



Office of the City Clerk

The City of Morgantown

Linda L. Little, CMC
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**AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
APRIL 15, 2014
7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES: Regular Meeting – April 1, 2014**
5. **CORRESPONDENCE:**
6. **PUBLIC HEARINGS:**
 - A. **AN ORDINANCE BY THE CITY OF MORGANTOWN IN WHICH THE CITY, AS GRANTOR, IS GRANTING AN EASEMENT TO FRONTIER COMMUNICATIONS, GRANTEE, THROUGH CITY OF MORGANTOWN REALTY AT THE MORGANTOWN AIRPORT, FOR THE PURPOSE OF INSTALLING COMMUNICATION LINES TO THE NATIONAL GUARD READINESS CENTER.**
 - B. **AN ORDINANCE SETTING FORTH THE RATES, FEES, AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN.**
 - C. **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 THE CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN.**

- D. AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 921.12 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, AS THE SAME APPLIES TO THE DISCHARGE OF DETRIMENTAL WASTES INTO ANY SEWER.

7. UNFINISHED BUSINESS:

- A. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN IN WHICH THE CITY, AS GRANTOR, IS GRANTING AN EASEMENT TO FRONTIER COMMUNICATIONS, GRANTEE, THROUGH CITY OF MORGANTOWN REALTY AT THE MORGANTOWN AIRPORT, FOR THE PURPOSE OF INSTALLING COMMUNICATION LINES TO THE NATIONAL GUARD READINESS CENTER. (First Reading on 4/1/14)
- B. Consideration of APPROVAL of SECOND READING (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 on 4/1/14)
- C. Consideration of APPROVAL of SECOND READING (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 THE CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN. (First Reading on 4/1/14)
- D. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 921.12 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, AS THE SAME APPLIES TO THE DISCHARGE OF DETRIMENTAL WASTES INTO ANY SEWER. (First Reading on 4/1/14)
- E. 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 THE RATES OF LEVY LAID BY THE CITY OF MORGANTOWN AND APPROVED BY THE STATE AUDITOR FOR THE FISCAL YEAR BEGINNING JULY 1, 2014 IN ACCORDANCE WITH CHAPTER 11 ARTICLE 8 OF THE WEST VIRGINIA CODE.**
- B. Consideration of APPROVAL of A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GIFT AGREEMENT WITH UNIVERSITY PARK AT EVANSDALE, LLC FOR THE FUTURE INSTALLATION OF A STOPLIGHT AT THE INTERSECTION OF UNIVERSITY AVENUE AND OAKLAND STREET.**

11. CITY MANAGER'S REPORT:

INFORMATION:

- 1. Public Notice of Comcast Rate Increase for 2014**

NEW BUSINESS:

- 1. Requesting City Council to Set a Public Nuisance Hearing for May 14, 2014**
- 2. Capital Escrow Budget Revision #6**

12. REPORT FROM CITY CLERK:

- A. Liquor License Application – DG, LLC, DBA: Sterling Café and Hot Spot**
- B. Liquor License Application – Manhattan Place, LLC, DBA: The Chestnut Boutique Hotel**

13. REPORT FROM CITY ATTORNEY

14. REPORT FROM COUNCIL MEMBERS

15. ADJOURNMENT

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

REGULAR MEETING APRIL 1, 2014: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, April 1, 2014 at 7:00P.M.

PRESENT: City Manager Jeff Mikorski, City Attorney Steve Fanok, City Clerk Linda Little, Mayor Jenny Selin and Council Members: Ron Bane, Bill Kaweck, Wes Nugent, Marti Shamberger, Mike Fike and Nancy Ganz.

The Meeting was called to order by Mayor Selin.

APPROVAL OF MINUTES: The minutes of the March 18, 2014 Regular Meeting were approved as presented.

CORRESPONDENCE: Bret Nichols, Director of the MHS Show Choir, performed two songs. Mayor Selin then presented a proclamation declaring April 1, 2014 as "National Service Day" and also declaring the month of April "Fair Housing Month". Councilor Bane announced concerns about the proposed Mon River Power Plant along the rail trail. Councilor Bane was opposed to this project and highly recommended that Council have further discussion and also requested the City Manager write a letter.

PUBLIC HEARING: There being no appearances, Mayor Selin declared the public hearing closed.

UNFINISHED BUSINESS:

AN ORDINANCE ADOPTING A LEASE AGREEMENT: The below entitled Ordinance was presented for second reading:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN (LESSOR) AND HELICOPTER ANALYTICS, INC. (LESSEE) AS IT PERTAINS TO OFFICE SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT.

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

AN ORDINANCE ADOPTING A LEASE AGREEMENT: The below entitled Ordinance was presented for second reading:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, LESSOR, AND HELICOPTER ANALYTICS, INC., LESSEE, IN WHICH OFFICE SPACE, SPECIFICALLY SUITE 229 IS BEING LEASED AT THE MORGANTOWN MUNICIPAL AIRPORT FOR THE PURPOSE OF OPERATING A HELICOPTER MAINTENANCE AND RESTORATION CONCESSION.

Motion by Shamberger, second by Fike to adopt the above entitled Ordinance. Motion carried 7-0.

BOARDS AND COMMISSIONS: Ron Eck was reappointed by acclamation to the ICC Board of Appeals.

PUBLIC PORTION:

Dave Biafora, 6200 Mid Atlantic Drive, has concerns that the City is being mismanaged. Mr. Biafora has concerns about the proposed building going up in place of the V.F.W on the corner of High Street and Willey Street. He stated the Planning Department is making a poor decision. Mr. Biafora also stated that he and colleagues had a meeting with Administration two weeks ago and has not yet received

stated that he and colleagues had a meeting with Administration two weeks ago and has not yet received any feedback from the meeting and would like to receive more respect as a developer in regards to receiving answers in a timely fashion.

Richard Dumas, 444 Overhill St., stated that he does not oppose to the Arts Mon as an organization as they have a place in our community. Mr. Dumas believes that these agencies struggle to meet day to day operations. He urges the City to take the lead in this process and not pass their responsibility as our governing body onto any outside agency that is ill equipped for the task at hand. Mr. Dumas stated that before one would make a decision to “team” up with any nonprofit there should be a review on the organization’s performance related to their mission.

James Giuliani, 256 Praire Avenue, expressed his disappointment with City Council and Administration on the lack of planning with new construction and development going on in The City of Morgantown.

Peter Cameon, 4010 Shady Brook Road, stated that he is not in opposition of the Cheat Lake rate increase but more concerned about the success in eagerness to start the project and not going through the proper review process. Mr. Cameon urged Council that MUB should apply Morgantown Development Standards to outlying areas.

SPECIAL COMMITTEE REPORTS: Councilor Ganz wanted to thank the Tree Board for the trimming of trees and planting that they have done thus far around town. Councilor Ganz also discussed BOPARC’s Five Year Master Plan. Councilor Kawecki noted that Council is aware of meetings held about ricer bank power plant and announced the upcoming Traffic Commission 6:30 meeting to be held in Council Chambers April 2, 2014.

NEW BUSINESS:

AN ORDINANCE GRANTING AN EASEMENT FOR COMMUNICATION LINES TO BE INSTALLED AT THE AIRPORT: The below entitled Ordinance was presented for first reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN IN WHICH THE CITY, AS GRANTOR, IS GRANTING AN EASEMENT TO FRONTIER COMMUNICATIONS, GRANTEE, THROUGH THE CITY OF MORGANTOWN REALTY AT THE MORGANTOWN AIRPORT, FOR THE PURPOSE OF INSTALLING COMMUNICATION LINES TO THE NATIONAL GUARD READINESS CENTER.

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

AN ORDINANCE FOR WATERWORKS SYSTEM RATES: 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.

Motion by Bane, second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 7-0.

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 THE CUSTOMERS OF THE SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN.

Motion by Fike, second by Bane to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 921.12 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE:The below entitled Ordinance was presented for first reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 921.12 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, AS THE SAME APPLIES TO THE TO THE DISCHARGE OF DETRIMENTAL WASTES INTO SEWER.

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

A RESOLUTION STATING THE REASONABLE EXPECTATION OF THE CITY COUNCIL OF THE CITY OF MORGANTOWN UTILITY BOARD FOR CAPITAL EXPENDITURES IN CONNECTION WITH THE DESIGN, ACQUISITION AND CONSTRUCTION OF COMBINED UTILITY SYSTEM FACILITIES AND IMPROVEMENTS MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS OR OTHER OBLIGATIONS:The above entitled Resolution was presented for approval.

Motion by Bane, second by Kawecki to approve above entitled Resolution. After explanation from the City Manager and discussion, motion carried 7-0.

A RESOLUTION STATING THE REASONABLE EXPECTATION OF THE CITY COUNCIL OF THE CITY OF MORGANTOWN TO REIMBURSE THE MORGANTOWN UTILITY BOARD FOR CAPITAL EXPENDITURES IN CONNECTION WITH THE DESIGN, ACQUISITION AND CONSTRUCTION OF COMBINED UTILITY SYSTEM FACILITIES AND IMPROVEMENTS TO THE WATERWORKS PORTION OF THE SYSTEM MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS OR OTHER OBLIGATIONS:The above entitled Resolution was presented for approval.

Motion by Bane, second by Ganz to approve the above entitled Resolution. After explanation from the City Manager and discussion, motion carried 7-0.

A RESOLUTION DESIGNATING ARTS MONONGAHELA, INC., AS THE ARTS COUNCIL FOR THE CITY OF MORGANTOWN AND AUTHORIZING ARTS MONONGAHELA TO APPLY FOR DESIGNATION OF THE CITY OF MORGANTOWN AS A CERTIFIED ARTS COMMUNITY:The above entitled Resolution was presented for approval.

Motion by Kawecki, second by Fike to adopt the above entitled Resolution. After discussion, motion carried 5-2.

CITY MANAGERS REPORT:

INFORMATION:

1. Home Rule Application Notice and Schedule

City Manager commented that the City of Morgantown can make requests for additional studies on the Free Flow Power Process until April 28, 2014 and will request more property and environmental studies to be done.

The City Manager addressed Mr. Giuliani and Mr. Biafora stating that the reason for delay of information was because he would like to provide them with an accurate response.

Home Rule Meetings will be held May 2, 2014 at 6:00pm Public Hearing, May 6, 2014 at 7:00pm Regular Meeting, and May 20, 2014 at 7:00pm Regular Meeting

The City Manager said that the application will be available for viewing at the City's website, morgantownwv.gov.

The Home Rule Application Plan includes these five items of topic:

1. Diversify tax structure;
2. The ability to adopt intergovernmental agreements by Resolution rather than Ordinance;
3. Regulate outdoor use of upholstered furniture to reduce street fires;
4. The ability of the City to use a lien process to get reimbursed by property owners who do not remedy a demonstrated public nuisance;
5. Creation of a \$3 or \$5 in the Municipal Court to support the upkeep of the court's information technologies;

NEW BUSINESS:

1. City Manager reminded Council that Monongalia County Commission requested that the City write a letter of request along with West Virginia University and Monongalia County Commission to the West Virginia Department of Highways to improve the street lights along Monongalia Blvd.

By acclamation City Council agreed to write a letter of request urging the Department of Highways to improve the lighting on Monongalia Blvd.

Mr. Mikorski also commented that he has been trying to reach out to the West Virginia Department of Highways for the past two to three years and it's nice to have the support from the different entities to fight this uphill battle.

The City Manager updated Council on the status of the Grant for the Morgan Statue. Within the update Mr. Mikorski asked Council if the City could advance \$5000.00 to the artist to proceed with the project and the City will get reimbursed once the Grant is received. By acclamation, Council approved \$5000.00 for the Morgan Statue.

REPORT FROM CITY CLERK: City Clerk reported that the POW and American flags have been acquired.

REPORT FROM CITY ATTORNEY: Mr. Fanok stated that the five Home Rule Proposals are just concepts and are not concrete and will be modified by individual ordinances.

REPORT FROM COUNCIL MEMBER:

- Councilor Bane: Councilor Bane has been receiving complaints about garbage on Madison and Ohio Avenues. He thanked Glen Kelly and Jeff Mikorski for being thorough in response to requests by James Giuliani and Dave Biafora.
- Councilor Kawecki: Councilor Kaweckistated that with all activities that went on tonight, he hopes that this meeting will be a catalyst of something better to come.
- Councilor Nugent: Councilor Nugent announced the 15th Annual Chocolate Lover's Day April 12, 2014 from 11a.m.-3p.m.
- Councilor Shamberger: Councilor Shamberger thanked the Street Department for all the hard work in removing dirt and gravel from roads and sidewalks. Councilor Shamberger thanked the City Manager and City Attorney for their diligence and hard work in preparing the Home Rule Proposal.
- Councilor Fike: Councilor Fike was moved by the Morgantown High Show Choir's performance. He also announced that next week City Council will be represented at the Monongalia County School 8th Grade Career Fair and is excited that the City Clerk will be there to help children learn about the election process. Councilor Fike was also concerned about the gun bill that was passed through the State about fire arms and would like City Administration to look into what was passed and give a report to City Council. Steve Fanok suggested to report data at the next Committee of the Whole Meeting and Council agreed by consensus.
- Councilor Ganz: Councilor Ganz understood the valid concerns of the developers and City infrastructure. Councilor Ganz spoke about a project in regards to a stop light that was installed on 705 and Suburban Lanes Plaza. She also encouraged Monongalia County Commission to become more involved with their communities.
- Mayor Selin: Mayor Selin has concerns about the Free Flow Power Process and is eager to be more involved with this project. Mayor Selin also would like to know if there are ways for concerned citizens and local Government to make requests to clean gravel and dirt off State Roads. Mayor Selin announced multiple functions and programs to include: The Green Households Resource Fair will be held on April 19, 2014 from 11a.m. to 1p.m. and the last winter's farmers market. She also announced that the next Action Team of the Rivertown Project will be on April 3, 2014 at 4:30p.m. at the Wiles Hill Community Center; Monday April 7, 2014 at the WVU Creative Arts Center University Art Series will be hosting, "Bring it On"; WVU's B&E Corporate Social Responsibility Class invited the City to a trash clean up on April 22, 2014 at 10a.m. behind the Mountain Lair; Community Leadership Forum at the Sheriff's Department on

April 3, 2014 from 6:00p.m. – 7:30p.m.; The Children’s Discovery Museum of West Virginia is hosting a free event called the Victorian Magic-Lantern Spring Show at the Met Theatre on April 5, 2014 at 7p.m.

EXECUTIVE SESSION: Motion by Shamberger, second by Ganz , carried by unanimous consent, Council moved into Executive Session, pursuant to West Virginia Code Section 6-9A-4(2)(9) as it pertains to the sale, purchase or lease of realty. Time 9:10p.m.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 9:45p.m.

City Clerk

Mayor

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



Office of the City Manager

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 April 15, 2014

Information:

1. I would like to make Council and the public aware of a Comcast classified advertised that increases the maximum permitted rate for 2014 from \$14.25 to \$17.06. Written public comment can be provided to the Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, WV 25323 until April 29, 2014.

New Business

1. Requesting City Council to set a Public Nuisance Hearing for May 14, 2014

The City of Morgantown has received numerous complaints regarding 513 Madison Avenue beginning in May of 2012, including complaints from the neighborhood regarding the offensive stench emitting from the realty, and the inability of the heirs of the realty to take any remedial action that remedies the problem. Attached is a letter from Cira and Associates validating the seriousness of the situation and the need for the City to require professional remediation to clean or remove the structure.

Pursuant to Code Section 1149.04 (see attachment) , it is the opinion of the City Manager that the conditions of the structure present a public nuisance, as defined within Section 1149.03, and that just cause exists to order the conditions at 513 Madison Avenue to be abated. Pursuant to Section 1149.04, I recommend that City Council move to authorize a special meeting on Wednesday, May 14, 2014, at 6:00 pm, at which time City Council will be presented with the facts supporting this recommendation. At that same time, the property owner shall have a right to appear and produce evidence in their behalf. May 14 will allow enough time for all owners of interest in the realty to be notified as to the hearing, and to allow the City to prepare witnesses and evidence for presentation at the hearing.

2. Capital Escrow Budget Revision #6

Due to existing increases in Business and Occupation Taxes on construction that the City has received this Fiscal Year, I recommend the following amendment to the Capital Escrow Fund:

- Adding \$10,000 to the implementation of the Comprehensive Plan line to allow a faster initiation of the implementation process.
- Funds included to purchase 2 Public Works trucks that will replace trucks that have been damaged during the winter months and are beyond their useful life.
- Include funds to improve the public right-of-way at the corner of Stewart Street and University Avenue as a part of a previous agreement with
- Include funds to begin addressing standing water in the plaza and drainage problems within the basement of the Public Safety Building due to land subsidence. These funds would also integrate the design and installation of the Colonel Zackquill Morgan Statue into the plaza area.
- Place remaining funds in the Neighborhood Beautification line into the Urban Landscape Center line.


Jeff Mikorski ICMA-CM,
Morgantown City Manager

PUBLISHER'S CERTIFICATE

vs.

STATE OF WEST VIRGINIA
COUNTY OF MONONGALIA

I Eric Wilson Advertising Director of
THE DOMINION POST, a newspaper of general circulation
published in the City of Morgantown, County and State
aforesaid, do hereby certify that the annexed

Legal Notice

was published in the said THE DOMINION POST once a week
for 1 successive weeks commencing on the
19th day of Mar., 2014 and ending on the
19th day of Mar., 2014

The publisher's fee for said publication is \$61.85

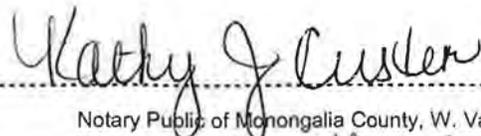
Given under my hand this 19th day of
March, 2014



(SEAL)

Advertising Director of THE DOMINION POST

Subscribed and sworn to before me this 19th
day of March, 2014



Notary Public of Monongalia County, W. Va.

My commission expires on the 13th day of April
2014



010028128

March 19

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CASE NO. 14-0110-CTV-R

COMCAST CABLE COMMUNICATIONS, LLC
Application for determination of maximum permitted rates

NOTICE OF FILING

WHEREAS, On November 27, 2013, Comcast Cable Communications, LLC filed FCC forms 1205 (equipment form) and 1240 (maximum permitted rate form) for the Morgantown, West Virginia service area. Comcast's current basic rate is \$14.25. Comcast indicated that the maximum permitted rate for 2014 is \$17.0615.

A copy of Comcast's filing is available for inspection at the offices of the West Virginia Public Service Commission, 201 Brooks Street, P.O. Box 812, Charleston, West Virginia, 25323, or at Comcast's offices located at 2994 Industrial Boulevard, Bethel Park, PA 15102.

Anyone desiring to make objection to this filing must do so, in writing, within ten (10) days after publication of notice, to Executive Secretary, Public Service Commission of West Virginia, P. O. Box 812, Charleston, West Virginia 25323. If substantial protests are not received within said ten (10) day period, the Commission may waive a formal hearing and approve Comcast's filing based on the evidence submitted with the filing.

Comcast Cable Communications, LLC



Cira and Associates Consulting LLC

2301 Morningside Drive • Morgantown, WV 26508 • (304) 598-0713
Ciraconsulting.com

April 7, 2014

City of Morgantown
Mr. Steve Fanok
389 Spruce Street
Morgantown, WV 26505

Re: Summary of Findings
513 Madison Avenue
Morgantown, WV

Mr. Fanok:

On February 27, 2014 I conducted a Mold, Bacteria and Asbestos inspection at 513 Madison Avenue. The conditions within the residence at the time of my inspection were deplorable. I have been conducting inspections (Asbestos/Indoor Air Quality) for almost 15 years throughout the Tri-state area and I have never encountered conditions in a Residential or Commercial structure as bad as the conditions I encountered on that day.

The mold spore counts inside the residence were a magnitude higher than the exterior reference spore counts, however my real concern was that the mold combined with animal waste on nearly every surface made this Residence an immediate health hazard.

Contamination of the neighboring properties and other personal property is possible if untrained people are permitted to enter the Residence and remove items at will and then transport these items to other locations (homes/businesses).

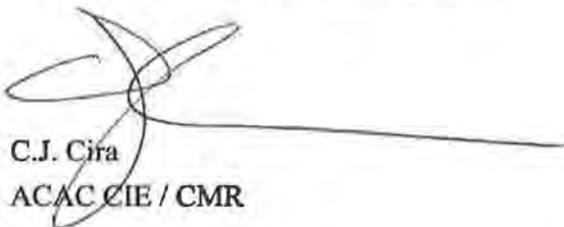
The temperature on February 27, 2014 was approximately 20° F at the time of the inspection. If the residence remains in its current condition without operating utilities, the humidity will increase and the spore counts will rise as the temperatures outside increase. This will cause even greater mold spore counts than what was detected during the February inspection. In addition, the bacteria and mal-odors will also increase and likely become an increased nuisance to the surrounding properties.

Although this residence can be remediated to a "normal living condition" the cost to do so will likely be much greater than the current value of the residence. Prior to conducting mold/bacteria remediation an asbestos abatement will need to be conducted to remove asbestos insulation that would be disturbed during mold/bacterial clean-up activities. After the Residence is certified for human re-occupancy then construction materials will have to be replaced. This may include the replacement of sub-floors, ceiling materials, wall materials, carpeting, vanities and counters.

Should you have any questions or desire to discuss project options further, please contact me at directly by cell at (304) 692-2923.

Sincerely,

Cira and Associates Consulting LLC



C.J. Cira
ACAC CIE / CMR

ARTICLE 1149

Public Nuisance

- 1149.01 Purpose; public nuisance abatement.
- 1149.02 Application.
- 1149.03 Definition; public nuisance.
- 1149.04 Report, recommendations to Council and hearing.
- 1149.05 Findings of City Council.
- 1149.06 Reconsideration of permanent public nuisance.
- 1149.07 Appeals and enforcement.
- 1149.08 State Building Code and Fire Code.
- 1149.09 Severability.

CROSS REFERENCES

Power to regulate - see W. Va. Code 8-12-5(23)

1149.01 PURPOSE; PUBLIC NUISANCE ABATEMENT.

Council may, by resolution, abate anything which, in the opinion of a majority of Council, constitutes a public nuisance after due notice to all parties that could be affected and after such hearings as Council deems necessary to ascertain a factual and rational basis for the abatement of any such public nuisance.

(Ord. 08-17. Passed 6-3-08.)

1149.02 APPLICATION.

The provisions of this article shall apply to all public nuisances as hereinafter designated which are now in existence or which may hereafter exist in the City.

(Ord. 08-17. Passed 6-3-08.)

1149.03 DEFINITION; PUBLIC NUISANCE.

(a) A public nuisance is one which affects an indefinite number of persons, or the residents of a particular locality, or people coming within the extent of its range or operation, although the extent of the annoyance or damage inflicted upon individuals may be unequal. Such public nuisance endangers the health, safety and welfare of the community and is dangerous and detrimental to the public health, may violate the laws of the City and/or State as well as obstructs the community from reasonable and comfortable use of property.

(b) A public nuisance may arise from the unreasonable, unwarrantable or unlawful behavior associated with the property, either real or personal, which hinders the neighboring community and the general public from enjoying the common and public rights enjoyed by the general community in like areas where no such public nuisance exists.

(c) For purposes of this article a continuing public nuisance is an uninterrupted or periodically recurring public nuisance, not necessarily a constant or unceasing injury, but a nuisance which occurs so often and is so necessarily an incident of the use of property complained of that it can fairly be said to be continuous. Such a nuisance may be of such character that its continuance is necessarily an injury which will continue without change.

(d) A continuing public nuisance may be found to be a permanent public nuisance when its continuance is necessarily an injury which will continue without change, unless Council takes such action to cease any like nuisance from becoming established and re-occurring at the particular location. It is not enough to show a slight interference to the public welfare and such will not be restrained unless the type of business or manner of operation is injurious to the public health, safety and welfare of the community or has a tendency to promote unlawful behavior or behavior which is considered by the City Administration, including its health and/or safety officials, to be a menace to public order and safety.

(e) The procedure by which the City of Morgantown will address public nuisances is set forth in the remaining sections of this article.

(Ord. 08-17. Passed 6-3-08.)

1149.04 REPORT, RECOMMENDATIONS TO COUNCIL AND HEARING.

Public safety and law enforcement officers, as well as affected members of the community, shall report findings and recommendations to the City Manager, and if the City Manager ascertains from the report and findings that the condition presents a public nuisance, as defined within this Article, the City Manager shall make his recommendation to City Council that just cause exists to abate the nuisance. Whereupon by a majority vote of City Council, a hearing shall be held after at least ten days notice is provided to the property owner, tenant, business manager and/or licensee of the time and place of such hearing, which notice shall contain a statement or specifications of the charges, grounds or reasons for such proposed contemplated action, and which shall be served upon the property owner, tenant, business manager and/or licensee as notices under the West Virginia Rules of Civil Procedure or by certified mail, return receipt requested, and shall, in addition, be posted in a conspicuous place on the premises as well as within 100 feet surrounding such premises affected by the recommendation. The term "cause" shall include the going or omitting of any act or permitting any condition to exist which causes a public nuisance as defined in this article. At which time and place, so designated in the notice, City Administration shall put forth its evidence in support of the recommendation made to City Council as well as the property owner, tenant, business manager and/or licensee shall have the right to appear and produce evidence in his/her/its behalf, and to be represented by counsel. At the conclusion of the hearing, City Council shall render a decision.

(Ord. 08-17. Passed 6-3-08.)

1149.05 FINDINGS OF CITY COUNCIL.

At the conclusion of the hearing described in Section 1149.04, City Council will issue its findings on the matter. In doing so, it may determine that a public nuisance does not exist, or that a public nuisance does exist and in such case, what corrective action the property owner, tenant, business manager

and/or licensee must take to eliminate the public nuisance and the time period in which such action must take place. Additionally, upon a showing that there has been a continuing nuisance of similar character and circumstances at a particular location which meets the criteria for a permanent nuisance as set forth in Section 1149.03 of this article, City Council may declare such a permanent public nuisance and prohibit similar acts, occupations, types of businesses or structures at such location. In determining whether or not a permanent public nuisance exists, City Council shall consider reports of City administration, safety, and law enforcement officials, as well as public comment and complaints of the community spanning, at a minimum, a three year period immediately preceding the date of the hearing. (Ord. 08-17. Passed 6-3-08.)

1149.06 RECONSIDERATION OF PERMANENT PUBLIC NUISANCE.

Should City Council declare a location to be a permanent public nuisance, any further use of that same location for the same use shall not be allowed; however, reconsideration by City Council of its Declaration of Permanent Nuisance may occur if such reconsideration request is filed in writing with City Council within three (3) months of City Council's decision on the matter. The relief requested in the petition for reconsideration may be granted by City Council if, in its opinion, the petitioner has presented it with sufficient information demonstrating that, more likely than not, the elements making up and causing the nature of the permanent public nuisance in question will be eliminated. The order of City Council in granting any such petition shall indicate that the use of the premises/realty at issue will be considered probationary for a period of one year from the date the use commences, and that any reoccurrence of similar activity which lead to the prior declaration of a permanent public nuisance or would lead to a new nuisance violation shall automatically reactivate City Council's previous determination that the site is a permanent public nuisance. In that event, upon written notice by the City Manager to and received by the Petitioner, such usage of the site shall cease immediately.

(Ord. 08-17. Passed 6-3-08.)

1149.07 APPEALS AND ENFORCEMENT.

In the event that such property owner, tenant, business manager and/or licensee may be aggrieved by such decision of City Council, which may include and not be limited to revocation or suspension of any licensures and/or the restricted use of such property having been declared a nuisance, petition for such review must be filed with the circuit court within a period of thirty days from and after the date of final action by Council. Any person, firm, corporation, landowner, licensee so affected has the right to apply to the circuit court for a temporary injunction pursuant to the provisions of the W. Va. Code. The Municipality is also entitled to any and all appropriate judicial relief against public nuisances.

(Ord. 08-17. Passed 6-3-08.)

1149.08 STATE BUILDING CODE AND FIRE CODE.

This article shall not supersede those requirements and procedures set forth in either the West Virginia State Building Code or the West Virginia State Fire Code.

(Ord. 08-17. Passed 6-3-08.)

1149.09 SEVERABILITY.

If any section, subsection, provision, clause or phrase of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other sections, subsections, provisions, clauses or phrases or applications of this article and to this end each and every section, subsection, provision, clause and phrase of this article is declared to be severable. This article is in addition to and not dependent upon other articles of this Code.

(Ord. 08-17. Passed 6-3-08.)

City of Morgantown

Finance Department

389 Spruce Street

Morgantown, WV 26505

Phone 304-284-7407/Fax 304-284-7418

jsabatelli@cityofmorgantown.org

MEMO

DATE: April 10, 2014

TO: Jeff Mikorski, ICMA-CM
City Manager

FROM: JR Sabatelli, CPA 
Finance Director

RE: Capital Escrow Budget Revision #6

As per our discussions, the items below represent the budget revision for the Capital Escrow Fund. The adjustments to expenditures include replacement of 2 public works vehicles, work at the intersection of Stewart and University, repairs and upgrades to the Public Safety Building plaza, additional funds to the comprehensive plan implementation for preliminary work to begin and the reallocation of funding from Neighborhood Beautification for initial funding of an Urban Landscape Center. The increase in budgetary expenditures will be offset but an increase in the General Fund contribution. This increase in contributions will be included in the General Fund's final year end budget adjustment from surplus Construction B&O taxes.

Budget Line	Current Unencumbered Balance	Current Budget	Proposed Revised Budget	Net Change
Revenues:				
General Fund Contribution		1,600,000	1,785,000	185,000
Expenses:				
Comprehensive Plan Implementation	-	-	10,000	10,000
Public Works Vehicles	-	-	100,000	100,000
Stewart & University Intersection	-	-	25,000	25,000
Public Safety Building Plaza	-	-	50,000	50,000
Urban Landscape Center	-	-	9,000	9,000
Neighborhood Beautification	9,000	9,000	-	(9,000)
				<u>185,000</u>
Net Revision				-

BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

FIRE CIVIL SERVICE COMMISSION:

Michael Jacks term expires on 6/30/14. Checking to see if he wishes to continue to serve. Appts. Made by those they rep.

HUMAN RIGHTS COMMISSION:

Terms for Mike Fike, Frances Whiteman, Anna Marie Savino and Don Spencer expire on 6/30/14. Will ask the chair Don Spencer to check and see who wishes to continue to serve. Appt. by Council. 2 interested preservation; 1 Council

MUSEUM COMMISSION:

Terms for Richard McEwuen, Aaron Hawley and Pamela Casto expire on 6/30/2014. Will check with chair Pam Ball to see if they wish to continue to serve. Residents, 10 mem; 1 council

PARKING AUTHORITY:

Terms for Shane Mardis and Charles McEwuen expire on 6/30/2014. Will check with Tom Arnold to see if they wish to continue to serve. Residents; 3 at large; appt. by Mayor; 1 elected; 1 appointed

POLICE CIVIL SERVICE COMMISSION:

Terms for Ed Bodkin and Jerry Summers expire on 5/31/14. Will check and see if they wish to continue to serve. Appts. Made by those they rep.

SISTER CITIES COMMISSION:

Terms for Helene Friedberg, Elizabeth Finkdea and Rosalyn Becker expire on 5/31/14. Sister Cities Commission is aware of this and also the vacancy they need to fill from the resignation of Claudia Gulley. They will inform Council once they have made their selection from the bios for vacancy and at the same time notify Council on appointments.

TRAFFIC COMMISSION:

Terms for the following expire on 4/26/14: David McKain, Julia Durham, Martin Dombrowski and William Blosser. Damien Davis asked all candidates at the last meeting and they wish to continue to serve. Council can vote to re-appoint at the Regular Meeting on 4-15-14. Residents appointed by Council, must represent specific categories

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

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

****Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, that they will not interview; the City Clerk will check with Council before scheduling a Special Meeting.***

****BZA and Planning Commission term expirations are advertised in October and interviews must be completed by December per State Law.***

Boards and Commission interview structure will be reviewed at a Committee of the Whole. 4/8/14

AN ORDINANCE BY THE CITY OF MORGANTOWN IN WHICH THE CITY, AS GRANTOR, IS GRANTING AN EASEMENT TO FRONTIER COMMUNICATIONS, GRANTEE, THROUGH CITY OF MORGANTOWN REALTY AT THE MORGANTOWN AIRPORT, FOR THE PURPOSE OF INSTALLING COMMUNICATION LINES TO THE NATIONAL GUARD READINESS CENTER.

The City of Morgantown hereby ordains that its City Manager is authorized to execute the attached easement agreement by and on behalf of the City of Morgantown.

This ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

Project # 1231892
 ROW # 106996
 C.O. MORGANTOWN
 Account 82C



Received of Frontier West Virginia Inc., One Dollar, \$1.00, in consideration of which WE hereby grant unto Frontier West Virginia Inc., (Grantee), its successors and assigns, the right and easement now and in the future to construct, reconstruct, operate, maintain, repair, replace and remove such communication systems as the grantee may from time to time require consisting of POLES, CABLES, ANCHORS AND GUYS AS SHOWN IN ATTACHMENT "A" and following the same easement as previously granted by City to Mon Power, the property which WE own, or in which WE have any interest in the District of MORGANTOWN CORP, County of MONONGALIA, and State of West Virginia. Said sum is received in full payment of said rights. It is expressly understood that this right and easement includes without limitation the addition of cables, wires, or other appurtenances to any pole or pole line originally constructed, the addition of new buried facilities within ten (10) feet of any buried facilities originally constructed, and the right from time to time to cut and trim trees and brush that may threaten, endanger, or interfere with the operation or maintenance of said facilities including ingress thereto and egress therefrom.

The property under and across which this right and easement is granted is the same property which is recorded in, deedbook 290, page 293, taxmap 32A, parcel 11&12 as is more particularly described and attached hereto as attachment "A".

Frontier West Virginia Inc., its successors and assigns shall promptly compensate the grantor(s) for all damages to growing crops and shall repair any damage done to the driveways, fences, and fields in the exercise of the rights herein granted.

CITY OF MORGANTOWN _____
 (Grantor) (Grantor) (Grantor)

grantor(s) hereby declare(s) the total consideration paid for the rights conveyed by this document is _____ dollars.

WITNESS MY hand(s) and seal(s) this _____ day of _____ A.D., 2014 at _____

(Post Office Address)

(Grantor Seal)

(Grantor Seal)

(Grantor Seal)

This instrument was prepared by Frontier West Virginia Inc., (Grantee), and was completed by TIMOTHY R. SPENCER.

STATE OF WEST VIRGINIA
 County of MONONGALIA

} TO WIT:

I, _____, a Notary Public of MONONGALIA County and State of WEST VIRGINIA

CITY OF MORGANTOWN

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

THE COUNCIL OF THE CITY OF MORGANTOWN HEREBY ORDAINS: The following rules, rates and charges are hereby fixed, determined and established for municipal water services provided to all general domestic, commercial, and industrial users of the City of Morgantown's Municipal Waterworks System, commencing upon the effective date as hereinafter provided, and in accordance with the following Rates and Schedules:

SECTION 1 – TARIFF

927.01 RATE SCHEDULES

The following schedules of rates, fees, charges, delayed payment penalty charges, service connection charges, reconnection charges and opening or transferring account charges are hereby fixed and determined as the rates, fees, charges, delayed payment penalty charges, service connection charges, reconnection charges and opening or transferring account charges to be charged to consumers of the waterworks system of the City throughout the entire territory served. (Ord. 94-84. Passed 11-29-94.)

SCHEDULE NO. 1

(C) APPLICABILITY

Applicable in entire territory served, ~~(except for the former Cheat Neck Public Service District service area and Quarry Run area as provided in Schedule 6, and the former Pounds Hollow Water Association service area as provided in Schedule 7).~~ Effective for bills rendered on or after ~~January 1, 2012~~ July 1, 2014.

AVAILABILITY OF SERVICE

Available for general, domestic, commercial and industrial service.

RATE

Gallons Used Per Month	Rate Per 1,000 Gallons
First 60,000	\$3.87
All Over 60,000	\$2.53

(C) Indicates Change in Text

MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size of the meter installed, to wit:

Meter (inches)	Rate Per Month
5/8 inch or less	\$3.87
3/4 inch	\$5.83
1 inch	\$9.68
1 1/2 inch	\$19.35
2 inch	\$30.96
3 inch	\$58.05
4 inch	\$96.75
6 inch	\$193.50
8 inch	\$309.60

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

(C, I) **TAP FEE ~~3/4 inch or 1 inch~~**

The following charges are to be made whenever the utility installs a new tap to serve an applicant. A tap fee of one hundred dollars (\$100.00) will be charged to customers applying for service before construction is completed adjacent to the customers premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding. A tap fee of ~~seven hundred dollars (\$700.00)~~ will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap system in accordance with the following schedule of fees:

<u>Meter (inches)</u>	<u>Tap Fee</u>
<u>5/8 inch or less</u>	<u>\$700.00</u>
<u>3/4 inch</u>	<u>\$700.00</u>
<u>1 inch</u>	<u>\$1,000.00</u>
<u>1 1/2 inch</u>	<u>\$1,500.00</u>
<u>2 inch</u>	<u>\$2,000.00</u>
<u>>2 inch</u>	<u>Actual Cost</u>

(C) Indicates Change In Text

(I) Indicates Increase

RECONNECTION CHARGE

A fee of fifteen dollars (\$15.00) during Utility Board regular working hours and twenty-five dollars (\$25.00) after hours shall be charged whenever the supply of water is turned off for violation of rules, nonpayment of bills, or fraudulent use of water.

LEAK ADJUSTMENT

~~\$0.385~~ 0.559 per M gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

(N) RETURNED CHECK CHARGE

A service charge of \$20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) QUARRY RUN DEBT SERVICE SURCHARGE

Applicable only to customers in the Quarry Run area: \$40.00 per month, per customer. This surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted.

SCHEDULE NO. 2

(C) APPLICABILITY

Applicable in entire territory served, ~~(except for the former Cheat Neck Public Service District service area and Quarry Run area as provided in Schedule 6, and the former Pounds Hollow Water Association service area as provided in Schedule 7).~~ Effective for bills rendered on or after ~~January 1, 2012~~ July 1, 2014.

AVAILABILITY OF SERVICE

Available for general, domestic, commercial and industrial service.

RATE

Gallons Used Bi-Monthly		Rate Per 1,000 Gallons
First	120,000	\$3.87
All Over	120,000	\$2.53

(N) Indicates New Text

(C) Indicates Change in Text

MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size of the meter installed, to wit:

Meter (inches)	Rate Per (Bi-Monthly)
5/8 inch or less	\$7.74
3/4 inch	\$11.66
1 inch	\$19.36
1 1/2 inch	\$38.70
2 inch	\$61.92
3 inch	\$116.10
4 inch	\$193.50
6 inch	\$387.00
8 inch	\$619.20

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

(C, I) TAP FEE 3/4 inch or 1 inch

The following charges are to be made whenever the utility installs a new tap to serve an applicant. A tap fee of one hundred dollars (\$100.00) will be charged to customers applying for service before construction is completed adjacent to the customers premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding. A tap fee of ~~seven hundred dollars (\$700.00)~~ will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap system in accordance with the following schedule of fees:

<u>Meter (inches)</u>	<u>Tap Fee</u>
5/8 inch or less	\$700.00
3/4 inch	\$700.00
1 inch	\$1,000.00
1 1/2 inch	\$1,500.00
2 inch	\$2,000.00
>2 inch	<u>Actual Cost</u>

RECONNECTION CHARGE

A fee of fifteen dollars (\$15.00) during Utility Board regular working hours and twenty-five dollars (\$25.00) after hours shall be charged whenever the supply of water is turned off for violation of rules, nonpayment of bills, or fraudulent use of water.

(C) Indicates Change In Text

(I) Indicates Increase

(C, I) LEAK ADJUSTMENT

~~\$0.385~~ 0.559 per M gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

(N) RETURNED CHECK CHARGE

A service charge of \$20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) QUARRY RUN DEBT SERVICE SURCHARGE

Applicable only to customers in the Quarry Run area: \$80.00 bi-monthly, per customer. This surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted.

SCHEDULE NO. 3

APPLICABILITY

Applicable in the City of Morgantown.

AVAILABILITY OF SERVICE

Available for service to public fire hydrants.

RATE

The City of Morgantown shall pay as a public fire charge at the rate of \$100.00 per hydrant per annum, payable in twelve equal monthly installments. This charge covers all water system facilities existing at Morgantown, West Virginia which are used in whole or in part for public fire service.

SCHEDULE NO. 4

APPLICABILITY

Applicable in the municipalities served by the Board excluding the City of Morgantown.

AVAILABILITY OF SERVICE

Available for service to public fire hydrants.

RATE

Any municipality shall pay as a public fire charge at the rate of \$100.00 per hydrant per annum, payable in twelve equal monthly installments. This charge covers all water system facilities existing in any municipality which are used in whole or in part for public fire service.

- (C) Indicates Change In Text
- (I) Indicates Increase
- (N) Indicates New Text

SCHEDULE NO. 5

APPLICABILITY

Applicable in entire territory served (except municipalities).

AVAILABILITY OF SERVICE

Available for service to private fire protection facilities.

RATE

	<u>Per Annum</u>
Fire Hydrants, each	\$145.00
Sprinkler Heads, 312 or less	\$145.00
Sprinkler Heads, each additional	\$0.52
Hose Connections, for fire use only:	
2 1/2 inch openings, each	\$84.50
2 inch openings, each	\$44.20
1 1/2 inch openings, each	\$24.25
1 1/4 inch openings, each	\$16.00
1 inch openings, each	\$10.00

MINIMUM CHARGE

One hundred forty-five dollars (\$145.00) per annum.

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

TERMS AND CONDITIONS OF SERVICE

Charges for service rendered under this schedule are billed bi-monthly in arrears, and bills are payable on or before the twentieth (20th) day following the date rendered.

(N) RETURNED CHECK CHARGE

A service charge of \$20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) Indicates New Text

(C)

SCHEDULE NO. 6

APPLICABILITY

~~Applicable in entire territory heretofore designated by the Monongalia County Commission as the Check Neck Public Service District and the Quarry Run area. Effective for bills rendered on or after January 1, 2012.~~

AVAILABILITY OF SERVICE

~~Available for general domestic, commercial and industrial service.~~

RATE

First	2,000 gal per month or 6,000 gal per quarter	\$3.87 per 1,000
Next	8,000 gal per month or 24,000 gal per quarter	\$3.59 per 1,000
Next	20,000 gal per month or 60,000 gal per quarter	\$3.48 per 1,000
Next	30,000 gal per month or 90,000 gal per quarter	\$3.39 per 1,000
All Over	60,000 gal per month or 180,000 gal per quarter	\$3.29 per 1,000

MINIMUM CHARGE

~~No bill will be rendered for less than the following amounts, according to the size of the meter installed:~~

5/8 inch meter	\$7.74	per month or	\$23.22	per quarter
3/4 inch meter	\$11.15	per month or	\$33.45	per quarter
1 inch meter	\$19.81	per month or	\$59.43	per quarter
1 1/2 inch meter	\$44.58	per month or	\$133.74	per quarter
2 inch meter	\$79.26	per month or	\$237.73	per quarter
3 inch meter	\$178.33	per month or	\$534.99	per quarter
4 inch meter	\$317.03	per month or	\$951.09	per quarter
6 inch meter	\$713.32	per month or	\$2,139.96	per quarter

DELAYED PAYMENT PENALTY

~~The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.~~

TAP FEE (3/4 inch or 1 inch)

~~The following charges are to be made whenever the utility installs a new tap to serve an applicant. A tap fee of one hundred dollars (\$100.00) will be charged to customers applying for service before construction is completed adjacent to the customers premises in connection with a certificate proceeding before the Commission. This pre construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding. A tap fee of seven hundred dollars (\$700.00) will be charged to all customer who apply for service outside of a certificate proceeding before the Commission for each new tap system.~~

(C) Indicates Change in Text

RECONNECTION CHARGE

~~A fee of fifteen dollars (\$15.00) during Utility Board regular working hours and twenty-five dollars (\$25.00) after hours shall be charged whenever the supply of water is turned off for violation of rules, nonpayment of bills, or fraudulent use of water.~~

LEAK ADJUSTMENT

~~\$0.385 per M gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.~~

QUARRY RUN DEBT SERVICE SURCHARGE

~~Applicable only to customers in the Quarry Run area: \$40.00 per month, per customer or \$120.00 per quarter, per customer. This surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted.~~

(C)

SCHEDULE NO. 7

APPLICABILITY

~~Applicable in entire territory heretofore designated as the Pounds Hollow Water Association. Effective for bills rendered on or after January 1, 2012.~~

AVAILABILITY OF SERVICE

~~Available for water utility service.~~

RATE

First	6,000 gallons used per month	\$3.66 per 1,000 gallons
Next	4,000 gallons used per month	\$3.30 per 1,000 gallons
Next	10,000 gallons used per month	\$3.00 per 1,000 gallons
All Over	20,000 gallons used per month	\$1.84 per 1,000 gallons

MINIMUM CHARGE

~~No bill will be rendered for less than the following amount: \$21.96 bi monthly~~

DELAYED PAYMENT PENALTY

~~The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.~~

(C) Indicates Change in Text

TAP FEE (3/4 inch or 1 inch)

~~The following charges are to be made whenever the utility installs a new tap to serve an applicant. A tap fee of one hundred dollars (\$100.00) will be charged to customers applying for service before construction is completed adjacent to the customers premises in connection with a certificate proceeding before the Commission. This pre construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding. A tap fee of seven hundred dollars (\$700.00) will be charged to all customer who apply for service outside of a certificate proceeding before the Commission for each new tap system.~~

RECONNECTION CHARGE

~~A fee of fifteen dollars (\$15.00) during Utility Board regular working hours and twenty-five dollars (\$25.00) after hours shall be charged whenever the supply of water is turned off for violation of rules, nonpayment of bills, or fraudulent use of water.~~

LEAK ADJUSTMENT

~~\$0.385 per M gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.~~

(C)

SECTION 2 – EFFECTIVE DATE

The rates, charges and penalties provided herein shall become effective ~~January 1, 2012,~~ July 1, 2014 or as soon thereafter as the same may be approved by the Public Service Commission of West Virginia.

SECTION 3 – SEVERABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are severable, and if any clause, provision or section hereof shall be held void or unenforceable by the Public Service Commission of West Virginia or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

(C) Indicates Change in Text

SECTION 4 – STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance in the *Dominion Post*, a qualified newspaper of general circulation in the City of Morgantown, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before the City Council on Tuesday, April 15, 2014, at 7:00 p.m., which date is not less than five (5) days after the date of the publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, City of Morgantown, Morgantown, West Virginia.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

CITY OF MORGANTOWN

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.

THE COUNCIL OF THE CITY OF MORGANTOWN HEREBY ORDAINS: The following rules, rates and charges are hereby fixed, determined and established for municipal sewerage services provided to all general domestic, commercial, industrial and resale users and customers of the City of Morgantown's Municipal Sewage Treatment Plant and Collection System, commencing upon the effective date as hereinafter provided, and in accordance with the following Rates and Schedules:

SECTION 1 – TARIFF

923.03 RATE SCHEDULES

The following schedules of rates, fees, charges, delayed payment penalty charges, service connection charges, reconnection charges and opening or transferring account charges are hereby fixed and determined as the rates, fees, charges, delayed payment penalty charges, service connection charges, reconnection charges and opening or transferring account charges to be charged to consumers of the sewer works system of the City throughout the entire territory served.

SCHEDULE NO. 1

- (C)
- (a) Applicable to entire territory served, except that served by Cheat Lake Wastewater Treatment Plant, the former Canyon Public Service District, and the former Scott's Run Public Service District. Effective for bills rendered on or after ~~January 1, 2012~~ July 1, 2014 except as otherwise noted.
- (1) Availability of service. Available for sanitary sewer service.
 - (2) Rate. Based upon the metered amount of water supplied.

(C) Indicates Change in Text

Gallons Used

First 60,000 per month,	or 120,000 bi-monthly	\$4.66 per 1,000 gallons
All Over 60,000 per month,	or 120,000 bi-monthly	\$4.00 per 1,000 gallons

(3) Minimum Charge.

Per month	\$ 4.66
Bi-monthly	\$ 9.32

(4) Tap fee. The following charges are to be made whenever the utility installs a new tap to serve an applicant. A tap fee of one hundred dollars (\$100.00) will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding. A tap fee of seven hundred dollars (\$700.00) will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap system.

(5) Delayed payment penalty. The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

(6) Reconnection charge. A fee of fifteen dollars (\$15.00) during Utility Board regular working hours and twenty-five dollars (\$25.00) after hours shall be charged whenever the service is disconnected for violation of rules, nonpayment of bills, or fraudulent use of water. No such charge shall be assessed if the customer has paid a water reconnection charge for the same reconnection.

(I) (7) Leak adjustment. \$0.385 0.396 per M gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customers of the meter. This rate shall beside applied to all such unusual consumption above the customer's historical average usage.

(8) Sunshine Estates Debt Service Surcharge. Applicable only to customers in the Sunshine Estates area: \$32.00 per month per customer, or \$64.00 bi-monthly per customer. This surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted.

(9) Sunshine Estates DCPSD Transportation Surcharge. Applicable only to customers in the Sunshine Estates area: \$0.25 per 1,000 gallons.

(10) The surcharges described immediately above shall become effective forty-five (45) days after enactment, or as soon thereafter as the same may be approved by the Public Service Commission of West Virginia; and upon completion of the Sunshine Estates Sewer Project.

(N) (11) Returned Check Charge. A service charge of \$20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

SCHEDULE NO. 2

(C, I) (b) Applicable to territory served by Cheat Lake Wastewater Treatment Plant. Effective for bills rendered on or after ~~January 1, 2012.~~ July 1, 2014.

(1) Availability of service. Available for sanitary sewer service.

(2) Rate. Based upon the metered amount of water supplied.

Gallons Used				
First	2,000 per month	or 4,000 bi-monthly	\$8.75	<u>10.85</u> per 1,000 gallons
Next	8,000 per month	or 16,000 bi-monthly	\$8.00	<u>9.92</u> per 1,000 gallons
Next	20,000 per month	or 40,000 bi-monthly	\$7.50	<u>9.30</u> per 1,000 gallons
Next	30,000 per month	or 60,000 bimonthly	\$7.00	<u>8.68</u> per 1,000 gallons
Next	940,000 per month	or 1,880,000 bi-monthly	\$6.00	<u>7.44</u> per 1,000 gallons
All Over	1,000,000 per month	or 2,000,000 bi-monthly	\$5.50	<u>6.82</u> per 1,000 gallons

(3) Minimum Charge.

A. Per month	\$ 17.50 <u>21.70</u>
B. Bimonthly	\$ 35.00 <u>43.40</u>

(4) Tap fee. A fee of seven hundred dollars (\$700.00) will be charged for new customers connecting to the sewerage system.

(5) Delayed Payment Penalty. The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

(6) Reconnection Charge. A fee of fifteen dollars (\$15.00) during Utility Board regular working hours and twenty-five dollars (\$25.00) after hours shall be charges whenever the service is disconnected for violation of rules, nonpayment of bills, or fraudulent use of water. No such charge shall be assessed if the customer has paid a water reconnection charge for the same reconnection.

(I) (7) Leak Adjustment. ~~\$0.385~~ 1.404 per M gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

(N) Indicates New Text

(C) Indicates Change in Text

(I) Indicates Increase

- (N) (8) Returned Check Charge. A service charge of \$20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

SCHEDULE NO. 3

(c) Applicable to territory served by Star City Wastewater Treatment Plant, and delivered by other systems. Effective for bills rendered on or after January 1, 2012.

(1) Availability of service. Available for sanitary sewer service to other systems.

(2) Rates. All wastewater from other systems will be treated at the approved rate of \$1.50 per 1,000 gallons.

(C)

SCHEDULE NO. 4

(d) Applicable to the former Canyon Public Service District service area. Effective for bills rendered on or after ~~August 22, 2013~~ July 1, 2014.

(1) Availability of service. Available for sanitary sewer service.

(2) Rates. (Customers with metered water supply)

Service Charge	\$8.50 per month, or \$17.00 bi-monthly
Usage Charge	\$8.67 per 1,000 gallons

(I) (3) Minimum Charge. No minimum bill will be rendered for less than the following based on meter size:

Meter Size	Minimum Charge
5/8"	\$25.46 <u>25.84</u> per month, or \$50.92 <u>51.68</u> bi-monthly
1 1/2"	\$125.78 per month, or \$251.56 bi-monthly
2"	\$201.02 per month, or \$402.04 bi-monthly

(C) (4) Flat Rate Charge. Customers with non-metered water supply \$25.84 per month, or \$51.68 bi-monthly.

(5) Tap fee. The following charges are to be made whenever the utility installs a new tap to serve an applicant. A tap fee of one hundred dollars (\$100.00) will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding. A tap fee of seven hundred dollars (\$700.00) will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap system.

- (N) Indicates New Text
 (C) Indicates Change in Text
 (I) Indicates Increase

(6) Delayed payment penalty. The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

(7) Disconnection charge. Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with the Cheat View Public Service District, a disconnection fee of \$15.00 shall be charged or in the event the delinquent sewer bill is collected by Cheat View Public Service District, an administrative fee of \$15.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with Cheat View Public Service District, is reconnected, a reconnection fee of \$15.00 shall be charged.

(C) (8) Leak adjustment. \$2.89 ~~0.396~~ per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

(N) (9) Returned Check Charge. A service charge of \$20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

SCHEDULE NO. 5

(e) Applicable to the former Scott's Run Public Service District service area. Effective forty-five (45) days after enactment, or as soon thereafter as the same may be approved by the Public Service Commission of West Virginia; and upon acquisition of the Scott's Run Public Service District.

(1) (Availability of service. Available for sanitary sewer service.

(C) (2) Rates. (Customers with metered water supply)
Service Charge \$8.50 per month, or \$17.00 bi-monthly
Usage Charge \$8.53 per 1,000 gallons

(C) (3) Flat Rate Charge. (Customer with non-metered water supply)
Equivalent to ~~3,832~~ 4,000 gallons water usage, ~~\$41.47.~~ 42.62 monthly, or
Equivalent to 8,000 gallons water usage, \$85.24 bi-monthly

(4) Delayed payment penalty. The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(C) Indicates Change in Text

(N) Indicates New Text

(5) Tap fee. The following charges are to be made whenever the utility installs a new tap to serve an applicant. A tap fee of one hundred dollars (\$100.00) will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding. A tap fee of seven hundred dollars (\$700.00) will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap system.

(6) Disconnect/Reconnect/Administrative Fees. Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Pleasant Valley Public Service District, a disconnection fee of \$20.00 shall be charged or in the event the delinquent sewer bill is collected by Pleasant Valley Public Service District, an administrative fee of \$20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with Pleasant Valley Public Service District, is reconnected, a reconnection fee of \$20.00 shall be charged.

(C) (7) Returned Check Charge. A service charge ~~equal to the actual bank fee assessed to the sewer utility up to a maximum of \$25.00~~ of \$20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(C) (8) Leak adjustment. ~~\$0.64~~ 0.396 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all consumption above the customer's historical average usage.

~~This Ordinance shall become effective forty five (45) days after enactment or as otherwise provided herein.~~ The rates, charges and penalties provided herein shall become effective July 1, 2014 or as soon thereafter as the same may be approved by the Public Service Commission of West Virginia.

(C)

SECTION 2 – EFFECTIVE DATE

The rates, charges and penalties provided herein shall become effective ~~January 1, 2012,~~ July 1, 2014 or as soon thereafter as the same may be approved by the Public Service Commission of West Virginia.

(C) Indicates Change in Text

SECTION 3 – SEVERABILITY: REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are severable, and if any clause, provision or section hereof shall be held void or unenforceable by the Public Service Commission of West Virginia or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

SECTION 4 – STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance in the *Dominion Post*, a qualified newspaper of general circulation in the City of Morgantown, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before the City Council on Tuesday, April 15, 2014, at 7:00 p.m., which date is not less than five (5) days after the date of the publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, City of Morgantown, Morgantown, West Virginia.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 921.12 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE, AS THE SAME APPLIES TO THE DISCHARGE OF DETRIMENTAL WASTES INTO ANY SEWER.

The City of Morgantown hereby ordains that Section 921.12 of its Streets, Utilities and Public Services Code is amended as follows (new matter underlined, deleted matter struck through):

921.12 DETRIMENTAL WASTES.

- (a) No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage or cooling water to any sewer.
- (b) No person shall discharge or cause to be discharged or infiltrated or conveyed to in any form any of the following described waters or wastes to any public sewer:
 - (1) Any gasoline, benzene, naphtha, fuel oil, motor oil or other flammable or explosive liquid, solid or gas.
 - (2) Any water or waste with a BOD in excess of 300 milligrams per liter, except as provided for herein.
 - (3) Any water or waste containing suspended solids in excess of 300 milligrams per liter, except as provided for herein.
 - (4) Any water containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant effluent.
 - (5) Any water or waste having a pH lower than 6.5 or greater than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the wastewater works or the public sewers.
 - (6) Any solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation in the wastewater facilities such as, but not limited to, gravel, ashes, bones, red dog, sand, mud, coal, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
 - (7) Any liquid or gas having a temperature higher than forty degrees Centigrade.
 - (8) Any heat transfer into the sewer having a deleterious effect on the sewer, private service connections to the sewer, and/or compliant collection and treatment of wastewater flows and or raising the temperature of the normally conveyed waste flow in excess of 40 degrees Centigrade.
- (c) The following described substances, materials, waters or wastes shall be limited in discharges to the sewer system, to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger life, limb, public property or constitute a nuisance. The limitations or restrictions on materials or characteristics of

waste or wastewater discharged to the sewer system which shall not be exceeded by any person without approval of the Manager are as follows:

- (1) Wastewater having a temperature higher than forty degrees Centigrade.
 - (2) Wastewater containing more than twenty-five milligrams per liter of petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin.
 - (3) Wastewater containing floatable oils, fat, or grease in excess of 500 milligrams per liter.
 - (4) Any garbage that has not been properly shredded with no particle greater than one-half inch in any dimension. Garbage grinders may be connected to sanitary sewers only from homes, hotels, institutions, restaurants, hospitals or similar places where garbage originates from the preparation of food in on-site kitchens for the purpose of consumption on the premises.
 - (5) Any water or waste containing iron, chromium, copper, zinc, mercury and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceed the limits established by the Manager for such materials.
 - (6) Any water or waste containing color-producing or odor-producing substances exceeding limits which may be established by the Manager.
 - (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Manager in compliance with applicable State or Federal regulations.
 - (8) Quantities of flow, concentrations or both which constitute a "slug" as defined herein.
 - (9) Water or waste containing substances such as synthetic detergents which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (d) No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Board and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Board for treatment.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

City of Morgantown

Finance Department

389 Spruce Street

Morgantown, WV 26505

Phone (304) 284-7407/Fax 7418

dwhite@cityofmorgantown.org

MEMO

DATE: April 10, 2014
TO: Linda Little, City Clerk
FROM: J.R. Sabatelli, Finance Director 
RE: Agenda Item

Please include on the agenda for April 15, 2014 under New Business:

Consideration of the APPROVAL OF THE RATES OF LEVY LAID BY THE CITY OF MORGANTOWN AND APPROVED BY THE STATE AUDITOR FOR THE FISCAL YEAR BEGINNING JULY 1, 2014 IN ACCORDANCE WITH CHAPTER 11 ARTICLE 8 OF THE WEST VIRGINIA CODE.

Attached are the *Notice of Approval of the Levy Estimate (Budget)* and the *Levy Order and Rate Sheet* to be included in the Council packets.

After approval, please sign the *Levy Order and Rate Sheet* and return to me for submission to the State Auditor's Office.

Thank you.

**MUNICIPALITY OF Morgantown, WEST VIRGINIA
LEVY ORDER AND RATE SHEET
2014 - 2015**

The following is a true copy from the record of orders entered by this entity on the 15th day of
April, 2014

SIGNATURE: _____

Municipal Clerk or Recorder

	Column E		
Current Year	Certificate of Valuation	Levy	Taxes
	Assessed Value for Tax Purposes	Rate/\$100	Levied
Class I			
Personal Property	\$ <u>0</u>	12.50	\$ <u>0</u>
Public Utility	<u>0</u>		<u>0</u>
Total Class I	\$ <u><u>0</u></u>		\$ <u><u>0</u></u>
Class II			
Real Estate	\$ <u>393,427,390</u>	25.00	\$ <u>983,568</u>
Personal Property	<u>1,759,598</u>		<u>4,399</u>
Total Class II	\$ <u><u>395,186,988</u></u>		\$ <u><u>987,967</u></u>
Class IV			
Real Estate	\$ <u>508,057,070</u>	50.00	\$ <u>2,540,285</u>
Personal Property	<u>160,639,677</u>		<u>803,198</u>
Public Utility	<u>58,847,501</u>		<u>294,238</u>
Total Class IV	\$ <u><u>727,544,248</u></u>		\$ <u><u>3,637,721</u></u>
Total Value & Projected Revenue	\$ <u><u>1,122,731,236</u></u>		\$ <u><u>4,625,688</u></u>
Less Delinquencies, Exonerations & Uncollectable Taxes		<u>8.50%</u>	<u>393,183</u>
Less Tax Discounts		<u>1.00%</u>	<u>42,325</u>
Less Allowance for Tax Increment Financing - see worksheet (Subtracted from regular current expense taxes levied only)			<u>328,873</u>
Total Projected Property Tax Collection			<u>3,861,307</u>
Less Assessor Valuation Fund (Subtracted from regular current expense taxes levied only)		<u>2.00%</u>	<u>77,226</u>
Net Amount to be Raised by Levy of Property Taxes For Budget Purposes			<u>\$ 3,784,081</u>



State of West Virginia

Office of the State Auditor
Glen B. Gainer III
State Auditor
www.wvsao.gov

Building 1, Room W-100
Charleston, West Virginia 25305
Telephone: (304) 558-2251
FAX: (304) 558-5200

200 West Main Street
Clarksburg, West Virginia 26301
Telephone: (304) 627-2415
FAX: (304) 627-2417

March 27, 2014

NOTICE OF APPROVAL OF THE LEVY ESTIMATE (BUDGET)

To: Municipality of Morgantown

In accordance with the provisions of Chapter 11, Article 8, of the West Virginia Code, as amended, the State Auditor of West Virginia hereby approves your Levy Estimate (Budget) for the fiscal year beginning July 1, 2014.

With this written approval, the levying body shall meet on the third Tuesday in April (April 15) to hear and consider any objections and to officially adopt the levy rates for property taxation. The clerk/recording officer, within three days of such meeting, shall prepare and forward to the State Auditor the officially adopted levy rates and levy order.

If you have any questions, please do not hesitate to contact me at 304-627-2415 or 1-877-982-9148 extension 5114, Shellie Humphrey extension 5119, Mary Ann Claytor extension 5118, or Karen Drain extension 5101.

Sincerely,
Glen B. Gainer III
WV State Auditor

A handwritten signature in cursive script, appearing to read "Ora L. Ash".

By: Ora L. Ash,
Deputy State Auditor
Local Government Services

RESOLUTION

WHEREAS, University Park at Evansdale, LLC has made a generous offer to the City of Morgantown to gift \$250,000 to it for the future installation of a stoplight at the intersection of University Avenue and Oakland Street, per the recommendations of a traffic study performed by them;

WHEREAS, the attached Gift Agreement contains the terms and conditions applicable to the financial gift, should the City wish to accept it;

WHEREAS, the Gift Agreement clearly sets forth conditions under which the City may return the \$250,000 to University Park at Evansdale, LLC and not be obligated to construct the stoplight at issue;

WHEREAS, City Administration has recommended to City Council that it would be in the best interest of the City for Council to authorize the City Manager to execute the Gift Agreement;

WHEREAS, City Council is of the opinion that execution of the Gift Agreement would be in the best interest of the City; and

NOW, THEREFORE, ON THIS 1st DAY OF APRIL, 2014, BE IT RESOLVED by the City of Morgantown that its City Manager is authorized to execute the Gift Agreement, attached hereto, by and on behalf of the City of Morgantown.

MAYOR

CITY CLERK

GIFT AGREEMENT

This Agreement is made this 4th day of March 2014, by and between **UNIVERSITY PARK AT EVANSDALE, LLC**, a West Virginia limited liability company, having an address of 6 Canyon Road, Morgantown, WV 26508 ("Evansdale"), party of the first part, and **THE CITY OF MORGANTOWN**, a West Virginia municipal corporation, having an address of Attention City Manager, 389 Spruce Street, Morgantown, West Virginia, 26505 ("City"), party of the second part.

W I T N E S S E T H

WHEREAS, Evansdale is the developer of certain real property located in the Seventh Ward of the City of Morgantown, which Evansdale anticipates developing into a mixed use student housing and retail project commonly known as "University Park" (the "Project");

WHEREAS, Evansdale and the City believe that it may be in the best interest of the Project and the community to install certain traffic control device(s), including traffic lights, at the intersection of University Avenue and Oakland Street near the entrance of the Project (the "Traffic Control Area");

WHEREAS, Evansdale has obtained a traffic study report that indicates traffic lights are merited at the Traffic Control Area;

WHEREAS, Evansdale has shared the results of its traffic study report with the City;

WHEREAS, the City, independent of Evansdale's study elected to obtain a traffic study report of the University Avenue corridor between Patteson Drive and Riverview Drive, which includes the Traffic Control Area and has retained an expert to complete such traffic study (the "University Avenue Corridor Study");

WHEREAS, Subject to the terms of this Agreement, Evansdale is willing to gift to the City the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) for the installation of appropriate traffic control device(s) and for additional infrastructure for the betterment of the Project and the community at large (the "Gift");

WHEREAS, the City is willing to accept the gift from Evansdale subject to the terms of this Agreement;

NOW THEREFORE, in consideration of the mutual promises more particularly set forth herein, the parties agree as follows:

1. **The Gift.** Evansdale agrees to make the Gift by May 15, 2014. The Gift shall not exceed \$250,000.00. The City agrees it shall not request more than the Gift for traffic control

devices, or any other matters related to vehicular, bicycle, and pedestrian traffic and infrastructure arising from the Project. The City is not obligated to accept the Gift. If the City accepts the Gift, it will install traffic control devices, including traffic lights in the Traffic Control Area. If the cost of installation of the traffic control devices in the Traffic Control Area is less than \$250,000.00, the City may retain any excess Gift proceeds for purposes of making any infrastructure improvements the City deems appropriate within the University Ave. Corridor Study Area including, but not limited to, the streets connecting University Avenue to the Project.

2. **Traffic Control Study.** At the City's sole cost and expense, the City agrees to conduct the University Avenue Corridor Study, which is anticipated to be completed by April 1, 2014, and the results thereof reported to Evansdale by April 15, 2014.

3. **Results of Study.** (a) If the results of the Study indicate that a traffic control device, including traffic lights and/or other devices, are necessary to appropriately manage the vehicular, bicycle, and pedestrian traffic volume within the Traffic Control Area, and the cost of installation of the device(s) will not exceed the sum of \$250,000.00, the City will accept the Gift, and proceed with installation of the suggested device(s) and infrastructure; (b) If the results of the Study indicate the cost of needed traffic control devices will exceed the Gift, the City may: (i) accept the Gift and determine how to independently fund the additional costs for the necessary traffic control devices with no additional contribution from Evansdale; or (ii) refuse the Gift, and independently address traffic control issues without contribution from Evansdale.

4. **Completion of Work.** If the City proceeds with installation of traffic control device(s) the work shall be completed and the device(s) fully functional on or before July 31, 2015, provided the completion date may be extended by mutual agreement of the parties if the results of the University Avenue Corridor Study require coordination with the West Virginia Department of Transportation with the light at the intersection of Patteson Drive and University Avenue or the coordination with construction of other traffic control devices along University Avenue and such coordination and additional construction cannot be reasonably completed by July 31, 2015. If the parties cannot mutually agree upon an acceptable completion date, Evansdale may terminate this Agreement and the City agrees to return the Gift.

5. **Amendment.** This Agreement may not be modified or amended except in writing with the same degree of formality with which this Agreement has been executed.

6. **Notices.** Any notice provided for and concerning this Agreement shall be in writing and shall be deemed sufficiently given when sent by certified or registered mail and sent to the respective addresses of each party as set forth in the beginning of this Agreement.

7. **Entire Agreement.** This Agreement is the entire agreement between the parties and supersedes any and all other agreements, either oral or written, between the parties with respect to the matters herein. The Parties warrant that, in entering into this Agreement, they have relied on no oral or written statements or representations, except as expressly preserved in this Agreement.

8. **Headings.** Paragraph headings are inserted solely for convenience and shall have no bearing on the interpretation or meaning of this Agreement.

9. **Severability and Construction.** If a court of competent jurisdiction determines that any provision of this Agreement is unenforceable, the remainder of the Agreement shall continue in full force and effect. This Agreement shall be construed in accordance with its fair meaning and not for or against either of the parties.

10. **Counterparts.** This Agreement is executed in two counterparts, each of which shall be deemed an original and together shall constitute one and the same document, with one counterpart being delivered to each party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, as of the day and year first written above.

University Park at Evansdale, LLC,
a West Virginia limited liability company
By: M & J Property Holdings, LLC, Manager
By: M2 Holdings, LLC, Manager

By: _____
Mark J. Nesselroad, Member

Date

The City of Morgantown,
a West Virginia municipal corporation

By: _____
Jeff Mikorski, City Manager

Date