



Office of the City Clerk

The City of Morgantown

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**MORGANTOWN CITY COUNCIL
REGULAR MEETING
Wednesday, November 5, 2014
7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES: Regular Meeting – October 21, 2014**
5. **CORRESPONDENCE:**
6. **PUBLIC HEARINGS:**
 - A. **AN ORDINANCE AMENDING ARTICLE 1329.02 “DEFINITION OF TERMS” OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO “OVERLAY DISTRICT.”**
 - B. **AN ORDINANCE TO CREATE AN “AIRPORT OVERLAY DISTRICT” THAT CONSIDERS SAFETY ISSUES AROUND THE MORGANTOWN MUNICIPAL AIRPORT (MGW) TO INCLUDE: RESTRICTING HEIGHTS OF ESTABLISHED USES, CONSTRUCTED STRUCTURES AND OBJECT OF NATURAL GROWTH WITH SAID OVERLAY DISTRICT; AND AMENDING THE OFFICIAL ZONING MAP BY ADOPTING AN OFFICIAL SUPPLEMENTARY AIRPORT OVERLAY DISTRICT ZONING MAP.**
 - C. **AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN IT AND THE WV DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, FOR INSTALLATION OF A BICYCLE LANE ALONG NORTHBOUND U.S. 19(MONONGAHELA BOULEVARD), BETWEEN EIGHTH STREET AND EVANSDALE DRIVE**

7. UNFINISHED BUSINESS:

- A. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLE 1329.02 "DEFINITION OF TERMS" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO "OVERLAY DISTRICT." (First Reading October 7, 2014)**
- B. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE TO CREATE AN "AIRPORT OVERLAY DISTRICT" THAT CONSIDERS SAFETY ISSUES AROUND THE MORGANTOWN MUNICIPAL AIRPORT (MGW) TO INCLUDE: RESTRICTING HEIGHTS OF ESTABLISHED USES, CONSTRUCTED STRUCTURES AND OBJECT OF NATURAL GROWTH WITH SAID OVERLAY DISTRICT; AND AMENDING THE OFFICIAL ZONING MAP BY ADOPTING AN OFFICIAL SUPPLEMENTARY AIRPORT OVERLAY DISTRICT ZONING MAP. (FIRST READING OCTOBER 7, 2014)**
- C. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN IT AND THE WV DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, FOR INSTALLATION OF A BICYCLE LANE ALONG NORTHBOUND U.S. 19(MONONGAHELA BOULEVARD), BETWEEN EIGHTH STREET AND EVANSDALE DRIVE.(First Reading October 21, 2014)**

D. 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 FIRST READING of AN ORDINANCE REGARDING CONSIDERATION OF ADOPTION OF A BOND AUTHORIZING ORDINANCE WHICH WOULD AUTHORIZE AND DIRECT THE ISSUANCE BY THE CITY OF MORGANTOWN OF NOT MORE THAN \$6,500,000 OF TAX INCREMENT REVENUE AND REFUNDING BONDS FOR THE PURPOSES OF REFUNDING AND PAYING IN FULL THE**

CITY'S OUTSTANDING TAX INCREMENT REVENUE BONDS, SERIES 2010, PAYING COSTS OF THE DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF MORGANTOWN REDEVELOPMENT DISTRICT NO. 3 ANY PAYING COSTS OF ISSUANCE OF SUCH BONDS AND RELATED MATTERS.

11. CITY MANAGER'S REPORT:

NEW BUSINESS:

- 1. Group Health Plan Revision**
- 2. Request to delay enforcement of Heavy Truck Ordinance**

12. REPORT FROM CITY CLERK

13. REPORT FROM CITY ATTORNEY

14. REPORT FROM COUNCIL MEMBERS

15. ADJOURNMENT

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

REGULAR MEETING OCTOBER 21, 2014: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, October 21, 2014 at 7:00 p.m.

PRESENT: City Manager Jeff Mikorski, Assistant City Manager Glen Kelly, and City Attorney Steve Fanok, City Clerk Linda Tucker, Mayor Selin, Deputy Mayor Marti Shamberger and Council Members: Ron Bane, Bill Kawecki, Wes Nugent, Mike Fike, and Nancy Ganz.

The Meeting was called to order by Mayor Selin.

APPROVAL OF MINUTES: The minutes of the regular meeting of October 7, 2014, were approved as printed.

CORRESPONDENCE: Mayor Selin presented a Proclamation for Municipal Government Week and then Mayor Selin and Council members read letters from students from Eastwood Elementary School with the title being "If I were Mayor, I would".

Richard Lockhart from Castro & Harris gave a presentation on the M650 optical scanner for voting purposes.

Councilor Fike read a letter from Jan Derry, City Human Rights Commission, in regards to a Resolution in Support of the Employment and Housing Non-Discrimination Act in West Virginia Legislature. **(EXHIBIT A ATTACHED)**

PUBLIC HEARING - THE CREATION OF THE CITY OF MORGANTOWN REDEVELOPMENT DISTRICT NO. 4 AND APPROVAL OF A PROJECT PLAN FOR WILLEY-SPRUCE-BROCKWAY REDEVELOPMENT PROJECT NO.1 AND ISSUANCE OF TAX INCREMENT FINANCING OBLIGATIONS.

James Giuliani, 256 Prairie Avenue, thanked City administration in the effort of moving forward with the Willey-Spruce-Brockway Redevelopment Project. He noted that it will enrich that side of town and also bring us into the 21st century. Mr. Giuliani also noted that he is quite invested in the area of the Redevelopment Project and would like to give any input he can into this project.

Patricia Bunner, 637 Brockway Avenue, opposed the Willey-Spruce-Brockway Redevelopment Project No. 1. She expressed that she could possibly be relocated by future development and would not be able to move because of her medical condition. She noted that her house has been rehabbed specifically to meet the requirements of the Historic District for Greenmont Association, although the houses located north and south of her do not meet the historic requirements and never were required to do so. She also stated that there are homes in her area that are uninhabitable and should be demolished.

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

PUBLIC HEARING - AN ORDINANCE BY THE CITY OF MORGANTOWN ADDING A NEW ARTICLE 160 TO ITS ADMINISTRATIVE CODE CREATING A MORGANTOWN HOUSING ADVISORY COMMISSION.

James Giuliani, 256 Prairie Avenue, agreed that it's a good idea to have a board like this although noted that he's apprehensive that things will not move forward being that the board was created in 2008 and has not been productive as it should have. He suggested that we streamline Boards and Commissions.

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

PUBLIC HEARING - AN ORDINANCE AMENDING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN (LESSOR) AND MERKOL, INC., (LESSEE) REGARDING RESTAURANT SPACE LOCATED AT THE MORGANTOWN MUNICIPAL AIRPORT.

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

PUBLIC HEARING - AN ORDINANCE AMENDING SECTION 925.03 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE BY SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN.

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

PUBLIC HEARING - AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 923.06 AND 923.13 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, AS THE SAME APPLIES TO INDUSTRIAL WASTES DISCHARGED INTO THE SEWER SYSTEM AND ANCILLARY SERVICES REGARDING INDUSTRIAL WASTES.

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

UNFINISHED BUSINESS:

AN ORDINANCE BY THE CITY OF MORGANTOWN ADDING A NEW ARTICLE 160:

The below entitled Ordinance was presented for second reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN ADDING A NEW ARTICLE 160 TO ITS ADMINISTRATIVE CODE CREATING A MORGANTOWN HOUSING ADVISORY COMMISSION.

Motion by Kaweck, second by Shamberger to amend verbiage in the above entitled Ordinance, motion carried 7-0. Question was called, motion by Kaweck, second by Ganz to adopt the above entitled Ordinance. Motion carried 7-0.

AN ORDINANCE AMENDING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN (LESSOR) AND MERKOL, INC., (LESSEE): The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN (LESSOR) AND MERKOL, INC., (LESSEE) REGARDING RESTAURANT SPACE LOCATED AT THE MORGANTOWN MUNICIPAL AIRPORT.

Motion by Nugent, second by Bane, to adopt the above entitled Ordinance. Motion carried 7-0.

AN ORDINANCE AMENDING SECTION 925.03 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING SECTION 925.03 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE BY SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN.

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

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 923.06 AND 923.13 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE: The below entitled Ordinance was presented for second reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 923.06 AND 923.13 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, AS THE SAME APPLIES TO INDUSTRIAL WASTES DISCHARGED INTO THE SEWER SYSTEM AND ANCILLARY SERVICES REGARDING INDUSTRIAL WASTES.

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

BOARDS AND COMMISSIONS: City Clerk, Linda Tucker, announced that there will be a vacancy for the BZA and noted that she did receive two applications and both did not comply with State Code. Council Members further discussed on how the reappointment process should proceed in the future. Tim Ball from MUB recommended in a memorandum that he would like Council to reappoint Ron Bane to serve on the board for MUB. After discussion, Ron Bane was reappointed to MUB Board with a 6-1 vote. Bane Abstained from voting since he is a member of the MUB Board.

PUBLIC PORTION:

James Giuliani, 256 Prairie Avenue, spoke about the outcomes of the last BZA meeting. He noted that there were four administrative appeals and that the newspaper didn't do a very good job in clarifying the appeals. Mr. Giuliani went on to try and clarify the four administrative appeals and touched on topics such as developments of significant impact, and developments of major significant impact. Mr. Giuliani stated that there are zoning issues and that the City does not follow its own rules. He also mentioned that we need more meetings and work sessions to resolve the zoning issues.

Patricia Bunner, 637 Brockway Avenue, directed her comments to the Chief of Police. She spoke about the power of words and how to use words wisely. She also noted that everyone needs to calm down and communicate softly and without confrontation.

Evan Hanson, 295 High Street, representing Safe Streets Morgantown, thanked Council again for passing the "Heavy Truck Ordinance" and wanted to make sure that Council is requesting and receiving periodic updates from the legal counsel on the progress that's being made so the Ordinance will in fact take affect December 1, 2014. He expressed that he just wants to ensure that the City is being proactive in implementing the Ordinance and defending it if necessary. Mr. Hanson posed a few questions to Council that Safe Streets of Morgantown wanted them to keep in mind. He also stated that many residents and downtown business owners are looking forward to the Ordinance being implemented in the downtown area.

Ron Justice, WVU Representative, former Mayor of Morgantown, stated that WVU is working on changing the culture in having a zero tolerance to this kind of behavior. Justice noted that the students that were cited should be expelled and the City and WVU should work together with follow-up meetings with dialogue for solutions for the future. He then introduced Corey Farris, Dean of WVU Student Affairs for further comments. Mr. Farris noted before pointing to alcohol as “the 800 pound gorilla in the room.” He would be supportive of Legislatures imposing restrictions on bars on hours and age requirements for patrons. Farris explained that he is being charged by WVU President Gordon Gee to identify what actions should be taken. Farris promised Council that those that think they are coming to Morgantown for disruption, they better get the message that it is not tolerated and no one wants it anymore.

Mayor Selin requested the rules be suspended for discussion and questions with WVU Representatives Ron Bane and Corey Farris concerning the Baylor Event.

George Capek, WVU Student Government Representative, mentioned an event on October 25th called “National Make a Difference Day” inviting the community to assist SGA in a Downtown clean-up. He noted that he is humiliated at what happened this past weekend and suggested getting students more engaged in the community.

SPECIAL COMMITTEE REPORTS: No Reports

NEW BUSINESS:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A MEMORANDUM: The below entitled Ordinance was presented for first reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN IT AND THE WV DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, FOR INSTALLATION OF A BICYCLE LANE ALONG NORTHBOUND U.S. 19(MONONGAHELA BOULEVARD), BETWEEN EIGHTH STREET AND EVANSDALE DRIVE.

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

RESOLUTION SUBMITTING A TIF APPLICATION TO CREATE AND ESTABLISH A REDEVELOPMENT DISTRICT: The above entitled Resolution was presented for approval.

RESOLUTION SUBMITTING A TIF APPLICATION TO CREATE AND ESTABLISH A REDEVELOPMENT DISTRICT TO BE KNOWN AND DESIGNATED AS THE “CITY OF MORGANTOWN REDEVELOPMENT DISTRICT NO. 4” (THE TIF DISTRICT”)

After City Manager explanation, motion by Bane, second by Kaweck, to adopt the above entitled Resolution. Motion carried 7-0.

CITY MANAGER’S REPORT: Start here

NEW BUSINESS:

The Mayor suspended the rules with consensus of Council to hear Chief Preston give a briefing on this past weekend's incidents after the Baylor football game. Discussion followed the briefing on more effective ways to protect citizens and manage any future critical situations that may occur.

1. FY Annual Reports of Police & Fire Pension Funds

Mr. Mikorski stated that the 2014 annual reports for Police and Fire Pension Funds need approval by Council. He noted that the reports are necessary to allow the State to release the insurance tax allocation that gets placed into the Pension Funds. Mr. Mikorski stated that he reviewed the reports and recommend City Council to approve the pension reports.

Motion by Bane, second by Kawecki, to approve the Police and Fire Pension Fund Reports. Motion carried 7-0.

2. Salt purchase for 2014

Mr. Mikorski stated that last winter the City of Morgantown expended approximately 2,800 tons of salt on City streets, nearly depleting the supply of salt on-hand. He noted that salt bids were advertised earlier in the year, and the City of Morgantown received responses from three salt companies, two of which provided a "No Bid" response. He mentioned that the lone bidder prices was Cargill Salt who bid on our "Option 2" Magnesium chloride treated salt at a rate of \$99.97/ton, an increase of \$26/ton from last year. He stated that we are purchasing 1,500 tons of treated salt for a total of \$149,955. He recommended City Council approve the purchase of 1,500 tons of treated salt from Gargill Salt Company for a total of \$149,955.

After discussion from Council, motion by Fike, second by Ganz to approve Salt purchase. Motion carried 7-0.

REPORT FROM CITY CLERK: No Report

REPORT FROM CITY ATTORNEY: No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane stated that we should take a look at a possible impact fee to be added to WVU student's tuition to help keep up with the growth in Morgantown.

Councilor Kawecki:

Councilor Kawecki mentioned that the Sunny Side Up Committee discussed on how they can improve the Third Street intersection. He also expressed that he is very disheartened to the fact that we try to improve the areas where the students mostly reside and yet they destroy and disrespect property in and around the City. Councilor Kawecki stated that he supports the City Manager on how the City handled the recent unfortunate

events after the Baylor Game. He mentioned that he went to a “Bad Building” meeting in Huntington and expressed that it was one of the best conferences he has ever been to. He noted that Rivertown took a group up to Pittsburgh to look at some conceptual ideas to bring back to our City for Riverfront development.

Councilor Nugent:

Councilor Nugent stated that in reference to the aftermath of the Baylor game that he was disgusted, and depressed. He expressed that it takes a community to make an adult. Councilor Nugent thanked everyone on the front lines in such a challenging situation. He stated that this young society we have in Morgantown is alcohol fueled and violence driven and that’s something we are all going to have to work together on. Councilor Nugent stated that we need to take our Community back and work together and in doing so and that we need to address it beforehand next time there is an event of such magnitude. He also stated that from now on a zero tolerance policy is now in effect in regards to arson and violence.

Councilor Shamberger:

Councilor Shamberger stated that we need to be really careful on what type of financial plan we come up with. She also noted that the negative merchandise businesses are selling about our City needs to stop and hopes we can work on that. Councilor Shamberger announced that on November 7th and every first Friday of the month that Woodburn School will be hosting a Spaghetti dinner for \$5.00 and concert to help raise money for the school. She also mentioned that on the section of Willey in front of the Dairy Mart there is a pedestrian crosswalk and a lot of people walk across it but is hard to identify and suggested that we should consider putting flashing lights there to warn vehicles coming down from the hill that there are pedestrians there.

Councilor Fike:

Councilor Fike stated that he appreciates his colleges and their comments and also shares their concerns and fears; however from the depths of despair and disappointments Councilor Fike is optimistic that we will see good things happen if we work together. He noted that he is encouraged by social media due to the fact that 360,000 people responded to a respectable mountaineer tweet. Councilor Fike noted that he would like to see the Habitat for Humanity "Building Permit Fees" on the Agenda for the next Committee of the Whole Meeting.

Councilor Ganz:

Councilor Ganz announced that the Suncrest Neighborhood Association Meeting will be held on Thursday, October 23rd, at the Calvary Baptist Church at 6:30 p.m. She encouraged student government to go to the vendors that are selling the t-shirts that encourage bad behavior and tell them not to sell them but to sell positive shirts instead. Councilor Ganz mentioned that she would like an update from the City departments on progress made in regards to the Baylor game and how they are going to handle future games and financials at the next Committee of the Whole Meeting.

Mayor Selin:

Mayor Selin stated that she would like to put on the Agenda of the next Committee of the Whole Meeting "How to make public information more accessible". She noted that student government requested to work on issues in regards to after game action. Mayor Selin mentioned that she also went with the Rivertown group to Pittsburgh and gained positive feedback to bring back to Morgantown. She expressed that she is very proud of all the public entities developing and maintaining their area for public use. Mayor Selin announced the following events: Vintage Theater, Rustic Mechanicals, Halloween inspired Shakespeare Show on October 24th; Farmers Market, October 25th; Motown

Throw-down, October 25th; Botanic Garden Tree Walk, October 26th; Trick-or-Treat Downtown, October 28th; Smithsonian Institute Hometown Teams Exhibit, October 5th - November 15th; The MAC has new instructors for guitar and theater class for October and November.

EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9A-4(b) (9) of the West Virginia code to consider matters involving attorney/client privileges. Motion by Bane, second by Nugent to go into Executive Session for attorney/client privileges. Motion carried by unanimous consent. Present in Executive Session: Council, City Attorney, City Manager and Assistant City Manager. Time: 10:30pm.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 10:50 p.m.

City Clerk

Mayor

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



Office of the City Manager

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City Manager
Jeff Mikorski, ICMA-CM
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City Manager's Report for City Council Meeting on November 5, 2014

New Business

1. Group Health Plan Revision

As seen in the attachment, the City is requesting a change to the Group Health Plan, beginning January 1, 2015, that would extend to period an employee is covered by City's health insurance after a disability from six months to twelve months. This change will not increase the group plan's cost to the City or employees, but will allow additional time an employee can be off on medical leave without having to be removed from the insurance.

There will be no increase in rates for our Group Health Plan in the coming year. Slight increases in the rates were reduced by increasing the plan deductible from \$75,000 to \$90,000 per employee. This increase does not impact the coverage or deductible each employee pays.

2. Request to delay enforcement of Heavy Truck Ordinance

The City of Morgantown, and all Council members, received a letter from Paul Cranston, on behalf of his clients, requesting that Morgantown refrain from expending public funds and resources on the implementation and enforcement of Morgantown's Heavy Truck Ordinance until Civil Action No. 14-C-1877 is resolved on the merits. A suit was filed challenging the validity of the "Heavy Truck Ordinance" enacted by the City of Morgantown on September 2, 2014.

The fact that Mr. Cranston has requested an expedited hearing on the suit and that the Department of Highways has not approved our requested sign plan for implementation, I would recommend Council to delay the implementation of the Ordinance for a reasonable amount of time to allow the court to act on the suit.

Jeff Mikorski ICMA-CM,
Morgantown City Manager

PLAN DOCUMENT AMENDMENT

TO BE ATTACHED TO AND FORM A PART OF THE PLAN DOCUMENT OF:

CITY OF MORGANTOWN
GROUP HEALTH PLAN

E.I.N. 55-6000215

PLAN #501

THIS PLAN DOCUMENT IS AMENDED SO THAT:

THE FOLLOWING CHANGES WILL BECOME EFFECTIVE JANUARY 1, 2015

This Amendment is intended to revise the City of Morgantown Group Health Plan ("Plan"), Section VII Termination of Coverage, Subsection Employee, Item 9 from six months to 12 months as follows. Relevant sections identified below are revised and the Plan is hereby amended effective January 1, 2015.

**SECTION VII
TERMINATION OF COVERAGE**

EMPLOYEE

Coverage shall terminate at midnight on the earliest of the following dates:

9. Twelve months from the date the Participating Employee is totally disabled or, if earlier, the date the Participating Employee is no longer totally disabled.

All other terms and conditions of the Plan Document which are not affected by this Endorsement are unchanged.

EFFECTIVE DATE: JANUARY 1, 2015

WITNESS

SIGNATURE

Jeff Mikorski, City Manager
NAME / TITLE

DATE

DATE

BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

BOARD OF ZONING APPEALS:

Bernie Bossio and George Papandreas terms expire on 12/31/14. The applicants we received did not comply with State Code. Bernie Bossio does not wish to continue to serve and I am requesting Council's help in finding applicants. Per Council direction at the 10-21-14 Regular Meeting am advertising again for applicants until 11-24-14. George wants to continue, since there are no applicants Council does not have to interview; just reappoint. Attached for Council and candidates applying for BZA vacancy is more information about the Board of Zoning Appeals Board and their duties. Resident appointed by CC - 5 members.

BUILDING COMMISSION:

Terry Jones term expired on 10/4/2014. Will check to see if he wishes to continue to serve. Terry wishes to continue to serve. Council can vote on appt. at next Regular Meeting.

FIRE CIVIL SERVICE:

Dan Hursh e-mailed that he must resign due to personal reasons. We are looking for a new Commissioner administratively. This is a City Manager appointment.

HISTORIC LANDMARKS COMMISSION:

Rodney Pyles term expires on 11/15/14 will check with Chair to see if he wishes to continue to serve. Chair reported back to Clerk that Mr. Pyles wishes to continue to serve. Council can vote on that appt. at the next Regular Meeting. Appt. by Council, Resident.

PLANNING COMMISSION:

Sam Loretta, First Ward Member and Tim Stranko, Second Ward Member terms expire on 12/31/2014. All wish to continue to serve. There were no applicants; Council will reappoint. Nominated by CM on recommendation by CC.

URBAN LANDSCAPE:

Nicole Panaccione, Fourth Ward and Jerry Steketee, Seventh Ward are resigning terms expired on 7/1/2014. Attached are two applications for Council review for 7th ward: Joe Morris and Julie Cryser. (See attached Info.) Nominated by CM, one from each WD, 13 members with staggered terms and 1 Councilor.

TRAFFIC COMMISSION:

Bob Jones, First Ward Member resigned and we need to find a replacement. Am asking Councilor Bane to check in his ward before; advertising for candidates. Residents appointed by Council, must represent specific categories

TRANSIT AUTHORITY:

Denny Poluga's, City Appt. term expires 12/6/14. Will check with Dave Bruffy to see if he wishes to continue to serve. Dave Bruffy e-mailed the Denny wishes to continue to serve. Council can vote on that appt. at the next Regular Meeting.

TREE BOARD:

Brent Bailey, Dave Barnett, Dan Brown Jonathan Cumming, Greg Dahle, Katherine Payne, Jon Weems and Chair Kara Hurst terms expire on 11/15/14. All wish to continue to serve. Council can vote on those appts at the next Regular Meeting. Residents. Expertise tree management.

WOODBURN REDEVELOPMENT COMMISSION:

Kerry Lilly and Christina Byrne-Hoffman term expires 12/31/14. Will check with Chris Haddox to see if they wish to continue to serve. Chris responded that Kerry and Christina wish to continue to serve. Council can vote on those appts at the next Regular Meeting.

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

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

**Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, 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.*

10/28/14

§8A-8-3. Municipal board of zoning appeals.

(a) A municipal board of zoning appeals in a Class I, II or III city shall have five members to be appointed by the governing body of the municipality. A municipal board of zoning appeals in a Class IV town or village shall have not less than three nor more than five members to be appointed by the governing body of the municipality.

(b) The members of a municipal board of zoning appeals must be:

(1) Residents of the municipality for at least three years preceding his or her appointment;

(2) Cannot be a member of the municipal planning commission; and

(3) Cannot hold any other elective or appointive office in the municipal government.

(c) Upon the creation of a board of zoning appeals, the members shall be appointed for the following terms: One for a term of one year; two for a term of two years; and two for a term of three years. The terms shall expire on the first day of January of the first, second and third year, respectively, following their appointment. Thereafter, members shall serve three-year terms. If a vacancy occurs, the governing body of the municipality shall appoint a member for the unexpired term.

(d) The governing body of the municipality may appoint up to three additional members to serve as alternate members of the municipal board of zoning appeals. The alternate members must meet the same eligibility requirements as set out in subsection (b) of this section. The term for an alternate member is three years. The governing body of the municipality may appoint alternate members on a staggered term schedule.

(e) An alternate member shall serve on the board when one of the regular members is unable to serve. The alternate 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 municipal board of zoning appeals shall establish rules and procedures for designating an alternate member. An alternate member shall have the same powers and duties of a regular board member.

(g) The members and alternate members of a county board of zoning appeals shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

Request Details

Request #29597 : Volunteer for City Boards and Commissions

<p>What is your work telephone number?</p> <p>Are you a Morgantown resident? Yes</p> <p>If Yes, how many years have you lived in the City of Morgantown? 1</p> <p>In which City Ward do you live? Seventh</p> <p>Who is your employer? (If retired, answer "retired") Pearson</p> <p>What type of business are, or were, you employed in? Reporter for financial news service</p> <p>What is your job description?</p> <p>Do you have any professional certifications or licenses? No</p> <p>Do you have any pertinent special interests? I am a candidate in the Monongalia County extension service's master gardener program</p> <p>On which commission(s) are you interested in serving? Urban Landscape Commission</p>	<p>Active ▼</p> <p>Priority: Normal ▼</p> <p>Received: 9/29/2014 at 3:15 PM</p> <p>Source of Request: Anon Online by Anonymous</p> <p>Assigned To: Devon Milam Reassign</p> <p>Associated To: Anonymous Reassociate</p> <p>Est. Completion: 10/6/2014 <input type="checkbox"/></p> <p>Actual Completion: <input type="checkbox"/></p> <p>Update Complete Cancel Print</p>
	<p>Citizen Information</p> <p>Joe Morris 532 Meridan St. 532 Meridan St Morgantown, WV 26505 3045424242 morris19@gmail.com</p>
	<p>Preferred Response Method: E-Mail</p>
<p>Staff Activities</p> <p>Add New Sort</p>	<p>Communication</p> <p>Select Communication Template</p> <p>Standard ▼</p> <p>Print Letter</p> <p>View Email Text</p>
<p>Public Activities</p> <p>Add New Sort</p> <p>Request was successfully submitted. by EXEC EXEC on 9/29/2014 at 3:16 PM</p>	
<p>Attachments</p> <p>Add New</p>	

Julie Cryser

6 Flagel St. • Morgantown, W.Va. 26505 • Phone: 804-599-4077 or 804-276-1929 • E-Mail: julie.cryser@mail.wvu.edu

Experience

WVU Davis College of Agriculture, Natural Resources, and Design, Director of Development

Jan. 3, 2012 to present

- Manage the development operations for a more than 2,000 student body college, the third largest college within West Virginia University, a more than 25,000 student university.
- Developed an aggressive comprehensive campaign goal of \$16.75 million to be completed by Dec. 31, 2015.
- Made more than \$500,000 in major gifts asks since January 2012; earned more than \$250,000 in gifts since January 2012; and have more than \$500,000 in additional proposals developed since January 2012.
- Developed and launched the college's first annual fund campaign since 2009.
- Write comprehensive major gift proposals and grants and work extensively with faculty and directors to cultivate donors.
- Create development goals and objectives and prepare major gift strategies.
- Increased the college's donor portfolio from 30 to 50 since January 2012.
- Develop stewardship and cultivation programs, working closely with five division directors, a communication team, and academic affairs.
- Prepare and oversee development office budget.
- Develop an aggressive travel schedule, with an average of 12 travel days per month and having had more than 40 face-to-face contacts since January 2012 and more than 75 milestone contacts.
- Work closely with program directors, faculty and staff to understand development needs and create strategies.
- Oversee expenditures of private funds. Proficient in the use of Blackbaud Raiser's Edge and Financial Edge.
- Manage all donor communications and work with a three-member communications team to coordinate all development communications.
- Create all donor reports and direct communications.
- Oversee all development operations.

WVU Extension Service, Director of Development

May 15, 2006 to Jan. 2, 2012

Development

- Coordinated major gifts program and annual fund program for WVU Extension Service, with offices in all 55 WV counties and more than 450 employees, and the West Virginia 4-H program, with more than 65,000 program participants statewide.
- Secured major gifts of \$25,000 or more from portfolio of nearly 140 constituents. Increased giving from \$250,000 during FY 2005-06 to more than \$1.5 million annually, with attainment topping \$2 million in FY 09 and total production topping \$6 million in five years.
- Prepared major gift strategies. Created development goals and objectives.
- Served as liaison and consultant for more than 25 county 4-H foundations. Developed strong philanthropic relationships with individuals, corporations and foundations.
- Developed stewardship programs. Prepared and oversaw development office budget. Developed an aggressive travel schedule, with an average of 12 travel days per month and more than 175 personal milestone contacts per year.
- Worked closely with program leaders, faculty and staff to understand development needs and create strategies. Directed and evaluated development staff and set annual goals. Met and exceeded performance baselines and goals.
- Developed annual thank-a-thon. Oversaw expenditures of private funds. Proficient in the use of Blackbaud Raiser's Edge and Financial Edge. Conducted development training programs for county staff.

- Increased annual fund giving every year for the last four years of employment, including three special annual fund campaigns that topped \$25,000 each and one that hit \$70,000. Garnered the first presidential scholarship for the WV 4-H program. Instituted the first WVU Extension Service Development Council. Secured more than \$70,000 in WV Neighborhood Investment Program tax credits that resulted in more than \$200,000 in annual fund and major gifts.

Marketing/Communications

- Wrote, edited and coordinated the WVU Extension Service Development Quarterly, a newsletter devoted to stewarding and informing more than 7,000 donors.
- Served as liaison between faculty and donors and prepared faculty to speak directly with donors.
- Developed a WVU Extension Service e-news system to send information on grants and development opportunities to county and state staff/faculty.
- Edited, wrote and/or coordinated press releases on major gifts.
- Oversaw development and/or wrote and developed all buck slips, annual fund pieces and informational pieces.
- Oversaw and/or developed all stewardship programs.
- Wrote and produced WVU Extension Service's first development video.
- Worked with multiple constituency groups, including West Virginia Master Gardeners, Community Educational Outreach Service, faculty and staff to communicate their needs.
- Oversaw revamp of development web site, including instituting WVU's first development Facebook site.
- Developed easy to understand messages, including press releases, donor proposals and memorandums of understanding based on complex research and issues.
- Effectively communicated faculty and staff funding opportunities to donors.

WVU P.I. Reed School of Journalism, Coordinator of Public Relations and Alumni/Development and Lecturer

August 2001 to May 2006

Development

- Coordinated successful \$1 million Capital Campaign for the WVU P.I. Reed School of Journalism (ended in December 2003).
- Doubled annual fund donations from 2000-04 and developed annual giving program.
- Directed faculty and staff capital campaign (2002) that garnered 84% participation, second highest participation of any unit at WVU.
- Wrote and received multiple grants for course development and special programs.
- Coordinated WVU P.I. Reed School of Journalism's first planned giving program.
- Developed new giving levels program and recognition system. Served as SOJ liaison for alumni relations and development relations.
- Wrote "Donor Marketing Strategies for Nonprofit Organizations," a master's project that resulted in a one-day development training program for nonprofit organizations.
- Oversaw expenditures of private funds. Developed annual fund thank-a-thon.

Marketing/Communications

- Developed and coordinated marketing program for undergraduate recruitment that assisted with a 55 % enrollment increase from fall 2000 fall 2005.
- Developed new advising/recruitment bulletin.
- Revamped web site to make it user friendly for students and parents.
- Oversaw development of the school's first recruitment DVD, video and brochures.

- Coordinated all public relations, including press releases, press events and story pitches, which resulted in placements in USA TODAY, American Journalism Review and other regional and national publications.
- Oversaw redesign of alumni magazine, as well as developed story content and wrote, reported and edited the magazine.
- Coordinated all special events and alumni relations programs.
- Developed minority recruitment plan and brochures.
- Developed and coordinated yearly marketing calendar.
- Coordinated innovative online Journalism 101 course for high school recruitment and developed high school recruitment and marketing program.
- Developed total integrated marketing system. Managed marketing and development budget.
- Wrote, edited and coordinated development of all other marketing materials. Wrote, developed and coordinated Web site content.

C&C Group, LLC, Morgantown, W. Va.
Development Director, Partner

January 2005 to December 2006

- Partner in integrated marketing communications firm that specialized in nonprofit consulting and marketing. Developed marketing campaign and collateral materials and helped launch The Community Foundation of North Central West Virginia Inc. Consulted with nonprofits on marketing and fundraising, including annual fund and major gifts. Developed collateral materials and marketing strategies for small for-profit firms, including healthcare companies. Developed marketing materials from complex medical and policy information.

Pittsburgh Tribune-Review, Pittsburgh, Pa.,
Interim Day City Editor/Assistant City Editor

November 1999 to August 2001

- Trained reporters, from developing story ideas to time management. Developed training budget. Developed newsroom seminars and training programs. Assigned and edited daily copy. Coached reporters. Managed day-to-day operations of 20-plus staff. Served as assistant city editor in charge of health, education, transportation and general assignment reporters. Edited a nationally (National Hispanic Writers Association award winner) and regionally recognized series of stories on the struggles of a 5-year-old brain cancer patient and her family.

Exponent-Telegram Clarksburg, W.Va.,
Assistant Managing Editor/City Editor/Newsroom Trainer

August 1997 to October 1999

- Edited and coached reporters. Designed training programs and conducted one-on-one sessions with reporters. Coordinated newsroom seminars with outside trainers. Developed newsroom writing goals, budgets. Assigned daily stories and worked with reporters on developing enterprise packages, as well as daily management of 10-plus staff.

Charleston Gazette, Charleston, W.Va., Business Editor

August 1995 to August 1997

- Coordinated, wrote and managed business news for West Virginia's largest daily circulation newspaper. Developed the newspaper's first Sunday business section. Traveled to Taiwan and Japan with U.S. Senator Jay Rockefeller and state representatives to cover West Virginia business development in those countries and traveled extensively throughout West Virginia.

The Register-Herald, Beckley, W. Va., Business Editor

April 1994 to August 1995

- Named newspaper's first business editor. Coordinated business coverage and developed weekly, Sunday and Monday business pages. Covered water and environmental issues, including story on first federal Super Fund money ever spent to clean up private sewer system.

Parkersburg Sentinel, Parkersburg, W. Va., Education Reporter

May 1992 to April 1994

- Coordinated and wrote news about third-largest school system in the state. Provided award-winning coverage of more than 35 schools and two other school districts.

Education

A.A., Journalism, Potomac State College, Keyser, W.Va.

B.A., M.S. Journalism, WVU P.I. Reed School of Journalism:

Graduated Summa Cum Laude, Outstanding Journalism Student and Top News-Editorial Student.

Leadership

Member of a six-member committee that developed the WVU Foundation's Women in Philanthropy strategic plan.

Chaired WVU Retention Committee, with the goal of increasing out-of-state and minority retention, and helped develop retention plan.

Co-chaired SOJ Adjunct Committee, which helped coordinate efforts of more than 35 adjuncts in the school.

Chaired the SOJ Accreditation Committee and co-authored the successful self-study that resulted in the school's national re-accreditation in spring 2004.

Taught public relations seminars at the National Energy Technology Laboratory in Morgantown, W.Va., and the US Small Business Administration in Clarksburg, W.Va.

Taught nonprofit development seminars for the After School for All Coalition and the United Way.

Taught in the WVU School of Journalism's news-editorial sequence and developed the school's senior capstone course.

Accomplishments

November 2008: Named Unit Award of Excellence winner during the WVU Extension Service Annual Conference and Awards Program.

August 2000/Pittsburgh Tribune Review: Coordinated training program with Karen Brown Dunlap, head of the Poynter Institute for Media Studies, a prestigious journalism think tank and training facility in St. Petersburg, Fla.

July 2000/ The Poynter Institute for Media Studies: Coached writers on meeting coverage and writing experiential narratives for two days during Poynter's summer fellowship program.

Spring 1999, 2000 and 2001/Freedom Forum Newsroom Training Seminar: One of 30 editors/newsroom trainers selected from national pool to attend training sessions held in San Francisco.

Summer 1999/Poynter Institute for Media Studies, St. Petersburg, Fla.: One of 24 educators and newsroom managers selected nationally to attend a Competence in the Newsroom Seminar.

Summer 1999,1998/Clarksburg Exponent-Telegram: Newspaper named West Virginia Press Association's Newspaper of Excellence for 15,000 to 25,000 circulation. Part of a three-member management team brought in to revamp the paper.

Summer 1997/ American Press Institute Seminar for Business Editors, Reston, Va. One of only 20 business editors selected from the U.S. to attend.

Summer 1995/ Knight Fellowship for Business Writers, University of Maryland, College Park, Md.

Summer 1993/Poynter Institute for Media Studies, St. Petersburg, Fla.: One of 16 people nationally accepted to six-week fellowship for reporters and young writers.

1992/West Virginia University: Selected as Outstanding News-Editorial and Outstanding Journalism Student.

References

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AN ORDINANCE AMENDING ARTICLE 1329.02 "DEFINITION OF TERMS" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO "OVERLAY DISTRICT."

The Morgantown City Council hereby ordains that Article 1329.02 "Definition of Terms" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

1329.02 DEFINITION OF TERMS.

For the purpose of this ordinance, the following words and phrases shall have the meaning respectively prescribed to them by this section. If not defined herein, or within other sections of this ordinance, terms used in this ordinance shall have the meanings provided in any standard dictionary or American Planning Association publication as determined by the Planning Director.

~~OVERLAY DISTRICT – A zoning district that extends on top of a base zoning district and is intended to protect certain critical features and resources. Unlike with a planned unit development, overlay districts govern only development standards. The uses permitted in the underlying zoning district remain the same. An area where certain additional requirements are superimposed upon a base zoning district or underlying zoning district and where the requirements of the base or underlay district may or may not be altered. Where the standards of the overlay and base or underlying zoning district are different, the more restrictive standards shall apply.~~

This Ordinance shall be effective the date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE TO CREATE AN "AIRPORT OVERLAY DISTRICT" THAT CONSIDERS SAFETY ISSUES AROUND THE MORGANTOWN MUNICIPAL AIRPORT (MGW) TO INCLUDE: RESTRICTING HEIGHTS OF ESTABLISHED USES, CONSTRUCTED STRUCTURES AND OBJECT OF NATURAL GROWTH WITH SAID OVERLAY DISTRICT; CREATING A PERMITTING PROCESS RELATED THERETO WITH SAID OVERLAY DISTRICT; AND, AMENDING THE OFFICIAL ZONING MAP BY ADOPTING AN OFFICIAL SUPPLEMENTARY AIRPORT OVERLAY DISTRICT ZONING MAP.

WHEREAS, certain airport hazards, as defined, in effect reduce the size of the area available for landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Morgantown Municipal Airport and the public investment therein; and

WHEREAS, the creation or establishment of an airport hazard, as defined, is a public nuisance and may injure the region served by the Morgantown Municipal Airport; and

WHEREAS, it is necessary in the interest of public health, public safety and general welfare that the creation or establishment of airport hazards, as defined, be prevented; and

WHEREAS, the prevention of these airport hazards, as defined, should be accomplished, to the extent legally possible, by the exercise of police power without compensation; and

WHEREAS, both the prevention of the creation or establishment of airport hazards, as defined, and the elimination, removal, alteration, mitigation or marking and lighting of existing airport hazards, as defined, are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

NOW, THEREFORE BE IT ORDAINED that a new Article 1360 of the Planning and Zoning Code is created as follows (new matter underlined):

ARTICLE 1360 AIRPORT OVERLAY DISTRICT

- 1360.01 Application.
- 1360.02 Purpose and Intent.
- 1360.03 Relation to Other Zone Districts.
- 1360.04 Definitions.
- 1360.05 Establishment of Airport Zones and Height Limitations.
- 1360.06 Height Restrictions.
- 1360.07 Variance from Height Restrictions.
- 1360.08 Use Restrictions.

1360.09 Pre-existing Non-conforming Uses.

1360.10 Obstruction Marking and Lighting.

1360.11 Violations and Penalties.

1360.12 Appeals.

1360.13 Conflicting Regulations.

1360.14 Severability.

1360.01 APPLICATION.

(A) The regulations and standards contained within this Airport Overlay Districts shall apply to the:

(1) Erection of a new structure; and/or,

(2) Addition to or increase in the height of an existing structure; and/or,

(3) Establishment, erection, and/or maintenance of any use, structure, or object (natural or manmade), within the Airport Overlay District.

(B) The application of this Airport Overlay District shall be limited to the corporate limits of the City of Morgantown.

1360.02 PURPOSE AND INTENT

(A) The purpose and intent of this Airport Overlay District are to:

(1) Create an overlay district that considers safety issues around the Morgantown Municipal Airport (MGW).

(2) Regulate and restrict the heights of established uses, constructed structures, and objects of natural growth.

(3) Create a permitting process for certain uses, structures, and objects within said related zones.

1360.03 RELATION TO OTHER ZONING DISTRICTS.

(A) This Airport District Overlay shall not modify the boundaries of any underlying zoning district or any other overlay district. Where identified, the Airport Overlay District shall impose certain requirements on land use, construction and development in addition to those contained in the applicable underlying zoning district and/or applicable overlay zoning district for the same area.

1360.04 DEFINITIONS.

The following words and phrases when used in Article 1360 shall have the meaning given to them in this section unless the context clearly indicates otherwise.

AIRPORT – MORGANTOWN MUNICIPAL AIRPORT (MGW) – Any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities for rights-of-way, together with all airport buildings and facilities thereon.

AIRPORT ELEVATION – The highest point of an airport’s useable landing area measured in feet above sea level. The airport elevation of the Morgantown Municipal Airport (MGW) is 1,248 feet above mean sea level.

AIRPORT HAZARD – Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77.

AIRPORT HAZARD AREA – Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Airport Overlay District.

AIRPORT LAYOUT PLAN (ALP) – An FAA approved plan that shows: 1) Boundaries and proposed additions to all areas owned or controlled by the sponsor for airport purposes; 2) The location and nature of existing and proposed airport facilities and structures; and, 3) The location on the airport of existing and proposed non-aviation areas and improvements thereon.

AIRPORT NOISE IMPACT ZONE – A rectangular shape defined by utilizing the longest existing or planned runway at the airport. This zone is established by offsetting the runway centerline a distance half the length of the longest existing or planned runway in all directions, i.e. from the sides and from the ends of each runway.

APPROACH SURFACE (ZONE) – An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface zone, as shown on the Official Supplementary Airport Overlay District Zoning Map, is derived from the approach surface.

CFR – Code of Federal Regulations.

CONICAL SURFACE (ZONE) – An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on the Official Supplementary Airport Overlay District Zoning Map, is based on the conical surface.

DECISION HEIGHT (DH) – Is a specified height above the ground in an instrument approach procedure at which the pilot must decide whether to initiate an immediate missed approach if the pilot does not see the required visual reference, or to continue the approach. Decision height is expressed in feet above ground level.

EDUCATIONAL FACILITY RESTRICTION ZONE – An area extending along the centerline of any runway and measured from the end of the runway and extending for a distance of five (5) miles and having a width equal to one-half of the runway length.

FAA – Federal Aviation Administration of the United States Department of Transportation.

HEIGHT – For the purpose of determining the height limits in all zones set forth in this Airport Overlay District and shown on the Official Supplementary Airport Overlay District Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE (ZONE) – An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on the Official Supplementary Airport Overlay District Zoning Map, is derived from the horizontal surface.

LARGER THAN UTILITY RUNWAY – A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

MINIMUM DESCENT ALTITUDE (MDA) – Is the lowest altitude specified in an instrument approach procedure, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering until the pilot sees the required visual references for the heliport or runway of intended landing.

MINIMUM OBSTRUCTION CLEARANCE ALTITUDE (MOCA) – Is the lowest published altitude in effect between radio fixes on VOR airways, off-airway routes, or route segments, which meets obstacle clearance requirements for the entire route segment and which ensures acceptable navigational signal coverage only within 25 statute (22 nautical) miles of a VOR.

NONCONFORMING USE – Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Airport Overlay District or an amendment thereto.

NON-PRECISION INSTRUMENT RUNWAY – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

OBSTRUCTION – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Airport Overlay District.

PRECISION INSTRUMENT RUNWAY – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

PRIMARY SURFACE (ZONE) – An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface zone,

as shown on the Official Supplementary Airport Overlay District Zoning Map, is derived from the primary surface.

RUNWAY – A defined area of an airport prepared for landing and takeoff of aircraft along its length.

RUNWAY PROTECTION ZONE (RPZ) – An area, trapezoidal in shape and centered about the extended runway centerline, designated to enhance the safety of aircraft operations and the safety and protection of people and property on the ground. The RPZ for Runway 18 begins 200 feet beyond the runway end. The inner width is 1,000 feet centered on the extended runway centerline extending to an outer width of 1,750 feet. The length of the Runway 18 RPZ is 2,500 feet. The RPZ for Runway 36 begins 200 feet beyond the runway end. The inner width is 1,000 feet centered on the extended runway centerline extending to an outer width of 1,510 feet. The length of the Runway 36 RPZ is 1,700 feet.

STRUCTURE – An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

TRANSITIONAL SURFACE (ZONE) – An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone, as shown on the Official Supplementary Airport Overlay District Zoning Map, is derived from the transitional surface.

TREE – Any object of natural growth.

UTILITY RUNWAY – A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

VISUAL RUNWAY – A runway intended solely for the operation of aircraft using visual approach procedures.

1360.05 ESTABLISHMENT OF AIRPORT ZONES.

There are hereby created and established certain zones within the Airport Overlay District, which are based on the FAA-approved Airport Layout Plan (ALP) for the Morgantown Municipal Airport (MGW). Said zones are defined in Section 1360.04 and, with exception of the Educational Facility Restriction Zone, illustrated on the Official Supplementary Airport Overlay District Zoning Map, hereby adopted as part of this Airport Overlay District, which include:

- (A) Airport Noise Impact Zone.
- (B) Approach Surface Zone.
- (C) Conical Surface Zone.
- (D) Educational Facility Restriction Zone.
- (E) Horizontal Surface Zone.
- (F) Primary Surface Zone.

- (G) Runway Protection Zone.
- (H) Transitional Surface Zone.

1360.06 HEIGHT RESTRICTIONS.

- (A) The owner of any proposed construction and/or alteration within this Airport Overlay District shall comply with the provisions of 14 CFR Part 77 Subpart B by filing a Notice of Construction or Alteration (FAA Form 7460-1, as amended or replaced) with the FAA. Construction and/or alteration includes the:
 - (1) Erection of a new structure; and/or,
 - (2) Addition to or increase in the height of an existing structure; and/or,
 - (3) Establishment, erection and/or maintenance of any use, structure, or object (natural or manmade).
- (B) Prior to the issuance of any building permit within this Airport Overlay District, the applicant shall submit documentation to the City demonstrating compliance with the federal requirement for notification of the proposed construction or alteration, a valid aeronautical evaluation, and a copy of the FAA's determinations to said notification.
- (C) If the FAA returns a determination of no penetration of protected airspace, the building permit request shall be considered in compliance with the intent of this Airport Overlay District. If the FAA returns a determination of a penetration of protected airspace, the permit shall be denied, and the applicant may seek a variance from such regulations as outlined in Section 1360.07.
- (D) Exceptions. In the following circumstances, the filing of a Notice of Construction or Alteration with the FAA within the Airport Overlay District shall not be required:
 - (1) To make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.
 - (2) Within the Primary Surface, Approach Surface, and Transitional Surface Zones, when construction and/or alteration of a structure is below 1,248 feet above mean sea level.
 - (3) Within the Horizontal Surface and Conical Surface Zones, when the construction and/or alteration of a structure is below 1,398 feet above mean sea level.
- (E) In addition to the height restrictions of this Airport Overlay District, no structure or obstruction shall be permitted within the corporate limits of the City of Morgantown that would cause a Minimum Obstruction Clearance Altitude, a Minimum Descent Altitude, or a decision height to be raised.

1360.07 VARIANCE FROM HEIGHT RESTRICTIONS.

- (A) In addition to provisions set forth in Article 1381 "Variances" of the City's Planning and Zoning Code, any request for a variance to the height restrictions

of this Airport Overlay District shall include documentation in compliance with 14 CFR Part 77 Subpart B.

- (B) Applicants seeking variance relief to height restrictions of this Airport Overlay District must, as a part of the variance application, submit all documentation concerning the applicant's Notice of Construction or Alteration (FAA Form 7460-1, as amended or replaced) filed with the FAA, a valid aeronautical evaluation, and the FAA's determinations to said notification.
- (C) The Board of Zoning Appeals' considerations of whether to grant a variance to the height restrictions of this Airport Overlay District must include the determinations made by the FAA as to the effect of the proposed construction and/or alteration on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed development in:
 - (1) No Objection – The subject construction and/or alteration is determined to not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted, as it relates to relief from the height restrictions of this Airport Overlay District.
 - (2) Conditional Determination – The proposed construction and/or alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted, as it relates to relief from height restrictions of this Airport Overlay District, contingent upon implementation of mitigating measures as described in Section 1360.10 – Obstruction Marking and Lighting and in consultation with the FAA.
 - (3) Objectionable – The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance, as it relates to relief from the height restrictions of this Airport Overlay District, shall be denied and the reasons for this determination shall be outlined to the applicant.
- (D) Such requests for variances from height restrictions of this Airport Overlay District shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this Airport Overlay District.

1360.08 USE RESTRICTIONS.

- (A) Notwithstanding any other provisions of this Airport Overlay District, no use shall be made of land or water within this Airport Overlay District in such a manner as to:
 - (1) Create electrical interference with navigational signals or radio communications between the airport and aircraft;
 - (2) Make it difficult for pilots to distinguish between airport lights and others;

- (3) Impair visibility in the vicinity of the airport;
- (4) Create wildlife hazards; or,
- (5) Otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the Morgantown Municipal Airport (MGW).

(B) Runway Protection Zone (RPZ).

- (1) The following uses are permitted to enter the limits of the RPZ:
 - (a) Agricultural Activity as defined in Section 1329.02 of the Planning and Zoning Code.
 - (b) Irrigation channels, provided wildlife attractant conditions are not formed therefrom.
 - (c) Airport service roads.
 - (d) Underground facilities.
 - (e) Unstaffed NAVAIDs and associated facilities.
- (2) Prior to the granting of any approval or permit for new or modified development not included in Section 1360.08(B)(1), the City shall consult with the FAA Airports District Office to determine whether or not the land use and/or development proposed to enter the limits of the RPZ is acceptable based on a Land Use Compatibility and Alternatives Analysis. Table 1360.08.01 generally identifies development that typically requires analysis.

Table 1360.08.01: Development Typically Requiring Analysis

<ul style="list-style-type: none"> • <u>Buildings and structures including, but not limited to: residences, schools, churches, hospitals or other medical care facilities, commercial/industrial buildings, etc.</u>
<ul style="list-style-type: none"> • <u>Recreational land uses including, but not limited to: golf courses, sports fields, amusement parks, other places of public assembly, etc.</u>
<ul style="list-style-type: none"> • <u>Transportation facilities including, but limited to: rail facilities, public roads/highways, vehicle parking facilities.</u>
<ul style="list-style-type: none"> • <u>Fuel storage facilities (above and below ground).</u>
<ul style="list-style-type: none"> • <u>Hazardous material storage (above and below ground).</u>
<ul style="list-style-type: none"> • <u>Wastewater treatment facilities.</u>
<ul style="list-style-type: none"> • <u>Above-ground utility infrastructure (i.e. electrical substations), including any type of solar panel installation.</u>

- (3) The land use compatibility and alternatives analysis shall identify and document the full range of alternatives that include:
 - (a) Avoidance of introducing the land use issue within the RPZ.
 - (b) Minimizing the impact of the land use in the RPZ (i.e., routing a new roadway through the controlled activity area, move farther away from the runway end, etc.).

- (c) Mitigating risk to people and property on the ground (i.e., tunneling, depressing and/or protecting a roadway through the RPZ, implement operational measures to mitigate any risks, etc.).
- (4) Documentation of the alternatives should include:
- (a) A description of each alternative including a narrative discussion and exhibits or figures depicting the alternative.
 - (b) Full cost estimates associated with each alternative regardless of potential funding sources.
 - (c) A practicability assessment based on the feasibility of the alternative in terms of cost, constructability and other factors.
 - (d) Identification of the preferred alternative that would meet the project purpose and need while minimizing risk associated with the location within the RPZ.
 - (e) Identification of all Federal, State and local transportation agencies involved or interested in the issue.
 - (f) Analysis of the specific portion(s) and percentages of the RPZ affected, drawing a clear distinction between the Central Portion of the RPZ versus the Controlled Activity Area, and clearly delineating the distance from the runway end and runway landing threshold.
 - (g) Analysis of (and issues affecting) the City's control of the land within the RPZ.
 - (h) Any other relevant factors for FAA consideration.
- (5) Any new or modified development described in Table 1360.09.01 that would enter the limits of the Runway Protection Zone shall be categorized a Type III Site Plan – Major Development of Significant Impact. The land use compatibility and alternatives analysis and FAA's related response must be included with the Type III Site Plan application for it to be considered complete.
- (C) Educational Facilities. No educational facility of a public or private K-12 school shall be permitted within the Educational Facility Restriction Zone. Exceptions approving construction of an educational facility of a public or private K-12 school within the Educational Facility Restriction Zone shall only be granted when the Planning Commission makes specific findings, as a part of a Type III Site Plan for a Development of Significant Impact, detailing how the public policy reasons for allowing the construction outweigh public health and safety concerns prohibiting such a facility.
- (D) Landfills. In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act) (Pub. L. No. 106-181, April 5, 2000), codified at 49 U.S.C. §40101 et seq., the construction of a new Municipal Solid Waste Landfill (MSWLFs) within six miles of the Morgantown Municipal Airport (MGW) shall be prohibited unless a waiver is granted by the FAA.
- (E) Airport Noise Impact Zone. RESERVED.

1360.09 PRE-EXISTING NON-CONFORMING USES.

- (A) The regulations prescribed by this Airport Overlay District shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Airport Overlay District, or otherwise interfere with the continuance of a non-conforming use. No existing non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated as set forth under Article 1373 "Nonconforming Provisions" of the City's Planning and Zoning Code may only be reestablished consistent with the provisions herein.

1360.10 OBSTRUCTION MARKING AND LIGHTING.

- (A) Any permit or variance granted pursuant to the provisions of this Airport Overlay District may be conditioned according to the process described in Section 1360.07 to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

1360.11 VIOLATIONS AND PENALTIES.

See Article 1393 "Violations and Enforcement" of the City's Planning and Zoning Code.

1360.12 APPEALS.

See Article 1383 "Administrative Appeals" of the City's Planning and Zoning Code.

1360.13 CONFLICTING REGULATIONS.

See Article 1327.07(B) of the City's Planning and Zoning Code.

1360.14 SEVERABILITY.

See Article 1327.07(C) of the City's Planning and Zoning Code.

This Ordinance shall be effective the date of adoption.

FIRST READING:

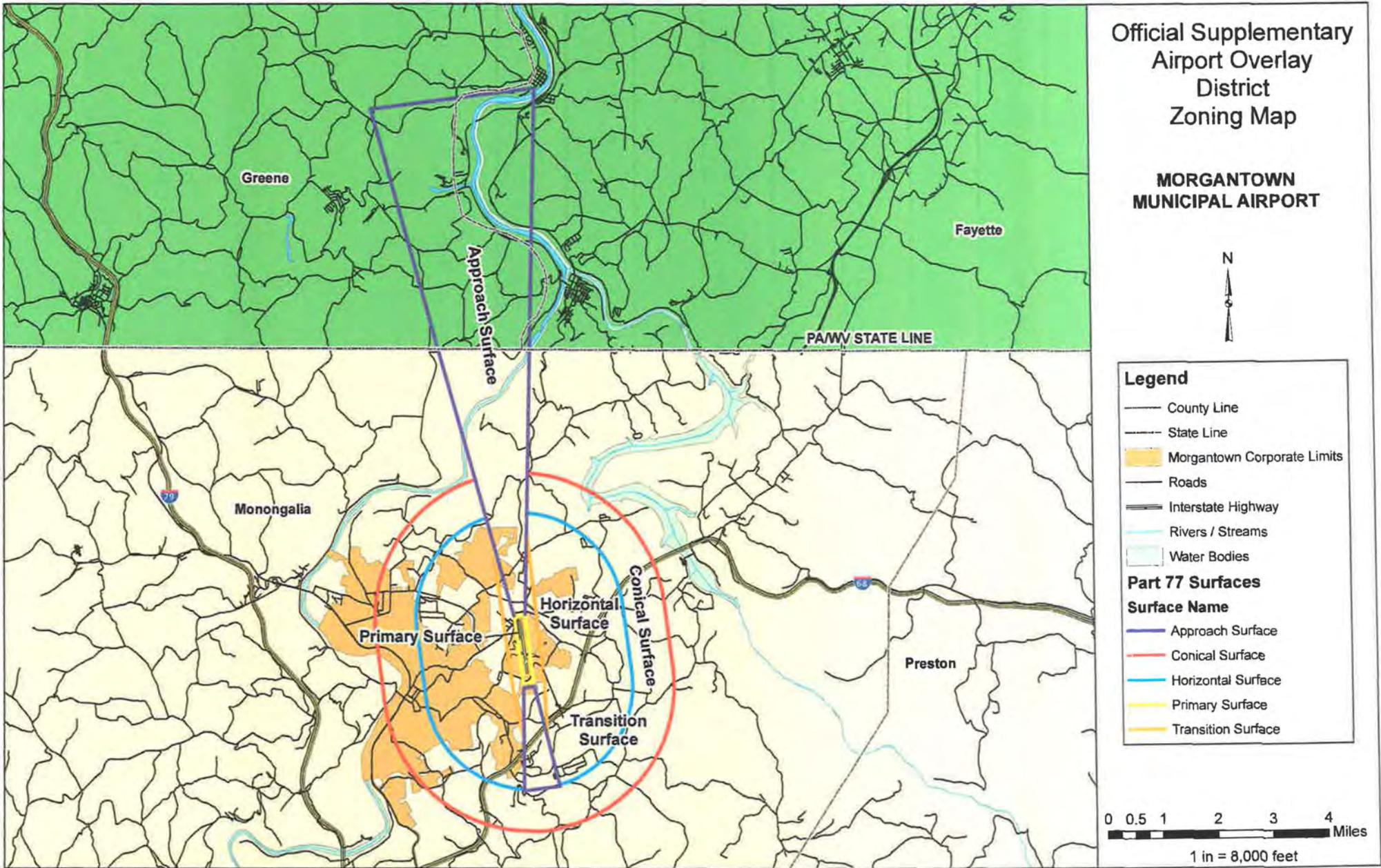
Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk



Author: Richard Pichora, Michael Baker International Date: 9/25/2014

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN IT AND THE WV DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, FOR INSTALLATION OF A BICYCLE LANE ALONG NORTHBOUND U.S. 19 (MONONGAHELA BOULEVARD), BETWEEN EIGHTH STREET AND EVANSDALE DRIVE.

The City of Morgantown hereby ordains that the Memorandum of Understanding, attached hereto, is approved and the City Manager is authorized to execute the same by and on behalf of the City of Morgantown.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (M.O.U.), made and entered into this _____ day of _____, 20____, by and between the City of Morgantown (“City”), the West Virginia Department of Transportation, Division of Highways (“DOH”), and the West Virginia University Board of Governors on behalf of West Virginia University (“WVU”),

WHEREAS, City has requested permission from DOH to install within DOH’s right-of-way along the existing paved shoulder of northbound US 19 (Monongahela Boulevard) a bicycle lane (hereinafter “Bicycle Lane”), generally between Eighth Street and Evansdale Drive, which installation is to include pavement markings and signage only, with no additional widening or paving anticipated by City;

WHEREAS, DOH is agreeable to allowing Bicycle Lane to be installed by City, subject to the terms and conditions contained within this M.O.U.;

WHEREAS, each party understands it must perform those certain duties described herein for the implementation of Bicycle Lane to be successful; and

WHEREAS, this M.O.U. shall be binding upon the successors and assigns of each party hereto;

NOW THEREFORE, the parties hereto agree to the following:

City Responsibilities regarding Bicycle Lane

City agrees to be responsible for the administration of Bicycle Lane project, including but not limited to the advertising, letting, and award, as appropriate, of a construction contract, inspection of such project, and payment to contractor. City also agrees to maintain pavement markings and signing associated with Bicycle Lane, once installed.

City will submit to DOH for review and approval appropriate plans for Bicycle Lane project, which plans shall include traffic control to be utilized by City during construction, and City will receive DOH approval of such plans, as they pertain to the State Highway System, prior to City advertising a construction contract. All signing and pavement markings utilized shall conform to the Manual on Uniform Traffic Control Devices (MUTCD). City will be responsible for ensuring that Bicycle Lane conforms appropriately with the provisions of the Americans with Disabilities Act, and for ensuring that installation of Bicycle Lane will not adversely affect WVU’s existing Personal Rapid Transit structures adjacent to northbound US 19 between Eighth Street and Evansdale Drive.

If determined by DOH to be necessary, City will conduct, and at a time and place to be determined, any public meeting concerning Bicycle Lane, and City will consider appropriately any public comments that may be timely received regarding Bicycle Lane project.

City will finance the construction of the Bicycle Lane, subject to DOH’S financial participation, as set forth in DOH Responsibilities below. Upon completion of Bicycle Lane construction, City then shall submit to DOH a properly documented invoice for reimbursement of actual costs incurred by City for such construction, which costs may include payment to City’s contractor and cost of inspection by City personnel of Bicycle Lane construction. DOH shall not be responsible for any costs associated with City personnel overhead or benefits, including insurance, leave, retirement, or similar costs.

DOH Responsibilities regarding Bicycle Lane

DOH agrees to reimburse City for as much as fifty percent (50%) of City’s project construction costs; however, it is understood that DOH’s maximum reimbursement to City shall not exceed fifteen thousand dollars (\$15,000.00).

WVU Responsibilities regarding Bicycle Lane

WVU shall submit to DOH and to City for approval of each a “Maintenance of Traffic (M.O.T.)” Plan indicating the manner in which WVU will address and be responsible for the closure of the Bicycle Lane during certain pre-determined WVU events. Prior to approving said M.O.T., DOH shall have the right to require WVU to modify the same. The M.O.T. shall identify the specific events and dates for which WVU wishes to close the Bicycle Lane. On each anniversary of this MOU, WVU shall provide DOH and City a list of scheduled and anticipated events and dates requiring Bicycle Lane closure (the “Event List”) during the subsequent twelve (12) months following the M.O.T.’s submission to DOH. Provided, that should additional events be scheduled subsequent to the submission of the annual Event List that require closure of the Bicycle Lane, WVU shall promptly notify DOH and City of such event no later than forty-eight (48) hours in advance of the event, at which time DOH will make every reasonable effort to assess and approve the closure in a timely manner. WVU or City shall not close Bicycle Lane at any time for any WVU event without first obtaining written DOH approval to do so prior to any WVU event.

If determined by DOH to be appropriate, WVU will conduct, at a time and place to be determined, any public meeting concerning WVU’s proposed temporary closure of Bicycle Lane for any event and WVU will consider appropriately any public comments that may be timely received regarding such Bicycle Lane closure. In the event that DOH determines that sufficient public opposition exists concerning the proposed temporary closure of Bicycle Lane, DOH shall notify WVU of such opposition and WVU shall not be permitted by DOH to close Bicycle Lane.

IN WITNESS WHEREOF, the parties hereto have caused their respective names to be signed by their duly authorized officers.

ATTEST:

**WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION,
DIVISION OF HIGHWAYS**

(signature)

(signature)

By: _____
(printed name)

By: Paul A. Mattox, Jr., P. E.
Secretary of Transportation/
Commissioner of Highways

Title: _____
(printed title)

ATTEST:

(signature)

By: _____
(printed name)

Title: _____
(printed title)

CITY OF MORGANTOWN

(signature)

By: _____
(printed name)

Its: Mayor

(signature)

By: _____
(printed name)

Its: City Manager

ATTEST:

(signature)

By: _____
(printed name)

Title: _____
(printed title)

**WEST VIRGINIA UNIVERSITY BOARD
OF GOVERNORS ON BEHALF OF WEST
VIRGINIA UNIVERISITY**

(signature)

By: _____
(printed name)

Its: _____
(printed title)

(To be executed in triplicate)

Distribution: Master File
City
WVU

**BOND AUTHORIZING ORDINANCE OF
THE CITY OF MORGANTOWN**

AN ORDINANCE AUTHORIZING AND DIRECTING THE CURRENT REFUNDING OF THE TAX INCREMENT REVENUE BONDS, SERIES 2010 (SUNNYSIDE UP PROJECT PLAN NO. 1) OF THE CITY OF MORGANTOWN (THE "PRIOR BONDS"); AUTHORIZING AND DIRECTING THE ISSUANCE OF NOT MORE THAN \$6,500,000 AGGREGATE PRINCIPAL AMOUNT OF TAX INCREMENT REVENUE AND REFUNDING BONDS, SERIES 2014 (SUNNYSIDE UP PROJECT NO. 2) (THE "BONDS"), OF THE CITY OF MORGANTOWN TO REFUND AND REDEEM IN FULL THE CITY'S PRIOR BONDS, TO FINANCE COSTS OF THE DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF MORGANTOWN REDEVELOPMENT DISTRICT NO. 3 AND ALL NECESSARY APPURTENANCES AND RELATED FACILITIES, OTHER EXPENSES AND COSTS RELATED THERETO AND TO ISSUANCE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, A BOND PURCHASE AGREEMENT, A TAX AND NON-ARBITRAGE CERTIFICATE; AUTHORIZING EXECUTION AND DELIVERY OF OTHER DOCUMENTS, INSTRUMENTS, AGREEMENTS AND CERTIFICATES; AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF SUCH BONDS; PROVIDING PARAMETERS FOR THE PRINCIPAL AMOUNTS, MATURITIES, INTEREST RATES AND OTHER TERMS OF SUCH BONDS; AUTHORIZING THE MAYOR AND CITY MANAGER TO APPROVE A CERTIFICATE OF DETERMINATIONS RELATING TO THE FINAL TERMS OF THE BONDS; APPOINTING A TRUSTEE, REGISTRAR, PAYING AGENT AND OTHER PARTICIPANTS IN THE FINANCING; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS RELATING TO THE PROJECT (AS HEREINAFTER DEFINED) AND ISSUANCE OF SUCH BONDS.

WHEREAS, The City of Morgantown, a municipal corporation and political subdivision of the State of West Virginia (the “Issuer” or “City”), under Chapter 7, Article 11B of the Code West Virginia, 1931, as amended (the “Act”), has plenary power and authority to issue tax increment obligations to finance the costs of acquisition, construction and equipping of a project or projects included in a development or redevelopment plan approved by the West Virginia Development Office and adopted by the governing body of the Issuer, that are located within a development or redevelopment district, which project costs may include (i) interest prior to and during the acquisition, construction and equipping of a project and for a reasonable time thereafter; (ii) such reserves as may be required; (iii) reimbursement of costs of any interim financing or cash expenditures entered on behalf of projects in the development or redevelopment district; and (iv) any and all other expenses incidental to planning, carrying out and financing the project;

WHEREAS, pursuant to the Act, the City Council of the Issuer (the “City Council”) did, on December 16, 2008, following all necessary actions, publications, public hearings and approvals, enact an ordinance (the “TIF District Ordinance”) designating certain parcels of real property, together with certain personal property situated thereon, located within the Sunnyside area of the City, as a redevelopment district under the Act to be known as “City of Morgantown Redevelopment District No. 3” (the “TIF District”) and establishing a tax increment financing fund for the TIF District (the “TIF Fund”);

WHEREAS, the TIF District Ordinance also approved a project plan for the TIF District to be known as the Sunnyside Up Project Plan No. 1 (the “Project Plan”), which provides for the development, construction and installation of certain public improvements consisting generally of some or all of the following: water lines, storm water management culverts and facilities, sanitary sewer lines, road improvements, streetscape systems, traffic control, pedestrian ways and systems, utility relocations, lighting and related infrastructure, land and right-of-way acquisition, demolition and site preparation necessary in connection with the foregoing (the “Project”);

WHEREAS, as provided in the Act, the Executive Director of the West Virginia Development Office approved the establishment of the TIF District and the execution of the Project Plan by the Issuer pursuant to a letter dated December 2, 2008;

WHEREAS, pursuant to the Act, the Issuer has heretofore issued its Tax Increment Revenue Bonds, Series 2010 (Sunnyside Up Project Plan No. 1), dated June 16, 2010 (the “Prior Bonds”), the proceeds of which were applied in part to finance a portion of the costs of the design, acquisition, construction and equipping of the Project within TIF District or adjacent to and benefitting the TIF District;

WHEREAS, under provisions of the Act, the Issuer is authorized and empowered to issue tax increment refunding revenue bonds to refund, pay in full and discharge all or any part of the outstanding Prior Bonds, to fund a reserve account pledged to the payment of such tax increment refunding revenue bonds and

to pay the costs associated with the issuance of such tax increment refunding revenue bonds and related costs;

WHEREAS, the Issuer has determined that it would be in its best interest to currently refund and repay in full the Prior Bonds in order to increase the amount of tax increment financing obligations which can be utilized by the Issuer for the purpose of funding additional costs of the Project;

WHEREAS, the Issuer now desires to currently refund and repay in full the Prior Bonds and to finance additional costs of the design, acquisition, construction and equipping of the Project, or a portion thereof, through the issuance of its tax increment revenue bonds to be designated “The City of Morgantown Tax Increment Revenue and Refunding Bonds, Series 2014 (Sunnyside Up Project No. 2)” (the “Bonds”);

WHEREAS, the current refunding and repayment in full of the Prior Bonds and the financing of costs of the Project by the Issuer will benefit the inhabitants of the City, will increase opportunities for employment in the City and will help in establishing a balanced economy within the City, and the health, happiness, right of gainful employment and general welfare of the citizens and residents of the City will be promoted by the Project and the repayment in full of the Prior Bonds as aforesaid, and the financing of the Project and the current refunding of the Prior Bonds is a public purpose of the Issuer under the Act; and

WHEREAS, the Issuer desires to take all steps necessary for the financing of the Project and the current refunding of the Prior Bonds pursuant to the issuance of the Bonds as expeditiously as possible.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MORGANTOWN, AS FOLLOWS:

Section 1. It is hereby found and determined, following the public hearing heretofore held before the Issuer, that the Prior Bonds should be currently refunded and repaid in full, that the Issuer should undertake the design, acquisition, construction and equipping of the Project, that the Bonds should be issued for the purposes of financing the costs of currently refunding the Prior Bonds, paying costs of the Project and related costs, and that the current refunding of the Prior Bonds and financing of costs of the Project is a public purpose of the Issuer, promotes the public purposes under the Act and is in the public interest, and that the current refunding of the Prior Bonds and financing of costs of the Project in conformance with the terms and provisions hereof complies in all respects with the Act.

Section 2. To accomplish the purposes of the Act, the Issuer hereby authorizes the issuance of the Bonds in an aggregate principal amount not to exceed \$6,500,000, for the purposes of: (i) currently refunding and repaying in full the Prior Bonds, (ii) paying costs of design, acquisition, construction and equipping of the Project, (iii) paying capitalized interest, if any, on the Bonds, (iv) funding or partially funding a reserve fund for the Bonds, if funded from Bond proceeds, and

(v) paying costs of issuance of such Bonds. The Bonds shall be dated such date or dates, shall bear interest payable at such times and at such rates (not to exceed 8% per annum), shall mature on such dates and in such principal amounts (with final maturity no later than June 1, 2038), shall have such provisions for redemption and shall have such other provisions as are set forth in the Indenture (hereinafter defined). The Bonds shall be sold to such purchaser or purchasers (the "Purchaser") as shall be approved and set forth in the Certificate of Determinations (hereinafter defined) to be executed and delivered by the Issuer at a price not less than 100% of the principal amount thereof.

Section 3. The Issuer hereby authorizes and approves the issuance of the Bonds within the parameters set forth in Section 2 above, and hereby further authorizes the Mayor and the City Manager of the Issuer to approve the final terms thereof and the final purchaser or purchasers thereof and the forms of certain documents to be executed and delivered in connection with the issuance of the Bonds as shall be set forth in a Certification of Determinations to be executed thereby (the "Certificate of Determinations"), which Bonds may be issued in additional series or with different designations, all as may be set forth in the Certificate of Determinations.

Section 4. The Bonds, together with the interest thereon and other costs incidental thereto, shall be secured solely by the pledges effected by the Indenture herein authorized and defined, and by the TIF Fund and tax increment and other revenues and properties pledged for their payment in accordance with the Act. The Bonds, together with the interest thereon and other costs incidental thereto, shall not be deemed to be and shall not constitute an indebtedness of the Issuer, but shall be special and limited obligations of the Issuer, payable solely from the tax increment and other revenues and properties pledged for their payment under the Indenture. Neither the Bonds nor the interest thereon, nor any other cost or charge in connection therewith, shall be a charge against or pledge of the property, faith and credit or taxing power, if any, of the State of West Virginia or the Issuer, except as to such property expressly provided therefor in the Indenture, nor shall the same ever constitute an indebtedness of the State of West Virginia or the Issuer within the meaning of any constitutional provision or statutory limitation or constitute or give rise to a pecuniary liability of the State of West Virginia or the Issuer. No recourse shall be had for the payment of the principal of and interest on the Bonds against the Issuer or any official or member of the Issuer. The holders of the Bonds shall have no right to have taxes levied by the legislature of the State of West Virginia or the taxing authority, if any, of the Issuer for the payment of the principal of, premium, if any, or interest on the Bonds, but the Bonds shall be payable solely from the Tax Increment Revenues deposited into the TIF Fund and pledged therefor under the Indenture.

Section 5. The Indenture of Trust (the "Indenture") to be dated on or prior to the date of delivery of the Bonds, by and between the Issuer and The Bank of New York Mellon, who shall serve as trustee, registrar and paying agent (the "Trustee"), substantially in the form submitted to this meeting and made a part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved. The Mayor and City Manager of the Issuer are hereby authorized and

directed to execute, acknowledge, if necessary, and deliver the Indenture, with such changes, insertions, variations and omissions as may be approved by the Mayor and City Manager, and the City Clerk is authorized and directed to affix the seal of the Issuer thereto and to attest the same. The execution of the Indenture by the Mayor and City Manager shall be conclusive evidence of such approval.

Section 6. The Bond Purchase Agreement (the “Bond Purchase Agreement”) to be dated the date of placement and sale of the Bonds to Purchaser, by and between the Purchaser and the Issuer, substantially in the form submitted to this meeting and made a part of this Ordinance as though set forth in full herein, shall be and the same hereby is approved. The Mayor and City Manager of the Issuer are hereby authorized and directed to execute and deliver the Bond Purchase Agreement, with such changes, insertions, variations and omissions as may be approved by the Mayor and City Manager. The execution of the Bond Purchase Agreement by the Mayor and City Manager shall be conclusive evidence of the approval of such changes, insertions, variations and omissions.

Section 7. The Tax and Non-Arbitrage Certificate (the “Tax Certificate”) to be dated as of the date of delivery of the Bonds and executed and delivered by the Issuer, substantially in the form as shall be approved by the Mayor and City Manager pursuant to the Certificate of Determinations shall be and the same is hereby approved for execution by the Issuer and compliance by the Issuer with the terms thereof. The Mayor and City Manager of the Issuer are hereby authorized and directed to execute, acknowledge, if necessary, and deliver the Tax Certificate, with such changes, insertions, variations and omissions as may be approved by the Mayor and City Manager. The execution of the Tax Certificate by the Mayor and City Manager shall be conclusive evidence of such approval.

Section 8. The Bonds shall be issued in fully registered form in accordance with the provisions of the Indenture and shall be delivered to the Trustee to be authenticated, registered and delivered to the Purchaser thereof in accordance with the terms of the Indenture. The Mayor, City Manager and Clerk of the Issuer shall execute the Bonds as necessary and affix, imprint or otherwise reproduce the official seal of the Issuer thereto and the Bonds shall contain a recital to the effect that the Bonds are issued pursuant to the Act.

Section 9. The Mayor, City Manager and City Clerk and any other proper officers and employees of the Issuer, together with all other members and employees thereof, are hereby authorized and directed to execute, acknowledge, if necessary, and deliver any and all papers, documents, agreements, certificates and instruments, to affix the seal of the Issuer and attest the same for and on behalf of the Issuer and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance, the Indenture, the Bond Purchase Agreement, the Tax Certificate and other documents relating thereto.

Section 10. All covenants, stipulations, obligations and agreements of the Issuer contained herein and contained in the Indenture, the Bond Purchase Agreement, the Tax Certificate and other documents relating thereto shall

be deemed to be the special and limited covenants, stipulations, obligations and agreements of the Issuer to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements, shall be transferred by or in accordance with law. Except as otherwise provided herein, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the officials thereof by the provisions hereof and by the Indenture shall be exercised or performed by the Issuer or by such officers, board or body as may be required or permitted by law to exercise such powers and to perform such duties.

Section 11. No covenant, stipulation, obligation or agreement herein contained or contained in the Indenture or other documents relating thereto shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Issuer in his or her individual capacity and neither the members of the Issuer nor any officer executing the Bonds shall be subject to any personal liability or accountability by reason of the issuance of the Bonds. No member of the Issuer or officer or employee of the Issuer shall be individually or personally liable for the payment of the principal of or the interest on any Bond, but nothing herein contained shall relieve any such member, official or employee from the performance of any official duty provided by law or this Ordinance.

Section 12. Steptoe & Johnson PLLC is hereby appointed as bond counsel to the Issuer, Piper Jaffray & Co. is hereby appointed as Placement Agent to the Issuer, and Bank of New York Mellon is hereby appointed as trustee, registrar and paying agent for the Bonds.

Section 13. The Issuer hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of paragraph (3) of Section 265(b) of the Code and covenants that the Bonds do not constitute private activity bonds as defined in Section 141 of the Code and as determined in accordance with Section 265(b)(3) of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income taxes (excluding, however, obligations described in Section 265(b)(3)(C)(ii) of the Code), including the Bonds, have been or shall be issued by the Issuer, during the calendar year 2014, all as determined in accordance with the Code. For purposes of this paragraph and for the purposes of applying such Section 265(b)(3) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a subordinate entity shall, for purposes of applying this paragraph and Section 265(b)(3) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of Section 265(b)(3)(C) or (D) of the Code and all entities benefitting thereby shall be treated as one issuer. None of the Bonds are part of a direct or indirect composite issue.

Section 14. The designation of any of the Bonds may be modified without further action by the Issuer to reflect series designation, issuance dates or other matters.

Section 15. The laws of the State of West Virginia shall govern the construction of this Ordinance and all Bonds issued hereunder.

Section 16. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 17. All previous ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 18. The undersigned Mayor and City Manager of the Issuer hereby approve the issuance of the Bonds following the public hearing thereon.

Section 19. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and entry of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, City Manager, City Clerk and members of the City Council of the City were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 20. This Ordinance shall take effect immediately upon final enactment following a public hearing hereon.

Section 21. Following the first reading by title hereof, an abstract of this Ordinance, determined by the City to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in *The Dominion Post*, being a newspaper published and of general circulation in the City, together with a notice stating that this Ordinance has been introduced and that the Issuer contemplates the final enactment thereof and that any person interested may appear before the Council upon a date certain, not less than 10 days subsequent to the date of the first publication of the said abstract and notice, and present protests, and that a certified copy of the Ordinance is on file in the office of the City Clerk for review by interested parties during the office hours of the City Clerk.

At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

First Reading:

November [5], 2014

Second Reading:
following public hearing

November [18], 2014

Adopted this November [18], 2014.

THE CITY OF MORGANTOWN

By: _____
Its Mayor

By: _____
Its City Manager

APPROVED AND CORRECT AS TO FORM:

By: _____
Its City Attorney

CERTIFICATION

The undersigned, being the duly qualified, elected and acting City Clerk of The City of Morgantown, does hereby certify that the foregoing Ordinance was duly adopted and enacted by the City Council of The City of Morgantown following a public hearing thereon, at regular meetings duly held, pursuant to proper notice thereof, on November [5], 2014 and November [18], 2014, quorums being present and acting throughout, and which Ordinance has not been modified, amended or revoked and is a true, correct and complete copy thereof as of this _____, 2014.

By: _____
City Clerk