

AGENDA  
NITRO CITY COUNCIL  
Amended May 29, 2020  
JUNE 2, 2020

CALL TO ORDER: Mayor Dave Casebolt  
Ward 1 Councilwoman Donna Boggs  
Ward 3 Councilwoman Laurie Elkins  
Councilman at Large Bill Javins  
Councilman at Large Andy Shamblin

Recorder Rita Cox  
Ward 2 Councilman Bill Racer  
Ward 4 Councilman Michael Hill  
Councilman at Large John Montgomery

INVOCATION/PLEDGE OF ALLEGIANCE

FUTURE DATES OF COUNCIL: June 16, July 7

APPROVAL OF COUNCIL MINUTES: May 5, 2020

OLD BUSINESS

SECOND READING AMENDING ORDINANCE 1803 DISPOSING RUBBISH, SALVAGE, GARBAGE MATERIALS, MACHINERY AND EQUIPMENT: Councilman John Montgomery

RESOLUTION AND DECLARATION TO PURCHASE GARBAGE TRUCK WITH FINANCING THROUGH HUNTINGTON BANKS WITH THE AMOUNT TO BE FINANCED \$139,500.00: Treasurer John Young

RESOLUTION AND DECLARATION OF OFFICIAL INTENT TO PURCHASE 2013 INTERNATIONAL DUMP TRUCK WITH FINANCING THROUGH HUNTINGTON BANKS WITH THE AMOUNT TO BE FINANCED \$46,900.00: Treasurer John Young

FIRE AND POLICE COMMITTEE RECOMMENDATION ON FIRE ENGINE 851 AND RESCUE TRUCK:  
Councilman Andy Shamblin

FIREMAN HOLIDAY HOURS: City Attorney Johnnie Brown

NEW BUSINESS

HOUSING CONSORTIUM AGREEMENT BETWEEN CHARLESTON, BELLE, CLENDENIN, DUNBAR, MARMET, NITRO, ST. ALBANS, S. CHARLESTON, CEDAR GROVE AND KANAWHA COUNTY:  
Recorder Rita Cox

PAYMENT FOR SATTES SCHOOL AT TIME OF CLOSING WITH REIMBURSEMENT TO BE MADE WHEN FINANCING IS IN PLACE: Treasurer John Young

BUDGET REVISION AND RESOLUTION: Treasurer John Young

TREASURER REPORT

ATTORNEY REPORT

MAYOR COMMENTS

COUNCIL COMMENTS

PUBLIC COMMENTS

ADJOURNMENT

NITRO CITY COUNCIL  
MINUTES  
MAY 19, 2020

CALL TO ORDER: Mayor Dave Casebolt called the meeting to order at 7:00 pm in Nitro Church of Christ. Attending with Mayor Casebolt were Recorder Rita Cox, Ward 1 Councilwoman Donna Boggs, Ward 3 Councilwoman Laurie Elkins, Ward 4 Councilman Michael Hill, Councilmen at Large Bill Javins, John Montgomery, and Andy Shamblin, City Attorney Johnnie Brown, City Treasurer John Young. Ward 2 Councilman Bill Racer was not present.

INVOCATION/PLEDGE OF ALLEGIANCE: The Invocation was given by Councilman Shamblin and the Pledge of Allegiance was led by Recorder Cox.

FUTURE DATES OF COUNCIL: Mayor Casebolt said the future dates of Council are June 2 and June 16.

APPROVAL OF COUNCIL MINUTES: RECORDER RITA COX MADE THE MOTION TO APPROVE THE MINUTES OF THE MAY 5, 2020 MEETING OF COUNCIL. THERE WAS A SECOND BY COUNCILMAN SHAMBLIN AND A VOTE FOR THE MOTION.

OLD BUSINESS

LAND AND WATER CONSERVATION GRANTS/ENTRY WAY PARK AND RIEDNOUR LAKE: Mayor Casebolt said that the city has received two Land and Water Conservation Grants. He wanted to thank Tracy Toler for all the work he has done at Ridenour Park. Laura Cox said that this is the first time she is aware that a city received two grants in one year. She also said that because the Entry Way Park is a new park there will need to be an environmental assessment with the literature for that being available in Nitro City Hall for 30 days public inspection. Recorder Rita Cox said that the legal notice is scheduled to be published in the Charleston Gazette Mail on May 20, 2020 and that will begin the 30 day period for assessment. Mayor Casebolt said the Nitro Armed Forces Commemorative Park grant amount is \$150,000 with \$75,000 coming from the Land and Water Conservation Fund Grant and \$75,000 from the city and the Ridenour Lake Park Improvements grant amount is \$251,000 with \$125,500 from the Land and Water Fund and \$125,500 from the city.

KEEPING FIRE TRUCK 851: Councilman Michael Hill said that he believes the city should not trade in Engine 851. COUNCILMAN HILL MADE THE MOTION THAT THE POLICE AND FIRE COMMITTEE MEET ON WEDNESDAY, MAY 27 AT 3:00 PM IN NITRO CHURCH OF CHRIST TO CONSIDER KEEPING THE FIRE ENGINE AND RESCUE TRUCK RATHER THAN TRADING THEM IN AND REPORTING BACK TO COUNCIL WITH THEIR RECOMMENDATION. THE SECOND TO THE MOTION WAS MADE BY COUNCILMAN SHAMBLIN. Councilman Shamblin said the Police and Fire Committee consists of Councilwoman Donna Boggs, and Councilmen Andy Shamblin and John Montgomery. THE MOTION CARRIED.

FIRST READING AMENDING ORDINANCE 1803 DISPOSING RUBBISH, SALVAGE, GARBAGE MATERIALS, MACHINERY AND EQUIPMENT: COUNCILMAN MONTGOMERY MADE THE MOTION TO PASS ON FIRST READING AN ORDINANCE AMENDING ORDINANCE 1803.7 AS RELATING TO DISPOSING OF RUBBISH, SALVAGE, GARBAGE MATERIALS, MACHINERY AND EQUIPMENT. THERE WAS A SECOND BY COUNCILMAN JAVINS. Councilman Montgomery said that by passing this amendment the Code Enforcement Department will be able to more strenuously enforce existing ordinances. COUNCIL VOTED UNANIMOUSLY FOR THE MOTION.

**ORDINANCE \_\_\_\_\_**

**An ordinance to amend Section 1803.7, article 1803 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, relating to the Property Maintenance Ordinance, and establishing the procedure for enforcing such requirements.**

**BE IT ORDAINED BY THE CITY COUCIL OF THE CITY OF NITRO, WEST VIRGINIA,** that Section 1803.7 of the Codified Ordinances of the City of Nitro, West Virginia, as amended, be amended, all to read as follows:

**Article 1803  
General Requirements**

**Section 1803.7. Rubbish, salvage, and garbage, materials, machinery and equipment.**

**1803.7(a). Accumulation of rubbish or garbage.** All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

**1803.7(b). Disposal of rubbish.** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

Whenever rubbish, trash or other refuse shall be allowed to accumulate upon any premises within the City in such quantities as to be a fire hazard or detrimental to public health, the owner and person in charge of the premises upon which such accumulation is found shall be jointly and severally responsible for its removal and shall be required to remove or cause to be removed such accumulation within 72 hours after receipt of written notice from Code Enforcement Officer.

If both the owner and the person in charge of such property fails within the time indicated in the order or notice to comply with such notice, the Code Enforcement Officer shall thereupon authorize and direct the Public Works Department to remove such accumulations of refuse; and after the removal of such refuse, the City Treasurer shall collect from the property owner the amount of the expense to the City of such removal.

The provisions of Section 1801.3 relating to collection of Property Maintenance Fees shall be applicable to the charges provided for under this section 1803.7.

**1803.7(b)(1). Rubbish storage facilities.** The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

**1803.7(b)(2). Refrigerators.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors; Provided, That prior to being discarded or abandoned but while being retained at the premises, any refrigerator or similar equipment not in operation shall be stored with the doors removed and otherwise in accordance with the requirements established in section 1803.7(d) of this Article.

corrected within the 5 days immediately succeeding issuance of that Warning Citation, the property maintenance inspector shall issue a Citation that requires the violation stated thereon to be corrected within the 10 days immediately succeeding the issuance of the Citation.

**1803.7(e)(2).** Issuance of a Warning Citation or a Citation shall be prima facie evidence of the violation indicated on the face of the respective Citation. Any person alleging he or she was improperly issued a Citation may, within 10 days after service of the Citation, file a petition for appeal of the Citation or payment thereof, along with the required bond, with the municipal court clerk in accordance with the following procedure:

**1803.7(e)(2)(A).** In order to properly and timely appeal a Citation, the petition for appeal shall be filed within 10 days after service of the Citation and the alleged violator shall pay the required amount of the applicable fine in full to the municipal court clerk. The amount so paid shall be held by the municipal court clerk as bond pending an evidentiary hearing before and resolution of the case by the municipal court. The municipal court clerk shall issue to the alleged violator a receipt showing the amount of bond paid.

**1803.7(e)(2)(B).** If any petition for appeal filed in accordance with this section is not timely filed or is not accompanied with the required bond, the alleged violator shall be deemed to have waived his or her right to appeal the Citation, and such petition shall be summarily denied as untimely filed.

**1803.7(e)(2)(C).** Nothing set forth above shall prevent the municipal court judge from finding, upon a proper showing, that an alleged violator suffers from financial hardship, and, as a result, waiving the requirement that the bond be posted as a prerequisite to filing the petition for appeal.

**1803.7(e)(2)(D).** Any petition filed with the municipal court clerk shall be in writing, on the form provided by the municipal court clerk, and signed by the alleged violator affirming that the contents of the petition are true and accurate to the best knowledge of the alleged violator at the time of signing. The petition for appeal shall state the facts and reasons in support of the petition. Upon filing the petition for appeal with the municipal court clerk, the alleged violator shall serve a copy of the petition and receipt showing proof of bond or waiver thereof upon the property maintenance inspector who shall receive the documents as a representative for the city attorney.

**1803.7(e)(2)(E).** Upon filing a petition for appeal with the municipal court clerk, the clerk, or his or her designee, shall place the case on the municipal court docket, set the case for evidentiary hearing within 30 days from the date of filing the petition, provide a notice of hearing to the alleged violator, and forward a copy to the property maintenance inspector. Upon receipt of the petition, the property maintenance inspector shall cause a copy of the Citation at issue to be forwarded to the municipal court clerk who shall file it as the original complaint alleging the violation indicated therein.

**1803.7(e)(2)(F).** The municipal court shall treat the Citation itself as the original complaint before the court, and shall treat it as prima facie evidence of the violation alleged therein. At the close of all of the evidence, should the municipal judge find against the alleged violator, the bond posted by the alleged violator shall be applied as payment for the fine imposed for the violation. In the event the municipal court judge finds that a violator suffers from financial hardship, the municipal judge may permit alternative sentencing. Should the court find in favor of the alleged violator, the bond shall

RESOLUTION

At a regular session of the municipal council, held (Month, day and year) June 2nd, 2020, the following order was made and entered:

SUBJECT: The revision of the Levy Estimate (Budget) of the (Town or City of) City of Nitro. The following resolution was offered:

RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices the municipal council does hereby direct the budget be revised PRIOR TO THE EXPENDITURE OR OBLIGATION OF FUNDS FOR WHICH NO APPROPRIATION OR INSUFFICIENT APPROPRIATION CURRENTLY EXISTS, as shown on budget revision number 7, a copy of which is entered as part of this record.

The adoption of the foregoing resolution having been moved by \_\_\_\_\_, and duly seconded by \_\_\_\_\_ the vote thereon was as follows:

- |  |                  |
|--|------------------|
| <u>William Javins &amp; Laurie Elkins</u>  | <u>Yes or No</u> |
| <u>William Racer &amp; John Montgomery</u> | <u>Yes or No</u> |
| <u>Andy Shamblin &amp; Donna Boggs</u>     | <u>Yes or No</u> |
| <u>Michael Hill &amp; Rita Cox</u>         | <u>Yes or No</u> |
| _____                                      | <u>Yes or No</u> |

WHEREUPON, Mayor Casebolt, declared said resolution duly adopted, and it is therefore ADJUDGED and ORDERED that said resolution be, and the same is, hereby adopted as so stated above, and the City Recorder is authorized to fix his signature on the attached "Request for Revision to Approved Budget" to be sent to the State Auditor for approval



**RESOLUTION AND DECLARATION OF OFFICIAL INTENT  
(For "BQ" Transactions)**

Lessee: City of Nitro ("Lessee")

Maximum Principal Amount Expected To Be Financed: **\$46,900.00**

WHEREAS, the Lessee is a political subdivision of the State of West Virginia (the "State") and is duly organized and existing pursuant to the constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Lessee ("Governing Body") is authorized to purchase, lease, acquire, and to encumber, real and personal property, including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the Lessee.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more lease-purchase agreements including any and all exhibits thereto ("Property Leases") in the principal amount not exceeding the amount stated above ("Principal Amount") for the purpose of acquiring the property generally described below ("Property") and to be described more specifically in the Property Leases is appropriate and necessary to the functions and operations of the Lessee.

**Brief Description of Property:**

**2013 International 4400 - Heavy Duty Dump Truck**

WHEREAS, The Huntington National Bank or an affiliate or related entity ("Lessor") is expected to act as the lessor under the Property Leases.

WHEREAS, the Lessee may pay certain capital expenditures in connection with the Property prior to its receipt of proceeds of the Property Leases ("Lease Purchase Proceeds") for such expenditures and such expenditures are not expected to exceed the Principal Amount.

WHEREAS, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Property from the Lease Purchase Proceeds.

NOW, THEREFORE, Be It Resolved by the Governing Body of the Lessee:

**Section 1.** Any one of the Authorized Representatives identified below (each an "Authorized Representative") acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver one or more Property Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee. Each Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Property Leases (including, but not limited to, escrow agreements) as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Property Leases are hereby authorized.

**Authorized Representatives of Lessee:**

\_\_\_\_\_  
\_\_\_\_\_

**Section 2.** By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Property Leases on behalf of the Lessee.

**Section 3.** The aggregate original principal amount of the Property Leases shall not exceed the Principal Amount and shall bear interest as set forth in the Property Leases and the Property Leases shall contain such options to purchase or prepay by the Lessee as set forth therein.



**RESOLUTION AND DECLARATION OF OFFICIAL INTENT**  
(For "BQ" Transactions)

Lessee: **City of Nitro ("Lessee")**

Maximum Principal Amount Expected To Be Financed: **\$139,500.00**

WHEREAS, the Lessee is a political subdivision of the **State of West Virginia** (the "State") and is duly organized and existing pursuant to the constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Lessee ("**Governing Body**") is authorized to purchase, lease, acquire, and to encumber, real and personal property, including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the Lessee.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more lease-purchase agreements including any and all exhibits thereto ("**Property Leases**") in the principal amount not exceeding the amount stated above ("**Principal Amount**") for the purpose of acquiring the property generally described below ("**Property**") and to be described more specifically in the Property Leases is appropriate and necessary to the functions and operations of the Lessee.

**Brief Description of Property:**

**Garbage Truck**

WHEREAS, The Huntington National Bank or an affiliate or related entity ("**Lessor**") is expected to act as the lessor under the Property Leases.

WHEREAS, the Lessee may pay certain capital expenditures in connection with the Property prior to its receipt of proceeds of the Property Leases ("**Lease Purchase Proceeds**") for such expenditures and such expenditures are not expected to exceed the Principal Amount.

WHEREAS, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Property from the Lease Purchase Proceeds.

NOW, THEREFORE, Be It Resolved by the Governing Body of the Lessee:

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**Authorized Representatives of Lessee:**

\_\_\_\_\_  
\_\_\_\_\_

**Section 2.** By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Property Leases on behalf of the Lessee.

**Section 3.** The aggregate original principal amount of the Property Leases shall not exceed the Principal Amount and shall bear interest as set forth in the Property Leases and the Property Leases shall contain such options to purchase or prepay by the Lessee as set forth therein.