



Office of the City Clerk

The City of Morgantown

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**AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
MAY 6, 2014
7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES: Regular Meetings – April 1, 2014 and April 15, 2014**
5. **CORRESPONDENCE:**
6. **UNFINISHED BUSINESS:**
 - A. Boards and Commissions
7. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION**
8. **SPECIAL COMMITTEE REPORTS**
9. **NEW BUSINESS:**
 - A. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE BY THE CITY OF MORGANTOWN APPROVING THE SALE OF CITY OWNED REALTY (5.11 ACRES, MORE OR LESS, AND KNOWN AS THE MILEGROUND ARMORY), AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED CONSUMATING SAID SALE.**

- B. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE BY THE CITY OF MORGANTOWN, WEST VIRGINIA, AUTHORIZING THE SUBMISSION OF A HOME RULE PILOT PROGRAM APPLICATION AND PLAN, PURSUANT TO SECTION 8-1-5a OF THE WEST VIRGINIA CODE, TO THE WEST VIRGINIA DEVELOPMENT OFFICE, WEST VIRGINIA HOME RULE PILOT PROGRAM.**
- C. Consideration of **APPROVAL** of **A RESOLUTION APPROVING AND AUTHORIZING TO SUBMIT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) THE 2014-2018 COMMUNITY DEVELOPMENT BLOCK GRANT FIVE YEAR CONSOLIDATED PLAN AND 2014 ANNUAL ACTION PLAN.**
- D. Consideration of **APPROVAL** of **A RESOLUTION OF THE CITY OF MORGANTOWN CONCERNING RECREATION AT SNAKE HILL WILDLIFE MANAGEMENT AREA.**
- E. Consideration of **APPROVAL** of **A RESOLUTION OF THE CITY OF MORGANTOWN HEREBY AUTHORIZES ITS CITY MANAGER, JEFF MIKORSKI, TO ACT ON ITS BEHALF TO ENTER A CONTRACTUAL AGREEMENT WITH THE DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, TO RECEIVE AND ADMINISTER GRANT FUNDS FROM THE 2014 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR EQUIPMENT UPGRADES FOR THE CITY OF MORGANTOWN.**

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

INFORMATION:

- 1. **Paving of High Street**

NEW BUSINESS:

- 1. **Street Paving bid results**
- 2. **Request for additional funding for Celebration of America**

11. **REPORT FROM CITY CLERK**

12. REPORT FROM CITY ATTORNEY
13. REPORT FROM COUNCIL MEMBERS
14. 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 Kawecki, 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 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: 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.

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

PUBLIC HEARING: 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.

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 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 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 Prairie 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 Kawecky noted that Council is aware of meetings held about river 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: The below entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING SECTION 925.03 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE BY SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO 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 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 Kawecky, 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 \$3.00 fee or \$5.00 fee 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 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 Kawecki stated 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 and 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.

REGULAR MEETING APRIL 15, 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 15, 2014 at 7:00 P.M.

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

The Meeting was called to order by Mayor Selin.

Mayor Selin announced that at the request of MUB, the Public Hearing and Second Reading for the Ordinance amending Section 921.12 are being removed from the Agenda. City Manager Jeff Mikorski explained that the ordinance is being postponed so meetings can be held with stakeholders.

APPROVAL OF MINUTES: At the request of Councilor Shamberger, approval of the April 1, 2014 regular meeting minutes was postponed until May 6, 2014.

CORRESPONDENCE: Mayor Selin read an e-mail from Jim Manilla in reference to the next City Election and how to increase voter turnout. Mr. Manilla offered three ideas for Council and suggested the topic be placed on an upcoming Committee of the Whole meeting agenda. Mr. Manilla's comments shall be made part of the record as requested, and shall be attached hereto, labeled as "Exhibit A". Councilor Bane mentioned the upcoming move-out plan of the WVU Students. Move out is scheduled for April 28th through May 5th.

PUBLIC HEARING - 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.

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

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

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

PUBLIC HEARING - 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.

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

PUBLIC HEARING - 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 Public Hearing of the above entitled Ordinance was postponed until further notice.

UNFINISHED BUSINESS:

ORDINANCE GRANTING AN EASEMENT AT THE NATIONAL GUARD READINESS CENTER: The below entitled Ordinance was presented for second reading:

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 AIRPORT, FOR THE PURPOSE OF INSTALLING COMMUNICATION LINES TO THE NATIONAL GUARD READINESS CENTER.

Motion by Bane, second by Shamberger to adopt the above entitled Ordinance. After explanation from the City Manager, motion carried 7-0.

AN ORDINANCE SETTING FORTH THE RATES, FEES, AND CHARGES OF THE WATERWORKS SYSTEM: The below entitled Ordinance was presented for second 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 Ganz to adopt the above entitled Ordinance. The rules were suspended to allow explanation from MUB Director Tim Ball. After discussion, motion carried 7-0.

AN ORDINANCE AMENDING SECTION 925.03 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICE CODE: The below entitled Ordinance was presented for second reading:

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

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

AN ORDINANCE AMENDING SECTION 921.12 OF ITS STREETS, UTILITIES AND PUBLIC SERVICES CODE: The below entitled Ordinance was presented for second reading:

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

The second reading of the above entitled Ordinance was postponed until further notice.

BOARDS AND COMMISSIONS: By acclamation of Council, David McKain, Julia Durham, Martin Dombrowski and William Blosser were reappointed to the Traffic Commission.

PUBLIC PORTION:

Dave Biafora, 6200 Mid Atlantic Drive, inquired about the traffic study associated with the University Park development gift agreement. He asserted that the city is being "mis-managed" and then

discussed his views on the supposedly ill-approved Sheetz, BB&T, and CVS projects downtown. He accused the Planner of controlling projects and making inappropriate decisions. He urged the Council and Manager to pay closer attention to what is happening in the City and in City Hall. He insisted that he and his group of supporters would see the right thing done, and even offered to run for Council in the upcoming election.

James Giuliani, 256 Prairie Avenue, spoke in opposition to the gift agreement proposed with the University Park development. He asked why the City does not require proper zoning for this and other private developments. He asked to make a special presentation at the next Committee of the Whole meeting. He stated that these types of development are irresponsible. He asked the Council to protect the public from private-public partnership developments. He warned Council that the issue will be brought forth to the media and there may be lawsuits involved as well.

Joe Panico, Beechurst Avenue stated that he agreed with both Mr. Biafora and Mr. Giuliani. He stated that he has a permit pending for an addition to one of his properties with the City for the past nine weeks. He stated he sees the progress of the public-private developers who are not required to get permits and he feels this is not fair. He agreed with Mr. Giuliani's request to discuss the issue further at a Committee of the Whole meeting. He also commented on the Cheat Lake area MUB rate hike. He feels this is the ultimate in "taxation without representation". He asked Council to consider those citizens even though they are not in City Limits.

Arch Kumar, 660 North High Street, thanked the Manager and Mayor for meeting with him to organize a neighborhood cleanup. He looks forward to more collaborative projects in the future.

Susan Morgan, 1124 Straw, reported to Council about a neighborhood issue just outside of Morgantown. She spoke about the health and safety issues associated with the Oakview stormwater system which due to development is no longer adequate and causes flash floods. She reported what actions need to be taken by MUB to fix the problems.

Anna Lee, 121 Forest Drive, Oakview subdivision, congratulated MUB on their recent accolades. She praised MUB director Tim Ball and their plans to fix the stormwater drainage issues in her neighborhood. She proposed annexation of the Oakview subdivision into the City of Morgantown in order to reap the benefits of being fully overseen by MUB.

Barbara Linn, 119 Forest Drive, Oakview subdivision, concurred with the comments of Ms. Lee and the importance of fixing the stormwater problems. She insisted that they are very much a part of the fabric of the Suncrest neighborhood. She asked that Council consider annexation of the Oakview subdivision and promised that the 50+ homes in the area will be a financial asset to the City and that the citizens will be a credit to the community.

Yale Mendelms, President of the Oakview Subdivision Neighborhood Association. He spoke in favor of annexation and outlined the problems associated with the stormwater issues the area is experiencing. He assured Council that the residents of the area have been working diligently to search for answers to the problem and promised that the annexation would be a benefit to the City and in no way a burden.

SPECIAL COMMITTEE REPORTS: Councilor Ganz announced the Rivertown and MRTC trail head meeting. She announced the Urban Landscape Commission and Beautification department have been busy with spring planting. Lastly, she noted that BOPARC is hiring for summer positions with lifeguards and summer camps. Councilor Shamberger announced a Whitmore Park walkthrough and reported that cleanup, improvements and signage will be worked on in the near future.

NEW BUSINESS:

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: The above entitled levy was presented for approval.

Motion by Nugent, second by Ganz to approve the above entitled Rates of Levy. After explanation from the City Manager, motion carried 7-0.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GIFT AGREEMENT WITH UNIVERSITY PARK STOPLIGHT AT EVANSDALE, LLC FOR THE FUTURE INSTALLATION OF A STOPLIGHT AT THE INTERSECTION OF UNIVERSITY AVENUE AND OAKLAND STREET: The above entitled Resolution was presented for approval.

Motion by Kawecki, second by Nugent to approve the above entitled Resolution. The City Manager offered explanation on the agreement and the related traffic study at Oakland. After discussion by Council, the City Attorney offered further explanation. The rules were suspended to allow comments from Brian Gallagher, the attorney for University Park. Motion to approve the Resolution carried 7-0.

CITY MANAGERS REPORT:

INFORMATION:

1. Public Notice of Comcast Rate Increase for 2014

Mr. Mikorski explained the public notice and the related rate increase for customers of Comcast service.

NEW BUSINESS:

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

After discussion, motion by Bane, second by Ganz to approve the Manager's request for a public nuisance hearing on the residence at 513 Madison Avenue. After discussion, motion carried 7-0.

2. Capital Escrow Budget Revision #6

After explanation and discussion on the revision, motion by Fike, second by Ganz to approve the Capital Escrow Budget Revision. Motion carried 7-0.

REPORT FROM CITY CLERK: The City Clerk reported the following applications to Council in accordance with State Law:

Liquor License Application – DG, LLC, DBA Sterling Café and Hot Spot

Liquor License Application – Manhattan Place, LLC, DBA: The Chestnut Boutique Hotel

Ms. Little also reported on the 8th Grade Career Fair at Mylan Park. She then reminded the public that April 22nd is the last day to register to vote for the May primary election, and also announced the date of the upcoming Police Civil Service entry level test.

REPORT FROM CITY ATTORNEY: No Report.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane: No Report.

Councilor Kawecki: Councilor Kawecki thanked the City Clerk for her assistance at the career fair and announced a cleanup event at Hazel Ruby McQuain Park.

Councilor Nugent: Councilor Nugent announced the City's new web calendar and highlighted its improved features. He noted the Wiles Hill-Highland Park neighborhood association meeting as well as the Kiwanis pancake breakfast event.

Councilor Shamberger: Councilor Shamberger thanked the City Clerk and Ms. Skotnicki for their help at the career fair. She mentioned a Safe Cities town hall discussion on underage drinking, a cleanup at Woodburn school and the upcoming opening of the Outdoor Farmer's Market.

Councilor Fike: Councilor Fike discussed the results of the Empty Bowls Monongalia charity event, and the efforts of volunteer coordinators Mike and Tammy Miller. He also noted the success of the career fair and then mentioned a Dominion Post feature about WVU President Gordon Gee's goals for the University.

Councilor Ganz: Councilor Ganz suggested that the citizens' request to annex the Oakview subdivision be discussed during a Committee of the Whole meeting.

There was then discussion about this possibility, and Mr. Fanok enumerated the requirements for submitting a petition for annexation. He stated that when the petition is verified, City Administration will notify Council how to proceed with the matter. There was further discussion about any associated timelines and procedure for annexation along with a possible discussion at the next Committee of the Whole.

Councilor Ganz continued, addressing Mr. Panico's comments and the MUB rate increase. She clarified that the rate adjustment is to share the burden of the service cost with those using MUB services. She discussed the environmental impact statements of the proposed power plant projects. She thanked the speakers of the public portion for their passion and encouraged them to take their concerns to Charleston. She then announced the upcoming meeting of the Suncrest neighborhood association.

Mayor Selin:

Mayor Selin encouraged that the previous discussion about Oakview potential annexation be included on an upcoming Committee of the Whole, and asked for Consensus. There was no objection. She discussed public-private partnerships and how workshops, discussions and checklists might benefit both parties as well as members of the public in getting information about the status of a project. She then announced several upcoming community events including: the last indoor Farmer's Market of the season, a Green Households resource market, the Trash Bash cleanup event, Peter Pan by the Morgantown Theatre Company, Arts Mon 11th and 12th grade art exhibition, and the MAC annual trash to treasure benefit sale. She then asked that Richwood Avenue be cleaned up.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 9:00 p.m.

City Clerk

Mayor

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

Exhibit A

On Apr 9, 2014, at 9:48 AM, "Jim Manilla" <jimmanilla@gmail.com> wrote:

Ladies and Gentlemen,

As you know the next city election is just over a year away. In the past council had been discussing ways to increase voter turnout. It would take a change in the city charter. Steve Fanok is correct when he stated "you take any change in the charter very seriously". So, I have three ideas to consider:

- 1.) Eliminate the 75 signatures to get on the ballot. This is the easiest. The intent for this was for each individual candidate to go door to door and get signatures. As you all know that doesn't happen. Candidates are guilty, including myself (my wife helped me) of getting help, weather it's friends, family or organized groups. That wasn't the intent. No other city in the state makes it as hard as Morgantown. Plus it's in the dead of winter. The city clerk has information from other WV cities on how to get on the ballot. Most all have only a filing fee.
- 2.) Change the date the election. Coincide with the States primary election is a good idea. It would save money and definitely make it higher turnout.
- 3.) Term limits. New people running would get more people to vote and bring in fresh ideas.

The first idea, eliminating the 75 signature would be the easiest. I think, on this one, it's a no brainier. Council can change this without referendum. Although, if one person speaks against, it has to be put on the ballot. This could happen for the next election. The other two should go to referendum and let the voters decide. These ideas should be discussed at a committee of the whole meeting ASAP.

Thank You,

Jim Manilla

p.s. Please read as correspondence at the April 15th meeting.



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 May 6, 2014

Information:

1. Paving of High Street

City engineering staff have been in contact with Mountaineer Contractors, Inc., the company that will be paving High Street for the West Virginia Department of Highways. They are expected to begin paving High Street in mid-May, after WVU graduation weekend.

New Business

1. Street Paving bid results

The City of Morgantown has received four bids on the installation of asphalt to pave City streets in 2014. See attached memo from City Engineer and Public Works Director Terry Hough that identifies that Parrotta Paving Company, Inc. provided the lowest bid. I agree with the City Engineer and recommend City Council to award the 2014 Street Paving Program bid to Parrotta Paving Company, Inc. for a total of \$53,830.15. As noted in the memo, this price allows us to increase to number of streets to the main paving list from the contingency list.

2. Request for additional funding for Celebration of America

The City has received the attached request for additional funds from the Celebration of America event that will take place on The Fourth of July. The Celebration of America committee is looking to add additional activities, such as a fair, to the event and is requesting an additional \$2000.00, to add the already budgeted \$2,000.00, in order to carry out these activities. This long-standing event is a tradition in the City of Morgantown and brings thousands of people to the Morgantown downtown and riverfront each year to enjoy music, a parade, and fireworks. I recommend providing the additional \$2,000.00 to the FY 2014 Capital Escrow Budget from the current year's Capital Escrow Contingency line. It will be provided on a reimbursement basis.


Jeff Mikorski ICMA-CM,
Morgantown City Manager

Memo

City of Morgantown Department of Public Works and Engineering

To: Jeff Mikorski, City Manager

From: Terry Hough, Director 

Subject: Bid Call 2014-02
2014 Street Paving Project

Date: April 30, 2014

Bids were opened April 29, 2014 at 11:00 a.m. for the 2014 Street Paving Project. The results are as follows:

	Total Bid Amount
Mountaineer Contractors, Inc.	\$ 112,788.00
Dodd General Contractors Corp.	\$ 84,670.26
Bear Contracting, LLC	\$ 84,950.00
Parrotta Paving Company, Inc.	\$ 53,830.15

Please note that when combined with the prior asphalt bid the cost is \$199,141.15 which is still within the \$275,000.00 budget. As a result, streets from the contingency list will be added to the main paving list.

Given the above, I recommend that the bid be awarded to Parrotta Paving Company, Inc.

If you have any questions or wish to discuss this issue, please contact me.

City of Morgantown
City Council

Ladies and Gentlemen;

I am Joe Kaehler, Co-Chair of the Celebration of America committee, the group that organizes all of the events to celebrate the Fourth of July in Morgantown. In years past you have been very generous in financial support of this event, which brings 10,000 people or more to the riverfront area and downtown for concerts, a parade and of course fireworks.

We have come to the conclusion that it is time to take this event up a notch, and get people really excited about coming for more than just the fireworks, although we want to step that up also. Last year the City of Morgantown contributed \$2000, this year I am respectfully requesting that you make that amount \$4000. At this time I can not go into details about how the money will be spent, as I do not want the element of surprise to be taken away, but I can assure you the funds will be used very effectively and efficiently. I have gone over these details with Mayor Selin and she knows how the funds will be used and can give you her opinion.

The committee is under extreme time deadlines so I am asking for this commitment either way you decide, to be done as soon as possible, so we know whether we can move forward.

Respectfully
Joe Kaehler
Co-Chair
Celebration of America Committee

BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

FIRE CIVIL SERVICE COMMISSION:

Michael Jacks term expires on 6/30/14. He wishes to continue to serve. Council can vote on that appointment at the May 6th, Regular Meeting. 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. Both wish to continue to serve. Council can vote on the appointments at the May 6th, Regular Meeting. Appts. Made by those they rep.

SISTER CITIES COMMISSION:

Terms for Helene Friedberg, Elizabeth Finklea 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

***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. 4/25/14

AN ORDINANCE BY THE CITY OF MORGANTOWN APPROVING THE SALE OF CITY OWNED REALTY (5.11 ACRES, MORE OR LESS, AND KNOWN AS THE MILEGROUND ARMORY), AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED CONSUMATING SAID SALE.

WHEREAS, a real estate auction of City owned realty (5.11 acres, more or less, and known as the Mileground Armory) was held on April 26, 2014, subject to all requirements set forth in Section 8-12-18 of the West Virginia Code;

WHEREAS, at the April 26, 2014, sale, the high bidders, at three million five hundred and fifty thousand dollars (\$3,550,000), were Muhammad Salman, Daryoush Hooshyar and Abdulmalek Sabbagh;

WHEREAS, in addition to the aforementioned sale price, a buyers' premium of an additional one hundred and seventy seven thousand five hundred dollars (\$177,500) will be paid by the high bidders, which will be retained by Joe Pyle Auctions upon approval of sale and closing; and

WHEREAS, the purpose of this ordinance is to approve said sale and authorize the City Manager to execute a deed consumating said sale.

NOW THEREFORE, the City of Morgantown hereby ordains that it approves the sale of its 5.11 acres, more or less, known as the Mileground Armory to Muhammad Salman, Daryoush Hooshar, and Abdulmalek Sabbagh, each with an equal share, for the price of three million five hundred and fifty thousand dollars (\$3,550,000), plus an additional one hundred and seventy seven thousand five hundred dollars (\$177,500) which will be paid by the high bidders to Joe Pyle Auctions upon approval of sale and closing, and authorizes the City Manager to execute a deed consumating said sale.

This ordinance shall be effective upon date of adoption.

First Reading:

MAYOR

Adopted:

CITY CLERK

Filed:

Recorded:

**AN ORDINANCE BY THE CITY OF MORGANTOWN, WEST VIRGINIA,
AUTHORIZING THE SUBMISSION OF A HOME RULE PILOT PROGRAM
APPLICATION AND PLAN, PURSUANT TO SECTION 8-1-5a OF THE
WEST VIRGINIA CODE, TO THE WEST VIRGINIA DEVELOPMENT
OFFICE, WEST VIRGINIA HOME RULE PILOT PROGRAM.**

The City of Morgantown hereby ordains that the City of Morgantown is authorized to submit the Municipal Home Rule Pilot Program Application and Plan, attached hereto, to the West Virginia Development Office, West Virginia Home Rule Pilot Program in accordance with Section 8-1-5a of the West Virginia Code.

FIRST READING:

MAYOR

ADOPTED:

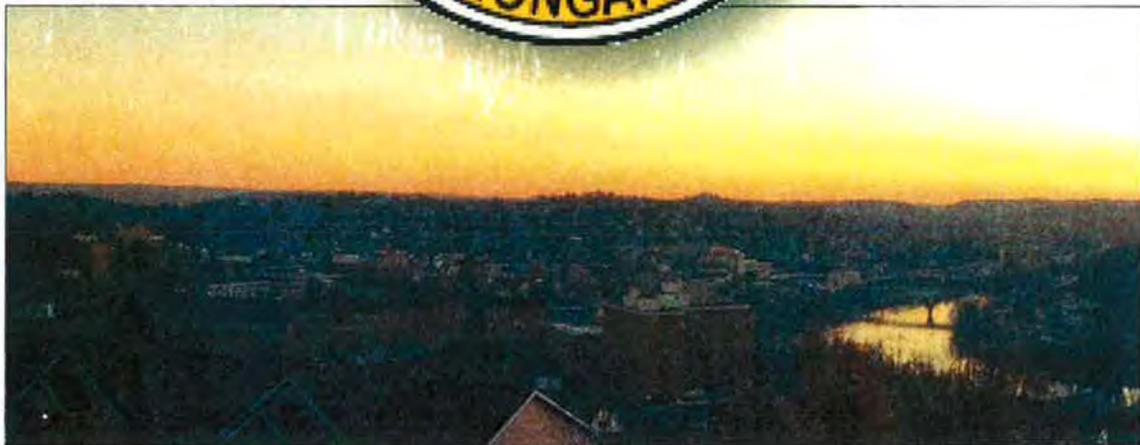
CITY CLERK

FILED:

RECORDED:

City of Morgantown

Municipal Home Rule Pilot Program Application



City of Morgantown, West Virginia

Mayor's & Manager's Letter

The letter submitting application will be inserted upon Council's Authorization to submit Plan after Public Hearing to be held on **Friday, May 2, 2014**, and Council's adoption of an authorizing ordinance on **Tuesday, May 20, 2014**, after public comment and second reading of said ordinance.

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**Municipal Home Rule Pilot Program Phase II
APPLICATION**

SECTION I: APPLICANT INFORMATION	
A. General Information	
Name of Municipality: City of Morgantown	
Certifying Official: Jeff Mikorski	Title: City Manager
Contact Person: Jeff Mikorski	Title: City Manager
Address: 389 Spruce Street	
City, State Zip: Morgantown, WV 26505	
Telephone Number: 304-284-7405	Fax Number: 304-284-7430
Email Address: jmikorski@cityofmorgantown.org	
2010 Census Population: 29,660	
A. Municipal Classification	
<input type="checkbox"/> Class I <input checked="" type="checkbox"/> Class II <input type="checkbox"/> Class III <input type="checkbox"/> Class IV	
B. Category of Issues to be Addressed	
<input checked="" type="checkbox"/> Tax <input checked="" type="checkbox"/> Organization <input checked="" type="checkbox"/> Administration <input type="checkbox"/> Personnel	

SECTION II: Narrative
<p>Specific state laws, policy, acts, resolutions, rules or regulations that are preventing the municipality to carry out duties in the most cost effective, efficient, and timely manner.</p> <p>Specific problem(s) created by the laws, policies, acts, resolutions, rules or regulations.</p> <p>Proposed solutions(s) to the perceived problem(s), including all proposed changes to law, policies, acts, resolutions, rules or regulations. Categorize and include:</p> <ol style="list-style-type: none"> 1.) Proposed solution(s) in one of the four areas (tax/administrative/organization/personnel) 2.) Estimate(s) for proposed solution(s) and how the fiscal impact was determined. Example: Estimated reduction of administrative time and costs = X. Please attach the worksheet or formula used to determine "X" amount. <p align="right"><i>See attached Section II.</i></p>

SECTION III: AFFIDAVITS
<p>Hearing Mandate Verification</p> <p>Publication Mandate Verification</p> <p>Ordinance Authorizing Submission of Plan</p> <p>Fiscal Impact Worksheets/Formulas</p> <p>Feasibility Study (if taxes are proposed)</p> <p>Attorney's Opinion (application complies with statutory requirements)</p> <p align="right"><i>See attached Section III.</i></p>

Executive Summary

The City of Morgantown, **"A City of Distinction,"** is the County seat of Monongalia County located along the Monongahela River and close to the Pennsylvania border in the north central part of West Virginia.

Morgantown offers mountains of opportunity for business development and expansion. This is one of the major growth areas in the State. Morgantown continues to grow and develop in many areas including housing, manufacturing, research, and commercial sectors. Morgantown shows continued population growth for the last 20 years, and is located in one of the fastest growing counties in the State. Morgantown and Monongalia County have consistently seen some of the lowest unemployment rates in the state.

The City of Morgantown, and the surrounding area, continues to grow and develop along with West Virginia University's campus and student enrolment. The City's population in the 2010 census grew to 29,660 and the University enrolment in 2010 grew to 27,704 not including the thousands of faculty and staff members that are employed (basically doubling the size of the City). Along with students, the City is the destination for thousands of visitors to the University, the Hospitals, and other major events. With this growth, come many challenges. All totaled, estimates show that the City of Morgantown services support an average daytime population of at least 70,000 people living, working, and being educated in City limits.

The City's tax base has not increased enough to support additional operational costs or significant increases in employees to provide services to the residents, increased students, faculty, staff, and visitors to provide a consistent quality service level.

New and expanding commercial developments surrounding the City have become alternative locations for businesses to locate that once would have been in the City, increasing the City's tax base and contributing to the infrastructure and service level.

High density student neighborhoods and late night entertainment venues in the City create situations that call for increased City services and additional resources to protect everyone. The current tax base does not allow for the additional services and resources needed.

As a result, the maintenance of roads, trails, parks, City facilities, and City equipment has been delayed or reduced for years and the quality of life in the City has been impacted by these challenges. In many cases, the City is restricted by State laws that prevent the City from making changes that can deal effectively with the impact from these challenges. The City of Morgantown believes that the solutions identified in this proposed Home Rule Plan would allow the City to improve the quality of service and improve the quality of life to residents and visitors, maintain public property at a proactive level, and address issues only seen in Morgantown.

Section II: Narrative

Enactment of a Municipal Sales Tax.

I. Specific laws which prevent the municipality from carrying out its duties in the most cost efficient, effective, and timely manner.

Applicable West Virginia Code provisions are 8-13-5, 8-13C-4(a), and 8-13C-4(b).

II. The problem created by the law.

West Virginia law currently provides little flexibility with respect to taxation structure and funding sources available to municipalities. Municipalities have the ability to assess minimal taxes and fees, which are typically at a fixed rate with no naturally occurring market increases for certain services, and which cover a very small portion of the delivery of essential services costs. The City of Morgantown lays an annual levy to produce ad valorem taxes; however, these taxes are continually threatened by the acquisition of properties by not-for-profit organizations, State agencies, Federal agencies, and other local government agencies. The primary source of revenue for the City of Morgantown is the Business & Occupation (B&O) Tax as permitted under West Virginia Code Section 8-13-5 et seq. The rates, classifications, and exemptions governing the application of B&O taxes were adopted for use by the State of West Virginia, not its municipalities, decades ago and have not been regularly updated to reflect the current economic environment, funding challenges facing many of the State's municipalities, and ever changing business environment related to decentralized sales and services, such as internet sales.

The City of Morgantown provides essential Police and Fire protection, Public Works services, Code Enforcement services, Planning and Zoning Services, and many Administrative services to individuals, businesses (both for profit and not-for-profit), and other government entities (State and Federal) residing within its corporate boundaries. Many of those same services are provided to thousands of West Virginia University students who live in Morgantown for a minimum of nine months each year, employees of local businesses and government agencies that come to Morgantown to work each day and at the end of the day return to their homes outside the corporate limits, and numerous individuals who come to Morgantown for reasons other than those previously described. The City also provides for the greater good of the Morgantown area by contributing significant financial amounts each year to local parks, recreation, arts, library, and transit services enjoyed by residents and non-residents alike. As a result, the City is struggling with its aging infrastructure and equipment, and small workforce of municipal employees, to simply maintain these "basic" services, while the number of people served continues to grow, and their demands for new services from the City continues to grow. These services are funded primarily through B&O taxes at rates set by state law. In some circumstances, businesses prefer to operate just outside the municipal boundaries in unincorporated territories, giving the business access to the citizens within the City of

Morgantown, and the benefits/resources of the City of Morgantown without having to pay Morgantown's B&O taxes. The City's B&O tax rates for almost all categories are at state maximums, and any decrease in these rates without a substitute revenue source would be devastating to the City's financial position in the near term, causing irreparable harm in the long term. Due to the financial limitations resulting from the City's inability to supplement B&O taxes by another means, and increased State mandated pension contribution liabilities, current City staffing in many of the City's departments is at or below levels seen ten years ago, further reducing the ability of the City to provide needed daily services.

Although the City receives nearly \$11,000,000 in B&O taxes, the amount of services needed to respond to a daily population of nearly 70,000 (40,000 more than the census population of the City) costs far more than is raised through B&O taxes. Again, taxes received are to the largest extent paid by businesses located within the City, and the growing need for additional services from the City is primarily the result of thousands of transient people coming to Morgantown to work each day, the numerous individuals visiting the City and West Virginia University each day for a variety of reasons, and the thousands of non-resident West Virginia University students who live in Morgantown for nine months each year. The services are needed, but the residents and businesses that reside within the City should not have to take on the burden of paying for the added costs of City services resulting from transient visitors. A municipal sales tax would allow all individuals, including transient visitors, to help pay for the daily services provided by the City.

West Virginia Code Sections 8-13C-4(a), Pension Relief Municipal Sales Tax, and 8-13C-4(b), Alternative Municipal Sales Tax, allow municipalities to impose a municipal sales and service tax and use tax (consumer sales and use tax) on sales subject to the State's consumer sales and use tax; however, the authorization to impose this tax under either of these code sections is not without restrictions. Section 8-13C-4(a) only allows the consumer sales and use tax if the municipality's police and fire pensions are severely underfunded and any revenue generated must be paid to those pension funds. Section 8-13C-4(b) may only be utilized if a municipality does not impose, or ceases to impose, a B&O tax. A municipal consumer sales and use tax at the statutory maximum rate of one percent will not generate enough revenue on its own to replace the approximately \$11,000,000 in revenue generated by the collection of B&O taxes within the City of Morgantown, and would not be economically feasible for the City to continue to provide essential services and promote economic development.

III. The proposed solution.

The City of Morgantown is proposing the enactment of a municipal consumer sales and use tax of one percent within the City, while continuing to collect B&O taxes as allowable under Section 8-1-5A(k)(6) of the State Code. The proposed sales tax will allow the City to reduce B&O tax rates for the Retail, Manufacturing, Amusement, and Wholesale categories, which will reduce the tax burden on local businesses and promote economic growth, while providing the funds needed to pay for the essential services being provided to all people living in or visiting Morgantown.

IV. The projected fiscal impact.

Lost Economic Impact

The area surrounding the City of Morgantown is expanding and growing with multifamily residential and commercial developments. It is increasingly more difficult to entice business owners and developers to purchase/build/develop within the municipality due to the perceived negative impact of the municipality's B&O tax. That hesitancy to be a part of the municipality is having a substantial economic impact upon the City. Developers maintain their developments just outside the municipality, in unincorporated areas, to make their developments more marketable to businesses by advertising locations with lower taxes than in the City. Moving to a consumer sales tax, while lowering the B&O tax within various business classifications, could encourage developers and businesses to be a part of the City so that they might receive the advantages of municipal services, at a reduced B&O tax "bottom line" cost to the business. Again, B&O tax rate maximums have not increased at the State level for many years. The current B&O tax rate maximums do not allow the City to manage City services at a level needed to protect its 30,000 residents and the 40,000 WVU students and visitors who are in the City each day.

Projected Sales/Use Tax Impact

It is estimated that an additional 1% sales tax on products, that already have a State sales tax, would create an additional \$5.3 million in revenue for the City. To reduce the tax burden on City businesses, reductions in the B&O taxes rates on Retail, Manufacturing, Amusement, and Wholesale categories are expected. Reductions of at least 30% in current B&O tax rates are projected to create a \$1,140,000 savings to businesses, and still allow the City to increase the level of municipal services expected by residents, businesses, and visitors. Table I, below, depicts current B&O tax rates, maximum allowable B&O tax rates by West Virginia law, projected B&O tax rate reductions by the City, projected savings to businesses by B&O tax rate reductions, and projected net change in revenues to the City. The numbers do not reflect any increases in City revenue resulting from new commercial developments appearing within the City as a result of a reduction in B&O tax rates.

Table 1

B & O Category	Current City Rate	Maximum Allowable Rate	Projected Reduced City Rate	Projected Reduced B & O Revenue
Amusements	0.50%	0.50%	0.35%	\$(1,436)
Retailers, Restaurants, etc.	0.50%	0.50%	0.35%	\$(960,518)
Manufactured Products	0.30%	0.30%	0.10%	\$(104,651)
Wholesalers & Jobbers	0.15%	0.15%	0.11%	\$(73,320)
Total Projected Reduced Revenue				\$(1,139,925)
Estimated Consumer Sales & Use Tax Revenue				\$5,330,000
Net Changes in Revenues				\$4,190,075

Administration of Sales/Use Tax

Any additional sales/use tax introduced would be administered, collected and enforced by the State Tax Commission pursuant to West Virginia Code Sections 8-13C-6, 8-13C-7, 11-15B-33, 11-15B-34, and 11-15B-35. The City of Morgantown will be responsible for coordinating the provision of needed information to the State Tax Commission for its administration of the additional sales/use tax. It is understood that the state Tax Commission may include an administration fee to process the sales/use tax.

Intergovernmental Agreements by Resolution Rather Than by Ordinance.

Enactment of an ordinance authorizing the City of Morgantown to enter into agreements with another jurisdiction (intergovernmental agreements), subject to Morgantown City Council approving the execution of such agreements by Resolution.

- I. Specific laws which prevent the municipality from carrying out its duties in the most cost efficient, effective, and timely manner.**

Applicable West Virginia Code provisions are Sections 8-11-3(10) and 8-11-4.

- II. The problem created by the law.**

Section 8-11-3(10) of the West Virginia Code provides that before a municipality can enter into a contract or other agreement with another jurisdiction (intergovernmental agreement), the City Council of the municipality must first, by ordinance, authorize the agreement being executed by the municipality. The City would point out that there is no such ordinance requirement placed upon it by State Code should it wish to enter into an agreement with a non-governmental entity.

Section 8-11-4 of the West Virginia Code sets forth the procedures to be followed by a municipality in adopting an ordinance; therein, provides that a proposed ordinance shall be read by title at not less than two meetings of the governing body.

By Morgantown City Charter provision, its City Council meets regularly on the first and third Tuesdays of each month. For the City to comply with Section 8-11-4's *two meeting* requirement, it takes one month for an intergovernmental agreement, no matter how simple, to be approved by City Council. The City of Morgantown is presented with numerous intergovernmental agreements each year by the State of West Virginia and its various agencies, West Virginia University, the Monongalia County Commission, and surrounding municipalities. At times, there are pressing time constraints in getting the documents executed. Time is of the essence in the negotiation and execution of most contracts, and it would be of great benefit to all parties involved if City Council could approve the execution of an intergovernmental agreement by resolution rather than by ordinance. A resolution only requires one meeting of City Council.

- III. The proposed solution.**

The City of Morgantown proposes that it be allowed to adopt an ordinance that specifically states that City Council is authorized to approve the execution of agreements with another jurisdiction (intergovernmental agreement) by resolution. The result would be a much more efficient administrative process.

It should be noted that Section 2.12 of the Morgantown City Charter currently lists specific subject matter requiring an ordinance, and that subsection (12) therein places such a requirement upon "providing for a contractual or other agreement with another jurisdiction". The City of Morgantown recognizes that should its proposal be approved by the Home Rule Board, that approval would be contingent upon the City of Morgantown amending Section 2.12 of its City Charter so as to eliminate the ordinance requirement for the subject of contractual or other agreements with another jurisdiction.

Regulation of upholstered Furniture, Mattresses, and other similar Items on the Exterior of Premises.

Enactment of an ordinance restricting the placement of upholstered furniture, mattresses, and other similar items on any yard, unenclosed porch, deck, balcony, or other exterior area of any premises.

I. Specific laws which prevent the municipality from carrying out its duties in the most cost efficient, effective, and timely manner.

Applicable West Virginia Code provisions are Sections 8-12-13 and 29-3-5b.

II. The problem created by the law.

The City of Morgantown has a serious problem that it has attempted to eliminate through various means over the years and that is young people building random, spur of the moment, street fires throughout the City that burn out of control, fueled by individuals tossing flammable material upon them until municipal police and fire personnel arrive to gain control of the situation. Morgantown Fire Department records indicate that since 1979, 3,323 street or dumpster fires have been set within the City. Many of those fires were fueled by furniture that was carried off porches and from yards into the streets. Since 2002, nine instances of riotous behavior have occurred either after sporting events or other circumstances. A few examples include: (2003) 120 fires were set in a period of a few hours after WVU defeated Virginia Tech in football; (2005) 60 fires were set after WVU defeated Texas Tech in basketball; (2012) 36 fires were set on St. Patrick's Day; and (2012) 29 fires were set after the Texas football game. Fire Department records indicate that for the ten year period of 2004 through 2013, the Fire Department was called to 811 street fires (an average of 81 street fires per year) and 1,435 dumpster fires (an average of 143 dumpster fires per year) within the city. Fire Department records indicate that on average, a crew of at least four fire fighters and an engine respond to each street fire, and that time on scene is twenty one minutes. Those fires have caused thousands of dollars of damage to municipal streets and sidewalks, and placed the safety of the residents in this community in great danger. Throughout this State and nationwide, the news media has written about the City of Morgantown's "couch fires" and their use by young people to celebrate. The reason the term "couch fires" is used by the media is that the street fires are usually fueled by couches and other household furniture, such as mattresses, that young people see laying in the yard or on the porch of a nearby residential property, and then take to place on the fire.

In addition to the foregoing statistics, Morgantown Fire Department records indicate that from 1997 to 2006, 35 fires were intentionally set on porches or other exterior areas of occupied structures within the City.

For years, the City has been advised by its Fire Department that if the City were able to regulate the placement of interior upholstered furniture, mattresses, and similar household items, along with other combustible materials, upon unenclosed porches and in yards, it would help eliminate the street fire problem, by eliminating a relied upon fuel source. The Fire Department has also stated that the placement of household furniture on porches not only provides a dangerous fuel package that is ready to burn, but also, has the potential to obstruct or block the main exits for those structures.

In researching the matter, it has come to the attention of the City that several notable college communities have recognized the hazard created by upholstered furniture on porches by passing local ordinances that regulate the practice. A 2013 report by the Lawrence-Douglas County Fire Medical Department (Lawrence, Kansas) states that those college communities include: Boulder, Colorado, Lincoln, Nebraska, Ames, Iowa, Columbia, Missouri, Durham, North Carolina, Ann Arbor, Michigan, East Lansing, Michigan, and Bloomington, Indiana. At the time it prepared the report, Lawrence, Kansas, was in the process of amending its building code (the 2012 International Property Maintenance Code) so as to prohibit upholstered furniture on unenclosed porches, decks, balconies, or other exterior areas of structures.

The City of Morgantown's regulation of buildings and their exterior areas is controlled by the State Building Code. The State of West Virginia adopted its building code in 1988 by enacting Section 29-3-5b of the West Virginia Code; therein, in subsection (f) it provides *"Whenever any other state law, county or municipal ordinance imposes a higher standard than is required by the State Building Code, the provisions of the state law, county or municipal ordinance or regulation governs if they are not inconsistent with the laws of West Virginia and are not contrary to recognized standards and good engineering practices."* Also, within, Section 29-3-5b the Legislature included language that authorizes the State Fire Commission to adopt the specific set of regulations that shall be known as the State Building Code. At the same time, the Legislature amended Section 8-12-13(b) of the West Virginia Code to read that all existing municipal building codes would be void one year after the State's adoption of a State Building Code, and that the governing body of every municipality shall have plenary power and authority by ordinance or a code of ordinances to adopt such State Building Code promulgated by the State Fire Commission.

The City of Morgantown, within Section 1713 01 of its Building and Housing Code, adopted the State Building Code. Section 1713.01 reads as follows:

- (a) There is hereby adopted and incorporated by reference as if set out at length herein for the purpose of safeguarding life and property and to ensure the quality of construction of all structures erected or removed throughout the Municipality that certain code known as the State Building Code as promulgated by the Fire Marshal under West Virginia Code 29-3-5b.

- (b) The State Building Code and its application within the City shall be subject to Legislative rules adopted by the West Virginia State Fire Commission and authorized by the West Virginia Legislature.

For the present time, the State Fire Commission has adopted the International Code Council Code (ICC Code) as the State Building Code. As a subunit of the ICC Code, the State Fire Commission has adopted the 2012 International Property Maintenance Code as part of its State Building Code.

Section 301.1 of the International Property Maintenance Code states that the provisions within it shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*. While the International Property Maintenance Code does place restrictions on and regulate several aspects of exterior property maintenance, *it does not regulate the placement of indoor furniture on the exterior of structures.*

Based upon the language within Sections 8-12-13 and 29-3-5b of the West Virginia Code, there is a very strong argument that a West Virginia municipality does not have the authority, on its own, to adopt an ordinance amending the wording within the portions of the International Property Maintenance Code, that apply to exterior property maintenance of structures within that municipality. The City of Morgantown wishes to avoid costly and time consuming litigation regarding whether it's desire to make such an amendment conflicts with the laws of the State of West Virginia; therefore, be illegal.

III. The proposed solution.

Should the City of Morgantown be admitted to the Home Rule Pilot Program, it proposes that it be allowed to amend specific portions of the International Property Maintenance Code for State Building Code Regulation within the City of Morgantown only. The amendments would be to applicable portions of the Code addressing exterior property maintenance, and would regulate the placement of upholstered furniture, mattresses, or other similar items and/or combustible materials on unenclosed porches or other exterior areas of a structure. In doing so, Morgantown would be following the example set by other communities nationwide in an effort to eliminate a serious and very dangerous problem within this community.

Placing Public Nuisance Removal Liens without Court Order.

Amendment of the Municipality's Public Nuisance Ordinance so as to allow the City to place a lien against the involved realty without first obtaining a Circuit Court Order authorizing it to do so.

Introduction

At the present time, for reasons to be set forth herein, the City does not have the legal authority to place a lien against realty after having declared it to be a public nuisance, the owner having failed to comply with the City's order to correct, and the City subsequently having eliminated the nuisance at its own expense. The proposal presented within this plan is to allow the City to amend its current nuisance ordinance so as to allow the placement of the lien, without court order.

I. Specific laws which prevent the municipality from carrying out its duties in the most cost efficient, effective, and timely manner.

Applicable West Virginia State Code provisions are Sections 8-12-5(23) and 8-12-16.

II. The problem created by the law.

Section 8-12-5(23) of the West Virginia Code authorizes municipalities to provide for the elimination of hazards to public health and safety and to abate or cause to be abated anything which in the opinion of a majority of the governing body is a public nuisance. Based upon that enabling legislation, the City of Morgantown has adopted a Public Nuisance Ordinance; however, the ordinance does not contain provisions authorizing the City to remove the nuisance and thereafter lien the affected realty for its costs incurred, should the owner of the realty ignore City Council's order to eliminate the nuisance. The reason that the ordinance does not contain lien language is that *based upon a strict reading of 8-12-5(23), there is a strong argument that the statute does not contain language authorizing the City to place a lien.*

Section 8-12-16 of the West Virginia Code only allows municipalities to adopt ordinances regulating the repair, alteration, or the vacating and closing or removal or demolition of dwellings or buildings unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions in any dwelling or building which would cause it to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare. *As written, 8-12-16 arguably does not allow a municipality to address problems with property maintenance that detract from the neighborhood, but do not yet constitute a threat to public safety.*

In light of the foregoing, a municipality does not have the right to file a lien for its removal of a public nuisance if the nuisance is not a threat to public safety. Unfortunately, there can be times when a public nuisance exists which is not a threat to public safety. In those instances, it may become necessary for the City to take action to remove the cause of the nuisance, at a financial cost to the City. When that happens, the City has no choice but to file a civil suit against the property owner in an attempt to recover the money via court judgment. This obviously takes time and provides no incentive for the property owner to reimburse the City for money spent prior to the civil suit being filed.

III. The proposed solution.

The City of Morgantown would amend its current public nuisance ordinance, which already provides for due process public hearings before City Council. *The amendment would address the authority of the City, should the property owner refuse to comply with City Council's order to remove the nuisance, specifying that the nuisance does not have to be a threat to public safety before the City has the right to enter upon the realty and remove it. The amendment would also provide that should it be necessary for the City to enter upon the realty to remove or eliminate any declared public nuisance, the City shall have the right to lien the realty without first obtaining a circuit court order.*

Creating Municipal Court Technology/Maintenance Fee as Part of Court Costs.

Enactment of an ordinance establishing a Municipal Court Fee dedicated to the specific purpose of funding and maintaining technological upgrades within the Court system.

Introduction

For many years the City of Morgantown has prosecuted most of the criminal misdemeanor citations issued and arrests made by the Morgantown Police Department within the Morgantown Municipal Court. Due to the continued growth of the municipality's population, which includes 30,000 West Virginia University students, the caseload before the Court has increased significantly over the years. During the calendar year 2013 the Court processed 7,544 citations and 709 arrests. The Court has had a fulltime prosecutor since 1991. During the six month time period of September, 2013 through February, 2014, the Court held 1197 hearings (an average of 200 per month) in which the prosecutor participated. The City expects the Court's annual caseload to show continued growth in future years.

Accompanying its increased caseload has been the growing costs of the Court related to obtaining and maintaining technological upgrades that have become commonplace in today's courtrooms. For example, Section 50-4-2a of the West Virginia Code addresses video arraignment of defendants. It is the now common practice of "video arraignments" by the Court. A defendant, who has been arrested by a Morgantown Police Officer and transported to the regional jail in Doddridge County, can be arraigned by the Morgantown Municipal Court Judge via internet video. The defendant does not have to leave the regional jail for his/her arraignment. However, there is a cost to the Municipal Court for providing this arraignment capability. Video arraignment equipment cost the Court \$12,000, and the "video arraignment link" costs the Court \$4,560 annually. Due to its increased caseload, the Court has also identified the need for a computer program and software upgrades that will allow it to access Morgantown Police Department arrest and citation files; thus, eliminating the need for Court personnel to input the same data in the Court's files. The upgrade will save the Court countless hours of administrative costs. The projected cost of this technological upgrade is \$22,000 for the software and \$5,000 annually for maintenance. Other examples of ongoing court technology costs include: (1) \$660 annually for internet access, (2) maintenance and/or replacement of video equipment used within the Court, and (3) routine computer maintenance and replacement within the Court's administrative office. The City expects these costs to continue, and increase, as more technological advancements are made available to the judicial system.

The City's plan, if it is chosen to be within the Home Rule Pilot Program, is to establish a specific court technological upgrade/maintenance fee that would be assessed with other court costs against each convicted defendant. The money obtained from that fee would only be used to defray municipal expenses incurred by the Court in acquiring and maintaining technological upgrades.

I. **Specific laws which prevent the municipality from carrying out its duties in the most cost efficient, effective, and timely manner.**

Applicable West Virginia State Code provisions include Sections 8-10-2, 8-11-1(2), 8-11-1b, and 8-12-5(58).

II. **The problems created by the laws.**

The Morgantown Municipal Court exists pursuant to the authority granted in West Virginia Code Section 8-10-2. That statute provides authority for the creation and maintenance of a municipal court by a municipality. West Virginia Code Section 8-11-1(2) provides authority for a municipality to prescribe reasonable penalties for violations of its ordinances in the form of fines, forfeitures and confinement in the county or regional jail. Pursuant to West Virginia Code Section 8-12-5(58), municipal penalties for the offenses and violations of municipal ordinances may not exceed any penalties provided for a like offense in State Court. *Nowhere within 8-10-2, 8-11-1, or 8-12-5 does it state that a municipality has the legal authority to identify court needs and to create specific court costs, addressing those needs, that are to be paid by individual defendants appearing before its municipal court.* Simply put, municipalities do not have the statutory authority to assess any court costs not specifically set forth in the West Virginia Code.

At the present time, costs that are collected by a municipal court are collected and distributed in accordance with West Virginia Statutes. For example, West Virginia Code Section 14-2A-4(a) requires a municipal court to collect a cost of eight dollars for a conviction of a misdemeanor offense, other than a traffic offense that is not a moving violation, and to send that money to the State for the Crime Victim's Compensation Fund. Other costs that a municipal court collects and sends to the State, pursuant to State Code, include costs for the Police Training Fund, and costs for the Regional Jail and Correctional Facility Development Fund.

In the introduction at the beginning of this section, the City of Morgantown explained how the caseload has grown significantly in recent years within its Municipal Court. Unfortunately State Law does not provide this municipality with the ability to identify specific financial needs of the

court, resulting from defendants being cited and arrested, and to require those defendants to contribute to the payment of those costs as part of their assessed court costs. *It is important to understand that all fines paid into a municipal court are not kept by the court, but rather, are by law deposited into the general fund of the municipality. Fine money is not retained by the Court to cover its operating costs.* Only a portion of fine money is returned to the Court through fiscal year budgeting by City Council. As a result, the financial needs of the Municipal Court must compete with the financial needs of other departments of the municipality in seeking annual budgetary funding. If the City were able to create a specific court cost, from which the proceeds would be deposited into a municipal account earmarked for a specific Municipal Court expenditure, the Municipal Court would be assured that funding would always be available for certain named expenditures. The Court would have to rely less on the yearly budgeting process that goes before City Council. More importantly, there would be a fairer distribution regarding who pays for the operational costs of the Court. Few people would argue against the proposition that a convicted defendant should help pay for the operational costs of the Court.

The specific court cost that the City of Morgantown would address via home rule would be a *Court Technology/Maintenance Fee*.

III. **The proposed solution.**

The City of Morgantown would enact an ordinance authorizing a Court Technology/Maintenance Fee to be assessed against each person convicted within its Municipal Court. The exact fee amount would be set forth in the ordinance. At the present time the City is considering a fee of between \$3.00 and \$5.00. During the calendar year 2013, the Morgantown Municipal Court held 5,556 hearing in which court costs were assessed. Using that number as a benchmark for future years, a \$3 or \$5 fee would generate either \$16,668 or \$27,780, which would be used to not only fund current technological costs of the Court, but also, update Court technology as needed.

Section III: Affidavits

Hearing Mandate Verification

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Verification to be inserted upon completion of the Public Hearing.

City Council Agenda & Public Hearing

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To be inserted after Agendas are finalized for the Public Hearing(s).

Publication Mandate Verification

Class II Legal Ad as submitted to the Dominion Post.

Publisher's verification of ad will be attached to application when submitted.

DOMINION POST

LEGAL AD -- CLASS II

DATES PUBLISHED: APRIL 2, 2014, and APRIL 9, 2014.

PUBLIC HEARING NOTICE
CITY OF MORGANTOWN,
WEST VIRGINIA

HOME RULE PROGRAM

Notice is hereby given by the City of Morgantown, WV, that it will hold a public hearing on Friday, May 2, 2014, at 6 p.m., at the Morgantown City Hall, Council Chambers, 389 Spruce Street, Morgantown, WV 26505.

The purpose of this public hearing is to discuss the City of Morgantown's proposed Home Rule written plan and application. This information will be utilized by the City of Morgantown in its application to the State for the Home Rule Program.

The City of Morgantown's proposed Home Rule Program and application is available for public inspection in the Office of the City Manager, Morgantown City Hall, Office 15, Third Floor, 389 Spruce Street, Morgantown WV 26505, beginning on April 2, 2014, Monday through Friday, between the hours of 8:00 a.m. and 4:30 p.m. Said proposed Home Rule Program and application can also be found on the City's website, MorgantownWV.gov.

All interested citizens are invited to attend the public hearing scheduled on Friday, May 2, 2014, at 6:00 p.m. and to present oral or written comments concerning the City's proposed Home Rule plan and application at that time. Written comments may be addressed to Jeff Mlkorski, City Manager, City of Morgantown, 389 Spruce Street, Morgantown, WV, 26505.

The first reading of the ordinance approving the City of Morgantown's Home Rule plan application will be held at the regularly-scheduled Morgantown City Council meeting at 7:00 p.m. on Tuesday, May 6, 2014. The second reading of the ordinance and public hearing on the ordinance will take place at 7 p.m. on May 20, 2014. Both readings of the ordinance will take place in Morgantown City Hall, Council Chambers, 389 Spruce Street, Morgantown, WV 26505.

Ordinance Authorizing Submission of Plan

Will be attached to application upon submission.

Individual Ordinances for Each Aspect of the Plan

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Ordinances to be drafted for review if City is accepted into the Home Rule Pilot Program.

Fiscal Impact Worksheet Formula & Plan to Adopt Municipal Sales Tax

It is estimated that an additional 1% sales tax on products, that already have a State sales tax, would create an additional \$5.3 million in revenue for the City. To reduce the tax burden on City businesses, reductions in the B&O taxes rates on Retail, Manufacturing, Amusement, and Wholesale categories are expected. Reductions of at least 30% in current B&O tax rates are projected to create a \$1,140,000 savings to businesses, and still allow the City to increase the level of municipal services expected by residents, businesses, and visitors. Table I, below, depicts current B&O tax rates, maximum allowable B&O tax rates by West Virginia law, projected B&O tax rate reductions by the City, projected savings to businesses by B&O tax rate reductions, and projected net change in revenues to the City. The numbers do not reflect any increases in City revenue resulting from new commercial developments appearing within the City as a result of a reduction in B&O tax rates.

The average gross sales; over the last three years; for retail, service, and contract businesses in the City of Morgantown that are sales taxable totals \$532,997,570, resulting in an estimated consumer sales & sales User Tax revenue of \$5,330,000.

Table 2

B & O Category	Current City Rate	Maximum Allowable Rate	Projected Reduced City Rate	Projected Reduced B & O Revenue
Amusements	0.50%	0.50%	0.35%	\$(1,436)
Retailers, Restaurants, etc.	0.50%	0.50%	0.35%	\$(960,518)
Manufactured Products	0.30%	0.30%	0.10%	\$(104,651)
Wholesalers & Jobbers	0.15%	0.15%	0.11%	\$(73,320)
Total Projected Reduced Revenue				\$(1,139,925)
Estimated Consumer Sales & Use Tax Revenue				\$5,330,000
Net Changes in Revenues				\$4,190,075

Attorney's Opinion



The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
FAX: (304) 225-3590

Stephen R. Fanok
City Attorney
(304) 284-7477

Brent O. Burton
Assistant City Attorney
(304) 284-7479

Date: March 28, 2014
Applicant: CITY OF MORGANTOWN, WEST VIRGINIA
Re: City of Morgantown Municipal Home Rule Proposal

Ladies and Gentlemen:

As City Attorney for the City of Morgantown, I have reviewed West Virginia Code §8-1-5a, Municipal Home Rule Pilot Program Application Guidelines, the proposed City of Morgantown Municipal Home Rule Plan, and other documents related thereto (collectively, the "Plan") as I have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents and my understanding of the intent of the proposed provisions contained in the Plan, it is my opinion that the Plan complies with the statutory requirements within § 8-1-5a, including those requirements contained within § 8-1-5(a)(k) Prohibited Acts.

The Municipal Home Rule Board may rely upon this opinion.

Respectfully,

Stephen R. Fanok

RESOLUTION APPROVING AND AUTHORIZING TO SUBMIT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) THE 2014-2018 COMMUNITY DEVELOPMENT BLOCK GRANT FIVE YEAR CONSOLIDATED PLAN AND 2014 ANNUAL ACTION PLAN

- WHEREAS, The City of Morgantown received a FY 2014 entitlement allocation of \$359,651 in Community Development Block Grant (CDBG) funding from the U.S. Department of Housing and Urban Development (HUD); and
- WHEREAS, The City has prepared the FY 2014 Action Plan in compliance with the 2014-2018 Consolidated Plan; and
- WHEREAS, The FY 2014 Action Plan and 2014-2018 Consolidated Plan have been developed in accordance with the City of Morgantown's Citizen Participation Plan, including public hearings conducted on November 19, 2013, and April 1, 2014, along with a publication of proposed Action Plan for a 30 day Public Comment period April 1 – 30, 2014 with plans available at City Hall, Public Library, BOPARC Senior Center, BOPARC Office and on the City's Web Site;
- NOW, THEREFORE the City of Morgantown by adoption of this resolution this 6th day of May, 2014, authorizes the execution of;
- SECTION 1, The FY 2014 Action Plan allocating \$329,525 in new CDBG funds, \$8,032 in carry over funds, funding Administration & Planning - \$73,536, Housing Programs - \$59,000, Community Development Activities - \$55,146, Non-Housing Community Development Activities - \$180,000.
- SECTION 2, That the City of Morgantown City Manager is hereby designated as the official representative of the grantee and authorized to submit the Five-year Consolidated Plan and Annual Action Plan and all certifications, assurances, and related documents to the U.S. Department of Housing and Urban Development (HUD), and to act in connection with the submission as may be necessary
- SECTION 3, That the City of Morgantown City Manager is hereby authorized to execute the FY 2014 CDBG Grant Agreement with the U.S. Department of Housing and Urban Development (HUD) and to administer the Community Development Block Grant Program on behalf of the City
- SECTION 4, That the Office of Community Development is authorized to administer the CDBG grant and request drawdowns from HUD.

Mayor

City Clerk

***Resolution of the City of Morgantown Concerning Recreation at
Snake Hill Wildlife Management Area***

- Whereas,*** *Morgantown residents of all ages and income levels enjoy activities such as hiking, hunting, trail running, cross-country skiing, bird watching, and other outdoor recreational activities permitted at Snake Hill Wildlife Management Area*
- Whereas,*** *Active outdoor recreation contributes substantially to health and quality of life, and*
- Whereas,*** *the WV Department of Commerce’s 2008 SCORP Survey found that among West Virginians, “walking, hiking, or jogging was the consistent top choice for daily or frequent recreation by all age groups, as well as the top preferred activity by younger residents,”*
- Whereas,*** *the Department of Commerce’s SCORP report cites studies showing that “those with very good access to attractive and large [public open spaces] were 50% more likely to walk six times per week,” that rural residents not having a trail within a 10-minute walk from home were at 68% “greater risk of being both inactive and obese,” and that walking effectively combats West Virginia’s leading health problems, including cancer, stress, and especially obesity and heart disease,*
- Whereas,*** *the Department of Commerce’s SCORP study concluded that barriers to increased outdoor activity “can be mitigated by affirmative steps to link close-to-home trail and pathway improvements with neighborhood or areawide . . . attractions,”*
- Whereas,*** *the magnificent vistas at Cheat View are significant Morgantown attractions that add to the quality of life of Morgantown residents, but whose access trails have been recently been degraded,*
- Whereas,*** *a key to Morgantown’s future growth as a knowledge-based economy depends on its ability to attract and retain young educated professional people, and opportunities for outdoor recreation help attract and retain young educated professionals at very low expense;*
- Whereas,*** *Snake Hill Wildlife Management Area was purchased by the State of West Virginia in 1996 using funds from hunting and fishing license fees (\$1.2 million) PLUS a legislative appropriation of general funds (\$800,000),*
- Whereas,*** *the purchase of Snake Hill Wildlife Management Area in 1996 occurred only because certain civic-minded local citizens organized and sustained an extended campaign for that purchase, including substantial contributions of local funds, and the same citizens who organized and sustained that campaign founded the Coopers Rock Foundation (CRF),*
- Whereas,*** *WV Natural Resources Laws (§20-2-1) states that the wildlife resources of this State shall be protected for the use and enjoyment of all citizens of this State,” and that management should benefit “(1) hunting, fishing and other diversified*

recreational uses; (2) economic contributions in the best interests of the people of this State; and (3) scientific and educational uses” (emphasis added)

Whereas, *the current timber sale (ESH-1) at Snake Hill Wildlife Management Area has destroyed and disrupted significant parts of the established trail system that is essential to local citizens’ enjoyment of permitted activities, including hunting,*

Whereas, *re-establishing and maintaining a trail system can be done without significant State resources, using volunteer labor and materials, as has been demonstrated for the past twenty years at Coopers Rock State Forest,*

Accordingly, we ask that the DNR Wildlife Resources Division quickly reclaim the trails at SHWMA that have been damaged and destroyed by the logging operation, and ask that they do so in a way that promotes permitted recreational uses such as hiking. We especially request that the DNR refrain from using large (3”) gravel in reclaiming these trails and roads, as this large gravel makes hiking extremely difficult.

We also urge the DNR Wildlife Resources Division to work with local residents, recreational experts from WVU, and local organizations such as the Coopers Rock Foundation to develop and implement a plan for maintenance and improvement of the trails at Snake Hill Wildlife Management Area using local volunteer and donated labor and materials.

NOW, THEREFORE, BE IT RESOLVED *by the City Council of the City of Morgantown endorses the reclamation and preservation of the Snake Hill Wildlife Management Area.*

MAYOR

CITY CLERK

Snake Hill Wildlife Management Area and Forest Management Activities

- Snake Hill Wildlife Management Area (WMA) comprises 3,092 acres which lies along the Cheat River in Monongalia and Preston Counties. The property is owned and managed by the West Virginia Division of Natural Resources (WVDNR), Wildlife Resources Section.
- The State acquired the surface rights with a timber reservation on 2,000 acres in 1996 for \$1,975,166 which included an \$800,000 legislative appropriation during the Governor Caperton Administration. The additional \$1,175,166 which funded the original 2,000 acre acquisition came from WVDNR hunting and fishing license funds and conservation stamp proceeds. The timber reservation which Allegheny Wood Products held on the property expired on February 14, 2009, and subsequently timber ownership has reverted to the West Virginia Division of Natural Resources. An additional 1,092 acres of property was acquired from the Conservation Fund in 2004 utilizing WVDNR hunting and fishing license funds and conservation stamp proceeds.
- The ESH #1 Timber Sale, which is currently being harvested, is 115 acres in size (comprises less than 4% of WMA) and is made up of nine cutting units. Five units have residual leave trees designated with variable retention and deferment cutting methods being applied. Four units, which exhibit advanced oak regeneration, will be clearcut to promote oak regeneration. The entire sale area was previously logged approximately 6-10 years ago by Allegheny Wood Products utilizing a diameter limit cut. All skid roads and log landings are pre-existing and are being utilized during current logging operations. Landings and critical areas will be seeded with wildlife-friendly seed mixes.
- As outlined in WV Natural Resources Laws (§20-2-1) - "It is declared to be the public policy of the State of West Virginia that the wildlife resources of this State shall be protected for the use and enjoyment of all citizens of this State. All species of wildlife shall be maintained for values which may be intrinsic or ecological or of benefit to man. Such benefits shall include (1) hunting, fishing and other diversified recreational uses; (2) economic contributions in the best interests of the people of this State; and (3) scientific and educational uses." Forest management which includes the use of commercial timber sales utilizing various silvicultural techniques is necessary for the WVDNR to meet our agency's mission. The forest management practices implemented throughout this timber sale area will help improve forage and habitat for species such as white-tailed deer, ruffed grouse, woodcock and Appalachian cottontails. Also, the early successional forested habitat created by this timber sale will improve feeding, nesting and escape cover for several non-game species, including many songbirds—many of which have experienced significant population declines in the past 50 years. WVU-wildlife graduate students will be monitoring the sale area for the

presence of golden-winged warblers, a species of special concern. The vast majority of the state's wildlife management areas, including the Snake Hill WMA, lack "young forest" habitat which is required by numerous species of wildlife. Subsequently, the WVDNR, Wildlife Resources Section, as well as many other State Fish and Wildlife Agencies throughout the Northeast, has prioritized the creation of early successional forested habitat on their public lands.

- The Director has the authority to conduct timber sales on state-owned wildlife Management Areas as authorized by WV Natural Resources Laws (§20-1-7). Timber sales on wildlife management areas require numerous steps including Governor's review/approval; State Historical and Preservation Office review/approval; review for rare, threatened and endangered species; timber sale contract review/approval by Attorney General's Office; etc. The WVDNR, Wildlife Resources Section is not required to hold public meetings/tours on proposed timber sales on Wildlife Management Areas.
- The Snake Hill WMA is an ecologically unique area with the steep canyon and gorge associated with the Cheat River and the presence of the federally threatened Flat-spined Three-tooth Land Snail (*Triodopsis platysayoides*). This snail is endemic to the Cheat River Gorge with its present known range to occur along approximately 13 miles of the Cheat River Gorge including the Snake Hill WMA.
- The heavily forested Snake Hill WMA is an important component of West Virginia's public Wildlife Management Area system which supports a wide diversity of floral and faunal species. Although wildlife-associated recreation (i.e., hunting, fishing, trapping, bird watching, etc.) is the primary focus on WMAs, other outdoor recreational activities such hiking and cross country skiing are permitted on the area.
- For additional information regarding this WMA, contact the District Wildlife Biologist at the Farmington DNR District I Office at 304-825-6787.

RESOLUTION

The City of Morgantown met on May 6, 2014, with a quorum present and passed the following resolution:

Be It Resolved that the City of Morgantown hereby authorizes its City Manager, Jeff Mikorski, to act on its behalf to enter a contractual agreement with the Department of Justice, Office of Justice Programs, to receive and administer grant funds from the 2014 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for Equipment Upgrades for the City of Morgantown.

MAYOR

CITY CLERK



Morgantown Police Department

300 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7522
www.morgantownwv.gov



April 29, 2014

Honorable Morgantown City Council Members,

The Morgantown Police Department is eligible for the 2014 Edward Byrne Memorial Justice Assistance Grant (JAG) Program. We have been allocated federal funding in the amount of \$21,016.00 which we will use for equipment upgrades. The attached email and list received on April 24, 2014 communicates this. We are beginning the application process and respectfully request that you pass a resolution, as done in recent years, for the City of Morgantown to enter into a contractual agreement with the Department of Justice, Office of Justice Programs, to receive and administer the aforementioned grant funds.

In your service,

A handwritten signature in blue ink that reads "Lt. M.D. Solomon".

Lieutenant Matthew D. Solomon

Zimbra

msolomon@cityofmorgantown.org

Fiscal Year (FY) 2014 Local Edward Byrne Memorial Justice Assistance Grant (JAG) Program announcement

From : BJA Justice <bjajustice@usdoj.gov>
Sender : owner-bvp-list@ojp.usdoj.gov
Subject : Fiscal Year (FY) 2014 Local Edward Byrne Memorial Justice Assistance Grant (JAG) Program announcement

Thu, Apr 24, 2014 09:18 AM

The Bureau of Justice Assistance (BJA) is pleased to announce that FY 14 Local JAG Program funding information is now available and appears on the [BJA JAG web page](#).

Please note that this email is being sent to a large group of potential Local JAG applicants and **does not necessarily confirm your jurisdiction's eligibility under the FY 2014 Local JAG Program.**

Eligible jurisdictions under FY 2014 Local JAG are limited to units of local government appearing on the [FY 2014 Local JAG Allocations list](#). Please verify your eligibility, and **if eligible**, review the associated [FY 2014 Local JAG solicitation](#) and submit an application for funding through the Office of Justice Program's (OJP) [Grants Management System \(GMS\)](#) **by 8:00 p.m. Eastern on Tuesday, June 10, 2014.**

Please contact the GMS Help Desk at 1-888-549-9901 (Option 3) prior to the deadline if you experience any technical difficulties with submission. Applications must be submitted by the stated deadline, regardless of whether the 30 day governing body review requirement has been satisfied. BJA will hold applications prior to processing until the 30 day governing body review requirement has been met OR attach a withholding of funds special condition to the award until the governing body requirement has been satisfied.

For questions related to the JAG solicitation, please contact the BJA Justice Information Center at 1-877-927-5657, via e-mail to JIC@telesishq.com or by [live web chat](#).

For GMS assistance, please contact the GMS Help Desk at 1-888-549-9901; Option 3 or refer to: <http://www.ojp.usdoj.gov/gmscbt/>.

2014 WEST VIRGINIA JAG ALLOCATIONS

Listed below are all jurisdictions in the state that are eligible for FY 2014 JAG funding, as determined by the JAG formula. If your jurisdiction is listed with another city or county government in a shaded area, you are in a funding disparity. In this case, the units of local government must develop a Memorandum of Understanding (MOU) and apply for an award with a single, joint application.

Finding your jurisdiction:(1) Disparate jurisdictions are listed in shaded groups below, in alphabetic order by county.(2) Eligible individual allocations are listed alphabetically below the shaded, disparate groupings.

Counties that have an asterisk (*) under the "Eligible Individual Allocation" column did not submit the level of violent crime data to qualify for a direct award from BJA, but are in the disparate grouping indicated by the shaded area. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required Memorandum of Understanding (MOU). A sample MOU is provided online at: <https://www.bja.gov/Funding/JAGMOU.pdf>. Disparate jurisdictions do not need to abide by the listed individual allocations, which are provided for information only. Jurisdictions in a funding disparity are responsible for determining individual amounts within the Eligible Joint Allocation and for documenting individual allocations in the MOU. For additional details regarding the JAG formula and award calculation process, with examples, please refer to the updated JAG Technical report: <https://www.bja.gov/Publications/JAGTechRpt.pdf>.

For JAG Frequently Asked Questions, please refer to BJA's JAG webpage: <https://www.bja.gov/Funding/JAGFAQ.pdf>.

WV	CABELL COUNTY	County	*	
WV	HUNTINGTON CITY	Municipal	\$48,743	\$48,743
WV	HARRISON COUNTY	County	*	
WV	CLARKSBURG CITY	Municipal	\$16,677	\$16,677
WV	KANAWHA COUNTY	County	\$42,574	
WV	CHARLESTON CITY	Municipal	\$93,690	\$136,264
WV	OHIO COUNTY	County	\$10,101	
WV	WHEELING CITY	Municipal	\$38,642	\$48,743
WV	RALEIGH COUNTY	County	\$23,118	
WV	BECKLEY CITY	Municipal	\$34,914	\$58,032
WV	RANDOLPH COUTNRY	County	*	
WV	ELKINS CITY	Municipal	\$11,321	\$11,321
WV	WOOD COUNTY	County	\$20,813	
WV	PARKERSBURG CITY	Municipal	\$41,557	\$62,370
WV	BERKELEY COUNTY	County	\$14,779	
WV	FAYETTE COUNTY	County	\$12,949	
WV	HAMPSHIRE COUNTY	County	\$14,237	
WV	LOGAN COUNTY	County	\$10,915	
WV	MARTINSBURG CITY	Municipal	\$15,864	
WV	MARION COUNTY	County	\$10,779	
WV	MERCER COUNTY	County	\$11,796	
WV	MONONGALIA COUNTY	County	\$21,287	
WV	MORGANTOWN CITY	Municipal	\$21,016	
WV	NICHOLAS COUNTY	County	\$31,931	
WV	PRINCETON CITY	Municipal	\$12,067	
WV	PUTNAM COUNTY	County	\$17,152	
WV	SOUTH CHARLESTON CITY	Municipal	\$15,321	
Local total			\$592,243	