



Office of the City Clerk

# The City of Morgantown

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**AGENDA**  
**MORGANTOWN CITY COUNCIL**  
**REGULAR MEETING**  
**August 20, 2013**  
**7:00 p.m.**

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE TO THE FLAG
4. APPROVAL OF MINUTES: Regular Meeting – August 6, 2013
5. CORRESPONDENCE:
  - A. Year of the Tree Presentation
  - B. Rivertown Presentation (At End of Meeting)
6. PUBLIC HEARING:
  - A. PUBLIC HEARING on AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MORGANTOWN AND THE MONONGALIA COUNTY BOARD OF EDUCATION, AS THE SAME APPLIES TO A PREVENTION RESOURCES OFFICER IN THE MONONGALIA COUNTY SCHOOL SYSTEM AT MORGANTOWN HIGH SCHOOL.
  - B. PUBLIC HEARING on AN ORDINANCE AMENDING SECTION 345.35 OF THE TRAFFIC CODE OF THE CITY OF MORGANTOWN MAKING THE OFFENSE OF FAILURE TO WEAR SAFETY BELTS A PRIMARY OFFENSE.

7. UNFINISHED BUSINESS:

- A. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MORGANTOWN AND THE MONONGALIA COUNTY BOARD OF EDUCATION, AS THE SAME APPLIES TO A PREVENTION RESOURCES OFFICER IN THE MONONGALIA COUNTY SCHOOL SYSTEM AT MORGANTOWN HIGH SCHOOL. (First Reading August 6, 2013)
- B. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE AMENDING SECTION 345.35 OF THE TRAFFIC CODE OF THE CITY OF MORGANTOWN MAKING THE OFFENSE OF FAILURE TO WEAR SAFETY BELTS A PRIMARY OFFENSE. (First Reading August 6, 2013)
- C. BOARDS AND COMMISSIONS

8. PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION

9. SPECIAL COMMITTEE REPORTS

10. NEW BUSINESS:

- A. Consideration of APPROVAL of FIRST READING of AN ORDINANCE BY THE CITY OF MORGANTOWN CREATING ARTICLE 162 WITHIN ITS ADMINISTRATIVE CODE, ESTABLISHING A WOODBURN SCHOOL REDEVELOPMENT COMMISSION.
- B. Consideration of APPROVAL of FIRST READING of a RESOLUTION TO OBTAIN \$10,000 FROM THE COMMUNITY PARTICIPATION GRANT PROGRAM; PROJECT NUMBER 13LEDA0188, FUNDS FOR USE FOR THE ZACQUILL MORGAN STATUE.

11. CITY MANAGER'S REPORT:

INFORMATION:

- 1. WVML – Home Rule Pilot Program

12. REPORT FROM CITY CLERK
13. REPORT FROM CITY ATTORNEY
14. REPORT FROM COUNCIL MEMBERS
15. ADJOURNMENT

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

**REGULAR MEETING, AUGUST 6, 2013:** The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, August 6, 2013 at 7:00P.M.

**PRESENT:** City Manager Jeff Mikorski, Assistant City Manager of Operations Glen Kelly, City Attorney Steve Fanok, Deputy City Clerk Bethany Sypolt, and Council Members: Ron Bane, Bill Kawecki, Wes Nugent, Jenny Selin, Marti Shamberger, Mike Fike and Nancy Ganz. City Clerk Linda Little was absent.

**APPROVAL OF MINUTES:** The minutes of the Regular Meeting of July 16, 2013, and the Special Meeting of July 16, 2013 were approved as presented.

**CORRESPONDENCE:**

**PUBLIC HEARING – AN ORDINANCE AMENDING THE FY 2013-2014 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.**

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

**PUBLIC HEARING – AN ORDINANCE AMENDING THE FY 2012-2014 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.**

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

**PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN IT AND THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY WHICH PERTAINS TO THE FUNDING OF A MITIGATION PLAN PERTAINING TO THE CONSTRUCTION OF THE MORGANTOWN MUNICIPAL AIRPORT ACCESS ROAD; SAID FUNDING PLAN BEING REQUIRED BY THE UNITED STATES ARMY CORPS OF ENGINEERS.**

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

**UNFINISHED BUSINESS:**

**AN ORDINANCE AMENDING THE ANNUAL BUDGET, COAL SEVERANCE FUND:**  
The above entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING THE FY 2013-2014 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.

Motion by Nugent, second by Bane, to adopt the above entitled ordinance. Motion carried 7-0.

**AN ORDINANCE AMENDING THE ANNUAL BUDGET, GENERAL FUND:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AMENDING THE FY 2013-2014 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

Motion by Bane, second by Nugent to adopt the above entitled ordinance. Motion carried 7-0.

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH MON COUNTY PERTAINING TO THE FUNDING OF THE AIRPORT ACCESS ROAD MITIGATION PLAN:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN IT AND THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY WHICH PERTAINS TO THE FUNDING OF A MITIGATION PLAN PERTAINING TO THE CONSTRUCTION OF THE MORGANTOWN MUNICIPAL AIRPORT ACCESS ROAD; SAID FUNDING PLAN BEING REQUIRED BY THE UNITED STATES ARMY CORPS OF ENGINEERS.

Motion by Bane, second by Shamberger to adopt the above entitled ordinance. Motion carried 7-0.

**BOARDS AND COMMISSIONS:** By acclamation of Council, Botanist Bill MacDonald was re-appointed to the Urban Landscape Commission and Council Nugent was appointed to serve on the Metropolitan Planning Organization. Council will interview four candidates at a Special Meeting on August 6<sup>th</sup> to fill vacancies on the Library Board.

**PUBLIC PORTION:**

Renee Hernandez, 224 Overdale Street, reported to Council many troubles with her rented apartment and the landlord. She also relayed an unsatisfactory interaction with Code Enforcement during a recent inspection, and asked that the matter be looked into.

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

**SPECIAL COMMITTEE REPORTS:** No Reports.

**NEW BUSINESS:**

**AN ORDINANCE REZONING TWO PARCELS OF REAL ESTATE IN THE THIRD AND FIFTH WARDS FROM R-2 AND B-2 TO B-4:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO PARCELS OF REAL ESTATE IN THE THIRD AND FIFTH WARDS OF THE CITY OF MORGANTOWN FROM R-2, SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT AND B-2, SERVICE BUSINESS DISTRICT TO B-4, GENERAL BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND FULLY DECLARED TO BE A PART OF THE ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

Motion by Bane, second by Kawecky to pass the above entitled Ordinance to second reading. After discussion, motion carried 7-0.

**AN ORDINANCE REZONING ONE PARCEL OF REAL ESTATE IN THE FOURTH WARD FROM B-1 TO B-2:** The below entitled Ordinance was presented for first reading:

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

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

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT FOR A PREVENTION RESOURCES OFFICER AT MORGANTOWN HIGH SCHOOL:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MORGANTOWN AND THE MONONGALIA COUNTY BOARD OF EDUCATION, AS THE SAME APPLIES TO A PREVENTION RESOURCES OFFICER IN THE MONONGALIA COUNTY SCHOOL SYSTEM AT MORGANTOWN HIGH SCHOOL.

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

**AN ORDINANCE AMENDING THE TRAFFIC CODE, SAFETY BELTS:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING SECTION 345.35 OF THE TRAFFIC CODE OF THE CITY OF MORGANTOWN MAKING THE OFFENSE OF FAILURE TO WEAR SAFETY BELTS A PRIMARY OFFENSE.

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

**A SUPPLEMENTAL RESOLUTION PROVIDING FOR THE ACQUISITION OF THE CANYON PUBLIC SERVICE DISTRICT SEWER SYSTEM AND THE ASSUMPTION, RE-DESIGNATION AND REPLACEMENT OF CANYON PUBLIC SERVICE DISTRICT'S SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND) AS THE CITY OF MORGANTOWN COMBINED UTILITY BONDS, SERIES 2013 A:** The above entitled Supplemental Resolution was presented for approval.

Motion by Bane, second by Kawecki to pass the above entitled Ordinance to second reading. After introduction from the City Manager, the rules were suspended to allow explanation from Attorney John Stump. Motion carried 7-0.

**CITY MANAGERS REPORT:**

**INFORMATION:**

1. Sunnyside Up TIF District Engineering Request for Qualifications

Mr. Mikorski explained the request and selection process for the project.

2. Administration Team Mini-Retreat

Mr. Mikorski reported on Department Heads' performance evaluation and goals, with more information to follow as the initiative progresses.

**ACTION:**

1. Capital Escrow Budget Amendment

After explanation from Mr. Mikorski, motion by Bane, second by Nugent to approve the above mentioned budget amendment. Motion carried 7-0.

Mr. Mikorski then updated Council on the on-campus WVU Smoking Ban, and it's issues which include employees gathering in front of private housing and on public rights-of-ways; and announced an upcoming meeting with officials to resolve these issues. The goal is to have a plan in place before students return.

**REPORT FROM CITY CLERK:** No Report

**REPORT FROM CITY ATTORNEY:** No Report

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane:

Councilor Bane asked the Manager for an update on downtown sidewalk repair. Mr. Mikorski replied that after completion of the utility work on Wall Street, the sidewalk was scheduled to be replaced. Councilor Bane thanked the Manager and commended him for his hard work during the last year.

Councilor Kawecki

Councilor Kawecki announced the South Park Association of Neighbors upcoming meeting and their 23<sup>rd</sup> annual yard sale.

Councilor Nugent:

Councilor Nugent thanked the City and Wiles Hill-Highland Park Neighborhood Association for the success of the National Night Out event. He inquired whether High Street will still be paved this year. Mr. Mikorski responded that it will be paved, but regrettably not in time for students to return. Councilor Nugent thanked everyone for the well-wishes on the recent birth of his son.

Councilor Shamberger:

Councilor Shamberger thanked the City for painting curbs in her area, and mentioned the Friendship Reception that took place to welcome delegates of Xuzhou, China. She noted that the Botanic

Garden is a treasure and that she is excited to attend the West Virginia Municipal League Conference.

Councilor Fike:

Councilor Fike thanked the Manager for appraising the Department Heads' performances, noting that it is a very professional practice to engage in. He commended the positive working relationship with WVU, and noted that the Good Will Cities initiative is working well and gearing up for fall games.

Councilor Ganz:

Councilor Ganz thanked the Communications Manager for the "8 Things to Know" pamphlet and announced the Suncrest Neighborhood Association picnic. She encouraged use of the City website and addressed Ms. Hernandez's comments about rental housing. She asked it be discussed at an upcoming Committee of the Whole.

Mayor Selin:

Mayor Selin reported litter problems and then noted she accepted a speaking engagement with students. She encouraged other Council members to share in this responsibility. She then announced upcoming events including the Farmer's Market, Children's Discovery Museum bug hunt, Arts Mon photography exhibit, MAC ceramics, video art and paintings exhibit, and a Steel Drum Concert in Krepps Park.

**ADJOURNMENT:** There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:03p.m.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

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



**Office of the City Manager**

# The City of Morgantown

Interim City Manager  
Jeff Mikorski, ICMA-CM  
389 SPRUCE STREET

MORGANTOWN, WEST VIRGINIA 26505

(304) 284-7405 FAX: (304) 284-7430

[www.morgantownwv.gov](http://www.morgantownwv.gov)

## City Manager's Report for City Council August 20, 2013

Information:

### **WVML – Home Rule Pilot Program**

The West Virginia Municipal League Annual Conference was held August 7-9, 2013 and centered around the details of the Municipal Home Rule application process. Sixteen additional cities will become a part of the pilot program after the deadline in June 2014. I, along with, council members, and the Assistant City Manager were present for those informational presentations. Over the last few months, Morgantown City Administration has been identifying areas that Home Rule could be utilized by the City. I would like to setup a workshop meeting with City Council to address possible Home Rule topics to research for the application process in order to apply for the Home Rule pilot program next spring. I would like to suggest Tuesday, September 10, time and location to be determined.

Jeff Mikorski ICMA-CM,  
Morgantown City Manager

## BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

### HISTORIC LANDMARKS COMMISSION:

Council still needs to appoint a Council Appointment to this Commission.

### LIBRARY BOARD:

Term for Robert Gallagher expired on July 30, 2013. Council will interview candidates at a Special Meeting on August 20, 2013 prior to the Regular Meeting at 6pm. Residents serve appointed by Mayor, confirmed by Council to serve at large.

### PERSONNEL BOARD:

Ken Fones-Wolf's term expired on August 11, 2013. Advertising for Candidates, deadline 8/19/13. Residents and qualified voters serve at large.

### TRAFFIC COMMISSION:

Margaret Roberts First Ward representative wishes not to continue to serve. First Ward Councilor (Ron Bane) will check to see if there is a representative in their ward that is interested in serving. Residents appointed by Council, must represent specific categories.

### URBAN LANDSCAPE COMMISSION:

Julie Lattanzi, Fifth Ward appt. resigned. Attached is a bio for Joseph Scotti to replace Julie. Council can vote on that at the Regular Meeting on August 20, 2013. Residents appointed by Council, must represent specific categories.

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

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

***\*Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, 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. 8/14/13*

## Morgantown

Request ID: 28144

**Request Form:** Volunteer for City Boards and Commissions

**Received:** Monday, August 12, 2013

**Status:** Completed

**Priority:** Normal

**Assigned To:** Bethany Sypolt

### Contact Details

**From:** Joseph Scotti

**Email:** ScottiJRM@gmail.com

**Telephone:** 304-906-9087

**Address1:** 808 Ridgeway Avenue

**Address2:**

**City:** Morgantown

**State:** WV

**Zip Code:** 26505

**Pref. Method of Response:** E-Mail

### Questions and Answers

**Are you a Morgantown resident?:**

Yes

**In which City Ward do you live?:**

Fifth

**Who is your employer? (If retired, answer "retired"):**

Self-employed

**If Yes, how many years have you lived in the City of Morgantown?:**

23

**What type of business are, or were, you employed in?:**

Clinical psychology private practice

**What is your job description?:**

**Do you have any professional certifications or licenses?:**

WV Licensed Clinical Psychologist

**Do you have any pertinent special interests?:**

Interested in the great outdoors and city beautification

**On which commission(s) are you interested in serving?:**

Urban Landscape Commission

**What is your work telephone number?:**

### Staff Activities

The status of the request was changed from Active to Completed. on 8/13/2013 at 10:24 AM

### Public Activities

Request was successfully submitted. by EXEC EXEC on 8/12/2013 at 3:56 PM

Thank you for your interest in serving the City of Morgantown. We have received your application and will review the information you provided. The City Clerk will notify you if there are vacancies on the boards or commissions in which you have specified interest, pending verification of your eligibility and any given residency requirements. Should you have further questions please feel free to contact our office at 304-284-7439. by Bethany Sypolt on 8/13/2013 at 10:24 AM

An email was sent to ScottiJRM@gmail.com. by Bethany Sypolt on 8/13/2013 at 10:25 AM

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MORGANTOWN AND THE MONONGALIA COUNTY BOARD OF EDUCATION, AS THE SAME APPLIES TO A PREVENTION RESOURCES OFFICER IN THE MONONGALIA COUNTY SCHOOL SYSTEM AT MORGANTOWN HIGH SCHOOL.

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

This Ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

\_\_\_\_\_  
CITY CLERK

RECORDED:

## **AGREEMENT**

This Agreement, made and entered into this \_\_\_\_ day of \_\_\_\_ 2013 by and between the City of Morgantown, West Virginia (hereinafter referred to as "City") and the Monongalia County Board of Education, West Virginia (hereinafter referred to as "Board").

### **WITNESSETH:**

WHEREAS, the Board has established a Prevention Resources Officer Program (hereinafter referred to as "PRO Program"); and

WHEREAS, the Board agrees that the City have one police officer serve as a Prevention Resources Officer in the Monongalia County School System, Morgantown High School; and

WHEREAS, the City and the Board understand that the program is established for the purpose of assistance in the prevention of juvenile delinquency through programs specifically developed to respond to those factors and conditions which give rise to delinquency; and

WHEREAS, the City and the Board realize, the PRO Program is a great benefit to school administration, students and the community as a whole.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

### **SECTION 1: DUTIES AND RESPONSIBILITIES OF CITY**

- 1.01 The City will provide one (1) police officer assigned as a Prevention Resource Officer, (hereinafter referred to as "PRO") to the Board for assignment at Morgantown High School.
- 1.02 The PRO will abide by County School Board Policies and Laws, as they relate to School Prevention Resource Officer. The PRO will consult and coordinate instructional activities through the principal. Activities conducted by the PRO, which are part of the regular instruction program of the school, will be under the direction of the principal. The Board will approve the content of education programs and instructional materials used by the PRO.
- 1.03 The PRO will provide to students' instruction in various aspects of law enforcement, public safety, and education as requested and supervised by teachers.
- 1.04 City will be responsible for the control and direction of all aspects of employment of the police officer assigned to the PRO Programs.
- 1.05 City will ensure that the exercise of the law enforcement powers by the PRO is in compliance with the authority granted by law.

- 1.06 City will hold harmless the Board for any injuries suffered by PRO arising under their employment with the PRO Program.
- 1.07 The PRO will not function as a school disciplinarian or safety officer. It is not the responsibility of the PRO to intervene with the normal disciplinary procedures in the school the PRO will perform duties to the following:
- A. To perform law enforcement functions within the school setting.
  - B. To identify and prevent, through counseling and referral, delinquent behavior, including substance abuse.
  - C. To foster a better understanding of the law enforcement function.
  - D. To develop a better appreciation of citizens' rights, obligation and responsibilities.
  - E. To provide information about crime prevention.
  - F. To provide assistance and support for crime victims identified with the school setting.
  - G. To promote positive relations between the students and the law enforcement officer.
  - H. To enhance knowledge of the fundamental concepts and structure of the law.
  - I. To be familiar with confidentiality requirements.
  - J. Any records generated by the officer as part of his/her "PRO Program" duties shall be considered as a school record subject to Family Educational Rights and Privacy Act (34 CFR 99.30 and 99.31).
- 1.08 The PRO will be on duty at the school during regular school hours when students are required to attend and when the required PRO Training Programs are conducted, unless police department emergency needs or law enforcement requirements prohibit.
- 1.09 The PRO will not be required to attend extracurricular activities, which are held beyond his/her regular workday nor require the PRO to leave his/her jurisdiction, but the PRO will have the option if they choose to do so.

## **SECTION 2: DUTIES AND RESPONSIBILITIES OF THE BOARD**

- 2.01 The Principal at Morgantown High School will be the on-site contact person for the PRO. The Superintendent of the Board will designate the Prevention Resource Office Coordinator to serve as the county liaison for the program.

- 2.02 A performance review will be performed at the end of the school year by the Principal and submitted in writing to the Police Chief.
- 2.03 The Board will furnish the City funds in the total sum of \$45,111.00 to offset the cost of salary and related benefits for the employee of the City, who will provide the contracted service and act as PRO to the schools pursuant to the terms hereinafter expressed.

### **SECTION 3: TERMS OF AGREEMENT**

- 3.01 This Agreement will be made of a 12 month term beginning the 1<sup>st</sup> day of July 2013 through the 30<sup>th</sup> day of June 2014.
- 3.02 This Agreement will continue in effect until the duration of the term as described in paragraph 3.01 or until terminated by either of the parties in accordance with the term listed in section four (4) below.

### **SECTION 4: TERMINATION**

- 4.01 Either party may terminate this agreement by serving written notice upon the other party at least thirty (30) days in advance of such termination.

### **SECTION 5: INVALID PERSON**

- 5.01 Should any part of this Agreement be declared invalid by a court of law, such decision will not affect as if the invalid portion was never a part of this Agreement materially affect any other rights or obligations of the parties hereunder, the parties hereto will negotiate in good faith to amend this Agreement in a manner satisfactory to the parties.

### **SECTION 6: INDEMNIFICATION**

- 6.01 The Board agrees to indemnify and hold harmless the City for any liability whatsoever arising out of negligent acts of the Boards' employees or agents in direction of the PRO in the performance of their instructional programs. The City agrees to indemnify and hold harmless the Board of any liability whatsoever arising to employment as defined by City Ordinances and West Virginia State Law. Nothing in this Agreement will affect any rights, privileges or immunities the City or Board may have.

### **SECTION 7: ASSIGNMENT**

- 7.01 No Party of the Agreement will, neither directly nor indirectly, assign nor purport to assign this Agreement or any of its rights or obligations in whole or in partly to any third party without the prior written consent of the other party.

**SECTION 8: NO WAIVER**

8.01 The failure of either party to enforce at any time of the provision, rights, or elections or in any way effect the validity of the Agreement. The failure to exercise by either party in any of its rights herein contained will not preclude or prejudice it from exercising the same or any other right it may have under this Agreement, irrespective of any previous action or proceeding taken by it hereunder.

**SECTION 9: COMPLETE AGREEMENT**

9.01 This Agreement is the complete Agreement of the parties; may be amended or modified only in writing; and supersedes, cancels, and terminates any and all prior agreements or understanding of the parties, whether written or oral, concerning the subject matter hereof.

**SECTION 10: CHOICE OF LAW**

10.01 This Agreement will be governed by and interpreted according to the laws of the State of West Virginia. It will be binding upon and insure to the benefit of the successors of the City and the Board.

**SECTION 11: NOTICES**

11.01 All notices or other communications required or permitted by the Agreement will be in writing and deemed effectively delivered upon mailing by certified mail, return receipt requested, or delivered personally to the following persons and addresses unless otherwise specified herein:

\_\_\_\_\_  
Jeff Mikorski, City Manager  
City of Morgantown, WV

\_\_\_\_\_  
Date

\_\_\_\_\_  
Dr. Frank Devono, Superintendent  
Monongalia County Board of Education

\_\_\_\_\_  
Date

**AN ORDINANCE AMENDING SECTION 345.35 OF THE TRAFFIC CODE OF THE CITY OF MORGANTOWN MAKING THE OFFENSE OF FAILURE TO WEAR SAFETY BELTS A PRIMARY OFFENSE.**

The City of Morgantown hereby ordains that Section 345.35 of its Traffic Code is amended as follows (new matter underlined, deleted matter struck through):

**345.35 OPERATION OF VEHICLES WITH SAFETY BELTS.**

- (a) A person shall not operate a passenger vehicle on a public street or highway unless the person, any passenger in the backseat under eighteen years of age, and any passenger in the front seat of such passenger vehicle is restrained by a safety belt meeting applicable federal motor vehicle safety standards. For the purposes of this section, "passenger vehicle" means a motor vehicle which is designed for transporting ten passengers or less, including the driver, except that such term does not include a motorcycle, a trailer or any motor vehicle which is not required on the date of the enactment of this section under a federal motor vehicle safety standard to be equipped with a belt system. The provisions of this section shall apply to all passenger vehicles manufactured after the first day of January, 1967, and being 1968 models and newer.
- (b) The required use of safety belts as provided herein does not apply to a duly appointed or contracted rural mail carrier of the United States Postal Service who is actually making mail deliveries or to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety belt if the condition is duly certified by a physician who shall state the nature of the disability as well as the reason such restraint is appropriate. Any regulations or rules which may be adopted by the West Virginia Division of Motor Vehicles establishing a method to certify any such physical disability and to require the use of an alternative restraint system where feasible or to waive the requirement for the use of any restraint system shall be hereby adopted by reference.
- (c) Notwithstanding any other provision of this Code to the contrary, no points may be entered on any driver's record maintained by the Division of Motor Vehicles as a result of a violation of this section.
- (d) Nothing contained in this section shall be construed to abrogate or alter the provisions of Section 345.31 relating to the mandatory use of child passenger safety devices.
- (e) Any person who violates the provisions of this section shall be fined ~~not more than~~ twenty-five dollars (\$25.00). No court costs or other fees shall be assessed for a violation of this section. ~~Enforcement of this section shall be accomplished only as a secondary action when a driver of a passenger vehicle has been detained for probable cause of violating another section of this code.~~

This Ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

\_\_\_\_\_  
City Clerk

RECORDED:

**AN ORDINANCE BY THE CITY OF MORGANTOWN CREATING ARTICLE 162  
WITHIN ITS ADMINISTRATIVE CODE, ESTABLISHING A WOODBURN SCHOOL  
REDEVELOPMENT COMMISSION.**

The City of Morgantown hereby ordains that a new Article 162 is created within its Administrative Code, which reads as follows:

162.01 ESTABLISHED.

There is hereby established a Woodburn School Redevelopment Commission.

162.02 PURPOSE.

The function of the Woodburn School Redevelopment Commission is to watch over and advise the City Manager and City Council regarding present and future development of the former Woodburn School property, programming, financing of projects, and operations of the property as a whole.

162.03 MEMBERSHIP.

The Woodburn School Redevelopment Commission shall consist of seven members who shall be appointed by City Council. Each of the seven members shall serve for a three-year term. Upon the conclusion of that three-year period, subsequent reappointments or new appointments will be for terms as follows:

Two members for a one-year term

and

Two members for a two-year term

and

Three members for a three-year term

One member of the Commission shall be a member of the governing body of the City, and shall be elected by City Council. The term of the City Council member shall be coextensive with the term of the office to which he or she has been elected or appointed. The Commission will be administered by the City Manager's Office. All members shall serve without compensation.

162.04 VACANCIES.

Vacancies shall be filled in the same manner as for appointments to the Commission, but for the unexpired portion of the term only. The office of a member of the Woodburn School Redevelopment Commission shall become vacant upon his/her death, resignation, removal from office, or failure to attend three consecutive regular meetings of the Commission without being excused by the Commission either before or after such absence.

162.05 OFFICERS.

The Woodburn School Redevelopment Commission shall select from its own membership a chairperson, vice-chairperson, and secretary.

162.06 MEETINGS.

The Woodburn School Redevelopment Commission shall meet as often as it may deem necessary, upon call of the chairperson. All meetings will be subject to the West Virginia Open Government Proceedings Act.

162.07 WRITTEN REPORTS.

The Commission shall submit annual reports to the City Manager and City Council summarizing its past year's activities and recommendations for the ensuing year.

162.08 FREEDOM OF INFORMATION ACT APPLIES.

As a commission of the City, the Woodburn School Redevelopment Commission shall be subject to the West Virginia Freedom of Information Act.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

\_\_\_\_\_  
CITY CLERK

RECORDED:

**RESOLUTION**

*WHEREAS, the City of Morgantown submitted the necessary paperwork to obtain \$10,000 for the Colonel Zackquill Morgan Statue project through the Governor's Community Participation Grant Program, and the grant application has been approved for funding; and*

*WHEREAS, the grant (13LEDA0188)) will allow the construction and installation of the Colonel Zackquill Morgan Statue in Morgantown ; and*

*WHEREAS, Morgantown City Council is of the opinion that this will be of great benefit to the residents of Morgantown, and therefore agrees to administer the grant contract.*

*NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this 20th day of August, 2013, that the City agrees to the conditions of the contract and authorizes the Mayor to sign the West Virginia Development Office contract, and City Manager to administer the execution of the grant*

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# GOVERNOR'S COMMUNITY PARTICIPATION GRANT PROGRAM CONTRACT

## BETWEEN THE WEST VIRGINIA DEVELOPMENT OFFICE AND THE CITY OF MORGANTOWN

Project Number 13LEDA0188

**THIS AGREEMENT**, entered into this 1st day of July, 2012, by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office hereinafter called the "WVDEVO" and the City of Morgantown and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

### WITNESS THAT:

**WHEREAS**, the WVDEVO has promised and agreed to assist the Grantee to perform such tasks described in the scope of services, which is to be partially financed by funds made available through the Governor's Community Participation Grant program.

**NOW, THEREFORE**, the parties do mutually agree as follows:

1. **Scope of Services.** The Grantee shall complete in a satisfactory manner as determined by the WVDEVO, and appropriate regulatory agencies, if required, all duties, tasks, and functions necessary to construct and install a statue of Colonel Zackquill Morgan.
2. **Personnel and Employment.** The Grantee will secure at its own expense, personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with WVDEVO.

With respect to employment in carrying out the program objectives, the Grantee agrees that it will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, or physical handicap.

3. **Time Performance.** The Grantee will commence its duties under this Contract on July 1, 2012, and such duties shall be undertaken and completed by June 30, 2014.
4. **Compensation and Fiscal Management.** In consideration of the services rendered by the Grantee, the WVDEVO agrees to pay the Grantee the sum of \$10,000. This amount constitutes complete compensation for all services rendered.

The Grantee shall provide local matching funds totaling up to ten percent of the total compensation for all services rendered.

The Grantee shall be responsible for establishing and maintaining adequate procedures and internal financial controls governing the management and utilization of funds provided under this Contract, as well as funds provided as the Grantee's matching share.

5. **Amendments.** Any changes to the scope of services, completion date, compensation or any other terms or conditions of this agreement shall be incorporated in written amendments to the Contract. If necessary and/or required, any amendments to this Contract are subject to the reappropriation of funds and approval of the WVDEVO and/or the Governor of the State of West Virginia.
6. **Payments and Repayment.** In order to receive payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment

Financial Report. The final ten percent shall be made available upon submission of certification of completion and acceptance of the project by the Grantee.

Furthermore, the Grantee shall refund to the State any expenditures determined to be made for an ineligible purpose for which State funds were received.

7. **Sub-Grantees and Reversion of Property.** The Grantee may administer funds on behalf of sub-grantees, provided that the sub-grantee is certified as a nonprofit organization by the United States Internal Revenue Service and the West Virginia Secretary of State's Office. Should the sub-grantee cease to exist, all commodities or supplies purchased with funds provided under the auspices of this Contract by or for the sub-grantee shall become the property of the Grantee.

8. **Competitive Bid Procedures.** Competitive bidding shall be pursued in all instances. The Grantee must follow the more stringent of either state or local purchasing regulations. The West Virginia Purchasing Division requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids, however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.

Purchases exceeding \$25,000 require public notices as a Class II legal advertisement in compliance with the provisions of West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date. The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, and by posting notice on a bulletin board in a public place. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination of this agreement.

9. **Construction.** The Grantee shall procure construction contracts in accordance with West Virginia Code §5-22-1. The term construction shall mean any construction, reconstruction, improvement, enlargement, painting, decorating, or repair of any public improvement let to contract. **The state and its subdivisions shall, except as provided in this section, solicit competitive bids for every construction project exceeding \$25,000 in total cost. Further, the receipt and utilization of funds procured under this agreement mandate that ALL CONSTRUCTION CONTRACTS NECESSARY FOR THE UNDERTAKING AND COMPLETION OF THIS PROJECT, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code §21-5A.** These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions of West Virginia Code §59-3 as outlined in Section 8 of this agreement.

Any contracts executed for the completion of construction services under this agreement, including contracts which involve the employment of any contractor and/or subcontractor, must comply with the provisions of the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost and source of funds utilized to pay such contract.** Such provisions shall include the payment of the Fair Minimum Wage Rates as determined by the West Virginia Commissioner of Labor for each craft or classification of all workmen needed to perform the contract in the locality in which the public work is performed. For projects involving federal funds which are covered by the provisions of the Davis Bacon Act (40 U.S.C. 276-a 276a-5), the Grantee shall cause the contractor and/or subcontractors to pay the higher wage rate, federal or state.

The Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bidding blanks. The Grantee shall designate the time and place for opening such construction bids in accordance with West Virginia Code §5-22-2.

The Grantee shall secure bonding in accordance with West Virginia Code §5-22-1. All bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the state of West Virginia or its subdivisions. Following the solicitation of such bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond, provided, that the state and its subdivisions may reject all bids and solicit new bids.

In the procurement of contracts or subcontracts for construction of less than \$100,000, the Grantee shall follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds, provided that the Grantee's and State's interests are adequately protected and that such contracts can be executed in a timely manner.

**In the procurement of contracts or subcontracts for construction that exceed \$100,000, the Grantee shall obtain the following:**

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required with the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with the contract to secure fulfillment of the contractor's obligations under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor and materials in the execution of the work provided for in the contract.

The Grantee shall procure architectural or engineering services in accordance with the provisions of West Virginia Code §5G. In the procurement of architectural and engineering services for projects estimated to cost \$250,000 or more, the Grantee shall publish a Class II legal ad in compliance with West Virginia Code §59-3. In the procurement of services for projects estimated to cost less than \$250,000, the Grantee shall conduct discussions with three or more professional firms.

The Grantee shall procure design-build projects in accordance with West Virginia Code §5-22A-1. This applies solely to building projects. Highways, water, sewer, and all other public works projects are specifically prohibited from using the design-build method.

The Grantee shall require any facilities constructed under the auspices of this Contract to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A11/1-1961, as modified (41CFR101-17.1703 and (13CFR309.14)). The Grantee shall be responsible for conducting inspections to ensure compliance with these specifications.

The Grantee shall operate and maintain all facilities constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable federal, state and local statute, law, ordinance or regulation as to actual construction procedures, as well as maintenance and operation of such facilities upon completion.

The Grantee shall comply with all applicable federal, state and local environmental and historical preservation laws and regulations. The Grantee acknowledges this requirement and certifies that the project will be in compliance with such laws and regulations.

10. **Interest of Officials, Members of WVDEVO and Others.** No officer, member or employee of the WVDEVO or officer, member or employee of the Grantee who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested or has any personal or pecuniary interest, nor shall any officer, member of, or employee of, the Grantee or any member of its governing body, or officer, member, or employee of the contractor have any interest, direct or indirect, in this Contract or the proceeds thereof.

Furthermore, no member of the Legislature of the State of West Virginia, or individual performing a service for the Grantee in connection with this project, shall be admitted to any share thereof or to any benefit to arise from this Agreement.

11. **Inspections of Records and Audits.** At any time during normal business hours and as often as the WVDEVO or its designated representative may deem necessary, there shall be made available to the WVDEVO or its designated representative for examination, all of its records with respect to all matters covered by this Contract and permit the WVDEVO or its designated representative to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records and personnel, conditions of employment and other data relating to all matters covered by this Contract during the entire time period beginning with project approval and ending three years after the final disbursement of grant funds.

The Grantee shall cause an audit of this program to be included in the audit of the Grantee performed by the West Virginia State Auditor's Office, Chief Inspection Division, or its designated representative in accordance with West Virginia Code §6-9-7. The audit shall be performed in conformance with generally acceptable accounting procedures.

In accordance West Virginia Code §12-4-14, if the grantee is not audited by the West Virginia State Auditor's Office and the grantee received state funds or grants in the amount of fifteen thousand dollars or more, the grantee shall file an audit of the disbursement of funds with the legislative auditor's office. The audit shall be filed within two years of the disbursement of funds or grants by the grantee and shall be made by an independent certified public accountant at the cost of the corporation, association or other organization, and must show that the funds or grants were spent for the purposes intended when the grant was made. State funds or audits of state funds or grants under fifteen thousand dollars (\$15,000) may be authorized by the joint committee on government and finance to be conducted by the legislative auditor's office at no cost to the grantee.

The Grantee shall submit any reports requested by the WVDEVO concerning financial status and program progress.

12. **Political Activity.** No officer or employee of the Grantee whose principal employment is in connection with any activity which is financed in whole or in part pursuant to this agreement shall take part in any of the activities expressly prohibited by the Hatch Act.
13. **Resolution of Disputes.** Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this Agreement shall be initiated through consultation and discussion at the State's Administrative Offices with final decision on questions of policy or fact being determined by the Director of the Community Development Division or his/her designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourses available under applicable laws. Citizen's complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.
14. **Termination of Contract.** If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner his obligations under this Contract, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the WVDEVO shall thereupon have the right to terminate this Contract by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the WVDEVO for damages sustained by the WVDEVO by virtue of any breach of the Contract by the Grantee, and the WVDEVO may withhold any payments to the Grantee for the purpose of set-off until such time as the exact amount of damages due the WVDEVO from the Grantee is determined.

Furthermore, the WVDEVO may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the WVDEVO as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

The Grantee may unilaterally rescind this agreement at any time prior to the commencement of the project. After project commencement, this agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the Grantee makes any expenditure or incurs any obligation with respect to the project.

This Contract shall be signed by the Executive Director of the West Virginia Development Office and by the Mayor of the City of Morgantown upon authorization of the City of Morgantown by adoption and passage of a resolution, motion or similar official action.

**IN WITNESS WHEREOF, the WVDEVO and the Grantee have executed this Agreement as of the date first above written.**

**STATE OF WEST VIRGINIA  
WEST VIRGINIA DEVELOPMENT OFFICE**

\_\_\_\_\_  
**J. Keith Burdette, Executive Director**

**CITY OF MORGANTOWN**

By: \_\_\_\_\_  
**Jim Manilla, Mayor**

Federal Employee Identification Number

\_\_\_\_\_  
F.E.I.N.

Project Number: 13LEDA0188