



Office of the City Clerk

The City of Morgantown

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

**AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
APRIL 7, 2015
7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES:** Regular Meeting Minutes for March 17, 2015 will be emailed to council for approval at the April 7th Regular Meeting.
5. **CORRESPONDENCE**
6. **PUBLIC HEARINGS:**
 - A. AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE (1) PARCEL OF REAL ESTATE IN THE FIRST WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-2, SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.
 - B. AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF EIGHTEEN (18) PARCELS OF REAL ESTATE IN THE THIRD WARD OF THE CITY OF MORGANTOWN FROM R-2, SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT TO R-3, MULTI- FAMILY RESIDENTIAL DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

- C. AN ORDINANCE AMENDING SECTION 129.05 OF THE CITY CODE PRESCRIBING RULES FOR PURCHASING, CONTRACTS, AND PUBLIC BIDDING.**
- D. AN ORDINANCE BY THE CITY OF MORGANTOWN AND PURSUANT TO AUTHORITY GRANTED TO IT AS A HOME RULE MUNICIPALITY, CREATING A NEW SECTION 181.22 WITHIN ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO A COURT TECHNOLOGY/MAINTENANCE FEE WHICH IS TO BE ASSESSED AGAINST MUNICIPAL COURT DEFENDANTS.**
- E. AN ORDINANCE BY THE CITY OF MORGANTOWN AND PURSUANT TO AUTHORITY GRANTED TO IT AS A HOME RULE MUNICIPALITY, CREATING A NEW SECTION 1713.04 WITHIN ITS BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO PROPERTY MAINTENANCE REQUIREMENTS AND ITEMS FALLING WITHIN THE DEFINITION OF UPHOLSTERED FURNITURE.**

7. UNFINISHED BUSINESS:

- A. Consideration of APPROVAL of (SECOND READING) of AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE (1) PARCEL OF REAL ESTATE IN THE FIRST WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-2, SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN. (FIRST READING 3-3-15)**
- B. Consideration of APPROVAL of (SECOND READING) of AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF EIGHTEEN (18) PARCELS OF REAL ESTATE IN THE THIRD WARD OF THE CITY OF MORGANTOWN FROM R-2, SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT TO R-3, MULTI- FAMILY RESIDENTIAL DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN. (FIRST READING 3-3-15)**

- C. Consideration of **APPROVAL** of **(SECOND READING)** and **(ADOPTION)** of **AN ORDINANCE AMENDING SECTION 129.05 OF THE CITY CODE PRESCRIBING RULES FOR PURCHASING, CONTRACTS, AND PUBLIC BIDDING. (FIRST READING 3-17-15)**
- D. Consideration of **APPROVAL** of **(SECOND READING)** and **(ADOPTION)** of **AN ORDINANCE BY THE CITY OF MORGANTOWN, AND PURSUANT TO AUTHORITY GRANTED TO IT AS A HOME RULE MUNICIPALITY, CREATING A NEW SECTION 181.22 WITHIN ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO A COURT TECHNOLOGY/MAINTENANCE FEE WHICH IS TO BE ASSESSED AGAINST MUNICIPAL COURT DEFENDANTS. (FIRST READING 3-17-15)**
- E. Consideration of **APPROVAL** of **(SECOND READING)** and **(ADOPTION)** of **AN ORDINANCE BY THE CITY OF MORGANTOWN, AND PURSUANT TO AUTHORITY GRANTED TO IT AS A HOME RULE MUNICIPALITY, CREATING A NEW SECTION 1713.04 WITHIN ITS BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO PROPERTY MAINTENANCE REQUIREMENTS AND ITEMS FALLING WITHIN THE DEFINITION OF UPHOLSTERED FURNITURE. (FIRST READING 3-17-15)**

F. BOARDS AND COMMISSIONS

- 8. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION**
- 9. **SPECIAL COMMITTEE REPORTS**
- 10. **NEW BUSINESS:**
 - A. Consideration of **APPROVAL** of **(FIRST READING)** of **AN ORDINANCE PROVIDING FOR EXECUTION OF A RIGHT-OF-WAY AND EASEMENT AGREEMENT WITH THE MORGANTOWN UTILITY BOARD FOR CONSTRUCTION OF A SANITARY SEWER LINE ON A PORTION OF PROPERTY IDENTIFIED ON UNION DISTRICT TAX MAP 23, PARCEL 44, AND DECLARING THE ATTACHED EASEMENT AS A PART THEREOF.**

- B. Consideration of **APPROVAL** of (FIRST READING) of **AN ORDINANCE PROVIDING FOR EXECUTION OF A RIGHT-OF-WAY AND EASEMENT AGREEMENT WITH THE MORGANTOWN UTILITY BOARD FOR CONSTRUCTION OF A FENCE ON A PORTION OF PROPERTY IDENTIFIED ON UNION DISTRICT TAX MAP 28, PARCEL 134, AND DECLARING THE ATTACHED EASEMENT AS A PART THEREOF.**
- C. Consideration of **APPROVAL** of (FIRST READING) of **AN ORDINANCE AMENDING CITY CODE SECTION 747.02 PRESCRIBING A FIRE SERVICE FEE.**
- D. Consideration of **APPROVAL** of (FIRST READING) of **AN ORDINANCE AMENDING CITY CODE SECTION 735.24 SETTING THE BUSINESS AND OCCUPATION TAX RATE FOR SERVICE BUSINESSES.**

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

NEW BUSINESS:

- 1. Planning Commission Annual Report
- 2. Woodburn School Grants

12. **REPORT FROM CITY CLERK:**

- 1. City election update on April 21st 2015 Casto - Harris will do a live test on Election Equipment during correspondence.

13. **REPORT FROM CITY ATTORNEY**

14. **REPORT FROM COUNCIL MEMBERS**

15. **ADJOURNMENT**

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



Office of the City Manager

The City of Morgantown

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

City Manager's Report for City Council Meeting on April 7, 2015

New Business:

1. **Planning Commission Annual Report**

As prescribed by State Law, the Morgantown Planning Commission is required to provide an annual update to City Council. I recommend City Council accept the attached 2014 Planning Commission Annual Report.

2. **Woodburn School Grants**

The Woodburn School Redevelopment Commission presented a three phased approach to redeveloping the lower portion (playground area) of the property. Before moving ahead by working with the City on grant opportunities, the Commission would like City Council to show support for the proposed project by approving the plan to move forward. The Manager's office will work with the Commission to apply for grants through the City, as property owner, and bring grant agreements forward for Council's action and possible matching fund requirements.

Jeff Mikorski ICMA-CM,
Morgantown City Manager



2014 ANNUAL REPORT

Morgantown Planning Commission

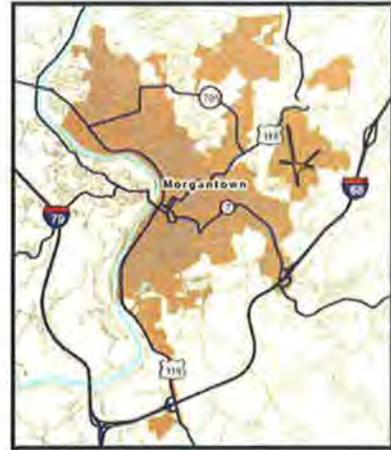
The West Virginia State Code Chapter 8A-2-11 requires Planning Commissions to:

"Make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction."

The Morgantown Planning Commission respectfully submits herewith its 2014 Annual Report. The Planning Commission also extends its sincere appreciation to City Council, City Administration, and the Morgantown community for the cooperative commitment toward the principles of enhancing the quality of life and the design of our city; fostering innovative planning; promoting distinctive neighborhoods and a healthy downtown; supporting sustainable community and economic development; and, involving citizens in the decisions that affect them.

Morgantown Land Use Planning Milestones

- 1944.....City Council adopted first Zoning Ordinance
- 1959.....West Virginia Planning Enabling Act Adopted
- 1961.....City's First Comprehensive Plan Adopted
- 1970.....Comprehensive Plan Updated
- 1979First City Planner Hired
- 1999.....Comprehensive Plan Update Adopted
- 2006.....Planning & Zoning Code Modernized and Codified
- 2010.....Downtown Strategic Plan Update Adopted
- 2013.....Comprehensive Plan Update Adopted



2014 Planning & Zoning Cases

The following table illustrates the caseload for the Planning Commission and Board of Zoning Appeals during the 2012, 2013, and 2014 calendar years.

PC	BZA	Number of Applications			2014 Actions			
		2012	2013	2014	Pending	Approved	Denied	W/drawn
Site Plans (DSI / MDSI)		5	2	4	0	3	1	0
Minor Subdivisions		22	24	11	0	10	0	1
Major Subdivisions		1	0	1	0	1	0	0
Map Amendments		5	4	7	0	3	2	2
Text Amendments		3	4	3	0	3	0	0
Variances		40	70	56	0	46	3	7
Conditional Uses		21	22	13	0	10	1	2
Administrative Appeals		2	1	3	0	1	1	1
TOTAL		99	127	98	0	77	8	13

Citizen Planners

The success of local planning policies, programming, and services depends largely on the commitment and integrity of residents appointed by the Morgantown City Council to serve on various planning-related commissions, boards, and committees. Morgantown is fortunate to enjoy a well-informed public that is willing to serve the role of "Citizen Planner." The following table identifies these volunteers and their respective terms as of December 31, 2014.

Citizen Planner	Date of Original Appointment	Current Term	Tenure (in months)
Planning Commission			
Peter DeMasters, President 6 th Ward Representative	03/21/06	01/01/14 – 12/31/16	106.5
Carol Pyles, Vice-President 7 th Ward Representative	09/17/08	01/01/13 – 12/31/15	77.5
Sam Loretta 1 st Ward Representative	06/20/06	01/01/12 – 12/31/14	103.5
Tim Stranko 2 nd Ward Representative	03/21/07	01/01/12 – 12/31/14	94.5
William Blosser 3 rd Ward Representative	11/05/2013	01/01/14 – 12/31/16	15
William Petros 4 th Ward Representative	01/19/10	01/01/13 – 12/31/15	60.5
Michael Shuman 5 th Ward Representative	08/04/09	01/01/13 – 12/31/15	66
William Kaweckí City Councilor	07/02/13	City Council term ending 06/30/15	19
Dr. Ken Martis Administration Representative	05/01/01	at will of City Manager	165.5
<i>PC Tenure Summary:</i>	Total: 708 mos. or 59 yrs. Average: 78.5 mos. or 6.5 yrs.		
Board of Zoning Appeals			
Bernie Bossio, Chair	01/04/05	01/01/12 – 12/31/14	121.5
Leanne Cardoso, Vice-Chair	08/21/07	01/01/13 – 12/31/15	89.5
George Papandreas	02/06/08	01/01/12 – 12/31/14	84
William Burton	12/17/2013	01/01/14 – 12/31/16	14
James Shaffer	02/07/06	01/01/13 – 12/31/15	84
<i>BZA Tenure Summary:</i>	Total: 393 mos. or 32.75 yrs. Average: 78.6 mos. or 6.5 yrs.		

The tenure trends illustrated in the table above for the Morgantown's Planning Commission and Board of Zoning Appeals demonstrates a high level of stability, understanding, commitment, capacity, and leadership among these volunteer committees that Morgantown is very fortunate to enjoy.

The following table identifies attendance trends for the 2012, 2013, and 2014 calendar years. Please note that seven (7) Planning Commission hearings were canceled during this period due to the lack of business matters.

Citizen Planner	2012		2013		2014		Three-Year Attendance Rate
	Absent	Present	Absent	Present	Absent	Present	
Planning Commission							
Peter DeMasters 6 th Ward Representative	0	10	2	8	2	7	86%
Carol Pyles 7 th Ward Representative	3	7	2	8	0	9	83%
Sam Loretta 1 st Ward Representative	2	8	2	8	2	7	80%
Tim Stranko 2 nd Ward Representative	3	7	2	8	2	7	73%
William Blosser 3 rd Ward Representative	N/A	N/A	N/A	N/A	1	8	87.5%
William Petros 4 th Ward Representative	4	6	0	10	1	8	83%
Michael Shuman 5 th Ward Representative	2	8	3	7	1	8	80%
William Kaweck City Councilor	N/A	N/A	1	4	1	8	86%
Dr. Ken Martis Administration Representative	3	7	1	9	2	7	83%
Board of Zoning Appeals							
Bernie Bossio	2	10	2	10	2	10	85%
Leanne Cardoso	1	11	2	10	1	11	89%
George Papandreas	2	10	1	11	1	11	89%
James Shaffer	4	8	2	10	3	9	75%
Bill Burton	N/A	N/A	N/A	N/A	2	10	83%

2014 Building Permits and Construction Value

During the 2014 calendar year, the City issued 1,331 building permits. The total construction/improvement value in dollars for which building permits were issued was \$22,360,704.14. The total amount of building permit related fees paid to the City was \$136,206.64.

Planned Unit Developments (PUDs)

As of January 1, 2015, there have been six (6) Planned Unit Development (PUD) Outline Plans recommended by the Planning Commission and approved by City Council. The following narrative provides a brief update on the history and status for each PUD.

- **Square at Falling Run** – PUD Outline Plan was approved in 2003. Phase I to construct “The Augusta” was completed and tenants occupied the buildings in September 2007. The Planning Division reports that the developer has since filed bankruptcy and most if not all of the related realty has been acquired by West Virginia University. The 2013 Comprehensive Plan Update recommends that a new zoning district be development to include most if not all of the University’s realty, which is programmed for 2015.
- **SC Bodner** – PUD Outline Plan was approved in 2006 and an amendment approved in 2008. The construction of “Mountaineer Place Apartments” has been completed and occupancy permits issued Fall 2010. The only remaining element is a gateway enhancement project within the Stewart Street and University Avenue right-of-way, which will satisfy the PUD’s open space requirement. The Planning Division reports that Construction Business and Occupation Tax revenues generated by the development were earmarked by the Office of City Manager for this project along with a financial commitment made by “Sunnyside Up”. Project design and construction should be completed in 2015.
- **Grand Central Apartments** – PUD Outline Plan was approved in 2007 and an amendment approved in December 2008. The amendment approval included, among others, a condition that the PUD Development Plan be reviewed and approved by the Planning Commission within 18 months following City Council approval of the Outline Plan. The PUD Development Plan was not submitted and City Council, with the recommendation of the Planning Commission, consequentially enacted Ordinance 10-34 in September 2010 rescinding the PUD designation and reclassifying the subject realty to its previous zoning. It should be noted that the subject site and surrounding area is identified in the 2013 Comprehensive Plan Update Appendix A as a future study area.
- **Westminster House** – PUD Outline Plan was approved in December 2008 and amendments approved November 2009, February 2011, October 2011, and December 2011 extending the deadline to submit the PUD Development Plan. City Council, with the recommendation of the Planning Commission and consent of the developer, enacted Ordinance 12-48 in November 2012 rescinding the PUD designation and reclassifying the subject realty to its previous zoning. The zoning for the subject site was again reclassified to B-4, General Business District by Ordinance 13-47 in September 2013. Construction is currently underway of a six-story, 120 multi-family dwelling unit (234 occupants) development with delivery project for Fall 2015.
- **Habitat for Humanity** – PUD Outline Plan was approved in July 2009 and an amendment was approved February 2011 to extend the deadline to submit the PUD Development Plan. City Council, with the recommendation of the Planning Commission and consent of the developer, enacted Ordinance 12-03 in January 2012 rescinding the PUD designation and reclassifying the subject realty to its previous zoning. Habitat for Humanity is currently constructing single-family structures on the subject site.
- **Beech View Place** – PUD Outline Plan was approved in March 2010. Construction has been completed with full residential occupancy and the majority of the retail spaces occupied.

2015 Priorities & Planned Activities

- **Comprehensive Plan Implementation** – City Staff is developing a web-based portal to publish plan implementation progress on the internet for the over 200 implementation strategies identified in the plan. This web-based interface will be launched in first or second calendar quarter of 2015. Additionally, City Council allocated \$70,000.00 in the 2015 Fiscal Year Capital Escrow to outsource tasks relating to prioritized strategy implementation.
- **2010 Downtown Strategic Plan Implementation** – City Council allocated \$50,000.00 in the 2015 Fiscal Year Capital Escrow for Downtown Plan implementation. The City Manager's Office has directed \$10,000 for City initiated and \$40,000 for Main Street Morgantown initiated implementation task completion. The Planning Division, with the assistance of outsourced consulting services, will prepare design criteria that will be formally incorporated into the Planning and Zoning Code in order to promote better quality development in the downtown. The design criteria, through the combination of text and graphics, focus on factors such as building form, height, density, scale, materials, relationships to the street and sidewalks, and others. Project initiation is planned for the first calendar quarter of 2015 with completion in 9 to 12 months.
- **Citizen Planner Training** – Strategy I 2.4 of the Comprehensive Plan provides for the development of a formal training program for members of the Planning Commission and BZA focusing on land use law, meeting procedures, organization dynamics and how to use the Plan. Training opportunities have been conducted in the past by Staff and through WVU's College of Law Land Use and Sustainable Development Law Clinic. The Planning Division will develop more formalized and reoccurring programming for citizen planner training beginning 2015.
- **Modernization of Planning and Zoning Code Fee Schedule** – Fees associated with Planning and Zoning Code related applications and petitions have remained the same for a number of years. During the period of 01 JUL 2011 to 30 JUN 2014, Planning and Zoning Code related fees covered on 4.6% of service delivery costs. Staff will be working to develop fee schedule revisions in 2015 that better reflect the extent of services that are not currently recovered by existing fees.
- **Modernization of Subdivision Regulations** – The Planning Commission and City Council completed the lengthy task of modernizing and codifying the City's zoning regulations in 2006. The fundamental purpose of this endeavor was to implement progressive land use policies and strategies as well as comply with the State Legislature's similar effort in 2004 to modernize the State's Planning Enabling Law. Changes in State Code have created opportunities to streamline the review and approval of subdivision petitions. Incorporating these opportunities in Morgantown's Planning and Zoning Code requires a major amendment to the City's subdivision regulations. This project remains a priority and requires General Fund support to outsource the project. The Planning Division will continue to request project funding.
- **Sign Regulations** – Sign regulation management and enforcement remains a significant challenge given the scale and scope of related variances approved since 2006 and Planning Division staffing levels. Funding is necessary to outsource a comprehensive revision to the existing sign regulations thereby reducing the number of variances sought and incorporating greater sign design and development flexibility. The Planning Division will continue to request project funding.
- **Staffing Levels** – The City Manager's Office recently directed all City Departments to internally prepare a preliminary task to man hour analysis of essential services to measure how many full-time employees are required to perform completed tasks. The Planning Division's report identified a full-time equivalent (FTE) of 2.7 for essential services that are currently completed and 7.5 for essential and mission-related services. Current staffing levels remain at 2.0. The Planning Division will continue to request resources to balance staffing levels and service delivery obligations.

BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

FIRE CIVIL SERVICE:

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

METROPOLITAN THEATRE COMMISSION:

Connie Merandi has resigned. There is also a County Commission Vacancy and am waiting on a response from the County. Will advertise for candidates to replace vacancy. 7 members to be City residents, 1 member from Council, 1 member from County Commission.

MORGANTOWN HOUSING ADVISORY COMMISSION:

Chelsi Baker has done a press release for members. Council will be notified when the Clerk gets applications and will keep Council updated. Attached is press release.

URBAN LANDSCAPE:

Cindy Fike the 6th ward member is resigning. Nicole Panaccione, Fourth Ward resigned on 7/1/2014. Councilor Selin is looking for a replacement for that position on that commission. Nominated by CM, one from each WD, 13 members with staggered terms and 1 Councilor. City Manager and Clerk will be meeting to discuss appointments.

TREE BOARD:

Kara Hurst also resigned from the Tree Board. City Clerk advertised for new members. Residents appt. not ward specific; one member must have knowledge of tree management and care.

*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.*

4/1/15

Press Release
Volunteers Needed for Housing Advisory Commission

The Housing Advisory Commission has opening for two volunteers in their membership. The first opening must be filled by a licensed real estate representative, the second, for one at large member who shall be a resident of the city of Morgantown.

All members of the commission except for WVU student government representatives serve a 3 year term; all members serve without compensation.

The function of the Housing Advisory Commission is to:

1. Serve as the medium for citizen advice and comment on housing issues.
2. Provide advocacy for establishing and maintaining diversity in housing types and opportunities.
3. Encourage and strengthen collaborative planning and communications between public and private housing sectors.
4. Review, consider, and make recommendations to the City Manager and City Council on all aspects that affect public and private housing.
5. Research and discuss housing trends and ideas and make recommendations to the City Manager and City Council regarding housing policy and ordinances.
6. Sponsor educational programs on owner and non-owner occupied housing.

If you are interested in serving please contact city clerk Ms. Linda Little Tucker at llittle@cityofmorgantown.org or apply on our website at...www.morgantownwv.gov. Or call the clerk at 304-284-7434. Thank you Volunteers☺

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF EIGHTEEN (18) PARCELS OF REAL ESTATE IN THE THIRD WARD OF THE CITY OF MORGANTOWN FROM R-2, SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT TO R-3, MULTI-FAIMLY RESIDENTIAL DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

Property included in this consideration is identified in the Monongalia County Assessor's records as Parcels 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, and 246 of County Tax Map 20; Morgantown Corporation District.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

- 1. That the zoning classification for Parcels 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, and 246 of County Tax Map 20 of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein is reclassified from R-2, Single- and Two-Family Residential District to R-3, Multi-Family Residential District.
- 2. That the Official Zoning Map be accordingly changed to show said zoning reclassification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

Mayor

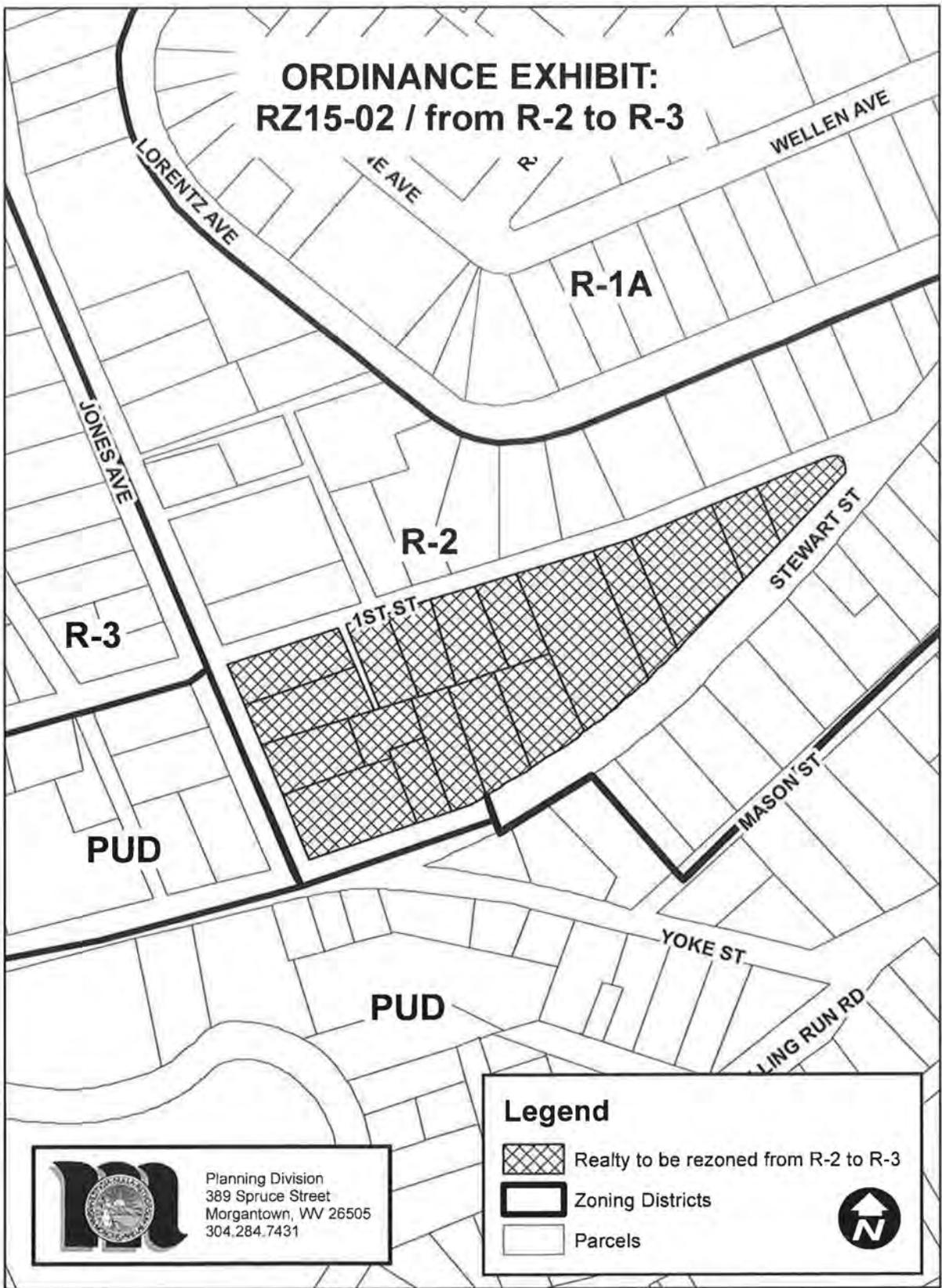
ADOPTED:

FILED:

RECORDED:

City Clerk

**ORDINANCE EXHIBIT:
RZ15-02 / from R-2 to R-3**



 Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431

Legend

-  Realty to be rezoned from R-2 to R-3
-  Zoning Districts
-  Parcels



ORDINANCE NO. _____

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

Property included in this consideration is identified in the Monongalia County Assessor's records as Parcel 48A of County Tax Map 15; Morgantown Corporation District.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning classification for Parcel 15 of County Tax Map 48A of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein is reclassified from B-1, Neighborhood Business District to B-2, Service Business District.
2. That the (B) Buffer District Classification established by Ordinance 98-01 adopted by the City of Morgantown on January 6, 1998, as described therein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein, shall remain in effect twenty-five (25) feet in depth with access prohibited to the abutting street, the intent of this zoning classification is to establish the area as a landscape buffer to the adjacent elementary school.
3. That the Official Zoning Map be accordingly changed to show said zoning reclassification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

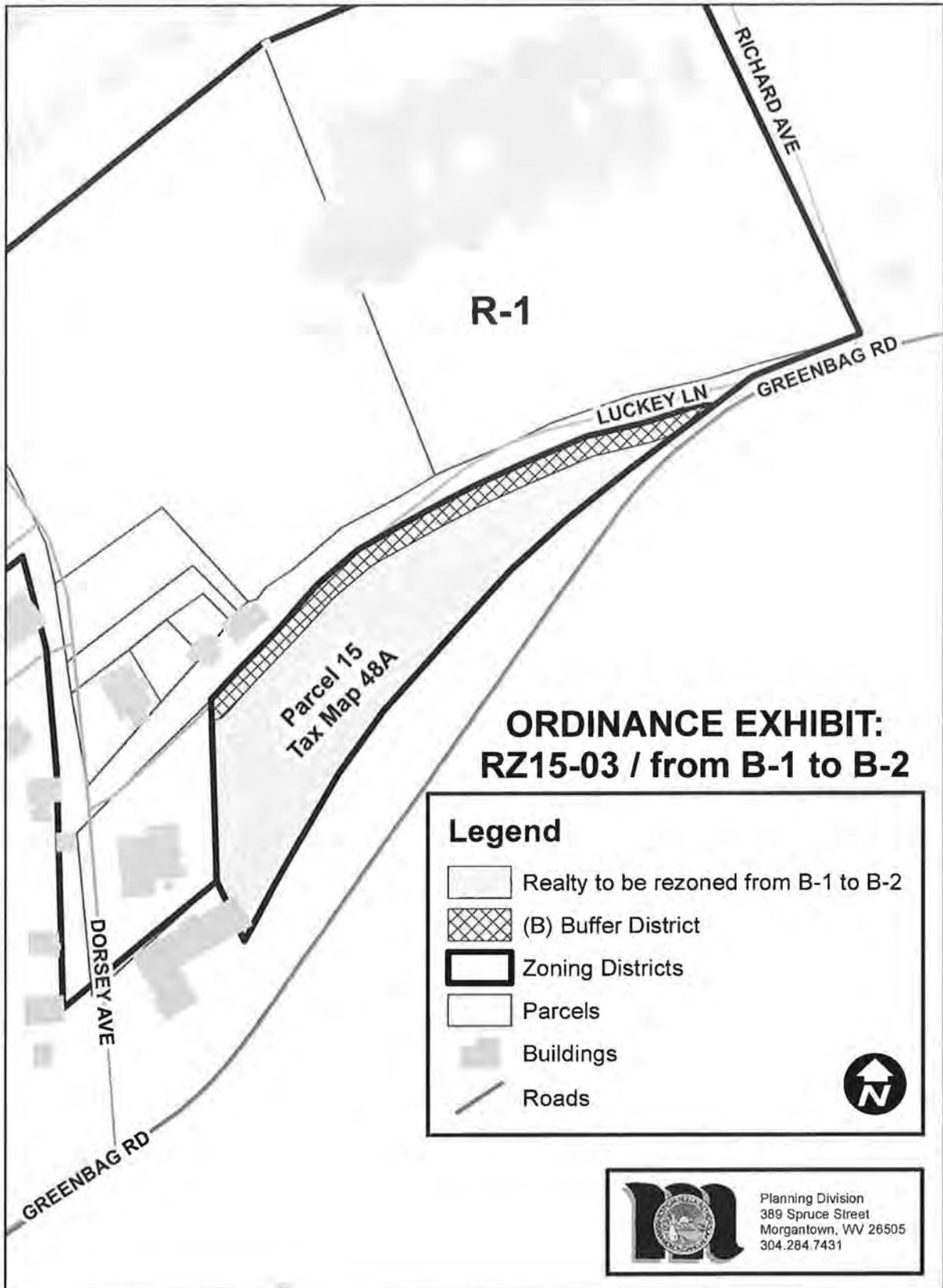
Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk



**AN ORDINANCE AMENDING SECTION 129.05 OF THE CITY CODE PRESCRIBING
RULES FOR PURCHASING, CONTRACTS, AND PUBLIC BIDDING**

WHEREAS, the City is permitted to provide for centralized purchasing pursuant to *W. Va. Code* § 8-12-10; and

WHEREAS, the City expects to conserve funds and more efficiently purchase necessary supplies by providing for centralized purchasing.

NOW, THEREFORE, the City of Morgantown hereby ordains that Section 129.05 of the City Code is amended as follows:

129.05 PURCHASES AND CONTRACTS; PUBLIC BIDDING.

(a) Any purchases, capital improvements or repairs costing more than twenty-five thousand dollars (\$25,000) or any series of purchases, capital improvements or repairs constituting essentially a single project and costing in the aggregate more than twenty-five thousand dollars (\$25,000), shall be executed by a contract authorized by Council except where such improvement is authorized by Council to be ~~executed-obtained~~ directly by the City Manager in conformity with detailed plans, specifications and estimates.

(b) All such contracts shall be awarded to the lowest responsible bidder after such public notice and competition as Council may prescribe and after a public opening of bids; provided, however, that the City Manager shall have the power to reject all bids and advertise again.

(c) Alterations in any contract may be made when authorized by Council upon the ~~written~~ recommendation of the City Manager; provided, however, that Council shall not except individual contracts, purchases or sales from the requirement of competitive bidding.

(d) ~~No City employee who is subject to the direction and supervision of the City Manager may discuss specifications or purchases with a vendor, without prior approval of the Director, and in no case may any discussions be held with vendors without the presence of an authorized Finance and Support Services Department employee.~~ All purchases and purchasing procedures must meet the standards set by the Council, upon recommendation of the City Manager ~~and~~ or the Director of Finance and Support Services. All departmental purchase requests will be forwarded to the Finance and Support Services Department which will have the responsibility for combining and consolidating purchases under sealed bids.

(e) Any materials, supplies, or equipment – including motor vehicles – may be purchased pursuant to an agreement with the Director of the West Virginia Department of Finance and Administration, Division of Purchases or pursuant to an agreement with one or more other municipalities, counties or county boards of education, or any combination thereof, for centralized purchasing for all governmental units which are parties to such agreement. Purchases made under any of these agreements are not subject to the City’s competitive bidding requirements provided in this section, but such purchases shall be approved by council.

This ordinance shall be effective upon the date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

AN ORDINANCE BY THE CITY OF MORGANTOWN, AND PURSUANT TO AUTHORITY GRANTED TO IT AS A HOME RULE MUNICIPALITY, CREATING A NEW SECTION 181.22 WITHIN ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO A COURT TECHNOLOGY/MAINTENANCE FEE WHICH IS TO BE ASSESSED AGAINST MUNICIPAL COURT DEFENDANTS.

The City of Morgantown hereby ordains, pursuant to authority granted to it as a Home Rule Municipality, that a new Section 181.22 is created within its Administrative Code which reads as follows (new matter underlined, deleted matter struck through):

181.22 MUNICIPAL COURT TECHNOLOGY/MAINTENANCE FEE.

The Court shall assess a mandatory five dollar (\$5.00) fee upon each and every defendant found guilty or pleading nolo contendere regarding a misdemeanor violation, including traffic violations and moving violations, but excluding municipal parking ordinance violations. The municipality shall use the money raised by this fee to not only fund the current technological costs of its Municipal Court, but also, to update the Municipal Court's technology as needed.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

AN ORDINANCE BY THE CITY OF MORGANTOWN, AND PURSUANT TO AUTHORITY GRANTED TO IT AS A HOME RULE MUNICIPALITY, CREATING A NEW SECTION 1713.04 WITHIN ITS BUILDING AND HOUSING CODE, AS THE SAME APPLIES TO PROPERTY MAINTENANCE REQUIREMENTS AND ITEMS FALLING WITHIN THE DEFINITION OF UPHOLSTERED FURNITURE.

The City of Morgantown hereby ordains, pursuant to authority granted to it as a Home Rule Municipality, that a new Section 1713.04 of its Building and Housing Code is created which reads as follows (new matter underlined, deleted matter struck through):

1713.04 UPHOLSTERED FURNITURE

(A) The International Property Maintenance Code, State Building Code, which has been adopted by this municipality is hereby amended by adding Section 202.1, which reads as follows:

202.1 Additional Definitions. For the purposes of this Article, the following terms shall be defined as follows:

(a) ENCLOSED PORCH. A structure, adjoining an entrance to a building, that is fully enclosed by permanent walls, windows, screens, or other similar material, and that cannot be accessed from the outside except through a door that is capable of being locked.

(b) EXTERIOR. The exterior of any structure that is exposed to the weather or subject to and in contact with the elements, including, but not limited to sidings, facings, veneers, masonry, roofs, foundations, porches, decks, balconies, screens, shutters, windows, doors, or signs.

(c) OUTDOOR FURNITURE. Weather-resistant furniture designed and manufactured for outdoor use.

(d) PORCH. A structure, adjoining an entrance to a building, that is not fully enclosed by permanent walls, windows, screens, or other similar material.

(B) The International Property Maintenance Code, State Building Code, which has been adopted by this municipality is hereby amended by adding Sections 302.11 and 302.12, which read as follows:

302.11 Furniture. It shall be unlawful for any person to allow on any yard, or other exterior area of any premises, furniture, other than Outdoor Furniture, as that term is defined in this Article.

302.12 Upholstered Furniture. It shall be unlawful for any person to allow on any yard, unenclosed porch, deck, balcony, or other exterior area of any premises, upholstered furniture, including but not limited to upholstered chairs, upholstered couches, mattresses, or other similar items. This section does not apply to Outdoor Furniture or to Enclosed Porches, as those are defined in this Article.

(C) If any section, clause, sentence, or phrase of this Section 1713.04 found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of Section 1713.04.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

MEMORANDUM

TO: City Council
Jeff Mikorski, City Manager

FROM: Timothy L. Ball, General Manager, MUB

DATE: April 2, 2015

SUBJECT: **TWO ORDINANCES
COUNCIL MEETING INFORMATION
April 7, 2015**

This will serve as a read ahead to help you prepare for the meeting. If you have any questions please feel free to contact me.

The attached two ordinances address separate matters. Each is described below.

I will attend the Council meeting, and will be happy to provide any further explanation that you may desire.

Ordinance – Granting a Right of Way and Easement – Tibbs Run - We request that a right of way and easement (RW) be provided through the Tibbs Run property at Tyrone Rd, which serves as the site of the WV Botanic Garden. The purpose of the RW is to accommodate construction of a sanitary sewer force main, allowing MUB to extend sewer service to the Sunshine Estates area.

We have coordinated and vetted the details of the proposed route directly with the Executive Director of the WVBG.

Ordinance – Granting a Right of Way and Easement – Rail Trail at WTP - We request that a right of way and easement (RW) be provided along the rail trail at the Water Treatment Plant near Don Knotts Blvd. The purpose of the RW is to accommodate construction of a fence, allowing MUB to better secure its WTP site and finished water storage there. The WV DHHR has required that these security improvements be provided.

We have, through the City Manager, coordinated and vetted the details of the proposed fencing and route with the Executive Director of the Mon River Trails Conservancy (MRTC).

AN ORDINANCE PROVIDING FOR EXECUTION OF A RIGHT-OF-WAY AND EASEMENT AGREEMENT WITH THE MORGANTOWN UTILITY BOARD FOR CONSTRUCTION OF A SANITARY SEWER LINE ON A PORTION OF PROPERTY IDENTIFIED ON UNION DISTRICT TAX MAP 23, PARCEL 44, AND DECLARING THE ATTACHED EASEMENT AS A PART THEREOF.

The City of Morgantown Hereby Ordains:

That the City Manager is hereby authorized to execute, on behalf of the City of Morgantown, the Right-of-Way and Easement Agreement attached to, and made a part of, this ordinance.

This Ordinance shall be effective from the date of its adoption.

First Reading:

Adopted:

Mayor

Filed:

Recorded:

City Clerk

RIGHT-OF-WAY AND EASEMENT AGREEMENT

THIS RIGHT-OF-WAY AND EASEMENT AGREEMENT, made and executed this _____ day of _____, 2015, by and between the City of Morgantown, West Virginia, a political subdivision of the State of West Virginia, party of the first part, Grantor, and the City of Morgantown, West Virginia, a political subdivision of the State of West Virginia, acting by and through the Morgantown Utility Board, a municipal corporation and a political subdivision of the State of West Virginia hereinafter sometimes referred to as the "Board," party of the second part, Grantee,

WITNESSETH: That for and in consideration of the sum of \$1.00 and other good and valuable consideration, the receipt of all of which is hereby acknowledged, the said party of the first part, Grantor, does hereby grant and convey, with covenants of General Warranty, unto the said party of the second part, Grantee, and to its successors or assigns, a right-of-way and easement to construct, lay, operate, maintain, remove, reconstruct, replace, or repair pipelines for the carrying and transporting of sanitary sewage in, on, under, over, and through a certain tract and parcel of land situate in Union Taxing District, Tax Map 23, Parcel 44, Monongalia County, West Virginia, and which said tract and parcel of land is further described in a deed recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book No. 454 at Page 410, to which said deed reference is hereby made for all pertinent purposes.

The location of said right-of-way and easement proposed upon said property is as follows:

±1,905-foot sanitary sewer line easement; all as depicted and further described in Exhibit "A," attached and incorporated herein.

It is covenanted and agreed between the parties hereto that the Board shall have a centerline right-of-way and easement on said property 20 feet in width, as constructed, and an easement(s) approximately perpendicular to the installed main line in order to emplace necessary service line(s) between the main and the served parcel, in order to facilitate sewer service. It is further covenanted and agreed that the Board shall properly backfill and restore to ground level, insofar as is practicable, any ditch opened on said right-of-way and easement upon the completion of any construction work performed thereon.

The said Grantor further grants and conveys unto said Grantee, its successors or assigns, the right of ingress, egress, and regress, to and from said right-of-way and easement for all proper

purposes and at all reasonable times and a temporary construction right-of-way and easement of such width as is reasonable and necessary to carry out the construction, repair, or replacement of all or part of the above-described sewer lines. The said Grantor does also grant and convey unto the said Grantee, its successors or assigns, the right to use said right-of-way and easement herein granted, along the course of the proposed sanitary sewer line, for the further purpose of transporting pipe, fittings, machinery, and equipment to and from neighboring lands, in and about the construction, operation, maintenance, removal, and replacement of the sanitary sewer pipeline or lines proposed to be laid on said right-of-way and easement.

The said Grantor, its successors or assigns, shall use and enjoy the premises of said right-of-way and easement, except for the purposes hereinabove granted to the said Grantee, its successors or assigns, except that the said Grantor covenants and agrees not to erect any structure or place any object upon the right-of-way and easement hereby conveyed which would in any way interfere with the use and occupancy of said right-of-way and easement by the said Grantee, its successors or assigns, for the purposes hereinabove stated. Grantor further covenants and agrees not to change the contour or grade of the surface of the land upon which the above-described right-of-way and easement is located without first obtaining written permission to do so from Grantee, its successors or assigns.

The Grantor does grant and convey said right-of-way and easement to the Grantee, its successors or assigns, upon the following terms and conditions: **NONE.**

This Agreement shall be binding upon the parties hereto, their successors or assigns.

DECLARATION OF CONSIDERATION OR VALUE

The undersigned hereby declare:

That the conveyance made in the document to which this declaration is appended is exempt from taxation under the provisions of Chapter 11, Article 22, of the Code of West Virginia, for the reason that it is a conveyance made to a political subdivision of the State of West Virginia. *(Without Consideration).*

IN WITNESS WHEREOF, the said the City of Morgantown, West Virginia, a political subdivision of the State of West Virginia, has caused by ordinance its name to be hereunto subscribed by its City Manager, by authority duly given, and the said Morgantown Utility Board, a municipal corporation, has caused its name to be hereunto subscribed by Timothy L. Ball, P.E., General Manager, by authority duly given.

WITNESS the following signatures:

MORGANTOWN UTILITY BOARD

By: _____
Timothy L. Ball, P.E.
General Manager

CITY OF MORGANTOWN

By: _____
Jeff Mikorski
City Manager

ATTEST:

City Clerk
City of Morgantown

[SEAL]

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Jeff Mikorski, City Manager, who is duly authorized to act for and on behalf of said City of Morgantown.

My commission expires: _____.

Notary Public in and for the
State of West Virginia

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, to-wit:

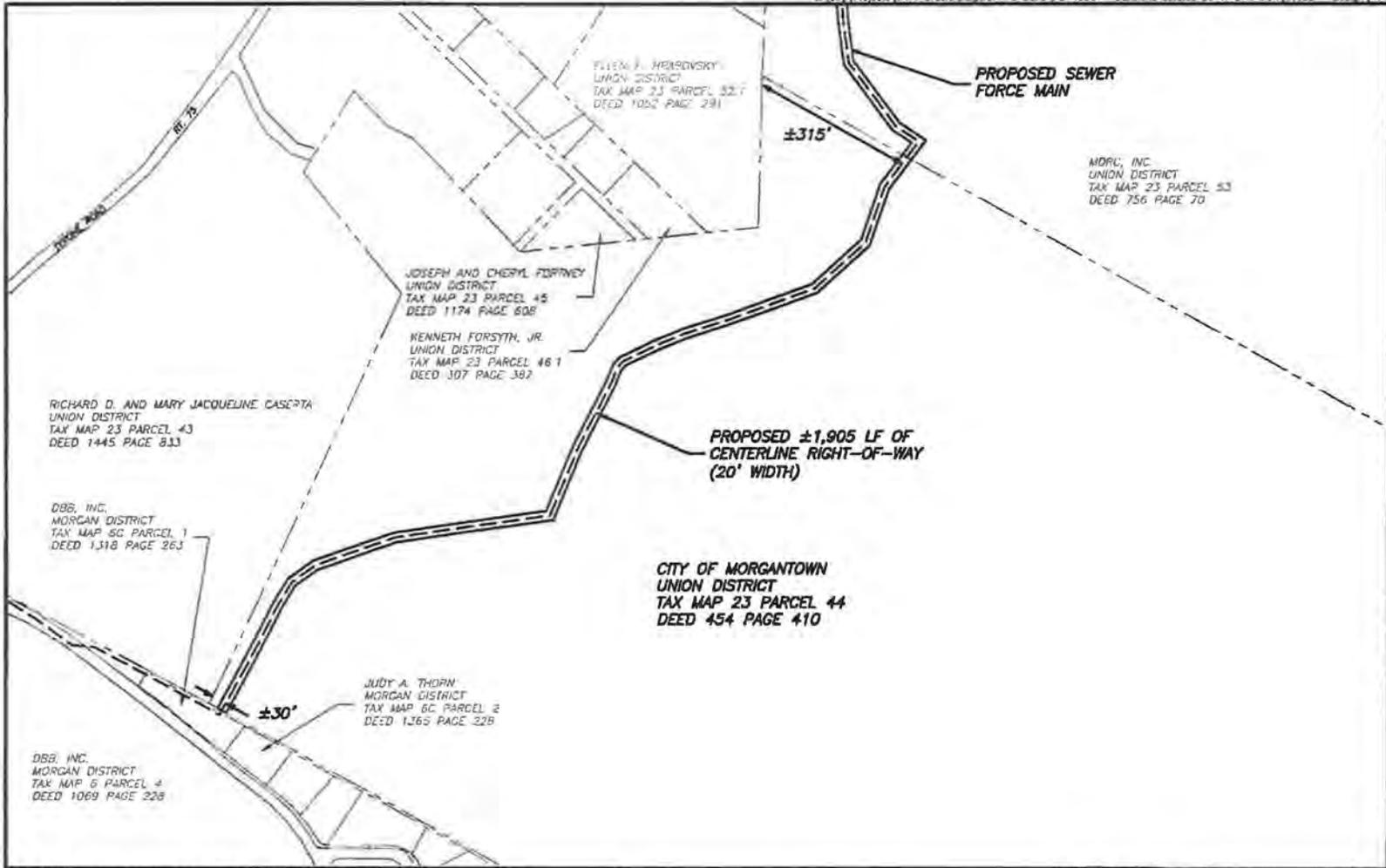
The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Timothy L. Ball, P.E., General Manager of the Morgantown Utility Board, acting for and on behalf of the City of Morgantown, a municipal corporation.

My commission expires: _____.

Notary Public in and for the
State of West Virginia

This instrument prepared by:

Morgantown Utility Board
278 Greenbag Road
P.O. Box 852
Morgantown, WV 26507-0852



I certify that I am engaged in surveying exclusively for the Morgantown Utility Board, a political subdivision of the State of West Virginia, and believe I am exempt from regulations and licensing under West Virginia Code 30-13A-38.

James W. Fetty Jr.
 JAMES W FETTY JR

This Exhibit is not intended to be a property survey. It is intended to be used for information purposes only.

DRAWN BY: JAMES W FETTY JR	DATE: 10/09/14	REVISION:	DATE:
DESIGN BY:	DATE:	EXHIBIT "A"	MORGANTOWN • UTILITY • BOARD <small>276 Chestnut Road • P.O. Office Box 802 • Morgantown, WV 26507-0802 • 304-282-3443</small>
CHECKED BY:	DATE:		
APPROVED BY:	DATE:		
SCALE: 1" = 250'			

MORGANTOWN • UTILITY • BOARD

MUB

DRAWING TITLE:
PROPOSED C/L RIGHT-OF-WAY FROM CITY OF MORGANTOWN TO THE MORGANTOWN UTILITY BOARD

PROJECT NUMBER	DRAWING NUMBER
AS-1056	---
SHT. <u>1</u> OF <u>1</u>	

PMB #121, 714 Venture Drive, Morgantown, WV 26508-7306

COME GROW WITH US!

March 12, 2015

Douglas R. Smith, P.E.
Morgantown Utility Board
278 Greenbag Road
Morgantown, WV 26507-0852



RE: Sunshine Estates Sanitary Sewer Improvements Project
West Virginia Botanic Garden/Tibbs Run Easement

Dear Mr. Smith:

I write to certify that WVBG has no objection to the proposed sewer line easement described as Exhibit "A", attached. We understand that this easement is desirable and necessary to protect the water environment from damage caused by a nearby subdivision that is currently underserved by an obsolete package treatment plant.

I have inspected the easement route on site with your project engineer, Jim Fetty. We have agreed on the specific route of the easement that is depicted on the attached map, as well as both construction practices and recovery of the disturbed ground that he has supplied.

I am available at your convenience to discuss this matter, and I understand that this statement may be included in Council deliberations regarding the proposed easement.

Sincerely,

A handwritten signature in cursive script that reads "George W. Longenecker".

George W. Longenecker
Executive Director



March 17, 2015

Mr. George Longenecker
West Virginia Botanic Garden
714 Venture Drive, PMB #121
Morgantown, WV 26508-7306

**Re: Sunshine Estates Sanitary Sewer Improvement Project
West Virginia Botanic Garden/Tibbs Run Easement**

Dear George:

Thank you for your recent letters expressing your agreement with MUB's plans for a sanitary sewer line (and accompanying right of way and easement) through the WVBG at Tibbs Run.

This letter will confirm that MUB and WVBG have agreed that, as consideration for the disturbance and related inconvenience expected to be caused by the proposed construction, MUB will pay to WVBG:

- \$700 to offset the cost of a sewer tap upon the proposed line, and
- \$1,000 to offset initial sewer use charges.

The above payments may be used in any manner chosen by the WVBG; the descriptions included are provided merely to correlate to the original requests expressed by WVBG. WVGB will remain subject to all utility fees and charges of MUB, pursuant to applicable rate ordinances.

Please note, as has been discussed between you and our engineering staff that the subject proposed sewer line will be a pressurized force main, as will be the tap to be provided thereon. For the WVBG to be served by said force main and tap will require that the WVBG provide, install, operate and maintain its own private sewage pumping station and pressurized force main / service line. The private sewage pumping station must include one (or more) check valves to prevent reverse flow from the public force main into the private pumping station, and one (or more) isolation valves to allow maintenance of the check valve(s) while still preventing reverse flow into the pumping station.

Thank you for your cooperation.

Respectfully,

MORGANTOWN UTILITY BOARD

Timothy L. Ball, P.E.
General Manager

AN ORDINANCE PROVIDING FOR EXECUTION OF A RIGHT-OF-WAY AND EASEMENT AGREEMENT WITH THE MORGANTOWN UTILITY BOARD FOR CONSTRUCTION OF A FENCE ON A PORTION OF PROPERTY IDENTIFIED ON UNION DISTRICT TAX MAP 28, PARCEL 134, AND DECLARING THE ATTACHED EASEMENT AS A PART THEREOF.

The City of Morgantown Hereby Ordains:

That the City Manager is hereby authorized to execute, on behalf of the City of Morgantown, the Right-of-Way and Easement Agreement attached to, and made a part of, this ordinance.

This Ordinance shall be effective from the date of its adoption.

First Reading:

Adopted:

Filed:

Recorded:

Mayor

City Clerk

RIGHT-OF-WAY AND EASEMENT AGREEMENT

THIS RIGHT-OF-WAY AND EASEMENT AGREEMENT, made and executed this _____ day of _____, 2015, by and between the City of Morgantown, party of the first part, Grantor, and the City of Morgantown, West Virginia, a municipal corporation, acting by and through the Morgantown Utility Board, hereinafter sometimes referred to as the "Board," party of the second part, Grantee,

WITNESSETH: That for and in consideration of the sum of \$1.00 and other good and valuable consideration, the receipt of all of which is hereby acknowledged, the said party of the first part, Grantor, does hereby grant and convey, with covenants of General Warranty, unto the said party of the second part, Grantee, and to its successors or assigns, a right-of-way and easement to construct, maintain, remove, reconstruct, replace, or repair fencing in, on, under, over, and through a certain tract and parcel of land situate in Morgantown Taxing District, Tax Map 28, Parcel 134, Monongalia County, West Virginia, and which said tract and parcel of land is further described in a deed recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book No. 1161 at Page 375, to which said deed reference is hereby made for all pertinent purposes.

The location of said right-of-way and easement proposed upon said property is as follows:

±409' of fencing; all as depicted and further described in Exhibit "A," attached and incorporated herein.

The said Grantor further grants and conveys unto said Grantee, its successors or assigns, the right of ingress, egress, and regress, to and from said right-of-way and easement for all proper purposes and at all reasonable times and a temporary construction right-of-way and easement of such width as is reasonable and necessary to carry out the construction, repair, or replacement of all or part of the above-described fencing, provided, however, that Grantee may not prevent use of the rail trail within the property for nonmotorized recreational uses.

The said Grantor does also grant and convey unto the said Grantee, its successors or assigns, the right to use said right-of-way and easement herein granted, along the course of the proposed fencing, for the further purpose of transporting fencing, fittings, machinery, and equipment to and from neighboring lands, in and about the construction, operation, maintenance, removal, and replacement

of the fencing proposed to be installed on said right-of-way and easement, provided, however, that Grantee may not prevent use of the rail trail within the property for nonmotorized recreational uses.

The Grantor does grant and convey said right-of-way and easement to the Grantee, its successors or assigns, upon the following terms and conditions:

The right-of-way and easement is subject to all rights-of-way, easements, covenants, restrictions and/or exceptions as contained in prior recorded instruments in the chain of title to this real estate. Without limiting the foregoing, the right-of-way and easement granted to Grantee is specifically subject to the rights reserved to CSX and the State Rail Authority in that certain deed recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book No. 1161 at Page 375 and is subject to the restrictions on use provided in *W. Va. Code* § 5B-1A-1 *et seq.* Grantee is not given any right in this Agreement to, and Grantee shall not, undertake any action that would trigger the right of reversion in the State Rail Authority or its predecessor in title contained in the above-referenced deed. All rights granted to Grantee in this Agreement will terminate upon the termination of Grantor's interest in the property made subject of the right-of-way and easement granted herein.

DECLARATION OF CONSIDERATION OR VALUE

The undersigned hereby declare:

That the conveyance made in the document to which this declaration is appended is exempt from taxation under the provisions of Chapter 11, Article 22, of the Code of West Virginia, for the reason that it is a conveyance made to a political subdivision of the State of West Virginia. (*Without Consideration*).

IN WITNESS WHEREOF, the City of Morgantown, has caused its name to be hereunto subscribed by Jeff Mikorski, its City Manager, by authority duly given, and the said Morgantown Utility Board, acting for and on behalf of the City of Morgantown, a municipal corporation, has caused its name to be hereunto subscribed by Timothy L. Ball, P.E., General Manager, by authority duly given.

WITNESS the following signatures:

MORGANTOWN UTILITY BOARD

On behalf of the
CITY OF MORGANTOWN

By: _____
Timothy L. Ball, P.E.
General Manager

By: _____
Jeff Mikorski
City Manager

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
2015, by Jeff Mikorski, City Manager, acting for and on behalf of the City of Morgantown.

My commission expires: _____.

Notary Public in and for the
State of West Virginia

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, to-wit:

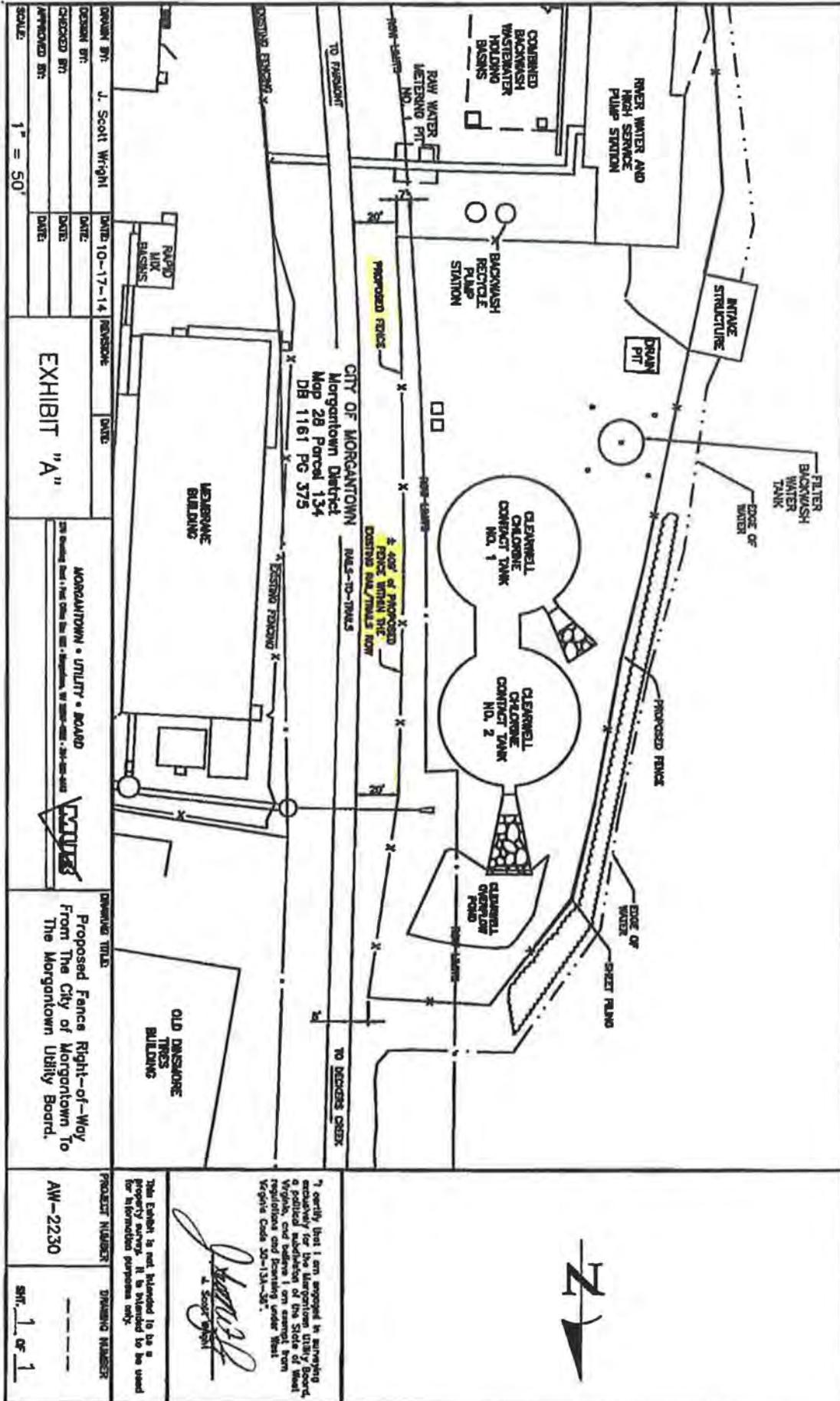
The foregoing instrument was acknowledged before me this ____ day of _____,
2015, by Timothy L. Ball, P.E., General Manager of the Morgantown Utility Board, acting for and on
behalf of the City of Morgantown, a municipal corporation.

My commission expires: _____.

Notary Public in and for the
State of West Virginia

This instrument prepared by:

Morgantown Utility Board
278 Greenbag Road
P.O. Box 852
Morgantown, WV 26507-0852



DRAWN BY: J. Scott Wright
 DATE: 10-17-14
 CHECKED BY: _____
 DATE: _____
 APPROVED BY: _____
 DATE: _____
 SCALE: 1" = 50'

EXHIBIT "A"
 MORGANTOWN • UTILITY • BOARD
 225 Building East • 1100 Ohio St. SE • Morgantown, WV 26505-0002 • 304-283-4400

DRAWING TITLE:
 Proposed Fence Right-of-Way
 From The City of Morgantown To
 The Morgantown Utility Board.

PROJECT NUMBER: AW-2230
 DRAWING NUMBER: SHEET 1 OF 1

I certify that I am, myself, a duly qualified and licensed professional engineer in the State of West Virginia, and believe I am exempt from registration and licensing under West Virginia Code 30-13A-56.

J. Scott Wright
 J. Scott Wright

This Exhibit is not intended to be a property survey. It is intended to be used for information purposes only.



AN ORDINANCE AMENDING CITY CODE SECTION 747.02 PRESCRIBING A FIRE SERVICE FEE

WHEREAS, the City is entitled to establish fees for the provision of services including fire protection pursuant to *W. Va. Code* § 8-13-13; and

WHEREAS, the fire service fee established in City Code section 747.02 is specifically limited to funding the continuance, maintenance or improvement of the fire protection service provided by the City pursuant to City Code section 747.08, and no part of the fire service fee revenues maybe used for any other purpose; and

WHEREAS, the City Council finds that the current fee for fire protection service does not adequately fund such service and should be increased to more closely relate to the reasonable cost of providing fire protection service;

NOW, THEREFORE, the City of Morgantown hereby ordains that City Code section 747.02 is amended as follows:

747.02 LEVY AND IMPOSITION OF FEE.

(a) There is hereby levied and imposed upon all users of the fire protection service provided by the City, a fee for the continuation, maintenance and improvement of such service. The fee shall be ~~6.38~~ 7.66 cents per square foot of space within each structure, per annum. Structures exceeding three floors shall be charged an additional ~~4.03~~ 4.84 cents per square foot of space for each additional space above the third floor.

The gross square footage of each structure shall be determined by the duly authorized and designated agents of the City in accordance with the definition of terms in Section 747.01 and the gross square footage measurements for each structure shall then be multiplied by the rates shown above to determine the amount of the fee to be charged against the use of the fire protection service.

(b) There is hereby levied and imposed on the user of fire protection services of the City, who otherwise is not chargeable herein, an hourly fee for each and every use of such fire protection services, payable on demand by the City, as determined by the City Manager or designee based on an hourly rate as calculated from the City's current Fire Department budget divided by 8760 hours. Additional charges for expendable materials not otherwise contracted for by the City shall also be levied.

(c) For the purpose of this section, the first story of a structure shall be that story, any side of which has a floor level that is not more than one-half of the story height below grade, and when at any point along the length of the side, it is counted as the first story, it will result in a structure height which is in excess of three stories.

A story that is more than one-half of its height below grade and those which are specifically excluded in Section 747.01(d), shall not be counted when determining building height.

This ordinance shall be effective as of July 1, 2015.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

AN ORDINANCE AMENDING CITY CODE SECTION 735.24 SETTING THE BUSINESS AND OCCUPATION TAX RATE FOR SERVICE BUSINESSES

WHEREAS, the City is entitled to establish a business and occupation tax similar to the tax formerly imposed by the State pursuant to *W. Va. Code* § 8-13-5; and

WHEREAS, the allowable rates for service businesses or callings are established by *W. Va. Code* § 8-13-5; and

WHEREAS, the current rate imposed by the City on service businesses or callings is substantially below both the allowable rate and the rates imposed by other local municipalities; and

WHEREAS, the increasing demand for municipal services attendant to the growing Morgantown community require additional revenues; and

WHEREAS, the business and occupation tax is the primary funding mechanism for municipalities under the system established by West Virginia law;

NOW, THEREFORE, the City of Morgantown hereby ordains that City Code section 735.24 is amended as follows:

735.24 SERVICE BUSINESS OR CALLING NOT OTHERWISE SPECIFICALLY TAXED.

Upon every person engaging or continuing within this City in any service business or calling not otherwise specifically taxed under this article, there is likewise hereby levied and shall be collected a tax equal to ~~fifty five cents (\$5-¢)~~ one dollar (\$1.00) per one hundred dollars (\$100.00) of value or of the gross income of any such business service or calling.

This ordinance shall be effective as of July 1, 2015.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED: