AMENDED AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
May 21, 2019
7:00 p.m.

1. CALL TO ORDER:

2. ROLL CALL:

3. PLEDGE TO THE FLAG:

4. APPROVAL OF MINUTES: April 2, 2019, Regular Meeting minutes, April 16, Regular Meeting minutes, May 1, 2019 Special Meeting minutes, May 6, Canvassing Meeting minutes, and May 7, Special Meeting minutes.

5. CORRESPONDENCE: Proclamation for Men's Health Month.

6. PUBLIC HEARINGS:
   A. AN ORDINANCE ESTABLISHING A SALES AND USE TAX AND REDUCING BUSINESS AND OCCUPATION TAX RATES

7. UNFINISHED BUSINESS:
   A. Consideration of APPROVAL of (SECOND READING) of AN ORDINANCE ESTABLISHING A SALES AND USE TAX AND REDUCING BUSINESS AND OCCUPATION TAX RATES (First reading May 7, 2019)
   B. REVIEW OF DRAFT ANNEXATION APPLICATION
   C. BOARDS & COMMISSIONS

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

9. SPECIAL COMMITTEE REPORTS:

10. CONSENT AGENDA:

11. NEW BUSINESS:
   C. Consideration of APPROVAL of a RESOLUTION SUPPORTING THE DORSEY AVENUE TRAIL PROJECT
   D. Consideration of APPROVAL of a RESOLUTION SUPPORTING THE WHITE PARK-CAPERTON TRAIL CONNECTOR PROJECT
   E. Consideration of APPROVAL of a RESOLUTION APPROVING THE 2019-2020 BUDGET FOR THE AIRPORT
12. CITY MANAGER'S REPORT:

NEW BUSINESS:

A. Airport Improvement Fund FY 2020 Budget
B. Fair and Festival Permit – Second Annual Mandatory Fun Day

13. REPORT FROM CITY CLERK:

14. REPORT FROM CITY ATTORNEY:

15. REPORT FROM COUNCIL MEMBERS:

16. EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9(A)(4) (2)(B) (‘12) to discuss Acquisition or Development of Real Estate.

17. EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9(A)(4) (2)(B) (‘12) to discuss Litigation.

18. ADJOURNMENT:

*If you need an accommodation contact us at (304) 284-7439*
COMMITTEE OF THE WHOLE MEETING May 1, 2019: The Committee of the Whole meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, May 1, 2019 at 7:00 p.m.

PRESENT: City Manager Paul Brake, Assistant City Manager Emily Muzzarelli, Mayor Bill Kawecki, Council Members, Rachel Fetty, Ryan Wallace, Deputy Mayor Jenny Selin, Mark Brazaitis, and Barry Wendell.

Deputy Mayor Selin called the meeting to order.

PUBLIC PORTION:

Deputy Mayor opened the public portion and asked if there was anyone wishing to speak.

JoNell Strough, 608 Hess Street, spoke on behalf of the Green Team and they have some concerns regarding the pipeline construction in White Park.

There being no one else wishing to speak, Deputy Mayor Selin closed the Public Portion.

ITEMS FOR DISCUSSION:

1. Proposed Annexation Plan

   City Manager explained, after discussion, by consensus, item was moved to the Regular Meeting agenda for May 7, 2019.

2. Implementation of Proposed Municipal Sales Tax

   City Manager explained, after discussion, by consensus, item was moved to the Regular Meeting agenda for May 7, 2019.

ADJOURNMENT:

There being no further business, motion by Wendell, second by Brazaitis, to adjourn the committee of the whole meeting at 8:37 pm.

__________________________     __________________________
City Clerk                              Mayor
April 30, 2019 GENERAL MUNICIPAL ELECTION

Monday, May 6 at 10:10 a.m.

PRESENT: Council members: Mayor Kawecki, Deputy Mayor Selin, Rachel Fetty, Ryan Wallace, Barry Wendell, Mark Brazaitis, Ron Dulaney as the City of Morgantown Board of Canvassers. The following persons were present to assist the Board of Canvassers: City Clerk Christine Wade, Deputy Clerk Heather Carl, Colleen Skotnicki, Krysta Chołkowski, Carol Allen, Amy Cobasky, Michael Branard, and Richard Lockhart from Casto & Harris.

The Common Council of the City of Morgantown met in the Council Chambers o’ City Hall on Monday, May 6th at 10:10 a.m. as an ex-officio board of canvassers, this being the fifth day after the election to canvass the returns of the General Municipal Election held in the City of Morgantown, West Virginia, on Tuesday, April 30, 2019.

The Board of Canvassers chose Precinct #1 to canvass.

Spoiled Ballot, Christine Wade, City Clerk, announced there were none casted the day of election.

Provisional Ballots were opened by City Clerk, Christine Wade as Heather Carl, Deputy Clerk was marking them, and the reason why a provisional was done. Once that was complete, the Board motioned to accept and count 6 out of the 8 provisional ballots.

Absentee Ballots, City Clerk, Christine Wade opened and announced all votes. The Board decided to make a motion to accept all 6 absentee ballots that came in after the polls closed and postmarked by Election Day and one hour prior to canvassing. All were verified and found to be correct.

As the Provisional and Absentee Ballots were opened from all precincts that was sent back to the Clerk’s office, the City Clerk announced all votes out loud to the board. Heather Carl, Deputy Clerk and Colleen Skotnicki made sure voters were tallied and no mistakes were made.

Canvassing Board decided to break for about 45 minutes. Time: 11:45 p.m.

Back in session at 12:29 p.m.

Having completed the canvass of ballots cast for April 30, 2019 General Municipal Election, the final results were declared and upon motion, duly seconded and passed by the Council/Canvassing Board adjourned at 12:31 p.m.

(Official Votes for April 30, 20196 General Municipal Election is attached as Exhibit A.)

CANVASSING BOARD:

______________________________

______________________________

COMMON COUNCIL OF THE CITY OF MORGANTOWN AND EX-OFFICIO BOARD OF CANVASSERS

ATTEST: _____________________  DATE: ___________________
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<td>439</td>
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<tr>
<td>BARBARA PARSONS</td>
<td>706</td>
<td>44.33</td>
<td>300</td>
<td>404</td>
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<td>BILL KAWECKI</td>
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<tr>
<td>RYAN WALLACE</td>
<td>200</td>
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<tr>
<td>JABBY SELIN.</td>
<td>1,153</td>
<td>95.92</td>
<td>506</td>
<td>634</td>
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<td>RON DULANY JR.</td>
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<td>DAVE HAYSHBARGER</td>
<td>1,039</td>
<td>65.22</td>
<td>457</td>
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<td>JAY REDMUND.</td>
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SPECIAL MEETING May 7, 2019

The Special Meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, May 7, 2019 at 5:07 p.m.

PRESENT: Mayor William Kawecki, Council Members, Rachel Fatty, Deputy Mayor Jenny Selin, and Mark Brazaitis. Ryan Wallace, Ron Dulaney, and Barry Wendell were absent.

The meeting was called to order by the Mayor.

EXECUTIVE SESSION: Pursuant to WV State Code Section 6-9A-4(b) (2) (A) motion by Brazaitis, second by Dulaney, to go into Executive Session to discuss personnel matters in considering appointments for Boards and Commissions. Motion carried by acclamation. Mayor, and City Council Members present. Time: 5:08 p.m.

INTERVIEWS FOR BOPARC BOARD - LIBRARY – MUSEUM – HUMAN RIGHTS

5:00 p.m. – Colin Dierman – BOPARC
5:20 p.m. – Janet Paine – Library Board
5:40 p.m. – Richard McEwuen – Museum Commission
6:00 p.m. – Harold Shaver – Museum Commission
6:20 p.m. – Kristen Cooper – Human Rights Commission

Janet Paine – She was not confirmed, she did not get her email until after her interview had passed. She did email Tuesday evening at 6:08 pm and was received Wednesday morning.

ADJOURNMENT:

There being no further business, motion by Brazaitis, second by Deputy Mayor Selin, to adjourn the Special Meeting at 7:00 pm.

__________________________
City Clerk

__________________________
Mayor
Proclamation

Whereas, despite advances in medical technology and research, men continue to live an average of five years less than women with Native American and African-American men having the lowest life expectancy; and

Whereas, educating the public and health care providers about the importance of a healthy lifestyle and early detection of male health problems will result in reducing rates of morality from disease; and

Whereas, men who are educated about the value of preventative health will be more likely to participate in health screening; and

Whereas, fathers who maintain a healthy lifestyle are role models for their children and have happier, healthier children; and

Whereas, Men’s Health Network worked with Congress to develop National Men’s Health Awareness period as a special campaign to help educate men and their families about the importance of positive health attitudes and preventative health practices; and

Whereas, the Men’s Health Month web site has been established at www.MensHealthWeek.org and features resources, proclamations, and information about awareness events and activities, including Wear Blue for Men’s Health; and

Whereas, Morgantown Men’s Health Month will focus on a broad range of men’s health issues, including heart disease, mental health, diabetes, prostate, testicular and colon cancer; and

Whereas, the citizens of this city are encouraged to increase awareness of the importance of a healthy lifestyle, regular exercise, and medical check-ups.

Now therefore, I, William Kawecki, Mayor of the City of Morgantown, West Virginia, do hereby proclaim June 2019, as

Men’s Health Month

in the City of Morgantown and encourage all citizens to pursue preventative health practices and early detection efforts.

Seal:

William Kawecki, Mayor
MEMORANDUM

TO: Mayor and City Council

FROM: Paul J. Brake, ICMA-CM, CEcD
City Manager

DATE: May 17, 2019

RE: Ordinance Establishing a Sales and Use Tax and Reducing Business & Occupation Tax Rates

City Council is considering the second reading of the ordinance to establish a new Sales and Use Tax in the amount of 1% starting on July 1, 2020. This tax will be collected by businesses who conduct sales of tangible personal property or rendering services (except for certain exemptions – described later in the memo). As part of the deliberation of the FY 2019-2020 budget, staff presented a two-year budget plan that contemplated incorporating the new tax primarily aimed at improvements for BOPARC, contributing a greater amount towards legacy costs, setting aside funds for emergency reserves, and allocating funds to capital improvement projects.

In summary, the original budget document (delivered to City Council on February 26, 2019) identified the following sources and uses of the Sales and Use Tax. This would apply to the FY 2020-2021 budget year.

Revenues

Sales and Use Tax $5,000,000

Expenses

Contribution to Fiscal Stabilization Fund $250,000
Contribution to OPEB Fund 250,000
Contribution to Retirement Fund 1,250,000
Contribution to BOPARC 1,250,000
Contribution to Capital Escrow Fund (increase) 2,000,000

Total Expenses $5,000,000

Briefly, the use of each fund is explained below.
**Fiscal Stabilization Fund**
The Fiscal Stabilization Fund is meant as setting aside monies for emergency purposes such as natural or man-made disasters in the event cash is not available to meet obligations for continued operations.

**OPEB Fund**
Next, OPEB refers to “Other Postemployment Benefits” – this is designed to address the payment made to retirees (of those former employees’ who are now pension eligible) to receive health insurance. This program has been discontinued for anyone hired after 2011.

**Retirement Fund**
The contribution to the retirement fund is aimed at increasing the contribution to the Policemen’s Retirement Fund and the Fireman’s Retirement Fund.

**BOPARC Fund**
The BOPARC allocation is slated for rehab and reconstruction of facilities (including, but not limited to, Kreps Park Pool, Marilla Park Pool, Ice Arena, etc.)

**Capital Escrow Fund**
Finally, the added amount contributed to the Capital Escrow Fund is meant for capital improvements and/or one-time equipment or land acquisitions. This likely would be used for a beginning portion of paying for the debt service associated with the runway extension at the Morgantown Municipal Airport. Possibly, funds could be appropriated to the Land Reuse and Preservation Agency.

The way the ordinance is written gives City Council latitude to adjust the amounts to the above-mentioned priorities depending on the amount collected overall through the sales tax collection. The amount of funds generated annually will be reviewed by City Council through the annual budget process. Any adjustments that may become necessary will be changed through the upcoming fiscal year (respectively).

The ordinance also includes a reduction in certain Business and Occupation (B&O) Taxes. The reductions are made in two categories as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Current</th>
<th>Proposed</th>
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</thead>
<tbody>
<tr>
<td>Retail / Reg Sale</td>
<td>0.5%</td>
<td>0.45%</td>
</tr>
<tr>
<td>Service</td>
<td>1%</td>
<td>0.9%</td>
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In the opinion of staff, the businesses that could be most affected by the Sales and Use Tax will be our retail and service classifications. Both categories produce an annual average of $3.3 million each in our B&O taxes or $6.6 million in total for the City. A 10% reduction to both classifications would result in an approximate reduction in $660,000 in tax collections. If the sales tax revenue ends up being significantly higher than the $5 million estimate, then we can go back and potentially raise the deduction from 10 to 20%.

Morgantown was first authorized to levy the Sales and Use Tax through the West Virginia Home Rule Board five years ago. Since then, several larger cities across the state have levied both the
Municipal Service Fee and the Sales and Use Tax. Please see the chart below to show the comparison of our City to those contemporary comparable communities elsewhere in West Virginia.

![Average WV City Revenues Chart]

A question has been raised about Sales and Use Tax Exemptions and it is important to know how this tax is applied. The city sales/service/use tax will apply to the same items and services as the state tax (with other limited exceptions so that no one pays a municipal sales tax twice). The language applying that requirement is at 733.03(a) and tracks with the definitions in the Ordinance at 733.02:

733.03. Imposition of Municipal Sales and Service Tax.

(a) For the privilege of selling tangible personal property or customer software and for the privilege of furnishing certain selected service, a vendor doing business in the City shall collect from the purchaser the taxes imposed by this Section and pay the amount of taxes collected to the Tax Commissioner at the same time and in the same manner as the consumers sales and service tax imposed by West Virginia Code Chapter 11, Article 15 are paid to the Tax Commissioner.

Included in the memorandum is a copy of the West Virginia Sales Tax Publication TSD-300. This information is provided to be helpful in the City Council’s considerations of the ordinance and communications with constituents.
In conclusion, I hope this overview and additional documents give you a comprehensive overview of this important tax policy initiative. I look forward to our discussion at Tuesday’s meeting as we move this forward.

Encl.
SALES AND USE TAX EXEMPTIONS

The West Virginia sales and use tax laws contain many exemptions from the tax. The same exemptions apply to municipal sales and use taxes. This publication provides general information. It is not a substitute for tax laws and legislative regulations. It does not discuss special rules regarding sales of gasoline and special fuels.

GENERAL PRINCIPLES

- When discussing sales/use tax exemptions, it is important to consider the following general principles:
  - All sales of tangible personal property or taxable services are presumed to be subject to tax.
  - Tax must be collected unless a specific exemption applies to the transaction and proper documentation of the exempt status of the transaction is established by the purchaser and retained by the seller.
  - Most individuals, businesses and organizations must pay tax on their purchases.
  - The burden of proving that a transaction is exempt is on the person claiming the exemption and the vendor making the sale.
  - Vendors who fail to collect and remit sales tax on taxable transactions or who fail to maintain proper records and documents with respect to taxable transactions are personally liable for payment of the amount of tax.
  - Intentional disregard of the sales/use tax law or regulations is a serious matter and will result in monetary fines or criminal penalties.

- For a more complete discussion regarding West Virginia sales tax responsibilities, see Publication TSD-407.

- There are several distinct types of exemptions and prescribed methods by which exemptions must be claimed. Failure to follow the proper method in claiming an exemption may result in a transaction being taxable.

“PER SE” EXEMPTIONS

- The term “per se” means by, of, or in itself. When used in the context of sales tax exemptions, it refers to exemptions that do not require a separate exemption document as proof of the exempt status. Generally, the normal documentation of the transaction is sufficient proof of the “per se” exemption. Vendors who make sales that are “per se” exempt must maintain adequate records to substantiate the exemption.

- The following sales and services are exempt “per se” from sales/use tax in West Virginia:
  - **Advertising** - Sales of radio or television broadcasting time, preprinted advertising circulars and outdoor advertising space, newspaper and magazine advertising space for the advertisement of goods or services.
  - **College Board** - Sales of board or meal plans by public or private colleges or universities when the sale is for more than 30 consecutive days and is on a “contract basis” to students enrolled at the school.
  - **Contracting** - The construction, alteration, repair, improvement or decoration of real property, but only when the work performed results in a “capital improvement” to the real property. All other construction trade activities are subject to the sales tax unless otherwise exempt. Purchases made by contractors are generally taxable. For more information on capital improvements, see Publication TSD-310.
  - **Day Care Centers** - Sales of day care center services. A day care center’s own purchases of property or services are generally taxable.
  - **Drugs, durable medical goods, mobility enhancing equipment and prosthetic devices dispensed upon prescription** - Through June 30, 2016, the exemption for durable medical equipment set forth by W. Va. Code § 11-15-9i (2011) can be asserted by health care providers and individuals who purchase durable medical equipment to be dispensed upon prescription and intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury or disease when the durable medical equipment is used. Between July 1, 2016 and June 30, 2018, this exemption is only available to individuals. After July 1, 2018, this exemption will be available
to both home users and health care providers. For more information on this exemption, see Publication TSD-425.

- **Prescriptions** - Sales and purchases of drugs, durable medical goods, mobility-enhancing equipment and prosthetic devices dispensed upon prescriptions issued by persons licensed to prescribe and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of injury or disease. Sales of insulin to consumers for medical purposes are also exempt from sales tax. Sales of nonprescription medications are subject to the tax. For a more complete discussion of the application of sales and use tax to drugs, durable medical goods, mobility-enhancing equipment and prosthetic devices dispensed upon prescription, and insulin, see Publication TSD-377, Publication TSD-383 and Publication TSD-425.

- **Educational Summer Camp Tuition** - Tuition charges made for attending educational summer camps. This exemption does not apply to sales of tangible personal property or food by the camps. For more information on educational camps, see Publication TSD-375.

- **Employee Services** - Services provided by an employee to the employer that are within the scope of the employment contract. Services provided by an employee to the employer that are outside of the employment contract and services provided by an "independent contractor" are taxable. A discussion of the employee/employer relationship can be found in Section 60 of the West Virginia State Tax Department's Sales Tax Regulations, W. Va. C.S.R. § 110-15.

- **Certain Exempt Organizations** - Federal and State Law exempt certain organizations or activities from sales taxes. These provisions are not found in our sales tax law or legislative rule, but are in the particular provisions of the law that deal with the specific organization or activity.

A nonexclusive list of organizations that are exempt from sales tax by other sections of federal or state law includes: federal or state chartered credit unions, regional transit authorities, county ambulance authorities, and non-profit public health care corporations. These provisions of federal and state law may exempt the organization or activity from sales tax on the sale of goods and services, or on purchases of goods and services, or both. However, this exemption applies only to the activities or transactions specifically excluded from taxation by the applicable statute.

For example, state law imposes a pari-mutuel wagering tax on racing tracks in lieu of other taxes on its operations; nevertheless, sales of food, beverages, programs, souvenirs and other items by racing tracks are subject to the sales tax.

- **Food Stamp Purchases** - Sales of food lawfully purchased with federal food stamps or with drafts issued by the West Virginia special supplemental food program for Women, Infants, and Children (WIC).

- **Fraternities and Sororities** - Charges made by fraternities and sororities to their student members for board or meal plans.

- **Fund Raising Sales by Churches and Certain Non-Profit Organizations** - This exemption applies only to organizations that meet special requirements. For a more complete discussion of this exemption, see Publication TSD-320.

- **Intangible Property** - Sales of intangibles (copyrights, royalties, notes, bonds, etc.).

- **Isolated Transactions** - Sales of tangible personal property or taxable services by persons who are not in the business of making such sales, such as an individual selling his personal belongings or a law office selling its used furniture.

Sales of tangible personal property may be made at yard sales without collecting sales tax provided such sales are held no more than four times per year and last no longer than 48 hours each. Persons who regularly and routinely sell goods at yard sales, flea markets or along the roadside are engaged in the business of selling. They must register with the State Tax Department and collect sales tax on such sales.

Persons who are not engaged in the business of providing taxable services may also qualify for this exemption. For example, teenagers who occasionally mow lawns, babysit or do odd jobs for their neighbors may be able to claim this exemption.

- **Lottery Tickets** - Sales of West Virginia lottery tickets and materials related directly to the lottery by authorized lottery retailers.

- **Newspapers** - Sales of newspapers delivered by route carriers are exempt from sales tax. Over-the-counter and vending machine sales are taxable.

- **Personal Services** - Sales of services to the "person" of an individual, such as barbering, hairstyling, manicuring and massaging. Generally, this exemption does not apply to weight loss
or physical fitness programs. Purchases of tangible personal property or taxable services made by personal service providers are generally taxable.

- Professional Services and Certified Public Accountants - Sales of services recognized as "professional" under West Virginia law, such as those provided by doctors, lawyers, engineers, architects and CPA's. Purchases by professionals for use in providing professional services are taxable.

- Public Services - Sales of services subject to the control of the West Virginia Public Service Commission, including sales of gas, steam and water delivered through pipes and mains and sales of electricity, most telephone services and services of regulated public or common carriers, bus and taxi services. Mobile telephone and paging services that may not be regulated are subject to the tax. Sales of goods by regulated companies are generally not exempt.

- Real Property - The sale, lease or rental of real estate (land, houses, buildings and other structures attached to the land) to the same person or occupant for thirty or more consecutive days. Rentals of real property for less than thirty days, such as daily parking rental, are subject to the sales tax.

- School Activities - Sales of tickets for activities sponsored by elementary and secondary schools located within this State. This exemption does not include activities sponsored by other organizations which merely occur on school property and are not sponsored by the school. For more information on exempt school activities, see Publication TSD-312 and Publication TSD-312A.

- Textbooks - Sales of textbooks required to be used in any of the schools of the State, whether the books are sold directly to schools or students. This exemption includes written course materials as well as audio and video materials so long as they are a required text of the school. This exemption does not apply to books or materials that are not textbooks, pens, pencils, paper or other school supplies. For more information, see Publication TSD-312 and Publication TSD-312A.

- Transportation - Charges for transporting passengers in interstate commerce, such as airplane tickets or bus tickets, when the trip begins or ends outside the State.

**EXEMPTIONS REQUIRING CERTIFICATE**

- Some tax exemptions may be claimed by presenting a properly executed Certificate of Exemption (Form F003) to the vendor of the tangible personal property or taxable services. If a vendor fails to obtain a properly completed exemption certificate from the purchaser or if the purchaser refuses to provide a vendor a properly executed exemption certificate, the vendor must collect the tax from the purchaser. The following is a list of tax exemptions that may be claimed through the use of a Certificate of Exemption:

  - **Purchase for Resale** - Purchases of tangible personal property or taxable services intended for resale, or for use in performing taxable services when such property becomes a component part of the property upon which the services are performed and will be actually transferred to the purchaser.

  - **Purchase By An Exempt Commercial Agricultural Producer** - Purchases of tangible personal property or taxable services for use or consumption in the commercial production of an agricultural product and purchases of propane for use in heating poultry houses, but not purchases for construction of or permanent improvement of real property. For more information, see Publication TSD-371.

**TAX EXEMPT ORGANIZATIONS**

- Purchases by certain specified entities are exempt from sales and use taxes, as follows:

  - **Government** - Purchases by the United States government or the State of West Virginia, including their institutions or subdivisions and county and municipal governments of West Virginia. Purchases by employees of such government agencies while on government business are not exempt from sales tax unless such purchases are directly billed to and paid for by the government agency. Purchases by another state, or by an out-of-state county or municipal government are not exempt unless the other state or government organization provides the same exemption to the State of West Virginia and its institutions and subdivisions. Private persons doing business with the government may not claim this exemption.

  - **Certain Nonprofit Organizations** - Purchases by a corporation or organization that has a current registration certificate and that is exempt from federal income taxes under section § 501(c)(3) or (c)(4) of the Internal Revenue Code, if the organization meets all of the requirements.

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**TSD-300 SALES AND USE TAX EXEMPTIONS**

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- **Schools** - Purchases by a school that has its principal campus in this State, is approved by the State of West Virginia to award degrees, and is exempt from federal and state income taxes under section § 501(c)(3) of the Internal Revenue Code. For more information, see Publication TSD-320.

- **Churches** - Purchases of services, equipment, supplies, food for meals and materials directly used or consumed by churches that make no charge whatsoever for the services they provide. These purchases must be paid for directly out of the church treasury. For more information, see Publication TSD-320.

**CERTAIN SPECIFIC SERVICES**

- The purchase of certain specified services is exempt from sales and use taxes, as follows.
  - **Data Processing** - Purchases of electronic data processing services and software related to such purchases, but not purchases of data processing equipment, materials and supplies.
  - **Purchases from Affiliated Entities** - Purchases of services by one corporation, partnership or limited liability company from a related corporation, partnership or limited liability company are exempt from sales tax when both corporations are members of the same controlled group.
  - **Films and Arcade Games** - Purchases of motion picture films, coin-operated video arcade machines and other video arcade games are exempt from sales tax if underlying admissions or playing charges subject to sales tax exist. For more information, see Publication TSD-356.

**REFUNDABLE EXEMPTIONS/DIRECT PAY PERMIT EXEMPTIONS**

- Some exemptions may not be claimed by use of the tax exemption certificate. They must be claimed through one of the following ways:
  - **Pay/Refund** - Business entities that qualify for certain exemptions but have not been issued direct pay permits must pay the sales tax to the vendor at the time of purchase and then apply to the Tax Department for a refund or credit of the tax paid on their exempt purchases.
  - **Direct Pay Permit** - Issuance of a direct pay permit is a method of claiming certain exemptions that absolves the vendor or retailer from responsibility to collect and remit consumers sales and service tax and use tax. The holder of the direct pay permit must report the taxes to the Tax Department.

Business entities that qualify for these exemptions may apply to the Tax Department for a direct pay permit. Only those organizations that qualify for one or more of these exemptions will be issued a direct pay permit. Also, business entities that are delinquent in paying taxes to the Tax Department will not be issued direct pay permits. Direct pay permits may only be used to purchase exempt items and may not be used to purchase gasoline and special fuel.

- The following sales of tangible personal property and taxable services are exempt from tax, but only if the purchaser presents to, and the vendor accepts, in good faith, a properly executed exemption certificate or material purchase certificate, or the purchaser presents the direct pay permit number issued by the Tax Commissioner:
  - **Manufacturing Exemptions** - Purchases of equipment, supplies, materials and services intended for direct use or consumption in the activity of manufacturing. Purchases that are not intended for direct use or consumption but whose use or consumption is only incidental or convenient to the manufacturing activity are not exempt.

  For example, the purchase of an oven to process coal into coke and the purchase of coal to be processed into coke are exempt, whereas a furnace purchased to heat the office building of a coke manufacturer and the coal used to fire that furnace are subject to sales tax. For a more complete discussion of the definition of "direct use", see Publication TSD-358.
  - **Natural Resource Production** - Purchases for direct use or consumption in the activity of producing natural resources. Purchases that are not for direct use or consumption or whose use or consumption will only be incidental or convenient to the natural resource production activity are taxable.
  - **Transportation and Transmission Businesses** - Purchases made for direct use or consumption in the activity of transportation. Transportation and transmission businesses engage in the activity of hauling or delivering goods for others. Persons who haul or deliver their own goods may not claim this exemption. Purchases that are not for direct use or consumption
or whose use or consumption will only be incidental or convenient or such transportation or transmission activity are taxable.

- **Communication Businesses** - Purchases made for direct use or consumption in the activity of communication (telephone, telegraph, commercial broadcast radio and television, cable television, etc.). Purchases that are not for direct use or consumption or whose use or consumption will only be incidental or convenient to the communications activity are taxable.

- **Businesses Subject to the Business and Occupation Tax, Severance Tax or Telecommunications Tax** - All equipment, supplies and materials that will be used in the business activities subject to the business and occupation tax, severance tax and telecommunication tax are exempt from the sales tax. Purchases made for use in activities not subject to those taxes do not qualify for this exemption.

- **Aircraft** - Purchases by a licensed carrier of persons or property, or by a government entity, or aircraft repair, remodeling and maintenance services for an aircraft, engine or other component part of an aircraft, or purchases of tangible personal property that is permanently affixed to a component part of an aircraft as part of the repair, remodeling or maintenance of aircraft, aircraft engines or aircraft component parts, and purchases by a licensed carrier of persons or property, or by a government entity, of machinery, tools or equipment, directly used or consumed exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines or aircraft component parts.

- **Other Organizations** - Charitable organizations, volunteer fire departments and nationally chartered fraternal or social organizations may qualify for a refundable/direct pay permit exemption. If these organizations do not qualify for the specific exemption for non-profit (IRC §501(c)(3) or § 501(c)(4)) organizations, they may claim a limited refundable exemption. However, if these organizations qualify for the non-profit exemption, they must claim their exemption by use of the tax exemption certificate and are not eligible to receive a direct pay permit.

  Purchases by **bona fide charitable organizations** that make no charge whatsoever for the services they render.

  Purchases by **volunteer fire departments** of station house equipment, construction and automotive equipment.

  Purchases by nationally chartered **fraternal or social organizations** for the sole purpose of free distribution in public welfare or relief work.

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**ASSISTANCE AND ADDITIONAL INFORMATION**

- For assistance or additional information, you may call a Taxpayer Service Representative at:
  
  1-800-WVA-TAXS
  (1-800-982-8297)

Or visit our website at:

  [www.tax.wv.gov](http://www.tax.wv.gov)

File and pay taxes online at:

  [https://mytaxes.wvtax.gov](https://mytaxes.wvtax.gov)
AN ORDINANCE ESTABLISHING A SALES AND USE TAX AND REDUCING BUSINESS AND OCCUPATION TAX RATES

The City of Morgantown hereby ordains that a new Article 733 entitled “Sales and Use Tax” is established within the City Code and that Article 735 is amended, all as follows:

733.01. Findings.

(a) On or about October 6, 2014, the Municipal Home Rule Board approved the City of Morgantown Municipal Home Rule Pilot Program Application and granted The City of Morgantown authority to adopt a municipal sales and service tax and a municipal use tax pursuant to West Virginia Code section 8-1-5a without such tax being subject to the restrictions imposed by West Virginia Code Chapter 8, Article 13C.

(b) The City finds and concludes that the sales and services tax and use tax set forth in this Article is adopted consistent with the City’s Home Rule Plan and incorporates the provisions of the Code of West Virginia, 1931, as amended, relating to the imposition, administration, collection, and enforcement of the State consumer sales and service tax codified in W. Va. Code §§ 1-15-1 et seq. and the State use tax codified in W. Va. Code §§ 11-15B-1 et seq. and that adoption of these provisions will (1) simplify collection of the City’s sales and use taxes, (2) simplify preparation of municipal sales and use tax returns by taxpayers, and (3) improve enforcement of the City’s sales and use taxes.

(c) The City finds and concludes that, in consideration of the foregoing findings, this Article shall be construed to accomplish the purposes stated in this Section.

733.02. Definitions.

(a) Terms used in this Article or in the administration, collection, and enforcement of the taxes imposed by this Article and not otherwise defined in this Article shall have the meanings ascribed to them in West Virginia Code Chapter 11, Articles 9, 10, 15, 15A, and 15B, as they may be amended.

(b) The following terms have the meanings given for purposes of this Article:

(1) “Business” means all activities engaged in or caused to be engaged in by any person with the object of gain or economic benefit, direct or indirect, and all activities of the state and its political subdivision, which involve sales of tangible personal property or the rendering of services when those service activities compete with or may compete with the activities of other persons.

(2) “City” means The City of Morgantown, West Virginia.
(3) "Code of West Virginia," "West Virginia Code," or "W. Va. Code" means the Code of West Virginia, 1931, as amended from time to time by the West Virginia Legislature.

(4) "Person" means any individual, partnership, association, corporation, limited liability company, limited liability partnership, or any other legal entity, including the State of West Virginia or its political subdivisions or an agency of either, or the guardian, trustee, committee, executor, or administrator of any person.

(5) "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

(6) "Purchase price" means the measure subject to the taxes imposed by this Article and has the same meaning as the term "Sale price."

(7) "Purchaser" means a person who purchases tangible personal property, custom software or a service taxed by this Article.

(8) "Sale," "sales," or "selling" have the meaning ascribed to those terms in West Virginia Code Chapter 11, Article 15B.

(9) "Sales and use taxes" means the taxes imposed by Sections 733.03 and 733.04 of this Article.

(10) "Sales price" has the meaning ascribed to that term in West Virginia Code Chapter 11, Article 15B, and shall be construed in accordance with that article, as it may be amended.

(A) "Sales price" means the measure subject to the tax levied under West Virginia Code Chapter 11, Article 15 or 15A, or this Article, and includes the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:
   (i) The seller's cost of the property sold;
   (ii) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller and any other expense of the seller;
   (iii) Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
   (iv) Delivery charges; and
   (v) Installation charges.

(B) "Sales price" does not include:
   (i) Discounts, including cash, term or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
(ii) Interest, financing and carrying charges from credit extended on the sale of personal property, goods or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser; or
(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser.
(C) “Sales price” shall include consideration received by the seller from third parties if:

(i) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;
(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
(iv) One of the following criteria is met:

(I) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(II) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a preferred customer card that is available to any patron does not constitute membership in such a group); or

(III) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

(11) “Sales tax” means the tax levied by Section 733.03 of this Article.

(12) “Service” or “selected service” have the meaning ascribed to those terms in West Virginia Code Chapter 11, Article 15B.

(13) “State sales tax” means the tax levied by West Virginia Code Chapter 11, Article 15.

(14) “State use tax” means the tax levied by West Virginia Code Chapter 11, Article 15A.
(15) “Tax” means the taxes imposed by this Article and includes additions to tax, interest, and penalties levied under West Virginia Code Chapter 11, Article 10.

(16) “Tax Commissioner” means the Chief Executive Officer of the Tax Division of the Department of Revenue of the State of West Virginia, as provided in W. Va. Code § 11-1-1.

(17) “This state” means the State of West Virginia.

(18) “Ultimate consumer” or “consumer” means a person who uses or consumes services, tangible personal property, or custom software.

(19) “Use” for purposes of the tax imposed by Section 733.04 of this Article means and includes:

(A) The exercise by any person of any right or power over tangible personal property or custom software incident to the ownership, possession, or enjoyment of the property, or by any transaction in which possession of or the exercise of any right or power over tangible personal property, custom software, or the result of a taxable service is acquired for a consideration, including any lease, rental, or conditional sale of tangible personal property or custom software; or

(B) The use or enjoyment in this state of the result of a taxable service. As used in this definition, “enjoyment” includes a purchaser’s right to direct the disposition of the property or the use of the taxable service, whether or not the purchaser has possession of the property. The term “use” does not include the keeping, retaining, or exercising any right or power over tangible personal property, custom software, or the result of a taxable service for the purpose of subsequently transporting it outside the City for use thereafter solely outside the City.

(20) “Use tax” means the tax imposed by Section 733.04 of this Article.

(21) “Vendor” means any person engaged in this City in furnishing services taxed by this Article or making sales of tangible personal property or custom software. “Vendor” and “seller” are used interchangeably in this Article.

733.03. Imposition of Municipal Sales and Service Tax.

(a) For the privilege of selling tangible personal property or custom software and for the privilege of furnishing certain selected service, a vendor doing business in the City shall collect from the purchaser the taxes imposed by this Section and pay the amount of taxes collected to the Tax Commissioner at the same time and in the same manner as the consumers sales and service tax imposed by West Virginia Code Chapter 11, Article 15 are paid to the Tax Commissioner.
(b) The rate of the tax imposed by this Section shall be one percent of the Sales Price, as defined in this Article, of the tangible personal property, custom software, or taxable service purchased or leased.

733.04. Imposition of Municipal Use Tax.

(a) An excise tax is hereby levied and imposed on the use in the City of tangible personal property, custom software, and the results of taxable services, to be collected and paid to the Tax Commissioner as agent for the City in the same manner that state use tax is collected under West Virginia Code Chapter 11, Articles 15A and 15B, and remitted to the Tax Commissioner.

(b) The rate of tax shall be one percent of the Purchase Price, as defined in this Article, of the tangible personal property, custom software, or taxable service used within the City.

733.05. Calculation of Tax on Fractional Parts of a Dollar.

The tax computation under Sections 733.03 and 733.04 of this Article shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period but the method used shall be the same as that used for purposes of computing the state sales or use tax.

733.06. State and Local Tax Bases.

The taxable bases of the taxes imposed by Sections 733.03 and 733.04 of this Article shall be identical to the sales and use tax bases of this State except as provided in Section 733.07 of this Article, unless otherwise prohibited by federal law, as required by W. Va. Code § 11-15B-34.

733.07. Exceptions.

The taxes imposed by this Article do not apply in the following defined instances:
(1) the sale or use of motor fuel, as defined in West Virginia Code Chapter 11, Article 14C;
(2) the sale or use of motor vehicles upon which the tax imposed by West Virginia Code Chapter 11, Article 15, Section 3c;
(3) The purchase or use of any tangible personal property, custom software, or service that the City is prohibited from taxing under the laws of this state or of the United States.
(4) The sales tax imposed by Section 733.03 of this Article does not apply to any transaction that is exempt from the tax imposed by West Virginia Code Chapter 11, Article 15;
(5) The use tax imposed by Section 733.04 of this Article does not apply to any purchase upon which the sales tax imposed by Section 733.03 of this Article has been paid.

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733.08. Credit Against Municipal Tax.

(a) A person is entitled to a credit against the use tax imposed by Section 733.04 of this Article on the use of a particular item of tangible personal property, custom software, or results of a taxable service equal to the amount, if any, of sales tax lawfully paid to another municipality for the acquisition of that property, custom software, or service; provided that the amount of credit allowed may not exceed the amount of use tax imposed by Section 733.04 on the use of the tangible personal property, custom software, or results of the taxable service in the City.

(b) For purposes of this Section 733.08, the following terms have the meanings given:

(1) "Sales tax" includes a sales tax or compensating use tax imposed on the sale or use of tangible personal property, custom software, or the results of a taxable service by the municipality in which the sale occurred; and

(2) "Municipality" includes municipalities of this state or of any other state of the United States.

(c) No credit is allowed under this Section for payment of any sales or use taxes imposed by this state or any other state. For purposes of this paragraph 733.08(c), "state" includes the fifty states of the United States and the District of Columbia but does not include any of the several territories organized by Congress.

733.09. Tax cumulative.

The taxes imposed by this Article are in addition to other taxes imposed on the sale or use of tangible personal property, custom software, or taxable services, including, but not limited to, the state consumers sales and service tax imposed by West Virginia Code Chapter 11, Article 15; the state use tax imposed by West Virginia Code Chapter 11, Article 15A; the public utility tax imposed by the City pursuant to West Virginia Code Chapter 8, Article 13, Section 5a; the amusement tax imposed by the City pursuant to West Virginia Code Chapter 8, Article 13, Section 6; the tax on sales of alcoholic liquors and wine imposed by the City pursuant to West Virginia Code Chapter 8, Article 13, Section 7; the hotel occupancy tax imposed by the City pursuant to West Virginia Code Chapter 7, Article 18; and the special district excise taxes imposed by a county pursuant to West Virginia Code Chapter 7, Article 22, or by a municipality pursuant to West Virginia Code Chapter 8, Article 38, if any.

733.10. Local Rate and Boundary Database; Changes.

(a) The Tax Commissioner is required by W. Va. Code § 11-15B-35 to maintain a database for all jurisdictions levying a sales or use tax in this State. The City Clerk shall furnish the Tax Commissioner with information the Tax Commissioner requires for that database that will allow the Tax commissioner to maintain a database that assigns each five-digit and nine-digit
zip code within the City to the proper rate of tax. If any nine-digit zip code area includes area outside the City, the single state and local rate assigned to that area in the Tax Commissioner’s database will be the lowest rate applicable to that area; provided that, when sales occur at and are sourced to a physical location of the Seller located in the City in that nine-digit zip code area, the Seller shall collect and remit the tax imposed by Section 733.03.

(b) Whenever the boundaries of the City change, the City Clerk shall promptly notify the Tax Commissioner of the change in a writing including the following: (i) the nine-digit zip code or codes for the area added or removed, (ii) any other information the Tax Commissioner may require to maintain the database. After the first date that taxes are imposed under this Article, an act of Council annexing property into the City or removing property from the City shall provide that the boundary change may not take effect any sooner than the first day of a calendar quarter that begins sixty days after the City provides written notice to the Tax Commissioner of a change in the municipal boundaries.

(c) The nine-digit database shall be maintained by the City until such time as the Tax Commissioner allows use of a different system to determine whether a location is within or outside the corporate limits of the City.

733.11. State-level administration.

(a) The Tax Commissioner is responsible for administering, collecting, and enforcing the taxes imposed by this Article as provided in W. Va. Code §§8-13C-6 and 11-15B-33. The City may enter into a written agreement with the Tax Commissioner that will allow employees of the City auditing a vendor whose primary business location is in the City for compliance with the City’s business and occupation tax to also audit that business location for compliance with the sales and use tax laws of this state and the City and obligate the City to share that information with the Tax Commissioner.

(b) The Tax Commissioner may retain from collections of the taxes imposed by this Article the fee allowed by W. Va. Code § 11-10-11c or by any other state law or legislative rule.

(c) The Tax Commissioner shall deposit all the proceeds from collection of the taxes imposed by this Article, minus any fee authorized by law for collecting, enforcing, and administering taxes retained under this Article, in the subaccount for the City established in the “Municipal Sales and Service Tax and Use Tax Fund,” an interest-bearing account created in the state treasury pursuant to W. Va. Code § 8-13C-7. All funds collected and deposited in the subaccount for the City shall be remitted at least quarterly by the State Treasurer to the City’s Finance Director, as provided in W. Va. Code § 8-13C-7.

(a)  The provisions of the West Virginia Tax Procedure and Administration Act set forth in West Virginia Code Chapter 11, Article 10, apply to the administration, collection, and enforcement of the taxes imposed pursuant to this Article, except as otherwise expressly provided in West Virginia Code Chapter 8, Article 13C, with like effect as if that article were applicable only to the taxes imposed by this Article and were fully set forth in this Article.

(b)  The Finance Director shall have the authority to adopt and implement such other and additional regulations, not inconsistent with Paragraph (a), as are appropriate for the administration, interpretation, and enforcement of this Article, including provision for administering the funds deposited in the special revenue fund created by this Article. Such regulations shall not impair or interfere with the authority and responsibility of the State Tax Commissioner for administering, collecting, and enforcing the tax obligations established by this Article.

733.13. Criminal penalties.

The provisions of the West Virginia Tax Crimes and Penalties Act, set forth in West Virginia Code Chapter 11, Article 9, applies to the administration, collection and enforcement of the taxes imposed by this Article with like effect as if that act were applicable only to the taxes imposed pursuant to this Article and were fully set forth in this Article; provided that the criminal penalties imposed upon conviction for a criminal violation of this Article may not exceed the maximum penalties allowed by law for a violation of the ordinances of the City.


Any amendments to the provisions of the West Virginia Code currently codified at Chapter 11, Articles 9, 10, 15, 15A, or 15B shall automatically apply to the taxes imposed by this Article, to the extent the amendments are applicable.

733.15. Deposit of Tax Collected in Special Revenue Fund and General Revenue Fund.

(a)  There is hereby established a special revenue fund of the City which is designated the “City Sales and Use Tax Fund.” The City Sales and Use Tax Fund shall consist of the following:

(1)  One half of every dollar of revenue received from collection of the taxes imposed by this Article, including any interest, additions to tax, and penalties deposited with the City’s Finance Director;

(2)  All appropriations to the fund;

(3)  All interest earned from investment of the fund; and
(4) Any gifts, grants, or contributions accepted by the City and deposited in the fund.

(b) Funds in the City Sales and Use Tax Fund shall not be treated by any person as general revenue of the City, except as provided herein. Revenues in the City Sales and Use Tax Fund shall be disbursed in the manner, and consistent with the purposes, set forth in Paragraph (c) of this Section.

(c) Funds in the City Sales and Use Tax Fund shall be used as follows:

(1) First, to satisfy the debt service requirements each fiscal year on any bonds issued by, or other obligations incurred by, the City for which the fund is dedicated as the payment source, including any refunding bonds; to pay for recreational facilities and services, including without limitation the construction of capital improvements, construction of facilities, and acquisition of property for recreational purposes, solely or jointly with other entities or agencies, including without limitation associated retail and service facilities that are directly related to, and used in conjunction with, recreational facilities; and to contribute to the funding of the City's obligations to retired employees, including without limitation pension plans for civil service members and non-civil service members and other post-employment benefits.

(2) Second, to pay for capital improvement projects on a pay as you go basis; and

(3) Third, after providing for payment of the priority items above, any unencumbered funds in the City Sales and Use Tax Fund may periodically be transferred to the City General Revenue Fund or Account.

(d) The remainder of revenue received from collection of the taxes imposed by this Article after distribution of revenue allocated to the City Sales and Use Tax Fund shall be deposited in the City General Revenue Fund or Account.

733.16. Issuance of revenue bonds.

The City shall have the power and authority to issue its revenue bonds or other obligations or refunding revenue bonds or other obligations, as appropriate, under and pursuant to Chapter 8, Article 15, or other appropriate provisions of the West Virginia Code as may be applicable from time to time (hereinafter, the "Bond Act") for the purposes of financing or refinancing costs of infrastructure improvements or economic development activities and projects within the City, or for any lawful purpose. The City may pledge or otherwise utilize the collections of the taxes imposed by this Article and the funds on deposit from time to time in the City Sales and Use Tax Fund to satisfy the debt service requirements and any prior debt service requirements each fiscal year, and to fund or replenish any required reserves in accordance with the bond documents or
similar documents for any bonds or other obligations issued by the City from time to time, including any refunding bonds, to finance or refinance infrastructure improvements or economic development activities and projects within the City, including the funding or replenishing of any reserve funds relating to any such bonds or other obligations, and/or to make lease payments which repay the debt service or otherwise secure bonds or other obligations issued to finance or refinance infrastructure improvements or economic development activities and projects, or issued for any other lawful purpose. The City may utilize the procedures established pursuant to the Bond Act in connection with the issuance of such bonds or other obligations and in connection therewith it is hereby clarified and directed that the taxes imposed by this Article shall not be considered taxes imposed solely for the purposes of, and as contemplated by, West Virginia Code Chapter 8, Article 16.

733.17. Severability.

If any provision of this Article, or the application of this Article to any person or circumstance, is found invalid by a person or entity having jurisdiction to make such determination, such invalidity shall not affect the validity or application of other provisions of this Article which can be given effect without the inclusion of the provision invalidated. To this end, the provisions of this Article shall be construed as severable. The City Council finds and declares that it would have adopted this Article irrespective of the invalidity of any particular provision hereof and intends that any portion deemed invalid should be severed and the balance of the Article given effect and enforced without regard to the invalid provision.

733.18. Effective Date.

(a) This Article shall become effective upon adoption.

(b) The imposition and collection of the taxes imposed by this Article shall be suspended until July 1, 2020, or such later first day of January or July as required by the legislative rule codified in West Virginia Code of State Rules Title 110, Series 28.

733.19. Notification to Tax Commissioner.

Upon adoption of this Article by City Council, the City Clerk shall send to the Tax Commissioner (i) a certified copy of the ordinance adopting this Article, (ii) the rate and boundary database required by this Article, (iii) a description of the boundaries of the City, and (iv) other information reasonably required by the Tax Commissioner to administer, collect, and enforce the taxes imposed by this Article.
ARTICLE 735
Business and Occupation Tax

735.18. Selling tangible property at retail.

Upon every person engaging or continuing within this City in the business of selling any tangible property whatsoever, real or personal, at retail, including the sale of food, and the service incident to the sale of food in hotels, restaurants, cafeterias, confectionaries and other public eating houses, except sales by any person, engaging or continuing in the business of horticulture, agriculture, or grazing, or of selling stocks, bonds or other evidence of indebtedness, there shall be collected a tax equivalent to fifty cents (50 ¢) per one hundred dollars ($100.00) of value or gross income of the business; provided that, on and after July 1, 2020, the rate of tax collected shall be equivalent to forty-five cents (45¢) per one hundred dollars ($100.00) of value or gross income of the business.

735.24. Service Business or Calling Not Otherwise Specifically Taxed.

Upon every person engaging or continuing within this City in any service business or calling not otherwise specifically taxed under this article, there is likewise hereby levied and shall be collected a tax equal to one dollar ($1.00) per one hundred dollars ($100.00) of value or of the gross income of any such business service or calling; provided that, on and after July 1, 2020, the rate of tax collected shall be equivalent to ninety cents (90¢) per one hundred dollars ($100.00) of value or gross income of the business.

This ordinance is effective upon adoption.

First Reading: ______________________________

Mayor

Second Reading: ______________________________

City Clerk

Adopted: ______________________________

Filed: ______________________________
MEMORANDUM

TO: Mayor and City Council

FROM: Paul J. Brake, ICMA-CM, CECd
City Manager

DATE: May 17, 2019

RE: Review of the Draft Annexation Plan

This memorandum is intended as an overview draft annexation petition presented for your review and proceeding further with this process. The initial draft was first presented at the May 7th Council meeting.

The Informational Material included in the draft annexation plan are as follows:

1. The number of businesses located in and persons residing in the additional territory;
2. An accurate map showing the metes and bounds of the additional territory;
3. A statement setting forth the municipality’s plan for providing the additional territory with all applicable public services such as police and fire protection, solid waste collection, public water and sewer services and street maintenance services, including to what extent the public services are or will be provided by a private solid waste collection service or a public service district;
4. A statement of the impact of the annexation on any private solid waste collection service or public service district currently doing business in the territory proposed for annexation in the event the municipality should choose not to utilize the current service providers;
5. A statement of the impact of the annexation on fire protection and fire insurance rates in the territory proposed for annexation;
6. A statement of how the proposed annexation will affect the municipality’s finances and services; and,
7. A statement that the proposed annexation meets the requirements of W. Va. Code § 8-6-5.

Based on the discussion at the previous meeting, I have begun the process of reaching out to stakeholder groups. Earlier this week, I made a presentation to the Morgantown Area Partnership (the new umbrella economic organization) at the Board of Directors meeting, per the request of the group. Board members took a genuine interest in the annexation plan, and the information was well received. I suggested to the Board they create a task force study committee to further examine the proposal (with the hopes of having them take an official position on the proposal). More information will be forth coming.
One of the primary benefits to property owners (either residential or commercial) is lower property insurance premiums. Our Finance Director reached to a local insurance professional to gain a better understanding about the City’s Insurance Service Office (ISO) rating. The insurance advisor did express that his general opinion should be taken into proper context. In providing homeowner or commercial property insurance policies, each policy is different due to underwriting and other circumstances. Property owners should consult their insurance provider to see what savings they could receive moving to an ISO 2 from their current level.

- The insurance advisor did confirm that a lower ISO rating does lower insurance premiums. Property owners could expect 10% to 20% or more in reduction on their property insurance policy, but not liability policy.
- The advisor did confirm seeing many examples of savings resulting from ISO rating changes.
- A local example provided was an insurer redrew maps to change a “partially protected” class to a “fully protected” class property that was within 5 miles of the City with an ISO rating of 2. The premium was reduced from around $1,100 to the $800 range – over 20% savings.
- Surrounding community ISO ratings – Star City 6, Granville 4, Cheat Lake 5, Westover 4 and Brookhaven 4.

Additionally, rate payers in both the City and in the unincorporated areas pay the same insurance surtax (1% of premiums) charged on all Property and Casualty lines of insurance.

- Annual revenue to the State - $22 Million to $23 Million
- 65% goes to the Police and Fire Pensions, 25% to Volunteer Fire Departments and 10% to Teachers Retirement

Staff inquired with the Municipal Pension Oversight Board (MPOB) that property insurance rate payers in unincorporated areas are donors in comparison to those property owners in the City. When I refer to donors, those rate payers pay in more (collectively) to Charleston (or the MPOB) than what the community receives back. So, in other words, the areas outside of the City do not receive the benefit of the amount paid in by City dwellers and property owners.

In moving forward with the process, I present once again a possible time-line to move the project forward.

May 21, 2019 Regular City Council Meeting (Review of the draft application)

June 1 to June 30, 2019 Open Written Comment Period (posted on the City’s website)

July 16, 2019 Review Comments and Make Adjustments (if necessary)

August 6, 2019, Regular City Council Meeting (Resolution to Approve the Application)

August 2019 Present Application, Survey and Annexation Study to Monongalia County Commission (depending on survey timeframe)
Once the resolution, required application plan, and land survey are completed, the documentation is then presented to the Monongalia County Commission. During the review of City Council and open written comment period, the City will be working with a land surveyor to conduct the required property survey. This may not be completed in two-months – once we have confirmed this with contract surveyor, we can finalize the parliamentary time frame.

A copy of the latest version of the annexation report is currently available on the City’s website. As mentioned previously, additional information compiled by staff, related to the seven factors included in annexation applications under W. Va. Code 8-6-5 is presented for your review and comment. At Tuesday’s meeting, Council members can identify any additional data or issues that should be included.

The application for annexation by minor boundary adjustment is adopted by a Resolution of Council and submitted to the County Commission. It includes the previously mentioned seven criteria. Upon receipt of a completed application, the County Commission schedules a public hearing to consider input on the application.\(^1\) After the public hearing, the County Commission evaluates the following factors to decide the application: (1) Whether the territory proposed for annexation is contiguous to the corporate limits of the municipality. For purposes of this section, “contiguous” means that at the time the application for annexation is submitted, the territory proposed for annexation either abuts directly on the municipal boundary or is separated from the municipal boundary by an unincorporated street or highway, or street or highway right-of-way, a creek or river, or the right-of-way of a railroad or other public service corporation, or lands owned by the state or the federal government; (2) Whether the proposed annexation is limited solely to a division of highways right-of-way or whether the division of highways holds title to the property in fee; (3) Whether affected parties of the territory to be annexed oppose or support the proposed annexation. For purposes of this section, “affected parties” means freeholders, firms, corporations and qualified voters in the territory proposed for annexation and in the municipality and a freeholder whose property abuts a street or highway, as defined in section thirty-five, article one, chapter seventeen-c of this code, when: (i) The street or highway is being annexed to provide emergency services; or (ii) the annexation includes one or more freeholders at the end of the street or highway proposed for annexation; (4) Whether the proposed annexation consists of a street or highway as defined in section thirty-five, article one, chapter seventeen-c of this code and one or more freeholders; (5) Whether the proposed annexation consists of a street or highway as defined in section thirty-five, article one, chapter seventeen-c of this code which does not include a freeholder but which is necessary for the provision of emergency services in the territory being annexed; (6) Whether another municipality has made application to annex the same or substantially the same territory; and (7) Whether the proposed annexation is in the best interest of the county as a whole.

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\(^1\) While the West Virginia Municipal League guide to annexation notes that opposition from those in the proposed annexation territory should lead to denial of the application, that guide is based on a prior version of the law and related court decisions occurring prior to the legislative update in 2001. While we recognize that some residents of an area may object to annexation, we believe proposing annexation in appropriate areas integral to the city serves the public and will be supported by the majority of residents of those areas, as well as residents of the city.
The Commission will enter an order stating the reasons for granting or denying the application on those grounds. If the application is denied, the Commission may also offer options to modify the application so it may be accepted. Any party affected by the Commission’s order may appeal to the Circuit Court.

Annexations have been the subject of multiple Supreme Court rulings over the past several years. The main holding of those decisions has been that the determination of whether territory is of an appropriate size for annexation is within the County Commission’s discretion. The Commission is not obligated to deny an application because the territory includes a large area. One case providing an example involved Oak Hill’s annexation of the unincorporated Town of Minden and ACE Adventure Resort, consisting of 2,484 acres of territory. The Supreme Court upheld annexation by minor boundary adjustment. Morgantown has previously annexed large areas by minor boundary adjustment, including the WVU farms property.

The information in the report demonstrates the City’s thorough review of the impacts of annexation on both existing residents and the proposed areas to be included within the City. The areas considered are generally within the City’s existing service footprint. They will require additional services, as the report notes, but those services should become more efficient for all residents through the inclusion of the new areas as formal parts of the City. Many areas already rely on the professional police and fire services offered by Morgantown due to their larger workforce and technical equipment, as well as quicker response times. Most or all of the areas also receive water, sewer, and stormwater management services through the Morgantown Utility Board. All areas receive solid waste services from the City’s current contractor, though the added areas would benefit from curbside recycling, electronics recycling, and the potential expansion of materials available for recycling and/or reduction in service rates.

The report specifically addresses factors the Monongalia County Commission identified as important when they denied an annexation application by the Town of Granville. The Commission sought data on the impact of annexation to residents and businesses operating in the area to be added. The detailed projections in the report provide that data to the best available measure. On balance, these data show that annexation provides service benefits to the territory and promote the continued provision of important public services such as road maintenance, police protection, and fire prevention to all residents of the city and county. The expansion and funding of city services proposed through annexation also relieves the burden on sheriff’s deputies and volunteer firefighters in areas that are already urban and require additional services.

I hope this summary and the report data provide a comprehensive overview of the annexation proposal, and I look forward to working with you to move this initiative forward.

Encl.
Informational Material
For
May 7, 2019
City Council Meeting

Application for Annexation
By Minor Boundary Adjustment

The City of Morgantown, West Virginia
3.8 square miles in the Suncrest, Mileground, and First Ward Areas

(1) The number of businesses located in and persons residing in the additional territory;

The additional territory contains approximately 12,830 residents.

The additional territory contains approximately 367 businesses, 26 of which are tax-exempt entities.

(2) An accurate map showing the metes and bounds of the additional territory;

Allegheny Surveys is preparing a survey of the territory.

(3) A statement setting forth the municipality's plan for providing the additional territory with all applicable public services such as police and fire protection, solid waste collection, public water and sewer services and street maintenance services, including to what extent the public services are or will be provided by a private solid waste collection service or a public service district;

(a) Police

The Morgantown Police Department ("MPD") will protect and serve the territory. MPD is a full-service, urban police department with 72 sworn officers and 11 civilian employees. The department operates three shifts with a minimum of five officers on duty at all times and as many as 10 on duty at any given time. The average response time to service calls is 3.5 to 4 minutes.

MPD offers specialized services not available through other agencies serving the territory. The department has a detective division, with 6 detectives and a supervisor, which is dedicated to
investigations. The department also maintains a Special Response Team to respond to high risk situations and a dive team to perform water search and rescue. The Special Response Team conducts high risk entry on search warrants and arrest warrants as well as hostage situations.

Serving these officers are 42 marked cruisers and 28 unmarked vehicles, along with two vans for crime scene processing and prisoner transport. Additional equipment includes a boat and trailer, two motorcycles, an all-terrain vehicle, and bicycles.

MPD already serves a total area encompassing the additional territory, but five officers will be added to its staff to maintain current response times and capacity to serve residents. Many incidents in the additional territory already require MPD to assist other responding agencies due to MPDs more numerous staff and specialized training and skills. Service call responses require officers to travel the additional territory, as well. The City expects that adding the territory will provide more efficient and effective police protection for all residents while diminishing the burden on the Monongalia County Sheriff’s Department and the West Virginia State Police.

(b) Fire

The Morgantown Fire Department (“MFD”) will provide fire protection services, plan review, and fire code inspection services to the area. MFD comprises sixty-one (61) sworn personnel and one (1) Administrative Assistant. Of the 61 sworn employees, four (4) are assigned to the Fire Marshals Division and three (3) are assigned to the Administrative Division. The other fifty-four (54) personnel are assigned to the Operations Division. MFD Standard Operating Procedure 202.1 addresses the staffing model for the Operations Division. The SOP allows for an average of 15 firefighters on duty at any given time, with a variant range between 14 and 18 personnel. Not included within the model are the Fire Marshals Division (four personnel) or the Administrative Division (3 Personnel). These personnel generally work a regular business week schedule.

MFD maintains five engines, with an additional engine scheduled for purchase in 2022, including two aerial units – one straight ladder and one tower. In addition, MFD has six staff vehicles for regular use by the fire chief, training officer, and fire marshals, and five auxiliary vehicles consisting of two pickup trucks, one John Deere Gator, one Dodge Durango, and one Jeep Liberty. MFD utilizes three trailers – one for its hazardous materials team, one for its dive team, and one for public education. The department has two watercraft – one john boat and one Boston Whaler fire boat.

MFD's average response time for emergency calls with its Primary Response area apparatus (generally – the use of lights and sirens) is 5 minutes and 31 seconds. Response time with secondary arriving apparatus (without lights and sirens) is 7 minutes 13 seconds. This data is based on a response area of 1.5 miles for engines, 2.5 miles for aerial apparatus. Areas outside the designated 1.5 mile/2.5 mile areas would have increased response times. This extended territory already includes areas within the city boundary such as the WVU Agronomy Farm and the National Guard Armory. Most of the additional territory is within the designated radius, and the expected construction of a new public safety station would place these large community assets within easier reach of fire protection apparatus as well.
MFD has responded to ninety (90) incidents outside the corporate limits of the City since 2007. Several of these responses are for Dive Team related incidents. MFD’s Public Safety Dive Team is available to regional agencies as a part of the Coast Guard grant that provided the equipment for the team. Many fire calls are also within the additional territory: Incident Number 2018-2317 (a building fire at Pearand Apartments on 872 Stewart Street, Incident Number 2018-2246 (a building fire at the Blue Parrot, 1869 Mileground Road), Incident Number 2018-1905 (passenger vehicle fire on Hartman Run Road), Incident Number 2018-1488 (medical assistance at Stadium View Apartments, 296 McCullough Street), and others.

MFD has an ISO rating of 2, the best among all county firefighting agencies. Many of its services already encompass the additional territory – either through the existing primary service area footprint or due to calls for assistance from other agencies with less staffing or equipment. The planned addition of four firefighters, a fire engine, and plans for an additional public safety building would promote efficient provision of fire service to all residents.

Residents of the territory would also enjoy the addition of services provided by city fire marshals. The fire marshals division enforces the fire code within the city. These services includes review of building plans for compliance and inspection of business and rental structures to ensure safety requirements are met. The fire marshals also investigate and charge arson and other fire-related offenses in which the office has specialized knowledge and training. These services contribute to protection of property from fire damage and ensure safety of residents.

(c) Solid Waste

Solid waste collection will be provided by Allied Waste Services of North America, LLC, doing business as Republic Services of West Virginia. Residents will receive weekly curbside trash collection and weekly curbside single-stream recycling collection on the same day each week. Residents will receive regular electronics recycling at curbside and a set amount of bulk collections at curbside upon request. All residential billing will be integrated with the combined water, sewer, and stormwater billing through the Morgantown Utility Board. Commercial recycling is available in addition to several schedules for commercial solid waste collection.

(d) Public Water and Sewer

Public water and sewer will be provided by the Morgantown Utility Board. Residents of the additional territory will also benefit from stormwater management provided through the combined system operated by the Utility Board.

(e) Street Maintenance

The City expects to assume maintenance responsibility for all roads in the territory other than primary state routes. The transfer will require consent of the West Virginia Division of Highways, and the City will offer to clean and maintain the primary routes as well under a maintenance agreement with the Division of Highways. The area contains approximately 43 total miles of roadway.
City streets are currently on a 10-year resurfacing schedule, which is funded by the municipal service fee. Streets undergo a roadway condition assessment and, subject to staff and resident input, are scheduled for resurfacing according to condition and usage. The City provides resurfacing and larger sidewalk installation projects through an annual Street Improvement Project contract with outside contractors. The 2019 resurfacing project will expend $1.8 million to resurface portions of 21 streets and install several segments of sidewalk. Information on the project and planning is available at https://www.morgantownwv.gov/502/Paving-Plan. The streets transferred to the City following addition of the territory would be incorporated into the resurfacing plan.

The City directly provides street cleaning services – through operating of street cleaning equipment and personnel services directly clearing streets of trash and debris, pretreatment of streets for weather events, and snow plowing and other clearing services with a dedicated Street Department staff. Additions to these staff and the road improvement budget, noted in the application, will promote effective extension of street maintenance services to the additional territory. Increased efficiency is expected due to the inclusion of the territory in the existing service footprint of the City’s road maintenance and improvement areas.

(4) A statement of the impact of the annexation on any private solid waste collection service or public service district currently doing business in the territory proposed for annexation in the event the municipality should choose not to utilize the current service providers;

(a) Private solid waste

Solid waste service in the territory is provided by Republic Services pursuant to a certificate of convenience and necessity granted by the West Virginia Public Service Commission. Republic Services also provides solid waste services to city residents pursuant to a franchise granted by the City and authorized by the Public Service Commission through a motor carrier permit. The solid waste provider for the additional territory would not change.

However, residents would benefit from services available to city residents under the franchise agreement:
- single-stream curbside recycling collected weekly;
- regular curbside electronics recycling;
- contractual protections for the materials available for recycling;
- collection of all residential waste, regardless of service or billing disputes;
- a single bill for solid waste, water, sewer, and stormwater service managed by the Morgantown Utility Board;
- Rates set by agreement and approved by local representatives (rather than by the state-level tariff process through the Public Service Commission)
(b) Public service districts

The Morgantown Utility Board provides services in the territory. Information about other public service districts that may serve the territory will be supplied. Any change in the operations of those public service districts would be subject to independent review and approval by the Public Service Commission.

(5) A statement of the impact of the annexation on fire protection and fire insurance rates in the territory proposed for annexation;

The Morgantown Fire Department has a rating of 2 from the Insurance Service Office ("ISO").

The Volunteer Fire Departments currently serving the territory as their “first due” area prescribed by the State Fire Commission have lower ISO ratings (signified by higher rating numbers).

A better ISO rating generally leads to a reduction in fire insurance or homeowners' insurance rates for residents of the area.

New benefits to residents will be the availability of a full-time, professionally staffed fire department with low response times and specialized equipment. Residents will also benefit from proactive fire protection services through the plan review and inspection services performed by the Fire Marshals.

(6) A statement of how the proposed annexation will affect the municipality's finances and services; and

Services

The additional territory is within the footprint of the territory served by the City. City police, fire, and road maintenance workers pass through these territories to perform municipal services. The City plans specific increases in capital improvements, staff, and equipment to serve the territory but also expects to provide more efficient service to all residents through the addition of the territory.

- 5 police officers will be added to the 72 current officers and 1 dedicated support staff.
- 5 new police cruisers will be added to the vehicle fleet.
- 4 fire fighters will be added to the fire department staff currently comprising 55 fire fighters and 7 administrative staff (including the Fire Chief and Fire Marshals).
- A new fire engine will be purchased.
- A public safety substation will be constructed. It will be staffed by additional police and fire personnel and served by the regular city administrative staff.
- A residential housing inspector and a residential and commercial building inspector will be added to the Code Enforcement Department, along with vehicles for each new staff member. These two officers will supplement a current staff of 10 inspectors.
- Two truck drivers will be added to the Street Department to service the additional roads.
- Two plow trucks will be added to the vehicle fleet for operation by additional drivers.
- The streets within the territory will be included in the City’s regular maintenance and paving schedule. The current cycle targets repaving on a 10-year cycle.
- The police department budget will increase by $1,030,000.00 annually, excluding capital improvement expenditures.
- The fire department budget will increase by $991,000.00 annually, excluding capital improvement expenditures.
- The code enforcement department budget will increase by $174,000.00 annually, excluding capital improvement expenditures.
- The Street Department budget will increase by $1,010,000.00 annually, excluding capital improvement expenditures.
- General administrative expenditures will increase by $235,000.00 annually to add an accounting/revenue manager and a planning and zoning consultant.
- The total projected service budget increase is $3,440,000.00 annually.
- When accounting for the annual cost of expected replacement of equipment, the total service cost is $4,297,000.00 per year, excluding capital improvements and their maintenance and replacement.
- The increase in budgeted expenses does not account for the cost of constructing new facilities, such as a planned shared police and fire substation. The anticipated cost of that facility is $5,500,000.00. Additional fire vehicles and equipment for the station would cost $1,800,000.00, and a crew of fifteen firefighters to staff the station would require $1,500,000.00 annually.

Revenues

A study prepared by Grossman, Yanak, & Ford, LLP, certified public accountants, projects the anticipated revenues and costs of adding this territory to the City.

- The expected annual revenue from the business and occupation tax is $2,587,090.00 for general commercial business.
- The expected annual revenue from the business and occupation tax is $452,335.00 for residential rental business.
- The expected annual revenue from the business and occupation tax is $282,402.00 for commercial rental business.
- Among all categories of business and occupation tax, total estimated revenue is $3,321,827.00.
- Expected annual revenue from the municipal service fee dedicated to police services and public rights-of-way is $1,061,424.
- Expected annual property tax revenue is $2,454,641.00.
- Expected annual fire protection service charge revenue is $969,850.00.
- Total expected annual revenue from the additional territory is $7,807,742.00.

The reported figures assure residents that the City will be able to provide effective and efficient service to the additional territory. The projections also reflect the community benefit to be realized
from operating with economies of scale within the City's existing service footprint. The additional territory is entirely or partially surrounded by current city boundaries, so the area to be served by municipal services remains similar. In fact, Morgantown police and fire personnel already provide services in the additional territory when other agencies lack the necessary resources, and city streets provide access to much of the additional area for city and county residents.

The City of Morgantown hereby ordains:

That the FY 2018-2019 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 04) attached hereto and made a part of this ordinance.

First Reading:

Adopted: Mayor

Filed:

Recorded: City Clerk
Request for Revision to Approved Budget

Subject to approval of the State Auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (

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**Revenues:** (net each acct.)

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<th>ACCOUNT DESCRIPTION</th>
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**Net Increase/(Decrease) Revenues (All Pages):** 395,205

Explanation for Account # 378, Municipal Specific:
Explanation for Account # 369, Contributions from Other Funds

**Expenditures:** (net each account category)

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*IN/A

**Net Increase/(Decrease) Expenditures:** 395,205

Approved by the State Auditor

By:

Deputy State Auditor, Local Government Services Division  Date

Authorized Signature of Entity  Approval Date
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<th>ACCOUNT CATEGORY</th>
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<th>DECREASE</th>
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<td>388</td>
<td>Contributions/Transfer from Other Entities</td>
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<td>Refunds and Rebates</td>
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**NET INCREASE/(DECREASE) Revenues (THIS PAGE)**: 54,905

Explanation for Account #378, Municipal Specific:

Explanation for Account #389, Contributions from Other Funds:
## General Fund
### Budget Revision #4 Detail

### Revenues

<table>
<thead>
<tr>
<th>Department</th>
<th>Description</th>
<th>Budget</th>
<th>Increase</th>
<th>Decrease</th>
<th>Amended Budget</th>
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<tr>
<td>GF Revenue</td>
<td>Property Tax Current Year</td>
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<td>Property Tax Prior Year</td>
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<td>Supplemental Taxes</td>
<td>46,000</td>
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<td>GF Revenue</td>
<td>Property Tax Penalties &amp; Interest</td>
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<td>GF Revenue</td>
<td>Gas &amp; Oil Severance Tax</td>
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<td>Excise Tax on Utility - Electric</td>
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<td>Excise Tax on Utility - MUB</td>
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<td>Excise Tax on Utility - Telephone</td>
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<td>Business and Occupation Tax - Construction</td>
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<td>GF Revenue</td>
<td>IRP Fee (Interstate Registration Plan)</td>
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<td>GF Revenue</td>
<td>Building Permit Fees</td>
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<td>Municipal Service Fees</td>
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<td>Rebates - P-Card Cashback</td>
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**Total Revenues:** $1,158,300   $763,095

### Expenses

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<tr>
<th>Department</th>
<th>Description</th>
<th>Budget</th>
<th>Increase</th>
<th>Decrease</th>
<th>Amended Budget</th>
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<tbody>
<tr>
<td>Contributions to CVB</td>
<td>50% Hotel Tax increase</td>
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<td>BOPARC</td>
<td>25% Hotel Tax increase</td>
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<td>Cap Escrow - B&amp;O</td>
<td>B&amp;O Construction Tax decrease - large projects</td>
<td>1,600,000</td>
<td>300,000</td>
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<td>1,900,000</td>
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<td>Cap Escrow - MSF</td>
<td>53% of MSF Revenue decrease</td>
<td>2,385,000</td>
<td>39,750</td>
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<td>2,424,750</td>
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<td>Police Department</td>
<td>34% of MSF decrease and overtime increase</td>
<td>9,453,206</td>
<td>64,500</td>
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<td>9,517,706</td>
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<td>Streets and Highways</td>
<td>13% of MSF decrease, medical insurance and road</td>
<td>2,649,807</td>
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<td>City Manager</td>
<td>Contracted Services for annexation costs and Airport(</td>
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<td>Human Resources</td>
<td>Contracted Services for Airport recruitment costs</td>
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<td>Contingencies</td>
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<td>145,630</td>
<td>529,105</td>
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<td>674,735</td>
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</tbody>
</table>

**Total Expenses:** $734,955   $339,750

---

Prepared by James Goff 5/17/2019
AN ORDINANCE AMENDING THE FY 2018-2019 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.

The City of Morgantown hereby ordains:

That the FY 2018-2019 Annual Budget of the Coal Severance
Fund of the City of Morgantown is amended as shown in the revised
budget (Revision 02) attached hereto and made a part of this
ordinance.

First Reading: ________________________________

Adopted: Mayor

Filed: ________________________________

Recorded: City Clerk
REQUEST FOR REVISION TO APPROVED BUDGET

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

City of Morgantown

GOVERNMENT ENTITY

<table>
<thead>
<tr>
<th>ACCOUNT NUMBER</th>
<th>DESCRIPTION</th>
<th>PREVIOUSLY APPROVED AMOUNT</th>
<th>(INCREASE)</th>
<th>(DECREASE)</th>
<th>REVISED AMOUNT</th>
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NET INCREASE/(DECREASE) Revenues (ALL PAGES) 7,500

Explanation for Account # 378, Municipal Specific:
Explanation for Account # 369, Contributions from Other Funds

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

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<th>(DECREASE)</th>
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NET INCREASE/(DECREASE) Expenditures 7,500
RESOLUTION

WHEREAS, City Administration has presented to Morgantown City Council a 2019-2020 budget for the Airport Improvement Fund and has requested that City Council review and approve the same;

WHEREAS, the budget in question, a copy of which is hereto attached, appears to not only be in proper form, but also, acceptable as to income and expenditures set forth therein;

WHEREAS, City Council is of the opinion that it should approve said budget.

NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this ______ day of ______________________, 2019, that the 2019-2020 Airport Improvement Fund Budget hereto attached is approved.

Mayor

City Clerk
City Manager’s Report for City Council Meeting on May 21, 2019

New Business:

A. Airport Improvement Fund FY 2020 Budget
   Included in the City Council packet is a copy of the proposed Airport Improvement Fund. This includes expenses associated with the runway extension project that includes land acquisition, construction design and airport protection zone. The total cost of this capital improvement plan fund totals in the amount of $3,021,596.13. This is recommended for Council approval.

B. Festival and Fair Permit – Second Annual Mandatory Fun Day
   We have received a request from Operation Activet for a festival permit application for a fundraising event to support veterans and their families. This event will be held at the Morgantown Readiness Center on Saturday, May 25 from 11:00 a.m. to 4:00 p.m. This organization is required to apply to the West Virginia Alcohol Beverage Control Administration (ABCA) with a letter of endorsement to be attached to the application. Staff recommends approval and City Council motion to approve the required letter.

Paul J. Brake, ICMA-CM, CEcD
City Manager, Morgantown, WV
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<td><strong>Intergovernmental</strong></td>
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<td>Federal Grants FAA Grant 37/15</td>
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<td>State Grants - State Grant Share 37/15</td>
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<td><strong>Fund 252 - Airport Improvement</strong></td>
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<td><strong>REVENUE TOTALS</strong></td>
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<td><strong>Fund 252 - Airport Improvement Totals</strong></td>
<td>$762,587</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>
RESOLUTION

WHEREAS, City Administration has presented to Morgantown City Council a 2019-2020 budget for the Airport Improvement Fund and has requested that City Council review and approve the same;

WHEREAS, the budget in question, a copy of which is hereto attached, appears to not only be in proper form, but also, acceptable as to income and expenditures set forth therein;

WHEREAS, City Council is of the opinion that it should approve said budget.

NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this ______ day of ____________________, 2019, that the 2019-2020 Airport Improvement Fund Budget hereto attached is approved.

Mayor

City Clerk