

AGENDA
NITRO CITY COUNCIL
JUNE 21, 2016
Amended
7:00 pm

CALL TO ORDER: Mayor Dave Casebolt
Ward 1 Councilman Al Walls
Ward 3 Councilwoman Laurie Elkins
Councilman at Large Bill Javins
Recorder Rita Cox
Ward 2 Councilman Bill Racer
Ward 4 Councilman Andy Shamblin
Councilman at Large John Montgomery
Councilwoman at Large Brenda Tyler

INVOCATION/PLEDGE OF ALLEGIANCE

FUTURE DATES OF COUNCIL: Swearing in New Council July 1, 10:00 am; July 5 and July 19; August 2 and August 16

APPROVAL OF COUNCIL MINUTES: June 2

CERTIFY CITY ELECTION: Recorder Rita Cox

OLD BUSINESS

RECOMMENDATION OF MS4 STEERING COMMITTEE/UTILITY OR NON-UTILITY:
S & S Engineering

OPEN BIDS PUBLIC WORKS TRUCK: Recorder Rita Cox

STREET SIGN PURCHASE RECOMMENDATION: Mayor Dave Casebolt

SUPPORT FOR SENIORS: Bob Schamber

RECOMMENDATION OF BRANDING COMMITTEE FOR 2017 CENTENNIAL
CELEBRATION PUBLIC RELATIONS: Mayor Dave Casebolt

RECOMMENDATION OF COMMITTEE ON LIBRARY FURNITURE BIDS: Councilman
John Montgomery

DISCUSSION OF ACCOUNTING SOFTWARE: John Young

RESOLUTION ADDRESSING COUNCIL DECISION ON REIMBURSING THE CITY FOR VEHICLE PURCHASE OR PAYING THE VENDOR DIRECTLY: John Young

NEW BUSINESS

VOTE ON PUBLIC HEARING AUTHORIZING ALCOHOL AT SUNDAY BRUNCH:
Councilman John Montgomery

FIRST READING ORDINANCE AUTHORIZING THE ADMINISTRATION TO APPLY TO HOME RULE BOARD FOR PERMISSION FOR ALCOHOL AT SUNDAY BRUNCH:
Councilman John Montgomery

CONSIDERATION TO CONDEMN 1811 18TH STREET: Councilwoman Brenda Tyler

2016 HOMECOMING PARADE ROUTE: Councilman Andy Shamblin

2016 NITRO HIGH SCHOOL BONFIRE AND MEET THE TEAM: Councilman Andy Shamblin

BUDGET REVISION: John Young

TREASURER REPORT: John Young

ATTORNEY REPORT: Johnnie Brown

MAYOR COMMENTS

COUNCIL COMMENTS

PUBLIC COMMENTS

ADJOURNMENT

DISCUSSION OF ACCOUNTING SOFTWARE: John Young

RESOLUTION ADDRESSING COUNCIL DECISION ON REIMBURSING THE CITY FOR VEHICLE PURCHASE OR PAYING THE VENDOR DIRECTLY: John Young

NEW BUSINESS

VOTE ON PUBLIC HEARING AUTHORIZING ALCOHOL AT SUNDAY BRUNCH:
Councilman John Montgomery

FIRST READING ORDINANCE AUTHORIZING THE ADMINISTRATION TO APPLY TO HOME RULE BOARD FOR PERMISSION FOR ALCOHOL AT SUNDAY BRUNCH:
Councilman John Montgomery

CONSIDERATION TO CONDEMN 1811 18TH STREET: Councilwoman Brenda Tyler

2016 HOMECOMING PARADE ROUTE: Councilman Andy Shamblin

2016 NITRO HIGH SCHOOL BONFIRE AND MEET THE TEAM: Councilman Andy Shamblin

BUDGET REVISION: John Young

TREASURER REPORT: John Young

ATTORNEY REPORT: Johnnie Brown

MAYOR COMMENTS

COUNCIL COMMENTS

PUBLIC COMMENTS

ADJOURNMENT



NITRO CITY COUNCIL
MINUTES
JUNE 21, 2016

CALL TO ORDER: Mayor Dave Casebolt called the meeting to order at 7:00 pm. Attending were Recorder Rita Cox, Ward 1 Councilman Al Walls, Ward 2 Councilman Bill Racer, Ward 4 Councilman Andy Shamblin, Councilwoman at Large Brenda Tyler, Councilmen at Large John Montgomery and Bill Javins and City Treasurer John Young. Ward 3 Councilwoman Laurie Elkins and City Attorney Johnnie Brown were absent.

INVOCATION/PLEDGE OF ALLEGIANCE: Councilwoman Brenda Tyler gave the Invocation and the Pledge of Allegiance was led by Councilman Al Walls.

FUTURE DATES OF COUNCIL: Mayor Casebolt said the future dates of Council include the swearing of the new Council on July 1 at 10:00 am, July 5 and July 19, and August 2 and 16.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MADE THE MOTION THAT THE MINUTES OF JUNE 2 MEETING BE APPROVED AND THE SECOND WAS BY COUNCILMAN AL WALLS. COUNCIL VOTED FOR THE MOTION.

CERTIFY CITY ELECTION: RECORDER RITA COX MADE THE MOTION THAT THE ELCTION OF JUNE 7, 2016 BE CERTIFIED WITH THE FOLLOWING ELECTED: MAYOR DAVE CASEBOLT, RECORDER RITA COX, WARD 1 COUNCIL DONNA S. BOGGS, WARD 2 COUNCIL BILL RACER, WARD 3 COUNCIL LAURIE ELKINS, WARD 4 COUNCIL MICHAEL HILL, AND COUNCIL AT LARGE JOHN MONTGOMERY, BILL JAVINS AND ANDY SHAMBLIN. THE SECOND WAS MADE BY COUNCILMAN BILL JAVINS AND THE MOTION CARRIED WITH A UNANIMOUS VOTE. Mayor Casebolt presented outgoing Council members Brenda Tyler and Al Walls with plaques to honor the service they have given to the city.

OLD BUSINESS

RECOMMENDATION OF MS4 STEERING COMMITTEE/UTILITY OR NON-UTILITY: Jesse Parker of S and S Engineering said the MS4 Steering Committee wants to recommend that Council select the non-utility version of the MS4 management program rather than the utility version. He said that the DEP has given the city an extension to October 31 to put the MS4 program in place. He said if it is a utility then the DEP and the Public Service Commission will be involved and have oversight on the program. He said if it is set up as a non-utility the city can form a separate board for storm water and operate that way with even the same people who are on the Wastewater Utility Board but having separate meetings. RECORDER COX MADE THE MOTION THAT THE CITY FORM THE MS4 PROGRAM AS A NON-UTILITY WITH COUNCILMAN WALLS MAKING THE SECOND. VOTE WAS UNANIMOUS FOR THE MOTION.

OPEN BIDS PUBLIC WORKS TRUCK: Recorder Rita Cox said bids received for the snow truck and plow were from Stephens Auto for \$28,078 and from Matheny Motors for \$29,078. COUNCILMAN RACER MADE THE MOTION THAT IT BE REFERRED TO COMMITTEE CONSISTING OF A. J. HILL, RECORDER RITA COX, AND TREASURER JOHN YOUNG TO CONSIDER AND MAKE A RECOMMENDATION TO COUNCIL. THE SECOND WAS BY COUNCILMAN AL WALLS AND VOTE WAS UNANIMOUS FOR THE MOTION.

STREET SIGN PURCHASE RECOMMENDATION: Rich Hively of the NDA presented a list of the signs needed and the cost for each including the poles. COUNCILMAN JOHN MONTGOMERY MADE THE

DRAFT

MOTION THAT THE PURCHASE BE APPROVED AS RECOMMENDD BY THE BRANDING WITH THE MONEY COMING FROM THE SALE TAX WITH THE TOTAL EXCLUDING INSTALLATION OF \$9978.75 WITH A SECOND BY COUNCILMAN AL WALLS. Councilman Montgomery said he was concerned about the peeling paint on the sample sign and Rich Hively said that it would be a different kind of paint and would have a 10 year warranty. He also said that the signs would be made by local artisan Scott Stephens of Celtic Mountain Iron. VOTE WAS UNANIMOUS FOR THE MOTION.

SUPPORT FOR SENIORS: Mayor Casebolt said no action has been taken on this but would be addressed at the next meeting.

RECOMMENDATION OF BRANDING COMMITTEE FOR 2017 CENTENNIAL CELEBRATION PUBLIC RELATIONS: RECORDER RITA COX MADE THE MOTION THAT TSG BE HIRED AS THE MARKETING FIRM FOR THE CENTENNIAL CELEBRATION FOR \$2500 WITH HALF OF THE COST COMING FROM THE CVB. THE SECOND WAS BY COUNCILMAN BILL JAVINS AND COUNCIL VOTED FOR THE MOTION.

RECOMMENDATION OF COMMITTEE ON LIBRARY FURNITURE BIDS: COUNCILMAN JOHN MONTGOMERY MADE THE MOTION THAT COUNCIL ACCEPT THE BID FROM CAPITAL BUSINESS INTERIORS FOR \$19,553 WITH A SECOND BY COUNCILMAN AL WALLS. Councilman Montgomery said the committee met to discuss and found out the Contemporary Design bid was for \$17,546.16 but did not include a circulation desk which would have to be ordered separately. VOTE WAS UNANIMOUS FOR THE MOTION. Mayor Casebolt said the opening day is set for July 18 but he is not sure that will be a reality.

DISCUSSION OF ACCOUNTING SOFTWARE: John Young said that the software that was ordered did not include a billing system he needs to make it work for the city. He said that will require \$10,000 more which will bring the total cost to \$90,000 which was the amount originally budgeted. RECORDER COX MADE THE MOTION THAT \$10,000 BE ADDED TO THE BUDGET FOR PURCHASE OF THE BILLING PORTION OF THE SOFTWARE WITH A SECOND BY COUNCILMAN JAVINS. VOTE WAS UNANIMOUS FOR THE MOTION TO CARRY.

RESOLUTION ADDRESSING COUNCIL DECISION ON REIMBURSING THE CITY FOR VEHICLE PURCHASE OR PAYING THE VENDOR DIRECTLY: John Young said that he recommended locking in the interest amount when the first vehicle arrives. COUNCILMAN WALLS MADE THE MOTION THAT THE CITY USE THE INTEREST AMOUNT AT THE TIME OF THE ARRIVAL OF THE FIRST VEHICLE. THE SECOND WAS BY COUNCILMAN RACER AND THE MOTION CARRIED.

VOTE ON PUBLIC HEARING AUTHORIZING ALCOHOL AT SUNDAY BRUNCH: COUNCILMAN MONTGOMERY MADE THE MOTION THAT NITRO HOLD A PUBLIC HEARING AT THE JULY 5 MEETING RELATING TO AUTHORIZING SUNDAY BRUNCH ALCOHOL SALES. THE SECOND WAS BY RECORDER COX. VOTING FOR THE MOTION WERE COUNCILMEN JAVINS, WALLS, RACER AND MONTGOMERY AND RECORDER COX. VOTING AGAINST THE MOTION WERE COUNCILWOMAN TYLER AND COUNCILMAN SHAMBLIN WITH THE MOTION PASSING.

FIRST READING ORDINANCE AUTHORIZING THE ADMINISTRATION TO APPLY TO HOME RULE BOARD FOR PERSMISSION FOR ALCOHOL AT SUNDAY BRUNCH: COUNCILMAN MONTGOMERY MADE THE MOTION THAT COUNCIL PASS ON FIRST READING THE ORDINANCE AUTHORIZING THE ADMINISTRATION TO APPLY FOR PERMISSION FOR SUNDAY BRUNCH ALCOHOL TO THE HOME RULE BOARD. THE SECOND WAS BY COUNCILMAN JAVINS. VOTING FOR THE MOTION WERE RECORDER COX, AND COUNCILMEN

DRAFT

JAVINS, MONTGOMERY, WALLS AND RACER. VOTING IN OPPOSITION TO THE MOTION WERE COUNCILWOMAN TYLER AND COUNCILMAN SHAMBLIN. THE MOTION CARRIED.

CONSIDERATION TO CONDEMN 1811 18TH STREET: COUNCILWOMAN TYLER MADE THE MOTION THAT THE STRUCTURE AT 1811 18TH STREET BE CONDEMNED WITH A SECOND BY COUNCILMAN WALLS. Councilwoman Tyler said the Property Maintenance Board has been dealing with this house for about 3 years and the house has holes in the roof and is not properly maintained. Mayor Casebolt said it is another case of having been foreclosed but the bank that owns it will not come forward and maintain the property. VOTE WAS UNANIMOUS FOR THE MOTION.

2016 HOMECOMING PARADE ROUTE: COUNCILMAN SHAMBLIN MADE THE MOTION THAT COUNCIL APPROVE A PARADE ROUTE FOR HOMECOMING THAT BEGINS AT THE ROBERT BYRD BOAT LAUNCH AND ENDS AT NITRO BALL FIELD. T HE SECOND BY COUNCILMAN WALLS AND THE MOTION CARRIED.

2016 NITRO HIGH SCHOOL BONFIRE AND MEET THE TEAM: Councilman Shamblin said this was an informational item and Council did not have to take any action.

BUDGET REVISION: COUNCILMAN MONTGOMERY MADE THE MOTION THAT COUNCIL APPROVE THE RESOLUTION TO ALLOW THE BUDGET REVISION WITH A SECOND BY RECORDER COX. THERE WAS A UNANIMOUS VOTE FOR THE MOTION.

TREASURER REPORT: COUNCILMAN JAVINS MADE THE MOTION THAT THE TREASURER REPORT BE A PART OF COUNCIL MINUTES AND THE SECOND WAS BY COUNCILMAN WALLS. VOTE WAS FOR THE MOTION.

ATTORNEY REPORT: Johnnie Brown was not present.

MAYOR COMMENTS: Mayor Casebolt thanked the Branding/Centennial Committee for the work they do and the time they volunteer.

COUNCIL COMMENTS: Councilwoman Brenda Tyler thanked everyone who had supported her through the years. She said she still plans to help wherever and whenever she can.

Recorder Rita Cox thanks Councilwoman Brenda Tyler and Councilman Al Walls for all the time they have given to the city.

ADJOURNMENT: COUNCILMAN RACER MADE THE MOTION THE MEETING ADJOURN AND THE SECOND WAS BY COUNCILMAN JAVINS. THE MOTION CARRIED.

DAVE CASEBOLT, MAYOR

RITA COX, RECORDER

DRAFT

Certificate of Election

The State of West Virginia,

Kanawha Putnam

County, ss.

To David Caschelt :

This is to certify that at the Municipal Election held on the Seventh day of June

In the year Two Thousand and Forteen, within and for the Municipality

of Nitro West Virginia,

You were duly elected to the office of Mayor

of said Nitro, Kanawha Putnam County you having received the

highest number of votes given for that office, at said election, as appears by the Abstract of Votes now on file in this office.

In Witness Whereof, I have hereto subscribed my name at

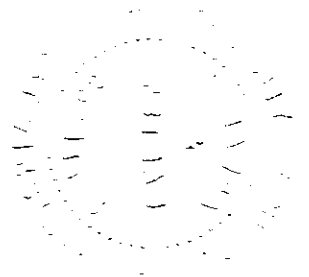
Nitro West Virginia, this

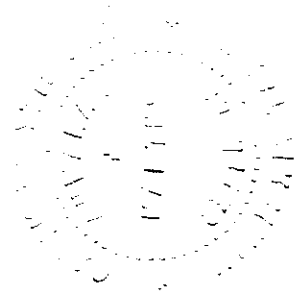
21st day of June, A.D. 2016

John C. McDaniel

David McDonald

David John





CHAPTER 16. PUBLIC HEALTH.**ARTICLE 13. SEWAGE WORKS AND STORMWATER WORKS.****§16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.**

(a) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation:

(1) A sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined system pursuant to section one-b, article twenty, chapter eight of this code; and

(2) A stormwater collection system and control system, including all lines, pumping stations and all other facilities and appurtenances necessary or useful and convenient for the collection and control of stormwater, and an associated stormwater management program.

(b) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property.

(c) Any municipality may serve and supply the facilities of such sewerage system and a stormwater system and associated stormwater management program within the corporate limits of the municipality and within the area extending twenty miles beyond the corporate limits of such municipality: *Provided*, That the municipality may not serve or supply the facilities of such sewerage system or stormwater system within the corporate limits of any other municipality without the consent of the governing body thereof: *Provided, however*, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

(d) No obligations shall be incurred by any municipality and/or sanitary district in construction or acquisition except such as is payable solely from the funds provided under the authority of this article.

(e) No municipal corporation or sanitary district may acquire, construct, establish, extend, repair or equip or thereafter repair, maintain and operate a combined waterworks, sewerage or stormwater system, which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

§16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.

(a) The construction, acquisition, improvement, equipment, custody, operation and maintenance of any works for the collection, treatment or disposal of sewage and, in addition, for the collection and control of stormwater and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen of this article.

(b) As used in this article, the following terms shall have the following meanings unless the text clearly indicates otherwise.

(1) "Board" means the sanitary board as set up in section eighteen of this article.

(2) "Governing body" means the mayor and council or other legally constituted governing body of any municipality.

(3) "Municipality" means any municipal corporation, incorporated city, town, village or sanitary district in the state of West Virginia.

(4) "Sewage works" means a works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof.

(5) "Stormwater system" or "stormwater works" means a stormwater system in its entirety or any integral part thereof used to collect and dispose of stormwater and an associated stormwater management program. It includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet, including, but not limited to, any and all of the following: Inlets, conduits, corals, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, syphons, retention or detention basins, dams, floodwalls, levies, pipes, flood control systems and pumping stations, and associated stormwater management program. The term "stormwater system" and "stormwater works" shall not include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

(6) "Stormwater management program" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater works, including, but not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law: *Provided*, That, as used in this article, "stormwater management program" shall not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

(7) "Works" means sewage works and stormwater works either separately or collectively.

§16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.

The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: *Provided*, That any contract relating to the financing of the acquisition or construction of any works, or any trust indenture as provided for, shall be approved by the governing body of the municipality before the same shall be effective.

The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do the work as the board shall direct. All compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article.

No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids.

After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may consider expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers, stormwater conduits, and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof, including, but not limited to, those activities necessary to comply with all federal and state requirements, including stormwater and surface runoff water quality improvement activities.

The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for the expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article.

§16-13-4. Payment of preliminary expenses of surveys, etc.

All necessary preliminary expenses actually incurred by the board of any municipality in the making of surveys, estimates of costs and of revenue, employment of engineers or other employees, the giving of notices, taking of options and all other

expenses of whatsoever nature, necessary to be paid prior to the issue and delivery of the revenue bonds pursuant to the provisions of this article, may be met and paid in the following manner. Said board may from time to time certify such items of expense to the clerk or recorder of said municipality, directing him to pay the several amounts thereof, and thereupon said clerk or recorder shall at once draw a warrant or warrants upon the treasurer of said municipality, which warrant or warrants shall be paid out of the general funds of said municipality not otherwise appropriated, without a special appropriation being made therefor by the governing body; or, in case there are no general funds of such municipality not otherwise appropriated, the clerk or recorder shall recommend to the governing body the temporary transfer from other funds of such municipality of a sufficient amount to meet such items of expense, or the making of a temporary loan for such purpose, and such governing body shall thereupon at once make such transfer of funds, or authorize such temporary loan in the same manner that other temporary loans are made by such municipality: **Provided, however,** That the fund or funds of such municipality from which such payments are made shall be fully reimbursed and repaid by said board out of the first proceeds of the sale of revenue bonds hereinafter provided for, and before any other disbursements are made therefrom, and the amount so advanced to pay such preliminary expenses, shall be a first charge against the proceeds resulting from the sale of such revenue bonds until the same has been repaid as herein provided.

§16-13-5. Ordinance necessary before acquisition or construction of works.

Before any municipality shall construct or acquire any works under this article, the governing body shall upon petition of the board, enact an ordinance or ordinances which shall: (a) Set forth a brief and general description of the works and, if the same are to be constructed, a reference to the preliminary report which shall heretofore have been prepared and filed by an engineer chosen by the board as aforesaid; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works; (d) direct that revenue bonds of the municipality shall be issued pursuant to this article in such an amount as may be found necessary to pay the cost of the works; and (e) contain such other provisions as may be necessary in the premises.

§16-13-6. Publication and hearing upon ordinance.

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: **Provided, however,** That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto.

§16-13-7. Acquisition by condemnation or purchase.

Every such municipality shall have power to condemn any such works to be acquired and any land, rights, easements, franchises and other property, real or personal, deemed necessary or convenient for the construction of any such works, or for extensions, improvements, or additions thereto, and in connection therewith may have and exercise all the rights, powers and privileges of eminent domain granted to municipal corporations under the laws relating thereto. Title to property condemned shall be taken in the name of the municipality. Proceedings for such appropriation of property shall be under and pursuant to the provisions of chapter fifty-four, of the code of West Virginia, one thousand nine hundred thirty-one, and acts amendatory and supplemental thereto: **Provided,** That the municipality shall be under no obligation to accept and pay for any property condemned, and shall in no event pay for any property condemned or purchased, except from the funds provided pursuant to this article; and in any proceedings to condemn, such orders may be made as may be just to the municipality and to the owners of the property to be condemned, and an undertaking or other security may be required securing such owners against any loss or damage to be sustained by reason of the failure of the municipality to accept and pay for the property, but such undertaking or security shall impose no liability upon the municipality except such as may be paid from the funds provided under the authority of this article. In event of the acquisition by purchase the board may obtain and exercise an option from the owner or owners of said property for the purchase thereof, or may enter into a contract for the purchase thereof, and such purchase may be made upon such terms and conditions, and in such manner as the board

may deem proper. In event of the acquisition of any works already constructed by purchase or condemnation, the board at or before the time of the adoption of the ordinance described in section five hereof, shall cause to be determined what repairs, replacements, additions, and betterments will be necessary in order that such works may be effective for their purpose, and an estimate of the cost of such improvements shall be included in the estimate of cost required by section five hereof, and such improvement shall be made upon the acquisition of the works and as a part of the cost thereof.

§16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises deemed necessary or convenient therefor and for the improvements determined upon as provided in this article; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvement last mentioned; engineering and legal expenses; expense for estimates of cost and of revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and the construction or acquisition of the works and the placing of the works in operation and the performance of the things herein required or permitted in connection with any thereof.

§16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.

Nothing in this article contained shall be so construed as to authorize or permit any municipality to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this article. Funds for the payment of the entire cost of any of the works referred to in this article, exclusive of any portions of the cost that may be defrayed out of any grant or contribution, shall be provided by the issuance of revenue bonds of the municipality, the principal and interest of which shall be payable solely from the fund herein provided for the payment, and the bonds may not, in any respect, be a corporate indebtedness of the municipality, within the meaning of any statutory or constitutional limitations thereon. All the details of the bonds shall be determined by ordinance or ordinances of the municipality.

§16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.

Such revenue bonds shall bear interest at not more than twelve percent per annum, payable at such times, and shall mature at such time or times as may be determined by ordinance. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of five percent, under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said ordinance shall determine the form of the bonds, either coupon or registered, shall set forth any registration and conversion privileges, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the state. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the state. Said bonds shall be exempt from all taxation, state, county and municipal. Such bonds shall be executed by the proper legally constituted authorities of the municipality, and be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers, before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold at a price not lower than a price, which when computed upon standard tables of bond values, will show a net return of not more than thirteen percent per annum to the purchaser upon the amount paid therefor, and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued and same may be sold at one time or in parcels as funds are needed. Any surplus of bond proceeds over and above the cost of the works shall be paid into the sinking fund hereinafter provided. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance authorizing the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment without preference or priority of the bonds first issued. Prior to the preparation of the definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter.

§16-13-11. Additional bonds to extend or improve works.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other definite bonds upon the issuance of the latter.

§16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time, under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other bond by reason of priority of issuance or otherwise.

§16-13-13. Application of revenue from bonds; lien.

All moneys received from any bonds issued pursuant to this article, after reimbursements and repayment to said municipality of all amounts advanced for preliminary expenses as provided in section four of this article, shall be applied solely to the payment of the cost of the work, extensions, improvements or betterments, or to the appurtenant sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or the trustees hereinafter provided for.

§16-13-14. Securing bonds by trust indenture.

In the discretion of the governing body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state of West Virginia but no such trust indenture shall convey or mortgage the works or any part thereof. The ordinance authorizing the revenue bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality and the board in relation to the construction or acquisition of the works and the improvement, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that the works shall be contracted for, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body may provide by ordinance or in such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine.

§16-13-15. Sinking fund; transfer of balance of net revenues.

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten percent of all other amounts so

required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the West Virginia municipal bond commission to use such sinking fund or any part thereof in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into such fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and with the ordinance pursuant to which such bonds have been issued. The West Virginia municipal bond commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this article, and shall invest all such sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the governing body directly thereto.

§16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjustment; hearing; lien and recovery; discontinuance of services.

A governing body has the power and duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:

(a) Sewerage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality or that in any way uses or is served by such works; and

(b) Stormwater works, to be paid by the owner of each and every lot, parcel of real estate or building that in any way uses or is served by such stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

(c) The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways.

(d) All new applicants for service shall indicate to the governing body whether they are an owner or tenant with respect to the service location. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(e) The governing body may collect from all new applicants for service a deposit of \$50 or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, service may not be reconnected or reinstated by the governing body until another deposit equal to \$50 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the governing body. After twelve months of prompt payment history, the governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the governing body is not required to return the deposit until the time the tenant discontinues service with the governing body. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after they become due, the user of the services and facilities provided is delinquent. The user is liable until all rates, fees and charges are fully paid. The governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water services to a delinquent user of sewer facilities ten days after the sewer services become delinquent regardless of whether the governing body utilizes the security deposit to satisfy any delinquent payments: *Provided, however*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(f) Such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

(g) No such rates, fees or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

(h) After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of rates, fees or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in the notice for the hearing.

(i) After the hearing, which may be adjourned, from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of the rates, fees and charges shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

(j) Any change or readjustment of such rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as hereinbefore provided: *Provided*, That if a change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for the expense of operation, repair and maintenance and for the sinking fund payments.

(k) All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge is not paid within twenty days after it is due, the amount thereof, together with a penalty of ten percent and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality. The lien may be foreclosed against such lot, parcel of land or building in accordance with the laws relating thereto. Where both water and sewer services are furnished by any municipality to any premises, the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

(l) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of twenty days after they become due, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all rates, fees and charges are fully paid. When any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

(m) The board collecting the rates, fees or charges shall be obligated under reasonable rules to shut off and discontinue both water and sewer services to all delinquent users of water, sewer or stormwater facilities and shall not restore either water facilities or sewer facilities to any delinquent user of any such facilities until all delinquent rates, fees or charges for water, sewer and stormwater facilities, including reasonable interest and penalty charges, have been paid in full, as long as such actions are not contrary to any rules or orders of the Public Service Commission: *Provided*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

§16-13-17. Government units subject to established rates.

The municipality and any county government, state government and federal government served by the services of the works shall be subject to the same fees, charges and rates established as provided in this article, or to fees, charges and rates established in harmony therewith, for service rendered the municipality, county, state or federal government and shall pay such rates, fees or charges when due from corporate funds and the same shall be considered to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of the revenues. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

§16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation

of members.

(a) The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works are under the supervision and control of a sanitary board, created under this section.

(b) The sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if the municipality has a city manager form of government, and two persons appointed by the governing body: *Provided*, That, in the event of an acquisition or merger of an existing works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the municipality served by the board.

(c) During the construction period, one of the members must be a registered professional engineer, except that if a registered professional engineer is under contract for the project, the membership of the board is not required to include a registered professional engineer. The engineer member of the board need not be a resident of the municipality. After the construction of the plant for which no registered professional engineer is under contract has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, is eligible for appointment to the sanitary board until at least one year after the expiration of the term of his or her public office. The appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give bond, if any, as required by ordinance. The mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice chairman from its members and designate a secretary and treasurer (but the secretary and the treasurer may be one and the same) who need not be a member or members of the sanitary board. The vice chairman, secretary and treasurer shall hold office at the will of the sanitary board.

(d) The members of the sanitary board are entitled to receive compensation for their services, either as a salary or as payments for meetings attended, as the governing body determines, and are entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses previously referred to in this section, shall be paid solely from funds provided under the authority of this article. The sanitary board may establish bylaws, rules and regulations for its own governance.

§16-13-18a. Publication of financial statement.

Every sanitary board shall prepare a financial statement and cause the same to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the sanitary district. Such statement shall contain an itemized account of the receipts and expenditures of the board during the previous fiscal year, showing the source from which all money was derived, and the name of the person to whom an order was issued, together with the amount of such order, and why such order was issued, arranging the same under distinct heads, and including all money received and expended from the sale of bonds, and also a specific statement of the debts of such board, showing the purpose for which any debt was contracted, the amount of money in all funds at the end of the preceding year, and the amount of uncollected service charges. Such statement shall be prepared and published by the board as soon as practicable after the close of the fiscal year: *Provided*, That such statement for the fiscal year ending June thirtieth, one thousand nine hundred fifty-six, may be published any time during the year one thousand nine hundred fifty-seven. The statement shall be sworn to by the chairman and secretary and treasurer of the board. If a board fails or refuses to perform the duties hereinbefore named, every member of the board concurring in such failure or refusal shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars and the circuit court or criminal court and justices of the peace, of the county where the offense was committed, shall have concurrent jurisdiction to try such offense.

§16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants or stormwater works as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions

within the state (in this section called the lessee), and such lessees are hereby authorized to enter into contracts with the owners, for the service of such works to such lessees and their inhabitants, but only to the extent of the capacity of the works without impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties: *Provided*, That no contract shall be made for a period of more than forty years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture.

The lessee shall by ordinance have power to establish, change and adjust rates, fees and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates, fees and charges for the service rendered in the municipality where the works are owned and operated, and such rates, fees or charges shall be collectible and shall be a lien as herein provided for rates, fees and charges made by the owner.

The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any contract shall, if so provided in said ordinance or trust indenture, be considered to be a part of the revenues of the works as in this article defined and be applied as herein provided for the application of the revenues.

§16-13-20. Discharge of lien on property acquired.

No property shall be acquired under this article upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient sum of money be deposited in trust to pay and redeem such lien or encumbrance in full.

§16-13-21. Action on certificates or attached coupons; receivers.

Any holder of any such certificates or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance authorizing issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance or trust indenture, and may enforce and compel performance of all duties required by this article or by such ordinance or trust indenture to be performed by the municipality issuing the bonds or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for service rendered by the works. If there be any failure to pay the principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality and the bondholders and/or trustee, except as so restricted, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this article and the said ordinance and/or trust indenture.

§16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for twenty miles outside the corporate limits thereof: *Provided*, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

§16-13-22a. Grants, loans and advances.

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America

or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said sewerage works or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

In no event shall any such loan or temporary advance be a general obligation of the municipality and such loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section.

§16-13-22b. Contracts for abatement of pollution.

When determined by its legislative body to be in the public interest and necessary for the protection of the public health, any municipality is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such legislative body, to compensate the municipality for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining the sewerage facilities serving such industrial establishment.

§16-13-22c. Refunding bonds.

Any municipality is authorized to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due. The relevant provisions in this article pertaining to revenue bonds shall be equally applicable in the authorization and issuance of refunding revenue bonds, including their terms and security, the ordinance, the trust indenture, rates, or other aspects of the bonds.

§16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance.

§16-13-22e. Operating contract.

Any such municipality may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the facilities and properties of said sewerage system, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between such municipality and such persons, firms or corporations. Such municipality shall have power to provide in the resolution authorizing the issuance of bonds hereunder, or in any trust indenture, securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality as long as any of said bonds, or interest thereon, are outstanding and unpaid.

§16-13-22f. Exemption of bonds from taxation.

Said bonds and the interest thereon, together with all properties and facilities of said municipality owned or used in connection with the works, and all the moneys, revenues and other income of such municipality derived from such works shall be exempt from all taxation by the state of West Virginia or any county, municipality, political subdivision or agency thereof.

§16-13-22g. Covenants with bondholders.

Any resolution authorizing the issuance of bonds hereunder, or any trust indenture with any bank or trust company within or

without the state, for the security of the bonds, may contain covenants with the holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of sale of such bonds, or the revenues derived from the sewerage system or stormwater system, may be applied and the securing, use and disposition thereof, including, if considered desirable, the appointment of a trustee or depository for any of such funds;

(b) The pledging of all or any part of the revenues derived from the ownership, operation or control of such sewerage systems or stormwater system, including any part thereof heretofore or hereafter constructed or acquired or derived from any other sources, to the payment of the principal of or interest thereon of bonds issued hereunder and for such reserve or other funds as may be considered necessary or desirable;

(c) The fixing, establishing and collecting of such fees, rentals or other charges for the use of the services and facilities of such sewerage system or stormwater system, including the parts thereof heretofore or hereafter constructed or acquired and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of operation, maintenance and repair of such sewerage system or stormwater system, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such sewerage system or stormwater system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

(d) The transfer from the general funds of the municipality to the account or accounts of such sewerage system or stormwater system of an amount equal to the cost of furnishing the municipality or any of its departments, boards or agencies with the services and facilities of such sewerage system or stormwater system;

(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenue of such sewerage system or stormwater system, and the rank or priority, as to lien and source and security for payment from the revenues of the sewerage system or stormwater system, between bonds payable from the revenues;

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the performance of any covenant or agreement with bondholders, and the manner and terms upon which defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

(g) Budgets for the annual operation, maintenance and repair of such sewerage system or stormwater system and restrictions and limitations upon expenditures for such purposes, and the manner of adoption, modification, repeal or amendment thereof, including the approval of such budgets by consulting engineers designated by holders of bonds issued hereunder;

(h) The amounts of insurance to be maintained upon such sewerage system or stormwater system, or any part thereof, and the use and disposition of the proceeds of any insurance;

(i) The keeping of books of account, relating to such undertakings and the audit and inspection thereof, and the furnishing to the holders of bonds issued hereunder or their representatives, reports prepared, certified, or approved by accountants designated or approved by the holders of bonds issued hereunder;

(j) Such other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that other covenants are not expressly enumerated hereunder, it being the intention hereof to grant to the municipalities the power to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant such municipalities full and complete power to enter into any contracts, covenants or agreements with holder of bonds issued hereunder not inconsistent with the constitution of the state of West Virginia.

§16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.

This article, shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method therefor and for the

financing thereof, and no petition or election or other or further proceeding in respect to the construction or acquisition of the works or to the issuance or sale of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed by this article, any provisions of other statutes of the state to the contrary notwithstanding: **Provided, however,** That all functions, powers and duties of the state department of health shall remain unaffected by this article.

§16-13-23a. Additional powers of municipality to cease pollution.

(a) Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipality which has received or which hereafter receives an order issued by the Secretary of the Department of Environmental Protection or the Environmental Quality Board requiring the municipality to cease the pollution of any stream or waters is hereby authorized to establish and maintain, by ordinance, just and equitable rates, fees or charges for the use of the services and facilities of the existing municipal sewer system and/or stormwater system, or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system or stormwater system, or that in any way uses or is served thereby, and may change and readjust such rates, fees or charges from time to time.

(b) The rates, fees or charges shall be sufficient to all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection, treatment, purification and disposal of sewage or stormwater and the repair, alteration and extension of existing sewer facilities or stormwater facilities, as may be necessary to comply with such order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board, and for the operation, maintenance and repair of the entire works and system.

(c) The governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the proceeds derived from rates or charges until completion of the construction, to be remitted to and administered by the Municipal Bond Commission by expending and paying the costs and expenses of construction and operation in the manner as provided by said ordinance.

(d) After the completion of the construction, the rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement and extension, from time to time, of the entire sewer and works or entire stormwater works.

(e) No such rates, fees or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others shall have had an opportunity to be heard concerning the proposed rates or charges.

(f) After introduction of the ordinance fixing rates, fees or charges, and before the same is finally enacted, notice of such hearing setting forth the proposed schedule of rates, fees or charges shall be given by publication of notice as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area for such publication is the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing.

(g) After such hearing, which may be adjourned from time to time, the ordinance establishing the rates, fees or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of the rates, fees and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works and in the office of the clerk of the municipality. The schedule of rates, fees and charges shall be open to inspection by all parties interested. The rates, fees or charges established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

(h) Any change or readjustment of rates, fees or charges may be made in the same manner as rates, fees or charges were originally established as hereinbefore provided: *Provided*, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required.

(i) If any rate, fee or charge is not paid within thirty days after it is due, the amount thereof, together with a penalty of ten percent and a reasonable attorney's fee, may be recovered by the sanitary board of the municipality in a civil action in the

name of the municipality.

(j) Any municipality exercising the powers given herein has the authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery or works necessary to comply with the order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: *Provided*, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the rights, powers and duties of the municipality and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article.

(k) The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements and stormwater facilities constructed, owned or operated by the West Virginia Division of Highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

(l) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. §122.26, has the authority to enact ordinances or regulations which allow for the issuance of orders, the right to enter properties and the right to impose reasonable fines and penalties regarding correction of violations of municipal stormwater ordinances or regulations within the municipal watershed served by the municipal stormwater system, as long as such rules, regulations, fines or actions are not contrary to any rules or orders of the Public Service Commission.

(m) Notice of a violation of a municipal stormwater ordinance or regulation shall be served in person to the alleged violator or by certified mail, return receipt requested. The notice shall state the nature of the violation, the potential penalty, the action required to correct the violation and the time limit for making the correction. Should a person, after receipt of proper notice, fail to correct the violation of the municipal stormwater ordinance or regulation, the municipality may make or have made the corrections of the violation and bring the party into compliance with the applicable stormwater ordinance or regulation. The municipality may collect the costs of correcting the violation from the person by instituting a civil action, as long as such actions are not contrary to any rules or orders of the Public Service Commission.

(n) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

§16-13-24. Article to be construed liberally.


This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose thereof.

Note: WV Code updated with legislation passed through the 2015 Regular Session

The WV Code Online is an unofficial copy of the annotated WV Code, provided as a convenience. It has NOT been edited for publication, and is not in any way official or authoritative.

NEW Street Signs with Doughboy Cutouts and Area Signs - From Institute I-64 Exit to Nitro I-64 Exit

Celtic Mountain Iron - Bid was for \$8,000 for 80 signs or \$100.00 each (excludes poles, hardware & installation)

Coming Into Nitro from Institute on 1st Av / Rt. 25 (no Area Signs)			Coming off the Nitro-St. Albans Bridge (no Area Signs)			Coming into Nitro from the Moose on 1st Av / Rt. 25			
Goff Mtn Rd	1st Av	Pole + anchor	Center St	Main Av	Pole + anchor	4th St	Area P	Pole + anchor	
Malcolm Lane		Pole + anchor	Center St	1st Av	Pole + anchor	Lock St	1st Av	Area P	
Kilowatt Rd		Pole + anchor	SAMPLE 			5th St	Area P	Pole + anchor	
Lower Plant Rd		Pole + anchor				6th St	Area P	Pole + anchor	
Red Oak Dr	1st Av	Pole + anchor	2nd Av	1st Av	Area P	Pole + anchor	7th St	Area P	
Cleveland Av		Pole + anchor	7th St	Area P	Pole + anchor	8th St	Area P	Pole + anchor	
Old County Rd		Pole + anchor	8th St	Area P	Pole + anchor	9th St	Area P	Pole + anchor	
Michigan Av		Pole + anchor	9th St	Area P	Pole + anchor	10th St	Area P	Pole + anchor	
Dupont Lane		Pole + anchor	10th St	Area P	Pole + anchor	11th St	1st Av	Area P	
Owens St		Pole + anchor	11th St W	Area A	Pole + anchor	12th St	Area P	Pole + anchor	
Spring St		Pole + anchor	12th St	Area P	Pole + anchor	13th St	Area P	Pole + anchor	
Jordan Place		Pole + anchor	13th St	Area P	Pole + anchor	14th St	Area P	Pole + anchor	
Hillside Dr		Pole + anchor	14th St	Area P	Pole + anchor	15th St	Area P	Pole + anchor	
Blackwood St	1st Av	Pole + anchor	15th St	Area P	Pole + anchor	16th St	Area P	Pole + anchor	
Center St	1st Av	Pole + anchor	16th St	Area P	Pole + anchor	17th St	Area P	Pole + anchor	
Wilson St		Pole + anchor	17th St	Area P	Pole + anchor	18th St	Area P	Pole + anchor	
Walker St	1st Av	Pole + anchor	18th St	Area P	Pole + anchor	19th St	1st Av	Area P	
Okey St		Pole + anchor	19th St	Area P	Pole + anchor	19th St W	Area A	Pole + anchor	
Locust Av		Pole + anchor							
Kapok St	1st Av	Pole + anchor							
20	6	20	2	2	2	20	4	20	20

Entering "Civic Center" on 1st Av / Rt. 25				Bank St			Going towards I-64 from 23rd St on 1st Av / Rt. 25				
20th St		Area R	Pole + anchor	20th St	Area R	NO pole	23rd St	Area S	Pole + anchor		
21st St	1st Av	Area R	Pole + anchor	Bank St	Dave Perry Way		24th St	Area S	Pole + anchor		
22nd St		Area R	Pole + anchor	21st St	Area R	NO pole	25th St	1st Av	Area S	Pole + anchor	
				Bank St	Dave Perry Way		26th St	Area S	Pole + anchor		
				Bank St	Area R	NO pole	27th St	Area S	Pole + anchor		
				Bank St	Area R	NO pole	28th St	Area S	Pole + anchor		
				Bank St	Area R	NO pole	29th St	Area S	Pole + anchor		
				Bank St	Area R	NO pole	30th St	Area S	Pole + anchor		
				22nd St			31st St	Area S	Pole + anchor		
							32nd St	1st Av	Area S	Pole + anchor	
							33rd St	1st Av	Area S	Pole + anchor	
							34th St	Area S	Pole + anchor		
							35th St	Area S	Pole + anchor		
							36th St	1st Av	Area S	Pole + anchor	
							37th St	Area S	Pole + anchor		
							38th St	Area S	Pole + anchor		
							39th St	Area S	Pole + anchor		
							40th St	1st Av	Area S	Pole + anchor	
							41st St	1st Av	Area S	Pole + anchor	
							Pickens Rd	1st Av	Area H	Pole + anchor	
4	2	4	3	7	0	4	0	20	7	20	20

TOTALS:	Street Signs	\$60.00	88	\$5,280.00
	Area Signs	\$40.00	48	\$1,920.00
	Metal Poles	\$22.40	65	\$1,456.00
	Break-a-way Anchors	\$20.35	65	\$1,322.75

TOTAL EXCLUDING INSTALLATION:

\$9,978.75

Designated "AREAS" of the City of Nitro ...

During construction in 1917-1918, the reservation was divided into geographical areas for administrative purposes, and the various areas were designated by the letters A to ZZ. Most Real Estate Deeds and Property Tax Forms still in use today, include the AREA when referring to different properties within our town. This is a part of our history that we would like to educate our residents and visitors about. The Nitro Historic Commission plans to add additional signage in each "Area" was originally constructed.

Below is a brief description of each "Area" in which our new street signs will be erected.

Area A

From current "Ash St" to lower the end of city park, between the railroad & river; 27 barracks, (48) 24 room bunk houses for 4,608 men, 412 bungalows "Area A" now includes Baker Annex to Nitro High School, Nitro High School, Underwood Field and the City Park.

This area was the original site of the reception center for the thousands of incoming construction workers.

Other buildings included a mess hall that seated 2,000 people, a general store, restaurant, dispensary, barber shop, fire station, and a school for blacks. There was also a coldstorage building, a milk factory, a black YMCA, a white YMCA and an unfinished laundry plant. Since this area was primarily for construction workers, most of these buildings that were finished first, were also the first to be torn down or moved as the project neared completion. The milk factory and the cold-storage building were later taken over by the Nitro Ice Company, owned & operated by Luigi Lemma until the 1960's. This was at the current location of the "OneLife Church", originally built as Cornerstone Church of God.

Area H

Across the tracks at Pickens Road - the main entrance to Explosive Plant C

During the building period in 1917-1918, the main administration building and most of its supporting services were temporarily located near the center of construction. This section was just across the railroad tracks at Pickens Road.

Area P

from 1st street to 19th street - 603 bungalows; large 2 story general store on 1st ave between 4th & 5th streets

Although 1st, 2nd, and 3rd streets are no longer here, the streets did actually start with 1st street when the town was built in 1917-1918. This was the main residential area & still remains the same today. I'm not sure how many bungalows are still here, but there are plenty.

Area R

from 19th St to 23rd St; business area or Civic Center, department store, hotel, theater, public schools, 62 executive type houses on Blake's Creek
21st street was known to the locals as "Silk Stocking Lane". The ladies that lived there were the only ones in town that could afford silk stockings. It was also referred to as "Executive Row". All the executives that worked at "Explosive Plant C" lived here.

Area S

23rd Street to 57th Street; included 667 bungalows, a shopping center at 41st Street, 4 military guard barracks and a 400 bed hospital
It also included horse barns, veterinarian services, and 11 doctor's houses on the hill behind the hospital so they could walk to work. The 400 bed hospital was located where Pilot Travel Center is now, with the doctor's houses on the hill behind the hospital.



Quote Number LIAT-16-0271-A

Sales Order

Project Name City of Nitro

Target Ship Date

Rep Eisaman Contract Associates

Project Manager Brian Lish
(704) 508-7040
blish@liatfurniture.com

Species Oak
Wood Finish TBD
PVC Edge N/A
P.C. MDF N/A
Metal N/A
Acrylic N/A
Fabric N/A
Laminate TBD

Metal Shelves N/A
Top Edge Profile TBD
Panel Edge Profile N/A

Item Qty Catalog Number Description List Extension

1	1	CUSTOM DESK	Custom Circulation Desk	\$19,553	\$19,553
---	---	-------------	-------------------------	----------	----------

LIAT, LLC assumes no responsibility for the quantities or the interpretation of competitive product. This quote is based on standard LIAT furniture including standard construction, materials, finishes and sizes. Selected sizes are nominal, and actual finished sizes may vary. Quoted unit prices shall prevail. LIAT product is shipped knocked down (KD). Installation and assembly to be provided by the dealer.

Delivered List \$19,553
Zone 1 Freight List \$0
Freight Minimum List \$0
FOB Factory Freight \$0

Total List \$19,553

Amended Municipal Home Rule Pilot Program Phase III APPLICATION

SECTION I: APPLICANT INFORMATION	
A. General Information	
Name of Municipality: Nitro, West Virginia	
Certifying Official: Dave Casebolt	Title: Mayor
Contact Person: John Montgomery	Title: Member, City Council
Address: 214 Brookhaven Drive	
City, State, Zip: Nitro, West Virginia 25143	
Telephone Number: 304-776-6458	Fax Number:
E-Mail Address: montysmob@frontier.com	
2010 Census Population: 7,178	
B. Municipal Classification	
<input type="checkbox"/> Class 1 <input type="checkbox"/> Class II <input type="checkbox"/> Class III <input type="checkbox"/> Class IV	
C. Category of Issues to be Addressed (please attach descriptions for applicable categories)	
<input type="checkbox"/> Tax <input type="checkbox"/> Organization <input checked="" type="checkbox"/> Administration <input type="checkbox"/> Personnel <input type="checkbox"/> Other	

SECTION II: NARRATIVE (written plan, including the following)
HOME RULE PLAN AMENDMENT
INTRODUCTION
<p>The City of Nitro is located along WV Route 25 and Interstate 64, on the Kanawha River, halfway between Charleston and Huntington, West Virginia. The Norfolk Southern Railroad also maintains a rail line through Nitro. The City is situated in both Kanawha County and Putnam County, and has a population of 7,178, as determined by the 2010 census.</p> <p>Nitro may literally be called a "boom town" in that the City is named after the World War I munitions plant that was located in the area that became Nitro; the munitions plant manufactured nitro cellulose for use in munitions used in the War. Ground was broken on December 23, 1917 for the construction of the first of twenty-seven 200-bed barracks; the people who lived in the barracks were employed to construct the munitions plant. During the 11 months it took to build the plant, over 100,000 construction workers were on the payroll. The name Nitro was selected by the Federal Ordinance Department.</p> <p>After the end of World War I, the munitions plant closed and the population dispersed to other locations, both in and around West Virginia. Nitro was incorporated in 1932 and, like a Phoenix, rose to great heights. Subsequent to incorporation, the Kanawha Valley became known as Chemical Valley and Nitro became the location of major chemical manufacturing plants. The work force consisted of several thousand employees from Nitro and surrounding areas, many of whom traveled 60-70 miles a day to work in the plants. However, the City suffered economically when the chemical plants were moved to other locations outside of West Virginia.</p> <p>The City is located on the banks of the Kanawha River, adjacent to Interstate 64 and there is a railroad transecting the City with a rail yard located there. There are prime locations for warehouses, an intermodal transportation facility and other commercial activities. Joint efforts</p>

between the City Administration and residents of the City have resulted in well-defined economic plans, a twenty-year Nitro streetscape and pedestrian master plan, plans for a new water-park and City park, and other major improvements. These plans provide City leadership with a clear vision, and will help guide them in prioritizing projects and making fiscally responsible decisions.

In 2014, pursuant to the authority provided by W. Va. Code Section 8-1-5a, the Municipal Home Rule Board (the "Board") selected the City of Nitro ("Nitro"), along with other municipalities, to participate in the West Virginia Municipal home Rule Pilot Program Phase II and approved the original Home Rule Plan submitted by Nitro. The authority granted by the Board has allowed Nitro to move forward with those plans in a disciplined manner. To that end, Nitro has successfully and responsibly exercised its powers under Home Rule and has, without challenge from either its City Council or its citizenry, judiciously implemented its Home Rule Plan.

And while the foregoing demonstrates that Nitro has developed extensive plans to guide its course into the future, the City also seeks to take advantage of opportunities that are presented that will facilitate that process, and that is the reasoning behind this amendment to the City's Home Rule Plan.

SPECIFIC STATE LAWS, POLICIES, RULES, OR REGULATIONS

W. Va. Code Sections 60-7-12(a)(5); 60-8-34; 11-16-18(a)(1), all attached as Exhibit A hereto.

PROBLEM: WEST VIRGINIA STATE CODE RESTRAINS RESTAURANTS AND HOTELS DURING BRUNCH HOURS BY PROHIBITING THE SERVICE OF ALCOHOL; BEFORE THE HOUR OF ONE O'CLOCK P.M. ON SUNDAYS

A Short History of Brunch

According to the Smithsonian, Sunday was popularized in the 1930's by hotels as a dining option for travelers on a day when many restaurants were closed. Combining two services (breakfast and lunch) into one provided staffing and kitchen economies for the establishments. Restaurants soon also began offering brunch service and began popularizing the inclusion of morning cocktails such as Bloody Marys, Bellinis or Mimosas. The popularity of brunch extended as women entered the post-World War II workforce and began looking for an option to preserve the tradition of a Sunday meal with family and friends, but the time spent in the kitchen preparing that meal. More and more, weekend mornings became the preferred time for groups of friends with career and family obligations to get together. Brunch also offered a form of celebration on holidays like Mother's Day and Easter, and in the last decade has given rise to new traditions like the bridal brunch.

West Virginia Liquor Laws

Since the repeal of Prohibition, West Virginia has maintained various laws regulating the sale of alcohol, including the current prohibition on the sale of alcohol before one o'clock on Sundays. As the popularity of brunch grew, some restaurants and hotels in Nitro and other West Virginia municipalities began offering brunch service, but have indicated that the inability to serve the traditional brunch cocktails until the afternoon has stifled attendance and resulted in limited revenue. On behalf of its membership, the West Virginia Hospitality and Travel Association has advocated for a relaxation of the State's liquor laws to allow alcohol to be served before one o'clock on Sundays so that establishments can capitalize on the popularity of brunch and maximize their revenue from brunch service.

SOLUTION: THE CITY OF NITRO DESIRES TO AUTHORIZE CERTAIN CLASS "A" ABCA LICENSE HOLDERS TO SERVE ALCOHOL BEGINNING AT TEN O'CLOCK A.M. ON

between the City Administration and residents of the City have resulted in well-defined economic plans, a twenty-year Nitro streetscape and pedestrian master plan, plans for a new water-park and City park, and other major improvements. These plans provide City leadership with a clear vision, and will help guide them in prioritizing projects and making fiscally responsible decisions.

In 2014, pursuant to the authority provided by W. Va. Code Section 8-1-5a, the Municipal Home Rule Board (the "Board") selected the City of Nitro ("Nitro"), along with other municipalities, to participate in the West Virginia Municipal Home Rule Pilot Program Phase II and approved the original Home Rule Plan submitted by Nitro. The authority granted by the Board has allowed Nitro to move forward with those plans in a disciplined manner. To that end, Nitro has successfully and responsibly exercised its powers under Home Rule and has, without challenge from either its City Council or its citizenry, judiciously implemented its Home Rule Plan.

And while the foregoing demonstrates that Nitro has developed extensive plans to guide its course into the future, the City also seeks to take advantage of opportunities that are presented that will facilitate that process, and that is the reasoning behind this amendment to the City's Home Rule Plan.

SPECIFIC STATE LAWS, POLICIES, RULES, OR REGULATIONS

W. Va. Code Sections 60-7-12(a)(5); 60-8-34; 11-16-18(a)(1), all attached as Exhibit A hereto.

PROBLEM: WEST VIRGINIA STATE CODE RESTRAINS RESTAURANTS AND HOTELS DURING BRUNCH HOURS BY PROHIBITING THE SERVICE OF ALCOHOL; BEFORE THE HOUR OF ONE O'CLOCK P.M. ON SUNDAYS

A Short History of Brunch

According to the Smithsonian, Sunday was popularized in the 1930's by hotels as a dining option for travelers on a day when many restaurants were closed. Combining two services (breakfast and lunch) into one provided staffing and kitchen economies for the establishments. Restaurants soon also began offering brunch service and began popularizing the inclusion of morning cocktails such as Bloody Marys, Bellinis or Mimosas. The popularity of brunch extended as women entered the post-World War II workforce and began looking for an option to preserve the tradition of a Sunday meal with family and friends, but the time spent in the kitchen preparing that meal. More and more, weekend mornings became the preferred time for groups of friends with career and family obligations to get together. Brunch also offered a form of celebration on holidays like Mother's Day and Easter, and in the last decade has given rise to new traditions like the bridal brunch.

West Virginia Liquor Laws

Since the repeal of Prohibition, West Virginia has maintained various laws regulating the sale of alcohol, including the current prohibition on the sale of alcohol before one o'clock on Sundays. As the popularity of brunch grew, some restaurants and hotels in Nitro and other West Virginia municipalities began offering brunch service, but have indicated that the inability to serve the traditional brunch cocktails until the afternoon has stifled attendance and resulted in limited revenue. On behalf of its membership, the West Virginia Hospitality and Travel Association has advocated for a relaxation of the State's liquor laws to allow alcohol to be served before one o'clock on Sundays so that establishments can capitalize on the popularity of brunch and maximize their revenue from brunch service.

SOLUTION: THE CITY OF NITRO DESIRES TO AUTHORIZE CERTAIN CLASS "A" ABCA LICENSE HOLDERS TO SERVE ALCOHOL BEGINNING AT TEN O'CLOCK A.M. ON

SUNDAYS.

Cities that have been approved as Home Rule cities are permitted to modify the time at which alcohol may be served on Sundays within their cities, and such a modification is the type of innovative solution that was intended by the Legislature when it enacted the Home Rule statute. The Legislature has acknowledged the value of the Home Rule Program as an incubator for municipalities to try new ideas and solutions to overcome administrative and economic restraints and has enacted several State laws that began as one City's idea in the Home Rule Program. With regard to this issue, Shepherdstown has already successfully enacted its own rules regarding Sunday alcohol sales through Home Rule, and if authorized to do the same, Nitro's enactment will provide citizens with the opportunity to witness and experience an unrestricted, traditional brunch service.

Although counties currently do not have Home Rule powers, the Legislature recently addressed the issue of relaxing restrictions on Sunday alcohol sales on a county-wide basis. During the 2016 regular session, the Legislature enacted law that provides a mechanism for interested counties to place the issue on the ballot. Regardless, counties and municipalities often serve a much different population. While a brunch is generally more popular in urban areas, Nitro includes a destination tourism area that provides hotel, restaurant and other activities to in-State customers and customers from out-of-State locations. The owner of the subject location and the Nitro Convention and Visitors Bureau ("CVB") have requested the City move forward with this issue. Additionally, Nitro's history has led to a fledgling tourism activity and the branding the City as a Living Memorial to World War I. Nitro remains supportive of any action the County may take to make earlier alcohol service available countywide. Even though the Kanawha County Commission does not appear to have much interest in moving forward with the election procedure, successful enactment by Nitro now will also benefit the county and any other municipality that may be considering Home Rule enactment or countywide election by demonstrating the benefits of relaxing Sunday alcohol restrictions prior to the time in which that issue could be placed on a county-wide ballot.

There is good reason to believe that enactment of this power by Nitro will benefit its citizenry and result in an economic enhancement within the City. The owner of the destination tourism locates his business would realize additional revenue each Sunday if alcohol service were to begin at 10:00 a.m. Others have indicated an interest in providing a brunch and related activities. The expanded window for alcohol service may also facilitate more events on Sundays benefitting caterers and event venues. This increased revenue for hospitality business will result in additional business and occupation tax for the City and increased sales tax revenue for both the City and the State. There may also be additional benefits to the City, State, and its citizens from increased working hours and/or tips for servers and other hospitality workers.

The CVB and its Board of Directors, which is composed of civic leaders and people involved in the City's hospitality and tourism industries, fully support the City's use of Home Rule to allow earlier Sunday alcohol service in Nitro. Aside from the potential direct financial benefit, relaxing Sunday liquor laws and allowing restaurants in the City to be fully operational on Sunday enhance the City's image in the eyes of business and leisure travelers thereby enriching their travel experience in Nitro and promoting Nitro as a historic, hip destination.

SPECIFIC POWER REQUESTED UNDER THIS PROPOSED AMENDMENT TO NITRO'S HOME RULE PLAN.

The City of Nitro respectfully requests that it be granted the power under W. Va. Code Section 8-1-5a to amend its approved Home Rule Plan to permit the City to allow certain Alcohol Beverage Control Administration Class "A" license holders to begin serving alcohol at ten o'clock a.m. on Sundays.

Proposed solution(s) to the perceived problem(s), including all proposed changes to law, policies, acts, resolutions, rules or regulations. Categorize and include:

- 1) Proposed solution(s) in one of the five areas (tax/administrative/organization/personnel/other)
- 2) If revenue related, estimate(s) for proposed solution(s) and how the fiscal impact was determined. Example: Estimated reduction of administrative time and costs = X. Please attach the worksheet or formula used to determine "X" amount.

SECTION III: AFFIDAVITS

Hearing Mandate Verification

Publication Mandate Verification

Ordinance Authorizing Submission of Plan

Fiscal Impact Worksheets/Formulas (if revenue related)

Feasibility Study (if taxes are proposed)

Attorney Opinion (application complies with statutory requirements)

State of West Virginia Fees Statement (none outstanding)

Proposed solution(s) to the perceived problem(s), including all proposed changes to law, policies, acts, resolutions, rules or regulations. Categorize and include:

- 1) Proposed solution(s) in one of the five areas (tax/administrative/organization/personnel/other)
- 2) If revenue related, estimate(s) for proposed solution(s) and how the fiscal impact was determined. Example: Estimated reduction of administrative time and costs = X. Please attach the worksheet or formula used to determine "X" amount.

SECTION III: AFFIDAVITS

Hearing Mandate Verification

Publication Mandate Verification

Ordinance Authorizing Submission of Plan

Fiscal Impact Worksheets/Formulas (if revenue related)

Feasibility Study (if taxes are proposed)

Attorney Opinion (application complies with statutory requirements)

State of West Virginia Fees Statement (none outstanding)

ORDINANCE NO. _____

Introduced in Council:

June 21, 2016

Introduced by:

Councilman at Large John Montgomery

An ordinance authorizing the City of Nitro, West Virginia, to submit to the Municipal Home Rule Board a proposed amendment, attached hereto as Exhibit A, to the City of Nitro Municipal Home Rule Plan consistent with the requirements of West Virginia Code § 8-1-5a requesting approval to allow the sale of alcoholic beverages by certain Alcohol Beverage Control Administration Class "A" license holders beginning at 10:00 a.m. on Sundays.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that on behalf of the City of Nitro, the Mayor and the Administration of the City are hereby authorized and requested to submit to the Municipal Home Rule Board, a proposed amendment, attached hereto as Exhibit A, to the City of Nitro Municipal Home Rule Plan consistent with the requirements of West Virginia Code § 8-1-5a requesting approval to allow the sale of alcoholic beverages by certain Alcohol Beverage Control Administration Class "A" license holders beginning at 10:00 a.m. on Sundays.

Passed on First Reading _____

Passed on Second Reading _____

Dave Casebolt, Mayor

Rita Cox, Rec



REQUEST FOR REVISION TO APPROVED BUDGET

CONTROL NUMBER

2016

Ora Ash, Director
 West Virginia State Auditor's Office
 200 West Main Street
 Clarksburg, WV 26301
 Phone: 627-2415 ext. 5114
 Fax: 627-2417

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)

FY

General

FUND

6

REV. NO.

1

PG. OF NO.

Municipality

Government Type

City of Nitro
 GOVERNMENT ENTITY

PO Box 308
 STREET OR PO BOX

Person To Contact Regarding
 Budget Revision: **John H Young**
 Phone: **304 755-0702**
 Fax: **304 755-7502**

Nitro
 CITY

WV
 ZIP CODE

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES)

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

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
440	City Hall	444,299	35,000		479,299
436	Building Inspection	88,503	14,000		102,503
700	Police Department	1,712,598	10,000		1,722,598
900	Parks & Recreation	52,081	6,000		58,081
951	Aging Program (Senior Citizens)	80,572	3,000		83,572
975	General Government		30,000		30,000
978	Health and Sanitation	21,723	8,000		29,723
979	Culture and Recreation		128,000		128,000
980	Social Services	128,000		128,000	
410	City Council	364,526		106,000	258,526
	#N/A				

NET INCREASE/(DECREASE) Expenditures

APPROVED BY THE STATE AUDITOR

BY:
 Director, Local Government Services Division Date

AUTHORIZED SIGNATURE
 OF ENTITY

APPROVAL
 DATE

City Of Nitro FY Current
Balance Sheet
May 31, 2016

ASSETS

Cash Accounts General		
Receipts Account	\$	119,821.67
Disbursements Account		14,786.14
L GOV ACCOUNT		97.73
Payroll Account		35,142.99
Total Cash Accounts		169,848.53
Cash Accounts Restricted		
THF Bank Account		151,563.45
City of Nitro Hotel, Motel, Ta		101,756.21
Fairs & Festival Account		7,882.14
Fire Fee Fund		61,988.44
Firemen's Equip Fund		22,045.65
Peoples FCU CD		8,974.80
Peoples FCU CD		90,297.97
Peoples FCU CD		243,930.71
Police M-Dent		33,244.24
Police To Be Forfeited		939.01
Police Canine Fund		162.75
Coal Severance Tax Acct		10,912.44
Huntington Library Acc		23,628.70
Huntington Sales Tax		478,761.54
Sales Tax Savings		100,698.40
Total Restricted Funds		1,336,786.45
Other Current Assets		
Taxes Receivable		360,391.73
Munci Fees Receivable		525,033.65
Accts Receivable Misc		81,988.61

Total Current Assets		967,413.99
Property and Equipment		-----
Total Property and Equipment		0.00
Other Assets		
Prepaid Expenses		2,593.47

Total Other Assets		2,593.47
Total Assets	\$	2,476,642.44

LIABILITIES AND CAPITAL

Current Liabilities		
Accounts Payable	\$	95,345.38
Public Employees Retirement		4,952.44
Insurance Payable		2,742.31
Fire Union		252.00
Other Deductions Payable		122.81
THF PAYABLES		108,131.94
SUTA Tax Payable		2,068.78
Deferred Revenues		120,895.07

Total Current Liabilities		334,510.73
Long-Term Liabilities		

Unaudited - For Management Purposes Only

City Of Nitro FY Current
Balance Sheet
May 31, 2016

Investment in San. Board	(439,127.28)	
OPEB Liability	2,207,058.19	
Total Long-Term Liabilities		1,767,930.91
Total Liabilities		2,102,441.64
Capital		
Fund Balance General Fund	(140,577.94)	
Restricted General Fund	39,356.05	
Committed General Fund	122,700.12	
Unassigned General Fund	(273,835.03)	
Total General Fund		(252,356.80)
Assigned Coal Severance	1,621.15	
Total Coal Severance Fund		1,621.15
Net Income	624,936.45	
Total Capital		374,200.80
Total Liabilities & Capital		\$ 2,476,642.44

City Of Nitro FY Current
Income Statement
For the Eleven Months Ending May 31, 2016

	Year to Date	Year to Date	Year to Date	CY Vs	CY Vs/LY
	Current Year	Budget	LY	Budget	
Revenues					
Property Tax	\$ 925,963	\$ 829,620	\$ 900,973	\$ 96,343	\$ 24,991
Property Tax Excess Levy	\$ 379,702	\$ 338,943	\$ 386,030	\$ 40,759	\$ (6,328)
Oil & Gas Severance Tax	\$ 15,410	\$ 23,837	\$ 13,046	\$ (8,427)	\$ 2,364
Utility Tax	\$ 242,118	\$ 231,462	\$ 247,683	\$ 10,656	\$ (5,564)
THF Realty B&O Tax	\$ 154,000	\$ 141,163	\$ 154,000	\$ 12,837	\$ -
B&O TAX- MANUFACTURED	\$ 15,878	\$ 16,500	\$ 37,107	\$ (622)	\$ (21,228)
B&O TAX - RETAIL	\$ 242,669	\$ 306,163	\$ 296,083	\$ (63,494)	\$ (53,414)
B&O TAX - WHOLESALE	\$ 40,592	\$ 36,663	\$ 68,574	\$ 3,929	\$ (27,981)
B&O TAX - ELECTRIC/DOMESTIC	\$ 211,869	\$ 187,462	\$ 198,936	\$ 24,407	\$ 12,932
B&O TAX - WATER CO.	\$ 84,084	\$ 71,038	\$ 107,658	\$ 13,046	\$ (23,574)
B&O TAX-ELEC. & OTHER POWER CO	\$ 121,568	\$ -	\$ 100,927	\$ 121,568	\$ 20,641
B&O TAX - OTHER PUBLIC UTILITY	\$ -	\$ 112,750	\$ -	\$ (112,750)	\$ -
B&O TAX - CONTRACTING	\$ 94,949	\$ 178,453	\$ 153,865	\$ (83,504)	\$ (58,915)
B&O TAX - BANKING	\$ 3,836	\$ 3,113	\$ 6,143	\$ 723	\$ (2,307)
B&O TAX - AMUSEMENT	\$ 1,343	\$ 1,375	\$ 3,285	\$ (32)	\$ (1,943)
B&O TAX - SERVICE	\$ 167,917	\$ 180,587	\$ 185,998	\$ (12,670)	\$ (18,081)
B&O TAX - RENTAL & ROYALTIES	\$ 126,031	\$ 103,400	\$ 99,734	\$ 22,631	\$ 26,298
Liquor Tax	\$ 57,435	\$ 51,337	\$ 56,161	\$ 6,098	\$ 1,275
Hotel Occupancy Tax	\$ 183,346	\$ 188,837	\$ 193,021	\$ (5,491)	\$ (9,675)
Court Costs and Fees	\$ 49,018	\$ 36,663	\$ 45,865	\$ 12,355	\$ 3,154
Regional Jail Fund Tax	\$ 469	\$ 715	\$ 519	\$ (246)	\$ (51)
Business License	\$ 22,593	\$ 20,163	\$ 16,103	\$ 2,430	\$ 6,490
Building Permits	\$ 17,104	\$ 17,413	\$ 16,586	\$ (309)	\$ 518
Franchise Fees	\$ 45,491	\$ 48,345	\$ 46,881	\$ (2,854)	\$ (1,390)
Plan Review Fees	\$ 1,900	\$ 14,663	\$ 2,880	\$ (12,763)	\$ (980)
IRP FEES	\$ 112,867	\$ 45,837	\$ 36,999	\$ 67,030	\$ 75,868
Parks & Recreation	\$ 9,325	\$ 5,962	\$ 17,125	\$ 3,363	\$ (7,800)
Donation - Park & Rec.	\$ 200	\$ -	\$ -	\$ 200	\$ 200
Swimming Pool Revenue	\$ 31,151	\$ 40,000	\$ 28,405	\$ (8,850)	\$ 2,746
Pool Revenue Credit Card	\$ 2,531	\$ 2,133	\$ 3,356	\$ 398	\$ (825)
Pool Concessions	\$ 18,261	\$ 23,333	\$ 18,553	\$ (5,073)	\$ (293)
Pool Concessions Contracted	\$ 520	\$ 267	\$ 479	\$ 254	\$ 41

City Of Nitro FY Current
Income Statement
For the Eleven Months Ending May 31, 2016

	Year to Date		Year to Date		Year to Date		CY Vs		CY Vs LY	
	Current Year	Budget	Budget	LY	Budget	Budget				
Concessions Credit Card	\$ 1,247	\$ 667	\$ 770,000	\$ 853	\$ 580	\$ 580	\$ 394			
Municipal Service Fees	\$ 776,375	\$ 770,000	\$ 55,913	\$ 59,362	\$ 6,375	\$ 6,375	\$ (17,612)			
Dumpster Fees	\$ 65,751	\$ 55,913	\$ 2,750	\$ 2,830	\$ 9,838	\$ 9,838	\$ 6,389			
Other Trash Fees	\$ 1,838	\$ 2,750	\$ 6,743	\$ 7,700	\$ (912)	\$ (912)	\$ (992)			
Rental Property	\$ 7,000	\$ 6,743	\$ -	\$ -	\$ 257	\$ 257	\$ (700)			
Nitro Fire Fees Commercial	\$ 61,670	\$ -	\$ -	\$ -	\$ 61,670	\$ 61,670	\$ 61,670			
Nitro Fire Fees Residential	\$ 9,213	\$ -	\$ -	\$ -	\$ 9,213	\$ 9,213	\$ 9,213			
State & County Grants	\$ 25,126	\$ 50,413	\$ 7,337	\$ 44,627	\$ (25,287)	\$ (25,287)	\$ (19,501)			
Contributions	\$ 7,476	\$ 7,337	\$ 208,083	\$ 11,077	\$ 139	\$ 139	\$ (3,601)			
Contributions from Other Funds	\$ 99,127	\$ 208,083	\$ 42,163	\$ 53,988	\$ (108,956)	\$ (108,956)	\$ 99,127			
Reimb: Police Wages	\$ 66,577	\$ 42,163	\$ 3,663	\$ 3,181	\$ 24,414	\$ 24,414	\$ 12,589			
Reimb: Fire Wages	\$ 230	\$ 3,663	\$ 7,337	\$ 9,454	\$ (3,433)	\$ (3,433)	\$ (2,950)			
Reimb: Public Works Wages	\$ 2,880	\$ 7,337	\$ 330,000	\$ 269	\$ (4,457)	\$ (4,457)	\$ (6,574)			
Dog Track Table Games	\$ 320,067	\$ 330,000	\$ 275	\$ 340,602	\$ (9,933)	\$ (9,933)	\$ (20,534)			
Table Games - Greenbrier	\$ 283	\$ 275	\$ 1,166	\$ 1,886	\$ 8	\$ 8	\$ 14			
Interest Income	\$ 1,907	\$ 1,166	\$ -	\$ 10,067	\$ 741	\$ 741	\$ 21			
Reimb: Insurance Workers' Com	\$ -	\$ 2,750	\$ -	\$ -	\$ -	\$ -	\$ (10,067)			
Reimburse Capitol Cons Dist	\$ -	\$ 2,750	\$ 3,663	\$ 4,000	\$ (2,750)	\$ (2,750)	\$ -			
Reimburse Lakeview	\$ 4,000	\$ 3,663	\$ 3,443	\$ 2,753	\$ 337	\$ 337	\$ -			
Reimburse City Calendar	\$ 885	\$ 3,443	\$ 125,048	\$ 121,029	\$ (2,558)	\$ (2,558)	\$ (1,868)			
Reimb: Hospitalization	\$ 124,948	\$ 125,048	\$ 5,500	\$ 18,048	\$ (100)	\$ (100)	\$ 3,919			
Reimburse Insurance	\$ -	\$ 5,500	\$ 23,837	\$ 23,916	\$ (5,500)	\$ (5,500)	\$ (18,048)			
Senior Citizens Reimb.	\$ 23,904	\$ 23,837	\$ 275	\$ 400	\$ 67	\$ 67	\$ (12)			
Reimb. Legal Ads	\$ 300	\$ 275	\$ 1,837	\$ 3,691	\$ 25	\$ 25	\$ (100)			
Rebates Purchasing Card	\$ 5,042	\$ 1,837	\$ -	\$ -	\$ 3,205	\$ 3,205	\$ 1,352			
Sale of Fixed Assets	\$ 3,552	\$ -	\$ 7,089	\$ 4,305	\$ 3,552	\$ 3,552	\$ 3,552			
Reimb: Insurance Claims	\$ 12,464	\$ 7,089	\$ 3,212	\$ 3,832	\$ 5,375	\$ 5,375	\$ 8,159			
Accident Reports	\$ 4,890	\$ 3,212	\$ 22	\$ 30	\$ 1,678	\$ 1,678	\$ 1,058			
Fire Reports	\$ -	\$ 22	\$ 6,930	\$ 5,746	\$ (22)	\$ (22)	\$ (30)			
MIDent Receipts Federal	\$ 60	\$ 6,930	\$ 7,183	\$ 5,789	\$ (6,870)	\$ (6,870)	\$ (5,686)			
M Dent Receipts - State	\$ 3,867	\$ 7,183	\$ 19,250	\$ 20,415	\$ (3,316)	\$ (3,316)	\$ (1,923)			
Other Lottery Revenues	\$ 20,255	\$ 19,250	\$ 146,663	\$ 163,788	\$ 1,005	\$ 1,005	\$ (159)			
Dog Track - Lottery	\$ 153,014	\$ 146,663	\$ 10,087	\$ 9,589	\$ 6,351	\$ 6,351	\$ (10,774)			
Miscellaneous Income	\$ 4,102	\$ 10,087	\$ 18,333	\$ 17,134	\$ (5,985)	\$ (5,985)	\$ (5,487)			
Coal Severance	\$ 19,334	\$ 18,333	\$ -	\$ -	\$ 1,001	\$ 1,001	\$ 2,200			

City OF Nitro FY Current
Income Statement
For the Eleven Months Ending May 31, 2016

	Year to Date Current Year	Year to Date Budget	Year to Date LY	CY Vs Budget	CY Vs LY
Property Tax Library Exce Levy	\$ 44,607	\$ 43,087	\$ -	\$ 1,520	\$ 44,607
Total Revenues	\$ 5,252,131	\$ 5,172,916	\$ 5,187,319	\$ 79,214	\$ 64,811
Expenses					
Mayor Expenses					
Total Mayor Expense	\$ 61,735	\$ 66,058	\$ 61,750	\$ 4,323	\$ 15
City Council Expenses					
Total City Council Expenses	\$ 53,444	\$ 470,734	\$ 51,470	\$ 417,290	\$ (1,974)
City Recorder					
Total City Recorder	\$ 45,337	\$ 62,711	\$ 46,037	\$ 17,374	\$ 700
Treasurer					
Total Treasurer	\$ 65,313	\$ 58,949	\$ 68,793	\$ (6,364)	\$ 3,479
Municipal Court					
Total Municipal Court	\$ 82,304	\$ 105,160	\$ 86,366	\$ 22,856	\$ 4,061

City OF Nitro FY Current
Income Statement
For the Eleven Months Ending May 31, 2016

Regional Development Authority

Total Regional Development Authority

Year to Date Current Year	Year to Date Budget	Year to Date LY	CY Vs Budget	CY Vs LY
------------------------------	------------------------	--------------------	-----------------	----------

\$ 1,965	\$ -	\$ -	\$ (1,965)	\$ (1,965)
----------	------	------	------------	------------

Building Department

Total Building Expense

\$ 91,677	\$ 76,549	\$ 74,401	\$ (15,128)	\$ (17,276)
-----------	-----------	-----------	-------------	-------------

City Hall

Total City Hall

\$ 532,183	\$ 398,101	\$ 473,526	\$ (134,082)	\$ (58,657)
------------	------------	------------	--------------	-------------

Public Works

Total Public Works

\$ 340,050	\$ 313,610	\$ 333,616	\$ (26,440)	\$ (6,434)
------------	------------	------------	-------------	------------

Police

Total Police Expenses

\$ 1,568,567	\$ 1,562,685	\$ 1,438,581	\$ (5,883)	\$ (129,986)
--------------	--------------	--------------	------------	--------------

Fire

Total Fire Expenses

\$ 1,059,137	\$ 1,055,781	\$ 1,003,840	\$ (3,356)	\$ (55,297)
--------------	--------------	--------------	------------	-------------

Dog Warden & Humane Society

Total Dog Warden/Humane Society

\$ 24,515	\$ 26,587	\$ 24,586	\$ 2,072	\$ 71
-----------	-----------	-----------	----------	-------

City OF Nitro FY Current
Income Statement
For the Eleven Months Ending May 31, 2016

Year to Date	Year to Date	Year to Date	CY Vs	CY Vs LY
Current Year	Budget	LY	Budget	

Streets & Transportation

Total Streets & Transportation	\$ 228,149	\$ 402,237	\$ 334,318	\$ 174,088	\$ 106,169
--------------------------------	------------	------------	------------	------------	------------

Health & Sanitation

Total Health & Sanitation	\$ 455,118	\$ 416,823	\$ 429,931	\$ (38,295)	\$ (25,187)
---------------------------	------------	------------	------------	-------------	-------------

Recreation

Total Recreation	\$ 51,860	\$ 31,240	\$ 52,394	\$ (20,620)	\$ 533
------------------	-----------	-----------	-----------	-------------	--------

Visitor's Bureau

Total Visitors Bureau	\$ 83,977	\$ 94,413	\$ 88,096	\$ 10,436	\$ 4,119
-----------------------	-----------	-----------	-----------	-----------	----------

Pool

Total Pool	\$ 93,912	\$ 115,552	\$ 109,394	\$ 21,640	\$ 15,482
------------	-----------	------------	------------	-----------	-----------

Fairs & Festivals

Total Visitors & Festivals	\$ 450	\$ -	\$ -	\$ (450)	\$ (450)
----------------------------	--------	------	------	----------	----------

Historical Commission

Total Historical Commission	\$ 2,207	\$ 18,568	\$ 1,283	\$ 16,361	\$ (924)
-----------------------------	----------	-----------	----------	-----------	----------

City Of Nitro FY Current
Income Statement
For the Eleven Months Ending May 31, 2016

	Year to Date Current Year	Year to Date Budget	Year to Date LY	CY Vs Budget	CY Vs LY
Library					
Total Library	\$ 149,117	\$ 148,841	149,447	\$ (276)	\$ 330
Social Services Seniors					
Total Senior's Support	\$ 71,943	\$ 68,967	66,248	\$ (2,976)	\$ (5,695)
Capital Projects					
Total Capital Projects	\$ 232,683	\$ 290,966	259,307	\$ 58,283	\$ 26,624
Total Expenses					
Total Expenses	\$ 5,295,643	\$ 5,784,531	5,153,384	\$ 488,888	\$ (142,260)
Net Income					
Net Income	\$ (43,513)	\$ (611,615)	33,936	\$ 568,102	\$ (77,448)



SPILMAN THOMAS & BATTLE, PLLC

ATTORNEYS AT LAW

Dale W. Steager
304.340.1692
e-mail: dsteager@spilmanlaw.com

June 17, 2016

The Honorable Dave Casebolt
Mayor
City of Nitro
2009 20th Street
Nitro, WV 25143

**Re: Tax Commissioner's administrative fee for collecting municipal sales and use taxes
Administrative Notice 2016-19**

Dear Mayor Casebolt:

As you are aware, pursuant to 110 C.S.R. 28, the State Tax Commissioner has been charging a fee equal to 5% of the sales and use taxes, including interest and additions to tax, collected for your municipality. In Administrative Notice 2016-19, issued June 1, 2016, the Tax Commissioner advises municipalities of the Accumulated Cost Account Projections for the Fiscal Year Ending June 30, 2017. The implication is that the Tax Commissioner will continue to impose a 5% fee for administering, collecting and enforcing municipal sales and use taxes during FY 2017.

The public may submit comments regarding Administrative Notice 2016-19 until 5:00 p.m. on June 30, 2016, to the following address:

Projection AN 2016-19
West Virginia State Tax Department
P.O. Box 2389
Charleston, WV 25329-2389

The purpose of this letter is to make you aware that during the 2015 regular session of the Legislature, S.B. No. 332 was enacted which adds new section 11-10-27 to the Code and which appears to limit the Tax Commissioner's 5% fee set by legislative rule (110 CSR 28) to 1% beginning January 1, 2016. New Section 11-10-27 reads, in relevant part:

"For all taxes or fees collected by the Tax Division of the Department of Revenue on behalf of any local, county or municipal government, or any other governmental subdivision or public entity or public corporation, including, but not limited to, sanitary districts, water districts and solid waste authorities, the Tax Commissioner may retain, as an administrative

The Honorable Dave Casebolt

June 17, 2016

Page 2

fee, one percent of the taxes and fees, including one percent of any interest, additions to tax and penalties related thereto: *Provided*, That the Legislature has not expressly and specifically authorized a fee in a provision of this code other than this section, to be collected by, retained by or dedicated to, the Tax Commissioner for the collection, distribution or administration of a specified tax or fee. For purposes of this section the term "taxes and fees" includes any interest, additions to tax and penalties relating to any taxes or fees. (Emphasis added).

Attached for your consideration and use is a draft letter to the Tax Commissioner commenting on Administrative Notice 2016-19. Also attached is a copy of Administrative Notice 2016-19, which appears in the State Register, published June 3, 2016, at page 26.

Please let us know if you have any questions of if we may be of assistance.

Sincerely yours,



Dale W. Steager

DWS/ljr
Enclosures

8579579

ON CITY LETTERHEAD

June 24, 2016

The Honorable Mark W. Matkovich
Tax Commissioner
Projection AN 2016-19
West Virginia State Tax Department
P.O. Box 2389
Charleston, WV 25329-2389

Dear Commissioner Matkovich:

Re: Comments regarding Administrative Notice 2016-19 – administrative fee for administering, collecting and enforcing municipal sales and use taxes.

The City of Nitro, West Virginia, appreciates the opportunity to provide public comments on Administrative Notice 2016-19 issued pursuant to W. Va. Code St. R. § 110-28-4.

Administrative Notice 2016-19 discusses the Department's Accumulated Cost Account Projection for the fiscal year ending June 30, 2017, and projects that the account will, on June 30, 2017, have an ending balance of \$319,500.00. While Administrative Notice 2016-19 does not state the rate of the fee the Tax Commissioner will charge, we assume that Administrative Notice 2016-19 is based on the fee being 5% of municipal sales and use taxes collected during the fiscal year ending June 30, 2017. We note, however, that for municipal sales and use taxes collected after December 31, 2015, W. Va. Code § 11-10-27(b) limits the amount of this fee to 1% of the municipal sales and use taxes collected, including the amount of any interest and additions to tax collected.

In conclusion, the City of Nitro appreciates the State Tax Department's efforts to administer, collect and enforce the City's sales and use taxes and the opportunity to comment on Administrative Notice 2016-19. We believe that the Commissioner's fee is limited to 1% of the amount collected for the City after December 31, 2015, and that the Notice may be erroneous to the extent it is based on a 5% fee. If you have any questions or wish to discuss, please contact me at (304) _____ or [insert email address].

Sincerely,

Mayor