



Office of the City Clerk

The City of Morgantown

Linda L. Little, CMC
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AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
AUGUST 16, 2011
7:30 p.m.

1. **CALL TO ORDER**
2. **ROLL CALL BY CITY CLERK**
3. **PLEDGE TO FLAG**
4. **APPROVAL OF MINUTES:** Regular Meeting August 2, 2011
5. **CORRESPONDENCE:**
6. **PUBLIC HEARING:**
 - A. PUBLIC HEARING of AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 1158 SQUARE FOOT PORTION OF A RIGHT-OF-WAY EXTENDING ALONG A PORTION OF FALLING RUN ROAD IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.
 - B. PUBLIC HEARING of AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 192 SQUARE FOOT PORTION OF AN UNNAMED ALLEY IN THE HOPECREST ADDITION IN THE FIRST WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.
7. **UNFINISHED BUSINESS:**
 - A. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 1158 SQUARE FOOT PORTION OF A RIGHT-OF-WAY EXTENDING ALONG A PORTION OF FALLING RUN ROAD IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES. (FIRST READING 8/2/11)

B. Consideration of **APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 192 SQUARE FOOT PORTION OF AN UNNAMED ALLEY IN THE HOPECREST ADDITION IN THE FIRST WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES. (FIRST READING 8/2/11)**

C. **BOARDS AND COMMISSIONS**

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

9. **SPECIAL COMMITTEE REPORTS**

10. **REPORT FROM CITY MANAGER:**

Information:

1. Initial dialogue with the West Virginia Public Service Commission regarding various concerns in Morgantown.

2. Request from Morgantown Brewing Company to partner with Arts Monongahela, for their annual Oktoberfest event, which will be held September 17, 2011. Their request is for a festival permit to allow for controlled beer sales at this event.

3. Open Spaces, Sacred Places Grant Program

11. **REPORT FROM CITY CLERK**

12. **REPORT FROM CITY ATTORNEY**

13. **REPORT FROM COUNCIL MEMBERS**

14. **EXECUTIVE SESSION**

15. **ADJOURNMENT**

If you need an accommodation contact us at 284-7439

REGULAR MEETING AUGUST 2, 2011:

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Monday, August 2, 2011, at 7:30 P.M.

PRESENT: City Manager Terrence Moore, Deputy City Manager Jeff Mikorski, City Clerk Linda Little, Mayor Jim Manilla and Council Members Ron Bane, Wes Nugent, Jenny Selin, Marti Shamberger, Bill Byrne and Linda Herbst.

APPROVAL OF MINUTES: The minutes of the Regular Meetings on July 19, 2011 meeting were approved as corrected.

CORRESPONDENCE: Mayor Manilla read a proclamation announcing the month of August 2011 as Breastfeeding Awareness Month urging citizens to seek reliable nutrition for healthier babies.

PUBLIC HEARING - AN ORDINANCE AUTHORIZING THE CITY OF MORGANTOWN TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE MONONGALIA COUNTY COMMISSION, WHEREBY THE MONONGALIA COUNTY COMMISSION WILL PROVIDE ANIMAL CONTROL SERVICES TO THE CITY OF MORGANTOWN. Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

There being no appearances or objections, Mayor Manilla declared this public hearing closed.

PUBLIC HEARING - AN ORDINANCE AMENDING THE FY 2011-2012 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET HERETO ATTACHED AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND. Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

There being no appearances or objections, Mayor Manilla declared this public hearing closed.

PUBLIC HEARING - AN ORDINANCE AMENDING THE FY 2011-2012 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. Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

There being no appearances or objections, Mayor Manilla declared this public hearing closed.

PUBLIC HEARING - AN ORDINANCE ADOPTING 533.11 OF THE CITY OF MORGANTOWN GENERAL OFFENSES CODE, OFFENSES RELATING TO PROPERTY. Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

There being no appearances or objections, Mayor Manilla declared this public hearing closed.

PUBLIC HEARING - AN ORDINANCE BY THE CITY OF MORGANTOWN CREATING A NEW SECTION 505.18 WITHIN ITS GENERAL OFFENSES CODE, AUTHORIZING URBAN DEER MANAGEMENT WITHIN THE CITY OF MORGANTOWN, AS AUTHORIZED BY LEGISLATIVE RULE OF THE WEST VIRGINIA DEPARTMENT OF NATURAL RESOURCES. Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

Guy Panrell, 763 South Hills Drive, stated that the Citizens that oppose the Deer Hunt have no real reasons for not doing the hunt. He commented the most effective and most economical way of reducing the deer is by Bow Hunting which is at no cost.

Renee Hernandez, 222 Overdale Street, noted that she was disturbed by Mr. Panrell's comments that the Citizens that oppose the Deer Hunt have no concrete reasons for not doing this hunt. She referenced that Deer for one are beautiful and there is also the safety issue of this hunt, and felt insulted by Mr. Panrell's comment. Ms. Hernandez stated that she does not agree with the Bow Hunt and thinks Council should look at other alternatives.

Richard Eaton, 229 Park Street, commented that Mr. Panrell had some good answers to the Deer problem. He stated he had some good answers too to the problem that it is cheaper to use bow to kill the deer.

Dave Samuel, Deer Committee Member, stated that he understands the concerns of Ms. Hernandez that Citizens have concerns about that Deer problem and agree with Mr. Panrell's comments. He commented that our Committee looked at all the data we could find, all the science we could find on the options and the most effective and safest is the Bow Hunt. He assured that this type of hunt has been done in hundreds of towns and cities and there has never been an accident it is legal, safe and will take care of the deer population.

There being no more appearances or objections, Mayor Manilla declared this public hearing closed.

PUBLIC HEARING - AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE TRANSFER OF 294 SQUARE FEET OF CITY OWNED REALTY, LOCATED ADJACENT TO WHAT IS COMMONLY KNOWN AS "HOGBACK TURN" ALONG WEST VIRGINIA STATE ROUTE 7, TO THE WEST VIRGINIA DIVISION OF HIGHWAYS, SO THAT IT MAY WIDEN THE TURNING RADIUS WITHIN THE ROUTE 7 ROADWAY AT THAT LOCATION. Mayor Manilla declared the Public Hearing open on the above entitled Ordinance.

Guy Panrell, 763 South Hills Drive, stated that he appreciated Council taking care of a safety issue that has been around for years, and some Citizens do not understand that Council is limited to what they can do. He commented that Council cannot stop trucks from going on a State Route or interfere with Interstate Commerce.

Renee Hernandez, 222 Overdale Street, reminded Council of how often the trucks wake her up at night as they travel Brockway Ave. She then described a recent traffic incident and insisted that City Council can do something about this, and stated that she would lobby the Legislature until someone routes the trucks around downtown and neighborhoods. She also vowed to attend every Council meeting and speak about these issues until they are resolved. She expressed disappointment that the little old lady will lose her garden and said that renters and property owners should care about the noise, dirt and truck traffic in that area.

There being no more appearances or objections, Mayor Manilla declared this public hearing closed.

He mentioned for the record, that Council is dressed casually tonight because the air conditioner in Chambers is broken and it is very hot in the building.

UNFINISHED BUSINESS:

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH MON COUNTY FOR ANIMAL CONTROL SERVICES: The below entitled Ordinance was presented for second reading:

AN ORDINANCE AUTHORIZING THE CITY OF MORGANTOWN TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE MONONGALIA COUNTY COMMISSION, WHEREBY THE MONONGALIA COUNTY COMMISSION WILL PROVIDE ANIMAL CONTROL SERVICES TO THE CITY OF MORGANTOWN.

Motion by Bane, second by Byrne, to adopt the above entitled Ordinance. Motion carried 7-0.

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

AN ORDINANCE AMENDING THE FY 2011-2012 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET HERETO ATTACHED AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.

Motion by Nugent, second by Selin, 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 2011-2012 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 ADOPTING A NEW SECTION OF THE GENERAL OFFENSES CODE: The below entitled Ordinance was presented for second reading:

AN ORDINANCE ADOPTING 533.11 OF THE CITY OF MORGANTOWN GENERAL OFFENSES CODE, OFFENSES RELATING TO PROPERTY.

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

AN ORDINANCE AUTHORIZING URBAN DEER MANAGEMENT: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN CREATING A NEW SECTION 505.18 WITHIN ITS GENERAL OFFENSES CODE, AUTHORIZING URBAN DEER MANAGEMENT WITHIN THE CITY OF MORGANTOWN, AS AUTHORIZED BY LEGISLATIVE RULE OF THE WEST VIRGINIA DEPARTMENT OF NATURAL RESOURCES.

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

AN ORDINANCE AUTHORIZING THE TRANSFER OF REALTY TO THE WVDOH: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE TRANSFER OF 294 SQUARE FEET OF CITY OWNED REALTY, LOCATED ADJACENT TO WHAT IS COMMONLY KNOWN AS "HOGBACK TURN" ALONG WEST VIRGINIA STATE ROUTE 7, TO THE WEST VIRGINIA DIVISION OF HIGHWAYS, SO THAT IT MAY WIDEN THE TURNING RADIUS WITHIN THE ROUTE 7 ROADWAY AT THAT LOCATION.

After discussion, and explanation from the City Manager Terrence Moore that he has met with the DOH on crosswalks, sidewalks, lighting in making "Hogback Turn" safer; and also to extend the issue even further the PSC will attend the September 27th, 2011 COW meeting to discuss the truck issue. Motion by Bane, second by Nugent, to adopt the above entitled Ordinance. Question called for vote motion carried 5-2. Councilor Shamberger & Byrne voted NO.

BOARDS AND COMMISSIONS: By acclamation Council reappointed Kara Hurst as Chair to the Urban Landscape Commission. Council by acclamation also made the following Council appointments: BOPARC: Marti Shamberger; Historic Landmarks: Linda Herbst; Museum Commission: West Nugent; Parking Authority: Linda Herbst; Sister Cities Commission: Bill Byrne; Traffic Commission: Wes Nugent; MPO: Bill Byrne; Alternates to be West Nugent and Jim Manilla.

PUBLIC PORTION:

Renee Hernandez, 222 Overdale Street, commented that on Rt. 7 there may be a new Business, which is going to be a Hotel by the JD Bryider property, that is good, but it will increase traffic and trucks in that area. She also stated that she would not want to stay in a Hotel on Rt. 7 with noisy trucks going by at 3am in the morning, whoever is overseeing this needs to look at this closely. Ms. Hernandez thanked Councilor Shamberger and Byrne for their support of the citizens in South Park.

Jim Price, Owner, University Taxi, stated that University Taxi is in the process of finding a facility in Morgantown and has filed the paper work to do Business in Mon County. He stated that Mr. King, owner of Yellow Cab sent in a letter of protest, and now I have to prove that there is a need for additional taxi service in Mon. County. He handed to the City Clerk a Letter of Support for Additional Taxi Service for Council to review and requested Council to go on the PSC web-site and review Case No. 11-0906-MC-C. He commented that he has a proven record in leadership in this business and the key to this is a just and fair treatment of the public.

Guy Panrell, 763 South Hills Drive, noted he is pleased that Council is on a path to fiscal responsibility and hopes they will continue in this direction.

Sarah Janson Zegre, 352 Oakland Street, representative of the tree board, welcomed new Council members and stated that she is a newer member of the board. She then told Council how beautiful the view is from the PRT ride because of all the urban trees. She commented that she is supportive of this Council and looks forward to working with the City to continue the beautification of Morgantown through trees.

There being no more appearances or objections, Mayor Manilla declared this public portion closed.

SPECIAL COMMITTEE REPORTS: Councilor Shamberger reported that the Met Theatre Foundation, Met Theatre Committee, City Manager and the Deputy City Manager met on August 2, 2011 and decided on the 5 year Capital Improvement Program for the Met Theatre.

NEW BUSINESS:

AN ORDINANCE ANNULLING A PORTION OF A RIGHT-OF-WAY IN THE FOURTH WARD: The below entitled Ordinance was presented for first reading:

AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 1158 SQUARE FOOT PORTION OF A RIGHT-OF-WAY EXTENDING ALONG A PORTION OF FALLING RUN ROAD IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

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

AN ORDINANCE ANNULLING A PORTION OF AN UNNAMED ALLEY IN THE FIRST WARD: The below entitled Ordinance was presented for first reading:

AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 192 SQUARE FOOT PORTION OF AN UNNAMED ALLEY IN THE HOPECREST ADDITION IN THE FIRST WARD OF THE

CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

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

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF A PORTION OF REAL ESTATE IN THE FOURTH WARD: The below entitled Ordinance was presented for first reading:

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF APPROXIMATELY 15,884 SQUARE FEET OF REAL ESTATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM (PRO) PROFESSIONAL, RESIDENTIAL AND OFFICE DISTRICT TO (B-2) SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN.

Council suspended the rules to have Chris Fletcher, Director of Development Services, answer questions from Council. Motion by Bane, second by Byrne, to pass the above entitled Ordinance to second reading. Motion carried 7-0.

A RESOLUTION THAT THE CITY MANAGER ENTER INTO A CONTRACTUAL AGREEMENT WITH THE WV DIVISION OF JUSTICE AND COMMUNITY SERVICES TO RECEIVE AND ADMINISTER GRANT FUNDS.: The above entitled Resolution was presented for approval.

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

CITY MANAGERS REPORT:

INFORMATION:

Item No. 1: Review of Proposed Revised Tree Ordinance (Draft).

Mr. Moore detailed the information regarding the proposed Tree Ordinance and explained further considerations to Council. This explanation was followed by commentary from the City Attorney and Councilor Selin regarding the proposed Ordinance and the Tree Board in general.

Item No. 2: ISO Rating of Morgantown.

Mr. Moore reported that the City of Morgantown is the highest rated City in the State of West Virginia. He then complimented all those involved with making this new rating possible for the City.

CITY CLERK'S REPORT: No Report.

CITY ATTORNEY'S REPORT: Made further remarks concerning the Tree Board Ordinance and asked Council to consider this carefully and expressed hopes that we can move forward with this for the benefit of the Tree Board and the City.

He then asked Council for an executive session at the end of the meeting pursuant to section 6-9A-4 of the State Code to discuss attorney client privilege, with City Council Members, City Attorney and City Manager present.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane: No Report.

Councilor Nugent: Councilor Nugent thanked the Wiles Hill-Highland Park Neighborhood Association for hosting the National Night Out on August 2. He stated it was nice to have neighbors, families and employees from across our community spend an evening in Wiles Hill Park. He requested respectfully with Council's consensus, that a discussion of in-kind support by the City on behalf of the Year of the Neighborhood activities be placed on the August 30th COW agenda. He informed Council that on July 20-29 he judged the WVU State 4-H Day's competitions, which allows youth to participate in educational activities that develop subject matter knowledge, leadership skills and life skills. He commented that he was surprised the number of youths that asked about couch burnings and in talking with parents they were pleased to hear there are efforts afoot to change the culture. He also attended a meeting on August 1 relating to malicious burning with WVU, Sunnyside Up and Fire Marshal Ken Tennant. He reported that increasing fines for malicious burning, jail time especially when an accelerant is used; and Allied Wasted can play a role by removing combustibles in neighborhoods prior to weekends and large sporting events. He mentioned that Landlords can play a role by incorporating rules in their leases about not storing combustibles outside and on porches. He requested that the malicious burning issue be an item on the COW agenda with the Police Chief, Fire Chief, Fire Marshal and City Attorney to bring forward their thoughts.

Mayor Manilla reminded Council that from now on Council must come to a consensus when issues are brought up that a member wishes the City Manager to place on the Committee of the Whole Agenda.

Councilor Selin: Councilor Selin mentioned the Learn Not to Burn Campaign and asked that this group present at the August COW meeting. She announced on August 24th the 4th ward follow up meeting will take place.

Councilor Shamberger: Councilor Shamberger stated that she is looking forward to the WV Municipal League Conference and noted that Council members and other local officials are involved and giving presentations at the Conference.

Councilor Byrne: Councilor Byrne reiterated the next meeting date of the Tree Board and then recognized Councilor Selin's feature in Eberly Magazine, acknowledging her work in her field. Relayed information from an email from the Municipal League regarding Coal Severance Legislation. He urged that the City should lobby for these changes.

Councilor Herbst: Councilor Herbst thanked the City Manager and Police Department for responding to some recent issues in the Suncrest Neighborhood. She commented that she is looking forward to working on the Tree Board Ordinance.

Mayor Manilla:

Mayor Manilla remarked that he is pleased to hear about the new ISO Rating for the City, and assured Council that he will speak to the appropriate people at the WVML Conference regarding the Coal Severance Legislation. He commented about the Taxi Company gentleman.

Councilor Selin interjected that she was the Council person that he made the initial comments to and that the Public Service Commission should evaluate the situation. Mr. Fanok added that the City should alert the PSC if they feel that the County could be better served by a second taxi company. Councilor Byrne added that competition might make the service better for area citizens and that Council should look at the issue objectively.

Mayor Manilla continued, stating that he is concerned about the Airport during this crucial time and wishes for reports on a weekly basis regarding the status of the current transitions there. He then quickly reported on several upcoming events including the Greatest Garage Sale, the Mon County Fair, Christian Help collection drive, and a family movie event at Hazel Ruby McQuain Park.

EXECUTIVE SESSION: By acclamation Council unanimously moved to go into Executive Session, pursuant to Section 6-9A-4 of the West Virginia Code in order to discuss attorney/client matters with the following persons present: Mayor Manilla and Council Members, City Manager Terrence Moore, and City Attorney Steve Fanok entered into executive session at 9:15 p.m.

ADJOURNMENT: There being no further business, the meeting adjourned by unanimous consent at 9:25 p.m.

City Clerk

Mayor

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



August 1, 2011

Dear Mr. Boroff & The Morgantown City Council,

My name is Erica Lilly, Front of House Manager of Morgantown Brewing Company, I'm writing to request permission to have an Oktoberfest party in the parking lot behind my establishment. We have teamed up with the Arts Monongahela, to give them a portion of our door profits to help with their future activities.

We are planning on having the party on Saturday September 17th starting at 10 am and running until 11pm however, I would like the permit until midnight just to ensure that everyone is out of the parking lot and cleanup has occurred.

There will be some live music throughout the day, Oompah band, as well as the WVU German club will be there to teach some of the traditional chants from the actual Oktoberfest Celebration. We are planning on fencing off the parking lot and selling our beer as well in the parking lot (beer only in lot).

Thank you for your consideration in this matter.

Erica Lilly

A handwritten signature in black ink, appearing to read "Erica Lilly", written over a horizontal line.

Front of House Manager, Morgantown Brewing Company

Jeannie Kuhn

A handwritten signature in black ink, appearing to read "Jeannie Kuhn", written over a horizontal line.

Executive Director, Arts Monongahela

BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

***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.**

FIRE CIVIL SERVICE: 4 YEAR TERM:

David Alexander IAFF Local 313 Representative has resigned and the Firefighters are looking for a representative.

LIBRARY BOARD OF DIRECTORS: 5 YEAR TERM:

Lyndell Millecchia term expired on July 30, 2011. Library Director is checking to see if she wishes to continue to serve. Lyndell wishes to continue. Residents appointed by Mayor, confirmed by Council to serve at large.

URBAN LANDSCAPE COMMISSION: 2 YEAR TERM:

Kara Hurst, Chair informed the City Clerk that Sandy Polson, 7th wd resigned; Jerry Steketee has been residing in the 4th wd and has moved to the 7th wd and will serve in that position. Marilyn Bowers, 2nd wd resigned. On July 27th Anne Cumming, Urban Forester resigned. Nominated by CM, from each ward, 13 members with staggered terms, 1 councilmember, and non-ward members must represent specific category.

WARD & BOUNDARY COMMISSION: 2 YEAR TERM:

All members' terms expired on 6-30-11. Checking to see if they wish to continue to serve. Appointed by Council with 30 days of term commencement. One member per ward.

YOUTH COMMISSION 1 YEAR TERM:

Marissa Travinski has names of all new members. High School students residing in Metropolitan area.

AD HOC COMMITTEE: MORGANTOWN MONONGALIA TASK FORCE ON HOMELESSNESS:

Attached is a request from the Task Force to appoint another Council member to serve and also let Don Spencer continue to serve. The meetings are held on the 2nd Thursday of each month from 12:30p.m. to 2:30p.m. at the First Presbyterian Church at 456 Spruce Street.

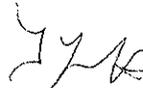
***POLICE & FIRE CIVIL SERVICE COMMISSIONS APPOINT NEW PRESIDENTS IN JANUARY.** Information for Boards and Commissions vacancies are placed in the Dominion Post, are advertised on the City's Government Station Channel 15, and are posted at the Library and also information is on the City's Web Page.

8-10-11

Memo

City of Morgantown Public Works Department

To: Terrence Moore, City Manager
From: Terry Hough, Director of Public Works and Engineering
Subject: Falling Run Road Annulment Application
Date: July 5, 2011



A request has been made from Robert L. Johns, Chapter 11 Bankruptcy Trustee for Augusta Apartments, LLC and Chapter 11 Trustee for McCoy 6 Apartments Limited Liability Company to annul a triangular piece of Falling Run Road containing a total of 1158 square feet as shown on the attached application. The requested annulment is in support of a proposed agreement with West Virginia University to obtain the Augusta Apartments located at 49 Falling Run Road and 51 Falling Run Road. This annulment application is in addition to the previous annulments of Falling Run Road which were adopted on (place a date here).

The annulment of this piece of Falling Run Road will clean up some access concerns that have been arisen with regards to the ingress, egress, and regress to the parking area under 49 Falling Run Road to the newly relocated Falling Run Road. The City of Morgantown has no plans for the use of this area as it is currently being used appropriately as an access point for the Augusta Apartments. There is, however, a statement under Item 5 of the Annulment Application which allows for City of Morgantown to obtain the right-of-way area back, at no cost to the City, should a four-lane road be constructed as outlined in the MPO's Long Range Transportation Plan. Item 1 of the application also prohibits any additional improvements to be built within the area.

Given the above, it is recommended that the annulment for 1518 square feet of Falling Run Road be approved. If you have any questions or need any additional information, please contact me.

AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 1158 SQUARE FOOT PORTION OF A RIGHT-OF-WAY EXTENDING ALONG A PORTION OF FALLING RUN ROAD IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

WHEREAS, It appears to the Common Council of the City of Morgantown, West Virginia, that a 1158 square foot portion of Falling Run Road, as shown on the exhibit hereto attached, in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia, and as laid down, designated and dedicated to public use as a street on a map or plat, as shown on the exhibit hereto attached, is not useful for street purposes, is not needed for street purposes, nor for any other public uses and purposes except to reserve and retain sewer and utility rights-of-way and it further appearing that it is in the interests of the City of Morgantown and of the public generally that a 1158 square foot portion of Falling Run Road, as shown on the exhibit hereto attached, be vacated, abandoned, and annulled as a public street within said City, and it further appearing that the property of no person, firm or corporation will be injured or damaged thereby, and that the owners of property abutting on said portion of Falling Run Road have petitioned the Common Council to vacate, abandon, and annul said street.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MORGANTOWN, WEST VIRGINIA, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

Section 1: That for the reasons hereinbefore set forth that a 1158 square foot portion of Falling Run Road, as shown on the exhibit hereto attached, reserving, however, rights-of-way over the entire area thereof for storm, sanitary sewers and all other utilities, in the City of Morgantown, West Virginia, is hereby vacated, abandoned and annulled and from and after the date of the adoption of this Ordinance the same shall cease to be a public way or public street within the City of Morgantown, and the easement of the City of Morgantown therein, thereon and thereover for street purposes is hereby vacated, abandoned and annulled, and all rights, titles and interests of the City of Morgantown therein as an easement for street purposes are hereby expressly released.

Section 2: That the annulment shall be subject to the conditions stated within the Annulment Application/Agreement by and between Robert L. Johns, Chapter 11 Bankruptcy Trustee for Augusta Apartments, LLC, and Chapter 11 Trustee for McCoy 6 Apartments Limited Liability Company, and the City of Morgantown dated June 20, 2011; specifically, subparagraph #5 on the third and fourth pages of the Agreement as it pertains to the City of Morgantown reacquiring the 1518 square foot area in the event Falling Run Road is widened to a four-lane roadway.

Section 3: That as set forth in Section 1 of this Ordinance the easement and right-of-way of the City of Morgantown for street purposes on and over a 1158 square foot portion of Falling Run Road, as shown on the exhibit hereto attached, is hereby vacated, abandoned and annulled.

Section 4. That upon the adoption of this Ordinance the City Clerk of the City of Morgantown shall cause a duly certified copy thereof to be recorded in the appropriate deed book in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, as evidence of the vacating, abandoning and annulling of said 1158 square foot portion of Falling Run Road, as shown on the exhibit hereto attached for public uses and public purposes as a public street or public way within the City of Morgantown, and said Clerk shall also file with said certified copy of said Ordinance an exhibit showing the location of said street so vacated, abandoned and annulled.

Section 5. Prior to adoption of this Ordinance the adjacent land owners shall pay to the City Clerk the cost of this proceeding.

Section 6.. This Ordinance shall be effective upon the date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

This document was prepared by:

Stephen R. Fanok, Esquire
West Virginia State Bar ID# 1158
389 Spruce Street
Morgantown, WV 26505



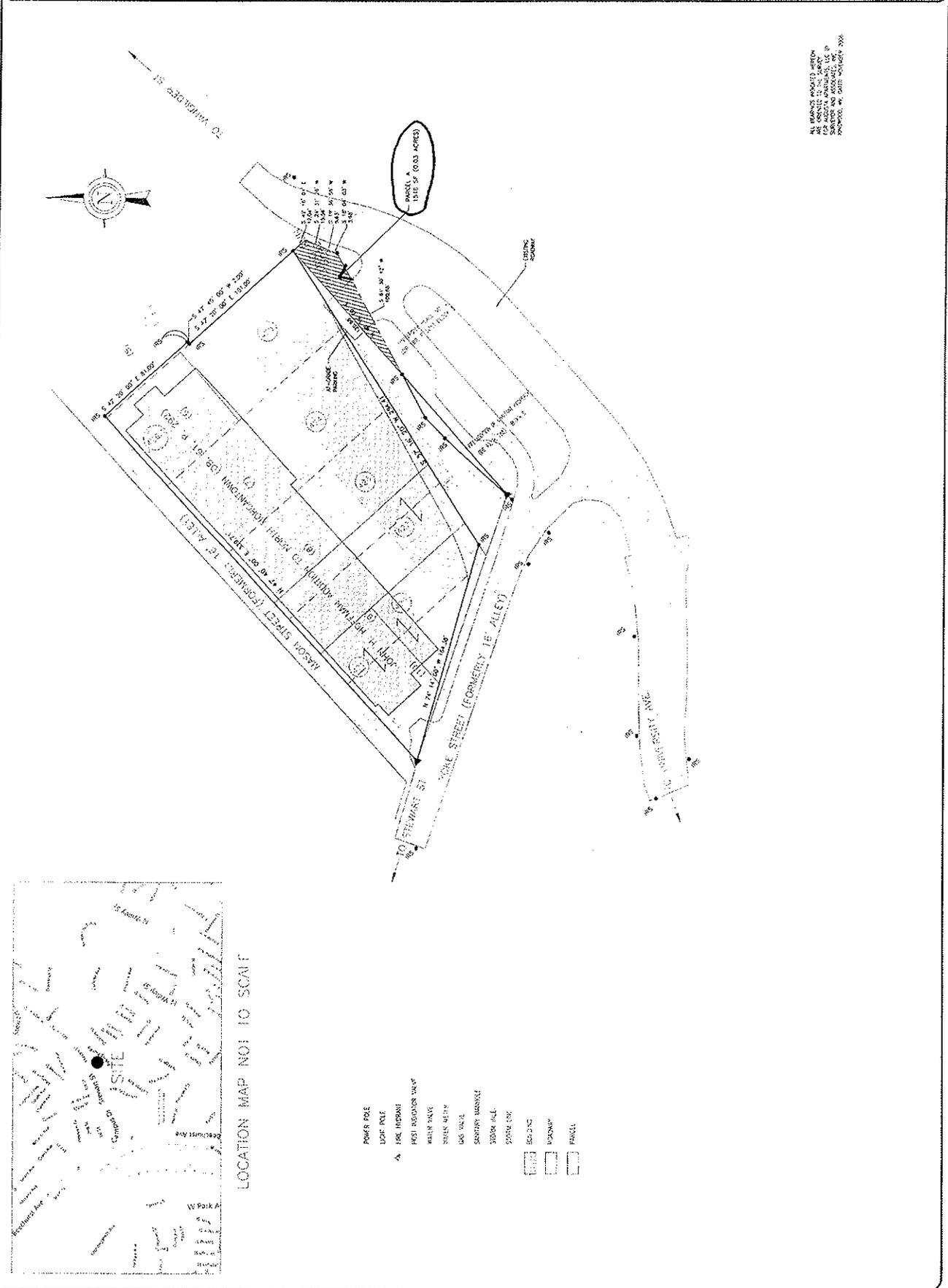
ALPHA ASSOCIATES, INCORPORATED
 1000 W. PARK AVENUE
 SUITE 100
 DENVER, COLORADO 80202
 TEL: 303.733.1111
 FAX: 303.733.1112



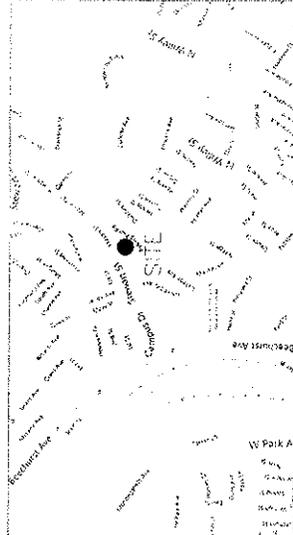
REGISTERED PROFESSIONAL ENGINEER
 No. 1000
 STATE OF COLORADO

DATE: 01/14/03
 DRAWING NO.: 03-001
 SHEET NO.: 1 OF 1

PROJECT: 1000 W. PARK AVENUE
 CLIENT: ALPHA ASSOCIATES, INCORPORATED
 DESIGNER: JAMES A. SMITH
 CHECKER: JAMES A. SMITH
 DATE: 01/14/03



ALL DIMENSIONS SHOWN ON THIS PLAN ARE APPROXIMATE. THE ENGINEER HAS NOT CONDUCTED A SURVEY AND ASSURES NO WARRANTY IS MADE BY HIM OR HIS FIRM.



LOCATION MAP NO. 1 TO SCALE

- POWER POLE
- LOVE HOLE
- ▲ FIRE HYDRANT
- REST ROOM
- WATER VALVE
- SEWER VALVE
- WAS. VALVE
- SEWER MANHOLE
- SEWER HOLE
- SEWER LINE
- BUILDING
- PARKING
- FENCE

THIS AGREEMENT made this 20TH day of June, 2011, by and among: ROBERT L. JOHNS, Chapter 11 Bankruptcy Trustee for AUGUSTA APARTMENTS, LLC, a West Virginia limited liability company, and Chapter 11 Trustee for MCCOY 6 APARTMENTS LIMITED LIABILITY COMPANY, a West Virginia limited liability company, parties of the first part, grantors, and THE CITY OF MORGANTOWN, West Virginia, a municipal corporation, part of the second part, grantee.

WITNESSETH

THAT WHEREAS, the grantors are the owners of the following lots and parcels of land, situate in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia.

AUGUSTA APARTMENTS, LLC:

Map 20, Parcel 420

Map 20, Parcel 420.1

Map 20, Parcel 421

Map 20, Parcel 422

Map 20, Parcel 422.1

Map 20, Parcel 423

Map 20, Parcel 423.1

Map 20, Parcel 424

Map 20, Parcel 424.1

Map 20, Parcel 425

Map 20, Parcel 425.1

MCCOY 6 APARTMENTS LIMITED LIABILITY COMPANY:

Map 20, Parcel 514

Map 20, Parcel 516

Map 20, Parcel 517

WHEREAS, the said grantors have petitioned the Common Council of the City of Morgantown for an annulment, have filed this agreement in duplicate and have paid

the required fees, the portion of the streets to be annulled being:

That certain portion of Falling Run Road containing 1518 square feet, more or less, all as more particularly set forth on the plat of survey dated June 30, 2011, prepared by Alpha Associates, Incorporated, and attached hereto and made a part hereof for all pertinent purposes.

WHEREAS, it appears that said portion of the street is not used nor useful as a public way within the City of Morgantown, West Virginia, and are not necessary for public uses and purposes, and that the rights of the public will not be prejudiced by such an annulment, provided that certain easements for utilities are reserved from the annulment, as provided below, that the property of no person will be injured by the same, and that such annulment will promote public interest; and,

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the sum of One Dollar (\$1.00) cash in hand paid by each of the parties hereto to the other, and other good and valuable considerations, including the annulment of said portion of said street, the reservation of the easements and rights of way hereinafter described, and the release and quit clam for street purposes, the parties hereto mutually covenant and agree as follows:

1. As confirmation of the reservation of certain easements from the annulment, the grantors grant and convey unto the grantee, the City of Morgantown, West Virginia, a municipal corporation, its successor municipalities or assigns, a perpetual easement and right of way for the purpose of laying, relaying, constructing, maintaining, and inspecting, storm and sanitary sewers therein or thereon with the right to make surveys and construct and maintain manholes as may be necessary or proper in, on, or through said part of said annulled public way and said grantors do also grant and convey a perpetual right of way and easement for such utility installations including gas and water mains

and electric and telephone transmission lines, as shall in the judgment of said grantee, its successor municipalities or assigns, be necessary or proper for public uses and purposes in, on, over, under and through said part of said public way so vacated abandoned and annulled. The easements and rights of ways so reserved by the grantee as confirmed by grant and conveyance by grantors shall cover the entire area of the annulment, as follows:

That certain portion of Falling Run Road containing 1518 square feet, more or less, all as more particularly set forth on the plat of survey dated June 30, 2011, prepared by Alpha Associates, Incorporated, and attached hereto and made a part hereof for all pertinent purposes.

2. It is stipulated and agreed between the parties hereto that the City of Morgantown, its successor municipalities or assigns, shall not be liable for any damages in the use of said easements and rights of way, or in the construction or maintenance of any facilities hereinabove described in, on, under, and through the easements and rights of way so granted and conveyed.

3. A map or plat showing the part of the public way so vacated, abandoned, and annulled is attached to this agreement as a part hereof and to be recorded herewith.

4. For the considerations aforesaid the said grantee, The City of Morgantown, West Virginia, hereby releases and quit claims, unto the said grantors, their heirs, personal representatives, successors and assigns, all of its easements and rights of way for street purposes in said annulled public way subject to the easements and rights of ways hereinbefore granted for sewer and public utility purposes so that the said grantors shall have that moiety or part of said public way so vacated, abandoned, and annulled which is adjacent to its respective property for its full use and enjoyment in fee simple, except to said sewer and public utility easements and rights of way.

5. The parties hereto further covenant and agree as follows: N/A

the easements and rights of way for street purposes set forth above shall be subject to rescission in the event, and in the event only, that The City of Morgantown, West Virginia needs the 1518 square feet shown on the survey attached hereto for the purpose of constructing a four lane road over or through the presently existing location of Falling Run Road. Such rescission would occur upon (i) reasonable notice to the owner of the 1518 square feet, and (ii) recordation of such notice by The City of Morgantown, West Virginia in the office of the clerk of the County Commission of Monongalia County, West Virginia, and it would result in the reversion of the 1518 square feet back to its present character as a public way, without compensation to the owner by the City of Morgantown, West Virginia.

WITNESS the following signatures and seals:

AUGUSTA APARTMENTS, LLC,
a West Virginia limited liability company

By: [Signature] (SEAL)
Robert L. Johns, Trustee
Its: Chapter 11 Bankruptcy Trustee

MCCOY 6 APARTMENTS LIMITED
LIABILITY COMPANY,
a West Virginia limited liability company

By: [Signature] (SEAL)
Robert L. Johns, Trustee
Its: Chapter 11 Bankruptcy Trustee

THE CITY OF MORGANTOWN, WEST
VIRGINIA,
a municipal corporation

By: _____
City Manager

ATTEST:

City Clerk

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to wit:

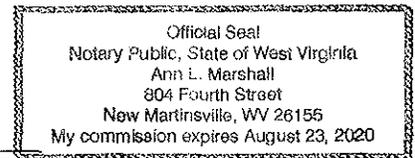
Ann L. Marshall, a Notary Public in and for

the County and State aforesaid do certify that Robert L. Johns, Chapter 11 Trustee for Augusta Apartments. LLC, who signed the foregoing writing bearing date the 20th day of June, 2011, for Augusta Apartments, LLC, a West Virginia limited liability company, has this day in my said County before me acknowledged the said writing to be the act and deed of said Trustee.

Given under my hand and notarial seal this 28th day of June 2011.

My commission expires: August 23, 2020

Ann L. Marshall



Notary Public

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to wit:

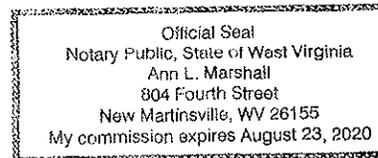
Ann L. Marshall, a Notary Public in and for

the County and State aforesaid do certify that Robert L. Johns, Chapter 11 Trustee for McCoy 6, LLC, who signed the foregoing writing bearing date the 20th day of June, 2011, for McCoy 6, LLC, a West Virginia limited liability company, has this day in my said County before me acknowledged the said writing to be the act and deed of said Trustee.

Given under my hand and notarial seal this 28th day of June 2011.

My commission expires: August 23, 2020

Ann L. Marshall



Notary Public

AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 192 SQUARE FOOT PORTION OF AN UNNAMED ALLEY IN THE HOPECREST ADDITION IN THE FIRST WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.

WHEREAS, It appears to the Common Council of the City of Morgantown, West Virginia, that a 192 square foot portion of an unnamed alley in the Hopecrest Addition in the First Ward of the City of Morgantown, Monongalia County, West Virginia, and as laid down, designated and dedicated to public use as a street on a map or plat, as shown on the exhibit hereto attached, is not useful for street purposes, is not needed for street purposes, nor for any other public uses and purposes except to reserve and retain sewer and utility rights-of-way and it further appearing that it is in the interests of the City of Morgantown and of the public generally that a 192 square foot portion of an unnamed alley in the Hopecrest Addition of Morgantown be vacated, abandoned, and annulled as a public street within said City, and it further appearing that the property of no person, firm or corporation will be injured or damaged thereby, and that the owners of property abutting on said portion of the unnamed alley have petitioned the Common Council to vacate, abandon, and annul said street.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MORGANTOWN, WEST VIRGINIA, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

- Section 1: That for the reasons hereinbefore set forth that a 192 square foot portion of an unnamed alley in the Hopecrest Addition, First Ward of the City of Morgantown, as shown on the exhibit hereto attached and described in the metes and bounds description , also hereto attached, reserving, however, rights-of-way over the entire area thereof for storm, sanitary sewers and all other utilities, in the City of Morgantown, West Virginia, is hereby vacated, abandoned and annulled and from and after the date of adoption of this ordinance the same shall cease to be a public way or public street within the City of Morgantown, and the easement of the City of Morgantown therein, thereon and thereover for street purposes is hereby vacated, abandoned and annulled, and all rights, titles and interests of the City of Morgantown therein as an easement for street purposes are hereby expressly released.
- Section 2: That as set forth in Section 1 of this ordinance the easement and right-of-way of the City of Morgantown for street purposes on and over a 192 square foot portion of an unnamed alley in the Hopecrest Addition, First Ward of the City of Morgantown, as shown and described in the attached exhibit and metes and bounds description is hereby vacated, abandoned and annulled.
- Section 3: That upon the adoption of this ordinance the City Clerk of the City of Morgantown shall cause a duly certified copy thereof to be recorded in the

appropriate deed book in the office of the Clerk of the County Commission of Monongalia County, West Virginia, as evidence of the vacating, abandoning and annulling of said 192 square foot portion of an unnamed alley in the Hopecrest Addition, First Ward, of the City of Morgantown for public uses and public purposes as a public street or public way within the City of Morgantown, and said Clerk shall also file with said certified copy of said ordinance the exhibits attached hereto, showing and describing the location of said portion of the unnamed alley so vacated, abandoned and annulled.

Section 4: Prior to adoption of this ordinance the adjacent land owners shall pay to the City Clerk the cost of this proceeding.

Section 5: This ordinance shall be effective from the date of its adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

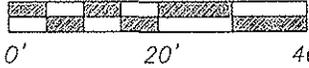
RECORDED:

This document was prepared by:

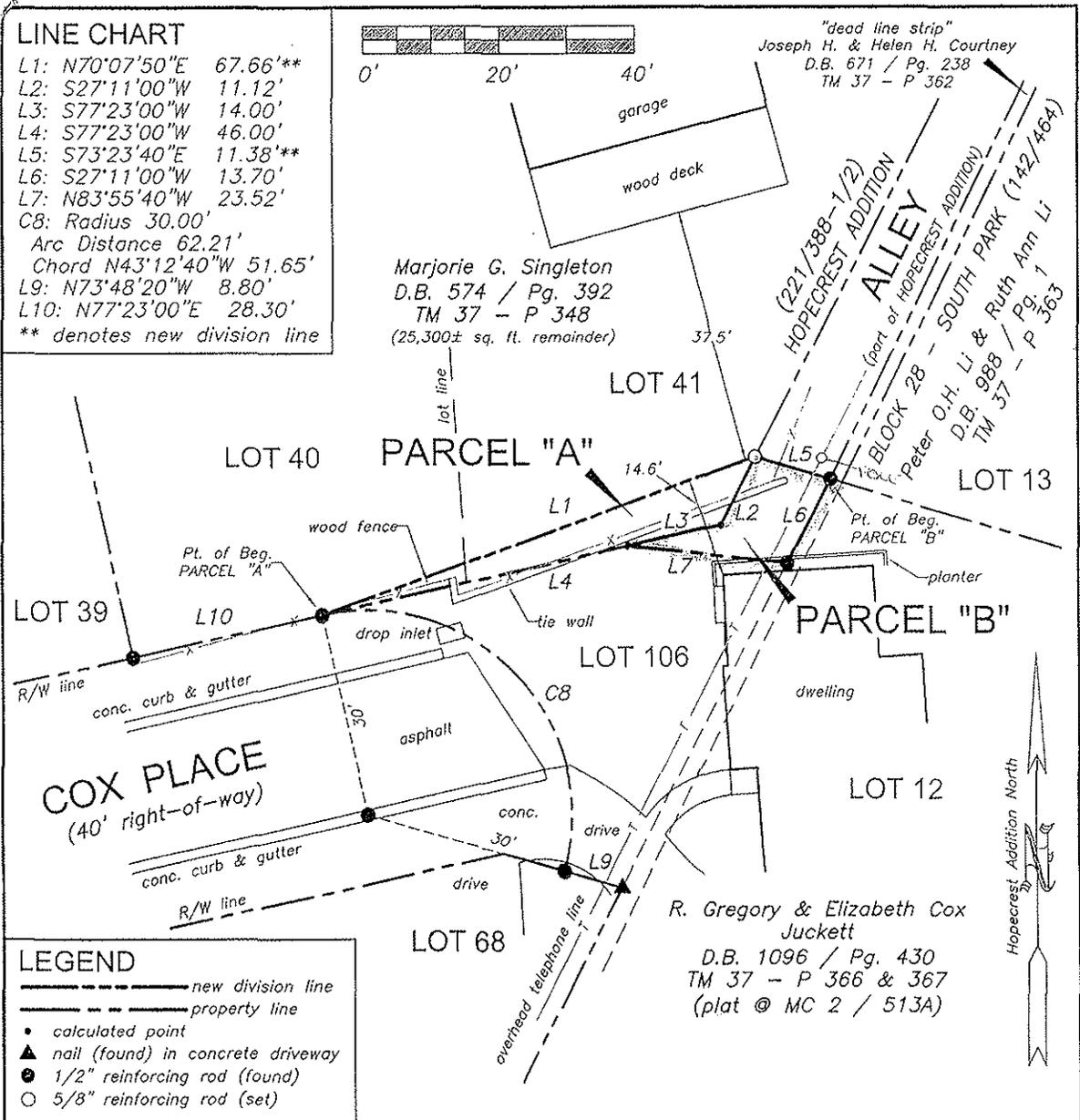
Stephen R. Fanok, Esquire
West Virginia State Bar ID# 1158
389 Spruce Street
Morgantown, WV 26505

LINE CHART

- L1: N70°07'50"E 67.66'**
 - L2: S27°11'00"W 11.12'
 - L3: S77°23'00"W 14.00'
 - L4: S77°23'00"W 46.00'
 - L5: S73°23'40"E 11.38'**
 - L6: S27°11'00"W 13.70'
 - L7: N83°55'40"W 23.52'
 - C8: Radius 30.00'
- Arc Distance 62.21'
 Chord N43°12'40"W 51.65'
- L9: N73°48'20"W 8.80'
 - L10: N77°23'00"E 28.30'
- ** denotes new division line



"dead line strip"
 Joseph H. & Helen H. Courtney
 D.B. 671 / Pg. 238
 TM 37 - P 362



LEGEND

- new division line
- property line
- calculated point
- ▲ nail (found) in concrete driveway
- ⊙ 1/2" reinforcing rod (found)
- 5/8" reinforcing rod (set)

NOTES:

- 1) Location of underground utilities not shown.
- 2) Survey was conducted without benefit of lawyer's title report and may not reflect all exceptions, rights-of-way, easements or restrictions.
- 3) Parcels surveyed are zoned R-1.

THIS SUBDIVISION HAS BEEN APPROVED BY THE MORGANTOWN PLANNING COMMISSION OR ASCERTAINED TO MEET THE MORGANTOWN SUBDIVISION REGULATIONS ON 200 AND IS READY FOR RECORDING BY THE MONONGALIA COUNTY CLERK OF THE COURT.

Authorized agent
 Title



GREENLEAF SURVEYING COMPANY
 1215 GREENBAG ROAD
 MORGANTOWN, WEST VIRGINIA 26508
 304 / 291-1264

Allan J. Witschi
ALLAN J. WITSCHI, P.S. NO. 587

PARCEL "A"

256 sq. ft or 0.0059 acres
 part of Lots 40 & 41 Hopecrest Addition
 Marjorie G. Singleton
 D.B. 574 / Pg. 392
 TM 37 - p/o P 348

PARCEL "B"

192 sq. ft or 0.0044 acres
 Annulment of part of Alley in
 Hopecrest Addition

MINOR SUBDIVISION PLAT FOR
**R. GREGORY JUCKETT &
 ELIZABETH COX JUCKETT**
 First Ward of the City of Morgantown
 Morgan District
 Monongalia County, West Virginia.
 Address: 25 Cox Place, Morgantown, WV
 Scale 1" = 20' Date: June 2, 2011