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CITY OF NITRO COUNCIL MEETING MINUTES

NOVEMBER 19, 1996

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder Herbert Sibley, Councilmen at Large, Robert Mattox, Richard Savilla, Steve West, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr. Also present, City Attorney Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Ivan Meadows.

AGENDA ITEM NO. 2 APPROVAL OF 11/12/96 MINUTES: COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 3 THF REALTY: Mayor Casto introduced Michael Staenberg, THF Realty Representative and asked him to explain certain sections of an amended agreement between the City, THF Realty and others for the Cross Lanes Mall. Discussion follow with questions from several councilmen and a statement from City Attorney Phillip Gaujot concerning a new section of the agreement. Item 5.3. (Copy attached).

COUNCILMAN AT LARGE STEVE WEST MOVED TO VOTE ON ORDINANCE 96-07 AUTHORIZING MAYOR CASTO TO SIGN THE " AMENDED DEVELOPMENT AGREEMENT" PROVIDING FOR TAX INCENTIVES FOR THF - CROSS LANES LIMITED LIABILITY COMPANY. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED ON FIRST READING.

AGENDA ITEM NO. 4 PLANNING COMMISSION: This agenda item was tabled until the next scheduled meeting.

AGENDA ITEM NO. 5 U-DAG UPDATE: Mayor Casto yielded the floor to City Attorney, Phillip Gaujot. Counselor Gaujot reported he has received the numbers he needed from Ralph Allison but he does not have the work completed regarding this issue and Riverview Apts.

Counselor Gaujot stated he prepared an ordinance authorizing sale of property that is in disrepair, obsolete or of no use to the City with a value of less than a \$1000. Counselor Gaujot stated someone needs to be authorized to sell these properties. This ordinance requires proper notice in the newspaper and can be done by public auction or received bids. Councilman Atkins presented Attorney Gaujot with a list of the equipment for sale. Councilman Gaujot recommended redoing the ordinance.

Mayor Casto entertained a motion to move agenda item number 11, Main Street USA to number 5. COUNCILMAN GEORGE ATKINS MOVED TO MOVE AGENDA ITEM NO 11 UP TO AGENDA ITEM NO 5. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 11(SA) MAIN STREET USA: Mayor Casto yielded the floor to Mr. Paul Mattox a representative of Woolpert Eng Firm. Mr. Mattox stated that Mayor Casto mentioned to the him that the citizens of Nitro may be interested in beautifying the businesses along 21st Street and Rt. 25. Mr.

Mattox reported he has worked with other cities including downtown Charleston and Williamson. Mr. Mattox introduced Monica Miller, Director of the Main Street program to explain and answer questions regarding the program. Ms. Miller presented Mayor Casto with a packet of information to be distributed to council. Ms. Miller said Main Street is an economical development program that focuses on downtown revitalization of historic commercial business districts. Ms. Miller presented a very informational view of the Main Street Program. Mr. Mattox stated they would be happy to help fill out grant and/or loan applications. A question and answer session followed.

COUNCILMAN FRANK GROVER, JR. MOVED TO MOVE AGENDA ITEM #10 TO # 6 AGENDA ITEM. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 10 (6A) BEAUTIFICATION: Mayor Casto yielded the floor to Dean Miller. Mr. Miller reported several issues were addressed. He said First Avenue needs immediate attention since this is the first impression of Nitro. (1) council should look at a strict ordinance regarding all signs, (2) replacement of trees along First Avenue, recommending Bradford Pear, also planting of red poppys (3) street sweeper for consideration (4) junk car control, (5) abandoned business signs still existing (7) brush on 3rd Avenue (8) Spring of year, curbs painted (9) railroad right-of-way clearing brush (10) Memorial Park completion (11) new street signs.

Mayor Casto reported two of the three houses scheduled to be torn down have been completed. The third one will come down soon.

Mayor Casto commended Ivan Meadows for his work at the City Pool. Also Mayor Casto reported there will be a city swim team next year for the youth.

AGENDA ITEM NO. 6 TENNIS COURTS: Mayor Casto read a letter to council stating he will request approval to build a set of tennis courts at the city swimming pool. My proposal is; the city will approve a "Nitro Boosters Club". The "NRBC" will build a 3 court tennis complex near the city swimming pool. The city council will approve a joint pool/tennis court pass at \$90.00 (family) and \$50.00 (individual) Financing: City shall pay 50% of pass proceeds to the NRBC. City shall pay 15% of gross proceeds from pool concession stand to the NRBC. City shall pay 100% of pool party revenue to NRBC. NRBC shall receive 100 % of revenue from all proceeds received by use of other pool/tennis court area such as: signs to be sold on pool fence; net proceeds from video machines located in pool area; tennis lessons and tournaments; fees paid to light tennis court area; donations from private and public sources to pay for courts. The City shall be responsible for maintenance of courts. I will ask for approval of this proposal at the first meeting in December. Mayor Casto appointed an Adhoc committee Councilman David Miller, Rec. Herb Sibley, Richard Savilla and Mayor Casto

AGENDA ITEM NO. 7 JEFF WOODS, JUDGE: Mayor Casto stated he will address this agenda item at a later scheduled meeting.

AGENDA ITEM NO. 8 BUSINESS AND PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller. Mr. Miller announced approximately 30 businesses are participating in the "pot of gold" promotion. Keys for the pot of gold will be given out during the week. This promotion will be from December 1st to December 7, 1996. The Christmas Parade is scheduled for December 7, 1996 at 6:00 p.m.

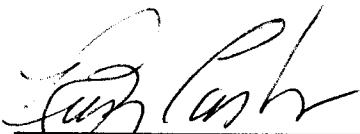
AGENDA ITEM NO. 12 TRAFFIC CONTROL: Councilman George Atkins stated a study of 19th Street, between First and Second Avenue disclosed a hazard with parking on both sides of the Street. After discussion it was decided to instruct Chief Winter to prohibit parking on the North (down river) side of 19th Street between 1st and 2nd Avenue for a trial period giving only warning tickets and to observe

the traffic flow during this period before finalizing this solution. COUNCILMAN ROBERT YOUNG MOVED TO IMPLEMENT THIS SOLUTION. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED WITH COUNCILMAN AT LARGE STEVE WEST ABSTAINING.

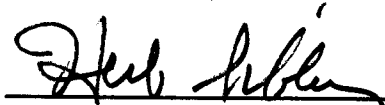
Fir Street parking discussed COUNCILMAN GEORGE ATKINS MOVED TO APPROVE PRESENTED SOLUTION. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED WITH CITY RECORDER HERBERT SIBLEY AND COUNCILMAN FRANK GROVER VOTING AGAINST THE MOTION.

AGENDA ITEM NO. 13 TRASH PICKUP: Councilman Frank Grover, Jr. discussed coming mandate regarding yard waste in landfill. Councilman Grover announced a meeting Thursday 21 at 7:00 p.m. in conference room at City Hall.

After Councilmen's comments the meeting was adjourned.



RUSTY CASTO, MAYOR



HERBERT SIBLEY, RECORDER

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NOTICE OF PUBLIC HEARING ON A CITY OF NITRO
ORDINANCE AUTHORIZING MAYOR TO ENTER
INTO "AMENDED DEVELOPMENT AGREEMENT"
PROVIDING FOR TAX INCENTIVE FOR
THF-CROSS LANES LIMITED LIABILITY COMPANY

NOTICE is hereby given that a public hearing will be held on the 17th day of December, 1996, at 6:00 o'clock p.m., at Council Chambers, City Hall, City of Nitro, Kanawha County, West Virginia, to hear public comments on the Ordinance Authorizing Mayor to Enter into "Amended Development Agreement" Providing for Tax Incentive for THF-Cross Lanes Limited Liability Company and the proposed "Amended Development Agreement" attached to said Ordinance and as stated hereunder. The public is hereby notified that it may appear at said meeting and be heard and express any comments with respect to the proposed Ordinance.

NOTICE is further given that a copy of the Ordinance and attached "Amended Development Agreement" may be reviewed and inspected by the public at Nitro City Hall, Nitro, Kanawha County, West Virginia, Office of the Mayor.

ORDINANCE NO. 96-_____

AN ORDINANCE AUTHORIZING MAYOR TO ENTER
INTO "AMENDED DEVELOPMENT AGREEMENT"
PROVIDING FOR TAX INCENTIVE FOR
THF-CROSS LANES LIMITED LIABILITY COMPANY

WHEREAS, Ordinance No. 96-05, passed by this Council on Second Reading on May 7, 1996, authorized the Mayor to enter into agreements with industrial and/or commercial developers and with the Nitro Development Authority, granting tax credits or remittances from the City of Nitro Business and Occupation tax, subject to approval by this Council; and,

WHEREAS, by Ordinance No. 96-06, passed by this Council on Second Reading on June 18, 1996, authorized the Mayor to sign the "Development Agreement" with THF-Cross Lanes Limited Liability Company and others; and,

WHEREAS, on June 18, 1996, pursuant to Ordinance No. 96-06, the Mayor signed the Development Agreement on behalf of the City of Nitro; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has determined that it must acquire additional real estate, which will increase the area of development, make improvements to other properties adjacent to the development, incur additional earth-moving costs, construct additional roads, all at the cost of THF-Cross Lanes Limited Liability Company and a substantial portion of such improvements will be dedicated to the public or to adjacent property owners and not reserved for the private use of THF-Cross Lanes Limited Liability Company; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has requested that the City of Nitro annex the additional real estate, consisting of 12.936 acres, more or less; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has requested that the "Development Agreement" signed by the Mayor of the City of Nitro on June 18, 1996, pursuant to Ordinance No. 96-06, be amended to include the matters mentioned above and to provide for other language to clarify the rights and duties of the respective parties; and,

WHEREAS, THF-Cross Lanes Limited Liability Company agrees to pay certain sums as consideration to the City of Nitro for agreeing to entering into an "Amended Development Agreement"; and,

WHEREAS, a copy of the proposed "Amended Development Agreement" is attached hereto and made a part hereof.

NOW, THEREFORE, be it ordained by the Council of the City of Nitro, West Virginia, that the "Amended Development Agreement" with the City of Nitro and the Nitro Development Authority, a copy of which is attached hereto, is approved.

BE IT FURTHER ORDAINED that the Mayor of the City of Nitro is directed to sign said "Amended Development Agreement" on behalf of the City of Nitro.

BE IT FURTHER ORDAINED that a public hearing shall be held pursuant to proper notice on the 17th day of December, 1996, for public comment.

Motion made by Councilman at Large Steven West, seconded by Councilman at Lar
Robert Mattox, on first reading, to adopt this Ordinance.

Motion made by _____, seconded by _____
_____, on second reading, to adopt this Ordinance.

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PASSED ON FIRST READING

Date: November 19, 1996

ADOPTED ON SECOND READING
after public hearing held
on _____,
which public hearing notices
were given by publication

Date: _____

MAYOR


CITY RECORDER

NOTICE is further given that the foregoing Ordinance will be considered by the Council of the City of Nitro for second reading and vote on adoption at the regular meeting of Council at City Hall, Nitro, Kanawha County, West Virginia, on the 17th day of December, 1996, at 7:30 o'clock p.m.


MAYOR RUSTY CASTO

THE CITY OF NITRO
SUPPLEMENTAL RESOLUTION

Supplemental Resolution providing for the dates, maturities, interest rates, principal payment schedules, sale prices and other terms of the Sewerage System Revenue Bonds, Series 1996 A, designating a registrar, paying agent and depository bank, approving the sale of the Sewerage System Revenue Bonds, Series 1996 A pursuant to a Loan Agreement and making other provisions as to such Bonds.

WHEREAS, the City Council of The City of Nitro (the "Issuer"), on August 6, 1996, enacted an Ordinance, all as more fully set out therein; (said Ordinance is hereinafter referred to as the "Ordinance"); and

WHEREAS, the Ordinance provides for the issuance of Sewerage System Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds"), of the Issuer in aggregate principal amounts not to exceed \$4,900,000, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and further provides that the dates, interest rates, maturities, sale prices and other terms of and matters relating to, the Series 1996 A Bonds should be established by supplemental resolution; and

WHEREAS, the Series 1996 A Bonds are proposed to be sold to the West Virginia Water Development Authority pursuant to a Loan Agreement (the "Loan Agreement"); and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance; and

WHEREAS, the Governing Body of the Issuer deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal payment dates of the Series 1996 A Bonds be fixed hereby in the manner stated herein, that the Loan Agreement be ratified and approved and that other matters relating to the Bonds be herein provided for.

NOW THEREFORE, be it resolved by the City Council of The City of Nitro as follows:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewerage System Revenue Bonds, Series 1996 A, in the aggregate principal amount of \$4,575,502 (the "Series 1996 A Bonds"), all in the form set forth in the Ordinance.

(A) The Series 1996 A Bonds of the Issuer shall be originally issued in the form of a single bond payable to the Authority, numbered consecutively AR-1, shall be in the principal amount of \$4,575,502. The Series 1996 A Bonds shall be dated as of December 10, 1996, or as of the date of closing and shall mature on June 1, 2018. The Series 1996 A Bonds shall bear interest at

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the rate of 2% per annum, together with a 1% annual administrative fee, from June 1, 1998, until paid. Beginning September 1, 1998, the principal of and interest on the Series 1996 A Bonds shall be payable quarterly on September 1, December 1, March 1 and June 1 of each year, all as set forth on Schedule Y attached hereto.

(B) The sale of the Series 1996 A Bonds to the Authority, which is hereby designated as the Original Purchaser of the Series 1996 A Bonds, and the Loan Agreement dated October 10, 1996, in the form attached to this Resolution as Exhibit A is hereby ratified and approved. The Mayor is authorized and directed to execute and deliver the Loan Agreement with such changes and insertions as he may approve. The Mayor's signature on such Agreement shall be conclusive evidence of such approval.

Section 2. Except as herein provided, all other provisions relating to the Series 1996 A Bonds shall be as provided in the Ordinance, and the Series 1996 A Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the Issuer. The execution of the Series 1996 A Bonds by the Mayor shall be conclusive evidence of such approval.

Section 3. The Issuer hereby determines that the bank currently serving as the Depository Bank for the Sewer System Revenue Fund, Huntington National Bank, West Virginia, shall continue in that capacity.

Section 4. The Issuer hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Bonds.

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, as Paying Agent for the Bonds.

Section 6. The Mayor and the Recorder of the Issuer are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement and Tax Regulatory Agreement, required or desirable in connection with the Series 1996 A Bonds in order for the Series 1996 A Bonds to be delivered to the Original Purchaser pursuant to the Loan Agreement.

Section 7. The Issuer shall not permit at any time or times any of the proceeds of the Series 1996 A Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the Series 1996 A Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations to be promulgated thereunder.

Section 8. In accordance with Section 148(f)(4)(C) of the Internal Revenue Code of 1986, as amended, the Issuer covenants that it is a governmental unit with general taxing powers; that the Bonds are not private activity bonds as defined in Section 141 of the Code; that 95% or more of the Net Proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds as

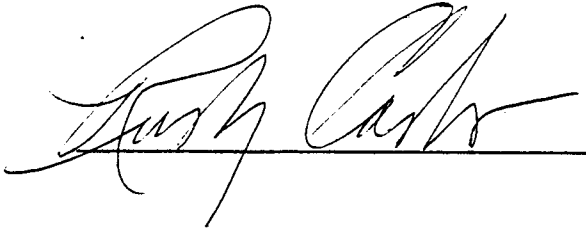
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defined in Section 141 of the Code) issued by the Issuer during the calendar year in which the Bonds are issued will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(C) of the Code and the Regulations promulgated thereunder.

Section 9. The Issuer hereby authorizes and directs the repayment, from the first disbursement made under the Loan Agreement, of the City's 1991 Construction Loan, outstanding in the approximate amount of \$100,000, and the City's Series 1995 B Bonds in the approximate amount of \$60,000, both of which obligations are owed to Huntington National Bank, West Virginia.

Section 10. This Supplemental Resolution shall be effective immediately upon adoption.

Adopted this 12th day of November, 1996.


Mayor


Recorder

CITY OF NITRO COUNCIL MEETING MINUTES

DECEMBER 03, 1996

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present; City Recorder Herb Sibley, Councilmen at Large, Robert Mattox, Richard Savilla, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr. Also present City Attorney Phillip Gaujot. Absent Councilman at Large Steve West.

AGENDA ITEM NO. 1 INVOCATION: Dean Miller.

AGENDA ITEM NO. 2 CITIZEN OF THE MONTH: Mayor Casto named Vernon Mills as December Citizen of the Month and presented him with a sweatshirt. Mayor Casto commended Mr. Mills for time and energy he has put forth to support the City of Nitro.

COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO MOVE AGENDA ITEM NO. 9 UP TO NO. 3A. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 3A: (9) NITRO DEVELOPMENT AUTHORITY: Mayor Casto swore in seven of the new members of the Nitro Development Authority, Dean Miller, Brenda Tyler, Jim Westlund, Ken Kniceley, Tim Sizemore, Dave Perry, and Carmen Kostalansky. Counselor Gaujot stated the Chairman must send out a written notice of a special meeting. Counselor Gaujot further explained the agreement between THF, Mall Operators, Storage Family, and the City of Nitro. Also, Counselor Gaujot stated a public hearing is scheduled for December 17, 1996 on the amended agreement. Discussion followed regarding method of calling meetings.

AGENDA ITEM NO. 3 APPROVAL OF 11/19/96 MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE 11/19/96 COUNCIL MEETING MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 4 PUBLIC HEARING MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO MAKE THE PUBLIC HEARING MINUTES A PART OF PUBLIC RECORD. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 5 PLANNING COMMISSION MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO MAKE THE PLANNING COMMISSION MINUTES A PART OF PUBLIC RECORD. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND CARRIED. (Copy attached)

AGENDA ITEM NO. 6 JEFF WOOD- JUDGE: Mayor Casto stated with Council approval, he has appointed Jeff Wood as Judge for the City of Nitro, effective January 1, 1997. COUNCIL AT LARGE DAVID MILLER MOVED TO APPROVE APPOINTMENT OF JEFF WOOD AS JUDGE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED WITH COUNCILMEN GEORGE ATKINS AND ROBERT MATTOX ABSTAINING.

AGENDA ITEM NO. 7 U-DAG UPDATE: Mayor Casto yielded the floor to City Attorney Phillip Gaujot. Counselor Gaujot stated he is working with Attorney Andy Nason finalizing the language on the

agreement and the deed of trust/ note language. The figures have been received from Ralph Allison. We have made definite progress.

Also Attorney Gaujot commented he has reviewed the Riverview Apts. issue and explained the background to Council. An agreement was reached in 1991, where Mr. Brannon agreed to pay a lump sum amount of \$5504.75 and he would be charged for each unit, the same as everyone else is charged, but he would get a discount for what he paid Don's disposal. Currently his bill/month is \$312.00 for 26 units. He is paying \$203.77 to Don's, which leaves a balance of \$108.23 owed to the City. Counselor Gaujot reported this is the status of this issue and he will follow through on this.

Counselor Gaujot recommended Council approve a new resolution to change the annexation boundary adjustments to read 12.854 acres. Counselor Gaujot read Res 96- in its entirety. COUNCILMAN ROBERT YOUNG MOVED TO APPROVE RESOLUTION 96- A RESOLUTION TO ANNEX TERRITORY CONTIGUOUS WITH THE PRESENT BOUNDARIES OF THE CITY OF NITRO BY MINOR BOUNDARY ADJUSTMENT CONSISTING OF 12.854 ACRES. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 8 FINANCE REPORT: Mayor Casto yielded the floor to Recorder/Treasurer Herb Sibley. Recorder Sibley furnished council with a financial statement to review. Another issue to discuss is the swimming pool. A partial study indicates total income for the period from May until closing in September \$26,613.00. Expense, identified as salary, tax, and department supplies that can be identified as an expenditure \$26,973.00. Mr. Sibley stated there was no other income, but there is other expenses. Recorder/Treasurer, Sibley said the City has lost several hundred dollars.

Recorder Sibley said he received and made a copy for council, a statement from Blue Cross Insurance reflecting no increase in our insurance premium for 1997. This statement shows we have a 55.58 loss ratio based on \$181,000 administrative and accrued claims and \$325,792 in calculated premiums. This is 90/110 plan. If the claims do not exceed last years, we only pay 90 percent of the premium, if they go higher we have to pay additional premium. Recorder/Treasurer Herb Sibley recommend the Mayor appoint a committee / finance committee to choose a policy for the employees and retirees.

Recorder Sibley discussed the 31st Street bridge. Much discussion followed on this issue.

AGENDA ITEM NO. 10 BUSINESS & PROFESSIONAL ASSOC: Spokesman Dean Miller announced the pot of gold, the Christmas parade at 6:00 p.m., and a food drive. He said the work on the bungalow is going very slow.

Mayor Casto stated he will ask Council to endorse holiday lights at the City Park, for next year at the next Council Meeting. This would be a joint City and Business Association event.

AGENDA ITEM NO. 11 TENNIS COURT: Mayor Casto reported the approximate cost of the tennis courts would be \$30,000. Mayor Casto stated this could be paid for by users fees. Much discussion followed regarding this issue.

AGENDA ITEM NO. 12 BEAUTIFICATION: Mayor Casto reported he spoke to some of the businesses and City employees about keeping the alley clean and recycle the paper from the Post Office.

Mayor Casto stated he will be requesting Council to approve adding five dollars to the municipal fee for businesses to donate to the beautification committee. A discussion followed.

Mayor Casto announced along with Gene Williams, Public Works Director and Councilman at Large Bob Mattox will be going to WV Tractor to look at a street sweeper. Mayor Casto stated the Sanitary Board has agreed to pay half of the cost.

Recorder Herb Sibley reported, December 5, 1995 the first reading of Ordinance 95-06 Ordinance amending part seven, article 741 municipal service fees passed December 19, 1995 raising commercial fees to \$15.00 minimum and authorizing Board of Public Works Director to assign rates to other businesses that need to be increased.

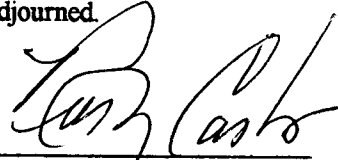
Mayor Casto reported Lieutenant Blankenship declined to take the promotional test to the Captain Slot. The rank of captain will be eliminated and the number of Lieutenants will be increased to two.

COUNCILMEN'S COMMENTS:

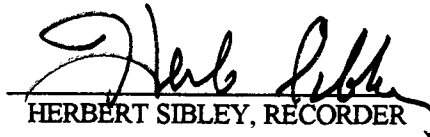
Councilman Grover reported starting Jan 1, 1997 the City will not be picking up as many articles as they have in the past due to cost and landfill restrictions. Another meeting will be scheduled regarding this problem.

Councilman Miller read the monthly report of the Fire Department. Councilman Miller expressed his concern regarding the condition of the fire engines. Discussion followed.

There being no further business, the meeting was adjourned.



RUSTY CASTO, MAYOR



HERBERT SIBLEY, RECORDER

PLANNING COMMISSION MINUTES, CITY OF NITRO

October 21, 1996

The Planning Commission of the City of Nitro met Monday, October 21, 1996, for a public meeting in room 114 of the Nitro Community Center Building. The meeting was called to order by Margaret Hudson, Chairperson. Other members present were Jim Hutchinson, Janet Martin, Kermit Thompson, Chuck Hudson, and Dr. Charles Byrd.

Lee Conrad's request to rezone property located immediately behind his business and abutting Frederick and Walker Streets from R-2 to B-1 was the first item of business. After some discussion and Mr. Conrad's assurance that residents in the neighborhood were in agreement with this change and that he had a petition of support, Jim Hutchinson moved that the request be approved by the Planning Commission. Chuck Hudson second the motion. Motion carried.

The second item of business concerned the request by James R. Tidd and Virginia Coulter for the city to abandon property known as Ivy Street and located between the 800 and 900 Block of Washington Avenue and convey ownership of said property to them. There were several residents present who spoke to this issue--a list of those present is attached. After much discussion, Janet Martin moved that this request be tabled until the commission could look into the issue and make an on site visit. The second was by Dr. Byrd. Motion carried.

A study sheet, To Request Action by the Planning Commission, was distributed to members. The meeting was adjourned.

Margaret A. Hudson
Margaret A. Hudson, Chairperson

LEE & JOYCE CONRAD
251 FIRST AVE.
NITRO, WV 25143
PHONE NUMBER: (304) 727-3300

July 22, 1996

City of Nitro
Nitro Planning Commission
Attention: Margaret Hudson
P.O. Box 308
Nitro, WV 25143

Ref: Change Zoning From R-2 to B-1

Dear Ms. Hudson,

This letter is written for a request to change zoning on property located in Nitro. We desire to change the property located immediately behind Quality Car and Truck Sales, abutting Frederick and Walker Streets, from R-2 zoning to B-1 zoning. We would like to have this request granted. If the request can not be granted we would like to know why, and what is it hurting to grant such a request? We are sure by discussing this matter, we can come to some kind of a solution to obtain a change in zoning on the property.

Please contact us at the above address or phone number on our request. We hope you will consider our request and give us the opportunity to contribute to the city of Nitro. Thank you for your time and have a nice day.

Respectfully yours,


Lee and Joyce Conrad

cc: Rusty Casto
Charles Sergent
Frank Grover

AKER

STREET (CONC.)

PAVEMENT
18.0'

30' R/W

S56°46'W

115.40'

(40.00') E

(40.00') E

(35.40') E

CHORD N39°15'24"W
120.54'

CH N38°10'02"W
40.11'

FREDERICK

STREET (CONC.)

S35°53'E
(120.00')

160.00'

N35°53'W

240.00'

(40.00')

N56°46'E

124.10'

10' RIGHT-OF-WAY (NOT ASS)

③
143

②
142

①
141

⑦
144

⑧

CHURCH
PARKING
LOT

CHURCH
BLDG



PETITION

I THE UNDERSIGNED PETITION TO LET LEE CONRAD CHANGE THE LOT BEHIND QUALITY CAR & TRUCK SALES FROM RESIDENTIAL TO R-2 BUSINESS:

ALL OF LOTS NUMBERS ONE (1), TWO (2), THREE (3), AND SEVEN (7), OF BLOCK "E" OF NORTH ST. ALBANS, AS THE SAME ARE SHOWN UPON THAT CERTAIN MAP ENTITLED, " NORTH ST. ALBANS KANAWHA COUNTY, W.Va" MADE BY ROMIE, SNYDER AND WALTERS, CIVIL ENGINEERS, AND WHICH MAP IS DULY OF RECORD IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, IN MAP BOOK 3, AT PAGE 28, AND BEING THE SAME PROPERTY OF WHICH AN UNDIVIDED ONE-HALF (1/2) INTEREST WAS CONVEYED BY DON EVANS, INC. TO EVANS LUMBER COMPANY BY DEED DATED APRIL 6, 1987, OF RECORD IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 2160, AT PAGE 13 REFERENCE TO WHICH SAID MAP AND DEED IS HEREIN MADE FOR A MORE PARTICULAR DESCRIPTION OF THE PROPERTY HEREBY CONVEYED.

<u>Mildred Harrison</u>	<u>304 1/2 1st Ave (S) Nitro</u>
<u>Phyllis Humphreys</u>	<u>304 1/2 1st Ave (S) Nitro</u>
<u>Ken Lydon</u>	<u>244 1st Ave (S) Nitro</u>
<u>W. J. H. H. H.</u>	<u>313 1st Ave (S) Nitro</u>
<u>Gene Whitney</u>	<u>Walker St. Nitro</u>
<u>Kim Ruffer</u>	<u>301 Frederick St. Nitro</u>
<u>Carrie Fontenot</u>	<u>217 Frederick St. Nitro</u>
<u>Jo Ann Fontenot</u>	<u>718 7th St Nitro wv</u>
<u>Rebecca Fontenot</u>	<u>217 Frederick St.</u>
<u>Paula Puckett</u>	<u>807 1st Ave South</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

PETITION

I THE UNDERSIGNED PETITION TO LET LEE CONRAD CHANGE THE LOT BEHIND QUALITY CAR & TRUCK SALES FROM RESIDENTIAL TO BUSINESS:

ALL OF LOTS NUMBERS ONE (1), TWO (2), THREE (3), AND SEVEN (7), OF BLOCK "E" OF NORTH ST. ALBANS, AS THE SAME ARE SHOWN UPON THAT CERTAIN MAP ENTITLED, " NORTH ST. ALBANS KANAWHA COUNTY, W.Va" MADE BY ROMIE, SNYDER AND WALTERS, CIVIL ENGINEERS, AND WHICH MAP IS DULY OF RECORD IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, IN MAP BOOK 3, AT PAGE 28, AND BEING THE SAME PROPERTY OF WHICH AN UNDIVIDED ONE-HALF (1/2) INTEREST WAS CONVEYED BY DON EVANS, INC. TO EVANS LUMBER COMPANY BY DEED DATED APRIL 6, 1987, OF RECORD IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 2160, AT PAGE 13 REFERENCE TO WHICH SAID MAP AND DEED IS HEREIN MADE FOR A MORE PARTICULAR DESCRIPTION OF THE PROPERTY HEREBY CONVEYED.

[Signature]
Diane Bogg
Gene Slade
Steve Thorne

333 1st Street Nitro
203 Frederick St Nitro
205 Frederick St Nitro
213 Fredrick St Nitro W.V.

August 14, 1996

Margaret Hudson, Chairperson
Planning Commission
City of Nitro
Nitro, WV 25143

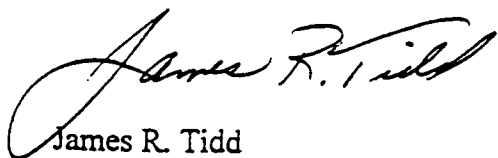
Dear Ms. Hudson:

We the undersigned hereby request that as Chairperson of the City of Nitro Planning Commission you take the necessary action to bring before the city council our petition to declare the unimproved area, herein described, as abandoned property and convey to us ownership of the property.

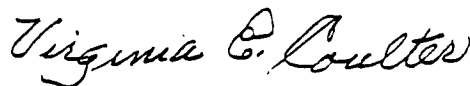
The property referenced is known as Ivy Street and is located between the eight hundred and nine hundred blocks of Washington Avenue, bounded by the properties of the undersigned (please reference the attached drawing).

Over the years we, the property owners, have maintained the street to keep it in a presentable condition so that it will not be a distraction to the neighborhood. We mow and trim the grass, fill ruts and mud holes as they occur, and keep the trash and litter picked up. As we have maintained the street over the years the city has been alleviated of this responsibility and saved many dollars and man-hours. At times the maintenance of the street has been difficult due to ruts and mudholes created, especially in the winter months, by four-wheel drive and recreational vehicles using the area as a racetrack.

Your attention to this request is appreciated. If there is anything we can do to help bring this request to a reality, please contact us at anytime. Thanks again for your assistance.



James R. Tidd
900 Washington Avenue
Nitro, WV 25143
(304)755-3563



Virginia Coulter
809 Washington Avenue
Nitro, WV 25143
(304)755-1425

October 21, 1996¹⁹
Plan. Com. Mtg.

Bob Harrison 807 Washington Ave
James R. Lobb. 900 Dupont Ave.
James R. Todd, 900 Washington Ave.
Cynthia B. Tidd 900 Washington Ave.
Ernest Brown 901 WASH. AVE
Ernest Baggett 900 KANAWHA AVE.
Hazel Baggett 900 KANAWHA AVE.
Sherry Thomas 901 Dupont Ave
Joyce Conrad
Lee Conrad
Casey Conrad
Jean Taylor 901 main ave
Toni Clewson 900 Dupont Ave
Quinn Harris 902 Dupont Ave
George Atkins 304 Hanover Ave
Donna Young 809 Dupont Ave

TO REQUEST ACTION BY THE PLANNING COMMISSION, CITY OF NITRO

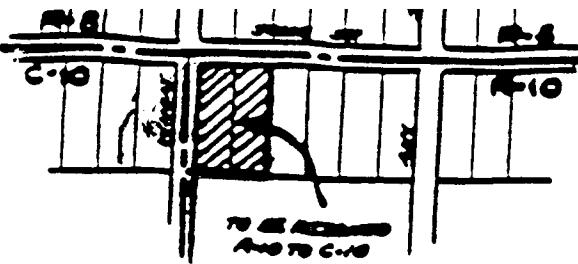
To request action by the Planning Commission, the property owner must submit the following:

1. A request in the form of a letter written to the Chairperson of the Planning Commission.
2. Names and addresses of property owners within 300 feet of any part of the property involved in the request.
3. A fee of \$100 (one-hundred) payable to the City of Nitro to cover the costs of the legal ads and notices to property owners. The fee is non-refundable, regardless of the outcome of the case.

All of the above must be submitted to the City Clerk at City Hall who will enter in a log book the request. Approximately 30 days after this is done, a meeting will be scheduled by the Planning Commission to hear the request. Notices will be sent by certified mail to the owners of the property lying within 300 feet of the subject property and a legal ad will be published in the paper prior to the hearing.

The applicant must appear at the Planning Commission public hearing to present the case. The presentation should include reasons justifying the request plus maps, photographs or other materials which would be helpful in describing the property, its surrounding area, and the nature of the intended use of said property. A site plan of the proposed development of the property and renderings of proposed buildings are desirable items to present. In addition, the Planning Commission or City Council may request additional information that is needed to properly evaluate a request.

10/21/96



How To Rezone

To rezone a parcel of land, the property owner or his authorized agent must submit the following:

1. A bill (original and one copy) to rezone the property. A standard bill format is available in the Municipal Planning Commission office.
2. Signature of a member of City Council must appear on the bill in order to have it introduced in Council. (Council member may authorize a planning staff member to enter the signature).
3. A petition (original and one copy) containing information supporting the rezoning request. A standard petition format is available in the Municipal Planning Commission office.
4. Names and addresses of property owners within 250 feet of any part of the property to be rezoned.
5. A fee of \$80 payable to the City of Charleston to cover the costs of a legal ad, notices to property owners, posting of notices in the area, and staff review of the proposal. The fee is non-refundable, regardless of the outcome of the case.

All of the above application items must be submitted to the Municipal Planning Commission office at least 22 days prior to the Commission's public hearing at which the applicant wishes to present the proposal. Hearings are held once a month, on the first Wednesday after the first Monday. A listing of the filing deadlines and hearing dates may be obtained from the Planning office.

Upon receipt of the above items, the Commission staff will post sign notices, one on the subject property and two within 500 feet thereof. Also, notices will be sent by certified mail to the owners of the property lying within 250 feet of the subject property, and a legal ad will be published in the paper.

The applicant, or his authorized agent, must appear at the Municipal Planning Commission public hearing to present the rezoning case. The presentation should include reasons justifying the rezoning plus maps, photographs or other materials which would be helpful in describing the property, its surrounding area, and the nature of the intended use of the property. A site plan of the proposed development of the property and renderings of proposed buildings are desirable items to present. In addition, the Planning Commission, the Council Committee on Planning, or City Council may request additional information that is needed to properly evaluate a rezoning request.

RESOLUTION NO. 76-19

A RESOLUTION TO ANNEX TERRITORY CONTIGUOUS
WITH THE PRESENT BOUNDARIES OF THE
CITY OF NITRO BY MINOR BOUNDARY ADJUSTMENT
CONSISTING OF 12.854 ACRES

WHEREAS, the City of Nitro, a municipal corporation, by its council, wishes to apply to the Kanawha County Commission for permission to annex by minor boundary adjustment 12.854 acres, more or less, of real estate in Kanawha County, West Virginia, adjoining and contiguous with the City of Nitro, West Virginia.

WHEREAS, the City Attorney, Phillip D. Gaujot, is directed to file with the Kanawha County Commission, an application to annex by minor boundary adjustment real estate in Kanawha County, West Virginia, adjoining and contiguous with the City of Nitro, as shown upon that certain metes and bounds description attached hereto and marked as Exhibit "A" and incorporated herewith; and,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Nitro, West Virginia, that the City Attorney, Phillip D. Gaujot, proceed with the application filed with the Kanawha County Commission to annex by minor boundary adjustment real estate in Kanawha County, West Virginia, adjoining and contiguous with the City of Nitro, containing 12.854 acres, as shown upon that certain metes and bounds description attached hereto and marked as Exhibit "A" and incorporated herewith.

Motion Made by Councilman Bo Young, Seconded
by Councilman George Adkins to adopt this resolution.

Motion carried unanimously.

ADOPTED: Doe 1996

Tommy Cash
MAYOR

Julia N. Libby
RECORDER

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DESCRIPTION OF A 12.854-ACRE TRACT

Description of a tract of land situate in Union District, Kanawha County, West Virginia, lying southwest of Tri-State Greyhound Park Ltd. Being a part of SOLCO property as recorded in DB-2012, PG-367 and being more particularly described as follows:

BEGINNING at a point, said point being a set stone in the northeast corner of the Storage property as recorded in DB-1981, PG-92, thence from point of beginning and along the easterly line of said Storage property; N. $02^{\circ} 11' 00''$ E., a distance of 83.61 feet to an iron pin, thence leaving said Storage line; N. $49^{\circ} 00' 05''$ E., a distance of 108.12 feet to an iron pin, thence; N. $32^{\circ} 07' 57''$ E., a distance of 173.62 feet to an iron pin, thence; following a curve to the left with a radius of 855.50 feet, a central angle of $02^{\circ} 21' 38''$, and a chord bearing of S. $58^{\circ} 47' 15''$ E., a distance of 35.32 feet to a point, thence; S. $07^{\circ} 38' 35''$ E., a distance of 45.99 feet to a point, thence; S. $80^{\circ} 48' 18''$ E., a distance of 20.00 feet to a point, thence; N. $27^{\circ} 00' 51''$ E., a distance of 30.52 feet to a point, thence; following a curve to the left with a radius of 855.50 feet, a central angle of $09^{\circ} 24' 30''$, and a chord bearing of S. $67^{\circ} 44' 12''$ E., a distance of 140.32 feet to a point in the Lowe's/SOLCO line; thence following said line along a curve to the left with a radius of 98.20 feet, a central angle of $78^{\circ} 33' 01''$, and a chord bearing of S. $66^{\circ} 50' 55''$ W., a distance of 124.33 feet to a point, thence; following a curve to the right with a radius of 397.74 feet, a central angle of $24^{\circ} 41' 44''$, and a chord bearing of S. $39^{\circ} 56' 22''$ W., 170.11 feet to a point, thence; following a curve to the left with a radius of 824.12 feet, a central angle of $13^{\circ} 51' 06''$, and a chord bearing of S. $45^{\circ} 21' 41''$ W., 198.75 feet to a point, thence; S. $38^{\circ} 26' 08''$ W., a distance of 49.56 feet to a point, thence S. $36^{\circ} 46' 49''$ W., a distance of 212.75 feet to a point, thence; S. $38^{\circ} 14' 02''$ W., a distance of 587.85 feet to a point, thence; leaving said SOLCO/Lowe's line S. $73^{\circ} 16' 20''$ W., a distance of 176.84 feet to a point, thence; S. $35^{\circ} 48' 00''$ W., a distance of 842.78 feet to a point, thence; N. $54^{\circ} 12' 00''$ W., a distance of 206.30 feet to a point, thence; N. $33^{\circ} 46' 48''$ E., a distance of 154.94 feet to a point, thence; N. $13^{\circ} 54' 50''$ E., a distance of 225.40 feet to a point, thence; N. $11^{\circ} 21' 12''$ E., a distance of 306.27 feet to a set stone, thence; N. $56^{\circ} 40' 55''$ E., a distance of 756.37 feet to an iron pin, thence; S. $33^{\circ} 19' 58''$ E., a distance of 38.35 feet to an iron pin, thence; N. $81^{\circ} 59' 23''$ E., a distance of 108.79 feet to an iron pin, thence; N. $55^{\circ} 11' 35''$ E., a distance of 124.55 feet to an iron pin, thence; N. $45^{\circ} 12' 28''$ E., a distance of 125.05 feet to an iron pin, thence; N. $34^{\circ} 36' 27''$ E., a distance of 150.98 feet to an iron pin, thence; N. $56^{\circ} 40' 55''$ E., a distance of 117.24 feet to the point of beginning, containing 12.854 acres, more or less.

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CITY OF NITRO COUNCIL MEETING MINUTES

DECEMBER 17, 1996

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present: City Recorder Herb Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilmen Robert Young, David Miller and Frank Grover, Jr. Also present City Attorney Phillip Gaujot. Absent Councilman George Atkins.

Moment of silence in memory of Robert Lewis, a retired employee of the Nitro Sanitary Board. Bob will be sadly missed by his wife, Patty, Son Bobby and a host of Friends.

AGENDA ITEM NO. 1 INVOCATION: COUNCILMAN AT LARGE ROBERT MATTOX.

Mayor Casto introduced the new Judge for the City of Nitro, Attorney Jeff Woods. Attorney Woods stated he appreciated the appointment and he made only one promise and that was to be fair. Councilman at Large Steve West commented he has known Judge Woods for several years and both are members of the faculty at West Va. State College.

AGENDA ITEM NO. 2 APPROVAL OF DECEMBER 03, MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED WITH COUNCILMEN AT LARGE STEVE WEST AND RICHARD SAVILLA ABSTAINING.

AGENDA ITEM NO. 3 U-DAG UPDATE: Mayor Casto yielded the floor to City Attorney Phil Gaujot. Counselor Gaujot stated the U-Dag agreement will be ready for the first meeting in January. Regarding Riverview Apartments, Attorney Gaujot recommended a meeting with the owners, Mayor Casto and himself to discuss this issue. Also, he said an ordinance will be prepared for a surplus property sale for the first Council meeting in January.

Counselor Gaujot mentioned he had filed application for annexation of the 12.854 acres with the County Commission. A Public Hearing before the County Commission to be held February 13, 1997 at 6:00 p.m. Notice should be published in the paper and notices posted in five conspicuous places.

Planning Commission issue to be addressed at a later date and a public hearing to be scheduled. Mayor Casto stated January 7, 1997 will be the first meeting to discuss rezoning of Frederick Street.

AGENDA ITEM NO. 4 BIDS STREET SWEEPER: COUNCILMAN BOB YOUNG MOVED TO AUTHORIZE COUNCILMAN BOB MATTOX, CHAIRMAN, ALONG WITH MAYOR CASTO AND HERB SIBLEY TO PREPARE SPECS AND ADVERTISE FOR BIDS, TO BE OPENED JANUARY 7TH, 1997 FOR THE STREET SWEEPER. THE MOTION WAS SECONDED BY FRANK GROVER, JR. AND WAS CARRIED.

AGENDA ITEM NO. 5 BIDS FRONT DOORS: COUNCILMAN BOB YOUNG MOVED TO AUTHORIZE COUNCILMAN BOB MATTOX, CHAIRMAN, ALONG WITH MAYOR CASTO AND HERB SIBLEY TO PREPARE SPECS AND ADVERTISE FOR BIDS, TO BE OPENED JANUARY 7TH COUNCIL MEETING. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

AGENDA ITEM NO. 6 BIDS 31ST STREET EAST BRIDGE: Mayor Casto discussed options available for the 31st Street Bridge. The lowest price \$25,000 all the way up to \$236,000. Mayor Casto stated he and the Public Works Director are looking at an Acrow Panel Bridge, cost of \$84,000. Currently we have \$62,500. COUNCILMAN BOB YOUNG MOVED TO ADVERTISE FOR BIDS FROM ENGINEERING FIRMS TO BE OPENED THE FIRST MEETING IN FEBRUARY. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

AGENDA ITEM NO. 7. FIRST READING ORDINANCE 96- Mayor Casto yielded the floor to City Attorney Phillip Gaujot. Counselor Gaujot stated the language on page 9, under article 3, section 321, first paragraph on page 9 the 6th line down should read, upon receipt of the City Fire Truck, Garbage Truck and or Street Sweeper. The City will bill the company for such special fire fee and special garbage fee incurred by the City as defined herein on a monthly basis and the company will pay or cause the tenants or occupants of the development property to forthwith pay such amount to the city. Mr. Gaujot said it was the same ordinance as previously read, but because of the changes he suggests this be considered the first reading of the ordinance. COUNCILMAN AT LARGE STEVE WEST MOVED CITY ATTORNEY PHILLIP GAUJOT READ TITLE ONLY, AND TO APPROVE FIRST READING OF ORDINANCE 96- AN ORDINANCE AUTHORIZING MAYOR CASTO TO ENTER INTO AN "AMENDED DEVELOPMENT AGREEMENT" PROVIDING FOR TAX INCENTIVES FOR THE THF CROSS LANES LIABILITY COMPANY. A discussion followed. Attorney Martin Glasser stated the Center will be known as Nitro Plaza or Nitro Market Place. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED. (Copy Attached)

COUNCILMAN AT LARGE STEVE WEST MOVED TO SCHEDULED A PUBLIC HEARING, REGARDING ORD. 96- JANUARY 7, 1997 AT 6:30 P.M. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

AGENDA ITEM NO. 8. RESOLUTION LEVY ELECTION: Recorder/Treasurer Herb Sibley briefly explained the Excess Levy Election. Recorder Sibley read title of Resolution 96-18 a Resolution setting forth an order calling for a special election for an additional municipal levy in the City of Nitro, Kanawha and Putnam Counties, WV. The City Council of the City of Nitro being of opinion that the maximum levies for the current expenses authorized by section 16, article 8, chapter 11 of the code of WV as amended will not provide sufficient funds for the payment of current expenses of the municipalities, including expenditures for the purposes herein after set forth and that an election should be held to increase such levy under the provision of section 16, article 8, chapter 11 code of WV as amended. RECORDER HERBERT SIBLEY MOVED TO APPROVE THE LEVY ELECTION. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. This election will be held March 8, 1997. (Copy attached)

AGENDA ITEM NO. 9 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller, Spokesman. Mr. Miller commented they felt the parade was very successful and have already set December 6, 1997 for next year's parade. Also he announced they have a new Treasurer, Mr. Ken Rollins and they are working on a year calendar of events.

AGENDA ITEM NO. 10 FINANCE REPORT: Recorder/Treasurer Herb Sibley stated the City needs to conserve. Mr. Sibley stated this is a very slow time of the year. Recorder/Treasurer Sibley said he will furnish Council with a statement of expenditures soon after first of the year. Also Mr. Sibley commented he will be out of town until after Christmas.

Recorder Sibley read report from Police and Fire calls. Commended the Dept for their work. (Copy attached)

AGENDA ITEM NO. 11 MAYOR & COUNCILMEN COMMENTS:

Councilman Bob Mattox reported on the street sweeper. This vehicle has 9300 miles and looks very good. Councilman Mattox highly recommended this piece of equipment. Also Mr. Mattox commended the Woman's Club for their work with the "Holiday Stocking".

Councilman at Large Steve West suggested a letter of appreciation be sent to the Poca Volunteer Fire Department.

Councilman David Miller reported the fire truck will be out for repair for approximately a month. Poca has agreed to loan us a truck. Also he said, the dept. had a major structure fire and Nitro's equipment was tied up. Poca Fire Department brought up a rescue truck.

Councilman Frank Grover stated he appreciated the boy scouts attending the Council meeting and also complimented The Business & Professional Association for the "Pot of Gold" project.

Mayor Casto reported he started an angel tree from the Elementary School and many of the names were taken by City Hall employees. All names were taken and bought for.

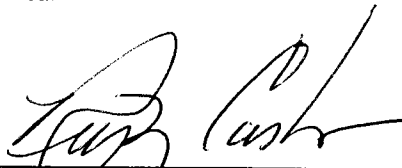
Mayor Casto stated one of the projects He would like to complete for 1997, is to bring up the streets in Brookhaven and Carriage Way.


Mayor Casto read a poem to Council.

Mayor Casto announced Open House, Friday, December 20th, at City Hall 1:00 p.m. to 3:00 p.m.

Dean Miller announced a reception in honor of Casto Hardware, 50 years of service in Nitro.

There being no further business, the meeting was adjourned.



RUSTY CASTO, MAYOR

HERBERT SIBLEY, RECORDER

ORDINANCE NO. 96- 08

AN ORDINANCE AUTHORIZING MAYOR TO ENTER
INTO "AMENDED DEVELOPMENT AGREEMENT"
PROVIDING FOR TAX INCENTIVE FOR
THF-CROSS LANES LIMITED LIABILITY COMPANY

WHEREAS, Ordinance No. 96-05, passed by this Council on Second Reading on May 7, 1996, authorized the Mayor to enter into agreements with industrial and/or commercial developers and with the Nitro Development Authority, granting tax credits or remittances from the City of Nitro Business and Occupation tax, subject to approval by this Council; and,

WHEREAS, by Ordinance No. 96-06, passed by this Council on Second Reading on June 18, 1996, authorized the Mayor to sign the "Development Agreement" with THF-Cross Lanes Limited Liability Company and others; and,

WHEREAS, on June 18, 1996, pursuant to Ordinance No. 96-06, the Mayor signed the Development Agreement on behalf of the City of Nitro; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has determined that it must acquire additional real estate, which will increase the area of development, make improvements to other properties adjacent to the development, incur additional earth-moving costs, construct additional roads, all at the cost of THF-Cross Lanes Limited Liability Company and a substantial portion of such improvements will be dedicated to the public or to adjacent property owners and not reserved for the private use of THF-Cross Lanes Limited Liability Company; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has requested that the City of Nitro annex the additional real estate, consisting of 12.936 acres, more or less; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has requested that the "Development Agreement" signed by the Mayor of the City of Nitro on June 18, 1996, pursuant to Ordinance No. 96-06, be amended to include the matters mentioned above and to provide for other language to clarify the rights and duties of the respective parties; and,

WHEREAS, THF-Cross Lanes Limited Liability Company agrees to pay certain sums as consideration to the City of Nitro for agreeing to entering into an "Amended Development Agreement"; and,

WHEREAS, a copy of the proposed "Amended Development Agreement" is attached hereto and made a part hereof.

NOW, THEREFORE, be it ordained by the Council of the City of Nitro, West Virginia, that the "Amended Development Agreement" with the City of Nitro and the Nitro Development Authority, a copy of which is attached hereto, is approved.

BE IT FURTHER ORDAINED that the Mayor of the City of Nitro is directed to sign said "Amended Development Agreement" on behalf of the City of Nitro.

BE IT FURTHER ORDAINED that a public hearing shall be held pursuant to proper notice on the 17th day of December, 1996, for public comment.
AT 6:00 P.m. AT Council Chambers

Motion made by STEVE WEST, seconded by Robert Young, on first reading, to adopt this Ordinance.

Motion made by _____, seconded by _____, on second reading, to adopt this Ordinance.

PASSED ON FIRST READING

Date: 11/19/96

ADOPTED ON SECOND READING
 after public hearing held
 on _____,
 which public hearing notices
 were given by publication

Date: _____

[Signature]
 MAYOR

[Signature]
 CITY RECORDER

RESOLUTION 96-18

A RESOLUTION SETTING FORTH AN ORDER CALLING FOR A SPECIAL ELECTION FOR ADDITIONAL MUNICIPAL LEVY IN THE CITY OF NITRO, KANAWHA AND PUTNAM COUNTIES, WEST VIRGINIA. THE CITY COUNCIL OF THE CITY OF NITRO, BEING OF THE OPINION THAT THE MAXIMUM LEVIES FOR CURRENT EXPENSES AUTHORIZED BY SECTION 16, ARTICLE 8, CHAPTER 11 OF THE CODE OF WEST VIRGINIA, AS AMENDED, WILL NOT PROVIDE SUFFICIENT FUNDS FOR THE PAYMENT OF CURRENT EXPENSES OF THE MUNICIPALITY, INCLUDING EXPENDITURES FOR THE PURPOSES HEREINAFTER SET FORTH, AND THAT AN ELECTION SHOULD BE HELD TO INCREASE SUCH LEVIES UNDER THE PROVISIONS OF SECTION 16, ARTICLE 8, CHAPTER 11 OF THE CODE OF WEST VIRGINIA, AS AMENDED.

BE IT RESOLVED:

1. That the purposes for which additional funds are needed are as follows:

- A. Street maintenance and repair
- B. Parks and recreation
- C. Firemen's wages
- D. Street lighting
- E. Policemen's wages
- F. Library
- G. Fire hydrant rental

2. That the approximate amount for each purpose is as follows:

- A. \$ 41,919.00
 - B. \$ 32,056.00
 - C. \$ 46,851.00
 - D. \$ 24,658.00
 - E. \$ 71,509.00
 - F. \$ 19,727.00
 - G. \$ 9,863.00
- Total \$246,583.00

3. That the total approximate amount for said purposes is:
- | | | |
|----|--------------|--------------------|
| A. | \$ 55,000.00 | |
| B. | \$125,695.00 | |
| C. | \$239,169.00 | |
| D. | \$ 40,000.00 | |
| E. | \$404,775.00 | |
| F. | \$ 52,106.00 | |
| G. | \$ 13,000.00 | Total \$929,745.00 |
4. That the separate and aggregate assessed valuation of each class of taxable property within the City of Nitro is as follows:
- | | |
|----------|-----------------|
| Class I | \$ 6,395.071.00 |
| Class II | \$43,909,728.00 |
| Class IV | \$75,082,561.00 |
5. That the proposed additional rate of levy in cents per one hundred dollars of assessed valuation of each class of property is as follows:
- | | |
|----------|-------------|
| Class I | 6.25 cents |
| Class II | 12.50 cents |
| Class IV | 25.00 cents |
- 5a. That in the event separate and aggregate assessed value of each class of taxable property within the City of Nitro increases during the term of the special excess levy, the levy rate shall be adjusted so that the projected tax collection will not exceed \$246,583.00 in any fiscal year.
6. That the proposed years to which the additional levy shall apply are the fiscal years beginning July 1, 1997, July 1, 1998, and July 1, 1999.
7. That the City Council will not issue bonds upon the approval of the proposed levy.
8. That the question of such additional levy shall be submitted to a vote at a Special Election to be held on the 8th day of March, 1997.
9. That notice calling such election shall be given by the publication of this order at least once each week for two successive weeks before said election in two newspapers of opposite politics and of general circulation in the territory in which the election is held. All the provisions of the laws concerning special elections shall apply.
10. That the ballot to be used at such election shall be in the following form:

OFFICIAL LEVY BALLOT

Special levy election to authorize additional levies for the fiscal years beginning July 1, 1997, July 1, 1998, and July 1, 1999, and for the purpose of supplementing:

- A. Street maintenance and repair \$41,919.00
- B. Parks and recreation \$32,056.00
- C. Firemen's wages \$46,851.00
- D. Street lighting \$24,658.00
- E. Policemen's wages \$71,509.00
- F. Library \$19,727.00
- G. Fire hydrant rental \$9,863.00

According to the order of the City Council entered the 17th day of December, 1996.

The annual total approximate amount to be expended during the term of this levy is \$246,583.00.

The additional Levy shall be on Class I property 6.25 cents, on Class I property 12.50 cents, on Class IV property 25.00 cents per \$100 of assessed valuation.

INSTRUCTIONS: Those favoring the additional levy, place an "X" in the square before "For the Levy." Those against such levy, place an "X" in the square before "Against the Levy."

() For the Levy

() Against the Levy

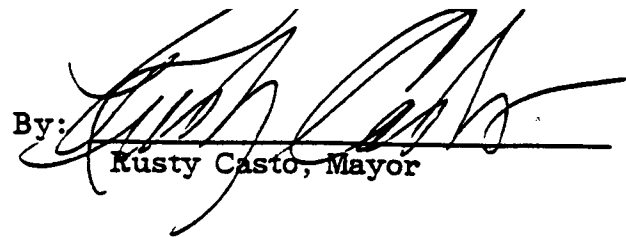
City Council

City of Nitro

DATED:

Dec 17, 1996

By:


Rusty Casto, Mayor

33

ATTEST:


Herb Sibley, City Recorder

f:\wp51\client\nitro\addlevy.ord

CITY OF NITRO COUNCIL MEETING MINUTES

JANUARY 7, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder, Herb Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller, George Atkins, and Frank Grover, Jr. Also present City Attorney Phillip Gaujot and several area citizens.

AGENDA ITEM NO. 1: INVOCATION: Ivan Meadows.

AGENDA ITEM NO. 2: CITIZEN OF THE MONTH: Jean Matter was selected as January Citizen of the Month. Mayor Casto commended Ms. Matter on her work with the "Angel Tree" and other work she has been responsible for with the school. Mrs. Sally Meadows presented Ms. Matter with a plaque. Ms. Matter thanked the citizens and students and said it had been a heartwarming experience working with the community regarding this project. Ms. Matter stated there were 48 names on the tree, and sponsored 8 full families with food for a complete meal.

AGENDA ITEM NO. 3 APPROVAL OF 12/17/96 MINUTES: Councilman at Large Steve West moved to approve the 12/17/96 Council Meeting Minutes as distributed. The motion was seconded by Councilman at Large Richard Savilla and was carried.

COUNCILMAN ROBERT YOUNG MOVED TO MOVE AGENDA ITEM NO. 8 TO NUMBER 4. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 8 SECOND READING ORD 96-08 THF: COUNCILMAN AT LARGE STEVEN WEST MOVED CITY ATTORNEY, PHILLIP GAUJOT READ TITLE ONLY OF 96-08. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. COUNSELOR GAUJOT READ TITLE ONLY OF 96-08 AN ORDINANCE AUTHORIZING MAYOR TO ENTER INTO "AMENDED DEVELOPMENT AGREEMENT" PROVIDING FOR TAX INCENTIVE FOR THE-CROSS LANES LIMITED LIABILITY COMPANY.

Counselor Gaujot stated He would like the record to show that a copy of the amended development agreement is attached to the ordinance and all of council has had an opportunity to review the agreement prior to today. Also today at 6:30 p.m. a public meeting was held at which time public comment was made with regard to the amended development agreement. This was the second public meeting. Counselor Gaujot stated everything is in order to adopt this ordinance. COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE ORDINANCE 96-08. AN ORDINANCE TO ENTER INTO "AMENDED DEVELOPMENT AGREEMENT" PROVIDING FOR TAX INCENTIVE FOR THE- CROSS LANES LIMITED LIABILITY COMPANY. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. (Copy attached)

Martin Glasser, Attorney stated they hope to begin to move dirt between March 1st, and April 1st. There will be a ground breaking and all of you are invited. Based on this agreement the Developer will begin to spend a lot of money. Hopefully, by spring of 1998 there will be a development everyone is proud to have.

City Attorney, Phillip Gaujot said the application for annexation of the additional 12. plus acres was filed with County Commission who scheduled a public hearing, February 13th at 5:00 p.m. in the Court Room. Counselor Gaujot said notices need to be posted and displayed in five conspicuous places. Also signatures of witnesses to posting. Counselor Gaujot stated he has also prepared the notices for the newspaper.

Michael Staenberg thanked everyone involved and said he is looking forward to working with everybody. Mr. Staenberg stated he is on the 5 yard line and he has 95 more yards to go.

AGENDA ITEM NO. 4 PUBLIC HEARING MINUTES ANNEX: COUNCILMAN ROBERT YOUNG MOVED TO MAKE THE PUBLIC HEARING MINUTES A PART OF JANUARY 7, 1997 COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 5 FIRE DEPT PENSION BD MINUTES: COUNCILMAN GEORGE ATKINS MOVED TO MAKE FIRE DEPT PENSION BD MINUTES A PART OF JANUARY 7, 1997 COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 6 FREDERICK STREET: City Attorney Phillip Gaujot explained to council that the Nitro Planning Commission held a meeting October 21st in Council Chambers to consider a request that the property located at corner of Frederick Street and Walker Street, Owners, Lee and Joyce Conrad be rezoned from R-2 to B-1 in order to build mini-storage units. I have prepared an ordinance which would rezone from R-2 to B-1. Before this can be done you must have a public meeting. It should be determined when you will schedule the public meeting before reading the ordinance. Also there has been filed a petition opposing any part of Frederick be rezoned to business. COUNCILMAN ROBERT YOUNG MOVED ATTORNEY GAUJOT READ TITLE ONLY OF ORDINANCE 97-01. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVEN WEST AND WAS CARRIED. COUNSELOR GAUJOT READ TITLE ONLY OF ORD. 97-01 AN ORDINANCE TO REZONE REAL ESTATE LOCATED AT CORNER OF FREDERICK AND WALKER STREET FROM R-2 TO B-1.

COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO ESTABLISH A PUBLIC HEARING FEBRUARY 04, AT 6:30 P.M. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE, ON FIRST READING ORDINANCE 97-01, AN ORDINANCE TO REZONE REAL ESTATE AT CORNER OF FREDERICK AND WALKER STREET FROM R-2 TO B-1. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AFTER SOME DISCUSSION A VOTE WAS TAKEN AND CARRIED. (Copy attached)

AGENDA ITEM NO. 7 U-DAG UPDATE: Mayor Casto yielded the floor to Counselor Gaujot. Counselor Gaujot said in regard to U-Dag, there has been an agreement by the lawyers and principal based upon what was previously represented to you. Hopefully we can bring this to a conclusion at the next meeting in February with an ordinance authorizing the Mayor to enter into such an agreement. The U-Dag grant was \$1, 289,622.75, with interest approved on that loan up to filing bankruptcy was \$199,636.70 for a total of \$1, 481,259.45. Keep in mind the debtor in possession, which is Par Industrial Corporation has to file a unified disclosure statement and plan with the bankruptcy court. As part of that plan, it will consist of the agreement with the City, assuming this body allows the Mayor to enter into the agreement. The agreement is that Par will pay \$6,300.00/month, with interest, begins to accrue at time the plan is approved, at eight per cent interest for seventy two months. Interest will continue to accrue at the rate of \$453,600. At the end of seventy two months, the sum will be \$1,675,200 at which time Par will pay either \$19,642.97 for 96 months, or \$17, 450 for 108 months. A question and answer session followed. The first \$6,300.00 should be received by first of May.

COUNCILMAN AT LARGE STEVE WEST MOVED THE CITY ATTORNEY PREPARE THE NECESSARY PAPERS TO ENABLE THIS REPAYMENT PLAN. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 9 BID OPENING STREET SWEEPER: Recorder Sibley distributed the bids to three councilmen to be opened. Recorder Sibley read the advertisement published in the paper. The first bid, opened by Councilman at Large Richard Savilla, State Equipment \$98,155.36. Second bid, opened by Councilman Steve West, WV. Tractor, used street sweepers, \$64,000.00 1993 ford chassis, alternate 1997 new demo \$105,000. Third bid opened by Councilman Bob Young, Golden Equipment Co. 1st bid used \$77,450, 2nd \$87,800, 3rd on \$93,850, 4th bid \$77,985. Second through fourth bids are new equipment. COUNCILMAN GEORGE ATKINS MOVED TO SEND THIS ITEM TO COMMITTEE AND BRING RECOMMENDATIONS TO COUNCIL FOR APPROVAL. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

THE FOLLOWING PORTION OF MINUTES FROM NOTES AND MEMORY BY RECORDER HERBERT SIBLEY AND MAYOR CASTO.

AGENDA ITEM NO. 10 RESOLUTION POCA RIVER: Mayor Casto read Resolution 97-01 A RESOLUTION AUTHORIZING THE SUBMISSION OF A SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION FOR THE CITY OF NITRO, KANAWHA COUNTY, WEST VIRGINIA. The Mayor and City Council have identified the 1996 Small Cities Block Grant Program as a source of funding for the proposed project. COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE RES. 97-01. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO 11 BEAUTIFICATION UPDATE: Mayor Casto reported on progress of Bob Sergent, Building Official's work regarding removal of several derelict properties and indicated several more have been ear-marked for removal.

AGENDA ITEM NO. 12 BUSINESS & PROFESSIONAL ASSOC. Due to illness, Dean Miller reported he has been unable to attend last meeting but he indicated several projects are being planned including a "bowling tournament".

AGENDA ITEM NO. 13 JANUARY 21ST COUNCIL MEETING: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO MOVE JANUARY 21ST COUNCIL MEETING UP TO JANUARY 28TH TO FACILITATE CONFLICTS IN MAYOR SCHEDULE . THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 14 NEW TREASURER: Mayor Casto introduced New Treasurer, Ralph Allison . Mr. Allison will be replacing Herbert Sibley who resigned due to personal reasons. COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE RALPH ALLISON AS TREASURER. THE MOTION WAS SECONDED AND WAS CARRIED.

AGENDA ITEM NO. 15 SURPLUS PROPERTY ORDINANCE 97-02: Without objection City Attorney Phillip Gaujot read title only of Ordinance 97-02. A public Auction was announced February 15, 1997 at 10:00 A. M. COUNCILMAN DAVE MILLER MOVED TO APPROVE ORDINANCE 97-02. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED.

COUNCILMEN COMMENTS

Frank Grover, commented on landfill and yard waste.

George Atkins, stated there is a need for new council chambers, committee George Atkins, Frank Grover and Bob Mattox.

Dave Miller, Read fire report, stated need new fire truck.

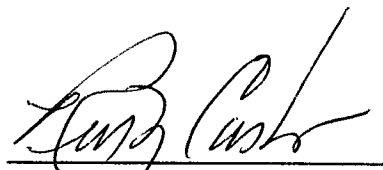
Steve West, announced Community Forum 1/21/97 at 5:30 p.m. room 107 Community Center. Discussed swearing in of Jeff Woods in Court. Announced Employee Relations Meeting 1/14/97 at 6:30 p.m. Conference Room at City Hall.

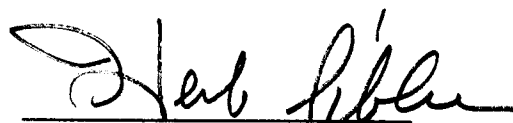
Richard Savilla, commented on status of 31st Street Bridge.

Bob Mattox, comments regarding handicap door.

Herbert Sibley, commented on the time he served as Treasurer and thanked Council for the memories.

Meeting adjourned at 9:45 p.m.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER

ORDINANCE NO. 96- 08

AN ORDINANCE AUTHORIZING MAYOR TO ENTER
INTO "AMENDED DEVELOPMENT AGREEMENT"
PROVIDING FOR TAX INCENTIVE FOR
THF-CROSS LANES LIMITED LIABILITY COMPANY

WHEREAS, Ordinance No. 96-05, passed by this Council on Second Reading on May 7, 1996, authorized the Mayor to enter into agreements with industrial and/or commercial developers and with the Nitro Development Authority, granting tax credits or remittances from the City of Nitro Business and Occupation tax, subject to approval by this Council; and,

WHEREAS, by Ordinance No. 96-06, passed by this Council on Second Reading on June 18, 1996, authorized the Mayor to sign the "Development Agreement" with THF-Cross Lanes Limited Liability Company and others; and,

WHEREAS, on June 18, 1996, pursuant to Ordinance No. 96-06, the Mayor signed the Development Agreement on behalf of the City of Nitro; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has determined that it must acquire additional real estate, which will increase the area of development, make improvements to other properties adjacent to the development, incur additional earth-moving costs, construct additional roads, all at the cost of THF-Cross Lanes Limited Liability Company and a substantial portion of such improvements will be dedicated to the public or to adjacent property owners and not reserved for the private use of THF-Cross Lanes Limited Liability Company; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has requested that the City of Nitro annex the additional real estate, consisting of 12.936 acres, more or less; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has requested that the "Development Agreement" signed by the Mayor of the City of Nitro on June 18, 1996, pursuant to Ordinance No. 96-06, be amended to include the matters mentioned above and to provide for other language to clarify the rights and duties of the respective parties; and,

WHEREAS, THF-Cross Lanes Limited Liability Company agrees to pay certain sums as consideration to the City of Nitro for agreeing to entering into an "Amended Development Agreement"; and,

WHEREAS, a copy of the proposed "Amended Development Agreement" is attached hereto and made a part hereof.

NOW, THEREFORE, be it ordained by the Council of the City of Nitro, West Virginia, that the "Amended Development Agreement" with the City of Nitro and the Nitro Development Authority, a copy of which is attached hereto, is approved.

BE IT FURTHER ORDAINED that the Mayor of the City of Nitro is directed to sign said "Amended Development Agreement" on behalf of the City of Nitro.

BE IT FURTHER ORDAINED that a public hearing shall be held pursuant to proper notice on the 17th day of December, 1996, for public comment.
AT 6:00 P.m. AT Council Chambers

Motion made by STEVE WEST, seconded by Robert Young, on first reading, to adopt this Ordinance.

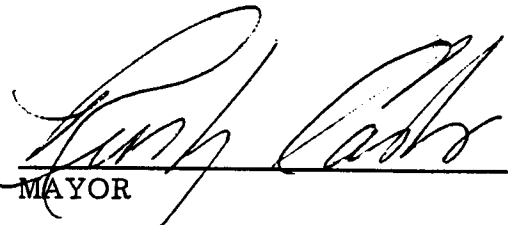
Motion made by _____, seconded by _____, on second reading, to adopt this Ordinance.

PASSED ON FIRST READING

Date: 11/19/96

ADOPTED ON SECOND READING
after public hearing held
on _____,
which public hearing notices
were given by publication

Date: _____



MAYOR



CITY RECORDER

AMENDED DEVELOPMENT AGREEMENT

This Amended Development Agreement, made and entered into this ____ day of _____, 1996, by and among the City of Nitro, a State of West Virginia municipal corporation (the "City"), THF Cross Lanes Development Limited Liability Company, a Missouri limited liability company (the "Company" or "THF"), Solco, Incorporated, a West Virginia corporation ("Solco"), Par-Com Associates Limited Partnership, a West Virginia limited partnership ("Par-Com"), and the Nitro Development Authority, a public agency established by the City pursuant to the laws of the State of West Virginia.

WITNESSETH:

WHEREAS, Company previously contracted with Par-Com, Solco and others by that certain (i) Land Purchase Option Agreement dated September ____, 1995, to acquire certain real property consisting of approximately nine (9) acres; and (ii) Option and Purchase and Sale Agreement, dated as of November 7, 1995 to acquire certain real property consisting of approximately fifty-three (53) acres, the said Land Purchase Option Agreement and said Option and Purchase and Sale Agreement are collectively hereinafter referred to as the "Initial Agreements;" and,

WHEREAS, the real estate described in the Initial Agreements (the "Initial Property"), which is more particularly described in Exhibit A, attached hereto and by this reference made a part hereof, was real estate upon which the Company intended to develop, build, lease and sell properties for commercial use, including a community shopping center, and the parties to this Amended Development Agreement believe that such community shopping center would be beneficial to the City and surrounding community, as well as provide significant employment opportunities and encourage further development in and around the City; and,

WHEREAS, as part of the Development as herein defined, the Company will construct a community shopping center on the Property and certain infrastructure improvements which will benefit the City as well as surrounding residential and commercial properties; and,

WHEREAS, the City has determined that it is essential to the economic and social welfare of the City that the City promote the economic vitality of the community by assuring opportunities for development and sound and stable commercial growth; and,

WHEREAS, as a result of the foregoing, the owners of the real estate described in the Initial Agreements, the Company and the City entered into a Development Agreement which was executed by the City by authority of action of the City Council of Nitro on June 18, 1996 (the "Initial Development Agreement"); and,

WHEREAS, as a result of the Initial Development Agreement, Solco and Par-Com permitted the City to annex the Initial Property consisting of the approximately sixty-two (62) acres, described in the Initial Agreements, as well as approximately one hundred twenty- two (122) adjoining acres of real estate, which annexed property

consisting of approximately one hundred eighty-four (184) acres, as more particularly described and shown as the "Annexed Territory" on Exhibit B, attached hereto and by this reference made a part hereof, was added to the City in contemplation of the Development described in the said Initial Development Agreement; and,

WHEREAS, the Company has now determined that in order for the Development to be viable, the Company must alter and increase the area of the Development and make improvements to other properties adjacent to the Development, all of which is more expensive than originally estimated as additional property must be acquired and be included in the Development, additional earth-moving costs will be incurred, and additional roads and improvements must be built, all at the cost of the Company, and a substantial portion of such improvements will be dedicated to the public or to adjacent property owners and not reserved for the private use of the Company; and,

WHEREAS, the Initial Agreements have each been amended and the Company has entered into such amendments (the "Amended Agreements") to (i) include additional real estate consisting of approximately thirteen (13) acres in the Development (the "Additional Property") which Additional Property is more particularly described and shown as the "Additional Property" on Exhibit B attached hereto and incorporated by this reference; (ii) to alter and revise the description of the property that is to be acquired by the Company to serve as the site of the Development, so that such property now consists of approximately eighty (80) acres (the "Development Property") as more particularly described and shown as the "Development Property" on Exhibit C attached hereto and incorporated herein by this reference; and (iii) the Company has made other agreements with various Government Agencies and owners of real estate adjacent to the Development to provide at Company cost various improvements; and,

WHEREAS, the Company and the City of Nitro are each desirous of (i) including within the City the Additional Property described in the Amended Agreements and annexing to and including within the City such Additional Property; and, (ii) revising and amending the Initial Development Agreement to reflect the parties' agreements with respect to the Development and the Development Property.

WHEREAS, the City desires to have the Company construct the Development and Associated Infrastructure, all of which will help to improve the social and economic welfare of City and surrounding area, and the City has determined that the Development will enhance the income and tax base of City, to the benefit of City and other governmental entities, and that the powers exercised hereunder are found to be in furtherance of a public use and essential to the public interest; and,

WHEREAS, based on the proposed plans and representations of the Company, the City has determined that within one year after the Development opens for the conduct of retail business, more than fifty persons will be employed by Occupants; and,

WHEREAS, Company desires to conclude its purchase and acquisition of the Development Property and to proceed with the Development thereon, but the Company

has determined that the total costs for Associated Infrastructure and extraordinary site preparation make the Development economically unsound unless the Company receives the benefits described in this Amended Development Agreement; and,

WHEREAS, the Nitro Development Authority is a public agency, created to assist new and existing business; and,

WHEREAS, the City imposes various Business and Occupation Taxes and, in order to encourage and provide incentives for, the Company to proceed with and accomplish the Development, the City desires to grant credits from such taxes and the Nitro Development Authority desires to utilize and apply the proceeds of such credits as more fully set forth herein; and,

WHEREAS, the receipt of such tax credits will make it economically feasible for the Company to purchase the Development Property and to construct the Development, Associated Infrastructure and site preparation and the Company will proceed relying on the receipt of Tax Credits; and,

WHEREAS, the City, the Nitro Development Authority, the Company and the owners of all the properties included in the Amended Agreements, each desire to supersede the Initial Development Agreement and adopt, approve and enter into this Amended Development Agreement, as and for the agreement to govern the parties hereafter.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS: CONSTRUCTION

Section 1.1 Definitions. For purposes of this Agreement, words and terms used in this Agreement shall have the following meanings:

“Additional Property” shall have meaning given on page 2 hereof.

“Additional Sales or Services Business and Occupation Taxes” means the amount of Business and Occupation Taxes from sales or services income on the Development Property received by the City during each Qualifying Year in excess of the Adjusted Base Year Business and Occupation Taxes.

“Adjusted Base Year Business and Occupation Taxes” means for the first Qualifying Year the amount of Business and Occupation Taxes received by the City for the preceding calendar year from sales or services income on the Development Property. For purposes of this Agreement, the parties acknowledge the amount is zero.

“Associated Infrastructure” means all improvements done at Company cost, outside of the Development Property for the benefit of the Development Property and surrounding properties, including but not limited to the improvement of Lakeview Drive and the Tri-State Park Access Road road.

“Business and Occupation Taxes” means a privilege tax imposed on the gross sales or proceeds received within the corporate limits of the City of Nitro in the codified ordinances of the City of Nitro, and authorized by West Virginia Code §8-13-5, or such substitute taxes enacted to replace, modify or substitute for the taxes identified herein.

“Certificate of Substantial Completion” means AIA Document G-704 Certificate of Substantial Completion or comparable documents executed by the Contractor and the Company with respect to the Improvements.

“Company Share” means after \$36,000 is paid as provided in Section 4.2, one hundred percent (100%) of the next Four Hundred Thousand Dollars (\$400,000.00) of Additional Sales or Services Business and Occupation Taxes and Eighty Percent (80%) of the Additional Sales or Services Business and Occupation Taxes thereafter.

“Completion of Construction” means the completion of construction of the improvements as evidenced by a Certificate of Substantial Completion.

“Contractor” means the Contractor(s) selected by the Company for the construction of all or part of the Improvements.

“Development” means the Company’s proposal to develop a retail shopping center consisting of approximately four hundred thousand (400,000) square feet of shop space, and seven (7) outparcels, the relocation and installation of utilities and roads within the bounds of the Development Property as well as road improvements outside the bounds of the Development Property.

“Development Property” means that certain tract or parcel of land, consisting of eighty (80) acres, more or less, as more particularly described and shown on Exhibit C attached hereto and incorporated herein by reference for all pertinent purposes.

“Excusable Delay” means any and all causes beyond the control of the Company, including but not limited to acts of God, fire or other casualty, strike, lockout or other labor dispute, weather conditions, shortages or unavailability of material, labor or utilities, vandalism or laws, failure of any third party to perform obligations, orders or regulations of any Court, governmental, civilian or military authority.

“Improvements” means with respect to Sections 3.1 and 3.2 of this Agreement, the Wal-Mart Store and common area related thereto and the development of a community shopping center.

“Nitro Development Authority” means that Authority authorized, created and established by the City of Nitro pursuant to Chapter 7, Article 12 of the West Virginia Code (W.Va. Code §7-12-1 et seq.).

“Occupants” means any person, firm or corporation which occupies any portion of the Property and is obligated to pay Business and Occupation Taxes to the City.

“Qualifying Years” means each twelve (12) month period from the date of execution of this Agreement through and including the Term of the Agreement.

“Special Allocation Account” means the separate fund account established by the City for the deposit and disbursement of the Additional Sales or Services Business and Occupation Taxes, the rental for hire Business and Occupation Taxes and the Contractor Business and Occupation Taxes.

“Storage Property” means that certain tract of land, consisting of one hundred eighteen (118) acres, more or less, as more particularly described and shown on Exhibit C, being comprised of the lands owned by Par-Com Associates Limited Partnership and the Storage family.

“Term” means a term commencing with the full execution of the Agreement and ending after twenty (20) Qualifying Years.

Section 1.2 Construction. This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) Definitions include both singular and plural;
- (b) Pronouns include both singular and plural and cover all genders;
- (c) Headings of sections herein are solely for convenience or reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof; and
- (d) All exhibits attached to this Amended Development Agreement shall be and are incorporated by reference.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the City. In order to induce the Company to enter into this Amended Development Agreement and to allow for the annexation of the Additional Property into the City, the City hereby represents and warrants to the Company as follows:

- (a) Organization and Standing. The City is duly organized, validly existing and in good standing under the Constitution and laws of the State of West Virginia.
- (b) Power and Authority. The City has full power and authority to execute and deliver this Amended Development Agreement and to perform all of its agreements, obligations and undertakings hereunder.
- (c) Authorization and Enforceability. The execution, delivery and performance of this Amended Development Agreement have been duly and validly authorized by all necessary action on the part of the City. This Amended Development Agreement is a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, except as enforcement hereof may be limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting creditor's rights as may from time to time be in effect.
- (d) No Violation. Neither the execution nor the delivery of this Amended Development Agreement nor the performance of the City's agreements, obligations and undertakings hereunder will conflict with, violate or result in a breach of any of the terms, conditions or provisions of any agreement, rule regulation, statute, ordinance, judgment, decree or other law by which the City may be bound.
- (e) Governmental Consents and Approvals. Except for the Nitro Development Authority, no consent or approval by any other governmental authority is required in connection with the execution and delivery by the City of this Agreement or the performance by the City of its obligations hereunder.

Section 2.2 Representations and Warranties of Nitro Development Authority. In order to induce the Company to enter into this Amended Development Agreement and to allow for the annexation of the Additional Property into the City, the Nitro Development Authority hereby represents and warrants to the Company as follows:

- (a) Organization and Standing. The Nitro Development Authority is duly organized, validly existing and in good standing under the Constitution and laws of the State of West Virginia.

(b) Power and Authority. The Nitro Development Authority has full power and authority to execute and deliver this Amended Development Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery and performance of this Amended Development Agreement have been duly and validly authorized by all necessary action on the part of the Nitro Development Authority. This Amended Development Agreement is a legal, valid and binding obligation of the Nitro Development Authority, enforceable against the Nitro Development Authority in accordance with its terms, except as enforcement hereof may be limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting creditor's rights as may from time to time be in effect.

(d) No Violation. Neither the execution nor the delivery of this Amended Development Agreement nor the performance of the Nitro Development Authority's agreements, obligations and undertakings hereunder will conflict with, violate or result in a breach of any of the terms, conditions or provisions of any agreement, rule regulation, statute, ordinance, judgment, decree or other law by which the Nitro Development Authority may be bound.

(e) Governmental Consents and Approvals. Except for the City, no consent or approval by any other governmental authority is required in connection with the execution and delivery by the Nitro Development Authority of this Agreement or the performance by the Nitro Development Authority of its obligations hereunder.

Section 2.3 Representations and Warranties of the Company. In order to induce the City to enter into this Agreement, the Company represents and warrants to the City as follows:

(a) Organization. The Company is a Limited Liability Company duly organized, validly existing and in good standing under the laws of the State of Missouri, and is duly qualified to transact business in, and in good standing under, the laws of the State of West Virginia.

(b) Power and Authority. The Company has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary actions by the Company. This Agreement is a legal, valid and binding agreement, obligation and undertaking of the Company, enforceable against the Company in accordance with its terms, except as enforcement hereof may be limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting creditors' rights as may from time to time be in effect.

(d) No Violation. Neither the execution nor the delivery or performance of this Agreement will conflict with, violate or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitled any party to terminate or declare a default under any contract, agreement, lease, license or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree or other law to which the Company is a party or by which the Company or any of its assets may be found.

(e) No Proceedings or Judgments. There is no claim, action or proceeding now pending, or to the best of its knowledge, threatened before any court, administrative or regulatory body, or governmental agency to which the Company is a party or which will, or could, prevent the Company's performance of its obligations under this Agreement.

(f) Employment. Within one year after the first day the Development opens to conduct retail business with the general public, there will be at least fifty (50) persons employed by Occupants.

ARTICLE III

CONSTRUCTION OF DEVELOPMENT; ACQUISITION OF RELATED EQUIPMENT; ZONING APPROVALS

Section 3.1 Agreement to Construct Improvements. Within a reasonable period of time following the Company's acquisition of the Development Property, the Company shall commence site work with respect to the Development and shall proceed subject to an Excusable Delay to complete the Improvements for the Development and the Associated Infrastructure. Contemporaneously with the commencement of such site work, the Company will pay the City the lump sum and one time amount of Twelve Thousand Dollars (\$12,000.00) to assist in deferring the cost incurred by the City for additional police. Absent any time extension permitted by reason of an Excusable Delay, the Company shall cause the completion of construction of the Improvements and Associated Infrastructure within thirty (30) calendar months from the time of acquisition of the Development Property by the Company.

Furthermore, THF will cooperate with the City in the City's efforts during the one year period following the full execution of this Agreement, to lease or finance in the form of a monthly rental or payments, the purchase of a fire truck, garbage disposal truck, and/or street sweeper, such monthly rental or payment being separately referred to as the "Special Fire Fee" and the "Special Garbage Fee" and collectively referred to as "Special Service Fees" (none of the Special Service Fees will include operating, maintenance or insurance costs). THF covenants and agrees for a period of ten (10) years after such fire truck, garbage disposal truck and/or street sweeper, or any combination thereof, are obtained, to provide a letter of credit to secure payment by the City of payment to the vendor of the City's Special Fire Fee and Special Garbage Fee to the extent of such annual Special Service Fees, provided that the letter of credit shall not exceed the lesser

of (i) the amount remaining to be paid for the fire truck and garbage disposal truck; or (ii) Four Hundred Five Thousand Dollars (\$405,000.00). The letter of credit will be for an initial term of one (1) year and shall thereafter be renewable during the term of this Agreement provided (i) this Amended Development Agreement is then in full force and effect; (ii) the City is not in default hereunder; and (iii) the Company is receiving the Company Share as herein defined. Upon receipt by the City of the fire truck, garbage truck and/or street sweeper, the City may bill the Company for such Special Fire Fee and Special Garbage Fee incurred by the City as defined herein, on a monthly basis and the Company will pay or cause the tenants or other occupants of the Development Property to forthwith pay such amounts to the City. Provided such monthly Special Service Fees shall not exceed \$4,500.00 per month, nor total annually more than Fifty-Four Thousand Dollars (\$54,000.00). The sum of annual charges for such Special Service Fees over ten (10) years shall not exceed a total of Five Hundred and Forty Thousand Dollars (\$540,000.00). In no event shall the Company pay Special Service Fees beyond such ten (10) years. Acquisition of the Equipment referenced herein shall be completed by the receipt of competitive bids. The City and the Company will coordinate the final selection process.

For the term of this Amended Development Agreement, as long as THF has an open letter of credit for the fire truck or garbage disposal truck and THF pays the Special Service Fees, the City will timely pay said vendors or obligees for such Equipment. If THF has not defaulted in payment of the Special Service Fees, and the aforesaid Letter of Credit is drawn upon then the Company shall have no further obligation to furnish a Letter of Credit and the City will pay to the Company the amount so drawn.

During the term of this Agreement, the City will provide the Development with fire service and such garbage disposal service as provided to other City commercial facilities at similarly calculated cost. Nothing in this Agreement is intended to relieve the Development or the occupants thereof from paying any such fee as is similarly charged other City commercial facilities.

Section 3.2 Failure to Complete Improvements. In the event a Certificate of Completion is not issued with respect to the Improvements within the time limit (as such time limit may be extended by an Excusable Delay) set forth in Section 3.1 hereof, the City's obligation to remit the sums provided for in Article IV hereof shall be suspended until such time as such Improvements are completed, on which date, the obligations under Article VI hereof shall once again commence.

Section 3.3 Zoning, Permits and Land Use. The City shall cooperate with the Company to provide zoning and annexation sufficient for the planned Development and the uses therein. The City shall provide zoning of B-2, Central Business District; C-1, Heavy Commercial District; and 1, Light Industrial, for the Development consistent with the plans for the Development of the Company. The City shall assist the Company in obtaining any and all permits, and any development plan approval necessary to proceed with the Development, including but not limited to parking and street requirements, curb cuts, building permits, sign permits and any other permit or requirement of any Federal,

State or Local Agency. The City covenants and agrees to cooperate with the Company with respect to the vacation of such streets, alleys and other public rights-of-way within its jurisdiction as may be necessary for completion of the Development in accordance with a final site plan prepared by the Company.

ARTICLE IV

CREDIT, ALLOCATION AND PAYMENT OF BUSINESS AND OCCUPATION TAXES

Section 4.1 Credit for Various Business and Occupation Taxes.

(a) Contractor's Business and Occupation Tax. From the date of this Amended Development Agreement and for seven Qualifying Years thereafter, the City agrees to and does hereby grant credits to the Company for the full amount of City Business and Occupation Taxes paid by the Company and those persons, firms or corporations which are contractors with the Company and perform contracting work on the Development Property and by reason thereof owe City Business and Occupation Taxes for contractors. The Company and its contractors shall file such forms and returns as are required by City Ordinances and pay the tax that would be due thereon. The Company shall be entitled to a credit for such taxes during such period of seven Qualifying Years, which credits will be provided by the City and paid to the Company in the manner described in Section 4.2 hereof. The total amount of such tax and the equal credit shall be included and paid in the manner provided in the Tax Accounting hereinafter described.

(b) Rental Business and Occupation Tax. During the Term of this Amended Development Agreement, the City agrees to and does hereby grant credits to the Company, its successors and assigns of the full amount of Business and Occupation Taxes paid to the City by the Company on account of the Business and Occupation Taxes on rental income derived from the Development Property -- that is, furnishing property for hire within the City. The Company shall file such forms and returns as are required by City Ordinances and pay the tax that would be due thereon. The Company shall be entitled to a credit for such taxes during the term of this Amended Development Agreement which credits will be provided by the City and paid to the Company in the manner described in Section 4.2 hereof. The total amount of such tax and an equal credit shall be included and paid in the manner provided in the Tax Accounting hereinafter described.

(c) Sales Business and Occupation Tax. During the Term of this Amended Development Agreement, the City agrees to, and does hereby grant credits to the Company, its successors and assigns, of the full amount of the Company's Share of Additional Sales or Services Business and Occupation Taxes paid to the City by the Company and all other Occupants of the Development Property. The Company and other Occupants of the Development Property shall file such forms and returns as are required by City Ordinances and pay the taxes that would be due thereon. The Company shall be

entitled to a credit for each Qualifying Year of the Company's Share of such Additional Sales or Services Business and Occupation Taxes, which credits will be provided by the City and paid to the Company in the manner described in Section 4.2 hereof. The total amount of Sales or Services Business and Occupation Taxes paid to the City by occupants of the Development Property or space within any building erected thereon shall be included and paid in the manner provided in the Tax Accounting hereinafter described.

(d) Business and Occupation Taxes from the Storage Property. From the date of this Agreement and for seven Qualifying Years thereafter, the City agrees to grant credits to the Owners of the Storage Property, their respective heirs, successors and assigns, in an amount equal to the full sum of contractors, as well as rental income, City Business and Occupation Taxes that would otherwise be payable to the City on account of such activity on the Storage Property. The said owners thereof shall file such forms and returns as are required by City Ordinances and pay the tax that would be due thereon. The City shall separately account for and pay to the then owners of the Storage Property such credits as equal said taxes.

Section 4.2 Receipt, Deposit, and Accounting of the Tax Credits by the City and Payment to the Company.

(a) For each Qualifying Year, the City shall collect and receive the Business and Occupation Taxes described in Sections 4.1(a), (b) and (c), and deposit and disburse such funds in the following manner. Upon receipt, the City shall initially deposit such funds into the Special Allocation Account described below and account for such funds (the "Tax Accounting") as follows:

(i) The receipts from any Business and Occupation Tax described in Section 4.1(a), (b) or (c) above shall be recorded on a Tax Accounting Report, showing the date such funds were received, the Remitter of the funds, the amount remitted and the equivalent Credit due therefore.

(ii) Each month during the Term of this Amended Development Agreement, the City shall be entitled to retain from such monies the sum of Two Thousand Six Hundred Sixty Dollars (\$2,660.00). The City shall disburse such \$2,660.00 to the City's General Funds at the same time it makes the other disbursements described herein.

(iii) Upon disbursing the Two Thousand, Six Hundred Sixty Dollars (\$2,660.00) as aforesaid, the City shall contemporaneously pay to the Nitro Development Authority all monies the Company is entitled to receive as credits for the prior month under Sections 4.1(a), (b), (c) and the provisions of this Section 4.2.

(iv) The City shall make the deposits into the Special Allocation Account with reasonable diligence on receipt of the funds and pay the requisite amount to the Nitro Development Authority on the 10th day of each calendar month, for all monies

received during the preceding calendar month and contemporaneous with such payment provide a Tax Accounting to the Company and the Nitro Development Authority.

(b) Establishment of, and Deposit into, Special Allocation Account. The City acknowledges the existence of the Special Allocation Account. Upon receipt, the City shall promptly deposit the Business and Occupation Taxes described in 4.1 above, into such separately designated account. Until such time as the City has paid all amounts due and owing under this Amended Development Agreement, the City agrees to pledge and apply the monies in the Special Allocation Account to the payment of the amounts due hereunder, and to use such monies for no other purpose and to otherwise maintain the Special Allocation Account in accordance with this Amended Development Agreement. The City further agrees that the City shall not further encumber nor pledge any portion of the Special Allocation Account during the term of this Amended Development Agreement nor take any actions in connection therewith inconsistent with the terms and conditions hereof. In determining the Company Share on an annual basis, the City shall not include the payments during such year of the monthly amounts of the aforesaid Two Thousand Six Hundred Sixty Dollars (\$2,660.00) nor the Three Hundred Forty Dollars (\$340.00) described in 4.3(b), as part of the first Four Hundred Thousand Dollars (\$400,000) of Additional Sales or Services Business or Occupation Taxes. Any interest earned on said Special Allocation Account shall belong to the City.

Section 4.3 Receipt, Deposit and Payment of the Tax Credits by the Nitro Development Authority.

(a) The total amount of monies paid by the City to the Nitro Development Authority, by reason of the terms of this Amended Development Agreement, are hereinafter referred to as the "Tax Credits."

(b) Upon receipt of the Tax Credits from the City, the Nitro Development Authority shall forthwith deposit such monies in a Special Allocation Account which is used solely for the purposes described in this Amended Development Agreement. Within a reasonable time after deposit to such account, but no later than seven (7) days after such deposit, the Nitro Development Authority shall pay the Tax Credits to the Company, less however the sum of Three Hundred Forty Dollars (\$340.00) per month which the Nitro Development Authority shall retain to use for any purpose authorized by its charter. The aforesaid Three Hundred Forty Dollars (\$340.00) designated as aforesaid to be retained by the Nitro Development Authority is a monthly sum which may unilaterally be reduced at the discretion of the City and the said reduction shall be retained by the City. Such reduction shall be by resolution of the City and the Company shall receive written notice thereof. In the event of such reduction the dollar amounts described in Section 4.2 and 4.3 to be retained by the City and the Nitro Development Authority shall be deemed amended accordingly.

ARTICLE V **DEFAULTS AND REMEDIES**

Section 5.1 Defaults: Rights to Cure.

(a) General. Failure or delay by either Party to timely perform as such time may be extended under Article III for an Excusable Delay, any term or provision of this Agreement shall constitute a default under this Agreement. The Party who so fails or delays must, upon receipt of written notice of the existence of such default, immediately commence to cure, correct or remedy such default and thereafter proceed with diligence to cure such default. The Party claiming such default shall give written notice of the alleged default to the Party alleged to be in default specifying the default complained of. Except as otherwise expressly herein provide and except as required to protect against immediate, irreparable harm, the Party asserting a default may not institute proceedings against the other Party until thirty (30) days after having given such notice. If such default is cured within such thirty (30) day period, the default shall not be deemed to constitute a breach of this Agreement. If the default is one which cannot reasonably be cured within the thirty (30) day cure period, and the defaulting party is exercising due diligence to cure such default, such period shall be extended for such time as is reasonably necessary for the curing of the same, so long as there is diligent proceeding to cure such default. If such default is cured within such extended period, the default shall not be deemed to constitute a breach of this Agreement. However, a default not cured as provided above shall constitute a breach of this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

(b) Exception. The notice and thirty (30) day cure provisions above in Section 5.1(a) shall not apply to the City's obligation to pay the amounts specified in Article IV, nor the obligation of Nitro Development Authority to pay the amounts required to the Company under Article IV such payment being a fixed monthly obligation. However, to the extent the City does not receive taxes from the Occupants of the Property, neither the City nor Nitro Development Authority shall be in default. However, the City will use its best reasonable efforts to collect any delinquent taxes owed by Occupants of the Property.

Section 5.2 Remedies of City. In addition to remedies available at law, the City in the event of a default by the Company under any of the terms and provisions of this Agreement, may institute legal action against the Company for specific performance or other appropriate equitable relief.

Section 5.3 Remedies of Company

(a) In addition to remedies available at law, the Company, in the event of a default by the City under any of the terms and provisions of this Amended Development Agreement, may institute legal action against the City for specific performance or other appropriate equitable relief.

(b) The Company, along with the present owners of the Development Property, acting in reliance of this Amended Development Agreement, has permitted the Development Property to be annexed to the City, thereby subjecting the Development Property to City taxes. Furthermore, in reliance on this Amended Development Agreement, the Company will expend approximately Ten Million Dollars of extraordinary on site and off-site costs (the "Extraordinary Costs") which the Company will recapture through this Amended Development Agreement. Therefore, if this Amended Development Agreement is invalidated in any way during its agreed Term, regardless of how such invalidation occurs, whether by default of the City, litigation, or other means, all of which is collectively referred to as "Invalidation," and such Invalidation results in whole or in part, in the Company not receiving the tax credits herein provided for, then the City and Company shall cooperate to permit or allow the Company to recapture, off-set or recover such portion of the Extraordinary Costs as are denied to it or are not received by the Company as a consequence of such Invalidation. Nothing in this Section 5.3 shall require the City to act illegally. In addition to any other remedies, in order to obtain recapture, off-set or reimbursement of the Extraordinary Costs, the Company and City agree that the following shall apply in order to provide to the Company such recapture, off-set or reimbursement:

(i) The Company may elect to terminate the Letter of Credit described in Section 3.1, and thereby have as an annual offset the actual cost to Company of causing such Letter of Credit to be issued; and,

(ii) Upon written request of the Company to the Mayor, the City Council of the City will duly adopt such ordinances as may be necessary under W.Va. Code Chapter 8, Article 7, Section 4 to de-annex the Development Property; if the City fails to adopt such ordinance, then the Company shall have all remedies against the City as are available in law or equity. However, if the City duly adopts a valid ordinance to de-annex as aforesaid, but similar and requisite action is not also duly adopted by the Kanawha County Commission, as provided in W.Va. Code §8-7-4, then, the Company shall not have the right to institute a suit against the City to recover monetary damages, but shall have the right to receive, retain, off-set or credit any Business and Occupation Taxes thereafter accruing and owing from the Company or any occupants of the Development Property or space in any buildings erected thereon, to the City as described in this Amended Development Agreement, until such credits, off-set and reimbursement received by the Company totals the Extraordinary Costs expended. Provided, that if the deannexation action provided for in this subsection is fully completed by all parties, then in such event, the Company shall have no further rights, remedies or claims with respect to the provisions of this subparagraph (ii).

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.1 Entire Contract and Amendments. This Agreement (together with the Exhibits attached hereto) is the entire contract between the City and the Company relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the City and the Company, and may not be modified or amended except by a written instrument executed by both of the Parties.

Section 6.2 Third Parties. Nothing in this Amended Development Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Amended Development Agreement on any other person other than the City and the Company and their respective heirs, successors and assigns, nor is anything in this Amended Development Agreement intended to relieve or discharge the obligation or liability of any third persons to either the City or the Company, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or the Company. This Amended Development Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

Section 6.3 Counterparts. Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

Section 6.4 Waiver. Any Party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 6.5 Cooperation and Further Assurances. The City and the Company each covenants and agrees that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the conveying, transferring, pledging, assigning and confirming unto the City or the Company or other appropriate persons all and singular the rights, benefits, property and revenues herein covenanted, agreed conveyed, assigned, transferred and pledged under or in respect of this Amended Development Agreement. In

the event that during the Term of this Amended Development Agreement, the City eliminates, reduces or otherwise curtails or replaces the Business and Occupation Taxes described in Article 4 hereof, and adopts new taxes or increases other taxes (collectively, "New Taxes"), the City will grant the Company such credits from the New Taxes as will provide the Developer the same financial benefits as provided in this Amended Development Agreement. In the event that during the Term of this Amended Development Agreement, the Nitro Development Authority is legally dissolved or terminated, or is otherwise unable to function, the City shall pay the monies from the City Special Allocation Account that would have been paid to Nitro Development Authority as described in Sections 4.1 and 4.2 of this Amended Development Agreement directly to the Developer. In such event, the City shall retain the monthly amount of Three Hundred Thirty Dollars (\$330.00) which the Nitro Development Authority is entitled to retain under Section 4.3 of this Amended Development Agreement.

Section 6.6 Severability. If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of such section, subsection, term or provision of this Agreement or the application of same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

Section 6.7 Notices. All notices, demands, requests, consents, approvals or other communications or instruments required or otherwise given under this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally or by telecommunication actually received, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows (unless another address is provided in writing):

To the Company: Michael H. Staenberg
THF Cross Lanes Development
Limited Liability Company
955 Executive Parkway
Suite 210
St. Louis, MO 63141
Tel.: 314/878-4044
Fax: 314/878-4004

With a copy to: Alan Bornstein
Sonnenschein, Nath & Rosenthal
One Metropolitan Square
Suite 3000
St. Louis, MO 63102
Tel.: 314/259-5803;
Fax: 314/259-5959

55

To the City: Mayor,
City of Nitro
P. O. Box 308
20th St. and 2nd Ave.
Nitro, WV 25143
Tel.: 304/755-0705
Fax: 304/755-1382

With a copy to: City Attorney
City of Nitro
177 Walnut St.
Morgantown, WV 26505
Tel.: 304/292-3000
Fax: 304/292-1072

Section 6.8 Successors in Interest. This Amended Development Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective authorized successors and assigns.

Section 6.9 No Joint Venture, Agency, or Partnership Created. Nothing in this Amended Development Agreement shall be construed by the Parties or any third person to create the relationship of a partnership, agency, or joint venture between or among such parties.

Section 6.10 West Virginia Law. This Amended Development Agreement shall be construed and interpreted under the internal laws of the State of West Virginia.

Section 6.11. Costs and Expenses. If either Party defaults in the performance of its obligations hereunder, the Parties agree that the defaulting Party shall pay the non-defaulting Party's reasonable costs of enforcing the defaulting Party's obligations under this Agreement, including but not limited to attorneys, fees and expenses.

Section 6.12 No Personal Liability of Officials of City. No covenant or agreement contained in this Amended Development Agreement shall be deemed to be the covenant or agreement of any official, officer, agent, employee or attorney of the City, in his or her individual capacity, and neither the members of the City Council nor any official of the City shall be liable personally under this Amended Development Agreement or be subject to any personal liability or accountability by reason of the execution, delivery and performance of this Agreement.

Section 6.13 Repealer. To the extent that any ordinance, resolution, rule, order or provision of the City's Code of Ordinances is in conflict with the provisions of this Agreement, the provisions of this Amended Development Agreement and the City ordinance authorizing it shall be controlling.

IN WITNESS WHEREOF, the parties hereto have caused this Amended Development Agreement to be executed by their duly authorized officers as of the date set forth above.

CITY OF NITRO, WEST VIRGINIA

By: _____
Title: _____

NITRO DEVELOPMENT AUTHORITY

By: _____
Title: _____

**THE CROSS LANES DEVELOPMENT
LIMITED LIABILITY COMPANY**

By: _____
Michael H. Staenberg, Manager

SOLCO, INCORPORATED

By: _____
Its _____

**PAR-COM ASSOCIATES LIMITED
PARTNERSHIP**

By: _____
Its _____

NITRO DEVELOPMENT AUTHORITY

By: _____
Its _____

Exhibit A

Those two certain Tracts as shown and described are that certain map, prepared by Triad Engineering, Inc., having Drawing No. C95153-PI and dated April 18, 1996 and consisting of the following:

Tract 1:

Description of a 52.945 Acre Tract

Description of a tract of land situate in Union District, Kanawha County, West Virginia, lying southwest of Tri-State Greyhound Park Ltd. Being a part of the Storage property as recorded in DB-1981, PG-92 and including a 1.124 acre parcel as recorded in DB-2246, PG-853, and being more particularly described as follows:

Beginning at a point, said point being a set stone in the northeast corner of the Storage property as recorded in DB-1981, PG-92; thence from point of beginning and along the easterly line of said Storage property, S56°-40'-55"W a distance of 117.24 feet to an Iron Pin; thence S34°-36'-27"W a distance of 150.98 feet to an Iron Pin; thence S45°-12'-28"W a distance of 125.05 feet to an Iron Pin; thence S55°-11'-35"W a distance of 124.55 feet to an Iron Pin; thence S81°-59'-23"W a distance of 108.79 feet to an Iron Pin; thence N33°-19'-58"W a distance of 38.35 feet to an Iron Pin; thence S56°-40'-55"W a distance of 486.37 feet to an Iron Pin; thence leaving the easterly line of said Storage property, N53°-37'-38"W a distance of 152.82 feet to a point; thence S36°-22'-19"W a distance of 872.84 feet to a point; thence N53°-37'-35"W a distance of 851.75 feet to a point; thence N88°-09'-31"W a distance of 45.43 feet to a point; thence N53°-40'-02"W a distance of 4.49 feet to a point; thence N12°-30'-16"E a distance of 298.19 feet to a point; thence N36°-22'-24"E a distance of 417.65 feet to a point; thence N60°-48'-33"E a distance of 109.43 feet to a point; thence N36°-22'-23"E a distance of 1173.60 feet to a point in the northerly line of said Storage property; thence along said line S62°-38'-53"E a distance of 65.16 feet to an Iron Pin; thence S51°-28'-05"E a distance of 436.40 feet to an Iron Pin; thence N81°-06'-05"E a distance of 67.89 feet to a point; thence S51°-28'-05"E a distance of 797.41 feet to a point; thence S60°-44'-54"E a distance of 108.60 feet to an Iron Pin; thence S2°-11'-00"W a distance of 83.61 feet to the point of beginning containing 52.945 acres more or less.

Included in the above tract is an 80.00 feet easement for utilities and road along the northerly portion of tract.

Tract 2:**Exhibit A**

Description of an 8.818 Acre Tract

Description of a tract of land situate in Union District, Kanawha County, West Virginia, lying southwest of Tri-State Greyhound Park Ltd. Being a part of the Storage property as recorded in DB-1981, PG-92 and including a 1.124 acre parcel as recorded in DB-2246, PG-853 and a 8.818 acre parcel designated as Tract "A-21" adjoining on the northeast side, and being more particularly described as follows:

Beginning at a point, said point being a set stone in the northeast corner of the Storage property as recorded in DB-1981, PG-92; thence from point of beginning and along the line of said Storage property, N2°-11'-00"E a distance of 83.61 feet to a point, said point being an iron pin and the true point of beginning; thence from the true point of beginning along the line of said Storage property, N60°-44'-54"W a distance of 108.60 feet to a point; thence, N51°-28'-5"W a distance of 797.41 feet to a point; thence, S81°-6'-5"W a distance of 67.89 feet to an iron pin; thence leaving said Storage line, N31°-44'-28"E a distance of 93.89 feet to an iron pin in the southerly line of an 80.00' right-of-way (Lakeview Drive); thence N28°-39'-45"E a distance of 30.00 feet to an iron pin in the northerly line of said 80.00' right-of-way (Lakeview Drive); thence along said right-of-way S61°-20'-15"E a distance of 105.02 feet to an iron pin; thence leaving said right-of-way N3°-39'-02"E a distance of 326.80 feet to an iron pin; thence N54°-16'-51"E a distance of 100.00 feet to an iron pin; S13°-06'-09"E a distance of 156.04 feet to an iron pin; thence N78°-27'-09"E a distance of 180.23 feet to an iron pin in the westerly right-of-way of Tri-State Greyhound Park access road; thence along said right-of-way and with a curve to the left having a radius of 855.50 feet, a chord bearing of S22°-16'-42"E, a distance of 317.82 feet to an iron pin; thence continuing along said right-of-way S32°-59'-00"E a distance of 162.56 feet to a iron pin; thence with a curve to the left, having a radius of 855.50 feet, a chord bearing of S44°-43'-27"E, a distance of 364.79 feet to an iron pin; thence leaving said right-of-way of Tri-State Greyhound Park access road, S32°-07'-57"W a distance of 173.62 feet to an iron pin; thence S49°-00'-05"W a distance of 108.12 feet to the true point of beginning containing 8.818 acres more or less.

Included in the above tract is an 80.00 feet easement for utilities and road along the southerly portion of tract.

IN RE:

CITY OF NITRO
COMMISSION HEARING

PUBLIC HEARING, THF REALTY

Transcript of proceedings had or testimony adduced before the City of Nitro Commission on the 17th day of December, 1996, at the City of Nitro Annex, Nitro, Kanawha County, West Virginia, commencing at 6:00 p.m. and concluding at 6:45 p.m., pursuant to notice given to all interested parties.

BEFORE: RUSTY CASTO, Mayor
HERB SIBLEY, Recorder
STEVEN E. WEST, Councilman At Large
ROBERT MATTOX, Councilman At Large
ROBERT YOUNG, Councilman Ward I
DAVID MILLER, Councilman Ward II

APPEARANCES: PHILLIP D. GAUJOT, City Attorney

MARTIN GLASSER, Attorney At Law
Lewis, Friedberg, Glasser, Casey & Rollins
Post Office Box 1746
Charleston, West Virginia 25326-1746
representing THF Realty

COPY

NANCY MCNEALY

CERTIFIED COURT REPORTER

Post Office Box 13415
Charleston, West Virginia 25360-0415
(304) 988-2873 FAX (304) 988-1419

Proceedings

2

1 MAYOR CASTO: We'll start our public hearing
2 concerning the development. How are you, Mr. Gaujot?

3 MR. GAUJOT: Fine, Mayor, how are you?

4 MAYOR CASTO: Would you like to make an opening
5 comment as we start our public hearing?

6 MR. GAUJOT: This is a meeting pursuant to a
7 notice of public hearing from the City of Nitro ordinance
8 authorizing the mayor to enter into an amended development
9 agreement providing for a tax incentive for the THF Cross
10 Lanes Limited Liability Company. This ad was run twice in
11 the Charleston newspapers prior to the meeting today. We
12 have affidavit of publication, and it's proper now for the
13 meeting to go forward, and it's proper for the mayor to
14 call for any public comment that the public may have with
15 regards to that agreement. That agreement has been filed
16 here with the City and open for inspection by all of the
17 public that wish to review the same.

18 MAYOR CASTO: The floor is now open for anyone
19 wishing to discuss the THF development. Marty?

20 MR. GLASSER: I'd be happy to address everyone,
21 Mayor. Let me mention that not only has the documents been
22 available to everybody, but in the meeting of the Nitro
23 Development Authority, I was gently reminded that I was
24 supposed to have a provision for \$340 a month to the

1 Development Authority instead of \$330, so that has been
2 changed to make that difference, and the only other change
3 from the time it was presented to the City Council has been
4 paragraph or section 5.3, which I sent a copy out here
5 Monday with a red-line version showing the exact word
6 changes.

7 In the various discussions that we have had
8 over the last couple of weeks, and particularly coming to a
9 head at the Nitro Development Authority meeting, there were
10 several members of the Development Authority as well as
11 City Council who were present and who suggested that they
12 were uncomfortable or felt that it was unclear whether the
13 City of Nitro could take action in the event of any default
14 that would prevent the City being sued for monetary
15 damages, and as a result, we worked out some proposed
16 language with the attorney for the City, Mr. Gaujot, and
17 what the agreement now provides that, in essence, if I can
18 state it in a capsule, in the event that this agreement
19 were to become invalid for any reason whatsoever, then if
20 the City votes to de-annex and passes a valid ordinance to
21 do that, then whether the County adopts it or not, there is
22 in fact no ability for the developer to sue the City for
23 monetary damages.

24 So therefore it is a trade, if you will,

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1 and is an assurance to the developer that the City will
2 stick by its agreement; that is, the City can't later ten
3 years down the road say, "Well, now that you've built it
4 we're going to tear up this agreement and keep the taxes
5 and you're not going to get your share of the bargain."

6 This, in essence, says you won't be able to
7 do that and by saying that I, of course, don't mean to cast
8 dispersions on anybody present in this room but strange
9 things happen, and we felt that it was important to remove
10 this agreement from politics, if you will, and we think
11 that that provision takes care of that.

12 If we can get this provision adopted today
13 or approved today, and I guess technically since there is a
14 change from \$330 to \$340 wouldn't be much of a change, but
15 because of this one change in this provision, I think that
16 technically I've discussed it with Mr. Gaujot and I think
17 his recommendation is going to be that tonight be viewed as
18 the first reading of this agreement and then we'll have a
19 second reading and if we can then get this duly adopted,
20 the plans are to break ground, well, to close on the
21 property March 1st and to break ground shortly thereafter.

22 I think most of you have met Mike Staenberg
23 of THF who is present here tonight with me and can answer
24 any questions you might have, although if you have a legal

1 question, I prefer you direct it to me. If I can answer
2 anybody's questions, I'd be happy to.

3 MR. SIBLEY: Counselor, I'd like to make it a
4 matter of record that all councilman and all members of the
5 Nitro Development Authority were notified of this change
6 and delivered in hand the same day that I received it from
7 your office.

8 MR. GLASSER: Good, good. Thank you.

9 MR. GAUJOT: And the public should know also
10 that the agreement -- that an ordinance -- excuse me, that
11 a resolution passed the Nitro Development Authority
12 authorizing the president of that body to sign the
13 agreement concurrently with you signing it should counsel
14 pass the ordinance, which will be read again as Mr. Glasser
15 stated for the first time this evening. It's going to be
16 my recommendation that you read it again for the first time
17 and then have a second reading of this at the next council
18 meeting.

19 MAYOR CASTO: Any questions of Mr. Glasser?

20 MR. GAUJOT: I think it would be appropriate
21 now, Mayor, to open the floor to any comments that the
22 public wishes to comment on.

23 MAYOR CASTO: Mr. Montgomery.

24 MR. MONTGOMERY: Yes, sir, Mr. Mayor. For the

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1 record I am John Montgomery. I have resided in Nitro for
2 the last sixteen years. I would like to make these written
3 comments part of the official record of this public hearing
4 and also I'd like to offer some just verbal comments.

5 I am here basically to speak against this
6 proposal as it is currently developed. In my estimation
7 there is not reason to go beyond the current agreement with
8 a slight amendment for the amount of property to be annexed
9 into the City rather than go the extent that this amended
10 agreement goes.

11 I have a lot of comments or concerns, I
12 guess. The first one relates to the definition of
13 excusable delay which in my estimation provides the ground
14 work for the company, THF, or its contractors, to find any
15 -- many different ways in which they can either stop, slow
16 down or even not commence construction. The acts are under
17 the control of THF and its contractors not under the
18 responsibility of the City.

19 To my estimation that the definition should
20 be rewritten so as to hold THF more accountable so that
21 when it does start construction, it keeps it going. Right
22 now almost anything including the very laws of the State of
23 West Virginia, which they should be well aware of when they
24 enter into this, can stop them from continuing on with

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1 construction or even not start construction.

2 Additionally, there is no clause which
3 specifies whether any given delay is an excusable delay.
4 None whatsoever. As a result, I think there should be
5 inserted somewhere within the agreement a procedure for
6 determining whether the existence of an excusable delay
7 actually takes place and who makes that determination.
8 Right now the agreement can be interpreted to show that THF
9 and its contractors are the only ones to make that
10 determination and whatever they say is what goes. In my
11 estimation, the City of Nitro must have input insofar as
12 making that determination.

13 Next concern is whether or not THF is
14 actually qualified to transact business in West Virginia.
15 A few weeks ago, December 3rd to be exact, I contacted the
16 Office of the Secretary of State of West Virginia. I asked
17 them if THF was qualified to do business in this state, had
18 they been given a certificate of authority to transact
19 business in this state. They have no record of THF.

20 Since the original agreement was signed
21 last summer, I questioned why THF has not yet filed the
22 appropriate documents to proceed. It doesn't have a
23 certificate of authority right now. When will it have?
24 And if they haven't done it by now, when are they going to

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1 proceed with it and why haven't they up to this point?

2 My next concern relates to the substantial
3 -- relates to the purchase and financing of a fire truck,
4 the garbage disposal trucks and/or the street sweeper. Now
5 keep in mind that the City of Nitro must pay for this
6 equipment, not THF, the City of Nitro. The purchase must
7 occur within one -- the one year time period that commences
8 with the full execution of the agreement. That is I
9 presume the date when everybody has put their name to the
10 document.

11 This can create problems for Nitro because
12 Nitro will not be receiving any additional revenues from
13 the special service fees, not during this time, because
14 that's when construction is going on. They will not have
15 tenants, they will not have occupants, they will not have
16 -- Nitro will not have any means to get that additional
17 funding. Where is the money coming from? The agreement is
18 solid on that.

19 The next concern relates to the legality of
20 those special service fees because those are imposed on the
21 tenants of the development, and they're payable by those
22 tenants to the City of Nitro. They're not imposed on other
23 businesses in the City. Those tenants may very well be
24 able to prevail in court and have those fees discontinued

1 if this occurs. Where does Nitro get the money to take
2 care of the payments for the fire truck, the garbage
3 disposal truck and the street sweeper? Like I said, if
4 there are no tenants, there are no special service fees,
5 and if no other problems will result -- no other funds are
6 available, problems will result.

7 THF should, as it had indicated under the
8 original agreement entered into last summer, pay the fees
9 to Nitro and then it can enter into whatever agreements it
10 wants with its tenants, but THF should not push this
11 requirement off on its tenants as it does under this
12 amended agreement. If there are no tenants, there are no
13 fees. If there are no fees, there is no money to make the
14 payments, the City is in default of the agreement, because
15 THF is then required to come in and pay under the letter of
16 credit.

17 Additionally, under section 3.1 it
18 indicates that THF will be involved in selecting the
19 equipment. Now I thought this issue was laid to rest last
20 summer. THF is not supposed to be involved in selecting
21 equipment. That is strictly up to the City. Once again,
22 why?

23 Next concern is that if THF is required to
24 make payments under the letter of credit for the fire

1 truck, for the garbage disposal truck, for the street
 2 sweeper, Nitro is required to repay THF. That sounds
 3 reasonable. However, there is no time frame for that
 4 repayment, none. Does this mean that all of the money is
 5 due at that time? This could be what, \$500,000 or even
 6 \$50,000. Where does Nitro come up with the money? What
 7 happens if the service fees that are paid by tenants are
 8 insufficient or are not paid in full to Nitro, then what?
 9 What happens?

10 Nitro doesn't have the money to pay to --
 11 pay the vendor from which they purchased the vehicles, THF
 12 once again has to pay under the letter of credit and once
 13 they make -- once they have to pay under that letter of
 14 credit, even if that default is cured by the terms of the
 15 agreement, they -- that letter of credit is out the window
 16 at that time. They have no further responsibility.

17 Next area of concern relates to the tax
 18 credit as provided in Ordinance 96-05. I feel that it is
 19 being used erroneously in this agreement. A tax credit may
 20 be provided to a tax credit -- taxpayer for the taxes that
 21 are due and owing by that taxpayer or which have been paid
 22 by that tax payer. Here under the amended agreement THF is
 23 to get a tax credit for the taxes that are paid by its
 24 contractors to the City and by its tenants to the City.

1 Those aren't tax credits. You don't give a person tax
2 credits for the taxes paid by somebody else. That is pure
3 and simple just a transfer of City revenues and under 96-05
4 the City Council has not given itself authority to do that.

5 The next area relates to the extraordinary
6 costs, and having just observed very quickly what was the
7 amendment on that, I'm not too sure if all my comments are
8 truly right on track, but the extraordinary costs were
9 stated, and I think they still are, to be approximately 10
10 million dollars. Those are development costs, pure and
11 simple. They aren't extraordinary. Those are what the
12 contractor should be paying to develop property. There is
13 nothing extraordinary about it. It's just normal
14 development costs. Ten million dollars, yes, but still
15 normal development costs. Who determines what falls in the
16 category of extraordinary costs? What all falls in there?
17 Do their office expenses fall in there? Do their plane
18 trips from St. Louis to here to check on the progress of
19 the development; are those included? What's included?
20 There is nothing that says what is included. It's just
21 extraordinary costs for the development. Anything can be
22 thrown in there. Will Nitro have to eat all that and are
23 those costs amortized over the term of the agreement at the
24 same rate as facilities are going to be depreciated? Will

1 the extraordinary costs be decreasing over the term of the
2 agreement or will they continue for the whole agreement to
3 be 10 million dollars? Undoubtedly they're going to have
4 some kind of tax write-offs on depreciation and such.
5 Something should be reducing there for extraordinary costs.

6 Also, and like I said, this may have
7 problems relative to their suggested amendment, but I
8 honestly feel that there should be a credit for the B & O
9 taxes that are paid to THF and that credit should be
10 applied against the extraordinary costs to reduce those
11 costs. What are we making the tax credits available for if
12 not to assist in developing this and then on top of that,
13 they throw in extraordinary costs over and above? And
14 Nitro -- if Nitro, I don't believe they have to under this
15 amendment, but as it was previously stated Nitro, if they
16 wanted to keep the progress -- the development would have
17 to make another payment of 10 million dollars to keep the
18 development and that's over and above the tax credits that
19 are provided? It seems a bit much.

20 If the agreement is invalidated for any
21 reason and the THF's tax credits are -- taxes -- excuse me,
22 their revenues are decreased accordingly -- I'm not -- I
23 won't go into that because I would like to read you that
24 amendment again. I don't feel comfortable even making a

1 comment in that regard but please be advised that any and
2 all agreements from the original agreement of last summer
3 and any and all agreements negotiated in this for this one,
4 unless they are included in this document, they are null
5 and void, such as discussions about other property owners
6 annexing their properties. That means nothing, absolutely
7 nothing. What counts here is what's on -- in the four
8 corners of this document; that's all. Whether somebody
9 else is going to annex property, that is a question for a
10 future time; it is not a question at this time.

11 Finally, there is considerable use within
12 the document of the term "heirs, successors and assigns."
13 This to me indicates that since Nitro cannot assign its
14 responsibilities under this document, that THF may be able
15 to assign, may want to assign or transfer its interest in
16 the property to another. In my estimation except for an
17 order that's rendered by a Federal Bankruptcy Court, Nitro
18 must have the right to disapprove any and all such
19 transfers; otherwise, you may end up being required to do
20 business with someone and you don't even know who they are
21 or what they are. Nitro must have the ability to say, "No,
22 the property is not being transferred. Your interests are
23 not being transferred. We will continue to deal with you."
24 Period.

1 I feel that this amendment in its current
 2 form must not be approved. I am of the opinion that there
 3 must be no de-annexation clause, none. The property is in
 4 the City; it stays in the City. You follow the original
 5 agreement, and it appears that THF is now saying that's not
 6 good enough. THF appears to be saying that they want more
 7 concessions or the development will not be constructed. To
 8 me that is wrong. They have what they bargained for. Now
 9 let them go forward.

10 This agreement as it is currently written
 11 does not give Nitro anything. They are not doing Nitro any
 12 favors. They are, in fact, binding Nitro even further,
 13 and when it comes to any future question about what's going
 14 on out there and how much control the City Council may
 15 have, the question in the back of everybody's mind will be
 16 what do we do and can this in any way, shape or form result
 17 in de-annexation. Does the City Council govern Nitro or
 18 does that development?

19 The agreement will not cure problems; it
 20 will only cause more. Therefore I must recommend at least
 21 to my way of thinking the agreement must not be approved.
 22 Thank you.

23 MAYOR CASTO: Thank you.

24 MR. GLASSER: Mr. Mayor, may I respond to that?

1 MAYOR CASTO: Yes.

2 MR. GLASSER: Quite frankly, Mr. Montgomery, if
3 I'd had the courtesy of those written comments ahead of
4 time, I would have a written response so that the City
5 Council could have it in the same detail and therefore I'm
6 not going to be able to respond to each and every point,
7 but I made note of several of those points and I will
8 respond to those.

9 Let me begin at where Mr. Montgomery ended.
10 This is still the same transaction we always talked about.
11 The City of Nitro is not responsible for paying for
12 anything, the City of Nitro doesn't put any money on the
13 line, the City of Nitro doesn't take any risks. The 30
14 million dollars in risks is still the developer's. It
15 hasn't changed a bit in that respect.

16 Let me address some of the other things.
17 There is no question that we now believe that the de-
18 annexation clause is essential to this transaction because
19 it is the de-annexation clause that means that the City
20 always has to stick to its bargain in the future and can't
21 just take half of the deal, and if the developer is going
22 to spend that kind of money, he is entitled to that kind of
23 protection and so there's no question that we absolutely
24 believe that clause to be essential.

1 Now there was a comment about the fact that
2 THF hasn't qualified to do business yet in the state.
3 Well, as Mr. Montgomery well knows, you don't have to
4 qualify to do business to just pay expenses and that's all
5 THF has been doing so far, but before THF buys the
6 property, owns the property and receives any income, it
7 will qualify to do business as it must. You don't have to
8 qualify to do business to just pay surveyors, engineers and
9 lawyers and that's all that's occurred so far.

10 The references to the letter of credit and
11 the fact that if the letter of credit is called, then the
12 City of Nitro becomes liable for the debt. The fact of the
13 matter is that if the City of Nitro -- if the City of Nitro
14 causes the letter of credit to be called, then the
15 developer has had a \$500,000 letter of credit called. Of
16 course, it wouldn't put up another letter of credit, that's
17 absurd and that is exactly what we've negotiated all along.

18 Mr. Montgomery made some reference to the
19 fact that there's a year here during which period of time
20 the equipment has to be gathered. That year is there
21 because the officials from the City of Nitro told us it
22 will take that long to write the specs for the fire truck
23 that you want and to have it put together and delivered.
24 We don't care if you do it in six months. We're pleased if

1 you do it in six months. That provision of time was there
2 at the City request.

3 We were told that the City wanted us to
4 help in terms of putting bids together, negotiating the
5 prices, perhaps arranging the financing, that that is
6 something that the developer has a great deal of experience
7 in and perhaps we can benefit you. You're not required to
8 take our suggestions. Those are only offered as a means to
9 help and finally the discussion about the tax credits.
10 It's the same issue we've been through before. Nothing's
11 changed in that regard. It's the same discussion we had.
12 It is the same discussion that was approved by City Council
13 before. These tax credits are to compensate for these
14 extraordinary costs of moving the mountain.

15 You've all -- you-all know exactly where
16 we're talking about and you know the mountain that I'm
17 referring to and that is not ordinary and normal
18 development. That is such and the terrain is such that a
19 developer will walk away from it because you can't move
20 mountains like that without some help from the City.

21 So therefore I think that this agreement is
22 exactly what you've seen before, and Mr. Montgomery as a
23 lawyer knows and Mr. Gaujot will tell you that the words,
24 "heirs and assigns," simply is the ability to sell

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1 something in the future and I will sit here and concede
2 that it's highly unlikely that thirty years from now THF
3 may still own it. They may sell it. They may sell it to
4 the mayor when he's ready to retire and wants a retirement
5 income or somebody else. The words "heirs and assigns"
6 simply mean the right to sell, and Mr. Montgomery also
7 knows that because you sell something, you don't get
8 released from obligations. There's not a word in this
9 agreement that says if THF were to sell its position, if
10 you will, in the development agreement, that it is relieved
11 of its obligations. It's not there. So that's a normal
12 phrase that appears -- it appears in your house deed. So
13 there's not anything at all unusual about that.

14 Therefore I think that what we're doing
15 here is rehashing old ground. The only thing that's
16 changed here are those things that have been reviewed with
17 you in the last couple of meetings. The increase in money
18 to the City straight up front, the increase in the acreage,
19 the change in the default clause to deal with those matters
20 that the City Council members and the Nitro Development
21 Authority raised in our last meeting.

22 MAYOR CASTO: Would you like to respond, Mr.
23 Montgomery?

24 MR. MONTGOMERY: I find it rather difficult to

1 respond in total but in my estimation, the clear
2 implication of certain parts of this agreement are contrary
3 to what he indicated. I would say that yes, generally
4 speaking the use of the words assigns, et cetera,
5 successors and interest are in most agreements. What I am
6 saying is that Nitro, during the term of this agreement,
7 needs to have the authority to disapprove of any such
8 transfer of interest.

9 After the agreement runs its course, after
10 twenty years, that's something else, but during the term of
11 this agreement even though, yes, successors and assigns are
12 held to the same level of responsibility, and the parties
13 themselves may be sufficiently different, I do feel that
14 there should be a clause inserted which will authorize
15 Nitro to disapprove of any transfer of interest on the part
16 of THF during the term of the agreement. After twenty
17 years, that's something else. Then Nitro does not have a
18 problem because all the tax credits, et cetera, will have
19 run their course.

20 MR. GLASSER: Let me just put this in
21 perspective why that position is so absurd. THF is going
22 to do everything it's supposed to do up front. THF builds
23 the center and puts up the letter of credit. Everything
24 that we promised to do we do in the beginning. We then

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1 have to rely on the City of Nitro to do what it promises.
2 You don't have to rely on Mr. Staenberg or THF to build
3 anymore, to put up any other equipment, to do any other
4 thing, and in those circumstances why would THF say, "Well,
5 fifteen years from now we want your blessing on who to sell
6 it to." That's just absolutely silly. We'll do
7 everything we have to do at the beginning and then we have
8 to rely on the City of Nitro to perform. So the risk is
9 THF's, not the City. Why would we ever let the City decide
10 if we could sell it or who we could sell it to? It's just
11 totally impractical.

12 MR. MONTGOMERY: No, it isn't.

13 MR. GLASSER: Yes, it is.

14 MR. MONTGOMERY: No, it isn't.

15 MR. GLASSER: Well, it's totally unacceptable.

16 MR. MONTGOMERY: Like I said, you have your
17 opinions. I have mine, so be it, but --

18 MR. GLASSER: Well, I think it's incumbent upon
19 Council to decide whether or not we're -- the position I'm
20 taking is a reasonable one.

21 MR. MONTGOMERY: Well, I agree.

22 MR. GLASSER: You're not questioning the fact
23 that we do everything we have to do at the beginning and we
24 have to rely on the City of Nitro to follow through.

1 There's nothing that this agreement says that we got to do
2 ten years from now that won't all be done up front.

3 MR. GAUJOT: Let me say this. You know, I
4 don't care what kind of a deal you try to propose, there's
5 always at least two sides and one side makes a proposal and
6 the other side has to accept it or come back with something
7 better that satisfies the other side, but in the end both
8 sides have to sign on the agreement and what you're hearing
9 is that THF, that is not acceptable to THF, that they get
10 the City the approval of whom they -- if anyone they want
11 to sell to.

12 So with that being said, your position is
13 well taken. Your position is well taken. But the Council
14 here -- do you want an opportunity for this mall to be
15 developed and do you want this opportunity for the City to
16 reap a projected income of approximately 30 million dollars
17 over the time of the next thirty years, do you want it to
18 go away as Mr. Montgomery is suggesting in his proposal,
19 unless he comes up with another way to compromise the
20 dispute, or are you willing to go along with THF? It's
21 that simple. It's really a simple matter.

22 MR. MONTGOMERY: I would like to say I never said
23 I wanted the mall to go away. I said I'm against this
24 agreement in its current form. That's what I said in June;

1 that's what I say now. I remain consistent in that, but
2 regardless of whether who can or cannot -- whether or not
3 the City is able to approve or disapprove of any transfer
4 of the interest that THF may have, it still comes down to a
5 question of is it good for Nitro. Not if it's good for THF
6 only. This is not how well we should feather the nest of
7 THF. In my estimation it is not. It's a question of are
8 we doing that which is right for Nitro. Are we doing that
9 which is economically feasible not just in the long run of
10 30 million dollars, but the short run, such as where are
11 they going -- where is Nitro going to come up with the
12 money to pay for the fire truck, garbage disposal unit and
13 a street sweeper when it has no revenues for that.

14 Two weeks ago or the first Council meeting
15 in December, this City Council raised great concern about
16 the possibility of a \$30,000 indebtedness to build tennis
17 courts which were hoped to be financed through user fees,
18 but right now under this agreement, there is no way that I
19 can see for the City to have available the \$50,000 some
20 thousand dollars a year that supposedly it would take to
21 pay off the purchase price. It's not there that I can see
22 unless I'm missing something. I don't think I am. Where
23 is the money coming from? And if it's not going to be
24 there, is this merely just a vacuum? Does it exist?

1 Like I said, I don't see it in the
2 agreement as it's currently written. I don't know if
3 anybody -- if somebody else can point it out to me, great
4 but the way the agreement was written last year or last
5 June, it would have been there because THF would have been
6 required to make those payments, not its tenants, not the
7 occupants of the property. THF would have had to do that,
8 but they have amended the agreement to put in there that,
9 yes, the City sends the bill to THF and THF then requires
10 the tenants to pay the City. There are no tenants for the
11 first what, twenty-four months, thirty months, however long
12 it takes to get some occupants out there?

13 MR. GLASSER: Well, specifically what it says
14 on page nine is that the bill comes to THF and the company
15 will cause the tenants to pay it, so that means we take the
16 responsibility to cause it to be paid and if it's not paid,
17 we have clearly defaulted in this agreement and could be
18 sued for it. We say that we are going to cause them to pay
19 it.

20 MR. MONTGOMERY: And if there are no tenants, how
21 are you going to cause them to pay it?

22 MR. GLASSER: Well, if there's no tenants, we
23 built 30 million dollars worth --

24 MR. MONTGOMERY: When you're constructing this

1 development, there are not going to be any tenants because
2 that is what construction phase is all about. There are no
3 tenants for you to cause to pay the fee. If there are no
4 tenants to pay the City, where does the City get the money?

5 MR. GAUJOT: Mr. Montgomery, I think that's a
6 point well taken and I think that's something that we need
7 to -- that point is well taken. There probably needs to be
8 some clarifying language there with regard to that point
9 alone. Of everything you have said today, that, from what
10 I can tell, that probably needs to be addressed.

11 MAYOR CASTO: Would any other members of the
12 body wish to speak? Would any of the Council have any
13 questions or --

14 MR. SIBLEY: Well, I'm not an attorney but the
15 way I read this particular section, it looks like to me
16 that we, the City, bills the company for the special fire
17 fee. If there are no tenants, they have to pay it
18 themselves. Now I may be incorrect --

19 MR. GAUJOT: I think that's the way it would
20 be interpreted if there was a lawsuit, but it could be made
21 -- that's a provision that could be made crystal clear.
22 That's all I'm saying. I don't think it's a major problem
23 here, and we're spending a lot of time on a simple matter
24 involving a little bit of wordage that can change that.

1 There's nothing wrong with the intent but to keep it out of
2 the court and let a court interpret it, I think that
3 language could be clarified, simple matter.

4 MAYOR CASTO: Do you have anything else, Mr.
5 Montgomery?

6 MR. MONTGOMERY: I would still prefer to have
7 something in there where the City has to, along with THF
8 and its contractors, determine whether or not an excusable
9 delay in construction occurs. I look at this from the idea
10 that when you look at their definition of excusable delay,
11 it just says laws. It doesn't say laws enacted subsequent
12 to the agreement. It says laws, and they should, when they
13 are entering into an agreement, know what are their
14 requirements at that time. Subsequently, that's something
15 else but that which is in effect when they enter into that
16 agreement, they through their attorneys, should be aware of
17 it, and when all the say are laws, that's extremely broad.
18 I have serious concerns about that.

19 Also I do think that the City -- right now
20 the way that's worded and there is no clause in there for
21 determination of when an excusable delay occurs, is that
22 only the contractor or the contractor in conjunction with
23 THF who makes that determination? Nitro is not involved at
24 all even though the time frame affects when they are going

1 to start receiving money? Shouldn't Nitro have some say so
2 in whether or not an excusable delay actually occurs?
3 That's the other question up to the City Council.

4 MR. GLASSER: Well, let me just make a quick
5 response to that. You know, all contracts have words like
6 excusable delay, reasonable, ordinary course of business,
7 and those things aren't defined precisely, and if somebody
8 asserts there is an extraordinary delay and they're wrong,
9 then they've defaulted in the contract and are going to be
10 liable for it.

11 Those kinds of choices are made by lawyers
12 and parties all the time and you cannot write a contract
13 and define every single word in the contract. If you say
14 something's unreasonable and you're wrong, then you usually
15 have to pay for it.

16 MR. MONTGOMERY: If you have the definition
17 already in the contract, shouldn't you try to make that
18 definition as clear as possible?

19 MR. WEST: Excuse me, John, are you
20 referring to page 4 at the bottom?

21 MR. MONTGOMERY: Let me get it out here. I think
22 so. I think so.

23 MR. GLASSER: Definition of excusable delay are
24 those things that the company itself cannot control. The

1 company does not get excused for doing something it can --
2 for not doing something it can take care of itself. but if,
3 for example, there's a general labor strike the company
4 can't cure that. If there's a war and you can't get steel,
5 that's an excusable delay, and what this definition
6 basically says, long and short, it takes more words than
7 that to say it, but it basically says if it's beyond the
8 ability of the company itself to fix it, it's excusable.
9 It doesn't mean that they're out of the contract; they just
10 get a delay. That seems perfectly reasonable to me and
11 there's that kind of language found in many contracts.

12 Now I understand that Mr. Montgomery might
13 care to write it a different way. This language has been
14 fairly negotiated between myself and very able counsel.
15 Other counsel may write something a different way but there
16 is no point in attempting to redo every paragraph of this
17 contract to someone else's satisfaction. I think it's been
18 fairly bargained.

19 MR. SIBLEY: Is my thinking correct with
20 regard to the time that our twenty years starts to toll is
21 the date we sign the contract?

22 MR. GLASSER: Yes.

23 MR. SIBLEY: Okay, so that means that any
24 delay in the contract means that's to your detriment,

1 because you can't collect taxes when you're in a delay,
2 particularly in a building delay, so I can't see any delay
3 is going to be harmful to you and not -- really not to us.

4 MR. YOUNG: Delay, every day or every week or
5 every year that he's delayed, that building is not going to
6 go up that much quicker.

7 MR. SIBLEY: Correct, and that means no taxes.

8 MR. YOUNG: When that building goes up, he's
9 not going to get anything, am I correct?

10 MR. GLASSER: It's basically correct. It
11 doesn't benefit us to delay. It does put us in a position
12 where you can't say we're in default because we're in a
13 holding pattern, but we don't derive a benefit from delay.

14 MAYOR CASTO: Does any of the Council have any
15 questions? Any members of the audience have any questions?

16 MR. SIBLEY: I'd like to please everybody in
17 the audience to sign the paper that we have here somewhere.

18 MAYOR CASTO: To let everybody to have a chance
19 to talk.

20 MR. SIBLEY: I'd appreciate if everybody would
21 sign that so that we have an accurate record of who was
22 here.

23 MAYOR CASTO: Do you have anything else, Mr.
24 Montgomery?

1 MR. MONTGOMERY: No, sir, not really.

2 MAYOR CASTO: Marty, do you have anything else
3 you'd like to bring up?

4 MR. GLASSER: No. Thank you, Mayor.

5 MAYOR CASTO: Anyone else?

6 MR. MONTGOMERY: Excuse me, one other question.

7 In the event that the question of de-annexation comes up is
8 Nitro still subject to the payment of extraordinary
9 expenses, the cost?

10 MR. GLASSER: Are you addressing that to me?

11 MR. MONTGOMERY: Well, anybody. The question I --
12 really comes down to if -- and I'm not going to say this
13 can occur. I'm just saying -- or will occur. I'm just
14 saying under the four corners of the document, it could,
15 but if at some point after the agreement or after the
16 development is constructed and THF reaches an economic
17 status for that where they have had their costs amortized,
18 facilities depreciated, whatever, and it reaches the point
19 where they could very well be better able and obtain better
20 profits to be de-annexed, is the City of Nitro still
21 required to pay the extraordinary costs, which were
22 supposedly estimated to be 10 million dollars, even if this
23 in say year fifteen?

24 MR. GLASSER: I think the simple answer to that

1 is that there's nothing in the agreement that says we won't
2 come to you and say, "Gee, we'd like out of this deal,
3 Mayor." It's just not there.

4 MR. GAUJOT: The only way it can be annexed is
5 if we default or if there's any default and the project
6 doesn't go forward.

7 MR. MONTGOMERY: Or if any court decision rendered
8 as a result of an action by some independent third party
9 invalidates it.

10 MR. GLASSER: And if the City votes to de-annex
11 it, then regardless of what happens with the County or
12 anything else we cannot make a monetary claim against the
13 City.

14 MR. GAUJOT: The bottom line is -- the bottom
15 like is --

16 MR. MONTGOMERY: Like I say, I haven't reviewed
17 totally the amendment to this.

18 MR. GAUJOT: If THF can't receive what its
19 bargained for, then the agreement is in default and they
20 have a right to -- they have a right and the remedy is that
21 they get to recover their extraordinary costs, whatever
22 those extraordinary costs were, expended to that time, yes,
23 if permitted.

24 MR. MONTGOMERY: Like I said, I haven't reviewed

1 that that closely. I read it once, but my concern is
2 whether Nitro, if it wanted to try and retain the
3 development within the City would be required to pay the
4 extraordinary costs which would therefore be a -- up to,
5 according to the way it was originally written, 10 million
6 dollars estimate which would be in addition to any and all
7 past credits that have been provided to them, and if a de-
8 annex were able to be annexed, all the tax credits that had
9 been paid would be out the window, any future B & O taxes
10 would be out the window, any ad valorem taxes to be
11 received from the property would be out the window.

12 So that's what I'm wondering just what is
13 Nitro up against if, in fact, de-annexation should occur,
14 because as additional funds come in, you will develop the
15 budgets accordingly and all of a sudden there may very well
16 be a hole there which had been filled by ad valorem
17 property taxes which may have been filled by some B & O
18 taxes and all of a sudden you don't have those.

19 MR. YOUNG: Am I wrong in thinking, Phil,
20 that to de-annex this Council or whoever sits on this
21 Council has to say, yes, we're going to de-annex, right?

22 MR. GAUJOT: We initiate the process, that's
23 correct.

24 MR. YOUNG: Right. Well, twenty years from

1 now it may happen, but it's not going to happen in this
2 four year term.

3 MR. MONTGOMERY: Okay, well, what I'm saying is
4 what if Nitro refuses to de-annex, what are the monetary
5 responsibilities for the City at that time?

6 MR. GLASSER: Well, but this is an endless
7 debate when you say you haven't read the agreement yet.

8 MR. MONTGOMERY: Well, that's why I'm asking the
9 question.

10 MR. GLASSER: Then the answer to the question
11 is the agreement is written just as Mr. Gaujot indicated,
12 that Nitro does not have the privilege of saying, "We're
13 going to ignore this contract and keep you in the City and
14 not give you the B & O taxes," and what Nitro has to do is
15 vote to de-annex, and if they do, then there can be no
16 liability on the City, but if they don't, there could be,
17 and that's what the whole proposition was, and all Nitro
18 has to do to protect itself is vote.

19 MR. MONTGOMERY: So at that point in time if the
20 extraordinary costs are say 10 million dollars that have
21 been expended on development, on the development, if Nitro
22 has provided tax credits up to that -- up to say year
23 twelve, say close to 5 million dollars, and if Nitro did
24 not want to allow de-annexation, then Nitro would be

1 responsible for whatever that value of that extraordinary
2 costs are. They would have to pay that to the City?

3 MR. GLASSER: Yeah, Nitro cannot unilaterally
4 renegotiate the deal.

5 MR. MONTGOMERY: Okay, but at the same time then
6 they would also lose.

7 MR. GLASSER: The agreement intends Nitro to
8 honor its bargain. Come on now, that's just absurd.
9 Nobody writes a contract that says five years from now you
10 can change your mind and you can get out of it and --

11 MR. MONTGOMERY: Nobody's saying they can change
12 their mind.

13 MR. GLASSER: But that's what that question
14 presupposes.

15 MR. MONTGOMERY: No, it does not.

16 MR. GLASSER: I've really responded to the
17 question as best I can.

18 MR. MONTGOMERY: I'm just asking whether or not
19 the City's -- what the City's going to be on the hook for
20 if it does not have go along with de-annexation. That's my
21 question.

22 MR. YOUNG: It is annexed.

23 MR. MONTGOMERY: Huh?

24 MR. YOUNG: It is annexed. It will be

1 annexed.

2 MR. MONTGOMERY: No, no, I'm not saying if it is
3 annexed. I'm saying if the property at some future time
4 that the question comes up of de-annexation of that
5 property and the City says, no, what are the monetary costs
6 to the City --

7 MR. GAUJOT: Well, whatever a judge and jury
8 would decide because the City of Nitro's not any different
9 from any other party entering into an agreement and it is
10 expected in our society today to live up by your end of the
11 bargain, so if you're suggesting that the City -- this
12 Council or some future Council will unilaterally violate
13 the terms of the agreement, sir, the lawyer for the City at
14 that time should tell them that they are violating the
15 terms of the agreement and that they could be sued and
16 there could be monetary damages and just like any other
17 party.

18 MR. MONTGOMERY: That is not what I am suggesting,
19 sir. What I am asking is that at least under the agreement
20 as it was written prior to any amendment that Nitro, if it
21 refused to de-annex, was required to pay the extraordinary
22 costs which were estimated to be 10 million dollars. My
23 question now is if Nitro at some future point --
24 apparently, this is a question whether they may want de-

1 annexation, but my question is are they still on the hook
2 for 10 million dollars, yes or no, or whatever that value
3 is and how is that value derived.

4 MR. GLASSER: There is no provision in the
5 agreement that says in year ten you can break this deal and
6 only pay us 9 million and in year fifteen you only have to
7 pay us 7 million and a declining scale that puts a dollar
8 figure on what price the City might chose to pay to
9 willfully break the contract. That's just not what --

10 MR. MONTGOMERY: That's what I am saying. What I
11 am asking is --

12 MR. GLASSER: I think you are.

13 MR. MONTGOMERY: -- what is the value at that --
14 at the time and whether or not there should be any credit
15 given for the tax credits that are provided to THF since --

16 MR. GLASSER: I suspect --

17 MR. MONTGOMERY: -- under de-annexation you would
18 not -- the City would be losing property, property taxes,
19 B & O taxes and also would have lost the tax credits that
20 they provided.

21 MR. GLASSER: I suspect --

22 MR. GAUJOT: I'm sorry, I don't understand
23 what you're talking about so I can't respond.

24 MR. MONTGOMERY: This is under the agreement as it

1 was written.

2 MR. GAUJOT: Well, it seems like you're
3 commenting on an agreement that you initially haven't read.
4 That provision --

5 MR. MONTGOMERY: That's why I'm asking the
6 question.

7 MR. GAUJOT: It's difficult. I don't even
8 know how you -- first of all, I don't understand your
9 question and I -- and it behooves me how you can ask a
10 question intelligently if you haven't even read the
11 provisions of the agreement for which you're asking the
12 question.

13 MR. MONTGOMERY: Before tonight the provision was
14 in there, and that --

15 MAYOR CASTO: Is there any other questions?

16 MR. MONTGOMERY: I'll withdraw my comments.

17 MAYOR CASTO: No, I believe as a citizen you
18 have a right to speak.

19 MR. MONTGOMERY: No, I'll withdraw them because I
20 have a feeling they're falling on deaf ears, so there's no
21 sense in it.

22 MAYOR CASTO: Is there any other questions of
23 the Council?

24 MR. GAUJOT: I want to comment on that because

1 we've got a record being made and I don't perceive that at
2 all of what Mr. Montgomery just said. We've got -- we have
3 six council people here, we've got five council people and
4 the recorder and the Mayor and all of the council and the
5 Mayor and the recorder have been extremely attentive to
6 what Mr. Montgomery has had to say as well as counsel for
7 THF, the representative for THF, to me as counsel for the
8 City and a courtroom full of people. Everyone has appeared
9 to listen attentively and you had the full freedom to say
10 whatever you wish to say, so I wanted the record to reflect
11 that.

12 MR. MONTGOMERY: Well, if that is the case, under
13 5. -- under the agreement as it was prior to my finding out
14 there was an amendment tonight, under section 5.3 B where
15 it refers to the extraordinary costs to be approximately 10
16 million dollars and under subsection 2 where it goes into
17 the question that, "The company shall have the right to
18 receive, retain, offset or credit any business and
19 occupation taxes thereafter approving and owing from the
20 company and any occupants of the development or space in
21 any of the buildings erected thereon to the City as
22 described in the amended development agreement, until such
23 credits offset and reimbursements received by the company
24 total the extraordinary costs," that's 10 million dollars.

1 Now is that still in there? That's all I'm
2 asking and does -- and if that is still in there, does the
3 10 million dollars over any period of time decrease to take
4 into consideration the tax credits that were provided to
5 help pay for the development?

6 MR. GLASSER: I will answer the question one
7 more time and then I'm going to quit answering this
8 insensate question. First of all, the language is still in
9 there that it refers to. Secondly, he is again saying,
10 have we agreed on a schedule that there's a price
11 established for which Nitro can break the contract and
12 understand its liability, and I will tell you as candidly
13 as I know how that if that were to happen and the City did
14 not vote to de-annex, that I would urge a courtroom that it
15 was -- that we had a claim for 10 million dollars and
16 whatever counsel led the City of Nitro into refusing to de-
17 annex would probably argue that there were some deductions
18 due to depreciation and otherwise and a judge would decide
19 the whole thing.

20 MR. MONTGOMERY: Okay, that answers my question.

21 MR. GAUJOT: As in any other lawsuit.

22 MR. GLASSER: Right.

23 MAYOR CASTO: Do you have any other questions,
24 Mr. Montgomery?

Proceedings

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1 MR. MONTGOMERY: No, sir, I do not.

2 MAYOR CASTO: Anyone else have any comments or
3 questions? If not I declare the public hearing over and
4 our Council meeting will begin at 7:30.

5 (WHEREUPON, the public hearing was concluded.)

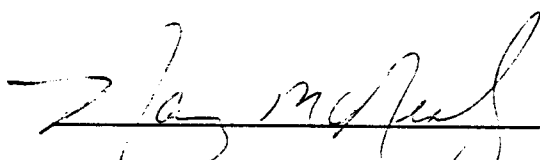
REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to wit:

I, NANCY MCNEALY, Certified Court Reporter,
do hereby certify that the foregoing is, to the best of my
skill and ability, a true and accurate transcript of all
the proceedings as set forth in the caption hereof.

Given under my hand this 3rd day of
January, 1997.

My commission expires December 31, 2000.



Certified Court Reporter

PROVISIONS OF FIRST DEVELOPMENT AGREEMENT	CHANGES IN AMENDED DEVELOPMENT AGREEMENT
1. Property	1. 12± acres added to City
2. \$12,000 payment on commencement of site work	2. Same (3.1)
3. Fire Truck and Garbage Truck leased; fees paid by Development to City (3.1)	3. Same basic agreement but clarifies that City will: <ul style="list-style-type: none"> (i) provide the services; and (ii) pay the lease and not cause letter of credit to be drawn; if so, Company has no further obligations and recoups any expense.
4. No contractors' B&O taxes for seven years (4.1)	4. Same, as a credit (4.1a)
5. No rental B&O taxes during agreement (4.1)	5. Same, as a credit (4.1b)
6. Credit for B&O sales taxes for first \$400,000, then 80/20 (4.2)	6. Changed: <ul style="list-style-type: none"> ▸ City first gets \$32,000/year ▸ Nitro Development Authority gets \$4,000/year or City can receive the additional \$4,000 ▸ Next \$400,000 to Company and 80/20 on rest
7. Method of Accounting for Funds (not fully described)	7. Changed: <ul style="list-style-type: none"> ▸ Provides Accounting in detail ▸ More time for clearing funds ▸ Interest paid to the City
8. Default	8. Now provides if Agreement is terminated for any reason: <ul style="list-style-type: none"> (i) Company can terminate Letter of Credit (ii) The City deannexes the Property and the County does also; if not deannexed, then Company has right to recoup taxes until \$10 million extraordinary costs are recovered.
9. Other changes	9. Changed: <ul style="list-style-type: none"> ▸ No longer requires Storage individuals to sign ▸ Added representations about Nitro Development Authority ▸ Definitions

**WRITTEN COMMENTS PRESENTED AT THE PUBLIC HEARING HELD
ON DECEMBER 17, 1996 ON THE PROPOSED AMENDED
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF NITRO AND THF
CROSS LANES DEVELOPMENT LIMITED LIABILITY COMPANY**

Presented by John E. Montgomery

Following are comments relative to the proposed Amended Development Agreement (herein called "Agreement # 2") between the City of Nitro (herein called "Nitro") and THF Cross Lanes Development Limited Liability Company (herein called "THF"). It should be here stated that Agreement # 2 is very one-sided in that it places great responsibility on Nitro with Nitro receiving very little in return.

**ARTICLE I
DEFINITIONS: CONSTRUCTION**

The following definitions create concerns, both small as well as substantial.
Completion of Construction"

- This appears to relate only to the construction of the Wal-Mart Store and its common area. It does not appear to relate to the seven out-parcels. This should be clearly stated.

"Excusable Delay"

- Definition includes acts which THF or its contractors may control, either by action or inaction: strike, lockout, other labor dispute, shortages or unavailability of material or labor, laws, orders or regulations of any court, governmental, civilian or military authority.

- Why should THF be able to claim an excusable delay if it is not in conformance with laws or through other actions it or its contractors causes delays.

- This definition must be rewritten so as to make THF more accountable for its activities.

- Elsewhere in Agreement # 2, there should be inserted a clause which describes the procedure for determining the existence of an excusable delay and who makes that determination.

"Occupant"

- Specifically, which property is referred to in this definition?

"Full Execution of Contract"

- There is no definition for this term, but there should be. The "term" of Agreement # 2 commences with full execution of the contract. "Qualifying Years" start with the "date of execution" of Agreement # 2. This would seem to therefore mean the time when all signatures are affixed to the Agreement.

However, under Section 3.1, second paragraph, THF will cooperate in the City's efforts to lease or finance the purchase of a fire truck, garbage truck or street sweeper during the one year period following the "full execution" of Agreement # 2. If that one year starts when all signatures are affixed to the Agreement, there may very well be

an insufficient amount of funds available to Nitro during that first year of construction so as to disallow such a lease or purchase; this would mean that THF would not be required to follow through on the letter of credit.

ARTICLE III CONSTRUCTION OF DEVELOPMENT; ACQUISITION OF RELATED EQUIPMENT; ZONING APPROVALS

Section 3.1 Agreement to Construct Improvements.

Paragraph 1.

In the very first sentence, the time frame for construction is governed by two very ambiguous terms: "reasonable period of time" and "excusable delay." A reasonable period of time to one person may not be reasonable to another. A specific time should be stated.

- By its definition, excusable delay can include almost any action that slows or stops construction activity. The definition must be rewritten to make THF more accountable.

- Also, the reasonable period of time does not start until THF purchases the development property. Does this mean that THF has not yet purchased the development property? If the purchase has not yet occurred and the thirty month period does not start until the property is purchased, when will the property be purchased?

Because of the definition of "improvements", there is a question as to whether the construction in the 30 month period includes the seven out-parcels. If not included, when will that construction be completed?

Paragraph 2.

The time frame during which THF will cooperate with Nitro's efforts to purchase a fire truck, garbage truck and/or street sweeper is the one year period after full execution of Agreement # 2.

- Does this one year period start when Agreement # 2 is signed, when construction starts or when construction is finished?

What is the legal basis for imposing the "Special Fire Fee" and the "Special Garbage Fee" on the Development Property and not on the other businesses in Nitro?

- This is highly questionable because Paragraph 4 requires Nitro to provide the same services to the Development as it does to other commercial facilities and at similarly calculated costs.

Why is there a change from the Original Agreement so as to now have the tenants of the Development Property and not THF pay the fee to Nitro? This frees THF from any responsibility relative to the payment of the Special Service Fees.

- It seems like a greater amount of paperwork for Nitro to absorb. It would be easier for THF as the owner of the Development to pay the fees to Nitro and for THF to then collect the payments from its tenants.

- What happens if the tenants go to court and prevail in an assertion that they are not being treated on an equal basis with other businesses in Nitro, and therefore are no longer required to pay the Special Service Fees?

- What happens if Nitro acquired the equipment during the first contract year and there are no tenants to pay the fees? Who then pays the fees to Nitro?
- If there is no one to pay the fees, where does Nitro get the funds to make the payments on the equipment purchased?

Why is THF involved in selecting the equipment?

Paragraph 3.

If the letter of credit is drawn upon and THF is required to make payment on Nitro's obligation incurred for the purchase or lease of equipment, Nitro is required to pay THF the amount THF has paid. This was not in the Original Agreement.

- Due to the method for paying the Special Service Fees to Nitro, it is probable the letter of credit will be drawn upon.
- What then is the time frame for Nitro to make such payment to THF and must the entire amount be paid at one time?
- What happens if the Special Service Fees are not paid or are insufficient resulting in the letter of credit is drawn upon?

Section 3.2 Failure to Complete Improvements.

Who determines whether there is a valid excusable delay?

Does this Section mean that:

- (1) the taxes otherwise due for activities occurring during the suspension period must still be paid on a timely manner;
- (2) Nitro permanently retains those taxes; or
- (3) Nitro must pay out those taxes after the suspension period ends?

If (3) above, why is THF rewarded for not complying with the Agreement?

If no excusable delay, what happens if THF does not complete construction in a timely manner? There should be a penalty clause if improvements are not completed timely.

Section 3.3 Zoning, Permits and Land Use.

What is the level of assistance required of Nitro for THF to obtain federal, state or local permits.

- Who determines whether the level of assistance is sufficient and what happens if there is a difference of opinion?
- Does this Section mean Nitro must approve the development plan if it determines there is a problem?
- Which streets, alleys and other public rights-of-way are to be vacated?

ARTICLE IV CREDIT, ALLOCATION AND PAYMENT OF BUSINESS AND OCCUPATION TAXES

Section 4.1. Credit for Various Business and Occupation Taxes.

Before pointing out some of the problems with Section 4.1, it should be noted that the term "tax credits" is at least in part used incorrectly. Nitro Ordinance 96-05 provides in pertinent

part for the "granting of tax credits of up to one-hundred percent (100%) of the Nitro business and occupation tax owed, or rebates of up to one-hundred percent (100%) of the Nitro business and occupation tax paid, as a result of the development; ..." The plain meaning of the terms of the Ordinance, as well as accepted use of the term "tax credit" is that tax credits are granted to the taxpayer only for the B&O Tax owed or paid by that specific taxpayer. To that extent, Agreement # 2 is in compliance with Ordinance 96-05.

However, Section 4.1 also provides for "tax credits" to be paid to THF for B&O Taxes paid by contractors, tenants and lessees for their business activities at the Development. Those payments to THF may not be considered to be tax credits because tax credits are not given to third parties (THF) for the payments by others (contractors, tenants, etc.) of their respective B&O Tax liabilities. Rather, those payments to THF should be classified as transfer payments. Regardless, a fair reading of Ordinance 96-05 results in the conclusion that the City Council has not provided authority to make such transfer payments.

It should here be pointed out that Nitro is essentially paying for the development of private property. This is legally questionable situation.

Under Section 4.1(a), Nitro agrees to give THF "tax credits" equal to the full amount of B&O Tax paid by THF and by all of the contractors performing contracting work on the Development Property. Using the amount of B&O Tax paid by contractors as the amount of THF's tax credit does not fall within the accepted use of the term "tax credit." Only the amount of B&O Tax actually paid by THF may receive tax credit treatment. The time frame for this credit is the seven years after Agreement # 2 becomes effective. NOTE: The amount of tax credits provided here is not included in the calculation for the \$400,000.00 of tax credits.

Under Section 4.1(b), Nitro agrees to give THF "tax credits" equal to the full amount of B&O Taxes paid to Nitro by THF on the rental income derived from the Development Property. This falls within the accepted use of the term "tax credit." The time frame for this credit is the term of Agreement # 2 (20 years).

Under Section 4.1(c), Nitro agrees to give to THF "tax credits" equal to the full amount of the Company's Share which is derived from the B&O Tax paid to Nitro by THF and the businesses located on the Development Property. After the first \$36,000 of tax is retained by Nitro and the Nitro Development Authority, the Company's Share is the next \$400,000 of tax and 80% of all tax over \$400,000; this, then, is what is paid to THF. To the extent that the Company's Share is composed of the B&O Tax paid by the other businesses at the Development Property, that amount may not be classified as a "tax credit" which is paid to THF. As discussed previously, this is a transfer payment. Only the amount actually paid by THF may be subject to tax credit treatment. The time frame for this activity is the term of Agreement # 2 (20 years).

Under Section 4.1(d), Nitro agrees to give to the owners of the Storage Property "tax credits" equal to the B&O Tax paid to Nitro from the contracting activity and rental activity on that property. To the extent that the tax received from those Owners is from the rental

of property, the tax credit is used properly. However, granting to those Owners a tax credit for the amounts paid by the contractors is not a proper use of tax credits. The time frame for this activity is the seven years after Agreement #2 becomes effective.

ARTICLE V DEFAULTS AND REMEDIES

Section 5.1 Defaults: Rights to Cure.

Section 5.1(a) generally discusses the occurrence of a default and the actions available to the parties.

- As most of the actions which may cause a default are the responsibility of Nitro, it is Nitro that may very well be in default of Agreement # 2.

- As a result, THF remains in the position of being in control of Agreement # 2, and to a great extent City Council actions relative to the Development.

Section 5.3 Remedies of Company.

Section 5.3(a) merely allows THF to institute legal action to remedy a default. THIS IS AS FAR AS SECTION 5.3 SHOULD GO.

Section 5.3(b) creates substantial problems.

- A reliance factor is incorporated into Agreement # 2 that was not present in the original Agreement. The reliance language in paragraph 2 under the WITNESSETH Section in the Original Agreement (which is eliminated in Agreement # 2) states that annexation is in consideration of the abatement of certain taxes. However, language of sentence 1 in Section 5.3(b) of Agreement # 2 states that annexation is in reliance on Agreement # 2. The difference is that failure to develop the property will support de-annexation while that action will not result under the terms of the Original Agreement.

- The on-site and off-site costs are stated to be "Extraordinary Costs" even though they are the development costs which are incurred developing the property. They are not extraordinary and should not be stated as such. Those costs are stated to be approximately \$10,000,000. Who determines what expenses should be included in "Extraordinary Costs"?

- Are the facilities upon which the Extraordinary Costs are based depreciated over the term of Agreement # 2?

- Are the Extraordinary Costs amortized over the term of Agreement # 2 at the same rate as the facilities?

- If Agreement # 2 is invalidated in any way during its term (even as a result of THF action or inaction) and, as a result, THF does not receive the tax credits otherwise provided for in the Agreement, Nitro agrees to permit and allow THF to recapture, off-set or recover that portion of the Extraordinary Costs denied as a result of such invalidation. How is this calculated? This means that during the 20 year term of Agreement # 2, if the Agreement is in whole or in part invalidated and THF's revenues from "tax credits" are reduced, even if the invalidation results from a law enacted by the United States Congress or the West Virginia Legislature, or by a decision rendered by the United States Supreme Court or the West Virginia Supreme Court of Appeals, or by any other court, Nitro must allow THF to

recapture those funds from Nitro. Nitro is essentially committing future year's revenues, an act prohibited by the West Virginia Code.

There are two methods by which the lost revenues may be recaptured, set-off or recovered. While the methods must be applied in order, both may be applied.

- Under method # 1, THF may terminate the letter of credit and have as an annual off-set the annual cost to THF of the issued letter of credit.

- Under method # 2, THF may request that Nitro de-annex the Development Property. If Nitro refuses, or if Nitro agrees but the County Commission refuses, THF has the right to receive, retain, off-set or credit all B&O Tax accruing from business activities on the Development Property until the Extraordinary Costs (\$10,000,000) are paid. How and by whom is this calculated and is any credit given against the Extraordinary Costs for the tax credits paid to THF? If the de-annexation is successful, THF has no further rights (and Nitro is without the additional revenues from property taxes and from B&O Taxes, as well as having lost all the funds provided through "tax credits").

- This is not an acceptable situation. If de-annexation is requested and occurs, Nitro either has a substantial hole in its budget causing a reduction of services because it agrees to de-annexation; on the other hand, if there is no de-annexation Nitro has major on-going expense item which both causes a substantial hole in the budget and it binds future councils. In either scenario, NITRO LOSES.

- What happens if THF seeks de-annexation in year 17? What would it have to lose at that time? What would Nitro have to lose at that time?

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.1 Entire Contract and Amendments.

- Any and all verbal or written agreements and understandings between the parties which were reached during the negotiations for the Original Agreement are null and void to the extent they are not specifically included in Agreement # 2. Likewise, any and all verbal and written agreements and understandings between the parties which were reached during the negotiation of Agreement # 2 are null and void to the extent they are not specifically included in Agreement # 2; .

- For example, THF has stated that Lowes will annex its property into Nitro when it moves to the newly developed property and the owners of other closely situated property will discuss the annexation of their properties. To the extent that specific assurances are not recorded in Agreement # 2, the assurances mean nothing. Additionally, merely discussing annexation of property owned by others should have absolutely no bearing on Agreement # 2 because discussion does not mean annexation. Agreement # 2 must stand or fall on its own merits.

Section 6.2 Third Parties.

- Please note that here, as well as elsewhere in Agreement # 2, there is reference to the heirs, successors and assigns of THF. Does THF intend to assign its interest in Agreement # 2?

Section 6.5 Cooperation and Further Assurances.

- Caution is called for at this juncture. This Section is extremely broad. Any time THF considers that Nitro is not living up to its responsibilities, this Section may be the basis for declaring default.

- Also, if the B&O Tax is replaced by any other tax, THF is to get the same "credits" under the new tax as under the B&O Tax.

Section 6.7 Successors in Interest.

- As Nitro may not assign its interest, the only effect of this Section is that THF may assign its interest in Agreement # 2. That being the situation, Nitro should have the right to disapprove any such assignment or successor in interest, unless the new successor is a result of an order by a bankruptcy court. Nitro must know and agree to any new or different party in interest to Agreement # 2.

Section 6.13 Repealer.

- This Section should be removed. It would be questionable to have City Ordinances applicable to others but not to THF. The provisions of Agreement # 2 must comply with all City ordinances, resolutions, rule, orders and provisions of the City's Code of Ordinances.

CONCLUSION

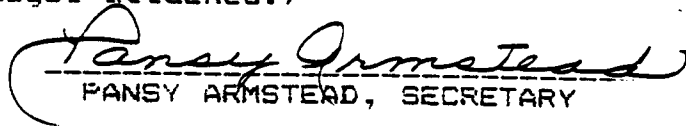
The Amended Development Agreement has the potential of causing Nitro to go into bankruptcy at some time in the future. This is due to the clause authorizing de-annexation of the Development. If for no other reason, that is sufficient cause for Agreement # 2 to be voted down. However, the other problems noted above provide even more justification for such action by the City Council. It is strongly recommended that Agreement # 2 be rejected.

NITRO FIREMEN'S PENSION BOARD MEETING

DECEMBER 17, 1996

A meeting of the Nitro Firemen's Pension Board Meeting was called to order December 17, 1996 at the Fire Department. Present were Chief Steve Hardman, Captain E. W. Hedrick, II and Captain Ron King. Absent was Jeff Elkins.

The purpose of the meeting was to approve the expenditure budget for 1997. Captain King moved to approve the estimated expenditure budget. The motion was seconded by Chief Hardman. A vote was taken and it was unanimous. (Estimated expenditure budget attached.)


PANSY ARMSTEAD, SECRETARY

NITRO FIREMEN'S PENSION & RELIEF FUND

ESTIMATED EXPENDITURE BUDGET

1997

PENSION DISBURSEMENTS:	\$ 121.200.00
SECRETARY:	480.00
ACTUARY:	1.500.00
MISC. EXPENSE:	1.000.00
	<hr/>
	\$ 124.180.00



Resolution Authorizing the Submission

of

Small Cities Community Development Block Grant Application

for the City of Nitro

Kanawha County, West Virginia

- WHEREAS, the City Council of the City of Nitro, West Virginia is aware of its need to extend sewer service to Poca River Road; and
- WHEREAS, the City of Nitro does not have the financial resources to implement the proposed project; and
- WHEREAS, the Mayor and City Council has identified the 1996 Small Cities Block Grant Program as a source of funding for the proposed project; and

NOW THEREFORE, BE IT RESOLVED, BY THE MAYOR AND COUNCIL OF THE CITY OF NITRO that the Honorable Mayor Rusty Casto of the City of Nitro, is hereby authorized by the City Council to sign all documents pertaining to the preparation of said application, and to submit the application to the WV Development Office for funding consideration.

Accepted this 7th day of January, 1997

MAYOR


RECORDER

ORDINANCE NO. 97-02

**AN ORDINANCE TO SELL VARIOUS ITEMS OF
PERSONAL PROPERTY WHICH ARE IN DISREPAIR
OR OBSOLETE AND OF NO USE TO THE CITY**

WHEREAS, Chapter 8, Article 12, Section 18 of the West Virginia Code of 1931, as amended, authorizes the City to sell any of its personal property for a fair and adequate consideration, such property to be sold at public auction at a place designated by the City, but, before making any such sale, notice of the time, terms and place of sale, together with a brief description of the property to be sold, shall be published as a Class II legal advertisement; and,

WHEREAS, the City of Nitro has various items of personal property, individually valued at less than \$1,000.00, which are in disrepair or obsolete and of no use to the City; and,

WHEREAS, the City Council for the City of Nitro finds that it would be in the best interest of the City to dispose of said personal property by selling the same for a fair and adequate consideration at public auction or by receiving written bids; and,

WHEREAS, the City Council for the City of Nitro finds that none of the individual items of personal property have a value of \$1,000.00 or more.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Nitro, West Virginia, that any and/or all items of personal property that are in disrepair or obsolete and of no use to the City, as determined to be so by

Director of Public Works, be sold at public auction or by receiving written bids for a fair and adequate consideration and that notice of said sale of said personal property and list of said personal property shall be duly published in a newspaper of general circulation, as a Class II legal advertisement.

Motion made by Richard Savilla, seconded by Frank Grover, Jr., on first reading, to adopt this Ordinance.

Motion made by David R. Miller, seconded by Robert Young, on second reading, to adopt this Ordinance.

PASSED ON FIRST READING

Date: _____

ADOPTED ON SECOND READING

Date: January 7, 1997

Herb Libby
CITY RECORDER

MAYOR

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CITY OF NITRO COUNCIL MEETING MINUTES

JANUARY 7, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder, Herb Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller, George Atkins, and Frank Grover, Jr. Also present City Attorney Phillip Gaujot and several area citizens.

AGENDA ITEM NO. 1: INVOCATION: Ivan Meadows.

AGENDA ITEM NO. 2: CITIZEN OF THE MONTH: Jean Matter was selected as January Citizen of the Month. Mayor Casto commended Ms. Matter on her work with the "Angel Tree" and other work she has been responsible for with the school. Mrs. Sally Meadows presented Ms. Matter with a plaque. Ms. Matter thanked the citizens and students and said it had been a heartwarming experience working with the community regarding this project. Ms. Matter stated there were 48 names on the tree, and sponsored 8 full families with food for a complete meal.

AGENDA ITEM NO. 3 APPROVAL OF 12/17/96 MINUTES: Councilman at Large Steve West moved to approve the 12/17/96 Council Meeting Minutes as distributed. The motion was seconded by Councilman at Large Richard Savilla and was carried.

COUNCILMAN ROBERT YOUNG MOVED TO MOVE AGENDA ITEM NO. 8 TO NUMBER 4. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 8 SECOND READING ORD 96-08 THF: COUNCILMAN AT LARGE STEVEN WEST MOVED CITY ATTORNEY, PHILLIP GAUJOT READ TITLE ONLY OF 96-08. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. COUNSELOR GAUJOT READ TITLE ONLY OF 96-08 AN ORDINANCE AUTHORIZING MAYOR TO ENTER INTO "AMENDED DEVELOPMENT AGREEMENT" PROVIDING FOR TAX INCENTIVE FOR THE-CROSS LANES LIMITED LIABILITY COMPANY.

Counselor Gaujot stated He would like the record to show that a copy of the amended development agreement is attached to the ordinance and all of council has had an opportunity to review the agreement prior to today. Also today at 6:30 p.m. a public meeting was held at which time public comment was made with regard to the amended development agreement. This was the second public meeting. Counselor Gaujot stated everything is in order to adopt this ordinance. COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE ORDINANCE 96-08. AN ORDINANCE TO ENTER INTO "AMENDED DEVELOPMENT AGREEMENT" PROVIDING FOR TAX INCENTIVE FOR THE- CROSS LANES LIMITED LIABILITY COMPANY. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. (Copy attached)

Martin Glasser, Attorney stated they hope to begin to move dirt between March 1st, and April 1st. There will be a ground breaking and all of you are invited. Based on this agreement the Developer will began to spend a lot of money. Hopefully, by spring of 1998 there will be a development everyone is proud to have.

City Attorney, Phillip Gaujot said the application for annexation of the additional 12. plus acres was filed with County Commission who scheduled a public hearing, February 13th at 5:00 p.m. in the Court Room. Counselor Gaujot said notices need to be posted and displayed in five conspicuous places. Also signatures of witnesses to posting. Counselor Gaujot stated he has also prepared the notices for the newspaper.

Michael Staenberg thanked everyone involved and said he is looking forward to working with everybody. Mr. Staenberg stated he is on the 5 yard line and he has 95 more yards to go.

AGENDA ITEM NO. 4 PUBLIC HEARING MINUTES ANNEX: COUNCILMAN ROBERT YOUNG MOVED TO MAKE THE PUBLIC HEARING MINUTES A PART OF JANUARY 7, 1997 COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 5 FIRE DEPT PENSION BD MINUTES: COUNCILMAN GEORGE ATKINS MOVED TO MAKE FIRE DEPT PENSION BD MINUTES A PART OF JANUARY 7, 1997 COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 6 FREDERICK STREET: City Attorney Phillip Gaujot explained to council that the Nitro Planning Commission held a meeting October 21st in Council Chambers to consider a request that the property located at corner of Frederick Street and Walker Street, Owners, Lee and Joyce Conrad be rezoned from R-2 to B-1 in order to build mini-storage units. I have prepared an ordinance which would rezone from R-2 to B-1. Before this can be done you must have a public meeting. It should be determined when you will schedule the public meeting before reading the ordinance. Also there has been filed a petition opposing any part of Frederick be rezoned to business. COUNCILMAN ROBERT YOUNG MOVED ATTORNEY GAUJOT READ TITLE ONLY OF ORDINANCE 97-01. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVEN WEST AND WAS CARRIED. COUNSELOR GAUJOT READ TITLE ONLY OF ORD. 97-01 AN ORDINANCE TO REZONE REAL ESTATE LOCATED AT CORNER OF FREDERICK AND WALKER STREET FROM R-2 TO B-1.

COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO ESTABLISH A PUBLIC HEARING FEBRUARY 04, AT 6:30 P.M. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE, ON FIRST READING ORDINANCE 97-01, AN ORDINANCE TO REZONE REAL ESTATE AT CORNER OF FREDERICK AND WALKER STREET FROM R-2 TO B-1. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AFTER SOME DISCUSSION A VOTE WAS TAKEN AND CARRIED. (Copy attached)

AGENDA ITEM NO. 7 U-DAG UPDATE: Mayor Casto yielded the floor to Counselor Gaujot. Counselor Gaujot said in regard to U-Dag, there has been an agreement by the lawyers and principal based upon what was previously represented to you. Hopefully we can bring this to a conclusion at the next meeting in February with an ordinance authorizing the Mayor to enter into such an agreement. The U-Dag grant was \$1, 289,622.75, with interest approved on that loan up to filing bankruptcy was \$199,636.70 for a total of \$1, 481,259.45. Keep in mind the debtor in possession, which is Par Industrial Corporation has to file a unified disclosure statement and plan with the bankruptcy court. As part of that plan, it will consist of the agreement with the City, assuming this body allows the Mayor to enter into the agreement. The agreement is that Par will pay \$6,300.00/month, with interest, begins to accrue at time the plan is approved, at eight per cent interest for seventy two months. Interest will continue to accrue at the rate of \$453,600. At the end of seventy two months, the sum will be \$1,675,200 at which time Par will pay either \$19,642.97 for 96 months, or \$17, 450 for 108 months. A question and answer session followed. The first \$6,300.00 should be received by first of May.

COUNCILMAN AT LARGE STEVE WEST MOVED THE CITY ATTORNEY PREPARE THE NECESSARY PAPERS TO ENABLE THIS REPAYMENT PLAN. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 9 BID OPENING STREET SWEEPER: Recorder Sibley distributed the bids to three councilmen to be opened. Recorder Sibley read the advertisement published in the paper. The first bid, opened by Councilman at Large Richard Savilla, State Equipment \$98,155.36. Second bid, opened by Councilman Steve West, WV. Tractor, used street sweepers, \$64,000.00 1993 ford chassis, alternate 1997 new demo \$105,000. Third bid opened by Councilman Bob Young, Golden Equipment Co. 1st bid used \$77,450, 2nd \$87,800, 3rd on \$93,850, 4th bid \$77,985. Second through fourth bids are new equipment. COUNCILMAN GEORGE ATKINS MOVED TO SEND THIS ITEM TO COMMITTEE AND BRING RECOMMENDATIONS TO COUNCIL FOR APPROVAL. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

THE FOLLOWING PORTION OF MINUTES FROM NOTES AND MEMORY BY RECORDER HERBERT SIBLEY AND MAYOR CASTO.

AGENDA ITEM NO. 10 RESOLUTION POCA RIVER: Mayor Casto read Resolution 97-01 A RESOLUTION AUTHORIZING THE SUBMISSION OF A SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION FOR THE CITY OF NITRO, KANAWHA COUNTY, WEST VIRGINIA. The Mayor and City Council have identified the 1996 Small Cities Block Grant Program as a source of funding for the proposed project. COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE RES. 97-01. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO 11 BEAUTIFICATION UPDATE: Mayor Casto reported on progress of Bob Sergeant, Building Official's work regarding removal of several derelict properties and indicated several more have been ear-marked for removal.

AGENDA ITEM NO. 12 BUSINESS & PROFESSIONAL ASSOC. Due to illness, Dean Miller reported he has been unable to attend last meeting but he indicated several projects are being planned including a "bowling tournament".

AGENDA ITEM NO. 13 JANUARY 21ST COUNCIL MEETING: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO MOVE JANUARY 21ST COUNCIL MEETING UP TO JANUARY 28TH TO FACILITATE CONFLICTS IN MAYOR SCHEDULE . THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 14 NEW TREASURER: Mayor Casto introduced New Treasurer, Ralph Allison . Mr. Allison will be replacing Herbert Sibley who resigned due to personal reasons. COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE RALPH ALLISON AS TREASURER. THE MOTION WAS SECONDED AND WAS CARRIED.

AGENDA ITEM NO. 15 SURPLUS PROPERTY ORDINANCE 97-02: Without objection City Attorney Phillip Gaujot read title only of Ordinance 97-02. A public Auction was announced February 15, 1997 at 10:00 A. M. COUNCILMAN DAVE MILLER MOVED TO APPROVE ORDINANCE 97-02. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED.

COUNCILMEN COMMENTS

Frank Grover, commented on landfill and yard waste.

George Atkins, stated there is a need for new council chambers, committee George Atkins, Frank Grover and Bob Mattox.

Dave Miller, Read fire report, stated need new fire truck.

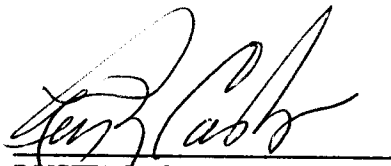
Steve West, announced Community Forum 1/21/97 at 5:30 p.m. room 107 Community Center. Discussed swearing in of Jeff Woods in Court. Announced Employee Relations Meeting 1/14/97 at 6:30 p.m. Conference Room at City Hall.

Richard Savilla, commented on status of 31st Street Bridge.

Bob Mattox, comments regarding handicap door.

Herbert Sibley, commented on the time he served as Treasurer and thanked Council for the memories.

Meeting adjourned at 9:45 p.m.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER

ORDINANCE NO. 96- 08

AN ORDINANCE AUTHORIZING MAYOR TO ENTER
INTO "AMENDED DEVELOPMENT AGREEMENT"
PROVIDING FOR TAX INCENTIVE FOR
THF-CROSS LANES LIMITED LIABILITY COMPANY

WHEREAS, Ordinance No. 96-05, passed by this Council on Second Reading on May 7, 1996, authorized the Mayor to enter into agreements with industrial and/or commercial developers and with the Nitro Development Authority, granting tax credits or remittances from the City of Nitro Business and Occupation tax, subject to approval by this Council; and,

WHEREAS, by Ordinance No. 96-06, passed by this Council on Second Reading on June 18, 1996, authorized the Mayor to sign the "Development Agreement" with THF-Cross Lanes Limited Liability Company and others; and,

WHEREAS, on June 18, 1996, pursuant to Ordinance No. 96-06, the Mayor signed the Development Agreement on behalf of the City of Nitro; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has determined that it must acquire additional real estate, which will increase the area of development, make improvements to other properties adjacent to the development, incur additional earth-moving costs, construct additional roads, all at the cost of THF-Cross Lanes Limited Liability Company and a substantial portion of such improvements will be dedicated to the public or to adjacent property owners and not reserved for the private use of THF-Cross Lanes Limited Liability Company; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has requested that the City of Nitro annex the additional real estate, consisting of 12.936 acres, more or less; and,

WHEREAS, THF-Cross Lanes Limited Liability Company has requested that the "Development Agreement" signed by the Mayor of the City of Nitro on June 18, 1996, pursuant to Ordinance No. 96-06, be amended to include the matters mentioned above and to provide for other language to clarify the rights and duties of the respective parties; and,

WHEREAS, THF-Cross Lanes Limited Liability Company agrees to pay certain sums as consideration to the City of Nitro for agreeing to entering into an "Amended Development Agreement"; and,

WHEREAS, a copy of the proposed "Amended Development Agreement" is attached hereto and made a part hereof.

NOW, THEREFORE, be it ordained by the Council of the City of Nitro, West Virginia, that the "Amended Development Agreement" with the City of Nitro and the Nitro Development Authority, a copy of which is attached hereto, is approved.

BE IT FURTHER ORDAINED that the Mayor of the City of Nitro is directed to sign said "Amended Development Agreement" on behalf of the City of Nitro.

BE IT FURTHER ORDAINED that a public hearing shall be held pursuant to proper notice on the 17th day of December, 1996, for public comment.
AT 6:00 P.m. AT Council Chambers

Motion made by STEVE WEST, seconded by Robert Young, on first reading, to adopt this Ordinance.

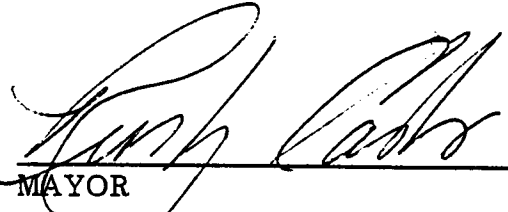
Motion made by _____, seconded by _____, on second reading, to adopt this Ordinance.

PASSED ON FIRST READING

Date: 11/19/96

ADOPTED ON SECOND READING
after public hearing held
on _____,
which public hearing notices
were given by publication

Date: _____


MAYOR


CITY RECORDER

AMENDED DEVELOPMENT AGREEMENT

This Amended Development Agreement, made and entered into this ____ day of _____, 1996, by and among the City of Nitro, a State of West Virginia municipal corporation (the "City"), THF Cross Lanes Development Limited Liability Company, a Missouri limited liability company (the "Company" or "THF"), Solco, Incorporated, a West Virginia corporation ("Solco"), Par-Com Associates Limited Partnership, a West Virginia limited partnership ("Par-Com"), and the Nitro Development Authority, a public agency established by the City pursuant to the laws of the State of West Virginia.

W I T N E S S E T H:

WHEREAS, Company previously contracted with Par-Com, Solco and others by that certain (i) Land Purchase Option Agreement dated September ____, 1995, to acquire certain real property consisting of approximately nine (9) acres; and (ii) Option and Purchase and Sale Agreement, dated as of November 7, 1995 to acquire certain real property consisting of approximately fifty-three (53) acres, the said Land Purchase Option Agreement and said Option and Purchase and Sale Agreement are collectively hereinafter referred to as the "Initial Agreements;" and,

WHEREAS, the real estate described in the Initial Agreements (the "Initial Property"), which is more particularly described in Exhibit A, attached hereto and by this reference made a part hereof, was real estate upon which the Company intended to develop, build, lease and sell properties for commercial use, including a community shopping center, and the parties to this Amended Development Agreement believe that such community shopping center would be beneficial to the City and surrounding community, as well as provide significant employment opportunities and encourage further development in and around the City; and,

WHEREAS, as part of the Development as herein defined, the Company will construct a community shopping center on the Property and certain infrastructure improvements which will benefit the City as well as surrounding residential and commercial properties; and,

WHEREAS, the City has determined that it is essential to the economic and social welfare of the City that the City promote the economic vitality of the community by assuring opportunities for development and sound and stable commercial growth; and,

WHEREAS, as a result of the foregoing, the owners of the real estate described in the Initial Agreements, the Company and the City entered into a Development Agreement which was executed by the City by authority of action of the City Council of Nitro on June 18, 1996 (the "Initial Development Agreement"); and,

WHEREAS, as a result of the Initial Development Agreement, Solco and Par-Com permitted the City to annex the Initial Property consisting of the approximately sixty-two (62) acres, described in the Initial Agreements, as well as approximately one hundred twenty-two (122) adjoining acres of real estate, which annexed property

consisting of approximately one hundred eighty-four (184) acres, as more particularly described and shown as the "Annexed Territory" on Exhibit B, attached hereto and by this reference made a part hereof, was added to the City in contemplation of the Development described in the said Initial Development Agreement; and,

WHEREAS, the Company has now determined that in order for the Development to be viable, the Company must alter and increase the area of the Development and make improvements to other properties adjacent to the Development, all of which is more expensive than originally estimated as additional property must be acquired and be included in the Development, additional earth-moving costs will be incurred, and additional roads and improvements must be built, all at the cost of the Company, and a substantial portion of such improvements will be dedicated to the public or to adjacent property owners and not reserved for the private use of the Company; and,

WHEREAS, the Initial Agreements have each been amended and the Company has entered into such amendments (the "Amended Agreements") to (i) include additional real estate consisting of approximately thirteen (13) acres in the Development (the "Additional Property") which Additional Property is more particularly described and shown as the "Additional Property" on Exhibit B attached hereto and incorporated by this reference; (ii) to alter and revise the description of the property that is to be acquired by the Company to serve as the site of the Development, so that such property now consists of approximately eighty (80) acres (the "Development Property") as more particularly described and shown as the "Development Property" on Exhibit C attached hereto and incorporated herein by this reference; and (iii) the Company has made other agreements with various Government Agencies and owners of real estate adjacent to the Development to provide at Company cost various improvements; and,

WHEREAS, the Company and the City of Nitro are each desirous of (i) including within the City the Additional Property described in the Amended Agreements and annexing to and including within the City such Additional Property; and, (ii) revising and amending the Initial Development Agreement to reflect the parties' agreements with respect to the Development and the Development Property.

WHEREAS, the City desires to have the Company construct the Development and Associated Infrastructure, all of which will help to improve the social and economic welfare of City and surrounding area, and the City has determined that the Development will enhance the income and tax base of City, to the benefit of City and other governmental entities, and that the powers exercised hereunder are found to be in furtherance of a public use and essential to the public interest; and,

WHEREAS, based on the proposed plans and representations of the Company, the City has determined that within one year after the Development opens for the conduct of retail business, more than fifty persons will be employed by Occupants; and,

WHEREAS, Company desires to conclude its purchase and acquisition of the Development Property and to proceed with the Development thereon, but the Company

has determined that the total costs for Associated Infrastructure and extraordinary site preparation make the Development economically unsound unless the Company receives the benefits described in this Amended Development Agreement; and,

WHEREAS, the Nitro Development Authority is a public agency, created to assist new and existing business; and,

WHEREAS, the City imposes various Business and Occupation Taxes and, in order to encourage and provide incentives for, the Company to proceed with and accomplish the Development, the City desires to grant credits from such taxes and the Nitro Development Authority desires to utilize and apply the proceeds of such credits as more fully set forth herein; and,

WHEREAS, the receipt of such tax credits will make it economically feasible for the Company to purchase the Development Property and to construct the Development, Associated Infrastructure and site preparation and the Company will proceed relying on the receipt of Tax Credits; and,

WHEREAS, the City, the Nitro Development Authority, the Company and the owners of all the properties included in the Amended Agreements, each desire to supersede the Initial Development Agreement and adopt, approve and enter into this Amended Development Agreement, as and for the agreement to govern the parties hereafter.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS: CONSTRUCTION

Section 1.1 Definitions. For purposes of this Agreement, words and terms used in this Agreement shall have the following meanings:

“Additional Property” shall have meaning given on page 2 hereof.

“Additional Sales or Services Business and Occupation Taxes” means the amount of Business and Occupation Taxes from sales or services income on the Development Property received by the City during each Qualifying Year in excess of the Adjusted Base Year Business and Occupation Taxes.

“Adjusted Base Year Business and Occupation Taxes” means for the first Qualifying Year the amount of Business and Occupation Taxes received by the City for the preceding calendar year from sales or services income on the Development Property. For purposes of this Agreement, the parties acknowledge the amount is zero.

"Associated Infrastructure" means all improvements done at Company cost, outside of the Development Property for the benefit of the Development Property and surrounding properties, including but not limited to the improvement of Lakeview Drive and the Tri-State Park Access Road road.

"Business and Occupation Taxes" means a privilege tax imposed on the gross sales or proceeds received within the corporate limits of the City of Nitro in the codified ordinances of the City of Nitro, and authorized by West Virginia Code §8-13-5, or such substitute taxes enacted to replace, modify or substitute for the taxes identified herein.

"Certificate of Substantial Completion" means AIA Document G-704 Certificate of Substantial Completion or comparable documents executed by the Contractor and the Company with respect to the Improvements.

"Company Share" means after \$36,000 is paid as provided in Section 4.2, one hundred percent (100%) of the next Four Hundred Thousand Dollars (\$400,000.00) of Additional Sales or Services Business and Occupation Taxes and Eighty Percent (80%) of the Additional Sales or Services Business and Occupation Taxes thereafter.

"Completion of Construction" means the completion of construction of the improvements as evidenced by a Certificate of Substantial Completion.

"Contractor" means the Contractor(s) selected by the Company for the construction of all or part of the Improvements.

"Development" means the Company's proposal to develop a retail shopping center consisting of approximately four hundred thousand (400,000) square feet of shop space, and seven (7) outparcels, the relocation and installation of utilities and roads within the bounds of the Development Property as well as road improvements outside the bounds of the Development Property.

"Development Property" means that certain tract or parcel of land, consisting of eighty (80) acres, more or less, as more particularly described and shown on Exhibit C attached hereto and incorporated herein by reference for all pertinent purposes.

"Excusable Delay" means any and all causes beyond the control of the Company, including but not limited to acts of God, fire or other casualty, strike, lockout or other labor dispute, weather conditions, shortages or unavailability of material, labor or utilities, vandalism or laws, failure of any third party to perform obligations, orders or regulations of any Court, governmental, civilian or military authority.

"Improvements" means with respect to Sections 3.1 and 3.2 of this Agreement, the Wal-Mart Store and common area related thereto and the development of a community shopping center.

"Nitro Development Authority" means that Authority authorized, created and established by the City of Nitro pursuant to Chapter 7, Article 12 of the West Virginia Code (W.Va. Code §7-12-1 et seq.).

"Occupants" means any person, firm or corporation which occupies any portion of the Property and is obligated to pay Business and Occupation Taxes to the City.

"Qualifying Years" means each twelve (12) month period from the date of execution of this Agreement through and including the Term of the Agreement.

"Special Allocation Account" means the separate fund account established by the City for the deposit and disbursement of the Additional Sales or Services Business and Occupation Taxes, the rental for hire Business and Occupation Taxes and the Contractor Business and Occupation Taxes.

"Storage Property" means that certain tract of land, consisting of one hundred eighteen (118) acres, more or less, as more particularly described and shown on Exhibit C, being comprised of the lands owned by Par-Com Associates Limited Partnership and the Storage family.

"Term" means a term commencing with the full execution of the Agreement and ending after twenty (20) Qualifying Years.

Section 1.2 Construction. This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) Definitions include both singular and plural;
- (b) Pronouns include both singular and plural and cover all genders;
- (c) Headings of sections herein are solely for convenience or reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof; and
- (d) All exhibits attached to this Amended Development Agreement shall be and are incorporated by reference.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the City. In order to induce the Company to enter into this Amended Development Agreement and to allow for the annexation of the Additional Property into the City, the City hereby represents and warrants to the Company as follows:

(a) Organization and Standing. The City is duly organized, validly existing and in good standing under the Constitution and laws of the State of West Virginia.

(b) Power and Authority. The City has full power and authority to execute and deliver this Amended Development Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery and performance of this Amended Development Agreement have been duly and validly authorized by all necessary action on the part of the City. This Amended Development Agreement is a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, except as enforcement hereof may be limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting creditor's rights as may from time to time be in effect.

(d) No Violation. Neither the execution nor the delivery of this Amended Development Agreement nor the performance of the City's agreements, obligations and undertakings hereunder will conflict with, violate or result in a breach of any of the terms, conditions or provisions of any agreement, rule regulation, statute, ordinance, judgment, decree or other law by which the City may be bound.

(e) Governmental Consents and Approvals. Except for the Nitro Development Authority, no consent or approval by any other governmental authority is required in connection with the execution and delivery by the City of this Agreement or the performance by the City of its obligations hereunder.

Section 2.2 Representations and Warranties of Nitro Development Authority. In order to induce the Company to enter into this Amended Development Agreement and to allow for the annexation of the Additional Property into the City, the Nitro Development Authority hereby represents and warrants to the Company as follows:

(a) Organization and Standing. The Nitro Development Authority is duly organized, validly existing and in good standing under the Constitution and laws of the State of West Virginia.

(b) Power and Authority. The Nitro Development Authority has full power and authority to execute and deliver this Amended Development Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery and performance of this Amended Development Agreement have been duly and validly authorized by all necessary action on the part of the Nitro Development Authority. This Amended Development Agreement is a legal, valid and binding obligation of the Nitro Development Authority, enforceable against the Nitro Development Authority in accordance with its terms, except as enforcement hereof may be limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting creditor's rights as may from time to time be in effect.

(d) No Violation. Neither the execution nor the delivery of this Amended Development Agreement nor the performance of the Nitro Development Authority's agreements, obligations and undertakings hereunder will conflict with, violate or result in a breach of any of the terms, conditions or provisions of any agreement, rule regulation, statute, ordinance, judgment, decree or other law by which the Nitro Development Authority may be bound.

(e) Governmental Consents and Approvals. Except for the City, no consent or approval by any other governmental authority is required in connection with the execution and delivery by the Nitro Development Authority of this Agreement or the performance by the Nitro Development Authority of its obligations hereunder.

Section 2.3 Representations and Warranties of the Company. In order to induce the City to enter into this Agreement, the Company represents and warrants to the City as follows:

(a) Organization. The Company is a Limited Liability Company duly organized, validly existing and in good standing under the laws of the State of Missouri, and is duly qualified to transact business in, and in good standing under, the laws of the State of West Virginia.

(b) Power and Authority. The Company has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary actions by the Company. This Agreement is a legal, valid and binding agreement, obligation and undertaking of the Company, enforceable against the Company in accordance with its terms, except as enforcement hereof may be limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting creditors' rights as may from time to time be in effect.

(d) No Violation. Neither the execution nor the delivery or performance of this Agreement will conflict with, violate or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitled any party to terminate or declare a default under any contract, agreement, lease, license or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree or other law to which the Company is a party or by which the Company or any of its assets may be found.

(e) No Proceedings or Judgments. There is no claim, action or proceeding now pending, or to the best of its knowledge, threatened before any court, administrative or regulatory body, or governmental agency to which the Company is a party or which will, or could, prevent the Company's performance of its obligations under this Agreement.

(f) Employment. Within one year after the first day the Development opens to conduct retail business with the general public, there will be at least fifty (50) persons employed by Occupants.

ARTICLE III

CONSTRUCTION OF DEVELOPMENT; ACQUISITION OF RELATED EQUIPMENT; ZONING APPROVALS

Section 3.1 Agreement to Construct Improvements. Within a reasonable period of time following the Company's acquisition of the Development Property, the Company shall commence site work with respect to the Development and shall proceed subject to an Excusable Delay to complete the Improvements for the Development and the Associated Infrastructure. Contemporaneously with the commencement of such site work, the Company will pay the City the lump sum and one time amount of Twelve Thousand Dollars (\$12,000.00) to assist in deferring the cost incurred by the City for additional police. Absent any time extension permitted by reason of an Excusable Delay, the Company shall cause the completion of construction of the Improvements and Associated Infrastructure within thirty (30) calendar months from the time of acquisition of the Development Property by the Company.

Furthermore, THF will cooperate with the City in the City's efforts during the one year period following the full execution of this Agreement, to lease or finance in the form of a monthly rental or payments, the purchase of a fire truck, garbage disposal truck, and/or street sweeper, such monthly rental or payment being separately referred to as the "Special Fire Fee" and the "Special Garbage Fee" and collectively referred to as "Special Service Fees" (none of the Special Service Fees will include operating, maintenance or insurance costs). THF covenants and agrees for a period of ten (10) years after such fire truck, garbage disposal truck and/or street sweeper, or any combination thereof, are obtained, to provide a letter of credit to secure payment by the City of payment to the vendor of the City's Special Fire Fee and Special Garbage Fee to the extent of such annual Special Service Fees, provided that the letter of credit shall not exceed the lesser

of (i) the amount remaining to be paid for the fire truck and garbage disposal truck; or (ii) Four Hundred Five Thousand Dollars (\$405,000.00). The letter of credit will be for an initial term of one (1) year and shall thereafter be renewable during the term of this Agreement provided (i) this Amended Development Agreement is then in full force and effect; (ii) the City is not in default hereunder; and (iii) the Company is receiving the Company Share as herein defined. Upon receipt by the City of the fire truck, garbage truck and/or street sweeper, the City may bill the Company for such Special Fire Fee and Special Garbage Fee incurred by the City as defined herein, on a monthly basis and the Company will pay or cause the tenants or other occupants of the Development Property to forthwith pay such amounts to the City. Provided such monthly Special Service Fees shall not exceed \$4,500.00 per month, nor total annually more than Fifty-Four Thousand Dollars (\$54,000.00). The sum of annual charges for such Special Service Fees over ten (10) years shall not exceed a total of Five Hundred and Forty Thousand Dollars (\$540,000.00). In no event shall the Company pay Special Service Fees beyond such ten (10) years. Acquisition of the Equipment referenced herein shall be completed by the receipt of competitive bids. The City and the Company will coordinate the final selection process.

For the term of this Amended Development Agreement, as long as THF has an open letter of credit for the fire truck or garbage disposal truck and THF pays the Special Service Fees, the City will timely pay said vendors or obligees for such Equipment. If THF has not defaulted in payment of the Special Service Fees, and the aforesaid Letter of Credit is drawn upon then the Company shall have no further obligation to furnish a Letter of Credit and the City will pay to the Company the amount so drawn.

During the term of this Agreement, the City will provide the Development with fire service and such garbage disposal service as provided to other City commercial facilities at similarly calculated cost. Nothing in this Agreement is intended to relieve the Development or the occupants thereof from paying any such fee as is similarly charged other City commercial facilities.

Section 3.2 Failure to Complete Improvements. In the event a Certificate of Completion is not issued with respect to the Improvements within the time limit (as such time limit may be extended by an Excusable Delay) set forth in Section 3.1 hereof, the City's obligation to remit the sums provided for in Article IV hereof shall be suspended until such time as such Improvements are completed, on which date, the obligations under Article VI hereof shall once again commence.

Section 3.3 Zoning, Permits and Land Use. The City shall cooperate with the Company to provide zoning and annexation sufficient for the planned Development and the uses therein. The City shall provide zoning of B-2, Central Business District; C-1, Heavy Commercial District; and 1, Light Industrial, for the Development consistent with the plans for the Development of the Company. The City shall assist the Company in obtaining any and all permits, and any development plan approval necessary to proceed with the Development, including but not limited to parking and street requirements, curb cuts, building permits, sign permits and any other permit or requirement of any Federal,

State or Local Agency. The City covenants and agrees to cooperate with the Company with respect to the vacation of such streets, alleys and other public rights-of-way within its jurisdiction as may be necessary for completion of the Development in accordance with a final site plan prepared by the Company.

ARTICLE IV

CREDIT, ALLOCATION AND PAYMENT OF BUSINESS AND OCCUPATION TAXES

Section 4.1 Credit for Various Business and Occupation Taxes.

(a) Contractor's Business and Occupation Tax. From the date of this Amended Development Agreement and for seven Qualifying Years thereafter, the City agrees to and does hereby grant credits to the Company for the full amount of City Business and Occupation Taxes paid by the Company and those persons, firms or corporations which are contractors with the Company and perform contracting work on the Development Property and by reason thereof owe City Business and Occupation Taxes for contractors. The Company and its contractors shall file such forms and returns as are required by City Ordinances and pay the tax that would be due thereon. The Company shall be entitled to a credit for such taxes during such period of seven Qualifying Years, which credits will be provided by the City and paid to the Company in the manner described in Section 4.2 hereof. The total amount of such tax and the equal credit shall be included and paid in the manner provided in the Tax Accounting hereinafter described.

(b) Rental Business and Occupation Tax. During the Term of this Amended Development Agreement, the City agrees to and does hereby grant credits to the Company, its successors and assigns of the full amount of Business and Occupation Taxes paid to the City by the Company on account of the Business and Occupation Taxes on rental income derived from the Development Property -- that is, furnishing property for hire within the City. The Company shall file such forms and returns as are required by City Ordinances and pay the tax that would be due thereon. The Company shall be entitled to a credit for such taxes during the term of this Amended Development Agreement which credits will be provided by the City and paid to the Company in the manner described in Section 4.2 hereof. The total amount of such tax and an equal credit shall be included and paid in the manner provided in the Tax Accounting hereinafter described.

(c) Sales Business and Occupation Tax. During the Term of this Amended Development Agreement, the City agrees to, and does hereby grant credits to the Company, its successors and assigns, of the full amount of the Company's Share of Additional Sales or Services Business and Occupation Taxes paid to the City by the Company and all other Occupants of the Development Property. The Company and other Occupants of the Development Property shall file such forms and returns as are required by City Ordinances and pay the taxes that would be due thereon. The Company shall be

entitled to a credit for each Qualifying Year of the Company's Share of such Additional Sales or Services Business and Occupation Taxes, which credits will be provided by the City and paid to the Company in the manner described in Section 4.2 hereof. The total amount of Sales or Services Business and Occupation Taxes paid to the City by occupants of the Development Property or space within any building erected thereon shall be included and paid in the manner provided in the Tax Accounting hereinafter described.

(d) Business and Occupation Taxes from the Storage Property. From the date of this Agreement and for seven Qualifying Years thereafter, the City agrees to grant credits to the Owners of the Storage Property, their respective heirs, successors and assigns, in an amount equal to the full sum of contractors, as well as rental income, City Business and Occupation Taxes that would otherwise be payable to the City on account of such activity on the Storage Property. The said owners thereof shall file such forms and returns as are required by City Ordinances and pay the tax that would be due thereon. The City shall separately account for and pay to the then owners of the Storage Property such credits as equal said taxes.

Section 4.2 Receipt, Deposit, and Accounting of the Tax Credits by the City and Payment to the Company.

(a) For each Qualifying Year, the City shall collect and receive the Business and Occupation Taxes described in Sections 4.1(a), (b) and (c), and deposit and disburse such funds in the following manner. Upon receipt, the City shall initially deposit such funds into the Special Allocation Account described below and account for such funds (the "Tax Accounting") as follows:

(i) The receipts from any Business and Occupation Tax described in Section 4.1(a), (b) or (c) above shall be recorded on a Tax Accounting Report, showing the date such funds were received, the Remitter of the funds, the amount remitted and the equivalent Credit due therefore.

(ii) Each month during the Term of this Amended Development Agreement, the City shall be entitled to retain from such monies the sum of Two Thousand Six Hundred Sixty Dollars (\$2,660.00). The City shall disburse such \$2,660.00 to the City's General Funds at the same time it makes the other disbursements described herein.

(iii) Upon disbursing the Two Thousand, Six Hundred Sixty Dollars (\$2,660.00) as aforesaid, the City shall contemporaneously pay to the Nitro Development Authority all monies the Company is entitled to receive as credits for the prior month under Sections 4.1(a), (b), (c) and the provisions of this Section 4.2.

(iv) The City shall make the deposits into the Special Allocation Account with reasonable diligence on receipt of the funds and pay the requisite amount to the Nitro Development Authority on the 10th day of each calendar month, for all monies

received during the preceding calendar month and contemporaneous with such payment provide a Tax Accounting to the Company and the Nitro Development Authority.

(b) Establishment of, and Deposit into, Special Allocation Account. The City acknowledges the existence of the Special Allocation Account. Upon receipt, the City shall promptly deposit the Business and Occupation Taxes described in 4.1 above, into such separately designated account. Until such time as the City has paid all amounts due and owing under this Amended Development Agreement, the City agrees to pledge and apply the monies in the Special Allocation Account to the payment of the amounts due hereunder, and to use such monies for no other purpose and to otherwise maintain the Special Allocation Account in accordance with this Amended Development Agreement. The City further agrees that the City shall not further encumber nor pledge any portion of the Special Allocation Account during the term of this Amended Development Agreement nor take any actions in connection therewith inconsistent with the terms and conditions hereof. In determining the Company Share on an annual basis, the City shall not include the payments during such year of the monthly amounts of the aforesaid Two Thousand Six Hundred Sixty Dollars (\$2,660.00) nor the Three Hundred Forty Dollars (\$340.00) described in 4.3(b), as part of the first Four Hundred Thousand Dollars (\$400,000) of Additional Sales or Services Business or Occupation Taxes. Any interest earned on said Special Allocation Account shall belong to the City.

Section 4.3 Receipt, Deposit and Payment of the Tax Credits by the Nitro Development Authority.

(a) The total amount of monies paid by the City to the Nitro Development Authority, by reason of the terms of this Amended Development Agreement, are hereinafter referred to as the "Tax Credits."

(b) Upon receipt of the Tax Credits from the City, the Nitro Development Authority shall forthwith deposit such monies in a Special Allocation Account which is used solely for the purposes described in this Amended Development Agreement. Within a reasonable time after deposit to such account, but no later than seven (7) days after such deposit, the Nitro Development Authority shall pay the Tax Credits to the Company, less however the sum of Three Hundred Forty Dollars (\$340.00) per month which the Nitro Development Authority shall retain to use for any purpose authorized by its charter. The aforesaid Three Hundred Forty Dollars (\$340.00) designated as aforesaid to be retained by the Nitro Development Authority is a monthly sum which may unilaterally be reduced at the discretion of the City and the said reduction shall be retained by the City. Such reduction shall be by resolution of the City and the Company shall receive written notice thereof. In the event of such reduction the dollar amounts described in Section 4.2 and 4.3 to be retained by the City and the Nitro Development Authority shall be deemed amended accordingly.

ARTICLE V
DEFAULTS AND REMEDIES

Section 5.1 Defaults: Rights to Cure.

(a) General. Failure or delay by either Party to timely perform as such time may be extended under Article III for an Excusable Delay, any term or provision of this Agreement shall constitute a default under this Agreement. The Party who so fails or delays must, upon receipt of written notice of the existence of such default, immediately commence to cure, correct or remedy such default and thereafter proceed with diligence to cure such default. The Party claiming such default shall give written notice of the alleged default to the Party alleged to be in default specifying the default complained of. Except as otherwise expressly herein provide and except as required to protect against immediate, irreparable harm, the Party asserting a default may not institute proceedings against the other Party until thirty (30) days after having given such notice. If such default is cured within such thirty (30) day period, the default shall not be deemed to constitute a breach of this Agreement. If the default is one which cannot reasonably be cured within the thirty (30) day cure period, and the defaulting party is exercising due diligence to cure such default, such period shall be extended for such time as is reasonably necessary for the curing of the same, so long as there is diligent proceeding to cure such default. If such default is cured within such extended period, the default shall not be deemed to constitute a breach of this Agreement. However, a default not cured as provided above shall constitute a breach of this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

(b) Exception. The notice and thirty (30) day cure provisions above in Section 5.1(a) shall not apply to the City's obligation to pay the amounts specified in Article IV, nor the obligation of Nitro Development Authority to pay the amounts required to the Company under Article IV such payment being a fixed monthly obligation. However, to the extent the City does not receive taxes from the Occupants of the Property, neither the City nor Nitro Development Authority shall be in default. However, the City will use its best reasonable efforts to collect any delinquent taxes owed by Occupants of the Property.

Section 5.2 Remedies of City. In addition to remedies available at law, the City in the event of a default by the Company under any of the terms and provisions of this Agreement, may institute legal action against the Company for specific performance or other appropriate equitable relief.

Section 5.3 Remedies of Company

(a) In addition to remedies available at law, the Company, in the event of a default by the City under any of the terms and provisions of this Amended Development Agreement, may institute legal action against the City for specific performance or other appropriate equitable relief.

(b) The Company, along with the present owners of the Development Property, acting in reliance of this Amended Development Agreement, has permitted the Development Property to be annexed to the City, thereby subjecting the Development Property to City taxes. Furthermore, in reliance on this Amended Development Agreement, the Company will expend approximately Ten Million Dollars of extraordinary on site and off-site costs (the "Extraordinary Costs") which the Company will recapture through this Amended Development Agreement. Therefore, if this Amended Development Agreement is invalidated in any way during its agreed Term, regardless of how such invalidation occurs, whether by default of the City, litigation, or other means, all of which is collectively referred to as "Invalidation," and such Invalidation results in whole or in part, in the Company not receiving the tax credits herein provided for, then the City and Company shall cooperate to permit or allow the Company to recapture, off-set or recover such portion of the Extraordinary Costs as are denied to it or are not received by the Company as a consequence of such Invalidation. Nothing in this Section 5.3 shall require the City to act illegally. In addition to any other remedies, in order to obtain recapture, off-set or reimbursement of the Extraordinary Costs, the Company and City agree that the following shall apply in order to provide to the Company such recapture, off-set or reimbursement:

(i) The Company may elect to terminate the Letter of Credit described in Section 3.1, and thereby have as an annual offset the actual cost to Company of causing such Letter of Credit to be issued; and,

(ii) Upon written request of the Company to the Mayor, the City Council of the City will duly adopt such ordinances as may be necessary under W.Va. Code Chapter 8, Article 7, Section 4 to de-annex the Development Property; if the City fails to adopt such ordinance, then the Company shall have all remedies against the City as are available in law or equity. However, if the City duly adopts a valid ordinance to de-annex as aforesaid, but similar and requisite action is not also duly adopted by the Kanawha County Commission, as provided in W.Va. Code §8-7-4, then, the Company shall not have the right to institute a suit against the City to recover monetary damages, but shall have the right to receive, retain, off-set or credit any Business and Occupation Taxes thereafter accruing and owing from the Company or any occupants of the Development Property or space in any buildings erected thereon, to the City as described in this Amended Development Agreement, until such credits, off-set and reimbursement received by the Company totals the Extraordinary Costs expended. Provided, that if the deannexation action provided for in this subsection is fully completed by all parties, then in such event, the Company shall have no further rights, remedies or claims with respect to the provisions of this subparagraph (ii).

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.1 Entire Contract and Amendments. This Agreement (together with the Exhibits attached hereto) is the entire contract between the City and the Company relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the City and the Company, and may not be modified or amended except by a written instrument executed by both of the Parties.

Section 6.2 Third Parties. Nothing in this Amended Development Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Amended Development Agreement on any other person other than the City and the Company and their respective heirs, successors and assigns, nor is anything in this Amended Development Agreement intended to relieve or discharge the obligation or liability of any third persons to either the City or the Company, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or the Company. This Amended Development Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

Section 6.3 Counterparts. Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

Section 6.4 Waiver. Any Party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 6.5 Cooperation and Further Assurances. The City and the Company each covenants and agrees that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the conveying, transferring, pledging, assigning and confirming unto the City or the Company or other appropriate persons all and singular the rights, benefits, property and revenues herein covenanted, agreed conveyed, assigned, transferred and pledged under or in respect of this Amended Development Agreement. In

the event that during the Term of this Amended Development Agreement, the City eliminates, reduces or otherwise curtails or replaces the Business and Occupation Taxes described in Article 4 hereof, and adopts new taxes or increases other taxes (collectively, "New Taxes"), the City will grant the Company such credits from the New Taxes as will provide the Developer the same financial benefits as provided in this Amended Development Agreement. In the event that during the Term of this Amended Development Agreement, the Nitro Development Authority is legally dissolved or terminated, or is otherwise unable to function, the City shall pay the monies from the City Special Allocation Account that would have been paid to Nitro Development Authority as described in Sections 4.1 and 4.2 of this Amended Development Agreement directly to the Developer. In such event, the City shall retain the monthly amount of Three Hundred Thirty Dollars (\$330.00) which the Nitro Development Authority is entitled to retain under Section 4.3 of this Amended Development Agreement.

Section 6.6 Severability. If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of such section, subsection, term or provision of this Agreement or the application of same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

Section 6.7 Notices. All notices, demands, requests, consents, approvals or other communications or instruments required or otherwise given under this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally or by telecommunication actually received, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows (unless another address is provided in writing):

To the Company: Michael H. Staenberg
 THF Cross Lanes Development
 Limited Liability Company
 955 Executive Parkway
 Suite 210
 St. Louis, MO 63141
 Tel.: 314/878-4044
 Fax: 314/878-4004

With a copy to: Alan Bornstein
 Sonnenschein, Nath & Rosenthal
 One Metropolitan Square
 Suite 3000
 St. Louis, MO 63102
 Tel.: 314/259-5803;
 Fax: 314/259-5959

To the City: Mayor,
City of Nitro
P. O. Box 308
20th St. and 2nd Ave.
Nitro, WV 25143
Tel.: 304/755-0705
Fax: 304/755-1382

With a copy to: City Attorney
City of Nitro
177 Walnut St.
Morgantown, WV 26505
Tel.: 304/292-3000
Fax: 304/292-1072

Section 6.8 Successors in Interest. This Amended Development Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective authorized successors and assigns.

Section 6.9 No Joint Venture, Agency, or Partnership Created. Nothing in this Amended Development Agreement shall be construed by the Parties or any third person to create the relationship of a partnership, agency, or joint venture between or among such parties.

Section 6.10 West Virginia Law. This Amended Development Agreement shall be construed and interpreted under the internal laws of the State of West Virginia.

Section 6.11. Costs and Expenses. If either Party defaults in the performance of its obligations hereunder, the Parties agree that the defaulting Party shall pay the non-defaulting Party's reasonable costs of enforcing the defaulting Party's obligations under this Agreement, including but not limited to attorneys, fees and expenses.

Section 6.12 No Personal Liability of Officials of City. No covenant or agreement contained in this Amended Development Agreement shall be deemed to be the covenant or agreement of any official, officer, agent, employee or attorney of the City, in his or her individual capacity, and neither the members of the City Council nor any official of the City shall be liable personally under this Amended Development Agreement or be subject to any personal liability or accountability by reason of the execution, delivery and performance of this Agreement.

Section 6.13 Repealer. To the extent that any ordinance, resolution, rule, order or provision of the City's Code of Ordinances is in conflict with the provisions of this Agreement, the provisions of this Amended Development Agreement and the City ordinance authorizing it shall be controlling.

IN WITNESS WHEREOF, the parties hereto have caused this Amended Development Agreement to be executed by their duly authorized officers as of the date set forth above.

CITY OF NITRO, WEST VIRGINIA

By: _____
Title: _____

NITRO DEVELOPMENT AUTHORITY

By: _____
Title: _____

**THE CROSS LANES DEVELOPMENT
LIMITED LIABILITY COMPANY**

By: _____
Michael H. Staenberg, Manager

SOLCO, INCORPORATED

By: _____
Its _____

**PAR-COM ASSOCIATES LIMITED
PARTNERSHIP**

By: _____
Its _____

NITRO DEVELOPMENT AUTHORITY

By: _____
Its _____

Exhibit A

Those two certain Tracts as shown and described are that certain map, prepared by Triad Engineering, Inc., having Drawing No. C95153-PI and dated April 18, 1996 and consisting of the following:

Tract 1:**Description of a 52.945 Acre Tract**

Description of a tract of land situate in Union District, Kanawha County, West Virginia, lying southwest of Tri-State Greyhound Park Ltd. Being a part of the Storage property as recorded in DB-1981, PG-92 and including a 1.124 acre parcel as recorded in DB-2246, PG-853, and being more particularly described as follows:

Beginning at a point, said point being a set stone in the northeast corner of the Storage property as recorded in DB-1981, PG-92; thence from point of beginning and along the easterly line of said Storage property, S56°-40'-55"W a distance of 117.24 feet to an Iron Pin; thence S34°-36'-27"W a distance of 150.98 feet to an Iron Pin; thence S45°-12'-28"W a distance of 125.05 feet to an Iron Pin; thence S55°-11'-35"W a distance of 124.55 feet to an Iron Pin; thence S81°-59'-23"W a distance of 108.79 feet to an Iron Pin; thence N33°-19'-58"W a distance of 38.35 feet to an Iron Pin; thence S56°-40'-55"W a distance of 486.37 feet to an Iron Pin; thence leaving the easterly line of said Storage property, N53°-37'-38"W a distance of 152.82 feet to a point; thence S36°-22'-19"W a distance of 872.84 feet to a point; thence N53°-37'-35"W a distance of 851.75 feet to a point; thence N88°-09'-31"W a distance of 45.43 feet to a point; thence N53°-40'-02"W a distance of 4.49 feet to a point; thence N12°-30'-16"E a distance of 298.19 feet to a point; thence N36°-22'-24"E a distance of 417.65 feet to a point; thence N60°-48'-33"E a distance of 109.43 feet to a point; thence N36°-22'-23"E a distance of 1173.60 feet to a point in the northerly line of said Storage property; thence along said line S62°-38'-53"E a distance of 65.16 feet to an Iron Pin; thence S51°-28'-05"E a distance of 436.40 feet to an Iron Pin; thence N81°-06'-05"E a distance of 67.89 feet to a point; thence S51°-28'-05"E a distance of 797.41 feet to a point; thence S60°-44'-54"E a distance of 108.60 feet to an Iron Pin; thence S2°-11'-00"W a distance of 83.61 feet to the point of beginning containing 52.945 acres more or less.

Included in the above tract is an 80.00 feet easement for utilities and road along the northerly portion of tract.

Exhibit A**Tract 2:****Description of an 8.818 Acre Tract**

Description of a tract of land situate in Union District, Kanawha County, West Virginia, lying southwest of Tri-State Greyhound Park Ltd. Being a part of the Storage property as recorded in DB-1981, PG-92 and including a 1.124 acre parcel as recorded in DB-2246, PG-853 and a 8.818 acre parcel designated as Tract "A-21" adjoining on the northeast side, and being more particularly described as follows:

Beginning at a point, said point being a set stone in the northeast corner of the Storage property as recorded in DB-1981, PG-92; thence from point of beginning and along the line of said Storage property, N2°-11'-00"E a distance of 83.61 feet to a point, said point being an Iron pin and the true point of beginning; thence from the true point of beginning along the line of said Storage property, N60°-44'-54"W a distance of 108.60 feet to a point; thence, N51°-28'-5"W a distance of 797.41 feet to a point; thence, S81°-6'-5"W a distance of 67.89 feet to an Iron Pin; thence leaving said Storage line, N31°-44'-28"E a distance of 93.89 feet to an Iron Pin in the southerly line of an 80.00' right-of-way (Lakeview Drive); thence N28°-39'-45"E a distance of 30.00 feet to an Iron Pin in the northerly line of said 80.00' right-of-way (Lakeview Drive); thence along said right-of-way S61°-20'-15"E a distance of 105.02 feet to an Iron Pin; thence leaving said right-of-way N3°-39'-02"E a distance of 326.80 feet to an Iron Pin; thence N54°-16'-51"E a distance of 100.00 feet to an Iron Pin; S13°-06'-09"E a distance of 156.04 feet to an Iron Pin; thence N78°-27'-09"E a distance of 180.23 feet to an Iron Pin in the westerly right-of-way of Tri-State Greyhound Park access road; thence along said right-of-way and with a curve to the left having a radius of 855.50 feet, a chord bearing of S22°-16'-42"E, a distance of 317.82 feet to an Iron Pin; thence continuing along said right-of-way S32°-59'-00"E a distance of 162.56 feet to a Iron Pin; thence with a curve to the left, having a radius of 855.50 feet, a chord bearing of S44°-43'-27"E, a distance of 364.79 feet to an Iron Pin; thence leaving said right-of-way of Tri-State Greyhound Park access road, S32°-07'-57"W a distance of 173.62 feet to an Iron Pin; thence S49°-00'-05"W a distance of 108.12 feet to the true point of beginning containing 8.818 acres more or less.

Included in the above tract is an 80.00 feet easement for utilities and road along the southerly portion of tract.

CITY OF NITRO COUNCIL MEETING MINUTES

JANUARY 28, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder Herbert Sibley, Councilman at Large Robert Mattox, Councilman at Large Richard Savilla, Councilman at Large Steven West, Councilman Robert Young, Councilman David Miller, Councilman Frank Grover, Jr. Absent Councilman George Atkins due to illness, and City Attorney Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Robert Mattox.

AGENDA ITEM NO. 2 APPROVAL OF 1-7-97 MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE JANUARY 7, 1997 COUNCIL MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 3 PUBLIC HEARING MINUTES (ANNEX): COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE PUBLIC HEARING MINUTES (ANNEX). THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. (Copy Attached)

AGENDA ITEM NO. 4 MARCH OF DIMES REQUEST: Mayor Casto yielded the floor to March of Dimes representative, Lori Wilson. On behalf of the March of Dimes, Ms Wilson requested use of the baseball field at City Park the 8th and 9th of February for their annual "snowball tournament." COUNCILMAN AT LARGE STEVE WEST MOVED TO GRANT THE MARCH OF DIMES REQUEST FOR 1997. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 5 FIREMEN'S ASSOC FUND DRIVE: Mayor Casto yielded the floor to Mr. Riffle to explain fund drive to Council. The fund raiser this year is a photo coupon session. The City of Nitro will be canvassed door to door. The drive will start February 13, and the photo session setup for March 1 & 2nd, and March 8th and 9th. COUNCILMAN DAVID MILLER MOVED TO GRANT FIREMEN'S ASSOCIATION REQUEST. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 6 BOB HARRISON: Brought before the Sanitary Board

AGENDA ITEM NO. 7 FREDERICK STREET: Councilman at Large Robert Mattox announced a public hearing is scheduled for February 4, 1997 at 6:30 p.m. in Council Chambers.

AGENDA ITEM NO. 8 515 MAIN AVE: COUNCILMAN ROBERT YOUNG MOVED TO SEND THIS REQUEST TO THE PLANNING COMMISSION. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 9 RIVERVIEW APTS & UDAG UPDATE: COUNCILMAN AT LARGE STEVE WEST MOVED THE RIVERVIEW APTS MATTER BE SENT TO THE FINANCE COMMITTEE. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 10 BEAUTIFICATION UPDATE: Mayor Casto reported he has received two checks, one from the Moose Lodge and an anonymous person has donated checks to clean up area behind the high school and the railroad track, also the very end of 40th St. Mayor Casto said wild flowers will be planted in the spring.

Mayor Casto stated the city is waiting on Judge McQueen to sign an order to tear down the house on 26th Street.

AGENDA ITEM NO. 11 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller, Spokesperson. Mr. Miller announced a dinner planned for the "Business Person of the Year" February 8, 1997.

AGENDA ITEM NO. 12 31 ST STREET BRIDGE: Mayor Casto reported he will present a written report at next council meeting. Also, Mayor Casto stated he has located an 80 ton bridge, and it does not need a center support. Mayor Casto further explained the bridge to council.

AGENDA ITEM NO. 13 SURPLUS PROPERTY ORD.97-02: COUNCILMAN ROBERT YOUNG MOVED COUNCILMAN DAVID MILLER READ TITLE ONLY OF ORD 97-02. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. ORD. 97-02 AN ORDINANCE TO SELL VARIOUS ITEMS OF PERSONAL PROPERTY WHICH ARE IN DISREPAIR OR OBSOLETE AND OF NO USE TO THE CITY. Sale will be February 15, 1997 at 10:00 a.m.

COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE 2ND READING OF ORD. 97-02. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. (Copy Attached).

AGENDA ITEM NO. 14 ELECTION OFFICIALS: Recorder Herbert Sibley announced Excess Levy Election March 8, 1997. Recorder Sibley stated he would certify that the list of officials are residents and are registered to vote in the City of Nitro. COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE THE LIST OF POLL WORKERS FOR THE EXCESS LEVY ELECTION. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. (Copy Attached)

AGENDA ITEM NO. 15 MAYOR'S COMMENTS: Mayor Casto stated ground had been broken at the treatment plant and they are 20 days ahead of schedule. They were given 270 days to upgrade the plant and they expect to be finished sometime in June.

Mayor Casto announced a catch basin will be put in to help drain the surface water in the backyard of the house off of Dupont Avenue and others will be checked for blockages.

Councilman Dave Miller requested status of bridge at 23rd Street.

Councilman Robert Young, stated the catch basin he reported has never been cleaned at Brookhaven

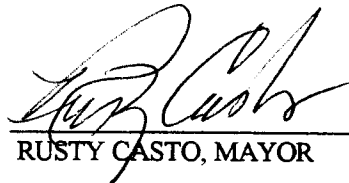
Councilman at Large Steve West, stated there is still no street sign at the new annexed area. This sign has been down for two years. Also Councilman West stated the employees committee met two weeks ago. Some agreements were made.


Councilman at Large Robert Mattox, said bids for the handicapped door will be published this Friday.

Councilman Mattox appointed Jim Westlund to represent the NDA to the Kanawha/Putnam Co. Development Authority. COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE THE SELECTION OF JIM WESTLUND TO REPRESENT THE NITRO DEVELOPMENT AUTHORITY AT THE KANAWHA / PUTNAM CO DEVELOPMENT AUTHORITY. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

Recorder Herb Sibley, mentioned the recycling program is not working. Recorder Sibley stated he had made many calls and received several excuses. The public has been very appreciative of this service. A discussion followed regarding this matter. COUNCILMAN AT LARGE STEVE WEST MOVED TO AUTHORIZE MAYOR CASTO TO CONTRACT SOME COMPANY TO REMOVE THE ACCUMULATED RECYCLABLE. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG, A VOTE WAS TAKEN WITH COUNCILMAN RICHARD SAVILLA ABSTAINING AND COUNCILMAN ROBERT MATTOX VOTING AGAINST. MAYOR CASTO'S VOTE FULFILLED THE REQUIREMENT OF MAJORITY.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER

IN RE:

CITY OF NITRO
PUBLIC HEARING, THF REALTY

Transcript of proceedings before the City of Nitro on the 7th day of January 1997 at the City of Nitro,

Council Chambers beginning at 6:00 p.m. and concluding at 7:20 p.m. pursuant to notice given to all interested parties.

Those present, Rusty Casto, Mayor, Herbert Sibley, City Recorder, Councilmen at Large, Robert Mattox, Steven West, Richard Savilla, Councilmen David Miller, George Atkins, John Montgomery, Attorney, Martin Glasser, Attorney, Michael Steanberg, THF representative, Greg Garber, Charles Raynes, Lawrence Hill, Michael Storage, Pete Storage, Kim Carico and Vernon Mills.

Proceedings

Mayor Casto: Opened the floor for discussion regarding THF Development Agreement.

Martin Glasser: I will answer questions anyone might have and you may want to note for the record, that a notice was published of this hearing in the newspaper.

Rec. Sibley: I have a certified notice.

Lawrence Hill: When are you going to break ground.

Martin Glasser: Contracts set for closing on or before March 1st. The purchases will be completed at that time. Once you have bought the land, you better start bidding. I understand the State has already put bids out for work on the interchange.

Mayor Casto: We voted and approved this at our last Ric meeting. The bridges will be a 1.4 million dollar project. The 1.4 million will be paid by the Federal and State.

George Atkins: I am not quite clear on this equipment project. How is it to be paid for does this go through the city or do you guys pay for it.

Martin Glasser: We pay for it. The city bills us and we pay for it or we cause the tenants to pay.

George Atkins: Do you pay in one lump sum, or do you make payments.

Martin Glasser: You will bill us monthly.

George Atkins: My question is will it be paid before the project starts.

Martin Glasser: No, we will give you a letter of credit.

George Atkins: What is the letter of credit?

Martin Glasser: A letter of credit will cause a local bank to issue a letter that says, in the event that payment is not made to the equipment company, then you can draw on that bank to receive the payment. Then they will look to us. It is the equivalent to a guaranteed loan. The credit involved in the loan, is that of THF only.

John Montgomery: But the City is still responsible for payment of vehicles.

Martin Glasser: The City is still responsible for payment of vehicle from whom they are acquired, but they have a letter of credit issued that guarantees payment from a local bank.

Herbert Sibley: We will obtain a lease purchase agreement as we have for other equipment, which is a tax benefit, and does not obligate future administration.

Martin Glasser: Right

George Atkins: I did not understand the procedure for obtaining the equipment.

John Montgomery: This was discussed at the last meeting. One of the hang-ups I had at that time, related to the fact that the city would bill the developer, the developer would pass the billings out to the occupants, but they will not be any occupants for the first couple of years or what ever it takes to build it. My concern was there may not be any money available from the occupants to take care of expenses or purchases. THF did agree to put in a couple of words, basically they would pay or bill the occupants. Therefore, the way I see it, they are responsible for payment.

Martin Glasser: It actually goes further than pay or bill. It says we will pay or cause them to pay.

John Montgomery: That is one point that was cleared up.

Herbert Sibley: The special service fees shall not exceed \$4500/month is that on a square foot basis or how are these numbers arrived at.

Martin Glasser: No, that was trying to provide some kind of estimate of what those fees would total in order to come out to the total number. It is my understanding Herb, from the other things we have talked about over the months, we will end up with additional fire service fee like every other person in the city will pay.

Herbert Sibley: Ours is a little different, it is called a municipal fee.

Martin Glasser: It is my understanding from the ordinances that basically you negotiate those fees. There was no set formula in the ordinances.

Herbert Sibley: Not in commercial but there is in residential.

Martin Glasser: There is nothing in here that governs that.

Herbert Sibley: So put the maximum of \$4500/month.

Martin Glasser: No, No. you still have the privilege to bill us a part from that. There is nothing in here that says that we do pay the same fee as everyone else. The same procedure would be followed to set the fees we expect to be billed on the same basis everyone else it.

Herbert Sibley: But it indicates in here that the special service fee can't go beyond ten years.

Martin Glasser: Right

Herbert Sibley: So does that mean we do not continue to bill the special service fees.

Martin Glasser: Right. The percentages should be changed by then.

Herbert Sibley: I am confused now. Our method of billing for service fee (municipal fee) a set amount of \$15.00/month for individual family. A reduced rate if on low income. Businesses a minimum of \$15.00. Negotiated amount in regard to collected amount. I am reading this to say this special fee shall not exceed \$4500.00/month but I don't know how we get there.

Martin Glasser: Herb I think you are somewhat confused.

Herbert Sibley: Yes I think I am too. It is in article 3, mid-paragraph of 3.1. We are talking about garbage truck and fire truck, etc. and the letter of credit.

Martin Glasser: In essence that is your service fee for rental lease purchase payments on your equipment.

Herbert Sibley: Of the \$4500.00

Martin Glasser: Yes

Herbert Sibley: Whatever fee we charge ordinarily is what we would charge and bill monthly.

Martin Glasser: Yes, this is in addition to those fees.

Robert Mattox: Something I have not thought of before but you mention state and federal would be responsible for the 1.4 million dollar project. Is that construction also included in that ten million dollar construction.

Martin Glasser: No. This is only money we spent.

Mayor Casto: I understand the Cross Lanes interchange will be done similar to the Winfield interchange.

Lawrence Hill: When will it open?

Michael Staenberg: It depends on the 20 inch gas line. They have done their field work, Tennessee Gas Co. is supposed to get back to us on the exact timing. I would say the spring of 1998 just because of the gas line. We have to move one half a mile of gas line. Its a 20 inch line and you have to have a special gasket for each section. I am not an expert in high pressure gas lines.

A discussion followed regarding the gas line.

John Montgomery: The estimated cost of ten million for the excavation, construction of the shopping center.

Micheal Staenberg: The infrastructure? That is in excess of ten million dollars. Anytime you move 3.2 /3.4 million yards of rock, its not soil. You have to blast it.

Projected bid on that property is 34 million dollars.

Ms. Carico: Other than Walmart, what other businesses are interested in locating in the mall.

Micheal Staenberg: We have a home improvement store, several restaurants, Fashion Bug, Hall Mart, Radio Shack, Kenny Rogers, Apple Bees, maybe a theater complex, Dollar Tree and others.

Mayor Casto opened the floor for comments at 6:30 p.m. since it was advertised at 6:00 p.m., but was announced at 6:30 p.m.

Martin Glasser: Two matters should be noted and corrected on page 9, paragraph 3.2. The last line refers under article, roman numeral VI, that should be article number IV. The other matter, exhibit C the last map attached to your agreement. Re: Storage property 117.294 acres. Which is the acreage being described all along in the text of the agreement. However, in proofing, I noticed on the left, where the small print is, the very last line says, containing 177 acres. On the final maps for the execution, I have substituted that map that changes that number to 117. That also is a typographical error.

This agreement is exactly as amended at the last public hearing and as first read at City Council Meeting, December 17, 1996.

Phillip Gaujot: I have reviewed this agreement in detail and everything is there that has been discussed at the council meetings or public meetings. I encourage the public to speak now if they have any comments.

Steve West: I personally want to thank Mr. Montgomery for his efforts, I have found some of your questions were very worthwhile, not that the others were not. We have been negotiating for quite along while now. I thought we had covered everything, but reading some of your information help me go back and clarify in my own mind some of our discussions.

John Montgomery: Part of my reason for getting involved was to make sure everybody was aware of what was in the agreement.

Robert Mattox: In regard to the article concerning default with right to cure, we are dealing very limited liability company, THF. In the event litigation's were required. Does the City of Nitro have to go to Missouri?

Martin Glasser: Before we complete the acquisition of the property we have to register to do business here. There is no question, under the laws of the State, and I think John will agree with me, we are doing business here. It is our current discussion to make this a West Virginia Company. Either forming a THF and having them assume all of this or by name change or whatever is needed.

Martin Glasser: A limited liability company is a relatively new form of business. This is a business entity that has two characteristics, one is corporate attributes as if it were a corporation but it has the tax and accounting laws as if it were a partnership. That avoid two taxes being paid, that is a tax at the corporate level and individual level. You get all the benefits of just doing a partnership but yet have the ability to be perceived and treated under the law as if you were a corporation. You will be seeing a lot more of these. This is very popular.

Phillip Gaujot: How many principals are in THF?

Michael Staenberg: Two

Phillip Gaujot: You are one, who is the other.

Michael Staenberg: Stan Kroenke

Steve West: When you register to do business for the state, I think you assured me that Cross Lanes will not appear on any of the business organizations.

Martin Glasser: That is correct.

Steve West: Have you decided on name?

Michael Staenberg: I am not sure if we are calling it Nitro Market Place, or Nitro Plaza. I think is Nitro Market Place.

John Montgomery: Relating to suing, where as if the agreement is invalidated by anybody for any purpose, in whole or in part, whether its Nitro, whether its someone in state or out. Nitro is still, in essence on the hook for all of those extraordinary expenses. Regardless whether they had anything to do with it with agreement being invalidated.

Martin Glasser: No not as long as they both are de-annexed.

John Montgomery: Still responsible even if they did de-annex, under this the City is still responsible if the agreement is invalidated, and as it says here, whether by default of City litigation, or other means. A discussion followed.

Martin Glasser: The answer is in paragraph 2i, on page 14, where the line says, if the City duly adopts a valid ordinance to de-annex, then the company shall not have the right to institute a suit a suit against the city to recover monetary damages. There is no circumstance where the city is on the hook unless the city attempts to renege on the agreement and not de-annex. If the city honors the deal in essence, then the city can not be liable for monetary damages.

Phillip Gaujot: Herb I want you to save that tape.

A discussion followed regarding the twenty year term of agreement.

Phillip Gaujot: Mr. Montgomery if we fail to follow our end of the agreement, and we fail for three years, doing what we are supposed to do, in my opinion, that would extend the twenty year agreement by the same amount of time we caused the default.

John Montgomery: I still have serious concerns about the amounts being paid to the developer, tax credits. Tax credits are credits against an individuals tax. They don't exceed what the tax would be. In this instance, unless the developers is going to have a rather substantial amount of revenue coming in, they will be getting tax credit based upon what other people have paid. That is not a tax credit. That is a payment of revenue. If it were worded otherwise, it may be more acceptable

Phillip Gaujot: I know there can be a tax credit.

Martin Glasser: The code of West Virginia says, the city may grant credits to encourage development. An ordinance was passed last year that specifically permits you to do it this way. I might remind everyone the first time through, the draft didn't treat all of these as credits but talked about abatement, not paying taxes, and not filing returns and there was a lot of objection about that. This amended development agreement has been revised to deal with those objections.

A discussion followed regarding definition of tax credit.

Phillip Gaujot read the ordinance council passed. You have to decide if the City is likely to benefit from the agreement. If you conclude it is likely to benefit from the agreement, then you have the right to vote for it. If you do not, then I urge you vote against it. I don't think the law with regard to tax credit means you can only give a credit to the amount the individual tax payer would pay the city. Whatever taxes come in to the city through the efforts of the developer could be consider a tax credit. I have spoken to Mr. McDavid and there is another 200 acres next to this property. He has said to me he would like to talk with the Mayor regarding this property. I am sure they would want some type of tax credit. There is potential here. Unless those folks who object to this agreement can prove I am wrong or prove there is a better idea then I support this agreement.

John Montgomery: Mr. Staenberg you mentioned the total investment in this would be approximately 34 million dollars. Is this yours plus the other properties setting up or just yours. Your projections starts at \$460,000 and ends up \$700,000 per year. Does the credit come back to you.

Michael Staenberg: I did not bring my projections.

John Montgomery: If it goes as projected, and come out to approximately \$12 million dollars and tax credits being provided. I am still concerned about some kind of cap.

Michael Staenberg: That is the investment of our company only.

The Meeting was adjourned at 7: 20 p.m.

ORDINANCE NO. 97-02

**AN ORDINANCE TO SELL VARIOUS ITEMS OF
PERSONAL PROPERTY WHICH ARE IN DISREPAIR
OR OBSOLETE AND OF NO USE TO THE CITY**

WHEREAS, Chapter 8, Article 12, Section 18 of the West Virginia Code of 1931, as amended, authorizes the City to sell any of its personal property for a fair and adequate consideration, such property to be sold at public auction at a place designated by the City, but, before making any such sale, notice of the time, terms and place of sale, together with a brief description of the property to be sold, shall be published as a Class II legal advertisement; and,

WHEREAS, the City of Nitro has various items of personal property, individually valued at less than \$1,000.00, which are in disrepair or obsolete and of no use to the City; and,

WHEREAS, the City Council for the City of Nitro finds that it would be in the best interest of the City to dispose of said personal property by selling the same for a fair and adequate consideration at public auction or by receiving written bids; and,

WHEREAS, the City Council for the City of Nitro finds that none of the individual items of personal property have a value of \$1,000.00 or more.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Nitro, West Virginia, that any and/or all items of personal property that are in disrepair or obsolete and of no use to the City, as determined to be so by

Director of Public Works, be sold at public auction or by receiving written bids for a fair and adequate consideration and that notice of said sale of said personal property and list of said personal property shall be duly published in a newspaper of general circulation, as a Class II legal advertisement.

Motion made by Richard Savilla, seconded by Frank Grover, Jr., on first reading, to adopt this Ordinance.

Motion made by David R. Miller, seconded by Robert Young, on second reading, to adopt this Ordinance.

PASSED ON FIRST READING

Date: _____

ADOPTED ON SECOND READING

Date: January 7, 1997

Herb Libby
CITY RECORDER

B. Cash
MAYOR

NITRO LEVY ELECTION - MARCH 8, 1997 ELECTION OFFICIALS

PRECINCTS 22-23

CLERK	<u>RESA FACILITY - 39TH STREET.</u>
CLERK	ETHEL HALL - 4116 41ST STREET
SUPPLY COMMISSIONER	FORREST KENLL - 1101 PARK AVENUE
COMMISSIONER (ESCORT)	ALICE WOODALL - 3509 35TH ST.
COMMISSIONER	NONOKA JANE BROGAN - 121 BAILES DR.
	LUCILLE MINSKER - 3712 37TH STREET

PRECINCT 349

CLERK	<u>NITRO WOMAN'S CLUB</u>
CLERK (ESCORT)	KATHY WEAVER - 110 BROOKHAVEN DR.
SUPPLY COMMISSIONER	BECKY MALLETT - 1123 W. 11TH STREET
COMMISSIONER	CHARMAINE MAZZEI - 1 BARRINGTON RD.
COMMISSIONER	CAROLYN PARSONS - 3982 E. 39TH ST.
	CORABELL SMITH HANNA - 21 BLAKE RD.

PRECINCT 350

CLERK	<u>NITRO WOMAN'S CLUB</u>
CLERK (ESCORT)	VIRGINIA HUNTER - 2511 25TH ST.
SUPPLY COMMISSIONER	GRACE MILLER - 2129 21ST ST.
COMMISSIONER	WILLA E. FRAZIER - 2533 23RD ST.
COMMISSIONER	CORA JARVIS - 2613 26TH ST.
	MATILDA MYNES - 2158 21ST ST.

PRECINCT 351

CLERK	<u>NITRO ELEMENTARY SCHOOL</u>
CLERK (ESCORT)	SANDY ARNOLD - 110 BROADWAY
SUPPLY COMMISSIONER	CHARLES HUDSON - 804 WASHINGTON
COMMISSIONER	CLYDE MYNES - 2158 21ST STREET
COMMISSIONER	DONNA WILCOX - 103 DUPONT AVENUE
	MARTHA TAYLOR - #2 LOG GARDENS APT.

PRECINCT 352

CLERK	<u>NITRO ELEMENTARY SCHOOL</u>
CLERK	OPAL MILLER - 8 MAIN AVENUE
SUPPLY COMMISSIONER	POLLY TUCKER - 103 LAYNE AVENUE
COMMISSIONER (ESCORT)	LESTER HUDNALL, JR - 113 KAN. AVE.
COMMISSIONER	CHARLIE MILLER - 8 MAIN AVENUE
	DORIS J. HUDNALL - 113 KAN. AVE.

PRECINCT 353

CLERK	<u>USWA LOCAL UNION 12610</u>
CLERK (ESCORT)	IRIS MILES - 708 MAIN AVE.
SUPPLY COMMISSIONER	REGINA HONAKER - 812 KANAWHA AVENUE
COMMISSIONER	TIM HARRISON - 107 DUPONT AVE.
COMMISSIONER	HARRY K. MILLER - 2151 21ST ST.
	LEROY MILES - 708 MAIN AVENUE

PRECINCT 354

CLERK	<u>SHAWNEE COMMUNITY CENTER</u>
CLERK (ESCORT)	BARBARA COX - 1103 BENAMATI ST.
SUPPLY COMMISSIONER	WENONA HAMMONDS - 702 KANAWHA AVE.S
COMMISSIONER	WANDA SMITH - 203 WALKER ST.
COMMISSIONER	BETTY G. COOK - 223 JAMESTOWN RD.
	EARLENE PRIDY - 1 WASH. AVE.

CITY OF NITRO COUNCIL MEETING MINUTES

FEBRUARY 4, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder Herbert Sibley, City Treasurer, Ralph Allison, Councilman at Large Robert Mattox, Councilman at Large Richard Savilla, Councilman at Large Steven West, Councilman Robert Young, Councilman, David Miller. Absent Councilmen Frank Grover, Jr., George Atkins and City Attorney Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Dean Miller

CITIZEN OF THE MONTH: Mayor Casto announced Anna Sayre of 1005 Main Avenue, as "February Citizen of the month" Anna celebrated her 102nd birthday Sunday, February 2nd, 1997.

AGENDA ITEM NO. 2 APPROVAL OF 1/28/97 COUNCIL MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE JANUARY 28, 1997 COUNCIL MEETING MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 3 FREDERICK STREET: COUNCILMAN AT LARGE STEVE WEST MOVED TO ADOPT ORDINANCE 97-01 AN ORDINANCE TO REZONE REAL ESTATE AT FREDERICK STREET FROM R-2 TO B-1. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 4 BUSINESS & PROFESSIONAL ASSOC: Dean Miller announced a dinner at Tri State Dog Track, February 8, 1997 at 6:30 p.m. to honor the "Businessman of the Year." Tickets are \$12.50/ person or \$25.00/couple. Tickets are available at United Finance Company.

The Kanawha Valley Bowling League is sponsoring a bowling tournament. They will be in town several days and there will be a lot of advertising and if the City is interested they may contact Linda Wilson at the St. Albans Monthly for advertising.

The Car Show will be the 16th and 17th of May, the drive-in will be at B P & Southern States on May 16, 1997 and May 17, 1997 the car show will be on 21st Street, also there will be an Arts and Craft Show in front of the Community Center.

Mr. Miller announced the Association has a cemetery lot at Grandview Park in Dunbar for sale. This lot was donated and if sold, the money will be used for restoration of the bungalow.

AGENDA ITEM NO. 5 RECORDER'S REPORT: Mayor Casto yielded the floor to Recorder Herbert Sibley. Recorder Sibley requested approval of Alternates and Commissioners for the up coming levy election. COUNCILMAN DAVID MILLER MOVED TO APPROVE THE ALTERNATES AND COMMISSIONERS FOR THE LEVY ELECTION. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 6 MAYOR'S COMMENTS: Mayor Casto stated the structure of the bridge will be inspected this week. If the abutments can support the bridge, we will present the bridge package to

council. If not, we will have to get council approval to tear down the bridge and rebuild. This information should be available February 18, 1997.

City Auction February 15, 1997 at 10:00 a.m. at City Garage.

Easter Cantata March 23, 1997 at 3:00 p.m. at Kathy Mattea Auditorium.

Another house torn down on 40th Street. A contract is already signed to tear down another one later this month. Waiting on approval for house at 2619 26th Street.

The footbridge at 23rd Street has been repaired.

A Finance Committee meeting is scheduled February 11, 1997 at 7:00 p.m.

Councilman David Miller read Fire Department Report.

Councilman Robert Young reported tree needs trimmed or cut down on 40th street.

Councilman Steve West requested status of agreement with Sally Shepherd. Recorder Sibley stated the

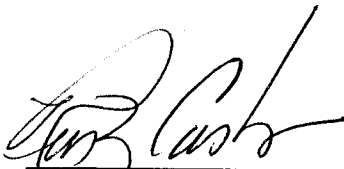
Press contacted Ms. Shepherd. The next day we had a container, but they are still having many problems. Mr. Sibley stated we need two more containers. Mr. Sibley said he will contact Ms. Shepherd again.

Councilman Richard Savilla said the parking in front of Gino's is causing a problem. There is a problem pulling out, the big trucks have the view blocked.

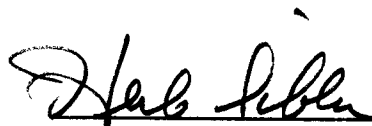
Councilman Robert Mattox mentioned the handicap access to City Hall. In talking with the City Engineer, they are now in the process of getting the details together.

Recorder Sibley announced an Annexation Hearing at the Kanawha County Commission, February 13, at 5:00 p.m.

There being no further business, the meeting was adjourned.



RUSTY CASTO, MAYOR



HERBERT SIBLEY, RECORDER

ORDINANCE NO. 97-01

ADOPTED BY COUNCIL FEBRUARY 4, 1997

INTRODUCED IN COUNCIL JANUARY 7, 1997

**AN ORDINANCE TO REZONE REAL ESTATE LOCATED AT THE CORNER
OF FREDERICK STREET AND WALKER STREET FROM R-2 TO B-1**

BEFORE THE CITY COUNCIL OF THE CITY OF NITRO, to-wit:

WHEREAS, the Nitro Planning Commission held a public meeting on Monday, October 21, 1996, at 7:30 o'clock p.m., in the Council Chambers at City Hall, to consider a request that property located at the corner of Frederick Street and Walker Street, belonging to Lee and Joyce Conrad, be rezoned from R-2 to B-1 in order to place mini-storage units on the parcel; and

WHEREAS, after discussion and properly moved, a motion passed unanimously that said real estate located at the corner of Frederick Street and Walker Street be rezoned from R-2 to B-1 in order to place mini-storage units on the parcel; and

WHEREAS, on December 3, 1996, the City Council made as part of its minutes the Planning Commission report recommending the re-zoning of property located at the corner of Frederick Street and Walker Street from R-2 to B-1; and

WHEREAS, the City Council held a public meeting on the 4th day of February, 1997, at 6:30 p.m., in the Council Chambers at City Hall, which public meeting had been properly advertised in both Charleston newspapers on the 21st day of January, 1997, and the 28th day of January, 1997, to consider a request that property located at the corner of Frederick Street and Walker Street be rezoned from R-2 to B-1 in order to place mini-storage units on the parcel; and

WHEREAS, upon hearing comments in favor of and comments opposed to said rezoning, a motion was made and passed that said real estate located at Frederick

Street and Walker Street be rezoned from R-2 to B-1 in order to place mini-storage units on the parcel;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NITRO, KANAWHA AND PUTNAM COUNTIES, WEST VIRGINIA, that all of that following-described lot or parcel of land, with the appurtenances thereunto belonging, located at Frederick Street and Walker Street, is hereby re-zoned from R-2 to B-1.

All the following described property, situate in the City of Nitro, Union District, in the County of Kanawha and the State of West Virginia, and described as follows, to-wit:

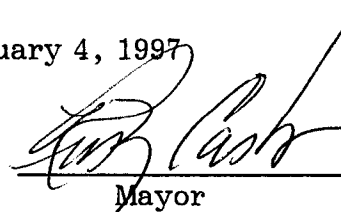
All of Lot Nos. One (1), Two (2), Three (3), and Seven (7), of Block "E" of North St. Albans, as the same are shown upon that certain map entitled, "North St. Albans Kanawha Co., W.Va.," made by Romie, Snyder and Walters, Civil Engineers, and which map is duly of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Map Book 3, at page 28, and being the same property of which an undivided one-half (1/2) interest was conveyed by Don Evans, Inc., to Evans Lumber Company, by Deed dated April 6, 1987, of record in the aforesaid Clerk's office in Deed Book 2160, at page 13, reference to which said Map and Deed is herein made for a more particular description of the property hereby rezoned.

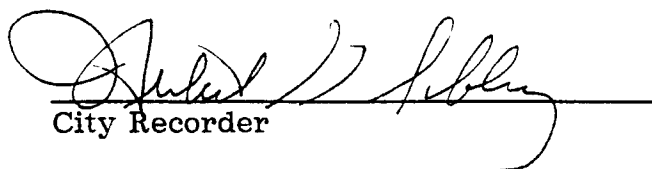
Passed on First Reading

January 7, 1997

Adopted on Second Reading

February 4, 1997



Mayor

City Recorder

f:\wp51\client\nitro\rezone.ord

Nitro Levy Election - MARCH 8, 1997

ELECTION OFFICIAL ALTERNATES:

CHARLES BYRD - 603 KANAWHA AVENUE, SOUTH

MARY MATHES - 1529 W. 15TH STREET

KENNETH MATHES - 1529 W. 15TH STREET

VIOLET E. YOUNG - 205 WALKER STREET

DEAN MILLER - 2 SMITH STREET

WAYNE W. SHAFER - 1130 W. 11TH ST.

EVELYN HOPPER - 1324 W. 13TH STREET

BALLOT COMMISSIONERS:

DR. GUY CASSELL - 223 BROOKHAVEN DR.

BESS STAHL - 208 BROADWAY AVENUE

CITY OF NITRO COUNCIL MEETING MINUTES

FEBRUARY 18, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder, Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, & David Miller. Also Present City Attorney Phillip Gaujot and City Treasurer Ralph Allison. Absent Councilmen George Atkins and Frank Grover, Jr.

AGENDA ITEM NO. 1 INVOCATION: COUNCILMAN AT LARGE ROBERT MATTOX.

AGENDA ITEM NO. 2 APPROVAL OF 2/4/97 MINUTES: COUNCILMAN DAVID MILLER MOVED TO APPROVE THE 2/4/97 COUNCIL MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 3 PROCLAMATION (WOMEN'S HISTORY) Councilman Richard Savilla read proclamation 97-01, "**WOMEN'S HISTORY MONTH**" in its entirety. COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO ADOPT PROCLAMATION 97-01 A PROCLAMATION PROCLAIMING THE MONTH OF MARCH, 1997 AS **WOMEN'S HISTORY MONTH**. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. (Copy Attached)

AGENDA ITEM NO. 4 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Vernon Mills, Spokesperson. Mr. Mills reported Mr. Gary Burdette, Tri State Park, was named "**Businessman of the Year.**" Also Mr. Mills announced the Association has a burial plot (Grandview Park, Dunbar) for sale(\$500.00.) If sold the money will go toward the restoration of the Nitro Bungalow.

AGENDA ITEM NO. 5 BEAUTIFICATION & 31ST BRIDGE: Mayor Casto reported the five following areas, Penwood Avenue (18th Street Hill) area behind Nitro High School, Corner of 40th Street and Rt. 62, area at end of Ridenour Lake, and the area from end of 27th Street to 40th Street are being cleaned up and wild flowers will be planted. Also a cleaning program will begin in the area of 3rd Avenue from 21st Street to 4th Street.

Mayor Casto stated we are still waiting to hear from the engineer regarding the 31st Street bridge. This information should be ready for the next meeting.

AGENDA ITEM NO. 6 U-DAG UPDATE & FIKE: Mayor Casto yielded the floor to City Attorney, Phillip Gaujot. Counselor Gaujot reported he received a letter from Andy Nason, Attorney for Par Ind. He sent a notice and a motion to permit the debtor to execute a deed of trust in favor of the City. Par agreed the debt is 1,481,259.40. This is the original sum of 1, 289,622.75 plus interest, up to the date of the filing of the bankruptcy. Counselor Gaujot stated at the last meeting he attended he reported that Par wanted to make payments of \$6300 for 72 months, and then \$19,642.97 for 96 months. These payments were to begin as soon as the first mortgage to One Valley Bank was paid off in May or June of 1997. They have changed again and now want to pay \$14,000 per month. This should take approximately 15 years to pay off. I have a notice and motion and I told Andy I would send him(tomorrow) the new deed of trust and the note.

Counselor Gaujot announced a hearing in bankruptcy court, scheduled for March 13, 1997 at 11:00 a.m. Discussion followed on how this money could be used.

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In regard to the Fike Artel Super Fund Site, Counselor Gaujot stated, he sent letter to EPA stating why he felt it was appropriate for EPA to enter in to a perspective purchaser agreement with the City. This would mean the City owns the land but would not be responsible for the clean-up. Counselor Gaujot explained the uses of this property.

Counselor Gaujot announced the 13 acre annexation was approved by the Kanawha County Commission. Also Attorney Gaujot said a meeting with Mr. Steanberg is planned soon to discuss the purchase of a new fire and garbage truck.

AGENDA ITEM NO. 7 RECORDER'S REPORT: City Recorder Herbert Sibley reported the Public Auction of obsolete equipment brought \$3760.00 for the City. Mr. Sibley said another auction will be scheduled for a later date. Secondly we have received payment of \$ 2650.00 for the dump truck involved in the accident at Coal Mountain.

Recorder Sibley announced the Levy Election is March 8, 1997 and a school is planned for tomorrow night for election official. This levy has been ongoing for twenty years.

AGENDA ITEM NO. 8 MAYOR'S COMMENTS: Mayor Casto announced a breakfast at the Capitol Cafeteria, Thursday at 8:00 a.m. The Delegates that represent Kanawha, Putnam, Ohio and Jefferson Counties have been invited to discuss the video issue.

Councilmen's Comments

Councilman Miller couple complaints at the top of 4th Street.

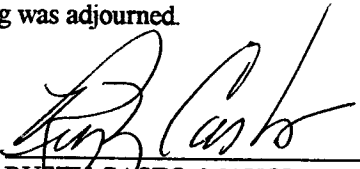
Councilman Young requested inspection of the streets in Brookhaven.

Councilman at Large West will report back to council after he receives information on the computer system.

Councilman at Large Savilla, requested no parking signs be put up in front of restaurants on the four lane.

Councilman at Large Mattox reported on the ADA improvements at City Hall. The bids are to be opened March 23, 1997 at 2:00 p.m. and will be brought back to Council at the next meeting. This expense is part of the grant the city received last September.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER



PROCLAMATION 97-01

WOMEN'S HISTORY MONTH

WHEREAS, The National Federation of Business & Professional Women's Clubs, Inc./USA has set apart and designated the month of March to be Women's History Month throughout the United States of America and has invited and encouraged member clubs across the country to participate in the month's programs and activities; and

WHEREAS, American Women have played and continue to play a critical economic, cultural, and social role in every sphere of the life of the Nation by constituting a significant, portion of the labor force working inside and outside the home; and

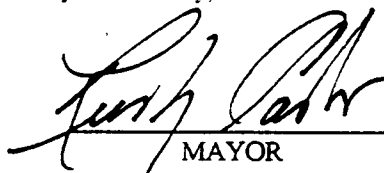
WHEREAS, All of us are proud to acknowledge and pay tribute to women for their significant roles in local, state, national, and world history;

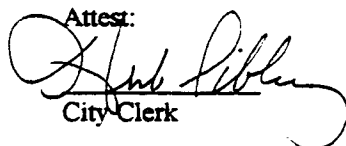
NOW, THEREFORE I RUSTY CASTO, MAYOR OF THE CITY OF NITRO, NITRO, WEST VIRGINIA, by the authority vested in me, do hereby proclaim March, 1997, to be

WOMEN'S HISTORY MONTH

to be observed and recognized in/about the CITY OF NITRO by news media, organizations and community citizens generally in appreciation to the dedication, achievements, and services of women for the welfare and well being of humanity through all the ages of history.

Proclaimed and issued this 17th day of February, 1997.


MAYOR

Attest:

City Clerk

NITRO, WEST VIRGINIA 25143

CITY OF NITRO COUNCIL MEETING**MARCH 04, 1997**

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller & Frank Grover, Jr. Also present City Attorney Phillip Gaujot. Absent: Councilman George Atkins, due to illness.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Bob Mattox.

CITIZEN OF THE MONTH

Mayor Casto announced March Citizen of the Month, **Councilman George Atkins**. Councilman Atkins was unable to attend the Council Meeting. Mayor Casto said he will be visiting Councilman Atkins tomorrow and present him with two gift certificates to Diehl's Restaurant.

AGENDA ITEM NO. 2 APPROVAL OF 2/18/97 MINUTES: COUNCILMAN BOB YOUNG MOVED TO APPROVE THE FEBRUARY 18, 1997 MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED WITH CORRECTION OF DATE, LAST PAGE OF MINUTES, REGARDING OPENING OF BIDS FROM MARCH 23RD TO MARCH 24TH 1997.

AGENDA ITEM NO. 3 APPROVAL FREDERICK ST. PUBLIC HEARING 2/4/97 MINUTES: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO MAKE FREDERICK ST PUBLIC HEARING MINUTES A PART OF THE 2/4/97 COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 4 DRAINAGE PROBLEM:

a. Frederick Street: Mayor Casto stated he, Public Works Director, Building Official Bob Sergent and Councilman Bob Mattox walked Frederick Area observing the area to assess what, if any thing could be done to help prevent flooding. Gene Williams recommended installing a three ft line from the flooded area, down to area beside the church, into an open ditch running beside the railroad track, all the way down to the area where the water meets. Mayor Casto said his estimate for this job would be approximately \$30,000. Mayor Casto stated he will bring an engineer in to look at this problem and will report to Council at next meeting.

Councilman Robert Young stated it was his opinion that the Twin City Church should share at least fifty percent of the cost of correcting this problem since this situation resulted from the fly ash eating up the drain pipe.

Councilman Bob Mattox stated it was his understanding that all the work done at the church was approved by the State and evidently there is documentation to that fact. Bob Sergent, Building Inspector recommended getting the State involved also. A discussion followed. COUNCILMAN BOB MATTOX MOVED TO HAVE GENE WILLIAMS TO INVESTIGATE THE JOB AND MAKE RECOMMENDATIONS TO COUNCIL. THE MOTION WAS SECONDED BY COUNCILMAN YOUNG. COUNCILMAN AT LARGE STEVE WEST MOVED TO AMEND THE MOTION TO INCLUDE THE SANITARY BOARD, TO SHARE IN THE COST, SINCE THERE WAS SEWAGE

INVOLVED THE COST. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

COUNCILMAN DAVE MILLER MOVED TO PROPOSE A CONSTRUCTION MORATORIUM FROM HILLSIDE DRIVE AND WALKER STREET TO KAPOK STREET. THAT NO NEW CONSTRUCTION OF ANY KIND TAKE PLACE UNTIL THIS PROBLEM IS SATISFIED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST. A VOTE WAS TAKEN AND THE MOTION WAS DEFEATED.

b. Brookhaven Streets: Mayor Casto stated he visited Brookhaven Saturday morning and said the storm drain at Pastor Hoptry residence, and in different areas of Brookhaven need to use the video on the lines.

Councilman Robert Young stated all the streets are in terrible shape and need attention.

c. Senior Citizen Center (Village on Park): A meeting is scheduled March 18, 1997 at 3:00 at Village on Park to discuss the water problems there. Mayor Casto invited council to attend.

d. Street, storm sewer vacuum: Mayor Casto said regarding the vacuum, I have applied for a grant for this project. This vacuum should help control flooding along First Avenue.

Councilman at Large Steve West stated there was a big problem with water on North 21st Street. Mayor Casto said it was his understanding the storm drain was plugged up.

Councilman Dave Miller stated there has to be a break in the line that is allowing the water to go in to the Sanitary line. Every time there is a heavy rain, it backs the sewer line up.

Discussion on storm sewers at Smith , Washington St. and Hillside Drive.

Councilman at Large Bob Mattox stated that a lot of problems that occurred was caused by the residents not cleaning the streets properly. Councilman Mattox said cleaning of the streets should be shared by the Citizens keeping area around their property clean.

AGENDA ITEM NO. 5 AMBULANCE AUTHORITY APPT: (DAVE PERRY)

COUNCILMAN FRANK GROVER, JR. MOVED TO APPOINT DAVE PERRY TO SERVE ON THE AMBULANCE AUTHORITY. THE MOTION WAS SECONDED BY COUNCILMAN DAVE MILLER AND WAS CARRIED.

AGENDA ITEM NO. 6 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller, Spokesman for the Association. Mr. Miller reported the Association voted to donate \$150.00 to the wild flower project from 41st to 27th St. The "Antique Car Show" is scheduled for May. Also the Association will donate \$600.00 for restoration of the bungalow.

AGENDA ITEM NO. 7 LIBRARY BD APPT. (TAMMY FISHER): COUNCILMAN AT LARGE , RICHARD SAVILLA MOVED TO APPROVE APPOINTMENT OF TAMMY FISHER TO THE NITRO LIBRARY BOARD. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 8 PAR IND. ORDINANCE: CITY ATTORNEY PHILLIP GAUJOT REPORTED THE LOAN AT ONE VALLEY BANK WILL BE PAID OFF AT THE END OF MAY OR JUNE. THE PAYMENTS TO THE CITY WILL BEGIN AS SOON AS THE LOAN IS REPAID.

COUNCILMAN DAVE MILLER MOVED CITY ATTORNEY READ TITLE ONLY OF ORDINANCE 97-03 THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. AN ORDINANCE AUTHORIZING MAYOR CASTO TO ENTER INTO AN ADDENDUM, TO THE AGREEMENT BETWEEN THE CITY OF NITRO AND PAR INDUSTRIAL CORPORATION.

COUNCILMAN DAVID MILLER MOVED TO APPROVE ORD - 97-03. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

City Attorney Gaujot reported EPA needs additional information regarding when Fike came into the city and if the Fike property has ever been zoned industrial. COUNCILMAN BOB YOUNG MOVED THE CITY ATTORNEY DRAFT AN ORDINANCE ZONING THE FIKE CHEMICAL PROPERTY LIGHT INDUSTRIAL AND PROVIDE FOR A PUBLIC MEETING. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 9 MAYOR'S COMMENTS: Mayor Casto stated an Engineer from West Virginia Soil Conservation wrote a letter stating the pipe seal at the impact basin is gone at Lake Ridenour, this will not cause any major problem, however should be replaced as soon as possible. Mayor Casto said as soon as the water goes down the Building Inspector will take care of this.

Mayor Casto announced a town meeting is scheduled for next Tuesday at 8:00 p.m., March 1997 in Council Chambers with the 4 - Horsemen present.

Mayor Casto reported Ridenour Lake was stocked Monday, March 3, 1997.

Mayor Casto responded to Mr. Patton's question regarding the trees at Ridenour Lake, I have applied for grants to thin out the scrub pines and to be replaced with hardwood trees.

Councilman at Large Steve West voiced concern with pending changes of the Credit Unions. A discussion followed.

Councilman at Large Rich Savilla encouraged everyone to get out and vote for the levy. Also he thanked Police Department for the No Parking Signs in the north end of 1st Avenue.

Recorder Herb Sibley reminded Council, that after the election, a quorum is needed at the Voters Registration Office to witness and sign certain documents.

There being no further business, the meeting was adjourned.

CITY OF NITRO PUBLIC HEARING**FEBRUARY 4, 1997****REZONING FREDERICK STREET**

The Public Hearing was called to order by Mayor Rusty Casto at 6:30 p.m. in Council Chambers at City Hall. Those attending : City Recorder Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilman David Miller, Rose Means, Ralph Means, Macel Little, Lewis Little, Dana Mallett, Sue Mallett, Vernon Mills, Vince Pontier, Dean Miller, Marina Matthew, Herald Dispatch and Greg Garner, Charleston Gazette.

Mayor Casto stated the purpose of this meeting is to gather public input regarding rezoning Frederick Street (one lot) from the Church to end of Street from R-1 to B-1. Mayor Casto ask for comments from Council. There being no comments from Council, Mayor Casto opened the floor to public.

Lee Conrad, Owner of property in question, stated he would like to hear opposition to the rezoning. Mr. Conrad furnished copies of plans to Council. Mr. Conrad said he would like to note this property is not R-1, it is R-2. which means it is already zoned for multiple residential.

Dana Mallett, asked several questions regarding what could be built there if it is rezoned. It was stated anything Mr. Conrad chose to put there. Mr. Mallett stated he was totally against it.

Ralph Means, expressed his concern regarding the safety of the children on the street, should Mr. Conrad decide to put in a "car lot". Mr. Means said they have never had any law enforcement on that street.

Lee Conrad, stated he put approximately two hundred loads of dirt on that lot to bring to grade so it would go in to the drain instead of running down the alley way. Mr. Conrad stated he had put in a lot of gravel and dirt. Mr. Conrad presented a sworn statement that the only thing he was going to put in was storage buildings. Mr. Conrad further explained his plans.

Recorder Herbert Sibley, stated hopefully in the near future we can do something about the drainage problem in that area. This is not just that one area, it is the whole street.

Dana Mallett, This problem happened when the lot was filled with fly ash. Mr. Mallett stated a drain was supposed to have been put in ten years ago. A discussion followed.

Mr. Conrad stated he corrected the drainage problem on the lot exactly as the City requested.

Lewis Little, expressed concerns regarding the traffic (tractor trailer) using the street. Mr. Little asked if the storage building is put in will the street be used by large trucks.

Macel Little, stated her concern is, will this make the water problem worse. Will this still be a community street that our children can play and ride their tricycles?

A discussion followed regarding water drainage.

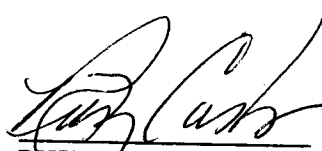
Larry George, Attorney stated that Mr. Conrad has acted in good faith. He said the mini storage building is the best of the options for the community.

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Also speaking as a civil engineer, what Mr. Conrad does with the property will not effect the existing drainage problem. Mr. Conrad will cooperate with the community.

Council Steve West, stated if this council does nothing you can still build residential units because of the R-2 zoning. The only question I see is, which would you rather have a mini storage building or low cost housing.

There being no further input the meeting was adjourned.


RUSTY CASTO, MAYOR

CITY OF NITRO COUNCIL MEETING

MARCH 18, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present : City Recorder Herb Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller, George Atkins, and Frank Grover, Jr. Also present City Attorney Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Bob Mattox.

AGENDA ITEM NO. 2 APPROVAL OF 3/4/97 MINUTES: COUNCILMAN BOB YOUNG MOVED TO APPROVE THE MARCH 4, 1997 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED WITH COUNCILMAN GEORGE ATKINS ABSTAINING.

AGENDA ITEM NO. 3 SECOND READING ORD 97-03: Mayor Casto yielded the floor to City Attorney Phillip Gaujot. Counselor explained the addendum to the agreement to Council and after a short discussion it was decided to table the second reading. COUNCILMAN AT LARGE BOB MATTOX MOVED TO TABLE SECOND READING OF ORD 97-03 UNTIL THE APRIL 1ST COUNCIL MEETING. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED. A discussion followed. (Copy attached)

Counselor Gaujot stated he has prepared an ordinance for rezoning the Fike Artel property to "I" Light Industrial District. This ordinance 97-05 is for zoning 14.4 acres more or less, formerly, commonly known as the Fike Artel Property. Counselor Gaujot read Ord. 97-05 in its entirety. COUNCILMAN AT LARGE STEVE MOVED TO APPROVE ORDINANCE 97-05, AN ORDINANCE TO REZONE FIKE ARTEL PROPERTY TO "I", LIGHT INDUSTRIAL, ON FIRST READING. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED.

A discussion followed regarding "I"Light Industrial District zoning.

COUNCILMAN BOB YOUNG MOVED CITY ATTORNEY READ TITLE ONLY OF 97-04. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED. ORD 97-04 AN ORDINANCE AMENDING AND REENACTING AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR SERVICES RENDERED BY THE SANITARY BOARD OF THE CITY OF NITRO INCLUDING SERVICES RENDERED IN THE AREA FORMERLY SERVED BY THE ROCK BRANCH PUBLIC SERVICE DISTRICT.

COUNCILMAN GEORGE ATKINS MOVED TO APPROVE ORDINANCE 97-04 ON THE FIRST READING. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED.

Counselor Gaujot announced a meeting with Mr. Michael Steanberg, with THF regarding purchase of fire truck at 3:00 p.m. tomorrow (Wednesday) March 19, 1997 at City Hall.

AGENDA ITEM NO. 4 STORM VACUUM: Mayor Casto yielded the floor to Councilman at Large Bob Mattox. Mr. Mattox stated that in January we received bids for a street sweeper/storm sewer vacuum. Based upon recommendations from the Public Works Director, Gene Williams, it was decided

to purchase an Elgin machine from WV Tractor, a 1997 model at a cost of \$105,000. During the first two years of the lease purchase agreement the Sanitary Board will be taking care of the cost. During the first two years of the lease agreement there will be no outlay from the City budget. After the two year period it is the intent to use U-dag money to cover the balance of the term. COUNCILMAN AT LARGE BOB MATTOX MOVED TO APPROVE THE PURCHASE OF STREET SWEEPER/ STORM SEWER VACUUM. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS. AFTER DISCUSSION CONCERNING A CONTINGENCY IN WHICH THE SANITARY BOARD WILL GIVE A WRITTEN AGREEMENT TO MAKE THE FIRST TWO YEARS OF A TOTAL OF FOUR YEAR LEASE PAYMENTS. THE CITY ATTORNEY TO REVIEW WRITTEN AGREEMENT BEFORE PURCHASE OF EQUIPMENT. A VOTE WAS TAKEN AND WAS CARRIED.

AGENDA ITEM NO. 5 FREDERICK STREET: Mayor Casto stated the cost of placing a 36" line from the creek at Locust Street to the 48" line to be installed at Walker Street/Railroad track area, according to Mr. Sanghavi and Gene Williams the cost would be roughly \$40,000. Funds could be taken from the \$80,000 UDAG CD. Mayor Casto stated he has received information explaining what the UDAG money can be used for. Mayor Casto asked Counselor Gaujot if \$40,000 of the UDAG money be used for this project. COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO ACCEPT BIDS ON THIS PROJECT. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AFTER DISCUSSION A VOTE WAS TAKEN AND WAS CARRIED.

AGENDA ITEM NO. 6 EASTWOOD/HULBERT HGHTS SEWER: Mayor Casto yielded the floor to the residents of Hulbert Hghts. regarding sewers for that area. Approximately 80 home owners expressed their opinions as to why the City should take them into the City to receive sewer. After some discussion the recommendations were to take this problem to the Nitro Sanitary Board which will be meeting next Tuesday, March 24, 1997 at 4:00 p.m.

AGENDA ITEM NO. 7 LEVY REPORT: Mayor Casto yielded the floor to City Recorder, Herb Sibley. Mr. Sibley presented Council with a certified copy of the excess levy. RECORDER HERB SIBLEY MOVED TO MAKE THE CERTIFIED COPY OF THE EXCESS LEVY A PART OF THE MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED. Recorder Herbert Sibley thanked the citizens of Nitro for passing this levy. (Copy attached)

AGENDA ITEM NO. 8 97/98 BUDGET APPROVAL: Mayor Casto yielded the floor to Treasurer, Ralph Allison. Mr. Allison submitted the \$2.6 million budget to Council. Treasurer Allison stated there is no increase in municipal service fees, no new equipment, no pay raises, lease payments will continue on police cruisers and snow plows. There will no employee cuts, but one employee will be transferred from the Recreation Dept to the Building Dept. Mr. Allison stated as of now the revenue and expenses match each other in the amount of \$2,674, 054.00. COUNCILMAN DAVID MILLER MOVED TO ACCEPT THE BUDGET AS IS WITH STIPULATIONS TO BE AMENDED AS NEEDED. THE MOTION WAS SECONDED BY CITY RECORDER HERB SIBLEY. A VOTE WAS TAKEN AND WAS NOT CARRIED. THE MOTION WAS AMENDED TO GIVE LIBRARY EMPLOYEES THEIR ORIGINAL HOURS. ANOTHER VOTE WAS TAKEN AND WAS CARRIED WITH COUNCILMAN AT LARGE STEVE WEST VOTING AGAINST AND COUNCILMAN FRANK GROVER, JR. ABSTAINING.

AGENDA ITEM NO 9 BUSINESS AND PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller. Mr. Miller announced the "Antique Car Show" May 15th, 1997. The Association will be giving trophies this year. Councilman at Large Bob Mattox suggested a table to be set up at this event to register people to vote. Mr. Miller said there will be an Art & Crafts show set up in front of the Community Center.

A discussion followed regarding what should be done with the bungalow.

AGENDA ITEM NO 10 MAYORS COMMENTS: Mayor Casto reported the Ambulance Authority has leased the old Sanitary Building on Plant Rd for \$400/month plus utilities. Mayor Casto said the Community Center will be responsible for cutting their own grass this year. Also Jay Long is selling signs to help with the pool expense.

COUNCILMEN COMMENTS

Frank Grover commented he has a problem with the people hauling dirt from the sewer project. The upper end of town looks like a mud hole. Somebody needs to clean this up. Also Councilman Grover said the citizens of Nitro need to help with keeping the drains clear of debris.

George Atkins recommended the concessions be leased out.

David Miller complimented Ralph Allison on his work regarding the budget.

Steve West stated he appreciated all the effort put forth on the budget by our Treasurer Ralph Allison's, but it has come to my attention that the Treasurer shall not pay out any money of the City, except that it has been ordered by council to be paid. COUNCILMAN AT LARGE STEVE WEST MOVED THAT THE TREASURER ABIDE BY THAT CODE. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AFTER A DISCUSSION THE MOTION WAS CARRIED WITH RECORDER SIBLEY VOTING AGAINST.

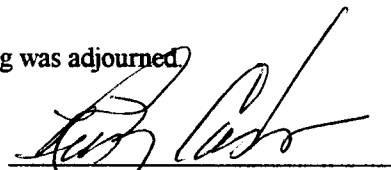
COUNCILMAN AT LARGE STEVE WEST MOVED THAT NO CITY EMPLOYEE MAY USE CITY EQUIPMENT FOR PERSONAL EMPLOYMENT EFFECTIVE THIS DATE. THE MOTION WAS SECOND BY COUNCILMAN BOB YOUNG. A VOTE WAS NOT TAKEN ON THE MOTION. A MOTION WAS MADE BY COUNCILMAN AT LARGE RICHARD SAVILLA TO PUT THIS MATTER IN COMMITTEE. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.


COUNCILMAN AT LARGE STEVE WEST ANNOUNCED A MEETING FOR TUESDAY MARCH 25, 1997 AT 7:00 P.M.

Robert Mattox stated bids for the entrance door at City Hall have been advertised. The bids are due to close at 2:00 p.m. on the March 24, 1997 and we still do not have the specs. We are having a committee meeting March 24, 1997.

Councilman Mattox reported that he and the Mayor walked the streets at Brookhaven last Monday and observed the conditions of the streets. We will be walking every Monday at 1:30 to walk in different areas of town.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER

KANAWHA COUNTY, WEST VIRGINIA
SPECIAL ELECTION
CITY OF NITRO
SATURDAY, MARCH 8, 1997

WE, THE UNDERSIGNED CANVASSING BOARD OF THE ABOVE NAMED
ELECTION JURISDICTION DO HEREBY CERTIFY THE FOLLOWING IS
A CORRECT TABULATION OF THE VOTES CAST IN THE DIFFERENT
PRECINCTS IN SAID ELECTION JURISDICTION.

DATED March 17 19 97

Robert S. Libby Recorder
(NAME AND TITLE)

Robert Jones Council Ward 1
(NAME AND TITLE)

Frank Jones Council Ward 4
(NAME AND TITLE)

David Miller Council Ward 2
(NAME AND TITLE)

Bob Jones Council At Large
(NAME AND TITLE)

Ken G. Cash Mayor
(NAME AND TITLE)

Bessie E. Stahl

James H. Cassell

BATF Commissioner

BATF Commissioner

CANYASS OF [REDACTED] TALS
21:38:38 [REDACTED] 97

KANAWHA COUNTY, WEST VIRGINIA
SPECIAL ELECTION
CITY OF NITRO
SATURDAY, MARCH 8, 1997

5 AGAINST THE LEVY

1 Registered Voters - CITY OF NITRO
2 Ballots Cast - TOTAL
3 Percent of Registered Voters

SPECIAL LEVY ELECTION - CITY OF NITRO
ADDITIONAL LEVIES BEGINNING 7/1/97, 7/1/98, AND 7/1/99
4 FOR THE LEVY

0349 NITRO WOMENS CLUB	395	37	9.37	34	1	2
0350 NITRO WOMENS CLUB	421	40	9.50	33	1	6
0351 NITRO ELEMENTARY SCHOOL	593	51	8.60	32	0	19
0352 NITRO ELEMENTARY SCHOOL	556	36	6.47	31	2	5
0353 UNITED STEEL WORKERS OF AMER.	525	44	8.38	33	2	11
0354 SHAWNEE HILLS COMMUNITY CENTER	916	57	6.22	41	1	16
0999 PUTNAM CO. - PRECINCTS 22/23	0	49	*	36	1	12
TOTAL	3,406	314	9.22	240	71	
	+	8		+	8	

FOR
70 79%

ACCUMULATED TOTALS
21:36:32 8-Mar-1997

	Total	Pct
Precincts Counted - TOTAL	7	100.00
Registered Voters - CITY OF NITRO	3,406	
Ballots Cast - TOTAL	314	9.22

SPECIAL LEVY ELECTION - CITY OF NITRO		
ADDITIONAL LEVIES BEGINNING 7/1/97, 7/1/98, AND 7/1/99		
FOR THE LEVY	240	77.17
AGAINST THE LEVY	71	22.83

322

248
71

KANAWHA COUNTY, WEST VIRGINIA
SPECIAL ELECTION
CITY OF NITRO
SATURDAY, MARCH 8, 1997

Total Pct

77%

FISCAL YEAR JUNE 30, 1998
CITY OF NITRO
LEVY ESTIMATE

STATE OF WEST VIRGINIA
CITY OF NITRO TO-WIT:

In accordance with Code #11-8-14, as amended, the Council proceeded to make an estimate of the amounts necessary to be raised by levy of taxes for the current fiscal year, and doth determine and estimated the several amounts to be as follows:

CURRENT REGULAR MUNICIPAL PURPOSES ESTIMATE

The amount due and the amount that will become due and collectible from every source during the fiscal year INCLUDING THE LEVY OF TAXES, is as follows:

<u>REVENUE SOURCE</u>	
PROPERTY TAXES	\$ 656,920
BUILDING PERMITS	45,000
INSPECTIONS	1,400
B & O TAX	845,000
UTILITY TAXES	154,000
RECREATION	28,000
WINE AND LIQUOR TAXES	55,000
LICENSES	30,000
DOG TRACK	70,000
INTEREST	4,000
CIVIC BENEFITS ASSOC	146,200
RENT	8,400
COURT COSTS	40,000
COLLECTION INCOME	3,600
LIBRARY FEES	1,000
MUNICIPAL SERVICE	420,000
MISCELLANEOUS	3,500
FRANCHISE FEES	2,500
REIMBURSEMENTS	<u>148,034</u>
TOTAL ESTIMATED REVENUE	\$ <u>2,662,554</u>

ESTIMATED CURRENT EXPENDITURES

OFFICE OF MAYOR	\$ 62,108
MEMBERS OF COUNCIL	19,441
CITY RECORDER	22,330
TREASURER	79,096
BUILDING INSPECTOR	71,923
CITY HALL	593,733
POLICE DEPARTMENT	611,602
FIRE DEPARTMENT	341,415
RECREATION DEPARTMENT	130,496
PUBLIC WORKS	679,681
LIBRARY	<u>50,729</u>
	\$ <u>2,662,554</u>

COAL SEVERANCE FUNDREVENUE SOURCE:

COAL SEVERANCE TAX

\$ 11,500

ESTIMATED EXPENDITURES:

FIRE DEPARTMENT

\$ 11,500

LEVY PAGE

ASSESSED VALUATIONS - PROPOSED LEVY RATES AND TAXES LEVIED FOR ALL PURPOSES. THE AMOUNTS FOR THE ASSESSED VALUES TAX PURPOSES COLUMN **MUST** BE THOSE AMOUNTS REFLECTED ON THE **CERTIFICATE OF VALUATION CID 12:32-4**.

	Assessed Values Tax Purposes	Levy Rate/\$100	Taxes Levied	Excess Levy Levy Rate/\$100	Taxes Levied
Class I					
Personal Property	\$ 4,666,886	11.53	\$ 5,381	6.25	\$ 2,917
Public Utilities	650,500	11.53	750	6.25	407
TOTAL CLASS I	\$ 5,317,386		\$ 6,131		\$ 3,324
Class II					
Real Estate	\$ 43,313,991	23.06	\$ 99,882	12.50	\$ 54,142
Personal Property	66,177	23.06	153	12.50	83
TOTAL CLASS II	\$ 43,380,168		\$ 100,035		\$ 54,225
Class IV					
Real Estate	\$ 36,074,849	46.12	\$ 166,377	25.00	\$ 90,187
Personal Property	29,223,442	46.12	134,779	25.00	73,059
Public Utilities	7,583,800	46.12	34,976	25.00	18,960
TOTAL CLASS IV	\$ 72,882,091		\$ 336,132		\$ 182,206
TOTAL ASSESSED VALUE	\$121,579,645				

TOTAL PROJECTED PROPERTY TAX REVENUE..... \$ 442,298 \$ 239,755

*Less 112, 113, 239 (box lower left) % 5,305 2,839

Less 302-Tax Discounts % 5,305 2,838

Total Projected Property Tax Collection 431,688

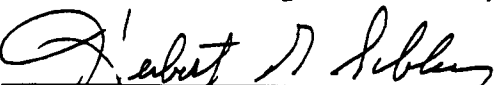
Less Assessor Valuation Fund 2 % 8,846
(Subtracted from current expense taxes levied only)

Net Amount to be Raised by Levy of Property Taxes \$ 422,842 \$ 234,078

Total Current and Excess Levy \$ 656,920

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA/PUTNAM

CITY OF NITRO, TO-WIT: I, Herb Sibley, City Recorder of the City of Nitro, do hereby certify that the foregoing are true copies from the record of the orders made and entered by the council of the City of Nitro on the 18th day of March, 1997.


Herb Sibley, City Recorder

CITY OF NITRO COUNCIL MEETING MINUTES

APRIL 1, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present: City Recorder Herb Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, George Atkins, and Frank Grover, Jr. Absent Councilman David Miller and City Attorney Phillip Gaujot.

AGENDA ITEM NO 1. INVOCATION: Jay Long, Recreation Director

CITIZEN OF THE MONTH

Jay Long announced "Citizen of the Month" Mark Hudson. Mark attended Nitro High School, he was an honor student, attended college at Northwestern University, received Masters Degree from Loyola University in Chicago, Ill. Mark Hudson serves as assistant coach at St. Marys, California, who played against Wake Forrest in the NCAA Tournament. Mark could not attend but his Grandmother accepted the Citizen of the Month award for Mark.

AGENDA ITEM NO 2. APPROVAL OF 3/18/97 COUNCIL MINUTES: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO APPROVE THE 3/18/97 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO 3. READING OF ORDINANCES: Mayor Casto yielded the floor to Recorder Herb Sibley. Mr. Sibley stated some of the ordinances have been passed for the first reading, the first one is 97-03 which is an addendum to the Par agreement was tabled due to Counselor Gaujot absence.

Ordinance 97-04 second reading (Sanitary Board) at the April 15, meeting.

COUNCILMAN ROBERT YOUNG MOVED RECORDER SIBLEY READ TITLE ONLY OF ORD. 97-06. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE BOB MATTOX AND WAS CARRIED. ORDINANCE 97-06- AN ORDINANCE DIRECTING THE MAYOR OF THE CITY OF NITRO WV TO EXECUTE AND ENTER INTO AN AGREEMENT BETWEEN THE CITY AND THE SANITARY BOARD OF THE CITY OF NITRO TO PURCHASE AN AIR SWEEPER.

COUNCILMAN ROBERT YOUNG MOVED TO ADOPT ORDINANCE 97-06 ON FIRST READING. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. (Copy attached)

COUNCILMAN ROBERT YOUNG MOVED TO PASS RESOLUTION 97-02, ALLOWING MAYOR CASTO TO SIGN A LEASE PURCHASE AGREEMENT WITH CONVEST TO PURCHASE AN AIR SWEEPER. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE BOB MATTOX AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO 4. BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller. Mr. Miller announced a pool party scheduled at the end of school year. Antique Car Show, May 16, and 17th. Also Mr. Miller mention all the civic groups would like to meet together and discuss the needs of the City. Mr. Miller commented they would like to see the curb put in from 19th Street down to 27th Street, Kanawha County. Mayor Casto stated he spoke with Senator Oshel Craig and also to the Governor regarding this issue.

Nathan Wills stated a number of improvement have been made and Arlen Bailey will be restoring the bungalow to its original state (1917).

AGENDA ITEM NO 5. COMMUNITY AREA FORUM: Mayor Casto yielded the floor to Councilman at Large Steve West. Councilman West announced the Community Area Forum meeting scheduled Tuesday, April 8, 1997 at 5:30 p.m. in room 107 at the Community Center. Emergency personnel will be there.

AGENDA ITEM NO 6. RECORDER'S REPORT/BUDGET: Mayor Casto yielded the floor to Recorder Herb Sibley stated the budget, prepared by Treasurer Allison, has been sent to the State Tax Department and advertised in the paper as required by law. Recorder Sibley said we will have to "lay the levy" the second council meeting in April.

AGENDA ITEM NO 7. 31ST STREET BRIDGE/FREDERICK ST: Mayor Casto reported the 31st Street Bridge needs to be gutted and torn out. Bob Sergent and Gene Williams will meet with representative from Barboursville Bridge this week.

Mayor Casto spoke with FEMA regarding Frederick St. flooding, basically they said they could not help with this area of need. Mayor Casto explained how the money from U-DAG could be spent. There are three rules to go by, 51 percent of the houses affected have low to moderate income, secondly the Building Department designates the blighted area, thirdly the problem occurred in the last eighteen months. Mayor Casto stated he should have a report regarding the spending of this money next week. It was requested that written permission be obtained to authorize this use.

Councilman Frank Grover requested meeting of Traffic Committee to discuss how to handle traffic when the bridge is closed. A meeting is scheduled for Friday April 4, 1997 at 6:00 p.m.

AGENDA ITEM NO 8. POOL FUNDING: Mayor Casto stated, Jay Long Recreation Director has sold ten signs so far at \$200.00 each. This money will be used for the upkeep of the pool. and kept separately.

AGENDA ITEM NO 9. MAYOR'S REPORT: Mayor reported THF has allotted the City \$540,000.00 to buy equipment. Mayor Casto stated this issue should be brought to Council to make a decision on what to buy. After a lengthy discussion COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO ADVERTISE FOR BIDS FOR WITH DEPARTMENT SPECS THIS WEEK FOR THE FIRE TRUCK. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. after discussion this motion was removed. Councilman at Large Steve West read a letter to Council, dated March 20, 1997 from THF. Also Councilman West requested this letter to made a part of the minutes. COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO ACCEPT THE MARCH 20, 1997 AGREEMENT BETWEEN THF, MICHAEL STAENBERG AND THE CITY OF NITRO AND RUSTY CASTO, MAYOR TO ACCEPT A FIRE TRUCK PURCHASE IN THE AMOUNT OF \$398,525.00 PLUS PRICE INCREASE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED WITH COUNCILMAN GEORGE ATKINS VOTING AGAINST.

Councilmen's Comment:

COUNCILMAN AT LARGE BOB MATTOX MOVED TO APPROVE PAYMENT OF EXPENDITURES PRESENTED IN PRIOR FINANCE MEETING AND AUTHORIZE PAYMENT OF EXPENDITURES AS OUTLINED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER

CITY OF NITRO COUNCIL MEETING

APRIL 15, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present: City Recorder Herb Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr., Also present City Attorney Phillip Gaujot.

AGENDA ITEM NO 1 INVOCATION : COUNCILMAN AT LARGE BOB MATTOX.

AGENDA ITEM NO 2 PUBLIC HEARINGS: Mayor Casto yielded the floor to City Attorney Phillip Gaujot. Counselor Gaujot explained to Council this is the public hearing regarding the ordinance authorizing the Mayor to enter in to an addendum to the agreement made between the City of Nitro and Par Industrial Corporation. (1984) Counselor Gaujot stated the City entered into an UDAG agreement with Par, whereby Par was to obtain money that was channeled from the Federal Government through the City, to Par, Par was to repay this money, and did not pay, and the City brought suit. Par then filed Chapter 11 bankruptcy, in May 1992 and has been in bankruptcy ever since. Counselor Gaujot explained the amendment that amends the agreement entered into in 1984 to the extent of , how the City will be paid. This deficiency, the amount the City is owed now including interest, up to the filing of bankruptcy, is \$1, 481,259.45. This is through May 10, 1994. The payments proposed by Par is \$14,000/mo. Starting in May or June of 1997, and will continue for 183 months and then on the 184th month the sum of \$12,762.01 for a total of \$1,481,259.45 plus interest at 8 per cent from the time the plan is approved. Counselor Gaujot opened the floor for public input. A question and answer session followed. There being no further input this public hearing was adjourned about 7:50 p.m.

Mayor Casto yielded the floor to Phillip Gaujot, City Attorney for the second public hearing. Counselor Gaujot read title of Ord. 97-04. AN ORDINANCE AMENDING AND REENACTING AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR SERVICES RENDERED BY THE SANITARY BOARD OF THE CITY OF NITRO. Counselor Gaujot explained this ordinance changes a figure that was incorrect that passed in Ord. 95-02. The change is, the monthly measured rainfall in inches to .6233 from .006233. There being no further input this public hearing was adjourned at 8:00 p.m.

APPROVAL OF APRIL 1, 1997 COUNCIL MEETING MINUTES: COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE THE APRIL 1, 1997 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

Mayor Casto stated a survey had been conducted and both Frederick Street flooding area and 31st St Bridge qualify for UDAG money.

AGENDA ITEM NO. 3 ELM STREET: Mayor Casto yielded the floor to Ms. Patty Saunders. Ms. Saunders asked if Elm Street was going to be included in the Sanitary Board project. Mayor Casto stated there is very good possibility Elm Street will be included. Mayor Casto recommended Ms. Saunders attend the Sanitary Board Meeting at 4:00 p.m. Tuesday , April 22, 1997.

AGENDA ITEM NO. 4 LEVY RATES: Mayor Casto yielded the floor to Ralph Allison, Treasurer. Mr. Allison read letter from Lisa Stanley, Director Chief Inspector Division of WV State Tax Department stating in accordance with the provision of Chapter 11, article 8, of the WV Code as amended, the State

Tax Commissioner of WV, hereby approves your levy estimate for budget for the fiscal year beginning July 1, 1997. COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE 1997 LEVY RATES. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED. (COPY ATTACHED)

Treasurer Ralph Allison announced a Finance meeting , Tuesday, 7:00 p.m. April 22, 1997 in Conference room.

AGENDA ITEM NO. 5 BUSINESS & PROFESSIONAL GROUP: Mayor Casto announced the Antique Car Show is scheduled for May 16 & 17 and they would like Council to help serve home made ice cream. Vernon Mills stated quite a bit of work has been done to the bungalow. Also a voters registration table will be there as a convenience to our citizens.

AGENDA ITEM NO. 6 WESTSIDE PARKING: Mayor Casto yielded the floor to Councilman Dave Miller. Councilman Miller stated he had received a couple of complaints dealing with the inability of the residents to park. The residents have gone through the chain of command in the School System. Councilman George Atkins stated there has been meetings with everyone involved and nothing has been solved. Councilman Miller stated the students are being charged \$30.00 a semester and there are 198 parking spaces there. Mayor Casto stated he would talk to the principal regarding this issue of on street parking by students.

AGENDA ITEM NO. 7 ORDINANCES 2ND READING: Mayor Casto yielded the floor to City Attorney Phillip Gaujot. COUNCILMAN AT LARGE STEVE WEST MOVED COUNSELOR GAUJOT READ TITLE ONLY OF ORDINANCE 97-06 AN ORDINANCE DIRECTING THE MAYOR OF THE CITY OF NITRO WEST VIRGINIA TO EXECUTE AND ENTER INTO AN AGREEMENT BETWEEN THE CITY OF NITRO AND THE SANITARY BOARD OF THE CITY OF NITRO TO PURCHASE AN AIR SWEEPER. COUNCILMAN AT LARGE STEVE WEST MOVED TO PASS ORDINANCE 97-06 ON SECOND READING. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. (COPY ATTACHED)

COUNCILMAN ROBERT YOUNG MOVED CITY ATTORNEY PHILLIP GAUJOT READ TITLE ONLY OF ORDINANCE 97-03. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED. ORDINANCE 97-03 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY TO ENTER INTO AN ADDENDUM TO THE AGREEMENT BETWEEN THE CITY OF NITRO AND PAR INDUSTRIAL CORPORATION DATED MARCH 03, 1984. COUNCILMAN AT LARGE STEVE WEST MOVED TO ADOPT ORDINANCE 97-03 ON SECOND READING. THE MOTION WAS SECONDED BY COUNCIL GEORGE ATKINS AND WAS CARRIED. (COPY ATTACHED)

COUNCILMAN ROBERT YOUNG MOVED CITY ATTORNEY PHILLIP GAUJOT READ TITLE ONLY OF ORD. 97-05. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. ORDINANCE 97-05 AN ORDINANCE ZONING 14.4 ACRES, MORE OR LESS, FORMERLY COMMONLY KNOWN AS FIKE ARTEL PROPERTY AS "I" LIGHT INDUSTRIAL DISTRICT. A discussion followed regarding "light industrial". COUNCILMAN ROBERT YOUNG MOVED TO ADOPT ORDINANCE 97-05 ON SECOND READING. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. (COPY ATTACHED)

Counselor Gaujot stated this property is considered a super fund site, which is a classification given by EPA to the dirtiest properties in America. This property was considered as one of the most contaminated properties in the region. (Central Eastern United States). Apparently chemicals have been dumped there for years. Once determined a super fund site, Fike sold to Artel. EPA got involved, and ordered it to be cleaned up. Artel could not afford to clean this property up, so they walked away from it. That left the

property with no owner and the property was sold to the State. Various companies paid into a trust to clean up the property. That money along with EPA money, which totaled approximately, \$110 million is being used to clean up the property (12 acres).

Counselor Gaujot stated the reason for annexing this property was to try to get some of the B&O taxes from the contractors working to clean the site. The City has done quite well on these taxes. After talking with some of the engineers responsible for over-seeing the work, a proposal from the City was made to sell the property to the City at no cost. This idea caught on, they (the trust) and EPA liked the idea. The Federal Government would like some monetary consideration from the City. Our response was the City does not have any money. Counselor Gaujot stated if the City is allowed to own the property, this will generate jobs and taxes. This would reduce the City's need to go to the federal government asking for federal money. The catch all is we have to have an agreement from the federal government that they will not hold the City responsible for any of the contaminants in the property now. The property will only be cleaned down to a certain safe level. Safe, meaning for industrial purposes. Hopefully, we will be able to get this property from the State at no cost.

COUNCILMAN ROBERT YOUNG MOVED CITY ATTORNEY PHILLIP GAUJOT READ TITLE ONLY OF ORDINANCE 97-04. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. ORDINANCE 97-04 AN ORDINANCE AMENDING AND REENACTING AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR SERVICES RENDERED BY THE SANITARY BOARD OF THE CITY OF NITRO. COUNCILMAN ROBERT YOUNG MOVED TO ADOPT ORDINANCE 97-04 ON SECOND READING. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED. (COPY ATTACHED)

Counselor Gaujot discussed the laws of annexation. A question and answer session followed regarding annexation and upkeep of streets. Mayor Casto stated a public hearing will be scheduled in the near future.

AGENDA ITEM NO. 8 THF - FIRE TRUCK/PUBLIC WORKS: Mayor Casto yielded the floor to Councilman David Miller. Councilman Miller stated several concerns have been mentioned regarding the finance charges and bidding on the fire truck. Counselor Gaujot stated THF wants to own the fire truck until it is paid for and then give it to the City. Counselor Gaujot's recommendation is to follow the original plan, the City would buy the truck and they would pay for it, up to \$540,000 this includes principal and interest. This means the City will have to put out the bid. This is the proper way. Councilman Miller asked what is the problem with THF having the truck and then deeding the truck over to us? Counselor Gaujot stated his concern is maybe Michael Staenberg will not be here ten years from now, when it is paid off. I don't know who we would be dealing with. I recommend you get the title in the City's name now. Counselor Gaujot stated his legal opinion is to get the truck out for bid s right a way. Recorder Sibley stated the Code states Council must put out any bid over \$5000 and we have not done that. A discussion followed regarding this issue. COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO PUT THE SPECS OUT FOR BIDS. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

AGENDA ITEM NO. 9 TRAFFIC CONTROL REPORT: Mayor Casto yielded the floor to Councilman Frank Grover. Councilman Grover stated the committee met April 4, 1997, to address the 31st Street Bridge traffic issue. Councilman Grover stated recommendations were to allow 2-way traffic from 21st Street, all the way through Easter Road, also take down the one way signs and put up 2-way traffic signs, 15mph speed limit signs, yield to on coming traffic and also noted that Fines in that work area are doubled, this is a state law. RECORDER HERBERT SIBLEY MOVED TO ACCEPT THE TRAFFIC CONTROL RECOMMENDATIONS REGARDING CLOSURE OF 31ST STREET BRIDGE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

COUNCILMAN GEORGE ATKINS MOVED TO CLOSE THE BRIDGE AS SOON AS POSSIBLE AFTER ERECTING SIGNS. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

Councilman Grover mention the committee discussed other traffic problems but did not reach a decision at this time.

AGENDA ITEM NO. 10 SWIMMING POOL RATES/HRS: Mayor Casto mention at the next meeting he would propose a family pass at \$75.00, \$40.00 individual, \$2.00 daily and \$1.00 for Senior Citizens and children under 10 yrs. Mayor Casto stated we have received almost enough money from the sign sale to replace the roof at the pool. The floor tile estimate is \$3500. COUNCILMAN AT LARGE ROBERT MATTOX MOVED WITH WRITTEN PERMISSION FROM JOHN ROMANO, MANAGER OF REGIONAL INTERCITY COUNCIL AND UDAG REPRESENTATIVE TO USE \$3500 FROM UDAG TO COMPLETE SHOWER HOUSES AT THE POOL. THE MOTION WAS SECONDED BY RECORDER HERBERT SIBLEY AND WAS CARRIED.

AGENDA ITEM NO. 11 MAYOR'S COMMENTS: Mayor Casto stated he received letter from Carmen Kostelansky requesting permission for the annual bike-a -thon for St.Jude's Children Research. Sunday April 25, from 3:00 p.m. until 5:00 p.m. RECORDER HERBERT SIBLEY MOVED TO GRANT REQUEST FOR BIKE-A-THON SUNDAY, APRIL 25, 1997. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

Mayor Casto distributed a schedule of the Mayor's walk every Monday at 1:30 p.m.

Mayor Casto thanked Council for support of the new street sweeper.

Councilmen' Comments:

Councilman Grover commented he has received several complaints from ward 4 regarding accumulated brush and trash. A discussion followed regarding this matter.

Councilman Miller stated there are road problems on 4th St. Ken Knicely would like to meet with Mayor Casto and Gene Williams.

Councilman Young announced Finance Meeting 7:00 p.m. Tuesday Night.

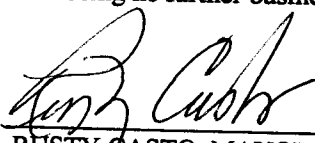
Councilman West stated they did not get the answers from Mr. Caruthers and Kent Carper regarding 911.


Councilman Savilla stated Council Chambers should be moved across the road to larger quarters.

Councilman Mattox commended Carriage residents on the neat up-keep of their community. This area is definitely a plus to the City.

Also Councilman Mattox requested Chief Winter take a look at the traffic turning from the bridge down Main Avenue. Councilman Mattox suggested an officer park up there and watch traffic.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER

RATES OF LEVY LAID BY:

CITY OF NITRO

(LEVYING BODY)

KANAWHA/PUTNAM

(COUNTY)

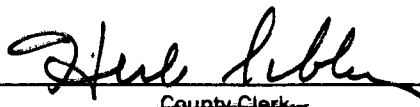
AND APPROVED BY THE STATE TAX COMMISSIONER FOR COUNTY, SCHOOL, OR MUNICIPAL PURPOSES FOR THE FISCAL YEAR BEGINNING JULY 1, 1997 IN ACCORDANCE WITH CHAPTER II, ARTICLE 8 OF THE WEST VIRGINIA CODE, AS AMENDED.

	CURRENT LEVY RATE	EXCESS LEVY RATE	PUBLIC/PERM. IMPROVEMENT LEVY RATE	BOND LEVY RATE	TOTAL LEVY RATE
CLASS I	11.53	6.25			
CLASS II	23.06	12.50			
CLASSES II AND/OR IV	46.12	25.00			

RATES ARE TO BE STATED IN CENTS PER 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 Nitro on the 15th day of April, 1997
and APPROVED BY THE STATE TAX COMMISSIONER.



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

NOTE: This form is to be submitted within three days after the governing body meets to lay the levy on the third Tuesday in April. **DO NOT MAIL IT WITH THE BUDGET DOCUMENT.** Retain the pink copy for your files and mail the white and yellow copies (along with your Levy Order) to the Department of Tax and Revenue, Chief Inspector Division, P. O. Drawer 2389, Charleston, West Virginia 25328. Upon receipt, one copy will be stamped "Approved" and forwarded to the assessor of your county to be used in extending the levies.

ORDINANCE NO. 97-03

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
AN ADDENDUM TO THE AGREEMENT BETWEEN THE CITY OF
NITRO AND PAR INDUSTRIAL CORPORATION DATED THE
_____ DAY OF _____, 1984**

WHEREAS, In 1983, the Secretary of Housing and Urban Development, acting by and through the Assistant Secretary for Community Planning and Development, as representative of the United States of America, entered into an Urban Development Act Grant Agreement (hereinafter referred to as "UDAG Agreement"), with the City of Nitro (hereinafter referred to as "City"), pursuant to the City's application to the Secretary for grant assistance under the UDAG Program to undertake activities which were consistent with the provisions of Section 119 of the Housing and Community Development Act of 1974, Pub. L. No. 93-383, as amended, and the UDAG Regulations; and

WHEREAS, In 1984, Par Industrial Corporation entered into an agreement with the City, pursuant to the UDAG Agreement heretofore mentioned, whereby Par Industrial Corporation (hereinafter referred to as "Par") agreed to complete specific portions of the project specified in the aforesaid UDAG Agreement. Specifically, Par negotiated and agreed with the City for the City to provide financing under the aforesaid UDAG Grant for the construction of railroad crossing, road repair, railroad construction and repair to serve certain buildings to be renovated and professional fees to unrelated third parties in connection with the development of such roads and railroad facilities and on real estate owned by Par

located in Nitro, County of Putnam, State of West Virginia. A copy of said Agreement between Par and the City is attached hereto and marked as Exhibit 1; and

WHEREAS, Pursuant to the aforementioned Agreement, Par agreed to be obligated to undertake and complete activities ascribed to it. The City agreed to loan to Par up to 1.3 million dollars in UDAG Grant Funds. The term of said loan was for 21 years, commencing upon the initial disbursement of grant funds with interest at the rate of 4% per annum in years one through six of the loan term and 8% per annum throughout the remainder of the loan term; and

WHEREAS, Through the end of the first year of the loan term, interest was to accrue on all disbursements of grant funds and added to the principal of the loan to form a new principal balance. During years two through six of the loan term, payments of interest only were to be made to the City in quarterly installments. Par made said payments, however, not necessarily on a quarterly basis; and

WHEREAS, During the remainder of the loan term, payments of principal (including deferred interest through the end of the first year of the loan term) and interest was to be made in quarterly installments. Additionally, an annual payment was to be made to the City of 50% of the net cash flow from the operation of any and all renovated or newly constructed facilities. ("Net cash flow" is properly defined in said Agreement.) Upon information and belief, Par has had a net cash flow, however, failed to make any of the aforesaid payments to the City; and

WHEREAS, Pursuant to the aforesaid Agreement, Par was obligated to deliver a statement from a Certified Public Accountant within 60 days of the close of

each calendar year during the term of the loan certifying: (1) gross operating revenues; (2) net cash flow; and (3) the amount due City. Par did not provide such statements; and

WHEREAS, Pursuant to the aforesaid Agreement, the loan was made to Par and was to be secured by a Deed of Trust or mortgage in favor of the City. The loan proceeds were disbursed to Par prior to the City receiving from Par a proper Deed of Trust. Though requested by the City of Nitro, Par refused and continued to refuse to sign any Deed of Trust securing the City's interest, although Par acknowledged, and continues to acknowledge, that the City is and has been entitled to said Deed of Trust securing the City's interest; and

WHEREAS, Pursuant to said Agreement entered into between City and Par, Par agreed that the entire balance of the outstanding principal of the UDAG loan and all accrued interest thereon would become immediately due and payable upon the bankruptcy, reorganization, syndication, dissolution or liquidation of Par, or, upon the sale, partial sale, refinancing, exchange, transfer, sale under foreclosure or other disposition of all or a portion of the Project Site, improvements and/or capital equipment situated thereon; and

WHEREAS, Pursuant to said Agreement entered into between the City and Par, Par agreed that, during the first six years of the loan term, Par would pay to the City 50% of the net proceeds from any sale or disposition, in whole or in part of the Project Site or facilities thereon developed or refinanced and to pay the City 25% of such net proceeds during the remainder of the loan term. Par has sold

portions of the real estate covered by the aforementioned Agreement and has failed to pay the City 50% of the net proceeds; and

WHEREAS, Pursuant to the aforesaid Agreement between the City and Par, Par agreed to keep and maintain books, records and other documents relating directly to the receipt and disbursement of said Grant Funds and make said books, records and documents available to City, at reasonable times, to have access to and inspect, copy, audit and examine the same. Par has maintained books, records and other documents, however, has disallowed the City the right to review the same; and

WHEREAS, Par has failed to file B & O tax returns or to pay B & O taxes due the City, although Par has consistently reported to this Court, in its monthly reports, that it does not owe any taxes; and

WHEREAS, On or about August 18, 1992, the City filed a Complaint in the Circuit Court of Kanawha County, West Virginia, captioned The City of Nitro, a municipality, v. Par Industrial Corporation, a West Virginia corporation; Par Associates, a West Virginia Limited Partnership; Joseph Rapetto and John Pizzuto, Civil Action No. 92-C-4435, demanding, among other things, that Par enter into and sign a proper Deed of Trust pursuant to said Agreement; and

WHEREAS, On September 16, 1992, Par filed its Answer; and

WHEREAS, On May 10, 1993, Par filed its Voluntary Petition for Chapter 11 Reorganization, listing assets at \$10.2 Million and total liabilities at \$2.2 Million, which filing stayed the proceedings in the Circuit Court of Kanawha County, West Virginia; and

WHEREAS, On July 14, 1994, Par filed a Motion to Permit Debtor to Execute Deed of Trust and Notice of Motion; and, on August 17, 1994, a hearing was held on said Motion, wherein the matter was continued for sixty (60) days, the date by which Debtor was to file its Reorganization Plan and to resolve with the City the B & O debt owed to the City by Debtor; and

WHEREAS, Thereafter, counsel for the Debtor and counsel for the City entered into negotiations with regard to the sum owed by Debtor to the City for B & O taxes and the sum owed to the City pursuant to the Agreement between the City and Debtor, for which a Deed of Trust would be signed by Debtor. The City's estimate of B & O taxes owed by Debtor for the period between 1987 through 1991 is One Hundred Thirty-Three Thousand Six Hundred Fifty-Seven Dollars (\$133,657.00). Returns have not been filed by Debtor for 1992, 1993, 1994 and 1995; and the City does not have sufficient information to assess the Debtor for those years. Debtor is obligated to the City for B & O taxes for 1992, 1993, 1994 and 1995; and

WHEREAS, The City is demanding that Par sign a Deed of Trust in favor of the City, pursuant to the Addendum to the Agreement between the City of Nitro and Par Industrial Corporation and Par Associates, a copy of which is attached hereto, for the amount of the principal of the loan (\$1,289,622.75), plus accrued interest to May 10, 1993 (interest at 8% on \$1,289,622.75 from July 1, 1991, to July 10, 1993, is \$191,636.70, for a total sum due of \$1,481,259.45);

A G R E E M E N T

THIS AGREEMENT, Made this _____ day of _____ 1984,
by and between THE CITY OF NITRO, a municipality, located in
Kanawha and Putnam Counties, West Virginia (hereinafter referred
to as "Recipient"), PAR INDUSTRIAL CORPORATION, a West Virginia
business corporation, with a principal place of business situate
on Plant Road, Nitro, Putnam County, West Virginia 25143 (herein-
after referred to as "Developer"), and PAR ASSOCIATES,

W I T N E S S E T H:

WHEREAS, the Secretary of Housing and Urban Development,
acting by and through the Assistant Secretary for Community Planning
and Development, as representative of the United States of America,
has entered into an Urban Development Action Grant Agreement (herein
after referred to as "UDAG Agreement") with The City of Nitro, a
municipality, located in Kanawha and Putnam Counties, West Virginia
(hereinafter referred to as "Recipient"); and

WHEREAS, the Recipient has applied to the Secretary for
Grant assistance under the UDAG Program to undertake activities
which are consistent with the provisions of Section 119 of the
Housing and Community Development Act of 1974, Pub. L. No. 93-383,
as amended; and

WHEREAS, the Secretary, in reliance upon the representa-
tions set forth in the application, has approved the award of grant
funds to the Recipient, to be expended by the Recipient in conformi-
with the requirements and provisions of said UDAG Agreement, which
Grant Agreement is attached hereto and made a part hereof; and

WHEREAS, Par Industrial Corporation, a West Virginia
business corporation (hereinafter referred to as "Developer") is

WHEREAS, Par has agreed to sign a Deed of Trust in favor of the City for the amount of the principal of the loan, plus interest to May 10, 1993, only, the date of the filing of the Voluntary Petition for Bankruptcy/Reorganization in the amount of \$1,481,259.45; and

WHEREAS, in consideration of the above, Par has agreed to pay B & O taxes from July 1, 1988, to the present, with interest beginning with the date of the filing of the bankruptcy proceedings, if the City agrees to waive any B & O taxes from the time that Par Industrial Corporation became a part of the City of Nitro until July 1, 1988, and waive interest on pre-petition taxes.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nitro, Kanawha and Putnam Counties, West Virginia, that the Mayor of the City of Nitro is authorized to sign that certain Addendum to the Agreement between the City of Nitro and Par Industrial Corporation and Par Associates dated the _____ day of _____, 1984, a copy of which is attached hereto and marked Exhibit A, which Agreement also incorporates provision authorizing the waiver of B & O taxes from the time Par became a part of the City of Nitro until July 1, 1988, and to waive interest on pre-petition taxes.

Passed on First Reading: _____

Adopted on Second Reading: APRIL 15, 1997

RUSTY CASTO, MAYOR

[Signature]

CITY RECORDER

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(iii) Repayment - Through the end of the first year of the loan term, interest shall accrue on all disbursements of Grant Funds, and shall be added to the principal of the loan to form a new principal balance. During years 2 through 6 of the loan term, payments of interest only shall be made in quarterly installments. During the remainder of the loan term, payments of principal (including deferred interest through the end of the first year of the loan term) and interest shall be made in quarterly installments in accordance with a schedule calculated to amortize the loan to the date of maturity.

(iv) In addition to the payments set forth in subparagraph (iii) above, Developer shall make an annual payment to Recipient of 50% of the Net Cash Flow from the operation of any and all renovated or newly constructed facilities on Section II of the Project Site.

"Net Cash Flow" shall mean all annual operating revenues less: (aa) debt service on the loan set forth in Paragraph IV of this Exhibit E and on any loans to which the UDAG loan may be subordinated pursuant to subparagraph (v), below; (bb) real estate taxes; (cc) reasonable operating expenses deductible for Federal income tax purposes (without deductions for depreciation, or capital improvements or reserves), such operating expenses not to exceed 25% of gross operating revenues and to include a management fee not to exceed 3% of gross operating revenues; and (dd) a 10% preferred return to Developer on Developer's contribution of Net Proceeds of Activity #4 of the Project Elements (as set forth in Paragraph XI of Exhibit C to the Grant Agreement), which shall be defined as all proceeds received from Activity #4, less:

(A) Repayment of the balance of an existing loan to Developer from Kellogg Credit in the amount of \$3,158,000, such amount to be reduced by any cash payment to Developer of the \$500,000 acquisition price for the Project Site, and

WHEREAS, Par Associates, a West Virginia Limited Partnership, of whom Joseph Repetto and John Pizzuto will be general partners, with offices at Plant Road, Nitro, West Virginia; and

WHEREAS, Recipient, Developer and Par Associates have been negotiating for financing for construction of railroad crossing, road repair, railroad construction and repair to serve certain buildings to be renovated; professional fees to unrelated third parties in connection with the development of such roads and railroad facilities in and on real estate owned by Developer, located in the City of Nitro, County of Putnam, State of West Virginia; and

WHEREAS, EXHIBIT E of said UDAG GRANT AGREEMENT, titled "REQUIRED EVIDENTIARY MATERIALS" mandates that certain Evidentiary Materials be submitted by Recipient for the approval of the Secretary for Community Planning and Development of the Department of Housing and Urban Development; and

WHEREAS, during the course of these negotiations numerous agreements have been reached between the parties as to the terms of the development; and

WHEREAS, the parties have reached a final agreement as to certain of the terms and conditions of the development and to certain of the rights and obligations of the parties.

NOW, THEREFORE, In consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

(1) Developer and Par Associates agree to be obligated to undertake and complete the activities ascribed to them under EXHIBIT C to the attachment Grant Agreement.

(2) Recipient shall loan not more than \$1,300,000.00 in Grant Funds to Developer for Activity No. 3 of the Project Elements.

(i) Term - Twenty-one (21) years commencing upon the initial disbursement of Grant Funds.

(ii) Interest Rate - Four percent (4%) per annum in years 1 through 6 of the loan term; 8% per annum throughout the remainder of the loan term.

(B) Developer's documented reasonable and necessary operating expenses in connection with Activity #4, over and above the \$2,800,000 to be paid to Ohio Contracting pursuant to Paragraph IV of Exhibit E, including, but not limited to labor, leasing and rental payments, which may only be made to unrelated third parties.

Developer shall deliver a statement from a certified public accountant within 60 days of the close of each calendar year during the term of the loan certifying:

- (1) gross operating revenues,
- (2) Net Cash Flow (including specific expenditures of Net Proceeds of Activity #4 for operating deficits and capital improvements, and all costs and expenditures set forth in the definition of Net Proceeds of Activity #4); and
- (3) The amount due Recipient on the repayment formula.

(v) The loan shall be secured by a deed of trust or mortgage in favor of Recipient upon Section II of the Project Site and upon all buildings, fixtures, equipment and other assets of Developer renovated, constructed or installed in connection with Activity #2 of the Project Elements. The security position of Recipient may be subordinated only to the security interest of Lender III extending financing to Developer for renovation or new construction of industrial buildings on Section II of the Project Site in an amount not to exceed 90% of the cost of renovating or constructing each of such buildings.

The loan shall also be secured by a deed of trust or mortgage in favor of Recipient upon Section I of the Project Site and upon all buildings, fixtures, equipment and other assets of Par Associates renovated, constructed or installed in connection with Activity #1 of the Project Elements. The security position of Recipient may be subordinated only to the first mortgage security

The deeds of trust and/or mortgages shall also contain standard provisions to protect the interest of the second mortgagee, including, for example, a provision that a default under the first mortgage which could permit a foreclosure by the first mortgagee shall constitute a default under the second mortgage and the unpaid principal balance and interest shall be due and payable.

The deed of trust or mortgage shall not contain an exculpation clause in favor of Developer.

To the extent permitted by law, all of the personal property described in the mortgage shall be deemed to be fixtures and part of the property. As to any part of such personal property not deemed or permitted by law to be fixtures, the mortgage shall constitute a security agreement under the Uniform Commercial Code.

(vi) The entire balance of the outstanding principal of the UDAG loan and all accrued interest thereon, shall become immediately due and payable upon the bankruptcy, reorganization, syndication (other than for Activity #1, in an amount not to exceed \$1,050,000), dissolution or liquidation of Developer or Par Associates, or upon the sale, partial sale, refinancing, exchange, transfer, sale under foreclosure, or other disposition of all or a portion of the Project Site, improvements and/or capital equipment situated thereon.

(vii) Participation in Sale or Refinancing - During the first 6 years of the loan term, Developer shall pay to Recipient 50% of the Net Proceeds from any sale or disposition in whole or in part of the Project Site or facilities thereon developed pursuant to the Grant Agreement or from any syndication (other than for Activity #1, in an amount not to exceed \$1,050,000) or refinancing. During the remainder of the loan term, Developer shall pay to Recipient 25% of such Net Proceeds. "Net Proceeds" shall be defined as all proceeds received less: (1) repayment of loans from Lender III for renovation or new construction of industrial buildings on Section II of the Project Site in an amount not to exceed 90% of the cost of renovating or constructing each of such

documented reasonable costs of sale or refinancing, and (4) re-payment of the sum of documented Developer contributions of Net Proceeds of Activity #4 of the Project Elements.

(viii) Disbursement/Ratio -- Loan disbursements shall be based on vouchers submitted by Developer, verified by Recipient, and certified by the architect, construction manager, or other certifying official as shall be acceptable to Recipient. All submissions by contractors of monthly requisitions shall be on AIA Forms 702 and 703 or their equivalent.

No disbursement of the loan of Grant Funds shall be made unless and until Developer shall have furnished to Recipient a Builder's Risk and Fire Insurance policy or policies duly endorsed to indicate Recipient as insured mortgagee.

No disbursement of loan funds shall be made until all of the evidentiary materials required by Exhibit E of the UDAG Agreement, in conjunction with Exhibit F, have been submitted to and approved by the Secretary and the Secretary has authorized the Recipient to draw down such funds from its Letter of Credit.

No loan disbursements shall be made in an amount which, together with previous disbursements, would exceed the ratio of \$1.00 of Grant Funds for every \$3.50 of private funds expended by Developer and/or Par Associates for the Project, provided that no loan funds shall be disbursed until Developer has first expended not less than \$750,000.00 in loan funds from Ohio Contracting for Activity #4 of the Project Elements and has not expended less than \$250,000.00 in equity or Lender III funds for Activity #2 of the Project Elements. For purposes of this Paragraph, credit will not be given for expenditures for items not counted for ratio purposes on line item q of Exhibit D to the Grant Agreement.

Draw down of Grant Funds shall be consistent with the following:

A. \$640,000 may be drawn down in accordance with this Paragraph (2) (viii) based only upon private expenditures included in line e of Exhibit D.

in lines f and h of Exhibit D.

C. \$235,000 may be drawn in accordance with this Paragraph III (a) (2) (viii) based only upon private expenditures included in line a of Exhibit D.

For purposes of this paragraph, no credit will be given for expenditures for items not counted for ratio purposes on line item g of Exhibit D to the Grant Agreement.

Recipient may draw down Grant Funds for reimbursement of administrative and application preparation costs in the amount of \$15,000 simultaneously with the initial draw for the \$640,000 portion of the USDAG loan (subparagraph A, above) to Developer.

Recipient may draw down Grant Funds for reimbursement of administrative and application preparation costs in the amount of \$15,000 simultaneously with the initial draw for the \$425,000 portion of the UDAG loan (subparagraph B, above) to Developer.

Recipient may draw down Grant Funds for reimbursement of administrative and application preparation costs in the amount of \$10,000 simultaneously with the initial draw for the \$235,000 portion of the UDAG loan (subparagraph C, above) to Developer.

(ix) Prepayment - Prepayment in connection with an event set forth in subparagraphs (vi) and (vii), above, shall be governed by the terms therein. Prepayment which is not in connection with such event may occur at any time without the approval of Recipient but shall be subject to a fee of 10% of the remaining principal balance.

(x) Guarantee - Developer, corporately, unconditionally and irrevocably, guarantees (a) repayment of the loan and completion of the Project, (b) contribution of net proceeds from Activity #4 of the Project Elements, as defined in Paragraph III (a) (2) (iv) of Exhibit E to the Grant Agreement, (c) completion of Activity #2 of the Project Elements, as defined in Paragraph III (a) (2) (iv) of Exhibit E, and (d) equity contribution and/or enter into a loan agreement with Lender III, as defined in the Grant Agreement, in an amount totaling not less than \$772,615 for Activity #2.

further agree as follows:

(i) Upon instruction by the Secretary of Housing and Urban Development, all program income received by Developer, prior to the completion of all Recipient activities, shall be deposited in escrow under arrangements approved by the Secretary of Housing and Urban Development in order to provide funds to assure the completion of the Recipient activities.

(ii) All program income received by the Developer, prior to the completion of all Recipient activities, shall be transmitted to the Recipient for payment of costs incurred for Recipient activities.

(iii) All program income received by the Developer, after the completion of all Recipient activities, shall, at the option of the Recipient, either be transmitted to the Recipient, or used by the Developer with Recipient's approval, for community and economic development activities which would be eligible for assistance under Title I of the Housing and Community Development Act of 1974, Pub. L. No. 93-383, as amended.

(iv) That Developer has obtained, or has reasonable assurance that it will be obtained, all Federal, State and Local Governmental approvals and reviews required by law to be obtained by the Recipient or Developer for the Project.

(v) Developer represents that the Developer acknowledges that the Secretary of Housing and Urban Development, in selecting the Recipient for the award of the UDAG Grant, relied in material part upon the assured completion of the Project, and that the Developer assures the Recipient that such activities will be completed by the Developer.

(vi) The Developer will use its best efforts to create or cause to be created a specific number of new permanent job opportunities, including a specified number of new permanent job opportunities for minorities, CETA-eligible persons, and persons who, at the time of their employment, will be persons of low and

moderate income. The specified numbers shall be as follows:

Total Permanent Jobs: 315

Total Permanent Jobs for Low and Moderate Income
Persons: 235

Total Permanent Jobs for CETA-Eligible Persons: 235

Total Permanent Jobs for Minorities: 16

Total Permanent Jobs for Low and Moderate-Income
Residents of the Pocket of Poverty:

Developer agrees to assist and enable the Recipient to report to the Secretary of the Housing and Urban Development, as the said Secretary may require, report to the Recipient, as the Recipient may from time to time require, on the numbers and kinds of such jobs created or cause to be created, and filled, and Developer shall comply with such other provisions as may be required by the Recipient to enable the Recipient to comply with any reporting requirements of the Secretary of Housing and Urban Development.

(vii) Developer shall keep and maintain books, records and other documents relating directly to the receipt and disbursement of such Grant Funds; and any duly authorized representative of the Secretary of Housing and Urban Development or Comptroller General of the United States and Recipient shall, at all reasonable times, have access to and the rights to inspect, copy, audit, and examine all such books, records and other documents of such Developer until the completion of all close-out procedures respecting the UDAG Grant and the final settlement and conclusion of all issues arising out of said Grant.

(viii) Any duly authorized representative of the Secretary of Housing and Urban Development and Recipient shall at all reasonable times have access to any portion of the Project in which such Developer is involved until the completion of all close-out procedures respecting the UDAG Grant.

(ix) No transfer of Grant Funds by the Recipient to Developer shall be or be deemed an assignment of UDAG Grant Funds, and that Developer shall neither succeed to any rights, benefits or

advantages of the Recipient under the UDAG Grant Agreement attached hereto, nor attain any rights, privileges, authorities or interest in or under said Grant Agreement.

(x) During the term of the UDAG Grant Agreement this Contract shall not be amended in any material respect, after the same has been approved and accepted by the Secretary of Housing and Urban Development, without the prior written approval of said Secretary. "Material" shall be defined as anything which cancels or reduces any developmental, construction, job creating, or financial obligation of Developer by more than ten percent, changes the sites or character of any development activity, or increases any time for performance by more than thirty days.

(xi) Nothing contained in the UDAG Grant Agreement, or in this Agreement, nor any act of the Secretary of Housing and Urban Development, the Recipient, or any of the parties, shall be deemed or construed by any of the parties, or by the third persons, to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, or joint venture, or of any association or relationship involving the Secretary of Housing and Urban Development.

(xii) Recipient shall not be liable to Developer, or to any party except Housing and Urban Development, for completion of, or the failure to complete, any activities which are part of the Project, except those specified in EXHIBIT B of the UDAG Grant Agreement.

(xiii) Except for approved eligible administrative and personnel costs, no member, officer, or employee of the Recipient, or its designees, or agents, no consultant, no member of the governing body of the Recipient, or the locality in which the Program is situated and no other public official of the Recipient or such locality or localities, who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision making process or gain insider information with regard to the Project, shall have any interest direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project, or

in any activity, or benefit therefrom, which is part of this Project at any time during or after such person's tenure.

(xiv) Developer shall be responsible for a Project Sign provision-consistent with any criteria which may be established by the Secretary of Housing and Urban Development.

(4) The parties hereto agree that the time frame contained in EXHIBIT F of the UDAG Grant Agreement or any amendments set by the Secretary of Housing and Urban Development shall be controlling and followed by the parties hereto.

(5) Developer agrees to lend to Par Associates, a limited partnership not less than \$775,000 as partial financing for Activity #1 of the Project Elements, as found in the UDAG Grant Agreement, under such terms and conditions as are acceptable to Developer and Par Associates.

(6) UDAG Grant Agreement Grant No. B-81-AB-54-0046(4) is incorporated herein and made a part hereof by reference thereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written:

ATTEST: (SEAL)

[Signature]

CITY OF NITRO, WEST VIRGINIA

BY [Signature]
Arden D. Ashley
Its Mayor

ATTEST: (SEAL)

x [Signature]
Secretary of Par Industrial
Corporation

PAR INDUSTRIAL CORPORATION

BY [Signature]
Phillip Moore
Its President

ATTEST: (SEAL)

[Signature]

PAR ASSOCIATES

BY x [Signature]
Its Managing General Partner

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A G R E E M E N T

THIS AGREEMENT, Made this _____ day of February, 1984, by and between THE CITY OF NITRO, a municipality, located in Kanawha and Putnam Counties, West Virginia (hereinafter referred to as "Recipient") and JOSEPH REPETTO, an individual, residing at 24 James Thomas Road, Malvern, Pennsylvania 19355 (hereinafter referred to as "Repetto,") and JOHN PIZZUTO, an individual, residing at 2614 Ardenwood Place, Youngstown, Ohio (hereinafter referred to as "Pizzuto"),

W I T N E S S E T H:

WHEREAS, the Secretary of Housing and Urban Development, acting by and through the Assistant Secretary for Community Planning and Development, as representative of the United States of America, has entered into an Urban Development Action Grant Agreement (hereinafter referred to as "UDAG Agreement") with The City of Nitro, a municipality, located in Kanawha and Putnam Counties, West Virginia (hereinafter referred to as "Recipient"); and

WHEREAS, the Recipient has applied to the Secretary for Grant assistance under the UDAG Program to undertake activities which are consistent with the provisions of Section 119 of the Housing and Community Development Act of 1974, Pub. L. No. 93-383 as amended; and

WHEREAS, the Secretary, in reliance upon the representations set forth in the application, has approved the award of grant funds to the Recipient, to be expended by the Recipient in conformity with the requirements and provisions of said UDAG Agreement, which Grant Agreement is attached hereto and made a part hereof; and

WHEREAS, Par Industrial Corporation, a West Virginia business corporation (hereinafter referred to as "Developer") is a corporation that will complete a specified portion of the Project specified in said Grant Agreement; and

ship, of whom Joseph Repetto and John Pizzuto will be general partners, with offices at Plant Road, Nitro, West Virginia; and

WHEREAS, Recipient and Developer have been negotiating for financing for construction of railroad crossing, road repair, railroad construction and repair to serve certain buildings to be renovated; professional fees to unrelated third parties in connection with the development of such roads and railroad facilities in and on real estate owned by Developer, located in the City of Nitro, County of Putnam, State of West Virginia; and

WHEREAS, EXHIBIT E of said UDAG GRANT AGREEMENT, titled "REQUIRED EVIDENTIARY MATERIALS" mandates that certain Evidentiary Materials be submitted by Recipient for the approval of the Secretary for Community Planning and Development of the Department of Housing and Urban Development; and

WHEREAS, "Repetto" and "Pizzuto" have reached an agreement with The City of Nitro, a municipality, with regard to personal guarantees mandated by EXHIBIT E of the UDAG Grant Agreement No. B-81-AB-54-0046(4).

NOW, THEREFORE, In consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations,

1. "Repetto" and "Pizzuto" shall personally guarantee, jointly and severally, the following:

- a. Par Associates' equity contribution of not less than \$1,050,000 for use in connection with Activity #1 of the Project Elements described in EXHIBIT A of the UDAG Grant Agreement No. B-81-AB-54-0046(4).
- b. Completion of Activity #2 of the Project Elements described in EXHIBIT A of the UDAG Grant Agreement No. B-81-AB-54-0046(4).
- c. An equity contribution and/or enter into a loan agreement with Lender III as defined

in UDAG Grant Agreement No. B-81-AB-54-0046(4)
in an amount totaling not less than \$772,615
for Activity #2.

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2. Repetto further unconditionally and irrevocably
guarantees the following:

- a. The repayment of the loan of Grant Funds set
forth in Paragraph III of EXHIBIT E of the
UDAG Grant Agreement No. B-81-AB-54-0046(4).
- b. Par Industrial Corporation, a West Virginia
business corporation's contribution of net
proceeds from Activity #4 of the Project
Elements as defined in Paragraph III(a)(2)(iv)
of EXHIBIT E of UDAG Grant Agreement No.
B-81-AB-54-0046(4).

IN WITNESS WHEREOF, the parties hereto have set their
hands and seals, the day and year first above written:

CITY OF NITRO, WEST VIRGINIA

BY:

Arden D. Ashley
Arden D. Ashley
Its Mayor

Joseph Repetto
JOSEPH REPETTO

(SEAL)

John Pizzuto
JOHN PIZZUTO

(SEAL)

**ADDENDUM TO THE AGREEMENT BETWEEN THE
CITY OF NITRO, PAR INDUSTRIAL CORPORATION
AND PAR ASSOCIATES DATED THE
_____ DAY OF _____, 1984**

WHEREAS, An agreement was reached by and between The City of Nitro, a municipality located in Kanawha and Putnam Counties, West Virginia, and Par Industrial Corporation, a West Virginia corporation, and Par Associates, a West Virginia limited partnership, with a principal place of business situated on Plant Road, Nitro, Putnam County, West Virginia, which agreement was dated on the _____ day of _____, 1984, hereinafter referred to herein as "Agreement," a copy of which is attached hereto and marked as Exhibit A; and

WHEREAS, An additional agreement was entered into, dated the _____ day of February, 1984, by and between The City of Nitro, a municipality located in Kanawha and Putnam Counties, West Virginia, and Joseph Repetto, an individual, and John Pizzuto, an individual, with regard to the "UDAG Agreement" loan, a copy of which is attached hereto and marked as Exhibit B; and

WHEREAS, Par Industrial Corporation has filed for relief with the United States Bankruptcy Court for the Southern District of West Virginia; and

WHEREAS, Joseph Repetto is no longer associated with Par Industrial Corporation; and

WHEREAS, The City of Nitro and Par Industrial Corporation have agreed to alter the payment schedules contained in the original "Agreement";

NOW, THEREFORE, THIS AGREEMENT:

That for and in consideration of John Pizzuto executing the Deed of Trust and Deed of Trust Note on behalf of Par Industrial Corporation and Par Associates, copies of which are attached hereto as Exhibits C and D, respectively, The City of Nitro agrees to modify the payment schedule as set forth in that certain Agreement dated the _____ day of _____, 1984. The amount due and owing to The City of Nitro by Par Industrial Corporation is One Million Four Hundred Eighty-One Thousand Two Hundred Fifty-Nine Dollars Forty-Five Cents (\$1,481,259.45) as of the date of the filing of bankruptcy proceedings in the United States Bankruptcy Court for the Southern District of West Virginia, Bankruptcy Proceedings No. 93-20298. Par Industrial Corporation agrees to begin making payments in the amount of Fourteen Thousand Dollars (\$14,000.00), beginning _____, 1997, and continue making payments of Fourteen Thousand Dollars (\$14,000.00) per month, on the first day of each month thereafter, for one hundred eighty-three (183) months, and agrees to pay Twelve Thousand Seven Hundred Sixty-Two Dollars One Cent (\$12,762.01) on the first day of the one hundred eighty-fourth (184th) month.

It is further agreed by and between the parties that until Par Industrial Corporation has a Chapter 11 plan confirmed by the United States Bankruptcy Court for the Southern District of West Virginia, The City of Nitro reserves the right to request the Bankruptcy Court for additional monthly payments over and above the amounts listed in this addendum, but after the plan of reorganization is confirmed by the Court, The City of Nitro will accept the monthly payments as set forth in that plan of reorganization; and as long as monthly payments are made in accordance with

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this addendum and the plan of reorganization, The City of Nitro will not seek any further collection actions against Par Industrial Corporation or Par Associates.

That, in further consideration of Par Industrial Corporation granting to the City of Nitro the above-referenced lien, the City agrees to waive B & O taxes from the time the debtor became a part of the City of Nitro until July 1, 1988, and to waive interest on the pre-petition taxes. Par Industrial Corporation agrees to pay all other taxes due and owing to the City of Nitro.

PAR INDUSTRIAL CORPORATION

DATE

By: _____
JOHN PIZZUTO, PRESIDENT

PAR ASSOCIATES

DATE

By: _____
JOHN PIZZUTO, GENERAL
PARTNER

THE CITY OF NITRO

DATE

By:  _____
RUSTY CASTO, MAYOR

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ORDINANCE AMENDING AND REENACTING AN ORDINANCE
ESTABLISHING RATES AND CHARGES
FOR SERVICES RENDERED BY THE
SANITARY BOARD OF THE CITY OF NITRO

WHEREAS, the City of Nitro, West Virginia, owns and operates a certain wastewater collection and treatment system in and around the City of Nitro, Kanawha and Putnam Counties, West Virginia; and

WHEREAS, the Governing Body of the City enacted an Ordinance on February 21, 1995, which amended certain rates and charges for the use of the City's sanitary sewer system; and

WHEREAS, it has been determined that such Ordinance contains an error in the formula by which the surcharge for roof drains and storm sewers is calculated; and

WHEREAS, the Sanitary Board of the City of Nitro has requested the Council of the City of Nitro to amend and reenact such Ordinance in order to correct the error in the formula referred to above.

NOW THEREFORE BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA:

1. From and after the effective date of this Ordinance, the rates and charges for the use of and services rendered by the sanitary sewer system of the City of Nitro shall be as follows:

First	2,000 gallons used per month	4.62 per 1,000 gallons
Next	3,000 gallons used per month	3.88 per 1,000 gallons
Next	25,000 gallons used per month	3.01 per 1,000 gallons
Next	70,000 gallons used per month	2.71 per 1,000 gallons
Next	100,000 gallons used per month	2.13 per 1,000 gallons
All Over	200,000 gallons used per month	1.60 per 1,000 gallons

Minimum Rate: No bill will be rendered for less than \$11.18 per month.

Residential Flat Rate: Each unmetered residential customer shall be charged a flat rate of \$18.95 per month.

Service Connection Inspection Fee: \$25.00

Service Connection (Tap) Fee: \$400.00

Delayed Payment Penalty: The above schedule is net. Any bill not paid in full within twenty (20) days, ten percent (10%) will be added to the net amount thereof. This delayed payment penalty is not interest and is only to be collected once for each bill where appropriate.

Disconnect Fee: \$20.00

Reconnect Fee: \$20.00

The above disconnect fee is applicable when the Sanitary Board requests that a customer's water service be disconnected for non-payment of the sewer bill, whether or not such service is actually disconnect.

The above reconnect fee is applicable when a customer's water service is disconnected for non-payment of the sewer bill, and such service is thereafter reconnected.

Interest: In the event any bill is not paid within 30 days, interest on the amount of such bill will be charges at the rate of ten per cent (10%) per annum.

Return Check Charge: In the event any check, draft or order given in payment for a sanitary sewer bill is dishonored because of insufficient funds, a service charge of \$15.00 shall be imposed.

Surcharge for Roof Drains and Storm Sewers connected to the City of Nitro Sanitary Sewer System: The charge for roof drains, downspouts, storm sewers or similar facilities connected to the sanitary sewer system of the City of Nitro will be calculated on the basis of the following formula and will not be cumulative upon any metered rate for sewer service charges:

$$S = A \times R \times .6233 \times C$$

S - The Surcharge in Dollars.

A - The Average Area Under Roof or the Area of Such Other Water Collecting Surface Connected to the Sanitary Sewer System in Square Feet.

R - The Measured Monthly Rainfall in Inches: .6233 is the conversion factor to complete thousand gallons.

C - The Applicable Rate Per Thousand Gallons of Metered Water Usage.

2. The above rates and charges shall be applicable for any owner, tenant, or occupant of each and every lot or parcel of land or building situated within or outside the corporate limits of the City of Nitro and having any connection to the sanitary sewer system of the City.

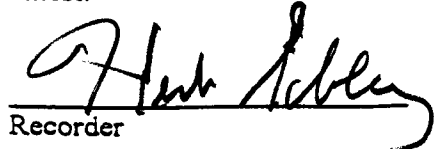
3. Any industrial customer served pursuant to a specific sewer service agreement, shall be charged as provided in such agreement.

4. This Ordinance shall take effect forty-five days from its passage.

Passed on first reading	_____	1997.
Public hearing held	_____	1997.
Enacted on second reading	_____	1997.
Effective date	_____	1997.

Mayor

Attest:


Recorder

AGREEMENT

THIS AGREEMENT, Made and entered into this _____ day of _____, 1997, by and between **THE CITY OF NITRO**, a West Virginia municipal corporation, hereinafter referred to as "City," and **THE SANITARY BOARD OF THE CITY OF NITRO**, an agency of the City of Nitro, hereinafter referred to as "Sanitary Board."

WHEREAS, the City holds a national pollution discharge elimination system permit, whereby the City is authorized to discharge certain storm waters and waste waters into the rivers and streams in and around the City; and,

WHEREAS, the sanitary sewage system of the City is under the control and supervision of the Sanitary Board; and,

WHEREAS, the Sanitary Board operates certain combined storm overflows ("CSO's"), which permit the Sanitary Board to discharge untreated waste water during certain times of heavy rainfall, when the City's combined sewer system is overtaxed; and,

WHEREAS, the City and the Sanitary Board have heretofore entered into an agreement to make certain efforts to reduce and eliminate the discharge of untreated waste water; and,

WHEREAS, one method of reducing the amount of untreated waste water to be discharged is to make certain the City's storm sewer system is operating efficiently and at maximum capacity, and to reduce the volume of solids and floatables that enter the system so there is less need to discharge untreated water during times of high rainfall and storm activity; and,

WHEREAS, the City and the Sanitary Board heretofore entered into an agreement whereby the City agrees to clean the streets, storm sewers, and catch basins, quarterly, to maximize the capacity of the storm sewer system; and,

WHEREAS, to perform said responsibilities under the aforesaid agreement, it is necessary that the City obtain and own, by lease purchase, an air sweeper, the cost of such acquisition, the parties to this Agreement agree to share equally; and,

WHEREAS, the Sanitary Board will benefit by having its sewer system operating efficiently and at maximum capacity by the City owning and operating the air sweeper,

NOW, THEREFORE, WITNESSETH that the City and Sanitary Board agree as follows:

1. City shall undertake to obtain an air sweeper, the specifications of which are attached hereto and marked "Exhibit A," by lease purchase agreement.
2. Acquisition cost, interest rate, and monthly payment for said air sweeper shall be as set forth in the Financing Proposal under the West Virginia Municipal League Lease/Purchase Program, dated March 25, 1997, attached hereto and marked "Exhibit B."
3. Sanitary Board shall be responsible for the monthly payment of Two Thousand Five Hundred Nineteen Dollars Twenty Cents (\$2,519.20) for the first twenty-four (24) months.
4. City shall be responsible for the monthly payment of Two Thousand Five Hundred Nineteen Dollars Twenty Cents (\$2,519.20) for the last twenty-four (24) months.
5. City agrees to pay the costs associated with the operation and maintenance and of all personnel required to operate said air sweeper in accordance with the aforesaid agreement.
6. Upon payment, the air sweeper shall be titled in the name of the City of Nitro, and the use of the same shall be controlled by the City of Nitro, subject to the requirements of the aforesaid agreement.

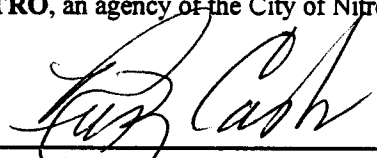
THE CITY OF NITRO, a West Virginia
municipal corporation

By 
MAYOR RUSTY CASTO

ATTEST:


CITY RECORDER Herb Sibley

THE SANITARY BOARD OF THE CITY OF
NITRO, an agency of the City of Nitro

By 
CHAIRMAN RUSTY CASTO

ATTEST:

SECRETARY Constance J. Stephens

AN ORDINANCE ZONING 14.4 ACRES, MORE OR LESS,
FORMERLY/COMMONLY KNOWN AS THE FIKE/ARTEL
PROPERTY AS "I" LIGHT INDUSTRIAL DISTRICT

WHEREAS, pursuant to City of Nitro Ordinance No. 89-5 and on the 29th day of June, 1989, upon a petition filed by the City of Nitro to annex certain territory located in Kanawha County and Putnam County, West Virginia, containing 14.4 acres, more or less, which was formerly commonly known as the Fike/Artel real estate, was annexed to the City of Nitro by entry of an Order of the County Commission of Kanawha County, a copy of which Order, with attached Exhibit A, are attached hereto and made a part hereof; and

WHEREAS, the City of Nitro has not heretofore taken any action with regard to the zoning of said real estate; and

WHEREAS, it is the intent of this Council that said real estate be zoned "I" Light Industrial District.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nitro, Kanawha and Putnam Counties, West Virginia, that all of that certain territory annexed to the City of Nitro by that certain Order attached hereto shall, immediately, upon the passage of this Ordinance, be zoned "I" Light Industrial District.

Passed on First Reading: _____

Adopted on Second Reading: 4/15/97

RUSTY CASTO, MAYOR



CITY RECORDER

IN THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA

IN RE:

CITY OF NITRO, a West
Virginia municipaltiy,

Petitioner.

O R D E R

This 29th day of June, 1989, 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 Kanawha County and Putnam County, West Virginia, containing 14.4 acres, more or less, which territory is more particularly bounded and described on Exhibit "A" attached hereto and made a part hereof, and which territory being more particularly bounded and described as set forth and more fully shown upon an accurate survey entitled, ""Map Showing City Of Nitro Proposed 1989 Annexation Of 6.3 Acre Tract Pocatalico District, Putnam County and 7.5 Acre Tract Union District, Kanawha County and 0.6 Acre Tract On County Rte. 25/9 Putnam County West Virginia," dated May 1, 1989, Scale: 1'=100", Prepared by Dunn Engineers, Inc., Charleston, West Virginia, Ronald L. Williams, C.E., R.P.E. No. 4408.

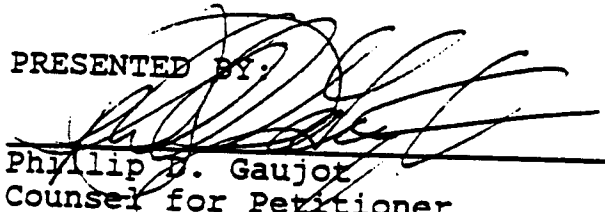
Upon the showing pursuant to the provisions of Chapter 8, Article 6, Section 5, of the West Virginia Code of 1931, as amended, the City of Nitro, West Virginia, by its counsel, ordained to annex the above-described area, situate in Kanawha County and Putnam County, West Virginia, as hereinbefore described, by minor boundary adjustment; and

All of which is accordingly ADJUDGED, ORDERED and DECREED
this 29th day of June, 1989.

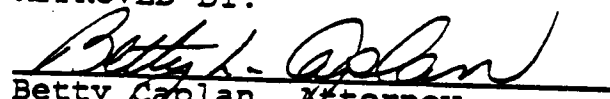
ENTER:

LHB
Done for Hunt
William J Reese

PRESENTED BY:


Phillip D. Gaujot
Counsel for Petitioner

APPROVED BY:


Betty Caplan, Attorney
Kanawha County, West Virginia

Upon further finding that there is one (1) freeholder in the area proposed to be annexed to the corporate limits by the proposed change; and said freeholder 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 the hearing on such proposal; and upon the finding that the order showing notice of said hearing was prominently posted at not less than five (5) public places within the area proposed to be annexed; and

Upon the finding that a certificate and/or ordinance of the governing body of the municipality of Nitro was filed showing that an annexation has been made, in the manner required by law, to the corporate limits thereof;

Therefore, it is hereby **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 of Nitro, West Virginia, 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 of Nitro, West Virginia, shall be as set forth herein.

FIKE CHEMICALS ANNEXATIONANDROUTE 25/9 ANNEXATIONVISCOSE ROAD/PLANT ROAD

Situate in Pocatalico District, Putnam County, and Union District, Kanawha County, West Virginia, and being more particularly described as follows:

Beginning at a point in the western right-of-way line of Route 25/9 (known as Viscose Road or Plant Road) at its intersection with the dividing line between Kanawha and Putnam Counties and in the line of the Sattes, River and Westerly Area Annexation of 1958 (Book 6, Page 209);

thence, leaving said dividing line and Annexation of 1958 and running with the western line of said Route N13°38'E, 279.83 feet; N11°52'E, 846.68 feet; N30°49'E, 98.59 feet; N44°17'E, 152.96 feet; and N42°15'E, 142.22 feet to a point in the Par Industrial Park Annexation of 1983 (Book 19, Page 81);

thence, with said Annexation of 1983 line, S73°32'E, 11.11 feet; S42°15'W, 147.23 feet; S44°17'W, 151.96 feet; S30°49'W, 95.74 feet; S11°52'W, 845.16 feet; and crossing Route 25/9, S76°11'E, 40.00 feet to a point in the eastern line of said Route 25/9 at its intersection with the dividing line of Kanawha and Putnam Counties and in the northern line of a 50 foot roadway reservation which northern line runs in an easterly direction with said dividing line; said point also being at the southwest

corner of a 3.57 Acre parcel owned by West Virginia Spring and Radiator Company, as recorded in Deed Book 292 at Page 154 in the Office of the Clerk of Putnam County;

thence, running with the line of said 3.57 Acre parcel and the said dividing line of Kanawha and Putnam County, three courses; S76°11'E, 363.57 feet; N74°17'E, 313.56 feet; and N13°50'E, 281.03 feet leaving the 3.57 Acre tract at 123.03 feet and running with a tract of land owned by Dana Container, Inc., as recorded in the Office of the Clerk of Putnam County in Deed Book 301, Page 191;

thence, leaving the said counties dividing line and continuing with the Dana Container tracts and western line of said roadway N13°50'E, 714.76 feet to the southern line of a 50 foot roadway reservation;

thence, with said roadway southern line and further along Dana Container Tracts, and a 0.928 Acre Tract owned by C.S.T., Inc., as recorded in the Office of the Putnam County Clerk in Deed Book 270, Page 263, N76°13'W, 470.05 feet to a point in the southeastern line of said Route 25/9, said point also being the northern most corner of said 0.928 Acre parcel of C.S.T., Inc.;

thence, along the southeastern line of said Route 25/9 and diagonally across said 50 foot roadway reservation, N42°32'E, 57.03 feet to the northern line of said roadway reservation;

thence, along the northern line of said roadway reservation S76°13'E, 492.61 feet to a point in the eastern line of said roadway reservation;

thence, along the eastern line of said 50 foot road reservation S13°50'W, 290.10 feet, to a point;

thence, leaving said 50 foot roadway reservation and going S76°13'E, 270.75 feet along a 2.13 Acre tract of land owned by VIMASCO Corp., said tract being recorded in the Office of the Clerk of Putnam County in Deed Book 106, Page 4;

thence, along a 0.58 Acre tract of land owned by VIMASCO, said tract being recorded in the Clerk of Putnam County in Deed Book 140, Page 299, S13°50'E, 65.66 feet and S76°10'E, 168.25 feet to a point in the western right-of-way line of Consolidated Rail Corporation, said point being 20.00 feet by rectangular measurement from the centerline of said railroad's sidetrack #4699;

thence, with the said railroad right-of-way line S9°54'E, 93.16 feet; S3°58'E, 91.89 feet; S1°26'W, 160.91 feet to a point in the dividing line between the said Putnam and Kanawha Counties;

thence, crossing said Counties dividing line and continuing with said railroad right-of-way S1°19'W, 200.00 feet;

thence, further with said right-of-way on a curve to the right with the following chords S8°10'W, 81.84 feet; S15°53'W, 75.00 feet; S27°15'W, 100.00 feet; S39°55'W, 100.00 feet; S51°19'W, 100.00 feet; S63°20'W, 50.00 feet; S74°19'W, 50.00 feet and S86°43'W, 49.57 feet;

thence, further with said railroad right-of-way on a tangent S89°29'W, 122.47 feet;

thence, further with said right-of-way on a curve to the left with a chord of S86°19'W, 75.00 feet to a point, in said right-of-way line, to a common corner with a 4.06 Acre tract owned by T.R. and C. L. Halloran as recorded in Kanawha County Courthouse in Deed Book 1890, Page 704;

thence, leaving said right-of-way line and with said Halloran tract, N7°05'W, 56.29 feet; N13°50'E, 581.06 feet; and N76°10'W, 121.01 feet to the east line of 50 foot roadway reservation;

thence, further with the Halloran tract and with the east line of said 50 foot roadway reservation S13°50'W, 280.15 feet and S74°17'W, 355.88 feet (leaving the Halloran tract at 268.14 feet);

thence, with the south line of said road reservation and with the line of a 2.12 Acre tract owned by A. L. King, N76°11'W, 376.75 feet to the eastern line of Route 25/9, and the dividing line of Kanawha and Putnam Counties;

thence, with said dividing line and the eastern line of said Route, S13°38'W, 230.32 feet to a point in the line of the aforementioned Sattes, River and Westerly Area Annexation of 1958;

thence, crossing said Route 25/9 along said Annexation of 1958 line, N75°50'W, 50.00 feet to the point of beginning containing 14.4 Acres, more or less.

I, Marcel Lee Catfield, do hereby certify that this is a true copy from the record of the County Commission of Kanawha County, West Virginia.

Kanawha County Commission
Date 6/30/89 By Marcel Lee Catfield
Executive Secretary

AN ORDINANCE DIRECTING THE MAYOR OF THE CITY OF NITRO, WEST VIRGINIA, TO EXECUTE AND ENTER INTO AN AGREEMENT BETWEEN THE CITY OF NITRO AND THE SANITARY BOARD OF THE CITY OF NITRO TO PURCHASE AN AIR SWEEPER

WHEREAS, the City of Nitro holds a national pollution discharge elimination system permit, whereby the City of Nitro is authorized to discharge certain storm waters and waste waters into the rivers and streams in and around the City of Nitro; and,

WHEREAS, the sanitary sewage system of the City of Nitro is under the control and supervision of the Sanitary Board; and,

WHEREAS, the Sanitary Board operates certain combined storm overflows ("CSO's"), which permit the Sanitary Board to discharge untreated waste water during certain times of heavy rainfall, when the City's combined sewer system is overtaxed; and,

WHEREAS, the City of Nitro and the Sanitary Board have heretofore entered into an agreement to make certain efforts to reduce and eliminate the discharge of untreated waste water; and,

WHEREAS, one method of reducing the amount of untreated waste water to be discharged is to make certain that the City's storm sewer system is operating efficiently and at maximum capacity, and to reduce the volume of solids and floatables that enter the system so there is less need to discharge untreated water during times of high rainfall and storm activity; and,

WHEREAS, the City of Nitro and the Sanitary Board heretofore entered into an agreement whereby the City of Nitro agrees to clean the streets, storm sewers, and catch basins, quarterly, to maximize the capacity of the storm sewer system; and,

WHEREAS, to perform said responsibilities under the aforesaid agreement, it is necessary that the City of Nitro obtain, by lease purchase, an air sweeper, the cost of which the parties to this Agreement agree to share equally; and,

WHEREAS, the Sanitary Board will benefit by having its sewer system operating efficiently and at maximum capacity by the City of Nitro owning and operating the air sweeper.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nitro, Kanawha and Putnam Counties, West Virginia, that the Mayor is authorized to enter into the Agreement with the Sanitary Board to purchase an air sweeper, a copy of said Agreement is attached to this Ordinance and marked as "Exhibit A."

Passed on First Reading: _____

Adopted on Second Reading: _____

RUSTY CASTO, MAYOR



CITY RECORDER

WEST VIRGINIA MUNICIPAL LEAGUE

lease/purchase program

March 25, 1997

Financing Proposal for the CITY OF NITRO

Comvest Ltd., Inc. is pleased to present on behalf of the West Virginia Municipal League lease/purchase program the following financing proposal for the acquisition one (1) 1997 Street Sweeper.

ACQUISITION COST:	\$105,000.00
DOWN PAYMENT:	\$ 0.00
TOTAL:	\$105,000.00
TERM:	4 Years
PAYMENT MODE:	Monthly Arrears
INTEREST RATE:	6.83%
PAYMENT:	\$2,519.20

The above quotation is subject to credit review, approval and execution of mutually acceptable documentation, including legal counsel's opinion that the purchase is legal, binding and qualified as a tax-exempt debt, if necessary. *All additional costs relating to the completion and recordation of this transaction are included in the above quoted payment.* This quotation does not obligate the West Virginia Municipal League lease/purchase program, Comvest Ltd., Inc., or any of its funding sources, until all requirements and obligations have been met. In order to process this quote on a timely basis, three (3) years audited financial statements or IRS form 970s for the past three (3) years, the current budget and a completed lease application must be submitted. No funding will be released until compliance. The above quoted rate is good for a period of thirty (30) days from the day hereof, thereafter said rate may be subject to change.

Very truly yours,

COMVEST LTD., INC.

By David R. Fike
David R. Fike
Senior Sales Manager

P.O. BOX 2025 • CLARKSBURG, WV 26302 • 1-800-648-4216 • 304-841-8217 (FAX)

03/25/97 13:08

TX/RX NO.3286

P.001

03/26/97 15:05 FAX 304/841-8217

AGREEMENT

THIS AGREEMENT, Made and entered into this _____ day of _____, 1997, by and between **THE CITY OF NITRO**, a West Virginia municipal corporation, hereinafter referred to as "City," and **THE SANITARY BOARD OF THE CITY OF NITRO**, an agency of the City of Nitro, hereinafter referred to as "Sanitary Board."

WHEREAS, the City holds a national pollution discharge elimination system permit, whereby the City is authorized to discharge certain storm waters and waste waters into the rivers and streams in and around the City; and,

WHEREAS, the sanitary sewage system of the City is under the control and supervision of the Sanitary Board; and,

WHEREAS, the Sanitary Board operates certain combined storm overflows ("CSO's"), which permit the Sanitary Board to discharge untreated waste water during certain times of heavy rainfall, when the City's combined sewer system is overtaxed; and,

WHEREAS, the City and the Sanitary Board have heretofore entered into an agreement to make certain efforts to reduce and eliminate the discharge of untreated waste water; and,

WHEREAS, one method of reducing the amount of untreated waste water to be discharged is to make certain the City's storm sewer system is operating efficiently and at maximum capacity, and to reduce the volume of solids and floatables that enter the system so there is less need to discharge untreated water during times of high rainfall and storm activity; and,

WHEREAS, the City and the Sanitary Board heretofore entered into an agreement whereby the City agrees to clean the streets, storm sewers, and catch basins, quarterly, to maximize the capacity of the storm sewer system; and,

WHEREAS, to perform said responsibilities under the aforesaid agreement, it is necessary that the City obtain and own, by lease purchase, an air sweeper, the cost of such acquisition, the parties to this Agreement agree to share equally; and,

WHEREAS, the Sanitary Board will benefit by having its sewer system operating efficiently and at maximum capacity by the City owning and operating the air sweeper,

NOW, THEREFORE, WITNESSETH that the City and Sanitary Board agree as follows:

1. City shall undertake to obtain an air sweeper, the specifications of which are attached hereto and marked "Exhibit A," by lease purchase agreement.
2. Acquisition cost, interest rate, and monthly payment for said air sweeper shall be as set forth in the Financing Proposal under the West Virginia Municipal League Lease/Purchase Program, dated March 25, 1997, attached hereto and marked "Exhibit B."
3. Sanitary Board shall be responsible for the monthly payment of Two Thousand Five Hundred Nineteen Dollars Twenty Cents (\$2,519.20) for the first twenty-four (24) months.
4. City shall be responsible for the monthly payment of Two Thousand Five Hundred Nineteen Dollars Twenty Cents (\$2,519.20) for the last twenty-four (24) months.
5. City agrees to pay the costs associated with the operation and maintenance and of all personnel required to operate said air sweeper in accordance with the aforesaid agreement.
6. Upon payment, the air sweeper shall be titled in the name of the City of Nitro, and the use of the same shall be controlled by the City of Nitro, subject to the requirements of the aforesaid agreement.

THE CITY OF NITRO, a West Virginia
municipal corporation

By


MAYOR RUSTY CASTO

ATTEST:


CITY RECORDER Herb Sibley

THE SANITARY BOARD OF THE CITY OF
NITRO, an agency of the City of Nitro

By


CHAIRMAN RUSTY CASTO

ATTEST:

SECRETARY Constance J. Stephens

CITY OF NITRO COUNCIL MEETING

MAY 06, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present: City Recorder Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr. Also present City Attorney, Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Bob Mattox.

AGENDA ITEM NO. 2 CITIZEN OF THE MONTH:

Mayor Casto announced Mr. & Mrs. Guy Arbaugh as **Citizens of the Month**. Also Mayor Casto commended this Husband and Wife team for their efforts of keeping the town nice and clean. Mr. & Mrs. Arbaugh enjoy walking and while doing so, they pickup trash and debris along the way. Mr. Arbaugh stated he did not expect recognition for this effort, but he felt it was his duty to help however he can to keep the city looking nice. He said he was just following the example the Mayor and Council has set before him. Mayor Casto presented Mr. Arbaugh with a new box of trash bags and a Los Angeles Dodgers cap.

AGENDA ITEM NO. 3 APPROVAL OF MINUTES:

COUNCILMAN ROBERT YOUNG MOVED TO APPROVE APRIL 16, 1997 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 4 FIREMEN'S PENSION BD:

COUNCILMAN BOB YOUNG MOVED TO MAKE THE FIREMEN'S PENSION BD. MINUTES A PART OF MAY 06, 1997 COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. (Copy Attached)

AGENDA ITEM NO. 5 CONRAIL: Mayor Casto yielded the floor to Mike Sheime from Conrail. Mr. Sheime stated he addresses different safety improvements, particularly around railroad crossings where trains and cars meet. Mr. Sheime stated there are four crossings in town that only have signs posted and do not have flashing lights. Mr. Sheime discussed the closing of two of the crossings one at River Avenue and one at Spring St. Mr. Sheime explained to council why he thought it would be wise to close these crossings. Mr. Sheime stated this \$200,000/\$250,000 project would be funded by the Railroad and State. Conrail would pave the affected streets. A discussion followed regarding this project. Mr. Ray Lewis from the Dept of Highways also spoke regarding the cost of these types of projects. COUNCILMAN AT LARGE STEVE WEST MOVED TO GIVE CITY ATTORNEY THE AUTHORITY TO GO AHEAD WITH PROPER PAPER WORK REGARDING THIS ISSUE. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. Mr. Sheime indicated he has no problem with water lines under the track to facilitate hook-up on fire hydrants.

AGENDA ITEM NO. 6 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller. Mr. Miller announced the "Car Show" May 16 & 17th. Also hopefully there will be a voters registration booth setup for the citizens of Nitro. Mr. Miller stated some further work has been done on the bungalow.

AGENDA ITEM NO. 7 POOL RATES: Mayor Casto announced the rates recommended for the pool. Family pass \$75.00, individual \$40.00, daily rates, \$2.00, seniors citizens and under 10 yrs \$1.00.

Councilman David Miller asked Mayor Casto how much is being charged for a parking spot. Mayor Casto said he did not ask that question. Ms. Sutherland stated the fee is \$25.00 and they will only accept cash and that raises a question in my mind. Councilman George Atkins commented sometime back we had a committee meeting with Paul McClanahan. Mr. McClanahan assured the committee the students that could not park on the school property would use the city parking area and they could not park on the street this has never happened. Councilman Atkins said Mr. McClanahan has not done anything to correct the situation. A heated discussion followed the procedure being followed regarding parking. Mrs. Jarvis, Kanawha County School Board Member, offered different suggestions to ease the situation. Mrs. Jarvis requested a little time to work on further solutions.

COUNCILMAN AT LARGE STEVE WEST MOVED TO CLOSE THE ALLY BEHIND THE HOUSES ON PARK AVENUE TO through TRAFFIC. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED WITH COUNCILMEN FRANK GROVER, JR., ROBERT MATTOX AND REC. HERBERT SIBLEY VOTING AGAINST.

Councilman at Large Robert Mattox moved this meeting be adjourned. Mayor Casto said Chief Winters still needs to speak. Chief Winter announced May 12, through May 17 **Police Week**. Also Chief Winter stated the Police Department is enforcing the "**Bicycle Helmet Law**" and he said, the kids wearing helmets are being rewarded with gift certificates from Domino's Pizza. This effort is being sponsored by AAA and Dominos's Pizza.

AGENDA ITEM NO. 14 ADA: Councilman at Large Robert Mattox presented council with copies of bids for the entrance doors. We received two bids for the construction, one from Diversified Contractors for a total of \$12,195.00 and one from B & L Contractors \$15,126.75. There is also information from Benjamin Newhouse regarding grants. The recommendations from the committee is to table this project at this time due to 31st Bridge and Frederick St. projects. COUNCILMAN GEORGE ATKINS MOVED TO TABLE ADA PROJECT TO A LATER DATE. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

Councilman at Large Bob Mattox announced June 12th as City Beautification Day in Nitro. Councilman Mattox stated Donna Rigsby from AT&T called regarding volunteers. AT&T's Program will provide as many as 30 volunteers to donate time to help clean up the City. Also, the Mayor is trying to contact the Seabees to help in this project. Councilman Mattox stated there are several things that need to be worked out.

Mayor Casto said he received a request from the mail carriers to pick up donated food at mail boxes, Saturday, May 10, 1997. COUNCILMAN AT LARGE STEVE WEST MOVED TO GRANT FOOD PICKUP REQUEST MAY 10, 1997. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

Mayor Casto informed Council that he and Gene Williams met with Conrail regarding Frederick Street to run the drain lines in that area.

Councilman Frank Grover: commented there is a great need for fire hydrants in ward 4 on the otherside of the railroad track and requested the Council at Large to be familiar with this area. Councilman Grover stated the city will never have better opportunity to negotiate with the railroad.

Councilman George Atkins: COUNCILMAN GEORGE ATKINS MOVED FROM THIS DAY FORWARD ALL FLAGS TO BE FLOWN AT HALF MAST DUE TO THE DEATH OF A CITY EMPLOYEE. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

COUNCILMAN AT LARGE BOB MATTOX MOVED TO APPROVE THE 97 POOL RATES AS PRESENTED. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

Mayor Casto stated anyone wanting to participate on the swim team must have a pass to the pool. Mayor Casto explained the different leagues to council. Mayor Casto said the leagues would not make any money this year, but should come out ahead next year. Mayor Casto requested council to approve the purchase of buying the league equipment. After some discussion, COUNCILMAN FRANK GROVER MOVED TO ADVERTISE FOR PARTICIPANTS IN SAND VOLLEY BALL, WATER VOLLEY BALL AND BASKETBALL. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

Ivan Meadows reported the Seabees completed the roof on the shower houses and they would be available for other community work.

AGENDA ITEM NO. 8 HIGHWAY 19TH ST-27TH STREET: Mayor Casto reported he had requested from the past and present Governors Offices, paving of 1st Avenue from 19th Street to 40th Street and to bring a curb from 27th St. to 19th St. allowing parking for the businesses in that area. Mayor Casto stated he had received word from State Highway Dept. they will be starting soon on the paving on 1st Avenue but due to the flooding this year the curbs will have to wait until next year.

AGENDA ITEM NO. 9 MUNICIPAL FEE INCREASE: Mayor Casto stated the \$4.00 increase would raise the current fee (residential) from \$12.00/mo to \$16.00/mo. RECORDER HERBERT SIBLEY MOVED MAYOR CASTO READ TITLE ONLY OF ORD 97- THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED. MAYOR CASTO READ TITLE ONLY OF ORD. 97- WHEREAS THE CITY OF NITRO DECLARES A NECESSITY AND CONVENIENCE TO INCREASE THE RATES FROM \$12.00/MO TO \$16.00/MO TO RESIDENTIAL USERS FOR ESSENTIAL MUNICIPAL SERVICES INCLUDING POLICE PROTECTION, FIRE PROTECTION, STREET LIGHTING, STREET MAINTENANCE, STREET CLEANING, STREET IMPROVEMENTS, AMBULANCE SERVICE, RECREATION AND GARBAGE AND REFUGE COLLECTION EXCLUDING SEWAGE AND SEWAGE DISPOSAL AND ESSENTIAL MUNICIPAL. THEREFORE BE IT ENTERTAINED THAT THE CITY OF NITRO HEREBY AMENDS PART ARTICLE 741 TITLED MUNICIPAL SERVICE FEES AS FOLLOWS: RECORDER HERBERT SIBLEY MOVED TO PUT THIS ORDINANCE ON THE FLOOR FOR DISCUSSION. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS. Mayor Casto yielded the floor to Treasurer Ralph Allison. Mr. Allison stated the generated yearly income from this increase would be approximately \$120,000 to \$130,000. Treasurer Ralph Allison said the City needs the increase and it was comparable to surrounding cities. Recorder Sibley stated two years ago, Sycamore Landfill increased their rates from \$23.50/ton to \$43.50/ton. We were spending \$100,000 for landfill cost, it is now \$200,000 plus. That is why we have to so careful what we pick up. Councilman at Large Bob Mattox asked if a new chipper was planned for in this increase. Mayor Casto stated it was. After some discussion COUNCILMAN RICHARD SAVILLA MOVED TO PUT THIS ISSUE IN COMMITTEE. THE MOTION WAS SECONDED BY COUNCILMAN YOUNG AND WAS CARRIED WITH COUNCILMAN AT LARGE ROBERT MATTOX OPPOSING. Mayor Casto announced a finance meeting next Tuesday at 7:00 p.m. in conference room.

AGENDA ITEM NO. 10 - SHERRY SUTHERLAND: Mayor Casto introduced Sherry Sutherland regarding Park Ave. Ms. Sutherland presented council with results of a survey done in that part of town. Ms. Sutherland addressed parking, loading and unloading of buses and possibility of putting up a fence were discussed. Ms. Sutherland stated the residents on Park Avenue want residential parking instituted. Ms. Sutherland said this is feasible and is not expensive. Many solutions were offered by Ms. Sutherland and she said the residents have respect for the school and they expect respect in return.

Councilman Atkins reported Sgt. Jack Jordan has been receiving quite of bit of overtime. Councilman Adkins questioned if Sgt. Jordan could be paid with some of the drug money. Chief Winter stated overtime cannot be paid with this money. The M-Dent will pay for either/or backfill slot or overtime.

Councilman Robert Young: Stated the drain on top of hill in Brookhaven is still not cleaned out. Mayor Casto said he was told it had already been done.


Councilman Robert Mattox: Councilman Mattox requested an Ordinance to be prepared along with fines for feeding the geese and ducks at Ridenour Lake. Councilman Mattox stated he realized the City is a bird sanctuary but.....there is a big difference between blue birds and geese. COUNCILMAN ROBERT MATTOX MOVED THE CITY ATTORNEY PREPARE AN ORDINANCE TO MANDATE FINES AND TO ERECT SIGNS REGARDING FEEDING OF DUCKS AND GEESE AT RIDENOUR LAKE. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED WITH COUNCILMAN AT LARGE STEVE WEST AND RECORDER HERB SIBLEY OPPOSING.

City Attorney, Phillip Gaujot stated Par Ind. has refused to respond, so I am requesting permission to file from chapter 11 bankruptcy to chapter 7 bankruptcy. COUNCILMAN AT LARGE STEVE WEST MOVED TO GIVE CITY ATTORNEY AUTHORITY TO FILE FOR CHAPTER 7 BANKRUPTCY. THE MOTION WAS SECONDED BY COUNCILMAN AT ROBERT MATTOX AND WAS CARRIED.

Counselor Gaujot commented he expects word from EPA relatively soon. Hopefully I will be able to report to Council at the next meeting. A discussion followed regarding ownership of roadway from city park lot to Par.

Mayor Casto stated the comment in the paper regarding paving of road in Old County Road area was incorrectly quoted. It should have read when the Par money is received, the road will be paved.

There being no further business the meeting was adjourned.


 RUSTY CASTO, MAYOR


 HERBERT SIBLEY, RECORDER

NITRO FIREMEN'S PENSION BOARD MEETING

APRIL 7, 1997

The Firemen's Pension Board Meeting was called to order at the Fire Department April 7, 1997 at 9:00 a.m. Present were Captain E. W. Hedrick, II, Captain Ronnie King and Firefighter Jeff Elkins. Chief Steve Hardman was at the Firehouse, but entered the meeting late. Also present were Mike Johnson from Franklin Templeton Group and Secretary Pansy Armstead.

AGENDA ITEM NO. 1 - APPROVAL OF OCTOBER 25, 1996 MINUTES: - Captain Hedrick moved the minutes of October 25, 1996 be approved as distributed. Motion seconded by Firefighter Elkins. A vote was taken and it was unanimous.

AGENDA ITEM NO. 2 - CERTIFY ELECTION RESULTS MARCH 10, 1997: - Captain King moved the election results be noted and accepted. The motion was seconded by Firefighter Elkins, vote taken and it was unanimous. E. W. Hedrick, II was reelected for a four-year term expiring 2001. Others members and terms as follows: Jeff Elkins 1998, Chief Hardman 1999 and Captain King 2000.

AGENDA ITEM NO. 3 - OLD BUSINESS: - Captain King asked if the payment authorized at the last meeting was paid to EFI Actuaries. (Paid 10/25/96)

AGENDA ITEM NO. 4 - NEW BUSINESS: - Captain King questioned if the City was making contributions, and the amount was questioned. Captain King said the City should be putting in \$3,117 for fiscal year ending June 30, 1996 and \$3,335 for fiscal year ending June 30, 1997. This will be brought to the attention of the Treasurer. Also, the secretary was asked to find out from the Treasurer if the information had been mailed for the actuary.

Mr. Mike Johnson from Franklin Templeton Group reviewed the Fire Pension Board's investment at this time with Bank One. He said they earned 14.12% return and made good sound investments. Mr. Johnson said his firm charges 4.25% of the investment if less than \$100,000 which they pay the brokerage fund a percentage of this to PFS Investments. The .13% is what the fund charges the account and a percentage of this is paid to his company. He explained that the portfolio could show the monthly amount needed withdrawn to pay the pensioners. Captain King asked if we take 10% of the funds now (\$34,000) and deposit it with someone to buy stocks, could we make additional deposits into the account, and Mr. Johnson informed them they may. He said the portfolio furnished showed his company to be solid and has a good tract record. Captain Hedrick said he would like to get away from the fees charged by Bank One. Captain King said during the first two to three years we had anywhere from 11 to 14.8% gain. This needs to be discussed with the Treasurer.

Mr. Johnson explained that to open the account, the Board send the amount of money they decide upon and a statement will be mailed within 7 to 14 days and regular statements mailed

monthly. He recommended dividends be reinvested monthly. The lowest amount to open the account is \$250.00. He said the fund he has is a balanced fund, and now they are on a fixed income. Yield from 5.50 to 7%. Mr. Johnson said they could double their money in half the time with his company. He left literature for the Trustees' review. Mr. Johnson said he would discourage liquidating the treasury notes they now have. He said he would leave them intact and take money from another source if available.

Captain King said according to the report, they lost \$16,000 in six months last year.

Mr. Johnson left the meeting at this time and if any questions, please call him.

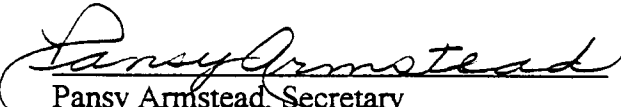
Captain Hedrick said we need to figure out where we are going to get the money to open the account with Franklin Templeton Group as he would like to get it going soon. Captain King said we may be able to put a portion of the State money in the account. Captain Hedrick suggested the 7% withheld from payroll checks be put into the fund.

Captain King said we haven't received the new actuary study, but he said the law states we are allowed to put up to 40% of our funds in the stock market. Ed Friend suggests no more than 25% be put in the stock market.

Captain King called Bank One and spoke with Carol Colbot to schedule a meeting with the account manager Jeff who works out of the Huntington office.

Chief Hardman said he was not in favor of investing in stocks. Captain King said we are losing money, but Chief Hardman said we are not losing money on investments; we are withdrawing it to pay the pensioners. Chief Hardman said he did not want to play the stock market, because the first time anyone lost the first dollar, there would be a lawsuit. Captain King said the State of WV said we must be in the stock market or they will be taking over the funds. Chief Hardman said there are people just waiting to sue if funds are lost in the stock market. He said brokers get rich and clients go broke. Discussion followed.

There being no further business, Captain King moved the meeting be adjourned, seconded by Firefighter Elkins. A vote was taken and it was unanimous.


Pansy Armstead, Secretary

CITY OF NITRO COUNCIL MEETING MINUTES

MAY 20, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder, Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller, George Atkins. Absent Councilman Frank Grover, Jr., Also present City Attorney Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Dean Miller

AGENDA ITEM NO. 2 APPROVAL OF MAY 6 MINUTES: City Recorder, Herbert Sibley moved to correct paragraph under City Attorney's comments near end of minutes to read ; COUNCILMAN AT LARGE STEVE WEST MOVED TO GIVE CITY ATTORNEY AUTHORITY TO FILE FOR CHAPTER 7 BANKRUPTCY, FOR PAR INDUSTRIAL PARK. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX.

COUNCILMAN AT LARGE STEVE WEST MOVED TO AMEND A SENTENCE NEAR THE END OF AGENDA ITEM #9 TO READ SYCAMORE LANDFILL INCREASED THEIR RATES FROM \$23.50/TON TO \$43.50/TON, THIS RATE WAS REDUCED ABOUT MARCH 1997, TO \$38.50/TON.

A VOTE WAS TAKEN TO APPROVE THE MINUTES AS AMENDED AND WAS CARRIED.

COUNCILMAN ROBERT YOUNG MOVED TO OPEN FIRE DEPARTMENT BIDS. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. Recorder Sibley stated the advertisement indicated the bids would be opened May 20, 1997 at 7:30 p.m. Councilman at Large Richard Savilla read the first bid from Ferrara Fire Apparatus for \$419,175 the second bid read by Councilman David Miller from Smeal Fire Apparatus for \$405, 509. RECORDER HERBERT SIBLEY MOVED TO PUT THIS MATTER IN COMMITTEE AND GIVE THE COMMITTEE THE AUTHORITY TO SELECT THE BID. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED. A Committee meeting was announced for Thursday, May 22, 1997 at 7:00 p.m. COUNCILMAN AT LARGE STEVE WEST MOVED TO GIVE BIDS TO THE FIRE DEPARTMENT FOR THEIR APPROVAL AND TO MAKE RECOMMENDATIONS TO THE COMMITTEE. THE MOTION WAS SECONDED BY COUNCILMAN DAVE MILLER AND WAS CARRIED.

AGENDA ITEM NO. 3 TIM SIZEMORE COMMUNITY CENTER: Mayor Casto yielded the floor to Tim Sizemore, President NDA. Mr. Sizemore reported the status of the Nitro Development Authority and reminded Council that the Authority was created several years ago for the purpose of promoting and developing our city's economical growth. Currently the membership is comprised of 17 members recommended and approved by City Council. Mr. Sizemore stated his reason for being there tonight was to offer the Authority's services. He said financially NDA is solvent, we do not owe anybody except for the payment on the Nitro Community Center, which we operate. The Community Center is handled separately, but is also financially stable. We are at this time up-grading the fire system as per the Fire Department recommendations. President Sizemore stated the building is approximately 80 per cent rented and this keeps the cash flow going. Mr. Sizemore explained to Council this is not a bad deal, because the citizens of Nitro have a nice building and someone else pays for it. Also Mr. Sizemore said NDA has a third party accounting firm, Chris Passero, CPA that will be able to work and keep records with THF Realty. Again Mr. Sizemore stated we are an arm of the City and we welcome the opportunity to work and will furnish council with a copy of our minutes to keep the city informed. A question and answer session followed.

AGENDA ITEM NO. 4 DONALD JEFFRIES PARK AVENUE: Mayor Casto yielded the floor to Mr. Donald Jeffries resident of Park Avenue. Mr. Jeffries explained to council the problems the residents are having on Park Avenue. Mr. Jeffries told council the problem is speeding and reckless driving in addition to the parking problem. Also Mr. Jeffries stated he doesn't feel our police department is doing their job. Councilman at Large Steve West commented he attended Monday's Kanawha County School Board meeting and was able to speak regarding parking. Councilman at Large Steve West requested the buses discontinue loading and unloading on Park Avenue. We did not get a commitment but we did not get a no! I also asked them to create a traffic flow pattern through the parking lot, and that students would only enter the parking lot at the nearest point to the school, and exit nearest West Fifteen. Councilman West stated if they did that, most likely the City would create an ordinance for right turn only exit from parking lot. This will funnel traffic out Plant Road. Mr. West said he also brought up that the students were being charged a \$25.00 fee to park in Nitro High School parking lot. Mr. West stated this is not City of Nitro business, but Councilman West said he believes that some of the students instead of paying the \$25.00 fee were parking in the residential parking area. Mr. West stated he heard today that one of the news station reported the fee had been reduced to \$10.00/yr. Also requested that if the parking area is not sufficient, then enlarge the area. Mr. West stated this should help clear up a lot of the congestion.

COUNCILMAN AT LARGE STEVE WEST MOVED ALL TRAFFIC FROM SCHOOL PARKING LOT MAKE RIGHT TURNS ONLY. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 5 WATER AEROBICS JULY 1ST THRU AUG. 7TH: Mayor Casto announced beginning July 1st, through August 7th, Tuesday and Thursday mornings, from 10:00 a.m. till 11:00 a.m. the pool will offer water aerobics \$1:00/per person donation. Councilman George Atkins will announce this project to the senior citizens.

AGENDA ITEM NO. 6 BUSINESS AND PROFESSIONAL ASSOC.: Mayor Casto yielded the floor to Mr. Dean Miller. Mr. Miller stated the Friday night "cruise in" was very successful with 90 cars participating. However, Saturday morning it washed out. Another "cruise in" is being discussed at this time. Several plaques were prepared and we were not able to give them out. Also Mr. Miller stated the playground equipment has been installed at Ridenour Lake and there is a need for wood chips. We need 200 bags of pine bark at \$2.00/bag. Mr. Miller reported that the trees are expensive and no decision has been made regarding planting of pink and white Dogwood trees on railroad side of 1st Avenue.

AGENDA ITEM NO. 7 PHILLIP GAUJOT: Counselor Gaujot stated the documents pertaining to Par Ind. have been signed by Mr. Pizzuto. A motion has been filed with bankruptcy court where Par is now in Chapter 11. A motion will be sent to all creditors and hearing will be held sometime within the next month. At this time Par will sign a deed of trust, and at that point we will receive the original and the payments will begin immediately.

Counselor Gaujot said another matter had been brought over from City Court regarding an individual was charged with abandoning a motor vehicle. He was charged under state law, which provides he can be fined and sentenced to jail. Because jail time is involved, the defendant has been able to obtain the services of the offices of public defenders. The Attorney for the office of the Public Defender has demanded a jury trial. Counselor Gaujot said this sounds ok, until you start thinking about the finances of it all. First of all the fine will be very small, secondly, there is no way he will be sentenced, and third you have to pay for all the jurors and fourth when he loses he is going to appeal to circuit court. This is not financially feasible for the City to be involved in a matter like this. Counselor Gaujot recommended that these matters, whereby there is a jail time, specified in State Law that the City waive the jail time, and by waiving the jail time, it is not filed as a jury trial. Counselor Gaujot said this is what Charleston does. A short discussion followed.

Counselor Gaujot reported he has a copy of signed deed of trust and petition filed with bankruptcy court.

AGENDA ITEM NO 8. MUNICIPAL FEE INCREASE: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO MOVE THIS ITEM TO DISCUSS AFTER THE MAYOR AND COUNCILMEN COMMENTS. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 9 MAYOR'S REPORT: Mayor Casto reported the Water Company picked up blueprints for the work on Frederick Street. Also we got a verbal commitment from Conrail to start working.

The engineers were down to make recommendations on 31st Street bridge, but I have not received the report yet.

Village on Park flooding area is being studied.

Mayor Casto announced the pool will open Friday, May 23, 1997 at 6:00 p.m. to 9:00 p.m. for free swimming.

Councilmen's comments:

George Atkins, suggested the pool should stay opened until 8:00 p.m.

David Miller, thanked George Atkins and Steve West for representing Council at the Kanawha Co. School board meeting. Also he commented the grass along 1st Avenue from 38th Street to 26th Street, is about waist high now. Councilman Miller requested status of property between the railroad and the high school.

Bob Young, reported the drain at Brookhaven has not been cleaned. Councilman Young ask schedule of Street Sweeper. Mayor Casto stated a scheduled is being worked out.

Steve West, COUNCILMAN AT LARGE STEVE WEST MOVED TO CLOSE THE GATES AT RIDENOUR LAKE TO VEHICLE TRAFFIC FROM DUSK TO DAWN. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

COUNCILMAN STEVE WEST MOVED THE CITY ATTORNEY PREPARE A PROCLAMATION NAMING JENNIFER MCNALLY HONORARY CITIZEN OF NITRO. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

Richard Savilla, MOVED TO MOVE CITY HALL TO NITRO COMMUNITY CENTER AND MOVE TO FINANCE COMMITTEE FOR FINANCING AND PLANNING. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED WITH COUNCILMEN ROBERT MATTOX, BOB YOUNG AND RECORDER HERBERT SIBLEY VOTING AGAINST.

Robert Mattox, stated during the time of flooding at Frederick Street, we investigated the possibility of obtaining a pump from Monsanto Company. Councilman Mattox yielded the floor to Harry Miller to report to council regarding the pump. It may be given as/is with minor repairs paid by City. This is a 10" pump and would be valuable to own.

City Attorney Phil Gaujot, stated he will report back to council regarding motion of moving city hall. Counselor Gaujot said he is not sure if an ordinance is needed.

Ralph Allison, requested approval or disapproval on request of \$2100.00 for a motor for one of the cruisers. After discussion. COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE REQUEST WHEN THE MONEY BECOMES AVAILABLE. THE MOTION WAS SECONDED BY RECORDER HERBERT SIBLEY AND WAS CARRIED.

Also, City Treasurer Ralph Allison stated he has a request from the Recreation Dept. for a sweeper to clean the pool, cost is \$1000. Mayor Casto stated the money will be there from the money generated from the video games and pinball machines. COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE REQUEST WHEN MONEY BECOMES AVAILABLE. THE MOTION WAS SECONDED BY COUNCILMAN DAVE MILLER AND WAS CARRIED.

AGENDA ITEM NO. 8 MUNICIPAL FEE INCREASE: MAYOR CASTO MOVED TO READ TITLE ONLY OF ORDINANCE 97- THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. AN ORDINANCE AMENDING PART SEVEN ARTICLE 741 MUNICIPAL SERVICE FEES. MAYOR CASTO MOVED TO APPROVE THE ORDINANCE ON FIRST READING. COUNCILMAN DAVID MILLER MOVED TO TABLE THE MOTION. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

There being no further business, the meeting was adjourned.



RUSTY CASTO, MAYOR

HERBERT SIBLEY, RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES

JUNE 03, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller and George Atkins. Absent, Councilman Frank Grover, Jr., Also present City Attorney Phillip Gaujot and Treasurer Ralph Allison.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Robert Mattox.

CITIZENS OF THE MONTH

Mayor Casto announced Tim Sizemore as "Citizen of the Month". Also Mayor Casto commended Mr. Sizemore for his time dedicated to the City and for helping to get the tile installed at the pool. In appreciation Mayor Casto presented Mr. Sizemore with Nitro Golf Balls and a set of golf tees.

AGENDA ITEM NO. 2 APPROVAL OF MAY 20 MINUTES: COUNCILMAN AT LARGE BOB MATTOX MOVED TO APPROVE MAY 20 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 3 ORD. MUNICIPAL SERVICE INCREASE 1ST READ: Mayor Casto entertained a motion to bring this item from table. No motion received.

AGENDA ITEM NO. 4 PHILLIP GAUJOT: Counselor Gaujot stated in regard to the Municipal Service Increase, you will notice I have changed the amounts. The \$12.00 rates to \$16.00 for residents and the fee for businesses from \$15.00 to \$20.00 minimum. Also low income will be reduced to \$10.00 with family income under \$16,000.

Counselor Gaujot stated the only thing we are waiting on regarding Par is the Bankruptcy Judge to set a hearing date.

All creditors of Par have been notified of City petition. Also, Counselor Gaujot said Mr. Glasser, Attorney, THF Realty, has suggested the City keep them advised of what the bids are for the fire trucks. They are reminding us that our agreement with THF was for a certain amount per month. If more money is required to buy the truck, then that is the obligation of the City.

Recorder Sibley stated there is a report from the Fire Committee, stating how they chose what they got, but they also chose in the same package, financing. We need to talk to these people, Smeal Fire Apparatus Co. because there is front money involved.

AGENDA ITEM NO. 5 FREDERICK STREET: Mayor Casto stated we are waiting for the Water Company to move the 16 inch line. We had a verbal agreement from Conrail that they will allow us to put the line down, but it is not a written agreement, we should have written approval to put in the 42 inch line next week from Conrail.

Councilman Dave Miller stated they had to pump water last night from Frederick Street area of town. My understanding is Mr. Conrad started work up there without a building permit. If this is so, it is adding to the problem. Most of Council has observed the work there. Councilman Miller stated he proposed a building moratorium on issuing city building permits in the Frederick Street area. Councilman Miller stated that Mr. Conrad needs to correct all problems created from his unauthorized work. City Attorney

stated that Mr. Conrad must have a permit and after a discussion COUNCILMAN DAVID MILLER MOVED TO PLACE A MORATORIUM ON BUILDING PERMITS ON FREDERICK STREET AREA UNTIL DRAINAGE PROBLEMS ARE CORRECTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED WITH COUNCILMAN AT LARGE BOB MATTOX VOTING AGAINST.

COUNCILMAN DAVID MILLER MOVED STATING SINCE WORK HAS BEEN CONDUCTED IN THE FREDERICK STREET AREA IN AN UNAUTHORIZED MANNER THAT MR. CONRAD REVERT THE AREA BACK TO THE EXISTING STATE BEFORE THE UNAUTHORIZED WORK BEGAN UNTIL THE MORATORIUM IS LIFTED ON BUILDING PERMITS. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED WITH COUNCILMAN BOB MATTOX AND RECORDER HERB SIBLEY VOTING AGAINST.

Councilman at Large Steve West stated the letter from Conrail states the City of Nitro will be responsible for all cost associated with this review. Mayor Casto said this would be the engineering work and the line itself. A discussion followed regarding the cost. Mayor Casto stated his understanding was when we receive permission from Conrail and when the Water Company moved the line, that Gene Williams would contract the man to dig the lines and buy the pipe. Councilman Bob Young asked how much money is involved. After much input from Council and the City Attorney it was decided the City Treasurer, Ralph Allison would call tomorrow (Wednesday) and get a ballpark figure. The Mayor's Secretary will call each Councilman and give them the figure. (Copy attached)

AGENDA ITEM NO. 6 31ST STREET BRIDGE: Mayor Casto stated he had received a grant of \$40,000 for the bridge, this is plus the \$22,500. The U-dag money has been approved to use for the bridge. The bridge will cost approximately \$100,000. According to the State specs, we need a H-20 bridge built. Mayor Casto said this will be running it very close without the municipal service increase. COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO ADVERTISE FOR BIDS FOR THE H-20 BRIDGE. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 7 VILLAGE ON PARK: Mayor Casto stated CST donated the city four nice pumps. These pumps run off 220 electric. Gene Williams and I feel we could put one of those pumps that pumps three inches diameter of water, on the parking lot and get a free ditch dug to the telephone pole another ditch dug to the sidewalk. This cost would be approximately \$500.00 and would keep the lot clear of water. Mayor Casto asked council to underwrite \$500, if he can not raise the money. After some discussion COUNCILMAN AT LARGE STEVE WEST MOVED TO AUTHORIZED MAYOR CASTO TO SPEND \$500 TO ALLEVIATE THE WATER AT VILLAGE ON PARK. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 8 PARADE REQUEST: COUNCILMAN BOB YOUNG MOVED TO GRANT REQUEST FOR JULY 5, 1997 PARADE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 9 BUSINESS & PROF ASSOC: No report.

AGENDA ITEM NO. 10 PARK AVE UPDATE: Mayor Casto yielded the floor to Councilman at Large Steve West. Councilman West presented council with a copy of letter received from the Superintendent of Kanawha County School Board, Dr. Marple. COUNCILMAN AT LARGE STEVE WEST MOVED TO MAKE THIS LETTER A PART OF JUNE 3, 1997 COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 11 TOWN CLEAN-UP: Mayor Casto yielded the floor to Councilman at Large Robert Mattox . Councilman Mattox announced a town cleanup, June 12, 13 & 14 . AT&T will provide approximately 30 people to help with this project. Cleaning and painting the curbs, street signs and other things of that type will be painted.

AGENDA ITEM NO. 12 MAYOR'S COMMENTS: None

Councilmen's comments:

George Atkins mentioned each corner on Park Avenue needs to be painted.

David Miller MOVED TO AUTHORIZE COUNCILMAN FRANK GROVER TO WORK WITH CITY ATTORNEY AND CONRAIL ON THE ISSUES REGARDING THE CROSSINGS AND NEGOTIATE ON BEHALF OF THE CITY AND RETURN TO COUNCIL WITH IDEAS AND SOLUTIONS. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

Councilman David Miller requested a listing of total expenditures, gifts and overtime hours at the pool.

Councilman Bob Young questioned when the street sweeper will be at Brookhaven .

Councilman at Large Steve West mentioned parking is still a problem on West Side . Councilman West said he was traveling on 12th Street West and could just barely get through. Counselor Gaujot stated you have ordinances and they can be enforced by the Police Department. Also Councilman Steve West announced an Employee Committee Meeting, Tuesday at 7:00 p.m. in conference room at City Hall.

Councilman George Atkins commented City of Dunbar has erected "residential parking only" on the street around Dunbar Junior High. They had no problem with it, I can't understand why it is such a problem here.

Councilman at Large Bob Mattox reminded Council next Tuesday the 10th is the ground breaking ceremony with THF.


Councilman Mattox mentioned the gates are not being locked at Ridenour Lake. Mayor Casto said one gate is broken and can't be locked. Also, Councilman Mattox stated the signs are up at 31st Street Bridge and he thinks the bridge should be closed. Mr. Mattox requested as many of Council as possible to meet Sunday afternoon at 3:00 p.m. at Pottery Plus to view project site of Owens, Spring, Dupont & So Kanawha area.

Recorder Herbert Sibley stated a meeting with Fire Service Committee, May 22, 1997 at 7:00 pm. Mr. Sibley reported a motion was made to resolve bid opening and chose manufacturing fire engine be purchased by city and paid for by THF Development Company at the rate of \$4500.00/mo for ten years. Low bid accepted from Smeal Fire Apparatus Company for \$405,509.00. Also finance package offered by Smeal at 5.53 per cent. Councilman Miller suggested this engine be ordered as soon as approved by THF. The Fire Committee was authorized by Council 5/20/97 to choose low bidder on the truck.
(Copy attached)

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER



May 28, 1997

Mr. Rusty Casto
City of Nitro
Nitro, WV 25143

SUBJECT: Nitro, Kanawha County, WV - Proposed longitudinal 42" storm sewer,
West Virginia Secondary, Line Code 60-8124, in the vicinity of Mile
Post 170, Indianapolis Division (File: N-2309 - DAB)

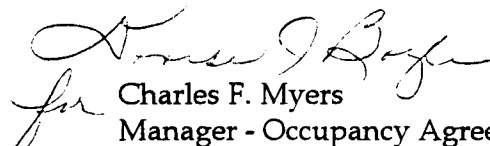
Dear Mr. Casto:

This will acknowledge receipt of your application dated April 28, 1997, received in our office May 8, 1997, regarding the subject proposal. File Number N-2309 has been assigned to your application.

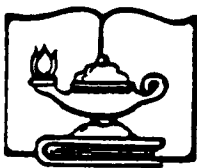
Your application is being reviewed for compliance with our specifications. Conrail is using the services of Frederic R. Harris, Inc. for approval of plans and specifications. The City of Nitro will be responsible for all costs associated with this review.

Any questions concerning approval or revision of plans are to be directed to Frederic R. Harris, Inc. to the attention of Mr. Roger Heebner, Director- Freight Operations, telephone (215) 735-0832. Please allow a minimum of 10 working days from the date of this letter before making inquiries on this application.

Very truly yours,


for Charles F. Myers
Manager - Occupancy Agreements
(215) 209-3874

Kanawha



County Schools

200 Elizabeth Street, Charleston, West Virginia 25311-2119 • Phone (304) 348-7732 • FAX (304) 348-1934
Jorea Marple, Ed.D., Superintendent

May 27, 1997

Mr. Steven E. West
2154 - 21st Street
Nitro, West Virginia 25143

Dear Mr. West:

Thank you for your appearance before the Board of Education at the Special Session on May 19.

Your development of a proposed solution to the parking problem at Nitro High School is appreciated.

Dr. Ronald Duerring, assistant superintendent for Area 5, has met with and is continuing to meet with members of the community. Your recommendations will be shared in these meetings and will certainly be considered as a resolution is sought.

Again, thank you for your interest.

Sincerely,

Jorea Marple, Ed.D.
Superintendent

/ljh



BAYSTONE FINANCIAL GROUP

FORMAL COMMITMENT

April 30, 1997

LESSEE: CITY OF NITRO, WEST VIRGINIA

- ✓ This is a finance/ownership lease. No residual value.
- ✓ Annual Payments in Arrears.
- ✓ Fixed interest rate for the 5 or 10 year term.

EQUIPMENT: ONE (1) SMIAL 75 HEAVY DUTY AERIAL LADDER

	<u>OPTION 1</u>	<u>OPTION 2</u>
Term:	Nine (9) Years	Ten (10) Years
Acquisition Cost	\$405,509.00	\$405,509.00
Down Payment	\$ 34,000.00	\$ 0.00
Principal Balance:	\$351,509.00	\$405,509.00
Payment Mode:	Annual	Annual
Interest Rate:	5.530%	5.530%
Payment Amount	\$ 53,426.99	\$ 53,875.42
First Payment Due:	May 30, 1999	May 30, 1998

ESCROW STRUCTURE

- ✓ Escrow Funding Date: May 30, 1997
- ✓ Chassis funds (\$111,932) available 120 days from funding to Escrow. (Option 1 & 2)
- ✓ Remaining funds (\$229,577) available 210 days from funding to Escrow. (Option 1)
- ✓ Remaining funds (\$283,577) available 210 days from funding to Escrow. (Option 2)
- ✓ No Premature Disbursements from Escrow are allowed.
- ✓ Escrow Agreement with Lessor's qualified bank.
- ✓ In the event funding to escrow is delayed beyond May 30, 1997, Lessor reserves the right to adjust and determine a new Interest Rate.
- ✓ Interest earnings in the Escrow account have been estimated and used to reduce borrowing costs incurred by the Lessee. All interest accrued in Escrow is credited to Lessee's account.
- ✓ This commitment is subject to credit review and approval and execution of mutually acceptable documentation. This transaction must be designated as tax-exempt under Section 103 of the Internal Revenue Code of 1986 as amended.
- ✓ LESSEE'S TOTAL AMOUNT OF TAX-EXEMPT DEBT TO BE ISSUED IN THIS CALENDAR YEAR WILL NOT EXCEED THE \$10,000,000 LIMIT.
- ✓ Failure to consummate this transaction once credit approval is granted and the lease documents are drafted and delivered to Lessee will result in a documentation fee being assessed to the Lessee.

BAYSTONE FINANCIAL GROUP
CITY OF NITRO, WEST VIRGINIA

Blake J. Keads

Business Development Manager

Date:

2312 Anderson Avenue, Manhattan, Kansas 66502 (913) 587-4050, (800) 752-3562, FAX: (913) 537-4800

E-mail: baystone@kanas.net

 ASSOCIATION FOR
GOVERNMENTAL
LEASING & FINANCE

1997-1998

240



SMEAL FIRE APPARATUS CO.

P.O. BOX 1 HWY 91 WEST SNYDER, NEBRASKA 68664 USA (402) 568-2224 FAX (402) 568-2346

PROPOSAL FOR FIRE APPARATUS

May 19, 1997

TO City of Nitro
20th Street
Nitro, WV. 25143

Dear Sirs:

We hereby propose and agree to furnish, after your acceptance of this proposal and the proper execution and approval of the accompanying contract, the following apparatus and equipment:

One (1) Smeal 75' Heavy Duty Aerial Quins Installed on a HME Custom

1871 MFD cab and chassis per the enclosed specifications.....\$405,509.00+

* Add \$4,877.00 to the above price if chassis payment is not paid to Smeal
Fire Apparatus within 10 days of invoice after chassis receipt by Smeal

All of which are to be built in accordance with the Smeal proposed specifications attached, and which are made a part of this agreement and contract, to deliver same 270/330 calendar days after date of receipt and approval of contract, properly executed, subject to all causes beyond our control, for the sum of:

Four Hundred-Five thousand Five hundred nine and no/100.....Dollars

(\$ 405,509.00) F.C.I.B. XXXXXXXXXX Nitro, WV.

The amount named in this proposal shall remain firm for a period of 30 days from the date of same. All state, federal and local taxes are not included above. Any applicable taxes are to be paid by customer upon registration and licensing of vehicle.

Respectfully submitted,
SMEAL FIRE APPARATUS CO.

We agree to accept the above proposal:

Bill's Fire & Safety
400 Sand Street/ P. O. Box 337
Ravenswood, WV 26164
1-800-624-1964

Date 5/19/97

Date

CITY OF NITRO COUNCIL MEETING MINUTES

JUNE 17, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present; City Attorney Phillip Gaujot, City Recorder Herbert Sibley, Councilmen at Large, Richard Savilla, Steven West, Councilmen Robert Young, David Miller, Frank Grover, Jr. and George Atkins. Absent; Councilman at Large Bob Mattox.

AGENDA ITEM NO 1. INVOCATION: Silent Prayer in memory of **Taylor Dustin.**

AGENDA ITEM NO 2. APPROVAL OF JUNE 03, MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE JUNE 03, 1997 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 3 BUDGET ADJUSTMENT: Mayor Casto yielded the floor to City Treasurer, Ralph Allison. Mr. Allison stated we are required by the State Tax Department to submit budget adjustments to the State in time to be approved and get back to us by June 30, 1997. This adjustment is for the current fiscal year we are working in, ending June 30, 1997. Treasurer Ralph Allison furnished each council member with a copy of the purposed budget adjustments. Mr. Allison briefly explained that he is suggesting a \$35,000 decrease in revenue for the year and a \$35,000 decrease in expenses. On the revenue side showing decreases in utilities taxes, dog track revenue, City Benefits Association, municipal service, and miscellaneous income. Revenue increases, in court cost, property taxes, and income from the Governor's office. On the expense side, I am suggesting; for City Hall an increase in department supplies of \$8,000, decrease in Blue Cross Ins. \$ 32,000, increase in street lighting \$10,000. Police Department projecting an increase of \$10,000 in department supplies, \$10,000 in crime victim fund. Public Works an increase of \$5,000 in auto supplies, \$5,000 decrease in equipment repair. \$20,000 decrease in asphalt & sand. \$29,000 decrease in street paving, & \$30,000 decrease in capitol outlay. Recreation Department \$30,000 increase in wages and supplies, maintenance and repairs. We are looking at a \$35,000 decrease in income and \$35,000 decrease in expenses. RECORDER HERBERT SIBLEY MOVED TO APPROVE THE BUDGET ADJUSTMENTS AS PRESENTED BY TREASURER RALPH ALLISON. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. (Copy Attached)

AGENDA ITEM NO. 4 FREDERICK STREET: Mayor Casto stated Con Rail does not want the city to put a storm line on their property, so the engineers will be visiting the Twin City Bible Church to check the possibility of putting the line through that property. Recorder Herbert Sibley will research this matter for a solution. After a discussion, Mayor Casto stated he will meet with the engineer, and will have a report for the next council meeting.

Councilman Frank Grover reported that council felt the city could put this line in themselves. However, we may not have the proper equipment, if this is the case someone may donate the use of equipment. There is a possibility this could be an in-house job and not bother with bids. Councilman Grover said if we can clear a right-of-way, we could start quickly.

Counselor Gaujot stated he recommends more study regarding this matter with Conrail. Counselor Gaujot will investigate this further and report back to council. A discussion followed regarding whether to put out for bids or to do in-house.

Mr. Conrad from Frederick Street stated the Building Inspector, Bob Sargent informed him a 15 inch drain needed to be installed so the water would go in that drain and go on down to drain. He said that was the reason the fill was put in. I followed his instructions and he was there and checked the project several times. Everything was done as requested. The city engineer and the representative from Water Company was satisfied with the work. Counselor Gaujot talked with Mr. Conrad's lawyer and stated although he did not have a permit, he did have verbal permission to do this work and he was only following the direction of the City. Councilman David Miller stated the flow of the water did change and he said several of the other councilman visited the area during the last flood. After discussion and recommendation of Counselor Gaujot, COUNCILMAN AT LARGE STEVE WEST MOVED TO CALL A SPECIAL COMMITTEE MEETING CALLED BY MAYOR CASTO, INCLUDING AT LEAST 3 COUNCIL MEMBERS, CITY ENGINEER, BUILDING INSPECTOR AND MR. CONRAD TO RESOLVE MR. CONRAD'S REQUEST. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 5 OLD COUNTY ROAD: Mayor Casto yielded the floor to Councilman Frank Grover, Jr. Mr. Grover stated there is a section of road behind Thomas Tire, known as Old County Road all the way to Red Oak Drive that is in need of repair. This road has never had any work done except for a little rock and gravel. Councilman Grover said it would be difficult to get an emergency vehicle through there. A discussion followed regarding blacktop for this area of Old County Road. COUNCILMAN FRANK GROVER, JR. MOVED TO ADVERTISE FOR BIDS TO BLACKTOP DITCH LINE AND OLD COUNTY ROAD. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 6 31ST BRIDGE: Mayor Casto announced the bridge was closed last week. The H20 concrete bridge without pier in the middle of creek will be put out for bid. Joe Dunn will schedule a meeting early next week with Bob Sargent, Gene Williams, Mayor Casto and Council members to select the exact bridge so the specs can be written. Mayor Casto stated a ballpark figure will be around \$95,000/100,000 and we have approximately \$64,000 in the bank. Mayor Casto said with the money that has been approved from U-DAG there should be enough to complete the job when the bids come in.

AGENDA ITEM NO. 7 EMPLOYEES RELATIONS COMMITTEE REPORT: Mayor Casto yielded the floor to Councilman at Large Steve West. Councilman West stated the committee met and discussed a request of benefits regarding a City employee and Councilman West said basically employee benefits was the only matter discussed. Another employee relations and a finance meeting is scheduled for next Tuesday, at 7:00 p.m. in conference room at City Hall.

AGENDA ITEM NO. 8 CITY ATTORNEY: Counselor Gaujot stated the motion to have Par sign the deed of trust is in the bin for the Judge to set a date.

Regarding Fike, Counselor Gaujot said he received a call from the engineer in charge of doing the cleanup work and I understand the Justice Department signed off on an agreement with the City.

AGENDA ITEM NO. 9 BUSINESS & PROFESSIONAL ASSOC: No report

AGENDA ITEM NO. 10 MAYOR'S COMMENTS: Mayor Casto stated he had written a letter to Dr. Smith concerning Smith Street Landfill. A meeting will be scheduled for interested parties.

Finance Committee meeting - Tuesday, 7:00 p.m, June 23, 1997 and Employee Relations following at 8:00 p.m.

Councilmen's Comments:

Councilman Grover, a meeting must be scheduled regarding railroad crossings in the East end.

Also, Councilman at Large Steve West reported four of the council members met and walked in the area of the crossings that were being considered for closing to make them more familiar with the problem.


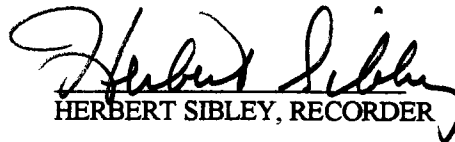
Councilman Atkins, COUNCILMAN GEORGE ATKINS MOVED A LETTER BE SENT TO THE SOFTBALL LEAGUE PRESIDENT STATING RULES AND REGULATIONS WILL BE ENFORCED BY THE POLICE DEPARTMENT REGARDING DRINKING AND PARKING LAWS BEING BROKEN. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED WITH COUNCILMAN FRANK GROVER VOTING AGAINST.

Councilman Miller, request status of swimming pool credit & debit report reflecting overtime hours. Mayor Casto stated Ralph Allison has completed the report but has already left. Councilman Miller requested a copy be put in his mail box. Mayor Casto said a couple of the men said they preferred comp time for "deer season".

Councilman West, questioned the status of locking the gate at Ridenour Lake. Also, Councilman West commented he felt Council should formally extend sympathy to the family of Taylor Dustin.

Mr. Mike Pack - Expressed his concerned of the water problem on his property at 217 Rockledge Dr. Mr. Pack requested this problem be taken of care. Counselor Gaujot recommended the City Engineer and Gene Williams study the problem and see if the water flow has been changed in any way by the city.

There being no further business the meeting was adjourned.


RUSTY CASTO, MAYOR
HERBERT SIBLEY, RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES

JULY 01, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder, Herb Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr., Also present City Attorney Phillip Gaujot and several area citizens.

Mayor Casto asked for a moment of silence in memory of Charlie Miller, a former Councilman.

AGENDA ITEM NO. 1 INVOCATION: Councilman Robert Mattox

CITIZEN OF THE MONTH:

Mayor Casto named Freda Patton as "July Citizen of the Month" Mayor Casto said Freda was unable to attend the meeting tonight and announced her retirement as June 30th, 1997, with 17 years of faithful service with the Nitro Sanitary Board. Mayor Casto presented Freda with flowers at her retirement and congratulated her for a job well done.

AGENDA ITEM NO. 2 APPROVAL OF JUNE 17, 1997 MINUTES: COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE THE JUNE 17, 1997 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED WITH COUNCILMAN AT LARGE ROBERT MATTOX ABSTAINING.

AGENDA ITEM NO. 3 SPECIAL MEETING MINUTES: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE THE JUNE 24, 1997 SPECIAL MEETING MINUTES REGARDING MR. CONRAD'S MINI STORAGE BLDG. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED WITH COUNCILMAN DAVID MILLER ABSTAINING. (Copy Attached)

AGENDA ITEM NO. 4 CITY ATTORNEY PHILLIP GAUJOT: City Attorney Phillip Gaujot stated that a date has been set for the hearing in bankruptcy court (Par Ind.) for July 23, 1997 at 2:30 p.m.

Counselor Gaujot reported he had spoken with Mike Scime from Conrail regarding closing of crossings and have scheduled a meeting July 14, 1997 at 6:00 p.m. with several members of council. Counselor Gaujot stated this meeting is between the City and Conrail and if there will be a public meeting at a later date.

Also Counselor Gaujot met with Mr. Pack of Rockledge Drive, Brookhaven and reported after some testing found a high count of chlorine in the water which means it is not spring water. The West Virginia Water Company has marked off the area and is now digging. Mr. Pack will contact the City when he has more information.

Counselor Gaujot stated no further information from Fike Artel.

Councilman at Large Robert Mattox announced a meeting with EPA regarding Smith Street Landfill. The meeting is scheduled July 10, 1997 at 10:00 a.m. at Hansford Street. Mayor Casto, Gene Williams, Bob Sergent and myself. Mr. Mattox invited council to attend this meeting.

AGENDA ITEM NO. 5 31ST STREET BRIDGE: Mayor Casto yielded the floor to Councilman at Large Rich Savilla. Councilman Savilla reported they met with Dunn Engineering. COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO AUTHORIZE DUNN ENGINEER TO CONTINUE WITH SITE SURVEYING AND GEO TECHNICAL SURVEYS ON 31ST STREET BRIDGE, FOR A 28 FT WIDE PRECAST BRIDGE, WITH 24 FT ROADWAY, TWO LANES, A FOUR FT SIDEWALK, AND BANK REINFORCEMENT. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 6 FREDERICK STREET: Mayor Casto reported the Deacon Board (Twin City Bible Church) will be meeting July 21, 1997. Mayor Casto presented the Church with blueprints of the purposed storm sewer line from S&S Engineering. A discussion followed. COUNCILMAN ROBERT YOUNG MOVED TO APPROVE ADVERTISING OF FREDERICK STREET PROJECT AND 31ST BRIDGE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE BOB MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 7 MUNICIPAL FEE INCREASE: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO BRING THE MUNICIPAL FEE INCREASE OFF THE TABLE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

Counselor Gaujot explained what was tabled was the change in the Municipal Fee Increase Ordinance from \$12.00 to \$16.00/ mo. The minimum rate for commercial businesses is now \$20.00. Any one family earning less than \$16,000 would be charged \$10.00. This increased from \$12.00 to \$15.00 per residential unit. Commercial changed to a minimum of \$20.00 anything less than 100 pounds per week or, collection more than once a week, a separate agreement would have to be made through the Public Works Director.

Anyone earning less than \$16,000 would be charged \$10.00 only after filling out the proper affidavit.

RECORDER HERBERT SIBLEY MOVED TO WITHDRAW THE FORMER TABLED ORDINANCE TO AMEND MUNICIPAL SERVICE RATES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

RECORDER HERBERT SIBLEY MOVED TO HAVE FIRST READING , TITLE ONLY, OF NEW MUNICIPAL SERVICE ORDINANCE CHANGING RATES TO \$15.00 RESIDENTIAL. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. Counselor Gaujot read title only of Ord. 97- , AN ORDINANCE AMENDING PART SEVEN ARTICLE 741 MUNICIPAL SERVICE FEES. COUNCILMAN ROBERT YOUNG MOVE TO ACCEPT ORDINANCE FOR FIRST READING. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED WITH COUNCILMAN AT LARGE STEVE WEST OPPOSING. Counselor Gaujot stated a public meeting must be scheduled and advertised two times in succession.

AGENDA ITEM NO. 8 LINDA HUDSON (RAILROAD CROSSINGS): Mayor Casto yielded the floor to Mrs. Hudson. Mrs. Hudson yielded the floor to Mr. Basil Sanson. Mr. Sanson stated he had a petition to formerly present to council, to be made part of the minutes. A question and answer session followed. COUNCILMAN DAVID MILLER MOVED TO INCLUDE PETITION IN THE JULY 1ST MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 9 EMPLOYEE RELATION REPORT: Mayor Casto yielded the floor to Councilman at Large Steve West. Councilman West reported the committee met and stated one decision was made to remove certain references to employee benefits from the code, and develop a policy applicable to all City Employees. A meeting was called 7:00 p.m. July 8, 1997.

ORDINANCE 97-07

**ORDINANCE AMENDING PART SEVEN ARTICLE 741
MUNICIPAL SERVICE FEES**

WHEREAS, the City of Nitro declares the necessity and convenience to increase the rate for essential municipal services, including police protection, fire protection, street lighting, street maintenance, street cleaning, street improvements, ambulance service, recreation, and garbage and refuse collection (excluding sewage and sewage disposal and other essential municipal services).

NOW THEREFORE, BE IT ORDAINED, that the City of Nitro hereby amends Part Seven Article 741 titled "Municipal Service Fees" as follows:

741.01 IMPOSITION; RATE.

(a) There is hereby levied and shall be collected a charge against residential users of municipal services situate within the City for essential municipal services, including police protection, fire protection, street lighting, street maintenance, street cleaning, street improvements, ambulance service, recreation and garbage and refuse collection (excluding sewage and sewage disposal and other essential municipal services). The charge for such services shall be at the rate of **Fifteen Dollars (\$15.00)** per month for each single-family unit residence, per unit, and for each multiple-family dwelling or apartment house, per each residential unit or apartment, whether or not occupied.

There is hereby levied and shall be collected a charge against commercial users of municipal services situate within the City for essential municipal services, including police protection, fire protection, street lighting, street maintenance, street cleaning, street

improvements, ambulance service, recreation and garbage and refuse collection, (excluding sewage and sewage disposal and other essential municipal services). The minimum charge for such services shall be at a rate of **Twenty Dollars (\$20.00)** per month for each commercial business, per unit, and in buildings where there are more than one commercial business unit, firm or corporation, each unit or business unit, firm or corporation, shall be considered as a separate unit with respect to service rendered under the terms hereof, and with the duty of subscribing for service and paying for service to the respective commercial unit. Any business establishment requiring collection of garbage or refuse more frequently than once a week or having more than One Hundred (100) Pounds per week shall enter into a separate agreement with the City (**Board of Public Works Director**) and the fees for said collection shall be negotiated with the City. The minimum monthly charge of **\$20.00** is hereby levied and shall be collected against all business entities within the City whether said business entities use City services relative to garbage and refuse collection or contracts with others for the same service.

(b) The City Treasurer shall be charged with the duty of mailing a statement on a monthly basis to each residence and business to be charged with the municipal fee hereby imposed for the fee due for the preceding month, but failure to mail any statement for monthly charges shall not be grounds for avoiding payment. A statement shall be mailed by the Treasurer at least as frequently as once each month and any such statement may be consolidated by the Treasurer with statements for other municipal fees and services due from such person or business entity. If a monthly statement is mailed by the Treasurer, it may be mailed each month on a date selected by the Treasurer but the Treasurer shall render the

monthly billing to such person or business entity in a uniform manner so that each monthly bill is mailed at intervals of approximately thirty days.

(c) Subject to such reasonable regulations as may be promulgated by the City Treasurer and approved by City Council, the record owner of the property upon which a single-family residence or business is situate shall be presumed to be the user of municipal service rendered for the benefit of such property or business and the record owner shall be liable to the City for such charges; the tenants or occupants of the business units or of the multi-business complex or residential units of a multi-family dwelling or apartment house shall be presumed to be the users of such municipal services and shall be liable to the City for such charges. However, in the event that a business unit or business unit of a multi-business complex or a residential unit of a multi-family dwelling or apartment house is temporarily unoccupied, then and in that event, the record owner of the property upon which such multi-business unit or multi-family dwelling or apartment house is situate shall be presumed to be the user of the municipal services provided to each such unoccupied unit and shall be liable to the City for such charges. Subject to such reasonable regulations as may be promulgated by the City Treasurer as aforesaid, the record owner of the property upon which such multi-business unit, multi-family dwelling or apartment house is situate shall be charged with the responsibility of collecting in advance, the charge imposed by this section from the tenants or occupants of such business units, dwelling units or apartments and properly remitting same to the City Treasurer and shall be liable to the City in the amount of such charges for failure to do so or for failure to maintain adequate records from which such liability may be ascertained.

(d) When the aggregate gross income of all persons residing in a single family residential unit maintained and occupied by a resident of the City during the preceding calendar year of the City shall be less than **Sixteen Thousand Dollars (\$16,000.00)**, the rate to such residential unit during such fiscal year shall be reduced to **Ten Dollars (\$10.00)** per month, provided, that the resident who occupies such domestic establishment makes an application for such rate to the City Treasurer and files therewith an affidavit pertaining to the relevant facts. The rate and charge shall become effective retroactively to the first day of the calendar quarter in which such application is made and affidavit filed.

In the event any person making application for reduced charges shall submit any false, erroneous or untrue information relative to the eligibility or qualifications of the applicant for such reduced charges as set forth herein, any such person supplying such false, erroneous or untrue information shall be subject to a penalty equal to one hundred fifty percent (150%) of the prevailing rate then in effect.

(e) The City Treasurer is hereby authorized to adopt such rules and regulations as may be necessary for him to determine, and he shall determine, the classification of business, residences, multiple dwellings, business complexes, and other buildings and premises for the application of rates, fees and charges established by any schedule enacted by Council pursuant to this section; and any person or business feeling aggrieved by the application of any such rule or regulation of the City Treasurer to any rate, fee or charge sought to be collected from it or him by the City Treasurer shall have the burden of proof to show that the City Treasurer's rule or regulation is erroneous.

(f) Council shall have the right to revise from time to time the schedule of rates, fees and charges enacted herein to so adjust the rates, fees and charges that costs will be distributed as equitably as possible among all businesses and residents of the City on the basis of benefit received. At no time, however, shall rates be continued which are disclosed to be producing less revenue than is required to meet all obligations and costs involved in rendering services to the public.

(g) All accounts shall be considered delinquent if not paid by the last day of each following month for which the service is rendered. All delinquent accounts are subject to stoppage of service with notice. Any billing unpaid by the last day of the following month for which the services were rendered shall, in addition, be charged a delinquent fee amounting to ten percent (10%) of the unpaid billing. After the delinquent fee has been assessed, the City shall notify the customer by letter and inform the customer of the amount owed; the failure to pay the amount in full within ten days will result in termination of service; and that amount will be collected through legal proceedings with the attorney fees of the City added thereto. The City shall have the power to waive any delinquency or interest charge, if in the City's discretion, such action is warranted.

741.02 REPORT BY CITY TREASURER TO COUNCIL.

The City Treasurer shall, within sixty days after the end of each fiscal year, report to Council a list of all persons and business establishments who are delinquent in the payment of the municipal service fee or any portion thereof for the preceding fiscal year and Council

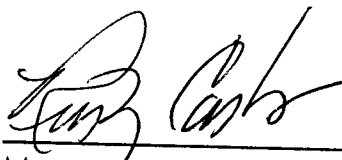
shall by resolution direct the Treasurer and other municipal employees to take such action as Council deems advisable and necessary in regard to the payment of such delinquent fees.

Passed on First Reading on

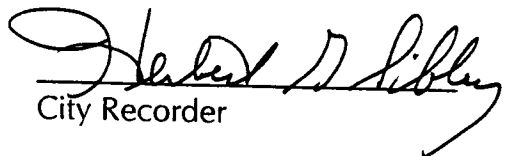
July 1, 1997

Adopted on Second Reading
on the 15th day of July, 1997,
after a public hearing held
immediately prior to regular
meeting of Council, on the
15th day of July, 1997.

July 15, 1997



Mayor



City Recorder

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AGENDA ITEM NO. 10 BUSINESS & PROFESSIONAL ASSOC. Vernon Mills reported the Association is working on city mapping.

AGENDA ITEM NO. 11 ORD. 86-10 (SIGN ORD) Mayor Casto yielded the floor to Councilman George Atkins. Councilman Atkins stated regarding the posting of signs on City property, there is an ordinance against this and they will be removed. Councilman Atkins said he just wanted to make sure this ordinance was enforced. After a discussion, COUNCILMAN GEORGE ATKINS MOVED THIS ITEM BE PUT IN COMMITTEE. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

AGENDA ITEM NO. 12 MAYOR'S COMMENTS: Mayor Casto announced "The annual City Celebration, July 5, 1997 at the City Park. Hot dogs, drinks and watermelon will be served at 5:00 p.m. Fireworks scheduled for Sunday at 9:30 p.m. at the park.

Councilmen's comments:

GEORGE ATKINS MOVED TO HAVE TWO LETTERS MADE PART OF THE JULY 1ST MINUTES, ONE FROM RECREATION DIRECTOR JAY LONG REGARDING THE SOFT BALL LEAGUE AND ONE FROM BETTY SHERWSBURY REGARDING THE POLICE DEPARTMENT, ALSO INCLUDED A DIRECTIVE FROM CHIEF OF POLICE, GREG WINTER DATED AUGUST 13, 1996. THE MOTION WAS SECONDED BY COUNCILMAN DAVE MILLER AND WAS CARRIED WITH RECORDER HERBERT SIBLEY OPPOSING. Councilman Atkins read directive to Council. A discussion followed. A discussion followed regarding hiring practices. (Copies attached)

Councilman David Miller read Fire Report, COUNCILMAN DAVID MILLER MOVED TO MAKE FIRE REPORT A PART OF THE MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. (Copy attached)

Councilman David Miller made suggestions regarding the pool area. Mayor Casto stated he will discuss this matter further with the Recreation Director.


Councilman Robert Young, would like to kept aware of progress of Rockledge.

Councilman Steve West, Ridenour is still not being closed at night. COUNCILMAN AT LARGE STEVE WEST MOVED FOR AN EXECUTIVE SESSION TO DISCUSS THE COURT CLERK SITUATION WITH ROBIN SMITH PERMITTED TO ATTEND. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

Recorder Herbert Sibley, stated he put a copy of the mandate, regarding PEIA insurance in each council members box. A discussion followed regarding this issue.

The regular council meeting was recessed for executive session.

Council reconvened and was adjourned.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER

SPECIAL COUNCIL MEETING CALLED BY MAYOR RUSTY CASTO 10:00 A. M.

JUNE 26, 1997

AGENDA : MINI STORAGE BUILDING FREDERICK STREET.

Mayor Casto called the special meeting to order at 10:00 a.m.. Others present, Councilman at Large Robert Mattox, Councilmen George Atkins, Frank Grover, Jr., C. R. Sergent, Building Official, and Mr. Lee Conrad.

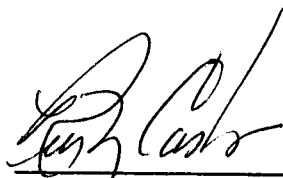
Mayor Casto stated the purpose of this meeting is to rescind BUILDING MORITORIUM OF FREDERICK STREET AREA passed by Council at June 3, 1997 regular council meeting.

Agreed by Council Members present to allow Mr. Conrad to work with Building Inspector, C. R. Sergent to continue with construction of "Mini Storage Building" on property in question.

Council request Building Inspector, C. R. Sergent to keep Council informed of progress regarding this project.

This is to become a matter of record and be attached to minutes of next regular council meeting.

There being no further business the meeting was adjourned.



RUSTY CASTO, MAYOR



HERBERT SIBLEY, RECORDER

* MINUTES SUBMITTED BY COUNCILMAN AT LARGE ROBERT MATTOX.

June 24, 1997

Rusty Casto, Mayor, & City Councilmen
City of Nitro
Nitro, West Virginia 25143

In researching the proposed closing of the Spring Street or Owens Street railroad crossings, the following information was obtained:

1. There are two separate projects being considered
1-Spring/Owens, and 2-DuPont/River
2. These projects are neither federal, nor state, nor Conrail mandated.
3. The state provides and controls funding of the closing/updating/lighting via safety dollars budgeted each year, and based on their specifications (light one, close one, no negotiating).
4. The City of Nitro stands to realize approximately \$300,000 of upgrade (paid for by the State) for closing two crossings.
5. The decision to close/light a specific crossing rests solely in the hands of City Council and RESIDENTS.
6. Approximate cost of lighting one crossing is \$100,000.
7. Three options are possible: 1) Reject both projects,
2) Accept both projects, 3) Make a counter offer to the state which would include leaving Spring/Owens crossings as they are.

QUESTIONS RAISED BECAUSE OF THIS PROPOSAL:

1. Can another road be built to allow two ways out in cases of emergencies?
2. If fire hydrants are installed on our side of the tracks, what use would they be if the city fire truck could not get to them in the case of the one crossing being blocked (power lines down, junk yard truck broken down on the tracks, train blocking crossing, all of which have happened in the past)?

3. Will the entire junk yard be paved? If not, the mud problem will still be a major factor.
4. Is the City of Nitro willing to accept the possibility of a lawsuit as the result of a blocked crossing (there being only one way out) in cases of emergencies?

OBSERVATIONS CONCERNING THIS PROPOSAL:

1. Trucks cannot be seen coming from the junk yard until a car clears the corner of the building, then it is too late. A traffic signal will be needed.
2. Oncoming trucks, which will be crossing directly in the path of a car traveling towards Route 25, cannot be seen over the railroad tracks.
3. Eighteen families will be left with only one way out in the case of emergencies, illness, fire, etc.
4. A tremendous decrease in property value will occur as the result of passing a junk yard each time one travels to a home in the area.
5. Often, pieces of "junk" material fall from the junk yard trucks which could be a safety hazard to vehicles traveling the road.

AS THE RESULT OF OUR CONCERNS, WE OFFER THE FOLLOWING:

We, residents of the affected area, oppose the closing of either the Spring Street or the Owens Street railroad crossings and petition the City of Nitro to halt any action that would result in the closing of either.

RESIDENT	ADDRESS
1. James R. Hains	205 Kanawha av. So.
2. Betty Hains	205 Kanawha Ave. So.
3. Nancy H. Hains	206 Kanawha Ave. So.
4. Elizabeth Hains	206 Kanawha Ave. So.
5. [unclear]	115 Kanawha Ave. S.
6. John A. McClung	109 Kanawha Ave. So.
7. [unclear]	109 Kanawha Ave. S.
8. Susan Hains	112 Kanawha Ave So No 7
9. [unclear]	114 Kanawha Ave. So
10. [unclear]	117 Kanawha Ave. So
11. [unclear]	116 " " "
12. [unclear]	119 Kanawha Ave S.
13. [unclear]	119 Kanawha Ave. S.
14. E. Helm	210 Kanawha Ave. S.
15. [unclear]	2062 Kanawha Ave S.
16. Christine E. Hudson	202 Kan. Ave. So.
17. [unclear]	202 Kanawha Ave. So
18. Sharon Saunders	110 Kanawha Ave So.
19. [unclear]	110 Kanawha Ave So.
20. [unclear]	111 Kan. Ave S.
21. [unclear]	111 Kanawha Ave So.
22. Cyndi R. Allen	114 Kanawha Ave South
23. [unclear]	114 Kanawha Ave South
24. [unclear]	110B Kanawha Ave South
25. [unclear]	110B Kan. Ave So.
26. [unclear]	120 Kan Ave So
27. Jane Sanson	120 Kan. Ave So.
28. Mercedes Walton	117 Kan Ave S.
29.	
30.	
31.	
32.	
33.	
34.	
35.	



RUSTY CASTO
MAYOR

June 23, 1997

Mr. Gary McClanahan, President
Nitro Men's Softball Team
Nitro City Park
Nitro WV 25143

Dear Mr. McClanahan,

The City of Nitro Council met Tuesday, June 17, 1997 for the regularly scheduled meeting. Councilman George Atkins discussed the ball leagues and after much discussion, a motion was made for the Recreation Director to send you a letter regarding rules and regulations.

All rules and regulations will be strictly enforced by the Recreation Director and Nitro Police Department.

Effectively immediately no vehicles, except for dragging and caring of the field are allowed in the Park area. All vehicles breaking these rules will be ticketed and towed at the owners expense. Also absolutely no alcoholic beverages at anytime. If alcoholic beverages are found at anytime, the player or players from that team will be banned. The second offense by any team member will result in the entire team being banned permanently from the league.

The home team is responsible for cleanup and locking of the rest rooms at the end of the games.

Gary, I feel since the City does not charge for the use of the facilities, the teams are expected to abide by these rules.

Respectfully,

Jay Long, Recreation Director

TO ALL COUNCILMEN:

As of June 20, 1997, I had been with the city for 18 years. I enjoyed working with the city, all the employees were like a big family. Since this administration took office, nothing has been the same.

Attached is a memo (one of many many) from Chief Winter. This applied to all the Police department except him. There is no confidentially where he is concerned. If you go and talk with him, it is all over the department.

The only way that I found out that he was changing the Communications schedule was because Edith Dowler was heard telling it over in city hall. For those of you who don't know her she is always sitting in the Mayors office or the Chiefs office. Every thing she hears, she broadcasts it. That is how I found out that he was putting us on 7 day rotating shifts, as she said including me. When I confronted him, he said the others wanted to change, which was not true, I asked them. I am the last person in here who knows what is going on. He gave me no alternative, As I explained to him I could not go back on midnights because of high blood pressure. He is fully aware of this because he also has high blood pressure, He also requested straight days from Chief Blankenship for this reason. He was given straight days. I know his reason for getting me out of here, After 18 years here I receive higher pay than the ones with one and two years. I tried to talk to Rusty when I gave him my letter of retirement but he did not want to talk about it. He said I will come over in a little while and talk to you. He never did, but I didn't think he would.

I think what hurts the most is that you put in 18 to 20 years and then get treated like you never did matter.

I hope maybe you can do something to help the other employees. The majority of the Police dept. would leave if they could. Several people are looking for other employment.

Retirement should be a happy time, but I was not ready for it. I would liked to have stayed a couple of more years. I would then have left with a happy heart.

Thank you for listening.

Betty J. Shrewsbury

B.J.



20th Street and Second Avenue
Nitro, West Virginia 25143
(304) 755-0701 FAX (304) 755-7472

TO: ALL POLICE PERSONNEL & TELECOMMUNICATORS
FROM: G. D. WINTER, CHIEF *G.D.W.*
DATE: AUGUST 13, 1996

EFFECTIVE IMMEDIATELY ALL EMPLOYEE'S WILL BE REQUIRED TO KEEP ALL POLICE DEPARTMENT BUSINESS CONFIDENTIAL WITHIN THE DEPARTMENT. IT HAS BEEN BROUGHT TO MY ATTENTION THAT SOME EMPLOYEES ARE DISCUSSING POLICE DEPARTMENT BUSINESS OUTSIDE OF THE DEPARTMENT AND THIS PRACTICE IS TO BE STOPPED IMMEDIATELY.

X APPROVED

 DISAPPROVED

[Signature]
RUSTY CASTO, MAYOR

TO SERVE AND PROTECT

Nitro Fire Department

261

2009 20th St. Nitro, W.Va. 25143

The Nitro Fire Department responded to 37
Emergencies during the Month of June, 1997.

* Auto Accidents	11
* EMS	7
* Box Alarm	6
* Fire	1
* Haz - Mat	5
* Other	7

TOTAL	37
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Runs per Shift: A-Shift 14: B-Shift 14: C-Shift 9

Notable Incident:

On Saturday 6-7-97 at approximately 10:00 PM Lt. Blankenship NPD while on Patroll, observed an Explosion & advised HQ to Notify the Fire Department in the area of Par Industrial Park, while in route we were advised by NPD that the incident was located across the Kanawha River. At approximately 10:30 PM, at the request of St. Albans Fire Department, we responded an Engine Co. (852) to Rt. 35 for Pumping Capacity and Manpower. By 12:00 AM we mobilized our Decon Unit and Responded. The Nitro Fire Department maintained

a presence on Scene for a total of 51 hours (not total man hours) Our Decontamination Unit was Utilized for a total of 23 hours (not total man hours).

CITY OF NITRO COUNCIL MEETING MINUTES

JULY 15, 1997

Mayor Casto declared a quorum and called the July 15, 1997 Council Meeting to order at 7:30 p.m. Others present, City Recorder Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, Frank Grover, Jr., and George Atkins. Also present City Attorney Phillip Gaujot and City Treasurer Ralph Allison. Absent Councilman David Miller.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Robert Mattox.

AGENDA ITEM NO. 2 APPROVAL OF JULY 1, 1997 MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

COUNCILMAN ROBERT YOUNG MOVED TO MAKE A LETTER ADDRESSED TO PHYLLIS COLE AT THE GOVERNORS OFFICE A PART OF THE JULY 1, 1997 MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 3 MICHAEL PACK :- Did not attend meeting.

AGENDA ITEM NO. 4 KRT APPOINTMENT: COUNCILMAN ROBERT YOUNG MOVED TO RE-APPOINT DR. GUY CASSELL TO KRT. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

AGENDA ITEM NO. 5 MUNICIPAL FEE INCREASE: ORD 97-07: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO READ TITLE ONLY OF ORD 97-07 AN ORDINANCE AMENDING PART SEVEN ARTICLE 741 MUNICIPAL SERVICES. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

City Attorney Phillip Gaujot read title only of ORD 97-07 AN ORDINANCE AMENDING PART SEVEN ARTICLE 741 MUNICIPAL SERVICES. Counselor Gaujot stated Ord 97-07 passed on first reading July 1, 1997, a public hearing was held today July 15, 1997 at 7:00 p.m. The record will reflect there were no objections made at the public meeting. RECORDER HERBERT SIBLEY MOVED FOR THE SECOND READING OF ORDINANCE 97-07 TITLE ONLY. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED. Councilman at Large Richard Savilla read title of ORD 97-07 AMENDING PART SEVEN ARTICLE 741 MUNICIPAL SERVICE FEES WHEREAS, THE CITY OF NITRO DECLARES THE NECESSITY AND CONVENIENCE TO INCREASE THE RATE FOR ESSENTIAL MUNICIPAL SERVICES, INCLUDING POLICE PROTECTION, FIRE PROTECTION, STREET LIGHTING, STREET MAINTENANCE, STREET CLEANING, STREET IMPROVEMENTS, AMBULANCE SERVICE, RECREATION, AND GARBAGE AND REFUSE COLLECTION (EXCLUDING SEWAGE AND SEWAGE DISPOSAL AND OTHER ESSENTIAL MUNICIPAL SERVICES). COUNCILMAN ROBERT YOUNG MOVED TO ACCEPT ORD 97-07 ON SECOND READING. THE MOTION WAS SECONDED BY RECORDER HERBERT SIBLEY. COUNCILMAN AT LARGE STEVE WEST MOVED TO AMEND THE MOTION TO PUT LIMIT FROM THE EFFECTIVE DATE TO JUNE 30, 1998. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS. MOTION FAILED WITH COUNCILMEN BOB YOUNG, RICHARD SAVILLA, BOB MATTOX AND HERB SIBLEY VOTING AGAINST.

A VOTE WAS TAKEN ON PREVIOUS MOTION AND WAS CARRIED WITH COUNCILMAN AT LARGE STEVE WEST AND COUNCILMAN GEORGE ATKINS VOTING AGAINST. (Copy Attached)

AGENDA ITEM NO. 6 PHIL GAUJOT COMMENTS: Mayor Casto presented a petition from East Wood Acres requesting annexation. Mayor Casto yielded the floor to Counselor Gaujot. Counselor Gaujot stated annexation is controlled by WV code and further explained the three methods of annexation.

AGENDA ITEM NO. 7 FREDERICK STREET: Mayor Casto stated the company they are working with is Under Water Services and they want to check the line and talk with persons knowing the details of the line involved. A discussion followed regarding the Frederick St. area. Counselor Gaujot recommended checking with the City insurance carrier to make sure these people will be covered and also make sure the company has adequate insurance, and make contact with the State and Twin City Church. COUNCILMAN FRANK GROVER, JR. MOVED TO HIRE UNDERWATER SERVICES TO DO SURVEY FOR \$2500.00 FEE. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 8 31ST STREET BRIDGE: Mayor Casto yielded the floor to Councilman at Large Richard Savilla. Councilman Savilla reported he received a letter for approximate site surveying and engineering cost of \$28,000 for the "31st Street Bridge". COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO PUT THIS ISSUE IN COMMITTEE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVEN WEST AND WAS CARRIED.

AGENDA ITEM NO. 9 BID OPENING: Mayor Casto yielded the floor to City Recorder Herbert Sibley. Recorder Sibley stated he received two bids regarding paving of Old County Road. The first bid from Orders & Haynes, opened by Councilman at Large Richard Savilla \$15,500. Second bid WV Paving opened by Councilman at Large Steve West \$19,949.66. COUNCILMAN AT LARGE STEVE WEST MOVED TO ACKNOWLEDGE RECEIPT OF BIDS FROM ORDERS & HAYNES AND WV PAVING. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 10 EMPLOYEE RELATIONS REPORT: Mayor Casto yielded the floor to Councilman at Large Steve West. Councilman West reported the committee recommended to delete sections 157-05, 157-06, 157-07 and 157-08 from code book and replaced with policy. At this time, the policy would consist of the information contained in the mentioned articles of code book. Councilman West stated a policy is much easier to change than the code book.

COUNCILMAN AT LARGE STEVEN WEST MOVED TO REVISE CURRENT POSITION OF MUNICIPAL COURT CLERK TO INCLUDE CITY FEES COLLECTOR WITH THE POSITION UNDER THE DIRECTION OF THE MUNICIPAL JUDGE AND CITY TREASURER. DUTIES WILL BE DIVIDED BETWEEN THOSE ASSIGNED TO THE MUNICIPAL CLERK AND THE COLLECTION OF ALL DELINQUENT FEES OWED THE CITY, EXCEPT NITRO SANITARY BOARD. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

COUNCILMAN AT LARGE STEVEN WEST MOVED TO ADVERTISE THE POSITION OF PART-TIME CITY PROSECUTOR WITH SPECIFICATIONS PROVIDED BY THE MUNICIPAL COURT JUDGE. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS. AFTER SOME DISCUSSION A VOTE WAS TAKEN AND WAS CARRIED WITH COUNCILMAN GEORGE ATKINS OPPOSING.

Councilman at Large Steve West announced an Employee Relations Committee Meeting, Tuesday, July 22, 1997 at 7:30 p.m. in Conference Room at City Hall.

AGENDA ITEM NO. 11 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Vernon Mills. Mr. Mills reported plans for city map, up coming election of officers.

AGENDA ITEM NO. 12 MAYOR'S COMMENT: Mayor Casto announced hearing (Par bankruptcy court) July 23, 1997 at 2:30 p.m. at the Federal Bldg.

Councilmen's Comments

Frank Grover requested appropriate department to contact Raleigh Junk to stop dragging mud on to the streets.

George Atkins, stated it is time to act on issues that go to committee and not let them just lie there.

Steven West, requested outcome of meeting with Con Rail. Councilman Grover reported the State and the Railroad trying to find out what the residents expected and their feeling toward closure of crossings. Councilman Grover stated there was discussion but no decisions. Councilmen Frank Grover, Robert Mattox, George Atkins and Mayor Casto attended this meeting.

Robert Mattox, reported he came away with a negative response with the residents regarding closure of crossings.


Also Councilman Mattox requested City Attorney to prepare ordinance regarding feeding of the ducks. Mayor Casto commented Department of Natural Resources stated that white swans would help run the ducks away. A discussion followed regarding problem with ducks.

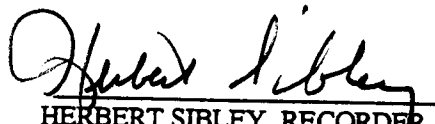
Councilman Mattox reported EPA stated they would take some samples at the Smith Street Landfill and get back with the City in two weeks.

Recorder Herbert Sibley, commented this was a very productive meeting.

Mr. Campbell expressed his concern regarding the sinking streets.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER

**ORDINANCE AMENDING PART SEVEN ARTICLE 741
MUNICIPAL SERVICE FEES**

WHEREAS, the City of Nitro declares the necessity and convenience to increase the rate for essential municipal services, including police protection, fire protection, street lighting, street maintenance, street cleaning, street improvements, ambulance service, recreation, and garbage and refuse collection (excluding sewage and sewage disposal and other essential municipal services).

NOW THEREFORE, BE IT ORDAINED, that the City of Nitro hereby amends Part Seven Article 741 titled "Municipal Service Fees" as follows:

741.01 IMPOSITION; RATE.

(a) There is hereby levied and shall be collected a charge against residential users of municipal services situate within the City for essential municipal services, including police protection, fire protection, street lighting, street maintenance, street cleaning, street improvements, ambulance service, recreation and garbage and refuse collection (excluding sewage and sewage disposal and other essential municipal services). The charge for such services shall be at the rate of **Fifteen Dollars (\$15.00)** per month for each single-family unit residence, per unit, and for each multiple-family dwelling or apartment house, per each residential unit or apartment, whether or not occupied.

There is hereby levied and shall be collected a charge against commercial users of municipal services situate within the City for essential municipal services, including police protection, fire protection, street lighting, street maintenance, street cleaning, street

improvements, ambulance service, recreation and garbage and refuse collection, (excluding sewage and sewage disposal and other essential municipal services). The minimum charge for such services shall be at a rate of **Twenty Dollars (\$20.00)** per month for each commercial business, per unit, and in buildings where there are more than one commercial business unit, firm or corporation, each unit or business unit, firm or corporation, shall be considered as a separate unit with respect to service rendered under the terms hereof, and with the duty of subscribing for service and paying for service to the respective commercial unit. Any business establishment requiring collection of garbage or refuse more frequently than once a week or having more than One Hundred (100) Pounds per week shall enter into a separate agreement with the City (**Board of Public Works Director**) and the fees for said collection shall be negotiated with the City. The minimum monthly charge of **\$20.00** is hereby levied and shall be collected against all business entities within the City whether said business entities use City services relative to garbage and refuse collection or contracts with others for the same service.

(b) The City Treasurer shall be charged with the duty of mailing a statement on a monthly basis to each residence and business to be charged with the municipal fee hereby imposed for the fee due for the preceding month, but failure to mail any statement for monthly charges shall not be grounds for avoiding payment. A statement shall be mailed by the Treasurer at least as frequently as once each month and any such statement may be consolidated by the Treasurer with statements for other municipal fees and services due from such person or business entity. If a monthly statement is mailed by the Treasurer, it may be mailed each month on a date selected by the Treasurer but the Treasurer *shall render the*

monthly billing to such person or business entity in a uniform manner so that each monthly bill is mailed at intervals of approximately thirty days.

(c) Subject to such reasonable regulations as may be promulgated by the City Treasurer and approved by City Council, the record owner of the property upon which a single-family residence or business is situate shall be presumed to be the user of municipal service rendered for the benefit of such property or business and the record owner shall be liable to the City for such charges; the tenants or occupants of the business units or of the multi-business complex or residential units of a multi-family dwelling or apartment house shall be presumed to be the users of such municipal services and shall be liable to the City for such charges. However, in the event that a business unit or business unit of a multi-business complex or a residential unit of a multi-family dwelling or apartment house is temporarily unoccupied, then and in that event, the record owner of the property upon which such multi-business unit or multi-family dwelling or apartment house is situate shall be presumed to be the user of the municipal services provided to each such unoccupied unit and shall be liable to the City for such charges. Subject to such reasonable regulations as may be promulgated by the City Treasurer as aforesaid, the record owner of the property upon which such multi-business unit, multi-family dwelling or apartment house is situate shall be charged with the responsibility of collecting in advance, the charge imposed by this section from the tenants or occupants of such business units, dwelling units or apartments and properly remitting same to the City Treasurer and shall be liable to the City in the amount of such charges for failure to do so or for failure to maintain adequate records from which such liability may be ascertained.

(d) When the aggregate gross income of all persons residing in a single family residential unit maintained and occupied by a resident of the City during the preceding calendar year of the City shall be less than **Sixteen Thousand Dollars (\$16,000.00)**, the rate to such residential unit during such fiscal year shall be reduced to **Ten Dollars (\$10.00)** per month, provided, that the resident who occupies such domestic establishment makes an application for such rate to the City Treasurer and files therewith an affidavit pertaining to the relevant facts. The rate and charge shall become effective retroactively to the first day of the calendar quarter in which such application is made and affidavit filed.

In the event any person making application for reduced charges shall submit any false, erroneous or untrue information relative to the eligibility or qualifications of the applicant for such reduced charges as set forth herein, any such person supplying such false, erroneous or untrue information shall be subject to a penalty equal to one hundred fifty percent (150%) of the prevailing rate then in effect.

(e) The City Treasurer is hereby authorized to adopt such rules and regulations as may be necessary for him to determine, and he shall determine, the classification of business, residences, multiple dwellings, business complexes, and other buildings and premises for the application of rates, fees and charges established by any schedule enacted by Council pursuant to this section; and any person or business feeling aggrieved by the application of any such rule or regulation of the City Treasurer to any rate, fee or charge sought to be collected from it or him by the City Treasurer shall have the burden of proof to show that the City Treasurer's rule or regulation is erroneous.

(f) Council shall have the right to revise from time to time the schedule of rates, fees and charges enacted herein to so adjust the rates, fees and charges that costs will be distributed as equitably as possible among all businesses and residents of the City on the basis of benefit received. At no time, however, shall rates be continued which are disclosed to be producing less revenue than is required to meet all obligations and costs involved in rendering services to the public.

(g) All accounts shall be considered delinquent if not paid by the last day of each following month for which the service is rendered. All delinquent accounts are subject to stoppage of service with notice. Any billing unpaid by the last day of the following month for which the services were rendered shall, in addition, be charged a delinquent fee amounting to ten percent (10%) of the unpaid billing. After the delinquent fee has been assessed, the City shall notify the customer by letter and inform the customer of the amount owed; the failure to pay the amount in full within ten days will result in termination of service; and that amount will be collected through legal proceedings with the attorney fees of the City added thereto. The City shall have the power to waive any delinquency or interest charge, if in the City's discretion, such action is warranted.

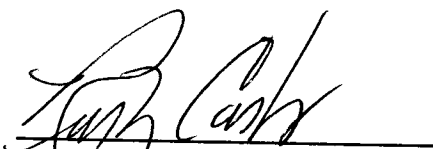
741.02 REPORT BY CITY TREASURER TO COUNCIL.

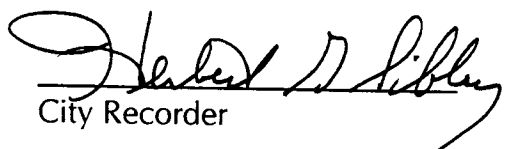
The City Treasurer shall, within sixty days after the end of each fiscal year, report to Council a list of all persons and business establishments who are delinquent in the payment of the municipal service fee or any portion thereof for the preceding fiscal year and Council

shall by resolution direct the Treasurer and other municipal employees to take such action as Council deems advisable and necessary in regard to the payment of such delinquent fees.

Passed on First Reading on July 1, 1997

Adopted on Second Reading
on the 15th day of July, 1997,
after a public hearing held
immediately prior to regular
meeting of Council, on the
15th day of July, 1997. July 15, 1997


Mayor


City Recorder

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July 11, 1997

Hon. Rusty Casto, Mayor
City of Nitro
City Building
Nitro, West Virginia 25143

**Re: 31st Street Bridge
Engineering Agreement**

Dear Mayor Casto:

We are pleased to submit this proposal as the basis for an agreement between Dunn Engineers, Inc. and the City of Nitro for engineering services related to the proposed replacement of the vehicular bridge across Blakes Creek at 31st Street. For ease of reference, you will hereinafter be referred to as the OWNER and Dunn Engineers, Inc. will be referred to as the ENGINEER.

The ENGINEER agrees at all times that his services will be in full compliance with Federal and State statutes, municipal ordinances, rules and regulations of state and municipal boards, commissions and bureaus, and assumes responsibility for any violation thereof, and agrees to obtain any necessary permits for the performance of his services as required by law. The United States Government Equal Opportunity Clause contained in Section 202 of Executive Order 11246, as amended by Executive Order 11375, is incorporated by reference and made a part hereof.

Survey and field services will be performed at locations designated herein. Office services will normally be done in the office of the ENGINEER at 701 Virginia Street, West, Charleston, West Virginia 25302.

Schedule "A" attached hereto defines the scope of services and Schedule "B" establishes the engineering fees for the defined services. It is understood that these schedules may be modified from time to time during the course of the PROJECT as determined by the mutual consent of the OWNER and the ENGINEER.

The ENGINEER will commence the requested services and will complete the same in a professional manner, with qualified personnel, and with proper dispatch, and will make every effort to complete the designated services within the agreed to period of time, it being understood that the ENGINEER's ability to perform in this regard may be affected by the timely availability of qualified subconsultants or specialty personnel or other circumstances beyond the control of the ENGINEER.

Payment for services will be made by the OWNER within thirty (30) days after receipt of a proper invoice. The ENGINEER will submit progress invoices on a monthly basis.

The ENGINEER and the OWNER agree that this Contract is subject to cancellation by either party upon rendering ten (10) days written notice to the other's principal address.

All data, reports, design notes, sketches, drawings and specifications furnished or developed by the ENGINEER pursuant to this Agreement are instruments of his services in respect to the project. It is understood that the ENGINEER does not represent such data, reports, design notes, sketches, drawings and specifications to be suitable for reuse by other parties or on any other project or for any other purpose. Any reuse by the OWNER without specific written verification or adaptation by the ENGINEER will be at the risk of the OWNER and without liability to the ENGINEER. Any such verification or adaptation will entitle the ENGINEER to further compensation at rates to be agreed upon by the OWNER and the ENGINEER.

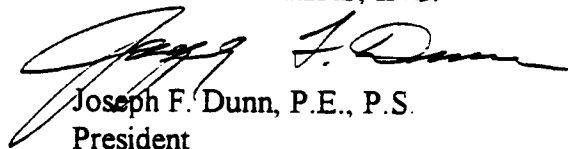
The ENGINEER shall welcome inspection by the OWNER at any time during the performance of the services.

It is agreed that the ENGINEER will initiate services on the project upon written direction of the OWNER or the OWNER's representative. Such instructions will be received for the ENGINEER at his Charleston office or his authorized representative.

If the terms of this proposal are acceptable to you, please sign one (1) copy and return it to us for our records. The second copy is for your file.

Sincerely,

DUNN ENGINEERS, INC.

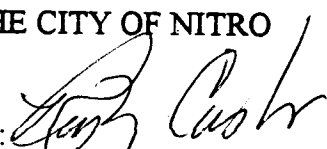

Joseph F. Dunn, P.E., P.S.
President

rc

Enclosures: Schedule "A"
Schedule "B"

ACCEPTED:

THE CITY OF NITRO

By: 
Rusty Casto, Mayor

Date: _____

SCHEDULE "A"
NITRO - DUNN

SCOPE OF SERVICES
31ST STREET BRIDGE REPLACEMENT

Services envisioned under this schedule relate to the replacement of the vehicular bridge across Blakes Creek at 31st Street. Specific services to be provided are:

PART I - Development of Background Data

PART II - Design, Prepare Plans and Specifications and Bidding Documents

PART III - General Construction Supervision and Resident Project Representation

The ENGINEER will:

GENERAL

1. Perform professional services in connection with the PROJECT as hereinafter stated.
2. Serve as the OWNER's professional representative and give consultation and advice to the OWNER throughout the PROJECT.

PART I - Development of background data

1. Obtain topographic data for the proposed project area.
2. Establish a bench mark and base line(s) for layout and control of the work.
3. Secure geotechnical services as necessary to permit design to progress.

PART II - Design, and prepare plans, specifications and bidding documents, for a bridge within the following parameters:

1. H-20 loading, precast/prestressed concrete deck surface.
2. Two each twelve (12) foot wide traffic lanes plus a four (4) foot wide sidewalk.
3. Stream alignment to remain essentially unchanged.
4. Stream bank erosion protection upstream and downstream of the bridge.
5. At 70% design completion stage, the ENGINEER will review in progress documents with the OWNER's representative(s) and provide an estimate of construction and project costs.
6. Provide the OWNER with three (3) sets of completed plans, specifications and contract documents and updated construction and project cost estimates prior to advertising for bids.

PART III - General construction supervision and part-time resident project representation

1. Attend and conduct bid opening, and make recommendation to OWNER for contract award.
2. Review shop and setting drawings and approve contractor's progress invoices for payment by the OWNER.
3. Make periodic visits to the PROJECT site to ascertain that the work is progressing in accordance with PROJECT documents.
4. Provide part-time resident project representation (16 hours per week) to provide the OWNER additional assurance that the work is progressing in accordance with the contract documents.
5. Provide written monthly progress reports during the construction phase.

TIME OF COMPLETION

The services outlined in parts I and II will commence immediately upon receipt of written "Notice to Proceed" from the OWNER and the plans and specifications will be available for final review by the OWNER in not more than ninety (90) calendar days from the date of the "Notice to Proceed."

Services outlined under Part III will coincide with the contractor's construction activities.

SCHEDULE "B"
NITRO - DUNN

ENGINEERING FEES
BACKGROUND DATA
DESIGN, PLANS & SPECIFICATIONS
GENERAL CONSTRUCTION SUPERVISION &
RESIDENT PROJECT REPRESENTATION

	<u>Fee</u>
Part I Background Data	\$3,500 (L.S.)
Geotechnical	3,000 (Est.)
Part II Design, Construction Plans, Specifications and Bid Documents	11,000 (L.S.)
Part III Bid Opening	1,000 (L.S.)
General Construction Supervision 2 hours per week for 10 weeks	1,500 (L.S.)
Resident Project Representation 16 hours per week for 10 weeks	<u>8,000 (L.S.)</u>
TOTAL ESTIMATED ENGINEERING FEE FOR THE HEREIN DEFINED SCOPE OF SERVICES	\$28,000

The cost of any permits will be paid directly by the OWNER.

OTHER ENGINEERING SERVICES

Should the OWNER desire that the ENGINEER provide services beyond those outlined in Parts I, II, and III, the following rates will prevail:

Principal	\$125.00/Hour
Project Engineer	\$75.00/Hour
Survey Coordinator	\$70.00/Hour
Three (3) Man Survey Crew	\$85.00/Hour
CAD Operator	\$50.00/Hour
Clerk/Typist	\$35.00/Hour

The above rates include all items of salary cost, overhead and profit.

Direct costs incurred in providing Other Engineering Services will be billed at cost.

CITY OF NITRO COUNCIL MEETING MINUTES

AUGUST 5, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. Others attending, Herbert Sibley, City Recorder, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen, David Miller, George Atkins and Frank Grover, Jr. Absent Councilman Robert Young. Also present City Attorney Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Herbert Sibley, City Recorder.

CITIZEN OF THE MONTH

Mayor Casto announced **Opal Miller** as "Citizen of Month" and presented her with a bouquet of flowers. Several comments were made commending Charlie and Opal for their dedication to the City elections, Seniors Citizens Program and acknowledgment of their kindness toward everyone.

AGENDA ITEM NO. 2 APPROVAL OF JULY 15, 1997 MINUTES: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED WITH COUNCILMAN DAVID MILLER ABSTAINING.

COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO APPROVED THE PUBLIC HEARING MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED WITH COUNCILMAN DAVID MILLER ABSTAINING. (copy attached)

AGENDA ITEM NO. 3 JON AMORES - REPUBLIC CONTAINER: Mayor Casto yielded the floor to Mr. Jon Amores, Republic Container. Mr. Amores requested permission from the City to rename West 19th Street to #1 Republic Way. After much discussion, a public meeting was announced for Tuesday at 7:00 p.m. August 19, 1997 at City Hall to get input from the public.

AGENDA ITEM NO. 8 31ST BRIDGE: COUNCILMAN FRANK GROVER MOVED TO MOVE MR. PAUL FILLIPIAC FROM CONTEC TO THE AGENDA AT THIS POINT. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

Mr. Fillipiac stated he was a salesman from Contec, formerly known as Armco Steel. Mr. Fillip made a presentation to council regarding a bridge for 31St. Mr. Fillipiac quoted a smaller bridge at a cost of \$100,000 less than the one being considered. After much discussion, Mr. Fillipiac stated he would talk to Dunn Engineers and get back to Council at the next meeting.

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Mayor Casto stated the Treasurer, Ralph Allison will report on insurance bids next meeting.

Councilmen comment's

Recorder Herb Sibley reported a public hearing was held today at 2:00 p.m. and discussed several projects needed in the City such as expanding the sewer system up to Blakes Creek , correct Frederick St. drainage, problem behind Windsor Apt., Gum St. connection to the river, and the Old County Road paving. Also fire hydrants and handicap needs discussed for Nitro Community Center and Nitro City Hall. Recorder Sibley stated the deadline is September 15, for getting the application in for consideration. John Romano will advertise for the Public Hearing.

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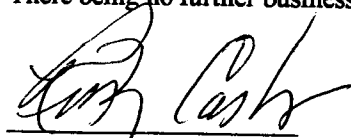
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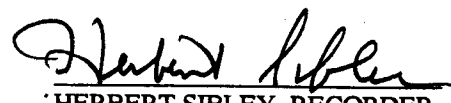
Councilman Frank Grover reported to council he had a second request from the Sanitary Board for the Building Dept to check on some things and get back to them. Councilman Grover stated he would make each member a copy of this request.

Also Councilman Grover reported he received a letter from a dance studio, and this studio was very complimentary to Building Director, Dave Perry. Councilman Grover also commended Mr. Perry for a job well done.

Councilman at Large Steve West announced the Nitro Community Area Forum will meet at 5:30 in room 107 at the Community Center.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR


HERBERT SIBLEY, RECORDER

PUBLIC HEARING

ORDINANCE RE MUNICIPAL SERVICE INCREASE

JULY 15, 1997

Mayor Casto called the Public Hearing to order at 7:00 p.m. Others attending Herbert Sibley, Recorder, Councilmen at Large Steven West, Richard Savilla, Robert Mattox, Councilmen George Atkins, Frank Grover, Jr. and City Attorney Phillip Gaujot. Also attending several citizens.(Copy Attached)

Mayor Casto explained this hearing is in reference to the municipal service increase, which would increase the residential rate from \$12.00 to \$15.00 per month for each single-family unit residence, whether or not occupied. For residents with an income of under \$16,000, the rate will be reduced to \$10.00 per month.

Treasurer Ralph Allison stated a \$3.00 increase represents a twenty five per cent increase. The landfill rate was increased by sixty five per cent. This increase will off set the landfill increase.

Councilman at Large Mattox stated the proposed municipal fee was certainly not out of line with the increased economic factors these matters are based on. A discussion followed regarding the increased cost of employee benefits, wages, social security taxes and other costs have inflated from \$15,000 to \$24,000. Councilman Mattox said nothing has remained the same. Councilman Mattox said he felt the municipal increase is in line with other costs.

Councilman Richard Savilla stated the municipal service has not been increased since 1991 and with inflation all costs have increased and said he is in favor of the increase.

Councilman Steven West stated he is against the increase, but would be in favor of one year and re-evaluate at that time.

Councilman George Atkins asked Recorder Sibley what businesses participated in the Civic Benefits Association. Recorder Sibley stated that list is not made known to the public. Also Councilman Atkins stated he was in agreement with Councilman West on a one year trial basis and Councilman Atkins stated the delinquent fees should be collected.

A discussion followed including the audience regarding video lottery other methods of saving money.

There being no further input, the meeting was adjourned at 7:25 p.m.

RUSTY CASTO, MAYOR

Herbert Sibley
HERBERT SIBLEY, RECORDER

CITY OF NITRO PUBLIC MEETING

BLOCK GRANT

AUGUST 5, 1997

Mayor Rusty Casto called the meeting to order at 2:00 p.m. in conference room at City Hall. Others attending, John Romano, Ric, Bob Mattox, Councilman, Connie Stephens, General Manager Nitro Sanitary Board and Herbert Sibley, City Recorder.

The purpose of this meeting was to obtain views and comments regarding community development and housing needs as well as the needs of low and moderate-income persons.

Projects discussed were:

Connecting THF Mall with Nitro Sewer System.


Frederick street drainage

Gum Street - Connection to river

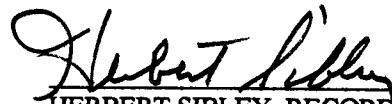
County Road - Paving

A discussion followed regarding funds, fire hydrants, handicap entrances and 31st Street bridge.

There being no further input, the meeting was adjourned at 2:50 p.m.



RUSTY CASTO, MAYOR



HERBERT SIBLEY, RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES

AUGUST 5, 1997

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. Others attending, Herbert Sibley, City Recorder, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen, David Miller, George Atkins and Frank Grover, Jr. Absent Councilman Robert Young. Also present City Attorney Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Herbert Sibley, City Recorder.

CITIZEN OF THE MONTH

Mayor Casto announced **Opal Miller** as "Citizen of Month" and presented her with a bouquet of flowers. Several comments were made commending Charlie and Opal for their dedication to the City elections, Seniors Citizens Program and acknowledgment of their kindness toward everyone.

AGENDA ITEM NO. 2 APPROVAL OF JULY 15, 1997 MINUTES: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED WITH COUNCILMAN DAVID MILLER ABSTAINING.

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AGENDA ITEM NO. 3 JON AMORES - REPUBLIC CONTAINER: Mayor Casto yielded the floor to Mr. Jon Amores, Republic Container. Mr. Amores requested permission from the City to rename West 19th Street to #1 Republic Way. After much discussion, a public meeting was announced for Tuesday at 7:00 p.m. August 19, 1997 at City Hall to get input from the public.

AGENDA ITEM NO. 8 31ST BRIDGE: COUNCILMAN FRANK GROVER MOVED TO MOVE MR. PAUL FILLIPIAC FROM CONTEC TO THE AGENDA AT THIS POINT. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

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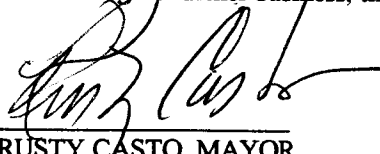
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There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR

HERBERT SIBLEY, RECORDER

PUBLIC HEARING
ORDINANCE RE MUNICIPAL SERVICE INCREASE

JULY 15, 1997

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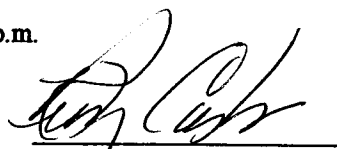
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A discussion followed including the audience regarding video lottery other methods of saving money.

There being no further input, the meeting was adjourned at 7:25 p.m.


RUSTY CASTO, MAYOR

HERBERT SIBLEY, RECORDER

ORDINANCE NO. 37-08

**AN ORDINANCE AMENDING ARTICLE 927
OF THE CODIFIED ORDINANCES OF THE
CITY OF NITRO, WEST VIRGINIA, PROHIBITING
THE FEEDING OF DUCKS AND GEESE AT
THE LAKE GROUNDS OF RIDENOUR PARK**

WHEREAS, The entire area embraced within the corporate limits of the City of Nitro is designated a bird sanctuary; and

WHEREAS, The Council of the City of Nitro finds that the practice of feeding ducks and geese at the lake grounds of Ridenour Park, situate in the City of Nitro, has caused an extremely large number of ducks and geese to congregate and remain on and about the lake property and, as a result thereof, has created a public health hazard, constituting a nuisance or menace to health and property, and, thus necessitates an ordinance prohibiting the public from feeding said ducks and geese, whereby said ducks and geese may tend to migrate to other areas of the country; and,

WHEREAS, The Council of the City of Nitro finds that, because of the public health hazard and because of the reluctance of the public to cease and desist from feeding said ducks and geese, the Ordinance should contain a penalty for those who feed said ducks and geese.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nitro, Kanawha and Putnam Counties, West Virginia, that Article 927 of the Codified Ordinances of the City of Nitro be amended, adding 927.10, prohibiting the feeding of ducks and geese at Ridenour Park and providing a penalty for those who violate said Code, as follows:

927.10 FEEDING DUCKS AND GEESE AT RIDENOUR PARK. No person shall feed ducks or geese at Ridenour Park. Whoever violates Section 927.10 shall be fined not less than \$25.00, nor more than \$100.00, for a first offense. Thereafter, any person convicted of successive violations of Section 927.10 shall be fined not less than \$50.00, nor more than \$200.00.

Passed on First Reading on

August 5, 1997

Adopted on Second Reading on

August 19, 1997



RUSTY CASTO, MAYOR



CITY RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES**SEPTEMBER 02, 1997**

Mayor Rusty Casto declared a quorum and called the meeting to order. Others present: Herbert Sibley, Recorder, Councilmen at Large Robert Mattox, Richard Savilla, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr. Absent Councilman at Large Steve West due to illness. Also present, City Attorney Phillip Gaujot.

AGENDA ITEM NO. 1. INVOCATION: HERBERT SIBLEY, RECORDER**CITIZEN OF THE MONTH**

Mayor Casto announced June Graham as "September Citizen of the Month." June was honored with a luncheon and presented a plaque in appreciation of sixteen years of dedicated service to the city. Mayor Casto stated June will certainly be missed around City Hall.

AGENDA ITEM NO. 2 APPROVAL OF AUGUST 19, 1997 MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED WITH COUNCILMAN AT LARGE RICHARD SAVILLA ABSTAINING.

AGENDA ITEM NO. 3 PUBLIC HEARING MINUTES: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVED THE PUBLIC HEARING MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED WITH COUNCILMAN AT LARGE RICHARD SAVILLA ABSTAINING. (Copy Attached)

AGENDA ITEM NO. 4 REPUBLIC CONTAINER ORD. Mayor Casto yielded the floor to Counselor Gaujot. Counselor Gaujot read Ord -97-0 in its entirety, an ordinance to change the name of Viscose Rd to Republic Way. COUNCILMAN ROBERT YOUNG MOVED TO APPROVED ORD 97-0 ON FIRST READING. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED WITH COUNCILMAN AT LARGE RICHARD SAVILLA OPPOSING.

Counselor Gaujot announced a public hearing. September 16, 1997 at 7:00 p.m. in Council Chambers. Also Counselor Gaujot recommended printing the entire ordinance for advertising in the paper and to notify all the businesses located on Viscose Drive by letter.

AGENDA ITEM NO. 5 31ST STREET BRIDGE: Mayor Casto reported he met with Dunn Engineers today and the plans for the 31st Street Bridge will be delivered this week to the Mayor's office and a copy will be made for Council.

Councilman Robert Young reported he had been contacted by a resident on 31st Street, East regarding an area where dirt has been removed. This resident voiced concern of this project causing a slip.

Some discussion followed regarding status of the bridge.

AGENDA ITEM NO. 6 INSURANCE BIDS: Mayor Casto reported the City's Insurance has been put out for bids. The bids will be opened at the next council meeting.

COUNCILMAN DAVID MILLER MOVED TO APPOINT MRS. MARJORIE SALES FOR ANOTHER FIVE YEAR TERM TO THE LIBRARY BOARD. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

AGENDA ITEM NO. 7 PHIL GAUJOT: Counselor Gaujot reported he had been notified that EPA has forwarded to the Justice Department a response to the City's proposal regarding the Fike-Artel property. Counselor Gaujot stated that as of council meeting time he has not received message as to how EPA responded to the city's request to own the former chemical plant property. Counselor Gaujot further explained what the Fike/Artel deal was all about. If EPA approved the request the city could generate revenue by leasing out the cleaned-up site.

AGENDA ITEM NO. 8 MAYOR'S COMMENTS: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO ADVERTISE FOR BIDS FOR TRASH CAN LINERS. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

Councilman's comments:

Councilman David Miller- Read Fire Report.

Mayor Casto thanked Councilman David Miller for his contribution of nine years of service to the Nitro Volunteer Fire Department.

Councilman George Atkins (Ron King) reported the fire truck should be delivered some time in February or March. Some discussion followed regarding a place to house the new truck.

Councilman Robert Young - requested status of Brookhaven Park. A discussion followed regarding taxes and ownership.

Mayor Casto thanked Councilman Bob Young for mowing the grass along Rt. 62 and Brookhaven.

COUNCILMAN ROBERT MATTOX MOVED TO REPLACE MELANIE WRIGHT PART-TIME POSITION AT THE LIBRARY AND APPOINT BRENDA CARTER AS REPLACEMENT. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER AND WAS CARRIED

Recorder Herb Sibley announced that hopefully in a very short period of time he would be leaving the City. Mr. Sibley said he has a contract on his house, but has not received any money. Recorder Sibley stated this was a very long and hard decision to make and he would certainly miss working with Council and all his friends, but he said, as long as I am here, I will continue to keep the best interest of the city at heart.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR

HERBERT SIBLEY, RECORDER

PUBLIC HEARING

RENAMING PLANT RD - REPUBLIC WAY

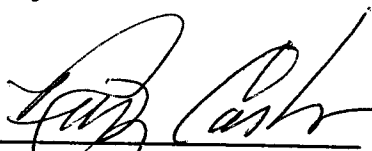
AUGUST 19, 1997

Mayor Casto declared the Public Hearing in session at 7:00 p.m. Others attending were Dean Miller, Ralph R. Allison, Treasurer, Vernon Mills, Greg Carver, Reporter, Harry Miller, Jr. Don Jefferies, Harvey Collins, Bobby Lewis, Robert R. Mattox, Councilman at Large, Herbert Sibley, Recorder, Jon Amores, Frank Grover, Jr. Councilman, Robert Young, Councilman, David Miller, Councilman, George Atkins, Councilman and Steve West Councilman at Large.

Mayor Casto explained the reason for this hearing is to gather input from the public regarding changing the name of the road running in front of their business Republic Container, to "Republic Way" and yielded the floor to Mr. Jon Amores. Mr. Amores stated this road is now called "Viscose Road" and Mr. Amores informed everyone, his company is stable and doing very well. Mr. Amores reported many changes and improvements are being made in this company and that is why they would like to rename this road to let the public know this company is here to stay. A question and answer session followed.

An Ad hoc committee will address the situation and return with an ordinance for Council approval at the next meeting.

There being no further input the public meeting was adjourned.



RUSTY CASTO, MAYOR

HERBERT SIBLEY, RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES

SEPTEMBER 16, 1997

Mayor Casto declared a quorum and called the Council meeting to order at 7:30 p.m. Others present, City Recorder Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Councilmen Robert Young, David Miller, and Frank Grover, Jr. Absent Councilman at Large Steve West and Councilman George Atkins. Also present City Attorney Phillip Gaujot and Treasurer Ralph Allison.

AGENDA ITEM NO. 1 INVOCATION: Herbert Sibley, City Recorder.

AGENDA ITEM NO. 2 APPROVAL OF 9/2/97 MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE 9/02/97 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 3 BOARD OF EDUCATION (MR. GODISH): Mayor Casto yielded the floor and introduced Mr. Godish from Kanawha County Board of Education. Mr. Godish explained to Council he was there to share bond information. Mr. Godish further explained that in this bond, Nitro High School would receive 9.3 million dollars of renovations and additions. Also, Mr. Godish said there would be a little over one million dollars in technology upgrades in the school. Dr. Joe Blackwood further explained the bond issue.

AGENDA ITEM NO. 4 BID OPENING (TRASH LINERS): Mayor Casto yielded the floor to Recorder Herbert Sibley. Recorder Herb Sibley stated in prior years we have received four or five bids. This year we received only one bid. Councilman at Large Richard Savilla opened the bid from Quality Products, Huntington WV with a total bid of \$20,988.00. This bid is for both the City and Village on Park. COUNCILMAN ROBERT YOUNG MOVED TO ACCEPT THE BID FROM QUALITY PRODUCTS, INC. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 5 31ST STREET BRIDGE: Mayor Casto reported the bridge has been designed, and due to the fact of straightening the creek the engineers are taking soil samples, which should take a couple of weeks. The report will come back to council for approval.

AGENDA ITEM NO. 6 PHIL GAUJOT: Counselor Gaujot read Ord- 97-09 for second reading. NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NITRO, KANAWHA AND PUTNAM COUNTIES, WEST VIRGINIA, THAT THE STREET PRESENTLY IN MUNICIPAL BOUNDARIES OF THE CITY OF NITRO, KNOWN AS "VISCOS ROAD" BEGINNING AT ROUTE 25 AND EXTENDING TO PAR INDUSTRIAL PARK, SHALL HEREAFTER BE NAMED "REPUBLIC WAY" AND ALL STREET SIGNS SHALL BE ACCORDINGLY CHANGED. ALL PROPERTY OWNERS ABUTTING SAID STREET AND THE UNITED STATES POSTAL SERVICE SHALL BE NOTIFIED OF THE CHANGE.

COUNCILMAN ROBERT YOUNG MOVED TO APPROVE SECOND READING OF ORD. 97-09, AN ORDINANCE TO CHANGE THE NAME OF VISCOS RD TO REPUBLIC WAY. THE MOTION

WAS SECONDED BY COUNCILMAN FRANK GROVER AND WAS CARRIED WITH COUNCILMAN AT LARGE RICHARD SAVILLA OPPOSING.

AGENDA ITEM NO. 7 BUSINESS & PROFESSIONAL ASSN: Mayor Casto yielded the floor to Councilman David Miller. Councilman Miller reported the "Antique Car Drive In" was a tremendous success.

COUNCILMAN DAVID MILLER MOVED TO CLOSE 20TH STREET, OCTOBER 12, 1997 FROM 10:00 A.M. UNTIL 4:00 P.M. FOR ST. PAULS UNITED METHODIST CHURCH ACTIVITY. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR., AND WAS CARRIED.

AGENDA ITEM NO. 8 MAYOR'S COMMENTS:

COUNCILMEN'S COMMENTS:

Councilman Frank Grover requested more citizens participate in recycling.

Councilman Dave Miller reported he has received estimates for the Fire Station. A shell - \$120,000, a complete new building \$175,000-\$200,000.

Councilman Dave Miller announced a Fire Finance Committee Meeting Thursday 7:00 p.m., September 18, 1997 at City Hall.

Treasurer Ralph Allison, reported he has extended the insurance bids until next meeting.

Phillip Gaujot, has reviewed the financial documents regarding the purchase of the firetruck from Dills. The documents seemed to be proper as to form. Counselor Gaujot reported the payments are \$4620.57/month and the payment hoped to receive from THF is \$4500.00. That is \$120.50 short per month. The purchase option is \$426,000 and THF has agreed to pay up to \$540,000. Counselor Gaujot stated he will report back to Council regarding this matter.

Councilman at Large Robert Mattox, commented he would like for Council as a group to make preparations and try to get knowledgeable so we could answer questions regarding annexation to the people we approach. A discussion followed.

Councilman at Large Robert Mattox stated Mr. Lee Conrad has requested permission to make changes to the alley way in the area of his storage building. COUNCILMAN AT LARGE ROBERT MATTOX MOVED MR. LEE CONRAD GIVE A WRITTEN REQUEST TO THE PLANNING COMMISSION. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR., AND WAS CARRIED.

Councilman Robert Mattox stated resident at Easter Road concerned about heavy truck with heavy loads running on this short road have been very damaging to the road. Residents requesting a weight limit.

Recorder Herbert Sibley, mentioned bids for City Calendars. Mayor Casto reported two bids had been received and would be opened tomorrow morning (Wednesday) in his office.

Treasurer Ralph Allison, request approval for Lt. Thompson to attend schooling in Parkersburg, October 8 and 9th at a cost of \$300.00. COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO APPROVE THIS REQUEST NOT TO EXCEED \$300.00. THE MOTION WAS SECONDED BY HERBERT SIBLEY, RECORDER AND WAS CARRIED.

Mayor Casto announced the annual RC&D picnic at Ridenour Lake at 11:00 a.m. All Council members invited at Shelter #1. The GEO block to keep the hill from washing away was purchased with a grant from RC&D

There being no further business the meeting was adjourned.



RUSTY CASTO, MAYOR

HERBERT SIBLEY, RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES

OCTOBER 7, 1997

Mayor Casto declared a quorum and called the Council meeting to order at 7:30 p.m. Others present, City Recorder Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Councilmen Robert Young, David Miller and George Atkins. Absent Councilmen Steve West and Frank Grover, Jr. Also present City Treasurer Ralph Allison. City Attorney, Phillip Gaujot absent.

AGENDA ITEM NO. 1 INVOCATION: Herbert Sibley, City Recorder.

CITIZEN OF THE MONTH

Mayor Casto announced Dr. Okey Harless as "October Citizen of the Month" Councilman David Miller presented Dr. Harless with a plaque recognizing him for his dedication to the church and to the citizens of Nitro.

AGENDA ITEM NO. 2 APPROVAL OF SEPTEMBER 16, 1997 MINUTES: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 3 PUBLIC HEARING MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO MAKE THE PUBLIC HEARING MINUTES A PART OF THE 9/16/97 COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 4 GOLF TOURNAMENT: Mayor Casto yielded the floor to Recreation Director, Jay Long. Mr. Long announced the 1st annual "Chip & Putt" tournament, October 18, 1997 at Coonskin Park. The tournament begins at 8:00 a.m. and will be a two team scramble, entry fee per team will be \$80.00. Senior discount of \$10.00 for those 55 years and older. First place will split \$150.00 gift certificate, second place, \$100.00 and third place \$50.00. Other prizes will be awarded. The proceeds from this effort will go for different needs in the city.

AGENDA ITEM NO. 5 CALENDAR: Mayor Casto yielded the floor to City Recorder, Herb Sibley. Recorder Sibley stated two bids were received for the 1998 calendar. The bids are as follows; Color Craft Printing \$5676.00, Chapman Printing \$4900.00. RECORDER HERBERT SIBLEY MOVED TO ACCEPT CHAPMAN PRINTING FOR THE 1998 CALENDAR. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. Mayor Casto stated the calendar should be mailed during the week of Christmas.

AGENDA ITEM NO. 6 31ST BRIDGE: Mayor Casto stated the soil samples have been taken, and the bridge is now being designed. Everything should be ready by next council meeting.

AGENDA ITEM NO. 7 PHIL GAUJOT: NO REPORT

AGENDA ITEM NO. 8 GAS STATION (CENTER STREET): COUNCILMAN ROBERT YOUNG MOVED IF THE CITY IS WITHIN COMPLIANCE OF ALL REGULATIONS, TO SPEND UP TO \$2500.00 TO TEAR DOWN THE GAS STATION AND THE HOUSE AT RED OAK. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

AGENDA ITEM NO. 9 PARADE REQUEST: COUNCILMAN DAVID MILLER MOVED TO GRANT 1997 HOMECOMING PARADE REQUEST AT 5:45, OCTOBER 17, 1997 FROM HIGH

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SCHOOL PARKING LOT TO 21ST STREET AND TO DISASSEMBLE AT NITRO HIGH SCHOOL. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

AGENDA ITEM NO. 10 FIRE DEPT. FUND RAISER: Mayor Casto yielded the floor to Mr. Riffle, President of the Firemen's Association to present the calendar drive fund raiser to council. COUNCILMAN DAVID MILLER MOVED TO APPROVE THE FIREMEN'S CALENDAR DRIVE REQUEST. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 11 BUSINESS AND PROFESSIONAL ASSN: Mayor Casto yielded the floor to Mr. Vernon Mills. Mr. Mills reported Christmas decoration for the City was discussed. Also they may try something new this year by getting the schools involved. Recorder Sibley mentioned the "Old Nitro Bungalow is in need of a new roof.

AGENDA ITEM NO. 12 CONFIDENCE ELEMENTARY REQUEST: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO GRANT CONFIDENCE ELEMENTARY SCHOOL REQUEST TO SOLICIT THE CITY BUSINESSES. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED WITH CITY RECORDER HERBERT SIBLEY VOTING AGAINST AND COUNCILMAN AT LARGE ROBERT MATTOX ABSTAINING.

AGENDA ITEM NO. 13 SALVATION ARMY REQUEST: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO GRANT SALVATION ARMY REQUEST TO PLACE CHRISTMAS KETTLES IN BUSINESS AREAS OF NITRO. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

AGENDA ITEM NO. 14 HALLOWEEN: Mayor Casto announced Kanawha County Commission has designated trick or treat night for October 30, 1997, from 6:00 p.m. to 8:00 p.m. COUNCILMAN ROBERT YOUNG MOVED TRICK OR TREAT NIGHT FOR OCTOBER 30, 1997 FROM 6:00 P.M. UNTIL 8:00 P.M. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 15 EASTER ROAD: Councilman Robert Young explained to Council that Easter Road has been zoned, one side verses the other. Councilman Young stated this is not proper. Trailers are allowed on one side and not the other. Councilman Robert Young read a letter and petition signed by residents of Easter Road requesting rezoning of Easter Road. COUNCILMAN ROBERT YOUNG MOVED TO PUT THIS PETITION IN THE PLANNING COMMISSION FOR RECOMMENDATIONS. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 16 19TH STREET CROSSING: Mayor Casto reported he had become aware that Par Industrial in the near future will have a 200 truck facility to open. There is a problem with the crossing at 19th Street with the big trucks having room to make the turn. Mayor Casto read letter he is sending to the State Highways Department asking for assistance in upgrading this crossing. Recorder Herbert Sibley suggested Par Industrial open 41st Street exit.

MAYOR'S COMMENTS: Mayor Casto reported a grant for purchase of trees in the amount of \$2500 was approved for the City. Mayor Casto said approximately 75 Sugar Maple trees starting about the Cantrell residence on Rt. 25 down to Moose Club and the left over trees will planted at the railroad tracks.

Councilman Dave Miller: Requested signs to be replaced at Hickory and Dupont Streets. Requested Mayor Casto to write letter to Danny Atkins at Tri State Greyhound requesting land for Fire & Police Sub-Station.

COUNCILMAN DAVID MILLER MOVED THE POLICE AND FIRE COMMITTEE MINUTES BE MADE A PART OF THE OCTOBER 7, 1997, COUNCIL MEETING MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. (copy attached)

Councilman Dave Miller stated he had information from Bay Stone Financial the cost of the new structure (\$300,000 loan) this would be a lease purchase agreement

Councilman Dave Miller read letter from Rhone Poulenc commending the City Firemen. COUNCILMAN DAVID MILLER MOVED THIS LETTER BE MADE A PART OF THE OCTOBER 7, 1997 MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. (Copy attached)

Councilman at Large Robert Mattox reported by October 1st, someone from the State Reclamation Dept. was supposed to contact Gene Williams regarding the Smith Street Landfill. As of this date no one has been contacted.

Also the area of Owens Street, the mud and dirt carried from Raleigh Junk was brought to the attention of the Manager and he will call the owner and try to get some help with this clean up.

Councilman at Large Robert Mattox acknowledged City Recorder Herb Sibley and reflected on his years of service to the City. Other Councilmen conveyed their feelings regarding the years of service they have shared.

City Recorder Herbert Sibley announced to Council he was retiring and read his letter of resignation effective November 1, 1997. Recorder Herbert Sibley requested Council accept his resignation and to make this letter a part of the October 7, 1997 minutes. COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO ACCEPT RECORDER HERBERT SIBLEY'S RESIGNATION AND MAKE RESIGNATION LETTER PART OF THE MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED. (Copy attached)

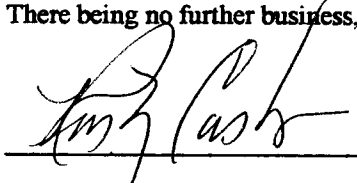
COUNCILMAN DAVID MILLER MOVED TO NAME RECORDER HERBERT SIBLEY AS NOVEMBER CITIZEN OF THE MONTH. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

COUNCILMAN AT LARGE RICHARD SAVILLA MOVED COUNCIL MOVE TO EXECUTIVE SESSION. THE MOTION WAS SECONDED BY COUNCILMAN DAVE MILLER AND WAS CARRIED.

Council Meeting back in session at 9:00 p.m.

Dave Miller read request from Ron King for payment for six members of the Fire Department to attend Wood County Fire School in the amount of \$497.55. Recorder Herbert Sibley recommended the city honor this request. COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE PAYMENT OF THIS COST. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

There being no further business, the meeting was adjourned.



RUSTY CASTO, MAYOR

HERBERT SIBLEY, RECORDER



CM "Neaf" Sharp
Emergency Services Director
PO Box 2831
Bldg- 8463 Room 201
Charleston WV 25330 USA

Telephone (304) 767-6702
Fax (304) 768-3475

*Steve Hardman; Chief
Nitro Fire Department
20th St. & 2nd Ave.
Nitro, WV 25143*

September 11, 1997

Dear Steve,

On Monday, September 8th., our DART Team was asked to assist on the Turnpike accident involving the tank trucks carrying formaldehyde. As you are well aware of, this was a very "involved" response with multiple agencies and high visible impact.

I am writing to commend your Decontamination Unit that was sent to the scene to also assist. Shawn and the other Nitro Fire Department members did an excellent job in setting up the decon operation. They were checking vitals, containing run-off from the area, providing equipment and general assistance to the entry teams. They acted very professional and me and the other DART members were very impressed with their performance.

In today's environment, it is critical that incidents involving hazardous materials are dealt with swiftly and effectively. The incident Monday was a good example of how municipal and industrial teams come together for the common cause. Your team performed in a manner that is due recognition and commendation. Please extend to them our congratulations for a job well done!

Regards,

*cc: Bill White (KCES)
J.R. Bias (LEPC)*

C.M. Neaf
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DATE: OCTOBER 7, 1997

TO: RUSTY CASTO, MAYOR
ROBERT MATTOX, COUNCIL AT LARGE
RICHARD SAVILLA, COUNCIL AT LARGE
STEVEN WEST, COUNCIL AT LARGE
ROBERT YOUNG, COUNCILMAN
GEORGE ATKINS, COUNCILMAN
FRANK GROVER, JR. COUNCILMAN
DAVID MILLER, COUNCILMAN

There comes a time within ones' working career , you realize the work "joy" is missing.

My last 6 1/2 years have given me great pride and pleasure but the time for a more family oriented endeavor is here. As I explained on Council floor a month ago, the sale of my Nitro property was pending and is now completed. Therefore, November 1st, 1997 will be my final day serving as Recorder for the City of Nitro.

I ask Council to accept my resignation and my thanks for the experiences and fellowship over the years.

Respectfully,


Herbert Sibley, Recorder
City of Nitro

CITY OF NITRO COUNCIL MEETING MINUTES

OCTOBER 21, 1997

Mayor Casto declared a quorum and called the Council meeting to order at 7:30 p.m. Others present, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr. Also present, City Attorney Phillip Gaujot and City Treasurer Ralph Allison.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Robert Mattox.

AGENDA ITEM NO. 2 APPROVAL OF 10/07/97 MINUTES: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED. COUNCILMAN AT LARGE STEVE WEST AND COUNCILMAN FRANK GROVER, JR. ABSTAINING.

AGENDA ITEM NO. 3 31ST BRIDGE: Mayor Casto reported after Dunn Engineer's study of the soil sampling, the construction cost of the bridge has increased by approximately \$50,000. Mr. Dunn stated the plans are almost complete and he will be at the next scheduled council meeting to present the plans to Council. Mayor Casto said at that time Council can either reject or accept the plans. Councilman Robert Mattox stated this project needs to be completed. A discussion followed regarding the cost of replacing this bridge. Councilman Robert Young stated that amount is way over the estimate.

AGENDA ITEM NO. 4 PHIL GAUJOT: City Attorney Phillip Gaujot reported the Nitro Market Place is now at the stage for zoning and he will prepare an ordinance to be ready for next Council meeting. Also, Attorney Gaujot recommended a small committee, including the owners, to determine their intentions for the use of the property. After discussion Mayor Casto appointed a committee, Counselor Gaujot, Bldg. Official Bob Sergent and Councilman at Large Steve West serving as Chairman.

Also Counselor Gaujot recommended this same committee meet with the McDavids regarding annexation.

AGENDA ITEM NO. 5 BUSINESS & PROFESSIONAL ASSN: Mayor Casto yielded the floor to Mr. Vernon Mills. Mr. Mills reported the plans for the "Christmas Promotion" are incomplete. Mr. Mills announced the Christmas Parade for the 1st. Saturday in December at 6:00 p.m.

AGENDA ITEM NO. 6 FIRE STATION: Councilman David Miller presented Council with a copy of specs prepared by a construction company which included demolition and removal of existing building, this includes concrete, metal building, lighting and relocation of gas lines, exterior concrete of streets and specs of the building and etc. The total cost of estimate \$135,000.00. Also, Councilman David Miller provided copies of letter from Baystone Financial Group regarding financing of possible new station at THF site. After some discussion COUNCILMAN AT LARGE STEVE WEST MOVED TO ADVERTISE FOR BIDS FOR ADDITION TO FIRE STATION. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED WITH COUNCILMAN ROBERT YOUNG OPPOSING.

AGENDA ITEM NO. 7 MAYOR'S COMMENTS:**(Councilmen Comments)**

Councilman Frank Grover commented there is a need for composting in the city. Councilman Grover stated if this issue is continued to be ignored, we are not going to have any place to put yard waste. This matter needs to be addressed.

Councilman at Large Steve West thanked everyone for prayers and expressed his feelings about returning to council after his extended illness. Councilman West commended the Communication Department (Marjorie Fowler) for her help and consideration while keeping him on the phone. Also for the concern shown by Ron King and Jeff Elkins. Councilman Robert Young commented it was nice having Councilman West back.

COUNCILMAN ROBERT YOUNG MOVED TO GO IN EXECUTIVE SESSION AT 8:00 P.M. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

Council reconvened at 9:00 P.M.

Mayor Casto asked if someone would move to adjourn.

Councilman at Large Steve West stated Council does not meet until November 4th, which is after Herb Sibley's resignation becomes effective. Councilman West stated someone should be appointed tonight.

Mayor Casto stated he would like to talk with each one that applied for Recorder.

COUNCILMAN ROBERT YOUNG MOVED TO NOMINATE DON KARNES AS RECORDER. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST.

COUNCILMAN DAVID MILLER MOVED TO NOMINATE FRANK GROVER AS RECORDER. THE MOTION WAS SECONDED BY RICHARD SAVILLA.

A VOTE WAS TAKEN WITH COUNCILMEN STEVE WEST, ROBERT MATTOX, GEORGE ATKINS AND ROBERT YOUNG VOTING FOR DON KARNES AS RECORDER. OPPOSING COUNCILMAN AT LARGE RICHARD SAVILLA, COUNCILMAN DAVID MILLER & COUNCILMAN FRANK GROVER.

A VOTE WAS TAKEN WITH MAYOR CASTO, COUNCILMEN RICHARD SAVILLA AND DAVID MILLER VOTING FOR COUNCILMAN FRANK GROVER, JR.

Mayor Casto stated Don Karnes will take office 2nd day of November as Recorder..

Councilman at Large Steve West announced an Employee Relations Committee meeting next Tuesday, October 28, 1997 at 7:00 p.m.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR

HERBERT SIBLEY, REC.

CITY OF NITRO COUNCIL MEETING MINUTES

NOVEMBER 4, 1997

Recorder Don Karnes declared a quorum and called the meeting to order at 7:30 p.m. Others present, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr. Also present City Attorney Phillip Gaujot and Ralph Allison, Treasurer.

Mayor Rusty Casto absent due to illness.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Robert Mattox.

NOVEMBER CITIZEN OF THE MONTH "HERBERT SIBLEY"

Recorder Don Karnes stated Mr. Sibley has already moved to Florida and was presented with a plaque last month in honor of his dedicated years of service with the City. *BEST WISHES HERB AND NELL!!!!!!*

AGENDA ITEM NO. 2 APPROVAL OF 10/21/97: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE 10/21/97 COUNCIL MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST. COUNCILMAN FRANK GROVER MOVED TO AMEND THE MOTION TO TABLE THE MOTION UNTIL NEXT COUNCIL MEETING FOR APPROVAL. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 3 31ST STREET BRIDGE: Recorder Don Karnes yielded the floor to Mr. Joe Dunn, Dunn Engineers. Mr. Dunn stated the soil in the area of the bridge will not support a spread foundation. The recommendation is to either drive steel piling all the way to bedrock or sink caissons all the way to bedrock. Mr. Dunn stated this will increase the cost of replacing the bridge by \$50,000. Mr. Dunn further explained the options of building the bridge and stated total cost of the bridge would be approximately \$160,000/\$180,000. A question and answer session followed.

Spokesperson Shelly Weaver stated she could not understand why they waited so long to do the soil samples and why it would take so long to build a bridge. Also Ms. Weaver voiced her concern over the narrow one lane road. Ms. Weaver said if there was an emergency of some sort there is no way the residents could make their way out because of the condition of the road.

Melissa Grant stated she could not understand why, if the bridge has been condemned for six years, why is it such a concern now.

Greg Weaver asked what the chances were of putting in a temporary (culvert) until the bridge could be built.

Mr. Dunn stated this could be done and they had looked at the possibility of installing a culvert at a cost of approximately \$25,000. Mr. Dunn said he doubted if permission would ever be granted from DNR to install a culvert and he said he would not recommend that option. A discussion followed regarding replacement of bridge.

AGENDA ITEM NO. 4 PHIL GAUJOT COMMENTS: Counselor Gaujot reported Bob Sergent met with the owners of the property regarding zoning at Nitro Market Place and will be getting the descriptions. I will be preparing the ordinance as soon as that information is given.

Counselor Gaujot stated he received word that the Government was going to go along with the proposed purchase agreement of the Artel Site, an agreement with no down payment. Counselor Gaujot stated he will report again at the next meeting.

AGENDA ITEM NO. 5 INSURANCE BIDS & PROPERTY TAX: Treasurer Ralph Allison reported to council he had received a letter from the Kanawha County Sheriff requesting permission to invest our property tax. COUNCILMAN DAVID MILLER MOVED TO GRANT PERMISSION TO THE KANAWHA COUNTY SHERIFF TO INVEST PROPERTY TAXES FROM THE CITY OF NITRO. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

Treasurer Ralph Allison stated he received seven proposals from insurance companies. I feel there are some savings available. Mr. Allison stated the current policy runs out January 1st, 1997.

A committee meeting is scheduled Tuesday, November 11, 1997 at 7:00 p.m. Several issues will be discussed including insurance.

COUNCILMAN ROBERT YOUNG MOVED CITY TREASURER RALPH ALLISON PAY CURRENT LIST OF INVOICES. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

AGENDA ITEM NO. 6 BUSINESS & PROFESSIONAL ASSOC. COUNCILMAN AT LARGE STEVE WEST MOVED TO GRANT PERMISSION FOR CHRISTMAS PARADE. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER AND WAS CARRIED.

Dean Miller reported the parade is scheduled for December 6, 1997 at 6:00 p.m. and all the participants have been notified. The Woman's Club has scheduled the annual "Holiday Stocking" at the Community Center and "Breakfast with Santa" all of these activities are scheduled for December 6, 1997.

Mr. Miller stated a new roof for the bungalow is supposed to be put on in two weeks.

AGENDA ITEM NO. 7 NDA (TIM SIZEMORE) Mr. Sizemore requested appointments to replace members of the Nitro Development Authority. Mr. Sizemore recommended reappointment of Diana Painter, J. F. McClanahan and new member Donald Lewis. Mr. Lewis is a Director of Human Resources for FMC.

COUNCILMAN GEORGE ATKINS MOVED TO APPOINT DIANA PAINTER, J. F. MCCLANAHAN AND DONALD LEWIS TO A THREE YEAR TERM TO THE NDA. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

Mr. Ken Knicely commended Mr. Sizemore and Dave Perry for a job well done with the Community Center.

AGENDA ITEM NO. 8 MAYOR'S COMMENTS:

Councilmen's Comments:

Councilman at Large Steve West referred to the August 5th request for the City Attorney to prepare an ordinance concerning the lights at the ball park. COUNCILMAN GEORGE ATKINS MOVED TO AMEND THE ORDINANCE TO READ THE LIGHTS AT PARK AVENUE BALLFIELD TO BE TURNED OFF AT 10:30 MONDAY THRU THURSDAY AND AT 11:00 P.M. FRIDAY THRU SUNDAY. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

Councilman Steve West reported the committee was working on holiday pay policies.

Councilman Dave Miller asked if bid for Fire Department upgrade had been advertised. Recorder Don Karnes stated he did not know if the bid had been advertised but he would check on to see. Also Recorder Don Karnes announced the Planning Commission has scheduled a Public Hearing, November 17, 1997 at 7:00 p.m., Nitro Community Center, room 114 regarding the following request:


LEE CONRAD -Gates across alleyway at corner of Walker and Frederick Streets.

KYLE L HAYZLETT, JR - Rezone from R-2 to B-1 600 Washington Avenue.

RESIDENTS - EASTER ROAD - Rezone from R-3 to R-1.

Recorder Don Karnes stated Mayor Casto discussed with him the possibility of a priority list of needs for the city to be prepared and would like the input of all council members in the preparation of this list. Treasurer Ralph Allison stated this issue could be discussed in conjunction with the meeting Tuesday night.

There being no further business, the meeting was adjourned.



RUSTY CASTO, MAYOR

DON KARNES, RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES

NOVEMBER 18, 1997

Mayor Casto declared a quorum and called the meeting to order. Others present: City Recorder Don Karnes, Councilmen at Large Robert Mattox, Steve West, Councilmen Robert Young, George Atkins, Dave Miller and Frank Grover, Jr. Absent Councilman at Large Richard Savilla. Also present City Attorney Phillip Gaujot and City Treasurer Ralph Allison.

AGENDA ITEM NO. 1 INVOCATION: Dean Miller

AGENDA ITEM NO. 2 APPROVAL OF MINUTES: COUNCILMAN FRANK GROVER, JR. MOVED TO BRING THE OCTOBER 21, 1997 MINUTES OFF THE TABLE. THE MOTION WAS SECONDED BY COUNCILMAN DAVE MILLER AND WAS CARRIED.

COUNCILMAN FRANK GROVER, JR. MOVED TO AMEND THE LAST PAGE (IN REGARD TO THE VOTE FOR RECORDER) TO REMOVE THE OPPOSING VOTE. THE MOTION WAS SECONDED BY COUNCILMAN DAVE MILLER AND WAS CARRIED

COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE THE OCTOBER 21, 1997 MINUTES AS AMENDED. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE THE NOVEMBER 4, 1997 MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

PLANNING COMMISSION MINUTES:

COUNCILMAN DAVID MILLER MOVED TO MAKE THE PLANNING COMMISSION MINUTES A PART OF THE RECORD. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED (Copy attached)

AGENDA ITEM NO. 3 PUBLIC WORKS GARAGE ROOF: Recorder Don Karnes stated he received three quotes to replace the lower roof level at the garage. Henson Roofing quote \$4500.00, Russell General Contractor \$5250.00 & Graley Roofing \$4995.00. Recorder Don Karnes stated Graley Roofing is bidding a 60ml product and the others are bidding 45 ml. and RECORDER DON KARNES MOVED TO ACCEPT BID FROM GRALEY ROOFING (60ML) \$4995.00 AND USE MONEY FROM THE PAR ACCOUNT TO PAY FOR IT. THE MOTION WAS SECONDED BY COUNCILMAN BOB YOUNG AND WAS CARRIED WITH COUNCILMAN AT LARGE ROBERT MATTOX OPPOSING.

AGENDA ITEM NO. 4 PHIL GAUJOT: Counselor Gaujot reported that both commissioners from Putnam and Kanawha have to be involved in the land sale of Fike Artel. We need to get on the agenda to have the land sold. Also Counselor Gaujot stated he is still in the process of reviewing the agreement. Will have a report next meeting regarding these issues.

Counselor Gaujot furnished copies of the ballpark ordinance to council. COUNCILMAN ROBERT YOUNG MOVED MAYOR CASTO READ TITLE ONLY OF ORDINANCE 97- THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE ORDINANCE 97-. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AFTER DISCUSSION. COUNCILMAN ROBERT YOUNG MOVED TO TABLE THE ORD. UNTIL THE NEXT MEETING. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 5 RALPH ALLISON: Treasurer Ralph Allison stated he had the lease on the new fire truck and part of the requirement is to have a legal opinion of Council and also a copy of Council minutes authorizing the execution and delivery of lease. The lease is \$4620.57/mo for ten years, seven percent on \$400,611.00. COUNCILMAN DAVID MILLER MOVED TO FURNISH THE LENDER WITH THE LEGAL OPINION AND A COPY OF THE MINUTES AUTHORIZING THE EXECUTION AND DELIVERY OF LEASE. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER. COUNCILMAN AT LARGE STEVE WEST MOVED TO TABLE THE MOTION UNTIL NEXT MEETING. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED WITH COUNCILMAN AT LARGE ROBERT MATTOX, COUNCILMEN DAVID MILLER AND FRANK GROVER OPPOSING.

AGENDA ITEM NO. 6. 31ST STREET BRIDGE: Mayor Casto reported that Recorder Don Karnes, Councilman at Large Mattox and Public Works Director met with Norman Roush, St. Highways Department. The State has agreed to take over the bridge, and will put it out for bids. The Federal Highway Fund State will pay 80 per cent of the cost of the bridge, the City will pay 20 per cent and the cost of the engineering fees. From that time on it will become part of the State Highway System. The engineering cost is approximately \$28,000 to Dunn Engineers. Our 20 percent cost approximately \$35,000.

Councilman Robert Mattox commended the residents on 31st Street, East for getting involved in this issue. Councilman Mattox stated their participation added attention to the problem.

AGENDA ITEM NO. 7 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller, Spokesman. Mr. Miller announced the Christmas Parade for December 6, 1997 at 6:00 p.m.

Also, Mr. Miller reported Diana Painter is working on a grant to complete the bungalow. Mr. Miller asked everyone to be patient and if the grant is approved, the bungalow should be completed in the Spring.

AGENDA ITEM NO. 8 FOOD BASKETS: Councilman Robert Mattox read letter from Father Borgmeyer regarding the "annual food baskets drive", requesting donations of food, money and Santas. Monetary contributions may be payable to the Nitro Ministerial Association in care of Rev. Jim Cash. Councilman Mattox said he would post this letter in City Hall.

Mayor Casto announced City Hall is sponsoring an "Angel Tree" for the children at Nitro Elementary School.

AGENDA ITEM NO. 9 SOCCER FIELD AT PARK: Mayor Casto stated he would like comments regarding changing the fields around and this issue will be discussed at next meeting.

AGENDA ITEM NO. 10 MAYOR'S COMMENTS: Mayor Casto announced the annual "Thanksgiving Dinner" at the High School, 11/25/97, 1997 at 10:00. The City employees are invited.

Community Thanksgiving Service scheduled Wednesday, November 26, 1997 at the Presbyterian Church.

Mayor Casto announced the City Christmas Dinner, 12/ 9/97, 6:00 p.m., at Loyal Order of the Moose.

Councilmen's comments:

Councilman Frank Grover commented he would like to see the playground equipment moved from the corner of City Park. Mayor Casto said it should be moved near the pavilion.

Councilman George Atkins thanked Treasurer Ralph Allison for the work toward the Municipal Fee increase.

Councilman at Large Steve West stated a resident of Oakwood Drive presented the annexation committee with a petition expressing their desire to become part of the City. COUNCILMAN AT LARGE STEVE WEST MOVED TO MAKE THIS PETITION (OAKWOOD ROAD) A PART OF THE MINUTES. THE MOTION WAS SECONDED BY CITY RECORDER DON KARNES AND WAS CARRIED.

COUNCILMAN AT LARGE STEVE WEST MOVED THE CITY ATTORNEY PREPARE A RESOLUTION DECLARING NITRO CITY COUNCIL RECOGNIZES NITRO HIGH SCHOOL FOOTBALL TEAM "STATE FOOTBALL CHAMPS". THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

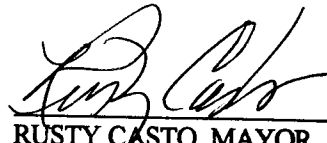
Councilman at Large Robert Mattox commended Mayor Casto for doing a good job. Councilman Mattox stated he thinks thing are beginning to develop and we are now seeing some progress. Also Councilman Mattox asked Mayor to comment on the help we are getting on the railroad crossings.

Mayor Casto reported he had written a letter to the State asking for assistance in making the crossing so the big trucks would not have to swing out in to traffic, in order to turn. The letter received stated the work would begin in the Fall of 1998. COUNCILMAN AT LARGE BOB MATTOX MOVED TO MAKE THE LETTER FROM SAMUAL H BEVERAGE, ACTING COMMISSIONER REGARDING 19TH STREET CROSSING A PART OF THE MINUTES. THE MOTION WAS SECONDED BY RECORDER DON KARNES AND WAS CARRIED. (Copy attached)

Recorder Don Karnes stated that after discussing with Mayor Casto, regarding an appointment to the RDA, they have agreed, that someone from the Nitro Development Authority would be a good representative. This takes a resolution and approval of Council to have voting rights on their board. Recorder Don Karnes recommended Tim Sizemore as the representative for RDA. Recorder Karnes stated this is the "Regional Development Authority". Recorder Don Karnes requested City Attorney Phil Gaujot prepare a resolution to that effect and have ready for the next meeting, and he will supply the pertinent information to Counselor Gaujot. Recorder Karnes further explained the purpose of Regional Development Authority.

Mayor Casto yielded the floor to Mr. Riffle, Spokesman from the area of Dupont Avenue, Block 700, 800, and 900 Block. A discussion followed on why the contractor was using blacktop instead of concrete.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR


DON KARNES, RECORDER

PLANNING COMMISSION MINUTES, CITY OF NITRO

November 17, 1997

The Planning Commission of the City of Nitro met Monday, November 17, 1997, for a public meeting (advertised in the Charleston Newspapers on November 3 and 10) and additional items in the Board Room of the Nitro Community Center Building. The meeting was called to order at 7:05 p.m. by Margaret Hudson, Chairperson.

ITEM I--Lee Conrad--Corner of Walker and Frederick Streets--Put gates across Alleyway at each end of property. (See Attachments 1 and 2.) Following a period of comments and discussion in which the PC members and Lee Conrad participated, Chuck Hudson moved to "send (this item) to the city attorney for further study in regard to the legality and liability of the request." The motion received a second from David Miller. Motion carried.

ITEM II--Kyle L. Hayzlett, Jr.--600 Washington Avenue--Rezone from R-2 to B-1. (See Attachments 3 and 4.) Following the presentation of a petition opposing this request and a discussion concerning businesses located in residential areas, Kermit Thompson moved that the "request be refused." The motion received a second from Chuck Hudson. Motion carried.

ITEM III--Residents of Easter Road--Rezone from R-3 to R-1. Rezoning to prevent trailers, and/or mobile homes on both sides and eliminate construction of apartment complexes or multi-purpose housing." (See attachments 5 and 6.) After a period of discussion between PC members and residents of the area involved, David Miller moved to "rezone the area of Easter Road* which is now zones R-III and/or R-II to R-I." The motion received a second from Kermit Thompson. Motion carried. (*Definition of Easter Road: Property abutting Easter Road, Escoe Road and Burdette Road and bordered by I-64 and 40th Street.)

ITEM IV--Dan McDavid presented for review, discussion and approval additional sections of the Cherry Ridge Subdivision. David Miller moved that the PC "approve for development Section II--Lots 218, 219, 220, 221, 222, 223, 224 and Section III--Lots 227-230, 232-238, 400-409, 500-504 of the Cherry Ridge Subdivision. (See attachment 7.) The second was by Chuck Hudson. Motion carried.

ITEM V--Bob Sergent introduced Pat Rawlings of Dunn Engineers, Inc. They presented the work that has been done on an up-dated zoning map for the city. Chuck Hudson moved the PC "recommend that Dunn Engineers, Inc. continue to completion the up-dated zoning map for the City of Nitro." The motion received a second from Kermit Thompson. Motion carried.

The Planning Commission meeting was adjourned at 9:15 p.m.

Margaret Hudson
Margaret Hudson, Chairperson

Margaret Hudson

10/24/97 311

Chairperson

Nitro Planning Commission

I have filled my lot in to bring it up to grade so it would have proper water drainage to the existing drainage system.

I am requesting to put blocks across the alley way at each end of my property to contain the dirt from going out in the road and running down the alley way.

I am requesting to put gates across the alley way at each end of my property and give keys to the city, therefore the city would own the gates & have keys to the gates, this would help to keep people off of Walker St & Fredrick St, because they would have to come in & out at 1st Ave.

affordable Self Storage
Corner of Walker St & Fredrick St

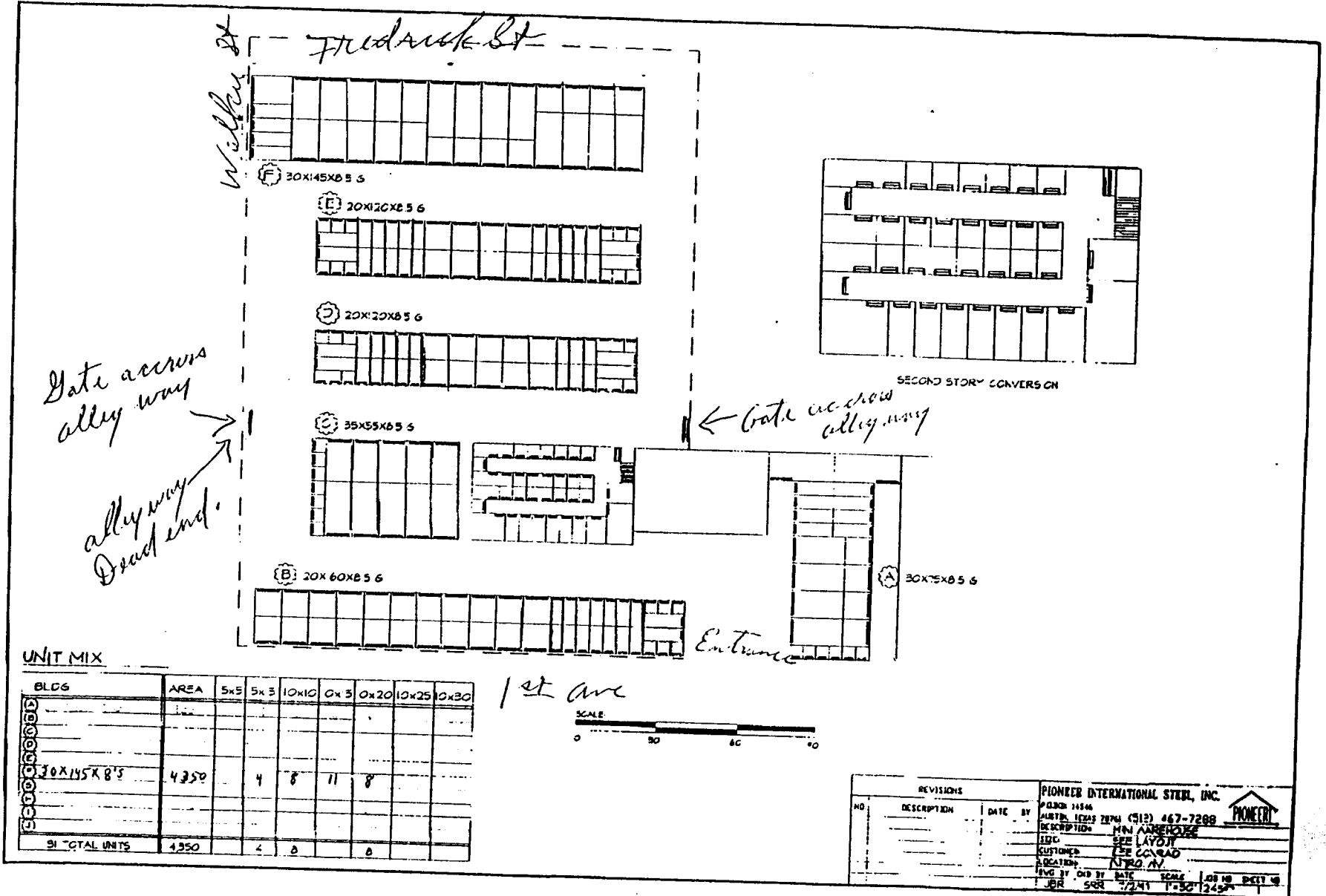
Lee Conrath

251 1st Ave

Nitro, WV, 25143

fence on top on [] at
even at the gates

P.01



(Contd)

Attn: MARGRAET HUDSON

10-28-97

DEAR MARGRAET:

I REQUEST THAT the 600
WASHINGTON AVE AREA, be rezoned from
R-2 to B-1 for A Automotive
Repair Shop.

Thanks

Kyle R. Haylett Jr
601 Washington Ave
Detroit

755-2257 or 1394

PETITION

We, the undersigned, residents of Washington Avenue and Dupont Avenue,
Nitro, West Virginia, do hereby oppose the rezoning of 600 Washington Avenue,
Nitro, from R² (residential) to B-1 (business).

Note

Due to the weather & my physical condition, I just got signatures on (1) Block of Washington Ave. (500) Block.

Two on this block did not sign, thinking this would or could be a personal problem.

Hope you will use this as a percentage gauge.

Thanks.

B. Duncan

Eileen Greene
Bernie Husky 504 Washington Ave.
William C. Porter "
Helen B. Clemons 239 Wash Ave
Marie Toupt 509 Wash Ave
Bridie Duncan 508 Wash
Olin Drell 511 Washington Ave.
Minnie Drell 511 Washington Ave
Ethel H. Glick 415 Wash. Ave.
James F. Lewis 604 Dupont Ave
Dorothy Shamblin 602 Dupont Ave

9/18/97

The Planning Committee
City of Nitro
Nitro, WV 25143

Dear Board Members,

This is to make a formal request to the Planning Committee of the City of Nitro from interested residents of Easter Road.

SUBSEQUENTLY:

- (1) Seeking amended re-zoning codes for Easter Road, a city street, located in the city limits and subject to city ordinances'.
- (2) To prevent or stop the setting in of any house trailers or mobile houses on both sides of Easter Road.
- (3) To prevent or stop the building of any apartment complexes or multi-complex housing on both sides of Easter Road.

Thanking this Board in advance for your consideration and support in this matter.

Sincerely,

Residents of Easter Road

****Enclosed is accompanying petition.

P E T I T I O N

We the undersigned to hereby petition the Planning Committee of the City of Nitro on the aforementioned zoning codes for Easter Road.

1. Harold Summers
2. Derry Hill
3. Louise Jones Hill
4. Bruce H Angell
5. Dana K Angell
6. William Huggenlothen
7. Pat Huggenlothen
8. Elmer Huggenlothen
9. Alfred Jones
10. Lee Jones
11. Harold Angell
12. John McCall
13. Nicholas G. Angell
14. Michael Angell
15. Arthur Ross
16. Paul Ross
17. Brenda Smith
18. Edith Jones
19. Mae Zick Katoosa
20. Grace Zick Katoosa
21. James H. Gibson
22. Mary E. L. Gibson
23. Kevin Wilborne
24. Carlton E. Wilborne
Robert Barker
L. H. ...
25. Jan Hoffman
26. Larissa Hoffman
27. Dina Hughes
28. Don Hughes
29. Philip W. Summers
30. Vicki Summers
31. Wm. Barker
32. James C. Brewer
33. Rachel Brewer
34. Donald & Kelli Williams
35. Deborah Womack
36. Theresa Parker
37. Luzella King
38. James Wardling
39. Burgess L. Summers
40. Philly Summers
41. Eve Summers
42. L.D. Summers
43. Jackie Summers
44. Paul Hylton
45. Charity Hylton
46. Michael Jones
47. Scott Savage
48. James Hughes
Baby Hughes
Wanda Barker

CHERRY RIDGE SUBDIVISION

SHOWING

LOTS 219, 220, 221, 222, 223, 224.

BEING PART OF A CERTAIN 154.4 ACRES OF TRACT ONE OF THE LAND CONVEYED TO "SOLCO INC." FROM NITRO PROPERTIES, BY DEED DATED: OCT. 22, 1993 AND RECORDED IN DEED BOOK 2327, PAGE 100, AND DEED DATED: FEB. 01, 1995, IN D.B. 2359, PG. 547. IN THE OFFICE OF THE COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, UNION DISTRICT, TAX MAP NO. 27, PARCEL 16.1, & T.M. 21, PAR. 4.

SITUATED IN UNION DISTRICT, KANAWHA COUNTY, W. VA., ON T.M. 21, PAR. 16.1, & T.M. 27, PAR. 4. ON THE WATER SHED OF BLAKES CREEK, A TRIBUTARY OF THE "GREAT KANAWHA RIVER". BEING 2.10 MILES EAST OF NITRO, WEST VIRGINIA, ON WEST VIRGINIA STATE ROUTE 25/1 (KNOWN AS BLAKES CREEK ROAD) LYING WEST AND ADJACENT TO LAKEVIEW ESTATES SUBDIVISION AS SHOWN IN MAP BOOK 50, PAGE 08.

PLAT OF A SURVEY

SECTION THREE

CHERRY RIDGE SUBDIVISION

SHOWING

LOTS 227-230, 232-238, 400-409, 500-504.

BEING PART OF A CERTAIN 154.4 ACRES OF TRACT ONE OF LAND CONVEYED TO "SOLCO INC." FROM NITRO PROPERTIES. BY DEED DATED: OCT. 22, 1993 AND RECORDED IN DEED BOOK 2227, PAGE 100. IN THE OFFICE OF THE COMMISSION OF KAN. COUNTY, WEST VIRGINIA, UNION DISTRICT, TAX MAP NO. 27, PARCEL 16.1, IN THE CITY LIMIT OF NITRO. W.VA.

SITUATED IN UNION DISTRICT, KANAWHA COUNTY, WEST VIRGINIA, ON TAX MAP 27, PARCEL 16.1, ON THE WATER SHED OF BLAKES CREEK, A TRIBUTARY OF THE "GREAT KANAWHA RIVER". BEING 2.10 MILES EAST OF NITRO, WEST VIRGINIA, ON WEST VIRGINIA STATE ROUTE 25/1 (KNOWN AS BLAKES CREEK ROAD) LYING WEST AND ADJACENT TO LAKEVIEW ESTATES SUBDIVISION AS SHOWN IN MAP BOOK 50, PAGE 08.

November 5, 1997

ATTENTION: City of Nitro

We the homeowners of Oakwood Road in Cross Lanes, as represented by the signatures below, do request annexation into the city of Nitro, West Virginia.

[illegible]



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways

1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0430 • 304/558-3505

Cecil H. Underwood
Governor

Richard W. Jemiola
Secretary

Samuel H. Beverage, P.E.
Acting Commissioner of Highways

November 3, 1997

Honorable Rusty Casto
Mayor, City of Nitro
Nitro, West Virginia 25143

Dear Mayor Casto:

This is reference to the City's letter of October 7, 1997 concerning the need for improvements at the railroad crossing and intersection at Route 25, First Avenue, and Route 25/9, Viscose Road, in Nitro, Kanawha County.

This request has been considered by our District One office, and by our Right of Way and Traffic Engineering Divisions. We will program a project to renovate the traffic control signal at the intersection, to provide improved turning radii for the Viscose Road approach, and to make any necessary signal and surface improvements at the railroad crossing. We anticipate that construction can start during the fall of 1998.

We appreciate the City's interest and concern in this matter.

Very truly yours,

Samuel H. Beverage, P.E.
Acting Commissioner

SHB:Wb



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways

Cecil H. Underwood
Governor

1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0430 • 304/558-3505

Richard W. Jemiola
Secretary

Samuel H. Beverage, P.E.
Acting Commissioner of Highways

November 3, 1997

Honorable Rusty Casto
Mayor, City of Nitro
Nitro, West Virginia 25143

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This is reference to the City's letter of October 7, 1997 concerning the need for improvements at the railroad crossing and intersection at Route 25, First Avenue, and Route 25/9, Viscose Road, in Nitro, Kanawha County.

This request has been considered by our District One office, and by our Right of Way and Traffic Engineering Divisions. We will program a project to renovate the traffic control signal at the intersection, to provide improved turning radii for the Viscose Road approach, and to make any necessary signal and surface improvements at the railroad crossing. We anticipate that construction can start during the fall of 1998.

We appreciate the City's interest and concern in this matter.

Very truly yours,

Samuel H. Beverage, P.E.
Acting Commissioner

SHB:Wb

CITY OF NITRO MEETING MINUTES

DECEMBER 02, 1997

Mayor Rusty Casto declared a quorum and called the council meeting to order. Others present City Recorder Don Karnes, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilmen Bob Young and David Miller. Absent Councilmen George Atkins and Frank Grover, Jr. Also present City Attorney Phil Gaujot and Treasurer Ralph Allison.

CITIZEN OF THE MONTH

Mayor Casto announced David Perry as December "Citizen of the Month". Mayor Casto commended Mr. Perry for his dedication to the City and for a job well done as the Director of the Community Center.

AGENDA ITEM NO. 1 INVOCATION: COUNCILMAN AT LARGE ROBERT MATTOX.

AGENDA ITEM NO. 2 APPROVAL OF MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE 11/18/97 COUNCIL MEETING MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 3. SWEARING IN NDA BOARD MEMBERS: Mr. J. F. McClanahan, Mr. Don Lewis and Mrs. Diana Painter were sworn in to serve a three year term as board members of the Nitro Development Authority. Mr. McClanahan gave a brief history of the Development Authority and announced the Christmas Cantata, Sunday December 7, 1997 at the Kathy Mattea Auditorium. This Cantata is sponsored by Mr. J. F. McClanahan.

RECORDER DON KARNES MOVED TO ADDRESS AGENDA ITEM NO. 12 CHERRY RIDGE NEXT. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

Mayor Rusty Casto yielded the floor to Mr. Dan McDavid. Mr. McDavid stated he needed approval of Council in order to move on with plans to construct a new housing project (32). Mr. McDavid presented the design to Council and stated he would not be moving dirt until spring. CITY RECORDER DON KARNES MOVED TO APPROVE MR. MCDAVID'S REQUEST. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 4 PHIL GAUJOT: Counselor Gaujot stated he has received a perspective purchaser's agreement on the Artel/Fike property and he will review this agreement and report at a later date.

AGENDA ITEM NO. 5 31ST STREET BRIDGE: Mayor Casto yielded the floor to Councilman Robert Young. Councilman Young stated the final blueprints have been reviewed. The State has agreed to take over the project and pay for 80 percent of its cost. Councilman Bob Young stated this new bridge should be completed by June. Mayor Casto stated he should have contract by the next meeting. Recorder Karnes stated the reason for the timing problem is all the hoops the State has to jump to keep in compliance with the laws.

AGENDA ITEM NO. 6 BUSINESS & PROFESSIONAL ASSOC: Dean Miller announced the Christmas Parade 6:00 p.m. and Holiday Stocking at Community Center. Mr. Miller announced the "Secret Santa Tree". This tree sponsors children in the Nitro area. The Grand Marshal will be Sandra Cole from channel 13.

AGENDA ITEM NO. 7 ALLEY RIGHT OF WAY: COUNCILMAN ROBERT YOUNG MOVED TO HAVE THE RIGHT OF WAY IN DISPUTE SURVEYED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST. AFTER DISCUSSION RECORDER DON KARNES MOVED TO AMEND THE MOTION TO AUTHORIZE MAYOR CASTO TO SPEND UP TO \$1600 FOR THE ENGINEERING FEE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 8 RESOLUTIONS : COUNCILMAN AT LARGE STEVE WEST READ RESOLUTION 97-04, A RESOLUTION BY THE COUNCIL APPOINTING TIMOTHY SIZEMORE REPRESENTATIVE OF THE CITY OF NITRO TO THE REGIONAL DEVELOPMENT AUTHORITY. COUNCILMAN AT LARGE STEVE WEST MOVED TO ADOPT RESOLUTION 97-04. THE MOTION WAS SECONDED BY CITY RECORDER DON KARNES AND WAS CARRIED. (Copy Attached)

COUNCILMAN AT LARGE STEVE WEST READ RESOLUTION 97-03, A RESOLUTION RECOGNIZING THE NITRO HIGH SCHOOL FOOTBALL TEAM AS "THE WV AAA CHAMPIONSHIP FOOTBALL TEAM". COUNCILMAN AT LARGE STEVE WEST MOVED TO ADOPT RESOLUTION 97-03. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. (Copy Attached)

AGENDA ITEM NO. 9 RALPH ALLISON: Treasurer Ralph Allison updated council on the Health Insurance issue and Mr. Allison said he received a proposal on dental and vision insurance at a cost of \$28,000 year.

Treasurer Ralph Allison reported the City is now receiving \$14,000/mo payback from the Urban Development Action Grant. At this time this money is setting in an account called Par Industrial Fund. Treasurer Allison recommended putting this money in a "Capitol Improvement Fund" earning interest. RECORDER DON KARNES MOVED TO HAVE MONEY PUT IN AN ACCOUNT TO BE USED AT THE DIRECTION OF COUNCIL FOR ANY ITEM THAT QUALIFIES UNDER THE U-DAG FUND. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 10 TOWN MEETING JANUARY 20, 1998: Mayor Casto announced a town meeting with Delegate Steve Harrison to follow the January 20, 1998 Council Meeting. COUNCILMAN DAVID MILLER MOVED TO MOVE THE COUNCIL MEETING AND TOWN MEETING TO THE KATHY MATTEA AUDITORIUM. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 11. MAYOR'S COMMENTS: Mayor Casto announced the annual "Christmas Dinner" at the Moose Lodge , 6:00 p.m. December 9, 1997.

Mayor Rusty Casto reported the quote from Dills regarding pumper truck was \$8700.00 Councilman David Miller reported the water tank on the pumper truck is leaking and Councilman Miller asked if this could be considered an emergency. Counselor Gaujot stated this could be considered an emergency. COUNCILMAN AT LARGE STEVE WEST MOVED TO SPEND UP TO \$8700.00 FROM THE PAR FUND TO REPLACE WATER TANK ON PUMPER TRUCK. THE MOTION WAS SECONDED BY

COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. After discussion it was agreed to obtain two more quotes.

COUNCILMAN AT LARGE STEVE WEST MOVED TO AUTHORIZE CITY ATTORNEY TO PREPARE AN ORDINANCE CHANGING THE AMOUNT OF CHARGING FOR A BUILDING PERMIT FROM \$100.00 TO \$300.00. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

Councilman at Large Steve West commented there is still no sign at the "Nitro Market Place".

Councilman at Large Robert Mattox reported that along with Gene Williams and a representative from WV Department of Environmental Protection met and walked through the Smith Street Landfill. They are coming back to do some sampling. Their recommendation was to try to find some history back to the original dumping regarding documents and permits. A discussion followed.

Councilman at Large Robert Mattox requested status on Rezoning of Easter Rd. Mayor Casto stated he requested City Attorney Phil Gaujot to prepare a rezoning ordinance for the next meeting.

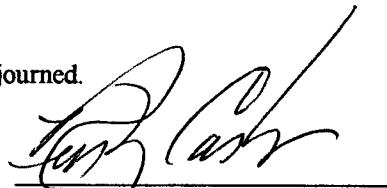
City Recorder Don Karnes stated he received one bid from Parsons and Lusk of Bluefield, WV. regarding the demolition and rebuilding of addition to the Fire Station. Councilman at Large Robert Mattox opened the bid in the amount of \$174,900.00. CITY RECORDER DON KARNES MOVED TO PUT THIS ISSUE IN FINANCE COMMITTEE INCLUDING BOB SERGENT. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED WITH COUNCILMAN ROBERT YOUNG OPPOSING.

City Recorder Don Karnes announced "Open House" at City Hall December 19, 1997 from 12:00 noon till 2:00 p.m.

Councilman at Large Steve West reported the City has already started receiving B&O Taxes and Permit Fees from contractors and the "Char House" has broken ground at the Nitro Market Place.

Mayor Casto introduced Kari Dunn, a student from University of Charleston visiting to observe City Council Meeting.

There being no further business the meeting was adjourned.



RUSTY CASTO, MAYOR



DON KARNES, RECORDER



RUSTY CASTO
MAYOR

RESOLUTION 97-03

RESOLUTION RECOGNIZING THE NITRO HIGH SCHOOL
FOOTBALL TEAM AS THE WEST VIRGINIA, AAA
CHAMPIONSHIP FOOTBALL TEAM.

WHEREAS, the City Council of the City of Nitro recognizes the 1997 Nitro High School Football Team,
and

WHEREAS, the Nitro High School Football Coach Robert "Little" Burdette of the said "Nitro Wildcats"
has demonstrated outstanding leadership, and

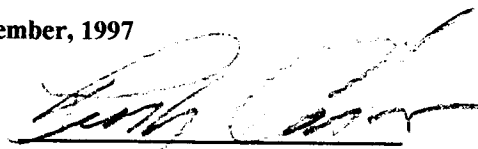
WHEREAS, said Council recognizes the achievements of the "Nitro Wildcats Football Team", and

WHEREAS, said Council's poll determined the appropriate ranking of the "Nitro Wildcats".

NOW, THEREFORE, BE IT RESOLVED, that the Honorable Rusty Casto, Mayor of the City of Nitro, is
hereby authorized by the City Council to declare the "Nitro Wildcats Football Team" the STATE AAA
CHAMPIONS and declare December 6, 1997

"NITRO WILDCATS FOOTBALL CHAMPIONSHIP DAY"

Passed this second day of December, 1997


RUSTY CASTO, MAYOR



DECEMBER 02, 1997

RESOLUTION 97-04

RESOLUTION BY THE COUNCIL
OF THE CITY OF NITRO APPOINTING
TIM SIZEMORE REPRESENTATIVE
FROM THE CITY OF NITRO TO THE RDA

WHEREAS, in the opinion of the undersigned, Timothy Sizemore is well qualified to act in the capacity of the representative from the City of Nitro to the Regional Development Authority Board; and

WHEREAS, in the opinion of the undersigned, Timothy Sizemore would be a distinct asset to said board, and would be able to perform the duties and functions of said office with a high degree of skill and ability; and

WHEREAS, the undersigned, the Council of the City of Nitro in their official capacity, are desirous of endorsing Timothy Sizemore for the aforesaid position;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Nitro does hereby go on record as endorsing Timothy Sizemore for a position on the RDA Board.

Passed this second day of December, 1997.

RUSTY CASTO, MAYOR

DON KARNES, RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES

DECEMBER 14, 1997

Mayor Casto declared a quorum and called the meeting to order. Others present City Recorder Donald Karnes, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr. Also Present City Attorney Phillip Gaujot and City Treasurer Ralph Allison.

AGENDA ITEM NO. 1 INVOCATION: Dean Miller

AGENDA ITEM NO. 2 APPROVAL OF DEC. 02, 1997 MINUTES: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE THE DECEMBER 02, 1997 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED WITH COUNCILMEN FRANK GROVER, JR., AND GEORGE ATKINS ABSTAINING.

AGENDA ITEM NO. 3 SANITARY BOARD: Mayor Casto yielded the floor to the Nitro Sanitary Board Attorney, Jim Withrow. Attorney Withrow explained to Council residents in the area of Poca River has requested Nitro Sanitary Board to extend their sewer system to that area. Also Attorney Withrow stated the recipients would be responsible for the cost and it would not increase fees for the existing users of the system. An engineering firm has been hired by the Nitro Sanitary Board to do cost estimates and prepare plans for the Poca River Project. The estimated cost of this project is \$1.8 million. Mr. Withrow stated Mr. Ralph Layton, CPA was hired to determine what amount of billing to be charged for this service for each user. Based on 300 new customers the cost would be an additional \$17.86/mo. plus their regular sewer billing. COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO READ TITLE ONLY OF SANITARY BOARD ORDINANCE. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. MAYOR CASTO READ TITLE ONLY OF ORDINANCE 97- AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR SERVICES RENDERED BY THE SANITARY BOARD OF THE CITY OF NITRO IN THE POCA RIVER AREA. RECORDER DON KARNES MOVED TO ADOPT SANITARY BOARD ORDINANCE 97- ON THE FIRST READING. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. RECORDER DON KARNES MOVED TO SCHEDULE A PUBLIC HEARING JANUARY 6, 1998 AT 7:00 P.M. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

AGENDA ITEM NO. 4 RALPH ALLISON (INSURANCE) Treasurer Ralph Allison stated he checked the three insurance companies being considered to replace existing employee insurance and he felt all three were ok. COUNCILMAN DAVID MILLER MOVED TO ACCEPT THE LOWEST BID (ALLIED). THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED. Treasurer Ralph Allison said the plan is identical to the one the City has now, plus a prescription card. A discussion followed.

AGENDA ITEM NO. 5 PHILLIP GAUJOT COMMENTS: Counselor Gaujot reported he is still working on the perspective purchaser's agreement with Par Industrial.

Counselor Gaujot stated he received a letter from Brian Hopkins, lawyer for THF stating we have an easement regarding Lakeview Drive and the easement agreement needs to be changed soon and he will prepare a resolution for next council meeting for council's signature.

Counselor Gaujot said he met with Chief Greg Winter and Bruce Angel, Civil Service Commission and they are requesting an amendment to the by laws to charge a fee for the Police exam. Counselor said this

should be done by resolution. Also, Counselor Gaujot recommended council give some thought to changing some of the by-laws.

Counselor Gaujot presented council with a proposed ordinance to rezone real estate abutting Escoe Rd & Burdette Road and bordered by I-64 and 40th Street Road from R-3 to R-1. COUNCILMAN DAVID MILLER MOVED TO READ TITLE ONLY OF ORDINANCE 97-. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

COUNCILMAN ROBERT YOUNG MOVED TO ADOPT ORDINANCE 97- ON FIRST READING, REZONING BURDETTE RD AND ESCOE ROAD FROM R-3 TO R-1. THE MOTION WAS SECONDED BY DAVID MILLER AND WAS CARRIED.

RECORDER DON KARNES MOVED TO SCHEDULE THE PUBLIC HEARING JANUARY 6, 1998 AT 7:15 P. M. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 6 31ST BRIDGE: COUNCILMAN FRANK GROVER, JR. MOVED TO AUTHORIZE MAYOR CASTO TO SIGN CONTRACT WITH THE STATE, IF RECEIVED BEFORE NEXT COUNCIL MEETING (80 PERCENT/ 20 PERCENT). THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 7. EASTER ROAD: This item covered under agenda item no. 5.

AGENDA ITEM NO. 8. FIRE TRUCK: Mayor Casto reported the Fire Truck has been ordered and is on the way. Mayor Casto stated he would like this issue to be brought back to the floor for discussion. COUNCILMAN DAVID MILLER MOVED TO BRING OFF TABLE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

COUNCILMAN DAVID MILLER MOVED TO PROCEED WITH THE CONTRACT. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA. Councilman at Large Steve West stated according to the minutes, we authorized \$405,000 to be paid at \$4500/mo. at 5.63 percent interest and as I understand it this is a different rate of 7 percent. Councilman West stated Council did not approve this interest rate. This is \$120.00 per month of City funds. Initially, THF was to pay for this truck and now the City will be paying \$15,000 over a 10 year period. Treasurer Ralph Allison stated the first payment is required at time of delivery. Recorder Don Karnes stated the contract states \$135,000 will have to be paid when the chassie is delivered to the manufacturer. Councilman David Miller stated that is if we do not choose a financial package. Recorder Don Karnes stated we will be writing a check to the finance company. Councilman David Miller stated the City will be receiving a check from THF. Recorder Don Karnes stated what bothered him was, we do need a fire truck, but when he left, the City was to receive a fire truck, at least one and maybe two garbage trucks and at least one and maybe two police cars and that has all turned now. We are now paying \$500,000 plus with no garbage truck and no police car. Councilman Dave Miller stated the delay in the bidding process was the reason for this and had we moved at that time the cost would have been substantially lower. Recorder Don Karnes stated the difference is not the delay, this is a different truck. We are buying a truck built for a town that has multi-story buildings. This truck is to big to drive on most of Nitro's narrow streets, almost 40 ft. long. Councilman Robert Young stated the cost of the truck, garage and tearing down that part of City Hall would be a minimum of \$750,000 and the City can not afford it. Councilman Frank Grover stated the Fire Committee was given the authority to vote to spend the \$500,000 for the fire truck. A discussion followed regarding the need for the ladder truck, financing and housing for the truck. COUNCILMAN DAVID MILLER MOVED TO AMEND THE MOTION TO INCREASE THE PAYMENT BY \$120.57/MO. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND CARRIED WITH COUNCILMEN GEORGE ATKINS, ROBERT YOUNG, STEVE WEST AND

RECORDER DON KARNES OPPOSING. MAYOR CASTO VOTED IN FAVOR OF MOTION TO BREAK TIE.

A discussion followed regarding conflict of interest in the case of Councilman David Miller, since he receives pay from the City for services as an auxiliary fireman. Counselor Gaujot stated this is not a conflict of interest.

BUSINESS/PROFESSIONAL ASSOC:

Dean Miller spokesperson announced the Christmas Parade is scheduled for December 5, 1998. The drawings sponsored by the Businesses will be this Saturday, December 20, 1997. Mr. Miller stated the Business/Professional Association supplied a complete family with Secret Santa gifts. Also Mr. Miller stated the Christmas Stocking was a success with 84 vendors. Discussion followed regarding the bungalow located at the Library Parking Lot.

COUNCILMEN COMMENT'S

Councilman Frank Grover stated the City needs city-wide curb-side garbage pick-up to keep the big trucks out of the alleys. This issue was put in committee including Gene Williams.

Councilman George Atkins suggested moving Council meeting to the Community Center by the first of the year.

Councilman David Miller reported a missing stop sign at 25th Street and 2nd Avenue.

Councilman at Large Steve West - mentioned the Nitro Sign at the corporate limits near Nitro Market Place.

Councilman at Large Robert Mattox - COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO ACCEPT THE RECOMMENDATIONS OF THE PLANNING COMMISSION REFUSING HAYZLETT REQUEST FOR REZONING. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

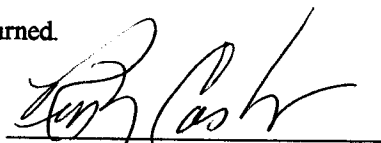
COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO REFUSE LEE CONRAD REQUEST TO INSTALL GATES ACROSS ALLY WAY BEHIND HIS PROPERTY. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

Mayor Casto reported they have been working on the drainage problem at Village on Park. Schmidt Properties paid \$3500.00 to aid in removing the water from Village on Park parking lot.

Councilman David Miller mentioned establishing rates for out of the City limits fire service.

Mayor Casto announced "Open House" December 19, 1997, from noon to ???.

There being no further notice, the meeting was adjourned.


RUSTY CASTO, MAYOR


DON KARNES, RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES

JANUARY 06, 1998

Mayor Casto declared a quorum and called the meeting to order. Other present City Recorder Donald Karnes, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilmen Robert Young, David Miller and George Atkins. Absent Councilman Frank Grover, Jr. Also present City Attorney, Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Robert Mattox.

AGENDA ITEM NO. 2 APPROVAL OF DECEMBER 16, 1997 MINUTES: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO APPROVE DECEMBER 16, 1997 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 3 SANITARY BOARD ORD. (2ND READING): Mayor Casto yielded the floor to Sanitary Board Attorney, Jim Withrow. Attorney Withrow briefly explained the Poca River Project. COUNCILMAN DAVID MILLER MOVED TO READ TITLE ONLY OF SANITARY BOARD ORDINANCE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. ORD. 97- AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR SERVICES RENDERED BY THE SANITARY BOARD OF THE CITY OF NITRO IN THE POCA RIVER SERVICE AREA. COUNCILMAN GEORGE ATKINS MOVED FOR ADOPTION OF ORD 97- ON SECOND READING. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 4. EASTER RD REZONING (2ND READING): Mayor Casto yielded the floor to City Attorney Phillip Gaujot. Counselor Gaujot recommended reading title only of the Easter Road Rezoning Ordinance. COUNCILMAN AT LARGE STEVE WEST MOVED CITY ATTORNEY READ TITLE ONLY OF EASTER ROAD REZONING ORDINANCE. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. ORD. 97- AN ORDINANCE TO REZONE REAL ESTATE LOCATED, ABUTTING, AND CONTIGUOUS WITH EASTER ROAD, ESCOE ROAD, AND BURDETTE ROAD AND BORDERED BY I-64 AND 40TH STREET, FROM R-111 TO R-1. COUNCILMAN DAVID MILLER MOVED FOR ADOPTION OF ORD. 97- ON SECOND READING. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. (Copy attached)

Councilman at Large Robert Mattox stated this issue has been petitioned and has gone through the Planning Commission and stated this action is concurrent with the Planning Commission recommendations.

AGENDA ITEM NO. 5 PHIL GAUJOT: Mayor Casto yielded the floor to City Attorney, Phillip Gaujot. Counselor Gaujot stated he had written a letter to THF in reference to monthly payment for fire truck and he has received a response and will furnish Council with a copy of letter. COUNCILMAN DAVID MILLER MOVED TO MAKE LETTER FROM THF REALTY REGARDING THE \$4500.00 PAYMENT FOR FIRE TRUCK A PART OF COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. (Copy attached)

Also Counselor Gaujot stated he had prepared and will furnish Council a copy of a resolution authorizing Mayor Casto to amend easement agreement with THF. Mayor Casto asked Counselor Gaujot who would be responsible for snow removal. Counselor Gaujot stated he was not aware of this question so he recommended that no action be taken regarding this issue until next meeting.

Counselor Gaujot said he has received a letter from Fike Artel (Warren Smull) and they are still working with the City regarding the perspective agreement.

AGENDA ITEM NO. 6 31ST STREET BRIDGE: Mayor Casto stated he has not received contract from the State. A discussion followed regarding the bridge. Councilman at Large Robert Mattox commented should the roads become hazardous, the City should make sure the roads are cleared timely for those residents in the affected area due to the closure of the 31st Street Bridge. Recorder Don Karnes asked if the State intended to put a pedestrian walk-way across that area, during construction, so the residents that walk or ride buses to their employment could get across. Mayor Casto said he would check on that.

AGENDA ITEM NO. 7 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller, Spokesman. Mr. Miller announced the Christmas Parade December 5, 1998. Also Mr. Miller reported a concession stand has been built at the Community Center and for the first time all space in the Center has been rented. Mr. Miller commended Dave Perry for a job well done.

Councilman David Miller announced "Main Street Program" will be having an "application workshop" on January 27, 1998 at 1:00 p.m. at University of Charleston. Councilman David Miller stated he felt the City should send a representative. Also Councilman Miller said this is a combined effort of the Business & Professional Association, NDA and the City. Counselor Gaujot stated there are some nice tax advantages of this project.

AGENDA ITEM NO. 8 COPY MACHINE: Mayor Casto yielded the floor to Recorder Don Karnes. Recorder Karnes reported the copy machine in City Hall is seven years old, well over 300,000 copies now. Each time a repairman is called, another problem comes up. Recorder Don Karnes stated he has requested price quotes and he has received two at this time, both are less than \$5000. RECORDER DON KARNES MOVED TO AUTHORIZE THE MAYOR TO SIGN WHAT EVER AGREEMENT IS NECESSARY TO LEASE/ PURCHASE A COPIER, NOT TO EXCEED \$150/MO INCLUDING MAINTENANCE AGREEMENT AND THIS WILL BE PAID FROM ECONOMICAL DEVELOPMENT FUND. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. Recorder Don Karnes further explained details of the copy machine.

AGENDA ITEM NO. 9 MAYOR'S COMMENTS: Mayor Casto mentioned Jay Long, Recreation Director has been suffering from many health problems and will be having surgery Thursday. Mayor Casto thanked the Loyal Order of the Moose, for paying for the postage of mailing the calendars to the City residents.

Councilman George Atkins stated that whoever is responsible for replacing street stop signs affected by the Sanitary Sewer construction are not doing their job. Who ever is responsible for this should see that it is done

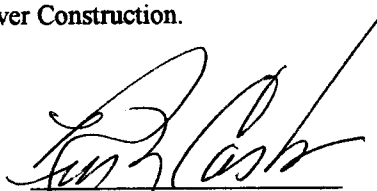
Councilman Robert Young requested something be done to the streets in Brookhaven.

Councilman at Large Steve West still requesting City of Nitro sign on Lakeview Drive near the Nitro Market Place.

Councilman at Large Richard Savilla stated he was looking forward to meeting in the new Council Chambers.

Councilman at Large Robert Mattox stated in the area of 800 and 900 block of Dupont and Juniper Street there are terrible drainage problems. Councilman Mattox stated he believes these problems have been caused by the new paving. Also Councilman Mattox said an inspection should be made of the work done in that area. Councilman David Miller stated a representative from the Sanitary Board is supposed to go over all the work in that area before all of the money is paid to Rover Construction.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR
DON KARNES, RECORDER

ORDINANCE ESTABLISHING RATES AND CHARGES
FOR SERVICES RENDERED BY THE
SANITARY BOARD OF THE CITY OF NITRO
IN THE POCA RIVER SERVICE AREA

WHEREAS, the City of Nitro, West Virginia, owns and operates a certain wastewater collection and treatment system in and around the City of Nitro, Kanawha and Putnam Counties, West Virginia; and

WHEREAS, the City intends to extend the wastewater collection system to certain areas outside the City, to what is described as the Poca River Service Area, which includes Dairy Road and Poca River Road and includes the areas of River Hills Subdivision, River Valley Subdivision, Green Acres, Lee Manor, Poplar Point Subdivision and Country Roads Trailer Park, and which is more fully shown on the construction drawings dated November 28, 1997, made by S & S Engineers, Inc.

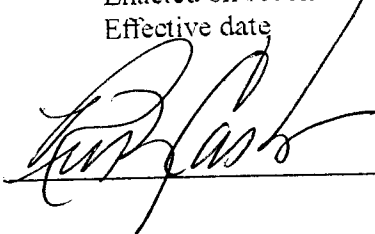
WHEREAS, the Sanitary Board of the City of Nitro has requested the Council of the City of Nitro to enact an Ordinance in order to provide rates and charges sufficient to the users of the wastewater collection and treatment system in the Poca River Service Area to pay for the costs of the acquisition and construction of the new facilities, as well as their portion of the operation and maintenance of the wastewater collection and treatment system of the City.

NOW THEREFORE BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA:

1. From and after the date on which wastewater collection service is available to the residents of the Poca River service area, the rates and charges for the use of and services rendered to such customers by the sanitary sewer system of the City of Nitro shall be equal to the regularly enacted rates and charges for all other users of the system, plus a surcharge in the amount of \$17.86 per month.
2. In the event any person owning property within the Poca River Service Area pays a connection or "tap" fee for the property prior to March 1, 1998, such tap fee will be \$200.00. Thereafter, the tap fee shall be the same as for all other users of the system.
3. The above surcharge shall be applicable for any owner, tenant, or occupant of each and every lot or parcel of land or building situated within Poca River Service Area and having any connection to the sanitary sewer system of the City.
4. This Ordinance shall take effect forty-five days from its passage.

Passed on first reading
Public hearing held
Enacted on second reading
Effective date

December 16, 1997.
January 6, 1998.
January 6, 1998.
February 21, 1998.



Mayor

Attest:



Recorder

CITY OF NITRO COUNCIL MEETING MINUTES

JANUARY 20, 1998

Mayor Casto declared a quorum and called the meeting to order. Others present, City Recorder Don Karnes, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilman Robert Young, George Atkins and David Miller. Absent Councilman Frank Grover, Jr. Also present City Attorney Phillip Gaujot and Treasurer Ralph Allison.

AGENDA ITEM NO. 1 INVOCATION: Dean Miller.

CITIZEN OF THE MONTH

Mayor Casto announced J. F. McClanahan "January Citizen of the Month" and presented him with a plaque in honor of his many years of service to the City of Nitro. Mr. McClanahan stated the City has come a long way since he served as Councilman 49 years ago. Mayor Casto commended Mr. McClanahan and Recorder Don Karnes for their involvement in obtaining the Nitro Community Center.

AGENDA ITEM NO. 2 APPROVAL OF COUNCIL MINUTES/ PUBLIC HEARING MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE JANUARY 06, 1998 COUNCIL MINUTES AND MAKE JANUARY 06, PUBLIC HEARING MINUTES A PART OF RECORD. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. Copy Attached.

AGENDA ITEM NO. 3 BROOKHAVEN STREETS: Mayor Casto reported some of the streets in Brookhaven are in very bad condition and this issue must be addressed. Also Mayor Casto stated, Public Works Director, Gene Williams looked at the water problem at Brentwood Road and determined a willow tree seems to be blocking the storm line. Mayor Casto asked Council to authorize Mayor Casto to spend up to \$500 to dig up the line and install a new one. After discussion COUNCILMAN ROBERT YOUNG MOVED TO AUTHORIZE SPENDING UP TO \$500.00 TO PUT IN NEW LINE AT BRENTWOOD ROAD. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

Mayor Casto mentioned running a line away from the streets in Brookhaven to help with the water problem in that area. Mayor Casto stated this is one problem that needs taken care of right away.

AGENDA ITEM NO. 4 PHIL GAUJOT: Mayor Casto yielded the floor to City Attorney, Phillip Gaujot. Counselor Gaujot reported he recommended signing the amended easement agreement between THF NITRO DEVELOPMENT LIMITED LIABILITY COMPANY AND THE CITY OF NITRO. After discussion, Recorder Don Karnes stated the easement contains language that would require the City to extend snow removal services across Lakeview Drive. Most of that area is out of the City limits. How can we expect any area to petition for annexation into the City when we give them all city services anyway. This agreement would put the City in a position of using Nitro residents taxes out of the City limits, and I can't vote for that. COUNCILMAN RICHARD SAVILLA MOVED TO AUTHORIZE MAYOR CASTO TO SIGN MODIFICATION TO EASEMENT AGREEMENT WITH THF NITRO DEVELOPMENT LIMITED LIABILITY COMPANY. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS. RECORDER DON KARNES MOVED TO TABLE THIS RESOLUTION UNTIL NEXT MEETING. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND FAILED WITH COUNCILMEN DAVID MILLER, RICH SAVILLA, ROBERT MATTOX AND GEORGE ATKINS OPPOSING. A VOTE WAS TAKEN ON MOTION

ALREADY ON FLOOR AND PASSED WITH RECORDER DON KARNES, COUNCILMEN STEVE WEST AND ROBERT YOUNG OPPOSING.

COUNCILMAN AT LARGE RICHARD SAVILLA MOVED CITY ATTORNEY READ TITLE ONLY OF RESOLUTION. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED. RES-98- "A RESOLUTION AUTHORIZING MAYOR TO SIGN MODIFICATION TO EASEMENT AGREEMENT WITH THE NITRO DEVELOPMENT LIMITED LIABILITY COMPANY." COUNCILMAN DAVID MILLER MOVED TO ADOPT THE EASEMENT AGREEMENT. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED WITH RECORDER DON KARNES AND COUNCILMAN ROBERT YOUNG OPPOSING. (Copy attached)

Counselor Gaujot reported the Fike Artel matter is still moving along and everything seems to be as should be.

City Attorney Phillip Gaujot said he recommended an annexation committee meeting, next Tuesday at 4:00 p.m. Mayor Casto announced an annexation meeting for all council members at 4:00 p.m. January 27, 1998, in Council Chambers at City Hall.

AGENDA ITEM NO. 5 31ST BRIDGE: Mayor Casto reported Mr. Jim Southen, West Virginia Dept of Highways. Mayor Casto said the blueprints have been modified and now there are two designs for the 31st Street bridge and these two designs will be put out for bids in early February. When the bids come in Mr. Southen will bring them to Council.

AGENDA ITEM NO. 6 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Mr. Dean Miller spokesman for the Association. Mr. Miller reported nominations for "Business Person" of the year have been mailed. Presentation of this award will be February 21, 1998.

Also Mr. Miller stated they have authorized repair of the roof on the old Nitro Bungalow. Mr. Miller mentioned they had applied for a grant to completely refurbish the Bungalow.

AGENDA ITEM NO. 7 MAYOR & COUNCILMEN COMMENTS:

Councilmen Comments:

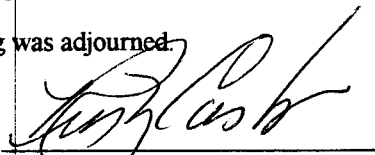
Councilman Robert Young questioned how is the City going to entice people outside of the city, to come in to the City, if we give go ahead and give them all the services.

Councilman David Miller stated we are not giving them anything, this is a trade off.

Councilman at Large Steve West commented we still need city limit sign at corporate limit near Nitro Market Place.

Councilman at Large Robert Mattox announced session on Main Street USA in Charleston, Thursday afternoon, regarding improvement of the downtown area. Councilman Mattox will have report for next meeting.

There being no further business, the meeting was adjourned.



RUSTY CASTO, MAYOR



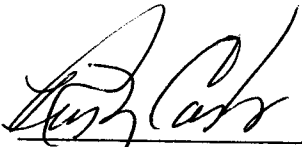
DON KARNES, RECORDER

PUBLIC HEARING**JANUARY 06, 1998****RE: ORDINANCE ESTABLISHING RATES AND CHARGES FOR SERVICES RENDERED BY
THE SANITARY BOARD OF THE CITY OF NITRO IN THE POCA RIVER SERVICE AREA.**

The Public Hearing was called to order at 7:00 p.m. by Mayor Rusty Casto, Council Chambers at City Hall. Others attending, Don Karnes, City Recorder, Phillip Gaujot, City Attorney, Robert Mattox, Councilman, Jim Withrow, Sanitary Bd. Attorney, Max Lemma, Sanitary Bd. Treasurer, Connie Stephens, General Manager Sanitary Board, Ralph Laton, Smith, Cochran and Hicks, Greg Garner, Reporter, Ron King, FD and several city residents.

Mayor Casto yielded the floor to Jim Withrow, Attorney for the Nitro Sanitary Board. Mr. Withrow stated the Public Hearing has been properly advertised in both Charleston newspapers on the 24th day of December, 1997 and the 31st day of December, 1997. Attorney Jim Withrow explained the request for service and the expense involved in the Poca River Project, and opened the floor for input from the public.

There being no public input COUNCILMAN ROBERT MATTOX MOVED TO ADJOURN THE PUBLIC HEARING. THE MOTION WAS SECONDED BY DON KARNES, RECORDER AND WAS CARRIED.


RUSTY CASTO, MAYOR


DON KARNES, MAYOR

PUBLIC HEARING**JANUARY 06, 1997****RE: EASTER RD REZONING**

The Public Hearing was called to order at 7:15 p.m. by Mayor Rusty Casto, Council Chambers at City Hall. Others attending, Don Karnes, City Recorder, Phillip Gaujot, City Attorney, Robert Mattox, Councilman Jim Withrow, Sanitary Bd. Attorney, Max Lemma, Sanitary Bd. Treasurer, Connie Stephens, General Manager Sanitary Board, Ralph Laton Smith, Cochran and Hicks, Greg Garner, Newspaper Reporter, Ron King, Fire Department and several city residents.

Mayor Casto stated the purpose of this properly advertised public hearing was to rezone Easter Road from R- 111 to R-1. Mayor Casto opened the floor for public input. After a short discussion, with one citizen speaking in favor and none speaking opposed COUNCILMAN AT LARGE ROBERT MATTOX MOVED THE MEETING ADJOURNED. THE MOTION WAS SECONDED BY CITY RECORDER DON KARNES AND WAS CARRIED.


RUSTY CASTO, MAYOR
DON KARNES, RECORDER

MODIFICATION TO EASEMENT AGREEMENT

THIS MODIFICATION TO EASEMENT AGREEMENT (this "Agreement") is entered into as of this ____ day of _____, 1997 by and between the **CITY OF NITRO**, a West Virginia municipal corporation ("City") and **THF NITRO DEVELOPMENT LIMITED LIABILITY COMPANY**, a West Virginia limited liability company ("THF").

WITNESSETH:

WHEREAS, pursuant to a certain Deed of Easement ("Deed of Easement"), dated as of August 20, 1987, recorded in the Kanawha County Recorder's Office on August 20, 1987 in Book 2177, Page 117, Solco, Incorporated, Tri-State Grayhound Park, Limited Partnership and Southway Construction Company granted to the City certain easements for ingress and egress for vehicular and pedestrian traffic for police, fire, ambulance, garbage and other municipal vehicles over various roads identified in the easement agreement ("Easement"); and

WHEREAS, a portion of the Easement in favor of the City runs across a portion of the road commonly known as Lakeview Drive Connector which is shown cross-hatched on Exhibit A attached hereto ("Existing Lakeview Drive Connector Easement"); and

WHEREAS, as part of the development by THF of a shopping center on the land in the vicinity of the Easement, THF will be relocating Lakeview Drive Connector ("Relocated Lakeview Drive Connector") and in connection therewith will grant to the City an easement over the Relocated Lakeview Drive Connector, and the City will release its easement rights to the portion of Lakeview Drive Connector shown cross-hatched on Exhibit A; and

WHEREAS, Solco, Incorporated is joining in this Agreement to agree to the grant by THF to the City of the easement over the Relocated Lakeview Drive Connector.

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

A G R E E M E N T

1. THF hereby grants and conveys unto the City a right-of-way for ingress and egress for vehicular and pedestrian traffic for the benefit of the City for police, fire, ambulance, garbage and such other municipal vehicles or personnel as the City of Nitro may deem appropriate over and across the portion of the road commonly known as Relocated Lakeview Drive Connector, which is shown cross-hatched on Exhibit B attached hereto ("Relocated Lakeview Drive Connector Easement"). THF shall have the right at its sole cost and expense to, from time to time, relocate the Relocated Lakeview Drive Connector in which event the Relocated Lakeview Drive Connector Easement shall be relocated to said

relocated road. The City acknowledges that, consistent with the terms of the Deed of Easement, (i) the rights-of-way conveyed herein and in the Deed of Easement shall be used exclusively by the City of Nitro and shall not be for public use, (ii) the grantors ("Grantors") of the easements granted herein and in the Deed of Easement reserve the right to dedicate the subject roads to the appropriate state or local governmental agencies without the consent of the City, (iii) the Grantors reserve the right to convey the westerly most access road under the Deed of Easement to the Lakeview Estates Maintenance Association, Inc., and (iv) the City is responsible for the snow removal from the westerly most access road until such road becomes dedicated to the appropriate governmental agency or to the Lakeview Estates Maintenance Association, Inc. or until said right-of-way has been abandoned by the City of Nitro.

2. The City hereby releases, remises, and quitclaims unto THF, any and all easements, rights-of-way or other rights in and to the Existing Lakeview Drive Connector Easement shown cross-hatched on Exhibit A attached hereto.

3. Solco, Incorporated hereby consents to the grant of the foregoing Easement to the City over and across the Relocated Lakeview Drive Connector.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

**THF NITRO DEVELOPMENT LIMITED
LIABILITY COMPANY**

By: THF Crosslanes Company Limited Liability
Company, its Manager

By: _____

Michael H. Staenberg, Manager

**CITY OF NITRO, a West Virginia municipal
corporation**

By: _____

Its: _____

**SOLCO, INCORPORATED, a West Virginia
corporation**

By: _____

Randy McDavid, President

STATE OF ~~WEST VIRGINIA~~ ^{MISSOURI},
COUNTY OF ~~KANAWHA~~ ^{ST. LOUIS}, to wit:

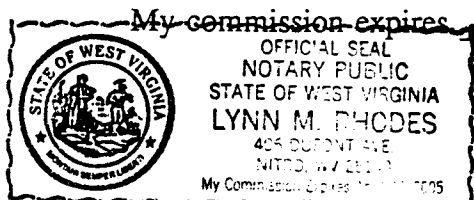
The foregoing instrument was acknowledged before me this 24 day of June, 1997, by Michael H. Staenberg, the Manager of THF Crosslanes Company Limited Liability Company, the manager of THF Nitro Development Limited Liability Company, a West Virginia limited liability company.

My commission expires Notary Public, St. Louis County, Missouri
My Commission Expires January 26, 1998.

NOTARY PUBLIC

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to wit:

The foregoing instrument was acknowledged before me this 22 day of JANUARY, 1998, by Rusty Casto, the MAYOR of the City of Nitro, a West Virginia municipal corporation, on behalf of said West Virginia municipal corporation.

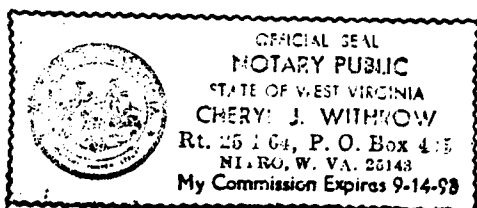


NOTARY PUBLIC

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to wit:

The foregoing instrument was acknowledged before me this 9th day of July, 1997, by R. S. McDavid the President of Solco, Incorporated, a West Virginia corporation, on behalf of said West Virginia corporation and said limited partnership.

My commission expires 9/14/98.



NOTARY PUBLIC

CITY OF NITRO COUNCIL MEETING MINUTES

FEBRUARY 03, 1998

Mayor Casto declared a quorum and called the meeting to order. Others present City Recorder, Don Karnes, Councilmen at Large Steve West, Robert Mattox, Councilmen Robert Young, David Miller and George Atkins. Absent Councilman at Large Richard Savilla and Councilman Frank Grover, Jr. Also present City Attorney Phillip Gaujot and City Treasurer Ralph Allison.

AGENDA ITEM NO. 1 INVOCATION: Robert Mattox

1-A Pledge of Allegiance - Marcus Bailey

CITIZEN OF THE MONTH

Mayor Casto announced Joan and Joe Savilla as "Co-Citizens of the Month" and said they were unable to attend tonight's council meeting. Mayor Casto stated Mr. & Mrs. Savilla were named the most "Romantic Couple" in Woman's Day Magazine.

AGENDA ITEM NO. 2 APPROVAL OF MINUTES: COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 3 2ND AVENUE PAVING: Mayor Casto reported he obtained an estimated cost of paving 2nd Avenue, from 7th Street to 21st Street of \$40,000. Senator Craigo presented the City with a check for \$20,000. The City received notification from the State Highway Department, if something is not done quickly, water will get in the sub-base and destroy it. Recorder Don Karnes stated this estimate includes regrind and this paving will meet the new paving in the area that was done a few years ago. Recorder Karnes said, we have a ballpark estimate of \$40,000 and the money from Economic Development fund can be used for this job. RECORDER DON KARNES MOVED TO USE UP TO \$25,000 FROM ECONOMIC DEVELOPMENT FUND FOR PAVING 2ND AVENUE FROM 7TH STREET TO 21ST STREET AND FROM 21ST STREET TO 24TH STREET AND ADVERTISE FOR BIDS. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 4 FIRE DEPARTMENT REQUEST (JIM RIFFLE): Mayor Casto yielded the floor to Mr. Jim Riffle regarding a fund drive request for the Firefighter Association. COUNCILMAN DAVID MILLER MOVED TO GRANT THE FIREFIGHTER ASSOCIATION FUND DRIVE REQUEST. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 5 31ST STREET BRIDGE (PHIL GAUJOT) Mayor Casto reported he had received the 31st Street Bridge contract. City Attorney Phil Gaujot explained the contract between Department of Transportation Division of Highways and the City of Nitro, relative to the 31st Street Bridge replacement. Counselor Gaujot stated he has prepared an ordinance and also recommended a public hearing before the second reading. COUNCILMAN ROBERT YOUNG MOVED TO READ TITLE ONLY OF ORD. 98-. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. ORDINANCE 98- AN ORDINANCE OF THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, TO ESTABLISH THEIR RESPONSIBILITIES WITH REGARD TO A NEW BRIDGE TO REPLACE

THE EXISTING 31ST STREET BRIDGE OVER BLAKE CREEK WITHIN THE MUNICIPAL LIMITS OF THE CITY OF NITRO, WEST VIRGINIA.

COUNCILMAN DAVID MILLER MOVED TO APPROVE THE FIRST READING OF ORD. 98- . THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. A public hearing is scheduled at 7:15 prior to the next council meeting.

Councilman Robert Mattox asked if the State is assuming responsibility from First Avenue including the 31st Street Bridge. Mayor Casto stated that is correct. Also Councilman Mattox asked if a walk right of way would be available during construction. Mayor Casto stated this would be determined at a later time.

Counselor Gaujot reported in regard to the Fike Artel property, an agreement has been received concurring an acquisition of the former Fike Artel property in Nitro. This is an agreement between the Artel Trust and the Nitro Development Authority. Copies have been given to Tim Sizemore and Recorder Don Karnes for review.

Also Counselor Gaujot stated he working on a "Rules and Regulations of Nitro Police Civil Service". This should be ready sometime in March.

AGENDA ITEM NO. 6 HANDICAP CURBING: COUNCILMAN AT LARGE STEVE WEST MOVED TO ADVERTISE FOR BIDS ON HANDICAP CURBING FROM FOURTH STREET TO FORTIETH STREET, BOTH 1ST AND 2ND AVENUE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 7 CARPET FOR COUNCIL CHAMBERS: COUNCILMAN DAVID MILLER MOVED TO SPEND UP TO \$2500. FROM ECONOMIC DEVELOPMENT FUND TO MOVE COUNCIL CHAMBERS TO THE VACATED TRAINING ROOM AT THE COMMUNITY CENTER. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 8 BUSINESS & PROFESSIONAL ASSOC: Mayor Casto yielded the floor to Dean Miller. Mr. Miller announced "Business Person of the Year" Sherry Willy, Nitro Craft Shop and Rita Perry, Four Star Video shared the honor. Mr. Miller stated a dinner is planned February 21, 1998 at 6:30 p.m. in the Senior Citizens Dining Room and Mr. Miller invited all Council and City Department Heads to attend this function.

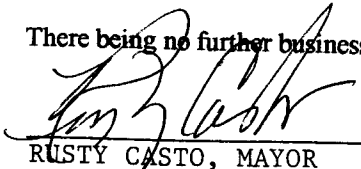
Mr. Dean Miller gave a brief report of the "Main Street USA" Workshop.


AGENDA ITEM NO. 9 RESCHEDULE COUNCIL MEETING: Mayor Casto requested Council to reschedule the next Council Meeting from the 3rd. Tuesday to the 4th Tuesday in February due to a prior commitment. COUNCILMAN DAVID MILLER MOVED TO CHANGE COUNCIL MEETING FROM FEBRUARY 17, 1998 TO FEBRUARY 24, 1998. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

Recorder Don Karnes recognized the Scout Troop attending council meeting. Those attending ; Brandon Chambers, Patrick Murphy, Justin Youst, Matt Anderson, Nick Gardner, Marcus Bailey and Patrick Bailey.

COUNCILMAN DAVID MILLER MOVED TO SPEND \$400.00 TO SEND LT. TERRY THOMPSON TO A LEADERSHIP TRAINING SCHOOL. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR


DON KARNES, RECORDER

ORDINANCE NO. 98-02

**AN ORDINANCE TO REZONE REAL ESTATE
LOCATED, ABUTTING, AND CONTIGUOUS
WITH EASTER ROAD, ESCOE ROAD, AND
BURDETTE ROAD, AND BORDERED BY
I-64 AND 40TH STREET, FROM R-III TO R-I**

BEFORE THE CITY COUNCIL OF THE CITY OF NITRO, to-wit:

WHEREAS, the Nitro Planning Commission held a public meeting on Monday, November 17, 1997, at 7:05 o'clock p.m., in the Board Room of the Nitro Community Center, to consider a request that real estate located, abutting, and contiguous with Easter Road, Escoe Road, and Burdette Road, and bordered by I-64 and 40th Street, be rezoned from R-III to R-I; and

WHEREAS, after discussion and properly moved, a motion passed that said real estate located, abutting, and contiguous with Easter Road, Escoe Road, and Burdette Road, and bordered by I-64 and 40th Street, be rezoned from R-III to R-I; and

WHEREAS, on December 2, 1997, the City Council made as part of its minutes the Planning Commission report recommending the rezoning of real estate located, abutting, and contiguous with Easter Road, Escoe Road, and Burdette Road, and bordered by I-64 and 40th Street, be rezoned from R-III to R-I; and

WHEREAS, the City Council held a public meeting on the 6th day of January, 1998, at 7:15 p.m., in the Council Chambers at City Hall, which public meeting had been properly advertised in both Charleston newspapers on the 23rd day of December, 1997, and the 30th day of December, 1997, to consider a request that real estate located, abutting, and contiguous with Easter Road, Escoe Road, and Burdette Road, and bordered by I-64 and 40th Street, be rezoned from R-III to R-I; and

WHEREAS, upon hearing comments in favor of and comments opposed to said rezoning, a motion was made and passed that said real estate located, abutting, and contiguous with Easter Road, Escoe Road, and Burdette Road, and bordered by I-64 and 40th Street, be rezoned from R-III to R-I;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NITRO, KANAWHA AND PUTNAM COUNTIES, WEST VIRGINIA, that the following-

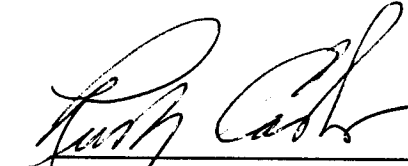
described real estate located, abutting, and contiguous with Easter Road, Escoe Road, and Burdette Road, and bordered by I-64 and 40th Street, is rezoned from R-III to R-I.

Passed on First Reading:

December 16, 1997

Adopted on Second Reading:
after a public hearing held
at 7:15 p.m., on the
6th day of January, 1998.

January 6, 1998



RUSTY CASTO, MAYOR



CITY RECORDER

**COUNCIL MEETING MINUTES
FEBRUARY 24, 1998**

Mayor Casto declared a quorum and called the council meeting to order. Others attending: City Recorder, Don Karnes, Councilmen at Large Robert Mattox, Richard Savilla, Councilmen Robert Young, David Miller and George Atkins. Absent Councilman at Large Steve West and Councilman Frank Grover. Also present City Attorney Phillip Gaujot and City Treasurer Ralph Allison.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Robert Mattox.

AGENDA ITEM NO. 2 APPROVAL OF MINUTES: COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO APPROVE THE FEBRUARY 03, 1998 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 3 ALLEY-(RUSTY AKERS): Recorder Don Karnes explained briefly to council the background regarding the alley. Recorder Karnes stated two years ago, council abandoned all rights and interest in this property. This was done March 1996 and the only part that has not been done, and this is not really the City's responsibility, is that no deeds have been written to that effect. Recorder Karnes said the City has no interest in this matter and the only reason this was brought before council is to authorize the Mayor to sign the deed. RECORDER DON KARNES MOVED TO AUTHORIZE MAYOR RUSTY CASTO TO SIGN DEED UPON APPROVAL OF THE CITY ATTORNEY. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 4 OLD COUNTY ROAD PETITION (MEANS): Mayor Casto yielded the floor to Arthur Means of 44 Old County Road. Mr. Means told council, for twenty five years the residents had been trying to get Old County road paved. After a discussion, Mr. Means presented council with a petition of 100 percent signatures of residents. Mayor Casto stated he had tried three times to get help from the State, but turned down each time. Mayor Casto stated he would try again. CITY RECORDER DON KARNES MOVED TO MAKE THE OLD COUNTY ROAD PETITION A PART OF THE COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 5 BONDAGE BUSTERS (GREG CASTO): Mayor Casto yielded the floor to Greg Casto, Pastor. Pastor Casto introduced a program called "Bondage Busters." This program is similar to the "Big Sister/ Big Brother" program. Pastor Casto further explained the program to council. Also Pastor Greg Casto stated they have offices already setup in the Community Center and they wanted everyone to know there is help available and they need volunteers to act as "Mentors."

AGENDA ITEM NO. 6 GOVERNOR'S LETTER: Mayor Casto stated he has received a grant to allow the city to purchased eighty sugar maple trees to be planted in mid April. Mayor Casto said he received a letter from Governor Underwood accepting an invitation to plant the first tree at Nitro Elementary School, 2:00 p.m. March 30, 1998. COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO MAKE THE GOVERNOR'S LETTER A PART OF THE COUNCIL MINUTES. THE

MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 7 DISPATCHER'S CHAIR: Mayor Casto yielded the floor to Councilman at Large Robert Mattox. Councilman Mattox presented Council with quotes for a dispatchers chair. Councilman Mattox said the chair they are using, needs replaced and the chair recommended for purchase is priced at \$503.00/ high back, a mid back chair is \$528.00. COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE UP TO \$528.00 FOR A DISPATCHERS CHAIR USING MONEY FROM ECONOMIC DEVELOPMENT FUNDS. THE MOTION WAS SECONDED BY RECORDER DON KARNES AND WAS CARRIED.

AGENDA ITEM NO. 8 HARMONS CABLE: Mayor Casto yielded the floor to City Recorder Don Karnes. Recorder Karnes stated we the city, have a franchise with Harmon Cable and this agreement will expire within a little over a year. Recorder Karnes presented council with information to study and look over and then invite Mr. Joel Patton to answer any questions council may have. Recorder Karnes said as it stands now, the city receives a \$2500.00 franchise fee, we can renew as is, or we can increase it, we can charge as much 5 per cent, but this action would also increase the users fee.

AGENDA ITEM NO. 9 PHIL GAUJOT: No report.

AGENDA ITEM NO. 10 RALPH ALLISON (FIREMEN TRAINING CL) Mayor Casto yielded the floor to Treasurer Ralph Allison. Mr. Allison stated he had a request for Chief Hardman to attend a Fire Department Instructors Conference at a cost of \$748.00. COUNCILMAN DAVID MILLER MOVED TO GRANT REQUEST FOR CHIEF HARDMAN TO ATTEND FIRE DEPARTMENT CONFERENCE AT A COST OF \$ 748.00. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 11 BUSINESS & PROF ASSN: Mayor Casto yielded the floor to David Perry, Spokesman for the Association. Mr. Perry reported a grant to restore the "bungalow" has been applied for by the Nitro Historical Association through the Legislative Digest. Also Mr. Perry announced the Antique Car Show will be scheduled for 15th and 16th of May. Mr. Perry reported the award dinner in honor of "Business Person" of the year was very successful and that the Association had begun working on the Christmas Promotion and Parade for 98.

AGENDA ITEM NO. 12 31ST STREET BRIDGE: Mayor Casto reported he has received the Ordinance regarding the 31St. Street Bridge. COUNCILMAN ROBERT YOUNG MOVED TO READ TITLE ONLY OF 31ST BRIDGE ORDINANCE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

ORD 98- AN ORDINANCE TO THE COUNCIL OF THE CITY OF NITRO WV AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE WV DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS TO ESTABLISH THE RESPONSIBILITY WITH REGARDS TO THE NEW BRIDGE TO REPLACE THE EXISTING 31ST STREET BRIDGE OVER BLAKES CREEK WITHIN THE CITY LIMITS OF THE CITY OF NITRO WV AT 31ST STREET.

COUNCILMAN DAVID MILLER MOVED TO APPROVE ORD 98- 31ST BRIDGE REPLACEMENT. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 13 FIRE DEPARTMENT BIDS: Mayor Casto yielded the floor to Councilman David Miller. COUNCILMAN DAVID MILLER MOVED TO ADVERTISE FOR BIDS FOR THE ADDITION TO THE FIRE DEPARTMENT. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA. RECORDER DON KARNES STATED HE WANTED AN ENGINEERING FIRM TO WRITE THE SPECIFICATIONS OR AT LEAST APPROVE THE SPECIFICATIONS

BEFORE THE ADVERTISEMENT FOR BIDS IS PLACED. COUNCILMAN DAVID MILLER AMENDED HIS MOTION AS SUCH, SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED.

MAYOR'S COMMENTS:

Mayor Casto commended Firefighter Jeff Elkins for his response to the emergency at Nitro's Ballgame Monday evening regarding Duponts Coach.

Dunn Engineers has completed the work on the alley behind Washington Avenue regarding Goins and Withrow. Mayor Casto announced meeting scheduled Wednesday, March 25, 1998 at 10:00 a.m. at City Hall to present their findings and invited all interested parties to attend.

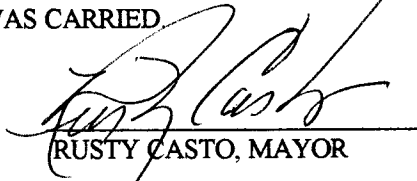
Councilman George Adkins commended Ivan Meadows and James Armstead for the completion of the Council Chambers. Also Councilman Adkins has requested signs regarding no feeding of the geese.

Councilman David Miller stated he was glad for the moving of Council Chambers. Also mentioned the possibility of Nitro High School Communication Class taping the Council Meetings.

Councilman Robert Young - No parking signs in the Cul-d-sac (Holly- Brookhaven Circles)
Also Councilman Young requested status on drain.

Councilman at Large Robert Mattox - Requested that 137 Main Avenue, Steven Burgess residence taken care of as they were promised. Such as, reseeding and repair.

City Recorder Don Karnes - CITY RECORDER DON KARNES MOVED TO SELECT AND PURCHASE MATCHING CHAIRS FOR THE COUNCIL CHAMBERS AND TO INCLUDE ON THAT COMMITTEE COUNCILMAN AT LARGE ROBERT MATTOX. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED


RUSTY CASTO, MAYOR


DON KARNES, RECORDER

FEBURARY 31998

RUSTY CASTO, MAYOR. NITRO CITY COUNCIL MEMBERS

DURING THE PAST 25 YEARS, WE THE RESIDENTS OF OLD COUNTY RD. HAVE BEEN PROMISED A PAVED STREET. FIVE MAYORS AND AGREAT NO. OF CITY COUNCIL MEMBERS HAVE COME AND GONE, YET WE HAVE NOT SEEN ANY PAVING. YEAR AFTER YEAR WE PUT IN THIS REQUEST. WHAT MUST WE AS TAXPAYING CITIZEN OF NITRO DO TO SEE THIS TASK COMPLETED.

OLD COUNTY ROAD IS .5 MILES LONG, RUNNING FROM RED OAK DR. TO THOMAS TIRE.

THANK YOU

Paul Means 44 Old County Rd
Russell Cook 23 Old County Rd

Walter Melvin Rendonmuth 42 Old County Rd.

Charles W. Tyree 43 Old County Rd Nitro W. Va
Lloyd E. Masdonz 49 Old County Road Nitro W. Va.

James Buford 39 Old County Rd Nitro W. Va

Tom Baling 7 Old County Rd Nitro W. Va

Rich Baling 7 Old County Rd

Newton Balinge

Ann Hawk 513 Old County Rd

John Hov 11 1/2 Old County Rd

Nye Martin 11 Old County Rd

Martha Chapman 53 Old County Rd.

Chris Bragg

1103B 1st Ave So

John Carter 35 - old County Rd. N. M. ^{un}

Martha Hawk 8 - Old County Rd Nitro

Barb Hawk 9 - Old County Rd Nitro

James Hensley 1113 - 1st Ave Nitro

Mark R. Smith 36 old County Rd

19 out of 19 100%



STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

CECIL H. UNDERWOOD
GOVERNOR

February 16, 1998

The Honorable Rusty Casto
Mayor of Nitro
Post Office Box 308
Nitro, West Virginia 25143

Dear Mayor Casto:

Thank you for inviting me to help plant the first Sugar Maple tree in Nitro with the young people of the area. I would be delighted to participate on March 30, 1998, at 2:00p.m.

A member of my office will be in touch with you to finalize arrangements. Before then, however, please complete the enclosed advance sheet and return it before the stated deadline. I look forward to seeing you and the good people of Nitro in March.

Very sincerely,

A handwritten signature in black ink, appearing to read "Cecil H. Underwood", written over a horizontal line.

Cecil H. Underwood

CHU/jr
Enclosed

ORDINANCE NO. 98-03

ORDINANCE OF THE COUNCIL OF THE CITY OF NITRO, WEST VIRGINIA, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, TO ESTABLISH THEIR RESPONSIBILITIES WITH REGARD TO A NEW BRIDGE TO REPLACE THE EXISTING 31ST STREET BRIDGE OVER BLAKE CREEK WITHIN THE MUNICIPAL LIMITS OF THE CITY OF NITRO, WEST VIRGINIA.

BE IT ENACTED BY THE CITY OF NITRO, WEST VIRGINIA, AS FOLLOWS:

1. That the Mayor of the City of Nitro, West Virginia, be and is hereby authorized to execute, acknowledge, and deliver on behalf of the City an agreement with the West Virginia Department of Transportation, Division of Highways, with regard to the establishment of their respective responsibilities for a project to replace the existing 31st Street Bridge over Blake Creek to be constructed within its corporate limits, a copy of which agreement is attached hereto and made a part hereof.

2. That the Clerk does properly attest the signature of said officials and affix the seal of the City to said agreement.

Passed by the Council of Nitro, West Virginia, on 24th day of February, 19 98.

STATE OF WEST VIRGINIA
COUNTIES OF KANAWHA AND PUTNAM
CITY OF NITRO

I, Dan KARNES, Clerk, of said

City, do hereby certify that the foregoing are true copies from the records of order made and entered by the Council of said City on the 24TH day of FEB., 19 98.

Dan Karnes
Clerk

WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS
AGREEMENT
FOR
31ST BRIDGE REPLACEMENT
KANAWHA COUNTY

THIS AGREEMENT, executed in triplicate, made and entered into this 12th day of March, 1998, by and between the West Virginia Department of Transportation, Division of Highways, hereinafter called "Department," and the City of Nitro, a municipal corporation, Kanawha and Putnam Counties, West Virginia, hereinafter called "City,"

WITNESSETH that,

WHEREAS, the City desires the cooperation of the Department in the design and construction of a new bridge and roadway approaches thereto to replace the existing 31st Street Bridge carrying 31st Street over Blake Creek in the Kanawha County portion of the City of Nitro; and

WHEREAS, the aforesaid bridge and approaches are sometimes hereinafter called "project;" and

WHEREAS, the Department considers it to be in the public interest to participate in the project; and

Whereas, by this agreement the Department and the City desire to establish their respective responsibilities with regard to the project; and

WHEREAS, the Commissioner of the West Virginia Department of Transportation, Division of Highways, has the right and authority to enter into this agreement; and

WHEREAS, by ordinance bearing the date of 24th day of February, 1998, the Council of the City of Nitro, has authorized and directed the proper authorities to execute, acknowledge, and deliver an agreement on behalf of said City, setting out the terms and conditions thereof, a copy of which ordinance is affixed hereto and made a part hereof;

NOW, THEREFORE, THIS AGREEMENT FURTHER WITNESSETH that, in consideration of the mutual covenants herein entered into and the mutual benefits to be derived by the parties hereto, said Department and City do hereby agree as follows:

I. The City shall study, design, and prepare construction contract plans and related documents for the project, which shall be subject to the review and approval of the Department. The Department's approval shall be in writing.

II. The City shall obtain any additional right of way required for the project and shall accomplish all required utility relocations.

III. Subsequent to the Department's approval, the Department shall advertise, accept bids, award a construction contract, and construct the project. The award of the construction contract shall be subject to the approval of the City.

IV. The Department shall initially bear the total cost of constructing the project, estimated to be One Hundred Eight-Five Thousand Dollars (\$185,000.00). The City shall reimburse the Department for twenty percent (20%) of the total cost of constructing the project, including but not limited to payments to its construction contractor, costs related to salaries of the Department's employees, direct nonsalary costs, payroll additives, and indirect costs to the extent they are properly allocable to the project. The maximum amount to be reimbursed under this agreement is Thirty-Seven Thousand Dollars (\$37,000.00) without a supplemental agreement. The parties hereto shall enter into a supplemental agreement to cover overruns.

The Department may bill the City from time to time as the work progresses. The City shall pay the Department within thirty (30) days after receipt of a properly documented invoice.

Each party shall bear the total of all other costs incurred by it in fulfilling its obligations under Article I through this Article IV.

V. The Department shall take the new bridge and 31st Street from WV 25 to Third Avenue to be part of its State Road System. Said segment of 31st Street is sometimes hereinafter called "Highway."

VI. The Highway will be accepted by the City as a public facility which is a part of the State Road System within said City.

VII. Duties and responsibilities of the Department in regard to the Highway:

A. Maintenance of pavement surface and/or reconstruction of the Highway.

B. Maintenance of drop inlets and other structures pertaining to drainage, which are located within the right of way.

C. Snow removal and ice control for the Highway.

D. Furnishing, placing, and maintenance of traffic lines to mark lanes of travel and

furnishing, placing, and maintaining route makers, traffic control, and directional signs.

E. Regulating approaches, access roads, and all signs and structures which overhand the right of way.

F. Regulations and approval of openings made in the pavement for repair of subsurface structures and utilities.

G. Maintenance of any curbs and sidewalks on the bridge.

VIII. Duties and responsibilities of the City shall be as follows:

A. Sweeping and/or flushing of pavement.

B. Placement and maintenance of street name signs.

C. Maintenance of curbs and sidewalks, if any, except on the bridge.

IX. No encroachment shall be permitted upon the Highway or right of way thereof.

X. No parking will be permitted on any part of the travel lanes.

XI. Speed limit on the Highway shall be established by the Department.

XII. Maintenance, operation, and reconstruction of existing State routes within the City of Nitro which are not affected by this construction contract would continue in the same manner as in the past.

XIII. City agrees that it will cooperate with Department in accomplishing the above items by appropriate legislation and enforcing the regulations agreed upon to the best of its ability, and consents to such additional regulations and controls including changes in speed limits as may be found necessary to obtain safe and efficient movement of traffic on the Highway where such changes have been decided upon as a result of engineering studies and analyses made after the Highway has been completed and opened for the use of traffic.

IN WITNESS WHEREOF, the parties hereto have caused their respective names to be signed by their
duly authorized officers.

ATTEST:

WEST VIRGINIA DEPARTMENT
OF TRANSPORTATION,
DIVISION OF HIGHWAYS

Patricia Cookshanks
Executive Secretary

Arthur H. Beverage
Commissioner

ATTEST:

CITY OF NITRO
a municipal corporation

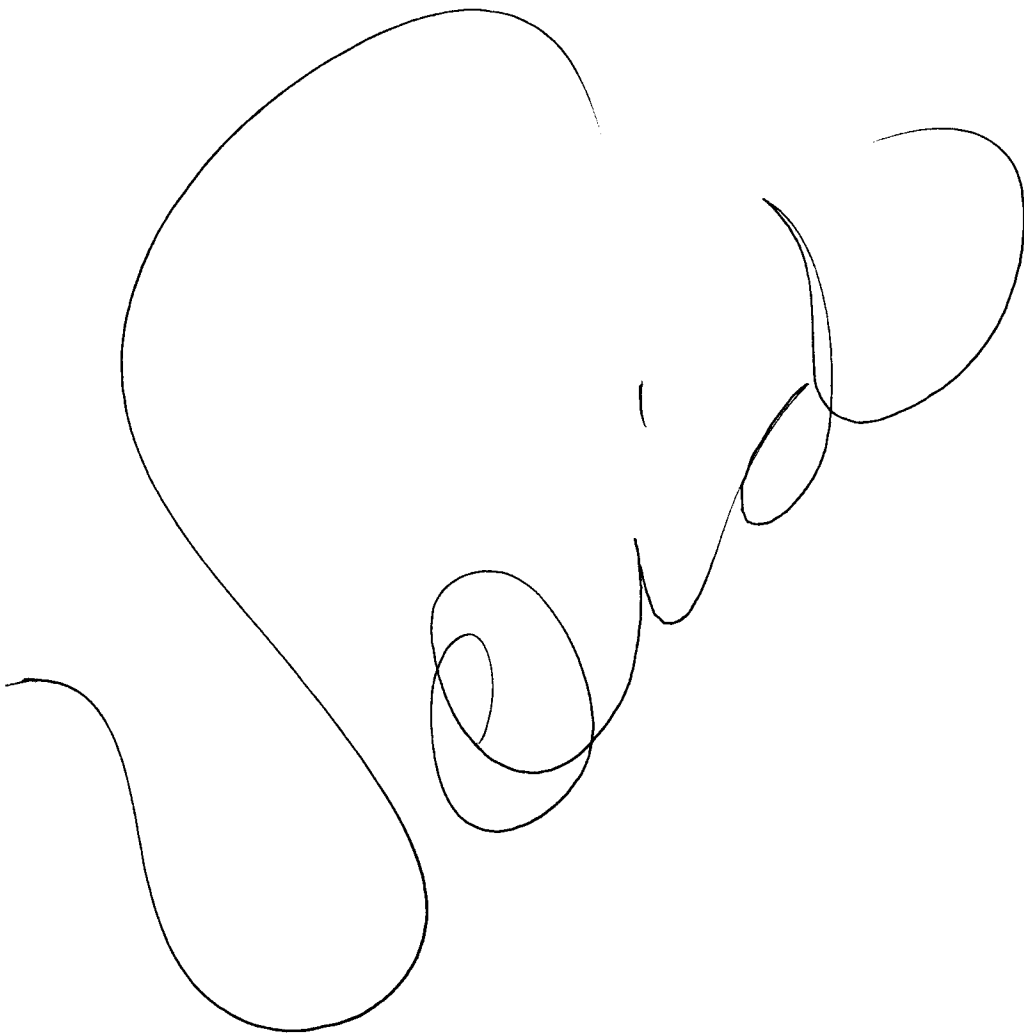
Don Karns
Title: CITY RECORDER
CITY OF NITRO

Wesley Cash mayor
Title:

(To be executed in triplicate)

Distribution: Master File
City
Roadway Design Division

APPROVED AS TO FORM THIS
9th DAY OF MARCH, 1998
Frank J. Lora
ATTORNEY LEGAL DIVISION
WEST VIRGINIA DEPARTMENT
OF TRANSPORTATION
DIVISION OF HIGHWAYS



CITY OF NITRO COUNCIL MEETING MINUTES

MARCH 03, 1998

Mayor Rusty Casto declared a quorum and called the meeting to order. Others present; City Recorder Don Karnes, Councilmen at Large Robert Mattox, Richard Savilla, Councilmen Robert Young, David Miller, George Atkins and Frank Grover. Absent Councilman at Large Steve West. Also present City Attorney Phillip Gaujot and City Treasurer Ralph Allison.

"CITIZEN OF THE MONTH"

Mayor Casto yielded the floor to Coach Kaufman, Special Education Teacher at Nitro High School, to announce Jeremy Easter as "Citizen of the Month." Coach Kaufman commended Jeremy for his many accomplishments for his school and his community. Mayor Casto presented Jeremy with a Nitro Wildcat sweatshirt.

AGENDA ITEM NO. 1 INVOCATION - Councilman at Large Robert Mattox.

AGENDA ITEM NO. 2 APPROVAL OF MINUTES/PUBLIC HEARING MINUTES:
COUNCILMAN ROBERT YOUNG MOVED TO APPROVE THE COUNCIL MEETING MINUTES AS DISTRIBUTED AND THE PUBLIC HEARING MINUTES AFTER AMENDING THE MOTION TO READ COUNCILMAN ROBERT YOUNG. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 3 PHIL GAUJOT: Counselor Gaujot reported he has the agreement between the city and the Federal Government Regarding the Artel Property. Counselor Gaujot stated he will have an ordinance or resolution which ever is needed, at the next scheduled meeting, authorizing the Mayor to sign the agreement.

Counselor Gaujot stated he has an agreement regarding the acquisition of the former Fike-Artel property, an agreement between Fike Artel Trust Fund and the City of Nitro Development Authority. Counselor Gaujot said "I think we are right around the corner from solidifying something that is nice for the city." We are now finalizing an agreement with the federal Environmental Protection Agency that has been approved by the court, Fike-Artel trustees and the Nitro Development Authority.

AGENDA ITEM NO. 4 31ST STREET BRIDGE: Mayor Casto reported he delivered the contract to the State and the contract is within days of advertising for bids. The ball is now in the State Highways Department Court.

AGENDA ITEM NO. 5 TRASH-ALLEY PICKUP: Mayor Casto yielded the floor to Councilman Frank Grover. Councilman Grover reported city wide curb side garbage pick up will be implemented starting May 4, 1998. Also Councilman Grover stated this should make garbage pickup a little cheaper and a little quicker. Councilman Grover said it will be a big improvement keeping the trucks out of alleys. Discussion followed regarding amending and enforcing this ordinance.

City Attorney Phil Gaujot reminded Council that the Annexation Committee was to schedule a meeting. The annexation meeting was announced at 7:30 p.m. March 5, 1998 following the 6:30 budget meeting.

AGENDA ITEM NO. 6 LEE CONRAD: Mayor Casto yielded the floor to Mr. Conrad. Mr. Conrad stated actually he had two issues of concern. The first one is Body Car & Truck Sales and I found out it is zoned commercial. Mr. Conrad stated when he bought the property, he was told it was zoned business. I would like to request this be changed to business. The second request was concerning special construction at his business. After discussion, COUNCILMAN ROBERT YOUNG MOVED TO SEND THIS ISSUE TO PLANNING AND ZONING. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER AND WAS CARRIED.

AGENDA ITEM NO. 7 RALPH ALLISON, TREASURER: Treasurer announced a budget meeting, Thursday at 6:30 p.m. March 5, 1998. Also Treasurer Ralph Allison stated two bids were received for paving 2nd Avenue. Councilman Richard Savilla opened first bid from Black Top Industries & Equipment Company, approximately 12,688 square yards \$57,480.00. Councilman Robert Young opened 2nd bid from WV Paving, approximately 12,999 square yards \$46,925.00. This does not include flagging at a cost of \$2,820.00. CITY RECORDER DON KARNES MOVED THE BIDS BE SENT TO THE FINANCE COMMITTEE AND BROUGHT BACK TO COUNCIL AT NEXT SCHEDULED COUNCIL MEETING. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

Treasurer Ralph Allison stated he had a request for two Police Officers to attend a training class March 9, 10 and 11, 1998 at a cost of \$235.00 ea. COUNCILMAN DAVID MILLER MOVED TO APPROVE POLICE DEPARTMENT REQUEST. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED.

AGENDA ITEM NO. 8 BUSINESS AND PROFESSIONAL ASSN: David Perry, spokesperson for the association announced the "Car Show" scheduled for May 15, & 16 and the cruise -in on the 15th will be moved to 21st and Bank Streets. Announced Easter Egg hunt and "photo shoot" April 4, 1998 at City Park. Time to be announced later. COUNCILMAN FRANK GROVER MOVED TO APPROVE EASTER EGG HUNT AT CITY PARK 4/4/98. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

AGENDA ITEM NO. 9 MAYOR'S COMMENTS: Mayor Casto welcomed the boy scouts to the council meeting. Announced breakfast at Nitro Church of God featuring Bill Wintz as guest speaker. Also Mayor Casto reminded Council of the planting of "First Sugar Maple Tree" March 30th, with Governor Underwood at Nitro Elementary School.

Councilman Frank Grover- Appreciated moving of chambers.

Councilman George Atkins - Requested the scout troop introduce themselves. Troop #68, Robbie Davison, John Evans, Greg McGowan, Justin Bond, Jason Young, Bob Evans, Steve McGowan and Larry Young

Councilman David Miller - Specs from Goldseal for the addition to the Fire Department for viewing.

Councilman Robert Young - Status of signs for Brookhaven. Chief Winter stated the signs are ordered. Mayor Casto stated weather permitting work will begin next week on storm line at top of hill on Brentwood Road.

Councilman Richard Savilla - Council should give some consideration to purchasing police vehicles from a Kentucky company that reconditions vehicles.

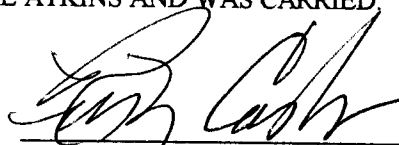

Rusty Casto, Mayor

Don Karnes, Recorder

PUBLIC HEARING**FEBRUARY 24, 1998****RE: 31ST STREET BRIDGE**

The Public Hearing was called to order at 7:15 p.m. by Mayor Rusty Casto, in Council Chambers at City Hall. Others attending, City Recorder Don Karnes, Councilmen at Large Robert Mattox, Richard Savilla, Councilmen Robert Young, David Miller, George Atkins and several residents from Old County Road

Mayor Casto stated the purpose of this properly advertised public hearing is in regard to an ordinance for replacement of the 31St Street Bridge. Mayor Casto briefly explained the ordinance. There being no further input COUNCILMAN BOB YOUNG MOVED TO ADJOURN THE PUBLIC HEARING. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.



RUSTY CASTO, MAYOR

DON KARNES, RECORDER

CITY OF NITRO COUNCIL MEETING MINUTES

MARCH 17, 1998

Mayor Rusty Casto declared a quorum and called the Council meeting to order. Others present; City Recorder Don Karnes, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller, and George Atkins. Absent Councilman Frank Grover. Also present City Attorney, Phil Gaujot and City Treasurer Ralph Allison.

AGENDA ITEM NO. 1 INVOCATION : Jay Long, Recreation Director

AGENDA ITEM NO. 2 APPROVAL OF MINUTES: COUNCILMAN ROBERT YOUNG MOVED TO APPROVE MARCH 3, 1998 MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED WITH COUNCILMAN AT LARGE STEVE WEST ABSTAINING.

AGENDA ITEM NO. 3 FIREMEN PENSION BD. MIN: COUNCILMAN ROBERT YOUNG MOVED TO MAKE THE FIREMEN PENSION BD MINUTES A PART OF COUNCIL RECORD. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 4 JAY LONG: Mayor Casto yielded the floor to Recreation Director Jay Long. Mr. Long presented Council with a request to sponsor a golf tournament, held at Coonskin Park, in honor of the late "Jack Bellino" business person in the City of Nitro. Proceeds will be used to upgrade our Parks and Recreation Dept. CITY RECORDER DON KARNES MOVED TO APPROVE REQUEST TO SPONSOR A "JACK BELLINO" GOLF TOURNAMENT AT COONSKIN PARK, MAY 8, 1998 AT 9:00 A.M. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

AGENDA ITEM NO. 5 PHIL GAUJOT: Counselor Phil Gaujot yielded the floor to Mr. Michael Staenberg, President of THF Realty. Mr. Staenberg presented Council with a rendering of "Nitro Market Place" and updated council on the project. Mr. Staenberg reported Lowe's will be opening June 1, 1998, followed by Wal - Mart, July 3, 1998, Staples approximately July 15, and Goodies, August 1, 1998. Mr. Staenberg stated more businesses will be coming after the grand opening and the entire 500,000 square foot Nitro Market Place should be completed by August 1, 1998. Mr. Staenberg reported the traffic lights should be functional in about two weeks. The asphalt will be resurfaced starting April 6, 1998.

Also Mr. Staenberg said a 12-screen theater is being considered at this time and he is interested in buying the current Lowe's building. Mr. Staenberg told Council they are about a million dollars apart, but if the deal comes through he will ask them to annex into the City.

Mr. Staenberg announced the Grand Opening will be sometime the middle of July, 1998.

City Attorney Phil Gaujot told Council he received, this week, a quitclaim deed from THF, to the City of Nitro conveying one acre of ground. This property already has utilities run to it. A question and answer session followed regarding Nitro Market Place.

Counselor Gaujot reminded Council that whoever owns the Fike Artel property is responsible for clean-up. The deal that was negotiated with EPA was, the City owns the property, without liability. Counselor Gaujot presented Council with a resolution resolving an agreement between EPA and the City of Nitro Development Authority. Counselor Phil Gaujot read the resolution in its entirety. CITY RECORDER DON KARNES MOVED TO APPROVE RESOLUTION SUPPORTING THE CITY OF NITRO, WV DEVELOPMENT AUTHORITY ENTERING INTO AN AGREEMENT AND COVENANT NOT TO SUE WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED. (Copy attached)

City Attorney Phil Gaujot explained to Council regarding Civil Service Commissioners, we only have two and the WV Code mandates, when you have an opening, it is to be filled within ten days. This appointee is chosen by the Businessmen Association. Also Counselor Gaujot stated he will have rules and regulations for the Civil Service Commission ready for approval for the next meeting.

AGENDA ITEM NO. 6 RALPH ALLISON: Treasurer Ralph Allison presented council with a copy of budget. After a short discussion, CITY RECORDER DON KARNES MOVED TO APPROVE THE 1998/1999 BUDGET AS PRESENTED BY TREASURER RALPH ALLISON. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 7 31ST STREET BRIDGE: Mayor Casto reported the bridge will be bided out in May. Contract will be awarded in June, with work beginning the next fiscal year.

AGENDA ITEM NO. 8 2ND AVENUE PAVING: Recorder Don Karnes reported West Virginia Paving was low bidder, their bid was \$46, 925.00 if flagmen are included the cost is an additional \$2840.00, total of \$49, 765.00. RECORDER DON KARNES MOVED TO AWARD PAVING CONTRACT TO WEST VIRGINIA PAVING. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

AGENDA ITEM NO. 9 BUSINESS & PROFESSIONAL ASSOC: Mr. Dave Perry, spokesman for the Association reported a list of donations they have received for the Easter Egg Hunt. The rain location will be in the gymnasium. Announced the Woman's Club of Nitro are selling peanut butter Easter eggs, \$2.50 each, donations from the sale of eggs will go the Nitro Library and Nitro After Prom. Also Mr. Perry stated they are waiting on the weather to break to start roof repairs on the bungalow. Mr. Perry reported the girl scouts will have an overnight stay in the gymnasium this week end and all day craft and line dancing. Announced two shows with the National Theater of Performing arts booked for April 1st. and April 22nd, 1998. Mr. Perry stated they have applied for a grant for repairing roof and other needs of the community building. The annual Easter Cantata is scheduled for March 29, 1998 at 3:00 p.m. free admission.

Due to health reasons, Dean Miller will no longer be the representative to council for the Business and Professional Association. Mr. Perry and Mr. Vernon Mills will assume this responsibility.

AGENDA ITEM NO. 10 MAYOR'S COMMENTS: Mayor Casto reported Governor Underwood will not be able to attend the March 30, 1998 planting of the first maple tree. He will however, be attending a luncheon in May with the Senior Citizens.

Councilman George Atkins, stated three areas of town, Beech, Dogwood and Layne Avenue are very dangerous to pull out on Main Avenue. Councilman Atkins recommended making these streets one way. COUNCILMAN GEORGE ATKINS MOVED THIS MATTER BE PUT IN COMMITTEE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

Councilman David Miller, reported two drainage problems, one behind Councilman West's house, and another one at 2114 21st Street. The cost for pipe should be approximately \$1200.00. COUNCILMAN DAVID MILLER MOVED TO SPEND UP TO \$3000.00 TO TAKE CARE OF THIS DRAINAGE PROBLEM AS SOON AS POSSIBLE. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED WITH COUNCILMAN AT LARGE STEVE WEST ABSTAINING.

There being no further business, the meeting was adjourned.


RUSTY CASTO, MAYOR
DON KARNES, RECORDER

NITRO FIREMEN'S PENSION BOARD MEETING
MARCH 10, 1998

The Firemen's Pension Board Meeting was called to order at 10:00 a.m. March 10, 1998, in the Conference Room at City Hall. Present were City Recorder Don Karnes, Chief Steve Hardman, Captain E. W. Hedrick, II, Captain Ronnie King and Firefighter Jeff Elkins. Also present Pansy Armstead, Secretary.

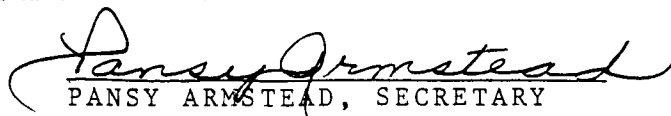
AGENDA ITEM NO. 1 - APPROVAL APRIL 24, 1997 MEETING MINUTES: - Captain King moved to approve minutes as written. Motion was seconded by Chief Hardman. A vote was taken and it was unanimous.

AGENDA ITEM NO. 2 - BALLOT OPENING: - City Recorder Don Karnes opened the sealed ballots and Firefighter Elkins was reelected as Trustee for a four year term. Present members Chief Hardman - 1999, Captain King - 2000, Captain Hedrick - 2001 and Firefighter Elkins - 2002.

AGENDA ITEM NO. 3 - CERTIFY ELECTION RESULTS - Captain King moved to certify election results as read. Motion seconded by Captain Hedrick. Vote taken and it passed with Firefighter Elkins abstaining.

AGENDA ITEM NO. 4 - OLD BUSINESS: - Captain King moved to allocate \$40,000 to be invested by Elizabeth Keightley in the stock market with Wheat First Butcher Singer Investors and take over the handling of the Pension Fund portfolio. Motion seconded by Firefighter Elkins. A discussion followed regarding if there would be a penalty to transfer the funds. Captain King moved to amend the motion to authorize the City Treasurer Ralph Allison to move forward with this with the understanding that we will be penalized as little as possible, and authorize Ralph Allison, Treasurer to transfer control of the investment from Bank One to Wheat First Butcher Singer at minimal cost. Firefighter Elkins accepted the friendly amendment. Discussion followed regarding service they received and the fee charged by Bank One. Captain King and Firefighter Elkins were very dissatisfied with Bank One. A vote was taken and it was unanimous. Captain Hedrick moved to invest \$15,000 and then as bonds mature, put up to \$40,000 in the stock market. Motion was seconded by Captain King. A vote was taken and it was unanimous. Chief Hardman asked if we would need to enter into a contractual agreement with Wheat First Butcher Singer, and how often would we receive reports and simple reports. It was agreed upon that Ms Keightley be asked to come down and explain to the Board what she will be able to do for us. Captain Hedrick said we should find out if they have checking and if there would be a charge to transfer money. Chief Hardman said he felt the Board should be notified of each transaction. Also, they would check with local banks regarding checking accounts as Bank One was closing their Nitro office. Captain King reported he didn't have any faith in Huntington Banks because they had misplaced over \$30,000 which was discovered by Captain King and Captain Strohl. A meeting will be held Friday, March 13.

There being no further business, Captain Hedrick moved the meeting be adjourned. Motion seconded by Firefighter Elkins. Vote taken and it was unanimous.


PANSY ARMSTEAD, SECRETARY

RESOLUTION NO. 98-02RESOLUTION SUPPORTING THE CITY OF NITRO,
WEST VIRGINIA DEVELOPMENT AUTHORITY
ENTERING INTO AGREEMENT AND COVENANT
NOT TO SUE WITH THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

WHEREAS, The City of Nitro, West Virginia Development Authority (hereinafter referred to as "NDA") is a not-for-profit corporation of the State of West Virginia which has as its corporate purpose the beneficial development of the City of Nitro, West Virginia; and,

WHEREAS, The NDA is interested in the acquisition of property which is currently a part of the Fike Chemical Superfund Site (hereinafter referred to as "Site") to redevelop the property for lease or sale for an industrial use which does not interfere with or negatively impact remediation of the site; and,

WHEREAS, The City Attorney has negotiated an agreement with the United States Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, *A COPY OF THE AGREEMENT IS ATTACHED HERETO;*
~~et seq., a copy of which is attached hereto,~~ and,

WHEREAS, The Council of the City of Nitro wishes to show its support and approval with regard to the NDA entering into the aforesaid agreement; and,

WHEREAS, The Council of the City of Nitro finds that a great benefit will inure to the City by owning, operating and controlling the property known as the Fike Superfund site by and through the NDA.


NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nitro, West Virginia, that the City of Nitro supports and approves the City of Nitro West Virginia Development Authority in acquiring ownership to the Fike Chemical Superfund Site; and the Nitro Development Authority, by and through its President, is hereby authorized to enter into the Agreement and Covenant Not to Sue with the United States Environmental Protection Agency.

Motion made by Recorder Don Karnes _____, seconded by Councilman David Miller _____.

Adopted March 17, 1998.



RECORDER



MAYOR

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

COPY

April 15, 1998

Philip D. Gaujot, Esq.
177 Walnut Street
Morgantown, WV 26505

Re: Fike Prospective Purchaser Agreement

Dear Mr. Gaujot:

Thank you for your March 17 response to my Prospective Purchaser Agreement ("PPA") proposal. While I have made certain changes that you can see on the enclosed red line and final PPA, the United States has declined to incorporate certain other suggestions for the reasons set forth below.

First, in regards to your new Paragraph 10, I thought about including the date of the filed complaint in this matter as per your suggestion. However, if the PPA were to mention the complaint, then arguably, the OU-4 RI/FS Consent Order, Consent Decree for OU-2, the unilateral order for OU-3, the CST unilateral Order, and the OU-4/CST Consent Decree ought to be referenced as well. Given the scope of this PPA, I thought the more streamlined reference to the PRPs doing work under the supervision of EPA to be more appropriate.

Second, your new Paragraph 13 essentially repeats the provision set forth in Section IV (Consideration) [new Paragraph 14]. This seems duplicative. More importantly, new Paragraph 13 comes under Statement of Facts (Section III) whereas I believe this reference is more appropriately placed under Consideration (Section IV). New Paragraph 13 also specifically states that Settling Respondent agrees to..."enforce institutional controls" whereas Paragraph 14 merely states that "Settling Respondent agrees to restrict uses of the Property to industrial uses...". While I believe the reference to enforcement is implicit in the requirement to restrict use of the property, the enforcement provision becomes more complicated were the PPA to be transferred to another party at some later point. Therefore, I suggest that the original provision be retained in its entirety.

A third issue concerns your new Paragraph 26(b) which includes a reservation to sue EPA's response action contractors to the extent permitted by Section 119 of CERCLA. Section 119 specifically covers the liability of response action contractors. As I do not see the proposed PPA having any impact on Section 119, I would prefer to delete this reservation as it is not in EPA's model PPA.

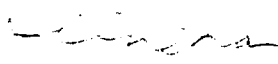
Fourth, new Paragraph 29 now contains a "reasonable time" provision on EPA approving the transferral of rights, etc. under the PPA. The United States does not, as a general rule, agree to such provisions.

Finally, new Paragraph 42 contains a lien removal paragraph. Since there is no lien at the Site, I have deleted this provision.

In addition to these issues, you need to fill out the address of the City of Nitro, West Virginia Development Authority in Paragraph six. I have left space in this paragraph for the address to be typed in on the PPA. Also, please type in the name and title of the person who will be signing the PPA on behalf of Nitro's Development Authority.

If you find the enclosed PPA acceptable, please sign the PPA and return it to me at your earliest convenience. I can be reached at (215) 566-2640 if you have any questions on this matter.

Sincerely,


Jim Heenehan
Sr. Asst. Reg. Counsel

cc: N. Flickinger (USDOJ)
K. Lose (3HS23)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

IN THE MATTER OF:

Fike Chemical Superfund Site)	
Nitro, West Virginia	)	Docket No. III-98-004-DC
)	
UNDER THE AUTHORITY OF THE	)	AGREEMENT AND COVENANT
COMPREHENSIVE ENVIRONMENTAL	)	NOT TO SUE City of
RESPONSE, COMPENSATION, AND	)	Nitro, West Virginia,
LIABILITY ACT OF 1980, 42 U.S.C.	)	Development Authority,
§ 9601, <u>et seq.</u> , as amended.)	
	)	RESPONDENT

I. INTRODUCTION

This Agreement and Covenant Not to Sue ("Agreement") is made and entered into by and between the United States Environmental Protection Agency ("EPA") and the City of Nitro, West Virginia, Development Authority (collectively the "Parties").

This Agreement is entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, et seq. and the authority of the Attorney General of the United States to compromise and settle claims of the United States.

Settling Respondent is a not for profit corporation of the State of West Virginia which has as its corporate purpose the beneficial development of the City of Nitro, West Virginia. In accordance with this purpose, Settling Respondent has expressed an interest in the acquisition of property which is currently a part of the Fike Chemical Superfund Site (as further described herein, referred to as the "Site"). Settling Respondent intends to redevelop the property for lease or sale for an industrial use

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

IN THE MATTER OF:

Fike Chemical Superfund Site)	
Nitro, West Virginia	)	Docket No. III-98-004-DC
)	
UNDER THE AUTHORITY OF THE	)	AGREEMENT AND COVENANT
COMPREHENSIVE ENVIRONMENTAL	)	NOT TO SUE City of
RESPONSE, COMPENSATION, AND	)	Nitro, West Virginia,
LIABILITY ACT OF 1980, 42 U.S.C.	)	Development Authority,
§ 9601, <u>et seq.</u> , as amended.)	
	)	RESPONDENT

I. INTRODUCTION

This Agreement and Covenant Not to Sue ("Agreement") is made and entered into by and between the United States Environmental Protection Agency ("EPA") and the City of Nitro, West Virginia, Development Authority (collectively the "Parties").

This Agreement is entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, et seq. and the authority of the Attorney General of the United States to compromise and settle claims of the United States.

Settling Respondent is a not for profit corporation of the State of West Virginia which has as its corporate purpose the beneficial development of the City of Nitro, West Virginia. In accordance with this purpose, Settling Respondent has expressed an interest in the acquisition of property which is currently a part of the Fike Chemical Superfund Site (as further described herein, referred to as the "Site"). Settling Respondent intends to redevelop the property for lease or sale for an industrial use

which does not interfere with or negatively impact the remediation of this Site.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Sections VII, VIII, IX, and X, the potential liability of the Settling Respondent for the Existing Contamination at the Property which would otherwise result from Settling Respondent becoming the owner of the property.

The Parties agree that the Settling Respondent's entry into this Agreement, and the actions undertaken by the Settling Respondent in accordance with the Agreement, do not constitute an admission of any liability by the Settling Respondent.

The resolution of this potential liability, in exchange for provision by the Settling Respondent to EPA of a substantial benefit, is in the public interest.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

1. "CERCLA Remedial Action" shall mean any and all work performed at the Site pursuant to CERCLA, whether by EPA or by others including, among other work, response and removal actions, whether performed prior to or subsequent to the effective date of

this Agreement.

2. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

3. "Existing Contamination" shall mean any hazardous substances, pollutants or contaminants, present or existing on or under the Site as of the effective date of this Agreement.

4. "Parties" shall mean EPA, the United States and the Settling Respondent.

5. "Property" shall mean that portion of the Site which is described in Exhibit 1 of this Agreement.

6. "Settling Respondent" shall mean the City of Nitro, West Virginia Development Authority, located at Nitro City Building, 20th Street & Second Avenue, Nitro, West Virginia 25143.

7. "Site" shall mean the Fike Chemical Superfund Site, encompassing approximately 12 acres located in the City of Nitro, Kanawha and Putnam Counties, West Virginia, and includes the former Fike Plant and the CST Plant as depicted generally on the map attached as Exhibit 2. The Site shall include the Property, and all areas to which hazardous substances and/or pollutants or contaminants, have come to be located.

8. "United States" shall mean the United States of America, its departments, agencies, and instrumentalities.

III. STATEMENT OF FACTS

9. The Site was placed on the CERCLA National Priorities

List by publication in the Federal Register on September 8, 1983 (48 Fed. Reg. 40658). Since that time, EPA has conducted a Remedial Investigation/Feasibility Study (RI/FS") for the Site, has performed a removal action, and has issued Records of Decision for three operable units at the Site (as such terms are defined in CERCLA, and its regulations). The remedies set forth in these operable units have been or are currently being implemented under the supervision of EPA by parties potentially liable under Section 107 of CERCLA.

10. There are substantial outstanding real estate taxes due and owing on the Property. Although the portions of the Property in both Kanawha and Putnam Counties have been auctioned for taxes, no viable bids for the properties have been received (a bid for Parcel 91.1 on the Putnam County Tax Map number 235 was received but the parcel was immediately forfeited to the State for failure to pay taxes again). As a consequence, the parcels that make up the Property reverted to the State after a tax sale and title to these parcels now repose with the State. The 18 month redemption period has expired with respect to the tax sales in both counties. Settling Respondent intends to request that the tax parcels comprising the Property be listed for sale in both Kanawha and Putnam Counties, in accordance with established procedures, and will bid for the titles and take action reasonably required to obtain good title to the Property.

11. The Settling Respondent represents, and for the purposes of this Agreement, EPA relies on those representations,

that Settling Respondent's involvement with the Property and the Site has been limited to an inspection of the Property.

IV. CONSIDERATION

12. In consideration of and in exchange for the United States' Covenant Not to Sue in Section VIII, herein, and Contribution Protection in Section XVIII, herein, Settling Respondent agrees to restrict the uses of the Property to industrial purposes and to permit the maintenance of any engineering control(s) constructed at the Property in the course of the CERCLA Remedial Action, all as hereinafter provided.

V. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

13. Commencing upon the date that it acquires title to the Property, Settling Respondent agrees to provide to EPA, its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight, an irrevocable right of access at all reasonable times to the Property and to any other property to which access is required for the implementation of response actions at the Site, to the extent access to such other property is controlled by the Settling Respondent, for the purposes of performing and overseeing response actions at the Site under federal law. EPA agrees to provide reasonable notice to the Settling Respondent of the timing of response actions to be undertaken at the Property. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Solid Waste

Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, ("RCRA") et. seq., and any other applicable statute or regulation, including any amendments thereto.

14. Within 30 days after the effective date of this Agreement, the Settling Respondent shall record a certified copy of this Agreement in the Office of the County Clerk in both Kanawha and Putnam Counties, State of West Virginia. Thereafter, each deed, title, or other instrument conveying an interest in the Property shall contain a notice stating that the Property is subject to this Agreement. A copy of these documents should be sent to the persons listed in Section XV (Notices and Submissions).

15. The Settling Respondent shall ensure that assignees, successors in interest, lessees, and sublessees of the Property shall provide the same access and cooperation required hereunder. The Settling Respondent shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property as of the effective date of this Agreement and shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section, and Section XI (Parties Bound/Transfer of Covenant), of the Agreement.

VI. DUE CARE/COOPERATION

16. The Settling Respondent shall exercise due care at the Site with respect to the Existing Contamination and shall comply

with all applicable local, State, and federal laws and regulations. The Settling Respondent recognizes that the implementation of response actions at the Site may interfere with the Settling Respondent's use of the Property, and may require closure of its operations or a part thereof. The Settling Respondent agrees to cooperate fully with EPA in the implementation of response actions at the Site and further agrees not to interfere with such response actions. EPA agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with the Settling Respondent's operations by such entry and response. In the event the Settling Respondent becomes aware of any action or occurrence which causes or threatens a release of hazardous substances, pollutants or contaminants at or from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Respondent shall immediately take all reasonable and appropriate action within its control to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under Section 103 of CERCLA, 42 U.S.C. §9603, or any other law, immediately notify EPA of such release or threatened release.

VII. CERTIFICATION

17. By entering into this Agreement, the Settling Respondent certifies that to the best of its knowledge and belief it has fully and accurately disclosed to EPA all information

known to Settling Respondent and all information in the possession or control of its officers, directors, employees, contractors and agents which relates in any way to any Existing Contamination or any past or potential future release of hazardous substances, pollutants or contaminants at or from the Site and to its qualification for this Agreement. The Settling Respondent also certifies that to the best of its knowledge and belief it has not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants at the Site. If the United States determines that information provided by Settling Respondent is not materially accurate and complete, the Agreement, within the sole discretion of the United States, shall be null and void and the United States reserves all rights it may have.

VIII. UNITED STATES' COVENANT NOT TO SUE

18. Subject to the Reservation of Rights in Section IX of this Agreement, and upon compliance with the provisions in Section V (Access/Notice to Successors in Interest) of this Agreement requiring the recording of a certified copy of this Agreement with the Offices of County Clerk for both Kanawha and Putnam Counties, the United States covenants not to sue or take any other civil or administrative action against Settling Respondent for any and all civil liability for injunctive relief or reimbursement of response costs pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a) with respect to the Existing Contamination.

IX. RESERVATION OF RIGHTS

19. The covenant not to sue set forth in Section VIII above does not pertain to any matters other than those expressly specified in Section VIII (United States' Covenant Not to Sue). The United States reserves and the Agreement is without prejudice to all rights against Settling Respondent with respect to all other matters, including but not limited to, the following:

(a) claims based on a failure by Settling Respondent to meet a requirement of this Agreement, including but not limited to Section IV (Consideration), Section V (Access/Notice to Successors in Interest), Section VI (Due Care/Cooperation), and Section XIV (Payment of Costs;

(b) any liability resulting from past or future releases of hazardous substances, pollutants or contaminants, at or from the Site caused or contributed to by Settling Respondent, its successors, assignees, lessees or sublessees;

(c) any liability resulting from exacerbation by Settling Respondent, its successors, assignees, lessees or sublessees, of Existing Contamination;

(d) any liability resulting from the release or threat of release of hazardous substances, pollutants or contaminants, at the Site after the effective date of this Agreement, not within the definition of Existing Contamination;

(e) criminal liability;

(f) liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural

resource damage assessment incurred by federal agencies other than EPA; and

(g) liability for violations of local, State or federal law or regulations.

20. With respect to any claim or cause of action asserted by the United States, the Settling Respondent shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination.

21. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States may have against any person, firm, corporation or other entity not a party to this Agreement.

22. Nothing in this Agreement is intended to limit the right of EPA to undertake future response actions at the Site or to seek to compel parties other than the Settling Respondent to perform or pay for response actions at the Site. Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by EPA in exercising its authority under federal law. Settling Respondent acknowledges that it is purchasing property where response actions may be required.

X. SETTLING RESPONDENT'S COVENANT NOT TO SUE

23. In consideration of the United States' Covenant Not To Sue in Section VIII of this Agreement, the Settling Respondent

hereby covenants not to sue and not to assert any claims or causes of action against the United States, its authorized officers, employees, or representatives with respect to the Site or this Agreement, including but not limited to, any direct or indirect claims for reimbursement from the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507, through CERCLA Sections 106(b)(2), 111, 112, 113, or any other provision of law, any claim against the United States, including any department, agency or instrumentality of the United States under CERCLA Sections 107 or 113 related to the Site, or any claims arising out of response activities at the Site, including claims based on EPA's oversight of such activities or approval of plans for such activities.

24. The Settling Respondent reserves, and this Agreement is without prejudice to, actions against the United States based on negligent actions taken directly by the United States, not including oversight or approval of the Settling Respondent's plans or activities, that are brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA. Nothing herein shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XI. PARTIES BOUND/TRANSFER OF COVENANT

25. This Agreement shall apply to and be binding upon the United States, and shall apply to and be binding on the Settling

Respondent, its officers, directors, employees, and agents. Each signatory of a Party to this Agreement represents that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party.

26. Notwithstanding any other provisions of this Agreement, all of the rights, benefits and obligations conferred upon Settling Respondent under this Agreement may be assigned or transferred to any person with the prior written consent of EPA in its sole discretion.

27. The Settling Respondent agrees to pay the reasonable costs incurred by EPA to review any subsequent requests for consent to assign or transfer the benefits conferred by this Agreement.

28. In the event of an assignment or transfer of the Property or an assignment or transfer of an interest in the Property, the assignor or transferor shall continue to be bound by all the terms and conditions, and subject to all the benefits, of this Agreement except as EPA and the assignor or transferor agree otherwise and modify this Agreement, in writing, accordingly. Moreover, prior to or simultaneous with any assignment or transfer of the Property, the assignee or transferee must consent in writing to be bound by the terms of this Agreement including but not limited to the certification requirement in Section VII of this Agreement in order for the Covenant Not to Sue in Section VIII to be available to that party. The Covenant Not To Sue in Section VIII shall not be

effective with respect to any assignees or transferees who fail to provide such written consent to EPA.

XII. DISCLAIMER

29. This Agreement in no way constitutes a finding by EPA as to the risks to human health and the environment which may be posed by contamination at the Property or the Site nor constitutes any representation by EPA that the Property or the Site is fit for any particular purpose.

XIII. DOCUMENT RETENTION

30. The Settling Respondent agrees to retain and make available to EPA all business and operating records, contracts, site studies and investigations, and documents relating to the volume, type, and nature of any hazardous substances that may be generated by any of its operations at the Property, for at least ten years, following the effective date of this Agreement unless otherwise agreed to in writing by the Parties. At the end of ten years, the Settling Respondent shall notify EPA of the location of such documents and shall provide EPA with an opportunity to copy any documents at the expense of EPA.

XIV. PAYMENT OF COSTS

31. If the Settling Respondent fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section IV (Consideration) of this Agreement, it shall be liable for all litigation and other enforcement costs incurred by the United States to enforce this Agreement or otherwise obtain compliance.

XV. NOTICES AND SUBMISSIONS

32. All notices and submissions provided pursuant to this Agreement shall be forwarded to:

Katherine Lose (3HW23)
U.S. Environmental Protection Agency
Hazardous Waste Management Division
841 Chestnut Building
Philadelphia, PA 19107

XVI. EFFECTIVE DATE

33. The effective date of this Agreement shall be the date upon which EPA issues written notice to the Settling Respondent that EPA has fully executed the Agreement after review of and response to any public comments received.

XVII. TERMINATION

34. If any Party believes that any or all of the obligations under Section V (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the party requesting such termination receives written agreement from the other party to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

35. With regard to claims for contribution against Settling Respondent, the Parties hereto agree that the Settling Respondent

is entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2) for matters addressed in this Agreement. The matters addressed in this Agreement are all response actions taken or to be taken and response costs incurred or to be incurred by the United States or any other person for the Site with respect to the Existing Contamination.

36. The Settling Respondent agrees that with respect to any suit or claim for contribution brought by it for matters related to this Agreement it will notify the United States in writing no later than 60 days prior to the initiation of such suit or claim.

37. The Settling Respondent also agrees that with respect to any suit or claim for contribution brought against it for matters related to this Agreement it will notify in writing the United States within 10 days of service of the complaint on them.

XIX. EXHIBITS

38. Exhibit 1 shall mean the description of the Property which is the subject of this Agreement.

39. Exhibit 2 shall mean the map depicting the Site.

XX. PUBLIC COMMENT

40. This Agreement shall be subject to a thirty-day public comment period, after which EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY:

Regional Administrator, Region III

Date

UNITED STATES DEPARTMENT OF JUSTICE

BY:

Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Date

IT IS SO AGREED:

CITY OF NITRO, WEST VIRGINIA, DEVELOPMENT AUTHORITY

BY:

TIMOTHY SIZEMORE, PRESIDENT
City of Nitro, West Virginia,
Development Authority

Date

QUITCLAIM DEED

THIS QUITCLAIM DEED, made and entered this 23rd day of January, 1998, by and between **THE NITRO DEVELOPMENT LIMITED LIABILITY COMPANY**, a West Virginia limited liability company (referred to hereinafter as "party of the first part") and the **CITY OF NITRO**, a State of West Virginia municipal corporation (referred to hereinafter as "party of the second part");

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid and other good and valuable consideration not recited herein, the receipt and sufficiency of which is hereby acknowledged by party of the first part, party of the first part does hereby **GRANT, CONVEY, AND FOREVER QUITCLAIM AND RELEASE** unto party of the second part all of its right, title and interest in and to that certain tract or parcel of land, together with all improvements thereon and all appurtenances thereunto belonging, situated in Kanawha County, West Virginia, being more particularly bounded and described on Exhibit A, attached hereto and incorporated herein by this reference (collectively the "Land").

Being part of the same property conveyed unto party of the first part, by that deed dated July 23, 1997, from Solco Incorporated, et. al., of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book 2416, at page 700.

This conveyance is expressly made subject to the conditions, restrictions and rights of entry set forth in this paragraph. The party of the second part, or its successors or assigns, shall use the Land solely for the operation of a municipal fire station, a municipal police station and/or an office or headquarters for other municipal functions for the City of Nitro (the "Permitted Uses"). If the Land is used for any purpose other than the Permitted Uses, or if the Land is not used for a Permitted Use for a period in excess of one year, the party of the first part, for no consideration, may re-enter and repossess the Land, and all improvements thereon and all appurtenances thereto (the "Right of Entry"). The party of the first part may transfer and assign the Right of Entry to another person by executing an assignment instrument which makes specific reference to the Right of Entry reserved in this deed and then recording such assignment instrument in the real estate records of the Office of the Clerk of the County Commission of Kanawha County, West Virginia (the party of the first part, or its successor-in-interest pursuant to a recorded assignment instrument, being referred to in this paragraph as the "Right Holder"). The Right Holder may exercise the Right of Entry by recording a "Notice of Exercise of Right of Entry" in the real estate records of the Office of the Clerk of the County Commission of Kanawha County, West Virginia. Upon recording such notice, fee simple title to the Land, and all improvements thereon and all appurtenances thereto, will automatically vest in the Right Holder. Upon the request of a Right Holder following the exercise of the Right of Entry, the party of the second part, or its successor or assign, will execute any additional documentation and will take such additional actions as are necessary to acknowledge the reconveyance of the Land, and all improvements thereon and all appurtenances thereto, to the Right Holder.

City of Nitro PO Box 308 Nitro WV 25143

RECORDED
BOOK/PAGE : 2436- / 3-
KANAWHA COUNTY, WV
DTE/TIME RECORDED 03/19/1998 11:26:55:00
INST #: 618924 TYPE: DEED
CLERK OF THE COUNTY COMMISSION
TOTAL RECD/DUE: 3.50 .00

DECLARATION OF CONSIDERATION OR VALUE: Party of the first part does hereby declare that the total consideration paid unto party of the first part for the property conveyed by this deed is less than One Hundred Dollars (\$100.00) and that this conveyance is being made to a political subdivision of the State of West Virginia, and that, for these reasons, this conveyance is exempt from the excise tax imposed on the privilege of transferring property within the State of West Virginia.

WITNESS the following signature and seal.

**THF NITRO DEVELOPMENT LIMITED
LIABILITY COMPANY**

By: THF Crosslanes Company Limited
Liability Company, its Manager

By: Michael H. Staenberg
Manager

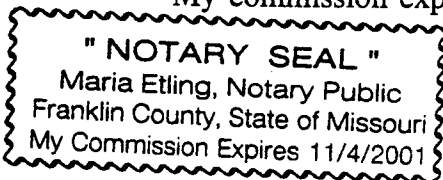
STATE OF Missouri)

COUNTY OF ST. Louis)

TO WIT:

The foregoing instrument was acknowledged before me this 23rd day of January, 1998, by Michael H. Staenberg, the Manager of THF Crosslanes Company Limited Liability Company, a Missouri limited liability company, acting in its capacity as manager on behalf of THF Nitro Development Limited Liability Company, a West Virginia limited liability company.

My commission expires 11-4-2001



Maria Etling
NOTARY PUBLIC
(SEAL)

The foregoing instrument was prepared by:

Steven R. Karl
Sonnenschein Nath & Rosenthal
One Metropolitan Square
Suite 3000
St. Louis, Missouri 63102

without benefit of title opinion or examination.

EXHIBIT A

Legal Description of Land

BOOK 2436 PAGE 05

Description of the "City of Nitro" Parcel

Description of a tract of land situate in Union District, Kanawha County, West Virginia, lying southwest of Tri-State Greyhound Park Ltd. Being a part of SOLCO property as recorded in DB-2012, PG-367 and being more particularly described as follows:

Beginning at a point in the northeast corner of the Solco property as recorded in DB-2012, PG-367, said point being a common corner for the Solco property, Lowe's property as recorded in DB-2230, PG-286, and Lakeview Drive, thence from said point of beginning and along a reference line; S41°-56'-21"W, a distance of 2318.15 feet to the true point of beginning, thence from said true point of beginning; N54°-12'-00"W, a distance of 180.00 feet to a point, thence; N35°-48'-00"E, a distance of 242.00 feet to a point, thence; S54°-12'-00"E, a distance of 180.00 feet to a point, thence S35°-48'-00"W, a distance of 242.00 feet to the true point of beginning containing 43,560 square feet or 1.000 acres more or less.

This instrument was presented to the Clerk of the County Commission of Kanawha County, West Virginia, on and the same is admitted to record.

MAR 19 1998

Teste: Alma J. King Clerk

Kanawha County Commission

[illegible]

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CITY OF NITRO													
MAYOR													
						BUDGET	BUDGET						
						JUNE, 1999	JUNE, 1998						
	WAGES					49,772	49,772						
	RETIREMENT					4,728	4,728						
	FICA					3,808	3,808						
	DUES					2,600	2,300						
	SUPPLIES					1,500	1,500						
	CALENDAR					4,900	4,900						
	TRAVEL					2,000	4,000						
						69,308	71,008						
COUNCIL													
	WAGES					16,800	16,800						
	RETIREMENT					456	-						
	FICA					1,285	1,285						
	SENIOR CITIZENS					1,200	1,200						
						19,741	19,285						
RECORDER													
	WAGES					16,500	16,500						
	RETIREMENT					1,568	1,568						
	FICA					1,262	1,262						
	LEGAL ADS					2,500	2,500						
	SUPPLIES					1,000	1,000						
	CONTRACT SERVICES					-	1,000						
	TRAVEL					1,000	500						
	ELECTION					-	8,000						
	RECORD BOOKS					500	-						
						24,330	32,330						

TREASURER					BUDGET	BUDGET											
					JUNE, 1999	JUNE, 1998											
	WAGES				17,500	12,600											
	RETIREMENT				-	1,197											
	FICA				1,339	964											
	WORKERS COMPENSATION				65,000	66,272											
	CONTRACT SERVICES				2,500	2,500											
	SUPPLIES				100	1,000											
	TRAVEL				-	600											
	RESERVE				-	-											
					86,439	85,133											
BUILDING INSPECTOR																	
	WAGES				57,569	41,723											
	RETIREMENT				5,469	3,964											
	FICA				4,404	3,192											
	DUES				300	300											
	SUPPLIES				1,000	1,000											
	TRAVEL				1,500	1,500											
	CONTINUING EDUCATION				1,000	1,000											
	AUTO SUPPLIES				600	-											
					71,842	52,679											
CITY HALL																	
	WAGES				63,690	58,116											
	RETIREMENT				6,051	5,521											
	FICA				4,872	4,446											
	CONTRACT SERVICES				-	7,500											
	PROFESSIONAL SERVICES				29,200	20,000	LAWYER, JUDGE, PROSECUTOR										
	INSURANCE				76,000	84,800											
	GROUP INSURANCE				221,000	288,000											
	SUPPLIES				17,000	12,000											
	COMPUTER SUPPLIES				-	5,000											
	ELECTRIC				20,000	18,000											
	GAS				6,000	6,000											
	WATER				16,000	14,000											
	TELEPHONE				15,000	17,000											
	FIRE HYDRANTS				13,000	13,000											
	STREET LIGHTS				40,000	40,000											
	CAPITAL OUTLAY				15,000	-	TELEPHONE SYSTEM										
					542,813	593,383											

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THE CITY OF NITRO COUNCIL MEETING MINUTES

APRIL 07, 1998

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. Others present; City Recorder Don Karnes, Councilmen at Large Richard Savilla, Robert Mattox, Steve West, Councilmen Robert Young, George Atkins and David Miller. Absent Councilman Frank Grover. Also present City Attorney, Phillip Gaujot.

AGENDA ITEM NO. 1- INVOCATION: Dean Miller

CITIZEN OF THE MONTH

Mayor Casto announced Carmen Kostelansky as "APRIL CITIZEN OF THE MONTH" and presented her with a plaque.

AGENDA ITEM NO. 2 - APPROVAL OF MARCH 17, 1998 MINUTES: COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO APPROVE THE MARCH 17, 1998 COUNCIL MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 3 - MARKET PLACE ADDRESS: COUNCILMAN AT LARGE STEVE WEST MOVED TO MOVE THIS AGENDA ITEM TO LATER IN THE AGENDA WHEN MR. CHAPMAN ARRIVES. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 4 - GARBAGE TRUCK: Mayor Casto yielded the floor to Recorder Don Karnes. Recorder Karnes stated next year's budget begins July 1st, 1998 and if we advertise specifications today and place the order for the truck it would not arrive until after July 1st. RECORDER DON KARNES MOVED TO ADVERTISE THE SPECIFICATIONS AND RECEIVE BIDS FOR A NEW PACKER TRUCK. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 5 - PHIL GAUJOT COMMENTS: None

AGENDA ITEM NO. 3 : Councilman at Large Steve West briefly explained to council he had a problem regarding the address at Nitro Market Place, as Cross Lanes instead of Nitro. Councilman West stated Counselor Gaujot prepared a resolution # 98- ENCOURAGING THE UNITED STATES POSTAL SERVICE TO PROVIDE NITRO ADDRESSES TO ALL RESIDENTIAL AND COMMERCIAL PROPERTIES LOCATED IN THE BOUNDARIES OF THE CITY OF NITRO, KANAWHA AND PUTNAM COUNTIES, WEST VIRGINIA. MAYOR RUSTY CASTO READ RESOLUTION 98- IN ITS ENTIRETY. COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE RES. # 98- THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA. Mr. Chapman, Nitro Postmaster explained to council he could easily take the responsibility for the mall's delivery but it was not his decision. He explained the decision would be made by Charleston Officials and there is no one person or entity who heads up that decision -making. A VOTE WAS TAKEN AND WAS CARRIED.

Mayor Casto yielded the floor to Recorder Don Karnes to address the minutes of the Planning Commission.

COUNCILMAN DAVID MILLER MOVED TO MAKE APRIL 2, 1998 PLANNING COMMISSION MINUTES A PART OF RECORD. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

Item I - Recorder Don Karnes reported Margaret Hudson stated if the Subdivision passes the standard requirements, that the Planning Commission recommended granting the Stonestreet request. After discussion, COUNCILMAN ROBERT YOUNG MOVED TO APPROVE DENZIL STONESTEET'S REQUEST AS RECOMMENDED BY THE PLANNING COMMISSION. THE MOTION WAS SECONDED BY RICHARD SAVILLA AND WAS CARRIED.

Item III Recommendation were to table this item until next agenda and all council people go view this property. RECORDER DON KARNES MOVED TO TABLE ITEM III UNTIL THE NEXT SCHEDULED MEETING. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

Item IV CITY RECORDER DON KARNES MOVED TO REQUEST CITY ATTORNEY TO PREPARE AN ORDINANCE TO GRANT REQUEST TO ABANDON ALLEY. ALSO TO SCHEDULE A PUBLIC HEARING AT 7:00 P.M. AT FIRST MEETING IN MAY. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. After discussion Recorder Karnes withdrew motion pending investigating of prior action on this same request. Any necessary action to be reconsidered at a later date.

AGENDA ITEM NO. 6 - POLICE DEPARTMENT (CAPT SLOT):

Mayor Casto reported that the Nitro Police Civil Service Commission sent a letter requesting the rank of Captain be opened and close one of the Lieutenant ranks. COUNCILMAN AT LARGE STEVE WEST MOVED TO OPEN RANK OF CAPTAIN AND CLOSE ONE OF THE LIEUTENANT RANKS. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 7- FIRE DEPT REQUEST- Next agenda

AGENDA ITEM NO. 8 - BUSINESS & PROFESSIONAL ASSOC: Mr. David Perry reported the Easter Egg Hunt in the gym was most successful ever. Announced "Antique Car Show" May 15, and May 16, 1998. Also Mr. Perry announced Dan Welch as NBPA civil service commission representative.

COUNCILMAN DAVID MILLER MOVED THE ANTIQUE CAR CLUB BE PERMITTED TO CLOSE 21ST STREET & BANK STREET TO ROUTE 25 ON MAY 15 AND MAY 16, 1998. MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.

COUNCILMAN DAVID MILLER MOVED TO MAKE NITRO BUSINESS & PROFESSIONAL ASSOCIATION MINUTES A PART OF RECORD. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED. (Copy attached)

AGENDA ITEM NO. 9 31ST STREET BRIDGE: Mayor Casto reported the bid for the 31St Street Bridge will go out in May, contract will be awarded in June

AGENDA ITEM NO. 6

Mayor Casto asked Counselor Phil Gaujot if it is legal to promote to Captain without a test. Counselor Gaujot stated since there is only one person eligible for the rank, the proper way to do this is the Police Civil Service Commission must certify to the Mayor and then you have the right to make the promotion. Counselor Gaujot said you must request the Civil Service Commission certify who that person is. As soon as the Mayor receives that certification, the Captain may be appointed.

Mayor Casto yielded the floor to Chief Greg Winter. Chief Winter presented Council with request for certain officers to attend training school. COUNCILMAN DAVID MILLER MOVED TO APPROVE THE TRAINING REQUEST AT PARKERSBURG, FOR SCURLOCK. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 10 MAYOR'S COMMENTS:

Mayor Casto reported the paving was completed on Second Avenue. Mayor Casto thanked everyone responsible for the nice Easter Cantata. Also Mayor Casto said the sugar maple trees were planted last Monday at the elementary school. Governor Underwood could not make it for that event but Mayor Harris participated in the planting. Mayor Casto stated Governor Underwood is scheduled for a planting of a sugar maple tree, May 8, 1998. Secretary of State Ken Hechler will visit the Senior Citizens April 14, 1998 to plant a tree with the Seniors.

Mayor Casto reported part of 19th Street was torn up by the Sanitary Board. To replace this part of the street, the cost will be at least \$2093.00 and to complete the street from Second Avenue to First Avenue approximate cost of \$4000/\$5000. COUNCILMAN DAVID MILLER MOVED TO ADVERTISE FOR BIDS for PAVING 19TH STREET FROM 1ST AVE TO 2ND AVE AND 2ND TO 3RD AVENUE. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

Councilman George Atkins - reported water is still standing on the 100 block and 800 block. A resident in that area explained to council he was concerned about this winter when the sidewalk would freeze and get slippery. Also a complaint was aired regarding Washington and Smith Streets regarding only part of Street being redone. Councilman George Atkins recommended resurfacing of Kapoc Street. Discussion followed regarding trash bags.

Councilman David Miller requested status of replacing pipe on 21st Street.

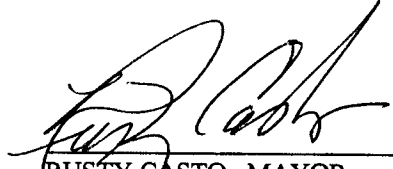
Councilman Robert Young requested status of grass cutting.

Councilman Richard Savilla yielded his time to Chief Greg Winters regarding needs for the Police Department. Chief Winter stated the Police Department is in desperate need of manpower. Officer Hamrick left in May of last year and was not replaced. Officer Woodrum left last Thursday. We are now two men short. Chief Winter reported extra calls coming in from Nitro Market Place, already \$25,000 worth of tools have been stolen in the last week. The companies have posted a reward of \$2500.00 for arrest and conviction of person or persons responsible. Chief Winter stated their felony calls are up to 46, and complaints 205. Chief Winter emphasized the department needs more men. Chief Miller from So. Chas. stated their department receives between 12 and 15 calls per day from South Ridge Mall area. Chief Greg Winter expressed concern for the needs of the Police Department. Patrolman Smith expressed his feeling to leave drug unit alone. Councilman at Large Richard Savilla commented this is not a personal issue with him, but he feels this matter needs to be addressed. A discussion followed regarding curfew.

Councilman at Large Robert Mattox - asked if any thing had been done in regard to advertising the change in curb side trash pickup. Councilman at Large Robert Mattox said notification needs to be made.

COUNCILMAN AT LARGE RICHARD SAVILLA MOVED TO MOVE INTO EXECUTIVE SESSION FOR PERSONNEL REASONS. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

COUNCIL BACK IN REGULAR SESSION AT 9:05, AND THERE BEING NO FURTHER BUSINESS COUNCILMAN AT LARGE STEVE WEST MOVED TO ADJOURN. THE MOTION WAS SECONDED BY CITY RECORDER DON KARNES AND WAS CARRIED.



RUSTY CASTO, MAYOR

DON KARNES, RECORDER

RESOLUTION NO. 98-03

RESOLUTION ENCOURAGING THE UNITED STATES
POSTAL SERVICE TO PROVIDE NITRO ADDRESSES TO
ALL RESIDENTIAL AND COMMERCIAL PROPERTIES
LOCATED IN THE BOUNDARIES OF THE CITY OF NITRO,
KANAWHA AND PUTNAM COUNTIES, WEST VIRGINIA

WHEREAS, Presently, there are certain residential properties located on Lakeview Drive, within the boundaries of the City of Nitro, West Virginia, which carry postal addresses of Cross Lanes, West Virginia, rather than Nitro, West Virginia; and,

WHEREAS, Presently, there is a certain commercial property located on Lakeview Drive, within the boundaries of the City of Nitro, West Virginia, specifically, Tri-State Greyhound Park, which carries a postal address of Cross Lanes, West Virginia, rather than Nitro, West Virginia; and,

WHEREAS, On information and belief, the United States Postal Service is about to issue a Cross Lanes address to commercial properties situate in Nitro Market Place, a commercial retail mall located on Lakeview Drive, which is situate within the boundaries of the City of Nitro, West Virginia; and,

WHEREAS, The Council for the City of Nitro, West Virginia, believes that all residential and commercial properties located within the boundaries of the City of Nitro should have a Nitro, West Virginia address; and, by having such an address, it would assist in developing and maintaining Nitro community spirit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nitro, West Virginia, that the United States Postal Service is hereby encouraged to provide and

designate Nitro, West Virginia addresses to all properties, both residential and commercial, located within the boundaries of the City of Nitro.

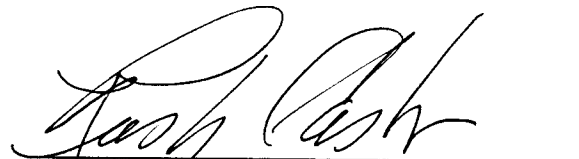
BE IT FURTHER RESOLVED That copies of this Resolution shall be sent to the United States Postal Service in Nitro, West Virginia, and Washington, D.C.

Motion made by Councilman at Large Steve West, seconded by
Councilman at Large Richard Savilla.

Adopted 4-7, 1998.



RECORDER



MAYOR

c:\office\wpwin\wpdocs\client\nitro\community.res

PLANNING COMMISSION MINUTES, CITY OF NITRO

MILLER/SAVILLA
ATT. TO MINUTES

April 2, 1998

The Planning Commission of the City of Nitro met Thursday, April 2, 1998, at 7:00 p.m. for a Public Hearing (advertised in the Charleston Newspapers on Saturday, March 21, 1998, and Friday, March 27, 1998) in the Council Chambers at the Community Center. The meeting was called to order by Margaret Hudson, Chairperson. Dr. Charles Byrd, Dr. Guy Cassell, Jim Hutchinson, Kermit Thompson and Janet Martin were the other members present.

KARNES/YOUNG →

ITEM I--Denzil Stonestreet--Extension of subdivision (Carriage Way) on Asbury Road P/O Deed Book 2082/268. (See attachments 1 and 2.) Following a period of discussion, Dr. Guy Cassell "moved we extend the subdivision as requested." Jim Hutchinson seconded the motion. Motion carried.

ITEM II-- Lee Conrad--Rezone property at 251 First Avenue from C-1 to B-1. Mr. Conrad withdrew this request.

KARNES/ATKINS TO TABLE TIL NEXT AGENDA

ITEM III--Lee Conrad--Frederick and Walker Streets--put blocks across alleyway at each end of property to contain dirt and put gates across each end. (See attachment 3.) After much discussion, Dr. Byrd "moved to recommend to City Council that the request from Mr. Conrad be reconsidered in light of the findings of several members of the Planning Commission who visited the site in order to look at and examine the project." Kermit Thompson seconded. Motion carried.

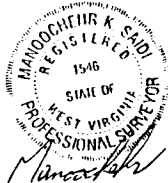
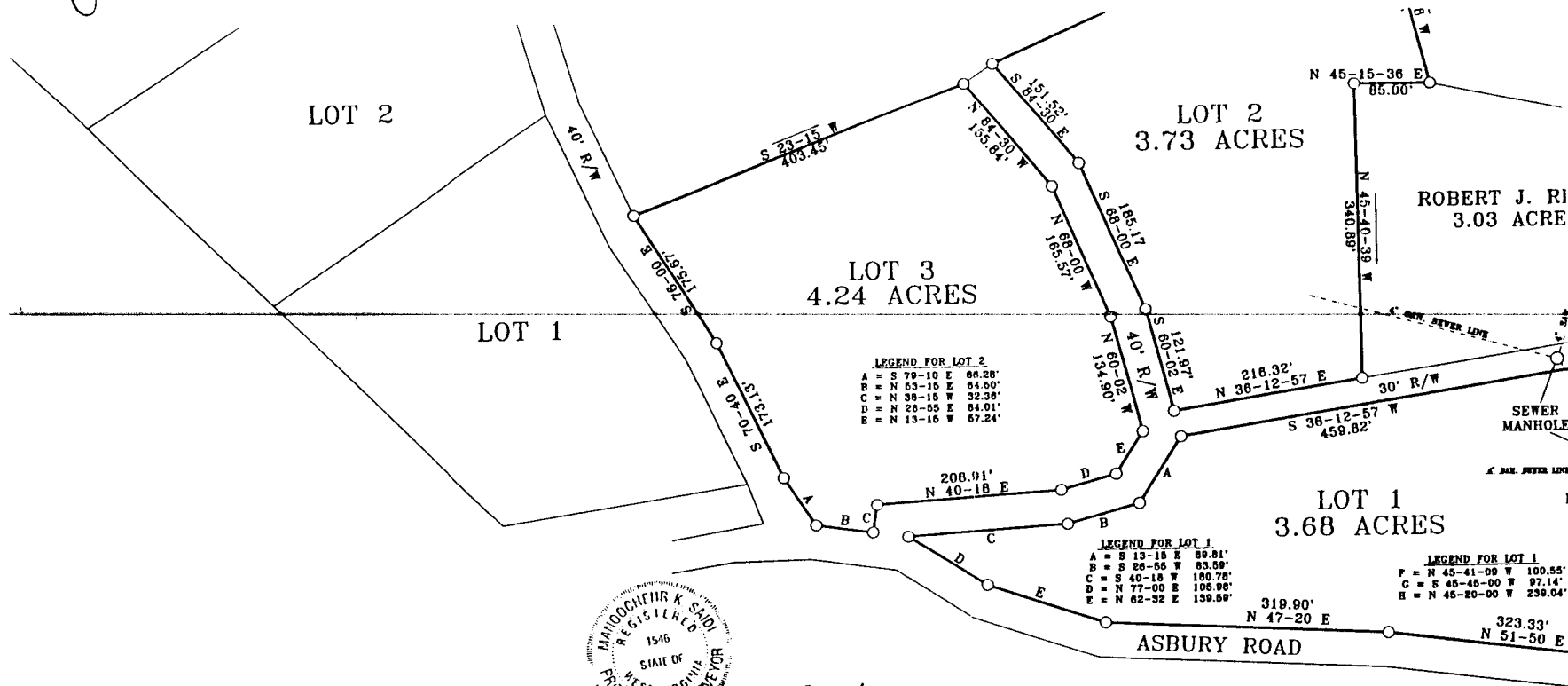
KARNES/YOUNG

ITEM IV--Jerry Goldberg--Route 25, Abandon alley marked Parcel F on Nitro tax map No. 27 which lies between Parcels 56, 57, 69 and 70 on same map. Alley is 10.00' wide and 364.59' in length representing 3,645.90 square feet.--(See attachments 4 and 5.) Robert Tebbetts and Jerry Goldberg were both present and spoke concerning this request. Jim Hutchinson moved that "we accept this request." Kermit Thompson seconded. Motion carried.

Since there was no additional business, the meeting was adjourned at 7:50 p.m.

Margaret Hudson
Margaret Hudson, Chairperson

Cont on 1-b



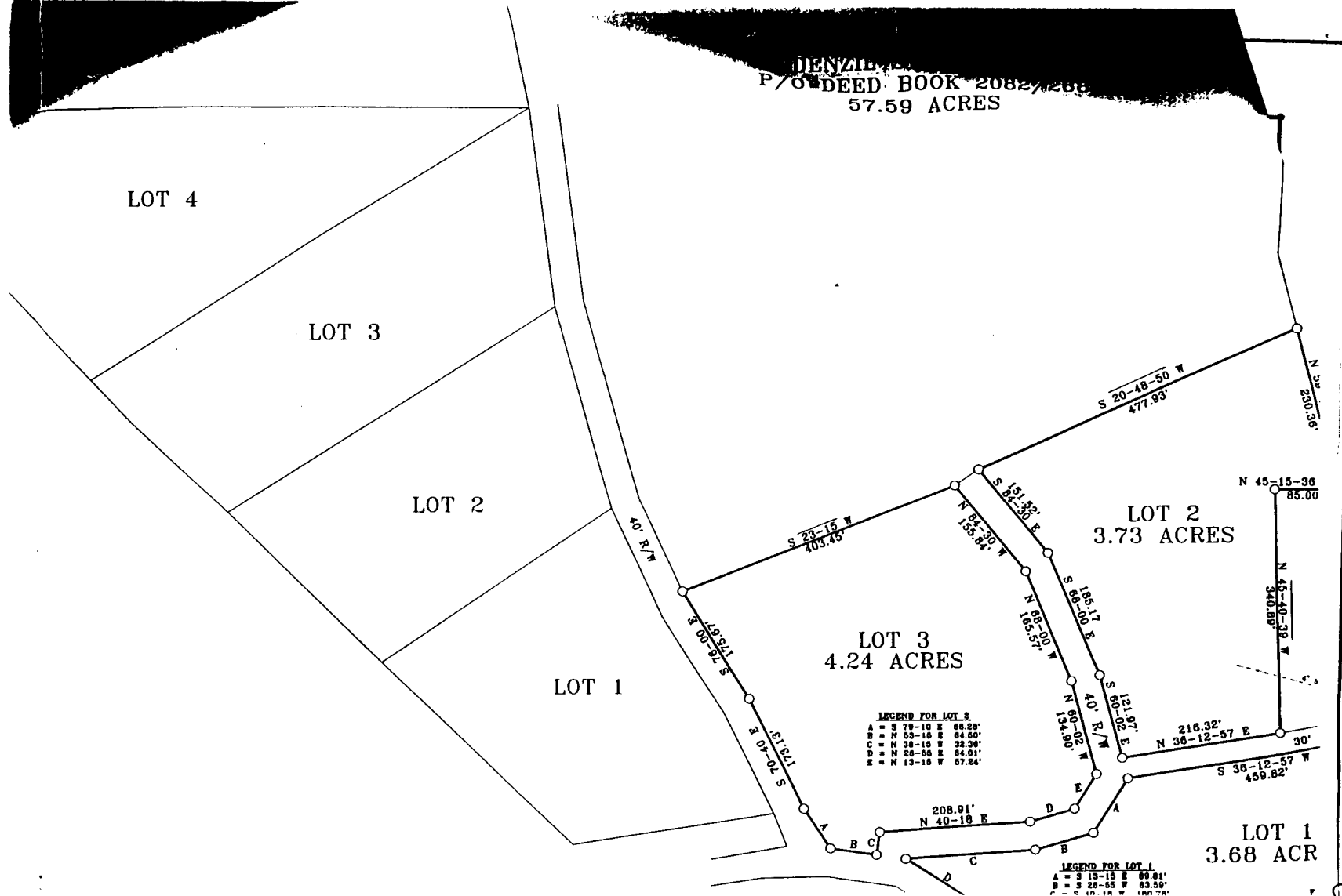
Manoocheir K. Said

PLAT

SHOWING THE DIVISION OF THE 57.59 AC
OF LAND OWNED BY DENZIL W. STONE
SITUATE ON THE WATERS OF ROCK BL
IN THE CITY OF NITRO, WEST VIRG
SCALE: 1" = SEPTEMBER 2

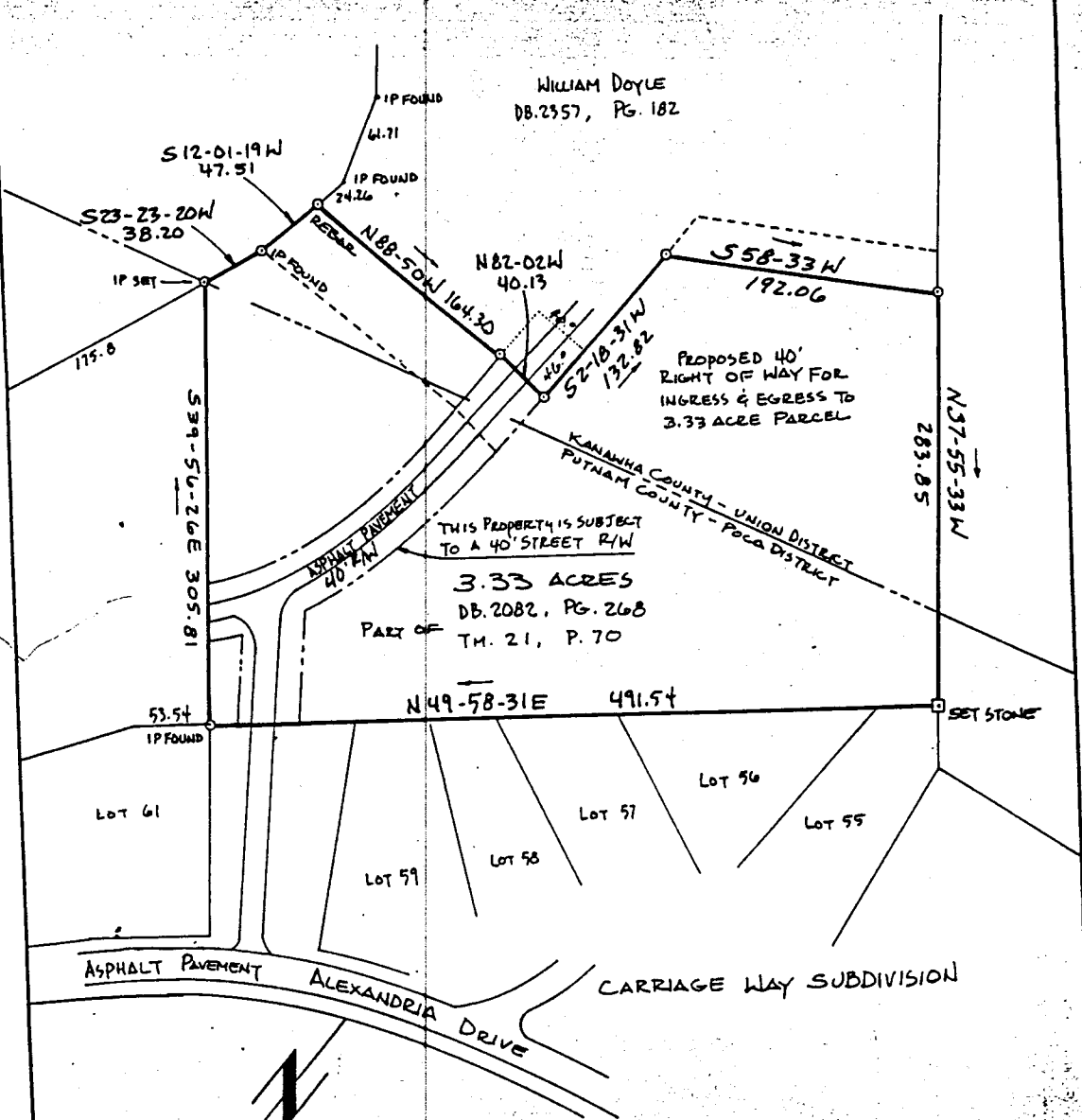
Attachment 1

DENZIL
P/O DEED BOOK 2082/288
57.59 ACRES

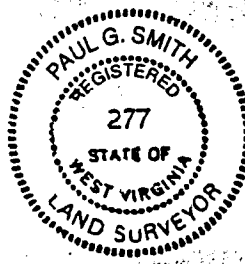


W. J. W. 1-1

NOTES 1. SEE MAP OF .11 & .22 ACRE PARCELS BY RICHARD KINDER DATED MARCH 12, 1996
 2. SEE UNION DISTRICT, KANAWHA COUNTY, TAX MAP 21.



MAP SHOWING
 3.33 ± ACRE PARCEL OF LAND
 OUT OF THE
 D.W. STONESTREET 57.59 ACRE TRACT
 ON THE WATERS OF ROCK BRANCH
 IN THE CITY OF NITRO, WEST VIRGINIA
 ON THE KANAWHA COUNTY AND PUTNAM COUNTY LINE
 SCALE 1" = 100' JULY 11, 1996



Paul G. Smith
 REGISTERED PROFESSIONAL SURVEYOR NO. 277
 REVISE PAVEMENT TYPE 9-10-96 PGS.

March 4, 1998

Margret Hudson
Chairperson
Nitro Planning Commission
105 Kanawha Ave. S.
Nitro WV 25143

I have filled my lot in to bring it up to grade, so it would have proper water drainage, to the existing drainage system.

I am requesting to

1. put blocks across the alley way at each end of my property to contain the dirt
2. put gates across each end of the property

Yours, truly

Lee Arnold

251 1st Ave
Nitro WV 25143

727-3366

FOODFAIR

Forth's Foods, Inc.

3090 Woodville Drive • Huntington, WV 25701
Phone: (304) 525-3293 • Fax (304) 525-3268

March 16, 1998

Mr. Don Karnes
City Recorder
P. O. Box 308
Nitro, WV 25143

Dear Mr. Karnes,

Please accept this letter as a formal request to the City of Nitro Planning Commission to abandon the alley marked Parcel F on Nitro tax map No. 27 to Mr. Jerry Goldberg. This alley lies between Parcels 56, 57, 69 and 70 on same map; currently owned by Mr. Goldberg. The alley is 10.00' wide and 364.59' in length representing 3,645.90 square feet.

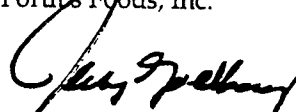
Forth Inc. (dba Poca Foodfair) intend to lease from Mr. Goldberg approximately 1.05 acres to build a 15,000 sq. ft. building with 120 parking spaces. For this project to be successful, the alley described above must be deeded to Mr. Goldberg unencumbered with a clear title and no "right of way's" and/or restrictions.

Thank you for making this project possible.

Sincerely,

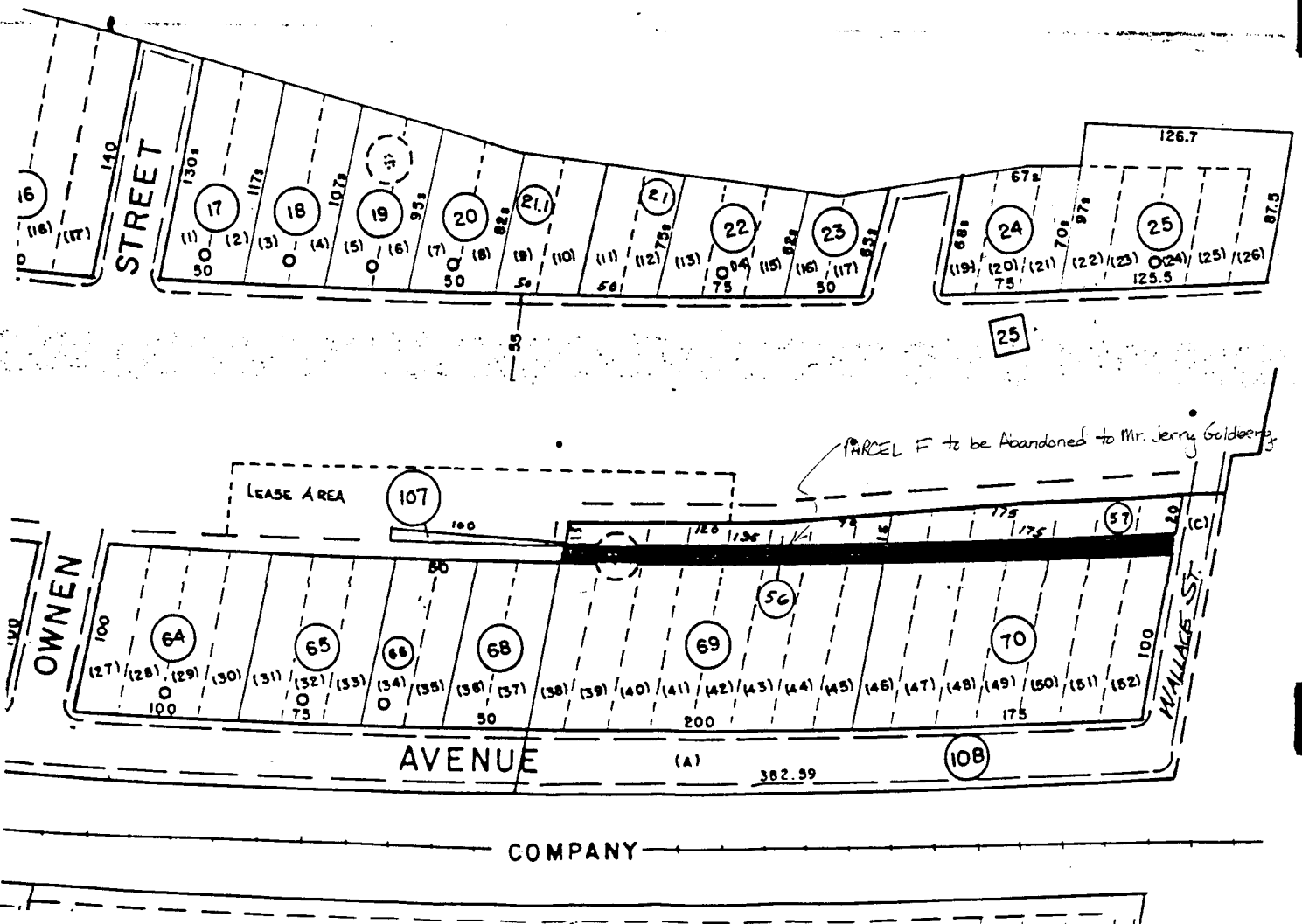


Robert L. Tebbetts
Forth's Foods, Inc.



Jerry Goldberg
Dunbar Building Products, Inc.

cc: Mayor Rusty Casto
Mr. Bob Sergent
Mr. Roy Rogers



COUNCIL REPORT FOR NBPA MEETING 4/7/98

- THE EASTER EGG HUNT, HELD THIS PAST SATURDAY IN THE GYM AT THE COMMUNITY CENTER, WAS THE MOST SUCCESSFUL (PROFITABLE) EVENT WE HAD EVER DONE. THANKS TO ALL OF THE BUSINESSES AND INDIVIDUALS THAT DONATED TIME & MONEY FOR THIS EFFORT. THANKS ALSO TO THE CITY GOVERNMENT FOR THEIR CO-OPERATION IN THE USE OF CITY PARK. BETWEEN 60 & 70 YOUNG PEOPLE SHOWED UP.
- ANTIQUE CAR SHOW : CRUISE IN WILL BE DOWNTOWN, MAY 15 TH & THE CAR SHOW MAY 16 TH. NBPA WILL SELL BBQ PLATTERS AND ICE CREAM AT EACH EVENT. THE ST ALBANS MONTHLY IS DOING A SPECIAL SECTION, PROMOTING THE CAR SHOW, THE COMMUNITY CENTER AND NITRO IN GENERAL. BUD GRACE WILL BE CONTACTING PEOPLE ABOUT ADS, AND OLD PHOTOS FROM NITRO TO RUN IN THIS SPECIAL SECTION.
- AS REPORTED TO MAYOR CASTO, NBPA HAS CHOSEN DAN WELCH AS OUR REPRESENTATIVE ON THE POLICE CIVIL SERVICE COMMISSION

RESPECTFULLY SUBMITTED

DAVID M. PERRY, VICE PRESIDENT