



Office of the City Clerk

The City of Morgantown

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

AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
February 2, 2016
7:00 p.m.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES:** December 15, 2015 Regular Meeting Minutes, January 5, 2016 Regular & Special Meeting Minutes, January 19, 2016 Regular Meeting Minutes
5. **CORRESPONDENCE:**
6. **PUBLIC HEARINGS:**
 - A. AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$100,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 A (TAX EXEMPT); PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.
 - B. AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND

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

- C. AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$10,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 C (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.**
- D. AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE POTABLE WATER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$40,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 D (TAX EXEMPT); PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE**

**SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS;
AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND
PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT
AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING
OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.**

**E. AN ORDINANCE SETTING FORTH THE RATES, FEES, AND CHARGES
FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF
THE CITY OF MORGANTOWN.**

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

**G. AN ORDINANCE AUTHORIZING THE ACQUISITION AND
CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS,
BETTERMENTS AND IMPROVEMENTS TO THE WATER AND SEWER
PORTIONS OF THE EXISTING COMBINED UTILITY SYSTEM OF THE
CITY OF MORGANTOWN INCLUDING BUT NOT LIMITED TO
WASTEWATER TREATMENT PLANT IMPROVEMENTS AND A WATER
RESERVOIR.**

**H. AN ORDINANCE AUTHORIZING THE EXECUTION OF A LEASE
AGREEMENT WITH MONONGALIA COUNTY DEVELOPMENT
AUTHORITY FOR MINERAL INTERESTS IN 122.34 ACRES, MORE OR
LESS, NEAR THE MORGANTOWN MUNICIPAL AIRPORT.**

7. UNFINISHED BUSINESS:

**A. Consideration of APPROVAL of (THIRD READING) and (ADOPTION) of AN
ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION
OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO
THE SANITARY SEWER PORTION OF THE EXISTING COMBINED
UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE
FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED,
THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN
\$100,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED
UTILITY SYSTEM REVENUE BONDS, SERIES 2016 A (TAX EXEMPT);**

PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS. (First Reading January 5, 2016) (Second Reading January 19, 2016)

- B. Consideration of APPROVAL of (THIRD READING) and (ADOPTION) of AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$30,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 B (TAX EXEMPT-EXTRAORDINARY OPTIONAL CALL); PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS. (First Reading January 5, 2016) (Second Reading January 19, 2016)**
- C. Consideration of APPROVAL of (THIRD READING) and (ADOPTION) of AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$10,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 C (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT**

RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO. (First Reading January 5, 2016) (Second Reading January 19, 2016)

- D. Consideration of APPROVAL of (THIRD READING) and (ADOPTION) of AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE POTABLE WATER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$40,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 D (TAX EXEMPT); PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS. (First Reading January 5, 2016) (Second Reading January 19, 2016)**
- E. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE SETTING FORTH THE RATES, FEES, AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN. (First Reading January 19, 2016)**
- F. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING SECTION 925.03 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE BY SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN. (First Reading January 19, 2016)**
- G. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER AND SEWER PORTIONS OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN INCLUDING BUT NOT LIMITED TO**

WASTEWATER TREATMENT PLANT IMPROVEMENTS AND A WATER RESERVOIR. (First Reading January 19, 2016)

- H. Consideration of **APPROVAL** of **(SECOND READING)** and **(ADOPTION)** of **AN ORDINANCE AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH MONONGALIA COUNTY DEVELOPMENT AUTHORITY FOR MINERAL INTERESTS IN 122.34 ACRES, MORE OR LESS, NEAR THE MORGANTOWN MUNICIPAL AIRPORT. (First Reading January 19, 2016)**

I. 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 VACATING, ABANDONING AND ANNULLING A PORTION OF A 13' WIDE RIGHT-OF-WAY KNOWN AS WALL STREET RUNNING A DISTANCE OF APPROXIMATELY TWO HUNDRED TWENTY-NINE FEET FROM UNIVERSITY AVENUE IN A WESTERLY DIRECTION TOWARD THE MONONGAHELA RIVER IN THE THIRD WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, AND PROVIDING FOR AN ACCESS AGREEMENT SERVING THE NEARBY PUBLIC RIGHT-OF-WAY.**
 - B. Consideration of **APPROVAL** of **(FIRST READING)** of **AN ORDINANCE AMENDING ARTICLE 1511 OF THE CITY CODE RELATING TO FIRE PREVENTION BOARD.**
 - C. Consideration of **APPROVAL** of **(FIRST READING)** of **AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF FIVE (5) PARCELS OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM R-1A, SINGLE-FAMILY RESIDENTIAL DISTRICT AND B-5, SHOPPING CENTER DISTRICT TO B-2, SERVICE BUSINESS 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.

D. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE ACCEPTING CONVEYANCE OF ALL OF THE RIGHT, TITLE, AND INTEREST OF AIRPARK, LLC IN AND TO THE COAL WITHIN THREE PARCELS OF REAL ESTATE IDENTIFIED AS MORGAN DISTRICT, TAX MAP 7, PARCELS 19.4, 19.5, AND 19.7.

E. Consideration of APPROVAL of A RESOLUTION AUTHORIZING AN AGREEMENT WITH WEST VIRGINIA UNIVERSITY PROVIDING FOR BICYCLE EDUCATION CLASSES.

11. CITY MANAGER'S REPORT:

Information:

- 1. Reduction in Street and Dumpster Fires in 2015**

12. REPORT FROM CITY CLERK:

13. REPORT FROM CITY ATTORNEY:

14. REPORT FROM COUNCIL MEMBERS:

15. EXECUTIVE SESSION: Pursuant to WV Code Section 6-9A-4 (2) (B) regarding a complaint on the election process.

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
389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7405 FAX: (304) 284-7430
www.morgantownwv.gov

City Manager's Report for City Council Meeting on February 2, 2016

Information

1. **Reduction in Street and Dumpster Fires in 2015**

As seen in the attached Fire Marshal's report, there has been a drastic reduction in Street and Dumpster fires during 2015, compared to the past few years. The City of Morgantown and West Virginia University have made changes to address the dangerous behavior. Under Home Rule authority, the City was able to pass laws that eliminated upholstered furniture from porches and yards; and granted the City's fire marshals and deputy fire marshals arrest authority at fire scenes and for certain violations of the Fire Prevention Code. At the same time the University has encouraged a change in culture and responsibility for its students. By continuing to work with the Fire Department and WVU, I hope to continue to find ways to reduce this activity in the City in 2016 and beyond.

Jeff Mikorski ICMA-CM,
Morgantown City Manager



Street and Dumpster Fires



As of 11-11-2015

<u>Year</u>	<u>Street Fires</u>	<u>Dumpster Fires</u>	<u>Total</u>
1979	10	2	12
1980	13	4	17
1981	14	5	19
1982	19	4	23
1983	12	1	13
1984	8	2	10
1985	11	3	14
1986	9	4	13
1987	12	6	18
1988	13	3	16
1989	8	12	20
1990	5	2	7
1991	5	5	10
1992	13	4	17
1993	71	3	74
1994	12	9	21
1995	4	2	6
1996	5	5	10
1997	120	3	123
1998	231	14	245
1999	166	18	184

2000	113	12	125
2001	47	13	60
2002	103	6	109
2003	255	19	274
2004	111	24	135
2005	125	45	170
2006	65	42	107
2007	59	40	99
2008	51	102	153
2009	49	74	123
2010	93	75	168
2011	110	66	176
2012	111	95	206
2013	37	61	98
2014	60	62	122
2015	19	48	67
<u>SUB-TOTALS</u>	2,169	895	3,064
Other documented fires (Non-NFIRS)			434
TOTAL FIRES			<u>3,498</u>

Fires During Riot Conditions

1993 Miami Game (Home)	11/20/1993	54
2002 Va. Tech Game (Away)	11/20/2002	47
2003 Miami Game (Away)	10/2/2003	11
2003 Va. Tech Game (Home)	10/22/2003	120
2003 Pitt Game (Home)	11/15/2003	50
2005 Texas Tech-Basketball	3/24/2005	60

2011 Bin Laden Night	5/2/2011	22
2011 Weekend	5/7/2011	29
2012 St. Patrick's Day	3/17/2012	36
2012 Texas Game (Away)	10/6/2012	29
Other Agency Reports	2002-2012	41
2014 Baylor Game	10/18/2014	39

REGULAR MEETING December 15, 2015: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, December 15, 2015 at 7:24 p.m.

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

The meeting was called to order by Mayor Shamberger.

APPROVAL OF MINUTES: Minutes from the December 1, 2015 meeting were approved by acclamation.

CORRESPONDENCE: Mayor Shamberger read a thank you to the City of Morgantown from Richard Cunningham, WWII survivor. Council then read letters to Santa from Eastwood Elementary Students.

PUBLIC HEARING:

AN AMENDED ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE CITY OF MORGANTOWN EMPLOYEES FOR THE FISCAL YEAR 2015-2016.

Mayor Shamberger declared this Public Hearing open.

James Giuliani, 256 Prairie Avenue, asked for explanation of the rates of compensation for FY 2015-2016. Mayor Shamberger asked to suspend the rules, approved by acclamation for the City Manager to explain. City Manager, Jeff Mikorski explained the pay ordinance.

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

AN ORDINANCE AMENDING THE FY 2015-2016 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

Mayor Shamberger declared this Public Hearing open.

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

UNFINISHED BUSINESS:

AN AMENDED ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE CITY OF MORGANTOWN EMPLOYEES FOR THE FISCAL YEAR 2015-2016: The below entitled Ordinance was presented for second reading.

AN AMENDED ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE CITY OF MORGANTOWN EMPLOYEES FOR THE FISCAL YEAR 2015-2016.

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

AN ORDINANCE AMENDING THE FY 2015-2016 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND:

The below entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING THE FY 2015-2016 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

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

BOARDS AND COMMISSIONS: City Clerk, Linda Tucker, updated Council on the Sister Cities Commission that new member Katherine Wilson needs Councils approval to serve on commission. Council approved appointment by acclamation. Councilor Selin asked for an administrator appointment for the Green Team.

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

Coach Steve Blinco, Morgantown High School Track, 215 Canfield Street, spoke in reference to the new track facility at Mylan and the economic impact that it would make for the area.

Michael Ryan, 266 Richland Avenue, noted that he is working with Coach Blinco on the track subcommittee and we are hoping that the community will have the opportunity to host Championships at Mylan Park.

Dave Biafora, 266 Mid-Atlantic Drive, he wished everyone a Merry Christmas and a Happy New Year, and also commented that the City Planner is not following City Code. He stated that the City is turning their heads to the problems in the City and not holding anybody up to the Charter. He noted that the City has been inconsistent in following their codes and that is why they are having the problems they are today.

Ching Wahyip, 1389 University Avenue, stated the City is placing a financial hardship and safety issue by closing two streets and having only one entrance to my property.

Vic Solomon, 75 Wall Street, also opposes building in the University Avenue area.

James Giuliani, 256 Prairie Avenue, commented that it is not easy to speak in front of Council. He then quoted WV State Code 6-6-7 and thanked Council for allowing him to speak.

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

SPECIAL COMMITTEE REPORTS: Deputy Mayor Kawecky reported Arts Collaboration will have a Grant Writing Shop the first week of January along with the WV Division & History. He also reported that the Chamber of Commerce along with the Arts Mon and Arts Collaborative will be doing a study on the economic impact of Arts in the community. Councilor Ganz reported that the Sister Cities Commission will have a group coming to Morgantown in January. Councilor Selin attended a meeting about the track at Mylan Park. Mayor Shamberger noted a teleconference call with other participants and Safe Communities of America.

NEW BUSINESS:

AN AMENDED ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE CITY OF MORGANTOWN EMPLOYEES FOR THE FISCAL YEAR 2015-2016: The above entitled Ordinance was presented for first reading.

AN AMENDED ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE CITY OF MORGANTOWN EMPLOYEES FOR THE FISCAL YEAR 2015-2016.

City Manager explained, motion by Selin, second by Kawecki, to approve the above-entitled Ordinance to second reading. Motion carried 5-2.

A RESOLUTION AUTHORIZING AN AGREEMENT WITH WEST VIRGINIA UNIVERSITY PROVIDING EDUCATIONAL ROTATION EXPERIENCES FOR SCHOOL OF PUBLIC HEALTH STUDENTS: The above entitled Resolution was presented for approval:

City Manager summarized, motion by Selin, second by Kawecki, to pass the above entitled Resolution. Motion carried 7-0.

A RESOLUTION AUTHORIZING THE FOLLOWING AGENTS, JEFF MIKORSKI CITY MANAGER, JAMES GOFF FINANCE DIRECTOR, LORI LIVENGOOD BUDGET AND ACCOUNTING MANAGER, AND KAREN EVERLY TREASURY MANAGER, OF THE CITY OF MORGANTOWN FOR THE TRANSACTING OF FUNDS: The above entitled Resolution was presented for approval:

City Manager explained, motion by Redmond, second by Selin, to pass the above entitled Resolution. Motion carried 7-0.

CITY MANAGERS REPORT:

Information:

1. Art installation on the Riverfront through Morgantown River Towns

City Manager reported that Morgantown River Town Art Committee has received grant funds to promote art along the riverfront. The Art Committee invited artists to submit art work that would be on display at four locations. On December 2, 2015, they presented the proposed locations to the Urban Landscapes Commission. The Urban Landscape Commission approved the proposed general locations for the art to be placed, as seen in the attached map. River Town is requesting that City help with placing two cement slabs for the installation of the artwork, additional grants may allow for reimbursement of the slab installation. The artwork will be installed by the artists.

2. Sabraton Decorations

The City Manager has been working with Sarah Robinson and a group of interested businesses and property owners to establish a plan for decorations and banners to be placed along Route 7 through the Sabraton Business Corridor starting in 2016. The committee proposed three banner designs and a holiday light design for the area. The committee has requested that City present the three designs in a survey for interested residents, business owners, and property owners to vote for their favorite. The survey should be online after December 16, 2015. The City will match funds that are raised for the project from funds

already budgeted in the 2015-16 budget. The City hopes to promote and support the Sabraton Business Corridor.

New Business:

1. Capital Escrow Fund Modifications

City Manager reported that the Safe Streets and Safe Community Service Fee will provide funds collected for the resurfacing and improvements of City Streets to be transferred from the General Fund to the Capital Escrow Fund (FY 2016 General Fund Amendment #2). City Manager recommended that \$514,800 be allocated to the Capital Escrow Fund for Street Improvements.

City Manager also would like to reallocate funds within the approved Capital Escrow Fund to reflect funds leftover from projects for completing other projects or adding new projects as listed:

	Approved Budget	Remaining Funds as of 12/1/2015	Modification 12/15/2015	Revised Budget
PROJECT	FY 2015/2016			FY 2015/2016
CITY CAPITAL PROJECTS				
Fire Equipment	66,381	53890.14	150,000.00	203,8901.14
Police Equip. (Personal Protection)	25,000	14,995.00	-14,995.00	0.00
Public Works Vehicles	146,187	24,827.74	-24,827.74	0.00
Fire Department Vehicles	650,000	465,000.00	79,428.02	544,428.02
Salt Building	85,370	84,971.00	-84,971.00	0.00
Police Cruisers	208,133	42,049.00	-42,049.00	0.00
Public Works Capital Outlay	210,000	184.06	-184.06	0.00
Public Works Cleanup	22,396	22,396.00	2,159.00	
Fire Station Repairs	109,348	64,026.00		
Administrative Vehicle	19,000	1,171.50	1,171.50	0.00
Public Safety Building Plaza	49,803	10,027.22		10,027.22
Paving 2014	72,530	65,881.00	-65,881.00	0.00
Paving 2015	625,000	97,507.72	-97507.72	0.00
Paving 2016	400,000.00	400,00.00	-400,000.00	0.00
Airport Access Road	0	0	500,000.00	500,000.00
MSF – Street Improvements			514,800	514,800

A total of \$731,578.02 will be reallocated to Fire Department projects, and complete the costs of the Airport Access Road. Police vehicles/equipment and Public Works vehicles/equipment

will be purchased from the capital outlay line of the general fund with revenue from the Safe Streets and Safe Community Fee.

City Manager explained the Capital Escrow Fund Modifications, motion by Ganz, second by Kawecki. Motion carried 7-0.

2. 2016 Health Plan Renewal Rates

City Manager updated Council on the City's Health Plan rates. City Manager reported that there is no increase in premium rates for employees for the coming year. As seen in the attached summary of rates, our employee health plan is a great benefit with rates from \$7.22 to \$32.79 per pay period, depending on the coverage and family status. City Manager recommended City Council approve the 2016 City Health Plan rates for employees and retirees with no increase for employees.

City Manager explained the Health Plan Renewal Rates, motion by Ganz, second by Kawecki. Motion carried 7-0.

REPORT FROM CITY CLERK: City Clerk, Linda Tucker wished everyone a Merry Christmas.

REPORT FROM CITY ATTORNEY: No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane thanked family and friends for their support on a health issue. Councilor Bane stated that in reference to issues in the City, and the need to start standing up for American values. He noted his concerns on the annulment on University Avenue project and that it was pulled from the COW.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki stated that he is upset that people prefer litigation over cooperation. He stated that the City needs to move Council forward in a more positive manner. He noted that the Traffic Commission volunteers were berated and he is dismayed that these type of actions are occurring.

Councilor Nugent:

Councilor Nugent questioned fire access on 1389 University Avenue. He announced the following: Wiles Hill Highland Neighborhood Association Meeting on December 16th, 2015 and Morgantown Museum Vintage Holiday display from December 19th to the second week of January. He stated that yes he did sign the petition, for he needs clarity

and direction from the court so that our Community can move forward.

Councilor Selin:

Councilor Selin gave an update on the Don Knotts statue. She then asked the City Manager for the status of the Zacquill Morgan statue at the Public Safety Building. Councilor Selin commented that we have a professional City Government and just because we do not agree, does not merit a lawsuit.

Councilor Redmond:

Councilor Redmond stated that by nature, we like to make people happy, but in the positions as Councilors, we have all failed the past few months. The Traffic and Planning Commission meetings hostile environment were due to mismanagement in the Engineering and Planning Departments, so therefore our volunteers are taking the heat from administration not doing their jobs. Councilor Redmond stated that the codes need to be followed and enforced. Council cannot act above the law, and need to restore confidence so people can trust the City again. Councilor Redmond commented that an outside investigation for the truth is warranted.

Councilor Ganz:

Councilor Ganz commented, "hard act to follow" following Councilor Redmond's comments, considering you signed the petition against me to be in office. Councilor Ganz noted many good things have happened during the past several months, such as cultural changes, recreation, airport, and many other things. She noted that she stands for American values even though she has been berated. She then reported that the Suncrest Neighborhood Association is concerned about work being done on Van Voorhis. She implored that the MPO have public comments and hearings. She also requested that the MPO Council member learn about the National Environmental Protection Agency and make sure that our neighborhood is not torn up again. Councilor Ganz suggested that in the New Year combining

volunteer groups, neighborhood associations, POPSHOP etc. to enstore healing to our community. She noted that the black cloud over the City comes from the litigation that is occurring. She then suggested that the neighborhood association should have activities for the community like the potluck event at the Wiles Hill Community Center to help enstore positive healing in the community. She then wished everyone a safe and happy holiday.

Mayor Shamberger:

Mayor Shamberger reported attending a Skype workshop at the old Woodburn School with Bill Withers. She also attended South Hills Neighborhood Holiday potluck. She then noted that she was contacted by a member of Rosie the Riveter for the City of Morgantown to become a "Rosie City". She thanked the City employees and volunteers for their service to the City. She asserted that the Civil Suit Hearing at 9am on December 18th, 2015 is disappointing. She commented the number one issue is that people can be sued for such frivolous accusations, when they are just doing their jobs. She then noted that this Civil Suit has placed a fear in this community, causing citizens not wanting to serve and that is not the goal. She mentioned we must move forward and to make things better for the City. She then wished everyone a Merry Christmas and a Happy New Year and looks forward to 2016. She then made the following Community announcements; Old Stone House 10% off December 21st – 30th donations go to In Touch & Concern; December 19th, Christmas Bird Count; December 17th – 20th Ebenezer; December 21st Blood Drive and January 18th, 2016 Martin Luther King Day Celebration.

ADJOURNMENT: There being no further items of business or discussion, motion by Selin, second by Ganz to adjourn. Motion carried by unanimous consent at 9:20 pm.

City Clerk

Mayor

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

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

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

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

The meeting was called to order by Mayor Shamberger.

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

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

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

The meeting was called to order by Mayor Shamberger.

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

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

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

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

PUBLIC HEARING - AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 26.65 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-67 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

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

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

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

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

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

UNFINISHED BUSINESS:

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

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

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

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 26.65 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-67 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN: The below entitled Ordinance was presented for second reading.

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

MORGANTOWN BY ORDINANCE 15-67 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

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

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

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

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

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

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

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

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

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW BUSINESS:

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

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

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

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

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

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

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

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

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

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

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

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

CITY MANAGERS REPORT:

New Business:

1. City Police and University Police Cooperation and Assistance Agreement

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

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

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

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

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

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

REPORT FROM CITY ATTORNEY:

No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

No Report

Deputy Mayor Kawecki:

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

Councilor Nugent:

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

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

Councilor Selin:

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

Councilor Redmond:

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

Councilor Ganz:

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

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

Mayor Shamberger:

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

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

City Clerk

Mayor

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



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

December 29, 2015

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

Councilman Nugent,

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

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

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

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

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

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

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

Respectfully,


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

REGULAR MEETING January 19, 2016: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, January 19, 2016 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.

APPROVAL OF MINUTES: Mayor Shamberger requested that the minutes of December 15, 2015 be deferred for approval until the February 2, 2016 meeting. Motioned by acclamation to defer minutes.

CORRESPONDENCE: Mayor Shamberger presented a Certificate of Appreciation to Justin Knotts for his assistance apprehending a suspect that attempted to flee the scene of an accident. Councilor Ganz referenced an e-mail (**Exhibit A**) she received stating that Rich and Bettina Dennis support the reservoir project; but believes the City should seek a comprehensive plan. Exhibit A. Mayor Shamberger announced the following activities: Arts Mon, Arts Exhibit, January 19-February 5, 2016; Benefit for Boys & Girls Club, Old Stone House, January 18-January 30, 2016; Family Fireside Reading, January 19, 2016-February 16, 2016; One Act Festival 2016, January 22-23, 2016, M.T. Pockets; Mars 2614, January 23, 2016 at Morgantown Public Library.

Mayor Shamberger announced that the Public Hearing Notices A through D will be taken off the agenda this evening per the request of MUB and will be on the February 2, 2016 agenda. She noted that anyone wishing to comment on these items could do so during the Public Portion.

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

Mayor Shamberger declared this Public Hearing open.

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

PUBLIC HEARING - AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$30,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 B (TAX) EXEMPT-EXTRAORDINARY OPTIONAL CALL); PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND

DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

Mayor Shamberger declared this Public Hearing open.

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

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

Mayor Shamberger declared this Public Hearing open.

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

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

Mayor Shamberger declared this Public Hearing open.

Susan Elkin, 408 Cobun Creek Road, asked Council if there was a plan available or schedule for this reservoir. She then commented that spending this amount of money without a plan is irresponsible.

Tom Richards, 253 Cobun Valley Lane, commented that he opposes the reservoir project.

Rebecca Singleton, 225 Lebanon Street, stated that she is present to show support of those living in the Cobun Creek area and hopes Council does not proceed with this project.

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

UNFINISHED BUSINESS:

AN ORDINANCE ISSUING \$100,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS: The below entitled Ordinance was presented for second reading.

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

Motion by Selin, second by Ganz, to approve the above entitled Ordinance for third reading. After discussion, Councilor Selin and Ganz rescinded their motion to return to the Public Hearings portion of the agenda. Motion by Ganz, second by Selin to approve the above-entitled Ordinance for third reading. Mayor Shamberger requested consensus from Council to suspend the rules to have Tim Ball, MUB Director answer questions. Approved by consensus. After question and answer session, Ordinance was moved to third reading by 7-0 vote.

AN ORDINANCE ISSUING \$30,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS: The below entitled Ordinance was presented for second reading.

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

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

AN ORDINANCE ISSUING \$10,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER

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

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

AN ORDINANCE ISSUING \$40,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS: The below entitled Ordinance was presented for second reading.

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

After discussion, motion by Kawecki, second by Selin to approve the above entitled Ordinance to third reading. Motion carried 5-2. (Nugent & Redmond Voted No)

BOARDS AND COMMISSIONS:

Motion by acclamation to re-appoint Jenny Dinsmore to the Transit Board as the City Appointment.

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

Alice Meehan, 888 Vandalia Road, acknowledges good work of all but commended Ganz, Selin, Shamberger and Kawecki for their service to the community.

Bill Reger-Nash, 304 Dream Catcher Circle, Vice-Chair Pedestrian Board, supports Councilor Selin's vision of a walking trail at the reservoir. He stated he supports the hard work this Council does, and for their support of the pedestrian board. He noted he is frustrated that Council members are being targeted for a frivolous lawsuit.

Barbara Howe, 432 Riley Street, thanked the City for their support of the 10th Annual Martin Luther King event, at which over 300 people attended.

Rich Brooks, 112 Forest Drive, commented on the pending litigation against Council. Mr. Brooks stated that 25 voters is such a low bar to be able to take action against our Elected Officials. Mr. Brooks noted that this Council is civic minded and is doing a good job for little pay they receive.

Kathleen Labys, 221 Grand Street, stated she has lived in this community for a long time and supports the four Council Members that are being petitioned out of office. She stated this is awful and shows politics at its worst.

Don Spencer, 565 Harvard Avenue, referenced the book of Matthew and the letters that mentions the writing's and the gospel's. He then referenced that the three Councilor's that signed the petition consider something different by withdrawing their support now for the betterment of Council and Community.

Susan Elkin, 408 Cobun Creek Road, stated that she is affected by the reservoir and does not want to sell her land.

Randy Jones, 762 Spring Ranch Road, commended the community for the MLK events stating all were well attended.

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

SPECIAL COMMITTEE REPORTS: Councilor Redmond requested the City Manager forward a letter of concerns that he should have received to Council on the University Avenue project.

NEW BUSINESS:

AN ORDINANCE SETTING FORTH THE RATES, FEES, AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN: The below entitled Ordinance was presented for first reading.

AN ORDINANCE SETTING FORTH THE RATES, FEES, AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN.

City Manager explained, motion by Kaweck, second by Ganz, to pass the above entitled ordinance to second reading. Council suspended the rules to have Tim Ball, MUB Director answer questions of Council. After question and answers were taken, Council voted. Motion carried 7-0.

AN ORDINANCE AMENDING SECTION 925.03 FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN: The below entitled Ordinance was presented for first reading.

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

City Manager explained, motion by Selin, second by Ganz, to pass the above entitled ordinance to second reading. Requested by Council for Tim Ball, MUB Director to answer questions. Council

suspended the rules by consensus for him to speak. After question and answer session vote taken. Motion carried 7-0.

AN ORDINANCE AUTHORIZING WASTEWATER TREATMENT PLANT IMPROVEMENTS AND A WATER RESERVOIR: The below entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER AND SEWER PORTIONS OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN INCLUDING BUT NOT LIMITED TO WASTEWATER TREATMENT PLANT IMPROVEMENTS AND A WATER RESERVOIR.

Motion by Ganz, second by Kawecki to pass the above entitled Ordinance to second reading. Rules were suspended to have Tim Ball, MUB Director, answer questions to Council. After discussion, vote was taken. Motion carried 5-2. (Bane and Redmond Voted No)

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MONONGALIA COUNTY DEVELOPMENT AUTHORITY FOR MINERAL INTERESTS IN 122.34 ACRES NEAR THE MORGANTOWN MUNICIPAL AIRPORT: The below entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH MONONGALIA COUNTY DEVELOPMENT AUTHORITY FOR MINERAL INTERESTS IN 122.34 ACRES, MORE OR LESS, NEAR THE MORGANTOWN MUNICIPAL AIRPORT.

Motion by Bane, second by Redmond to pass the above entitled Ordinance to second reading. City Manager explained the Ordinance. Council suspended the rules by consensus to have Holly Childs, Mon County Development Authority answer questions to Council. After discussion, vote was taken. Motion carried 7-0.

CITY MANAGERS REPORT:

Information

1. Fiscal year 2016-2017 Budget Schedules

City Manager updated Council that City Administration is currently working to develop the FY 2017 budget with the Finance Department and with department directors to determine needs of each department. The following is a summary of the goals for adopting the FY 2017 budget. Additional meetings or Special meetings can be added to provide clarification of direction from Council prior to approval of the budget:

- **February 5th** – Deadline for City and non-profit agency requests for funding.
- **February 15th** – City Manager recommended budget is provided to City Council
- **March 1st** – Council approves first reading of adoption of next fiscal year's budget
- **March 15th** – Council approves second reading of adoption of next fiscal year's budget

Immediately upon final approval – Budget is published in the newspaper once per week for two consecutive weeks

- **March 29th** – Budget to be submitted to State Auditor’s Office for review
- **April 19th** - Upon approval of State Auditor’s Office, council approves, adopts and lays the levy. Presentation of final compiled performance based budget document. Within 3 days of laying the levy, the levy order is prepared, certified and forwarded to the State Auditor, who then turns the order over to the County Assessor
- **May 3rd or 17th**- Council approves first and second reading of final budget revision for the current fiscal year.

New Business

1. 2015 Urban Deer Count

City Manager provided the final report from Rick Bebout on the 2015 Archery Deer Hunt. The 2015 season was the fifth year of the Morgantown Urban Archery Deer Hunt designed to reduce the number of deer within the urban areas of the City. City Manager recommended the City contract with Vision Air Research Inc. (the same company that provided the first Deer Count) at a price of \$5,900.00 to see what effect the five years of hunting can be seen in a new Urban Deer Count. The \$5,900.00 would be budgeted from the Capital Escrow contingency.

After discussion, motion by Bane, second by Kawecki to approve the Vision Air Research in establishing a deer count. Motion carried 5-2. (Nugent and Redmond voting no)

REPORT FROM CITY CLERK:

No Report

REPORT FROM CITY ATTORNEY:

No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane questioned the rejection of the minutes and brought up the “Removal of Office” Legislation and discussions held at the WVML Meeting. Councilor Bane discussed the WV Municipal League Handbook for Elected Officials, and Hotel Motel tax.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki reported that Sunnyside Up is moving forward with their projects. He commented that at the WVML Meeting, everyone seemed forthcoming, cooperative, and supportive of Morgantown. Deputy Mayor Kawecki commented that the WVML passed this “Removal from Office” Legislation forward for amendment. He finds it disheartening and frustrating and is dismayed as to what to do next.

Councilor Nugent:

Councilor Nugent reported that the Wiles Hill Highland Neighborhood Meeting was cancelled due to weather. He requested that the definition of "density" be easier to find in the code. By consensus, definition of "density" will be placed on a future COW. He mentioned a FOIA request that was outstanding, and his attendance at the WVML meeting. He wished for a fair hearing on January 22, 2016 and that a reconciliation will happen one way or another.

Councilor Selin:

Councilor Selin requested the City Manager for updates on lighting on Patteson Drive and Public Safety bids for Plaza Design. She mentioned the Municipal League Meeting, "Removal Action", and that Council should be able to work together on behalf of the City.

Councilor Redmond:

Councilor Redmond requested City Manager distribute Pedestrian Safety Board letter to Council. He mentioned concern about minutes; too many speed bumps; MUB's hard work and his vote; and for the lawsuit on 1-22-16 a fair and just hearing must occur.

Councilor Ganz:

Councilor Ganz thanked those that made public comment this evening. She commented on the minutes, Wards & Boundary Commission issues, and Ethical issues since she was elected in 2013. She reported that Suncrest Neighborhood Association would be meeting on January 28th, 2016. She encouraged citizens to remain positive and supportive of the City.

Mayor Shamberger:

Mayor Shamberger requested consensus for Election discussion on February COW. Approved by consensus. She reminded residents to keep their sidewalks cleared; thanked Republic for calls about trash pick-up; MLK activities; Community Coalition on Homelessness Lunch 2-2; and 2-13; Chinese New Year Lunch. She stated that the minutes should be an accurate record of the meeting.

ADJOURNMENT: There being no further items of business or discussion, motion by Selin, second by Ganz to adjourn. Motion carried by unanimous consent at 10:40 pm.

City Clerk

Mayor

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



Nancy Ganz <nancyganz7@gmail.com>

Request for a Comprehensive Project Plan for the Proposed New Cobun Creek Reservoir

1 message

BR Dennis <dennis5665@gmail.com>

Tue, Jan 19, 2016 at 3:03 PM

To: Nancy Ganz <Nancyganz7@gmail.com>

Cc: Jennifer <jselin@hotmail.com>, Bill <wm_a_kawecki@comcast.net>

Dear Nancy;

The purpose here is to reiterate and clarify my comments made at the 1/5/2016 Morgantown City Council Meeting of the Whole with respect to the proposed new Cobun Creek Reservoir and the need for a comprehensive project design plan and budgetary cost report to support this project.

The subject reservoir project and the associated funding request (City Council 1st reading 1/4/2016) should be based on a comprehensive project plan that would include additional budgetary and project scope details. The current project plan and financing appears to be based on a feasibility study (Cobun Creek Supplemental Source Development Evaluation and Feasibility Study, GD&F Inc., 2015). This feasibility study is the first part of a comprehensive plan. For a project of this magnitude financing authorizations would be based on a Class 3 AACE estimate that would provide project definition at a 10 – 40 % level of detail. GD&F suggests that the referenced feasibility study is only at the 10 % stage of definition.

Furthermore the above mentioned feasibility report fails to address project scope and cost and planning details that fall outside the scope of the reservoir feasibility study. The additional details and project scope should be included in the comprehensive plan. It should be a best practice for the City of Morgantown, through its council, to require a comprehensive project plan prior to seeking city and county based financing authorization for a public project.

In summary we support the reservoir project and the benefits it will bring to the Greater Morgantown Area. However we believe that the city should seek a comprehensive plan to fully assess all reasonable project scope and details and include accompanying budgetary information. Developing a comprehensive project plan should be a best practice for the city prior to seeking financial authorization that will be financed by county rate payers.

Sincerely;

Rich and Bettina Dennis
197 Upper Cobun Creek Road
Morgantown, WV 26508

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>
Historic Landmarks	1		Resident		167	Advertise
Morgantown Housing	1		Res/Real Estate		160.03	Advertise
Sister Cities	1		Resident		172.02	Advertise
Traffic Commission	1		Resident	5	151	Advertise
Tree Board	1		Resident		917.03	Advertise
Urban Landscape will be updated 1st of the year, per Marchetta Maupin. (Code Sec.163)						

***Green Team rep from Admin per Councilor Selin**

****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.***

1/27/2016

MEMORANDUM

TO: City Council
Jeff Mikorski, City Manager

FROM: Timothy L. Ball, General Manager, MUB

DATE: January 27, 2015

SUBJECT: **Ordinances on Final Reading
February 2, 2016 Council Meeting**

This will serve as a read ahead to help you prepare for the final reading of seven MUB related ordinances during the February 2 Council meeting. The seven ordinances are:

- Water Rate Ordinance (2nd reading)
- Sewer Rate Ordinance (2nd reading)
- Authorizing Ordinance (2nd reading)
- Four Bond Ordinances (3rd reading)

Together, these seven ordinances support two critical water and sewer infrastructure projects necessary to support the health and growth of our community. Those projects are a new raw water reservoir at Cobun Creek, and expansion/upgrade of the Wastewater Treatment Plant (WWTP) at Star City.

We do not take lightly the fact that water and sewer rates will need to be adjusted to fund these critical community projects, and we are constantly focused upon our strategic mission of protecting public health and safety at the lowest possible cost.

As you requested at the January 19 Council meeting, we are pleased to provide additional drawings of the projects, including draft project schedules. We also include typical photos depicting the completed condition of several recent major projects, as our assurance that construction areas will be properly restored without long term adverse impacts.

And as a final matter, we have provided a letter report responding to an inquiry from Charles C. Sell.

We appreciate the opportunity to provide this information. I look forward to the Council meeting, and always welcome your questions in support of your deliberations regarding these important decisions.

Special Report
MUB Response to Inquiry from
Charles C. Sell

Introduction

Mayor Shamberger received an emailed inquiry from Charles C. Sell on December 9, 2015. The City Manager forwarded Mr. Sell's inquiry to MUB on January 20, 2016.

This report provides MUB's response, and as requested by Mr. Sell, is provided in written form to the City Council.

Background – as submitted by Mr. Sell

Mr. Sell's inquiry is provided here in its entirety:

From: Charles Sell
Date:12/09/2015 10:48 AM (GMT-05:00)
To: mshamberger@morgantownwv.gov
Subject: Re apparent MUB duty

Dear Mayor and Council Members:

On 12/29/04, Public Service Commission (PSC) Administrative Law Judge Keith A. George issued his Recommended Decision in Consolidated Cases 04-1024-S-MA and 04-1025-W-MA, involving "investigation and suspension of" sewer and water rate increases MUB had sought and on which George had previously held a public hearing in Morgantown. Among the evidence George wrote he had considered was the following from the hearing transcript:

"MUB has combined sanitary and storm sewers. MUB has been required by the Federal Government to have a long-term plan to eliminate discharges from its overflows (into Decker's Creek and the Monongahela River) during wet weather events. MUB anticipates spending \$70 million over the next 20 years to address issues related to preventing" such overflows.

WWTP. Elimination of CSO's would be prohibitively expensive for our ratepayers, a fact that is recognized in both federal rule and state regulation.

Another significant issue with the George statement is that it discusses future expenditures that were not directly related to the subject PSC cases at the time. The referenced PSC cases were routine rate increases (one for water and one for sewer) that were initiated by MUB for the purpose of improving general revenues for routine operations and maintenance costs. The 2004 rate increases did not include any capital expenditures for CSO program compliance or remediation.

The only CSO expenditures included in the 2004 rate cases were for monitoring and testing and the collection system so that a capital plan could be developed and presented to the regulating authority (WVDEP). The \$70 million mentioned by George was for potential *future* spending toward that capital plan which would be financed by potential *future* rate increases.

Mr. Sell also mentions a recent public notice by MUB which tabulates, as stated by Mr. Sell, that MUB "still has 40 such combined sewer overflows". Mr. Sell then comments on the currently proposed rate increases, which he supposes are "apparently to be used for purposes other than eliminating discharges from its CSO's".

As stated above, the regulations and policy applying to the operation and management of CSO's do not require their elimination, but instead require improvements to lessen the impact of CSO's on our water environment. It therefore should not be surprising that MUB's 40 CSO's continue to exist. MUB's strategy for maintaining CSO compliance is to *reduce* wet weather CSO discharges by *maximizing* flows to the WWTP. The proposed improvements at the WWTP are proposed primarily for that very purpose.

Finally, the currently proposed WWTP improvements are planned in conformance with, and are part of, the (then future, but now outdated) \$70 million capital plan mentioned by George in 2004.

Question # 1 – Mr. Sell asks:

The identity of and contact information for the Federal Government agency that so required MUB, whether MUB is still so required, and, if not, when and under what circumstances MUB was released from said requirement.

funds made available to MUB at that time. The \$70 million amount was not included in the 2004 rates, and being 12 years old, that estimate is now outdated.

The CSO capital investment included in the current rate proposal, was included in the 2004 estimate mentioned by George, and its construction will continue MUB's implementation of, and conformance to, its CSO Long Term Control Plan. The proposed improvements will allow MUB to meet its NPDES permit requirement to *maximize* wet weather flows to the treatment plant, and to *minimize* its wet weather CSO discharges.

MUB has completed a number of system improvements toward compliance with CSO requirements since 2004. Those projects are tabulated as follows:

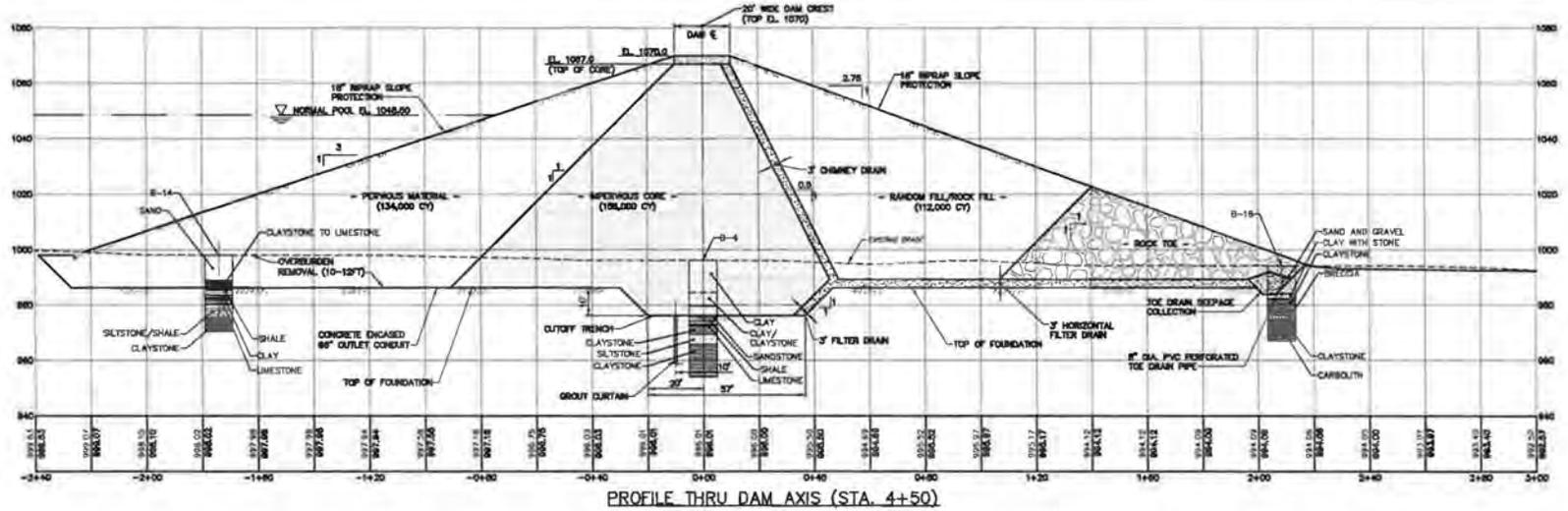
<u>YEAR</u>	<u>DESCRIPTION</u>	<u>COST (millions)</u>
2006	WWTP New Secondary Clarifier	\$ 6.3
2007	Poponoe Run Interceptor Upgrade	\$ 0.5
2008	West Run Pump Station and Force Main Upgrade	\$ 0.8
2008	High St Sewer Separation	\$ 0.6
2010	WWTP New Splitter Box	\$ 0.4
2010	WTP Pump Station and Force Main	\$ 2.7
2010	North Mon Interceptor Upgrade	\$ 0.8
2010	Deckers Creek Lift Station and Force Main Upgrade	\$ 8.0
2011	Central Mon Interceptor Slip Repair (to restore / maintain capacity)	\$ 2.4
	Total	\$ 22.5

PERMITS – RAW WATER RESERVOIR

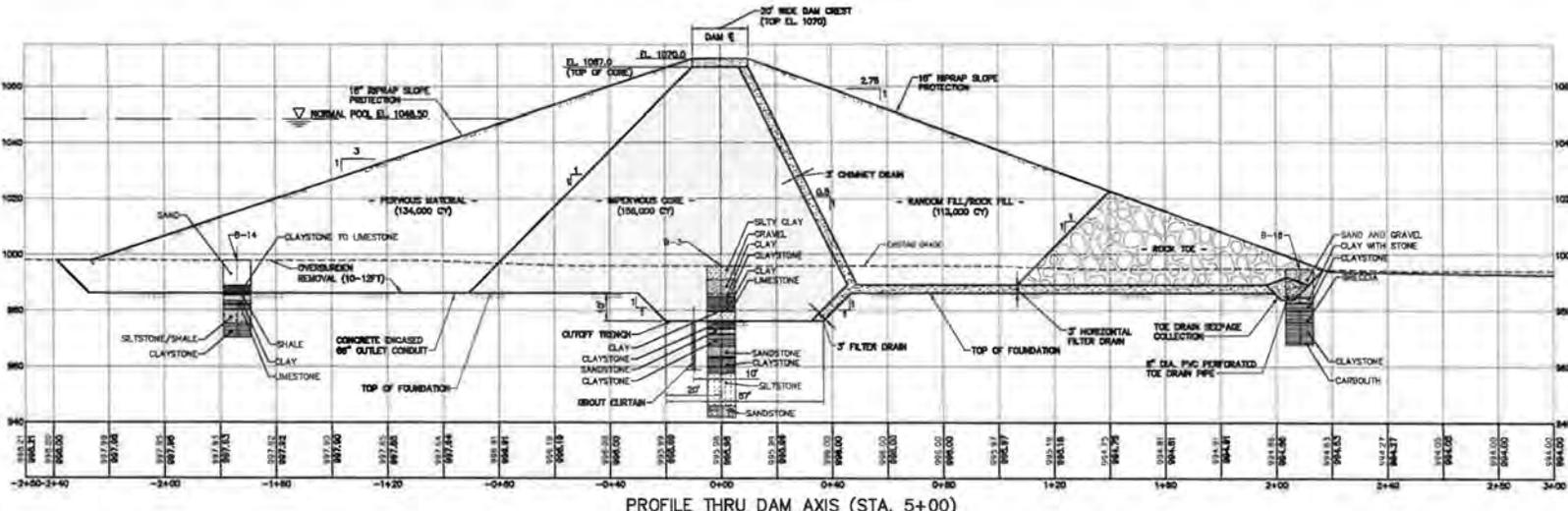
Army Corps of Engineers-	404 Permit
Monongalia County Floodplain Management-	Floodplain Permit
US Fish and Wildlife-	Rare, Threatened, or Endangered Species Clearance
WV DEP-	401 Certification
WV DEP-	Construction Stormwater General Permit
WV DEP-	Dam Safety Permit
WV DNR Office of Land and Streams-	Stream Activity Permit
WV DNR-	Rare, Threatened, or Endangered Species Clearance
WV Division of Culture and History-	SHPO Clearance

PERMITS – WWTP UPGRADE

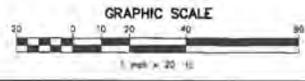
Army Corps of Engineers-	Nationwide Permits No. 7 and No. 13 Coverage
Monongalia County Floodplain Management-	Floodplain Permit
Morgantown Utility Board-	Stormwater Permit
Star City-	Building Permit
US Fish and Wildlife-	Rare, Threatened, or Endangered Species Clearance
WV DEP-	Construction Stormwater General Permit
WV DEP-	NPDES Permit Modification
WV DNR Office of Land and Streams-	Stream Activity Permit
WV DNR-	Rare, Threatened, or Endangered Species Clearance
WV Division of Culture and History-	SHPO Clearance



PROFILE THRU DAM AXIS (STA. 4+50)



PROFILE THRU DAM AXIS (STA. 5+00)



	PROPOSED COBE DAM PROFILES THRU DAM AXIS MORGANTOWN UTILITY BOARD COBAN CREEK No. 2 DAM AND RESERVOIR		GD&F OWEN DOBSON & FOREMAN, INC. Consulting Engineers 201 Millersville Drive Atlanta, GA 30329
	MONONGALIA COUNTY, WEST VIRGINIA DATE: JAN 1999 SCALE: AS SHOWN CHECKED BY: MHS	SHEET NO: 4	

© (unpublished) Dam 19 - COBE - SECTIONS - 01/99

UPDATED PROJECT SCHEDULE - COBUN RESERVOIR

Work Planned

- Receive Laboratory Soil Test Reports – January 28, 2016
- Stability Analysis Completion – February 10, 2016
- Preliminary Design and Engineering Complete/MUB Approval – February 20, 2016
- Complete NEPA Environmental Assessment Report – March 1, 2016
- Complete Plans/Specifications for Dam Safety Permit – April 15, 2016
- Complete Contract Documents – June 15, 2016
- Receive All Permits Including Dam Safety & 404 Permit/401 Cert. – July 10, 2016
- Advertisement For Construction Bids – July 15, 2016
- Bid Opening – August 15, 2016
- Award Bid to Construction Contractor – September 1, 2016
- Issuance of Notice to Proceed to Construction Contractor – September 15, 2016
- Start Construction – October 1, 2016
- Begin tree removal process – October 1, 2016
- Begin road relocation – October 15, 2016
- Complete road relocation – December 1, 2016
- Begin Dam Excavation – December 1, 2016
- Complete Construction – October, 2018

UPDATED PROJECT SCHEDULE - WWTP

Work Planned

- Final Plans and Specification Complete – January 22, 2016
- Submit Plans and Specifications to WV DEP – January 27, 2016
- Receive Finding of No Significant Impact – February 27, 2016
- Submit Modification to NPDES Permit – February 28, 2016
- Receive NPDES Permit Modification and Authorization to Bid – March 28, 2016
- Advertise for Bids – March 31, 2016
- Prebid Conference – April 20, 2016
- Bid Opening – May 12, 2016
- Award Bid to Construction Contractor – July 1, 2016
- Issuance of Notice to Proceed to Construction Contractor – August 5, 2016
- Start Construction – September 1, 2016
- Complete Construction – March 12, 2020

Forest Drive Sanitary Project

Before



After



Sunshine Estates Sanitary Project

Before



After



Sabraton Storm Project

Before



After



Rail Trail Force Main Project

After



After







Google earth

Imagery Date: 9/5/2013 39°34'37.00" N 79°56'18.03" W elev: 1126 ft. size: 2002 ft

© 2015 Google



Google earth

Imagery date: 10/18/2015 39°34'39.87"N 79°56'07.18"W elev. 991 ft. eye alt. 1859 ft.

© 2015 Google
Image Landsat

1599



Google earth

Imagery Date: 9/5/2013 39°34'38.35" N 79°56'06.32" W elev. 996 ft. eye alt. 2304 ft

© 2015 Google

1597



Imagery Date: 10/18/2015 - 39°34'46.12" N, 79°56'15.16" W, elev: 982 ft, eye alt: 1186 ft

Google earth

© 2015 Google
(Image Landsat)

1999

Sewage Treatment Plant Upgrade Project

THE CITY OF MORGANTOWN, WEST VIRGINIA

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

WHEREAS, The City of Morgantown (the "Issuer" or the "City") presently owns and operates, through The City of Morgantown Utility Board (the "Board"), a public combined waterworks, sewerage and stormwater system (collectively, the "System") and has heretofore financed the acquisition and construction of the System and certain additions, betterments and improvements thereto through the issuance of several series of bonds or refunding bonds, of which there are presently outstanding the Prior Bonds, as hereinafter defined.

WHEREAS, all of the Prior Bonds were issued pursuant to ordinances of the Issuer previously enacted (such ordinances, as so amended and supplemented, collectively herein called the "Prior Ordinances");

WHEREAS, under the provisions of Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), the Issuer is authorized and empowered to acquire, construct and operate extensions, additions, betterments and improvements for the System;

WHEREAS, the Issuer has determined, and does hereby affirm, that the acquisition and construction of certain extensions, additions, betterments and improvements to the sanitary sewerage collection and treatment portion of the System (collectively, the "Sanitary Sewerage System"), is necessary, appropriate, useful and desirable for the health, safety, and welfare of the inhabitants of the Issuer and surrounding areas;

WHEREAS, the Issuer has determined that the aforementioned acquisition and construction of extensions, additions, betterments and improvements to the Sanitary Sewerage System (further defined herein as the "Sewer Treatment Plant Project") should be financed, as provided under the Act, in whole or in part, from the proceeds of multiple series of combined utility system revenue bonds to be issued by the Issuer, to pay all or any portion of the costs thereof, as well as the costs of issuance of such bonds;

WHEREAS, the Issuer has determined to initially finance the costs of the Sewer Treatment Plant Project through the simultaneous issuance of three series of combined utility system revenue bonds designated, and in the not to exceed amounts, as follows:

The City of Morgantown, Combined Utility System Revenue Bonds, Series 2016 A (Tax Exempt), in the aggregate principal amount of not more than \$100,000,000 (the "Series 2016 A Bonds");

The City of Morgantown, Combined Utility System Revenue Bonds, Series 2016 B (Tax Exempt – Extraordinary Optional Call), in the aggregate principal amount of not more than \$30,000,000 (the "Series 2016 B Bonds"); and

The City of Morgantown, Combined Utility System Revenue Bonds, Series 2016 C (West Virginia SRF Program), in the aggregate principal amount of not more than \$10,000,000 (the "Series 2016 C Bonds," and collectively with the Series 2016 A Bonds and the Series 2016 B Bonds, the "Sewer Treatment Plant Project Bonds").

WHEREAS, the Issuer has determined to enact this Ordinance to authorize the issuance of the Series 2016 A Bonds (the "Series 2016 A Ordinance"), such Series 2016 A Bonds to have such security and such other terms and provisions as are hereinafter provided, all in the manner set forth herein;

WHEREAS, the Issuer is, simultaneously with the enactment of this Series 2016 A Ordinance, considering separate Ordinances to approve, respectively, the issuance of the Series 2016 B Bonds (the "Series 2016 B Ordinance") and the Series 2016 C Bonds (the "Series 2016 C Ordinance" and, collectively with the Series 2016 A Ordinance and the Series 2016 B Ordinance, the "Sewer Treatment Plant Project Bond Ordinances");

WHEREAS, the Issuer has determined that the design, acquisition and construction of certain extensions, betterments and improvements to the potable water raw water supply and storage, treatment, treated water storage and distribution system (the "Potable Water System"), specifically including, but not limited to, the design, acquisition and construction of a new water reservoir and the installation of emergency generators to serve certain facilities in the Potable Water System, and all necessary appurtenances (collectively, the "Water Reservoir Project"), is necessary, appropriate, useful and desirable for the health, safety, and welfare of the inhabitants of the Issuer and surrounding areas;

WHEREAS, the Issuer has determined to finance all or a portion of the costs of the Water Reservoir Project through the issuance of its The City of Morgantown, Combined Utility System Revenue Bonds, Series 2016 D (Tax Exempt), in the aggregate principal amount of not more than \$40,000,000 (the "Series 2016 D Bonds"), to be issued either simultaneously with, or after, the issuance of the Sewer Treatment Plant Project Bonds, pursuant to an ordinance of the Issuer (the "Series 2016 D Ordinance") enacted simultaneously with the enactment of the Sewer Treatment Plant Project Bond Ordinances;

The Series 2016 A Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds and the Series 2016 D Bonds (collectively, the "Series 2016 Bonds") will be issued on a parity with one another, the Prior Bonds, and any Additional Parity Bonds (as hereinafter defined) with respect to their lien on and security interest in the Gross Revenues of the System, and the Series 2016 A Bonds shall contain such other terms and provisions as are hereinafter provided, all in the manner set forth herein; and

WHEREAS, the Issuer has determined and hereby determines that it is in the best interest of the residents of the City that its Series 2016 A Bonds be sold to the Original Purchaser (as hereinafter defined) thereof pursuant to the terms and provisions of a bond purchase agreement, (the "Bond Purchase Agreement") between the Issuer and the Original Purchaser, hereinafter defined;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MORGANTOWN HEREBY ORDAINS:

ARTICLE I
DEFINITIONS, STATUTORY AUTHORITY, FINDINGS

Section 1.01. Definitions All capitalized terms used in this Ordinance and not otherwise defined in the recitals hereto shall have the meanings specified below, unless the context expressly requires otherwise:

"Act" means Chapter 8, Article 20 of the West Virginia Code of 1931, as amended and in effect on the Closing Date for the Series 2016 A Bonds.

"Authorized Newspaper" means a financial journal or newspaper of general circulation in the City of New York, New York, printed in the English language and customarily published on each business day of the Registrar, whether or not published on Saturdays, Sundays or legal holidays, and so long as so published, shall include The Bond Buyer.

"Authorized Officer" means the Mayor of the Issuer or any other officer of the Issuer specifically designated by resolution of the Council of the Issuer.

"Board" shall mean The City of Morgantown Utility Board, created by an ordinance of the Issuer, or any successor thereto, the authorized officer for which will be the Board's General Manager.

"Bond Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Bond Commission.

"Bond Counsel" means any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the Issuer or the Board, and shall initially mean Steptoe & Johnson PLLC, Charleston, West Virginia.

"Bondholder," "Holder," "Holder of the Bonds," "Owner of the Bonds," "Registered Owner," or any similar term means any person who shall be the registered owner of any outstanding Bond.

"Bond Insurer" means any entity which shall insure all or any portion of the payment of principal of and interest on the Bonds, and with respect to the Series 2016 A Bonds, shall initially mean the bond insurer or bond insurers, if any, named in the Supplemental Resolution.

"Bond Register" means the books of the Issuer maintained by the Registrar for the registration and transfer of Series 2016 A Bonds.

"Bond Year" means with respect to each series of Series 2016 A Bonds the 12 month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

"Bonds" means, collectively, the Series 2016 A Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds, the Series 2016 D Bonds, the Prior Bonds and any

Additional Parity Bonds hereafter issued within the terms, restrictions and conditions contained herein.

"Business Day" means any day other than a Saturday, Sunday or a day on which national banking associations, West Virginia banking corporations or the New York Stock Exchange are authorized by law to remain closed.

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Series 2016 A Bonds in substantially the form set forth in "EXHIBIT A – FORM OF SERIES 2016 A BONDS," attached hereto.

"City" or "Issuer" means The City of Morgantown, a municipal corporation and political subdivision of the State of West Virginia, in Monongalia County thereof, and, where appropriate, the Council, the Board and any successor thereto.

"City Clerk" or "Clerk" means the City Clerk of the Issuer.

"City Manager" means the City Manager of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing the original purchase price thereof.

"Code" shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations thereunder.

"Connection Fees" means the fees, if any, paid by customers of the System in order to connect thereto.

"Consulting Engineers" means any independent qualified engineer or engineers or firm or firms of engineers that shall at any time now or hereafter be retained by the Board as Consulting Engineers for the System, or portion thereof.

"Costs" or similar terms means all those costs now or hereafter permitted by the Act to be financed with bonds issued pursuant hereto, including, without limitation those costs set forth in Section 1.02C.

"Council" means the City Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

"Debt Service" with reference to a specified period, means the amount of principal, including any sinking fund payments, and interest payable with respect to the Bonds during such period.

"Depository Bank" means the bank or banks to be designated as such in the Supplemental Resolution, and any other bank or national banking association located in the State of West Virginia, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC that may hereafter be appointed by the Issuer as Depository Bank.

"DTC" means The Depository Trust Company, New York, New York, or its successor thereof.

"DTC-eligible" means, with respect to the Series 2016 A Bonds, meeting the qualifications prescribed by DTC.

"Event of Default" means any occurrence or event specified in Section 7.01.

"FDIC" means the Federal Deposit Insurance Corporation or any successor to the functions of the FDIC.

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Government Obligations" shall have the meaning set forth in the Supplemental Resolution.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" include any gains from the sale or other disposition of capital assets, but does not include any increase in the value of capital assets (including Qualified Investments, as hereinafter defined) or any Tap Fees (as hereinafter defined).

"Independent Accountant" means the West Virginia State Tax Department or any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any purpose except keeping the accounts of said System in the normal operations of its business and affairs, and specifically shall not include any certified public accountant who is an employee of either the City or the Board.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract, investment-type property or residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan, excluding, however, obligations the interest on which

is excluded from gross income, under Section 103 of the Code, for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

"Maximum Annual Debt Service" means, at the time of computation, the greatest amount of Debt Service required to be paid on Bonds for the then current or any succeeding Fiscal Year.

"Mayor" means the Mayor of the Issuer.

"Municipal Bond Insurance Policy" means the municipal bond insurance policy, if any, issued by the Bond Insurer simultaneously with the delivery of the Series 2016 A Bonds, insuring the timely payment of the principal of and interest on all or any of the Series 2016 A Bonds, in accordance with the terms thereof.

"Net Proceeds" means the face amount of the Series 2016 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, on such issue, and less proceeds deposited in the Series 2016 A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2016 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means Gross Revenues less Operating Expenses.

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds of the Series 2016 A Bonds and is not acquired in order to carry out the governmental purpose of the Series 2016 A Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, operation and maintenance of the System, and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent or Paying Agents, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of or any decrease in the value of capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Ordinance" or "Bond Ordinance" regardless of whether preceded by the article "the" or "this," means this Ordinance, as it may hereafter from time to time be amended or supplemented, by ordinance or by resolution.

"Original Purchaser" means the investment banking firm or firms, bank or banks or such other entity or entities as shall purchase the Series 2016 A Bonds directly from the Issuer, as determined by a resolution supplemental hereto.

"Outstanding" when used with reference to the Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond canceled by the registrar for such Bond at or prior to said date; (b) any Bond for the payment of which monies, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.01; and (d) with respect to determining the number or percentage of Bondholders for the purpose of consents, notices and the like, any Bond registered to the Issuer. Notwithstanding the foregoing, in the event that a Bond Insurer has paid principal of and/or interest on any Bond, such Bond shall be deemed to be Outstanding until such time as such Bond Insurer has been reimbursed in full.

"Paying Agent" means, initially, the West Virginia Municipal Bond Commission and any other paying agent for the Series 2016 A Bonds which may be appointed by a resolution supplemental hereto, all in accordance with Section 8.12 hereof.

"Prior Bonds" means, collectively, the Series 1995 Bonds, Series 2000 A Bonds, Series 2000 B Bonds, Series 2001 A Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 A Bonds, Series 2010 B Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2010 F Bonds, Series 2012 A Bonds, Series 2012 C Bonds, Series 2013 A Bonds, Series 2014 B Bonds, Series 2015 A Bonds, Series 2015 B Bonds, Series 2015 C Bonds, Series 2015 D Bonds, and Series 2015 E Bonds.

"Prior Ordinances" means, collectively, the ordinances of the Issuer authorizing the issuance of the Prior Bonds.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

"Purchase Price" for the purpose of computation of the Yield of the Series 2016 A Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Series 2016 A Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting

in the capacity of underwriters or wholesalers) at which price a substantial amount of the Bonds of each maturity is sold or, if the Series 2016 A Bonds are privately placed, the price paid by the first buyer of the Series 2016 A Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series 2016 A Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 2016 A Bonds.

"Qualified Investments" means and includes the investments set forth in the Supplemental Resolution and designated as such.

"Record Date" means the date or dates which shall be so stated in the Series 2016 A Bonds, regardless of whether such day is a Saturday, Sunday or legal holiday.

"Redemption Date" means the date fixed for redemption of Bonds subject to redemption in any notice of redemption published or mailed in accordance herewith.

"Redemption Price" means the price at which any of the Bonds may be called for redemption and includes the principal amount of the Bonds to be redeemed, plus the interest and the premium, if any, required to be paid to effect such redemption.

"Registrar" means the bank to be designated in the Supplemental Resolution as the Registrar for the Series 2016 A Bonds, and any successor thereto appointed in accordance with Section 8.08 hereof.

"Regulations" means temporary and permanent regulations promulgated under the Code, and includes applicable regulations promulgated under the Internal Revenue Code of 1954.

"Revenue Fund" means the Revenue Fund created by the Prior Ordinances and continued hereby.

"Sanitary Sewerage System" means, collectively, the sanitary sewerage collection and treatment portion of the System.

"Series 1995 Bonds" means the Combined Utility System Revenue Bonds, Series 1995 (West Virginia SRF Program), of the Issuer, dated April 27, 1995, issued in the original aggregate principal amount of \$1,601,477.

"Series 2000 A Bonds" means the Combined Utility System Revenue Bonds, Series 2000 A (West Virginia SRF Program), of the Issuer, dated February 29, 2000, issued in the original aggregate principal amount of \$7,842,000.

“Series 2000 B Bonds” means the Combined Utility System Revenue Bonds, Series 2000 B (West Virginia Infrastructure Fund), of the Issuer, dated February 29, 2000, issued in the original aggregate principal amount of \$2,488,000.

“Series 2001 A Bonds” means the Combined Utility System Revenue Bonds, Series 2001 A (West Virginia Infrastructure Fund), of the Issuer, dated February 8, 2001, issued in the original aggregate principal amount of \$3,812,470.

“Series 2006 A Bonds” means the Combined Utility System Revenue Bonds, Series 2006 A (West Virginia SRF Program), of the Issuer, dated June 30, 2006, issued in the original aggregate principal amount of \$6,410,191.

“Series 2007 A Bonds” means the Combined Utility System Revenue Bonds, Series 2007 A (West Virginia SRF Program), of the Issuer, dated August 14, 2007, issued in the original aggregate principal amount of \$8,500,000.

“Series 2010 A Bonds” means the Combined Utility System Revenue Bonds, Series 2010 A (Direct Payment Build America Bonds), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$37,950,000.

“Series 2010 B Bonds” means the Combined Utility System Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$81,600.

“Series 2010 C Bonds” means the Combined Utility System Revenue Bonds, Series 2010 C (West Virginia SRF Program), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$15,380,227.

“Series 2010 D Bonds” means the Combined Utility System Revenue Bonds, Series 2010 D (West Virginia DWTRF Program), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$9,317,286.

“Series 2010 E Bonds” means the Combined Utility System Revenue Bonds, Series 2010 E (West Virginia DWTRF Program/ARRA), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$100,000.

“Series 2010 F Bonds” means the Combined Utility System Revenue Bonds, Series 2010 F (Bank Qualified), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$7,250,000.

“Series 2012 A Bonds” means the Combined Utility System Revenue Bonds, Series 2012 A (West Virginia DWTRF Program), of the Issuer, dated August 24, 2012, issued in the original aggregate principal amount of \$570,000.

“Series 2012 C Bonds” means the Combined Utility System Revenue Bonds, Series 2012 C (Bank Qualified), of the Issuer, dated October 5, 2012, issued in the original aggregate principal amount of \$2,330,000.

“Series 2013 A Bonds” means the Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund), of the Issuer, dated August 22, 2013, issued in the original aggregate principal amount of \$4,605,260.

“Series 2014 B Bonds” means the Combined Utility System Revenue Bonds, Series 2014 B, of the Issuer, dated July 13, 2014, issued in the original aggregate principal amount of \$505,421.

“Series 2015 A Bonds” means the Combined Utility System Revenue Bonds, Series 2015 A (West Virginia Water Development Authority), of the Issuer, dated March 31, 2015 issued in the original aggregate principal amount of \$137,568..

“Series 2015 B Bonds” means the Combined Utility System Revenue Bonds, Series 2015 B (West Virginia Water Development Authority), of the Issuer, dated March 31, 2015, issued in the original aggregate principal amount of \$4,586.

“Series 2015 C Bonds” means the Combined Utility System Revenue Bonds, Series 2015 C (West Virginia SRF Program), of the Issuer, dated March 31, 2015 issued in the original aggregate principal amount of \$8,111,813.

“Series 2015 D Bonds” means the Combined Utility System Revenue Bonds, Series 2015 D (West Virginia SRF Program), of the Issuer, dated March 31, 2015 issued in the original aggregate principal amount of \$1,688,394.

“Series 2015 E Bonds” means the Combined Utility System Revenue Bonds, Series 2015 E (West Virginia SRF Program), of the Issuer, dated June 11, 2015 issued in the original aggregate principal amount of \$662,300.

“Series 2016 Bonds” means collectively, the Series 2016 A Bonds, Series 2016 B Bonds, Series 2016 C Bonds and, if issued, the Series 2016 D Bonds.

“Series 2016 A Bonds” means the Combined Utility System Revenue Bonds, Series 2016 A of the Issuer, originally authorized to be issued pursuant to this Ordinance and the Supplemental Resolution.

"Series 2016 A Bonds Construction Fund" means the Series 2016 A Bonds Construction Fund created by Section 4.01 hereof.

"Series 2016 A Bonds Costs of Issuance Fund" means the Costs of Issuance Fund created by Section 4.01 hereof.

"Series 2016 A Bonds Redemption Account" means the Redemption Account created in the Series 2016 A Bonds Sinking Fund by Section 4.02 hereof.

"Series 2016 A Bonds Reserve Account" means the Series 2016 A Bonds Reserve Account created in the Series 2016 A Bonds Sinking Fund by Section 4.02 hereof.

"Series 2016 A Bonds Sinking Fund" means the Series 2016 A Bonds Sinking Fund created by Section 4.02 hereof.

"Series 2016 A Bonds Reserve Account Requirement" means an amount equal to the lesser of (i) 10% of the original principal amount of the Series 2016 A Bonds, (ii) Maximum Annual Debt Service at the time of original issuance of the Series 2016 A Bonds, or (iii) 125% of average annual Debt Service at the time of original issuance of the Series 2016 A Bonds.

"Series 2016 B Bonds" means the Combined Utility System Revenue Bonds, Series 2016 B (Tax Exempt – Extraordinary Optional Call), issued contemporaneously with the issuance of the Series 2016 A Bonds, in the aggregate principal amount of not more than \$30,000,000, the proceeds of which will be used to finance a portion of the costs of the Sewer Treatment Plant Project.

"Series 2016 C Bonds" means the Combined Utility System Revenue Bonds, Series 2016 C (West Virginia SRF Program), issued contemporaneously with the issuance of the Series 2016 A Bonds, in the aggregate principal amount of not more than \$10,000,000, the proceeds of which will be used to finance a portion of the costs of the Sewer Treatment Plant Project.

"Series 2016 D Bonds" means the Combined Utility System Revenue Bonds, Series 2016 D (Tax-Exempt), to be issued either simultaneously with, or after, the issuance of the Sewer Treatment Plant Project Bonds, in the aggregate principal amount of not more than \$40,000,000, the proceeds of which will be used to finance the costs of the Water Reservoir Project.

"Sewer Treatment Plant Project" means, collectively, the acquisition and construction of certain additions, betterments and improvements to the System, including the design, acquisition and construction of improvements to the wastewater treatment plant located in Star City which is part of the Sanitary Sewer System.

“Sewer Treatment Plant Project Bonds” means, collectively, the Series 2016 A Bonds, the Series 2016 B Bonds and the Series 2016 C Bonds.

“Sewer Treatment Plant Project Bond Ordinances” means, collectively, the ordinances authorizing the Sewer Treatment Plant Project Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any ordinance or resolution amendatory hereof or supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution or Resolutions to be adopted by the Issuer following enactment of this Ordinance, setting forth the final amounts, maturities, interest rates, redemption provisions, Bond Insurer provisions (if any) and other terms of the Series 2016 A Bonds and authorizing the sale of the Series 2016 A Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 2016 Bonds, the Prior Bonds or any other obligations of the Issuer, including, without limitation, the Depreciation Fund, the Sinking Funds and the Reserve Accounts.

"System" means the complete existing combined municipal waterworks, sewerage and stormwater system of the Issuer, as presently existing in its entirety or any integral part thereof and shall include the Sewer Treatment Plant Project and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for said municipal waterworks, sewerage and stormwater system from any sources whatsoever, both within and without the Issuer.

"Term Bonds" means Bonds subject to mandatory sinking fund redemption, as described by Section 3.06 hereof.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

Additional terms and phrases are defined in this Ordinance as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Ordinance; and the term "hereafter" means after the date of enactment of this Ordinance.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Ordinance so numbered.

Section 1.02. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. The Council hereby finds and determines as follows:

A. The Issuer is a municipal corporation and political subdivision of the State of West Virginia in Monongalia County of said State.

B. The Issuer presently owns and operates, through the Board, a public combined waterworks, sewerage, and stormwater system. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer, and for the improvement of the water environment of the City and specifically of the Sewer Treatment Plant Project area, that there be acquired and constructed certain extensions, additions, betterments and improvements to the System, specifically including, but not limited to, the rehabilitation and improvement of the wastewater treatment plant located in Star City, and all necessary appurtenances; (collectively, the "Sewer Treatment Plant Project") in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications are on file with the Board.

C. It is deemed necessary for the Issuer to issue its Combined Utility System Revenue Bonds, Series 2016 A, in the aggregate principal amount of not more than \$100,000,000, to permanently finance a portion of the costs of acquisition and construction of the Sewage Treatment Plant Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2016 A Bonds prior to and during acquisition or construction and for a period not exceeding 6 months after completion of acquisition and construction of the Sewer Treatment Plant Project; amounts which may be deposited in the Series 2016 A Bonds Reserve Account; underwriter's discount, engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense; commitment fees; premiums for municipal bond insurance policy, debt service reserve account insurance policy or debt service reserve account surety bond; letter of credit fees; discount; initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2016 A Bonds and such other expenses as may be necessary or incidental to the financing

herein authorized; the acquisition and construction of the Sewage Treatment Plant Project and the placing of same in operation; and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2016 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Sewage Treatment Plant Project, as hereinafter defined.

D. The period of usefulness of the System after completion of the Sewage Treatment Plant Project is not less than 30 years.

E. It is in the best interests of the Issuer that the Series 2016 A Bonds be sold to the Original Purchaser pursuant to the terms and provisions of a bond purchase agreement to be entered into by and between the Issuer and the Original Purchaser, as shall be approved by supplemental resolution of the Issuer.

F. There are or will be outstanding obligations of the Issuer which will rank on a parity with the Series 2016 A Bonds as to liens, pledge, source of and security for payment, being the Issuer's Prior Bonds, and the Issuer's Series 2016 B Bonds and Series 2016 C Bonds, to be issued contemporaneously with the issuance of the Series 2016 A Bonds, and the Issuer's Series 2016 D Bonds, which will be issued either contemporaneously with, or after, the issuance of the Series 2016 A Bonds.

Prior to the issuance of the Series 2016 Bonds, the Issuer will obtain (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met, and (ii) the written consent of the Holders of the Series 1995 Bonds, Series 2000 A Bonds, Series 2000 B Bonds, Series 2001 A Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 B Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2012 A Bonds, Series 2013 A Bonds, Series 2015 A Bonds, Series 2015 B Bonds, Series 2015 C Bonds, Series 2015 D Bonds and Series 2015 E Bonds to the issuance of the Series 2016 Bonds on a parity with the Series 1992 Bonds, Series 1995 Bonds, Series 2000 A Bonds, Series 2000 B Bonds, Series 2001 A Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 B Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2012 A Bonds, Series 2013 A Bonds, Series 2015 A Bonds, Series 2015 B Bonds, Series 2015 C Bonds, Series 2015 D Bonds and Series 2015 E Bonds. The Series 2010 A Bonds, Series 2010 F Bonds, Series 2012 C Bonds and Series 2014 B Bonds do not require written consent from the holders thereof.

Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Ordinances.

Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

G. The Issuer intends to issue the Series 2016 A Bonds and to pledge for payment thereof, from the Gross Revenues of the System, on a parity with one another and on a parity with such pledge in favor of the Holders of the Series 2016 B Bonds, the Series 2016 C Bonds, the Series 2016 D Bonds, and the Prior Bonds.

H. The estimated revenues to be derived in each year after the date hereof from the operation of the System will be sufficient, to provide for the repair, maintenance and operation of the System, to pay the Series 2016 A Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds, the Series 2016 D Bonds and the Prior Bonds, to pay the principal on the Series 2016 A Bonds, Series 2016 B Bonds, Series 2016 C Bonds and Series 2016 D Bonds and the Prior Bonds as and when it becomes due and reasonable reserves therefor, to provide an adequate renewal and replacement fund, as hereinafter provided, and to make all other payments provided for in this Ordinance.

I. It is in the best interests of the Issuer, and the residents thereof, that the Issuer issue the Series 2016 A Bonds, and secure the Series 2016 A Bonds by a pledge and assignment of the Gross Revenues derived from the operation of the System, the monies in the Series 2016 A Bonds Sinking Fund, including the Series 2016 A Bonds Reserve Account therein, unexpended proceeds of the Series 2016 A Bonds and as further set forth herein.

J. The Series 2016 A Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the forms set forth in EXHIBIT A – FORM OF SERIES 2016 A BONDS attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the Issuer.

K. All things necessary to make the Series 2016 A Bonds, when authenticated by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special obligations of the Issuer according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the Series 2016 A Bonds, will be timely done and duly performed.

L. The enactment of this Ordinance, the execution and issuance of the Series 2016 A Bonds and the amendment, subject to the terms thereof, will not result in any breach of, or constitute a default under, any instrument to which the Issuer is a party or by which it may be bound or affected.

M. Prior to construction, the Issuer will have complied with all requirements of West Virginia law relating to authorization of the acquisition, construction and operation of the Water Reservoir Project and the System and issuance of the Series 2016 A Bonds including but not limited to Chapter 24, Article 2, Paragraph 11 (l).

Section 1.04. Ordinance Constitutes Contract. In consideration of the acceptance of the Series 2016 A Bonds by those who shall own or hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the legal Holders of any and all of such Series 2016 A Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Series 2016 A Bond and any other Series 2016 A Bond, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II
AUTHORIZATION OF ACQUISITION AND
CONSTRUCTION OF THE SEWER TREATMENT PLANT PROJECT

Section 2.01 Authorization of Acquisition and Construction of the Sewer Treatment Plant Project. There is hereby authorized and ordered the acquisition and construction of the Sewer Treatment Plant Project, at an estimated cost of not more than \$140,000,000, of which up to \$100,000,000 will be obtained from the proceeds of the Series 2016 A Bonds, up to \$30,000,000 will be obtained from the proceeds of the sale of the Series 2016 B Bonds and up to \$10,000,000 will be obtained from the proceeds of the sale of the Series 2016 C Bonds.

ARTICLE III
THE SERIES 2016 A BONDS

Section 3.01 Form and Payment of Bonds. No Series 2016 A Bond shall be issued pursuant to this Ordinance except as provided in this Article III. Any Series 2016 A Bonds issued pursuant to this Ordinance may be issued only as fully registered Series 2016 A Bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof for any year of maturity. All Series 2016 A Bonds shall be dated as of the date provided in a Supplemental Resolution applicable to such series. All Series 2016 A Bonds shall bear interest from the interest payment date next preceding the date of authentication or, if authenticated after the Record Date but prior to the applicable interest payment date or on such interest payment date, from such interest payment date or, if no interest on such Series 2016 A Bonds has been paid, from the date thereof; provided, however, that, if, as shown by the records of the Registrar, interest on such Series 2016 A Bonds shall be in default, Bonds issued in exchange for Series 2016 A Bonds surrendered for transfer or exchange shall bear

interest from the date to which interest has been paid in full on the initial Series 2016 A Bonds surrendered.

The principal of and the premium, if any, on the Series 2016 A Bonds shall be payable in any coin or currency which, on the respective date of such payment, is legal tender for the payment of public and private debts under the laws of the United States of America upon surrender at the principal office of the Paying Agent. Interest on the Series 2016 A Bonds shall be paid by check or draft made payable and mailed to the Holder thereof at his address as it appears in the Bond Register at the close of business on the Record Date, or, if requested, in the case of a Registered Owner of \$1,000,000 or more of the Series 2016 A Bonds, by wire transfer to a domestic bank account specified in writing at least 5 days prior to such interest payment date by such Registered Owner.

In the event any Series 2016 A Bond is redeemed in part, such bond shall be surrendered to and canceled by the Registrar, and the Issuer shall execute, and the Registrar shall authenticate and deliver to the Holder thereof, another Series 2016 A Bond in the principal amount of said 2016 A Bond then Outstanding.

Section 3.02. Execution of Bonds. The Series 2016 A Bonds shall be executed in the name of the Issuer by the Mayor, by his or her manual or facsimile signature, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk by his or her manual or facsimile signature; provided, that, all such signatures and the seal may be by facsimile. In case any one or more of the officers who shall have signed or sealed any of the Series 2016 A Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2016 A Bonds be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No Series 2016 A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Series 2016 A Bond, substantially in the form set forth in EXHIBIT A – FORM OF SERIES 2016 A BONDS attached hereto and incorporated herein by reference with respect to the Series 2016 A Bonds, shall have been duly manually executed by the Registrar. Any such manually executed Certificate of Authentication and Registration upon any such Series 2016 A Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Series 2016 A Bond shall be deemed to have been executed by the Registrar if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the

Certificate of Authentication and Registration on all of the Series 2016 A Bonds issued hereunder.

Section 3.04. Negotiability and Registration. Subject to the requirements for transfer set forth below, the Series 2016 A Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder, in accepting any of said Bonds, shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 2016 A Bonds remains Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Series 2016 A Bonds. The Series 2016 A Bonds shall be transferable only by transfer of registration upon the Bond Register by the registered owner thereof in person or by his attorney or legal representative duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or such duly authorized attorney or legal representative. Upon transfer of a Series 2016 A Bond, there shall be issued at the option of the Holder or the transferee another Bond or Bonds of the aggregate principal amount equal to the unpaid amount of the transferred Bond and of the same series, interest rate and maturity of said transferred Bond.

Upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar and duly executed by the registered owner or his attorney or legal representative duly authorized in writing, Series 2016 A Bonds may at the option of the Holder thereof be exchanged for an equal aggregate principal amount of Bonds of the same series, maturity and interest rate, in any authorized denominations.

In all cases in which the privilege of transferring or exchanging a Series 2016 A Bond is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Series 2016 A Bonds surrendered in any such transfer or exchange shall forthwith be canceled by the Registrar. Transfers of Series 2016 A Bonds, the initial exchange of Bonds and exchanges of Bonds in the event of partial redemption of fully registered Bonds shall be made by the Registrar without charge to the Holder or the transferee thereof, except as provided below. For other exchanges of Series 2016 A Bonds, the Registrar may impose a service charge. For every such transfer or exchange of Series 2016 A Bonds, the Registrar may make a charge sufficient to reimburse its office for any tax or other governmental charge required to be paid with respect to such transfer or exchange, and such tax or governmental charge, and such service charge for exchange other than the initial exchange or in the event of partial redemption, shall be paid by the person requesting such transfer or exchange as a condition precedent to the exercise of the privilege of making

such transfer or exchange. The Registrar shall not be obliged to make any such transfer or exchange of Series 2016 A Bonds that have been called for redemption.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2016 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may execute, in its discretion, and the Registrar shall authenticate, register and deliver any new Bond of like series, maturity and principal amount as the Bond, so mutilated, destroyed, stolen or lost, in exchange and upon surrender and cancellation of, such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing the Issuer and the Registrar proof of his ownership thereof and that said Bond has been destroyed, stolen or lost and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer or the Registrar may prescribe and paying such expenses as the Issuer or the Registrar may incur. The name of the Bondholder listed in the Bond Register shall constitute proof of ownership. All Series 2016 A Bonds so surrendered shall be submitted to and canceled by the Registrar, and evidence of such cancellation shall be given to the Issuer. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer, by and through the Registrar, may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen or destroyed, without surrender therefor.

Any such duplicate Bonds issued pursuant to this section shall constitute original, additional contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Bonds be at any time found by any one, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of and security for payment from the Revenues pledged herein with all other Bonds issued hereunder.

Section 3.06. Term Bonds. In the event Term Bonds are issued as part of the Series 2016 A Bonds pursuant to this Ordinance, the following provisions shall apply:

1. The amounts to be deposited, apportioned and set apart by the Issuer from the Revenue Fund and into the Series 2016 A Bonds Redemption Account in accordance with Section 4.03 shall include (after credit as provided below) on the first of each month, beginning on the first day of that month which is 12 months prior to the first mandatory redemption date of said Term Bonds, a sum equal to 1/12th of the amount (or, if the Series 2016 A Bonds mature semiannually rather than annually, that month which is 6 months prior to the first mandatory redemption date of said Term Bonds, a sum equal to 1/6th of the amount) required to redeem the principal amount of such Term Bonds which are to be redeemed as of the next ensuing mandatory Redemption Date, which amounts and dates, if any, with respect to a series of Bonds shall be set forth in the Supplemental Resolution relating thereto.

2. At its option, to be exercised on or before the 60th day next preceding any such mandatory Redemption Date, the Issuer may (a) deliver to the Registrar for cancellation such Term Bonds in any aggregate principal amount desired or (b) receive a credit in respect of its mandatory redemption obligation for any such Term Bonds which prior to said date have been redeemed (otherwise than pursuant to this section) and canceled by the Registrar and not theretofore applied as a credit against any such mandatory redemption obligation. Each Term Bond so delivered or previously redeemed shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Issuer on such mandatory Redemption Date, and Term Bonds delivered in excess of such mandatory redemption obligation shall be credited against future mandatory redemption obligations in the order directed by the Issuer, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

3. The Issuer shall on or before the 60th day next preceding each mandatory Redemption Date furnish the Registrar and the Bond Commission with its certificate indicating whether and to what extent the provisions of (a) and (b) of the preceding paragraph are to be utilized with respect to such mandatory redemption payment and stating, in the case of the credit provided for in (b) of the preceding paragraph, that such credit has not theretofore been applied against any mandatory redemption obligation.

4. After said 60th day but prior to the date on which the Registrar selects the Term Bonds to be redeemed, the Bond Commission may use the monies in the Series 2016 A Bonds Redemption Account to purchase Term Bonds at a price less than the par value thereof and accrued interest thereon. The Bond Commission shall advise the Issuer and the Registrar of any Term Bonds so purchased, and they shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Issuer on such mandatory Redemption Date, and any excess shall be credited against future mandatory redemption obligations in the order directed by the Issuer, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

5. The Registrar shall call for redemption, in the manner provided herein, an aggregate principal amount of such Term Bonds, at the principal amount thereof plus interest accrued to the Redemption Date (interest to be paid from the Series 2016 A Bonds Sinking Fund), as will exhaust as nearly as practicable such Series 2016 A Bonds Redemption Account payment designated to be made in accordance with paragraph (A)(1) of this section. Such redemption shall be by random selection made on the 45th day preceding the mandatory Redemption Date, in such manner as may be determined by the Registrar. For purposes of this section, "Term Bonds" shall include any portion of a fully registered Term Bond, in integrals of \$5,000.

Section 3.07. Notice of Redemption. Unless waived by any Holder of the Series 2016 A Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the applicable Bond Insurer and the registered owner of the Series 2016 A Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar.

So long as DTC (as CEDE & CO.) is the registered Owner of the Series 2016 A Bonds, the Registrar shall send all notices of redemption to DTC and shall verify that DTC has received notice. Copies of all redemption notices shall also be posted on EMMA.

All official notices of redemption shall be dated and shall state:

- (1) The Redemption Date,
- (2) The Redemption Price,
- (3) If less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (4) That on the Redemption Date the Redemption Price and interest accrued will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (5) The place where such Bonds are to be surrendered for payment of the Redemption Price, which place of payment shall be the principal office of the Registrar, and
- (6) Such other information, if any, as shall be required for DTC-Eligible Bonds.

If funds sufficient to redeem all Series 2016 A Bonds called for optional redemption have not been deposited with the Paying Agent at the time of mailing any notice of optional redemption, such notice shall also state that such optional redemption is subject to the deposit of such monies with the Paying Agent on or before the Redemption Date. If such monies are not so deposited, the Registrar shall notify all holders of Series 2016 A Bonds called for redemption of such fact.

Official notice of redemption having been given as aforesaid, the Series 2016 A Bonds, or portions of the Series 2016 A Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the Redemption

Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Series 2016 A Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal of such Bond. All Series 2016 A Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of Series 2016 A Bonds, and failure to mail such notice shall not affect the validity of proceedings for the redemption of any portion of Bonds for which there was no such failure.

Section 3.08. Persons Treated as Owners. The Issuer, the Registrar and any agent of the Issuer or the Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of the principal of, and interest on, such Bond and (except as provided in Section 6.18) for all other purposes, whether or not such Bond is overdue.

Section 3.09. Temporary Bonds. Until Bonds of any series in definitive form are ready for delivery, the Issuer may execute and the Registrar shall authenticate, register, if applicable, and deliver, subject to the same provisions, limitations and conditions set forth in this Article III, one or more printed, lithographed or typewritten Bonds in temporary form, substantially in the form of the definitive Bonds of such series, with appropriate omissions, variations and insertions, and in authorized denominations. Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the lien and benefit created under this Ordinance. Upon the presentation and surrender of any Bond or Bonds in temporary form, the Issuer shall, without unreasonable delay, prepare, execute and deliver to the Registrar, and the Registrar shall authenticate, register, if applicable, and deliver, in exchange therefor, a Bond or Bonds in definitive form. Such exchange shall be made by the Registrar without making any charge therefor to the Holder of such Bond in temporary form.

Section 3.10. Series 2016 A Bonds. For the purposes of paying a portion of the costs of the Sewage Treatment Plant Project, capitalizing interest on the Series 2016 A Bonds, paying the premium for a municipal bond insurance policy, funding the Series 2016 A Bonds Reserve Account with proceeds of the Series 2016 A Bonds or paying the premium for a municipal bond debt service reserve insurance policy, in a amount equal to the Series 2016 A Bonds Debt Service Reserve Requirement and paying costs in connection with the issuance of the Series 2016 A Bonds, there shall be issued the Series 2016 A Bonds of the Issuer, in an aggregate principal amount of not more than \$100,000,000. Said Series 2016 A Bonds shall be designated "Combined Utility System Revenue Bonds, Series 2016

A (Tax Exempt)" or such other designation as may be appropriate for the year and sequence of the issue, as may be set forth in one or more Supplemental Resolution(s), and shall be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof for any period of maturity, not exceeding the aggregate principal amount of Series 2016 A Bonds maturing in the period of maturity for which the denomination is to be specified. The Series 2016 A Bonds shall be numbered from AR-1 consecutively upward. The Series 2016 A Bonds shall be dated; shall be in such aggregate principal amount (not to exceed \$100,000,000); shall bear interest at such rate or rates, (not to exceed 8%), payable semiannually on such dates; shall mature on such dates (which may be annual or semi-annual) (not to exceed 35 years) and in such amounts; shall be subject to such mandatory and optional redemption provisions; and shall have such other terms, all as the Issuer shall prescribe herein and in the Supplemental Resolution.

Section 3.11. Book Entry System for Series 2016 A Bonds.

A. The Series 2016 A Bonds shall each initially be issued in the form of one fully-registered bond for the aggregate principal amount of the Series 2016 A Bonds of each maturity, registered in the name of CEDE & CO., as nominee of DTC. Except as provided in Paragraph E below, all of the Series 2016 A Bonds shall be registered in the registration books kept by the Registrar in the name of CEDE & CO., as nominee of DTC; provided, that if DTC shall request that the Series 2016 A Bonds be registered in the name of a different nominee, the Registrar shall exchange all or any portion of the Series 2016 A Bonds registered in the name of such nominee or nominees. No person other than DTC or its nominee shall be entitled to receive from the Issuer or the Registrar either a Series 2016 A Bond or any other evidence of ownership of the Series 2016 A Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the Series 2016 A Bonds on the registration books maintained by the Registrar, in connection with discontinuing the book entry system as provided in Paragraph E below.

B. At or prior to settlement for the Series 2016 A Bonds, the Issuer and the Registrar shall execute or signify their approval of a representation letter addressed to DTC in a form satisfactory to DTC (the "Representation Letter"). Any successor Registrar shall, in its written acceptance of its duties under this Ordinance, agree to take any actions necessary from time to time to comply with the requirements of the Representation Letter.

C. So long as the Series 2016 A Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all payments of the principal or Redemption Price of or interest on such Series 2016 A Bonds shall be made to DTC or its nominee at the addresses set forth in the Representation Letter in New York Clearing House or equivalent next day funds on the dates provided for such payments to be made to any Bondholder under this Ordinance. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the Issuer and the Registrar with respect to the principal or Redemption Price of or interest on the Series 2016 A Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Series 2016 A

Bonds Outstanding of any maturity, the Registrar shall not require surrender by DTC of the Series 2016 A Bonds so redeemed, but DTC may retain such Series 2016 A Bonds and make an appropriate notation on the Series 2016 A Bonds certificate as to the amount of such partial redemption; provided, that DTC shall deliver to the Registrar, upon request, a written confirmation of such partial redemption. The records maintained by the Registrar shall be conclusive as to the amount of the Series 2016 A Bonds of such maturity which have been redeemed.

D. The Issuer, the Paying Agent and the Registrar may treat DTC as the sole and exclusive owner of the Series 2016 A Bonds registered in its name or the name of its nominee for the purposes of payment of the principal or Redemption Price of or interest on the Series 2016 A Bonds, selecting the Series 2016 A Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Ordinance, registering the transfer of Series 2016 A Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the Issuer nor the Registrar shall be affected by any notice to the contrary. Neither the Issuer nor the Registrar shall have any responsibility or obligation to any direct or indirect participant in DTC, any person claiming a beneficial ownership interest in the Series 2016 A Bonds under or through DTC or any such participant, or any other person which is not shown on the registration books of the Registrar as being a Bondholder with respect to (i) the Series 2016 A Bonds, (ii) the accuracy of any records maintained by DTC or any such participant, (iii) the payment by DTC or any such participant of any amount in respect of the principal or Redemption Price of or interest on the Series 2016 A Bonds, (iv) any notice which is permitted or required to be given to Bondholders under this Ordinance, (v) the selection by DTC or any such participant of any person to receive payment in the event of a partial redemption of the Series 2016 A Bonds, or (vi) any consent given or other action taken by DTC as Bondholder.

E. The book entry system for registration of the ownership of the Series 2016 A Bonds may be discontinued at any time if either: (i) DTC determines to resign as securities depository for the Series 2016 A Bonds; or (ii) the Issuer determines that continuation of the system of book entry transfers through DTC (or through a successor securities depository) is not in the best interest of the beneficial owners of the Series 2016 A Bonds. In either of such events (unless in the case described in clause (iii) above, the Issuer appoints a successor securities depository), the Series 2016 A Bonds shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the Issuer or the Registrar for the accuracy of such designation. Whenever DTC requests the Issuer and the Registrar to do so, the Issuer and the Registrar shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the Series 2016 A Bonds.

Section 3.12. Delivery of Series 2016 A Bonds. A. The Issuer shall execute and deliver the Series 2016 A Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 2016 A Bonds to the Original Purchaser upon receipt of the documents set forth below:

(1) If not registered in the name of DTC or its nominee, a list of the names in which the Series 2016 A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Registrar may reasonably require;

(2) A request and authorization to the Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2016 A Bonds to DTC for the benefit of the Original Purchaser;

(3) Copies, certified by the City Clerk, of this Ordinance and the Supplemental Resolution;

(4) The unqualified approving opinion upon the Series 2016 A Bonds by Bond Counsel; and

(5) Such other opinions, certificates and documents as shall be reasonably requested by the Original Purchaser.

Section 3.13. Form of Series 2016 A Bonds. The definitive Series 2016 A Bonds shall be in substantially the form set forth in EXHIBIT A – FORM OF SERIES 2016 A BONDS attached hereto and incorporated herein by reference, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such Series 2016 A Bonds on behalf of the Issuer and execution thereof by such officers shall constitute conclusive evidence of such approval, and the definitive Series 2016 A Bonds shall have the form of the opinion of Steptoe & Johnson PLLC, as Bond Counsel, attached thereto or printed on the reverse thereof.

Section 3.14. Disposition of Proceeds of Series 2016 A Bonds. Upon the issuance and delivery of the Series 2016 A Bonds, the Issuer shall forthwith deposit the proceeds thereof as follows:

1. All interest accrued on the Series 2016 A Bonds from the date thereof to the date of delivery thereof, if any, shall be deposited in the Series 2016 A Bonds Sinking Fund and applied to payment of interest on the Series 2016 A Bonds at the first interest payment date.

2. if a Municipal Bond Insurance Policy has been obtained to secure the payment of the principal of, and interest on, the Series 2016 A Bonds, the premium for such Municipal Bond Insurance Policy shall be paid to the Bond Insurer.

3. An amount of the proceeds of the Series 2016 A Bonds equal to the amount, if any, set forth in the Supplemental Resolution shall be remitted to the Bond Commission for deposit in the Series 2016 A Bonds Reserve Account; provided, that to the extent the Series 2016 A Bonds Reserve Requirement is satisfied in whole or in part from a municipal bond debt serve reserve insurance polity, letter of credit, surety bond or other credit facility, proceeds of the Series 2016 A Bonds shall be deposited in the Series 2016 A Bonds Reserve Account only to the extent needed to satisfy the balance of the Series 2016 A Bonds Reserve Requirement.

4. The amount of Series 2016 A Bond proceeds which, together with other monies or securities deposited therein shall be equal to the Costs of Issuance of the Series 2016 A Bonds shall be deposited with the Depository Bank in the Series 2016 A Bonds Costs of Issuance Fund and shall be drawn out, used and applied by the Issuer solely to pay costs of issuance of the Series 2016 A Bonds at the written direction of the Issuer. Monies not to be applied immediately to pay such costs of issuance may be invested in accordance with this Ordinance, subject however, to applicable yield restrictions as may be in effect under the Code. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to such purpose within 120 days following the Closing Date for the Series 2016 A Bonds, such unapplied proceeds shall be transferred by the Issuer to the Series 2016 A Bonds Sinking Fund established in Section 4.01 hereof and applied to the next ensuing payment of interest on the Series 2016 A Bonds. All such proceeds shall constitute a trust fund for such purposes, and there hereby is created a lien upon such monies until so applied in favor of the Holders of the Series 2016 A Bonds from which such proceeds are derived.

5. The balance of Series 2016 A Bonds proceeds, if any, shall be deposited in the Series 2016 A Bonds Construction Fund and disbursed as provided in Section 3.15 hereof.

Section 3.15. Disbursements from the Series 2016 A Bonds Construction Fund. Disbursements from the Series 2016 A Bonds Construction Fund, except for payment of Costs of Issuance of the Series 2016 A Bonds in excess of the monies available in the Costs of Issuance Fund which shall be made upon request of the Utility, shall be made only for design, acquisition and construction of capital improvements, repairs and replacements for the Sewer Treatment Plant Project, including all necessary engineering and other professional services relating thereto. Pending such application, monies in the Series 2016 A Bonds Construction Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Utility.

ARTICLE IV

SYSTEM REVENUES; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. Pursuant to this Article IV, the following special funds are created with (or continued if previously established by Prior Ordinances), and shall be held by, the Depository Bank, segregated from all other funds and accounts of the Depository Bank or the Issuer and from each other (except as set forth in this Section 4.01), and used solely for the purposes provided herein:

- (1) Revenue Fund (established by the Prior Ordinances);
- (2) Depreciation Fund (established by the Prior Ordinances);
- (3) Operation and Maintenance Fund (established by the Prior Ordinances); and
- (4) Series 2016 A Bonds Construction Fund.

Section 4.02. Establishment of Funds and Accounts with Bond Commission. The following special funds or accounts are hereby created (or continued is established by Prior Ordinances or the Sewer Treatment Plant Project Bond Ordinances) with and shall be held by the Bond Commission, separate and apart from all other funds or accounts of the Bond Commission or the Issuer and from each other:

- (1) Series 1992 Bonds Sinking Fund (established by Prior Ordinances);
- (2) Series 1992 Bonds Reserve Account established by Prior Ordinances);
- (3) Series 1995 Bonds Sinking Fund (established by Prior Ordinances);
- (4) Series 1995 Bonds Reserve Account established by Prior Ordinances);
- (5) Series 2000 A Bonds Sinking Fund (established by Prior Ordinances);
- (6) Series 2000 A Bonds Reserve Account established by Prior Ordinances);
- (7) Series 2000 B Bonds Sinking Fund (established by Prior Ordinances);

- (8) Series 2000 B Bonds Reserve Account established by Prior Ordinances);
- (9) Series 2001 A Bonds Sinking Fund (established by Prior Ordinances);
- (10) Series 2001 A Bonds Reserve Account established by Prior Ordinances);
- (11) Series 2006 A Bonds Sinking Fund (established by Prior Ordinances);
- (12) Series 2006 A Bonds Reserve Account established by Prior Ordinances);
- (13) Series 2007 A Bonds Sinking Fund (established by Prior Ordinances);
- (14) Series 2007 A Bonds Reserve Account established by Prior Ordinances);
- (15) Series 2010 A Bonds Sinking Fund (established by Prior Ordinances);
- (16) Series 2010 A Bonds Reserve Account (established by Prior Ordinances);
- (17) Series 2010 C Bonds Sinking Fund (established by Prior Ordinances);
- (18) Series 2010 C Bonds Reserve Account (established by Prior Ordinances);
- (19) Series 2010 D Bonds Sinking Fund (established by Prior Ordinances);
- (20) Series 2010 D Bonds Reserve Account (established by Prior Ordinances);
- (21) Series 2010 E Bonds Sinking Fund (established by Prior Ordinances);

- (22) Series 2010 E Bonds Reserve Account (established by Prior Ordinances);
- (23) Series 2010 F Bonds Sinking Fund (established by Prior Ordinances);
- (24) Series 2010 F Bonds Reserve Account (established by Prior Ordinances);
- (25) Series 2012 A Bonds Sinking Fund (established by Prior Ordinances);
- (26) Series 2012 A Bonds Reserve Account (established by Prior Ordinances);
- (29) Series 2012 C Bonds Sinking Fund (established by Prior Ordinances);
- (30) Series 2012 C Bonds Reserve Account (established by Prior Ordinances);
- (27) Series 2013 A Bonds Sinking Fund (established by Prior Ordinances);
- (28) Series 2013 A Bonds Reserve Account (established by Prior Ordinances);
- (29) Series 2014 B Bonds Sinking Fund (established by Prior Ordinances);
- (30) Series 2014 B Bonds Reserve Account (established by Prior Ordinances);
- (31) Series 2015 A Bonds Sinking Fund (established by Prior Ordinances);
- (32) Series 2015 A Bonds Reserve Account (established by Prior Ordinances);
- (33) Series 2015 B Bonds Sinking Fund (established by Prior Ordinances);

- (34) Series 2015 B Bonds Reserve Account (established by Prior Ordinances);
- (35) Series 2015 C Bonds Sinking Fund (established by Prior Ordinances);
- (36) Series 2015 C Bonds Reserve Account (established by Prior Ordinances);
- (35) Series 2015 D Bonds Sinking Fund (established by Prior Ordinances);
- (36) Series 2015 D Bonds Reserve Account (established by Prior Ordinances);
- (37) Series 2015 E Bonds Sinking Fund (established by Prior Ordinances);
- (38) Series 2015 E Bonds Reserve Account (established by Prior Ordinances);
- (39) Series 2016 B Bonds Sinking Fund (established by Sewer Treatment Plant Project Bond Ordinances);
- (40) Series 2016 B Bonds Reserve Account (established by Sewer Treatment Plant Project Bond Ordinances);
- (41) Series 2016 C Bonds Sinking Fund (established by Sewer Treatment Plant Project Bond Ordinances);
- (42) Series 2016 C Bonds Reserve Account (established by Sewer Treatment Plant Project Bond Ordinances);
- (43) Series 2016 D Bonds Sinking Fund (established by ordinance authorizing the Series 2016 D Bonds);
- (44) Series 2016 D Bonds Reserve Account (established by ordinance authorizing the Series 2016 D Bonds);
- (45) Series 2016 A Bonds Sinking Fund; and
- (46) Series 2016 A Bonds Reserve Account

Section 4.03. System Revenues and Application Thereof. So long as any of the Series 2016 A Bonds shall be Outstanding and unpaid, the Issuer covenants as follows:

A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited by the Issuer in the Revenue Fund. The Revenue Fund shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All Revenues at any time remaining on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(1) The Issuer shall first, from the monies in the Revenue Fund, on the first day of each month, simultaneously remit to the Bond Commission (i) the amounts required by the Prior Ordinances to for payment of interest on the Series 1995 Bonds, Series 2001 A Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 A Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2010 F Bonds, Series 2012 A Bonds, Series 2012 C Bonds, Series 2014 B Bonds, Series 2015 A Bonds; (ii) the amounts required by the ordinances authorizing the Series 2016 B Bonds, the Series 2016 C Bonds and the Series 2016 D Bonds to be deposited into the respective sinking funds for the payment of interest on the Series 2016 B Bonds, Series 2016 C Bonds and Series 2016 D Bonds; and (iii) beginning on the first day of that month which is 6 months prior to the first interest payment date on the Series 2016 A Bonds, apportion and set apart out of the Revenue Fund and deposit in the Series 2016 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 2016 A Bonds on the next ensuing semiannual interest payment date; provided, that in the event the period to elapse between the date of such initial deposit in the Series 2016 A Bonds Sinking Fund and the next ensuing semiannual interest payment date is less than or greater than 6 months, then such monthly payments shall be increased or decreased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date, and provided further, that the initial amount required to be transferred from the Revenue Fund and deposited in the Series 2016 A Bonds Sinking Fund shall be reduced by the amount of accrued interest on the Series 2016 A Bonds deposited therein and subsequent amounts required to be transferred from the Revenue Fund and deposited in the Series 2016 A Bonds Sinking Fund shall be reduced by the amount of any earnings credited to the Series 2016 A Bonds Sinking Fund.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and, simultaneously remit to the Bond Commission (i) the amounts required by the Prior Ordinances to be deposited in the Prior Bonds Sinking Funds for payment of principal on the Prior Bonds; (ii) the amounts required by the ordinances authorizing the Series 2016 B Bonds, the Series 2016 C Bonds and the Series 2016 D Bonds to be deposited into the respective sinking funds for the payment of principal on the Series 2016 B Bonds, Series 2016 C Bonds and Series 2016 D Bonds; and (iii) for deposit in the Series 2016 A Bonds Sinking Fund (and in the Series 2016 A Bonds Redemption Account therein in the

case of Term Bonds which are to be redeemed) on the first day of each month, beginning on the first day of that month which is 12 months prior to the first principal payment or mandatory Redemption Date of the Series 2016 A Bonds, a sum equal to 1/12th of the amount (or 1/6th of the amount if the Series 2016 A Bonds mature semiannually rather than annually) of principal which will mature or be redeemed and become due on the Series 2016 A Bonds on the next ensuing principal payment or mandatory Redemption Date; provided, that in the event the period to elapse between the date of such initial deposit in the Series 2016 A Bonds Sinking Fund and the next ensuing principal payment or mandatory Redemption Date is less than or greater than 12 months (or 6 months if the Series 2016 A Bonds mature semiannually rather than annually), then such monthly payments shall be increased or decreased proportionately to provide, one month prior to the next ensuing principal payment date or mandatory Redemption Date, the required amount of principal coming due on such date, and provided further, that the amount of such deposits shall be reduced by the amount of any earnings credited to the Series 2016 A Bonds Sinking Fund and not previously credited pursuant to the preceding paragraph.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and, simultaneously remit to the Bond Commission (i) the amounts required by the Prior Ordinances to be deposited in the respective Reserve Accounts for the Prior Bonds; (ii) the amounts required by the ordinances authorizing the Series 2016 B Bonds, the Series 2016 C Bonds and the Series 2016 D Bonds to be deposited into the respective reserve accounts for the Series 2016 B Bonds, Series 2016 C Bonds and Series 2016 D Bonds; and (iii) commencing 13 months prior to the first date of payment of principal of the Series 2016 A Bonds or upon completion of construction of the Sewer Treatment Plant Project, whichever is earlier, if not fully funded upon issuance of the Series 2016 A Bonds, for deposit in the Series 2016 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2016 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 2016 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2016 A Bonds Reserve Requirement; provided further, that if the amounts in the Series 2016 A Bonds Reserve Account, as a result of a decrease in value of the Series 2016 A Bonds Reserve Account below the Series 2016 A Bonds Reserve Account Requirement or any withdrawal from the Series 2016 A Bonds Reserve Account, the Issuer shall apply such monies for deposit into the Series 2016 A Bonds Reserve Account, beginning with the first full calendar month following the date on which (i) the valuation of investments in the Series 2016 A Bonds Reserve Account results in a determination that the amount of monies and the value of the Qualified Investments deposited to the credit of the Series 2016 A Bonds Reserve Account is less than the Series 2016 A Bond Reserve Account Requirement, or (ii) any amount is withdrawn from the Series 2016 A Bonds Reserve Account for deposit into the Series 2016 A Bonds Sinking Fund. To the extent Net Revenues and any other legally available funds are available therefor, the amount so deposited shall be used to restore the amount of monies on deposit in the Series 2016 A Bonds Reserve Account to an amount equal to the Series 2016 A Bond Reserve Account Requirement to the full extent

that such Net Revenues are available; provided, however, that if the shortfall in the Series 2016 A Bonds Reserve Account is due to a decrease in the value of investments therein, such shortfall shall be replenished by not less than 4 equal monthly payments, and if such shortfall is due to a withdrawal from the Series 2016 A Bonds Reserve Account, such shortfall shall be replenished by not less than 12 equal monthly payments, and provided further, that no payments shall be required to be made into the Series 2016 A Bonds Reserve Account whenever and as long as the amount deposited therein shall be equal to the Series 2016 A Bond Reserve Account Requirement.

Amounts in the Series 2016 A Bonds Reserve Account shall be used only for the purpose of making payments of principal of and interest on the Series 2016 A Bonds when due, when amounts in the Series 2016 A Bonds Sinking Fund are insufficient therefor and for no other purpose.

(4) The Issuer shall next, each month, transfer from the Revenue Fund an amount sufficient to pay current Operating Expenses of the System.

(5) The Issuer shall next, on the first day of each month, transfer from the monies remaining in the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund (as previously set forth in the Prior Ordinances and not in addition thereto), a sum equal to 2.5% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Subject to the restrictions contained in the Prior Ordinances, so long as the Prior Bonds are outstanding, withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, or improvements or extensions to the System; provided, that any deficiency in any Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof, shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(6) Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

B. The Bond Commission is hereby designated as the fiscal agent for the administration of the Series 2016 A Bonds Sinking Fund created hereunder, and all amounts required for said Sinking Fund shall be remitted to the Bond Commission from said Revenue Fund and from the proceeds of the sale of the Series 2016 A Bonds, by

the Issuer at the times and as otherwise provided herein. All remittances made by the Issuer to the Bond Bond Commission shall clearly identify the fund or account into which each amount is to be deposited.

C. The monies on deposit in the Revenue Fund and the Renewal and Replacement Fund in excess of the sum insured by the FDIC shall at all times be secured, to the full extent thereof in excess of such insured sum, by Government Obligations or by other Qualified Investments as shall be eligible as security for deposits of municipal funds under the laws of the State.

D. Principal, interest or reserve payments, whether for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds, the Series 2015 A Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds and the Series 2016 D Bonds, all in accordance with the respective principal amounts then Outstanding.

ARTICLE V
INVESTMENTS; NON-ARBITRAGE;
REBATES OF EXCESS INVESTMENT EARNINGS

Section 5.01. Investments. The Issuer, through the Board, shall invest and reinvest, and shall instruct the Bond Bond Commission and the Depository Bank to invest and reinvest, any monies held as a part of the funds and accounts created by this Ordinance in Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this section.

Except as provided below, any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The Issuer shall, through the Board, sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Issuer, through the Board, may make any and all investments permitted by this section through the bond department of the Depository Bank. The Depository Bank shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The following specific provisions shall apply with respect to any investments made under this section (unless otherwise required by the Bond Insurer and as set forth in the Supplemental Resolution):

(A) Qualified Investments acquired for the Series 2016 A Bonds Reserve Account shall mature or be subject to retirement at the option of the holder within not more than 5 years from the date of such investment.

(B) The Issuer, through the Board, shall, or shall cause the Bond Commission to, annually transfer from the Series 2016 A Bonds Reserve Account to the Sinking Fund any earnings on the monies deposited therein and any other funds in excess of the Series 2016 A Bonds Reserve Requirement; provided, however, that there shall at all times remain on deposit in the Series 2016 A Bonds Reserve Account an amount at least equal to the Series 2016 A Bonds Reserve Requirement.

(C) In computing the amount in any fund or account, Qualified Investments shall be valued at the lower of the cost or the market price, exclusive of accrued interest. Valuation of all funds and accounts shall occur annually, except in the event of a withdrawal from the Series 2016 A Bonds Reserve Account, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in the Series 2016 A Bonds Reserve Account shall, at any time, be less than the applicable Series 2016 A Bonds Reserve Requirement, the applicable Bond Insurer shall be notified immediately of such deficiency, and such deficiency shall be made up from the first available Gross Revenues after required deposits to the Sinking Fund and otherwise in accordance with Section 4.03(3).

(E) All amounts representing accrued and capitalized interest shall be held by the Bond Commission, pledged solely to the payment of interest on the Series 2016 A Bonds, as appropriate, and invested only in Government Obligations maturing at such times and in such amounts as are necessary to match the interest payments to which they are pledged.

(F) Notwithstanding the foregoing, all monies deposited in the Series 2016 A Bonds Sinking Fund may be invested by the Bond Commission in the West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the Code of West Virginia, 1931, as amended.

Section 5.02. Continuing Disclosure Agreement. The Issuer shall deliver a continuing disclosure agreement or certificate in form acceptable to the Original Purchaser sufficient to ensure compliance with SEC Rule 15c2-12, as it may be amended from time to time, and the Issuer hereby instructs the Mayor and City Manager to take all actions necessary for the Issuer to comply with the continuing disclosure agreement.

Section 5.03. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Series 2016 A Bonds in such manner and to such extent as may be necessary, so that such Series 2016 A Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations prescribed thereunder, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of

a Federal information return with respect to such Bonds) so that the interest on the Series 2016 A Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 5.04. Tax Certificate, Rebates, and Rebate Fund. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate (the "Tax Certificate") to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of any series of Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 2016 A Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

The Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, the Issuer or the Board shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefore. The Issuer at its expense, may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 5.04. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 5.04 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in

order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

ARTICLE VI
ADDITIONAL COVENANTS OF THE ISSUER

Section 6.01. Covenants Binding and Irrevocable. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2016 A Bonds, as prescribed by Article VII. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the Holders of the Series 2016 A Bonds, as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2016 A Bonds or the interest thereon, are Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Series 2016 A Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the Gross Revenues of the System, the monies in the Series 2016 A Bonds Sinking Fund and all accounts therein, the unexpended proceeds of the Series 2016 A Bonds or monies in a construction fund, if any, all as herein provided. No Holder or Holders of any Series 2016 A Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Series 2016 A Bonds or the interest thereon.

Section 6.03. Bonds Secured by Pledge of Gross Revenues and Monies in Sinking Fund. The payment of the debt service of all of the Series 2016 A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the operation of the System on a parity with one another and with the lien on the Gross Revenues in favor of the Holders of the Prior Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds and the Series 2016 D Bonds, and, in the instance of the Series 2016 A Bonds, all monies and securities in the Series 2016 A Sinking Fund, including the Series 2016 A Bonds Reserve Account therein, to the extent necessary to make the payments required under Section 4.03. The Gross Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Prior Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds, the Series 2016 D Bonds and the Series 2016 A Bonds herein authorized, and to make the payments into the Series 2016 A Bonds Sinking Fund, all monies and securities in the Series 2016 A Bonds Sinking Fund, including the Series 2016 A Bonds Reserve Account therein.

Section 6.04. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law.

Copies of such rates and charges so established may be obtained from the Board by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System, and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 2016 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2016 A Bonds, including the Prior Bonds, the Series 2016 B Bond, the Series 2016 C Bonds and the Series 2016 D Bonds.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 120 days following a determination of the Independent Accountant that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

The Issuer expressly reserves the right to reduce the rates for the System in effect as of the date of issuance of the Series 2016 A Bonds in the event that, based on a certificate of an Independent Certified Public Accountant, even after any such decrease in rates, the Issuer will meet the requirements of the Section 6.04 and is not in default under any other provision of any ordinance authorizing in bonds or other indebtedness secured by the Gross Revenues of the System.

Section 6.05. Completion of Sewer Treatment Plant Project; Operation and Maintenance. The Issuer will complete the Sewer Treatment Plant Project as promptly as possible. The Issuer will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in this Ordinance.

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Sewer Treatment Plant Project.

Section 6.06. Sale of the System. So long as the Prior Bonds are Outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System,

except as provided by the Prior Ordinances. Additionally, so long as the Series 2016 A Bonds are Outstanding, the System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to defease the pledge created by this Ordinance as provided by Section 9.01. The proceeds from such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Bond Commission for deposit in the Series 2016 A Bonds Sinking Fund, and otherwise as prescribed by Section 9.01. Any balance remaining after such defeasance shall be remitted to the Issuer by the Bond Commission unless necessary for the payment of other obligations of the Issuer payable out of the Revenues of the System.

The foregoing provision notwithstanding, the Board shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of \$1,000,000, the Board shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Board may then provide for the sale of such property. The proceeds of any such sale shall be used for any lawful purpose of the System. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$1,000,000 but not in excess of \$5,000,000, the Board shall first, in writing, determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Board may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$1,000,000 and not in excess of \$5,000,000, shall be deposited by the Issuer into the Renewal and Replacement Fund. Such payments of such proceeds into the Renewal and Replacement Fund shall reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of \$5,000,000 and insufficient to defease the pledge created by this Ordinance, as provided by Section 9.01, without the prior approval and consent in writing of any applicable Bond Insurer and the Holders, or their duly authorized representatives, of 60% in amount of Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the Bond Insurer and the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.07. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations

whatsoever, except Additional Parity Bonds provided for in Section 6.08 hereof, payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from the Gross Revenues with the Series 2016 A Bonds; and all obligations hereafter issued by the Issuer payable from the revenues of the System, except such Additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects to the Series 2016 A Bonds.

The Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to such Additional Parity Bonds, being on a parity with the lien of the Series 2016 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2016 A Bonds and the interest thereon in this Ordinance or upon the System or any part thereof.

Section 6.08. Additional Parity Bonds. So long as the Prior Bonds, Series 2016 B Bonds, Series 2016 C Bonds or Series 2016 D Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Ordinances authorizing such bonds shall be applicable. In addition, no Additional Parity Bonds, as in this section defined, payable out of the revenues of the System shall be issued after the issuance of the Series 2016 A Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.

No such Additional Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, betterments or improvements for the System, refunding all or a portion of one or more series of the Series 2016 A Bonds issued pursuant hereto, the Series 2016 B Bonds, the Series 2016 C Bonds, the Series 2016 D Bonds or the Prior Bonds, refunding all or a portion of any series any Additional Parity Bonds hereinafter issued, paying claims which may exist against the revenues or facilities of the System, or all of such purposes.

No such Additional Parity Bonds shall be issued at any time, however, unless and until there has been procured a written statement by an Independent Certified Public Accountant, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Additional Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the date of issuance of such Additional Parity Bonds, shall be not less than 115% of the Maximum Annual Debt Service on the following:

- (1) The Series 2016 A Bonds then Outstanding;

- (2) The Prior Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds and the Series 2016 D Bonds Outstanding;
- (3) Any Additional Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding; and
- (4) The Additional Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Additional Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the issuance of such Additional Parity Bonds.

The Net Revenues actually derived from the System during the 12 consecutive month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Accountant, as stated in a certificate on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to issuance of such Additional Parity Bonds.

The term "Additional Parity Bonds," as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the Gross Revenues of the System on a parity with the Series 2016 A Bonds and the Prior Bonds, and all the covenants and other provisions of this Ordinance (except as to details of such Additional Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2016 A Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds, the Series 2016 D Bonds and the Prior Bonds and the Holders of any Additional Parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Gross Revenues of the System, and their source of and security for payment from said Gross Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Ordinance required for and on account of such Additional Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

The term "Additional Parity Bonds," as used in this section, shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien on the Gross Revenues of the System of which is subject to the prior and superior lien of the Bonds on such Gross Revenues. The Issuer shall not issue any obligations whatsoever payable from the Revenues of the System, or any part thereof, which rank prior

to or equally, as to lien and source of and security for payment from such Revenues with the Series 2016 A Bonds except in the manner and under the conditions provided in this section.

No Additional Parity Bonds, as in this section defined, shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding (excluding the Renewal and Replacement Fund), and any other payments provided for in this Ordinance, shall have been made in full as required to the date of delivery of the Additional Parity Bonds and the Issuer shall then be in full compliance with all the covenants, agreements and terms in the Ordinance and every ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency with respect to such payments and compliance.

Section 6.09. Insurance and Bonds. The Issuer hereby covenants and agrees, that so long as the Series 2016 A Bonds remain Outstanding, the Issuer or the Board will, as an Operating Expense, procure, carry and maintain insurance and bonds and workers' compensation coverage with a reputable insurance carrier or carriers or bonding company or companies rated at least "A" by Standard & Poor's Corporation covering the following risks and in the following amounts:

A. FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the greater of the fair appraised value or the original cost thereof. In the event of any damage to or destruction of any portion of the System, the Board will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damages or destroyed portion. The Board will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Board and the Issuer during construction of the Sewer Treatment Plant Project in the full insurable value thereof.

B. PUBLIC LIABILITY INSURANCE, with limits of not less than is customarily carried by municipalities of equivalent size with respect to works and properties similar to the System to protect the Issuer and the Board from claims for bodily injury and/or death and from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer and the Board from claims arising out of operation or ownership of motor vehicles of or for the System; provided, that the Board, with the review of an independent insurance consultant and the concurrence of the Issuer, may elect to self-insure.

If the Issuer determines in good faith that any required insurance is not commercially available at a reasonable cost with reasonable terms, it shall engage an insurance consultant to verify the determination and to make recommendations regarding the types, amounts and provisions of any such insurance that should be purchased or funded by the Issuer, taking into consideration the costs and practices of other municipal water and

sewer systems of similar size and type in the State to the extent that such information is available. The Issuer may, upon resolution adopted in good faith and upon the recommendations of the insurance consultant, adopt alternate or supplemental risk management programs which the Issuer determines to be reasonable, including the right to self-insure and participate in captive insurance companies.

C. WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Board and such payment bonds will be filed with the Clerk of the County Commission of Monongalia County prior to commencement of construction of any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

D. FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

E. BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

F. FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

The Issuer shall require all contractors engaged in the construction of the Sewer Treatment Plant Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Sewer Treatment Plant Project covered by the particular contract as security for the faithful performance of such contract.

The Issuer shall also require all contractors engaged in the construction of the Sewer Treatment Plant Project to carry such workers' compensation coverage for all employees working on the Sewer Treatment Plant Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Sewer Treatment Plant Project.

Section 6.10. Services Rendered to the Board or Issuer. The Board will not render or cause to be rendered any free services of any nature by its System; and, in the event the Board, the Issuer or any department, agency, instrumentality, officer or employee

thereof shall avail himself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Board, the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Board or the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 6.11. Enforcement of Collections. The Issuer shall, through the Board will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Section 6.12. No Competing Franchise. To the extent legally allowable, neither the Issuer nor the Board will grant or cause, consent to or allow the granting of any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.13. Books and Records. The Board will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Board or the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Series 2016 A Bond, shall have the right at all reasonable times to inspect the System, and all parts thereof, and all records, accounts and data of the Board relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the Board. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books and along with other bookkeeping records as prescribed by the Board. The Board shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Board shall be reported to such agent of the Board as it shall direct.

The Issuer or the Board shall , at least once a year, cause the books, records and accounts of the System to be completely audited by an Independent Accountant.

Section 6.14. Operating Budget. The Board shall annually, at least 45 days preceding the beginning of each Fiscal Year, or at such earlier date required by the charter of the Issuer, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year.

Section 6.15. Mandatory Connections. The mandatory use of the sewerage portion of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer, and in order to assure the rendering harmless of sewage and waterborne waste matter produced or arising within the territory served by the sewerage portion of the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the sewerage portion of the System.

Any such house, dwelling or building from which emanates sewage or waterborne waste matter and which is not so connected with the sewerage portion of the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the residents of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 6.16. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2016 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon the issuance of the Series 2016 A Bonds and shall be on a parity with one another and with the statutory mortgage lien in favor of the Holders of the Prior Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds and the Series 2016 D Bonds.

Section 6.17. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2016 A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on such Series 2016 A Bonds during the term thereof is, under the terms of such Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) in the event that both (A) in excess of 5% of the Net

Proceeds of the Series 2016 A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2016 A Bonds during the terms thereof is, under the terms of such Series 2016 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2016 A Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System, or if the Series 2016 A Bonds are for the purpose of financing more than one project, a portion of the System, and shall not exceed the proceeds used for the governmental use of that portion of the System to which such Private Business Use is related. All of the foregoing shall be determined as provided for in the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2016 A Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2016 A Bonds to be directly or indirectly "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2016 A Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take all actions that may be required of it so that the interest on the Series 2016 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion. Without limiting the generality of the foregoing, the Issuer agrees to comply with the provisions of the Tax Certificate, which are hereby incorporated herein. This covenant shall survive payment in full or defeasance of the Series 2016 A Bonds.

Section 6.18. Covenants Regarding the Municipal Bond Insurance Policy. The Issuer intends to obtain Municipal Bond Insurance Policies for the Series 2016 A Bonds. In the event such Municipal Bond Insurance Policies are obtained, certain additional covenants of the Issuer will be required by the Bond Insurer as a condition to insuring the Series 2016 A Bonds. These additional covenants shall be set forth in full in the Supplemental Resolution, shall apply to the Series 2016 A Bonds and any other Bonds