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December 6, 2018

Roger D. Banks
Member – Morgantown Ward & Boundaries Commission
444 Overhill Street
Morgantown, WV 26505

Dear Mr. Banks:

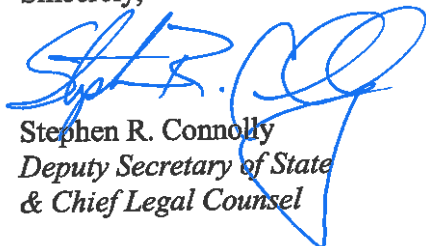
This letter is written in response to your request for investigation and action by this Office concerning ward boundary adjustments in the City of Morgantown. Please understand that this office has no authority with respect to the modification of municipal boundaries.

The relevant sections of West Virginia Code concerning the amendment of municipal ward boundaries places that burden squarely on the local governing body.¹ In this instance, Morgantown established by Ordinance 7.05 the “Ward and Boundaries Commission” – of which you are a member. The Ordinance enumerates an orderly process to modify ward boundaries. I have attached a copy of the language of this Ordinance for your review.

If you feel that the procedures of this Ordinance were not followed, or that the outcome of the process operates to the unlawful disenfranchisement of voters, you may wish to seek advice and counsel from an attorney to commence an action in the Circuit Court of Monongalia County to challenge the ward boundaries.

I thank you for bringing this issue to our attention and wish you the best in obtaining a positive outcome.

Sincerely,



Stephen R. Connolly
*Deputy Secretary of State
& Chief Legal Counsel*

¹ W.Va. Code §8-5-7 provides for the establishment of wards or election districts by municipal ordinance. W.Va. Code §3-1-5 generally requires a county commission to establish voting precincts conterminous with municipal wards. Nothing in these statutory provisions permits the Secretary of State to intervene in these processes.

(a) Number of Wards. The territory included in the City shall be, and is hereby divided into seven wards and the number of wards shall not be increased or decreased.

(b) Ward Boundary Commission. The Council shall appoint seven qualified voters, one from each of the seven wards of the City as they exist at the time of such appointment, who shall comprise a Ward Boundary Commission. The voters chosen shall not be employed by the City in any other capacity. The appointment shall be made not later than 30 days after the commencement of each Council's term of office.

(c) Report. The Commission shall file with the City Clerk a report containing a recommended plan and a map for adjustment of ward boundaries to comply with the specifications set forth in subsection (d), which report shall be made between November 15 and November 30 of each even-numbered year.

(d) Specifications. Except as otherwise provided in Section 10.05, the ward boundaries shall be adjusted from time to time in accordance with the following specifications:

(1) Each ward shall be formed of contiguous territory, and its boundary lines shall follow the precinct lines and the center lines of streets wherever practicable.

(2) Each ward shall contain as nearly as practicable the same number of qualified voters, determined from the registration for the last statewide general election. This specification shall not be construed to require the adjustment of precinct boundaries or to require the sacrifice of compactness of wards for the sake of achieving equality of numbers of registered voters among the seven wards of the City. The report shall include a map and description of the boundaries of each of the wards.

(e) Action on Report. Within 15 days after the date of the filing of the report mentioned in subsection (c), the Council shall approve or disapprove the same. If the report is disapproved, the Council shall state the reasons therefor on the minutes of the Council meetings. If the report is approved, the Council shall within 15 days after such approval, introduce a proposed ordinance providing for the ward boundaries in accordance with the specifications contained in the report. The procedure for the enactment of the ordinance shall be the same as for any ordinances provided for under Section 2.13 with the additional requirements of Section 2.13(b)(3).

(f) Enactment of Ordinances. If (1) the report of the Commission is disapproved, or (2) if the Commission fails to file the report as and when required by subsection (e), the Council shall, within 15 days after such disapproval or of such failure to file the report, nevertheless introduce an ordinance adjusting the ward boundaries consistent with specifications of subsection (d) unless the Council shall, within 15 days after the filing of the report, or of the failure to file the report, make a finding of fact, entered upon the minutes of the Council meetings, that no ward boundary adjustments are necessary. The procedure for the enactment of such ordinance shall be the same as for any ordinances provided for under Section 2.13 with the additional requirements of Section 2.13(b)(3).

(g) Effect of Enactment. The new ward boundaries as of the date of the enactment of an ordinance providing therefor shall supersede previous ward boundaries for all the purposes of the next regular City election including nominations. The new ward boundaries shall supersede previous ward boundaries for all other purposes as of the date of which all Councilmembers elected at that regular City election take office.

(h) Terms of Members of the Commission. The terms of office of the members of the Commission shall expire at the same time as the expiration of the terms of the Council which appointed them. A new Commission shall thereafter be appointed as provided by subsection (b).

The Ward & Boundary Commission is made up of seven voting residents, one from each ward of the City. This Commission aids to offer recommendations as they might apply to ward and boundary adjustments.