

COUNCIL MEETING MINUTES

CITY OF NITRO

January 4, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley in Council Chambers on January 4, 1983 at 7:45 p.m. Present were Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman Ronald King, Councilman Omar Cunningham and Councilman Jack Moon. Absent were City Recorder John F. Santrock, Councilman at Large Steven West and Councilman Joe Savilla. Also present were City Treasurer Michael E. Greenleaf and City Attorney Franklin L. Gritt, Jr.

The invocation was given by Councilwoman at Large Mary Trout.

AGENDA ITEM NO. 1 - CITIZEN OF THE MONTH: Councilman at Large Casto announced that the January, 1983 citizen of the month award goes to Mayor Art Ashley.

AGENDA ITEM NO. 2 - APPROVAL OF DECEMBER 7, 1982 COUNCIL MEETING MINUTES: Councilman King stated that on Page 388, Line 2, that it was himself, not Councilman Moon, who asked the Fire Chief and the Police Chief if there were any changes they felt needed to be made in the Rules and Regulations. Also, on Page 386, Agenda Item No. 8, Line 6, "Carriage Road" should be changed to "Carriage Way".

There being no other corrections, Councilman King moved that the minutes of the December 7, 1982 Council meeting be accepted with the above-stated amendments. The motion was seconded. The vote was unanimous and the motion so ordered.

AGENDA ITEM NO. 2 - KANAWHA AVENUE PROBLEM: Mayor Ashley pointed out to Council a petition by Ezra and Delores Graley to abandon a portion of Kanawha Avenue, and correspondence directed to the Mayor's office from the City Attorney dated December 29, 1982. Mayor Ashley stated that he and some members of Council and a few others took a tour of the area just prior to the Council meeting for the purpose of making sure that every Council member would be acquainted with the specific area in question.

Mayor Ashley stated that one of the recommendations made by the City Attorney was that Council refer the matter to a Citizen's Grievance Committee. Mayor Ashley stated that he felt that if Council took the opportunity to visit the site and take a position on this petition, then they could do so without delaying it by reference to any committee.

2

Councilman Cunningham stated that on the map of the area there is some question on the true layout of the property. He suggested that Council table the proposal until they could get a corrected map of the area.

There being no second to the motion to table, Mayor Ashley suggested that Council pass on whether or not they would wish to abandon this portion of City property to a citizen requesting it. He stated that there is pending a case in which these citizens have been asked to remove a building now standing on this property, and their response to that is to ask Council to give them that property as well as some additional property.

Councilman at Large Casto asked if they were given a permit to build the building now standing on this property. Building Inspector Bob Sergent stated that they were given a permit to build a garage on his property (December 4, 1979) which maps have indicated that this portion of the property belonged to him. Mr. Sergent further stated that when it was found that this was a City street that was not abandoned, he was sent a letter to cease construction (December 10, 1979). Also, when the permit was rejected, he was sent a letter to remove the structure (December 11, 1979).

At this point, Mayor Ashley asked Councilman at Large Casto to take the Chair for the purpose addressing Council. Mayor Ashley stated that the City did, over two years ago, instruct Mr. Graley to remove the building from our property. That action was not taken and it was implied that petition was submitted to this Council requesting that we abandon that property to them through their legal Council, Mr. James Crewdson. Mayor Ashley stated that, insofar as he knew, that petition was never received by any employee, official or officer of this City during this administrative term.

Mayor Ashley, after addressing Council in such a manner, moved that Council deny forthwith the petition requesting that the City abandon this property to the Graleys. The motion was seconded. The vote was unanimous and so ordered.

Councilwoman at Large Trout moved that Council allow the City Attorney to respond to Mr. Graley concerning the petition. The motion was seconded. The vote was unanimous and so ordered.

Councilman at Large Trout moved that the above-stated petition and response from the City Attorney be included in the minutes of the meeting. The motion was seconded. The vote was unanimous and so ordered.

Those are as follows:

## CALWELL, MCCORMICK &amp; PEYTON, L. C.

LAWYERS

2602 FIRST AVENUE

P. O. BOX 715

NITRO, WEST VIRGINIA 25143

W. STUART CALWELL, JR.  
JEREMIAH F. MCCORMICK  
HARVEY D. PEYTON  
FRANKLIN L. GRITT

December 29, 1982

TELEPHONE  
(304) 755-8161

Honorable Arden D. Ashley  
Mayor, City of Nitro  
Nitro City Hall  
Nitro, West Virginia 25143

Re: Petition of Ezra H. Graley and Delores  
F. Graley, his wife, to abandon a portion  
of Kanawha Avenue

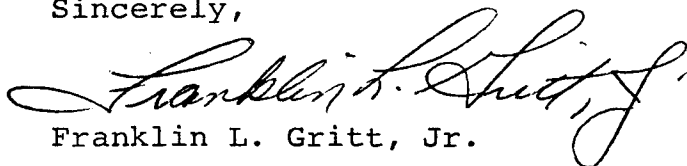
Dear Mayor Ashley:

It has come to my attention that on December 28, 1982, Mr. Graley lodged his Petition to abandon certion portions of Kanawha Avenue with Mike Greenleaf. I am sure that Mr. Graley's Petition is in response to our lawsuit seeking to enjoin him from further obstructing Kanawha Avenue. Therefore, his Petition should be reviewed with dispatch.

Having had an opportunity to review the Petition and to visually inspect the area of concern, I would advise that this matter be turned over to our Citizens Grievance Committee for their review and recommendation to the entire Council as concerns the propriety of Mr. Graley's request. As I am sure you are well aware, the areas subject to Mr. Graley's Petition are of concern to all the citizens living within the area. Therefore, I feel it would be appropriate for the City Council, by and through the proper committee, to recommend what action should be taken in regards to Mr. Graley's Petition.

If you have any questions or comments on any of the matters raised herein, please do not hesitate to call.

Sincerely,

  
Franklin L. Gritt, Jr.

FLG/tlc

cc: Mike Greenleaf

TO THE CITY OF NITRO

RE: Petition of Ezra H. Graley and Delores F. Graley, his wife, to abandon a portion of Kanawha Avenue, First Street and Second Street in East Nitro, Kanawha County, West Virginia.

These petitioners represent that they are presently the owners of Lots 101, 102, 103 and 101A in the subdivision known as DuPont Place in East Nitro, Kanawha County, West Virginia, and that they have owned said property for approximately twenty six (26) years and that their property address is 110 River Avenue in Nitro, West Virginia.

These petitioners further represent that they did on December 4, 1979, receive from the City of Nitro a building permit authorizing them to build a garage and apartment on a portion of the property that they own at the above described address and that part of the building which they constructed under this permit is located on a portion of what is known as Kanawha Avenue, said Kanawha Avenue being shown upon a map of DuPont Place of record in the office of the Clerk of the County Commission of Kanawha County, West Virginia, in Photostatic Map Book 5 at page 70. That these petitioners did proceed with the construction of the garage and building in accordance with said permit and that the same is now almost completed and is being used by these petitioners, and that on December 11, 1979, they received a letter advising them that since the building was being built on a city owned right of way that their permit was revoked and that irrevocable



of such permit and requirement by the City that the building be removed, creating an undue hardship on these petitioners.

These petitioner further represent that the street known as Kanawha Avenue in the area in which they live and in the subdivision known as DuPont Place and DuPont Addition, has been partially washed away and disappeared as a result of the erosion of the Kanawha River and that the portions of said Kanawha Avenue that have not been washed away have, as a whole, never been laid out and used as a public street and that the street has grown up with trees and brush and for most part is being used by individual property owners up and down said street in this particular area, being used as part of their yards and that these petitioners did at the time they purchased their property in 1954, have to clean brush and trees off of said right of way adjoining and abutting their lots and have been keeping the grass mowed and keeping the area cleared and using it as part of their yard and that to the best of the knowledge of the undersigned the street known as Kanawha Avenue in this particular area has never been used as a public right of way and there is no reason for the same to be opened as a public right of way due to the fact that all the parties owning property around the same use other streets to get to and from their properties and further that the City of Nitro has never constructed a street or maintained said Kanawha Avenue as a public right of way in any way and that none of the parties having properties abutting thereon

have used the same as a means of egress and ingress to and from their properties.

These petitioners also allege that the portion of First Street from the northerly line of Kanawha Avenue back to Kanawha River, which abuts and adjoins Lots 46 and 46A of said DuPont Addition, has never been used as a right of way and is not now being used as such and that it is their desire that that portion of First Street between the northern line of Kanawha Avenue and Kanawha River be abandoned and that they further request that the City of Nitro abandon that portion of Second Street lying between the northerly line of Kanawha Avenue and Kanawha River and abutted by Lots 101A and 66A and that that portion of Kanawha Avenue between a twenty foot alley extending from the westerly line of a twenty foot alley through to the westerly line of First Street, and that a sketch has been made by these petitioners and a copy of the same is attached hereto and made a part hereof showing that portions of Second Street, First Street and Kanawha Avenue which these petitioners desire to have abandoned.

These petitioners do further allege that they contacted the owners of all the lots that lies within the areas affected by the abandonment and also anyone who would have any claim to the use of this street and that the majority of these owners are in favor of abandoning said Kanawha Avenue as well as those portions of First Street and Second Street described herein and that such abandonment will not in

any way adversely affect the rights of any parties living in this area to free access of their properties and that all of said parties are now using other means of ingress and egress to get to and from their properties, mostly the street known as River Avenue, and a list of all the property owners and their addresses, who own property in the area which the petitioners are requesting be abandoned is attached to this petition and made a part hereof.

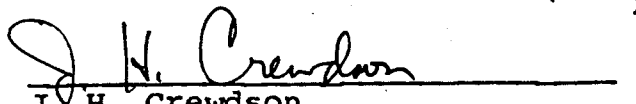
Now therefore, these petitioners do request that the City of Nitro and the council thereof notify all parties having property located in the area which the petitioners are requesting to be abandoned, of public hearing to be had on said matter and that a date and time for said hearing be set and that these petitioners, as well as all other property owners affected by this abandonment, be notified of said hearing and that said council take such action that might be necessary in abandoning said Kanawha Avenue and those portions of Second Street and First Street as requested herein.

Given under our hands this 28 day of Dec. 82,

1982.

  
Ezra H. Graley

  
Delores F. Graley

  
J. H. Crewdson  
1310 Charleston National Plaza  
Charleston, West Virginia 25301  
Counsel for Petitioners

Harold W. Harmon and  
Hilda P. Harmon  
108 River Avenue  
Nitro, West Virginia

Lloyd E. Hendricks  
103 River Avenue  
Nitro, West Virginia

John Burgess and  
Yvonne Burgess  
100 River Avenue  
Nitro, West Virginia

Dorothy L. Walker McCallister  
105 River Avenue  
Nitro, West Virginia

H. C. Coleman and  
Thelma A. Coleman  
107 River Avenue  
Nitro, West Virginia

Lawrence E. Pistore and  
Betty L. Pistore  
102 River Avenue  
Nitro, West Virginia

Nyal Burdick and  
Florence H. Burdick  
109 River Avenue  
Nitro, West Virginia

Zella Bailes  
106 River Avenue  
Nitro, West Virginia

AGENDA ITEM NO. 4 - FIRST READING OF ORDINANCE TO PETITION  
FOR ANNEXATION TO CITY OF NITRO: Councilman Moon read the title  
of Ordinance 83-1 as the introduction of such document.

The ordinance is as follows:

AN ORDINANCE TO ANNEX AN AREA NORTH OF THE EXISTING MUNICIPAL BOUNDARIES OF THE CITY OF NITRO SITUATE ON THE WATERS OF ARMOUR CREEK, KANAWHA AND PUTNAM COUNTIES, WEST VIRGINIA

WHEREAS, on December 7, 1982, at a regularly scheduled and properly convened session of the City Council of the City of Nitro, a Petition to annex an area north of the municipal boundaries of the City of Nitro situate on the waters of Armour Creek, Kanawha and Putnam Counties, West Virginia, was presented by residents of said area to the members of the City Council; and,

WHEREAS, the area of proposed annexation does not lie within any existing municipality; and,

WHEREAS, the area of proposed annexation is urban in character containing more than one hundred inhabitants; and,

WHEREAS, the area of proposed annexation contains less than one square mile of additional territory; and,

WHEREAS, the City Council of the City of Nitro has caused a verification and certification of the signatures and addresses contained therein to be made and the Council finding the Petition to be in all other respects proper, does therefore ORDAIN that the hereinbelow described area be, and the same hereby is, ANNEXED into the City of Nitro, a West Virginia municipality;

BEGINNING at a point in the intersection of the eastern right of way line of WV State Route 62 (Cross Lanes Drive) and the northern corporation line of the City of Nitro;

Thence with Cross Lanes Drive's eastern right of way line in a northerly direction approximately 2,810 feet to the intersection of WV County Route 35/14 (Woodland Drive) and Cross Lanes Drive;

Thence continuing with Cross Lanes Drive's eastern right of way line approximately 1,300 feet to a point; Thence leaving Cross Lanes Drive N 82° 00' E, 180 feet to a point; Thence

S 60° 00' E, 510 feet to a point; Thence

N 38° 40' E, 730 feet to a point; Thence

S 54° 40' E, 720 feet to a point; Thence

S 71° 10' E, 1,120 feet to a point in the western right of way line of Asbury Lane; Thence with the

western right of way line of Asbury Lane approximately 140 feet to the intersection of Asbury Lane and the Monsanto Hunting and Fishing Club Road;

Thence with the southerly right of way line of the Monsanto Hunting and Fishing Club Road in an easterly direction approximately 140 feet to a point in the right of way line; Thence

S 33° 15' W, 50 feet to a point; Thence

S 70° 15' E, 850 feet to a point; Thence

S 72° 30' E, 250 feet to a point; Thence

S 30° 20' E, 155 feet to a point; Thence

S 19° 30' E, 120 feet to a point; Thence

S 8° 10' E, 245 feet to a point; Thence

S 11° 05' W, 140 feet to a point; Thence

S 35° 00' W, 380 feet to a point; Thence

S 0° 30' E, 330 feet to a point in the northern corporation line of the City of Nitro;

Thence with the corporation line for the next five courses S 72° 00' W, 1,270 feet to a point; Thence

S 48° 30' W, 290 feet to a point; Thence

S 23° 35' W, 110 feet to a point; Thence

S 5° 55' W, 120 feet to a point; Thence

S 51° 15' W, 1,200 feet to the point of beginning, located in Union District of Kanawha County and Poca District of Putnam County and containing 0.328 square miles, more or less.

This Ordinance was introduced and read for the first time at a regular meeting of the City Council held on the 4th day of January, 1983, and will come up for a second reading and adoption at a regular meeting of the City Council to be held on the 18th day of January.

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MAYOR

  
CITY RECORDER

After the introduction of the above ordinance, Councilman at Large Casto moved to accept such. The motion was seconded. After discussion on the actual boundaries of this ordinance, a vote was taken on accepting the first reading of the ordinance and was unanimously ordered.

AGENDA ITEM NO. 5 - REQUEST FROM AMERICAN HEART ASSOCIATION TO CONDUCT ITS ANNUAL HEART FUND DRIVE: Councilman at Large Casto moved to accept the request from the American Heart Association to conduct its annual heart fund drive in the City of Nitro. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 6 - TENTATIVE PLANS FOR TOWN MEETING: Mayor Ashley recommended that the next Town Meeting be held in conjunction with the second Council meeting in February, due to upcoming State holiday dates.

Councilman at Large Casto inquired about having the Council meeting and Town meeting on the 15th of February, as previously planned, notwithstanding that that may or may not be a State holiday, thus using that to promote Nitro's birthday celebration. The motion was seconded. The vote was unanimously ordered.

AGENDA ITEM NO. 7 - CORRESPONDENCE REGARDING PROPOSED PAVING OF STATE RIGHT-OF-WAY: Mayor Ashley called Council's attention to correspondence from the City Attorney's office directed to the proper representatives at Rite Aid, Inc., NAPA, Casto Hardware, and VanBuren's, having to do with the proposed paving of the right-of-way adjacent to Route 25, between 22nd and 23rd Streets. The essence of the communication being the financing by the business community of the paving of such right-of-way and the maintenance of such, and the City's responsibility of cleaning up of the area. Included in this is a presumption of a two-hour time limit parking in that area.

Mayor Ashley expressed his concern about the insurance coverage. City Attorney Gritt explained that a one dollar (\$1.00) lease agreement may be available from the Department of Highways and the City would then in turn sublease it to the merchants with the agreement that they would provide the contracting and paving, et cetera, in exchange for garbage pick-up. This would also clear up the loose ends on the insurance coverage also.

Mayor Ashley stated that he felt it should be the decision of the merchants involved whether or not to invoke a parking time limit.

Councilman King moved that Council adopt the proposal as outlined in Attorney Gritt's letter to those people principally involved in the question of paving. The motion was seconded.

Councilman Moon asked if the two-hour time limit parking was a part of the motion. Mayor Ashley explained that the motion is to go forward with the arrangement to lease from the State, so that they can pave and we can sublease. Attorney Gritt stated that the lease will contain the actual terms.

A vote was taken and was unanimous and so ordered.

At this point, Councilman at Large Casto inquired about the Jaycees keeping the area between 4th Street and 11th Street, between the railroad tracks and First Avenue, beautified and what the State and City would say about it. Mayor Ashley said that it was Department of Highway's property. Councilman at Large Casto mentioned another man who mentioned wanting to do the same thing further down First Avenue. Mayor Ashley said that there would be no problem if someone would want to do this type of thing, but it must be done with the understanding that it is Department of Highway's property and they can do with it what they wish.

AGENDA ITEM NO. 8 - PERMISSION TO SOLICIT FUNDS - NITRO JR. HIGH SCHOOL BAND BOOSTERS: Councilman Cunningham moved to allow the Nitro Jr. High Band Boosters permission to solicit funds within the City of Nitro. The motion was seconded. The vote was unanimously ordered.

AGENDA ITEM NO. 9 - ADVANCE SALE OF SWIMMING POOL PASSES: Councilman Moon stated that he had an inquiry from someone wanting to purchase a season pool pass for a Christmas gift. Councilman Moon suggested that pool passes be available for advance sale, with a possible reduced rate for the early purchase. Council approved.

Recreation Director Simms moved to begin work, with Councilman Moon and City Recorder Santrock, on preparation of the necessary ordinance to make the early sale of season passes possible. The motion was seconded. The vote was unanimously ordered.

AGENDA ITEM NO. 11 - SWIMMING POOL REPORT: Mayor Ashley stated that the City has been informed by the Health Department, as the needs of the pool have been looked at prior to the opening of the 1983 season, that the wading pool at the City Pool is not being kept at the proper balance and in order to do that some \$4,200 will be needed to install a filtering system.

Mayor Ashley recommended to Council to seriously consider the elimination of that wading pool and look at the prospects of making the City Pool available at no cost to the youngsters, separately, and in addition to that enlarge the playground area where the wading pool is currently located with other playground equipment to take the place of the concrete wading pool now.



After some agreeable discussion, Mayor Ashley asked Recreation Director Simms to prepare a formal proposal with costs on the elimination of the wading pool and a program by which we can provide access to and free use of the pool.

AGENDA ITEM NO. 10 - 21ST STREET WATER PROBLEM: Councilman at Large Casto brought to the attention of the Mayor and Council the water freezing problem at 21st Street. Mayor Ashley stated that the very question that Councilman at Large Casto brought up has been brought up to the City's engineers, due to a pending court case by a resident of that area, and that the City has been advised not to salt 21st Street. He further stated that at that location there is "an active slip", and salting would cause a deterioration of the asphalt and the underlying road bed, which would further compound the deterioration of that area and the immediate vicinity.

Mayor Ashley stated that a request for salt has been made by citizens in the area. The Department of Highways has been informed that the City is not going to put salt on 21st Street, and if it is to be done then they should do it.

Mayor Ashley suggested, as suggested to him by the City Attorney, to move in the direction of taking action to have the owner of that residence at 2177 21st Street notified that we are taking action to declare that the place as uninhabitable and to condemn it so that no one else moves in.

Councilman Cunningham moved to allow Council to instruct the City Attorney to assist the Building Inspector in the construction of correspondence to the owner of the property in question, so that the property would not be subject to occupancy in the future. The motion was unanimous. The vote was unanimous and so ordered.

AGENDA ITEM NO. 12 - RESOLUTION CREATING COMMITTEE TO ENHANCE THE NATURAL AND WILDLIFE ASPECTS OF RIDENOUR MEMORIAL PARK: Councilman at Large Casto introduced Resolution 82-12, creating a committee to enhance the natural and wildlife aspects of Ridenour Lake to be called the Ridenour Lake Wildlife Committee, and moved to accept such resolution. The motion was seconded.

Mayor Ashley extended his gratitude and congratulations to Councilman at Large Casto on the excellent coverage and community involvement.

A vote was taken and was unanimous and so ordered.

The resolution is as follows:

## RESOLUTION 82-12

A RESOLUTION CREATING A COMMITTEE TO ENHANCE THE NATURAL AND WILDLIFE ASPECTS OF RIDENOUR LAKE, TO BE CALLED THE RIDENOUR LAKE WILDLIFE COMMITTEE.

WHEREAS, the City Council recognizes the inherent natural beauty and abundant wildlife of Ridenour Lake; and

WHEREAS, the City Council understands the need for the protection of the aforementioned natural beauty and wildlife; and

WHEREAS, the City Council further endorses the concept of promoting the public use of Ridenour Lake and the education of the public regarding the many aspects and characteristics of Ridenour Lake, hereinafter called the Ridenour Lake Wildlife Committee.

NOW, BE IT THEREFORE RESOLVED THAT a wildlife committee be created to enhance the natural beauty and wildlife aspects of Ridenour Lake. The committee shall be structured as follows:

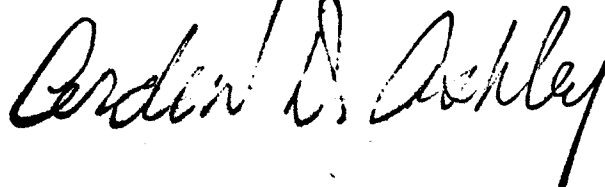
I. The committee shall be composed of five (5) voting members, all to be approved by the City Council. There shall be two (2) ex-officio members nominated by the Mayor.

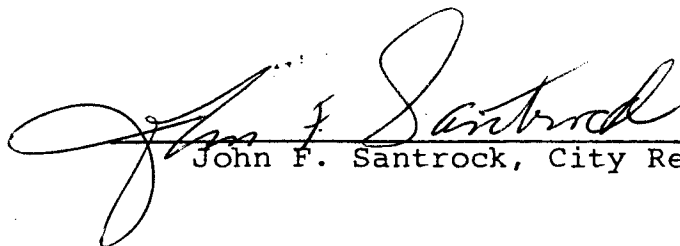
II. All committee meetings shall be opened to the public.

III. The purpose of the committee is to:

- a. Enhance wildlife by the building of nesting boxes, the planting of trees, shrubs, plants, et cetera.
- b. Investigate for Council or the Mayor any nature problems at Ridenour.
- c. Advise Council or the Mayor on any wildlife/nature situation at Ridenour.
- d. To promote wildlife/nature at Ridenour.
- e. Educate the public on wildlife/nature at Ridenour.

Passed this the 7th day of December, 1982 by the City Council of Nitro, West Virginia.

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

#### COMMITTEE REPORTS

Councilman at Large Casto announced the meeting of the Wildlife Committee on January 5, 1983, at 7:00 p.m, and extended an invitation to all. Councilman at Large Casto further explained a list of items which he feels the Wildlife Committee should attempt to accomplish, and stated that those items will require the approval of the Department of Natural Resources.

Mayor Ashley introduced to Council their copy of the 1982 Audit Report, and extended his gratitude to City Treasurer Michael Greenleaf for the manner in which he has managed the funds of this community.

The 1982 Audit Report is as follows:

#### CITY OF NITRO, WEST VIRGINIA

#### AUDIT REPORT

JULY 1, 1981 THROUGH JUNE 30, 1982

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# Allison and Goodell

CERTIFIED PUBLIC ACCOUNTANTS  
SUITE 101 • 5088 WASHINGTON STREET, WEST  
CHARLESTON, WEST VIRGINIA 25313  
(304) 776-6375 / 776-5988

RALPH R. ALLISON  
776-5988  
W. WILLIAM GOODELL  
776-6375

MEMBERS OF THE  
AMERICAN INSTITUTE  
OF CERTIFIED PUBLIC  
ACCOUNTANTS

October 6, 1982

The Honorable Mayor  
and City Council  
City of Nitro  
Nitro, West Virginia

We have examined the financial statements of certain funds of the City of Nitro for the year ended June 30, 1982, as listed under the exhibits in the accompanying table of contents. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements of the General Fund and other funds of the City of Nitro at June 30, 1982, and the results of operations of such funds for the year then ended in conformity with generally accepted accounting principles applicable to government entities applied on a basis consistent with that of the preceding year.



Certified Public Accountants

MUNICIPAL OFFICIALS

JUNE 30, 1982

Elective

Mayor

Arden D. Ashley

Recorder

Sharon Thomas  
(resigned 9/12/81)John F. Santrock  
(appointed 9/15/81)

## Council Members:

First Ward

A. A. Savilla

Second Ward

Ronald King

Third Ward

Omar Cunningham

Fourth Ward

Jack Moon

Councilman at Large

Rusty Casto

Councilman at Large

Mel Pennington  
(resigned 7/13/82)

Councilman at Large

Steve West  
(appointed 7/27/82)

Councilwoman at Large

Mary Trout

Appointive

Treasurer

Michael E. Greenleaf

City Attorney

W. Stuart Calwell  
(resigned 7/13/82)Franklin L. Gritt  
(appointed 7/13/82)

## CITY OF NITRO, WEST VIRGINIA

## ALL FUNDS

## COMBINED BALANCE SHEET

ASSETS					
General Fund	Sanitary Board	Revenue Sharing	Brookhaven Storm Sewer	Trust Funds	Debt Service
Cash	(36,147.78)	46,480.82	1.00	15,805.54	11,100.42
Receivables	97,367.68	104,639.31	-	-	-
Investments	302,377.56	89,357.49	-	-	45,347.52
Cash with Fiscal Agent	-	127,799.22	-	-	-
Prepaid Expenses	20,630.43	31,782.14	-	-	-
Fixed Assets	637,634.74	3,887,945.79	-	-	-
Due from Other Funds	205,298.33	-	-	3,000.00	383.84
TOTAL	1,227,160.96	4,288,004.77	1.00	18,805.54	57,389.82
LIABILITIES					
Accounts Payable	17,269.07	6,944.38	-	-	-
Accrued Expenses	27,706.13	5,203.11	-	-	-
Due to Other Funds	3,383.84	205,298.33	-	-	-
Notes Payable	-	199,081.10	-	-	-
Bonds Payable	-	672,964.38	-	-	-
TOTAL	48,359.04	1,089,491.30	-	-	78,000.00

CITY OF NITRO, WEST VIRGINIA

ALL FUNDS

COMBINED BALANCE SHEET

June 30, 1982

(Continued)

RESERVES					
General Fund	Sanitary Board	Revenue Sharing	Brookhaven Storm Sewer	Trust Funds	Debt Service
Reserve for Depreciation	-	851,539.53	-	-	-
Reserve for Uncollectible Accounts	-	1,268.97	-	-	-
TOTAL	-	852,808.50	-	-	-
FUND BALANCE					
Contributions in Aid of Construction	261,954.43	2,347,884.53	-	-	-
Fixed Asset Fund	375,680.31	-	-	-	-
Fund Balance	541,167.18	(2,179.56)	1.00	18,805.54	57,389.82
TOTAL	1,178,801.92	2,345,704.97	1.00	18,805.54	57,389.82
TOTAL LIABILITIES, RESERVES, AND FUND BALANCE					
	1,227,160.96	4,288,004.77	1.00	18,805.54	25,161.02



GENERAL FUND  
BALANCE SHEET  
June 30, 1982

ASSETS

Cash on Hand and in Bank	(36,147.78)
Taxes Receivable	39,571.63
Accounts Receivable	57,796.05
Prepaid Expenses	17,076.07
Land, Building & Improvements	616,376.59
Equipment	21,258.15
Deposits	3,554.36
Investment in Sanitary Board	260,060.53
Investment - Other	42,317.03
Due from Sanitary Board	196,450.00
Due from Sanitary Board (Reimbursed Expenses)	<u>8,848.33</u>
TOTAL ASSETS	<u><u>1,227,160.96</u></u>

LIABILITIES

Accounts Payable	17,269.07
Due to Other Funds	3,383.84
Accrued Payroll & Taxes	<u>27,706.13</u>
TOTAL	<u><u>48,359.04</u></u>

FUND BALANCE

Contributions in Aid of Construction	261,954.43
Fixed Asset Fund (Note 3)	375,680.31
Fund Balance	<u>541,167.18</u>
TOTAL	<u><u>1,178,801.92</u></u>

TOTAL LIABILITIES & FUND BALANCE	<u><u>1,227,160.96</u></u>
----------------------------------	----------------------------

GENERAL FUND

## ANALYSIS OF CHANGES IN FUND BALANCE

For the Fiscal Year Ended June 30, 1982

Fund Balance, July 1, 1981	9,431.48
Changes Due to Consolidation	583,610.53
Reduction of Sanitary Board Receivable	<u>(68,200.00)</u>
	524,842.01
Add:	
Excess of Revenues over Expenditures:	
Revenues	1,505,142.20
Expenditures	<u>1,488,817.03</u>
Total	<u>16,325.17</u>
Fund Balance - June 30, 1982	<u>541,167.18</u>

\*See notes to financial statement.

GENERAL FUND

## STATEMENT OF REVENUE - ESTIMATED AND ACTUAL

For the Fiscal Year Ended June 30, 1982

	<u>Estimated Revenue</u>	<u>Actual Revenue</u>	<u>Actual Over (Under)</u>
Unencumbered Balance:			
July 1, 1981	<u>(43,588.00)</u>	-	<u>43,588.00</u>
Taxes:			
General Property Taxes	195,288.00	193,792.17	(1,495.83)
Gross Sales	275,000.00	325,367.56	50,367.56
Utilities (2%)	62,000.00	102,345.93	40,345.93
Consumer Sales (Liquor)	<u>35,000.00</u>	<u>54,782.02</u>	<u>19,782.02</u>
TOTAL TAXES	<u>567,288.00</u>	<u>676,287.68</u>	<u>108,999.68</u>
Licenses and Permits:			
General Licenses	5,000.00	10,648.75	5,648.75
Inspection Fees	2,400.00	1,089.00	(1,311.00)
Special Licenses - Private Clubs	1,000.00	-	(1,000.00)
Building Permits	<u>7,200.00</u>	<u>6,575.55</u>	<u>(624.45)</u>
TOTAL LICENSES & PERMITS	<u>15,600.00</u>	<u>18,313.30</u>	<u>2,713.30</u>
Charges for Services:			
Municipal Service Fees	281,000.00	268,099.85	(12,900.15)
Recreation Fees	36,300.00	31,862.40	(4,437.60)
Library Fees	<u>100.00</u>	<u>50.00</u>	<u>(50.00)</u>
TOTAL SERVICE CHARGES	<u>317,400.00</u>	<u>300,012.25</u>	<u>(17,387.75)</u>
Fines and Forfeits:			
Police Fines and Costs	<u>40,000.00</u>	<u>38,374.61</u>	<u>(1,625.39)</u>

GENERAL FUND

## STATEMENT OF REVENUE - ESTIMATED AND ACTUAL

For the Fiscal Year Ended June 30, 1982

(Continued)

	<u>Estimated Revenue</u>	<u>Actual Revenue</u>	<u>Actual Over(Under)</u>
Miscellaneous:			
Rents and Concessions	3,400.00	-	(3,400.00)
Coal Severance Tax	10,000.00	16,684.96	6,684.96
Revenue Sharing	145,772.00	153,983.00	8,211.00
Interest Earned	15,000.00	11,154.23	(3,845.77)
Civic Benefits Association	266,400.00	172,500.00	(93,900.00)
From Other Funds	-	68,200.00	68,200.00
Other	<u>11,100.00</u>	<u>49,632.17</u>	<u>38,532.17</u>
TOTAL MISCELLANEOUS	<u>451,672.00</u>	<u>472,154.36</u>	<u>20,482.36</u>
TOTAL REVENUE	<u>1,348,372.00</u>	<u>1,505,142.20</u>	<u>156,770.20</u>

\*\*See Notes to Financial Statements.

GENERAL FUND  
 STATEMENT OF EXPENDITURES AND ENCUMBRANCES  
 COMPARED WITH AUTHORIZATIONS  
 For Fiscal Year Ended June 30, 1982

	<u>Appropriation</u>	<u>Expenditures and Encumbrances</u>	<u>Actual (Over)Under Appropriation</u>
Office of Mayor	53,168.00	71,460.18	(18,292.18)
Members of Council	14,916.00	12,576.62	2,339.38
Office of Recorder/Treasurer	121,782.00	106,206.25	15,575.75
Building Inspector	11,037.00	19,343.00	(8,306.00)
City Hall	120,189.00	201,235.46	(81,046.46)
Dog Warden	12,477.00	17,942.92	(5,465.92)
Police Department	330,831.00	305,910.88	24,920.12
Fire Department	190,458.00	181,903.99	8,554.01
Public Works Department	392,808.00	461,542.32	(68,734.32)
Recreation - Playground	80,483.00	95,042.31	(14,559.31)
Library	<u>20,223.00</u>	<u>15,653.10</u>	<u>4,569.90</u>
TOTAL	<u>1,348,372.00</u>	<u>1,488,817.03</u>	<u>(140,445.03)</u>

## NITRO SANITARY BOARD

BALANCE SHEET

June 30, 1982

ASSETS

Cash on Hand & In Bank	46,480.82
Cash with Fiscal Agent	127,799.22
Investments	89,357.49
Accounts Receivable	104,639.31
Utility Plant	3,887,945.79
Unamortized Bond Discount	<u>31,782.14</u>
TOTAL ASSETS	<u>4,288,004.77</u>

LIABILITIES

Accounts Payable	6,944.38
Taxes Accrued	5,203.11
Notes Payable	199,081.10
Bonds Payable - Farmers Home Admin.	142,964.38
Bonds Payable - 9/1/64 ISSUE	530,000.00
Loan Payable - City of Nitro	196,450.00
Due to City of Nitro	<u>8,848.33</u>
TOTAL LIABILITIES	<u>1,089,491.30</u>

RESERVES

Reserve for Depreciation	851,539.53
Reserve for Uncollectible Accounts	<u>1,268.97</u>
TOTAL RESERVES	<u>852,808.50</u>

## NITRO SANITARY BOARD

BALANCE SHEET

June 30, 1982

(Continued)

FUND BALANCE

Contributions in Aid of Construction	2,087,824.00
Investment by City of Nitro	260.060.53
Deficit	<u>(2,179.56)</u>
TOTAL FUND BALANCE	<u>2,345,704.97</u>
 TOTAL LIABILITY, RESERVES & FUND BALANCE	 <u><u>4,288,004.77</u></u>

\*See Notes to Financial Statements.

NITRO SANITARY BOARD  
STATEMENT OF INCOME AND EARNED SURPLUS

For the Year Ended June 30, 1982

GROSS REVENUE		564,396.23
OPERATING EXPENSES		
Collection System	61,402.89	
Pumping System	26,869.27	
Treatment & Disposal System	108,924.34	
Billing and Collection	44,433.96	
Administrative & General	<u>82,509.51</u>	
TOTAL OPERATING EXPENSES		<u>324,139.97</u>
NET OPERATING REVENUE		240,256.26
OTHER INCOME		
Interest Earned	21,640.44	
Miscellaneous	<u>1,706.96</u>	
OTHER EXPENSES		23,347.40
Depreciation	100,677.76	
Interest	52,644.61	
Amortization of Bond Discount	<u>1,937.00</u>	
TOTAL		<u>(155,259.37)</u>
NET INCOME		108,344.29
EARNED SURPLUS (DEFICIT) - JUNE 30, 1981		<u>(110,523.85)</u>
DEFICIT - JUNE 30, 1982		<u><u>(2,179.56)</u></u>

\*See Notes to Financial Statements.



REVENUE SHARING TRUST FUND  
STATEMENT OF ASSETS AND LIABILITIES  
ARISING FROM CASH TRANSACTIONS

June 30, 1982

ASSETS

Cash	<u>1.00</u>
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TOTAL ASSETS	<u>1.00</u>
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LIABILITIES, RESERVES & FUND BALANCES

Fund Balance	<u>1.00</u>
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TOTAL LIABILITIES, RESERVES & FUND BALANCES	<u>1.00</u>
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\*See Notes to Financial Statements.

REVENUE SHARING TRUST FUND

## ANALYSIS OF CHANGES IN FUND BALANCE

For the Fiscal Year Ended June 30, 1982

Fund Balance - July 1, 1981	1.00
Deduct - Excess of Expenditures Over Revenues	<u>.00</u>
Fund Balance - June 30, 1982	<u>1.00</u>

\*See Notes to Financial Statements.

REVENUE SHARING TRUST FUND

## STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

For the Fiscal Year Ended June 30, 1982

Cash Balance - July 1, 1981	1.00
Receipts:	
Intergovernmental	<u>153,983.00</u>
Total Cash Available	153,984.00
Disbursements:	
Transfers to General Fund	<u>153,983.00</u>
Cash Balance - June 30, 1982	<u>1.00</u>

\*See Notes to Financial Statement.

BROOKHAVEN STORM SEWER ESCROW FUND  
STATEMENT OF ASSETS AND LIABILITIES

ARISING FROM CASH TRANSACTIONS

June 30, 1982

ASSETS

Cash	15,805.54
Due from General Fund	<u>3,000.00</u>
TOTAL ASSETS	<u><u>18,805.54</u></u>

LIABILITIES, RESERVES & FUND BALANCE

Fund Balance	<u>18,805.54</u>
TOTAL LIABILITIES, RESERVES & FUND BALANCE	<u><u>18,805.54</u></u>

\*See Notes to Financial Statement.

BROOKHAVEN STORM SEWER ESCROW FUND

## ANALYSIS OF CHANGES IN FUND BALANCE

For the Fiscal Year Ended June 30, 1982

Fund Balance - July 1, 1981	18,567.77
Add - Excess of Revenues Over Expenditures	<u>237.77</u>
Fund Balance - June 30, 1982	<u><u>18,805.54</u></u>

\*See Notes to Financial Statements.

BROOKHAVEN STORM SEWER ESCROW FUND  
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS  
For the Fiscal Year Ended June 30, 1982

Cash Balance - July 1, 1981	15,567.77
Receipts:	
Interest Earnings	<u>237.77</u>
Total Cash Available	15,805.54
Disbursements	<u>          -</u>
Cash Balance - June 30, 1982	<u><u>15,805.54</u></u>

\*See Notes to Financial Statements.

TRUST FUND  
COMBINED BALANCE SHEET  
June 30, 1982

	<u>Total Trust Funds</u>	<u>Policemen's Pension or Relief Fund</u>	<u>Firemen's Pension or Relief Fund</u>
<u>ASSETS</u>			
Cash	11,100.42	9,603.02	1,497.40
Investments	45,347.52	1,322.99	44,024.53
Revenue Sharing Trust Fund	<u>941.88</u>	<u>490.36</u>	<u>451.52</u>
TOTAL ASSETS	<u>57,389.82</u>	<u>11,416.37</u>	<u>45,973.45</u>
<u>LIABILITIES, RESERVES &amp; FUND BALANCE</u>			
Fund Balances	<u>57,389.82</u>	<u>11,416.37</u>	<u>45,973.45</u>
TOTAL	<u>57,389.82</u>	<u>11,416.37</u>	<u>45,973.45</u>

\*See Notes to Financial Statements.

TRUST FUNDS

## ANALYSIS OF CHANGES IN FUND BALANCES

For the Fiscal Year Ended June 30, 1982

	<u>Total Trust Funds</u>	<u>Policemen's Pension or Relief Fund</u>	<u>Firemen's Pension or Relief Fund</u>
Fund Balances - July 1, 1981	<u>51,365.46</u>	<u>9,576.30</u>	<u>41,789.16</u>
Add - Excess of Revenues Over Expenditures:			
Revenues	42,551.86	13,922.29	28,629.57
Expenditures	( <u>36,527.50</u> )	( <u>12,082.22</u> )	( <u>24,445.28</u> )
TOTAL	<u>6,024.36</u>	<u>1,840.07</u>	<u>4,184.29</u>
Fund Balances - June 30, 1982	<u><u>57,389.82</u></u>	<u><u>11,416.37</u></u>	<u><u>45,973.45</u></u>

\*See Notes to Financial Statements.



TRUST FUNDS

## COMBINED STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

For the Fiscal Year Ended June 30, 1982

	<u>Total Trust Funds</u>	<u>Policemen's Pension or Relief Fund</u>	<u>Firemen's Pension or Relief Fund</u>
Cash Balances - July 1, 1981	<u>6,284.43</u>	<u>4,362.21</u>	<u>1,922.22</u>
Receipts:			
Employee's Contributions	16,568.05	8,369.38	8,198.67
Employer's Contributions	21,049.22	5,458.27	15,590.95
From General Fund	6,132.78	4,723.73	1,409.05
Investments Matured	39,466.80	-	39,466.80
Interest Received	5,414.77	39.98	5,374.79
TOTAL CASH RECEIPTS	<u>88,631.62</u>	<u>18,591.36</u>	<u>70,040.26</u>
Total Cash Available	<u>94,916.05</u>	<u>22,953.57</u>	<u>71,962.48</u>
Disbursements:			
Pension Payments	28,011.14	6,710.54	21,300.60
Refund of Contributions	7,880.36	5,056.68	2,823.68
Secretary's Salary	540.00	240.00	300.00
Investments Purchased	47,288.13	1,268.33	46,019.80
Miscellaneous	96.00	75.00	21.00
TOTAL CASH DISBURSEMENTS	<u>83,815.63</u>	<u>13,350.55</u>	<u>70,465.08</u>
Cash Balances - June 30, 1982	<u>11,100.42</u>	<u>9,603.02</u>	<u>1,497.40</u>

\*See Notes to Financial Statements.

TAX LEVY ISSUE OF 1959 - PUBLIC IMPROVEMENTS

## BALANCE SHEET

June 30, 1982

ASSETS

Cash With Fiscal Agent	24,777.18
Due From General Fund	<u>383.84</u>
TOTAL ASSETS	<u>25,161.02</u>

LIABILITIES

Bonds Payable	78,000.00
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FUND BALANCE

Fund Balance	( <u>52,838.98</u> )
TOTAL LIABILITIES, RESERVES & FUND BALANCE	<u>25,161.02</u>

\*See Notes to Financial Statements.

TAX LEVY ISSUE OF 1959 - PUBLIC IMPROVEMENTS

## ANALYSIS OF CHANGES IN FUND BALANCE

For the Fiscal Year Ended June 30, 1982

Fund Balance - July 1, 1981	(59,811.66)
Add - Excess of Revenues Over Expenditures	<u>6,972.68</u>
Fund Balance - June 30, 1982	<u>(52,838.98)</u>

\*See Notes to Financial Statements.

TAX LEVY ISSUE OF 1959 - PUBLIC IMPROVEMENTS  
STATEMENT OF REVENUES, EXPENDITURES & FUND BALANCE  
For the Fiscal Year Ended June 30, 1982

REVENUES

General Property Taxes	<u>10,010.18</u>
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EXPENDITURES

Interest on Bonds	<u>3,037.50</u>
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EXCESS TO FUND BALANCE	6,972.68
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FUND BALANCE - July 1, 1981	( <u>59,811.66</u> )
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FUND BALANCE - June 30, 1982	<u>(52,838.98)</u>
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\*See Notes to Financial Statements.

CITY OF NITRO, WEST VIRGINIA

SCHEDULE OF BONDS PAYABLE

June 30, 1982

GENERAL OBLIGATION BONDS						
Interest Rates & Dates	Issue Date	Maturity Date	Authorized and Issued	Retired	Outstanding	
1959 Public Improvement						
3-3/4% (May 1/Nov. 1)	5/1/59	1993	<u>168,000</u>	<u>90,000</u>	<u>78,000</u>	
REVENUE BONDS						
1964 Sewer Improvement						
4-1/4% (September 1)	9/1/64	1998	<u>966,000</u>	<u>436,000</u>	<u>530,000</u>	

\*See Notes to Financial Statement.

## CITY OF NITRO, WEST VIRGINIA

NOTES TO FINANCIAL STATEMENT

June 30, 1982

Note 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A summary of significant accounting policies of the City of Nitro is as follows:

(a) Fund Accounting

The accounts of this municipality are organized on the basis of funds or groups of accounts, each of which is considered to be a separate accounting entity. The operations of each fund are accounted for by providing a separate set of self-balancing accounts which comprise its assets, liabilities, fund balance, revenues, expenditures and transfers. The various funds are grouped by type in the financial statements.

(b) Basis of Accounting

Although the municipality maintains its accounting records on a basis of cash receipts and disbursements, the financial statements of the General Fund and Sanitary Board were prepared on a modified accrual basis. However, the financial statements of the other funds have been prepared on a basis of cash receipts and disbursements.

Generally accepted accounting principles (GAAP) require that governmental units follow the accrual basis of accounting for the Enterprise, Internal Service, Nonexpendable Trust and Pension Trust funds. For the General, Special Revenue, Debt Service, Capital Projects, Special Assessment, Expendable Trust and Agency fund, the modified accrual basis of accounting is recommended.

(c) Investments

The securities included in investments are stated at cost, which approximates market.

(d) Inventories

The municipality considers inventories as expenditures at the time of purchase; therefore, they do not appear on the municipality's financial statements.

(Continued)

Note 2 - EMPLOYEES RETIREMENT SYSTEM

The City of Nitro is a member of the following retirement systems established by West Virginia general statutes and administered by the State and the City:

(a) The West Virginia Public Employees Retirement System covers all full-time employees (except police and fire department personnel) of the City. The City's contribution was \$43,334.48, which was 10.5% of the total participating salaries and wages for the year ended June 30, 1982.

(b) The Policemen's Pension or Relief Fund covers all full-time law enforcement officers and is funded in accordance with Chapter 8, Article 22 of the West Virginia Code. The City's contribution for the year ended June 30, 1982 amounted to \$5,458.22.

(c) The Firemen's Pension or Relief Fund covers all full-time fire department personnel and is funded in accordance with Chapter 8, Article 22 of the West Virginia Code. The City's contribution for the year ended June 30, 1982 amounted to \$15,590.95.

Note 3 - FIXED ASSETS

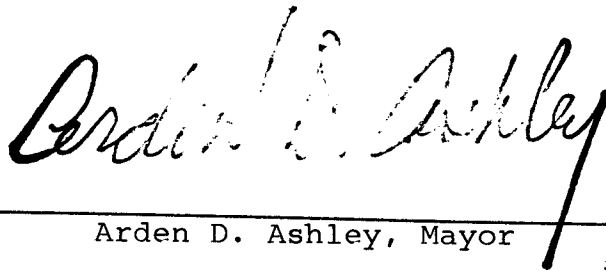
Prior to July 1, 1980, the City had not maintained a record of its general fixed assets as required now by generally accepted accounting principles. With the exception of the swimming pool, other land and buildings owned by the City have been added to the balance sheet at their estimated value. The swimming pool was added in the amount of the original bond issue. Fixed asset additions for the current year are recorded at the actual cost.

Mayor Ashley extended an invitation to all to take a tour of the new, still unfinished, ambulance headquarters now located in City Hall.

Councilman at Large Casto extended his thanks to Mayor Ashley and Councilman Moon for their work in locating an ambulance back in Nitro.

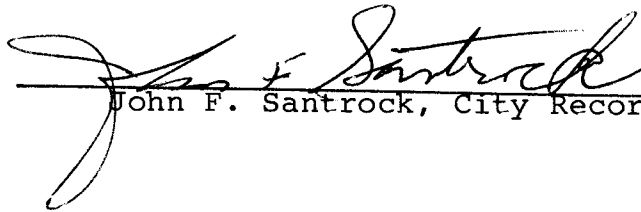
There being no further business, Councilman Cunningham moved for adjournment of the meeting. The motion was seconded. The vote was unanimous and so ordered.

At 9:10 p.m., the meeting was adjourned.



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Arden D. Ashley, Mayor



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John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

## CITY OF NITRO

January 18, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley in Council Chambers on January 18, 1983 at 7:32 p.m. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Ronald King and Councilman Jack Moon. Absent were Councilman Joe Savilla and Councilman Omar Cunningham. Also present were City Treasurer Michael E. Greenleaf and City Attorney Franklin L. Gritt, Jr.

The invocation was given by The Reverend Wade L. Austin of the Nitro Church of God.

AGENDA ITEM NO. 1 - APPROVAL OF JANUARY 4, 1983 COUNCIL MEETING MINUTES: Councilman at Large Casto moved to accept the minutes of the January 4, 1983 Council meeting as written. The motion was seconded. The vote was unanimous and so ordered, with City Recorder Santrock abstaining.

AGENDA ITEM NO. 1B - APPOINTMENT OF PHILLIP D. GAUJOT AS CITY ATTORNEY: Mayor Ashley asked Council to approve the appointment of Phillip D. Gaujot, Esquire, as City Attorney due to the resignation of Franklin L. Gritt, Jr. Councilman at Large Casto moved for such action. The motion was seconded. The vote was unanimous and so ordered.

Council extended their thanks and gratitude to Frank Gritt and the law firm of Calwell, McCormick & Peyton for their fine work on behalf of the City.

AGENDA ITEM NO. 2 - SECOND READING OF ORDINANCE TO PETITION FOR ANNEXATION TO CITY OF NITRO: City Recorder Santrock introduced, for the second time, the ordinance to annex an area north of the existing municipal boundaries of the City of Nitro situate on the waters of Armour Creek, Kanawha and Putnam Counties, West Virginia. He further moved that Council accept the ordinance and that he send a certificate of the governing body of the municipality of Nitro to the County Court in the proper manner. The motion was seconded. There being no questions or comments, the vote was taken and was unanimously ordered.

The ordinance is as follows:

AN ORDINANCE TO ANNEX AN AREA NORTH OF THE EXISTING MUNICIPAL BOUNDARIES OF THE CITY OF NITRO SITUATE ON THE WATERS OF ARMOUR CREEK, KANAWHA AND PUTNAM COUNTIES, WEST VIRGINIA

WHEREAS, on December 7, 1982, at a regularly scheduled and properly convened session of the City Council of the City of Nitro, a Petition to annex an area north of the municipal boundaries of the City of Nitro situate on the waters of Armour Creek, Kanawha and Putnam Counties, West Virginia, was presented by residents of said area to the members of the City Council; and,

WHEREAS, the area of proposed annexation does not lie within any existing municipality; and,

WHEREAS, the area of proposed annexation is urban in character containing more than one hundred inhabitants; and,

WHEREAS, the area of proposed annexation contains less than one square mile of additional territory; and,

WHEREAS, the City Council of the City of Nitro has caused a verification and certification of the signatures and addresses contained therein to be made and the Council finding the Petition to be in all other respects proper, does therefore ORDAIN that the hereinbelow described area be, and the same hereby is, ANNEXED into the City of Nitro, a West Virginia municipality;

BEGINNING at a point in the intersection of the eastern right of way line of WV State Route 62 (Cross Lanes Drive) and the northern corporation line of the City of Nitro;

Thence with Cross Lanes Drive's eastern right of way line in a northerly direction approximately 2,810 feet to the intersection of WV County Route 35/14 (Woodland Drive) and Cross Lanes Drive;

Thence continuing with Cross Lanes Drive's eastern right of way line approximately 1,300 feet to a point; Thence leaving Cross Lanes Drive N 82° 00' E, 180 feet to a point; Thence

S 60° 00' E, 510 feet to a point; Thence

N 38° 40' E, 730 feet to a point; Thence

S 54° 40' E, 720 feet to a point; Thence

S 71° 10' E, 1,120 feet to a point in the western right of way line of Asbury Lane; Thence with the

western right of way line of Asbury Lane approximately 140 feet to the intersection of Asbury Lane and the Monsanto Hunting and Fishing Club Road;

Thence with the southerly right of way line of the Monsanto Hunting and Fishing Club Road in an easterly direction approximately 140 feet to a point in the right of way line; Thence

S 33° 15' W, 50 feet to a point; Thence

S 70° 15' E, 850 feet to a point; Thence

S 72° 30' E, 250 feet to a point; Thence

S 30° 20' E, 155 feet to a point; Thence

S 19° 30' E, 120 feet to a point; Thence

S 8° 10' E, 245 feet to a point; Thence

S 11° 05' W, 140 feet to a point; Thence

S 35° 00' W, 380 feet to a point; Thence

S 0° 30' E, 330 feet to a point in the northern corporation line of the City of Nitro;

Thence with the corporation line for the next five courses S 72° 00' W, 1,270 feet to a point; Thence

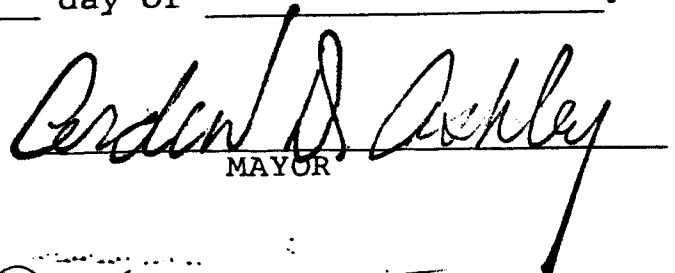
S 48° 30' W, 290 feet to a point; Thence

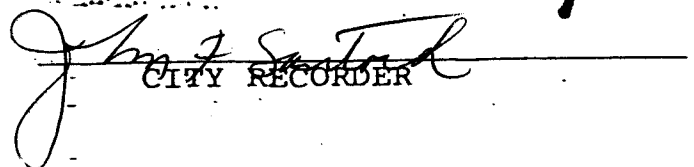
S 23° 35' W, 110 feet to a point; Thence

S 5° 55' W, 120 feet to a point; Thence

S 51° 15' W, 1,200 feet to the point of beginning, located in Union District of Kanawha County and Poca District of Putnam County and containing 0.328 square miles, more or less.

This Ordinance was introduced and read for the first time at a regular meeting of the City Council held on the \_\_\_\_\_ day of January, 1983, and will come up for a second reading and adoption at a regular meeting of the City Council to be held on the \_\_\_\_\_ day of \_\_\_\_\_.

  
MAYOR

  
CITY RECORDER

AGENDA ITEM NO. 3 - NITRO SPRING FESTIVAL: City Recorder Santrock began by stating that the executive group of this coming Spring Festival requests that the City move in the direction of extending the Festival, with a change of date to Memorial Day weekend, May 27th, 28th, 29th and 30th.

Councilwoman at Large Trout stated that the Library Committee has been planning an Arts & Crafts Fair and while exploring the possibilities found that the Memorial Day weekend would be good time for such an event. She stated that the Arts & Crafts Fair will be included in the Spring Festival program. The Fair will include original works and entertainment at no charge to the public.

City Recorder Santrock stated that there will be a 15K distance run, as in the past. Recreation Director Simms further reiterated on the schedule of events. Also included will be concert at Ridenour Lake, inter-city competition, awards ceremony, pool opening, fireworks display, old-fashioned breakfast at the City Park, and Memorial Day ceremony.

Mayor Ashley stated that the concert at Ridenour Park will require a vote of approval from Council because of the expenditure of City funds, which he stated should only be a temporary expenditure due to the sale of tickets. This would cost the City approximately ten thousand dollars (\$10,000).

City Recorder Santrock moved that Council approve giving the Festival Committee the authority to spend up to ten thousand dollars (\$10,000), with an up-front figure of about five thousand dollars (\$5,000) for contract purposes, to secure participants for the planned concert. The motion was seconded.

Council members expressed their concern about the possibility of not selling the amount of tickets needed to get back the ten thousand dollars expended to bring this concert to Nitro. City Treasurer Greenleaf stated that the City does not have this money to spend, but that an enterprise fund can be created for such purpose. Michael Weikle of the Bank of Nitro stated that he felt that the bank could give the City a loan in case enough tickets were not sold to meet the funds expended.

There being no further questions, a vote was taken and was reluctantly unanimous to authorize the underwriting of the concert in the amount of ten thousand dollars (\$10,000), with the entertainment to be selected by the Committee, chaired by Michael Weikle.

AGENDA ITEM NO. 4 - ZONING BOARD OF APPEALS REPORT: The minutes of the January 17, 1983 Zoning Board of Appeals are as follows:

ZONING BOARD OF APPEALS

## MINUTES

January 13, 1983

The Board of Zoning Appeals of the City of Nitro held a public hearing at 7:00 p.m., Thursday, January 13, 1983 at City Hall. Members present were Chairman Cecil Lemma, The Reverend Wade L. Austin and Secretary John F. Santrock.

Decisions were made as follows:

Application of David Francisco seeking a variance to permit him to build steps three (3) feet from property line, rather than the five (5) feet required by the Zoning Code. These steps would give Mr. Francisco a second entrance and exit from the upstairs apartment. The property is located at 1408 14th Street.

Permission was given to Mr. Francisco by majority vote. The steps are to be metal.

Application of W. A. Braulin, located at 1104 First Avenue, South, who sought a variance permitting him to locate a residence in a B-2 Zone one-half block away.

Permission was denied in that this involves changing a zone which is not within jurisdiction of the Zoning Board of Appeals. Authority zone change requests must be by ordinance passed by Council.

Cecil Lemma, Chairman

AGENDA ITEM NO. 5 - NITRO'S 50 + 1 ANNIVERSARY REPORT (FEBRUARY 20, 1983): City Recorder Santrock announced the scheduled events for this year's anniversary celebration. Those are as follows: A presentation by A. James Manchin and reception involving photographs of the past year's events at the High School cafeteria.

AGENDA ITEM NO. 6 - REPORT ON WARD REVIEW: City Recorder Santrock stated that the Ward Committee has not met as of yet due to the possibility of new State Legislation and because it has been impossible to get the necessary data from the County Clerk's office. The purpose of this meeting will be to decide the proper balance in ward population. Mr. Santrock stated that he would plan for such a meeting and report back to Council on the results.

AGENDA ITEM NO. 7 - 1984 ELECTION REPORT: City Recorder Santrock asked Council to think about whether they would prefer paper ballots or machine ballots for the 1984 election. He further stated that he will find exact figures from the County Clerk's office to present to Council on the cost of machine ballots.

AGENDA ITEM NO. 9 - PERMISSION TO SOLICIT NITRO RESIDENTS FOR MARCH OF DIMES: Councilman at Large Casto moved for such action. The motion was seconded. The vote was unanimous and the motion so ordered.

AGENDA ITEM NO. 8 - SWIMMING POOL REPORT AND RECOMMENDATIONS: Mayor Ashley called upon Recreation Director John Simms to explain the reports and recommendations he prepared for future plans for the City Pool.

The following are the proposed rates for the 1983 season as shown to Council:

DAILY RATES:      General Admission    -    \$2.00  
                          Senior Citizens        -    \$1.00

\*Children age six (6) and under  
       admitted free when accompanied  
       by a paying adult.

GENERAL RATES:    Family Pass Before 5-1-83        - \$55.00  
                          Individual Pass Before 5-1-83 - \$25.00  
                          Family Pass After 5-1-83        - \$65.00  
                          Individual Pass After 5-1-83    - \$30.00

\*All rates are doubled for non-residents.

These rates will be referred to Council for consideration at a future meeting.

Also discussed was the bidding on concession at the pool for the 1983 season. Mr. Simms stated that the revised budget does not address concession one way or the other. City Recorder Santrock stated that specifications will be prepared for bids on the concession at the pool. Council agreed.

Councilman King moved that Council offer a ten dollar (\$10.00) discount on 1983 family pool passes and a five dollar (\$5.00) discount on individual passes until the end of April, 1983. The motion was seconded. City Treasurer Greenleaf stated that the pool has certain operating expenses associated with it and as long as the City is able to meet those expenses it would be fine. A vote was taken on the motion and was unanimous and so ordered.

Mayor Ashley pointed out to Council the letter from the Kanahwa-Charleston Health Department concerning the condition of the wading pool at the City Pool. Discussed at prior meetings was the enclosing of the wading pool area, disposal of the wading pool itself by City employees and equipment, and the expanding of playground equipment in that area. Councilman Moon moved for such action. The motion was seconded. The vote was unanimous and so ordered.

Recreation Director Simms handed out to Council for approval a request for revisions to the 1982-83 Recreation Department budget. Those are as follows:

- |     |  |             |
|-----|--|-------------|
| (1) | Repair broken skimmer line   | \$ 400.00   |
| (2) | Replace filter tank  | \$14,768.00 |
|     | *or bolt bulkheads in place<br>and replace sand and gravel<br>in filter (\$4,768.00) |             |
|     | *or replace top layer<br>of sand (\$2,500.00)  |             |
| (3) | Repaint pool   | \$ 4,436.50 |
|     | *or attempt to repaint<br>the worst areas (\$2,000.00)                               |             |
| (4) | Remove and replace approximately<br>fifty percent of deck area                       | \$ 3,200.00 |
|     | *or remove and replace the<br>worst areas (\$1,600.00)                               |             |
|     | *or replace only areas necessary<br>to repair skimmer line (\$800.00)                |             |
| (5) | Replace filter valves  | \$ 1,800.00 |
|     | *or replace only key<br>valves (\$800.00)  |             |

Mayor Ashley asked the Recreation Director which of the above were absolutely necessary for the opening of the pool for this season. Mr. Simms explained the necessary repairs as being the repair of the broken skimmer line, the replacement of the top layer of sand in filter, minimum paint repairs, slippage on deck area replaced (hollow section), and filter valves to operate as they are (could be replaced by our people during season).

Questions were asked relative to painting of the pool areas this past year. Were instructions followed? Did the company give consultant services? Has City asked for recourse from the paint supplier?

Council leaned toward making the City Pool operational this year (1983) with a cost of approximately \$3,700. Councilman Mon moved to table this question. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 10 - NOMINATION TO WORLD WAR I COMMISSION: Councilman Moon moved to nominate Mr. Jack Moody for membership on the ten-member World War I Commission. The motion was seconded. The vote was unanimous and so ordered.

Mayor Ashley made a proposal to Council for their indulgence on the creation of a World War I museum at the old water intake building and adjacent property formerly known as the landfill site at the next Council meeting. Mayor Ashley stated that it was suggested to him by persons such as the National Archives Association and the Department of Culture and History that a library be located at the site, without the expenditure of public funds. Also suggested was a boat launch facility.

AGENDA ITEM NO. 11 - NITRO SUMMER CAMP: Permission has been secured from Union Boiler to hold two (2) one-week summer camp sessions in August, 1983, for boys and girls ages ten to thirteen. This property is an eighteen (18) acre tract in the woods adjacent to Ridenour Lake. A "hold harmless" agreement is necessary to protect Union Boiler from liability.

Recreation Director Simms, in working with others, has developed a meaningful activities program which includes: Water activities. Camping. Hiking. Competition. Wildlife. Mr. Gary Hill has agreed to serve as the executive director. Volunteers will be used for the program.

#### COMMITTEE REPORTS

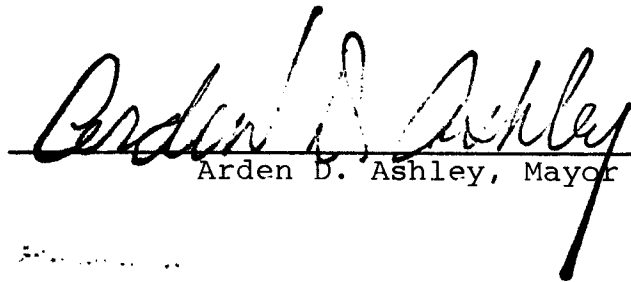
Permission was unanimously approved for the City to request funds from the Department of Natural Resources in the amount of \$590.00, requested by Ridenour Lake Wildlife Committee and Councilman at Large Casto, following a lengthy discussion about a contract with the Soil Conservation restrictions and the impact of beauty at Ridenour Lake area.

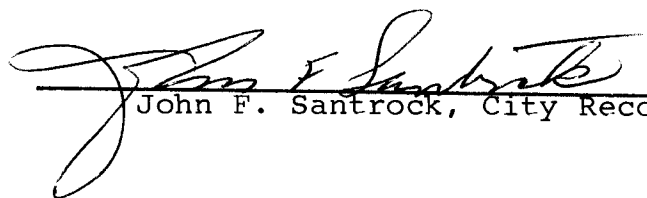
Mayor Ashley shared the response of our citizenry in assisting the family of Jimmy Atkins in their recent loss of home through fire. The Mayor also shared information relative to the loss of home by a City employee - William Brown - who lives in the Hurricane area.



There being no further business, City Recorder Santrock moved to adjourn the meeting. The motion was seconded. The vote was unanimous and so ordered.

At 10:05 p.m., the meeting was adjourned.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

## CITY OF NITRO

February 1, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley in Council Chambers on February 1, 1983 at 7:30 p.m. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman Joe Savilla, Councilman Ronald King and Councilman Jack Moon. Absent were Councilman at Large Steven West and Councilman Omar Cunningham. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by Councilman Joe Savilla.

AGENDA ITEM NO. 1 - CITIZEN OF THE MONTH: Mayor Ashley presented the February Citizen of the Month award to Ms. Helen Workman, President of the Nitro Business and Professional Association.

AGENDA ITEM NO. 2 - APPROVAL OF JANUARY 18, 1983 COUNCIL MEETING MINUTES: Councilman at Large Casto corrected the amount of \$590.00 in the first paragraph of the Committee Reports to be \$416.00 requested from the Department of Natural Resources.

There being no further corrections, Councilman at Large Casto moved for the approval of the January 18, 1983 Council meeting minutes. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 3 - FIRST READING OF ORDINANCE 83-2 - ADMISSION CHARGES TO CITY SWIMMING POOL FACILITIES, 1983: City Recorder Santrock read the ordinance governing the admission charges to the City swimming pool for the 1983 season.

The ordinance is as follows:

ORDINANCE 83-2

SWIMMING POOL RATES - 1983

SECTION 19-6 - Admission Charges to City Swimming Pool Facilities states, "The charges for admission to the City Swimming Pool facilities shall be from time to time established by the City Council by ordinance."

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that the Swimming Pool rates for 1983 are as follows:

	<u>PASSES</u>	
	<u>Resident</u>	<u>Non-resident</u>
Family	\$70.00*	\$140.00
Individual	\$35.00**	\$ 70.00

\* \$10.00 discount if purchased before May 1  
 \*\* \$ 5.00 discount if purchased before May 1

	<u>DAILY RATES</u>	
	<u>Resident</u>	<u>Non-resident</u>
Adult	\$2.00	\$4.00
Child (under six accompanied by an adult)	Free	\$1.00
Senior Citizen	\$1.00	\$1.00

Pool Hours: Daily/Saturday - 11:00 a.m. - 7:00 p.m.  
 Sunday - 1:00 p.m. - 6:00 p.m.

Pool Rental: \$20.00 per hour after 7:00 p.m.

This ordinance was read and introduced for the first time at the regular meeting of the City Council of the City of Nitro on \_\_\_\_\_, 1983, and adopted by second reading on \_\_\_\_\_ 1983.

This ordinance replaces Ordinance 82-3, adopted May 18, 1982.

City Recorder Santrock stated that these prices will be advertised in the newspapers so that anyone may appear before Council for the purpose of protest.

Councilman at Large Casto moved to accept the first reading of the above-stated ordinance as written, which included changing the price of admission for senior citizens from \$2.00 to \$1.00. The motion was seconded. There being no further discussion, the vote was taken and was unanimous and so ordered, with Councilman King voting negatively on the matter.

AGENDA ITEM NO. 4 - APPLICATION OF WEST SATTES ELEMENTARY SCHOOL FOR SOLICITATION PERMIT: City Recorder Santrock moved that Council give the West Sattes P.T.A. permission to solicit in the City from February 1, 1983 through April 30, 1983. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 5 - THE GREAT KANAWHA RESOURCE CONSERVATION AND DEVELOPMENT AREA PLAN: City Recorder Santrock moved that Council permit The Mayor to sign the "Great Kanawha Resource Conservation and Development Area Plan" for Nitro. This document includes the requesting of funds for trees to be planted along First Avenue. Mayor Ashley stated further that the R.C. & D. is in the process of attempting to locate some funds for the City for other projects in the City. The motion was seconded.

There being no further discussion, the vote was taken and was unanimously ordered.

AGENDA ITEM NO. 6 - FIRST READING OF ORDINANCE - KANAWHA CABLEVISION CONTRACT: City Recorder Santrock asked for Council's approval on the first reading of the following ordinance:

## ORDINANCE 83-3

AN ORDINANCE TO AMEND AN ORDINANCE, AS AMENDED, GRANTING TO KANAWHA CABLE TELEVISION COMPANY A CERTAIN ORDINANCE AND TO GRANT AND EXTEND TO KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, THE RIGHT AND PRIVILEGE TO ENGAGE IN THE SERVICE OF OPERATING, CONSTRUCTING, PROVIDING, INSTALLING, REPAIRING, REPLACING AND MAINTAINING A CABLE OR COMMUNITY ANTENNA TELEVISION SYSTEM (CATV), AND FOR THAT AND RELATED PURPOSES TO ORIGINATE, TRANSMIT, DISTRIBUTE AND RELAY SIGNALS, BY AND THROUGH WIRES, CABLES OR OTHER DEVICES OR LIKE CONNECTIONS, IN, THROUGH, ON, ACROSS, OVER, UNDER, TO AND FROM PUBLIC STREETS, ALLEYS, WAYS, PLACES, SPACE AND RIGHTS OF WAY, TO RECEIVERS, TELEVISION SETS AND LIKE DEVICES OF SUBSCRIBERS TO SAID SERVICE IN THE CITY OF NITRO, WEST VIRGINIA, ENACTED JANUARY 19, 1965, AS AMENDED, TO CONTINUE AND EXTEND SERVICE BY ORDINANCE AND BY CONTRACTUAL AGREEMENT; TO ESTABLISH A FEE PAYABLE TO THE CITY FOR THE RIGHT AND PRIVILEGE OF ENGAGING IN SUCH SERVICE AND ESTABLISHING APPLICATION OF MUNICIPAL BUSINESS AND OCCUPATION TAX.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA;

That an ordinance entitled an ordinance granting to Kanawha Cable Television Company a certain franchise and to grant and extend to Kanawha Cable Television Company, a corporation, the right and privilege to engage in the service of operating, maintaining a cable or Community Antenna Television System (CATV) and for that and the related purposes to originate, terminate, distribute and relay signals by and through wires, cables, or other devices or like connection, in, through, on, across, over, under, to and from public streets, alleys, ways, places, space and rights of way, to receivers, television sets, or like devices of subscribers to said service in the City of Nitro, West Virginia, as enacted January 19, 1965, and as amended, to be amended to continue and to extend the service by this ordinance and by written contractual agreement; to establish a fee payable to the City of Nitro by Kanawha Cable Television Company, a corporation, for the exercise of such right and privilege and the number of years such right and privilege shall be exercised and to define the taxable income of such service.

SECTION 1A

The City of Nitro hereby extends to Kanawha Cable Television Company, a corporation, the right and privilege to engage in the City of Nitro in the service of operating, constructing, providing, installing, repairing, replacing and maintaining a cable or Community Antenna Television System (CATV) and for that and related purposes to originate, terminate, distribute, or relay signals by and through wires, cable or other devices or

like connections, in, through, on, across, over, under, to and from public streets, alleys, ways, placed, spaces and rights of way to receivers, television sets, and like devices to subscribers to said service. For this right and privilege of engaging in this service, Kanawha Cable Television Company, a corporation, shall pay to the City of Nitro the annual sum of \$2,000.00, payable on the effective date of this ordinance, and on the anniversary date thereafter, and for a term for which the ordinance of January 19, 1965 provided, namely, twenty-five (25) years from that date; and for an additional ten (10) years for Kanawha Cable Television Company, a corporation, to engage in the said service.

City Recorder Santrock stated that the main item in the ordinance is the collecting of two thousand dollars (\$2,000) instead of one thousand dollars (\$1,000) as the previous contract stated. Mr. Santrock moved to accept the first reading of the above ordinance and contract with Kanawha Cable Television Company.

City Attorney Gaujot stated that he foresees a potential problem in the negotiated figure of the two thousand dollars annual fee to the City from Kanawha Cable Television Company. Mr. Patton of the cable company stated that contracts are always negotiable, in case there is a problem with that figure in the future.

Councilman Savilla asked if Council should even approve the first reading of the ordinance with such a problem, or if the ordinance could be amended at the time of the second reading. Mayor Ashley stated that it would require either an adoption on the second reading or a modification on the first reading. He further stated that there is no real question, but that an agreement is needed. Councilman Savilla seconded the City Recorder's motion.

After some general discussion, the vote was taken to approve the first reading of the above-mentioned ordinance and was unanimous and so ordered.

AGENDA ITEM NO. 7 - RESOLUTION - URBAN DEVELOPMENT ACTION GRANT APPLICATION: Mayor Ashley called upon Councilman Savilla to introduce the resolution authorizing the Mayor to execute a final grant application to the U. S. Department of Housing and Urban Development to assist in the development of the Nitro Industrial Park.

The resolution is as follows:

## RESOLUTION 83-1

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF NITRO TO EXECUTE ON BEHALF OF THE CITY OF NITRO A FINAL GRANT APPLICATION TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO ASSIST IN THE DEVELOPMENT OF THE NITRO INDUSTRIAL PARK.

WHEREAS, Urban Development Action Grant (UDAG) funding is available only to municipalities and urban counties experiencing fiscal and physical distress; and

WHEREAS, the U. S. Department of Housing and Urban Development has established criteria which it uses to measure distress in municipalities and urban counties; and

WHEREAS, the U. S. Department of Housing and Urban Development has determined that Nitro meets the level of distress established by the distress criteria; and

WHEREAS, the Nitro Industrial Park, Inc., approached the City of Nitro to provide assistance to the above-mentioned Development; and

WHEREAS, the City of Nitro does not have the financial resources to provide assistance to this development; and

WHEREAS, UDAG is a flexible funding tool which encourages leveraging of private investment to provide increased employment and taxes; and

WHEREAS, the City of Nitro is applying for UDAG funds to provide assistance to the Nitro Industrial Park; and

WHEREAS, the governing body of the City of Nitro must authorize the submission of the application by resolution before the application can be made; and

WHEREAS, the said application requests approximately \$2,000,000 in UDAG funds and it is proposed that these funds will be used to assist in the development of the Nitro Industrial Park and the developer has agreed to provide an investment of approximately \$4,000,000 on the Development of said industrial park; and

WHEREAS, the application must be made before February 28, 1983; and

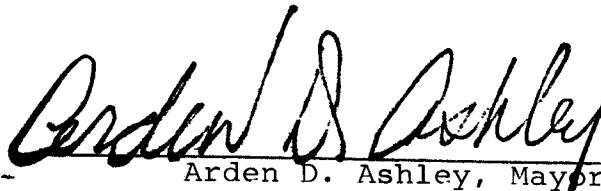


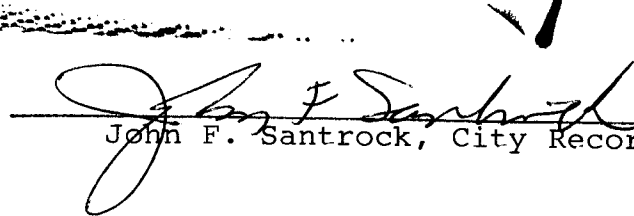
WHEREAS, it is in the best interest of the City of Nitro that said application be now made.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, THAT:

The Mayor of the City of Nitro is hereby authorized and directed to file an application and sign said application, including all understandings and assurances contained therein, on behalf of the City of Nitro, with the U. S. Department of Housing and Urban Development. It is further resolved that the Mayor should file the above-mentioned UDAG application on or before February 28, 1983, for the purpose of securing assistance for the Nitro Industrial Park, Inc.

Passed by Council this the 1st day of February, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

Councilman Savilla moved for the adoption of Resolution 83-1 for the above-stated action. The motion was seconded. Mayor Ashley asked Councilwoman at Large Trout to take the Chair and he stepped down to explain that this resolution is for nothing more than allowing the City to participate in an arrangement through H.U.D. whereby the moneys would pass from the Federal Government into the local banks in the area and on to the industrial park, and that this money will go to the development of that park for use by the developers. Then that money will be paid back to the City of Nitro, with interest. Not to the Federal Government.

After brief discussion, a vote was taken and was unanimous and so ordered.

#### COMMITTEE REPORTS

Councilman at Large Casto reported to Council that the children in the area grade schools will soon be voting on a City tree, bird, insect, fish and animal. Winners will be announced at the 51st Birthday celebration. Councilman at Large Casto moved for such action. The motion was seconded. The vote was unanimous and so ordered.

Councilman King stated to Council that C & P Telephone Company is requesting of the City permission to place an interface (Cross-connect point) cabinet on the sidewalk adjacent to the Nitro High School parking lot at a point approximately ten feet east of telephone police number 9111/120. A motion to table the decision on this request was made by Councilman Moon pending further investigation and possible alternatives with Councilman King appointed by Mayor Ashley to meet with C & P authorities.

The motion was seconded. The vote was unanimous and so ordered.

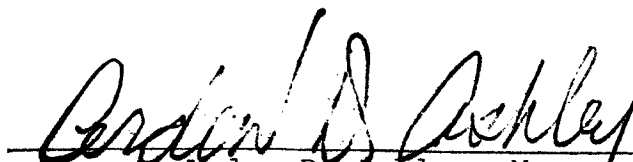
Councilman Moon, on behalf of Mr. Jim Hutchinson, came before Council and asked that a few yield signs be placed at the circle side of Valentine Circle going west to the West Sattes School to help control traffic in that area, where some near misses have occurred. Mayor Ashley suggested that this matter be taken to the Traffic Committee through Police Chief Cochran.

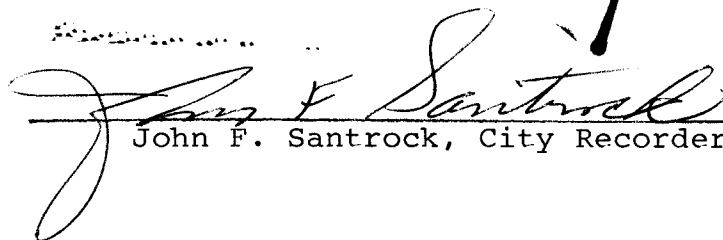
City Recorder Santrock announced that the contract has been signed for the appearance of Jeannie C. Riley and the Dalton Gang at the Spring Festival. Tickets should be ready for sale soon.

Mayor Ashley announced that the next Council meeting will be at Nitro High School on February 15, 1983 at 7:30 p.m.

There being no further business, Councilman King moved for adjournment. The motion was seconded. The vote was unanimous and so ordered.

At 8:38 p.m. the meeting was adjourned.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

CITY OF NITRO

February 15, ~~1982~~<sup>1983</sup>

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at Nitro High School on February 15, 1983 at 7:00 p.m. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman Steven West, Councilman Joe Savilla, Councilman Ronald King, Councilman Omar Cunningham and Councilman Jack Moon. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by Dr. Marvin D. Frame of St. Paul's United Methodist Church, Nitro.

Mayor Ashley introduced to the audience the City's new attorney, Phillip D. Gaujot.

Mayor Ashley also announced the appointment of Councilman Jack Moon as the State Director of Veteran's Affairs for the State of West Virginia by the Governor of West Virginia.

AGENDA ITEM NO. 1 - APPROVAL OF FEBRUARY 1, 1983 COUNCIL MEETING MINUTES: City Recorder Santrock moved to delete the word "unanimous" on Page 57, Paragraph 2, Line 8, and replace it with "passed 6 to 1".

There being no further corrections to the minutes as written, Councilman Moon moved for the acceptance of such. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 2 - SECOND READING OF ORDINANCE REGARDING ADMISSION CHARGES TO CITY SWIMMING POOL FACILITIES, 1983: City Recorder Santrock read the following ordinance:

ORDINANCE 83-2

SWIMMING POOL RATES - 1983

SECTION 19-6 - Admission Charges to City Swimming Pool Facilities states, "The charges for admission to the City Swimming Pool facilities shall be from time to time established by the City Council by ordinance."

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, that the Swimming Pool rates for 1983 are as follows:

PASSES

	<u>Resident</u>	<u>Non-resident</u>
Family	\$70.00*	\$140.00
Individual	\$35.00**	\$ 70.00

\* \$10.00 discount if purchased before May 1

\*\* \$ 5.00 discount if purchased before May 1

DAILY RATES

	<u>Resident</u>	<u>Non-resident</u>
Adult	\$2.00	\$4.00
Child (under six accompanied by an adult)	Free	\$1.00
Senior Citizen	\$1.00	\$1.00

Pool Hours: Daily/Saturday - 11:00 a.m. - 7:00 p.m.  
Sunday - 1:00 p.m. - 6:00 p.m.

Pool Rental: \$20.00 per hour after 7:00 p.m.

This ordinance was read and introduced for the first time at the regular meeting of the City Council of the City of Nitro on February 1, 1983, and adopted by second reading on February 15, 1983.

This ordinance replaces Ordinance 82-3, adopted May 18, 1982.

After the reading, City Recorder Santrock moved that Council accept the ordinance as written. The motion was seconded. The vote was passed with an 8 to 1 vote, with Councilman King voting in the negative.

AGENDA ITEM NO. 3 - AMERICAN CANCER SOCIETY REQUEST FOR SOLICITATION - APRIL 17, 1983 THROUGH MAY 15, 1983: City Recorder read the request from the American Cancer Society for solicitation within the City from April 17, 1983 through May 15, 1983, and then moved for its acceptance. The motion was seconded. The vote was unanimously ordered.

AGENDA ITEM NO. 4 - CLEAN-UP DRIVE FOR CITY BUSINESS PLACES: Mayor Ashley called upon Councilman at Large Casto to explain his plan for the clean-up of City business places. Councilman at Large Casto moved that Council allow him to send a letter to all business places in the City requesting that they do their part in keeping the City clean by keeping their property areas clean. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 5 - PROPERTY EASEMENT: City Attorney Gaujot explained to Council that he has received a request from Union Boiler asking for a forty-foot right-of-way off of Blakes Creek Road, near the entrance of Blakely Estates. In addition, the City has requested that Union Boiler provide property, owned by Union Boiler, for the purpose of having a site for a summer camp program, which would require a fifty-foot right-of-way. This property will be leased to the City for that camp program for one dollar (\$1.00).

Council recessed for the purpose of having the City Council take a look at the areas in question.

(WHEREUPON, a recess

was taken.)

Councilman Savilla moved that Council form a committee, designated by the Chair, to visit the site in question and examine it, and to table the question until the next Council meeting. The motion was seconded. The vote was unanimous and so ordered.

#### COMMITTEE REPORTS

Councilman at Large Casto reported to Council that he received a reply from Mr. James Morash concerning the money the City has asked for to promote the welfare and well-being of Ridenour Lake and its wildlife. He stated that all signs point to a favorable response on the matter.

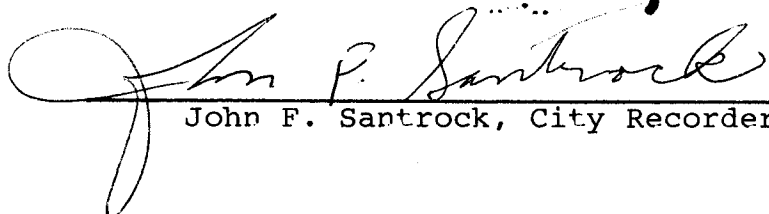
City Recorder Santrock stated that Heck's, Inc. has agreed to sponsor five thousand dollars for our Spring Festival activities. Mr. Santrock called upon Recreation Director John Simms to explain the changes and plans for the Spring Festival. Mr. Simms stated that the activities are planned for May 27, 28, 29 and 30, opening with a concert to be held at Ridenour Lake with Jeannie C. Riley and the Southern Comfort Band. Many other activities are planned for the remainder of the weekend, which include intercity competition, police department competition, a 15-kilometer distance run, fireworks, an arts and crafts fair, and the Memorial Day ceremony to complete the activities.

City Recorder Santrock requested that all be present for the 51st Birthday celebration, featuring Secretary of State A. James Manchin, Congressman Bob Wise, the Nitro High School Senior Choir, and Mayor Ashley. He stated that the program is to begin at the High School auditorium at 1:30 p.m., with the reception at City Hall and open house at the new ambulance quarters. The Nitro Woman's Club will be serving refreshments. Also at the meeting at 1:30 p.m. Councilman at Large Casto will announce the winners of the City's bird, fish, tree and insect.

There being no further business, Councilman Savilla moved for adjournment. The motion was seconded. The vote was unanimous and so ordered.

At 8:00 p.m., the meeting was adjourned.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

CITY OF NITRO

March 1, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley on March 1, 1983 in Council Chambers at 7:33 p.m. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steve West, Councilman A. A. "Joe" Savilla, Councilman Ronald King, Councilman Omar Cunningham and Councilman Jack Moon. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by The Reverend William Westlund of the First Presbyterian Church, Nitro.

AGENDA ITEM NO. 1 - RECOGNITION OF NITRO JR. HIGH BASKETBALL TEAM AND COACH: Councilman at Large Casto recognized the Nitro Jr. High School basketball team, who were unable to attend, and the fine job they have done this season. Councilman at Large Casto stated that the team and coach will be present at the next Council meeting.

AGENDA ITEM NO. 2 - APPROVAL OF FEBRUARY 15, 1983 COUNCIL MEETING MINUTES: Councilwoman at Large Trout moved for the approval of the February 15, 1983 Council meeting minutes as written. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 3 - CITIZEN OF THE MONTH - WILLIAM L. LUCAS: Mayor Ashley announced that the Citizen of the Month for the month of March is Mr. William L. Lucas of Lucas Bakery, a fourth generation bakery owner of Nitro. Mayor Ashley showed to Council a picture and the recipe of the 50th Birthday cake created and baked by Mr. Lucas. A round of applause was had for Mr. Lucas.

AGENDA ITEM NO. 4 - SANITATION BOARD GRANT ANTICIPATION NOTES: Mayor Ashley stated that as a part of the project to have the Armour Creek Main Interceptor Line repaired, the City will have start-up and construction costs take place prior to the distribution of funds forthcoming. The Mayor further stated that in order to finance the construction work, it is necessary to either borrow the money or issue notes, or go into some form of financing that this proposal represents.

Mayor Ashley called upon Max Lemma, Treasurer of the Nitro Sanitary Board, to explain the grant anticipation notes. Mr. Lemma explained to Council the copy of the grant notes and the

figures involved. Mayor Ashley explained that this money is AAA rated and guaranteed because it has already been applied for and received; whereas the City, because of its size and financial history, could not get a AAA rating to issue bonds. The City Treasurer further explained that the Sanitary Board has no capacity to issue bonds, so as a practical and legal matter, the City would have to issue the bonds on their behalf.

Councilman at Large West moved to "authorize the City and the Sanitary Board to enter an agreement for grant anticipation notes just presented" with Baker-Watson Company. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 5 - COMPENSATION REVIEW OF SICK LEAVE: Councilman King explained to Council his concern about the present status of the sick leave provided to City employees. After some discussion, Councilman King read the ordinance changes he would like to see made, and moved for such action.

Further discussion was had about the proper procedure to go through to implement changes in the City Ordinance. Councilman Savilla asked if this action could not constitute the first reading and in between now and the next Council meeting clean-up the language of the ordinance already in effect. City Recorder Santrock stated that it has been done in the past. The previous motion and its second were withdrawn at this time.

Councilman Savilla moved that Council adopt this as the first reading and that the City Attorney check out the legalities of this matter to find out if it is legal for the City to consider this a first reading. The motion was seconded. The vote was unanimous and so ordered.

Those changes are as follows:

#### SECTION 2-41 (Page 39):

"Benefits will begin on the first day of absence due to illness or injury providing the absence is approved by the employee's department head or the employee furnishes a written proof of claim signed by his physician."

#### SECTION 2-41 (Page 38-39)

- (3) Any absence over three (3) days must be accompanied by written proof from the physician.

- (4) Omit Workman's Compensation
- (5) Will become #4
- (6) Will become #5

AGENDA ITEM NO. 6 - BIDS FOR CAN LINERS: City Recorder Santrock showed Council samples and costs from companies bidding on trash can liners.

After discussion between Council members on quality and price, City Recorder Santrock moved that we accept the bid from Copco, Inc. at a price of \$5.049 per thousand, the same bag we have used previously at a lower price. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 9 - ZONING REQUEST: City Attorney Gaujot stated that he had filed a petition with the County Commission and the Commission acted promptly in ordering that the Carriage Way subdivision be annexed into the City of Nitro.

City Recorder Santrock also stated that the people of Carriage Way have requested that their area be zoned and a petition has been circulated for such action. Mr. Santrock stated that this matter must go before the Planning Commission and they must make their recommendation to the Council, and the Council in turn to the County Commission.

The City Recorder moved that the Council refer the request of the residents of Carriage Way, relative to zoning, to the Planning Commission. The motion was seconded. The vote was unanimously ordered.

AGENDA ITEM NO. 7 - FIRST READING OF NITRO INDUSTRIAL PARK ORDINANCE: Councilman Savilla moved that Council dispense with the reading of the entire ordinance and that it be introduced through title only. The motion was seconded. The vote was unanimous and so ordered.

The ordinance in full is as follows:

AN ORDINANCE TO ANNEX A CONTIGUOUS UNINCORPORATED TERRITORY TO AND BECOME PART OF THE CITY OF NITRO, A MUNICIPAL CORPORATION, KANAWHA COUNTY, WEST VIRGINIA, BY A MINOR BOUNDARY ADJUSTMENT

WHEREAS, on the first day of March, 1983, at a regularly scheduled and properly convened session of the City Council of the City of Nitro, a Motion was made to annex by a minor boundary adjustment certain contiguous unincorporated territory to and become part of the City of Nitro, a municipal corporation; and,

WHEREAS, the area of proposed annexation does not lie within any existing municipality; and,

WHEREAS, the City Council of the City of Nitro has determined the number of persons residing in the territory and having prepared an accurate map showing the metes and bounds of such additional territory; and ,

WHEREAS, the City Council of the City of Nitro has determined that the annexation is only a minor boundary adjustment; and

WHEREAS, the City Council of the City of Nitro has no reason to believe that the freeholders of the area proposed to be annexed are ~~not~~ substantially opposed to the proposed boundary change; and

WHEREAS, the City Council of the City of Nitro finds the motion to be in all other respects proper, does therefore ORDAIN that the hereinbelow described area be, and the same hereby is, ANNEXED into the City of Nitro, a West Virginia municipality;

BEGINNING at a point in the Kanawha River, located S.  $23^{\circ} 45'$  W. a distance of 21.72 feet from the northwest corner of the first tract (6.23 acres) conveyed by Nitro Industrial Corporation to American Viscose Corporation; thence running 21.72 feet equidistant from and parallel to the northerly line of said first tract on a course S.  $66^{\circ} 15'$  E. a distance of 282.61 feet to a P. K. nail set in the south side of the concrete base of a fence post; thence S.  $23^{\circ} 45'$  W. a distance of 19.28 feet to a 1" iron pipe; thence S.  $66^{\circ} 15'$  E. a distance of 124.16 feet to a 1" iron pipe; thence S.  $23^{\circ} 45'$  W. a distance of 111.23 feet to a 1" iron pipe at the end of a concrete wall; thence S.  $66^{\circ} 15'$  E. with the northerly line of said concrete wall a distance of 294.22 feet to a 1" iron pipe located one foot West of an opening in said concrete wall; thence N.  $38^{\circ} 21'$  E. a distance of 115.97 feet to a 1" iron pipe; thence S.  $71^{\circ} 29'$  E. a distance of 12.20 feet to a 1" iron pipe; thence N.  $23^{\circ} 45'$  E. a distance of 38.89 feet to a point in the North line of the aforesaid 6.23 acre tract; thence running with the northerly line of said 6.23 acre tract S.  $66^{\circ} 15'$  E. a distance of 438.19 feet to a 1" iron pipe located

at the northeast corner of said 6.23 acre tract and in the Westerly line of parcel number 1 (57.62 acres); thence with the westerly line of said parcel number 1 N.  $23^{\circ} 45'$  E. a distance of 267.99 feet to a P. K nail in said line; thence leaving the westerly line of said parcel number 1, S.  $66^{\circ} 15'$  E. a distance of 20.00 feet to a 1" iron pipe in the easterly right-of-way line of West Virginia County Route 25/3; thence leaving said West Virginia County Route 25/3, N.  $81^{\circ} 38'$  E. a distance of 184.44 feet to a 1" iron pipe located one foot north of a chain link fence; thence N.  $79^{\circ} 55'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence N.  $88^{\circ} 57'$  E. a distance of 50.00 feet to an iron pipe located one foot north of said chain link fence; thence S.  $83^{\circ} 22'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $74^{\circ} 45'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $68^{\circ} 42'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $61^{\circ} 35'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $54^{\circ} 04'$  E. a distance of 125.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $50^{\circ} 37'$  E. a distance of 100.00 feet to a 1" iron pipe located one foot north of said chain link fence and in the westerly line of a tract of 0.12 of an acre, more or less, conveyed by Ohio-Apex, Inc. to American Viscose Corporation; thence running N.  $23^{\circ} 45'$  E. a distance of 51.89 feet to a 1" iron pipe located along the southern right-of-way line of West Virginia County Route 25/3; thence with the curve of said southern right-of-way line of West Virginia County Route 25/3, in a southeasterly direction, a distance of 137.99 feet to a 1" iron pipe; thence leaving said right-of-way line of West Virginia County Route 25/3 and running S.  $23^{\circ} 32'$  W. a distance of 9.43 feet to a 1" iron pipe located in a northern line and the closing line of the aforesaid parcel number 1 (57.62 acres); thence S.  $66^{\circ} 28'$  E. a distance of 580.47 feet to a cross marked in the concrete pavement of West Virginia County Route 25/3 at the northeast corner of said parcel number 1; thence with the easterly line of said parcel number 1, S.  $23^{\circ} 38'$  W. a distance of 805.4 feet to an old concrete monument; thence continuing with the easterly line of said parcel number 1 along the line of a chain link fence S.  $9^{\circ} 42'$  W. a distance of 1408.4 feet to an old concrete monument, southeast corner of parcel number 1; thence running in a westerly direction, successively, with the southerly line of said parcel number 1 and with the southerly line of the second tract, N.  $76^{\circ} 14'$  W. a distance of 895.42 feet to an 8" railroad spike at

the southwest corner of said second tract (0.61 acre) and at the southeast corner of a tract of 54.00 acres conveyed by Nitro Industrial Corporation to American Viscose Corporation; and being in the southeasterly right-of-way line of West Virginia County Route Number 25/9; thence with the southeasterly right-of-way line of West Virginia County Route 25/9 S.  $11^{\circ} 00'$  W. a distance of 1470 feet, more or less, to a point in the City of Nitro corporation line; thence with the City of Nitro corporation line N.  $81^{\circ} 30'$  W. a distance of 40.00 feet, more or less, to a point in the northwesterly right-of-way line of West Virginia County Route Number 25/9; thence with the northwesterly right-of-way line of West Virginia County Route Number 25/9, N.  $11^{\circ} 00'$  E. a distance of 1470 feet, more or less, to a point in the aforesaid 54 acre tract; thence leaving West Virginia County Route Number 25/9, N.  $73^{\circ} 32'$  W. a distance of 1,601.58 feet, more or less, to a point in the Kanawha River at the old normal pool stage of the Kanawha River at elevation 546.4 feet (Sandy Hook Datum); thence running in a northerly direction down the Kanawha River with its meanders at said elevation of 546.4 feet and successively with the westerly line of said 54 acre tract, the westerly line of parcel number 2 (4.83 acres) conveyed by Charleston Industrial Company to the American Viscose Corporation, the westerly line of a tract of 7.9 acres conveyed by West Virginia Water Service Company to American Viscose Corporation, and with the westerly line of the first tract (6.23 acres), conveyed by Nitro Industrial Corporation to American Viscose Corporation, a distance of approximately 2,200 feet, more or less, to the point of beginning, and containing 130 acres, more or less.

This Ordinance was introduced and read for the first time at a regular meeting of the City Council of the City of Nitro, West Virginia, held on the first day of March, 1983, and will come up for a second reading and adoption at a regular meeting of the City Council to be held on the 15th day of March, 1983.

*Borden D. Ashley*  
MAYOR

*John F. Sanborn*  
CITY RECORDER

City Recorder Santrock moved for the adoption of the first reading of the above ordinance. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 8 - RESOLUTION DESIGNATING THE WEEK OF APRIL 17TH THROUGH 23RD, 1983 AS "BE PROUD! MAKE NITRO BEAUTIFUL WEEK": City Recorder Santrock stated that this resolution is in keeping with the Governor's recommendations and that many people are presently working hard on this project. Mr. Santrock moved to accept the resolution. The motion was seconded. The vote was unanimous and so ordered.

The resolution is as follows:

#### RESOLUTION 83-2

A RESOLUTION DESIGNATING THE WEEK OF APRIL 17 - 23, 1983 AS "BE PROUD! MAKE NITRO BEAUTIFUL" WEEK.

WHEREAS, the Governor of West Virginia has designated April 17 - 23, as "Be Proud! Keep West Virginia Clean" week; and

WHEREAS, the Governor has requested that the City of Nitro assist in organizing the volunteer organizations in Nitro in a litter clean-up effort; and

WHEREAS, the City of Nitro is to receive cooperation and assistance from the Governor's Office of Economic and Community Development in implementing and operating this program; and

WHEREAS, this campaign is in keeping with this administration's expressed goal of the beautification of the City of Nitro.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Nitro, West Virginia; that:

THE WEEK OF APRIL 17 - 23, 1983 SHALL BE DESIGNATED AS "BE PROUD! MAKE NITRO BEAUTIFUL WEEK.

COMMITTEE REPORTS

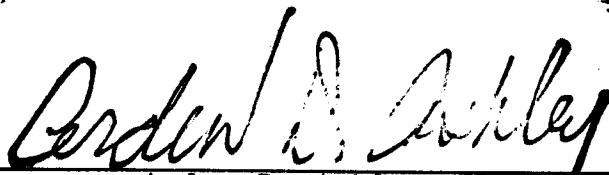
Councilman King stated that C & P Telephone Company has requested the installation of an interface cabinet (cross-connect point) on the sidewalk adjacent to the Nitro High School parking lot at a point approximately ten feet east of telephone pole number 9111/120. Alternatives were discussed.

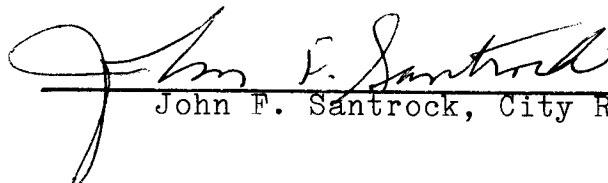
Councilman King moved that Council not allow such action. The motion was seconded. The vote was unanimous and so ordered. Alternative sites will be discussed with C & P Telephone Company.

Mayor Ashley announced that a report, in writing, on the Civic Benefits Association meeting has been received. The request from the City is under consideration at this time.

City Recorder updated the Council on the progress of the Spring Festival events.

There being no further business, Mayor Ashley adjourned the meeting at 8:33 p.m.

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

## CITY OF NITRO

March 15, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. in Council Chambers on March 15, 1983. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Joe Savilla, Councilman Ronald King, Councilman Omar Cunningham and Councilman Jack Moon. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by The Reverend William Westlund of the First Presbyterian Church, Nitro.

AGENDA ITEM NO. 1 - RECOGNITION OF NITRO JUNIOR HIGH BASKETBALL TEAM AND COACHES: Mayor Ashley called upon Councilman at Large Casto to introduce to Council the Nitro Junior High School Basketball Team and coaches, and to award them with a "How About Them Nitro Wildkittens - 1982 - 1983 L.K.V. Champions" plaque, which includes all the team member's names. A round of applause was had for the team.

AGENDA ITEM NO. 2 - APPROVAL OF MARCH 1, 1983 COUNCIL MEETING MINUTES: Councilman Cunningham moved to accept the March 1, 1983 Council meeting minutes as written. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 3 - COMPENSATION REVIEW OF SICK LEAVE ORDINANCE: Councilman King introduced proposed ordinance changes in the City Code for sick leave compensation.

Councilman Cunningham expressed favoritism toward the plan for the benefit of the employee. He stated that the conditions are outlined for qualification of such benefit.

After lengthy discussion on abuse of such action, the limitations that should be enacted and the City's financial capabilities to cover such a change, Councilman at Large West moved to table the discussion until it can be reworded to suit the needs of the City and the employee and that the City Attorney assist in such action. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 4 - ANNEXATION: City Recorder Santrock announced that he received a copy of the annexation order of "the Carriage Road addition" to become part of the City of Nitro, with the signatures of Bob Silverstein and Douglas Stump, Kanawha County Commissioners.

City Recorder Santrock stated that as of February 24, 1983, this area is officially a part of Nitro. Mr. Santrock further stated that according to the State Code, Putnam County will be informed of the order by the City, due to the fact that majority of the municipality is located in Kanawha County.

The order is as follows:

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IN THE KANAWHA COUNTY COMMISSION, KANAWHA COUNTY, WEST VIRGINIA

IN RE:

CITY OF NITRO, a West  
Virginia Municipality,

Petitioner.

O R D E R

A certificate of the governing body of the municipality of the City of Nitro was this day filed showing that an annexation has been made, in the manner required by law, to the corporate limits thereof, and that by such annexation the said corporate limits are as follows:

BEGINNING at a point in the intersection of the eastern right of way line of West Virginia State Route 62 (Cross Lanes Drive) and the northern corporation line of the City of Nitro;

Thence with Cross Lanes Drive's eastern right of way line in a northerly direction approximately 2,810 feet to the intersection of West Virginia County Route 35/14 (Woodland Drive) and Cross Lanes Drive;

Thence continuing with Cross Lanes Drive's eastern right of way line approximately 1,300 feet to a point; Thence leaving Cross Lanes Drive N 82° 00' E, 180 feet to a point; Thence

S 60° 00' E. 510 feet to a point; Thence  
 N 38° 40' E. 730 feet to a point; Thence  
 S 54° 40' E. 720 feet to a point; Thence  
 S 71° 10' E. 1,120 feet to a point in the western  
 right of way line of Asbury Lane; Thence with the  
 western right of way line of Asbury Lane approximately  
 140 feet to the intersection of Asbury Lane and the  
 Monsanto Hunting and Fishing Club Road;  
 Thence with the southerly right of way line of  
 the Monsanto Hunting and Fishing Club Road in an easterly  
 direction approximately 140 feet to a point in the  
 right of way line; Thence

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S 33° 15' W. 50 feet to a point; Thence  
 S 70° 15' E. 850 feet to a point; Thence  
 S 72° 30' E. 250 feet to a point; Thence  
 S 30° 20' E. 155 feet to a point; Thence  
 S 19° 30' E. 120 feet to a point; Thence  
 S 8° 10' E. 245 feet to a point; Thence  
 S 11° 05' W. 140 feet to a point; Thence  
 S 35° 00' W. 380 feet to a point; Thence  
 S 0° 30' E. 330 feet to a point in the northern  
 corporation line of the City of Nitro;  
 Thence with the corporation line for the next  
 five courses S 72° 00' W. 1,270 feet to a point, Thence  
 S 48° 30' W. 290 feet to a point; Thence  
 S 23° 35' W. 110 feet to a point; Thence  
 S 5° 55' W. 120 feet to a point; Thence  
 S 51° 15' W. 1,200 feet to the point of beginning,  
 located in Union District of Kanawha County and Poca  
 District of Putnam County and containing 0.328 square  
 miles, more or less,

which territory is shown upon that certain map entitled "Prelimin-  
 ary Annexation Map for CITY OF NITRO Area North of City Limits  
 Situated On The Waters Of Armour Creek Kanawha And Putnam Counties  
 W.Va., Scale 1" = 400'" prepared by Wilkinson Surveying and  
 Engineering, Incorporated, Dunbar, W.Va., dated May 25, 1982. It  
 is, therefore, ORDERED that such annexation to said corporate  
 limits be, and the same is hereby approved and confirmed, and the  
 Clerk of this Court is directed to deliver to the said governing  
 body a certified copy of this Order as soon as practicable after  
 the rising of this Court.


After the date of such Order, the corporate limits of the municipality shall be as set forth therein.

All of which is accordingly ADJUDGED, ORDERED and DECREED this 24<sup>th</sup> day of February, 1983.

ENTER:

  
Robert F. Silverstein, President

Henry C. Shores, Commissioner

  
F. Douglas Stump, Commissioner

-2-

At this time City Recorder Santrock introduced for second reading Ordinance 83-3, an ordinance to annex a contiguous unincorporated territory to and become part of the City of Nitro, a municipal corporation, Kanawha County, West Virginia, by a minor boundary adjustment. Councilman Savilla moved to accept such ordinance. The motion was seconded. There being no discussion, the vote was taken and was unanimous and so ordered.

The ordinance is as follows:

AN ORDINANCE TO ANNEX A CONTIGUOUS UNINCORPORATED TERRITORY TO AND BECOME PART OF THE CITY OF NITRO, A MUNICIPAL CORPORATION, KANAWHA COUNTY, WEST VIRGINIA, BY A MINOR BOUNDARY ADJUSTMENT

WHEREAS, on the first day of March, 1983, at a regularly scheduled and properly convened session of the City Council of the City of Nitro, a Motion was made to annex by a minor boundary adjustment certain contiguous unincorporated territory to and become part of the City of Nitro, a municipal corporation; and,

WHEREAS, the area of proposed annexation does not lie within any existing municipality; and,

WHEREAS, the City Council of the City of Nitro has determined the number of persons residing in the territory and having prepared an accurate map showing the metes and bounds of such additional territory; and,

WHEREAS, the City Council of the City of Nitro has determined that the annexation is only a minor boundary adjustment; and

WHEREAS, the City Council of the City of Nitro has no reason to believe that the freeholders of the area proposed to be annexed are substantially opposed to the proposed boundary change; and

WHEREAS, the City Council of the City of Nitro finds the motion to be in all other respects proper, does therefore ORDAIN that the hereinbelow described area be, and the same hereby is, ANNEXED into the City of Nitro, a West Virginia municipality;

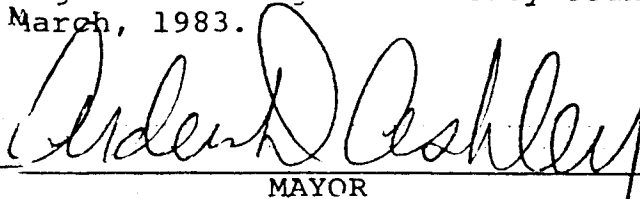
BEGINNING at a point in the Kanawha River, located S. 23° 45' W. a distance of 21.72 feet from the northwest corner of the first tract (6.23 acres) conveyed by Nitro Industrial Corporation to American Viscose Corporation; thence running 21.72 feet equidistant from and parallel to the northerly line of said first tract on a course S. 66° 15' E. a distance of 282.61 feet to a P. K. nail set in the south side of the concrete base of a fence post; thence S. 23° 45' W. a distance of 19.28 feet to a 1" iron pipe; thence S. 66° 15' E. a distance of 124.16 feet to a 1" iron pipe; thence S. 23° 45' W. a distance of 111.23 feet to a 1" iron pipe at the end of a concrete wall; thence S. 66° 15' E. with the northerly line of said concrete wall a distance of 294.22 feet to a 1" iron pipe located one foot West of an opening in said concrete wall; thence N. 38° 21' E. a distance of 115.97 feet to a 1" iron pipe; thence S. 71° 29' E. a distance of 12.20 feet to a 1" iron pipe; thence N. 23° 45' E. a distance of 38.89 feet to a point in the North line of the aforesaid 6.23 acre tract; thence running with the northerly line of said 6.23 acre tract S. 66° 15' E. a distance of 438.19 feet to a 1" iron pipe located

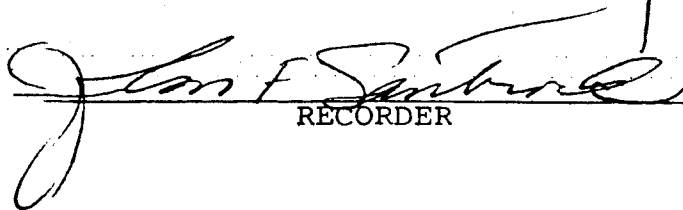
SEE 1795  
72

at the northeast corner of said 6.23 acre tract and in the Westerly line of parcel number 1 (57.62 acres); thence with the westerly line of said parcel number 1 N.  $23^{\circ} 45'$  E. a distance of 267.99 feet to a P. K nail in said line; thence leaving the westerly line of said parcel number 1, S.  $66^{\circ} 15'$  E. a distance of 20.00 feet to a 1" iron pipe in the easterly right-of-way line of West Virginia County Route 25/3; thence leaving said West Virginia County Route 25/3, N.  $81^{\circ} 38'$  E. a distance of 184.44 feet to a 1" iron pipe located one foot north of a chain link fence; thence N.  $79^{\circ} 55'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence N.  $88^{\circ} 57'$  E. a distance of 50.00 feet to an iron pipe located one foot north of said chain link fence; thence S.  $83^{\circ} 22'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $74^{\circ} 45'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $68^{\circ} 42'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $61^{\circ} 35'$  E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $54^{\circ} 04'$  E. a distance of 125.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S.  $50^{\circ} 37'$  E. a distance of 100.00 feet to a 1" iron pipe located one foot north of said chain link fence and in the westerly line of a tract of 0.12 of an acre, more or less, conveyed by Ohio-Apex, Inc. to American Viscose Corporation; thence running N.  $23^{\circ} 45'$  E. a distance of 51.89 feet to a 1" iron pipe located along the southern right-of-way line of West Virginia County Route 25/3; thence with the chord of a curve of a southern right-of-way line of West Virginia County Route 25/3, S.  $41^{\circ} 55'$  E., a distance of 137.72 feet to a 1" iron pipe; thence leaving said right-of-way line of West Virginia County Route 25/3 and running S.  $23^{\circ} 32'$  W. a distance of 9.43 feet to a 1" iron pipe located in a northern line and the closing line of the aforesaid parcel number 1 (57.62 acres); thence S.  $66^{\circ} 28'$  E. a distance of 580.47 feet to a cross marked in the concrete pavement of West Virginia County Route 25/3 at the northeast corner of said parcel number 1; thence with the easterly line of said parcel number 1, S.  $23^{\circ} 38'$  W. a distance of 805.4 feet to an old concrete monument; thence continuing with the easterly line of said parcel number 1 along the line of a chain link fence S.  $9^{\circ} 42'$  W. a distance of 1408.4 feet to an old concrete monument, southeast corner of parcel number 1; thence running in a westerly direction, successively, with the southerly line of the second tract N.  $76^{\circ} 14'$  W., 870.50 feet to a point in the easterly right-of-way line of West Virginia County Route 25/9; thence with four line of the easterly right-of-way line of West Virginia County Route 25/9 S.  $42^{\circ} 15'$  W., 172.50 feet to a point; thence S.  $44^{\circ} 17'$  W., 147.95 feet

to a point; thence S.  $30^{\circ} 49'$  W., 84.35 feet to a point; thence S.  $11^{\circ} 52'$  W., 831.41 feet to a point in the City of Nitro Corporation line; thence crossing West Virginia County Route 25/9 and with the City of Nitro Corporation line N.  $88^{\circ} 10'$  W., 49.62 feet to a point in the westerly right-of-way line of West Virginia County Route 25/9; thence with four lines of the westerly right-of-way line of Route 25/9 N.  $11^{\circ} 52'$  E., 845.16 feet to a point; thence N.  $30^{\circ} 49'$  E., 95.74 feet to a point; thence N.  $44^{\circ} 17'$  E., 151.96 feet to a point; thence N.  $42^{\circ} 15'$  E., 147.23 feet to a point near the southwest corner of a tract of 54.00 acres conveyed by Nitro Industrial Corporation to American Viscose Corporation; thence leaving the westerly right-of-way line of West Virginia County Route 25/9 N.  $73^{\circ} 32'$  W., 1,586.28 feet, more or less to a point in the Kanawha River at the Old Normal Pool stage of the Kanawha River at elevation 546.4 feet (Sandy Hook Datum); thence running in a northerly direction down the Kanawha River with its meanders at said elevation of 546.4 feet and successively with the westerly line of said 54 acre tract, the westerly line of Parcel Number 2 (4.83 acres) conveyed by Charleston Industrial Company to the Viscose Company, the westerly line of a tract of 7.9 acres conveyed by West Virginia Water Service Company to American Viscose Corporation and with the westerly line of the First Tract (6.23 Acres), conveyed by Nitro Industrial Corporation to American Viscose Corporation, a distance of approximately 2,200 feet, more or less, to the point of beginning, and containing 130 acres, more or less.

This Ordinance was introduced and read for the first time at a regular meeting of the City Council of the City of Nitro, West Virginia, held on the 1st day of March, 1983, and will come up for a second reading and adoption at a regular meeting of the City Council to be held on the 15th day of March, 1983.

  
MAYOR

  
RECORDER

AGENDA ITEM NO. 5 - FLEET INSURANCE BIDS: City Recorder Santrock shared with Council bids received for fleet insurance for 1983 - 1984.

The bids are as follows:

	<u>Premium</u>	<u>Optional</u> <u>(\$1000 deductible)</u>
Commerical Insurance	\$8,810.00	- 1,109.00
Austin Insurance	8,898.00	- 1,523.00
Universal Insurance	7,837.00	- 864.00

Councilman at Large West questioned the bid specifications relative to coverage of vehicles with a model year older than 1970, and those having a value of less than \$3,000.00.

In the discussion it was discovered that vehicles in this category had not been covered during the previous three (3) years. Council requested that those vehicles not covered be covered immediately.

The low-bidder -- Universal Insurance - made an appearance to clarify that a rider could be attached to the bid.

Councilman King moved to accept the low bid, with the attached rider to include vehicles modeled before 1970, made by Universal Insurance Agency. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 6 - BUDGET REVISION: Recent unbudgeted monies were received in the amount of six thousand dollars (\$6,000) from P.B.S. Chemical Company from deposits made on chlorine cylinders used for the pool this summer. Due to an error in P.B.S.'s bookkeeping, this deposit return was overlooked in the past.

City Recorder Santrock moved to request the State Tax Commissioner to add the six thousand dollars (\$6,000) to miscellaneous revenue and to add in contracted maintenance and repair. The motion was seconded. The vote was unanimous and so ordered. Recreation Director Simms added that this will give the Recreation Department enough funds to repair the pool as discussed in previous Council meetings.

The revision request is as follows:



STATE TAX COMMISSIONER  
LOCAL GOVERNMENT RELATIONS DIVISION  
DRAWER 2389  
CHARLESTON, W V 25305

CITY OF NITRO  
GOVERNMENTAL ENTITY

3/15/83  
ENTITY APPROVAL DATE

CITY HALL  
STREET OR P.O. BOX

NITRO WV 25143  
CITY ZIP CODE

RECEIPTS: (net each acct)

ACCOUNT NUMBER	ACCOUNT CATEGORY	APPROVED AMOUNT	DEBIT (INCREASE)	CREDIT (DECREASE)	REVISED AMOUNT
399	Miscellaneous Revenue	15000	6000		21,000

NET INCREASE/(DECREASE) \_\_\_\_\_

EXPENDITURES: (net each acct)

ACCOUNT NUMBER	ACCOUNT CATEGORY	APPROVED AMOUNT	DEBIT (DECREASE)	CREDIT (INCREASE)	REVISED AMOUNT
540-15	Maintenance & Repair	18500		6000	24500

NET INCREASE/(DECREASE) 6000

TAX DEPARTMENT USE ONLY

RECEIVED \_\_\_\_\_  
POSTED \_\_\_\_\_ BY \_\_\_\_\_  
APPROVED FOR THE STATE TAX COMMISSIONER BY: \_\_\_\_\_  
DIRECTOR-LOCAL GOVERNMENT RELATIONS

*Michael...*  
AUTHORIZED SIGNATURE  
FOR GOVERNING BODY

3/15/83  
DATE OF REQUEST

SPECIAL NOTE: TRANSFERS TO/ FROM SPECIAL FUNDS MUST BE ACCOMPANIED BY A STATEMENT CONTAINING SIGNATURES OF ALL COUNTY COMMISSIONERS 7-1-1

AGENDA ITEM NO. 7 - SPECIAL COUNCIL MEETING: After much discussion and comparing commitments, Council agreed to meet on Sunday, March 27th at 1:00 p.m. in Council Chambers to review the proposed budget for the City for 1983 - 1984.

AGENDA ITEM NO. 8 - SWIMMING POOL BUSINESS: Recreation Director Simms brought before Council the idea of video games at the pool this summer. After lengthy discussion, action on this idea was tabled until further information could be gathered on this idea.

Also discussed was the possibility of the installation of vending machines at the swimming pool to replace the existing concession area. Councilman Moon expressed his concern for the personal harassment that may come from City merchants who may believe that this City wants to "take" from them. He stated that the few dollars more spent to allow a City merchant to take the concession at the pool may be worth it to alleviate this problem. Recreation Director Simms stated that he is using this type of savings to help finance the fourteen thousand dollars pump that will be needed in three (3) years.

City Recorder Santrock moved that Council allow the Recreation Director to include vending machines in the bid specifications for the 1983 season concession. The motion was seconded. A vote was taken and passed with Councilman Moon opposing.

Moving on, Councilman Savilla moved that full-time City employees and their immediate families be given a free pass for the swimming pool for the 1983 season. The motion was seconded. The vote was unanimous and so ordered.

#### COMMITTEE REPORTS

Recreation Director Simms stated that nothing new had developed as far as the Spring Festival. He further stated that the next meeting of the Spring Festival committee will be on April 7, 1983 at 6:00 p.m. and that all are invited.

Councilman at Large Casto questioned the response of the Arts & Crafts Fair. He suggested that the City cut the entrance price. City Recorder Santrock suggested that Councilman at Large Casto refer the comments to the committee involved.

Mayor Ashley announced the arrival of two transport ambulances donated by Cook & Pauley Funeral Home and Gatens Funeral Home. He further stated that some work will need to be done on the vehicles, some of which will require Council approval, before it will be operational for non-emergency use.

Areas to be covered by this service are for use by City residents, at no cost, for trips to hospitals in Charleston, South Charleston, Cross Lanes and the Putnam County Hospital; for doctor's office visits within the City; and for use by non-residents for a recommended fee of one dollar (\$1.00) per mile from portal to portal. Mayor Ashley stated that an agreement must be drawn up for citizens using this service to sign.

Mayor Ashley announced the opening of bids for the interceptor sewer project at the Charleston Civic Center on Wednesday, March 16th at 3:00 p.m.

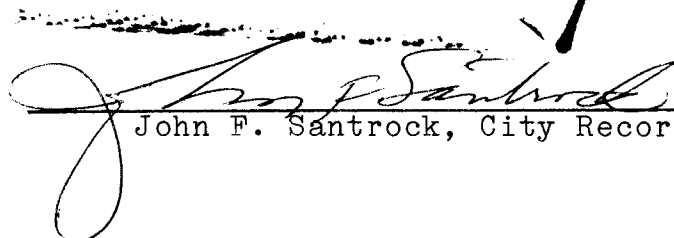
Mayor Ashley expressed the need for volunteer drivers for the emergency ambulance and persons interested in the paramedic training. The Mayor has been assured by Frank Kirk of the Ambulance Authority of continuous service. Mr. Kirk has also commented that Nitro has the best equipped, best facilities .... of any of the stations.

Councilman at Large Casto stated, "What about Jennings Randolph?" -- his fifty years of service and his retirement. Councilman at Large Casto requested that the Mayor draw up a resolution honoring Senator Randolph and that he be invited to our City at an appropriate occasion.

There being no further business, Councilman Cunningham moved to adjourn the meeting. The motion was seconded. The vote was unanimous and so ordered.

At 9:55 p.m., the meeting was adjourned.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

## CITY OF NITRO

March 27, 1983

A special meeting of the Nitro City Council was called to order in Council Chambers on Sunday, March 27, 1983 at 1:00 p.m. by Arden D. Ashley, Mayor. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman A. A. "Joe" Savilla, Councilman Ronald King, Councilman Jack Moon, and Councilman Omar Cunningham. Also present was City Treasurer Michael E. Greenleaf.

Councilman Moon expressed his concern over the legality of this special session of the City Council. Councilman Moon read the following:

Sec. 2-16. Meetings--Regular and called special meetings; quorum for all meetings.

(b) Special meetings of the city council may be called by the mayor or any three members thereof. Whenever special meetings of the council are called it shall be done by a warrant directed to the chief of police, signed by the mayor or three members of the council, and stating distinctly and by separate items the matters of business for which meeting is called. The chief of police shall give notice to every member then in the city, and shall return the warrant to the ~~city recorder who shall enter it in the journal~~. At any such special meeting only those matters of business stated in the warrant shall be considered or acted upon, ~~except by unanimous consent of all members present~~.

City Recorder Santrock stated that he had never received a warrant in the past and that the State Code precedes that, relative to the budget, in stating that you must have a meeting between March 5th and March 28th. Mayor Ashley also pointed out that at the last Council meeting it was a unanimous decision to hold this special meeting and that it was a matter of record. Mayor Ashley also requested that the City Attorney be contacted to rule on whether or not the Council is legally convened. City Attorney Gaujot commented by telephone that Council may waive the requirement for warrants, if they so wish.

Mayor Ashley asked Council if there is any objection to proceeding with the consideration of the budget. There being no objection expressed from Council, Mayor Ashley asked that they proceed with the business at hand, the confirmation of the 1983-84 City budget.

Councilwoman at Large Trout moved, at this time, that Council accept the proposed budget as submitted. Councilman Savilla seconded the motion.

Councilman King expressed his concern over the difference in the proposed budget-cut figures for the Police Department and the figures stated in the newspaper for the same purpose. Mayor Ashley explained that several items have been budgeted in the City Hall budget that were previously budgeted in the Police Department budget and that this was not fully explained in the newspaper. That change being the expense of the communications officers, due to the fact that these services are offered to the Fire Department as well as the Police Department. He stated that it is a simple line item change.

Councilman Moon asked if the decrease in the retirement is due to the back payments on the fund. City Treasurer Greenleaf stated that it was due to the fact that the fund is in better condition than it was and also because of the insurance premium tax for the police and fire pension funds.

Councilman Moon questioned, at this point, the two thousand dollars allotted for the travel expense of the City Treasurer. Mayor Ashley stated that with everything that the City is trying to do -- U.D.A.G, the All West Virginia City, World War I Memorial, et cetera -- extensive travel will be necessary from that office to make sure that those things are done correctly. Mayor Ashley further assured Council that this expense is a necessary one and respectfully requested approval of such.

After discussion on paving expected within the City, the landfill site, concession at the Little League Field, the status of the communications officers, cultural improvements, and swimming pool and other recreational improvements, a vote was taken to approve the 1983-84 budget and was unanimous and so ordered.

The 1983-84 budget includes a four percent pay raise for all City employee.

Mayor Ashley invited Council members to feel free to meet with him at appropriate times in the future to review the projects budgeted for in 1983-84.

Councilman Savilla moved to confirm the acceptance of the waiving of the warrant as related to this special session of Council. The motion was seconded. The vote was unanimous and so ordered.

At 2:15 p.m., the meeting was adjourned.

  
Arden D. Ashley,  
Mayor

  
John F. Santrock,  
City Recorder

## COUNCIL MEETING MINUTES

CITY OF NITRO

April 5, 1983

((

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:31 p.m. on April 5, 1983 in Council Chambers. Present were City Recorder John F. Santrock, Councilman at Large Rusty, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Omar Cunningham and Councilman Jack Moon. Absent were Councilman Ronald King and Councilman Joe Savilla. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by Councilwoman at Large Trout.

AGENDA ITEM NO. 2 - APPROVAL OF MARCH 15, 1983 COUNCIL MEETING MINUTES: Councilwoman at Large Trout moved to approve the minutes of the regularly scheduled March 15, 1983 Council meeting. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 3 - APPROVAL OF MARCH 27, 1983 COUNCIL MEETING MINUTES: Councilman Cunningham moved to accept the minutes of specially scheduled Council meeting, which was held on March 27, 1983 for the purpose of approving the 1983-84 budget. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 4 - REQUEST FOR USE OF CITY BINGO PERMITS: Mayor Ashley pointed out to Council their copy of a letter received from Mr. Al Billings of the Nitro High School Boosters Club, wherein he requests permission to acquire a bingo license under Nitro Parks and Recreation, which would enable them to bring area non-profit organizations a new means of fund raising without putting local businesses under pressure insofar as donations are concerned.

City Attorney Gaujot cited Chapter 47, Article 20, Sections 1-3 of the West Virginia State Code, and stated that he determined that Nitro Parks & Recreation, as far as the State Law is concerned, may apply for and obtain a license if they so desire. He further stated that he called the State Excise Tax Division to confirm his determination. Systems that can be utilized are to have the Parks and Recreation obtain a license and list those organizations who could benefit from and to purchase the necessary equipment, et cetera; or it could borrow from a licensee already licensed and operate through them.

City Treasurer Greenleaf questioned the responsibility of the City if there is a lack of accountability, or an audit trail, by the person in charge of such. City Attorney Gaujot stated that, yes, the City would be held responsible.

Discussed was parking convenience and inconvenience during game times. It was found through this discussion that the schools cannot be used for the purpose of bingo games.

City Recorder Santrock asked City Attorney Gaujot if any non-profit or charitable group listed under the license may be removed from the license by Council at any time. The City Attorney replied affirmatively.

Mayor Ashley questioned the practicality of individual requests of Council by the organizations for the use of the bingo permit, so Council could give individual consideration to each request. Mr. Billings stated that, yes, it would be feasible.

Mr. Billings further explained that it is required that a separate checking account be kept for the monies involved, which is principally for recording purposes.

Councilman at Large West moved that the City of Nitro make application, under Nitro Parks & Recreation, to obtain a bingo license. The motion was seconded.

After brief discussion, Councilman Cunningham withdrew his second and Councilman at Large West amended his motion to further include the approval of Council of each individual request of non-profit or charitable organizations to operate under the Nitro Parks & Recreation's bingo license, if so granted. The motion was seconded.

There being no further discussion on the matter, a vote was taken and was unanimous and so ordered, with City Recorder abstaining.

AGENDA ITEM NO. 5 - CONCESSIONS: Mayor Ashley pointed out to Council the copy of the petition signed by City tax-paying food merchants and submitted by Oshel Craigo suggesting that concessions at the City Park be put out for bids for the 1983 summer season.

Councilman at Large Casto stated that he felt that the Little League should have a concession stand at the girl's softball field and moved that they be permitted to put a concession stand up. There being no seconded, discussion by Mayor Ashley continued.

Mayor Ashley stated that considerable interest has been shown in concessions provided by the City in the Nitro parks, swimming pool and possibly Ridenour Lake. He further stated that opportunities are available during the Spring Festival, Armistice Day, et cetera, and an interest on the part of the community, to participate in concessions at these events.



Councilman Moon expressed his concern about too much fund raising by the Little League and similar organizations with concessions allowances and bingo game profits.

Councilwoman at Large Trout suggested, as informally suggested in the past by a number of Council members, the idea of the Nitro Recreation Department running a concession area, to provide the Recreation Department with extra monies to help with other City recreation programs. Councilman at Large Casto expressed his disapproval with the idea.

Councilman Cunningham confirmed with Councilman at Large Casto that the Little League would only want to provide concession during the Little League games.

City Attorney Gaujot stated that the City would be proper in awarding exclusive rights to a concession stand, but there is a potential conflict from other leagues if this stand is a money-maker. He suggested that the City put the concession out for proposal as to what each organization would like to do as far as concession at the parks. Mr. Gaujot also suggested consideration of Councilwoman at Large Trout's ideas of building a permanent structure for concessions provided by the City Recreation Department.

A question was addressed to Council as to whether or not the big concession stand already run by the Little League would be taken away from the League if the concession is put out for bid and awarded to another. Mayor Ashley assured those concerned that he felt that several Council members would protest the taking-away of any concession already run by the League.

Councilman at Large Casto moved that during Little League ball games, that Nitro Little League be permitted to have a portable concession located near the girl's softball field. The motion was seconded.

Councilman at Large Casto further explained that this is not to make a great deal of money for the Little League. It is basically a convenience for those children participating in the games. Several Council members disagreed with the fact that the League would not be making a considerable amount of money.

After discussion on the concern of not going out for bids, a vote was taken on the above motion made by Councilman at Large Casto. The motion was defeated with Council members voting negatively.

Councilman Moon moved, at this time, that Council offer for bid all recreation concessions to all interested organizations. The motion was seconded. A vote was taken and was unanimous and so ordered.

AGENDA ITEM NO. 1 - CITIZEN OF THE MONTH: Mayor Ashley announced the citizen of the month for the month of April. Receipant of the award is Councilwoman at Large Mary Trout. Mayor Ashley extended his appreciation for the fine job she did in preparing the "All West Virginia City" report.

AGENDA ITEM NO. 6 - APPOINTMENT OF J. F. McCLANAHAN TO WORLD WAR I MEMORIAL COMMISSION: Mr. Jack Moody, Chairman of the World War I Commission, introduced for approval the appointment of J. F. McClanahan to the World War I Commission, and asked Council for such motion. Councilman Moon moved for such action. The motion was seconded. The vote was unanimous and so ordered.

Mr. Moody further explained the progress of the World War I Memorial Museum to Council, and stated that many organizations are expected to contribute to this project.

AGENDA ITEM NO. 7 - POLICE PENSION BOARD ELECTION: City lecorder Santrock announced to Council the filling of two (2) openings in the Police Pension Board. Sergeant Jack Neeley, with seven votes, filled the four-year term opening and Patrolman Bruce Angell, with five votes, filled the three-year term opening. Those standing members as as follows: Chairman Mayor Art Ashley, Sergeant Shelby Harrison and Sergeant Gary Blankenship.

AGENDA ITEM NO. 8 - RESOLUTION FORMALIZING FAIR HOUSING PROGRAM & AFFIRMATIVE ACTION PROGRAM: Mayor Ashley introduced Mr. John Romano from the Regional Intergovernmental Council to explain the documents in question, which are for the purpose satisifying H.U.D. regulations in regards to Armour Creek Main Interceptor Program grant monies.

City Recorder Santrock stated that he has studied the proposed documents and feels that this is something that should have been done long ago.

The resolution formalizing a fair housing program for the municipality is as follows:

#### A RESOLUTION FORMALIZING A FAIR HOUSING PROGRAM FOR THE MUNICIPALITY

By participating in the Federal Community Development Program, the City of Nitro has pledged to insure and support fair housing practices accordingly,

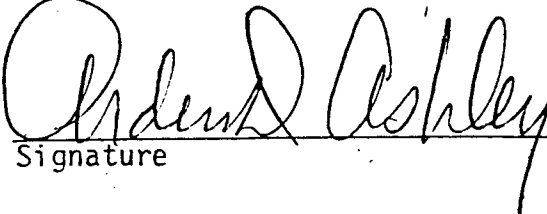
It is hereby resolved that the Nitro City Council is taking formal action to prevent discrimination in the sale, rental and financing of housing.

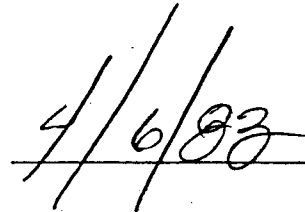
1. The Treasurer of the City of Nitro shall provide all appropriate advice and council on home loan financing to minorities and lower income families and individuals.

2. Said Treasurer will provide further advice to lower-income and minority families and individuals with regard to federal programs that may be available for the rental or financing of housing. The Treasurer or his designated staff shall be available for such counseling from 9:00 a.m. to 4:30 p.m., Monday through Friday at the Nitro City Hall, telephone 755-0701.

3. The Treasurer shall advise the public that any complaints of discrimination in the sale, rental or financing of housing should be reported directly to him and he in turn will forward this information to the proper city, state, and federal authorities. Furthermore, he shall notify the local realtors that he has been given this responsibility.

THIS RESOLUTION APPROVED AND ADOPTED BY THE COUNCIL OF THE SAID  
CITY THIS      DAY OF      , A.D., 1983.

 Mayor  
Signature

 Date

City Recorder Santrock moved for the adoption of such resolution. The motion was seconded. The vote was unanimously ordered.

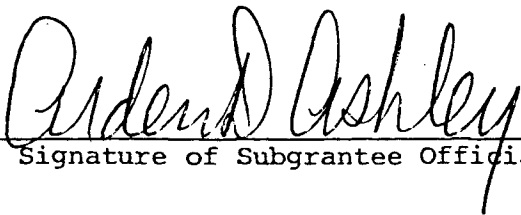
City Recorder Santrock moved to accept the following "Code of Conduct" and give the Mayor permission to sign for the grant. The motion was seconded. The vote was unanimous and so ordered.

The Code of Conduct is as follows:

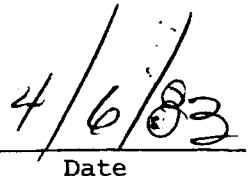
## CODE OF CONDUCT

The City of Nitro hereby certifies that it will maintain the following Code of Conduct governing the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Small Cities Block Grant funds:

1. No employee, officer or agent of the subgrantee shall participate in the selection, award or administration of a contract in which Small Cities Block Grant funds are used, where, to his knowledge, he or his immediate family, partners, or organization in which he or his immediate family, partner, or organization has a financial interest or with whom he is negotiating or has any arrangement concerning prospective employment.
2. Subgrantee officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors.
3. Penalties, sanctions, or other disciplinary actions will be applied for violations of the above standards by either the subgrantee officers, employees, or agents, or by contractors or their agents, to the extent permissible by State or local law.



Signature of Subgrantee Official



Date

City Recorder Santrock moved to adopt the "Statement of Goals" as related to the grant, and to give the Mayor permission to sign such. The motion was seconded. The vote was unanimous and so ordered.

The Statement of Goals is as follows:

STATEMENT OF GOALS

SECTION 3 OF THE UNITED STATES HOUSING ACT OF 1968 FOR THE COMMUNITY  
DEVELOPMENT BLOCK GRANT PROGRAM

1. Based on the fact that \$ 577,900 of the Community Development Block Grant for the Fiscal Year 1983 has been earmarked for expenditures for public works, the City of Nitro hereby sets as its goal for utilization of Section 3 eligible businesses through its contract for public works a target of 5.1% of its budget or \$ 29,472 for public works. This percentage is based on our knowledge of available, qualified and eligible Section 3 businesses.
2. As part of the preparation of the contract documents, the City will analyze the specific public works projects and will determine for such specific public works contract, a goal and percentage amount which represents in the judge of the City Treasurer as to the maximum feasible involvement of Section 3 type businesses. Thus, individual projects may vary from the stated percentage goal. It is expected during the course of the year, however, that total volume awarded to Section 3 businesses will approximate goals stated above.
3. The Project Administrator will become familiar with the City's Affirmative Action Plan for Section 3 and will comply with it in all contracts for public works funded with Community Development Block Grant Funds.

  
\_\_\_\_\_  
Mayor  
(Authorizing Representative)

4/6/83  
\_\_\_\_\_  
(Date)

City Recorder Santrock moved that Council approve the "Affirmative Action Plan" as it relates to the above action, and to give the Mayor and the City Recorder permission to sign such. The motion was seconded. The vote was unanimous and so ordered.

The Affirmative Action Plan is as follows:

### GRANTEE SECTION 3 AFFIRMATIVE ACTION PLAN

The City of Nitro agrees to implement the following specific affirmative action steps directed at increasing the utilization of business concerns located within the Section 3 covered area or owned by Section 3 area residents.

- A. To identify eligible business concerns for CDBG-assisted contracts through: local advertising media including public signage, project area committees, citizen advisory boards, the local HUD program official, regional planning agencies, and Governor's Office of Economic and Community Development.
- B. To maintain a list of eligible business concerns for utilization in CDBG-funded procurements, to insure that all appropriate project area business concerns are notified of pending contractual opportunities, and to make available this list for general city procurement needs.
- \*C. To require all bidders on contracts to submit a written Section 3 plan including utilization goals and the specific steps planned to accomplish these goals.
- \*D. To insure that contracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- E. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- F. To appoint the City Treasurer as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.

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\*Loans, grants, contracts and subsidies for less than \$10,000 will be exempt.

As officers and representatives of the City of Nitro, We the undersigned have read and fully agree to this Affirmative Action Plan, and become a party to the full implementation of this program.

Arden D Ashley  
Signature

Mayor  
Title

4/6/83  
Date

John F Santrock  
Signature

Recorder  
Title

4-8-83  
Date

## AFFIRMATIVE ACTION PLAN

\_\_\_\_\_  
GRANTEE'S NAMECity of Nitro, WEST VIRGINIA\_\_\_\_\_  
1983

. DATE

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## SECTION 3

U.S. HOUSING AND URBAN DEVELOPMENT ACT OF 1968

Employment Opportunities for Business and Lower Income

for

Public works Contracts funded with Community Development Block Grants, Under

Title I of the

Housing and Community Development Act of 1974 PL 93-383





**State Tax Department  
of West Virginia**

Charleston 25305

HERSCHEL H. ROSE III  
COMMISSIONER

NOTICE OF APPROVAL OF THE LEVY ESTIMATE

TO: Nitro

In accordance with the provisions of Article 8, Chapter 11 of the West Virginia Code, as amended, and contingent upon compliance with the provisions of Article 6, Section 38 of the West Virginia Constitution, the State Tax Commissioner of West Virginia, hereby approves the Levy Estimate for the fiscal year beginning July 1, 1983.

However, the following deficiencies exist in your budget document. It is recommended that you take whatever corrective action you feel necessary to remedy these problem areas. Please notify this office of your intentions.

No amount included in Coal Severance Fund for unencumbered balance. Revise the budget by July 15, 1983 stating the actual amount.

No amount included in Revenue Sharing Fund for unencumbered balance. Revise the budget stating actual amount as soon as it is determined.

No amount included for prior year taxes. No amount included for supplemental taxes. Tax discounts #302 not deducted from General Fund total.

Please explain "Civic Benefits" on page 4.

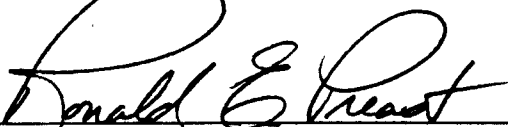
Balance General Fund expenditures to the revenue total of \$1,753,402.

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City of Nitro

Given under my hand this 15<sup>th</sup> day of April  
1983.

Herschel H. Rose III  
State Tax Commissioner

  
By: Ronald E. Preast  
Assistant Director  
Local Government  
Relations Division

LGR 12:60AD

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1. The first part of the document is a list of the names of the persons who have been named in the proceedings.

## AFFIRMATIVE ACTION PLAN

MITRO, WEST VIRGINIA

SECTION 3 - U.S. HOUSING AND URBAN DEVELOPMENT ACT OF 1968  
EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOW INCOME PERSONS

I. PURPOSE AND SCOPE

A. Background

Affirmative Action means promoting equal employment and income development opportunities by gaining support from all administrative levels in establishing practical action plans, maintaining continual evaluation, and making adjustments to retain focus and progress toward stated goals.

An Affirmative Action Program endeavors to realistically reinforce the concept that all segments of our society, have an opportunity to participate in public service on a competitive basis and advance in accordance with capabilities.

The process for reaching equal opportunity is comprehensive and requires assessment of needs in the immediate situation and establishment of goals into an action plan for successful accomplishment.

B. Section 3 - Provisions

Section 3 of the U.S. Housing and Urban Development Act of 1968, as amended, with initial implementation regulations first published in the Federal Register on June 18, 1971, and a revised form effective November 23, 1973, provides that the Secretary of the U.S. Department of Housing

and Urban Development (HUD), in the administration of programs providing direct financial assistance in aid of housing, urban planning, renewal, public or community facilities, shall require, to the greatest extent feasible, as follows:

1. Opportunities for training and employment, arising in connection with the planning and carrying out of any project assisted under any such program be given to lower income persons residing in the area of such project. The Community Development Division of the Governor's Office of Economic and Community Development has defined low income project area residents as individuals residing within the (City/County) whose income does not exceed 80% of the median household income in the project area.
2. Contracts for work, to be performed in connection with any such project be awarded to business firms which are located in or owned in substantial part by persons residing in the area of such project which are considered small and to be socially or economically disadvantaged.

The assistant Secretary for Equal Opportunity has been delegated the functions of the HUD Secretary in administering Section 3 in accordance with the Regulation of November 23, 1973.

C. Applicability of Section 3 to (County's/City's) Community Development Block Grant Program

Based on Section 118 of the Housing and Community Development Act of 1974, PL 93-383, Section 3 of the Housing and Urban

Development Act of 1968 is made applicable to Community Development Block Grant projects funded under Title I of the Act. The grantee in its annual application gives assurance it will comply. This Affirmative Action Plan was developed by the (County/City) to carry out the letter and the intent of that assurance.

II. (GRANTEE'S) PROGRAM FOR COMPLIANCE WITH SECTION 3

A. Community Development Block Grant Program

1. Housing and Community Development Act of 1974

Section 118 of the Housing and Community Development Act of 1974 amends Section 3 by specifying its applicability to community development block grants under Title I of the Act.

The (County/City) will meet this requirement by insisting on affirmative action with regard to all public works contracts and construction contracts funded in whole or in part with block grants that are continuations of urban renewal activities, model cities activities, or that are new activities funded for the first time with block grant funds.

2. Contract Requirements

The (County/City) will require to be incorporated in all public works and construction contracts and subcontracts for work in connection with block grant funded activities the Section 3 clause set forth in 24 CFR 135.20(b).

3. Training and Employment Opportunities

The (County/City) will require its prospective bidders to provide an estimate of work force needs on "Estimated

Project Work Force Table," which will indicate the approximate number of employee and trainee positions that will be required in the execution of the contract. The bidder must also certify that good faith efforts will be made to employ lower income residents as employees and trainees to the greatest extent feasible.

4. Business Utilization

The (County/City) shall require each contractor undertaking work on block grant activities to develop and implement an Affirmative Action Plan for business utilization. This Plan will state to the maximum extent feasible small businesses located in the project area and owned by the Small Business Administration to be socially or economically disadvantaged will be utilized. The Plan will indicate the number and dollar value of all proposed contracts and set forth a goal or target number and estimated dollar amount of contracts to be awarded to eligible business concerns.

5. Definition of Disadvantaged and Small Businesses

a. Socially or Economically Disadvantaged

The Small Business Administration defines a business owned by persons considered socially or economically disadvantaged as those deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantage. Such disadvantage may arise from cultural, social, or chronic economic circumstances or background or



other similar cause. In many cases, such persons may include, but are not limited to, members of the following minority groups: black Americans; American Indians; Spanish-Americans; Oriental Americans; Eskimos and Aleuts.

b. Small Business Size Standards

Small Business Administration's definition of small business as contained in 13 CFR 121.3-8, Small Business Administration Rules and Regulations, indicates generally, that a small business is a concern which:

- 1) is independently owned and operated, and is not dominant in the field of operation in which it is bidding;
- 2) has 500 employees or less; and
- 3) has average annual receipts for its preceding three fiscal years which do not exceed \$12 million.

6. (County/City's) Maintenance of Registry of Eligible Section 3

The (County/City) will maintain and make available to contractors a registry of local small and disadvantaged business concerns, compiled from various sources, including community organizations, and public or private institutions serving the project area.

B. Statement of Goals

At the beginning of each Community Development Block Grant Program Year, the (County/City) will make an estimate of the amount of work that will be available for businesses

eligible under Section 3 of the Housing and Urban Development Act of 1968 and such estimate shall become a part of the Affirmative Action Plan for that particular year of the program.

C. Designation of Affirmative Action Officer

The (County/City) will designate a person and an office responsible for maintaining the Affirmative Action Plan for Section 3.

D. Publicity Program

1. Advertisement

- a. The (County/City) will highlight by placing in bold print in its advertisements for bids that the proposed contractors must utilize to the greatest extent feasible business concerns which are located in or owned in substantial part by persons residing in the project area.
- b. The (County/City) will advertise in a newspaper of general circulation in the locality in an effort to further attract eligible and interested Section 3 business concerns.
- c. The advertisements for bids will have the following language inserted in bold print so as to have the bid opportunity noticed by prospective Section 3 Project Businesses:  
  
"NOTICE IS HEREBY GIVEN THIS IS A SECTION 3 PROJECT OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968, AND MUST, TO THE GREATEST EXTENT FEASIBLE, UTILIZE

PROJECT AREA BUSINESSES LOCATED IN OR OWNED IN SUBSTANTIAL PART BY PROJECT RESIDENTS. IF YOU ARE A QUALIFIED SECTION 3 BUSINESS YOU WILL UPON WRITTEN REQUEST TO THE PROJECT DIRECTOR BE SUPPLIED A LIST OF ALL POTENTIAL BIDDERS WHO MEET THE CITY'S PRE-BID QUALIFICATION TEST, IN ORDER TO FACILITATE YOUR ABILITY TO MAKE YOUR SERVICES KNOWN TO POTENTIAL BIDDERS."

E. Bidding Procedures

1. In the contract specifications for public works, the contract language set forth in 24 CFR 135.20 (b) will be inserted in the contract documents so as to make all parties aware of their employment and business utilization responsibilities at the earliest possible time.
2. Each bidder will be required to submit: (1) Certification of Compliance with Section 3 and Segregated Facilities; (2) Section 3 Affirmative Action Plan; and (3) Utilization Goals for Employment and Small Businesses. In evaluating each bid, the (County/City) will carefully evaluate the bidder's submission to determine whether the Affirmative Action Plan proposed will accomplish stated goals.
3. Significant opportunities for utilization of Section 3 businesses in contracts for public works is contracting done on a negotiated basis. Therefore, contracts typically let on a competitive basis will also be let on a negotiated basis, whenever feasible.

### III. DUTIES IMPOSED ON CONTRACTOR AND SUBCONTRACTOR

#### A. Contract Language for all Section 3 Covered Projects

Every contractor and subcontractor shall incorporate or cause to be incorporated, in all contracts for work in connection with a Section 3 covered project, the Section 3 clause set forth in 24 CFR 135.20 (b).

#### B. Certification of Compliance

Every contractor shall execute the Certification of Compliance and cause all subcontractors undertaking work in connection with this contract to furnish the same.

#### C. Utilization of Project Residents

##### 1. Trainees and Employees

The contractor and subcontractor shall fulfill his obligation to utilize lower income project area residents as trainees and employees to the greatest extent feasible by:

- (a) Identifying on the "Estimated Project Work Force Needs Table" the number of positions in the various occupational categories required to perform each phase of the Section 3 project.
- (b) Identifying the number of positions currently occupied by regular, permanent employees and those that are not currently filled.
- (c) Determining maximum number of positions to be filled by lower income project area residents.
- (d) Utilizing the maximum number of persons in the various occupational categories in all phases

of the work to be performed under Section 3 covered projects, and

- (e) Filling all vacant positions with lower income project area residents except for those positions which remain unfilled after a good faith effort has been made.

2. Good Faith Effort

Each contractor and subcontractor seeking to establish that a good faith effort has been made to fill trainee and skilled positions with lower income area residents, shall:

- (a) Attempt to recruit from the appropriate areas the necessary number of lower income residents through local advertising media, signs placed at the proposed site and community organizations and public and private institutions operating within or serving the project area, such as the State Employment Office.
- (b) Maintain a list of all lower income residents who have applied either on their own or on referral from any source, and employ such person if otherwise eligible and/or qualified and if a vacancy exists. If no vacancies exist, the eligibility and/or qualifications of the applicant shall be considered and listed for the first available opening.

- (c) Any contractor or subcontractor which fills vacant apprentice and trainee positions and/or employment positions in his organization immediately prior to undertaking work pursuant to a Section 3 covered contract shall set forth evidence acceptable to the (County/City) that its actions were not an attempt to circumvent these regulations.

D. Utilization of Businesses

1. Each contractor in developing an Affirmative Action Plan shall set forth the approximate dollar value, as indicated in this Plan, of subcontractors to be awarded to eligible businesses and entrepreneurs within each category over the duration of this project.
2. Each contractor and subcontractor must establish that a good faith effort has been made to recruit eligible business concerns. Evidence of good faith shall consist of calling the project to the attention of eligible Section 3 businesses whenever advertisement in the local media is used, through signs placed at the site, and use of minority and disadvantaged business listings made available by HUD, SBA, and the State of West Virginia, or by the (County/City).

E. Reporting

The contractor must report to the grantee on a regular basis (monthly, quarterly or per project) the results of the affirmative efforts undertaken in Section D above by completing the

attached Form S3-5, "Contractor's Progress Report for Section 3 Compliance." A written report on the utilization of project residents as trainees and skilled employees should also be submitted on a regular basis. The contractor must keep documentation in his files supporting each report so that if the grantee requires more detailed information, it will be readily available.

AGENDA ITEM NO. 9 - FORMATION OF STREET PAVING COMMITTEE: Mayor Ashley proposed that Council, at this meeting, agree to create a standing paving evaluation and priority committee to consist of the individual ward councilmen, the Building Inspector, the Chairman of the Planning Commission, Chairman of the Board of Zoning Appeals, a representative of the Nitro Business and Professional Association, and a private citizen appointment by the Council, for the purpose of evaluating the various areas where paving is most important.

Councilman at Large Casto moved for such action. The motion was seconded. Councilman at Large West questioned the exclusion of the Councilmembers at Large. Mayor Ashley stated that he has no objection to having them on the committee, but that he felt that a twelve-member committee may be too large and that twelve members may be too much to get much work done. He further stated that their insights are welcome.

There being no further discussion, a vote was taken and carried with Councilman at Large West opposing the motion.

#### COMMITTEE/CHAIRMEN REPORTS

Recreation Director John Simms stated that he has tickets now available for the Jeanie C. Riley concerts, and that any interested Council member may obtain them from him to sell. He further stated that Mike Weikle, of the Bank of Nitro, has begun canvassing local businesses to serve as ticket outlets.

Mr. Simms announced the general Spring Festival committee meeting to be held at 6:00 p.m., Thursday, April 7th, at City Hall. He further stated that the Arts & Crafts Fair has been cancelled, due to the lack of entries.

Mayor Ashley shared with Council a letter by Dennis R. Vaughan, appointed counsel for the Nitro Sanitary Board, which explained why the apparent low bidder, E & M Bilowich Construction, Inc., did not meet legal specifications and should be rejected. Attorney Vaughan stated the a bond must be signed by a West Virginia resident agent and that the bond was conditional.

The next apparent low bidder, Kenneth M. Dunn Company, did comply with the law and should be considered as being a proper low bidder on the contract of the Armour Creek Interceptor Sewer, and the Sanitary Board will take what action it deems appropriate on such bid.

Mayor Ashley stated that a surveyor is now working on the property boundaries at Lakeview Estates to establish exactly where the City limits fall. Relative to the easement request, Mayor Ashley stated that he would like to appraise the property in question, in terms of the easement, and then deal with Union Boiler Company, as a committee, on the question of arriving an equitable solution and arrangement can be made between Union Boiler and the City. Presently, they are asking for an access easement to part of the property outside of the City, but owned by the City because it is adjacent to the roadway. Also requested for easement is another portion of property within the City, owned by the City, where Union Boiler's road comes out and onto Blakes Road.

Councilman at Large Casto moved to award the "Number Two Dough-boy Certificate" be awarded to Arden D. Ashley. The motion was seconded. The vote was unanimous and so ordered.

There being no further business to conduct, Councilman at Large Casto moved to adjourn the meeting.

At 9:10 p.m., the meeting was adjourned.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

CITY OF NITRO

April 19, 1983

The regular meeting of the Nitro City Council was called to order by City Recorder John F. Santrock at 7:30 p.m. on April 19, 1983. Present were Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Joe Savilla, Councilman Ronald King, Councilman Omar Cunningham, and Councilman Jack Moon. Absent was Mayor Arden D. Ashley. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by The Reverend Lawrence Hoptry of the First Baptist Church in Nitro.

AGENDA ITEM NO. 1 - APPROVAL OF APRIL 5, 1983: City Recorder Santrock changed Page 102, Paragraph 1, to state that Council passed the motion to approve the "Affirmative Action Plan", but that Councilman at Large West abstained from the motion. Also corrected was the spelling of Jeannie C. Riley on Page 115, Paragraph 5.

There being no further corrections, Councilman Savilla moved to accept the minutes of the April 19, 1983 Council meeting, with the above changes. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 2 - LEVIES TO BE LAID BY CITY OF NITRO: City Recorder Santrock pointed out to Council their copies of levies adopted for the budget approved March 27, 1983 by the City, with one minor change in the ad valorem tax (property tax) of an additional fifteen hundred dollars from last year's budget.

Councilman at Large Casto moved that the levies be adopted and that copies be sent to the property authorities in Putnam and Kanawha Counties. The motion was seconded. There being no discussion, a vote was taken and was unanimous and so ordered.

The document is as follows:

LEVY RATE SHEET

RATES OF LEVY LAID BY:

CITY OF NITRO

(LEVYING BODY)

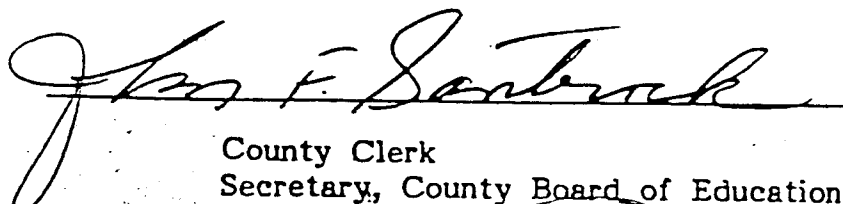
KANAWHA & PUTNAM  
(COUNTY)

AND APROVED BY THE STATE TAX COMMISSIONER FOR  
COUNTY, SCHOOL, OR MUNICIPAL PURPOSES FOR THE  
FISCAL YEAR BEGINNING JULY 1, 83 IN ACCORDANCE  
WITH CHAPTER 11, ARTICLE 8 OF THE WEST VIRGINIA  
CODE, AS AMENDED.

	CURRENT LEVY RATE	EXCESS LEVY RATE	PUBLIC/PERM. IMPROVEMENT LEVY RATE	BONDS LEVY RATE	TOTAL LEVY RATE
CLASS I	11.50	6.25		1.00	18.75
CLASS II	23.00	12.50		2.00	(3750) 37.50
CLASSES I AND/OR IV	46.00	25.00		4.00	75.00

RATE IS ON EACH ONE HUNDRED DOLLARS VALUATION

The above is a true list of the levies laid by the County Commission,  
Board of Education, or Municipal Council of the City of Nitro  
on the 19th day of April, 1983 and APPROVED BY  
THE STATE TAX COMMISSIONER.

  
County Clerk  
Secretary, County Board of Education  
Municipal Clerk or Recorder

NOTE:

This is a three part form. When completed, retain the pink copy for your files  
and mail the white and yellow copies (along with your Levy Order) to the State  
Tax Department, Local Government Relations Division, P. O. Drawer 2389,  
Charleston, WV 25305. Upon receipt, one copy will be stamped "Approved" and  
forwarded to the assessor of your county to be used in extending the levies.

	Total Assessed Value	Assessed Values Tax Purposes
<u>CLASS I</u>		
Personal Property	\$ _____	\$ 4,236,362
Public Utilities	_____	532,300
Total Class I	\$ _____	\$ 4,768,662 →
<u>CLASS II</u>		
Real Estate	\$ _____	\$ 1,701,402.7
Personal Property	_____	188,216
Total Class II	\$ _____	\$ 1,720,224.3 →
<u>CLASS IV</u>		
Real Estate	\$ _____	\$ 11,227,385
Personal Property	_____	999,455
Public Utilities	_____	375,500
Total Class IV	\$ _____	\$ 23,967,340 →
<u>TOTAL ALL CLASSES</u>	\$ _____	\$ 45,938,245

LESS DELINQUENCIES & EXONERATIONS ESTIMATED AT 5 %

NET AMOUNT TO BE RAISED BY LEVY

\$ \_\_\_\_\_

TOTAL CURRENT AND EXCESS LEVY REVENUE (NET)

TOTAL LEVY RATES: CLASS I 18.75 ¢ CLASS II 37.50 ¢

Excess Levy Election held February 12 19 82

Levy from July 1, 19 83 To June 30, 19 86

CURRENT EXPENSES

Levy Rate/\$100	Taxes Levied
--------------------	-----------------

11.5¢	\$ 4872
11.5¢	612
	\$ 5484

23.0¢	\$ 39132
23.0¢	433
	\$ 39565

46.0¢	\$ 51246
46.0¢	41346
46.0¢	17257
	\$ 110249

\$ 155298
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7745
------

\$ 147553
-----------

\$ 227735
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EXCESS LEVY

Levy Rate/\$100	Taxes Levied
--------------------	-----------------

6.25¢	\$ 2648
6.25¢	333
	\$ 2981

12.5¢	\$ 21268
12.5¢	235
	\$ 21503

25.0¢	\$ 28068
25.0¢	22471
25.0¢	9379
	\$ 59918

\$ 84402
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4220
------

\$ 80182
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BOND PURPOSES

Levy Rate/\$100	Taxes Levied
--------------------	-----------------

7.0¢	\$ 424
7.0¢	53
	\$ 477

2.0¢	\$ 3403
2.0¢	39
	\$ 3441

4.0¢	\$ 4491
4.0¢	3595
4.0¢	1501
	\$ 4587

\$ 13505
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675
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\$ 12830
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CLASS IV 75.0 ¢

Bond Issue(s) authorized by election(s) held:

May 1, 1959

AGENDA ITEM NO. 3 - NITRO LIONS LITTLE LEAGUE PARADE PERMIT - 1983: Councilman Savilla moved that Council approve this request from the Lions Club, as is done every year. The motion was seconded. The vote was unanimous and so ordered.

Councilman at Large Casto invited the City Recorder, Council members, and the police and fire departments to be in the parade.

AGENDA ITEM NO. 4 - PUTNAM COUNTY MUNICIPAL REGISTRATION BOOKS: City Recorder Santrock explained to Council that he was notified by the Putnam County Clerk that municipal registration books will not be kept in the future, due to the request of the Secretary of State's office.

AGENDA ITEM NO. 5 - RESOLUTION 83-3: Councilman Savilla read to Council Resolution 83-3, making apointment of Mr. Ted Philyaw to the Board of Rock Branch Public Service Distrit as provided by Senate Bill No. 521, passed March 11, 1983, and moved that Council adopt such. The motion was seconded. The vote was unanimous and so ordered.

The resolution is as follows:

#### RESOLUTION 83-3

A RESOLUTION MAKING APPOINTMENT OF MR. TED PHILYAW TO THE BOARD OF ROCK BRANCH PUBLIC SERVICE DISTRICT AS PROVIDED BY SENATE BILL NO. 521, PASSED MARCH 11, 1983.

WHEREAS, the Rock Branch Public Service District operates within the City of Nitro, and

WHEREAS, Senate Bill 521 provides that wherein a Public Service District is situated in a municipality, such municipality may make at least one appointment to such Public Service District Board, and

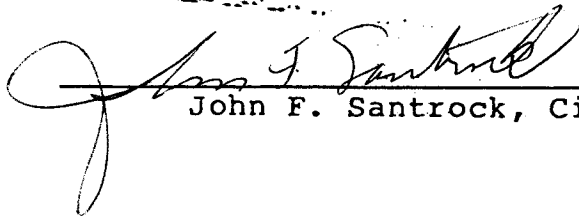
WHEREAS, Mr. Ted Philyaw is both a resident of the City of Nitro and residing within the Rock Branch Public Service District boundaries.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nitro that Mr. Ted Philyaw be named as the City's appointment to the Rock Branch Public Service District Board.

Passed by the Council of the City of Nitro, this, the 19th day of April, 1983.



Arden D. Ashley, Mayor



John F. Santrock, City Recorder

AGENDA ITEM NO. 6 - APPROVAL OF SWIMMING POOL EMPLOYEES: Recreation Director John Simms pointed out to Council the list of proposed employees for the swimming pool for the 1983 season, and explained how he arrived at these names and positions.

Councilman Moon moved that Council accept the employees as proposed by the Recreation Department of the 1983 swimming pool season. The motion was seconded. The vote was unanimous and so ordered.

The list is as follows:

NITRO MUNICIPAL SWIMMING POOL  
PROPOSED EMPLOYEES 1983

Head Lifeguard  
Head Cashier

John Halbritter  
Fred McPherson

Assistant Head Guard  
Lifeguard  
Lifeguard  
Lifeguard  
Lifeguard  
Lifeguard  
Lifeguard

Stephanie Trout  
Risa Withrow  
Lucy Mynes  
Leigh Shell  
Bruz Hicks  
Cathy Hoptry  
Scott McClanahan

Assistant Head Cashier  
Cashier  
Cashier

Andy Knicely  
Dee Olive  
Debbie Herdman

Alternates

( for filling any long or short term vacancies which may occur )

Chris Hoptry  
Terry Fox  
Lisa Gibson

Shawwna Raynes  
Tim Sizemore  
Jeff Young

Note: Twelve of the eighteen people presented for approval are from Nitro, one from St. Albans, one from Rock Branch, two from Eleanor, one from Poca, and one is presently living in Kingwood but will be residing with relatives in Nitro during the summer.

AGENDA ITEM NO. 7 - CONCESSIONS: City Recorder Santrock stated that advertisement for bids for concession at City facilities was run in the newspaper, but that there has been no response as of yet. Mr. Santrock further stated that it will be run again in the near future.

Councilman at Large Casto moved that a temporary concession stand run by the Nitro Little League be put up at the park between April 30th and May 10th. The motion was seconded.

Councilman Moon suggested that bids be put out at an earlier date next year, so concession will be ready for the beginning of ball season. City Recorder Santrock agreed.

A vote was taken and was unanimous and so ordered.

AGENDA ITEM NO. 8 - FIREMEN PENSION BOARD ELECTION: City Recorder Santrock stated that the Firemen Pension Board has elected Lt. James Stover to the Board for a one-year term. Councilman at Large Casto moved that this be made a part of the minutes. The motion was seconded. The vote was unanimously ordered.

#### COMMITTEE/CHAIRMAN REPORTS

City Recorder Santrock announced the Spring Festival meeting to be held on April 28, 1983.

Councilman King suggested a flea market to replace the cancelled arts & crafts fair. Council expressed agreement with Councilman King. Recreation Director Simms mentioned that on Sunday there is an opening for such an event. Also discussed was a fee for the participants in the flea market, possibly in the form of a City license. Discussed was an all-weekend flea market.

Councilman King moved to let the Recreation Director organize this, and to charge a five-dollar-a-day fee for those participating in the flea market and a one dollar for admission. The motion was seconded. After brief discussion, the vote was taken and passed unanimously.

Councilman at Large West moved, at this point, to change the three-day rate to a ten dollars, giving those staying for three days a five-dollar discount. The motion was seconded. The vote unanimously passed.



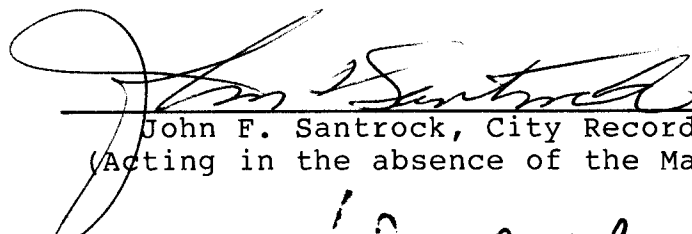
City Recorder Santrock expressed his thanks to Councilwoman at Large Trout and those who helped her with the "All West Virginia City" report and showed to Council the sign to be placed at the City entrance announcing the awarding of such.

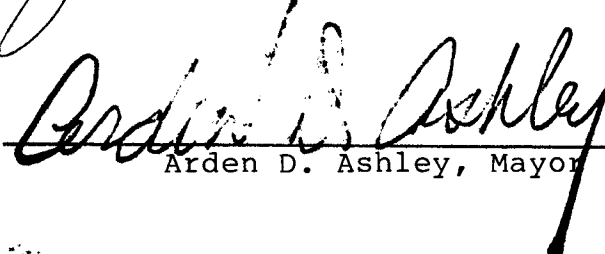
Ms. Patrica Gail Dingess of 211 Jamestown Road, Nitro, expressed to Council that she would like to be notified by letter concerning the next meeting of the Board of Zoning Appeals (Planning Commission).

Inquiries were made by the Lion's Club about the bidding for concession within the City. Recreation Director Simms stated that the bid sheets were only for the park, pool and the lake.

There being no further business, Councilman King moved to adjourn the meeting. The motion was seconded. The vote unanimously passed.

At 8:44 p.m., the meeting was adjourned.

  
\_\_\_\_\_  
John F. Santrock, City Recorder  
(Acting in the absence of the Mayor)

  
\_\_\_\_\_  
Arden D. Ashley, Mayor



CITY OF NITRO  
COUNCIL MEETING MINUTES

May 3, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. on May 3, 1983, in Council Chambers. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Joe Savilla, Councilman Ronald King, Councilman Omar Cunningham and Councilman Jack Moon. Also present was City Treasurer Michael E. Greenleaf. Absent was City Attorney Phillip D. Gaujot.

The invocation was given by Councilwoman at Large Mary Trout.

AGENDA ITEM NO. 2 - APPROVAL OF APRIL 19, 1983 COUNCIL MEETING MINUTES: Councilman at Large Casto moved to accept the minutes of the April 19, 1983 Council meeting as written. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 3 - RESOLUTION 83-5: Councilman Moon introduced and read the resolution promoting the PAUSE FOR THE PLEDGE OF ALLEGIANCE.

The resolution is as follows:

RESOLUTION 83-5

WHEREAS, the Continental Congress of the United States adopted a national flag on June 14, 1977; and

WHEREAS, the U.S. Congress officially designated June 14th as National Flag Week in 1949; and

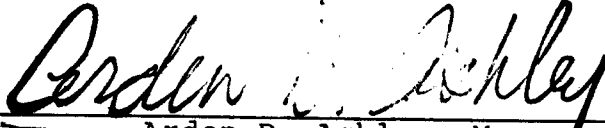
WHEREAS, the Star-Spangled Banner Flag House has officially sponsored Flag Week since 1952; and

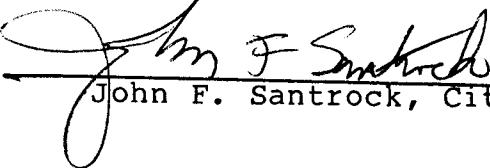
WHEREAS, the National Flag Day Foundation in Baltimore, Maryland was created in 1982 to plan National Flag Day ceremonies and to encourage patriotism by promoting the PAUSE FOR THE PLEDGE OF ALLEGIANCE; and

WHEREAS, this year on June 14, 1983 at 7:00 p.m. (EDT), Americans everywhere in the nation, led by President Reagan and Governors of the fifty states, are asked to pause to say the pledge of allegiance to the FLAG OF THE UNITED STATES OF AMERICA.

BE IT NOW RESOLVED that the City of Nitro urge its members, their families and their friends to join in this effort.

Adopted this the 3rd day of May, 1983.

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

After the reading of the above resolution, Councilman Moon moved that Council adopt such resolution, along with the pertaining proclamation and letter to the President. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 1 - CITIZEN OF THE MONTH: Mayor Ashley awarded City Treasurer Greenleaf the Citizen of the Month award for the Month of May, for his most instrumental part in the \$1.3 million dollar U.D.A.G. Grant for the development of Nitro Industrial Park.

Mayor Ashley also extended thanks to Mr. Joe Repetto, Mr. John Romano and Mr. Mike Weikle, for their part in the U.D.A.G. Grant project.

AGENDA ITEM NO. 4 - CONCESSION BIDS: Discussed were bids for concession rights at the City Pool. Those bids are as follows:

## SWIMMING POOL CONCESSION BIDS

<u>COMPANY</u>	<u>PAYMENT TO CITY</u>
GINO'S	10 % of gross sales
J & F DISTRIBUTING	\$2,000 in four installments 10% of first \$15,000 15% after first \$15,000
THE MACKE COMPANY	Vending machines 25% on foods 22.5% on drinks

\*All percentages involving gross sales  
will be calculated after sales tax.

After discussion on the manner in which each bidder is to handle their concession, Councilman Savilla moved to table the decision on pool concession until next Council meeting to allow more time for consideration. The motion was seconded. The vote was unanimous and so ordered.

Also discussed was concession bids for the Ridenour Lake and Underwood Field during the 1983 Spring Festival by J & F Distributing for fifteen percent (15%) of gross sales, and District III Little League for fifty percent (50%) of the net sales. Mayor Ashley and Council questioned the "net sales" as opposed to "gross sales".

Following a discussion in which Council expressed that the concession bids were "like comparing apples to oranges, and without previous experiences, the bids deserved more study", Councilman Savilla moved to table the motion for further consideration. The motion was seconded. The vote was unanimous and so ordered.

The Nitro Men's Softball League proposed a concession bid for Monday through Friday from 5:00 p.m. to 9:00 p.m. for weekends and tournaments. They would operate from a mobile trailer at the parking lot nearest the softball field, in the "out-of-play area" down the right field line. Their bid was thirty percent (30%) of gross. This being the only bid in the men's softball area, City Recorder Santrock moved to accept the above-stated bid. The motion was seconded. The vote passed unanimously.

The Nitro Lion's Little League was given permission for a dollar (\$1.00) contract to continue to serve concessions from a

trailer at the Harold Long Softball Field May 1 - July 4. City Recorder Santrock moved to accept the above-stated bid. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 5 - PARKING REGULATIONS ON SECOND AVENUE: Mayor Ashley stated that he wanted to share with Council that it has been requested by representatives of businesses of Second Avenue, between 20th and 21st Streets, and between 21st and 22nd Streets, that a two-hour parking limitation be put into effect. Mayor Ashley further stated that this action would require an ordinance.

Mayor Ashley stated that representatives of the business community have also requested that the allowance for unrestricted parking on the street in front of churches be reconsidered.

City Recorder Santrock moved that Council refer the matter to the Traffic Committee. The motion was seconded. After brief discussion, the vote was taken and the motion passed with Councilman at Large Casto voting negatively.

AGENDA ITEM NO. 6 - FIRST READING OF ORDINANCE FOR EASEMENT TO SOUTHWAY CONSTRUCTION COMPANY: City Recorder Santrock introduced the following ordinance for a first reading.

The ordinance, in the form of a deed, is as follows:

THIS DEED, Made this \_\_\_\_\_ day of \_\_\_\_\_, 1983, by and between the CITY OF NITRO, a West Virginia municipal corporation, Grantor, and SOUTHWAY CONSTRUCTION COMPANY, a West Virginia corporation, Grantee.

WHEREAS, the Grantee herein is the owner of a tract of land situate adjacent to the City of Nitro in Union District, Kanawha County, West Virginia, which said tract of land has been subdivided into lots, streets and alleys and designated as Lakeview Estate; and,

WHEREAS, the Grantor herein is the owner of certain real property situate adjacent to and abutting upon the lands of the Grantee hereinabove referred to and lying

generally between the lands of the Grantee and that certain public highway known as Blakes Creek Road, West Virginia Secondary Route 25/1; and,

WHEREAS, it is the desire of the Grantee herein to obtain from the Grantor herein easements and rights-of-way for the construction of two (2) roadways providing ingress and egress to the aforesaid Lakeview Estate and for the installation, maintenance, repair and replacement of all customary utility services; and,

WHEREAS, it is the intention of the Grantee herein upon obtaining and improving the rights-of-way herein conveyed to dedicate the same to the public use;

NOW, THEREFORE THIS DEED WITNESSETH: That for and in consideration of the sum of \$\_\_\_\_\_, cash in hand paid, the Grantor herein does hereby GRANT and CONVEY unto the Grantee herein an easement and right-of-way for the construction and maintenance of a roadway providing ingress and egress to and from the property of the Grantee referred to in the hereinabove recitals, and for the installation, maintenance, repair and replacement of all customary utility services over those portions of property now owned by the Grantor herein and more particularly bounded and described as follows:

1. BEGINNING at an iron pin set in the northwesterly right-of-way line of an existing 40 foot roadway and generally known as Lakeview Drive, said point being situate S. 34° 25' W., on an iron pin set marking one corner of the triangular shaped flood control parcel obtained by the Grantor herein by virtue of a deed of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book 1726 at page 35; thence S. 38° 45' E., a distance of 40 feet to an iron pin set in the southeasterly right of way line of said Lakeview Drive; thence continuing from each of the aforesaid points and extending on parallel lines in a southwesterly direction to an intersection of these extended parallel lines of the northerly rightofway line of Blakes Creek Road, also known as West Virginia Secondary Route 25/1.

2. BEGINNING at a point in the northwesterly line of an unnamed 40 foot roadway, said point being situate S. 38° 45' E., 404 feet from the iron pin set and designated as the point of beginning in parcel #1, above; thence S. 38° 45' E., a distance of 40 feet to an iron pin set in the southeasterly right-of-way line of said unnamed 40 foot street; thence from these two designated points and extending on parallel lines in a southwesterly direction to the point of intersection of said extended parallel lines of the northerly right-of-way line of Blakes Creek Road, West Virginia Secondary Route 25/1.

In consideration of the conveyance evidenced hereby, the Grantee herein does by acceptance of this conveyance and by its simultaneous execution of this instrument offer irrevocably a dedication of the roadways to be constructed upon these parcels to the general use and benefit of the public.

Under penalty of fine and imprisonment as provided by law, the parties to this instrument do hereby declare that the conveyance evidenced hereby is exempt from the



West Virginia excise tax on the privilege of transferring real property or any interest therein for the reason that this is a conveyance from a political subdivision of the State of West Virginia.

WITNESS the following signatures and seals:

CITY OF NITRO

By

Arden D. Ashley, Mayor (SEAL)

SOUTHWAY CONSTRUCTION COMPANY

By

Its

STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA, TO-WIT:

I, \_\_\_\_\_, a Notary Public in and for the county and state aforesaid, do hereby certify that Arden D. Ashley, Mayor of the City of Nitro, whose name is signed to the foregoing Deed bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 1983, has this day acknowledged the same to be the act and deed of said municipal corporation before me in my said county.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 1983.

My commission expires \_\_\_\_\_.

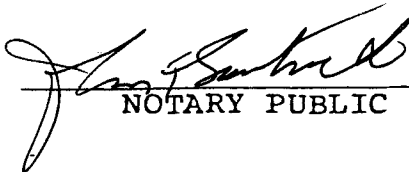
\_\_\_\_\_  
NOTARY PUBLIC

STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA, TO-WIT:

I, \_\_\_\_\_, a Notary Public in and  
for the county and state aforesaid, do hereby certify that  
\_\_\_\_\_, \_\_\_\_\_ of the Southway  
Construction Company, whose name is signed to the foregoing  
deed bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 1983, has  
this day acknowledged the same to be the act and deed of said  
corporation before me in my said county.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 1983.

My commission expires \_\_\_\_\_.

  
NOTARY PUBLIC

Prepared By:

Harvey D. Peyton  
CALWELL, McCORMICK & PEYTON, L.C.  
2602 First Avenue  
Nitro, West Virginia 25143

City Recorder Santrock moved that the deed be adopted as the ordinance and that this be considered the first reading. The motion was seconded.

Mayor Ashley stated that this document is essentially for the purpose of giving Southway Construction Company permission to build a road on City property out to Blakes Creek Road. Councilman Savilla stated that the City stands to benefit from this action because there will be possible further annexation of approximately one hundred (100) homes.

Councilwoman at Large Trout suggested a one dollar (\$1.00) consideration sum for easement and right-of-way for the construction and maintenance of a roadway providing ingress and egress to and from the property of the Grantee.

At this point a vote was taken and passed, with Councilman at Large West opposing and Councilman Moon abstaining.

AGENDA ITEM NO. 7 - FIRST READING OF ORDINANCE FOR CHANGE IN WARD BOUNDARIES. 1984 ELECTION DATE: City Recorder Santrock introduced the following ordinance for first reading.

The ordinance is as follows:

#### ORDINANCE 83-

Part I, Division II, Section 2 and 3 of City Code be replaced by the following:

Part I, Division II, Section 2 Ward Boundaries, City of Nitro, Counties of Putnam and Kanawha:

On and after \_\_\_\_\_, the City of Nitro shall be made up of four wards, the areas and boundaries of which are as follows:

FIRST WARD The first ward of the City of Nitro shall consist of that portion of the City lying within the County of Putnam (comprised of Putnam County Voting Precinct No. 22), as officially laid off and described by the County Court of Putnam County, West Virginia, and the recently annexed area identified as Carriage Way located in Putnam County.

County Precinct 401 (redistricted December, 1981) known as Brookhaven Addition and as shown by the records of the County Court of Kanawha County, West Virginia, and citizens residing in recently annexed territory known as Carriage Way (February 24, 1983).

SECOND WARD The second ward of the City of Nitro shall consist and be made up of the area lying within the boundaries of Kanawha County Voting Precinct Nos. 402, 403 and 405, as the same are officially constituted and as shown by the records of the County Court of Kanawha County (redistricted December, 1981).

THIRD WARD The third ward of the City of Nitro shall consist and be made up of the area lying within the boundaries of Kanawha County Voting Precincts Nos. 406 and 408, as the same are officially constituted and as shown by the records of the County Court of Kanawha County, West Virginia (redistricted December, 1981).

FOURTH WARD The fourth ward of the City of Nitro shall consist and be made up of the area lying within the boundaries of Kanawha County Voting Precincts Nos. 409 and 411, as the same are officially constituted and as shown by the records of the County Court of West Virginia.

Section 4 becomes Section 3.

Section 5 becomes Section 4.

Section 6 becomes Section 5.

Section 6 to read:

Date for holding regular leap year elections for mayor, city recorder and councilmen, and when their terms of office begin.

Regular elections for the purpose of selecting municipal officials shall be held quadrennially on the first Tuesday in May, beginning with the year 1984. Terms of office of all officials shall commence on the first of July, following election (Ord. No. 73, 4.)

Editor's Note The preceding section does not specify the term of office for councilmen; but inasmuch as councilmen are "municipal officials" they are covered by this section; and as election are held "quadrennially", it follows logically that the term of office of councilmen is four years.

For general law as to date for holding general elections for municipal officers and their terms of office, see West Virginia Code, 8-5-5, 1982.

After brief discussion on the arrival of the figures, Councilman Savilla moved to accept the first reading of the above ordinance. The motion was seconded. The vote passed unanimously.

AGENDA ITEM NO. 8 - SECOND READING OF ORDINANCE TO AMEND ORDINANCE 137, EXTENDING KANAWHA CABLE TELEVISION RIGHTS, ENACTED 1/17/65: City Recorder Santrock introduced to Council Ordinance 83-4, which was approved for first reading on February 1, 1983, an ordinance to amend Ordinance 137, extending Kanawha Cable Television rights.

The ordinance is as follows:

CITY OF NITRO

ORDINANCE NUMBER \_\_\_\_\_

PASSED BY COUNCIL \_\_\_\_\_

AN ORDINANCE TO AMEND AN ORDINANCE, AS AMENDED, GRANTING TO KANAWHA CABLE TELEVISION COMPANY A CERTAIN ORDINANCE AND TO GRANT AND EXTEND TO KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, THE RIGHT AND PRIVILEGE TO ENGAGE IN THE SERVICE OF OPERATING, CONSTRUCTING, PROVIDING, INSTALLING, REPAIRING, REPLACING AND MAINTAINING A CABLE OR COMMUNITY ANTENNA TELEVISION SYSTEM (CATV) AND FOR THAT AND RELATED PURPOSES TO ORIGINATE, TRANSMIT, DISTRIBUTE AND RELAY SIGNALS, BY AND THROUGH WIRES, CABLES OR OTHER DEVICES OR LIKE CONNECTIONS, IN, THROUGH, ON, ACROSS, OVER, UNDER, TO AND FROM PUBLIC STREETS, ALLEYS, WAYS, PLACES, SPACE AND RIGHTS OF WAY, TO RECEIVERS, TELEVISION SETS AND LIKE DEVICES OF SUBSCRIBERS TO SAID SERVICE IN THE CITY OF NITRO, WEST VIRGINIA, ENACTED JANUARY 19, 1965, AS AMENDED, TO CONTINUE AND EXTEND SERVICE BY ORDINANCE AND BY CONTRACTUAL AGREEMENT; TO ESTABLISH A FEE PAYABLE TO THE CITY FOR THE RIGHT AND PRIVILEGE OF ENGAGING IN SUCH SERVICE AND ESTABLISHING APPLICATION OF MUNICIPAL BUSINESS AND OCCUPATION TAX.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA:

THAT AN ORDINANCE ENTITLED AN ORDINANCE GRANTING TO KANAWHA CABLE TELEVISION COMPANY A CERTAIN FRANCHISE AND TO GRANT AND EXTEND TO KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, THE RIGHT AND PRIVILEGE TO ENGAGE IN THE SERVICE OF OPERATING, CONSTRUCTING, PROVIDING, INSTALLING, REPAIRING, REPLACING AND MAINTAINING A CABLE OR COMMUNITY ANTENNA TELEVISION SYSTEM (CATV) AND FOR THAT AND THE RELATED PURPOSES TO ORIGINATE, TERMINATE, DISTRIBUTE AND RELAY SIGNALS BY AND THROUGH WIRES, CABLES, OR OTHER DEVICES OR LIKE CONNECTION, IN, THROUGH, ON, ACROSS, OVER, UNDER, TO AND FROM PUBLIC STREETS, ALLEYS, WAYS, PLACES SPACE AND RIGHTS OF WAY, TO RECEIVERS, TELEVISION SETS, OR LIKE DEVICES OF SUBSCRIBERS TO SAID SERVICE IN THE CITY OF NITRO, WEST VIRGINIA, AS ENACTED JANUARY 19, 1965, AND AS AMENDED, TO BE AMENDED TO CONTINUE AND TO EXTEND THE SERVICE BY THIS ORDINANCE AND BY WRITTEN CONTRACTUAL AGREEMENT; TO ESTABLISH A FEE PAYABLE TO THE CITY OF NITRO BY KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, FOR THE EXERCISE OF SUCH RIGHT AND PRIVILEGE AND THE NUMBER OF YEARS SUCH RIGHT AND PRIVILEGE SHALL BE EXERCISED AND TO DEFINE THE TAXABLE INCOME OF SUCH SERVICE.

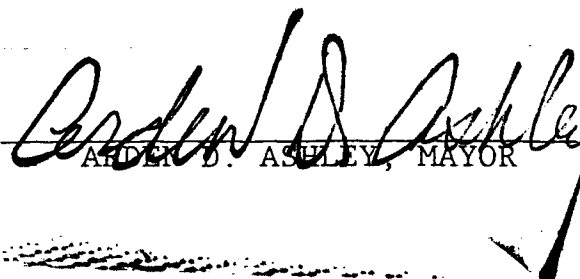
#### SECTION I.A.

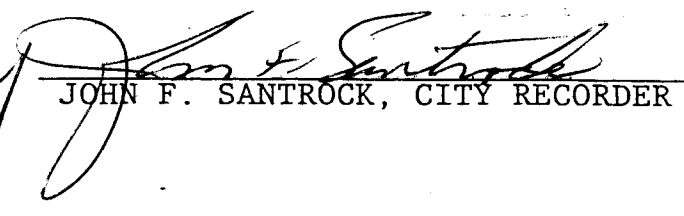
THE CITY OF NITRO HEREBY EXTENDS TO KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, THE RIGHT AND PRIVILEGE TO ENGAGE IN THE CITY OF NITRO IN THE SERVICE OF OPERATING, CONSTRUCTING, PROVIDING, INSTALLING, REPAIRING, REPLACING AND MAINTAINING A CABLE OR COMMUNITY ANTENNA TELEVISION SYSTEM (CATV) AND FOR THAT AND RELATED PURPOSES TO ORIGINATE, TERMINATE, DISTRIBUTE, OR RELAY SIGNALS BY AND THROUGH WIRES, CABLE OR OTHER DEVICES OR LIKE CONNECTIONS, IN, THROUGH, ON, ACROSS, OVER, UNDER, TO AND FROM PUBLIC STREETS, ALLEYS, WAYS, PLACED, SPACES AND RIGHTS OF WAY TO RECEIVERS, TELEVISION SETS, AND LIKE DEVICES TO SUBSCRIBERS TO SAID SERVICE. FOR THIS RIGHT AND PRIVILEGE OF ENGAGING IN THIS SERVICE, KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, SHALL PAY TO THE CITY OF NITRO, THE ANNUAL SUM OF \$2,000.00, PAYABLE ON THE EFFECTIVE DATE OF THIS ORDINANCE, AND ON THE ANNIVERSARY DATE THEREAFTER, AND FOR A TERM FOR WHICH THE ORDINANCE OF JANUARY 19, 1965 PROVIDED, NAMELY, TWENTY-FIVE (25) YEARS, FROM THAT DATE; AND FOR AN ADDITIONAL TEN (10) YEARS THEREAFTER, SO THAT THIS ORDINANCE HEREBY EXTENDS THE ORIGINAL PERIOD OF TWENTY-FIVE (25) YEARS PROVIDED FOR IN THE SAID ORDINANCE OF JANUARY 19, 1965, FOR AN ADDITIONAL TEN (10) YEARS FOR KANAWHA CABLE TELEVISION COMPANY, A CORPORATION TO ENGAGE IN THE SAID SERVICE.

THE MAYOR IS HEREBY DIRECTED TO ENTER INTO SUCH WRITTEN CONTRACTUAL AGREEMENT AS IS NECESSARY TO PROPERLY EFFECTUATE THIS ORDINANCE AND TO GRANT THE RIGHT AND PRIVILEGE TO KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, TO ENGAGE IN THE SERVICE OF OPERATING, CONSTRUCTING, PROVIDING, INSTALLING, REPAIRING, REPLACING, AND MAINTAINING A CABLE AND COMMUNITY ANTENNA TELEVISION SYSTEM AND TO EXERCISE ALL RIGHTS AND PRIVILEGES INCIDENT THERETO.

SECTION 1.B.

NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY OF THE CODE OF THE CITY OF NITRO, THE GROSS INCOME OR GROSS PROCEEDS OF SALES TO PERSONS ENGAGED IN THE SERVICES FROM SUBSCRIBERS OF A CABLE TELEVISION OR COMMUNITY ANTENNA TELEVISION SYSTEM SHALL CONTINUE TO BE EXEMPT FROM BUSINESS AND OCCUPATION OR THE PRIVILEGE TAX, PROVIDED THAT INCOME FROM INSTALLING AND OTHER NON-SUBSCRIBER INCOME SHALL CONTINUE TO BE SUBJECT TO SUCH TAX.

  
 ARDEN D. ASHLEY, MAYOR

  
 JOHN F. SANTROCK, CITY RECORDER

City Recorder Santrock moved for the approval of such ordinance. The motion was seconded.

Councilman Moon questioned the annual payment of two thousand dollars (\$2,000), as opposed to last year's price of one thousand dollars (\$1,000); and the notification to the City if there is a rate change on the part of the cable company.

City Recorder Santrock stated that he had made the comment to Mr. Patton of the Kanawha Cable Television Company that he would prefer that the City Attorney be present to answer any questions about this subject. Councilman at Large West moved to table the second reading of Ordinance 83-3, until such time that the City Attorney can be present to answer any questions. The motion was seconded. The vote passed unanimously.

AGENDA ITEM NO. 9 - AMENDMENTS TO RESOLUTION 82-4: City Recorder Santrock introduced the resolution amending Resolution 82-4 and read the following:

## RESOLUTION 83-6

MANUAL OF RULES AND REGULATIONS,  
CITY OF NITRO, POLICE AND FIRE  
DEPARTMENT PERSONNEL AND  
ADMINISTRATION. AMENDMENT OF  
RESOLUTION 82-4, ADOPTED MAY 18,  
1983.

WHEREAS, the intent of having the same Rules and Regulations for policemen and firemen, as adopted on May 18, 1982, has proved beneficial, but there have been found certain discrepancies in the printed handbook which need to be corrected.

It is resolved that by this resolution the following changes be approved to reflect the intent of Council:

CHAPTER I - DEFINITIONSPAGE 4, NUMBER 21 - Member

Add policeman to make sentence read, "salaried policeman or firefighter."

PAGE 5, NUMBER 26 - Officers

The term "Ranking Officers" shall be in reference to those members who have attained the Civil Service rank of Captain, Lieutenant and Sergeant.

PAGE 7, NUMBER 39 - Officers

This item should read "Staff Officers", instead of "Officers", with no further changes.

PAGE 8, NUMBER 40 - Staff Officers

This item should read "Officers", instead of "Staff Officers", with no further changes.

CHAPTER III - RANKS AND DUTIESPAGE 16, NUMBER 1 - Chief

Delete sentence - "A special report shall be made in writing on fires of suspicious origin."

PAGE 17, NUMBER 1 - Chief

Delete end of sentence - "particularly those concerned with fire fighting or fire prevention."



PAGE 24, NUMBER 4 - Privates

Entitle Number 4, "Patrolman and Fireman".

PAGE 24, NUMBER 4 - Privates

Change first sentence to read, "a patrolman and fireman ..."

PAGE 24, 25 & 26, SECTION 4 - Privates

Change all "he's" to "they". Also, change "his" to "their" on Pages 24 and 25.

PAGE 27, SECTION 5 - INSTRUCTOR/TRAINING OFFICER

Place the paragraph "They shall make daily examinations the beginning of their shift, or whenever necessary, of all personnel to insure conformity with approved uniform code and personal appearance of members under their immediate command. Uniforms shall be clean and neat in appearance with no holes, tears, ragged or frayed areas, proper insignia in place, shoes shined, and clean shaven before the start of their regular duty shift," under Section 3, Page 23 - Lieutenant and Sergeant.

PAGE 28, SECTION 5 - Instructor/Training Officer

Place the paragraph "They shall , under the direction of their supervisor, investigate all cases of apparent or alleged misconduct by subordinates, preparing reports and recommendations for higher authority," under Section 3, Page 23.

#### CHAPTER IV - GENERAL RULES OF CONDUCT

PAGE 40 - Members and Organizations

Delete, in the second paragraph, "of the Fire Department".

PAGE 44, SECTION 31 - Duty

Delete the last two paragraphs on the Page 44. They begin "Officers and members shall endeavor -- ", and "Officers and members shall promptly report -- ".

PAGE 49, SECTION 38 - Property and Equipment

Delete in the third paragraph, "or of the Police Department", and add "s" to "Chief" of the Department ...

Also, delete, in the last paragraph, "from any fire scene", and "as to the origin or ignition of the fire".

PAGE 50 - 51, SECTION 39

Delete "fire" under Loitering the three times it is written.

THEREFORE, BE IT RESOLVED that this resolution is presented for adoption following an in-depth review by Fire Chief E. W. Hedrick, Police Chief C. R. Cochran, City Recorder John F. Santrock, and Judy West, Chairman of the Police Civil Service Commission.

It is further resolved that all employees concerned shall be notified of these changes.

This resolution passed by the Council of the City of Nitro on Tuesday, May 3, 1983.

At this point, Councilman at Large West moved to accept the above resolution. The motion was seconded. The vote was unanimous and so ordered.

AGENDA ITEM NO. 10 - NON-EMERGENCY TRANSPORT AMBULANCE AGREEMENT: Mayor Ashley introduced to Council the non-emergency transport ambulance application and read such.

Councilman Cunningham moved to accept such document. The motion was seconded. Councilman Moon moved that Council incorporate a ten-mile radius limit in item number six to eliminate the possibility of competition with neighboring area transport ambulances. The motion was seconded. A vote was taken and was unanimous and so ordered.

A vote was, at this time, taken to accept the non-emergency ambulance agreement. The vote passed unanimously and was so ordered.

AGENDA ITEM NO. 11 - FIRST READING OF ORDINANCE PERMITTING THE CITY TO ISSUE GRANT ANTICIPATION NOTES: Mayor Ashley reminded Council that an agreement in principle was in effect for this action, but that it has been established that an ordinance is necessary because it exceeds Council's authority.

Councilman Savilla moved that Council introduce the ordinance by title only, due to the length of the document. The motion was seconded.

Discussion showed that what is being considered, at this time, is the cash flow easement on shortages that might occur during construction processes, wherein the Federal Government has agreed to participate in the construction of a project. The City Treasurer stated that the City would sell notes to investors at the rate of approximately six percent (6%) and then they would be invested at approximately nine percent (3%).

At this point, a vote was taken to accept the ordinance. The motion passed, with Councilman Moon abstaining. The ordinance is available for review in the official ordinance book in the Recorder's office.

(WHEREUPON, a brief

recess was taken.)

AGENDA ITEM NO. 12 - PROCLAMATION - NATIONAL NURSES' DAY, MAY 6TH: As a matter of information, Mayor Ashley announced that it is his intent to issue the above proclamation.

#### PROCLAMATION

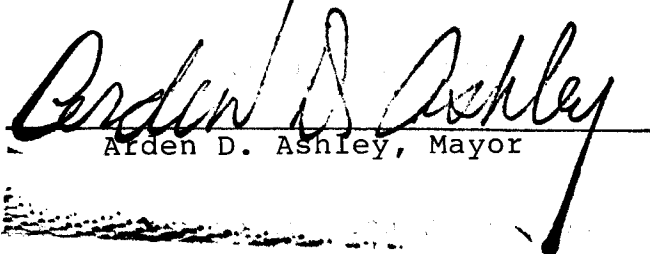
WHEREAS, nurses today are assuming increasing responsibility and accountability for this community's health care needs, and

WHEREAS, nurses have forcefully demonstrated their professionalism by continually striving to upgrade standards of care and improve services, and

WHEREAS, nurses in our community are committed to providing quality health care to all citizens, and

WHEREAS, the American Nurses' Association (State Nurses' Association) and other organizations have declared May 6 NATIONAL NURSES' DAY, now

THEREFORE, I, Arden D. Ashley, urge all residents of this community to join in this observance and participate in a demonstration of recognition and support of nurses, the nation's largest group of health professionals.

  
Arden D. Ashley, Mayor

AGENDA ITEM NO. 13 - PUBLIC HEARING - REVENUE SHARING.  
PROPOSED BUDGET: City Treasurer Greenleaf asked for questions or comments from the audience about the proposed revenue sharing budget. This constituted the public hearing, as advertised in the newspapers.

There being no comment about such budget, Councilman Savilla moved to adopt the proposed budget. The motion was seconded. The vote passed unanimously.

AGENDA ITEM NO. 14 - TYLER CEMETERY: Mayor Ashley corrected the agenda to stated that this cemetery is not the Tyler Cemetary, but a privately owned cemetery being cared for by Mr. Howard Tyler located on Holly Drive.

Mayor Ashley explained to Council that Mr. Tyler has requested that the City allow him to fence-in the cemetery with fence from his property and to take care of the cemetery himself, opening and closing it daily. Mayor Ashley stated that it is necessary to find the legal owner before such permission could be granted, but that research has found none as of yet. This action is still pending.

AGENDA ITEM NO. 15 - SICK LEAVE: Mayor Ashley stated that City Attorney Gaujot took Council's proposed amendments to the existing ordinance and rewrote them to include such amendments. Councilman Moon moved that Council approve the alternate proposed amendment. The motion was seconded.

The amendments are as follows:

(A) An employee of the City will be eligible for annual sick leave benefits not to exceed thirty days in any calendar year provided:

- (1) He or she must be on the permanent payroll.
- (2) He or she reports an absence and the cause of the absence to the supervisor as soon as is practical after the start of the disability.
- (3) He or she remains under the treatment of a licensed physician during the period of disability.
- (4) Immediately upon return to work, an employee shall furnish a written statement from the attending physician for all consecutive days of sick leave taken. The physician's statement shall specify the period of incapacity and state that the employee was unable to perform his job.

(5) The absence is due solely to a non-occupational disability.

(6) The illness or injury is not caused directly or indirectly by alcoholism, drug addiction, intentional self-inflicted injury, war or riot.

(B) Benefits will begin on the first day of absence due to illness or injury provided the requirements of (A)(4) above have been met. Any day an employee works three or more hours will be considered a day worked and shall not be considered a day of disability. Payments will only be made for days which would normally be worked if the employee performed his or her regular work schedule.

(C) Payments will cease when the attending physician certifies the employee is able to return to work at the end of the maximum period to which the employee is entitled, or until the employee ceases active employment, whichever occurs first.

(D) Sick leave credit will be accumulated at a rate of one and one-fourth day per month, not to exceed thirty days in any calendar year.

(E) Days shall be defined for purposes of this section as scheduled eight-hour shifts. (Ord. No. 147)

Discussion showed that this action constitutes a second reading of the sick leave ordinance amendment. A vote was taken of Council and passed unanimously.

AGENDA ITEM NO. 16 - APPROVAL OF MELORI PENNINGTON AS A LIFEGUARD FOR THE CITY POOL: Councilman at Large Casto moved that Melori Pennington be employed at the City Pool for the 1983 swim season. The motion was seconded. The vote was unanimously and so ordered.

#### COMMITTEE/CHAIRMEN REPORTS

Councilman Savilla moved that Council give the Recreation Director permission to go out for bid proposals on video games at the City Pool. The motion was seconded. The vote passed unanimously.

City Recorder Santrock and Recreation Director Simms discussed the progress of the Spring Festival and announced the next Spring Festival meeting is to be held at May 8th.

Councilman at Large Casto confirmed another softball game against the Killer Vs on Sunday, May 29th. Councilman Casto

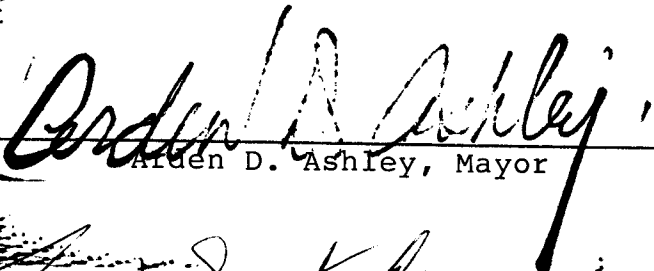
suggested using the Council and the Department Heads as participants and to charge each player three dollars (\$3.00) each to donate to the senior citizens, along with money obtained from a passing of the hat.

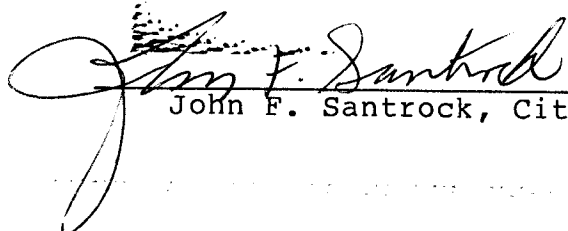
Mayor Ashley suggested that Councilman at Large Casto be cautious as to who he promises donations to, for legal reasons.

Councilman Casto asked Council for a fifty dollar advertising budget for Nitro Nite with the Charleston Charlies. Mayor Ashley asked Councilman Casto to direct his request to the Recreation Department.

Councilman Savilla stated that the paving committee will be meeting Saturday, May 7th to discuss matters discussed at this Council meeting.

There being no further business, Mayor Ashley adjourned the meeting at 10:05 p.m.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Treasurer

## COUNCIL MEETING MINUTES

## CITY OF NITRO

May 9, 1983

A special meeting of the Nitro City Council was called to order at 7:04 p.m. by Mayor Arden D. Ashley in Council Chambers. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steve West, Councilman Joe Savilla, Councilman Ronald King, Councilman Omar Cunningham, and Councilman Jack Moon. Absent were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

Mayor Ashley stated that this special session of Nitro City Council was called to order for the purpose of having Council consider the acquisition of capital equipment.

Councilman Savilla read the following resolution, which is under consideration at this meeting:

## RESOLUTION 83-7

A RESOLUTION AUTHORIZING THE CITY TREASURER OF THE CITY OF NITRO TO ENTER INTO A LEASE AGREEMENT ON BEHALF OF THE CITY TO PURCHASE PAVING EQUIPMENT AS PERMITTED UNDER WEST VIRGINIA CODE 8-12-11.

WHEREAS, the streets of the City are in need of resurfacing and repaving, and

WHEREAS, it would be financially impossible to contract out such paving needs to outside contractors, and

WHEREAS, it would be more cost-effective and desirable to pave the streets with City crews and equipment, and

WHEREAS, in order to effect such paving, it would be necessary to purchase paving equipment, and

WHEREAS, such paving equipment is available for sale by Mr. Charles Carpenter for \$40,000, containing the following equipment, to-wit:

(1) Road Paving Machine	S/N
(1) Mauldin Roller/trailer	S/N 9762892
(1) 1975 C-60 Dump Truck	S/N CCE615V109111
(1) 1980 Ford F-250 Truck w/blade	S/N F26GLGK1482

Such foregoing equipment being available for immediate purchase for \$40,000, and,


WHEREAS, Governmental Financial Services of Annapolis, Maryland has offered to purchase the equipment and lease it to the City under the terms of the letters dated March 7, 1983 and May 5, 1983, for an approximate monthly cost of \$880.54, and

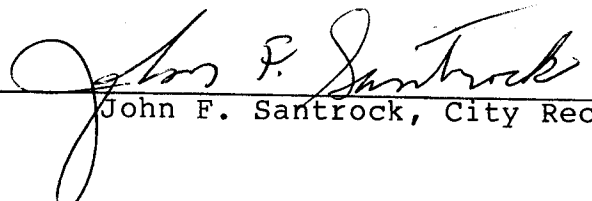
WHEREAS, the City Treasurer has determined that this amount is available under appropriations made to the Public Works Department in the 1982 - 1983 Annual Budget, and

WHEREAS, the City Attorney has determined that such lease of paving equipment is allowable under 8-12-11 of the Code of the State of West Virginia, as amended.

NOW, THEREFORE, BE IT RESOLVED that the City Treasurer is authorized to negotiate and execute an agreement with Governmental Financial Services, to lease/purchase such paving equipment as described above from Mr. Charles Carpenter for a price of no more than \$40,000, and that such authorization shall extend to negotiating, among other items, terms to repayment and capitalization costs.

Passed by the City Council of the City of Nitro, in Special Session, this, the 9th day of May, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

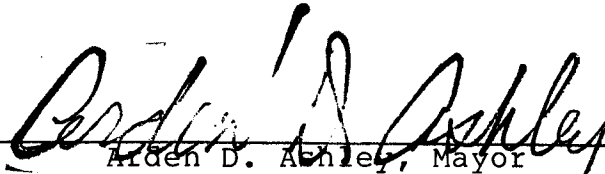
After the reading of the above document, Councilman Savilla moved to adopt the resolution. The motion was seconded.

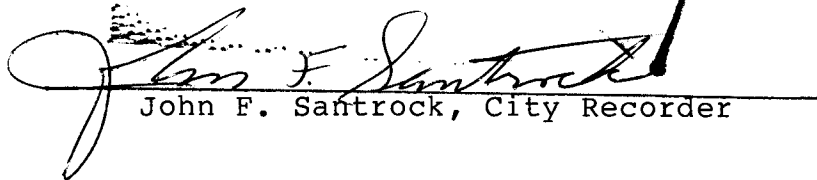
Councilman Moon questioned the recognition of the State Code, wherein it says that a lease agreement as such is only binding on a year-to-year basis. Mayor Ashley stated that he questioned that point also, and found that there is no way that any government agency in the State of West Virginia can extend a lease agreement beyond the period of the administrative term.



After discussion on the results of the test paving of 9th Street, which proved to be successful; and the paving of other City streets, a vote was taken and passed unanimously.

At 7:20 p.m., this special session of the Nitro City Council was adjourned.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

\*\*See attachments.



NITRO, WEST VIRGINIA 25143  
(304) 755-0701

ART ASHLEY  
MAYOR

JOHN F. SANTROCK  
RECORDER

MICHAEL E. GREENLEAF  
TREASURER

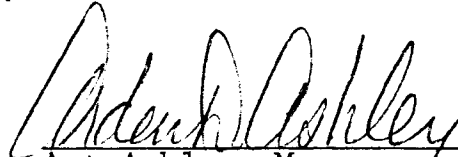
NOTICE OF SPECIAL MEETING OF THE COUNCIL  
OF THE CITY OF NITRO, NITRO, WEST VIRGINIA

PLEASE TAKE NOTICE that a special meeting of the City Council of the City of Nitro will be held on the 9th day of May, 1983, at 7:00 o'clock p.m., in the council chambers, City Hall, Nitro, West Virginia.

AGENDA:

1. Consideration of authorizing the acquisition of capital equipment.  
Re: Paving of city streets

Signed this the 6th day of May, 1983.


  
Art Ashley, Mayor

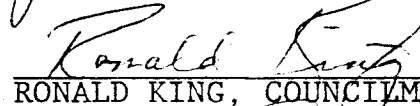
  
RUSTY CASTO, COUNCILMAN AT LARGE


  
MARY TROUT, COUNCILWOMAN AT LARGE

  
STEVEN WEST, COUNCILMAN AT LARGE

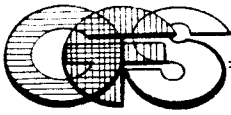
  
JOE SAVILLA, COUNCILMAN

  
OMAR CUNNINGHAM, COUNCILMAN

  
RONALD KING, COUNCILMAN

  
JACK MOON, COUNCILMAN

  
JOHN SANTROCK, CITY RECORDER



## GOVERNMENTAL FINANCIAL SERVICES, INC.

2568-A Riva Road • Annapolis, Maryland 21401 • (301) 224-3772

RECEIVED

MAY 6 1983

May 5, 1983

Mr. Michael Greenleaf, Treasurer  
City Hall  
Nitro, West Virginia 25143

Dear Mr. Greenleaf:

As we discussed earlier, we will be securing a commercial insurance policy to insure our investors in the unlikely event of default. We need to supply answers to the following questions. This is routine underwriting data which is required, but will not jeopardize the deal in any way.

The questions are as follows:

1. Official city name, address, phone number.
2. Population and increase or decrease since 1970.
3. Median income.
4. Unemployment rate.
5. Tax receipts by classification last year.
6. Total property valuation.
7. Total property tax levy.
8. Valuation per capita.
9. Top three taxpayers and their tax payments.
10. Fund balance as % of expenses.
11. Amount of federal and state aid.
12. Designated city official.
13. Equipment list, intended use and location where it will be housed.
14. Useful life, purchase price, discount from list price.
15. Vendor
16. Likely closing date for funding.

Monthly payments will be \$880.54 and there will be no buy-out.  
Term is 60 months. Lease amount - \$40,000.

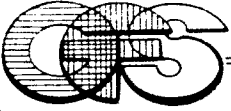
Lou Ervin will call you early next week for responses on these questions. We're anxious to proceed. Also, please send us another copy of the audit report prepared under your direction.

Many thanks for your interest.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Chuck Oglebay".

Charles A. Oglebay, III  
President



GOVERNMENTAL FINANCIAL SERVICES, INC.

2568-A Riva Road • Annapolis, Maryland 21401 • (301) 224-3772

March 7, 1983

Mr. Michael Greenleaf, Treasurer  
City of Nitro  
City Hall  
Nitro, West Virginia 25143

Dear Mr. Greenleaf:

Many thanks for the opportunity to visit with you on March 4. I hope our future dealings prove mutually beneficial.

Governmental Financial Services, Inc. is pleased to submit the following proposal to the City of Nitro:

Governmental Financial Services, Inc. will provide tax-exempt lease financing to the City of Nitro on all or part of the following:

- Two (2) refuse vehicles
- One (1) road paving vehicle

- Amount of financing authorized by this letter is not to exceed \$225,000.
- Term of lease is not to exceed sixty (60) months.
- Interest rate equivalent of lease amortization is 1% of 1% below Mellon Bank prime at the time of closing.
- Mode of payment to be pre-authorized debit from City of Nitro account.
- Estimated delivery date of funding is April 1, 1983.
- Buy-out at end of lease term is not to exceed 1% of original purchase price.

If these terms are agreeable to you, subject to negotiation of final contract documents, please sign, date and return this letter. Many thanks for your interest.

Sincerely yours,

*Charles A. Oglebay III*

Charles A. Oglebay, III  
President

11/4/83



## COUNCIL MEETING MINUTES

## NITRO CITY COUNCIL

May 17, 1983

The regular meeting of the Nitro City Council was called to order at 7:38 p.m. by Mayor Arden D. Ashley in Council Chambers. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Joe Savilla, Councilman Ronald King, Councilman Omar Cunningham and Councilman Jack Moon. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by City Recorder John F. Santrock.

AGENDA ITEM NO. 1 - APPROVAL OF MAY 3, 1983 COUNCIL MEETING MINUTES: Councilman at Large Casto requested that on the first page of the minutes, line number two of Resolution 83-5, June 14, 1977 be changed to read June 14, 1777. Councilman King requested that a change be made on Page 144, Agenda Item No. 15. Councilman King stated that he made the motion to approve the alternate proposed amendment and not Councilman Moon.

There being no further changed or amendments, Councilman Cunningham moved to accept the minutes as written. The motion was seconded. A vote was taken and the motion passed unanimously.

AGENDA ITEM NO. 2 - APPROVAL OF MAY 9, 1983 SPECIAL COUNCIL MEETING MINUTES: Councilwoman at Large Trout moved to accept the minutes of the special Council meeting held May 9, 1983, for the purpose of purchasing paving equipment. The motion was seconded. The vote was taken and the motion passed unanimously.

AGENDA ITEM NO. 3 - SECOND READING OF ORDINANCE FOR CHANGE IN WARD BOUNDARIES: Mayor Ashley introduced for second reading the ordinance calling for a change in the ward boundaries. The ordinance is as follows:

## ORDINANCE 83-5

Part I, Division II, Section 2 and 3 of City Code be replaced by the following:

Part I, Division II, Section 2 Ward Boundaries, City of Nitro, Counties of Putnam and Kanawha:

On and after \_\_\_\_\_, the City of Nitro shall be made up of four wards, the areas and boundaries of which are as follows:



FIRST WARD The first ward of the City of Nitro shall consist of that portion of the City lying within the County of Putnam (comprised of Putnam County Voting Precinct No. 22), as officially laid off and described by the County Court of Putnam County, West Virginia, and the recently annexed area identified as Carriage Way located in Putnam County.

County Precinct 401 (redistricted December, 1981) known as Brookhaven Addition and as shown by the records of the County Court of Kanawha County, West Virginia, and citizens residing in recently annexed territory known as Carriage Way (February 24, 1983).

SECOND WARD The second ward of the City of Nitro shall consist and be made up of the area lying within the boundaries of Kanawha County Voting Precinct Nos. 402, 403 and 405, as the same are officially constituted and as shown by the records of the County Court of Kanawha County (redistricted December, 1981).

THIRD WARD The third ward of the City of Nitro shall consist and be made up of the area lying within the boundaries of Kanawha County Voting Precincts Nos. 406 and 408, as the same are officially constituted and as shown by the records of the County Court of Kanawha County, West Virginia (redistricted December, 1981).

FOURTH WARD The fourth ward of the City of Nitro shall consist and be made up of the area lying within the boundaries of Kanawha County Voting Precincts Nos. 409 and 411, as the same are officially constituted and as shown by the records of the County Court of West Virginia.

Section 4 becomes Section 3.

Section 5 becomes Section 4.

Section 6 becomes Section 5.

Section 6 to read:


Date for holding regular leap year elections for mayor, city recorder and councilmen, and when their terms of office begin.

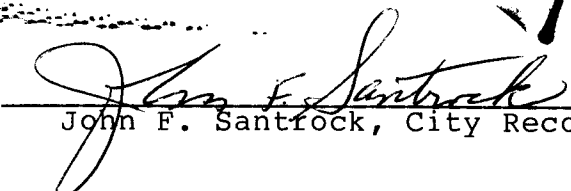
Regular elections for the purpose of selecting municipal officials shall be held quadrennially on the first Tuesday in May, beginning with the year 1984. Terms of office of all officials shall commence on the first of July, following election (Ord. No. 73, 4.)



Editor's Note The preceding section does not specify the term of office for councilmen; but inasmuch as councilmen are "municipal officials" they are covered by this section; and as election are held "quadrennially", it follows logically that the term of office of councilmen is four years.

For general law as to date for holding general elections for municipal officers and their terms of office, see West Virginia Code, 8-5-5, 1982.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

City Recorder Santrock moved for the approval of the above ordinance and for its immediate effect. The motion was seconded. The vote was taken and the motion passed unanimously.

AGENDA ITEM NO. 3 - SECOND READING OF ORDINANCE PERMITTING THE ISSUANCE OF GRANT ANTICIPATION NOTES: Mayor Ashley introduced for second reading the ordinance permitting the issuance of grant anticipation notes and City Recorder Santrock requested that Councilman Savilla read the title of the ordinance in lieu of reading the entire ordinance, due to its length; and that a few minor amendments be made to the document. Councilman Savilla read the title and the Articles involved in such document.

Councilman Savilla moved that the ordinance be adopted. The motion was seconded. The vote was taken and the motion passed unanimously.

AGENDA ITEM NO. 5 - RESOLUTION REQUESTING \$2,500 IN FEDERAL FUNDS TO MATCH THE \$625 FOR SPECIAL ALCOHOL-CRIMINAL LAW ENFORCEMENT: City Recorder Santrock introduced the above-stated resolution and moved for the adoption of such. The motion was seconded.

The resolution is as follows:

## RESOLUTION 83-8

RESOLUTION AUTHORIZING PARTICIPATION  
BY CITY OF NITRO FOR ADDITIONAL  
PROGRAM FUNDS AVAILABLE FOR ALCOHOL  
AND SPEED ENFORCEMENT PROGRAM.

WHEREAS, the 1983 West Virginia Highway Safety plan has been approved by the Department of Transportation, in accordance with needs and problems identified; and

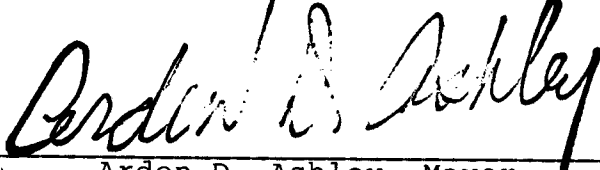
WHEREAS, it has been determined that \$2,500 in Federal funds (80%) matched locally by \$625 (20%) is available to supplement the City of Nitro's present grant program; and

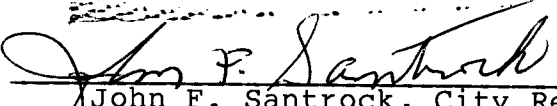
WHEREAS, the Council of the City of Nitro has met in regular session on the 17th day of May, 1983 and fully considered the requirements of the West Virginia Highway Safety Program stipulations, the following Resolution is offered:

BE IT RESOLVED by the Council of the City of Nitro, West Virginia, that the Mayor is hereby authorized to execute a contract for and on behalf of the City of Nitro with the Governor's Office of Criminal Justice and Highway Safety and that the City of Nitro pledges the required twenty percent (20%) match to participate in the aforementioned program.

Previous Resolution 82-13 adopted December 7, 1982.

Passed and adopted this the 17th day of May, 1983.

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

Mayor Ashley stated that in terms of this program, which was instituted by the Governor and had been participated in with the commission of this Council, the City of Nitro has been at the top in terms of performance, which reflects on the effectiveness of the program.

There being no further discussion on the matter, the vote was taken and the motion passed unanimously.

AGENDA ITEM NO. 6 - FIRST READING OF ORDINANCE REQUESTING PERMISSION TO SIGN LEASE WITH DEPARTMENT OF HIGHWAYS: City Recorder Santrock introduced the lease with the Department of Highways requesting permission for the beautification of the property now known as the World War I Memorial Park.

The ordinance is as follows:

ORDINANCE 83-8

LEASE AGREEMENT WITH THE DEPARTMENT OF HIGHWAYS FOR A 0.38 TRACT OF LAND WEST OF 21ST STREET, BANK STREET AND 20TH STREET, BETWEEN ROUTE 25 AND THE CONRAIL RAILROAD TRACKS.

WHEREAS, property described in this lease has been beautified into a Memorial Park and has brought favorable attending to our City.

BE IT ORDAINED that the Mayor of the City of Nitro, West Virginia, is hereby authorized to execute the lease for and on behalf of the City of Nitro with the West Virginia Department of Highways (lease attached).

LEASE NO. 472-0120

THIS LEASE, Made the 11th day of April, 1983, by and between WEST VIRGINIA DEPARTMENT OF HIGHWAYS, a corporation, Lessor, and the CITY OF NITRO, WEST VIRGINIA, a municipal corporation, Lessee.

WITNESSETH, THAT, WHEREAS, Lessor is the owner of the tract or parcel of land hereinafter described; and

WHEREAS, Lessee has a need for said property in connection with its adjoining or nearby property which will not interfere with the purpose and use for which Lessor acquired the same.

NOW, THEREFORE, THIS LEASE WITNESSETH: That for and in consideration of the rent herein reserved and the conditions herein contained, Lessor does hereby demise, let and lease unto Lessee all that certain tract or parcel of land situate in the City of Nitro, Union District, Kanawha County, West Virginia, as shown upon a map or plat attached hereto and made a part hereof and more particularly bounded and described as follows:

BEGINNING at a point in the eastern proposed lease line, said point being in the western existing right of way line of West Virginia Route 25, and in the eastern existing right of way line of Conrail, and 13 feet right of and at right angle to the (proposed baseline of Project U-320-25-0.12), Baseline Station 45+73, Kanawha County, West Virginia;

thence, southeasterly with said proposed lease line 25 feet, more or less, to a point 4 feet left of and at right angle to Baseline Station 45+92;

thence, southwesterly with said proposed lease line 190 feet, more or less, to a point 61 feet left of and at right angle to Baseline Station P.C. 47+74.99;

thence, southwesterly with said proposed lease line 202 feet, more or less, to a point 10 feet radially left of Baseline Station 49+73;

thence, northwesterly with said proposed lease line 21 feet, to a point in the western existing right of way line of West Virginia Route 25, and in the eastern existing right of way line of Conrail, said point being 11 feet radially left of Baseline Station 49+73;

thence, northeasterly, in a reverse baseline direction, with said existing railroad right of way line, and said existing highway right of way line, with a curve to the right, having a radius of 10,384.45 feet, an arc distance of 400 feet, more or less, to the place of beginning and containing 0.38 acre, more or less.

This lease is subject to the following terms and conditions:

1. Purpose - Lessee shall use said property for beautification and as a site for a permanent war memorial.
2. Term - This lease is for a term of five (5) years from and after its date of execution, which term is automatically renewable for successive five (5) year terms thereafter. Either party may cancel this lease by giving the other party a sixty (60) day written notice.
3. Rent - Lessee shall pay to Lessor the sum of ONE DOLLAR (\$1.00), in advance, for the term of this lease. Such payment shall be remitted to Finance Division, West Virginia Department of Highways, 1900 Washington Street, East, Charleston, West Virginia, 25305, upon receipt of invoice.
4. Assignability - This lease may not be transferred, assigned or sublet without prior written approval of Lessor.
5. Maintenance - Lessee shall keep said property in good order and repair and shall return the same to Lessor, upon termination of this lease, in substantially the same condition as when originally occupied by Lessee.
6. Signs - No advertising or political signs may be permitted on said property.
7. Inspection - Lessor reserves the right, acting by and through its agents and employees, to enter upon said property for purposes of inspection and determination of compliance with the terms hereof, and for any necessary repair, maintenance or reconstruction of its adjoining highway.

Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

After the reading of the above document, City Recorder Santrock moved that Council approve the first reading of the above-referenced ordinance. The motion was seconded. The vote was taken and the motion passed with Councilman Moon abstaining.

AGENDA ITEM NO. 7 - REQUEST FOR REVISION TO APPROVED BUDGET: Mayor Ashley introduced the requested revision to the budget and Councilman Savilla moved to accept such revision. The motion was seconded. The vote was taken and the motion passed unanimously and was so ordered.

The revision request is as follows:

LGR: BR  
(1980)

REQUEST FOR REVISION TO APPROVED BUDGET

STATE TAX COMMISSIONER  
DRAWER 2389  
CHARLESTON, W V 25305

82-83

01

02

01

FISCAL  
YEAR

FUND  
NUMBER

REVISION  
NUMBER

PAGE  
NUMBER

DEAR COMMISSIONER:

PURSUANT TO THE PROVISIONS OF CODE 11-8-26a, I HEREBY MAKE A REQUEST FOR THE FOLLOWING REVISION TO BE MADE TO THE APPROVED BUDGET ON FILE IN YOUR OFFICE:

RECEIPTS: (net each account)

ACCOUNT NO. & CATEGORY	APPROVED AMOUNT	INCREASE	DECREASE	ADJUSTED AMOUNT
333 UTILITY TAX	77000	15000		92000
345 Rent	0	2300		2300
349 MISC.	15000	15000		30000
322 B.O. Ex	285000	32000		317000

NET INCREASE / (DECREASE) \_\_\_\_\_

## EXPENDITURES: (net each account)

ACCOUNT NO. 8 CATEGORY	APPROVED AMOUNT	INCREASE	DECREASE	ADJUSTED AMOUNT
401 MAYOR	64526	20000		84526
410 COUNCIL	14963	2000		16963
446 DEWARREN	12370	7000		19370
440 CITY HALL	163000	20000		183000
455 POLICE	307709	1000		308709
500 FIRE	192695	1000		193695
540 Bids + R.	50023	13300		63323

NET INCREASE / (DECREASE) \_\_\_\_\_

Forward the white, pink and blue copies  
to State Tax Department, retain yellow  
copy for your files.

Budgets must be kept in balance.

SIGNATURE \_\_\_\_\_

CITY OF NITRO  
LEVYING BODY

AGENDA ITEM NO. 8 - SECOND READING OF ORDINANCE FOR EASEMENT  
TO SOUTHWAY CONSTRUCTION COMPANY: City Recorder Santrock  
introduced the above-stated ordinance for second reading.

The ordinance is as follows:

## ORDINANCE 83-6

AN ORDINANCE GRANTING SOUTHWAY CONSTRUCTION COMPANY EASEMENTS AND RIGHTS-OF-WAY FOR THE CONSTRUCTION OF TWO (2) ROADWAYS PROVIDING INGRESS AND EGRESS TO LAKEVIEW ESTATES UNDER THE TERMS OF THE DEED ATTACHED.

BE IT ORDAINED by the City of Nitro, West Virginia that the Mayor is hereby authorized to execute the deed for and on behalf of the City of Nitro with Southway Construction Company.

The deed is as follows:

THIS DEED, Made this \_\_\_\_\_ day of \_\_\_\_\_, 1983, by and between the CITY OF NITRO, a West Virginia municipal corporation, Grantor, and SOUTHWAY CONSTRUCTION COMPANY, a West Virginia corporation, Grantee.

WHEREAS, the Grantee herein is the owner of a tract of land situate adjacent to the City of Nitro in Union District, Kanawha County, West Virginia, which said tract of land has been subdivided into lots, streets and alleys and designated as Lakeview Estate; and,

WHEREAS, the Grantor herein is the owner of certain real property situate adjacent to and abutting upon the lands of the Grantee hereinabove referred to and lying generally between the lands of the Grantee and that certain public highway known as Blakes Creek Road, West Virginia Secondary Route 25/1; and,



WHEREAS, it is the desire of the Grantee herein to obtain from the Grantor herein easements and rights-of-way for the construction of two (2) roadways providing ingress and egress to the aforesaid Lakeview Estate and for the installation, maintenance, repair and replacement of all customary utility services; and,

WHEREAS, it is the intention of the Grantee herein upon obtaining and improving the rights-of-way herein conveyed to dedicate the same to the public use;

NOW, THEREFORE THIS DEED WITNESSETH: That for and in consideration of the sum of \$ \_\_\_\_\_, cash in hand paid, the Grantor herein does hereby GRANT and CONVEY unto the Grantee herein an easement and right-of-way for the construction and maintenance of a roadway providing ingress and egress to and from the property of the Grantee referred to in the hereinabove recitals, and for the installation, maintenance, repair and replacement of all customary utility services over those portions of property now owned by the Grantor herein and more particularly bounded and described as follows:

1. BEGINNING at an iron pin set in the northwesterly right-of-way line of an existing 40 foot roadway and generally known as Lakeview Drive, said point being situate S.  $34^{\circ} 25'$  W., on an iron pin set marking one corner of the triangular shaped flood control parcel obtained by the Grantor herein by virtue of a deed of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book 1726 at page 35; thence S.  $38^{\circ} 45'$  E., a distance of 40 feet to an iron pin set in the southeasterly right of way line of said Lakeview Drive; thence continuing from each of the aforesaid points and extending on parallel lines in a southwesterly direction to an intersection of these extended parallel lines of the northerly rightofway line of Blakes Creek Road, also known as West Virginia Secondary Route 25/1.

2. BEGINNING at a point in the northwesterly line of an unnamed 40 foot roadway, said point being situate S.  $38^{\circ} 45'$  E., 404 feet from the iron pin set and designated as the point of beginning in parcel #1, above; thence S.  $38^{\circ} 45'$  E., a distance of 40 feet to an iron pin set in the southeasterly right-of-way line of said unnamed 40 foot street; thence from these two designated points and extending on parallel lines in a southwesterly direction to the point of intersection of said extended parallel lines of the northerly right-of-way line of Blakes Creek Road, West Virginia Secondary Route 25/1.

In consideration of the conveyance evidenced hereby, the Grantee herein does by acceptance of this conveyance and by its simultaneous execution of this instrument offer irrevocably a dedication of the roadways to be constructed upon these parcels to the general use and benefit of the public.

Under penalty of fine and imprisonment as provided by law, the parties to this instrument do hereby declare that the conveyance evidenced hereby is exempt from the

West Virginia excise tax on the privilege of transferring real property or any interest therein for the reason that this is a conveyance from a political subdivision of the State of West Virginia.

WITNESS the following signatures and seals:

CITY OF NITRO

By \_\_\_\_\_ (SE)  
Arden D. Ashley, Mayor

SOUTHWAY CONSTRUCTION COMPANY

By \_\_\_\_\_ (SE)

Its \_\_\_\_\_

STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA, TO-WIT:

I, \_\_\_\_\_, a Notary Public in and for the county and state aforesaid, do hereby certify that Arden D. Ashley, Mayor of the City of Nitro, whose name is signed to the foregoing Deed bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 1983, has this day acknowledged the same to be the act and deed of said municipal corporation before me in my said county.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 1983.

My commission expires \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, TO-WIT:

I, \_\_\_\_\_, a Notary Public in and  
for the county and state aforesaid, do hereby certify that  
\_\_\_\_\_, \_\_\_\_\_ of the Southway  
Construction Company, whose name is signed to the foregoing  
deed bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 1983, has  
this day acknowledged the same to be the act and deed of said  
corporation before me in my said county.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 1983.

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

Prepared By:

Harvey D. Peyton  
CALWELL, McCORMICK & PEYTON, L.C.  
2602 First Avenue  
Nitro, West Virginia 25143

City Recorder Santrock moved that Council approve the second reading of the above ordinance. The motion was seconded. The vote was taken and the motion passed unanimously and was so ordered.

AGENDA ITEM NO. 8 - SECOND READING OF ORDINANCE TO AMEND ORDINANCE 173, EXTENDING KANAWHA CABLE TELEVISION RIGHTS, ENACTED 1-17-65: City Recorder Santrock introduced the above-stated ordinance to Council and moved for the adoption of such. The motion was seconded.

City Recorder Santrock referred to Senate Bill 66, now being considered. He further stated that the ordinance in effect now is effective for another seven years, and recommended that Council wait until action of the United States Congress before taking action on it, so as not to have to rewrite the ordinance.

Councilman Cunningham moved that Council table, once again, the ordinance to amend Ordinance ~~173~~<sup>137</sup> extending Kanawha Cable Television's rights. The motion was seconded. The vote on the motion passed unanimously and was so ordered.

AGENDA ITEM NO. 10 - CONCESSION BIDS: After the introduction of the bids taken for pool concession, Councilwoman at Large Trout moved that the City manage the concession operations. The motion was seconded.

Members of Council expressed differences of opinions on the matter, such as the City generating revenue from it, helping City business persons and the financial need of the City's Recreation Department.

Councilman Savilla stated that he felt that what should be done is what is best for the City.

Recreation Director Simms stated that he is in favor of the City maintaining control and operation. He further stated that an additional employee will be needed for the concession, if the City were to take over the concessions.

Mr. Simms further stated that it will be required by the Health Department the purchase a three-bowl aluminum sink to replace the existing two-bowl porcelain sink, which will cost approximately \$695.00, to open the concession stand this year. This action is expected of the City, not any proposed bidder.

At this time, the motion was amended to state that any person hired by the City must have a certification by the Health Department for such employment. A vote was taken on the amended motion and passed with Councilman at Large Casto, Councilman Moon and Councilman Cunningham opposing.

Councilman Savilla questioned the video game portion of the bids. Mayor Ashley asked that it be considered separately and that it be done before the Spring Festival concession question.

The Recreation Director pointed out to Council the video bids proposed, some of which were included in the pool concession bid. Mayor Ashley questioned the separation of bids. Mr. Simms stated that the bidders left the bids with the understanding that they could be considered as video bids also.

Mr. Simms further explained to Council the necessary changes to accommodate video games at the City Pool and proposed that Council accept these changes in the pool area for the games, and that the following rules be instituted along with general pool rules:

1. Shoes must be worn while playing the video games.
2. Players must be dry before entering the gameroom area.
3. Only pass-holders and paid guests may use the games.

Mr. Simms further explained the constant presence of the cashier and others available in case of emergency, and the safety measures taken in the installation of the games.

Councilman at Large Casto moved that Council consider installing video games at the City Pool. The motion was seconded. After brief discussion, Councilman Savilla asked to add to the list of rules that there be no tobacco of any kind allowed at the City Pool. The vote was taken and the motion passed unanimously.

At this point, Councilman at Large Casto moved that Council approve the bid from Pacesetter Distributing for fifty percent (50%) of first \$100.00 per machine per week and forty-five percent (45%) if total machines gross over \$600.00 in a week. The motion was seconded. There being no discussion on the matter, the vote was taken on the motion and passed unanimously. Other bids are as follows:

1. The Macke Company - \$50.00 weekly fee per game after taxes.
2. Gino's - 50% of gross receipts.
3. J & F Dist. - 50% of gross receipts.

The next order of business was the awarding of concessions at the Spring Festival. City Recorder reiterated on the proposed bids. Councilman Savilla moved that Council award the concessions for the Spring Festival to the only two (2) bidders. The motion was seconded.

Councilman at Large West questioned the selecting of sites for concessions. Recreation Director Simms stated he would devise a way of fair selection.

Mr. Simms explained to Council the addition of the Gospel Sing to be held after the closing ceremonies, but to be included in the advertisement of the Festival. He further stated that he was in favor of allowing those involved in the sing to provide their own concession, or that concession rights of those awarded such be extended to this event.

At this time a vote was taken on the motion still on the floor for concession rights at the Spring Festival. The vote on the motion passed unanimously and was so ordered.

Councilman Savilla moved that Council allow the church organizing the Gospel Sing to organize their own concessions for that event on Monday, May 30, 1983. The motion was seconded. A vote on the motion was taken and passed unanimously and was so ordered.

AGENDA ITEM NO. 11 - SECOND READING OF ORDINANCE ANNEXATING NITRO INDUSTRIAL PARK: Mayor Ashley introduced the following ordinance, which included a minor change in boundarychange:

ORDINANCE 83-7

AN ORDINANCE TO ANNEX A CONTIGUOUS UNINCORPORATED TERRITORY TO AND BECOME PART OF THE CITY OF NITRO, A MUNICIPAL CORPORATION, KANAWHA COUNTY, WEST VIRGINIA, BY A MINOR BOUNDARY ADJUSTMENT.

WHEREAS, on the first day of March, 1983, at a regularly scheduled and properly convened session of the City Council of the City of Nitro, a motion was made to annex by a minor boundary adjustment certain contiguous unincorporated territory to and become part of the City of Nitro, a municipal corporation; and

WHEREAS, the area of proposed annexation does not lie within any existing municipality; and

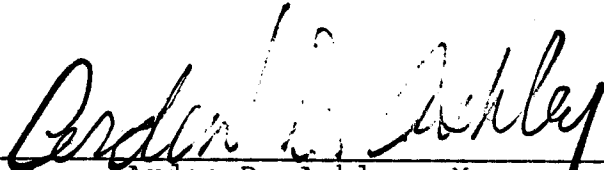
WHEREAS, the City Council of the City of Nitro has determined the number of persons residing in the territory and having prepared an accurate map showing the metes and bounds of such additional territory which are described in the attached letter from Wilkinson Surveying dated May 12, 1983; and


WHEREAS, the City Council of the City of Nitro has determined that the annexation is only a minor boundary adjustment; and

WHEREAS, the City Council of the City of Nitro has no reason to believe that the freeholders of the area proposed to be annexed are substantially opposed to the proposed boundary change; and

WHEREAS, the City Council of the City of Nitro finds the motion to be in all other respects proper, does therefore ORDAIN that the hereinbelow described area be, and the same hereby is, ANNEXED into the City of Nitro, a West Virginia municipality.

This ordinance was introduced and read for the first time at a regular meeting of the City Council of the City of Nitro, West Virginia, held on the 1st day of May, 1983, and will come up for a second reading and adoption at a regular meeting of the City Council to be held on the 17th day of May, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

There being no discussion on the matter, City Recorder Santrock moved that Council consider this reading a second reading and that the ordinance be approved as written. The motion was seconded. The vote on the motion was taken and passed unanimously.

#### COMMITTEE REPORTS

Mayor Ashley stated that he has heard from the owners of the Brookhaven Cemetery and she has expressed an interest to cooperate with Mr. Tyler in the upkeep arrangements of the cemetery and that she is in the process of contacting other relatives and drawing up a proposal to give to the City Council for such action.

Mayor Ashley asked for Council reservations for Oglebay Park for the Municipal League convention to be held in August near Wheeling, West Virginia.

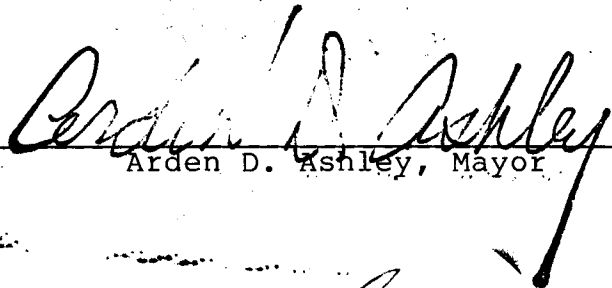


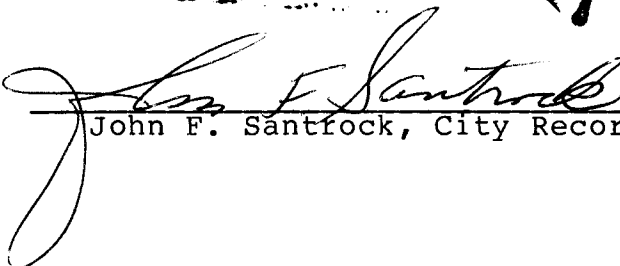
Councilman Savilla reported that the paving committee has agreed that the three top-priority streets to be paved in the City are 39th Street at 3rd Avenue, leading to Nitro-Putnam Elementary; Juniper Street; and 700 block of Michigan Avenue. These are the streets that the paving will begin in the City. This information will be relayed to Gene Williams, Director of the Department of Public Works, for the start of the paving to be done in the City.

Mr. Ray Bess of 812 8th Street was voted by Council as a member of the paving committee.

Councilman at Large West moved that Council recend the admission fee of one dollar (\$1.00) for Spring Festival flea market participants. The motion was seconded. The vote on the motion was unanimous and the action so ordered.

There being no further business, Mayor Ashley adjourned the meeting at 9:05 p.m.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

## NITRO CITY COUNCIL

June 7, 1983

The regular meeting of the Nitro City Council was called to order at 7:30 p.m. by Mayor Arden D. Ashley in Council Chambers. Present were Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steve West, Councilman Joe Savilla and Councilman Ronald King. Also present was City Treasurer Michael E. Greenleaf. Absent were City Recorder John F. Santrock, Councilman Omar Cunningham, Councilman Jack Moon and City Attorney Phillip D. Gaujot.

The invocation was given by Father John S. Ledford of the Holy Trinity Catholic Church, Nitro.

AGENDA ITEM NO. 1 - CITIZEN OF THE MONTH: Mayor Ashley announced the presentation of June's Citizen of the Month award to Mildred Barrickman, who is retiring from her work at Nitro Elementary School after twenty-seven years of service.

AGENDA ITEM NO. 2 - APPROVAL OF MAY 17, 1983 COUNCIL MEETING MINUTES: Councilman Moon made two corrections in the minutes. Those corrections are as follows: Page 159, line three of the ordinance should read "attention to our City", and not "attending to our City". Also, on Page 173, paragraph two should read "Mr. Lowell Ray Bess" and not "Mr. Ray Bess".

With those corrections being made, Mayor Ashley approved the minutes as amended.

AGENDA ITEM NO. 6 - SENIOR CITIZEN COMPLEX: Mayor Ashley called upon Mr. Frank Vinson of Kanawha County Housing to explain the proposed Nitro senior citizen complex (non-profit housing) and the need for more facilities of this kind in West Virginia. Mr. Benson stated that what he needs from Council is their endorsement and support of the project in the form of a resolution, letters from City services departments, and the proper zoning and/or rezoning, if necessary, for a site on 11th Street.

Mr. Vinson further explained the details involved in the complex, the location, and the fact that this complex will be as self-contained as possible. Further, he introduced Mr. Bardee, the architect for the project, to explain the details of the proposed complex.

Council brought forth an applicable resolution for Mr. Vinson to study. At this time, Council moved ahead with the next agenda item for the restructuring of the resolution by Mr. Vinson.

After some delay, Mayor Ashley read the following resolution approving and supporting the H.U.D. 202 Application for thirty-five units of elderly housing:

RESOLUTION 83-10

A RESOLUTION APPROVING AND  
SUPPORTING A HOUSING AND URBAN  
DEVELOPMENT 202 APPLICATION FOR 35  
UNITS OF ELDERLY HOUSING.

WHEREAS, there is a great need for elderly housing in the Nitro area, and


WHEREAS, as funding for said housing is available through the United States Department of Housing and Urban Development 202 Programs, and

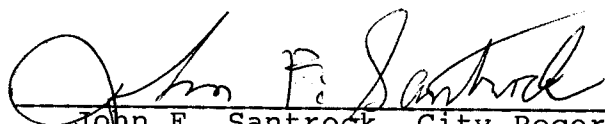
WHEREAS, the \_\_\_\_\_ has agreed to act as sponsor of said project.

NOW, BE IT THEREFORE RESOLVED that the City of Nitro is totally committed to meet the housing needs of the elderly and that said proposal is consistent with zoning regulations.

BE IT FURTHER RESOLVED that the City of Nitro pledges its full support.

Passed this the 6th day of June, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

Councilman at Large Casto moved to adopt the above resolution. The motion was seconded. There being no discussion, the vote was taken and passed unanimously and was so ordered.

AGENDA ITEM NO. 3 - SECOND READING OF ORDINANCE REQUESTING PERMISSION TO SIGN DEPARTMENT OF HIGHWAYS LEASE: Councilman Savilla moved that Council dispense with the reading of the entire ordinance and to introduce it by title only, and to approve such. There being no discussion on the document, Mayor Ashley called for the vote approving the second reading of the ordinance. The vote on the motion passed unanimously and was so ordered.

The ordinance is as follows:

ORDINANCE 83-8

LEASE WITH DEPARTMENT OF HIGHWAYS  
FOR .38 ACRES OF LAND WEST OF 21ST  
STREET, BANK STREET AND 20TH  
STREET, BETWEEN ROUTE 25 AND  
CONRAIL TRACK.

WHEREAS, property described in this lease has been beautified into a Memorial Park and has brought favorable attention to our City.

BE IT ORDAINED that the Mayor or the City of Nitro, West Virginia is hereby authorized to execute the lease for and on behalf of the City of Nitro with the West Virginia Department of Highways (lease attached).

LEASE NO. 472-0120

THIS LEASE, Made the 11th day of April, 1983, by and between WEST VIRGINIA DEPARTMENT OF HIGHWAYS, a corporation, Lessor, and the CITY OF NITRO, WEST VIRGINIA, a municipal corporation, Lessee.

WITNESSETH, THAT, WHEREAS, Lessor is the owner of the tract or parcel of land hereinafter described; and

WHEREAS, Lessee has a need for said property in connection with its adjoining or nearby property which will not interfere with the purpose and use for which Lessor acquired the same.

NOW, THEREFORE, THIS LEASE WITNESSETH: That for and in consideration of the rent herein reserved and the conditions herein contained, Lessor does hereby demise, let and lease unto Lessee all that certain tract or parcel of land situate in the City of Nitro, Union District, Kanawha County, West Virginia, as shown upon a map or plat attached hereto and made a part hereof and more particularly bounded and described as follows:

BEGINNING at a point in the eastern proposed lease line, said point being in the western existing right of way line of West Virginia Route 25, and in the eastern existing right of way line of Conrail, and 13 feet right of and at right angle to the (proposed baseline of Project U-320-25-0.12), Baseline Station 45+73, Kanawha County, West Virginia;

thence, southeasterly with said proposed lease line 25 feet, more or less, to a point 4 feet left of and at right angle to Baseline Station 45+92;

thence, southwesterly with said proposed lease line 190 feet, more or less, to a point 61 feet left of and at right angle to Baseline Station P.C. 47+74.99;

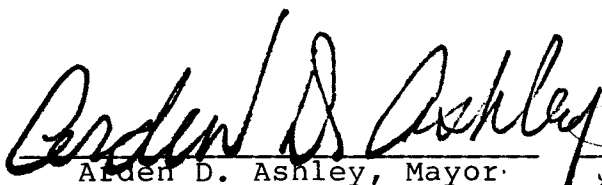
thence, southwesterly with said proposed lease line 202 feet, more or less, to a point 10 feet radially left of Baseline Station 49+73;


thence, northwesterly with said proposed lease line 21 feet, to a point in the western existing right of way line of West Virginia Route 25, and in the eastern existing right of way line of Conrail, said point being 11 feet radially left of Baseline Station 49+73;

thence, northeasterly, in a reverse baseline direction, with said existing railroad right of way line, and said existing highway right of way line, with a curve to the right, having a radius of 10,384.45 feet, an arc distance of 400 feet, more or less, to the place of beginning and containing 0.38 acre, more or less.

This lease is subject to the following terms and conditions:

1. Purpose - Lessee shall use said property for beautification and as a site for a permanent war memorial.
2. Term - This lease is for a term of five (5) years from and after its date of execution, which term is automatically renewable for successive five (5) year terms thereafter. Either party may cancel this lease by giving the other party a sixty (60) day written notice.
3. Rent - Lessee shall pay to Lessor the sum of ONE DOLLAR (\$1.00), in advance, for the term of this lease. Such payment shall be remitted to Finance Division, West Virginia Department of Highways, 1900 Washington Street, East, Charleston, West Virginia, 25305, upon receipt of invoice.
4. Assignability - This lease may not be transferred, assigned or sublet without prior written approval of Lessor.
5. Maintenance - Lessee shall keep said property in good order and repair and shall return the same to Lessor, upon termination of this lease, in substantially the same condition as when originally occupied by Lessee.
6. Signs - No advertising or political signs may be permitted on said property.
7. Inspection - Lessor reserves the right, acting by and through its agents and employees, to enter upon said property for purposes of inspection and determination of compliance with the terms hereof, and for any necessary repair, maintenance or reconstruction of its adjoining highway.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

AGENDA ITEM NO. 4 - PUBLIC HEARING FOR GRANT ANTICIPATION NOTES: Mayor Ashley called upon Mr. Jim Withrow, attorney for the Sanitary Board, for further explanation on the matter of Grant Anticipation Notes. Attorney Withrow explained the need for a public hearing on the grant anticipation with proper notification of the hearing, under the laws of the State of West Virginia.

Attorney Withrow explained the purposes, procedures and profits of the Grant Anticipation Notes, and asked for Council's approval of these notes. He further explained that the purpose of these Notes is to provide the money to the City for timely spending purposes and what is not spend can be invested at rates substantially higher than the notes, because the notes are tax exempt. It was also stated that extra income will be generated from these notes in the amount of some several thousand dollars to be used in any type of activity relating to the project.

Mayor Ashley stated that the Sanitary Board is acting as an agent of the City and the City is the beneficiary of the notes. Attorney Withrow further stated that since the liability for the notes is limited to the grants and to funds available from the operation of the sewer system, the benefits or surplus revenues that would be generated are channelled back into the sewer system, if it is the pleasure of the City Council to do such.

This being a public hearing, Mayor Ashley asked Council and the public if there is any opposition to the grant anticipation note question. Council suggested that the minutes reflect the amendments in the resolution.

Councilman Savilla moved that Council pass this addition to the Grant Anticipation Notes, which were passed on May 17, 1983 in Council session, pending the approval of the Nitro City Attorney. The motion was seconded.

Mayor Ashley questioned the resolution amending the ordinance. Attorney Withrow stated that the ordinance itself allows a supplemental resolution amendment, and that he felt it was the correct action to be taken.

Mayor Ashley made it clear that the agreement would be negated if there were any negative comments by Council. He further stated that it is action wanted by the City.

There being no further discussion, the vote was taken on the resolution and passed unanimously.

The resolution is as follows:



## RESOLUTION 83-9

AMENDING AND SUPPLEMENTING AN ORDINANCE ENTITLED "AN ORDINANCE AUTHORIZING THE ISSUANCE OF SEWERAGE SYSTEM GRANT ANTICIPATION NOTES OF THE CITY OF NITRO, WEST VIRGINIA, IN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,000,000 TO PROVIDE FUNDS TO PAY IN PART THE COST OF CONSTRUCTION AND ACQUISITION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE MUNICIPAL SEWERAGE SYSTEM OF THE CITY; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF SAID NOTES; PROVIDING THE RIGHTS AND REMEDIES OF AN SECURITY FOR THE HOLDERS OF SUCH NOTES; AND ADOPTING OTHER PROVISIONS RELATED THERETO " PASSED BY THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, ON MAY 17, 1983; PROVIDING FOR THE REDEMPTION PRIOR TO MATURITY OF SUCH NOTES, CLARIFYING SAID ORDINANCE WITH RESPECT TO THE TRUSTEE'S INVESTMENT OF FUNDS AND MAKING CERTAIN OTHER AMENDMENTS TO SAID ORDINANCE; ESTABLISHING THE DATE, PRINCIPAL AMOUNT, MATURITY DATE, INTEREST RATE, INTEREST PAYMENT DATES, REDEMPTION PROVISIONS, PAYING AGENT OR AGENTS AND DISPOSITION OF PROCEEDS WITH RESPECT TO SAID NOTES; AND APPROVING THE SALE OF SAID NOTES TO BAKER, WATTS & CO. IN ACCORDANCE WITH A PURCHASE CONTRACT RELATING THERETO.

WHEREAS, the Council of The City of Nitro, West Virginia (the "City"), on May 17, 1983, passed an ordinance entitled "An Ordinance authorizing the issuance of Sewerage System Grant Anticipation Notes of the City of Nitro, West Virginia, in aggregate principal amount not to exceed \$2,000,000 to provide funds to pay in part the cost of construction and acquisition of certain additions, betterments and improvements to the municipal sewerage system of the City; defining and prescribing the terms and provisions of said Notes; providing the rights and remedies of and security for the holders of such Notes; and adopting other provisions related thereto" (the "Ordinance"), which Ordinance became effective on June 7, 1983; and

WHEREAS, it is necessary and in the best interests of the City to provide for the redemption prior to maturity of said Sewerage System Grant Anticipation Notes, Series 1983 (the "Notes"), to clarify the Ordinance with respect to the Trustee's investment of funds and to make certain other amendments to the Ordinance; and

WHEREAS, it is necessary to determine the date, principal amount, maturity date, interest rate, interest payment dates, redemption provisions, paying agent or agents and disposition of proceeds with respect to the Notes; and

WHEREAS, Baker, Watts & Co. (the "Purchasers") have presented to the Council of the City a purchase contract attached hereto as Exhibit A and by this reference made a part hereof (the "Purchase Contract"), relating to the sale of the Notes;

NOW, THEREFORE, Be It Resolved by the Council of The City of Nitro, West Virginia:

1. The following amendments shall be made to the Ordinance:

(A) Subsection 1.02 D of the Ordinance is hereby amended and re-enacted to read as follows:

D. The Sanitary Board has filed a petition with the Council requesting the Council to enact an ordinance which, among other things, directs that notes of the City, payable from the proceeds of the aforementioned EPA grant and State grants, the proceeds of any additional notes or other obligations required by any other trust indenture, trust agreement or contract, bond or note ordinance or other enactment of the Council to be set aside and held for the payment or security of any other bonds, notes or other obligations of the City, be issued in such aggregate principal amount as may be found necessary or appropriate to provide funds to pay certain costs of the Project and to make other necessary provisions pending receipt of the proceeds of said EPA grant.

(B) Subsection 1.04 B, C, E and R of the Ordinance is hereby amended and re-enacted to read as follows:

B. "Agency Security" means any bond, debenture, note or other evidence of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank Systems; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; Washington Metropolitan Area Transit Authority; Federal Farm Credit Banks; or Federal National Mortgage Association.

C. "Anticipated Grant Receipts" means at any time the amount of Grant Receipts stated in a certificate of the Sanitary Board as expected to be received after the date of such certificate and prior to ninety (90) days prior to the scheduled date of maturity of the Sewerage System Grant Anticipation Notes hereinafter authorized.

E. "Authorized Officer" means the Mayor of the City, or such other officer of the City as he may designate.

R. "Investment Security" means any of the following securities legal for the investment of the City's funds at the time of purchase thereof:

- (a) Any Government Security;
- (b) Any Agency Security;
- (c) Interest-bearing time deposits or negotiable or non-negotiable certificates of deposit issued by any

bank, trust company or national banking association which is a member of the Federal Reserve System, provided that all amounts in such certificate of any bank, trust company or national banking association, not having outstanding, or whose parent corporation does not have outstanding unsecured long term debt which is rated, in either of the two highest rating categories by Standard and Poor's Corporation or Moody's Investor's Service, Inc., shall be continuously secured by other obligations referred to in clause (a) or (b) above which have a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such certificates of deposit and which are lodged with the Trustee, as hereinafter defined, as custodian.

(C) Section 2.01 of the Ordinance is hereby amended and re-enacted to read as follows:

Section 2.01. Authorization and Terms of 1983 Notes.

In order to provide funds to timely pay certain Costs of the Project pending receipt of Grant Receipts, the 1983 Notes of the City shall be issued and sold in an aggregate principal amount not to exceed \$2,000,000, which principal amount shall be determined by the Supplemental Resolution.

Each 1983 Note shall be designated "Sewerage System Grant Anticipation Note, Series 1983"; shall be issued in negotiable bearer form, not registrable as to either principal or interest, with interest coupons attached, in the denomination of \$5,000; shall be payable as to both principal and interest in lawful money of the United States of America at the principal office of the Trustee or, at the option of the holder thereof, at the principal trust office of the Paying Agent or Paying Agents designated by the City in the Supplemental Resolution; shall be dated, mature, bear interest at the rate or rates and have interest payment dates, all as provided in the Supplemental Resolution; and shall contain such further provisions substantially as set forth in the form of the 1983 Note provided in Section 2.02. The 1983 Notes shall be numbered from one (1) upward.

All or part of the authorized principal amount of the 1983 Notes, as shall be determined by the Supplemental Resolution, may be issued by the City upon authentication by the Trustee in accordance with Section 3.05. The 1983 Notes issued shall be sold pursuant to a Purchase Agreement, to be entered into between the City and the Original Purchaser, at the prices prescribed in the Supplemental Resolution.

(D) Subsection 3.11 (1) of the Ordinance is hereby amended and re-enacted to read as follows:

(1) Will, if ninety (90) days prior to the maturity date of any Notes there shall not be on deposit in the Debt Service Account and the Grant Receipts Account a sum sufficient and available to pay the principal of and interest on such Notes, as soon as possible authorize and offer for sale an additional Series of Notes or other obligations in a principal amount sufficient, with other available moneys, to make full payment of the principal of and interest on such maturing Notes, such additional Series of Notes or other obligations to be offered for sale upon reasonable and customary terms and conditions, and apply the proceeds of sale thereof to the payment of such maturing Notes.

(E) Section 4.01 of the Ordinance is hereby amended and re-enacted to read as follows:

Section 4.01. Security for Notes and Sources of Payment. The Notes shall be limited obligations of the City, payable, as to both principal and interest, in the first instance from the Grant Receipts and other moneys, including investment income and unexpended Note proceeds, held in the accounts established by Section 4.02 and, to the extent not so paid, shall also be payable from Surplus Revenues and from the proceeds of additional Series of Notes or other obligations issued for such purpose.

(F) Section 4.04 of the Ordinance is hereby amended and re-enacted to read as follows:

Section 4.04. Debt Service Account. The Trustee shall segregate all funds and securities in the Debt Service Account from other deposits and funds of the Trustee and other deposits and funds of the City, including the Construction Account, and, within the Debt Service Account, shall segregate all funds and securities deposited for the purpose of paying interest on the 1983 Notes until the maturity thereof. Said amount deposited for the purpose of paying interest on the 1983 Notes shall be promptly invested by the Trustee in Investment Securities, the principal of and interest on which, when due, will provide moneys sufficient for the payment of all interest to accrue on the 1983 Notes as the same shall become due and payable. All moneys in the Debt Service Account, until payment in full of all principal and interest owing on the 1983 Notes at their maturity, shall be held by the Trustee for the holders of the 1983 Notes, and the City shall have no rights with respect thereto except to receive the balance therein after payment of the 1983 Notes and the interest thereon and the charges of the

Trustee and the Paying Agents. Ninety (90) days prior to the maturity of the 1983 Notes, the Trustee shall withdraw from the Grant Receipts Account and deposit in the Debt Service Account an amount equal to the principal of the 1983 Notes maturing, or such lesser amount as shall then be on deposit in the Grant Receipts Account. If, after said deposit on said ninetieth day prior to the maturity of the 1983 Notes and any deposit from the Construction Account as provided for in Section 4.05, the amount in the Debt Service Account is not sufficient to pay the principal and interest on the Notes then coming due, all subsequent Grant Receipts shall be deposited directly into the Debt Service Account until its balance shall equal the principal of and interest payable on the 1983 Notes maturing. At or prior to the date for payment of the principal of the 1983 Notes or of interest thereon, the Trustee shall transfer to the Paying Agents in immediately available funds the total principal of the 1983 Notes then maturing or interest on the 1983 Notes then owing. Funds on deposit and segregated for the payment of interest on the 1983 Notes shall be used only for such purpose, and such transfer of funds to the Paying Agents for the payment of interest shall be made first from said segregated funds and, to the extent such funds are not sufficient for such payment, from the other funds on deposit in the Debt Service Account. In the event the funds on deposit in the Debt Service Account are insufficient to pay the interest on the 1983 Notes then coming due, the Trustee shall transfer to the Debt Service Account from the Grant Receipts Account funds sufficient to make up such deficiency.

Amounts held in the Debt Service Account shall be applied to the payment of principal of and interest on the Notes and used for no other purpose. Pending such application, moneys in the Debt Service Account shall be invested by the Trustee in Investment Securities pursuant to Section 4.07.

(G) Section 4.05 of the Ordinance is hereby amended and re-enacted to read as follows:

Section 4.05. Construction Account. The Construction Account shall be segregated from all other funds and accounts of the Trustee or the City and used solely for the purposes provided herein. No moneys shall be disbursed from the Construction Account except to pay Costs of the Project or to pay the principal of or interest on the Notes when due. Pending such application, moneys in the Construction Account may be invested in Investment Securities pursuant to Section 4.07. Expenditures or disbursements from the Construction Account for Costs of the Project shall be made only upon receipt by the Trustee of a certificate, signed by the Consulting Engineers, stating that such costs have been properly incurred; such costs and Costs of the Project; payment is then due and owing; and, with respect to expenditures or disbursements relating to actual construction of the Project, that such

expenditures or disbursements have been approved by the Consulting Engineers.

Whenever the Trustee shall have received notice pursuant to Section 3.12 that any Grant Agreement has been suspended or a stop-work order has been issued, no further disbursements shall be made from the Construction Account until the Trustee shall have received notice of the lifting of such suspension or stop-work order in accordance with Section 3.13. If the Trustee shall have received notice pursuant to Section 3.12 that any Grant Agreement has been terminated or annulled, no further disbursement shall be made from the Construction Account, and all moneys remaining in said account shall immediately be transferred to the Grant Receipts Account.

Ninety (90) days prior to the maturity of the Notes or to any interest payment date thereon, to the extent that sufficient moneys are not available in the Debt Service Account and the Grant Receipts Account to pay the principal of and interest on the Notes at maturity or the interest then coming due, as the case may be, moneys in the Construction Account shall be transferred to the Debt Service Account and applied to such payment. Except with respect to such transfers from the Construction Account for payment of the principal of and interest on the 1983 Notes as the same become due, the Construction Account shall constitute a trust fund for the purposes described above, and there is hereby created a lien upon such moneys until so applied in favor of the holders of the 1983 Notes.

After completion of the Project, as certified by the Consulting Engineers, any moneys remaining in the Construction Account shall be transferred to the Grant Receipts Account and held for the retirement of the Notes. If no Notes are then Outstanding, moneys remaining in the Construction Account shall be transferred by the Trustee to the Sanitary Board to be used for the benefit of the System.

(H) Section 4.07 of the Ordinance is hereby amended and re-enacted to read as follows:

Section 4.07. Investment of Moneys. Any moneys held as a part of the accounts created hereunder, except the Cost of Issuance Account, shall be invested or reinvested by the Trustee at the direction of the City, or, in the absence of such direction, as determined by the Trustee, in any Investment Securities; provided, however, that any investments of moneys in the Construction Account, the Debt Service Account, or the Grant Receipts Account shall have maturities prior to the date on which such moneys will be needed for payment of the principal of or interest on the 1983 Notes as the same become due.

Investment Securities may be purchased for the Grant Receipts Account either in the open market or from the Construction Account. If purchased from the Construction Account, such Investment Securities shall be purchased at a price equal to their original purchase price plus accrued interest.

Any investment shall be held by or under the control of the Trustee and shall be deemed at all times a part of the account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate account. The Trustee shall value the investments held for any account at the lower of cost of then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Trustee shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any account is insufficient to make the payments required from such account regardless of the loss on such liquidation. The Trustee may make any and all investments permitted by this Section 4.07 through its own bond department.

The Trustee may deal with itself as a principal in acquiring Investment Securities, including Investment Securities which represent deposits in, or certificates of deposits of, the Trustee.

(I) Section 6.01 of the Ordinance is hereby amended and re-enacted to read as follows:

Section 6.01. Events of Default. Each of the following events shall constitute an "Event of Default";

(a) if default occurs in the due and punctual payment of the principal of or interest on any Note;

(b) if default occurs in the City's observance of any of the covenants, agreements or conditions on its part in this Ordinance or in any Supplemental Resolution or in the Notes contained, and such default shall have continued for a period of thirty (30) days after the City shall have been given written notice of such default by the Trustee; or

(c) if the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

(J) Section 7.06 of the Ordinance is hereby amended and re-enacted to read as follows:

Section 7.06. Resignation of Trustee. The Trustee may at any time resign and be discharged of its duties and obligations under this Ordinance by giving not less than sixty (60) days' written notice to the City and publishing notice, specifying the date when such resignation shall take effect, in an Authorized Newspsper within twenty (20) days after the giving of such written notice. Such resignation shall take effect upon the day specified in such notice unless a successor shall have been previously appointed by the City or Noteholders, in which event such resignation shall take effect immediately.

2. The Notes shall be dated June 1, 1983; shall be in the aggregate principal amount of \$1,750,000 and shall mature on December 1, 1985. The Notes shall bear interest from the date thereof at the rate of \_\_\_\_\_ (\_\_\_\_%) percent per annum, payable semiannually on June 1 and December 1 of each year, commencing December 1, 1983.

3. The Notes, in the aggregate principal amount of \$1,750,000 shall be issued and sold to the Purchasers for the aggregate purchase price of \$\_\_\_\_\_ plus accrued interest from June 1, 1983, to the date of delivery of such Notes, in accordance with the terms of the Purchase Contract, which Purchase Contract is hereby approved in substantially the form attached hereto as Exhibit A.

4. The official statement to be used by the Purchasers in connection with the sale of the Notes (the "Official Statement"), in substantially the form attached hereto as Exhibit B and by this reference made a part hereof, is hereby approved.

5. The Mayor of the City is hereby authorized and directed to execute and deliver the Purchase Contract and the Official Statement and, along with the City Recorder and other officers and employees of the City, to do all things necessary and proper to cause the Notes to be issued and delivered to the Purchasers.

6. Pursuant to Section 5.01 of the Ordinance, the proceeds of the Notes shall be disposed of as follows:

(A) \$\_\_\_\_\_, which, together with the interest to be earned thereon, shall be at least sufficient to pay the total interest due and payable from time to time on the Notes until the maturity thereof, shall be deposited in the Debt Service Account; and

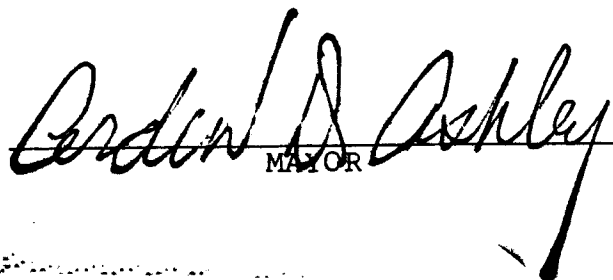
(B) \_\_\_\_\_, which shall equal the total expenses incurred in issuing the Notes, shall be deposited in the Cost of Issuance Account; and



(C) The balance of the proceeds shall be deposited in the Construction Account.

7. This resolution shall take effect immediately upon its adoption.

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, to adopt this Resolution. Motion carried \_\_\_\_\_ unanimously.

  
MAYOR

  
RECORDER

AGENDA ITEM NO. 5 - REQUEST FOR RECREATION DEPARTMENT BUDGET REVISION: City Treasurer Greenleaf explained that the 1982-83 budget did not allow for the City to operate a concession stand at the pool and it has since become necessary for a revision in the budget to accommodate the concession stand, as voted in the past by Council.

The request is as follows:

## REQUEST FOR REVISION TO APPROVED BUDGET

STATE TAX COMMISSIONER  
DRAWER 2369  
CHARLESTON, W V 25305

82-83

FISCAL  
YEAR

A1

FUND  
NUMBER

02

REVISION  
NUMBER

01

PAGE  
NUMBER

DEAR COMMISSIONER:

PURSUANT TO THE PROVISIONS OF CODE 11-8-26a, I HEREBY MAKE A REQUEST FOR THE FOLLOWING REVISION TO BE MADE TO THE APPROVED BUDGET ON FILE IN YOUR OFFICE:

## RECEIPTS: (net each account)

ACCOUNT NO. & CATEGORY	APPROVED AMOUNT	INCREASE	DECREASE	ADJUSTED AMOUNT
333 UTILITY TAX	77000	15000		92000
345 Rent	0	2300		2300
399 MISC.	15000	15000		30000
320 Bro Ex	245000	32000		317000

NET INCREASE / (DECREASE) \_\_\_\_\_

## EXPENDITURES: (net each account)

ACCOUNT NO. & CATEGORY	APPROVED AMOUNT	INCREASE	DECREASE	ADJUSTED AMOUNT
401 MAYOR	64526	20000		84526
410 COUNCIL	14963	2000		16963
446 DE WARDEN	12370	7000		19370
440 CITY MGR	163000	20000		183000
445 POLICE	307709	1000		308709
500 FIRE	192695	1000		193695
540 Bids + Rec	50023	13300		63323

NET INCREASE / (DECREASE) \_\_\_\_\_

Forward the white, pink and blue copies  
to State Tax Department, retain yellow  
copy for your files.

Budgets must be kept in balance.

SIGNATURE \_\_\_\_\_

CITY OF MONTGOMERY  
LEVYING BODY

Councilman at Large Casto moved that Council accept the above budget revision. The motion was seconded. A vote was taken on the motion and passed unanimously and was so ordered.

AGENDA ITEM NO. 7 - CANCELLATION OF JUNE 21, 1983 COUNCIL MEETING: Mayor Ashley suggested to Council that the June 21, 1983 Council meeting be cancelled, due to the absence of both the Mayor and the City Recorder, and West Virginia Day being the 20th. Councilman Savilla moved for such action. The motion was seconded. There being no discussion, a vote was taken and passed unanimously and was so ordered.

AGENDA ITEM NO. 8 - SECOND READING OF KANAWHA CABLEVISION ORDINANCE: Councilman Savilla moved that Council remove from table the second reading of the ordinance allowing Kanawha Cablevision the privilege of engaging in business in the City of Nitro. The motion was seconded. The vote was taken on the motion and it passed with a majority vote.

Councilman Savilla stated that the ordinance was tabled due to contractual differences and that those differences were attended to. He further moved that Council approve the ordinance. The motion was seconded.

Councilman at Large West asked, as before, if the City will have any say-so in the rates being established by Kanawha Cablevision and asked who regulates the rates. Ms. Johnson, of Kanawha Cablevision, stated that the only thing she was aware of was the fact that Kanawha Cablevision does have to give the City a thirty (30) day notice prior to a rate hike.

After some discussion about services within the City, Councilman Savilla amended his motion to include the approval of the City Attorney. A vote was taken on the motion and passed, with Councilman at Large West voting negatively.

The ordinance is as follows:

CITY OF NITROORDINANCE NUMBER 83-9PASSED BY COUNCIL June 7, 1983

AN ORDINANCE TO AMEND AN ORDINANCE, AS AMENDED, GRANTING TO KANAWHA CABLE TELEVISION COMPANY A CERTAIN ORDINANCE AND TO GRANT AND EXTEND TO KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, THE RIGHT AND PRIVILEGE TO ENGAGE IN THE SERVICE OF OPERATING, CONSTRUCTING, PROVIDING, INSTALLING, REPAIRING, REPLACING AND MAINTAINING A CABLE OR COMMUNITY ANTENNA TELEVISION SYSTEM (CATV) AND FOR THAT AND RELATED PURPOSES TO ORIGINATE, TRANSMIT, DISTRIBUTE AND RELAY SIGNALS, BY AND THROUGH WIRES, CABLES OR OTHER DEVICES OR LIKE CONNECTIONS, IN, THROUGH, ON, ACROSS, OVER, UNDER, TO AND FROM PUBLIC STREETS, ALLEYS, WAYS, PLACES, SPACE AND RIGHTS OF WAY, TO RECEIVERS, TELEVISION SETS AND LIKE DEVICES OF SUBSCRIBERS TO SAID SERVICE IN THE CITY OF NITRO, WEST VIRGINIA, ENACTED JANUARY 19, 1965, AS AMENDED, TO CONTINUE AND EXTEND SERVICE BY ORDINANCE AND BY CONTRACTUAL AGREEMENT; TO ESTABLISH A FEE PAYABLE TO THE CITY FOR THE RIGHT AND PRIVILEGE OF ENGAGING IN SUCH SERVICE AND ESTABLISHING APPLICATION OF MUNICIPAL BUSINESS AND OCCUPATION TAX.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA:

THAT AN ORDINANCE ENTITLED AN ORDINANCE GRANTING TO KANAWHA CABLE TELEVISION COMPANY A CERTAIN FRANCHISE AND TO GRANT AND EXTEND TO KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, THE RIGHT AND PRIVILEGE TO ENGAGE IN THE SERVICE OF OPERATING, CONSTRUCTING, PROVIDING, INSTALLING, REPAIRING, REPLACING AND MAINTAINING A CABLE OR COMMUNITY ANTENNA TELEVISION SYSTEM (CATV) AND FOR THAT AND THE RELATED PURPOSES TO ORIGINATE, TERMINATE, DISTRIBUTE AND RELAY SIGNALS BY AND THROUGH WIRES, CABLES, OR OTHER DEVICES OR LIKE CONNECTION, IN, THROUGH, ON, ACROSS, OVER, UNDER, TO AND FROM PUBLIC STREETS, ALLEYS, WAYS, PLACES SPACE AND RIGHTS OF WAY, TO RECEIVERS, TELEVISION SETS, OR LIKE DEVICES OF SUBSCRIBERS TO SAID SERVICE IN THE CITY OF NITRO, WEST VIRGINIA, AS ENACTED JANUARY 19, 1965, AND AS AMENDED, TO BE AMENDED TO CONTINUE AND TO EXTEND THE SERVICE BY THIS ORDINANCE AND BY WRITTEN CONTRACTUAL AGREEMENT; TO ESTABLISH A FEE PAYABLE TO THE CITY OF NITRO BY KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, FOR THE EXERCISE OF SUCH RIGHT AND PRIVILEGE AND THE NUMBER OF YEARS SUCH RIGHT AND PRIVILEGE SHALL BE EXERCISED AND TO DEFINE THE TAXABLE INCOME OF SUCH SERVICE.

## SECTION 1.A.

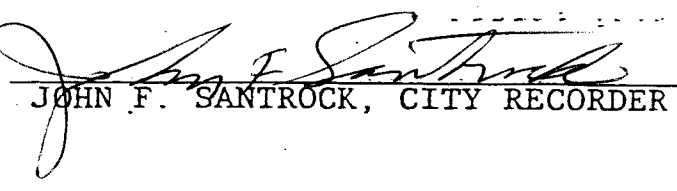
THE CITY OF NITRO HEREBY EXTENDS TO KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, THE RIGHT AND PRIVILEGE TO ENGAGE IN THE CITY OF NITRO IN THE SERVICE OF OPERATING, CONSTRUCTING, PROVIDING, INSTALLING, REPAIRING, REPLACING AND MAINTAINING A CABLE OR COMMUNITY ANTENNA TELEVISION SYSTEM (CATV) AND FOR THAT AND RELATED PURPOSES TO ORIGINATE, TERMINATE, DISTRIBUTE, OR RELAY SIGNALS BY AND THROUGH WIRES, CABLE OR OTHER DEVICES OR LIKE CONNECTIONS, IN, THROUGH, ON, ACROSS, OVER, UNDER, TO AND FROM PUBLIC STREETS, ALLEYS, WAYS, PLACES, SPACES AND RIGHTS OF WAY TO RECEIVERS, TELEVISION SETS, AND LIKE DEVICES TO SUBSCRIBERS TO SAID SERVICE. FOR THIS RIGHT AND PRIVILEGE OF ENGAGING IN THIS SERVICE, KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, SHALL PAY TO THE CITY OF NITRO, THE ANNUAL SUM OF \$2,000.00, PAYABLE ON THE EFFECTIVE DATE OF THIS ORDINANCE, AND ON THE ANNIVERSARY DATE THEREAFTER, AND FOR A TERM FOR WHICH THE ORDINANCE OF JANUARY 19, 1965 PROVIDED, NAMELY, TWENTY-FIVE (25) YEARS, FROM THAT DATE; AND FOR AN ADDITIONAL TEN (10) YEARS THEREAFTER, SO THAT THIS ORDINANCE HEREBY EXTENDS THE ORIGINAL PERIOD OF TWENTY-FIVE (25) YEARS PROVIDED FOR IN THE SAID ORDINANCE OF JANUARY 19, 1965, FOR AN ADDITIONAL TEN (10) YEARS FOR KANAWHA CABLE TELEVISION COMPANY, A CORPORATION TO ENGAGE IN THE SAID SERVICE.

THE MAYOR IS HEREBY DIRECTED TO ENTER INTO SUCH WRITTEN CONTRACTUAL AGREEMENT AS IS NECESSARY TO PROPERLY EFFECTUATE THIS ORDINANCE AND TO GRANT THE RIGHT AND PRIVILEGE TO KANAWHA CABLE TELEVISION COMPANY, A CORPORATION, TO ENGAGE IN THE SERVICE OF OPERATING, CONSTRUCTING, PROVIDING, INSTALLING, REPAIRING, REPLACING, AND MAINTAINING A CABLE AND COMMUNITY ANTENNA TELEVISION SYSTEM AND TO EXERCISE ALL RIGHTS AND PRIVILEGES INCIDENT THERETO.

## SECTION 1.B.

NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY OF THE CODE OF THE CITY OF NITRO, THE GROSS INCOME OR GROSS PROCEEDS OF SALES TO PERSONS ENGAGED IN THE SERVICES FROM SUBSCRIBERS OF A CABLE TELEVISION OR COMMUNITY ANTENNA TELEVISION SYSTEM SHALL CONTINUE TO BE EXEMPT FROM BUSINESS AND OCCUPATION OR THE PRIVILEGE TAX, PROVIDED THAT INCOME FROM INSTALLING AND OTHER NON-SUBSCRIBER INCOME SHALL CONTINUE TO BE SUBJECT TO SUCH TAX.

  
ARDEN D. ASHLEY, MAYOR

  
JOHN F. SANTROCK, CITY RECORDER

## COMMITTEE REPORTS

Councilman Savilla stated that he understands that the Department of Public Works is scheduled to start on the first of three streets voted to be paved first on June 15th. He further stated that the Department had to wait until after school let out because the street will be closed for three (3) days to properly pave it.

Councilman Savilla further stated that there are numerous places scheduled to be patched, but at present the necessary truck is broken down and will be fixed as soon as possible.

Councilman at Large Casto suggested the paving of unpaved areas across from businesses on First Avenue from 23rd Street to 27th Street, at a cost to the businessmen of that area. Mayor Ashley suggested that Councilman at Large Casto refer the matter to the newly-formed paving committee and to the Businessmen's Association.

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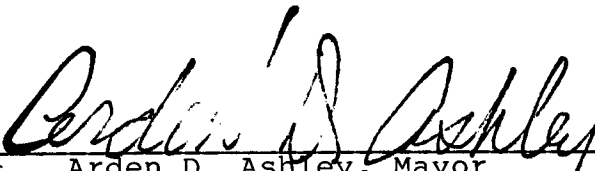
City Treasurer Greenleaf announced the awarding of several million dollars to the State to be available for emergency jobs for unemployed exhaustees throughout the State, and that part of the provisions of that bill allows local governments to come up with Public Works' type projects for these individuals to work on. He further stated that the State, through the Governor's Office of Economic and Community Development, would provide money for materials and labor to construct Public Works' type of facilities such as picnic tables, et cetera.

The City Treasurer further stated that Nitro has submitted to the Governor's office for consideration the project of a new shelter at Ridenour Lake, as well as forty-seven (47) picnic tables. Mr. Greenleaf stated that those who have families and whose unemployment benefits have run out, and secondly, those who have run out of unemployment insurance and benefits.

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Councilman at Large West extended his thanks and thanks for Council to those persons who volunteered their services at the Spring Festival. Councilman Savilla suggested that a letter be put in the Nitro Newsletter stating such. The Mayor agreed.

There being no further business to be attended to by the City Council, Mayor Ashley adjourned the meeting at 9:01 p.m.

  
Arden D. Ashley, Mayor

W-1





IN THE KANAWHA COUNTY COMMISSION, KANAWHA COUNTY, WEST VIRGINIA

IN RE:

CITY OF NITRO, a West  
Virginia Municipality,

Petitioner,

O R D E R

This 23rd day of June, 1983, came the City of Nitro, a municipal corporation, by Phillip D. Gaujot, attorney, upon petitioner's petition to annex to the City of Nitro, certain additional territory located in Poca District, Putnam County, West Virginia, and containing 130 acres, more or less, and more particularly described as follows:

BEGINNING at a point in the Kanawha River, located S. 23° 45' W. a distance of 21.72 feet from the northwest corner of the first tract (6.23 acres) conveyed by Nitro Industrial Corporation to American Viscose Corporation; thence running 21.72 feet equidistant from and parallel to the northerly line of said first tract on a course S. 66° 15' E. a distance of 282.61 feet to a P. K. nail set in the south side of the concrete base of a fence post; thence S. 23° 45' W. a distance of 19.28 feet to a 1" iron pipe; thence S. 66° 15' E. a distance of 124.16 feet to a 1" iron pipe; thence S. 23° 45' W. a distance of 111.23 feet to a 1" iron pipe at the end of a concrete wall; thence S. 66° 15' E. with the northerly line of said concrete wall a distance of 294.22 feet to a 1" iron pipe located one foot West of an opening in said concrete wall; thence N. 38° 21' E. a distance of 115.97 feet to a 1" iron pipe; thence S. 71° 29' E. a distance of 12.20 feet to a 1" iron pipe; corner to a 0.11 acre tract; thence with three lines of said 0.11 acre tract; S. 71° 29' E. a distance of 17.45 feet to a point; S. 66° 15' E. a distance of 98.24 feet to a point; N. 54° 53' E., a distance of 43.58 feet to a 1" iron pipe in the north line of the aforesaid 6.23 acre tract; thence running with the northerly line of said 6.23 acre tract S. 66° 15' E.



a distance of 300.04 feet to a 1" iron pipe located at the northeast corner of said 6.23 acre tract and in the Westerly line of parcel number 1 (57.62 acres); thence with the westerly line of said parcel number 1 N. 23° 45' E. a distance of 267.99 feet to a P. K nail in said line; thence leaving the westerly line of said parcel number 1, S. 66° 15' E. a distance of 20.00 feet to a 1" iron pipe in the easterly right-of-way line of West Virginia County Route 25/3; thence leaving said West Virginia County Route 25/3, N. 81° 38' E. a distance of 184.44 feet to a 1" iron pipe located one foot north of a chain link fence; thence N. 79° 55' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence N. 88° 57' E. a distance of 50.00 feet to an iron pipe located one foot north of said chain link fence; thence S. 83° 22' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 74° 45' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 68° 42' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 61° 35' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 54° 04' E. a distance of 125.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 50° 37' E. a distance of 100.00 feet to a 1" iron pipe located one foot north of said chain link fence and in the westerly line of a tract of 0.12 of an acre, more or less, conveyed by Ohio-Apex, Inc. to American Viscose Corporation; thence running N. 23° 45' E. a distance of 51.89 feet to a 1" iron pipe located along the southern right-of-way line of West Virginia County Route 25/3; thence with the chord of a curve of a southern right-of-way line of West Virginia County Route 25/3, S. 41° 55' E., a distance of 137.72 feet to a 1" iron pipe; thence leaving said right-of-way line of West Virginia County Route 25/3 and running S. 23° 32' W. a distance of 9.43 feet to a 1" iron pipe located in a northern line and the closing line of the aforesaid parcel number 1 (57.62 acres); thence S. 66° 28' E. a distance of 580.47 feet to a cross marked in the concrete pavement of West Virginia County Route 25/3 at the northeast corner of said parcel number 1; thence with the easterly line of said parcel number 1, S. 23° 38' W. a distance of 805.4 feet to an old concrete monument; thence continuing with the easterly line of said parcel number 1 along the line of a chain link fence S. 9° 42' W. a distance of 1408.4 feet to an old concrete monument, southeast corner of parcel number 1; thence running in a westerly direction, successively, with the southerly line of the second tract N. 76° 14' W., 870.50 feet to a point in the easterly right-of-way line of West Virginia County Route 25/9; thence with four lines



of the easterly right-of-way line of West Virginia County Route 25/9 S.  $42^{\circ} 15'$  W., 172.50 feet to a point; thence S.  $44^{\circ} 17'$  W., 147.95 feet to a point; thence S.  $30^{\circ} 49'$  W., 84.35 feet to a point; thence S.  $11^{\circ} 52'$  W., 831.41 feet to a point in the City of Nitro Corporation line; thence crossing West Virginia County Route 25/9 and with the City of Nitro Corporation line N.  $88^{\circ} 10'$  W., 40.62 feet to a point in the westerly right-of-way line of West Virginia County Route 25/9; thence with four lines of the westerly right-of-way line of Route 25/9 N.  $11^{\circ} 52'$  E., 845.16 feet to a point; thence N.  $30^{\circ} 49'$  E., 95.74 feet to a point; thence N.  $44^{\circ} 17'$  E., 151.96 feet to a point; thence N.  $42^{\circ} 15'$  E., 147.23 feet to a point near the southwest corner of a tract of 54.00 acres conveyed by Nitro Industrial Corporation to American Viscose Corporation; thence leaving the westerly right-of-way line of West Virginia County Route 25/9 N.  $73^{\circ} 32'$  W., 1,586.28 feet, more or less to a point in the Kanawha River at the Old Normal Pool stage of the Kanawha River at elevation 546.4 feet (Sandy Hook Datum); thence running in a northerly direction down the Kanawha River with its meanders at said elevation of 546.4 feet and successively with the westerly line of said 54 acre tract, the westerly line of Parcel Number 2 (4.83 acres) conveyed by Charleston Industrial Company to the Viscose Company, the westerly line of a tract of 7.9 acres conveyed by West Virginia Water Service Company to American Viscose Corporation and with the westerly line of the First Tract (6.23 Acres), conveyed by Nitro Industrial Corporation to American Viscose Corporation, a distance of approximately 2,200 feet, more or less, to the point of beginning, and containing 130 acres, more or less.

which territory is shown upon that certain map entitled "Annexation Map For THE CITY OF NITRO Old Avtex Fibers Plant Being 130<sup>±</sup> Acres On The Waters Of The Kanawha River Poca District, Putnam County, W. Va. Scale: 1" = 200'" prepared by Wilkinson Surveying And Engineering Incorporated, Dunbar, W. Va., dated March 16, 1983.

Upon the showing pursuant to the provisions of Chapter 8, Article 6, Section 5 of the West Virginia Code of 1931 as amended, the City of Nitro, West Virginia, by its City Council, Ordained to annex the above described area, situate on the waters



of the Kanawha River, Poca District, Putnam County, West Virginia, as hereinbefore described by minor boundary adjustment; and

Upon further finding that no persons reside in the territory to be annexed to the corporate limits by the proposed change; and, Par Industries, Inc., a corporation, is the only free holder of such additional territory described above, and is not opposed to the proposed boundary change; and further,

Upon the finding that the additional territory described above conforms to the requirements of Chapter 8, Article 6, Section 5 of the West Virginia Code of 1931 as amended; that the petition is sufficient in every respect; that an order of publication of notice of the proposed annexation to the corporate limits was issued showing the date and time set by the County Commission for a hearing on such proposal; and, further,

Upon the finding that the Order issuing notice of said hearing was prominently posted at not less than five (5) public places within the area proposed to be annexed, it is;

Therefore, ORDERED that such annexation to said corporate limits be, and, the same is hereby approved and confirmed, and the Clerk of this Court is directed to deliver to the said governing body a certified copy of this Order as soon as practicable.

After the date of such Order, the corporate limits of the municipality shall be as set forth therein.

All of which is accordingly ADJUDGED, ORDERED and DECREED this 23rd day of June, 1983.





ENTER:

Robert L. Hunter

J. Douglas Stump

PRESENTED BY:

[Signature]

PHILLIP D. GAUJOT  
Counsel for Petitioner  
113 Goff Mountain Road  
Cross Lanes, W. Va. 25313

APPROVED BY:

[Signature]  
COUNTY ATTORNEY

I, MARGARET D. MILLER, do hereby certify that this is a true copy from the original

Teste: MARGARET D. MILLER, Clerk

Kanawha County Commission  
Date 12/4/83 By [Signature]  
Deputy



## COUNCIL MEETING MINUTES

## NITRO CITY COUNCIL

July 5, 1983

The regular meeting of the Nitro City Council was called to order at 7:30 p.m. in Council Chambers by Mayor Arden D. Ashley. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman A. A. "Joe" Savilla, Councilman Omar Cunningham, and Councilman Jack Moon. Absent were Councilman at Large Steven West, Councilman Ronald King and City Treasurer Michael E. Greenleaf. Also present was City Attorney Phillip D. Gaujot.

The invocation was given by Councilman Savilla.

AGENDA ITEM NO. 1 - APPROVAL OF JUNE 7, 1983 COUNCIL MEETING MINUTES: Councilman Moon stated that a change should be made in Agenda Item No. 2. Councilman Moon's name should be changed to Councilman King.

With this correction being made, Councilman Cunningham moved that the minutes be approved as amended. The motion was seconded. The vote was taken on the motion and it passed unanimously.

AGENDA ITEM NO. 2 - REQUEST FROM AMERICAN CANCER SOCIETY: City Recorder Santrock introduced the request of the American Cancer Society to Council to sell tickets in the City limits for events scheduled by them from now through September. City Recorder Santrock suggested that the event items be voted on on an individual basis.

Mayor Ashley suggested that he call the Executive Director of the American Cancer Society and express his conditional support and to question the legality of "Las Vegas Night". Councilman Moon moved for that action. The motion was seconded. A vote was taken on the motion and passed unanimously.

AGENDA ITEM NO. 3 - REQUEST FROM STEPHANIE L. JOHNSON: Mayor Ashley expressed the financial supported requested for Miss Johnson to travel with the A.A.U. Karate Team to Guadeloupe, where she will be competing with five other women from the United States chosen for the team. Councilman Cunningham expressed his concern for others who will want the same support in the future and where the line should be drawn.

Councilman Savilla stated that he felt that this was not only for Miss Johnson's benefit, but for the benefit of the City of Nitro also because Miss Johnson is from Nitro and was one of

six women picked to attend this competition. Mayor Ashley further stated that the cost of this trip was underwritten by the A.A.U. to the extent of their funds and that additional money is needed by Miss Johnson for this trip.

Councilman Savilla moved that Council donate to Miss Johnson the same amount of money as was donated last year for trip expenses. The motion was seconded. Councilman Moon also suggested that the media be called on the matter, to get as much mileage out of the donation as is possible.

The vote was taken on the motion and passed unanimously and was so ordered.

AGENDA ITEM NO. 4 - ACTION TAKEN BY KANAWHA COUNTY COMMISSION REGARDING ANNEXATION: City Attorney Gaujot stated that on June 23, 1983, the Kanawha County Commission conducted a hearing regarding annexation of the area known as Nitro Industrial Park. He stated that the Commission ruled that the property in question be annexed into the City of Nitro.

Councilman Savilla moved that the order for such action be made a part of the minutes. The motion was seconded. The vote passed unanimously and was so ordered.

The resolution is as follows:

#### RESOLUTION 83-10

RESOLUTION ACCEPTING THE ACTION OF THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, ANNEXING TO THE CITY OF NITRO CERTAIN ADDITIONAL TERRITORY LOCATED IN PUTNAM COUNTY, JUNE 23, 1983.

WHEREAS, the City of Nitro, petitioned the Kanawha County Commission as prescribed by the State Code of West Virginia in the "Annexation by Minor Boundary Adjustment", (8-6-5) and;

WHEREAS, the City Council, by Ordinance 83-3, unanimously approved this request for additional territory, believing this annexation in the best interest of the City, do;

Accept the annexed territory to the corporate limits of the City of Nitro as ordered by the County Commission of Kanawha County on June 23, 1983, and as petitioned by the City of Nitro, and as described on the following order:

IN THE KANAWHA COUNTY COMMISSION, KANAWHA COUNTY, WEST VIRGINIA

IN RE:

CITY OF NITRO, a West  
Virginia Municipality,

Petitioner,

O R D E R

This 23rd day of June, 1983, came the City of Nitro, a municipal corporation, by Phillip D. Gaujot, attorney, upon petitioner's petition to annex to the City of Nitro, certain additional territory located in Poca District, Putnam County, West Virginia, and containing 130 acres, more or less, and more particularly described as follows:

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a distance of 300.04 feet to a 1" iron pipe located at the northeast corner of said 6.23 acre tract and in the Westerly line of parcel number 1 (57.62 acres); thence with the westerly line of said parcel number 1 N. 23° 45' E. a distance of 267.99 feet to a P. K nail in said line; thence leaving the westerly line of said parcel number 1, S. 66° 15' E. a distance of 20.00 feet to a 1" iron pipe in the easterly right-of-way line of West Virginia County Route 25/3; thence leaving said West Virginia County Route 25/3, N. 81° 38' E. a distance of 184.44 feet to a 1" iron pipe located one foot north of a chain link fence; thence N. 79° 55' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence N. 88° 57' E. a distance of 50.00 feet to an iron pipe located one foot north of said chain link fence; thence S. 83° 22' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 74° 45' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 68° 42' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 61° 35' E. a distance of 50.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 54° 04' E. a distance of 125.00 feet to a 1" iron pipe located one foot north of said chain link fence; thence S. 50° 37' E. a distance of 100.00 feet to a 1" iron pipe located one foot north of said chain link fence and in the westerly line of a tract of 0.12 of an acre, more or less, conveyed by Ohio-Apex, Inc. to American Viscose Corporation; thence running N. 23° 45' E. a distance of 51.89 feet to a 1" iron pipe located along the southern right-of-way line of West Virginia County Route 25/3; thence with the chord of a curve of a southern right-of-way line of West Virginia County Route 25/3, S. 41° 55' E., a distance of 137.72 feet to a 1" iron pipe; thence leaving said right-of-way line of West Virginia County Route 25/3 and running S. 23° 32' W. a distance of 9.43 feet to a 1" iron pipe located in a northern line and the closing line of the aforesaid parcel number 1 (57.62 acres); thence S. 66° 28' E. a distance of 580.47 feet to a cross marked in the concrete pavement of West Virginia County Route 25/3 at the northeast corner of said parcel number 1; thence with the easterly line of said parcel number 1, S. 23° 38' W. a distance of 805.4 feet to an old concrete monument; thence continuing with the easterly line of said parcel number 1 along the line of a chain link fence S. 9° 42' W. a distance of 1408.4 feet to an old concrete monument, southeast corner of parcel number 1; thence running in a westerly direction, successively, with the southerly line of the second tract N. 76° 14' W., 870.50 feet to a point in the easterly right-of-way line of West Virginia County Route 25/9; thence with four lines

of the easterly right-of-way line of West Virginia County Route 25/9 S.  $42^{\circ} 15' W.$ , 172.50 feet to a point; thence S.  $44^{\circ} 17' W.$ , 147.95 feet to a point; thence S.  $30^{\circ} 49' W.$ , 84.35 feet to a point; thence S.  $11^{\circ} 52' W.$ , 831.41 feet to a point in the City of Nitro Corporation line; thence crossing West Virginia County Route 25/9 and with the City of Nitro Corporation line N.  $88^{\circ} 10' W.$ , 40.62 feet to a point in the westerly right-of-way line of West Virginia County Route 25/9; thence with four lines of the westerly right-of-way line of Route 25/9 N.  $11^{\circ} 52' E.$ , 845.16 feet to a point; thence N.  $30^{\circ} 49' E.$ , 95.74 feet to a point; thence N.  $44^{\circ} 17' E.$ , 151.96 feet to a point; thence N.  $42^{\circ} 15' E.$ , 147.23 feet to a point near the southwest corner of a tract of 54.00 acres conveyed by Nitro Industrial Corporation to American Viscose Corporation; thence leaving the westerly right-of-way line of West Virginia County Route 25/9 N.  $73^{\circ} 32' W.$ , 1,586.28 feet, more or less to a point in the Kanawha River at the Old Normal Pool stage of the Kanawha River at elevation 546.4 feet (Sandy Hook Datum); thence running in a northerly direction down the Kanawha River with its meanders at said elevation of 546.4 feet and successively with the westerly line of said 54 acre tract, the westerly line of Parcel Number 2 (4.83 acres) conveyed by Charleston Industrial Company to the Viscose Company, the westerly line of a tract of 7.9 acres conveyed by West Virginia Water Service Company to American Viscose Corporation and with the westerly line of the First Tract (6.23 Acres), conveyed by Nitro Industrial Corporation to American Viscose Corporation, a distance of approximately 2,200 feet, more or less, to the point of beginning, and containing 130 acres, more or less.

which territory is shown upon that certain map entitled "Annexation Map For THE CITY OF NITRO Old Avtex Fibers Plant Being 130<sup>±</sup> Acres On The Waters Of The Kanawha River Poca District, Putnam County, W. Va. Scale: 1" = 200'" prepared by Wilkinson Surveying And Engineering Incorporated, Dunbar, W. Va., dated March 16, 1983.

Upon the showing pursuant to the provisions of Chapter 8, Article 6, Section 5 of the West Virginia Code of 1931 as amended, the City of Nitro, West Virginia, by its City Council, Ordained to annex the above described area, situate on the waters

of the Kanawha River, Poca District, Putnam County, West Virginia as hereinbefore described by minor boundary adjustment; and

Upon further finding that no persons reside in the territory to be annexed to the corporate limits by the proposed change; and, Par Industries, Inc., a corporation, is the only free holder of such additional territory described above, and is not opposed to the proposed boundary change; and further,

Upon the finding that the additional territory described above conforms to the requirements of Chapter 8, Article 6, Section 5 of the West Virginia Code of 1931 as amended; that the petition is sufficient in every respect; that an order of publication of notice of the proposed annexation to the corporate limits was issued showing the date and time set by the County Commission for a hearing on such proposal; and, further,

Upon the finding that the Order issuing notice of said hearing was prominently posted at not less than five (5) public places within the area proposed to be annexed, it is;

Therefore, ORDERED that such annexation to said corporate limits be, and, the same is hereby approved and confirmed, and the Clerk of this Court is directed to deliver to the said governing body a certified copy of this Order as soon as practicable.

After the date of such Order, the corporate limits of the municipality shall be as set forth therein.

All of which is accordingly ADJUDGED, ORDERED and DECREED this 23rd day of June, 1983.



ENTER:

Robert L. HunterJ. Douglas Stump

PRESENTED BY:



PHILLIP D. GAUJOT  
 Counsel for Petitioner  
 113 Goff Mountain Road  
 Cross Lanes, W. Va. 25313

APPROVED BY:



COUNTY ATTORNEY

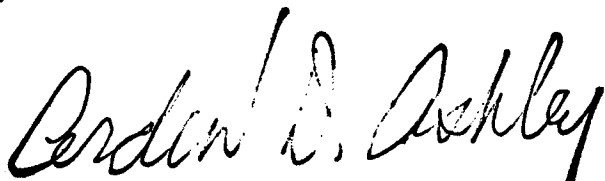
I, MARGARET D. MILLER, do hereby cer  
 tify that this is a true copy from the original

Tested: MARGARET D. MILLER, Clerk

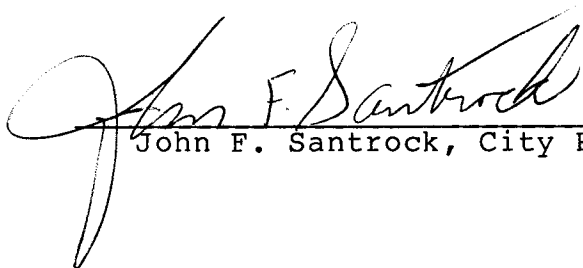
6/24/13 Kanawha County Commission  
 Date By Margaret D. Miller

Density

This Resolution passed and adopted this the 5th day of July, 1983.



Arden D. Ashley, Mayor



John F. Santrock, City Recorder

AGENDA ITEM NO. 5 - HANKINS PROPOSAL: Mayor Ashley expressed Mr. J. E. Hankins' proposal to provide City vehicles and others a turn-around space on his property located at 232 Lee Avenue, with the City paying for the materials and himself doing the work. Mayor Ashley further stated that this action has been going on for some time now.

The City Attorney stated that he felt that this could be taken care of by resolution. Councilman Moon moved that a resolution be written for this action to be taken. The motion was seconded. The vote passed unanimously and was so ordered.

AGENDA ITEM NO. 6 - PROPOSAL FOR FLASHERS AT RAILROAD CROSSINGS FROM WV DEPARTMENT OF HIGHWAYS: Mayor Ashley introduced the proposal from the Department of Highways for the installation of flashers at Kapok Street, 11th Street and Walker Street railroad crossings, at a cost of ten percent (10%) cost sharing basis, which will run in the neighborhood of five thousand dollars (\$5,000) per crossing. Mayor Ashley also suggested to Council that there may be some help from the private sector on this matter, and further stated that information will be available at the next Council meeting.

COMMITTEE REPORTS

Councilman Savilla suggested a different approach to the Governor's Jobs Program. He stated that during the spring of 1984, approximately twenty (20) high school students should be hired to get the parks, et cetera, ready for the summer rush. Councilman Savilla further moved that Council table this matter until next year so as not to create an undue expense on the City. The motion was seconded. The vote was taken and passed unanimously and was so ordered.

City Recorder Santrock brought up to Council the discounting of swimming pool passes after July 15th. Mr. Santrock moved that this be the first reading to amend Ordinance 83-2, to include "Season swimming passes shall be sold at one-half price, beginning July 20, 1983". The motion was seconded. The vote was taken on the motion and passed unanimously, with the second reading to be July 19, 1983.

Mayor Ashley shared with Council the problems of a very narrow concrete road on 4th Street Hill serving four homes, which was built by Kell Pauley several years ago. Although this road has not been officially dedicated to the City, our work crews have serviced this road many years. Mr. Pauley, when contacted, stated, "I not longer retain rights to this road and thought the road had been dedicated to the City".

Mayor Ashley stated that the street, due to the fact that it has been treated as a City street for approximately twenty (20) years, is an assumed liability for any hazard that street or its condition might represent to the City. Councilman Savilla moved to place a guard rail at that location, at a cost of approximately five hundred to seven hundred and fifty dollars to prevent any one from going over the side. The motion was properly seconded and the vote passed unanimously and was so ordered.

Mayor Ashley brought up the leak at the City Pool. Recreation Director Simms stated that a meeting has been set up with S & S Engineers to investigate a leak believed to be underneath the pool itself, some erosion under the deck area and problems with dirt in the pool. Mayor Ashley asked that Council be given a copy of the report of S & S Engineers, and that at the next Council meeting funding of repairs to the pool be discussed.

Councilman Savilla reported that on June 11th, the paving committee met and toured all of Nitro and found quite a few

streets which are in very bad need of patching and paving. Councilman Savilla further reported on the condition of 3rd Avenue and the possible slippage areas, which he feels are better called State and Federal funded projects. Other streets for immediate repair are 11th Street, 10th Street, 8th Street, 7th Street, 6th Street, Kanawha Avenue South, Cleveland Avenue, Old County Road, Valentine Circle, Juniper Street & Dupont Avenue, and Lock Street. Another meeting is to be scheduled in the near future. Also, Mayor Ashley stated that work on 39th Street East is to take place this week.

Councilman Savilla expressed his concern for the slips in Nitro and stated that he feels that they should be looked at by the State. Mayor Ashley agreed and tried to express to Council the position the State is in also. He further asked for Council's opinion as to a course of action. Councilman Savilla stated that Council should go to these areas as a group and discuss the problems on-the-spot. Mayor Ashley suggested that Council meet at 6:00 p.m. on the day of the next Council meeting for such purpose.


Councilman at Large Casto announced that the Mayor of Charleston, Mike Roark, has accepted the invitation to be guest speaker at next years birthday celebration.

Councilman Moon asked the Mayor if there is anything he could share with Council on the EPA report concerning dioxane. Mayor Ashley stated that he spoke with Dave Frazer, Plant Manager at Monsanto, and that he informed him that the EPA was doing a study at Monsanto and that he fully anticipated that there would be favorable results found. The reports have not come back yet.

Recreation Director Simms extended his thanks to Councilman Cunningham and Monsanto for their discount in the purchase of needed chemicals for the pool.

There being no further business, Mayor Ashley adjourned the meeting at 8:42 p.m.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

## COUNCIL MEETING MINUTES

CITY OF NITRO

July 19, 1983

The regular meeting of the Nitro City Council was called to order at 7:30 p.m. by Arden D. Ashley, Mayor, in Council Chambers. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Omar Cunningham and Councilman Jack Moon. Also present was the City Attorney, Phillip D. Gaujot. Absent were Councilman A. A. "Joe" Savilla and City Treasurer Michael E. Greenleaf.

The invocation was given by Councilwoman at Large Trout.

AGENDA ITEM NO. 1 - APPROVAL OF JULY 5, 1983 COUNCIL MEETING MINUTES: Councilman at Large Casto moved that the minutes be approved as presented. The motion was seconded. The vote was taken on the motion and passed unanimously and was ordered.

AGENDA ITEM NO. 2 - CITIZEN OF THE MONTH: For all her work with the City, Mayor Ashley awarded the Citizen of the Month award for the month of July to Joan Savilla.

AGENDA ITEM NO. 3 - KANAWHA COUNTY AMBULANCE AUTHORITY FEES: Councilman Moon introduced the Executive Director of the Kanawha County Emergency Ambulance Authority, Mr. Frank Kirk. Mr. Kirk explained that the Authority is trying to make it easier on the general public to receive emergency ambulance service by lowering the rate structures. More specifically, to allow the citizens of Kanawha County essentially free ambulance service. He stated that the plans for this are to directly bill the third party, if there is one, or to bill the patient without coverage a twenty-five dollar (\$25.00) stipend, which is more greatly to keep down abuse of the system. Mr. Kirk further explained that his future hope is that this amount will continue to drop and that tax dollars be put to their rightful use in this area.

Mr. Kirk expressed, for the Authority, the pleasure of working with the City of Nitro and the splendid cooperation. He further commended Councilman Moon and Mayor Ashley for their interest and input.

AGENDA ITEM NO. 4 - FIRST READING OF ORDINANCE GRANTING WEST VIRGINIA WATER COMPANY EASEMENT: Mayor Ashley moved that this ordinance be introduced by title only. The motion was seconded and the vote passed unanimously and was so ordered. City Recorder Santrock introduced the following ordinance:

## ORDINANCE 83-11

AN ORDINANCE GRANTING WEST VIRGINIA WATER COMPANY AN EASEMENT SITUATED IN THE COCHRAN CIRCLE, BAILES DRIVE, 0.13 ACRE PARCEL ADJOINING NITRO HEIGHTS, POCA DISTRICT, PUTNAM COUNTY.

WHEREAS, the City Council desires to improve services to Citizens of our city and its environs; and

WHEREAS, the request of the West Virginia Water Company does:

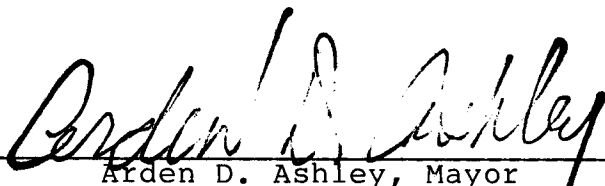
Do away with the Bailes Drive booster line and cut costs; and

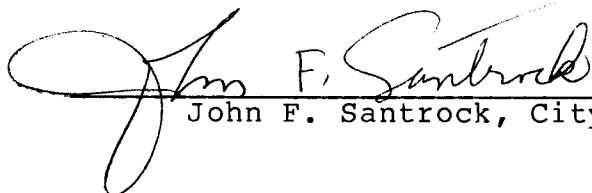
It will give opportunities for service to homes not presently serviced.

THEREFORE, West Virginia Water Company is given an easement to be used for the purpose of installing, laying, operating, maintaining, repairing, replacing and removing water lines, valves, meters and other equipment used in a general water utility business as described in Right-of-Way agreement for the area shown on the map attached (22883).

Presented and approved first reading by the Nitro City Council on this the 19th day of July, 1983.

Was read for the second time and adopted at a regular meeting of the City Council of Nitro on the \_\_\_\_\_ day of August, 1983.

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

Form WVW Co. No. 1  
Revised 5-10-72

KANAWHA VALLEY DISTRICT

Distribution Plant  
Map No. 87-81-1

## Right of Way Agreement

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between

Names

Address

City of Nitro

20th St. & 2nd Ave.

Nitro, W.Va. 25143

hereinafter called Grantors, and **WEST VIRGINIA WATER COMPANY**, a corporation, hereinafter called Water Company,

WITNESSETH: That in consideration of One Dollar (\$1.00) cash in hand paid and of other good and valuable considerations, the receipt and sufficiency of all of which are hereby acknowledged, Grantors do hereby grant and convey unto Water Company, its successors and assigns, a right of way and easement 20 feet in width and approximately 50 feet in length, \_\_\_\_\_

in, on, over, under, through and across those certain lands situate in 0.13 acre parcel adjoining Nitro Heights, Poca \_\_\_\_\_ District, Putnam \_\_\_\_\_ County, West Virginia, as shown in yellow color on Water Company's Map No. 022883 attached hereto and made a part hereof; together with the additional right to use, if such use should become necessary, the lands of Grantors as more particularly described in Deed Book No. 226, Page No. 127, in the County Clerk's Office of the aforesaid County; for the purpose of ingress and egress and the temporary placement of earth and equipment.

Said easement shall be used for the purpose of installing, laying, operating, maintaining, repairing, replacing and removing water lines, valves, meters and other equipment used in a general water utility business. Grantors reserve the right to cultivate, pave over, or otherwise use said lands in any way not inconsistent with the use and enjoyment of the rights herein granted; however, and with the intent to bind Grantors and anyone who at any time hereafter may own or be entitled to any part of or interest in said lands, Grantors covenant that there will not, without the written consent of the Grantee, be placed or erected any permanent-type structure, or, septic tanks, in, on, across or over the easement area, nor will its surface grade be changed more than six (6) inches.

Water Company agrees that, as nearly as may reasonably be done, it will properly back-fill and restore the surface of the ground within the easement area to its condition immediately prior to the execution of this agreement, that it will exercise reasonable care in its use and occupation of said easement, and that it will be liable for any damages caused by its negligence in the use and occupation of the easement.

Declaration of Consideration or Value: The Grantors hereby declare that the total consideration for the property transferred by this document is \_\_\_\_\_ and that such transfer is therefore exempt by statute for state excise tax upon the privilege of transferring real estate.

CITY OF NITRO

By \_\_\_\_\_

Its \_\_\_\_\_

City Recorder Santrock, after introducing the above ordinance, moved that Council approve the first reading. The motion was seconded and the vote passed unanimously and was so ordered.

AGENDA ITEM NO. 5 - SECOND READING OF ORDINANCE AMENDMENT 83-2 REDUCING SWIMMING POOL PASS RATES AFTER JULY 20, 1983: Councilman at Large Casto moved that Council accept the ordinance to discount swimming pool passes after July 20, 1983. The motion was seconded. The vote on the motion passed unanimously and was so ordered.

The ordinance is as follows:



## ORDINANCE 83-10

BE IT ORDAINED BY THE COUNCIL OF  
THE CITY OF NITRO, WEST VIRGINIA,  
THAT THE SWIMMING POOL RATES FOR  
1983 BE AMENDED AND READ AS  
FOLLOWS:

PASSES

	<u>Resident</u>	<u>Non-Resident</u>
Family	\$70.00*	\$140.00
Individual	\$35.00**	\$ 70.00

\* \$10.00 discount if purchased before May 1

\*\* \$ 5.00 discount if purchased before May 1

EFFECTIVE JULY 20, 1983, POOL PASSES  
MAY BE PURCHASED FOR ONE-HALF PRICE.

DAILY RATES

	<u>Resident</u>	<u>Non-Resident</u>
Adult	\$2.00	\$4.00
Child (under six accompanied by adult)	Free	\$1.00
Senior Citizen	\$1.00	\$1.00

Pool Hours: Daily/Saturday - 11:00 a.m. - 7:00 p.m.  
Sunday - 1:00 p.m. - 6:00 p.m.

Pool Rental: \$20.00 per hour, after 7:00 p.m.

This ordinance was read and introduced for the first time at  
the regular meeting of the City Council of the City of Nitro on  
July 5, 1983, and adopted by second reading on July 19, 1983.

AGENDA ITEM NO. 6 - REQUEST FROM NITRO MIDGET FOOTBALL LEAGUE: Mayor Ashley introduced the request from Nitro Midget Football League for permission to park cars and ask for donations for the League. This request is consistent with those of previous years. Councilman at Large Casto moved that Council accept such action. The motion was seconded. The vote passed unanimously and was so ordered.

AGENDA ITEM NO. 7 - REQUEST FROM PAUL LEE - AAU BASKETBALL TEAM: Councilwoman at Large Trout stated that Paul Lee will be representing Nitro with the AAU Basketball in Indianapolis and that he and his team members have been asked to solicit support from their community to fund the trip there. Councilwoman Trout also moved that the City Council should support him in the same manner as past recipients of such gifts. The motion was seconded. The vote passed unanimously and was so ordered.

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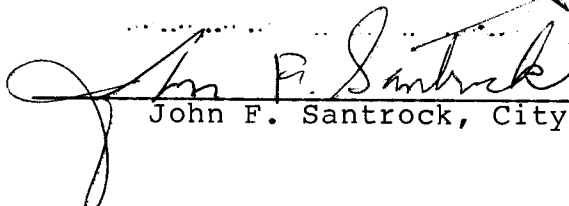
Mayor Ashley stated that most of the Council members did take a tour of the City prior to the meeting and reviewed the areas that currently have slippage. He also stated that he believed the members of Council are now better informed about some of the problems.

Mayor Ashley further stated that the paving operations within the City are going well and that the costs involved are much less than originally anticipated, thus there may be more paving done than expected.

Councilman Cunningham complimented the work crews on the paving already done.

There being no further business, Mayor Ashley adjourned the meeting at 7:57 p.m.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

## COUNCIL MEETING MINUTES

CITY OF NITRO

August 2, 1983

The regular meeting of the Nitro City Council was called to order on August 2, 1983 by Mayor Arden D. Ashley at 7:37 p.m. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman A. A. "Joe" Savilla and Councilman Jack Moon. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot. Absent was Councilman Omar Cunningham.

The invocation was given by Councilman Savilla.

AGENDA ITEM NO. 1 - APPROVAL OF JULY 19, 1983 COUNCIL MEETING MINUTES: Mayor Ashley pointed out that Agenda Item No. 4 should read "Councilman at Large Casto moved that this ordinance be introduced by title only", not "Mayor Ashley moved that this ordinance ..."

There being no further amendments or corrections, Councilwoman at Large Trout moved that the minutes be accepted as amended. The motion was seconded. The vote on the motion passed unanimously and was so ordered.

AGENDA ITEM NO. 2 - CITIZEN OF THE MONTH: Mayor Ashley announced the awarding of the Citizen of the Month Award to Larry Estep, coach of the Nitro Little League team. Mr. Estep graciously accepted the award on behalf of himself and the team.

AGENDA ITEM NO. 3 - EMERGENCY EMPLOYMENT PROGRAM CONTRACT: Mayor Ashley explained to Council that involved in the Emergency Employment Program is a crew of five individuals on hand for six months and \$25,000 for materials for that crew to work with. He further explained that the purpose behind the project is to not only provide gainful employment for those involved, but to provide the City with the manpower and money for such projects as a new shelter at Ridenour Lake, which are acceptable to the Governor's program.

At this time, City Recorder Santrock moved that the pertaining resolution be introduced by title only. The motion was seconded and the vote passed unanimously. Mr. Santrock then introduced the resolution, which is as follows:

## RESOLUTION 83-11

A RESOLUTION AUTHORIZING THE MAYOR  
TO ENTER INTO A GRANT AGREEMENT  
WITH THE GOVERNOR'S OFFICE OF  
ECONOMIC AND COMMUNITY DEVELOPMENT  
FOR VARIOUS PARK IMPROVEMENTS.

WHEREAS, the recreational facilities in the City of Nitro are among the finest anywhere in the State, and

WHEREAS, the aforesaid recreational facilities are in need of expansion and addition in order to accommodate the large number of users of those facilities, and

WHEREAS, the Governor of the State of West Virginia has awarded the City of Nitro approximately \$45,000 to effect such improvements as well as relieve the unemployment problems of the City.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Nitro that the Mayor be empowered and authorized to execute all necessary documents on behalf of the City to secure the aforementioned grant and that the Mayor be empowered and authorized to proceed immediately with the improvement projects.

Passed this the 2nd day of August, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

## EMERGENCY EMPLOYMENT PROGRAM

## C O N T R A C T

Between

GOVERNOR'S OFFICE OF ECONOMIC AND

COMMUNITY DEVELOPMENT

And

CITY OF NITRO

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1983, by the West Virginia Department of Finance and Administration on behalf of the Governor's Office of Economic and Community Development, hereinafter called the "GOECD", and the City of Nitro and its authorized officers, agents, and representatives hereinafter called the "Grantee".

## WITNESS THAT:

WHEREAS, the GOECD has promised and agreed to assist the Grantee to perform such tasks hereafter described in the scope of services, which is to be partially financed by funds made available through the Governor's Emergency Employment Program.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Assistance to the Grantee. The GOECD hereby agrees to provide financial assistance to the Grantee for procurement of the materials and supplies necessary to undertake the project.

2. Scope of Services. The Grantee shall do, perform and carry out in a satisfactory and proper manner as determined by the GOECD all duties, tasks, and functions necessary to undertake City improvements as follows: construct dugouts at the baseball field and install restroom

facilities at Nitro City Park, and construct a picnic shelter at Ridenour Lake.

3. Personnel. To perform the services set forth, above, the Grantee will be allocated one crew consisting of five persons whom the Grantee selects from those individuals certified eligible to participate in JOBS funding activities by the West Virginia Department of Employment Security.

As part of the consideration for this agreement, Grantee shall be responsible to prepare accurate time sheets for each crew person on such forms as provided by GOECD. Further, the Grantee is required to transmit said time records to GOECD in a timely fashion at the end of each pay period. GOECD shall be responsible for the development of payroll activities which are necessary to issue the eligible participants paycheck.

However, the Grantee represents that it has or will secure at its own expense qualified personnel necessary to supervise the allocated work crews. These supervisory personnel are employees of the Grantee and shall not have any employment or contractual relationship with GOECD.

4. Time of Performance. The Grantee will commence its duties under this Contract on July 13, 1983 and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in the light of the purpose of the Contract, but in any event, all of the services required hereunder shall be completed by March 30, 1984. The maximum allowable time to complete the project, without written consent of GOECD, is twenty-six weeks from the date the Grantee receives the approved Purchase Order from GOECD.

5. Compensation. In consideration of the services rendered by the Grantee, the GOECD agrees to pay the Grantee the sum of \$25,500. This amount constitutes complete compensation for all the services rendered. In no instances shall the agreed upon compensation exceed \$25,500 without the written consent of the Governor of the State of West Virginia.

6. Method of Payment. In order to receive any and all payments under the terms of this agreement, the Grantee will be reimbursed upon the submission of a letter of request along with copies of invoices for materials or supplies necessary to complete the work described as approved by GOECD in the Grantee's application.

7. Termination of Contract for Cause. If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner his obligations under this Contract, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the GOECD shall thereupon have the right to terminate this Contract by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the GOECD for damages sustained by the GOECD by virtue of any breach of the Contract by the notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the GOECD as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the

Grantee covered by this Contract, less payments of compensation previously made.

8. Termination by the Grantee. The Grantee may unilaterally rescind this agreement at any time prior to the commencement of the project. After project commencement, this agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the GOECD makes any expenditure or incurs any obligation with respect to the project.

9. Changes. The GOECD and the Grantee may, from time to time, require changes in the scope of the services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed, which are mutually agreed upon by and between the GOECD and the Grantee, shall be incorporated in written amendments to this Contract.

10. Equal Employment Opportunity. With respect to employment in carrying out the program objectives, the Grantee agrees:

a. That it will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, or the physically handicapped;

b. That it shall take affirmative action in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, national origin, or the physically handicapped. The Grantee shall, also, keep such records and submit such reports concerning the racial and ethnic origin of employees and applicants for employment as the GOECD may require.



The Grantee shall comply with Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et. seq.), Presidential Executive Order 11246 as amended by Presidential Executive Order 11375, as well as the provisions of the West Virginia Human Rights Act as amended (Section 5-11-1 of the Code of West Virginia).

11. Competitive Bid Procedures. The Grantee shall solicit sealed bids for all materials and supplies related to this project which have an estimated value of over Five Thousand Dollars. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$5,000 may be cause for termination of an agreement under the provisions of Paragraph 8.

These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions of Article Three, Chapter Fifty-Nine of the Code of West Virginia. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area twice within fourteen days next preceding the final date of submitting bids.

The Grantee, shall, also, where feasible solicit three signed written quotations for all supplies with an estimated value of \$4,999 or less procured in whole or in part through use of this state assistance. The Grantee shall have available upon request for review by the GOECD or its designated representative bid documents and other evidence of compliance with these procedures.

12. Facilities Accessible To The Handicapped. The Grantee shall require any facilities constructed under the auspices of this Contract to be designed to comply with the "American Standard Specifications for

Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped", Number All7.1-1961, as modified (41CFR10117.1703) and (13CFR309.14). The Grantee shall be responsible for conducting inspections to insure compliance with these specifications.

13. Facilities Operation. The Grantee shall operate and maintain all facilities constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable Federal, State and local statute, law, ordinance or regulation as to actual construction procedures, as well as maintenance and operation of such facilities upon completion.

14. Interest Of Members Of GOECD And Others. No officer, member or employee of the GOECD or officer, member or employee of the Grantee who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this Project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested or have any personal or pecuniary interest nor shall any officer, member of, or employee of, the Grantee or any member of its governing body, or officer, member, or employee of the Contractor have any interest, direct or indirect, in these Contracts or the proceeds thereof.

15. Officials Not To Benefit. No member of or Delegate to the Congress of the United States of America, member of or Delegate to the Legislature of the State of West Virginia, or individual performing a service for the Grantee in connection with this project, shall be admitted to any share thereof or to any benefit to arise from this agreement.

16. Inspections of Project Records. At any time during normal business hours and as often as the GOECD or its designated representative may deem necessary, there shall be made available to the GOECD or its designated representative, for examination all of its records with respect to all matters covered by this Contract and permit the GOECD or its designated representative, to audit, examine and make excerpts or transcripts from such records, and to make audits of all invoices, materials, payrolls, records records and personnel, conditions of employment and other data relating to all matters covered by this Contract during the entire time period beginning with project approval and ending three years after the final disbursement of grant funds.

17. Project Audits. The Grantee shall cause an audit of this program to be included in the annual audit of the Grantee performed by the State Tax Department or its designated representative. The audit shall be performed in conformance with general acceptable accounting procedures.

18. Reporting. The Grantee shall submit any reports requested by the GOECD concerning financial status and program progress. Failure to provide such reports as requested by GOECD in a timely manner shall be cause for termination of this Contract under the terms of Paragraph 8.

19. Fiscal Management. The Grantee shall be responsible for establishing and maintaining adequate procedures and internal financial controls governing the management and utilization of funds provided under this Contract, as well as funds provided as the Grantee's matching share.

20. Political Activity. No officer or employee of the Grantee whose principal employment is in connection with any activity which is

financed in whole or in part pursuant to this agreement shall take part in any of the activities expressly prohibited by the Hatch Act.

21. Liability For Damages Incurred During Project. The Grantee shall hold and save GOECD and its officers, agents, and employees harmless from liability of any nature or kind including cost and expenses, for or on account of any damages of any character whatsoever resulting from injuries or damages sustained by any person or property resulting in whole or in part from the negligent performance or omission of any employee, agent or representative of the Grantee.

22. Signing. This Contract shall be signed by the Director of the Governor's Office of Economic and Community Development and by the Mayor of the City of Nitro upon authorization of the governing body of the City of Nitro by adoption and passage of a resolution, motion or similar official action, which is attached hereto as Attachment A.

IN WITNESS WHEREOF, the GOECD and the Grantee have executed  
this Agreement as of the date first above written.

STATE OF WEST VIRGINIA  
GOVERNOR'S OFFICE OF ECONOMIC  
AND COMMUNITY DEVELOPMENT

\_\_\_\_\_  
Miles Dean, Director

STATE OF WEST VIRGINIA  
Department of Finance and  
Administration

\_\_\_\_\_  
Arnold T. Margolin, Commissioner

Arden D. Ashley, Mayor  
City of Nitro

By: \_\_\_\_\_

Approved as to the Provisions  
and Terms of the  
State of West Virginia

Department of Finance and  
Administration

Purchasing Division

\_\_\_\_\_  
Glenn R. Cummings, Director

Approved as to form the \_\_\_\_\_  
day of \_\_\_\_\_, 1983.

CHAUNCEY H. BROWNING, JR.

By: \_\_\_\_\_  
Attorney General

City Recorder Santrock moved that the above resolution be accepted. The motion was seconded. The vote was taken and passed unanimously and was so ordered.

Councilman at Large West questioned the liability of the City as far as accidents are involved. Mayor Ashley complimented City Treasurer Mike Greenleaf, Recreation Director John Simms and John Romano for their fine work in requesting such a grant.

AGENDA ITEM NO. 4 - RESOLUTION - NOMINATION OF MAYOR ART ASHLEY AS REPRESENTATIVE FOR NITRO ON BOARD OF REGIONAL DEVELOPMENT AUTHORITY: City Recorder Santrock moved that Council approve the order designating Mayor Ashley as the Nitro representative for the Regional Development Authority for a three-year term, or until his successor be appointed qualified. The motion was seconded. A vote was taken and passed unanimous and was so ordered.

The resolution is as follows:

RESOLUTION 83-12

WHEREAS, it is provided by Chapter 7, Article 12, Section 3 of the Code of West Virginia, relating to the Board of Members of County Redevelopment Authorities, that "the city and town council of each municipality located within the county shall submit to the County Court the name of one representative to be appointed to the Board",

NOW THEREFORE BE IT RESOLVED: That the council of the (City) (Town) of Nitro, Kanawha County, West Virginia, does hereby submit to the County Commission of Kanawha County the name of Mayor Arden Ashley, to be appointed as the representative of said (City) (~~Town~~) on the Board of the Regional Development Authority of Charleston, Kanawha County, West Virginia Metropolitan Region, to serve for a term of three years and until (his) (~~her~~) successor has been appointed and qualified, unless sooner removed by appropriate action of said council.

BE IT FURTHER RESOLVED: That a certified copy of this resolution be forthwith delivered by the (City) (~~Town~~) clerk to the Kanawha County Commission.

I, John F. Santrock, Clerk of the (City) (~~Town~~) of Wetzel, Kanawha County, West Virginia, hereby certify that the foregoing resolution was duly adopted at a (regular) (~~special~~) meeting of the council of said (City) (~~Town~~) held on August 2, 1983. *Term expires June 30, 1984*

John F. Santrock  
Clerk

Arden D. Ashley  
Mayor

AGENDA ITEM NO. 5 - SECOND READING OF ORDINANCE GRANTING WEST VIRGINIA WATER COMPANY EASEMENT: City Recorder introduced for second reading the above-stated ordinance and moved for the approval of such. The motion was seconded. The vote was taken and passed unanimously and was so ordered.

The ordinance is as follows:

## ORDINANCE 83-11

AN ORDINANCE GRANTING WEST VIRGINIA WATER COMPANY AN EASEMENT SITUATED IN THE COCHRAN CIRCLE, BAILES DRIVE, 0.13 ACRE PARCEL ADJOINING NITRO HEIGHTS, POCA DISTRICT, PUTNAM COUNTY.

WHEREAS, the City Council desires to improve services to Citizens of our city and its environs; and

WHEREAS, the request of the West Virginia Water Company does:

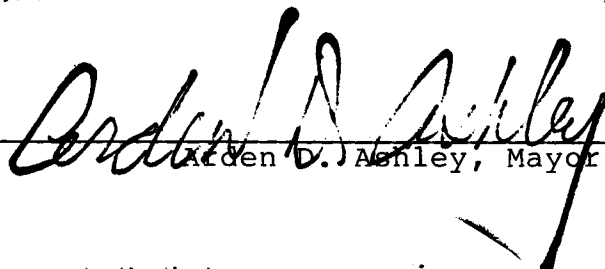
Do away with the Bailes Drive booster line and cut costs; and

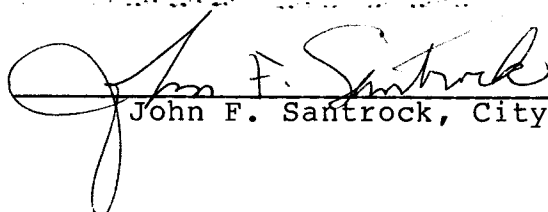
It will give opportunities for service to homes not presently serviced.

THEREFORE, West Virginia Water Company is given an easement to be used for the purpose of installing, laying, operating, maintaining, repairing, replacing and removing water lines, valves, meters and other equipment used in a general water utility business as described in Right-of-Way agreement for the area shown on the map attached (22883).

Presented and approved first reading by the Nitro City Council on this the 19th day of July, 1983.

Was read for the second time and adopted at a regular meeting of the City Council of Nitro on the \_\_\_\_ day of August, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



AGENDA ITEM NO. 6 - BAND BOOSTERS: Councilman at Large Casto moved that Council agree to purchase an ad in the Band Boosters Program for Nitro and Poca High Schools for approximately forty dollars (\$40.00), which will list all City officials and Council names, as in previous years. The motion was seconded. The vote passed unanimously and was so ordered.

AGENDA ITEM NO. 7 - RESIGNATION OF COUNCILMAN RONALD KING, WARD II: Mayor Ashley suggested that the letter to Ronald King, which was signed by all Council members, be made a part of the minutes. Councilman at Large Casto moved for such action. The motion was seconded. There being no opposing discussion, the vote was taken and passed unanimously and was so ordered.

The letter is as follows:

July 21, 1983

Mr. Ronald King  
617 6th Street  
Nitro, WV 25143

To Ron King:

Your service to the Nitro City Council has concluded after three years of total commitment and dedication to our City, its people and its problems. We, your fellow Council members, feel compelled to express an extra measure of appreciation for your contributions. You exemplify the public servant who dedicates his time and his life to giving to others so that their circumstances might be improved without looking to personal reward for yourself.

Perhaps you gave too much of yourself in your service to the community and to the Nitro City Council, but we know you well enough to appreciate that, for you, there could be no other way.

The Nitro City Council is going to miss you, and we wish you and your family all of the happiness in the world; because you deserve it.

Submitted with admiration and respect,

Arden D. Ashley  
Mayor Arden D. Ashley

Rusty Casto  
Councilman at Large Rusty Casto

Mary Trout  
Councilwoman at Large Mary Trout

Steven E. West  
Councilman at Large Steven West

John F. Santrock  
City Recorder John Santrock

Joe Savilla  
Councilman Joe Savilla

Omar Cunningham  
Councilman Omar Cunningham

Jack Moon  
Councilman Jack Moon

At this time, Mayor Ashley declared a vacancy in the Ward II Councilman position. City Recorder Santrock took the Chair and asked Council for nominations to fill the unexpired term of Councilman, Ward II, which will end June 30, 1984. Mayor Ashley nominated Mr. Romie Hughart. Councilwoman at Large Trout seconded the nomination. There being no further nominations, Councilman at Large West moved that the nominations be closed. The motion was seconded. The vote was taken on the closing of the nominations and the appointment of Romie Hughart. and it passed unanimously.

AGENDA ITEM NO. 8 - PETITION TO CREATE ONE-WAY STREET: Mayor Ashley explained to Council the Main Avenue resident's proposal for a one-way street change between Boundary and Lock Street. He further stated that those who signed the petition requested that some report be available on the matter at this meeting. Chief Cochran, reporting for the Traffic Committee, stated that he had assigned officers to this but was still looking into one more aspect of the matter. He stated that he would have a recommendation for the next meeting.

Councilman Savilla moved that Council table this matter until additional information could be secured. The motion was seconded. The vote passed unanimously and was so ordered.

Mayor Ashley asked that any questions or suggestions be directed to the Traffic Committee for deliberation, after which the matter will be turned over to Council for vote.

The petition is as follows:

We the undersigned residents of Main Avenue, in the Block between Boundary and Lock Streets, do hereby petition the City to make this one block a one-way street going North.

- No. 1 - *David & Helen Davis*
- No. 2 - *Ruby F. Husted*
- No. 3 - *Robert M. Tyn*
- No. 4 - *JAMES Day*
- No. 5 - Vacant Lot
- No. 6 - *Boyd O. Wheeler*
- No. 7 - *F. J. Townsend*
- No. 8 - *Charles & Agal Miller*
- No. 9 - *Inogene Edwards*
- No. 10 - Empty House - For Sale
- No. 11 - *Jer. Thompson*
- No. 12 - *Romona Thompson*
- No. 13 - *C. L. Higginbottom*
- No. 14 - *Susan Harmon*
- No. 15 - *K. M. Manrix*
- No. 17 - *Robert F. Huddy*
- No. 19 - *Mr & Mrs. John A. Smith*
- No. 21 -

AGENDA ITEM NO. 9 - REQUEST TO POSTPONE AUGUST 16, 1983 COUNCIL MEETING: Mayor Ashley stated that it will be difficult to have a quorum at this time due to the West Virginia Municipal League Conference. He further suggested that it be held on the 21st of August. Councilman at Large Casto moved for such action. The motion was seconded. There being no discussion on the matter, a vote was taken and passed unanimously and was so ordered.

COMMITTEE REPORTS

Mayor Ashley asked Council if they received the interim report from the Recreation Director on the status of the swimming pool operation.

To: Mayor Ashley  
From: John Simms, Recreation Director  
Date: July 28, 1983  
Re: Swimming pool financial standing

It is my pleasure to inform you that with the deposit made this day for monies collected through July 27th of this year at the pool we have surpassed last season's collections.

Total receipts for 1982 season - \$25,176.50  
Total receipts as of 7/27/83 - \$25,406.46

Projected operating expenses for this season were \$22,854.66 but will be somewhat higher due to unforeseen problems such as the development of the new leak.

These figures do not include the concession operation which is accounted for separately and is self-supporting.

cc: Mike Greenleaf  
John Santrock

City Recorder Santrock, at this time, informed Council of the lack of personnel at the swimming pool with the ending of the season. He moved that a back-up cashier and lifeguard are needed, those being Karen Steele and Cathy Burnside. The motion was seconded. The vote passed unanimously and was so ordered.

Councilman at Large Casto suggested that the dwelling that is being donated by Jack Legg be moved to Ridenour Lake for the park keeper. Mayor Ashley stated that a log cabin type residence has been suggested for the lake by the Department of Natural Resources to keep more in line with the lake setting. Also suggested was restoring the donated dwelling.

Gene Williams, Director of the Public Works Department, reported that one mile of roadway has been paved since June 16, 1983 within the City, with the new equipment. This total seven streets.

Mr. Charles Miller of #8 Main Avenue spoke to Council and asked for their consideration on a few matters. The first matter he asked about was the notification of street cleaning times, so the residents can move their vehicles. He further stated that they have a bad back up problem with the sewer at the end of his street when it rains because the water runs off the hill. Also, he stated that the street needs paving badly. Mayor Ashley explained that the City knows of these problems and future plans are designed to remedy them.

Councilman Moon suggested to Mayor Ashley that he speak with Mayor Leone of Dunbar about a man they have used to aid them in slowing or stopping land slides.

Mayor Ashley told Council about the good report the Department of Natural Resources gave the landfill operation at last check.

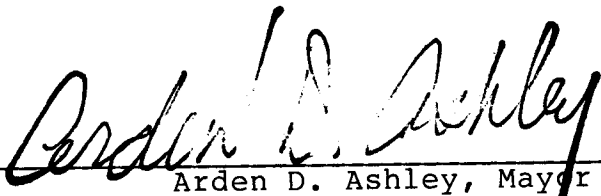
Councilman at Large Casto asked for Council's reaction to another Nitro Nite at the Charleston Charlies. No opinions were expressed. City Recorder Santrock and Mayor Ashley suggested that the time be spent on something else.

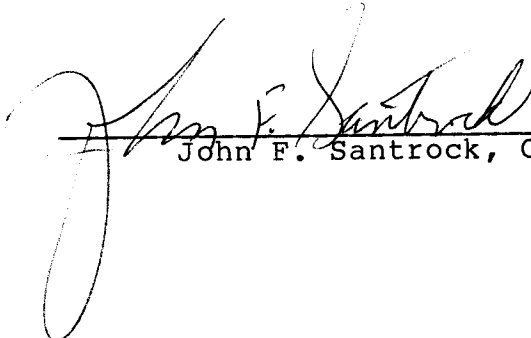
After City Recorder Santrock informed Council of the need for action, Councilman Savilla suggested that an ordinance be prepared outlining new salary provisions for the next four years for the offices of Mayor, City Recorder, City Treasurer, City Attorney, City Judge and City Council, as stated in the City Code, Section 2, as amended.

Mayor Ashley requested the City Recorder accept the Chair, in that Mayor Ashley needed to be excused.

Following a short informal discussion, Councilman at Large Casto moved to further study the proposed salary ordinance. A committee was formed with City Recorder Santrock to serve as chairman. The motion was seconded. The motion passed unanimously and was so ordered.

There being no further business, at 8:45 p.m. the meeting was adjourned.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

CITY OF NITRO  
COUNCIL MEETING MINUTES

August 23, 1983

The regular meeting of the Nitro City Council was called to order at 7:32 p.m. on August 23, 1983 in Council Chambers. Present were Mayor Arden D. Ashley, City Recorder John F. Santrock, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Omar Cunningham and Councilman Jack Moon. Also present was City Treasurer Michael E. Greenleaf. Absent were Councilman at Large Rusty Casto, Councilman Joe Savilla and City Attorney Phillip D. Gaujot.

The invocation was given by Councilwoman at Large Trout.

At this time, Mayor Ashley swore in Romie Hughart as Councilman for Ward II.

AGENDA ITEM NO. 1 - APPROVAL OF AUGUST 2, 1983 COUNCIL MEETING MINUTES: Councilwoman at Large Trout moved that the above-stated minutes be approved as written. The motion was seconded. The vote on the motion passed unanimously and was so ordered.

AGENDA ITEM NO. 2 - RESOLUTION AUTHORIZING CITY TREASURER TO ENTER INTO GRANT AGREEMENT WITH THE GOVERNOR'S OFFICE OF ECONOMIC AND COMMUNITY DEVELOPMENT: City Recorder Santrock introduced the above resolution by reading the title, and moved that Council accept this resolution as written. The motion was seconded.

There being no discussion on the matter, a vote was taken and the motion passed unanimously and was so ordered.

The resolution is as follows:

RESOLUTION 83-13

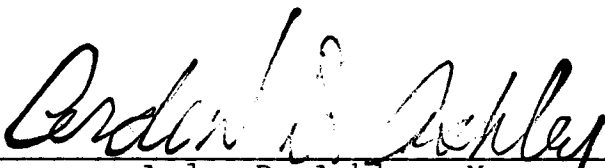
A RESOLUTION AUTHORIZING THE CITY TREASURER TO ENTER INTO A GRANT AGREEMENT WITH THE GOVERNOR'S OFFICE OF ECONOMIC AND COMMUNITY DEVELOPMENT.

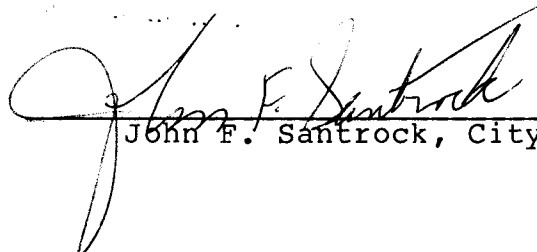
WHEREAS, the Nitro Fire Department is in continued need of equipment and supplies necessary to carry out its mission of protecting life and property within the City, and;

WHEREAS, the Governor's Office of Economic and Community Development has indicated its willingness to provide funding in the amount of \$2,500 for such purpose;

NOW, THEREFORE, BE IT RESOLVED, that Michael E. Greenleaf, City Treasurer, be empowered and authorized to enter into such agreements and contracts that are necessary to receive such funding and ensure that the Fire Department benefits from such grant.

Passed on this the 23rd day of August, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

AGENDA ITEM NO. 3 - SOLICITATION REQUEST FROM EASTBROOK ELEMENTARY SCHOOL, WINFIELD, WEST VIRGINIA: The City Recorder shared with Council a letter from Eastbrook Elementary School Homeroom Mothers asking the Council's permission for the solicitation of funds in the Nitro area. He further explained that this is not a door-to-door situation, but one that those involved will call upon area merchants to help with their school carnival.

Councilman Cunningham moved that Council grant the above request to the Eastbrook Elementary School. The motion was seconded and a vote taken. The motion passed unanimously and was so ordered.

AGENDA ITEM NO. 4 - FIRST READING OF RECKLESS DRIVING ORDINANCE - AMENDS ORDINANCE 79-1: City Recorder Santrock introduced the amending ordinance to Ordinance 79-1, and moved that Council approve such. The motion was seconded.

Councilman Moon asked Mr. Santrock if the presented ordinance was to replace completely Ordinance 79-1. Mr. Santrock stated that Ordinance 79-1 was an amendment to Article III of Chapter 21 of the City Code, and that it does replace 79-1.



Councilman at Large West suggested the attention of the City Attorney on this matter. Councilman Moon further stated that he felt that after passage of the ordinance, there should be a lot of publicity so the public is informed. Mayor Ashley stated that the old law says the same thing that the new law does, but the new law will be easier to enforce in a courtroom. City Recorder Santrock stated that there is no reason why this cannot be shared with the news media for publicity purposes.

At this time, a vote was taken and the motion passed unanimously and was so ordered.

The ordinance is as follows:

ORDINANCE 83-12

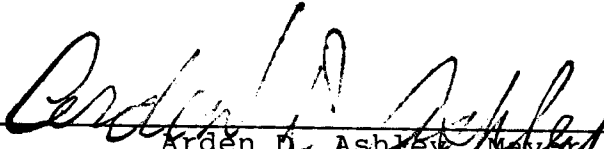
RECKLESS DRIVING - AN ORDINANCE  
AMENDING ORDINANCE 79-1, ADOPTED ON  
MAY 15, 1979.

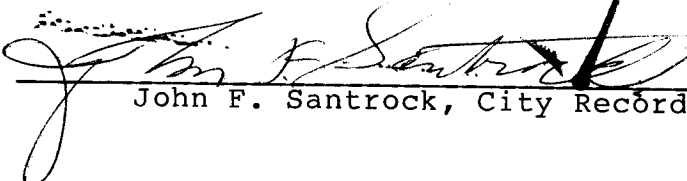
A. Any person who drives any vehicle upon any street or highway, or upon any residential street, or in any parking area or upon the ways of any institution of education, whether public or private, or upon any subdivision street open to the public, or upon any recreation area of the City, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

B. Each person convicted of reckless driving may be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), or by both such fine and imprisonment; and on a second or subsequent conviction may be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than fifty (50) dollars nor more than one thousand dollars (\$1,000), or by both such fine and imprisonment.

Introduced on first reading on the 23rd day of August, 1983.

Adopted upon second reading on the \_\_\_\_ day of September, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

AGENDA ITEM NO. 5 - REQUEST FOR ANTIQUE CAR PARADE AND ANTIQUE CAR SHOW: Mayor Ashley pointed out to Council their copy of the Nitro Lions Club's request to hold the Antique Car Parade and Show on September 10, 1982, with the City's cooperation. Councilman Cunningham moved that this request be granted. The motion was seconded by Councilman Hughart, who also added that the evening before the parade and show a street dance is always held and that the request should include the blocking of streets from 6:00 p.m. until 9:00 p.m. on September 9, 1983. Councilman Cunningham amended his motion to include this. The motion was seconded.

A vote was taken on the motion and passed unanimously and was so ordered.

AGENDA ITEM NO. 6 - PROJECT AGREEMENT COVERING INSTALLATION OF RAILROAD CROSSING FLASHERS AT WALKER, KAPOK AND 11TH STREETS: Mayor Ashley submitted for Council's consideration, the installation of flashers at the above-named crossings. He stated that each crossing would cost in the neighborhood of five thousand dollars (\$5,000). The Mayor further stated that at these crossings, safety is not that much of a factor because they are crossings with good visability.

City Recorder Santrock stated that a fifteen thousand dollar (\$15,000) deposit is required before installation could begin and that there are not sufficient funds in the budget to cover this according to the City Treasurer. He moved to table the question. The motion was seconded. The vote was taken on the motion to table and passed unanimously and was so ordered.

AGENDA ITEM NO. 7 - REPORT FROM PLANNING COMMISSION: The Chairman of the Planning Commission was introduced by Mr. Santrock. He reported that the City Planning Commission, after two public hearings and extensive public debates, is making the recommendation to Council that all the newly annexed area known as Carriage Way and surrounding areas be zoned as an R-1 - Single Family Residential District. He further stated that this motion passed the Planning Commission with only one negative vote.

City Recorder Santrock stated that according to the State Code, "After the final report has been submitted by the Planning Commission, the governing body of the Municipality shall afford all interested persons an opportunity to be heard with reference to it at public hearings." He further stated that at 6:30 p.m., at the next Council meeting, a public hearing would be held prior to the first reading of the ordinance to be prepared for such purpose.

Councilman Hughart moved that Council accept the report from the Planning Commission, and extend Council's appreciation for the amount of work that they have done. The motion was seconded. The vote on the motion was taken and passed unanimously and was so ordered.

The Planning Commission's report is as follows:



NITRO, WEST VIRGINIA 25143  
(304) 755-0701

ART ASHLEY  
MAYOR

JOHN F. SANTROCK  
RECORDER

MICHAEL E. GREENLEAF  
TREASURER

CITY OF NITRO

REPORT TO CITY COUNCIL FROM PLANNING COMMISSION

After two public hearings, one site visit and extensive public debate, it is our pleasure to submit the following zoning recommendations to Council.

That all of the newly annexed area known as Carriage Way and surrounding area be zoned as an R-1 "Single-Family" residential district.

This motion was passed with only one vote in the negative.

---

Joe Savilla, Secretary

*Ed Byrd, Chairman*

COMMITTEE REPORTS

Mayor Ashley stated that in the absence of the Traffic Committee having met on the question of creating a one-way street at Main Avenue between Lock Street and Boundary Street, he has received a report from the Chief of Police relative to the recommendation. The Chief summarized the report by stating the the Police Department feels this action should be enforced.

Mayor Ashley stated that the Committee should have a report for the next Council meeting.


Mayor Ashley reported that the City now has a purchase order from the State of West Virginia for twenty-five thousand, five hundred dollars (\$25,500) for the Governor's Jobs Program. The crews are being selected, set up and approved by the City.

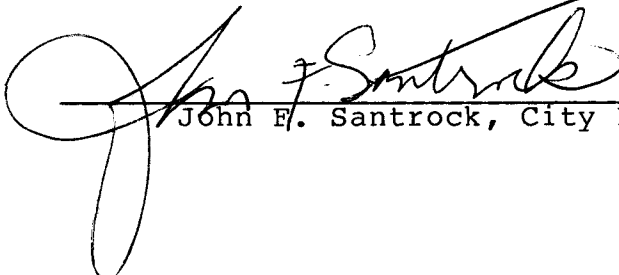
Recorder John Santrock reported the need to employ a cashier and two life guards at the swimming pool to fill the vacancies for the remainder of the season. He further made the motion to employ the following:

Greg Cunningham, Cashier  
Kathryn Davis, Pool Attendant  
Alesia Dawson, Pool Attendant

The motion was seconded. The vote was taken on the motion and passed with Councilman Cunningham voting in the negative.

There being no further business, at 8:08 p.m., Mayor Ashley adjourned the meeting.

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

CITY OF NITRO  
COUNCIL MEETING MINUTES

September 6, 1983

The regular meeting of the Nitro City Council was called to order at 7:33 p.m. on September 9, 1983 in Council Chambers. Present were Mayor Arden D. Ashley, City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman Joe Savilla, Councilman Romie Hughart, Councilman Omar Cunningham and Councilman Jack Moon. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot. Absent was Councilman at Large Steven West.

The invocation was given by Councilwoman at Large Trout.

AGENDA ITEM NO. 1 - APPROVAL OF AUGUST 23, 1983 COUNCIL MEETING MINUTES: Councilwoman at Large Trout moved that the minutes of the August 23, 1983 Council meeting be approved as written. The motion was seconded. The vote was unanimous and the motion so ordered, with Councilman at Large Casto abstaining due to his absence.

AGENDA ITEM NO. 2 - CITIZEN OF THE MONTH - ROBERT YOUNG, 108 BRENTWOOD ROAD: Mayor Ashley awarded the Citizen of the Month award to Mr. Robert Young, who has devoted his time and service to the community many times.

While Mr. Young had the floor, he brought up the drainage problem on and behind his home on Brentwood Road. Mayor Ashley stated that a project report has been filed on this and that he would get back to him on the matter.

AGENDA ITEM NO. 3 - FIRST READING OF ORDINANCE ESTABLISHING COMPENSATION LEVELS FOR MAYOR, RECORDER, TREASURER, JUDGE, ATTORNEY AND COUNCIL: City Recorder Santrock read the following ordinance for first reading approval by Council:

## ORDINANCE 83-

AN ORDINANCE ESTABLISHING  
COMPENSATION LEVELS FOR THE MAYOR,  
RECORDER, TREASURER, JUDGE,  
ATTORNEY AND CITY COUNCIL.

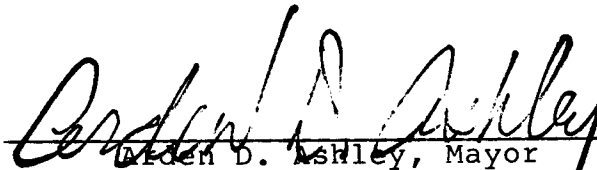
BE IT RESOLVED by the City Council of the City of Nitro, Kanawha and Putnam Counties, West Virginia, that the following salary schedule be instituted on July 1, 1984, in accordance with Section 2 of the Nitro City Code, as amended.

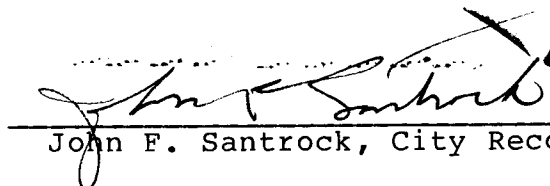
MAYOR	from \$18,500 to \$25,000 per annum
RECORDER	from \$10,500 to \$13,500 per annum
TREASURER	from \$ 6,000 to \$ 9,000 per annum
JUDGE	from \$ 3,300 to \$ 3,500 per annum
ATTORNEY	\$20,000 per annum
COUNCIL	\$ 1,200 per annum

This ordinance shall be effective as of July 1, 1984.

First reading - September 6, 1983

Second reading - \_\_\_\_\_

  
Gordon D. Ashley, Mayor

  
John F. Santrock, City Recorder

City Recorder Santrock moved, at this time, that Council adopt this reading as the first reading. The motion was seconded. The vote passed unanimously and was so ordered.

AGENDA ITEM NO. 4 - STUDENT GOVERNMENT WEEK - NOVEMBER 14-18: City Recorder Santrock moved that Student Government Week be November 14 - 18, with the Council meeting to be held on November 15th. The motion was seconded.

Councilman at Large Casto asked about involving Poca High School in Student Government Week. City Recorder Santrock stated that the Committee should discuss this possibility with Poca and their principal. Mayor Ashley suggested that two separate Student Government Weeks be held, one for each school.

Also suggested and discussed was the bringing in of representatives from the Junior High Schools. City Recorder Santrock stated that too is a matter for the committee.

A vote was taken, at this time, and the motion passed unanimously and was so ordered to have Student Government Week November 14 - 18.

AGENDA ITEM NO. 5 - SECOND READING OF RECKLESS DRIVING ORDINANCE 83-12, WHICH AMENDS ORDINANCE 79-1: City Recorder Santrock introduced the above-stated ordinance. Councilman at Large Casto moved that this ordinance be introduced for second reading by title only. The motion was seconded and the vote passed unanimously.

City Recorder Santrock moved for the passage of the second reading of the ordinance. The motion was seconded. The vote passed unanimously and was so ordered.

The ordinance is as follows:

## ORDINANCE 83-12


RECKLESS DRIVING - AN ORDINANCE  
AMENDING ORDINANCE 79-1, ADOPTED ON  
MAY 15, 1979.

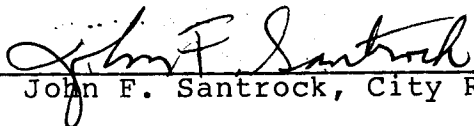
A. Any person who drives any vehicle upon any street or highway, or upon any residential street, or in any parking area or upon the ways of any institution of education, whether public or private, or upon any subdivision street open to the public, or upon any recreation area of the City, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

B. Each person convicted of reckless driving may be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), or by both such fine and imprisonment; and on a second or subsequent conviction may be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than fifty (50) dollars nor more than one thousand dollars (\$1,000), or by both such fine and imprisonment.

Introduced on first reading on the 23rd day of August, 1983.

Adopted upon second reading on the \_\_\_ day of September, 1983.

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder



City Recorder Santrock moved that Council adopt the above ordinance by approving the second reading. The motion was seconded. The vote on the motion passed unanimously and was so ordered.

AGENDA ITEM NO. 6 - YMCA - WEST: Mayor Ashley introduced Mr. John M. Heintz, the new executive director of YMCA-WEST, to Council. Mr. Heintz extended his appreciation for the use of Nitro Pool for their swim program this summer and presented the Mayor with a plaque expressing such appreciation.

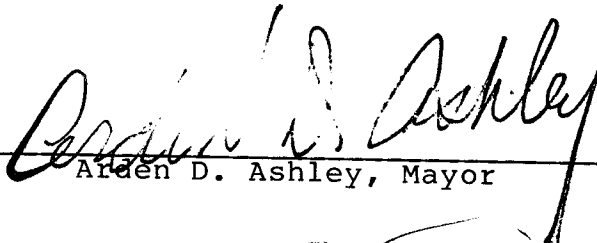
#### COMMITTEE REPORTS

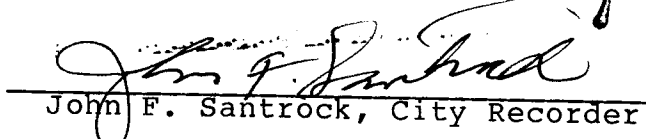
Councilman Savilla stated, at this time, that it is the recommendation of the Traffic Committee that Main Avenue, between Lock Street and Boundary Street, not be made a one-way street, as requested by residents of that area, due to the fact that it may create more confusion than already exists, and that with greater law enforcement of those parking in that area, the problem could be eliminated. Councilman Savilla moved for such action. The motion was seconded. The vote was taken and passed unanimously.

Mayor Ashley asked for Council's consideration on the broken sewer line that is somewhere between Main Avenue and the landfill site, which drains into the river. Councilman Cunningham stated that he has watched this situation for approximately a year and that it is getting worse and is in a position now that is extremely dangerous. He moved for immediate action on this. The motion was seconded.

After discussion on the effects of a new line, a vote was taken and passed unanimously and was so ordered.

There being no further business, Mayor Ashley adjourned the meeting at 8:05 p.m.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

## CITY OF NITRO

September 20, 1983

The regular meeting of the Nitro City Council was called to order at 7:30 p.m. on September 20, 1983 in Council Chambers at Nitro City Hall. Present were Mayor Arden D. Ashley, City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Joe Savilla and Councilman Jack Moon. Absent were Councilman Romie Hughart and Councilman Omar Cunningham. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by The Reverend Wade Austin of the Nitro Church of God.

AGENDA ITEM NO. 1 - APPROVAL OF SEPTEMBER 6, 1983 COUNCIL MEETING MINUTES: City Recorder Santrock suggested that a change be made in the date at the top of the minutes from September 9 to September 6. Also, on Page 243, Paragraph 3, Line 3, that "Student Government" should be added before "Committee should discuss ... " Councilman Savilla moved that these changes be made. The motion was seconded. The vote passed unanimously and was so ordered.

AGENDA ITEM NO. 2 - REQUEST FROM SALVATION ARMY TO PLACE CHRISTMAS KETTLES IN NITRO FROM NOVEMBER 25 THROUGH DECEMBER 24: City Recorder Santrock moved that the above request be granted. The motion was seconded. The vote passed unanimously and was so ordered.

AGENDA ITEM NO. 3 - REQUEST FROM UNITED WAY TO SOLICIT FUNDS WITHIN THE CITY FROM SEPTEMBER 26 THROUGH DECEMBER 31, 1983: City Recorder Santrock stated that this is an annual request and moved to allow such. The motion was seconded. The vote passed unanimously and was so ordered.

AGENDA ITEM NO. 4 - SECOND READING OF ORDINANCE ESTABLISHING COMPENSATION LEVELS: Councilman Savilla moved that the second reading of the above ordinance be accepted. After brief discussion that further raises could be done by ordinance for positions of Treasurer, City Attorney and City Judge at Council's discretion, and that elected officials -- Mayor, City Recorder and City Council -- can be made only at the end of their terms of office; and that this ordinance does not address the salary of administrative assistant, the motion was seconded. The vote passed unanimously and was so ordered.

The ordinance is as follows:

## ORDINANCE 83-13

AN ORDINANCE ESTABLISHING  
COMPENSATION LEVELS FOR THE MAYOR,  
RECORDER, TREASURER, JUDGE,  
ATTORNEY AND CITY COUNCIL.


BE IT RESOLVED by the City Council of the City of Nitro, Kanawha and Putnam Counties, West Virginia, that the following salary schedule be instituted on July 1, 1984, in accordance with Section 2 of the Nitro City Code, as amended.

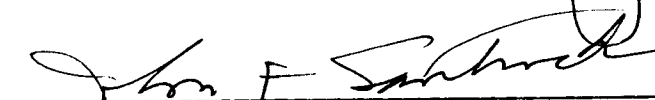
MAYOR	from \$18,500 to \$25,000 per annum
RECORDER	from \$10,500 to \$13,500 per annum
TREASURER	from \$ 6,000 to \$ 9,000 per annum
JUDGE	from \$ 3,300 to \$ 3,500 per annum
ATTORNEY	\$20,000 per annum
COUNCIL	\$ 1,200 per annum

This ordinance shall be effective as of July 1, 1984.

First reading - September 6, 1983

Second reading - September 20, 1983

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

AGENDA ITEM NO. 5 - RESOLUTION FOR CONDEMNATION OF GOVERNMENT OF THE SOVIET UNION: Mayor Ashley read the resolution as written to Council. After the reading, Councilman Moon moved that it be approved. The motion was seconded.

Councilman at Large Casto moved that some changes be made in the resolution and explained those. Councilman Savilla stated that he disagreed with Councilman at Large Casto's motion that it not be forbidden that the Soviet Union flag be flown in Nitro. Council expressed the same reaction. Councilman Savilla seconded Councilman at Large Casto's motion to add the following paragraph: "We praise the almighty God that the end result of this horrible catastrophe will be that the leaders of all nations will realize that all civilization is extremely fragile and that all nations under God may work for a world of peace and understanding and human dignity." After brief discussion, Councilman Savilla withdrew his second to add the above paragraph.

Council agreed that an amendment should be made to include "West Virginia, USA" after the "City of Nitro" in the resolution, for the purpose of further explaining where Nitro is. The motion was seconded.

Also suggested by Councilman Moon was the addition the word "their" in the eighth paragraph, line 6, between "recognize" and "diplomatic".

The above amendments (2) were put in the form of a motion by Councilman Savilla and the motion was seconded. The vote passed unanimously and was so ordered.

At this time, the resolution and the two (2) amendments were passed unanimously by Council and were so ordered.

The amended resolution is as follows:

## RESOLUTION 83-14

On this the 20th day of September, 1983 came the following resolution, to-wit:

WHEREAS, an attack aircraft flying under the flag of the Soviet Union fired upon and destroyed a civilian airliner over the Sea of Japan with 273 innocent passengers on board on September 5, 1983, and that such aircraft was operating under orders given directly by the Kremlin in Moscow, and

WHEREAS, the pilot of the Soviet fighter tracked the Korean Air Lines flight for over two (2) hours, thereby conclusively proving that the act was committed willfully with forethought by the Soviet Union, and

WHEREAS, the Government of the Soviet Union will not admit any financial liability, will not show any remorse, and even claims that they will take similar action in the future should the same circumstances be present, and

WHEREAS, the City Council of the City of Nitro, West Virginia, U.S.A. considers this act to be an act of cold-blooded murder on the part of the Government of the Soviet Union, and

WHEREAS, the City Council of the City of Nitro, West Virginia, U.S.A. expects that this murderous act of terrorism violates every precept of international law, as well as the very foundation of civilized society, and

WHEREAS, the City Council of the City of Nitro, West Virginia, U.S.A. believes that all of the peaceloving people of the world are enraged by this heinous act of barbarism committed by the Government of the Soviet Union.

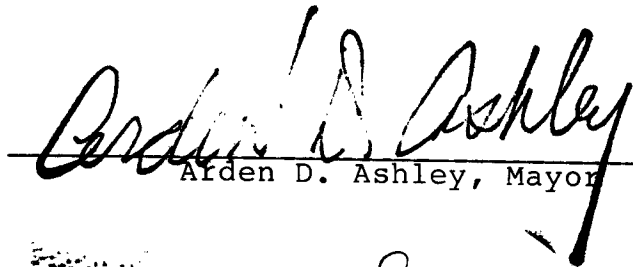
NOW, BE IT THEREFORE RESOLVED that the City Council of the City of Nitro, West Virginia, U.S.A. condemns the Government of the Soviet Union for the commission of this repulsive act and that the City Council of the City of Nitro, West Virginia, U.S.A. does hereby and forthwith place the Government of the Soviet Union on notice that the City of Nitro, West Virginia, U.S.A. will no longer recognize their diplomatic immunities or other privileges normally extended to civilized nations; and

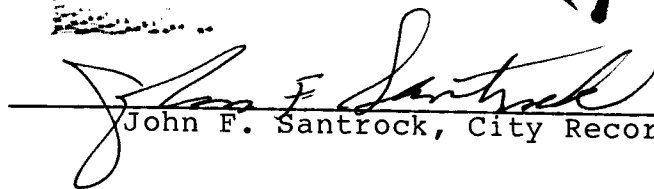
BE IT FURTHER RESOLVED that the City of Nitro, West Virginia, U.S.A. does hereby forbid any public display of the flag of the Soviet Union within the City limits of the City of Nitro, West Virginia, U.S.A.; and

BE IT FURTHER RESOLVED that the City Council of the City of Nitro, West Virginia, U.S.A. appeals to all peaceful and civilized governments of the world to likewise condemn this grievous violation of decency, international law and the human spirit; and

BE IT FURTHER RESOLVED that the Mayor of the City of Nitro, West Virginia, U.S.A. is requested to send certified copies of this Act of Council to the President of the United States, as well as the Chairman of the Central Committee of the Politburo in Moscow to convey to them the essence of this resolution.

Passed on this the 20th day of September, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

AGENDA ITEM NO. 6 - FIRST READING OF ORDINANCE FOR ZONING ORDINANCE APPEAL FEE FOR CITY OF NITRO: City Recorder Santrock introduced the above-referenced ordinance for first reading. He explained that the cost for this to the City is approximately twenty dollars (\$20.00) each, with some as high as thirty dollars (\$30.00), whereas the City now only charges ten dollars (\$10.00). This is to be collected before the hearing is to be held. This ordinance is an amendment of Ordinance 157.

Mr. Santrock moved that the first reading of the ordinance be approved. The motion was seconded. The vote passed unanimously and was so ordered.

The ordinance is as follows:

ORDINANCE 83 -

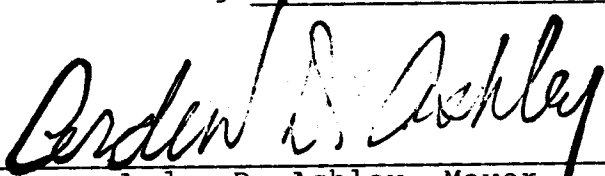
ZONING ORDINANCE APPEAL FEE FOR THE  
CITY OF NITRO, WEST VIRGINIA  
(OCTOBER 6, 1970). TO AMEND  
ORDINANCE #157.

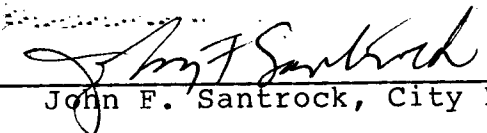
INASMUCH as the cost for legal advertising a variance request to the Zoning Board of Appeals has increased to an average in excess of twenty dollars (\$20.00) and the present ordinance (1603B) reads, "The appellant shall, at the time of filing his appeal, pay the enforcing officer a fee of ten dollars (\$10.00) to defray or help defray the cost of required advertising."

THEREFORE, to defray the increased cost of legal advertising required by City and State Code on a variance request to the Zoning Board of Appeals, 1603B of Ordinance #157 must be amended to read, "The appellant shall pay the cost of legal advertising as required and an additional two dollars (\$2.00) administrative cost."

First Reading September 20, 1983

Second Reading \_\_\_\_\_

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

AGENDA ITEM NO. 7 - FIRST READING OF ORDINANCE TO ESTABLISH  
ZONING REQUIREMENTS AND RESTRICTIONS FOR NEWLY ANNEXED AREA KNOWN  
AS CARRIAGE WAY AND ENVIRONS: Councilman Savilla read the  
following ordinance for first reading approval:



## ORDINANCE 83 -

AN ORDINANCE TO ESTABLISH ZONING  
REQUIREMENTS AND RESTRICTIONS FOR  
NEWLY ANNEXED AREA KNOWN AS  
CARRIAGE WAY AND ENVIRONS.

WHEREAS, a report to City Council from Planning Commission recommended, after two public hearings, one site visit and extensive debate, the following zoning recommendation to Council:

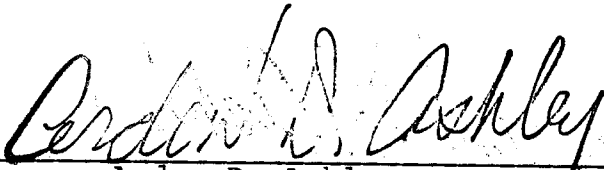
That all of the newly annexed area known as Carriage Way and surrounding area be zoned as R-1 Single Family Residential District.

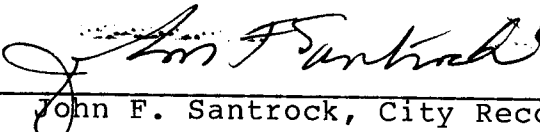
THEREFORE BE IT ORDAINED by the City Council of the City of Nitro that the zoning requirements and restrictions for the area recently annexed as Carriage Way and surrounding area be zoned R-1 Single Family Residential District.

First Reading September 20, 1983

Second Reading \_\_\_\_\_

Effective upon passage.

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

After the introduction of the above ordinance, Councilman Savilla moved for the approval of the first reading. The motion was seconded. After brief discussion, a vote was taken and passed unanimously and was so ordered.

AGENDA ITEM NO. 8 - FIRST READING OF PARKING ZONE RESTRICTION ORDINANCE FOR SECOND AVENUE, WEST FROM 21ST STREET TO ALLEY WAY BETWEEN THE WITRY BUILDING AND NITRO CITY HALL:  
Councilman Savilla introduced and read to Council the above-referenced ordinance and assured Council that this was approved by the Traffic Committee. He further moved that Council accept this as a first reading. The motion was seconded.

Councilman Moon suggested that the word "feet" be added in line 12, after "The first twenty-five ..." Council agreed.

A vote was taken on the motion and passed unanimously and was so ordered.

The ordinance is as follows:

ORDINANCE 83 -


PARKING ZONE RESTRICTIONS ON SECOND AVENUE WEST FROM 21ST STREET TO ALLEY WAY BETWEEN WITRY BUILDING AND NITRO CITY HALL.

WHEREAS, the parking on Second Avenue West from the corner of 21st Street at the corner to the alley way located between the Witry Building and Nitro City Hall has unrestricted parking; and

WHEREAS, this has been an inducement for all-day parking; and leaves no space for customers to park wishing to do business with those operating such in the area (including deliveries to goods).

THEREFORE BE IT ORDAINED that this area, Second Avenue West, twenty-five feet from the corner of 21st Street to the alley way between the Witry Building and Nitro City Hall, be designated as limited two-hour parking from 8:00 a.m. to 4:00 p.m., Monday through Friday, the first twenty-five feet (25') of curb on the corner of Second Avenue and 21st Street to be painted yellow and marked "Loading Zone, No Parking".

First reading September 20, 1983

Second reading 

AGENDA ITEM NO. 9 - NITRO HIGH SCHOOL HOMECOMING PARADE: City Recorder Santrock pointed out to Council the outline of the parade to be held on September 23, 1983, and moved that it be accepted. The motion was seconded. The vote passed unanimously and so ordered.

AGENDA ITEM NO. 10 - HALLOWEEN - TRICK OR TREAT: City Recorder Santrock stated that the Kanawha County Commission has indicated that they would request that Trick or Treat be held on Monday, October 31st, from 6:00 p.m. until 8:00 p.m. He further stated that Thursday, Saturday and Monday were also considered, but that other events were happening at that time.

Mr. Santrock moved that Council accept the October 31st date for Trick or Treat, and also to give permission to the Business and Professional Association for have their Block Party on Saturday, October 29th. The motion was seconded. The vote passed unanimously and was so ordered.

AGENDA ITEM NO. 11 - CHRISTMAS PARTY: Councilman at Large Casto explained to Council his tentative plans for a City Christmas Party for the churches and schools to be held at the high school about a week prior to Christmas, and asked for Council's permission to raise the necessary funds, at no expense to the City. Councilman Savilla seconded the motion.


Councilman at Large West questioned the legality of the sponsorship due to the involvement of the churches. Mayor Ashley suggested that it be done in the spirit of the holiday season and there should not be a conflict. That it be a City sanctioned party and not a City sponsored party.

The vote on the motion was taken and passed unanimously and was so ordered.

AGENDA ITEM NO. 12 - APPOINTMENT OF TIM COOK - BOARD OF ZONING APPEALS: Councilman Savilla moved for the appointment of Mr. Timothy Cook of 53 31st Street, East to the Board of Zoning Appeals. The motion was seconded. Mayor Ashley explained that the expiration of this appointment would be December 31, 1985. The vote was taken and passed unanimously and was so ordered.

There being no further business to be brought before Council, at 8:13 p.m. the meeting was adjourned.

  
Gordon D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

## CITY OF NITRO

October 4, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. on October 4, 1983 in Council Chambers at Nitro City Hall. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman A.A. "Joe" Savilla, Councilman Romie Hughart, Councilman Omar Cunningham and Councilman Jack Moon. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by Councilwoman at Large Mary Trout. Councilwoman at Large Trout asked that a moment of silence be observed on behalf of Willa Della Santrock, a lifelong resident of the City, who died on this day at the age of 94.

AGENDA ITEM NO. 1 - APPROVAL OF SEPTEMBER 20, 1983 COUNCIL MEETING MINUTES: Councilman at Large West moved that the last paragraph on Page 253 be changed to include his specific request that the City Attorney discuss with Mr. John Meeks the City and State Zoning Code relative to exemption of agricultural, industrial or manufacturing use. The tape of the minutes of the September 20, 1983 meeting indicate that the City Attorney had done so on the day of the meeting.

On Page 255, the second paragraph under Agenda Item No. 11, Councilman at Large West stated that he would like to change the wording of the minutes to state that he questioned the legality of the celebration of a particular religious holiday, not that he questioned the legality of the sponsorship due to the involvement of the churches.

Councilman Savilla, at this time, moved to approve the minutes as amended. The motion was seconded. There being no further discussion, the vote was taken and the motion passed unanimously and was so ordered.

AGENDA ITEM NO. 2 - CITIZEN OF THE MONTH: Mayor Ashley announced the awarding of the Citizen of the Month award to Former Mayor W. W. "Bill" Alexander, and announced the dinner scheduled in his honor for October 25, 1983 at the Moose Lodge.

AGENDA ITEM NO. 3 - RESOLUTION PROCLAIMING OCTOBER 25, 1983 AS "MAYOR W. W. "BILL" ALEXANDER DAY": Mayor Ashley read the above resolution for approval by Council. After the reading, Councilman Hughart moved to approve the resolution as written. The motion was seconded. There being no discussion, a vote was taken and passed unanimously and was so ordered.

The resolution is as follows:

RESOLUTION 83-15

A RESOLUTION PROCLAIMING OCTOBER 25, 1983 AS "MAYOR W. W. "BILL" ALEXANDER DAY".

On this the 4th day of October, 1983, came the following resolution, to wit:

WHEREAS, Mayor Alexander faithfully served the City of Nitro for twenty-six years as its eighth mayor, his term of office spanning over half the life of the City - July 1, 1946 through June 30, 1972; and

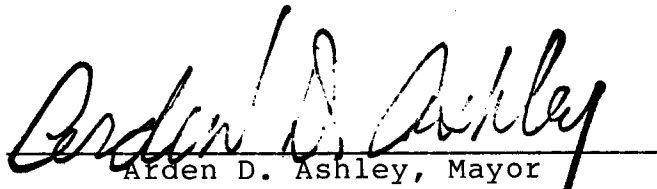
WHEREAS, Mayor Alexander is a very successful businessman in the community; and

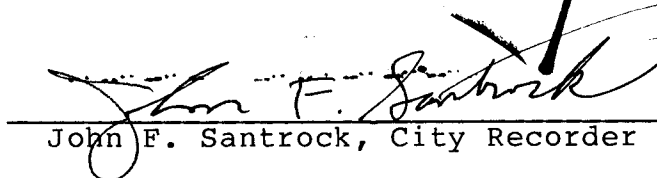
WHEREAS, Mayor Alexander has been a life-long citizen of Nitro and has been active in civic organizations and has continually strived to improve the quality of life for our citizens; and

WHEREAS, Mayor Alexander has been recognized as the "Citizen of the Month" for the month of October, 1983.

NOW, BE IT THEREFORE RESOLVED AND PROCLAIMED that October 25, 1983 be recognized as "Mayor W. W. "Bill" Alexander Day".

Passed by the City Council of the City of Nitro this the 4th day of October, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

AGENDA ITEM NO. 4 - WORLDWIDE COMMUNICATIONS ON VETERAN'S DAY: Councilman Moon explained that he has been asked by Mr. Joe Anderson and Mr. Chub Goodwin of Tri-County Amateur Radio Club, W8WVA, to be permitted to operate a worldwide communication net on Veteran's Day in Nitro as an adjunct to the City's celebration. He stated that their request is to use Council Chambers on November 11th and 12th, to set up their communications net, and they would invite all citizens of Nitro to come in and send messages to anyone throughout the world on those two days and to tie it into the Veteran's Day celebration in the City.

Councilman Moon moved that the Tri-County Amateur Radio Club be granted permission to use Council Chambers from 11:00 a.m. on November 11th, until November 12th, 8:00 p.m. The motion was seconded. The motion passed unanimously and was so ordered.

AGENDA ITEM NO. 5 - FIRE PREVENTION WEEK PARADES: Councilman Cunningham moved that Council grant permission to the Fire Department to hold two Fire Prevention Week parades, one on October 10th featuring Putnam County, and one on October 15th featuring Kanawha County. The motion was seconded. The motion passed unanimously and was so ordered.

AGENDA ITEM NO. 6 - SECOND READING OF ORDINANCE FOR ZONING ORDINANCE APPEAL FEE FOR CITY OF NITRO (OCTOBER 6, 1970) - AMENDS ORDINANCE 157: City Recorder Santrock read the above ordinance for second reading approval by Council. After the reading of the document, Mr. Santrock moved that the ordinance be approved. The motion was seconded. The vote on the motion passed unanimously and was so ordered.

The ordinance is as follows:

ORDINANCE 83 - 14

ZONING ORDINANCE APPEAL FEE FOR THE  
CITY OF NITRO, WEST VIRGINIA  
(OCTOBER 6, 1970). TO AMEND  
ORDINANCE #157.

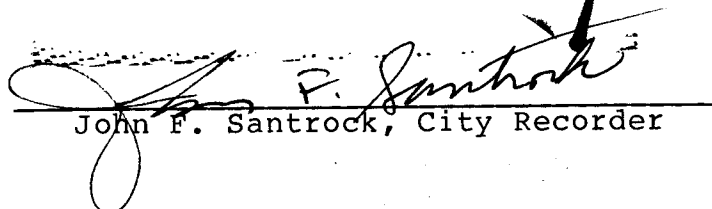
INASMUCH as the cost for legal advertising a variance request to the Zoning Board of Appeals has increased to an average in excess of twenty dollars (\$20.00) and the present ordinance (1603B) reads, "The appellant shall, at the time of filing his appeal, pay the enforcing officer a fee of ten dollars (\$10.00) to defray or help defray the cost of required advertising."

THEREFORE, to defray the increased cost of legal advertising required by City and State Code on a variance request to the Zoning Board of Appeals, 1603B of Ordinance #157 must be amended to read, "The appellant shall pay the cost of legal advertising as required and an additional two dollars (\$2.00) administrative cost.

First Reading - September 20, 1983

Second Reading October 4, 1983

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



AGENDA ITEM NO. 7 - SECOND READING OF ORDINANCE TO ESTABLISH ZONING REQUIREMENTS AND RESTRICTIONS FOR NEWLY ANNEXED AREA KNOWN AS CARRIAGE WAY AND ENVIRONS: City Recorder Santrock read the above ordinance. After the reading, Councilman Savilla moved to adopt the ordinance. The motion was seconded. The vote on the motion passed unanimously, which included a vote by Mayor Ashley, and was so ordered.

The ordinance is as follows:  
ORDINANCE 83-15

AN ORDINANCE TO ESTABLISH ZONING REQUIREMENTS AND RESTRICTIONS FOR NEWLY ANNEXED AREA KNOWN AS CARRIAGE WAY AND ENVIRONS.

WHEREAS, a report to City Council from Planning Commission recommended, after two public hearings, one site visit and extensive debate, the following zoning recommendation to Council:

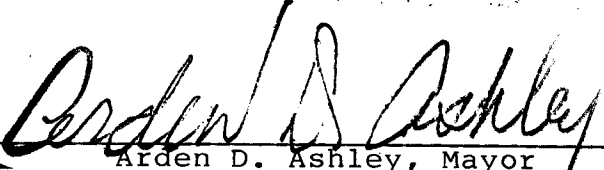
That all of the newly annexed area known as Carriage Way and surrounding area be zoned as R-1 Single Family Residential District.

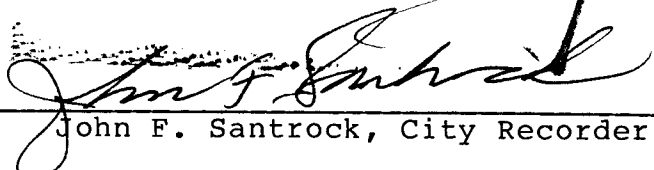
THEREFORE BE IT ORDAINED by the City Council of the City of Nitro that the zoning requirements and restrictions for the area recently annexed as Carriage Way and surrounding area be zoned R-1 Single Family Residential District.

First Reading September 20, 1983

Second Reading October 4, 1983

Effective upon passage.

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

AGENDA ITEM NO. 8 - SECOND READING OF PARKING ZONE RESTRICTION ORDINANCE FOR SECOND AVENUE, WEST FROM 21ST STREET TO THE ALLEY WAY BETWEEN THE WITRY BUILDING AND NITRO CITY HALL: City Recorder Santrock read the above ordinance and moved that it be approved by Council. The motion was seconded. There being no discussion, a vote was taken and the motion passed unanimously and was so ordered.

The ordinance is as follows:

ORDINANCE 83-16

PARKING ZONE RESTRICTIONS ON SECOND AVENUE WEST FROM 21ST STREET TO THE ALLEY WAY BETWEEN WITRY BUILDING AND NITRO CITY HALL.

WHEREAS, the parking on Second Avenue West from the corner of 21st Street at the corner to the alley way located between the Witry Building and Nitro City Hall has unrestricted parking; and

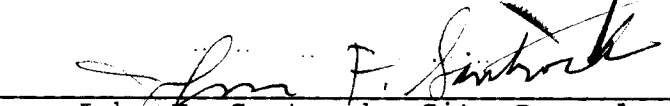
WHEREAS, this has been an inducement for all-day parking; and leaves no space for customers to park wishing to do business with those operating such in the area (including deliveries of goods).

THEREFORE BE IT ORDAINED that this area, Second Avenue West, twenty-five feet from the corner of 21st Street to the alley way between the Witry Building and Nitro City Hall, be designated as limited two-hour parking from 8:00 a.m. to 4:00 p.m., Monday through Friday, the first twenty-five feet (25') of curb on the corner of Second Avenue and 21st Street to be painted yellow and marked "Loading Zone, No Parking".

First reading September 20, 1983

Second reading October 4, 1983

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

AGENDA ITEM NO. 9 - FIRST READING OR ORDINANCE TO ESTABLISH NO PARKING ON BLAKES CREEK ROAD FROM FIRE HYDRANT ENTERING RIDENOUR LAKE AREA FROM 21ST STREET TO THE CITY LIMITS: Councilman Savilla moved that Council dispense with the reading of the entire ordinance and read only the title. The motion was seconded and passed unanimously and was so ordered.

City Recorder Santrock introduced the above ordinance by title and moved that Council accept the first reading of this ordinance. Councilman at Large Casto asked the Mayor if the gates will be open this winter for fishing. Mayor Ashley said yes, the gates would be open, and that the Department of Natural Resources has authorized modification of the area to the left of the dam to make it available for parking and the use of the spillway area for additional cars (as long as no permanent structures are placed there). This would more than equal the parking space being taken.

Mayor Ashley also stated that word came from Governor's Jobs Programs' office that work and repair on the surface of the road into the dam is admissible.

Councilman at Large West questioned the sufficiency of the parking violation fines and towing of those in violation. Mayor Ashley explained the City's procedures in such matters. The Mayor also explained that changes can be made in the fine amount, if necessary, before second reading approval.

There being no further discussion, a vote was taken on the motion and carried, with Councilman at Large West voting in the negative.

The ordinance is as follows:

## ORDINANCE 83 -

AN ORDINANCE TO ESTABLISH NO PARKING AREA ON BLAKES CREEK ROAD FROM FIRE HYDRANT ENTERING RIDENOUR LAKE AREA FROM 21ST STREET TO THE CITY LIMITS.

WHEREAS, the Blakes Creek Road is narrow -- 16 feet wide. Just enough room for cars to pass, moving in opposite directions; and

WHEREAS, the berm on either side of Blakes Creek Road is too narrow for parking without extending onto the highway; and

WHEREAS, the traffic on this road had increased immeasurably due to greater use of more park facilities at Ridenour Lake; and

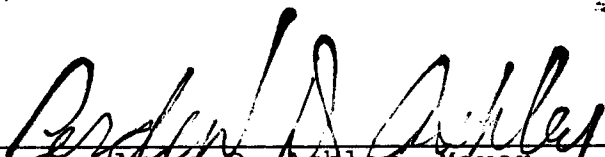
INASMUCH as parking on either side of Blakes Creek Road, from the fire hydrant entering Ridenour Lake area from 21st Street to the City limits, would create hazardous situations.

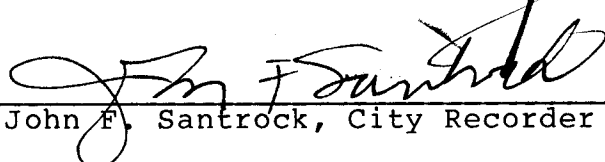
THEREFORE BE IT ORDAINED that "no parking" be strictly enforces and signs indicating "no parking" be maintained in conspicuous places in the area described.

The penalty for parking is three dollars (\$3.00), and the penalty for obstructing traffic is five dollars (\$5.00).

First reading October 4, 1983

Second reading \_\_\_\_\_

  
\_\_\_\_\_  
Gordon D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

AGENDA ITEM NO. 11 - REQUEST FOR SOLICITATION OF FUNDS FROM KANAWHA VALLEY EPILEPSY ASSOCIATION, FROM OCTOBER 5, 1983 TO NOVEMBER 15, 1983: Councilwoman at Large Trout moved for such action. The motion was seconded. The motion passed unanimously and was so ordered.

AGENDA ITEM NO. 12 - REQUEST FROM EQUITABLE LIFE ASSURANCE COMPANY FOR INSURANCE COVERAGE OF CITY EMPLOYEES: Mayor Ashley read a letter expressing City Treasurer Greenleaf's feelings toward the request from Equitable. In essence, the letter stated that it would cost the City approximately \$2,000 in software for the payroll computer to handle an extra insurance deduction, due to the fact that the present software can only handle one insurance deduction which is already being utilized.

The general consensus of Council was that the City provides the insurance deduction for its employees that it feels to be the best of those offered to it. If an employee would like more coverage, it should be up to them. If it be offered to one company, it must be offered to all companies and that is not affordable to the City of Nitro to add additional computer software.

Councilwoman at Large Trout, at this time, moved that this matter be taken to the Insurance Committee for consideration. The motion was seconded. The motion was voted upon and passed unanimously and was so ordered.

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Councilman at Large West extended his thanks to the Mayor for his response to a letter written by Mr. Bill Deckman to The Herald Dispatch in reference to the resolution concerning the condemnation of the Government of the Soviet Union, and further moved that Mr. Deckman be invited to the City of Nitro to meet the Mayor and Council and to learn more of the meaning behind the City. The motion was seconded. A vote was taken and the motion carried, with Councilman Moon and Councilman Hughart voting in the negative.

Councilman Savilla moved that the article and answer be included in the minutes. The motion was seconded. The motion passed unanimously and was so ordered.

The article and answer are as follows:

# Voice of the people

## 'Hillbilly' Image

To the editor:

I have seen some pretty stupid things in the state since moving here from Columbus, Ohio, slightly over a year ago. However, one of the most ridiculous things I have seen is the Nitro, W. Va., city council's revocation of Soviet immunity and the banning of the Soviet flag (as reported in an AP story in The Herald-Dispatch).

Not only is there a waste of taxpayer time and money to discuss these issues at a city council meeting, it further perpetuates the "hillbilly" image of West Virginia.

Most people in Nitro wouldn't know a Russian flag if it was displayed on this porch!

Well, congratulations Nitro, now you just have been recognized as a bunch of dumb hillbillies not only nationally, but internationally as well.

Bill Deckman  
6036 1/2 Baker Road

September 28, 1983

"Voice of the People"  
The Herald-Dispatch  
Box 2017  
Huntington, WV 25720

Re: In Nitro's Defense

To The Editor:

This communique is in response to a letter by Bill Deckman, of your City, which characterized a recent Nitro resolution condemning the Russians for shooting down a Korean jetliner as "stupid", "ridiculous", "dumb" and perpetuating a "hillbilly image of West Virginia".

I would submit to your readers, and especially to Mr. Deckman, that the resolution may not be as stupid as one might think. In defense of the action of our Council, I make four basic points:

(1) The media position, in announcing the resolution passed by the City Council of Nitro, did not explain Nitro's historical role as a "Living Memorial to World War I". Our City has a unique heritage that is nationally recognized by the unanimous passing of U.S. Senate Resolution 487, which identifies our small community as a "Living Memorial to World War I". We also have a World War I Memorial Park that, when completed, will provide flags of the fourteen allied nations who fought in World War I. The Soviet Union is one of those nations.

It may be a small gesture, but it was our determination that the flag pole of the Soviet Union will remain empty as long as the resolution is in effect. Mr. Deckman, and perhaps others of your readers would have had no way of knowing these points.

(2) Mr. Deckman indicated that the resolution was a waste of the taxpayer's money and our time. Our Council has never taken a stand on national issues as other cities have done. This is the first time we have been motivated to supplement the Federal Government's effort with an expression of the views of our community. We were motivated to do it because we sincerely believe that the very foundation of our society originates at the local level, and we were moved by a responsibility to articulate the mood of our community in response to the heinous act committed by the Soviet Union. There is ample evidence that this nation's people believe that more should be done. Accordingly, it was our

Page Two  
September 28, 1983  
Voice of the People

conviction that this was a time for our people to speak out and not simply wait for our Federal Government to present our views.

(3) Mr. Deckman further classified the resolution as stupid and dumb. In response to that, the majority Nitro City Council graduated from college. Our ranks include a former Superintendent of Schools; two teachers (one a college professor); the State Director of Veteran's Affairs (retired colonel); an outstanding union leader; and business leaders within the community. There is not a hillbilly in the group.

(4) Mr. Deckman concluded by saying that we are now recognized as "bunch of dumb hillbillies not only nationally, but internationally." I would only say that the message from the small town of Nitro was taken all the way to the Russian Embassy, and distributed throughout this Country. In having such exposure, we would not expect that it would be without opposition.

To the extent that we have offended the sensitivities of Mr. Deckman or others, we offer our regrets. We were motivated by a repugnance for the conduct of the Soviet Union, the obvious ineptitude of the United Nations and the apparent ability of the Russians to set aside the protests of the free people of the world.

We do not delude ourselves into thinking that anyone is going to be overwhelmed by a resolution passed by the Nitro City Council. However, we do believe that many of the people in this Country should know that at least one small community with a strong history of patriotism felt the need to say "How dare you," to the Russians.

Finally, Mr. Deckman implied that the people in Nitro would not recognize a Russian flag. I assure you that we would recognize the Russian flag and we would hope that no one would have the poor taste to try and fly one in the City of Nitro.

Thank you for this opportunity to respond.

Arden D. Ashley, Mayor  
City of Nitro

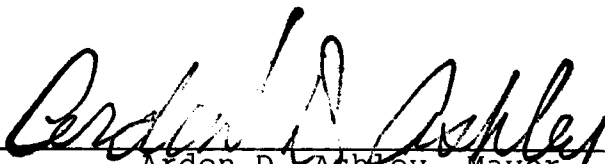
cc: Bill Deckman  
6036 1/2 Baker Road  
Huntington, WV 25705

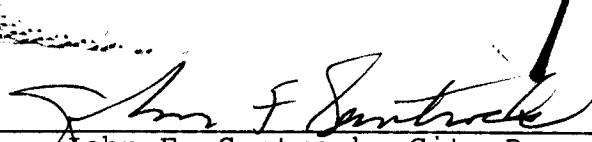


Councilman at Large Casto again stated that he feels strongly that the Russian flag of World War I be permitted to fly in the World War I Memorial Park. Mayor Ashley stated that the Council spoke to the matter by the resolution approved at the last Council meeting. Councilman at Large Casto moved that the flag flown over the Russia during World War I be permitted to fly in the World War I Memorial Park. There was no second.

Councilman at Large Casto brought Council up to date on the Christmas Party plans.

There being no further business to be brought before Council, Mayor Ashley adjourned the meeting at 8:30 p.m.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

## CITY OF NITRO

October 18, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. on October 18, 1983 in Council Chambers at Nitro City Hall. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steven West, Councilman Romie Hughart, Councilman Omar Cunningham and Councilman Jack Moon. Also present was City Treasurer Michael E. Greenleaf. Absent were Councilman A. A. "Joe" Savilla, and City Attorney Phillip D. Gaujot.

The invocation was given by Councilwoman at Large Trout.

AGENDA ITEM NO. 1 - APPROVAL OF OCTOBER 4, 1983 COUNCIL MEETING MINUTES: Councilman at Large Casto moved that Council approve the October 4, 1983 Council meeting minutes as written. The motion was seconded. The motion passed unanimously and was so ordered.

AGENDA ITEM NO. 2 - SECOND READING OF ORDINANCE TO ESTABLISH NO PARKING ON BLAKES CREEK ROAD FROM THE FIRE HYDRANT ENTERING RIDENOUR LAKE AREA FROM 21ST STREET TO CITY LIMITS: City Recorder Santrock read the above ordinance to Council. Councilman at Large Casto moved that the second reading of the ordinance be approved by Council.

Councilman at Large West moved to delete the word "immeasurably" in paragraph three, the last word in sentence one. The motion was seconded. Councilman at Large Casto modified his motion to include the above change. This motion was seconded.

Councilman at Large West, in the course of discussion on the matter, questioned the City's capability to tow those obstructing traffic in the area in question. Mayor Ashley explained the laws governing unlawful parking in Nitro. He further explained that the City is trying to be more accommodating to those wanting to use the park facilities by the opening of the parking lot for year-round use, which was made possible by paving provided through the Governor's Jobs Program.

Councilman at Large West questioned parking across the top of the dam. Mayor Ashley stated that this is not a City street, but that parking can be controlled by the City on that road.

There being no further discussion on the matter, a vote was taken on the motion to approve the second reading of the above-stated ordinance and the motion passed unanimously and was so ordered.

The ordinance is as follows:

ORDINANCE 83 -

AN ORDINANCE TO ESTABLISH NO PARKING AREA ON BLAKES CREEK ROAD FROM FIRE HYDRANT ENTERING RIDENOUR LAKE AREA FROM 21ST STREET TO THE CITY LIMITS.

WHEREAS, the Blakes Creek Road is narrow -- 16 feet wide. Just enough room for cars to pass, moving in opposite directions; and

WHEREAS, the berm on either side of Blakes Creek Road is too narrow for parking without extending onto the highway; and

WHEREAS, the traffic on this road has increased due to greater use of more park facilities at Ridenour Lake; and


INASMUCH as parking on either side of Blakes Creek Road, from the fire hydrant entering Ridenour Lake area from 21st Street to the City limits, would create hazardous situations.

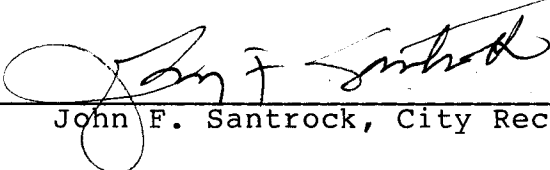
THEREFORE BE IT ORDAINED that "no parking" be strictly enforced and signs indicating "no parking" be maintained in conspicuous places in the area described.

The penalty for parking is three dollars (\$3.00), and the penalty for obstructing traffic is five dollars (\$5.00).

First reading:        October 4, 1983

Second reading:

  
\_\_\_\_\_  
Gordon D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

At this point, Mayor Ashley introduced and read to Council an ordinance for first reading approval establishing a speed limit at Ridenour Lake. After the reading, Councilman at Large Casto moved that Council approve the first reading of the ordinance. The motion was seconded.

Discussion was had on the Blakes Creek Road area. Mayor Ashley stated that the wording should be changed to exclude this area from the ordinance. Mayor Ashley also suggested that included in this ordinance should be a statement prohibiting parking on the road going across the dam. Councilman Cunningham moved that the ordinance be amended to include no parking on the road going across the dam. The motion was seconded. The motion passed unanimously and was so ordered.

There being no further discussion, a vote was taken on the ordinance as written and amended. The motion passed unanimously and was so ordered.

The ordinance is as follows:

ORDINANCE 83 -

AN ORDINANCE TO ESTABLISH A SPEED  
LIMIT AT RIDENOUR PARK TO TEN MILES  
PER HOUR.

BE IT ORDAINED that no person shall drive any vehicle in excess of ten (10) miles per hour while within the boundaries of Ridenour Park, excluding Blakes Creek Road; and that

Proper signs be placed in conspicuous places indicating this speed limitation; and

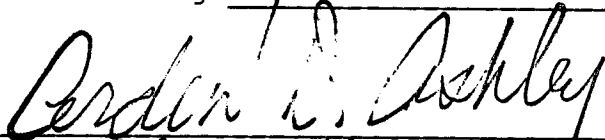
Furthermore, that five (5) bump barriers, two (2) inches in height, be placed on the road at designated spots; and


Additionally, that no parking be allowed on the road across the dam, and that signs be placed accordingly.

(State Code 17C 6-1-9)  
(City Code 21)

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

AGENDA ITEM NO. 3 - U.S.S. NITRO: Mayor Ashley introduced to Council pictures of the U.S.S. Nitro and explained a little bit about the ship, her whereabouts and purposes. Mayor Ashley also stated that invitations have been extended to the captain and crew for their presence at the City's Armistice Day and Memorial Day celebrations.

The address of the U.S.S. Nitro is: U.S.S. Nitro (AE-23)  
FPO, New York 09579

#### COMMITTEE REPORTS

City Recorder Santrock reminded Council of Student Government Week, November 14 - 18, 1983, and announced the meeting of the Committee and the Social Studies Group from the High School to discuss further the plans.

Councilwoman at Large Trout stated that the Insurance Committee met and recommended that any additional insurance coverage desired by an employee should be the responsibility of that employee and not that of the City.

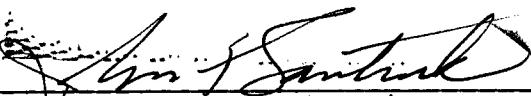
Councilman Cunningham moved to allow the Carpenter family of Nitro to place collection jars, where permitted by the owners, in places of business throughout the City, in an effort to collect money to help pay for a glass eye for Tamara Carpenter. The motion was seconded. Councilman Hughart suggested that the Carpenters contact the Lions Club for funding. Discussion showed this being a better solution for the family and Councilman Cunningham changed his motion to state that if the Lions Club could not help, than the family could resort to the collection jars. The motion was again seconded. The motion passed unanimous and was so ordered.

Mayor Ashley reminded Council of the Bill Alexander Appreciation Dinner to be held on Tuesday, October 25, 1983, 6:00 p.m. at the Nitro Moose.

Councilman at Large Casto moved that Council designate Saturday, October 22, 1983 "Beat Penn State Day" in Nitro. The motion was seconded. The motion passed unanimously and was so ordered.

There being no further business, the meeting was adjourned  
at 8:15 p.m.

  
Gordon D. Ashley, Mayor

  
John F. Santrock, City Recorder

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## COUNCIL MEETING MINUTES

## CITY OF NITRO

November 1, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. in Council Chambers. Present were Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman Steven West, Councilman Romie Hughart and Councilman Omar Cunningham. Absent were City Recorder John Santrock and Councilman A. A. "Joe" Savilla. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by Councilwoman at Large Mary Trout.

AGENDA ITEM NO. 1 - APPROVAL OF OCTOBER 18, 1983 COUNCIL MEETING MINUTES: Councilman at Large Casto moved that the October 18, 1983 Council meeting minutes be approved as written. The motion was seconded. The motion passed unanimously and was so ordered.

AGENDA ITEM NO. 2 - CITIZEN OF THE MONTH: Mayor Ashley awarded the November Citizen of the Month award to Vergie Taylor.

AGENDA ITEM NO. 3 - DECLARATION OF COUNCIL VACANCY. APPOINTMENT TO FILL VACANCY: Mayor Ashley explained to Council that Councilman Moon moved out of the City of Nitro and resigned his Council seat, thus leaving an vacancy. Councilman Cunningham moved that Council declare the Ward IV Council seat vacant. The motion was seconded. The motion passed unanimously and was so declared.

Mayor Ashley recommended to Council that Mr. Jim Hutchinson be appointed to fill the declared vacancy. Councilman at Large Casto moved for such action. The motion was seconded. There being no discussion, the vote was taken and the motion passed unanimously and was so ordered.

At this time, Mr. Hutchinson was sworn in by Mayor Ashley and took his seat at Council table.

The document is as follows:



NITRO, WEST VIRGINIA 25143  
(304) 755-0701

ART ASHLEY  
MAYOR

JOHN F. SANTROCK  
RECORDER

MICHAEL E. GREENLEAF  
TREASURER

STATE OF WEST VIRGINIA  
CITY OF NITRO  
COUNTIES OF KANAWHA AND PUTNAM, TO-WIT:

I, James E. Hutchinson, do solemnly swear that I support the Constitution of the United States, and the Consitution of this State, and I will faithfully discharge the duties of my said office of Councilman of the Nitro, West Virginia, to be best of my skill and judgement, so help me God.

James E. Hutchinson

Subscribed and sworn to before me this 1<sup>ST</sup> day of November, 1983.

Arden D. Ashley  
Arden D. Ashley, Mayor

AGENDA ITEM NO. 4 - RESOLUTION AUTHORIZING MAYOR TO EXECUTE DOCUMENTS NECESSARY TO SECURE FUNDING OF THE ARMOUR CREEK SEWER PROJECT: Mayor Ashley read the following document:

RESOLUTION 83-16

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF NITRO TO EXECUTE DOCUMENTS NECESSARY TO SECURE FUNDING FOR THE ARMOUR CREEK SEWER PROJECT.

On this the 1st day of November, 1983, came the following resolution, to-wit:

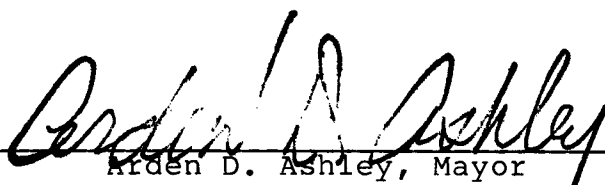
WHEREAS, the final grant application and agreement with the HUD Block Grant Program as it relates to the ongoing Armour Creek Sewer Project has been received, and

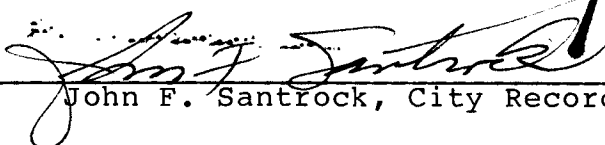
WHEREAS, the Grant Program is administered by the Governor's Office of Economic and Community Development, and

WHEREAS, the signatures of the Chief Executive Officer of the City is required to consummate said grant agreement.

NOW, THEREFORE, BE IT RESOLVED that the Mayor of the City of Nitro is hereby empowered and authorized to negotiate and execute all such documents required to secure funding for this project.

Passed this the 1st day of November, 1983.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

Councilman Hughart moved that Council approve the above resolution as introduced and read. The motion was seconded. There being no discussion, a vote was taken and the motion passed unanimously and was so ordered.

AGENDA ITEM NO. 5 - RESOLUTION NAMING THE MONTH OF NOVEMBER AS EPILEPSY MONTH: Mayor Ashley introduced the above resolution and Councilman at Large Casto moved for its passage. The motion was seconded. There being no discussion on the matter, the vote was taken and passed unanimously and was so ordered.

The resolution is as follows:

RESOLUTION 83-17

WHEREAS, more than two million Americans suffer from epilepsy; and

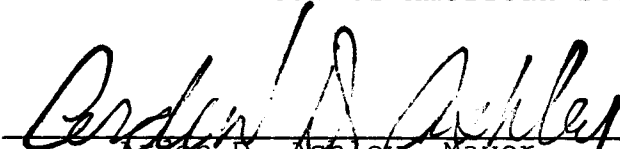
WHEREAS, about 100,000 new cases of epilepsy develop each year in this country, primarily among young people; and

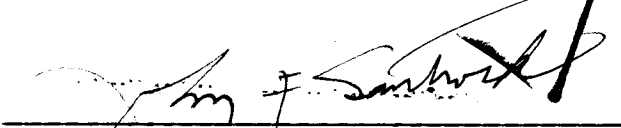
WHEREAS, epilepsy is tragically shrouded in mystery, superstition, ignorance, and fear which too often work to deprive those with epilepsy of the opportunity to achieve a full and productive life, thus causing more unnecessary suffering; and

WHEREAS, it is often people's misconceptions about epilepsy that cause the disability, not the epilepsy itself; and

WHEREAS, the Kanawha Valley Epilepsy Association is conducting a public education campaign to bring the facts about epilepsy to the attention of the citizens throughout the year and especially during November.

NOW, THEREFORE, BE IT RESOLVED that I proclaim November to be EPILEPSY MONTH and ask all citizens to join with the Kanawha Valley Epilepsy Association in its efforts to educate the public about epilepsy so that people with epilepsy can take their rightful place in the mainstream of American society.

  
Gordon D. Ashley, Mayor

  
John F. Santrock, City Recorder

AGENDA ITEM NO. 6 - REVIEW OF MR. JACK LEGG'S OFFER TO DONATE RESIDENCE TO THE CITY: Mayor Ashley explained Mr. Legg's proposed donation of an old original Nitro residence which he has acquired. The structure will have to be relocated at the City's expense. Councilman Cunningham mentioned the present problem of a place of relocation, and suggested that this decision be put off for a short time. Councilman at Large West mentioned the possibility of storage of the structure, due to the fact that houses of that type were built in sections and could be taken down in sections.

Mayor Ashley reminded Council that ownership could include liability for an "attractive nuisance", and that it could not just be relocated without also providing proper security. Councilman Hughart suggested a committee be formed to investigate the possibilities, and to report back to Council at the next meeting. That action was taken, with Councilman Hughart to serve as Chairman. Also appointed to the Committee were Councilman Cunningham and Councilman West.

AGENDA ITEM NO. 7 - SECOND READING OF ORDINANCE ESTABLISHING SPEED LIMIT AT RIDENOUR LAKE TO 10 M.P.H.: Mayor Ashley introduced and read the above ordinance.

After some discussion, Councilman at Large Casto moved for passage of this ordinance. The motion was seconded. The motion to approve the second reading of the ordinance passed unanimously and was so ordered.

The ordinance is as follows:

#### ORDINANCE 83-17

AN ORDINANCE TO ESTABLISH A SPEED  
LIMIT AT RIDENOUR PARK TO TEN MILES  
PER HOUR.

BE IT ORDAINED that no person shall drive any vehicle in excess of ten (10) miles per hour while within the boundaries of Ridenour Park, excluding Blakes Creek Road; and that

Proper signs be placed in conspicuous places indicating this speed limitation; and

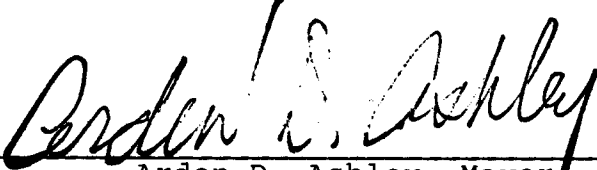
Furthermore, that five (5) bump barriers, two (2) inches in height, be placed on the road at designated spots; and

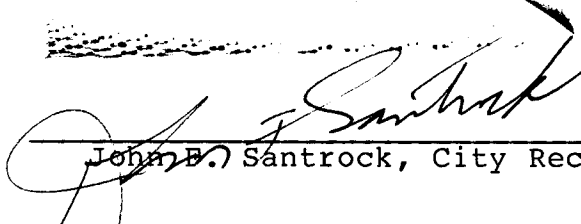
Additionally, that no parking be allowed on the road across the dam, and that signs be places accordingly.

(State Code 17C 6-1-9)  
(City Code 21)

First Reading: October 18, 1983

Second Reading: November 1, 1983

  
Arden D. Ashley, Mayor

  
John E. Santrock, City Recorder

AGENDA ITEM NO. 8 - REQUEST FROM MR. HENRY T. ALLBRITTON FOR APPEAL TO REZONE A PARCEL OF LAND: Councilman at Large West moved that Henry T. Allbritton's request to rezone the one-block parcel of land containing the lots on the north side of Frederick Street be referred to the Nitro Planning Commission. The motion was seconded. The vote was taken on the motion and it passed unanimously and was so ordered.

AGENDA ITEM NO. 9 - REPAIRS TO CITY HALL WAR MEMORIAL: Mayor Ashley reported the completion of the repairs to the War Memorial in front of City Hall. Mayor Ashley extended his thanks to Mr. Neal Ball and to Kanawha Brick and Block for their efforts to get the memorial repaired before the Armistice Day celebration.

AGENDA ITEM NO. 10 - REPORT OF "THE CHEMICAL PEOPLE": Mayor Ashley explained that on the evenings of the 2nd and 9th of November, 1983, at the Nitro High School and throughout the country there will be panel discussions conducted identifying the drug problems of our City and country and the solutions possible, and invited all those interested to attend.

AGENDA ITEM NO. 11 - PROCLAMATION DECLARING NOVEMBER 13 - 19, 1983 AMERICAN EDUCATION WEEK: Councilwoman at Large Trout read the following proclamation:

# A PROCLAMATION

WHEREAS, The public schools are an important and integral part of our society: and

WHEREAS, The concept of a free and equal education is an American tradition and this country's strength: and

WHEREAS, The students of today are the leaders of tomorrow; and

WHEREAS, All citizens have a responsibility to support the public schools:

Now, therefore, I, \_\_\_\_\_  
(Mayor or other official)

of \_\_\_\_\_  
(city or state)

Do hereby proclaim November 13-19, 1983, as

## AMERICAN EDUCATION WEEK

and urge all citizens to make a commitment to public education and to the future of \_\_\_\_\_  
(city or state)

children by visiting their local public schools and by donating their time and talents to help make the public schools even better.



American  
Education  
Week

NOVEMBER 13-19, 1983

Councilwoman at Large, at this point, explained the details of the November 15, 1983 Student Government Day and luncheon to Council.

Councilman Cunningham moved to approve the above proclamation. The motion was seconded. The motion passed unanimously and was so ordered.

#### COMMITTEE REPORTS

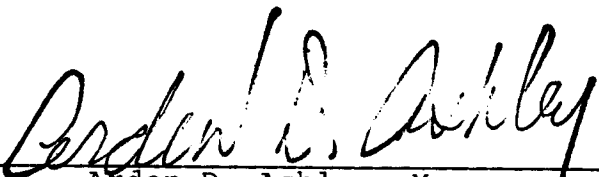
Mayor Ashley announced that the City of Nitro will be the host city for the West Virginia State Little League Championship next summer. Mayor Ashley stated that William Trout, John Simms and Rusty Casto join him on a State Tournament Committee, along with four (4) appointees to be selected by Ivan Meadows, President of Nitro Little League. The committee will report back to the City Council after their organizational meeting.

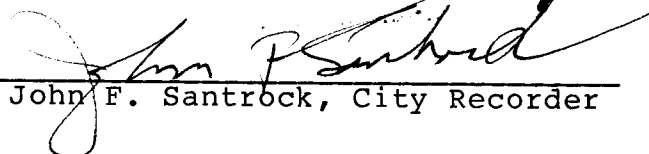
Police Chief Cochran updated Council on the parade plans and Mayor Ashley elaborated on the other plans for Armistice Day, November 11, 1983.

Councilman Hughart expressed his pleasure with the way the Halloween Block Party was handled and the conduct of the Police and Fire Departments. He further stated that he is proud to be a part of a City Council of the City of Nitro.

Councilman Hughart reported that the Lion's Club has been notified of needs of the Carpenter family in reference to the purchase of an eye for Tamara, and that they will be paying for the glass eye.

There being no further business to be conducted, the meeting was adjourned at 8:20 p.m.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder



## COUNCIL MEETING MINUTES

## CITY OF NITRO

November 15, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. in Council Chambers. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steve West, Councilman Romie Hughart, Councilman Omar Cunningham and Councilman Jim Hutchinson. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by The Reverend William Westlund of the First Presbyterian Church in Nitro.

AGENDA ITEM NO. 2 - INTRODUCTION OF STUDENTS PARTICIPATING IN STUDENT GOVERNMENT WEEK: Mayor Ashley asked each Council member to introduce their counterpart for the participation in Student Government Week. Those are as follows: Mike Matthews (Mayor and Councilman, Ward IV), Jane Elsander (Mayor), Sheila Adkins (City Recorder), Chris Arrington (Councilman, Ward II), Trina Baisden (Councilwoman, at Large), Greg Adkins (Councilman at Large), Sean Alvis (City Attorney), Gina Morris (Councilwoman at Large), Blaine Means (Councilman, Ward I) and Steve Shaver (Councilman, Ward III). Other counterparts are as follows: Bobby Myers (City Treasurer), Kim Hypes (Administrative Assistant), Kelli Doyle (Mayor's Secretary), Steve Hawkins (Fire Chief), Scott Winterfeld (Police Chief), Kevin Phillips (Communications Director), Lance Osborne (Director, Department of Public Works), Becky Smith (Recreation Director), Gwen Britton (Building Inspector), Falecia Dukes (Librarian), Scott Anderson (General Manager, Sanitary Board), Greg Roberts (Humane Officer), Valerie Hill (Ambulance Authority), Kamee Blackhurst (City Judge) and Aerick Britton (MULTI-CAP).

AGENDA ITEM NO. 1 - APPROVAL OF NOVEMBER 1, 1983 COUNCIL MEETING MINUTES: Councilman at Large Casto asked to reword the sentence under Committee Reports that implies that Mayor Ashley is a member of the committee to organize the State Little League Championship Tournament in Nitro, which was not the intent.

There being no further amendments or changes, Councilwoman at Large Trout moved that the minutes be approved as amended. The motion was seconded. The motion passed unanimously and was so ordered.

AGENDA ITEM NO. 3 - REPORT OF THE "CHEMICAL PEOPLE": Mayor Ashley reported on the second meeting of the "Chemical People"

and discussed the progress. He further invited those interested in participating on the Task Force to contact Brenda Tyler, President of the Task Force.

AGENDA ITEM NO. 4 - TOWN MEETING - DECEMBER 5, 1983: Mayor Ashley announced the holding of a Town Meeting on December 5, 1983, at Nitro Junior High School at 7:30 p.m. to offer the public an opportunity to ask questions of City Officials or for public debate on issues they may question.

AGENDA ITEM NO. 5 - SENIOR CITIZEN'S CHRISTMAS LUNCHEON - DECEMBER 11, 1983: The Mayor stated that the Senior Citizen Christmas Luncheon will be held at 1:00 p.m. on Sunday, December 11th at Nitro High School. A written intitation came from the High School asking the Seniors to hold their luncheon at the school.

AGENDA ITEM NO. 6 - EMPLOYEE'S CHRISTMAS LUNCHEON - DECEMBER 17, 1983: Mayor Ashley announced that the employee's Christmas Luncheon will be held on December 17, 1983 at 12:00 noon at the Nitro Moose Lodge.

AGENDA ITEM NO. 7 - BUDGET REVISION: Mayor Ashley stated that the returns from the City's B & O taxes have shown to be more than projected and that a budget revision should result. This amount is approximately nine percent over what was projected. Councilman Savilla moved to accept this revision. The motion was seconded. It was noted that the City Treasurer suggested, in writing, that this revised money be spent on the paving of City streets. Brought up by Councilman Hughart was the possibility of having the Finance Committee govern the spending of the money, rather than have it automatically go toward the paving of streets, in case there was something that needed to be attended to at that point. Discussion showed Council favoring the spending of the moneys on street paving and that other alternatives have previously been considered in the preparing of the budget.

Councilman Savilla amended his motion to include the spending of the additional moneys on street paving. The motion was seconded. The motion passed unanimously and was so ordered. Student members present also voted affirmatively.

AGENDA ITEM NO. 8 - CHRISTMAS STREET LIGHTS: On behalf the the Lions Club, Councilman Hughart reported that the Lions Club will, this year, service the Christmas street lights and get them ready for installation and use from December 2nd through December 26th, but that it would have to be resolved as to who will pay for the bulbs and watt usage for that period of time. Discussion indicated that the Business and Professional Association would pay for the replacement bulbs, as they did last year, but could not handle payment of the the electric bill.

After consideration of the effects of not having lights and who was to pay for the electricity to burn the lights, Councilman Savilla moved that the City of Nitro underwrite the cost of electricity for festive lighting for all of Nitro, not to exceed two hundred dollars. The motion was seconded.

The question of legality was brought up. City Attorney Gaujot answered the question by saying that it depends upon the purpose of what you are doing. Putting lights up in a festive atmosphere would be legal. Councilman Hughart pointed out the proposed moral obligation involved in this action. The City Treasurer stated that there is no money appropriated in the budget for this purpose and the budget would have to be revised to meet this need. Mayor Ashley stated that there is a possibility of this happening, but that other angles will be explored between now and the time of billing.

Some Council members expressed reluctance in taking money from somewhere in the budget for this purpose. Councilman Hughart suggested that a letter be styled asking the businesses of the City to donate money for such purpose. Councilman at Large Casto suggested that the City take the responsibility for the bill for this year and that action be taken towards the remedy of next year's bill right after the first of the new year.

At this point, Councilman Savilla restated his motion and it was reseconded. A vote was taken and the motion passed unanimously and was so ordered. The student members also voted affirmatively.

Councilman at Large Casto, at this point, moved that a committee be formed to report to Council by March 1, 1984 on a way to handle payment of the usage of festive lights for next Christmas season. The motion was seconded. Councilman at Large West and Councilman Savilla were included in the committee, with Councilman at Large Casto chairing it. The motion passed unanimously and was so ordered.

AGENDA ITEM NO. 10 - FIRST READING OF HUNTING, FISHING AND TRAPPING ORDINANCE AT RIDENOUR LAKE: City Recorder Santrock read the above ordinance and then moved that the first reading of this ordinance be approved. The motion was seconded.

Councilman at Large Casto moved that the ordinance be amended to exclude the last four words of the ordinance -- "and predatory birds thereon". The motion was seconded by Councilman at Large West, which he later stated was due to the fact that there is a bird sanctuary ordinance and predatory birds are included in "birds". After discussion, the vote was taken and the motion was defeated.

A vote was taken on the motion to approve the ordinance as written and the motion passed, with Councilman at Large Casto opposing and Councilman at Large West abstaining.

The ordinance is as follows:


ORDINANCE 83 -16

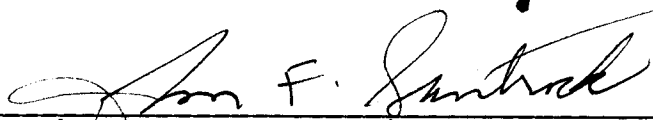
PROTECTION OF WILDLIFE - ANIMALS, BIRDS, FOWL

It shall be unlawful, at any time, to hunt, pursue or molest, in any manner, any animals, birds or fowls within the corporate limits of the City of Nitro, except that any legally constituted enforcement officer or other person designated by the Chief of Police may hunt, pursue, catch or kill, in any manner, predator animals and predatory birds thereon (State Code 20-3-3).

First Reading - November 15, 1983

Second Reading -

  
\_\_\_\_\_  
Arden D. Ashley, Mayor

  
\_\_\_\_\_  
John F. Santrock, City Recorder

COMMITTEE REPORTS


Councilman Hughart reported that the committee formed to remedy the predicament of what to do with the bungalow donated by Mr. Jack Legg have found the structure to be in bad condition and have not found an appropriate place for the structure at this time. He further stated that moving that structure from 36th Street to the City Garage and setting it there on blocks it would cost \$3,500. He stated that it is the recommendation of the committee to thank Mr. Legg for his offer, but to deny it due to the above predicament, and further made that action a motion. The motion was seconded. The vote was taken and the motion passed unanimously and was so ordered. Mayor Ashley was requested to write to Mr. Legg and inform him of Council action.

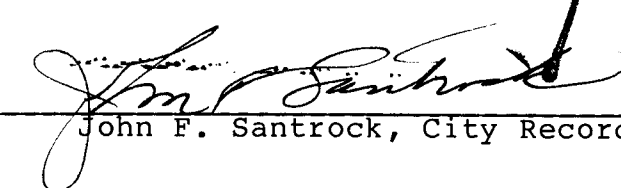
Recreation Director Simms provided Council with the 1983 Swimming Pool Report. Mayor Ashley suggested that Council take time to review the report and that it be called up for discussion at the next Council meeting.

At this point, Councilman Hutchinson moved that the activities planned for December 3, 1983 be approved by Council. Those are the Christmas Parade and festivities. The motion was seconded. The motion passed unanimously and was so ordered.

The Reverend William Westlund expressed his thanks for the many special activities organized by the City. He stated that he wishes to see these things continue, even though sometimes only a small crowd gathers. He further thanked the Mayor and others for their fine leadership of the community.

There being no further business, at this time, Mayor Ashley adjourned the meeting at 8:45 p.m.

  
Arden D. Ashley, Mayor

  
John F. Santrock, City Recorder

## COUNCIL MEETING MINUTES

## CITY OF NITRO

December 6, 1983

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. in Council Chambers. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steve West, Councilman Joe Savilla, Councilman Romie Hughart, Councilman Jim Hutchinson. Absent was Councilman Omar Cunningham. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by Councilwoman at Large Mary Trout.

AGENDA ITEM NO. 1 - APPROVAL OF NOVEMBER 15, 1983 COUNCIL MEETING MINUTES: City Recorder John Santrock requested Councilman Savilla's name be added on Page 1-1st. Paragraph as he was in attendance. Minutes approved as distributed with the one addition.

AGENDA ITEM NO. 2 - CITIZEN OF THE MONTH: Mayor Ashley presented the Citizen of the Month of December Plaque to Mr. Santa Claus - Jay Long. Jay introduced Mrs. Claus, his wife Vi. Mayor Ashley also announced a program in which Santa Claus is making calls to homes in the City of Nitro and Jay has over 70 visits. The program has been so well received that Santa Claus will be at City Hall from 4-6 p.m. December 22nd.

AGENDA ITEM NO. 3 - WEST SATTES P.T.A. REQUEST TO SOLICIT FUNDS FOR SPRING CARNIVAL: West Sattes Principal Lewis Elliot requested permission to solicit funds in the City of Nitro from Jan 1 to April 30, 1984 for Annual Spring Carnival. Councilman Casto moved request be granted. Seconded and motion passed unanimously and was so ordered.

AGENDA ITEM NO. 4 - ORDINANCE, SECOND READING, 83- PROTECTION OF WILD LIFE-ANIMALS-BIRDS-FOWL: City Recorder John Santrock moved the adoption of second reading of this ordinance with amendment of 1st. reading to read nuisance instead of predatory. Properly seconded and discussion centered around possible conflict with City Code 4-9 (Bird Sanctuary). City Attorney offered opinion this ordinance would be in conflict. Councilman at Large West suggested an amendment deleting in last sentence "and nuisance birds thereon" and adding "an humane" prior to "manner nuisance animals." He so moved to adopt this amendment and properly seconded, passed unanimously and so ordered.

City Attorney Gaujot suggested we address the question of emergency destruction of fowl in an amendment to 4-9 later.

ORDINANCE 83- 18


PROTECTION OF WILDLIFE-  
ANIMALS-BIRDS-FOWL

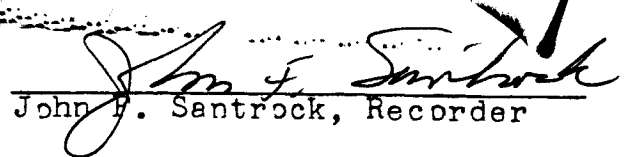
It shall be unlawful at any time to hunt, pursue, or molest in any manner, any animals, birds or fowls within the corporate limits of the City of Nitro, except that any legally constituted enforcement officer or other person designated by the Chief of Police may hunt, pursue, catch and kill in an humane manner nuisance animals.

STATE CODE 20-3-3

First reading, November 15, 1983

Second reading, December 6, 1983

  
Arden D. Ashley, Mayor

  
John F. Santrock, Recorder





AGENDA ITEM NO. 5 - ZONING BOARD OF APPEALS MEETING NOVEMBER 17, 1983: Following a report by City Recorder John Santrock report of variances approved at the November 17, 1983 meeting of the Zoning Board of Appeals was unanimously ordered to be recorded as part of the December 6, 1983 minutes. They are:

Zoning Board of Appeals Hearing, November 17, 1983

All five members of Board in attendance with Cecil Lemma, Chairman, presiding.

Variances were unanimously granted in the following appeals:

1. Jerry W. Allen to place a 24' x 60' double wide modular home on Hickory Road (off 31st. Street East). This is an R-2 Zone which under our code does not permit location of mobile homes.

2. Permit Jim Walter Homes, Inc. to erect a 11' x 11' outdoor lighted display sign. Zoning limits such signs to a 50 square foot maximum.

Zoning Board of Appeals

Cecil Lemma, Chairman

Wade Austin

Tim Cook

Kenneth Kniceley

Olaf Walker

Also in attendance were Bob Sergeant, Mike Greenleaf, and Hattie Tinchler.

AGENDA ITEM NO. 6 - RESOLUTION AUTHORIZING PARTICIPATION IN WV ALCOHOL AND SPEED ENFORCEMENT PROGRAM: City Recorder moved that this resolution be approved as presented. Properly seconded and approved unanimously.

RESOLUTION AUTHORIZING PARTICIPATION  
IN THE WEST VIRGINIA ALCOHOL AND  
SPEED ENFORCEMENT PROGRAM.

WHEREAS, the Governor's Office of Economic and Community development has in their annual Highway Safety Plan an alcohol and speed enforcement program which provides funds for overtime compensation to law enforcement personnel engaged in the aforementioned program; and

WHEREAS, the Council of the City of Nitro has met in regular session on the 6th day of December, 1983 and fully considered the requirements of the Alcohol and Speed Enforcement Program, the following Resolution is offered:

BE IT RESOLVED by the Council of the City of Nitro, West Virginia, that the Mayor is hereby authorized to execute a contract for and on behalf of the City of Nitro with the Governor's Office of Economic and Community Development for the purpose of participating in the Alcohol and Speed Enforcement Program for the period of December 15, 1983 through January 15, 1984 and that this program be funded 100%.

PASSED AND ADOPTED this the 6th day of December, 1983.

*Robert D. Ashley*  
Robert D. Ashley, Mayor  
*John F. Santrock*  
John F. Santrock, City Recorder

AGENDA ITEM NO. 7 - REQUEST FROM TODD MCMILLAN: Todd McMillan local youth runner, has recently won the Cross Country Eastern Regional Title and has qualified in his division for National to be held in Fresno, California this week. Councilman Savilla moved that Council approve a \$25.00 donation from the City to help defray his expenses. Properly seconded and passed with Councilman Hughart abstaining.

AGENDA ITEM NO. 8 - CIVIL ACTION NO. CA-81-3492: Mayor Ashley reviewed the history of this case. The City of Nitro, a Municipal Corporation, Plaintiff Y. C. Yvonne Lemon, Gerald Q. Lemon, Jackie L. Lemon, and Mickey H. Lemon; and William F. Casto, and Dorothy A. Casto, Defendants.

Following a lengthy discussion and upon motion by Rusty Casto properly seconded to approve this proposal deleting paragraph 4. Approved unanimously and so ordered. Proposed is as follows:

(Attached thereto)

REPORT BY RECREATION DIRECTOR JOHN SIMMS: City Recreation Director, John Simms, reviewed a recent report shared with City Council which outlined many problems confronting the City relative to the City Pool. Also that passes are available for 1984 and do make excellent Christmas gifts. Pool is being constantly monitored. Problems will continue to increase. Must look closely at budget for pool next year. Councilman Savilla commended Mr. Simms for his splended report and for the excellent job not only in the swimming pool area but in our recreational area. Council agreed in giving John a standing ovation.

Mayor Ashley commented that unless Council takes additional action minimal repairs will be made this spring.

CHANGE IN COUNCIL MEETING DATES: Councilman Savilla, in keeping with previous Council actions, moved that the second regular Council meeting scheduled for Tuesday, December 20, be cancelled and that the January 3rd meeting be held on January 10th and further move January 17th meeting to January 24, 1984. Also, should there be a need to have Council convene, particularly during holiday season, Mayor Ashley would do so. Properly seconded, passed unanimously and so ordered.

MAYOR ASHLEY ANNOUNCED:

December 11 - Senior Citizen Dinner at Nitro High School  
1:00 p.m. to be served by Council and Department Heads

December 17 - City employees luncheon at Nitro Moose 11:00 a.m.

December 19 - Holiday Festival at Nitro High School 7:00 p.m.

December 22 - Santa Claus at City Hall 4-6 p.m.

*Law Offices*  
*Phillip D. Gaujot*

603 VIRGINIA STREET, EAST  
CHARLESTON, WEST VIRGINIA 25301  
304/342-6660

GAUJOT LAW & PROFESSIONAL BUILDING  
113 GOFF MOUNTAIN ROAD-CROSS LANES  
CHARLESTON, WEST VIRGINIA 25313  
304/776-3436

REPLY TO:

113 Goff Mountain Road  
Cross Lanes, W.Va. 25313  
December 1, 1983

Honorable Arden D. Ashley, Mayor  
City of Nitro  
City Building  
Nitro, West Virginia 25143

Re: City of Nitro v. Lemon and Casto  
Civil Action No. CA-81-3492

Dear Mayor:

Enclosed please find a copy of a proposed settlement Order in the above styled matter. I believe the Order properly reflects the City's proposal of settlement, which proposal was made before I was employed as counsel. If it is the City's desire that the Order be entered, please advise and I will sign the same. Please keep in mind that the above styled matter is scheduled for hearing on December 19, 1983, at 9:30 o'clock A.M.

Should you have any questions concerning the matter, please do not hesitate to give me a call.

With kindest regards, I remain

Very truly yours,

  
Phillip D. Gaujot

PDG/jhk  
Enclosure

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

THE CITY OF NITRO, a  
municipal corporation,

Plaintiff,

v.

CIVIL ACTION NO. CA-81-3492

C. YVONNE LEMON, GEROLD Q.  
LEMON, JACKIE L. LEMON and  
MICKEY H. LEMON;

and

WILLIAM F. CASTO and  
DOROTHY A. CASTO,

Defendants.

ORDER

This day appeared the plaintiff by counsel, Philli Gaujot, and the defendants by counsel, Theodore H. Ghiz, and related unto the Court that a workable solution for compromising the matters in dispute between the parties had been reached; upon a review of the entire record and after having heard comments of counsel, the Court is of the opinion that the compromise solution reached by the parties is fair and equitable and therefore the Court makes the following findings and conclusions of law:

1. The alley, ten feet in width, running in a north to south direction through the center of Block 5 and lying immediately adjacent to and on the east side of Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 is subject to an easement and right of way for public use.

2. On or about August 31, 1979, the defendants erected, or caused to be erected, a fence in and upon said alley; and that the defendants are presently obstructing said alley to public travel and use by maintaining said fence.

Based upon the findings and conclusions of law set out hereinabove, it is ORDERED, ADJUDGED and DECREED that:

1. The defendants shall allow the plaintiff, or its authorized agent, to remove said fence from said alley and to re-install said fence along and upon the defendants' property line abutting upon said alley without interference.

2. The plaintiff shall exercise due diligence and all reasonable care in removing said fence and shall perform said removal and replacement in a professional and satisfactory manner.

3. The plaintiff shall bear the costs of removing and replacing said fence.

4. That compliance with this ORDER shall be stayed for a period of six (6) months, in which time the plaintiff shall exercise its jurisdiction and authority to enforce its rights and obligations relative to removing obstructions and encroachments against other property owners encroaching upon other alleys and streets subject to the easements and right of ways for public use by proceedings initiated by the plaintiff. Failure of the Plaintiff to exercise such rights to remove obstructions and encroachments on said right of ways by proceedings against

property owners obstructing and encroaching upon said right of ways shall ~~stay~~ <sup>NOT APPROVED</sup> any enforcement of this Order until such time as the plaintiff exercises such rights.

ENTER: \_\_\_\_\_

Judge

DATED: \_\_\_\_\_

Presented By:

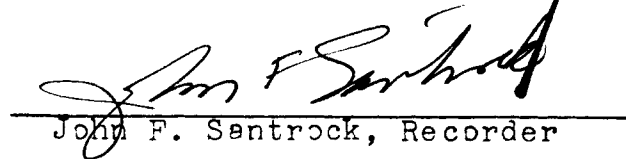
\_\_\_\_\_  
Theodore H. Ghiz  
Counsel for Defendants  
800 Kanawha Boulevard, East  
Charleston, West Virginia 25301

Inspected By:

\_\_\_\_\_  
Phillip D. Gaujot  
Counsel for Plaintiff  
113 Goff Mountain Road  
Cross Lanes, West Virginia 25313

MAYOR ASHLEY ELECTED TO NATIONAL BOARD OF DIRECTORS: Councilman Joe Savilla complimented Mayor Arden Ashley upon his recent election to the Board of Directors of National League of Cities. Mayor Ashley is the first West Virginian to be elected to such an office.

  
Arden D. Ashley Mayor

  
John F. Sentrock, Recorder



## COUNCIL MEETING MINUTES

## CITY OF NITRO

JANUARY 10, 1984

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. in Council Chambers. Present were Councilman at Large Rusty Casto, Councilman at Large Steve West, Councilman Joe Savilla, Councilman Romie Hughart, Councilman Omar Cunningham and Councilman Jim Hutchinson. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot. Absent were City Recorder John Santrock and Councilwoman at Large Mary Trout.

The invocation was given by Councilman A. A. "Joe" Savilla.

AGENDA ITEM NO. 1 - APPROVAL OF DECEMBER 6, 1983 COUNCIL MEETING MINUTES: Councilman A. A. "Joe" moved that the December 6, 1983 Council meeting minutes be approved. The motion was seconded by Councilman Romie Hughart, with the recorded note that we will readdress the question of the contents of the Ordinance covered under Item 4 at the next meeting.

*(Dec. 6 Council Meeting)*

Mayor Ashley reminded the Council that Roberts Rules of Order will be followed. The agenda as set forth prior to Council meeting will be followed throughout this administrative year.

AGENDA ITEM NO. 2 - STATEMENT AND LETTER FROM MAYOR ASHLEY: Statement and letter from Mayor Ashley to rebut the print media and support our fellow Councilman was read. Councilman A. A. "Joe" Savilla made a motion to have the letter made a matter of City record, and a copy mailed to the Charleston Gazette. He also requested he be allowed to sign the letter. At this time, all members were invited to sign the letter. All members signed the letter.

AGENDA ITEM NO. 3 - CIVIL ACTION CASE NO. CA-3492 - CITY OF NITRO VS. LEMON AND CASTO: City Attorney Phillip Gaujot gave status report and requested to proceed with the suit in a court of law. After much discussion the matter was added to the agenda for discussion in Executive session scheduled later in the meeting.

AGENDA ITEM NO. 4 - PROCLAMATION DECLARING JANUARY, 1984 AS "EYE HEALTH CARE MONTH": Mayor Ashley introduced the above resolution and Councilman A. A. "Joe" Savilla moved for its passage. The motion was seconded. There being no discussion on the matter, the vote was taken and passed unanimously.

AGENDA ITEM NO. 5 - FIRST READING OF ORDINANCE ADOPTING RULES AND REGULATIONS FOR RECREATION LANDS AND FACILITIES: Mayor Ashley introduced the above Ordinance and Councilman at Large Rusty Casto moved for its passage. The above motion was seconded

by Councilman Omar Cunningham. After discussion, a motion was made by Councilman at Large Steve West to amend the rules and regulations to include (1) hours of operation, (2) ice fishing, (3) skating ordinance and (4) have rules and regulations posted. The motion was seconded. The vote to amend was taken and motion passed unanimously and was so ordered. Councilman Rusty Casto made motion that the term "hunting knife" be deleted from Item 2 under dangerous weapon. The motion was seconded. Mayor Ashley advised since this was the first reading of the Rules and Regulation Ordinance, we could table the question at this time and have a committee of Councilman at Large Rusty Casto, Councilman at Large Steve West, Councilman A. A. "Joe" Savilla and Councilman Romie Hughart examine the language before the second reading of the question of hunting knife vs. fishing knife. Councilman at Large Rusty Casto withdrew his motion to have "hunting knife" deleted at this time and the motion for second was withdrawn. After discussion, Councilman A. A. "Joe" Savilla moved that the Rules and Regulations be adopted on the first reading. Motion was seconded. The motion passed unanimously. The second reading to follow.

*Mayor*  
COMMITTEE REPORTS: Mayor Ashley gave comment on the Finance Committee; that there was a meeting earlier this evening. There were financial statements made available to the members of Council, there is an audit that has been contracted and is underway that would hopefully soon provide us with conclusion of the fiscal status of the City's finances effective June 30, 1983. Meetings will be held each Monday with different department heads to construct the purposed budget that the Finance Committee can recommend before Council. The new budget must be submitted to the State Tax Department before the end of March, 1984.

Mayor Ashley reminded the Council that the Compensation Review Committee was without a chairperson. He suggested they convene for the purpose of electing a chairperson. The Compensation Review Committee consists of City Recorder John Santrock, Councilwoman at Large Mary Trout, Councilman at Large Steve West, Councilman Romie Hughart, and Councilman Jim Hutchinson.

Councilman at Large Rusty Casto made request for approval of March of Dimes solicitation during the month of January, 1984. Motion was made and seconded. There being no discussion on the matter, the vote was taken and passed unanimously and was so ordered.

Request was made for approval of the appointment of Gregg Smith, 108 Jamestown Rd., an employee of John Amos Plant and resident of the city for membership on the Planning Commission. It was moved and seconded. There being no discussion on the matter, the vote was taken and passed unanimously and was so ordered.

The Council moved to Executive Session to consider the following agenda:



NITRO, WEST VIRGINIA 25143

(304) 755-0701

ART ASHLEY  
MAYOR

1. A personnel matter concerning the private evaluation of City employees. JOHN F. SANTROCK  
RECORDER

2. Inspection of the case currently under litigation. MICHAEL E. GREENLEA  
TREASURER

3. Provision for the discussion of privileged matters concerning the strategy or position of the City with regard to the case of City of Nitro vs. Lemon and Castro, reportedly seized upon an election year opportunity to discredit our City Recorder during his vacation. At the conclusion of the Executive Session, the Council reconvened in open session.

A person in search of a forum for such a distasteful political project would quite naturally turn to the Gazette, since it is a public record. Councilman Joe Saville moved to adopt action, discussed in Executive Session to wit:

(1) Councilman approved the Administrative position to reject the order of the Police Civil Service Commission with regards to John Johnson, and appeal the decision to the Circuit Court. While the Gazette is read and then soon after the Circuit Court of this governing body becomes a part of the history of record.

(2) The Council authorized the City Attorney to settle the Criner vs. Nitro case for \$12,000; given the cost of presenting the case in court. The decision was made with the understanding that it was done without prejudice or admission of any guilt or wrongdoing on the part of the City.

(3) In the case of the City of Nitro vs. Lemon and Castro, the City agreed to the request of the City Attorney to reject the position of the defendants for settlement and refer the matter to the Circuit Court.

Councilman Jim Hutchinson seconded the motion and the motion was passed unanimously without discussion. John F. Santrock is one of the reasons Nitro has been able to make it in 1991. His family has lived in this community continuously as John served as student, soldier, teacher, coach, principal, Superintendent of Schools for Kanawha County, and now Nitro City Recorder.

All of the time John represented the kind of personal excellence most families only read about. How many people can you name who have done so much? JOHN D. ASHLEY, MAYOR

All of his life the following superlatives have applied to the man known for his:

JOHN F. SANTROCK, CITY RECORDER

Honesty - Energy - Achievements -  
Abiding Christian Faith -  
Athletic Abilities -  
Education -  
Abilities as Educator -  
Public Service

And Known As:

A family man, with an unfailing devotion for parents, wife, children and grandchildren  
A Nitro Man  
A beautiful human being who has offered his life in services for his fellow man, his community and his country.

1. A personnel matter concerning the private evaluation of city employees.
2. Inspection of the case currently under litigation.
3. Provision for the discussion of privileged matters concerning the strategy or position of the City with regard to the case of City of Nitro vs. Lemon and Casto.

At the conclusion of the Executive Session, the Council reconvened in open session.

Councilman Joe Savilla moved to adopt action discussed in Executive Session to wit:

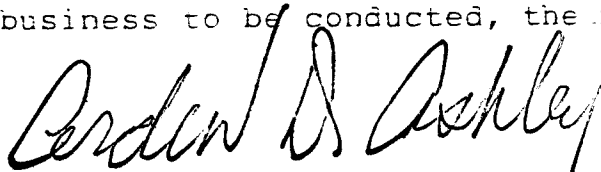
(1) Councilman approved the Administrative position to reject the order of the Police Civil Service Commission with regards to John Johnson, and appeal the decision to the Circuit Court.

(2) The Council authorized the City Attorney to settle the Criner vs. Nitro case for \$12,000; given the cost of presenting the case in court. The decision was made with the understanding that it was done without prejudice or admission of any guilt or wrong doing on the part of the City.

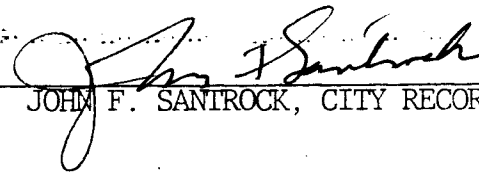
(3) In the case of the City of Nitro vs. Lemon and Casto, the City agreed to the request of the City Attorney to reject the position of the defendants for settlement and refer the matter to the Circuit Court.

Councilman Jim Hutchinson seconded the motion and the motion was passed unanimously without discussion.

There being no further business to be conducted, the meeting was adjourned.



ARDEN D. ASHLEY, MAYOR



JOHN F. SANTROCK, CITY RECORDER



NITRO, WEST VIRGINIA 25143  
(304) 755-0701

January 10, 1984

ART ASHLEY  
MAYOR

JOHN F. SANTROCK  
RECORDER

MICHAEL E. GREENLEAF  
TREASURER

Some "Elected Official" from this group reportedly seized upon an election year opportunity to discredit our City Recorder during his vacation.

A person in search of a forum for such a distasteful political project would quite naturally turn to the Gazette, since parallel levels of ethics can serve one's purpose just as well as a common goal.

While the Gazette is read and then soon cast aside, the record of this governing body becomes a part of the history of our city.

Therefore, this statement is offered to rebutt the print media and support our fellow councilmember.

John Santrock is one of the reasons Nitro has a past to take pride in; and one of the reasons our future is exciting and bright.

John Santrock's father was on the 1st Council of this city in 1931. His family has lived in this community continuously as John served as student, soldier, teacher, coach, principal, Superintendent of Schools for Kanawha County, and now Nitro's City Recorder.

All of the time John represented the kind of personal excellence most families only read about. How many people can you name who have done so much?

All of his life, the following superlatives have applied to the man known for his:

Honesty - Energy - Achievements -  
Abiding Christian Faith -  
Athletic Abilities -  
Education -  
Abilities as Educator  
Public Service

And Known As:

A family man, with an unfailing devotion  
for parents, wife, children and grandchildren  
A Nitro Man  
A beautiful human being who has offered his  
life in services for his fellow man,  
his community and his country.

Page 2  
John Santrock

On this occasion the obvious hard work and effective leadership of John Santrock is appreciated and expressed herein and confirmed by my signature.

Arden D. Ashley

Arden D. Ashley, Mayor

Mary Trant:

Sam Hutchinson

A. A. Joe Saville

Steven E. West

Lucy East

Denise C. Hughes  
Emma W. Cunningham

## COUNCIL MEETING MINUTES

CITY OF NITRO

JANUARY 24, 1984

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. in Council Chambers. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilwoman at Large Mary Trout, Councilman at Large Steve West, Councilman Joe Savilla, Councilman Romie Hughart, Councilman Omar Cunningham and Councilman Jim Hutchinson. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot.

The invocation was given by Councilman at Large Rusty Casto.

AGENDA ITEM NO. 1 - APPROVAL OF JANUARY 10, 1984 COUNCIL MEETING MINUTES: Councilman at Large Rusty Casto moved that the January 10, 1984 Council meeting minutes be approved. The motion was seconded. The vote was unanimous and so ordered with the correction of typographical error of the word "purposed to proposed" under Committee Reports and the correction of the misspelling of amend and conclusions. Also, add to Agenda Item No. 1 following Item 4 for clarification (December 6, 1983 Council Meeting).

AGENDA ITEM NO. 2 - CITIZEN OF THE MONTH - Mayor Ashley awarded the January Citizen of the Month award to Marsha Reveal. Marsha is 13 years old and resides with her parents, Marshall and Jody Reveal, on 14th St. She is a class one gymnast.

AGENDA ITEM NO. 3 - SECOND READING OF ORDINANCE ADOPTING RULES AND REGULATIONS FOR RECREATION LANDS AND FACILITIES - City Recorder John Santrock moved the adoption of second reading of this ordinance as amended. The motion was seconded. Amendment No. 1 - Item 8 was inserted regarding sledding. No. 2 - Item 10 inserted under "miscellaneous" reference other activities may be regulated or prohibited from time to time by posting of notices to that effect in conspicuous locations around the facility, as determined by the Recreation Director. No. 3 - correction of spelling of word "drive". Councilman at Large Steve West moved to vote on the amendment by each section, Councilman at Large Steve West moved to add under Sec. D under "Dangerous Weapons" to Exception: a hunting knife may be carried at Ridenour Lake in conjunction with fishing. The motion was seconded. The motion passed unanimously and was so ordered to include the language as so noted. Councilman at Large Steve West made motion that under Section F, No. 8 that we amend by adding as appears to the Rules and Regulations. The motion was seconded. The vote was taken and Mayor Ashley and Councilman Romie Hughart abstained. Councilman at Large Steve West moved that under Section F, No. 10-Miscellaneous, Rules and Regulations be amended as written with the addition of "as determined by the Recreation Director". The motion was seconded. The vote was unanimous and so ordered. Councilman at Large West moved that Section H, 1, 2 & 3 be accepted without modification. Motion was seconded. The vote was unanimous and so ordered. Councilman at Large Steve West moved to have hours set at Ridenour Lake from dawn to dusk. The motion was seconded. After discussion, Councilman at Large Steve West withdrew his motion, and motion for seconded was withdrawn. Councilman at Large Steve West moved to adopt language as written under Hours of Operation. Motion was seconded. The vote was unanimous and so ordered. Councilman Steve West moved to add Section J "Ridenour Lake boundaries shall be properly posted" to the Rules and Regulations. The motion was seconded. The vote was unanimous and so ordered. Councilman at Large Steve West moved to substitute the language of Ordinance 83-12. Motion was seconded. After discussion, Councilman Steve West withdrew his motion and the seconded was withdrawn. Councilman Steve West moved to delete G 12 (Reckless Driving) from the Rules and Regulations. The motion was seconded. After discussion, Councilman Joe Savilla moved to have Section G deleted from the Rules and Regulations in its entirety. Motion was seconded. The vote was unanimous and so ordered. The vote to approve the second reading of Ordinance as amended was unanimous.

The ordinance is as follows:



## ORDINANCE 84-1.

RULES AND REGULATIONS REGULATING THE USE OF ALL RECREATIONAL PROPERTIES AND FACILITIES UNDER THE CONTROL OF THE CITY OF NITRO AND PROHIBITING CERTAIN TYPES OF USES OR ACTIVITIES IN CONNECTION WITH SUCH PROPERTIES OR FACILITIES.

These Rules and Regulations were adopted by the City Council of the City of Nitro on the 24th day of January, 1984.

## SECTION A. PUNISHMENT FOR VIOLATION OF RULES AND REGULATIONS.

1. Fine and Imprisonment; Jurisdiction

The violation of any of these rules and regulations shall constitute a misdemeanor and any person convicted of any such violation shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in jail for a period not exceeding thirty days, or by both such fine and imprisonment.

2. State Laws

The violation of any of these rules and regulations which also constitutes the violation of any state law may be prosecuted and punished as a violation of such state law rather than as a violation of these rules and regulations.

## SECTION B. DEFINITION OF TERMS.

1. Director shall mean the Recreation Director;

2. Park shall mean all properties and facilities controlled by or under the jurisdiction of the City of Nitro including playgrounds or school facilities being used as part of the City's recreational program;

3. Police shall mean the law enforcement officers of the City of Nitro.

4. Person shall mean and include individuals and corporations;

5. Authorized Emergency Vehicles shall mean vehicles of a fire department or police department, ambulances, emergency vehicles or municipalities or counties and emergency vehicles.

6. The City shall mean the City of Nitro and/or the designees thereof as appointed by, and/or including, the mayor or city council.

## SECTION C. PROTECTION OF PARK PROPERTY.

1. Defacement, Destruction, Removal, etc

No person shall remove, injure, deface, destroy or disturb any part of the park or any building, sign, equipment or other property found therein, or shall any tree, flower, shrub or other vegetation or fruit or seed thereof, or rock, or mineral therein, be removed, injured, defaced, destroyed or disturbed.

## 2. Defacement of Surface

No person shall accelerate a motor vehicle causing the rubber tires to spin, mark and deface any park roadway or parking lot surface.

## 3. Littering or Dumping of Rubbish or Garbage

No person, without the written consent of the City, shall leave behind or dump any material of any kind in the park, except that refuse, ashes, garbage or other material from a picnic or other permitted activity may be deposited in receptacles provided for such purposes.

## 4. Noxious or Deleterious Material

No person shall within the park place or permit to be placed in any river, brook, stream, ditch or drain that flows into or through park lands or in any lake in the park, any noxious or deleterious material which may render park waters harmful or inimical to the public health, or to animal, vegetation, or aquatic life, or which may prevent, limit or interfere with the use of such waters for domestic or agricultural purposes or which may lessen to an unreasonable degree the use and enjoyment of such waters for recreational or other park uses.

# SECTION D. FIREARMS, FIREWORKS, EXPLOSIVES, WEAPONS, HUNTING AND BOWS AND ARROWS.

## 1. Firearms

No person shall carry a firearm of any description, air or gas gun, fireworks, explosive, slingshot, or missile-throwing device into or within the park or discharge the same therein: Provided, That a policeman or other qualified law enforcement officer may carry a firearm with the park and that the discharge of fireworks may be authorized by the City in compliance with the regulations of the State Fire Marshal's office.

## 2. Dangerous Weapons

No person shall have or carry any switchblade, hunting knife, dagger, metal knuckles or other dangerous weapon while in the park: Provided, That a policeman or other qualified law enforcement officer may carry a firearm or nightstick within the park. Exception: a hunting knife may be carried at Ridenour Lake in conjunction with fishing.

### 3. Bows and Arrows

No person shall release an arrow from a bow, crossbow or longbow within the park other than in areas designated by the Director as Archery Ranges or at such other locations as may be designated in writing for such purpose of the Director.

### 4. Hunting

No person within the park shall hunt, pursue with dogs, hunt with birds, trap or in any way molest any wild bird or animal found within the park or rob or molest any bird nest or take the eggs of any bird. Provided that the Chief of Police may designate persons to hunt, pursue, catch, and kill in a humane manner nuisance animals.

## SECTION E. OTHER PROHIBITED ACTIVITIES.

### 1. Advertising Signs

No person shall distribute or place any sign, advertisement, circular, notice or statement, or distribute or place any banner, emblem or design or political advertisement in a park without consent of the City.

### 2. Sales

No person shall sell or offer for sale any article, thing, privilege or service within the park without the written consent of the City.

### 3. Disturbing the Peace

No person shall disturb the peace and good order within the park by fighting, by quarreling or wrangling with loud voice or shouts, by threatening violence to the person or property of others, or by engaging in riotous clamor or tumult.

### 4. Unlawful Assemblage

No person or persons shall within the park collect a group or a crowd for unlawful purposes or in riotous assemblage or with the intent to annoy, harass or inflict property damage or bodily injury upon another person or persons.

### 5. Abusive Language

No person shall use obscene, profane or abusive language within the park.

### 6. Assault and Battery

No person shall willfully assault or commit bodily injury upon another while within the park, or within the park be engaged in, or abet or aid in, any fight, quarrel or other disturbance.

#### 7. Gambling

No person shall gamble or play games of chance within the park.

#### 8. Open Containers

No person shall, within the park, carry or possess any unsealed container, or partially filled container of non-intoxicating beer and/or intoxicating beverages. Under no circumstances whatever shall any person be under the influence of intoxicating liquor or wine within the park.

#### 9. Glue Sniffing

No person shall within the park sniff any type of glue or other commercial material or product which contains Toluol or ethers.

#### 10. Use of Narcotics, Opiates and Hallucinogens

No person shall smoke, drink, have injected into one's self, or otherwise use, any type of narcotic drug, dangerous drug, opiate, hallucinogen or marijuana within the park.

#### 11. Entering Toilet Facilities

No persons, except park maintenance employees or park police in the performance of their official duties, shall enter a toilet within the park set aside for members of the opposite sex.

#### 12. Indecent Conduct and Exposure

No person shall appear within the park in a state of nudity, or therein commit, perform or engage in any lewd, lascivious, obscene or indecent act or behavior and no person shall within the park make any indecent exposure of his or her person.

#### 13. Solicitation

No person shall within the park solicit or ask anyone to commit, perform or engage in, any unlawful, lewd, lascivious, obscene or indecent act or behavior.

#### 14. Boats and Water Equipment

No person shall, without the written consent of the Director, bring and use within the park any boat, surfboat,

surfboard, water skis, scuba diving gear and similar aquatic equipment.

15. Compliance with Order of Police, Failure to Obey

No person shall fail or refuse to comply with any reasonable order relating to these rules and regulations or to the control of traffic or motor vehicles within the park, or with any other order lawfully given by any park employee or police officer, or willfully resist, obstruct or abuse any officer or any other official in the execution of his office.

SECTION F. REGULATED ACTIVITIES

1. Fires

A. No person shall start a fire within the park, except small fires for culinary purposes in park grills or privately owned grills or fires in the places or areas designated for such purpose by the City: Provided, That the City may at its' discretion prohibit fires for limited periods at any location or for any purpose when necessary for the protection of park property.

B. All fires within the park shall be put out by the person or persons starting or using the same before leaving the immediate vicinity of the fire.

C. No person shall within the park dump hot ashes or fire onto the grass or plants.

2. No Admittance After Park is Closed

No person, except City employees in the performance of their official duties, shall be permitted within the park or any part thereof after the same is closed for the night and prior to its opening the following day.

3. Camping

No person shall establish or maintain any camp or other temporary lodging or sleeping place within the park without the written consent of the City.

5. Fishing

A. Fishing by the use of hooks left unattended, traps, spears, gigs or bows and arrows are prohibited.

B. Anyone fishing in the park must obey existing West Virginia Department of Natural Resources rules and regulations.

6. Pets

No person shall bring within the park, or permit, have or keep within the park, any dog, cat or other animal destructive to birds or other wildlife: Provided, That dogs and cats shall be permitted in the park if they are controlled at all times on a leash not more than eight feet long.

#### 7. Horses and Horseback Riding

Horseback riding is prohibited within the park except with permission of the City.

#### 8. Sledding

Sledding at Ridenour Lake will be permitted only on the side of the dam away from the lake.

#### 9. Swimming

Swimming within the park is permitted only in a swimming pool or pools operated by the City, and all persons shall abide by the swimming pool rules and regulations posted by the City at any such pool.

#### 10. Miscellaneous

Other activities may be regulated or prohibited from time to time by the posting of notices to that effect in conspicuous locations around the facility, as determined by the Recreation Director.

### SECTION G. FACILITY USAGE

#### 1. Fees

Fees for use of facilities will be set from time to time by City Council and/or Mayor. All fees must be paid in advance of facility usage.

#### 2. Reservations

Any person having paid the appropriate fee(s) for reservation of a facility has sole right of usage of that facility during time stated in reservation. No person shall interfere with this right. Provided that the City may cancel said reservation for a justifiable reason. In such case all fees paid by the person placing the reservation will be refunded to them.

#### 3. Cancellations

Any person wishing to cancel a reservation must do so a minimum of forty-eight (48) hours in advance of the starting time of the reservation. Failure to do so will result in the forfeiture of all fees paid and/or owed to the City for such reservation.

SECTION H. HOURS OF OPERATION

The operational hours of all recreation facilities will be set from time to time by City Council and posted at appropriate facilities in a conspicuous place.

SECTION I.

Ridenour Lake boundaries shall be properly posted.

AGENDA ITEM NO. 4 - PROCLAMATION FOR WV VOCATIONAL EDUCATION WEEK - FEBRUARY 5 - 11, 1984 Mayor Ashley introduced the above proclamation and Councilman A. A. "Joe" Savila moved for its passage. The motion was seconded. There being no discussion on the matter, the vote was taken and passed unanimously.

Proclamation as follows:

WHEREAS, Vocational education, administered by the Kanawha County Schools, serves more than one thousand secondary and adult students every year with training in skills needed by employers throughout this area; and

WHEREAS, Vocational education can play an important role in the economic recovery of our region by retraining unemployed adults for new jobs; and

WHEREAS, Vocational education, through its adult basic education programs, assists many people in successfully preparing for high school equivalency (GED) examinations; and

WHEREAS, Vocational education offers community education programs in public school buildings, giving all taxpayers access to school facilities and programs; and

WHEREAS, All vocational education programs are available to all citizens without regard to race, sex, religion, national origin, economic status, handicap or age; and

WHEREAS, The Kanawha County Board of Education and this elected body are committed to providing quality vocational education for all citizens; and

WHEREAS, This community is determined that all citizens be made aware of the opportunities available to them through vocational training; and

WHEREAS, The State of West Virginia, with all other states in our nation, is setting aside the Week of February 5-11, 1984 to call public attention to the opportunities and benefits of vocational education;

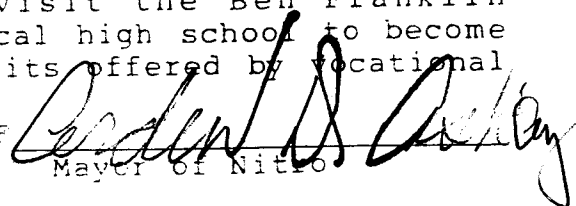
NOW, THEREFORE, I, Art Ashley, Mayor, of the City of Nitro, do hereby proclaim February 5 through February 11, 1984, as

VOCATIONAL EDUCATION WEEK

and urge all citizens to visit the Ben Franklin Vocational Center or their local high school to become informed of services and benefits offered by vocational education.

IN WITNESS THEREOF

Mayor of Nitro





AGENDA ITEM NO. 5 - RESOLUTION AUTHORIZING MICHAEL GREENLEAF TO SIGN AN AGREEMENT AS WELL AS THE ATTACHED ASSURANCES, WITH THE GOVERNOR'S OFFICE OF ECONOMIC AND COMMUNITY DEVELOPMENT FOR THE STATE ASSISTANCE TO BE PROVIDED UNDER THE FIRE DEPARTMENT EQUIPMENT PROGRAM: City Recorder John Santrock moved to have City Treasurer Michael Greenleaf be given permission to file the resolution, if adopted by the Council. The motion was seconded. The vote was unanimous and so ordered.

The resolution is as follows:

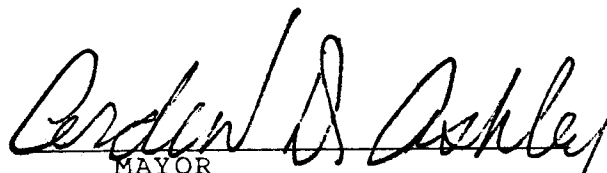
RESOLUTION 84-1

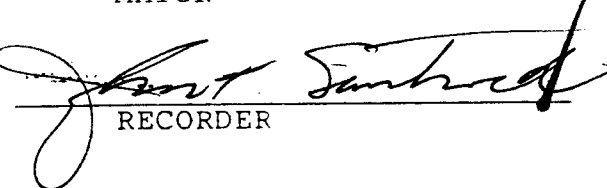
A RESOLUTION BY THE COUNCIL OF THE CITY OF NITRO, AUTHORIZING TREASURER MICHAEL E. GREENLEAF TO SIGN GRANT AGREEMENTS AS WELL AS ASSURANCES, WITH THE GOVERNOR'S OFFICE OF ECONOMIC & COMMUNITY DEVELOPMENT

WHEREAS, The City of Nitro has applied for and received grant funds in the amount of \$2,500.00 for the Nitro Fire Department.

NOW, THEREFORE, BE IT RESOLVED that the City Treasurer be empowered and authorized to execute the Grant Agreement with the Governor's Office of Economic and Community Development as well as any assurances required thereof.

Passed on this, the 24th day of Janauary, 1984.

  
MAYOR

  
RECORDER

AGENDA ITEM NO. 6 - FIRST READING OF ORDINANCE APPROVING THE RULES AND REGULATIONS OF THE POLICE CIVIL SERVICE OF THE CITY OF NITRO, WV.:City Recorder John Santrock moved that we adopt the

first reading of the Police Civil Service Commission of the City of Nitro as presented. Motion was seconded. After discussion, there were seven affirmative votes and two abstaining were Mayor Ashley and Councilman at Large Steve West.

#### COMMITTEE REPORTS

Mayor Ashley announced there had been a well attended Finance Committee earlier this evening. City Treasurer Michael Greenleaf advised the Finance Committee met with a representative of the Fire Department and heard their budget request.

City Recorder John Santrock made request that the Compensation Review Committee meet to select a Chairman following Council meeting. Suggestion had been made at the Council meeting on January 10, 1984 by Mayor Ashley.

Mayor Ashley announced there will be a meeting with Civic Benefits Association Board of Directors on Thursday, January 26, 1984 at 2:00 p.m. Mayor Ashley proposed that two members from the Council at Large and Ward Council be selected to attend this meeting. Councilman A. A. "Joe" Savilla recommended that Councilwoman at Large Mary Trout and Councilman Omar Cunningham attend. Councilwoman at Large Mary Trout had a previous commitment. Members available to attend meeting were Councilman A. A. "Joe" Savilla and Councilman Omar Cunningham.

Mayor Ashley made the announcement that Councilman Omar Cunningham is retiring from Monsanto after 38 years of service.

Councilman A. A. "Joe" Savilla announced that in the RIC Messenger that the feature article for January was Mayor Ashley being named to the National League of Cities Board. He also wanted to commend the Charleston Gazette for the three "smiles". The first to Mayor Arden Ashley on December 31, 1983 elected 1983 to be the first West Virginia representative on the Board of the National League of Cities. On January 1, 1984 to Mayor Ashley for his value and efforts to clean up the town and to improve its quality of life. On January 14, 1984 to Nitro Mayor Ashley and City Council for the \$25,000.00 surplus accumulated during the last fiscal year.

City Recorder announced that on February 7, 1984 at 12:00 noon, the insurance bids will be opened and Council Members are invited to attend. Insurance Committee members are urged to attend.

There being no further business to be conducted, the meeting was adjourned at 8:50 p.m.

*Arden A. Ashley*  
 ARDEN A. ASHLEY, MAYOR

*John F. Santrock*  
 JOHN F. SANTROCK, CITY RECORDER

REGULATIONS OF  
THE POLICE CIVIL SERVICE COMMISSION  
OF  
THE CITY OF NITRO, WEST VIRGINIA

Submitted to the Mayor and City Council  
on Tuesday, January 24, 1984

Commissioners:

Gary Hill, President  
Charles Workman, Commissioner  
Charles Miller, Commissioner

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REGULATIONS OF  
THE POLICE CIVIL SERVICE COMMISSION  
OF THE  
CITY OF NITRO, WEST VIRGINIA

PART I - GENERAL

1.01      Authority for Promulgation

The Rules and Regulations contained herein are promulgated pursuant to the authority vested in the Police Civil Service Commission of the City of Nitro, West Virginia by Section 10, Article 14, chapter 8 of the Code of West Virginia, as amended.

1.02      Effective Date

The Rules and Regulations contained herein become effective after they have been approved by the Mayor and City Council of the City of Nitro or after the passage of twenty (20) days from the date of submission of these Rules and Regulations to said Mayor and City Council, whichever date is sooner.

1.03      Distribution of Copies

Copies of these Rules and Regulations, as adopted by the Mayor and the City Council, shall be distributed in printed form to each member of the police force within a reasonable time after they become effective, at the expense of the City of Nitro. Thereafter, each person appointed to said force shall be issued a copy of these Rules and Regulations.

1.04      Amendments

Amendments to these Rules and Regulations may be adopted from time to time by the Commission and shall become effective on the date of their approval by the Mayor and the City Council or twenty (20) days after their submission to said Mayor and City Council, whichever date is sooner. Copies of amendments to these Rules and Regulations shall be posted in a conspicuous place at the Nitro City Hall, at the Police Department Headquarters, and at such other places as the Commission may direct.



## PART II - DEFINITIONS

2.01 As used in these Regulations, the term or phrase:

(a) "Appointing Officer" means the Mayor of the City of Nitro, West Virginia.

(b) "Appointment" means the process whereby vacancies not filled by promotion, reinstatement, reduction or non-competitive examination (provisional appointment) are filled by persons making an original entry into the Department.

(c) "Code of West Virginia" or "The Code" means the Code of West Virginia of 1931, as amended.

(d) "Commission" or "Police Civil Service Commission" means the Police Civil Service Commission of the City of Nitro, West Virginia, duly constituted and appointed under the provisions of Section 7, Article 14, Chapter 8 of the Code of West Virginia, as amended.

(e) Except where reference is made to "Members" of the Commission, "Member" or Member of the paid Police Department" means and includes any individual employed by the Police Department of the City of Nitro who is clothed with police power of the state and being authorized to carry deadly weapons, make arrests, enforce traffic and other municipal ordinances, issue summonses for the violation of traffic and other municipal ordinances, issue summonses for the violation of traffic and other municipal ordinances, and perform other duties which are within the scope of active, general law enforcement.

(f) "Official citation" or "Official commendation" means any citation or commendation recommended by the Chief of Police and approved by the Mayor.

(g) "Promotion" means the process whereby persons advance from a given grade, rank or position within the Department to a higher one. The term "Promotion", in the discretion of the Commission, may also mean a raise in base pay not shared by other members of the same rank, grade or position. Incentive pay increased do not constitute a promotion if shared by or available to all members of the Department or available to all persons holding a given rank, grade or position.

(h) "Removing officer" means the Mayor of the City of Nitro.

(i) "Suspension, Discharge, Removal, or Reduction in Rank or Pay" means any such suspension, removal, discharge, or reduction in pay, regardless of the time period involved.

(j) "The Department" or "The Police Department" means the Police Department of the City of Nitro.

PART III - POLICE CIVIL SERVICE COMMISSION

3.01 Organization of the Commission.

(a) Membership -

The Commission shall consist of three members, whose appointment and removal shall be in accordance with the terms of Section 7, Article 14, Chapter 8 of the Code of West Virginia. No Commissioner shall hold any other office (other than the office of Notary Public) under the United States, this State, or any municipality, County or other political subdivision thereof; nor shall any Commissioner serve on any political committee or take any active part in the management of any political campaign.

(b) President; Vice President -

(1) At the first regularly scheduled meeting after the first day of June, each year, the three (3) members of the Commission shall elect one of their number to serve as President of the Commission and one of their number to serve as Vice President of the Commission. The term of each shall be one (1) year from the date of election.

(2) It shall be the duty of the President of the Commission to preside over meetings of the Commission and to generally act as spokesman for the Commission. The President shall also cause a complete record of Commission actions and activities to be kept.

(3) It shall be the duty of the Vice President of the Commission to perform the duties of the President in the event of the President's absence from a meeting, or in the event of the President's death, resignation from the Commission, or other permanent incapacity, until such time as a new member is appointed to the Commission and a new president is elected.

(4) In the event of the death, resignation or other incapacity of the President of the Commission, a new President shall be elected in the manner provided for above immediately following the appointment of a new member to the Commission.

(c) Quorum -

Except as hereinafter provided, two (2) members of the Commission shall constitute a quorum for the transaction of business.

(d) Meetings -

The Commission shall meet monthly, or at the call of the President or any member.

(e) Records to be Kept; City Clerk or City Recorder to act as Clerk -

The Commission shall cause minutes of its own proceedings, records of its examinations, recommendations of applicants received by the Commission or any other person entitled to receive such information, and any other records of the Commission's official acts to be kept as official records of the Commission. All such records shall be kept by the Commission for a period of ten (10) years. With the exception of recommendations of former employers, psychiatric examination reports, financial information and other information deemed by the Commission to be of a confidential nature, all such records, including all written causes of removal, shall, subject to reasonable regulation, be open to public inspection.

The City Clerk or City Recorder of the City of Nitro shall be ex officio Clerk of the Commission and shall supply to the Commission, without extra compensation, such clerical and stenographic services as may be required by the Commission.

(f) Annual Report -

The Commission shall, on or before the 31st day of March of every year, make an annual report to the Mayor showing its own actions, and its rules and regulations, and all of the exceptions (amendments) thereto in force, and the practical effects thereof, and any suggestions it may have for the more effectual accomplishment of the purposes of the Civil Service provisions of this article. Such report shall be made available for public inspection within five (5) days after the same shall have been delivered to the Mayor of the City.

3.02 Commission Purposes.

The purposes of the Commission shall be:

(a) To provide for employment security for the members of the paid police department of the City of ~~Nitro~~ by protecting said members from the vicissitudes which are present in the absence of Civil Service statutes, and

(b) To provide for a complete, all inclusive and non-discriminatory system for the appointment, promotion, reduction, removal and reinstatement of members of paid police departments, and

(c) To provide for an efficient, professional and competent police department to serve the City of ~~Nitro~~.

3.03 Liberal Construction.

These Regulations shall be liberally construed to accomplish the objectives and purposes of the Commission.

3.04 Powers and Duties of the Commission.

(a) The Commission shall provide for the implementation of the purposes of the Commission, and, in connection therewith the Commission:

(1) may make investigation, as a body or through a single Commissioner, concerning all matters touching the Commission, and in connection therewith administer oaths and affirmations and take testimony; and

(2) shall hold such hearings as may be required by law or such hearings as it may, in its discretion determine to be necessary, in accordance with these rules and regulations; and

(3) shall have the power to subpoena and require the attendance of witnesses, and the production of books and papers, in accordance with

the provisions of Section 10, Article 14, Chapter 3 of the Code of West Virginia; and

(4) shall have all powers expressed in the Code or these Regulations and such other powers as may be fairly implied there from. \_\_\_\_\_

PART IV - APPOINTMENT FROM LIST OF ELIGIBLES

4.01 Application of This Part.

Vacancies not filled by promotion, reinstatement, reduction or non-competitive examination (Provisional Appointment), shall be filled in accordance with the provisions of this section.

4.02 Commission to be Notified by Appointing Officer.

The appointing officer shall notify the Commission of any vacancy which he desires to fill by appointment. In conjunction with such notification, the appointing officer shall request that the names of three persons eligible for appointment be certified to him by the Commission.

4.03 Procedure Upon Receipt of Request from Appointing Officer.

Upon receipt of a request for such names from the appointing officer, the Commission may certify to the appointing officer names from any existing list of eligibles from which appointments shall be made. Alternatively, the Commission may terminate any existing list of eligibles, or, if no such list exists, the Commission shall proceed to establish a new list of eligibles in accordance with these Rules and Regulations and certify names from the new list of eligibles to the appointing officer.

4.04 Notice of Vacancy and Examinations.

(a) Upon receiving from the appointing officer the request for a list of eligibles, the Commission shall give public notice of the following:

(1) The fact that a vacancy or vacancies exist and that the same will be filled by appointment; and

(2) The requirements that must be satisfied in order to be placed on the list of eligibles; and

(3) The date on which the written competitive examinations for the position will be held; and

(4) The last date on which applications for the position will be accepted by the Commission; and

(5) Locations at which applications for the position may be obtained.

(b) Each such notice shall be:

(1) Published once a week for two (2) weeks in two (2) newspapers of general circulation in the City of Nitro; and ~~and~~

(2) Posted in a conspicuous place at the City Hall and at the Police Department Headquarters; and

(3) Distributed to such groups or organizations and in such manner as the Police Department or the Commission may direct.

#### 4.05 Applicants for Original Appointments.

(a) Age Requirement -

Applicants for original appointments shall be not less than eighteen (18) nor more than thirty-five (35) years of age on the date of his or her application; provided, however, persons qualifying for appointment by reinstatement under the provisions of Section 4.06 may be over thirty-five (35) years of age.

#### 4.06 Appointments by Reinstatement.

(a) An applicant for appointment to a vacancy may, at the Commission's discretion, be appointed by reinstatement without a competitive examination if he or she meets the following preliminary requirements:

(1) The applicant must have previously served with the Police Department of the City for a period of time in excess of the required probationary period, and

(2) Have not resigned from the Police Department at a time when charges of misconduct or other misfeasance were pending against the applicant, and

(3) Have resigned within two (2) years immediately preceding the date of his or her application, and

(4) Undergo a medical examination and such preliminary screening and testing as the Commission may require.

(b) All appointments by reinstatement shall be to only the lowest rank in the Department next above that of probationary patrolman.

(c) Officers appointed by reinstatement under the provisions of this section shall, for promotion purposes, be considered newly appointed officers, and shall lose all seniority accrued under previous appointments. The Department may determine the seniority of officers reappointed under this section for pay purposes.

(d) Persons reappointed under the provisions of this section may be nominated by direct submission of their names to the appointing officer or, in the sole discretion of the Commission, the name of such person may be incorporated into a new or existing list of eligibles.

#### 4.07 Form of Applications.

Applications for appointment shall be made on a form devised by the Commission which form shall be designated ~~Form 100~~. The form and content of ~~Form 100~~ may be varied from time to time by the Commission, provided that the form must solicit the following information: (a) the applicant's name, residence and post office address; (b) the citizenship, age, place and date of birth of the applicant; (c) the state of health and physical capacity of the applicant; (d) the businesses, employments and residences of the applicant for the previous three years; and (e) such other information relating to the applicant's fitness for appointment as the Commission may require. The information solicited and given on ~~Form 100~~ shall be given under oath or affirmation.



4.08

Commission to Establish Eligible List.

The Commission shall establish, by comprehensive evaluation and examination, an eligible list from the number of persons who make application for appointment to vacant position under the provisions of this part. The list eligibles, as so constituted, shall continue in full force and effect until (1) the list is exhausted by appointments therefrom or removal of names for other reasons, (2) the passage of three years' time from the date the list is established, or (3) until termination of the list by order of the Commission, whichever period is shorter.

4.09

CERTIFICATION REQUIREMENTS

No person may be employed as a law-enforcement officer by the City of Nitro, West Virginia on or after the effective date (Feb. 7, 1984) of this Ordinance unless the person is certified, or is certifiable in one of the manners specified in Chapter 30, Article 29, Sec. 5, Subsections (C) through (E) of the West Virginia State Code of 1931 as amended.

4.10

Refusal of Commission to Examine or Certify as Eligible

The Commission may refuse to examine or to certify as eligible an applicant who does not meet the age requirement of this Part, who is so physically disabled so as to be rendered unfit for performance of the duties of the position to which he aspires, who is addicted to the habitual use of intoxicating liquors or drugs, who has been guilty of any crime or of infamous or notoriously disgraceful conduct, who has been dismissed from public service for delinquency or misconduct, who has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in his application to the Commission in securing his eligibility, or who refuses to comply with the Rules and Regulations of the Commission. The Commission may refuse to examine or to certify as eligible an applicant based upon one of the above reasons, based upon information coming into its hands by way of the application, or any other source, prior to the date on which the applicant is appointed to fill a position by the appointing officer.

4.11

Special Rules Applicable to Eligible List for Probationary Patrolmen.

(a) Unless exempted by the Commission pursuant to the provisions of Sec. 4.06 (Reinstatement) or Part V, below, (Emergency Provisional Appointments), every applicant for the position of probationary patrolman who meets the age requirement specified in Sec. 4.05 shall be required to submit to the following testing and evaluation procedures:

(1) A competitive and written examination testing the applicant's suitability for appointment to the vacancy, and

(2) A medical examination testing the applicant's general condition of health, and

(3) A psychiatric examination testing the applicant's suitability for appointment, and

(4) A background investigation, and

(5) An oral interview.

(b) Each procedure shall be conducted in accordance with the provisions of Part X, below, and the form and content of examination and administering personnel shall be selected or approved by the Commission.

(c) To qualify for appointment, each applicant shall be required to achieve a score or evaluation on the examinations specified in paragraphs (a)(1)-(4) above which qualifies said applicant for appointment. The Commission shall determine, in its discretion, the level of achievement necessary to so qualify. Oral interviews shall be used only for the purpose of ranking persons who qualify for appointment.

(d) Upon completion of the testing and evaluation procedures, candidates who have qualified for appointment by achieving a qualifying result on each testing and evaluation procedure shall be ranked in order of merit, using the following formula:

(1) Written examination - seventy-five percent (75%) of total weight for ranking purposes;

(2) Oral examination - twenty-five percent (25%) of total weight for ranking purposes.

(3) Adjustments, if any, required by Section X.

(e) The list of applicants who qualify for appointment as probationary patrolmen, when so ranked by the Commission, shall constitute the list of eligibles from which names shall be submitted to the appointing officer, in accordance with Chapter 8, Article 14, Section 15 of the West Virginia State Code of 1931 as amended.

4:12 Anti-discrimination Provisions;  
Prohibited Inquiry.

No question on the applications or the examinations mentioned in this Part, whether oral or written, shall be framed or designed so as to elicit from any applicant information relating to such applicant's political or religious opinions or affiliations. No applicant shall be discriminated against on the basis of race, creed, sex, ethnic affiliations or religious or political opinions or affiliations.

PART V - PROVISIONAL APPOINTMENTS BY  
NON-COMPETITIVE EXAMINATION

5.01 (a) Applicability of This Part.

This Part shall apply to appointments made by the Commission after individuals are nominated to fill a vacancy provisionally upon non-competitive examination by the appointing officer.

(b) Nominations for Provisional Appointment;  
Form.

(1) Whenever, in the judgment of the appointing officer, there are urgent reasons for filling a vacancy provisionally by non-competitive examination, the appointing officer may nominate an individual to the Commission for appointment.

(2) Each such nomination shall contain:

(i) The urgent reasons for nominating such person rather than requesting a list of eligibles;

(ii) The name of the person nominated;

(iii) The expected duration of such person's tenure in the vacancy to be filled;

(iv) The vacancy to be filled; and

(v) A completed ~~Form~~ as an attachment.

(c) Approval of Application by Commission.

The Commission shall approve the application of the person nominated for provisional appointment by the appointing officer if, in its exclusive judgment, there are urgent reasons which justify deviation from the appointment procedures contained in Part IV of these Rules and Regulations, and, no eligible list was in effect on the date of the nomination.

(d) Provisional Appointment Procedures.

If the application of the person nominated for provisional appointment is approved by the Commission

the nominee's application shall be processed in the manner provided for in Part IV of these Rules and Regulations, except that the testing and evaluation procedures described therein shall only be used to determine the nominee's suitability for appointment and no public notice of such examinations shall be required.

(e) Limitations on Provisional Appointments.

No provisional appointment shall continue to be valid for a period in excess of three (3) months from the date the appointment is made by the appointing officer, nor shall successive provisional appointments be used to fill the same position.

PART VI - PROMOTIONS6.01 Application of This Part.

Every vacancy in positions on the Police Department of the City shall be filled in accordance with the provisions of this Part unless otherwise filled by appointment, reinstatement, reduction or non-competitive examination. It shall be the policy of the Commission to, insofar as is possible, fill vacancies by promotion.

6.02 Persons Eligible for Promotion.

Persons who have completed at least two (2) years' service in a grade shall be eligible to apply for promotion in accordance with the provisions of this Part. Said two-year period shall be the two years preceding the last day on which applications for promotion to a position may be accepted.

6.03 What Constitutes Promotion.

Promotion means the process whereby persons advance from a given grade, rank or position to a higher one. Promotion may also mean a raise in base pay not shared by other members of the same rank, grade or position. The Commission shall, in its discretion, determine whether a change in pay constitutes a promotion.

6.04 Commission to be Notified by Appointing Officer.

The appointing officer shall notify the Commission of any vacancy which he desires to fill by promotion. In conjunction with such notification, the appointing officer shall request that the name or names from the list of eligibles be certified to him by the Commission.

6.05 Procedure Upon Receipt of Request From Appointing Officer.

Upon receipt of a request for a list of eligibles from the appointing officer, the Commission may certify to the appointing officer any existing list of eligibles

from which promotions shall be made. Alternatively, the Commission may terminate any existing list of eligibles, or, if no such list exists, the Commission shall proceed to establish a new list of eligibles in accordance with these Rules and Regulations.

#### 6.06 Notice of Vacancy and Examinations.

(a) Upon receipt of the request for a list of eligibles from the appointing officer, the Commission shall give public notice of the following:

(1) The fact that a vacancy or vacancies exist and that the same will be filled by promotion; and

(2) The requirements that must be satisfied in order to be placed on the list of eligibles; and

(3) The date or dates on which written examinations for the position will be held; and

(4) The last date on which applications for the position will be accepted by the Commission; and

(5) The last date on which items may be added to an applicant's file and be given consideration; and

(6) Locations at which applications for the position may be obtained.

(b) Each such notice shall be:

(1) Published once a week for two (2) weeks in two (2) newspapers of general circulation in the City of Charleston; and

(2) Posted in a conspicuous place at the City Hall and at the Police Department Headquarters; and

(3) Distributed to such groups or organizations and in such manner as the Commission may direct.

#### 6.07 Form of Applications.

Applications for promotion shall be made on a form devised by the Commission, which form shall be

designated PCSC Form 2. The form and content of PCSC Form 2 may be varied from time to time by the Commission, provided that the form must solicit the following information: (a) the applicant's name, residence and post office address; (b) the citizenship, age, place and date of birth of the applicant; (c) the state of health and physical capacity of the applicant; (d) the employments and residences of the applicant for the previous three years; (e) the applicant's rank and time of service in that rank; (f) the applicant's assignment and time of service in that position; (g) the applicant's total years of service on the police department; and (h) such other information relating to the applicant's fitness for promotion as the Commission may require.

#### 6.08 Commission to Establish Eligible List

The Commission shall establish, by comprehensive evaluation and examination, an eligible list from the number of persons who make application for promotion to a vacant position under the provisions of this Part. The list of eligibles shall be forwarded to the appointing officer who shall promote persons to vacant positions. Unless otherwise specified herein, each eligible list shall continue in full force and effect until the list is exhausted, for one year or until terminated by the Commission, whichever period is shorter.

#### 6.09 Testing and Evaluation Required for Promotion

(a) Every applicant for promotion who meets the preliminary requirements therefor shall be evaluated by use of the following testing and evaluation procedures:

(1) A competitive written examination testing the applicant's suitability for promotion to the vacancy, and

(2) A qualifying medical examination testing the applicant's general condition of health, and

(3) An evaluation based on periodic departmental evaluations and length of service with the Department.



(b) Each test or evaluation shall be conducted in accordance with the provisions of Part X, below, and the form and content of examinations and the administering personnel shall be selected or approved by the Commission.

(c) Upon completion of the testing and evaluation procedures, candidates for promotion who have been qualified for promotion by achieving a passing result on each testing and evaluation procedure shall be ranked in order of merit, using the following formula:

(1) Written examination - fifty percent (50%) of total weight for ranking purposes.

(2) Departmental evaluation - thirty percent (30%) of total weight for ranking purposes.

(3) Seniority - twenty percent (20%) of total weight for ranking purposes.

(4) Adjustments, if any, required by Section X.

(d) The list of applicants who qualify for promotion, when so ranked by the Commission, shall constitute the list of eligibles from which the appointing officer shall award promotions, in order of merit.

6.10 Anti-discrimination Provisions;  
Prohibited Inquiry.

No question on the applications or the examinations mentioned in this Part shall be framed or designed so as to elicit from any applicant information relating to such applicant's political or religious opinions or affiliations. No applicant shall be discriminated against on the basis of race, creed, sex, ethnic affiliations or religious or political opinions or affiliations.

PART VII - GENERAL ENTITLEMENT TO HEARING; GRIEVANCES;  
REMOVAL, DISCHARGE, SUSPENSION OR REDUCTION  
IN RANK; REDUCTION IN SIZE OF DEPARTMENT.

7.01 Application of this Part.

(a) This Part shall govern and determine the right of an individual to a hearing before the Commission, and it shall operate to supplement the other provisions of law granting such a right.

(b) All hearings provided for in these Regulations shall be governed by the provisions relating to procedures found in Part VIII of these Regulations.

7.02 Persons Entitled to Hearing.

(a) Any person aggrieved by the Commission's refusal to accept an application for appointment or promotion, refusal to test or otherwise evaluate, refusal to certify as eligible, or any other act of the Commission during the appointment or promotion process operating to the detriment of such person, shall be entitled to a hearing before the Commission.

(b) Any member or group of members of the Police Department of the City of Nitro or any other person who believes that any of the provisions of the Civil Service Act or of these Rules and Regulations have been violated by virtue of any order or instruction issued in the Police Department, or any action or act of the Commission, may petition the Commission for a hearing. The Commission shall promptly consider any such petition, and may, in its discretion, grant such person or persons a hearing upon the issues raised in the petition.

(c) No member of the Police Department shall be removed, discharged, suspended or reduced in rank or pay, except for just cause; any person aggrieved by an action of the Department removing, discharging, suspending or reducing in rank or pay shall be entitled to a hearing.

(d) Any member of the Police Department sought to be removed by a citizen's petition provided for in Section 19, Article 14, Chapter 3 of the Code, shall be entitled to a hearing.

7.03 Special Rules Applicable to Cases of  
Removal, Discharge, Suspension, Reduction  
in Rank or Reduction in Pay.

(a) Notice of Charges; Answer -

In every case of removal, discharge, suspension or reduction in rank or pay, notice shall be given to the individual removed, discharged, suspended or reduced of the reasons therefor by the removing officer. A copy of such notice shall also be forwarded to the Commission for filing. Upon the filing of such notice, the affected member may demand an immediate hearing. If the affected member desires to file an answer to the charge against him, he shall do so within thirty (30) days of the receipt of such notice from the removing officer. A copy of said answer shall be forwarded to the Commission and to the removing officer. Such answer shall contain a demand for a hearing if the affected member desires a hearing.

(b) Hearing -

A hearing shall be held in accordance with the provisions of Part VIII of these Rules and Regulations, and shall be held within ten (10) days of the filing of the charges in writing and demand for a hearing by the affected member, or the filing of the answer thereto, whichever shall last occur. If an answer is filed, at least five (5) days' notice of the date, time and place of such hearing shall be given to the parties.

(c) Burden of Proof at Hearing -

At such hearing, the burden of proof shall be upon the removing officer to show just cause for his actions.

(d) Reinstatement or Other Relief -

If the removing officer fails to show just cause for his action at said hearing, the member removed, discharged, suspended or reduced ~~may~~ be reinstated with full pay forthwith, without any additional order, for the entire period during which he may have been prevented from performing his usual appointment, and no charges shall be officially recorded against his record. A written record of all testimony taken at

such hearing shall be kept and preserved by the Commission, which record shall be sealed and not open to public inspection if no appeal is taken from the action of the Commission.

7.04 Special Rules Applicable to Hearings Conducted by Reason of Petition for Vacating Appointments.

(a) Any three residents of the City of Nitro may file their written petition with the Police Civil Service Commission setting out therein the grounds upon which they believe a member of the paid Police Department of said City should be removed for violation of Subsection (a) of Section 19, Article 14, Chapter 6 of the Code.

(b) Notice of the filing of such petition shall be given by said Commission to the affected member, which notice shall require the said member to file a written answer to the charges set out in the petition within thirty (30) days of the date of said notice. Said answer shall contain a demand for a hearing if one is desired by the affected member; or without a demand therefor, the Commission may set a time for a public hearing on such charges, which hearing shall be within thirty (30) days of the filing of said answer, subject however, to any continuances which may in the discretion of the Commission be granted.

(c) The conduct of such hearing shall be in accordance with the provisions of Part VIII of these Rules and Regulations, and the relief granted by the Commission in the case of such petition shall be in accordance with the provisions of Section 20, Article 14, Chapter 6 of the Code.

7.05 Reduction in Size of Department.

If for reasons of economy or other justifiable cause it shall be necessary to reduce the number of persons employed as members of the paid Police Department of the City, said reduction shall be effected by suspending the last persons, including probationers, appointed to the Department, said removal being accomplished by suspending the number desired in inverse order of their appointment. In the event the Police Department shall again be increased in authorized

strength, members suspended under the terms of this Part shall be reinstated in inverse order of their suspension before any new appointment is made.

8.01 Application of This Part.

Unless otherwise specified in these or other rules and regulations, the rules in this section shall govern and apply to hearings conducted by the Commission pursuant to the authority vested in it under the laws of this State or regulations promulgated pursuant thereto.

8.02 Hearings by the Commission; Presiding Officer.

Hearings shall be conducted before the Commission. The Presiding Officer at a hearing shall be designated by the Commission and may be the President of the Commission, one of the Commissioners, or such other person as the Commission may designate.

8.03 Powers of Presiding Officer.

The Presiding Officer at every hearing may, subject to the rules set forth in this section:

(a) Conduct generally the hearing, and in connection therewith:

- (1) Administer oaths and affirmations;
- (2) Issue subpoenas authorized by law;
- (3) Rule on offers of proof and receive evidence;
- (4) Permit evidentiary depositions to be taken and read as in civil actions in the Circuit Courts of this State and discovery depositions with the consent of the Presiding Officer;
- (5) Regulate the course of the hearing;
- (6) Dispose of procedural requests or other matters;
- (7) Hold conferences for the settlement or simplification of the issues with the consent of the parties;

(8) Take any other action in connection with such hearing authorized by law; and

(9) With regard to each of these duties and powers, decisions by the Presiding Officer shall be subject to review by the Commission.

(b) In all cases, final orders and decisions shall be entered by the Commission. In no case shall a Presiding Officer enter a final order or decision.

#### 8.04 Notice of Hearing; Contents of Notice.

(a) Unless otherwise specified in these Rules and Regulations, no hearing shall be conducted under these rules or otherwise unless the parties to the proceeding shall have received written notice.

(b) Each written notice of the hearing shall contain the date, time and place of the hearing and a short and plain statement of matters which are to be the subject of or asserted at the hearing.

#### 8.05 Place of Hearing.

The date, time and place of each hearing shall be determined by the Commission or presiding officer.

#### 8.06 Representation at Hearings.

At hearings held pursuant to these Rules, any party may represent himself or be represented by an attorney at law admitted to practice before any Circuit Court of this State.

#### 8.07 Waiver of Evidentiary Presentation.

(a) Parties entitled to an evidentiary hearing may waive such right in writing, but unless all parties file timely waivers, a hearing will be conducted. Parties waiving such hearing need not appear.

(b) Any party who desires to submit written pleadings, comments or information in lieu of an evidentiary presentation may submit such documents to the Presiding Officer for consideration by the Commission.

(c) Waivers must be unequivocal and request the Commission to decide the matter at issue on the pleadings and written record in the case, including any stipulations the parties might enter.

(d) When a hearing is waived under the provisions of this section, the written record in the case shall be submitted to the Commission for decision.

8.08 Proposed Findings, Conclusions and Orders.

The Presiding Officer may request the submission of proposed findings of fact, conclusions of law and orders, together with a supporting brief. Such proposals and briefs, if submitted, shall be served upon all parties and shall contain adequate references to the authorities relied upon.

8.09 Hearings to be Public.

All hearings conducted under these Rules shall be open to the public.

8.10 Decision by the Commission.

(a) Upon completion of the proceedings provided for in these Rules and Regulations, the Commission shall review, consider and decide the case and enter, where appropriate, a decision and order.

(b) In cases where the members of the Commission are not present at a hearing, the Presiding Officer shall forward the record in the case to the Commission for decision, together with such written commentary and recommendations as the Presiding Officer deems appropriate. Such recommendations and commentary, if any, shall be made a part of the record of the case.



(8) Take any other action in connection with such hearing authorized by law; and

(9) With regard to each of these duties and powers, decisions by the Presiding Officer shall be subject to review by the Commission.

(b) In all cases, final orders and decisions shall be entered by the Commission. In no case shall a Presiding Officer enter a final order or decision.

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(b) Any party who desires to submit written pleadings, comments or information in lieu of an evidentiary presentation may submit such documents to the Presiding Officer for consideration by the Commission.

PART IX - CHIEF OF POLICE9.01 Appointment and Removal.

The appointment and removal of the Chief of Police shall be in accordance with the provisions of Section 17, Article 14, Chapter 8 of the Code of West Virginia and not in accordance with the provisions of these Regulations governing the appointment and removal of other officers.

ARTICLE 101 ADMINISTRATION OF THIS PART.

(a) This section shall govern and apply to the design, content, conduct, grading, posting of results and weighting of competitive examinations and other forms of evaluation used by the Commission in determining which applicants will be placed on a list of eligibles.

(b) All competitive examinations and other forms of evaluation for appointments or promotions to all positions shall be practical in their character, and shall relate to such matters, and include such inquiries, as will fully test the comparative merit and fitness of the individual or individuals examined to discharge the duties of employment sought by him or them.

(c) Competitive examinations and other forms of evaluation used by the Commission shall be administered in an order determined by the Commission. However, it shall be the policy of the Commission to administer the written examination testing each applicant's merit or fitness to discharge the employment sought by such applicant first wherever possible.

(d) At least seven (7) days' public notice of each examination or other form of evaluation shall be given to applicants for a position; provided, however, that the Commission may issue a complete schedule of all testing to be conducted during a series of examinations or evaluations, which schedule shall contain the times, dates and places of all examinations to be conducted in such series. In the event such schedule is used, public notice of the contents of such schedule shall be given at least seven (7) days prior to the time that the first examination or other form of evaluation in the series is given. By agreement of the Commission and an applicant or applicants, the provisions of this subsection may be waived.

(e) It shall be the policy of the Police Civil Service Commission to permit representatives of the press to visit, observe and record the events surrounding the examinations herein referred to insofar as it

is possible to allow them to do without disturbing applicants who are taking such examination. Representatives of the press may observe and be present at competitive examinations administered under the provisions of these regulations, subject to the following restrictions:

(1) Whenever the Commission determines that the number of press representatives seeking to attend an examination is so large that their attendance will disturb the candidates taking such examination or otherwise disrupt the conduct of such examination, the Commission may choose, in a fair and random method, five (5) representatives of the press to attend and observe such examination; and

(2) Representatives of the press attending such examination shall observe such examinations in a quiet and orderly fashion; and

(3) Representatives of the press shall under no circumstances interview or record by film, videotape, or any other electronic means any conversations or images in the area where the examinations are being conducted without prior approval of the Commission; and

(4) Representatives of the press not complying with these rules and regulations may be asked to leave the area of the examinations.

(f) Results of examinations shall be posted at the City Hall, at Police Department Headquarters, at the place of examination, and at such other places as the Commission deems appropriate.

(g) Whenever the Commission determines that an applicant is disqualified from appointment to the list of eligibles by reason of his failure to pass or qualify on one of the examinations or evaluations administered in a series, the Commission shall direct that that individual cease to participate further in the evaluation process hereinbelow outlined.

(h) All examinations and other forms of evaluation shall be designed and administered under the supervision of the Commission. In the Commission's

discretion, educators, private or public consultants and representatives of other police departments and other persons may be used to assist the Commission in designing and administering such examinations and other forms of evaluation.

10.02 General Rules Relating to Written Examinations.

(a) Grading of written examinations shall be by or under the supervision of the Commission. Each applicant shall be required to achieve a passing score on such written examination. A passing score shall be deemed to be that level of achievement which indicates to the Commission that the applicants taking the examination possess the requisite skills and knowledge to perform the duties of persons holding the positions for which application is being made.

(b) Results of written examinations shall be posted within 30 days after the written examination is administered by the Commission. A copy of the results shall be posted at the places described in Section 10.01(f), above. The Commission shall direct that individuals failing the written examination cease to participate further in any evaluation processes.

10.03 General Rules Relating to Conduct of Oral Examinations.

(a) As a part of the evaluation process, each applicant for appointment shall be administered an oral interview by the Commission.

(b) At such oral interview, a quorum of the Commission shall be present.

(c) Oral interviews for appointments shall test the applicant's general ability to assume the rank of probationary patrolman. In all cases, the Commission shall administer oral interviews in a fair and impartial manner. In no event shall applicants be discriminated against on account of race, creed, color or political or religious opinions or affiliations.

10.04 General Rules Relating to Other Examinations.(a) Medical Examinations -

The Commission shall cause each applicant for appointment or promotion to a position to undergo a medical examination. Such examination shall be conducted under the supervision of a board composed of two (2) doctors of medicine, appointed for such purpose by the appointing officer of the City. Such board must certify that an applicant is free from any bodily or mental defect, deformity or disease which might incapacitate him or her from the performance of the duties of the position desired and is physically fit to perform such duties. Said examination may be given prior to the written examination or after it, at the discretion of the Commission.

(b) Psychiatric Testing -

The Commission shall require applicants for appointment to a position to undergo psychiatric testing designed to test an applicant's mental fitness for service in the Police Department of the City of Charleston. Such examination shall be conducted by or under the supervision of one or more licensed psychiatrists or qualified psychologists selected and/or approved by the Commission.

(c) Background Investigations -

Background investigations required by the Commission shall be conducted by the Department. Such investigations shall have the following purposes:

(1) To verify information contained in applications;

(2) To inquire into matters relevant to the applicant's suitability for appointment; and

(3) To inquire into such other matters as the Commission may request.

(d) Confidentiality to be Maintained -

Results of all medical, psychiatric and background examinations conducted in connection with the evaluation processes shall be kept confidential and the

information contained therein shall be released only in accordance with the provisions of these Rules and Regulations.

(e) Certification of Fitness -

Each applicant shall be required to be deemed by the medical doctors, psychiatrist, psychologist or the person or agency administering such examinations to be fit for service on the Nitro ~~---~~ Police Department and the position to which the applicant aspires. Such fitness shall be determined after consulting a statement of standards presented to such medical doctors, psychiatrist or psychologist by the Police Civil Service Commission.

10.05 General Rules Relating to Departmental Evaluations for Promotional Purposes.

(A) For promotion purposes, the Commission shall consider each applicant's performance during his service with the Department.

(B) The Commission shall request from the Department an evaluation of each applicant designed to test each applicant's ability to assume the responsibilities of the position to which he aspires.

(C) The form and manner of evaluation submitted to the Commission by the Department shall be at the discretion of the Department; provided however, that the evaluation submitted to the Commission shall be determined in accordance with the following standards:

(1) The form of evaluation used by the Department shall measure each applicant's ability to assume the responsibilities of the position to which he aspires.

(2) The form of evaluation shall not discriminate on the basis of creed, color or political or religious opinions or affiliations. The Departmental evaluation shall indicate in what percentile the applicant ranks among his peers in terms of leadership potential at the time application is made.

(3) The evaluation submitted to the Commission by the Department shall be based upon reports generated within the Department. Evaluations shall be made periodically or made at the request of the Commission.

#### 10.06 PERSONNEL RECORDS.

It shall be the duty of the Chief of Police to establish and maintain a separate personnel file for every member of the Police Department of the City of Nitro. In this file there shall be placed memoranda of all discipline reports issued against any member of the Department; all letters of commendation or criticism or complaint received by the Department from any person; any memoranda, citation or other notice, either favorable or unfavorable; all records of any leaves of absence which are applicable toward retirement; a personal history of the person, which history shall include, among other things, a photograph, full name, home address, telephone number, marital status, number of children or other dependents, and dates of any military service; date of last employment in the Department; period of any previous employment; designation of current rank and assignment; departmental evaluations; the FBI fingerprint report; and all such other records or information as may be deemed pertinent to the member's employment. Such files shall be kept under lock and key at all times when not in use and shall be opened for inspection to no one except the Mayor, the Director of Public Safety, or a duly appointed Police Committee of the City Council only when acting under a direct order of the City Council, the Commission, and the Chief of Police.

#### 10.07 WEIGHTING OF VARIOUS EXAMINATIONS; RANKING OF APPLICANTS.

##### (a) Appointments -

(1) In accordance with the provisions of these Regulations, each appointment by the appointing officer shall be from a list of eligibles. The list of eligibles shall be established by the Commission by ranking applicants for appointment in order of merit in accordance with the following formula:



(a) Written examination score  
(based on a maximum of 100 points) X 0.75 = \_\_\_\_\_

plus

(b) Oral examination score  
(based on a maximum of 100 points) X 0.25 = \_\_\_\_\_

(2) To the total number of points awarded in accordance with the above formula, 1 point shall be added for each year or major fraction thereof (six months and one day shall mean major fraction of a year) up to a maximum of 3 points, that an applicant has served in the active armed forces of the United States.

(3) The total number of points, so calculated, shall constitute an applicant's score. Applicants shall be ranked in order of merit on the basis of such score and the list of eligibles constructed from such ranking.

(b) Promotions -

(1) In accordance with the provisions of these Regulations, promotions shall be made on the basis of a list of eligibles established by the Commission. The list of eligibles shall be established by ranking applicants for promotion in order of merit in accordance with the following formula:

(a) Written examination score  
(based on a maximum score of 100 points) X 0.50 = \_\_\_\_\_

plus

(b) Departmental evaluation  
score (based on a maximum score of 100 points) X 0.30 = \_\_\_\_\_

plus

(c) Ten points for each full  
year of service or major fraction thereof  
to a maximum of 100 points X 0.20 = \_\_\_\_\_

(2) To the total number of points awarded each applicant in accordance with the above formula, the following adjustments shall be made:

(a) From such score, 0.25 points shall be subtracted for each day of suspension in the past three years and if any applicant has received any one suspension of more than 10 days, an additional 0.25 points shall be subtracted for the 11th and each succeeding day of such suspension.

(b) To such score, 1.0 point shall be added for each official citation or commendation the applicant has received in the past three years, up to a maximum of five points.

(3) The total number of points so calculated, shall constitute each applicant's score. Applicants shall be ranked in accordance with their scores and a list of eligibles constructed therefrom.

#### 10.08 Eligible List.

(a) The Commission shall prepare and keep open to public inspection the eligible lists constructed in accordance with the terms of these Rules and Regulations. The persons on the list of eligibles shall be notified and be appointed or promoted from the list of eligibles in accordance with these Rules and Regulations.

## COUNCIL MEETING MINUTES

CITY OF NITRO

FEBRUARY 7, 1984

The regular meeting of the Nitro City Council was called to order by Mayor Arden D. Ashley at 7:30 p.m. in Council Chambers. Present were City Recorder John F. Santrock, Councilman at Large Rusty Casto, Councilman at Large Steve West, Councilman Joe Savilla, Councilman Romie Hughart and Councilman Omar Cunningham. Also present were City Treasurer Michael E. Greenleaf and City Attorney Phillip D. Gaujot. Absent were Councilwoman at Large Mary Trout and Councilman Jim Hutchinson.

The invocation was given by Councilman A. A. "Joe" Savilla.

AGENDA ITEM NO. 1 - APPROVAL OF JANUARY 24, 1984 COUNCIL MEETING MINUTES: Councilman at Large Rusty Casto moved that the January 24, 1984 Council meeting minutes be approved. The motion was seconded. The vote was unanimous and so ordered with amendments as follows: On Regulations of the Police Civil Service Commission 6.06 (b) (1) Change Charleston to Nitro, 6.09 (4) should read Part X instead of Section X and 10.04 (b) Change Charleston to Nitro. A revision to Ordinance 84-1 (Rules and Regulations Regulating the Use of All Recreational Properties and Facilities) as Section G was deleted, Section H should have been changed to Section G, Section I to Section H and Section J to Section I.

AGENDA 2 - CITIZEN OF THE MONTH - Mayor Ashley awarded the February "Citizen of the Month" award to Gene Brightwell. Gene has worked within the city and its programs, as a volunteer, for a long period of time. He has helped through Midget Basketball and through Little League Baseball programs. Having served all of these years as a volunteer in the City, he most recently was declared the Chairman of the State Little League Tournament that is going to be hosted by the City of Nitro.

AGENDA 3 - PROCLAMATION DECLARING FEBRUARY, 1984 VOLUNTEER MONTH - Mayor Ashley introduced the above proclamation and Councilman Romie Hughart moved for its passage. The motion was seconded. There being no discussion on the matter, the vote was taken and passed unanimously.

Proclamation as follows:

## RESOLUTION 84-2

A RESOLUTION RECOGNIZING THE SPIRIT  
OF VOLUNTEERISM THAT EXISTS IN NITRO  
AND DECLARING FEBRUARY, 1984 AS  
"VOLUNTEER MONTH"

WHEREAS, The City of Nitro has been fortunate in having many of it's Citizens show an interest in community involvement; and

WHEREAS, such community involvement always takes the form of volunteering to perform many vital and much-needed tasks; and

WHEREAS, it is this spirit of volunteerism that causes these individuals to sacrifice their time and effort on behalf of the City.

NOW, THEREFORE, be it resolved that the City Council of the City of Nitro recognizes the great effort put forth by the citizens of our community in this regard; and

BE IT FURTHER RESOLVED that the City Council of the City of Nitro declare February, 1984 as "Volunteer Month" for the express purpose of giving due recognition to these individuals.

Passed, this the 7th day of February, 1984.

  
-----  
MAYOR

\_\_\_\_\_  
RECORDER

AGENDA 4 - RESOLUTION WELCOMING THE 1984 STATE LITTLE LEAGUE TOURNAMENT AND PLEDGING ASSISTANCE TO NITRO LITTLE LEAGUE IN HOLDING EVENT Councilman A. A. "Joe" Savilla introduced the above resolution and moved for its passage. Motion was seconded. There being no discussion on the matter, the vote was taken and passed unanimously.

The resolution is as follows:

RESOLUTION 84-3

A RESOLUTION WELCOMING THE 1984  
STATE LITTLE LEAGUE TOURNAMENT AND  
PLEDGING ASSISTANCE TO NITRO LITTLE  
LEAGUE IN HOLDING THE EVENT.

WHEREAS, Nitro Little League has requested and been granted the 1984 State Little League Baseball Tournament; and

WHEREAS, Nitro Little League has requested the support and assistance of the City of Nitro in holding this event; and

WHEREAS, it is the stated purpose of Little League Baseball to be "dedicated to helping children become good and decent citizens." While providing "training under good leadership in the atmosphere of wholesome community participation; and

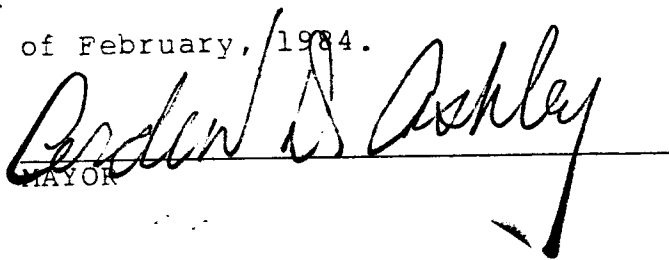
WHEREAS, the Little League Baseball program has been a vital part of youth service and recreation in Nitro since 1954; and

WHEREAS, there is a long established cooperative effort between the City of Nitro and the Nitro Little League to enrich the lives of the youth in our community; and

WHEREAS, an independent committee, the 1984 State Little League committee, has been formed to plan and operate the event.

NOW, THEREFORE, WE, the City Council of Nitro, West Virginia, do hereby welcome the 1984 State Little League Baseball Tournament to our city and resolve to provide assistance and advice to Nitro Little League and the 1984 State Little League Committee in the planning and operation of the event.

Passed, this the 7th day of February, 1984.

  
MAYOR

\_\_\_\_\_  
RECORDER

AGENDA 5 - WV CITIZEN ACTION GROUP'S REQUEST TO CANVASS IN NITRO-  
City Recorder made move that the West Virginia-Citizen Action Group be permitted to canvass Nitro from February 9, 1984 to March 9, 1984. He advised they would submit to us the amount of money received in Nitro and their budget. Motion was seconded. The vote was unanimous and so ordered.

AGENDA 6 - RECREATIONAL FACILITIES RENTAL FEES (A-RIDENOUR LAKE, B-CITY PARK, C-POOL & D-YMCA REQUEST - Councilman Omar Cunningham made motion that we accept the first reading of Ordinance -842  
Recreational Facilities - Rental fees as follows:

Ridenour Lake

Gazebo	\$50.00 all day	\$25.00 half day
Large Shelter (2)	\$40.00 all day	\$20.00 half day
Small Shelter (2)	\$20.00 all day	\$10.00 half day

A half day will run from either 8:00 a.m. to 3:00 p.m. or from 4:00 p.m. to 11:00 p.m.

City Park:

Large Softball Field- \$50.00 per day plus \$3.00 per hour lights are used: or

\$8.00 per hour without lights and  
\$11.00 per hour with lights.

Pavillion no fee if to be used in conjunction with softball field rental; or  
\$4.00 per hour

Swimming Pool \$25.00 per hour

Note: There will be no admittance charged to any event held at a rented facility without express written authorization of the City of Nitro.

There will be no selling of concessions at any rented facility without the written authorization of the City of Nitro.

Motion was seconded. After discussion, vote was taken and there was one abstaining vote of Councilman at Large Steve West.

Presented to Council was YMCA-West request to use the Nitro Pool for their Summer Learn to Swim program, and to promote their YMCA Camp. They would need to reserve the large shelter every day Monday through Friday 7:00 a.m. to 4:00 p.m. Councilman at Large Rusty Casto moved we accept and approve request as written. Motion was seconded. After much discussion, Councilman Rusty Casto withdrew his motion. Second was withdrawn. Councilman at Large Steve West made motion to table. Recreational Director John Simms suggested a Committee be formed which Councilman at Large Steve West wanted included in his motion. Committee consists of Councilman at Large Rusty Casto, Councilman at Large Steve West, Councilman Joe Savilla, Councilman Omar Cunningham and Recreational Director John Simms. This Committee will meet with YMCA-West Officials and report back to Council.

AGENDA 7 - AMERICAN HEART ASSOCIATION'S REQUEST TO CONDUCT ITS ANNUAL HEART FUND DRIVE - Mayor Ashley read the request from the Kanawha Valley Heart Association to obtain permission for its Annual Heart Fund Drive during the month of February, 1984 in the City of Nitro. Council A. A. "Joe" Savilla moved that the request be granted. Motion was seconded. The vote was unanimous and approved.

AGENDA 8 - CITY ELECTION - VOTOMATICS OR PAPER BALLOTS - Recorder John Santrock advised that City Council should decide and vote whether the use of Votomatics or Paper ballots are to be used in the coming election. Councilman Romie Hughart made motion to use the Votomatics. Motion was seconded. There being no discussion on the matter, the vote was taken and passed unanimously.

AGENDA NO. 9 - SECOND READING OF ORDINANCE APPROVING THE RULES AND REGULATIONS OF THE POLICE CIVIL SERVICE OF THE CITY OF NITRO City Recorder John F. Santrock made motion that the Rules and Regulations be adopted for the second reading. Motion was seconded. Councilman at Large Steve West made motion for the addition of language to 4.10 as follows: "The Commission may refuse to examine or certify as eligible anyone not possessing a valid West Virginia Operators or Chauffers license." The motion was seconded. The vote was taken and passed unanimously. Councilman at Large Steve West moved to change the word June to February under 3.01 (b). Motion was seconded. The vote was taken and passed unanimously. Councilman Romie Hughart moved to amend 1.04 (Amendments) changing twenty (20) days to a period of forty-five (45) days. Motion seconded. Councilman Romie Hughart withdrew his motion and second was withdrawn. Councilman Romie Hughart moved to have deleted from 1.04 "or twenty (20) days after their submission to said Mayor and the City Council" from the Regulations of the Police Civil Service Commission of the City of Nitro. Motion was seconded. Majority of Council voted yes with Councilman at Large Steve West voting no. Amendment passed. Councilman at Large Steve West moved to delete from 4.11a "shall be required to submit to the following testing and evaluation procedure and add to 4.11a after vacancy," shall be required to the following testing and evaluation procedure and delete the word "and". Also to add to 4.11 a "and who has passed. Motion was seconded. Vote was taken and passed unanimously. Councilman at Large Steve West moved to add to 6.08 a comma after vacant positions "in order of merit". Amendment was seconded. Vote was taken and passed unanimously. Councilman A. A. "Joe" Savilla moved to amend 4.04 by deleting A2 and changing numbers 1 through 4 instead of 1 through 5, and 6.06 deleting A 2 and changing numbers 1 through 5 instead of 1 through 6. Motion was seconded. Vote was taken and passed with Councilman at Large Steve West voting no. Councilman at Large Rusty Casto moved that the question be called to approve the second reading of the Ordinance approving the Rules and Regulations of the Police Civil Service of the City of Nitro. The Council voted to approve the Ordinance as amended. Councilman at Large Steve West voting in the negative.

AMENDED RULES & REGULATIONS AS FOLLOWS:

REGULATIONS OF  
THE POLICE CIVIL SERVICE COMMISSION  
OF  
THE CITY OF NITRO, WEST VIRGINIA

Submitted to the Mayor and City Council  
on Tuesday, January 24, 1984

Commissioners:

Gary Hill, President  
Charles Workman, Commissioner  
Charles Miller, Commissioner



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REGULATIONS OF  
THE POLICE CIVIL SERVICE COMMISSION  
OF THE  
CITY OF NITRO, WEST VIRGINIA

PART I - GENERAL

1.01 Authority for Promulgation

The Rules and Regulations contained herein are promulgated pursuant to the authority vested in the Police Civil Service Commission of the City of Nitro, West Virginia by Section 10, Article 14, chapter 8 of the Code of West Virginia, as amended.

1.02 Effective Date

The Rules and Regulations contained herein become effective after they have been approved by the Mayor and City Council of the City of Nitro or after the passage of twenty (20) days from the date of submission of these Rules and Regulations to said Mayor and City Council, whichever date is sooner.

1.03 Distribution of Copies

Copies of these Rules and Regulations, as adopted by the Mayor and the City Council, shall be distributed in printed form to each member of the police force within a reasonable time after they become effective, at the expense of the City of Nitro. Thereafter, each person appointed to said force shall be issued a copy of these Rules and Regulations.

1.04 Amendments

Amendments to these Rules and Regulations may be adopted from time to time by the Commission and shall become effective on the date of their approval by the Mayor and the City Council. Copies of amendments to these Rules and Regulations shall be posted in a conspicuous place at the Nitro City Hall, at the Police Department Headquarters, and at such other places as the Commission may direct.

PART II - DEFINITIONS

2.01 As used in these Regulations, the term or phrase:

(a) "Appointing Officer" means the Mayor of the City of Nitro, West Virginia.

(b) "Appointment" means the process whereby vacancies not filled by promotion, reinstatement, reduction or non-competitive examination (provisional appointment) are filled by persons making an original entry into the Department.

(c) "Code of West Virginia" or "The Code" means the Code of West Virginia of 1931, as amended.

(d) "Commission" or "Police Civil Service Commission" means the Police Civil Service Commission of the City of Nitro, West Virginia, duly constituted and appointed under the provisions of Section 7, Article 14, Chapter 8 of the Code of West Virginia, as amended.

(e) Except where reference is made to "Members" of the Commission, "Member" or Member of the paid Police Department" means and includes any individual employed by the Police Department of the City of Nitro who is clothed with police power of the state and being authorized to carry deadly weapons, make arrests, enforce traffic and other municipal ordinances, issue summonses for the violation of traffic and other municipal ordinances, issue summonses for the violation of traffic and other municipal ordinances, and perform other duties which are within the scope of active, general law enforcement.

(f) "Official citation" or "Official commendation" means any citation or commendation recommended by the Chief of Police and approved by the Mayor.

(g) "Promotion" means the process whereby persons advance from a given grade, rank or position within the Department to a higher one. The term "Promotion", in the discretion of the Commission, may also mean a raise in base pay not shared by other members of the same rank, grade or position. Incentive pay increased do not constitute a promotion if shared by or available to all members of the Department or available to all persons holding a given rank, grade or position.

(h) "Removing officer" means the Mayor of the City of Nitro.

(i) "Suspension, Discharge, Removal, or Reduction in Rank or Pay" means any such suspension, removal, discharge, or reduction in pay, regardless of the time period involved.

(j) "The Department" or "The Police Department" means the Police Department of the City of Nitro.

PART III - POLICE CIVIL SERVICE COMMISSION

1.01 Organization of the Commission.

(a) Membership -

The Commission shall consist of three members, whose appointment and removal shall be in accordance with the terms of Section 7, Article 14, Chapter 8 of the Code of West Virginia. No Commissioner shall hold any other office (other than the office of Notary Public) under the United States, this State, or any municipality, County or other political subdivision thereof; nor shall any Commissioner serve on any political committee or take any active part in the management of any political campaign.

(b) President; Vice President -

(1) At the first regularly scheduled meeting after the first day of February each year, the three (3) members of the Commission shall elect one of their number to serve as President of the Commission and one of their number to serve as Vice President of the Commission. The term of each shall be one (1) year from the date of election.

(2) It shall be the duty of the President of the Commission to preside over meetings of the Commission and to generally act as spokesman for the Commission. The President shall also cause a complete record of Commission actions and activities to be kept.

(3) It shall be the duty of the Vice President of the Commission to perform the duties of the President in the event of the President's absence from a meeting, or in the event of the President's death, resignation from the Commission, or other permanent incapacity, until such time as a new member is appointed to the Commission and a new president is elected.

(4) In the event of the death, resignation or other incapacity of the President of the Commission, a new President shall be elected in the manner provided for above immediately following the appointment of a new member to the Commission.

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(c) Quorum -

Except as hereinafter provided, two (2) members of the Commission shall constitute a quorum for the transaction of business.

(d) Meetings -

The Commission shall meet monthly, or at the call of the President or any member.

(e) Records to be Kept; City Clerk or City Recorder to act as Clerk -

The Commission shall cause minutes of its own proceedings, records of its examinations, recommendations of applicants received by the Commission or any other person entitled to receive such information, and any other records of the Commission's official acts to be kept as official records of the Commission. All such records shall be kept by the Commission for a period of ten (10) years. With the exception of recommendations of former employers, psychiatric examination reports, financial information and other information deemed by the Commission to be of a confidential nature, all such records, including all written causes of removal, shall, subject to reasonable regulation, be open to public inspection.

The City Clerk or City Recorder of the City of Niagara shall be ex officio Clerk of the Commission and shall supply to the Commission, without extra compensation, such clerical and stenographic services as may be required by the Commission.

(f) Annual Report -

The Commission shall, on or before the 31st day of March of every year, make an annual report to the Mayor showing its own actions, and its rules and regulations, and all of the exceptions (amendments) thereto in force, and the practical effects thereof, and any suggestions it may have for the more effectual accomplishment of the purposes of the Civil Service provisions of this article. Such report shall be made available for public inspection within five (5) days after the same shall have been delivered to the Mayor of the City.



### 3.02 Commission Purposes.

The purposes of the Commission shall be:

(a) To provide for employment security for the members of the paid police department of the City of ~~Nitro~~ by protecting said members from the vicissitudes which are present in the absence of Civil Service statutes, and

(b) To provide for a complete, all inclusive and non-discriminatory system for the appointment, promotion, reduction, removal and reinstatement of members of paid police departments, and

(c) To provide for an efficient, professional and competent police department to serve the City of ~~Nitro~~.

### 3.03 Liberal Construction.

These Regulations shall be liberally construed to accomplish the objectives and purposes of the Commission.

### 3.04 Powers and Duties of the Commission.

(a) The Commission shall provide for the implementation of the purposes of the Commission, and, in connection therewith the Commission:

(1) may make investigation, as a body or through a single Commissioner, concerning all matters touching the Commission, and in connection therewith administer oaths and affirmations and take testimony; and

(2) shall hold such hearings as may be required by law or such hearings as it may, in its discretion determine to be necessary, in accordance with these rules and regulations; and

(3) shall have the power to subpoena and require the attendance of witnesses, and the production of books and papers, in accordance with

the provisions of Section 10, Article 14, Chapter 3 of the Code of West Virginia; and

(4) shall have all powers expressed in the Code or these Regulations and such other powers as may be fairly implied there from. \_\_\_\_\_

# PART IV - APPOINTMENT FROM LIST OF ELIGIBLES

## 4.01 Application of This Part.

Vacancies not filled by promotion, reinstatement, reduction or non-competitive examination (Provisional Appointment), shall be filled in accordance with the provisions of this section.

## 4.02 Commission to be Notified by Appointing Officer.

The appointing officer shall notify the Commission of any vacancy which he desires to fill by appointment. In conjunction with such notification, the appointing officer shall request that the names of three persons eligible for appointment be certified to him by the Commission.

## 4.03 Procedure Upon Receipt of Request from Appointing Officer.

Upon receipt of a request for such names from the appointing officer, the Commission may certify to the appointing officer names from any existing list of eligibles from which appointments shall be made. Alternatively, the Commission may terminate any existing list of eligibles, or, if no such list exists, the Commission shall proceed to establish a new list of eligibles in accordance with these Rules and Regulations and certify names from the new list of eligibles to the appointing officer.

## 4.04 Notice of Vacancy and Examinations.

(a) Upon receiving from the appointing officer the request for a list of eligibles, the Commission shall give public notice of the following:

(1) The fact that a vacancy or vacancies exist and that the same will be filled by appointment; and

(2) The date on which the written competitive examinations for the position will be held; and

(3) The last date on which applications for the position will be accepted by the Commission; and

(4) Locations at which applications for the position may be obtained.

(b) Each such notice shall be:

(1) Published once a week for two (2) weeks in two (2) newspapers of general circulation in the City of Nitro; and ~~and~~

(2) Posted in a conspicuous place at the City Hall and at the Police Department Headquarters; and

(3) Distributed to such groups or organizations and in such manner as the Police Department or the Commission may direct.

#### 4.05 Applicants for Original Appointments.

(a) Age Requirement -

Applicants for original appointments shall be not less than eighteen (18) nor more than thirty-five (35) years of age on the date of his or her application; provided, however, persons qualifying for appointment by reinstatement under the provisions of Section 4.06 may be over thirty-five (35) years of age.

#### 4.06 Appointments by Reinstatement.

(a) An applicant for appointment to a vacancy may, at the Commission's discretion, be appointed by reinstatement without a competitive examination if he or she meets the following preliminary requirements:

(1) The applicant must have previously served with the Police Department of the City for a period of time in excess of the required probationary period, and

(2) Have not resigned from the Police Department at a time when charges of misconduct or other misfeasance were pending against the applicant, and

(3) Have resigned within two (2) years immediately preceding the date of his or her application, and

(4) Undergo a medical examination and such preliminary screening and testing as the Commission may require.

(b) All appointments by reinstatement shall be to only the lowest rank in the Department next above that of probationary patrolman.

(c) Officers appointed by reinstatement under the provisions of this section shall, for promotion purposes, be considered newly appointed officers, and shall lose all seniority accrued under previous appointments. The Department may determine the seniority of officers reappointed under this section for pay purposes.

(d) Persons reappointed under the provisions of this section may be nominated by direct submission of their names to the appointing officer or, in the sole discretion of the Commission, the name of such person may be incorporated into a new or existing list of eligibles.

#### 4.07 Form of Applications.

Applications for appointment shall be made on a form devised by the Commission which form shall be designated PCSC FORM. The form and content of PCSC FORM may be varied from time to time by the Commission, provided that the form must solicit the following information: (a) the applicant's name, residence and post office address; (b) the citizenship, age, place and date of birth of the applicant; (c) the state of health and physical capacity of the applicant; (d) the businesses, employments and residences of the applicant for the previous three years; and (e) such other information relating to the applicant's fitness for appointment as the Commission may require. The information solicited and given on PCSC FORM shall be given under oath or affirmation.

4.08 Commission to Establish Eligible List.

The Commission shall establish, by comprehensive evaluation and examination, an eligible list from the number of persons who make application for appointment to a vacant position under the provisions of this part. The list of eligibles, as so constituted, shall continue in full force and effect until (1) the list is exhausted by by appointments therefrom or removal of names for other reasons, (2) the passage of three years' time from the date the list is established, or (3) until termination of the list by order of the Commission, whichever period is shorter.

4.09 CERTIFICATION REQUIREMENTS

No person may be employed as a law-enforcement officer by the City of Nitro, West Virginia on or after the effective date (Feb. 7, 1984) of this Ordinance unless the person is certified, or is certifiable in one of the manners specified in Chapter 30, Article 29, Sec. 5, Subsections (C) through (E) of the West Virginia State Code of 1931 as amended.

4.10 Refusal of Commission to Examine or Certify as Eligible

The Commission may refuse to examine or to certify as eligible an applicant who does not meet the age requirement of this Part, who is so physically disabled so as to be rendered unfit for performance of the duties of the position to which he aspires, who is addicted to the habitual use of intoxicating liquors or drugs, who has been guilty of any crime or of infamous or notoriously disgraceful conduct, who has been dismissed from public service for delinquency or misconduct, who has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in his application to the Commission in securing his eligibility, or who refuses to comply with the Rules and Regulations of the Commission. The Commission may refuse to examine or to certify as eligible an applicant based upon one of the above reasons, based upon information coming into its hands by way of the application, or any other source, prior to the date on which the applicant is appointed to fill a position by the appointing officer. The Commission may refuse to examine or certify as eligible anyone not possessing a valid WV Operators or Chauffers License

4.11 Special Rules Applicable to Eligible List for Probationary Patrolmen.

(a) Unless exempted by the Commission pursuant to the provisions of Sec. 4.06 (Reinstatement) or Part V, below, (Emergency Provisional Appointments), every

applicant for the position of probationary patrolman who meets the age requirement specified in Sec. 4.05, and who has passed. A competitive and written examination testing the applicant's suitability for appointment to the vacancy shall be required to submit to the following testing and evaluation procedures:

- (1) A medical examination testing the applicant's general condition of health, and
- (2) A psychiatric examination testing the applicant's suitability for appointment, and
- (3) A background investigation, and
- (4) An oral interview.

(b) Each procedure shall be conducted in accordance with the provisions of Part X, below, and the form and content of examination and administering personnel shall be selected or approved by the Commission.

(c) To qualify for appointment, each applicant shall be required to achieve a score or evaluation on the examinations specified in paragraphs (a) (1) - (4) above which qualifies said applicant for appointment.

(d) Upon completion of the testing and evaluation procedures, candidates who have qualified for appointment by achieving a qualifying result on each testing and evaluation procedure shall be ranked in order of merit, using the following formula:

- (1) Written examination - seventy-five percent (75%) of total weight for ranking purposes;
- (2) Oral examination - twenty-five percent (25%) of total weight for ranking purposes
- (3) Adjustments, if any, required by Section X.

(e) The list of applicants who qualify for appointment as probationary patrolmen, when so ranked by the Commission, shall constitute the list of eligibles from which names shall be submitted to the appointing officer, in accordance with Chapter 8, Article 14, Section 15 of the West Virginia State Code of 1931 as amended.

#### 4.12 Anti-discrimination Provisions; Prohibited Inquiry.

No question on the application or the examinations mentioned in this Part, whether oral or written, shall be framed or designed so as to elicit from any applicant information relating to such applicant's political or religious opinions or affiliations. No applicant shall be discriminated against on the basis of race, creed, sex, ethnic affiliations or religious or political opinions or affiliations.

PART V - PROVISIONAL APPOINTMENTS BY  
NON-COMPETITIVE EXAMINATION

5.01 (a) Applicability of This Part.

This Part shall apply to appointments made by the Commission after individuals are nominated to fill a vacancy provisionally upon non-competitive examination by the appointing officer.

(b) Nominations for Provisional Appointment;  
Form.

(1) Whenever, in the judgment of the appointing officer, there are urgent reasons for filling a vacancy provisionally by non-competitive examination, the appointing officer may nominate an individual to the Commission for appointment.

(2) Each such nomination shall contain:

(i) The urgent reasons for nominating such person rather than requesting a list of eligibles;

(ii) The name of the person nominated;

(iii) The expected duration of such person's tenure in the vacancy to be filled;

(iv) The vacancy to be filled; and

(v) A completed PCSC FORM            as an attachment.

(c) Approval of Application by Commission.

The Commission shall approve the application of the person nominated for provisional appointment by the appointing officer if, in its exclusive judgment, there are urgent reasons which justify deviation from the appointment procedures contained in Part IV of these Rules and Regulations, and, no eligible list was in effect on the date of the nomination.

(d) Provisional Appointment Procedures.

If the application of the person nominated for provisional appointment is approved by the Commission



the nominee's application shall be processed in the manner provided for in Part IV of these Rules and Regulations, except that the testing and evaluation procedures described therein shall only be used to determine the nominee's suitability for appointment and no public notice of such examinations shall be required.

(e) Limitations on Provisional Appointments.

No provisional appointment shall continue to be valid for a period in excess of three (3) months from the date the appointment is made by the appointing officer, nor shall successive provisional appointments be used to fill the same position.

PART VI - PROMOTIONS6.01 Application of This Part.

Every vacancy in positions on the Police Department of the City shall be filled in accordance with the provisions of this Part unless otherwise filled by appointment, reinstatement, reduction or non-competitive examination. It shall be the policy of the Commission to, insofar as is possible, fill vacancies by promotion.

6.02 Persons Eligible for Promotion.

Persons who have completed at least two (2) years' service in a grade shall be eligible to apply for promotion in accordance with the provisions of this Part. Said two-year period shall be the two years preceding the last day on which applications for promotion to a position may be accepted.

6.03 What Constitutes Promotion.

Promotion means the process whereby persons advance from a given grade, rank or position to a higher one. Promotion may also mean a raise in base pay not shared by other members of the same rank, grade or position. The Commission shall, in its discretion, determine whether a change in pay constitutes a promotion.

6.04 Commission to be Notified by Appointing Officer.

The appointing officer shall notify the Commission of any vacancy which he desires to fill by promotion. In conjunction with such notification, the appointing officer shall request that the name or names from the list of eligibles be certified to him by the Commission.

6.05 Procedure Upon Receipt of Request From Appointing Officer.

Upon receipt of a request for a list of eligibles from the appointing officer, the Commission may certify to the appointing officer any existing list of eligibles

from which promotions shall be made. Alternatively, the Commission may terminate any existing list of eligibles, or, if no such list exists, the Commission shall proceed to establish a new list of eligibles in accordance with these Rules and Regulations.

#### 6.06 Notice of Vacancy and Examinations

(a) Upon receipt of the request for a list of eligibles from the appointing officer, the Commission shall give public notice of the following:

- (1) The fact that a vacancy or vacancies exist and that the same will be filled by promotion; and
- (2) The date or dates on which written examinations for the position will be held; and
- (3) The last date on which applications for the position will be accepted by the Commission; and
- (4) The last date on which items may be added to an applicant's file and be given consideration; and
- (5) Locations at which applications for the position may be obtained.

(b) Each such notice shall be:

- (1) Published once a week for two (2) weeks in two newspapers of general circulation in the City of Nitro and
- (2) Posted in a conspicuous place at the City Hall and at the Police Department Headquarters; and
- (3) Distributed to such groups or organizations and in such manner as the Commission may direct.

#### 6.07 Form of Application

Applications for promotion shall be made on a form devised by the Commission, which form shall be designated PCSC Form 2. The form and content of PCSC Form 2 may be varied from time to time by the Commission, provided that the form must solicit the following information: (a) The applicant's name, residence and post office address; (b) the citizenship, age, place and date of birth of the applicant; (c) the state of health and physical capacity of the applicant; (d) the employments and residences of the applicant for the previous three years; (e) the applicant's rank and time of service in that rank; (f) the applicant's assignment and time of service in that position; (g) the applicant's total years of service on the police department;

and (h) such other information relating to the applicant's fitness for promotion as the Commission may require.

6.08 Commission to Establish Eligible List

The Commission shall establish, by comprehensive evaluation and examination, an eligible list from the number of persons who make application for promotion to a vacant position under the provisions of this Part. The list of eligibles shall be forwarded to the appointing officer who shall promote persons to vacant positions, in order of merit. Unless otherwise specified herein, each eligible list shall continue in full force and effect until the list is exhausted, for one year or until terminated by the Commission, whichever period is shorter.

6.09 Testing and Evaluation Required for Promotion

(a) Every applicant for promotion who meets the preliminary requirements therefor shall be evaluated by use of the following testing and evaluation procedures:

(1) A competitive written examination testing the applicant's suitability for promotion to the vacancy, and

(2) A qualifying medical examination testing the applicant's general condition of health, and

(3) An evaluation based on periodic departmental evaluations and length of service with the Department.

(b) Each test or evaluation shall be conducted in accordance with the provisions of Part X, below, and the form and content of examinations and the administering personnel shall be selected or approved by the Commission.

(c) Upon completion of the testing and evaluation procedures, candidates for promotion who have been qualified for promotion by achieving a passing result on each testing and evaluation procedure shall be ranked in order of merit, using the following formula:

(1) Written examination - fifty percent (50%) of total weight for ranking purposes.

(2) Departmental evaluation - thirty percent (30%) of total weight for ranking purposes.

(3) Seniority - twenty percent (20%) of total weight for ranking purposes.

(4) Adjustments, if any, required by Part X.

(d) The list of applicants who qualify for promotion, when so ranked by the Commission, shall constitute the list of eligibles from which the appointing officer shall award promotions, in order of merit.

#### 6.10 Anti-discrimination Provisions: Prohibited Inquiry.

No question on the applications or the examinations mentioned in this Part shall be framed or designed so as to elicit from any applicant information relating to such applicant's political or religious opinions or affiliations. No applicant shall be discriminated against on the basis of race, creed, sex, ethnic affiliations or religious or political opinions or affiliations.

PART VII - GENERAL ENTITLEMENT TO HEARING; GRIEVANCES;  
REMOVAL, DISCHARGE, SUSPENSION OR REDUCTION  
IN RANK; REDUCTION IN SIZE OF DEPARTMENT.

7.01 Application of this Part.

(a) This Part shall govern and determine the right of an individual to a hearing before the Commission, and it shall operate to supplement the other provisions of law granting such a right.

(b) All hearings provided for in these Regulations shall be governed by the provisions relating to procedures found in Part VIII of these Regulations.

7.02 Persons Entitled to Hearing.

(a) Any person aggrieved by the Commission's refusal to accept an application for appointment or promotion, refusal to test or otherwise evaluate, refusal to certify as eligible, or any other act of the Commission during the appointment or promotion process operating to the detriment of such person, shall be entitled to a hearing before the Commission.

(b) Any member or group of members of the Police Department of the City of Nitro or any other person who believes that any of the provisions of the Civil Service Act or of these Rules and Regulations have been violated by virtue of any order or instruction issued in the Police Department, or any action or act of the Commission, may petition the Commission for a hearing. The Commission shall promptly consider any such petition, and may, in its discretion, grant such person or persons a hearing upon the issues raised in the petition.

(c) No member of the Police Department shall be removed, discharged, suspended or reduced in rank or pay, except for just cause; any person aggrieved by an action of the Department removing, discharging, suspending or reducing in rank or pay shall be entitled to a hearing.

(d) Any member of the Police Department sought to be removed by a citizen's petition provided for in Section 10, Article 14, Chapter 8 of the Code, shall be entitled to a hearing.

7.03

Special Rules Applicable to Cases of  
Removal, Discharge, Suspension, Reduction  
in Rank or Reduction in Pay.

(a) Notice of Charges; Answer -

In every case of removal, discharge, suspension or reduction in rank or pay, notice shall be given to the individual removed, discharged, suspended or reduced of the reasons therefor by the removing officer. A copy of such notice shall also be forwarded to the Commission for filing. Upon the filing of such notice, the affected member may demand an immediate hearing. If the affected member desires to file an answer to the charge against him, he shall do so within thirty (30) days of the receipt of such notice from the removing officer. A copy of said answer shall be forwarded to the Commission and to the removing officer. Such answer shall contain a demand for a hearing if the affected member desires a hearing.

(b) Hearing -

A hearing shall be held in accordance with the provisions of Part VIII of these Rules and Regulations, and shall be held within ten (10) days of the filing of the charges in writing and demand for a hearing by the affected member, or the filing of the answer thereto, whichever shall last occur. If an answer is filed, at least five (5) days' notice of the date, time and place of such hearing shall be given to the parties.

(c) Burden of Proof at Hearing -

At such hearing, the burden of proof shall be upon the removing officer to show just cause for his actions.

(d) Reinstatement or Other Relief -

If the removing officer fails to show just cause for his action at said hearing, the member removed, discharged, suspended or reduced ~~be~~ be reinstated with full pay forthwith, without any additional order, for the entire period during which he may have been prevented from performing his usual appointment, and no charges shall be officially recorded against his record. A written record of all testimony taken at

Commission, which record shall be sealed and not open to public inspection if no appeal is taken from the action of the Commission.

7.04- Special Rules Applicable to Hearings Conducted by Reason of Petition for Vacating Appointments.

(a) Any three residents of the City of Nitro may file their written petition with the Police Civil Service Commission setting out therein the grounds upon which they believe a member of the paid Police Department of said City should be removed for violation of Subsection (a) of Section 19, Article 14, Chapter 6 of the Code.

(b) Notice of the filing of such petition shall be given by said Commission to the affected member, which notice shall require the said member to file a written answer to the charges set out in the petition within thirty (30) days of the date of said notice. Said answer shall contain a demand for a hearing if one is desired by the affected member; or without a demand therefor, the Commission may set a time for a public hearing on such charges, which hearing shall be within thirty (30) days of the filing of said answer, subject however, to any continuances which may in the discretion of the Commission be granted.

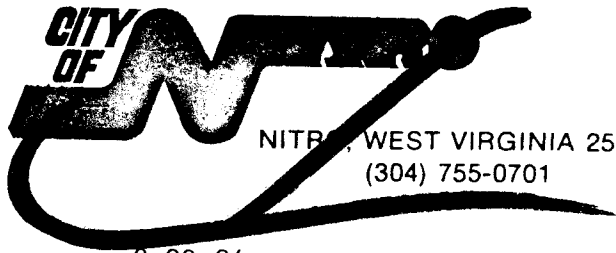
(c) The conduct of such hearing shall be in accordance with the provisions of Part VIII of these Rules and Regulations, and the relief granted by the Commission in the case of such petition shall be in accordance with the provisions of Section 20, Article 14, Chapter 6 of the Code.

7.11 Reduction in Size of Department.

If for reasons of economy or other justifiable cause it shall be necessary to reduce the number of persons employed as members of the paid Police Department of the City, said reduction shall be effected by suspending the last persons, including probationers, appointed to the Department, said removal being accomplished by suspending the number desired in inverse order of their appointment. In the event the Police Department shall again be increased it is authorized



appointment, members suspended under the terms of this  
last shall be reinstated in inverse order of their  
suspension before any new appointment is made.



NITRO, WEST VIRGINIA 25143  
(304) 755-0701

ART ASHLEY  
MAYOR

2-23-84

JOHN F. SANTROCK  
RECORDER

MICHAEL E. GREENLEAF  
TREASURER

Vacation Request

June 1 - 22 1984

August 2 - 31, 1984

Signature of Michael E. Greenleaf

Signature of John F. Santrock

Signature of John F. Santrock

John Santrock, Recorder

Signature of Michael E. Greenleaf

PART VIII - HEARINGS8.01 Application of This Part.

Unless otherwise specified in these or other rules and regulations, the rules in this section shall govern and apply to hearings conducted by the Commission pursuant to the authority vested in it under the laws of this State or regulations promulgated pursuant thereto.

8.02 Hearings by the Commission; Presiding Officer.

Hearings shall be conducted before the Commission. The Presiding Officer at a hearing shall be designated by the Commission and may be the President of the Commission, one of the Commissioners, or such other person as the Commission may designate.

8.03 Powers of Presiding Officer.

The Presiding Officer at every hearing may, subject to the rules set forth in this section:

(a) Conduct generally the hearing, and in connection therewith:

- (1) Administer oaths and affirmations;
- (2) Issue subpoenas authorized by law;
- (3) Rule on offers of proof and receive evidence;
- (4) Permit evidentiary depositions to be taken and read as in civil actions in the Circuit Courts of this State and discovery depositions with the consent of the Presiding Officer;
- (5) Regulate the course of the hearing;
- (6) Dispose of procedural requests or other matters;
- (7) Hold conferences for the settlement or simplification of the issues with the consent of the parties;

(8) Take any other action in connection with such hearing authorized by law; and

(9) With regard to each of these duties and powers, decisions by the Presiding Officer shall be subject to review by the Commission.

(b) In all cases, final orders and decisions shall be entered by the Commission. In no case shall a Presiding Officer enter a final order or decision.

#### 8.04 Notice of Hearing; Contents of Notice.

(a) Unless otherwise specified in these Rules and Regulations, no hearing shall be conducted under these rules or otherwise unless the parties to the proceeding shall have received written notice.

(b) Each written notice of the hearing shall contain the date, time and place of the hearing and a short and plain statement of matters which are to be the subject of or asserted at the hearing.

#### 8.05 Place of Hearing.

The date, time and place of each hearing shall be determined by the Commission or presiding officer.

#### 8.06 Representation at Hearings.

At hearings held pursuant to these Rules, any party may represent himself or be represented by an attorney at law admitted to practice before any Circuit Court of this State.

#### 8.07 Waiver of Evidentiary Presentation.

(a) Parties entitled to an evidentiary hearing may waive such right in writing, but unless all parties file timely waivers, a hearing will be conducted. Parties waiving such hearing need not appear.

(b) Any party who desires to submit written pleadings, comments or information in lieu of an evidentiary presentation may submit such documents to the Presiding Officer for consideration by the Commission.

(c) Waivers must be unequivocal and request the Commission to decide the matter at issue on the pleadings and written record in the case, including any stipulations the parties might enter.

(d) When a hearing is waived under the provisions of this section, the written record in the case shall be submitted to the Commission for decision.

8.08 Proposed Findings, Conclusions and Orders.

The Presiding Officer may request the submission of proposed findings of fact, conclusions of law and orders, together with a supporting brief. Such proposals and briefs, if submitted, shall be served upon all parties and shall contain adequate references to the authorities relied upon.

8.09 Hearings to be Public.

All hearings conducted under these Rules shall be open to the public.

8.10 Decision by the Commission.

(a) Upon completion of the proceedings provided for in these Rules and Regulations, the Commission shall review, consider and decide the case and enter, where appropriate, a decision and order.

(b) In cases where the members of the Commission are not present at a hearing, the Presiding Officer shall forward the record in the case to the Commission for decision, together with such written commentary and recommendations as the Presiding Officer deems appropriate. Such recommendations and commentary, if any, shall be made a part of the record of the case.

PART IX - CHIEF OF POLICE9.11 Appointment and Removal.

The appointment and removal of the Chief of Police shall be in accordance with the provisions of Section 17, Article 14, Chapter 8 of the Code of West Virginia and not in accordance with the provisions of these Regulations governing the appointment and removal of other officers.

Application of this Part.

(a) This section shall govern and apply to the design, content, conduct, grading, posting of results and weighting of competitive examinations and other forms of evaluation used by the Commission in determining which applicants will be placed on a list of eligibles.

(b) All competitive examinations and other forms of evaluation for appointments or promotions to all positions shall be practical in their character, and shall relate to such matters, and include such inquiries, as will fully test the comparative merit and fitness of the individual or individuals examined to discharge the duties of employment sought by him or them.

(c) Competitive examinations and other forms of evaluation used by the Commission shall be administered in an order determined by the Commission. However, it shall be the policy of the Commission to administer the written examination testing each applicant's merit or fitness to discharge the employment sought by such applicant first wherever possible.

(d) At least seven (7) days' public notice of each examination or other form of evaluation shall be given to applicants for a position; provided, however, that the Commission may issue a complete schedule of all testing to be conducted during a series of examinations or evaluations, which schedule shall contain the times, dates and places of all examinations to be conducted in such series. In the event such schedule is used, public notice of the contents of such schedule shall be given at least seven (7) days prior to the time that the first examination or other form of evaluation in the series is given. By agreement of the Commission and an applicant or applicants, the provisions of this subsection may be waived.

(e) It shall be the policy of the Police Civil Service Commission to permit representatives of the press to visit, observe and record the events surrounding the examinations herein referred to insofar as it

so possible to allow them to do without disturbing applicants who are taking such examination. Representatives of the press may observe and be present at competitive examinations administered under the provisions of these regulations, subject to the following restrictions:

(1) Whenever the Commission determines that the number of press representatives seeking to attend an examination is so large that their attendance will disturb the candidates taking such examination or otherwise disrupt the conduct of such examination, the Commission may choose, in a fair and random method, five (5) representatives of the press to attend and observe such examination; and

(2) Representatives of the press attending such examination shall observe such examinations in a quiet and orderly fashion; and

(3) Representatives of the press shall under no circumstances interview or record by film, videotape, or any other electronic means any conversations or images in the area where the examinations are being conducted without prior approval of the Commission; and

(4) Representatives of the press not complying with these rules and regulations may be asked to leave the area of the examinations.

(f) Results of examinations shall be posted at the City Hall, at Police Department Headquarters, at the place of examination, and at such other places as the Commission deems appropriate.

(g) Whenever the Commission determines that an applicant is disqualified from appointment to the list of eligibles by reason of his failure to pass or qualify on one of the examinations or evaluations administered in a series, the Commission shall direct that that individual cease to participate further in the evaluation process hereinbelow outlined.

(h) All examinations and other forms of evaluation shall be designed and administered under the supervision of the Commission. In the Commission's



discretion, educators, private or public consultants and representatives of other police departments and other persons may be used to assist the Commission in designing and administering such examinations and other forms of evaluation.

#### 10.02 General Rules Relating to Written Examinations.

(a) Grading of written examinations shall be by or under the supervision of the Commission. Each applicant shall be required to achieve a passing score on such written examination. A passing score shall be deemed to be that level of achievement which indicates to the Commission that the applicants taking the examination possess the requisite skills and knowledge to perform the duties of persons holding the positions for which application is being made.

(b) Results of written examinations shall be posted within 30 days after the written examination is administered by the Commission. A copy of the results shall be posted at the places described in Section 10.01(5), above. The Commission shall direct that individuals failing the written examination cease to participate further in any evaluation processes.

#### 10.03 General Rules Relating to Conduct of Oral Examinations.

(a) As a part of the evaluation process, each applicant for appointment shall be administered an oral interview by the Commission.

(b) At such oral interview, a quorum of the Commission shall be present.

(c) Oral interviews for appointments shall test the applicant's general ability to assume the rank of probationary patrolman. In all cases, the Commission shall administer oral interviews in a fair and impartial manner. In no event shall applicants be discriminated against on account of race, creed, color or political or religious opinions or affiliations.

10.04 General Rules Relating to Other Examinations.(a) Medical Examinations -

The Commission shall cause each applicant for appointment or promotion to a position to undergo a medical examination. Such examination shall be conducted under the supervision of a board composed of two (2) doctors of medicine, appointed for such purpose by the appointing officer of the City. Such board must certify that an applicant is free from any bodily or mental defect, deformity or disease which might incapacitate him or her from the performance of the duties of the position desired and is physically fit to perform such duties. Said examination may be given prior to the written examination or after it, at the discretion of the Commission.

(b) Psychiatric Testing -

The Commission shall require applicants for appointment to a position to undergo psychiatric testing designed to test an applicant's mental fitness for service in the Police Department of the City of Nitro. Such examination shall be conducted by or under the supervision of one or more licensed psychiatrists or qualified psychologists selected and/or approved by the Commission.

(c) Background Investigations -

Background investigations required by the Commission shall be conducted by the Department. Such investigations shall have the following purposes:

- (1) To verify information contained in applications;
- (2) To inquire into matters relevant to the applicant's suitability for appointment; and
- (3) To inquire into such other matters as the Commission may request.

(d) Confidentiality to be Maintained -

Results of all medical, psychiatric and background examinations conducted in connection with the evaluation processes shall be kept confidential and the

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information contained therein shall be released only in accordance with the provisions of these Rules and Regulations.

(e) Certification of Fitness -

Each applicant shall be required to be deemed by the medical doctors, psychiatrist, psychologist or the person or agency administering such examinations to be fit for service on the Nitro ~~---~~ Police Department and the position to which the applicant aspires. Such fitness shall be determined after consulting a statement of standards presented to such medical doctors, psychiatrist or psychologist by the Police Civil Service Commission.

10.05 General Rules Relating to Departmental Evaluations for Promotional Purposes.

(A) For promotion purposes, the Commission shall consider each applicant's performance during his service with the Department.

(B) The Commission shall request from the Department an evaluation of each applicant designed to test each applicant's ability to assume the responsibilities of the position to which he aspires.

(C) The form and manner of evaluation submitted to the Commission by the Department shall be at the discretion of the Department; provided however, that the evaluation submitted to the Commission shall be determined in accordance with the following standards:

(1) The form of evaluation used by the Department shall measure each applicant's ability to assume the responsibilities of the position to which he aspires.

(2) The form of evaluation shall not discriminate on the basis of creed, color or political or religious opinions or affiliations. The Departmental evaluation shall indicate in what percentile the applicant ranks among his peers in terms of leadership potential at the time application is made.

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(3) The evaluation submitted to the Commission by the Department shall be based upon reports generated within the Department. Evaluations shall be made periodically or made at the request of the Commission.

10.06 PERSONNEL RECORDS.

It shall be the duty of the Chief of Police to establish and maintain a separate personnel file for every member of the Police Department of the City of Nitro. In this file there shall be placed memoranda of all discipline reports issued against any member of the Department; all letters of commendation or criticism or complaint received by the Department from any person; any memoranda, citation or other notice, either favorable or unfavorable; all records of any leaves of absence which are applicable toward retirement; a personal history of the person, which history shall include, among other things, a photograph, full name, home address, telephone number, marital status, number of children or other dependents, and dates of any military service; date of last employment in the Department; period of any previous employment; designation of current rank and assignment; departmental evaluations; the FBI fingerprint report; and all such other records or information as may be deemed pertinent to the member's employment. Such files shall be kept under lock and key at all times when not in use and shall be opened for inspection to no one except the Mayor, the Director of Public Safety, or a duly appointed Police Committee of the City Council only when acting under a direct order of the City Council, the Commission, and the Chief of Police.

10.07 WEIGHTING OF VARIOUS EXAMINATIONS;  
RANKING OF APPLICANTS.

(a) Appointments -

(1) In accordance with the provisions of these Regulations, each appointment by the appointing officer shall be from a list of eligibles. The list of eligibles shall be established by the Commission by ranking applicants for appointment in order of merit in accordance with the following formula:

(a) Written examination score  
(based on a maximum of 100 points) X 0.7 = **403**

plus

(b) Oral examination score  
(based on a maximum of 100 points) X 0.25 = \_\_\_\_\_

(2) To the total number of points awarded in accordance with the above formula, 1 point shall be added for each year or major fraction thereof (six months and one day shall mean major fraction of a year) up to a maximum of 3 points, that an applicant has served in the active armed forces of the United States.

(3) The total number of points, so calculated, shall constitute an applicant's score. Applicants shall be ranked in order of merit on the basis of such score and the list of eligibles constructed from such ranking.

(b) Promotions -

(1) In accordance with the provisions of these Regulations, promotions shall be made on the basis of a list of eligibles established by the Commission. The list of eligibles shall be established by ranking applicants for promotion in order of merit in accordance with the following formula:

(a) Written examination score  
(based on a maximum score of 100 points) X 0.50 = \_\_\_\_\_

plus

(b) Departmental evaluation  
score (based on a maximum score of 100  
points) X 0.30 = \_\_\_\_\_

plus

(c) Ten points for each full  
year of service or major fraction thereof  
to a maximum of 100 points X 0.20 = \_\_\_\_\_

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(2) To the total number of points awarded each applicant in accordance with the above formula, the following adjustments shall be made:

(a) From such score, 0.25 points shall be subtracted for each day of suspension in the past three years and if any applicant has received any one suspension of more than 10 days, an additional 0.25 points shall be subtracted for the 11th and each succeeding day of such suspension.

(b) To such score, 1.0 point shall be added for each official citation or commendation the applicant has received in the past three years, up to a maximum of five points.

(3) The total number of points so calculated, shall constitute each applicant's score. Applicants shall be ranked in accordance with their scores and a list of eligibles constructed therefrom.

#### 10.08 Eligible List.

(a) The Commission shall prepare and keep open to public inspection the eligible lists constructed in accordance with the terms of these Rules and Regulations. The persons on the list of eligibles shall be notified and be appointed or promoted from the list of eligibles in accordance with these Rules and Regulations.

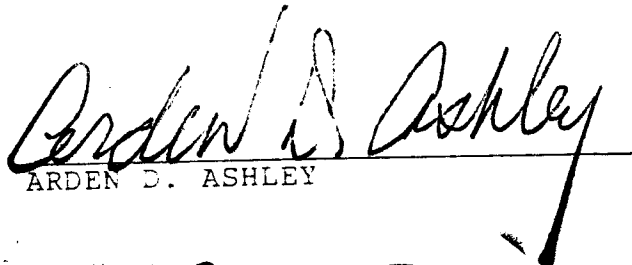
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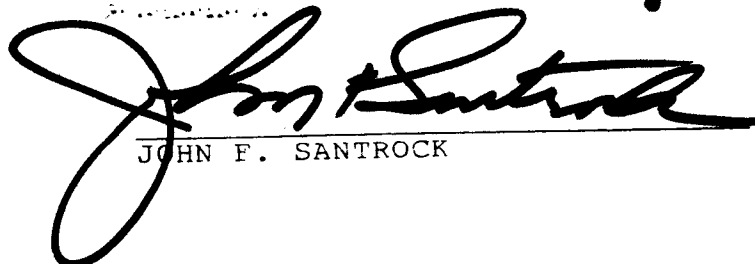
AGENDA 10 MAY 1, 1984 COUNCIL MEETING CHANGED TO MAY 8, 1984 AND MAY 15, 1984 COUNCIL MEETING CHANGED TO MAY 22, 1984 - Councilman A. A. "Joe" Savilla moved to change the May 1, 1984 Council Meeting to May 8, 1984. Motion was seconded. After discussion, Councilman A. A. "Joe" Savilla withdrew his motion and second was withdrawn. Councilman A. A. "Joe" Savilla moved to amend his motion to change the May 1, 1984 Council meeting to May 7, 1984. Motion was seconded. Councilman A. A. "Joe" Savilla withdrew his motion and the second was withdrawn and motion was made to change May 1, 1984 Council Meeting to Sunday, May 6, 1984, at 5:00 p.m. and May 15, 1984 Council Meeting to May 22, 1984. Motion was seconded. Vote was taken and passed unanimously.

#### COMMITTEE REPORTS

INSURANCE COMMITTEE REPORTS ON BIDS OPENED 2-7-84 - Councilman Romie Hughart reports that as of 12:00 noon today (2-7-84) there were three (3) bids submitted for all parts of coverage for insurance for the City which are now under evaluation and there will be a recommendation later to Council.

There being no further business to be conducted, the meeting was adjourned at 9:25 p.m.

  
ARDEN D. ASHLEY

  
JOHN F. SANTROCK

