



Office of the City Clerk

The City of Morgantown

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AGENDA
MORGANTOWN CITY COUNCIL
COMMITTEE OF THE WHOLE
November 26, 2013
7:00 p.m.

NOTE: Committee of the Whole Meetings of the Morgantown City Council are intended to provide an opportunity for the Council to receive information, ask questions, and identify policy options in an informal setting. No official action is taken at these meetings. At this Committee of the Whole Meeting the following matters are scheduled:

PRESENTATIONS:

- **Public Portion**

ITEMS FOR DISCUSSION:

1. **Committee of the Whole Rules and Procedures**
2. **Ordinance: Tobacco Ban in BOPARC Facilities**
3. **Building Permit Discussion**
4. **Housing Advisory Committee**

If you need an accommodation contact us at 284-7439

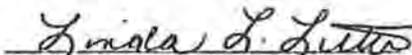
RESOLUTION
CONDUCT OF COMMITTEE OF THE WHOLE MEETINGS

- Whereas the City Charter of the City of Morgantown prescribes two regular City Council meetings per month to conduct the business of City Government; and*
- Whereas the City Council of Morgantown has found it beneficial to meet in an informal work session once a month to receive information, ask questions, and identify policy options while taking no official actions under the title of Committee of the Whole; and*
- Whereas it has been a past practice for the Deputy Mayor or a designated Council Member to preside at Committee of the Whole meetings at the invitation of the Mayor.*

THEREFORE, BE IT RESOLVED, by the City Council of Morgantown this 6th day of August, 2002, that this practice be adopted and that the Deputy Mayor or a designated Council Member will preside at Committee of the Whole meetings at the discretion of the Mayor.



Mayor



City Clerk

Chapter 4:

All You Need To Know About Meetings

Elected officials are expected to make value judgments regarding municipal government issues and most of this activity takes place in meetings. As a result, many citizens evaluate the performance of its elected officials to a great extent by the productivity that occurs at meetings of the city council. The public perception of the local government as an institution will also be determined not only by what the board or council decides, but also by the manner in which decisions are made. Consequently, how well a governing body conducts itself at its meetings will affect the overall success of the organization. However, too often, little thought is given to the details associated with a meeting. As a result, meetings are unproductive and many ultimately fail to accomplish the purpose for which they were held.

It has been said that meetings fail for a number of reasons, such as:

Purpose of the meeting not well defined - no consensus is reached as to the nature of the problems being debated.

Poor use of the group's time - the group spends excessive time on inconsequential issues or problems not worth solving and avoids addressing more important and essential issues.

Failure to recognize who should make a decision and that some issues are more appropriately handled by staff or committees.

Decisions are based on opinions and value judgements, rather than on available facts.

Inadequate time, effort or resources to resolve an issue.

Some groups fear success, uncertain that constituents or other interest groups will approve.

Personality “powder kegs” can “bomb” group consensus.

In order to avoid these kinds of problems, the group should begin by examining some key questions. The first may be “Why meet?”.

Meetings are called for a variety of reasons and each purpose requires differing leadership styles, structure and meeting management. From the standpoint of governance, the regularly scheduled meetings at which policy is made and administrative matters resolved are generally a local governing body’s most important meetings and they tend to be the most formal. The following are some examples of other types of meetings.

Types of Meetings

Essentially, there are six types of meetings: organizational meetings; regular meetings; special or emergency meetings; work sessions; public hearings; and executive sessions. This section is intended to describe the features of each of these meeting types.

Organizational Meetings. Usually very soon after each election, a meeting is necessary to establish the procedures concerning conduct of council meetings. Local practices may vary from community to community, but for the most part the meeting should establish: regular meeting dates, times, locations, rules of procedure for conducting business and assignment of council member duties. Many municipalities establish a regular meeting date and publish a schedule for the entire year.

Regular Meetings. This is the official, final public action meeting. It is the meeting where the council may adopt ordinances or regulations. There is no state requirement that councils meet any set number of times per month. Typically, this decision is left to each municipality. Many municipal charters throughout the state prescribe regular meetings and require that the meeting dates be set at the annual or semi-annual organizational meeting of the council.

One very important feature of the regular meeting is the public forum aspect. The regular meeting generally includes at least a citizen comment period and often incorporates a formal public hearing on one or more subjects. While allowing public comment to some degree, the regular meeting always allows the public an opportunity to hear the council's discussion on each subject. Council may adopt procedures for public input and participation.

Special or Emergency Meetings. Regular meetings are scheduled in advance (usually one or two per month) to allow the public, press, and persons having business for the council to address to attend the meetings. However, emergencies and special situations sometimes occur and may require convening a special meeting often with little, if any, advance notice. Examples of special meeting items include, but are not limited to: emergency ordinances, unexpected matters requiring official action before the next regularly scheduled meeting, emergency equipment replacement, financial problems, and health and safety emergencies. While the occasional need for such meetings cannot be denied, the term "emergency" should be used very carefully to avoid abuse of the special meeting privilege.

The procedures for calling special meetings are generally provided in each municipality's charter. However, special meetings, by not being routinely scheduled and if not advertised in advance, run the risk of violating the state Open Meetings Act. Therefore, it is particularly important in conducting special meetings to record the vote which calls the meeting and the notice of the meeting. It is also important to note that no other business other than that on the special meeting agenda may be acted upon at the special meeting.

Work Sessions. These are the most common meetings in most municipalities. Work sessions are essentially meetings where the council discusses issues informally to achieve a more complete understanding of one or more subjects. Many work sessions are held in another room away from the formal council chamber with a "round-table" type seating arrangement to promote informal discussion.

These sessions take many forms and cover virtually any subject matter. Typical work sessions will include a variety of items and will generally serve as a background discussion about items scheduled for

official action at the next regular meeting. For example, the council or committee may discuss possible designs for a new playground, hear status reports, discuss an ordinance that has been introduced and awaits enactment, or consider ideas for new programs. Some subjects, such as the annual budget, may be the topic of many such sessions before official action at a regular meeting.

Work sessions are not formal meetings; therefore, the council cannot take official action or final votes.

The West Virginia Ethics Commission has previously determined that any gathering of a quorum of the members of a governing body to discuss matters requiring official action, other than logistical and procedural arrangements for a future meeting, constitutes a “meeting” under the Act. This decision may include “work sessions”. Even if no official action is formally taken at such a session, the governing body is required to follow normal open meeting requirements, including providing advance public notice, an agenda of items that will ultimately require official action which will be discussed, and minutes prepared in accordance with West Virginia Code.

Municipalities may find it desirable to schedule a regular date and time for work sessions throughout the year. This allows council and staff to plan workloads and schedule other events.

Public Hearings. The council holds public hearings when it is considering a subject having unusually high community impact and when it is considering items for which local, state, or federal regulations mandate such hearings. The main purpose of such a hearing is to obtain testimony from the public. An issue on which a public hearing is held may be the subject of several work sessions and may generate potentially more citizen participation than can be accommodated at a regular meeting with its other normal business items.

An additional meeting of the council for a public hearing can be valuable in providing the public an opportunity to learn the current status of a project and give the council, as the public policy makers, clear indications of public sentiment before making a decision. Public hearings are most effective when they focus on only one set of issues—for example, the budget, or zoning, but not both. Additional

work sessions at a subsequent meeting generally follow the public hearing before final council action on the matter at a regular hearing.

Executive Sessions. These meetings are closed to the public and press and may be held during a regular, special or emergency meeting. Perhaps the most important restriction is that ***no decision may be made in an executive session.*** Before entering an executive session, the presiding officer must identify the specific authority for holding an executive session and present that authority to the governing body and to the general public. An executive session is only authorized in the following circumstances: (you may want to make a copy of the listing that follows and maintain it in your council folder or meeting room for quick and easy reference during meetings)

- to consider an act of war, threatened attack from a foreign power, civil insurrection, riot, an official investigation or matter relating to crime prevention and law enforcement, and development of security personnel or devices.
- unless an open meeting is requested by the person who is the subject of the proceedings: to consider the appointment, employment, retirement, promotion, transfer, demotion, discipline, resignation, discharge, dismissal or compensation of a public officer or employee or prospective public officer or employee (but general personnel policy issues may not be discussed in an executive session, and any final action on a particular personnel matter must be taken in an open meeting); to hear a complaint, charge or grievance against a public officer or employee; to decide on discipline, suspension or expulsion of any student in any public school or public college or university; to issue, effect, deny, suspend or revoke a license, certificate or registration under the laws of the state or of any political subdivision; or to consider the physical or mental health of any person.
- to discuss any material the disclosure of which would constitute an unwarranted invasion of a specific individual's privacy (like welfare and social security service reports, insurance data, rehabilitation records, etc.).

All You Need To Know About Meetings

- to consider matter involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving commercial competition, which, if made public, might adversely affect the financial or other interest of the state or any political subdivision (but the information relied on during the executive session is exempt from public disclosure only until the commercial competition has been finalized and completed).
- to avoid the premature disclosure of an honorary degree, scholarship, prize or similar award.
- to discuss any matter which, by express provision of federal law or state statute or rule of court is rendered confidential, or which is not considered a public record within the meaning of the state FOIA (Freedom of Information Act).

An executive session requires a majority affirmative vote of the members present. If a public agency approves or considers a settlement of a lawsuit in executive session and the settlement permits disclosure, the terms of that settlement must be reported by the agency and entered into its minutes within a reasonable time after the settlement is concluded.

Please note, however, that an executive session can not be called simply because the attorney for the public agency is in attendance at a meeting. One of the specifically enumerated exceptions to the open meeting requirement must be present.

Minutes

Another requirement of the Open Governmental Proceedings Act is the preparation of written minutes. Minutes of all meetings, except executive sessions, must be available to the public within a reasonable time after the meeting and must include:

- the date, time and place of the meeting
- the name of each member of the governing body, present and absent

All You Need To Know About Meetings

- all motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the item and the item's disposition
- the results of all votes, including, if taken, any roll call vote of each member by name

Public bodies must keep written minutes of all meetings, except executive sessions within the regular meeting, and must make them available to the public. This record should be fully indexed and open to inspection. At each meeting of the governing body, the journal or minutes of the last meeting should be read, and corrected, if erroneous, and signed by the presiding officer for the time being. However, the reading of the minutes or the proceedings of the last meeting may be dispensed with by majority vote of the governing body if the members have already received and examined a copy of the minutes prior to the meeting.

Points To Remember

Whatever the case may be, there are a few points to remember about the roles of elected officials in conducting meetings. First and perhaps foremost, unless otherwise provided by charter provision, the governing body of every municipality shall be presided over at its meetings by the mayor, or, in his/her absence by the recorder. In the case that both the mayor and the recorder are absent, one of the members of the governing body selected by a majority of the members present shall preside.

In addition, a majority of the members of the governing body must be present to constitute a quorum for the transaction of business. No member of the governing body shall vote upon any ordinance, order, measure, resolution or proposition, in which he/she may be interested other than as a citizen of the municipality.

In addition, the mayor and recorder have votes as members of the governing body and in case of a tie, the presiding officer at the time has the ability to cast the tie-breaking vote, unless he/she has previously voted.

The Open Meetings Act in West Virginia

The State statute on Open Governmental Proceedings, sometimes called the Open Meetings or “Sunshine” Act, was enacted to ensure that the proceedings of all public bodies are conducted in an open and public manner, so that the people may be informed about the actions of their governments and retain control over them. The OGPA states that it is the duty of the secretary of state, the clerks of the county commissions, joint clerks of the county commissions and circuit courts, if any, and the city clerks or recorders of the municipalities of the state to provide a copy of the material compiled by the attorney general to all elected public officials within their respective jurisdictions. The clerks or recorders will make the material available to appointed public officials. Likewise, it is their respective duties to provide a copy or summary to any newly appointed or elected person ***within thirty days*** of the elected or appointed official taking the oath of office or an appointed person’s start of term.

You can obtain a copy by logging onto the WV Ethics Commission website at www.wvethicscommission.org or by calling their office at (304) 558-0664.

The Act applies to all State, county and municipal executive, legislative and administrative bodies, including their agencies, committees, councils, boards and commissions. It does not apply to the courts. The legislative intent of the Act clarifies that it is virtually impossible for every meeting and discussion of a governmental body to be open to the public. However, the Act does intend to find some balance. General discussions of members of a governing body without intent to conduct public business is not considered a meeting, even if a quorum is established. Also, members can meet for logistical and procedural purposes to schedule and regulate a meeting without it being considered a meeting.

Meetings of all public bodies, the convening of which requires a quorum, must be open to the public, unless a specific statutory exception applies. Each governing body may adopt reasonable rules for attendance of the public at its meetings.

- Each governing body must promulgate rules for giving notice of all regularly scheduled and special meetings.

- Notice must include date, time, place and agenda or purpose, for special meetings.
- For meetings by a state executive branch agency, notice must be filed with the Secretary of State's Office to appear in the state register at least five days prior to the meeting.
- For all other public agencies, notice must be reasonable, given the locality. Examples of notice are: Newspaper notices; posting at a public building; local radio announcements; or web site postings.

While the scope of the Act is expansive, it does provide specific exceptions for which a public body may hold an executive session, which is a meeting that is not open to the public. The exceptions are set forth in W. Va. Code § 6-9A (1999).

A governing body of a public body can hold an executive session (closed meeting) during a regular, special or emergency meeting, only after the presiding officer publicly identifies the specific exception under the Act for having a closed meeting, and a majority of the members present votes to hold an executive session. No decisions may be made during an executive session, and minutes are not mandatory.

Any citizen may bring a legal action in the circuit court of the county where the public body regularly meets to enforce the provisions of the Act. If the court finds an intentional violation of the Act, it may order the governing body to pay a maximum fine of \$500.00. If the public body is in violation on a second offense, a maximum fine of \$1,000.00 may be imposed.

However, in civil action complaints, if the court denies relief sought by a complainant and finds that the intent for the action was frivolous or for the intent of harassment of a governing body or member, the court may require the complainant to pay the governing body's necessary attorney fees and expenses.

West Virginia Code § 6-9A-3 (1990) requires that each governing body of the State executive branch file a notice of any meeting with

the Secretary of State for publication in the West Virginia Register. Each notice shall state the time, place and purpose of the meeting, and must be filed in a manner to allow each notice to appear in the State Register at least five (5) days prior to the date of the meeting, except in cases of an emergency. When an agency has not met the requirements of the Open Governmental Proceedings Act, asterisks appear beside the meeting notice for that agency in the Register and a footnote at the bottom of the page indicates that the notice does not comply with the Act.

Finally, the Ethics Commission will appoint a three person subcommittee to act on Open Governmental meetings. Any governing body or member may seek advise and information from the commission. Opinions shall be binding. Governing bodies or members who act in good faith reliance on the opinion have an absolute defense to any civil suit or criminal prosecution for any action taken relying on the opinion, unless the Ethics Commission was willfully misinformed. (You may log on to the Ethics Commission website, <http://www.wvethicscommission.org> to obtain an OGPA Checklist to assist in your OGPA compliance efforts.)

Rules of Procedure

Every local government has its own rules of procedure. These are simply guidelines to help you conduct public business in an orderly way. One of the first acts of a new council after an election may be adoption of the old rules of procedure; if you are a new member, you will be well served by becoming familiar with them.

Knowledge of the rules of procedure is an important tool as you fulfill your role as an elected policy maker. You generally will need to focus only on a few basic rules, and you can be much more effective in discussion and in making motions if you take the time to learn them.

Typically, some important rules are associated with the following:

Meeting Plans. The usual date, time, and place for regularly scheduled meetings is likely to be provided. Provisions for the convening of special meetings typically are also addressed.

Order of business. The rules will probably set the format to be followed and designate the person responsible for preparing the agenda.

General meeting procedures. This section will cover time limits on debate (if any) and will explain who may speak at what point. Public debate may be limited to specified parts of the agenda, for example.

New business. A process will be specified to assure that new items can be added to the agenda.

Changes to the printed agenda. A process will be specified for altering the agenda.

Exceptions to rules. Specific provisions will explain when and how the rules can be suspended.

Emergency items. A process will be specified for acting on urgent matters which arose after the agenda was published.

Parliamentary procedure. **Robert's Rules of Order** is a common source of rules of debate. These rules of debate govern motions, the order of issues to be discussed, and other discussion procedures. The book is available at most bookstores and libraries.

Parliamentarian. Normally, the presiding officer will decide matters of parliamentary procedure. However, most rules provide for a disinterested third party (often the attorney of the local government) to act as parliamentarian in the event that a ruling by the presiding officer is questioned.

All You Need To Know About Meetings

It may be several months before you feel comfortable with your governing body's rules of procedure. You may get frustrated and feel that you would like to get rid of the rules. Ask questions if you are unsure of the consequences of your vote and remember to review your governing body's written rules often.

The formality of parliamentary rules and the meeting process can seem stifling, and you may be tempted at times to view these constraints as the "problem" with your meetings. But they have been developed over time and on the basis of experience to help groups of people who may disagree on issues make decisions in a more democratic way.

Problems, more often than not, stem from lack of information - or from a lack of preparation on the part of council members or staff.

Meeting Procedures

If your governing body's meetings are too long or accomplish too little, there are some techniques that you may want to consider for improving the effectiveness of your meetings. The agenda provides a guide or road map so that the meeting proceeds in an orderly fashion. It notifies members of the council, other officials, the public and the media of the subjects that the council will address during the meeting. The agenda is included in the public notice of the meeting required by the *Open Meetings Act*.

Although there is no state mandated format for an agenda, its contents should be guided by the needs of the council. An agenda routinely includes the following items: (1) call to order; (2) action on minutes of previous meeting; (3) reports from committees or officials; (4) old or unfinished business; (5) ordinances for first reading; (6) ordinances for second reading; (7) ordinances for final reading; (8) resolutions; (9) new business; (10) miscellaneous business; (11) comments from the public; and (12) adjournment.

It may also helpful to include an approximate time for each agenda item. For example, committee reports may be limited to 10 minutes. This technique can help to facilitate the process of moving a meeting along as well as notifying the public of when, during a long meeting, an item is likely to come before the council. Although it can be a

helpful guide to keeping the meeting on track, it should not become a rigid restraint if more or less time is required for fair consideration of a particular topic.

Basic Parliamentary Procedure. Parliamentary Procedure is a set of rules for conduct at meetings. It allows a process for everyone to be heard and for decisions to be made in an orderly manner. Unless a city's/town's charter imposes requirements on the format for conducting meetings, the municipality is free to adopt any process or procedure that will work for it. Today, **Robert's Rules of Order Revised** is recognized as the authority on parliamentary procedure. It is the basic handbook of operation for most cities and county governments and can be adapted to fit the needs of each municipality.

Many procedural items may also be found in the city's charter. This document should also be referenced for direction on a regular basis.

Motions. A motion is a proposal that the assembly take a stand or action on an issue. Members of an assembly can:

- Present Motions (Make a Proposal)
- Second Motions (Express support for discussion of another member's motion)
- Debate Motions (Give opinions on the motion)
- Vote on Motions (Make a decision)

There are four general types of motions most often recognized.

1. Main Motions - introduce subjects to the assembly for its consideration. They cannot be made when another motion is before the assembly. They yield to privileged, subsidiary and incidental motions. (i.e. "I move that we . . .");
2. Subsidiary Motions - change or affect how the main motion is handled. They are voted on before the main motion. (i.e. "I move the question before the assembly be amended by adding the following...");
3. Privileged Motions - are most urgent. They concern special or important matters not related to pending business. (i.e. "I move we adjourn at ..."); and

4. **Incidental Motions** - are questions of procedure that arise out of other motions. They must be considered before the other motion. (i.e. "I move to suspend the rules for the purpose of ...").

More About Motions

A motion must relate to the business at hand, and be presented at the right time. It must not be obstructive, frivolous or against the charter.

Usually a second is needed to a motion. A second indicates that another member of the council supports the motion and would like to have the motion considered by the entire group. It prevents spending time on a question which only interests one person.

Some motions can be amended by striking out, inserting, or both at once. Amendments must relate to the subject as presented in the main motion. Some motions that are not subject to amendments: move to adjourn; move to temporarily suspend consideration of an issue; move to end debate; and move to amend an amendment.

Some motions can be debated again and revoted to give members a chance to change their minds. The move to reconsider must come from the winning side. Some motions that can be reconsidered: move to postpone discussion for a certain time; move to give closer study to some issue; move to amend a motion; move to introduce business.

Some motions are so important that the speaker may be interrupted to make them. The original speaker regains the floor after the interruption has been recognized and attended to. An example is to complain about the heat, noise, etc.

Parliamentary procedure guards the right to free and full debate on most motions. However some privileged and incidental motions are not debatable. Some motions that are not debatable: move to adjourn; move to call an intermission;

move to suppress, limit, or to extend limits of debate; move to temporarily suspend consideration or “table” an issue.

Most motions require only a majority vote, but motions concerning the rights of the assembly or its members need a 2/3 vote to be adopted. The municipal charter may specify the vote required for passage under certain circumstances.

A motion may be tabled to take care of a more urgent matter. There is always the option to “take from the table” any motion for reconsideration by the assembly.

A motion to postpone indefinitely is a parliamentary strategy - it allows members to dispose of a motion without making a decision for or against the issue. It is useful in case of a badly chosen main motion for which either a “yes” or “no” vote would have undesirable consequences.

Typically, there are three accepted methods for voting on a motion.

1. By voice
2. By show of hands
3. By roll call

Routine business can take place without the formality of motions and voting, the Chair assuming unanimous consent (i.e. approving the minutes, etc.). If a motion isn't likely to be opposed, the Chair can say “If there is no objection...”. Members of the council show their agreement with their silence. If a member says “I object”, the matter must be put to a vote.

As a rule of thumb, only the most formal councils and organizations strictly adhere to *Robert's Rules of Order*. A city/town may adapt them to fit their needs and meeting styles. The presiding officer or any elected officer should serve as the parliamentarian for the council with the principal duty of advising the presiding officer. The parliamentarian should familiarize him/herself with the rules for conducting meetings that the council has adopted and/or are found in the municipal charter.

How to Present a Motion

1. Obtain the floor:
*Wait until the last speaker is finished.
Address the chair to be recognized. Once recognized:*
2. Make your motion:
*State the motion in an affirmative manner.
Avoid personalities and stay on the subject.*
3. Wait for another member to second the motion.
*Or the Chair will call for a second.
If there is no second, the motion will fail to be considered.*
4. Chair states the motion by saying, “It is moved and seconded that we ...”. Debate and voting can now occur.
5. Expand on the motion.
*Mover is allowed to speak first.
Direct all comments to the Chair.
Keep to the time limit (if there is one) for speaking.
In the debate of a motion, each member has the right to speak twice on the same question as long as any member who has not spoken on that question desires the floor.*
6. The Chair will ask, “Are you ready for the question?” or “Call for the question”
If there is no more discussion, a vote is taken and the Chair announces the results.

The following table provides some examples of motions, how to make them and what to expect of the rules.

TO DO THIS:	YOU SAY THIS:	MAY YOU INTERRUPT THE SPEAKER?	DO YOU NEED A SECOND?	IS IT DEBATABLE?	CAN IT BE AMENDED?	WHAT VOTE IS NEEDED?	CAN IT BE RECONSIDERED?
ADJOURN MEETING	"I move that we adjourn"	NO	YES	NO	NO	MAJORITY	NO
CALL AN INTERMISSION	"I move that we recess for . . ."	NO	YES	NO	YES	MAJORITY	NO
COMPLAIN ABOUT HEAT, NOISE, ETC.	"I rise to a question of privilege"	YES	NO	NO	NO	NO VOTE	NO
TEMPORARILY SUSPEND CONSIDERATION OF AN ISSUE	"I move to table the motion"	NO	YES	NO	NO	MAJORITY	NO *1
END DEBATE AND AMENDMENTS	"I move the previous question"	NO	YES	NO	NO	2/3	YES *2
POSTPONE DISCUSSION FOR A CERTAIN TIME	"I move to postpone the discussion until . . ."	NO	YES	YES	YES	MAJORITY	YES
GIVE CLOSER STUDY	"I move to refer the matter to committee"	NO	YES	YES	YES	MAJORITY	YES *3
AMEND A MOTION	"I move to amend the motion by . . ."	NO	YES	YES *4	YES	MAJORITY	YES
INTRODUCE BUSINESS	"I move that . . ."	NO	YES	YES	YES	MAJORITY	YES
THE MOTIONS LISTED ABOVE ARE IN ORDER OF PRECEDENCE					
PROTEST BREACH OF RULES OR CONDUCT	"I rise to a point of order"	YES	NO	NO	NO	NO VOTE *5	NO
VOTE ON A RULING OF THE CHAIR	"I appeal from the chair's decision"	YES	YES	YES	NO	MAJORITY	YES
SUSPEND RULES TEMPORARILY	"I move to suspend the rules so that . . ."	NO	YES	NO	NO	2/3	NO
AVOID CONSIDERING AN IMPROPER MATTER	"I object to consideration of this motion"	YES	NO	NO	NO	2/3 *6	YES *7
VERIFY A VOICE VOTE BY HAVING MEMBERS STAND	"I call for a division" or "Division!"	YES	NO	NO	NO	NO VOTE	NO
REQUEST INFORMATION	"Point of information"	YES	NO	NO	NO	NO VOTE	NO
TAKE UP A MATTER PREVIOUSLY TABLED	"I move to take from the table. . ."	NO	YES	NO	NO	MAJORITY	NO
RECONSIDER A HASTY ACTION	"I move to reconsider the vote on . . ."	YES	YES	YES *8	NO	MAJORITY	NO

*Notes:

1. Affirmative votes may not be reconsidered.
2. Unless vote on question has begun.
3. Unless committee has already taken up the subject.
4. Unless the motion to be amended is not debatable.

5. Unless chair submits to assembly for decision.
6. 2/3 vote in negative to prevent consideration of main motion.
7. Only if main question has not been debated.
8. Unless the motion to be reconsidered is not debatable.

AN ORDINANCE BY THE CITY OF MORGANTOWN ADDING A NEW SECTION 941.08 TO ITS MUNICIPAL CODE, AS THE SAME APPLIES TO THE USE OF TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES ON OR IN PROPERTIES AND FACILITIES CONTROLLED BY OR UNDER THE JURISDICTION OF THE MORGANTOWN BOARD OF PARK AND RECREATION COMMISSIONERS.

WHEREAS, Section 149.10 of the Morgantown City Code states that the Morgantown Board of Park and Recreation Commissioners (hereinafter "BOPARC") is empowered to promulgate rules and regulations in its administration of BOPARC affairs;

WHEREAS, Section 149.10 further states, in part, that upon codification of such rules and regulations, by ordinance of Council which may provide for penalties thereof, the BOPARC Board shall enforce the same by appropriate proceedings in any proper tribunal of this State.

WHEREAS, Article 941 of the Morgantown City Code contains rules and regulations adopted by BOPARC and codified by Council ordinance, which pertain to properties and facilities controlled by or under the jurisdiction of the BOPARC Board;

WHEREAS, on September 26, 2013, the BOPARC Board voted to adopt rules and regulations prohibiting the use of tobacco products and electronic cigarettes on properties or in facilities controlled by BOPARC;

WHEREAS, the BOPARC Board has requested that Morgantown City Council amend Article 941 of the City Code to incorporate the new BOPARC Rule; and

NOW THEREFORE, the City of Morgantown hereby ordains that a new Section 941.08 is added to its Municipal Code which reads as follows (new matter underlined, deleted matter struck through.):

941.08 **Use of Tobacco Products and Electronic Cigarettes.**

It shall be unlawful for any person to use tobacco in any form, or to use an electronic cigarette, in or on any property controlled by or under jurisdiction of the Morgantown Board of Park and Recreation Commissioners (BOPARC). For purposes of this section, property controlled by or under the jurisdiction of the Morgantown Board of Park and Recreation Commissioners is: White Park, Marilla Park, Krepps Park, Dorsey's Knob Park, Wiles Hill Park, Hazel Ruby McQuain Park, King Street Park, Suncrest Lake Park, Paul Preserve Park, Aspen Street Park, Jack Roberts Park, Woodburn Park, Whitemore Park, MEA Fishing Pier, Stanley's Spot Dog Park, South U Park.

Whoever violates this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred dollars (\$100.00).

This Ordinance shall be effective upon date of adoption.

FIRST READING:

ADOPTED:

FILED:

RECORDED:

MAYOR

CITY CLERK

11 October 2013

Dear City of Morgantown Council Members:

The City of Morgantown Housing Advisory Committee strongly feels, after much discussion, that West Virginia University and any entity or person acting for or on behalf of WVU should obtain the proper building permits to construct, develop, or remodel real property within the corporate limits of the City of Morgantown.

Building permits and plan reviews allow the city, planning department, engineering department, fire department, code enforcement, and citizens to be informed about exactly what is happening in their community. All persons, businesses and entities constructing, developing or remodeling real property within city limits need to apply for building permits. This includes West Virginia University, and those doing business with West Virginia University. In the past, the WVU was held to the same rules and regulations that every other citizen within city limits are required to follow with one exception, they did not have to pay the building permit fees. If a private citizen wants to put up a decorative fence, they need to apply for a building permit, but if the WVU wants to tear down and redevelop five acres in a high density area of town, they are not required to follow the same rule? It has become common practice in recent years to turn a blind eye to what WVU does, and allow them to conduct business below the radar. It may be a state institution, but that does not give them the right or privilege to forego the building permit process.

What is good for the WVU is not always good for the general public. Some plans may be drawn up without taking into consideration the complete impact on the homes and businesses around it. Traffic patterns, loading and unloading of goods and materials, support structures, parking, service and emergency vehicle access, utility and drain line placement should all be looked at by a trained professional. Plans approved in Charleston may be made by someone looking at a map and data, instead of someone that understands that boarding up a building without a putting up a fence in a self-appointed party district of the city will create a problem. The employees of the city were hired for specific jobs. They have the training and expertise to handle the tasks that come before them. We ask that they be allowed to perform their job even if it involves WVU.

In conclusion the members of the City of Morgantown Housing Advisory Committee respectfully request that you take action on this issue, and reinstate the policy that all entities constructing, developing, or remodeling real property within city limits are required to file for and obtain building permits.

Sincerely,

Arthur G. Trusler III
Co-Chairman of the Housing Advisory Board for the City of Morgantown

At our last city council meeting we received a letter from the Morgantown Housing Advisory Committee expressed their concern that West Virginia University and any entity or persons acting for or on behalf of WVU should obtain proper building permits to construct develop or remodel real property within the corporate limits of the city of Morgantown.

At the end of the meeting in his report our city attorney, Mr. Fanok responded that by WV state law the city has no legal means to require WVU to apply for building permits. I believe and accept his counsel, but I also believe the city has a responsibility to its boards and commissions when they express their concerns, not to simply tell them what cannot be done but to actively seek solutions that might address those concerns.

At a time when the city is being asked by the public and in newspaper editorials to increase the parameters of Developments of Significant Impact and to review those developments, WVU's recent projects certainly fall in the range of even the current definition.

I request that we the city respond with a letter to WVU sharing the concerns of the Housing Advisory Committee and ask their cooperation to seek a remedy to these concerns and copy this letter to the Housing Advisory Committee and our legislators.

Kawecki Council Report Comments 11/19/13

MEMO TO: The Honorable Mayor and Members of City Council

FROM: The City Manager

SUBJECT: Housing Inspection Program

DATE: April 25, 2008

Over the past year, the City's Housing Inspection Program (includes both Building and Fire Codes) has received considerable attention. Reports have been prepared; presentations to City Council have been made; and a Town Meeting was conducted to solicit ideas and suggestions from concerned interests involved in the program. As a result of these activities, a number of initiatives have been identified that can be put in place to improve the effectiveness and efficiency of the program. What follows are specific courses of action that can be implemented:

1. Review of all pertinent City Ordinances: In the late 1970's, the City adopted its first housing inspection ordinance. Since that time, there have been amendments and modifications made in its implementation. During this time, the State has also adopted a State Building Code that in some instances conflicts with the City laws. In the immediate future, all relative City Codes can be reviewed and amended as necessary to be consistent with the State Code—eliminate any confusion or misunderstanding.

2. Appoint an Advisory Committee to Assist with the Housing Inspection Program: In the immediate future, the City Manager could appoint a Housing Inspection Advisory Committee to review current practices; recommend changes (ordinances and administrative

practices); and assist in community awareness of the program. The Committee could include Tenants (coordinate with WVU Student Government); WVU Housing Office; Property Owners Association; Neighborhood Associations; Sunnyside Up; and City Administration (Building and Fire Representatives).

3. Assure that the Housing Inspection Program is Adequately Staffed: The Program staff has recently been increased to four Housing Inspectors; two Code Compliance Officers; one Fire Marshall; two Fire Inspectors; and one, part time Secretary (this position may have to be made full time). Funding is also committed for a new Staff City Engineer for Building and Housing Assistance. This staffing level will be closely monitored to assure adequate support is in place to realize the maximum benefits of the program.

4. Coordinate all Housing Inspection Program Inspections: Housing and Fire Code inspections will be conducted jointly after reasonable notice to property owners and tenants (seven to ten days). In this way, conflicting Housing and Fire Code issues can be resolved on site and property owners and tenants can be more actively involved in assuring properties are in compliance with City Codes.

5. Employ Inspection Checklists: With the assistance of the Advisory Committee, Housing Inspection Program checklists can be updated, reviewed by City Council, be made available to all interested parties; and posted on the City's Web Site (models from other Cities can be studied). The lists can also be provided in advance to property owners and tenants when routine inspections are scheduled.

6. Public Information: Assisted by the Advisory Committee, a number of initiatives can be developed. They include: four workshops could be organized in the next year targeted for specific groups with pertinent information (topics: Exterior Code Maintenance; Building Codes; Fire Codes; Tenant Responsibilities; Seasonal Issues—groups: Property Owners (to include owner occupied); Tenants; WVU Officials; and Neighborhood Associations); pamphlets (Property Owners; Tenants' Rights and Responsibilities; General Information);

promote and participate in Housing Fairs; Channel 15 presentations, announcements, reminders; and City Web Site information (addresses of registered units; occupancy allowed; property owner information; and date of compliance—also general information about codes, tenants' rights and responsibilities, and how to access the program).

7. Improve Data Bases: In the near term, the City's and WVU's data bases need to be carefully reviewed to see if they can be interfaced to assure all student occupied rental units are registered, certified, and not over occupied. In the mid term, it may be possible to develop a common data base to be shared by both organizations through an intergovernmental agreement.

8. Housing Inspection Program Conference: The City could organize a Housing Inspection Program Conference. All interested parties would be invited to participate—Tenants; WVU Student Government; WVU Officials; Property Owners Association; Neighborhood Associations; Sunnyside Up; the Media; and City Administration. Special presentations could be made; questions and suggestions discussed; and a general, open forum presented. This meeting could be held on an annual basis—perhaps in a suitable room at the Morgantown River Front Event Center.

9. Technology: Significant benefits may be realized with new technologies. Laptop computers, mobile printers, and wireless, broad band communications could greatly improve productivity and timely reporting/compliance with City Codes. New computer programs are also possible (New World Systems Logos Program currently being researched).

10. Establish a Gold Star Rental Unit Designation: It may be possible to establish a rating program on a voluntary basis. Assisted by the Advisory Committee, such a program could have the following elements—Property Owners volunteer to participate in the program; unit would be inspected on an annual basis; unit must be in full compliance with all codes; satisfactory tenant evaluation included; special fee for cost of service; and the Gold Star rating awarded for successful participation (list of Gold Star units publicized through all City

and potentially WVU media).

11. Reorganize Inspection Schedules: Over a period of time in phased developments, change from an anniversary based schedule (number of years from date of registration) to periodic schedules for geographic areas of the City (all units in the same part of town inspected during the same time period).

12. Lot Line to Lot Line Inspection Standards: As noted in earlier reports, time for City inspections was eroded with the rapid growth of rental units, increased frequency of key inspections, and the need for follow-up inspections. The result of this was that key safety issues were prioritized over other inspection elements. Since then, additional staff has been put in place to support full compliance with all codes. This lot line to lot line standard will be maintained regardless of additional growth or frequency of inspections. As a matter of policy, the City will assure that additional productivity practices, tools, personnel, and resources are made available to protect this standard.

13. Compliance Principles: The City will fully employ all Municipal/State codes and lobby for additional ones as applicable to assure safe, attractive, affordable housing for all City residents. The principles of this strategy include: work with Property Owners and Tenants to prevent code violations in the first place; give reasonable time to correct violations (usually twenty days); cite violations not corrected; condemn buildings not brought into compliance after other attempted remedies have been exhausted; and demolish buildings not in compliance with City Codes as the law allows. With regard to vacant buildings, the City will assure that they are in compliance with interior, safety codes and all exterior maintenance codes or be demolished as the law allows.. Registration of vacant buildings as per City and State Codes will be required.

14. Review Housing Inspection Program Fees: With the assistance of the Advisory Committee, the City could review all inspection fees and recommend to City Council new rates consistent with supporting the services. Survey of such fees in other Cities could be

part of this study.

15. Home Rule: The City can continue to seek Home Rule Authority to augment existing City and State Codes authorizations.

I hope you find these courses of action helpful. If you have any questions about them or require additional information, please let me know. As well, the City will remain open to any additional ideas or suggestions to improve services that may be made.

Dan Boroff, City Manager

Zimbra

bsypolt@cityofmorgantown.org

Re: Housing Advisory Committee

From : Bethany Sypolt <bsypolt@cityofmorgantown.org>

Thu, Nov 21, 2013 11:36 AM

Subject : Re: Housing Advisory Committee**To :** Cheryl (Ann) Skinner <cskinner@cityofmorgantown.org>

Thank you! That does help!

Bethany D. Sypolt | Deputy City Clerk | City of Morgantown
389 Spruce Street, Room 10 | Morgantown, West Virginia 26505
direct 304.284.7439 | fax 304.284.7525 | www.morgantownwv.gov

From: "Cheryl (Ann) Skinner" <cskinner@cityofmorgantown.org>**To:** "Bethany Sypolt" <bsypolt@cityofmorgantown.org>**Sent:** Thursday, November 21, 2013 11:17:35 AM**Subject:** Housing Advisory Committee

Bethany,

I haven't talked to Mike yet but I will give you what I know concerning this group. It was formed by Dan Boroff approximately 5 yrs ago. The purpose was to bring together people from council, most depts of the city (ie. code, planning, engineering, pd, fd,) Sunnyside -up, WVU, neighborhood associations and landlords to discuss issues facing the citizens/tenants of Morgantown and things that could be done to help rectify these issues. We meet every 3rd Wed. at the public safety building. At the present, Brian Walker with WVU Off-Campus Housing and Arthur Tresler, Bel-Cross Properties are the co-chairs of the committee.

Hope this helps!

Ann

Email listing as of 11/21/2013:

Brian Walker
Don Corwin
Arthur Tresler
Chris Fletcher
Bill Kaweck
Glenn Kelly
Ann Skinner

Chief Preston
City Manager
J R Robinson
Mike Stone
Tom Arnold
Tammy Michael
Ruth Donaldson
Jim Craig
Carrie Showalter
David Mckain
Jason Quinn
Ken Tennant
Bill Burton
Linda Herbst

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