

COMMITTEE OF THE WHOLE MEETING February 23, 2016:

The Committee of the Whole meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, February 23, 2016 at 7:00 p.m.

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

Deputy Mayor Kawecki called the meeting to order.

PRESENTATIONS:

1. Chamber of Commerce promoting Legislation on diversity:

Councilor Selin introduced speakers for the presentation.

Kelly Kimble, Chair, Morgantown Chamber of Commerce, 312 Maple Avenue, stated that the Morgantown Chamber urges leaders at the Legislation to recognize the importance of diversity, to obtain a vibrant economy. (Exhibit A)

Paula Fitzgerald, West Virginia University, Professor of Business Administration Marketing Department, presented a power point presentation and stated that actively asserting religious expression, which limits access to products and services, is bad for business. (Exhibit B)

Barbara Howe, Community Coalition for Social Justice, opposes any kind of discrimination against anyone and urges Council to discourage any discriminatory measure put before the Legislature. (Exhibit C HB 4012) (Exhibit D Senate Resolution 13) (Exhibit C & D inserted by Clerk)

Billy Murray, Human Rights Commission, 342B Overhill Road, speaking on behalf of the Human Rights Commission commented that HB 4012 is toxic and the state needs to find ways to end discrimination.

Dan Kimble, Chamber of Commerce, 1029 University Avenue, he stated that if our Legislatures adopt HB 4012 it would not allow Morgantown to present its best.

PUBLIC PORTION:

Jim Manilla, 1338 Airport Boulevard, mentioned seeing complaints in the Dominion Post about trash quite often. Mr. Manilla presented a history to Council on the BFI/Republic contract and suggested Council listen to Dereck Yonish, Morgantown Disposal out of Scottsdale, Pennsylvania.

Dereck Yonish, Morgantown Disposal, Scottsdale Pennsylvania, handed information out to City Council, explained what their company does, and stated their Company will be bidding for the City contract in 2017. (Exhibit E)

Deputy Mayor Kawecki asked if there was anyone else to speak during the Public Portion. There being no other presenters, Deputy Mayor Kawecki closed the public portion.

ITEMS FOR DISCUSSION:

1. Chamber of Commerce promoting Legislation on diversity:

Deputy Mayor Kawecki asked if Council wanted to move this item to the Regular Agenda.

Councilor Nugent read Resolutions to endorse Chamber of Commerce support of diversity for a vibrant economy. (Exhibit F)

After discussion, Council referred the item to the Regular Agenda by consensus.

2. Levy for County Transit, Library and Recreation: (Exhibit G)

Deputy Mayor Kawecki requested that City Manager Jeff Mikorski explain item.

City Manager, Jeff Mikorski stated that Council requested item be placed on the Agenda for discussion.

City Council asked questions and expressed concerns about this issue.

City Manager, Jeff Mikorski stated that he has expressed his concerns with the County Commission that the passage of levies would affect City residents.

City Manager, Jeff Mikorski commented that he would inform Council as new Levies are approved at the County level.

No action taken.

3. Sale of City property in Star City Ordinance: (Exhibit H)

Deputy Mayor Kawecki requested that City Manager, Jeff Mikorski, explain the Sale of City Property.

City Council asked questions and expressed concerns about this issue.

No action taken at this time.

4. Planning and Zoning Code amendment relating to safety and vision at intersections:

Deputy Mayor Kawecki requested City Manager Jeff Mikorski explain the requested zoning change.

Damien Davis, Public Works Director, this zoning ordinance would give us more flexibility, and ensure public safety by making this amendment.

City Council asked questions and expressed concerns about this issue.

Council referred the item to Regular Agenda by consensus.

5. FY 2017 Budget discussion:

Deputy Mayor Kawecky requested that City Manager Jeff Mikorski outline the proposed Budget.

City Manager, Jeff Mikorski discussed with Council the Budget Message (Exhibit I) for 2016-17, which is an overall financial condition and planning document for the City.

City Council asked questions and expressed concerns about this issue.

Council referred the item to Regular Agenda by consensus.

Council adjourned the Committee of the Whole meeting at 10:41 pm.

City Clerk

Mayor

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

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Morgantown Area Chamber of Commerce

February 4 at 4:06 PM · 🌐

"The Morgantown Area Chamber of Commerce calls upon our elected leaders to promote legislation that recognizes the crucial importance of diversity to a vibrant economy and in the alternative, to resist any legislation that is contrary to that interest. While we recognize the great importance of religious freedom in our nation's history, in particular that religious institutions and individual's rights should not be abridged by government regulation, we also believe that the Government has a compelling interest in deterring any economic practices that result in discrimination against anyone. Just as a diversified environment of job sectors contributes to a more healthy economy, we believe that recognizing the rights of all our people to contribute to our community, regardless of race, color, age, ethnicity, religion, national origin, pregnancy, sexual orientation, gender identity, genetic information, sex, marital status, disability, or status as a U.S. veteran, will serve to make our communities stronger."

Exhibit B

RELIGIOUS FREEDOM AND CONSUMER ACCESS

Presentation to Morgantown City Council
February 23, 2015

M. Paula Fitzgerald, Ph.D.
West Virginia University
Karen Russo Donovan, Ph.D.
Duquesne University
Allison Mora
Duquesne University



Motivation For this Work

Months ago—our work began in Aug. 2015

What Makes Indiana's Religious-Freedom Law Different?

The new statute's defenders claim it simply mirrors existing federal rules, but it contains two provisions that put new obstacles in the path of equality.



More Recently, WV HB 4012

Religious freedom bill is unnecessary

SHARE ARTICLE



by Talkline host
Hoppy Kercheval

Hoppy's Commentary | February 15, 2016 at 12:46AM

The House of Delegates has passed the controversial Religious Freedom Restoration Act (RFRA). HB 4012 cleared the House 12-26 with bi-partisan support. Fifteen Democrats joined with 57 Republicans to pass the bill on to the Senate.



TOM HINDMAN | Gazette-Mail
Camille Armstrong sings "Amazing Grace" while holding her Bible high at a rally Thursday at the Capitol in support of a bill that would let West Virginians ignore civil rights laws based on their religious beliefs. See video of the event at wvgazette.com.

January 29, 2016 Front page

And today: Morgantown Area Chamber of Commerce: "...we also believe that Government has a compelling interest in deterring any economic practices that result in discrimination against anyone..."



Our Question: How are consumer opinions and shopping behavior affected when a for-profit business practices its religious convictions in the marketplace?



We practice Christianity
THIS BUSINESS DOES NOT SERVE SAME-SEX COUPLES

leviticus2013.org

WHY?



We practice Islam
THIS BUSINESS DOES NOT SERVE SAME-SEX COUPLES

karen7884.org



To our knowledge, no one in the United States has empirical data showing how buyers may react to for-profit businesses limiting service to certain customers based on the business owner's religious beliefs.



What we expected:

Members of minority groups to be viewed as more negatively than members of majority groups when asserting their religion.



And we expected

Evaluation of a For-Profit firm asserting religious freedom in the marketplace will be more positive by consumers when they have:

- ❖ Perceptions that the owner is “like me”
- ❖ Conservative Belief Systems
- ❖ Strong Religiosity



We Found That :

Actively asserting religious expression which limits access to products and services is bad for business.

- Negative evaluations of the firm and its owners
- Consumers being less likely to buy products from the firm
- Consumers viewing the firm as discriminating against citizens



What we did:



Lakeside Bed & Breakfast
Family Owned and Operated



About Us
Dawn and Tom are lifelong members in their church, where they sponsor a Bible study for high school members. Dawn and Tom enjoy fishing and the lake and reading on the porch.



About our Property
Located in the heart of Scotland, the Lakeside Bed & Breakfast is the perfect retreat from the busy city. Come relax on the porch, overlooking the lake, or read a book by the fireplace. You will certainly feel at home here.



About Our Brunch
Make us a healthy breakfast of waffles, pancakes, waffles, and eggs alongside fresh coffee and fruit. Fresh made to order by the owner.

Breakfast served from 6:30 to 10:00 AM

Leave us a message!

Get answers to your questions. **THIS BUSINESS DOES NOT SOLVE SAME SEX COUPLES**

Lakeside Bed & Breakfast
Family Owned and Operated



About Us
Dawn and Tom are lifelong members in their mosque, where they sponsor a Qur'an study for high school aged members. Dawn and Tom enjoy fishing and the lake and reading on the porch.



About our Property
Located in the heart of Scotland, the Lakeside Bed & Breakfast is the perfect retreat from the busy city. Come relax on the porch, overlooking the lake, or read a book by the fireplace. You will certainly feel at home here.

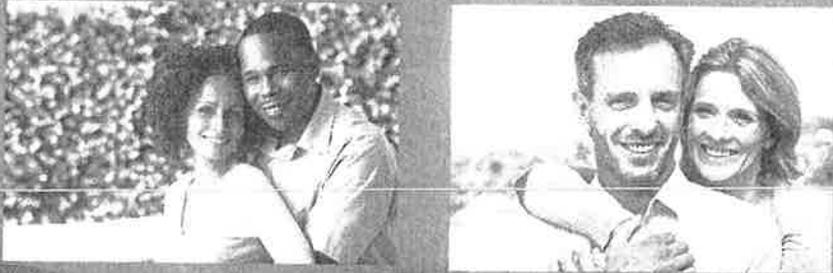


About Our Brunch
Make us a healthy breakfast of waffles, pancakes, waffles, and eggs alongside fresh coffee and fruit. Fresh made to order by the owner.

Breakfast served from 6:30 to 10:00 AM

Leave us a message!

Get answers to your questions. **THIS BUSINESS DOES NOT SOLVE GAY COUPLES**




We practice an open economy
**THIS BUSINESS
SERVES EVERYONE**
opentorservice.org


We practice Christianity
**THIS BUSINESS DOES
NOT SERVE SAME-
SEX COUPLES**
leviticus2013.org


We practice Islam
**THIS BUSINESS DOES
NOT SERVE SAME-
SEX COUPLES**
Koran76084.org

 West Virginia University  PALUMBO DONAHUE
School of Business
DUQUESNE UNIVERSITY

PRELIMINARY RESULTS

 West Virginia University  PALUMBO DONAHUE
School of Business
DUQUESNE UNIVERSITY

Sample—Diverse

- 294 Amazon Mechanical Turk Workers
- Cell sizes 35-39
- 81.7% White; 8.5% Black; 5.7% Hispanic; 4.7% Asian
- 49.3% female
- 50.5% Christian; 37% Do not practice a religion
- Modal age, 25-29 and 30-34; Age range 18-24 to 65-69.
- Median income \$40,000-\$49,999
- 42 States, None exceeding 8% of the sample
- 97% born in the US; All US citizens



Diversity among Respondents

	Scale	Lowest to Highest	Average	Standard Deviation
The Couple is Like Me (extended self)	6-point	1 to 6	2.75	1.631
Conservative Beliefs	Standardized	-0.99 to 1.74	-0.014	0.734
Religiosity	Standardized	-0.90 to 2.22	0	0.88



We Found Very Strong Effects Caused by the Practice Open Economy/ Practice Religion Labeling

West Virginia University

PALUNBO DONAHUE
School of Business
DUQUESNE UNIVERSITY

	Practice an Open Economy: Serves All	Practice our Religion: Does not Serve Same- Sex Couples	Lowest Score to Highest Score Possible	Power of Effect
Overall Attitude	5.646	3.296	1 to 7	0.413
Plan to Book a Room	3.592	2.354	1 to 5	0.292
Attractive (physically)	5.856	4.645	1 to 7	0.204
Business Expertise	5.394	4.068	1 to 7	0.183
Trustworthy	5.812	4.924	1 to 7	0.094
Firm is Discriminating	1.973	3.998	1 to 5	0.609
Firm Correctly Asserting Religious Rights	3.280	3.018	1 to 5	0.021

Race and Religion of Owners Did Not Matter



Only Other Theoretical Factors Related to how the B&B was Evaluated*

- ❖ The Couple is “Like Me”
- ❖ Religiosity

*Respondent Age, Social Desirability, Possible Hypothesis Guessing were controlled



	Couple is Like Me	Religiosity
Overall Attitude	r= 0.642	r= 0.250
Behavioral Intentions	r= 0.678	r= 0.269
Attractive (physically)	r= 0.478	r= 0.281
Business Expertise	r= 0.510	r= 0.313
Trustworthy	r= 0.475	r= 0.226
Discrimination	r= -0.487	r= -0.154
Religious Rights	r= 0.328	r= 0.288

CONCLUSION

Actively asserting religious expression which limits access to products and services is bad for business.

It leads to:

- **Negative evaluations of the firm and its owners**
- **Consumers being less likely to buy products from the firm**
- **Consumers viewing the firm as discriminating against citizens**



Thank you

Dr. M. Paula Fitzgerald

Nathan Haddad Professor of Business Administration

Marketing Department

College of Business and Economics

Paula.Fitzgerald@mail.wvu.edu



WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 4012

BY DELEGATES O'NEAL, MR. SPEAKER, (MR.
ARMSTEAD), HANSHAW, MOYE, FAST, A. EVANS,
AZINGER, WAXMAN, ROMINE, ROWAN AND R. PHILLIPS

[Introduced January 26, 2016; Referred
to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-11C-1, §5-11C-2, §5-11C-3, §5-11C-4 and §5-11C-5, all relating to establishing the West Virginia Religious Freedom Restoration Act to ensure that, in all cases where state action is alleged to substantially burden the exercise of religion, that a compelling interest test is mandated, and, strict scrutiny is applied; including a short title; providing definitions; and addressing applicability, construction, remedies, and severability.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §5-11C-1, §5-11C-2, §5-11C-3, §5-11C-4 and §5-11C-5, all to read as follows:

ARTICLE 11C. WEST VIRGINIA RELIGIOUS FREEDOM RESTORATION ACT.

§5-11C-1. Short title.

This article may be known and cited as the "West Virginia Religious Freedom Restoration Act.

§5-11C-2. Purposes.

The purpose of this article is to reaffirm the rights of West Virginians as enumerated in section 15 of Article III of the Constitution of the State of West Virginia; to codify the application of the compelling interest test and strict scrutiny standard set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963), and *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and affirmed by *State v. Everly*, 150 W.Va. 423 (1966); and to guarantee its application in all cases in which free exercise of religion is alleged to have been substantially burdened by state action.

§5-11C-3. Definitions.

As used in this article:

"Exercise of religion" means the sincere practice or observance of religion under the rights enumerated in section 15 of Article III of the Constitution of the State of West Virginia; and the 1st Amendment to the Constitution of the United States of America.

"State action" means action by a branch, department, agency, board, commission, instrumentality, official, or other person acting under color of law, of the state of West Virginia or any political subdivision thereof..

§5-11C-4. Applicability; construction; remedies.

(a) State action may not substantially burden a person's right to exercise of religion, even if the burden results from a rule of general applicability, unless it is demonstrated that applying the burden to that person's exercise of religion in this particular instance:

(1) Is in furtherance of a compelling governmental interest; and

(2) Is the least restrictive means of furthering that compelling governmental interest.

(b) A person whose exercise of religion has been substantially burdened, or is likely to be substantially burdened, in violation of this article may assert such violation or impending violation as a claim for injunctive or declaratory relief or as a defense in any judicial or administrative proceeding. The person asserting such a claim or defense may obtain relief against the state or its political subdivisions: Provided, That such relief is limited to injunctive or declaratory relief and reimbursement of costs and reasonable attorney fees. Nothing in this article shall be construed to create a cause of action by an employee against a non-governmental employer; nor shall anything in this article be construed to constitute a defense to any claim based upon a refusal to provide emergency medical services.

(c) This article applies to all state and local laws, and the implementation of those laws, whether statutory or otherwise, and whether adopted before or after the effective date of this article. This article does not apply to any local or regional jail, or any state or Federal correctional facility, nor any facility that treats civilly committed sexually violent offenders.

§5-11C-5. Severability.

If a subsection or portion of this article is declared invalid, that declaration does not affect the validity of the remaining portions.

NOTE: The purpose of this bill is to purpose of this bill is to create the West Virginia Religious Freedom Restoration Act to ensure that, in all cases where state action is alleged to substantially burden the exercise of religion, a compelling interest test is mandated, and, strict scrutiny is applied

Strike-throughs indicate language that would be stricken from a heading or the present law and

underscoring indicates new language that would be added.

Introduced Version

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Joint Resolution **13**

By Senator Blair

[Introduced February 20, 2016;

Referred to the Committee on the Judiciary.]

Proposing an amendment to the Constitution of the State of West Virginia, amending article IX thereof by adding thereto a new section, designated section fourteen, relating to prohibiting adoption or enforcement of a local law, ordinance, resolution, rule or policy that creates a protected classification or promotes discrimination on a basis not contained in state law; recognizing that all life is equal from conception to the grave; numbering and designating the proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in 2016, which proposed amendment is that article IX thereof, be amended by adding thereto a new section, designated section fourteen, to read as follows:

ARTICLE IX.

§14. Elimination of Protected Class.

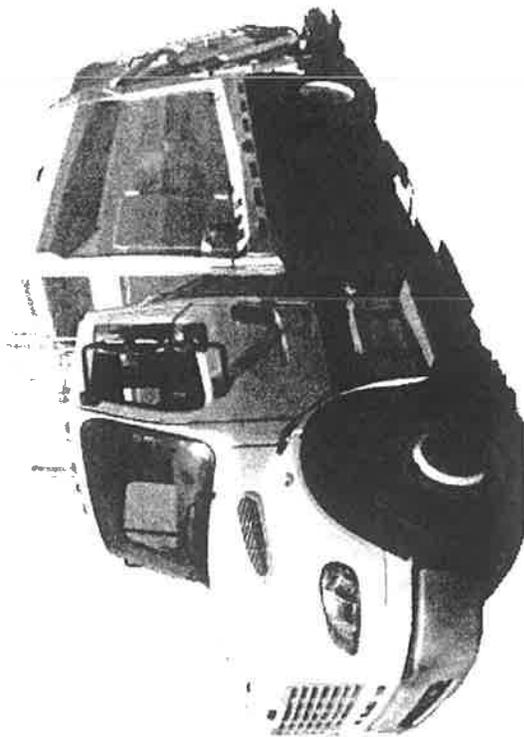
No county, municipality or other political subdivision may adopt or enforce a local law, ordinance, resolution, rule or policy that creates a protected classification or promotes discrimination on a basis not contained in state law, recognizing that all life is equal from conception to the grave.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, the proposed amendment is hereby numbered "Amendment No. 1" and designated as the "No Protected Class Amendment" and the purpose of the proposed amendment is summarized as follows: "To prohibit adoption and enforcement of a local law, ordinance, resolution, rule or policy that creates a protected classification or promotes discrimination on a basis not contained in state law, recognizing that all life is equal from conception to the grave."

NOTE: The purpose of this resolution is ensure that businesses, organizations and employers doing business in West Virginia are subject to uniform nondiscrimination laws and obligations.

Strike-throughs indicate language that would be stricken from a heading or the present Constitution, and underscoring indicates new language that would be added.

MORGANTOWN DISPOSAL



**Now taking on new residential
customers!**

***Dependable, Affordable, Local**

***Bulk pickup available**

Call for rates

681-443-4568

Exhibit E

FINAL JOINT STAFF MEMORANDUM

TO: INGRID FERRELL
Executive Secretary

DATE: December 24, 2015

FROM: LINDA S. BOUVETTE 
Staff Attorney

RE: CASE NO. 15-1591-MC-FC
ALLIED WASTE SERVICES OF NORTH AMERICA, LLC
dba REPUBLIC SERVICES OF WEST VIRGINIA
v.
MORGANTOWN DISPOSAL

STAFF RECOMMENDATIONS

Staff recommends that the case be dismissed without prejudice as being resolved and that the Defendant be ordered to provide Staff with any additional data as requested by Staff.

PROCEDURAL HISTORY

On September 28, 2015, Allied Waste Services of North America, LLC dba Republic Services of West Virginia (Complainant) filed a verified Formal Complaint with the Public Service Commission of West Virginia (Commission) against Morgantown Disposal (Morgantown Disposal). Complainant alleged that Morgantown Disposal was advertising and servicing customers in Monongalia County, West Virginia without a certificate of convenience and necessity from the Commission.

Republic requested the Commission investigate Morgantown Disposal and enter an order requiring Morgantown Disposal to cease and desist from illegally providing trash service in Monongalia County, West Virginia.

On October 13, 2015, Morgantown Disposal filed its notarized answer to the complaint stating it was advertising in Monongalia County, West Virginia and transporting solid waste from the county to a disposal site in Pennsylvania. Morgantown Disposal further stated that since it was transporting waste out of state it did not require a certificate of convenience and necessity from the Commission.

On November 2, 2015, Staff filed its Initial Joint Staff Memorandum.

On November 3, 2015, Staff served its first set of data requests on Morgantown Disposal.

On November 10, 2015, the Commission entered an order referring the case to the Division of Administrative Law Judges.

On December 15, 2015, Morgantown Disposal submitted its responses to Staff's first set of data requests.

Utilities Division Final Recommendation

On December 23, 2015, J.W. Flenner, Utilities Analyst with the Utilities Division, submitted his Final Staff Memorandum. Mr. Flenner recommended that the case be dismissed without prejudice as being resolved and that Morgantown Disposal be ordered to provide Staff with any additional data as requested by Staff.

Legal Division Final Recommendations

Legal Staff reviewed the filings, including the Formal Complaint, the Answer, the responses to Staff's first set of data requests and the Final Staff Memorandum of Technical Staff. Legal Staff agrees with Technical Staff and recommends that the case be dismissed as resolved, that Morgantown Disposal be ordered to provide Staff with any additional data requested to document it was disposing of waste in another state other than West Virginia.

LSB/bg
Attachment

CWS 

H:\LBouvette\Cases\2015\15-1380-MC-FC-Final Joint Staff Memo.doc

**A RESOLUTION TO ENDORSE THE MORGANTOWN AREA CHAMBER OF
COMMERCE SUPPORT OF DIVERSITY FOR A VIBRANT ECONOMY:**

Whereas, the City of Morgantown established the Human Rights Commission with the recognition and vision that the diversity found in our City brings forth richness in our community, a greater understanding of our world, a multitude of talent to benefit collective needs and an opportunity for enhanced living and learning for all; and

Whereas, inherent in the development and work of the Human Rights Commission is a commitment to encourage and endeavor to bring about equal opportunity, mutual understanding, and respect for all persons regardless of race, color, age, ethnicity, religion, national origin, pregnancy, sexual orientation, gender identity, genetic information, sex, marital status, disability, military status, or other backgrounds or orientations: and

Now, Therefore, Be It Resolved:

the City Council of Morgantown, West Virginia, endorses the Morgantown Area Chamber of Commerce Board of Directors statement of support of diversity for a vibrant economy.

Adopted this 1st day of March, 2016.

Mayor, City of Morgantown

**A RESOLUTION ENDORSING THE MORGANTOWN AREA CHAMBER OF
COMMERCE SUPPORT OF DIVERSITY FOR A VIBRANT ECONOMY**

Whereas, the City of Morgantown and Morgantown Human Rights Commission supports the goal of ending discrimination in society, having previously adopted resolutions regarding employment and housing non-discrimination, marriage equality, accessible design standards compliance, as well as a just economic transition for coal workers; and

Whereas, the City of Morgantown recognizes the great importance of religious freedom in our nation's history, particularly that religious institutions and individual rights shall not be abridged by government regulation; and

Whereas, the City of Morgantown finds compelling interest in deterring economic practices resulting in discrimination against anyone; and

Whereas, the City of Morgantown advocates for a diversified environment of job sectors contributing to a more robust economy; and

Whereas, the City of Morgantown is committed to bringing about equal opportunity, mutual understanding, and respect for all persons regardless of race, color, age, ethnicity, religion, national origin, pregnancy, sexual orientation, gender identity, genetic information, sex, marital status, disability, military status, or other backgrounds or orientations; and

Whereas, the Morgantown Area Chamber of Commerce calls upon elected leaders to promote legislation recognizing the crucial importance of diversity to a vibrant economy and in the alternative, resisting legislation contrary to that interest:

Be It Therefore Resolved, the Morgantown City Council endorses the Morgantown Area Chamber of Commerce statement as approved and published by the Chamber Board of Directors on the 4th day of February, 2016.

Be It Furthermore Resolved, the Morgantown City Council reiterates a continued, ongoing support for diversity and inclusivity in the City of Morgantown.

AT A REGULAR SESSION OF THE COUNTY COMMISSION OF MONONGALIA COUNTY,
WEST VIRGINIA, HELD FOR SAID COUNTY AT THE COURTHOUSE THEREOF ON WEDNESDAY, THE
10TH DAY OF FEBRUARY, 2016.

PRESENT: ELDON CALLEN, PRESIDENT, THOMAS BLOOM AND EDWARD HAWKINS,
COMMISSIONERS OF THE COUNTY.

RE: MAY 10, 2016 LEVY ELECTION - MONONGALIA COUNTY URBAN MASS
TRANSPORTATION AUTHORITY, A PUBLIC CORPORATION.

WHEREAS, by the orders dated November 14, 1995, and November 27, 1995, and an
Ordinance dated December 5, 1995, this Commission participated in the formation of the
Monongalia County Urban Mass Transportation Authority ("Mountain Line") pursuant to Article
27, Chapter 8, of the Code of West Virginia, 1931, as amended, known as the "Urban Mass
Transportation Act" (the "UMTA ACT"), which Mountain Line is a public corporation formed for
the purpose of creating, establishing, and maintaining, and currently operates, an urban mass
transportation system in Monongalia County, West Virginia (the "County"); and

WHEREAS, the voters of the County may authorize the additional levy of taxes for
purposes of contributing funds received from an additional levy to Mountain Line for capital
and operating expenditures as provided in Section 16 of Article 8, Chapter 11, of the Code of
West Virginia, 1931, as amended (the "Levy Act"); and

WHEREAS, it has been determined that general and special purpose funds of the
Commission are not sufficient for the general operating, maintenance and other expenses of

also essential in promoting the healthful, safe, orderly, economical and recreational development and expansion of the County.

- (d) That the current revenues available to the County Commission are not sufficient to provide the funds needed by Mountain Line, together with other funds, to maintain and operate and to acquire equipment and other capital improvements, including the acquisition of real or personal property by lease, purchase, or otherwise; and, accordingly, that an additional Levy as authorized by Section 16 of the Levy Act is needed to provide for such general operating, maintenance and other expenses as hereinafter defined and for the acquisition of such equipment and other capital improvements for Mountain Line.
- (e) That "other expenses", as used in this order, shall include all expenses authorized by law and incurred by Mountain Line and shall also include payments to any person, public corporation or state or any agency or political subdivision thereof for operations or other services, if any, provided pursuant to contracts and agreements entered into by Mountain Line.
- (f) That to provide for such additional levies for the fiscal years beginning July 1, 2017, 2018, 2019, 2020 and 2021, for the purposes hereinabove set forth, there shall be submitted to the voters within the County the question of the authorization of such additional levy at the primary election to be held on Tuesday, the 10th day of May, 2016.
- (g) That, if at said special levy election the voters of the County approve said additional levy in order to provide funds to be used with other available funds

4. The proposed number of years to which the additional levy shall apply is five, being the fiscal years beginning July 1, 2017, 2018, 2019, 2020, and 2021, and the estimated tax receipts attributable to each of such years is \$1,803,712 per year.
5. Section 25 of the Levy Act prohibits the expenditure of funds derived from the special levy except for purposes for which they were raised, including any amounts in excess of the annual estimated tax receipts. The special levy ballot shall provide that, upon dissolution of Mountain Line, the levy otherwise provided for shall thereafter not be laid.
6. Upon approval of the proposed levy rate, this Commission will not issue bonds as provided by Section 16 of the Levy Act.
7. The question of such Levy shall be submitted to the voters within the County at the primary election to be held in said County on Tuesday, the 10th of May, 2016; and a notice, calling said primary election, shall be given by publication of this order at least once each week for two successive weeks, both publications to occur within fourteen (14) consecutive days next proceeding the date of the election, in the Dominion Post, the newspaper of general circulation in the County.
8. All provisions of the law concerning elections shall apply so far as they are applicable to the holdings of said election and the ascertainment of the results thereof.
9. The ballots used in said levy election shall be in this form:

10. This Commission shall convene as a Board of Canvassers of said election in a session to be held in the Voter's Registration Office of the Monongalia County Courthouse at 8:00 am, local time, on Friday, the 13th day of May, 2016, to canvass and publicly declare the returns of said levy election, and 48 hours after such declaration to certify said returns, all as required by law.

THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA

Eldon A. Callen, President

Thomas C. Bloom, Commissioner

Edward A. Hawkins, Commissioner

Attest:

Carye L. Blaney, County Clerk

IN THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA
ORDER AUTHORIZING LEVY ELECTION UNDER PROVISIONS OF WV CODE §
11-8-16 TO PROVIDE FOR MAINTENANCE AND IMPROVEMENTS OF THE
PARKS, TRAILS AND RECREATIONAL PROGRAMS

WHEREAS, Pursuant to the provisions of West Virginia Code Chapter 11, Article 8, the County Commission of Monongalia County, West Virginia is authorized to provide for a levy election for the purpose of general county current expenses; and

WHEREAS, on the 17th day of February, individuals came to the Monongalia Commission in a public meeting and presented to the County Commission of Monongalia County, West Virginia a request to authorize a levy election for the purpose of funding specific projects in Monongalia County.

WHEREAS, the County Commission is authorized by the provisions of West Virginia Code Chapter 11, Article 8, Section 16 to permit levies by entering on its record of proceedings an order setting forth:

- (1). The purpose for which additional funds are needed
- (2). The amount for each purpose
- (3). The total amount needed
- (4). The separate and aggregate assessed valuation of each class of taxable property within its jurisdiction.
- (5). The proposed additional rate of levy in cents on each class of property.
- (6). The proposed number of years of levy, not exceeding five.
- (7). The fact that the levying body will not issue bonds as provided by this section on approval of the proposed levy; and

WHEREAS, the levy is essential to the continued operation of the parks, trails and recreation programs in Monongalia County and the benefits of this levy would greatly provide for the parks, trails and recreational needs of the citizens and,

WHEREAS, the Commission is of the opinion that for the good of the public welfare, it is necessary that the levy continue to fund these future improvements to benefit the citizens of Monongalia County and,

It is accordingly ORDERED that pursuant to the provisions of Chapter 11, Article 8 of the West Virginia Code, as election shall be held to place before the voters of Monongalia County the question of funding a levy for the purpose of and for the Parks, Trails and Recreation programs in Monongalia County, West Virginia. It is further ordered that:

Upon Class II properties	1.16 cents
Upon Class III properties	2.32 cents
Upon Class IV properties	2.32 cents

6. The proposed years to which the additional levy shall apply shall be the fiscal years beginning July 1, 2017, 2018, 2019, 2020 and 2021
7. The Monongalia County Commission shall not issue bonds upon approval of the proposed increased levy.
8. The question of laying such additional levy shall be submitted to the voters of Monongalia County, West Virginia in a Primary Election to be held in said County on the 10th day of May 2016 in accordance with the election laws of the State of West Virginia.
9. The registration of voters and the use of registration books shall be governed by the permanent registration laws of the State of West Virginia. The registration lists of Monongalia County, West Virginia, as amended and corrected according to law, shall be the official registration list for such Primary Election.
10. The notice calling such election shall be given by the publication of this Order as a Class II legal advertisement in the Dominion Post, a newspaper of general circulation in the territory in which the election is held and as such shall be published once a week for two successive weeks within a period of fourteen consecutive days with at least an interval of six full days within the period between the date of the first publication and the date of the second publication.
11. The amounts necessary for said purposes for the fiscal years beginning July 1, 2017, 2018, 2019, 2020, and 2021 are:

Class	Column D	X	Weighting	=	Weighted Assessed Value
Class 1	\$0	X	.01	=	\$0
Class 2	\$2,280,095,354	X	.02	=	\$45,501,907
Class 3	\$2,237,014,834	X	.04	=	\$89,480,593
Class 4	\$ 1,026,100,687	X	.04	=	\$41,044,027
Total RBV	\$ 5,543,210,875		Total WAV	=	\$176,126,528

Amount to be raised by levy (Current year projected revenue X 101% minus % for Assessor):

$$\$1,000,000 \quad X \quad 103.00\% \quad = \quad \$1,030,000$$

$$\text{Divided by Total Weight Assessed Value Total WAV} \quad = \quad \$176,126,528$$

$$\text{Less Five Percent for un-collectibles (5\%)} \quad = \quad \$51,500$$

$$\text{Discounts 2.5\%} \quad = \quad \$25,750$$

MONONGALIA COUNTY COMMISSION

ELDON CALLEN, PRESIDENT

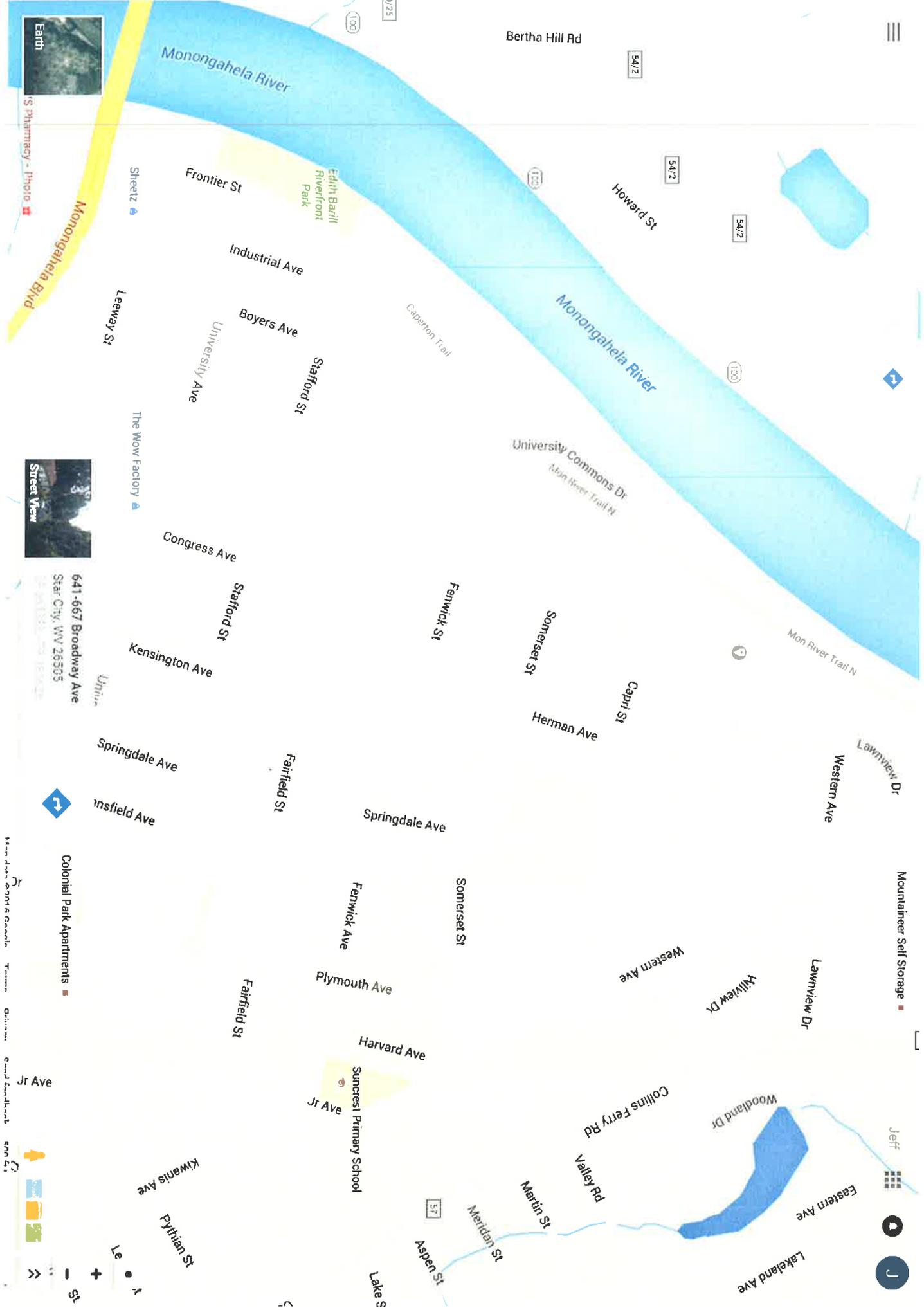
TOM BLOOM, COMMISSIONER

ED HAWKINS, COMMISSIONER

ATTEST:

CARYE BLANEY, COUNTY CLERK

Exhibit H



Mountaineer Self Storage

Jeff

Earth

Street View

641-667 Broadway Ave
Star City, WV 26505

Colonial Park Apartments

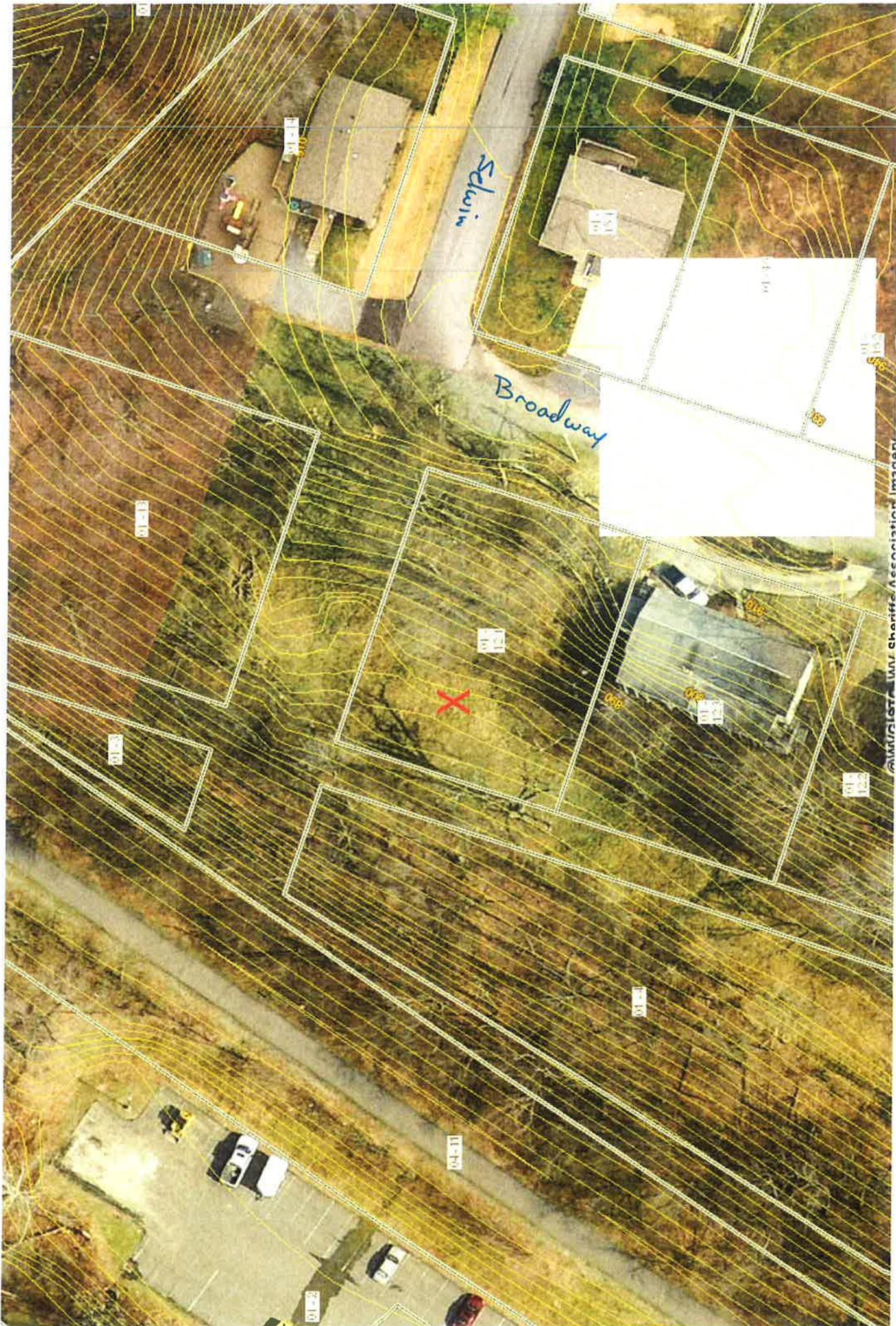
Jr Ave

Kiwanis Ave

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St





Office of the City Manager

The City of Morgantown

Jeff Mikorski, ICMA-CM
City Manager
389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7405 FAX: (304) 284-7430
www.morgantownwv.gov

Monday, February 15, 2016

Proposed Fiscal Year 2016-2017 Manager's Message

It is my duty and privilege to submit for your consideration the proposed City of Morgantown budget for fiscal year 2016-2017 which will begin on July 1, 2016. This budget message presents an overview of the budget and the overall financial condition of the City. The budget is a planning document with the most feasible projections for the upcoming year's revenues, expenditures, inter-fund transfers, and fund balance amounts. This budget continues the City's mission of providing quality services within the limits of fiscal responsibility.

The past year has been highlighted by changes to the revenues, annexations, and collaborations. The following changes in 2015 will impact the upcoming budgets:

- The City has annexed approximately 47 acres of property adjacent into the City for commercial uses. A majority of the property is adjacent to the airport and will be a part of the Commerce Park near I-68.
- Mixed-use developments and large University projects are finishing up, providing ongoing revenues and added commercial businesses.
- The general fund was supported by a Fire Service Fee increase and a Business and Occupation Tax increase on service businesses beginning July 1, 2015.
- The Safe Streets and Safe Community Municipal Fee was implemented January 1, 2016. Collections of the fee, through City employers, will be quarterly beginning March – April 2016. FY 2017 will be the first budget to include a full year's collections of the fee.
- City technology has been upgraded to, including GPS units in vehicles and new software that will improve staff efficiency.
- No Health Insurance rate increase will be seen for the 2015-2016 contract year.
- Collaborations with West Virginia University, to include working to reduce street and dumpster fires will reduce first responder costs.

Fiscal Condition

The Current fiscal year (FY 2016) is expected to meet budgeted expectations which will provide a solid framework for the FY 2017 budget. When looking at the total projected FY 2016 budget amount, increases in Business and Occupation (B&O) Taxes and Fire Fees have offset the reduction in construction B&O from last fiscal year. As seen in Figure 1, the proposed FY 2017 total budget anticipates an increase in general and capital revenues. These increases are mainly from the Safe Streets and Safe Community Municipal Service Fee. Funds will be included in the Capital Escrow Fund to expand the City's ability to improve streets and in the General Fund to

add, retain, recruit, and equip the Police Department; and add and equip additional Public Works employees to improve street services.

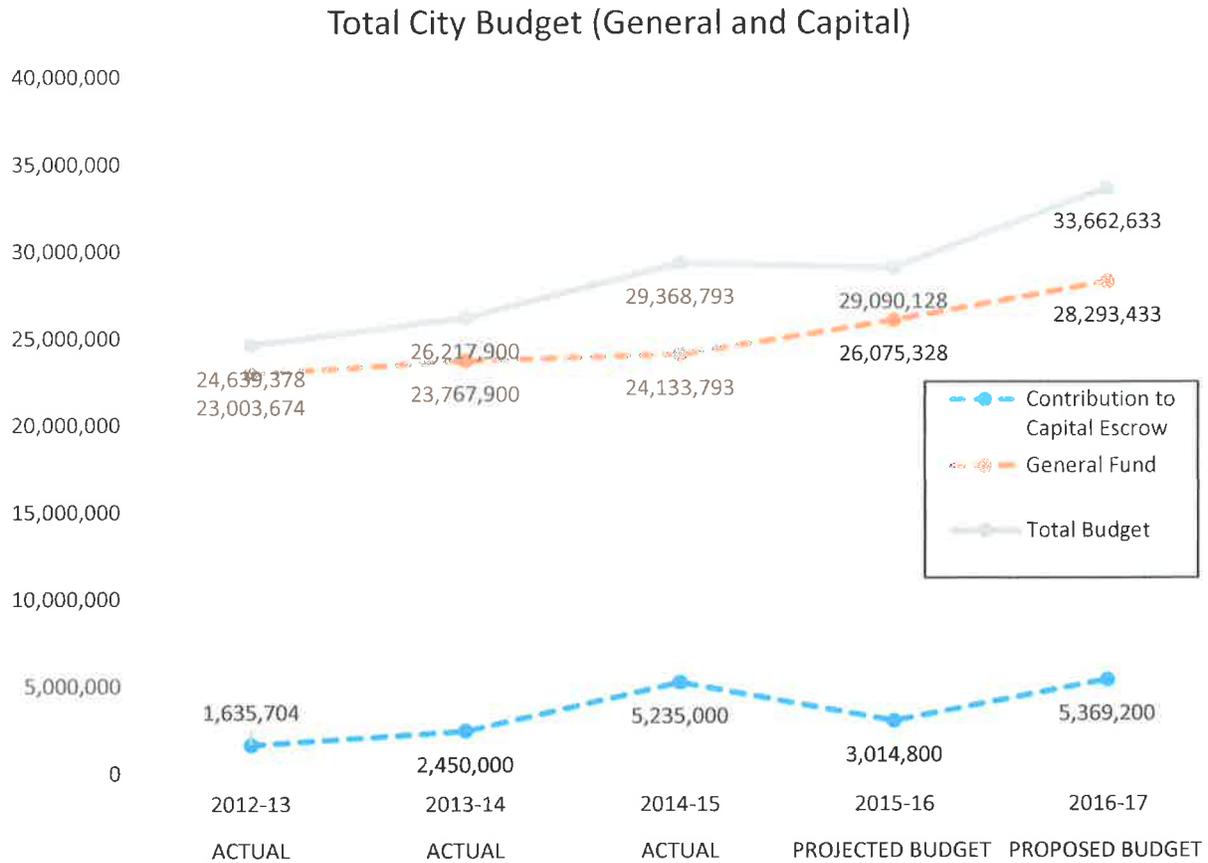


Figure 1. Total budgets across five years, and the general and capital totals that make up the total budget.

A closer look into the revenues that establish the General and Capital budget is seen in Figure 2. The major taxes collected by the City to maintain the City general services include Business and Occupation Tax, Property Tax, Hotel/Motel Tax, and Liquor Tax. Over the last ten years, these taxes remained relatively flat or had slight increases until recently. For instance, the total change in Business and Occupation Tax collections from FY 2008 to FY 2014 increased by 4 percent. Since 2014, a 21 percent increase is expected if the projected and proposed revenues are accurate.

Business and Occupation Taxes on construction are mainly used for one-time capital projects because it is dependent on how many large (over 5 million dollar projects) construction projects are taking place. This revenue fluctuates drastically from a high of 6.5 million dollars in FY 2015 to a low of 1.3 million dollars in FY 2013. Projects less than a total of 5 million dollars are included in the normal Business and Occupation Tax category.

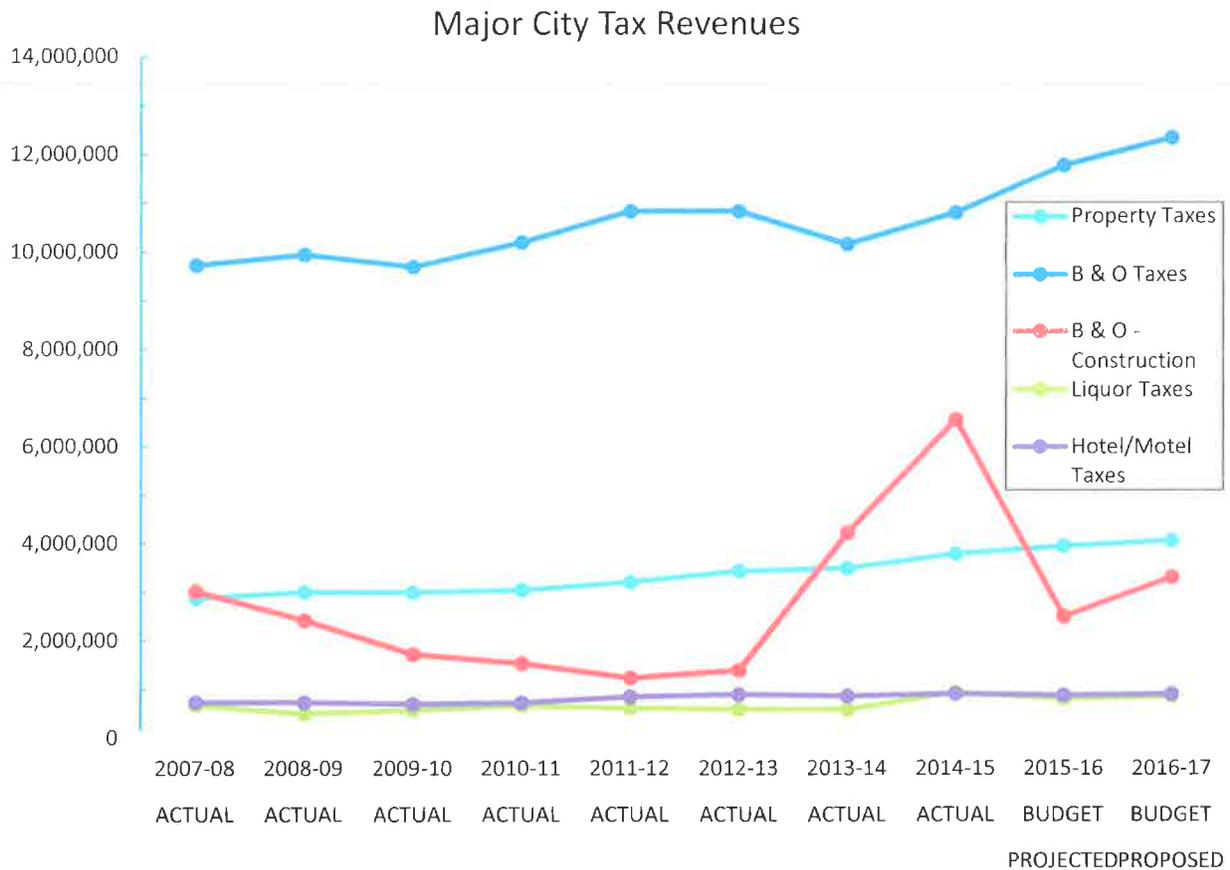


Figure 2. Major Tax Revenues in Morgantown over ten years

Figure 3 shows the two major Fees that are collected by the City to maintain services. The Municipal Fire Fee is expected to pay for a majority of the City’s Fire services. Shown are the Sub-divisions of the Fire Fee that conclude that the residential component of the Fee generates slightly more fire service revenue than tax-exempt organizations and commercial businesses. There are more residential structures in the City than tax-exempt or commercial structures. In FY 2016 and FY 2017 the Fire Fee covered 60-61 % of the Fire Department costs and \$500,000 of capital costs. As additional building are constructed and expanded, this percentage should increase.

Starting in FY 2017, the Safe Street and Safe Community Fee will add a consistent 2 million dollars to street improvement projects funded from the Capital Escrow Fund. In the past, the B&O on construction was the only source of funding for street improvements and fluctuations in construction limited street improvements. Table 1 shows the total breakdown of the revenue that is included in the FY 2016 and FY 2017 budgets and uses. Remember, the first quarter of collections will be March-April 2016, and more exact figures will be available once we receive the first-quarter collections.

Major Service Fee Revenues

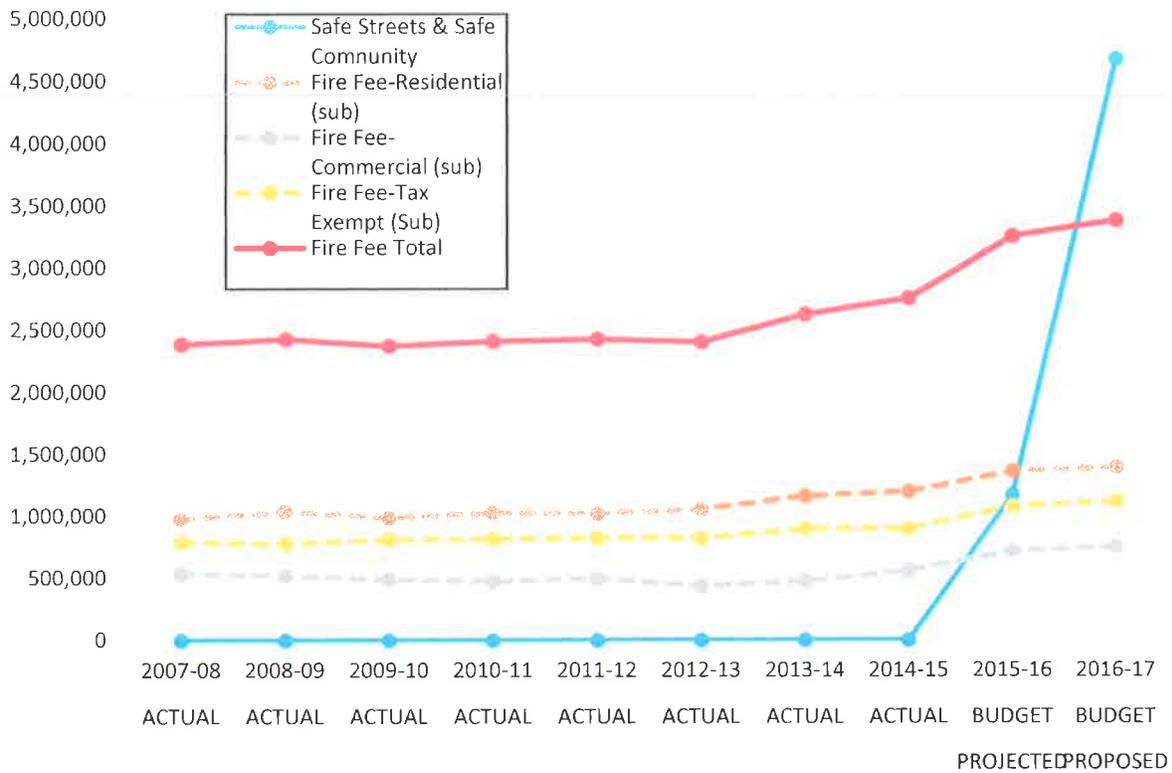


Figure 3. Major Fees Revenue in Morgantown over ten years

Table 1. Safe Street and Safe Community Municipal Service Fee Breakdown

	Percent of Total	Fund	FY 2016	FY 2017
Impact				
Street Improvements	44%	Capital Escrow	\$ 514,800	\$ 2,059,200
Street Dept. Personnel	7%	General Fund	\$ 81,900	\$ 327,600
Street Dept. Equipment	9%	General Fund	\$ 105,300	\$ 421,200
Police Dept. Personnel	30%	General Fund	\$ 351,000	\$ 1,404,000
Police Dept. Equipment	10%	General Fund	\$ 117,000	\$ 468,000
Total	100%		\$ 1,170,000	\$ 4,680,000

As you can see from Figure 4, City operational costs (purple line) and Personnel costs (blue line) have been minimal for the years leading up to FY 2016. Starting in the current year, both Personnel and Operations show increases due to the Safe Streets and Safe Community Municipal Fee. The Personnel increase in FY 2017 also includes a Cost Of Living Adjustment (COLA), not seen in a few of the past years. The COLA is funded from the General Fund, unless positions are created from funds received for the Municipal Service Fee. Non-operational costs (green line) include capital purchases, projects such as paving, contributions to non-profit organizations, debt service, and other single year projects. Debt service (red line) is also shown separately to highlight the low amount of debt the City holds.

Personnel and Operations Cost Breakdown

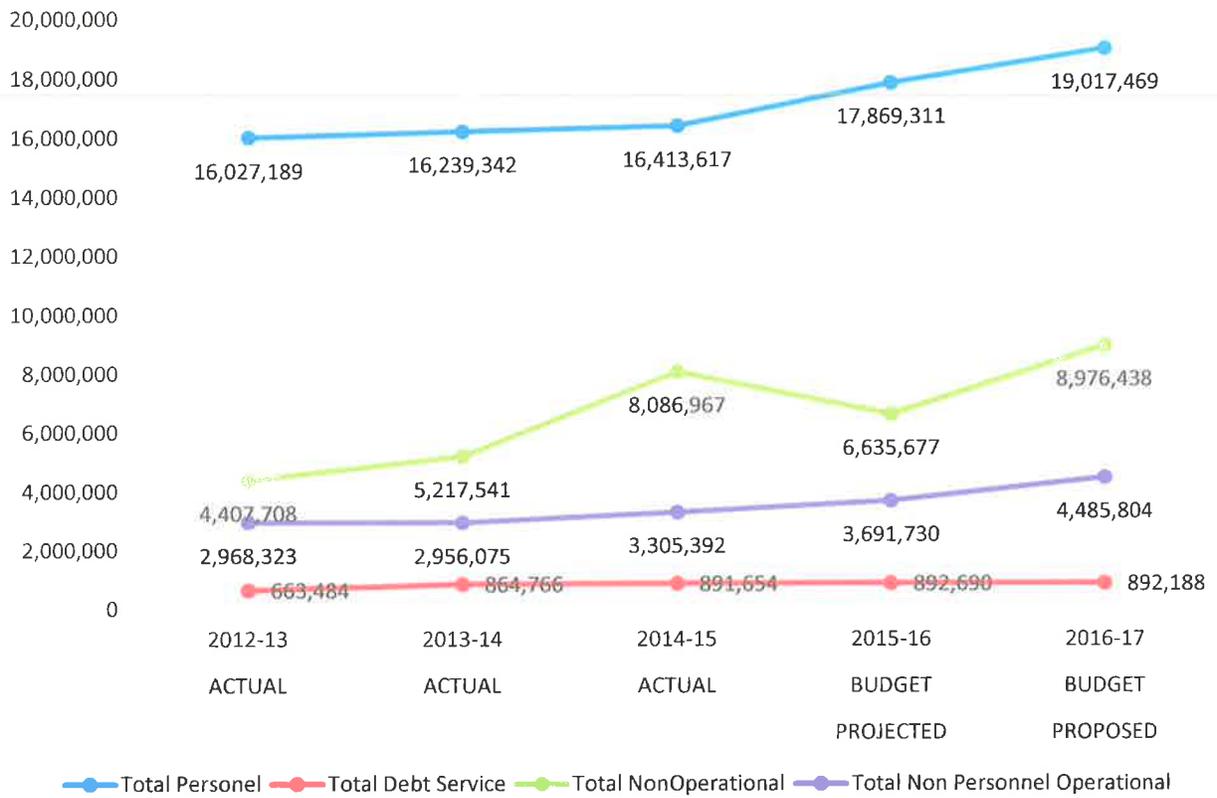


Figure 4. Personnel and Operational Costs

FY 2017 Budget by Service Type

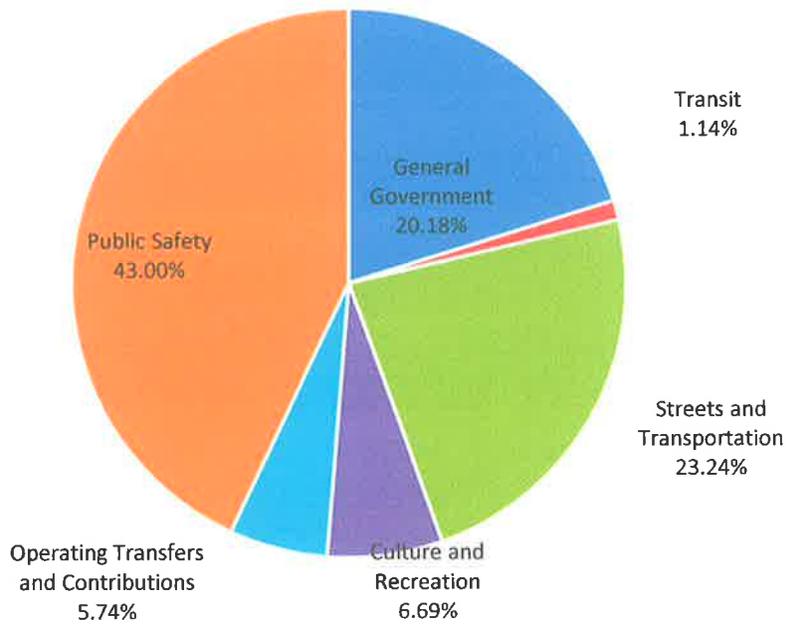


Figure 5. Percentage Cost Services breakdown

Figure 5 shows the percentage of cost breakdown based on the service category for the upcoming fiscal year. Police, Fire, and Public Works make up the bulk of City costs (63%). Revenues dedicated to specific services have helped to direct funding to the necessary services that need to be improved.

Recommendations

With increased revenues, the following recommendations are included in the FY 2017 budget:

1. Our employees do a great job with the resources available. Increases in general revenues will allow us to provide a 2% Cost of living adjustment, consistent with the national CPI over the last year.
2. As Safe Street and Safe Community Municipal Service Fee funds have been identified for Street and Police department enhancements, I expect to hire at least four to six Police Officers and two-four Public Works employees by the end of FY 2017. FY 2017 will be the first full year of Municipal Fee collections, with that additional equipment for Police and Street Departments will be purchased to utilize the fees for improving the City services. By winter of 2016, the fee collections will have allowed the City to increase snow plows and other winter road treatment equipment to improve winter travel situations.
3. Two part-time positions in the City are expected to advance to Full-time. Those include the City Clerk secretary position and the IT Tech I position.
4. General Fund revenues will allow the restructuring in the Finance Department and will allow the hiring of a Fire and Municipal Fee Clerk. Further restructuring will allow comprehensive internal and external auditing capabilities.
5. No Business and Occupation Tax collections will be needed to support the general fund, as seen in the past, allowing additional capital projects to be completed. Also, with the Municipal Service Fee providing revenue for street improvements, Police equipment and Street department equipment, funds from B&O on construction can continue to support other all other departments.

I look forward to further analysis of the FY 2017 budget with City Council.

Jeff Mikorski, ICMA-CM

The Capital Escrow fund recommendations reflect the goals that were seen in the Administration goals and the discussion points throughout the Safe Streets and Safe Community discussion. Most notable items recommended to be included for funding:

FIRE

A total of \$900,000 will be set aside for the Fire Department equipment and vehicles.

- We continue to have a lack of vehicles due to breakdowns and wear on the engines. At one point we had three engines down due to frame problems and wear problems. Backup engines are very old and need to be rotated out of the fleet. The only way to continue to rotate and get a full staffing of backup vehicles is to put funds aside each year to replace an engine every other year.
- The Fire Department equipment is also getting old radios, breathing apparatus, and fire fighting gear needs to be replaced for most if not all firefighters.
- An additional \$70,000 will be budgeted for the continuation of Fire Station improvements

Code Enforcement

- Adding \$60,000 to the demolition program. We have been able to take down at least four vacant, depilated, structurally unsound residential buildings across town when property owners are unwilling or unable to remove. We hope and additional 3 buildings can be removed.
- We added an additional property maintenance officer during this fiscal year and need to add a new vehicle, and begin to rotate the worst vehicles out of the fleet. \$17,000

Public Works

- MSF Street Improvements is budgeted for \$2,059,200 , in addition to the \$514,800 from this fiscal year. We expect to take on some of the worst roads in a paving list that will be seen in the coming week. With a dedicated funding street, we may expand the paving list into a revolving list of roads that to begin identifying upcoming years, not just one year at a time.
- Non-street equipment of a total of \$95,000 include lawn mowers, trucks for signs and signals and various needed equipment.
- \$15,000 will begin the establishment of a North salt building that is needed to make winter treatment more effective.

Grant Matches

- We currently have two grants that require matches (Greenmont Pedestrian Bridge and Walnut Street Streetscape) that require \$175,000. We have intent-to-apply for three additional grants that will require \$125,000 if funded. (Total \$300,000). We are also matching MRTC grants for trail repairs at \$55,000.

Technology

- GIS: We are months away from initiating a GIS system with the current years funds. We are working with a consultant to identify the equipment and software (and online capability) for improved mapping. Additional \$40,000 will add to the capability of the project with equipment or contracting.
- Channel 15: We will be replacing the 15 year old equipment that runs Channel 15 with updated equipment and better integration for ease of use.

- Finance Software: Continue to upgrade the New World enterprise software. Our full financial upgrade will be going live in August. Additional modules will improve integration with all departments.
- Wireless system will be starting very soon, as soon as we get an agreement with WVU to use fiber, we can complete the first two phases. Then we can incrementally increase the scope of the Municipal Service wireless footprint.

Parks

- Adding \$100,000 to BOPAARC improvements, in addition to the general fund helping to pay-off the Energy efficiency project (Ice Rink chiller).