officer(s), whichever the case may be, shall forthwith give notice to the owner of such dog, if such owner is known, that such dog has been impounded and that it will be sold or destroyed if not redeemed within five (5) days. If the owner of the dog is not known to the County Dog Warden, or his assistant(s); or the County Humane Officer(s), whichever the case may be, he shall post a notice at the front door of the Monongalia County Dog Pound, which, for the purposes of this ordinance, shall be deemed an extension of the Monongalia County Courthouse. The notice shall describe the dog, and the place where seized, and shall advise the unknown owner that such dog will be sold or destroyed if not redeemed within five (5) days.

(d) Reasonable costs and fees, in such amount as may be determined from time to time by Monongalia County Commission shall be assessed against every dog seized and impounded under the provisions hereof, and in this particular, there shall be assessed against every dog seized and impounded an administrative fee of \$7.50, plus a fee of \$5.00 for every day of impoundment.

(e) The owner, keeper or harbinger of any dog seized and impounded under the provisions hereof may, at any time prior to the expiration of five (5) days from the time that notice of the seizure and impounding of the dog shall have been given or posted as required by this section, redeem the same by paying to the County Dog Warden, or his assistant(s), or the County Humane Officer(s), whichever the case may be, or his authorized agent or deputy, all of the costs assessed against such dog.

(f) The County Dog Warden, or his assistant(s), or the County Humane Officer(s), whichever the case may be, is hereby authorized to issue citations including warnings, if warranted in their discretion, for the violation of any County ordinance pertaining hereto.

(g) Nothing herein shall constitute a waiver of any ordinances that provide for the arrest and fine for any other violation of County ordinances, or state laws, related to dogs.

(h) This ordinance will not pertain to barking dogs, the number of dogs per household or any other aspect of pet ownership save that of dogs running at large and other provisions

contained in the law.

Section 5. Penalty and Enforcement.

Whoever violates this ordinance, and is found guilty of violating this ordinance, shall be guilty of a misdemeanor, and upon conviction thereof, such person shall be subject to a fine of not more than One Hundred Dollars (\$100.00). The Magistrate Court of Monongalia County, West Virginia, and the Circuit Court of Monongalia County, West Virginia, shall have concurrent jurisdiction with respect to such misdemeanors.

Section 6. Effective Date.

This ordinance shall become effective on and after passage and upon adoption by the Monongalia County Commission.

PASSED by the County Commission of Monongalia County, West Virginia, on FIRST READING on this 25<sup>th</sup> day of May, 1995.

A PUBLIC HEARING and SECOND READING were held on the 19<sup>th</sup> day of June, 1995, after notice of a public hearing on said ordinance was published as a Class III legal advertisement.

A THIRD READING was held on the 22<sup>nd</sup> day of June, 1995, and upon motion of Betty Wesley and seconded by John Pyles, it is ORDERED that the aforesaid ordinance be, and hereby is APPROVED and ADOPTED by the County Commission of Monongalia County, West Virginia.

DATED This 22<sup>nd</sup> day of June, 1995.

*Florence L. Merow*  
Florence L. Merow  
President

*John W. Pyles*  
John W. Pyles  
Commissioner

*Betty L. Wiley*  
Betty L. Wiley  
Commissioner

## Glen Kelly

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**From:** Glen Kelly  
**Sent:** Tuesday, October 04, 2016 10:20 AM  
**To:** City Council ONLY .GOV  
**Cc:** Linda Tucker; Ryan Simonton; Carol Allen  
**Subject:** Animal Control - additional information

Ladies and Gents,

Commissioner Callen provided this to me for background in this discussion. I previously provided the information on the tax and the fact that you can repeal it.

Respectfully,

Glen Kelly

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Subject: Re: Mayor Lewis's ? "what has changed on animal control?" nothing

Sent to Patty Lewis and I'll make copies for tonight.

d

In a message dated 10/24/2013 11:49:40 A.M. Eastern Daylight Time, [eldonc@msn.com](mailto:eldonc@msn.com) writes:  
Diane, below is the explanation I discussed some time ago. I haven't had an opportunity to send it before now and am having a problem getting all the names/emails transferred to my contact list. Could you send it for me and maybe make a few copies we can give to Patty and other city reps tonight. Thanks, Eldon.

Dear Patty,

I wanted to take this opportunity to explain more fully the answer to your question about the county sheriff's law enforcement powers within a municipality versus county animal control officers' law enforcement powers within a municipality. I didn't want to spend our valuable meeting time by going into a detailed explanation. However, I believe that you and the entire group can benefit with a more detailed explanation. Further, the sharing of contact information creates an opportunity to share ideas outside the "government council" meetings, if that is what we choose to call the group. Hopefully, this explanation will enable everyone to more fully answer this question, if asked by other elected officials or our citizens.

1. In order to understand the distinction between these law enforcement powers, one must understand the distinction between a county, a subdivision of the State established by the State

Constitution, and a municipality, a public corporation chartered by the consent of the people within the municipality and of the State Legislature. Whereas a municipality can be dissolved at anytime by majority vote of the town's citizens with or without the consent of the Legislature, the same is not true of a county, which is the local presence of the State government. When the State Legislature and the Governor pass State laws, these laws are enforceable throughout the State and by statute enforced by the county sheriffs throughout their respective counties. (the State police and other federal and the like law enforcement jurisdiction is not germane to this discussion). The Sheriff is also empowered to enforce County ordinances throughout the County, except for within municipal boundaries which I will discuss next.

2. When a group of citizens wish to create a municipality, they first must draft a charter which will be submitted to the Legislature for approval. This charter must meet certain guidelines and passage procedures most all of which are again not germane to this specific discussion. When the State Legislature approves the public corporation to act as a municipal government, they grant this body local self-governance and an exemption from the County ordinances. The Legislature does not however exempt the municipality from the State laws. This public corporation is given certain police powers. They are charged with the enforcement of their own laws within the town, as well as all State laws. A good example are the DUI laws, if a town has a DUI law as a local ordinance, the municipal police can charge a person under the town's DUI law and take the person to City Court. However, if they charge the person under the State DUI laws or if the County sheriff arrests a person within a municipality for DUI, they must take the person before the Magistrate Court.

3. The Sheriff is the chief law enforcement officer within a county and is charged with enforcing the State law throughout the County and with enforcing the County ordinances in the unincorporated areas of the County, given the exemption grant given the municipality, discussed above. Thus, when the Sheriff is making an arrest **within the city limits**, he is enforcing state law and is not/cannot enforce the County ordinances or the municipal ordinances.

4. Under the powers and authorities section of the State statutes, any county and/or municipality may adopt animal control laws for their respective jurisdictional areas. Since there is no State animal control law directly on this issue (not including the animal abuse and like Code sections), the animal control laws we are discussing here are either County ordinances or municipal ordinances. Given this fact and the above discussion, any animal control laws being enforced have been delegated by the Legislature to the counties and municipalities to enact and to enforce. The County animal control officers have jurisdiction to enforce the County ordinance only within the unincorporated areas of the County. They have no jurisdiction to enforce the County ordinance within a municipality and, without an intergovernmental agreement with the municipality, they have no jurisdiction to enforce a municipal ordinance. Therefore, a County animal control officer seizing an animal within the city limits without the proper written authority granted by the municipality to do so could be held civilly and possibly criminally liable for the seizure and disposition of the animal. Similarly, any citation or arrest under the same circumstance would be *void ab initio*, (of no legal effect from the inception of the act) and subject the animal control officer and the County to similar liability risks.

This is a brief discussion of the constitutional and statutory structure and does not necessarily address all the exceptions to the rule. However, I hope you find it helpful, Eldon.

Eldon A. Callen, Esquire  
*Eldon A. Callen Law*  
2845 University Avenue  
Morgantown, WV 26505-4638

## Glen Kelly

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**From:** Glen Kelly  
**Sent:** Tuesday, October 04, 2016 9:45 AM  
**To:** 'calvin.kelly@yahoo.com'  
**Subject:** FW: Animal Control Tax  
**Attachments:** County Ordinance - Dogs Running at Large.pdf; Intergovernmental Agreement for Animal Control Services [2016].pdf

**From:** Glen Kelly  
**Sent:** Tuesday, October 04, 2016 9:45 AM  
**To:** City Council ONLY .GOV <cconly@morgantownwv.gov>  
**Cc:** Linda Tucker <ltucker@morgantownwv.gov>; Carol Allen <callen@morgantownwv.gov>  
**Subject:** Animal Control Tax

Ladies and Gents,

We have different leash laws and other animal control laws not included in county ordinance. The only county officers allowed to operate in the city are the sheriff deputies, all others have to work under contract. I have spoken with Commissioner Callen and his insight has been quite helpful in working to find answers for this issue. I submit this as a preliminary report, and expect more information from the commissioner and his staff. As you can see we can repeal our \$3 tax as the city only received about \$5000 from it last year.

We do have a city ordinance establishing the head tax of \$3.00 on top of the county tax of \$3.00. It is Section 751.46 copied below:

### **751.46 HEAD TAX.**

There is hereby imposed and levied an annual head tax for the benefit of the City upon each dog above the age of eight months owned or kept within the City, which tax shall be in the sum of three dollars (\$3.00). Such head tax shall be assessed and collected by the Assessor of the County, or the Sheriff of the County, as provided by the laws of the State. If the owner or keeper of any such dog fails or refuses to pay the City head tax thereon, it may be seized and turned over to the Sheriff of the County to be impounded and disposed of as provided by law.

(Ord. 7-9-81.)

The \$3 city tax is collected by the assessor and remitted to the city. (W. Va. Code 19-20-2, 7-10-2). We have the authority to repeal the city tax. If you would like me to prepare an ordinance repealing this section of Code, please let me know.

Email from Jeff.

**From:** Jeff Mikorski]  
**Sent:** Wednesday, September 28, 2016 2:17 PM  
**To:** Carol Allen <callen@morgantownwv.gov>  
**Subject:** RE: One more thing...

Carol,

The County dog tax is to support the County K-9 adoption center (County Animal Control building, staff, and operations). The City tax is to support City Animal Control because our laws are different than the county.

When we did have an Animal Control Officer, the City did not have control of a facility to take animals that were lost, seized, or detained. The County had problems with our staff having keys to the animal kennel and did not want us there alone. It may have been the personalities at the time, but it created problems without the City having a kennel. For the amount of money we get from the dog tags, we could hire one person that would work 40 hours (no animal control when the person is sick or on vacation), or contract with the County and get the use of multiple animal control officers and coordination with the K-9 Adoption Center.

Ryan's assessment:

Glen,

I reviewed the County ordinances that have been published for provisions regarding animal control. The attached ordinance prohibits dogs running at large in certain cases. I did not find a County ordinance applicable to other domestic animals. The attached agreement for the Animal Control Officer obligates the County to respond to calls for domesticated animals within the City, as well as to remove small dead animals from public rights-of-way within the City – which would otherwise be a maintenance responsibility of the City.

If you need anything else in this matter, please let me know.

Sincerely,

Ryan Simonton  
City Attorney  
City of Morgantown  
389 Spruce Street  
Morgantown, WV  
(304) 284-7477

## Glen Kelly

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**From:** Glen Kelly  
**Sent:** Tuesday, October 04, 2016 3:11 PM  
**To:** City Council ONLY .GOV  
**Cc:** Linda Tucker; Carol Allen  
**Subject:** FW: Dog Warden Operational Costs

**Importance:** High

Ladies and Gents,

The final piece to this report, it has been fragmented but we have received different data from multiple sources over the last week. This does not include the cost of the facility.

Respectfully,

Glen Kelly

**From:** Jim Goff  
**Sent:** Tuesday, October 04, 2016 2:54 PM  
**To:** Glen Kelly <ckelly@morgantownwv.gov>  
**Subject:** Dog Warden Operational Costs  
**Importance:** High

Here is a summary of the Dog Warden's budget for FY 2016. Let me know if you have any questions.

<b>Monongalia County Dog Warden Summary Statement of Appropriations For the Fiscal Year Ended, June 30, 1016</b>	
<b>Salaries, Taxes &amp; Benefits</b>	<b>391,200</b>
<b>Warden Training</b>	<b>15,000</b>
<b>Contracted Services - Vet/Other</b>	<b>61,000</b>
<b>Warden Supplies - Medical/Other</b>	<b>25,000</b>
<b>Office Expenses</b>	<b>19,900</b>
<b>Improvements &amp; Capital Outlay</b>	<b>33,900</b>
<b>Total</b>	<b>546,000</b>

**From:** Glen Kelly  
**To:** Jim Goff <jgoff@morgantownwv.gov>  
**Subject:** Dana at County

**COMMITTEE OF THE WHOLE MEETING September 27, 2016:**

The committee of the whole meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, September 27, 2016 at 6:58 p.m.

**PRESENT:** Interim City Manager Glen Kelly, City Attorney Ryan Simonton, Mayor Marti Shamberger, Deputy Mayor Kaweckı, Ron Bane, Wes Nugent, Jay Redmond, and Nancy Ganz. Jenny Selin Absent.

Deputy Mayor Kaweckı called the meeting to order.

**PRESENTATIONS:**

**1. Superintendent of Schools – for Levy**

Frank Devono, Superintendent of Mon County Schools, explained to Council that the levy on the Ballot for November 8, 2016 is not a new tax nor will it add any taxes. He stated that by passing this Levy it will help to upgrade and maintain our schools. He requested Council’s support by placing this on their Regular agenda for a formal vote. He asked if there were any questions from Council. Mayor Shamberger noted discussion will happen on this item later in the meeting, and thanked Mr. Devono for updating Council on the Levy.

**2. Compliance Review**

Jim Goff, Finance Director, provided a summary to City Council on how the businesses are randomly chosen for the Compliance Review (Exhibit A). Questions were asked by Council.

**3. Dan Shook – Safe Communities**

Dan Shook, Director of Safe Communities, updated Council on current projects and future goals of Safe Communities and their initiatives for the community. He noted a Town Hall meeting event on November 14, 2016 titled, “Impact of Alcohol on our Community”. Exhibit B

**4. Nuisance Property – Mike Stone**

Mike Stone, Chief of the City of Morgantown Code Enforcement Department, presented a power point to Council on nuisance properties. Mr. Stone referenced garbage, furniture and grass that owners have failed to comply cleaning or clearing their properties. He noted the 2015 International Property Maintenance Code, section 308.2 and WV State Building Code section 1713.04 that the department is allowed to give citations for non-compliance. He stated that the property owners are given an official notice within 3 days to comply and failure to respond will result in a citation. Exhibit C

**5. Aggressive Panhandling – Ordinance Parkersburg Case Law – Ryan Simonton & Brent Burton**

City Attorneys Burton and Simonton explained to Council that the City needs to be very careful when doing aggressive solicitation ordinances or making changes. City Attorney Simonton stated that the City of Parkersburg referring to a 2013 case, that cities get in trouble when laws are overly broad and are subject to selective enforcement.

**6. Ally Jackson – Multidisciplinary Team\Street Out Reach Worker**

Ally Jackson, PATH Coordinator for Connecting Link, updated Council on the constant activity of the homeless on the street. He stated that his job is to get to know what their needs are and how to access each situation. He stated that the team is working to find housing and working collaboratively to end homelessness.

**7. John Sonneday – Homeless Task**

John Sonneday, Director Coordinating Council on Homelessness, advised the City needs to be part of a larger effort that includes a new downtown ambassador program and increased scheduling of activities in the cities. He stated without a joint effort, there is not one group who can change things and if we commit together we can make a difference. He requested Council's support of approval of a Downtown Task Force to address issues of loitering and panhandling. He announced a public meeting to initiate the task force will be held on Monday, October 17, 2016 at Spruce Street Church at 6:30 pm. Exhibit D.

**PUBLIC PORTION:**

Matthew Cross, Chair Morgantown Pedestrian Safety Board, presented a letter as part of the record (Exhibit D) requesting that the interview process for the City Manager include a focus of dilapidated sidewalks. He requested more emphasis on pedestrian/bicycle and mass transit to ease congestion and decrease air pollution. He thanked Council for initiating the "Service Fee" and Kids Day downtown was a great day.

**ITEMS FOR DISCUSSION:**

**1. Superintendent of Schools – for Levy**

After discussion, Council by consensus refereed Levy to the Regular Agenda.

**2. Ordinance Creating Taxi-Stands**

Interim City Manager Glen Kelly updated Council on the Taxi-Stands and asked if there were any questions from Council. After discussion, consensus by Council to refer Ordinance to the Regular Agenda.

**3. Nuisance Property**

After discussion, Council did not refer this to the Regular Agenda at this time.

**4. Panhandling – Law Change**

Councilor Redmond suggested adding to the ordinance "speaking or approaching" prohibited behaviors. After discussion, consensus by Council refer item to the Regular Agenda.

**5. Gifts for Volunteers**

Interim City Manager updated Council that the City Clerk was wanting to present the Gel Pen as another option for Council to give to Volunteers. Councilor Ganz stated that she prefers the City Pin with the City of Morgantown Logo. Council by consensus agreed that the pin would be best option to give volunteers. Interim City Manager said he will inform the City Clerk to proceed in what she needs to do to make sure

enough pins are available.

**ADJOURNMENT:**

There being no further business, Council adjourned the special meeting at 9:25 pm.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

# Compliance Review Packet



- Summary Compliance Review Procedures
- Initial Letter & Pre-Compliance Review Questionnaire
- In-Compliance Letter
- Non-Compliance Letter & Compliance Review Findings Report
- Quarterly Statistical Data Report



CITY OF MORGANTOWN  
FINANCE DEPARTMENT

### Summary Compliance Review Procedures

1. Businesses are randomly chosen for the Compliance Review process. All active accounts are alphabetized and separated out by their filing classification and chosen at random using the following selection process:
  - a. A filing classification is chosen (e.g., Retailers, Restaurants, etc.).
  - b. The Excel RAND function is used to randomly select a predetermined number of businesses for Compliance Review.
2. Businesses are mailed a letter informing them their account has been selected for a Compliance Review. Included with the letter is a Pre-Compliance Review Questionnaire for business to complete. Businesses will be provided two weeks to complete questionnaire and to provide the appropriate supporting documentation.
3. If the business fails to respond within two weeks, a second letter will be mailed citing City Code and providing the business an additional 10 days to respond and provide the Pre-Compliance Review Questionnaire and appropriate supporting documentation.
  - a. If taxpayer fails to respond within the 10 days, a third letter will be prepared and mailed as needed (letter to include, but not limited to Subpoena, Assessment, Circuit Court, Additional Fines, Legal Costs, etc.).
4. Once the questionnaire and reports are received, Tax Auditor will complete the review process in a timely manner and provide correspondence to the business regarding the Compliance Review findings.



## FINANCE DEPARTMENT

September 22, 2016

# The City of Morgantown

389 SPRUCE STREET  
 MORGANTOWN, WEST VIRGINIA 26505  
 PHONE: (304) 284-7488 FAX: (304) 284-7418  
 jbriggs@morgantownwv.gov  
 www.morgantownwv.gov

Dear Business Owner:

The City of Morgantown appreciates and values your business. The Finance Department strives to analyze and promote accuracy, efficiency and professionalism. Our goal is to make business practices as fair and as simple as possible to support the economic growth of the citizens and businesses of the city.

The reason we are writing today is to inform you that your account has been randomly selected for a compliance review. During the compliance review process, we will be examining B&O Taxes, City Licensing, Municipal Service Fees, Fire Fees, and any other applicable taxes or fees. We value your business and want to insure that your account is in compliance with City Code.

Enclosed you will find the Pre-Compliance Review Questionnaire. Please complete the questionnaire and provide the documentation listed below by **Date**. In order to complete the Compliance Review, we are requesting the following information for the time period **January 1, 2013 – December 31, 2015**. Thank you for your time and cooperation. If you have any questions, please contact Tax Auditor John Briggs at 304-284-7488.

- Pre-Compliance Review Questionnaire
- Trial Balance
- Balance Sheet
- Income Statement
- WV Sales & Use Tax Report
- Payroll Journal/Reports
- Copy of current WV State Business Registration (if applicable)
- Copy of current WV ABC License (if applicable)
- Any other supporting documents for taxes and fees.

Thank you,

John Briggs  
 Tax Auditor

June 6, 2016

## Pre-Compliance Review Questionnaire

Business Identification			
B&O Account Number	Business Name	Business Phone	
Business Email		Business Website	
Official in Charge of Records – Name		Title	
Address of Business/Records			
City	State	Zip Code	Phone Number

If you rent, please complete the information below:

Landlords Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_

Please indicate below the number of employees working within Morgantown City Limits for each category that applies to your business:

Full-Time \_\_\_\_\_ Part-Time \_\_\_\_\_ Self-Employed \_\_\_\_\_ Volunteers \_\_\_\_\_ Seasonal/Temporary \_\_\_\_\_

Please indicate below the pay frequency of your business:

Weekly \_\_\_\_\_ Bi-Weekly \_\_\_\_\_ Semi-Monthly \_\_\_\_\_ Monthly \_\_\_\_\_ Other \_\_\_\_\_

Please list affiliated Companies and B&O Account Numbers

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Description of business activities and comments:

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To complete the Compliance Review for your business for the time period of January 1, 2013 – December 31, 2015 the City of Morgantown is requesting the following information be provided to the Finance Department.

- Completed Pre-Compliance Review Questionnaire
- Trial Balance
- Balance Sheet
- Income Statement
- WV Sales & Use Tax Report
- Payroll Journal/Report
- Copy of current WV State Business Registration (if applicable)
- Copy of current WV ABC License (if applicable)
- Any other supporting documentation for taxes and fees.

The above information is correct to the best of my knowledge.

Printed Name	Email Address:
Signature	Title
	Date

**FINANCE DEPARTMENT**

September 22, 2016

Dear Business Owner:

The City of Morgantown has completed its Compliance Review of your account and based on that review, your account is in compliance with City Code. At this time no further information is needed. I would like to thank you for your time and cooperation during the Compliance Review process.

Sincerely,

John Briggs  
Tax Auditor

# The City of Morgantown

389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
PHONE: (304) 284-7488 FAX: (304) 284-7418  
jbriggs@morgantownwv.gov  
www.morgantownwv.gov

**FINANCE DEPARTMENT**

September 22, 2016

Dear Business Owner:

The City of Morgantown has reviewed the material and information provided for the compliance review of your account. Based on that review, it has been determined that your account is "Noncompliant" in one or more areas reviewed. Enclosed is the Compliance Review Findings Report explaining the corrections required for your account to be "in compliance" with City Code.

The following compliance issues must be addressed and corrected within thirty (30) calendar days of receipt of this letter. Failure to correct these compliance issues, within thirty (30) calendar days specified in this letter, will lead to collective action. Thank you for taking the time to address this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

John Briggs  
Tax Auditor**The City of Morgantown**389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
PHONE: (304) 284-7488 FAX: (304) 284-7418  
jbriggs@morgantownwv.gov  
www.morgantownwv.gov

June 6, 2016

# City of Morgantown

## Compliance Review Findings Report

**B&O Account #:**

**Business Name:**

**Time period Reviewed:**

**Business & Occupations Taxes:**

**City Licensing:**

**Fire Fees:**

**Municipal Service Fees:**

# Compliance Review

## Quarterly Statistical Data Report

June 30, 2016

Number of Compliance Reviews	0
Number that complied	0
Number that did not comply	0
Number of compliant accounts	0
Number of noncompliant accounts	0
<b>Areas of Noncompliance</b>	
Business & Occupation Taxes	0.00%
Licensing	0.00%
Fire Fees	0.00%
User Fee	0.00%
Total revenue reviewed	\$0.00
% change in revenues reviewed	0.00%



CURRENT PROJECTS		STATUS
<b>EVENTS Attended</b>		
<b>Pedestrian Safety Board</b>	Matt Cross	Member 8-1-2016
<b>Monongalia County Schools</b>	Dr. Devono, Adam Henkins	Met 9-19-2016
Blacksville	Denise Corder	Met 8-23-2016
<b>Mon River Trail Conservancy</b>	Ella Belling	Met 8-18-2016
MRTC Safety	City of M, MPD, MRTC PSB, WVU-ICRC	Meeting planned
<b>Safety Town</b>	MPD, MFD, WVU Medicine, MCPS	Meeting planned
<b>SCI Web Page</b>	Eliot, Tim	Completed
<b>Main Street Morgantown</b>	Travis Henline Barbara Watkins	Met 8-11-2016
<b>City of Morgantown City Clerk</b>	Linda Tucker	Met 6-22-2016
<b>United Way</b>	Amy Skeen	Met 5-24-2016
<b>Aetna/APHA/NCOA</b>	Grant-HR, WVUPD, PFS, City of Morgantown	Awarded-Top50
<b>CVS</b>	Grant-MPHR, PFS	Ongoing
<b>GE Healthy Cities</b>	Grant-TCLI, Jone Webb	IP
<b>GMCVB</b>	Peggy Meyer-Smith	NC
<b>Mon County PFS</b>	Diane Rogers	Ongoing
<b>DBTF</b>	WVUPD, MPD, ICRC, GHSP, MCS, WVUSGA, WVSP	Completed-Consensus Statement 7-2016
<b>Monongalia County Commission – Work Group</b>	Commissioners	Met 5-11-2016
<b>Civil Rights/Color of Law</b>	FBI, GPD	Completed
<b>Overdose Awareness Day</b>	Herb Linn	Met 8-31-2016
<b>WVU –Quality of Life Initiative -Safety</b>	Marcia DeMarco	Ongoing
<b>Town Hall-Impact of Alcohol on our Community</b>	SCI Collaborative	11-14-2016
<b>Monongalia County Health Department</b>	Dr. Lee Smith	Ongoing
<b>Morgantown Monongalia MPO</b>	Bill Austin	Met 3-2-2016
<b>Morgantown Chamber of Commerce</b>	IP	IP



Ch. C

# City of Morgantown Code Enforcement





# 2015 International Property Maintenance Code

## **Section 308.2 Disposal of Rubbish**

Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers

# WV State Building Code

## **Section 1713.04 upholstered Furniture**

It shall be unlawful for any person to allow on any yard, or other exterior area of any premises, furniture, other than Outdoor Furniture

- **October 29, 2004 Official Notice issued for an abandoned vehicle. Complied November 9, 2004**
- **June 5, 2012 Official Notice issued for an accumulation of rubbish and garbage. Complied June 26, 2012**
- **August 20, 2015 Official Notice issued for accumulation of rubbish and garbage on front and rear porches. Complied September 23, 2015**

- **April 7, 2016 Official Notice issued for an accumulation of rubbish and garbage. Complied May 2, 2016**
- **April 7, 2016 Official Notice issued for indoor furniture outdoors- mattresses, tables and chairs**





**Citation issued April 14,  
2016 for failure to comply**

**Court date set for May  
24,2016**

**Hearing moved to June 21,  
2016. Owner failed to  
appear**

**Court Date rescheduled  
for August 23, 2016. Owner  
failed to appear**

**Officer issued four citations n August 23, 2016**

- **Indoor furniture outside**
- **Rubbish on front porch**
- **Rubbish on back porch**
- **Rubbish in back yard**

**Court date is September 27, 2016**



# City of Morgantown Code Enforcement





# 2015 International Property Maintenance Code

## **Section 302.4 Weeds**

Premises and exterior property shall be free from weeds or plant growth in excess of 10 inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

- **May 31, 2013 Official Notice issued for grass in excess of 10”**
- **June 5, 2013 Official Notice issued for grass in excess of 10”**
- **July 9, 2013 Citation issued for failure to comply with previous notices. Court date July 27, 2013. Property owner found guilty and fined \$135.00**

- **May 31, 2016** Official Notice issued for grass in excess of 10” and overgrown shrubs
- **June 10, 2016** Official Notice issued for grass in excess of 10” and overgrown shrubs
- **June 20, 2016** Official Notice issued for grass in excess of 10” and overgrown shrubs





- **June 21, 2016** Citation issued for grass in excess of 10” and overgrown shrubs. Court date July 26, 2016. Owner failed to appear, found guilty in absence and fined \$250
- **June 27, 2016** Certified letter sent
- **July 21, 2016** Citation issued for grass in excess of 10” and overgrown shrubs. Court date August 30, 2016. Owner failed to comply. Judge gave owner until September 20, 2016
- **September 20, 2016** Owner failed to comply. Fined \$500

## DOWNTOWN TASK FORCE

A New Initiative from the Coordinating Council on Homelessness  
to address the problems of loitering and panhandling in Morgantown

(Note: Numbers in parentheses indicate sections in the Downtown  
Morgantown Strategic Plan or the Main Street Morgantown Workplan.)

One of the ongoing issues impacting the quality of life downtown is the presence of persons loitering and panhandling. Sometimes this problem is lumped under the generalization of "homelessness," but that is not a helpful description when it comes to being able to solve the problem. While homelessness is in part a contributor, there are other factors that need to be addressed if the problem is to be resolved.

## 1) Homelessness:

Helping those who are homeless find housing is one important approach. Our community is working collaboratively to end homelessness. Most of those who are homeless have little or no income. And the hardest to place are chronically homeless, meaning they have disabilities that prevent them from ever working regularly again. Agencies assist them in qualifying for Social Security Disability and for HUD Section 8 rental assistance vouchers. The additional financial subsidies they need to get into an apartment are provided primarily through grants under HUD's Emergency Solutions Grant program. Morgantown's award has been increasing every year, from \$100,000 the first year to \$236,000 this year, spread through 3 agencies: Bartlett House, the Connecting Link, and Caritas House. These grants are awarded on a competitive basis and are given to those communities that are demonstrating success in getting people housed. Our agencies deserve hearty congratulations on their continued success in getting homeless persons into housing. Other federal and state grants, along with local contributions, provide staff to identify and work with individuals experiencing homelessness.

## 2) Loitering:

A) Drop-In Center: Just because someone is no longer homeless does not mean that they are permanently off the streets. They lack the disposable income to do very much during the day other than hang out with their friends. Many persons who are homeless or of very limited financial means need a place to gather. The Friendship Room has recently reopened under the management of Milan Puskar Health Right. It is primarily a day center for persons dealing with mental health issues, but anyone is welcome. A new space has just been found at 304 Willey Street - a beautiful building, accessible for persons with disabilities. With 1200 sq. ft., this new peer support center will have an accessible bathroom with shower, a kitchen, a group room, computer and sitting room, and a large living room. The new space will allow for increased mental health and wellness services as well the typical drop in activities. (See 6.8.3)

B) Positive Activities: In addition to a place to gather, many people welcome positive activities in which to be involved, activities that are productive and which integrate them into the rest of the community. It is the intention of the Friendship Room to help catalyze these kinds of activities. There is opportunity here for overlap with some of the goals of the Downtown Strategic Plan to beautify the streetscape, to provide art and cultural activities downtown, and to develop a core of street ambassadors, who, among other tasks, could help keep downtown clean and free of litter. (See: 6.2; MSM Strategy 2, 3)

C) Panhandling: Many persons who are panhandling are not homeless. Housing people will not address this problem, because whether they are housed or not, there are people who are seeking additional income, most often to purchase alcohol or drugs. Increased police presence can help, but alone cannot solve this problem. Panhandling is not illegal. Aggressive panhandling is, but panhandlers usually back

off when police are present. And arresting offenders does not seem to be a serious deterrent. They are usually back on the street very soon. Three changes can help address this problem:

i. A Street Ambassadors program of trained volunteers who could move around in teams of 2, intervening in aggressive panhandling, encouraging people to move on where they are disrupting access to a merchant, and also providing hospitality and information for the general public. Staffing would be needed for administration, scheduling, recruitment, and training, but most of the participants could be volunteers. (See 6.8.2; 7.1)

ii. Marketing campaign to encourage citizens to give money to agencies rather than to individuals. One of the greatest deterrents to panhandling is for the public to stop giving money. Panhandling will eventually end if there is no response. ((See MSM Strategy 3)

iii. Increased activity on the streets changes the atmosphere, promoting positive activity and discouraging negative behavior. Currently, there are periods when the panhandlers are sometimes a dominant presence. Greater activity will decrease their impact on people in the area for shopping, dining, and entertainment.

Addressing these issues requires a collaborative and planned program. One of the patterns in the past has been ad hoc, reactive actions which, on their own, have little or no impact. For instance, frustration with persons loitering in the County Courthouse Square and along Wall Street near Milan Puskar Health Right led to the removal of all the benches in those areas. People still gather, especially on Wall Street, but now there are no seating areas for anyone. Isolated actions can be of little use, and even have negative unintended consequences. In order for the public to gather and remain in the downtown, there have to be areas of seating, as called for in the DMSP.

Progress on these issues will require a planned, collaborative approach involving all of the stakeholders in the downtown area. The need for such collaboration is noted several times in the DMSP and the Main Street Morgantown Workplan. (6.2.8; 6.7.6; 6.7.7; 6.8.3; 7.0; MSM Strategies 1, 2, 3, & 4).

Therefore, the Coordinating Council on Homelessness has decided to petition the key stakeholders to join in creating a Downtown Task Force to address the issues of loitering and panhandling as a community. We are formally approaching the City Council, County Commission, Morgantown Police Department, Mon County Sheriff's Department, Main Street Morgantown, Convention and Visitors Bureau, Chamber of Commerce, WVU, neighborhood associations, and downtown residents to jointly create this group. Without a joint effort, we will not see a significant change in these issues. There is no one group who can change things and no one action that can be taken. However, if we commit to working together, we can make a difference.

**An open public meeting to initiate the Downtown Task Force will be held on Monday evening, October 17<sup>th</sup>, 6:30 pm, at the Spruce Street United Methodist Church, across from City Hall. Everyone is welcome.**

**Morgantown Pedestrian Safety Board  
289 Spruce Street  
Morgantown, WV 26505**

September 7, 2016

To the Acting City Manager and Members of Morgantown City Council:

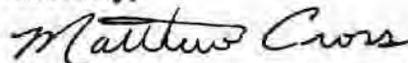
The Morgantown Pedestrian Safety Board respectfully requests that the interview process for the new city manager include a focus on the plight of our dilapidated sidewalk system. The downtown beautification project for High Street has enhanced our city's function and appeal. Yet many walkways throughout the city remain in dismal condition and in need of repair.

It is important to inform the position applicants of the challenge we face as we attempt to enforce the outdated sidewalk code which was written in 1967 (Appendix H: Article 913). Morgantown's population growth since then has qualified us for a Metropolitan Planning Organization. We greatly appreciate their assistance with our board's mission. But we need greater participation from the city administration in regard to funding, design, planning and enforcement.

We also would like to see ever more emphasis on pedestrian / bicycle accessibility and mass transit to ease traffic congestion and decrease air pollution. We work closely with the Bicycle Board as voting members of the Traffic Commission. We appreciate the cooperation of our city engineering department. It is the duty of the City to educate, inform and enforce rights and responsibilities regarding city and state laws. Pedestrian and bicycle safety advancements have been incremental due to the lack of a comprehensive strategy and the political will.

Morgantown continues to be a great place to live. We need to assure current and future residents that our city administration is providing for their safety as pedestrians. As citizen volunteers on the advisory boards, we will continue our efforts to assist with this commitment.

Cordially,



Matt Cross, Chair



**SPECIAL MEETING September 30, 2016:**

The Special Meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Friday, September 30, 2016 at 12:16 p.m.

**PRESENT:** Interim City Manager Glen Kelly, Mayor Marti Shamberger, City Clerk Linda Tucker, Deputy Mayor Bill Kawecki and Council Members, Wes Nugent, Jay Redmond, and Nancy Ganz. Jenny Selin & Ron Bane absent.

The meeting was called to order by the Mayor.

**EXECUTIVE SESSION:** Pursuant to WV State Code Section 6-9A-4(b) (2) (A) motion by Ganz, second by Kawecki to go into executive session in order to discuss personnel matters in considering recruitment for a new City Manager. Present: Council. Time: 12:20 p.m.

**SPECIAL MEETING:** Council by acclamation motioned to go back into the Special Meeting at 12:45 p.m. Motion by Ganz second by Kawecki to accept potential advertising sources with minor changes. Motion carried 5-0. Motion carried by acclamation to accept a tentative timeline. Motion by Kawecki, second by Ganz to have a Special Meeting on October 4, 2016 at 6:30 p.m. to discuss personnel matters. Motion carried 5-0.

**ADJOURNMENT:**

There being no further business, Council adjourned the Special Meeting at 12:50 p.m.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

\*A COMPREHENSIVE DVD IS AVAILABLE OF ALL COUNCIL MEETINGS ON DVD AT THE MORGANTOWN CITY LIBRARY\*

**SPECIAL MEETING October 4, 2016:**

The Special Meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, October 4, 2016 at 6:30 p.m.

**PRESENT:** Interim City Manager Glen Kelly, Mayor Marti Shamberger, City Clerk Linda Tucker, Deputy Mayor Bill Kawecki and Council Members, Ron Bane, Wes Nugent, Jenny Selin, Jay Redmond, and Nancy Ganz.

The meeting was called to order by the Mayor.

**EXECUTIVE SESSION:** Pursuant to WV State Code Section 6-9A-4(b) (2) (A) motion by Kawecki, second by Ganz to go into executive session in order to discuss personnel matters in considering recruitment for a new City Manager. Present: Council. Time: 6:31 p.m.

**ADJOURNMENT:**

There being no further business, Council adjourned the Special Meeting at 6:59 p.m.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

\*A COMPREHENSIVE DVD IS AVAILABLE OF ALL COUNCIL MEETINGS ON DVD AT THE MORGANTOWN CITY LIBRARY\*

**REGULAR MEETING October 4, 2016:** The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, October 4, 2016 at 7:01 p.m.

**PRESENT:** Interim City Manager Glen Kelly, City Attorney Ryan Simonton, City Clerk Linda Tucker, Mayor Marti Shamberger, 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:** September 20, 2016 Special Meeting Minutes, and September 20, 2016 Regular Meeting Minutes were approved after minor amendments.

**CORRESPONDENCE:** Mayor Shamberger presented proclamations to the following: The Gospel Singing Koon Family Day; Safe Communities America Day; National Substance Abuse Prevention Month; SHIFT-10Day and General Aviation Appreciation Month.

**PUBLIC HEARING – AN ORDINANCE AMENDING TABLE 1331.05.01 “PERMITTED LAND USES: OF THE CITY’S PLANNING AND ZONING CODE AS IT RELATES TO CHURCHES, PLACES OF WORSHIP.**

Mayor Shamberger declared this Public Hearing open.

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

**PUBLIC HEARING – AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE CITY OF MORGANTOWN AND FINANCING COST THEREOF THROUGH THE ISSUANCE OF NOT MORE THAN 30,000,000 IN AGGREGATE AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS SERIES 2016C.**

Mayor Shamberger declared this Public Hearing open.

Tim Ball, Director of Morgantown Utility Board, updated Council on the Bond funds and noted that the project will be affordable if the interest rates remain stable.

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

**PUBLIC HEARING – AN ORDINANCE AMENDING THE FY 2016-2017 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.**

Mayor Shamberger declared this Public Hearing open.

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

**PUBLIC HEARING – AN ORDINANCE AMENDING SECTIONS 521.07 AND 521.09 TO PERMIT ALCOHOL SALES FOR ON-PREMISES CONSUMPTION BEGINNING AT TEN**

**O'CLOCK IN THE MORNING ON SUNDAYS.**

Mayor Shamberger declared this Public Hearing open.

Evelyn Ryan, 225 Dewey Street, noted that Video Lottery and serving alcohol could present a problem.

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

**UNFINISHED BUSINESS:**

**AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES: OF THE CITY'S PLANNING AND ZONING CODE AS IT RELATES TO CHURCHES, PLACES OF WORSHIP:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES; OF THE CITY'S PLANNING AND ZONING CODE AS IT RELATES TO CHURCHES, PLACES OF WORSHIP.

Interim City Manager explained, motion by Kaweck, second by Ganz, to adopt the above entitled Ordinance. Motion carried 6-0. Selin Abstained

**AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION AND IMPROVEMENTS TO THE SANITARY SEWER PORTION AND FINANCING COST THEREOF THROUGH THE ISSUANCE OF NOT MORE THAN 30,000,000 IN AGGREGATE AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS SERIES 2016C:** The below entitled Ordinance was presented for third reading.

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE CITY OF MORGANTOWN AND FINANCING COST THEREOF THROUGH THE ISSUANCE OF NOT MORE THAN 30,000,000 IN AGGREGATE AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS SERIES 2016C.

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

**AN ORDINANCE AMENDING THE FY 2016-2017 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 below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING THE FY 2016-2017 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.

Interim City Manager explained, motion by Ganz, second by Kawecki, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE AMENDING SECTIONS 521.07 AND 521.09 TO PERMIT ALCOHOL SALES FOR ON-PREMISES CONSUMPTION BEGINNING AT TEN O’CLOCK IN THE MORNING ON SUNDAYS:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING SECTIONS 521.07 AND 521.09 TO PERMIT ALCOHOL SALES FOR ON-PREMISES CONSUMPTION BEGINNING AT TEN O’CLOCK IN THE MORNING ON SUNDAYS.

After discussion, City Attorney explained, motion by Redmond, second by Selin, to adopt the above entitled Ordinance. Motion carried 7-0.

**BOARDS AND COMMISSIONS:** After discussion of available positions, City Clerk requested a Special Meeting on October 18, 2016 to interview candidates for Parking Authority, Sister Cities and Traffic Commission. City Clerk will e-mail Council once she verifies list of candidates. By acclamation Council approved Special Meeting.

**PUBLIC PORTION:**

Mayor Shamberger declared the Public Portion open.

Vic Cordwell, 525 Globe Avenue, noted that Hite Street in First Ward is “nothing but dirt” since being milled. He stated it is like a war zone, houses are dusty and our kids have to stand in dust while waiting for the bus in the mornings. He requested Council to reimburse the citizens on that street by offering to clean their homes because the dust is so bad.

Andrew Vecchio, Owner Motown Taxi, thanked Interim City Manager Glen Kelly and Parking Authority Director Tom Arnold for their help in developing the Taxi-Stand ordinance. He noted various issues and stated that Uber is soliciting for ridership and this is prohibited by law. He stated that there is a safety issue when Uber and Motown Taxi are both trying to occupy such a small area and asked Council for their support in this area.

Evelyn Ryan, 225 Dewey Street, mentioned to Council that the County Commission is placing the Brunch Bill on the Ballot for the November 8<sup>th</sup> election and wondered if that was an overlap.

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

**SPECIAL COMMITTEE REPORTS:** Councilor Ganz reported that today there was the first of two meetings for the Safe Community Rail Trail Stakeholder meeting providing maintenance and safety along the trail. She noted there will be collaborations with WVU, Police Department and groups that are interested in having programs on the rail trails. Mayor Shamberger reminded Council about the meeting at Spruce Street Church on October 17, 2016 at 6:30 pm that the Coordinating Coalition on Homelessness is having to develop a Downtown Task Force.

**NEW BUSINESS:**

**AN ORDINANCE CREATING A NEW ARTICLE 951 IN THE CITY CODE PROVIDING FOR TAXI STANDS:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE CREATING A NEW ARTICLE 951 IN THE CITY CODE PROVIDING FOR TAXI STANDS.

Motion by Bane, second by Kawecki, to approve the above entitled Ordinance to second reading. Interim City Manager explained, after discussion motion by Nugent, second by Redmond to remove section © Operation of taxi stand. Motion carried 7-0. Vote taken on main motion carried 7-0.

**A RESOLUTION AUTHORIZING A GRANT AGREEMENT WITH WEST VIRGINIA DEPARTMENT OF TRANSPORTATION DIVISION OF MOTOR VEHICLES FOR A HIGHWAY SAFETY ENFORCEMENT PROJECT:** The below entitled Ordinance was presented for first reading.

City Clerk Linda Tucker informed Council that the above Resolution was already approved in May 2016.

**A RESOLUTION AUTHORIZING THE 2016-2017 BUDGET FOR THE AIRPORT IMPROVEMENT FUND:** The above entitled Resolution was presented for first reading.

Interim City Manager explained, after discussion, motion by Selin, second by Bane, to approve the above entitled Resolution. Motion carried 7-0.

**A RESOLUTION SUPPORTING PASSAGE OF THE EXCESS LEVY TO SUPPORT MONONGALIA COUNTY SCHOOLS:** The above entitled Resolution was presented for first reading.

Motion by Selin, second by Ganz to approve. After discussion motion by Ganz second by Bane to amend the Resolution adding after the first whereas the continuation of Monongalia County Schools; and line five after and reduced 2% from 75% to 73%. Motion carried 7-0 to amend. Question was called on main motion. Approved 7-0.

**CITY MANAGER'S REPORT:**

**New Business:**

**1. Airfield Lighting Contract**

Michael Baker International, our airports engineering firm of record has followed the Federal Bid Process and requests approval of the contract with Bronder Technical Services in the amount of \$381,426.00. This is to execute the work funded by the DOT, FAA Grant that was approved by council on August 30, 2016. Interim City Manager Glen Kelly recommended that Council approve the awarding of this contract as listed to Bronder Technical Services.

Motion by Ganz, second by Kawecki to award the contract to Bronder Technical Services for \$381,426.00. Motion carried 7-0.

**2. Snow Removal Equipment Contract**

Michael Baker International, our airports engineering firm of record has followed the Federal Bid Process and requests approval of the contract with A & H Equipment Company in the amount of \$149,891.00. This is to purchase the equipment funded by the DOT, FAA Grant that was approved by council on August 30, 2016. Interim City Manager Glen Kelly recommended Council approve the award of this contract to A & H Equipment Company.

Motion by Ganz, second by Kawecki to award the snow removal contract to A&H Equipment Company for \$149,891.00. Motion carried 7-0.

**3. Update at the Airport:**

Interim City Manager Glen Kelly updated Council that there have been 6,200 enplanements with Silver Airways and Southern Airways at 80% capacity that would put the Airport at 8,887 short of the 10,000 enplanements. Interim City Manager spoke with WVU today and they are at 470 enplanements with LGA Aviation which is rather low for them. Interim City Manager has discussed with WVU about flying with Southern Airways since Southern has the capacity to do chartered sport events. Interim City Manager Glen Kelly stated that Southern Airways should be starting their flights in Morgantown at the end of November.

Interim City Manager Glen Kelly informed Council that in preparation for Southern Airways, the Airport had to do some upgrades in the terminal. He noted that the departure area carpet was no longer able to be cleaned and was replaced with laminate flooring for \$3,800 and that was within the Airport Budget already approved.

**REPORT FROM CITY CLERK:**

City Clerk Linda Tucker updated Council on the United Way Bake Sale that was held on Friday, September 30, 2016 that the City Employees raised \$400.

**REPORT FROM CITY ATTORNEY:**

No Report.

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane:

Councilor Bane requested an update on when Hite, Dorsey and Mississippi would get paved and noted agreeing with Mr. Cordwells comments. Interim City Manager replied that paving for Dorsey should begin on October 11,2016 and Hite, Mississippi thereafter. He agreed with Mr. Cordwell that Hite Street is a war zone and noted his concerns about the milling on Dorsey not being thick or wide enough. He expressed understanding delays due to cement work on curbs and sidewalks, but the sooner the better.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki noted that he heard that in reference to the paving he heard that there were difficulties with the Asphalt Company. He stated that the City is requesting patience of residents while we work out these problems. He announced that at the Traffic Commission meeting on 10-5 a traffic issue in the 2<sup>nd</sup> Ward will be brought up about Jackson and Maple.

Councilor Nugent:

Councilor Nugent apologized to residents on the delays and issues with the paving this year. He asked the Interim City Manager where are we on the paving contract in completion. Interim City Manager responded that paving is around 60% to 65% complete. Councilor Nugent asked on the streets that had speed humps before the paving when will they be replaced. Interim City Manager stated that speed humps will be done after paving is completed. He requested and updated on the lights on High Street from the Interim City Manager. Interim City Manager reported that the DOH did a preliminary visit and did not approve lighting, but DOH will review area again and report back to City Manager.

Councilor Selin:

Councilor Selin noted more yellow lines being painted in her neighborhood and urged those that have questions contact the City Manager's office. She announced that the Botanic Garden Is having a Kids Festival and it is free.

Councilor Redmond:

Councilor Redmond mentions that the project paving in the neighborhoods is a burden. There is a lot of lag time between the milling and paving. He would like to see a way in the future to try and close that gap. He mentions Hite Street that was milled 2 weeks ago and still has not been paved. Councilor Redmond mentions the Brunch Bill and that he has a Class A License. He states that this bill would pertain to him if he was open on Sunday's but he is not. He also mentions the video lottery and how the Brunch Bill is not associated with this. He does say that the Video lottery is governed by the State Laws and he does not think this has changed. Councilor Redmond mentions the Uber Drivers and how they should behave in the downtown area. They do not have any guidelines to go by and he thinks that they should have.

Councilor Ganz:

Councilor Ganz wants to thank Damien Davis and Kenny Holloway and the Police attending the Suncrest Neighborhood Association and spoke to the neighbors in concerns of the painting of the yellow lines. Councilor Ganz mentions area in the Suncrest area of many less streets being milled and paved. Councilor Ganz mentions that more signage would be helpful and have some

publicity on the work that is being done to let the citizens know. Councilor Ganz states that she hopes the Wards & Boundaries hires a demographer. Councilor Ganz mentions several activities that have happened and she thanks the City Clerk Linda Tucker and Human Resource Manager Bill Wiley and others for putting together the Bake sale fundraiser for the opening of the United Way the "Day of Sweets". Would like to thank Bobby Nicholas and his sister Belinda Nicholas for signing at the event.

Mayor Shamberger:

Mayor Shamberger addressed the issue with the milling and paving that James Street and Richwood Avenue have been milled but not paved yet. She would like to see signs made by the user fee money that will show where they are paving throughout the City. She noted she would like to see before and after pictures of the milling and paving as well. Mayor Shamberger thanked the Interim City Manager for addressing the potholes on Wiley Street. Mayor Shamberger asked if Ubers are independent contractors and if they are registered to do business and can the City charge them for the user fee and B & O taxes. She requested this be investigated and to report back to Council on this issue. Mayor Shamberger had the following announcements: she will out of town on Thursday and Friday of next week for the WV Municipal League Meeting in Lewisburg. Tuesday, October 11<sup>th</sup> from 4-7 I-79 public meeting at the Medical Center; Read Baby Read Morgantown Public Library Thursday, October 6<sup>th</sup> 10:30 am to 11:30 am; WV Botanic Garden Family Walks Friday, October 7<sup>th</sup> 10:00 am to 11:00 am; Arts Walk Friday, October 7<sup>th</sup> 6:00 pm to 9:00 pm Downtown Morgantown; M.T. Pockets presents Rara Imler and Brian Barganier on Friday, October 7<sup>th</sup> at 8:00 pm; WV Botanic Garden Fall Children's Festival Sunday, October 9<sup>th</sup> 1:00 pm to 4:00 pm; Adult Relaxation Class Monday October 10<sup>th</sup> 5:30 pm to 7:30 pm at the Morgantown Public Library; Balloons over Morgantown Thursday October 13 to Sunday October 16<sup>th</sup>; American Red Cross Blood Drive, Spruce Street Church October 13<sup>th</sup> 1:30 pm to 7:00 pm; M.T. Pockets presents Andrew Bess, Cody Lambert, and Andy Frampton Saturday October 15<sup>th</sup> 6:30 pm; Farmers Market October 15<sup>th</sup>; Register to vote no later than October 18<sup>th</sup>, 2016 in order to be vote in the November election, if you need to change your address you have until the 18<sup>th</sup> of October; Early voting begins October 26<sup>th</sup> – November 5<sup>th</sup>; Halloween Egg Hunt and Costume Contest sponsored by Animal Friends October 30<sup>th</sup> registration starts at 1:30 pm and begins at 2:00 pm and

will be at Marilla Park in the main Pavilion; Trick or Treat will be Monday, October 31<sup>st</sup> from 5:30 pm to 7:30 pm for the City of Morgantown.

**EXECUTIVE SESSION:** Pursuant to WV State Code Section 6-9A-4(b)(2)(A) motion by Deputy Mayor Kaweckı, second by Selın, to go into executive session in order to discuss personnel matters in recruitment for a new City Manager. Present: Council. Time: 8:50 pm

**REGULAR SESSION:** Council by acclamation moved back into Regular Session. Motion by Bane, second by Ganz to approve the announcement for the City Manager as amended. Approved by acclamation.

**ADJOURNMENT:** There being no further items of business or discussion, the meeting adjourned by unanimous consent at 9:15 p.m.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

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

## Boards & Commissions Available Positions

<u>Board/Commission</u>	<u>Vacancy/Term</u>	<u>Name of Applicants</u>	<u>Res./Non Res.</u>	<u>Ward</u>	<u>Code Sec.</u>	<u>Other</u>
Board of Zoning Appeals	Re-appt	Bill Burton	Resident		1389	Special Meeting
MUB Board	Re-appt	Frank Scafella	Resident		169	Special Meeting
Planning Commission	Re-appt	Peter DeMasters	Resident	6th	145	Special Meeting
Planning Commission	Re-appt	William Blosser	Resident	3rd	145	Special Meeting
Parking Authority	Appt.	Amy Dale	Resident		155	Special Meeting
Sister Cities	Re-appt	Liz Finklea	Resident		172	10/18/2016
Traffic Commission	Appt.	Christina Hoffman	Resident	6th	151	10/18/2016
Traffic Commission	Appt.	Erica Hertzell	Resident	6th	151	10/18/2016
Ward & Boundary	Appt	Roy Nutter	Resident	4th	7.05	10/18/2016
<b>Urban Landscape is re-vamping board rules, Marchetta Maupin will notify Clerk.</b>						

*\*Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, that they will not interview; the City Clerk will check with Council before scheduling a Special Meeting.*  
*\*BZA and Planning Commission term expirations are advertised in October and interviews must be completed by December per State Law.*

Updated 10-10-16

Council to interview all

**MEMORANDUM**

**TO:** City Council  
Glen Kelly, Interim City Manager

**FROM:** Timothy L. Ball, General Manager, MUB 23

**DATE:** October 6, 2016

**SUBJECT: MUB BOARD**  
**Re-APPOINTMENT OF FRANK SCAFELLA**

At its meeting on September 28, 2016, the MUB Board members directed that the following recommendation should be forwarded to City Council, as the Council members consider their selection of an appointee to fill the soon to expire term for the MUB Board, Secretary Frank Scafella.

**The MUB Board respectfully recommends that Frank Scafella be re-appointed to a full 5 year term on the Board.**

## Linda Tucker

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**From:** Tim Ball <tball@mub.org>  
**Sent:** Friday, October 07, 2016 11:33 AM  
**To:** Glen Kelly  
**Cc:** Linda Tucker; Beverly Robertson; Doug Smith  
**Subject:** Frank Scafella : Re-appointment  
**Attachments:** reappointment.pdf

Glen

I respectfully request that you forward the attached request / recommendation to City Council.

Mr. Scafella's appointment to the MUB Board will expire in November.

The MUB Board requests / recommends his re-appointment.

Please let me know if you want a MUB representative at the Council meeting when this is discussed. I will be out of town Oct 18, but can send Asst GM Doug Smith.

Or if it is addressed on Nov 1, I will already be at the meeting for the approval of the Bond docs. That would be convenient timing. Whatever you think.

Thanks and Best Regards,  
Tim

**Timothy L. Ball P.E.**  
General Manager  
Morgantown Utility Board  
Phone: 304-292-8443 Ext. 121  
[www.mub.org](http://www.mub.org)

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ARTICLE 1389  
Board of Zoning Appeals

1389.01	Establishment.	1389.04	Conditional uses.
1389.02	Powers and duties.	1389.05	Judicial review.
1389.03	Variances.		

CROSS REFERENCES

Charter provisions - see CHTR. 6.01  
Statutory provisions - see W. Va. Code Art. 8A-8

1389.01 ESTABLISHMENT.

(A) The Board of Zoning Appeals is hereby established and shall consist of five members to be appointed by City Council, all of which shall be residents of the City and three-fifths of such members shall have been residents of the City for at least three years prior to the time of their appointment.

(B) No member of the Board of Zoning Appeals shall be a member of the Planning Commission nor shall any member hold any other elective or appointive office in the City of Morgantown.

(C) The members of the Board shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their official duties. If a vacancy occurs by resignation or otherwise among the members of the Board of Zoning Appeals, City Council shall appoint a member for the unexpired term.

(D) City Council may appoint up to three additional members to serve as alternate members of the Board who shall meet the same eligibility requirements as regular Board members. The term for an alternate Board member shall be three years and Council may appoint alternate members on a staggered term schedule.

(E) An alternate Board member shall serve on the Board when one of the regular members is unable to serve. The alternate Board member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve.

(F) The Board of Zoning Appeals shall establish rules and procedures for designating an alternate member who shall have the same powers and duties as a regular Board member.

(G) Any decision of the City Manager in the enforcement of this ordinance may be appealed to the Board by any person claiming to be adversely affected by such decision.

#### 1389.02 POWERS AND DUTIES.

The Board shall have the following powers and it shall be its duty to:

- (A) Hear, review and determine appeals from any order, requirement, decision or determination made by the City Manager in the enforcement of this ordinance;
- (B) Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in this ordinance;
- (C) Hear and decide conditional uses upon which the Board is required to act under this ordinance;
- (D) Authorize, upon appeal in specific cases, a variance from the terms of this ordinance;
- (E) Reverse, affirm or modify the order, requirement, decision or determination appealed from and have all the powers and authority of the City Manager from whom the appeal was taken;
- (F) Adopt rules and regulations concerning:
  - (1) The filing of appeals, including the process and forms for the appeal;
  - (2) Applications for variances and conditional uses;
  - (3) The giving of notice;
  - (4) The conduct of hearings necessary to carry out the Board's duties as authorized by State law;
  - (5) Keep minutes of its proceedings;
  - (6) Keep an accurate and complete audio record of all the Board's proceedings and official actions and keep the audio record in a safe manner, accessible within twenty-four hours of demand, for three years;
  - (7) Record the vote on all actions taken;
  - (8) Take responsibility for the custody and preservation of all papers and documents of the Board, which shall be filed in the Planning Office and made public record;
  - (9) With consent from City Council, hire employees necessary to carry out the duties and responsibilities of the Board, provided that Council sets the salaries; and
- (G) Supervise the fiscal affairs and responsibilities of the Board.

#### 1389.03 VARIANCES.

(A) No variance in the application of the provisions of this ordinance shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Board shall find that the variance:

- (1) Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- (2) Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;

- (3) Would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
- (4) Will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

(B) In the case where a variance is denied by the Board, said application shall not be eligible for re-submittal for one (1) year from the date of said denial. A new application must be, in the opinion of the Board of Zoning Appeals, substantially different from the application denied, or conditions must have substantially changed for the new proposal to be eligible for consideration within one (1) year from said date of denial.

#### 1389.04 CONDITIONAL USES.

(A) No conditional use application under the terms of this Ordinance shall be made by the Board unless after a public hearing the Board shall find that the conditional use is within the fitting character of the surrounding area and is consistent with the spirit, purpose, and intent of the Zoning Ordinance, because:

- (1) Congestion in the streets is not increased;
- (2) Safety from fire, panic, and other danger is not jeopardized;
- (3) Provision of adequate light and air is not disturbed;
- (4) Overcrowding of land does not occur;
- (5) Undue congestion of population is not created;
- (6) Granting this request will not create inadequate provision of transportation, water, sewerage, schools, parks, or other public requirements;
- (7) Value of buildings will be conserved; and,
- (8) The most appropriate use of land is encouraged.

(B) Each applicant must give their own response to these statements as a basis for the Board's evaluation of the request.

#### 1389.05 JUDICIAL REVIEW.

Every decision or order of the Board of Zoning Appeals shall be subject to review by certiorari. Any person or persons jointly or severally aggrieved by any decision or order of the Board of Zoning Appeals may present to the Circuit Court of the County of Monongalia a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition must be presented to the Court within thirty (30) days after the date of the decision or the order of the Board of Zoning Appeals complained of.

ARTICLE 169  
Utility Board

169.01	Creation; members; compensation.	169.05	Financial reports; minutes; budget.
169.02	Organization.	169.06	Waterworks, sewerage system and stormwater system accounts; personnel policies.
169.03	Powers and duties.	169.07	Pension plan.
169.04	General Manager created; other employees.		

CROSS REFERENCES

Combined waterworks and sewage system - see W.Va. Code Art. 8-20

169.01 CREATION; MEMBERS; COMPENSATION.

(a) Upon the issuance of the combined waterworks and sewerage system refunding revenue bonds, the management, control and operation of the waterworks system and the sewerage system of the City shall be vested in the Morgantown Utility Board (the "Board"), created, appointed and functioning as hereinafter provided.

(b) The management, control and operation of the stormwater drainage and sewer system of the City shall be vested in the Morgantown Utility Board.

(c) The Board shall consist of five persons, each of whom shall be residential customers of the Morgantown Utility Board, shall be persons of outstanding reputation, ability and integrity, and shall be appointed by Council. No more than two of the appointees may be citizens of Monongalia County, residing outside of the corporate limits of the City; all remaining appointees shall be citizens and residents of the City. The City Manager shall notify all appointees of their appointment. The terms of such Boardmembers first appointed shall be for one, two, three, four and five years, respectively, from the first day of the month in which appointed. In the event of a vacancy and also within thirty days after the expiration of the term of office of any Boardmember, a successor shall be appointed by Council. All vacancies shall be filled for the unexpired term only and all other appointments shall be for a term of five years, to commence on the date following the scheduled expiration date of the previous term. The Board shall

**169.05 FINANCIAL REPORTS; MINUTES; BUDGET.**

The Board shall provide reports, at least semiannually, or as otherwise required by law, to the City Manager and Council, indicating the Board's financial condition. The Board shall also, if requested by the Mayor or City Manager provide the City with yearly audited financial statements, minutes of all meetings of the Board, an annual budget and other information as may reasonably be requested. (Ord. 9-1-87.)

**169.06 WATERWORKS, SEWERAGE SYSTEM, AND STORMWATER SYSTEM ACCOUNTS; PERSONNEL POLICIES.**

Following the defeasance of the water revenue bonds and sewer revenue bonds, all assets and liabilities of the waterworks system and sewerage system, including accounts receivable and accounts payable and all employees thereof, shall be under the management and control of the Board. All assets and liabilities of the stormwater system, including accounts receivable and accounts payable, shall be under the management and control of the Board. Personnel policies and practices and other matters affecting employees of the Board, except pensions, shall be determined by the Board. (Ord. 02-13. Passed 5-21-02.)

**169.07 PENSION PLAN.**

Upon transfer of the management and control of the employees of the waterworks system and sewerage system to the Board, all such employees shall be under the general pension plan of the City, subject to such adjustments as shall be provided for by resolution of Council. (Ord. 9-1-87.)

## CHAPTER SEVEN - Boards and Commissions

- Art. 145. Planning Commission.
- Art. 147. Water Commission.
- Art. 149. Board of Park and Recreation Commissioners.
- Art. 151. Traffic Commission.
- Art. 153. Human Rights.
- Art. 155. Parking Authority.
- Art. 156. Metropolitan Theatre Commission.
- Art. 157. Sanitary Board.
- Art. 159. Library Board.
- Art. 160. Housing Advisory Commission.
- Art. 161. Housing Authority. (Repealed)
- Art. 162. Woodburn School Redevelopment Commission.
- Art. 163. Urban Landscape Commission.
- Art. 165. Citizens Advisory Committee. (Repealed)
- Art. 167. Historic Landmarks Commission.
- Art. 168. Museum Commission.
- Art. 169. Utility Board.
- Art. 170. Greater Morgantown Metropolitan Area Youth Commission. (Repealed)
- Art. 171. Building Commission.
- Art. 172. Morgantown Sister Cities Commission.
- Art. 175. Employment Provisions.
- Art. 177. Employees' Retirement and Benefit Fund.

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ARTICLE 145  
Planning Commission

- |        |   |        |                                   |
|--------|---|--------|-----------------------------------|
| 145.01 | Established.                              | 145.05 | Offices, facilities and expenses. |
| 145.02 | Composition and membership;<br>vacancies. | 145.06 | Meetings; quorum.                 |
| 145.03 | Original appointments.                    | 145.07 | Powers and duties.                |
| 145.04 | Officers.                                 | 145.08 | Purpose of article.               |

## CROSS REFERENCES

- Authority to establish - see CHTR. Sec. 6.01
- Comprehensive Plan - see CHTR. Sec. 6.02
- Vacancies - see CHTR. Sec. 6.04
- State law provisions - see W. Va. Code Art. 8-24-5 et seq.
- President to serve on Traffic Commission - see ADM. 151.02

**145.01 ESTABLISHED.**

There is hereby created and established a City Planning Commission.  
(1967 Code Sec. 2-74)

**145.02 COMPOSITION AND MEMBERSHIP; VACANCIES.**

The Planning Commission of the City shall consist of nine members, all of whom shall be freeholders and residents of the City, who shall be qualified by knowledge and experience in matters pertaining to the development of the City and who shall include representatives of business, industry and labor. Three-fifths of all members shall have been residents of the Municipality for at least one year prior to nomination and confirmation or appointment. All members shall be nominated by the City Manager and confirmed by Council.

One member of the Commission shall also be a member of Council, and one member shall also be a member of the administrative department of the City. The term of these two members shall be coextensive with the term of office to which each has been elected or appointed, unless the City Manager and Council, at the first regular meeting each year, appoint others to serve as the City's representatives. The remaining seven members shall be appointed for terms of three years each, except those members first appointed, as provided in Section 145.03, one member being appointed from each ward of the City. Vacancies shall be filled by appointment in the same manner for the unexpired term only. Members of the Commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.  
(Ord. 89-43. Passed 10-17-89.)

**145.03 ORIGINAL APPOINTMENTS.**

For the original appointment of the seven members of the City Planning Commission provided for in Section 145.02, three members shall be appointed for one year, two members for two years and two members for three years.  
(1967 Code Sec. 2-76.)

**145.04 OFFICERS.**

At its first regular meeting in each year, the City Planning Commission shall elect from its members a president and vice-president. It shall designate a member of the Commission to act as an advisory member of the County Planning Commission.  
(1967 Code Sec. 2-77.)

**145.05 OFFICES, FACILITIES AND EXPENSES.**

Council shall provide the City Planning Commission with suitable offices and facilities and shall provide by appropriation a sum sufficient to defray the reasonable expenses of the Commission to enable it to carry out its duties.  
(1967 Code Sec. 2-78.)

**145.06 MEETINGS; QUORUM.**

The City Planning Commission shall fix the time for holding regular meetings, but it shall meet at least once in the months of January, April, July and October.

The provisions of West Virginia Code 8-24-8 and 8-24-9 shall govern special meetings and quorums. (1967 Code Sec. 2-79.)

**145.07 POWERS AND DUTIES.**

The City Planning Commission shall have all powers and perform all duties provided for in West Virginia Code Art. 8-24 consistent with the provisions of Article VI of the City Charter.

**145.08 PURPOSE OF ARTICLE.**

It is the object of this article to improve the present health, safety, convenience and welfare of the residents of the City and to plan for the future development of the City to the end that highway systems be carefully planned, that new community centers grow only with adequate highway, utility, health, educational and recreational facilities, that the needs of industry and business be recognized in future growth, that residential areas provide healthy surroundings for family life, and that the growth of the community is commensurate with and promotive of the efficient and economical use of public funds.

(1967 Code Sec. 2-81.)

ARTICLE 155  
Parking Authority

155.01	Created.	155.085	Parking enforcement officers.
155.02	Jurisdiction.	155.09	Powers relative to parking facilities.
155.03	Composition and membership; vacancies.	155.10	Members not to be interested in contracts.
155.04	Oath of office.	155.11	Certain State law adopted.
155.05	Members' bonds. (Repeated)	155.12	Construction of article
155.06	Organization and officers.		
155.07	Powers and duties.		
155.08	Appointment of special police officers.		

CROSS REFERENCES

Municipal public works; bonds - see W. Va. Code Art. 8-16

Authority to lease off-street parking facilities - see

W. Va. Code 8-12-12

Off-street parking - see TRAF. Art. 365

**155.01 CREATED.**

There is hereby established the Morgantown Parking Authority.  
(1967 Code Sec. 2-108.)

**155.02 JURISDICTION.**

The construction, acquisition, improvement, extension, equipment, custody, operation and maintenance of all automobile parking facilities, except as otherwise provided by this article, including parking lots, parking buildings, ramps, curb line parking and other parking facilities deemed necessary or incidental to the regulation and control and parking of automobiles is hereby vested in the City Parking Authority, hereinafter referred to in this article as the "Parking Authority".

(1967 Code Sec. 2-109.)

**155.03 COMPOSITION AND MEMBERSHIP; VACANCIES.**

The Parking Authority shall consist of five persons, each of whom shall be a resident of the City. Two members of such authority shall also be members of the governing body of the City, one of which is to be appointed by the Mayor, and one of which is to be elected by Council. The term of these two members shall be coextensive with the term of office to which he has been elected or appointed. The remaining members of the Commission shall be appointed by Council for a term of three years, such terms to begin on the first day of July of any year; provided, however, that the three members of the Parking Authority heretofore appointed and in office when this article becomes effective shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified. In the event of a vacancy in the membership of the Parking Authority a successor shall be appointed by Council for the unexpired term only. Members other than those appointed from the governing body shall serve until their successors have been appointed and qualified.

Any member of the Parking Authority not also a member of the governing body of the City shall be eligible for reappointment upon expiration of his term, and any member who is also a member of the governing body shall be eligible for reappointment; provided, that he is continuing as a member of the governing body. Members of the Parking Authority shall receive no compensation or salary for their services but shall be reimbursed out of the funds of such Authority for any expenses incurred in their duties as such. Any member of the Parking Authority shall be removed for just cause by Council upon written charges and by the vote of a majority thereof after a public hearing thereon.  
(1967 Code Sec. 2-110.)

**155.04 OATH OF OFFICE.**

Each member of the Parking Authority before entering upon the duties of his office shall make before someone authorized by law to administer oaths, and file with the City Clerk, an oath or affirmation to support the Constitution of the United States and of the State, and to perform faithfully, honestly and impartially the duties of his authority to the best of his skill and judgment.  
(1967 Code Sec. 2-111.)

**155.05 MEMBERS' BONDS. (REPEALED)**

EDITOR'S NOTE: Former Section 155.05 was repealed by Ordinance 14-17.

#### 155.06 ORGANIZATION AND OFFICERS.

As soon after the first day of July of each year as possible the Parking Authority shall hold an annual meeting at which time a chairman and a secretary shall be elected from the membership of such Authority. The chairman shall preside at all meetings of the Parking Authority, shall have the power to call a meeting of such Authority at any time and shall perform such other functions as may be provided for in the rules and regulations and by-laws of the Parking Authority. The secretary shall keep a record of the proceedings of the Parking Authority which shall be considered a public municipal record and shall be available for inspection of any person at all reasonable times. The Finance Director shall be treasurer of the Parking Authority. The treasurer shall be the custodian of the funds of the Parking Authority and shall receive and disburse the same as directed by such Authority. (1967 Code Sec. 2-113.)

#### 155.07 POWERS AND DUTIES.

The Parking Authority shall have the power and authority within the City to construct, acquire, improve, extend, equip, operate and maintain automobile parking facilities, including parking lots, parking buildings and parking ramps deemed necessary or incidental to provide off-street parking facilities for vehicles within the City, and all such works shall be under the custody, control and supervision of such authority.

Such authority shall have the power to collect revenues therefrom for the services rendered thereby, which revenues shall be delivered to the Finance Director and maintained by him in a separate fund designated as the "Parking Facilities Revenue Fund". The revenues from the operation of off-street parking facilities, after allowance for the cost of maintenance and operation, shall be available for the payment of the interest on and principal of the bonds proposed to be issued, which payments shall be made by the Finance Director, with the approval of Council, and no other expenditures from such Fund shall be made without the approval of Council; except, that the Finance Director may honor requisitions from the Parking Authority for reasonable and necessary expenditures not to exceed the sum of five hundred dollars (\$500.00) in any fiscal year.

The Parking Authority shall have power to take all steps and proceedings, and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties; provided, that any contract involving the expenditure of a sum in excess of five hundred dollars (\$500.00) in any fiscal year, and any contract relating to the financing or the acquisition, construction, extension or equipment of any such works, or the issuance of any bonds, or any trust indenture shall be first approved by Council. Rates or charges for the use of, and for the services rendered by the municipal public automobile parking facilities shall be established by Council.

The Parking Authority shall have the power to employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, and all such employees shall perform such work and labor as the Parking Authority may direct. All such compensation and expenses incurred in carrying out the provisions of this article shall be paid out of the funds provided under this article and under the provisions of West Virginia Code Article 8-16, and such Authority shall not exercise or carry out any authority or power herein given it so as to bind such Authority or the City beyond the extent to which moneys shall have been, or may be provided for its use by Council, or moneys provided under the authority of West Virginia Code Article 8-16.

No contract or agreement exceeding the sum of one thousand dollars (\$1,000) shall be made without advertising for bids, which bids shall be publicly opened and award made to the lowest responsible bidder, with power in the Parking Authority to reject any and all bids. After the construction, installation, completion or the acquisition of any such public works, the Parking Authority shall operate, manage and control the same, and may order and complete any extensions, betterments and improvements of and to the works that such Authority may deem expedient, if funds therefor are available, or made available as provided in such sections of the Code of West Virginia, and such Authority shall have the right to establish rules and regulations for the use and operation of such works and to do all things necessary or expedient for the successful operation thereof.

The Parking Authority shall also have the power to adopt rules, regulations and by-laws for the conduct of its business and affairs.

The Parking Authority shall make monthly reports to Council. Such reports shall show the financial condition of the various facilities operated by the Parking Authority including receipts and expenditures. The Parking Authority shall provide such other reports and information as Council may from time to time require or request. Any such reports may also in the discretion of the Parking Authority or at the request of Council include such recommendations concerning the activities of the Parking Authority as may be determined proper. (1967 Code Sec. 2-114.)

#### 155.08 APPOINTMENT OF SPECIAL POLICE OFFICERS.

The Parking Authority shall have authority to appoint special police officers, whose sole duties shall be to patrol, and to enforce Municipal ordinances upon or within, designated parking lots and parking buildings under the control of and operated by the Parking Authority. In the performance of such duties, such special police officers shall be vested with power to make arrests, issue summons, sign complaints and request the issuance of capiases. Such special police officers shall be in uniform, shall display a badge or other sign of authority and shall serve at the will and pleasure of the appointing authority. The cost of providing such special parking lot or parking building police officers shall be paid from revenues derived from off-street parking lots or parking buildings. (1967 Code Sec. 2-114.1.)

#### 155.085 PARKING ENFORCEMENT OFFICERS.

The Parking Authority shall have authority to enforce municipal parking ordinances within the City.

The Parking Authority shall appoint parking enforcement officers who will patrol and enforce Municipal parking ordinances upon the streets of the City of Morgantown and, in the performance of such duties shall be vested with power to issue summons and citations and sign complaints.

Parking enforcement officers shall be in uniform and display a badge or other sign of authority.

The salaries of such parking enforcement officers shall be paid by the Parking Authority and the Parking Authority shall retain all income derived from the curblane parking meters.

Parking enforcement officers shall acquire no civil service rights under the civil service rules of the State, shall acquire no rights under the policemen's pension and relief fund provisions of the West Virginia Code, nor shall the limited power delegated to them herein be construed as power or authority of a peace officer.

(Ord. 10-18. Passed 5-18-10.)

#### 155.09 POWERS RELATIVE TO PARKING FACILITIES.

The Parking Authority with reference to automobile parking facilities within the City shall have all of the powers and authorities provided for in West Virginia Code Article 8-16. (Ord. 10-7-86.)

#### 155.10 MEMBERS NOT TO BE INTERESTED IN CONTRACTS.

No member of the Parking Authority shall become or be directly or indirectly interested in any contract or in the profits to be derived therefrom with the Parking Authority. (1967 Code Sec. 2-116.)

#### 155.11 CERTAIN STATE LAW ADOPTED.

In the establishing of the Parking Authority, Council does hereby expressly adopt the provisions of West Virginia Code Article 8-16 as provided under the provisions and in accordance with the requirements of West Virginia Code 8-1-6. (1967 Code Sec. 2-117.)

#### 155.12 CONSTRUCTION OF ARTICLE.

Inasmuch as this article is necessary for the public health, safety and welfare of the residents of the City, it shall be liberally construed to effectuate the purposes thereof. (1967 Code Sec. 2-118.)

ARTICLE 172  
Morgantown Sister Cities Commission

172.01	Established.	172.06	Compensation and reimbursement for expenses.
172.02	Members.	172.07	Appropriation of funds.
172.03	Officers.	172.08	Purpose, powers, and duties.
172.04	Meetings.		
172.05	Voting.		

**172.01 ESTABLISHED.**

There is hereby formed, created and established a municipal Sister Cities Commission, known as the Morgantown Sister Cities Commission (the "Commission").  
(Ord. 10-10. Passed 3-2-10.)

**172.02 MEMBERS.**

The Commission shall consist of nine members who shall be appointed by City Council. The terms of the individual Commission members first appointed shall be as follows:

- Three members - 3 years
- Three members - 2 years
- Three members - 1 year

All vacancies shall be filled for the unexpired term only. All other appointments shall be for a term consistent with that set for the member position in question, to commence on the date following the scheduled expiration date of the previous term. At all times one of the nine members of the Commission shall be a member of City Council. Two of the members may be ex-officio, non-voting members selected from the Greater Morgantown Area as defined by the jurisdictional boundaries of the Morgantown, Monongalia Metropolitan Planning Organization. At all times, seven members of the Commission shall be residents of the City.  
(Ord. 13-03. Passed 2-19-13.)

**172.03 OFFICERS.**

The Commission shall select from its own membership a chairperson, vice-chairperson, and secretary. (Ord. 10-10. Passed 3-2-10.)

**172.04 MEETINGS.**

The Commission shall meet on a monthly basis. Special meetings may be held as deemed necessary by the Chairperson. Such meetings shall be subject to the requirements of the West Virginia Open Governmental Proceedings Act. A quorum of members must be present before a meeting of the Commission can be held at which any official action of the Commission is to take place.

(Ord. 10-10. Passed 3-2-10.)

**172.05 VOTING.**

Every member of the Commission present, when a question is put, shall vote unless he/she is interested therein other than as a resident of the City. To be successful, an issue shall require five affirmative votes.

(Ord. 10-10. Passed 3-2-10.)

**172.06 COMPENSATION AND REIMBURSEMENT FOR EXPENSES.**

The members of the Commission shall receive no compensation for their services, but shall be entitled to reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as a Commission member, if said Commission member has received approval from the City's Finance Director to make such expenditure prior to incurring said expense.

(Ord. 10-10. Passed 3-2-10.)

**172.07 APPROPRIATION OF FUNDS.**

City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Commission, so long as said proposal meets the purpose and intent of this article. (Ord. 10-10. Passed 3-2-10.)

**172.08 PURPOSE, POWERS, AND DUTIES.**

It shall be the duty of the Commission to advise and recommend to the City Manager and/or City Council means of creating or advancing inter-cultural, educational, social and economic exchanges between the City and the State of West Virginia with other cities with which the City of Morgantown has established not only sister cities formal relationships guided by the organization known as Sister Cities International, but also, informal friendship cities relationships formed under the guidance of the Commission.

(Ord. 11-18. Passed 5-17-11.)

ARTICLE 151  
Traffic Commission

- |                                    |  |
|------------------------------------|--|
| 151.01 Established.                | 151.03 Officers and rules of procedure |
| 151.02 Composition and membership. | 151.04 Duties.                         |

CROSS REFERENCES

Authority to establish - see CHTR. Sec. 4.02

151.01 ESTABLISHED.

There is hereby established and created a Traffic Commission for the City, the official name of which shall be "The Morgantown Traffic Commission".  
(Ord. 15-09. Passed 2-17-15.)

151.02 COMPOSITION AND MEMBERSHIP.

(a) The Traffic Commission shall be composed of: a member of Council; one resident from each of the City wards; one resident at-large to represent bicycling; one resident at-large to represent walking; and one Planning Commission member. All ward, at-large and Planning Commission members shall be appointed by Council. Ex-officio Commission members of the Traffic Commission shall include the Police Chief, or his/her designee; the City Engineer, or his/her designee; the WVU Parking Director/Planner or his/her designee; the Director of the Morgantown Board of Park and Recreation Commissioners (BOPARC) or his/her designee; the Director of the Mountain Line Transit Authority or his/her designee; and the Director of the Morgantown Monongalia Metropolitan Planning Organization (MMMPO) or his/her designee.

(b) The ex-officio members shall serve without any specific term and shall serve by virtue of their office, enjoying all rights of membership except a vote. Each Council and Planning Commission members shall serve until his or her current respective term on Council or Planning Commission expires.

(c) The members appointed by ward residency, and the at-large members shall each serve for a term of three years. (Ord. 15-09. Passed 2-17-15.)

151.03 OFFICERS AND RULES OF PROCEDURE.

(a) The City Engineer shall call the first meeting of the Traffic Commission. The Commission shall meet at least once a month, and shall select from its own membership a chairperson.

(b) The Commission shall adopt its own rules of procedure and shall keep minutes of regular and special meetings.  
(Ord. 15-09. Passed 2-17-15.)

**151.04 DUTIES.**

The duties of the Traffic Commission shall be to receive citizen input pertaining to traffic issues and to act as an advisory to City Council on matters relating to:

- (a) The movement and regulation of motor vehicles, bicycles and pedestrians within the City.
- (b) The coordination of traffic activities.
- (c) Educational activities in traffic matters.
- (d) The ways, means and methods of improving traffic conditions within the City; and
- (e) The administration and enforcement of traffic regulation. The Commission shall receive such reports and information as deemed necessary by City Administration. The Commission may request the assistance and advice of any other department or official of the City. The City Engineer shall provide primary services for agendas, minutes, studies and implementation of tasks resulting from Commission actions.  
(Ord. 15-09. Passed 2-17-15.)

**SECTION 7.05. WARDS, ADJUSTMENT OF WARD BOUNDARIES.**

(a) Number of Wards. The territory included in the City shall be, and is hereby divided into seven wards and the number of wards shall not be increased or decreased.

(b) Ward Boundary Commission. The Council shall appoint seven qualified voters, one from each of the seven wards of the City as they exist at the time of such appointment, who shall comprise a Ward Boundary Commission. The voters chosen shall not be employed by the City in any other capacity. The appointment shall be made not later than 30 days after the commencement of each Council's term of office.

(c) Report. The Commission shall file with the City Clerk a report containing a recommended plan and a map for adjustment of ward boundaries to comply with the specifications set forth in subsection (d), which report shall be made between November 15 and November 30 of each even-numbered year.

(d) Specifications. Except as otherwise provided in Section 10.05, the ward boundaries shall be adjusted from time to time in accordance with the following specifications:

- (1) Each ward shall be formed of contiguous territory, and its boundary lines shall follow the precinct lines and the center lines of streets wherever practicable.
- (2) Each ward shall contain as nearly as practicable the same number of qualified voters, determined from the registration for the last statewide general election. This specification shall not be construed to require the adjustment of precinct boundaries or to require the sacrifice of compactness of wards for the sake of achieving equality of numbers of registered voters among the seven wards of the City. The report shall include a map and description of the boundaries of each of the wards.

(e) Action on Report. Within 15 days after the date of the filing of the report mentioned in subsection (c), the Council shall approve or disapprove the same. If the report is disapproved, the Council shall state the reasons therefor on the minutes of the Council meetings. If the report is approved, the Council shall within 15 days after such approval, introduce a proposed ordinance providing for the ward boundaries in accordance with the specifications contained in the report. The procedure for the enactment of the ordinance shall be the same as for any ordinances provided for under Section 2.13 with the additional requirements of Section 2.13(b)(3).

(f) Enactment of Ordinances. If (1) the report of the Commission is disapproved, or (2) if the Commission fails to file the report as and when required by subsection (e), the Council shall, within 15 days after such disapproval or of such failure to file the report, nevertheless introduce an ordinance adjusting the ward boundaries consistent with specifications of subsection (d) unless the Council shall, within 15 days after the filing of the report, or of the failure to file the report, make a finding of fact, entered upon the minutes of the Council meetings, that no ward boundary adjustments are necessary. The procedure for the enactment of such ordinance shall be the same as for any ordinances provided for under Section 2.13 with the additional requirements of Section 2.13(b)(3).

(g) Effect of Enactment. The new ward boundaries as of the date of the enactment of an ordinance providing therefor shall supersede previous ward boundaries for all the purposes of the next regular City election including nominations. The new ward boundaries shall supersede previous ward boundaries for all other purposes as of the date of which all Councilmembers elected at that regular City election take office.

(h) Terms of Members of the Commission. The terms of office of the members of the Commission shall expire at the same time as the expiration of the terms of the Council which appointed them. A new Commission shall thereafter be appointed as provided by subsection (b).

**AN ORDINANCE CREATING A NEW ARTICLE 951 IN THE CITY CODE  
PROVIDING FOR TAXI STANDS**

WHEREAS, West Virginia Code section 8-12-5f authorizes the City of Morgantown to adopt an ordinance regulating taxicabs and taxi stands within the City, and Section 8-12-5f limits the authority to regulate to the specific areas identified in the Code section; and

WHEREAS, taxi service is an important public service in the City of Morgantown and is an essential component of the public transit network; and

WHEREAS, the City intends to establish taxi stands pursuant to the authority granted by the West Virginia Code to promote accessibility and use of taxi services in a safe and appropriate manner;

NOW, THEREFORE, the City of Morgantown hereby ordains that a new Article 951 is established as follows:

**951.1. Application**

- (a) Common carrier Taxicab services: This article shall apply to all taxicabs operated as common carriers pursuant to the authority of the West Virginia Public Service Commission within the municipal boundaries of the City of Morgantown. Each person or entity having a current certificate of convenience and necessity to operate as a common carrier by motor vehicle in the transportation of passengers in taxicab service for a service area including the City of Morgantown shall be subject to the provisions of this article.
- (b) Other passenger services: This article shall not apply to motor vehicle common carrier services other than taxicab services, nor shall this article apply to transportation services that do not operate as common carriers.

**951.2. Taxi Stand Locations**

Taxi stand locations established: There are hereby established taxi stands within the City at the following locations:

- (a) Taxi Stand 1: Spaces designated as 407 and 409 on High Street between Willey Street and Forrest Avenue.
- (b) Taxi Stand 2: Spaces designated as 21 and 22 on Chestnut Street between Fayette Street and Willey Street

Taxi stand locations are depicted on Table 951.2.1.

### 951.3. Taxi Stand Operations

(a) High Street taxi stand:

- (i) No more than four taxicabs may occupy the High Street taxi stand at any time, and no more than two taxicabs of a single certificated common carrier may occupy the taxi stand at one time.
- (ii) Any individual operator of a taxicab who is determined by the City Manager to be responsible for exceeding the permitted number of taxicabs in the taxi stand may be barred from using any taxi stand within the City for a period not to exceed six months.
- (iii) Any common carrier whose taxicabs the City Manager determines have exceeded the permitted number of taxicabs in the taxi stand three times or more within any calendar year may be barred from using any taxi stand within the city for a period not to exceed twelve months.

(b) Chestnut Street taxi stand:

- (i) No more than two taxicabs may occupy the Chestnut Street taxi stand at any time, and no more than one taxicab of a single certificated common carrier may occupy the taxi stand at one time.
- (ii) Any individual operator of a taxicab who is determined by the City Manager to be responsible for exceeding the permitted number of taxicabs in the taxi stand may be barred from using any taxi stand within the City for a period not to exceed six months.
- (iii) Any common carrier whose taxicabs the City Manager determines have exceeded the permitted number of taxicabs in the taxi stand three times or more within any calendar year may be barred from using any taxi stand within the city for a period not to exceed twelve months.

(c) Exclusive use. Taxi stands are designated solely for the use of common carrier taxicab services and authorized city personnel. No individual other than a taxicab operator for a licensed common carrier may accept or deposit passengers at the taxi stand.

(d) Hours of operation. Taxi stands may be used between the hours of 8 p.m. and 5 a.m.; provided, however, that such use shall occur only when appropriate signage designating an operating taxi stand has been placed or permitted to be placed at the site by the Morgantown Parking Authority.

**951.99. Penalty.**

Each violation of any provision of this article shall be punishable by a fine not exceeding five hundred dollars (\$500.00). Each day any violation continues shall constitute a separate offense, unless another provision of this Code specifically provides otherwise.

This ordinance shall be effective upon the date of adoption.

FIRST READING:

\_\_\_\_\_

Mayor

ADOPTED:

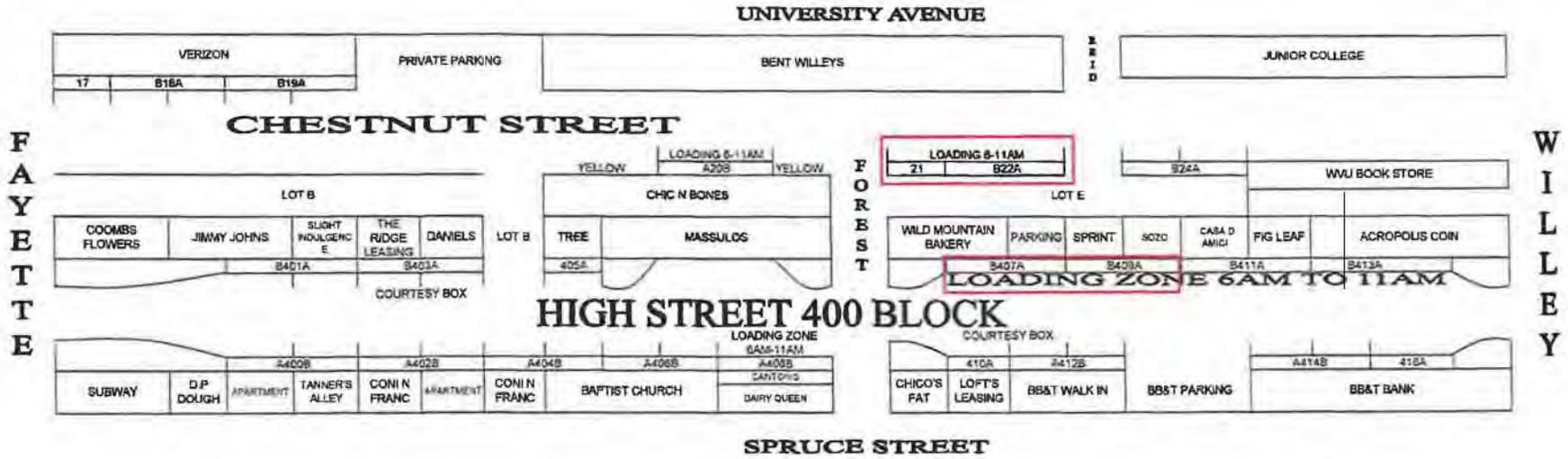
FILED:

\_\_\_\_\_

City Clerk

RECORDED:

TABLE 951.2.1. Taxi Stand Locations



**A RESOLUTION AUTHORIZING A SUB-GRANT AGREEMENT WITH WEST VIRGINIA DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY HOMELAND SECURITY STATE ADMINISTRATIVE AGENCY (SAA) AND THE MORGANTOWN FIRE DEPARTMENT**

BE IT RESOLVED by the City of Morgantown that the City Manager or his designee is authorized to execute the attached Sub-Grant Agreement, together with any additional documents referenced therein, which is incorporated in this Resolution by reference, to provide for the purchase and installation of radio equipment by the Morgantown Fire Department.

Adopted this \_\_\_\_ day of October, 2016.

\_\_\_\_\_  
Marti Shamberger, Mayor  
City of Morgantown

\_\_\_\_\_  
Linda Tucker, Clerk  
City of Morgantown

**STATE OF WEST VIRGINIA**

**Dept. of Military Affairs & Public Safety  
Homeland Security State Administrative Agency  
SUB-GRANT AWARD**

<b>CFDA Number:</b> 97.067	<b>GAISE - GRTAWD Document ID:</b>
<b>State Sub-grant Number:</b>	<b>Federal Grant Number:</b> EMW2016S60009

**Sub-Grantee Name & Address:**

**FBIN:** \_\_\_\_\_

**DUNS:** \_\_\_\_\_

**Zip Code:** \_\_\_\_\_

**Sub-Grant Period:**

**From:** 10/1/16  
**To:** 7/31/17

**Major Program:** HSGPHS

**Program:** HS-LIRP

**Program Period:** HS 2016

**Project Notes**

Implement the project described in the attached application.

The attached application has been reviewed, and the proposed project and expenditures as described in the application fall within all guidelines which govern the Homeland Security Grant Program and sufficient funds do exist to make this award.

I have reviewed this sub-grant award and the goals and objectives do fall within West Virginia's HS Strategy Goals and Objectives and the expenditures fall within the grant guidelines.

**Director, Homeland Security SAA:** \_\_\_\_\_  
**SAA Point of Contact**      **Date:** \_\_\_\_\_

By signing and accepting this award the sub-grantee agrees to comply with all special conditions & assurances included in the application.

**TOTAL AMOUNT OF:** \$55,000

**Sub-grantee Authorized Official:**

**WV Homeland Security Advisor:**

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

<b>WEST VIRGINIA</b> Homeland Security State Administrative Agency (NSAA) <b>HOME LAND SECURITY GRANT PROGRAM</b>	<b>Grant Application</b> PAGE 2
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1. Applicant: City of Morgantown  
 Address: 300 Spruce St  
Morgantown, WV 26505  
 Phone/Fax: 304-284-7480 / 304-284-7503

5. Grant Funds Requested: \$ 161,725.00  
 Project Matching Funds (if any) \$ 0

2. Project Director: William Rinehart  
 Address: 228 S. High St  
Morgantown, WV 26505  
 Phone/Fax: 304-291-7475 / 304-291-7402  
 Email: wrinehart@morgantownwv.gov

6. Type of Agency  
 State  County  Municipality

7. Project Period:  
 # of Months Needed to Complete: 10

3. Fiscal Officer: James Goff  
 Address: 300 Spruce St  
Morgantown, WV 26505  
 Phone/Fax: 304-284-7407 / 304-284-7418  
 Email: jgoff@morgantownwv.gov

8. National Incident Management System (NIMS)  
 Is the agency NIMS Compliant?  Yes  No  
 Agencies must utilize NIMS in order to receive this grant.  
 Contact [Charles.W.Bennett@wv.gov](mailto:Charles.W.Bennett@wv.gov) for information regarding NIMS.

4. **SIRN**:  
 Major Program:  
 Program:  
 Program Period:

Received

AUG 31 2016

DMAPS

9. Project Title and Brief Description: **The Morgantown Fire Department is preparing to become a full time user of the WV SIRN system. The monies will be used to purchase the needed radio equipment for the change over from the current legacy to WV SIRN.**

10. Certification:

To the best of my knowledge, the information contained in this application is true and correct. The submission thereof has been duly authorized by the governing body, and the applicant will comply with all of the attached Special Conditions and Assurances if the sub-grant is awarded.

Authorized Official: Calvin G. Kelly, Jr Title: CITY MANAGER  
TYPE OR PRINTED NAME OF AGENCY HEAD

Signature: Calvin G. Kelly, Jr Date: 30 Aug 16

<u>Budget Category</u>	<u>Matching Funds</u>	<u>Federal HSP Funds</u>	<u>Approved (SAA Use Only)</u>
<u>Equipment: (Itemized List)</u>			
<p>Communications equipment is required to be compatible with the SAFECOM P25 trunked radio hierarchy and the WV Statewide Interoperable Radio Network (<a href="http://www.sirn.wv.gov">http://www.sirn.wv.gov</a>).</p> <p>Per Executive Order 5-14, all communications equipment requests must be reviewed and approved by the Statewide Interoperability Coordinator.</p> <p><u>Requirement: The AEL number must be listed beside each piece of equipment.</u></p> <p><a href="http://beta.fema.gov/authorized-equipment-list">http://beta.fema.gov/authorized-equipment-list</a></p>			
52 - Motorola APX4000 Portable UHF Radios 06CP-01-PORT ✓	0	152,223.00	\$45,500
4 - Motorola APX1500 Mobile/Base Station UHF Radios 06CP-01-MOBL ✓	0	9502.00	\$9,500
<b>TOTAL</b>	<b>0</b>	<b>161,725.00 ✓</b>	<b>\$55,000</b>

\* All funds must be rounded to the nearest whole dollar amount. Please make additional copies of this page as necessary.\*

<b>WEST VIRGINIA</b> Homeland Security State Administrative Agency (SAA) <b>HOMELAND SECURITY GRANT PROGRAM</b>	<b>BUDGET SUMMARY</b>  PAGE 1
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<b>Applicant:</b>	<b>Federal Employer Identification Number (FEIN):</b>
City of Morgantown	55-6000-215

Category	Matching Funds (A)	HSP Funds (B) **	Total Funds (A+B)
<b>Planning</b>			
<b>Equipment</b>	0	\$55,000	\$55,000
<b>Training</b>			
<b>Exercises</b>			
<b>Total Budget:</b>	0	\$55,000	\$55,000

- \* Total of column A shall be placed in the space on page 1 – item number 5, for Project Matching Funds.
- \*\* Total of column B shall be placed in the space on page 1 – item number 5, for Funds Requested.

**All funds must be rounded to the nearest whole dollar amount.**



Provide justification and explanation of the budget items shown on pages 3-1 through 3-4 of this application. This should contain specific criteria and data used to arrive at estimates and/or costs for all items listed in each category. This should NOT describe the intended outcomes or benefits from the grant award. Rather it should provide clarification on what the items requested are, and how they fit into the overall project.

**Applications submitted which do not provide a sufficient narrative may be subject to exclusion. Use additional pages as necessary.**

**PLANNING:**

**EQUIPMENT:** The equipment purchased will out fit all personnel on Morgantown FD with the interoperability needed to respond with surrounding agencies on a daily basis. Currently the surrounding EMS and PD's utilize the WV SIRM. This disparity in frequencies makes communication for daily incidents difficult, let alone the potentially large scale incidents.

**TRAINING:**

**EXERCISES:**



**On page 7 of this application, please explain the project utilizing the following outline.** State clearly and in adequate detail the intentions of the project; precisely what will be done; who will be involved; and the anticipated results. Add pages as necessary.

**I. Problem Statement**

- A. Problem(s):** Identify the specific problem(s) to be addressed by the project. This should be articulated in terms of specific capability gaps or additional abilities (plans, procedures, equipment, or training/exercises) needed to achieve necessary functions and capability targets. If this award is designed to build capacity to address specific threats or hazards, please note those threats/hazards.
- B. Justification:** Identify why the project is being proposed. This justification should be based on needs identified through the THIRA process, an After-Action Report (AAR), and other assessments.

**II. WV Homeland Security Strategy Coordination**

List the Goals and Objectives from the 2015 State Homeland Security Strategy this project will help achieve. A list of the WV Homeland Security Strategy goals and objectives is provided. **In the narrative please refer by number to the specific WV Homeland Security Strategy goal(s) and/or objective(s) this project will address.**

**III. Project Objectives**

Describe what is to be accomplished by the grant award in specific objectives. Objectives should be specific, measurable, achievable, realistic, and time bound. Objectives should convey improvement in at least one Core Capability (refer to attached Core Capability chart and descriptions). If there are multiple parts to the award, please develop at least one objective for each part.

**IV. Implementation (Key Activities/Milestones)**

Describe the major activities necessary to implement the project including a general timeline. This should incorporate specific activities to be conducted, services to be utilized, and procedures to be followed. In addition, include how achievement will be demonstrated through documentation completed by the end of the grant period (updated plans, reports, AAR/IPs, training records, inventories, etc). For complex projects, a list of milestones is recommended which provides a clear outline for each phase of this project, and may include the "What", "Where", "Who", "When" and "How" of the project which can be used for follow-up and assessment purposes. If multiple agencies are involved in the project the role(s) and responsibilities of each agency should be outlined.

**V. Project Assessment/Evaluation**

Specify the indicators and measures to be used to assess the results of this project. This might include: new or revised plans, training records, conducting a drill or exercise to validate the capability improvement, completing an AAR/IP, inventory records, evaluations, and/or increased capacity as articulated in the local THIRA or other assessments. It should also state who will be responsible for doing the assessment.

WEST VIRGINIA Homeland Security State Administrative Agency (SAA)	PROJECT DESCRIPTION
HOMELAND SECURITY GRANT PROGRAM	PAGE

I. **Problem Statement** Morgantown Fire Dept. is handicapped with the inability to communicate with mutual aid agencies such as EMS and PD's. In order to communicate with these agencies, MFD must relay information through the 911 center. This relay at times has taken valuable time and has a great chance of losing vital information needed by the responding units. This relay has in the past caused confusion which compounded the incident beyond its original scope. MFD currently has 50 sworn firefighters with each one issued a personal radio. The radios will be used for all aspects of communications, dispatch and operations on incidents, as well as administrative communication needs.

The purchased equipment will greatly close this gap in interoperability the MFD is experiencing, as well as being a better asset to the other agencies MFD responds with.

II. **WV Homeland Security Strategy Coordination** This grant will allow several goals of the WV Homeland Security Strategy be met in strengthening interoperable and emergency communications capabilities.

6.6 Assure deployment of open standards-based technologies (e.g P-25 digital systems) to ensure communications interoperability.

6.8 Conduct multi-jurisdictional, multi-disciplinary communications training and exercises to evaluate interoperability and improve equipment proficiency

6.11 Enhance mobile, back-up and/or redundant communication capabilities.

III. **Project Objectives** The project objectives are to replace the antiquated analog radio system for the Morgantown Fire Department. The current radio system does not comply with current communications standards and places firefighters at risk when operating in emergency environments. The new system will allow the department to operate as a part of the WV SIRM project, and will provide the department with the ability to communicate with other regional agencies during incidents that require multi-agency response. Additional capabilities of the new system include enhanced communications with firefighters while wearing self contained breathing apparatus, as the new system will interface with our MSA G-1 SCBA through Bluetooth technology. This feature allows for clear communication while operating in structure fires, which is imperative to firefighter safety. The built-in redundancies of the WV SIRM will provide a more secure, safe, and reliable radio system in

which they will operate on. These radios will also allow the MFD to integrate into the NG911 needs being addressed by MECCA 911.

IV. **Implementation (Key Activities/Milestones)** If awarded the monies from this grant, MFD would begin a competitive bidding process for the equipment listed. This will be coordinated with MECCA 911, to ensure the equipment and talk groups are compatible with the WV SIRN. Immediately following the purchase of the radio equipment, all members of MFD shall be trained in the policies and use of the equipment, again in accordance with MECCA and WV SIRN. The estimated time frame for completion is 10 months from the time of allocation of funds.

V. **Project Assessment/Evaluation**

First step will be a competitive bidding process with evaluation of said bids for compliance.

Second step will be the purchase and training in the use of allotted equipment.

Third step will be the distribution and recurring evaluation of the equipment.

*\* Use additional pages as necessary. \**



This program is conditioned upon and subject to compliance with the following Special Conditions and Assurances. By attaching a signature to page one (1), item ten (10), of this grant application, the applicant certifies and assures that it will comply with the following Special Conditions and Assurances, Regulations, Policies, Guidelines and Requirements of the SAA, as further clarified in the Administrative Manual for this program; U.S. Department of Homeland Security; and all other relevant Federal/State Regulations, Policies and Guidelines. These Special Conditions and Assurances apply to all Homeland Security Grant Program federal and matching funds expended for purposes associated with this project.

All correspondence to the SAA, which is required and/or occurs as a result or action of any of the following Special Conditions and Assurances, or as a result of the administration of any SAA grant program, should be addressed to:

WV Dept. of Military Affairs & Public Safety  
1000 Kanawha Blvd., East  
Martinsburg, West Virginia 26101  
Phone: 304.271.2100

**1. LAWS OF WEST VIRGINIA:**

This application/contract shall be governed in all respects by the laws of the State of West Virginia. State procedures and practices will apply to all funds disbursed by the SAA.

**2. LEGAL AUTHORITY:**

The applicant hereby certifies it has the legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directly authorizes the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

**3. RELATIONSHIP:**

The relationship of the sub-grantee to the SAA shall be that of an independent contractor, not that of a joint enterprise. The sub-grantee shall have no authority to bind the SAA for any obligation or expense without the express prior written approval from the SAA.

**4. OPERATIONAL WITHIN 90 DAYS:**

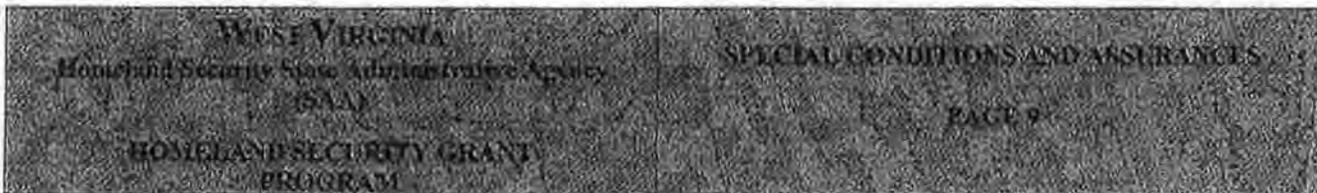
If the project is not operational within 90 days of the specified project starting date, the grantee must submit a statement to SAA explaining the delay in implementation. Upon receipt of the 90-day letter, SAA may cancel the project and redistribute the funds to other project areas and/or eligible applicants.

**5. CIVIL RIGHTS COMPLIANCE:**

Sub-grantee will comply with all federal civil rights laws, including Title VI of the Civil Rights Act, as amended. These laws prohibit discrimination on the basis of race, color, religion, national origin, and sex in the delivery of services.

**6. WRITTEN APPROVAL OF CHANGES:**

The sub-grantee must obtain prior written approval from SAA for all project changes (programmatic, fiscal or otherwise).



**7. PRESS RELEASE:**

Release of information pertaining to this sub-grant must include the following information:

1. Grant amount;
2. State involvement (WV Homeland Security State Administrative Agency); and,
3. Federal involvement (U.S. Dept. of Homeland Security).

**8. COMPLIANCE WITH FEDERAL RULES AND REGULATIONS:**

Sub-grantee will comply with Title 2, Part 200 of the Code of Federal Regulations (Super Circular). The Super Circular supersedes Circulars A-21, A-87, A-89, A-102, A-110, A-122, A-133.

**9. PROGRAM ACCOUNTABILITY – FEDERAL AUDIT REQUIREMENT – SUPER CIRCULAR:**

If an audit must be conducted pursuant to the Super Circular, a copy of the audit shall be submitted to SAA as well as to the Federal clearinghouse.

As of 10/1/04, the Federal clearing house is as follows:

Federal Audit Clearinghouse  
Bureau of the Census  
1201 E. 10<sup>th</sup> Street  
Jeffersonville, IN 47132

**10. PROGRAM ACCOUNTABILITY – STATE AUDIT REQUIREMENTS:**

Chapter 12, Article 4, Section 14 of the West Virginia Code, as amended, sets forth the audit requirements of corporations, associations or other organizations which receive state funds or grants. These audit requirements do not apply to units of local and state government. If applicable, this grant shall adhere to the audit requirements set forth in §12-4-14 at the time of award. All funds disbursed by SAA are appropriated by the WV Legislature; therefore all funds disbursed are considered state funds. The SAA will notify the Legislative Auditor when a sub-grant is awarded which falls under the requirements of the WV Code.

As of 9/13/05, the requirements set forth by §12-4-14 are as follows: Any corporation, partnership, association, individual or other legal entity (not to include a state spending unit or a local government as defined in § 6-9-1a of the West Virginia Code, as amended) which receives one or more state grants or sub-grants in the amount of \$50,000 or more in the aggregate in a state fiscal year shall file with the SAA a Report of the disbursement of these state funds. An OMB A-133 Audit or an audit conducted by a certified public accountant may be substituted for the Report. The Report shall be filed within two years of the end of the fiscal year in which the grant or sub-grant closes. The Report shall be made by an independent certified public accountant and the scope of the Report is limited to showing how the state grant or sub-grant funds were spent. The Report does not have to be a full-scope audit or review of the entity receiving state funds. Any entity failing to file a required Report is barred from subsequently receiving state grant or sub-grant funds until the Report is filed and is otherwise in compliance with the provisions of West Virginia Code. If a Report is not required under this section of the WV Code then the grantee or sub-grantee shall file with SAA a sworn statement of expenditures made under the grant or sub-grant.

The Sub-grantee assures that it has read, understands and is in full compliance with all requirements as set forth in Chapter 12, Article 4, Section 14 of the West Virginia Code, as amended, and is not currently debarred from receiving state grant funds as a result of non-compliance with this section of the West Virginia Code, as amended.



**11. ACCESS TO RECORDS, EQUIPMENT, TRAINING, & EXERCISES:**

The SAA, through any authorized representative, shall have access to and the right to examine all records, books, papers, documents, equipment, training, and/or exercises related to the sub-grant and to relevant books and records of contractors.

**12. CONFLICT ON INTEREST:**

No public official or employee of the sub-grantee agency, who performs any duties under the project, may participate in an administrative decision with respect to the project if such a decision can be expected to result in any benefit to that individual or that individual's immediate family.

**13. NATIONAL AND STATE EVALUATION EFFORTS:**

The Sub-grantee agrees to cooperate with any national and/or state evaluation efforts directly or indirectly related to this program as requested.

**14. POLITICAL ACTIVITY:**

The restrictions of the Hatch Act, Pub. L. 93-433, 5 U.S.C. Chapter III, (as amended), concerning the political activity of government employees are applicable to state grantee staff members and other state and local government employees whose principal employment is in connection with activities financed, in whole or in part, by Title I grants. Under a 1975 amendment to the Hatch Act, such state and local government employees may take an active part in political management and campaigns, except they may not be candidates for office.

**15. OBLIGATION OF PROJECT FUNDS:**

Funds may not, without prior written approval from the SAA, be obligated prior to the effective start date or subsequent to the termination date of the project period. All invoices must be dated within the approved sub-grant period.

**16. ELEMENTS OF A VIABLE CONTINUITY CAPABILITY:**

The Continuity Plan is the roadmap for the implementation and management of the Continuity Program. The National Continuity Policy: Federal Continuity Directive 1 and Federal Continuity Directive 2 outline the following ten (10) overarching continuity requirements: Essential Functions, Orders of Succession, Delegations of Authority, Continuity Facilities, Continuity Communications, Vital Records Management, Human Capital, Tests-Training-Exercises, Devolution of Control & Direction, and Reconstitution. If utilizing sub-grant funding for the development of a Continuity Plan, the Plan must address each of these ten (10) elements in order to be eligible to be reimbursed for approved/allowable costs.

In order to be eligible for funding to support an existing / in development Continuity Plan, the plan must contain the elements specified by the SAA in the Grant Eligibility Criteria.

**17. USE OF FUNDS:**

Funds awarded through the SAA may be expended **ONLY** for the purposes and activities specifically covered by the sub-grantee's approved project description and budget.



**18. RELEASE OF INFORMATION:**

All records, papers and other documents kept by recipients of grant funds are required to be made available to the SAA. These records and other documents submitted to the SAA and its grantees, including plans and application for funds, reports, etc., are subsequently required to be made available to the U.S. Department of Homeland Security under the terms and conditions of the Federal Freedom of Information Act, 5. U.S.C. §552.

The SAA recognizes that some information submitted in the course of applying for funding under this program, or provided in the course of its grant management activities, may be considered law enforcement sensitive or otherwise important to national or state security interests. This may include threat, risk, and needs assessment information, and discussions of demographics, transportation, public works, and industrial and public health infrastructures. While this information under federal control is subject to requests made pursuant to the Freedom of Information Act, 5. U.S.C. §552, **all** determinations concerning the release of information of this nature are made on a case-by-case basis by the Federal Division of Homeland Security FOIA Office, and may likely fall within one or more of the available exemptions under the Act.

Sub-grantees must consult applicable state and local laws and regulations regarding the release or transmittal of information to any entity which may be considered sensitive in nature. Applicants may also consult the SAA regarding concerns or questions about the release of potentially sensitive information under state and local laws.

**19. ALLOWABLE AND UNALLOWABLE COSTS:**

Allowable and unallowable costs incurred under this grant shall be determined in accordance with the Super Circular.

**20. NON-SUPPLANTING:**

Federal funds must be used to supplement existing funds for program activities and may not replace (supplant) non-Federal funds that have been appropriated for the same purpose. Potential supplanting will be the subject of monitoring and audit. Violations can result in a range of penalties, including suspension of future funds under this program, suspension or debarment from Federal grants, recoupment of monies provided under this grant, and civil and/or criminal penalties. The sub-grantee hereby certifies that Federal funds made available under this grant will not be used to supplant state and local funds.

**21. MATCHING CONTRIBUTION:**

If matching funds are allocated, the applicant assures that those funds shall be in addition to funds that would otherwise be made available for the proposed project by the recipients of grant funds and shall be provided on a project-by-project basis. Cash matching contributions are subject to the same expenditure guidelines established by the SAA and the U.S. Department of Homeland Security for this grant program. All sub-grantees must maintain records that clearly show the source, the amount and the timing of all cash matching contributions. There is no waiver provision for any cash match requirements.

**22. PROJECT INCOME:**

All income earned by the sub-grantee as a result of the conduct of this project, must be accounted for and included in the total budget. Project income is subject to the same expenditure guidelines established by the SAA and the U.S. Department of Homeland Security for this grant program. All sub-grantees must maintain records that clearly show the source, the amount and the timing of all project income. There is no waiver provision for the project income requirement.



**23. CONSULTANT FEES:**

Approval of this sub-grant does not necessarily indicate an approval of specific consultant rates. Please discuss rates with the SAA.

**24. PURCHASING:**

When making purchases relevant to the sub-grant, the sub-grantee will abide by applicable State and local laws, which address purchasing procedures by a state or local unit of government.

**25. REPORTS:**

Each sub-grantee shall submit reports as deemed reasonably necessary by the SAA for monitoring, stewardship and evaluation of programmatic and fiscal responsibilities.

**26. ENVIRONMENTAL & HISTORICAL PRESERVATION (EHP):**

Sub-grantee shall comply with all applicable Federal, State, and local EHP requirements and shall provide any information requested to ensure compliance with applicable laws.

**27. SUSPENSION OF FUNDING:**

SAA may suspend, in whole or in part, terminate, or impose other sanctions on any sub-grantee funds for the following reasons:

- Failure to adhere to the requirements, standard conditions, or special conditions and assurances of this program;
- Failure to submit reports;
- Filing a false certification in this application or in another report or document; or,
- Other just cause.

**28. SANCTIONS FOR NONCOMPLIANCE:**

In the event of the sub-grantee's noncompliance with the terms, conditions, covenants, rules, or regulations of this grant, the SAA shall impose such contract sanctions, as it may deem appropriate, including but not limited to:

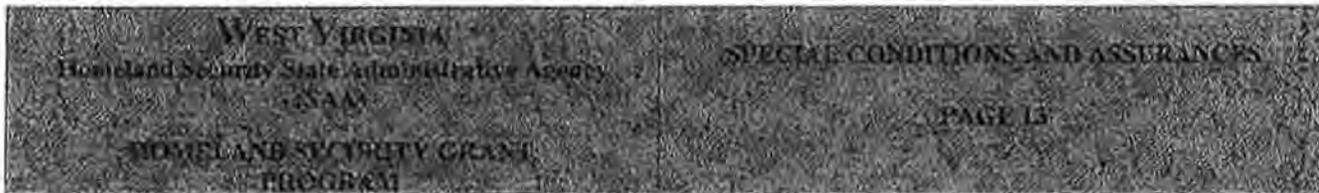
- Withholding of payments to the sub-grantee until the sub-grantee complies;
- Cancellation, termination or suspension of the contract, in whole or in part; or,
- Refrain from extending any further assistance to the sub-grantee until satisfactory assurance of future compliance has been received.

**29. IMMIGRATION AND NATURALIZATION VERIFICATION:**

The sub-grantee agrees to complete and keep on file, as appropriate, applicable Immigration and Naturalization Service Employment Eligibility Verification Forms. These forms are to be used by recipients of Federal funds to verify that employees are eligible to work in the United States.

**30. USE OF GRANT FUNDS TO ENACT LAWS:**

Sub-grantee understands and agrees that it cannot use any sub-grant funds, either directly or indirectly in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government.



**31. PROPERTY ACCOUNTABILITY:**

The sub-grantee shall establish and administer a system to control, protect, preserve, use, maintain, and properly dispose of any property or equipment furnished it, or made available through a sub-grant by the SAA. This obligation continues as long as the property is retained by the sub-grantee, notwithstanding the expiration of this agreement. Prior to sale, trade in or disposal of property, disposition instructions will be obtained from the SAA. Sub-grantee assures inventory checks will be performed annually or pursuant to guidance promulgated in the Administrative Manual for this program, with copies provided to the SAA. The SAA reserves the right to inspect and review any equipment purchased with this sub-grant

**32. COMMUNICATIONS EQUIPMENT:**

With respect to communications initiatives and equipment, the sub-grantee agrees to the following:

Communications equipment is required to be compatible with the SAFECOM P25 trunked radio hierarchy and the WV Statewide Interoperable Radio Network. Per Executive Order 5-14 all communications equipment requests must be reviewed and approved by the State Interoperability Coordinator. [www.sirn.wv.gov](http://www.sirn.wv.gov)

**33. EQUIPMENT:**

Sub-grantees purchasing equipment with grant funds are required to adhere to the established bidding procedures for their respective units of government and or agencies. All equipment must have a primary function of being used for homeland security purposes, and be available statewide (if practical) for use during emergencies and training/exercise events.

**34. MARKING OF EQUIPMENT AND PUBLICATIONS:**

Sub-grantee will ensure that, when practicable, any equipment purchased and publications produced with grant funding shall be prominently marked as follows: "Supported with funds provided by the U.S. Department of Homeland Security and the WV Homeland Security State Administrative Agency."

**35. PATENTS AND/OR COPYRIGHTS AND RIGHTS IN DATA:**

Sub-grantee acknowledges that the SAA, and subsequently the U.S. Department of Homeland Security; reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for State or Federal government purposes: (1) the copyright in any work developed under an award or sub award; and, (2) any rights of copyright to which a recipient or sub recipient purchases ownership, in whole or in part, with State or Federal support.

Sub-grantee agrees to consult with the SAA regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

**36. TIME EXTENSIONS:**

Time extensions are allowable; however, the SAA will review and approve extension requests on a case by case basis only if the extension is warranted. Lack of planning by the sub-grantee is not a justified reason for an extension.



**37. EQUAL EMPLOYMENT OPPORTUNITY PLAN:**

Each sub-grantee certifies that it has executed and has on file, an Equal Employment Opportunity Plan.

**38. VETERANS PREFERENCE:**

This program includes a provision that grantees utilizing funds to hire additional personnel give suitable preference in employment to military veterans. SAA defines "suitable preference" as the requirement that a sub-grantee agency have in place a mechanism ensuring that veterans are given consideration in the hiring process.

**39. SUBMISSION/RELEASE OF PROPOSED PUBLICATIONS:**

The sub-grantee shall submit one copy of all reports and proposed publications resulting from this agreement to the SAA twenty (20) days prior to public release. Any publications (written, visual, sound, or otherwise), whether published at the grantee's or government's expense, shall contain the following statements:

"This document [product] was prepared under a grant from the United States Department of Homeland Security and the WV Homeland Security State Administrative Agency. Points of view or opinions expressed in this document [product] are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security, nor the WV State Homeland Security State Administrative Agency."

**40. PURCHASE OF AMERICAN-MADE EQUIPMENT/PRODUCTS:**

It is the sense of the Congress, as conveyed through the FY 1997 Appropriations Act that, as well as the desire of SAA, to the greatest extent practicable, all equipment and products purchased with Federal funds made available under this grant should be American-made.

**41. PERSONNEL TRAINING:**

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The SAA reserves the right to require training as a condition of the sub-grant before or at any time during the project period. Proof of training/certification on grant-funded equipment must be provided, if applicable.

**42. ACCOUNTING REQUIREMENTS:**

Sub-grantee agrees to record all project funds and costs following generally accepted accounting procedures. A unique account number or cost recording must separate all project costs from the sub-grantee's other or general expenditures. Adequate documentation for all project costs and income must be maintained. Adequate documentation of financial and supporting material, as defined in the pertinent Administrative Manual, must be retained and be available for audit purposes.

**43. FINANCIAL GUIDE:**

Sub-grantee agrees to comply with all requirements as set forth in the Financial Guide which governs this program.

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND  
OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

O.M.B. No. 1660-0025  
Expires July 31, 2008

**PAPERWORK BURDEN DISCLOSURE NOTICE**

Public reporting burden for this form is estimated to average 1.7 hours per response. The burden estimate includes the time for reviewing instructions and searching existing data sources, gathering and maintaining the data needed and completing, and submitting the form. You are not required to respond to this collection of information unless a valid OMB control number appears in the upper right corner of this form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (1660-0001). **NOTE: Do not send your completed form to this address.**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 44 CFR Part 18, "New Restrictions on Lobbying" and 28 CFR Part 17, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Federal Emergency Management Agency (FEMA) determines to award the transaction, grant, or cooperative agreement.

**1. LOBBYING**

As required by section 1352, Title 31 of the U.S. Code, and implemented at 44 CFR Part 18, for persons entering into a grant or cooperating agreement over \$ 100,000, as defined at 44 CFR Part 18, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.

(b) If any other funds than Federal appropriated funds have been paid or will be paid to any other person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or an employee of Congress, or employee of a member of Congress in connection with this Federal Grant or cooperative agreement, the undersigned shall complete and submit Stand Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

Standard Form-LLL "Disclosure of Lobbying Activities" attached  
(This form must be attached to certification if nonappropriated funds are to be used to influence activities.)

**2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 57, for prospective participants in primary covered transactions, as defined at 44 CFR Part 17, Section 17.510-A.

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of a or had a civilian judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or perform a public a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause of default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

**3. DRUG-FREE WORKPLACE (GRANTEE OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 44 CFR Part 17, Subpart F, for grantees, as defined at 44 CFR Part 17.815 and 17.620-

A. The applicant certifies that it will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug free awareness program to inform employees about-

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant to be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

- (1) Abide by the term of the statement; and
- (2) Notify the employee in writing of his or her conviction for a violation of a criminal drug statute occurring on the workplace no later than five calendar days after such convictions;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position, title, to the applicable FEMA awarding office, i.e., regional office or FEMA office.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation act of 1973, as amended; or

(2) Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, City, County, State, Zip code)

389 SPRUCE ST

MORGANTOWN, WV

26508

Check  if there are workplaces on file that are not identified here.

Sections 17.630 of the regulations provide that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for FEMA funding. States and State agencies may elect to use a state wide certification.

Signature of Authorized Official:

Date: 5/30/16

*Colvin L. Kelly*  
CITY MANAGER