



Office of the City Clerk

The City of Morgantown

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AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
November 3, 2015
7:00 p.m.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES:** October 20th, 2015 Special & Regular Meeting
5. **CORRESPONDENCE:**
6. **PUBLIC HEARINGS:**
 - A. **AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH FRIENDS OF DECKERS CREEK, INC. FOR SPACE AT THE WOODBURN SCHOOL SITE.**
 - B. **AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE.**
7. **UNFINISHED BUSINESS:**
 - A. Consideration of **APPROVAL** of **(SECOND READING)** and **(ADOPTION)** of **AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH FRIENDS OF DECKERS CREEK, INC. FOR SPACE AT THE WOODBURN SCHOOL SITE. (First Reading October 20th, 2015)**
 - B. Consideration of **APPROVAL** of **(SECOND READING)** and **(ADOPTION)** of **AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE. (First Reading October 20th, 2015)**

C. 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 AMENDING TABLE 1331.05.01 "PERMITTED LAND USES" OF THE PLANNING AND ZONING CODE AS IT RELATES TO "TWO-FAMILY DWELLING" USES IN THE B-1, NEIGHBORHOOD BUSINESS DISTRICT.

B. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 14.50 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-48 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

C. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE TO PROVIDING THE ZONING CLASSIFICATION FOR 0.76 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-60 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERTO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

D. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 4.20 ACRES, MORE OR LESS, OR ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-66 BY AMENDING ARTICLE 1131 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

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

Information:

1. City's New Director of Finance

New Business:

1. Everbridge Mass Notification

12. **REPORT FROM CITY CLERK:**

Information:

1. 2015 Municipal Election Report

13. **REPORT FROM CITY ATTORNEY:**

14. **REPORT FROM COUNCIL MEMBERS:**

15. **EXECUTIVE SESSION:** Executive Session to discuss personnel issues per State Code WV 6-9A-4(b) (2).

16. **ADJOURNMENT:**

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



Office of the City Manager

The City of Morgantown

City Manager
Jeff Mikorski, ICMA-CM
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City Manager's Report for City Council Meeting on November 3, 2015

Information:

1. City's New Director of Finance

I am happy to announce that after many applicants and interviews, the position offer was accepted by James Goff, CPA to be Morgantown's new Director of Finance starting November 16, 2015. He comes to us with 20 years of professional experience in finance and management. For the last year he was the Director of Commercial Finance for Mylan, Inc., prior to that he worked as the Vice President of Finance and Accounting for Thrasher Engineering and the Vice President of Finance of Greer Industries and Corporate Controller for West Virginia Radio Corporation. I know he will be an outstanding addition to the City of Morgantown's management team and guide the Finance Department as we move forward.

I want to thank Denise White who filled in as the interim Director and Lori Livengood who took on the role of Acting Director over these past few months. With their help and commitment to the City, it allowed us to continue to move forward in the Finance Department.

New Business:

1. Everbridge Mass Notification

The City of Morgantown has used the Nixle system for mass notification information in the City for the last few years and the system has not generated very much activity, with less than 200 accounts over that time. Recently the Monongalia County Office of Emergency Management requested we look to join them in getting a more robust mass notification system that each can use for small scale notifications, but joined that in the case of a large scale event, one system would be able to be used for everyone. It would allow anyone to join through a single setup process in or outside of the City. By joining resources, we are able to provide a far better program for the residents of the City and the whole County. Attached are descriptions of the program that include text and phone calling notifications, GIS support, and SMART weather alerting. I recommend we replace our Nixle system, (which costs \$2790 annually) with the more robust system from Everbridge and allocate additional \$7,210 toward the improved, integrated program. Monongalia County Office of Emergency Management would pay the remaining \$26,504. If approved, additional funding will be seen in an upcoming budget adjustment in contracted services for in the City Manager's office account.


Jeff Mikorski ICMA-CM,
Morgantown City Manager

Everbridge Mass Notification

Everbridge Mass Notification allows users to send notifications to individuals or groups using lists, locations, and visual intelligence. Everbridge Mass Notification is supported by state-of-the-art security protocols, an elastic infrastructure, advanced mobility, interactive reporting and analytics, adaptive people and resource mapping to mirror your organization, and true enterprise class data management capabilities to provide a wide array of data management options. Below is a list of key system inclusions with the Everbridge Mass Notification system.

Usage

- Unlimited Domestic Emergency Alerts and Testing Messages
- Unlimited Domestic Non-Emergency Alerts Messaging

Core Platform Access

- Unlimited Administrators for web-based portal to initiate messages, reporting, and administration
- Unlimited Administrators for Mobile Manager Application (iOS, Android) and Mobile Optimized Notification Site (for Blackberry, Windows 10, etc.)
- Two (2) Organization with unlimited nested static and dynamic groups
- Access to Everbridge Elastic Infrastructure for message delivery
- Custom branded community opt-in portal with custom fields and opt-in subscriptions
- Flexible role-based access controls to manage user permissions
- Access to Real-Time Dashboard, Notifications Library, Everbridge Universe, and Custom Reporting

Key Notification Features

- Integrated GIS/Map-based, rule-based, group-based, or individual contact selection
- Ability to send standard, polling, or on-the-fly 'One-Touch' Conference Call messages
- One-screen broadcast creation workflow to speed message creation and reduce human error
- Everbridge Network to access situational intelligence & notifications shared by other public and private groups
- Publish notifications directly to Websites and services that support API access via HTTPS using 'Web Posting'
- Notification escalation to automatically send a notification to the next person or group if there is no confirmation
- Contact filtering based on custom criteria
- Map-based drawing and selection tools and imported shape files (e.g. Google Maps, Bing Maps, ESRI)
- Automatic address geo-coding for contacts
- Organization specific customizable caller ID, greetings, and broadcast settings
- SMPP based SMS text messaging
- Multi-language Text to Speech Engine and Custom Voice Recording
- Real-time reporting for improved situational awareness and easier after action analysis
- 5 Live Operator Message Initiations per year
- Interactive Dashboard for Organizational Activity Summary
- Unlimited Notification Templates
- Self-service Single Contact Record Adjustments
- Self-service Contact Import via CSV Upload
- Bulk Contact Management Automation via Secure FTP

Set-up, Implementation & Support

- Up to 10 total hours of a dedicated Implementation Specialist during a Standard Implementation
- Self Service Administrative Set-up, Configuration and Default Preferences
- Initial Member Data Upload and Test Broadcast Support
- Unlimited Access to Everbridge University classes
- 24x7 Customer Support (phone, web, email)
- Global Support/Operations Centers for Redundant Live Support
- Dedicated Account Manager

For a full product description, along with best practices and product details please see the Everbridge User Guide and Everbridge University.

ANTICIPATE, TARGET, COMMUNICATE

- + Intelligent, personalized message delivery is about targeting the individual and not the device. Escalation follows the order of contact preference designated by the recipient and stops once the recipient confirms receipt.
- + GIS-based message targeting to quickly and easily send messages to recipients in a specific geographic region defined by zip code, street address, radius from a specific point, or other attribute. Specify a location with user-friendly drawing tools or even upload shape files from other applications for on-the-fly notifications to targeted geographic areas.
- + Support for up to 13 contact paths is included, providing flexibility in broadcasting messages to virtually any communications device, including desktop alerts, in addition to supporting escalation workflow throughout the organization.
- + Build events for one-click sending during incidents. Set up notification templates with pre-determined contact lists and pre-defined messages for faster communications in a crisis.
- + Quickly resend notifications to recipients, or send follow up messages to all or a sub-set of recipients for tracking within the same incident or event.
- + Flexible call-throttling capabilities empower system administrators to configure rules based on their infrastructure's capacity.
- + Segregate your management and operating structure into multiple notification environments. Separating by geography, department/function, country or other criteria provides maximum security and flexibility.
- + Web Posting allows notifications to automatically be published to systems such as: Public Websites, Intranets, Internal Systems, and Social Media.

ADVANCED MOBILITY AND CONNECTIVITY

- + Bring the power and security of communications and incident management to mobile devices everywhere, even under adverse network conditions.
- + Support for multi-platform smart phones and tablets including Apple® iOS and Android™ devices are provided.
- + Benefit from reporting and analytics with a native interface designed for the operating system of the device.
- + Send notifications with a multiple-choice question with up to nine different responses or "I'm OK" citizen wellness information.

GLOBAL READY

- + Personalize your reach to a global audience by broadcasting messages globally, in any language.
- + Multilingual text-to-speech capability enables you truly to localize communications.

- + Globally local call routing increases the delivery speed and volume of voice notifications; your global calls will be initiated using providers that are local to the call recipient.
- + Customized global caller ID enables you send a single notification anywhere in the world with a caller ID can be customized per country and is local and familiar to the call recipient.
- + Store your data locally and securely in your country of preference and comply with the regulatory requirements of that locale.
- + An organization with multiple, distributed data stores does not need to do anything special in order to access or manage this contact data or notify contacts. A unified access point makes the location of data transparent to the user.
- + Designed to meet the highest standards for regulatory requirements and handling of PII worldwide, including encryption of data at rest, if needed.

GEO-INTELLIGENT TOOLS

- + Save and organize critical and often-used shapes and boundaries to improve communication speed and accuracy.
- + Create or import regions for one-time use or categorize and store to the Region Library for reuse later.
- + Dynamic search, filtering and targeted alerts allow you to view the locations of special needs populations, subscribers to specific alert types, fire districts, police stations, and more.
- + Load, geo-code and manage contact data within a single interface and in real-time.
- + Search address, location or point of interest and exclude contacts based on location or other attributes.

FLEXIBLE, CUSTOMIZABLE CONTACT MANAGEMENT

- + Easily automated bulk, partial and full updates utilizing a secure, industry standard method for data transfer.
- + Update groups and custom fields without compromising information from HR systems.
- + Organize and categorize contact data in a way that is meaningful to your organization.
- + Search or filter contacts on any attribute or combination of attributes within the contact's profile.
- + Easily notify contacts and/or manage contact data across multiple distributed data stores from a single access point.
- + Data can be populated from several sources and geo-coded. 911 data can be kept separate for emergency-only usage.



REPORT, ANALYZE, UNDERSTAND

- + Comprehensive, robust analytics and reporting capabilities provide the actionable intelligence needed to enhance your continuity and resiliency, as well as measure your communication program's effectiveness and to continually improve its efficiency.
- + Armed with powerful, accurate incident analyses in real-time, decision-makers are empowered to make changes on-the-fly, leading to better results.
- + Launch frequently requested reports on-the-fly with Quick Reports.
- + Provide summary and detailed after-action reports for continuous improvements as well as management and regulatory compliance.
- + Easily enhance exported reports with off-line creation of pivot tables and cross-referencing.

POSITIVE USER EXPERIENCE

- + Comprehensive and intuitive administrator interface to manage settings, limits and defaults.
- + Separate user and contact management that uses role-based access controls.
- + Account and Organizational hierarchy structure.
- + Comprehensive self-service administration.
- + Mass Notification provides branded, customizable profile management portals to administer both publicly available and private (invitation only) opt-in. Both are accessed via a link on your website that directs participants to the opt-in interface.
- + Public and private portals are Section 508 compliant and include field-level view/read/write access controls. The intuitive interface enables recipients to quickly and easily manage their preferences including contact information, locations they care about, alert preferences and more.

SUMMARY

Whether you need to immediately contact stakeholders or to manage nonemergency tasks like tests and peak usage, Everbridge's reliable and easy-to-use system keeps everyone up to date. Everbridge offers a single platform for all critical communications, so that you can better protect life and property, meet regulatory requirements, and improve operational efficiencies.



The Everbridge Difference

Scalability

Everbridge's next generation elastic infrastructure delivers unmatched scale and performance. It incorporates real-time intelligent monitoring of system demand to ensure optimal notification delivery performance. So when spikes in demand occur, the system's architecture seamlessly taps into a near-infinite amount of capacity and processing resources to satisfy all notification delivery needs – without failures or bottlenecks.

Patented Innovation

Everyone says that they lead the industry in innovation – but Everbridge has been granted more patents than any other mass communication vendor. These patents underscore Everbridge's vision, industry expertise and technology proficiency in mass communications and reflect the advancements that Everbridge has contributed to the communications industry within the areas of notification systems, geo-notification systems, text-to-speech and speech-to-text notifications.

Secure & Compliant

The Everbridge Solutions Suite features a proprietary ACT-SaaSSM service, an advanced Software-as-a-Service (SaaS) delivery model on a cloud infrastructure with multiple data centers in active-active configuration. Everbridge is the only incident notification provider to offer this level of security, performance, and availability. Leveraging the benefits of Emergency Notification for Cloud ComputingTM helps lower the cost and increase the power of communications, provides flexibility, and creates a more secure computing environment without software, hardware, or internal telephone networks to purchase and maintain.

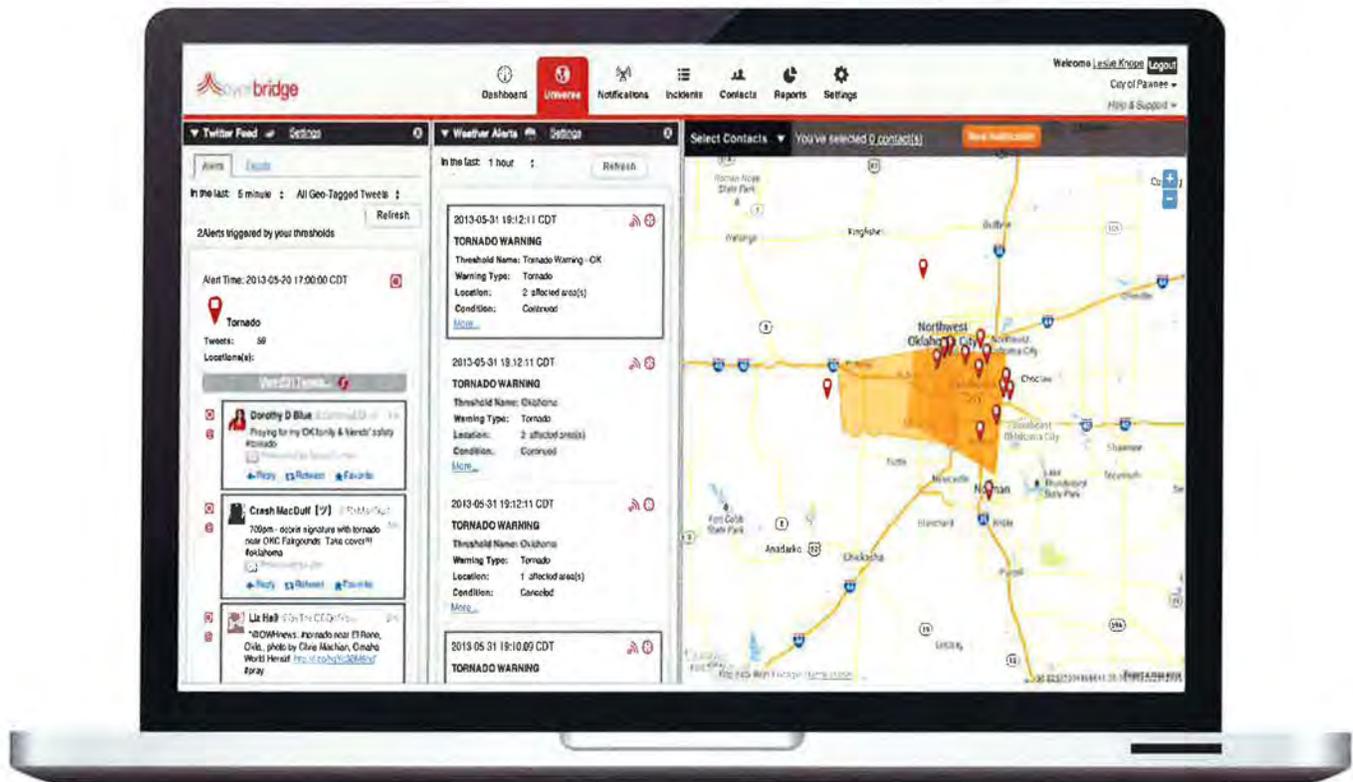
About Everbridge

Everbridge provides industry-leading interactive communication and mass notification solutions to organizations in all major industries and government sectors. Everbridge solutions increase connectivity to key audiences, automate communication processes, and integrate recipient feedback, data feeds, and social media in a single communications console. Ultimately, these solutions provide the insight and infrastructure that help clients save lives, manage critical activities and improve the efficiency of daily operations.





SMART WEATHER ALERTING



OVERVIEW

Everbridge's SMART Weather Alerting leverages AccuWeather and Weather Decision Technologies meteorological resources to enhance and optimize over 150 severe weather alerts such as lightning, tornados, thunderstorms, hail, ice, snow, extreme temperatures, high winds, flash floods, and flooding. Because these severe weather types are difficult to predict far in advance, they often have terrible loss of property and life for those individuals who are caught unaware.

- + Specific - Detailed alerts, geographies and stop & start times.
- + Map-driven - Visualize weather and select targets using GIS maps and shapes.
- + Automated - Deliver alerts to contacts and members automatically.
- + Rules-based - Use rules to determine when a message should be triggered.
- + Targeted - Deliver the right message to the right person automatically.

Everbridge SMART Weather Alerting provides location-specific severe weather alerts at the speed of click. An automated rules engine supercharges the speed and accuracy of alert delivery so notifications get to the right people right away.

KEY FUNCTIONALITY

- + Access to more than 150 different types of National Weather Service location specific weather alerts plus lightning and hail.
- + Timely, accurate weather warnings with specific start times and timely closing of alerts.
- + Weather alerts follow Everbridge's philosophy of "target the individual, not the device" - and escalates alerts through a number of contact paths, including mobile, until the recipient confirms receipt.
- + Precise meteorologist drawn polygons and geographical zones to identify weather impacted locations.
- + Self-service opt-in member portal for community registration and to manage alert settings.
- + Customized message content based on weather type, severity, location and audience.
- + Set up 'on the fly' triage conference calls to manage weather events from initiation to completion.
- + Select contacts in affected areas using a map that identifies weather impacted locations.
- + Configurable "quiet periods" for opt-in members.

PROTECT YOUR EMPLOYEES AND COMMUNITY MEMBERS

Everbridge Interactive Visibility and Everbridge Mass Notification become even more powerful with SMART Weather Alerting. Keep your employees, residents, and other key stakeholders informed and safe with automatic broadcasts to all affected recipients in an impact area. More actively manage weather events by quickly putting location based warnings in the right hands, in real-time and by customizing the messages you broadcast based on the type and severity of the event.

THE ONLY END-TO-END PLATFORM

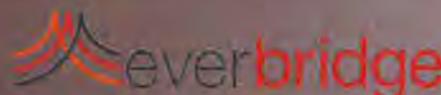
Planning: Everbridge is easy to set up, maintain, and organize, meaning that you're always ready for a quick, coordinated response. Everbridge ensures that the right messages get to the right people - with the most advanced opt-in portal on the market, streamlined integration with internal and external data sources, and simple group and contact management.

Assessment: When trouble strikes, you need rich insight, presented simply - so you can quickly assess potential impact and make an informed decision to avoid loss. Everbridge offers the only solution on the market that meets these demanding requirements, with the most advanced interactive dashboard in the industry.

For a full product description, along with best practices and product details please see the Everbridge User Guide and Everbridge University.

Response: In critical situations, ease-of-use can mean the difference between an effective response and a mistake that carries serious consequences. Everbridge is engineered to be simple to use under pressure, with a user interface that accelerates time-to-message and reduces the likelihood of errors.

Delivery: Even during large-scale disruptions, Everbridge stays on. The most advanced platform in the industry ensures that you reach your contacts - every time. And with worldwide coverage and capabilities, including globally local calling infrastructure and data storage, we're ready to support you wherever your people are in the world.





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2015 Municipal Election Report

➤ Election Results:

Wd. 1	George Papandreas	382	Wd. 4	Jenny Selin	904
Wd. 1	Ron Bane	616	Wd. 5	Marti Shamberger	909
Wd. 1	*Rachel Fetty	417	Wd. 6	*Noel Hoffman	631
Wd. 2	Bill Kawecki	839	Wd. 6	Jay Redmond	783
Wd. 2	*Al Bonner	464	Wd. 7	Nancy Ganz	865
Wd. 3	Wes Nugent	893	Wd. 7	* Bill Graham	348

- Indicates Write-in Candidate

➤ Comparative Percentage:

YEAR	REGISTERED VOTERS	BALLOTS CAST	% OF VOTERS
2003	14,747	3,629	16.4%
2005	14,144	1,403	9.9%
2007	13,900	225	1.6%
2009	16,106	1,467	9.1%
2011	16,621	3,699	22.25%
2013	16,622	2,094	12.6%
2015	17,107	1,540	9%

Recommendations to Improve a Traditional Paper Ballot Municipal Election

➤ Suggestions and Concerns of Poll Workers:

- Polling Places are not convenient during City Elections for parking due to school is in session. During Primary and General Elections school is closed and Polling Places are more accessible.
- The City of Morgantown does not offer substantial payment to its poll workers for the amount of hours and work required with paper balloting elections.

- It is even harder to get poll workers when there are no contest on the ballot.

➤ Observances of the Clerk’s Office:

- Foremost, the City Clerk’s Office perceives a serious need to convert to electronic balloting procedures, as the paper ballot and hand-tallying process is tedious, especially when more modern and simplified voting options are available to date.
- Designate a specific supply pick up time for head commissioners from 1-5pm to avoid a morning rush when supplies are still being organized.
- Give each precinct only their applicable lists of absentee and early voters.
- Make sure that voters are aware their voting precinct with more publicity.
- Those that were collecting signatures noticed that when going door to door residents were afraid to open their doors to talk to those that were getting signatures verified for candidates. This would be a time for Council to discuss having a filing fee instead of signatures and disturbing the privacy of the citizen.

➤ Electronic Voting:

- The City Clerk’s Office concurs whole-heartedly with Ms. Blaney’s decision and explanation. Because paper balloting is time consuming, outmoded and costly. Combining forces and holding the City’s Municipal Election during the May Primary is the right choice to reduce cost and increase voter turnout. We feel this change is necessary and would be the best and most viable option to improve all aspects of the Municipal Election.

➤ Comparative Costs from Past Elections:

- The following cost comparison shows costs of the Election Line Items and Poll worker expenses. It does not include payroll or overtime from other City Employees/Departments

<u>YEAR</u>	<u>TOTAL COST</u>	<u>COST PER BALLOT CAST</u>	<u>BALLOTS CAST</u>
2005	\$20,068.69	\$14.30	1,403
2007	\$15,044.36	\$67.73	225
2009	\$15,239.75	\$10.25	1,467
2011*	\$35,831.84	\$9.03	3,699
2013	\$18,765.51	\$8.96	2,094
2015	\$21,894.07	\$14.21	1,540

Conclusion

The City Clerk's Office determines that it is not likely voter turnout will show a trend of increased participation unless changes can be made to update and modernize the electoral process. Our primary recommendation would be to make an intergovernmental agreement with Monongalia County to conduct the City's election at the same time as the State and Federal Primaries.

The fact remains that reliable poll workers have become increasingly hard to secure. In order to attract and retain skilled and knowledgeable workers, Morgantown needs to keep up with the changing times with regard to voting technology and the equally important issue of poll worker compensation. Poll workers have a much easier time dealing with the County's electronic voting machines than they do with paper ballots at City elections- and yet we pay them less than the County does, while asking them to work longer and harder. This is the number one reason so many of the workers we contacted declined to work our election. Moreover, additional poll workers approached us following the Municipal Election and informed us they would decline to work in the future if the City does not use the Ivos.

Research that the City Clerk's Office has found shows that the use of electronic voting machines will improve the City of Morgantown elections. Benefits can include, but are not limited to: increased voter turnout, increased voter satisfaction in the electoral process, reduced election worker fatigue, faster return of precinct results after close of polls, and lessened voter wait time at precincts, among others. Changing the Municipal election date to coincide with the May Primaries with the use of the County's electronic voting machines will lead to an increase in voter turnout over a period of electoral cycles. Studies prove this trend when electronic voting is applied.

When the City of Morgantown takes steps into the future, and makes changes for the betterment of the voters, and can be confident that the sanctity and integrity of the electoral process can only improve. We continue to happily serve the citizens of Morgantown and its Council, and hope that forward progress can be made in this area in the same way that we continue to learn and improve ourselves for the benefit of those we serve.

Attached is a City Municipal Election Comparison and Upcoming Primary dates and Potential Council Terms for reference:

Municipal Election Comparison

City	Form of Government	% of Most Recent Voter Turnout	Primary	General	Filing Fee	Petition	Term Length	Staggered
Morgantown	Manager- Council	22.25%	no	Last Tuesday of April, odd years	no	75 signatures	2 years	no
Barboursville	Mayor-Council	26.66%	no	1st Tuesday of June, odd years	no	50 signatures	2 years	no
Bridgeport	Manager- Council	35.79%	no	2nd Tuesday of June, odd years	\$25	no	4 years	yes
Charleston	Mayor-Council	12.00%	with County	With County	\$100	no	4 years	no
Clarksburg	Council-Manager	19.10%	no	1st Tuesday of June, every 2nd odd year	yes	no	4 years	yes
Fairmont	Manager- Council	29.50%	no	With County	\$15	no	4 years	no
Grafton	Manager-Mayor	30.00%	yes	With County	\$25 (optional)	25 signatures, or pay fee	4 years	no
Huntington	Mayor-Council	54.08%	with County	With County	Mayor \$250 Council \$60	no	4 years	no
Parkersburg	Strong Mayor	15.00%	with County	With County	no	no	4 years	no
Wheeling	Mayor-Manager	22.93%	Council election with county on primary date	no	\$50	no	4 years	no

Upcoming Primary Dates

5/10/2016
5/8/2018

Potential Council Terms

7-1-16 to 6-30-18
7-1-18 to 6-30-20

Current Council

Elected: 4-28-15
Next Election April 28, 2017

Term:

7-1-15 to 6-30-17
7-1-17 to 6-30-19

SPECIAL MEETING OCTOBER 20, 2015:

The special meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, October 20, 2015 at 6:10pm.

PRESENT: Mayor Marti Shamberger, Deputy Mayor Bill Kawecki and Council Members, Rone Bane, Wes Nugent, Jenny Selin, Jay Redmond, Nancy Ganz and City Clerk Linda Tucker were present.

The meeting was called to order by Mayor Shamberger.

INTERVIEWS TO FILL ONE VACANCY ON THE MORGANTOWN HOUSING ADVISORY COMMISSION:

Council Members were informed that applicants Harrison Case and Terry Kelly withdrew.

Questions were then posed to Rachel Fetty by phone from each Councilor.

Mayor Shamberger informed Rachel that Council will make appointments during Boards and Commissions at the Regular Meeting.

EXECUTIVE SESSION:

Motion by Councilor Selin, second by Councilor Kawecki, to go into executive session pursuant to Section 6-9A-4(b)-2(A) of the West Virginia Code in order to discuss personnel matters in considering appointment's for the Morgantown Housing Advisory Commission with the following persons present; Mayor Shamberger, and Council Members. Time 6:35 p.m.

ADJOURNMENT:

There being no further business, Council adjourned the Special Meeting at 6:50 pm.

City Clerk

Mayor

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

REGULAR MEETING October 20, 2015: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, October 20, 2015 at 7:00 p.m.

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

The meeting was called to order by Mayor Shamberger.

Councilor Ron Bane called for a point of order, commenting that the agenda is not being followed per Ordinance. Councilor Ganz asked for parliamentary response from the City Attorney, Ryan Simonton deferred to the chair, and Mayor Shamberger commented she had attended a seminar that stated that the prayer can go at the beginning of the meeting. City Clerk, Linda Tucker reported, she is working on the order of procedure Ordinance for Council to review.

APPROVAL OF MINUTES: October 6th, 2015 minutes were approved as printed.

CORRESPONDENCE: Mayor Shamberger announced a Proclamation for Municipal Government Week; Councilor's read letter's "If I were Mayor" from Eastwood Elementary School students; Email from Clyde Cale was read against adoption of the user fee.

PUBLIC HEARINGS:

PUBLIC HEARING - AN ORDINANCE AMENDING SECTIONS 1505.01 AND 1511.02 OF THE MORGANTOWN CITY CODE TO GRANT CITY FIRE MARSHALS AND DEPUTY FIRE MARSHALS ARREST AUTHORITY AT FIRE SCENES AND FOR CERTAIN VIOLATIONS OF THE FIRE PREVENTION CODE.

Mayor Shamberger declared this Public Hearing open.

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

PUBLIC HEARING - AN ORDINANCE ANNEXING PROPERTY OF THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS AND WEST VIRGINIA DEPARTMENT OF TRANSPORTATION IN MORGAN DISTRICT INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN.

Mayor Shamberger declared this Public Hearing open.

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

PUBLIC HEARING - AN ORDINANCE ANNEXING PROPERTY OF AIRPARK, LLC IN MORGAN DISTRICT INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN.

Mayor Shamberger declared this Public Hearing open.

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

PUBLIC HEARING - AN ORDINANCE AUTHORIZING AN AGREEMENT WITH KLM PROPERTIES, INC. TO LIST RENTAL SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT.

Mayor Shamberger declared this Public Hearing open.

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

PUBLIC HEARING - AN ORDINANCE CREATING A NEW ARTICLE 745 IN THE CITY CODE TO ESTABLISH A SERVICE FEE FOR PUBLIC RIGHTS-OF-WAY AND POLICE SERVICE.

Mayor Shamberger declared this Public Hearing open.

Judy McCracken, 169 Darst Street, spoke against the user fee and suggested adding a fee to the water bill or garbage bill.

Dave Kelly, 100A Seventh Street, noted that this user fee would not be needed if the City would work efficiently and apply their monies fairly.

Jim Petitto, Owner Petitto Mining Co., requested Council to table User Fee ordinance and not penalize his employees.

Judy Jenkins, 1020 Montrose Avenue, asked Council to look at the Municipal Access Tax that citizens pay and felt that the User Fee Ordinance should be tabled.

Jim Clevenger, 548 Harvard, has lived in Morgantown for 60 years and noted that the streets and potholes need to be addressed.

Frank Kooser, 1036 Curtis Avenue, requested Council to consider that the seniors can't afford this User Fee and requested that they table the ordinance this evening.

Chris Bailey, 2203 Circle Drive, suggested raising the B&O tax that this tax would affect the businesses in the City.

Andrew Santo, 553 Pennsylvania Avenue, commented that this is an aggressive fee for the regular citizen and asked Council to reconsider passing this User Fee.

Russell Palet, 115 Pennsylvania Blvd. Coal Miner, stated that he has friends working on minimum wage that can't afford this User Fee. He commented that the Government tries to make money instead of trying to help the citizens.

Donna Balderson, 348 Webster Avenue, reminded Council that this same issue was voted on years ago and failed. Ms. Balderson commented that she works at the Library and the employees can't afford this User Fee; and asked Council to table ordinance.

James Giuliani, 256 Prarie Avenue, Government tries to make money instead of trying to help the citizens.

George Capel, 327 Willey Street, President, Student Body WVU, stated that WVU Students that are working will be affected and those that are self-employed. Mr. Capel urged Council to postpone the

User Fee ordinance.

Jason Turak, 26 Madora Drive, property owner, stated that there is not enough information given out to the public on this and requested Council to table User Fee Ordinance.

Don Spencer, 565 Harvard Avenue, stated this is a complex issue but we are talking about the future and we must move ahead. He noted that this User Fee is essential to the growth of our community and supports the approval of the User Fee Ordinance.

Joanne Pollitt, 520 Overhill Street, requested Council to table User Fee Ordinance to have more Public Meetings.

Lyndell Millecchia, 476 Lawnview Drive, President of the Library Board, stated that many of the Libraries part-time employees will be affected. She also commented that this fee could affect Library services. Ms. Millecchia agrees with Mr. Spencer that a User Fee is needed for the repair of our streets in the City.

Brian McAllister, 349 Cobun Avenue, stated that the City is under strained conditions both Police Department and City Streets need help. The need is evident to pass this User Fee Ordinance tonight.

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

UNFINISHED BUSINESS:

AN ORDINANCE AMENDING SECTIONS 1505.01 AND 1511.02 OF THE MORGANTOWN CITY CODE TO GRANT CITY FIRE MARSHALS AND DEPUTY FIRE MARSHALS ARREST AUTHORITY AT FIRE SCENES AND FOR CERTAIN VIOLATIONS OF THE FIRE PREVENTION CODE: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING SECTIONS 1505.01 AND 1511.02 OF THE MORGANTOWN CITY CODE TO GRANT CITY FIRE MARSHALS AND DEPUTY FIRE MARSHALS ARREST AUTHORITY AT FIRE SCENES AND FOR CERTAIN VIOLATIONS OF THE FIRE PREVENTION CODE.

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

AN ORDINANCE ANNEXING PROPERTY OF THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS AND WEST VIRGINIA DEPARTMENT OF TRANSPORTATION IN MORGAN DISTRICT INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN: The below entitled Ordinance was presented for second reading.

AN ORDINANCE ANNEXING PROPERTY OF THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS AND WEST VIRGINIA DEPARTMENT OF TRANSPORTATION IN MORGAN DISTRICT INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN.

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

AN ORDINANCE ANNEXING PROPERTY OF AIRPARK, LLC IN MORGAN DISTRICT INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN: The below entitled Ordinance was presented for second reading.

AN ORDINANCE ANNEXING PROPERTY OF AIRPARK, LLC IN MORGAN DISTRICT INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN.

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

AN ORDINANCE AUTHORIZING AN AGREEMENT WITH KLM PROPERTIES, INC. TO LIST RENTAL SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AUTHORIZING AN AGREEMENT WITH KLM PROPERTIES, INC. TO LIST RENTAL SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT.

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

AN ORDINANCE CREATING A NEW ARTICLE 745 IN THE CITY CODE TO ESTABLISH A SERVICE FEE FOR PUBLIC RIGHTS-OF-WAY AND POLICE SERVICE: The below entitled Ordinance was presented for second reading.

AN ORDINANCE CREATING A NEW ARTICLE 745 IN THE CITY CODE TO ESTABLISH A SERVICE FEE FOR PUBLIC RIGHTS-OF-WAY AND POLICE SERVICE.

Motion by Bane, second by Redmond to postpone to give the citizens more time to understand the user fee. Motion failed 4-3 with Councilor Bane, Councilor Nugent, and Councilor Redmond voting No.

After discussion, motion by Ganz, second by Kawecki, to adopt the above entitled Ordinance. Motion carried 4-3 with Councilor Bane, Councilor Nugent, and Councilor Redmond voting no.

BOARDS AND COMMISSIONS: Rachel Fetty by acclamation was appointed to the Morgantown Housing Advisory and John Ganz was appointed to MUB.

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

James Giuliani, 256 Prarie Avenue, handed out photos of the project on University Avenue for Council to view. He stated that this all comes down to trusting administration to do the right thing in getting this project completed.

Randy Jones, 762 Spring Branch Road, stated that this User Fee is unfair as presented and thanked Councilor Redmond for postponement of ordinance.

Joanne Pollitt, 520 Overhill Street, stated that students that are putting themselves through school will have to pay this User Fee and that is just another burden on their finances.

George Capel, 327 Willey Street, WVU, BOG, Student Body President, explained that he is not against the User Fee Ordinance but in how it is written. Mr. Capel invited Council to a BOG Meeting which is held on Wednesday's at 7:30pm at E. Moore Hall to explain this User Fee to all Students.

Andrew Santo, 553 Pennsylvania Avenue, asked if it was true that residents get reimbursed for cars that are damaged from potholes. Mayor Shamberger responded that we will answer your question later on in the meeting.

Andrew Southerland, 1000 District Drive, reported that he will be working with Chelsi Baker, Communications Manager and thanked Mayor Shamberger and Councilor Selin for their participation in our Good Neighbor Day. Andrew then reminded that this weekend there is Make A Difference day and anyone wanting to volunteer contact either Andrew or Chelsi Baker.

There being no other appearances, Mayor Shamberger declared the public portion closed.

SPECIAL COMMITTEE REPORTS: Mayor Shamberger reported that the Safe Community Application has been accepted and that the Committee will make a visit to Morgantown in November.

NEW BUSINESS:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH FRIENDS OF DECKERS CREEK, INC. FOR SPACE AT THE WOODBURN SCHOOL SITE: The below entitled Ordinance was presented for first reading.

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE (1) PARCEL OF REAL ESTATE IN THE THIRD WARD OF THE CITY OF MORGANTOWN FROM R-1A, SINGLE-FAMILY RESIDENTIAL DISTRICT TO R-2, SINGLE-AND-TWO FAMILY RESIDENTIAL DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

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

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE: The below entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE.

City Manager explained, motion by Bane, second by Kaweck, to adopt the above entitled Ordinance. Motion carried 7-0.

CITY MANAGERS REPORT:

New Business:

- 1. Press release to allow 38 more days on University Avenue**

City Manager explained that a press release was released earlier than it was supposed to be and stated they were adding 38 more days onto the contract that was already in place for the completion of the project. Adding 38 more days for completion has been misinterpreted and a letter has been sent to Reclaim to add more manpower to complete the project by October 23rd, 2015 and is part of the contract. October 26th, 2015 is set for the substantial completion and if it is not, they will get with Reclaim to work out the issue.

2. Potholes in Morgantown

There have been several pothole claims and those citizens have been referred to the Department of Highways for reimbursement.

3. Agreement with West Virginia Radio Corporation

The attached agreement with the West Virginia Radio Corporation allows the trimming of eight trees along Deckers Creek in Marilla Park to allow satellite signals to reach the West Virginia Radio Corporation's dishes at their facility on Earl Core Road. Over the years, trees along the creek grew tall enough to interfere with satellite signals needed for emergency broadcasting service. The Tree Board's recommendation was to allow the trimming of the trees but make sure the creek bank was protected with additional plantings and repair if any of the trimmed trees fail. I recommend Council authorize me to sign the agreement and move the project forward.

City Manager explained the agreement to City Council and after discussion, was approved by acclamation. Motion carried 7-0.

4. Municipal Court Technology upgrade

With the introduction of a Municipal Court Technology Fee approved by City Council April 7, 2015, the City began to look at the needs of the Municipal Court and work with vendors that have installed court technology equipment. Electronic Specialties Company recently installed the technology equipment to all courts in the County Justice Center and provided a recommendation for upgrading our Municipal Court based on meetings with the Municipal Judge and Assistant City Attorney. Total cost of the upgrade is \$28,438.00, which will be paid with the funds generated by the Municipal Court Technology Fee as it is collected and submitted to the Capital Escrow Fund. I recommend City Council to authorize me to sign the attached contract with Electronic Specialty Company.

City Manager explained, the upgrade amount has been corrected to \$24,947.94. Council approved the Municipal Court Upgrade per City Manager's request by acclamation. Motion carried 7-0.

5. Fiscal Year 2015 Police and Fire Pension Fund Reports

As included in the attached report by Lori Livengood, Acting Finance Director, the Police and Fire Pension reports are submitted to City Council for approval. The Municipal Pensions Oversight Board require approval from the governing body before the State portion of funding can be invoiced and deposited into the accounts. I agree with the reports, and recommend City Council approve the reports as provided.

City Manager explained, motion by Ganz, second by Selin, by acclamation, to approve the Police and Fire Pension report for approval for 2015.

REPORT FROM CITY CLERK: No Report

REPORT FROM CITY ATTORNEY: No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane requested that this Council not change the order of the pledge on the agenda procedure process.

Deputy Mayor Kawecki:

No report.

Councilor Nugent:

Councilor Nugent gave an update on the Wiles Hill Highland Neighborhood Meeting will be on the 21st at 7:00 pm. He also appreciated the report from the City Manager on the University Avenue Construction and apologized to the community in hoping timelines will be differently in the future. He noted in reference to the user fee he respects everybody's comments but could not support the user fee at this time.

Councilor Selin:

Councilor Selin thanked her colleagues for supporting the passage of the user fee and thanked all of those for all of their support and work on this Ordinance. She noted that the City employees and staff work on taxation, grants, and many other programs and services to keep this City thriving and I commend them for their work.

Councilor Redmond:

Councilor Redmond stated that this user fee has passed and hopefully it will be presented properly to the public with due diligence. He mentioned the Editorial by Tim Ball MUB Director in Sunday's paper. He then responded to the Met Theatre Lease and thought it was a good decision and was well thought out. He also responded to the University Avenue construction site hoping that we can show some resolve.

Councilor Ganz

Councilor Ganz reported that BOPARC Ice Arena is open for the 2015-2016 season and they are offering Tot Cycles. She then thanked the Met Theatre for presenting Annie Jr. and commended the 40 youth involved. She also thanked the landlords in the 7th Ward for having non-alcoholic tailgating parties and appreciated Mr. Kelly explaining annulments and right-of-ways and their proceeds. She then reminded everyone of the Suncrest Neighborhood Association Meeting, October 29th at Calvary Baptist Church.

Mayor Shamberger:

Mayor Shamberger reported that there will be a chili cook off on Sunday at the Market Place; Lights on after school on October 23rd; Puppy Day at the Library November 7th; Pumpkin drop October 23rd; Reel Rock 10 at the Met Theatre; Chestnut Ridge Park Halloween Bash on October 24th; Kiss me Kate on October 24th at the CAC; Book Sale at the Stone House on October 25th; Botanical Garden Walk October 25th; Craig Ferguson will be entertaining at the CAC on October 26th; The City will observe Halloween on October 31st from 6:00 pm – 7:30 pm.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 10:45p.m.

City Clerk

Mayor

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

Boards & Commissions Available Positions

<u>Board/Commission</u>	<u>Vacancy(s)</u>	<u>Name of Applicants</u>	<u>Res./Non Res.</u>	<u>Ward</u>	<u>Code Sec.</u>	<u>Other</u>
Board of Zoning Appeals	2	Leanne Cardoso	Resident		1389.01	Advertise
		James Shaffer	Resident		1389.01	Advertise
Morgantown Housing	1		Res/Real Estate		160.03	Advertise
Planning Commission	3	Carol Pyles	Resident	7	145.02	Advertise
		Mike Shuman	Resident	5	145.02	Advertise
		William Petros	Resident	4	145.02	Advertise
Sister Cities	2	Lola Contreras	Resident	4	172.02	Advertise
BZA, MUB, PLANNING deadline for advertising 11/15/15						City Clerk
* Urban Landscape is looking at making some membership changes.						City Manager

Updated 10/27/15

****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.***

Morgantown

Request ID: 30907

Request Form: Volunteering for City Boards and Commissions

Received: Tuesday, August 04, 2015

Status: Completed

Priority: Normal

Assigned To: Heather Carl

Contact Details

From: Lola Contreras

Email: contreras.lola@gmail.com

Telephone: 304-216-3441

Address1: 323 Rotary St.

Address2:

City: Morgantown

State: WV

Zip Code:
26505

Pref. Method of Response: E-Mail

Request Address

Number:

Street:

Type:

City:

State:

Direction:

Apt:

Zip Code:

Questions and Answers

Are you a Morgantown resident?:

Yes

If Yes, how many years have you lived in the City of Morgantown?:

12

In which City Ward do you live?:

Not Sure Fourth Wd

Who is your employer? (If retired, answer "retired"):

Fairmont State University

What type of business are, or were, you employed in?:

Education

Do you have any professional certifications or licenses?:

Yes, substitute teacher, provisional certified Spanish teacher (TX).

Do you have any pertinent special interests?:

I have been involved in a number of

international/cultural events such as:

- **Hispanic Heritage Month (LASO - WVU)**
- **5 de Mayo (fundraising event for WV CIP)**
- **Chispa/Spanish festivals at public schools**

On which Board or Commission(s) are you interested in serving?:
Sister Cities Commission

Are you a Morgantown resident?:

If Yes, how many years have you lived in the City of Morgantown?:

In which City Ward do you live?:

Who is your employer? (If retired, answer "retired"):

What type of business are, or were, you employed in?:

Do you have any professional certifications or licenses?:

Do you have any pertinent special interests?:

On which Board or Commission(s) are you interested in serving?:

Staff Activities

The status of the request was changed from Active to Completed. on 8/4/2015 at 3:10 PM

Public Activities

Request was successfully submitted. by EXEC EXEC on 8/4/2015 at 12:48 PM

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH FRIENDS OF DECKERS CREEK, INC. FOR SPACE AT THE WOODBURN SCHOOL SITE

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached agreement, which is incorporated in this Ordinance by reference, leasing space at the former Woodburn School site to Friends of Deckers Creek, Inc.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

LEASE AGREEMENT

This agreement is made this _____ day of _____, 2015 by and between **THE CITY OF MORGANTOWN**, a municipal corporation and political subdivision of the State of West Virginia ("Lessor"), and **FRIENDS OF DECKERS CREEK, INC.**, a West Virginia non-profit corporation ("Lessee"), upon the following terms:

RECITALS

- A. Lessor is the sole owner of the premises described below.
- B. Lessee is a non-profit organization that was established to improve the natural qualities of, increase the public concern for, and promote the enjoyment of the Decker's Creek Watershed; and desires to lease office space from lessor.
- C. The parties desire to enter a lease agreement defining their respective rights, duties, and liabilities relating to the premises.

In consideration of the matters described above and of the mutual benefits and obligations set forth in this lease agreement, the parties agree as follows:

SECTION ONE. DESCRIPTION OF PREMISES

- A. Lessor leases to lessee that certain space consisting of the Modular Building located on the former Woodburn Elementary School, consisting of 2,028 square feet, more or less, located at 205 Parsons Street situated in Morgantown, Monongalia County, West Virginia, and shown on the attached "Exhibit 1," which is incorporated herein by reference (the "Premises").
- B. The premises shall be used for the purpose of office space and for no other purpose.
- C. In addition to the demised premises, the Lessee shall have the right to use all driveways, parking areas, and sidewalks (collectively, "Common Areas"), if any, in or about the Woodburn School building, jointly with other tenants and their respective representatives, agents, customers, guests and invitees. The Lessor will be responsible for routine maintenance of the Common Areas.

SECTION TWO. TERM OF LEASE

- A. This lease agreement shall cover a term commencing **December 1, 2015**, and extending until midnight on the day preceding the **third** anniversary of such date, provided that either of parties to this lease gives to the other, three months before the latter date, notice in writing of the party's intention to terminate this lease on that date. Otherwise this lease will continue in force for another term of one year, and in the same manner from year to year ("Term"), including all terms and conditions in this lease, until one of parties terminates this lease by notice in writing in some ensuing year in the manner described above, which notice terminates this lease at the end of year for which premises are then held.
- B. Lessee shall surrender the premises to lessor immediately on termination of the lease.

SECTION THREE. DELIVERY OF POSSESSION

If, for any reason, lessor cannot deliver possession of the demised premises at the commencement of the term, this lease agreement shall not be void or voidable, nor shall lessor be liable to lessee for any loss or damage resulting from the inability to deliver possession. However, there shall be a proportionate reduction in total rent, covering the period between the commencement of the term and actual delivery of the demised premises to lessee, in the event of a late delivery by lessor.

SECTION FOUR. RENTAL

A. Lessee shall pay a total of \$5,070 for the first 12 months, \$7,098 for the second twelve months, and \$9,126 for the third twelve months of the initial term of this lease agreement, resulting in a monthly rate of \$422.50, 591.50, and \$760.50 respectfully, due on the 1st day of each month for the succeeding month's rental. This sum reflects a monthly rate of \$2.50, \$3.50, and \$4.50 per square foot of office space. Payments shall be made to lessor at the address specified herein, and a payment shall be delinquent if not paid by the fifth day after which it is due.

B. The annual rental payment for each year beyond the initial term shall increase by an amount equal to the proportional increase in the U.S. City Average of the Consumer Price Index for All Urban Consumers (CPI-U) for all items over the twelve-month period prior to the start of the new yearly term; provided, that in no event shall the annual rental payment increase by an amount less than One Percent (1%) of the prior year annual rental payment.

C. On lessee's failure to pay the rental on a timely basis, lessor shall have the right to terminate this lease agreement, and the lease agreement will then be forfeited.

SECTION FIVE. RESTRICTIONS ON USE

Lessee shall not use or permit the demised premises, or any part of the demised premises, to be used for any purposes other than those set forth in this lease agreement. Lessee shall neither permit on the demised premises any act, sale, or storage that may be prohibited under standard forms of fire insurance policies, nor use the premises for any such purpose. In addition, no use shall be made or permitted to be made that shall result in: (1) waste on the demised premises; (2) a public or private nuisance that may disturb the quiet enjoyment of other tenants in the building; (3) improper, unlawful, or objectionable use, including sale, storage, or preparation, of food, alcoholic beverages, or materials generating an odor on the premises; or (4) noises or vibrations that may disturb other tenants. Lessee shall comply with all governmental regulations and statutes affecting the demised premises either now or in the future.

SECTION SIX. ABANDONING PREMISES OR PERSONAL PROPERTY

Lessee shall not vacate or abandon the demised premises at any time during the term of this lease agreement. If lessee does vacate or abandon the demised premises or is dispossessed by process of law, any personal property belonging to lessee and left on the demised premises shall be deemed abandoned at the option of lessor and shall become the property of lessor.

SECTION SEVEN. UTILITIES AND SERVICES

A. Lessor shall furnish and timely pay when due and payable, at no additional cost to the Lessee, the following utilities and/or services:

- (i) Custodial services in the common areas used by other tenants.
- (ii) Ground maintenance, including mowing, landscaping, and parking lot maintenance.
- (iii) Snow removal in front of 205 Parsons Street, including only the front of the modular building constituting the

Leased Premises and the walkway adjacent thereto, to be paid by the Lessor if third-party services are required, who shall be entitled to reimbursement as Additional Rent from the Lessee upon Lessor's delivery of a separate invoice, providing evidence of payment made.

B. The Lessee, at its expense, shall furnish and provide payment to the applicable company or vendor for the following utilities and/or services:

- (i) Utilities including natural gas, electric, water.
- (ii) Custodial Services in the demised premises.
- (iii) Trash services, for which the Lessee may choose to partner with the neighboring tenants.
- (iv) Telephone and internet connectivity services.
- (v) The Lessee shall have the right to rekey locks, install a key card access system, or provide any other security system for the demised premises, using such security services provider as the Lessee may choose in its sole discretion, provided that Lessee shall ensure Lessor is able to access the premises through such locks or system. The Lessee may remove said system at any time during the term of this lease, provided that Lessee, at its sole expense, shall repair any damage resulting from such removal and ensure that an adequate method for securing the demised premises is in place.

C. In the event that any utilities or services being provided by the Lessor are interrupted for reasons within the Lessor's control and as a result, suitability of the Premises is interrupted, the Lessee shall have the option to (i) cause the utilities or services to be reinstated and deduct the costs and expense thereof from the rents which may become due and payable thereafter to the Lessor until the Lessee is fully reimbursed for such expenditures; or (ii) terminate this Lease upon notice to Lessor and Lessor's failure to cure such default within three (3) business days.

SECTION EIGHT. ALTERATIONS AND MODIFICATION; REPAIRS

A. Lessee has inspected the demised premises, and they are now in a tenantable and good condition, except as specifically identified by Lessee on the attached "Schedule 1 – Lessee Identification of Defects."

B. Lessee shall take good care of the demised premises and shall not alter, repair, or change the demised premises without the prior, express, and written consent of lessor, which consent shall not be unreasonably withheld.

C. All alterations, improvements, and changes that lessor allows shall be done either by or under the direction of lessee and at the expense of lessee. Lessor shall not have the right to control the manner of performance or the selection of contractors, and it is the intent of the parties that no public funds be contributed either directly or indirectly to the payment for any alterations or improvements. Lessee shall be responsible for ensuring that any approved alterations or improvements are performed in compliance with applicable laws. All alterations and improvements shall become the property of lessor and remain on the demised premises, except that at the option of lessor, lessee shall, at its expense, remove from the demised premises all partitions, counters, railings, and similarly installed improvements when surrendering the demised premises.

D. All damage or injury done to the demised premises by lessee or any person who may be in or on the demised premises with the consent of lessee shall be paid for by lessee.

E. Lessee shall, at the termination of this lease agreement, surrender the demised premises to lessor in as good condition and repair as reasonable and proper use of the premises will permit.

F. Lessor shall be responsible for making all routine repairs and for performing routine maintenance in the demised premises except the services and maintenance for which Lessee is responsible pursuant to **Section 7.B.** of this Agreement. Lessee shall

permit lessor and lessor's agents to enter the demised premises at all reasonable times to inspect them, clean windows, perform other janitorial services, maintain the building and demised premises, make repairs, alterations, or additions to the demised premises, or any portion of the building, including the erection of scaffolding, props, or other mechanical devices, to post notices of nonliability for alterations, additions, or repairs, or to place on the premises any usual or ordinary "For Sale" signs, without any rebate of rent to lessee or damages for any loss of occupation or quiet enjoyment of the demised premises. Lessor may, at any time within ninety days prior to the expiration of this lease agreement, place on the windows and doors of the premises any usual or ordinary "To Let" or "To Lease" signs. Lessor and lessor's agents may, during the last-mentioned period, enter on the demised premises at reasonable hours and exhibit them to prospective tenants.

SECTION NINE. LIMITATION OF LIABILITY; INDEMNIFICATION

A. Lessee waives all claims against lessor for damages to goods or for injuries to persons on or about the demised premises from any cause arising at any time.

B. Lessee will indemnify lessor on account of any damage or injury to any person, or to the goods of any person, arising from the use of the demised premises by lessee, or arising from the failure of lessee to keep the demised premises in good condition as provided in this lease agreement.

C. Lessor shall not be liable to lessee for any damage by or from any act or negligence of any other occupant of the same building, or by any owner or occupant of adjoining or contiguous property.

D. Lessee agrees to pay for all damage to the building, as well as all damage or injury suffered by tenants or occupants of the building caused by the misuse or neglect of the demised premises by lessee.

E. Lessee shall defend, indemnify, and hold harmless the lessor and its representatives and employees from and against any and all liabilities, demands, suits, claims, losses, fines, or judgments arising by reason of the injury or death of any person or damage to or loss of any property, including all reasonable costs for investigation and defense thereof, (including, but not limited to, attorney fees, court costs, and expert fees), of any nature whatsoever arising out of, or incidental to, this Lease Agreement or Lessee's use or occupancy of the leased premises, or the acts or omissions of the Lessee, its officers, employees, agents, representatives, contractors, sub-contractors, licensees or invitees, regardless of where the injury, death, loss, or damage may occur unless such injury, death, loss, or damage is caused by the sole negligence of the Lessor, its employees, agents, officers, or representatives. The Lessor shall give Lessee reasonable notice of any such claims or actions. The provisions of this Article shall survive the expiration or earlier termination of this Lease Agreement.

F. In order to assure its ability to defend and hold harmless the lessor, lessee shall carry insurance in the following minimum amounts during the term of this lease, naming the lessor as an additional insured on the policy(ies):

Bodily Injury\$500,000 per occurrence
Property Damage.....\$ 50,000 per occurrence

G. Lessee shall provide the lessor with certification of insurance through the term of this Agreement, evidencing such coverage to be in force.

H. The Lessor agrees to notify the lessee in writing, as soon as practicable, of any claims, demands, or action arising out of an occurrence covered hereunder of which the lessor has knowledge, and to cooperate with the lessee in the investigation and defense thereof.

SECTION TEN. DESTRUCTION OF PREMISES

A. In the event of a partial destruction of the demised premises during the term of this lease agreement from any cause, lessor may, at its option, repair the demised premises.

B. Any partial destruction of the demised premises shall neither annul nor void this lease agreement, except that lessee shall be entitled to a proportionate reduction of rent while the repairs are being made, any proportionate reduction being based on the extent to which the making of repairs shall interfere with the business carried on by lessee on the demised premises. Lessor may, at lessor's option, make repairs within a reasonable time, this lease agreement continuing in full force and effect and the rent to be proportionately rebated as previously set forth in this section. If lessor elects not to make repairs, or if repairs cannot be made under the laws and regulations of the applicable governmental authorities, this lease agreement may be terminated at the option of either party.

C. In the event of any partial destruction of the demised premises which lessor may elect to repair under the terms of this section, the provisions of any statute or common law rule authorizing lessee to make the repairs and deduct the expenses from the rent are waived by lessee.

D. A total destruction of the building in which the demised premises are situated shall terminate this lease agreement.

SECTION ELEVEN. CONDEMNATION

A condemnation of the entire building or a condemnation of the portion of the demised premises occupied by lessee shall result in a termination of this lease agreement. Lessor shall receive the total of any consequential damages awarded as a result of condemnation proceedings. All future rent installments to be paid by lessee under this lease shall be terminated.

SECTION TWELVE. ASSIGNMENT AND SUBLEASE

A. Lessee shall not assign any rights or duties under this lease agreement nor sublet the demised premises or any part of the demised premises, nor allow any other person to occupy or use the demised premises without the prior, express, and written consent of lessor. A consent to one assignment, sublease, or occupation or use by any other person shall not be a consent to any subsequent assignment, sublease, or occupation or use by another person. Any assignment or subletting without consent shall be void.

B. This lease agreement shall not be assignable, as to the interest of lessee, by operation of law, without the written consent of lessor.

C. Lessor may withhold consent to an assignment or sublease of the demised premises in lessor's sole discretion.

SECTION THIRTEEN. BREACH OR DEFAULT

Lessee shall have breached this lease agreement and shall be considered in default under this lease agreement if: (1) lessee fails to pay any rent when due and does not make the delinquent payment within five days after receipt of notice from lessor; or (2) lessee fails to perform or comply with any of the covenants or conditions of this lease agreement and such failure continues for a period of ten days after receipt of notice from lessor in the fashion described in Section 21 below.

SECTION FOURTEEN. LESSOR'S REMEDIES

In the event of a breach of this lease agreement as set forth in SECTION THIRTEEN above, the rights of lessor shall be as follows:

A. Lessor shall have the right to cancel and terminate this lease agreement, as well as all of the right, title, and interest of lessee under this lease agreement, by giving to lessee not less than five days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this lease agreement and the right, title, and interest of lessee under this lease agreement shall terminate in the same manner and with the same force and effect, except as to lessee's liability, as if the date fixed in the notice of cancellation and termination were the end of the lease term.

B. Lessor may elect but shall not be obligated to make any payment required of lessee in this lease agreement or comply with any agreement, term, or condition required by this lease agreement to be performed by lessee. Lessor shall have the right to enter the demised premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied. However, any expenditure by lessor incurred in any such correction of a default shall not be deemed to waive or release lessee's default or lessor's right to take any action as may be otherwise permissible under this lease agreement in the case of any default.

C. Lessor may reenter the demised premises immediately and remove the property and personnel of lessee, and store the property in a public warehouse or at a place selected by lessor, at the expense of lessee. After reentry lessor may terminate this lease agreement on giving five days' written notice of termination to lessee. Without the notice, reentry will not terminate this lease agreement. On termination, lessor may recover from lessee all damages proximately resulting from the breach, including the cost of recovering the demised premises and the worth of the balance of this lease agreement over the reasonable rental value of the demised premises for the remainder of the lease term, which sum shall be immediately due lessor from lessee.

After reentry, lessor may relet the demised premises or any part of the demised premises for any term without terminating this lease agreement, at the rent and on the terms as lessor may choose. Lessor may make alterations and repairs to the demised premises. The duties and liabilities of the parties if the demised premises are relet as provided in this paragraph shall be as follows:

1. In addition to lessee's liability to lessor for breach of the lease agreement, lessee shall be liable for all expenses of the reletting, for the alterations and repairs made, and for the difference between the rent received by lessor under the new lease agreement and the rent installments that are due for the same period under this lease agreement.

2. Lessor shall have the right to apply the rent received from reletting the premises (a) to reduce lessee's indebtedness to lessor under this lease agreement, not including indebtedness for rent, (b) to expenses of the reletting and alterations and repairs made, (c) to rent due under this lease agreement, or (d) to payment of future rent under this lease agreement as it becomes due.

If the new lessee does not pay a rent installment promptly to lessor, and the rent installment has been credited in advance of payment to the indebtedness of lessee other than rent, or if rentals from the new lessee have been otherwise applied by lessor as provided for in this section, and during any rent installment period, are less than the rent payable for the corresponding installment period under this lease agreement, lessee shall pay lessor the deficiency, separately for each rent installment deficiency period and before the end of that period. Lessor may at any time after a reletting terminate this lease agreement for the breach on which lessor had based the reentry and subsequently relet the premises.

D. After reentry, lessor may procure the appointment of a receiver to take possession and collect rents and profits of the business of lessee, and, if necessary to collect the rents and profits the receiver may carry on the business of lessee and take possession of the personal property used in the business of lessee, including inventory, trade fixtures, and furnishings, and use them in the business without compensating lessee.

SECTION FIFTEEN. UNLAWFUL DETAINER AND ATTORNEYS' FEES

In case suit shall be brought for an unlawful detainer of the demised premises, for the recovery of any rent due under the provisions of this lease agreement, or for lessee's breach of any other condition contained in this lease agreement, lessee shall pay to lessor reasonable attorneys' fees that shall be fixed by the court. Any such attorneys' fee shall be deemed to have accrued on the commencement of the action and shall be paid on the successful completion of the action by lessor. Lessee shall be entitled to attorneys' fees in the same manner if judgment is rendered for lessee.

SECTION SIXTEEN. REMEDIES OF LESSOR CUMULATIVE

The remedies given to lessor in this lease agreement shall be cumulative, and the exercise of any one remedy by lessor shall not be to the exclusion of any other remedy.

SECTION SEVENTEEN. GOVERNING LAW

This lease agreement shall be governed by, construed, and enforced in accordance with the laws of the State of West Virginia.

SECTION EIGHTEEN. NO WAIVER

Waiver by lessor of any breach of any covenant or duty of lessee under this lease is not a waiver of a breach of any other covenant or duty of lessee, or of any subsequent breach of the same covenant or duty.

SECTION NINETEEN. ENTIRE AGREEMENT

This lease agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this lease agreement shall not be binding upon either party except to the extent incorporated in this lease agreement.

SECTION TWENTY. MODIFICATION OF AGREEMENT

Any modification of this lease agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

SECTION TWENTY-ONE. NOTICES

A. All notices, demands, or other writings in this lease agreement provided to be given or made or sent, or which may be given or made or sent, by either party to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered and postage prepaid, and addressed as follows:

If to lessor: City of Morgantown
 c/o City Manager
 389 Spruce Street
 Morgantown, WV 26505

If to lessee: Friends of Deckers Creek, Inc.
c/o Holly Purpura
1451 Earl L. Core Road
Suite 4
Morgantown, WV 26505

B. The address to which any notice, demand, or other writing may be given or made or sent to any party as above provided may be changed by written notice given by such party as above provided.

SECTION TWENTY-TWO. COUNTERPARTS

This lease agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

SECTION TWENTY-THREE. SECTION HEADINGS

The titles to the sections of this lease agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this lease agreement.

The parties have executed this lease agreement in Morgantown, Monongalia County, West Virginia the day and year first set forth above.

LESSOR: City of Morgantown

By _____
Jeff Mikorski
City Manager

STATE OF WEST VIRGINIA,
COUNTY OF MONONGALIA, TO-WIT:

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Jeff Mikorski, City Manager of the City of Morgantown, West Virginia.

My commission expires: _____.

Notary Public in and for
said State and County

LESSEE:

By _____

STATE OF WEST VIRGINIA,
COUNTY OF MONONGALIA, TO-WIT:

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by _____, member of _____.

My commission expires: _____.

Notary Public in and for
said State and County

Schedule 1 – Lessee Identification of Defects

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached agreement, which is incorporated in this Ordinance by reference, leasing space at the Metropolitan Theatre to Morgantown Theatre Company.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

METROPOLITAN THEATRE LEASE AGREEMENT

**CITY OF MORGANTOWN
METROPOLITAN THEATRE
MORGANTOWN, WEST VIRGINIA**

THIS AGREEMENT, made this _____ day of _____, 2015, by and between

THE CITY OF MORGANTOWN ,
389 SPRUCE STREET,
MORGANTOWN, WEST VIRGINIA 26505,
a municipal corporation, hereinafter referred to as the "City,"
as LESSOR

and

MORGANTOWN THEATRE COMPANY, Inc.
276 WALNUT STREET
MORGANTOWN, WV 26505,
A West Virginia Nonprofit Corporation
as LESSEE

WHEREAS, the City owns, controls, and operates a theatre known as the "Metropolitan Theatre ," hereinafter referred to as "Theatre," located in the City of Morgantown, Monongalia County, West Virginia; and

WHEREAS, LESSEE is a nonprofit, youth-focused theatre company devoted to teaching theatre arts in a supportive, inclusive, and enthusiastic environment that encourages teamwork and nurtures self-confidence; and

WHEREAS, LESSEE desires to lease from City a portion of the Theatre for theatre company operations upon the terms described in this Agreement;

NOW THEREFORE, the City and the LESSEE hereby mutually agree, as follows:

ARTICLE I

DEFINITIONS

- 1.1 "Agreement" shall mean the contract, including any and all attachments, between the City and LESSEE, for the right, privilege and obligation to use such Theatre property as

defined herein for the conduct of Morgantown Theatre Company, Inc., business, including but not limited to rehearsals, workshops, classes, presentations, demonstrations, set construction, and summer camps under the terms and conditions expressly set forth herein.

- 1.2 "Assigned Area" shall mean the area or areas at the Theatre designated by this Agreement and the Exhibits thereto as the place or places where the business of LESSEE may be conducted, as designated by the City.
- 1.3 "LESSEE" shall mean Morgantown Theatre Company, Inc.
- 1.4 "Semester" shall mean period of instruction provided by LESSEE which typically consists of a six (6) month "Fall/Winter Semester" (September through February) and a five (5) month "spring Semester" (February through June).
- 1.5 "Summer Camp" shall mean period of instruction provided by LESSEE during the months of June, July and August.
- 1.6 "Annual Rental Payment" is the amount of money due the City annually from LESSEE, in consideration of the use of the Assigned Area. Payment will be made on a monthly basis according to the terms of this Agreement.
- 1.7 "Year" shall mean Agreement year unless otherwise specified.
- 1.8 "Metropolitan ~~Theater~~Theatre Improvement Fund" shall be the fund created by a one dollar charge per ticket and/or entrant to be collected by the Morgantown ~~Theater~~Theatre Company for any performance that takes place in the Metropolitan ~~Theater~~Theatre with the involvement of Morgantown ~~Theater~~Theatre Company.

ARTICLE II

ASSIGNED AREA

- 2.1 The Assigned Area, as shown on Exhibit "A," located in two (2) rooms at the lower mid-level of the "THEATRE," shall consist of approximately 2,790 square feet of unimproved space.
- 2.2 It is understood that the area(s) being leased to "LESSEE" shall not include any area which is underneath the sidewalk in front of the "THEATRE."

ARTICLE III

TERM

3.1 This Agreement shall be effective and binding upon execution. The original term of this Agreement shall be for a term beginning on November 1, 2015 and extending until midnight on the day preceding the third anniversary of such date, provided that either of parties to this lease gives to the other, three months before the latter date, notice in writing of the party's intention to terminate this lease on that date. Otherwise this lease will continue in force for another term of one year, and in the same manner from year to year ("Term"), including all terms and conditions in this lease, until one of parties terminates this lease by notice in writing in some ensuing year in the manner described above which notice terminates this lease at the end of year for which premises are then held unless sooner terminated or extended as herein provided.

3.2 It is the mutual intent of the parties that this Agreement remains in effect for the full term, subject to each party's rights on breach.

ARTICLE IV

USES AND PRIVILEGES

4.1 The "LESSEE" has the right, privilege, and obligation to operate and manage its theatre company in the Assigned Area for the conduct of its business. The rights above shall be exclusive as to the "LESSEE" only within the Assigned Area during the term of this Agreement.

4.2 "LESSEE" is entitled to use the lobby, main stage, house, dressing rooms, or light and sound facilities of the "THEATRE," for plays, musicals or other theatrical presentation for a total of fifteen (15) days of usage by "LESSEE" per year, which includes public performances, set construction, technical rehearsals, and dress rehearsals. The above-stated days of usage by "LESSEE" will be scheduled with the Theatre Manager at the beginning of each year. "LESSEE" will be responsible for cleaning the "THEATRE" after each performance and will not be assessed a "cleaning cost" fee by "CITY." "LESSEE" will not be assessed a "loss/damage deposit" pursuant to this provision except pursuant to separate agreement with the Morgantown Board of Parks and Recreation Commissioners ("BOPARC") or succeeding entity authorized to manage Theatre operations and lease performance space in the Theatre.

4.3 "LESSEE" shall collect the Metropolitan Theater Theatre Improvement Fund charge of one dollar (\$1.00) per each ticket sold and/or entrant to any and all performances or operations conducted with the involvement of "LESSEE" at the "THEATRE." "LESSEE" shall account for all such tickets, entrants, and funds in a manner acceptable to "CITY," which shall include, but not be limited to, records identifying each production or event, the number of tickets sold, the number of entrants, and the amount of fees collected. "LESSEE" shall hold the funds in trust for remittance to "CITY" as provided in this Agreement. "CITY" shall have the right to inspect the records, including financial records, required by this Section upon reasonable notice to "LESSEE."

4.4 "LESSEE" shall have reasonable rights of ingress and egress from the main entrances of the "THEATRE" to its Assigned Area at any time of the day. Such rights of ingress and egress shall apply to "LESSEE'S" employees, guests, patrons, invitees, suppliers and other authorized individuals. "LESSEE" shall be wholly responsible for its Assigned Area locks and keys.

4.5 "LESSEE" agrees not to use, or suffer or permit any person to use, the Assigned Area or any part thereof, for any illegal purposes, or for any purpose in violation of any Federal, or State, or local laws, rules, orders, regulations or ordinances now in effect or hereafter enacted or adopted. Any violation of this provision shall constitute a breach by "LESSEE" and the City shall be entitled to the remedies for breach stated in this Agreement and any other remedy provided by law.

ARTICLE V

OPERATIONAL STANDARDS

5.1 The "CITY'S" City Manager and Theatre Manager shall have the right to determine the "LESSEE'S" compliance with all operational conditions. "LESSEE'S" failure or refusal to comply with these Operational Standards shall be deemed a default in their performance hereunder and may be grounds for termination of this Agreement.

5.2 "LESSEE" shall make all reasonable efforts to maintain and develop business conducted by it in the "THEATRE."

5.3 "LESSEE" agrees to operate its theatre company in a highly efficient and professional manner and to conduct its operations in such a manner as to win public esteem.

5.4 All operations shall be supervised at all times by an active, qualified competent manager or a qualified subordinate in the manager's absence. The manager or qualified subordinate shall be available at the Assigned Area during all hours in operation.

5.5 "LESSEE" shall employ and maintain, at its expense, a sufficient number of employees, help and labor as may be necessary to provide, at all times, effective service required or authorized in this Agreement. "LESSEE" shall ensure and control the professional conduct, demeanor and appearance of its employees and representatives.

5.6 All personnel employed by "LESSEE" shall be neat, clean and courteous at all times. No improper actions or language shall be permitted while in the Assigned Areas.

5.7 "LESSEE" shall comply with all applicable laws, codes, rules, and regulations and shall cooperate with all local health and fire officials.

5.8 “LESSEE” shall remove and dispose of all garbage, waste and debris from the Assigned Area and keep the Assigned Area occupied under this Agreement in a clean and sanitary condition and in conformity with all laws and rules and regulations pertaining to sanitation and public health.

ARTICLE VI

RENTS, FEES AND ACCOUNTABILITY

6.1 Annual Rental Payment – In consideration of the rights, privileges, and obligations granted by this Agreement, “LESSEE” agrees to pay the “CITY,” for the initial three-year term of this Agreement, an annual rental payment of Six Thousand Dollars (\$6,000.00) plus all funds collected for the Metropolitan TheaterTheatre Improvement Fund. The Annual Rental Payment – less the Metropolitan TheaterTheatre Improvement Fund – for each year beyond the initial term shall increase by an amount equal to the proportional increase in the U.S. City Average of the Consumer Price Index for All Urban Consumers (CPI-U) for all items over the twelve-month period prior to the start of the new yearly term; provided, that in no event shall the Annual Rental Payment increase by an amount less than One Percent (1%) of the prior year Annual Rental Payment.

6.2 Rental Payments Due – Beginning November 1, 2015 and continuing on or before the first (1st) day of each month thereafter during the term of this Agreement, “LESSEE” shall pay to the “CITY” one-twelfth (1/12) of the Annual Rental Payment, including all funds collected for the Metropolitan TheaterTheatre Improvement Fund during the preceding calendar month.

6.3 Payments Made To – All payments due to the “CITY” from “LESSEE” shall be by check, made payable to the following: “Metropolitan Theatre.”

6.4 Place of Payment – All payments due to the “CITY” from “LESSEE” shall be delivered to the following:

City of Morgantown
City Manager’s Office
389 Spruce Street
Morgantown, WV 26505

6.5 Delinquency Charge – A delinquency charge of five percent (5%) per month shall be added to payments which are received more than fifteen (15) days after the due date for such payment.

ARTICLE VII

IMPROVEMENTS TO ASSIGNED AREA

7.1 Inventory – Prior to the occupancy by “LESSEE,” the parties shall make an inventory of all equipment furnished by the “CITY,” if any, which the “LESSEE’S” desire to remain within the Assigned Area. An inventory list of that equipment shall be signed by the “LESSEE” as being received. The “CITY” may at its discretion furnish any additional equipment it may deem necessary and in the event such additional equipment is furnished, it shall be added to the equipment inventory and receipted for in writing by “LESSEE.” At the expiration or termination of this Agreement, all such equipment shall be returned to the “CITY” in good operating condition, except for reasonable wear and tear. All damaged or missing items shall be replaced with like equipment or with equipment acceptable to the “CITY.”

7.2 Improvements to Assigned Area by “LESSEE” – “LESSEE” may alter, amend, or improve the Assigned Area only with the prior written consent of City, which shall not be unreasonably withheld.

7.3 Ownership of Improvements – All improvements, additions and alterations made to the Assigned Area by the “LESSEE” shall be and remain the property of the “LESSEE” during the term of this Agreement. Upon termination of this Agreement for any reason said improvements, less furniture and readily removable equipment, shall become the property of the “CITY.”

7.4 Removal or Demolition of Improvements – The “LESSEE” shall not remove or demolish, in whole or in part, any improvements upon the Assigned Area without the written consent of the “CITY.” Consent may be conditioned upon the obligation of “LESSEE” to replace the same with a specified improvement. The “CITY” will not withhold consent unreasonably.

7.5 Signage – The “LESSEE” may, at its own expense, install and operate necessary and appropriate identification signs at the “THEATRE,” upon the written approval of the “CITY,” which may be given or withheld in the discretion of the City. Any such signage must be in conformance with regulations promulgated pursuant to the National Historic Preservation Act. Such approval shall be subject to revocation by the “CITY” at any time.

ARTICLE VIII

MAINTENANCE AND REPAIRS

8.1 "LESSEE" agrees to provide at its own expense such maintenance, custodial, and cleaning services and supplies as may be necessary or required in the operation and maintenance of its Assigned Area.

8.2 "LESSEE" agrees to maintain and make necessary repairs to the interior of all of its Assigned Area and all equipment furnished by the "CITY," as identified by Paragraph 7.1, the fixtures and equipment therein and appurtenances thereto including, without limitation, the interior windows, doors and entrances, storefronts, signs, floor coverings, interior walls and ceiling, the surfaces of interior columns exclusive of structural deficiencies, any columns erected by "LESSEES" and any lighting tubes or bulbs within the Assigned Areas. "LESSEE" agrees to keep and maintain in good and safe condition its electrical equipment and the plumbing fixtures located at or within its Assigned Area.

8.3 City shall be responsible for repair and replacement of fixtures or improvements for which LESSEE is not responsible pursuant to Paragraph 8.2, except when repair or replacement is required as a result of operations or activities of LESSEE or its agents, employees, representatives, or persons permitted at the Theatre by LESSEE.

8.4 All repairs and maintenance done by "LESSEE" or on its behalf shall be of first class quality in both materials and workmanship. All repairs shall be made in conformity with the rules and regulations prescribed from time to time by Federal, State and/or local authorities having jurisdiction over the work in "LESSEE'S" Assigned Areas.

8.5 The "CITY'S" duly appointed representatives shall have the right to enter "LESSEE'S" Assigned Area to:

- (a) Inspect the Assigned Area at reasonable intervals during the "LESSEE'S" regular business hours or at any time in case of emergency, to determine whether the "LESSEE" has complied with and is complying with the terms and conditions of the Agreement. The "CITY" may, at its discretion, require the "LESSEE" to effect repairs at the "LESSEE'S" own cost; and
- (b) Perform any and all things which "LESSEE" is obligated to do and has failed to do after providing "LESSEE" with fifteen (15) days' written notice to act, including maintenance, repairs and replacements to "LESSEE'S" Assigned Area. The cost of all labor, materials and overhead charges required for performance of such work will be paid by the "LESSEE" to the "CITY" within ten (10) days following receipt of invoice for said charges by "LESSEE."

ARTICLE IX

UTILITIES

9.1 The "CITY" shall pay all charges for electric, water, garbage disposal and natural gas utility services to the Assigned Area.. "LESSEE" shall be expected to exercise all practical economy and failure to do so will constitute unsatisfactory operations. The "CITY" shall have

the right to insist upon and institute practices, which it deems necessary, which "LESSEE" shall be expected to implement to insure misuse or abuse of this privilege.

ARTICLE X

SNOW AND ICE REMOVAL

10.1 The "CITY" shall be responsible for snow and ice removal of the street-level sidewalk area in front of the "THEATRE."

ARTICLE XI

LIABILITY, INDEMNITY AND INSURANCE

11.1 Each party hereto shall give to the other prompt and timely written notice of any claim made or suit instituted coming to its knowledge which in any way directly or indirectly, contingently or otherwise, affects or might affect either, and each shall have the right to participate in the defense of the same to the extent of its own interest.

11.2 It is expressly understood and agreed by and between the parties hereto that the "LESSEE" is and shall be an independent contractor and operator, responsible to all parties for all of its acts or omissions, and the "CITY" shall in no way be responsible therefore. The "LESSEE" and its officers, directors, employees, and agents, shall not be construed to be employees or agents of the "CITY." It is further agreed that in its use and enjoyment of the "THEATRE" or premises and facilities herein referred to, the "LESSEE" will indemnify and save harmless the "CITY," and its members, officers, City Council, employees and agents from any and all claims, liabilities, causes of actions or losses, (including the cost of defense) that may result in liability to the "CITY" from any actions or omissions on the part of the "LESSEES," and/or their employees, authorized agents or representatives, and shall always hold the "CITY," and its members, officers, City Council, employees and agents harmless from same. The "LESSEES" shall save harmless the "CITY," and its members, officers, City Council, employees and agents from all liabilities, claims, judgments, costs, and expenses, including all costs of defense, which may in any manner arise against the "CITY," and its members, officers, City Council, employees and agents in consequence of the granting of this Agreement, or which in any way may result from the operations or activities of the "LESSEE," its agents, customers, servants, or employees.

11.3 During the term, either original or extended, of this Agreement, the "LESSEE" shall effect and maintain, with a company satisfactory to the "CITY,"

- (a) Public Liability and Property Damage insurance including, if deemed necessary by the "CITY," Automobile Liability Insurance, covering claims for damages for bodily injury, including accidental death, and for claims for property damage which may arise from operations under this Agreement, whether such operations

are by "LESSEES" or their duly authorized agents, representatives or employees. The "LESSEE'S" public liability insurance shall be in a minimum amount of one million dollars (\$1,000,000) for each occurrence and five hundred thousand dollars (\$500,000) for property damage covering the acts of the "LESSEE," its agents and employees. The City shall be named as an additional insured on each policy of insurance required under this Agreement. "LESSEE" agrees to deliver copies of any and all policies of insurance and certificates of said insurance required by this Agreement to the Theatre Manager upon the execution of this Agreement and such policies of insurance or certificates of insurance shall comply with the requirements of said Theatre Manager. Additionally, the "CITY" shall be notified in writing by the insurer at least thirty (30) days prior to the cancellation of any policies of public liability insurance required under the terms and conditions of this Agreement. "LESSEE" agrees to insure that "CITY" and its officers, agents, and employees are held harmless against any and all claims arising out of "LESSEE'S" services at the "THEATRE."

- (b) Worker's Compensation and Employer's Liability Insurance – "LESSEE" shall maintain Workers Compensation and Employer's Liability Insurance in the amounts and form required by the laws of the State of West Virginia.

11.4 "LESSEE" shall not use or permit the storage of any illumination oils, lamps, turpentine, benzene, naphtha, and other similar substances, or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance in the State of West Virginia.

11.5 During the term of this Agreement, the "CITY," at its sole discretion, shall have the right to adjust the minimum amounts of all liability coverage required hereunder.

ARTICLE XII

ASSIGNMENT, SUBLEASING AND CHANGE OF OWNERSHIP

12.1 "LESSEE" shall not assign, delegate, sublease or transfer this Agreement or any other right, privilege, or license conferred by this Agreement, or any duty or obligation stated herein, either in whole or in part, or sublet or in any manner encumber the Assigned Area or any portion thereof, except as otherwise provided in this Agreement, without obtaining in advance the written consent of the "CITY."

12.2 "LESSEE" must obtain the consent of the "CITY" to keep this Agreement in effect prior to any transfer or merger of ownership between the "LESSEE" and any other person or legal entity.

12.3 The "CITY" reserves the right to deny any assignment, subcontract, sublease, or acceptance of transfer of ownership for any reason it deems, in its sole discretion, to be in the best interest of the "THEATRE."

ARTICLE XIII

COMPLIANCE

13.1 "LESSEE," its officers, agents, servants, employees, contractors, licensees, and any other person which the "LESSEE" has the right to control, shall comply with all present and future laws, ordinances, orders, directives, rules, and regulations of the Federal, State, County, and "CITY" governments which may be applicable to its operations at the "THEATRE."

13.2 "LESSEE" shall pay on or before their respective due dates, to the appropriate collecting authority, all Federal, State, and local taxes and fees, which are now or may hereafter be levied upon the Assigned Area, or upon "LESSEE'S" or upon the business conducted on the Assigned Area, or upon any of the "LESSEE'S" property used in connection therewith; and shall have and maintain in current status all Federal, State, and local licenses and permits required in the operation of the business conducted by the "LESSEE."

13.3 "LESSEE" agrees to pay, or guarantee payment of all lawful fines and penalties as may be assessed by the "CITY" or against the "CITY" for violations of Federal, State, or local laws, ordinances, rulings or regulations, caused by "LESSEE'S" acts or omissions or those of their employees or agents, within thirty (30) days of written notice of such fines or penalties.

13.4 "LESSEE," its employees and agents shall at all times comply with rules and regulations for the "THEATRE" as may be adopted from time to time by the "CITY" or any board or authority established by the City. In the event that there is a conflict between the provisions of this Agreement and such rules and regulations, this Agreement shall govern unless otherwise directed by the "CITY."

ARTICLE XIV

CANCELLATION BY "LESSEE"

14.1 In addition to all other remedies available to the "LESSEE," this Agreement shall be subject to cancellation by the "LESSEE" by giving a thirty (30) day written notice to the "CITY," should any one or more of the following events occur, provided however, that none of the compensation and fees which are to be paid by "LESSEE" herein will be refunded to "LESSEE."

- (a) The complete destruction of all or a substantial portion of the Assigned Area from a cause other than the negligence or omission to act of "LESSEE," its subcontractors, agents or employees, and the failure of the "CITY" to repair or reconstruct said premises within six (6) months after such destruction.
- (b) The breach by the "CITY" in the performance of any covenant or any Agreement required to be performed by the "CITY" and the failure of the "CITY" to commence

to remedy such breach for a period of thirty (30) days after receipt of notice of such breach by "CITY" from "LESSEE."

14.2 In addition to the foregoing, "LESSEE" may cancel or terminate this Lease Agreement for any reason by giving "CITY" a sixty (60) days advance written notice of cancellation.

ARTICLE XV

CANCELLATION BY "CITY"

15.2 In addition to all other remedies provided herein or at law, "CITY" may cancel this Agreement by giving a thirty (30) day written notice to the "LESSEE" should any one or more of the following events occur:

- (a) "LESSEE" fails to make any payments required hereunder when due to the "CITY" or within ten (10) days after receipt of written notice from the "CITY" of non-payment.
- (b) "LESSEE" permits to continue, for a period of three (3) days after receipt of written notice from the City or Theatre Manager, any unsafe or unsanitary conditions or practices in or about the Assigned Area; provided however, if the unsafe or unsanitary condition is such as to require replacement, repair, or construction, "LESSEE" shall have a reasonable time in which to correct said condition, but must begin action on the matter immediately upon receipt of said notice.
- (c) The interest of "LESSEE" under this Agreement is transferred, passes to or devolves upon, by operation of law or otherwise, any other person, firm or corporation without the prior written consent of the "CITY."
- (d) "LESSEE" becomes, without the prior written approval of the "CITY," a successor or merger corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution.
- (e) "LESSEE" shall neglect or fail to perform and observe any other promise, covenant or condition set forth in this Agreement within ten (10) days after receipt of written notice of breach from the "CITY" or the Theatre Manager, except where fulfillment of such obligation requires activity over a period of time and "LESSEE" has commenced to perform whatever may be required within ten (10) days after receipt of such notice and continues such performance without interruption except for causes beyond its control.
- (f) The levy of any attachment or execution, or the appointment of any receiver, or the execution of any other process of any court of competent jurisdiction which is not

vacated, dismissed or set aside within a period of ninety (90) days and which does, or as a direct consequence of such process will, interfere with "LESSEE'S" use of the Assigned Area or with its operations under this Agreement.

- (g) "LESSEE" becomes insolvent, or takes the benefit of any present or future insolvency statute, or makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the arrangement for its reorganization, or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or statute of the United States, or under any State laws, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of their property or their property located within the Assigned Area.
- (h) A petition under any part of the Federal bankruptcy laws, or an action under any present or future insolvency law or statute is filed against "LESSEE" and is not dismissed within ninety (90) days.
- (i) By or pursuant to, or under the authority of, any legislative act, resolution or rule, order or decree of any court, governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of "LESSEE," and such possession or control continues in effect for a period of ninety (90) days.
- (j) Cessation or deterioration of service of such a degree for a period of time which, in the sole discretionary opinion of the "CITY," materially and adversely affects the operations and services required to be performed by "LESSEE" under this Agreement.
- (k) Any lien is filed against the Assigned Area because of any act or omission of "LESSEE" and such lien is not removed, enjoined, or a bond for satisfaction of such lien is not posted within thirty (30) days.
- (l) "LESSEE" abandons, deserts, vacates or discontinues its operation of the business herein authorized for a period of five (5) days without prior written consent of the "CITY."

15.3 Acceptance by the "CITY" of any rental payments specified herein, after a breach of any of the terms of this Agreement, shall not be deemed a waiver of any right on the part of the "CITY" to cancel this Agreement on account of such breach. Failure of the City to exercise any

remedy provided under this Agreement shall not constitute a waiver of any available remedy for future violations.

15.4 The "CITY" may reenter the Assigned Area and may remove all persons and property from same upon the termination of the Agreement or the date of reentry specified in a written notice to "LESSEE" by City pursuant to this Agreement. Such date of reentry shall not be less than thirty (30) days from date of said notice. Upon any removal of "LESSEE'S" property by "CITY" hereunder, said property may be stored at a public warehouse or elsewhere at "LESSEE'S" sole cost and expense.

15.5 "LESSEE" hereby pledges and assigns to the "CITY" all furniture, equipment, fixtures, goods and chattels of "LESSEE," which shall or may be brought or put on said Assigned Area, as security for the performance of "LESSEE'S" obligations as herein provided, and "LESSEE" agrees that such lien may be enforced by distress, foreclosure or as otherwise provided by law, and does hereby agree to pay attorney's fees, together with all costs incurred by the "CITY."

ARTICLE XVI

GENERAL PROVISIONS

16.1 Nondiscrimination

- (a) The "LESSEE," for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree:
 - (1) That no person, on the grounds of race, color, religion, creed, political ideas, sex, age, or handicap, shall be excluded from participation in, denied the benefit of, or be otherwise subject to discrimination in the use of said facilities;
 - (2) That in the construction of any improvements and the furnishing of services, no person, on the grounds of race, color, religion, creed, political ideas, sex, age, or handicap, shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of said facilities.
- (b) The "LESSEE" shall furnish its accommodations and/or services on a fair, equal, and nondiscriminatory basis to all users thereof, and it shall charge fair, reasonable, and nondiscriminatory fees for each unit of services; however, the "LESSEE" may be allowed to make reasonable discounts to other similar type of fee reductions on a nondiscriminatory basis.

16.2 Waiver of Damages – The "LESSEE" hereby expressly waives any and all claims for compensation for any and all loss or damages sustained by reason of any defect, deficiency or impairment of the electrical apparatus, water supply equipment, equipment or wires used in the Assigned Area, herein mentioned, or by reason of any loss or impairment of light, current or

water supply which may occur from time to time for any cause, or for loss or damage sustained by the "LESSEE" resulting from fire, water, windstorm, tornado, civil commotion or riots and the "LESSEE" hereby expressly waives all rights, claims and demands and forever releases the "CITY," its officers, employees and agents, from any and all demands, claims, actions, and causes of action arising from any cause.

16.3 Non-waiver of Rights – Failure of the "CITY" insist upon strict performance of any provision or condition of this Agreement, or to exercise any right herein, shall not operate or be construed to be a waiver of such condition or right in any other instance.

16.4 Removal of Personal Property –Upon the expiration of the term herein specified, if the "LESSEE" has made full payment under this Agreement, "LESSEE" may remove its personal property at a time approved by City in writing, and shall do so within thirty (30) days after the end of the terms herein stated and on failure to do so, the "CITY" by its officers and agents, may cause the same to be removed and stored at the cost and expense of the "LESSEE" and the City shall have a lien thereon in the amount of the cost and expense of such removal and storage until paid and may sell such personal property and reimburse itself for such cost and expense plus the expense of sale.

16.5 Notices – Notices required herein may be given by registered or certified mail by depositing the same in the United States mail in the continental United States, postage prepaid. Any such notice so mailed shall be presumed to have been received by the addressee seventy-two (72) hours after deposit of same in the mail. Notices in writing may also be delivered by personal service of said notice to the agents for each party at the addresses listed below. Either party shall have the right, by giving notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices to the "CITY" shall be delivered as follows:

City of Morgantown
City Manager's Office
389 Spruce Street
Morgantown, WV 26505

Notices to "LESSEE" shall be deemed sufficient if in writing and mailed, registered or certified, postage prepaid, addressed to "LESSEE" at:

Hilary Phillips
Executive Director
Morgantown Theatre Company
369 High Street
Morgantown, WV 26505

16.6 Right to Develop "THEATRE" – It is further covenanted and agreed that the "CITY" reserves the right to further develop or improve the "THEATRE," regardless of the desires or views of the "LESSEE" and without interference or hindrance. The "CITY" shall have the right

to construct or install over, in, under or through the Assigned Area new lines, pipes, mains, wires, conduit and equipment.

16.7 Relationship of Parties – Nothing contained herein shall be deemed or construed by the parties hereto, or any third party, as creating the relationship of principal and agent, partners, joint venture, or any other similar such relationship, between the “CITY” and “LESSEE.” The parties shall understand and agree that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of the “CITY” and “LESSEE.” This Agreement is not intended to and shall not be construed to vest in the “LESSEE” any title, tenure or any property rights in the real estate, fixtures or personal property belonging to the “CITY” now located, or which may hereafter be located, in or around the Assigned Area.

16.8 Amendment – This Agreement may be amended only by a writing signed by both parties.

16.9 Termination – Upon termination or cancellation of this Agreement for any cause, the “LESSEE” shall vacate the Assigned Area and shall not remove any of the “LESSEE’S” supplies, property or equipment from the Assigned Area until all license fees and other sums due the “CITY” have been paid.

ARTICLE XVII

ENTIRE AGREEMENT

17.1 The parties hereto understand and agree that this instrument, including the items specifically incorporated by reference into it consistent with the terms of this document, and its attached Exhibits contain the entire Agreement between the parties. The parties further understand and agree that neither party nor its agents have made representations or promises with respect to this Agreement except as expressly set forth herein; and that no claim or liability shall arise for any representations or promises not expressly stated in this Agreement, any other writing or parole agreement with the other party being expressly waived.

THE CITY OF MORGANTOWN,
A municipal corporation,

MORGANTOWN THEATRE
COMPANY, a nonprofit corporation,

“CITY”

“LESSEE”

By: _____
City Manager

Its President

ORDINANCE NO. _____

AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES" OF THE PLANNING AND ZONING CODE AS IT RELATES TO "TWO-FAMILY DWELLING" USES IN THE B-1, NEIGHBORHOOD BUSINESS DISTRICT.

The Morgantown City Council hereby ordains that Table 1331.05.01 "Permitted Land Uses" of the City's Planning and Zoning Code is amended as follows (new matter underlined):

Table 1331.05.01 Permitted Land Uses

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Dwelling, Two-family			P	P	P	<u>C</u>		C				

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 14.50 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-48 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning classification of the 14.50 acres, more or less, of additional territory that was annexed into the City of Morgantown by Ordinance 15-48 be designated as I-1, Industrial District as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein.
2. That the Official Zoning Map be accordingly changed to show said zoning classification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

ORDINANCE NO. _____

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 0.76 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-60 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning classification of the 0.76 acres, more or less, of additional territory that was annexed into the City of Morgantown by Ordinance 15-60 be designated as B-5, Shopping Center District as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein.
2. That the Official Zoning Map be accordingly changed to show said zoning classification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

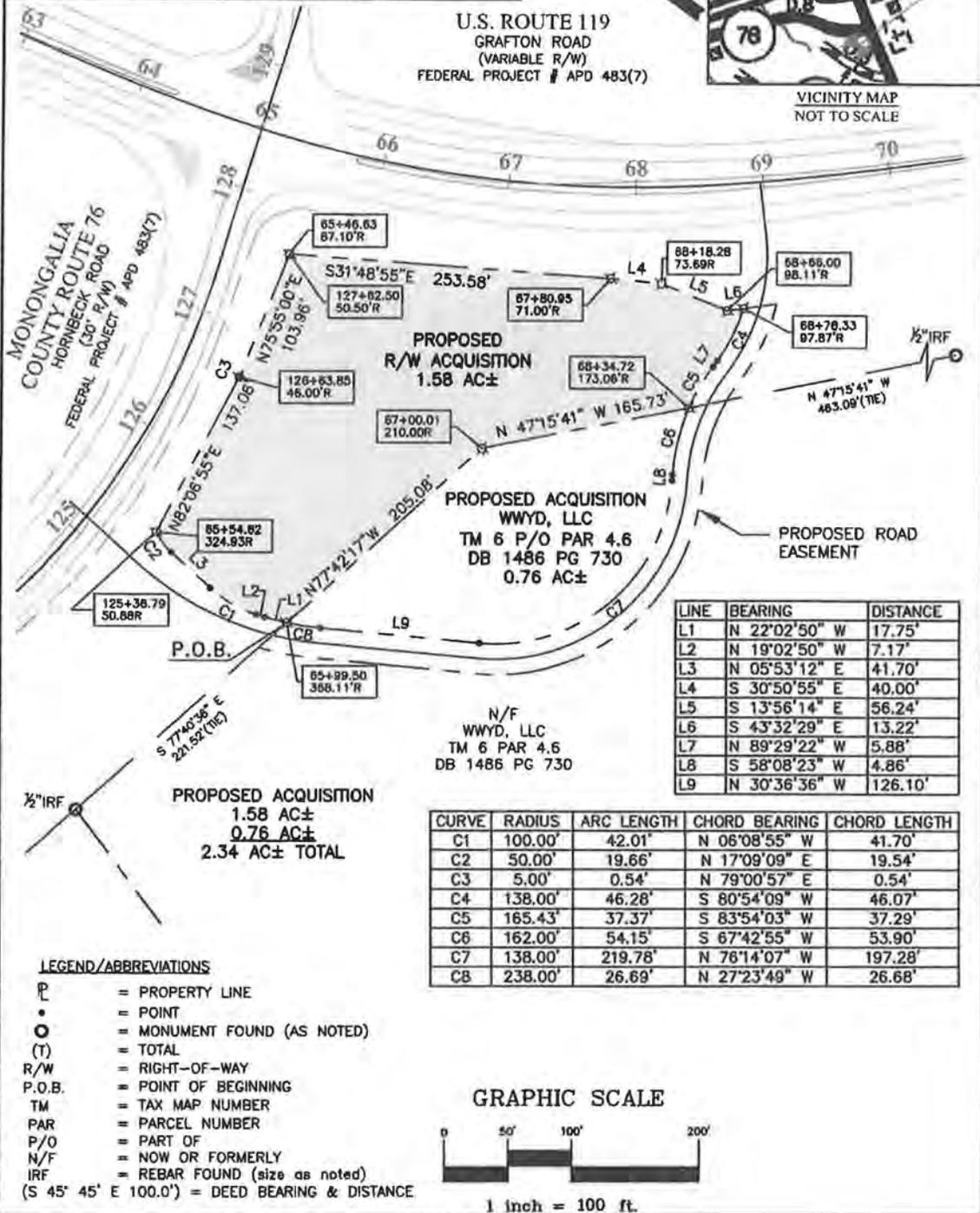
RECORDED:

City Clerk

NOTE: THE TRACTS SHOWN BEING PART OF THE SAME LANDS CONVEYED TO WEST VIRGINIA DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS ACQUIRED AS PART OF FEDERAL PROJECT # APD 483(7) SHEETS 15 & 16 AND PART OF THE SAME LANDS CONVEYED TO WWYD, LLC FROM 3M REALTY, LLC AS RECORDED IN DEED BOOK 1486 PAGE 730 AT THE OFFICE OF THE CLERK, MONONGALIA COUNTY, WEST VIRGINIA.



USER: cfr/vhs
 LAYOUT: DOH EXHIBIT
 PLOT DATE/TIME: 4/28/2015 - 10:55am
 CAD FILE: R:\030-2431\WVDD- Rt 119 Sheets\Survey\CITY EXHIBIT.dwg

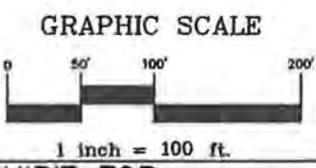


LINE	BEARING	DISTANCE
L1	N 22°02'50" W	17.75'
L2	N 19°02'50" W	7.17'
L3	N 05°53'12" E	41.70'
L4	S 30°50'55" E	40.00'
L5	S 13°56'14" E	56.24'
L6	S 43°32'29" E	13.22'
L7	N 89°29'22" W	5.88'
L8	S 58°08'23" W	4.86'
L9	N 30°36'36" W	126.10'

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	100.00'	42.01'	N 06°08'55" W	41.70'
C2	50.00'	19.66'	N 17°09'09" E	19.54'
C3	5.00'	0.54'	N 79°00'57" E	0.54'
C4	138.00'	46.28'	S 80°54'09" W	46.07'
C5	165.43'	37.37'	S 83°54'03" W	37.29'
C6	162.00'	54.15'	S 67°42'55" W	53.90'
C7	138.00'	219.78'	N 76°14'07" W	197.28'
CB	238.00'	26.69'	N 27°23'49" W	26.68'

LEGEND/ABBREVIATIONS

- P = PROPERTY LINE
- = POINT
- = MONUMENT FOUND (AS NOTED)
- (T) = TOTAL
- R/W = RIGHT-OF-WAY
- P.O.B. = POINT OF BEGINNING
- TM = TAX MAP NUMBER
- PAR = PARCEL NUMBER
- P/O = PART OF
- N/F = NOW OR FORMERLY
- IRF = REBAR FOUND (size as noted)
- (S 45° 45' E 100.0') = DEED BEARING & DISTANCE



**EXHIBIT FOR
CITY OF MORGANTOWN**

MISC. INFO: BEARINGS BASED ON WEST VIRGINIA STATE PLANE NORTH ZONE NAD 83 (CORS) TRIMBLE S3 TOTAL STATION

◆ = 3/4" * 30" REBAR SET

THRASHER

THE THRASHER GROUP, INC.
600 WHITE OAKS BLVD.
BRIDGEPORT, WV 26330
PHONE 304-624-4108

TAX MAP N/A

PARCEL No. N/A

JOB. No. 030-2431

OWNER: WVDOT-DOH
WWYD, LLC

REFERENCE: DB PG DB 1486 PG 730

SHOWING
PROPOSED AREA TO BE INCORPORATED
on
UNITED STATES ROUTE 119 (GRAFTON ROAD)
MONONGALIA COUNTY ROUTE 76 (HORNBECK ROAD)

SITUATE
CLINTON DISTRICT
MONONGALIA COUNTY
WEST VIRGINIA
APRIL 2015

SCALE: 1" = 100'

LAYOUT TAB: DOH EXHIBIT
CAD FILE: R:\030-2431\WVDD- Rt 119 Sheets\Survey\CITY

DRAWN: CI SURVEY: BK:

ORDINANCE NO. _____

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 4.20 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-66 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning classification of the 4.20 acres, more or less, of additional territory that was annexed into the City of Morgantown by Ordinance 15-66 be designated as B-5, Shopping Center District as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein.
2. That the Official Zoning Map be accordingly changed to show said zoning classification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

Mayor

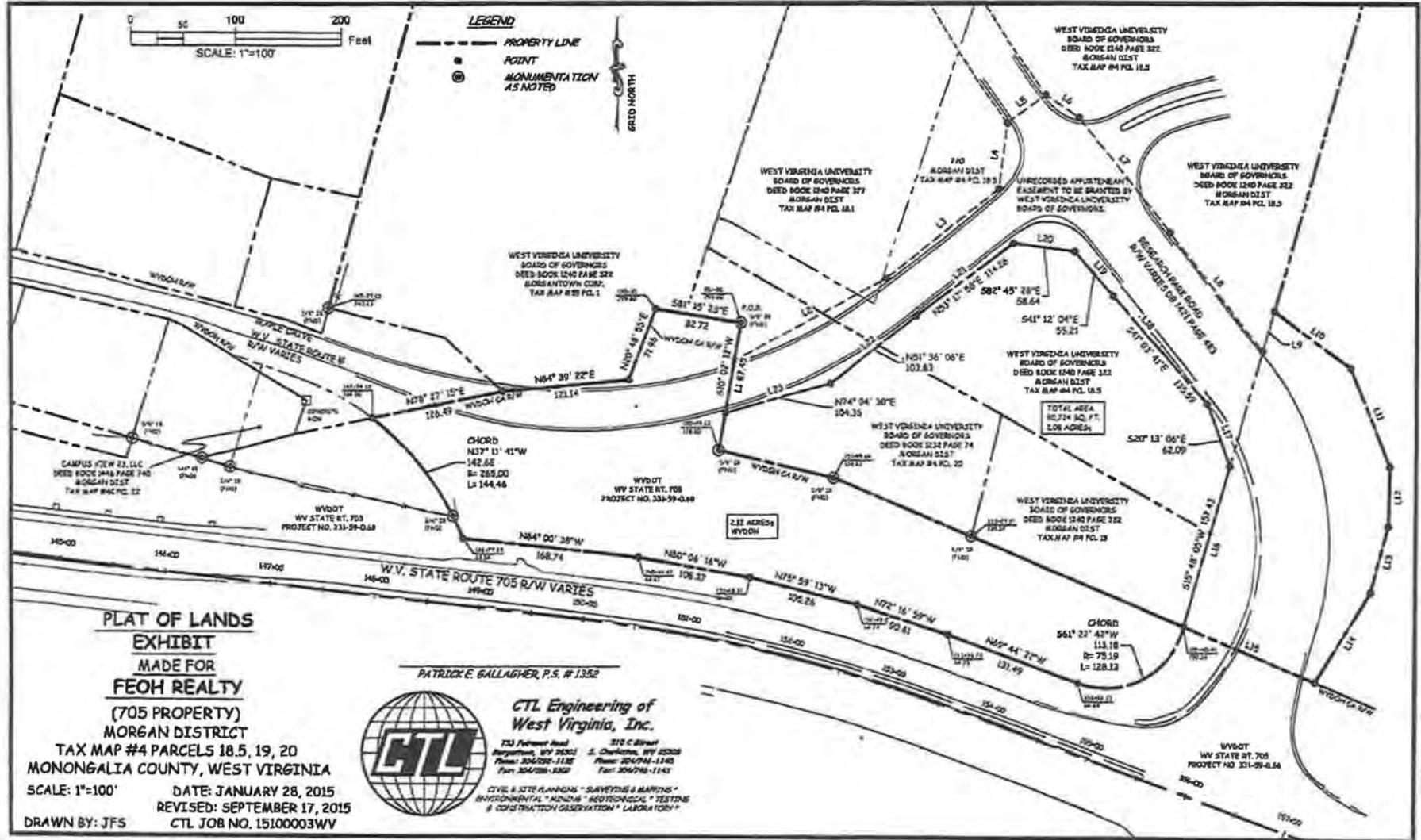
ADOPTED:

FILED:

RECORDED:

City Clerk

EXHIBIT - ANNEXATION AREA



**PLAT OF LANDS
EXHIBIT
MADE FOR
FEOH REALTY**

**(705 PROPERTY)
MORGAN DISTRICT
TAX MAP #4 PARCELS 18.5, 19, 20
MONONGALIA COUNTY, WEST VIRGINIA**

SCALE: 1"=100' DATE: JANUARY 28, 2015
REVISED: SEPTEMBER 17, 2015
DRAWN BY: JFS CTL JOB NO. 15100003WV



**CTL Engineering of
West Virginia, Inc.**

733 Putnam Road Morgantown, WV 26505
Phone: 304/292-1138 Fax: 304/798-1143
310 C Street S. Charleston, WV 25309
Phone: 304/798-1143 Fax: 304/798-1143

CIVIL & SITE PLANNING • SURVEYING & MAPPING •
ENVIRONMENTAL • MINING • GEOLOGICAL • TESTING
& CONSTRUCTION OBSERVATION • LABORATORY

PATRICK E. GALLAGHER, P.S. # 1352