



The City of Morgantown

389 Spruce Street
Morgantown, West Virginia 26505
(304) 284-7439 Fax: (304) 284-7525
www.morgantownwv.gov

Office of the City Clerk

AMENDED AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
April 2, 2019
7:00 p.m.

1. **CALL TO ORDER:**
2. **ROLL CALL:**
3. **PLEDGE TO THE FLAG:**
4. **APPROVAL OF MINUTES:** March 19, 2019, Special Meeting minutes, March 26, 2019, Special Meeting minutes, and March 26, 2019, Committee of the Whole Meeting minutes. *March 19, 2019, Regular Meeting minutes will be sent out prior to the meeting for review.*
5. **CORRESPONDENCE:** Proclamation for Fair Housing Month
6. **PUBLIC HEARINGS:**
 - A. **AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ALL AND A PORTION OF PARCELS OF REAL ESTATE IN THE FIRST WARD OF THE CITY OF MORGANTOWN FROM I-1, INDUSTRIAL DISTRICT TO B-2, SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN**
 - B. **AN ORDINANCE AMENDING ARTICLE 1743 "FLOODPLAIN ORDINANCE"**
7. **UNFINISHED BUSINESS:**
 - A. Consideration of **APPROVAL** of (**SECOND READING**) of **AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ALL AND A PORTION OF PARCELS OF REAL ESTATE IN THE FIRST WARD OF THE CITY OF MORGANTOWN FROM I-1, INDUSTRIAL DISTRICT TO B-2, SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN** (First reading March 5, 2019)
 - B. Consideration of **APPROVAL** of (**SECOND READING**) of **AN ORDINANCE AMENDING ARTICLE 1743 "FLOODPLAIN ORDINANCE"** (First reading March 19, 2019)
 - C. **BOARDS & COMMISSIONS:**

HOUSING ADVISORY: TERM – FROM 06 OCT 2018 TO 06 OCT 2021
TERM – FROM 06 OCT 2018 TO 06 OCT 2021

TRAFFIC COMMISSION: TERM – FROM 26 APRIL 2019 TO 26 APRIL 2022

FIRE CODE BOARD OF APPEALS: TERM – FROM 01 MAY 2019 TO 01 MAY 2022

BOARD OF PARKS AND RECREATION COMMISSION: TERM – FROM 30 JUNE 2019 TO 30 JUNE 2024

8. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION:**
9. **SPECIAL COMMITTEE REPORTS:**
10. **CONSENT AGENDA:**
 - A. **ASSET PURCHASE AGREEMENT – CITY OF MORGANTOWN, MORGANTOWN UTILITY BOARD AND RIVER ROAD PUBLIC SERVICE DISTRICT**
 - B. **BOND ORDINANCE – ASSUMPTION, AND RE-DESIGNATION, OF THE RIVER ROAD PUBLIC SERVICE DISTRICT’S WATER REVENUE BOND**
 - C. **ORDINANCE AUTHORIZING THE ACQUISITION OF THE ASSETS OF THE WATERWORKS SYSTEM OF RIVER ROAD PUBLIC SERVICE DISTRICT AND APPROVING AN ACQUISITION AGREEMENT BY AND AMONG RIVER ROAD PUBLIC SERVICE DISTRICT, THE CITY OF MORGANTOWN, AND MORGANTOWN UTILITY BOARD**
11. **NEW BUSINESS:**
 - A. **Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN**
 - B. **Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AUTHORIZING SALE OF REAL ESTATE NEAR THE MORGANTOWN MUNICIPAL AIRPORT**
 - C. **Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE ANNULLING A PORTION OF BEVERLY ALLEYWAY AND PROVIDING FOR DEDICATION OF ADDITIONAL PUBLIC RIGHT-OF-WAY TO BEVERLY ALLEY**
12. **CITY MANAGER’S REPORT:**
 - NEW BUSINESS:**
 1. **AWARD BID FOR AIRPORT TOWING TRACTOR, BID CALL 2019-02**
13. **REPORT FROM CITY CLERK:**
14. **REPORT FROM CITY ATTORNEY:**
15. **REPORT FROM COUNCIL MEMBERS:**
16. **ADJOURNMENT:**

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AN ORDINANCE ANNULING A PORTION OF BEVERLY ALLEY AND PROVIDING FOR DEDICATION OF ADDITIONAL PUBLIC RIGHT-OF-WAY TO BEVERLY ALLEY.

WHEREAS, It appears to the Common Council of The City of Morgantown, West Virginia, that a portion of the public right-of-way known as Beverley Alley or Alley "D" between Fourth Street and Fifth Street in the City of Morgantown, Monongalia County, West Virginia, and as laid down, designated and dedicated to public use as a street on a map or plat shown on the attached **Exhibit 1**, (the "Annulment Area") is not necessary for public purposes if annulled in accordance with the terms of this Ordinance, and

WHEREAS, It appears to the Common Council that it is in the interests of the City of Morgantown and the public generally that the Annulment Area be annulled as a public street in accordance with the terms of this Ordinance; and

WHEREAS, It appears to the Common Council that no property of any person, firm, or corporation will be injured or damaged by annulment pursuant to the conditions of this Ordinance, and that the owners of all property adjoining the Annulment Area have consented to annul the Annulment Area;

NOW, THEREFORE, the City of Morgantown hereby ordains as follows:

- Section 1. The Annulment Area is hereby vacated, abandoned and annulled and from and after the date this ordinance becomes effective the same shall cease to be a public way or public street within the City of Morgantown, and the easement of the City of Morgantown therein, thereon, and thereover for street purposes and any and all other public uses or purposes is hereby vacated, abandoned, and annulled, and all right, title, and interest of the City of Morgantown therein as an easement for street purposes and any and all other public uses or purposes is hereby expressly released and relinquished from and after the date this ordinance becomes effective.
- Section 2. That the City accepts the "Easement Declaration" attached hereto as **Exhibit 2** and incorporated herein by reference, providing for the dedication of additional area as a public right-of-way adjoining the existing public right-of-way designated as Beverly Alley or Alley "D," all as shown in Exhibit 2.
- Section 3. That following the date this ordinance becomes effective the City Clerk of the City of Morgantown shall cause a duly certified copy of the ordinance to be recorded in the appropriate deed book in the office of the Clerk of the County Commission of Monongalia County, West Virginia, as evidence of the vacating, abandoning, and annulling of the Annulment Area, together with an exhibit showing the location of the public right-of-way annulled.

This Ordinance shall be effective only upon the occurrence of the following conditions:

- (i) Receipt by City of a complete application for annulment, including all attachments thereto; and
- (ii) Grantor's execution and delivery of the Easement Declaration attached hereto as Exhibit 2 and incorporated in this Ordinance by reference, providing for dedication of public right-of-way adjoining the public right of way designated as Beverly Alley or Alley "D."

If the foregoing conditions are not fulfilled within one hundred twenty days of adoption of this Ordinance, this Ordinance shall expire.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

This document prepared by:
Ryan P. Simonton, Esq.
389 Spruce Street
Morgantown, WV 26505

STATE OF WEST VIRGINIA
COUNTY OF MONONALIA, to wit:

I, _____, a Notary Public of said County, do hereby certify that _____, Clerk, and _____, on behalf of the City of Morgantown, whose names are signed to the foregoing document dated as of the ____ day of _____, _____, have this day acknowledged the same before me in my said County.

Given under my hand this _____, day of _____, _____.

My Commission expires _____, _____.

{SEAL}

Notary Public



Alley "D" Annulment Area Legal Description

Beginning at a point on the western boundary of the existing Alley "D" 15' right of way, said point being located N. 48° 29' 59" W. 48.30 feet from the northern boundary of Fourth Street, a 40' right of way;

Thence with the line of the original western boundary of the existing Alley "D" 15' right of way, N. 48° 29' 59" W. 367.05 feet to a point;

Thence bearing with the new western boundary of Alley "D," being a curve to the left, having a radius of 187.50 feet, an arc length of 33.34 feet, and a chord bearing S. 53° 35' 48" E. 33.29 feet to a point;

Thence with a curve to the right, having a radius of 342.73 feet, an arc length of 50.59 feet, and a chord bearing S. 54° 36' 36" E. 50.54 feet to a point;

Thence S. 50° 22' 47" E. 179.71 feet to a point;

Thence with a curve to the right, having a radius of 142.50 feet, an arc length of 34.97 feet, and a chord bearing S. 43° 20' 59" E. 34.88 feet to a point;

Thence S. 36° 19' 10" E. 34.92 feet to a point;

Thence with a curve to the left, having a radius of 164.38 feet, an arc length of 35.42 feet, and a chord bearing S. 42° 26' 00" E. 35.35 feet to the point of beginning, containing 3,136 square feet, or 0.07 acres, more or less.



Alley "D" Centerline Relocation Legal Description

Beginning at a point in the centerline of the existing Alley "D," a 15' right of way, being on the eastern right of way line of Sixth Street, a 50' right of way, said point also being S. 41° 30' 01" W. 7.50 feet from a concrete monument found at the intersection of the Sixth Street and Alley "D" right of ways;

Thence bearing with the centerline of the existing right of way centerline of Alley "D" for one call, S. 48° 29' 59" E. 299.84 feet to a point;

Thence leaving the centerline of the existing Alley "D" 15' right of way, with a curve to the left, having a radius of 180.00 feet, and arc length of 32.02 feet, and a chord bearing S. 53° 35' 30" E. 31.97 feet to a point;

Thence S. 58° 41' 15" E. 0.94 feet to a point;

Thence with a curve to the right, having a radius of 350.00 feet, an arc length of 50.75 feet, and a chord bearing S. 54° 32' 01" E. 50.70 feet to a point;

Thence S. 50° 22' 47" E. 179.71 feet to a point;

Thence with a curve to the right, having a radius of 150.00 feet, an arc length of 36.81 feet, and a chord bearing S. 43° 20' 59" E. 36.72 feet to a point;

Thence S. 36° 19' 10" E. 34.92 feet to a point;

Thence with a curve to the left, having a radius of 156.88 feet, an arc length of 33.82 feet, and chord bearing S. 42° 26' 06" E. 33.75 feet to a point, said point being located on the centerline of the existing Alley "D" 15' right of way;

Thence with the centerline of the existing Alley "D" 15' right of way, S. 48° 29' 59" E. 48.26 to a point, said point being located on the western right of way line of Fourth Street, a 50' right of way, said point also being the end of the proposed right of way relocation, with a length totaling 717.07 feet, more or less, and extending 7.5 feet on each side of the right of way centerline described herein.



Alley "D" New Dedication Area Legal Description

Beginning at a point on the eastern boundary of the existing Alley "D" 15' right of way, said point being located N. 48° 29' 59" W. 48.24 feet from the northern boundary of Fourth Street, a 40' right of way;

Thence with the line of the original eastern boundary of the existing Alley "D" 15' right of way, N. 48° 29' 59" W. 327.07 feet to a point, said point also being located on the southern boundary of Fifth Street, a 40' right of way;

Thence bearing with the boundary of Fifth Street, N. 41° 50' 26" E. 4.32 feet to a point;

Thence leaving said Fifth Street right of way, and bearing with the new eastern boundary of Alley "D", being a curve to the right, having a radius of 357.73 feet, an arc length of 43.14 feet, and a chord bearing S. 53° 50' 08" E. 43.11 feet to a point;

Thence S. 50° 22' 47" E. 179.71 feet to a point;

Thence with a curve to the right, having a radius of 157.50 feet, an arc length of 38.65 feet, and a chord bearing S. 43° 20' 59" E. 38.55 feet to a point;

Thence S. 36° 19' 10" E. 34.92 feet to a point;

Thence with a curve to the left, having a radius of 149.38 feet, an arc length of 32.21 feet, and a chord bearing S. 42° 26' 03" E. 32.14 feet to the point of beginning, containing 3,104 square feet, or 0.07 acres, more or less.

This instrument was prepared by:

Ryan Simonton
The City of Morgantown, West Virginia
389 Spruce Street Morgantown, West Virginia 26505

EASEMENT DECLARATION

This Declaration is made and entered into this the ____ day of _____, 2019, by BLUE SKY REALTY, LLC, a West Virginia limited liability company with its principal office address at 411 Beverly Avenue, Suite 1, Morgantown, WV 26505 ("Grantor"), in favor of and for the benefit of THE CITY OF MORGANTOWN, West Virginia, a municipal corporation ("City").

For and in consideration of the amount of Ten Dollars (\$10.00), other good and valuable consideration, the receipt, sufficiency, and adequacy of all of which are acknowledged by Grantor, and with the intent of being legally bound by and obligated under, in accordance with, and pursuant to this Declaration, Grantor declares, covenants, and agrees in favor of and for the benefit of City as follows:

Grantor grants, conveys, and transfers to City and creates, dedicates, and establishes in favor of and for the benefit of City, in, on, over, upon, under, through, and across the below-described parcel, perpetual easements and rights-of-way for the purposes of building, installing, constructing, improving, extending, maintaining, operating, inspecting, repairing, removing, replacing, rebuilding, reinstalling, reconstructing, re-improving, and re-extending a public way and street, with sidewalks and related appurtenances including utilities, and otherwise generally developing and improving the parcel for the foregoing purposes, including, without limitation, as rights appurtenant, material, essential, and integral to such easements and rights-of-way and such purposes, the rights to use and enjoy the parcel to (a) access the parcel by way of other easements, rights-of-way, and properties of City, (b) travel and traverse the parcel with persons, equipment, materials, and supplies, and (c) locate, set, stage, and operate equipment and machinery on and/or from the parcel while City shall be using or enjoying the parcel for the purposes set forth, contained, and provided for in this Declaration.

The parcel dedicated by this Declaration is more specifically described as that certain property described in the Legal Description and Plat attached hereto as **Exhibit 1** (the "Easement Area").

The Declaration of Easement shall be subject to the following conditions:

- (1) Should Grantor determine that the Easement Area is necessary, proper, or convenient for development of Grantor's adjoining property, Grantor reserves an option to relocate the Easement Area to a mutually agreeable location at Grantor's sole cost and expense ("Relocation") subject to the conditions of this Agreement. In the event that Grantor exercises its option, the following provisions shall apply:
 - (a) Grantor shall request that City annul the Easement Area as a public right-of-way by submitting to City all applications and ancillary documents required by the City for applications to annul public rights-of-way, and City shall present the application and an ordinance authorizing such annulment to its Common Council for consideration in accordance with West Virginia Code Chapter 8, Article 5, Section 12, Paragraph (1) and laws and court decisions applicable thereto;
 - (b) In the event that the ordinance annulling the Easement Area is approved, Grantor shall grant and convey to City easements and rights-of-way on substantially the same terms and conditions set forth in this Declaration without cost to City and in one of the following locations and configurations (i) the area of the former Beverly Alley annulled by **City of Morgantown Ordinance No. 2019-____**, adopted the ____ day of _____, 2019; or (ii) such other mutually agreeable location and configuration which is

appropriate for use and enjoyment by the City as a public right-of-way; provided, that the City shall not object to a Relocation in the location and configuration proposed by Grantor (the "Proposed Location") so long as the Proposed Location is suitable for use as a public right of way and shall serve substantially the same function and utility as the Easement Area;

- (c) Grantor completes the Relocation in the Proposed Location, at Grantor's sole cost and expense; and
- (d) The Relocation shall be constructed in accordance with Grantor's plans and specifications acceptable to City, which shall provide for public facilities consistent with current standards of the City and substantially equal to or better than those existing in the Easement Area at the time of Relocation and shall include detailed drawings outlining drainage, utilities, travel surface, and other features of public rights-of-way; provided, that City shall not unreasonably withhold, condition, or delay its approval of the Grantor's plans and specifications so long as the Relocation in the Proposed Location will not permanently harm the public or any individual or entity served by such public right-of-way, as determined by City in its reasonable discretion.

The benefits, rights, burdens, obligations, covenants and restrictions set forth in this Declaration shall inure to the benefit of and be binding upon the heirs, devisees, legatees, personal representatives, agents, employees, contractors, tenants, invitees, licensees, successors and/or assigns of each party herein, and are intended to and shall run with the land.

In the event that any one or more of the provisions set forth, contained, or provided for in this Declaration, or the application thereof, in any circumstance, shall be held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of such provision or provisions in any other circumstance shall not be affected or impaired thereby, and the remaining provisions set forth, contained, and provided for in this Declaration shall remain of full force and effect and be construed and interpreted as if such invalid, illegal, or unenforceable provision or provisions were never included. The provisions of this Declaration shall be severable.

Declaration of Consideration or Value

In accordance with the provisions of Article 22 of Chapter 11 of the West Virginia Code, Grantor declares that the transfer made and effected by this Declaration is exempt from the applicable excise taxes on the basis that City is a political subdivision of the State of West Virginia.

Witness the following signature:

Blue Sky Realty, LLC, Grantor
By:
Its:

STATE OF WEST VIRGINIA

COUNTY OF MONONGALIA, to wit:

I, _____, a Notary Public in and for the County and State aforesaid do certify that _____, who signed the foregoing writing bearing date the ____ day of _____ 2019, as Grantor, has this day in my said County and State before me acknowledged the said writing to be the act and deed of said individual.

Given under my hand and notarial seal this ____ day of _____ 2019.

My commission expires _____.

Notary Public